



THE COMPETITION AND CONSUMER PROTECTION COMMISSION

THE TOWING SERVICE INQUIRY

1. One of the fast emerging businesses today in Zambia is the towing of vehicles. The tow sub sector involves the transporting of the broken-down or accident damaged vehicles from the breakdown or accident scene to a designated place which in the Zambian scenario is usually a jurisdictional Police Station. This sub sector is growing exponentially in Zambia owing to increase in traffic accidents on the Zambian roads. The Competition and Consumer Protection Commission was concern about operations of this emerging market, to understand the sub sector with regards to how trade is conducted by the market players, and how prices are established. The Commission therefore, undertook a market inquiry in order to fully understand the operations in the towing sub sector.

The Rationale of the Inquiry

2. In liberalized economies, there are new niche markets that emerge which unlike the usual traditional markets for goods and services, they (niche markets) require special attention by regulatory authorities such the competition agency (s). This is because some of the commercial practices engaged in by the players in the new markets have the potential to exploit consumers. The towing sub sector has been alleged to have very exorbitant fees and/or charges which have led to the Commission being interested in the industry.
3. The issues relating to the suspicion of unwarranted coordination by some law enforcement institutions with the service providers in the tow industry have exacerbated the need for undertaking an inquiry in the industry. The industry is further alleged to have uncoordinated pricing mechanism in the provision of vehicle tow services. Further, there seems to be no law that regulates or controls the tow industry.

4. Allegations that the service providers and the police are involved in coordinated agreements that border on corruption have continued to be echoed by some sections of the public. For example, since the police are the first authority to arrive at the accident scene and the damaged vehicle needs to be removed from the road to allow traffic to flow normally/freely, the Police are purported to call the tow service provider with whom they (Police) have an arrangement to provide the towing service.
5. The police involved will allegedly have a pecuniary benefit from payment made by the consumer to the service provider for towing the damaged vehicle to the police station. In essence this practice provides an inherent opportunity for the service provider to charge the consumer a higher price for the service rendered. Further allegations in this industry are that there is an aspect of market partitioning among competitors by roads and areas.
6. In view of the foregoing, the Commission decided to undertake a market inquiry in order to better understand the operations in the towing industry. The findings would then be used for further policy recommendations and engagement with the market players in order to correct the uncertainties in the industry and eliminate the alleged exploitation of consumers in terms of high prices.

Objective of the inquiry

7. The overall objective of the inquiry was to better understand the conditions of competition in the vehicle tow industry vis-à-vis consumer protection.

Legal Provisions and Contravention

8. The Competition and Consumer Protection Commission ('the Commission') is mandated under Section 38 of the Competition and Consumer Protection Act No. 24 of 2010 ('the Act') to carry out a market inquiry where it has reasonable grounds to suspect that a restriction or distortion of competition is occurring.

9. According to section 39 of the Competition and Consumer Protection Act No. 24 of 2010 (‘the Act), the purpose of the market inquiry is to determine;
- *Whether any feature, or combination of features, of each relevant sector and any type of agreement has the effect of preventing, restricting or distorting competition in connection with the supply or acquisition of any goods or services in Zambia; and*
 - *Whether any of the circumstances referred to in subsection (2) of section nineteen, apply to the sector or type of agreement on the same basis as they would have applied to any matter under section sixteen.*

Submissions from Industry Players

10. Nine (9) garages in Lusaka that provide towing services to the public made the following submissions through telephone interviews:

Table 1: Garages in Lusaka Province and their stated towing prices

GARAGES	TOWING PRICE	PRICE DETERMINING MECHANISM
1.	K600	The price is standard within Lusaka. Outside Lusaka depends on the Kilometer covered.
2.	K450	Standard price within Lusaka, outside Lusaka attracts an addition at K17.4 per kilometer
3.	K15	The price is K15 per kilometer
4.	K650	The price standard within Lusaka, outside Lusaka attracts K10 per kilometer
5.	K650	Standard price within Lusaka
6.	K500	Standard price within Lusaka and outside Lusaka attracts K10 per kilometer

7.	K400	Standard price within Lusaka, outside Lusaka attracts an extra K5 per kilometer
8.	K850	Standard price of K850 within Lusaka and outside its K1, 500.
9.	K700	Standard price within Lusaka

11. Upon acquiring the information through the telephone interviews with garages to determine exactly which garage provided towing services to the public, the Commission requested for further information from the garages and hence sent questionnaires to the garages. From the nine (9) selected garages that had earlier indicated (through telephone interviews) that they provided towing services, only three (3) garages responded as they earlier stated through the telephone interview. The other six (6) garages declined to respond upon receiving the questionnaire. Van-Man Autoworks, Likrose garage and Ascent Motors responded to the questionnaire and stated that they provided towing services. The other six (6) companies alleged that they did not provide towing services to the public.

