

WORLD COCOA FOUNDATION

ANTITRUST COMPLIANCE POLICY

The antitrust laws prohibit and hold unlawful combinations or conspiracies in restraint of trade. That is, if competitors join together and agree to a course of conduct that is anticompetitive, they may be subject to criminal and civil liability for violation of the antitrust laws.

Trade associations and similar not-for-profit organizations are combinations of competitors. In effect, one fundamental element of a combination or conspiracy in restraint of trade is satisfied every time such a group meets. Therefore, trade association activity comes under careful scrutiny by the U.S. Department of Justice, Federal Trade Commission, and other governmental and non-governmental bodies.

An antitrust violation does not require proof of a formal agreement. A violation may be alleged based merely on the appearance of unlawful activity. To avoid the risk or even appearance of unlawful conduct, certain topics should not be discussed at WCF meetings, formally or informally. For example, agreements to raise, lower, stabilize or otherwise affect the price of products, the raw materials from which the products are made, or other costs related to production may be unlawful. Agreements to divide up a market or even to engage in or refrain from certain marketing practices may also be anticompetitive. Agreements among competitors to boycott or refuse to deal with a particular supplier or customer and, hence, restrain trade and injure competition may be unlawful as well.

There are, of course, many procompetitive, productive, lawful activities in which trade associations and similar not-for-profit organizations regularly engage. It is for these, and only these, purposes that WCF meetings are held. WCF has instituted and rigorously follows a strict antitrust compliance program. Since even the discussion of a sensitive subject can lead to an implicit or tacit agreement - or can, at least, be used as evidence in an antitrust-related challenge - legal counsel monitors as deemed appropriate foundation meetings, conference calls, publications, correspondence and other activities. Meeting agendas are reviewed in advance of the meeting and minutes of all meetings are prepared and reviewed as well.

The antitrust guidelines set forth below are presented at the outset of every WCF meeting to ensure that topics discussed neither lead to nor could be misconstrued as evidence in support of anticompetitive or illegal conduct by participants.

ANTITRUST GUIDELINES

1. Each WCF meeting must be conducted strictly in accordance with a written agenda with advance notice given to all WCF members attending.
2. The notice and agenda must contain information sufficient to alert members to issues that may raise legal questions for which the advice of counsel may be sought prior to the meeting.
3. Minutes must be kept of all meetings and must accurately report actions that were taken at the meeting.
4. Legal counsel shall monitor WCF meetings, conference calls, publications, and correspondence as deemed appropriate. Legal counsel shall also review the agenda prior to each meeting and the meeting minutes following each meeting.
5. There should be no discussion or exchange of information relating to any topic with competitive significance. Examples of prohibited topics include, but are not limited to: (a) commercial or marketing strategies; (b) any elements of price or pricing policies, including costs or discounts and marketing policies with indirect effects on pricing; (c) sales or production quotas; (d) production capacity or inventory levels; (e) market shares; (f) the establishment of blacklists or boycotts of suppliers, purchasers, or competitors; (g) allocation of markets, customers, or suppliers; (h) refusals to deal with a corporation or industry; (i) efforts to control, exclude or monitor competitive strategies.
6. "Off the record" discussions are not permitted at WCF business meetings or at less formal social gatherings that may occur in conjunction with WCF meetings. All discussions should be held as part of the formal meeting for which there is an agenda and for which minutes will be kept.
7. If included in the agenda for a WCF meeting, the following subjects are among those permitted for discussion: (a) general industry trends; (b) advances in relevant technology or research; (c) promotion of research or educational programs; (d) industry relations with local, state and federal governments.
8. WCF meetings should not be used to resolve problems particular to a single member or a small, select group of members.
9. At WCF meetings all members should be afforded an adequate opportunity to present their views.
10. WCF members should never be coerced into taking part in WCF activities, at meetings or elsewhere.