



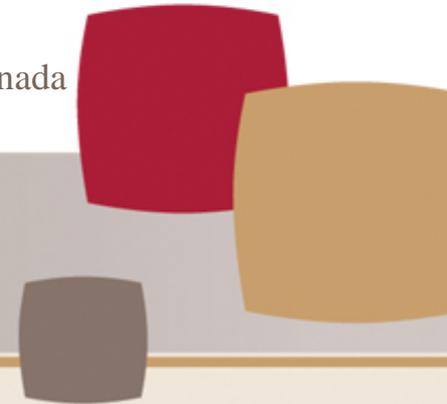
# Promoting Effective Competition in Public Procurement

## Co-operation between anti-corruption bodies and competition authorities in public procurement

Pierre-Yves Guay – Assistant Deputy Commissioner  
Cartels & Deceptive Marketing Practices Branch, Competition Bureau - Canada

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# Overview

*Canada's Competition Bureau (the "Bureau") has observed a close relationship between cartel conduct and corruption, particularly with respect to bid-rigging in public procurement. Given this relationship, the Bureau has, in recent years, taken steps to maintain and improve its relationships with police forces, procurement authorities and other anti-corruption officials in Canada in order to complement each organization's efforts to promote competition and combat corruption.*

- Cartel conduct under the *Competition Act* (the "Act")
- Partnering with police forces
  - Case example: wiretap assistance
  - Case example: joint investigation
- Commission of Inquiry
- Outreach





# Cartel Conduct under the Act

- The Cartels Directorate is responsible for detecting, investigating and deterring conspiracies under section 45 and bid-rigging under section 47 of the Act
- Criminal offences under section 45 of the Act include agreements between competitors or potential competitors to fix prices; allocate sales, territories, customers or markets; or control production or supply of a product
- Bid-rigging under section 47 is when there is a call for bids or tenders and two or more bidders submit bids arrived at by agreement, or agree that one or more of them will not submit a bid, or will withdraw a bid
- Penalties under section 45 include a term of imprisonment not exceeding 14 years and/or a fine of up to \$25,000,000; penalties under section 47 include a term of imprisonment not exceeding 14 years and/or a fine in the discretion of the court





# Partnering with Police Forces

- The Bureau is working to strengthen its ties with the white-collar crime investigation units of various police forces
  - The Bureau has benefitted from the support of a number of police forces across Canada, including the Royal Canadian Mounted Police (the “RCMP”), Canada’s national police agency, and various provincial and municipal police forces
  - We believe that police officers working in these units may come across evidence of cartel activity in the course of their investigations
- The Bureau has also had its own officers embedded with police forces
  - Allows Bureau officers and police officers to share best practices and learn new and innovative investigative techniques
  - Assists the Bureau and police forces in better understanding one another’s mandates





# Case Example: Wiretap Assistance

- The RCMP assisted the Bureau in intercepting 200,000 conversations between participants in the retail gasoline market in Quebec
- These wiretaps were critical in obtaining evidence that participants phoned each other to agree on the price of gasoline at the pump, and about the timing of these price increases
- Competition Bureau officers would listen to these types of conversations, become aware of a price increase planned for the next day, and then travel to the affected market and witness the price increase
- This investigation resulted in: charges being laid against 39 individuals and 15 companies; fines totaling over \$4,000,000; and terms of imprisonment totaling 54 months





# Case Example: Joint Investigation

- The Unité permanente anticorruption (“UPAC”) is an anti-corruption unit established by the provincial government of Quebec
- The Bureau and UPAC conducted a joint investigation of the construction industry in a region of Montreal
- Investigation uncovered evidence of a sophisticated scheme giving preferential treatment to a group of contractors trying to obtain contracts for municipal infrastructure projects





# Case Example: Joint Investigation (continued)

- As a result of the investigation, 77 criminal charges were laid against 9 companies and 11 individuals
- The charges included 44 charges of bid-rigging under the Competition Act, but also criminal charges including corruption in municipal affairs; breach of trust; improperly influencing a municipal official; fraud upon the government; production and use of counterfeit documents; secret commissions; misrepresentations or false statements; extortion; and conspiracy





# Commission of Inquiry

- *Commission of Inquiry on the Awarding and Management of Public Contracts in the Construction Industry* (the “Commission”) is another example of coordination between the Bureau and other anti-corruption authorities
- The Commission’s mandate included:
  - Examining possible solutions and making recommendations establishing measures to identify, reduce and prevent collusion and corruption in awarding and managing public contracts in the construction industry
- Bureau officials met with representatives of the Commission to provide background on the Bureau’s mandate, investigative processes and programs





## Commission of Inquiry (continued)

- Significant media attention garnered by the Commission improved public awareness of the Bureau's mandate and the laws it enforces, particularly the offence of bid-rigging
- The Commission's final report was made public November 24, 2015. None of the report's 60 recommendations were directed at the Bureau, but the report did state that law enforcement agencies responsible for combatting corruption and collusion need to better cooperate and coordinate their efforts to be more effective





# Outreach

- The Bureau regularly provides outreach presentations to procurement authorities and other law enforcement agencies
- A major focus of these efforts is Public Services and Procurement Canada (“PSPC”), the department responsible for procurement on behalf of the federal government
  - The Bureau provides regular training to PSPC staff on bid-rigging prevention, and PSPC refers bid-rigging complaints and cases to the Bureau for investigation
- By working together to share resources and exchange knowledge, both organizations benefit from each other’s expertise and enhance their ability to achieve their goals of preserving and promoting fair, efficient and competitive processes



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