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FOREWORD FROM THE CHIEF EXECUTIVE OFFICER

It is the policy of Columbus to comply fully with all applicable competition laws. The steel industry has been, and remains subject to very active scrutiny by competition regulators across the globe.

To ensure strict compliance with these rules, Columbus has rolled out a comprehensive Competition Law Compliance Programme. I cannot stress enough how important it is that staff understand and comply with this programme.

Not complying with competition laws puts Columbus at risk of anti-competitive behaviour, which is subject to legal proceedings, very large fines, and imprisonment of individuals (once the Competition Amendment Act comes into force) found to have engaged in anti-competitive behaviour. Responsibility for compliance rests with everyone at Columbus.

Breaching competition laws also causes serious damage to the reputation of the organisation and employees and may jeopardise the on-going viability of its business. .

This Manual contains details of what to do if you suspect possible breaches of competition laws within Columbus or are approached by other organisations in a manner that you know or suspect involves anti-competitive activity.

This Manual is intended to provide a general understanding of competition rules, but cannot answer every question. Please study the Manual carefully and seek advice from the Legal Department should you need further information or clarification.

Once again, please remember at all times that compliance with competition laws is the responsibility of every Columbus employee and is of the utmost importance.

JOHAN STRYDOM

CEO

2. INTRODUCTION

This Manual is aimed at all employees whose position involves material decision making, contact with competitors or substantial contact with customers and suppliers. The purpose of this Manual is to give employees an understanding of the basic competition law prohibitions and their responsibilities in relation to those prohibitions. Employees are required to recognise situations where competition law issues arise and then work with the Legal Department to resolve these issues.

The main purpose of competition law, also known as 'antitrust law', is to preserve and promote free competition among business firms at all levels of trade. These laws are primarily based on the theory that consumers benefit from competition by getting the best products at the lowest prices.

If competitors agree among themselves to fix prices, limit production, divide markets, or allocate customers, or if one company abuses its position of dominance or market power, controls prices or excludes competition, consumers lose the benefits of competition in the affected markets.

The substance and practice of competition law varies from jurisdiction to jurisdiction.

The two largest and most influential systems of competition regulation are the United States antitrust laws and European Union (EU) competition laws. It is important to understand that these competition laws apply to any competitor doing business in the relevant country, regardless of such competitor's country of origin. Consequently, Columbus and its employees are affected by these laws to the same extent as the companies based in the US or the EU.

There are severe sanctions for violations. In almost all countries, competition law enforcement agencies can impose fines for violations of competition law, which can be substantial (for example, the European Commission can impose a fine of up to 10% of the group's worldwide turnover). In South Africa as well as other countries, including the United States, Canada, Brazil and the UK, certain violations of competition law are criminal and can lead to imprisonment and/or fines on individuals. In South Africa, a company can be fined up to 25% of the group's annual turnover.

In South Africa, the exposure of collusive behaviour is encouraged and rewarded under our Competition Commission's Corporate Leniency Policy. The purpose of the Corporate Leniency Policy is to

improve the detection and prevention of cartel activities. In terms of this policy the Competition Commission has the discretion to grant any cartel member, who is "first through the door" with information leading to the successful prosecution of its fellow cartel members, immunity from prosecution. It is important that only the first firm to confess and provide the information qualifies for complete immunity. The competition authorities also have extensive enforcement tools at their disposal, such as the ability to conduct dawn raids and market inquiries.

3. OVERVIEW OF COMPETITION LAW RULES

2.1 What Does Competition Law Aim to Regulate?

The purpose of competition law is to sustain a free market economy where vigorous but fair competition will result in the most efficient allocation of goods and services, the lowest prices, the highest quality and the maximum innovation. The ultimate goal of competition law is to establish a free enterprise system where each company takes its business decisions independently and where enterprises do not restrict or distort competition by colluding or engaging in other unlawful business practices.

Ignorance of competition law is no defense and will not deter the courts or regulators from imposing fines or other penalties. Although you are not expected to make difficult legal judgments on your own, you are responsible for learning enough about competition law to recognise risk situations, to know when legal advice is required and to obtain it. The excuse "all my competitors are doing it" is not a defence for breaching the law, but rather may be a warning that an infringement of the law is already happening.

