NC AWWA-WEA

POLICIES AND PROCEDURES

ANTI-TRUST

Date: 2009
Approved By: Board of Trustees
Policy Title: ANTI-TRUST
Number:
Revisions: September 15, 2011; March 7, 2013

PURPOSE

NC AWWA-WEA is a not-for-profit organization. The Association is not organized to and may not play any role in the competitive decisions of its members or their employees, nor in any way restrict competition among members or potential members. Rather it serves as a forum for a free and open discussion of diverse opinions without in any way attempting to encourage or sanction any particular business practice.

The Association provides a forum for exchange of ideas in a variety of settings including its annual meeting, educational programs, committee meetings and Board meetings. The Board of Trustees recognizes the possibility that NC AWWA-WEA and its activities could be viewed by some as an opportunity for anti-competitive conduct. Therefore, this policy statement clearly and unequivocally supports the policy of competition and strict compliance in all respects with all anti-trust laws in order to ensure free and open trade.

Anti-trust laws prohibit contracts, combinations, conspiracies and other agreements in restraint of trade; and these agreements may be implied by conduct or action in concert with others and do not have to be expressly made in writing in order to violate the law.
It is the policy of NC AWWA-WEA that it and its members shall comply with all anti-trust laws.

While recognizing the importance of the principle of competition served by the antitrust laws, the Association also recognizes the severity of the potential penalties that might be imposed on not only the Association but its members as well in the event that certain conduct is found to
violate the antitrust laws. Should the Association or its members be involved in any violation of federal/state antitrust laws, such violation can involve both civil and criminal penalties that may include imprisonment for up to 3 years as well as fines up to $350,000 for individuals and up to $10,000,000 for the Association plus attorney fees. In addition, damage claims awarded to private parties in a civil suit are tripled for antitrust violations. Given the severity of such penalties, the Board intends to take all necessary and proper measures to ensure that violations of the antitrust laws do not occur.

PROCEDURES

In order to ensure that NC AWWA-WEA and its members comply with antitrust laws, the following principles will be observed by all members at all meetings, conferences, trade shows, seminars, social events, or other similar gatherings of more than one member:

- Do NOT discuss or agree upon prices, fees or rates, features that can impact (raise, lower or stabilize) prices such as discounts, costs, credit terms, terms and conditions of sale, warranties or profits margins. Note that price fixing may be inferred by involvement in price related discussions – whether or not an agreement was made among competitors.
- Do NOT discuss past, current or future prices, what constitutes a “fair profit”, or pricing procedures or components,
- Do NOT discuss or agree with competitors as to uniform terms of sale, warranties or contract provisions.
- Do NOT exchange data concerning fees, prices, production, sales, bids, costs, customers’ credit, or other business practices. Members may participate in any Association sponsored statistical reporting programs; such participation is entirely voluntary. All such programs shall be reviewed and approved by legal counsel prior to release and all such programs shall be conducted in a manner that will not violate any anti-trust laws.
- Do NOT discuss or agree with competitors regarding the division or allocation of customers, markets or territories, or control of sales.
- Do NOT try to prevent a supplier from selling to your competitor(s).
- Do NOT discuss or agree to require a customer to purchase one unwanted product or service in order to obtain a desired product or service.
- Do NOT discuss or agree to refuse to deal with a particular person or company because of pricing or other business practices.
- Do NOT discuss whether the practices of any member are unethical or constitute an unfair trade practice.
- Do NOT act jointly with another to disadvantage or harm a competitor.
- Do NOT discuss or agree to any membership restrictions that are intended or that may be perceived as anti-competitive. Membership criteria shall be fairly established and uniformly applied with the intent and purpose of allowing membership, rather than
restricting membership. Any decision to deny membership should be first reviewed by legal counsel.

- Do NOT hold or participate in any informal meetings of members where the purpose is to conduct the business of the Association.
- DO insist that meeting minutes properly reflect the actions taken at the meeting.
- DO leave any meeting (formal or informal) where improper discussions are held that might border on anti-trust violations or be perceived as ant-competitive or unlawful. Tell everyone why you are leaving.
- DO ensure that the Executive Director reviews all correspondence of the Association and proposed minutes of all meetings of the Board of Directors, members and committees.
- DO ensure that if questions arise about legal aspects of your own individual responsibilities under the antitrust laws, you seek advice and counsel from your own counsel or from the staff and counsel of the association.

The Association’s Code of Ethics shall be enforced fairly and never arbitrarily, and no unreasonable severe penalty shall be imposed for any violation. No member shall be required to refrain from dealing with any other member whose has been charged with a violation of Code of Ethics or who has been found to violate the Code of Ethics. No member shall be disciplined, suspended or expelled from membership without due process of law and justifiable grounds.

Any product or service provided by the Association that constitutes a competitive benefit shall be available to all nonmembers upon request at a reasonably higher price than the price charged members, if the members’ dues support the provision of the product or service.

This Policy shall be read at every meeting of the board of directors, meeting of the members, and meeting of any committee of the Association, or, alternatively, made a part of the package of materials for the meeting and distributed to participants at or prior to such meetings. This Policy shall be acknowledged at each such meeting.