

# VEHICLE PROCUREMENT STUDY: 2011-2015



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## ABSTRACT

The GCCPC is mandated to carry out market studies, under section 15(k) of the Competition Act 2007 and 16 (1) (j) of the Consumer Protection Act 2014. In this regard, the Commission conducted a market study on vehicle procurement with the view of understanding the vehicle procurement process and identifying anti-competitive practices and consumer rights violation.

According to 2014 GPPA PAC/PEC report, the government spent D1.95 billion on public procurement which represents 8% of the 2014 GDP. Data from GPPA also indicates that 7% of the tendered amount (D136, 500,000) is for vehicle procurement.

Primary and secondary data were employed during the course of the research. Questionnaires were administered with the sector regulator (GPPA), Government ministries, agencies, projects, and vehicle dealers.

The study found existence of exclusivity agreements between vehicle dealers and suppliers and Tailor-made specification. It was also found that, **22% of the contracts were through single sourcing whilst open tender (the most competitive as per section 38 of the GPPA) recorded only 3%**. The analysis of the market shares shows the existence of the monopoly in the vehicle market (as per the Competition Act, 2007).

In light of the findings, it is recommended that the Commission conducts an investigation into the exclusivity agreement and furthermore the GPPA to revitalize the technical committee on the preparation of standard / generic technical specifications for all vehicles sold in the Gambia in order to finally address the issue of the tilting of specification.

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**ACRONYMS**

CCCPC	Gambia Competition and Consumer Protection Commission
GDP	Gross Domestic Product
GPPA	Gambia Public Procurement Authority
KMC	Kanifing Municipal Council
PAC/PEC	Public Accounts and Public Enterprises Committees

**Glossary**

**Market** is the market in which vehicle supplier operate

**Market structure** the structure of a market refers to the number of firms in the market, their market shares, and other features which affect the level of competition in the market.

## **BACKGROUND**

The GCCPC is mandated to carry out market studies, under section 15(k) of the Competition Act 2007 and 16 (1) (j) of the Consumer Protection Act 2014. In this regard, the Commission had decided to conduct a market study on the public procurement in the Gambia, specifically on vehicle procurement. The study intends to understand the vehicle procurement market and to identify anti-competitive practices in the market.

The Gambia Government usually procures goods and services from the private sector through bids tendered by prospective providers, which offer to provide goods and service. When Government requires work to be done or goods and services provided for it by competent entities, it invites bids from qualified and registered enterprises, a process known as public procurement. This is a way by which Government tries to get the greatest value for public money. However, in most cases, the effective and efficient functioning of public procurement may be distorted by two major problems, namely, collusion and/or corruption.

In terms of value, the tenders submitted to GPPA amounted to D1.95 billion (GPPA PAC/PEC report 2014) and this is 8 % of the Gambia's GDP .This statistic shows just how important a competitive procurement system is for the development of any economy. Competition and public procurement generally go hand in hand, as both seek to obtain value for money, which ensures that the government has a wide range of choice of quality goods and services at the lowest possible price. The money saved could be invested in other development agendas.

Given the importance of public procurement to the government, the Commission has partnered with Gambia Public Procurement Authority (GPPA), to jointly-organize advocacy programmes to sensitize stakeholders (procurement officials, business community) on competition issues in public procurement, focusing mainly on bid rigging.

## **PURPOSE OF THE STUDY**

The study is motivated by complaints received from some vehicle dealers over the years about the titling of specifications to certain vehicle brands. In addition, given the millions of dalasi (taxpayer's monies) Government spends annually on the procurement of vehicles; the Commission deemed it necessary to conduct a study in this sector. The Commission is keen on understanding the vehicle procurement process in-depth and determining the competitiveness of the procurement process. The study aims to identify factors affecting competition in the vehicle procurement process and prescribe possible remedies.

