

SOUTH AFRICA / JUDGMENT

National Consumer Commission v Vodacom (Pty) Ltd (NCT/205517/2021/73(2)(b)) [2022] ZANCT 13 (26 February 2022) [2022] ZANCT 13

COURT

National Consumer Tribunal

BEFORE

D Terblanche, MC Peenze, F Manamela

CASE / FILE NUMBER

NCT/205517/2021/73(2)(b)

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IN THE NATIONAL CONSUMER

TRIBUNAL HELD IN CENTURION

Case number: NCT/205517/2021/73(2)(b)

In the matter between:

NATIONAL CONSUMER COMMISSION

APPLICANT

And

VODACOM (PTY) LTD

RESPONDENT

Coram:

Ms D Terblanche – Presiding member

Dr MC Peenze – Member

Adv F Manamela – Member

Date of Hearing – 22 February 2022

Date of judgment – 26 February 2022

JUDGMENT AND REASONS

APPLICANT

1. The Applicant is the National Consumer Commission (“the NCC” or “the Applicant”), an organ of state established in terms of Section 85 (1) of the Consumer Protection Act 68 of 2008 (“the CPA” or “the Act”) having its registered address at SABS Offices, 1 Dr Lategan Road, Groenkloof, Pretoria.
2. At the hearing, Mr Masilo Maake, from Masilo Maake Attorneys, represented the Applicant.

RESPONDENT

3. The Respondent is Vodacom (Pty) Ltd, a private company duly registered in terms of the company laws of the Republic of South Africa ("the Respondent"). The registered address of the Respondent is Vodacom Corporate Park, 082 Vodacom Boulevard, Vodavalley, Midrand.
4. At the hearing, Adv Steven Budlender SC represented the Respondent.
5. The Tribunal heard the matter on an opposed basis at the premises of the National Consumer Tribunal ("the Tribunal"). One tribunal member, Adv F Manamela, joined the hearing via a Teams technology link due to physical injury.

JURISDICTION

6. Section 27 (1) (a) (ii) of the National Credit Act, 2005 (“the NCA”) empowers the Tribunal or a Tribunal member acting alone to adjudicate allegations of prohibited conduct by determining whether prohibited conduct has occurred and, if so, by imposing a remedy provided for in the NCA. Section 150 of the NCA empowers the Tribunal to make an appropriate order concerning prohibited or required conduct under the NCA or the CPA. The Tribunal, therefore, has jurisdiction to hear this application.

TERMINOLOGY

7. A reference to a Section in this judgment refers to a Section in the CPA. A reference to a regulation refers to the CPA Regulations, 2011 (“the regulations”)[1].

APPLICATION TYPE AND THE RELIEF SOUGHT

8. The Applicant brings this application in terms of Section 73 (2) (b) of the CPA. In terms of Section 73 (2) (b), the NCC may refer the matter in the circumstances contemplated in Section 73 (1) (c) (iii):

“Section 73 (1) (c) : After concluding an investigation into a complaint, the Commission may, if the Commission believes that a person has engaged in prohibited conduct, make a referral in accordance with subsection (2).”

9. The NCC submits the prohibited practices to be continuing. The NCC seeks an order:

9.1. Declaring the Respondent’s imposition of a 75% cancellation penalty be declared to constitute a contravention of the following sections of the CPA:

- 9.1.1. Section 51 (1) (a) (i);

9.1.2. Section 51 (1) (b) (i);

9.1.3. Section 48 (1) (a) (iii);

9.1.4. Section 48 (2) (b);

9.1.5. Section 68 (1) (b), read with Section 14

(2) (b) (i) (bb);

9.1.6. Section 14 (2) (b), read with Subsection 3

(a) and (b) and Regulation 5; and

9.1.7. Section 14 (2) (b), read with Regulation 5 (3);

9.2 Declaring the Respondent's contravention of the above sections of the CPA as prohibited conduct;

9.3 Interdicting the Respondent from continuing its prohibited practices;

9.4 Directing the Respondent to refund the complainants all monies paid by them arising from the imposition of the 75% cancellation penalty. This amount must be paid with interest in accordance with the Prescribed Rate of Interest Act No 55 of 197, from the date on which it was paid to the Respondent to date of final payment;

9.5 Directing the Respondent to pay the amount mentioned in subparagraph 4 within fifteen (15) days of the date of judgment;

9.6 Directing the Respondent to pay an administrative penalty equivalent to ten percent (10%) of the Respondent's annual turnover but not less than R10 000 000 (ten million rands); and

9.7 Granting the Applicant such other relief as the Tribunal may consider appropriate, as contemplated in Section 4

(2) (b) (ii) of the CPA.

