

Working Group on Cross-Border Cartels
UN Trade and Development

Egyptian Competition Authority's Experience in Bid Rigging

Presented by:

**Egyptian Competition Authority
29 February 2024**

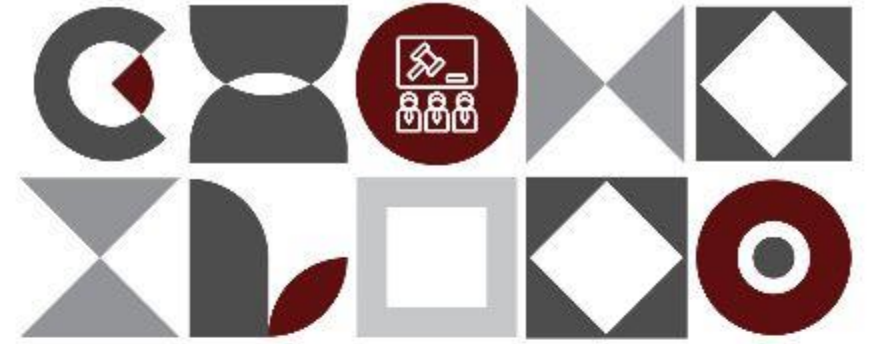
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Egyptian Competition Authority's Presentation for The WG CBC

29 February 2024





Introduction

- Cartels are prohibited and severely sanctioned under the Egyptian Competition Law (“ECL”), as they are considered unfair practices that only aim to restrict competition and harm consumers.
- Bid rigging is a form of cartel and it became one of the enforcement priorities of competition authorities around the world, including the Egyptian Competition Authority (“ECA”) as it harms the public interest, by depriving the government from having the most competitive offers in terms of prices and quality for essential products.
- We will first tackle **1)**ECA’s efforts to enhance its criminal enforcement against bid rigging, then **2)**presenting a practical case.

ECA's efforts to enhance its criminal enforcement against bid rigging



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ECA's efforts to enhance its criminal enforcement against bid rigging



Advocacy

1. Workshops
2. Bid rigging guidelines
3. Cooperating with the General Authority for Government Services (“GAGS”)
4. Non collusion affidavit



Enforcement

1. Establishing a bid rigging department
2. Conducting investigations upon a complaint filed or its own initiation
3. Number of cases issued

Article 6/C ECL

“Any agreement or contract between competing persons in any relevant market is prohibited if they are intended to result in any of the following:

- a) Increasing, decreasing, or fixing prices of sale or purchase of products subject matter of dealings.*
- b) Dividing markets or allocating them based on geographic areas, distribution centers, customer types, goods, market shares, seasons, or time periods.*
- c) Coordinating regarding proceeding or refraining from participating in tenders, auctions, negotiations and other calls for procurement.***
- d) Restricting the manufacturing, production, distribution, or marketing operations for products, including restricting the type, size, characteristics, or availability of the product.”*

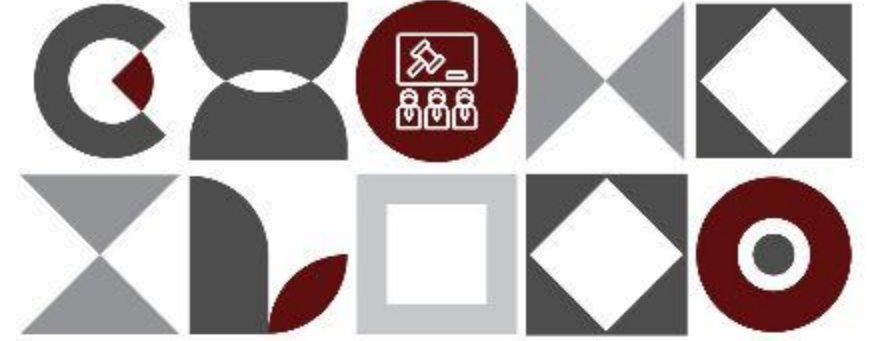
Article 11/C ER

“Agreements or contracts between competing persons in any relevant market shall be prohibited if they are intended to result in any of the following:

