

COSIA Competition Law Policy

The purpose of the *Competition Act* (Canada) is to maintain, encourage and assure the preservation of a free, competitive and efficient economy, which ensures businesses have an equitable opportunity to participate and which provides consumers with competitive prices and product choices.

It is COSIA's policy to operate strictly within the requirements of all applicable competition laws and to avoid any appearance of impropriety and Associate Members are expected to operate in accordance with such policy. It is imperative that Associate Members be aware of the competition implications of COSIA's activities and exercise significant effort and cooperation in order to be vigilant with respect to and comply with the requirements of COSIA's policy and all applicable competition laws.

COSIA's Competition Law Policy applies to all Associate Members, COSIA staff, COSIA Shareholders and their affiliates, employees, representatives and third parties who participate in any meeting of COSIA's Shareholder Steering Committee, EPA Steering Committees or Board of Directors or any COSIA project work.

Additional resources and requirements concerning COSIA's Competition Law Policy are found in the following pages. In addition, all Associate Members are asked to review a competition law compliance video the first time they are accessing COSIA's SharePoint site.

COMPETITION LAW COMPLIANCE POLICY FOR COSIA

SEPTEMBER 1, 2016

I. Introduction

- The Competition Bureau is a federal law enforcement agency that enforces the *Competition Act* (Canada) (the “*Competition Act*”). A violation of the *Competition Act* can result in serious consequences, including reputational and financial damages, as well as fines, and for individuals, imprisonment.
- The *Competition Act* prohibits practices, agreements or arrangements between competitors that are likely to prevent or lessen competition substantially, by foreclosing competition, reducing innovation, or otherwise restraining competition. Certain other kinds of competitor agreements or arrangements related to mergers and acquisitions require notice to be given to, or approval from, the Competition Bureau before they can proceed.
- The *Competition Act* makes it a criminal offence for competitors to: conspire, arrange or agree to fix, maintain, increase or control prices; allocate sales, territories, markets or customers; or fix, maintain, control, prevent, lessen or eliminate the production or supply of a product.
- It is also a criminal offence, called “bid-rigging”, to agree or arrange with a competitor to bid, to refrain from bidding, or to withdraw a bid, in response to a call for tenders or request for proposals unless such agreement or arrangement is made known to the person calling for the bid or tender.
- In addition, it is to be noted that the competition laws, sometimes referred to as antitrust laws, of other jurisdictions may apply if the activities of COSIA are directed from or have effects outside of Canada.
- Agreements or arrangements between competitors may be proven by direct evidence of an agreement, or from circumstantial evidence, such as the improper exchange of competitively sensitive information.
- The Charter and underlying formal agreements of COSIA do not:
 - prevent or lessen competition substantially;
 - fix prices, allocate markets or customers, or negatively affect production or supply
 - comprise bid-rigging; or
 - require prior notice to or approval from the Competition Bureau.
- COSIA, however, may involve arrangements or meetings among competitors.

Arrangements and meetings involving competitors can raise competition law concerns unless proper compliance guidance, including appropriate training, is in place.

II. Definitions

For your assistance, whenever used in this Competition Law Compliance Policy, the following capitalized words and terms have the meanings set out below. Please refer to these definitions as required to ensure your understanding of this Competition Law Compliance Policy.

“Associate Member” means a service or industrial company, government or government agency, academic body and group, environmental organization, aboriginal group or other entity that has been accepted as and remains an associate member of COSIA as determined by the SSC from time to time;

“Competition Law Compliance Policy” means this Competition Law Compliance Policy for COSIA with the date above first written;

“Competitively Sensitive Information” means any confidential information that concerns an important aspect of a COSIA Participant’s competitiveness and may either give a COSIA Participant a competitive advantage or allow COSIA Participants to coordinate or alter their behaviour in an anti-competitive manner. Competitively Sensitive Information may include an individual COSIA Participant’s corporate marketing or strategic plans, production levels and capabilities, output, supply, costs, customers, suppliers, markets, existing or new products, operational technologies that could provide a competitive advantage, expansion or reduction plans, pricing, discounting and credit terms;

“COSIA Inc. Staff” means the Chief Executive and all other staff and contractor positions that appear on the COSIA Organizational Chart or are otherwise employed by COSIA Inc.;

“COSIA Objectives” means to enable responsible and sustainable growth of Canada’s oil sands while delivering accelerated improvement in environmental performance through collaborative action and innovation;

“COSIA Participants” means COSIA Inc. Staff and all COSIA Inc. shareholders and their affiliates, employees, representatives, and alternates, who participate in any meeting or other activity in relation to COSIA, and for the purpose of this Competition Law Compliance Policy, COSIA Participants shall include Associate Members and their employees, representatives, and alternates;

“Priority Area” means a priority area within COSIA’s mandate, as set out in the Charter from time to time, including for example: tailings, land, water use and quality, greenhouse gas emissions, monitoring, and communications;

“Priority Area Agreement” means an agreement among all the Priority Area Members governing that Priority Area;

“Priority Area Member” means a party to a Priority Area Agreement; and

“SSC” means the shareholder steering committee of COSIA representatives.

