



## Competition Compliance Toolkit for Businesses in ASEAN



one vision  
one identity  
one community



# Competition Compliance Toolkit for Businesses in ASEAN

The ASEAN Secretariat  
Jakarta



one vision  
one identity  
one community

# Table of Contents

## INTRODUCTION

This Part provides an introductory overview of the purpose of the Toolkit and how it is anchored in ASEAN's regional competition agenda.

- What are the purposes of the Toolkit?
- Who are the targeted users of the Toolkit?
- How to use the Toolkit?
- How does the Toolkit interlink with other AEGC initiatives?

1

## PART A: GENERAL RATIONALE

- 3 • Why comply with competition laws?
- What are common anti-competitive practices?
- What is the role of competition authorities?
- What is the role of businesses?

This Part explains the rationale of competition compliance, its risks and benefits.

## PART B: BUILDING AWARENESS & UNDERSTANDING AMONG THE BUSINESS COMMUNITY

This Part discusses successful approaches for competition authorities and other relevant agencies to promote competition compliance among businesses.

- How to raise awareness and foster a sound understanding of competition rules?
- How to assess the level of understanding among businesses?
- How to sustain engagement with businesses?

7

## PART C: PROMOTING COMPETITION COMPLIANCE AMONG BUSINESSES

- 9 • How can Competition Authorities motivate businesses to adopt/implement CCPs?
- What are the minimum requirements for an effective CCP?

This Part describes the features and minimum requirements for an effective CCP, as well as motivating factors for businesses.

## PART D: IDENTIFYING, ASSESSING AND MANAGING RISKS

This Part presents a number of key practical steps for businesses to follow when implementing a CCP.

- What is a risk-based approach?
- What is core commitment?
- What are the steps of a risk-based approach?

13

## ANNEXES: SPECIFIC DOCUMENTS FOR BUSINESSES

# INTRODUCTION



## WHAT ARE THE PURPOSES OF THIS TOOLKIT?

This toolkit aims to provide businesses with information on the basic principles of competition law, benefits of competition compliance, as well as guidelines on implementing an internal Competition Compliance Programme (CCP) in the ASEAN context. The Toolkit was written for an informational purpose for targeted users to identify key concepts of competition compliance and develop compliance strategies or measures that best suit their needs, in order to enhance competition compliance within the company as well as business practices.



## WHO ARE THE TARGETED USERS OF THE TOOLKIT?

Large, medium, and small-sized companies that are both privately and state-owned are the main targeted users of this Toolkit as companies need to be aware of the benefits of competition and risks of infringing competition rules.

Competition Authorities in ASEAN may also refer to this Toolkit for guidance on how to encourage greater business compliance with competition law.



## HOW TO USE THE TOOLKIT?

This Toolkit consists of four sections that are dedicated to different users and marked accordingly:

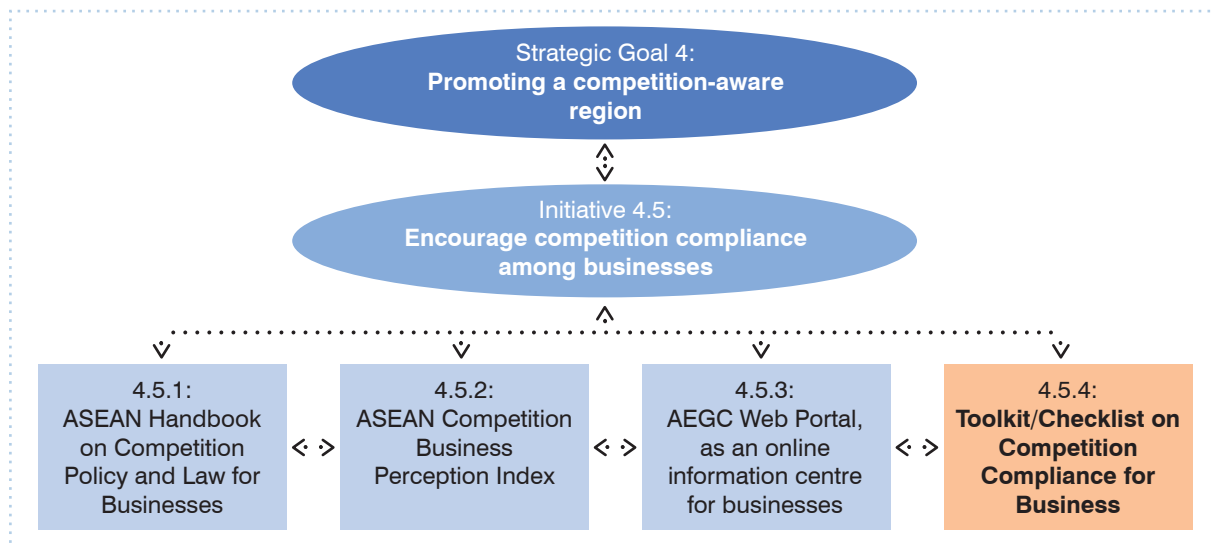
- **Part A** explains the general rationale of competition compliance, along with the roles and responsibilities of competition authorities and businesses.
- **Part B** contains guidance, particularly for younger competition authorities, on how to build awareness and understanding among businesses.
- **Part C** shows the scope of competition compliance programmes, and how competition authorities can motivate businesses to adopt them.
- **Part D** concerns managing competition compliance risks.

