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## On the cover:

JLG's latest Toucan model the 10E mast boom at work in a French supermarket.



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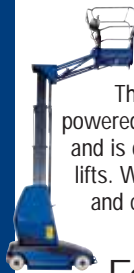
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# cranes & access

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# c&a comment



## When is pricing predatory?

The Elevating Work Platform

Association of Australia has recently amended its constitution to include a

clause covering 'Interference with existing rental contracts'. The written code of practice actually makes such an action 'a breach subject to disciplinary action which could include suspension'.

For some reason the crane and aerial lift rental markets are a push-over when it comes to enforcing a significant deviation from an agreed contract period, often due to poor paperwork. All too often a customer obtains a highly competitive price to rent a number of machines on a long term basis but just three weeks into a six month project calls to off-hire the equipment - because a competitor's salesman has offered cheaper rates. The rental company either feels obliged to match the price or collect the machines as the duration is not specified in the rental contract.

Such activity is both inefficient - potentially disrupting a project for a few pounds - and dangerous, with operators having to get used to different equipment mid project while doubling up the loading and unloading of equipment.

If the offending rental company is a large national player and the offended company a local or regional player, there might also be a case of predatory pricing to answer against the larger business, an aspect of competition law that tends to take a back seat to price fixing.

This subject is no easy matter, but the EWPA has at least laid down a marker. Its new clause states: 'Whilst competition between members is encouraged in accordance with the law, this Code is breached where any member intentionally and wrongfully induces a customer to breach an existing contract with another supplier. Such action may also lead to civil liability where a contract is actually breached as a result, and the original supplier suffers damage'.

It is clear that rates are under pressure, given a slower market, however if rental companies take a calm and rational approach, keeping a sensible balance between rates and utilisation/contract term, while maintaining discipline over rate policies, the company and the industry as a whole will benefit. Once again this is where the top five or 10 rental companies can set a good example - something that, at least anecdotally, they are not doing at the moment. The CPA and IPAF might also look to follow the EWPA's lead in helping improve the industry's professionalism in this area.

Mark Darwin

Please mail, email or fax any comments you may have, to the editor, stating if we may publish them or not.

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