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Information Sharing in Competition Policy – Summaries of Contributions

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Argentina

The exchange of information between competitors is one of the most complex and ambivalent challenges in contemporary competition law. Whilst such practices may generate efficiencies and reduce market asymmetries, they carry the inherent risk of becoming instruments of anti-competitive coordination. Particularly in highly concentrated markets, the circulation of data has the potential to dispel strategic uncertainty, facilitating the alignment of behaviour and the crystallisation of tacit or explicit collusion.

The purpose of this paper is to examine the legal and technical treatment that the Argentine competition law system applies to this phenomenon, analysing the balance between information transparency and the preservation of commercial independence.

Thus, the following sections are addressed: firstly, the current regulatory framework under Act No. 27.442 on the Defence of Competition (LDC, for its acronym in Spanish) is described, which classifies the exchange of information as an autonomous conduct. Secondly, this work analyses the authority's decision-making practice through the study of a case involving a wheat flour cartel, which was sanctioned in 2022. The third section details certain specific recommendations relating to the exchange of information within business chambers and professional associations, as set out in the *Guidelines on Competition Policy for Business Chambers and Associations and Professional Bodies and Associations*, drawn up and published by the former National Commission for the Defence of Competition in 2018. Fourthly, a pro-competitive recommendation issued by the competition authority in the context of a cement market investigation is described, which draws on the guidance recommendations for Chambers and Associations. The final section concludes with considerations on how Argentina's competition policy balances enforcement actions and competition promotion policies regarding the exchange of information between competitors

Austria

The exchange of information between competitors may under certain circumstance be allowed under Austrian competition law. As the note will explain, the legality of information sharing strongly depends on which type of information is exchanged and for which purpose.

As a general rule, § 1 of the Austrian Cartel Act and its equivalent Article 101 TFEU prohibit the exchange of competitively sensitive information and where the exchange is intended to influence market behaviour of competing undertakings (Section 2). In such cases coordinated behaviour is assumed which may have as its object or effect the prevention, restriction, or distortion of competition. The assumption is that companies will use the information they receive to adjust their behaviour accordingly. This is, however, not assumed when the information shared concerns publicly available information and where exchange takes place within a Single Economic Unit (Section 3).

Austrian law furthermore offers several exceptions to agreements among competitors which also includes to a certain degree the exchange of information.

- The general exemption clause set out in § 2 of the Austrian Cartel Act, provided that the exemption criteria are met (equivalent to Art 101 (3) TFEU).
- Sustainability Cooperations which have been introduced in 2021 pursuant to § 2(1), last sentence of the Austrian Cartel Act.

Other types of situations which do not fall under exemptions necessitate evaluations on a case-by-case basis Section 4). Critical factors are market structure, the degree of market concentration, the nature, content, and timeliness of the information. The Austrian Cartel Court has for instance fined bidders, where the exchange of information among competitors in a bidding consortium went beyond what was necessary for a joint project. Collusion between bidders is moreover also relevant under Austrian criminal law.

As is highlighted in the note, market observations where competitors observe each other's market behaviour, e.g. transparent pricing in the fuel station market, is generally not covered by competition law. Furthermore, whether an information exchange is anti-competitive depends on the nature of the data. Generally, there is little concern when the information is public, historical, or sufficiently aggregated.

The AFCA engages in different forms of advocacy measures to educate market participants about possible consequences of exchanging competitively sensitive data (Section 6). The newly established Cartel Screening Unit aims to detect potentially anti-competitive behaviour of firms in the future Section 6.1).

BIAC

This paper examines the evolving role of information exchanges in competition policy from the perspective of the BIAC. It argues that information sharing is an essential and often pro-competitive feature of modern markets, enabling firms to improve efficiency, innovation, forecasting, and risk management. At the same time, businesses must safeguard against improper exchanges between competitors that reduce strategic uncertainty and facilitate coordination.

The paper analyses how digitalisation, AI, and algorithmic pricing tools have fundamentally transformed the scale, speed, and complexity of information flows. It highlights the growing challenges businesses face in navigating information exchange risks, particularly as the regulatory landscape - in which there is increasing scrutiny of standalone and indirect information exchanges, algorithmic coordination, and reduced reliance on clear "safe harbours" - has introduced greater uncertainty for businesses. In this context, BIAC notes that firms cannot treat compliance as a narrow checklist exercise; instead, they must adopt ecosystem-wide risk management that accounts for the full range of channels through which information may travel. Proactive governance, including integrated compliance frameworks, monitoring of digital and platform interactions, and contextual analysis of how data use and sharing affect competitive incentives, has become a structural necessity in technology-mediated markets lacking clear safe harbours.

