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Competition at National and International Levels: Energy

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COMPETITION AT NATIONAL AND INTERNATIONAL LEVELS: ZIMBABWE ENERGY SECTOR

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1.0 INTRODUCTION

The commercial energy sector in Zimbabwe is made up of the electricity, oil, coal and to a very limited extent gas sub-sectors. The sector has been dominated by state owned agencies such as ZESA Holdings for electricity, National Oil Company of Zimbabwe (NOCZIM) for petroleum fuel and Wankie Colliery Company for coal. In the last few years, the energy sector has undergone major structural and regulatory reforms all driven by the desire to introduce some form of competition by facilitating entry of new players.

The other forms of energy, which this paper will not dwell on, but nevertheless, are rapidly assuming greater proportions are, solar, wood (used mainly by poor urban and rural households) and biogas.

This paper intends to describe and analyse the situation in each sub-sector in terms of the market structure, regulatory framework, market entry conditions, scope and/or level of competition and competition law enforcement.

2.0 ELECTRICITY SUB-SECTOR

The Zimbabwean electricity sub-sector, as in other countries was formed by vertically integrated business units. The production and distribution activities were concentrated in a state company. Government in 2003 reformed the electricity sub-sector through restructuring. A new Electricity Act was enacted to facilitate the restructuring process. The key objective of the reforms was to transform the sub-sector from a monopoly to an industry characterized by several unbundled units better suited to meet the growing demand of electricity. Another key element of the reform process was the privatization of the electricity sub-sector. The reform process also entailed the establishment of an independent regulator and the rural electrification fund to accelerate the pace of electrification in the country. The reforms are still in the initial phases and not much has happened so far in terms of introducing more players and competition.

2.1 Market structure

Historically, the electricity supply has been dominated by the Zimbabwe Electricity Supply Authority (ZESA), a state owned entity. The Electricity Act [Chapter 13:19] (the Act), as amended by the Electricity Amendment Act. No.3 of 2003 unbundled ZESA and completely changed its structure from a vertically integrated entity where as one company it had been responsible for the generation, transmission and distribution of electricity and instead created three successor companies namely; (i) Zimbabwe Power Company, involved in power generation (ii) Zimbabwe Transmission Company, involved in the installation of transmission network, and (iii) Zimbabwe Electricity Distribution Company responsible for the distribution of electricity. The Act also allowed for the setting up of companies to take over the non-regulated business of ZESA. These are, ZESA Enterprise (Pvt) Limited and Powertel also wholly owned subsidiaries of ZESA Holdings in which Government has a stake.
Following the implementation of the reform measures, the Electricity Supply Industry in Zimbabwe is now composed of the following entities;

- ZESA Holdings
- Two very small Independent Power Producers
- Regulatory Commission, and
- Rural Electrification Fund

The Government, as of now, has only allowed competitors in the generation of electricity with the aim of promoting and implementing competition. In that regard, the Commission has licensed two Independent Power Producers (IPP), Rusitu Power Company and Hippo Valley (Pvt) Limited that generate electricity for own requirements and sell excess to the Transmission Company. Various potential investors, local and international, electricity generating projects and discussions are in progress. Potential investors will have a choice of investing at the corporate level or individual projects.

The country has five main sources of power supply, viz:

- The coal fired Hwange Power Station, with installed capacity of 920 MW;
- The Hydro Kariba South Bank Power Station, with an installed capacity of 750 MW;
- The coal fired Munyati Power Station, with an installed capacity of 100 MW;
- The coal fired Bulawayo Power Station, with an installed capacity of 90 MW; and
- The coal fired Harare Power Station, with an installed capacity of 80 MW.

Power demand is projected to rise to over 2122 MW, against a production level of 1840 MW. The current level of local generation therefore falls far short of demand mainly due to a variety of constraints. Power imports are used to meet this gap and supplement seasonal variations. Zimbabwe has interconnections with other regional countries and power imports come from DR Congo, Zambia, Mozambique and South Africa. The thermal power stations require rehabilitation to boost the country’s electricity supply. Presently the country is only generating about 1020MW. Shortage of coal for the thermal power stations and lack of plant maintenance are some of the major constraints. Frequent droughts have also affected seriously hydroelectric power generation.

