

March 25, 2026

## **WEBSTER, CHAMBERLAIN & BEAN, LLP – NONPROFIT ALERT**

### **U.S. Department of Justice (DOJ) Files another Statement of Interest in Trade Association Litigation**

The DOJ has recently asserted via court filing its belief that trade associations may violate the Sherman Antitrust Act simply by adopting association rules that it deems anticompetitive.

This past December, the U.S. Department of Justice filed a Statement of Interest in the case *Davis v. Hanna Holdings* – a case about alleged anticompetitive behavior from the largest privately held real estate brokerage firm in America. In the Statement of Interest, the DOJ disagreed with Hanna Holdings’ argument that agreeing to abide by trade association rules is not, itself, enough to violate anti-collusion provisions of the Sherman Act. Said the DOJ, such arguments “make it unjustifiably harder for plaintiffs to challenge allegedly anticompetitive agreements embodied in trade association rules.”

#### **Why Does This Matter?**

This Statement of Interest signals a continuation of the Biden DOJ’s policy towards focus on trade associations. In 2023, the DOJ and FTC rescinded the safety zones for information sharing programs, as well as filed lawsuits and statements of interest related to information sharing programs. In filing this Statement of Interest (along with the DOJ’s weighing in on litigation regarding the American Veterinary Medical Association), it seems as though the current DOJ plans to continue its close scrutiny towards trade associations.

Further, the Statement of Interest may signal the DOJ’s greater interest in trade association rules, themselves. In its filing, the Department of Justice is attempting to convince the court that by merely agreeing to trade association rules, a company may be in violation of the Sherman Act.

#### **What Does This Mean for Associations?**

While the US antitrust laws have not changed, it is clear that the DOJ is focused on trade association rules. Regardless of member conduct outside in the marketplace, association rules themselves can raise antitrust issues. Trade associations should continue to work with their legal counsel to ensure that they understand the impact of and potential issues raised by their policies and governance documents.

\* \* \* \*

**Notice:** This article is for informational purposes only and does not provide legal advice, nor does it create an attorney-client relationship with you or any other reader.