AMERIPEN®

Antitrust Compliance Program

June 15, 2026

www.ameripen.org | 413-686-9198
1350 Main St. Suite 400 | Springfield, MA 01103

AMERIPEN Antitrust Compliance Program

(Supersedes AMERIPEN Policy Statement and General Rules for Antitrust Compliance Amended November 2023)

1. Purpose

This Antitrust policy establishes that AMERIPEN will comply with all federal, state, and local laws, including the antitrust laws. It is expected that all member representatives involved in association activities and association staff will be sensitive to the unique legal issues involving trade associations and, accordingly, will take all measures necessary to comply with U.S. antitrust laws and similar foreign competition laws. The association recognizes the potentially severe consequences of failing to comply with these laws.

2. Antitrust Overview

AMERIPEN brings significant, pro-competitive benefits to industry participants, suppliers, and customers. It must not, however, be a vehicle for firms to reach unlawful agreements regarding prices or other aspects of competition, or to boycott or exclude firms from the market. Reasonable collaboration among competitors does not violate antitrust laws, but collusion among competitors is what AMERIPEN, in adherence to antitrust laws, intends to prevent at all AMERIPEN meetings and activities.

Antitrust compliance is the responsibility of every AMERIPEN member organization and its representatives. Any knowing violation of the AMERIPEN General Rules of Antitrust Compliance located in section 8.0 of this document, or this general program by an AMERIPEN member representative may result in that person's organization being immediately suspended from membership in the Association, and removal of that representative from any Association office, committee, or council chairmanship position held. The decision on a person's suspension shall be made in accordance with this policy's complaint investigation and internal enforcement procedures outlined in Section 7.0 of this policy.

2.1. Executive Responsibilities

Overseeing the antitrust compliance program for AMERIPEN rests with the Board of Directors and the members of AMERIPEN, who must be "knowledgeable" about the content and operation of the antitrust compliance policy and must "exercise reasonable oversight" with respect to the program's implementation and effectiveness.[1] The Chair of the Board of Directors and the President are responsible for overseeing the implementation of the AMERIPEN antitrust compliance policy.[2]

[1] U.S. SENTENCING COMM'N, FEDERAL SENTENCING GUIDELINES MANUAL AND APPENDICES (2025), Chapter 8, Sentencing of Organizations, *available at* https://www.ussc.gov/guidelines/2025-guidelines-manual/annotated-2025-chapter-8#8b21 [hereinafter U.S.S.G.]

[2] *See* American Bar Ass'n, Section of Antitrust Law, Antitrust and Associations Handbook (2009).

2.2. Training

Compliance training is a required element of an effective antitrust compliance program.[3] The U.S. Department of Justice has emphasized that disseminating a written compliance policy statement is necessary, but not sufficient for an effective compliance program.[4] As such, all AMERIPEN staff will receive a copy of this compliance policy as part of their initial orientation and be given an opportunity to ask questions. AMERIPEN will make copies of this policy available to all members in AMERIPEN's members only online portal, and AMERIPEN will conduct training for the Board of Directors and staff. This training will cover key antitrust principles and review the "to do" and "to don't" lists included at the end of this policy.[5]

3. Consequences of Antitrust Violations

Violations of the antitrust laws can have very serious consequences for AMERIPEN, its members, and their employees.

3.1. Criminal Penalties

Antitrust violations may be prosecuted as felonies and are punishable by steep fines and imprisonment. Individual violators can be fined up to $1 million and sentenced to up to 10 years in federal prison for each offense, and corporations can be fined up to $100 million for each offense. Under some circumstances, the maximum fines can exceed the Sherman Act maximums, reaching twice the gain or loss involved. The events that give rise to an antitrust violation often provide the basis for other charges, such as wire fraud, mail fraud, and making false statements to the government. Those charges, if proven, carry additional penalties.

3.2. Civil Penalties

In contrast to criminal actions, civil cases can be initiated by individuals, companies, and government officials. They can seek to recover three times the amount of the damages, plus attorney's fees. Even unfounded allegations can be a significant drain on AMERIPEN's resources and could result in an unproductive distraction from the association's mission. For these reasons, AMERIPEN strives to avoid even the appearance of impropriety in all its dealings and activities.

4. Basic Antitrust Principles and Prohibited Practices

4.1. Antitrust Statutes

The principal federal antitrust and competition laws are the Sherman Act, the Clayton Act, the Robinson-Patman Act, and the Federal Trade Commission Act.

---

[3] *U.S.S.G.*. at § 8B2.1(b).

[4] Gary R. Spratling, Deputy Ass't Att'y General, Antitrust Div. U.S. Dep't of Justice, *Corporate Crime in America: Strengthening the "Good Citizen" Corporation, The Experience and Views of the Antitrust Division*, Remarks Before Symposium (Sept. 8, 1995), *available at* http://www.usdoj/atr/public/speeches/speech1grs.htm.

