

The Australian Stainless Steel Development Association (ASSDA) is a not-for-profit organisation that was established in 1992 to address and harness stainless steel's growth trend in Australia. In its role promoting stainless steel applications and the local industry, ASSDA recognises and acknowledges the need to preserve competition in the market and these guidelines are intended to promote compliance by providing a brief overview of areas of legal risk and provide modest practical suggestions to assist compliance protocols.

ASSDA is committed to compliance with *The Competition and Consumer Act 2010 (The Act)* (formerly the Trade Practices Act 1974), Australia's legislative vehicle for competition law which seeks to promote competition, fair trading and consumer protection. ASSDA is also mindful of competition and antitrust laws in other jurisdictions, particularly as its membership spans offshore. Members should at all times take legal advice for their individual circumstances and the jurisdictions in which they operate and this guide is not intended to replace or remove the need for such advice.

UNDERSTANDING COMPETITION LAW

Competition law, also referred to as antitrust law, is the legislative framework enacted to promote competition in the marketplace by prohibiting or regulating anti-competitive agreements and conduct. Common breaches of antitrust law includes price fixing, agreements to restrain competition and misusing market power. The Act is administered and enforced by the Australian Competition and Consumer Commission (ACCC), and unlawful conduct can result in large penalties and, in some instances, criminal prosecution.

All participants in the stainless steel industry should familiarise themselves with the Act and its application. Everyone involved in ASSDA activities (including its Board of Directors, employees, consultants, and all Member companies and their representatives, employees and sub-contractors) must adhere to the Act in the conduct of those activities.

Members should be mindful of differences in antitrust and competition laws in jurisdictions outside Australia. ASSDA's guidelines are statements of principle intended to assist a Member's understanding of competition law. They are not intended as legal advice and Members should NOT implement practices based on these guidelines without obtaining specific legal advice reflecting their own circumstances and location.

DISCUSSION OF INFORMATION

Sensitive commercial information should never be discussed between competitors. Members should refrain from any form of collusive conduct including matters that will or could have the potential to harm the competitive process or result in widespread consumer detriment. Without limitation, and in very broad terms Members should not engage in oral or written exchanges, regarding pricing and pricing methods, production capacity and output, customer information, market allocations and commercial trading strategies, without first seeking appropriate legal advice.

Further, the following conduct must be avoided:

- **Price fixing:** This involves agreement between competitors to adopt consistent pricing to customers or suppliers. Members should not discuss pricing issues or exchange price lists with competitors.
- **Output restrictions:** Agreeing with competitors to prevent, restrict or limit the volume or types of goods or services available to the market.
- **Market sharing:** Agreeing with competitors to allocate customers, suppliers or territories between participants.
- **Bid-rigging or collusive tendering:** Agreeing with competitors that they will not compete genuinely with each other for tenders, allows, allowing one within their agreement to 'win' the tender.
- **Third-line forcing:** Supplying goods or services, or offering a particular price or discount, to a customer on condition that the customer buys goods or services from a third party.
- **Misuse of market power:** Using market size or dominance to stop a new competitor starting up, or to substantially damage a competitor or prevent another business from engaging in competitive conduct.
- **Resale price maintenance:** Action intended to prevent or discourage a business's customers advertising or selling at discount prices.
- **Boycotts:** Agreeing to refuse to deal with third parties.

MEETINGS

The following procedures are intended to promote conformity to and compliance with the principles outlined above. Meeting participants should conduct themselves in a manner that reduces, to the extent possible, any possible inference of antitrust conduct and on the assumption that the detail and process of any meeting may subsequently be examined by regulators.

- In advance of every meeting, a notice of meeting and agenda should be circulated to each intended participant.
- Meeting and gatherings should commence with an antitrust compliance reminder with reference to these guidelines or appropriate legal advice.
- Minutes of every meeting should be taken.
- An ASSDA representative must be present at all Association meetings to ensure adherence to the agenda. Subjects outside the agenda should not be agitated.
- Concerns in the course of a meeting should be raised immediately with the meeting Chair and/or ASSDA representative in attendance. That person may require a discussion to cease. Participants who determine to leave due to a concern or via a direction of the Chair/ASSDA representative should ask for their departure to be noted in the minutes.
- Members should refrain from private and/or informal meetings and must not so participate under the pretext of an ASSDA meeting.

Discipline in this process will reduce the prospect of unintended outcomes.

INFORMATION SHARING

The Association collects and disseminates information, such as news articles, market reports and import and export statistics. The information is largely historical and from third-party publications, but can also include forecast reports. The Association takes reasonable care to avoid disseminating competition sensitive information.