Management System Guideline

Antitrust

December 5th, 2019

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The English text is a translation of the Italian. For any conflict or discrepancies between the two texts the Italian text shall prevail.

MESSAGE FROM THE PROCESS OWNER

Eni's Code of Ethics states that "Eni's business and corporate activities have to be carried out […] in full compliance with competition protection rules" and that "Eni pursues its business success on markets by offering quality products and services under competitive conditions while respecting the rules protecting fair competition" and also "In conducting its business, Eni is inspired by and complies with the principles of loyalty, fairness, transparency, efficiency and an open market".

It is therefore clear that competition, seen as the market environment which encourages businesses to excel in the quality and affordability of products and/or services supplied, together with compliance with the rules which protect it (the so-called antitrust legislation) are among Eni's fundamental values, the violation of which will not be tolerated.

Given the pervasiveness of antitrust legislation with regards to business activities, it is essential that all Eni Personnel involved in business processes governing these activities strictly adhere to the indications provided in this MSG.

This Antitrust MSG constitutes the foundation of Eni's Antitrust Compliance program, updated and strengthened to achieve the following objectives:

- to ensure full compliance with the antitrust legislation in the countries in which Eni operates or where its actions could cause effects, providing appropriate indications for those taking part in company processes;
- to create a hostile climate for the implementation of unlawful antitrust activities;
- to increase the general awareness of Eni people about the importance of antitrust legislation and its impact on business activities;
- to provide a practical guide to prevent actions, behaviours and omissions which violate antitrust legislation;
- to define instruments in order to quickly and effectively repress any violations which may occur in spite of preventive measures having been taken.

The Program is divided into three fundamental plans of action:

- prevention, pursued by raising the awareness of Eni personnel and with the full involvement of the Antitrust Unit of the Integrated Compliance functionto support business activities;
- monitoring, carried out through periodic mapping of areas exposed to risks, the adoption of mitigating measures for these risks and appropriate mechanisms to identify any violations of this MSG and, more generally, antitrust legislation;
- acting improper conduct, with disciplinary measures and any other useful initiative to protect the interests of Eni.

The dedicated and proactive commitment of all Eni Personnel will, as always, be essential.

Luca Franceschini

EVP Integrated Compliance Department

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1. INTRODUCTION

1.1 Objectives of the document

The aim of this MSG is to:

- ensure full compliance with antitrust legislation in the countries in which Eni (directly or indirectly) operates, by enacting appropriate directives for Eni Personnel acting within their relevant corporate functions;
- increase awareness of the importance of the antitrust legislation in business activities;
- provide a practical guide as regards the actions, behaviours or omissions that comply with, or infringe, antitrust legislation;
- enhance the efforts of Eni Personnel to refrain from activities or behaviour capable of restricting or limiting competition in the market.

1.2 Area of application

This document applies to:
Eni SpA;

- Subsidiaries, following implementation in accordance with the procedures described in section 1.3 below.
- Subsidiaries that are listed on a regulated market will implement this MSG, making the necessary adjustments in line with the specific nature of the company and the managerial autonomy that distinguishes it, and taking into consideration the interests of minority shareholders.

Furthermore, Eni will use its influence, to the extent reasonable under the circumstances, so that companies jointly controlled by Eni and the companies and entities in which Eni has a non-controlling interest (e.g., joint ventures, consortia, associations, etc.), which do not fall within the scope of application of the Regulatory System, adopt appropriate guidelines to avoid infringements of antitrust legislation similar to those contained in this MSG. The circumstances relevant to properly identifying, on a case-by-case basis, the actual scope of Eni's commitment, as provided for in this Section 1.2, include the degree of Eni's ownership or interest in the undertaking, company or entity, as well as the antitrust laws adopted in the country in which the company or entity is located or its activities are based. In any case, the representatives appointed by Eni in such companies and entities must use their best efforts to ensure that appropriate antitrust guidelines are adopted. For example, by presenting a proposal to adopt such guidelines to the Board of Directors or the decision-making body of the entity concerned.

1.3 Implementation modalities

This MSG is for immediate application for Eni SpA.
Subsidiaries must ensure that this MSG is implemented no later than March 31th, 2020, according to the modalities described in the "Regulatory system" MSG.
Subsidiaries that are listed on a regulated market will implement this MSG, making the necessary adjustments in line with the specific nature of the company and the managerial autonomy that distinguishes it, and taking into consideration the interests of minority shareholders.
This MSG cancels and replaces the following Eni SpA documents:

- "Antitrust" MSG issued by Eni SpA on 15th May 2017.

