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Data Analysis in the PCA's Public Procurement Strategic Action Plan

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PCA's Strategic Plan
Broad Approach & Policy Mix

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- Public Procurement has been set a key priority by the PCA
- PCA has devised a **Strategic Action Plan for Public Procurement**
- **Broad Approach**:
  - ✓ Fighting bid rigging
  - ✓ Promoting efficiency
- **Aligning incentives** (*sine-qua-non*):
  - ✓ Awareness
  - ✓ Accountability
- **Policy Mix**:
  - ✓ Advocacy + Strengthening enforcement
  - ✓ Ex-ante + Ex-post action

Cornerstones of the PCA's Strategic Plan

1

Cartel investigations
Reactive detection methods

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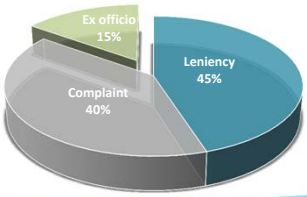
- Reactive detection methods: Complaints and Leniency
- Prevalent in competition agencies action towards cartels, PCA is no exception
- Central in fighting bid-rigging. Most often ensure "hard" evidence for the case.
  - ✓ Reactive detection tools are thus key in the PCA's enforcement agenda on bid rigging
  - ✓ The PCA's Leniency Programme has been revamped in 2012

Origin of the cartel cases condemned or being analyzed by the PCA (2003 – To Date)



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Fighting Bid-Rigging
Complementarity between reactive and proactive action

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- The debate: **"Over-reliance in reactive action?"**
- Key to **diversify the detection tool box**
- Well acknowledged strategic complementarities
  - **Proactive Detection Methods may be key for efficient reactive action** (OECD):
    - ✓ Change the perception of the detection risk: weaken incentives for collusion or lead to cartel instability
    - ✓ Allow detecting stable cartels and detecting cartels sooner (long-lasting stable cartels, Levenstein and Suslow, 2006)
    - ✓ Increased detection risk may be a driver of leniency applications
  - **Potentially entangled**
    - ✓ Within a case, the broad range of tools can team up and be articulated to guide the investigation and produce a body of compelling evidence.

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Bid rigging Screens

Pros and cons *vis à vis* other market settings

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Encouraging Factors	Added Challenges
▪ Data availability	▪ Bidding rings may take different and quite complex forms
▪ Often more discernible patterns	▪ The different bid rigging schemes are not mutually exclusive
▪ Interface with Contracting Authorities ("The Third Party")	▪ May involve various procurement procedures - over time, across different geographical areas, different contracting authorities, different goods and services

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Detecting Bid Rigging

"The Third Party" – Contracting Agencies

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- Often, discussions dichotomise investigations as *ex officio vs* leniency triggered
- Reactive Detection Methods: complaints and leniency
- In practice, dividing line between reactive and proactive detection methods can be blurry
- Specificity in Public Procurement - the role of contracting agencies
- This "*third party*" can be key in spurring the bid rigging detection rate
- Information is vital in targeting data screening
  - Priors on what sectors/procurement contracts/events to look at;
  - Prior knowledge on the potential bid rigging mechanism, participants and time-frame;
  - Allow fine tuning the screen.

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Data availability, coverage and quality
Encouraging developments

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- Increasing availability of procurement data for a variety of purposes (auditing, fighting corruption, benchmarking)
- Broad e-procurement datasets open interesting avenues for proactive detection methods
  - may be a powerful tool in fighting bid rigging
  - may spur the detection rate.
- New EU Directives on Public Contracts
- PT is the EU pioneer of mandatory e-procurement
  - ✓ E-procurement and registration of centralised public procurement in web portals is in place since November 2009.
  - ✓ Centralized web portal (Portal Base) covers public contracts from 2009 to date

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Data availability, coverage and quality
Challenges

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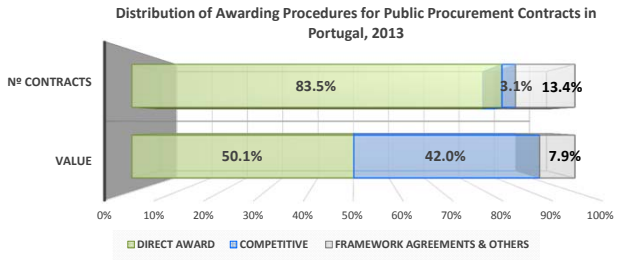
- Portal Base is only compulsory for competitive procedures and FAs.
- Direct awards do not have to be fully run in Portal Base – which limits the available info



- In 2013, Portal Base accounted for around 20% of the total value of public contracts
- Personal data protection issues have been delaying the PCA's full access to Portal Base dataset

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Addressing the challenges
Targeting data screening

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- No "blind screening": hopeless search
- Targeted screening
- PCA issues data requests for certain procurement procedures/sectors based on information brought about by third parties
- An hybrid approach – entangled reactive & proactive detection methods
- Analysis to sub-datasets uncovered information quality issues (information gaps)
- Tackling these issues in the broader dataset would require considerable time and effort

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The "Third Party" Role
PCA's Advocacy Initiatives

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- PCA's ***Guidelines on Fighting Collusion in Public Procurement*** issued in Dec 2015
- PCA's ***"Fighting Bid Rigging Campaign***"
  - ✓ To be launched in the Spring of 2016
  - ✓ 5 outreach sessions to contracting authorities
  - ✓ Increase CAs' detection skills
  - ✓ Promote the design of more "collusion proff" tenders
  - ✓ Establish close communication channels with the relevant entities

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The "Third Party" Role
Aligning Incentives through advocacy

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- Making cartel detection a shared objective for the Competition Authority and procurement agencies
- Aligning incentives:
  - ✓ Raising awareness
  - ✓ Promoting accountability
- Procurement officials vigilant about the need to ensure a regular and timely supply
- Focus on allaying fears of disruption upon suspicion of a collusive scheme in a tender
- Performance Assessment
  - ✓ Shift from a formalistic box-ticking to an outcome based approach

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Policy-mix approach

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