

# **Antitrust and Competition Law**

Compliance Guide



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## INTRODUCTION

*Exxon Mobil Corporation is committed to being the world's premier company in its field. To achieve that goal, the company needs to be at the leading edge of competition throughout all of its business lines.*

*In vigorously pursuing legitimate business opportunities, ExxonMobil maintains its commitment to comply with the antitrust and competition laws of all countries which are applicable to its business. The antitrust policy places this responsibility on every director, officer, and employee. Supervisory employees are also expected to take steps to ensure that employees who report to them comply with the antitrust laws and policy. Violations of the antitrust policy are grounds for disciplinary action, up to and including termination of employment.*

*The Law Department has prepared this booklet to assist employees in understanding basic antitrust law issues and identifying situations that may raise concern. Employees should read it carefully and periodically review it. Furthermore, every employee is expected to contact the Law Department for advice and assistance whenever there is any doubt about the legality of a matter.*

*It is not possible in any booklet to describe in detail all the antitrust laws (also called competition laws) that affect the business of Exxon Mobil Corporation. However, while those laws differ in some respects, they generally address similar kinds of conduct and share a common underlying philosophy. Their common theme is that competition benefits consumers by providing the best products at the lowest prices, and society's productive resources are allocated most effectively when companies are subject to the rigors of the competitive market. Therefore, the antitrust laws operate to prevent competition from being undermined by anticompetitive practices, such as cartels and abuse of market power.*

*ExxonMobil maintains a comprehensive antitrust compliance program, and this booklet is an important part of that program. This booklet provides general principles for worldwide operations, and you should consult it wherever you conduct business on behalf of the Company. However, it is not a formal restatement or definitive interpretation of each jurisdiction's law nor can it cover every conceivable set of factual circumstances. Its purpose is not to make you an antitrust expert, but to make you aware of the general requirements of competition laws and the kinds of conduct that can raise antitrust questions so that you will know when to ask the Law Department for further advice.*



## *Exxon Mobil Corporation Antitrust Policy*

It is the policy of Exxon Mobil Corporation that directors, officers, and employees are expected to comply with the antitrust and competition laws of the United States and with those of any other country or group of countries which are applicable to the Corporation's business.

No director, officer, or employee should assume that the Corporation's interest ever requires otherwise.

It is recognized that, on occasion, there may be legitimate doubt as to the proper interpretation of the law. In such a circumstance, it is required that the directors, officers, and employees refer the case through appropriate channels to the Law Department for advice.

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### *Applicable Laws*

All ExxonMobil affiliates must, of course, comply with the antitrust laws of the countries in which they do business. However, even in a country that does not have its own competition law, there may be potential antitrust risks.

Activities pursued entirely outside the United States may nevertheless be subject to the U.S. antitrust laws if they have a direct, substantial, and reasonably foreseeable effect on U.S. domestic or foreign commerce. The European Union's competition rules contain a similar concept of extraterritorial application. Thus, in some cases, proposed conduct may need to be evaluated under the antitrust laws of both the U.S. and EU in addition to the antitrust laws of the country in which the conduct will occur. Always check with the Law Department to determine which competition laws are applicable.

# Antitrust Sensitive Conduct

## Inherently Anticompetitive Conduct

Certain conduct is considered inherently harmful to competition, and applicable competition laws nearly always condemn it. Such conduct includes agreements among competitors to:

- Fix sale or purchase prices (“price-fixing”);
- Fix other terms of sale or purchase;
- Restrict capacity or output;
- Refrain from supplying a product or service;
- Limit quality competition or research;
- Divide markets or customers; or
- Exclude competing firms from a market.

Price-fixing includes not only agreements on specific prices, but also agreements among competitors on maximum or minimum prices, discounts, or credit terms. Agreements among buyers of a product or service as to the prices they will pay are as illegal as agreements among sellers of a product or service as to the prices they will charge.

The mere existence of such agreements will suffice to establish a violation (such conduct is called a “*per se*” violation under the U.S. Sherman Act). In such cases, courts do not consider the reasonableness or procompetitive effects of the agreements.

Many countries’ antitrust rules also consider agreements between suppliers and resellers concerning the resale price of their products to be harmful to competition. Such conduct is sometimes called “resale price maintenance” or “vertical price-fixing.”

