



interactive games & entertainment association

Guidelines for IGEA & Subsidiaries Meetings

General Matters and Compliance with the Competition and Consumer Laws

1. KEY RULE

- 1.1 All meetings of members of IGEA must comply with the Australian *Competition and Consumer Act 2010* (Cth), the New Zealand *Commerce Act 1986* (NZ) and the New Zealand *Fair Trading Act 1986* (NZ) (the **Competition and Consumer Laws**).
- 1.2 Throughout any IGEA meetings (“**Meetings**” which term is inclusive of meetings of the board, member meetings, quarterly meetings, working groups, break out meetings, and IGEA hosted social events involving IGEA Members (the “Members”)) there should be no discussion about price for industry related products or services, or discussion of any other matters which could reasonably be seen to affect competition within the computer and video game industries (“Industry”). All Members must take care to observe and comply with the IGEA *Competition and Consumer Compliance Policy*, these guidelines (“Guidelines”) and the *Code of Conduct* for IGEA.

2. PREPARING FOR A MEETING

- 2.1 Official Board Meetings of Members shall be convened by the IGEA secretariat, or other IGEA board nominee (a “Secretariat”) and will generally be the subject of advance notice of two weeks. An agenda will be circulated by email prior to any such meeting taking place. IGEA hosted social events will not be minuted unless otherwise stated, but the terms of these Guidelines still apply.
- 2.2 The Secretariat will ensure that matters concerning competition among members, price and market conditions are kept off the agenda or, if they are to be discussed, legal advice will first be obtained.

3. MEETING CHAIR

- 3.1 The IGEA chairperson (“Chair”) or the IGEA vice chairperson (“Vice Chair”) shall preside as chair of every meeting of the Board or if there is no Chair or Vice Chair or the Chair and Vice Chair are unwilling to act or if at any Board meeting the Chair and Vice Chair are not present within ten minutes after the time appointed for holding the Board meeting, the Board must elect another Director to chair that meeting.
- 3.2 The Chair or Vice Chair shall preside at every General Meeting of IGEA, or if there is no Chair or Vice Chair, or if the Chair and Vice Chair are not present within fifteen minutes after the time appointed for the holding of the meeting, or is unwilling to act, then the other Directors present shall appoint one of their number to chair the meeting, or if no other Director is present within fifteen minutes after the time appointed for the holding of the meeting or no other Director is willing to act, then the Members present in person or by representative shall elect one of their number to chair the meeting

4. AT THE MEETING

- 4.1 Minutes of each Board meeting, (and any other Meetings where minutes are deemed necessary by the Board) will be taken by a Secretariat, unless otherwise agreed prior to the commencement of the meeting. If the nominated Secretariat is not present within fifteen minutes after the time

appointed for the holding of the meeting, or is unwilling to act, then the other Directors present shall appoint one of their number to take meeting minutes.

- 4.2 It is important to remember that attending a meeting where prices or any another sensitive competition-based matter is discussed may be enough to put Members and their staff at risk, especially where Members are competitors in the market.
- 4.3 Avoid sub-committees and break out groups which could separately form the basis of arrangements on price or other competition sensitive matters.

5. WHAT CAN BE DISCUSSED

Members may, while remaining mindful of the obligations under the Act, the IGEA Trade Practices Compliance Policy, these Guidelines and the Code of Conduct for the IGEA, discuss any matter on an agenda or in general business which is consistent with IGEA's objects, namely:

- (a) informing and fostering relationships with the public, the business community and governmental bodies on matters affecting the industry;
- (b) seeking and working towards an appropriate legislative and regulatory framework for the industry;
- (c) engaging Members on relevant matters; and
- (d) creating an environment that drives sustainable growth of Members' businesses,

but only if that discussion and the pursuit of those objectives do not expose Members and IGEA to risk of breach of the Act.

