

NYIA

Antitrust

Procedures



ANTITRUST POLICY & COMPLIANCE PROCEDURES

This document sets forth the New York Insurance Association's (NYIA) antitrust policy and the rules of conduct and compliance procedures which govern all NYIA activities. These formal guidelines are intended to do two things:

1. To make the occurrence of an actual antitrust violation in the course of NYIA activities impossible, and
2. To prevent inadvertent conduct which might give the appearance of an antitrust violation to someone unfamiliar with NYIA's nature and purposes. They are designed to protect you, your employer, and NYIA from any accusation of wrongdoing arising out of your participation in NYIA activities.

Accomplishment of these objectives is everyone's responsibility. We urge you to keep this pamphlet handy and refer to it whenever you have any question about possible antitrust implications of any activity you might undertake under the auspices of NYIA. We also urge you to advise your colleagues and corporate officers of NYIA's comprehensive antitrust compliance program so that you can count on their continued support in your NYIA activities.

A Cautionary Note About McCarran-Ferguson

The McCarran-Ferguson Act, adopted by Congress in 1945, provides only a limited exemption from federal antitrust laws for certain activities of insurance companies based on the regulation of these activities by the various states.

Because NYIA's activities as a trade organization are not the "business of insurance" and are not directly regulated, NYIA cannot safely rely on the McCarran-Ferguson Act exemption in any of its regular activities. Any activities proposed to be conducted in reliance on the McCarran-Ferguson Act exemption must be cleared in advance with NYIA's counsel. Any questions you or your company's legal counsel may have concerning NYIA's antitrust compliance program should be directed to:

NYIA's Legal Committee
c/o Ellen Melchionni
130 Washington Avenue
Albany, New York 12210
(518) 432-4227

STATEMENT OF ANTITRUST POLICY

The New York Insurance Association, Inc. (NYIA) is a trade association comprised of Property/Casualty insurers and others interested in the industry organized to promote the overall well-being of the property casualty industry.

It achieves that objective by educating the public, lobbying legislators and regulators and sponsoring education seminars for members. It is not the purpose of NYIA to determine the competitive strategy or tactics of its member companies or in any way restrict competition in the insurance industry.

Through its seminars, conferences, and other activities, NYIA brings together employees of firms which are competitors in the insurance industry. This necessarily raises a concern because the Department of Justice and the Federal Trade Commission may view these activities as opportunities for groups of competitors to engage in anticompetitive conduct.

This statement of policy is intended to make clear NYIA's unequivocal support for the policy of competition served by the antitrust laws and its uncompromising intent to comply strictly in all respect with those laws.

Penalties and Costs of Antitrust Violations

In addition to NYIA's firm commitment to the principle of competition served by the antitrust laws, the penalties which may be imposed upon NYIA, its corporate members, and the individual participants involved in any violation of the antitrust laws are so severe that good business judgment demands every effort be made to avoid even the appearance of any such violation.

Certain violations of the Sherman Act, such as price fixing and customer allocation, are felony crimes for which individuals may be imprisoned in jail for up to three (3) years and fined up to \$250,000, or both, and corporations can be fined up to \$1 million for each offense.

Several years ago, the Department of Justice announced a policy of seeking prison terms of not less than 18 months for individuals found guilty of price fixing. In addition, the treble damage claims by private parties (including class actions) for antitrust violations are extremely expensive to litigate and can result in judgments of a magnitude which could destroy NYIA and seriously affect the financial interest of its members.

Responsibility for Compliance

It's the responsibility of every participant in NYIA activities to follow NYIA's policy of strict compliance with antitrust laws in all NYIA activities.

It shall be the special responsibility of committee chairpersons, NYIA staff representatives, and NYIA's officers and directors to ensure that this policy is known and adhered to in the course of activities pursued under their leadership.

This document will assist NYIA's staff, officers, directors, and committee leaders in recognizing situations which may raise the appearance of an antitrust problem.

NYIA will also make available expert legal advice when questions arise as to the manner in which the antitrust laws may apply to the activities of NYIA or any of its committees or task forces.

Antitrust compliance is the responsibility of every NYIA participant. Please be aware that violation of NYIA's antitrust compliance policy by any individual will result in disciplinary action, which may include suspension from participation in NYIA activities and removal from any NYIA office held by a person violating this policy.

Thank you for your cooperation.

GENERAL RULES OF ANTITRUST COMPLIANCE

1. No Anticompetitive Agreements or Understandings

Neither NYIA nor any committee or activity of NYIA shall be used for the purpose of bringing about or attempting to bring about any agreement, written or oral, formal or informal, express or implied, among competitors regarding:

- a) prices, premiums, or other terms or conditions of any products to be offered for sale by insurance companies;
- b) the kinds of products to be offered;
- c) the customers to whom any insurance company product may be sold; or
- d) the territories in which such product may be sold.

2. No Discussion of Prices, Premiums, etc.

No NYIA activity shall include discussion for any purpose or in any fashion of prices, premiums, or other financial terms or conditions of any products to be offered for sale by insurance companies.

3. No Exchange of Pricing Data

No NYIA committee or group shall undertake any activity which involves exchange or collection and dissemination among competitors of any information regarding prices, premiums, or other financial terms or conditions of any products to be offered for sale by insurance companies.

Projects involving the collection of individual firm statistical data shall involve only aggregate data from past transactions and shall include effective steps to protect against disclosure of individual product-pricing or interest-payment information.

4. Exchange of Cost Information - Prohibited Purposes

No NYIA activity shall include any discussion of costs or any exchange of cost information for the purpose or with the probable effect of:

- a) increasing, maintaining, or stabilizing prices, premiums, or other terms or conditions of insurance company products;
- b) reducing competition with respect to the range of quality of products or services

offered by insurance companies; or

- c) promoting agreement among insurance companies with respect to their selection of products or services for purchase, their choice of suppliers, or the prices they will pay for products or services, including commissions for the services of commissioned agents.

5. Published Papers

Papers published by NYIA or presented in connection with NYIA programs should not discuss or refer to prices, premiums, or other financial terms or conditions of insurance products offered for sale by insurance companies. Reference to cost in such papers should not be accompanied by any suggestion, express or implied, that premiums, or other terms or conditions of insurance company products should be raised, adjusted, or maintained in order to reflect such costs.

6. Author Notification

Authors of conference papers shall be informed of NYIA's antitrust compliance rules and the need to comply with these rules in preparation and presentation of their papers.

7. Exclusion from NYIA Activities

No person shall be arbitrarily or unreasonably excluded from participation in any NYIA committee or activity where such exclusion may impair such member's ability, or the ability of his or her employer, to compete effectively in the insurance industry or as a supplier to the insurance industry.

8. Product Standardization

Neither NYIA nor any NYIA committee or group shall make any effort to bring about standardization of any insurance product for the purpose or with the effect of preventing development or sale of any product not conforming to a specified standard.

9. Independent Dealings with Suppliers

No NYIA activity or communication shall include any agreement, or any discussion which might be construed as an agreement, to collectively refrain from purchasing any equipment, services, or supplies from any supplier.