Please remember that an actual agreement, whether formal (a contract) or informal (a handshake), is not required for an antitrust law violation to occur. Such an agreement can be inferred from conduct and other suspicious circumstances. That is why any contact with competitors, through trade associations or otherwise, may present an opportunity for allegations that the parties entered into an anticompetitive agreement. In particular, an agreement may be inferred based on discussions or exchanges of information with competitors, followed by a common course of conduct.

Even when the laws of your particular jurisdiction do not expressly condemn inherently anticompetitive types of activities, you should assume that U.S. or EU law could apply, and you should not engage in such conduct unless you have obtained prior Law Department clearance.

## Other Sensitive Conduct

There are other types of conduct that may restrain trade in some respects, but which are not considered inherently harmful to competition. Those are evaluated in light of their surrounding facts and circumstances to determine whether they present significant antitrust risks. Consideration is given to whether the conduct would likely have anticompetitive effects, and whether the risk of anticompetitive harm is outweighed by the procompetitive benefits. This is called a “rule of reason” analysis in U.S. antitrust law. Although EU authorities do not specifically recognize a “rule of reason” in applying EU competition rules, similar considerations may be taken into account in deciding whether conduct may be exempt from their competition rules. As discussed below, you should consult with the Law Department before engaging in antitrust sensitive conduct.

The following are examples of other sensitive conduct requiring a rule of reason analysis:

- Tying arrangements (conditioning the sale of one product or service upon the purchase of another product or service);
- Requirements or output contracts and exclusive dealing arrangements (agreements with customers that they will purchase all or substantially all of their requirements of certain goods or services from a single supplier for a significant period of time);
- Customer restrictions (territorial or other non-price restrictions imposed by a supplying firm on its resellers);
- Reciprocal dealing (“I will buy from you if you will buy from me”);
- Joint operations or ventures (arrangements between two or more firms which are competitors or potential competitors to participate jointly in an activity that affects commerce);
- Preparation of joint government presentations (joint presentations, through trade associations or otherwise, to present views to governmental bodies, including administrative agencies, legislators, and courts);
- Mergers, acquisitions, and divestitures (arrangements under which the business or assets of two or more firms are combined wholly or partially).

In addition, the conduct of a single company may raise antitrust issues if it has significant market power. Conduct by such a firm which is abusive or predatory towards customers, suppliers, or competitors can create serious antitrust risks.

In the U.S., it is unlawful to acquire or maintain monopoly power, or attempt to do so, except by legitimate means, such as a patent, superior skill

and efficiency, or geographic location. “Monopoly” does not mean having all of the business, but only enough to confer on a company acting alone the power to control prices or to exclude competition. Such power may sometimes exist as to only a small geographic area or a single product line. Charges of monopolization or an attempt to monopolize generally arise out of some misuse of economic power, such as selling below cost or denying a competitor access to an “essential facility” (e.g., a pipeline or airport hydrant system) required to enter a market.

In the EU, it is unlawful to abuse a “dominant position.” Similar to “monopoly” in the U.S., dominance requires only a degree of market control that permits a company to behave to an appreciable extent independently of the influence of competition. Abuse of a dominant position in the EU may be found in conduct that would constitute unlawful exercise of monopoly power in the U.S. Other countries have comparable laws prohibiting similar conduct.

Companies that are considered to have a monopoly or a dominant position are often held to a higher standard of conduct than companies with smaller market shares.

Giving one buyer a competitive advantage over other buyers, whether it be through a lower price, promotional allowances, or promotional services (generally called “price discrimination”), can raise legal issues under the Robinson-Patman Act in the U.S., under the competition rules of the EU, and under the competition laws of some other countries. The Law Department can advise you on the application of those laws to specific circumstances.

## *Antitrust Sanctions*

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The consequences of an antitrust violation are very serious, both for the Company and for any employee whose conduct is the basis of the violation.

A violation of the U.S. Sherman Act is a crime (a felony). Prosecutors frequently seek substantial fines from companies, and may request jail sentences for individuals. These fines can be as high as twice the gain from the violation or twice the loss imposed on its victims. Injunctions limiting a firm's future conduct may also be ordered by a court. The U.S. Justice Department actively seeks to enforce criminal penalties even against foreign nationals for activities outside the U.S. that impact U.S. commerce. In addition, injured parties may sue and obtain damages equal to three times the amount of any financial loss resulting from a violation of the antitrust laws.

