

## Recommended Practices for Trade Associations

### Does competition law apply to Trade Associations?

Yes! The Competition Act also applies to practices and agreements of an 'association of enterprises', including a trade association. Even if a trade association does not itself transact business, it is a platform through which members – often competitors – interact with one another. Trade associations can thus be used to create or encourage anticompetitive practices.

### You are encouraged to:

- ✓ establish a competition compliance policy for the association and ensure that members – including new members – are familiar with it
- ✓ make clear that disclosure or discussion of competitively sensitive information among individual association members is strictly forbidden
- ✓ ensure that association rules, criteria for admission, standards/guidelines do not restrict members' commercial independence when operating on the market nor make it difficult for new competitors to enter the market
- ✓ ensure that association meetings have agendas and that minutes accurately reflect attendance and discussions
- ✓ require members to report to the association or the Competition Commission any communication with competitors where competitively sensitive information was discussed
- ✓ remember that both an association and its members – including past members – can face serious consequences if found to contravene

### You should avoid:

- × making rules, guidelines or recommendations regarding pricing to members
- × adopting rules or practices that limit or are likely to influence members' independent commercial decisions such as prices, output, who to supply or who to purchase from
- × requiring members to provide the association with competitively sensitive information or allow members to use the association meetings/events to exchange such information or discuss their commercial policies
- × establishing rules or practices that restrict members from discounting prices, soliciting business from or otherwise competing with other members
- × setting admission rules or membership criteria that make it difficult for potential competitors to join the association
- × establishing arbitrary standards that provide members with an artificial advantage over or discriminate against non-members, making it more difficult for non-members to sell their goods/services to customers
- × creating a false impression that lower prices or fees are indicators of lower quality products/services



### Remember:

Non-public, strategic information about a business' commercial policy such as customers, future prices, what to produce and how much to produce, are competitively sensitive information and should not be shared with or among competitors!

There can be a wide range of legitimate topics to be discussed at association level, but one must **ALWAYS** ensure that the association or member discussions/conduct do **NOT** stray into illegality!

### To report a potential infringement:

**T: 211 2005**

**Email:**  
[info@competitionmission.mu](mailto:info@competitioncommission.mu)

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These materials do not constitute legal advice and should not be relied upon as such.