

**IN THE MATTER BEFORE THE BOARD
OF THE COMPETITION AND CONSUMER
PROTECTION COMMISSION**

BETWEEN

Mr. Joblick Musonda

COMPLAINANT

AND

Mahalaja Steel Limited

RESPONDENT

BEFORE:

Commissioner Angela Kafunda
Commissioner Sikambala M. Musune
Commissioner Derrick Sikombe
Commissioner Bishop Dr. Wilfred Chiyesu
Commissioner Pelmel H. Bonda
Commissioner Onesmus Mudenda

- Chairperson
- Vice Chairperson
- Member
- Member
- Member
- Member

DECISION

Below is a summary of the facts and findings presented by the Commission to the Board of the Commission following investigations carried out in the above case:

Introduction and Relevant Background

It was submitted that:

1. On 19th June 2024, the Competition and Consumer Protection Commission ("the Commission") received a complaint from Mr. Joblick Musonda ("the Complainant") against Mahalaja Steel Limited ("the Respondent"). Specifically, the Complainant alleged that on 21st March 2024, he purchased 75 by 50, 1.6mm lipped channels, 40 by 40, 1.6mm square tubes, and 60 by 15, 0.5mm v-shaped ridges at the total cost of K45,500.00 from the Respondent. The Complainant alleged that after installing these items, he discovered that the roof was not as strong as expected. The Complainant alleged that he then purchased a vernier caliper to measure the thickness of the items and found that the Respondent had delivered 1.3mm lipped channels, 1.00mm square tubes, and 0.4mm v-shaped ridges. The

Complainant alleged that he engaged the Respondent for redress but to no avail. The Complainant demanded a refund for the difference between what was supposed to be supplied and what was actually supplied from the Respondent.

Legal Contravention and Assessment Tests

Legal Contravention

It was submitted that:

2. The alleged conduct appeared to have contravened Section 47(1)(a)(i) of the Competition and Consumer Protection Act No. 24 of 2010, as amended by Act No. 21 of 2023 ("the Act").
3. Section 47(1)(a)(i) of the Act stated that:

"A person who or an enterprise shall not make a false representation that goods are of a particular standard, quality, value, grade, composition, style or model or have a particular history or previous use;

4. Section 47(2) of the Act stated that:

"A person who, or an enterprise which, contravenes subsection (1) is liable to pay the Commission

- (a) *in the case of a person, a penalty not exceeding one hundred and fifty thousand penalty units; or*
 - (b) *in the case of an enterprise, a penalty not exceeding ten percent of that enterprise's annual turnover".*

Assessment Tests

The following assessment tests are with regards to Section 47(1)(a)(i) of the Act:

It was submitted that:

5. Whether the Respondent was a "person" or an "enterprise" under the Act; and

6. Whether the representation made by the Respondent was on account of goods being of a particular standard, quality, value, grade, composition, style or model or had a particular history or previous use as the case was.

Investigations Conducted

It was submitted that:

7. The Commission duly served the Notice of Investigation ("NoI"), and its accompanying letter on the Respondent on 8th July 2024. On 7th and 14th August 2024, the Zambia Metrology Agency (ZMA) conducted inspections and tests of the roofing sheets at the Complainant's residence and the Respondent's premises respectively. The Commission also reviewed the Complainant's invoice and reviewed the Respondent's Facebook page.

The Parties

The Complainant

It was submitted that:

8. The Complainant was Mr. Joblick Musonda, holder of National Registration Card number 8XXXXXX/XX/1, whose contact number is 097XXXXX7 and was a resident of Lusaka.¹ Section 2 of the Act defined a consumer as, "*any person who purchases or offers to purchase goods or services otherwise than for the purpose of re-sale, but does not include a person who purchases goods or services for the purpose of using the goods or services in the production and manufacture of any other goods for sale, or the provision of another service for remuneration*".² In view of the above definition, the Complainant qualified as a consumer as envisaged under the Act because he purchased lipped channels, square tubes and v-shaped ridges from the Respondent for personal use.

