



Competition law policy

Tilbury Douglas Group

Document control	
Version number	1.0
Reviewer	S Harris
Date	26/07/2022

1. Policy Statement

Tilbury Douglas Holdings Limited and its direct and indirect subsidiaries (the "Tilbury Douglas Group") are committed, in accordance with our values and culture and as part of our wider approach to respect for the laws of the relevant countries in which we operate, to conducting all of our business in an honest and ethical manner. We aim to act professionally, fairly and with integrity in all our business dealings and relationships wherever we operate and to enforce effective systems to comply with and counter any breaches of all applicable competition and antitrust laws, in the knowledge and acceptance that any infringement of such laws could result in adverse consequences, including but not limited to:

- Regulatory and/or criminal investigation of members of the Tilbury Douglas Group and/or individuals;
- Prosecution and punishment of offenders by means of criminal sentences, including but not limited to fines and/or imprisonment;
- The disqualification of individuals from being able to be appointed as statutory directors of any company;
- The dismissal of individuals from their employment;
- Contracts being declared unenforceable and/or contracting counterparties initiating litigation for compensation for being overcharged;
- Members of the Tilbury Douglas Group being barred from being able to participate in public and private sector procurement competitions for business opportunities; and
- Significant adverse public relations and reputational damage.

Paul Gandy, Chief Executive Officer, 2022

2. Supporting Policies and Procedures

This policy is underpinned by and should be read in conjunction with a range of other company policies which have been developed to support the Tilbury Douglas Group's compliance with applicable law. These policies aim to ensure that the appropriate legal and ethical implications are considered at all appropriate stages within the life of the business relationship between the Tilbury Douglas Group, its' customers, its' Workforce and our Supply Chain. The policies developed include but are not limited to:

- The Tilbury Douglas Group Policy on "Conducting Business with Tilbury Douglas";
- The Tilbury Douglas Group Mandatory Code of Conduct for our Supply Chain;
- The Tilbury Douglas Group Mandatory Code of Conduct for Employees; and
- The Tilbury Douglas Group Policy on "Whistle-blowing".

3. Scope of Application

This policy and the associated policies have been developed centrally and are subject to periodic review by representatives of all Divisions within the Tilbury Douglas Group, with support from relevant business functional teams and external specialists and utilising appropriate industry publications and guidance.

This policy applies to all persons working for the Tilbury Douglas Group or on our behalf in any capacity, including directors, officers, employees, workers, agency personnel, seconded personnel, volunteers, interns, agents, contractors, consultants, intermediaries, third party representatives, business partners,

sponsors or any other person associated with us, wherever located. This policy will also be championed and promoted in all joint ventures where the Tilbury Douglas Group does not have management control.

4. Competition Law Offences

4.1 Overview

The Competition Act 1998 and the Enterprise Act 2002 require that companies and individuals avoid:

- (a) Cartel activity;
- (b) Other anti-competitive activity;
- (c) Abuse of a dominant market position.

4.2 Cartel Activity

Cartel activity is committed whenever two or more independent businesses agree, whether in writing or otherwise, not to compete with one another and thus deprive consumers and other businesses of the benefits of competition. Such an offence includes:

- (a) Price fixing, where one or more competitors agree to keep the price of goods, works or services artificially high by agreeing not to sell such goods, works or services for less than a fixed price;
- (b) Bid rigging, where bidders in a competitive procurement process collude to arrange that one or more bidders in that competition put forward an artificially high price;
- (c) Limiting production, so that demand and prices remain high;
- (d) Restricting the provision of goods, works or services to particular customers, markets or geographies;
- (e) The unilateral disclosure to a competitor or the disclosure or exchange between competitors (whether directly or via a third party / trade association or by signalling in announcements to the media) of commercially sensitive information, such as pricing, margin, market focus, approach to specific tender opportunities, views on public and industry-known facts relevant to the industry etc.

4.3 Other Anti-Competitive Activity

Various other types of behaviour may also be deemed to be anti-competitive where they distort competition. Such activity may include but is not limited to:

- (a) Entering into contracts with exclusivity provisions of long duration (five years or more);
- (b) Entering into contracts with customer which restrict the terms on which they can re-sell goods, works or services; and
- (c) Entering into intellectual property licensing agreements containing exclusivity provisions.

4.4 Abuse of a Dominant Market Position

A business that enjoys substantial market power over a period of time may be considered to be in a dominant position in the market place if:

- (a) It has a market share of more than 40%;
- (b) It is able to behave independently of the normal constraints imposed by competitors, suppliers and consumers;

- (c) There are significant barriers to entry or expansion that may prevent potential competitors from entering or expanding in the market.