BACKGROUND

10. It is convenient to set out the background to this matter as reflected in the documents before the Tribunal.

11. During the period between 2014 and 2016, the Applicant received consumer complaints relating to the Respondent's practice of levying a 75% cancellation fee:

11.1. The complaint of Weedat du Plessis, dated 31 May 2014;

11.2. The complaint of Nwabisa Nontenja, dated 14 October 2016;

11.3. The complaint of Simon Hayes, dated 21 October 2016; and

11.4. The complaint of Ralph Thomas, dated November 2016.

12. The Applicant appointed an inspector, Mr Netshiinganwe Ntshengedzeni (“Ntshengedzeni”), on 24 April 2018 for the investigation of the activities of Vodacom. Mr Ntshengedzeni’s investigation certificate was valid for the period of six (6) months. On 8 May 2018, the Applicant notified the Respondent of the investigation, indicating that the scope of the investigation was limited to the 75% cancellation fee that Vodacom charges to the consumers who had sim-only or no handset contracts.
13. According to the Applicant, Mr Ntshengedzeni completed the investigation into the complaints on 8 September 2021, and issued his report subsequently. Accordingly, the investigation report is dated 8 September 2021. The Respondent disputed the actual date of the investigation’s completion. Mr Ntshengedzeni concluded that Vodacom’s 75% cancellation fee is calculated based on services that Vodacom still has to provide to consumers as it appears in their terms and conditions of the contract. According to his investigation outcome, Vodacom’s proposed cancellation fee, which includes a fixed administration fee, is contrary to the position of the Commission, in that the latter expects the cancellation fee to be determined on a case-by-case basis.
14. The Applicant did not re-appoint Mr Ntshengedzeni for the Vodacom investigation after the lapsing of his appointment in terms of Section 71 (1) (d) on 24 October 2018. However, he remained in the employ of the Commission as an inspector.

THE HEARING

15. In the answering papers and during the hearing, the Respondent raised three points in limine:

15.1. That the application is out of time and the Applicant delayed unreasonably in its referral to the Tribunal;

15.2. The investigation, which is the basis of the Applicant’s application, was not lawfully authorised; and

15.3. The Applicant failed to afford the Respondent an opportunity to answer to a complaint which it uses as a premise to revive the investigation in the proceedings before the Tribunal.

16. During the hearing on 22 February 2022, the Tribunal panel provided an opportunity to both parties to firstly argue the points in limine. Hereafter, the Tribunal deferred the hearing into the merits to consider such arguments and give a written judgment on the points in limine. If the Tribunal decides to dismiss the points in limine, the Registrar will place the matter on the roll for the hearing of the application’s merits.

Respondent

The Commission delayed unreasonably

17. Vodacom contends that the Commission has delayed unreasonably in instituting these proceedings. It argued that, as an organ of state within the public administration, it has an administrative law duty to make its decisions within a reasonable time.
 18. The Applicant submitted that the claim did not “prescribe” under section 116 (1) (a) , as the alleged conduct is of continuing nature and has not yet ceased. The Respondent agreed that its SIMO cancellation fees are applied on an ongoing basis, but denied that this affords the Commission the right to unreasonably delay. During the hearing, the Respondent confirmed that Vodacom’s case on delay is not one of statutory prescription but of unreasonable delay under the common law and the Promotion of Administrative Justice Act 3 of 2000.[2]
 19. The Respondent argued that the Commission delayed unreasonably for the following reasons:
 - 19.1 The first complaint of Mr Weedat Du Plessis, was made on 31 April 2014, more than seven years prior to these proceedings being instituted. The Commission never pursued an investigation into Mr Du Plessis’ complaint or the subsequent complaints in October and November of 2016, until 2018;
 - 19.2 The Commission was silent on the outcome of its investigation from 2018 until the application was filed, almost three years later. Vodacom continued to apply its cancellation fee policy in justified confidence that the issue had been abandoned by the Commission;
 - 19.3 The Commission has not provided any substantial reasons for why it delayed so long despite the issue of unreasonable delay having been raised in the answering affidavit. While the Commission makes generalised and unsupported statements about the large volume of complaints and its “onerous task” under the CPA, it gives no reason why it delayed in referring the particular investigation. The Commission claims that it completed the investigation “before 25 October 2018” but it gives no explanation for why it waited for three years until October 2021 to make this referral;
 - 19.4 Vodacom has engaged constructively with the Commission at all relevant times and in good faith. To have made the referral to the Tribunal after such a lengthy delay since conducting the investigation, is prejudicial to Vodacom whose cooperative approach toward the Commission indicates that the referral was entirely unnecessary in any event; and
 - 19.5 The Respondent has not received the outcome of the investigation prior to the proceedings before the Tribunal.
- The investigation is not duly authorised
20. The Respondent submitted that the Applicant’s investigation was unlawful.

