



# ATEC MEMBER CODE OF ETHICS AND BUSINESS PRACTICE

## THE CODE'S OBJECTIVES:

This Code of Ethics and Business Practice applies to members of the Australian Tourism Export Council (ATEC). All members of ATEC are required to comply. Its objectives are to:

- Provide professional business standards that will set ATEC members apart from those who are not members
- Deliver professional business standards by which members can measure the commercial value of transacting with potential business partners
- Add value to ATEC membership by providing an operational framework within which members can build strong and sustainable business relationships.
- This Code underpins the ATEC membership intent of promoting the spirit of partnership

## PART ONE – PROFESSIONAL BUSINESS STANDARDS

The member acknowledges its responsibilities to meet the reasonable expectations of all clients to the best of its ability. Clients include any individual, group or business desirous of using or receiving the goods or services of the member. The member will, so far as it is reasonably able, present its goods and services in the best possible way.

### PRODUCT DEVELOPMENT

Members acknowledge the importance of product innovation and development. The member will adopt a plan to encourage and foster the development and distribution of new products and services throughout Australia and internationally.

### MARKET CONDITIONS

Members must seek to understand market fluctuations and work together to adjust to changing market conditions for the benefit of all. Sellers should endeavour to provide a minimum of three months lead-time for schedule changes or facility changes. Members will be mindful of external factors that complicate travel and recognise that large deposits may be a disincentive to book.

### EDUCATIONAL / WORKSHOPS AND EVENTS

Members agree to provide appropriately qualified staff for ATEC supported educational events and workshops. Members agree to adopt a plan to foster continuous improvement through education. ATEC members must uphold appropriate standards of behaviour at all ATEC events, demonstrating respect for fellow members, courtesy and safety.

### INDUSTRY ENGAGEMENT AND THE ATEC COMMUNITY

Where viable, ATEC members agree to support and give commercial preference to other ATEC members to acknowledge, respect and uphold the commitment to industry by both parties.

### DISCLOSURE

Members will be informed of all the terms and conditions of any contract entered into, including the terms of payment and any cancellation and any pre-conditions before entering the transaction. ATEC members must, where possible inform their clients of pertinent facts concerning tours, transportation, accommodation or other tourist services available to consumers.

### COMPLAINTS AND DISPUTES

ATEC members should conduct their activities so as to try to avoid disputes with other businesses and fellow members. In the event of a difference of view between members or businesses, both parties must enter into an appropriate dispute resolution process. The member must adopt procedures to ensure all reasonable client concerns and queries will be fairly and amicably dealt with as soon as practicable. Members should provide a system that facilitates effective communication with clients, in the event of a client concern or complaint.

## PART TWO – DISTRIBUTION BEST PRACTICE

ATEC members will support and promote mutually beneficial contractual relationships and focus on a partnership approach, transparency and respect for the distribution network.

### **RATES**

ATEC members will respect the distribution system and its rate structures and recognise that more favourable terms may be negotiated when there is a partnership approach to rates and payments. Buyer members will respect market-specific rates and contracted rates and the associated terms and conditions. Seller members will endeavour to offer simpler rate structures to the trade.

### **DEPOSITS**

ATEC members will be supportive when bookings have long lead times and endeavour to negotiate terms relating to date of travel rather than date of booking.

### **PAYMENTS**

ATEC buyer members will comply with contractual terms and pay all sellers on time. ATEC sellers are not required to extend credit arrangements to all or any buyers/distributors and ATEC buyer members will respect that new negotiations may not include automatic credit arrangements.

ATEC members will send timely invoices in an industry-accepted format to the correct person.

### **CANCELLATIONS**

ATEC members will, at all times, endeavour to be flexible with cancellation fees and approach terms in the spirit of partnership. In the event that government regulations prevent the movement of international travellers into Australia then ATEC member businesses will transfer bookings to alternative dates and/or process cancellations without applying fees.

### **TERMS AND CONDITIONS**

ATEC members will use the industry-standard contractual terms and conditions as a base for all new negotiations.

### **PARTNERSHIP**

All ATEC members will be open, communicative and responsive. ATEC buyer members will keep seller partners informed of market trends and opportunities and will be transparent about the source of bookings to allow sellers to measure success.

