



BID RIGGING – CARTELS IN PUBLIC PROCUREMENT

Perspective and experiences of the Office of Competition and
Consumer Protection of Poland

St. Martin Conference 2011
20 Years of Czech Competition Law
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General remarks

- More than PLN 100 billion spent annually from public funds on goods and services purchased through tender
- Competition between suppliers is a fundamental mechanism for ensuring proper use of public funds
- Ensuring that the bidding process is as competitive as possible should be a priority
- A fundamental threat to this process is posed by bid rigging
- The state's actions aimed at minimizing the risk of tender collusion should be reinforced

General remarks

Legal framework:

- **The Act of 29 January 2004 - Public Procurement Law**

specifies the procedures for awarding public contracts, which are designed to protect fair competition and stimulate the free market

- **Article 6.1 (7) of the Act of 16 February 2007 on competition and consumer protection**

prohibition of collusions between undertakings entering a tender, or by those undertakings and the tender organiser, of the terms and conditions of bids to be proposed, particularly as regards the scope of works and the price

- **Article 305 of the Polish Penal Code**

bid rigging in a public tender is a crime that is subject to an imprisonment period of up to three years

The principal rules of the Polish Procurement Law encompass:

- equal treatment of economic operators,
- open and fair competition
- openness and transparency of award procedures
- primacy of open and restricted tendering procedures
- impartiality and objectivity

Bid rigging- UOKiK's cases

- Collusive tendering on local markets
- More likely to occur on markets, where the competitors know each other well through social connections, trade associations or business contacts.

Latest decisions:

- RKR- 24/2011, Transportation of students to educational institutions
- RKT- 25/2011, Maintenance of vertical or horizontal road signs and road safety equipment

Detecting bid rigging- a priority

- Competition Policy for 2011-2013

Elimination of unlawful agreements in public procurement is one of the priorities in the coming years:

Action 1. Development of mechanisms for systematic elimination of bid rigging during tender procedures

Tasks:

Preparation of guidelines on bid rigging for entities that organize tenders

Strengthening of cooperation between UOKiK and the Public Procurement Office in order to work out solutions aimed at eliminating potential bid rigging.

Detecting bid rigging- a priority

- Competition Policy for 2011-2013

Elimination of unlawful agreements in public procurement is one of the priorities in the coming years:

Action 2: Analysis of solutions functioning in Poland concerning the organisation of tenders with regard to counteracting anticompetitive agreements

Task:

Analysis of solutions functioning in Poland concerning the organization of tenders and aimed at obtaining optimal synergy with competition law

Thank you for your attention

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