



| A<sup>1</sup> Telekom Austria Group

## Group Guideline Antitrust

Integrity is the Basis of Our Business.

honest. fair. transparent.

November 2022

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Responsible for the content:  
Mag. Marielouise Gregory MBA

Group Legal and General  
Counsel A1 Telekom Austria  
Group Lassallestraße 9, 1020  
Vienna  
Mobil: +43 664 66 29346  
Fixed Network: +43 50 664 29346  
marielouise.gregory@A1.group  
[www.A1.group](http://www.A1.group)

Public

## Preamble

Telekom Austria Group's vision is "Empowering digital life" for our customers and society.

We are working with our employees to evolve our company to meet the business needs of the "New Economy" in these times of digitalisation. Our common business strategy as well as our Guiding Principles - Team, Trust and Agility - give us direction on how to execute and to achieve our goals. The Guiding Principles are incorporated into our daily business.

**Right results  
and right way**

For us, it is important not only that we achieve our goals, it is also important HOW we achieve our goals. Ethically and legally impeccable conduct is a necessary prerequisite so that customers, employees and all stakeholders can trust us. In other words: integrity is the basis of our business. For us, integrity is more important than short-term business success. In case of doubt, we would rather forego business than enter into transactions that conflict with the law or our principles.

To support this, we give ourselves clear rules defining what is allowed, but also what is not allowed. Of course we adhere to legal regulations and to our internal rules, the Code of Conduct and the guidelines. Our Code of Conduct constitutes the central behavioural guidelines of the Telekom Austria Group. The guidelines give us detailed and specific help as to how to behave in important areas of business life in our daily business.

Everyone knows that there is not a rule in place for every situation where a decision has to be made. But how do we behave in those cases? The answer is "ethically and with integrity" or in an "honest. fair. transparent." manner!

Acting with integrity in our daily business life is essential for the sustainable business success and reputation of the Telekom Austria Group. It's purely up to us!

We trust our business partners to conduct themselves with integrity and in full accordance with the law as well.

# 1 Objective of this Guideline and important terms

## Objective of this Guideline

This guideline intends to assist the management and employees of the Telekom Austria Group in the area of antitrust issues and to raise awareness regarding the specificities of antitrust law. Furthermore, it states the requirements how management and employees of the Telekom Austria Group shall conduct competition properly.

**Awareness**

Violations of antitrust law result in fines against the company in the first place. However, individual employees may be directly affected by recourse claims and damages claims. Of course, in the end the responsible company bodies carry the relevant risk and are responsible for ensuring compliance with the relevant standards.

**Individual  
Responsibility**

Each individual Group company is a risk-taker. It has to roll out a communications and training plan and to conduct appropriate and regular measures according to this plan in order to mitigate the risk of the company and the group.

The minimum content of the training, based on European Antitrust regulation, is depicted as a template in Annex I which may be updated from time to time. The individual Group company will enrich the content according to national law.

**Minimizing risk**

Annex II contains a communications and training plan template. Such plan entails the following minimum content:

- Mandatory participants: At least local leadership team and direct reports
- Extended group of participants (adjusted to the current risk environment): staff with competitor contact (e.g. Sales), staff with access to (market) sensitive information (e.g. Market Research), staff in charge of product price definition (e.g. Product Management, Controlling), staff which processes competitor data on a regular basis (e.g. Wholesale)
- Form of communication and conduct of measures
- Date of information and performance
- Documentation of participation, understanding and consent to comply with the rules

Results of the training will be reported to the TAG Leadership Team (LTM) once a year by the individual Group company.

Group companies that may be subject of an unannounced investigation (so called “dawn raid” or “house search”) by the European Commission additionally conduct behavioral training for the event of house searches at the request of the respective Management Board / the Management Board of the Telekom Austria Group. The scope, content and target group of these trainings shall be adapted to the current risk environment.

## Important terms

**Competition Law:** Subject matter of protection is free and fair market competition. Agreements and conducts that inhibit trade (unfair competition) and restrict competition (antitrust law) are prohibited.

**Competition Law**

**Antitrust Law:** Protects fair competition. It prohibits certain behaviour on the market and penalizes infringements. Antitrust law applies to all economic sectors.

**Antitrust**

**Regulatory Law:** Many countries have a specific competition law in place that regulates the telecommunications sector ("regulatory law") so that a company with significant market power is already imposed with certain remedies in advance. The general competition law and the special competition law exist side by side. Both pursue basically the identical goal and are summarized in the following under the designation "antitrust law".

