



MSTS ANTITRUST POLICY

Discussions at MSTS meetings often cover a broad range of topics pertinent to the interests or concerns of orthopaedic surgeons. As a general rule, except as noted below, discussions at MSTS meetings can address topics without raising antitrust concerns if the discussions are kept scrupulously free of even the suggestion of private regulation of the profession. However, a number of topics that might be (and have been) discussed at MSTS meetings may raise significant complex antitrust concerns. These include:

- Membership admissions, rejections, restrictions, and terminations;
- Method of provision and sale of MSTS products and services to nonmembers;
- Restrictions in the selection and requirements for exhibitors at the MSTS Annual Meeting or in CME activities;
- Collecting and distributing certain orthopaedic practice information, particularly involving practice charges and costs;
- Obtaining and distributing orthopaedic industry price and cost information;
- Professional certification programs;
- Group buying and selling; and
- Inclusions or exclusion of other medical societies in organizational activities or offerings.

When these and related topics are discussed, the convener or members of the MSTS should seek guidance from its general counsel.

MSTS urges its Executive Committee, committees, and other groups not to participate in discussions that may give the appearance of or constitute an agreement that would violate the antitrust laws. Notwithstanding this reliance, it is the responsibility of each MSTS Executive Committee or committee member to avoid raising improper subjects for discussion. This policy has been prepared to ensure that MSTS members and other participants in MSTS meetings are aware of this obligation.

The “Do Not’s” and “Do’s” referenced in this document highlight only the most basic antitrust principles. MSTS members and others participating in MSTS meetings should consult with general counsel in all cases involving specific questions, interpretations, or advice regarding antitrust matters.



MUSCULOSKELETAL TUMOR SOCIETY

Do Not

1. Do not, in fact or appearance, discuss or exchange information regarding:
 - a. Individual company prices, price changes, price differentials, mark-ups, discounts, allowances, credit terms, etc. or any other data that may bear on price, such as costs, production, capacity, inventories, sales, etc.
 - b. Raising, lowering or "stabilizing" orthopaedic prices or fees;
 - c. What constitutes a fair profit or margin level;
 - d. The availability of products or services; or
 - e. The allocation of markets, territories, or patients.
2. Do not suggest or imply that MSTS members should or should not deal with certain other persons or companies.
3. Do not foster unfair practices regarding advertising, standardization, certification, or accreditation.
4. Do not discuss or exchange information regarding the above matters during social gatherings, incidental to MSTS-sponsored meetings.
5. Do not make oral or written statements on important issues on behalf of MSTS without appropriate authority to do so.

Do

1. Adhere to prepared agendas for all MSTS meetings. It is generally permissible for agendas to include discussions of such varied topics as professional economic trends, advances, and problems in relevant technology or research, various aspects of the science and art of management, and relationships with local, state or federal governments.
2. Object whenever meeting summaries do not accurately reflect the matters that occurred.
3. Consult with general counsel on all antitrust questions relating to discussions at MSTS meetings.
4. Object to and do not participate in any discussions or meeting activities that you believe violate the antitrust laws; dissociate yourself from any such discussions or activities and leave any meeting in which they continue.



Special Guidelines for Collecting and Distributing Information

The collection and distribution of information regarding business practices is a traditional function of associations and is well recognized under the law as appropriate, legal, and consistent with the antitrust laws. However, if conducted improperly, such information gathering and distributing activities might be viewed as facilitating an expressed or implied agreement among association members to adhere to the same business practices. For this reason, special, yet general guidelines have developed over time regarding associations' reporting on information collected from and disseminated to its constituents. Any exceptions to these general guidelines should be made only after discussion with general counsel. These general guidelines include:

1. Member participation in a statistical reporting program is voluntary. A statistical reporting program should be conducted without coercion or penalty. Nonmembers should be allowed to participate in a statistical reporting program if eligible; however, if a fee is involved, nonmembers may be charged a reasonably higher fee than members.
2. Information should be collected via a written instrument that clearly sets forth what is being requested.
3. The data that is collected should be about past transactions or activities; particularly if the survey deals with prices and price terms (including charges, costs, wages, benefits, discounts, etc.), it should be historic, i.e., more than three months old.
4. The data should be collected by either MSTS or an independent third party not connected with any one member.
5. Data on individual orthopaedic surgeons should be kept confidential.
6. There should be a sufficient number of participants to prevent specific responses or data from being attributable to any one respondent. There should be at least five respondents reporting data upon which any statistic or item is based, and no individual's data should represent more than 25% on a weighted average of that statistic or item.
7. Composite/aggregate data should be available to all participants – both members and nonmembers. The data may be categorized, e.g., geographically, and ranges and averages may be used. No constituent should be given access to the raw data. Disclosure of individual data could serve to promote uniformity and reduce competition.
8. There should be no discussion or agreement as to how MSTS constituents should adjust, plan, or carry out their practices based on the results of the survey. Each constituent should analyze the data and make business decisions independently.