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“Putting the trust in antitrust”

An interview with Joe Murphy (jemurphy5730@gmail.com),
Senior Advisor, Compliance Strategists in New Providence, NJ.



Priest

Steve Priest: Joe, as “Mister Compliance” for three decades now, you could talk about any ethics and compliance (E&C) topic with great authority. But I would like to pick your brain on your first—and still continued—passion and expertise: competition law. I wonder if competition is an area where ethics does not matter much. Can you be a law abiding corporate citizen in the competition realm without paying attention to ethics?

Joe Murphy: Steve, I would describe our field as “compliance and ethics,” and I don’t think you can get one without the other. While there are some technical areas in antitrust, at its core it is also about values: competing smartly and fairly and not cheating customers.

Steve: So to reduce the likelihood of violations of even arcane areas of competition law, compliance programs need to incorporate ethics and values?

Joe: A core value is that competition makes us all sharper and, as a result, improves the lives of all—better products and services at lower costs. If instead of understanding and embracing these values a company only tells its people, “Do the minimum the law requires,” employees will likely not understand and ultimately end up acting both unethically and illegally.

Fundamentally I believe that in order to ensure “compliance,” your people need to

understand the values behind the law. It is no different for competition law.

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Steve: Joe, this is music to my ears. But I have a discordant note. I just did a risk assessment of a big multinational based in Europe, and their ethical intuition was that competition law was low risk because “all the competitors hated each other” and thus competed fiercely. It took a lot of compliance-based argument to disabuse them of this notion. I’m not sure I succeeded.

Joe: Steve, I have heard many similar excuses, and they are all bogus. If you employ humans and you compete with anyone, you are at risk, period. This is one of the easiest areas to commit a felony. Your ex-colleague moved to a competitor. You share a coffee at Starbucks and agree to “go easy” on each other and split up the market. Result: Felony! Whatever the excuse, talk to an experienced antitrust lawyer, and they can probably find you an example of a similar company that had the same blind spot—until reality arrived with an indictment. *

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