



ANTITRUST CHECKLIST FOR ISRI SPONSORED EVENTS

This checklist states ISRI policy to ensure compliance with antitrust laws and regulations during ISRI sponsored events—including meetings, roundtables, seminars, and social gatherings. The Federal antitrust laws prohibit *combinations in restraint of trade* that occur whenever competitors within a field of business exchange information that has the purpose or effect of fixing, raising, maintaining, or stabilizing prices (or otherwise limiting competition). Should such a conspiracy in restraint of trade be found to occur at an ISRI sponsored event, **ISRI, its directors, its officers, and its participating members** would be held liable for substantial damages (including treble damages). Thus, at ISRI sponsored events, members are urged to meet the following requirements:

1. Do not, in fact or appearance, discuss or exchange **present or future price-related information**, including¹:

- Individual company prices, price differentials, markups, discounts, credit terms, marketing strategies, etc.;
- Individual company data on costs, production, capacity, inventories, sales, etc.;
- Transportation rates (particularly contract rates) for individual shipments;
- Company bids on contracts for particular materials, company procedures for responding to bid, etc.; and
- Matters relating to actual or potential individual suppliers or customers that might have the effect of excluding them from any market or influencing the business conduct of firms toward them.

2. In the event that any such improper discussion or exchange occurs at an ISRI sponsored event, ISRI and its participating members may be held personally liable for substantial damages if the association does not actively and aggressively police its ranks on this issue. ISRI thus requires all members to be sensitive to the risks of potential antitrust abuses where ISRI sponsored events are concerned. If you believe that illegal activities may be occurring, please advise ISRI Counsel or an ISRI staff member immediately.

3. Observe the direction of meeting chairmen, ISRI staff members, and Counsel at ISRI sponsored events to assure antitrust policy compliance.

4. Remember that the conduct of each member at an ISRI event involves ISRI and its members and, if improper, implicates them. Therefore, each member has a responsibility to the Association, other members, and themselves. To eliminate potential problems, all ISRI sponsored events are held pursuant to an approved agenda which must be adhered to.

ISRI sponsored events have always been valuable to its members and they will continue to be so. Your awareness of the need to observe ISRI's antitrust policies is the best way to assure the continuing success of ISRI and its programs.

¹ Although one can discuss historical pricing information, such as that published in the *Wall Street Journal*, *American Metal Market*, or other widely circulated publication available to all interested members of the industry (as well as possible entrants to the market), all other discussion of price related information should be discouraged, even historical pricing. This is because price fixing conspiracies are typically proven by circumstantial evidence and the possibility is strong that a particular statement may be misinterpreted at a meeting or poorly remembered by a fellow member, who may then relate his "best recollection" to a jury.

Your Momma's Rules



... to keep other people from getting you and your outfit into antitrust trouble

1. Who's Throwing the Party? When you were 15, your momma wouldn't let you go to a party unless the right group sponsored it (like a church or school, or somebody's parents). You couldn't just say "Momma, a few couples are getting together in the woods."



Same deal here; your momma was right. Don't go to any meetings unless there is a clear and proper sponsor and it is the right kind of officially recognized body that is properly constituted, broadly-based, and well-run. Otherwise, you may get in more trouble than you can handle.

2. 'What's Up?' Your momma wanted to know "what kind of party is it?" She was right; there is a difference between drinking and skating, and she wanted to know what was going on.



Same deal here. What is going on? If they don't send you a written agenda in advance, you really shouldn't go. (It is not an "agenda" if all it says is "(1) old business, (2) new business, (3) other," or anything like that.)

3. Chaperones When you were 15, your momma wouldn't let you go unless a chaperone was going. A lawyer is kind of like a chaperone; they tend to spot any developing troublemakers and throw them out of the party. If no lawyer is going to be there to chaperone, it is a sign the party might get too wild, and maybe you shouldn't go.



4. Stay Out of the Bushes Your momma knew that if you left the party, you were more likely to



get in trouble. She was right. Don't go to "rump sessions" before, during or after meetings; the natural human temptation is to talk business there, and your business is best discussed openly in the proper forum.

It is okay to have lunch with a friend or two, but don't let it turn into a "rump session" (hard to define, but we all know it when we see it; so see it before it is too late).

5. No Select Groups Remember how it hurt your feelings when some people got invited to the party but you didn't?

Same deal here. If they don't invite the whole class, don't go. Especially don't go if they call it something stupid like "let's get the 'big three' together."



That kind of talk will just get you in trouble; don't go.

6. Don't Get Taken in By Sweet Words

Your momma told you they would talk sweet to you; don't get taken in. She was right. It would be simple if you could spot antitrust trouble just by seeing an evil-looking guy in a cloak and silk hat and a waxed mustache who whispered "Pst! Let's conspire!" They don't do that. People sometimes unknowingly fall into conspiracies, pulled in by other nice-seeming people who say "let's get on the same wavelength," or "let's sort it out before the meeting," or "let's get our story straight." If they whisper to you like that, they are the Devil.



Don't be tempted. Don't go. It can only get you in trouble. Your "story" is open and honorable and firmly-based on correct data, and your story is already "straight". The only time you need to be on the "same wavelength" as anybody else is when you both tune in to the religious channel on your separate radios.

7. Don't Let Them Spike the Punch Your momma suspected that some boy might try to spike the punch,



and she told the chaperone to keep a lookout.

She was right; same deal here. Watch out that no narrow interest tries to rig the meeting or the system unfairly in favor of its company or its narrow interest; like a spiked punch at a Junior high party, it can only lead to trouble.

(Also, don't let anybody do the minutes on company stationery; it makes it look like their company was "in charge," which is probably unfair.)

8. Appearances Count. Your momma knew that if you slipped off to the woods from the party, people would assume the worst, even if you only held hands.



She was right. Pay attention to how things might look to somebody else. Some people always assume the worst, and start a bunch of gossip. Don't be grist for the gossip. Make sure you behave and look like you are behaving. For instance, don't sit in the corner whispering with your competitors, even about football or movies.

(At this point in your life, it won't be a gossip who will spread the scandal; it will be some lawyer trying to make you look bad to a jury, so he can personally make a lot of money. Strike a blow for liberty; behave and look like you behave and keep all the lawyers poor.)

9. If the Party Turns Wild, Leave.

Your momma told you to leave if it got wild. She was right. If the other people at your meeting start talking about or doing bad stuff, get up and walk out. (It may be unpleasant then, but it beats going to jail or getting sued.)



10. Call Your Momma if You're Not Sure.

Your momma gave you a dime (or a quarter or a nickel, depending on how old you are) to call her if you needed advice or help. She was right; same deal here.



If you can't get your momma, call your lawyer:



ISRI Institute of Scrap Recycling Industries, Inc.
Voice of the Recycling Industry

David A. Bagwell, P.O. Box 2126, Fairhope, AL 36533; 251/928-2970; fax, 251/928-6597; e-mail, david@bagwellesq.com.