



Group Buying Programs A Source of Non-Dues Income

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Association group buying programs enable an association to provide an excellent benefit to members and an opportunity for the association to generate significant non-dues income, possibly on a tax free basis. Members who participate in the program agree to pool their purchases of certain types of products in order to get volume discounts from vendors.

Historically, group buying programs have presented an antitrust risk that many associations were unwilling to take. However, on December 20, 2012, the Antitrust Division of the Department of Justice issued a Business Review Letter including a series of safe harbors that an association can use to establish a group buying program with little or no antitrust risk.

According to the Business Review Letter associations establishing a group buying program should determine:

1. Will the program give smaller buyers the opportunity to replicate economies of scale currently available to large buyers?
2. Will the program be pro-competitive by reducing members' costs and ultimately reducing consumer prices?
3. Is the program voluntary?
4. Will participants in the program be prohibited from discussing or exchanging information relating to downstream pricing?
5. Will the participants in the program be prohibited from discussing upstream prices except in connection with items to be purchased under the program?
6. Will all participants in the program be given antitrust compliance information?
7. Will the total purchases of each class of product included in the program be less than 20% of the total U.S. market for each class of product?

8. Do the participants in the group buying program control less than 20% of the downstream market of the products that they sell?

If the answer to all these questions is “Yes,” then you are well on your way to establishing an association group buying program that will:

1. Entice more prospective members to join the association,
2. Provide cash savings for existing members, and
3. Provide significant amounts of non-dues income for the association.

If you are interested in learning more about Group Buying Programs, contact Steve Fellman, GKG Law, P.C. at 202.342.5294 or sfellman@gkglaw.com.