In the Annex, businesses can find resources to devise their own CCPs in accordance to their specific needs and circumstances.



## HOW DOES THE TOOLKIT INTERLINK WITH OTHER AEGC INITIATIVES?

The chart below presents the linkages between the Competition Compliance Toolkit and other initiatives of the ASEAN Experts Group on Competition (AEGC) under the ASEAN Competition Action Plan (ACAP) 2025.



The ACAP 2025 contains five strategic goals:

- 1) Effective competition regimes are established in all ASEAN Member States (AMS).
- 2) The capacities of competition-related agencies in AMS are strengthened to effectively implement CPL.
- 3) Regional cooperation arrangements on CPL are in place.
- 4) Promoting a competition-aware ASEAN region.
- 5) Moving towards greater harmonization of competition policy and law in ASEAN.

This Toolkit falls under Strategic Goal 4 on promoting a competition-aware region.

## PART A: GENERAL RATIONALE



### WHY COMPLY WITH COMPETITION LAWS?

Businesses, irrespective of their size and form, are required to adhere to the laws of the jurisdiction they operate in. In the area of competition, it means that businesses are obliged to respect rules that encourage and maintain fair competition among businesses. Other than legal obligation, businesses also benefit from complying with competition law through various ways. Hence, it is important to consider the risks of non-compliance together with the benefits for businesses in complying with competition law.

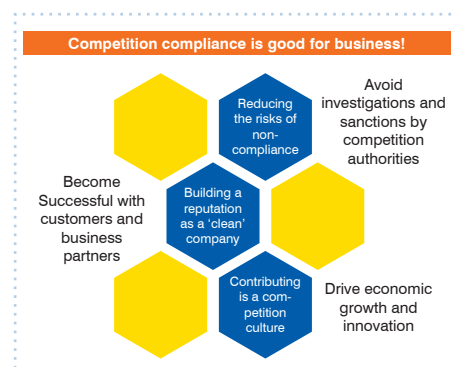
#### Risks of non-compliance

The consequences of infringing competition laws can be costly for businesses as this may entail significant financial penalties as well as other potential non-material impact, such as reputational loss, criminal convictions, and lawsuits from third parties. A competition compliance strategy is, therefore, a preventive measure that will help businesses to avoid adverse potential risks resulting from anti-competitive practices.

#### Benefits of competition compliance

Competition compliance has greater benefits beyond legal compliance. In a broad sense, competition ensures that consumers are not disadvantaged and that there is no surplus at the cost of consumers. As such, competition helps to redress imbalance market power between consumers and companies, thus contributing to consumer welfare.

With fair business competition, productivity and innovation will increase as businesses compete to use and allocate economic resources, with the aim of producing goods and services in the most efficient way, at the lowest possible costs. Competition also means that businesses will be stimulated to increase their market share by creating new products and services, thereby encouraging greater product variety and service innovation.



By putting into place a CCP, businesses can minimize and mitigate the risks of infringing competition rules. The CCP can act as an **early-warning system** to identify and remedy potential anti-competitive practices in a company. Although an initial investment is needed to develop a CCP, its benefits will ultimately outweigh its cost.



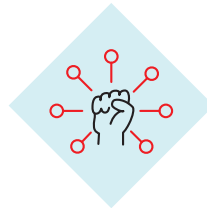
## WHAT ARE COMMON ANTI-COMPETITIVE PRACTICES?

To ensure a level-playing field, competition law generally prohibits three main types of anti-competitive practices, which are: (i) anti-competitive agreements, (ii) abuse of a dominant position, and (iii) anti-competitive mergers and acquisitions.



