

The entire document will be included in all CANASA Executive Committee, National Board of Director, Regional Council and Committee meeting packages.



Anti-competition Policy

Abbreviated Statement (to be read before all Executive Committee, National Board of Director, Regional Council and Committee meetings)

CANASA recognizes that its members operate in a competitive business environment. CANASA cautions that any and all discussions held at CANASA meetings or events must be conducted in strict compliance to all applicable Federal / Provincial Anti-trust or Anti-Competition Laws.

Your attention is directed to CANASA's detailed Anti-Competition Policy Statement contained in this meeting package. Failure to comply with this policy may constitute a breach of CANASA's Code of Ethics and, as such, may result in disciplinary action up to and including expulsion from the organization.

Background

Trade and industry associations provide valuable services to their members including: market research, education and training, public and government relations, and collection/distribution of industry statistics. Industry associations are an assembly of competitors. Particular care needs to be taken to ensure that there can be no suggestion that the industry association engages in any form of anti-competitive behaviour or cartel activity.

An industry association may present a number of competition law compliance risks:

- The topic of conversation may turn to matters that competitors would normally keep secret i.e. price information;
- The rules of the association may disadvantage particular competitors, which an enforcement body may consider as anti-competitive;
- An enforcement official may use industry association meetings demonstrate, along with other factors, that collusion has taken place and that a cartel exists in the industry.

Cartel activity is unusual when an industry has a large number of participants. CANASA is unique among industry associations; it represents installers, monitoring stations, distributors and manufacturers. CANASA has a large number of installer members; a small number of manufacturer members.

Matters that should never be discussed at a CANASA meeting include:

- Individual company prices, or matters that affect prices such as discounts, rebates, surcharges, profit margins, credit terms, or conditions of sale;
- Individual company costs, costing formulas, or methods of computing costs;
- Individual company sales or production-related information including sales volumes, sales revenue, production capacity, stock levels, or supplies;
- Individual company future plans, including future plans relating to sales and marketing strategy, production, or technology; or
- Matters relating to individual suppliers or customers.

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Anti-trust laws in Canada are well established and enforced. Many Canadian trade associations invoke mandatory cautions prior to sanctioned association meetings both as a prophylactic measure and as a service to members in order to avoid anti-competitive activity.

The Executive Director will be tasked with communicating CANASA's anti-competition policy statement to all members. This responsibility may be delegated to CANASA staff representing the organization at Executive Committee, Board of Directors, Regional Council and Committee meetings.

The Policy Statement will be included in the Agenda of all Executive Committee, National Board of Directors, Regional Council and Committee meetings. A summary of the Policy Statement will be read as the first item of business at all such meetings.

Detailed Anti-competition Policy Statement

The Canadian Security Association (CANASA) is an association of suppliers, many of which compete with each other. As an association of competitors in the security products industry, CANASA must act cautiously to ensure against violations of federal and state anti-competition laws.

Topics which should not be discussed during association meetings include those that could be construed as an agreement even tending to (a) raise, lower or stabilize prices or price levels, including credit terms, (b) regulate production or the availability of products or services, (c) allocate markets or customers, or (d) encourage boycotts or dealing only on certain terms.

Even if you are an active participant in a discussion which could violate the anti-competition laws – that is, if you are merely present while others engage in such a discussion and you neither attempt to stop it nor leave the room – you may be civilly and criminally liable.

An agreement does not need to be in writing to be illegal. Agreements can be oral or written, formal or informal, express or implied. In fact, agreements can be inferred from similar behavior following even a general discussion of a particular matter such as prices or output. For this reason, mere discussion of certain topics must not be permitted at CANASA meetings. Should an improper discussion be initiated, it is staff's responsibility to advise that it be terminated and to move on to another, appropriate topic. Should those present not heed staff's advice, it is the responsibility to staff to terminate the meeting and recommend that all persons leave.

Price fixing is an agreement among competitors, which tends to standardize (to raise, maintain or even to lower) prices or price levels. Agreements which go even to individual elements of price such as discounts, credit terms, warranties or profit margins are violations of the anti-competition laws and are not permitted.

Agreements to limit production viewed as the equivalent of price fixing because the end result is the same. Since price is a result of supply and demand, agreements to limit production (to restrict supply) result in price increases if demand remains constant.

Agreement to divide customers or market areas also eliminates price competition. For example, discussion among manufacturers of who will serve a particular geographic market, or of who will sell to a particular dealer or group of dealers, or of who will advertise in the newspapers serving the north side of town and who will advertise in the newspaper serving the south side of town, is inappropriate at an CANASA meeting.

Boycotts involve agreements among manufacturers not to sell to a particular dealer or group of dealers, or to sell only on certain terms.

Association statistical reporting programs are ripe with the potential for anti-competition violations unless properly structured and operated. General guidelines include the following:

1. Participation in the program should be absolutely voluntary.
2. Non-members should be permitted to participate in the program. Non-members' participation need not be solicited, but, if a non-member asks to participate, that request should not be denied without first consulting with legal counsel. All participants, members and non-members alike, should have access to the aggregate data prepared by the independent accounting firm. Participating non-members may be charged a higher fee for the final report than participating members. The final report should also be available to distributors and dealers desiring it.
3. The purpose of the program (for example, "to foster competition by providing members of the industry with historical market information for their individual use") should be set forth in the minutes of the Board of Directors meeting authorizing the program.
4. Individual company data should not be revealed or discernible from the final report. It is generally accepted that at least three companies should be reporting in any product/price range in order to avoid disclosure of individual company data.
5. Most importantly, there should be no discussion of the information in the report either in writing or in association meetings. The information is generated solely for the individual use of those participating.

To summarize, when attending an association meeting, your personal red flag should go up when any of the following is mentioned or the conversation seems to be headed in that direction:

- Current or future prices. Great care should also be taken in discussing past prices. Rarely are such discussions appropriate.
- What constitutes a "fair" profit level.
- Possible increases or decreases in prices.
- Standardization or stabilization of prices, price levels, or price points, including elimination or products in any price range.
- Pricing procedures. While a discussion of cost accounting methods is appropriate, discussion of pricing formulas is potentially inappropriate.
- Cash discounts, Warranty terms.
- Manufacturers return policies.
- Credit terms or rejection of customers.
- Individual company market share, sales or production information.
- Production limits or quotas.
- Allocation of markets or customers.
- Refusals to deal with a customer or to deal only on certain terms.
- Whether or not the pricing practices of any industry member are unethical or otherwise inappropriate.

If any of these subjects are raised and CANASA staff does not terminate the discussion, CANASA members should first ask that the matter not be further discussed and, failing that, should leave the room.

Finally, it is important for all to understand that anti-competition liability may arise other than at any CANASA meeting. It is equally unlawful, for example, for two competitors to talk about pricing trends over the telephone, completely independent of a CANASA event.