

Frequently Asked Questions About AICC's FirstPak and Joint Selling Entities

Q. I've been working with other AICC members serving some of my customers for years, why all the fuss about this now?

A. Increasing consolidation and global competition will mean that more and more corrugated users will be seeking to streamline their supply chains. In addition, changing distribution systems and patterns in the United States, Canada - indeed the entire North American continent - mean that corrugated users have more locations and will want to be served by one or two key suppliers. Recognizing these trends, AICC approached the Department of Justice to have these kind of joint supply relationships recognized and approved under the antitrust laws. This Business Review Letter and the accompanying FirstPak SM program are practical ways to help members preserve and expand their market share in a changing corrugated marketplace.

Q. Does this mean that the selling arrangements I've had with other members are illegal?

A. No. But as they're constructed they may not meet the requirements of the Department of Justice Business Review Letter and should be carefully reviewed by legal counsel well-versed in the provisions of the antitrust laws of the United States and Canada.

Q. If I'm a lead member of a joint selling entity, and I'm doing all this legwork to determine pricing, win the business, identify suppliers in other areas and assure the customer's needs are met in all locations, can I also require my JSE members to sign a non-compete agreement for a certain period after completion of the order?

A. No. The Business Review Letter from the Department of Justice (and the Canadian Bureau of Competition) specifically states that those who enter joint selling groups must be free to enter or leave at any time once their commitment is fulfilled.

Q. If I'm a member of a joint selling entity (JSE), but I'm not the lead member, can I drop out at any time and bid on the local business myself?

A. Yes. If you have fulfilled your contractual commitment for orders, you are free to quit the group at any time.

Q. The DoJ Letter seems restricted in certain areas. Suppose I want to put together a different type of joint selling entity? Can I do it?

A. Yes, it's possible to put together other kinds of joint selling entities. When putting these together, however, be sure to consult legal counsel which has knowledge of the antitrust laws.

Q. What is AICC doing to foster the establishment of the FirstPak SM brand name and promote the FirstPak SM identity to end users?

A. AICC will continue to facilitate bringing independent converters together with multi-plant end users. Besides this how-to booklet, AICC will be developing and providing to FirstPak SM members unified promotional materials that they can distribute throughout their service areas, as well as other promotional activities. AICC will continue to update and improve the information listed on the AICC web page and membership directory, both printed and CD-ROM format.

Short Glossary of Terms

Business Review Letter:

A letter issued by the Antitrust Division of United States Department of Justice which states that business practices conducted in accord with certain procedures will not, under normal circumstances, come under investigation by the Division for the purposes of determining violations of the antitrust laws.

Competition Bureau:

The agency in Canada that determines which business practices are anti-competitive. Similar to the Antitrust Division U.S. Department of Justice.

DoJ :

United States Department of Justice Antitrust Division determines what business practices are anti-competitive and prevent equal access to customers.

FirstPak :

The service mark created by the Association of Independent Corrugated Converters to identify independents who are operating in joint selling entities and serving multiple-location accounts in this way.

Joint Selling Entity (JSE):

A group of two or more non-competing companies that have joined together to serve a single customer with multiple locations.

JSE Member (or Partner):

A JSE member (or partner) company is a company that acts as a subcontractor for a lead company in filling the customer's order in a given geographic region.

Lead Member:

In a Joint Selling Entity, the lead company acts as the primary liaison with the customer, procures the order, identifies potential members and assumes all responsibility for the satisfactory delivery of finished goods to all the customer's locations served by the JSE's members.

More Information:

- [Introduction](#)
- [Legal Framework: what FirstPak requires](#)
- [How do I set up a Joint Selling Entity?](#)
- [Lead Member Responsibilities](#)
- [Checklist for Locating a JSE Partner](#)
- [What do Customers Want from a Joint Selling Entity?](#)
- [Appendix A](#) - Reprint of Business Review Letter from the U. S. Department of Justice (PDF)
- [Appendix B](#) - Exerpts of Business Review Letter from the Canadian Bureau of Competition (PDF)