

Working Group on Cross-Border Cartels UN
Trade and Development
Second Meeting of 2025
10 April 2025

Recent Competition Policies and Cases on Bid Rigging in Korea

Presented by

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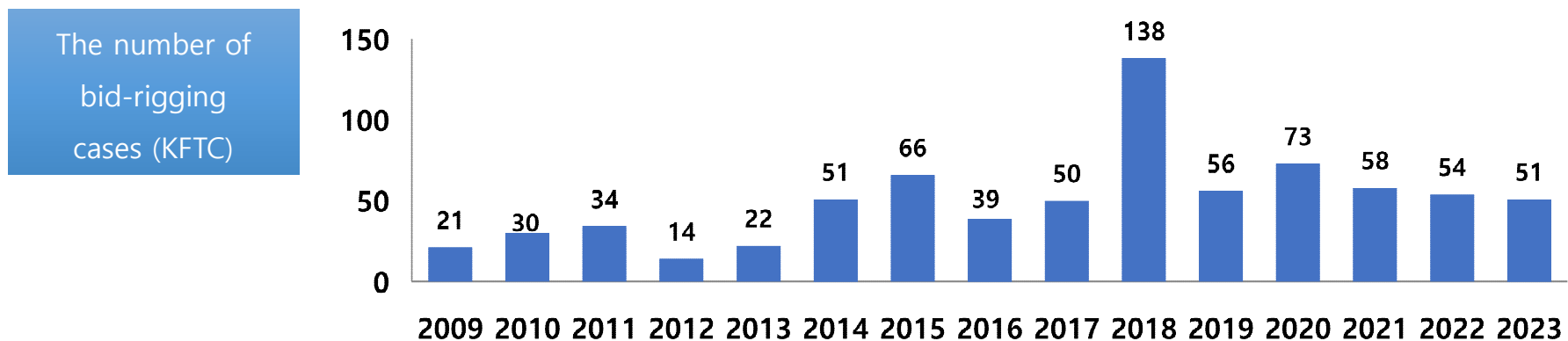


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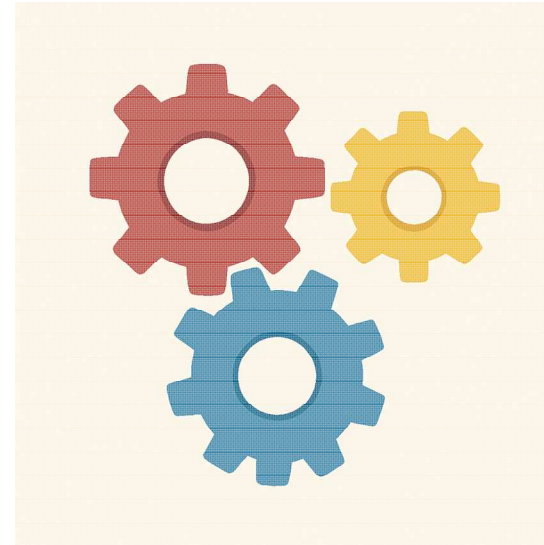
Background

- "Cartels are cancers on the open market economy"
- OECD, "Eliminating bid rigging reduces procurement costs by 20%+"
 - Bid-rigging inevitably lead to higher public fees, waste of national budgets and ultimately a decline in public trust
- In particular, "bid-rigging" as a hard core cartel is enforced vigorously in many jurisdictions including the KFTC



■ The KFTC's Three-Pronged Approach

- Leniency Program
- Whistleblower Rewards Program
- Collaboration with Procurement Authorities
: Bid-Rigging Indicator Analysis System(BRIAS)



■ When Bid-rigging is detected, remedies, fines, and sanctions – such as restrictions on bid participation – can be imposed.

Furthermore, to more effectively enforce the competition law and enhance public procurement, it is essential to establish a continuous and robust monitoring system based on the collaboration with the Procurement Authorities.

BRIAS : Enhancing Transparency in Public Procurement

What is BRIAS (2006~)

- A database-like system consolidating bid information from all public institutions and analyzing them to draw statistics.
- Only selects some contracts (with the total contract amounts are at or greater than KRW 100 million for the purchase of goods and services, KRW 5 billion for general construction projects, and KRW 500 million for specialized constructions.)

< Number of Analysis >

	2018	2019	2020	2021	2022	2023
Number	25,520	28,494	29,343	30,496	30,893	40,170

■ How BRIAS works

- Collects and submits all bid-related data to the competition authority.
- Enables analysis of patterns such as:
 - Simultaneous bid submissions,
 - Consistent lower bids from one company while others submit significantly higher prices,
 - Unusual fluctuations in bid prices over time.

■ Applications

- Similar to how law enforcement reviews surveillance footage.
 - : Functions as a monitoring tool rather than an instant enforcement mechanism.
 - : Comparable to a surveillance camera covering all areas, including narrow alleys.
- Identifies patterns suggestive of collusion.
- Cannot directly prove agreements but provides critical leads for investigators.

BRIAS : Enhancing Transparency in Public Procurement



\neq BRIAS \equiv



I Deterrent Effect of BRIAS

- Signals to businesses that bidding activities are under constant scrutiny.
- Strong disincentive against collusion.
- Supports whistleblower complaints with relevant data and statistics.

Case: Bid Rigging in Inorganic Coagulant Procurement

- Inorganic Coagulants is used primarily in water treatment plants to help separate solid particles.
Several Water Reclamation Corporations issued multiple procurement contracts between 2019 and 2023.
- Two companies were involved in the bid rigging.
Agreement to divide the procurement quantities and set the prices in advance.
A won 14 contracts, B won 17, valued at 438 billion KRW in total.(43% of the market)
Both companies had a high success rate, with winning bids over 95%.
- KFTC effectively utilized BRIAS as a valuable database throughout the entire process of this case
 - From the initial stage of monitoring bid rigging suspicions to the final confirmation of the collusive conduct.KFTC decided to impose remedies and a total fine of 391 million KRW (about 273 thousand USD)

Amendment of the Competition Law

■ The Competition Law was amended to strengthen the monitoring and sanctioning of bid-rigging in the public sector (Dec. 2023)

- The expansion of the scope of the public institutions r who submit bid informations to the KFTC

→ **local public corporations and quasi-governmental institutions included (over 700 institutions in total)**



- By expanding the system to ensure that information on all public procurement bids above a certain threshold is consistently submitted to the KFTC, blind spots in monitoring public procurement have been effectively addressed.

- The KFTC has held **regular consultations** with the procurement authorities to share of operational **updates** and **outcomes** related to information provision, while also addressing and resolving technical issues that arise during the submission of bid information.
- **Through close consultations with procurement authorities, the KFTC achieved the following milestones.**
 - 1 The KFTC has worked with them to establish **internal regulations** ensuring that **their members** do **not engage in bid-rigging practices**
 - 2 The KFTC also actively supported them in independently operating **anonymous reporting centers**

Thank you

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