Further Submissions from the Industry Players

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12. According to details obtained from the Patents and Companies Registration Agency (PACRA), ██████████ Works was registered as a garage.¹ The company however diversified to providing towing services to its clients and the public in 2009. ██████████ Autoworks submitted that they had two (2) working towing vans being used for the towing business. Clients in need of towing services directly called the company; this method had proved to be effective considering that clients who had received towing services from the company (██████████ Autoworks) informed others in need of the service as well.²
13. ██████████ submitted that the cost for towing a vehicle, regardless of the size of the vehicle being towed, was K400-K500 within the radius of 50km (standard within Lusaka). The price for towing a vehicle outside

¹ PACRA Excel sheet for Garages, 8.07

² Submission by Van-Man Autoworks

Lusaka was negotiable with a mileage charge of an extra K10 per Kilometre being applied.

14. The cost or the charges for towing a vehicle were justified in the following ways:
 - a. it covered for the fuel used in the towing van as well as the wear and tear of the towing van;
 - b. the cost also depended on whether the car was insured, since the insurance company and the garage cost for towing a vehicle were all summed up and put as one bill for towing (insurance gets some money as well as garage). This made the price for towing an insured car higher;
 - c. the cost also depended on whether it's a company/organisation paying or an individual, because towing a vehicle for a company or organisation attracts more money than towing a vehicle for an individual. The tow service provided by Van Man Auto Works is 24/7 to its clients only.

15. In addition, on average the company towed at least 5 vehicles per month. ██████ Autoworks stated that some of the challenges the company faced related to none payment by some clients after their (client's) car had been towed. ██████ Autoworks further stated that the lack of capital to invest more in the towing service to enhance the business was another challenge, coupled with stiff competition from other well established towing companies.

16. ██████ Autoworks submitted that it was important for every garage in Zambia to have a mandatory towing service component. ██████ Autoworks further submitted that there was need to enhance advertisements for towing services and companies in order for the general public to be more aware.

17. According to ██████ Autoworks, when an accident occurs, the police are the first to be contacted at the accident scene, especially when there is fatality. Most of the towing vans were allegedly owned by police officers. ██████ Autoworks stated that in instances where there was an accident, the involved police officers would then call their towing vehicles to tow the vehicle (s) involved in accidents. In addition, in most instances, police officers charged high towing fees as most motorists were not aware of the towing fees. The police officers abused their influence of

being the men in uniform as most clients' assumption was that the police was protecting their needs and welfare.

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18. ██████████ submitted that their core business was motor vehicle repairs and the sale of motor spare parts and accessories. According to ██████████, the towing business was merely a secondary service that was being offered to customers. The company was registered with a few insurance companies who provide the company with the towing business. The company has been providing the towing service since 2010. The company currently owns one (1) tow truck which is only capable of towing small passenger vehicles of up to two (2) tonnes.
19. ██████████ are usually contacted with a recovery order by the insurance companies and directly by customers (usually referred by someone who has previously used their service) for direct clients. This method of communication has proved to be effective over the years. The company does not pay any money to the police or RTSA. The Company's towing business depends on the insurance companies and direct clients.
20. ██████████ charges a standard rate within Lusaka (25 Kilometre radius) of K 500. ██████████ further charge Insurance companies between K400 and K450 for the same distance because they (██████████) are contracted for 12 months by the insurance companies. The business with insurance companies formed the bulk of ██████████ business. For any towing services out of town (Lusaka), ██████████ charged an extra K15 per kilometre for which distance was calculated as one way only. The service is 24/7 to the general public. In addition, the company tows an average of 15 vehicles per month.
21. One of the challenges faced by ██████████ was, the fruitless trips made to clients that would have already resolved their (client's) need for towing services by the time ██████████ arrived at the scene. This challenge affected the profit of the towing services.