2. DEFINITIONS, ABBREVIATIONS AND ACRONYMS

ANTITRUST AUTHORITY: the administrative or judicial authority that monitors compliance with and enforcement of applicable antitrust rules in the (national or supranational) system in which it is established (for the European Union this is the European Commission, in Italy it is the Autorità Garante della Concorrenza e del Mercato (the Italian Competition Authority)).

ANTITRUST COMPLIANCE PROGRAM: the set of rules contained in this MSG and in other company regulations aimed at ensuring the compliance of Eni Personnel and Eni itself with Antitrust Legislation, through the actuation of the behaviours and activities provided for therein.

ANTITRUST LAW: Law No. 287 of 10th October 1990 of the Republic of Italy, and subsequent amendments and additions, establishing the Italian Competition Authority.

ANTITRUST LEGISLATION: the set of antitrust laws which are applicable to Eni conduct on a global level.

ANTITRUST UNIT: the unit of Eni's Integrated Compliance function responsible for antitrust matters.

BUSINESS INITIATIVE: any business activity that may be relevant (even potentially) under Antitrust Legislation (e.g., negotiation and stipulation of agreements with suppliers, customers or competitors, definition of commercial strategies, participation in meetings with competitors or trade association meetings, etc.).

CODE OF ETHICS: Eni SpA's Code of Ethics.

COMMISSION: the European Commission.

ENI PERSONNEL: members of corporate bodies, managers and, generally, all employees of Eni.

ENI: Eni SpA and its Subsidiaries.

MERGER OPERATIONS: operations which involve the merger of independent companies, the acquisition/transfer of control of all or part of an independent undertaking or establishment of joint ventures, as explained in more detail in paragraph 5.4.

PREVENTIVE ANALYSIS: evaluation of compliance with Antitrust Legislation of certain Business Initiatives, which must take into account the specific circumstances of the case, the regulations in force in each country involved (such as those in which the behaviour is taking place or which could have an impact, even indirectly) and the numerous and changing interpretations and applications of these regulations by the Antitrust Authorities and judges.

SUBSIDIARY: companies as defined in Eni's Regulatory System Management System Guideline.

TFEU: Treaty on the Functioning of the European Union.

3. ANTITRUST COMPLIANCE

3.1 Antitrust Legislation as a fundamental value and an integral part of Eni's corporate culture

Antitrust Legislation aims to protect competition in the market, preventing companies from colluding or abusing their dominant position, or otherwise distorting competition to the detriment of competitors, suppliers, customers and consumers. Antitrust Legislation is also intended to prevent Merger Operations from reducing or eliminating competition in the market and, for this purpose, includes preventive control of such operations.

The principles of Antitrust Legislation are an integral part of the fundamental values of Eni and its Code of Ethics[1]. Eni opposes any violation of Antitrust Legislation and no one, acting on behalf of Eni, should presume that committing an antitrust offence is in the company's interest.

All Eni Personnel must have knowledge of the content and the principles of the Antitrust MSG and ensure full compliance with it.

Violation of Antitrust Legislation exposes the company to significant economic losses, which often outweigh the alleged benefits achieved as a result of the breach. These may include:

- fines up to 10% of Eni's worldwide turnover;
- compensation for damages caused to suppliers, customers, competitors and consumers;
- damages to Eni's reputation;
- negative impact on the prices of financial instruments traded on regulated markets;
- in many countries, individual criminal sanctions against the directors and employees of the company responsible for antitrust violations.

3.2 Eni Antitrust Compliance Program

To reaffirm its commitment in relation to Antitrust Legislation, Eni is renewing and strengthening its Antitrust Compliance Program through this MSG. The structure of the Antitrust Compliance Program is described in section 4 below. The program expresses the principles and values contained in the Code of Ethics. These principles and values serve to guide Eni behaviour in the markets in which it operates and in its relations with competitors, customers, suppliers and consumers.

3.3 The role of the Antitrust Unit

The Antitrust Unit is responsible for providing the functions of Eni SpA and the subsidiaries with specialized assistance on antitrust matters according to provisions set out by the relevant regulatory instruments.