## **STUDY METHODOLOGY**

Primary data for the study was obtained through personal interviews with the management of the vehicle dealers, Government ministries and agencies. Secondary data and information including available relevant documentation obtained from the GPPA, vehicle dealers, Government Ministries and Agencies and other related literatures (such as the OECD, 2010 survey on public procurement) were also reviewed. The study is limited to the public procurement of vehicles in a five-year period, 2011-2015. Literature review, questionnaires, and interviews were employed to obtain the needed quantitative and qualitative data.

## **MARKET DEFINITION**

The relevant market is a defined set of products which could compete with other products and a defined geographical area within which competition occurs. The relevant market combines the product market and the geographic market. The product market comprises those entire products which are regarded as interchangeable or substitutable by reason of products' characteristics, their prices and their intended use. The geographic market comprises the area in which the firms/sellers concerned are involved in the supply of the products and in which the conditions of competition are sufficiently homogeneous.

In this sector, the product market is new vehicles procured by the Government through the public procurement system. The geographic market is limited to The Gambia.

## **THE ROLE OF GCCPC IN PUBLIC PROCUREMENT**

The Commission has a mandate to investigate any suspicion of bid-rigging in the tacitly public procurement system. When two bidders, after being invited to tender bids, agree between themselves not to compete, the element of competition is removed from the process. This kind of agreement is known as bid-rigging which is restrictive and anti-competitive. It is prohibited by Section 26 of the Competition Act, 2007 and Section 27(2) (b) of the Gambia Public Procurement Authority Act, 2014.

In order to rig a bidding process, competing businesses collude so that a competitor can secure a contract for goods or services at a pre-determined price. Bid rigging stifles free-market competition, as the rigged price will be unfairly high. It can take different forms and include: bid-rotation, bid-suppression and cover-bidding.

Section 49(7) of the Competition Act, 2007 provides for the levying of a fine of up to ten percent of the turnover for up to three years of transaction of a guilty enterprise or business. In addition to being fined by GCCPC, enterprises guilty of bid-rigging may have punitive action brought against them by GPPA for a violation of any provision of the

Public Procurement Act or the Regulations or refer it to the relevant authorities for the applicable administrative, civil and criminal sanctions under section 27(6) of the Public Procurement Authority Act. The enterprises could be barred by the GPPA from future tendering for goods and services required by government under section 28(1) of the Act for a minimum of one year and a maximum of five years. One of the grounds stated under section 28(2) of the Public procurement Authority Act 2014, that shall trigger the debarment of suppliers or bidders is after The Gambia Competition and Consumer Protection Commission establishes the fact of collusion between the bidders or bidder and a public officer concerning the formulation of terms of reference or bidding documents.

Any enterprise which is found after investigation by or on behalf of the Commission and hearing by the Commission to be a party to a bid rigging agreement is liable to civil action by any person who has suffered or may suffer loss or damage by virtue of the agreement under section 28(b) of the Competition Act.

#### **MARKET STRUCTURE**

The vehicle dealer market comprises of six dealers (Shyben A Madi and Sons, T K Motors, CFAO Gambia Ltd, Tata Motors, Espace Motors and Breckwoldt) all operating in Kanifing Municipal Council (KMC). Most of them engage in the sale of vehicles, motorcycles, generators, spare parts as well as maintenance services.

#### **PROFILE OF THE VEHICLE DEALERS**

##### **Shyben A Madi and Sons**

Established in 1890 and operates three division of business; food and commodity, motor vehicle and office and IT equipment. They have exclusive dealership in Nissan, Peugeot, Land rover, Ssanyong, outboat engines and a distributor of Perkins generators from the United Kingdom. They also have a car service department and sell spare parts of these products.

##### **CFAO Gambia Limited -CFAO Motors Gambia**

Was set up in 1888 and is the exclusive Gambian distributor for five internationally renowned brands: **Toyota, Suzuki, Yamaha, Bridgestone** and **FG Wilson**. CFAO Motors Gambia Ltd also distributes Yamaha motorcycles, generators and motor pumps, FJ Wilson electricity generators, and a range of Bridgestone tires.

