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Competition law compliance policy and manual

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1 Elkem's policy in relation to competition law - statement by Elkem ASA' CEO

It is Elkem's general policy to compete vigorously and fairly in full compliance with the relevant laws and regulations applicable to our business. Compliance is of special importance in the field of competition law and this policy and manual forms part of Elkem's wider Competition Law Compliance Programme. This policy and manual replaces any existing competition law compliance policy and manuals in any Elkem group company.

The consequences of infringing competition law are very serious and may include high fines and damages claims by third parties. In many European and other countries, including the US, criminal sanctions, including imprisonment, may be imposed against the individuals involved. In addition, competition law infringements result in negative publicity which would harm Elkem's reputation and business relationships.

Absolute compliance with competition law is expected of all Elkem employees. No employee should ever assume that it is not in Elkem's interest to comply with competition law. Any failure to take proper care to comply with competition law will be considered a serious breach of the employee's obligations towards Elkem.

All senior managers are required to learn competition law facilitated by Elkem from time to time. Business unit leaders must also take steps to implement this policy and manual in their respective businesses.

2 This policy and manual

Competition law prohibits certain types of anti-competitive conduct. This policy and manual describes the conduct that will or can infringe competition law.

Given the complexity and dynamic evolution of competition law, this policy and manual cannot give a detailed and exhaustive description of every kind of conduct that will infringe competition law. If, on the basis of this policy and manual, you are in any doubt whether a commercial activity complies with competition law it is your responsibility to contact the Legal Department.

This policy and manual divides conduct into two categories: "don'ts" and "asks":

- "don'ts" describe conduct that will generally be regarded as a serious infringement of competition law;
- "asks" describe conduct that may infringe competition law, but may under certain conditions be legal. Such conduct must never be entered into without the approval of the Legal Department.

This policy and manual is based on EU competition law (derived from the EC Treaty), which applies to all EEA Member States (i.e. the EU Member States plus Norway, Iceland and Liechtenstein). As the national competition laws of the EEA Member States largely correspond with EU competition law, this policy and manual will in practice describe conduct that is, or may be, prohibited under these national competition laws. As a rule of thumb, compliance with EU competition law as described in this policy and manual will usually ensure compliance with US law and other competition law regimes. Any particular differences under US law are noted in this policy and manual.

This policy and manual sets out general rules of conduct (section 4) and guidance on relations with competitors (section 6). Those rules and guidance must be followed in all countries where Elkem does business and any deviation from those rules and guidance must be cleared with the Legal Department. Later sections of this policy and manual provide guidance on license agreements (section 7), relations with customers (section 8) and relations with suppliers (section 9). As competition law regimes outside the EEA vary in their treatment of license agreements and relations with customers and suppliers, these rules should only be used as a guide in countries outside the EEA, and advice should be obtained from local counsel in co-operation with the Legal Department.

3 The risks of non-compliance

The consequences of infringing competition law can be very serious:

- conduct infringing competition law may be fined, and serious breaches may lead to substantial fines (for example, under EU law, up to 10% of worldwide group turnover). If one Elkem company infringes competition law, the turnover of the whole Bluestar group may be relevant when setting the fine;
- Elkem may also be exposed to substantial damages claims from third parties (including treble damages claims in the US);
- competition law cases generally attract a lot of public attention and may be very harmful for Elkem's reputation and business relationships;
- due to the potential for serious harm to Elkem, any failure to take proper care to comply with competition law will be considered a serious breach of your employment obligations;
- in many European and other countries, including the US, criminal sanctions, including imprisonment, may be imposed against the individuals involved.