The Antitrust Unit is also responsible for:

- overseeing and coordinating implementation of the Antitrust Compliance Program;
- periodically reviewing the effectiveness of this MSG and the Antitrust Compliance program, also on the basis of the reference best practices and any gaps or critical issues detected, as well as adopting the subsequent initiatives.

For this purpose, the Antitrust Unit:

- together with the competent functions, organizes and requires participation in training events to promote knowledge of Antitrust Legislation as well awareness on matters regarding antitrust compliance within the company;

[1] On the basis of the Code of Ethics, "In conducting its business, Eni is inspired by and complies with the principles of loyalty, fairness, transparency, efficiency and an open market" and "Eni's business and corporate activities have to be carried out […] in full compliance with competition protection rules".

- carries out preventive assessments regarding the compliance of the Business Initiatives with Antitrust Legislation in all cases provided by this MSG or if Eni Personnel have any queries regarding compliance (see Preventive Analyses in section 4.1.2);
- requests and obtains detailed information on the activities which are the subject of the Preventive Analyses or the activities for which the Antitrust Unit considers assessment appropriate;
- establishes procedures and mechanisms aimed at ensuring the monitoring activities indicated in section 4.2 below and preventing the risk of antitrust infringements in areas which are most greatly at risk, also supporting the functions involved in updating the internal regulatory instruments.

4. STRUCTURE OF THE ANTITRUST COMPLIANCE PROGRAM

The Eni Antitrust Compliance program is based on three fundamental principles:

- prevention;
- monitoring;
- acting against improper conduct.

4.1 Prevention

Antitrust Legislation aims to protect competition in the market, preventing companies from colluding or abusing their dominant position, or otherwise distorting competition to the detriment of competitors, suppliers, customers and

4.1.1 Training

To acquire adequate awareness of antitrust issues, all Eni Personnel are required to participate in training events and targeted refresher courses, according to programs prepared by the unit of the Integrated Compliance function in charge of trainings, in connection with the Antitrust Unit and in collaboration with other relevant units[2].

4.1.2 Preventive Analysis of Business Initiatives

Eni people are required to submit any Business Initiatives they are responsible for to Preventive Analysis by the Antitrust Unit, which can also make use of specialist external consultants for this purpose:

- in all cases indicated in section 5 below of this MSG;
- in any other situation whereby they have a doubt that a Business Initiative may violate Antitrust Legislation.

In the dialogue with the Antitrust Unit, Eni Personnel are to provide all relevant information to illustrate and assess the matter submitted for Preventive Analysis, as well as all possible additional information requested by the Antitrust Unit.

Preventive Analysis of certain Business Initiatives is required as the Antitrust MSG and training cannot (nor does it intend to) provide a complete dissertation or a definitive interpretation of the applicable antitrust provisions.

Indeed, assessing whether certain Business Initiatives may lead to antitrust infringements (Preventive Analysis) can be an extremely complex activity and requires in-depth knowledge of the specific circumstances of the case, the regulations in force in each country involved (such as those in which Eni operates or will operate or where its conduct could have an impact, even indirectly) and the numerous and changing interpretations and applications of these regulations by the Antitrust Authorities and judges.

4.1.3 Information flow with the Antitrust Unit

Communication with the Antitrust Unit will take place according to the following flow:

(i) **the relevant function sends an email** to the Antitrust Unit, possibly in conjunction with a telephone contact, containing: ***a)*** a **brief description** of the Business Initiative or the subject matter for which it looks support; ***b)*** the **main reasons** why, following a preliminary analysis also carried out on the basis of this MSG, verification by the Antitrust Unit is considered appropriate; ***c)*** an indication of the expected timescale for the implementation

[2] In coordination with Eni Corporate University and the Human Resources Department, the Antitrust Unit schedules training and refresher sessions on antitrust issues which are mandatory for every new employee or in cases of changes to relevant tasks for antitrust purposes.

of the Business Initiative and/or definition of the matter in question, with it being understood that the involvement of the Antitrust Unit must take place by giving it a **reasonable period of notice**[3];

(ii) if the Business Initiative in question does not require in-depth analysis and does not have any critical elements, the Antitrust Unit will respond in the shortest time possible;

