

Competition law: advice for company secretaries

Why do I need to know about competition law?

There can be damaging consequences for a business that has breached competition law. By being aware of the risks, company secretaries can help protect a business and its board from potential penalties.

Company secretaries play a vital role in advising boards on their corporate responsibilities and regulatory risks. Agreements and practices that aim to limit businesses' ability to compete can be unlawful, whether they are vertical (such as supplier → retailer) or horizontal (between competitors). Therefore it's important to understand where and how your business could risk breaking competition law in order to stay compliant.

What do I need to look out for?

The CMA has published on its website a short guide on competition law risk that details the main anti-competitive practices to be aware of. The guide also includes questions to identify where your business may be at risk, including the following:

- Do employees often talk to other businesses in the same sector?
- Do you ever collaborate or work in partnership with your competitors?
- Are your customers also your competitors?
- Are you a business with a large share of the market in which you operate?

What can company secretaries do?

Identifying where and how your business could commit a competition law breach is the first step towards an effective compliance strategy:

- Ensure a culture of compliance is embedded into the values and behaviours of the business, from the top down
 - Raise the topic of competition law at board level to make sure all understand the risks of not complying
 - Know where to go if you think your business has broken the law: the CMA operates a leniency programme for those that confess their involvement in a cartel. If certain conditions are met, a business could receive immunity from fines and sanctions.
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It's vital for businesses to understand the risks around competition law. Company secretaries can help protect a business and its board from falling foul of the rules.



What are the consequences of breaking the law?

Businesses that breach competition law can be fined up to 10 per cent of their global turnover and their directors may be disqualified from acting as company directors for up to 15 years.

Involvement in a cartel is also a criminal offence – individuals can go to prison for up to 5 years.

For more information on competition law and how to comply:
www.gov.uk/cma

To discuss and apply for leniency:
T: 020 3738 6833

These materials do not constitute legal advice and should not be relied upon as such.