

ICN CARTEL WORKSHOP - MADRID, 3-5 OCTOBER 2016

***Tools to fight bid-rigging cartels in Italy: public procurement screening and training programs  
The experience of the Italian Competition Authority***

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The views expressed are personal and do not necessarily reflect those of the Authority

# The importance of cooperation

- **No supervisory power** on public procurement: competition advocacy and administrative enforcement vs. bid rigging
- **Other institutions** involved in public procurement :
  - National public procurement agency (CONSIP)
  - Local procurement agencies
  - Anti Corruption Agency (ANAC)
  - Administrative judges (supervising regularity of tenders)
  - Criminal judiciary (criminal offences)

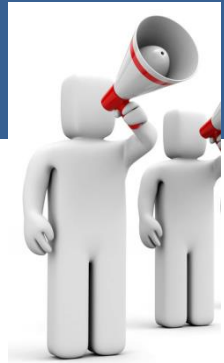
# The role of the Italian Competition Authority



**PREVENTION**



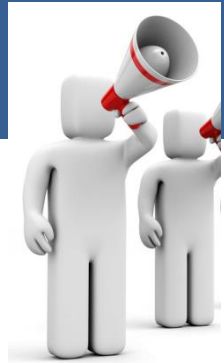
**DETECTION &  
ENFORCEMENT**



## Cooperation with national and local public procurement agencies through advocacy

- advisory role on the need to hold and the correct design of tenders
  - opinions on distortions
  - challenge in court
- 40 opinions in 2015 (out of 87) on public procurement (28 in 2014)

# Main issues



- Unjustified extension/restriction of the tendered service
- Improper allotment criteria
- Brand rather than requested characteristics
- Other public policy objectives conflicting with competition goal
- Technical and economic requirements for bidders



## Cooperation with procurement agencies

- Handbook based on the OECD *Guidelines for Fighting Bid Rigging in Public Procurement* (2013)  
<http://www.oecd.org/competition/guidelinesforfightingbidrigginginpublicprocurement.htm>
- Identifies characteristics of markets more prone to collusion and highlights anomalous conducts that might signal collusive behaviour
- Numerous complaints on bid-rigging (8 out of 14 agreement cases in 2015)



## Cooperation with the Anti Corruption Authority ANAC

- Memorandum of Understanding with the Anti-Corruption Authority (2014) to foster information exchange and cooperation
- ANAC manages the National Database on Public Contracts, extensive amount of data on major tenders
- Broader picture beyond episodes at single tender level



## Cooperation with the judiciary in case of parallel criminal investigations

- Some cases started following a criminal investigation
- Exchange of documents with Public Prosecutors
- Transmission of our decision to the competent Prosecutor (obligation to report alleged criminal offences)





## Cooperation with other competition authorities

- Experience sharing
- Workshop “Screening collusion in procurement auctions” (Rome, 3-4 November 2016), in cooperation with the Dutch competition authority

# Main issues



- Many local public tenders
- Fragmented procurement agencies and officials' lack of know-how
- Difficulty in getting the “broader picture”
- Consolidated collusive schemes that do not require explicit contacts
- No leniency applications: bid rigging is also a criminal offence
- Screening programs require a full set of historical data

# Concluding remarks

- Fight against bid rigging supports fight against corruption in public procurement and increases welfare
- Advocacy and enforcement reinforce each other
- Institutional cooperation improves detection and effectiveness by the competition authority