(iii) if however the Business Initiative requires in-depth analysis, the Antitrust Unit will notify the requesting unit, which, in turn, will submit **documentation and information that are usefull to illustrate**: ***a)*** the Business Initiative/matter in detail; ***b)*** the market contest in which it takes place. If considered appropriate, the Antitrust Unit may request additional specific information and/or documents. Once all the necessary information and documents have been received, the Antitrust Unit will respond with a brief summary of the analyses carried out and the corresponding conclusions, indicating, where appropriate, the possible actions to be carried out in order to remove and/or mitigate any critical elements which have emerged. In this last case, the Antitrust Unit may ask for a rapid response in relation to the actions which have been implemented;

(iv) if the function involved indicates that the Business Initiative/matter as indicated in point (i) above could be repeated and with strong levels of consistency, the Antitrust Unit may indicate that the assessment provided is also suitable to cover similar Business Initiatives/matters which could arise in the future.

4.2 Monitoring

4.2.1 Activities carried out by Eni

Eni carefully monitors the full observance of this MSG, according to provisions governed by the Regulatory System and, where applicable, specific regulatory instruments.

Special attention is paid to business activities which, following periodic mapping of the antitrust risks, are identified as being most subject to the application of Antitrust Legislation for objective reasons, connected to the nature of the activity itself or the position held by Eni in the reference markets.

Also as a result of the monitoring activities, the Antitrust Unit may require the adoption of initiatives, procedures or mechanisms aimed at preventing or mitigating specific risks (e.g., the revision of contractual models and internal procedures, proposals to be made to joint venture partners to review agreements or procedures or to adopt precautionary measures aimed at limiting the circulation of sensitive information (so-called firewall), limiting participation in trade associations or their meetings, etc.).

The audit activities carried out periodically by Eni together with internal reporting activities and other reporting activities regarding possible antitrust infringements, howsoever acquired by the Antitrust Unit, are all part of the monitoring instruments.

4.2.2 The important contribution made by Eni Personnel: the obligation to report

In line with the obligation set out by the Code of Ethics to promptly report possible cases of infringements of the said code, **Eni Personnel are required to notify the Antitrust Unit too – possibly even anonymously – of any possible infringement of Antitrust Legislation as indicated in this MSG**, of which they may become aware or suspect.

[3] For this purpose, we also consider the timescales regarding the involvement of the Antitrust Unit as set out in this MSG or other regulatory instruments with reference to specific activities (see, for example, indications provided with reference to Merger Operations in section 5.4.1 below or the obligation to promptly report the cartels referred to in section 5.2.1, letter a)).

4.3 Acting against improper conduct

Eni will make every reasonable effort to prevent any conduct which infringes Antitrust Legislation and/or this MSG and will do the same to stop and sanction any conduct of Eni Personnel which differs from that required.

In accordance with the provisions of Model 231 and the collective agreement as well as other applicable national legislation, Eni will take disciplinary action against Eni Personnel (i) whose actions are found to be in violation of the Antitrust Legislation or of this MSG, (ii) who do not participate in or complete adequate training, and/or (iii) unreasonably fail to identify or report violations or potential violations or threaten or carry out reprisals against others who report such violations. Disciplinary actions may include termination of the employment contract.

5. THE MAIN RULES OF ANTITRUST LEGISLATION

5.1 Regulatory References

The competition law rules established by the European Union (such as Art. 101 and 102 TFEU) and the Antitrust Law are applied in Italy.

Most countries have adopted antitrust laws. Eni and Eni Personnel must observe the antitrust laws in each country where they work and where their conduct may have an effect[4].

Eni Personnel must always inform their line manager and contact the Antitrust Unit whenever they identify a potential risk of violating the Antitrust Legislation in whatever country they operate.

Although antitrust laws vary from country to country, some principles are common to all. These principles include:

(i) the prohibition of restrictive agreements;
(ii) the prohibition of abuse of a dominant position;
(iii) preventive control of merger operations. Within the European Union, the rules on preventive control of State aid also apply.

5.2 Prohibited conduct

5.2.1 Prohibition of agreements that restrict competition

An agreement is any form of collusion between undertakings which could be in the form of an agreement, a concerted practice or a decision by an association of undertakings.

The agreement does not require any particular formalities. It may be a written agreement (contract, letter of intent, memorandum of understanding, etc.), but it may also refer to non-binding declarations or verbal or implicit agreements.