2.2 Regulatory Regime

The Ministry of Energy and Power Development is responsible for overall policy issues. The Electricity Act of 2002, as amended, established the Zimbabwe Electricity Regulatory Commission as a statutory body. The Commission became operational in 2005. The Act deregulated the electricity industry and allowed other players although initially in generation only.
The main functions of the Electricity Regulatory Commission are;

i. to set, monitor and approve operating standards
ii. establish appropriate consumer rights and obligations
iii. license and regulate players
iv. set tariffs
v. advise the Minister on electricity matters
vi. arbitrate and mediate disputes in the industry, and
vii. ensure fair competition in the industry and facilitate private sector participation.

2.3 Entry

The Act confers the Electricity Regulatory Commission the authority to fully regulate market entry. No operator can generate, transmit, distribute or import electricity even for own consumption without permission from the regulator. The permission is granted in the form of a license that stipulates strict rules of operation that have to be complied with by the licensee. So far two Independent Power Producers have recently entered the generation market.

The capital-intensive nature of the industry acts as a prohibitive factor and coupled with scarce foreign currency for the importation of machinery.

2.4 Scope for and/or level of competition

There is no meaningful competition at generation at the moment because the market share of the two independent generators is still insignificant estimated at about 1%. The industry is still prone to the exercise of market power given that ZESA is the dominant player. The situation is worsened by the existing capacity constraints in the face of increased demand for a service whose demand is inelastic. Imports still account for huge amounts (35%) of electricity consumption in the country.

The opening up of the industry promises vigorous competition in the industry as many potential investors have expressed interest in power generation. Although this may take a bit of time but the stage for a competitive environment has been set. The scope for import competition is also quite high in view of the ongoing liberalisation within the region. If other independent players get connected to regional networks and supply power more competition can be realized.

2.5 Competition Law Enforcement

The Electricity Act gives the regulator the broad mandate of promoting competition and monitoring possible abuse of market power. However the Electricity Act does not have specific provisions to deal with merger regulation, prevention and investigation of restrictive business practices in the industry. These fall within the purview of the Competition Act [Chapter 14:28], which is administered by the Competition Commission.
The Electricity Act has explicit provisions on how the Regulator relates to the Competition Commission. For instance, the part on competition and market power clearly states as follows:

“….The Commission shall be required to provide to the Competition and Tariff Commission any information or evidence of the presence of, or the possible development of, market power in the operation of the licensed undertakings or electricity markets.”

“….In the event that the Commission determines that there is any problem related to the development or unfair exercise of market power, it may-

“….issue such cease and desist orders as may be required…”

“….levy monetary penalties…”

“….refer the matter to the Competition and Tariff Commission for investigation”

“….the Commission shall not utilize its powers in terms of the above paragraphs except with the concurrence of the Competition and Tariff Commission.”

The Competition Commission has so far investigated one case of abuse of dominance in the electricity industry. In 2003 a complaint was made to the Competition Commission alleging that ZESA, was abusing its market position. The specific complaints were that ZESA was abusing its monopoly position by engaging in (i) excessive pricing (ii) disconnecting consumers without notice (iii) overcharging interest on outstanding bills (iv) demanding huge amounts as a condition to re-connect users (v) giving very low interest on security deposits and, (vi) frequent use of estimates in billings rather than meter readings.

The investigations established the existence of concerns in the industry. ZESA cooperated with the Competition Commission during the probe and agreed to negotiate an amicable settlement of the concerns. The main point, which came out of the investigations, was that most of the complaints arose from lack of communication between ZESA and its consumers.

The Competition Commission negotiated in terms of section 30 of the Competition Act, a consent agreement with ZESA and these negotiations culminated in the signing of an Undertaking. ZESA gave an undertaking that it would improve communication with consumers on matters affecting the supply and distribution of electricity. The Competition Commission’s intervention improved the situation in the industry and a consumer satisfaction survey subsequently undertaken by an independent firm confirmed that ZESA’s services had actually improved significantly.