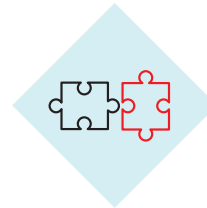
### Anti-competitive agreements

Anti-competitive agreements are agreements between business players that harm competition by preventing, restricting, or distorting competition. Examples of such agreements include price-fixing, market-sharing and bid-rigging.



### Abuse of dominant position

Abuse of dominant position is a practice in which a company uses its substantial market power to restrict competition. Such abusive behaviours may include exploitative abuse (e.g., setting excessive prices or unfair conditions) or exclusionary abuse (e.g., predatory pricing, exclusive dealings).



### Anti-competitive mergers & acquisitions

Mergers and acquisitions are only prohibited if they lead to a restriction or substantial lessening of competition. Accordingly, mergers and acquisitions should be screened and approved by the Competition Authority or other competition agency.





## WHAT IS THE ROLE OF COMPETITION AUTHORITIES ?

Competition Authorities play a critical role in proactively promoting and ensuring business compliance with the competition law.

The following are the suggested ways for Competition Authorities to ensure competition compliance among businesses:

### Setting priorities: Law enforcement vis-à-vis advocacy

Competition Authorities should balance enforcement with advocacy. The latter is not a less important function as it is essential in preventing anti-competitive practices from occurring in the first place.

### Setting priorities: Specific business sectors and actors

It is also important for Competition Authorities to prioritise their efforts to reach out to specific business sectors and/or actors. For example, Competition Authorities may consider Small and Medium Enterprises (SMEs) as the main target for advocacy measures, given the lack of knowledge and awareness on competition compliance among SMEs. A focus can be placed on anti-competitive agreements, given that SMEs are more prone to engage in such anti-competitive conduct. Deciding which sector or actors to be prioritized, however, depends on the specific contexts and priorities of each country.

### Providing guidance

To raise awareness of competition compliance among businesses, Competition Authorities could provide guiding documents as part of their advocacy initiatives. These include guidelines or Frequently Asked Questions (FAQs) based on general principles or even tailored to the country-specific context.

## FAQs

**Why is this a good idea?** Business managers are likely to encounter questions on competition compliance when they implement a CCP.

**How does it work?** A starting point may be the publication of FAQs online and subsequent dissemination through other forms of media (e.g., brochures/leaflets). In time, as businesses become more familiar with competition compliance, the message may shift from explaining general benefits of competition compliance to more specific aspects of compliance, such as enforcement procedures (e.g., leniency, whistleblowing). FAQs should be written in a short and concise way, and in non-technical language.

**When should this take place?** The development of FAQs, should begin as soon as possible. They should be kept up-to-date and in line with any changes to competition law and major competition cases.





## WHAT IS THE ROLE OF BUSINESSES?

The business community also needs to play an active role in achieving effective competition compliance. The following practices are possible approaches that businesses could adopt to avoid infringing competition laws.

### Building a competition culture

A “competition culture” entails a shared awareness about the benefits of fair competition. It encourages businesses and other stakeholders to comply with competition rules.

For businesses, having a competition culture can discourage anti-competitive conduct. The notion of competition culture may seem abstract, but businesses have adopted some of the following strategies to apply or foster a competition culture.



#### Identifying Drivers

Businesses should identify the drivers of compliance and non-compliance with competition law in order to learn how to motivate employees to comply



#### Recognizing Risks

To efficiently allocate resources for competition compliance, businesses can implement a risk-based approach by focusing on areas with greater risk of non-compliance



#### ‘Tone from the Top’

Getting the leaders to support competition compliance is not only about securing commitment, but for business leaders and managers to constantly reinforce these values to employees

### Implementing competition compliance strategy

There is no ‘one size fits all’ approach in developing a competition compliance strategy because it is heavily influenced by the company’s internal environment and culture, as well as the nature of potential risks that it may encounter. The following are common aspects of a competition compliance strategy that businesses may implement:



#### Policy

An overarching policy provides commitment, rules, and disciplinary measures to guide employees in avoiding anti-competitive practices



#### Procedure

A clear framework of business procedures and division of responsibilities will enable employees to adhere to proper processes and permitted conduct



#### Personnel

Regularly conducting competition compliance trainings raises employee awareness and understanding about competition rules

## PART B: BUILDING AWARENESS AND UNDERSTANDING AMONG THE BUSINESS COMMUNITY



### HOW TO RAISE AWARENESS AND FOSTER A SOUND UNDERSTANDING OF COMPETITION RULES?

An effective competition compliance strategy requires a high-level of awareness and understanding. It is critical to ensure that the Competition Authorities' advocacy activities are tailored to business needs. A Competition Authority should take the following into account:

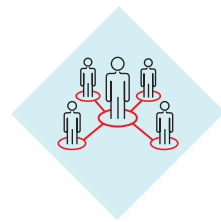
#### Outreach / dissemination

Competition Authorities can adopt various outreach methods to disseminate information to the business community. Beside organising seminars and/or workshops, Competition Authorities could consider using social media platforms (e.g., Facebook, Twitter) or other innovative channels (e.g., video, TV commercial/ show) to achieve wide coverage among their target audience while ensuring efficient use of their resources.



