

Policy Name: Antitrust Compliance	Policy Number: 509
Issued By: Legal Services Group	Date Last Reviewed: December 2019

BACKGROUND:

Antitrust and competition laws are used to foster and preserve free and open competition. While differences in penalties and enforcement exist, strong antitrust and competition laws have been adopted in every major commercial jurisdiction in the world.

STATEMENT OF POLICY:

Every officer, director, and employee must conduct his or her activities on behalf of W. R. Grace & Co. and its subsidiaries ("Grace") in full compliance with the letter and spirit of the antitrust laws. No Grace person shall engage in any conduct or order or knowingly permit anyone else to engage in any conduct, that violates the antitrust laws or this policy. Anyone who engages in such conduct will be subject to appropriate disciplinary measures, including dismissal.

GUIDELINES:

The following guidelines are meant to highlight areas of concern. They are not intended to cover every possible situation that may raise antitrust questions and they represent a conservative view of what is permissible since it is Grace's intention to remain well within the law and not to engage in conduct that tests its limits. If you have any question about whether a particular action is permissible, you should contact the Legal Services Group, which is responsible for the administration and interpretation of this policy.

A. Relations with Competitors.

Decisions on prices, terms and conditions of sale, marketing strategies and the like are to be made independently, based on market conditions and Grace's costs and strategies. There is no legitimate reason to discuss any of these subjects with a competitor.

Accordingly, no Grace person may enter into an agreement or any type of understanding with a competitor:

1. to fix, raise, lower, stabilize or affect prices;
2. to set other terms and conditions of sale;
3. to restrict or alter supply, capacity, utilization or plans for expansion or contraction;
4. to bid a particular price or a particular way, or to refrain from bidding or quoting;

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5. to allocate customers or territories;
6. to refuse to deal with a particular customer or supplier, or to attempt to exclude a competitor from the market; or
7. concerning any other element of competition, such as limiting competition on product quality, research, etc.

Remember, antitrust "agreements" do not require the formalities of a contract, and an agreement or conspiracy can be proved by circumstantial evidence, sometimes years after the fact. A pattern of contacts among competitors might support allegations that similar actions by those competitors were not mere coincidence but instead the result of an unlawful agreement.

Accordingly, Grace persons should avoid unnecessary communications with competitors. If you are approached by a competitor to discuss business conditions or exchange information about prices, bids, customers, suppliers, or any other subject with a direct or indirect bearing on competition, you must decline to discuss these topics and advise that Grace persons cannot discuss such subjects with competitors. You should also thereafter consult with the Legal Services Group to determine if any further action (such as writing a memorandum) is appropriate.

You should take special care when attending trade association meetings where competitors are present. Discussions should stick to appropriate items on the trade association meeting agenda. If discussions turn to inappropriate subjects, you should immediately leave the meeting and promptly report the incident to the Legal Services Group.

B. Relations with Customers.

Some arrangements with customers can also raise serious issues under the antitrust laws while others are unlikely to violate the antitrust laws in the absence of unusual circumstances.

1. Problem Arrangements:
 - a. *Tying*: Each product should be sold on its own merits. It can be unlawful if the purchase of one product or service is conditioned upon the purchase of another product or service.
 - b. *Resale Prices*: It may be unlawful for Grace to dictate the price at which its distributors resell Grace products, but Grace may suggest prices as long as there are no adverse consequences to distributors who ignore the suggestions.

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2. Other Arrangements:

- a. *Exclusive Dealing:* Contracts under which customers commit to purchase their requirements from a particular supplier are ordinarily permissible unless market conditions are such that competition would be substantially lessened, such as where the supplier has a dominant position in the market and the contract is for a significant period of time. To be safe, you should consult with the Legal Services Group before entering into any contract requiring customers to purchase exclusively from Grace.
- b. *Price Discrimination:* The laws requiring a supplier to not discriminate in its pricing of a particular product or service among its various customers who are similarly situated are very complex, and numerous defenses may be available. You should consult with the Legal Services Group whenever you have a question about the application of these laws.

C. Mergers and Acquisitions, and Joint Ventures

Mergers and acquisitions and joint ventures may violate antitrust and competitions laws, and/or may require that certain filings be made with antitrust and competition enforcement authorities in various countries. You should consult with the Legal Services Group when considering such transactions.

D. Enforcement.

Violations of the antitrust and competition laws can lead to the imposition of civil penalties and in some countries criminal penalties and imprisonment. In the United States, an individual convicted of a criminal violation of the Sherman Act can be fined up to \$1,000,000 and imprisoned up to ten (10) years per violation. A corporation can be fined up to \$100,000,000 per violation. Additionally, private parties injured by conduct violating the antitrust and competition laws can sue for damages, and in the United States can sue for three times the amount of their actual damages, plus attorneys' fees. Even if a company successfully defends itself, it must bear its own legal costs and fees and cope with the substantial costs and disruptions that arise in antitrust litigation, which tends to be quite complex and expensive.

E. Documents.

Documents are always significant in antitrust cases. For this reason, every document (including e-mails) should be prepared with care to be sure it cannot be erroneously interpreted, either within or outside Grace, as conveying or suggesting a possible anticompetitive activity. Particular care should be taken in reviewing any correspondence with competitors, customer contact reports, and memoranda in which

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the activities or market strategies of a competitor are reported or commented upon. Such documents are susceptible to misinterpretation years later, especially in the context of an investigation or litigation.

F. Investigations.

Any investigation by a government authority of Grace's business activities or the conduct of its employees should be immediately referred to the Legal Services Group.

G. Audits.

Grace reserves the right to audit compliance with the antitrust and competition laws and this policy, at any time.