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Competition law compliance risks: Key lessons from recent Food & Drink sector cases

Introduction

Competition law is the area of regulation which prohibits businesses from entering into anti-competitive agreements (e.g. price fixing, market sharing, etc) and stops those businesses which have dominant market positions from abusing their position by forcing out competitors or exploiting customers.

The consequences of non-compliance are potentially significant. Regulators can impose eye-watering financial penalties and can disqualify directors of infringing businesses. Increasingly, private litigants also seek to claim compensation on top of any regulatory fines. Moreover, dealing with investigations is costly and time consuming.

In the UK, competition law is enforced by the Competition and Markets Authority (the 'CMA') but businesses with international presence should be aware that similar rules apply elsewhere (in particular across Europe where the European Commission (the 'EC') plays a key enforcement role).

Recent cases related to the Food and Drink industry have brought these risks for businesses in the sector into sharp relief. This update flags a number of key issues that businesses should be aware of and mitigating against.

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Dawn raids

The first step in a competition law investigation is often a regulator such as the CMA or the EC arriving unannounced at your premises (and increasingly the homes of senior executives) to gather information and documents.

In recent years several businesses in the food and drinks sector have been subject to such raids, for example Red Bull, six Norwegian salmon producers, Mondelez and the food delivery apps Glovo and Delivery Hero.

Risk mitigation: 'Dawn raids' are stressful and fast-moving processes. It is important that your teams understand what the regulator can and cannot do, and the balance between the need to cooperate while protecting your business's legal rights. Well-prepared businesses have dawn raid handbooks, suitable legal support available and undertake periodic training to ensure they are ready.

Market or customer sharing

A very serious competition law infringement is agreeing with competitors not to compete in certain territories or for certain customers. Regulators such as the CMA and EC view this as an egregious infringement and punish it accordingly. For example, in 2024 the EC fined Mondelez €337.5 million for entering into various agreements with distributors which hindered cross-border trade and in 2025 fined Glovo and Delivery Hero a total of €329 million for (among other infringements) agreeing not to compete in certain territories.

Risk mitigation: Businesses that want to avoid significant regulator fines will carefully consider their contractual arrangements and engagement with competitors or partners to ensure that they cannot reasonably be viewed as agreeing not to compete in certain territories or for particular customers.

Exchange of information

There is a strict prohibition on competitors exchanging commercially sensitive information, e.g. forward-looking data on commercial strategies, prices, capacity, costs and product characteristics. This was another of the infringements that the EC found in its investigation into Glovo and Delivery Hero, which ended in a €329 million fine, and is the focus of the EC's ongoing investigation into several leading Norwegian salmon producers.

Risk mitigation: Clear guidance for colleagues who are engaging with competitors is key, with many businesses putting in place pragmatic and easy-to-follow compliance guides. Key risk areas are cooperation agreements, industry forums and trade bodies, so these types of engagements need to be carefully managed and scrutinised by your legal team.

Employees and labour markets

A trending competition law compliance issue in recent years has been regulators fining competing businesses for agreements to not poach each other's employees or to fix wage or bonus rates for staff. This type of infringement featured in the EC's investigation into Glovo and Delivery Hero.

Risk mitigation: Traditionally HR and recruitment teams have not been a key focus for competition law compliance, this is changing now and compliance-savvy businesses will make sure that these parts of their business don't inadvertently expose them to risk.

Resale price maintenance and price fixing

Regulators, such as the CMA and EC, are strongly focused on competition law compliance failures which might increase prices for end consumers. For example, in recent years the Portuguese beer brand Super Bock was fined €24 million by its local competition authority for 'resale price maintenance' – a practice whereby a manufacturer (e.g. of a food or drink item) imposes a fixed or minimum resale price on its distributors/retailers. Naturally, any agreement whereby a business fixes prices with its competitors is very high risk from a competition law perspective.

Risk mitigation: Any contractual terms related to pricing need to be carefully scrutinised to ensure they don't create an undue compliance risk. Aside from clear contractual terms, your teams should be very careful in any discussions or correspondence with distributors, retailers and in particular competitors regarding pricing.

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