

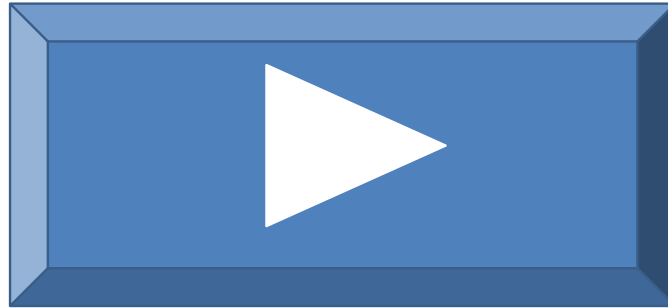


**COMPLIANCE AND ETHICS TRAINING**  
**COMPETITION LAW**

# Introduction



**Introduction from CRH plc  
Chief Operating Officer  
Albert Manifold**



## After this training you will:

1. Understand your obligations as an employee under the CRH Competition/Anti-Trust Compliance Code
2. Comprehend the basics of the relevant laws and identify red flags or potential compliance issues
3. Recognise the ways in which Competition Law is relevant to our dealings with competitors and customers
4. Learn some basic do's and don'ts for complying with the law
5. Know when and how to get help and where to report compliance violations



**An employee is never authorised to violate the Code or the law.  
Violations will result in appropriate disciplinary action up to and including  
termination, and possible civil and criminal liability**

# The CRH Competition/Anti-trust Compliance Code

No company or its employees shall engage in any form of communication, written, electronic or verbal, with a competitor which has the effect or attempts to:



Fix, stabilise or control prices, credit terms, discounts or rebates

Allocate contracts, markets, customers or territories

Boycott certain customers or suppliers

Refrain from or limit the manufacture or sale of any product or service

## Anti-competitive behaviour is an age-old Issue

*“People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices”*

*Adam Smith, Wealth of the Nations (1776)*

# Here are some recent headlines:

**theguardian**

News | Sport | Comment | Culture | Business | Money | Life & style | Travel | Environment

**Business** > Airline industry

**BA staff could face extradition to US after \$300m fine for price fixing**

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**UPDATE 2-EU Commission fines car glass cartel 1.3 bln euros**

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**CRH, Cemex, Fined for Fixing Polish Cement Prices (Update1)**

By Maciej Martewicz and Marta Waldoch - December 10, 2009 08:32 EST

**The Washington Times**

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**Bridgestone to pay \$28M fine in bid-rigging case**

To plead guilty after probe of sales, illegal payments abroad

★ *CRH plc is currently appealing this fine with the Polish Competition Authority*

# Enforcement activity is increasing across the globe.....

## British Airways

Fined \$300m by US department of Justice for price fixing the cost of fuel surcharges on long haul flights.

Virgin Atlantic were granted immunity for whistleblowing.

BRITISH AIRWAYS

## Bank of America

Fined \$137.3m by US department of Justice for its participation in a conspiracy to rig bids in the municipal bond derivatives market.

Bank of America

## Bridgestone

Bridgestone were fined \$28m for their role in conspiracies to rig bids and make corrupt payments to government officials in Latin America.

BRIDGESTONE

## Furukawa Electric Co

Furukawa were fined \$200m fine for a price-fixing and bid-rigging conspiracy involving the sale of parts to carmakers.

FURUKAWA ELECTRIC

## Dairy

Sainsbury's, Asda, Safeway, Dairy Crest, Robert Wiseman Dairies

Admitted that they had secretly swapped information with each other to make shoppers pay more for milk and cheese in a £270m price fixing conspiracy

## Tobacco

**Manufacturers: Imperial Tobacco, Gallaher**  
**Retailers: 9 including Asda and Co-Op**

12 tobacco manufacturers and retailers fined a total of £225m by the Office of Fair Trading (OFT) for unlawfully inflating the cost of cigarettes

## Car Glass

Pilkington, Saint-Gobain and 2 others

Fined a total of €1.4bn for operating a five-year cartel in the €2bn car glass market.

