



# **PRESS RELEASE**

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## **DECISION BY COMPETITION AND FAIR TRADING COMMISSION ON ALLEGED RESTRICTIVE BUSINESS PRACTICES BY MALAWI BUREAU OF STANDARDS AND DIRECTORATE OF ROAD TRAFFIC AND SAFETY SERVICES ON IMPORTATION AND SUPPLY OF RETRO- REFLECTIVE BLANK NUMBER PLATES INTO MALAWI**

The Competition and Fair Trading Commission (CFTC) held its 61<sup>st</sup> meeting on 28<sup>th</sup> March, 2022. Among others, the Commission made a decision on alleged Restrictive Business Practice by Malawi Bureau of Standards (MBS) and Directorate of Road Traffic and Safety Services (DRTSS) on importation and supply of retro- reflective blank number plates into Malawi. Below is a summary of the determination made by the CFTC.

Following investigations, the Commission found that on 14<sup>th</sup> April, 2016 Bulldog (the Complainant) was granted a licence by DRTSS to import number plate blanks from Yiwu Traffic Signs Ltd only. Bulldog proceeded to import 6,000 number plates on the strength of approval from DRTSS and the pre-shipment sample approval from MBS. The consignment arrived on 1<sup>st</sup> December, 2016.

On 13<sup>th</sup> December, 2016 MBS issued an imports monitoring report to Bulldog which declared that the pre-shipment sample received on 1<sup>st</sup> December 2016 had failed the test under MS639-1. Although the Complainant alleged that the pre-shipment sample

submitted in 2011 was the same as the consignment in 2016, the Commission found that they were different as they failed on different parameters. The Commission also found that although the Complainant alleged that they were tested under different versions of the MS639-1 Standard, the Commission found that the 2011 and 2013 versions of the MS639-1 standard were the same. The Commission thus found that there was no discrimination in the application of standards in that regard towards the Complainant.

The Commission pursued the matter since the alleged conduct by the Respondents appeared to contravene Section 32(1) of the Competition and Fair Trading Act (CFTA).

The Commission however found that in spite of the fact that Bulldog, MOVESA and other competitors all failed conformance tests under the MS639-1 Standard during the same period, only MOVESA was allowed to import a consignment that had failed a conformance test. The Commission found that the reasons given for having granted a waiver to MOVESA only to do so were unlawful and unjustifiable resulting in MOVESA being granted unfair advantage against its competitors.

The Commission found that DRTSS engaged in anticompetitive conduct by taking steps to seek a waiver from MBS on MOVESA's behalf on the alleged grounds that if the waiver was not given there would be a shortage of number plates in the country and yet all the other competitors who had also failed the conformance tests could have also done so (though not lawfully as they had also failed the conformance test). Further, the Commission found that the reason for seeking a waiver on MOVESA's behalf was simply to allow MOVESA not to incur losses for 65,000 number plates that had already been bought and whose pre-shipment sample had failed.

The Commission also found that MBS engaged in anti-competitive conduct in granting the waiver to MOVESA in that it did so simply because DRTSS requested it to do so without any other reasons and in spite of the fact that it had already communicated to MOVESA that they could not allow them to import a consignment into Malawi whose pre-shipment sample had failed as the Malawi Bureau of Standards Act did not allow them to allow importation of products that did not conform with mandatory standards.

The Commission found that the actions of MBS and DRTSS were in contravention of Section 32(1) of the CFTA.

The Commission also noted with concern that for many years MOVESA had been the sole provider of number plate blanks in the country and it is only in recent times that another supplier was also engaged.

Following the finding of liability, the Commission issued the following orders against the Respondents:

- i. MBS and DRTSS should each pay a fine of MK500,000.00 for engaging in anti-competitive conduct.
- ii. MBS and DRTSS should cease and desist from engaging in anticompetitive conducts in the enforcement of standards regarding the importation of blank number plates in Malawi.
- iii. MBS and DRTSS should comply with and enforce enacted legislation and/or approved procedures in the regulation of the importation of blank number plates in Malawi.
- iv. The Commission should refer this matter to the Anti-Corruption Bureau to investigate if there was any corruption that took place in the granting of the waiver to MOVESA in the supply of number plates.

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