A violation of the EU competition rules can result in fines of up to 10% of a company's worldwide turnover during the preceding business year. Injured

parties may bring suit in the national courts of EU member states for damages resulting from infringements of those rules. In addition, in both the U.S. and the EU, agreements that infringe the antitrust laws are void, which effectively makes any infringing contract with a customer, competitor, or supplier unenforceable.

Other countries also impose significant sanctions for violations of their antitrust laws.

In addition to these sanctions, the cost of defending an antitrust charge can be huge. Further, such cases can result in tremendous disruption of a company's business, as attention is diverted to document requests and trial preparation. Settlements can result in the entry of consent decrees that substantially limit a company's freedom of future business activity.

Unfounded antitrust claims are sometimes asserted in commercial disputes, such as an action to collect a bad debt or a termination of a distributor agreement, as a litigation tactic. It is important to inform the Law Department early on of any dispute that seems likely to lead to litigation.



## Potentially Sensitive Areas

All proposals to engage in antitrust sensitive conduct should be reviewed in advance with the Law Department. The Law Department can often suggest measures to eliminate or greatly reduce the antitrust risks associated with a proposed activity.

The following types of business activities are potentially antitrust sensitive.

### Joint Operations

The Company engages in joint operations in many segments of its business. Joint operations raise antitrust issues because they involve collaboration by two or more companies, often competitors, in carrying out activities that each company might have carried out separately.

If a joint operation results in the sharing of risks, economies of scale, or efficiencies of integration, it will often be acceptable from an antitrust standpoint if the following criteria are met:

- Limit the scope of the joint operation in terms of functions, geography, and time to that which is reasonably required to achieve the benefits that justify the joint operation. (For example, the benefits of a joint production operation involve operational savings, and achieving those savings usually does not require joint marketing of the joint production.)

- Avoid “spill over” from the joint operation to other activities in which the parties remain competitors. (For example, exchange of relevant geological and geophysical information among the parties to a joint exploration or production operation is usually acceptable; exchange of the parties’ crude oil price forecasts normally is not acceptable.)
- Do not impose unreasonable ancillary restraints (i.e., restraints beyond what is reasonably needed to achieve the procompetitive integrative efficiencies of the venture itself) on the parties to a joint operation. (For example, the parties in a jointly operated terminal normally should not agree to refrain from operating their other terminals separately.)

A basic rule is to review all proposed joint operations in advance with the Law Department.

### Information Exchanges and Benchmarking

It is important to use care in exchanging information with other companies, especially if they are competitors. Discussions or exchanges of information with a competitor concerning prices, costs, terms of sale, business plans, suppliers, customers, territories, capacity, production, or any other subject that could be commercially important are particularly sensitive, and should not be undertaken without prior consultation with the Law Department.

The transfer of information to or from another company should only be undertaken if there is a legitimate business purpose and it will not produce significant anticompetitive results. Legitimate business purposes may include enhancement of security or safety, preparation of presentations to governmental bodies, or compliance with governmental regulations.



If there is a legitimate business purpose for exchanging proprietary information among competitors, such information should normally be gathered from individual firms on a confidential basis by an independent outside party and disseminated on an aggregate basis. Reasonable classifications for such aggregations are generally acceptable if they do not allow identification of specific competitor information. The Law Department can help you identify and apply appropriate procedures in each situation.

Benchmarking, a structured approach to learning about the processes employed by the best companies in their class, is treated as just another form of information exchange under the antitrust laws. The legitimate purpose of benchmarking is to improve performance and quality, thereby enhancing efficiency. However, this lawful purpose would not justify information exchanges that have the effect of reducing competition.

#### **Trade Associations**

Trade association activities are particularly sensitive, because they frequently involve joint activities with competitors. Whether they create antitrust problems will depend on the nature of the activities. Before the Company becomes a member of any trade association, the Law Department should review the rationale for joining and any charter, by-laws, or other documents describing the organization and operation of the association. In addition, since an association's purpose and activities can change over time, the Company should periodically review its membership and degree of participation in the association.

It is important that none of the subjects identified above as being improper for competitors to discuss directly be discussed at trade association meetings. Accordingly, you should know before attending a trade association meeting what topics will be covered.