3.0 OIL SUB-SECTOR

In the Zimbabwean context the oil sector basically refers to the main products such as motor fuels (diesel, petrol, paraffin etc) and lubricating oils (greases, motor and industrial oils). Zimbabwe does not produce crude oil and neither does it have refineries, all her motor fuel requirements are met from imports. For lubricants, the Government allocates
those companies involved with foreign currency to procure their raw materials for manufacturing/blending of lubricants and for limited imports of finished lubricants.

3.1 Market structure

Until about the late 1990s, four multinational companies dominated the oil sub-sector namely, BP & Shell, which in Zimbabwe operate as one company, Mobil, Caltex and Total. They are largely involved in the marketing and distribution of fuels as well as manufacturing/blending of lubricants.

In 2003 the Government further liberalized the sector and introduced a system of licenses which were issued to all those interested in importing fuel. Government therefore ceased through the National Oil Company of Zimbabwe (NOCZIM) to be the sole procurer. Before the liberalization, a Government procurement agency, NOCZIM was the sole procurer of fuel. It used to source fuel from overseas, South Africa and other areas and sell to registered oil companies for distribution from their depots and service stations to their commercial and individual customers. Each player can now import as long as it has an import license issued by the Government.

NOCZIM was tasked by the Government to go downstream to also own service stations and sell directly to customers. It also markets its products through service stations belonging to different owners and now has its own service stations and has a dealership arrangement with over 114 independent dealers to market their product. NOCZIM is now the third largest supplier of fuel in the country through these dealership arrangements. NOCZIM still has a duty of procuring and distributing fuel to the prescribed market, which constitutes Government (central and local), parastatals and farmers. This fuel is provided at a break-even point price. NOCZIM is also the only company that is allowed to maintain national reserves.

The lubricants market is a liberalised market. Government does not control prices or quantities produced in the market. The products are differentiated, with each producer having its own brand. The Government through the central Bank allocates those companies involved with foreign currency to procure their raw materials. Most of the raw materials used for the production of lubricants are imported and are blended locally to produce specific brands.

3.3 Regulatory Regime

The sector regulator is the Ministry of Energy and Power Development, which deals mainly with policy issues. The Ministry is responsible for licensing players and ensuring compliance with industry standards. The Ministry is also responsible for setting up of fuel prices and margins that are applied in the oil industry.

The long-term intention is to establish an independent regulator whose function will be similar to those of the Electricity Regulator or simply broadening the mandate of the Commission to cover the entire energy sector.
3.4 Entry

There are no stringent regulatory barriers following the liberalization of the sector. The major determinant factor now is availability of foreign currency to import the product. Storage and retailing facilities are easily accessible through either leasing or hiring arrangements. As discussed later in the paper, some of the conditions imposed by the Competition Commission when it considered mergers in the sector assisted small players to have access or buy their own facilities.

Several licenses have been issued and to date, it is estimated that over 150 licenses have been granted to various enterprises. Some of the new entrants have managed to grow into big oil companies. The Central Bank issue foreign currency directly to these fuel importers. This decision permitted importation of additional fuel from various new channels, further increasing competition on the market.

3.5 Scope for and/or level of competition

The opening up of the industry increased competition. Although some of the over 150 licensed operators are either not operating at full capacity or temporarily ceased operations due to lack of foreign currency and capital, the existing level of competition is much better than the pre-liberalisation era.

For instance, as illustrated in the table below, the sector changed from a four-firm industry to a multi-firm industry with both the HHI and CR4 concentration measures showing moderate concentration levels. The situation in the industry is expected to change slightly following the merger of Total and Mobil, which is still under implementation.

