

Denarius Human Resources' Compensation Survey Anti-Trust Assessment Matrix

Several specific legal cases concerning the exchange of wage and salary data among employers, in certain situations, have been found to be anti-competitive behavior in violation of Section 1 of the Sherman Act. Guidelines have emerged from these cases concerning acceptable means of exchanging wage and salary information. Below is a summary of the issues present in exchanging employee compensation data and the risks associated with various practices.

<b>Issue</b>	<b>No or Minimized Risk</b>	<b>Some Risk</b>	<b>Significant Risk</b>
<ul style="list-style-type: none"> <li><b>Information sharing</b></li> </ul>	No communications between labor market competitors with respect to wages or benefits.	Conversations between competitors regarding wage-related information with reason undocumented.	Agreement to fix, maintain or stabilize wages or benefits, or any exchange of information that creates anti-competitive results such as uniform or stabilized wages and benefits.
<ul style="list-style-type: none"> <li><b>Use of third party to collect data</b></li> </ul>	Information exchanged through third party to ensure confidentiality. All parties receive same information.	Information exchanged through designated, trained Human Resources staff, with guidance regarding confidentiality.	Information exchanged directly between employers, or via a third party with no restriction on disclosure of individual firm data.
<ul style="list-style-type: none"> <li><b>Form of data exchanged</b></li> </ul>	Aggregate data with ranges only.	Aggregated data with averages or other 'summary statistics'.	Specific data identifiable to a specific employer.
<ul style="list-style-type: none"> <li><b>Age of data</b></li> </ul>	Historical (more than 6 months old).	Historical (3 to 6 months old).	Current and prospective data or plans.
<ul style="list-style-type: none"> <li><b>Number of participants</b></li> </ul>	More than 10 employers. Open to any firm wanting to participate.	5 to 10 firms with one firm accounting for a high percentage of total employees.	Fewer than five, or identified individually. Restricted participation.
<ul style="list-style-type: none"> <li><b>Reason for or effect of exchange</b></li> </ul>	To gather information about marketplace employment conditions, and make unilateral decisions on wages, benefits.	Unspecified or purposefully vague.	To set uniform (among participants) wages or benefits, or to reduce competition.

*Denarius Human Resources, Inc. recommends obtaining appropriate legal counsel on all employment matters.*