



New Mexico Independent Automobile Dealers Association Antitrust Compliance Policy

General

Federal and state antitrust laws are designed to protect and promote competition. They do this by making it illegal for competitors and associations of competitors to fix prices or unreasonably restrain competition. Violations of antitrust laws can be punished with large financial penalties, as well as criminal penalties against involved businesses and individuals. In addition, antitrust violations can severely damage a business' reputation and commercial relationships.

[Download the Federal Trade Commission Guide to Antitrust Laws](#)

In the interest of facilitating collaboration among members, trade association can unwittingly create opportunities for competitors to engage in anti-competitive behavior. As one court has said: "Competitors are permitted by the antitrust laws to engage in cooperative behavior, under trade association auspices or otherwise, provided they don't reduce competition among themselves or help their suppliers or customers to reduce competition."

NMIADA is committed to antitrust compliance and expects the same from its members. It is NMIADA's belief that competition is the fairest and most efficient type of economic behavior. Any activity that intentionally or unintentionally reduces competition or restrains trade is contrary to that belief and NMIADA policy.

Management Responsibilities

It is NMIADA's intention to comply fully with antitrust laws in the conduct of its activities. In addition, NMIADA's management and staff must do everything in their power to ensure that NMIADA and NMIADA's members do not violate antitrust laws while engaged in NMIADA-facilitated activities.

Specific management responsibilities include the following:

- NMIADA's Executive Director must periodically review this policy statement with NMIADA management personnel and its Board of Directors.
- NMIADA's legal counsel for antitrust matters must periodically review NMIADA's antitrust policy and meet with NMIADA's management to provide antitrust training.
- NMIADA's legal counsel for antitrust matters must review in advance all new NMIADA programs that may have antitrust implications.

- NMIADA's management must discuss any possible or prospective violations of the antitrust laws with the Executive Director or NMIADA's legal counsel for antitrust matters.
- NMIADA's management must ensure that this policy is displayed in venues where it will remind management and members of the importance of antitrust compliance, including NMIADA's website and physical offices.
- NMIADA's management personnel must ensure that every NMIADA meeting, whether held in NMIADA's offices, off-site, or by electronic means, are not held without fulfilling the following requirements:
 - A public announcement of the meeting date, time, and location;
 - An agenda, published in advance, that calls for review of this antitrust policy and verbalization of the Meeting Antitrust Requirements set forth below;
 - A complete list of all attendees;
 - Minutes noting the verbalization of the Meeting Antitrust Requirements and listing every topic of discussion; and
 - Archiving of minutes and other records of any meetings.

Meeting Antitrust Requirements

NMIADA's members must comply with the following requirements when meeting in NMIADA's offices, off-site, or by electronic means. If any of these requirements are at risk of being breached during a meeting by inappropriate dialog, then participating members should immediately request any such dialog be ceased immediately. If such dialog is not ceased immediately, then all participants must immediately suspend the meeting and report the dialog to NMIADA's Executive Director.

These requirements are partial. Other types of activity on the part of members may comprise antitrust violations. General questions regarding these requirements should be raised to the Executive Director or NMIADA's legal counsel for antitrust matters. However, it is incumbent upon members to seek the advice of their own legal counsel with respect to specific questions and incidents.

The purpose of these warnings is to ensure that members do not discuss matters with the intent to interfere with the normal course of competitive business operations between dealers. It needs to be clear that individual dealers discussing price increases or decreases, pricing procedures, stabilizing prices, bids, profit levels, etc. is not done with the intent to ensure that a group of dealers are working in conjunction in any of these areas below to impact the competitive nature of this business amongst dealers.

Requirements regarding your company's or your competitors' products and services:

- Do not discuss current or future prices.

- Do not discuss any increase or decrease in prices.
- Do not discuss pricing procedures.
- Do not discuss standardizing or stabilizing prices.
- Do not ask competitors why a past bid was so low, or to describe the basis for a past bid.
- Do not discuss what is a fair profit level.
- Do not discuss controlling sales or allocating geographic, product or other markets for any product.
- Do not discuss future design or marketing strategies.
- Do not discuss credit terms.
- Do not discuss banning or otherwise restricting legitimate advertising by competitors.
- Do not discuss allocating customers.

Requirements regarding your company's and/or your competitors' selection of their supplier companies:

- Do not discuss refusing to deal with a company because of its pricing or distribution practices.
- Do not discuss strategies or plans to award business or remove business from a specific company.

Requirements regarding your company's and/or competitors' trade secrets:

- Do not discuss trade secrets or confidential information of your company or any other member.

REMEMBER Both your company and you as an individual can be prosecuted for violations of antitrust laws.