

The Optical Internetworking Forum Antitrust Guidelines

Recognizing that private associations of members of a particular industry have been recognized by the Supreme Court of the United States as posing "a serious potential for anti-competitive" conduct, The Forum has adopted Bylaws committing itself and its members "to open competition" and specifically directing that "the purposes and object of the corporation prohibit" discussions or activities on any topic "which could have an adverse impact on national or international competition or trade or could violate any national or international law regarding competition or trade." With these considerations in mind, and being committed to respect for and adherence to the Antitrust Laws of the United States and any other nation in which its members are either domiciled or conduct their business, The Forum hereby issues the following guidelines for its members and their representatives in connection with their activities as members, and participants in the work, of The Forum.

1. Neither The Forum nor any of its committees or activities shall be used for the purpose of bringing about or attempting to bring about any understanding or agreement, written or oral, formal or informal, express or implied, among and between competitors with regard to prices, terms or conditions of sale, distribution, volume of production, territories, customers, credit terms or marketing practices.
2. There shall be no discussion, communication or other exchange between members of The Forum and/or their representatives of prices, pricing methods, production quotas or other limitations on either the timing, costs or volume of production or sale, or allocation of territories or customers.
3. No activity or communication of The Forum or any of its members or representatives thereof shall include any discussion which might be construed as an agreement or understanding to refrain, or to encourage a member to refrain, from purchasing any raw materials, equipment, services or other supplies from any supplier or from dealing with any supplier.
4. No Forum activity or communication, or that of its members or the representatives thereof, shall include any discussion which might be construed as an attempt to prevent any person or business entity from gaining access to any market or customer for goods and services, or to prevent any business entity from obtaining a supply of goods or services or otherwise purchasing goods or services freely in the market.

5. The qualifications for membership in The Forum are set forth in the Certificate of Incorporation and in the Bylaws of The Forum. No applicant for membership, who otherwise meets the qualifications set forth therein, shall be rejected for any anti-competitive purpose or for the purpose of denying such applicant the benefits of membership.
6. The Forum is not a standard-setting organization and neither it nor any committee or member thereof shall make any effort to bring about the standardization of any product or service for the purpose or with the effect of preventing the manufacture, sale or supply of any product or services not conforming to a specified standard, it being the express policy of The Forum that it shall not compel or coerce any member into accepting or complying with any specification either adopted, recognized or approved by The Forum.
7. To the extent that The Forum through its committees and membership, develops or approves specifications which, if followed, will permit specific equipment and service to interoperate with any other equipment, service or network, adherence to such specifications shall be voluntary on the part of the members of The Forum and shall in no way be compelled, directed or coerced by The Forum or any committee thereof, it being solely a voluntary decision on the part of the particular member or members of The Forum as to whether to adhere to or comply with any such specifications.
8. Any specifications which may be developed or approved by the membership of The Forum in order to effectuate the purposes of The Forum as set forth in its Certificate of Incorporation and Bylaws shall be based solely and exclusively upon technical considerations and upon the merits of objective expert judgments and thorough procedures and shall in no way be based upon any effort, intention or purpose of any of its members to reduce or eliminate competition in the sale, supply and furnishing of products and services.
9. Neither The Forum nor any committee thereof shall impose sanctions for the nonadherence to, nor shall they enforce compliance with, specifications developed, promulgated, recognized or approved by The Forum.
10. If information, materials or reports of The Forum, or any of its committees, for the use of the membership is significant to non-members or others in the industry, then such information, material and reports may be made available by The Forum to all such persons, on such terms and conditions as it may prescribe, in order to carry out its purposes and objectives as set forth in the Certificate of Incorporation and Bylaws of The Forum.

11. To the extent that the purposes of The Forum, as set forth in its Certificate of Incorporation and Bylaws, require, for The Forum's purposes and objectives, joint research and development by two or more of its members, or representatives thereof, any such joint research and development for The Forum shall exclude the following activities:
- the exchange of information among competitors relating to costs, sales, profitability, prices, marketing or distribution of any product, process, or service that is not reasonably required to conduct the research and development;
 - any agreement or any other conduct restricting, requiring, or otherwise involving the production or marketing by any member of The Forum of any product, process or service, other than the production or marketing of proprietary information developed through such joint research and development, such as patents and trade secrets; and
 - any agreement or any other conduct restricting or requiring the sale, licensing or sharing of inventions or developments not developed through such joint research and development, or restricting or requiring participation by any member of The Forum in other research and development activities, that is not reasonably required to prevent misappropriation of proprietary information contributed by any member of The Forum, or representative thereof, or of the results of such joint research and development.
12. Each member, and any new member, of The Forum shall be supplied with a copy of these Guidelines and agrees to abide by them.