



Setting the Standards for
Home Energy Efficiency

Results of RESNET Board Ballot on Adopting Revised RESNET Anti-Trust Policy Recommended by RESNET's Counsel

February 10, 2015

Yes (18)

No (0)

Abstain (0)

Not Voting (2)

Ben Adams
Jacob Atalla
David Beam
Dave Bell
Steve Byers
Dennis Creech
Brett Dillon
Philip Fairey
Andy Gordon
Roy Honican
Cardice Howard
Mark Jansen
Lee O'Neal
Frank O'Brien - Bernini
Jim Petersen
Nancy St. Hilaire
Dennis Stroer
Barb Yankie

David Goldstein
Kelly Stephens

The revised policy was adopted by the RESNET Board.

Attachment A

Draft RESNET Antitrust Policy

The Residential Energy Services Network (RESNET) has two primary responsibilities:

- Setting the standards for the quality of rating services, and
- Support the growth of rating services infrastructure nationally

In carrying out its responsibilities RESNET intends to comply with all applicable antitrust laws. Under no circumstances will RESNET directly or indirectly be involved in conduct that leads to or implies an agreement among its members that would restrain trade and/or otherwise violate antitrust laws. Any conduct by RESNET's officers, directors or employees that is contrary to the antitrust laws is contrary to RESNET policy. Any officer, director or employee found in violation of this policy or the applicable antitrust laws will be subject to appropriate disciplinary action.

To assist in avoiding antitrust problems at RESNET meetings the following rules and guidelines must be followed:

1. A meeting should be held only if there are proper matters to be discussed which justify the meeting.
2. For each meeting, an agenda should be developed and provided to each attendee. Participants at meetings should adhere strictly to the agenda. If a subject of doubtful legality is brought up at a meeting, the person leading the discussion should be told immediately that the subject is not a proper one for discussion and discussion should be halted. Should the discussion continue, despite protest, it is advisable that attendees leave the meeting.
3. The agenda should be specific and avoid the following topics:
 - **Price**, including pricing discounts and credit terms, terms or conditions of sale, warranty terms, profits or profit margins
 - **Markets**, including sales territories or markets, shares of the market or allocation of markets
 - **Selection of customers or suppliers**, including refusals to deal, bids or the intent to bid, or rejection or termination of customers
 - **Any proposal or engaging in any activity, which is intended to have the effect of producing an adverse economic impact on some competing companies.**
4. Minutes of all meetings should be kept that accurately report what actions, if any, were taken.

5. Unscheduled, informal, secret or “rump” meetings held in conjunction with the regular meetings should be avoided.
6. No meetings should include recommendations with respect to “sensitive” antitrust subjects, such as those listed in #3 above.
7. Members should not be coerced to take part in association activities. The industry should not be policed to see how individual members are conducting their business activities.
8. Legal counsel should attend all association meetings where there is potential for discussion of legally sensitive subjects.
9. Members should check with association staff and/or counsel if there is any doubt about the propriety of an association program or subject of discussion. Members may also wish to consult with their company’s counsel.

Summary of Conduct Considered Per Se Illegal

Certain activities or conduct are considered always or almost always to restrict competition and therefore are illegal under the antitrust laws. Examples include:

1. agreements among competitors to raise, lower, control or stabilize the prices of goods or services;
2. agreements with suppliers to raise, lower, control or stabilize the resale prices of goods or services;
3. boycotts involving monopoly power that deny necessary business relationships to competitors, suppliers or customers; and
4. agreements to allocate markets or customers, or concerted action to limit output of goods or services.

Summary of Conduct Reviewed Under the “Rule of Reason”

Conduct that is not per se illegal is evaluated under the *Rule of Reason*. Conduct that involves some restraint of trade may be permissible if the overall effect of the activity is to improve competition rather than restrict it. Activities evaluated under the *Rule of Reason* include:

1. membership decisions (inclusion, exclusion, termination of);
2. lobbying efforts;

3. industry-wide surveys, data collection, statistical gathering and similar activities; and,
4. standardization and certification programs.