

Wisconsin Optometric Association

Antitrust Compliance Program Manual For Members and Staff

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Acknowledgement Form

I. Introduction

The Wisconsin Optometric Association Board of Directors is issuing this Antitrust Compliance Program Manual ("Manual") as part of the WOA's continuing antitrust compliance program. The Manual represents WOA's official policy, and all persons participating in association activities are expected (1) to be familiar with the program both through this Manual and through other presentations; (2) to seek clarification from the Executive Vice President (EVP) when matters arise which are unclear; (3) to strictly follow these requirements for meetings, communications and other activities described in this Manual; and, (4) to report any violations of this policy to the president or EVP.

The Manual is intended to complement the annual or more frequent antitrust compliance lectures which have been presented in previous years. Those will be continued together with conversational and manual reviews and updates.

This Manual is a key part of the WOA's Antitrust Compliance Program. It is a resource and reference guide for understanding the relationship between the antitrust laws and WOA's activities, and it sets forth the necessary procedures to be followed by WOA volunteers and staff.

Each responsible employee and "volunteer" member of the WOA must have a practical, working understanding of the relevant requirements of the antitrust laws. Accordingly, this Manual in Sections II through V sets forth the required procedures to be followed by volunteers and staff to ensure compliance with the antitrust laws and to avoid any possible appearance of noncompliance. In Section VI, the Manual describes in general terms the antitrust and trade regulation statutes.

WOA and its component groups shall remain in full compliance with the antitrust laws. To ensure that this compliance is maintained, the following procedural requirement, described in detail in the subsequent sections of this manual, shall be adhered to:

WOA and component groups shall, unless expressly waived by the EVP:

- (1) have a notice and agenda for every meeting;
 - (2) have accurate minutes of each meeting;
 - (3) obtain review of work product, publications and correspondence;
 - (4) obtain review of data collection and survey projects;
- and
- (5) maintain attendance by volunteers and staff at antitrust presentations and discussion groups.

Unless you have a written waiver from the president or EVP, the activity you are engaged in is subject to these required procedures. If you have any questions regarding your obligations, contact the president or EVP. See Section VI, below.

II. Requirements For WOA Meetings

These requirements apply to internal meetings of the Board of Directors and all components of WOA:

Councils	Commissions
Departments	Project Teams
Committees	Task Forces
Ad Hoc Groups	

WOA and many of its component groups are by definition groups of competitors. Meetings of such groups must be conducted in a manner so as to eliminate even the appearance of anticompetitive activities. (As used in this Manual, the word “group” refers to any and all component groups of WOA).

Except where the EVP approves in writing different procedures in advance, the following meeting requirements shall be adhered to so that WOA members and staff can eliminate antitrust risks and meet to transact the lawful business of WOA:

A. Notice and Agenda

1. Each meeting must be preceded by a notice furnished to all group members.
2. An agenda covering the subjects for discussion must be prepared and distributed to group members prior to any meeting.
3. Agendas must be sufficiently detailed to fully disclose the actual subject matters of the discussions to be held. In addition to enabling members to prepare for a productive meeting, the agenda also alerts group participants, staff and counsel to matters that may raise legal questions to be considered prior to the meeting.
4. Meeting attendees must adhere to the agenda at meetings. No “off the record” discussion at the meetings are permissible. Items may be dropped from the agenda at the meeting.
5. If it appears necessary before the meeting to add an item or items of business to the agenda with insufficient time for formal notice, any such added item must be reviewed and approved by EVP before being taken up.
6. If a non-agenda subject comes up at the meeting, it should not be discussed without prior consultation with the EVP if the subject involves an area of antitrust concern (or a subject that might affect competition).

B. Minutes of Meetings and Written Product

1. Accurate, concise, and complete minutes must be kept reflecting the subjects discussed and any actions taken at all meetings. Draft minutes must not be distributed until reviewed and approved by counsel. Usually it is preferable for staff to prepare minutes if staff attends the meeting.

