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UKCG condemns unnecessary fines on the construction industry

The UKCG has condemned fines imposed today on the construction industry by the OFT. Speaking about the fines Stephen Ratcliffe, Director of UKCG said:

“These fines could not have come at a worse time for the industry and are unfair. The industry is going through its sharpest downturn on record with huge falls in demand, employment and profits and on current trends is expected to contract 20% by the end of 2011. These punitive fines will be hard to absorb and will cost jobs.

Everybody knows – including the OFT - that cover pricing was widespread in the industry in the past. It is perverse and unfair to impose such disproportionate penalties on a small number of contractors selected by geographical sampling.

Speaking about the investigation more generally, Stephen Ratcliffe said:

“It is important to remember that the infringements are historic and do not reflect practices in today’s market place. Today’s decision should leave no doubt in the mind of any contractor that the practice of giving or taking cover prices is illegal and could result in severe financial penalties for the company, as well as criminal prosecution and/or director disqualification.

The industry has been working closely with the Office of Fair Trading (OFT) to ensure that contractors are aware of their obligations under competition law. In particular, UKCG supports the industry wide code of competition law compliance launched on 20 August and each of its members has procedures in place to ensure that breaches do not occur.

It is important therefore that everybody now moves on and that companies who have been fined for past practices are not discriminated against in the future. UKCG therefore welcomes the guidance issued – www.offt.gov.uk/constructionadvice - by the OFT which seeks to ensure those companies fined today are not further penalised by public sector clients refusing to do business with them. UKCG has itself written to many clients in the public sector, including all local authorities, setting out the background and context of this investigation.”

Notes to editors

The UK Contractors Group (UKCG) represents 29 leading contractors operating in the UK on construction specific issues. Its mission is to represent contractors’ interests to government and key clients and to encourage contractors to work together to promote change and best practice, especially on health and safety and environmental issues. UKCG also works closely with the CBI Construction Council to ensure that contractors’ interests are properly reflected in the wider business agenda.

The construction industry has an annual turnover of over £100 bn and represents some 9% of GDP. Over 170,000 companies work in the industry and employ around 3 million people.

The OFT investigation has focussed on the historic practice of cover pricing, which was undertaken to avoid winning work without upsetting a client and so stay on future tender lists. The simple act of submitting a high bid to avoid winning work is not an infringement of competition law. However, if this artificially high tender is discussed with another contractor also bidding for the work – for example, to confirm it is high enough not to win –it would breach the law, even if the eventual price paid to the winning contractor was not affected.

The code of competition compliance is available on UKCG’s website at www.ukcg.org.uk

The OGC guidance is available at www.offt.gov.uk/constructionadvice