

UN Global Compact Network Australia

Competition Law Policy (the Policy)

Purpose

[Sustainable Development Goal \(SDG\) 17](#) – Partnerships for the Goals – recognises the critical importance of multi-stakeholder partnerships to achieve all the SDGs.

Consistent with SDG 17, the UN Global Compact Network Australia (**UNGCNA**) brings together Australian businesses to exchange ideas, knowledge, best practice and create a forum for engagement with each other – and with government, academia and civil society. Specifically, the UNGCNA convenes meetings, working groups, communities of practice and other events (collectively, **UNGCNA events**), which are attended by representatives of its participant businesses and other invited guests. Through these events, the UNGCNA supports companies to:

- do business responsibly by aligning their strategies and operations with [Ten Principles](#) on human rights, labour, environment and anti-corruption; and
- take strategic actions to advance [broader societal goals](#), such as the [SDGs](#), with an emphasis on collaboration and innovation.

This Policy is designed to ensure compliance with competition law when business representatives participate in UNGCNA events, particularly where one or more competitors are involved. The Policy provides guidance on acceptable conduct during these meetings to prevent any anti-competitive behaviour in accordance with Australian competition law.

1. Policy Statement

The UNGCNA is committed to maintaining full compliance with Australian competition law, specifically the *Competition and Consumer Act 2010* (Cth) (CCA). This includes avoiding any conduct that may lead to breaches of the law, such as cartel conduct (ie, price-fixing, market sharing, output restrictions, bid rigging, etc), or any other form of anti-competitive agreement, arrangement, or concerted practice. The Australian Competition and Consumer Commission (**ACCC**) administers and enforces the CCA, promoting competition, fair trading and regulating national infrastructure for the benefit of all Australians. The ACCC publishes regulatory guidance on CCA compliance, including the items linked in section 4 of this Policy.

This Policy aims to ensure that no exchange of information or discussions take place that could result in illegal conduct under competition law. All participants at UNGCNA events are required to adhere to this Policy.

2. Key Principles

The UNGCNA provides a platform for its participants and the broader business community to advance sustainability, human rights, labour, environment and anti-corruption

outcomes. Participants in UNGCNA events represent a diverse range of Australian business sectors and can include representatives of businesses who may be actual or potential competitors with each other.

To avoid any suggestion of behaviour that could contravene the CCA, there are certain topics / subjects that should be avoided as “competition-sensitive” in communications amongst business peers. Avoid communications about the following red flag areas:

- **Price fixing**
Do not discuss or agree upon pricing terms (eg, selling prices, discounts, or terms of supply), or other sensitive commercial terms such as credit terms, margin structures, or cost data.
- **Market sharing**
Avoid any discussions or agreements that involve dividing markets or allocating customers (eg, agreeing to not compete in particular geographic areas, customer segments, or product categories).
- **Output restrictions**
Do not discuss preventing, restricting or limiting the amount or type of goods or services (i) to be supplied; or (ii) to be acquired.
- **Bid rigging**
Discussions should never address controlling what bids are made, who should win a tender process, or sensitive tender information, including pricing or bid strategies.
- **Exchanging Competitively Sensitive Information**
Do not exchange competitively sensitive information with a competitor. However, you may be able to aggregate or de-identify the information to make it less sensitive.

What is competitively sensitive information?

Competitively sensitive information is any non-public information about your business that is related to an activity or market in which you compete in and the disclosure of which would be strategically useful to the recipient, for example, by reducing uncertainty about your strategies and/or providing a competitive advantage to the recipient.

It likely includes non-public information about your prices, your margins, your current or future volumes, your trading terms, or your tenders.

It is less likely to include:

- information that is already public;
- information which is aggregated and cannot be attributed to specific traders; and
- historic information which does not reveal a business' current or future strategies.

Examples of exchanging competitively sensitive information:

- Competing suppliers discuss with each other when they intend to transition to new sustainable packaging.

- A manufacturer tells a competitor that they intend to terminate their contract with a supplier due to the supplier's treatment of its workers.
- Businesses share pricing data revealing the specific negotiated costs of using an accredited supplier.

Lawful Sustainability Collaborations

There are ways businesses can work together to achieve sustainability objectives without contravening Australian competition law.

If a collaboration or strategic partnership is considered necessary to achieve sustainability objectives, the potential parties should first consider if the initiative could impact competition.

The ACCC has provided guidance that the following is **unlikely to breach the CCA**:

- Independently choosing to implement a more sustainable or ethical input.
- Jointly funding research into areas with a public benefit, such as the elimination of racism or child slavery or reducing environmental impact.
- Pooling information about suppliers (provided there is no agreement to purchase or refrain from purchasing from particular suppliers, and does not involve sharing of prices or quantities purchased or other competitively sensitive information).
- Industry-wide non-binding emission reduction targets (provided each business separately determines whether and how they will meet it).
- Collaborative supply chain mapping to identify modern slavery risk or traceability of product (provided there is no additional coordinated conduct or limits on the freedoms of each business to choose its inputs or trading partners).
- General guidance on methodologies used in emissions reporting.

The ACCC has provided guidance that the following **may breach the CCA** (unless an exemption applies or the ACCC has granted an authorisation):

- Mandatory commitments to sustainability or ethical standards.
- Parties committing to share infrastructure or jointly procure products/services to reduce their environmental footprint.

