

Protecting Your Chapter from Antitrust Violations



The most current antitrust policy for the Piano Technicians Guild can be found in the PTG Board Policies (I.A.1). These are posted in the Member Area of www.ptg.org under Forms and Documents. You may want to include something like this on your meeting agendas and minutes:

ACKNOWLEDGEMENT OF ANTITRUST POLICIES - The President referred to the Guild's Antitrust Guidelines as contained in the PTG Board Policies held by each Board member, and stated that this meeting, like all Guild meetings and activities, would be conducted in accordance with those Guidelines that have been previously set forth.

Antitrust and Associations

Excerpted from "Association Law Handbook," Jerald A. Jacobs, American Society of Associations Executives

Activities involving prices or fees are far and away the ones most often complained of in antitrust allegations against associations. The subject of members' prices or fees constitutes the single most dangerous subject from a legal point of view that associations can ever address. Alleged price-fixing and fee-setting violations comprise the major area of antitrust enforcement by the government and by private litigants in class actions. The penalties for adverse judgments related to these violations are extremely severe, including large fines or damages, extended jail sentences, or even forced disbanding of the association. Price fixing or fee setting are per se violations. This means that those accused of the violations are not allowed even to attempt to explain the reasonableness and good intentions of their involvement.

Written communications by an association or discussion before, during, or after an association meeting that relate to prices or fees are very risky. Even if no agreement results, one might be inferred later. Steps should be routinely taken to help ensure the association does not become involved in price fixing or fee settings. Written communications include e-mail discussion groups, newsletters, and any other written material generated by any entity of the association (i.e. chapters, committees, association-sponsored internet discussion groups, etc.). Meeting announcements, agendas, minutes, or reports should never include references to prices and price discussions.

One primary goal of most professional/trade associations is to serve members by providing useful business information and assistance to their members. This is often done through statistical and cost surveys. Both kinds of programs can be conducted legally, but can be abused for illegal purposes. As with other association business or statistical programs, care must be taken to ensure they are not conducive to price fixing or other antitrust violations. Statistical programs gather information and report on business conditions and provide the means for measuring one's own performance against the norm. In a cost survey, members are asked to voluntarily report itemized costs of doing business. Information is then averaged and published. This information can be particularly helpful for business analysis and planning. Guidelines for conducting statistical and cost surveys are:

- Voluntary participation
- Legitimate purpose
- Past data only
- Confidentiality of individual data
- Submission of data to a third party
- No comments on or discussion of data
- Availability of results to nonmembers
- Return or discard of individual data
- No current or future price information
- Reviewed by legal counsel

Rev. 2/2016