4 General rules of conduct

The following general rules of conduct are applicable to Elkem employees in all circumstances:

- Read this policy and manual carefully and make sure it is implemented in your organisation. If any aspect of this policy and manual is unclear to you, contact the Legal Department.
- Ensure that all written documents (whether electronic or hard copy) which you prepare do not contain unnecessary exaggeration and do not give a misleading impression that competition law may have been breached, when this is not the case (for example, by using phrases such as "eliminating competition"). Be especially careful in your email communications.
- Be generally very cautious in any communication with Elkem's competitors. Avoid any possible misunderstandings and, in the event that any inappropriate suggestion is made in an e-mail or in any other written communication, contact the Legal Department, do not try to destroy the evidence, but clarify that the suggestion is unacceptable and record both the suggestion and your answer.
- Before attending any trade association meeting, conference, seminar or other meeting where Elkem's competitors will attend, consider the purpose and agenda of the meeting, whether Elkem should be represented and, if so, by whom. Any Elkem representative attending such an event must read this policy and manual carefully beforehand.
- If, in the course of any meeting with one or more competitors (or a trade association meeting), any inappropriate discussion takes place, state clearly that you will leave the room if the conversation continues. If the conversation does continue, leave the room immediately and ask that your departure is minuted.
- Be aware that competition authorities have strong powers of investigation and enforcement, and can conduct unannounced searches of business (and, in some countries, residential) premises for evidence of any unlawful conduct. It is Elkem's policy to co-operate fully with any investigation conducted by a competition authority. Each business unit shall, in cooperation with Elkem's Legal Department, implement a dawn raid manual in case of inspections from the competition authorities.
- Contact the Legal Department immediately if you suspect that Elkem may have infringed competition law. The European and US authorities and a number of national authorities offer total or partial immunity from fines to firms that are the first to reveal unlawful behaviour.
- Always contact the Legal Department if you suspect that another firm or firms (such as a competitor or supplier) may have infringed competition law. You do not want to be wrongly suspected of participating in a possible infringement; and it may be that the infringement is commercially harmful to Elkem.

5 Basic concepts

5.1 What is “competition law”?

Competition law is based on the assumption that effective competition between firms creates incentives for them to outperform their rivals to the benefit of consumers. However, firms will always strive to optimise their profits and, from a commercial point of view, may view the elimination of competition as the best way of increasing their profits. To the extent that firms might increase their profits by “anti-competitive” behaviour, they would, in the absence of competition law, do exactly that. It is important to note therefore that competition law is designed to prevent certain kinds of (seemingly) commercially rational behaviour.

EU competition law sets out two general prohibitions against anti-competitive conduct:

- Article 101 EC Treaty prohibits certain anti-competitive agreements between firms;
- Article 102 EC Treaty prohibits the abuse of a dominant position in a market.

US competition law contains similar prohibitions.
Separate merger control rules apply to merger and acquisition transactions and some joint ventures. This policy and manual does not deal with these rules, and advice from the Legal Department should be sought if Elkem is contemplating a merger, takeover, the acquisition of parts or assets (including intellectual property rights) or shares of another company or a joint venture. Note that legal advice should be sought at an early stage and before the commencement of any process with a third party, including discussions to clarify the structure or feasibility of a potential transaction, or exchange of information for such purpose.

5.2 What is an “agreement”?

The prohibition of anti-competitive agreements applies to “agreements, decisions and concerted practices” (usually just referred to as “agreements”). The concept of an agreement in this context is very wide and covers not only written contracts, but also oral agreements, “gentlemen's agreements” and subtle understandings as well as the exchange of commercially sensitive information. It does not, however, apply to agreements between companies within the Elkem or Bluestar group.

It is important to note that all forms of contact with competitors may ultimately be viewed as an “agreement”. However, Elkem is free to respond to initiatives launched by competitors in the market. Elkem will not be in breach of competition law merely because it has arrived at a business strategy that is similar to a competitor’s, provided that Elkem has decided on this strategy entirely independently of the competitor.

5.3 What is a “dominant position”?

It is not prohibited for a firm to have a dominant position in the market. Only abuse of a dominant position is prohibited. Dominant firms are allowed to compete for business on the basis of the strengths of what they offer. However, competition law places a special responsibility on dominant firms when competing in the market. As a consequence, conduct that is perfectly legal for non-dominant firms can be considered an abuse when implemented by dominant firms.

The starting point for the assessment of dominance is the firm’s market share in the relevant market. If Elkem’s market share is approaching close to or already exceeds 40%, you should assume that Elkem has a dominant position, unless you have specific clearance from the Legal Department.

