

THE LEGAL PERSPECTIVE

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Most people are well aware that agreements between competitors to fix prices of the goods they sell are unlawful and that violators can be subjected to prison sentences, very large fines and the possibility of triple damages they cause to a large class of customers.

But what they don't realize is that they can also be held liable if they agree with their competitors on the salaries and benefits to be paid to their employees. The Sherman Act, under which such cases are brought, applies equally to buyers and sellers and it applies to the purchasers of employment services just as much as it applies to the purchasers of commodities.

Wednesday, April 9, 2003

Companies can get into serious trouble with antitrust authorities when they conduct salary and benefit surveys, or worse yet, have face to face discussions with their competitors even though all they think they are doing is comparing notes so they can determine what the market is for an engineer, a secretary or a store clerk.

Although simple exchanges of information between competitors are lawful and indeed can be pro-competitive, it takes very little additional evidence to convince the authorities that such exchanges resulted in an unspoken agreement that to avoid offering higher wages or bigger benefits to their workers. Therefore, if you are someone who runs a business or a personnel department, be sure to seek competent counsel before entering into information exchanges with your competitors about wages and benefits to employees.

Friday, April 11, 2003

The FTC and Antitrust Division have taken the position that salary and benefits surveys among competitors will not be prosecuted if the following protections are observed: First - have a third party such as an accounting firm collect the information. Second - make sure the information is historical (at least 3 months old when disseminated) and third - make someone to tie specific salary information to a particular party in the survey. And whatever you do, never discuss plans for future salaries or benefits with competitors. That is a sure way to land yourself in a lot of hot water.