See ACCC guidance linked in section 4 of this Policy for more examples and guidance on when an initiative could impact competition.

If a potential collaboration could raise competition law concerns, consider seeking legal advice, including on whether:

- to seek **authorisation** from the ACCC; or
- another form of **exemption** from Australian competition law may be available.

For further information about exceptions, authorisations and other exemptions, see ACCC Guidelines linked in section 4 of this Policy.

The ACCC has stated: "Businesses can have preliminary discussions amongst themselves about whether to pursue a potential sustainability collaboration without the need for prior

ACCC approval. If there is a risk that the collaboration may involve cartel conduct or other anti-competitive practices, any agreement must be clearly conditional on it being authorised before coming into force and the parties should not share commercially sensitive information with each other until authorisation is in place."

3. Event Protocol

When UNGCNA events include multiple businesses - particularly where two or more competitors are involved - the following protocol should be followed:

3.1 Pre-Event Preparation:

- **Agenda**
Prepare and circulate a clear agenda in advance, ensuring specific topics do not involve competition-sensitive matters. Do not include discussions about pricing, market allocation, or other anti-competitive behaviour. Include a link to this Policy in the agenda and note that it applies to all participants.
- **Legal Advice**
If any meeting participant is unsure about the content of a proposed discussion, seek clarification and/or legal advice prior to the meeting.
- **Meeting Purpose**
Be clear about the purpose of the meeting. Ensure that the meeting is focused on legitimate activities that do not fall within the red flag areas.

3.2 During the Event:

- **Stick to the Agenda**
Follow the planned agenda. Avoid any discussion that moves into red flag areas identified in section 2 of this Policy. If competition-sensitive topics are introduced, direct the conversation back to non-sensitive matters.
- **Chair's reminder**
At the start of UNGCNA events involving multiple businesses, the Chair or facilitator should remind participants of their obligation to respect competition law. A suggested form of reminder is:

As a reminder, the UNGCNA is committed to full compliance with competition law. Our Competition Law Policy applies to all participants at this event and is linked in the agenda.

Please be aware of your competition law obligations. In general terms, businesses should make their own independent decisions and avoid developing shared plans of action that could weaken competition. In particular, you must not discuss or exchange any competitively sensitive information, such as your future pricing, details of supply arrangements or other strategies. You should also avoid forming

any anti-competitive agreements or understandings, for example relating to price-fixing, output restrictions, customer allocations or bid-rigging. Please refer to the Policy and to ACCC guidance for more information.

- **Documentation**

A UNGCNA representative should be present in all UNGCNA events and ensure that all significant points of discussion are documented in meeting minutes. Keep records of the meeting to demonstrate compliance with this Policy.

If a sustainability collaboration or joint arrangement is being considered, ensure any agreement is conditional on obtaining a competition law exemption, and do not share competitively sensitive information.

- **Respect Boundaries**

If a competition-sensitive topic arises, the Chair and/or other participants should immediately intervene and end that discussion. Meeting participants should be reminded of this Policy and that certain topics should not be discussed. Legal advice should be sought before any resumption of that or similar discussion, including on whether any protocols or other mitigations should be applied.

3.3 After the Event

- **Follow-up Actions**

Any follow-up correspondence or actions from the UNGCNA event should continue in compliance with this Policy. For example, if a proposal for a Sustainability Collaboration was raised, seek legal advice before proceeding.

- **Separate Communications**

Participants in a UNGCNA event should respect this Policy and the Key Principles in any informal meetings, conversations or communications that may take place on the margins of the event, or following the event.

Communications between competitors that do not follow the principles set out in this Policy should be considered higher risk to the individuals and organisations involved.

4. Training

Training:

Any individuals involved in communications with competitors, or who may otherwise be exposed to competition-sensitive communications, should have current awareness of competition law.

Some businesses and organisations offer specific competition law training to their employees. The ACCC has also published a range of guides designed to provide education on these topics:

- [Sustainability collaborations and Australian competition law: Quick guide](#) (December 2024)

- [Sustainability collaborations and Australian competition law: A guide for business](#) (December 2024)
 - [Guidelines for Authorisation of Conduct \(non-merger authorisations\)](#) (August 2024)
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5. Reporting and Investigation

Anyone with concerns about competition-sensitive communications related to a UNGCNA event, should report them immediately to UNGCNA and to your management or legal counsel for further investigation.

6. Consequences of Non-Compliance

The UNGCNA will monitor practices related to UNGCNA events and this Policy.

The UNGCNA may take any steps it determines are necessary to ensure compliance with this Policy, including suspending particular individuals or organisations from participating in UNGCNA events. UNGCNA employees found violating the Policy may face disciplinary action.

Failure to adhere to this Policy may also result in serious legal consequences for both individuals and businesses under the CCA, including civil or criminal penalties, or imprisonment.

Any organisations linked to anti-competitive conduct could also face significant reputational, financial and market damage.

7. Conclusion

Observance of this Competition Law Policy is essential for protecting the UNGCNA and all participant businesses from legal and reputational risks by ensuring that all UNGCNA events and related communications are conducted in compliance with Australian competition law. All parties must be vigilant in preventing any conduct that could lead to anti-competitive behaviour and should always seek advice when unsure.