<table>
<thead>
<tr>
<th>Supplier</th>
<th>Service Stations</th>
<th>Market Share</th>
<th>Square Of Market Share</th>
<th>Four Largest Shares</th>
</tr>
</thead>
<tbody>
<tr>
<td>BP and Shell</td>
<td>153</td>
<td>29.4</td>
<td>862.4</td>
<td>29.4</td>
</tr>
<tr>
<td>Caltex</td>
<td>78</td>
<td>15.0</td>
<td>224.1</td>
<td>15</td>
</tr>
<tr>
<td>Mobil Oil</td>
<td>73</td>
<td>14.0</td>
<td>196.3</td>
<td>14</td>
</tr>
<tr>
<td>Total Zimbabwe</td>
<td>69</td>
<td>13.2</td>
<td>175.4</td>
<td>13.2</td>
</tr>
<tr>
<td>EXOR</td>
<td>23</td>
<td>4.4</td>
<td>19.5</td>
<td></td>
</tr>
<tr>
<td>Wedzera</td>
<td>18</td>
<td>3.5</td>
<td>11.9</td>
<td></td>
</tr>
<tr>
<td>COMOIL</td>
<td>17</td>
<td>3.3</td>
<td>10.6</td>
<td></td>
</tr>
<tr>
<td>Country Petroleum</td>
<td>7</td>
<td>1.3</td>
<td>1.8</td>
<td></td>
</tr>
<tr>
<td>NOCZIM</td>
<td>5</td>
<td>1.0</td>
<td>0.9</td>
<td></td>
</tr>
<tr>
<td>Engen</td>
<td>3</td>
<td>0.6</td>
<td>0.3</td>
<td></td>
</tr>
<tr>
<td>Others</td>
<td>75</td>
<td>14.4</td>
<td>75.0</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>521</td>
<td></td>
<td></td>
<td>HHI=1578         CR4 = 71</td>
</tr>
</tbody>
</table>

Market shares in the fuel sector (2005)
The industry is characterized by lack of price competition. Even before the liberalization of the sector, the traditional players were mainly involved in non-price competition. The prices they were charging were basically the same with marginal differences in some cases.

Distribution of Bulk Storage Facilities in the Fuel Sector (2005)

<table>
<thead>
<tr>
<th>Company</th>
<th>Number of Depots</th>
<th>Number of Service Stations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobil Oil Zimbabwe</td>
<td>10</td>
<td>73</td>
</tr>
<tr>
<td>Caltex Oil Zimbabwe</td>
<td>9</td>
<td>78</td>
</tr>
<tr>
<td>BP and Shell</td>
<td>8</td>
<td>153</td>
</tr>
<tr>
<td>Total Zimbabwe</td>
<td>7</td>
<td>69</td>
</tr>
<tr>
<td>Exor</td>
<td>4</td>
<td>23</td>
</tr>
<tr>
<td>Other Indigenous Oil Companies</td>
<td>6</td>
<td>103</td>
</tr>
</tbody>
</table>

The major hindrance to competition has been price control by Government. By controlling the retail price Government will be forcing players to sell fuel at uniform prices. However, this has been ineffective because the players are no longer sourcing fuel from Government depots but wherever it is available and sometimes at exorbitant prices.

There is great scope for import competition since fuel is all imported. New players including foreign investors can come in and compete on the domestic market without any restrictions on licensing.

3.6 Competition Law Enforcement

Although the regulator is a Government Ministry, the Competition Commission has powers to enforce competition issues in the sector. However, the Ministry is consulted like any other stakeholder when the Competition Commission is dealing with cases in the oil sector.

For instance, in 2004 and 2005 when the Competition Commission examined mergers in the oil sector the Ministry was consulted. Below are summaries of the merger cases examined in the sector;

Merger of BP & Amorco

In January 2001, BP Zimbabwe (Pvt) Limited formally applied to the Commission in terms of section 35 of the Competition Act (Chapter 14:28) for authorization of its proposed merger with Castrol Zimbabwe (Pvt) Limited. BP Amoco, the parent company of BP Zimbabwe, had acquired in July 2000 an 86% shareholding in Burmah Castrol International, the parent company of Castrol Zimbabwe (Pvt) Limited. A joint venture between BP Africa (UK) and Shell Petroleum Company (UK), which had resulted in the
formation of BP & Shell Marketing Services (BPSMS), was already in place. BPSMS owned 50% apiece of the shares in BP Zimbabwe and Shell Zimbabwe.