Concerted practices are a form of implicit collusion. The companies exchange information which allows them to adopt a uniform behaviour on the market, without reaching an actual agreement.

The agreement is horizontal if entered into by undertakings competing in the same market, or vertical if entered into by undertakings that are active at different levels of the chain of production or distribution. Generally horizontal agreements are considered to be more problematical.

a) Agreements with undertakings competing in the same market (horizontal agreements)

The Antitrust Legislation strictly prohibits so-called **secret agreements** (known more commonly as **cartels**) whereby two or more **competitors collude** to fix prices or sale quantities, share markets or customers or the boycott of other companies. The mere existence of these agreements, even if unimplemented, violates Antitrust Legislation. Such agreements are anyway null and void.

[4] Antitrust laws are characterized by their extraterritorial application, since this is essential for the effective protecting of competition. It therefore follows that, especially in the case of multinational corporations like Eni, it is not uncommon that some behaviour, activities or company operations have to be assessed on the basis of the laws of different countries, including those where these activities have not been implemented but could however have economic repercussions.

Main prohibited horizontal agreements
Fixing the price of a product (including the base price, extras, minimum or maximum price, discounts) **or other economic conditions**, such as transportation costs, credit terms, promotional activities, service fees and terms of delivery.
Agreeing to limit production capacities (amount, type of product) or **research.**
Allocation of customers (for example, competitors agreeing on who will be awarded a public or private tender in order to share customers) **or sales territories** (so-called 'market partitioning').
Concerted refusal to deal with a potential customer or a potential supplier (e.g., boycotts).
Agreeing the maximum price or other purchasing conditions that the companies are willing to grant to the suppliers of a given product.

Exchanging information with competitors regarding **competitive factors** (e.g., present or future prices, strategic choices) is strictly prohibited.

Restrictive agreements are prohibited even if reached within a legitimate context or using legal instruments that are per se permitted. For example, the following are anyway prohibited:

- agreements or exchanges of sensitive information between competitors carried out via **trade associations** or third parties (such as specialized journals, government organizations, customers, consultants);
- agreements made within the context of a **public or private tender** in order to determine the result in advance. In some countries where Eni operates, bid rigging is also considered a criminal offence;
- the use of instruments that are per se lawful, such as the **temporary grouping of companies** or **sub-contracts** to share markets or customers between competitors.
- In case of doubts about the legitimacy of meetings or **contacts with competitors** in any context, even if permitted (for example, within the context of business relations) the **Antitrust Unit must be consulted in advance.**
- With reference to **Eni** joining any trade associations or in case of participation in their meetings, the following rules must be abided by:
- before joining a trade association the compliance of the association's aims with Antitrust Legislation must be verified. This refers not only to a formal verification (Articles of Association, etc.), but also in terms of concrete objectives that a new association aims to pursue. Furthermore, the **Antitrust Unit must be consulted if there are any doubts**;
- before taking part in a meeting, the agenda is to be checked and **sent to the Antitrust Unit if there are any doubts** regarding the fact that some of the points on the agenda could be sensitive topics from an antitrust perspective.
- In the case of contacts made by a competitor (by telephone, within a trade association and in any meeting and in any context) to discuss unlawful topics, Eni Personnel must make it clear to both the competitor and any other person present, the need to immediately end the discussion. If the contact from the competitor takes place within the context of a meeting, clear dissent to discuss certain topics must be reported in the minutes of the meeting, the Eni Personnel will leave the meeting and **immediately contact the Antitrust Unit.**

As provided under section 4.2.2 above it must be reiterated that, where, even outside of their specific corporate responsibilities, Eni Personnel become aware of a possible **cartel** involving Eni, they **must report it immediately to the**

Antitrust Unit. Having assessed the merits of the report, the Antitrust Unit will undertake the most appropriate steps to eliminate antitrust critical issues and protect the company's interests, including through adherence to the so-called leniency programs of the Antitrust Authorities that have adopted them.[5]

b) Agreements with customers or suppliers (so-called vertical agreements)

As a matter of principle, except in particular circumstances to be assessed on a case-by-case basis, it is **not permitted to include within vertical agreements clauses** which aim or have the effect of limiting the purchaser's ability to:

- define its **own product sale price** (e.g., imposing a fixed price or minimum resale prices or fixing the purchaser's margin is not permitted);
- select the suppliers, the **territories** where the products acquired from Eni are to be sold or the **customers** to whom they may be sold. Normally, it is permitted to limit active sales but not passive ones (i.e. sales made to customers who are outside the contractual territory, upon their request and not actively solicited).