Saint-Gobain fined heaviest €895m.

## Plasterboard

Lafarge, BPB, Knauf, Gyproc

Fined a total of €478m for price fixing the cost of plasterboard between 1992 and 1998.

Lafarge fined €250m

## Sanctions for violating competition law are serious...

Can you guess how much was the largest fine imposed for a violation of competition law in Europe?

- A. €622m
- B. €223m
- C. €1.06b
- D. €3.7b

C. €1.06b

In 2009, the EU Commission fined Intel for abusing its dominant position to exclude competitors from the x86 central processing unit (CPU) market. The maximum fine for such an offence is 10% of global turnover. For CRH that would mean €1.7billion!



# Let's ensure we understand the law

Anti-trust / Competition laws are designed to encourage competition in the marketplace to ensure the best allocation of our economic resources, the lowest prices; and the highest quality. They try to promote fair competition and cover the following areas:

Any agreement between competitors that has potential to affect competition on a bid

An illegal agreement between competitors to work together or share information to make pricing decisions

An agreement to divide customers or markets

**Discrimination:-** Charging different prices to different sets of customers  
**Predatory:-** Setting artificially low prices to reduce competition

Where one or more companies abuse their dominant market position (c. 40%)

Agreeing to sell to a buyer if they only buy from you  
**Tying:-** Requiring a customer to buy many products as a combined

# What does this mean in practice?

## Bid Rigging

- Letting a competitor win a job in return for him letting you win a job
- Agreeing with a competitor that one of you bid intentionally high or not bid

## Price Fixing

- Agreeing with a competitor to charge the same price, eliminate discounts or refuse to go below a minimum price

## Price fixing (customers)

- Basic rule: we cannot fix the price or rules at which customers resell products:
- Fixed resale prices (i.e. Recommended, minimum or maximum resale price)
  - Export bans (i.e. Restricting to who or where the customer resells the product)

## Market Allocation

- Only soliciting a particular type of customer or region while competitor only solicits another
- Dividing up customers among competitors in any way

## Abuse of Dominance

- Excessive or predatory pricing (i.e. pricing below costs without a legitimate business reason)
- Refusal to supply products or output restrictions
- Tying (i.e. forcing a buyer to purchase one product before supplying another)

## Exchange of Confidential Information

- Sharing information concerning (future prices, margins, discounts, credit or other terms)
- Sharing information on commercial strategies, market share or allocation of customers/markets

## Anti-trust and Competition – Scenarios

A competitor publishes on its internet site a 5% price increase for its flagship product. Upon reflection, you decide (and obtain necessary approval within CRH) to increase the price of the competing product by 5% as well.

Other competitors quickly follow suit raising their prices by approximately 5% in the following weeks.

Have any competition/anti-trust laws been contravened?

A. Yes, you have copied a competitor and therefore price fixed

B. No, This is normal, healthy competition, with competitors reviewing publicly available market information and making independent choices as to what is in their best interest.

## Anti-trust and Competition – Scenarios

- Construction materials suppliers in a market area are suffering from low sales because the market is saturated with suppliers. As a result, many suppliers are slashing prices simply to move materials.
- A leading supplier in the area sends a memo to his five major competitors enclosing his price sheet and saying that he will no longer be cutting prices below a three percent mark-up above his average variable cost.
- The memo contains an anti-trust disclaimer that says that he is making an independent decision and he is not trying to “force” anyone to follow him.
- Within the next month, all five competitors raise their prices to three percent above average variable cost.

## Anti-trust and Competition – Scenarios

Could this constitute a price fixing conspiracy?

- A. Yes, Despite the claims that it was an “independent” decision and that there is an “anti-trust disclaimer”, there is still an implied agreement between the competitors.
- B. Maybe, it depends on whether you were intending to raise your prices by 3% anyway
- C. No, the disclaimer means that this cannot be considered as price fixing

## Anti-trust and Competition – Scenarios

- Your management team has been studying the market, and decided to announce a 7% price increase next month. The next day, you attend a trade association meeting and during a break find yourself among a group of competitors discussing pricing
- Several people mention that the market appears capable of tolerating a 5 to 7% price increase, and most of the people in the group nod and seem to concur.
- As a CRH manager, you've been trained on anti-trust, so you say, "You can't legally talk about pricing, so I'm leaving," and you leave the meeting.