**Regulatory**

**Cartels:** All agreements between companies, decisions by associations of companies and concerted practices which have as their object or effect the prevention, restriction or distortion of competition.

**Cartels**

**Dominance:** A market dominant operator is a company - supplier or a buyer - that is exposed to no or only insignificant competition or has a market position that is superior to other competitors. Determining are in particular financial strength, relations with other companies, access to the procurement and sales markets as well as market entry restrictions for other companies.

**Dominance**

## 2 Antitrust

### 2.1 Overview and scope

We are committed to fair competition without restriction. We always respect the legal framework of free competition. In the conduct of our business, we comply with the applicable competition law.

The Group companies must comply with the national antitrust law as well as the national special competition law (e.g. regulatory law) in their respective countries and the respective legal framework in the case of membership in the EU or the EEA.

Unlawful acts in one country may have an effect on competition in other countries and could be punished by the local authorities using local antitrust and competition laws.

Keep in mind that the possible impact on competition in one country can have its antitrust law applied, even if no partner of an agreement is based in that country and the agreement itself does not explicitly refer to that country.

Violations of antitrust law can lead to serious consequences for our company, its employees and its management:

- fines in millions of euros,
- levy of the enrichment gained by breach of antitrust law,
- nullity of contracts,
- significant claims for compensation by competitors and customers,
- in individual cases even imprisonment.

Violation of these rules by employees will be prosecuted with the required labour law consequences, up to termination of employment.

The mere suspicion of an antitrust infringement may have a considerable negative impact on us, for example in the form of in-depth and lengthy official investigations. Therefore, all executives and employees must pay particular attention to compliance with all antitrust rules when exercising their activities.

In addition, it is the duty of every company itself to examine whether its conduct is consistent with the applicable antitrust law. To get there all our employees have to be able to act safely in the competition and are able to recognize which behaviours are correct. Hence, it is mandatory that employees involved in antitrust issues must gain information about basic principles of the antitrust law and, in case of doubt, should inform the internal experts at an early stage.

With regard to the provisions of European and most national antitrust laws, two categories of acts are prohibited:

- I. Cartels (restrictive agreements)
- II. Abuse of a dominant position.

These two aforementioned provisions of competition law are supplemented by the EU's merger control system, which is governed by the EU Merger Regulation.

The purpose of merger control is to prevent competition from being impaired by the merger of previously independent companies or parts of companies and the resulting "excessive" concentration of corporate power. To this end,

**Free and fair competition**

**Violations have serious consequences**

**Do not cause suspicion**

**Cartels and abuse of a dominant position**

concentration processes are subjected to a state control procedure (merger control) before they are carried out, in which the effects of the concentration process on competition are determined and evaluated and, if necessary, remedial measures can be ordered or the process can be prohibited altogether.

Gun jumping is the process of completing a merger when it has not yet been cleared by the competition authorities. It is important to observe the prohibition of execution prior to clearance by the competition authorities, as there is a risk that the transaction will be declared null and void in addition to heavy fines.

**Gun  
Jumping**

## 2.2 Antitrust (Prohibition of restrictive agreements)

All companies are subject to antitrust rules regardless of having a dominant market position. Antitrust prohibits:

- Agreements between undertakings, decisions by associations of undertakings and concerted practices,
- which would prevent, restrict or distort competition on the market,
- whether purposed or caused.

The scope of antitrust covers all forms of agreements. Hence, even those agreements which are legally not binding, but which are performed by the company (often referred to as "gentlemen's agreement") are covered. Hence, it can be seen as a breach of law if a company that had not formally participated in a decision that violates antitrust rules (for example, in the context of an association meeting) or has rejected it, eventually performs this decision.

The exchange of sensitive information, whether by telephone, by e-mail and in the context of "private" meetings or informal meetings, is also questionable. This includes all types of information that can reduce the strategic uncertainty on the market, such as production costs, customer records, sales, sales figures, capacity, quality, marketing plans, etc.

Competition restrictions may be either vertical or horizontal.

"**Horizontal competition restrictions**" means agreements between competing undertakings which are either actually or potentially active on the same market. These "classic" cartels include the following agreements and/or actions:

- Price rigging,
- Agreements on other conditions (such as payment modalities, delivery times, service quality),
- Division of markets or customers,
- Exchange of competitive information,
- The vote on the submission or non-submission of tenders in the framework of public or private tenders (exception: these are disclosed and are factually justified, for example, because a company would not be able to execute an order alone).

