

IMPORTANT NOTICE

This publication is under review following recent amendments to the *Trade Practices Act 1974* (the Act).

Amending legislation

Trade Practices Amendment (Cartel Conduct and Other Measures) Act 2009

This legislation amended the Act to introduce new cartel provisions and associated criminal penalties. The following forms of cartel conduct are prohibited by the new provisions:

- price fixing
- restricting outputs in production or supply chains
- allocating customers, suppliers or territories
- bid-rigging.

A civil prohibition will operate in relation to the same forms of cartel conduct.

Under the legislation it is a criminal offence for a corporation to make or to give effect to a contract, arrangement or understanding that contains a cartel provision. Any person knowingly concerned in the cartel conduct will also commit a criminal offence and be liable to imprisonment for up to 10 years.

The per se prohibition on price fixing contained in ss. 45 and 45A of the Act has been repealed and replaced by the new cartel provisions.

The legislation exempts certain joint ventures from the criminal offence and civil prohibition.

Also included in the legislation are provisions that:

- enhance the ACCC's capacity to conduct search warrants
- set out a new regime to enhance confidentiality of cartel information provided to the ACCC
- enable telephone interception to be used for investigation of the cartel offence.

More information

More information about these changes is available on the ACCC website (accc.gov.au) or by contacting the ACCC Infocentre on 1300 302 502.