## Anti-trust and Competition – Scenarios

Can you still raise prices next month?

- A. No, prices have been discussed and by raising your prices by 7% you would be guilty of price fixing
- B. Yes, no-one said they were going to raise their prices so no offence has been committed if you raise your prices.
- C. Maybe, If we can prove that the price increase was an independent decision that preceded the trade association meeting, and you thoroughly reviewed the situation with your local legal contact.

## Some points to watch:

### Competitors are actual or potential competitors

#### Agreements can be:

- **Explicit:** “We all need to agree that we are going to increase our prices by 10%”
- **Implicit:** “Our company’s not interested in this job, so we’re not going to bid too aggressively but we are interested in the job coming up at the next round”
- Any form of understanding in writing (letter, e-mail), verbal or a “gentleman’s agreement”
- Implied from recommendations issued by a trade association and followed by members
- Don’t have to be effective – the intent to distort competition is sufficient



# Mind your language!

The single most effective way to manage anti-trust/competition risk is to recognise communications that may present a danger of appearing improper and to document the legitimate business reasons for those communications

If you have a legitimate reason to communicate with a competitor, try to do so at a competitively neutral time  
– take precautions near the time of a bid or pricing proposal

Don't:

Speculate whether something is legal

Imply you have “inside” or “confidential” information on a competitor

Use ambiguous or inappropriate language e.g. “Market dominance”

Communicate with your competitor without a legitimate business reason

Communicate with your competitor indirectly e.g. via a common supplier



**Remember nothing is ever “off the record”**

**Communication = letters, e-mail, internal memos, social media, etc**

## Examples of what not to say

*"Ian, this is a great initiative that you and Neil have instigated... However... never put anything in writing, it's highly illegal and could bite you right in the \*\*\*. Suggest you phone L and tell her to trash?"  
Mike"*

*Email sent by Hasbro sales director*

*"I spoke to Sean [a competitor] today about the pricing of the apparel product. They agreed to keep to full margin. He has assured me by Monday morning all prices will be back to recommended."*

*Internal note saved in personal folder on computer*

# “Do’s and Don’ts - Customers”

## Contact with Customers

What you cannot do with your customers:	You must consult with senior sales management before doing the following:	What you can do with your customers:
<ul style="list-style-type: none"> <li>○ Try to restrict customers from importing goods or exporting outside their territory</li> <li>○ Insist on a resale price (in the US you may establish a minimum resale price as long as it does not unreasonably restrain competition.</li> <li>○ Prevent customers from stocking alternative products</li> </ul>	<ul style="list-style-type: none"> <li>○ Entering into an exclusive supply agreement</li> <li>○ Applying different terms and conditions without objective, legitimate, commercial justification</li> <li>○ Refusing to supply a customer or terminating an existing agreement</li> <li>○ Obliging a customer to purchase one product in advance of supplying another</li> </ul>	<ul style="list-style-type: none"> <li>○ Vigorously promote your products and services</li> <li>○ Recommend a resale price (but do not insist)</li> <li>○ Require customers to sell a product under a specific trademark</li> </ul>

# “Do’s and Don’ts - Competitors”

## Contact with Competitors

### What you cannot do with your competitors in any circumstances:

- Fix prices directly or indirectly
- Allocate or carve up customers or markets
- Fix any other terms and conditions
- Discuss any aspect of pricing – (credit terms, discounts, margins, rebates)
- Control or limit production
- Discuss tender offers or customer quotes
- Agree with a competitor not to supply certain customers
- Reach any “understanding” to any of the above.

