The Autorité fines several companies for anticompetitive agreements in the waste collection and management sector in Haute-Savoie

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Background

Following dawn raids and an investigation report sent by the ***Brigade interrégionale d'enquêtes de concurrence d'Auvergne Rhône-Alpes***, the ***Autorité*** handed out fines worth €1.5 million to four companies for distorting the call for tender procedures launched by various local and regional public authorities in Haute-Savoie [1], between 2010 and 2018 for the collection and management of their waste.

The companies shared out the contracts launched by the local and regional public authorities

Two types of contract were affected by the practices:

- several contracts for the collection and management of non-hazardous waste, to which the companies Ortec Environnement, Excoffier Recyclage and Trigénium responded;

- a contract for the collection and management of hazardous waste in which TREDI and Excoffier Frères companies participated.

In response to calls for tender issued by local and regional public authorities for the collection and management of non-hazardous waste, Ortec Environnement, Excoffier Recyclage and Trigénium companies set up an overall plan to share out the contracts by means of cover bids.

Practically speaking, the companies exchanged confidential information before submitting their bids, agreeing on the "*prices to be stated*". Then, to benefit each other, they submitted cover bids including all or part of the prices transmitted. These cover bids involved *submitting a deliberately higher bid as a competitor, so that the designated company would be certain to obtain the contract in question.*

With regard to the collection and management of hazardous waste, TREDI sent Excoffier Frères an email setting out its group's policy on responding to calls for tender. TREDI then informed it of its decision to submit a bid for a call for tender launched by the Annemasse urban community.

Practices which misled the local and regional public authorities and affected their budgets

These various practices were designed to limit the intensity of competition between companies.

Indeed, the competitive integrity of the market presupposes that each party makes its own strategic and commercial policy choices completely independently, without any inside information concerning one or more competitors. However, through their exchanges prior to the submission of their offers, the companies impeded the free setting of prices and misled public procurement agents about the reality of competition. In doing so, they led to an artificial distribution of the market and neutralised the process of competition requested by the local authorities concerned, by encouraging price increases. They thus have seriously undermined economic public policy and generated additional costs that affected the budgets of the local and regional public authorities.

The companies did not dispute the facts

The companies in question did not dispute the facts and requested the benefit of a settlement procedure.

The settlement procedure allows a company that does not contest the charges brought against it to obtain a financial penalty within a range proposed by the General Rapporteur, setting a maximum and minimum amount and giving rise to the agreement of the parties.

In view of these facts, the *Autorité* imposed the following penalties:

Company	Amount			
Ortec Environnement	950 000 euros			
Excoffier Recyclage	410 000 euros			
Trigénium	60 000 euros			
TREDI	80 000 euros			

[1] The local and regional public authorities concerned are Thonon-les-Bains, the community of town councils of the hills of Léman, the community of town councils of Bas-Chablais, the SIRTOM of the Val d'Abondance, the community of town councils of the Evian area and the community of agglomerations of Annemasse.

DECISION 22-D-08 OF 3 MARCH 2022

regarding practices implemented in the collection and management of waste sector in Haute-Savoie.

Read the full text

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