In nearly all countries that have enacted competition laws, the rules regulate three types of conduct:

- restrictive agreements or practices;
- abuse of market power; and
- mergers, acquisitions and joint ventures

2.2 What are Restrictive Agreements or Practices?

Many countries have competition laws that prohibit certain agreements or practices that restrict competition in the marketplace. Such restrictive agreements may be concluded by competitors (including potential competitors) or between firms operating at different levels of the supply chain (for example, a manufacturer and distributor).

Certain types of agreement or practices between competitors or potential competitors can be presumed to be serious violations of competition law in almost all countries. In some jurisdictions, including South Africa ,United States, Canada and the UK , such agreements and practices may be subject to criminal penalties. The relevant agreements and practices generally include:

- price fixing;
- dividing markets; and
- collusive tendering.

It is also prohibited outright for a supplier to dictate a minimum resale price to its customers.

In South African law, these agreements are prohibited outright and the competition authorities do not permit an enquiry into technological, efficiency or other pro-competitive gains that may result from any of the abovementioned practices. The illegality of these practices is established by their mere occurrence.

These types of agreements and practices are described in further detail in this Manual.

2.2.1 Arrangements with Competitors

Arrangements extend beyond a formal written agreement. It also covers oral agreements and understandings, “gentlemen’s agreements” and even action which is taken with an unspoken “common understanding” in mind. It covers both direct agreements (eg between two competitors) and indirect agreements (eg an agreement between competitors brokered by a third party such as a trade association, customer or supplier).

2.2.1.1 Price Fixing

It is illegal for competitors to agree, whether directly or indirectly, the price level at which their products will be sold to customers or the price at which they purchase from suppliers. Agreements or understandings that affect prices indirectly, such as on rebates or discounts, pricing methods, costs and terms of payment and other trading conditions are also illegal.

Examples

Pioneer Foods paid a total of R855.7 million for its participation in the bread cartel in which the various bread manufacturers agreed, amongst other things to fix the price of a loaf of bread: it was fined R195.7 million in February 2010, a further R500 million in November 2010, and was forced to reduce its gross profit by R160 million.

In 2014 Columbus entered into a settlement agreement with the South African Competition Commission in relation to an agreement with its competitors for the purchase of scrap metal to fix the price at which they would purchase certain types of scrap metal. This had a significant impact on the business of Columbus and this conduct cannot be repeated.

2.2.1.2 Division of territories/Market Sharing

It is illegal for competitors to allocate territories or products to each other and/or to agree not to compete in such territories or on such products.

2.2.1.3 Allocation of customers or suppliers

Competitors are not allowed to agree to divide customers or suppliers between them in the markets in which they compete, or where they could be expected to compete.

2.2.1.4 Group boycott

It is generally illegal for competitors to agree to boycott a particular customer or supplier or class of customers or suppliers. “Boycott” here means any concerted action or agreement between two or more competitors not to sell to or buy from a particular customer or supplier, or class thereof.

2.2.1.5 Limitation of production

It is illegal for competing companies to agree to stop production, or to limit this to a certain level, rather than allowing normal competitive forces to determine their independent production decisions.

2.2.1.6 Collusive tendering

Agreements or understandings between competitors regarding prices or terms and conditions to be submitted in response to a bid request are generally prohibited. This includes agreeing not to bid or rotating tenders.

Example

The construction firms in South Africa have paid fines in excess of R1 billion to date for various bid-rigging cases involving national roads and the 2010 Soccer World Cup stadiums.

2.2.1.7 Joint purchasing

Joint purchasing agreements between individual competitors may result in prohibited purchase price fixing or may restrict competition in other ways and therefore be prohibited when they limit the parties' freedom and/or prevent other suppliers from supplying them to a substantial extent. Moreover, collective purchasing agreements may lead to a substantial purchasing power, which may be interpreted as a collective dominant position of the joint buyers (see "Abuse of a dominant position" below).

2.2.1.8 Joint commercialisation

Agreements between competitors to jointly sell, distribute or promote their products may raise competition law concerns where such agreements limit the individual participants in their freedom to determine their own commercial policy and to advertise individually.

