

DOCUMENT TYPE	D	
ADMINISTRATIVE	5	
GOVERNANCE	1	
LEGAL & CONTRACTS	4	
NUMBER	014	
		Policy Data base Document Reference Number 514014D

TRADE PRACTICES COMPLIANCE PROCEDURE

Parent Policy Title	Trade Practices Compliance Policy													
Associated Procedures	Trade Practices Compliance Guide available at http://www.latrobe.edu.au/legalservices/tradepactices/index.html													
Preamble	La Trobe University is committed to compliance with the Trade Practices Act and all other relevant trade practices laws. The Trade Practices Compliance Policy has been established by Council to develop a culture of compliance within the University, in particular to create and put into action a trade practices compliance plan and procedures for the University.													
General	<p>The Trade Practices Act ("the TPA") is designed to promote competition throughout Australia and to ensure that all companies and other entities, including the University, compete freely and fairly. The TPA also protects consumers from unfair practices, such as being deceived, misled or bullied.</p> <p>The TPA applies to the University and its dealings with suppliers, research partners, students, users of University services and premises, and other relevant people. Compliance with the TPA is an important responsibility of all University executives and employees – all staff are responsible for their own actions.</p> <p>The University, as well as its executives and employees who are involved in a breach of the TPA, may be individually liable for substantial penalties, as well as compensation claims. Breach of the TPA can also result in damage to reputation and adverse publicity for all involved.</p> <p>Everyone who engages in trade or commerce in Victoria is also subject to the provisions of the Victorian Fair Trading Act ("the FTA"). The FTA also promotes fair trading and consumer protection at a state level.</p>													
Table of Contents	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Item</th> <th style="text-align: left;">Section</th> </tr> </thead> <tbody> <tr> <td>Key prohibitions in the TPA for universities</td> <td>1</td> </tr> <tr> <td>Appointment of a Trade Practices Compliance Officer</td> <td>2</td> </tr> <tr> <td>Development of a compliance plan</td> <td>3</td> </tr> <tr> <td>Reporting non-compliance</td> <td>4</td> </tr> <tr> <td>Disciplinary action</td> <td>5</td> </tr> </tbody> </table>		Item	Section	Key prohibitions in the TPA for universities	1	Appointment of a Trade Practices Compliance Officer	2	Development of a compliance plan	3	Reporting non-compliance	4	Disciplinary action	5
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1. Key prohibitions in the TPA for Universities	<p>The key prohibitions in the TPA for universities cover anti-competitive conduct and unfair practices.</p>
1.1 Prohibitions on anti-competitive conduct	<p>The TPA prohibits a range of anti-competitive conduct covering the University's dealings with its competitors, suppliers, students, research partners, and other persons:</p> <ul style="list-style-type: none"> • The University must not reach an agreement, arrangement or understanding with any of its competitors to fix or control prices. <i>e.g. reaching an agreement with another university about the fees charged for certain courses.</i> • The University must not reach an agreement, arrangement or understanding with any of its competitors to share or allocate markets, rig bids or tenders, or boycott customers, suppliers or other competitors. <i>e.g. reaching an agreement with another university about the courses to be provided by each in a particular region.</i> • Where the University supplies goods or services to a reseller, it must not specify a minimum or a particular resale price. <i>e.g. specifying a minimum resale price to book sellers for a university publication.</i> • The University must not make it a condition of supplying any goods or services (or a condition of providing a discount) that the customer also acquire goods or services from a third person. <i>e.g. offering a discount on the hire of a university venue if the hirer separately acquires the catering from a nominated third party.</i> • The University must not impose restrictions on the ability of a supplier or 'customer' to deal with others where that restriction would have the purpose or effect of substantially lessening competition. <i>e.g. prohibiting a supplier of unique educational software to the University from supplying any other universities could raise issues.</i> • If the University has a substantial degree of market power in any market, it must not take advantage of that power for an anti-competitive purpose. • If the University has a substantial market share in any market, it must not supply its goods or services below cost for an anti-competitive purpose.
1.2 Prohibitions on unfair practices	<p>The TPA and FTA prohibit a range of unfair practices covering the University's dealings with suppliers, students and research partners, as well as the general public. In particular:</p> <ul style="list-style-type: none"> • The University must not make misleading or deceptive representations and or otherwise engaging in misleading or deceptive conduct. • The University must not engage in unconscionable conduct – this particularly applies to dealings with any persons who are disadvantaged or in a significantly weaker bargaining position. <p>See the Trade Practices Compliance Guide for further information about the prohibitions on anti-competitive conduct and unfair practices.</p>

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2. Appointment of a Trade Practices Compliance Officer	<p>University Council will appoint a member of the Senior Executive Group to be Trade Practices Compliance Officer. The role of the Trade Practices Compliance Officer will include:</p> <ul style="list-style-type: none"> • Receiving and investigating complaints; • Being the University's nominated contact in dealings with the Australian Competition and Consumer Commission and Consumer and Business Affairs Victoria; • Reporting to Council on trade practices issues.
3. Development of a compliance plan	<p>The Trade Practices Compliance Officer will be responsible for organising the development of a trade practices compliance plan. The compliance plan will include the following:</p> <ul style="list-style-type: none"> • a trade practices compliance guide/manual with examples and FAQs; • analysis and ongoing review of the University's practices and procedures to ensure that they comply with the Trade Practices Compliance Policy, current legislation and best practice; • educating University management and staff of their responsibilities under this Policy, the Trade Practices Act and related legislation such as the Fair Trading Act (Victoria); • ensuring the University has adequate record-keeping and complaints-handling procedures; • monitoring the number and type of trade practices complaints made to the University; • reporting to University Council on trade practices issues.
4. Reporting non-compliance	All University staff are required to report any trade practices compliance issues and concerns to the Trade Practices Compliance Officer.
5. Disciplinary action	Internal disciplinary action will be taken against any staff member who is knowingly or recklessly involved in a contravention of the TPA or other relevant trade practices and fair trading laws.
Status	Approved by University Council 6 July 2009, Minute 391.10. The implementation of the latest version of these procedures supersedes all previous versions of these procedures.
Approval Body	University Council on 6 July 2009, Minute 391.10.
Initiating Body	Director, Legal Services
Date Effective	
Next Review Date	1 December 2012 or as required by legislative changes
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