

AMERICAN COLLEGE OF RADIOLOGY ANTITRUST COMPLIANCE POLICY

The American College of Radiology (ACR) is a non-profit, national medical professional organization committed to its purposes of advancing the science of radiology, improving radiologic service to the patient, studying the socioeconomic aspects of the practice of radiology, and encouraging improved and continuing education for radiologists and allied professional fields.

The ACR recognizes that antitrust laws prohibit agreements among competitors that restrain trade and that ACR members can be considered to be competitors for purposes of antitrust challenges even if their businesses are not in the same geographic areas or in the same subspecialty. The penalties for violations of the antitrust laws are severe for both a professional organization and its members. Therefore, the ACR has a strict policy of compliance with federal and state antitrust laws.

General Principles of Antitrust Compliance

The ACR will not become involved in the competitive business decisions of its members, nor will it take any actions that would restrain competition. The ACR is firmly committed to the principle of competition served by the antitrust laws, and good business judgment demands that every effort be made to ensure compliance with all applicable federal and state antitrust laws and trade regulations.

Except in the course of legitimate lobbying of federal and state legislators and regulators, ACR members cannot come to understandings, make agreements, or otherwise concur on positions that in any way tend to raise, lower or stabilize prices or fees. ACR members also cannot allocate or divide up markets, or encourage or facilitate boycotts. Individual ACR members must make business decisions on their own and not in conjunction with other members or the ACR.

The antitrust laws and regulations are complicated and often unclear, with numerous “grey areas.” If any member is concerned about the antitrust implications of a particular course of action or decision, the member should seek advice from legal counsel. If a conversation among members involves possible antitrust issues, participants should end the conversation until legal guidance can be obtained. If the conversation continues, individual members should immediately leave the meeting.

Discussions of pricing or boycotts as part of ACR-scheduled programs or at ACR-sponsored meetings could involve the ACR in extensive and expensive antitrust challenges and litigation. In addition, the U.S. Supreme Court has determined that an organization can be held liable for statements or actions in antitrust-sensitive areas by volunteer leaders who claim to speak for the organization, even if they are not authorized to speak in that area. ACR officers, chancellors, councilors and commission and committee chairs must, therefore, make clear whether they are speaking in their official capacity when they address such issues. Conversely, such speakers making personal remarks outside of an ACR setting should clearly state that he or she is speaking for him or herself, and not on behalf of the ACR.

To assist the ACR, staff, officers, chancellors, councilors, and commission and committee chairs in recognizing situations that may give the appearance of an antitrust concern, the Board of Chancellors shall provide to each such person, copies of this ACR Antitrust Compliance Policy. In addition, the ACR Antitrust Compliance Policy shall be referenced at the start of each meeting

where ACR business will be discussed, and this action will be noted in the minutes of the meeting.

Any violation of this antitrust policy will be brought promptly to the attention of the Board of Chancellors, and the Board will deal with it in a timely and appropriate manner. The Board of Chancellors will consult with legal counsel when questions arise as to the manner in which the antitrust laws may apply to the activities of the ACR.

Specific Rules of Antitrust Compliance

1. ACR activities shall not be used for the purpose of bringing about, or attempting to bring about, encouraging, or facilitating any understanding or agreement, written or oral, formal or informal, expressed or implied, among competitors with regard to prices, terms or conditions of sale, discounts, territories or customers. Any agreement by competitors to fix prices or “honor,” “protect,” or “avoid invading” one another’s geographic areas or product lines would violate the law.
2. ACR activities and communications shall not include decisive actions, for any purpose or in any fashion, of prices or pricing methods or other limitations on either the timing of services or the allocation of territories or markets or customers in any way. For example, ACR members cannot come to understandings, make agreements, or otherwise concur on positions or activities that are directed at fixing prices. Likewise, ACR members cannot make agreements as to whether they will or will not enter into contracts with certain manufacturers or customers. Nor can they discuss allocating geographic or product markets. Even if no formal agreements are reached on such matters, discussions of process, group boycotts, or market allocations followed by parallel conduct in the marketplace can lead to antitrust scrutiny or challenges. Members may, however, consult with each other and freely discuss general business trends, best practices in sales, marketing, or other legitimate business matters, changing market conditions, technological innovations and the like.
3. The ACR shall not undertake any activity that involves exchange or collection and dissemination among competitors of any information regarding prices, pricing methods, cost of services or labor, or sales or distribution without first obtaining the advice of legal counsel, when questions arise as to the proper and lawful methods by which these activities may be pursued. For example, the ACR should exercise caution in collecting data on workforce statistics and job market opportunities through surveys and other methods. While the mere collection of data on such matters is permissible, antitrust concerns may arise if the data become the basis of collective action.

In summary, except for appropriate lobbying, ACR activities and communications shall not include any discussion or action that may be construed as an attempt to: (1) raise, lower, or stabilize prices; (2) allocate markets, territories, or product lines; (3) prevent any person or business entity from gaining access to any market or to any customer for goods or services; (4) prevent or boycott any person or business entity, including specific manufacturers or customers, from obtaining products or services freely in the market; (5) foster unfair trade practices; (6) assist in monopolization or attempts to monopolize; or (7) in any way violate applicable federal or state antitrust laws and trade regulations. The actual purpose and intent of ACR policies and programs are important in this regard and cannot be aimed at accomplishing anticompetitive objectives.

