

CLARIFICATION TO OUR SHAREHOLDERS AND CUSTOMERS ON SUSPENSION OF TOTAL KENYA LIMITED BY KENYA REVENUE AUTHORITY

We hereby draw your attention to the recent adverse media reports relating to the suspension of Total Kenya Limited (TKL) by Kenya Revenue Authority (KRA).

The suspension related to a 1995 dispute linked to the importation of some LPG equipment that went to court in 2001 upon TKL's application for judicial review. The matter was lastly in court on 22nd November 2007 for mention when the court directed that parties file and serve written submissions and list of authorities in 30 days, which was duly complied with.

As at 9th February 2012 when the motion was dismissed, the parties had been trying to fix the matter for hearing. Indeed, TKL was not notified of the show cause action that was coming up in court, hence the dismissal of the case in TKL's absence. KRA, without any notice whatsoever, proceeded to suspend TKL from trading with its customs office until payment of the purported decretal amount of Kshs. 131 million. This decision brought all our operations to a standstill, affecting all our customers in Kenya and Uganda.

In pursuit of a solution to mitigate further losses, TKL engaged KRA and agreed on a way forward that was reinforced by a court order staying any action by the revenue body. The principal suit has since been reinstated and the parties shall be back in court on March 2, 2012. It is important to note that while KRA was taking this decision, Total Kenya Limited is owed by KRA amongst other dues, a total of Kshs. 662 million in VAT refunds which have been outstanding for more than a year, as the bulk of the claims were lodged in the year 2010. Noting that the total interest payable to financial institutions at the average prevailing interest rate of 22% per annum is Kshs. 146 million, our business operations have been adversely impacted upon in terms of cash flows and profitability due to this huge outstanding.

In view of the foregoing, it is our strong conviction that as a business partner with good standing with KRA as an institution, other avenues should have been explored to resolve the matter in question rather than suspension of our operations which has resulted in a huge loss to us for the two and a half days of the said suspension, and the tarnishing of TKL's image as a responsible corporate citizen and tax payer.

We reiterate that TKL has all along been a responsible corporate tax payer. This is illustrated by the fact that on average, Total Kenya pays a total of Kshs 14 billion per annum to KRA in form of duties and taxes which represents 1.2% of the 2011/2012 national budget. In fact, Total Kenya ranks among the top tax payers in the country. Moreover, KRA has previously audited Total Kenya's level of compliance with tax regulations and laws and in November 2011 awarded the company the Authorised Economic Operator accreditation due to a high score on compliance.

We trust the foregoing will clarify the recent adverse reports to our shareholders and customers who were greatly inconvenienced by the suspension of our operations.



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