#### Leverage through partnerships

Competition Authorities may consider leveraging cooperation partners, such as line ministries, business associations and chambers, provincial structure or local governments, as well as competition practitioners, such as lawyers and other relevant and interested stakeholders, including businesses themselves. A Training of Trainer (ToT) approach can be useful in sustaining awareness levels, as businesses may adopt such training methods internally.





## HOW TO ASSESS THE LEVEL OF UNDERSTANDING AMONG BUSINESSES?

In order to develop an effective advocacy strategy, the Competition Authorities must first have an insight into the level of understanding among businesses. The following are some approaches that can be undertaken by Competition Authorities in gauging or assessing the level of understanding about competition law compliance among businesses.



### Surveys (pre- and post-events)

Competition Authorities may conduct surveys to gauge businesses awareness and understanding on competition law. The pre- and post-events approach can also be adopted when carrying out advocacy campaigns or programs to learn whether certain events or initiatives have been effective in increasing understanding among businesses.



### Checklist (self-assessment)

Competition Authorities can promote the use of a self-assessment mechanism or checklist to assess the level of understanding about competition rules among businesses. The checklist would measure the level of understanding and whether certain mechanisms to achieve compliance are in place.



## HOW TO SUSTAIN ENGAGEMENT WITH BUSINESSES?

Competition Authorities should approach businesses at regular intervals and not on a one-off basis. This can be done by conducting monthly seminars or workshops or formal and informal networking sessions. Maintaining an online presence and promoting competition compliance via social media is also an efficient and effective way to sustain the engagement and exposure with the business community.

## PART C: PROMOTING COMPETITION COMPLIANCE AMONG BUSINESSES



### HOW CAN COMPETITION AUTHORITIES MOTIVATE BUSINESSES TO ADOPT/IMPLEMENT CCPs?

#### What does this mean?

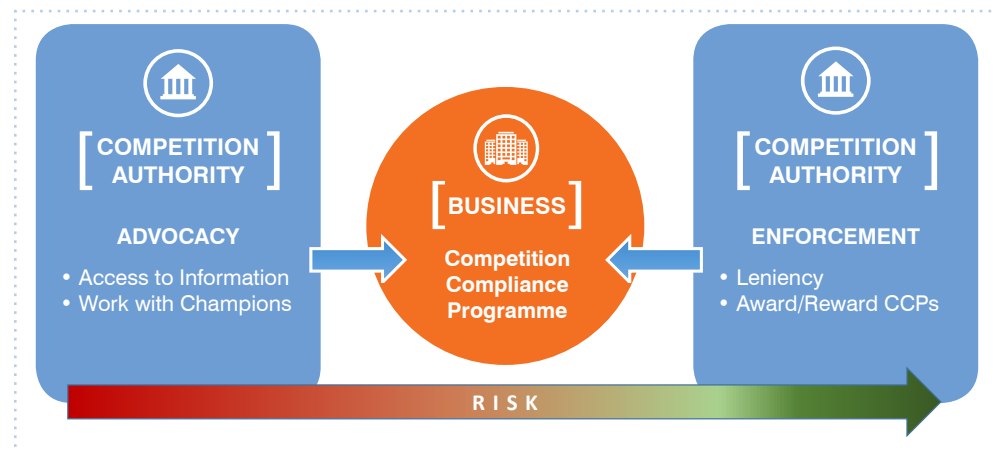
Broadly speaking, a Competition Compliance Programme (CCP) embodies the commitment of a company to comply with the provisions of the competition legislation. It provides a formal internal framework to ensure that management and employees comply with competition rules.

#### Why is this a good idea?

Full compliance with competition rules stems from an attitude and a culture which can have a positive impact on a company's business. Competition Authorities might even incentivise businesses to be compliant if they help them to achieve a compliance culture (e.g., through reward schemes).

#### How does it work?

The chart below illustrates individual steps when implementing a CCP and how businesses and authorities can benefit.



#### Access to information

#### What does this mean?

Competition Authorities are a possible contact partner for businesses where uncertainty arises in matters of competition and antitrust law.

