



## **Indian Beauty & Hygiene Association (IBHA)**

### **Competition Law Compliance Guidelines**

#### **IBHA Mission Statement**

*"To accelerate the development of a trusted hygiene and beauty care industry that serves consumers with products that are effective, safe and environment friendly."*

#### **1. INTRODUCTION**

IBHA is a non-profit organisation registered under Section 8 of Companies Act 2013, with big, medium and small-scale companies as its members. As an apex trade body, we represent the beauty and hygiene industry in various policy issues with major statutory authorities in India.

IBHA as a trade association has the following goals defined in its charters:

- ✓ Convey to stakeholders the pivotal role of beauty and hygiene in the well-being of society
- ✓ Partner with regulators to build progressive public policies that develop the industry as a whole.
- ✓ Promote global exchanges and best practices amongst members.
- ✓ Promote consumer safety and education thereby maintaining the confidence of the public in the industry.
- ✓ Encourage the industry to follow environmental best practices.

#### **2. COMPETITION LAW COMPLIANCE**

It is IBHA's policy to comply with all applicable laws in India including the regulations on Competition Law. The purpose of these guidelines is to outline the most important principles governing the conduct of members of IBHA to ensure that the association and its members are fully compliant with the legal requirements.

Competition law treats the activities of trade associations like any other form of cooperation between competitors. For competition law purposes, decisions or recommendations of trade associations are treated as agreements between its members and law may be breached even when they are not binding on the members.

The type of conduct that can give rise to concerns in the context of a trade association may consist of either restricting a competitor's access to the market (e.g. restricting a market player's participation without objective justification, or collectively refusing to deal with a competitor, supplier or customer), or exploiting collective market strength to gain market share or undue advantages (e.g. imposing onerous or unjustified standard terms which put

trading partners such as customers at a competitive disadvantage, or discriminating between similar customers or suppliers )

### **3. OBJECTIVE OF GUIDELINES**

These guidelines set out the basic competition law principles that the members of IBHA shall comply with when preparing, organizing and attending meetings as well as in any other IBHA related activities. It shall be explicitly and unconditionally accepted by every member and all employees of IBHA. The guidelines shall be updated/amended from time to time. It is the responsibility of each member to comply with competition law; it will not be IBHA's responsibility to ensure that its members comply with competition law in their own activities.

### **4. CONDUCT OF MEETINGS**

- ✓ Every meeting of IBHA members including the sub-committee/working group meetings shall have a specific, demonstrable purpose. An agenda will be circulated to all members before the meeting. The agenda shall be reviewed by the Secretary General and shall be closely followed during the meeting.
- ✓ Each meeting shall be recorded accurately by minutes, and these shall be circulated to all members promptly after each meeting. They will be retained permanently by IBHA for its records.
- ✓ The Competition Caution shall be included in each meeting agenda. A copy is attached as **Annexure A** to this guideline.
- ✓ If the agenda for a meeting makes it advisable, a competition law specialist may be invited to attend to ensure compliance with applicable requirements.
- ✓ All participants attending the meetings are required to be fully familiar with the Competition Law Compliance Guidelines. A set of Dos and Don'ts for participants at IBHA meetings is attached as **Annexure B** to this guideline.
- ✓ If a member participant is uncertain whether a discussion or conduct raises competition law issues, the discussion on the subject should be stopped or suspended, and that fact shall be recorded in the minutes.
- ✓ Any objection raised by a member concerning a competition law sensitivity or violation shall be recorded in writing and circulated in the minutes.
- ✓ All working groups and sub-committees set up within the IBHA framework remain fully subject to Competition Law. Therefore, such groups are required to follow these guidelines in the conduct of their meetings and related activities.

### **5. PROHIBITED SUBJECTS**

Members must never discuss or exchange information on commercially sensitive subjects i.e. any company-specific information which, if exchanged, could influence competitors' future conduct. Such topics shall include, but are not limited to, the following:

- ✓ Price and promotion information: selling or purchasing prices, including not only actual prices charged but also the elements of pricing and pricing policy, like costs, discounts, promotional terms and trade terms;
- ✓ Price changes or present or future trading conditions;
- ✓ Capacity, costs or production output;
- ✓ Plans relating to future business, investment, product, marketing and advertising strategies; Purchasing or bidding plans or other commercial strategies;
- ✓ Sales volumes or values, or sales quotas; Market shares;

- ✓ Proprietary technical development;
- ✓ Individual dealings with customers or suppliers or buying associations including the status or content of yearly negotiations;
- ✓ Proposals for joint market conduct regarding specific companies, including customers, suppliers and other industry participants, including boycotts and blacklists.
- ✓ Conduct of members at social events in conjunction with IBHA meetings or otherwise should follow the same standards as regular meetings.

