Bureau of Competition
FEDERAL TRADE 60MM1SS1ON WASHINGTON, D.G. 20580

February 8, 1985

Dennis L. Dedecker, B,D,S,
Secretary
Utah Society of Oral and XaxilLofaeial Surgeons
I480 South Orchard Drive
Bountiful, Utah 84010

Dear Dr, Dedecker:

Thank you for your December 30, 1984, i~lcquirv regardi3g the legality of a fee survey which the Utah Society of Oral and Haxillof aeial Surgeons (the "Soeietv") olans to conduct, 9s vou discussed with Linda Brody of this office, the Society would like to pr~vide its memSers with information rsgarqing "he range of fees charged in the area, as well as the average fee charged for sarticular srocedures, As I underqtand it, r?nae of foe

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information-will include a Listing of the highest and Lowest fees charged by members for individual procedures, r3t3er than the

range of fees, if any, charged by each provider. This response provides informal staff guidance, based on the limited infor-
mation available, Moreover, staff advice is not binding on the Commission,

In general, the antitrust laws proki5it agreements that fix
or otherwise tamper with the fees that competitors charge for their services, Depending uaon the ouroose or sffeet of the conduct, dissemination of price information 5y an organization of competitors can be found to constitute or Facilitate an unlawful price agreement, While the case Paw does not set forth a clear test to determine the legal+ ty of everv fee survev, it is generally recognized that absent either an anticompetitive puroose or effect, the publication of trut%ful, bistor;c information regarding the prices charged bv comsotitoes in a non-concentrated market nroba5lv would not ise 'ounil to vio?ilt? t%e antitrust laws,

Thus, assuming no intent to restrain price comoetj tion Is
present, the critical issue regarding a price information ex-
change is its iikelv effect on cornnetition, Tn a fairlv recent
Supreme Court case concerning a challenged pr ice exchange system,
the Court stated that a "nmber qf factors includinq rilost ~rorfli-

8 nently the structure of the industry involved and the nature of

the information exchanged are general3.v considered in ar9ving

b Dennis L. Dedeeker, D.D.S,
I hope this information is helpful to you. If we can be of
any further assistance, please call Linda Bi-ody at (202) 724-01347. Sincerely,

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Arthur N. Lerner
Assistant Bireetsr