[5] See William J. Kolasky, Deputy Ass't Att'y General, Antitrust Div., U.S. Dep't of Justice, *Antitrust Compliance Programs: The Government Perspective*, Remarks before the Corporate Compliance 2002 Conference, at 8 (July 12, 2002), available at https://www.justice.gov/archives/atr/file/519776/dl.

- *The Sherman Act*, in broad terms, prohibits "every contract, combination … or conspiracy" in restraint of trade, as well as monopolizing, attempting to monopolize, or conspiring to monopolize any part of trade or commerce.
- *The Clayton Act* prohibits exclusive dealing and "tying" arrangements, as well as corporate mergers or acquisitions that may tend substantially to lessen competition.
- *The Robinson-Patman Act* prohibits a seller of goods from discriminating in price between different buyers when the discrimination adversely affects competition. This statute applies only to sales of commodities; it does not cover sales of services or intangibles.
- *The Federal Trade Commission Act* prohibits "unfair methods of competition" and "unfair or deceptive acts or practices" in or affecting commerce.

4.2. "Hard Core" Offenses (Criminal Prosecution Likely)

Certain antitrust violations are referred to as "hardcore" or "per se" offenses. Conduct that falls in this category is automatically presumed to be illegal by the courts, and the absence of any actual harm to competition will not be a defense. Conspiracies falling in the hardcore category are likely to be prosecuted as criminal offenses, and include price-fixing agreements, bid-rigging, and market or customer allocation agreements.

4.3. Sensitive Activities

There are some activities that, though not typically subject to criminal prosecution, are nevertheless sensitive and may lead to investigations or litigation, including group boycotts, exclusionary standard setting, vertical price-fixing agreements, tie-in sales, and exclusionary membership criteria.

5. Guidelines for Meetings and Other Association Functions

Association meetings are particularly relevant to the antitrust laws because it is at association meetings that competitors actually interact face-to-face. However, the mere fact that competitors attend and congregate at meetings of a trade association does not, by itself, raise an inference of wrongdoing in violation of antitrust laws.[6] Association meetings and activities are generally lawful and pro-competitive, though they may also provide opportunities to reach unlawful agreements. It is important to remember that an antitrust violation does not require proof of a formal agreement. A discussion among competitors about a sensitive topic, followed by common action by those involved or present, could be enough to form the basis of an antitrust lawsuit.

AMERIPEN takes an abundance-of-caution approach to antitrust. In light of the costs of defending antitrust claims, even when they are without merit, it is necessary to conduct association meetings and activities in a manner that avoids the appearance of improper conduct. Generally, the best way to accomplish this is to follow standard procedures and avoid competitively sensitive topics.

[6] *See* In re Musical Instruments and Equipment Antitrust Litig., 798 F.3d 1186 (9th Cir. 2015).

6. Guidelines for Document and Electronic Mail (E-Mail)

Many antitrust investigations and lawsuits are fueled by poorly phrased or exaggerated statements in internal documents, with e-mails being a leading culprit. Common sense should be used when composing documents and e-mails. No matter how informal or private a communication is intended to be, it must be assumed that anything written in a document or e-mail is potentially discoverable in an investigation or lawsuit.

As a general rule, nothing should be said or put in writing that one would not want repeated or read aloud to a prosecutor, plaintiff's lawyer, or jury composed of people who know nothing about one's self or their business.

7. Complaint Investigation and Internal Enforcement

Reports of noncompliance or other complaints should be quickly sent to the AMERIPEN President, General Counsel, or the AMERIPEN Chair of the Board of Directors. If there is reason to believe an antitrust violation may have been committed, an investigation will be undertaken promptly. Members who violate or fail to comply with the policy will receive a letter from association General Counsel.
Address all questions concerning this antitrust policy and guidelines to:

General Counsel
AMERIPEN
1350 Main Street, Suite 400
Springfield, MA 01103-1670
Phone: 413-686-9198
DanielleW@ameripen.org

8. General Rules of Antitrust Compliance

The following rules are applicable to all AMERIPEN activities, and must be observed in all situations and under all circumstances without exception or qualification other than noted below:

1. AMERIPEN is not intended to, and may not, play any role in the competitive decisions of its members or their employees, nor in any way restrict competition among users or suppliers in any portion of the industry it serves.

2. Neither the AMERIPEN association nor any committee, council or activity of AMERIPEN shall be used for the purpose of bringing about or attempting to bring about any understanding or agreement, oral or written, formal or informal, expressed or implied, among competitors with regard to prices, pricing methods, pricing algorithms, rebates, service charges, terms or conditions of sale, distribution, volume or production, territories, or customers.