### You must consult with senior sales management before doing the following:

- Participating in or submitting information to a trade association
- Accepting invitations from or offering invitations to competitors outside normal business contact
- Entering into any form of information exchange

### What you can do with your competitors:

- Compete vigorously
- Discuss general industry wide matters if appropriate, ensuring that no company / customer sensitive information is disclosed
- Find out as much as you can about competitors from public or independent third party sources (always note the source)

# “Do’s and Don’ts - Trade Associations”

## Contact as part of Trade Associations

### Don’t

- Discuss current or future prices with other trade association members (be careful with past prices especially recent ones).
- Discuss standardising or stabilising prices, pricing procedures, discounts, credit terms, controlling sales or allocating markets
- Discuss refusing to deal with a company because of its pricing or distribution practices with other trade association members.
- Attend informal sessions in which any of the above subjects are discussed.

### Do

- Participate in trade associations where they are appropriate
- Share general and historical information if appropriate ensuring that no company / customer sensitive information is disclosed
- Ensure that trade association meetings have an agenda and are minuted
- Leave a trade association meeting if the discussion becomes anti-competitive and have your departure and your reason for leaving minuted.
- Be careful when describing the company as a “market leader” or other aggressive terms.

## A word on “Dawn Raids”

- Dawn raids are surprise inspections carried out by the national or EU competition authorities at company offices, potentially across multiple locations simultaneously.
- The aim of these visits is to confirm/discover a possible case of anti-competitive conduct
- It is critical that every employee understands how to respond should a competition authority come on site
- Every site must have a set of Dawn Raid guidelines readily available
- Receptionists, security guards and other staff who welcome visitors should know to contact designated managers immediately



**The obstruction or failure to comply with the competition authorities is a culpable offence and can result in a fine, imprisonment or both**

## “Do’s and Don’ts” – Dawn Raids

Dawn Raids	
DO:	DON'T
<ul style="list-style-type: none"><li>○ Be calm, polite, cooperative and firm</li><li>○ Check the identification of the officials</li><li>○ Alert the nominated representative at your site and your external legal team</li><li>○ Make copies of all documents seen, copied or seized</li><li>○ Seek advice if you are unsure of your / the inspectors rights</li><li>○ Keep notes of all questions asked and answers given</li><li>○ Shadow the officials at all times</li><li>○ Refer to the full dawn raid guidelines on site</li><li>○ Have a lawyer present at all interviews</li></ul>	<ul style="list-style-type: none"><li>○ Panic or respond aggressively</li><li>○ Deny entry to investigating officials</li><li>○ Withhold, conceal, destroy or amend any records</li><li>○ Provide false or misleading information</li><li>○ Volunteer additional information</li><li>○ Speculate or give views or opinions</li><li>○ Be rushed into answering difficult or incriminating questions</li><li>○ Inform anyone external to the company of the inspection</li></ul>

# Let's revisit sanctions and enforcement

## Who enforces them?

### Corporate sanctions

- Fines of up to 10% of global group turnover
- Debarment (prohibition from participating in government contracts)
- Civil lawsuits (more expensive than fines)
- Unenforceable contracts
- **Reputational damage**

### Individual sanctions

- Prison sentences of up to 10 years
- Fines of up to \$1 million per violation
- Disqualification as a company director
- Civil lawsuits
- Dismissal

Netherlands  
Competition  
Authority



# Who can you ask for further assistance or support?



*Here is some more information on some of these support options:*

# Contact any member of the Group or Divisional Compliance & Ethics Support Team

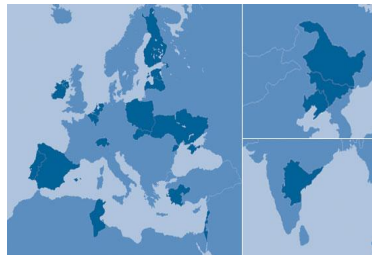


## CRH plc

Ros O' Shea: Head of Group Compliance & Ethics  
Claire Flynn: Senior Compliance & Ethics Consultant



[compliance&ethicshelpdesk@crh.com](mailto:compliance&ethicshelpdesk@crh.com)



