

## TRADE PRACTICES PROTOCOL

All businesses and their representatives have a duty to comply with the *Australian Competition and Consumer Act 2010* "The Act". This Act enhances the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection. In particular, the Act controls behaviours that might limit competition or otherwise influence, protect, restrict or misuse market power.

### Our obligations under the Act

The Act sets out a number of offences which can be committed by Corporations or their representatives. It is important to understand these offences. They, include but are not limited to:

- **Section 45AF** – Making a contract or arriving at an understanding that contains a cartel provision – where cartel provisions means (a) price-fixing; or (b) restricting outputs in the production and supply chain; or (c) allocating customers, suppliers or territories; or (d) bid-rigging;
- **Section 45** - Making a contract or arriving at an understanding that would substantially lessen competition;
- **Section 45D and 45DA** - Carrying out or being part of a secondary boycott for the purpose of causing substantial loss or damage or that substantially lessens competition;
- **Section 46** – Misuse market power by engaging in behaviour that would substantially lessen competition;
- **Section 47** – Exclusive Dealing.

### The role of Industry Associations

The Australian Competition and Consumer Commission (ACCC) understands and is broadly supportive of the role of Industry Associations. It is understood that Association members regularly come together to share information, discuss issues, develop standards and establish rules for best practice within their industry.

However, whenever several businesses from the same industry are in the presence of each other, there is a heightened risk that some actions or behaviours may breach the Act's rules against anti-competitive conduct.

### The purpose of this Protocol

This Protocol has been published to communicate HVIA's expectation of members and provide a mechanism for members of HVIA attending meetings to take action before a potential breach of the Act.

By signing the attendance sheet at each meeting held by Heavy Vehicle Industry Australia, you agree that you have read and understand your obligations under the Act and you agree not to engage in behaviour which is or might be perceived to be contrary to the spirit of the Act.

### What members need to do

All HVIA members must read and familiarise themselves with this Protocol.

It is important that association meetings are conducted in compliance with the law and do not facilitate anti-competitive behaviour. For this reason, HVIA prohibits the following conduct at its meetings:

- **Price fixing:** Members should not discuss or share information about their prices or come to any agreement to control, fix or maintain their prices.
- **Market sharing:** Members must not make agreements to divide or allocate customers, suppliers or geographic areas between themselves.

- **Bid rigging:** Members should not discuss or make agreements about how to tender for particular bids or manipulate the outcome of a tender process.
- **Output restrictions:** Members must not agree to prevent, restrict or control the supply of goods or services to customers, or to boycott or limit their dealings with particular suppliers or clients.
- **Exclusive dealings:** Members are not to use HVIA meetings as a forum to impose or agree to restrictions about who a Member can do business with.

If you witness conduct in breach of this Protocol or are concerned that debate, discussion, the exchange of information or any other aspect of HVIA or a member's behaviour is close to, or at risk of breaching this Protocol or the Act, you are required to:

1. Tell the Chairman of the meeting immediately asking for the meeting or discussion to cease;
2. Ensure a report of this intervention is minuted and at the first available opportunity brought to the Chief Executive Officer's attention.

HVIA aims to support its members to understand and comply with competition law, but it reserves the right to terminate the membership of any member that breaches this Protocol.

### **What HVIA will do**

For its part, in ensuring that any perceived risk is managed accordingly HVIA commits to:

1. Having a copy of this Protocol available at each meeting held by HVIA for members to read and understand.
2. To ensure a proper Agenda is provided, that minutes are taken and approved and ensuring that at the commencement of each meeting all attendees are reminded of their obligations, including by signing an attendance list (including names and member organisation) that requires compliance with this protocol;
3. If a member is at risk of breaching this protocol that the CEO be authorised to mandate specific training and education prior to allowing ongoing participation in HVIA committee meetings.