2.2.1.9 Exchange of information

In general it is illegal for competing companies to exchange information which may influence the independent determination of their individual commercial policy, such as information regarding sales quantities, prices, cost structure, discounts and other trading conditions, or information relating to their individual customers and/or suppliers. However, an exchange of publicly available and/or general statistical information (for example provided by an independent third party) will in general not cause any problems under the competition rules. There should be no exchange of commercially sensitive information with a competitor without first seeking the advice of the Legal Department.

2.2.1.10 Standardisation

The setting of standards can be viewed as the setting of a trading condition (akin to price fixing) if it affects the quality, quantity or price of a product or service. Therefore if competitors in an industry association agree to only sell goods that meet a certain quality standard, this could amount to the fixing of a trading condition.

Other standard setting agreements between competitors may create barriers to entry in a market or have other anti-competitive effects.

Arrangements with competitors

DO

• Avoid contact with competitors unless you have a legitimate reason for it.

• Make sure you have a written agenda for any meeting and stick to it

• If a competitor starts discussing any of the items listed under 'DO NOT' below, terminate the conversation, keep an accurate record and inform Legal Department. If this happens during a formal meeting, make sure the minutes reflect your exit.

DON'T

x Discuss or agree to price fixing, timing of pricing changes, or other commercially sensitive issues.

x Discuss or agree to any restrictions concerning markets, destinations, customers or schedules.

x Discuss or agree to the boycotting of any customers, competitors or suppliers.

x Allow access to, seek access from or discuss confidential or other unpublished commercially sensitive information (such as prices; costs; profitability; strategy, business and marketing plans; product development or customers).

2.2.2 Arrangements With Suppliers, Distributors and Customers

Care should be taken with regard to the following situations.

2.2.2.1 Minimum resale price maintenance

Just as it is illegal for competitors to conclude price fixing arrangements, competition rules in most countries, including South Africa, prohibit minimum resale price maintenance between a supplier and its independent customers or distributors. In other words, a supplier is not permitted under law to impose on its distributor or reseller customer a minimum resale price.

A supplier may recommend resale prices, but it must be clear that the price is merely a recommendation and no coercion can be applied under law to a reseller who chooses to set its own prices. Similarly, it is illegal to reward resellers on the basis of their conformity with suggested resale prices.

In some countries, like the USA and Germany, agreements on maximum resale prices can also be illegal. In many countries, however, if a company acts strictly as an agent (passing orders to its principal or entering into agreements on its principal's behalf, without incurring any financial or commercial risks), the principal is permitted under law to give price instructions to such company.

2.2.2.2 Long-term and exclusive agreements

Firms may not enter into any agreement with a customer, supplier, distributor, or retailer if the agreement has the effect of substantially preventing or lessening competition in the market; unless the parties to the agreement can show that there is a pro-competitive gain that outweighs the anti-competitive effect.

An important factor to consider when entering into a supply arrangement is whether the agreement has the effect of foreclosing a customer or supplier from a market. Foreclosure can potentially be achieved by long-term (more than 2 years) or exclusive supply agreements. The implications of such agreements should be checked by the Legal Department, before being concluded.

2.2.2.3 Price discrimination

Except as indicated below, and as long as a company does not have market power in a specific market (see the section on abuse of a dominant position), it is generally permissible for a company to charge the prices it wants as long as it does so unilaterally and not pursuant to any agreement with its competitors. However, price discrimination should not be used as an indirect method to coerce resellers into reselling at a certain price.

2.2.2.4 Restrictions on resale or use

As a general rule, Columbus may not prohibit its customers from reselling its products to whomever they wish, or otherwise impose restrictions on the use of its products. For example, it normally cannot insist that the customer will not resell but only incorporate its products.

Before entering into an agreement imposing restrictions on resellers or customers, the agreement should be reviewed by Legal Department to ensure that restrictions are permissible.

2.2.2.5 Bundling

In a number of countries, like Australia, bundling goods or services with another supplier's goods or services may be illegal. In South Africa, this is illegal only where a firm is considered dominant.

Arrangements with suppliers, distributors and customers

DO

• Consult your Legal Department before entering into exclusive or long-term supply agreements.