The "restrictive" clauses indicated above may be **null** and, depending on the individual case, make the entire **contract null and void.**

If a vertical agreement is to be stipulated containing one or more of the aforementioned "restrictive" clauses and not complying with a contractual scheme previously validated by the Antitrust Unit, **the draft agreement must be submitted to the Antitrust Unit well in advance of the scheduled date for the signing of the contract.**

For the prudent management of vertical contractual relationships, please also refer to the explanation given in the last paragraph of section 5.2.2, regarding so-called economic dependence, as well as section 5.3, letters *b)* and *c)*, regarding certain types of vertical agreements.

5.2.2 Prohibited conduct of dominant companies

A company is in a dominant position when it has such market power that, at certain extent, it can ignore the reaction of competitors, suppliers, customers and consumers in terms of its strategic choices (e.g., commercial policies, prices, contractual conditions).

In the European Union and in countries which are inspired by the European antitrust legislation, dominant position is not in itself prohibited. However, abuse of the dominant position as a way to distort competition is prohibited.[6]

Verifying if a company is dominant requires complex analysis and is to be carried out carefully. It is necessary to identify the relevant markets and assess the combined effect of many factors, none of which are normally decisive alone (e.g., market shares, availability of the main competitive levers between competitors, barriers to the entry of new operators). Market shares provide a first indication for the analysis. The presence of other competitors does not exclude dominance.

When a company is dominant it is prevented from carrying out conduct which other competitors are free to adopt. It is therefore essential to follow the evolution over time of Eni's position in the various markets in which it operates. If

[5] Leniency programs provide companies with the possibility of obtaining exemption from fines or a reduction in fines if they provide the Antitrust Authorities with information allowing the discovery of and investigations into cartels.

[6] In the United States and in jurisdictions that follow the American model, even conduct by which a company acquires a dominant position may constitute an infringement of antitrust laws (monopolization).

they are any doubts as to the possible dominance of Eni in a given market, the **Antitrust Unit must be contacted** so that it can carry out verifications and provide appropriate indications.

When a company is in a dominant position, it is forbidden to:

- **hinder competitors** (exclusionary abuses); and
- **impose heavy conditions on its customers**, including distributors and end users (exploitative abuses).

An exhaustive list of the type of abuses does not exist. It is an open type of offence: Antitrust Authorities and judges may consider any conduct to be abusive if it is capable of impairing competition or exploiting customers improperly. The following is a non-exhaustive list of conduct which may constitute a prohibited abuse of a dominant position under specific circumstances.

Prohibited or potentially abusive conduct
Refusing, without objective justification, to supply customers or competitors with an intermediate product (e.g., a raw material) or access to infrastructure, which are indispensable for competing in one or more downstream markets
Preventing or restricting the possibility for customers to purchase the same or other products or services from other suppliers (for example, by making discounts conditional on the customer satisfying at least 80% of its requirements from the supplier or by imposing exclusivity)
Fixing the wholesale price for an input that is indispensable for competitors and the resale price of the derived product or service at levels such as to prevent competitors that purchase the *input* from competing (and making a profit) against the dominant company in the markets of the derived products or services (so-called **margin** or **price squeeze**)
Charging **"predatory" prices** (namely abnormally low prices and prices which are below cost)
Applying discounts aimed at securing the customers' loyalty (**loyalty discounts**)
Discrimination of one customer against another (e.g. by applying higher prices than those applied to Eni companies or internal functions which operate in the same downstream market)
Application of **excessive prices** (namely prices not in line with costs or prices disproportionately higher than the economic value of the product or service provided) or other **unfair sale conditions**
Making the sale of a given product/service conditional on the purchase of another product/service which the customer has not requested and which would otherwise be sold separately (**tying** or **bundling**)
Exploiting **inside information** acquired in carrying out a public service, to pursue an advantage in different markets (for example, using customer lists)
Implement strategies to systematically retain end users who are in the process of switching to other operators (**retention**) or recover previous customers (**win-back**), by contacting them with customized offers based on information which has been improperly obtained or used, including information provided during user transfer by competitors that have acquired the customers.

