

The algorithm will see you now: Competition Regulators turn to AI to catch bid-riggers

7 October 2026 7 min read

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For decades, the detection of cartels has been heavily reliant on a familiar trinity: the leniency applicant who breaks ranks, the disgruntled employee who blows the whistle, and the dawn raid that turns up the incriminating notebook. That model is changing. Competition authorities around the world are now deploying artificial intelligence (AI) tools to sift through procurement data to detect statistical fingerprints of collusion. This follows a global trend of competition agencies across the world making use of AI tools to detect bid-rigging. It was only a matter of time until South Africa followed in these footsteps.

The South African development

It is reported that the South African Competition Commission is in the process of developing an AI tool to help identify suspected bid-rigging in the local public procurement industry. Commissioner Doris Tshepe told Parliament's Select Committee on Economic Development and Trade on 30 September 2026 that the tool would assist the Commission in identifying potential cartel conduct in electronic public procurement. The tool is reportedly being developed with the assistance of the Competition and Consumer Commission of Singapore and AI specialists at the University of Pretoria.

This is a logical step considering that countries such as Singapore, Pakistan and Brazil have experienced much success with tools of a same kind, this is according to the Stanford Computational Antitrust's Fifty Cross-Agency Report which was published in September 2026.

Collusive tendering is one of the forms of horizontal conduct prohibited outright under section 4(1)(b)(iii) of the Competition Act 89 of 1998, and public procurement has long been a priority enforcement area for the Commission. Importantly, the raw material for such a tool already exists: National Treasury publishes procurement data captured through the eTender portal, covering procurement plans, tenders, awards and contracts, in open, reusable formats.

What the rest of the world is doing

The Commission's initiative places South Africa within a clear and accelerating international trend.

- **United Kingdom.** The CMA launched an algorithm-based "Screening for Cartels" tool for public procurers in December 2017, designed to flag unusual bidder behaviour and pricing patterns. That downloadable tool was withdrawn in 2020, and the CMA has since built an in-house capability, the Bid Rigging Intelligence Tool (BRIT), which it describes as offering cutting-edge capabilities to analyse public-sector data at scale. In September 2026 the CMA's Chief Executive estimated that bid-rigging could be costing UK taxpayers between £1 billion and £3.5 billion a year, and the CMA's Annual Plan 2026 to 2027 commits to using AI and other data science tools to scan bidding data and identify illegal activity at scale. Notably, the deterrent stakes have risen: under the Procurement Act 2023 debarment regime, cartelists face inclusion on a central debarment register and exclusion from public tenders for up to five years.
- **Spain.** The Spanish competition authority (CNMC) has built its own procurement database and screening tool, BRAVA (Bid Rigging Algorithm for Vigilance in Antitrust), drawing on data that includes losing bids. The CMA reports that the CNMC claims a classification success rate of at least 90%, and that the CNMC has begun developing ATENEA, an agentic reasoning system to analyse and interpret data flagged by BRAVA.

- **Brazil and others.** According to the CMA, the Brazilian competition authority receives procurement data directly from public bodies, allowing it to apply AI screens to detect cartels. The CMA has also pointed to Portugal and Korea as jurisdictions using data screening tools to find suspicious patterns at scale, and the 2022 compendium referred to similar initiatives in Australia, Canada and the United States.
- **European Union.** In its 2021 Notice on tools to fight collusion in public procurement (2021/C 91/01), the European Commission encouraged Member States to collect and analyse large volumes of electronic procurement data, "possibly using algorithms, artificial intelligence algorithms or machine learning", and to give competition authorities access to procurement databases. At the enforcement level, the Commission's DG Competition has invested in data analysis capability for its ex officio cartel detection work, run machine-learning proofs of concept to support investigations, and leads AI literacy initiatives to ensure that AI is applied safely and effectively in enforcement.

The lesson from abroad: data is everything

The single clearest message from the international experience is that an AI tool is only as good as the data it is fed. The CMA has been candid that BRIT cannot reach its true potential because, unlike in many other countries, losing-bid data is not routinely collected in the UK or made available in a consistent, machine-readable format. Spain's success, by contrast, rests on a legal requirement to collect specified information about all participating tenderers.

For South Africa, the success of the Commission's tool will therefore depend less on the sophistication of the algorithm and more on the completeness and quality of the procurement data, including bids by unsuccessful tenderers, pricing detail and bidder ownership information, and on the degree of cooperation between the Commission, National Treasury and organs of state at national, provincial and municipal level.

Questions of fairness and governance

The use of AI by a regulator also raises legitimate questions. An algorithmic flag is a screening signal, not evidence of contravention. Firms may legitimately ask how a tool was trained, what thresholds it applies, and whether its outputs are being treated as a basis for initiating complaints, conducting searches or applying for information. Internationally, regulators are mindful of these concerns: the Commission's 2021 Notice repeatedly emphasises compliance with data protection law, and the EU AI Act (Regulation (EU) 2024/1689) now imposes a governance framework on certain uses of AI, including by public authorities. In South Africa, the Protection of Personal Information Act 4 of 2013 will be relevant where personal information is processed, and the constitutional requirements of lawful, reasonable and procedurally fair administrative action continue to apply. We would expect the Commission to keep a human investigator firmly in the loop, and to be transparent about the role played by the tool in any proceedings.

What this means for business

Companies that tender for public contracts, and their advisers, should take note:

- Detection risk is rising. Cartel members can no longer assume that conduct will only come to light if a co-conspirator applies for leniency. By way of example, the Swiss Competition Authority has shared that the use of AI tools to detect bid rigging has reduced its reliance on whistleblower information to investigate alleged cartels. Patterns such as bid rotation, cover pricing, consistent price gaps and geographic allocation are exactly what screening tools are designed to detect.
- The leniency calculus changes. As the probability of independent detection increases, the value of being first through the door under the Commission's Corporate Leniency Policy increases with it. Firms that discover historic misconduct should obtain advice promptly.
- Compliance must be data-aware. Compliance programmes should include periodic reviews of a firm's own tendering history, careful control of contacts with competitors (including in joint ventures, subcontracting and consortium bids), and documentation of independent bid determination.
- Consequences go beyond fines. Beyond administrative penalties of up to 10% of turnover, bid-rigging can expose firms to procurement exclusions, civil damages claims and, for directors and managers, criminal liability under section 73A of the Competition Act.

Conclusion

The Commission's AI initiative, developed with international and academic partners, reflects a global shift from reactive to proactive cartel enforcement. If properly resourced, supported by good-quality procurement data and applied with appropriate safeguards, it has the potential to change the risk profile of public procurement in South Africa significantly. For firms that participate in public tenders, the time to review competition compliance is now, before the algorithm does it for them. In our view, this signals the beginning of a new era for competition compliance in South Africa, mainly that AI tools will have a meaningful impact on the enforcement of competition law against anti-competitive practices. What lies ahead, however, remains to be seen.



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