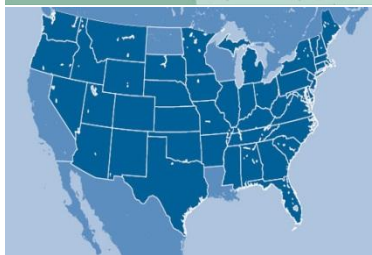
## Europe Materials

Champion: Alan Connolly  
Coordinator: Stephen McGovern



## Europe Products & Distribution

Champion: Edwin Bouwman  
Coordinator: Stephanie Lemoine



## Oldcastle

Champion: Bill Miller  
Coordinator: Heather Harper

# The Country Compliance Co-ordinators



Austria

*Peter Kucera*



Belgium

*Gert Vanaken*



Denmark

*Bjarne Jensen*



Germany

*Dirk Kuessner*



France

*Francois Vomero*



Spain

*Roger Roig*



- *Lena Marie Wenzke*



Ireland + EMAT

*Stephen McGovern*



Netherlands + EPD

*Stephanie Lemoine/  
Jacqueline Kruyt*



Poland

*Jolanta Winnicka*



Slovakia & Czech Rep

*Katarina Sedlakova*



Russia

*Nadezhda Khotina*



Sweden & Norway

*Zdenek Cerny*



Switzerland

*Christian Sager*



UK (incl NI)

*Stephen Hardy*



Singapore, Malaysia,  
Vietnam & Philippines

*Andi Lapon*



Hungary & Romania

*Laszlo Szalo-Pal*



The Americas

*Gary Hickman  
+ Oldcastle Legal*



Finland

*Johanna Romness*



Italy

*Stefania Ulbiani*



China

*Gerard Barry*



Ukraine

*Shane Carmody*



Turkey  
*Martin Ryan*



India  
*Partha Gopalan*

# Available Support: SharePoint

## Welcome to the CRH Group Compliance & Ethics SharePoint Page!



Welcome to the CRH Group Compliance & Ethics SharePoint site. This site serves as an information tool and communication channel for compliance and ethics issues for all CRH employees. Specifically it covers our Code of Business Conduct and Competition/Anti-trust Compliance Code, our Anti-Bribery programme, Share Dealing and Fraud policies and related areas. The site is currently under construction and we look forward to developing it as a comprehensive library of up-to-date information on the Group Compliance & Ethics programme as well as a useful resource for those charged with implementing country compliance programmes. Over the next few months as well as improving content, we will also include some new features including a help desk, training tools and a bulletin board. Your comments and feedback on all the site and ways to improve it are very welcome. Please e-mail me, [roshea@crh.com](mailto:roshea@crh.com) or call me +353 1 404 1104 to discuss.

Ros O'Shea  
Head of Group Compliance & Ethics

Newsflash: New Policies now available; Competition / Anti Trust Compla



### Who is Who?

The CRH Compliance and  
Ethics Organisation

### Code of Business Conduct

- CRH Code of Business Conduct 2012
- COBC Operating Guidelines

### Policies & Guidelines

- Share Dealing Policy
- Anti-fraud Policy
- Anti-Bribery Policy
- FAQ on Anti - Bribery Policy - Business Partners
- CRH Environmental Policy
- CRH Health & Safety Policy
- CRH Competition/Anti-trust Compliance Code
- CRH Social Policy
- CRH Ethical Procurement Code



For Compliance & Ethics Issues Email  
Us

Or tell us using the  
The Hotline

### CBE Workspace

- CBE Training Presentations
- Training Feedback Forms
- Newsletter

### News

- Guidelines on UK Bribery Act
- US FCPA Act
- Bribery Act Articles
- Recent Articles