(...)

c) Coordinating regarding proceeding or refraining from participating in tenders, auctions, negotiations and other calls for procurement. The indications that are taken into consideration for the existence of such coordination are, in particular, the following:

- 1- Submitting identical bids, including agreeing on common rules for calculating prices or determining tender conditions.*
- 2- Agreement on the person who will submit the bid, including the prior agreement on the person who will be awarded the bid whether through rotation, geographical basis or customer division basis.*
- 3- Agreement on submitting fictitious bids.*
- 4- Agreement to prevent a person from submitting or participating in bid submissions.”*



Bid Rigging in the ECL

It is worth noting that bid rigging practices are difficult to detect, as they usually occur secretly between bidders.

That is why the Economic Court holds that there is no obligation to submit direct evidence concerning bid rigging but it is sufficient to submit a number of indicators which proves the existence of an agreement.

Such indicators can include the following:

1. **Identical financial offers**
2. **Identical miscalculation and spelling mistakes**
3. **The presence of bid rotation**
4. **Sudden rise in the submitted financial offers**

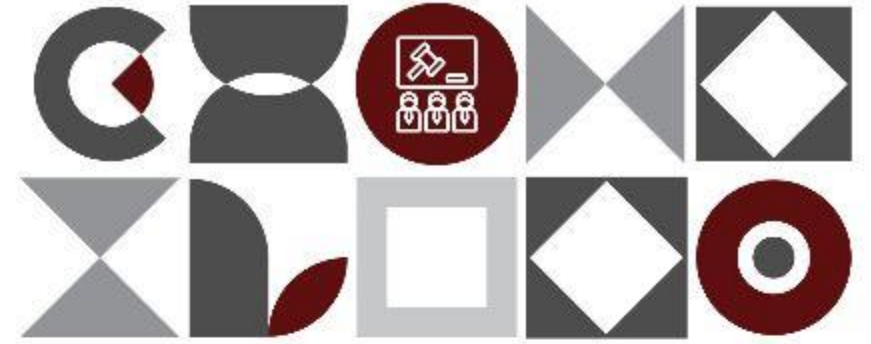
Practical Case



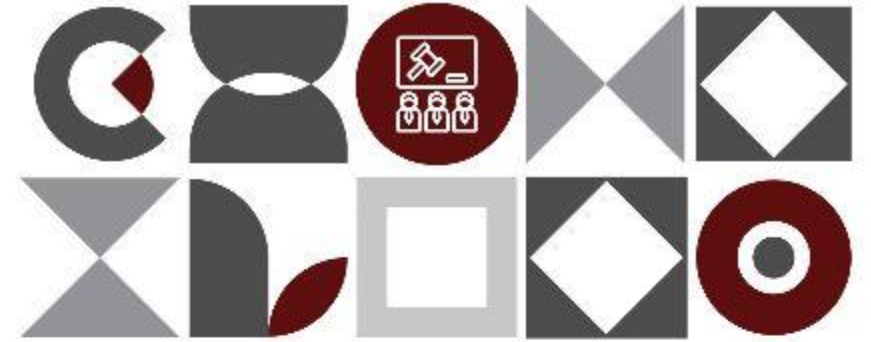
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ECA Penalizes Bidders Found Guilty for Rigging The Public Transport Authority Bid



- In accordance with the provisions of article 6 (C) of the Egyptian Competition Law no. 3 of 2005, ECA took the initiative to investigate the practices of bidders in the bid issued by The Public Transport Authority for supplying vehicle spare parts.
- The investigation concluded that two bidders conspired to rig The examined bid in order to split it between them.



The Indicators

Submitting identical
technical offers

Similarities in the
submitted samples

Submitting identical
financial offers

Payment of the tender
conditions and
specification by the
colluders on the same day
with the same Debit Card

Submitting offers which
contain identical spelling
errors



As a result, ECA Board of Directors issued a decision in May 2023 that the bidders have violated article 6 (c) of the ECL, due to their agreement to rig the examined bid in order to split it between them, and initiated a criminal proceeding against them.

THANK YOU



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