DON'T

x Dictate a minimum resale price to customers Participate in any trade association gatherings where any of the above subjects in the section on ARRANGEMENTS WITH COMPETITORS above are discussed.

x Exchange commercially sensitive information such as market shares, cost factors, commercial policies, etc.

x As a trade association, issue advice to the members on any commercially sensitive issues, such as price and cost factors.

x Use the trade association as a body to take decisions which would not be allowed if taken by a company or a group of competitors.

x Implement any decision taken by a trade association which may infringe competition laws.

2.3 Abuse of a dominant position

An illegal restriction of competition may also occur when a company or group of companies abuses a dominant position or its substantial market power in a way that is detrimental to competition.

A dominant position exists when a company can control prices, exclude competition and can behave to an appreciable extent independently of its customers, competitors and suppliers. This is for example the case when other firms have no real alternative but to deal with this company. Although market power may be determined in different ways, most competition regulators use market share as a starting point. Even though market share and market power do not mean the same thing, a significant market share in the relevant market (which is the market for a product or service and the geographic market in which the product or service is sold) is a good indication that the company may have market power. In South African law, companies with a market share of over 35 percent in a relevant market may be presumed to be dominant, unless it can be shown that they do not have market power. However, in certain circumstances, market power may exist where a company has a lower market share. Alternatively, other factors (for example, relating to the structure of the market) may mean that a company with a higher

market share is not deemed to be dominant. Having such a position is not prohibited in itself. It is the abusive behaviour of a company in that position that constitutes the violation. Therefore, where Columbus may have market power, special care is required to ensure its behaviour in the market is not aimed at and does not result in the elimination of its competitors or exploitation of its customers.

Examples of abuse of a dominant position are given below.

2.3.1 Excessive pricing

A company with market power in a specific market may not charge excessively high prices. An excessive price is defined as a price that bears no reasonable relation to the economic value of the good. Various benchmarks are used by economists to determine the economic value of a good or service.

2.3.2 Essential facility

A dominant firm is prohibited from refusing to give its competitor access to an essential facility when it is in fact economically feasible to do so. An essential facility is infrastructure or a resource that a competitor cannot reasonably duplicate, and without access to which the competitor cannot reasonably operate. Essential facilities can be structures such as plants, production assets, ports or other infrastructure. Access can be refused based on commercially justifiable reasons.

2.3.3 Tying

In South African law it is illegal for a seller, having market power or a dominant position in the market for a product, to make the sale of that product conditional upon the purchase by the customer of other products or services, which the customer might well obtain from other suppliers at similar or better terms or conditions.

It may also be illegal for a dominant seller to employ a rebate system rewarding the customer for favouring the seller with orders for both product categories together.

2.3.4 Predatory behaviour

Under most competition law regimes, a company that has a dominant position is not allowed to force competitors out of the market by means of predatory pricing which is defined as: selling below average variable or marginal cost in order to drive a competitor out of the market, with the intent of charging higher prices and gaining larger profits once the competitor has left the market.

In a situation where purchasers are dependent on a dominant supplier and where the supplier wants to extend the scope of its activities to an area where its customers are active, the supplier is not permitted to force them out of business by cutting off supplies or by raising its prices.

2.3.5 Refusal to supply

In general, there is no absolute obligation to supply, particularly where it concerns a potential customer with whom there has been no previous trading relationship. However, in many jurisdictions a dominant company is required to have some reasonable and objectively justifiable and fair commercial reason for cutting off or reducing supplies to an existing customer. Objective justifications might include real concerns about the customer's creditworthiness or a shortage of the relevant product. Unilateral decisions not to deal are generally not prohibited under competition laws in most jurisdictions, but as previously noted, agreements to refuse to deal based on discussions or agreements with others can often raise competition law concerns.

2.3.6 Inducing a supplier or customer not to deal with its competitors

Dominant firms are prohibited from requiring or inducing a supplier or customer not to deal with a competitor. This includes, for example, offering customers, who deal exclusively with the dominant firm, rebates that cannot be duplicated by competitors, or which is so incentivising to customers that competitors go out of business as a result of it.

2.3.7 Buying up a scarce supply of intermediate goods or resources required by a competitor

In circumstances where a particular input required in a market is in short supply, a dominant firm may not purchase the entire amount of available input product when it does not require the full volume itself in order to prevent competitors from being able to produce goods.