## PART THREE – LAWFUL BUSINESS PRACTICES

### GENERAL LAW

#### Fit and Proper Person

In assessing whether a person who is an applicant for ATEC membership, an applicant for renewal of ATEC membership or who is an ATEC member, meets the Fit and Proper Person Requirements, the Board will consider the following:

- whether the person has been convicted of an offence against a law of the Commonwealth or of a State or Territory of Australia, or a foreign country, and if so, the seriousness of the offence;
- whether the person has ever had his, her or its ATEC membership cancelled or suspended;
- whether the person has ever become bankrupt, applied to take the benefit of a law for the benefit of bankrupt or insolvent debtors, compounded with his or her creditors or assigned his or her remuneration for the benefit of creditors;
- whether the person has ever been disqualified from managing corporations under Part 2D.6 of the Corporations Act 2001;
- whether the person was involved in another business who is covered by any of the above paragraphs that gave rise to the relevant prosecution or other action;
- whether the person has ever provided a statutory authority with false or misleading information or made a false or misleading statement to a statutory authority, and whether the person knew that the statement made or information provided to statutory authority was false or misleading;
- any other relevant matter.

#### Contracts

A binding contract is formed when at least two people agree to do something for each other, for a benefit. If you enter into a binding contract you must perform all your obligations agreed with the other party.

#### Duty of Care

ATEC members must at all times uphold a duty of care to their contractors, clients and consumers. There is a general duty of care on employers of the workplace to ensure the health, safety and welfare at work of all employees and others who come to the workplace.

It is the employer's responsibility to ensure that all reasonably practicable measures have been taken to control risks against all possible injuries arising from the workplace.

The employer's duty of care applies to all people in the workplace, including visitors, contractors etc.

There is a general obligation on employees to take care of others and cooperate with employers in matters of health and safety. An employee must also co-operate with the employer or other person so far as is necessary to enable compliance with the relevant OH&S/WHS Act/Regulations.

ATEC members must have a COVID-Ready plan and subscribe to the Tourism Trade Checklist

#### Licensing and/or registration

ATEC members that own, use, hire, contract or otherwise engage transport vehicles must ensure that the said vehicles are legally registered and appropriately insured as public passenger vehicles.

#### Confidentiality

Members must not disclose confidential information unless required by law. The best way to protect it is to enter into a contract with the disclosee under which the disclosee agrees to keep the information confidential. Similarly, if you agree to keep someone else's information confidential, you should ensure your systems enable you to comply with your contract. The law also requires you to keep confidential information that someone has disclosed to you in circumstances where you should recognise it is confidential.

## STATUTE LAW

### Australian Consumer Law

The Competition and Consumer Act and similar state legislation prohibit certain unfair trading practices such as misleading or deceptive conduct, false representations and unconscionable conduct. The law requires honest and fair business conduct.

### The Australian Competition and Consumer Act

The Competition and Consumer Act also prohibits conduct that is likely to restrict competition between businesses. For example: Where competitors fix prices, rebates, discounts, credits or allowances where competitors agree not to acquire goods or services from a supplier or limit the supply of their goods or services to another person where a business supplies a service on condition the customer acquire another service from another person requiring goods or services to be resold at a minimum price or more, or, refusing to supply goods or services or supplying them on less favourable terms, because the purchaser won't agree to do so pricing below cost to eliminate or substantially damage a competitor.

In no circumstances are the provisions of this Code of Ethics and Business Practice to be interpreted as requiring members to adopt a course of conduct which is inconsistent with the requirements imposed upon them by the Competition and Consumer Act and other equivalent state laws and regulations.

### Discrimination

When employing individuals or providing a service to tourists it is important not to discriminate against people. Common types of discrimination are: Racial discrimination where someone is treated less fairly because of their ethnic background or national origin. Sex discrimination where a person is treated less fairly than another person because of their gender, marital status or because they are pregnant. Disability discrimination occurs where a person is treated less favourably on the basis of their disability in circumstances where the disability does not materially affect the person's capability to do a job or safely partake in a given tourist activity.

### Occupational Health and Safety

Organisations have an obligation to ensure the health, safety and welfare of employees and others in the workplace. Steps that can be taken to ensure the health, safety and welfare of employees are to provide training and supervision, to provide and maintain safe entrances and exits and to establish an effective reporting procedure of unsafe practices and to remedy a work area that has resulted in injuries in the past.

### Privacy

Privacy laws protect personal information. Personal information is any information or opinion that identifies a person or can be reasonably used to identify a person. For example, personal information would be somebody's name or address. Organisations should comply with the ten privacy principles set out in the Privacy Act 1988. In particular, an organisation should only collect personal information that is necessary for its functions or activities and should disclose to the person how his or her personal information will be used.

