

# AN FTC GUIDE TO DEALINGS WITH COMPETITORS

## INTRODUCTION

**IN ORDER TO COMPETE IN MODERN MARKETS**, competitors sometimes need to collaborate. Competitive forces are driving firms toward complex collaborations to achieve goals such as expanding into foreign markets, funding expensive innovation efforts, and lowering production and other costs.

In today's marketplace, competitors interact in many ways, through trade associations, professional groups, joint ventures, standard-setting organizations, and other industry groups. Such dealings often are not only competitively benign but procompetitive. But there are antitrust risks when competitors interact to such a degree that they are no longer acting independently, or when collaborating gives competitors the ability to wield market power together.

For the most blatant agreements not to compete, such as price fixing, big rigging, and market division, the rules are clear. The courts decided many years ago that these practices are so inherently harmful to consumers that they are always illegal, so-called per se violations. For other dealings among competitors, the rules are not as clear-cut and often require fact-intensive inquiry into the purpose and effect of the collaboration, including any business justifications. Enforcers must ask: what is the purpose and effect of dealings among competitors? Do they restrict competition or promote efficiency?

These Fact Sheets provide more detail about the types of dealings with competitors that may result in an antitrust investigation. For further guidance, read Antitrust Guidelines for Collaborations Among Competitors.

## FACT SHEETS FOR DEALINGS WITH COMPETITORS

- » **Price Fixing:** an agreement among competitors that raises, lowers, or stabilizes prices or competitive terms
- » **Bid Rigging:** competitors agree in advance which firm will win the bid
- » **Market Division or Customer Allocation:** an agreement among competitors to assign sales territories or customers
- » **Group Boycotts:** an agreement among competitors not to do business with targeted individuals or businesses
- » **Other Agreements Among Competitors**
- » **Spotlight on Trade Associations**

DEALINGS WITH COMPETITORS THAT ALWAYS RAISE CONCERNS INCLUDE PLAIN PRICE FIXING, BID RIGGING, AND CUSTOMER OR MARKET ALLOCATION. THESE AGREEMENTS ARE ALMOST ALWAYS ILLEGAL, AND MAY BE PROSECUTED AS CRIMINAL VIOLATIONS.