2.3.8 Price discrimination:

Price discrimination involves charging different prices where such differences are not justifiable based on reasonable grounds such as volume, quality or distance. However , when trading with SMEs and firms owned by historically disadvantaged individuals who purchase less than 20% of the goods sold by the dominant firm, the dominant firm is prohibited from offering different prices or trading terms, if doing so impedes or prevents those customers from participating sustainably in the market. Price differences cannot be justified on the basis that the SME and qualifying HDI customers buy smaller

volumes then the dominant firm high volume customers. The dominant firm cannot refuse to do business with SME's and HDI firms in order to avoid the price discrimination provisions.

A dominant firm may not engage in the price discrimination between customers if:

• it substantially prevents or lessens competition;

• it involves the equivalent sale of goods and services of like grade and quality to different customers; and

• it involves discrimination between customers in terms of price, discounts, allowances, rebates, credit given, or the payment for and provision of goods and services,

In South Africa, the Competition Act provides for special defences to an allegation of price discrimination, if the dominant firm can show that such price discrimination is:

• A reasonable allowance for differences in cost of manufacture, distribution, sale, promotion or delivery, methods in which, or quantities in which goods or services are supplied to different customers;

• done in good faith to meet a price or benefit offered by a competitor; or in response to changing conditions affecting the market.

2.3.9 Other forms of abuse

Unless a firm can show that the pro-competitive gains outweigh the anti-competitive effects of its conduct, it may also not do anything, which constitutes an exclusionary act. An exclusionary act is conduct that prevents or impedes another firm from entering into, or expanding within a market if that conduct gives rise to anti-competitive effects that are not outweighed by any pro-competitive gains.

Dealing with customers / distributors where Columbus may be dominant

DO

•Where you are dominant you must offer SMEs and HDI customers your best prices and trading terms.

• Make sure that you have an objective justification for price differences.

•Ensure that if you want to refuse to deliver a service, this is discussed in advance with Legal Department and record the business reasons - justifiable reasons may include poor credit rating or product shortage.

DON'T

x Price excessively, or below cost with the intent to drive a competitor out of a market.

x Offer discounts, rebates to customers which unfairly affect the competitive position of smaller competitors.

x Give the false impression that Columbus prices are based on anything other than its own independent business judgment.

2.4. Trade Associations

Columbus is a member of many trade associations. These associations can be effective in gathering and disseminating appropriate information as well as in representing the industry to the public, government and agencies. Furthermore, such organisations are often responsible for enabling their members to produce better and safer products. Columbus therefore supports the activities of such groups.

However, although it is perfectly legitimate for companies to participate in trade associations, such activities are not allowed to go beyond the legitimate purpose for which the trade association was formed and notably should not be used as a forum for illegal collusion between competitors, for example by facilitating price fixing, market and customer allocation arrangements, or anti-competitive information exchange.

It should be emphasised that competition authorities have a natural suspicion of trade association meetings, not least because they have in a number of cartel cases in the past provided the context for anti-competitive discussions to take place. It is Columbus' strict policy that its employees do not engage in such anti-competitive activities and remain vigilant to such discussions when attending trade association meetings.

The Legal Department should be informed of all trade association memberships, including the conditions of such memberships.

When a Columbus employee participates in a trade association, the following guidelines should be observed:

2.4.1 Matters which should never be discussed with competitors, at any official meeting or social gathering.

Do not have formal or informal discussions relating to:

x territorial restrictions, allocation of customers or suppliers, restrictions on types of products, or any other kind of market division;

x individual company prices, price changes, discounts, rebates or input costs conditions of sale (including payment terms and periods of guarantee), price differentials;

x general market conditions and general industry problems, including industry pricing policies or patterns, price levels, or industry production, capacity, or inventories (including planned or anticipated changes regarding those matters), except to the extent necessary to achieve legitimate objectives of the trade association as stated above;

x individual production or distribution costs, cost accounting formulas, methods of computing costs;

x individual company figures on market shares, sources of supply, production, production capacity;

x information as to future plans of individual companies concerning technology, production, marketing and sales, and raw materials purchasing; and

x matters relating to individual suppliers, distributors or customers.

2.4.2 Matters Which May Be Discussed

It is allowed to exchange information on non-confidential technical and promotional issues relevant to the industry, including issues relating to technology in general, health, safety and environmental matters, technical standards, transportation hazards and regulations and new and proposed legislation.

