13th June 2005: Public works in the Meuse département

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The Conseil de la concurrence finds 11 building and civil engineering companies guilty of entering into an anticompetitive agreement and imposes fines totalling 7 million Euros

>Version française

Following a referral from the Minister of Economy, the Conseil has issued a decision, in which it finds 11 building and civil engineering companies guilty of entering into an anticompetitive agreement for the awarding of public works contracts in the Meuse département.

Between 1996 and 1998, the State and local and regional administrations launched a number of calls for tender, inviting companies to bid for contracts to carry out works on various civil engineering structures, roads, drinking water supply and drainage installations across the département.

Market sharing

The Conseil de la concurrence observed that the companies Céréda H, Nicora, SEETP, Sotrae, Berthold and Monti held regular meetings prior to the deadline for submitting bids, at which they agreed to divide previously the various contracts up between them.

Specifically, the first four companies met on 5th November 1996, to divide up the contracts for Lerouville, Saint-Mihel, Bar le Duc, Fouchères and Trémont.

Information exchanged prior to bids

For eight contracts in the region, the companies Céréda, EJL Est, Axima (Colas Est), Berthold, Eurovia, Nicora, Sade, SEETP Robinet, Sotrae, SRE and Müller, in various combinations, exchanged information before submitting bids. In some cases, they agreed to submit covering bids to cover other companies.

The public procurement agent deceived

Finally, the companies Céréda Henri and Céréda Frères engaged in an anticompetitive agreement by submitting what they claimed were competing bids, when in fact they had not been drawn up independently.

Serious practices penalized by the Conseil de la concurrence

Regarding the practice of exchanging information prior to the submission of bids, the Conseil takes the view that such horizontal agreements and concerted actions - which are intended to share markets - are particularly serious. Furthermore, it emphasizes that such actions are likely to mislead public institutions about the existence or intensity of competition.

The Conseil observed that some of the companies guilty of engaging in these practices - for example Axima (Colas group), Eurovia, EJL Est (Vinci group) and Sade CGTH (Vivendi Environnement group) - are large national firms and are attached to major groups. As such, they may have had an impact on smaller businesses and distorted the rules on competition for contracts to carry out works on various civil engineering structures, roads, drinking water supply and drainage installations in the Meuse département.

Lastly, when assessing the damage caused to the economy, the Conseil took into account:

- the number of contracts for which evidence of agreements was produced (i.e. 13 contracts)
- the average amount of the contracts concerned, i.e. 440,000 Euros

· the price rises observed in these contracts due to the reduction of competition in the département.

In light of the seriousness of these practices, the Conseil de la concurrence decided to fine the companies concerned a total of 7 million Euros.

> Decision 05-D-26 of 9th June 2005 relative to public works markets in the Meuse département

> See decision of the Paris Court of Appeal (25th April 2006)

> See decision of the Cour de cassation (Supreme Court of Appeals) - 6th November 2007