



Standards Australia

Standards Development

Competition Law Guidelines

These Standards Development Competition Law Guidelines (Guidelines) have been endorsed by the Standards Australia Standards Development and Accreditation Committee (SDAC) and apply to all those who choose to participate in a Technical Committee, Subcommittee, Working Group or other consensus group established under the auspices of Standards Australia Limited (ABN 85 087 326690) (Standards Australia). These Guidelines have been adopted and adapted for Australian use from the International Organization for Standardization Guidelines on Competition Law.

The purpose of these Guidelines is to raise awareness of, and provide broad guidance on, competition law issues to you as a participant in the standards development process.

These Guidelines are in addition to any competition law guidelines and policies of your company or organisation.

Standards Australia's committees are made of a broad range of stakeholders.

Competitors may participate on the committee together to develop standards that are relevant to their markets. However, Australian competition law (which is embodied in the *Competition and Consumer Act (CCA) 2010*) does not allow competitors to behave in a way that would lead to an improper restriction of competition, for example an agreement between competitors during the standards development process to sell their competing products at pre-established prices (price fixing) or to allocate their customers or markets. The exchange of competitively sensitive information by competitors could also be used as evidence to demonstrate the existence of various forms of anticompetitive conduct under the CCA, such as:

- cartel conduct – contracts, arrangements or understandings between competitors that have:
 - the purpose or effect of fixing, controlling or maintaining the price of goods or services (i.e. price fixing); or
 - the purpose of bid rigging, restricting output or market sharing;
- exclusionary provisions (i.e. collective boycotts) – contracts, arrangements or understandings between competitors that have the purpose of preventing, restricting or limiting the supply or acquisition of goods or services to or from a particular person or class of persons; and
- anticompetitive agreements - contracts, arrangements or understandings that have the purpose or likely effect of substantially lessening competition in a relevant market.

Competition law applies to you as a participant in the standards development process as well as to your company and the nominating organisation that you represent. The Guidelines are not aimed to address every potential scenario that can lead to the violation of competition law. Rather, they establish a non-exclusive list of Do's and Don'ts that are intended to help you avoid infringing competition law.

Compliance with competition law in the standard setting process is essential to ensure:

- that markets operate efficiently and competitively; and
- that the standards development process remains a platform of trust for industries, governments and the Australian community.

Non-compliance can have severe consequences not only for you as a participant but also for your company and nominating organisation.

Violations can lead to substantial civil and criminal liability that may exceed the economic damage caused and, in the case of cartel conduct prosecuted criminally, may also include imprisonment for individuals involved. Standards Australia requires you to familiarise yourself with these Guidelines and to comply with them.

Should you have any questions in relation to these Guidelines, please contact mail@standards.org.au.



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Do's	Don'ts
<ul style="list-style-type: none">• Do remember that one of the purposes of standards development is to support competition for the benefit of industry, consumers and society in general.• Do ensure that you and other participants that attend meetings have the necessary technical expertise to be able to contribute to standards development activities.• Do follow Standards Australia's policies and procedures, including the Standardisation Guides, Committee Member Code of Conduct and your obligations under the Committee Member Deed.• Do declare from the outset of any project all conflict of interest to Standards Australia or as soon as any conflict of interest arises.• Do declare from the outset of any project, any known patent or any known pending patent application, either your own or that of your company that is relevant to the project.• Do review and clear agendas of meetings in advance, to ensure that the subjects to be discussed are consistent with competition law, and strictly adhere to the agenda during the meetings.• Do ensure a transparent and open standards setting process, including participation and the exchange of information that is strictly in accordance with the Standardisation Guides.• Do limit the discussions, or exchange of information, during the standards development process solely to technical standards development issues and only share information that is necessary to meet the objectives of standards development.• Do consider carefully if a potential (or actual) exchange of information has any value in predicting the future commercial behaviour of a participating competitor, and refrain from sharing any information that might have this effect.• Do feel free to use and share publically available information, including historical and aggregated industry information (which doesn't allow an individual business's pricing or commercial strategy to be identified), but do be careful that it doesn't lead to discussions on future strategy.• Do always state that you cannot discuss any matters that might arise which you think could contravene competition law; do immediately terminate such conversations; do keep a record of such conversation; and do report this to your employer and nominating organisation and to an officer of Standards Australia, as soon as possible afterwards.• Do take immediate action if any anti-competitive behaviour continues, including suspending the meeting to remove the relevant participant(s) and cautioning remaining participants that such behaviour cannot be permitted and, if necessary adjourning the meeting.• Do ensure that any notes of meetings accurately reflect the discussion.	<ul style="list-style-type: none">• Don't exchange, or discuss with competitors, commercially sensitive or strategic information, including, but not limited to: data relating to prices; conditions of licences (for example with distributors); discounts ; timing of pricing changes; profits ; profit margins; cost data; market share; customer lists; supply or marketing schedules; bidding behaviour; any future developments, trends or market conditions in your industry which might have an impact on competition; or any other information that might allow competitors to adapt their business strategies accordingly.• Don't fix any prices or price-related conditions with competitors.• Don't arrange any market sharing with competitors including allocation of territories, customers, distributors, or suppliers.• Don't discuss or agree with any competitor to restrict output, production or capacity.• Don't include elements in standards that exclude customers, suppliers or competitors from the marketplace for any reason other than technical considerations.• Don't joke about competition law.• Don't use the excuse of "to achieve the objective for standardisation" to ask competitors to reveal sensitive information on market, strategy and business.