#### Why is this a good idea?

If Competition Authorities support businesses in the development of a CCP through providing greater access to information and guidance, businesses with limited resources and expertise in competition law may be more incentivised to introduce a CCP.

**How does it work?**

The role of Competition Authorities could range from providing materials explaining how to apply the law (e.g., brochures and leaflets), to sharing in detail information about past cases, and providing direct advice to businesses about how to develop a CCP.

### **Working with champions**

**What does this mean?**

In encouraging the implementation of CCPs, Competition Authorities could consider working with “champions” from within the business community. These “champions” can act as role models for other businesses, sharing their experiences to advocate for broader competition compliance.

**Why is this a good idea?**

A business might feel incentivised to implement an effective CCP if it results in the business standing out as compliant with competition law, progressive and ethical, which will enhance its corporate image. The image a business transmits is always an important consideration, and a positive image inspires trust from its customers and consumers.

### **Leniency**

**What does this mean?**

Another incentive for businesses to cooperate with Competition Authorities is by providing a leniency programme. This offers companies that are involved in a cartel either total immunity from penalties or a reduction in the size of penalties which the authorities could otherwise have imposed on them – if they self-report (voluntary disclosure) and hand over any relevant evidence.

**Why is this a good idea?**

International experience has shown that leniency programmes are effective in incentivising businesses to report to Competition Authorities. By means of this programme, Competition Authorities have the possibility of receiving information and insider evidence about a cartel which may be otherwise difficult to obtain.

**How does it work?**

To take full advantage of the leniency programme, businesses must voluntarily disclose information and cease their infringing activity immediately. With an effective CCP in place, company management may be able to detect unlawful activities at an early stage, allowing them to make a leniency application relatively early on.

**What does this mean?**

### Award or reward CCPs

Recognising business efforts to put in place a CCP may be one way of encouraging competition compliance among businesses.

**Why is this a good idea?**

This approach could send a signal to businesses about the importance that a Competition Authority attaches to the existence of an effective CCP.

**How does it work?**

For example, Competition Authorities can acknowledge companies being investigated for their efforts to be compliant with competition law, even if such companies are eventually found to have infringed competition rules. This could be considered as a mitigating factor in deciding the amount of financial penalties. Such a stance demonstrates that Competition Authorities recognise compliance efforts by businesses.



## WHAT ARE THE MINIMUM REQUIREMENTS FOR AN EFFECTIVE CCP?

### 1. Core commitment

This is absolutely vital! There must be a strong policy statement by senior management that competition compliance is a core part of the business and that all employees are expected to comply with competition rules. Such a statement may be integrated into the standards of business conduct or contained within a special manual. Corporate commitment is a fundamental precondition for successfully instilling a CCP culture within a business.

**For SMEs:** This commitment may be reflected in internal guidelines.

### 2. Documents

A business, regardless of its size, may have policies and procedures that govern its internal operations, including checklists on key processes to ensure that risks are readily identified, prevented, remedied or mitigated. Such written and documented procedures should be tailored to accommodate the demands of a robust competition compliance programme. Use of these documents should help employees to know what they need to do or who they have to contact in the event of non-compliance.

**For SMEs:** Instead of documented processes, introduce an employee's duty to seek preliminary legal advice in cases where any doubt arises concerning non-compliance.

### 3. Personnel

The senior management of a company is responsible for the implementation of a CCP. A member of staff should be appointed or designated to be the person mainly responsible for the programme.

**For SMEs:** Keep in touch with employees and ensure regular exchange of information on relevant competition issues.

### 4. Processes

The successful implementation of a CCP requires knowledge of the processes and operations of a business. In particular, a CCP takes into account the expansion of business activities and entrance into new markets, as well as the enactment of new regulations, among others. To enhance staff commitment, employees should ideally be exposed to a general training session. This could take place as part of their employee induction. The legal team should also undergo specific training to allow it to provide counsel to other employees on competition law matters.

**For SMEs:** Assign the responsibility to the in-house counsel or outsource this function to an external legal adviser.

### 5. Monitoring the existence and effectiveness of CCPs

Monitoring and improving the effectiveness of a CCP takes place through regular review and audit of the CCP, confirmation of management commitment to the CCP, the accuracy of documentation and guidelines available, the assignment of responsibilities to employees, and the general level of competition law awareness within the company. Another important and useful step when it comes to monitoring is to collect experiences that different business units have had and encourage comments on the effectiveness of the CCP.

