

Unclassified

DAF/COMP/GF/WD(2014)4

Organisation de Coopération et de Développement Économiques  
Organisation for Economic Co-operation and Development

07-Jan-2014

English - Or. English

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Global Forum on Competition**

**FIGHTING CORRUPTION AND PROMOTING COMPETITION**

**Contribution from Latvia**

-- Session I --

*This contribution is submitted by Latvia under Session I of the Global Forum on Competition to be held on 27-28 February 2014.*

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**JT03350842**

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## FIGHTING CORRUPTION AND PROMOTING COMPETITION

### -- Latvia --

1. In Latvia the vast majority of all detected cartel cases in the past few years have been bid rigging cartels (in 2013 six out of ten uncovered competition infringements). 61% of all detected bid rigging cases have been related to construction industries – roads, building, engineering. Since 2005 the Competition Council of Latvia (CCL) has detected 23 procurement cartels (with 94 companies involved), the broadest being the case finished in 2013 which encompassed 322 procurement episodes with procurement organizer – the national electricity trader Latvenergo AS, where all or part of the applicants had involved in bid rigging arrangements.

2. In most cases CCL receives information about possible bid rigging cases from procurement organizers, Public Procurement Surveillance Bureau, Corruption Prevention and Combating Bureau (CPCB), CCL's sector inquiries and in few cases – competitors.

3. CCL actively co-operates with all parties involved in public procurement. On a permanent basis CCL arranges seminars for public procurement organizers explaining how to detect signs of possible collusion between procurement participants and how to react in case such signs have been identified. Trainings are giving good results as activity and awareness with regard to Competition law amongst public bodies is rising which can be concluded by increasing number of applications to CCL as well as informal requests received.

4. CCL also holds seminars for companies informing about Competition Law telling what is allowed, what is prohibited, leniency program as well as sanctions for the breach of Competition Law.

5. CCL has always had a close and fruitful cooperation both with Public Procurement Surveillance Bureau and CPCB. Special regard should be paid to the cooperation with CPCB, which frequently has informed CCL about possible bid rigging cases most of them being investigated and uncovered. In most cases where initial information has been received from CPCB also corruption aspects are involved. The very first case based on information received from CPCB was investigated in 2006 and was related to bid rigging in heating fuel procurement for local government needs. The latest case investigated on the bases of information received from CPCB was the above mentioned bid rigging case in Latvenergo AS procurements where CPCB is dealing with the possible corruption elements in the case.

6. The co-operation with CPCB is very broad from informal to formal (in form of applications). In most cases employees of both authorities meet and inform each other about recent cases and aspects that might be useful for other authority's investigation. Sometimes information received is highly informative and not followed by any evidences but very useful as a starting point for investigation (for example – procurement identification number, companies involved in bid rigging and some suspicious facts which can be verified from the public data bases – for example – winner of procurement soon after being announced as a winner recalls its candidature).

7. Both authorities also discuss what prevents and what encourages cooperation between them. As preventing factor has been identified human and time resources as well as knowledge needed for

identifying evidence that might be important or crucial for other authority's investigation needs. Both CCL and CPCB permanently analyze large amounts of electronic information obtained during searches. Both authorities are obliged by procedural regulations to perform investigation in certain time frames which leaves less time to seek for evidences that might be useful for the other authority. To solve this problem CCL and CPCB have agreed to work on several measures in the future:

- Allowing forensic IT experts from both authorities mutual access to electronic information (gathered during searches in companies) for performing search of information in situations where there are signs of infringement of either Competition Law or regulations related to corruption infringements. Evidence found would then be submitted by one Authority to another.
- Arranging mutual trainings of investigators in order to ease identification of evidence that might be vital for finding infringements of either Competition law or anti - corruption regulations. Training should cover both substantial law and procedural aspects as CCL acts in accordance with the Law on Administrative procedure where CPCB within the Law of Criminal procedure which require much shorter and stricter time frames for initiating a case (from the moment the possible infringement has taken place).
- Doing joint searches in companies' premises in those cases where in beforehand there is a high possibility that both Competition law or anti - corruption regulations might be infringed.

8. Practice shows that bid rigging in Latvia is quite frequent type of Competition law infringement, which often goes hand in hand with corruption. It means that in the nearest future fighting bid rigging will remain one of the investigation priorities for the CCL and strengthening of cooperation between CCL and CPCB will definitely be part of this work. It is also important that CCL and CPCB informs or "sends a message" of their joint activities to the society

9. With regard to conducts that traditionally belong to Competition law enforcement but should attract the attention of anti-corruption enforcers [and not only] – there are frequently situations where formally there is a Competition law infringement although it is clear that Competition law infringement is only a "side effect". Sometimes procurement regulations are too formal – for example, requiring a certain minimum number of participants for procurement procedure to take the effect. Practice shows that there may occur situations where in reality for any reasons there are less than three companies willing and being able to participate. To fulfill the procedural requirements the "missing" participants are "invited to participate" by the company who really has an interest in participation in procurement, the others just applying formal bids with no intention to win. Situations like this not only facilitate a formal Competition law infringement, but might just as well be an occasion for corruption. In situations like this problem should be eliminated in the very starting point – too formal approach may lead to unnecessary consequences [Competition law infringements] and facilitate corruption as well.

10. Other example is complicated technical specifications which procurement organizers often are not able to prepare themselves due to insufficient knowledge. Instead of asking independent experts to support in preparation they turn to eventual participants in the procurement. Such situation as well serves as a good soil for both competition and corruption issues.

11. Practice shows that more formalistic approach may facilitate both corruption and competition infringements.

12. CCL is amongst those public bodies, which is in the corruption risk area as it adopts decisions which usually envisage heavy fines to the undertakings and it might be imaginable that some would seek ways of lessening the foreseeable eventual negative effects by addressing individual officials with

corruptive offers. In Latvia the corruption risk firstly is eliminated by the fact that CCL's decisions are adopted collectively – CCL consists of three members. Secondly – the standard of justice is very high amongst authority's employees. In the history of CCL there have not been any corruption cases. In addition Latvian School of Public Administration annually arranges trainings for public officials in relation to anti-corruption measures which are free of charge and employees use this opportunity.