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BLOGS
Antitrust

Preventative Measures for Manufacturers

In Issues 196 and 200 of *The GPMemorandum*, we discussed some of the common antitrust risks facing manufacturers. Prevention is the best cure for those problems, as attempts to address the risks at the time of termination or after a claim has been lodged are too late. We recommend that manufacturing companies review their compliance with antitrust laws by formally gathering and scrutinizing all of their pricing programs, sales policies, competitor communications, and customer agreements, among other documents, to uncover and defuse landmines. Sales leadership and other executives should be interviewed regarding their interactions with customers and, crucially, any competitors with which your company has contact. Top management should receive a report of this compliance review.

In addition, training should be provided to all involved. This can be accomplished through legal sessions presented at company-wide sales meetings, for example, and through online training modules that are made mandatory for all employees who deal with customers or competitors.

Finally, carefully drafting documents is a good way to avoid legal liability before terminations occur and claims arise. Having clear contracts, policies, and programs in place should avoid most disputes about termination, pricing, and resale controls. In the same vein, having clear documentation of what is and is not part of the relationships with competitors is crucial in avoiding collusion.

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