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COMMISSION**

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**Survey Report on the use of Non-official Languages on
the Domestic Market in Zambia**

**RESEARCH AND EDUCATION UNIT
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Introduction and Relevant Background

1. On Sunday 18th January, 2015, the Post Newspaper published an article that appeared to be in Chinese language on page 5 of the newspaper. This publication raised concerns of the Technical Committee members of the Board of Commissioners of the Competition and Consumer Protection Commission (“the Commission”) regarding the use of non-official languages in publications that were meant for the consumption of the general public. These publications include newspapers, bill boards, adverts and signage.
2. With respect to the above mentioned publication, the Commission was tasked to look into the legality of the conduct to establish whether publishing an article in a non-official language in a newspaper has a legal backing.
3. The Commission had done a similar study in November 2013, regarding the legality of 'use of non-official languages' on labels in the domestic market. The concern was whether it was legally acceptable for packages of foodstuffs and for situations related to outdoor advertising, signage and publications to have labels in non-official languages which could be local Zambian languages or foreign languages such as Arabic, Ndebele, Japanese, Chinese, Swahili etc.
4. Fundamentally, all nations globally have well established official languages which are recognized as common means of communication in each country and are legally accepted by all citizens and are recognised by other countries as such. Communication should be a two way process, where both parties understand each other. Hence, the use of a common language remains vital to both parties engaged in the communication process to avoid misunderstanding, confusion and suspicion.
5. To ensure that this potential confusion on the market is avoided, the Commission under section 5(l) undertook a survey which was aimed at providing an insight on the legal position on this matter.

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Survey Conducted

6. Following the directive given to the Commission by the Technical Committee of the Board to ascertain the legality of the conduct, the Commission embarked on this process by identifying government institutions that could have the legislative mandate to provide insight with regard to the use of foreign language in publications.
7. It should be noted that the Commission conducted a similar study in the fourth quarter of the year 2013, however, additional information from institutions that the Commission did not inquire from in the earlier undertaking were sought for.
8. Institutions that were identified in the 2013 inquiry included;
 - Zambia Bureau of Standards (ZABS)
 - Lusaka City Council (LCC) and
 - National Council for Construction (NCC)
9. Additional institutions that were identified in the 2015 inquiry include;
 - Ministry of Health (MoH)
 - Ministry of Information and Broadcasting Services (MIBS),
10. The Constitution of Zambia was also utilized to ascertain whether use of foreign language in publications had a legal backing.

Submissions Made by the Institutions from the Previous Inquiry (2013)

a) Lusaka City Council (LCC)

11. In the letter written by the Acting Town Clerk to the Commission dated 19th November, 2013, it was submitted that the labelling of food stuffs is regulated by the provisions of the Food and Drugs Regulations, Statutory Instrument no. 90 of 2001, made under the food and Drugs Cap 303 of the Laws of Zambia. Specifically, Regulation 8 states that:

8(1) A statement, information or declaration that is a requirement by these Regulations to appear on the label of any food, shall be in English Language, (2) Any other Language may be used in addition to English.

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b) Zambia Bureau of Standards (ZABS)

12. In the letter written to the Commission by the Acting Director, Zambia Bureau of Standards dated 19th November, 2013 the standards body submitted that;

The Zambian Law requires that labelling is done using English as the national official language and equally so the national standard on labelling — ZS 033(though limited to food products).

13. ZABS also submitted that they have not published any other standard on labelling and use of language other than that of pre - packaged foods (ZS 033).
14. In addition ZABS suggested that, there is need for Zambia as a nation to provide further guidance on how labelling of structures or items is to be done and in particular how and when a foreign language may be used alongside the national official language.
15. Further ZABS committed itself and is requesting the Commission that both institutions (CCPC and ZABS) consider engaging Cabinet Office jointly on the above matter.

Submissions by the Institutions from the Current Inquiry (2015)

a) Ministry of Health (MOH)

16. In the letter written by the Permanent Secretary to the Commission dated 25th June, 2015, the Ministry submitted that;

- The Food and Drugs Regulations of 2001 allows the use of English on food article in addition to other languages. Specifically Regulation 8(1) and 8(2) states that;

8 (1) a statement information or declaration that is a requirement by these regulations to appear on the label of any food shall be in English language,

8 (2) any other information may be used in addition to English

Further, Regulation No 9 states that;

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(9) All information required by regulations to appear on a label of food shall be–

(a) Clearly and prominently displayed on the label; and

(b) Readily discernible to the purchaser, customer or recipient under the customary conditions of purchase or use”

17. However, he further added that the above regulation only referred to foods articles hence recommended that the newspaper articles would best be handled by the Ministry of Information and broadcasting services and the Ministry of Commerce, Trade and Industry.

