

Antitrust Competition Laws Guidelines

The antitrust laws of many territories prohibit agreements, combinations and conspiracies in restraint of trade. The antitrust laws prohibit competitors from engaging in actions that could result in the unreasonable restraint of trade. Above all else, association members should be free to make business decision based on the dictates of the market, not the dictates of the association.

Some activities by competitors are deemed so pernicious and harmful that they are considered per se violations; it does not matter whether or not the activities have a harmful effect on competition. These generally include price fixing and some forms of boycotts.

Other actions such as standards development and relationships between distributors and suppliers generally are evaluated under a rule of reason: There is a balancing between the pro-competitive and anti-competitive aspects of the activities. Members should avoid discussing certain subjects of the activities. Members should avoid discussing certain subjects when they are together – both at formal gatherings and in informal settings – and should otherwise adhere strictly to the following guidelines:

- **DO NOT** discuss prices, fees or rates, or features that can impact (raise, lower or stabilize) prices such as discounts, costs, terms and conditions of sale, warranties, or profit margins. Note that a price-fixing violation may be inferred from price-related discussions followed by parallel decisions on pricing by association members, even in the absence of an oral or written agreement.
- **DO NOT** agree with competitors as to uniform terms of sale, warranties or contract provisions.
- **DO NOT** exchange data concerning fees, prices, production, sales, bids, costs, customer credit or other business practices unless the exchange is made pursuant to a well-considered plan that has been approved by the company's legal counsel.
- **DO NOT** agree with competitors to divide up customers, markets or territories.
- **DO NOT** agree with competitors not to deal with certain suppliers or others.
- **DO NOT** try to prevent a supplier from selling your competitors.
- **DO NOT** discuss your customers with your competitors.
- **DO NOT** agree to any membership restrictions, standard-setting, certification, accreditation, or self-regulation programs without the restrictions or programs having been approved by the company's legal counsel.
- **DO** insist that meetings that have agendas are circulated in advance and that the minutes of all meetings properly reflect the actions taken at the meeting.
- **DO** leave any meeting – formal or informal – where improper subjects are being discussed. Tell everyone why you are leaving.
- **Do** ensure that if questions arise about the legal aspects of your organization's activities or your individual responsibilities under the antitrust laws, you seek advice and counsel from your own counsel or from the staff and counsel of PMI.

Any questions about this antitrust statement should be directed to PMI's General Counsel.