

Mitigating cartel risk in construction



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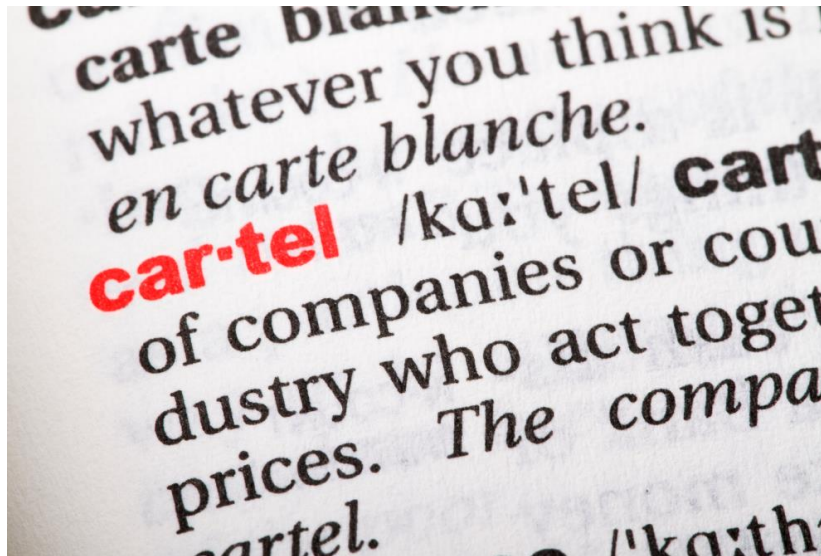
- **CMA's role and powers**
- **Cartels and construction – lessons from recent cases**
- **Director disqualification and leniency**
- **Where to find out more**
- **Questions**

The role of the CMA



- UK's primary competition and consumer law enforcement agency
- Formed out of functions of the OFT and CC
- Offices in London, Edinburgh, Cardiff and Belfast
- Investigating cartels is a priority area for the CMA

Business cartels....



**closer to home than
you might think**



Construction cartels

- Raft of recent construction case announcements
- £67 million fines
- Range of sectors and business types implicated
- 11 directors disqualified
- 2 criminal convictions
- New CMA case studies & blog
- A risk to be taken seriously...



Real risk of getting caught

CMA is keeping a close watch on the sector



Investigation powers:

- 'Dawn raids'
- Interviews
- Requiring companies to provide us with documents and information
- Surveillance Powers
- Covert Human Intelligence Sources
- Communications Data

What is a business cartel?

- some examples

Price fixing



Agreeing with competitors what price you will charge, or what discount you will give, to avoid having to compete with each other

Also:

- Exchanging commercially sensitive pricing information
- Agreeing to limit production

Market sharing



Agreeing not to go after a competitor's customers, or deciding which territories each business will 'take'

Bid-rigging



Agreeing with other businesses how much you will bid in a tender, and who will have the lowest bid so that they win the contract

Evidence: information exchange



Evidence: Price fixing and market sharing

“But guys... look at all our financial numbers, we’ve all had a good year... And that’s come about by all sitting here and [being] patient.”

Secretly recorded evidence from cartel meeting



Evidence: Close knit industry

“... we’re in at 2015 rates so perhaps we both move back to previous years to keep Mabey away.”

A text in response said:

“Yes, I think that's the most sensible course of action given their current behaviour. Will do that today. Thanks”



Evidence: Cover bidding



“...he (the commercial property agent) wants us to quote this [...] job, but do you want to do a [expletive] plan and exorbitant cost for us...”

“This is what we need another (bid) for. It needs to be rubbish and ultimately not work.”



Director disqualification

- 25 disqualifications since 2016
- almost half of these in construction
- we actively consider director disqualification in all cartel cases
- serious implications for all companies



Coming forward for leniency

Rewards are significant for cooperating businesses and directors/employees where conditions are met

For businesses who report first and before we have started investigating, guaranteed:

- immunity from fines,
- protection from criminal prosecution, and
- protection from disqualification for directors

Reduction of fines, immunity from director disqualification and scope for criminal immunity for those who are not 'first in' or who come in first but after our investigation has started

Where to find out more



VISIT: gov.uk/cheating-or-competing

Questions