██████████ **Investment Limited**

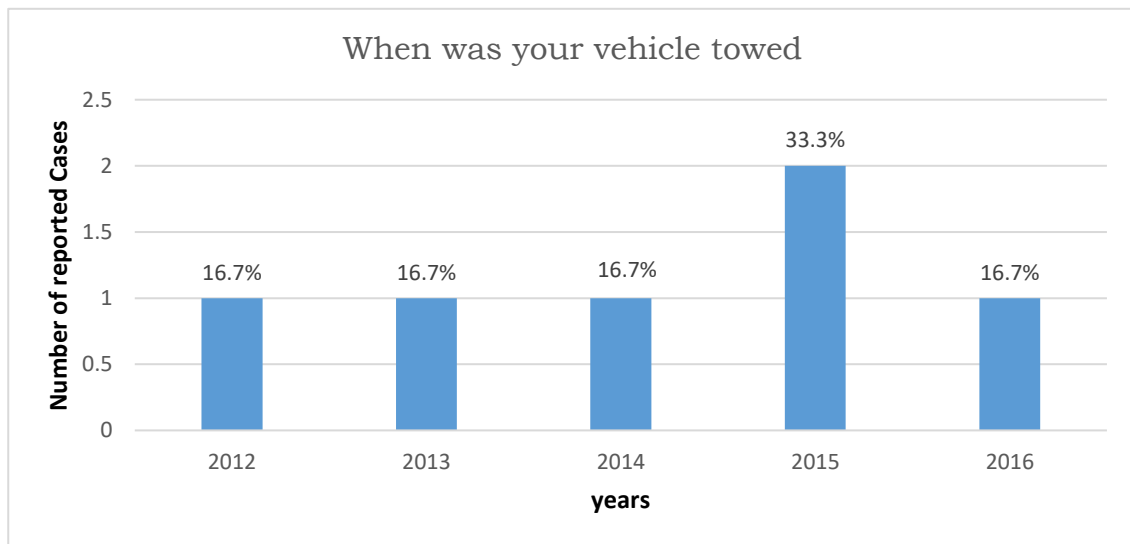
22. The core business of ██████████ Garage was the selling of salvaged vehicles on behalf of ██████████ Insurance Company. The garage has not yet been registered as a towing company, but provides towing services to clients insured under ██████████ vehicle insurance. The price for towing a vehicle

was determined according to the vehicle size as well as the agreed standard price within a distance of 25 kilometres. Beyond a distance of 25 kilometres, an extra K10 per kilometre. ██████ towed an average of 10 to 15 vehicles per month.

Submissions from the General Public on their experience with Towing Companies

23. The Commission ran Adverts in both print and electronic media inviting the general public to make submissions on their experiences with towing companies. The figure below shows the number of reported case from the year 2012 to 2016. The following were the findings by the Commission based on the submissions made by some members of the public.

Figure 1: Number of reported cases by year.



24. According to the findings, exorbitant prices have been charged to consumers since 2012. However, 33.3 percent of the Respondents (general public) who submitted their experiences with towing companies indicated that the incidents happened in 2015. Furthermore, the findings indicate that most of the towing incidents happened around the end and beginning of the years, usually during the festive seasons.

Table 2: Types of Vehicles Towed and Prices charged

Type of vehicle	Price	Distance covered ³
Honda CRV	K750	3 KM
Toyota Surf	K750	650 meters
Toyota Hilux	K1800	2 meters (vehicle was stuck in mud)
Spacio	K950	3.5 KM
RAV 4	K 800	5.7 KM
Isuzu	K500	600meters

25. According to table two (2) above, the Respondents reported that they were charged exorbitantly for towing services. This is despite the towing distances being short as shown in table above. Furthermore, all the Respondents submitted that during their incidents, the police officers were the ones that facilitated and communicated with the towing agents. Each of the Respondents interviewed submitted that they had no alternative at the scene of accident/ breakdown as only one towing agent was called by the police officer. The Respondents submitted that they had no other choice but to utilise the towing services called upon by the Police Officer, which was usually expensive.
26. According to table 3 below, each of the Respondents interviewed indicated to have experienced a similar situation and challenges. Furthermore, the Respondents made recommendations based on their experiences. All the Respondents indicated that the towing agents were contacted by the Police. This created the suspicion that the Police were part owners or wholly owned some towing service companies that were contacted. Further, the Respondents submitted that they were forced to pay exorbitant fees without any formal agreement with the service provider.

Table 3: Responses from the public on their experience with towing agents

RESPONDENTS	SITUATION	CHALLENGES	RECOMMEDATION
Respondent 1	Respondent had an	➤ Towing	➤ Regulate towing

³ Distances derived from the Google Map based on where the breakdown/accident happened to where the vehicle was towed as submitted by Respondents.