##### **Quantum net and Co. Limited-Espace Motors**

Espace Motors Gambia Co. Ltd. was established in 2006 and is the sole importers & local sales distributors of Great Wall Motors from China and Mercedes Benz autos. They also offer sales for brands such as the Haval H5 & H6 4WD, the Wingle 5 double cabin SUV

pickup truck, Voleex C30 / C10 sedan mini & executive saloon, Cowry Mini Van, Cherry Mini Vans, the mid-sized Chery Tiggo and Florid.

#### **T. K. Motors**

TK Motors Limited was established in The Gambia in 1989 and the exclusive agent for Hyundai and Mitsubishi cars as well as supplying spare parts. Among the brands of SUVs is the Mitsubishi Sport Nativa, L200 Raging Bull pick-up. They have a service department for maintenance of these vehicles.

#### **Safari Motors-Tata Motors**

Established in 2010 and engage in the sales of the Tata brand vehicles, maintenance services and spare parts. The autos are imported from India; they are family car, trucks, vans and small utility vehicles.

#### **Breckwoldt and Co, Gambia td.**

Established and operating since 50 years ago. They are the sole agents of Volkswagen vehicles and they sell Mercedes Benz. The company has a maintenance department of vehicles and the sell lubricants and spare parts as well.

### **TYPES OF PROCUREMENT METHODS**

#### **Open tender**

A bidding process that is not private as it is open to all bidders and often called “competitive tender”.

#### **Restricted tender**

It is a procurement method in which invitations to bid are sent only to selected suppliers or service providers who have been deemed qualified. It is also called “selective tendering”.

#### **Single source**

It is often called a “no bid contract”; it takes place when only one supplier for the required good or service is available in the market with no suitable alternatives.

#### **Preference for Open Tendering**

**The preferred method of procurement under the Public Procurement Authority Act 2014 is open tendering.** Section 38 of the Act provides that except as otherwise provided in this part, public procurement shall be through the use of open tender proceedings. Competition will be enhanced and maintained if open tendering is used. Section 25(3)(a)(b) of the Act provides that descriptions and definitions of procurement requirements **shall be formulated in terms of performance wherever possible rather than design or descriptive characteristics; and take into account international and national standards so as to maximize competition and avoid creating unnecessary**

**obstacles to participation by bidders in the procurement proceedings, while ensuring that applicable national and international standards and the requisite quality levels are met.** The provisions of section 38 of the Act could therefore be construed as meaning that other procurement methods could only be use in exceptional circumstances.

Section 39(a) (b) (c) of the Act provides that restricted tender proceedings may be used only where the goods, works, consultancy services or services are only available from a limited number of bidders, known to the procuring organisation; the time and cost of considering a large number of bids is disproportionate to the value of the procurement;

or the requirement is of a specialized nature or has requirement of public safety or public security which make an open tender method inappropriate.

It is also an essential requirement under the Public Procurement Authority Act 2014 that procuring organizations shall also give reasons for not using open tender. Section 45 of the Act provides that where a procuring organisation uses a method of procurement other than open tender or, in the case of procurement of consultants’ services, a method other than request for proposals, it shall note in the record of the procurement proceedings, the grounds for the choice of the procurement method used. Questionnaire analysis

#### **QUESTIONNAIRE ANALYSIS**

Three sets of questionnaires were designed specifically for GPPA, Government ministries, agencies, projects, and vehicle dealers. Seventeen (17) questionnaires were sent to all the key stakeholders, one (1) to GPPA, six (6) to vehicle dealers , five (5) to Government ministries and another five (5) to Government agencies. Out of the fifteen sent thirteen (13) completed questionnaires were received and analyzed (76% total response), six were from vehicle dealers (100% response), four from government Agencies (80% response) and three from Ministries (60% response).

