

4 Antitrust Traps to Avoid

Although the subject of avoiding possible antitrust violations covers many areas, a few of the most sensitive antitrust concerns include

1. Price/term fixing. In most businesses, including real estate, many competitors may charge similar prices for the same services. This isn't illegal as long as each competitor sets prices independently. An antitrust violation occurs when you discuss and actually agree to charge the same prices or offer exactly the same terms as one or more of your competitors.

Avoid problems by: Establishing your company's fees, commission splits, and listing terms independently and without any discussion with competitors. Even informal conversations where you have no intention of actually setting prices could be misinterpreted as the basis of a price-fixing agreement.

2. Territorial assignments. Agreements between competitors to divide the market geographically, by price range, type of property, or some other segmentation are considered anticompetitive because they conspire to establish dominance in a particular market. This isn't the same as an individual company's practice of specializing in certain properties such as historic buildings or custom-built housing.

Avoid problems by: Documenting your decisions to focus on certain property types with marketing and demographic studies.

3. Boycotts. Boycotts occur when a group of businesses agree not to do business with a particular party. A typical group boycott allegation in the real estate brokerage business involves a claim that two or more brokerages have agreed to refuse to cooperate, or to cooperate on less favorable terms, with a third brokerage company. The intent is to eliminate that company as a competitor or to force it to abandon certain practices. Another form of boycott would occur if several companies collectively determined not to use a particular service provider, such as a certain newspaper.

Avoid problems by: Making decisions on whether to do business with other real estate companies or service providers based on your company's own judgments, goals, and experiences.

5. Association meetings. Associations are groups of competitors who come together to promote their common business interests. As such, they are vulnerable to allegations that agreements by members to use identical business practices are illegal conspiracies.

Avoid problems by: Remaining alert to discussions at meetings relating to commission rates, pricing structures, listing policies, or marketing practices of other brokers.

Portions adapted from [Real Estate Brokerage](#), 5th edition, Cyr, Sobek, and McAdams, Dearborn Financial Publishing, 1999

TIP: Any business or marketing plan that's principal goal is to adversely affect a competitor could be considered a violation of antitrust law. —*Jodi Tuttle, "What You Don't Know About Antitrust Can Ruin You," Indiana REALTOR®*, May 2001

[Phrases That Signal Anti-Trust](#) >