

# It's the Law

## Price Fixing.

At some stage last year I was in an MGAV member's (store) office when I overheard a conversation between this member and another member in the same township in regard to cigarette prices at their respective stores. Nothing illegal, was proposed or discussed, but the following snippet came across my desk at Christmas, reminded my of the incident, and I now pass on the warning. Jennifer Flanagan.

Macpherson and Kelley Lawyers advise that after a Federal Court case lasting five long weeks, held that both our client company and their client's area manager personally had breached the Trade Practices Act (TPA).

The client was prosecuted by the ACCC for alleged price fixing in the petrol market. According to the ACCC the mere fact that telephone records showed communications between an employee of the client and some of the 'opposition' retailers suggested there was a case to answer, although the client had no knowledge of the discussions.

M and K advise that the ACCC is cracking down severely on companies both large and small that engage in anti-competitive behaviour, and is actively encouraging whistle blowers from within companies to come forward in the company.

### 13 Tips on Trade Practices Compliance

1. Be very careful when talking to competitors. If you think a conversation may get you into trouble, it probably will.
2. If you would be concerned about repeating a conversation with a competitor to your boss or the ACCC, then you should walk away from the conversation.
3. Always seek advice before making any deal with a competitor. Any dealings that improve your profits are probably illegal.
4. If you are dealing with suppliers or customers who are also



competitors - do not have any discussions in relation to competitive issues. ie. pricing, margins, mutual customers.

5. Always seek advice before imposing any kind of competitive restraints or conditions on the supply of goods or services to customers, distributors or suppliers.
6. Think about your motives as well as your actions and where they will take you. If your purpose is anti-competitive it can be illegal even if it is ineffective. Even if your intentions are good but the outcome results in a substantial lessening of competition it will also be illegal.
7. When doing deals with customers put yourself in their shoes and ask yourself whether the deal is fair or if there is something that needs to be pointed out to them to ensure the commerciality of the deal.
8. When dealing with customers, ask yourself if the deal is made on a commercial basis or if other factors (age, literacy, other commercial pressures) have led to an uncommercial deal.
9. Do not make promises or statements which you do not intend or are unable to keep.
10. Make notes on any meeting, discussion or decision made.
11. Remember that trade practices compliance is not only important to your company but also to you personally as breaches of the Trade Practices can lead to hefty personal fines.
12. If you are ever contacted by the ACCC, on any matter immediately inform your boss.
13. Remember the best way to protect yourself and your company is to not breach the law.

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## Store Refurbishments Give Two Supermarkets a New Life

The Morgan Family last year invested heavily on a full refurbishment of their Supa IGA in Gisborne (just north of Melbourne).

The supermarket had been trading for 15 years in a shopping centre and was in need of an upgrade to ensure the unit was in a position to ward off the chain store scheduled to open early this year.

As can be seen by the photos on top of the next page the new supermarket is every bit as good as the best new independents in the state and of course as professional as any chain store, giving the Morgan's a seriously good position for the future. As independents we can't sit by and wait and see, we must do as the chains do no matter what size and shape, find the investment money and have a good plan to ensure success.

Morgan's ESP Rewards program has also taken on a major refurbishment in the store with the inclusion of a Community Rewards element. This should generate several thousand dollars for local schools over the coming year and further cement the relationship independents have with the local community.

One of only a few such businesses in the supermarket industry, the Terang Co Op has shown just what can be achieved with direction and investment to keep the business relevant into the future.

Co Ops are historically not the ones to be seen as progressive, however the Terang Co Op has shown what can be done. Several years ago this business was housed in a huge old style department store with hardware in the basement and the back yard, variety on the first floor and a small licensed supermarket on the ground floor. Entering the store was a walk back in time as is usual for small rural towns.

Today the town boasts a modern and very impressive full supermarket offer equally as good as any of the chains where customers would have travelled in the past. The pictures on the next page show that under the direction of Charlie Duynhoven, this business has achieved much.

The Hardware store was relocated a couple of years earlier to a modern new building across the road leaving the space to rebuild.