**Table 1: PROCUREMENT METHODS & NUMBER OF APPROVAL BY GPPA**

<b>Procurement Method</b>	<b>Number of approval</b>	<b>Share</b>
Single Source	26	22%
Restricted tender	88	75%
Open Tender	3	3%
<b>Total</b>	<b>117</b>	<b>100%</b>

**Source:** GPPA provided procurement methods & number of Approval while GCCPC computed the share.

The table 1 reveals that **97%** of the total vehicles procured were through less competitive methods of procurement (**75%** restricted and **22%** single source). It also shows that, only **3%** were through the most preferred (competitive) method.

The GPPA defended the 74% restricted tendering by stating that the sector is small with minimal players and the dealers are already known prior to invitation for bids. Thus they normally pre-qualify the available dealers and write to each for invitation of bids.

Section 44(1)(b) of the Public Procurement Authority Act 2014 states that, “The single-source procurement method may be used only where only one supplier has the technical capability or capacity to fulfil the procurement requirement, or the exclusive right to manufacture the goods, carry out the works, or perform the services to be procured, and no suitable alternative exists”. *Given the number of alternative that exist in the vehicle market (6 vehicle dealers); the 22% of vehicle procurement through single source is alarming and questionable.* However, GPPA stated that the high percentage usage of the single sourcing method was as a result of directives issued by the former Government.

Competition is the best way to ensure that the procuring organizations get quality goods at competitive prices. It provides an incentive for suppliers to be efficient, and innovative. Lack of the competitive discipline or culture has significant financial consequences for procuring organizations and government as a whole. Single-source means that businesses will submit a price without worrying about another business offering a lower price. Once suppliers know the procurement method is competitive, they would be more flexible when negotiating and more accommodating to terms.

One of the basic fundamentals of procurement is competition, and the lack of competition gives rise to many risks. When a procuring organization does single sourcing on a regular basis, it creates a barrier to entry for competitors who could possibly supply those goods or services with higher quality at a cheaper price. It could even lead to competitors to exit the market especially in the case of MSMEs, thereby giving more market power to the other business. It could be argued that, in the long-run this could make the business more powerful even possibly a monopoly and could lead to inefficiencies, price increments and lower quality goods and services. In most cases the buyer and the sole supplier develop very close relationships that may lead to corruption tendencies to the detriment of the Government. All these effects will negatively affect competitors, consumers, government, and the economy. It is for this reason that the Commission insists on open tendering in order to avoid any monopolistic tendencies and corruption.

The Commission strongly frowns upon procuring organizations unnecessarily engaging in single-sourcing as this distorts competition and may not deliver value for money.

**Table 2: MARKET SHARE PER VEHICLE DEALER**

<b>COMPANY</b>	<b>MARKET SHARE (%)</b>
CFAO	38.4
TK Motors	30.4
Shyben Madi	14.3
ESPACE	12.5
Breckwoldt	2.2
Safari	2.2
<b>Total</b>	<b>100</b>

**Source:** *GPPA provided the number of vehicle procured while GCCPC computed the share*

The table 2 above depicts the market shares of major vehicle dealers (in The Gambia) for the period under study. It shows that CFAO and T.K Motors are in monopoly situation as per **Section 31** of the Competition Act 2007. Section 31 states that, a firm with **30%** or more market share in a particular sector is deemed to be in a monopoly situation. **CFAO** enjoy **38.4%** of the share of vehicle procured by public institutions while **T.K Motors** has **30.4%** of the share. The dominance of these two players is a cause of concern to the Commission and the market will be keenly monitored for any abuse of dominance or cartel behavior. The remaining **31.2%** is shared among other players as show in the table 2 above.

## **FINDINGS AND DISCUSSION**

The two main findings of the study are:

1. Tailor-made (tilted specifications) towards specific brands
2. Exclusivity of the vehicle dealers in specific brands

### **1. TAILOR-MADE SPECIFICATIONS**

Procuring entities have been accused by some vehicle dealers of tilting specifications (tailor-made specifications) to specific brands during the phase of identification of needs and designing of tenders. Some of the interviewees alleged or suspected that the reason for this could be as a result of some vehicle dealers engaging in corrupt practices such as bribery. Procuring entities were accused of already deciding on the brand of vehicle they want to purchase even before calling for tenders. Thus when specifications are made they are tailor-made / tilted towards the specific brand of their choice. This makes the

whole bidding process just a formality. Some deemed the bidding process for vehicles as often a waste of time, energy and resources as it is easy to identify vehicle brand wanted by simply looking at the specifications. For these reasons, about **66%** of the vehicle dealers felt that bidding process with regards to vehicles is not fair and competitive.

