



# Policy

# Competition

---

## Introduction

Ballast Nedam competes in an open and honest manner and complies with all applicable laws and regulations in the field of competition. These rules aim to ensure effective competition and the protection of the free market. Ballast Nedam believes in a market in which competition is not restricted and wants to strengthen its market share through continuous improvements in the quality of its services and its employees.

The purpose of this 'Policy Competition' ('Policy') is to ensure that all Ballast Nedam employees know what they can and cannot do within the framework of competition law and to ensure that they understand the purpose of a level playing field within the construction sector, so that competition can take place in an open and honest manner.

## For whom?

This Policy applies to every employee, whether or not directly employed by Ballast Nedam. This Policy also applies to employees of affiliates of Ballast Nedam in which Ballast Nedam has a majority interest or control. In the event that Ballast Nedam does not have a majority interest or control in the participation, this Policy still applies to the employee who is employed by or hired by Ballast Nedam.

This Policy is applicable to every employee, but particularly to an employee who:

- A. has contact with clients, subcontractors, suppliers and or competitors;
- B. attends trade fairs, participates in meetings of branch associations, or participates otherwise in meetings where subcontractors, suppliers and/or competitors take part; and/or
- C. supervises and/ or manages an employee as described in A or B.

This includes, in any case, employees such as project directors/ leaders,

procurement officers, business unit, cluster and other directors and tender managers. The supervisor and/ or manager is responsible for ensuring that the employee concerned is aware of and respects the requirements of competition laws and regulations and is also able to assess situations which might have consequences for Ballast Nedam under competition law.

### **Competition rules**

The rules for competition in The Netherlands are laid down in the Competition Act (Mededingingswet).

The supervisory authority is the Authority for Consumers and Markets (Autoriteit Consument en Markt). In addition, the European Union has laid down competition rules which apply within the whole European Union. These rules are under the supervisory authority of the European Commission (in certain cases in cooperation with the national supervisory authority). Outside the European Union, the competition regulation differs from country to country, although these often have substantive similarities. It is therefore important that each employee engaged in representing Ballast Nedam, in whichever capacity, is knowledgeable of the applicable competition rules and respects these, both in his/her behaviour and actions, accordingly.

Competition rules comprises three pillars:

1. The prohibition on cartels. These are agreements between companies, decisions by business associations and actual and agreed upon behaviour which aims or results in competition being prevented, restricted or distorted.
2. The prohibition on the abuse of a dominant position. Having a dominant position is permitted, as long as there is no abuse of this position. Abuse can arise when, for example, there is no insufficient disciplinary effect of the market (between customers, suppliers and clients). The dominant position should, for example, not give rise to a limitation of sales and or production, exclusion or exploitation through tying, discount systems or predatory pricing.
3. The assessment of mergers, acquisitions and certain joint ventures (collectively concentrations) and the resulting concentrations ('merger control').

### **Prohibited acts**

In order to guarantee a free market, the following acts are prohibited:

- Agreements between companies which impede free competition.

- Decisions by business associations which impede free competition.
- Concerted practices that prevent free competition.
- Price-fixing agreements between competitors (including terms of delivery, discounts or price increases).
- Allocation of markets, clients, suppliers and/ or subcontractors.
- A collective boycott or refusal of delivery.
- Agreements on a production quota.
- Bid rigging (collusion in tenders).
- The disclosure of non-public.
- The exchange of non-public, competition-sensitive information (for example prices, customers, costs, capacity, volumes, sales).

In addition to agreements, with the aim to restrict competition, being prohibited between competitors, this prohibition also applies to companies that have different positions within the production column (such as suppliers and their customers). Prohibited are also agreements between competitors which result in the restriction of competition, regardless of the unintentionally thereof. These do not have to be written agreements, also verbal or tacit agreements with the aim to coordinate behaviour. It is also not necessary for parties to meet on a regular basis. A short meeting (for example at the bar) can already be sufficient to make an unauthorised agreement or to exchange sensitive information (or cause the appearance hereof).

