Antitrust law rule

Infineon Technologies AG
[External Version]

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Content

Scope

This Rule has been released pursuant to the Global Rule A.1 “Creation and management of Regulations”. It applies to all employees and members of the representative bodies of all Infineon Companies worldwide.

Rule content

Non-compliance with this Rule may result in disciplinary and other consequences.

Contact to competitors and basic principles of Antitrust law

Contacts to competitors may lead to Antitrust law violations, which may trigger high fines for Infineon, reputational damages, damage claims from customers, exclusion from public tenders and, in the case of cartels, also the imprisonment of employees.

The negative consequences of Antitrust law violations also apply to certain vertical agreements with suppliers or customers as well as the abuse of a dominant market position. Therefore, all employees are obliged to act in accordance with Antitrust law and to report potential infringements.

This Rule provides information about basic principles of Antitrust law including appropriate behavior when having contact with competitors.

Assessment and notification duties towards the Compliance department

The Compliance Department assesses specific interactions with competitors prior to their occurrence.

Employees must announce memberships in industry associations and other organizations in the COMP Tool.
Colleagues conducting job interviews for GG 15+ positions must notify and document these interviews. Colleagues requiring access to POS data must apply for access.

I. General cooperation responsibilities

Employees are required to comply with the provisions of this Rule and Antitrust laws. In addition, employees are obliged to adhere to the processes set out in section II and, if they have been selected for an Antitrust law training by Compliance or their manager, to successfully complete it.

Employees, who become aware of evidence or have an indication of a potential Antitrust law violation, must immediately report the case to their manager, the Compliance or Legal Department.

Contact:
E-mail: Compliance@infineon.com
Tel. Quick-Dial 83199 (internal)
Corporate Compliance Officer (IFAG CO)

At any time, you may also report potential misconduct to your superior, your Regional Compliance Officer or the Integrity Line.

II. Assessment and notification duties

[for internal use only]

III. Principles for contacts to competitors

Below, you can find guidance on the essential principles of Antitrust law, illustrated by practical examples. These principles are relevant worldwide. Please note, however, that this Rule can not cover all circumstances and scenarios you might face on a daily basis. In the event of questions, please reach out to the Compliance or Legal Department.

A. How does an Antitrust violation occur?

Antitrust law violations („anti-competitive agreements“) can occur orally, in writing, by email or through conscious, practical cooperation. In some cases, even unilateral measures or statements are sufficient, without ever having a direct contact between competitors (“concerted practice”).

Example:
A large power module manufacturer announces a price increase of 5% in a press release shortly before a major trade show, with the intention to make other manufacturers follow him. Shortly after the fair, another manufacturer also announces a price increase of 5%.

B. What is a cartel?

Antitrust law requires companies to act autonomously and independently in the market. Therefore, competitors are not allowed to agree on their market behavior or coordinate it in any way whatsoever. Agreements between companies, decisions by associations of undertakings and concerted practices are prohibited. However, the mere observation of the market behavior of a competitor is allowed.

C. What types of cartel prohibitions exist?

1. Horizontal agreements between competitors
Antitrust law requires companies to act autonomously and independently in the market. Therefore, competitors are not allowed to agree on their market behavior or coordinate it in any way whatsoever. Agreements between companies, decisions by associations of undertakings and concerted practices are prohibited. However, the mere observation of the market behavior of a competitor is allowed.

a. Price fixing
Agreements between competitors on prices are strictly prohibited. This includes price components, price decreases, price increases, price calculations, pricing strategies, discounts, margins or other conditions such as delivery or payment terms. Please note that the exchange of information between competitors may be regarded as price fixing, an explicit agreement is not required.

Example:
Six major chip manufacturers regularly exchange their price lists via E-Mail.

b. Market sharing or sharing of production quantities
Antitrust laws strictly prohibit sharing markets or production quantities by territory or by customers with a competitor.