3. No AMERIPEN activity or communication shall include discussion for any purpose or in any fashion of prices, pricing methods, pricing algorithms, rebates, service charges, production quotas or other limitations on either the timing, costs or volume of production or sale, or allocations of territories or customers.

4. No AMERIPEN activity or communication shall include any discussion that might be construed as an attempt to prevent any person or business entity from gaining access to any market or customer for goods or services or to prevent any business entity from obtaining a supply of goods or otherwise purchasing goods or services freely in the market.

5. No AMERIPEN activity or communication shall include any discussion of what might be construed as an agreement or understanding to refrain from purchasing any raw materials, equipment, services, or other supplies from any supplier.

6. No AMERIPEN activity or communication shall include any discussion of what might be construed as an agreement or understanding to refrain from producing or selling any particular kind of product.

7. Unscripted comments that imply collusion or an invitation to collude, such as urging or praising "market discipline," "ethical pricing," or "rational pricing behavior," should be avoided in any statement or communication in connection with an AMERIPEN meeting or activity.

8. In conducting AMERIPEN committee or council meetings, the staff and/or chair shall prepare and adhere strictly to a written agenda. Minutes or other records of the meeting to document discussion topics shall be distributed to all in attendance. The minutes should reflect AMERIPEN's policy of complying with the antitrust laws. Approval of the minutes shall be obtained by the committee or council at its next meeting.

9. Speakers at educational activities, committee, council, and other AMERIPEN meetings shall be informed of the Association's General Rules of Antitrust Compliance before their presentations.

10. During informal discussions occurring at the site of any AMERIPEN meeting or event, but beyond the control of its chair, all member representatives and all others in attendance are expected to observe the same standards of personal conduct as are required of the Association in its compliance with these antitrust guidelines.

9. Guidelines for all Meetings and Events

To help those in attendance understand when their discussions may give rise to antitrust concerns, the following is a checklist of specific "dos" and "don'ts."

"Dos"

1. Do prepare and adhere strictly to written meeting agendas.

2. Do review the meeting notice or agenda in advance of every meeting. It should be specific, without broad topics such as "marketing practices" that might look suspicious from an antitrust perspective.

3. Do keep minutes or other records to document discussion topics.

4. Do object to or leave any meeting or discussion that seems problematic from an antitrust perspective.

5. Do be sensitive to how even innocent remarks can be misconstrued or taken out of context. Thus, always use care when talking with competitors. There is no such thing as an "off the record" conversation with a competitor.

6. Do consult with AMERIPEN General Counsel as appropriate, to ensure compliance with the antitrust laws.

"Don'ts"

1. Do not discuss prices, rates, or other terms of trade with competitors. Do not identify specific customers or transactions in discussing your firm's experiences or issues facing the industry.

2. Do not discuss costs as an element of price or the impact of cost increases on price.

3. Do not engage in discussions that could result in (or even give the appearance of relating to): (1) the allocation of customers or markets; (2) the fixing or stabilization of prices; (3) limitations on production, (4) boycotts of customers, suppliers or rivals; or (5) concerted actions that would competitively disadvantage certain Association members or other rivals.

4. Do not discuss proprietary or other competitively sensitive information. This would include, for example, prices, pricing formulas and algorithms, product plans, and marketing plans that have not been publicly announced.

5. Do not discriminate against competitors in setting standards.

6. Do not give or listen to speeches or announcements, or participate in any discussions, encouraging coordinated behavior in order to maintain prices, profit margins or stability in the industry.

7. Do not attend formal meetings where standard meeting procedures are not followed or there is no fixed agenda.

8. Do not have clandestine meetings during AMERIPEN events. Such secretive conduct can jeopardize legitimate AMERIPEN activities. This does not in any way preclude standard networking and informal discussions of matters of industry concern.

9. Do not, without specific authorization, make public or private communications about policies or positions of AMERIPEN.

The foregoing "dos" and "don'ts" are intended to guide participants at Association meetings, but they are not comprehensive. If any questions arise regarding specific conduct or issues, you should consult with AMERIPEN General Counsel to ensure compliance with the antitrust laws.

10. AMERIPEN Antitrust Statement

At every AMERIPEN gathering (in person or virtual), the meeting chair or event leader must announce that everyone in attendance should be familiar with the provisions of the AMERIPEN antitrust policy and that AMERIPEN intends to strictly comply with all antitrust laws.

11. Review of the Antitrust Compliance Program

The Antitrust Compliance Program will be reviewed at least every other year by the Executive Committee, or sooner if warranted by internal or external events or changes. Changes to the Policy will be recommended by the Executive Committee to the Board of Directors. Any material amendment to this Policy shall require approval by the Board of Directors and shall be documented in the corporate records of the organization.