NATIONAL CONSUMER COMMISSION

a member of the dti group

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Media Statement

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The National Consumer Commission slaps Ford Motor Company of Southern Africa with a fine of R35M.

The National Consumer Commission ('NCC') has entered into a settlement agreement with the Ford Motor Company of Southern Africa (FMCSA) slapping the company with an administrative fine of R35M in terms of Section 112 of the Consumer Protection Act. This was after Ford acknowledged that it contravened the Consumer Protection Act (CPA). This follows complaints of in relation to the Kuga 1.6L Eco-boost that were combusting either whilst driven or parked.

The Commission investigated the conduct of FMCSA after receiving 160 complaints from consumers who alleged that their consumer rights were infringed by the company.

NCC's Acting Commissioner Ms. Thezi Mabuza says "our investigation into these allegations confirmed that Ford had engaged in prohibited conduct by distributing Ford Kuga vehicles that failed/could have failed as a result of a cooling system failure. This meant that the failure of the cooling system rendered the vehicles not suitable for the purpose for which they were generally intended and this resulted in the vehicles being unsafe at the time of the fires".

Earlier this year the Commission announced that it will file papers at the National Consumer Tribunal and instructed its attorneys to prepare papers. During that process, FMCSA approached the Commission initiating the negotiations. The CPA empowers the

Commission to negotiate and conclude undertakings and consent orders. Acting Commissioner stated: “I can confirm that the Commission and FMCSA have entered into a settlement agreement which will be filed in the Tribunal and made an order of the Tribunal.”

In summary, the terms agreed upon are the following:

1. Ford’s acknowledgment that it is liable for harm in terms of Section 61(1)(b) of the CPA.
2. Whilst Ford has already compensated the owners / drivers of Kuga vehicles that burned, further compensation has been offered.
3. Consumers have been offered 3 compensation options:
   - **Option one:** A payment of R50 000.00 (Fifty Thousand Rand) each for those consumers who were owners of or in lawful possession of a Kuga FMCSA vehicle which combusted and as a result suffered a loss as contemplated by Section 61(1) read with Section 61(5) of the CPA. The payment of the said sum will, should the consumer elect to accept it, be in full and final settlement of all claims that the consumer may have against FMCSA as a result of the damaged or recalled Kuga vehicles.
   - **Option two** is if a consumer whose Ford Kuga burned, believes that he/she is entitled to compensation in excess of R50 000, then the consumer may submit a claim against FMCSA in terms of Section 61 of the CPA. The Commission understands that arguing damages claims in court can be costly, hence it was agreed that Adv. Terry Motau SC would provide alternate dispute resolution services as contemplated by Section 70(1)(c) of the CPA;
   - **Option 3:** A consumer may choose to reject option 1 and 2 and proceed to prove damages in court.

“We will communicate with the individual consumers who filed their complaints with the Commission to determine the route they elect and to provide any guidance should they so require on the claims process” concludes Mabuza.

Ends

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