

ASCOLA Transparency and Disclosure Declaration

In view of the recent publicity relating to undisclosed arguable conflicts of interest relating to scholarship, the Board of ASCOLA appointed a temporary ethics committee to prepare a text declaring the importance its members ascribe to certain values in the way they conduct their research and publication activities, and which might also serve more generally as a model for the broader community of scholars in competition law and economics.

The ethics committee has consulted broadly and collected information on the practices followed by a number of professions involved in competition law disputes in various jurisdictions. The suggested declaration aims to take into account the specificities of such professions.

Guiding principles – Preamble

Types of research that come under the Declaration

The implementation of competition law requires important technical expertise that may involve various disciplines, such as economics, law, accounting and business. Research in the area of competition law and economics plays a significant role in the direction of competition law enforcement and its implementation by courts, to the extent that the goals of competition law, the development of theories of harm, and the analysis of the societal implications of novel business practices, require an extensive and intensive effort of academic research.

This research is frequently conducted in Universities and other public research institutions, as well as in private corporations, law firms, economic consultancies, private research institutions, or hybrid public-private research ventures.

This research is often published in traditional professional media, such as books, journals, general and specialised newspapers and periodicals, or in digital form in other professional media, such as blogs, Internet research pages, discussion and working papers (hereinafter jointly referred to as “articles”).

In the current heavily mediatised research environment, research may also be made public through its presentation in conferences, workshops, seminars, or through interviews with traditional and non-traditional professional or non-professional media.

General principles

This Declaration suggests that all research outcomes, in all research outlets, should be guided by the following general principles, the implementation of which is elaborated below:

1. *Objectivity and Independence*: All scholarship should express the personal and independent opinions of the author(s) without any bias and without any interference by any third party.
2. *Transparency*: Authors should appropriately identify all sources of what could reasonably be perceived as bias and make appropriate disclosure of any and all affiliations that could reasonably be perceived as a source of bias. Except for good (and disclosed) reasons, empirical work should make data and methods available to permit replication. As discussed below, appropriate disclosure may at various times be on the publication itself, to a possible or actual publisher, or on the author's publicly-available web page.
3. *Fairness*: All scholarship should make fair use and assessment of research findings and represent as faithfully as possible the different opinions and views expressed in the article.

Disclosure constitutes the main tool put forward by this Declaration.

Article 1: Disclosure in articles

- 1.1. Every article should clearly state the direct and indirect sources of financial support for the particular article in the first footnote. If none, this fact should be clearly stated.
- 1.2. If this is a commissioned article ("work for hire"), this fact should be clearly stated in the article.
- 1.3. If the research was directly funded or otherwise supported, this fact should be clearly stated in the article.
- 1.4. If the author(s) received compensation from consulting/expert witnessing/serving with a law firm/consulting firm/regulators and/or legislators and other public authorities, to the extent this is permitted by current data protection or other legislation, each author should identify each interested party from whom he or she has received significant financial support, summing to at least \$10,000 in the past three years, in the form of consultant fees, retainers, grants and the like.
- 1.5. The disclosure requirement stipulated in 1.4 also applies to in-kind support, such as providing access to data.
- 1.6. An "interested" party is any individual, group, or organization that has a financial, ideological, or political stake related to the article. The term "interested" party also includes the national or regional competition authorities (including sector-specific regulators), international organisations representing competition authorities, or other

public authorities, or legislators, should the research or research outcome relate to a decision or action/inaction of that public authority.

- 1.7. If the support comes with a non-disclosure obligation, that fact should be stated, along with as much information as the obligation permits.
- 1.8. Each author should also disclose any paid or unpaid positions as officer, director, or member of relevant non-profit organizations (including research centers) or profit-making entities in any organization whose policy positions, goals, or financial interests relate to the article.
- 1.9. Prior industry affiliation or prior employment in interested parties (within the past three years from the date of the submission of the research outcome) and scheduled future employment should also be disclosed.
- 1.10. The disclosure also applies to any support of the kind noted above given to the spouse/partner of any author, or to a close business partner, that is, other stakeholders or partners of the same organization.
- 1.11. Disclosure should be precise and should include, to the extent this is permitted by current data protection or other legislation, information on the party that has provided the funding or in-kind support. For instance, general disclosure of the kind “The authors have worked with large and small clients in the X sector” is not sufficient. Researchers should be more precise identifying the funder(s) to the extent this is possible. If the support has been channelled through a law firm, an NGO or a political pressure group, the original source should be stated.
- 1.12. In general, authors are expected to disclose in their articles all relevant factors that might lead to real or potential conflicts of interest.

Article 2: Right to review

Each author must disclose if another party had the right to review the research prior to its circulation. Should the author bid for engaging in the research required by an interested party, this fact should also be clearly stated.

Article 3: Disclosure in events

When researchers organize conferences, workshops, or seminars, they should disclose any non-de minimis funding or in-kind support, in view of the principles described in Articles 1-2.

Article 4: Disclosure in media and non-professional outlets

4.1. Interviews and other statements in mass media (e.g. newspapers, periodicals, radio, TV) should include disclosure of the support received by an interested party, in view of the principles described in Articles 1-2.

4.2. The method of disclosure may vary according to the type of the outlet.

4.3. The disclosure may be as extensive as this is permitted by the nature of the specific outlet.

Article 5: Disclosure and Research Centres and direction/supervision of research

5.1. When researchers are part of or direct Research Centres and research teams, or supervise PhD students or other researchers, they should provide the same level of disclosure for their research centre and research supervision as that indicated in Article 1.

5.2. Researchers should also include in their research outcomes information on the funding of the research centre that has funded their work, should this centre or body not be the one with which they are generally affiliated. This could take the form of the inclusion of the following information: “The research has received funding from X. X’s sources of funding are indicated in <http://www.xxxxx>” (which will refer to the webpage of the Research Centre indicating the sources of external funding).

Article 6: Disclosure for researchers with a non-academic position

6.1. It is quite frequent that articles are authored/co-authored by authors cumulating an academic position with a position in a law firm or economic consultancy. In this case, employment (even if part-time), should be disclosed.

6.2. To the extent this is permitted by current data protection or other legislation, the disclosure obligations indicated in Articles 1-3 will also apply in this case.

Article 7: Disclosure rules for editors and referees

7.1. Members of ASCOLA that serve as Editors and referees of journals and other professional periodicals should endeavour to abide by the conditions of the ASCOLA Transparency and Disclosure Declaration.

7.2. Editors should require reviewers to disclose any potential competing interests before agreeing to review a submission.

7.3. Information on relevant potential conflicts of interest should be made available to the public. Readers should be informed about who has funded research or other scholarly work and whether the funders had any role in the research and its publication and, if so, what this was.

Article 8: Disclosure – procedures

8.1. When publishing an article, it is normally expected that each author(s) should submit a disclosure statement in the first footnote of the article.

8.2. In principle, the disclosure statement should be completed even if the authors have nothing to disclose. This fact should be explicitly stated. We consider that for journal articles the disclosure statement should be available to referees.