- You can access compliance and ethics information on the Group's sharepoint sites i.e.
- CRH Group site:  
<https://intranet.crh.com/crh/ComplianceandEthics/SitePages/Home.aspx>
- The EPD site:  
[https://intra.crhcorp.net/Legal\\_Compliance/Group\\_Compl\\_Ethcs/default.aspx](https://intra.crhcorp.net/Legal_Compliance/Group_Compl_Ethcs/default.aspx)
- The Oldcastle site:  
<https://office.oldcastlematerials.com/go/interchange/crh/ComplianceandEthics/Pages/default.aspx>
- These sites include:
  - a Compliance & Ethics “who’s who” so you can find the support you need
  - all relevant codes, policies and guidelines
  - training tools
  - latest news on Compliance and Ethics

# Available Support: The Hotline

- CRH operates a confidential line ("Hotline")
- An independent multi-lingual 24/7 service
- Your concern will pass to a senior person to investigate
- The hotline is designed to report and deter financial/accounting irregularities, policy violations and criminal conduct that may impact you, your co-workers, our company or our customers
- Should not be used for routine personnel matters (dealt with by your Human Resources dept)
- No action taken against anyone reporting a genuine suspicion.
- CRH won't tolerate any retribution for reporting such concerns

These hotline numbers will be available in your Company and on the CRH.com website.

The hotline can also be accessed at [www.crhhotline.com](http://www.crhhotline.com) and in the US at [www.tnwinc.com/oldcastle](http://www.tnwinc.com/oldcastle).



## Compliance and Ethics Hotline

**To All Employees,**

**Introduction**  
We are all aware of the devastating impact that unethical, illegal or unsafe behaviour can have on a company and its employees. One of the cornerstones of our Group's success has been a firm commitment by each one of us to our core values of integrity, honesty and respect for the law in all our business interactions. We want to continue to safeguard our excellent record and reputation and we need your on-going support. It is timely therefore to reaffirm our commitment to responsible business conduct and also to remember our duty to report any inappropriate behaviour should it come to our attention - to "speak up".

**Why a hotline?**  
As set out in the CRH Code of Business Conduct, the most appropriate way to report unethical, illegal, or unsafe behaviour is to communicate it to your manager or Human Resources representative or to those nominated to deal with these issues. However, we realise that in certain circumstances, it may be difficult or impractical to do this. Therefore we have arranged for an independent company to provide a multi-lingual employee "Hotline" service which will allow you to report your concerns confidentially, in your own language and without any fear of retaliation or retribution. The service, which may be accessed using a freephone number or alternatively on-line at [www.crhhotline.com](http://www.crhhotline.com), is available 24 hours a day, 7 days a week. Although we encourage you to state your name, which will be treated with utmost confidentiality, callers may remain anonymous if desired.

**What happens when I make a report?**  
Information received via the Hotline will be forwarded to our Internal Audit Department who will liaise with the appropriate senior management so that they can coordinate a detailed investigation of the issues reported. This will include informing the subject of the report, to allow for their comments on the matter. Please note that the Hotline should not be used for reporting routine personnel matters that are better managed by your Human Resources representative.

It takes teamwork to ensure our Group lives up to its commitment to conduct our business to the highest ethical standards and continues to lead with integrity. Thank you for doing your part.

Sincerely,



**Myles Lee**  
Chairman  
Officer, CRH plc



**Albert Mansfield**  
Chief Operating Officer, CRH plc



**Maevie Carton**  
Human Resources Director, CRH plc



**Some Common Examples of Business Conduct Issues:**

- Creating or ignoring safety or environmental hazards
- Theft or fraud
- Bribery or any form of corruption
- Anti-trust or competition law violations
- Conflicts of interest
- Accounting or auditing irregularities
- Harassment or discrimination
- Disclosure of proprietary information
- Misuse of assets
- Improper dealings with customers or vendors
- Use or sale of illegal drugs
- Any violations of the law

**Speak Up!**

If you see, hear or suspect unethical, illegal or unsafe behaviour you should talk to your manager, Human Resources representative or those nominated to deal with these issues as set out in the Code of Business Conduct. Or you may report your concerns by contacting the Hotline.

