

# COMPLIANCE Rules



**COMPLIANCE Rules** for the members of the IHGC (International Hop Growers' Convention - Internationales Hopfenbaubüro - Comité international de la Culture du Houblon), for the representatives of the IHGC active in this organization, and the managers of meetings of the IHGC of any kind, as well as the (full-time and voluntary) IHGC staff.

## **Preamble:**

The **International Hop Growers' Convention** (IHGC) brings together the majority of hop growing member organizations. The members of the IHGC are both representative organizations of hop growers in the hop growing countries, representative organizations of the hop industry, and private law juridical entities specialized in the production and/or processing and/or marketing of hops.

One of the stated objectives of the IHGC constitution is the protection of the interests of hop growers and the entire hop industry in the member countries around the world. Another priority of the activity is in the promotion of free and unhindered competition in the marketing of hops and hop products. This requires the open and committed cooperation of the voluntary bodies, committees' and working groups' members, as well as the (full-time) employees. Anyone contributing to the IHGC in this manner is to ensure that all laws are complied with, especially the unconditional observance of existing antitrust regulations and the rules for maintaining free and unrestricted competition within the existing legal framework.

The following COMPLIANCE rules are in place and determined as relevant to the services by the IHGC to ensure compliance with these principles. They are an expression of the commitment to abide by applicable law so as to both commit and protect all members, agents and staff of the IHGC. At the same time, the rules represent the guidelines of the IHGC for the association's activities as a precaution against the allegation of anticompetitive behavior. The rules apply to collaboration among IHGC members, as well as the collaboration with other organizations and individual companies that may be in competition with IHGC, its bodies, agents or members.

The adopted rules also serve to inform anyone involved in the work of the IHGC and to sensitize and safeguard compliance with the law, so as to ensure undisturbed and purposeful collaboration. The guidelines contain the key principles of antitrust behavior; they are also subject to continuing changes, and should thus be developed further as needed. All persons working with and on behalf of the IHGC are thus requested to report any concerns about suspected or identified violations of the prohibitions set forth in the present guidelines to the IHGC Executive Committee.

# 1 Validity

Within the IHGC, the COMPLIANCE rules and commitments are formulated for the benefit of

- all members,
- all bodies (General Assembly, Executive Committee and the established Committees, namely the Scientific-Technical Committee, the Economic Committee and the Committee on Regulatory and Harmonization), panels, committees and working groups in the areas of production and marketing;
- the full-time and voluntary IHGC staff.

The group of recipients are notified of these rules for acknowledgement with the obligation to observe them.

# 2 Documentation

The bodies referred to in point 1 and the persons associated with them are to be notified of the present guidelines by ways of an undertaking. The undertakings must be signed with the original returned to IHGC. All future guidelines, undertakings and training measures are to be archived and documented on an Electronic data processing basis and retained in the original.

Recent members to the IHGC and/or staff are notified of the full COMPLIANCE rules immediately upon confirmation of membership or rather commencement of work. New members of bodies, panels, committees or working groups, as well as the staff of the IHGC office are issued with the relevant guidelines and undertakings including supporting documents as soon as they are elected or after becoming affiliated with one of the above groups.

# 3 Antitrust situation

In order to avoid the risk of infringements of antitrust and/or competition law in the first place, particularly when cooperating with competing member companies, certain acts are prohibited in the scope of activities within the IHGC and also outside of official events. This particularly entails the following requirements:

## 3.1 "Collusion"

Generally, any agreements between competitors with the object or effect of restricting free competition in the broadest sense violate antitrust laws. The agreements do not have to be legally binding; an informal agreement ("gentlemen's agreement") is sufficient. "Collusion" is understood to include formal agreements and decisions in committees, panels or working groups, as well as concerted practices that take place directly or indirectly at meetings of the IHGC. The following list

of examples is not exhaustive or legally binding, and subject to ongoing changes in legislation and practice.

