

Legal affairs committee Hearing on Public Procurement

Trade unions perspective – Kathleen Walker Shaw

Slide 1 Cover

Slide 2 – Context

- The EU has wide principles in its Treaties... that it supports a social market economy...that the EU is committed to the maintenance and improvement of living and working conditions....quality public services, freedom of public authorities to decide whether they deliver them directly in house or by public-public co-operation, a valid choice, or go to the market through public procurement.
- We need to ensure these principles are respected in the Single Market and in the revision of these public procurement directives

Slide 3 – Fundamental principles

- Is the EU Single Market just a market or is its aim to achieve a social market economy in line with the objectives of the 2020 strategy goals?
- Social and employment dimensions of public procurement need to be stronger and more visible

Slide 4 – Continued..

- The currency of the public procurement market is special... it is public money, tax payers money....OUR money
- We believe that special responsibilities lie with how that money is spent
- It should not be used to fund practices which undercut wages, fuel inequality and discrimination and undermine working conditions, social and employment rights and collective agreements

Slide 5 – Key priorities

- ILO C94 Labour Clauses in public contracts
- This convention predates the EU (1949) and needs to be recognized in Public Procurement rules, giving legal clarity for those who have ratified it and a wider number who use it, and to encourage Member States to ratify it

- Adherence to employment rights and conditions and collective agreements
- We need consistency in respect for these principles throughout the text where applicable with consistent wording, not just in Recitals but also Articles.

Slide 6 – Priorities continued

- Lowest price award criterion
- Should be removed – it encourages undercutting wages, conditions, social dumping and compromises quality
- Exclusions and abnormally low tenders
- Need to make exclusion mandatory (*shall* not *may*) where there is evidence of employment and social obligations, working conditions and collective agreements etc breached.
- Abnormally low bids should be investigated from 25% lower for supplies some works and 15% lower for services (average 90% labour costs in contract) and labour intensive works contracts
- Subcontracting
- There are legitimate reasons why a company might subcontract (they don't have the capacity, lack particular expertise, are over busy).....And there are less legitimate reasons...
- In our experience, sub-contracting chains are becoming ever more complex and multi-layered. We have to ask ourselves why? Too often to bury, avoidance of tax/social security obligations or terms and conditions of workers bogus self-employment. We need to restrict chains to 3 levels
- Good employers share trade union concerns about the murky side of subcontracting, because many of them are losing contracts through unfair and at times illegal competition. This is concentrated in undercutting wages and conditions, fuelling social dumping and compromising the quality of the contract

- Life-cycle characteristics
- Implicitly include socially sustainable production processes
- We need to use this revision to strengthen sustainable procurement in line with 2020 objectives and wider EU Treaty and policy commitments

Slide 7 - Thank you