In addition, if Elkem has a market share between 30% and 40% and one of the following factors are present, you should assume that Elkem has a dominant position, unless you have specific clearance from the Legal Department:

- competitors' market shares are significantly lower than Elkem's;
- Elkem's market share has remained stable between 30% and 40% over the last three years;
- there are barriers to entry or expansion in the market which make it especially costly or risky for competitors to challenge Elkem's market position, e.g. legal barriers, capacity constraints, high sunk costs, cost advantages that cannot be duplicated, privileged access to supply, intellectual property rights, a highly developed distribution network or strong brand names or reputation;
- the buyers in the market are relatively weak or do not have significant buying power.

It is important to note that although Elkem may assume that it holds a dominant market position for the purpose of ensuring a robust competition law compliance policy, you should not state that Elkem actually has a dominant market position.

It is usually the dominant position of suppliers that raises competition concerns. However, buyers can also occupy dominant positions and potentially abuse buying power.

US law has a similar concept (monopolization) to the concept of abuse of a dominant position.

5.4 What is a "relevant market" in relation to competition law?

The effects of an agreement, the parties' market shares and the question of dominance and effect of conduct by a dominant firm on competition, must all be considered in relation to the "relevant market". To determine the relevant market one must define both:

- a relevant product market that comprises any goods which are regarded by buyers as economically interchangeable (by way of example: consider whether Mercedes and Toyota cars are part of the same product market, or whether Coca-Cola falls within a product market comprising only cola drinks, a wider product market made up of all carbonated soft drinks or an even wider product market including all soft drinks); and
- a geographic market in which the relevant competition takes place (by way of example: consider whether telecommunications services are provided on a local, regional, national, Europe-wide or global geographic market).

Defining the relevant market for competition law purposes requires experience and knowledge of the methods and guidelines used by the courts and the competition authorities. Market definition should therefore be conducted in co-operation with the Legal Department.

Be aware that, when assessing Elkem's market share in any given relevant market for the purpose of competition law, Elkem is considered as part of the Bluestar group. Any market position held by another Bluestar entity must therefore also be taken into account.

5.5 What is the "geographic scope" of competition law?

Competition law generally applies to all agreements and conduct that have effect within a jurisdiction, regardless of whether the party in question is established within that jurisdiction or not. EU competition law generally applies to all agreements or actions that may affect competition and trade within the EEA. The national competition laws of the EEA Member States will generally apply (whether independently of or in addition to EU competition law) to conduct that has an effect in that EEA Member State. Conduct outside the US that affects US commerce may be subject to US competition law.

Certain countries, notably the US, are known for their aggressive assertion of jurisdiction, and there are a number of international treaties and agreements which allow for individuals to be extradited to face trial in another country for infringing competition law.

6 Relations with competitors

6.1 Don'ts

The following types of "hard-core" agreement will, by their nature, be viewed as restricting competition and are generally prohibited. Also prohibited are any arrangements which signal future intentions to a competitor with regard to any of the hard-core matters below. If you believe any of the hard-core matters listed below might be justified as part of a legitimate and broader business arrangement, you must **Ask** the Legal Department before proceeding with it.

Price agreements and price fixing

- **Don't** agree with competitors any element of the price to be charged to customers. This includes agreement as to any element of the price, including cost elements, margins, rebates and discounts and material terms not expressly price-related, such as warranties.

Market sharing

- **Don't** agree with competitors to divide or allocate geographic markets, product markets or customers.

Coordinated tendering

- **Don't** coordinate behaviour with competitors in relation to tenders, for example by agreeing with a competitor the terms that will be offered in a tender. Elkem may only submit a joint tender with a competitor with the approval of the Legal Department.
- **Don't** agree with competitors not to respond to a call for tenders or to allocate tenders.

Agreements to limit production or capacity

- **Don't** agree with competitors to regulate or limit production or capacity. Although certain agreements to limit production may in exceptional cases be permitted in industries with excess capacity or sharply falling demand, such agreements must always be cleared in advance by the Legal Department.

