

ANTITRUST POLICY

The penalties for violating antitrust laws can be quite severe, including large fines and even imprisonment of individuals found guilty of illegal conduct. Contrary to the popular belief that the government has relaxed antitrust enforcement, in recent years the Justice Department has recommended jail sentences for the majority of persons convicted of violating antitrust laws. Moreover, the U.S. Supreme Court has ruled that a trade association may be held legally responsible for the unauthorized, as well as authorized, acts of its members. Accordingly, every effort must be made to avoid even the appearance of impropriety.

The most common violations of the antitrust laws are agreements among competitors to fix prices or allocate customers. As for the ESD Association, the most important thing to keep in mind is that its purpose is to “advance the theory and practice of Electrostatic Discharge (ESD) avoidance”. This is accomplished through publishing Standards, holding technical conferences and providing certification programs. Accordingly, it is not the business of the ESD Association to consider or discuss matters relating to product development, marketing, purchasing, or pricing decisions of individual companies.

It is the responsibility of each ESD Association member that attends an ESD Association sponsored event or meeting, to avoid raising improper subjects for discussion. This reminder has been prepared to ensure that participants in ESD Association meetings are aware of this obligation.

Antitrust Laws as related to the ESD Association:

- Do not preclude any discussion on any topic that is pertinent to the business of the ESD Association
- Avoid the misuse of the standard development process in order to gain an unfair competitive advantage.
- Do not allow for improper conduct during a standards meeting.
- Restricts what can be divulged
- Restricts some actions of the ESD Association, such as, conspiring to capture market share
- Allows for activities that have a “pro-competitive” or positive effect

Discussions to Avoid:

- License Terms, price or pricing policy of your individual company
- Direct or indirect sales, quotas, market share
- Identified individual company statistics, inventories
- Particular competitors or customers
- Commercial Liabilities, warranties or guarantees
- Anything dealing with “arm twisting”, excluding or controlling competition