

# Antitrust Policy

Optimas values consumers' trust above all else and it is fundamental for Optimas to safeguard its reputation. Complying with antitrust laws throughout the world engenders consumers' trust in Optimas and protects Optimas's reputation. The Optimas Corporate Business Principles establish the clear policy that Optimas complies with antitrust laws throughout the world. Optimas is firmly committed to a functioning free market economy and welcomes vigorous competition, which drives efficiency, encourages innovation and delivers to consumers a choice of products and prices. Antitrust laws aim to preserve the competitive, free enterprise system that is the basis of a free market economy.

Abiding by antitrust rules is fundamental for creating and sustaining a competitive economy which ultimately benefits society. Optimas firmly believes that complying with antitrust laws is the right thing to do for Optimas, and benefits consumers. In line with the OECD, Optimas supports the view that anticompetitive behaviours that hinder the functioning of markets should be prohibited and punished.

Compliance with antitrust laws is of key importance to all of Optimas's businesses and to Optimas's reputation and falls within the framework of Optimas's Code of Business Conduct.

Every single employee at Optimas is expected to comply with all applicable antitrust laws and every Optimas manager is required to take any action necessary to achieve this result and seek to avoid even the appearance of any wrong doing. All Optimas employees must demonstrate their awareness of antitrust laws when engaging with any competitor, customer or supplier. To do this all employees must understand the basic rules of antitrust laws to ensure compliance when executing their day-to-day roles.

Antitrust laws are complex and may vary from country to country. Optimas expects employees to seek guidance from the Optimas Legal Department regarding any questions which may arise in relation to antitrust compliance. Optimas will not tolerate any excuse for failing to seek legal advice.

## ANTITRUST BASICS

Antitrust laws are the broad group of laws that are designed to make sure businesses are competing fairly. The "trust" in antitrust refers to a group of businesses that team up or form a monopoly to dictate pricing in a particular market.

antitrust laws are necessary and that competition among sellers gives consumers lower prices, higher-quality products and services, more choices, and greater innovation. Most people agree with this concept and the benefits of an open marketplace, although there are some who claim that allowing businesses to compete as they see fit would ultimately give consumers the best prices.

Antitrust laws seek to ensure that companies compete fairly in an open marketplace.

- Fair competition benefits consumers through lower prices and increased output, quality, choices, and innovation

The antitrust laws prohibit:

- Agreements that restrain trade
- Monopolization

- Anticompetitive mergers and acquisitions
- Unfair methods of competition
- Price discrimination

## WHY IS ANTITRUST IMPORTANT

Penalties can be severe for companies and individuals

Some antitrust violations are prosecuted criminally.

- Companies face fines up to \$100 million
- Individuals face fines up to \$1 million and 10 years in prison

Antitrust claims can also result in:

- Reputational damage
- Business disruptions

## ANTITRUST LAWS PROHIBIT ANTICOMPETITIVE AGREEMENTS

Agreements with competitors can be procompetitive and benefit competition, but can also raise antitrust risks. What is an agreement?

- Can be express or implied
- A meeting of the minds: a knowing wink can mean more than words

Agreements can be:

- Formal or informal
- Written or unwritten
- Spoken or unspoken

## TYPES OF AGREEMENTS

Some agreements are condemned on their face; there can be no justification and violators may be punished criminally. Examples include:

- Price fixing
- Bid rigging
- Customer or market allocation

All other agreements are evaluated to determine whether they, on balance, harm competition. Examples, include:

- Joint venture activities
- Some information exchanges
- Participating in trade associations
- An invitation to collude can be unlawful, even if not accepted

## GATHERING COMPETITIVE INFORMATION

Antitrust risk can arise from:

- Direct exchanges of pricing information among competitors
- Indirect exchanges of pricing information, e.g., through third parties

Customers may provide information regarding competitors' pricing, however, antitrust risk increases if you solicit such information.

Document the source of any competitive intelligence!

## DOCUMENT CREATION

Documents, including presentations, emails, and chats, often form the basis of antitrust claims.

Government enforcers and private plaintiffs often point to sloppy language or language taken out of context to support:

- Price-fixing, bid-rigging, or market allocation claims;
- Price discrimination or monopoly claims;
- Challenges to mergers and acquisitions by the company

Avoid using:

- Careless language that could suggest an agreement among competitors, such as "industry prices have stabilized"
- Antitrust terms of art, such as "market" or "dominance"; or
- Language suggesting that the company faces little competition, has high barriers to entry, or has pricing power
- Language that characterizes the strength of competitors

## DOES AND DON'TS

Never discuss any of the following with competitors:

- Company or industry prices or pricing policies
- Other terms that relate to prices, such as price changes, price differentials, credit terms, or allowances
- Costs or margins
- Capacity, output, or inventory
- Bids, including your intent to bid or not bid
- Markets or sales territories
- Customers or customer segments
- Market conditions or marketing plans
- Other competitors

Do not agree with another company to take joint action of any kind.

Be vigilant at industry conferences, trade association meetings, social gatherings, and other events where employees of other companies are present.

If an inappropriate topic comes up, insist that the discussion be stopped immediately. If it is not stopped:

- Immediately and obviously excuse yourself from the conversation (it will not help if no one remembers you left!)
- Promptly contact the legal department

Do not solicit customers for competitors' non-public pricing or other sensitive information.

Document sources of properly acquired competitive intelligence.

- Contact counsel if you believe you received competitively sensitive information that you should not have.

Do not charge customers different prices without a valid justification.

- If you do charge similarly situated customers different prices, document the justification (for example to meet a competitor's price)

Seek the guidance of counsel before:

- Participating in an information exchange or benchmarking initiative with other companies
- Attending a trade association, trade show, or other conference that competitors will also attend

Immediately consult with the Legal department if an employee of another company suggests illegal activity or conduct that you are unsure about.