## **6. RISK MITIGATION**

- ✓ Each member or employee of IBHA must make every effort to act in full accordance with competition law guidelines. Each Committee chairperson shall have the responsibility to ensure that the activities of IBHA committees do not breach competition law.
- ✓ Committee chairpersons should immediately report any actual or suspected breach of competition law to the Secretary General and the President/Vice President.
- ✓ If, in the course of its activities with other trade organisations in India or overseas, IBHA becomes aware of anti-competitive behaviour it will take active steps to show unambiguous disapproval of the conduct.
- ✓ Considering that during an investigation, the burden of proof will be on IBHA to show this disapproval, therefore IBHA will make sure that these objections are accurately documented, and it should retain copies of relevant documents.
- ✓ IBHA and its employees shall cooperate with the investigation authorities in case of an unannounced investigation.

## **7. SANCTIONS**

Any member or representative of a member who does not conform with any competition law provision and, in particular, with any of the principles set forth in the present guidelines may be asked by any other member(s) to leave the meeting where the infringement occurs. Any such member or representative may be temporarily or in-definitely excluded from participating in future meetings.

## **ANNEXURE A**

### **COMPETITION CAUTION**

Below caution statement shall be included in all IBHA meeting agendas and shall be read at the start of each IBHA meeting. The aim of this is to serve as a reminder to all participants of the competition law requirements. The statement should also be recorded in the minutes as indicated below.

#### **IBHA Competition Law Caution**

“At all meetings of the India Beauty and Hygiene Association (IBHA), IBHA and its members shall adhere to the IBHA Competition Law Compliance Guidelines and shall not enter into any discussion, activity or conduct that may infringe the competition law. By way of example, participants shall not discuss, communicate or exchange any commercially sensitive information, including non-public information relating to prices, marketing and advertising strategy, costs and revenues, trading terms and conditions with third parties, including purchasing strategy, terms of supply, trade programmes or distribution strategy.

This applies not only to discussions in formal meetings but also to informal discussions before, during and after meetings. Should the meeting discuss matters that fall outside IBHA’s legal remit or contravene competition law, we will close the meeting.”

#### **Message to new members or people taking part for the first time**

“Please take note that taking part in IBHA is subject to having read and understood the IBHA’s Competition Law Compliance Guidelines and list of Do’s and Don’ts. If you have not yet done so, please do so now.”

#### **PROCEDURE**

- ✓ Every agenda shall contain, as its first item, a statement in the terms set out above.
- ✓ Full minutes of all meetings shall be taken.
- ✓ Minutes shall be circulated to all members after the meeting. Any comment or request for amendment shall be notified to the chairperson without delay.
- ✓ Any data shared shall be historical and will be shared with Secretary General who will collate and share aggregated information to rest of the members.

## **ANNEXURE B**

### **Do's and Don'ts for IBHA Meetings**

#### **Don'ts:**

**Participant Members should not discuss, share non-public information or agree on any of the following commercially sensitive matters:**

1. Prices or price elements (including promotions, discounts, rebates and reductions, etc.)
2. Costs (such as production and transportation costs, etc.)
3. Profits and profit margins
4. Output and sales
5. Market shares and sales territories
6. Investment plans
7. Advertising, marketing or promotion plans
8. Allocation of products, customers, markets, territories, or sales
9. Matters relating to actual or potential individual suppliers or customers that might exclude them from any market, or influence the business conduct of firms towards them
10. Bidding, bidding terms, tactics, strategies or refraining from bidding
11. Credit conditions or any other terms of sale on which Members supply products to customers; or
12. Selection, rejection or termination of customers or suppliers
13. Any other confidential or competitively sensitive information

#### **Do's:**

**Members may exchange information on:**

1. Non-confidential, technical issues relevant to the industry such as standards and health and safety matters;
2. Issues relating to technology, plant and machinery, which is available in public domain, such as the characteristics and suitability of particular equipment or technology (but not a particular company's own proposals regarding the adoption of specific equipment or technology);
3. General promotional opportunities such as possible new markets or new uses of a product (but not a particular company's marketing or strategic plans);
4. Current or new legal developments; and
5. Industry public relations/advocacy or lobbying initiatives.