

Antitrust Considerations in CANENA Programs

By its very nature, **CANENA**'s standardization work programs bring together individuals having a broad range of technical and commercial interests from different countries. Even though the mutual interests of **CANENA** members in such work programs are focused on reducing differences in technical standards under the purpose to open markets and establish the basis for free and fair competition, whenever such groups convene, the opportunity exists for discussions that can be deemed anti-competitive in nature.

Laws addressing anti-competitive activities and antitrust may be objectively similar in most countries but the intensity of enforcement and penalties for violators can vary widely from country to country. All participants in multi-national standardization processes such as **CANENA** need to have a fundamental understanding of their responsibilities in this area and the consequences resulting from inappropriate behavior.

It is not possible to provide a comprehensive list of antitrust rules that would cover every situation that might be encountered at a **CANENA** meeting. Nevertheless, a prudent general rule is that commercial topics shall not be discussed or even considered around or during **CANENA** meetings or at informal events surrounding a **CANENA** meeting.

The following list describes examples of behavior which could be deemed to be anti-competitive when discussion on these subjects between competitor organizations occurs:

- current or future selling prices or components thereof, including discounts, rebates, and credit terms;
- selling price lists or procedures for coordinating price changes;
- restriction of licensing of patent technology or discussion on the construction or validity of patents;
- sales or production quotas;
- allocation or division of territories or customers among manufacturers, distributors, or retailers;
- boycotting any party or denying any party access to markets, products, product inputs, or information;
- identified individual company statistics, market shares, inventories or merchandising methods;
- commercial practices of particular competitors or customers;
- commercial liabilities, warranties, guarantees, or the particular terms and conditions of sales, including credit, shipping and transportation arrangements, or
- anything dealing with "arm-twisting," trade abuses, or excluding or controlling competition.

It is the responsibility of each **CANENA** participant to be cognizant of his/her responsibilities with regard to appropriate behavior concerning antitrust. **CANENA** committee chairs and secretaries are expected to be well versed in this area in order to provide guidance to their committees and to make necessary rulings. It is recommended to start each meeting with a statement bringing attention to the participant responsibilities in this area. Whenever any participant feels that a discussion is moving into areas that he/she feels may not meet the highest standard with regard to these guidelines, the matter should be immediately addressed by the chair. If the discussion is allowed to continue, the participant may ask that the meeting be stopped immediately until an independent assessment is made, or any participant may decide to leave the meeting and demand that the names of those leaving and the time and reason for leaving be documented in the meeting report.

An example of a detailed treatment of appropriate conduct in meetings under U.S. antitrust legislation can be found in **[NEMA GUIDELINES FOR CONDUCTING NEMA MEETINGS](http://www.nema.org/About/Documents/Guidelines%20for%20Conducting.pdf)**. (<http://www.nema.org/About/Documents/Guidelines%20for%20Conducting.pdf>)