

Competition Law Guidelines 2018 – 2019 to be read by all attendees prior to the start of all HBSA meetings taking place

The antitrust laws prohibit agreements, combinations and conspiracies in restraint of trade. The antitrust laws prohibit competitors from engaging in actions that could result in an unreasonable restraint of trade. Above all else, association members should be free to make business decisions based on the dictates of the market, not the dictates of the association.

Some activities by competitors are deemed so pernicious and harmful that they are considered per se violations; it does not matter whether or not the activities have a harmful effect on competition. These generally include price fixing and some forms of boycotts.

Other actions such as standards development and relationships between distributors and suppliers generally are evaluated under a rule of reason: There is a balancing between the pro-competitive and anti-competitive aspects of the activities. HBSA members should avoid discussing certain subjects when they are together — both at formal gatherings and in informal settings — and should otherwise adhere strictly to the following guidelines:

DO NOT discuss prices, fees or rates, or features that can impact (raise, lower or stabilize) prices such as discounts, costs, terms and conditions of sale, warranties or profit margins. Note that a price-fixing violation may be inferred from price-related discussions followed by parallel decisions on pricing by association members, even in the absence of an oral or written agreement.

DO NOT agree with competitors as to uniform terms of sale, warranties or contract provisions.

DO NOT exchange data concerning fees, prices, production, sales, bids, costs, customer credit or other business practices unless the exchange is made pursuant to a well-considered plan that has been approved by the company's legal counsel.

DO NOT agree with competitors to divide up customers, markets or territories.

DO NOT agree with competitors not to deal with certain suppliers or others.

DO NOT try to prevent a supplier from selling to your competitor(s).

DO NOT discuss your customers with your competitors.

DO NOT agree to any membership restrictions, standard-setting, certification, accreditation, or self-regulation programs without the restrictions or programs having been approved by the company's legal counsel.

DO insist that HBSA meetings that have agendas are circulated in advance and that minutes of all meetings properly reflect the actions taken at the meeting.

DO leave any meeting (formal or informal) where improper subjects are being discussed. Tell everyone why you are leaving.

For further information please contact

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