



ICN Cartel Workshop

Ottawa, 4-6 October 2017

Wednesday, 4 October 2017 – DETECTION

Plenary 1

European Commission's experience with bid-rigging cartels

Eric Van Ginderachter

Director – Cartels

European Commission - DG Competition

Legal Framework

- No specific 'Bid-rigging' offence in EU Competition law
- Bid-rigging conduct covered by the general prohibition of agreements and/or concerted practices that restrict competition provided for in Article 101 TFEU
- No difference whether bid-rigging affects private or public procurement – both are illegal under Article 101 TFEU

Enforcement Context

- 24 out of 56 of the EC's decisions since 2007 involve bid-rigging conduct, relating to both private and public procurement
- Bid-rigging is usually only one aspect of a complex, continuous infringement that covers a large geographical area
- Due to division of work within the ECN, the EC deals with international or European cartels covering several member states while NCAs deal with national and local cartels

Case coordination within the ECN

- Example 1: Companies in Member State A run a cartel on products/services sold in Member State A.
 - >>The NCA in A is well placed to deal with the case.
- Example 2: Companies run an international cartel or a cartel concerning cross-border markets covering more than three Member States or several national markets.
 - >>The Commission is better placed to deal with the case.

Enforcement Experience – 2007 to present

- Since 2007 the EC has sanctioned 56 cartels involving 362 undertakings imposing on them fines of nearly 20 billion EUR
- 24 cartels involved bid-rigging conduct and resulted in more than 6 billion in fines on 155 undertakings
- 18 bid-rigging cartels were detected through leniency while 6 through ex-officio
- 14 bid-rigging cartels were dealt with under the normal procedure and 10 were settlements

Case examples – multifaceted cartels

- Gas Insulated Switchgear (2007)
 - 11 undertakings
 - Nearly 700 million EUR in fines
 - Market sharing, minimum price agreements
- Power Cables (2014)
 - 11 undertakings
 - 302 million EUR in fines
 - Market sharing, customer allocation

Case examples – bid-rigging as a more central aspect

- 'Non-aggression cartels'
 - Escalators and Elevators (2007)
 - 4 undertakings
 - 992 million EUR in fines
 - Project allocation with the aim of freezing market shares and fixing prices
 - Optical Disc Drives (2015)
 - 8 undertakings
 - 116 million EUR in fines
 - Sharing of intentions regarding bidding strategies with a plan to avoid aggressive competition
- Bid-rigging as center of gravity:
 - Car-parts cartels: Wire Harnesses (2013), Bearings (2014), PU Foam (2014), Parking Heaters (2015), Alternators and Starters (2016), Thermal Systems (2017)

Thank you for your attention!