In general, each meeting should have a written agenda, which should be reviewed with the Law Department before the meeting if it lists any topics that raise antitrust sensitivities. If topics that may be improper are to be discussed at a trade association meeting, you should not attend unless those topics are removed from the agenda.

It is desirable to keep minutes of trade association meetings to document that the proceedings were proper, and to review these minutes in draft form with counsel in appropriate circumstances.

If you are in a trade association meeting when an improper discussion begins, you should insist that the discussion be terminated immediately or leave the meeting, announcing your departure and making sure that it is noted in any minutes that are being taken. Contact the Law Department promptly to determine if any follow-up action is necessary.

Review with the Law Department any proposal by a trade association to engage in joint research, set standards, or collect information from its members.

#### **Mergers, Acquisitions, and Divestitures**

Mergers, acquisitions, and divestitures involve a takeover or combination of companies or assets to conduct continuing business. Those transactions may be effected through the acquisition of stock or assets, or they may involve the formation of a partnership, joint venture corporation, or some other entity.

"Horizontal" mergers involve combinations of competitors. The principal issue is whether competition will be reduced improperly.

"Vertical" mergers involve combinations of companies at different levels in the supply chain. The principal issues in vertical mergers are (1) the risk that competitors will be cut off from needed sources of supply or sales outlets and (2) the possible need for other companies to enter the market at both levels in order to be viable competitors.

In either event, it may be necessary to make premerger notification filings and seek government approval in a number of affected jurisdictions before moving forward with the transaction. It is vital that antitrust counsel be involved early in the discussion of mergers, acquisitions, and divestitures.

### **Intellectual Property Rights**

The owner of a valid patent has the right to exclude others from using the invention claimed in the patent. This power of exclusivity equates to a statutory monopoly in the country of registration limited to the life of the patent and the scope of the patented subject matter. Similarly, the owner of a trademark has the exclusive right to use the mark to identify its goods and distinguish their source from those sold by others. The owner of a trade secret has the right to prevent others from misappropriating the information that is secret, but not the right to block others who independently derive that information.

There are a number of laws, that vary somewhat from country to country, dealing with the acquisition, development, enforcement, and disposition of intellectual property rights. The abuse of intellectual property rights, such as an attempt to enforce an invalid patent to prevent competition, can raise antitrust concerns. The Law Department can advise you on the Company's rights in this area.



### **Written Communications**

You should take great care in your writing, whether it be a letter, memorandum, or electronic mail. You should avoid ambiguous or misleading language that could convey an erroneous suggestion of anticompetitive conduct. You should also avoid exaggeration and slang expressions. Such language may be readily understood by the recipient of a writing, but you may find it difficult to explain to a judge or jury.

Bear in mind that everything you write, including notes on another person's memorandum, may become evidence in a lawsuit. A good rule is to consider whether you would be comfortable if a document were turned over to an antitrust enforcement authority or an antitrust plaintiff, or if it appeared in the press. Check with the Law Department if you have any question about the contents of any document.

Remember that electronic communications such as e-mail and other computer-generated writings may be stored for an indefinite period in the computer system, even though they may have been deleted from the personal computers of those who wrote, sent, or received the communications. It is important that you use the same care in preparing such communications as you use in preparing traditional written communications.

## Summary of Compliance Guidelines

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Observing the following guidelines will help you to avoid creating even an appearance of a violation.

