

## ANTITRUST COMPLIANCE GUIDELINES

### I. Introduction

The Association OPEN POWER GRIDS (hereinafter also referred to as “**Association**”) wants to ensure that its activities shall always be based and carried out on strict compliance with any applicable laws and regulations, including competition law.

The Association requires that all its Members and the relevant Representatives (as defined below) commit to fully and strictly conform with competition law when carrying out their work activities within, on behalf and/or in relation to the Association. In this regard, Article 3, para. 2, of the OPEN POWER GRIDS Articles of Association (“**AoA**”) prohibits any exchange of Competitively Sensitive Informations (as defined below) between Members, who shall undertake to exchange only informations which are strictly necessary for the implementation of the purpose of the Association and the relevant activities in compliance with antitrust and competition regulation principles.

For this purpose, the Association has developed the present “Antitrust Compliance Guidelines” (“**ACG**”) pursuant to Article 24 of the AoA, aimed at ensuring compliance with applicable EU and Italian competition rules, with particular focus to the rules concerning the exchange of Competitively Sensitive Informations<sup>1</sup>. Nevertheless, the principles set out in this document may be considered in force and applicable also to Members resident in Countries outside the European Union, provided that it is highly recommended that each Member consult their own internal antitrust/legal department in order to verify the compliance with local competition law.

The Members acknowledge that the rules set out in this document are legally binding for each Member and its Representatives, even if they are not intended to replace any other internal antitrust policy/rules applicable by each Member, who is invited to consult their internal antitrust/legal department in case of any doubt about the compliance with competition law. Any breach of the provisions of this document by any Member and/or its Representatives may be considered as a violation of the Association’s objectives and lead to the exclusion from the Association, in accordance with Article 11 of the AoA. For the purpose of this document, the following definitions shall apply:

“**Member**” includes both the Funding Member and any Member as defined in the AoA.

“**Representative(s)**” has the meaning set out in the AoA.

“**Competitively Sensitive Informations**” and/or “**CSI**” includes i.a. not public and current or future contracts, prices, terms and conditions, rebates, costs, production capacities, planned new models and/or technologies and release plans, individual strategies not known to the public including marketing plans, business analysis as well as current or future confidential research and development projects, including their results, and other strategic relevant data from which current or future market behaviour of an undertaking could be derived.

### II. Prohibition of restrictive agreements

The Members acknowledge that competition law prohibits all agreements between undertakings, decisions by associations of companies and all concerted practices that have object or effect the prevention, restriction or distortion of competition. Anti-competitive agreements may be reached between two or more competing

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<sup>1</sup> Reference is made to: article 101 of the Treaty on the Functioning of the European Union and article 2 of the Italian Law 10 October 1990 No 287.

companies (“horizontal agreements”) or between companies that are at different phase of the business process, for example a producer and a distributor (“vertical agreement”).

The most typical forms of prohibited anti-competitive agreements between competitors are the following:

- **Fixing prices or other contractual conditions**, including e.g. current or future prices, discount levels and/or criteria, price increases, special prices and promotions, sales conditions and payment terms.
- **Market sharing or customer allocation**
- **Limiting production or access to markets**
- **Bid rigging**, e.g. by agreeing not to bid or to withdraw a bid
- **collective agreements to boycott certain customers or suppliers on the market**
- **discriminating sales conditions**
- **imposing additional services that are not relevant to a contract (tie-in)**
- **exchange of Competitively Sensitive Information**

### III. Decision taken by associations of companies

The Members acknowledge that competition law does not prohibit neither companies from participating in meetings with their competitors within associations., nor the same from operating.

However, decisions by associations (or similar entities) are restrictive competition practices when they induce their associates to arrange effective coordination of their activities on the market. This effect may, for example, derive from decisions that lead the associates to unify their behaviours or that ask associates to use determined price strategies, regularly exchange confidential information or refrain from entering certain markets.

In case of breach of antitrust law, an association and its members are held responsible and may therefore be condemned to pay penalties.

### IV. Behavioural rules regarding exchange of information and relationships with competitors and suppliers within the Association

The Members acknowledge that competition law also prohibits **exchange of Competitively Sensitive Informations** in any format. The exchange of CSI is considered restrictive and therefore it is severally prohibited.

Each Member and the relevant Representatives shall comply with the following rules of conduct in the context of the Association:

- a) Disclosing only informations that are: -strictly necessary for the implementation of the purpose of the Association and the relevant activities (need-to-know principle);-and as far as possible in an aggregated and anonymous form that do not permit a conclusion or insight about the discloser(s) or its/their Representatives or any of its/their partners, customers and/or suppliers
- b) Not disclosing or exchanging with the other Members and their Representatives CSI, including i.a. the following topics:

- Detailed, not public and not historical information about pricing and other economic conditions (e.g. discounts or reimbursements), costs, volumes produced and sold, supply sources, sales market or any other financial element which relates to any Member and competitors, especially where these aspects involve the future commercial strategies of these entities;
  - Issues related to customer identity and any other kind of confidential information regarding customers;
  - Investment, commercial or advertising strategies;
  - Actions to be taken collectively (i.e. collective refusal to negotiate with certain customers and collective discrimination regarding contractual conditions)
  - any detailed information regarding the participation in tenders, including, without limitations, quotation conditions.
- c) If any of the topics listed in point b) of the present paragraph are mentioned in a meeting, each Member's Representative shall immediately object and insist that they shall not be discussed. If this is not done, they must immediately leave the meeting and ensure that their objections and the fact that they left the meeting have been formally verbalized in a minute.

In case of doubt concerning compliance with competition rules regarding a topic to be discussed or discussed during the meeting or in general of the proper conduct of the meeting, each Member may consult its internal antitrust/legal department

In case the disclosure of CSI is objectively necessary for the implementation of the purpose of the Association and the relevant activities and it is not reasonably possible to respect the provisions above, the interested Member shall consult its own antitrust/legal departments in order to clarify whether the respective data may be disclosed before doing so and to implement any measures which are deemed appropriate in order to comply with applicable competition law, including e.g. entering into a clean team agreement (or equivalent arrangement) in relation to the disclosure of potentially CSI.