

fd.io Project Antitrust Policy

Introduction.

The purpose of the fd.io Project, Inc. (“fd.io”) is to drive the evolution of data services through a neutral community delivering open source software that supports deployment models including cloud, NFV, container, bare metal networking, storage, and other types of IO, in order to create a high performance, modular, and extensible open source platform (“Platform”) fostering innovation in data services. Such Platform shall be efficient and promote innovation by eliminating duplicative R&D efforts, attaining economies of scale, and enabling synergies between developers. The purpose of this Antitrust Policy (the “Policy”) is to avoid antitrust risks in carrying out the fd.io’s procompetitive mission.

It is fd.io’s policy to comply with all applicable antitrust/competition laws, including state and federal antitrust and trade regulation laws in the U.S., as well as applicable antitrust/competition laws of other countries (collectively, the “Antitrust Laws”). The penalties for violating the Antitrust Laws can be severe, including treble damages in the U.S., and large fines and imprisonment of individuals found guilty of illegal conduct in the U.S. and other countries. The U.S. Supreme Court has ruled that a trade association may be held legally responsible for the unauthorized, as well as authorized, illegal acts of its members.

fd.io will comply in all respects with the Antitrust Laws. In addition, all members of fd.io (collectively, “members”) must likewise comply in all respects with the Antitrust Laws and this Policy in carrying out fd.io-related activities, as must all non-members who participate in such activities, whether directly or indirectly, including without limitation, participants in fd.io’s projects, committees and advisory councils (if any), and fd.io’s employees, consultants, directors and officers (all such non-member participants, “participants”).

The main goal of the Antitrust Laws is to safeguard vigorous competition. Nothing in this Policy, or in any other fd.io document or policy, prohibits or limits the ability of fd.io members or participants to make, sell or use any product, or otherwise to compete between them or with non-fd.io members in the marketplace. While this Policy provides general guidance on compliance with Antitrust Law, Members and participants should contact their respective legal counsel to address specific questions.

This Policy is conservative and is intended to promote compliance with the Antitrust Laws, not to create duties or obligations beyond what the Antitrust Laws actually require. In the event of any inconsistency between this Policy and the Antitrust Laws, the Antitrust Laws preempt and control.

This Policy shall be provided to all members and participants in fd.io.

The following policies address three areas in which the Antitrust Laws are particularly concerned: Membership; Conduct of Meetings; and Platform/Requirements.

Membership.

fd.io membership shall be made available on reasonable terms to all individuals and entities meeting the qualifications established by fd.io for membership, as set forth in fd.io's bylaws. No applicant for membership who meets the membership criteria shall be rejected for any anti-competitive purpose or solely for the purpose of denying the applicant the benefits of membership.

Any final fd.io information, materials, or reports available to members shall be made available to non-members on reasonable terms, if and when fd.io concludes that failure to make them available will impose a significant economic or competitive disadvantage or cost to non-members.

Conduct of Meetings.

At meetings among actual or potential competitors, there is a risk that participants in those meetings may improperly disclose or discuss information in violation of the Antitrust Laws, or otherwise act in an illegal anti-competitive manner. To avoid this risk, fd.io members and participants must adhere to the following policies when participating in fd.io-related or sponsored meetings, conference calls, or other forums for the exchange of information:

fd.io members and participants **must not**, in fact or appearance, discuss or exchange verbal or written information regarding:

- An individual company's current or projected prices, price changes, price differentials, markups, discounts, allowances, price/benefit analyses, terms and conditions of sale, including credit terms, etc., or data that bear on prices, including profits, margins or cost.
- Pricing policies, price levels, price changes, differentials, or the like.
- Actual or projected changes in production, output, capacity or inventories.
- Matters relating to bids or intentions to bid for particular products, procedures for responding to bid invitations or specific contractual arrangements.
- Plans concerning research or development, or the design, characteristics, production, distribution, marketing or introduction dates of particular products, including proposed territories or customers.
- Matters relating to actual or potential individual suppliers that might have the effect of excluding them from any market or of influencing (favorably or unfavorably) the business conduct of firms toward such suppliers.

- Matters relating to actual or potential customers that might have the effect of influencing (favorably or unfavorably) the business conduct of firms toward such customers.
- Current or projected costs of procurement, development or manufacture of any product.
- Market shares for any product or for all products.
- Confidential or otherwise sensitive business plans or strategy.

In connection with all fd.io-related meetings, conference calls, or other forums for the exchange of information, members, potential members, speakers and other participants **must do** the following:

- Understand the purposes and authority of each fd.io committee, project, committee, advisory councils (if any), or other group in which they participate.
- Consult with their respective counsel on all Antitrust Law questions related to fd.io meetings, including, where appropriate, requesting legal review of agendas and written information intended for distribution.
- Protest against any discussions that appear to violate this Policy or the Antitrust Laws, leave any meeting in which such discussions continue, and either insist that such protest be noted in the minutes, if occurring during a meeting, or make such protest known to the Legal Counsel of fd.io (see Contact Information, below).

Platform/Requirements.

fd.io and its projects will create the Platform, and may also establish technical requirements and/or specifications for fd.io software (collectively, “Requirement(s)”). The use of any version of the Platform and adoption of any such Requirements shall in all cases be voluntary. Members and participants shall not enter into agreements that prohibit or restrict any member or non-member from using any alternatives to the Platform, or from establishing or adopting any other Requirements. Members and participants shall not undertake any efforts, directly or indirectly, to prevent any firm from using any alternative to the Platform, or from manufacturing, selling, or supplying any product not conforming to a Requirement.

Parties who may be affected by a Requirement developed by an fd.io project shall be given the opportunity to comment on the development of any such Requirement, regardless of whether they are members of fd.io. fd.io will publish all proposed Requirements on a publicly available web page of the fd.io website for a reasonable period of time prior to formal adoption, and shall consider comments to those proposed Requirements prior to adopting a final requirement.

fd.io projects shall develop and select Requirements based on their quality, technological attributes and ability to address the needs of fd.io users. fd.io projects shall not promote standardization of commercial terms, such as terms for sale for software.

All participants in fd.io projects and committees shall abide by all applicable rules, policies and procedures adopted by fd.io or the applicable committee or project, as updated from time to time (collectively “fd.io Policies”).

Legal Review.

fd.io’s policy is to discuss thoroughly with legal counsel any proposed programs or policy decisions before they are implemented. If any member or participant has any question as to the legality of a proposed course of action, the matter should be immediately referred to the fd.io corporate counsel Andrew Updegrave, at andrew.updegrave@gesmer.com. In this manner, fd.io can ensure continued pursuit of its legitimate objectives with maximum protection for members and participants.

Contact Information.

To contact fd.io regarding matters addressed by this Policy, please send an email to andrew.updegrave@gesmer.com, and reference “fd.io Antitrust Policy” in the subject line.

As adopted by the Board of Directors on _____, 2016