Example:
Five major semiconductor manufacturers split the Asian market by countries and agree to sell products only in the country assigned to them.

c. Agreements on tenders (bid-rigging)
Agreements between competitors on tenders/bids are strictly prohibited. This is true both for the content of the bid as well as for the bid itself. Therefore, competitors must neither discuss/compare/share any aspect of their bid nor unilaterally disclose any details of their bid. Also, any agreement on sham bids or which company will or will not bid on which tender is strictly prohibited.

Exceptions may apply to bid-groupings/consortia, if a company is not capable of performing a project alone. You must contact the Legal Department before getting in touch with potential other bidders (consortia members).

d. Customer/Supplier-Competitor relationships
Infineon's customers or suppliers who compete with Infineon are also considered to be Infineon's competitors. Therefore, all prohibitions and regulations of Antitrust law also apply to these entities.

You are only permitted to exchange strategic information with customers or suppliers who are also competitors, which is absolutely necessary to fulfill the contractual relationship. As for every other competitive relationship, it is prohibited to exchange strategic information between both companies.

Example:
Infineon sells chips to a large customer, which produces and sells power modules that compete with Infineon's power modules. Prices and terms of delivery of chips may be agreed and exchanged. Details of power modules, such as prices or costs, are taboo.

If you have contact to customers/suppliers-competitors always make sure that you document your contacts regularly by writing minutes.

Contact Compliance or the Legal Department in advance if you are not sure what kind of information is allowed to be exchanged.

e. Information exchange between competitors

The bilateral exchange or unilateral disclosure of **strategic information** between competitors is strictly prohibited. Information is considered "strategic" if it allows competitors to coordinate their market behavior and may have anti-competitive effects. If companies exchange information that significantly affects their market behavior, they cannot act independently and autonomously anymore. Based on the exchanged information they may adapt their strategy regarding the market behavior of their competitors before it even becomes visible on the market.

Strategic information includes, in particular, prices (see the list under "Price-fixing"), quantities, costs, allocation, demand, customers, sales, turnover, profits and profit margins, capacities, utilization, quality, marketing and strategic plans, risks, investments, technologies as well as research and development programs and its results.

Information exchange between competitors - like benchmarking - may be allowed in very limited exceptional cases if efficiency gains, for example cost savings and process optimization, are achieved. Benchmarking should not, however, be used as a pretext to exchange strategic information between competitors, which allows conclusions about the market behavior of individual competitors.

In general, the exchange of **publicly available** information is permitted, however no additional details beyond those which are published may be exchanged. In case of doubt, you should avoid such an exchange, because it may be difficult to differentiate between information which was already publicly known and information which was not. Always make sure to indicate the source of your public information when you use it.

f. Information exchange through third parties (reverse engineering, business intelligence)
Exchanging strategic information between competitors via third parties is prohibited. If competitors use a third party systematically on a regular basis (e.g. distributor, customer) as a messenger to receive information about the market behavior of other competitors which they may not exchange directly, that is prohibited in any case (hub-and-spoke).

Example:
During price negotiations a customer tells you that he received a „better“ quote from a competitor, without naming the price in detail.

However, the customer shall not tell you the name of the competitor, the exact quote or even disclose the entire offer including all details to you. If this happens, you must immediately reject such a disclosure.

Which sources of information can be used?

Monitoring the market behavior of a competitor is permissible. Infineon may gather information about competitors from legal and public sources (Business Intelligence). This applies to all market reports included in MARS (Market Research System) or from third parties.

Information is only considered “public” if it is equally accessible to everyone. This applies to all information contained in the press, the Internet or other publicly available media. Information that can be retrieved only for a high fee, with a password or under other restrictions is not considered public.

It is permissible to obtain information about a competitor’s product, which is openly available on the market, through technical analysis, deconstruction or simple testing (“Reverse Engineering”).