In contact with competitors it is crucial that no information is received or given which allows inference to current or future market behaviour.

Vertical competition restrictions concern agreements between companies of different economic levels, normally companies which are in a supplier / customer relationship. These include in particular: Vertical

- Resale price maintenance from traders, e.g. determination of minimum resale prices (so-called second-hand price agreements),
- Territorial protection agreements, as far as they are not exempted from antitrust,
- also certain most-favoured-benefit clauses, exclusive arrangements as
  - Total requirement (entire need of a company is covered)
  - or exclusive supply
  - as well as non-competition clauses

**Attention to all agreements**

**and**

**competitor contact**

**Two forms of restrictions**

**Horizontal**

**Vertical**



Antitrust regulation foresees exemptions,

- when group exemption regulations are applicable or
- there is a specific legal exception.

Antitrust does not apply in absolute terms. Under certain circumstances anti-competitive measures are accepted when they produce a general welfare effect (eg: research and development cooperation, purchasing and sales organizations). However, the determination of such exemptions is dependent on the individual case and can be applied only after the approval of the legal department of the respective group company.

Following the wording of antitrust law, the intention to set an unfair competition behaviour is sufficient for a breach of law. Again a breach of law is a behaviour that does not intend but causes a restriction of competition. Intention is breach of law

**Exemptions**

**General welfare effects**

**Intention is breach of law**

## 2.3 Prohibition of abuse of a dominant position

The abusive exploitation of a dominant position by one or more companies is prohibited.

A dominant position is evident when a company has no competitors in a market or is not exposed to any significant competition or it has a superior market position in relation to its competitors. Determining are, inter alia, market share, financial strength, access to the procurement and sales markets and the ability to restrict market entry for other companies.

**Extra attention when SMP**

A company with a market position superior to its customers or suppliers can also be seen as dominant in the market; this is the case if customers or suppliers depend on the maintenance of the business relationship in order to avoid serious economic disadvantages.

**Is there competition?**

Abuse of a dominant position particularly appears when competitors are hampered ("exclusionary abuse") or customers or suppliers are treated unequally or exploited ("exploitation abuse") for no material reason.

Abusive practices are, for example:

- Disproportionate discount systems, such as turnover tax systems, in which the customer receives special conditions on the basis of the overall turnover with the supplier; quantity discounts are permitted for individual orders.
- Exclusion of individual suppliers by SMP companies or refusal to provide services to certain companies; for companies and suppliers who are dominant in the market, the fundamental freedom to choose the contract partners is limited as this selection must not be carried out with unfair means.
- Price discrimination means different prices in comparable circumstances without apparent factual reasoning.

**No exploitation or obstruction**

Finally, it is prohibited to force a third-party undertaking to stop supplying or to purchase from a particular company with the aim to unduly damage it.

## 2.4 Competition supervision by the regulatory authority

In addition to the rules on competition control for dominant companies described above, there are sector-specific rules for liberalized (former monopoly) sectors, e.g. relevant laws for the telecommunications sector (regulatory law).

Hence - if the respective conditions are fulfilled - the regulatory authority and general national competition authorities can independently of each other investigate and stop a (possible) breach of antitrust law, even if this would lead to a (partial) overlap of the procedures.

**Sector specific regulators**

## 2.5 House Search under Competition Law

Searches by national or (if competent) EU antitrust authorities - also known as dawn raids - can take place unannounced at any time at all A1 sites on the basis of a judicial authorization. The antitrust officials - usually accompanied by the local police - have very extensive investigative powers and can, for example, enter all properties and business premises and question employees. In addition, all business documents and mobile devices (e.g. computers, cell phones, USB sticks, etc.) can be seized, examined and evaluated, and access to content on central IT resources can be demanded.

Each individual Group company is required to train in appropriate behavior in the event of a house search and to depict this in an internal guideline. In particular, the training must include a regular review of the relevant IT processes (e.g. access to data, copy of data, ...).

**Regular review of relevant IT processes**

## 2.6 Code of Conduct for Employees

Every employee is required to contact his or her direct supervisor or the local legal department in case of doubt.