**Call: 1800 553 772**  
(freephone 24 hours a day, 7 days a week)  
or submit your concern on-line at:  
**[www.crhhotline.com](http://www.crhhotline.com)**

**CRH...Leading with Integrity...**

## Summary of key learning points:



# Anti-Trust and Competition – Quiz

THE QUIZ

# Dealing with competitors

**The information below relates to questions 1 and 2**

- You've just acquired a business in a new market area that supplies only the residential market. One of the reasons you made the deal was an obvious potential to expand into the commercial market.
- You start making sales calls to potential commercial customers. One day at a restaurant, a man comes over and introduces himself as the president of a company that supplies the commercial market.
- He says, "I guess you didn't know, but we've always had an understanding that you have the residential customers, I have commercial, and Company X has government customers. We all make more money that way."



## Dealing with competitors

Q1. How should you respond?

- A. Apologise as you were unaware of the arrangement. Offer to buy him a drink to say sorry.
- B. Ask what to do if a non-residential customer wants a quote.
- C. Tell him that you don't work for him and you'll do what you want
- D. Inform him what he is doing is illegal and that you do not intend to participate  
Also inform your manager and Country Compliance Coordinator/Legal resource

## Dealing with competitors

Q2. What offence is the director and Company X likely to be guilty of?

A. Bid rigging

B. Market Allocation

C. Price fixing

D. Insider Dealing

## Dealing with competitors

Q3. You're at a pre-bid meeting and a competitor says to you: "We're a lot more interested in this job than the one next month."

The most appropriate response among the following is:

A. "We're a lot more interested in the one next month."

B. "So are you thinking of not bidding next month if you get this one?"

C. "We can't talk about that, it may be illegal."

D. "We're not too fussed which one we get, but if you drop out of next month's..."

## Dealing with competitors

Q4. Which of the following are examples of potentially illegal agreements between competitors? Choose all that are correct.

A. Restricting output

B. Boycotting other businesses

C. Agreeing to an independent third party benchmarking study

D. Agreeing to stop purchasing from a vendor

# Bid Rigging

## The information below relates to question 5

- A competitor asks if you will also participate in a tender. He is not interested in winning the tender, but would like to remain in the picture for future tenders.
- He asks you to give him a reasonable price to include in the tender, making sure it is higher than yours. You are interested in the tender and intend to submit a competitive price.
- Four other companies also tender independently. One of these four companies wins the tender.

## Bid Rigging

Q5. Did you restrict competition by giving a cover price to your competitor?  
Choose all that are correct.

A. No. You have submitted a competitive price yourself.

B. No. You had no contact with the winner of the tender.

C. Yes. The client assumed he would receive 6 competitive offers instead of 5.

D. Yes. Any contact with competitors prior to a tender could be illegal.

## Competition Law

Q6. Which of the following topics might raise competition law concerns if discussed between competitors?  
Choose all that are correct.

A. Pricing

B. Costing

C. Marketing Plans

D. Allocation of territories

## Dealing with competitors

Q7. In a conversation with a friend who works at a competitor, you mention that CRH will increase the price of a product by 10%. Is this inappropriate?

- A. Yes – Even though you are not intending to fix prices, you are unaware of how this information will be used
- B. No – The remark was made in a casual conversation not at work.
- C. No – You have not discussed price fixing or any anti-competitive behaviour, so the conversation was appropriate.
- D. No – You could have been lying



# Social Occasions

**The information below relates to questions 9 and 10**

- You attend a private party where representatives of competitors are present. You are all chatting together on the same table.
- General talk about the economy turns to the current business environment of construction materials.
- In your presence, one of the competitor representatives tells another representative that longer term contracts would help all vendors better withstand market downturns.

## Social Occasions

Q9. What would be the best course of action to take?

- A. Stay to listen to the discussion. As you are not speaking you are not doing anything wrong.
- B. Walk away but approach the people individually later, to discuss the issues in a bit more detail.
- C. Walk away, giving your reason why you are leaving and mention this to your manager as soon as possible.
- D. Walk away and pretend that you have heard nothing.

## Social Occasions

Q10. What is the danger of the direction the conversation has taken?

