

## ONE TOUCH SWITCH INDUSTRY WORKING GROUP

### GUIDELINES FOR CONDUCT

You have been asked to participate in an industry working group for the purposes of designing and establishing One Touch Switch. As part of this working group, you may attend meetings and/or calls with actual or potential competitors of your business. It is important that interactions and discussions are limited to what is strictly necessary to achieve the legitimate objective here, of designing and establishing the One Touch Switch mechanism and appropriate governance arrangements. Rules relating to competition law must be followed at all times during these meetings and in any correspondence or exchange (via whatever means) relating to the working group.

### COMPETITION LAW RULES

Competition law prohibits businesses from sharing and/or exchanging, competitively sensitive information (CSI).

CSI includes information which:

- one party/parties (or other companies in their corporate groups) receives about another party / parties (or other companies in their corporate groups);
- which is not in the public domain; and
- which may reduce uncertainty regarding the relevant party/parties' business decisions or activity or existing or future business strategy.

It includes non-public, commercially sensitive information and strategic data/information.

Examples of CSI include, but are not limited to:

- wholesale or non-public retail pricing/tariffs or pricing strategy;
- discounts, costs (which can include staffing costs such as salaries or benefits) and margins;
- plans for new products, services, tariffs or offers;
- plans or proposals for changes to the way services are sold or delivered;
- future product characteristics or product development activities or plans;
- forecast traffic by voice/data;
- future strategy e.g. rollout plans, site deployments or technology upgrades;
- planned investments;
- details of relationships with suppliers (including T&C of supply);
- non-public financial information or information concerning a company's current state;
- non-public information regarding current or future sales volumes or turnover (including e.g. switching volumes or trends), market shares, demand, capacity or budgets;
- marketing strategy or plans;
- information concerning commercially sensitive technologies or R&D programmes; and
- details of a party's customer base (or terms of supply).

Each individual will be responsible for ensuring that any documents produced and discussions had do not reveal any CSI pertaining to their organisation.

To avoid uncertainty or ambiguity, individuals should cite the public sources of information that have been used so as to remove, where possible, any ambiguity as to how the information was derived.

In addition to not discussing or sharing CSI, you should also not discuss, agree to or recommend a course of action on competitively sensitive topics (even in jest) during your interactions – as this may also infringe competition laws. The focus must be on One Touch Switch, rather than on any company’s commercial activities.

For meetings / calls on topics that are considered potentially more sensitive based on the proposed agenda, the default presumption should be that they should be attended by at least one competition lawyer to provide further guidance as needed.

**Below are some Do’s and Don’ts which MUST be followed by all participants in working group meetings and calls.**

DO’S & DON’TS
<b>DO</b>
<ul style="list-style-type: none"> <li>☞ Prepare and circulate an agenda in advance to all parties and stick to it during the meeting (seek advice from a competition lawyer if you are unsure whether a topic of conversation would be permitted).</li> </ul>
<ul style="list-style-type: none"> <li>☞ Attach a copy of this competition law guidance to all calendar invites and note it in agendas.</li> </ul>
<ul style="list-style-type: none"> <li>☞ Provide a reminder at the start of each meeting acknowledging the competition law constraints on discussions and reminding people of the need to stick to the agenda, not to disclose CSI and not to make anti-competitive suggestions or recommendations during the meeting (even in jest).</li> </ul>
<ul style="list-style-type: none"> <li>☞ Ensure that meetings and/or calls only relate to the common purpose and only include the relevant individuals</li> </ul>
<ul style="list-style-type: none"> <li>☞ Keep a short record of all meetings and/or calls, which should include the following:               <ul style="list-style-type: none"> <li>• the date and time of your meeting/call;</li> <li>• the individuals who attended;</li> <li>• the subject of your discussion; and</li> <li>• any decisions adopted.</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>☞ Stop the meeting/call and consult a lawyer before proceeding further if you consider that any party/parties are sharing CSI.</li> </ul>
<b>DON’T</b>
<ul style="list-style-type: none"> <li>☞ Circulate, share or discuss CSI with any other party</li> </ul>
<ul style="list-style-type: none"> <li>☞ Participate in private or informal meetings or ‘off the record’ discussions</li> </ul>
<ul style="list-style-type: none"> <li>☞ Misuse this process to discuss or influence parameters on which participants compete</li> </ul>
<ul style="list-style-type: none"> <li>☞ Recommend a course of action on competitively sensitive topics (even in jest) e.g. do not discuss or suggest fixing prices (or other parameters on which companies compete), sharing markets, customers or opportunities or boycotting third parties</li> </ul>

If you are in any doubt about the scope of these guidelines or need advice on whether information is CSI, please contact the competition lawyer in your own organisation in the first instance. It may be possible to recast the information e.g. aggregation of information or use of ranges to enable information to be shared without raising any competition concerns and your competition counsel can provide guidance on this.

**Remember:** a key test for CSI is whether the information is capable of influencing (or of interest to determine) another company's commercial or competitive behaviour, policy or strategy or capable of affecting "normal competition" – if it is, don't share it!

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