

# **Antitrust Compliance Policy & Guidelines**

*(Approved 03.25.08)*

The International Association of Certified Thermographers (IACT) is committed to conducting its activities in strict compliance with Federal and State antitrust laws.

1. No one shall communicate either explicitly or implicitly in IACT's name, such as in speeches, articles, testimony or letters, without the prior approval of the IACT Board of Directors or an appropriate officer.
2. IACT's legal counsel should review any matter of communication that could raise a question of anti-competitiveness or any other antitrust issue.
3. The antitrust policy will be in the Policy and Procedure Manual and Chapter Manual and be distributed to committee members and employees.
4. Any individual or company meeting the requirements of membership as set forth in the bylaws shall be admitted to membership in IACT on a nondiscriminatory basis.
5. IACT shall conduct all statistical functions on a voluntary basis, and all data collected from individual companies shall be treated confidentially and reported back to them in composite form.
6. No firm shall be expelled from membership in IACT without just cause, and all such expulsions will be conducted in such manner as is established by the bylaws to assure that the expulsion is fair, objective, reasonable and nondiscriminatory.

The antitrust laws of the United States and the various states generally prohibit agreements, combinations and conspiracies in restraint of trade. Because IACT and other trade and professional associations are, by definition, combinations of competitors, they are subject to closer scrutiny under the antitrust laws.

The consequences for violating the antitrust laws can be severe. A conviction can carry stiff fines for an association and its offending leaders, jail sentences for individuals who participated in the violation and a court order dissolving the association or seriously curtailing its activities. Antitrust laws can be enforced against entire associations, individual members, and association employees by both government agencies and private parties (such as competitors and consumers) through treble (triple) damage actions.

Antitrust laws also prohibit competitors from engaging in actions that could result in an unreasonable restraint of trade. This means that above all else, association members should be free to make business decisions based on the dictates of the market – not the dictates of the association.

Some activities by competitors are deemed so pernicious and harmful that they are considered *per se* violations. With such violations, it does not matter whether the activities actually have a harmful effect on competition; the effect is presumed. *Per se* violations generally include price fixing; allocation of customers, markets or territories; bid-rigging and some forms of boycotts. In addition, agreements among competitors on matters that may directly affect price, such as warranty duration or freight terms, are also proscribed.

Other actions, such as standards development, certification programs, and relationships between distributors and suppliers generally are evaluated under a rule of reason – there must be a balance between the pro-competitive and anti-competitive aspects of activities; pro-competitive effects must outweigh anti-competitive ones. These areas also should be approached with both caution and legal guidance.

IACT members should avoid discussing certain subjects when they are together both at formal IACT membership, Board of Directors, committee, and other meetings and in informal contacts with other industry members and should otherwise adhere strictly to the following guidelines:

- DO NOT discuss prices, fees or rates or features that can impact (raise, lower or stabilize) prices such as discounts, costs, salaries, terms and conditions of sale, warranties or profit margins. Note that a price-fixing violation may be inferred from price-related discussions followed by parallel decisions on pricing by association members even in the absence of an oral or written agreement.
- DO NOT agree with competitors as to uniform terms of sale, warranties or contract provisions.
- DO NOT exchange data concerning fees, prices, production, sales, bids, costs, salaries, customer credit or other business practices unless the exchange is made pursuant to a well considered plan that has been approved by IACT's legal counsel.
- DO NOT agree with competitors to divide up customers, markets or territories.
- DO NOT agree with competitors not to deal with certain suppliers over others.
- DO NOT try to prevent a supplier from selling to your competitor(s).
- DO NOT discuss your customers with your competitors.
- DO NOT agree to any association membership restrictions, standard-setting, certification, accreditation or self-regulation programs that have not been approved by IACT's legal counsel.
- DO insist that any IACT meeting agendas are circulated in advance and that minutes of all meetings properly reflect the actions taken at the meeting. All IACT meetings generally should have written agendas prepared and circulated in advance.
- DO leave any meeting, formal or informal, where improper subjects are being discussed. Tell everyone why you are leaving.

- DO ensure that only IACT staff sends out written and electronic correspondence on behalf of IACT and that IACT officers, directors, committee members and other members do not present themselves as speaking or acting on behalf of IACT when they do not, in fact, have the authority to do so.

The foregoing policy and guidelines for the International Association of Certified Thermographers has been approved and adopted by the Board of Directors.