

How REALTORS® Can Steer Clear of Antitrust Violations

Antitrust laws are made up of a series of federal and state laws aimed at preventing unfair business practices that limit or restrain free trade. It all started with the Sherman Antitrust Act of 1890 and a very simple provision: Every contract, combination, or conspiracy, in restraint of trade, is declared to be illegal. In 1914, Congress passed the Clayton Antitrust Act to address additional activities that were deemed anticompetitive but fell outside the scope of the Sherman Antitrust Act.

Under these two laws, courts have ruled that there are a number of actions that are so bad, a person's intent does not matter, and the simple action is an antitrust violation. Three of these types of actions in the context of real estate are:

1. **Price fixing:** This is where competitors (i.e., different firms) agree to charge a specific commission.
2. **Market allocation:** This is where competitors agree to divide up territory and not compete against each other in those areas.
3. **Group boycott:** This is where competitors agree to not work with a particular company in hopes of putting it out of business.

What does this all mean for REALTORS®? You should avoid discussing commissions, policies, or other companies with agents from a different firm. When in doubt, it is better to say nothing than get into trouble. If you think that a conversation might violate antitrust laws, clearly state that you do not agree with what is being proposed and leave.