



Antitrust Guidelines

[Home](#) | [Search](#)

Antitrust Guidelines

ITI counsel developed the INCITS Antitrust Guidelines for the protection of INCITS and INCITS Subgroup members on antitrust issues. INCITS and INCITS Subgroup members must follow the INCITS Antitrust Guidelines.

Anticipate Risks

INCITS and INCITS subgroup meetings must be conducted in a manner that avoids the appearance of conduct which might violate the antitrust laws. The harsh criminal penalties in the antitrust laws, for individuals as well as organizations, the high costs of defending antitrust suits, the diversion of resources from our important missions, and the risk of liability together mandate an understanding of, and respect for, the antitrust laws by INCITS and its members. Our objective is to create a climate where antitrust risks are both anticipated and avoided.

Consult Counsel

Legal counsel should be consulted prior to any discussion of actions which the staff or INCITS believes could raise antitrust issues, or which seem in any way to be questionable or out of the ordinary. It is counsel's job to advise INCITS on any matters that have legal significance. It is always better to ask.

Notice and Agenda

Each INCITS or INCITS subgroup meeting must be preceded by a notice to the members of the committee with a draft agenda. As required by INCITS procedures, the agenda must be approved at the beginning of the meeting and followed.

Conduct of Meetings

INCITS policy requires the full-time attendance of a person familiar with the antitrust guidelines (e.g., staff, trained officer, INCITS liaison). All participants should be afforded an opportunity to present their views. Acting on behalf of INCITS, members have the responsibility to terminate any discussion, seek counsel's advice or, if necessary, terminate any meeting if the discussion might be construed to raise questions under the INCITS antitrust guidelines.

Minutes of Meetings

After each INCITS or INCITS subgroup meeting, concise minutes must be prepared that accurately describe the actions taken, and where appropriate, any rationale or additional pertinent discussion. These minutes must be prepared by a member of the INCITS staff or someone designated by an INCITS officer to prepare the minutes. When prepared by someone other than a member of the INCITS staff, the draft minutes shall be reviewed by the INCITS staff prior to distribution to the committee.

Sensitive Topics

With rare exceptions that should be made only upon the advice of INCITS counsel, there should never be discussion of the following topics at any INCITS or an INCITS subgroup meeting:

- Any company's prices or pricing policies;
- Specific R&D, sales and marketing plans;
- Any company's confidential product, product development or production strategies;
- Whether certain suppliers or customers will be served;
- Prices paid to input sources; or
- Complaints about individual firms or other actions that might tend to hinder a competitor in any market.

Standards

In INCITS sponsored committees related to standards, all relevant opinions should be considered and a sound technical basis for the INCITS position should be articulated. When participating in other standard-setting bodies on behalf of INCITS, INCITS representatives should be guided by both the letter and the spirit of the established procedures, which are designed to ensure that the process is open to all interested parties and standards are based on objective technical factors. INCITS members should voluntarily disclose any proprietary interest they may have in proposed standards in order to reduce the risk of antitrust liability.

Educational Presentations

Sharing non-proprietary information among competitors is generally lawful. Discussion should be limited to objectives, which promote overall consumer welfare. Exchanging proprietary information may not be appropriate, if the purpose or effect of the exchange is to lead to diminished competition in the marketplace.

For questions or comments, please contact [Lynn Barra](#) at INCITS.