18. According to part 1 of the National Sovereignty and the State (THE NATIONAL CONSTITUTION OF ZAMBIA)

“The official language of Zambia shall be English.”

19. The Constitution is the supreme law of Zambia and if any other law is inconsistent with this Constitution that other law shall, to the extent of the inconsistency, be void. This Constitution shall bind all persons in the Republic of Zambia and all Legislative, Executive and Judicial organs of the State at all levels.

b) Ministry of Information and Broadcasting Services (MIBS)

20. The MIBS did not respond to the letter of inquiry regarding their legal position on the matter.

c) National Council for Construction

21. NCC responded that there is no legal position in the NCC legal provisions concerning this matter.

Analysis of the Submissions

22. The findings of the survey revealed that ZABS, LCC AND MoH had legal instruments which enabled them to provide reliable legal positions but only regarding labelling on food products. ZABS had developed a standard, ZS 033, which spelt out the need for pre-packaged food stuffs to be labelled in the official National Language, English. As for Lusaka City Council and Ministry of Health, they both have legal instrument Regulations 8(1) and (2) of the Food and Drugs Act which provide that English is the principle language to be used in labelling of pre-packaged food stuffs.

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23. However, LCC's and MoH Food and Drugs Regulations 8(2) provide for an opportunity to use an additional language as long as it was used along with the English language. These languages are supposed to have the same meaning. None the less, the additional foreign language could not be used in isolation in labelling pre-packaged food without the English language accompanying it. That would amount to the violation of the ZABS standard ZS 033 and Regulation 8(1) and (2).
24. However, the submissions from ZABS, NCC and LCC did not provide any legal guidance on issues related to labelling on outdoor advertising, signage and other publications. As a result it is of paramount importance to develop and provide legal certainty on this matter given that no institution in Zambia had been mandated to provide guidance on this.
25. The Food and Drugs Act defines label and advertisement as follows:
- "label" includes any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to or included in, belonging to, or accompanying any food, drug, cosmetic or device;*
- "advertisement" includes any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of any food, drug, cosmetic or device;*
26. Therefore any advertisements that has a bearing on food, drugs, cosmetics or devices should be in the official English language, and if an additional language is used it should be used alongside the English language and should carry the same meaning.
27. The supreme law of the land, Zambia, the Constitution states that English is the official language of Zambia. The constitution supersedes any other law in the land, hence English should be used as the official language in spoken or written. According to the Constitution of Zambia, the Constitution shall bind all persons in the Republic of Zambia and all Legislative, Executive and Judicial organs of the State at all levels.
28. In view of the foregoing, it is evident that any communication meant for the public for any purpose should and must be propagated in English

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language as provided for by the Constitution. Thus, any other language may not be used in sequestration to convey information to the public. However, subordinate legislation such as the Food and Drugs Act Cap 303 of the Laws of Zambia has provided an opportunity for any person who intends to use another language other than English alone. Nonetheless, the other language other than English cannot be used in isolation without including the English language and when used in this manner, the two should carry exactly the same meaning. Therefore, any publication within the confines of Zambia regardless of the audience it is intended for should conform to the requirement in the Constitution of the land. Any publication or foreign article should be printed with the English text.

Conclusion

29. The Constitution is the supreme law of the land and it provides that English is the official National language in Zambia. Hence English is the official language both in the contest of spoken and written English in Zambia, and therefore should be used in labelling on outdoor advertising, signage and other publications in the newspapers or otherwise as long as the message is meant for the general public.
30. In addition, according to the provisions provided under the ZABS standard ZS 033 and Regulation 8(1) and (2) of the Food and Drugs Act, an additional language could be used alongside the official language English, but should have the same meaning as the English text.

Recommendation

31. Given the results of the findings, the analysis and the conclusions, it is therefore recommended that;
 - Anyone wishing to convey information to the public or any particular group within the confines of Zambia should package it in English language as it is the official language in Zambia as provided for by the highest Law of the land, the Constitution of the Republic of Zambia. However, the use of any other language does not amount to any violation of the law in Zambia as long it is used alongside the English language and the two writings should and must carry the same meaning of the message desired to be conveyed. This information includes information published in newspapers, outdoor advertising, labels of buildings, etc.

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- Further, it is also recommended that local manufacturers and importers should ensure that the food products they offload on the domestic market are correctly labelled by adhering to national requirements as provided for under the ZABS Standard ZS 033 and Regulation 8(1) and (2) of the Food and Drugs Act.