Where Eni holds a dominant position in a given market, the **Antitrust Unit must be consulted** before engaging in **Business Initiatives in which there is even the slightest doubt that they may coincide with the conduct** described above or anyway be capable of producing exclusionary effects on competitors or undue exploitation of customers.

Even in cases whereby a dominant position on the market is not held, pursuant to Article 9 of Law No. 192 of 18th June, 1998 is not held, companies may not abuse the economic power they enjoy in their vertical relationship with buyers or suppliers who are in a situation of **economic dependence.** Therefore, the **Antitrust Unit must always be consulted** before refusing to sell or buy, imposing unfair contractual or discriminatory conditions or terminating a contract with companies that are in a situation of economic dependence on Eni.

5.3 Other conduct which requires consultation with the Antitrust Unit

a) Agreements for various kinds of initiatives with competitors

When dealing with competitors the following kinds of agreements, though not per se prohibited, must be examined carefully:

- joint production;
- joint marketing;
- optimization of production and/or logistics and/or marketing activities, etc.
- specialization[7];
- research and development;
- creation of common standards; and
- joint purchasing.

Before entering into any of these agreements with competitors, **the Antitrust Unit must be consulted.**

Also before stipulating **joint venture agreements with competitors** (e.g. for the joint management of infrastructure or other production assets, purchasing centres, etc.), the **Antitrust Unit must be consulted**.

b) Agreements with customers or suppliers for the supply or purchase of goods or services

In **vertical relationships with customers and suppliers, the Antitrust Unit must be contacted if**, within the context of the negotiations, the following are discussed:

- exclusive constraints (which are the equivalent of minimum purchase obligations related to more than 80% of the customer's requirements);
- minimum purchase obligations;
- tying or bundling obligations (i.e., various forms for requiring the joint purchase of two products);
- guarantees that no other customer may purchase at better or more favourable prices (*most favoured nation/customer clause*);
- non-competition agreements;
- clauses aimed at monitoring, even indirectly, the resale prices of products;
- reciprocal constraints ("I will buy x from you, if you buy y from me").

c) Agreements for the supply of goods or services to a customer who is also a competitor in an upstream or downstream market

[7] Pursuant to Antitrust Legislation, specialization agreements provide that a party undertakes (i) to refrain from the production or supply of a good or service and (ii) buy the good or service from the other party, which in turn is obliged to supply the former.

If one party to a vertical agreement is a competitor of Eni in an upstream or downstream market, precautions must be taken to limit the flow of internal information. Information shared with the customer/competitor must in any case be limited to what is strictly necessary in terms of the contractual relationship.
If Eni is also dominant in a market which is upstream of the agreement with the downstream customer/competitor, before signing any agreement, **the Antitrust Unit must be consulted.**

d) Management of intellectual or industrial property and the dominant position

If Eni is in a dominant position in one or more than one technology (or in the product markets which incorporate such technologies), the **Antitrust Unit must be consulted** before any licence agreement is signed, or any requests in that sense are refused or strategies are adopted to instrumentally extend the rights to exclude competition.

5.4 Conduct which requires the prior authorization of competent Antitrust Authorities

5.4.1 Obligation to report Merger Operations

Merger Operations are operations that result in a long-lasting change of control (de jure or de facto) of a business or a part of a business, such as:

- the merger of two or more independent businesses;
- the acquisition (and corresponding assignment) of control on the whole or part of an independent business by one or more entities[8]; and
- the creation of joint ventures.
- **Warning**: the parts of a business whose change of control may constitute a Merger Operation are, inter alia:
- going concerns;
- activities or assets to which a turnover can be attributed, even potentially (e.g. administrative authorizations, concessions, other titles that legitimize the exercise of economic activities, patents, trademarks, know-how, the granting of an exclusive license that prevents the assignor from continuing to carry out business activities resulting in its de facto transfer to the assignee, etc.).

Even the leasing or outsourcing of business activities, for a sufficiently long period, may constitute merger operations.

Normally, Merger Operations must be notified to the Antitrust Authorities in advance, where the businesses concerned exceed certain turnover thresholds. Failure to notify the Antitrust Authority will lead to financial penalties and the risk of even worse consequences, such as the obligation to restore the previous situation if the transaction is not authorized. In most countries, mergers may only be carried out after having received an antitrust clearance (so-called standstill obligation).

