

# ODPi Antitrust Policy

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## Introduction

The mission of ODPi is to enable widespread adoption and help accelerate development of open source, open data technologies that run across distributed devices (the “Platform”); to promote the Platform worldwide; and to develop and implement certification programs to create high customer awareness of, demand for, and compliant implementations of the Platform. The purpose of this Antitrust Policy (the “Policy”) is to avoid violation of antitrust and competition laws while carrying out this mission.

It is ODPi’s policy to comply with all applicable U.S. state and federal antitrust and trade regulation laws, and all applicable antitrust/competition laws of other countries (collectively, “Antitrust Laws”). The penalties for violating Antitrust Laws can be severe, including treble damages in the U.S., and large fines and imprisonment of individuals found guilty of illegal conduct.

ODPi will use its best reasonable efforts to comply in all respects with the Antitrust Laws. In addition, all members of ODPi (collectively, “Members”) must likewise use their best reasonable efforts to comply in all respects with the Antitrust Laws and this Policy in carrying out ODPi-related activities, as must all non-Members who participate in such activities, whether directly or indirectly. Covered activities include, but are not limited to the ODPi Technical Steering Committee and any other committees and working groups, as well as all sub-groups of any of the same (collectively, “Committees”). Individuals covered by this Policy include, but are not limited to, Member representatives and ODPi’s employees, consultants, directors and officers (collectively, “Participants”).

The goal of Antitrust Laws is to encourage vigorous competition. Nothing in this Policy, or in any ODPi document or policy, prohibits or limits the ability of ODPi Members or other Participants to make, sell or use any product, or otherwise to compete in the marketplace. Readers should note that the Antitrust Laws vary from country to country, and that this Policy provides only general guidance on compliance with the Antitrust Laws. Members and Participants should contact their respective legal counsel to address specific questions.

This Policy is conservative and intended to promote compliance with the Antitrust Laws, and this Policy is to be provided to all Members and Participants in ODPi.

The following policies address three areas in which the Antitrust Laws are particularly concerned: membership; Conduct of Meetings; and Platform.

## Membership

ODPi membership will be made available on reasonable terms to all individuals and entities meeting the qualifications established by ODPi for membership, as set forth in ODPi's By-laws. No applicant for membership who meets the membership criteria will be rejected for any anti-competitive purpose or solely for the purpose of denying the applicant the benefits of membership.

The Platform and any final ODPi information, materials, or reports available to Members shall be made available to non-Members on reasonable terms, when failure to make them available will impose a significant economic or competitive disadvantage or cost to non-Members.

## Conduct of Meetings

At meetings among actual or potential competitors, there is a risk that those participating may improperly disclose or discuss information in violation of the Antitrust Laws, or otherwise act in an anti-competitive manner. To avoid this risk, ODPi Members and Participants must adhere to the following rules when participating in ODPi-related or sponsored meetings, conference calls, or other forums.

ODPi Members and other Participants **must not**, in fact or appearance, discuss or exchange information regarding:

- An individual company's current or projected prices, price changes, price differentials, markups, discounts, allowances, terms and conditions of sale, including credit terms, etc., or data that bear on prices, including profits, margins or cost.
- Industry-wide pricing policies, price levels, price changes, differentials, or the like.
- Actual or projected changes in industry production, capacity or inventories.
- Matters relating to bids or intentions to bid for particular products, procedures for responding to bid invitations or specific contractual arrangements.
- Plans of individual companies concerning the design, characteristics, production, distribution, marketing or introduction dates of particular products, including proposed territories or customers.
- Matters relating to actual or potential individual suppliers that might have the effect of excluding them from any market or of influencing the business conduct of firms toward such suppliers.
- Matters relating to actual or potential customers that might have the effect of influencing the business conduct of firms toward such customers.

- Individual company current or projected costs of procurement, development or manufacture of any product.
- Individual company market shares for any product or for all products.
- Confidential or otherwise sensitive business plans or strategy.

In connection with all ODPi-related meetings, conference calls, or other forums for exchange of information, Members and other Participants **must do** the following:

- Understand the purposes and authority of each ODPi Committee in which they participate.
- Consult with their respective counsel on any antitrust questions they may have related to ODPi meetings.
- Protest against any discussions that appear to violate these policies or the Antitrust Laws, leave any meeting in which such discussions continue, and either insist that such protest be noted in the minutes, if occurring during a meeting, or make such protest known to the Legal Counsel of ODPi (see Contact Information, below).

### **Platform**

ODPi and its Committees will develop the Platform and related materials. The use of the Platform and such materials shall in all cases be voluntary. Members and Participants shall not enter into agreements that prohibit or restrict any Member or non-Member from using any alternatives to the Platform. Members and other Participants shall not undertake any efforts, directly or indirectly, to prevent any firm from using any alternative to a Platform-based product.

All Participants in ODPi Committees shall abide by all applicable rules, policies and procedures adopted by ODPi or the applicable Committee, as updated from time to time (collectively “ODPi Policies”).

### **Legal Review**

ODPi’s policy is to discuss thoroughly with legal counsel any proposed programs or policy decisions before they are implemented. If any Member or other Participant has any question as to the legality of a proposed course of action, the matter should be immediately referred to the ODPi corporate counsel Andrew Updegrave, at [andrew.updegrave@gesmer.com](mailto:andrew.updegrave@gesmer.com).

### **Contact Information.**

To contact ODPi regarding matters addressed by this Antitrust Policy, please send an email to [andrew.updegrave@gesmer.com](mailto:andrew.updegrave@gesmer.com), and reference “Antitrust Policy” in the subject line.

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As adopted by the Board of Directors on \_\_\_\_\_, 2015