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Ireland – Hard-Core Cartel Offender Gets €7,500 Fine & Suspended Sentence

Philip Andrews, Laura Treacy, Sinead McGarrigle (McCann FitzGerald) · Tuesday, June 6th, 2017

Following a guilty plea to criminal bid-rigging and obstruction charges, a company director was fined €7,500 by an Irish judge on 31 May and sentenced to three months' imprisonment (suspended – meaning no jail time). The executive was also barred from acting as a company director for five years, while the company involved was fined €10,000.

The verdict follows a five year investigation by Ireland's competition law enforcement agency, the CCPC, involving surprise searches of business premises and, in one case, an executive's home. Illustrating how the CCPC is open to late immunity applications, one of the parties involved in the (two-party) cartel sought and obtained prosecution immunity after the surprise searches.

Both the company director and the company pleaded guilty. In addition to the price fixing conviction, the executive involved was convicted of obstruction on evidence that, during one of the surprise searches, the executive concerned called the other cartel member to say "delete the emails."

On handing down the sentence, the court said that the anticompetitive activity endured for two years (from 2012 and 2013) and involved collusion on bid pricing for flooring subcontracts in large-scale developments.

This is one of the lightest sentences imposed by an Irish judge for criminal cartel activity – the court itself acknowledged the sanctions were "modest." By comparison, the day before the verdict (30 May 2017), the Central Bank of Ireland used its civil enforcement powers to impose a €3.15 million fine on an Irish bank for breaches of anti-money laundering rules.

More generally, the case may raise questions as to how Ireland's criminal cartel regime is working. In 15 years, four prosecutions on indictment have been brought (five including the latest bid rigging case). In two cases, the jury acquitted the firms and business people involved. The highest individual fine imposed in the other two cases was €80,000 and the longest jail sentence was two years (suspended – meaning the prison sentence isn't served although the offender gets a criminal record). No jail time has ever been served.

The CCPC has argued convincingly for civil fines – currently not available to it. The European Commission's proposed new directive on minimum level powers for national competition authorities may provide opportunity on this front, at least for enforcement of EU competition law

in Ireland.

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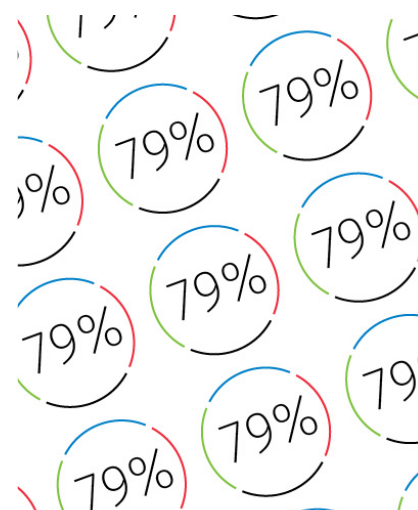
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