Ford fined R35 million for Kuga debacle

The Ford Motor Company of South Africa (FMCSA) has been fined an administrative fine of R35 million for the incidents in which the company's Kuga 1.6 model caught fire.

“After an intensive investigation, the National Consumer Commission, (the NCC) found that FMCSA had in fact engaged in prohibited conduct by distributing FMCSA Kuga vehicles that failed or could have failed as a result of a cooling system failure.

“This means that the failure of the cooling system rendered the vehicles not suitable for the purpose for which they were generally intended for and this resulted in the vehicles being unsafe,” NCC's acting commissioner Thezi Mabuza said.

Addressing a media briefing in Tshwane on Friday, the acting commissioner said in the last quarter of 2016, the NCC became aware of media reports regarding incidents of the FMCSA Kuga vehicles that were combusting either while parked or driven.

Following the announcement of a recall of the vehicles by Ford, the NCCSA initiated its own investigation to look into the risk of future fires and whether this was being adequately addressed.

The commission received a total of 160 complaints from consumers who alleged their rights were infringed by FMCSA.

“The investigation confirmed that 56 FMCSA Kuga vehicles had caught fire. During the same period, FMCSA had implemented a recall in two phases for 4,566 (2013-2014 model year) FMCSA Kuga 1.6L vehicles.

“It was established that these vehicles were prone to overheating due to a lack of coolant circulation resulting in a hairline crack in the cylinder head and a pressurised oil leak which may spill onto heated surfaces resulting in engine bay fires,” she said.

The commission and FMCSA have entered into a settlement agreement which will be filed in the tribunal and made for an order of the tribunal.

Mabuza said Ford has acknowledged that it is liable for harm in terms of Section 61(1)(b) of the Consumer Protection Act (CPA).

“Whilst FMCSA has already compensated the owners/drivers of Kuga vehicles that burned, FMCSA is further committed to ensure that a speedy process is implemented to consider any outstanding claims that may not have been resolved.

“In the normal course of events, an affected consumer may seek damages. This is done through civil court and not through the commission,” she said.

FMCSA has offered compensation to consumers who have three options.

“FMCSA offers to pay the sum of R50,000 each to those consumers who were owners of or in lawful possession of a Kuga FMCSA vehicle which combusted and a result suffered a loss contemplated by Section 61(1) read with Section 61(5) of the CPA.

“The payment of the said sum (R50,000) will, should the consumer elect to accept it, be in full and final settlement of all claims that the consumer may have against FMCSA as a result of the damaged or recalled Kuga vehicles,” Mabuza said.

The second option is if a consumer whose Ford Kuga burned believes that he/she is entitled to compensation in excess of R50,000, then the consumer may submit a claim against FMCSA in terms of Section 61 of the CPA.

As a third option, a consumer may choose to reject option one and option two and proceed to prove damages in court.

“The commission will communicate with the individual consumers who filed their complaints with the commission to determine the route they elect and provide any guidance should they so require on the claims process,” Mabuza said.