In this event, it is important that the business ensures that does not:

- (a) refuse to supply an existing customer without objective justification;
- (b) offer different prices or terms to similar customers without objective justification;
- (c) grant non-cost-justified rebates or discounts to customers that reward them for a particular form of purchasing behaviour or for accepting long-term exclusivity arrangements;
- (d) require customers wishing to purchase goods, works or services to purchase additional goods, works or services as part of a bundle;
- (e) charge prices so low that they do not cover the costs of the goods, works or services sold; or
- (f) refuses to grant access to facilities owned by the business which are essential for other competitors in the market to access.

5. Our Approach

The Tilbury Douglas Group believes that it is not possible to adopt a 'one size fits all' approach to its business in ensuring compliant with competition law. As a consequence, the Tilbury Douglas Group has adopted a risk-based approach which can be summarised as follows:

5.1 Commitment to Compliance

Senior management (from the Board of Directors downwards) are ultimately accountable for and are committed to driving compliance across the entire business of the Tilbury Douglas Group.

5.2 Risk Identification

The Tilbury Douglas Group has identified the following key risks inherent in its business:

- (a) Tilbury Douglas Group customers are also, in certain circumstances, its competitors;
- (b) Tilbury Douglas Group staff attend trade or professional association functions at which staff from competitors will be present;
- (c) Tilbury Douglas Group staff, particularly those in managerial or business development roles, often joined the Tilbury Douglas Group from its competitors;
- (d) Tilbury Douglas Group businesses sometimes operate in specialised sectors where 'everyone seems to know everyone else';
- (e) Tilbury Douglas Group staff often have contact with staff from its competitors;
- (f) The Tilbury Douglas Group operates in one or more market sectors in which cartel activity has been identified in the past.

5.3 Risk Assessment

The Tilbury Douglas Group has assessed the following categories of staff as being a 'high risk' in terms of their capability to influence competition in the market place:

- (a) Senior management roles;
- (b) Staff in the sales and marketing teams;

- (c) Staff in purchasing and procurement teams;
- (d) Staff who attend trade association meetings;
- (e) Staff dealing with competitors;
- (f) Staff responsible for price-setting;
- (g) New members of staff joining the business from competitors, especially if involved in any of the functions or activities specified above.

5.4 Risk Mitigation

As a consequence of its risk identification and assessment regime, the Tilbury Douglas Group has determined that:

- (a) The Tilbury Douglas Group should establish a Mandatory Code of Conduct for its employees, which:
 - (i) reinforces the need to comply with applicable law, including competition law;
 - (ii) requires employees to disclose their attendance at trade association meetings or events at which representatives of competitors are or may be present;
 - (iii) requires employees to report any concerns relating to compliance with competition law to appropriate management representatives;
 - (iv) requires employees to obtain the approval of their line manager to any business travel and expenses, as such a requirement may identify contacts with competitors which raise competition law concerns;
 - (v) confirms that any failure to comply with applicable law, including competition law, will constitute a breach of the contract of employment of all employees and such activity may be subject to disciplinary proceedings, resulting in dismissal of the employee for gross misconduct.
- (b) The Tilbury Douglas Group should ensure that all relevant persons have access to specialist advice and guidance, via the Group Legal Team, where necessary;
- (c) The Tilbury Douglas Group should establish a Whistle-blowing Hotline for use by relevant persons to report any concerns in relation to compliance with competition law;
- (d) The Tilbury Douglas Group will establish and maintain a mandatory competition law training programme which can be undertaken by any staff deemed to hold a role which has been assessed as 'high risk'. Such training should be completed on a periodic basis and should be supported by testing activity in order to ensure that such staff understand its importance and application so as to minimise the likelihood of any accidental breaches of applicable law;
- (e) The Senior Management of each Division and Business Unit within the Tilbury Douglas Group must undertake an assessment, on a periodic basis, to determine:
 - (i) the identity of all relevant persons within their operations who should be deemed to hold a role which has been assessed as 'high risk' and who therefore need to attend the training;
 - (ii) the identity of any other persons within their operations who should be required to attend the training;
 - (iii) the frequency with which any relevant persons associated with their Division and/or Business Unit should complete the training;

- (iv) whether training, in greater or lesser levels of detail, should be made available to any other persons;
- (f) The Senior Management of each Division and Business Unit within the Tilbury Douglas Group must ensure that all relevant persons attend any training deemed to be appropriate for such persons;
- (g) The Senior Management of each Division and Business Unit within the Tilbury Douglas Group must ensure that relevant persons are able to access the practical advice and guidance to complying with competition law which is set out in Appendix 'A'.