2. Minutes are to be marked "DRAFT" until approved at the succeeding meeting. Draft minutes are to be distributed to attendees and other interested persons promptly after the meeting and EVP review.
3. Minutes of meeting can be important. They are the principal contemporaneous evidence of what transpired at a meeting. It is the presiding officer's and EVP's responsibility to see that the minutes are clear, complete, and accurate with regard to the meeting discussion and the actions taken.
4. An accurate list of persons invited to the meeting as well as a list of those actually attending, should be included as part of the minutes.
5. There is no such thing as an "off the record" conversation. The presiding officer is obligated to see to it that subjects discussed are accurately recorded. If a participant feels that his comments are not appropriate to be "on the record", they probably are not proper for the meeting and should not be made.
6. Any task force or committee or group work product or publications must be marked "DRAFT" and may not be published or distributed as a final document approved in accordance with procedures established by the Board of Trustees or by the EVP.

C. Files

1. The agenda and minutes for each meeting, including an accurate list of attendees, should be kept in an historical file each council, section committee, subcommittee, task force or other group. The documents should be kept separate from general files that contain memoranda, letters and other documents relating to the same committee or task force.
2. Files will be reviewed periodically by WOA's staff and EVP for completeness and legal sufficiency.

Following these relatively simple steps will help to ensure that WOA component group meetings are properly conducted and that problems, or even the appearance of problems, are avoided.

D. Presence of Counsel At Meetings

1. The Board, the President or the EVP will determine which meetings of the WOA groups will be attended by counsel.
2. If counsel cannot attend a meeting at which counsel is required, it must be postponed unless the agenda of such meeting is approved by EVP and/or and the presence of counsel is specifically waived by the EVP.

E. Meeting Topics And "Taboos"

It is very difficult to define the permissible limits of discussion at WOA group meetings because much depends on the context in which any particular subject is raised or discussed. Nevertheless, a prudent rule which must be followed at all meetings, and during social gatherings incidental to meetings, is that no activities or subjects that would have the purpose and intent of restricting competition should be discussed, acted upon or even considered. There should **never** be a discussion or exchange of information (or any activity which creates

the appearance of such) on the following subjects at any WOA group meeting or at any meal or social gathering incidental to such a meeting:

1. Any agreement, understanding, or arrangement on how, why and at what level members should set their fees and prices.
2. Individual fees and prices or any element of individual price or pricing policy, including price changes, price levels, price differentials, mark-ups, margins, profits, discounts, allowances or credit terms;
3. Individual costs, sales volumes, inventories, or changes in such;
4. Boycotts of supplies, competitors, health care plans, or users of optometric services;
5. Limits on market shares, sales quotas, or allocations;
6. Any matters which might have the effect of excluding competitors, supplies, or patients (individual or groups); or restricting the business conduct of competitors, suppliers or patients; or dealing with coercion or the exclusion of or control of competition.

The above list of forbidden subjects is not all-inclusive. If there is a question of uncertainty as to whether or not a subject is appropriate for discussions, the EVP should be consulted in advanced of any discussion of the subject. One reason for these prohibitions is that while it is not always unlawful in and of itself to discuss such topics, such discussions among competitors may suggest or create the appearance of tacit understanding or collusion in violations of the antitrust laws.

The most effective method of assuring that WOA group meeting are limited to lawful and appropriate subject matters is to adhere strictly to the procedures set forth in this Manual, as summarized in the following 9-point check list:

1. EVP attends all meetings, unless expressly waived.
2. There are agendas for all meetings.
3. Limit meeting discussions to agenda topics unless additional topics have been approved in accordance with these requirements.
4. Prepare meeting minutes that accurately reflect the subjects discussed and distribute drafts to attendees and EVP for review.
5. Compile an accurate list of (1) all persons invited to the meeting, and (2) persons actually attending.
6. Provide draft agendas and minutes for all meetings to EVP before distributing them.
7. Maintain full descriptions of the purpose and authority of all councils, committees, sub-committees, working groups, and other groups.

8. Consult with EVP on all apparent antitrust questions relating to the particular meeting.
9. Protest any discussions or meeting activities which appear to violate this checklist; disassociate yourself from any such discussions or activities; leave any meeting in which they continue; and promptly report any such matters to the President or the EVP.

F. No Meetings to Discuss Business Unrelated to WOA

1. A WOA meeting may not be used as an occasion for attendees to informally gather to discuss non-agenda topics or other unrelated business matters.
2. When a meeting is adjourned, it should be over in all respects and not simply in name. Informal discussions of non-agenda topics present too great a temptation for “confidential” discussion of prohibited subjects. If anticompetitive professional practices were to follow such meetings, the results could be disastrous for the individuals involved and perhaps for WOA and for the profession of optometry.