On the issue of tilting specification, the Commission received complaints against tailor-made specification in 2013. Following the receipt of the complaint, the Commission requested for data from GPPA to make an inquiry into the issue, however the information during the period was never provided. This lack of cooperation because major source of concern given that the Commission has a key mandate (curbing bid rigging) in Public Procurement.

In an effort to address the tailor-made specification, GPPA with the advice of the Commission wrote to invite all car dealers for a meeting to set-up a committee which would prepare standard / generic technical specifications for all vehicles sold in The Gambia. However, the vehicle dealers claimed that this meeting was a one-off and a committee was not set-up as advised. Some players have claimed that they are still pursuing for this committee to be set-up but their efforts have not been fruitful.

Section 25 (4) of the Public Procurement Act 2014 states that a requirement or reference shall not be made in the technical specifications to a particular trademark or name, patent, design or type, specific original, producer or service provider, unless;

(a) there is no sufficiently precise or intelligible way of describing the procurement requirements; and

(b) words such as “or equivalent” are included in the specifications.

Unless these exceptions are met, the procuring entities are violating the Public Procurement Authority Act 2014 and also distorting competition by creating unnecessary entry barriers. The Authority is therefore urged as a matter of urgency to act in a steadfast to resolve this pertinent issue that has been affecting competition and growth of the vehicle industry for years.

By using specifications that preclude competitive bidding, procuring entities are helping existing suppliers maintain their dominant hold on the market to the detriment of both smaller competitors and the Government. Whenever possible, technical specifications should be worded in terms of functional requirements and reference open standards (standards developed or approved and maintained via a consultative process) so as to ensure fair competition. There is need to optimize bidding to ensure healthy competition, and the best way to do this is by ensuring that specifications are designed in such a way to avoid biasness and to be clear and inclusive. If tailor-made specification continues, in

the long run competitors will be reluctant to bid for contracts and the lack of competition may lead to greater cost, resulting in a waste of taxpayers' money.

## **2. VEHICLE EXCLUSIVITY**

All vehicle dealers have exclusive rights to the brand(s) they sell, meaning they are the only authorized dealers to sell those brands and their spare parts in The Gambia. Some procuring entities felt that the prices of vehicle, their spare parts and services in the Gambia are relatively high mainly because of the brand exclusivity (monopoly).

The availability and delivery of spare parts is major concern to procuring entities, as they lamented that some of the vehicle dealers don't make spare parts available when needed. The unavailability of the spare parts may likely be because of the monopoly the dealers have on brands, as they know there is no other competitor thus limiting choice. Limiting the output could create panic within the market and lead to price increment, typical monopolist behaviour. Monopolies in most cases breeds inefficiencies, costs of these inefficiencies are normally passed onto the buyers and that may be the case in this industry.

If there were no exclusive dealers for specific brands, the impact of tailor made specifications would have been minimized. However, currently the procuring entities are not only tailor-making specifications to brands but to exclusive dealers. Some of these dealers are already in dominant positions, thus distorts the market even more.

## **ASSESSMENT OF EXCLUSIVITY UNDER THE COMPETITION LAW**

### **Application of the Competition Act**

Exclusivity is not mentioned by name under the Competition Act, 2007 but it constitutes an abuse of dominance under section 31 of the Act. Any anti-competitive practice that a business in a monopoly position engages in to maintain or increase its market share is termed as abuse of dominance. It is not mere dominance that triggers the application of Competition Act. It is the abuse of the dominant position that brings the Act into play.