The Respondent

It was submitted that:

9. The Respondent was Mahalaja Steel Limited located off Lumumba Road, Light Industrial Area, Lusaka. A search of the Patents and Companies Registration Agency (PACRA) database revealed that the Respondent was a registered company with registration number 120230058228. Section 2 of the Act

¹ CCPC Form IV dated 18th June 2024

² Competition and Consumer Protection Act No. 24 of 2010 as amended

defined an “enterprise” as, “a firm, partnership, joint-venture, corporation, company, association and other juridical persons, which engage in commercial activities, and includes their branches, subsidiaries, affiliates or other entities, directly or indirectly, controlled by them”.³ In view of the above definition, Mahalaja Steel Limited qualified as an enterprise as envisaged under the Act as it was a company engaged in commercial activities of supplying assorted building products to the public.⁴

Submissions from the Respondent

It was submitted that:

10. There were no submissions from the Respondent despite the NoI being duly served on them on 8th July 2024. Non-response to the NoI constitutes a violation of Section 55(4)(a) of the Act.
11. Section 55(4)(a) of the Act stated that:

“For the purpose of an investigation under this section, the Commission may, by notice in writing served on any person, require that person to furnish to the Commission, in a statement signed by that person or, in the case of a body corporate, by a director or member or other competent officer, employee or agent of the body corporate, within the time and in the manner specified in the notice, any information pertaining to any matter specified in the notice which the Commission considers relevant to the investigation.”

12. Section 55(5) of the Act stated that:

“A person who, or an enterprise which, contravenes subsection (4), is liable to pay the Commission—

- (a) *in the case of a person, a penalty not exceeding one hundred thousand penalty units; or*
- (b) *in the case of an enterprise, a penalty not exceeding ten percent of that enterprise’s annual turnover.”*

³ Competition and Consumer Protection Act No. 24 of 2010 as amended

⁴ Complainant’s invoice and receipt dated 21st March 2024

Further Submissions from the Complainants⁵

It was submitted that:

13. On 26th June 2024, the Complainant submitted that he installed the lipped channels, square tubes, and v-shaped ridges because he had to mount the roofing sheets on the house that he was constructing.

ZMA Response Letter⁶

It was submitted that:

14. On 6th November 2024, ZMA submitted that they conducted investigations on 7th August 2024, at the Complainant's premises in six (6) miles area and on 14th August 2024, at the Respondent's retail site. ZMA submitted that the investigation aimed to verify the thickness of the ridges, lipped channels and square tubes as well as to assess any violations of the Metrology Act No. 6 of 2017.
15. ZMA submitted that their findings confirmed that the ridges, lipped channels and square tubes presented as samples did not meet the stated thickness of 0.5mm, 1.6mm and 1.6mm respectively, as indicated on the receipt. ZMA submitted that the actual average measurements revealed negative variances of 0.114mm, 0.081mm and 0.22mm respectively, which constituted violations of the Metrology Act No. 6 of 2017, thereby validating the Complainant's complaint.

ZMA Ridges, Lipped Channels and Square Tubes Complaint Inspection Report⁷

It was submitted that:

Background

16. ZMA submitted that on 18th July 2024, they received a request for consultancy services from the Commission to conduct an assessment and determine the thickness of the following roofing materials:
 - i. The lipped channels
 - ii. The square tubes

⁵ Telephone conversation with the Complainant dated 26th June 2024

⁶ ZMA Response Letter dated 6th November 2024

⁷ ZMA Ridges, Lipped Channels and Square Tubes Inspection Report dated 6th November 2024

iii. The v-shaped ridges

17. ZMA submitted that in response to the request, they conducted an inspection at the Complainant's premises to determine the thickness of the ridges, lipped channels and square tubes in question which had at the time of investigation, already been fitted on the roof of the Complainant's house. The inspections were conducted in order to ascertain whether the lipped channels, square tubes and the V-shaped ridges were compliant as declared on the receipts by the Respondent.

The Approach

18. ZMA submitted that the following approach was undertaken by them to establish the facts:

- i. The thickness of the roofing materials in question were determined by measuring the thicknesses at several points of cut off samples suspected to have come from ridges, lipped channels and square tubes already installed on the building structure.
- ii. The actual thickness of the roofing materials were determined using a digital calliper and a Vernier calliper with the following details;

| Serial Number | Date Calibrated | Certificate No. |
|---------------|-----------------|------------------|
| ZMA-INP-004 | 06/03/23 | ZMASIL DC/23/132 |

- iii. The thickness was measured at different points for each piece of roofing material and the average was determined for all readings.

