

Rules of Procedure for the Governance Group

Introduction

1. The Governance Group came into being on 1 April 2013, as a result of an agreement by the Signatory Organisations to endorse and implement the Principles of Good Practice in Vertical Relation in the Food Supply Chain (version dated 29 November 2011) and the Framework for their implementation and enforcement (version dated 25 January 2013). The Signatory Organisations have unanimously adopted these rules of Governance and Procedure. The future work of the Governance Group will also be based on consensus.

Interpretation

2. These rules shall be read and interpreted together with the provisions of the Framework and are an integral part of it.

Definitions

3. In these rules, the following words shall have the meanings that are given to them below:
 - **Governance Group Member** means a senior member of the staff of committee chair of a Signatory Organisation authorized to speak on its behalf for the purpose of managing the Framework. Alternatively a Signatory Organisation may be represented by a senior member of the staff of one of its EU level member associations¹ or by an experienced third party with no company affiliation or interest. In all cases, company representatives are not permitted.
 - **Observer** means a person authorized on a case-by-case basis by the Governance Group to attend a meeting without decision-making powers.
 - **Signatory Organisations** means the organisations that have signed the Framework: AIM, CELCAA, ERRT, EuroCommerce, Eurocoop, FoodDrinkEurope, UEAPME, UGAL. This list will be amended as required.
 - **Secretariat** means the person(s) providing the administrative support to the Governance Group.
 - **Co-Chairs** means the two Governance Group Members, one from the supply side, one from the distributive trade side, chosen for a one-year term renewable twice, to co-preside over the meetings of the Governance Group.
 - **Process Commitment** means an obligation accepted by a signatory company to participate effectively in the framework.
 - **Principles** mean the Principles of Good Practice in Vertical Relationships in the Food Supply Chain adopted on 29 November 2011 and as they may be subsequently amended.

¹ This takes into account the situation where a Signatory Organisation has an EU level association among its members.

- **Framework** means the Framework for the Implementation and Enforcement of the Principles of Good Practice in Vertical Relation in the Food Supply Chain adopted on 25 January 2013 and as it may be subsequently amended.
- **Conflict of Interest** means having knowledge that prevents impartiality, e.g. knowledge of a dispute brought to the attention of the Governance Group.
- **Aggregated Dispute** means a dispute regarding an alleged serious breach of a Principle introduced by several companies similarly affected.
- **National Stakeholder Platform** means a Governance Group set up for the purpose of implementing the Principles and Framework at national level.

Role and responsibilities of the Governance Group

4. The Governance Group will operate on the principles of collective responsibility, respect of confidentiality, compliance with applicable laws, mutual support and respect. These principles also apply to Observers as appropriate.
5. The Governance Group Members will have the relevant background to comply with these rules, including anti-trust compliance.
6. Governance Group Members will exercise their mandate in good faith. They recognize that their primary role is not to defend particular interests but to make the Framework function effectively.
7. Governance Group Members and Observers should communicate externally in a way that supports and does not undermine the Principles and the Framework.
8. All participants in a Governance Group or sub-group (see 34. Delegations) meeting, whether or not they are a Member of the Governance Group, will respect the confidentiality of documents and discussions held within.
9. The collective responsibilities of Governance Group Members include:
 - compliance with the relevant legislation;
 - compliance with the Rules of Procedure for the Governance Group;
 - fulfilling the obligations set down in the Framework;
 - ensuring that the highest standards of governance are observed at all times;
 - generally overseeing the day to day business linked to the Framework, including its financing;
 - assessing compliance with Process Commitments;
 - assessment, guidance, interpretation, and where necessary, revision of the Principles.
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10. A revision of the Principles and/or a revision of the Framework will require the approval of the Signatory Organisations.

11. The Governance Group's role is to:

- Give guidance on the interpretation of the Principles and related examples. The Governance Group does not adjudicate commercial disputes.
- Apply sanctions for breaches of process commitments as foreseen in these Rules.

Co-Chairs

12. Co-Chairs maintain the ability to speak on behalf of their organisations.

Governance Group meetings

13. Governance Group meetings will be held at least four times per year in Brussels.

14. A Governance Group meeting may be convened by the Co-Chairs or upon written request from at least two Governance Group Members. Every effort will be made to schedule meetings on dates that are suitable for all Governance Group Members.

