

Creative Construction Conference 2017, CCC 2017, 19-22 June 2017, Primosten, Croatia

Prevention of Collusion for Innovative Construction

Ayodeji Oke^{a*}, Clinton Aigbavboa^a, Zacharia Mangena^a

^a*Department of Construction Management and Quantity Surveying, University of Johannesburg, Johannesburg 2028, South Africa*

Abstract

Collusion is an unscrupulous and anticompetitive practices among construction stakeholders which has adverse effect not only on the integrity of the parties or people but also on the overall performance of construction projects. In view of this and in order to ensure healthy competition and alliance among construction stakeholders, this study assessed various measures that can be adopted to minimize or eliminate the practice of collusion in the construction industry. The measures were extracted from existing literature materials and questionnaire was adopted as a means of data collection using a 5-point Likert scale. Using convenience sampling, 49 questionnaires were distributed, 43 were retrieved while 41 were found worthy of further analysis. Among other measures, people involved in construction process including the professionals should be encouraged to report any suspicious acts and transactions including collusion practices, and procurement procedures for construction projects should be open and transparent. There is a need to blacklist and deregister professionals and companies that are caught in the act of collusion as this will enhance project performance and subsequently improve the image of the construction industry. Punishments for the offence should be well documented and there should be strict enforcement of the discipline and regulations when a company or individual is found culpable. This study will help regulatory bodies shouldered with the responsibilities of regulating construction activities - including that of the stakeholders - in their quest to reduce or eliminate the practice of collusion in the construction industry.

© 2017 The Authors. Published by Elsevier Ltd. This is an open access article under the CC BY-NC-ND license (<http://creativecommons.org/licenses/by-nc-nd/4.0/>).

Peer-review under responsibility of the scientific committee of the Creative Construction Conference 2017

Keywords: construction industry; corruption; project performance; project stakeholder; ethical issue

1. Introduction

The Organization of Economic Co-operation and Development [1] defined collusion as an agreement among competitors, who decide between themselves who should win a certain tender. According to the South African legal system, collusion is a hard-core cartel offence and it is prohibited by the competition law Act No. 89 of 1999. There are several existing definitions of collusion by various organizations such as World Bank, Organization of Economic

* Corresponding author. Tel.: +27-84-915-5117.

E-mail address: emayok@gmail.com

Co-operation and Development (OECD), Construction Industry Development Board (CIDB), Competition Commission of South Africa (CCSA). From the available information, collusion can be described as an illegal and unethical agreement between horizontal competitors. This is known as anticompetitive, which is a practice concerned with the aim of fixing prices, rigging bids, setting up restrictive outputs or quotas as well as dividing or sharing markets by allocating clients, territories, suppliers, or lines of commerce.

A cartel, which is a form of collusion, is described as a consortium of independent organizations formed to limit competition by controlling the production and distribution of products and services [2]. In addition, a cartel is an example of firms belonging to the same industry structure which collude to set prices and or output levels. Gupta [3] also described collusion and its associated activities as an agreement which has as its object or effect the prevention, limiting or distortion of perfect competition. Such agreements include, complementary bidding, bid rotation or cover pricing but are not restricted to activities such as, fixing purchase or selling price or any other trading condition, directly or indirectly, also limiting production levels or controlling markets, investments or technological advances, the last agreement would be sharing resources, supplies or markets. These have been identified as major challenges to sustainable and innovative construction and as a result, this research examines various ways of mitigating the practice of collusion in the quest of improving construction project performance and overall image of the construction industry.

2. Review of measures to mitigate collusion

Combating collusion, cartel formation or corruption in every sector of the economy, including the construction industry, has become a task not only for construction professionals but all stakeholders tasked with the management and regulation of construction activities. There are several guidelines prescribed by various organizations such as the Construction Industry Development Board (CIDB), the Organization of Economic Co-operation and Development (OECD), the Competition Commission of South Africa (CCSA) and the World Bank, which provides the best practice standards and codes of conduct for national and international bidding. These best practice standards include good ethical practice and fair competition.

Furthermore, certain stakeholders provided strategies to combat collusion and corruption. Sohail and Cavill [4] put forward the idea that raising awareness about corruption in the construction industry reduces the chances for contractors to collude or to engage in any corruption practices. In addition, promotion of transparency by concerned regulatory agencies could be a strategy to mitigate corruption [1]. Since professional institutions play a vital role in regulating the construction industry, Sohail and Cavill [4] noted that strengthening professional institutions is also a strategy to mitigate the issue of corruption. Ayodele [5] also highlighted that the main root of corruption in the construction industry is that professionals are being dishonest and using their powers for personal gain. Noting that developments of the construction industry are related to ethical standards of stakeholders, the main objective should be to ensure that due diligence actions are taken by contractors, consultants, clients and regulatory bodies to ensure that their business partners (for instance, consortium, agents, joint venture partners and subcontractors) are well monitored. The basic factors necessary to combat collusion in the construction industry are therefore explained.

2.1. Regulatory perspective

CIDB is a major regulatory body for construction projects and associated activities in South Africa. However, several concerns have been raised on the provided penalties by the CIDB act in the event of contraventions by contractors [6]. The best penalties which are provided by the CIDB is that a contractor can be deregistered or can impose a fine not exceeding 100,000 South African Rand. To ensure that there are few incentives for companies to collude or engage in collusive tendering, Hekima Advisory [7] recommends that the following regulatory interventions should be given special attention. Firstly, the CIDB powers to deal with procurement irregularities should be enhanced. The CIDB will be required to come up with tougher measures such as taking the amount of fines higher as to meet the gravity of the procurement irregularities. The CIDB system for grading contractors should be reviewed, focusing mainly on the capacity of the contractor on undertaking the work as well as projects that are successfully completed [6]. Furthermore, the thresholds have to be revised to be based on the allowable annual turnover thresholds to ensure that contractors do not take work beyond their capacity to perform. The current condition for allowing contractors to

متن کامل مقاله

دریافت فوری ←

ISIArticles

مرجع مقالات تخصصی ایران

- ✓ امکان دانلود نسخه تمام متن مقالات انگلیسی
- ✓ امکان دانلود نسخه ترجمه شده مقالات
- ✓ پذیرش سفارش ترجمه تخصصی
- ✓ امکان جستجو در آرشیو جامعی از صدها موضوع و هزاران مقاله
- ✓ امکان دانلود رایگان ۲ صفحه اول هر مقاله
- ✓ امکان پرداخت اینترنتی با کلیه کارت های عضو شتاب
- ✓ دانلود فوری مقاله پس از پرداخت آنلاین
- ✓ پشتیبانی کامل خرید با بهره مندی از سیستم هوشمند رهگیری سفارشات