

## **RAIL WAGON ASSOCIATION LIMITED**

### **Competition Law Compliance Statement & Guidance for Members**

The Rail Wagon Association (RWA) is a trade association representing the rail freight wagon interests of owners, keepers, users, designers, manufacturers, hirers, consultants, ECMs (Entities in Charge of Maintenance), maintainers, operators and infrastructure managers, including siding operators, based in the UK.

Members of the RWA are individual companies which can make their representation directly at the quarterly General Meetings and through participation in Engineering Committee activities. In addition, ad hoc working groups are convened to address specific technical issues or concerns, or to seek consensus on best practice. These working groups may be opened to include non-Members.

In addition, RWA regularly consults its Members for their views on industry consultations and developments as well as requesting evidence and/or support on issues it wishes to raise with rail industry bodies, the rail regulator and the Government.

Consequently, RWA regularly brings together representatives of businesses some of whom are competitors. RWA Members must therefore take great care to ensure that there can never be any suggestion of any form of anti-competitive behaviour.

#### ***Compliance Statement***

RWA is committed to ensuring full compliance with competition law. It is the responsibility of each RWA member to be aware of the requirements of competition law and adhere to this at all times. These guidelines aim to protect RWA Members and provide evidence that reasonable steps are being taken to avoid anti-competitive exchanges from occurring.

#### ***What are the risks?***

RWA events and meetings (including any ad hoc working group meetings) give rise to two potential areas of risk by providing:

- an opportunity for the sharing of competitively sensitive information by Members (which raises the risk of anti-competitive behaviour); and
- a means through which certain policies, practices or industry standards could be formulated and adopted by a group within it which disadvantages other businesses in the market.

It is vital that these risks are understood by Members and addressed as part of any RWA activity. The specific measures adopted to minimise these risks are set out below.

#### ***Competitively Sensitive Information***

RWA Members must not discuss competitively sensitive information. Competitively sensitive information covers any non-public information about a business's commercial policy. This includes, though is not limited to, current or future pricing, current or anticipated costs, market shares,

commercial strategies, sales and production data and matters relating to individual customers or suppliers. Care should also be taken in discussing historic cost or pricing information. Disaggregated information is more sensitive than data which is genuinely historic or aggregated and anonymised.

### ***Guidance for meetings***

The requirements of this Guidance apply at any RWA event or meeting. Members **MUST NOT** discuss competitively sensitive information at the event or meeting or outside of the event or meeting, for example during breaks. An agenda for each meeting will be issued in advance. Minutes of each meeting will be produced, which will include a list of the Members' representatives in attendance. The Minutes will be distributed to all Members.

In participating in meetings, Members may need to discuss issues such as:

- the scope and implementation of UK and EU legislation or best industry practice;
- liaising with RIA, RSSB, RFG, ORR, RAIB and other rail industry bodies on industry wide topics;
- the identification of specific areas of regulation or legislation where further clarification is needed from ORR or DFT;
- the development of tailored industry guidelines suggesting ways in which RAIB or ORR recommendations and guidance can be implemented practicably by Members;
- general discussion of industry or market trends (whilst avoiding commercially sensitive information).

Members **MUST NOT**, under any circumstances, use the meeting as an opportunity to:

- share commercially sensitive information relating to their business (e.g. on pricing, costs, volumes or future strategic plans);
- elicit or attempt to elicit similar information relating to rival businesses; or
- agree any practice that influences or constrains their competitive behaviour.

In short, Members must be wary of, and object to, any discussion or suggestion of an agreement, the effect of which would be to constrain normal competitive behaviour or disadvantage customers.

### ***Potential Breaches: Actions to be taken***

If any person has a concern with a topic being discussed at a RWA event or meeting, they should advise the Chair immediately. The Chair will stop the discussion if necessary and remind those present of the requirements of this guidance. A record will be made of the potential breach and the action taken. If any person refuses to abide by these guidelines (particularly after having been warned by the Chair), they will be asked to leave the meeting immediately, and a minute to that effect will be taken. Any person who believes that an event or meeting is departing from these guidelines is also entitled to leave and have their comments and their time of departure minuted.

### ***Further Information***

For further information, contact the RWA Chair, Vice Chair or General Manager.

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