Findings

Complainant's Premises

19. ZMA submitted that the roofing materials were found to have been already fitted on a building within the yard of the Complainant and therefore, readings were only obtained from ridges at several points around the roofing structure.

20. ZMA submitted that the results from the measurements and calculations were as tabulated below;

Table 1: Measurements and average calculations - Ridges

| Sn. | Declared Thickness(mm) | Measured ridges Thickness(mm) | Thickness Variance(mm) | Maximum Permissible |
|-----|------------------------|-------------------------------|------------------------|---------------------|
| | | | | |

| | | | | Errors (MPE)(mm) |
|---------|-----|------|-------|---------------------|
| 1. | 0.5 | 0.39 | -0.11 | 0 |
| 2. | 0.5 | 0.38 | -0.12 | 0 |
| 3. | 0.5 | 0.41 | -0.09 | 0 |
| 4. | 0.5 | 0.39 | -0.11 | 0 |
| 5. | 0.5 | 0.38 | -0.12 | 0 |
| 6. | 0.5 | 0.38 | -0.12 | 0 |
| 7. | 0.5 | 0.40 | -0.10 | 0 |
| 8. | 0.5 | 0.40 | -0.10 | 0 |
| 9. | 0.5 | 0.39 | -0.11 | 0 |
| 10. | 0.5 | 0.40 | -0.10 | 0 |
| Average | | 0.39 | -0.11 | 0 |

21. ZMA submitted that there were factors that affected measurements of already installed metal roofing materials.

i. Thermal Expansion and Contraction

22. ZMA submitted that materials like metal sheets could expand or contract due to temperature fluctuations. ZMA submitted that this could lead to slight variations in measurements depending on the time of the day or weather conditions during the inspection.

ii. Installation Conditions

23. ZMA submitted that during installation, materials may be stretched, compressed or bent to fit into specific spaces. ZMA submitted that these changes could alter the original dimensions and affect the accuracy of any measurements taken after installation.

iii. Surface Irregularities

24. ZMA submitted that the surfaces of installed products may not be perfectly flat or even due to the underlying structure (e.g. roofing frame) or wear and tear. ZMA submitted that this could create difficulties in obtaining precise measurements, particularly when using handheld or non-specialised tools.

iv. Access to Installed Products

25. ZMA submitted that some parts of the product may be inaccessible once installed (e.g. roofing sections covered by overlapping sheets or joints). ZMA

submitted that this could prevent comprehensive measurements, leading to potential inaccuracies.

v. Distortion from Installation or Usage

26. ZMA submitted that products like ridges, channels and tubes may be distorted or deformed due to installation processes or mechanical stress after use, resulting in deviations from their original specifications.
Respondent's Sales Site

27. ZMA submitted that samples of various thickness and materials of the ridges, lipped channels and square tubes were measured onsite for this inspection purpose as shown below.

28. ZMA submitted that there were no visible markings on the measured samples from the factory showing the manufacturer, thicknesses and batch for each particular variety of the roofing material.

29. ZMA submitted that no other stock of roofing material was observed at the manufacturing site other than the ones placed on displays as samples.

ZMA-Scientific Laboratory results

Table 2: Measurements and average calculations for 0.5mm ridges

| Sr. | Declared Thickness(mm) | Measured sheets Thickness(mm) | Thickness Variance(mm) | MPEs(mm) |
|---------|------------------------|-------------------------------|------------------------|----------|
| 1. | 0.5 | 0.40 | -0.10 | 0 |
| 2. | 0.5 | 0.38 | -0.12 | 0 |
| 3. | 0.5 | 0.38 | -0.12 | 0 |
| 4. | 0.5 | 0.38 | -0.12 | 0 |
| 5. | 0.5 | 0.40 | -0.10 | 0 |
| 6. | 0.5 | 0.40 | -0.10 | 0 |
| 7. | 0.5 | 0.38 | -0.12 | 0 |
| 8. | 0.5 | 0.36 | -0.14 | 0 |
| 9. | 0.5 | 0.40 | -0.10 | 0 |
| 10. | 0.5 | 0.38 | -0.12 | 0 |
| Average | | 0.386 | -0.114 | 0 |

