

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

TRIBUNAL APPEAL NO. 14 OF 2021

JOHN BINDER.....APPELLANT

VERSUS

MIC TANZANIA PLC.....1ST RESPONDENT

TANZANIA COMMUNICATIONS REGULATORY

AUTHORITY (TCRA).....2ND RESPONDENT

ORDER

Having heard the parties' concern and having perused the records of this appeal we have made the following observations with concern:

- (i) The exhibits tendered are not labelled on the face of the particular exhibit.
- (ii) The exhibits as named in the proceedings are labelled Exhibit PW1, PW2, PW3 and PW4. However, the exhibits are not mentioned anywhere in the decision of the 2nd respondent.

- (iii) In the decision of the 2nd respondent, the tendered exhibits PW1-PW4 are not mentioned. To our dismay, the decision has referred to exhibits CO1 and CO2 which have never been tendered during hearing. However, the strange exhibits not tendered form substantial part and basis of the decision of the 2nd respondent.

All the above discrepancies amount to a fatal irregularity which makes the 2nd respondent's decision incurably defective. Pursuant to Rule 38(1) of the FCT Rules 2012, owing to what is reflected above, we hereby quash and set aside the decision of the 2nd respondent. The 2nd respondent is hereby ordered to construct another decision which shall reflect the true records of what actually transpired including the actual exhibits that were tendered during hearing.

Having so set aside the decision of the 2nd respondent, this appeal is hereby struck out. Should any party still intend to appeal against the subsequent proper decision of the 2nd respondent, the right to appeal shall accrue on the date that the new decision is pronounced.

The 2nd respondent shall ensure to finalise the proper decision within thirty days of the date of this order. On the basis of what we have elaborated, each party shall bear their own costs.



Hon. Judge Salma M. Maghimbi – Chairperson



Dr. Godwill G. Wanga – Member



Dr. Onesmo M. Kyauke – Member

01/09/2022