

Commerce Act 1986

~~Scott Goodwin – Lawyer~~ Kevin Belz – Not a Lawyer

MASTERCRAFT KITCHENS

MASTERCRAFT ELECTRICAL

MASTERCRAFT PLUMBING

40 YEARS Mastercraft

Cartel Behaviour

Introduction

- Sought legal advice on business development being undertaken by NSO

Cartel Behaviour

Not a major....

- Only punishable by 7 years jail time
- $500,000 fine for individuals
- $10,000,000 fine for companies
- or a percentage of turnover / gain
- significant brand damage

Cartel Behaviour - Definitions

Definitions:

Cartel behaviour

- an agreement between competitors to limit competition & increase profits

- can be a formal or informal agreement

- can also be committed by staff in any setting (work or social)

Cartel Behaviour – Definitions

Competitor

- current, potential, or perceived competitors
- suppliers, distributors, related parties
- includes Mastercraft Licensees

Prohibited Conduct

- price fixing
- discounts, bids, pricing methods, limiting supply or production
- market allocation – dividing customers, territories

Cartel Behaviour – The Problem

Legal

- GHB's have asked MC to provide standard kitchen plans at set prices
- NSO has requested Licensees provide their pricing
- NSO shared all pricing with Licensees (anonymously)
- NSO set a 'minimum' sell price for GHB's
- Licensee businesses are all individually owned
- able to sell anywhere, therefore, you are competitor businesses in law

Cartel Behaviour – Don't Do This...

Legal

- Don't discuss with competitors: pricing, discounts, bids, customers, territories, output or supply
- Best retort "I can't have those conversations with you"
- **Unsure? STOP and seek your own legal advice**

Cartel Behaviour – The Way Forward

Moving Forward…

- NSO will continue to request individual pricing from Licensees
- NSO collate and analyse data
- NSO won't share that pricing
- NSO will set a national **maximum price**
- Licensees can sell **below** the maximum price
- Licensees can opt out of nationally priced business
- Can't discuss customer pricing as a group (2 or more)