Exchange of strategic information

- **Don't** give or receive strategic information with competitors, including e.g. price information (actual prices, discounts, increases, reductions or rebates), customer lists, production costs, quantities, turnovers, sales, capacities, qualities, marketing plans, risks, investments, technologies and R&D programmes and their results. Although exchange of certain types of strategic information may be permitted in particular circumstances where the parties pursue a legitimate aim, such arrangements must always be cleared in advance by the Legal Department

Agreements to exclude competitors

- **Don't** agree with competitors to actively exclude a competitor, for example by entering into collective exclusive dealing arrangements or boycott schemes. Elkem is allowed to compete for business on the basis of the strengths of what it offers, and the exit of a competitor from the market as a result of poor performance is not a competition law concern. However, any agreement to actively exclude a competitor will infringe competition law.

6.2 Asks

All agreements with competitors, including distribution agreements and a series of individual transactions forming a continuing commercial relationship, must be cleared in advance by the Legal Department. Although the following types of agreement might be permissible under competition law, this section indicates some of the factors that are likely to be relevant to the Legal Department's assessment:

✓ Note that it is your responsibility to identify and inform the Legal Department of the competitive relationship between Elkem and its contract parties.

Information exchange

- **Ask** before exchanging information about Elkem's business with competitors. The Legal Department will generally have regard to the following factors;
  - the purpose and context of the information exchange; information exchange between competitors should generally take place in the context of a legitimate type of co-operation agreement and don't go beyond what is necessary to achieve that legitimate aim;
  - the type of information: generally, strategic information, that is to say any information that allows competitors to determine Elkem's future market behaviour or vice versa must not be exchanged. This includes information of the kind referred to in section 6.1 above. Information about regulatory requirements, health or environment hazards are less likely to be problematic;
  - the market coverage and level of detail of the information: genuinely aggregated data, that is to say, where the recognition of individualised company level information is sufficiently difficult, are much less likely to be problematic than exchanges of company level data;
  - public/non-public information: Elkem is free to gather information in the market from independent third parties or publicly available information. Exchanges of genuinely public information, that is information that is generally equally accessible (in terms of costs of access) to all competitors and customers, are unlikely to be problematic;
  - the age and significance of the information: exchange of genuinely historic data is less likely to be problematic, but great care should be taken to ensure that the data is genuinely historic or outdated and that there is a legitimate reason for the exchange;
  - if the information is exchanged in public: If the information exchange is genuinely public, i.e. the exchanged data is made equally accessible (in terms of costs of access) to all competitors and customers, this may decrease the risk of a competition problem;
  - trade associations may collect and distribute certain market information among their members. However, great care must be taken in relation to such information (see section 10 for more information).

Research and development agreements

- **Ask** before entering into a research and development (R&D) agreement with a competitor. This may raise competition law concerns, in particular if the parties have a joint market share of more than 25% and/or of any of the following are present in the agreement:
  - exclusivity clauses;
  - non-compete obligations;

- territorial restrictions;
- market or customer allocation;
- restriction on a party's access to the results of the R&D;
- a duration of more than five years;
- clauses regarding marketing and commercialisation of a final product.

Specialisation agreements and joint production agreements

- **Ask** before entering into a specialisation agreement e.g. where firms A and B produce products X and Y respectively, but A agrees to cease the production of X and purchase X from B. This specialisation agreement would be "reciprocal" if B additionally agrees to cease the production of Y and purchase the product from A;
- **Ask** before entering into a joint production agreement e.g. where two or more firms agree to produce certain products jointly.

Where the combined market share of the participating firms is less than 20% of the relevant market, a specialisation or joint production agreement will normally be approved by the Legal Department, provided that the agreement does not contain any clauses that:

- fix the prices at which the products are sold to third parties;
- limit output or sales; or
- allocate markets or customers.

Commercialisation agreements

- **Ask** before entering into an agreement with a competitor to jointly sell, distribute or promote products. Joint selling is generally prohibited, but more limited arrangements that only address one specific marketing function, such as physical distribution, service or advertising may be permitted.

Agreements on technical standards

- **Ask** before agreeing with a competitor to create a new technical standard and before signing up to a new technical standard. Agreements on standards will in most cases not infringe competition law, provided that the standard-setting is based on non-discriminatory and open procedures where all firms have the possibility to be involved. However, certain standard-setting agreements will raise competition concerns, in particular agreements containing the following clauses:
  - clauses limiting firms' freedom to deviate from the agreed standards;
  - clauses preventing firms from producing or marketing products that do not conform with the agreed standards, or preventing firms from developing their own independent standards;
  - standards that are framed so as to obstruct imports;
  - standards that incorporate an individual firm's patented technology, especially if there is not a commitment to license the technology;
  - limitations on third party access to and implementation of the agreed standards.

