COMESA Competition Commission
Competition Commission

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Common Market for Eastern and Southern Africa

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RESOLUTION OF A COMPLAINT BY MR. PATRICK HEMBI AGAINST AIRTEL DRC AND AIRTEL ZAMBIA FOR FAILING TO REVERSE A CROSS-BORDER AIRTEL MONEY TRANSFER ERRONEOUSLY SENT TO WRONG RECIPIENT.

1. The COMESA Competition Commission (the "Commission") received a complaint referred by the Competition and Consumer Protection Commission (CCPC) of Zambia, where it was alleged that Mr. Patrick Hembi, the complainant, had erroneously sent USD 250 across the border to an Airtel user in Zambia in October 2023 from his number registered with Airtel Money Democratic Republic of Congo S.A ("Airtel DRC") in the Democratic Republic of Congo (DRC). Further, he alleged to have immediately requested a reversal from Airtel DRC but was informed that the amount had been withdrawn. He is reported to have visited an Airtel customer center in Zambia and was advised that the wrong number was no longer in use and that the money was retained in the line. He reported to have made several requests to both Airtel DRC and Airtel Mobile Commerce Zambia Limited ("the Airtel entities") to have the amount reversed back to him without success. Subsequently, he requested assistance from the CCPC, which referred the case to the Commission due to its cross-border dimension.

2. The Commission reviewed the Airtel entities' Terms and Conditions to establish the position on erroneous money transfers and noted that clause 13 of Airtel Zambia's Terms, and clauses 8 and 9 of Airtel DRC's Terms provide for reversal of funds as follows:

   "....Airtel Money reserves the right, at its sole discretion, to cancel and/or reverse a Transaction if reasonable grounds such as manifest error or fraud are shown and provided that the recipient has not redeemed the E-Money and the reversal claim is made within one (1) month of the erroneous Transaction date".

   "If you receive funds in error, you acknowledge that you shall be obliged to return the funds to the sender failing which Airtel Money may reverse the payment to the sender. You may be liable to face prosecution for consuming or utilizing funds sent to you in error".

3. The Commission was concerned that, if indeed the money was still available on the number of the wrong recipient as alleged by the complainant, the Airtel entities were forcing the consumer to unfairly forego their funds by not adhering to their own Terms to consumers on money reversals.

4. The Commission further established from jurisprudence that service providers facilitating the transfer of money have an obligation to assist the consumer in the recovery of funds sent erroneously. In this case, there was no demonstration of assistance by the Airtel entities given to the complainant. According to Airtel's Terms, a recipient who utilizes funds sent in error may face prosecution. It was, however, evident in this case that the wrong number was no longer in use and therefore the recipient could not be followed for action, which aggravated the complainant's dilemma in retrieving the amount. The Airtel entities' conduct of failing to assist the sender and facilitating the recovery of the funds was therefore considered as likely unfair and unconscionable, and a possible breach of the Regulations under Article 28 (1) which states:

   "A person shall not, in trade or commerce, in connection with the supply or possible supply of goods or services to a person, engage in conduct that is, in all the circumstances, unconscionable".

5. Premised on the above, the Commission engaged the Airtel entities on 15 April 2025 and required them to assist in the reversal of the transaction, failure to which the Commission would proceed to initiate investigations against them for possible breach of the Regulations. Airtel Zambia responded on 6 May 2025, indicating that the complainant had initially reported the incident as a failed transaction but, following the Commission's intervention, they had engaged their international money transfer partners and successfully reversed the amount to the complainant on 5 May 2025. The Commission confirmed with the complainant that he had received the amount of USD 250 in his account.

6. Having regard that the Airtel entities successfully reversed the amount to the complainant, the Committee Responsible for Initial Determinations (CID) was satisfied with the action taken and the matter was closed.

7. Commission will continue to monitor the conduct of market actors to ensure that consumer rights are upheld.

8. Any aggrieved consumer may contact Mr. Steven Kamukama, Director Consumer Welfare and Advocacy Division on Email: skamukama@comesacompetition.org

Dr. Willard Mwemba
Chief Executive Officer