A source is considered “legal” only if the information is obtained in compliance with all contractual and statutory regulations.

g. Associations - standardization - trade fairs - funding projects - working groups

Meeting competitors at trade association meetings, standardization committees or trade fairs is generally permissible. However, it is not permissible to exchange strategic information. Do not discuss commercial topics such as market behavior or product strategies. Be particularly alert outside official meetings (for example during informal meetings at the hotel bar) to not share any competitively sensitive information in an informal setting.

Decisions by associations violate antitrust law if they have illegal anti-competitive content.
Therefore, before an association meeting, you must:

(i) request the agenda before participating in each meeting
(ii) check its content.

After the meeting, you must:

(i) Ask for the draft of the minutes of meeting and
(ii) review it diligently.

In case competitively sensitive topics arise during the meeting, you must

› immediately stop the conversation,
› raise an objection to the discussion,
› have your objection minuted,
› if the discussion continues, exit the room and ensure that your exit is also minuted, and
› write a note and report the incident to Compliance or the Legal Department.

Do not get involved in a conversation with a competitor with the objective to exchange strategic information. Immediately stop further conversations and follow the procedure described above.

Information exchange within funding projects or standardization committees primarily focuses on technical level discussions and therefore bears less Antitrust related risk. Therefore, follow the discussion attentively and always ensure that you keep a careful record of the documentation.

Any exchange between competitors on technical topics may only occur in official working groups within established committees (e.g. associations, standardization committees). All competitors must have equal access to these working groups. In a working group - which you attend - make sure that the meetings are diligently documented and the results are published. Do not attend any kind of working groups outside the official set-up of established committees, regardless of the topic covered.

h. Information exchange on salaries

Do not:

› exchange information with a competitor on salaries, salary structure or any other benefits
› agree on salary amounts or bandwidths for non-tariff entry wages
› agree to not poach employees or to not hire employees from competitors

IV. Agreements with suppliers, distributors and customers

Agreements between Infineon and our suppliers, distributors and customers may raise Antitrust concerns as well.

(i) Fixing resale prices

Fixing or influencing the resale price of a distributor is strictly prohibited. Even indirect influence on the resale price is prohibited, for example by threatening suspension of deliveries, penalties, sanctions or by granting financial incentives.

Example:

Infineon is being approached by a big US company with the request to provide a quotation for a new project that should run through a distributor. The end customer provides a final target price. In order to get the business and reach this target an Infineon employee contacts the distributor and convinces the distributor to apply a certain margin in order to reach the final target price.