Section 31(1) (a) (b) of the Act provides that a monopoly situation exists in relation to the supply of goods or services of any description if thirty per cent (30 percent) or more of those goods or services are supplied, or acquired, by one enterprise; or seventy per cent (70 percent) or more of those goods or services are supplied, or acquired by three or fewer enterprises.

Whenever an exclusivity case is enquired into, the main pre-requisite before conducting an investigation is to determine whether that business is in a monopoly position. Where a monopoly situation exists, it is subject to investigation under section 31(2) (a) (b) of the

Act by the Commission if the Commission has reasonable grounds to believe that the enterprise or enterprises in the monopoly situation is or are engaging in conduct that has the object or effect of preventing, restricting or distorting competition; or in any other way constitutes exploitation of the monopoly situation.

Exclusivity is treated on a case by case basis, mainly dependent on the justifications for exclusivity (offsetting public benefits) vis-a-vis the anti-competitive effects. For this reason, all exclusivity cases are not prohibited but subject to investigation.

In cases where the business is in a monopoly situation the Commission shall investigate the business as mandated under section 31(2) (a) (b) of the Competition Act. If the investigation leads to a finding by the Commission that there are adverse effects for competition in this case, the Commission shall, under section 35(3)(a)(b) of the Competition Act, before deciding on any appropriate remedial action to be taken as provided for under part IX (section 50) consider if any of the offsetting public benefits specified in subsection (4) are present; and whether and to what extent the benefits if they are present, should be taken into account in determining the remedial action (if any) to be taken. The offsetting public benefits specified in section 35 (4) will be considered if it is attributable to the agreement subject to investigation, the monopoly situation or the merger situation and it directly contributes to maintaining lower prices, higher quality or greater choice for users and consumers, promoting or maintaining the efficient production, distribution or provision of existing goods and services, developing new or improved goods and services and enhancing the effectiveness of the Government's programme for the development of the economy of The Gambia.

If the Commission makes the authoritative determination after the culmination of its investigation that a business conduct has adverse effects for competition, the Commission may give such directions as it considers necessary, reasonable and practicable to remedy, mitigate or prevent the adverse effects on competition, or remedy or prevent any detrimental effects on users and consumers so far as they have resulted from, or are likely to result from, the adverse effects on, or the absence of competition under section 50(2)(a)(b) of the Competition Act, 2007. Section 50(3) provides that, in determining in any particular case the remedial measures required to be taken, the Commission shall have regard to the extent to which any of the offsetting benefits specified in section 35(4) are present in that case.

If the Commission establishes that one or more of the offsetting public benefits specified in section 35(4) exists despite the abuse of dominance or monopoly it will weigh the offsetting public benefit(s) against the anti-competitive effects of their conducts. The Commission will only allow the inherent exclusivity agreements in vehicle procurement market to continue if the offsetting public benefits outweigh the anti-competitive effects of the conducts or behaviors of the two enterprises.

## **Remedies under the Competition Act**

It is important to note that there is no financial penalty imposed on enterprises by the Commission for their complicity or involvement in abuse of dominant position. The Commission can only give directions. Section 50(4) of the Competition Act provides that subject to subsections (2) and (3), a direction under this section may include, but not limited to, a requirement that the enterprise to which it is given shall –

- (a) Terminate or amend the agreement;
- (b) Cease or amend a practice or course of conduct, including conduct in relation to prices;
- (c) Supply goods or services, or grant access to facilities;
- (d) Separate or divest itself of any enterprise or assets;
- (e) Provide the Commission with specified information on a continuing basis.

## **HOW EXCLUSIVITY IS TREATED IN OTHER JURISDICTIONS**

### **General Application**

Generally, exclusive dealing arrangements/agreements are evaluated in most jurisdictions on the basis of actual or likely competitive effects, rather than being condemned categorically. Consequently, the likely effect of an exclusive dealing arrangement on competition should be carefully evaluated.

First, in the absence of dominance by a party to an exclusive dealing arrangement, an exclusive dealing arrangement is less likely to affect a sufficiently large amount of trade in any relevant market to have an anticompetitive effect. Indeed, in certain jurisdictions this is a reason for limiting prohibitions on exclusive dealing arrangements to those involving firms that hold dominant position or substantial market power.

