

New CMA campaign urges firms to compete, not cheat

The launch comes after a sustained crackdown against illegal cartels by the Competition and Markets Authority (CMA), which issued over £43 million in fines last year alone.

Anti-competitive practices like price fixing, bid rigging and dividing markets or customers between competitors – commonly referred to as market sharing – can take place in any business. However, a number of recent CMA cases have come from the construction industry.

New research, conducted on behalf of the CMA, revealed that only 6% of firms in this sector were familiar with competition law and that general understanding of the illegality of these business practices is low.

29% of those surveyed thought it was OK to attend meetings with competitors to agree prices. A further 32% thought agreeing not to supply each other's customers was legal, and a quarter (25%) saw no problem with discussing bids and agreeing who would get which tenders.

The research shows that only 6% of management teams of the construction firms surveyed had received competition law training. Additionally, only 6% of the respondents had actively sought out information on how to comply with the law.

Howard Cartlidge, the CMA's Senior Director of Cartels, said:

"The CMA is cracking down on businesses that collude to rip off customers by fixing prices, sharing out markets amongst themselves or rigging bids. Our message to them is that we know cheating when we see it, even if you don't. Pleading ignorance is no defence; it's up to businesses to know what these unfair practices look like and avoid them.

"By ensuring you stay on the right side of the law, you can avoid substantial fines, director disqualification or jail. And if you suspect something illegal is going on, report it to us before it's too late."

The CMA understands that most businesses want to do the right thing and the campaign is designed to help them do that and to ensure fair dealing. Putting an end to an illegal cartel means that businesses and customers don't lose out because others choose to cheat – cheating that comes with serious consequences.

Lifting the lid

Today, the CMA has also lifted the lid and highlighted the secret conversations that take place inside illegal cartels.

An investigation into a [pre-cast concrete drainage cartel](#) that resulted in £36m in fines in 2019, revealed that the businesses concerned held regular secret meetings (four of which were secretly recorded by the CMA), away from business premises, in hotel meeting rooms.

The businesses discussed and agreed certain price lists, which were then used by sales teams as a basis for negotiating with customers. They also agreed that they would not compete for each other's customers on certain fixed price contracts. One of the individuals at a cartel meeting said:

"...I'm quite happy if we agree jobs, because you know, it is pointless cutting the bloody price, we should be sticking out, as we've always said, get a better price..."

And another said:

"...just set the term deals up, set the ... market rates up and the merchants rates up ... and the likelihood is you're going to get the same market share..."

Meanwhile, [the CMA fined 3 Berkshire estate agents](#) in 2019 for illegally fixing the minimum levels of commission fees that they would charge customers on the sale of residential properties. Four estate agents implemented the illegal arrangement primarily through secret meetings, as shown in the evidence gathered, for example:

"The company average fee is now around 1.8%. I am willing to do whatever it takes to get this sorted. We've had meetings over the last few weeks with other agents [...] and there is at last a general consensus that something should be done. Let me know if you would like to meet with several of our competitors."

Campaign reach

The CMA's campaign will target firms via posts on social media sites, and radio and digital display advertising. The campaign encourages people to visit the CMA's designated ['Cheating or Competing?' page](#) which features videos, short guides and case studies to explain what business cartels are and how people can report them.

Additionally, as the CMA continues to step up its drive to raise awareness of cartels, the campaign has received support from the Federation of Small Businesses and Institute of Directors.

Charlotte Valeur, Chair of the Institute of Directors, said:

"Competitive markets are good for both consumers and businesses, encouraging innovation and keeping prices down, so it's worrying that the CMA have found that many businesses leaders don't know their full legal responsibilities. Firms should prioritise director training and professional development to ensure they do not inadvertently fall foul of the law."

Federation of Small Businesses National Chair Mike Cherry said:

“This awareness campaign from the CMA is so important.

“Greater awareness is needed for all businesses about these practises, some of which could be ruinous for small businesses. SMEs want to do the right thing, which is why it is so important to have a clear understanding of the law surrounding, anti-competitive behaviours such as cartels and price fixing.

“FSB’s own research has found that such practices could have a serious impact on competition as well as issues involving diversity and creating a more complex business environment.”

Notes to editors

1. The CMA commissioned IFF Research to carry out a survey of UK senior representatives from construction firms and other businesses that work in the sector. In January 2020, 400 people were questioned about their understanding of competition law. The results of this survey were used in this press release.
2. One of the companies involved in the October 2019 decision regarding the precast concrete drainage cartel is appealing the CMA’s decision. This appeal goes to both the findings in the decision and the amount of the penalty. The CMA is defending the appeal. The other companies involved admitted breaking the law and accepted the penalties that were imposed on them.
3. Businesses found to have been involved in illegal cartels can be fined up to 10% of their annual turnover. Individuals can face up to 5 years in prison and directors can be disqualified from holding director positions for up to 15 years.
4. These can be reduced or eliminated altogether where a business or individual report their involvement in a cartel and co-operate via the CMA’s ‘leniency’ programme. Separately, witnesses who blow the whistle on the illegal conduct of others can receive a reward of up to £100,000. People can call: 0203 738 6888 (witnessed); 0203 738 6833 (leniency).
5. Enquiries should be directed to the CMA press team at press@cma.gov.uk or 020 3738 6460