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Cartels, corruption and public procurement Contribution from Sweden, OECD Global Forum on Competition 18-19 February 2010

Corruption causes markets to function ineffectively. Where there is corruption cartels may occur, and where cartels exist there is an increased risk of corruption. The definition of corruption is wide but at the centre of corruption is the abuse of a position of power. Research has shown that corruption may occur as well in developed as in less developed economies and that the relationship between corruption and GNP is less evident when it comes to corruption in the tendering process. May it be that the risk of corruption is greater than what has previously been estimated?

The Swedish Competition Authority is currently giving high priority to the fight against bid-rigging cartels in public procurement. In this context, the Authority commissioned the Swedish National Council for Crime Prevention to elaborate a report on the subject of cartels and corruption. The report, called Cartels and Corruption – Unlawful Influence on Public Procurement, was presented in December 2009.

The purpose of the study has been to identify risks for cartels and corruption in connection with public procurement and the main questions it aimed to answer were:

- Which are the reasons for cartels and corruption in connection with public procurement;
- At which steps of the process are these risks present;
- Which actors, professions and sectors in particular risk being involved in cartels and corruption;
- Which similarities and differences are there between cartels and corruption;
- What can be done in order to neutralize cartels and corruption?

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The Swedish National Council for Crime Prevention has conducted interviews with individuals who have great knowledge of public procurement, representing supervising authorities, public procurers and tendering undertakings. For obvious reasons it has focused on identifying where the risks for cartels and corruption are present and not where infringements actually occur.

It is clear from the report that cartels and corruption in connection with public procurement is an issue that has to be taken seriously. Despite the importance of public procurement in the Swedish economy, there is a great lack of knowledge of competition law and cartels among practitioners.

Further, the report shows that sectors facing particular risks in this regard include construction, pharmaceuticals, IT, medical equipment, transport, cleaning services, travel, stationery, provisions and laundry sectors, and that the motives behind unlawful business methods are complex. However, this report shows that some infringements may be based upon "good intentions".

Procurers have been pointed out as running the greatest risk of being exposed to unlawful influence. The most obvious situation where there is a risk of corruption in the sense of favouring local undertakings is where the purchase is conducted directly without a previous tender.

As stated above, the main purpose of the report has not been to reveal ongoing cartels, but to identify risks for cartels and corruption with regard to public procurement. The purpose was also to discuss which counter measures could be taken in order to fight this unlawful behaviour. In this regard, the report has contributed to the Competition Authority's continuous efforts to raise awareness of competition law, fight cartels and promote an effective tendering process.