21. Mr Ntshengedzeni was authorized to investigate the activities of Vodacom in terms of the CPA from 24 April 2018 for a period of six months. To the extent that the investigation continued after 24 October 2018, the Respondent submitted it was not authorised by law and was therefore unlawful and cannot be used in support of an allegation of continuing conduct.
22. The investigator's report is dated 8 September 2021, some three years after the investigator's legal authority to investigate had expired. According to the Respondent, the Applicant's report had to be completed within the 6-month period the inspector was authorized to investigate; and the Applicant could only take into account the complaints lodged between 2014 and 2016. In this regard the Respondent argued that:

22.1 The Commission improperly conflates the issues of appointment and authority. While Mr Ntshengedzeni was lawfully appointed as an inspector with the Commission, he was only authorized to investigate Vodacom during the appointment of such assigned authority;

22.2 Accordingly, the scrutiny of the Vodacom website on the 7th of September 2021 was not done under the investigation authority as mandated by the NCC regarding this matter. The investigation continued unauthorized into September 2021 at which point the investigator was still "investigating" this matter; and

22.3 The Investigation Report refers to and relies on a complaint by Mr Zander Roode that is dated 23 January 2020.

The commission's procedure was unfair

23. The Respondent submitted that the Applicant did not adhere to the audi alteram partem principle after concluding its report. Vodacom was never afforded an opportunity to deal with the complaint of Mr Zander Roode before the Commission referred the complaint to the Tribunal.

The referral was never necessary

24. During the investigation in 2018, Vodacom has proposed several alternative formulations to the Commission and has sought its guidance in this regard. Vodacom also provided further information that had been requested by the Commission at the time. Vodacom stated that it considered its cancellation fees to comply with the CPA during the investigation and outlined in writing to the Applicant that "as a gesture of goodwill and without admitting liability in this regard, Vodacom is willing to change and / or reduce its early termination fee / fee structure in respect of SIM only deals as per its previous correspondence in this regard". However, no further communication was received by Vodacom from the Commission.
25. The Respondent submitted that the referral of the investigation and complaints to the Tribunal was never necessary. Albeit that Vodacom considers its SIMO cancellation fees to be CPA-compliant, Vodacom has been persistent in its willingness to change its cancellation

fee structure if only the Commission were willing to engage with Vodacom on a reasonable alternative. According to the Respondent, the Commission's persistent refusal to engage Vodacom constructively in this regard, particularly in the context of Vodacom's procedural complaints, indicates that the referral of this issue to the Tribunal was in bad faith.