III. Requirements For Communications And Meetings With Outside Groups

A. Meetings With Manufacturers, Supplies and Competitors

From an antitrust perspective, meetings with outside groups, specifically manufacturers, suppliers or competitors, may be the most suspect association activities. Therefore, it is imperative that the requirements below be strictly adhered to unless expressly waived by the President, Board of Directors, or the EVP after consultation with counsel. It is these meetings between competitor groups or with individual suppliers or supplier groups that antitrust enforcement agencies will scrutinize thoroughly for indication of collusive behavior such as price fixing, market division, refusals to deal, boycotts and other forms of unlawful concerted action. In principal part, the requirements for those meetings are the same as those applied to internal WOA meetings. If the representatives of the outside entity are unwilling to adhere to these requirements, the proposed meeting must be cancelled, or, if under way, terminated. Again, strict adherence to these standards is required.

1. There is notice and agenda for each meeting. The agenda must be substantively informative as to the discussion to take place, and must be strictly adhered to.
2. EVP shall attend all meetings with outside groups.
3. Minutes that accurately reflect the subjects discussed shall be prepared and distributed in draft form for review.
4. Compile an accurate list of: 1) all persons invited to the meeting; and 2) persons actually attending
5. Provide draft agendas and minutes for all meetings to EVP before distributing them.
6. Maintain full descriptions of the purpose and authority of all working groups.
7. Consult with EVP on all apparent antitrust questions relating to the particular meeting.

8. Protest any discussions or meeting activities which appear to violate this checklist, or discussions which touch on any of the “taboos” listed in section II, E, above; or could possibly be construed as relation to an anticompetitive attitude to any entity or group not present; disassociate yourself from any such discussions or activities; leave any meeting in which they continue; and promptly report any such matters to the President or EVP.
9. No inter-group meeting may be used as an occasion for an informal discussion of non-agenda topics.

B. Correspondence With Manufacturers, Suppliers, and Competitors

- a. No WOA member or staff person is authorized to correspond on behalf of WOA with manufacturers, suppliers or members, or competitors, or groups thereof regarding competition, prices, sales, markets, or marketing without consultation with EVP.
- b. Draft correspondence on behalf of WOA on any other matters with any manufacturer, association of manufacturers, or association of competitors is subject to review and approval in accordance with procedures established by the EVP.

C. Telephone Conversations With Manufacturers, Suppliers and Competitors

As with meetings and correspondence, other communications with manufacturers, suppliers, competitors and representatives of associations therefore should never involve anticompetitive matters, including the taboo subjects listed above at section II, E.

- a. If there is any question about the appropriateness of the subject matter of a proposed conversation, review it with the EVP.

IV. Requirements for Other Functions

A. Data Collection And Reporting

The collection and dissemination of statistical information and other survey data on the overall state of a profession or industry can help WOA members individually deal with common professional and business problems in a pro-competitive manner. Data collecting and reporting programs are acceptable so long as statistics that could result in price-fixing or other prohibited activities are not developed. The following requirements should be followed for acceptable statistical reporting programs.

1. No WOA group shall undertake a statistical reporting program without consultation with the EVP.
2. Price data and reports should be limited to past transactions. No price information on current or future transactions should be collected or reported.
3. Information should be compiled and reported in composite form and individual member data should be kept confidential.
4. The reporting program should be entirely voluntary. There should be no subtle coercion to participate.
5. The composite data compiled should be made available generally.

B. Standards Setting

Standards setting is currently undertaken pursuant to the AOA Seal of Certification and Acceptance program and governed by the Code of Conduct for that Program.

Standard setting programs must continue to adhere to the following principles:

1. The Program must not be used as device to fix prices, boycott suppliers or competitors, or otherwise lesson competition.
2. Standards should be kept current through periodic review and updating in order to reflect changing technology.
3. Non-members and other affected parties should be allowed to participate in the formulation of standards in a meaningful way.
4. Standards should not limit the number and type of products, except for safety reasons.
5. All standards should be voluntary. Industry members must be free to follow or reject a standard.

C. Lobbying

WOA's efforts through its members and staff to persuade legislators or government officials to take legislative action are generally protected from antitrust condemnation. Generally this immunity extends to judicial and administrative bodies as well. However, activities that involve deception, unethical lobbying, or misrepresentation, harassment or oppression of competitors, will lose this protection from antitrust attack.

