

GS1 Competition Law Caution

Many user companies of the GS1 System compete with each other. The competition is both horizontal and vertical. This means that each GS1 activity must be measured against the prevailing competition laws, which proscribe combinations and conspiracies in restraint of trade, monopolies and attempts to monopolise, and unfair or deceptive acts or practices. These are very broad. Violations of competition law can result in injunctions, treble damage judgments, heavy fines, and even imprisonment.

Strict compliance with competition laws is, and always has been, the policy of GS1. GS1 exercises extreme care to avoid not only violation, but anything that might raise even a suspicion of possible violation.

An action, seemingly innocent when taken by itself, may be viewed by competition law enforcers as part of a pattern of activity which constitutes a competition law violation. Therefore, participants on GS1 committees, task forces, work groups, task groups, or other similar bodies, must always remember the purpose of the committee, task force, or work group is to enhance the ability of all industry members to compete more efficiently and effectively to provide better value to the consumer or end user. However, because GS1 activity almost always involves the cooperation of competitors, great care must be taken to assure compliance with competition laws.

This means:

- Participation must be voluntary, and failure to participate shall not be used to penalise any company.
- There shall be no discussion of prices, allocation of customers or products, boycotts, refusals to deal, or market share.
- If any participant believes the group is drifting toward impermissible discussion, the topic shall be tabled until the opinion of counsel can be obtained.
- Meetings shall be governed by an agenda prepared in advance and recorded by minutes prepared promptly after the meeting. Agendas, where appropriate, and minutes are to be reviewed by counsel before they are circulated.
- Tests or data collection shall be governed by protocols developed in consultation with and monitored by counsel.
- The recommendations coming out of a GS1 committee, task force, work group or task group are just that. Individual companies remain free to make independent, competitive decisions.
- Any standards developed must be voluntary standards.