Second, even when a dominant firm is involved, the particular exclusive dealing arrangement may not affect a large enough proportion of the relevant distribution channels to produce an anticompetitive effect. Third, exclusive dealing arrangements can be efficient and beneficial to consumers. Exclusive dealing arrangements can promote efficiency and benefit consumers by creating intense competition in the process of forming teams. Suppliers may compete with each other by offering terms to potential distributors. In some cases competition among suppliers would be less effective were the resulting distribution relationship non-exclusive.

Exclusive dealing arrangements can lead to efficiency gains by encouraging distributors to promote a manufacturer's product more vigorously, encouraging suppliers to help distributors by providing services or information benefiting consumers, addressing

problems of free-riding between suppliers, addressing “hold-up” problems for customers specific investments, and allowing suppliers to control distribution quality more easily.

### **The Nigerian Application**

In Nigeria exclusivity agreements are prohibited by the Federal Competition and Consumer Protection Act 2016. Section 63(1)(a)(b) of the Act provides that it is unlawful for any two or more undertakings to enter into any agreement whereby they undertake to withhold supplies of goods or services from dealers (whether parties to the agreement or not) who resell or have resold any goods or services in breach of any condition as to the price at those goods or services may be resold, or refuse to supply goods or services to dealers referred to in paragraph (a) of this subsection except on terms and conditions that are less favorable than those applicable to other dealers carrying on business in similar circumstances . This section of the Nigerian, unlike the Competition Act 2007 does not mention the required market share threshold. It also does not state offsetting public benefits mentioned in section 35(4) of the Competition Act.

### **Summary of Findings**

The market research was conducted to have an in-depth knowledge of the vehicle procurement process and identify anti-competitive practices in the sector. The main findings of the study as discussed above are:

1. Tailor-made specification of tenders in favour of certain brands.
2. Exclusivity right of vehicle dealers over brands and spare parts

## **RECOMMENDATIONS**

1. The Commission to conduct an investigation into the vehicle exclusivity for further examination of its impact on competition in order to make determination on the issue.
2. The Commission to collaborate and cooperate with relevant institutions to address non-competitive issues that affect competition in the vehicle procurement process.
3. GPPA in collaboration with The Gambia Standard Bureau to revitalize the technical committee on the preparation of standard / generic technical specifications for all vehicles sold in the Gambia to finally address the issue of titling of specification.

## **NON-COMPETITION ISSUES**

Other major findings which the study found, though some of which may not directly infringe the Competition Act 2007 should be considered by relevant authorities for a more competitive, efficient and effective vehicle procurement system. These include:

- Issues of alleged bribery and corruption in the vehicle procurement process
- High tax duties and exchange rate depreciations contributing to high price of vehicle
- Long turn-around time for the bidding process
- Lack of adequately trained procurement personnel

## CONCLUSION

The Commission is concerned with limit used use of open tendering (3%) in vehicle procurement. This method is internationally accepted as the most competitive procurement method thus the most preferred by the Commission and also by the GPPA Act 2014. The Commission urges the Contracts Committee of GPPA, which is responsible for approving the use of single-source procurement, to thoroughly vet these requests to ensure they are in line with **Section 44** of the GPPA Act 2014 before granting approval.

The exclusive agreement between vehicle dealers and major brands is also found to have negative impacts on competition and will be further looked into by the Commission. Issues of tailor-made specifications also continue to plague the sector and the Commission would like more efforts to be put in place to tackle this pertinent issue.

Generally the vehicle procurement sector is considered uncompetitive given that there are two monopolies out of the six market players and this is a source of concern to the Commission. The Commission is hopeful that with a more competitive bidding process and limitation of corruption in the process the sector would become more competitive, vibrant and attract more investors in the future.

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## REFERENCE

1. Gambia Public Procurement Authority Act 2015
2. GPPA PAC/PEC report 2014
3. OECD survey report on public procurement 2010

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