The following specific rules of conduct are a guideline for correct behaviour in the day-to-day business process and must therefore be observed by all employees of Group companies of the Telekom Austria Group:

- Avoid any behaviour that could be seen as an anti-competitive action internally or externally.
- Do not disclose any information that is a commercial secret or which is based on the individual market behaviour of a Telekom Austria Group company, if this information is not generally publicly known.
- Do not seek commercial secrets or other information about non-public individual market behaviour of competitors.
- In general, do not enter into any competition-relevant agreements with competitors. Remember that the antitrust law also covers non-legally binding agreements (so-called gentlemen's agreements)!
- When it comes to appointments, always pay attention to a clear agenda, as well as a meeting protocol, preferably directly done by the organizer.
- Do not attend or immediately leave meetings with competitors or association meetings that subject agreements which would prevent, restrict or distort competition on the market. Be careful at meetings
- In addition, it is important that your negative attitude is documented. Be sure that your disapproval and exit is put on record.

**Internal remains internal**

**External remains external**

**Be careful at meetings**

- Cooperation with other companies are only permitted after consultation with the respective local Legal department of the Telekom Austria Group.
- The same applies to the conclusion or the establishment of competitive obligations between the respective Group companies of the Telekom Austria Group and its suppliers and customers, such as price agreements.
- Take advantage of the possibility of obtaining legal advice from the relevant local legal department.
- In the case of agreements which are sensitive to competition, you will inform your local legal department at an early stage.

**Legal  
department for  
support**

## 2.7 Consequences in the event of non-compliance

Breach of antitrust law is threatened with heavy fines and can entail significant reputational damage, exclusion from public and private tenders, as well as potential damages payments and the invalidity of contracts. Fines imposed by antitrust authorities can reach levels that threaten the existence of the company and result in serious damage to the company.

For compliance reasons, we are obliged to take appropriate measures to clarify the facts in the event of suspected violations of requirements/obligations under this policy.

Individual employees who violate antitrust law will face civil and criminal consequences. They also face disciplinary and labor law measures.

### 3 Applicability and communication

These guidelines are based on principles of European law and apply to all members of the Management Board, Leadership Teams, managers, employees and members of the external workforce of all companies of the Telekom Austria Group.

These guidelines shall be adopted and implemented in each company of the Telekom Austria Group, as long as they are not contradicted by any mandatory legal grounds or country-specific conventions. Any need to adapt these guidelines due to such contradiction shall be agreed with Group Compliance. Stricter national legal regulations must be observed and take precedence over these guidelines.

These guidelines are to be communicated in line with the local communication and training plan. This is the responsibility of the local legal department, which will be supported accordingly by the compliance department/compliance manager and the communications department.

After resolution by the management of the respective operating company, these guidelines replace existing guidelines on this subject. In terms of local implementation, existing processes (e.g. regarding the documentation) and controls (e.g. controls within the internal control system) must be taken into account. If it is necessary to adapt processes or controls, this shall be carried out in agreement with the local Compliance department or Compliance manager responsible.

### 4 Questions and notes on this guideline

This directive is intended to provide all employees with assistance for their daily work. In addition, you can always ask your direct supervisor, the legal or group compliance department or the compliance manager, with general questions about antitrust and competition law. You can find the contact details of legal and the compliance organization in your intranet.

<p><b>Mag. Marielouise Gregory MBA</b></p> <p>Group Legal and General Counsel</p> <p>A1 Telekom Austria Group Lassallestraße 9, 1020 Vienna Mobil: +43 664 66 29346 Fixed: +43 50 664 29346 <a href="mailto:marielouise.gregory@A1.group">marielouise.gregory@A1.group</a> <a href="http://www.A1.group">www.A1.group</a></p>	<p><b>Alexander Heppe</b></p> <p>Director Group Internal Audit / Director Group Compliance A1 Telekom Austria Group Lassallestraße 9, 1020 Vienna Mobil: +43 664 66 22251 Fixed: +43 50 664 22251 <a href="mailto:alexander.heppe@A1.group">alexander.heppe@A1.group</a> <a href="http://www.A1.group">up www.A1.group</a></p>
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## 5 Annexes

Annex I	Minimum Content Antitrust/Competition (non public T E M P L A T E)
Annex II	Training and communication plan (non public T E M P L A T E)

## 6 History

Date	Action
04.07.2012	Enforcement by Telekom Austria AG's Executive Board
07.12.2017	Revision and update (LEG)
30.11.2022	Update of Directive (LEG)