A. Your competitors could be lying

B. It is not at a Trade Association

C. Not all of your competitors are present. Therefore it's unfair if they don't get to participate in the discussions as well.

D. Discussions between competitors about contracting policies raises anti-trust and competition law issues

## Your responsibilities

Q11. What are your responsibilities with regard to competition or anti-trust laws and their application to your day to day business? Mark all that are correct

A. Understand the basics of the laws so that I can recognize “red flags.”

B. Ask questions if I don’t understand the applications of the laws to my job.

C. Memorize the laws so that I know as much about them as an anti-trust lawyer.

D. Report any violations of the law that I observe in my company.

# Market Allocation

## The information below relates to question 12

- You work for a construction products company in the southern part of the country. A friend works for a different construction products company that only works in the northern part of the country
- At this time, your bids on projects never overlap. You've heard rumours that his company will open a plant in your region, but nothing is concrete at this time.
- Because your friend is not currently a competitor, you freely discuss the price of your material and your recent bids on jobs.

## Market Allocation

Q12. Is this okay?

A. Yes, he is not a competitor, so you are not in violation of the competition or anti-trust laws.

B. Yes, a private conversation doesn't count.

C. No, a prospective or future competitor is considered a "competitor" under competition/anti-trust laws.

D. Yes, as long as you both tell your companies about the conversation

## Trade Associations

Q13. A group of retailers meet at a trade association meeting and agree to jointly eliminate any advertised discounts on products under a certain price point. When a manufacturer complains that his products aren't selling as well because of the agreement, the retailers agree to boycott his products. How many potential anti-trust crimes have been committed?

A. One. The agreement to eliminate advertised discounts.

B. Two. The agreement to eliminate advertised discounts and the agreement to boycott the manufacturer.

C. Three. The agreement to eliminate advertised discounts, the agreement to boycott the manufacturer and attendance at a trade association meeting

# Loser's fee

## The information below relates to question 14

- It is a condition (express or implied) of a tender that each unsuccessful tendering contractor will bear its own tender costs.
- Prior to tender submission, the competing contractors secretly agree that they will each include in their tender price an agreed additional sum of money representing the total estimated tender costs of all the competing contractors.
- Whichever contractor is awarded the contract will then divide this sum of money between all the unsuccessful contractors who will thereby recover their tender costs. This is known as a 'loser's fee'. This arrangement is not disclosed to the project owner.
- The project owner believes that the losing contractors are bearing their own tender costs. The project owner is therefore unknowingly paying more than it would have done had the unsuccessful contractors borne their own tender costs...



## Anti-Trust and Competition – Loser's fee

Q14. By all bidders including a loser's fee, who are the possible offenders?

A. The contractors

B. The project owner

C. The contractors

D. The project owner and the contractors

## Anti-Trust and Competition – Loser's fee

Q15. If this happened at CRH, and you became made aware of it, who should you contact?

A. No-one, it's none of my business

B. The Hotline

C. Your manager or Country Compliance Coordinator

D. Myles Lee, CEO

## Anti-Trust and Competition – Answers

1. D

This prevents competition in the market place and will contravene CRH Policy

2. B

As each sector of the market is being split, market allocation is the offence

3. C

Discussing which contracts you will bid for is forbidden

4. A,B & D

Benchmarking studies are perfectly acceptable

5. D

Any contact with competitors to discuss bids is forbidden

6. All

All of these areas are forbidden from being discussed between competitors

7. A

Discussing any pricing information with competitors is strictly forbidden

## Anti-Trust and Competition – Answers

8. D

Even if you are not an active participant, the discussion is not permitted

9. C

It is best to walk away and report it to your line manager/company representative

10. A,B & D

You are not expected to memorize the laws like an anti-trust lawyer

11. C

The definition of a competitor is a potential or existing competitor

12. B

Attendance at a Trade Association meeting is permitted

13. C

The project owner is completely oblivious so would not be guilty of an offence

14. C or B

C or B are the most appropriate. Myles Lee is not the correct answer!

## CRH – Leading with Integrity.....