It is of great importance to realise that even if a situation is not in breach of anti-competition laws, the appearance thereof should also be prevented.

### **Meetings with competitors (projects, industry associations, trade fairs, other consultative bodies)**

Employees will respect the following items when meeting with competitors:

- Pay attention that the subjects to be discussed (such as agenda items) do not give rise to problems under competition law and do not suggest that commercially sensitive information is being shared as well as any other behaviour that leads to infringement of competition law.
- In case of any doubt about the topics to be discussed, an employee shall seek advice the Compliance Officer, who in turn can seek advice from the Compliance department.
- Request, as far as possible, for minutes of meeting and the items discussed to be drafted.

- If necessary, explain at the beginning of the meeting, your proxy and hence what can and cannot be discussed.
- Avoid 'small talk' about commercially sensitive topics when having informal contact (e.g. during breaks etc.).

### **Retention of documents**

Employees shall retain all documentation shared/ received , concerning or at meetings, gatherings they attended where competitors were also present, such as agenda's, minutes, presentation slides and (handwritten) notes.

### **Sustainability**

In the area of sustainability, there are some exceptions to the prohibition to enter into agreements with competitors that limit free competition. In such cases, the following items must be met:

- The agreement ensures that Ballast Nedam and/or its affiliates can work more efficiently and therefore will increase prosperity.
- A fair share of the benefit is returned to the client.
- The benefits can only be achieved by these agreements and these do not go beyond what is necessary.
- There should remain sufficient competition after the agreement has been made.

If an employee wishes to make use of this exception, this should always be discussed first with the Compliance department. Beware that Board approval is required.

### **Obligation to report**

Every Ballast Nedam employee who has a suspicion or is aware of an infringement of competition law should directly report this to its manager, his/her Compliance officer or the Compliance department. In case of uncertainty, this should always be discussed with a colleague, such as the manager or a Compliance Officer.

The notification can be issued by following the 'Internal Reporting Policy'. This entails the following:

1. If possible; to report to his/ her direct manager, or a Compliance Officer of the business unit, who will report this directly to the Compliance department; or
2. Report through the 'compliance report' tool on intranet; or
3. Report anonymously through the 'Speak Up' system.

## Do's & Dont's

- If during a meeting - where competitors are present - a subject is raised which infringes competition law, stand up and register your protest here-of and leave the meeting immediately. Ensure that your protest and the fact that you have left the meeting is properly recorded in the minutes of the meeting or any other similar document. Report the incident (in writing) to the Compliance department immediately after its occurrence.
- Try to never talk alone to a competitor, but ensure - wherever it is reasonably possible - that there is always a second person present who can act as an independent witness in case question arises whether sensitive matters relating to competition law had been discussed.
- Do not express (implicitly or explicitly) misleading or false criticism on a competitor.
- Requirements on quality, eligibility and or membership criteria may restrict competition and therefore the Compliance department should always be engaged in case you encounter such requirements.
- Be aware that competition rules still apply during dinners, receptions and similar events where competitors are present.
- If necessary, express at the beginning of the meeting that no topics related to competition law can be discussed.
- In case you are considering (so before you make agreements hereon!) to form a combination with a company not related to Ballast Nedam, you should check whether it would result in a prohibited concentration, by completing the Form for Internal Assessment as to Entering into a Consortium ("self-assessment") (Annex I) and send (e-mail) the completed form to the Secretary of the Executive Board of Ballast Nedam\*.

It is allowed to make independent decisions and to keep an eye on competitors. This is all part of healthy business practices. However, this should always be in line with the competition rules.

---

\*The Secretary of the Executive Board of Ballast Nedam N.V. is the Corporate Legal Counsel responsible for the administrative aspects of managing the activities of the Executive Board and advising the Executive Board on Corporate Law and Competition law issues.

## **Annex I**

[Form for Internal Assessment as to Entering into a Consortium \(“self-assessment”\)](#)