It was noted that BP Zimbabwe’s business was in fuel distribution and marketing on one hand, and the blending and marketing of lubricants, on the other hand, while that of Castrol Zimbabwe was in the blending and marketing of lubricants. Since the product area of overlap between the merging parties was lubricants that was identified as the relevant product market under examination. In that market, BP & Shell Marketing Services had a market share of 36% in terms of turnover while Castrol Zimbabwe had a 14% market share. It was however found that while the merger was to increase concentration in the relevant market, with the merged entity having a combined market share of 50%, the market was contestable with relatively ease of entry. No prospects of material reduction in competition in the market, through either abuse of dominance, or monopolization, or coordinated practices between competitors, were envisaged. It was also found that both the merging parties owned and operated lubricant blending plants that were also being used by other companies in the lubricants industry.

It was also noted that the merger had some perceived benefits associated with it. BP Zimbabwe had strong fuel customer base while Castrol Zimbabwe specialized in lubricants. The marriage of the two would bring together two well-established brands, thereby providing a one-stop shop for customers and enjoyment of critical mass by the merged entity. The merger would therefore result in reduction of processing costs by 28%, in a reduction in jobs in the interim by 22%, in the reduction of total operating budget by 34% and an increase in productivity by 69%. Capacity utilization was also expected to go up by 80%.

The Commission authorized the merger on condition that the merged entity disposes of one of its two lubricant blending plants to a third party interested in effectively entering the lubricant blending and marketing market.

Merger of Total and Mobil.

In September 2005, the Commission received notification in terms of section 34A of the Competition Act, 1996 of the proposed merger of Total Zimbabwe (Pvt) Limited and Mobil Oil Zimbabwe (Pvt) Limited. The notification was made following the global merger of the merging parties’ parent companies, Total Outre-Mer of France and ExxonMobil Corporation of the United States of America. Both the local merging parties, Total Zimbabwe and Mobil Oil Zimbabwe, are involved in the marketing of petroleum products (petrol, diesel, Jet fuel, illuminating paraffin and lubricants) in the country, and also own depot infrastructure for the storage of the products and service stations for product retailing.

The relevant product market was identified as the distribution of white petroleum products (namely leaded and unleaded petrol, diesel and illuminating paraffin) and the supply of Jet fuel and lubricants through depot and service station infrastructures. In that market, the merging parties had a combined post-merger market share of 27% in the
distribution of white petroleum products (second to BP & Shell’s 29% market share), 35% in the supply of Jet fuel (BP & Shell’s) 65%) and 5% in the lubricants market (BP&Shell’s 45% and Caltex Oil’s 10%).

It was noted that while all the relevant markets were concentrated, the merging parties did not dominate those markets, with other oil companies such as BP & Shell and Caltex Oil having larger shares of most of the markets. The merger of Mobil Oil Zimbabwe and Total Zimbabwe would therefore not reduce or lesson competition substantially in the markets, nor would it result in a monopoly situation. It was however also noted that stakeholder concerns had been expressed over the fate of the business arrangements (such as hospitality arrangements, supply arrangements, dealership arrangements, etc) that the target firm, Mobil Oil Zimbabwe, had with other small players in the industry. The fate of excess depots and services stations to arise from the merger was also of great concern to stakeholders.

The Commission therefore approved the merger on condition that the acquiring party, i.e. Total Zimbabwe (Pvt) Limited, give a written undertaking that:

i) it will honour all current agreements that Mobil Oil Zimbabwe (Pvt) Ltd has with other industry players on the use of Mobil Oil’s assets for their operations, including hospitality arrangements, supply arrangements, contract arrangements and dealership arrangements, to ensure the maintenance of competition in the relevant markets; and

ii) it will dispose of to interested indigenous entrepreneurs as going concerns and at market prices all excess depots and services stations arising from the merger.