Warning: it may take several months to obtain prior approval for Merger Operations from the Antitrust Authorities.

Over 100 countries have adopted antitrust laws to control mergers, with uneven thresholds in terms of the notification requirements. In some countries, the obligation might arise even if control of another business is not acquired (for example, in Germany), or if the joint venture is purely contractual (for example, in USA, China, Brazil and Taiwan).

[8] The transition from a situation of exclusive control to a situation of joint control (or vice versa) or modification of the subjects who exercise joint control (e.g. due to the expiry of shareholder agreements) may also constitute a Merger Operation.

Although in several countries the obligation of prior notification of Merger Operations is on the entity that acquires total or partial control of an independent business, the standstill obligation as well as any delays in obtaining authorizations from the Antitrust Authorities concern all parties to the operation. Therefore, **before starting any project involving Merger Operations, the project must be submitted to the Antitrust Unit** so that it can identify the Antitrust Authorities which possibly need to be notified of the operation and estimate the conditions and timescale for its authorization, provide its support in defining the structure of the operation as well as adopting appropriate actions aimed at preventing violation of the standstill obligation and the exchange of improper information in subsequent negotiations and due diligence activities.

Warning: for the purposes of the above, it is completely irrelevant that the Merger Operation will have no impact on competition (for example, due to the modest or even minimal/lack of market share directly attributable to the assets concerned). In fact, if the turnover thresholds provided for by Antitrust Legislation are triggered, the Merger Operations must still be submitted for prior examination by the competent Antitrust Authorities, which, if appropriate, will acknowledge the absence of detrimental effects on competition and will issue the authorization.

5.4.2 Obligations regarding State aids

The European Union provides for a system of prior control of State aid, namely the measures taken by Member States to favour certain undertakings or productions to the detriment of other competitors.[9] State Aids are subject to prior notification to the Commission and to a standstill obligation until they are authorized. If a Member State grants an aid which is considered incompatible, the Commission may order its repayment. Third parties may seek compensation for damage caused by the granting of an incompatible aid to a competitor.

Before accepting a selective advantage from the State or from bodies or companies controlled by the State, the **Antitrust Unit must be consulted.**

The **Antitrust Unit must also be consulted** if favourable conditions are to be granted to a firm or a category of businesses, since even these measures could be classified as State aid.

Warning: the Commission considers State aid to include the following:

- public subsidies and assistance including export subsidies;
- tax exemptions and benefits, delayed payments of taxes or social security payments;
- State shareholding in company capital at non-market conditions;
- supply by the State of goods or services on preferential terms, alienation of land or buildings free of charge or below market value;
- preferential interest rates (or equivalent to the market rate but for higher amounts than those normally available), guarantees on loans;
- indemnification for operating losses;
- reimbursements of the costs of a successful investment;
- public-private partnerships and contracts or work contracts which are not open to tender procedures.

[9] The concept of State aid covers any measure which confers an economic advantage on selected businesses or category of businesses through resources originating from a public authority and that potentially impact on competition and trade between Member States. On the contrary, the concept of State aid does not include measures applicable to all businesses, especially if these measures apply irrespectively of the nationality of the business (for example, a reduction of the tax rate applicable to corporate income).

5.5 Relations with the Antitrust Authorities

Eni is committed to full and fair cooperation with Antitrust Authorities. All relationships with Antitrust Authorities always require the full involvement of the Antitrust Unit.

Requests for information and other contacts. If any member of Eni Personnel receives a formal or informal request for information from or is contacted in any way by any Antitrust Authority, the **Antitrust Unit must be informed immediately.** On the basis of the relevant provisions of Antitrust Legislation, the Antitrust Unit provides indications as to the need or appropriateness to provide feedback to the requests from the Antitrust Authorities, and offers its support to ensure that the answers given are always complete and truthful.

Inspections. Antitrust Authorities officials, in Italy accompanied by the Guardia di Finanza, have the power to carry out unannounced inspections at company premises. Eni Personnel are **required to immediately contact the Antitrust Unit and to follow the rules provided in Eni's Legal MSG with reference to access by Authorities.**

Investigations. If any member of Eni Personnel has news about the initiation of an investigation by Antitrust Authorities against Eni, the **Antitrust Unit must be informed immediately** so that it can define the appropriate actions to be taken.