

ANTITRUST COMPLIANCE & AUDIT

Crowell & Moring offers a wealth of experience in assisting clients with their compliance needs. Over the last five years, our European team has delivered in excess of 30 training sessions in multiple languages all over Europe, conducted more than 350 employee compliance interviews, and reviewed multiple gigabytes of electronic documentation.

Our services include:

- designing compliance programs;
- delivering individually tailored and interactive training;
- conducting large scale compliance audits;
- providing dawn-raid guidance, documentation and support;
- specific advice and guidance on individual issues.

Compliance Training

We pride ourselves on the quality of our highly interactive compliance training. We will work with you to develop case-study based training tailored to your issues using real-life examples as our source material. That training can then be delivered by our multilingual team in any of the major European languages (English, French, German, Dutch, Italian, Spanish) or by your in-house team.

We also have extensive pre-existing materials covering a range of frequently occurring issues such as:

- competitor collaborations;
- pre-merger planning and document generation;
- price signaling and other information exchanges;
- a range of IP/antitrust issues.

We see training and updates as very much part of the process of building and maintaining client relationships and are generally prepared to invest in developing and delivering these services to you as part of our wider advisor-client relationship.

Compliance Programs

We have developed a range of bespoke compliance programs for organizations ranging from multi-

nationals to trade associations and smaller companies, and issue-specific guidance on topics such as information exchange and pre-merger planning.

Dawn Raid Support

We have extensive know-how in relation to the conduct of dawn raids and the powers not only of the European Commission but also of national competition agencies across Europe. We have distilled that knowledge into clear and concise dawn raid guidance and checklists and can, if required, provide extensive training, up to and including the carrying out of “mock raids” where appropriate.

Audits

Audits are an important tool, particularly where potential concerns have been identified. An audit will often be a multi-step process. The preliminary stage is typically an initial discussion with representatives from the business units concerned to obtain sufficient understanding of the products/services sold, the routes to market and other relevant market conditions. These discussions are also a useful means of ensuring local management buy-in. Thereafter, the usual process is as follows:

Step One: The client provides us with a master list for each jurisdiction of the employees that have either contacts with competitors or authority to set prices. That typically includes managing directors, sales directors, marketing directors, and any other employee that has attended trade associations over the last two years.

Step Two: Together with the client, we select employee email accounts to review based on function, volume of email to be reviewed and other factors. Together, we also identify categories of key documents to be reviewed, such as trade association files, strategic plans and other senior management presentations.

Step Three: Crowell & Moring develops, in consultation with the client, a list of search terms to filter email and other electronic documents.

Step Four: Electronic documents are collected and filtered in collaboration with an external vendor. The collection, filtering and subsequent review are organized so as to be fully compliant with data protection laws.

Step Five: Crowell & Moring reviews documents to identify potential antitrust compliance issues.

Step Six: Crowell & Moring conducts in-person interviews with key personnel on a one-to-one basis.

Step Seven: Crowell & Moring provides interactive antitrust training using hypothetical cases based on information gathered during the document review and interviews.

Step Eight: Crowell & Moring synthesizes the key documents and interviews in a written report with findings and recommendations mitigating antitrust risk. The report is privileged and confidential.

Fees

We can and do offer most of our compliance products on the basis of a flat fee agreement, including larger and more complex products such as audits. In this way, we are able to avoid surprises and ensure predictability for our clients. For audits, the fee itself depends on the number of sites, the number of employees to be interviewed and the amount of data to be reviewed.

Representative Matters

- Antitrust audit and compliance program roll-out covering all European subsidiaries of a U.S. multinational active in heating and ventilation and in fire and security.
- Antitrust audit and compliance program for the Greek, Spanish, German, Belgian and Luxembourg subsidiaries of a European multinational active in fast-moving consumer goods (FMCG).
- Developed Europe-wide dawn raid guidelines covering EU and national law in all major European jurisdictions for a U.S. telecoms multinational.
- Developed and supported the ongoing implementation of antitrust compliance materials and processes for a major European FMCG trade association.
- Produced dawn raid and compliance materials for an international tobacco conglomerate.
- Advised a major U.S. technology multinational in relation to its internal compliance training materials for the European market and provided dawn-raid support.
- Arranged and conducted mock dawn raids for the European subsidiaries of a multinational energy business.

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