Table 3: Measurements and average calculations for 1.6mm lipped channel

| Sn. | Declared Thickness(mm) | Measured sheets Thickness(mm) | Thickness Variance(mm) | MPEs(mm) |
|-----|------------------------|-------------------------------|------------------------|----------|
| 1. | 1.6 | 1.61 | 0.09 | 0 |
| 2. | 1.6 | 1.60 | 0.00 | 0 |

| | | | | |
|---------|-----|-------|--------|---|
| 3. | 1.6 | 1.58 | -0.02 | 0 |
| 4. | 1.6 | 1.58 | -0.02 | 0 |
| 5. | 1.6 | 1.58 | -0.02 | 0 |
| 6. | 1.6 | 1.58 | -0.02 | 0 |
| 7. | 1.6 | 1.58 | -0.02 | 0 |
| 8. | 1.6 | 1.58 | -0.02 | 0 |
| 9. | 1.6 | 1.58 | -0.02 | 0 |
| 10. | 1.6 | 1.60 | 0.00 | 0 |
| Average | | 1.589 | -0.081 | 0 |

Table 4: Measurements and average calculations for 1.6mm square tube

| Sn. | Declared Thickness(mm) | Measured sheets Thickness(mm) | Thickness Variance(mm) | MPEs(mm) |
|---------|------------------------|-------------------------------|------------------------|----------|
| 1. | 1.6 | 1.38 | -0.22 | 0 |
| 2. | 1.6 | 1.40 | -0.20 | 0 |
| 3. | 1.6 | 1.36 | -0.24 | 0 |
| 4. | 1.6 | 1.38 | -0.22 | 0 |
| 5. | 1.6 | 1.38 | -0.22 | 0 |
| 6. | 1.6 | 1.38 | -0.22 | 0 |
| 7. | 1.6 | 1.38 | -0.22 | 0 |
| 8. | 1.6 | 1.38 | -0.22 | 0 |
| 9. | 1.6 | 1.38 | -0.22 | 0 |
| 10. | 1.6 | 1.40 | -0.20 | 0 |
| Average | | 1.382 | -0.22 | 0 |

Analysis of the Findings

30. ZMA submitted that from the tests conducted on the samples presented;

- The average thickness of the samples of 0.5mm ridges delivered by the Complainant was found to be 0.386mm. This result showed a variance of -0.114mm of what was declared.
- The average thickness on the samples of the 1.6mm lipped channels delivered by the Complainant was found to be 1.589mm. This result showed a variance of -0.081mm on what was declared.
- The average thickness of the samples of the 1.6mm square tubes delivered by the Complainant was found to be 1.382mm. This result showed a variance of -0.22mm on what was declared.

31. ZMA submitted that it should be noted that there was no tolerable error provided for in the regulations for the declared thickness for the roofing materials.

32. ZMA submitted that the absence of markings on the sample of the roofing materials brought by the Complainant posed a challenge in ascertaining the declared thickness and also to ascertain the manufacturer.
33. ZMA concluded that the findings from the laboratory investigations established that the samples of the building materials presented by the Complainant were short of the declared thickness as indicated by the Respondent on their invoice and receipt. ZMA submitted that this validated the Complainant's allegations.

Review of the Complainant's Invoice⁸

It was submitted that:

34. The Commission's review of the Complainant's invoice submitted to the Commission dated 21st March 2024, revealed that the Complainant purchased 75 by 50, 1.6mm lipped channels, 40 by 40, 1.6mm square tubes, and 60 by 15, 0.5mm v-shaped ridges at cost of K24,000.00, K17,500.00 and K4,000.00 respectively and paid the total cost was K45,500.00 to the Respondent.

