

Antitrust Policy

Introduction

The Council of Multiple Listing Services (CMLS) is a not-for-profit association of similarly situated businesses and service providers to them. Whenever competing (or potentially competing) businesses gather, there is the risk of antitrust liability or of the appearance of anti-competitive activity. Penalties for violating antitrust laws can include huge damage awards and even criminal liability. Just defending an antitrust suit or being the object of an investigation by antitrust regulators comes with very high costs. Liability for violations of the antitrust laws could accrue to CMLS and also to member organizations and individuals accused of participating in alleged anticompetitive activity.

Consequently, responsibility for compliance with competition laws lies with CMLS, its member organizations, and their leaders. This policy is thus intended to prevent any anti-competitive conduct by CMLS; but it also aims to reduce even the appearance of anti-competitive conduct.

General principles

CMLS is committed to compliance with all international, national, and state/provincial antitrust and competition laws. This commitment includes the following objectives:

- CMLS' activities will increase competition among its members by providing information to them regarding effective business practices; CMLS' actions must not function to reduce competition.
- CMLS provides a forum for MLSs to discuss their industry and understand developments within it; but CMLS will not be a forum for MLSs to develop collective action plans that would reduce competition.
- CMLS will adhere to the procedures described below to minimize the risk of even the appearance of anticompetitive conduct.

Procedures for formal meetings

The following procedures apply to all meetings of the CMLS board of directors, committees authorized by the board, and member meetings conducted under CMLS's auspices, whether the meetings are held face to face or via technological means. Individuals charged with chairing CMLS meetings should be familiar with this policy.

1. Each meeting should be preceded by the publication of notice of the meeting to those eligible to attend it and an agenda identifying business subject to discussion at that meeting.
2. Any person who receives an agenda for a CMLS meeting should review it to identify any agenda item that might give rise to concerns about competition or collective action; such items, if any, should be referred to legal counsel for review before the meeting.
3. The meeting agenda should be adopted at the beginning of each meeting, and the meeting should follow the agenda.
4. At the beginning of each meeting, the chair or counsel should remind participants of this antitrust policy in such a manner as to ensure that participants understand the parameters for appropriate discussions.
5. Subject to this policy, every eligible participant in any meeting should be encouraged and permitted to express his/her views on any issue subject to deliberation before a decision is made.

6. In the event that a discussion is, or is likely to become, inconsistent with this policy, the meeting chair or counsel shall recommend suspension of the discussion until review under applicable competition law can be conducted; the minutes will note any such suspension.
7. After each meeting, CMLS should cause minutes of the meeting to be prepared. These minutes should include a record of the resolutions adopted at the meeting, any objections raised by meeting participants to the subject matter of a meeting, and any other annotations contemporaneously advised by counsel or the meeting chair.
8. Minutes of all meetings will be prepared by CMLS staff and reviewed by the officers and counsel before circulation.
9. All board members and CMLS members are asked to comment promptly, in writing, on any minutes circulated in the event that there appears to be any error, omission, or item in need of revision.

Guidelines for discussions

The following guidelines apply to discussions in formal meetings as well as to informal discussions in “breakout sessions” and roundtables and even in social contexts associated with CMLS meetings. Of course, no listing of DOs and DON'Ts can be complete, and some items can permissibly be discussed even if they appear in some categories below. However, board members and CMLS members should consult with counsel before engaging in discussion of any of the types described here:

- An agreement, or activity appearing to evidence an agreement, to fix prices, limit product or service offerings, or allocate geographical territory or customers.
- An agreement, or activity appearing to evidence an agreement, to refuse to deal with any third party or parties, whether a vendor or supplier of products or services, or a customer or class of customers.
- An agreement, or activity appearing to evidence an agreement, to limit innovation, product choices, or research relating to any of the foregoing.
- Sharing of recent, current, or planned fee structures; or data regarding operating “input” costs, especially if such costs could affect service prices. This does not prevent CMLS gathering and aggregating certain kinds of historical pricing information, subject to counsel’s review.
- Any suggestion that CMLS or its members should take collective action to force a vendor or service provider to change its business models, prices, or service offerings.