D. Publications

The EVP shall be responsible for advance review of all WOA publications and periodicals.

V. Annual Compliance Program Presentation And Update

The EVP will make an annual antitrust presentation as a part of WOA's compliance program at a meeting of the WOA volunteers and key members of the WOA staff. Any volunteer or staff member who is unable to attend the meeting should consult with the EVP. The EVP may make more frequent presentations to, and facilitate roundtable discussions with, the WOA staff and/or to parts of the WOA volunteer structure as may be appropriate.

VI. Compliance Officer

The President shall act as compliance officer or shall appoint another officer to act in that capacity with the EVP, to supervise compliance with this Manual and to whom individuals may direct inquires regarding specific matters. The Compliance Officer may refer particular matters to the EVP or legal counsel for opinions or investigations. Persons bringing matters to the attention of the Compliance Officer may do so on a confidential basis.

VII. Overview Of The Antitrust Laws

The antitrust laws reflect a policy that the country is best served by the maintenance of vigorous competition, unrestricted by anticompetitive agreements or collusion among competitors and free from monopoly practices. It has been and is WOA's fundamental policy to comply fully with the antitrust laws in all of its activities, and members and staff are required to conduct themselves so as to avoid even the appearance of anticompetitive behavior.

The Federal antitrust laws may be enforced against an association, its members (including officers and trustees) and staff both by federal and state governmental officials and by private parties through treble damage actions. If individual members or staff of an association participate in an activity that violates the antitrust laws, the association and the individuals may be sued in a civil or criminal proceeding. Penalties may be severe.

As examples, an individual convicted of a criminal violation of the Sherman Act may be fined as much as \$250,000 and imprisoned for up to three years. A corporation may be fined up to \$1 million.

Violation of the Federal Trade Commission Act can result in issuance of a cease and desist order, which can place severe governmental restraints on the freedom and activities of the association and its members. Also, failure to obey such an order may result in penalties of as much as \$10,000 per day.

In addition to prosecution for criminal or civil violations, the association, its members and staff can face private action for treble damages brought by competitors or consumers. Loss of such a private action can result in the payment by the defendant of three times the proven damages to the injured plaintiff.

The typical antitrust trial is long, complex and expensive. The direct costs of litigation actually may exceed the fines or damages imposed. Preparing for and participating in a trial will involve a substantial loss of time of the individuals involved.

The Department of Justice, the FTC and state attorneys general all have extensive investigative powers. They can require an association's members and employees to provide testimony under oath, and to produce voluminous records, as can private litigants in civil discovery, all of which may involve hundreds of hours of work, extensive document reviews and reproduction, and attorney's fees. WOA employees and members must take care not only to follow the letter of the antitrust laws but also to conduct association activities in a manner which avoids even the appearance of questionable conduct.

The major provisions of the antitrust laws that are particularly relevant to volunteer activities are briefly outlined below and a few examples are offered of applications of those laws.

A. The Sherman Act

The Sherman Act is the primary antitrust law. Section 1 of the Sherman Act prohibits “Every contract, combination... or conspiracy, in restraint of trade...” The requirement of a combination is met easily in cases involving professional and trade associations, since they are, by definition, combinations of professional or business competitors. Associations and their members must be especially careful to avoid conduct that might be considered anticompetitive or in restraint of trade.

Certain types of conduct are regarded as so clearly harmful to competition that courts automatically consider them antitrust violations. Such conduct is termed per se violations. Some agreements among competitors will be illegal only if they unreasonably restrain competition. Conduct that is suspected or alleged to have such anticompetitive effects will be examined under the “rule of reason” to determine 1) whether the conduct is reasonable and is undertaken for a legitimate business purpose, and 2) whether the suspected or alleged anticompetitive effects are merely incidental to this other, legitimate business endeavor.

The language of Section 1 – “contract, combination... or conspiracy...” does not require the antitrust court to find that an explicit agreement was entered into. Violations have been found where there have been no express written or oral agreements to fix prices or engage in some other prohibited activity. The existence of an agreement or conspiracy among competitors may be inferred from circumstantial evidence. For example, evidence that competitors attend a trade association meeting and afterwards took similar actions on the subject discussed may be sufficient to prove that an unlawful agreement existed.