Respondent's Facebook Page⁹

It was submitted that:

35. The Commission conducted a search on the Respondent's Facebook page and it was revealed that as of 28th October 2024, the Respondent advertised 25x25x1.6mm and 25x25x1.2mm square tubes for sale to the public at K225.00 and K120.00, respectively.
36. It was revealed that on 27th September 2024, the Respondent advertised an October promotion for lipped channels in various sizes, priced as follows: 75x50x20x1.2mm at K600, 75x50x20x1.6mm at K895, 100x50x20x1.2mm at K680, 100x50x20x1.6mm at K995, 125x50x20x2mm at K1,150, 150x50x20x2mm at K1,400, 175x50x20x2mm at K1,700, and 200x50x20x2mm at K1,900.
37. It was revealed that there was no advertisement of ridges on the Respondent's Facebook page.

⁸ Complainant receipt dated 21st March 2024

⁹ Review of the Respondent's Facebook page

<https://www.facebook.com/profile.php?id=61551692768866&mibextid=LQ0J4d> on 12th November 2024

Submissions to the Preliminary Report

It was submitted that:

38. After the Preliminary Report was approved, it was duly served on the Complainant and the Respondent on 9th June 2025 and 6th August 2025 for them to make submissions to the Report, if any. The Respondent did not make any submissions.

Complainant's Submissions to the Preliminary Report

It was submitted that:

39. On 11th June 2025, the Complainant submitted that he duly received the letter by hand from CCPC office which he appreciated.
40. The Complainant submitted that on page 2, the Commission explained about one receipt of K45,500.00 only, leaving out the other receipt of K36,000.00 for IBR 0.5mm green 380m roofing sheets that was submitted to the Commission.

The Commission's Response

41. The Complainant had lodged in two separate complaints against the Respondent. Therefore, this Preliminary Report was based on the lipped channels, square tubes and v-shaped ridges, hence only referring to the K45,500.00 receipt as payment for the same. The Preliminary Report on the roofing sheets was yet to be served on him.
42. The Complainant submitted that on page 3, the phone number the Commission had indicated as "his" was incorrect as his lines started with 097XXXXX7 not 077XXXXX3.

The Commission's Response

43. The Commission noted the Complainant's submission.
44. The Complainant submitted that the Commission had not included the roofing sheets in the report, and that needed to be clarified as the Commission was only mentioning the v-shaped ridges, square tubes and lipped channels and leaving out the roofing sheets on page 5.

The Commission's Response

45. As stated in paragraph 43 of the Preliminary Report, the Complainant had lodged in two separate complaints against the Respondent. Therefore, this Preliminary Report was based on the lipped channels, square tubes and v-shaped ridges, hence only referring to the K45,500.00 receipt as payment for the same. The Preliminary Report on the roofing sheets was yet to be served on him.
46. The Complainant submitted that he demanded the Commission to take the case further to the Courts of Law as he was assured that it would involve relevant authorities to make sure that the matter was resolved within 3 months (90 days). The Complainant submitted that the case had taken too long, since 30th April 2024, which was more than one year due to reasons known to the Commission. The Complainant submitted that this had impacted him negatively as the Commission gave room to the Respondent to close down the shop.

The Commission's Response

47. The Commission acknowledged that the case had taken long; however, this was because of situations beyond the Commission's control a third party, ZMA, had to be engaged to carry out the assessments at both the Complainant's and the Respondent's premises, and thus depended on their findings. The Commission also acknowledged that after ZMA conducted the initial assessment of the roofing sheets at his premises, he later engaged them and requested that the assessments be reconducted. This led a second assessment being conducted at the Complainant's premises, thereby further lengthening the process.
48. The Commission noted that it was unfortunate that the Respondent had changed the location of their shop and did not notify public of the new location. The Commission therefore made several efforts to locate them and in August 2025, the Respondent was located and served with the Preliminary Report. However, due to the absence of prices of the roofing sheets on the market that the Complainant was supplied by the Respondent, the Commission still maintained its position that the Complainant seeks further redress through the Courts of Law.
49. The Complainant submitted that concerning the measurements, he was advised that ZMA would clarify this aspect; however, he did not know why there had been no clarification. The Complainant submitted that from the way ZMA was carrying out the measurements, he was 100% sure that they could

not come up with a block figure using their venire calliper. The Complainant submitted that yet the fact of the matter was that they supplied the material which did not meet the stated thickness as indicated on the receipt.

