

Antitrust Policy

When competitors or potential competitors come in contact, they must be especially conscious of their responsibilities under the federal antitrust laws. Among other things, these laws prohibit price-fixing, agreements to divide geographic markets, agreements to allocate customers, and collective refusals to deal (boycotts).

Violation of the antitrust laws can result in the imposition of severe criminal and civil penalties. Criminal penalties in some jurisdictions like the United States include fines (up to \$100 million for corporations and \$1 million for individuals per offense), and prison sentences for individuals (up to ten years). In addition, anyone harmed by an antitrust violation may bring a civil suit and recover three times the amount of actual damage suffered.

Consequently, competitors and potential competitors will want to consider the following principles for minimizing their risk under these laws:

1. Avoid all discussions with competitors of the prices at which you and they are selling or will sell competing products or services. Agreements among competitors to fix their prices are the most common antitrust violations for which criminal penalties are sought. They are violations regardless of the motivation of the parties. It is not necessary that the agreement be in writing. Courts often infer such agreements from oral conversations and understandings.
2. Avoid any exchanges of information with competitors that could result in an understanding as to prices or terms of sale. Even though there is no explicit agreement on price, a court may find a violation because the parties' conduct demonstrated that they had an understanding.
3. Avoid any agreements with competitors on matters that indirectly affect your prices, such as agreements on the volume of products you will make or sell or agreements on so-called "quality" standards for product manufacture.
4. Avoid any discussion from which it may be inferred that you and your competitors have agreed not to compete with each other as to a particular product or in a particular geographic area or as to particular customers. Such agreements among competitors not to compete or to allocate territories or customers are per se violations of the law.

5. Do not participate in any agreement or understanding with any of your competitors that has the effect of reducing or preventing other competitors from competing with you. Also avoid any arrangement with your competitors that restricts or prevents a supplier or customer from selling or buying products or services. These agreements are group boycotts constituting per se violations of the law.
6. Finally, if you have any doubt about the legality of a discussion, terminate the discussion and seek legal advice before resuming.