However, the paper emphasises that it is not reasonable to expect businesses to achieve these outcomes without adequate regulatory guidance. Absent such guidance, there is a material risk of inefficient market outcomes and unnecessary violations, even by well-intentioned companies.

To address these concerns, the paper advocates for a context-sensitive, effects-based approach to enforcement, reserving "by object" or per se treatment for clearly harmful conduct while recognising the significant efficiency benefits that many information exchanges generate. It underscores the importance of legal certainty, practical guidance, and workable safe harbours to allow businesses to structure compliant collaborations without unduly chilling legitimate and welfare-enhancing cooperation.

Brazil

In March 2026, CADE held a public consultation about the draft of the Guidelines for Competitors' Cooperation, as a result of the increased number of investigations on the exchange of competitively sensitive information. The document aims at setting clear parameters for the review of this conduct, reinforcing transparency, predictability, and legal certainty.

The initiative meets the needs of the antitrust community to properly distinguish legal and illegal practices in the exchange of competitively sensitive information in particular contexts, where there might be both efficiencies and benefits to consumers. In Brazil, the information exchange may be investigated as a standalone infringement, even though it is historically regarded as an instrument of horizontal agreements.

CADE is aware that the exchange of sensitive information may reduce competitive uncertainty and facilitate coordination between competitors, resulting in cartel-like effects. Since 2016, the Office of the Superintendent General (SG) has investigated practices mainly characterised by this infringement, analysing (1) the nature of the information exchange, (2) the strategies, and (3) the characteristics of the affected market.

In general, the investigations indicate information that is granular, non-public, individualised, accurate, and related to key competitive variables, repeatedly exchanged, monitored, and institutionalised in more transparent, concentrated, and homogeneous markets. However, this is illustrative, so it is essential to demand assessments of context and effective use of information in the companies' decision-making.

Despite the ongoing investigations, the Tribunal of CADE has not reviewed cases of standalone infringement of exchange of information yet. These cases have been regarded as infringements by object and the SG has made the analyses under the per se rule, approach that is still to be assessed by the Tribunal.

There are records of the sectorial unions and consultants' participations as facilitators in the exchanges, albeit such participations are not conclusive. The increasing use of technology, algorithms, and artificial intelligence tools tends to intensify competition risks, by enhancing the sensitivity of the information exchanged, while institutionalising and automating the practice.

In addition, these technologies challenge the investigative practices, demanding adaptations in the standard of proof, with focus on system architecture, algorithms, and data repositories. Simultaneously, the companies must adopt compliance-by-design mechanisms to mitigate competition risks.

Finally, CADE highlights that, as a result of initial in-person interactions, the exchange of information may often occur remotely. The authority has built its body of evidence based on collaborators' reports, internal communications, documents, spreadsheets, and digital platforms used as data repositories.

Chile

This contribution examines Chile's legal framework, enforcement practice, and policy approach to information sharing under competition law, with particular attention to the circumstances in which exchanges of commercially sensitive information between competitors may raise competition concerns. It begins by setting out the legal and analytical framework (Section I), followed by a review of a selection of relevant enforcement experience and case law (Section II). It then addresses trade associations and other organised mechanisms for information sharing (Section III), before turning to information-sharing risks in merger control, common ownership, and shared infrastructure (Section IV). The contribution also considers pro-competitive transparency (Section V) and advocacy practice and emerging challenges (Section VI), to finally conclude in Section VII.

Colombia

In this contribution, the Superintendency of Industry and Commerce will explain how it has investigated, and in some cases sanctioned, the exchange of sensitive information as a practice that restricts free economic competition. While there is no universally accepted approach to such cases, the Superintendency has developed guidelines based on its experience of anti-competitive investigations.

The article addresses three main topics. Firstly, it explores how the exchange of sensitive information can be investigated in line with the current legal definitions of conduct. Currently, Colombian competition law does not expressly prohibit such exchanges. Nevertheless, cases have been initiated and sanctions imposed by applying the general prohibition of competition law, which prohibits any practice, system or procedure that restricts free competition.

The second topic is an analysis of four cases in which the Superintendency examined the exchange of sensitive information. These cases demonstrate four distinct approaches to addressing such behavior. The first approach treats the exchange of sensitive information as ancillary to price-fixing agreements, given that competitors may exchange information such as discount strategies and pricing policies in order to set prices. The second case analyzed the conduct as autonomous, determining that the exchange of information restricted free competition. The Superintendency concluded the third case, determining that not all information exchanges have the potential to restrict competition, and therefore closed the investigation. In the final case, the Superintendency issued orders requiring the parties to cease exchanging sensitive information.

Finally, the Superintendency analyses scenarios in which information is exchanged through associations and trade groups. This section outlines the relevant guidelines.

Croatia

This paper is Croatia's written contribution to the Competition Committee roundtable on *Information Sharing in Competition Policy*, to be held in June 2026.

