

# COVID-19 Business actions and legal considerations - Industry collaboration

- UK businesses will be taking important actions to improve their Enterprise Resilience in the current COVID-19 pandemic
- As part of businesses' Operational Resilience actions, we believe certain businesses will seek to enter into vertical collaboration with competitors, in order to keep their supply chains going during the pandemic. We have identified 5 key issues for businesses when considering these joint ventures/partnerships between competitors
- Retailers dealing in food are now permitted, without sanction from competition authorities, to pool together resources and work collaboratively with competitors to supply each other's products to customers

	Competition law	Staff	Quality control	Alternative supply	Costs
Summary of Issue	<ul style="list-style-type: none"> <li>— Competition law requirements have been relaxed only for food industry suppliers.</li> <li>— Competitors who fall under the dispensation may cooperate during the COVID-19 pandemic in ways not ordinarily tolerated e.g. sharing stock level details, pooling staff, sharing fleet etc.</li> <li>— It is possible to ask UK/EU authorities for confirmation as to whether the rules will apply to specific businesses</li> </ul>	<ul style="list-style-type: none"> <li>— Businesses collaborating have an obligation to keep any employee going onto their premises safe, including the provision of suitable PPE against COVID-19 etc.</li> <li>— Where appropriate, access to premises should be restricted to essential personnel only.</li> <li>— Staff should be suitably trained as appropriate in use of dangerous machinery, handling chemicals etc.</li> </ul>	<ul style="list-style-type: none"> <li>— When manufacturing another party's goods, each party must ensure they meet the quality control requirements and procedures of the other party</li> <li>— The parties must agree how they will deal with compensation in respect of any claims by end customers</li> <li>— The parties should consider procedures and how they will deal with product recalls of defective products</li> </ul>	<ul style="list-style-type: none"> <li>— Given the pressures imposed by the COVID-19 crisis and the essential nature of the goods in question, businesses should also consider alternative supply/multi-sourcing options</li> <li>— In order to remain agile and flexible throughout the crisis, competitors collaborating need to consider suitable levels of commitment, their step in rights, their right to source through alternative suppliers in the event of even minor supply failures</li> </ul>	<ul style="list-style-type: none"> <li>— Both should consider making overall cost savings where possible, act in the spirit of cooperation etc. to even out costs inconsistencies</li> <li>— Opportunities for this arise if one party buys raw materials/sources products from its suppliers more cheaply than the other</li> <li>— Further opportunities exist if one party runs its machinery/pays wages/has lower running costs/overheads than the other</li> </ul>
What Should businesses do?	<ul style="list-style-type: none"> <li>— Businesses will only fall within the exceptions if their arrangements meet the requirements</li> <li>— Businesses should therefore seek legal advice regarding whether or not they fall under the dispensation</li> </ul>	<ul style="list-style-type: none"> <li>— Businesses must ensure they are in compliance with the requirements of the Health &amp; Safety at Work Act 1974 and their COVID-19 statutory duties.</li> <li>— Staff must comply with any onsite policies and procedures of each party</li> </ul>	<ul style="list-style-type: none"> <li>— Both parties must ensure they are in compliance with all product liability and safety regulations, such as the Consumer Protection Act 1987 and the General Product Safety Regulations 2005</li> </ul>	<ul style="list-style-type: none"> <li>— Enter into early discussions with alternative suppliers to be able to effect alternative supply at very short notice</li> <li>— Agree emergency policies and procedures to deal with any urgent changes in law, due to demand spikes etc.</li> </ul>	<ul style="list-style-type: none"> <li>— Where possible, parties should consider consolidating their supply chains to make cost savings</li> <li>— Parties could also agree to cost sharing mechanisms e.g. to regularly pay each other their offset costs etc.</li> </ul>

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