15. Notice of a Governance Group meeting will be given by the Secretariat in writing (email) at least one week in advance. Failure to receive notice will not invalidate that meeting or the decisions made therein.

16. Governance Group Members may be accompanied by another staff member of their Signatory Organisation. The Governance Group may decide to invite Observers or other parties to participate, as appropriate.

Agenda and papers

17. The agenda and papers for Governance Group meetings will be circulated five working days in advance by the Secretariat save in exceptional circumstances. These will be distributed by email. Non-receipt of papers does not invalidate that meeting or the decisions made therein.

18. Papers may exceptionally be tabled during a Governance Group meeting with the Co-Chair(s)' permission.

Quorum

19. The quorum for Governance Group meetings is 75% of Governance Group Members, including at least one Co-Chair, a representative of the supply side and a representative of the distributive trade side (excluding Observers).

20. If one of the Co-Chairs is not present for a meeting, the other Co-Chair will preside the meeting alone.

21. Should the need arise Governance Group Members may attend Governance Group meetings by telephone or video link. Governance Group Members attending by telephone or video link will be considered to be present at the Governance Group meeting.

22. Governance Group Member substitutions are not allowed. Exceptionally, where a Governance Group Member cannot participate due to a Conflict of Interest, a substitute may be appointed who must comply with these Rules.

23. All attendances and absences by Governance Group Members for all or part of a Governance Group meeting will be recorded in the minutes.

Proxies

24. A Governance Group Member may give a proxy to another Governance Group Member to represent her/his views at a meeting.

Decision making

25. Decisions can only be taken if no attending Governance Group Member objects. Every effort will be made to reach that consensus. All decisions, including abstentions will be recorded.
26. .Guidance on the interpretation of the Principles or related examples will be justified.

Legal compliance

27. When formulating its guidance or interpretation of the Principles and/or linked examples, any Governance Group Member can request a review by external legal counsel. External legal counsel can be invited to attend a meeting when the agenda requires it.
28. Any Association or individual involved in the implementation of the Framework, specifically in the preparation and submission of an Aggregated Dispute, is expected to comply with all applicable legislation, with particular focus on competition compliance and rules on the exchange of sensitive information and coordination of behavior in the market.

Conflict of Interest / Impartiality

29. Any Governance Group Member or any meeting participant subject to a Conflict of Interest will inform the Co-Chairs about it.
30. The Co-Chairs will exclude any person subject to a Conflict of Interest from the relevant part of the meeting.
31. If any Governance Group Member does not adhere to the roles and responsibilities of the Governance Group, the Co-Chairs may suggest issuing a letter to the Organisation concerned. The Governance Group may recommend the replacement of the Governance Group Member concerned.

Procedure for obtaining Governance Group approval between meetings

32. Where necessary, the Governance Group can approve decisions by written procedure. Usually this will be in the form of email.

Minutes

33. The Secretariat will prepare the minutes of Governance Group meetings. These will be sent to the Co-Chairs for agreement before they are circulated to Governance Group Members and presented for approval at the following meeting. Once approved, the non-confidential version of the minutes, including decisions taken, will be made available on request to any party with a legitimate interest with the agreement of the Co-Chairs and prior notice to the Governance Group Members.