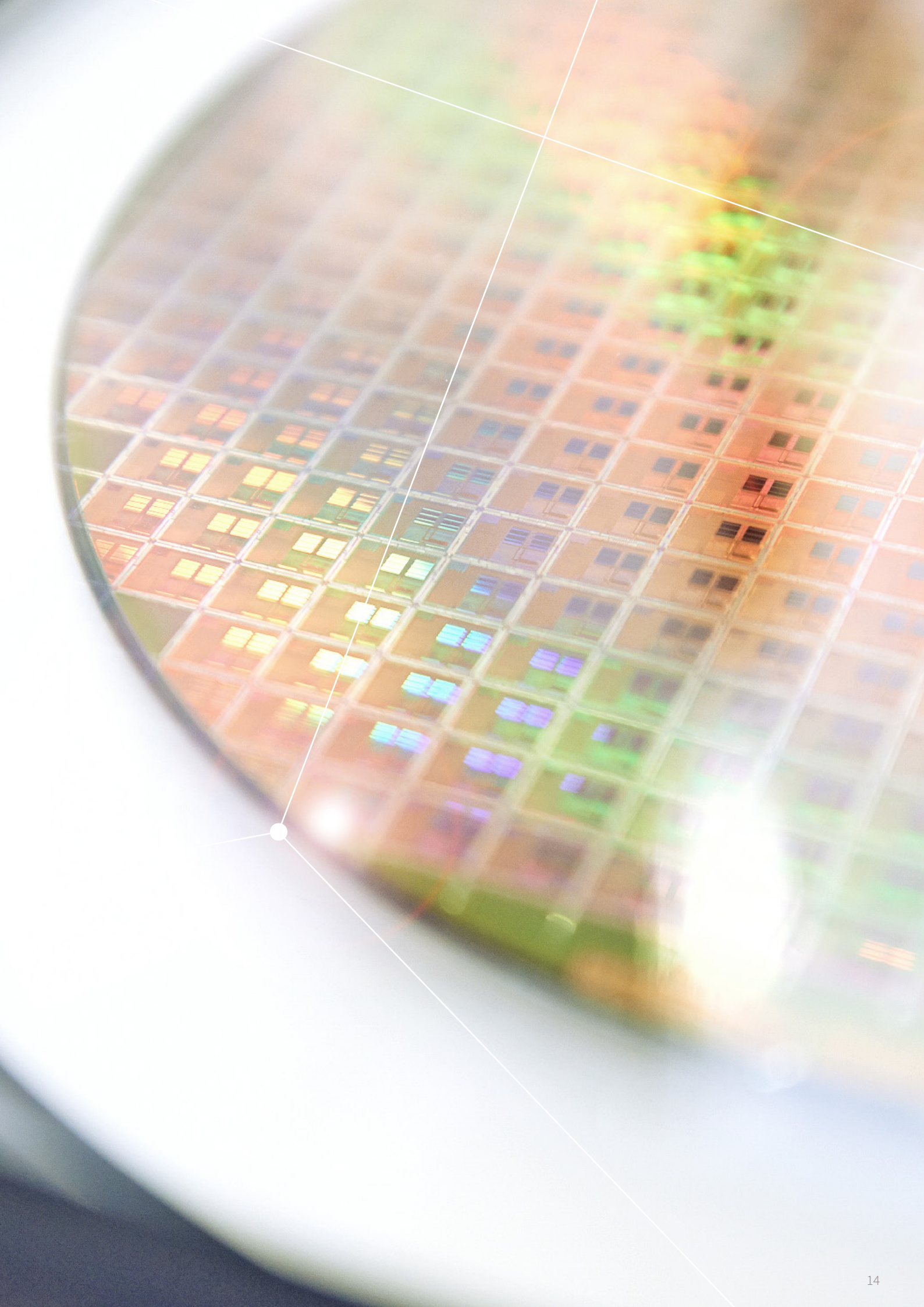
You are not allowed to get in touch with the distributor to influence the resale price. This is strictly prohibited.

(ii) Exclusivity agreements

Exclusivity agreements may be allowed between Infineon and a distributor, supplier or customer under certain circumstances.

Example:

Infineon agrees with a distributor that he sells Infineon-products in China exclusively. The contract has a period of five years. Depending on the individual market shares of Infineon and the distributor as well as the competitive situation, such an agreement may be permitted under Antitrust law.



V. Dominant market position

There are special provisions for companies, which hold a dominant market position. Such companies have a special responsibility as to how they may act on the market in order not to harm competitors or customers. Antitrust law prohibits companies with a dominant market position from abusing their position.

1. When does a company hold a dominant market position?

A dominant market position is determined by many factors. However, as a rule of thumb, if a companies' market share on the relevant product market exceeds 40%, this company may be considered to have a dominant market position in the relevant product market. To determine whether Infineon holds a dominant market position, the relevant product market must be defined. Please contact the Legal Department for further guidance.

2. What is meant by "abuse"?

It is not prohibited to have a dominant market position, but a company having a dominant market position may not abuse its position by impeding effective competition. Such a company cannot behave on the market in a way that makes it impossible or substantially more difficult for other companies to compete.
Examples of behavior that could be illegal:

a. Exclusivity agreements or loyalty discounts with business partners

A dominant company which requires its customers to obtain their entire demand from it acts abusively, because smaller vendors could no longer supply these customers. This applies in relation to suppliers of the dominant company as well. By means of exclusive supply, smaller competitors of the dominant company would be unable to obtain supplies from the exclusive supplier of the dominant company.

