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"IS YOUR COMPANY COMPLIANT? Antitrust Enforcement to Increase Significantly

By: Michael M. Briley

The current Administration in Washington, D.C. has announced that it intends to significantly increase the level of federal investigation and review of antitrust issues ranging from unlawful collusion to mergers. The heads of both federal enforcement agencies (the Department of Justice and the Federal Trade Commission) have already increased dramatically their agency's efforts in this area. In 2009 alone, the Department of Justice collected over \$1 billion in fines for antitrust violations and prosecutions have resulted in prison sentences for a number of executives. With Congress approving the ten year reauthorization of the Antitrust Criminal Penalty Enhancement and Reform Act ("ACPERA") this year, criminal prosecutions for antitrust violations are expected to increase dramatically. The ongoing civil litigation suit liability cost to companies that violate the antitrust laws will likely also increase dramatically in 2010-2011. Accordingly, it is more important now than perhaps ever before that companies have in place a good corporate antitrust compliance program that meets all of the required elements for federally qualified compliance programs.

A properly designed and implemented corporate antitrust compliance program has the benefit not only of educating employees regarding lawful and unlawful conduct (thereby helping to protect the sponsor company from criminal investigation and subsequent civil suits) but, moreover, properly qualified programs will serve to substantially reduce any fines awarded against a company which is found to have violated the law.

Shumaker, Loop & Kendrick, LLP has substantial experience in designing and implementing qualified antitrust compliance programs for its clients. While certain elements of each compliance program are mandated (for example, the creation of a compliance policy and written direction for employees, training and audit protocols, etc.), our firm has been successful in working with its clients to design compliance program for each client that meets not only its legal objectives, but its budget as well.

We would be happy to put our over 35 years experience in the area of criminal and civil antitrust law to work for you.

Mike Briley is a partner in the corporate practice group in the firm's Toledo office.