

OPEN HEALTH TOOLS

ANTITRUST COMPLIANCE POLICY

The Vision of Open Health Tools, Inc. (“Open Health Tools”) is to enable a ubiquitous ecosystem where members of the Health and IT professions can collaborate to build interoperable systems that enable patients and their care providers to have access to vital and reliable medical information at the time and place it is needed.

The Open Health Tools technology is a vendor-neutral, platform supplying frameworks and exemplary tools and reference applications (the “Platform”). Platform tools are exemplary in that they verify the utility of the Platform frameworks, illustrate the appropriate use of those frameworks, and support the development and maintenance of the Platform itself. Platform tools are extensible in that their functionality is accessible via documented programmatic interfaces.

It is the express policy of Open Health Tools to require that all activities of Open Health Tools, and any committees organized under its auspices, be conducted strictly in accordance with U.S. federal and state antitrust laws as well as antitrust laws of other countries. This policy has been prepared to inform members of Open Health Tools of this obligation.

I. OVERVIEW

A. Price-Fixing

Agreements among competitors to fix prices are per se unlawful and the U.S. and other governments strictly enforce laws against price-fixing. Competitors may be found to have engaged in price-fixing if they:

- agree on the range of prices within which purchases or sales may be made or that prices are to fall within any sort of formula;
- agree to fix or stop giving discounts; or
- agree to artificially increase or limit supply

Formal written agreements are not required for an antitrust violation to exist. Informal, even tacit, agreements may violate the antitrust laws.

Illegal price fixing may occur even when undertaken by non-competitors when there is an agreement to fix the price at which a purchaser will resell a product. Where a product is sold for resale, the seller is permitted to suggest resale prices to customers, but any agreement as to resale prices, whether formal or informal, express or implied, is to be avoided.

Members should keep in mind at all times that the mission of Open Health Tools is to promote the design and development of the Platform. Accordingly, Open Health Tools activities should not involve any individual member’s activities in pricing or marketing particular products. To avoid the risk of liability, Open Health Tools members should never discuss prices, pricing systems, or discounts relating to Open Health Tools or in conjunction with Open Health Tools

activities, nor should Open Health Tools ever be involved in members' pricing or marketing practices.

B. Agreements To Allocate Markets

Antitrust laws in the U.S. and elsewhere expressly prohibit any understanding or agreement between competitors or members of an association involving division or allocation of geographic markets or customers, or an agreement to divide sales by product type. Even an informal agreement whereby one member agrees to stay out of another's territory or product markets may constitute a violation of the antitrust laws and must be avoided.

C. Concerted Refusals to Deal

Members should avoid participating in "concerted refusals to deal" relating to Open Health Tools or in conjunction with Open Health Tools activities. These are more commonly known as boycotts. Members should be careful not to make agreements that in effect result in the exclusion of a competitor from a market or a competitive activity. For example, an agreement among two or more members of an organization or group to no longer license or buy from (or license or sell to) a particular supplier or distributor might constitute such a boycott. To avoid this risk, members should avoid any discussion or conduct that involves the refusal to deal with a particular third party.

II. COMPETITION

Nothing contained in this policy should be construed to prohibit or limit a member from making, using, selling, marketing, or promoting products that do not embody or make use of the Platform. Members are not required to exclusively use, announce, or promote Platform tools or specifications. Members are free to design, develop, manufacture, acquire or market their respective products in any lawful way.

III. GENERAL OPERATING PROCEDURES

In order to ensure that Open Health Tools activities are conducted fairly in a manner that does not unduly benefit some competitors to the detriment of others, it is important that proceedings of the organization be conducted openly and with the opportunity for participation from all interested parties. To that end, the policies of Open Health Tools conform to the following guidelines:

- A. Membership. Any organization or entity that satisfies the membership criteria, whose planned contribution is reasonably deemed acceptable by the Open Health Tools Board, and that agrees to abide by the rules and agreements of Open Health Tools may join Open Health Tools. Members are not precluded from joining any similar organizations.
- B. Notice of Meetings. All meetings shall be preceded by notice to members, as set forth in the by-laws.

- C. Meetings and Agenda: All meetings will follow a prepared agenda and follow any procedures set forth in the by-laws. An agenda should be distributed prior to the meeting. Potential antitrust questions posed by the agenda should be raised in advance.
- D. Minutes. Accurate minutes shall be kept of all Board and committee meetings. The minutes of the preceding meetings shall be read and approved at each meeting. After minutes have been approved, they shall be distributed to all attendees within a short period following the meeting. It is important that any deficiencies in minutes promptly be brought to the attention of Open Health Tools secretary.
- E. Distribution of Antitrust Policy. It is the policy of Open Health Tools that a copy of this antitrust policy be distributed to all members.

IV. PROHIBITED MEMBER CONDUCT

DO NOT discuss or exchange information relating to Open Health Tools or in conjunction with Open Health Tools activities regarding:

- Any member's current or projected prices, price changes, price differentials, markups, discounts, allowances, terms and conditions or sale, including credit terms, etc., or data that bear on prices, including profits, margins or cost for any product or service.
- Individual company plans to license intellectual property to or from third parties.
- Individual company costs of procurement, development or manufacture of any product.
- Individual company market shares for any product or for all products.

V. PERMITTED MEMBER CONDUCT

In addition to other legally permissible activities, members may engage in the following conduct:

- Members may design, develop, manufacture, acquire or market competitive specifications, products and services.
- Members may join or participate in any other associations, including competitive open-source organizations.
- Members may decide whether or not to utilize Open Health Tools developments in their business operations and to what extent.

- Members should adhere to prepared agendas for all Open Health Tools meetings.
- Members should insist that meeting minutes be prepared and distributed to all participants, and object whenever meeting minutes do not accurately reflect the matters that transpired.
- Members should report any violations of this Policy concerning Open Health Tools activities to the Board of Directors.

This policy is not intended to be legal advice, and may not continue to be an accurate synopsis of anti-competition laws and regulations applicable in your jurisdiction, which change over time. Members assume responsibility to provide appropriate legal counsel to their representatives regarding compliance with this policy.

If you have a question regarding these matters, contact your own counsel the Secretary of Open Health Tools at oh-t-mo@openhealthtools.org.