The Applicant

26. According to the Applicant, the application has been lodged lawfully, as the conduct of the Respondent in pursuing the prohibited conduct, is continuous. The Applicant submitted that the delay in appointing an investigator, following the four (4) consumer complaints in 2014 and 2016 respectively, could be condoned due to the continuous nature of the Respondent's alleged prohibited conduct. The Applicant disputes the necessity to bring out an investigation report within the prescribed authorized period for a specific investigation and similarly disputes the legal necessity to engage with the Respondent on the outcome of any investigation prior to referring such matter to the Tribunal.
27. On 7 September 2021, Mr Ntshengedzeni visited the website of Vodacom and found that clause 4.2 of the terms and conditions of Vodacom's contracts remained in force and still stipulates the premature cancellation fee of 75% on the balance of the contract. In the circumstances, the conduct of Vodacom is argued as being continuous as contemplated by Section 116 (1) (b) of the CPA.
28. The Applicant also argued that Mr Ntshengedzeni has been employed by the Commission as an inspector already in 2012 and that an inspector has additional administrative employment duties to conduct, such as the drafting of a report and doing internet searches. These duties are in addition to a particular complaint. Particular complaints get assigned to an investigator on a case- by-case basis. However, the Applicant could not provide the investigation report following the investigation of Mr Roode in 2020, nor the investigation appointment letter to mandate the investigation into Vodacom during said time.
29. On a specific question by the Tribunal, the Applicant confirmed that the matter before the Tribunal is not a referral of the complaints lodged by the consumers, but the result of a direct initiation on its own motion in terms of Section 71 (2) of the CPA. However, the Applicant did not concede to alter its plea with respect to the particular complainants and could not furnish the Tribunal with the appointment letter that followed a mero motu direct initiation by the Applicant.
30. The Applicant submitted that the delay in bringing the application to the Tribunal resulted from administrative overload and oversight in the office of the Applicant. Irrespective, the Applicant argued that the Respondent's practice of levying an administrative cancellation fee of 75%, as reported by the complainants, is not in dispute. Therefore, the Applicant submitted that this practice constitutes continuing prohibited conduct and needs the intervention by the Tribunal. The Applicant continued to argue that it therefore has locus standi to bring the continuing prohibited practice to the Tribunal for scrutiny, irrespective the long delay in appointing an investigator and lodging this application.

31. The Applicant emphasized the interest of justice in considering the matter and the prejudice to consumers in general if a prohibited practice is allowed to continue without scrutiny.
32. The Applicant confirmed that the Commission has the right to choose between issuing a directive and bringing a matter to the Tribunal. It chose the latter.

THE LAW

The Commission as a creature of statute

33. The Commission is a statutory body established in terms of Section 85 (1) of the CPA.
34. The Commission, like any other administrative or judicial body, derives its powers and authority from the empowering legislation.[3] Subsequently, the Commission is bound by the powers and procedures outlined in its empowering legislation.[4]

The Commission's authority to investigate

35. As outlined in Section 85 (2) (c) of the CPA, the Commission must exercise the functions assigned to it in the most cost-efficient and effective manner, and in accordance with the values and principles mentioned in Section 195 of the Constitution.
36. Section 99 of the CPA outlines the enforcement functions of the Commission, which functions include dealing with complaints in accordance with Part B of Chapter 3, the evaluating of alleged prohibited conduct and referring of matters to the Tribunal.
37. The authority to refer matters to the Tribunal in terms of Section 73 (2) (b), is regulated by Section 73 (1), Section 72 and Section
71. These two sections regulate the process as follows:

"73. Outcome of investigation:

- (1) After concluding an investigation into a complaint, the Commission may –
....Make a referral in accordance with subsection (2).

72. Investigation by Commission:

- (1) Upon initiating or receiving a complaint in terms of this Act, the commission may -
 - (a) Issue a notice of non-referral to the complainant in the prescribed form...;
 - (b) Refer the complaint to an alternative dispute resolution agent, a provincial consumer protection authority or a consumer court ...;
 - (c) Refer the complaint to another regulatory authority ...; or
 - (d) Direct an inspector to investigate the complaint as quickly as practicable, in any other case."

71. Initiating complaint to Commission:

- (1) Any person may file a complaint concerning a matter contemplated in Section 69 (c) (iv) with the Commission...;
- (2) The Commission may directly initiate a complaint concerning any alleged prohibited conduct on its own motion.” [own emphasis]
38. In *Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs and Tourism and Others*, Ngcobo J stated: 999

“The technique of paying attention to the context in statutory construction is now required by the Constitution, in particular, s 39 (2). As pointed out above, that provision introduces a mandatory requirement to construe every piece of legislation in a manner that promotes the ‘spirit, purport and objects of the Bill of Rights.’”

