Practical Guide

to competition compliance

SAINT-GOBAIN

Summary

The General Principles of Conduct and Action of the Saint-Gobain Group require strict compliance with legality, and in particular, compliance with competition law. This is a matter of general policy of the Group. Active competition is above all a guarantee of orderly market functioning and economic efficiency in the long term.

Such a policy at Group level makes no sense if it is not followed by all of its employees, in particular, all those who hold positions of responsibility or commercial positions with access to sensitive information. Indeed, any infringements committed by employees, even "juniors", could make Saint-Gobain face a competition inquiry and end up incurring high fines. It is thus paramount that everyone understands the importance of competition law and its essential issues, otherwise, the reputation, the financial good standing and even the activities of Saint-Gobain can be threatened. The commitment of an offence under competition law is thus a very serious act, which clearly involves the employees' responsibility towards their employer and the community.

Thank you for reading attentively the following pages and for ensuring the strict implementation of the measures that they contain.

Pierre-André de Chalendar

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Introduction

The purpose of this practical guide is to provide you with an overview of the general principles of competition law as well as the procedures to be followed in order to respect those principles.

Even if national laws do not generally deviate from the guiding principles explained in this guide, they may vary in certain aspects (type of procedure, sanctions policy) as a result of their implementation. However, we have not prepared a detailed guide for each jurisdiction where Saint-Gobain is active. The general principles explained hereafter should generally enable you to ensure compliance with the general principles of the applicable competition laws. In as much as this is the case, it will still be necessary to seek legal advice before undertaking certain risky practices in a given country.

Chapter 3 of this guide presents those risky situations for which it is recommended that you are careful and, if necessary, consult your legal department. In addition, this guide provides a list of behaviours or activities sufficiently serious and generally prohibited, and we ask that you memorize them and absolutely refrain from participating in such activities. The minimal list that you must absolutely retain is as follows:

- Agreements with competitors on prices, rebates or other commercial conditions;
- Market partitioning between competitors; and
- Resale price maintenance by way of an agreement between a distributor and a supplier.

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How to use this Guide?

READ THIS GUIDE, REVIEW YOUR "COMPLY" TRAINING, CONSULT YOUR LAWYERS!

This guide aims to remind you of the principles of competition law so as to ensure that you develop your skills. In the interest of contributing to a better understanding, it avoids using legal terminology and does not go into the technicalities of competition law. If, after reading this guide, certain points require further clarification you can revert to the codes provided at the time of your on-line "*Comply*" training: even if you have completed this training, it remains available and you are welcome to refer back to it every time you need to. In addition, the lawyers of the Group are at your disposal to clarify any matters.

Two terms used in this guide deserve to be immediately explained: cartels and agreements. Both terms are largely synonymous, even if a cartel has a broader meaning. Generally, a cartel is every encounter of wills between companies, being either by way of contracts, written or oral agreements or even a simple mutual understanding resulting in a common behaviour. Intra-Group agreements are generally not prohibited. However, if two companies belonging to the Group appear to act as independent competitors on the market but actually have a coordinated commercial policy, this can be contrary to competition law. In this case, it is recommended that you ask for legal advice. Lastly, an agreement may constitute an infringement of competition law, even if it is not implemented.

Neither this guide, nor your training on *Comply*, aim to make you specialists: their existence should not prevent you from consulting the legal department of your Group company; on the contrary, they are designed to enable you to identify those risky situations where legal advice is required. In any event, you must be in a position to identify behaviours which are strictly prohibited and it is thus not necessary, except if you do not understand or if you have detected an infringement, to speak to the lawyers about it: you must simply refrain from implementing those behaviours.

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Summary of anti-competitive practices to remember

1 / Practices absolutely prohibited

IN ALL CASES: PLEASE REFRAIN!

Below you will find a list of all anti-competitive practices absolutely prohibited worldwide and considered most serious. You must refrain in all circumstances:

Prohibited agreements between competitors:
these are agreements between competitors, which have as their sole or principal object the elimination or decrease of competition in one way or another. These include, in particular, agreements between competitors:

- On prices (price increases and decreases and their date of implementation, other elements included in the price, rebates or fixing the conditions of sale);
- On the distribution of geographical areas or customers (distribution of the territories of sale, limitation of the sales to a given territory or specific customers);
- On the way of responding to invitations to tender, for example by market sharing and by proposing artificially high prices for the markets which one wishes to leave to the competitors;
- On outputs (creation and reduction of capacities or commitment not to create any, commitment not to launch new innovations).