**For SMEs:** The focus of every CCP should be to identify high-risk areas within the business.



## PART D: IDENTIFYING, ASSESSING AND MANAGING RISKS



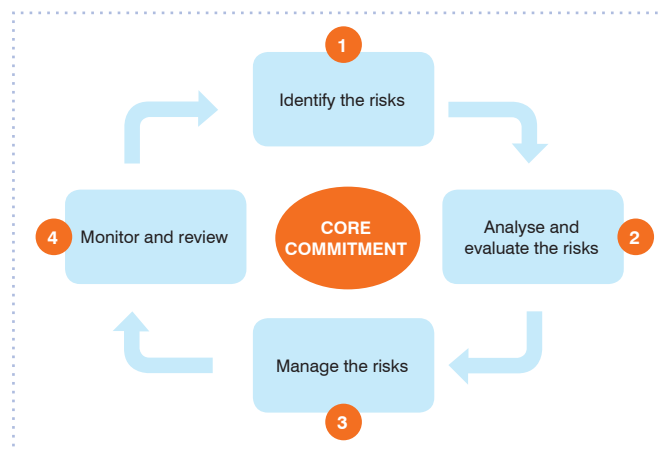
### WHAT IS A RISK-BASED APPROACH?

#### What does this mean?

As previously described, a Competition Compliance Programme (CCP) embodies the commitment of a company to comply with the provisions of competition legislation. With a CCP in place, a formal internal framework is established to ensure that the management and employees of a company fully comply with competition law.

#### How does it work?

A CCP can be either a standalone programme or part of a broader regulatory compliance framework. It can be implemented through a company's local office or through its global headquarters. Businesses may achieve an effective CCP by 1) identifying, 2) analysing, 3) managing and 4) monitoring all competition law risks, thereby creating and maintaining an effective compliance culture that works for the business in question.



### WHAT IS CORE COMMITMENT?

The key element of every CCP is for the managers and employees at all levels of the business to demonstrate a strong commitment to competition law compliance.

A well-publicised statement may help reinforce the commitment to competition compliance. This may be achieved by outlining a clearly defined set of rules (e.g., by means of a letter from the CEO containing the rules). It is also vital to communicate the defined goals and rules within the business and to all employees.



## WHAT ARE THE STEPS OF A RISK-BASED APPROACH?

### How can SMEs ensure competition compliance?

**Small businesses do not need to worry about the risk of infringing the competition law – right? WRONG!**

Competition laws generally apply to all industries and market players, irrespective of the size of the business. However, SMEs may face different risks and challenges in complying with competition laws:

- In principle, the key elements discussed for a CCP above also apply to SMEs, but the costs of implementation must be kept in mind. For smaller businesses, a formal CCP may not be feasible due to resource constraints. However, employees must still be educated about the importance of competition compliance and made aware of the implications of infringing the law.
- SMEs should take compliance measures that are proportionate to their risks.
- A CCP for SMEs might be less formalised and structured compared to those of a larger business and could focus on anti-competitive agreements, as SMEs are more prone to engage in these.
- Using publicly available guidelines developed by Competition Authorities and/or commercial or international organisations could be a good solution to suit the needs of a small company (“CCP Lite”).

### Step 1: Identify the risks

It is important to understand the specific risks a business faces in competition compliance. The first step is to look carefully at the business itself and to identify areas where there might be risks. A checklist is given on the next page to assist businesses in identifying potential risks.

**Example:** Possibility of collusion with competitors or restrictive practices by the business possessing market dominance.

### Step 2: Analyse the risks

Once the areas of risk have been identified, it is necessary to evaluate their impact. One approach is to rate each risk as low, medium or high. A traffic light system and/or a risk matrix could be used (shown on the next page).

**Example:** Certain employees, processes or documents could be identified as high (red) risk areas. These may include employees who are likely to be in contact with competitors, and those who are involved in making pricing decisions for products and services.

### Step 3: Manage the risks

Once the risks have been evaluated and rated, the next step is to set up policies, procedures and training sessions to mitigate and address the risks. The exact actions that need to be taken will depend upon the specific risks identified, their impact, and the likelihood of their occurrence.

**Example:** Arrange for in-house presentations with Q&A or interactive sessions (workshops/role play) for employees who are likely to have contact with competitors or make pricing decisions.

### Step 4: Monitor the risks

Regularly review steps 1 to 3 to ensure that a CCP remains current and relevant. Whether the review should take place on an annual basis, or more or less often, depends on the specific context of the business.