The Sherman Act is both a criminal and civil statute. It is enforced primarily by the United States Department of Justice, and violation is punishable by fines and/or imprisonment. The Act also can be enforced by private parties in civil suites. Victims of antitrust violations may sue for money damages. A plaintiff can recover three times the damages actually suffered because of the violation, plus the plaintiff’s reasonable attorney fees. The purpose of the treble damage award is to punish the antitrust violator, to deter others from violating the laws, and to encourage private enforcement of the laws by victims of antitrust violations.

Finally the Sherman Act permits government seizure of property obtained pursuant to any contract, combination of conspiracy that violates Section 1 of the Sherman Act.

1. **Section 1 of the Sherman Act**

Over the years, the courts have concluded that Section 1 outlaws: (a) agreements which tend to control prices; (b) the division of markets; (c) boycotts of competing enterprises; and (d) arrangements that restrict advertising or other methods of competing for business.

(a) **Agreements Which Control Price**

No matter whether the prices are raised, lowered, or stabilized, agreements among competitors (“horizontal” agreements) that fix prices are per se violations of Section 1.

Price fixing can include an understanding or consensus on a specific price, price range, profit margin, or on a pricing formula or system.

The Sherman Act prohibits both direct price-fixing and indirect price-fixing. For example, an agreement among competitors to reduce production in order to drive up prices would be illegal. Other examples of unlawful practices of competitors, which may impact on price include:

1. A trade association of roofing contractors was prohibited from fixing the length and other terms of guarantees for the sale and installation of replacement roofs.
2. Real estate boards' establishment of "recommended" commission schedules and sanctions against members who failed to adhere to them was illegal.
3. A car dealers association's circulation to its members of a uniform list price for cars was illegal because it affected actual retail prices, even though the list prices were only a starting point for bargaining and no sales were made at list prices.
4. Exchanges of information concerning the most recent past price charged or quoted among sellers of shipping containers, even though on an irregular basis, constituted unlawful price-fixing.
5. An engineering society's ban on competitive bidding was illegal. The United States Supreme Court rejected the argument that competition might endanger public safety.
6. The antitrust enforcement agencies have stated that a professional association may not negotiate with a third party payor concerning the fees to be paid to association members by the third party payor.

(b) Agreements To Divide Markets Or To Restrict Supply

Agreements among competitors to assign territories in which each may sell or to allocate customers to whom each may sell are unlawful, per se.

In addition, competitors cannot lawfully agree that they will limit the amount of goods that each will produce or the amount or type of services that each will sell. For example, all of the doctors in a city cannot agree that each will limit the number of days and hours that his or her office will be open, or that each will not solicit patients of the other doctors.

(c) Group Boycotts

Collective, or joint, action by competitors to refuse to deal with other traders is illegal per se. As examples, a group of allergists cannot agree that they will not purchase products from manufacturers because the manufacturers sell the products to non-allergist physicians who compete with the allergists. A group of dentists cannot agree that they will withhold x-rays from a health care plan in order to obstruct the plan's cost containment procedures.

There is an important distinction between the right of an individual businessman or professional to refuse to deal with a trader (supplier, competitor or customer) and the

rights of a group of competitors to refuse to deal with trader, or to induce others to refuse to deal with a competitor. The antitrust laws do not, in general, restrict an individual's right to buy from or sell to whomever he wants. However, the concerted refusal to deal by a group of competitors is a per se violation, and can subject the companies and employees to criminal and civil penalties.

The distinction between a unilateral decision to deal, or not to deal, and a group boycott is an important one. For example, an association may select one laboratory instead of another to perform a particular research study for the association. However, in rejection a laboratory as the site for the research, the members of the association cannot agree that they will not individually employ that laboratory for other purposes.

Some examples of activities involving concerted refusals to deal that courts have found illegal are:

1. It was illegal for a chain department store with significant buying power to induce appliance manufacturers to agree among themselves not to wholesale to an independent retailer who competed next door to one of the chain's outlets.
2. The practice by a group of clothing designers of refusing to deal with retailers who sold pirated copies of original clothing designs was illegal, because it coerced retailers not to engage in a rival (i.e., pirating) and competitive method of marketing.
3. Hotel operators who gave favored treatment of suppliers who contributed to an association whose purpose was to generate convention business in the area, and who withheld business from suppliers who did not, were engaged in an illegal boycott against non-contributors, because the non-contributors were prevented from selling to the hotels in an atmosphere of open competition.
4. A news gathering service (wire service) with restrictive membership requirements that prohibited news gathered by members from being made available to non-members before it was published by members was engaged in an illegal boycott, because the practice was designed to stifle competition from non-member news publishers.
5. The denial of communications connections by the New York Stock Exchange to a non-member was illegal, because it deprived the non-member of a valuable and competitively significant business advantage, even though he might not have been able to conduct his business without the system.

