



Accredited Standards Committee X9, Incorporated

Date of approval by X9 July 18, 2003

STANDING DOCUMENT # SD016

Antitrust Policy of ASC X9, Incorporated

1 Introduction

1.1 General

ASC X9, Inc. (X9) developed the X9 Antitrust Policy for the protection of X9 and its X9 members on antitrust issues. X9 members must follow the X9 Antitrust Policy.

1.2 Anticipate Risks

X9 and X9 subgroup meetings must be conducted in a manner that avoids the appearance of conduct which might violate the antitrust laws. The harsh criminal penalties in the antitrust laws, for individuals as well as organizations, the high costs of defending antitrust suits, the diversion of resources from our important missions, and the risk of liability together mandate an understanding of, and respect for, the antitrust laws by X9 and its members.¹ Our objective is to create a climate where antitrust risks are both anticipated and avoided.

1.3 Consult Counsel

Legal counsel should be consulted prior to any discussion of actions which the staff or X9 believes could raise antitrust issues, or which seem in any way to be questionable or out of the ordinary. It is counsel's job to advise the X9 on any matters that have legal significance.

2 Policy

2.1 Notice and Agenda

Each X9 or X9 subgroup meeting must be preceded by a notice verbally and in writing to the members of the committee regarding the Antitrust Policy. As required by X9 procedures, the agenda must be approved at the beginning of the meeting and followed.

¹ Finally, in 1914, Congress passed an amendment to the Sherman Act called the *Clayton Act*. The Clayton Act specified that certain practices were to be seen as “in restraint of trade” and were therefore illegal. The Clayton Act also prescribed penalties. The main practice that was declared illegal was *price fixing*. Price fixing is another name for a cartel. Under the law, two or more companies that meet in order to raise prices have committed a felony. (A **felony** is a serious crime, punishable by a jail sentence of more than one year, in contrast to a **misdemeanor**, which is a less serious crime punishable by only a fine or short jail sentence.) Under the civil law, price fixing was also made subject to **triple damages**. This means that, if you are damaged by a price fixing conspiracy, you may sue the companies involved for three times the amount they overcharged you.



Accredited Standards Committee X9, Incorporated

Date of approval by X9 _____

Antitrust Policy of ASC X9, Incorporated

2.2 Conduct of Meetings

X9 provides an official sign-in sheet which shall be used for all X9 meetings at all levels. The sign-in sheet will have the Antitrust Policy appended to the sign in sheet will have the usual demographic information and a check box asking whether the attendee is aware of and has read the Antitrust Policy.

Alternatively, for electronic meetings the chair of the meeting or staff of X9 shall advise that X9 adheres to an Antitrust Policy and inform those attendees of where they may find and download the policy.

Acting on behalf of X9, X9 staff or an X9 officer or subgroup officer have the responsibility to terminate any discussion, seek counsel's advice or, if necessary, terminate any meeting if the discussion might be construed to raise questions under the X9 antitrust policy.

2.3 Maintenance

The X9 Antitrust Policy shall become an X9 Standing Document. The X9 Antitrust Policy shall be maintained on the X9 website with other standing policy documents. The Antitrust Policy shall be reviewed every five years for reaffirmation, withdrawal or revisions and otherwise as required.

2.4 Minutes of Meetings

After each X9 or X9 subgroup meeting, concise minutes must be prepared that accurately describe the actions taken, the justification for those actions, that the Antitrust Policy was distributed or that it is appended to the sign-in sheet and where appropriate, additional pertinent discussion. When minutes are prepared by someone other than a member of the X9 staff, the draft minutes shall be reviewed by the X9 staff prior to distribution to the committee.

3 Antitrust Policy

3.1 Sensitive Topics

With rare exceptions that should be made only upon the advice of X9 counsel, there should never be discussion of the following topics at any X9 or an X9 subgroup meeting:

- Any company's prices or pricing policies;
- Specific R&D, sales and marketing plans of other than X9
- Any company's confidential product, product development or production strategies;
- Whether certain suppliers or customers will be served;



Accredited Standards Committee X9, Incorporated

Date of approval by X9 _____

Antitrust Policy of ASC X9, Incorporated

- Prices paid to input sources; or
- Complaints about individual firms or other actions that might tend to hinder a competitor in any market.

3.2 Standards

In X9 sponsored committees related to standards, all relevant opinions should be considered and a sound technical basis for the X9 position should be articulated. When participating in other standard-setting bodies on behalf of X9, X9 representatives should be guided by both the letter and the spirit of the established procedures, which are designed to ensure that the process is open to all interested parties and standards are based on objective technical factors. X9 members should voluntarily disclose any proprietary interest they may have in proposed standard in order to reduce the risk of antitrust liability.

3.3 Educational Presentations

Sharing non-proprietary information among competitors is generally lawful. Discussion should be limited to objectives, which promote overall consumer welfare. Exchanging proprietary information may not be appropriate, if the purpose or effect of the exchange is to lead to diminished competition in the marketplace.

###