Information exchanges with your competitors:
you must refrain absolutely from any exchange of commercial or strategic information with any competitor. You will find hereafter a non-exhaustive list of sensitive information that should not be exchanged:

- Current, future or past prices, in particular, if the latter go back less than a year;
- Investment or innovation plans;
- Volume of activity and names of customers;
- Figures related to your costs;
- Output and stock levels;
- Current intentions regarding invitations to tender.

Only non-commercial information related to certain legal activities can be exchanged, for example, within the framework of a trade association and for any necessary matters approved by the legal department. It can happen that exchanges of commercial or strategic information with competitors can be both necessary and legal; however, these situations are completely exceptional (e.g. negotiation of a legal agreement, preparation of an acquisition or a business transfer) and these exchanges must then be limited to the essential elements and be framed; you must never take the initiative of engaging in such exchanges without having obtained the go-ahead from your colleagues in the legal department.

Prohibited vertical agreements:
these are agreements between two companies located at different levels of the value chain and having as its sole or principal object the elimination or decrease of competition. Two types of agreements must be absolutely avoided:

- any agreements between a supplier and one (or several) distributor(s), aiming at fixing resale prices to the final customer; and
- any agreements between a supplier and a distributor prohibiting the latter to supply a customer for the reason that he does not reside or does not have its registered office in a given area or country.

2 / Practices whose legal or illegal character depends on the specific circumstances

PLEASE CONSULT YOUR LAWYERS... ...
BEFORE ACTING!

These are agreements whose object is legal (for example, to organise a distribution network or to share the means of several competitors to carry out projects in a more economic way) but the circumstances of their implementation can affect competition. The legal analysis of these agreements (which generally takes the form of traditional contracts or correspondence) can be complex. These are situations that you are not required to deal with yourself: when these situations arise, you must contact your legal department to help you assess the situation.

Agreements between competitors:
all agreements between competitors, regardless of their object, are generally likely to raise concerns; this does not mean that they will necessarily be prohibited but they must certainly be subject to a preliminary analysis before signing. They include, for example, the following agreements:

- Joint production agreements;
- Industrial cooperation agreements (subcontracting agreements);
- Research and development agreements;
- Joint marketing agreements;
- Joint purchase agreements;
- Standardisation agreements;
- Technology transfer agreements;
- Coordinated responses to invitations to tender;
- Non-competition agreements related, for example, to technology transfers or the sale of certain activities.

Purchase and sale agreements between competitors:
such agreements are, in theory, legal. However, the choice of supplying or having been supplied, even in a non-reciprocal way, by a competitor, cannot be carried out routinely. Such agreements must be justified. Moreover, that should not be a means of collecting sensitive information, especially on the outputs of the competitors. Lastly, it should be noted that the competition authorities are hostile to reciprocal supply agreements between competitors. Those should therefore only be implemented after consultation with the legal department.

Vertical agreements:
the agreements between companies at different levels of the value chain (supplier/client, supplier/distributor) are much less dangerous from a competition law perspective, except those mentioned in point (1) above. In general, you should not seek legal advice unless they contain clauses which limit the commercial freedom of one or the other party vis-à-vis third parties. For example:

- any agreements which limit the freedom of the purchaser either to purchase from other producers, to canvass certain customers or to have an active marketing policy in certain areas or certain countries;
- any distribution agreements by which a producer guarantees to the distributor that it will not integrate other distributors within his network or will limit the access to the latter;
- any agreements which limit the freedom of a purchaser to supply to other customers or by whom the purchaser commits himself not to address other producers.