## ANNEXES: SPECIFIC DOCUMENTS FOR BUSINESSES



### CHECKLIST TO IDENTIFY COMPLIANCE RISKS

To ensure that a business is compliant with competition rules, risks must be identified at an early stage. The following checklist summarizes a few key questions according to three distinct categories.

Risks	People	Processes	Documents
<b>General</b>	Is the company operating in a market where most, if not all competitors are known?	Are there any partnerships with competitors, or is there any cooperation planned?	Does the company have joint selling and purchasing agreements with any competitors?
<b>Horizontal restraints of trade among competitors</b>	<ul style="list-style-type: none"> <li>- Are the customers also the competitors?</li> <li>- Is the sales staff in contact with competitors (e.g., at trade events / association meetings)?</li> <li>- Do staff frequently move between businesses within the sector?</li> </ul>	<ul style="list-style-type: none"> <li>- Are prices / production / output limitations or territories discussed with competitors?</li> <li>- Is (sensitive) information shared with competitors?</li> <li>- Have there been any cartel investigations or lawsuits alleging cartels in the market where the business operates?</li> </ul>	<ul style="list-style-type: none"> <li>- Are there any agreements (orally / in writing) with competitors about prices / quantities / territories?</li> <li>- Are there any agreements regarding bid rigging (e.g., not to / withdraw a bid)?</li> <li>- Are there any agreements or cooperation agreements (express or implied)?</li> </ul>
<b>Vertical restraints of trade among non-competitors</b>	<ul style="list-style-type: none"> <li>- Are products sold through independent dealers?</li> <li>- Are there any exclusive distributorships?</li> <li>- Are there any customer and territorial restrictions?</li> </ul>	<ul style="list-style-type: none"> <li>- Are there any significant differences in sales prices between one country and another?</li> <li>- Are there any private import / export restrictions?</li> </ul>	<ul style="list-style-type: none"> <li>- Are there any agreements imposing resale restrictions (e.g., on prices or territories) on retailers?</li> <li>- Are there any exclusive distribution agreements?</li> </ul>
<b>Abuse of market dominance</b>	<ul style="list-style-type: none"> <li>- Are customers treated unequally (e.g., business conditions) without reasonable justification?</li> <li>- Does the company refuse to deal with certain customers (sale or purchase)?</li> <li>- Do certain customers profit from loyalty programmes?</li> <li>- Are there discriminations against customers if they contract with any competitors?</li> </ul>	<ul style="list-style-type: none"> <li>- Does the company have persistently large market shares (e.g., &gt;40%) in the relevant market?</li> <li>- Has the company recently broadened its activity recently?</li> <li>- Is an expansion of business activity in the pipeline?</li> <li>- Does any refusal to deal exist (e.g., refusal to supply or to purchase goods) without objective justification?</li> <li>- Are different prices or terms offered to similar customers (without justification)?</li> <li>- Are any (non-cost relevant) discount systems in operation?</li> </ul>	<ul style="list-style-type: none"> <li>- Do strategies exist that are directed against competitors (e.g., refusal to deal with similar customers or to deal with them using different prices)?</li> <li>- Are there customer loyalty programmes in place?</li> </ul>



## CHECKLIST TO EVALUATE COMPLIANCE RISKS

	4	8	12	16
	3	6	9	12
	2	4	6	8
Impact	1	2	3	4
	Likelihood			

Once risks have been identified, they should be classified and evaluated in terms of how serious they are.

**Risk matrix/“traffic light system”:** The horizontal and vertical axes refer to the likelihood and impact respectively. Risk scores (likelihood x impact) can be used to evaluate whether an activity presents a low (green), medium (yellow) or high (red) risk.

**Example:** If employees meeting competitors at conferences is considered a high-risk activity, training sessions could be organised to make sure that teams know what they are allowed to communicate to competitors and what not.

However, if a cooperation with competitors has been found to be only a medium risk, legal advice could be sought.



## CHECKLIST TO MANAGE COMPLIANCE RISKS

Once risk areas have been identified, it is necessary to set up policies, procedures or training sessions to reduce the likelihood of the risk. What needs to be done depends upon the risks identified and the likelihood of the risk occurring in the context of the business in question.