The contribution sets out the Croatian Competition Agency's approach to information exchange under competition law, with particular emphasis on the role of trade associations.

It explains that exchanges of competitively sensitive information, notably concerning future pricing intentions or commercial strategy, may restrict competition even in the absence of an explicit agreement.

The paper also describes the Agency's guidance to beekeeping associations, emphasising that associations and their members must determine their market conduct independently and refrain from sharing confidential market information.

Finally, it refers to selection of three Croatian cases that illustrate these concerns: the 2015 *Marinas* case, in which fines were imposed for collusive information exchange, the 2023 commitment case and the ongoing telecommunications proceedings concerning the alleged coordination of inflation-linked pricing clauses through a trade association.

European Union

EU antitrust law on information sharing between competitors continues to evolve to take account of market and technological changes, not least the digitalisation of the economy.

The Commission's policy towards information exchange is set out in its Guidelines on Horizontal Cooperation Agreements, which were revised in 2023. Those Guidelines provides a broad definition of information, encompassing all possible formats, including paper and digital records, and raw, pre-processed and processed data. The Guidelines also present the ways in which information exchange between actual or potential competitors can harm competition, notably by facilitating collusion and foreclosing third-party competitors.

The Court of Justice of the European Union has held that information exchange between competitors can constitute a standalone infringement of Article 101 TFEU. This is the case where the exchange is capable of removing or reducing uncertainty regarding the future conduct of competitors on the market. To assess exchanges of information, the Commission examines: (i) the nature of the information exchanged, including whether the information is commercially sensitive, whether it is individualised or aggregated, and the age of the information; (ii) the characteristics of the exchange, including whether it is private or public or private, direct or indirect, and its frequency, and (iii) the characteristics of the affected market(s), including the level of transparency, market concentration, the existence of barriers to entry, whether the products concerned are homogenous, whether the undertakings involved are similar, and whether conditions of supply and demand are stable.

Information exchange can qualify as a restriction of competition 'by object' or 'by effect'. Distinct legal tests and evidentiary requirements apply to each of these categories. An information exchange that restricts competition by object or effect may nonetheless comply with Article 101 TFEU if the parties can demonstrate that the exchange generates efficiencies that meet the conditions of the Article 101(3) exception. Examples of such efficiencies include the sharing of information to enable undertakings to benchmark their performance against industry best practice; the provision of information to customers and consumers to enable them to make better purchasing decisions, and the pooling of data to enable producers to create new products or to increase industry knowledge about consumer credit risks.

Finland

The Finnish contribution deals with experiences from national cases where information exchange (a) has been found to be in breach of the competition rules and (b) has taken place in connection with the activities of a trade association. Cases consist particularly of recommendations published by a trade association to its members. The Supreme Administrative Court in Finland has confirmed main principle being that each undertaking determines independently its economic conduct in markets. According to the Court, a recommendation of a trade association, with the aim to coordinate market conduct of its members in accordance with the recommendation, violates the Finnish competition legislation.

France

While exchanges of information between undertakings may, in certain situations, improve economic efficiency by reducing information asymmetries, for example by informing operators about the state of demand or by increasing the efficiency of their production, they may also distort competition by leading to a risk of reduced competitive intensity. This is the case, for example, when competitors communicate with one another about the commercial policies they intend to pursue.

Exchanges of information are therefore capable of being apprehended from the point of view of the prohibition of anticompetitive agreements laid down in Article 101(1) of the Treaty on the Functioning of the European Union (hereinafter the 'TFEU') and, in national law, in Article L. 420-1 of the French Commercial Code.

Depending on their characteristics and the legal and economic context of which they form part, they may be classified as restrictions of competition by object or must be assessed in the light of their effects, with the Autorité de la concurrence (hereinafter 'the Autorité') then having to demonstrate their actual or potential anticompetitive scope. The analysis benefits from the guidance provided by the European Commission's Guidelines on the applicability of Article 101 of the TFEU to horizontal co-operation agreements [1] (hereinafter the 'Guidelines'), which concretely illustrate the '"gradual" approach to be applied to exchanges of information.

Examples of infringements by object are exchanges of information between competitors on current and future pricing, current and future production capacity, or future product characteristics relevant to consumers[2]. In the case of an exchange of commercially sensitive information whose content, objectives and the economic and legal context of which it forms part do not present a sufficient degree of harm to competition to be classified as infringements by object, the Guidelines and the case-law call for an analysis of the nature of the information exchanged and the characteristics of the exchanges and of the market concerned[3].