The Commission's Response

50. ZMA was the regulator of weights and measures, implying that they were experts in the field and the Commission had to rely on their findings to inform the investigations. Additionally, ZMA explicitly explained as to how they arrived at their conclusion in their technical report.
51. The Complainant submitted that in conclusion, having the Respondent located presented better chances of him obtaining a refund despite the limitations noted during investigations such as the failure to determine the difference between the prices of the items he was supplied and the price he was charged.

The Commission's Response

52. The findings and recommendations of this report indicated that further recourse in this case would have to be sought by the Complainant in the Courts of Law contrary to the Complainant's submissions.

Relevant Findings

It was submitted that:

53. The Commission found that the Complainant purchased 75 by 50; 1.6mm lipped channels, 40 by 40, 1.6mm square tubes, and 60 by 15, 0.5mm v-shaped ridges at the total cost of K45,500.00 from the Respondent.¹⁰
54. The Commission found that the Complainant had installed the lipped channels, square tubes, and v-shaped ridges as he had to mount the roofing sheets on the roof for the house he was building.¹¹
55. The Commission through the ZMA report found that the thickness of the lipped channels, square tubes, and v-shaped ridges was found to be 1.589mm, 1.382mm and 0.386mm respectively.¹²
56. The Commission through the ZMA report found that the lipped channels, square tubes, and v-shaped ridges were 0.081mm less than the 1.6mm stated

¹⁰ Complainant's invoice dated 21st March 2024

¹¹ Telephone conversation with the 2nd Complainant dated 26th June 2024

¹² ZMA report dated 6th November 2024

on the invoice, 0.22mm less than 1.6mm stated on the invoice and 0.114mm less than 0.5mm stated on the invoice respectively.¹³

57. The Commission found that ZMA had no tolerable error provided for in their regulations for the declared thickness for the roofing materials.¹⁴
58. The Commission found that the Respondent supplied square tubes in sizes 25x25x1.6mm and 25x25x1.2mm, as well as lipped channels in various sizes, including 75x50x20x1.2mm, 75x50x20x1.6mm, 100x50x20x1.2mm, 100x50x20x1.6mm, 125x50x20x2mm, 150x50x20x2mm, 175x50x20x2mm, and 200x50x20x2mm.¹⁵

Previous cases involving the Respondent

It was submitted that:

59. A review of the Respondent's case file revealed that there was no previous case in which the Respondent had breached Section 47(1)(a)(i) of the Act.

Analysis of Conduct

It was submitted that:

60. In analysing the case for possible violation of Section 47(1)(a)(i) of the Act, the following assessment tests were used:

Whether Mahalaja Steel Limited was a “person” or an “enterprise”

It was submitted that:

61. Mahalaja Steel Limited is an enterprise. Refer to paragraph 9 above.

Whether Mahalaja Steel Limited falsely represented that the goods supplied were of a particular standard

It was submitted that:

62. False representations or misrepresentation is “any manifestation by words or other conduct by one person to another that, under the circumstances, amounts to an assertion not in accordance with the facts”.¹⁶ The above definition implies

¹³ ZMA report dated 6th November 2024

¹⁴ ZMA report dated 6th November 2024

¹⁵ Review of the Respondent's Facebook page

<https://www.facebook.com/profile.php?id=61551692768866&mibextid=LOQJ4d> dated 12th November 2024

¹⁶ Black's Law Dictionary 4th Ed. Rev., p1152

that a person who represents that a particular good is of a particular standard, so that another person makes a purchasing decision based on the facts presented has falsely represented to that person and distorted their purchasing decision. A “*standard*” is defined as “*a criterion for measuring acceptability, quality, or accuracy*”¹⁷. “*Accuracy*” is the quality or state of being correct or precise; (b) the degree to which the result of a measurement, calculation, or specification conforms to the correct value or a standard¹⁸.