6. WHAT CANNOT BE DISCUSSED

- 6.1 Price fixing arrangements of any description are illegal even if any such arrangement or understanding is not enacted or followed.
- 6.2 No discussions on price are to take place at a meeting, including:
- (a) fixing, controlling or maintaining the price at which products or services are supplied or purchased;
 - (b) price to the market of any goods or services;
 - (c) price formulas or margins, or whether or not a price is too high or too low;
 - (d) levels of discounts, allowances, rebates, trading terms and credit terms;
 - (e) price levels or price trends in the market;
 - (f) current and forecasted production costs and production output levels; and
 - (g) the current and forecasted cost of inputs and raw materials.
- 6.3 Consistent with IGEA's objects there is scope for IGEA and its members to address and discuss general economic trends, changes in broader market conditions and general information regarding non-specific, overall supply costs. However, such discussions should never be so specific as to be capable of forming the basis of an anti-competitive arrangement. If you have any concerns in this regard legal advice can be obtained.

6.4 Members must also avoid discussions at meetings about:

- (a) dividing and allocating markets among competitors;
- (b) ceasing to compete for the business of certain customers;
- (c) not dealing with certain customers and suppliers;
- (d) not tendering for certain projects or tendering only on agreed conditions;
- (e) limiting the volume of goods produced or other sales quota information; and
- (f) membership entitlement and expulsion to pursue an anti-competitive objective (e.g., exclusion from membership to an applicant known to discount products).

6.5 Prices (and discounts etc.), production volumes and associated strategies need to be set independently by individual members and without reference to actual and potential competitors.

7. RAISE ANY CONCERNS YOU HAVE

7.1 If you have any concern about a possible breach of the competition provisions of the Act at a meeting you should take the following action:

- (a) protest that the issue is being discussed;
- (b) leave if the subject continues to be discussed;
- (c) ensure that your concern with the issue and your departure is recorded in the Minutes;
- (d) put the matter to a senior executive of IGEA and your own organisation (and seek legal advice if necessary); and
- (e) make a note in your diary of the action you have taken and a file note of what discussion occurred, should you be questioned at a later stage.

8. LOBBYING THE GOVERNMENT

8.1 There is a legitimate role for an industry association (and by implication, its Members) to lobby state and federal government ("Government") on matters of common interest within the industry, including pricing principles.

8.2 Any joint discussion with the Government or its agencies on price should avoid reference to actual prices and actual levels of discounts and rebates unless:

- (a) examples are presented as hypotheticals or otherwise in a manner not attributable to any particular member, or reasonably easy to infer its relevance to a particular member over any other members or companies; or
- (b) levels of discounts, location offsets and other rebates are set by Government and any response from the industry association is reactive.

8.3 In a meeting it needs to be made clear that the only purpose of the meeting is to discuss a response to the Government on pricing principles and certainly not to agree on actual price levels.

- 8.4 If lobbying to the Government fails, there may be a temptation to set prices for particular goods or a range of goods. This is to be strictly avoided as a matter of IGEA policy and under the terms of the Act. Be advised that if a particular lobbying or publicity campaign fails or only partly succeeds then decisions as to product pricing, production levels and dealings with customers must remain the sole responsibility of individual member companies to determine.

9. PRIVACY AND CONFIDENTIALITY

- 9.1 When attending meetings, Members may have access to certain personal or confidential information. Any such personal or confidential information should not be shared without authorisation. Confidential information includes any discussions taking place at meetings (including any discussions relating to IGEA's business matters) and any research papers or data that may be shared or presented throughout the meeting. Confidential Information remains the property of the person or party that submitted it, (whether verbally or in writing), unless otherwise agreed in writing.

10. BOARD MEETINGS

- 10.1 Directors shall attend Board Meetings in their capacity as Directors and representatives of IGEA rather than representatives of their relevant member organisations. Notwithstanding this, it is important to understand that, while Directors represent the IGEA at Board Meetings, their relevant member organisation (and even themselves individually) are still subject to the provisions of Competition and Consumer Laws.

11. AFTER THE MEETING

Minutes are to be agreed upon as accurate by all Members in attendance at the Meeting prior to their issue.

Adopted December 7, 2020