The Guidelines also specify that the prohibition laid down in Article 101(1) TFEU applies to exchanges of '*commercially sensitive*' information that may influence the commercial strategy of the competitors[4]. In addition to information on prices, costs, capacity, production or customers[5], other types of information may, depending on the context, be assessed as commercially sensitive. Exchanges of information relating to the staff mobility and mobility plans of two competing undertakings thus served as a support for an anticompetitive no-poach agreement sanctioned by the Autorité in a decision of 11 June 2025[6].

[1] Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements, OJ C 259, 21.7.2023.

[2] Paragraph 414 of the Guidelines.

[3] Paragraph 424 of the Guidelines. See also the judgment of the Court of Justice of 29 July 2024, *Banco BPN/BIC Português SA v Autoridade da Concorrência*, paragraphs 52 to 65, C-298/22.

[4] Paragraph 384 of the Guidelines.

[5] Paragraph 385 of the Guidelines.

[6] Decision No 25-D-03 regarding no-poach practices in the engineering, technology consulting and IT services sectors. This decision is currently under appeal before the Paris Court of Appeal.

This example illustrates the need for the Autorité to follow a case-by-case analysis, based on the data specific to each information exchange practice, as does the European Commission.

That analysis *in concreto* involves assessing each practice in all its dimensions, in particular its material dimension, since exchanges of information may take various forms (1), and the contextual dimension, since the economic and legal context of the exchanges makes it possible to distinguish an established cartel from legitimate cooperation (2).

Greece

Information sharing among competitors occupies a central place in contemporary competition law enforcement. While information sharing may generate significant efficiencies by reducing information asymmetries, improving market transparency and facilitating legitimate commercial cooperation, it may also reduce strategic uncertainty and facilitate collusive outcomes. The assessment of information exchanges therefore requires careful balancing of potential pro-competitive benefits against the risk of coordination.[7]

This Note examines how that balance is struck under the Greek regime, aligning it with established EU competition law principles and the European Commission's revised Horizontal Guidelines (2023)[8], having due regard to pertinent EU case law. The analysis proceeds against the background of an enforcement practice that has grown steadily more sophisticated. The Hellenic Competition Commission ("HCC") has come to address information-sharing concerns along two principal fronts, the first concerning exchanges that themselves constitute or sustain concerted practices, and the second addressing exchanges that operate as facilitating mechanisms within broader cartel arrangements, a pattern recurring often in public procurement markets. What unites these otherwise distinct cases is a single analytical thread: whether the exchange reduces uncertainty as to competitors' future conduct and thereby enables or entrenches coordination.

The Note then turns into the introduction of Article 1A of Law 3959/2011 in 2022 accompanied by Guidelines on its application subsequently adopted in 2023, which prohibits invitations to collude and price signalling. The provision enables the HCC to intervene before coordination crystallises into a cartel or concerted practice, capturing unilateral communications capable of reducing strategic uncertainty, even where no agreement or reciprocal exchange can be established. The Note also examines the provision of Art. 37A of the Greek Competition Act, also introduced in 2022, which essentially provides a safe harbor for cooperation agreements in the sense of issuance of a no - action letter on public interest grounds.

The Note further considers the conditions under which information exchanges are unlikely to raise competition concerns — notably where information is genuinely public, historical, aggregated and anonymised — and examines the growing challenges posed by digitalisation, algorithmic pricing and artificial intelligence, which are expected to intensify the significance of information-sharing issues, requiring authorities to scrutinise the indirect information flows occurring through automated systems and common platforms.

[7] OECD (2026), Information Sharing in Competition Policy, Background Note by the Secretariat, DAF/COMP(2026)2, OECD Competition Committee, Paris, https://www.oecd.org/content/dam/oecd/en/publications/reports/2026/06/information-sharing-in-competition-policy_7b14e98f/ecbf13e9-en.pdf .

[8] Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements, C (2023) 3445 final, https://competition-policy.ec.europa.eu/system/files/2023-07/2023_revised_horizontal_guidelines_en.pdf

Hungary

In the practice of the Hungarian Competition Authority (Gazdasági Versenyhivatal – GVH) so far, there have been different cases regarding horizontal information exchange. While this paper gives answers to theoretic questions, like calculating fines in cases when trade associations are involved, or what type of behaviour can be considered as an unlawful information exchange, we would also like to provide a more thorough insight into the details of one specific case, the BankAdat Database Case. The BankAdat database (hereinafter referred to as Database) enabled its members – 38 banks/financial institutions – to share strategic data and confidential information with each other, such as data regarding the market and market processes, their competitors' performance and business strategies, as well as precise information relating to quantities, costs, demand, profit.