39. In *S v Mhlungu and Others*[5] Sachs J, in quoting Lord Denning, stated that "... Judges... solve the problem by looking at the design and purpose of the legislature, at the effect, it was sought to achieve. They then interpret the legislation to produce the desired effect." [6]

ANALYSIS

Alleged unauthorized investigation of the Respondent

40. Although the CPA uses the term “investigator” and “inspector” interchangeably, the assignment to investigate a specific complaint is done by authoritative direction in terms of Section 72 (1) (d). From the evidence presented by the Applicant, it is clear that the written assignment of Mr Ntshengedzeni in 2018 to investigate the complaints relating to the alleged prohibited conduct by Vodacom, had been done terms of Section 72 (1) (d), with the restriction of a six months period. The Applicant failed to provide any evidence to the Tribunal to substantiate the argument that an inspector has the inherent right to continue an investigation on own initiative after lapsing of the assigned period as directed by the authorities within the Commission.
41. It is further evident from the evidence provided to the Tribunal, that the Applicant did not issue any additional assignment to the relevant investigator or any other investigator to investigate a complaint initiated by the NCC on its own motion. There is, in fact, no evidence to support the Applicant’s argument that this matter was an authorised *mero motu* Commission complaint into a continuing prohibited practice by Vodacom.
42. The exercise of power must be authorised by law.[7] By conducting an investigation into a complaint, the Commission exercises its statutory power. Such investigation must therefore be authorised by law and be conducted in terms of such statutory prescripts. Section 72 (1) (d) outlines the prescripts and processes

to be followed when executing such statutory function. In terms of Section 72 (1) (d), an investigator only has assigned authority to investigate a complaint, irrespective whether it was reported to the NCC by a complainant or directly initiated by the NCC. Accordingly, without evidence of such assigned authority, any action performed by a delegate of the Commission without the required lawful authority, is beyond the Commission's

powers and is therefore unlawful.

43. Although Mr Ntshengedzeni was appointed as an inspector in 2012, his assigned authority to investigate the activities of Vodacom, resulting from the complaints, was limited to the six months period between 24 April 2018 and 24 October 2018.
44. The issued report includes the output of a partially unauthorised investigation, obtained outside the period of authorization. It also refers to a complaint received in 2020, well after the expiration of the investigator's authority in October 2018. Further, the report is dated 8 September 2021, nearly three years after lapsing of the period of authorisation.
45. As the Commission failed to provide necessary evidence of the assigned authority as required by Section 72 (1) (d), the content of the issued report is found to be unauthorised, unlawful and inadmissible.
46. The application stands to be dismissed on this ground alone.

The Delay

47. The relevant facts regarding timeframes are that:
 - (i) The Applicant delayed between 2 – 4 years to appoint an investigator to investigate the consumer complaints relating to the 75% cancellation fees practice by Vodacom;
 - (ii) The investigation by Mr Ntshengedzeni, as appointed in 2018, was not concluded within the authorized period of six months; and
 - (iii) Neither the outcome of the investigation, nor the investigation report as issued by Mr Ntshengedzeni in 2021, were communicated to the Respondent.
48. Although the lapse of time in appointing an inspector to investigate this matter is questionable, there is no specific prescription in the CPA outlining within which timeframe the Commission must appoint an inspector.
49. According to the evidence before the Tribunal, the NCC appointed the investigator for a period of six months. Although the Applicant did not lead evidence to explain the reasons why the Commission approved only six months for the duration of the investigation, the Tribunal accepts that the Commission can determine a time-frame based on factors best known to it. Similarly, it is in the Commission's power to extend a period of appointment if those factors the Commission claim prevailed at the time, were in fact present.
50. The Tribunal subsequently deals with the argument relating to unreasonable delay.

51. Consumers brought the alleged prohibited practice under the Commission's attention in 2014. Although it is common cause that the matter had not prescribed and that the 75% cancellation tariff is still being applied, the Commission failed to convince the Tribunal that the administrative overload of the Commission is substantive reason for the delay in finalising the investigation of the complaints. Further, the Commission failed to place any evidence before the Tribunal to quantify the actual administrative challenges that justify the consequential delay in the investigation of this matter. Where there is no explanation for a delay such as in the Commission's case, "the delay will necessarily be unreasonable".[8]
52. The Commission, as an organ of state within the public administration, has an administrative law duty to make its decisions within a reasonable time. Regulation 35
- (3) specifically states that "upon initiating or receiving a complaint in terms of this regulation, the Commissioner must direct an inspector to investigate the complaint as quickly as possible, and in accordance with the values and principles mentioned in Section 195 of the Constitution."
53. Section 195 of the Constitution, in turn, requires that public bodies such as the Commission "must be accountable", efficient and effective, and must foster transparency through providing the public with "timely" information. In that the Commission remained silent on the outcome of its investigation from 2018 until the application was filed in 2021, neither the public nor the Respondent was informed of the outcome.
54. Accordingly, having made the referral to the Tribunal after such a lengthy delay is prejudicial to Vodacom and detrimental to those consumers that may be affected by the alleged prohibited practice.