The following checklist might be helpful:

Possible Measures	
<b>People</b>	<ul style="list-style-type: none"> <li>• Implement a system whereby all contact with competitors is logged</li> <li>• Train employees in competition law; they must be made aware of how important competition compliance is</li> <li>• Establish a system which provides them with advice before they take action (e.g., legal advice on a contract)</li> <li>• Make sure that employees report to the business if they are joining a trade association or planning to attend events where they might be meeting up with competitors</li> </ul>
<b>Processes</b>	<ul style="list-style-type: none"> <li>• Establish a framework for whistleblowing or reporting of suspected activities related to anti-competitive practices within the company</li> <li>• Implement a system whereby all partnerships and dealings with competitors are logged</li> <li>• Establish a warning system for risks based on market entries or exits</li> <li>• If there is a probable infringement of competition rules, legal advice should be sought immediately</li> </ul>
<b>Documents</b>	<ul style="list-style-type: none"> <li>• Set up a code of conduct, competition law guidelines and/or a written manual</li> <li>• Implement a system which ensures that all information-sharing with competitors is documented</li> <li>• If there is a probable infringement of competition rules (e.g., resale restriction, strategies against competitors), legal advice should be sought</li> </ul>



## CHECKLIST TO MONITOR AND REVIEW COMPLIANCE RISKS

Last but not least, the previous steps need to be reviewed regularly along with the businesses' commitment to compliance. This step has two goals:

- **TO AVOID** potential risks of infringing competition rules.
- **TO PREVENT** new risks from emerging.

This can comprise of the following measures:

Possible Measures	
<b>People</b>	<ul style="list-style-type: none"><li>• Regular testing of competition law awareness</li><li>• Online compliance tools for employees</li></ul>
<b>Processes</b>	<ul style="list-style-type: none"><li>• Review of high-risk dealings with legal counsel (identified by risk matrix)</li><li>• Internal/external ombudsman</li></ul>
<b>Documents</b>	<ul style="list-style-type: none"><li>• Letter-box for anonymous reporting of inappropriate conduct/ agreements</li><li>• Obligation for group leaders to issue competition law reports (e.g., on annual basis)</li></ul>



## DOs AND DON'Ts FOR BUSINESSES

<b>DO</b>	<b>Object to any unacceptable behaviour.</b> Object to any discussions, activities or conduct that may violate competition rules. Consider too that other business partners may not be familiar with these rules.
<b>DO</b>	<b>Behave prudently toward industry contacts.</b> Leave industry meetings immediately if competition sensitive subjects arise (e.g., price fixing). Feel free to also interrupt any meeting where the matters discussed may raise competition law concerns and request that your objection be recorded in the minutes.
<b>DO</b>	<b>Implement a CCP.</b> Introduce a set of compliance measures (see aforementioned checklist).
<b>DO</b>	<b>Identify business risks.</b> Perform a risk analysis to identify those areas in which the company is potentially at risk.
<b>DO</b>	<b>Evaluate business risks.</b> Classify identified risks and evaluate as to how serious they are.
<b>DO</b>	<b>Monitor business activities.</b> Periodically review business activities, in particular focusing on high risk areas (see aforementioned checklist).
<b>DO</b>	<b>Ensure constant awareness.</b> Be aware of the guidelines 24/7 and make sure that your staff has fully understood the guidelines, agreed to comply with them, and is also implementing them.
<b>DO</b>	<b>Train staff regularly.</b> Educate employees about the importance of competition compliance and make them aware of the sanctions for infringing competition rules.
<b>DO</b>	<b>Self-monitoring.</b> Do monitor and review your CCP regularly to ensure its relevance and effectiveness.
<b>DO</b>	<b>Internal system or mechanism.</b> Have an internal structure and process in place for reporting possible infringements of competition rules.

<b>DON'T</b>	<b>Make agreements with competitors.</b> Do not agree, even informally, with competitors about pricing, production/output limitation, customers or markets, without having a lawful reason.
<b>DON'T</b>	<b>Conduct discussions with competitors.</b> Do not discuss with competitors about: - Which suppliers, customers or contractors your business deals with/or shall deal with, - Which markets your business intends to sell into or about the terms upon which you will deal.
<b>DON'T</b>	<b>Restrict the freedom of your business partners.</b> Do not enter into agreements that restrict any party in their freedom to set prices, choose trading partners, decide on product ranges or otherwise manage their terms of sale.
<b>DON'T</b>	<b>Boycott suppliers or customers.</b> Do not, either factually or in appearance, reach understandings or agreements or even hold discussions that might lead to the boycott of a supplier or a customer or to excluding competitors.
<b>DON'T</b>	<b>Discriminate against customers.</b> Do not prevent customers from contracting with competitors and do not abuse your dominant position by any other means.
<b>DON'T</b>	<b>Keep quiet; report unacceptable behaviour.</b> Do not remain silent when issues that raise competition law concerns are discussed.
<b>DON'T</b>	<b>Violate leniency requirements.</b> If you submit a leniency application to the authority, immediately cease from any further participation in the cartel.