The Competition Council established that the information exchange affected numerous dimensions of competition, as it led to an extensive individual data sharing. In the mid-2010s, the GVH was cautious when identifying horizontal restrictions as a restriction of competition by object. Thus, also in this case, the GVH determined the exchange of information as a restriction of competition by effect. Even though the GVH provided an assessment of the information exchange that took place in accordance with the Horizontal Guidelines, the decision was set aside and the proceedings were terminated by the Court of Appeal. The Supreme Court also upheld this decision, as they claimed that the potential effects of the information exchange should have been assessed on a case-by-case basis within the framework of a counterfactual analysis.

This outcome can serve as a reminder of how important it is for competition authorities to successfully identify whether a restriction on competition should be considered as a restriction by object or a restriction by effect. This first step is vital in order to treat these cases differently when assessing them and successfully proving them as required by the requisite legal standard.

We would also like to show a parallel between the BankAdat Database Case and a comparable Portuguese banking information case in which the Court of Justice of the European Union (hereinafter referred to as CJEU) delivered a preliminary ruling (C-298/22.). Even though the nature of the shared information in the two cases was similar, the cases themselves were handled differently, as the BankAdat case was based on a potential effects-based approach, whereas the Portuguese Competition Authority considered the exchange as a restriction by object, a characterisation that the CJEU agreed with. The Portuguese case therefore underlines the argument that sharing strategic data and confidential information between banks through a database can be treated as a by object infringement.

Indonesia

Information exchange in Indonesian competition law is treated as a complex issue that can either enhance market efficiency or facilitate anti-competitive coordination, and while Law No. 5 of 1999 does not regulate it as a standalone infringement, the Indonesia Competition Commission (KPPU) assesses it through provisions on anti-competitive agreements and indirect evidence, particularly in oligopolistic markets where sharing strategic, recent, and individual data among direct competitors can reduce market uncertainty and constitute concerted practices. The KPPU has increasingly focused on such conduct in cartel and bid-rigging cases, especially when it occurs through trade associations, and applies an effects-based approach to determine whether it harms competition, while generally accepting historical, aggregated, and anonymized data as permissible. With the rise of algorithms, AI, and digital platforms, new challenges arise around algorithmic collusion and public signaling, requiring the KPPU to develop digital forensic and economic modeling capacities. Moving forward, Indonesia needs clearer guidelines on safe harbors, association governance, algorithmic conduct, and digital evidence, as well as stronger institutional capacity to ensure competition law remains effective in the digital economy.

Italy

Although there is a broad consensus in competition law and policy that the exchange of information between competitors may breach antitrust rules and ultimately harm consumers, the competitive assessment remains inherently context-specific.

Competition authorities and courts consistently view the exchange of specific information regarding future pricing intentions or future commercial strategies as one of the most problematic forms of coordination. This is because such practices may facilitate the alignment of market conduct, thereby weakening the independent decision-making that lies at the core of competitive markets. This view is also reflected in legislation and extensive literature on the subject, including the work carried out by the Organisation for Economic Co-operation and Development.

However, it is equally well established that not every contact or exchange of information between competitors raises competition concerns. Undertakings frequently have legitimate and pro-competitive reasons to interact with one another, for example in trade associations, standard-setting initiatives, regulatory consultations, and broader industry discussions. Similarly, firms may need to communicate certain commercial decisions to investors, distributors, customers, or the market in general, including via public announcements or specialised trade publications. Such exchanges often enhance transparency, reduce transaction costs, improve planning, and generate efficiencies that benefit market participants and consumers alike.

Against this background, it is particularly important to identify the parameters that distinguish legitimate and economically beneficial exchanges of information from practices that reduce strategic uncertainty and facilitate coordination among competitors. This assessment usually involves carefully examining multiple factors, such as the nature and strategic value of the information exchanged, whether it concerns past, current, or future conduct, how aggregated and public the data is, how frequently the exchanges occur, and the structural characteristics of the relevant market.

This contribution focuses on the enforcement experience of the Italian Competition Authority (hereinafter "AGCM") in two contexts where these issues commonly arise: trade associations and public price announcements, often disseminated through specialised publications.

This document is structured as follows. Section 2 provides an overview of the AGCM's decisional practice concerning information sharing in the context of trade associations; it distinguishes between cases in which associations have been held liable for actively organising, implementing, or otherwise facilitating the exchange of sensitive information among competitors, and cases in which they have not played a determining role in implementing a restrictive agreement, or merely provided the organisational framework within which an unlawful information exchange occurred. Section 3 examines emerging forms of information sharing, such as public price announcements, and the new challenges they may pose to antitrust enforcement. Section 4 presents some conclusions.

Japan

The Antimonopoly Act (AMA) prohibits private monopolization, unreasonable restraints of trade, and unfair trade practices by enterprises. At the same time, it prohibits trade associations that are combinations of enterprises or federations of combinations of enterprises from engaging in conduct that restrains or impedes competition. The purpose of the AMA is to promote fair and free competition by eliminating such violations when they take place.

