

YOU CAN RUN, BUT YOU CAN'T HIDE

As globalisation and modern systems of communication continue to blur national and international borders, governments and government agencies increasingly realise the need to work more closely in the fight against anti-competitive activity.

Fraudsters, cartel members and others involved in dishonest activity have been among the fastest to exploit new opportunities opened up by the growth of e-commerce and the internet.

As a result, agencies like the ACCC are looking to relationships beyond their own patch to protect Australian consumers and businesses.

One of the most important relationships the ACCC is developing is its link with the Commonwealth Director of Public Prosecutions. The Commonwealth Government has already put forward the prospect of a move towards criminal sanctions for those involved in serious cartel behaviour, and the ACCC is working closely with the DPP to develop a Memorandum of Understanding on those cases.

The ACCC has powers under the Trade Practices Act to seek monetary penalties, declarations, injunctions and other court enforceable action such as corrective advertising. The final decision, however, lies with the DPP to take action on criminal issues based on the information it receives. The Memorandum of Understanding will reflect the partnership in pursuing criminal cartels, as investigator and prosecutor respectively. With the possibility of company directors being sent to jail and banned from company boards under the stiff new proposed penalties, cooperation between the ACCC and the DPP will become even stronger to ensure the standard of proof required to succeed in a criminal matter is met.

As part of that process the ACCC is developing a set of guidelines for referring matters to the DPP concerning serious cartel behaviour, which once finalised, will be passed on to all states and territories to ensure a clear understanding of where responsibilities lie for pursuing cartel cases. Those guidelines will become a public statement of factors that will trigger the ACCC to refer an alleged cartel matter to the DPP.

ACCC chairman, Graeme Samuel, said the strengthening of links between the ACCC and its partners, including the DPP, sent a strong message that the regulator was using all tools and connections at its disposal to hunt out and punish those involved in ripping off consumers and businesses.

Those trying to keep their illegal deals secret from authorities need to realise they will not only have to hide from the ACCC, but will be increasingly up against a smarter, better coordinated force of agencies and consumer protection bodies both locally and internationally seeking to expose and punish them.

Graeme Samuel