2.4.3 Trade industry statistics

To be certain that it is legal to exchange industry statistics through the medium of a trade association, the Legal Department should be contacted to ensure that:

• an independent company, or at the very least a team of trade association staff unconnected with any of its members, collects and disseminates the information without identification of the company who submitted it;

• the participants submitting their data do not disclose that information to other participants, in order to maintain complete confidentiality of the individual data submitted;

• the data collated and disseminated is aggregated data which does not allow the identification of an individual participant; and

• the information relates to historic data only and does not include future data.

2.4.4 Trade Association Meetings

The following rules apply in connection with trade association meetings:

• an agenda must be circulated for review in advance of the meeting and Legal Department should be contacted if any doubts exist;

• the meeting must be attended only by the appropriate Columbus employees;

• a commercial employee should not attend a technical meeting;

• informal commercial discussions of any kind before or after meetings must be avoided as much as possible;

• accurate, detailed notes of the meeting must be taken and, in case of doubt, a copy of the draft notes has to be provided to Legal Department;

• objections should be made against any deviation from the agenda during the meeting which strays into prohibited areas. Every employee must be vigilant as to what is discussed;

• if a competitor seeks to initiate a discussion on an improper subject, objections should be made, notably by saying that it is Columbus' strict policy not to discuss such topics and by asking him to stop the discussion immediately. If such a person persists, withdraw from the meeting. Make sure that the reason for leaving and at what juncture you left are recorded in the minutes. In addition, the incident should immediately be reported to a superior and to Legal Department.

Interaction with Trade Associations

DO

•Obtain approval from your line manager and consult with the Legal Department before joining any trade association.

• Make sure that an agenda is circulated well in advance of any meeting.

• Stick to the agenda.

• Ensure that minutes are recorded and distributed.

• Actively distance yourself from any decision (to be) taken by the trade association which may infringe competition laws. If it continues, leave the meeting room and make sure that your action is recorded and report to Legal Department.

• REMEMBER: All discussions count, even informal ones outside the meeting room.

DON'T

x Participate in any trade association gatherings where any of the above subjects in the section on ARRANGEMENTS WITH COMPETITORS above are discussed.

x Exchange commercially sensitive information such as market shares, cost factors, commercial policies, etc.

x Use the trade association as a body to take decisions which would not be allowed if taken by a company or a group of competitors.

x Implement any decision taken by a trade association which may infringe competition laws.

2.5 Are Acquisitions, Mergers and Joint Ventures Subject to Competition Law?

Some transactions require compulsory notification to the South African competition authorities and may not be implemented before their approval is obtained.

A transaction is automatically notifiable if:

- it results in the change of control in a firm, and
- it meets the financial thresholds for automatic notification.

According to the Act, a person controls a firm if, amongst others, that person:

- **beneficially owns more than one-half of the issued share capital of the firm;**
- **is entitled to vote a majority of the votes that may be cast at a general meeting of the firm, or**
- **has the ability to control the voting of a majority of those votes, either directly or through a controlled entity of that person;**
- **is able to appoint or veto the appointment of a majority of the directors of the firm;**
- **is a holding company, and the firm is a subsidiary of that company; or**
- **has the ability to materially influence the policy of the firm in any manner comparable to a person who, in ordinary commercial practice, can exercise an element of control referred to above.**

A change in control can occur in many ways, including through a joint venture. These are simply instances of control and the list is not exhaustive! If you are in doubt as to whether any transaction results in a change of control over a part of a business or not, consult the Legal Department.

Even if a transaction does result in a change of control, it is only automatically notifiable if it meets the relevant financial thresholds, as published by the competition authorities. Mergers are classified as small, intermediate or large, based on the thresholds for notification published in terms of the Act. Only intermediate and large mergers are automatically notifiable.

