Collusions on the labor market – stop! It is illegal!

* **Did Dino and Biedronka chains, along with transport companies, illegally agree not to “poach” each other’s drivers?**
* **The President of UOKiK has initiated preliminary investigation while the UOKiK officials, upon a consent of the court and assisted by the Police, searched the premises of the companies.**
* **Collusions on the labor market are illegal! Read more about this in the guide prepared by the Office of Competition and Consumer Protection.**

**[Warsaw, 8 July 2024]** Having been notified and having conducted analyses, the President of UOKiK initiated an investigation procedure concerning the labor market. He examines the practices applied by retail chains Biedronka and Dino as well as the transport companies serving these businesses. In February and April 2024, with the court’ consent and police assistance, UOKiK employees searched the headquarters of Jeronimo Martins Polska, Dino Polska, and the transport companies. The evidence collected is being analyzed.

*“We suspect that the entrepreneurs providing services for Biedronka and Dino chains might have reached an agreement not to compete with each other for employees.* *We are also investigating whether such arrangements could have been coordinated by the retail chains.* *The practices analyzed would have resulted in be a lack of flexibility for drivers to change jobs and a limitation on the growth rate of their wages,”* said UOKiK President Tomasz Chróstny.

As a result of a potential agreement, transport companies may not have hired drivers working for other participants in the suspected collusion. In turn, the discount store owners might have imposed and enforced compliance with the established rules by the transport companies. This could involve a situation where an entrepreneur whose employee left without an agreement would place a “block” on that person within the network. Consequently, the driver would not be able to find employment with another carrier serving the same distribution center.

Agreements not to compete for employees, also known as no-poaching agreements, impact the most sensitive element of price competition between employers – the wages offered to employees. Such agreements can result in lower wages or slower wage growth compared to a situation where such collusion does not exist.

The investigation procedure is conducted *in rem* and not against specific businesses. If the evidence collected confirms the suspicions, the President of the Authority will initiate antitrust proceedings and bring charges against individual entities. An enterprise involved in a competition-restricting agreement faces a fine of up to 10% of its revenue. The managers responsible for entering into the price-fixing arrangement face a fine of up to PLN 2 million.

**Collusions on the labor market are illegal**

Competition law prohibits agreements that aim at or result in restricting competition. The most well-known examples of prohibited activities are price-fixing, bid-rigging, or market division schemes. Entrepreneurs themselves are not always aware that competition law also applies to markets other than those in which they sell their products. However, competition-restricting agreements can also apply to the job market and arrangements concerning employees.

*“Collusions restricting competition on the labor market negatively impact both employees’ situations and the economic growth rate.* *Therefore, we have prepared a special guide explaining when such actions might be illegal and subject to significant financial penalties.* *This is essential reading for every employee, HR departments as well as well as large and small entrepreneurs and trade unions,”* says UOKiK President Tomasz Chróstny.

The guide entitled “Collusion and abuses on the labor market. Competition law and employees’ matters” presents practices that may be prohibited along with practical examples. The stories of Arek and Aurelia help illustrate when the law is violated.

**What practices can restrict competition?**

Jointly setting wage levels for employees, for example lowering or setting an upper limit on salaries or not giving raises, known as **wage-fixing**, is prohibited. In such cases, colluding entrepreneurs eliminate the risk that an employee will leave after receiving a better offer from a competitor.

Another example of a law violation are agreements not to compete for employees, known as **no-poaching agreements**. This way, entrepreneurs eliminate the risk of a competitor recruiting their employees. They might agree, for example, not to **actively** seek each other’s employees. Such arrangements can also take a more **passive** form, such as employers not pursuing a job interview if they receive a CV from an employee of the other party involved in the collusion.

Jointly setting other working conditions that affect an employer’s attractiveness, such as the number of remote work days, can also be prohibited.

**Not just employment contracts**

The guide, describing the stories of several characters, explains that employees within the meaning of competition protection law include not only those employed under a standard employment contract but also other individuals providing work, such as those signing contracts of mandate and those running sole proprietorships. This can include developers performing tasks for an IT company or athletes in a sports club. In 2022 and 2023, the President of UOKiK issued decisions regarding the setting of players’ wages in league [basketball](https://archiwum.uokik.gov.pl/news.php?news_id=19005) and [speedway](https://archiwum.uokik.gov.pl/news.php?news_id=19643) matches.

**What about non-compete clause?**

Another issue clarified by the President of UOKiK is the non-compete clause. These clauses prohibit an employee from taking up employment with a competitor of their current employer after terminating their employment or from performing tasks for other entities during their employment. If such clauses are included in contracts as a result of arrangements with other entities, they may constitute a violation of competition law.

**HR Managers, this is essential reading for you!**

One group that must read the document prepared by UOKiK are those in charge of human resources (HR) departments. It is crucial to remember that even informal arrangements with counterparts from competing companies can be considered a competition-restricting agreement. We remind you that severe penalties are at stake – up to 10% of turnover for an entrepreneur and up to PLN 2 million for managers who are directly responsible for the prohibited practice.

**Notify UOKiK**

If you know that your current or former company has entered into one of the agreements described above or if you cannot change jobs because of them, notify UOKiK. UOKiK operates a program to acquire information from anonymous whistleblowers. Visit <https://uokik.whiblo.pl/> or scan the QR code below. The system we use guarantees full anonymity, including from the Competition Authority.



**Colluded? You Can avoid penalty**

If you have entered into an anti-competitive agreement regarding employees, you can avoid financial penalties thanks to the [leniency scheme](https://konkurencja.uokik.gov.pl/program-lagodzenia-kar/). It is applicable to those who agree to cooperate with the President of UOKiK as a “crown witness” and provide any and all evidence or information on the illegal agreement.

Entrepreneurs and managers interested in the leniency scheme are encouraged to contact the Authority. By calling 22 55 60 555, you will be able to talk to UOKiK lawyers, who will answer all of your questions, also anonymous ones, related to leniency applications.

**Contact the National Labor Inspectorate**

We remind you that the President of UOKiK’s competencies on the labor market only pertain to business collusions. If you have issues such as workplace safety, legality of employment, wage payments, or working hours, report them to the [National Labor Inspectorate.](https://www.pip.gov.pl/) You can get advice on employees’ rights violations at: <https://www.pip.gov.pl/kontakt/uzyskaj-porade.>