Abuse of dominant position:
certain behaviour may become illegal if the company implementing it holds a very strong position in the market, the so-called dominant position. It is important that you are conscious of the possible existence of a dominant position in relation to any of the business activities for which you carry out management responsibilities. This is a real risk since Saint-Gobain's market share might exceed 40% in certain markets.
You must alert the legal department if one of your products exceeds such a market share. Your legal department will then help you assess if the risk of a dominant position is realistic. Your attention is drawn to the fact that the "market" within the meaning of competition law comprises any products that can be substitutable between themselves but which are non-substitutable with others. It is important to note that within a broader range of products, some of them can constitute a market on its own. Since the risk of dominant position is identified, you must refrain from any competitor behaviours considered to be illegal such as:

- Tied sales of several products;
- Exclusive distribution obligations;
- Obligations of market shares or volumes imposed directly or indirectly (through a policy of ad hoc rebates) to your customers or distributors;
- Refusal to supply;
- Artificial commercial aggression against a new entrant or a small competitor (such as a targeted price reduction to dissuade it to enter the market or to make it disappear, a campaign calumny, pressures on its trade partners).

Generally, as soon as your legal department assures you of the risk of the existence of a dominant position, you are invited to review the relevant chapter of the on-line training on *Comply* and to draw up with your legal department the list of the problematic behaviours, which it would be advisable to refrain from, from then on.

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Dangerous situations

PLEASE, REFRAIN, IF NOT...
...PLEASE ATTEND A TRAINING SESSION, KEEP YOURSELF INFORMED!

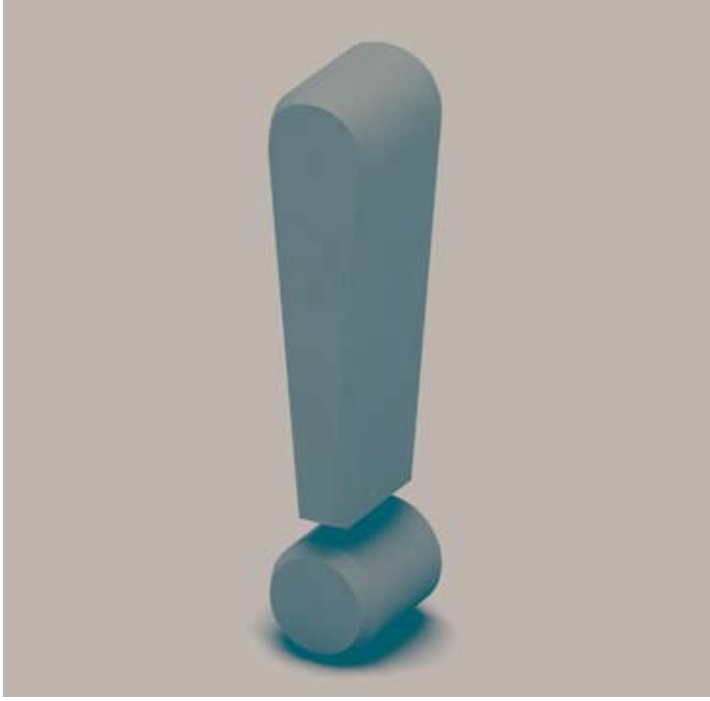
The situations discussed below are not illegal in themselves but may lead very easily to one of the infringements listed in section 3 above. These situations should thus be avoided as far as possible; when they are unavoidable, special precautions must be taken. You must be extremely cautious in the following situations:

Activities of trade associations:
trade associations gather together competitors; they present then serious risks. It is appropriate to ensure, on the one hand, that their activities do not lead to "practices that are absolutely prohibited" and, on the other hand, that they are carried out in circumstances which do not make them illegal. To this purpose, the following precautions must be taken:

- Please ensure that the trade association or the activity to which you are invited is worth-attending for Saint-Gobain and has its own internal policy to achieve compliance with competition law;
- If you take part for the first time in such activity, you must refer to the relevant chapter of *Comply* in order to remind yourself of the good practices to be followed in this situation;
- Please ensure that any meeting is subject to a pre-set agenda comprising only subjects other than "practices absolutely prohibited"; the meetings must also be the subject of a written report;
- If, in an unforeseeable way, the meeting leads to absolutely prohibited practices, you must require its interruption immediately, ensuring your request is duly noted in the official minutes of meeting. If the prohibited discussion continues, you must leave the meeting and report it to senior management;
- All the activities of a trade association and, in particular, the statistics, jointly undertaken research, any actions related to the commercial activities, the services rendered to the members could be in certain circumstances illegal. You must make sure that all these activities have been subject to a legal review by the trade association itself, otherwise, you should speak with your legal department.

