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Compliance in times of crisis

December 2021

A genuine challenge ...

Your sector is facing exceptional challenges due to the ongoing COVID-19 crisis. These days, you and your colleagues are under pressure to achieve margins and boost sales. Teleworking is not really making things any easier; the normal interactions within the company have been significantly impaired. Contacts with the customers are taking place differently as well. Competition law is not really at the top of your agenda for the moment.

Competition law violations often occur in times of crisis. Do the authorities show any understanding of this? Unfortunately, not. A crisis is no justification - not even a mitigating circumstance - for disregarding the competition rules. A cartel formed in times of crisis remains a cartel.

It is therefore important as a company to further fulfil your compliance objectives. In times of teleworking, this is far from self-evident. You are confronted with new challenges. Under these circumstances, how can you keep compliance high on the agenda and avoid competition law breaches in these circumstances?

Our back kitchen

We would like to take you on a tour of contrast's back kitchen. After all, the contrast compliance team was confronted with these challenges as well. What lessons have we drawn from the recent past? How

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do you keep the subject-matter lively and relevant? How do you convey the compliance message during a virtual training session? A few easy rules of thumb that may seem obvious, but which are quite important:

- Make sure to build a **connection** with your public. Ask the participants to set up their camera.
- Ensure **interactivity**. For example, add a few questions or cases that the participants can vote on. Experience shows that this quickly gets the dialogue going.
- Get your message across in a **clear and simple way**. Select the key messages that the participants *must* keep in mind, and limit yourself to those.
- Keep it **practical**. Avoid long tracts of theory and learned exegeses on articles of law.
- Make sure that, at the start of the training session, the participants understand how they can ask **questions**. Provide an option for those participants who may not be comfortable speaking in front of others. This can easily be done by allowing questions to be asked via the chat function. Address these questions as quickly as possible, so that the participants feel that their questions make a difference.
- Make your presentation **visually attractive**. Do not put too much text on your slides. Work with visual images. Shift now and again from these images back to the trainer so that his role remains central.
- If possible, make sure that someone from **management** or the legal department is present during the training session. This demonstrates that compliance is important for your company and has support from the top. What's more, it emphasises that equal importance is attached to *virtual* trainings as to (the once usual) IRL ones.
- Are you the dedicated contact person for **competition law questions**? Then take advantage of the training session to introduce yourself, so that the participants will find their way to you when they have questions or are facing risky situations.
- Last but not least, make sure that your training session becomes an enjoyable group moment. Make it fun. Make sure that there is a **great atmosphere**.

Training sessions tend to have a tight use-by date (at most 6 months), so provide for periodic **repeat factors or refresher sessions**. Keep these repeat moments sufficiently short - but make sure that they are there. In times of coronavirus, we noted that a periodical question hour (present all your practical questions to a specialist at one go), a targeted workshop (how to deal with online sales?, how far can I go in my pricing policy?, how can I set up a benchmarking?) or brief video material do very well and are certainly appreciated.

In the pipeline

In order to bring 2021 to a beautiful conclusion, we are happy to put our absolute "bestseller" cartoon of January 2015 once again In The Picture. Even many years later, the message of this cartoon remains totally relevant.

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2022 is an important compliance year, for two major reasons.

The first is undoubtedly that, once the current wave of coronavirus is under control, the competition authorities will want to make up for lost time: investigations and searches will once again be conducted in earnest. So do not be surprised.

The second is that the competition law landscape will be changing radically. A raft of new rules is in the offing. The vertical (i.e. distribution) landscape will be transformed by a new Regulation and new Guidelines. The same also applies in the horizontal sphere (relations between current and potential competitors). Here also, new Regulations have been announced and - perhaps even more important in practice - a revised version of the Horizontal Guidelines will come into effect. In these Guidelines, we are expecting new or adapted rules with regard to topics such as the exchange of information, joint purchases, joint marketing and sustainability.

Furthermore, the Whistleblower Directive will (have to) be transposed in the various Member States, in many of which specific rules concerning B2B contracts will apply.

Make sure to keep up with all these developments and integrate them into your compliance process.

The contrast compliance team has not been sitting by idly. There are lots of new developments in the pipeline for 2022. Do not miss the launch of our next level compliance offer. For the moment we will leave you in suspense, but would you like to be the first to receive our new compliance offer at the beginning of 2022? Please send an e-mail to compliance@contrast.law or karolien.francken@contrast.law.

Want to know more?

- Take a look at the [contrast compliance programme](#) or ask Karolien Francken for more information (karolien.francken@contrast.law - 'Compliance' Center Coordinator).
- Read the In The Pictures ["Competition compliance programmes: an ounce of prevention is worth a pound of fines"](#) and ["Compliance? Elementary, my dear Watson!"](#)