

Appendix U

ANTITRUST POLICY STATEMENT AND GUIDELINES

Introduction

It is the policy of AOAC INTERNATIONAL (AOAC) and its members to comply strictly with all laws applicable to AOAC activities. Because AOAC activities frequently involve cooperative undertakings and meetings where competitors may be present, it is important to emphasize the on-going commitment of our members and the Association to full compliance with national and other antitrust laws. This statement is a reminder of that commitment and should be used as a general guide for AOAC and related individual activities and meetings.

Responsibility for Antitrust Compliance

The Association's structure is fashioned and its programs are carried out in conformance with antitrust standards. However, an equal responsibility for antitrust compliance -- which includes avoidance of even an appearance of improper activity -- belongs to the individual. Even the appearance of improper activity must be avoided because the courts have taken the position that actual proof of misconduct is not required under the law. All that is required is whether misconduct can be inferred from the individual's activities.

Employers and AOAC depend on individual good judgment to avoid all discussions and activities which may involve improper subject matter and improper procedures. AOAC staff members work conscientiously to avoid subject matter or discussion which may have unintended implications, and counsel for the Association can provide guidance with regard to these matters. It is important for the individual to realize, however, that the competitive significance of a particular conduct or communication probably is evident only to the individual who is directly involved in such matters.

Antitrust Guidelines

In general, the U.S. antitrust laws seek to preserve a free, competitive economy and trade in the United States and in commerce with foreign countries. Laws in other countries have similar objectives. Competitors (including individuals) may not restrain competition among themselves with reference to the price, quality, or distribution of their products, and they may not act in concert to restrict the competitive capabilities or opportunities of competitors, suppliers, or customers.

Although the Justice Department and Federal Trade Commission generally enforce the U.S. antitrust laws, private parties can bring their own lawsuits. Penalties for violating the U.S. and other antitrust laws are severe: corporations are subject to heavy fines and injunctive decrees, and may have to pay substantial damage judgments to injured competitors, suppliers, or customers. Individuals are subject to criminal prosecution, and will be punished by fines and imprisonment. Under current U.S. federal sentencing guidelines, individuals found guilty of bid rigging, price fixing, or market allocation must be sent to jail for at least 4 to 10 months and must pay substantial minimum fines.

Since the individual has an important responsibility in ensuring antitrust compliance in AOAC activities, everyone should read and heed the following guidelines.

1. Don't make any effort to bring about or prevent the standardization of any method or product for the purpose or intent of preventing the manufacture or sale of any method or product not conforming to a specified standard
2. Don't discuss with competitors your own or the competitors' prices, or anything that might

- affect prices such as costs, discounts, terms of sale, distribution, volume of production, profit margins, territories, or customers.
3. Don't make announcements or statements at AOAC functions, outside leased exhibit space, about your own prices or those of competitors.
 4. Don't disclose to others at meetings or otherwise any competitively sensitive information.
 5. Don't attempt to use the Association to restrict the economic activities of any firm or any individual.
 6. Don't stay at a meeting where any such price or anti-competitive talk occurs.
 7. Do conduct all AOAC business meetings in accordance with AOAC rules. These rules require that an AOAC staff member be present or available, the meeting be conducted by a knowledgeable chair, the agenda be followed, and minutes be kept.
 8. Do confer with counsel before raising any topic or making any statement with competitive ramifications.
 9. Do send copies of meeting minutes and all AOAC-related correspondence to the staff member involved in the activity.
 10. Do alert the AOAC staff to any inaccuracies in proposed or existing methods and statements issued, or to be issued, by AOAC and to any conduct not in conformance with these guidelines.

Conclusion

Compliance with these guidelines involves not only avoidance of antitrust violations, but avoidance of any behavior which might be so construed. Bear in mind, however, that the above antitrust laws are stated in general terms, and that this statement is not a summary of applicable laws. It is intended only to highlight and emphasize the principal antitrust standards which are relevant to AOAC programs. You must, therefore, seek the guidance of either AOAC counsel or your own counsel if antitrust questions arise.

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