Regarding information exchange among enterprises, if those enterprises formulate an agreement concerning restriction of competition with respect to such matters as price, quantity, customers, sales channels, or facilities, and they substantially restrain competition in a market, their conduct shall constitute a violation of Article 3 of the AMA.

Moreover, if a trade association collects from or offers to constituent enterprises information comprised of important and specific competition-related factors (e.g., pricing), or promotes the exchange of such information among them, such information activities, depending on the content and other elements thereof, might lead to or accompany conduct that restrains competition, and might pose a problem in light of the AMA(Article 8).

The Japan Fair Trade Commission (JFTC) takes strict actions against serious anti-competitive conduct, including price cartel or bid rigging, arising from such information exchange.

However, there are many types of information exchanges among enterprises or activities of trade associations that do not necessarily pose particular problems in light of the AMA. These include information activities through which trade associations collect and offer various kinds of information concerning their field.

In its administration of the AMA, the JFTC has published various guidelines to clarify what types of conduct, including information exchange among enterprises and trade associations (hereinafter collectively referred to as “enterprises, etc.”), pose problems under the AMA. This is intended to prevent violations and assist the appropriate business activities of enterprises, etc. Furthermore, the JFTC has responded to individual consultations regarding specific conduct that enterprises, etc. plan to undertake on their own.

In addition, from the perspective of supporting the efforts of enterprises, etc. regarding AMA compliance, the JFTC has compiled and published reports to identify current issues and challenges, as well as to present various measures for further improvement. These reports are based on the JFTC’s grasp and analysis of the status of such compliance efforts, conducted through questionnaires and interviews. The JFTC has also developed a guide that outlines best practices to serve as a reference for individual enterprises in establishing and operating effective AMA compliance programs (published in December 2023 and revised in June 2025).

This contribution paper introduces the JFTC initiatives related to information exchange among enterprises or that of trade associations, in addition to presenting a recent enforcement case of the AMA concerning information exchange among enterprises.

Korea

Traditional forms of unlawful concerted conduct typically involved outwardly identifiable arrangements, such as agreements on prices or output levels. However, as competition authorities strengthened monitoring and enforcement, businesses increasingly sought to avoid such overt collusion and instead adopted more covert and sophisticated means of restricting competition. One of the most representative methods is the exchange of information among competitors.

Information exchanges can substantially restrict competition by eliminating uncertainty arising from competition, even in the absence of explicit agreements on prices or other competitive factors. In particular, businesses can anticipate competitors' responses by obtaining advance knowledge of key information such as competitors' prices, which increases the likelihood of avoiding price competition. Against this backdrop, the Korea Fair Trade Commission explicitly introduced information exchanges as an independent category of prohibited conduct through the 2020 comprehensive amendment to the MRFTA. In addition, the KFTC established review guidelines setting out specific assessment criteria in order to enhance predictability for businesses and improve the effectiveness of regulation.

The first case in which the regulation was applied was the Loan-to-Value ("LTV") information-exchange cartel case involving four major commercial banks. LTV ratios are a key factor in determining mortgage limits and directly or indirectly affect various aspects of lending, including interest rates and loan services. Accordingly, they constitute transaction terms applied between banks and borrowers and therefore qualify as competitively sensitive information. The banks reached a mutual understanding to exchange competitively sensitive information among themselves, thereby establishing an information-exchange agreement. Using information received from other banks, each bank adjusted its own LTV ratios so that they did not significantly deviate from the average level of other banks. As a result, anticompetitive effects arose, including the undermining of the competitive process and the reduction of competitive pressure.

Following a thorough investigation, the KFTC imposed cease-and-desist orders together with fines totaling approximately KRW 270 billion. Going forward, the KFTC plans to continue pursuing strict enforcement against information exchanges while also providing clear guidance, within a scope that does not unduly hinder legitimate business activities or innovation, in order to enhance market transparency and restore the competitive order.

Norway

In August 2024, the Norwegian Competition Authority (hereafter the "NCA" or the "authority") issued a decision to the three largest grocery chains in Norway. In its decision, the NCA concluded that the parties had cooperated from 2011 to 2018 to give mutual access to collect extensive amounts of prices in each other's grocery stores. The NCA found that the agreement between the parties violated section 10 of the Norwegian Competition Act, as well as article 53 of the EEA Agreement, both of which correspond to TFEU article 101.

The decision included cease and desist orders to the three grocery chains, as well as fines totaling around 450 million Euros.[9] All three parties appealed the decision to the Norwegian Competition Appeals Tribunal (the "CAT" or the "tribunal"). The CAT processed the case with an enhanced tribunal of five (rather than three) tribunal members, including three lawyers and two economists. The tribunal's decision was issued in August 2025, unanimously upholding the NCA's decision.