	<p>accident and rushed to the police station to report the accident. Unfortunately, the police officer could not go to the accident scene stating that they had no transportation to visit the accident scene. While reporting the case at the police station, the police officer called the towing agents to tow the Respondent's vehicle to the police station without his consent. After towing his vehicle, towing agents got the Respondent's car tyres and battery until he paid the amount charged. An additional payment term was imposed on him on the time he took to pay the amount charged.</p>	<p>agents lost one of the Respondent's tyres.</p> <ul style="list-style-type: none"> ➤ Respondent's original car tyres were switched with worn out tyres. ➤ Respondent was not given any option to choose a towing agent of his choice and one he could afford. 	<p>Companies/firms / agents.</p> <ul style="list-style-type: none"> ➤ Police should have a list of towing agents from which a client can select their preferred service provider whom they would be comfortable with.
<p>Respondent 2</p>	<p>Respondent's vehicle was stuck in the mud at Kabwe check point. The traffic officer called a towing agent to retrieve and tow the vehicle. He was charged exorbitantly and alleged that traffic officers owned the towing vehicle or get some commission for calling towing agent when their services are needed.</p>	<ul style="list-style-type: none"> ➤ Respondent stated that the person who ➤ was towing his vehicle did not seem to have known what to do when towing a vehicle. 	<ul style="list-style-type: none"> ➤ Towing Service providers need to be trained. ➤ Towing agents should be regulated and there should be a fixed and fair charge for towing services.

<p>Respondent 3</p>	<p>Respondent was involved in a road traffic accident. He then went to report the accident to the nearest police station (Emarsdale Police Station) only to be told that the police officer could not go to the scene due to lack of transport. When the Respondent went back to the accident scene, his vehicle was towed to Emarsdale Police station. The Respondent's car tyres and wheels were taken away as payment collateral.</p>	<ul style="list-style-type: none"> ➤ Respondent's tyres and battery which were more valuable than the amount charged were taken without any formal agreement. ➤ Respondent's vehicle was towed without his consent. 	<ul style="list-style-type: none"> ➤ Towing agents should be regulated.
<p>Respondent 4</p>	<p>When the Respondent had an accident, the police officer that was present at the accident scene facilitated for the towing firm/agents that towed the Respondent's vehicle.</p>	<ul style="list-style-type: none"> ➤ After the Respondent's vehicle was towed, the Police officer that facilitated for towing of the vehicle distanced themselves and did not assist the Respondent. 	<ul style="list-style-type: none"> ➤ There should be a toll free line so that motorists can have alternatives to choose from.
<p>Respondent 5</p>	<p>The Respondent's vehicle had a break down and his friend recommended a towing company. There was no negotiation as there were no alternatives to choose from.</p>	<ul style="list-style-type: none"> ➤ No options of other towing companies to choose from. ➤ No available fee/charge chart 	<ul style="list-style-type: none"> ➤ Register towing companies separately. ➤ Towing firms/agents should operate independently from the police.

Respondent 6	The Respondent had an accident in 2014 in which the police officer at the accident scene called a towing agent who charged the Respondent exorbitantly. The Respondent stated that the price charged was not equal to the distance covered as the distance covered was too short for a price charged.	<ul style="list-style-type: none"> ➤ No security for the vehicle. ➤ No chance to negotiate the price. 	<ul style="list-style-type: none"> ➤ Police should take accident details at the accident scene and leave the victim to take care of their vehicle in terms of towing it.
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Submissions from Insurance Companies

Insurance Brokers

27. According to Insurance Brokers (an insurance agent for General Insurance in car insurance), insurance companies simply facilitate towing services to motorist covered by the insurance company. The insurance company therefore would engage towing agents to tow the client's vehicle to a salvage yard or as recommended by the client.
28. According to the insurance policy clause, an insurance company will pay 30 per cent of the towing cost while the clients pay for the 70 percent of the towing cost on insured vehicles. Therefore, Insurance companies were also affected by the exorbitant fees charged by towing companies because their (insurance companies) clients were subjected to high towing fees.
29. According to Insurance Brokers, no motorist planned to have an accident or break down and hence it was not always that motorists would move with money to pay towing agents. Thus, the system of removing tyres and batteries from clients' vehicles as surety for towing companies/agents was not a good system all together.
30. Furthermore, Insurance brokers submitted that most towing vans were located at police stations. This was because the police officers are the ones who provide towing agents with information of accident scenes where towing services were needed. Insurance further alleged that some police officers owned towing vehicles while others (Police Officers) simply

got into contracts with towing agents to provide information (at a cost) on accidents.

Insurance Company

31. Insurance Company submitted that they only provided towing service covers for motor vehicles that had a comprehensive policy, and the owner had paid up front. For such clients, a 24 hour service card was given to them and the insurance paid for all the costs incurred in towing the client's motor vehicle. However, Insurance Company did not own any towing vehicle but had entered into a towing partnership with 4gees Garage in Lusaka.

