

# 20% of UK businesses have never heard of competition law

Research commissioned by the UK Competition and Markets Authority indicates a substantial lack of understanding of competition law among UK businesses. According to separate research, this comes at a time when attitudes of the UK public to price fixing are hardening.

## Is it something to do with sport?

The report,<sup>1</sup> prepared by IFF Research, shows a surprisingly widespread lack of awareness of competition law among those with responsibility for sales, both in terms of conduct that infringes the law and the potential consequences of infringement.

Over 1,200 UK businesses were surveyed, and results of the research are broken down by region, sector and size of company. Respondents were typically sales directors for larger companies and managing directors for smaller ones.

Some of the most notable findings are as follows.

### Infringing conduct

- Only 55% of the companies surveyed knew that it is illegal "for competitors to agree prices in order to avoid losing money" (18%

thought it was legal and 27% did not know).

- 31% thought "businesses can agree not to sell to the same customers as each other" and a further 28% did not know whether this was legal.
- Only 47% of companies knew it is illegal "to discuss prospective bids with competing bidders".
- 33% thought resale price maintenance was lawful.

### Awareness of competition law

- 20% of respondents had never heard of competition law.
- A further 25% rated their familiarity with competition law as "not at all well", while 33% rated it as "not very well".
- 57% had not heard of the Competition and Markets Authority (this is less surprising, given it has been active for just over a year), while 19% thought that the Federal Trade Commission enforces competition law in the UK.

### Compliance initiatives

- Only 6% of respondents had run a competition law training session within the last year.

- 19% of businesses had had senior level discussions about competition law.

### Consequences of a breach

- Only 27% of respondents reported a "fair" or "good" awareness of the penalties for non-compliance. Of those, almost half said "don't know" when asked what the penalties are.
- Only 21% of respondents were aware that antitrust breaches could lead to imprisonment.
- 85% of companies were unaware of the existence of the leniency regime.

### Market interactions and monitoring

- 83% of businesses had contact with other businesses in their industry, of which 9% did so "to discuss prices". Such contacts were not necessarily anticompetitive, however, as those other businesses may have been sub-contractors or other non-competitors (which might explain the higher 22% figure for the construction sector).
- 7% of businesses monitor prices of their competitors by contacting

<sup>1</sup> Available at: [www.gov.uk/government/publications/uk-businesses-understanding-of-competition-law](http://www.gov.uk/government/publications/uk-businesses-understanding-of-competition-law)

them to ask what they charge. Again, this is not necessarily anticompetitive if the information requested was publicly available.

### Sector specific findings

Some sectors demonstrated significantly lower levels of antitrust awareness than others. In particular, the construction and arts sectors both had the lowest proportion of respondents reporting compliance training in the last year (less than 1%) and some of the highest levels of respondents who had never heard of competition law (24% and 30% respectively), with the accommodation/food sector also scoring poorly in this respect (29%).

### Public attitudes

Separate (yet to be published) research surveyed public attitudes towards cartel conduct.<sup>2</sup> This indicates that, in comparison to 2007 when a similar survey was conducted, attitudes of the UK public towards

price fixing (and corporate crime in general) have hardened, although some of this may be down to greater scepticism of business practices in general following the financial crisis, rather than wider public awareness of competition law. In other jurisdictions (Germany, Italy and the United States) the survey also found similar attitudes towards cartel conduct, notwithstanding differences in levels of enforcement and the nature of penalties between those jurisdictions.

### Comment

The IFF research suggests that many companies would benefit from more antitrust compliance training, in particular those in certain sectors.

For large businesses (having 250 employees or more), the implications of the research are more nuanced. In general, these businesses demonstrated a much better level of antitrust awareness than smaller ones. For instance, only 4% had never

heard of competition law and 41% had run a compliance training session in the past year.

However, it seems that such companies are more prone to being excessively cautious in ways that risk having serious adverse effects. In particular, 41% of large companies believed that it is illegal to "tell suppliers the prices that other suppliers are quoting you" – a misapprehension that could harm their ability to negotiate best prices and, ultimately, their ability to compete.

This suggests that, to achieve an effective understanding of competition law, both the quantity and the quality of compliance training are important. As highlighted by the separate research on public attitudes to cartel conduct, companies which fail in this respect may - in addition to all the other potential adverse consequences - face increasing levels of public approbation and reputational harm.

## Contacts



**Jenine Hulsmann**  
Partner

E: Jenine.Hulsmann@cliffordchance.com



**Alastair Mordaunt**  
Partner

E: Alastair.Mordaunt@cliffordchance.com



**Elizabeth Morony**  
Partner

E: Elizabeth.Morony@cliffordchance.com



**Alex Nourry**  
Partner

E: Alex.Nourry@cliffordchance.com



**Greg Olsen**  
Partner

E: Greg.Olsen@cliffordchance.com



**Matthew Scully**  
Partner

E: matthew.scully@cliffordchance.com



**Luke Tolaini**  
Partner

E: Luke.Tolaini@cliffordchance.com

<sup>2</sup> A Stephan, 'Survey of Public Attitudes to Price Fixing in the UK, Germany, Italy and the USA' (2015) University of East Anglia, forthcoming working paper.

