

**IN THE FAIR COMPETITION TRIBUNAL  
AT DAR ES SALAAM**



**TRIBUNAL APPEAL NO. 13 OF 2018**

**AIRTEL TANZANIA LTD.....APPELLANT**

**VERSUS**

**TANZANIA COMMUNICATIONS REGULATORY  
AUTHORITY (TCRA).....RESPONDENT**

**RULING**

After the prayer for fixing the matter to come for mention today so as the alleged application for discovery can pave way was declined, the appeal was ordered to proceed for hearing. However, the counsel for the Appellant was not ready for the hearing instead invited the Tribunal to draw issues, schedule the number of witnesses and the mode of hearing the appeal. The Tribunal declined the invitation with a reason that the appellant filed its appeal with seventeen grounds of appeal which the other party responded to them and that the issue of calling additional witness or expert witness is within the discretion of the Tribunal as per the provisions of Rule 35 of the Fair Competition Tribunal Rules GN No. 219 of 2012. In that regard, the counsel for the appellant prayed for a one week's adjournment so that he can

consult his client. The prayer was heavily objected by the respondent as the respondent was prepared for hearing and see no reason advanced for the adjournment.

Indeed, there is no justifiable reason for the adjournment of the hearing of the appeal. As hinted herein earlier, the appeal is fixed today and the appellant seems not to be interested to proceed with the hearing because he had first sought for the matter to be mentioned instead of hearing and now is asking for adjournment so as to consult his client. It be noted that the appeal was lodged by the appellant itself and it has advanced seventeen (17) grounds of appeal. The appellant was duly served with the notice of hearing and that is why today it appeared through its counsels but we are surprised to be told by the counsel that he needs further consultation from his client while the counsel is fully aware that the appeal is coming today for hearing. We expected from the counsel to consult his client much earlier even before lodging the appeal. For these reasons, we do not see any justifiable cause for the Tribunal to heed to the prayer for adjournment. Therefore, the prayer is declined and since the appellant's counsel is not ready for hearing then we proceed to dismiss the appeal for want of prosecution with costs. It is so ordered.



**Judge Barke M.A. Sehel – Chairperson**



**Hon. Yose J. Mlyambina – Member**



**Dr. Theodora Mwenegoha – Member**

**27/11/2018**