Joint purchasing agreements

- **Ask** before agreeing with a competitor to jointly purchase a particular product or service. The Legal Department will usually examine the market shares of Elkem and the competitor on both the purchasing and selling markets, and any interdependencies between these markets. If the joint purchasing agreement contains any "hard-core" provisions (such as those listed in section 6.1), it will be prohibited.

Competitors as customers

- **Ask** before entering into a sale and purchase, supply or distribution agreement with a competitor. This includes a firm that is not currently, but has the potential to become, a competitor of Elkem. The Legal Department will in particular examine whether the agreement:
  - is “stand-alone”, or forms part of a continuing commercial relationship;
  - is non-reciprocal in the sense that only one firm is buying and one firm is selling;
  - is based on normal market terms and conditions;
  - is genuinely motivated by commercial grounds with no connection to the competitive relationship between the firms (e.g. one firm is in short supply and the other has excess stock).

Interlocking directorships

- **Ask** before serving as a director or officer of any competitor (or of any subsidiary or parent of a competitor), or designating any Elkem employee or representative to serve as a director or officer of any competitor (or subsidiary or parent of any competitor).

Refusal to supply

- **Ask** before refusing to supply a competitor on a downstream market if you think that Elkem may have a dominant position in the market for the goods in question. Refusal to supply may amount to an abuse of a dominant position.

7 License agreements (technology transfer agreements)

- **Ask** before agreeing to license technology, whether with a competitor or a non-competitor.

  The Legal Department will in particular need to consider whether;
  - the parties are competitors on the relevant markets (the markets for the technology in question and the markets for products produced on the basis of such technology)
  - the parties’ combined market share is less than 20% (30% if the other party is not a competitor) of the relevant technology and product markets,
  - the agreement in question is reciprocal, i.e. whether both parties license technology to the other party within the same field of use;
  - the agreement restricts either party's ability to sell the relevant products in certain markets or to certain customers;
  - the agreement restricts either party’s ability to determine its prices when selling products to third parties;
  - the agreement limits output;
  - the agreement restricts the licensee's ability to exploit its own technology or prevents either of the parties to the agreement from carrying out research and development;
  - the agreement obliges the licensee to assign or give an exclusive licence in respect of improvements to or new applications of the licensed technology to the licensor (“grant-back clauses”);
  - the agreement prohibits the licensee from challenging the validity of the licensor’s intellectual property rights (“non-challenge clauses”).

- **Ask** before entering into a settlement arrangement concerning the validity or potential infringement of patent or other IPR with a competitor. The Legal Department will in particular examine whether the agreement may lead to a delayed otherwise limited ability for the licensee to launch a competing product on any affected markets and whether there is a significant value transfer from the licensor to the licensee.

8 Relations with customers

Elkem's relations with its customers may be based on stand-alone sales or longer term agreements. Generally, stand-alone agreements with customers who are not Elkem's competitors are unlikely to raise competition law concerns. Agreements where a customer or distributor buys Elkem's products on a repetitive or regular basis must be assessed in each case.

The competitive effects of a supply or distribution agreement will often depend on Elkem's market position, although there are some important "don'ts" and "asks" below that apply irrespective of Elkem's market position (see sections 8.1 and 8.2). With the exception of the matters covered in sections 8.1 and 8.2; where Elkem's or the customer's market share is less than 30% the agreement will to a large extent be exempt from competition law. However, where Elkem's or the customer's market share exceeds 30% or where Elkem has a dominant position, there are some further "asks" which must be considered (see sections 8.3 and 8.4).

8.1 Don'ts

The following types of 'hard-core' agreement will, by their nature, be viewed as restricting competition and are generally prohibited in the EU/EEA.

Resale price maintenance

- **Don't** impose restrictions on your customer's resale price e.g. by setting the actual or minimum price at which the customer can resell the products (a recommended retail price is permitted, provided this is genuinely a recommendation and the customer is not pressured or incentivised to adopt the price).