- Small mergers do not generally need to be notified. However, if the transaction raises competition or public interest concerns, the Competition Commission has a period of six months from the date of implementation of the transaction to instruct the parties to notify them of it, and to cease further implementation of the merger until they have received competition clearance.
- An intermediate merger is one where the asset value or turnover of the target firm (depending on which is the highest) in the preceding financial year is equal to or more than R100 million and the "combined figure" of the assets or turnover of the acquiring firm and target firm together is at least R600 million.
- A large merger is one where the asset value or turnover of the target firm (depending on which is the highest) in the preceding financial year is equal to or more than R190 million and the "combined figure" of the assets or turnover of the acquiring firm and target firm together is at least R6.6 billion. Final decisions relating to large mergers are made by the Competition Tribunal after recommendation from the Competition Commission.

Both legs of the inquiry must be met. Therefore, if the asset/turnover value of the target firm is R100 million or more, but the combined figure is not as much as R600 million, it would be a small merger, and not automatically notifiable. Similarly, if the combined figure is R600 million or more, but the asset/turnover value of the target is less than R100 million, the merger is also a small one. The same principles apply in determining whether a transaction is an intermediate or a large merger.

The main criteria applied by the authorities in reviewing mergers, acquisitions and the formation of joint ventures is that their operation must not lead to the creation or reinforcement of a dominant position or that the transaction under review should not have the potential to substantially prevent or lessen competition. In the event that competition is significantly reduced, the transaction may be prohibited. Alternatively, the authorities may clear it subject to certain conditions being fulfilled, such as the divestment of certain assets. The South African competition authorities also consider the impact of any merger of public interest factors such as employment, impact on a particular sector, the degree to which the merger may impact on local manufacture or the ability of an industry to compete globally.

If the parties fail to report a qualifying transaction to the authorities, they run the risk of being fined and also having the transaction declared void. In light of the above, the Legal Department must be contacted as soon as the sale or purchase of a business or the setting up of a joint venture is considered.

In assessing the effects of mergers, acquisitions or the establishment of joint ventures on the existing competitive landscape, the authorities question not only the parties involved but also third parties. This means that Columbus may receive questionnaires related to transactions that involve our competitors, suppliers and/or customers. Columbus' response to such questionnaires may influence the way in which it wishes to conduct business or have serious implications on the transaction contemplated by the parties directly involved. Columbus may also want to formally claim confidentiality over the information provided. It is therefore very important that Legal Department be informed immediately when such a questionnaire has been received. Any further contact with the competition authorities should be established only through Legal Department.

2.6 Document Creation and Retention

2.6.1 Creation

Careful language will not avoid liability where anti-competitive conduct is involved, but it will prevent lawful conduct being treated as suspicious due to a poor choice of words.

Care should be used in drafting internal documents (e-mails, letters, faxes, memos, reports and evaluations, minutes, briefing papers, meeting notes, business plans, etc.) and in any formal or informal contacts or communications with third parties, such as competitors (including at trade association meetings), press releases, advertisements and promotional material, to avoid language which exaggerates market share positions or which could be misconstrued as suggesting an improper purpose. Again, a poor choice of words can make a perfectly legal activity look suspect.

E-mail, specifically, is a very important part of an employees' day-to-day work. The convenience of e-mail, however, creates many unnecessary communications. Employees, on occasion, send spontaneous e-mails with little regard to what they say, how they say it, or what type of impression it could leave. Accordingly, please exercise caution when sending e-mails. Pay particular attention to the identity and number of individuals "cc'ed" on your e-mail and to whether you hit the "reply to all" button when

responding to an e-mail. Please also refrain from using "groups" of addressees as the recipients may have moved to a different function or even have left the company.

Remember that any written evidence may be required to be shown to the competition authorities or in litigation with another company and so may be subject to future outside scrutiny. Under modern discovery procedures, all kinds of all documents, both electronic and hard copies, formal and informal (for example private notes and diaries or e-mails) may have to be submitted to competition authorities.

It is important to keep concise and accurate records of all legitimate contacts with competitors (such as at trade association meetings), so as to minimise the risk of allegations being made (for instance by customers, competitors, the press or the authorities) that the parties have some anti-competitive motive or agenda.