Purchase and sale of goods between competitors:
within the framework of the discussions held regarding such agreements, only the prices of the products which are the object of the transaction and the applicable commercial conditions can be considered. Any contacts maintained within the framework of the purchase and sale agreements should in no event be used to exchange information on the prices offered to third parties, the costs, the outputs or other sensitive information about your competitors.

Informal meetings with competitors (dinners, cocktails, golf or hunting, etc.):
these meetings, which are either organised as such or take place as part of major events



(such as meetings of trade associations, fairs, conferences), are particularly dangerous since their contents cannot be ascertained in advance. As a general rule, you must refrain from attending and any exception must be validated by senior management. All practices absolutely prohibited must obviously be avoided and any failure by other competitors to follow this rule must prompt you to withdraw and inform senior management.

Any site visits organised outside any acquisition project:
they are in principle prohibited. Any derogation must be exceptional and must be validated by senior management. In any event, you must refrain from raising questions about sensitive information.

Unavoidable meetings with competitors:
these meetings may occur, for example, at the request of customers, especially when a customer gathers its suppliers to discuss its purchasing policy, or public administrations. You must treat them like meetings of trade associations and take care in particular that they are not the opportunity to carry out absolutely prohibited practices.

Merger or restructuring talks:
before any contact, even very preliminary, with a competitor within this framework, you must approach your legal department to understand the rules to be applied as regards to exchanges of information. Sensitive information as regards to competition law can be exchanged only at the ultimate stage of the process of an acquisition and exclusively among the members of a “clean TEAM”. These are individuals within the negotiation who do not carry out commercial functions and commit themselves to not transferring information to members who carry out commercial functions.

Discussions between a distributor and a supplier comprising any reference to agreed prices
(or the commercial conditions) to the final customer, even in the presence of the customer: any “triangular” negotiation of this type must be preceded by a validation by your legal department.

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Skills to be developed!

HOW TO ACT IN THE EVEN OF...

• Discovery or suspicion of any practice absolutely prohibited?
Please inform orally your legal department as soon as practicable and they will advise you.

• Discovery or suspicion of any on-going practice which could be illegal based on the specific circumstances?
Please consult your legal department.

• Unsolicited oral contact by a competitor to discuss a matter constituting a practice absolutely prohibited?
Please refuse to discuss and inform your senior management immediately, keeping a telephone note.

• Unsolicited electronic or hand-written contact by a competitor inviting you to engage in discussions constituting a practice absolutely prohibited?
Please respond that the matter cannot be discussed, inform senior management, and do not destroy the written email or piece of correspondence.

• Discovery that a trade association does not offer you the guarantees envisaged above?
Please do not take part in its activities as long as the problem is unresolved.

• Access to sensitive information related to a company which is not your direct competitor but which is a competitor of another subsidiary of the Saint-Gobain Group?
Please refrain from sharing these information with any employees of the Group involved in this competing business activity. Please discuss the matter with your legal department.

• A customer complaint about your possible engagement in discussions with a competitor?
Please inform immediately both your management and the legal department; please do not underestimate the size of the complaint; please indicate to the complainant that you do not think that the risk is real but that his or her complaint nevertheless will be seriously considered.

• Anticipated discussion with a competitor on a matter that may have legal implications?
Please do not approach, even informally, the competitor before having obtained the 'go-ahead' by your legal department.

• Discovery that an apparently well-established practice within the Group seems to be contrary to the principles of this guide?
Please do not deduce from the well-established character of the practice its legal character. Please discuss with management and your legal department.

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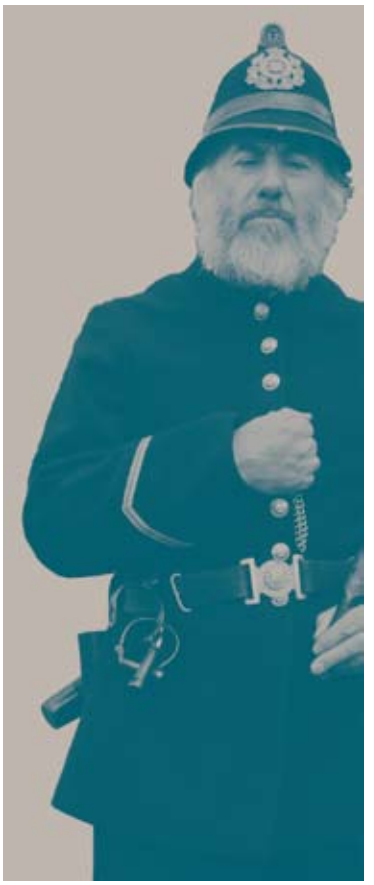
Sanction of any violation



FEAR OF PUNISHMENT IS THE BEGINNING OF WISDOM

Any violation of competition law can have serious implications both for companies and their employees. In most countries, companies condemned for such violations can be subject to administrative, civil and criminal sanctions, including, in particular, very high fines. Moreover, in certain countries like France, the United States and the United Kingdom, an employee who takes part in anti-competitive practices risks, on a purely personal basis, a fine and a prison sentence.