**a) Measures and regulations between competitors may be prohibited, in particular those relating to**

- prices and conditions (purchase and sale of hops and hop products),
- determination of quantities,
- cooperation with third parties for purposes of influencing the market,
- the rejection of legitimate customer claims.

**b) Measures and regulations may be permissible, insofar as**

- the terms of contract and delivery agreed jointly with other (professional) organizations, which are accessible to all market participants at all times, and which are intended to facilitate the most equal and free trade in goods,
- the collection of general market data, in particular on the volume of raw hops available on the market without pricing, and with the aim of improving overall market transparency for all operators, provided that such surveys and their evaluations take place in anonymous form and are accessible to all operators,
- cross-company and cross-association structural measures, e.g. in the field of crop protection and the development of new hop varieties, as well as their market introduction,
- joint research, development and production of hop products with the aim of marketing this agricultural product,
- measures to stabilize the hops market and similar measures, which are published in general terms and agreed with other organizations and/or public or private bodies.

In any case, their compatibility with the antitrust authorities must first be adequately examined so as to adequately safeguard the admissibility of such measures.

## **4 Communication**

The activity in the IHGC is characterized by a regular exchange of information with the members, other market participants, ministries, authorities and other professional organizations. In doing so, it is vital to ensure that any confidential information exchanged among competitors may be

regarded as antitrust violations. This is especially true for incidents according to section 3.1 a). The following possible "interpretation rule" is to be noted:

*In the opinion of the antitrust authorities, businesses normally have no reason to communicate sensitive data to their competitors. If they are nonetheless found to do so, the antitrust authorities tend to believe that they are establishing market transparency that is not desirable from an antitrust point of view (abolition of secret competition), since this may provide the basis for concerted action by competing companies in the marketplace. Therefore, the exchange of usually confidential information may already constitute a violation of antitrust law.*

#### **4.1 Examples of information exchange**

##### **a) In particular, the exchange of information between competitors may be prohibited if it concerns**

- selling prices and delivery components of the company, insofar as these are not of a general nature and accessible to all market participants,
- purchase prices and terms of delivery of the company, as far as these are not generally known and accessible to the same extent by all suppliers,
- other contractual provisions of the company in supply agreements with customers and suppliers,
- sales or turnover figures in supply agreements (for exceptions see b)).

However, not every exchange of information is prohibited. In many cases, the exchange of important company data is permissible.

##### **b) The exchange of important framework data may be permissible for purposes of**

- the exchange of information between the bodies (including established commissions), panels, or working groups of the IHGC on legal and political framework conditions (e.g. legislative proposals, administrative practices of authorities, court judgements, tax issues) and their assessment,
- general, publicly known data (e.g. mergers between suppliers and customers),
- data that is publicly known or accessible to all market participants (e.g. from previous balance sheets and company accounts, statistical sales figures, raw hops volumes from multiannual supply contracts, etc.),
- the collection and processing of statistical information on the growing countries with regard to hop acreage and crops, import and export of hops and hop products, marketing of hops and hop products, beer production and consumption,

- the estimate of the world harvest and its impact on the market,
- the exchange of statistical data with other (professional) organizations, as well as public and private institutions on the structure of the hop industry.

Insofar as antitrust doubts apply for the treatment of information pursuant to sections 4.1 a) and b), they must first be checked for legal implications.

#### **4.2 Calls for boycott**

Calls for boycott are inadmissible and prohibited.

#### **4.3 Recommendations of the IHGC**

Recommendations whereby the IHGC or any panel (e.g. established commission, committee or working group) advocates the adherence to certain generally accepted rules to members of the IHGC or the panel as advantageous are only permissible if the recommendation is general in nature, takes place publicly, and the affected market partners were previously granted an opportunity to comment, and did not object. Such recommendations particularly relate to contract and resolution issues relating to the marketing of hops and hop products without price aspects and certain rules that are agreed and communicated in consultation with other stakeholders. Such recommendations are generally not legally binding for the IHGC members.