When communicating, the following rules should be observed in order to avoid a perfectly legal activity looking suspect due to a poor choice of words:

- Do not use vocabulary which could be misconstrued as suggesting guilty purpose, such as "please destroy/delete after reading" or "no copies". Such phrases suggest the possibility of wrongdoing even though the objective being pursued in using such words is simply to preserve the confidential nature of a document. Wording such as "strictly confidential" or "company secret – restricted circulation" is preferable.
- Avoid power or domination vocabulary. Examples are "we will dominate the market", "we have virtually eliminated competition" and words like destroy, kill, squeeze, damage, price control, prevention of parallel trade. Such words may be interpreted as implying the use of market power to drive out competitors. Instead, refer to Columbus as having a "significant" position or being one of the "leading" companies.
- Because the term "market" has legal significance (in both determining if a company has a dominant position and in merger analysis), it is better to avoid references to "market" where possible. It is better to say that Columbus has a 20 percent share of sales of a particular product or that Columbus is one of the leading producers of a product, without saying or implying that the market is necessarily limited to that product.
- Avoid loose language with regard to intentions, such as, when contemplating a merger "the main purpose of this acquisition is to take an important competitor out of the market". Such statements are usually exaggerated and fail to focus on the legitimate competitive benefits of the transaction. Where

possible, try to show that the merger will lead to efficiencies or have other consumer benefits, such as new products or technologies, or lower prices.

• Exercise caution when talking about competition and prices. Examples are phrases that suggest that competitors or distributors will certainly follow a price rise or stick to an agreed price, such as "status quo", "orderly marketing", "managing the brand", "gentlemen's agreement", "similar prices", and "this transaction will enable us to improve pricing".

• Do not speculate as to the legal nature or consequences of conduct. For example: "These arrangements may well breach competition law so discretion is required". This is not to condone efforts to cover-up potentially illegal conduct, but rather to recognise that such language implies a legal conclusion about the legality of certain arrangements, which is best determined by Legal Department.

• State clearly the source of any price information (so it does not give a false impression that it came from discussions with competitors).

• Avoid any suggestion that an industry view has been reached on a particular issue (such as price levels).

2.6.2 Retention

As regards the retention of documents, it is essential they are kept in accordance with statutory requirements applicable. The Legal Department should be consulted as to the document retention requirements.

Destroying, altering or falsifying documents and records may be illegal and have serious consequences, such as personal criminal sanctions. Legal advice should be sought about this. This is particularly relevant when an investigation or litigation has commenced or is anticipated, as this will be regarded as obstruction of justice.

Document creation and retention

DO

• Keep full and accurate notes of all meetings with competitors.

• Verbally contact the Legal Department before committing anything to writing if potentially sensitive from competition perspective.

• Remember that deleting documents and emails from your computer does not prevent them from being retrieved later (including by competition authorities).

• Clearly mention your sources.

• Always ensure that the information comes from a legitimate source, ie, not directly from a competitor.

DON'T

x Use expressions in documents or emails which would suggest that the intention of Columbus is to reduce or eliminate competition alone or in concert with competitors.

x Use expressions which suggest illegal or secretive behaviour such as 'destroy this document' or 'delete this email after reading'.

4. Reporting

If you have any queries or are unsure of the implications of any particular conduct, you must contact the Columbus Compliance Officer:

Ms Kutala Bizana

Email: Bizana.kutala@columbus.co.za

Tel: +2713 247 3368

5. Revision History

Rev No	Nature of Change
1	• Foreword : CEO name changed from Lucien Matthews to Johan Strydom • Number 1: Introduction: added – In South Africa as well as other countries including the US • Number 1 : Introduction: added – In South Africa a company can be fined up to 25% of the group's annual turnover • Number 2.3.8 : Price discrimination: added: However , when trading with SMEs and firms owned by historically disadvantaged individuals who purchase less than 20% of the goods sold by the dominant firm, the dominant firm is prohibited from offering different prices or trading terms, if doing so impedes or prevents those customers from participating sustainably in the market. Price differences cannot be justified on the basis that the SME and qualifying HDI customers buy smaller volumes then the dominant firm high volume customers. The dominant firm cannot refuse to do business with SME's and HDI firms in order to avoid the price discrimination provisions. • Number 2.3.9 : Dealing with customers / distributors where Columbus may be dominant: Where you are dominant you must offer SMEs and HDI customers your best prices and trading terms
2	• Document approval on workflow serves as acknowledgement of page 2

6. Document Approval

	Job Title	Coy No
Prepared By	Secretary Legal	9189
Approved By	General Manager Transformation & Legal	9281