5.5 Review

The Tilbury Douglas Group will review this policy and its implementation by its Divisions and Business Units, including the scale and content of any training provided to relevant persons, in order to confirm and improve its suitability and effectiveness. Such reviews shall be carried out:

- (a) periodically;
- (b) whenever any evidence is detected which indicates that relevant persons have been involved in or exposed to any infringement of applicable law, this policy or any associated policies, procedures or standards;
- (c) if the Tilbury Douglas Group comes under investigation for a competition law infringement;
- (d) whenever the Tilbury Douglas Group enters into a new and/or different business area;
- (e) following any merger with or acquisition of any other business.

Any such review shall pay due regard to the following key performance indicators:

- (a) The proportion of the relevant staff who have actually completed the required training during the previous three years;
- (b) The number of incidences of alleged and proven breaches of competition law which are reported and confirmed on investigation.

6. Responsibilities

- (a) The Board of Directors of Tilbury Douglas Holdings Limited has overall responsibility for:
 - (i) the development and publication of this policy, in line with our legal and ethical obligations;
 - (ii) ensuring that specialist advice and guidance on the content of this policy is made available to the staff of the Tilbury Douglas Group on demand; and
 - (iii) auditing compliance with this policy.
- (b) Management personnel, at all levels within each Division and each Business Unit of the Tilbury Douglas Group, are responsible for:
 - (i) distributing and promoting awareness of this policy to all relevant persons under their control;
 - (ii) identifying the need for and, when identified, promptly procuring appropriate training on the subject of this policy for all relevant persons under their control;
 - (iii) ensuring that all relevant persons under their control understand their obligations under the law, this policy and any other relevant policies and standards adopted by the Tilbury Douglas Group;

- (iv) ensuring that all relevant persons under their control comply with the law, this policy and any other relevant policies and standards adopted by the Tilbury Douglas Group;
- (v) ensuring that they are informed of any material risks to compliance with and any breaches of the law, this policy and any other relevant policies and standards of the Tilbury Douglas Group; and
- (vi) taking appropriate action to address any issues raised.

(c) Tilbury Douglas staff must:

- (i) read and understand this policy;
- (ii) attend and participate actively in any and all training made available to them on the subject of this policy and other relevant policies and standards of the Tilbury Douglas Group;
- (iii) follow the requirements of this and all other relevant Tilbury Douglas policies and standards adopted by the Tilbury Douglas Group in performing their duties; and
- (iv) be alert for and report any activity, transaction or course of dealing which they suspect may infringe applicable law and/or any relevant policies and standards adopted by the Tilbury Douglas Group, which they encounter during the performance of their duties.

7. How to Raise a Concern

Any person who has any concern about any act or omission which might constitute an infringement of applicable law and/or this or any other policy of the Tilbury Douglas Group is encouraged to raise the issue at the earliest opportunity, either with an appropriate member of the management team of the Tilbury Douglas Group, such as the Group Legal Team, or through our Whistle-blowing Helpline, in accordance with the Tilbury Douglas Group Policy on “Whistle-blowing”.

8. Protection for Persons Raising Concerns

The Tilbury Douglas Group aims to encourage openness and will support any person who raises genuine concerns in good faith, even if they turn out subsequently to be mistaken, by protecting them from any detrimental treatment (such as dismissal, disciplinary action, threats or unfavourable treatment) as a consequence of their actions. Any such detrimental treatment should be reported using the Tilbury Douglas Group’s Grievance Procedure.

9. Our Response to Breaches of the Law and/or this Policy

In the event that any breach of the law and/or this policy is discovered, we will take appropriate action, which may include (but may not be limited to):

- (a) reporting such breaches to the relevant law enforcement bodies and/or regulatory authorities;
- (b) instituting disciplinary action against the relevant employees, which could result in dismissal for misconduct or gross misconduct; and
- (c) terminating our business relationship with other individuals and organisations.

10. Review

The Tilbury Douglas Group will periodically review this policy and its implementation to confirm and improve its suitability and effectiveness. Any changes to this policy shall not constitute a change to the terms and conditions of employment of any person.

Appendix 'A' – Practical Advice and Guidance for Complying with Competition Law

1. General

- DO** Contact the Group Legal Department should you have any doubt as to whether particular conduct may infringe competition law, as stated above.
- DO** Contact the Group Legal Department if you are concerned that competitors may not be observing competition law, as stated above.