Insurance Company

32. Insurance Company Limited submitted that the company covered 90 percent of the towing cost for all clients with motor vehicle covers. Insurance did not own any towing truck and had since entered into a contract with an unnamed garage in Lusaka that provided towing services. According to the Contract, the garage charged K555 within a radius of 25km and K2 777 for a radius of more than 25km.

Insurance Company Zambia

33. stated that they assisted their clients in need of towing by covering a maximum of K1, 000. If the cost in towing was more than maximum amount, then the rest of the cost would be covered by the client. has since partnered with Tow 365 to provide the tow services since does not own a towing truck.

Insurance Company

34. The Company submitted that they assisted clients in need of towing services. submitted that any clients that immediately informed the insurance company (of a break down were authorised to engage a towing company. The insurance company would the cover 100 percent of the cost. However, for clients that towed their vehicles and informed the insurance company later on (without authorizing the client to have the vehicle towed), would only cover a certain amount of the cost incurred by the client. submitted that they had since partnered with garages that provide towing services to the public such as .

Insurance Corporation

35. According to [REDACTED], they are still working on facilitating the towing process for their clients. At the moment, [REDACTED] does not aid in towing vehicles for its clients.

Submissions from the Police Service and Road Transport and Safety Agency (RTSA)

RTSA

36. According to the Road Transport and Safety Agency (RTSA), they provided towing services but did not charge any fee as they were mandated to keep the roads clear and safe for the public. RTSA could not charge any fee as they were still using CAP 464 (enacted before independence -1964) which had a negligible rate that of charging per kilometre. RTSA was providing the towing service to the public at no fee because the current Road Traffic Act No.11 of 2002 mandated the Agency to provide such (towing) services. RTSA had since made a proposal to the Government to review the Law to allow charges for service sustainability. The process had since reached an advanced stage between Cabinet and RTSA. RTSA had consulted towing agents such as Macfarlane and Mazhandu towing on the best Prices to consider in the proposal to Cabinet Office. Therefore, clients in need of the towing service could call RTSA on their toll free line, 983.
37. According to the representative from RTSA, he alleged that the police were involved in the towing business. He alleged that the police officers owned most of the towing vehicles or got a commission whenever they called towing agents to tow a vehicle from an accident scene.

Police Service

38. The Police submitted that they did not provide any towing service to the public as they are only mandated to do the following in case of a breakdown as summarized in the word COWS, where C; casualties, O; obstruction, W; witnesses, S; statements. Hence, towing by the Police Service only comes in because of their (Police) mandate to remove obstructions on the road. The police service simply facilitates the calling of the towing agents at the accident scene for free. The representative from the police further stated that if any police officer was getting any money from towing of vehicles, then the act was being done illegally. This is

because, all payments made and received by the police was receipted to government.

39. The representative from Zambia Police further added that the police service was aware of the exorbitant prices that consumers were being charged for towing a vehicle as the police had received such complaints as well. The Police submitted that, Zambia Police and RTSA were coming up with a policy to regulate the towing agents and set fixed prices on the market.
40. The table below shows how the Police Service and RTSA responded to the questions presented to them;

Table 4: Responses from RTSA and the Police

INQUIRY	RTSA	POLICE
Provide Towing service	Yes	No
Charges for service	No	No
Number of towed vehicles per month.	At least 20	—

Conclusion

41. The towing industry is not regulated and therefore the service providers have been taking advantage of customers by charging exorbitant prices, thereby exploiting the customers. This is also evident from the submissions made by some insurance companies and the police, indicating that customers were being charged exorbitant towing fees especially at accident or breakdown scenes where no option or alternatives were available to clients. RTSA are also aware of the exorbitant prices that consumers are charged for towing a vehicle as they have received complaints just like the Police.
42. The exploitation has not just ended at exorbitant towing fees but has seen members of the public lose their vehicle tyres and batteries which are taken as surety. Clearly, the towing industry needs normality and will require consented efforts from the relevant authorities in order to curb the exploitation currently happening in the tow industry.

Recommendations

43. Ministry of Transport should come up with a policy on how the towing industry should operate in Zambia. Experiences can be drawn from South Africa and other countries that have Tow Truck Industry Policies
44. There is need to fully regulate the tow sector, hence the process of enacting a new Act to regulate the tow industry should be expedited by RTSA and the Police with all stakeholders engaged.
45. RTSA and the Police should not be part of the players in the industry so that they can fully focus on regulating the industry and undertaking their mandate, COWS for the Police.
46. All players in the tow industry should be registered and motorist should be availed the information so that they are able to choose from the alternative service providers. It is only when the towing companies are all registered and are aware that they are competing among each other in a regulated market, will then prices eventually reduce.