63. In the case at hand, the Commission established that the Complainant purchased 75x50mm, 1.6mm lipped channels; 40x40mm, 1.6mm square tubes; and 60x15mm, 0.5mm v-shaped ridges, at the total cost of K45,500.00. These materials were installed with the intention to support roofing sheets for his house under construction, suggesting that they were intended for structural use and therefore expected to meet specific strength, durability and accuracy standards. It was established through the ZMA report that the lipped channels, square tubes and v-shaped ridges supplied to the Complainant were 1.589mm instead of 1.6mm; 1.382mm instead of 1.6mm and 0.386mm instead of 0.5mm indicated on the invoice submitted to the Commission.
64. The Respondent made a false assertion of the thickness of the lipped channels, square tubes and v-shaped ridges as they were 1.589mm, 1.382mm and 0.386mm which was 0.081mm less than the 1.6mm stated on the invoice, 0.22mm less than 1.6mm stated on the invoice and 0.114mm less than 0.5mm stated on the invoice respectively. The Respondent misrepresented the roofing materials’ standard by providing items thinner than the advertised specifications on the invoice. By listing specific thicknesses, the Respondent assured the Complainant of the thickness, which the materials ultimately did not meet. The advertised specifications influenced the Complainant’s decision, as he relied on these standards for roofing support. The thinner dimensions indicated lower strength, which fell short of the advertised standard.
65. Furthermore, the Commission established that the Complainant had already installed the lipped channels, square tubes and v-shaped ridges on the roof of his house. Therefore, the Respondent should refund the Complainant the price difference between the amount paid and the actual thickness, as determined by the ZMA, for the lipped channels, square tubes, and v-shaped ridges, since the materials supplied were less than what was indicated on the invoice by the Respondent.

¹⁷ Black’s Law Dictionary 11th Edition pg. 1694

¹⁸ Oxford languages dictionary accessed on 26/03/2025

66. Additionally, the Commission established that the Respondent supplied square tubes to the members of the public in sizes 25x25x1.6mm and 25x25x1.2mm, priced at K225.00 and K120.00, respectively. It was established that the Respondent also supplied a range of lipped channels in the following sizes and corresponding prices: 75X50X20X1.2mm at K600.00, 75X50X20X1.6mm at K895.00, 100X50X20X1.2mm at K680.00, 100X50X20X1.6mm at K995.00, 125X50X20X2mm at K1,150.00, 150X50X20X2mm at K1,400.00, 175X50X20X2mm at K1,700.00, and 200X50X20X2mm at K1,900.00. However, the Commission found no records of v-shaped ridge sizes sold to the public. Therefore, the Commission did not find market prices for products with thicknesses of 1.589mm, 1.382mm, and 0.386mm for lipped channels, square tubes, and v-shaped ridges, respectively.
67. The Commission established that ZMA had no tolerable error for declared thicknesses under their regulations. Therefore, the Commission could not determine the price for the lipped channels, square tubes, and v-shaped ridges at 1.589mm, 1.382mm, and 0.386mm, as the required thickness tolerance was not provided in the regulations. Given the absence of comparable prices for these specific thicknesses on the market, the Commission could not determine a basis for issuing a refund to the Complainant for the lipped channels, square tubes, and v-shaped ridges supplied.
68. Therefore, the Respondent engaged in unfair trading practices and thus violated Section 47(1)(a)(i) of the Act as they had falsely represented that the 1.589mm, 1.382mm, and 0.386mm lipped channels, square tubes, and v-shaped ridges that they sold to the Complainant were 1.6mm, 1.6mm and 0.5mm, respectively.
69. In analysing the case for possible violation of Section 55(4)(a) of the Act, the following assessment tests were used:

Whether Mahalaja Steel Limited was a “person” or an “enterprise”;

It was submitted that:

70. Mahalaja Steel Limited is an enterprise. Refer to paragraph 9 above.

Whether the Respondent furnished the Commission, in a statement signed, by a director or member or other competent officer, employee or agent of the body corporate, within the time and in the manner specified in the notice, any information pertaining to any matter

specified in the notice which the Commission considers relevant to the investigation;

It was submitted that:

71. The NoI was served on the Respondent on 8th July 2024. The Respondent acknowledged receipt of the NoI but did not avail the Commission with any response within the 14 days stipulated by law. Therefore, the Respondent violated Section 55(4)(a) of the Act.