Audi alteram partem

55. The NCC failed to provide the Respondent with an opportunity to respond to all complaints contained in the investigation report. To that extent, the Commission failed to honour the audi alteram partem principle during its investigation. The Commission, as a regulatory and investigatory body, is bound to adhere to the principles of procedural fairness in the course of its investigatory duties.
56. It is expected from the NCC to observe the audi alteram partem up to the stage that the unresolved issues are to be referred to the Tribunal. No evidence had been put before the Tribunal that

issues

remained unresolved in this matter and the finalising of a report with the sole purpose of securing a hearing by the tribunal is not in line with the constitutional values as outlined in Section 195 of the Constitution.[9]

57. The Tribunal is convinced that the Commission have not provided substantive reasons as to why its investigations continued for years. In *Barnado v National Consumer Commission and Others*, the Pretoria High Court held as follows:

“The Act seeks a speedy resolution of disputes in the interests of consumers and not to conduct non-stop investigations while not

issuing compliance notices to the parties that are in clear breach such as the third respondent.”[10]

58. The Tribunal finds that the Respondent was not provided with an opportunity to engage on all matters contained in the investigation report and that the referral of this complaint to the Tribunal was premature.

CONCLUSION

59. Based on the substantive weight carried by the procedural matters raised in limine, the Tribunal finds that the Applicant is not properly before the Tribunal. The investigation was not appropriately and fully authorised. Further, the huge delay in bringing the investigation to a close without providing an opportunity to Vodacom to respond to complaints raised at a later stage, is unacceptable.
60. The Commission furthermore has not put forward evidence before the Tribunal that it *mero motu* initiated a complaint into the 75% cancellation fee and assigned an investigator to investigate such. The causes or action of the complainants who lodged complaints with the Commission between 2014 and 2016 are fatally struck by the provisions of section 116
- (1) (a).
61. The CPA clearly stipulates in Section 73 (1) that a matter can only be referred to the NCT after the conclusion of the investigation. The expectation by the Tribunal is that the investigation should have been conducted and concluded lawfully. In this matter, the Tribunal is convinced that the investigation was not concluded lawfully.
62. Although the delays by the Applicant can never trump the consumers’ right to redress, the lawful conclusion of the investigation is necessary to bring the matter before the Tribunal.
63. The dismissing of this application will not constitute a judgment on the merits of the matter and the Commission is expected to properly complete its investigation into the alleged prohibited practice through the providing of necessary authorisations to the assigned investigator and to conduct fair interactions with all related parties.

ORDER

64. Accordingly, the Tribunal makes the following order:

64.1 The application is dismissed; and

64.2 There is no order as to costs.

DATED ON THIS 26 FEBRUARY 2022

[Signed]

Dr MC Peenze

Tribunal Member

Ms D Terblanche (Presiding member) and Adv F Manamela (Tribunal Member) concurring.

[1] Published under Government Notice R293 in Government Gazette 34180 of 1 April 2011.

[2] See paragraph 11 of the Respondent's heads of argument, page 5.

[3] See De Ville JR, Judicial Review of Administrative Action in South Africa, 2015, LexisNexis. p 91.

[4] Also see FirstRand Bank Ltd v A Ludick A277/2019 High Court of South Africa, Gauteng, Pretoria division, 18 June 2020 (unreported), par 14.

[5]

[1995] ZACC 4; 1995

(3) SA 867 (CC) at 916.

[6] Barnado v National Consumer Commission and Others (47933/17) [2021] ZAGPPHC 531 (26 August 2021).

[7] Hoexter and Penfold, Administrative Law in South Africa (3rd Ed, 2021), p 357.

[8] Buffalo City Metropolitan Municipality v Asla Construction (Pty) Ltd [2019] ZACC 15, para 52.7

[9] See Section 85 (2) (c) (ii) of the CPA; Hoexter and Penfold, Administrative Law in South Africa, p 524.

[10] [2021] ZAGPPHC 531, Paragraph 43

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