(d) Tying Arrangements

A tying arrangement exists when a buyer is required to purchase an unwanted product (the tied product) as a condition of being allowed to purchase a unique or valuable product (the tying product) over which the seller has a high degree of economic power. Tying arrangements are judged under the rule of reason. Not all tying, or tie-in, arrangements are illegal. Unreasonable tying arrangements are illegal under the Sherman Act (and the Clayton Act).

Tie-ins are unreasonable and therefore illegal when the party has enough power through control of the unique, tying product to restrain competition for the unwanted, tied product.

A business or professional association might become involved in illegal tying if it conditions access to a valuable resource upon membership in the association. An association may find it necessary to allow non-members access to certain of its resources.

For example, the results of scientific research conducted with association funds may need to be made available to professionals who are not association members if denial of access to the research would unreasonably hurt competition. As another example, once professional association had a rule that only members were eligible for a certification of clinical competence. A speech pathologist who was not a member of the association, but who needed the certificate to practice, successfully challenged that rule.

B. The Federal Trade Commission Act

The Federal Trade Commission Act (FTC Act) was enacted in 1914 to supplement the Sherman Act. Section 5 of the FTC Act prohibits:

Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce....

1. **FTC Act Enforcement**

The FTC Act is enforced by the Federal Trade Commission (FTC). The FTC Act prohibits everything the Sherman Act prohibits, and more. The FTC Act prohibits conduct in its early, formative stages that if allowed to mature, would ripen into violations of the Sherman Act or Clayton Act. The FTC Act also reaches certain anticompetitive conduct whether or not it is the result of an agreement or combination.

Congress deliberately drafted Section 5 to empower the FTC to define and outlaw unfair practices that do not violate the antitrust laws in the traditional ways described earlier. Congress could not enumerate all the possible unfair practices that could arise. Therefore, Congress left it to the FTC to address and define such practices as they occur.

The FTC may take action with respect to a practice under Section 5 although the practice does not actually violate other antitrust laws. An example of this was a shopping center developer who gave a veto right over the other prospective tenants to a large department store tenant. The FTC found that the veto violated Section 5 of the FTC Act, even though the veto was never used. Because of its anticompetitive potential, it could be used to boycott prospective competing tenants or to fix prices of goods sold.

While the Department of Justice enforces the Sherman Act in court, the FTC enforces the FTC Act administratively within its own bureaucracy. Administrative cases are brought against individual companies, persons or associations. These commence with an FTC investigation of the practices involved.

When an administrative case is brought against a company, person or association, there may be an administrative trial before an administrative law judge at the FTC, resulting in an order to cease and desist from the challenged practices. Such an order

may be appealed to the Commission and thereafter to the federal courts. Violation of a final cease and desist order may result later in court-imposed civil fines of \$10,000 a day.

Finally, the FTC can go to court to seek consumer redress from offending companies, which can be required, for example, to refund money to consumers who have been defrauded by the offensive activities.

2. Facilitating Practices

In recent years the Commission has filed Section 5 complaints in situations not even amounting to conspiracies, but which were all invitations to collude, or conspire. The conduct sought to be administratively prosecuted at the FTC was alleged to facilitate anticompetitive agreements. These complaints have thus far been brought in situations that involved concentrated industries with few competing sellers.

- a. The FTC charged a bidder for state contracts for infant formula for disclosing the bid prior to the sealed bidding process.
- b. A representative of one axle products manufacturer told a competitor that the competitor's prices were too low and indicated no need to compete on price.
- c. A manufacturer of bearings faxed its price list to a competitor.
- d. A zipper manufacturer complained to a competitor of its free equipment policy as being "unfair."

The FTC went after these practices as invitations to engage in per se violations of the antitrust laws even though no concerted efforts took place and no violations of the Sherman Act were claimed to have occurred

This section has provided a basic outline of very complicated statutes. Should any questions or feelings of doubt regarding any proposed discussion or activity arise, it is recommended and urged that you contact the EVP and/or counsel to discuss the matter.