The two tables annexed to this guide should remind you of the sanctions that may be imposed in most countries where Saint Gobain is active.

1 / Fines against companies

In most jurisdictions national competition authorities have competence to impose heavy fines in the event of any violation of competition law. In Europe, these fines can amount to up to 10% of the worldwide turnover of the Group achieved in the preceding financial year. In the United States, fines higher than several hundred million dollars are not exceptional.

In France, the maximum amount of a fine imposed on a company is 10% of the highest turnover of the Group achieved in one of the financial years between the preceding financial year during which the anti-competitive practices were implemented and the financial year in which the sanction has been imposed.

In addition, it is important to note that when a company commits an identical infringement several times after the European Commission or a national competition authority condemns it, the amount of the fine can be weighed down, even doubled.

By way of illustration, the table below provides an indication of the amount of fines imposed by the European Commission in recent cases:

Matter	Fine amounts	Type of infringement
Cartel in the lift market • Thyssenkrupp • OTIS • Schindler • Kone	**€992,3 millions** **€479,7 millions** **€224,9 millions** **€143,7 millions** **€142,1 millions**	Market sharing and price fixing
Cartel in the vitamins market	**€855 millions**	Market sharing and price fixing
Microsoft	**€497,2 millions**	Abuse of dominant position: refusal to supply and tying
Cartel in the plasterboard market	**€478 millions**	Market sharing and price fixing
Cartel in the market of self-copying paper	**€313,7 millions**	Market sharing and price fixing
Lombard Club (banking cartel)	**€124,26 millions**	Price fixing
Agreement in the flat glass market • Asahi (Japan) • Guardian (USA) • Pilkington (UK) • Saint-Gobain (France)	**€486,9 millions** **€65 millions** **€148 millions** **€140 millions** **€133,9 millions**	Price fixing

2 / Compensation for damages

Any violation of competition law can lead to legal actions initiated by companies or private individuals who wish to claim damages. These civil proceedings are increasingly common. They can prove extremely expensive. The applicant can request from the court a decision ordering any anti-competitive practices to be put to an end, the imposition of damages and the payment of legal expenses.

In addition to the amount that the company is required to pay to comply with the terms of the judgement, the normal conduct of its commercial activities could be significantly disturbed given the time that its representatives must spend on preparing the defence. In addition, in the event of a lawsuit, the organisation of the defence will raise significant costs and will be subject to a lot of unfavourable publicity.

Lastly, in many countries, the prohibited agreements are void, in particular, under European, French and American laws. Consequently, the contracts concluded within the framework of anti-competitive agreements are void. That can involve serious practical difficulties. Indeed, Saint-Gobain would then be unable to implement certain clauses contained in these contracts whether or not they were regarded as anti-competitive.

3 / Individual criminal sanctions

If violations of competition law do not give rise to criminal sanctions under European Community law, countries like the United States, France and the United Kingdom sanction criminally such practices in certain cases.

For example, in the United States, the participation in a cartel is regarded as a crime (felony). A private individual found guilty of this crime may have to face up to ten years imprisonment and/or incur a fine of $1 000 000 or above, for each infringement.

In France, any individual having taken part “personally and in a determining way” in anti-competitive practices may be subject to up to four years imprisonment and a fine of €75 000.

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Conclusion

The object of this practical guide to competition compliance is to improve your understanding in this field and to encourage you to seek legal advice and identify possible infringements, every time you have a query about the legality of your own practices or the behaviour of other market players. We do not expect that you become experts on competition law, but we want to make you aware of the serious consequences, which a violation of competition law may have on the financial standing of Saint-Gobain, its reputation and the success of its future business activities, as well as, in certain cases, your personal situation.