III. Competition Law Compliance

- This Competition Law Compliance Policy applies to all COSIA Participants and provides a sound framework for activities to be carried out by COSIA Participants in compliance with competition law requirements.
- The SSC has appointed a competition law compliance officer whose duties include promoting compliance with the *Competition Act*, mandating compliance with this Competition Law Compliance Policy, and ensuring that a credible and effective compliance program is established and maintained.
- Individual COSIA Participants will receive initial competition law compliance training which will be refreshed on a biennial basis.
- Each individual COSIA Participant, who has not already done so, will confirm via electronic acknowledgement: (i) at the first opportunity, that he or she has read and understood this Competition Law Compliance Policy and completed COSIA competition law compliance training; and (ii) as applicable thereafter, that he or she has completed refresher COSIA competition law compliance training. Electronic confirmation will be retained by COSIA Inc. for tracking purposes. The individual COSIA Participant and the applicable COSIA Participant company or organization will also save a copy of the confirmation. Such retention shall comply with COSIA Inc.'s or the COSIA Participant company's document retention policy, as applicable.
- In addition, the attached Competition Law Compliance Reminder will form part of each working group's initial meeting agenda and will be refreshed thereafter at the first meeting in every quarter of every calendar year. It will also be refreshed at each meeting involving a new COSIA Participant. The Competition Law Compliance Reminder will be read out to attendees at the beginning of each applicable meeting.
- If any question arises regarding compliance with the *Competition Act* or this Competition Law Compliance Policy, please contact your internal legal counsel. Internal legal counsel are encouraged to contact COSIA external competition law counsel, after notifying the COSIA Chief Executive. External counsel is Brian Facey of Blake, Cassels & Graydon LLP at brian.facey@blakes.com or (416) 863-4262.

IV. Do's and Don'ts

- **Meeting Protocol**
 - **DO** prepare, circulate and agree on an agenda in advance of all meetings. Ensure that the agenda items are specific enough for attendees to be clear on what is to be discussed. In the initial meeting of a working group, at the first meeting in every quarter of every calendar year and at all meetings involving a new COSIA Participant, the agenda must include the attached Competition Law Compliance Reminder. The Competition Law Compliance Reminder must be read at the beginning of all such meetings.

- **DO** raise any agenda concerns with the chair of the meeting in advance of the meeting.
- **DO** ensure that the discussion at each meeting follows the agreed agenda.
- **DO** keep accurate minutes of all meetings.
- **DO** circulate the minutes in draft to all attendees (and absentees) to ensure accuracy of notations.
- **DO NOT** include an “Any Other Business” or other open-ended categories on the agenda.
- **Discussions**
 - **DO** ensure that all information to be disclosed and discussions at COSIA meetings are in accordance with the COSIA Objectives and, in the case of Priority Area meetings and discussions, are also within the scope of the particular Priority Area.
 - Information that is disclosed must be reasonably necessary in order to achieve the legitimate purpose for its disclosure.
 - Discussion may occur on out-of-scope topics to the extent that the discussion is limited to: (i) determination of whether the topic is in-scope or out-of-scope; and (ii) non-Competitively Sensitive Information.
 - **DO NOT** disclose Competitively Sensitive Information.
 - Examples of meeting topics which are in accordance with the COSIA Objectives include: a COSIA Participant’s research and development efforts (but not production intentions; and not operating costs or intentions vis-à-vis third-party contractors unless required for legitimate joint procurement); external research and development efforts (i.e. research conducted by universities or other third parties); technology that is voluntarily contributed; and the sharing of best practices in these areas (but not production intentions; and not operating costs or intentions vis-à-vis third-party contractors unless required for legitimate joint procurement); however, a COSIA Participant’s decision as to whether or not it will adopt a technology must be its own unilateral decision (i.e. two or more COSIA Participants cannot attempt to coordinate on what technologies should be adopted or not adopted in an effort to negatively affect production or availability of any product or otherwise to substantially lessen competition).
 - Multi-party benchmarking of Competitively Sensitive Information must be aggregated so as to preclude any disclosure of party-specific information.
- **Legal Advice**

- **DO** contact legal counsel if at any time during a meeting there is any question as to whether a certain topic can be discussed or certain information can be shared. If any such question arises, please discontinue the discussion immediately and hold off on the discussion until competition law advice has been provided. Please contact your internal legal counsel.
- **DO** contact legal counsel if at any time you have a competition law concern relating to COSIA work generally. Please contact your internal legal counsel.

COMPETITION LAW COMPLIANCE REMINDER

Note: This Competition Law Compliance Reminder will form part of each working group's initial meeting agenda and will be refreshed thereafter at each first meeting in every quarter of every calendar year. The Competition Law Compliance Reminder will be read out to attendees at the beginning of each applicable meeting.

- This is to confirm that this meeting is in furtherance of the COSIA Objectives in relation to the responsible and sustainable growth of Canada's oil sands, and that this meeting will not be used for collaboration or information disclosure in relation to any activities beyond the COSIA Objectives. All participants at this meeting shall comply at all times with the *Competition Act*, COSIA's Competition Law Compliance Policy, and the competition law training provided by COSIA.
- All COSIA Participants at this meeting have been provided with and reviewed COSIA's Competition Law Compliance Policy. Any COSIA Participant participating in the meeting who does not have the Competition Law Compliance Policy must contact the COSIA competition law compliance officer or the chair of the meeting to obtain a copy immediately and read the Competition Law Compliance Policy before participating in the meeting.
- Moreover, at this meeting, the COSIA Participants will not disclose any Competitively Sensitive Information, nor will any COSIA Participant arrange or otherwise coordinate with another in relation to prices, output, markets, customers, or the production or supply of products.
- Each COSIA Participant is obligated to speak up immediately for the purpose of preventing any discussion falling outside these bounds.
- If at any time during this meeting a question arises regarding competition law compliance or if there are any competition law concerns relating to COSIA work generally, the participants will cease discussions immediately and contact internal legal counsel.