1. Avoid conversations or communications with competitors concerning prices, costs, terms of sale, business plans, suppliers, customers, territories, capacity, production, or any other subject that could be commercially important unless approved by the Law Department. This rule applies to contacts of any kind, including trade association activities, meetings of government sponsored groups, and social gatherings. If such a subject arises in the presence of a competitor, you must tell everyone present that discussing this matter is improper and see that the subject is immediately dropped. Otherwise, you must leave the discussion. Promptly orally report the incident to the Law Department in either case.
2. When dealing with a supplier or customer that is also a competitor, focus any communications about prices to those actually required for prospective buyer-seller transactions.
3. Remember that, in many jurisdictions, once the Company sells a product it cannot control the price at which the buyer resells it. Company representatives may counsel or advise individual resellers to aid them with their own business operations, but you should be cautious about conduct that might be construed as coercive or threatening. You should review with the Law Department in advance any proposal to restrict the price, use, or further disposition of a product after it has been sold.
4. Deal fairly with resellers, customers, and suppliers; do not attempt to use purchase, sale, or lease contracts to put pressure on them for other purposes, such as reciprocal dealing, tying purchases, or forcing product lines on them. We should both buy and sell on the basis of price, quality, and service.
5. Be alert to the fact that relationships with competitors, customers, or suppliers may give rise to impermissible joint action.
6. Remember that a reasonable business purpose will not necessarily excuse joint action that limits competition.
7. Review all joint operations with the Law Department.
8. If the Company has significant market power or controls an essential facility, review in advance with the Law Department any refusal to deal with another party.
9. Review in advance with the Law Department all proposed competitor information exchanges.
10. Before engaging with other companies in joint presentations to governmental bodies that could raise competitive issues, review the proposed presentation with the Law Department.
11. While trade associations perform many legitimate and beneficial functions, they normally involve direct contacts between competitors. If you are a member of or participate in a trade association, you should follow the Law Department's advice in this area.
12. Avoid any use of size, financial resources, or competitive position that could appear to be aimed at eliminating or preventing competition. On the other hand, vigorous competition on price, product quality, or service is encouraged.

13. Proposals to commit customers to exclusive dealing arrangements, especially for terms that are unusually long, are potentially sensitive; you should review them in advance with the Law Department.
14. Although the law does not require the Company to always sell the same goods at the same price, sales of similar products at different prices to similarly situated customers can be potentially sensitive in certain circumstances and may require the Law Department's review. In some jurisdictions, providing different levels of advertising, promotional allowances, or promotional services to similarly situated customers may raise the same issues as price discrimination. Review these practices in advance with the Law Department.
15. Check with the Law Department so you are aware of the situations in which local, national, or state laws vary from U.S. or EU laws.
16. Use care in creating documents, and follow the Company's record retention procedures.
17. Refer to the Law Department at an early stage all proposals for mergers, acquisitions, divestitures, joint ventures, and technology licensing arrangements.

## Conclusion

The Corporation devotes a great deal of time and effort to its antitrust compliance program for a number of reasons:

- **The sanctions for violating the antitrust laws are severe;**
- **Defending an antitrust case is costly and disruptive to business;**
- **Antitrust issues arise in many varied, and sometimes subtle, forms.**

Our antitrust compliance record has been excellent. However, we must guard against complacency. U.S., EU, and other enforcement authorities continue to vigorously prosecute anticompetitive conduct. Even where the law has not actually been violated, conduct or language creating the appearance of anticompetitive conduct may result in burdensome investigations or litigation.

What we do today may be evaluated years from now with the benefit of hindsight. It is important to remain vigilant in avoiding actions or circumstances that could lead to antitrust charges against the Company. The purpose of this booklet is to identify some of those actions and circumstances for you and to help you avoid even the appearance of unlawful conduct.

Antitrust compliance is the responsibility of every employee. In carrying out that responsibility, you should work closely with the Law Department to receive advice on how to achieve legitimate business objectives within the law.

If you ever believe the Company might be violating the law, you should discuss the issue with your immediate supervisor or the Law Department. If you are concerned that the matter is not being properly addressed at that level, you should call the Exxon Mobil Corporation 24-hour hotline, **1-800-963-9966**.



## Appendix 1

### Principal U.S. Federal Antitrust Laws

#### SHERMAN ACT (1890)

**Section 1** - Prohibits contracts, combinations and conspiracies whose purpose or effect is to unreasonably restrain trade.

- Inherently unreasonable conduct (a *per se* violation) includes agreements among competitors to:
  - Fix prices, including price-related terms and conditions, of sales or purchases
  - Limit supplies of goods or services
  - Divide operating areas, customers, suppliers, or the types of goods or services sold or purchased
  - Limit competition in research
  - Exclude other firms from a market
- Other antitrust sensitive conduct is evaluated under the “rule of reason” and includes:
  - Tying arrangements
  - Reciprocal dealing
  - Requirements contracts/exclusive dealing
  - Customer restrictions
  - Joint operations or ventures
- Unilateral conduct never violates Section 1

**Section 2** - Prohibits monopolization, attempts to monopolize, or a combination or conspiracy to monopolize.

- Monopoly is the power to control prices or exclude competition in a market
- Violation usually involves misuse of economic power
- A single party can violate Section 2

### Sanctions

- Criminal (felony)
  - Statutory fines for corporations as well as individuals
  - Alternate fine: two times perpetrators’ gain or victims’ loss
  - Imprisonment for individuals
- Civil
  - Treble damages
  - Injunctive relief

#### CLAYTON ACT (1914)

**Section 3** - Prohibits exclusive dealing arrangements which may substantially lessen competition or tend to create a monopoly. Applies to sales or leases of goods.