Similar effects may occur with so-called loyalty discounts (for example target rebates or total sales discounts), in which a discount is granted only if the customer purchases its entire or nearly entire demand from the dominant company. By applying this business practice customers are disincentivised from purchasing at least a part of their demand from competing suppliers. This could result in the customer being tied into a supply relationship with the dominant company, which Antitrust law aims to prevent. However, other forms of discounts, such as volume discounts connected solely to the volume of purchases or compensation discounts that will offset particular costs, are allowed (for example: certain design-in-, marketing- or research & development services).

If you are in doubt please contact Compliance or the Legal Department in advance.

b. Abusive selling prices
It is prohibited for a dominant company to offer its products at predatory pricing - below cost pricing - in the short term, to exclude smaller suppliers from the market, and then raise prices again significantly.

A dominant company may also not sell its products at unreasonably high prices which are not proportionate at all to the economic value of the product.

c. Bundling / refusal to supply
A dominant company may not tie the supply of one product to an obligation to purchase another product. Caution is required if – contrary to the customer´s explicit intent – two or more products are offered to one customer only in a technical or commercial bundle, or specific rebates are granted only for sourcing bundled products (“bundling”). The prohibition against bundling prevents dominant companies from extending their dominance from one product market (where they are dominant) into another product market (where they are not dominant) at the expense of the suppliers in the latter market.

If you plan any bundling please always contact Compliance or the Legal department in advance.

VI. Dawn Raids - Investigations

Investigations by competition authorities – also called Dawn Raids – may occur unannounced at all Infineon locations anytime. Antitrust officers from a competition authority – usually accompanied by the local police – have wide investigation powers and may enter all business premises and offices as well as having interviews with employees. In addition, all business documents and devices (computers, mobile phones, USB flash drives, etc.) may be seized, examined and evaluated.

In the event of an investigation you must:

- Immediately inform Compliance, Business Continuity and the Legal Department!
- Request the officers to wait for Compliance/BC/Legal to arrive. While they are not obliged to wait, they may agree to do so. They are, however, legally entitled to commence their search immediately and you are then required to fully cooperate.
- When Legal arrives, Legal will ask the officers to show them the search warrant and will verify the document.
- If Legal has not arrived and the officers insist on starting their search, ask the officers to show the search warrant and make a copy.
- Behave cooperatively, but restrained.
- Do not release any documents or make any statements to the officers without legal advice.
- Do not let officers wander around Infineon's premises unaccompanied during the investigation.
- Do not destroy or conceal any documents or mobile devices.
- Never break into rooms sealed by officers or break the seals placed on doors by the officers.
- Record the entire sequence of the investigation in writing including copies and a list of all copied or seized documents, as well as minutes of all statements made to the officers.

VII. Diligent communication

Make sure you write all your documents, e-mails, text messages, letters and minutes of meetings with care and diligence. Always bear in mind that they may come to the attention of public authorities and the media.

Therefore, even though a meeting, email or other document may raise no competition law concerns, a carelessly drafted email or other document may look suspicious or create a negative inference in the minds of competition authorities.

Hence, write carefully and bear in mind the following:

- If you write or document something in a foreign language, make sure that the meaning is correct and clear. Double-check that you are not using words that could be misinterpreted in the foreign language.
- If writing about competitors, always include the exact source of the information and the corresponding date (e.g. “magazine article, market intelligence, newspaper article, information pamphlet received at a trade show” etc.)
- Avoid ambiguous language that insinuates
  - (i) an agreement with a competitor: “X’s price increase was not a surprise.” or
  - (ii) a price fixing with a distributor: “You (=distributor”) shall sell at x margin”.

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