Board Deliberation

72. Having considered the facts, evidence and submissions in this case, the Board resolves that the Respondent violated Section 47(1)(a)(i) of the Act as they falsely represented that the lipped channels, square tubes, and v-shaped ridges supplied to the Complainant were of particular thickness. However, the Board resolves that the Respondent did not have prices for 1.589mm, 1.382mm, and 0.386mm lipped channels, square tubes, and v-shaped ridges respectively. The Board further resolves that the Respondent violated Section 55(4)(a) of the Act as they did not respond the Commission's NoI duly served on them.

Board Determination

73. The Facts and evidence of this case have shown that the Respondent violated Section 49(1) and Section 55(4)(a) of the Act.

Board Directive

74. The Board hereby directs that:

- i. The Respondent pays the Commission a penalty of 0.5% of their annual turnover for 2023 for the contravention of Section 47(1)(a)(i) of the Act in accordance with Section 47(2)(b) of the Act and the Competition and Consumer Protection Commission Guidelines for Administration of Fines, 2019 (**See Appendix 1**);
- ii. The Respondent pays the Commission a penalty of 0.5% of their annual turnover for 2023 for the contravention of Section 55(4)(a) in accordance with Section 55(5)(b) of the Act;
- iii. The Respondent submits their 2023 audited annual books of accounts to the Commission for calculation of the actual penalties within 30 days

of receipt of the Board Decision in accordance with Section 58(1) of the Act;

- iv. The Complainant be advised to seek redress from the Courts of Law as the Commission could not establish the refund amount due to him because there were no prices for 1.589mm, 1.382mm, and 0.386mm lipped channels, square tubes, and v-shaped ridges, respectively; and,
- v. The Commission writes to the Ministry of Commerce, Trade and Industry for mandatory labelling of thickness, batch number and manufacturer of roofing materials.

Note: Any party aggrieved with this order or directive may, within thirty 30 days of receiving the order to direction, appeal to the Competition and Consumer Protection Tribunal.

Dated this 10th October 2025

A. Joblick Musonda

Chairman

Competition and Consumer Protection Commission

Appendix 1-Calculation of the Penalty

The Calculation of the recommended penalty was determined as follows-

(a) The Competition and Consumer Protection Act No. 24 of 2010; Guidelines for Administration of Fines sets a base of 0.5% for offences relating to Part VII of the Act with the following caps;

| Offence | Starting Penalty | Maximum Fine in Fee units |
|---|------------------|---|
| Unfair trading practice | 0.5% of turnover | <ul style="list-style-type: none">• 3,333.33 for turnover upto 166,666.67 |
| False or misleading representation | | <ul style="list-style-type: none">• 33,333.33 for turnover above 166,666.67 upto 833,333.33 |
| Price Display | | <ul style="list-style-type: none">• 133,333.33 for turnover above 833,333.33 upto 1,666,666.67 |
| Supply of defective and unsuitable goods and services | | <ul style="list-style-type: none">• 233,333.33 for turnover above 1,666,666.67 upto 5,000,000 |
| Section 49 except for Section 49(1) | | <ul style="list-style-type: none">• 500,000 for turnover above 5,000,000 upto 10,000,000• 666,666.67 for turnover above 10,000,000 upto 16,666,666.7 |

| | | |
|-----------------------|------------------|---|
| | | • 1,666,666.67 for turnover above 16,666,666.7 |
| Display of Disclaimer | 0.5% of turnover | 100,000 |

(b) The Competition and Consumer Protection Act No. 24 of 2010; Guidelines for Administration of Fines – further provides for additions as follows-

- (i) The starting point of a financial penalty will be a penalty of not less than 0.5% of annual turnover for first time offenders.
- (ii) The starting point of a financial penalty for a repeat offender will be the previous penalty charged by the Commission.
- (iii) Thereafter, the Commission will be adding a 10% of the penalty determined in step one above for each aggravating factor.

(c) Whether the Respondent is a repeat offender under Section 47(1)(a)(i);

(d) The Commission's review of the case file for Mahalaja Steel Limited shows that the Respondent is a first-time offender of this Provision of the Act. As such the penalty will be set as
0.5%