Territorial restrictions

- **Don't** prevent your customer from reselling the products outside a defined territory in response to unsolicited orders (known as "passive sales"), including responses to general advertisements on the internet.

Selective distribution systems

- **Don't** impose anti-competitive conditions on authorised distributors where Elkem operates a selective distribution system (i.e. where distributors are selected on the basis of specified criteria and they undertake not to sell goods or services to unauthorised distributors). This includes:
    - restricting authorised distributors' ability to compete with one another;
    - restricting the end-users to whom authorised distributors may sell.

Competition laws outside EU/EEA are often more permissive in relation to the three topics listed above. **Ask** for guidance in relation to these issues outside EU/EEA.

8.2 Asks – irrespective of Elkem's market share

The following agreements with customers must be cleared in advance by the Legal Department:

Exclusive purchasing

- **Ask** before entering into a "non-compete obligation" or an exclusive purchasing agreement with a customer that lasts for more than five years, automatically renews beyond five years, or exceeds the period of supply. A "non-compete obligation" includes:
    - any kind of obligation that requires the customer not to manufacture, purchase, sell or resell competing goods or services;
    - a requirement that the customer purchase more than 80% of its total requirements of the contract goods or services from Elkem.

Price reporting

- **Ask** before imposing any requirement on customers to report to Elkem prices offered by Elkem's competitors. This includes a clause in an agreement giving Elkem a "right of first refusal", where a customer is obliged to report back to Elkem if they are offered lower prices by other firms.

8.3 (additional) Asks – where Elkem's or the customer's market share exceeds 30%

Exclusive purchasing

- **Ask** before entering into a "non-compete obligation" (as described at 7.2) or a requirement that the customer purchases all or more than two thirds of its total requirements of the contract goods or services from Elkem, irrespective of duration.

Exclusive supply obligations or distribution rights

- **Ask** before Elkem undertakes to sell to only one customer or grants exclusive distribution rights, e.g. in respect of specific products, customer groups or specific geographic areas.

Best terms

- **Ask** before entering into an arrangement, whereby Elkem undertakes to offer a customer at **least** as favourable (or better) terms as it offers to any other customer.

Selective distribution systems

- **Ask** before entering into selective distribution agreements (as defined in 8.1).

US: tying/bundling

- In the US, **Ask** before making the customer's purchase of one product conditional upon the purchase of another product, or making rebates or other conditions for the purchase of one product conditional upon the purchase of another product.

8.4 (additional) Asks - where Elkem may hold a dominant position

Where there is a risk that Elkem may hold a dominant position on the market, any of the following agreements and arrangements with customers must be cleared in advance by the Legal Department:
Rebates

- **Ask** before giving your customer rebates that cannot be justified on corresponding cost saving grounds, unless the rebates are genuinely unconditional (for example not linked to the volume purchased).

Pricing below cost

- **Ask** before pricing a product below its full production costs or if you intend to launch a below-cost price campaign.

Price discrimination or other practices that discriminate between customers

- **Ask** before giving comparable customers materially different price conditions or other contract conditions in comparable transactions.

Tying/bundling

- **Ask** before making the customer's purchase of one product conditional upon the purchase of another product, or making rebates or other conditions for the purchase of one product conditional upon the purchase of another product.

Minimum purchasing

- **Ask** before agreeing with a customer to supply the majority (i.e. over 50%) of its total **purchases** of particular goods or services from Elkem, and before taking steps to incentivise or induce a customer to obtain the majority of its purchases from Elkem.

Refusal to supply

- **Ask** before refusing to supply a potential customer or discontinuing supplies to an existing customer, without a sound commercial basis for doing so (for example lack of creditworthiness).

8.5 Customers as competitors

Be aware that if a customer is also a competitor section 6.2 will apply and such arrangements must therefore be cleared with Legal Department in advance.

9 Relations with suppliers

Elkem's relations with its suppliers may be based on stand-alone purchases or longer term agreements. Generally, competition law doesn't apply to stand-alone agreements with suppliers who are not Elkem's competitors. However, it may apply to longer term agreements for example where Elkem agrees to purchase or distribute product from a supplier on a regular basis.