Delegations

34. The Governance Group may delegate tasks to *ad hoc* sub-groups (or similar) when deemed necessary.

Procedures for sanctions for breach of a process commitment

35. Upon receipt of a complaint for an alleged breach of a process commitment, the Governance Group will deal with it in a proportionate and gradual manner as outlined under Pillar 3 Section II of the Framework.
36. For minor breaches, no publication of the company name is foreseen.
37. For major breaches of a process commitment, two important sanctions are foreseen:
 - suspension;
 - exclusion.
38. **Suspension:** If a breach is confirmed, the association of the company concerned would ask the company to remedy the situation. If after 30 calendar days, no action is communicated, the Governance Group may issue a warning letter. If after a further 30 calendar days the company continues to breach its process commitments, it could be temporarily suspended pending rectification of the breach. This suspension means that the company cannot benefit from the Framework but continues to be bound by its obligations. Information about the suspension will be given on the website.
39. **Exclusion:** For persistent, intentional and unexplained breaches, having first followed the graduated procedure mentioned above (see 38. Suspension), the Governance Group may ultimately decide on exclusion from the Framework. This decision would be published on the website and in the annual report.
40. The duration of the exclusion will be for a minimum of six months and for as long as it will take for the Governance Group to obtain sufficient guarantees that the concerns will be sustainably remedied.
41. The excluded party will need to reapply should it wish to rejoin the Framework.
42. The Governance Group may agree to reconsider the decision, provided that new evidence or arguments are introduced.
43. The Governance Group does not adopt a legalistic attitude towards sanctions and it ensures that sanctions are both proportionate to the nature of the breach and effective. They focus on ensuring that noncompliant behaviour is amended or stopped as quickly as possible. At all times the parties concerned will be given an opportunity to make their case.

Aggregated Disputes and interpretation of the Principles

44. Any association aggregating a complaint for consideration will:
 - collect the relevant information in a legally compliant manner in order to verify that the complaint has substance;
 - ensure that interpretation or guidance regarding a principle or example is required, and
 - guarantee at all times the anonymity of the parties concerned as well as the confidentiality of any sensitive information.
45. Upon receipt of an aggregated complaint for an alleged breach of the Principles, the Governance Group will:

- appreciate whether it has a cross-border impact or whether no National Stakeholder Platform is available, and
 - examine whether interpretation or guidance regarding a principle or example is required.
46. In the negative, it will decline to issue guidance or interpretation due to lack of power. In the affirmative, the guidance will be communicated to all registered companies via the public website and also included in the annual report as laid down in Pillar 4.3 in the Framework.
47. The aggregated complaint will initially be submitted to the Co-Chair representing the sector in which the complaint originates to verify the anonymity of the complaint. If the sector in question is not represented by one of the Co-Chairs, it will be submitted to their representative Governance Group Member. The Co-Chair or other Governance Group Member to whom the complaint is submitted verifies that the particulars of the case have been properly anonymised and will, if necessary, edit it to prevent, directly or indirectly, identification of the parties and eliminate any commercially sensitive information.
48. Anonymity will be ensured at all times. The party submitting the aggregated complaint will make the name and contact details of the party subject to the complaint available to a notary or equivalent third party. This will enable the Governance Group to request a reply from the company allegedly in breach through a confidential process.

Relations with National Stakeholder Platforms

49. In cases when the handling of an aggregated complaint at national level leads the National Stakeholder Platform to interpret one or more Principles and adopt guidance accordingly, its guidance opinion will be communicated in English within ten working days to the Governance Group. The Governance Group will dispose of a period of maximum four weeks to verify that this does not contradict guidance at national or EU level. If a contradiction arises between guidance opinions at national level, the Governance Group will use its best endeavors to ensure a coherent interpretation of the Principles in consultation with the National Stakeholder Platforms concerned, if necessary by issuing its own guidance.
50. The Rules of Procedure applicable to the governance of National Stakeholder Platforms should conform whenever possible to these Rules. However, they may deviate in order to ensure coherence with national laws and self-regulatory customs.

Relations with the relevant European institutions

51. The Governance Group will inform the relevant European institutions of its work at regular intervals.
52. The Governance Group will prepare any official communication to the European institutions.
53. The Co-Chairs will present the work carried out by the Governance Group during official meetings with the European institutions, unless otherwise agreed.

Confidentiality

54. Members of the Governance Group will sign a non-disclosure agreement, which will address their liability for breach of its provisions.

Revising the rules of procedure

55. These rules of procedure will be reviewed as and when required by the Governance Group.
Any change must be approved by the Signatory Organisations.

Approved by the Governance Group on 26 March 2013 by AIM, CELCAA, ERRT, EuroCommerce, Eurocoop, FoodDrinkEurope, UEAPME, UGAL.

Important note: liability of the Governance Group will be excluded by a clause at the time of registration by which registered companies renounce any claims against the Governance Group or its Members.