Both mergers were approved with conditions meant to facilitate new entrant and widen ownership by requiring parties to sell excess facilities to interested small local investors. According to a recent evaluation of the impact of mergers and acquisitions in Zimbabwe conducted by the Competition Commission it has been shown that these transactions benefited small local investors who bought the excess facilities.

4.0 COAL SUB SECTOR

Coal has significant uses in the agriculture and industrial sectors of the economy. It is mainly used for curing tobacco and in the thermal power stations and for heating up industrial boilers. There are limited deposits of high value coal and considerable low-grade reserves. The coal reserves are both underground and opencast depending on the overburden depth.

4.1 Market structure

Wankie Colliery is currently the leading coal producer in Zimbabwe and supplies the nation’s requirements, except low sulphur coal and coke, which are imported, in small quantities. It accounts for about 98% of the market and the second coal project by Rio
Tinto Zimbabwe that produces a different type of coal that is not widely used accounts for the balance. Over 90% of the production is consumed locally.

The producer distributes coal to its customers either direct or through appointed coal merchants. Appointed coal merchants are members of the Coal Distributors Association which is an extension of Wankie’s marketing arm. Although there is one player at the production level there are thirteen merchants located at different major centers of the country.

4.2 Regulatory Regime

The sector regulator is the Ministry of Energy and Power Development, which deals with policy issues and general industry operations. Like in the oil sector, the long-term intention is to establish an independent regulator to oversee industry operations.

As in any other sector, the Ministry is regarded as an important stakeholder when the Competition Commission is dealing with cases in the coal industry.

4.3 Entry

Although there are no restrictive regulations prohibiting entry by other players, the industry has had one dominant player for a very long time due to structural entry barriers. Large capital requirements in the form of mining equipment, coal crushing plants and coke burning ovens frighten new potential players.

4.4 Scope for and/or level of competition

There is no real competition at the production level since there is only one dominant player at the moment. The scope for import competition is very limited given the nature of the product. Transport costs would be prohibitive.

Although there are about thirteen players at the distribution level competition is very limited. All coal distributors source coal from one supplier and any price increases effected at production level will automatically translate into increases at the distribution level and will be passed on to consumers. Also, some geographic zones, are only served by one coal distributor creating some kind of spatial monopolies in those areas.

Coal deposits exist in the country and the major constraint is capital. Massive capital injection would be required to support new entrants.

4.5 Competition Law Enforcement

The regulator is the Ministry of Energy and Power Development but the Competition Commission has powers to enforce competition issues in the sector. The Ministry is widely consulted whenever the Competition Commission is dealing with cases in the coal sector.
In 2001 the Competition Commission handled a case in the coal industry following complaints of abuse of dominance by the sole producer. It undertook a full-scale investigation in terms of section 28 of the Competition Act [Chapter 14:28].

Allegations of restrictive practices in the distribution of coal on the local market brought to the attention of the Commission included the following:

- that Wankie Colliery Company (WCC) was putting barriers to entry into the coal distribution industry and was not applying its requirements for appointment as a Coal Merchant in a fair and transparent manner;
- that WCC was unfairly allocating coal, particularly the popular washed peas grade, amongst the appointed Coal Merchants;
- that WCC was abusing its monopoly position in the supply of coal on the local market by arbitrarily imposing exorbitant coal price increases;
- that bottlenecks in the transportation of coal from the Colliery by rail, which is the most economical method of coal transportation, were contributing to the shortage of the product on the local market.

The Commission’s investigations identified a lot of problems in the supply and pricing of the product. While all the problems identified in the industry were found to have serious competition implications, it was also found that their causes were both of a micro and macro nature, especially the existing negative macro-economic fundamentals.