This contribution briefly describes the case and the conclusions in the decisions from the NCA and the CAT, with emphasis on the economics of the case. The decisions from the NCA and the CAT are both comprehensive, and this contribution is a brief overview of some central issues. The precise wording of the premises and conclusions can be found in the decisions.[10] All three parties have brought the CAT's decision before judicial review, and the case is due to be reviewed by the Court of Appeals this fall.

This contribution proceeds as follows: A brief overview of the Norwegian grocery market and other relevant factual background is followed by a description of the agreement, as well as brief comments on the legal characterization of that agreement. An account of the analysis of anti-competitive effects is the main part of the contribution. Finally, the conclusions on fines and the orders to terminate the infringement are briefly presented.

[9] Exchange rate as of early May 2026.

[10] The full NCA decision (in Norwegian) can be found here: https://konkurransetilsynet.no/wp-content/uploads/2025/02/V2024-4-Offentlig-versjon-Coop-Norge-SA-Norgesgruppen-ASA-Rema-1000-AS-%E2%80%93-palegg-om-opphor-av-overtredelse-.pdf

The full CAT decision (also in Norwegian) can be found here: https://www.klagenemndssekretariatet.no/wp-content/uploads/2025/03/2025_0504-62-Offentlig-versjon-av-Konkurranseklagenemndas-vedtak-V02-2025-1056550_2_1.pdf

Paraguay

This paper presents Paraguay's experience in addressing competition concerns related to information sharing among competitors, focusing on the role of CONACOM in both advocacy and enforcement. It highlights the issuance of guidelines aimed at preventing anticompetitive exchanges of sensitive information within business associations, as well as enforcement actions against trade groups in the petroleum sector for issuing collective price recommendations. These practices were deemed inherently anticompetitive regardless of their market effects, leading to the imposition of corrective measures rather than fines, given the non-profit nature of the associations. The case underscores the importance of clear guidance, monitoring, and remedial actions to safeguard competitive processes and prevent coordination among competitors.

Philippines

Information sharing is not explicitly penalized under the Philippine Competition Act (PCA). It falls under the law's broader prohibitions against anti-competitive agreements and conduct. Under the law, information sharing is technically not a stand-alone infringement. It must be linked to an anti-competitive *agreement* penalized in Section 14 of the PCA.

The PCA also recognizes the role of trade organizations as both promoters of productivity and potential instruments of illegal business practices. It emphasizes that trade associations must not be used as conduits for anti-competitive conduct.

The PCC has handled several matters concerning the exchange of sensitive information. In one case, a trade association was found to have breached the PCA's prohibition on anti-competitive agreements. The Commission imposed a fine on the association which significantly exceeded those imposed on its individual members, citing its role as a facilitator of the price-fixing scheme. In another instance, the investigation uncovered that competitors were exchanging sensitive commercial data even in the absence of a formal trade association.

In these cases, the Commission considered the following as evidence of information sharing: written price agreements, e-mail communications, incident reports received by trade associations, minutes of the meetings, documentary logs and proofs of Zoom calls, and messages in digital platforms.

Despite its prevalence, information sharing, directly or via associations or third parties, remains under heavy scrutiny as authorities, including the PCC, work to define the boundary between routine data sharing and illegal collusion.

Romania

Romania's recent enforcement practice shows that information sharing may raise competition concerns in several configurations: exchanges organised through trade associations, indirect exchanges through customers or other intermediaries, and reporting or benchmarking systems that increase transparency between competitors. The Romanian Competition Council (RCC) assesses these practices primarily through the concept of concerted practice under Article 5(1) of Competition Law No. 21/1996 and, where trade between Member States may be affected, Article 101(1) TFEU.

Romania does not apply a *per se* standard. However, exchanges of non-public, strategic and forward-looking information, particularly information concerning prices, pricing intentions, discounts, volumes or commercial strategy, may be qualified as restrictions by object where they are capable, by their nature and context, of reducing strategic uncertainty between competitors. Recent practice also shows that information exchange may be analysed either as the core infringement, as in the cement case, or as the organisational and monitoring mechanism of a broader cartel arrangement, as in ACODAREN case.

Trade associations are a recurring risk vector in Romanian enforcement. The RCC's 2021 *Guidelines on Compliance with Competition Rules by Associations of Undertakings* recognise the legitimate functions of associations, including advocacy, training, standard-setting and aggregated market statistics, but emphasise that associations must not become fora for exchanges of commercially sensitive information. The guidance recommends safeguards such as aggregation, anonymisation, independence of data processing, confidentiality commitments and robust meeting procedures.

