

It is the policy of the American Society of Trial Consultants (ASTC) and its members to strictly comply with laws and regulations applicable to their activities, including federal and state antitrust laws. It is further the policy of the ASTC to assist its members in complying with federal and state antitrust laws in connection with ASTC activities. ASTC members and leaders are expected to conscientiously adhere to antitrust laws. ASTC will neither knowingly permit nor condone anti-competitive behavior in connection with any ASTC activity.

ANTITRUST LAWS

The antitrust laws seek to preserve a free competitive economy. As a general rule, competitors may not reach agreements or understandings as to the price, the production or the distribution of their products and services. Other types of agreements that unreasonably restrict competition, including opportunities of their competitors can in certain circumstances violate antitrust laws. The antitrust laws also prohibit monopolization and attempts to monopolize when unaccompanied by exclusionary conduct, unfair methods of competition, unfair or deceptive acts or practices, some supplier or purchaser agreements, some joint ventures/mergers/consolidations, and similar activities. A more complete discussion of the antitrust laws can be found in the Sherman Act, Federal Trade Commission Act, Clayton Act, Robinson-Patman Act, and California's Cartwright Act.

Antitrust laws are often unclear in terms of applicability to any given conduct. Whether or not an antitrust violation exists depends purely on the specific conduct and facts involved in each instance. Notwithstanding the nebulous nature of the antitrust law, penalties for violating them, both civil and criminal, are severe. Certain activities can result in felony criminal convictions with penalties including prison and substantial fines.

MEMBER RESPONSIBILITIES

ASTC programs are designed and monitored to comply with antitrust law. Every ASTC member, whether organizational or individual, has a duty and responsibility under the law to avoid and prevent antitrust violations. Every ASTC member needs to understand basic antitrust laws, to recognize areas of potential antitrust risk, and to overtly object to and refuse to participate in any activity that poses antitrust risk until that risk is properly assessed and cleared by legal counsel or other qualified advisor.

AREAS OF RISK

It is not possible to provide a complete or specific list of activities that amount to an antitrust violation. However, it is helpful to identify areas of risk, where close attention can be paid to the

possible anti-competitive nature of the agreements or activity involve. Some areas of risk include discussions of the following:

- Agreements among members to , control or influence price and fee increases or decreases, or stabilization or standardization of prices and fees (Note: Discussion of prices established by third parties not influenced or controlled by the discussing parties is generally not, standing alone, anti-competitive or illegal.)
- What constitutes a “fair” profit level
- Procedures for establishing selling prices and fees, cash discounts, credit terms
- Control of sales levels, inventory levels or timing of sales and services
- Allocation or division of markets or geographical divisions of markets among competitors
- Agreements among members to refuse to deal with certain other persons or firms (boycott)
- Whether or not the pricing practices of any competitor/industry member are unethical, or constitute an unfair trade practice
- Agreements among members to limit or restrict advertising. Again, some discussions relating to activities identified above will not amount to antitrust violations. However, discussions relating to them require thorough prior antitrust analysis and guidance in the discussion.

ASSOCIATION BOARD AND COMMITTEE MEETINGS

To avoid even the appearance of impropriety, as well as to avoid inadvertent violation of antitrust laws, all association board and committee meetings will be conducted in accordance with our By-Laws and the following rules:

1. A written agenda will be prepared and distributed in advance of each meeting. Agenda issues with potential antitrust implications will be reviewed and discussed by the chairman, executive director and legal counsel, if deemed appropriate. Additions to the agenda having potential antitrust implications should be postponed, or discussions of such matters held with legal counsel or other qualified advisor present.
2. Minutes of every meeting will be prepared and reviewed. Audio, video or other recordings of meetings will not be permitted. Minutes will be approved at the next meeting.
3. In the event of concern regarding potential antitrust implications of a discussion, discussion must be discontinued pending resolution of the matter through the executive director or legal counsel, if necessary.

4. In the event that any member has a concern about potential antitrust implications of discussion during a meeting, he or she shall interrupt discussion and state that concern immediately. If discussion is not terminated and the concern resolved, the concerned member should state that he or she is leaving the meeting for that reason, and leave.
5. Conversations involving discussion of matters in violation of this policy will not be tolerated at an association meeting, and violating parties may be ejected from the meeting by the chairman.