



# Guide to Antitrust Law



# → Introduction

## *Dear Expert,*

DIN German Institute for Standardization (hereinafter: DIN) offers all stakeholders a platform for the development of standards and specifications as a service for the economy, the State and society as a whole. More than 37,500 experts, organized by DIN, come together to share their knowledge when drawing up standards and specifications. DIN and its stakeholders have been committed to antitrust-compliant practices for many years and always work in agreement with German and European antitrust law.

We ensure the following:

- 1** No preliminary agreements with individual experts are made in any standardization activities
- 2** There is open, transparent and discrimination-free access to standards projects
- 3** All Members have a right to information and participation, and access to all possible forms of participation
- 4** There is open, transparent and discrimination-free access to the results of standards work
- 5** DIN provides an alternative form of standardization, the „DIN Specifications“

# → Introduction

Due to the stringent provisions of antitrust law, it is essential that those involved in standards work are familiar with these provisions in order to avoid legal uncertainty.

We have provided this Guide for DIN experts to help you ensure your standards work complies with antitrust legislation.

If you have any questions on this topic, please contact our Compliance Officer:



**Udo Wenzel, [compliance@din.de](mailto:compliance@din.de)**

DIN has also drawn up a **Compliance Management handbook** for its staff which answers questions regarding compliance of standards work with antitrust legislation.

To ensure the above, standards work at DIN has always been based on the following well-proven principles:

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DIN is a democratically legitimate, neutral developer of technical rules

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DIN uses transparent rules of procedure:

- The DIN 820 series of standards lays down procedures that are in accordance with antitrust law: These procedures focus on the common good, are transparent, do not conflict with legal provisions or administrative regulations, and provide discrimination-free access to standard work
  - The DIN Statutes
  - The Guidelines for DIN Standards Committees which lay down strict rules for meetings – representation of all stakeholder groups in meetings prevents prohibited agreements
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According to an agreement with the Federal Republic of Germany, DIN is recognized as the sole national standards body for Germany

→ What is the aim of this Guide?





## → What is the aim of this Guide?

The aim of this Guide is to make the subject of antitrust compliance more transparent and to help prevent incorrect action on the part of DIN Experts participating in standards work.



# What is the legal basis for this?

When several experts from various organizations get together, there is a strong **potential risk of anti-competitive agreements as defined in the German Act Against Restraints of Competition** (Gesetz gegen Wettbewerbsbeschränkungen (GWB)) **and in Art. 101 of the Treaty on the Functioning of the European Union**. This includes:

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*agreements between competitors regarding purchasing or selling prices, quotas, share markets or customers*

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which have as their object the appreciable<sup>1</sup> restriction of competition.

In addition, the European ban on cartels applies when such practices may have a negative affect on trade between Member States.

According to the GWB and the Treaty on the Functioning of the European Union, all national and international agreements between enterprises, decisions by associations of enterprises and concerted practices which have as their object or effect the prevention, restriction or distortion of competition are prohibited (Art. 1 GWB, Art. 101 TFEU).

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<sup>1</sup> According to the European Commission, agreements between competitors do not „appreciably“ restrict competition if the aggregate market share held by the parties to the agreement does not exceed 10 % on any of the relevant markets, for example.

Furthermore, agreements between small and medium-sized enterprises (those with fewer than 250 employees and which have either an annual turnover not exceeding EUR 50 million or a balance sheet total not exceeding EUR 43 million) normally do not „appreciably“ restrict competition if they are not owned at a rate of 25 % or more by another company that does not meet the above criteria.

# → What does this mean for you when participating in standards work?

*When participating in standards work, experts may exchange information on the standards project in question.*

Such information includes:



**The business expectations of the expert's company as regards the company's full product range or business divisions – as long as this does not allow conclusions to be made on the market position of individual products**

**Current laws and regulations and their consequences for the sector as a whole**

**General economic data**

**Benchmark activities that are not related to a specific product**

**A general exchange of freely accessible data**

# → What is not allowed?

*When participating in standardization, experts are not allowed to exchange information that violates antitrust law and/or represents internal company data.*

This includes:



**Information or agreements on prices, costs, price strategies, margins/profits, discounts, quotas, customers or sales territories, and strategic aims/investments**

**Information on capacity and stock coverage**

**Information on delivery and payment conditions laid down in contracts with third parties**

**Offers from third parties, the sharing of markets or supply sources of any kind**

**Agreements on boycotts and refusing to sell to or purchase from specific companies**



# → How can you prepare yourself for compliance?

Violation of antitrust law can involve stiff penalties.

DIN recommends that before participating in a standards project, experts should decide, where necessary on the basis of discussions within their company, which information can be shared during the work on that project.

If you have any questions, please contact  
**DIN's Compliance Officer:**



**Udo Wenzel, [compliance@din.de](mailto:compliance@din.de)**

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 *If you observe other experts coming to agreements that infringe on antitrust law, this is to be immediately reported to DIN's external Compliance Officer.*

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DIN e. V.  
Am DIN-Platz  
Burggrafenstraße 6  
10787 Berlin  
Phone: +49 30 2601-1  
Fax: +49 30 2601-1231  
E-Mail: [info@din.de](mailto:info@din.de)  
[www.din.de](http://www.din.de)