Generally, Elkem's relations with its suppliers will be subject to the same rules as for customers, described in section 8. When assessing relations with suppliers by way of section 8 it is, of course, necessary to read the text in light of the fact that Elkem is the customer, thereby replacing "Elkem" with "the supplier" and "the customer" with Elkem.

9.1 Don't

Interfering with suppliers' dealings with Elkem's competitors

- **Don't** attempt to interfere with a supplier's dealings with Elkem's competitors, for instance by requiring a supplier to refuse to deal with one of Elkem's competitors, or to give competitors of Elkem less favourable terms.

9.2 Ask – irrespective of market share

Joint purchasing agreements

- **Ask** before agreeing with a competitor to jointly purchase products or services from a supplier (see section 6.2).

9.3 (additional) Asks – where Elkem's or the supplier's market share exceeds 30%

Exclusive supply obligations

- **Ask** before requiring a supplier to exclusively supply Elkem with a particular goods or service.

Best terms

- **Ask** before entering into an arrangement, which requires one of Elkem's suppliers to offer Elkem at least as favourable (or better) terms as the supplier offers to any other customer.

9.4 (additional) Ask – where Elkem may hold a dominant position as a buyer

Abuse of buyer power

- **Ask before** using Elkem's power as a buyer to force suppliers to sell products below cost.

10 Participation in trade associations and other forums with competitors

Participation in trade associations is not in itself prohibited. However, there are some important rules of conduct regarding Elkem's participation in trade associations. Careful consideration should be given to the by-laws/articles of association of any trade association of which Elkem is a member, to ensure that these are compatible with competition law and this policy and manual.

Trade associations can raise a number of competition law concerns, as competitors often come into contact with one another at trade association meetings. The rules of conduct outlined below apply equally to other forums where Elkem is likely to come into contact with its competitors, including industry conferences, seminars and other similar events.

- Before attending any trade association meeting, conference, seminar or other meeting where Elkem's competitors will attend, consider the purpose and agenda of the meeting, whether Elkem should be represented and, if so, by whom. Any Elkem representative attending such an event must read this policy and manual carefully beforehand.
- Great care should be taken that any contact with competitors in the context of a trade association does not result in any agreement or arrangement that infringes competition law (see generally section 6).
- It is especially important that commercially sensitive information (for example relating to prices, orders, market opportunities) is not exchanged at trade association meetings, and is not collected and distributed by a trade association.
- If any commercially sensitive issues come up in a trade association meeting, or in a more informal setting connected with the trade association, you must state that you will leave if the discussion continues. In the event that the discussion does continue, you must then leave, and request that your departure is recorded. This should then be reported to the Legal Department.
- Always inform the Legal Department if you think that anything has taken place at a trade association meeting that may infringe competition law.

11 Receipt of acknowledgement

All employees in the target group must sign the below receipt of acknowledgement to confirm that they have read and understood the Elkem Competition law compliance policy and manual. The employee's immediate superior is responsible for this action. After the receipt is signed it must be forwarded to the local HR-department. The local HR-department is responsible for filing the receipt in accordance with the company's standard. In Elkem locations with no local HR the manager is responsible for filing the receipt.

RECEIPT OF ACKNOWLEDGEMENT
for Elkem Competition law compliance policy and manual

I confirm having read and understood Elkem's Competition law compliance policy and manual R03.

I further undertake to comply with the procedures and guidelines described in the said policy and manual.

Date Employee name (in capital letters) and signature

Elkem unit and country

12 Target group

The target group is:

- Corporate management
- Division management teams
- Finance:
  - ✓ Divisional finance people
  - ✓ Plant finance managers & controllers
  - ✓ Treasury and credit management personnel
  - ✓ Corporate business support personnel
- Technology:
  - ✓ Management team / department leaders
  - ✓ All project managers
  - ✓ All managers in research and product development
- Sales and marketing:
  - ✓ All personnel
- Procurement:
  - ✓ All personnel
- Production managers
- General managers of subsidiaries and personnel in subsidiaries within the target group.
- Key managers in logistics/supply chain/raw materials