

# ANTITRUST COMPLIANCE POLICY OF THE New Jersey Broadcasters Association

## Introduction

The purpose of the antitrust laws is to protect competition and prevent agreements between competitors that would unduly restrict competition. The United States and every U.S. State prohibit *agreements* between competitors fixing prices, restricting output or allocating customers. The law also allows prosecutors and plaintiffs to prove the existence of unlawful agreements by circumstantial evidence, such as parallel conduct accompanied by evidence of meetings or discussions regarding prohibited topics, including in the context of otherwise lawful trade association activities.

The federal antitrust agencies (the Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice) have recognized that trade and professional associations can serve many valuable and pro-competitive functions, such as expanding the markets for its members' products and services; educating the membership, the public, and government officials regarding matters of interest to the agency; and otherwise helping members, their customers and their suppliers function more efficiently. At the same time, the Government insists that trade association meetings and activities not serve as a forum for rivals to agree on or coordinate their competitive behavior or engage in unrestricted exchange of competitively sensitive information.

Therefore, in order to prevent its meetings and activities from serving to facilitate unlawful conduct, and to protect the **New Jersey Broadcasters Association** (the "Association") from engaging in (or being accused of) facilitating unlawful conduct, the Association hereby adopts this antitrust compliance policy.

## Statement of Policy

It is the policy of the Association to comply strictly with the letter and spirit of all federal, state and (as applicable) foreign antitrust and unfair competition laws. Any activities of the Association, its board, committees, officers, employees, agents and members that violate these laws are detrimental to the interests of the Association and contrary to Association policy.

## Association Meetings

Meetings of the Association Board, committees and membership, including remarks, speeches, presentations, seminars, panel discussions, exhibits and conference events (collectively "Meetings"), shall not, except as authorized by counsel, include discussions of (1) agreements or understandings regarding prices to be charged or paid for products or services (including without limitation sales and advertising policies and practices, operating expenses, capital expenditures, and programming plans) of Association members; (2) agreements or understandings regarding the provision of any product or service or the quantity of any such product or service provided; or (3) individual members' contemplated future conduct regarding products or services to be provided or prices to be charged or paid for any product or service (collectively "Prohibited Topics").

All Meetings shall be conducted pursuant to written agendas distributed in advance to attendees. The agendas shall describe the topics of discussion with sufficient particularity to make clear that Prohibited Topics are not to be discussed. Agenda items such as "miscellaneous" are to be avoided. Discussions shall be limited to agenda items. There shall not be substantive discussions except at Meetings conducted pursuant to agendas. The Association shall preserve all Meeting minutes and all agendas for Meetings for which minutes are not prepared.

## Statistical Programs

The collection and dissemination of statistical information can be an appropriate activity of a trade or professional association, but should be conducted in a manner that does not unduly facilitate collusion among members regarding competitive behavior. Therefore, all statistical programs should be reviewed and approved by Association counsel prior to implementation. Except as authorized by Association counsel, the following procedures should be observed regarding the collection and dissemination of statistical information regarding prices charged (e.g., advertising rates) or paid (e.g., salaries) by competing Association members for goods or services:

- Participation in any statistical program is voluntary, and is not a condition of membership in the Association.
- Members' statistical information shall be submitted in confidence to an approved third party (which can be the Association staff, so long as the Association staff is independent of any member), and not disseminated except as authorized.
- Survey results shall be reported on an aggregate or average basis, only if there are at least five members reporting the statistic, and only if the contribution of any individual member does not constitute more than 25% of the weighted average of that statistic.
- The survey results are reported to the membership not less than 90 days after the end of the period for which the underlying data was reported.

## Reporting of Violations; Sanctions

The Association hereby adopts the following policy regarding the reporting of violations: Any person, including without limitation any employee of any member and any employee or manager of the Association, should promptly report any suspected violation of the antitrust laws or of this policy to Association counsel. All such reports will be treated confidentially, and the Association will not retaliate against any member or employee for making any report.

Association members, officers, directors, managers, and employees who participate in conduct that violates the antitrust laws, that appears to the Board to violate the antitrust laws, or that violates this policy shall be subject to expulsion or termination, as the case may be.

## Compliance and Training

The Association shall make available a copy of this policy to every member and every Association employee, and to every attendee, including but not limited to invited speakers, exhibitors and sponsors, at any Association-sponsored Meeting. An Association officer, employee or agent will present or read a short summary of this policy to the attendees of all Association-sponsored Meetings. The Association will conduct periodic antitrust training for its members and employees regarding the antitrust laws and this policy.

## Further Guidance

Questions regarding this policy should be addressed to the Association's counsel.