### Membership database

ATEC staff, board members, branch committee members and ATEC member companies are only permitted to use the membership database to market their product or service, send direct mail and event invitations. The ATEC membership database is confidential and should not be distributed to any non-member companies or third parties without ATEC's express written consent unless required by law.

The personal profile and company details of each ATEC member is listed in the ATEC membership database in the members' only section of the ATEC website ([www.atec.net.au](http://www.atec.net.au)) which lists member products and or services online. This area is password protected and is only accessible to ATEC members.

### Copyright

Copyright protects expressions of ideas such as written material, software, and artistic works including photographs, music, films and sound recordings. Copyright protection is automatic and free. A work is protected from the time it is first written down, painted or drawn or recorded in some way. If you wish to use somebody's copyrighted work you need to seek permission, preferably in writing, from that person, before using the work.

## PART FOUR – COMPLIANCE

### BREACH OF THIS CODE

In accordance with ATEC's Constitution, as a By-Law, any member not abiding by the Code of Ethics and Business Practice may be investigated, censured, suspended or expelled from ATEC.

### ETHICS COMMITTEE

This Code of Ethics and Business Practice will be administered and monitored by an independent Ethics Committee. The committee will comprise five representatives, including:

- ATEC National independent Chairperson
- A solicitor
- One buyer member (non-Board member)
- One seller member (non-Board member)
- One Life Member

Committee members are elected annually at the Annual General Meeting.

The Ethics Committee reports to the members at the Annual General Meeting. The ATEC Chairperson has the power and obligation to ask the Ethics Committee to act in between Annual General Meetings as required.

The Committee is responsible for:

- Dealing with unresolved complaints and disputes;
- Imposing sanctions for breaches of the Code in accordance with the Constitution;
- Conducting periodic reviews of the effectiveness of the Code
- Recommending changes to the Code thus ensuring that a strong risk management plan is in place with a focus on contingency planning.

### DISCIPLINARY PROCEDURE

The procedure for the management of a breach or complaint in relation to a member's conduct is as follows:

- a. A report of a breach or a complaint is lodged with the ATEC National office
- b. Any ATEC member can lodge a complaint to the ATEC National office
- c. The member to whom the complaint is directed is to be contacted in writing by the ATEC National office in the manner and form required by ATEC's Constitution and asked to respond to the complaint within a reasonable time period but no less than provided in ATEC's Constitution.
- d. If the response is deemed satisfactory by ATEC, and no breach of the Code can be determined, the complainant is notified in writing and informed that the member has responded to the complaint and that ATEC is satisfied by that response that no breach of the Code has occurred.
- e. If the response is not satisfactory, or if the dispute remains unresolved, then the issue is referred to the Ethics Committee for review and action. The member will be given notice of the Ethics Committee meeting in the manner and form required by ATEC's Constitution. If ATEC's Constitution specifies the member will be given an opportunity to be heard at the meeting and/or be represented. The sub-committee must notify the parties in writing of its decision.
- f. If the complaint gives rise to the possibility that the member has acted unlawfully, ATEC will refer the complaint to the relevant authorities. The Outcome from any external investigation is reported back to the sub-committee.
- g. If the member in question is found to be in breach of the law, then the Ethics Committee will vote whether their ATEC membership will be revoked.
- h. Any decision made by the Ethics Committee may be appealed by the member to the Appeal Panel. If a notice of appeal is not received by the Ethics Committee in accordance with the terms of the Constitution, the resolution will become effective and all members will be informed by such means as the sub-committee determines.

Reasons for action by the Ethics Committee may include:

- Inability to maintain appropriate business standards
- A substantiated complaint reflecting a serious breach of the Code of Business Standards and Ethics
- Breach of Australian law carrying a minimum penalty of 6 months' imprisonment or a fine of not less than AU\$5,000.

## RIGHT OF APPEAL

An ATEC member has a right of appeal from a decision of the Ethics Committee. The Appeal Panel will be made up of 5 members with:

- At least one independent representative from a legal firm
- Two members from the National Board
- Two members from the broader membership (Ethics Committee members are ineligible)
- Five members is the quorum for a meeting no business is to be conducted unless there is quorum at the commencement of the meeting.

The key responsibilities of the Appeals Committee include:

- Dealing with the appeals on sanctions imposed on a member by the Ethics Committee.
- The procedure for an appeal is as provided in the Constitution.

## PART FIVE – INCONSISTENCY

To the extent of any inconsistency between this Code of Ethics and Business Practice and ATEC's Constitution, ATEC's Constitution prevails to the extent of the inconsistency.