The evidentiary record in Romanian cases has typically combined meeting minutes, e-mails, association circulars, internal reports, CRM or reporting-system records, leniency or acknowledgment statements and, in some cases, economic analysis. The cement case is particularly relevant for indirect exchanges because the infringement was established without proven direct contacts between producers; the case turned on systematic customer-mediated flows of future pricing information, internal centralisation and managerial use of that information. Looking forward, Romania expects the main challenges to arise from digital information flows, platform-based reporting, algorithmic or AI-assisted pricing tools, and public or quasi-public disclosures that may increase market transparency.

Chinese Taipei

This paper provides an overview of the legal criteria to consider concerted actions under competition law, competition assessment of information exchange among competitors, as well as relevant enforcement cases. From these perspectives, the paper explains the relationship between information exchange with rival firms and competition policy, together with advocacy initiatives in Chinese Taipei.

The Fair Trade Act (the 'FTA') is the primary piece of legislation regulating market competition in Chinese Taipei. The FTA prohibits competitors from engaging in 'concerted actions', unless an exemption is granted by the competition authority, the Chinese Taipei Fair Trade Commission (the 'CTFTC'). To strengthen enforcement against concerted actions, the 2015 amendments of the FTA provides that the mutual understanding of the concerted action may be presumed by indirect evidence, such as market conditions, product characteristics, and economic rationalization. Despite the existence of a substantial divergence in legal interpretation between the law enforcement agency and the judicial system, indirect evidence remains a critical instrument when the CTFTC detects and assesses the legality of information exchange.

The paper categorizes information exchange into three types based on its impact on consumer welfare and competitive effects: 'Good' (pro-competitive type), 'Bad' (unlawful collusion), and 'The Ugly' (a grey area). The CTFTC illustrates how it assesses information exchanges in different sectors and organizational structures, and why it employs different degrees of scrutiny to determine whether such information exchange violates the FTA. For example, in oligopolistic markets such as ready-mix concrete, the CTFTC adopts a strict stance on its law enforcement, preventing market participants from exchanging sensitive data —including prices and capacity— through clandestine channels (i.e. social gatherings, in-person meetings, or messaging apps). Conversely, regarding the application by Dell Global B.V. and its supply chain partners for joint procurement of renewable energy for the purpose of environmental sustainability, the CTFTC approved it with conditions in order to enhance production efficiency and social benefits. This approval was granted as the mechanism of the joint procurement was designed to ensure that sensitive information such as procurement prices and purchase volumes would be only 'shared vertically with a neutral third party and horizontally isolated among competitors'.

Furthermore, trade associations are organizations founded to promote industrial development, pursue collective interests, and serve as a bridge between industries and the government. The following collective practices are generally not considered as anti-competitive conduct that may restrict competition among individual members: collecting de-identified aggregated market data, organizing educational and training activities, coordinating production and sales in line with government policies, and developing compliance programs. However, if a trade association restricts price competition or sets fee standards through its charters, resolutions of general meetings, board or supervisory meetings, or other means, such conduct may be deemed as a violation of the FTA.

In summary, the CTFTC's enforcement activities has been focusing on how to balance the competitive gains and losses of information sharing in highly dynamic industrial environments. The CTFTC published the 'Code of Conduct for Antitrust Compliance of Enterprises' and the 'Guidelines for Concerted Actions of Enterprises in Response to Environmental Sustainability' with the aim of providing a clear framework of law compliance. This ensures that while enterprises pursue production efficiency and fulfill their ESG visions, they can keenly identify and avoid crossing the 'red line' of concerted actions, ultimately achieving a win-win for both fair competition and industrial development.

Türkiye

This contribution introduces assessment of information exchange under Turkish competition law, with reference to Board Decision No. 24-20/466-196 of 24 April 2024. Under Article 4 of The Act on the Protection of Competition (Act No. 4054), information exchange constitutes a standalone infringement without requiring proof of a broader cartel.

The decision concerns five French-origin private high schools in Istanbul, namely Saint-Joseph Private French High School, Saint Benoît Private French High School, Notre-Dame de Sion Private French High School, Saint-Michel Private French High School, and Sainte Pulchérie Private French High School. The decision in question provides for the detection of violations in two separate markets: the output market comprising "*private secondary education institutions offering education services in the French language*", and the input market comprising "*the labor market for private secondary education institutions offering education services in the French language*". In the output market, the schools jointly determined enrollment fees and scholarship conditions through periodic meetings, a signed enrollment protocol and e-mail correspondence. In the input market, principals shared a standardised salary simulation and payroll data confirmed that the figures were applied in practice. Both infringements were treated as restrictions by object, requiring no separate effects analysis. Fines amounted to approximately 17.8 million TL for the output market cartel, approximately 11.5 million TL for the input market infringement, and an additional 105,688 TL was imposed on Saint-Joseph Private French High School for submitting false information.