### **5 Antitrust guidelines**

Antitrust regulations with mandatory compliance are in place for the following institutions of the IHGC:

- 5.1 All representatives of the bodies, members of commissions, panels, committees and working groups.
- 5.2 Chairpersons for conferences and meetings of all kinds.
- 5.3 Full-time and voluntary staff of any kind.

The persons subject to this obligation must submit a corresponding written declaration of commitment that cites the provisions of the present regulations.

### **6 Work at meetings**

The regular work at meetings, commission meetings, panels, committees and working groups of the IHGC entails further obligations relating to their preparation and execution. These particularly include:

## **6.1 Instructions for all participants**

All meetings must observe the following instructions:

### **6.1.1 Before the start of a meeting**

The announced agenda is to be checked for compliance with antitrust rules; possible concerns are to be communicated to the respective chairperson.

### **6.1.2 During the meeting**

The exchange of confidential information as per sections 3.1 and 4.1 must not take place; this also applies to personal notes. If any topics of relevance to antitrust regulations are discussed during the meeting, the relevant concerns must be communicated to the chairperson immediately. The treatment of topics subject to such objections may only take place after clarification has taken place.

### **6.1.3 After the meeting**

The individual points contained in the minutes of the meeting are to be examined for possible antitrust-relevant phrasing. Any doubts must be communicated to the meeting chairperson and/or the keeper of the minutes without delay.

## **6.2 Instructions for the chairperson for meetings**

The following guidelines apply for the respective meeting chairperson:

### **6.2.1 Preparation and appointment**

The requirements of the constitution for the invitation must be observed when scheduling any meeting. As a rule, an agenda must be dispatched along with the invitation to the meeting; in individual cases, this agenda may also be announced and sent on the day prior to the meeting. This letter must not contain any points that are subject to antitrust regulations.

### **6.2.2 Before and during the meeting**

At the beginning of each meeting, the chairperson emphasizes the importance of following the COMPLIANCE rules. The chairperson is responsible for only permitting the discussion on topics that were announced on the agenda or are added by common consent, as well as ensuring that no antitrust-relevant discussions take place at the meeting.

Any antitrust concerns expressed by the participants of the meeting must be recorded clearly in the minutes, and the further discussion should be suspended pending the final resolution of such concerns.

### **6.2.3 Information exchange**

The respective meeting supervisor is to ensure that no confidential information is exchanged in accordance with sections 3.1 and 4.1. If antitrust-relevant information must be obtained in respect of member companies' operations for legitimate reasons, the Secretary General should ensure that such information is solely forwarded to the office anonymized by processing, and used exclusively for the legitimate purpose at hand. In doing so, all staff must be obligated to absolute secrecy.

The fact-finding and exchange of information within the panel is conducted in coordination with the Secretary General so as to preclude concerted practices between competing member companies based on the relevant exchange of information. If this proves impossible, the exchange of information must not take place.

### **6.2.4 Minutes**

The essential content of meetings and conferences are to be recorded by the chairperson or a participant designated by him/him, i.e. under designation of the item and the main points of the discussion, as well as any decisions taken. The resulting minutes must truthfully reflect the content of the discussions. The participants of the meeting must be identifiable from the minutes or its annex. All minutes are to be electronically archived under inclusion of a list of participants.

### **6.2.5 After the meeting**

The minutes drawn up for the meeting are to be prepared by the author in a timely manner, and are to be sent to all participants of the meeting after coordination of the content with the chairperson.

Each participant is required to check the minutes for correctness of content and object about any ambiguous and/or anticompetitive formulations and to seek their clarification in written form.

## **6.3 Instructions to the staff of the IHGC office**

Any internal and external communication of any kind and form between the IHGC and the members or other institutions must be checked for compliance with antitrust regulations. The antitrust regulations must be observed and adhered to.

