



EU, COMPETITION AND REGULATED MARKETS

Investigations into Potential Anti-Competitive Practices: CCPC Tightens Reins

by **Marco Hickey**

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The Competition and Consumer Protection Commission (the CCPC) has recently confirmed that it is investigating potential bid rigging in the procurement of publicly-funded transport services in certain parts of Munster and Leinster.

It opened an investigation in 2016 following a detailed examination of a complaint received in relation to the matter.

Following the complaint, the CCPC conducted twenty searches in Tipperary, Waterford, Limerick and Kilkenny, with authorised officers from the CCPC and several members of An Garda Síochána.

The CCPC has also encouraged would-be whistleblowers connected to any cartel-like behaviour in the area of public transport to make contact with it on a confidential basis and issued a reminder that an immunity programme exists for the “first member of a cartel” who comes forward and agrees to help the CCPC with an investigation. The Cartel Immunity Programme, operated by the CCPC, in conjunction with Director of Public Prosecutions, allows for any member of a cartel to avoid prosecution if they are the first member to come forward to reveal their involvement in illegal cartel activity and fully cooperate with the investigation.

The CCPC Chairperson, Isolde Goggin, has stated: “Cartels, where businesses offering the same products or services collectively agree not to compete with one another or to fix prices, cause very significant harm to competition and consumers. Bid rigging in public procurement can be particularly harmful as it can artificially increase prices and ultimately costs taxpayers more and can reduce the quality of services the State provides”.

Since the investigation is ongoing, the CCPC itself has not provided any further comments about the nature of the current investigation or the companies involved other than to confirm that it has been looking into “potential bid rigging in the procurement of publicly-funded transport services” in Tipperary, Waterford, Limerick and Kilkenny. Nonetheless, there are news reports stating that the Garda has confirmed that the raids were in relation to the “bid rigging” in school transport scheme contracts, and that the CCPC would scrutinise private bus companies who may have colluded to form cartels to rig their bids when tendering for school transport.

This investigation follows on from a series of investigations recently commenced by the CCPC:

Ticketing for live events

A formal investigation began on 26 January 2017 into suspected anti-competitive conduct in the ticketing sector, in relation to the provision of tickets and the operation of ticketing services for live events. The

investigation is ongoing, and focuses primarily on potentially anti-competitive conduct by operators including those involved in providing tickets and ticketing services, promoters and venues. As part of the investigation, the CCPC has issued witness summonses and formal requirements for information to a number of parties involved in the sector.

Motor insurance

The CCPC has ongoing investigations in the motor insurance premium sector. It has been monitoring the motor insurance industry in the context of “the sharp rise in motor insurance premiums” and its impact on consumers. On 13 September 2016, the CCPC issued witness summonses and information requests to major motor insurance providers and industry groups representing insurers and brokers.

Bagged cement

There is an ongoing investigation in the market for the supply of bagged cement. The CCPC lodged an appeal against a High Court judgment delivered on 5 April 2016 prohibiting the CCPC from accessing or reviewing certain electronic documents seized by the CCPC during a search conducted in May 2015.

These recent investigations reveal a trend that the CCPC has been proactively tightening its reins in sectors that are vulnerable to anti-competitive practices. It also appears that the CCPC is devoting more resources to investigations and enforcement. For businesses, this serves as a signal to carefully evaluate their commercial practices, and think twice before engaging in activities that could be considered anti-competitive. In particular, where a business happens to operate in a sector that is under scrutiny from the competition authorities, it is critical to seek legal advice in relation to proposed transactions to determine their viability under the competition law regime.

For more information, please feel free to contact Marco Hickey, Partner and Head of the EU, Competition and Regulated Markets team at mhickey@lkshields.ie. Marco is the author of [Merger Control in Ireland](#) published by Thomson Reuters.

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