Cartel Outreach to Public Procurement Officials: An Australian Experience

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Building the Education Revolution (BER) Program

• BER represented the largest component of the `Nation Building and Jobs Plan' stimulus measure implemented in 2008/9 in response to the global financial crisis

• The program was the largest capital infrastructure program ever undertaken to modernise schools and government funds committed were in the order of $17b

• 24 000 projects to be delivered in every community across Australia
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• A federal government authority was given responsibility for its overall implementation, but was administered through state and territory government & non-government authorities

• No specific allegation, however risk factors:
  
  – Amount of funds involved
  
  – Decentralised and inconsistent approach to administration of funds through localised authorities
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- No specific allegation, however risks factors: (cont)

  - Nature of rollout – emphasis placed on speedy delivery (over process) of program to boost local economies across the country

  - Nature of construction industry

  - Knowledge of conduct which has previously raised concerns

  - Media reports inferring possible collusion
What we did:

– Wrote to local authorities across the country requesting details of construction industry participants, alerting them to potential concerns, providing them with information enabling the identification of cartel conduct

– Several follow-up meetings seeking an understanding of tender processes engaged and canvassing whether any irregularities

– Liaised with BER Taskforce to obtain complaint data
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• What we did: (cont)
  – Wrote to 330 managing contractors across the country with information on cartel conduct, immunity policy & a contact point
  – Follow-up meetings conducted with a sample of 30 industry participants – both random and targeted
  – Requested tender documents for analysis following meetings
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• No particular concern or allegation identified, however positive outcomes:
  
  – Opportunity to speak directly with industry and government about cartel laws, risk management
  
  – Participants aware of ACCC interest in BER program
  
  – Potential for information to be reported – can be addressed on a case-by-case basis
  
  – Intelligence will inform future cartel outreach work