PAMIC
Antitrust Policy

While PAMIC is committed to compliance with all federal and state laws, given that it is a trade association, it is particularly mindful of the constraints of antitrust law, which regulates and limits the activities of PAMIC and its members in ways which, if not in compliance, can create significant civil and criminal liability.

First, the sharing of competitively sensitive information (“CSI”) among and between competitors, i.e., PAMIC members, is a targeted concern governed by clear guidelines which, in general, require de-identifying the information exchanged. CSI is the information you want to know about your competition but have no way of knowing without them telling you and includes strategic price and non-price information, costs, contract information with specific customers or vendors, etc. Exchanging and discussing such information without de-identifying it must be avoided. Second, agreements with anticompetitive consequences – group boycotts, refusals to deal, price-fixing, customer or market allocation – are strictly prohibited.

Many make the mistake of thinking that the McCarran-Ferguson Act “business of insurance” exemption from the antitrust laws is an all-powerful immunity. It is not. The activities of PAMIC and its members, in and out of the meeting room, are exempt only if they: a) involve the business of insurance; b) are regulated by state law; and c) do not constitute an agreement, or act in furtherance of, any boycott, coercive and/or intimidating action. Lobbying is different, and can be insulated from antitrust scrutiny under the First Amendment, but even that exemption has exceptions which can reinvigorate antitrust exposure.

The antitrust laws, while not prohibiting PAMIC meetings and discourse about industry information and trends among its members, require that they not to be used as either a mechanism for members to reach any agreement or understanding, express or implied, or to take any unilateral action, which tends to restrict competition or in any way impair the ability of individual members to exercise independent business judgment regarding matters affecting competition. Every PAMIC member has the responsibility of complying with the antitrust law’s limits on all PAMIC activities and interactions, whether in a formal, informal or social setting.

There are also topics to be avoided unless they are reviewed in advance by counsel, who may either veto, establish limits for, and/or advise on how information is presented in, any discussion. Without such review and guidance, discussing the following can expose you, your company, and PAMIC to a civil or criminal investigation by the FTC or Justice Department, with significant liability exposure:

- Price, profits, commission, reinsurance or any other cost components and elements.
- Rates or the stabilizing of rates or other terms or conditions of any products to be offered for sale.
- Underwriting criteria with an eye toward standardizing.
- A market division plan without a state law covering the plan, including discussions of type or products to be offered, customers to whom insurance products may be sold or the territories in which they may be sold.
- Matters that would adversely affect availability of insurance or services to the public.
- Future rate plans including actuarial projections.
- “Fair” profit levels.
- Keeping access to PAMIC membership unduly restrictive or denying unique services of PAMIC to nonmembers.
- Developing “standards” for company operations.
- Trading information on bidding for office equipment and supplies or agreeing to collectively refrain from purchasing any equipment, services or supplies from any supplier.
- Suggesting a certain credit policy.
- Referring to any company or agency by specific name in any example you may give as an illustration during our discussions.

If any of the above occurs, you should object, have your objection noted in the minutes of any meeting, and, if the discussion or practice continues, leave the room. If you observe or hear of any prohibited practices or discussions occurring in, or resulting from, any PAMIC meeting or social event, please immediately alert a PAMIC officer, and commit your observations to writing as quickly as possible and deliver to an officer of the Association.