**Section 7** - Prohibits mergers and acquisitions that are likely to substantially lessen competition or tend to create a monopoly.

**Section 7A** - Hart-Scott-Rodino (“HSR”) premerger notification filing requirement generally applies to transactions that exceed the relevant “size of transaction” test unless an exception applies.

### Sanctions

- Criminal - None
- Civil
  - Treble damages
  - Injunctive relief
  - Fines for failure to comply with HSR regulations

**ROBINSON-PATMAN ACT***(1936 Amendment to Clayton Act)***Section 2(a) - Price discrimination****> Elements of offense**

- Two or more sales
- Reasonably close in time
- Of commodities
- Of like grade and quality
- With a difference in price
- By the same seller
- To two or more purchasers
- For use, consumption, or resale within U.S. or U.S. territory
- Which may result in competitive injury
- In U.S. "commerce"

**> Defenses**

- Meeting equally low price of competitor
  - Can meet, not beat
  - Competitor's price must not be known to be unlawful
- Due allowance for differences in cost of manufacture, sale, or delivery resulting from differing methods or quantities in which sale or delivery is made (but not just a quantity discount)
- Changing conditions affecting marketability of goods

**Sections (d) and (e) -** Prohibit discrimination in paying for or furnishing services or facilities on terms not proportionally available to all purchasers.

**Section 2(f) -** Prohibits knowing inducement or receipt of price discriminations prohibited by the Act.

**Sanctions**

- > Criminal** (limited situations; seldom applied)
  - Fines
  - Imprisonment for individuals
- > Civil**
  - Treble damages
  - Injunction

**FEDERAL TRADE COMMISSION ACT (1914)**

**Section 5 -** Prohibits unfair methods of competition and unfair or deceptive acts and practices.

**Sanctions**

- > Criminal -** None
- > Civil**
  - Cease and desist orders
  - Fines
  - Actions for consumer redress

**STATE ANTITRUST LAWS**

**Federal laws apply to all of the U.S. states, the District of Columbia, and U.S. territories**  
**States have their own antitrust laws that apply to intrastate commerce within their borders**  
**Typically follow federal laws**

**Sanctions**

- > Similar to federal sanctions**
- > Unique penalty:** possible forfeiture of corporation's right to do business in state

## Appendix 2

### European Union Competition Rules (Treaty of Rome)

#### ARTICLE 81

1. The following shall be prohibited as incompatible with the common market: all agreements between undertakings, decisions by associations of undertakings, and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction, or distortion of competition within the common market, and in particular those which:
  - (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
  - (b) limit or control production, markets, technical development, or investment;
  - (c) share markets or sources of supply;
  - (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
  - (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.
3. The provisions of paragraph 1 may, however, be declared inapplicable in case of:
  - any agreement or category of agreements between undertakings;
  - any decision or category of decisions by associations of undertakings;
  - any concerted practice or category of concerted practices;

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

#### ARTICLE 82

Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market insofar as it may affect trade between Member States. Such abuse may, in particular, consist in:

- (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- (b) limiting production, markets, or technical development to the prejudice of consumers;
- (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

#### SANCTIONS

The Commission can impose fines of up to 10% of a business group's worldwide turnover in the preceding year, nullify any agreement that infringes Article 81, and grant injunctive relief. In addition, private parties can bring actions for damages and injunctive relief in the national courts.

*Corporate Separateness Notice: Nothing in this guide is intended to override the corporate separateness of individual corporate entities. The terms "Corporation," "company," "affiliate," "ExxonMobil," "our," "we," and "its" as used in this guide may refer to Exxon Mobil Corporation, to one of its divisions, to the companies affiliated with Exxon Mobil Corporation, or to any one or more of the foregoing. The shorter terms are used merely for convenience and simplicity.*

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