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Department:
Economy & Enterprise Development
North West Provincial Government
Republic of South Africa



NATIONAL CONSUMER TRIBUNAL GIVES CLARITY TO “ ON THE ROAD FEE”

The National Consumer Tribunal has finally settled the issue regarding imposition of monetary liability on consumers who bought motor vehicle on credit. Consumers have been charged outrageous fees called “on the road fee, administrative charges or service and delivery fees”. Consumers were forced to pay these fees despite not being permissible or rather prohibited by the National Credit Act as fees that can be included on the principal debt to be financed. These fees have been a bone of contention for quite some time as Motor Vehicle Dealership could not account for the inclusion of such fees when consumers purchased motor vehicles.

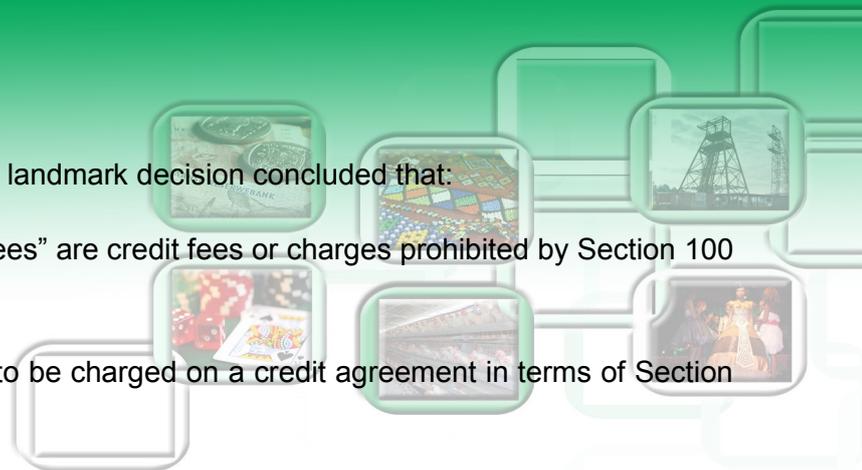
The North West Consumer Affairs Office conducted a snap survey in an endeavor to establish justification for these charges or fees. Several car dealers were visited and indicated that it is delivery costs and could not explain why it is also charged to consumers who collect their cars. The outcome of the investigation was that the charge was in fact not for delivery; instead, the dealers could not explain the rationale behind it.

“We found out that some of the dealers referred to the charge as “on the road fee” and when we needed clarification we were told it is for administrative charges in terms of the National Credit Act. To our surprise, the same dealers were unable to show the specific provision,” said Mr Seile Letsogo, Director Consumer Affairs, Department of Economy and Enterprise Development.

The fees which are included in the credit agreement range from R2 000, 00 to R10 000, 00 and increase the interest charges paid by consumers.

The recent case is that of Volkswagen Financial Services South Africa (Pty) Ltd v/s National Credit Regulator (NCR) where Volkswagen applied to the National Credit Tribunal to review and set aside the compliance notice issued against it by the NCR. The NCR issued a compliance notice against Volkswagen ordering it to:

cease and desist from charging consumers, “on the road fees, administrative fees and / or handling fees”; and refund consumers who were charged such fees with interest.



The National Consumer Tribunal has in a landmark decision concluded that:

“on the road, administrative or handling fees” are credit fees or charges prohibited by Section 100(1)(a) of the National Credit Act;

Are not credit fees or charges permitted to be charged on a credit agreement in terms of Section 101(1) of the National Credit Act;

Are not credit fees or charges that can be included in the principal debt deferred of an installment sale agreement or a lease agreement in terms of Section 102(1) of the National Credit Act; and

On the road, administrative or handling fees are disguised or inaccurately disclosed as service or delivery fees in the credit agreements in contravention of Section 3(e) read with 92(2) of the National Credit Act.

The National Credit Act provides that credit providers or financiers may only include initiation fee, cost of extended warranty, delivery, installation and initial fuel charges, connection fees, levies and charges, taxes, licenses or registration and insurance premium on the principal debts.

Thus, “on the road, administrative or handling fees” does not form part of the amount that can be included on the principal debt and if included become a prohibited fee or charge in contravention of the National Credit Act. The Act clearly prohibit inclusion of fees or charges not permissible to be included in the principal debt and credit providers are prohibited from imposing any monetary liability on the consumers for such fees or charges when invoice by dealers for such amounts.

National Consumer Tribunal concluded that it was incumbent on the credit providers not to pay the Dealer upon invoice for costs, fees or charges prohibited under the National Credit Act, if the credit provider does so, it cannot legally impose any monetary obligation on the consumer for such fees or charges.

Consumers have been at the receiving end for a very long time and in the process been burdened by these fees and end up taking long to settle their debts whilst on the other hand the dealers benefits as it forms part of the credit agreement.

“As custodian of consumer matters in North West we encourage consumers who bought motor vehicle on credit to check their agreements including quotations from dealers and where such fees are included, to visit their respective financiers and demand refunds based on Volkswagen decision. In case consumers experience challenges, we urge them to contact our offices to lodge complaints”, said Letsogo.

Consumer Affairs Office advise consumers who in the process of purchasing vehicles to refuse the inclusion of such fees on their contracts. The Consumer Affairs Office is aware that Volkswagen is appealing the decision but as at this stage, charging of such fees are questionable as they are not permissible in terms of National Credit Act.