Appendix

E.U. Countries

Countries	Sanctions against individuals		Sanctions against legal persons
	Prison	Fine	Administrative sanctions
Austria	3 years (specific offence for bid rigging)	Yes	10 % of turnover
Belgium	6 months (specific offence for bid rigging)	Yes	10 % of turnover
Czech Republic	2 years	Yes	10 % of turnover
Denmark	No	Fine without maximum amount	Unlimited sanction
Estonia	3 years	From 30 to 300 times the daily average wage	From €3 200 to €16 million
Finland	6 months	Yes	10 % of turnover
France	4 years	€75 000	10 % of turnover
Germany	5 years (specific offence for bid rigging)	Yes	€1 million or 10 % of turnover
Hungary	5 years	No	10 % of turnover
Ireland	5 years	€4 million	€4 million or 10 % of turnover
Italy	2 years (specific offence for bid rigging)	From €103 to €1 032	10 % of turnover

E.U. Countries

Countries	Sanctions against individuals		Sanctions against legal persons
	Prison	Fine	Administrative sanctions
Luxembourg	No	No	10 % of turnover
Netherland	Draft legislation	Up to €450 000	€450 000 or 10 % of turnover
Poland	3 years (specific offence for bid rigging)	Up to 50 times the monthly salary	10 % of turnover
Portugal	No	Yes	10 % of turnover
Romania	6 months to 4 years	Yes	10 % of turnover
Slovakia	3 years	Yes	10 % of turnover
Slovenia	No	From €4 100 to €12 500	€ 375 000
Spain	No	€60 000	10 % of turnover
Sweden	No	5 million kronor (€560 000)	10 % of turnover
United Kingdom	6 months to 5 years	Unlimited fine	10 % of turnover

Source: Getting The Deal Through, Cartel Regulation 2008; Concurrences Institute of Competition Law and National Competition Laws

Non E.U. Countries

Countries	Sanctions against individuals		Sanctions against legal persons
	Prison	Fine	Administrative sanctions
Argentina	No	No	10 to 150 million pesos (approximately 2 to €30 million)
Australia	5 years (draft legislation)	A$220 000 (approximately €130 000)	A$10 million (approximately €6 million), or three times the value of the benefits attributable to the infringement or 10 % of turnover
Brazil	2-5 years	Yes	1 to 30 % of turnover
Canada	5 years	C$10 million (€6,3 million)	C$10 million (€6,3 million)
Chile	No	20 000 UTA (€ 9 million)	20 000 UTA (€9 million)
China	3 years	100 million yuan (approximately €9,2 million)	10 % of turnover
India	3 years	No	10 % of turnover
Japan	3 years	¥5 million (€50 000)	10 % of turnover for manufacturers, 3 % for retailers, 2 % for wholesalers
Mexico	No	7 500 times the monthly minimum wage	225 to 375 times the monthly minimum wage
Norway	3 to 6 years	Yes	10 % of turnover

Non E.U. Countries

Countries	Sanctions against individuals		Sanctions against legal persons
	Prison	Fine	Administrative sanctions
New Zealand	Draft legislation	NZ$500 000 (approximately €250 000)	NZ$10 million (approximately €5,1 million) or three time the gain derived from the infringement or 10 % of group turnover
Peru	No	Yes	10 % of turnover
Russia	No	Yes	4 % of turnover
Singapore	1 year	SG$10 000 (€4 700)	10 % of turnover
South Africa	No	No	10 % of turnover
South Korea	3 years	200 million won (approximately €130 000)	10 % of turnover
Switzerland	No	No	10 % of aggregated turnover during the last three financial years in Switzerland
Taiwan	3 years	100 million Taiwan dollars (€2,1 million)	100 million Taiwan dollars (€2,1 million)
Turkey	2 years	10 % of the fine imposed on the undertaking	10 % of turnover (no less than 7 358 Turkish liras - approximately €4 000)
United-States	10 years	$1 million (€650 000), or twice the total gain to the individual; or twice the total loss to the victims	$100 million (€65 million), or twice the total gain of the conspirators; or twice the total loss of the victims
Venezuela	No	No	Between 10 % and 40 % of turnover

Source: Getting The Deal Through, Cartel Regulation 2008; Concurrences Institute of Competition Law and National Competition Laws

SAINT-GOBAIN

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