2. Discussion with Competitors

- DO** Seek advice about the wisdom of accepting social invitations from competitors or joining trade associations.
- DO** Remember that all arrangements, including informal understandings and "gentlemen's agreements" will be illegal if they infringe competition law, and may give rise to heavy fines on the participating businesses and risk of criminal prosecution of individuals.
- DO** Avoid all discussion of competition or competitive subjects with personnel from a competitor and make it an obvious point to break off such discussion should they arise.
- DON'T** Discuss, recommend or agree with competitors on the following matters:
 - (a) costs;
 - (b) prices, as well as trends, proposed changes in, and the methods of calculation of, such prices;
 - (c) discounts or rebates off prices, and inclusion/removal of surcharges;
 - (d) margins and profitability;
 - (e) any other terms and conditions of sale of products;
 - (f) marketing plans;
 - (g) division or allocation of territories or customers;
 - (h) any plan to refuse to deal with specific customers or suppliers; or
 - (i) proposed product launches or withdrawals.
- DON'T** Remain at meetings with competitors at which competitive conditions are discussed or where you believe the discussions or actions are risky in competition law terms. Leave the meeting as soon as possible and make sure that this is noted or a minute taken of your actions. Inform your management as to what has happened as soon as possible.

3. DISCUSSION WITH CUSTOMERS

- YOU MAY** Accept information volunteered by customers as to what competitors are doing, including prices and the terms of any special promotions being offered by competitors.
- DON'T** Ask your customers to provide such information about your competitors on a regular basis. The process of accepting it should not become institutionalised or made a requirement of dealing with Tilbury Douglas.
- DON'T** Oblige customers to tell you if lower prices have been quoted by competitors so that your business can match them unless done as part of a "most favoured nation" or "price matching" protocol that has been reviewed and approved by the in-house legal team.
- DON'T** Discuss with one customer Tilbury Douglas's dealings with other customers or make any commitments to one customer as to Tilbury Douglas's treatment of other customers.
- DON'T** Discuss details of business terms with any customer in the presence of other customers or competitors.
- DON'T** Try to control the pricing of your reseller customers/distributors (unless, after consultation with the in-house legal team, you are setting maximum resale prices or merely recommending resale prices).
- DON'T** Try to restrict distributors from buying/selling/reselling competing products without consulting with the in-house legal team.
- DON'T** Try to control the territories in which your distributors may sell into without consulting with the in-house legal team.

4. CONDUCT WHEN TILBURY DOUGLAS HAS A HIGH MARKET SHARE

A business may be found to be in a dominant position where it possesses "market power" and can therefore behave, to an appreciable extent, independently of its competitors, its customers and, ultimately of its consumers. Concerns in relation to dominance will begin to arise where a business has a share in the region of 40 per cent or more of supplies or purchases of goods or services on a particular market, and it has held that market share for a period of time. The "Do's and Don'ts" set out below only apply to businesses at risk of being found to be in a dominant position.

- DO** Recognise that the risks of infringement of competition rules and of legal complaints by customers or competitors increase in market sectors where the Company has a high share (35 to 40 per cent or over).
- DO** Recognise that certain practices that are generally legal may become illegal where the Company enjoys a high market share and enjoys market power (i.e. the ability to behave, to an appreciable extent, independently of its customers and competitors).
- DO** Be cautious about charging different customers different prices unless this is justifiable on the basis of different supply costs or is the outcome of commercial price negotiations - if in doubt seek legal advice.
- DO** Be cautious about pricing products so as to incentivise customers to source all their requirements from the Company - volume discounts by a dominant business should

reflect genuine cost savings resulting from supplying a larger volume - if in doubt seek legal advice.

- DO** Be cautious about linking the sale of one product to other products or services (so-called "tie-in sales").
- DO** Ensure that price cuts targeted at competitors' services are carefully studied to ensure that they are not loss-making.
- DONT** Talk about price cuts to eliminate rivals. Seek advice if the prospect of a price cut will be to eliminate a rival.
- DONT** Adopt any business practice, beyond the usual process of commercial price negotiations, with the purpose of weakening or eliminating an existing competitor or the prevention of a would-be competitor's entry into the market.
- DONT** Use language which might create suspicions of the abusive use of market power or predatory intention including such comments as:
 - (a) "pushing/kicking/squeezing competitors out of the market";
 - (b) "In order to raise the barriers to entry or prevent new entry in the product concerned";
 - (c) "Never let them be successful";
 - (d) "This requires a stay-out pricing policy";
 - (e) "We must attack 'X' [i.e. a competitor] whilst also disguising the attack"; and
 - (f) "We have become more dominant in that product this year".
- DO** Avoid all references to the following words and phrases: "dominant", "dominance" and "market power".