## Global Antitrust Contacts

**Chair: Thomas Vinje**

### Australia

**Dave Poddar**  
+61 28922 8033  
dave.poddar@cliffordchance.com

### Belgium

**Dieter Paemen**  
+32 2533 5012  
dieter.paemen@cliffordchance.com

### Tony Reeves

+32 2 533 5943  
tony.reeves@cliffordchance.com

### Thomas Vinje

+32 2 533 5929  
thomas.vinje@cliffordchance.com

### China

**Richard Blewett**  
+86 10 6535 2261  
richard.blewett@cliffordchance.com

### Czech Republic

**Alex Cook**  
+420 222 555 212  
alex.cook@cliffordchance.com

### France

**Emmanuel Durand**  
+33 1 4405 5412  
emmanuel.durand@cliffordchance.com

### Patrick Hubert

+33 1 4405 5371  
patrick.hubert@cliffordchance.com

### Michel Petite

+33 1 4405 5244  
michel.petite@cliffordchance.com

### Germany

**Joachim Schütze**  
+49 211 4355547  
joachim.schuetze@cliffordchance.com

### Marc Besen

+49 211 43555312  
marc.besen@cliffordchance.com

### Hong Kong

**Emma Davies**  
+852 2825 8828  
emma.davies@cliffordchance.com

### Angie Ng

+852 2826 3403  
angie.ng@cliffordchance.com

### Indonesia

**Linda Widyati**  
+62 212988 8301  
linda.widyati@cliffordchance.com

### Italy

**Luciano Di Via**  
+39 064229 1265  
luciano.divia@cliffordchance.com

### Aristide Police

+39 06422911  
aristide.police@cliffordchance.com

### Japan

**Masafumi Shikakura**  
+81 3 5561 6323  
masafumi.shikakura@cliffordchance.com

### The Netherlands

**Steven Verschuur**  
+31 20 711 9250  
steven.verschuur@cliffordchance.com

### Frances Dethmers

+32 2 533 5043  
frances.dethmers@cliffordchance.com

### Poland

**Iwona Terlecka**  
+48 22 429 9410  
iwona.terlecka@cliffordchance.com

### Romania

**Nadia Badea**  
+40 21 66 66 100  
nadia.badea@badea.cliffordchance.com

### Russia

**Torsten Syrbe**  
+7 495 725 6400  
torsten.syrbe@cliffordchance.com

### Saudi Arabia

**Omar Rashid**  
+966 11481 9720  
omar.rashid@cliffordchance.com

### Singapore

**Harpreet Singh**  
+65 6661 2028  
harpreet.singh@cliffordchance.com

### Nish Shetty

+65 6410 2285  
nish.shetty@cliffordchance.com

### Valerie Kong

+65 6410 2271  
valerie.kong@cliffordchance.com

### Spain

**Miguel Odriozola**  
+34 91 590 9460  
miguel.odriozola@cliffordchance.com

### Miquel Montaña

+34 93 344 2223  
miquel.montana@cliffordchance.com

### Thailand

**Andrew Matthews**  
+66 2 401 8800  
andrew.matthews@cliffordchance.com

### Turkey

**İtir Çiftçi**  
+90 212339 0077  
itir.ciftci@cliffordchance.com

### Ukraine

**Yevhen Deyneko**  
+380 44390 2272  
Yevhen.Deyneko@cliffordchance.com

### United Arab Emirates

**Mike Taylor**  
+971 43620 638  
mike.taylor@cliffordchance.com

### United Kingdom

**Alex Nourry**  
+44 20 7006 8001  
alex.nourry@cliffordchance.com

### Jenine Hulsmann

+44 20 7006 8216  
jenine.hulsmann@cliffordchance.com

### Alastair Mordaunt

+44 20 7006 4966  
alastair.mordaunt@cliffordchance.com

### Elizabeth Morony

+44 20 7006 8128  
elizabeth.morony@cliffordchance.com

### Greg Olsen

+44 20 7006 2327  
greg.olsen@cliffordchance.com

### Matthew Scully

+44 20 7006 1468  
matthew.scully@cliffordchance.com

### Luke Tolaini

+44 20 7006 4666  
luke.tolaini@cliffordchance.com

### United States

**Timothy Cornell**  
+1 202 912 5220  
timothy.cornell@cliffordchance.com

### Robert Houck

+1 212878 3224  
robert.houck@cliffordchance.com

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