The following were the investigation’s specific findings:

- that WCC allowed the bad blood created between its management and that of RAE (Pvt) Limited to influence its treatment and determination of RAE (Pvt) Ltd’s application for appointment as a Coal Merchant;
- that the zoning provision in WCC’s Memorandum of Agreement with its appointed Coal Merchants (which had since been removed) created an anticompetitive market-sharing cartel in the coal distribution industry;
- that WCC was abusing its monopoly position in the local coal industry by engaging in conditional selling of its popular washed peas grade to move its other less popular coal grades;
- that save for the conditional selling of its washed peas coal grade, the WCC was not engaged in other anticompetitive practices associated with abuse of monopoly position;
- that the investment made by WCC in a new coal crushing and screening plant at the Colliery will go a long way in alleviating the acute shortage on the local market of the popular washed peas coal grade;
- that WCC is already discussing the coal supply and distribution problems with various stakeholders such as the Zimbabwe Iron and Steel Company (ZISCO), the National Railways of Zimbabwe (NRZ) and other major coal consumers with a view to finding solutions to those problems;
that most of the problems in the local coal industry could be adequately addressed if that industry is included under the proposed Zimbabwe Energy Regulatory Commission.

The following were the Commission’s decisions on the matter, based on the findings of its investigation.

i. That WCC should resume and complete within thirty days its consideration of RAE (Pvt) Limited’s application for appointment as a Coal Merchant on the basis of its Requirements for Appointment as Coal Merchant already submitted and full reasons of the decision taken, should be communicated to the Commission before being implemented; and.

ii. That WCC should disengage itself from the restrictive practice of selling any of its grade of coal on condition that the buyers also purchase any other grade (low grade) of coal.

iii. The Commission requested WCC in terms of section 30(1) of the Act to give a formal Undertaking to the effect that it will not re-introduce market-sharing provisions in its Memorandum of Agreement with appointed Coal Merchants or any other coal merchants, and to continue discussion with other stakeholders the identified problems in the distribution of coal with a view to reaching amicable solutions to those problems.

iv. The Commission recommended to the then Ministry of Mines and Energy that the coal industry should be included under the proposed Zimbabwe Energy Regulatory Commission and that the Competition Commission be consulted on competition issues in the establishment of that regulatory authority.

The Commission issued cease and desist orders and signed a binding Memorandum of Undertaking with Wankie Colliery Company. Preliminary results of an evaluation of the impact of the Commission’s decisions currently underway have shown that the orders were effective in correcting the market problems.

5.0 GAS/METHANE

There is no production of natural gas in Zimbabwe at the moment. Gas is not widely used in our industries and domestic areas. The limited amounts of special gas available for use in the mining, engineering, manufacturing and medical fields is imported mainly by one private company. Simple gases such as acetylic used for welding are largely produced locally by one private company.

Studies conducted so far have identified trace elements of methane deposits. However further explorations are required in order to establish quantity and viability. A methane gas project funded by donors is still under feasibility studies. It has reached advanced stages and operations are expected to commence soon. It is estimated that the project requires about US $ 200 million to commence operations.

The sub-sector is an open one and anyone with foreign currency and storage and delivery facilities can import.
6.0 CONCLUSION

This paper has noted and highlighted the recent developments in the Zimbabwe energy sector, and on this basis, one can reasonably expect to see in the short to medium term meaningful competition. To underpin this competitive environment, further reforms would be necessary particularly in the coal and electricity sub-sectors which are highly concentrated and do not have at the moment independent regulators.

The lack of new investment in power generation and coal mining are cause for serious concern. The biggest challenge is to create a conducive environment in order to attract new investment. Without this new investment it would be rather difficult for the existing entities to satisfy demand, which presently far outstrips supply.

This paper also noted that electricity generation and coal mining are prone to the exercise of market power due to a combination of factors. The competition cases investigated (abuse of dominance cases) by the Competition Commission in these industries aptly demonstrate this point. Faced with concerns over market power abuses, there is need for effective competition law enforcement to mitigate market power. The Competition Commission needs therefore to put these industries under constant surveillance. However, as generally observed and agreed in many countries, the lasting and effective solution lies in undertaking appropriate structural reforms.

Based on the experience of other countries that have implemented similar structural reforms in these industries, considerable scope for introducing competition in these industries exists.