### **6.3.1 COMPLIANCE officer**

The IHGC Executive Committee is to appoint a COMPLIANCE officer to ensure that the work of the association on the one hand and the activities of members of the association in the scope of the work of the association on the other are not subject to antitrust regulations. The COMPLIANCE officer reports directly to the IHGC Executive Committee.

The COMPLIANCE officer of the IHGC Executive Committee is responsible for supervising and monitoring the antitrust COMPLIANCE program of the association. This particularly includes the following tasks:

- The establishment, sustainable implementation and ongoing maintenance of the COMPLIANCE rules in the IHGC and all of its bodies,
- the briefing of the (full-time and voluntary) staff of all organs and bodies,
- the notification and commitment to the COMPLIANCE rules for all members,
- examination of the antitrust-relevance of any communications,
- participation in meetings of the IHGC, insofar as the local agenda requires advice in antitrust matters.

At the request of the competent bodies of the IHGC, the COMPLIANCE officer is to examine the association's activities, including those of all bodies, for anticompetitive-relevance. In doing so, the COMPLIANCE officer may also seek external and possibly fee-based advice to clarify individual points without the assent of the competent IHGC bodies. The Executive Committee is to be notified of any discovered issues, remedial action is to be taken.

## **7 Corruption and bribery**

As part of its statutory activities, the tasks of the IHGC include the holding of discussions with public institutions (e.g. ministries, technical authorities, EU Commission) and public and other officials on economic development in respect of hop marketing. This applies to the regular interaction with other professional organizations in the hops and brewing industry and similar institutions, which only takes place at irregular intervals, in the same way, and the provision also pertains to the full-time and voluntary staff of all the aforementioned institutions. The aforementioned activity takes place on a national, EU-wide and international basis and covers a range of jurisdictions and cultural circles. The following provisions apply directly in this respect, or *mutatis mutandis* where they are not directly applicable to a particular case. The following principles of conduct apply in this context.

### **7.1 Legal compliance**

Regardless of the country in which IHGC staff are to perform IHGC tasks, the highest principle is that the laws of the relevant jurisdiction must be complied with. This particularly applies in dealing



with authorities of any kind and business partners, regardless of whether IHGC maintains contractual or other service relationships with such parties.

## **7.2 Money laundering and counterterrorism**

All of IHGC's business partners take adequate arrangements and measures to prevent the occurrence of money laundering offences in their business dealings. This is especially true for the concealment of illegal assets, and particularly cash. Assets that constitute the proceeds of certain illegal acts are considered illicit. In the same manner, IHGC is to ensure compliance with the applicable laws designed to combat international terrorism.

## **7.3 Bribery and corruption**

IHGC and its representatives or staff in their performance of the association's tasks reject any form of bribery and/or corruption of public authorities or the persons working there. This equally applies to private organizations and their representatives or staff. In this respect, the provision of persons with unlawful benefits or to demand or rather solicit promises of such benefits in the context of their own activity is not permissible. Any benefits suitable for influencing the actions and decisions of the recipient are subject to this provision.

## **7.4 Gifts and invitations**

Gifts and benefits are to be avoided due to the risk of affecting the decisions of the respective recipient and thus influence their objective decision-making ability. Gifts, invitations and benefits are therefore only accepted by all types of IHGC representatives or granted to business partners insofar as they are appropriate and as long as there is no anticipation of (prohibited) preferential treatment, consideration or other special treatment.

## **8 Donations, sponsorship**

The IHGC is ideologically neutral. The granting of donations and other benefits to persons, groups or organizations, including political parties, must not take place in return for any unlawful benefit, and they are solely permitted in accordance with the applicable legal regulations.

## **9 Establishment**

The above COMPLIANCE regulations correspond to the objectives according to § 2 of the IHGC constitution. The above rules of COMPLIANCE were approved on the IHGC Executive Committee meeting on April 26, 2019 and adopted unanimously on August 1, 2019.