

Competition in Connections Code of Practice Panel

3.00pm Wednesday 24th May 2023

Microsoft Teams Meeting

Agenda

1	Welcome and introductions
2	Awareness of Competition Act
3	Review of previous minutes
4	AOB
5	Date of next meeting

COMPETITION ACT COMPLIANCE

ENA MEETINGS – BEST PRACTICE GUIDELINES

ENA Member Companies and Associates must at all times comply with the requirements of Competition Law (the Competition Act 1998, the Enterprise Act 2002 and Articles 81 and 82 of the EC Treaty) and must not engage in any practice which will or may prevent, restrict or distort competition or constitute an abuse of a dominant position.

This guidance is part of suite of processes and procedures which the ENA has in place to mitigate risks under the Competition Law. Others include; training for the Chairs of key regulatory or commercial groups.

Application of Guidance

These guidelines apply to any meetings which are either held on ENA premises or at which an ENA employee is present. They are attached to each agenda issued for an ENA meeting.

- 1) Could the discussion be seen from the outside to be restricting competition in any way?
- 2) Is any restriction of competition in the interests of consumers i.e. could it be simplifying the market to help consumers engage.

If there is any doubt as to the answer to the second question, then further advice should be sought immediately before embarking on the discussion.

Conduct of Meetings

- All working groups must have agreed terms of reference. All working group members should have a copy of the terms of reference. Copies can be requested from ENA secretariat.
- All permanent working groups must have a formally appointed Chair. Chairs for regulatory and commercial working groups will have been offered Competition Law training from the ENA.
- All meetings must have a clear purpose which is communicated in advance along with an agreed agenda.
- The Chair must take time to remind the working group each time they meet as to the obligations under Competition Law and highlight any areas of the agenda where particular care is required.
- The agenda and minutes/action notes of each meeting must be saved by the ENA Secretariat together with a list of participants and circulated to the working group following the meeting.
- Attendees should raise any concerns about Competition Law issues with the Chair as soon as these become apparent to them.. If the concern cannot be resolved immediately, the Chair should stop discussion and convene a break from the meeting and should seek further advice. The Chair can then ask attendees if they wish to move onto a different topic and re-start the meeting or stop the meeting altogether.
- ENA should document any concerns raised on Competition Law issues and how they were dealt with at the meeting within the meeting minutes
- ENA can take an action to seek legal advice on issues where the working group has concerns but is unsure about how to best manage them. Where this is the case, the working group should not discuss these concerns until legal advice has been provided unless it is for the purpose of seeking that legal advice.

If you require any further advice please contact John Spurgeon, Head of Regulatory Policy – john.spurgeon@energynetworks.org.