

# Woodpellets Meeting of 10 June 2010: Important Competition Law Guidelines



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- Article 101(1) of the Treaty on the Functioning of the European Union prohibits "*all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between member states and which have as their object or effect the prevention, restriction or distortion of competition within the common market.*"

- Risk of infringement of Article 101 in the highly concentrated energy sector.
- Maximum fine for an infringement of Article 101 = 10% of the group's consolidated worldwide turnover.
- Recent cases at European level have led to fines in a range between EUR 500 million – EUR 1 billion.

## Competition law guidelines to follow:

1. Remain within the prescribed woodpellets framework
2. Avoid sensitive areas
3. Exchange authorized information only

# 1. Remain within the prescribed woodpellets framework:

- I.e. the purchase of woodpellets and building a consensus about common concerns related to specifications, purchase agreements, supply procedures and sustainability in the woodpellets sector.

# 1. Remain within the prescribed woodpellets framework (2):

- the access to the meeting and discussions must be open, transparent and non-discriminatory;
- no attempt to standardize contractual provisions relating to price or other significant contract terms on which suppliers compete;
- no exchange between competitors of stories about negotiations on specific deals or experience with specific suppliers;
- no agreement not to deal with certain suppliers;
- the standard terms which might be established must be non-binding and effectively accessible for anyone.

## 2. Avoid sensitive areas:

- E.g. sales conditions, pricing issues, discounts, customer relations, supplier relations, product and marketing plans, prices of key raw materials, introduction of new technologies, costs, etc...

### 3. Exchange of data:

- When exchanging non public data, the following guidelines must be followed:
  - the data must be historical (such as past market conditions,...) so that it cannot be used by competitors to determine the future conduct of others;
  - the data should be aggregated or anonymous so that the accurate figures for individual transactions or businesses are not available.

**Any questions?**