



Meetings protocol

Background

The ELSC's primary goal is

“To produce a document that sets out our combined view of 'best practice' in the handling of cable drums within the Australian electrical distribution industry. This should comprise safe working guidelines that, if followed, will ensure that cable drums are transported, moved and stored safely. Consideration needs to be taken of different legal requirements (state and federal) and the wide variety of operating conditions that exist across the electrical distribution industry.”

Competition and Consumer Act

The Act contains heavy penalties for companies and individuals who engage in cartel conduct.

Cartel conduct occurs between competitors and is the making or giving effect to of a contract, arrangement or understanding that contains a cartel provision. A cartel provision is one which sets prices, restricts outputs, allocates customers, suppliers or territories, or rigs bids.

All member companies are actual or potential competitors of each other. Members also compete with non-member wholesalers and with some manufacturers and retailers for sales to end users.

It is essential that members understand what can and cannot be discussed/agreed at meetings of the Association. This protocol is intended as a general guide and to enable members to avoid some of the more obvious problems. However, this is a highly technical area of regulation and it will be necessary to obtain specific advice from time to time.

Procedure for members' meetings

1 Always have a written agenda which is circulated prior to the meeting

There is greater danger of discussions straying into improper areas if there is no clear agenda or the agenda is created at the last minute.

2 Chairman (in consultation with the secretary) to prepare agenda (including topics for discussion and intended outcomes) in light of the Act

Consider whether discussing the topic, or reaching an agreement on it, would put the Association and its members at risk of breaching any of the cartel conduct provisions. If so, do not include the item in the agenda at all or expressly (in the agenda) make clear the limited (permissible) scope of the intended discussion.

3 Keep to the agenda

Avoid topics which are not on the agenda as there will have been no consideration of their suitability. If the discussion goes beyond the scope of the agreed topic, stop and consider whether it is proper for the expanded topic area to be discussed.

4 Be careful with 'General Matters' or 'Other Matters' agenda items as this can be an invitation for members to raise topics which should not be discussed.

Chairman will need to monitor discussion and step in if a topic is raised, or discussion proceeds on a matter, which puts the Association and its members at risk of breaching the cartel conduct provisions.

5 Be mindful with third party invitees whether they are actual or potential competitors of the Association members and restrict discussion with them accordingly

Consider the permissible scope of any presentation or discussion before the meeting and avoid topics or actions (such as agreeing actions) which may breach the cartel conduct provisions.

6 Encourage attendees to voice concerns

All attendees should be encouraged to raise any concerns regarding the appropriateness of a topic or discussion at the meeting. If such a concern is raised, that fact should be minuted and the Chairman (in consultation with the secretary) should formally consider the concern and make a decision as to its appropriateness before proceeding any further with the meeting. The Chairman's decision and reasons should also be minuted.

7 If in doubt, seek advice

If the Chairman or any other attendee has serious doubts about the appropriateness of a particular discussion or meeting outcome, delay the discussion until legal advice has been sought.