

**PRIVATIZATION COMMISSION**

Enhancing Kenya's Productive Capacity

**ISO 9001:2008 Certified**



# Annual Report & Financial Statements

For the year ended 30<sup>th</sup> June 2012





**PRIVATIZATION COMMISSION**

Enhancing Kenya's Productive Capacity

**ISO 9001:2008 Certified**

## **ANNUAL REPORT AND FINANCIAL STATEMENTS**

**FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2012**

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## CORPORATE INFORMATION

### Commission Office

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**NAIROBI**

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### Bankers

**Kenya Commercial Bank**  
University Way Branch  
**NAIROBI**

**Co-operative Bank of Kenya Ltd.**  
Co-operative Bank House  
Haile Selassie Avenue  
**NAIROBI**

### Auditors

Auditor General  
Kenya National Audit Office  
Anniversary Towers  
**NAIROBI**

## VISION AND MISSION STATEMENTS

### OUR VISION

An agent of change, implementing a Privatization Programme that contributes significantly in transforming Kenya into a vibrant economy.

### OUR MISSION

To create attractive privatization transactions and effectively manage a Privatization Programme that meets desired national objectives

### OUR CORE VALUES

In order to achieve the vision and the mission, we are guided by the following core values:

- i. **Integrity** - we employ the highest ethical standards, demonstrating honesty and fairness in every action that we take;
- i. **Transparency** - we are open in our decisions and actions.
- ii. **Accountability** - we take full responsibility for our actions that relate to our customers and fellow workers. We take responsibility for our performance in all our decisions and actions;
- iii. **Professionalism** – We uphold professional ethics in discharging our mandate
- iv. **Fairness** - we act justly, respect people, respect privacy, minimize harm and keep our promises.

## COMMISSION REPORT

The Commission hereby submits the report and audited financial statements for the period ending 30<sup>th</sup> June 2012 which shows the state of affairs at the Commission.

## PRINCIPAL ACTIVITY

The principal activity of the Commission is to formulate, manage and implement the Government's Privatization Programme.

## RESULTS

The income for the year was Kshs 248,538,092 and the expenditure was Kshs 142,723,240 thus giving an operating surplus of Kshs 105,814,852

## RESERVES

The fund balance at the end of the year amounted to Kshs 392,145,051.

## MEMBERS

The Commission members who remained in office during the year are shown on Page 6.

## AUDITORS

The Auditor General is responsible for the statutory audit of Commission's books of accounts in accordance with the Public Audit Act, 2003.



**SOLOMON KITUNGU**

**EXECUTIVE DIRECTOR / CEO**

**COMMISSION MEMBERS**

**Prof. Peter K. Kimuyu, MBS**  
Chairman



**Mr. Joseph Kinyua, CBS**  
Permanent Secretary, Treasury



**Hon. Prof. Githu Muigai**  
Attorney General



**Mrs. Esther Koimett, CBS**  
Alternate to the Permanent Secretary, Treasury



**Ms. Roselyn Amadi**  
Alternate to the Attorney General



**Mr. Solomon Kifungu**  
Executive Director/CEO

\*Seven positions for members of the Commission who are not public servants and are to be appointed by the Minister for Finance and approved by the relevant Committee of Parliament by virtue of their expertise in such matters as will ensure that the Commission achieves its objectives, remained vacant. At the end of the year, interviews had been carried out and the names had been submitted to Parliament.

## COMMISSION COMMITTEES

The Commission has the following Committees:

- (i) Finance and Strategy Committee**
- (ii) Audit Committee**
- (iii) Human Resources & Risk Management Committee**
- (iv) Privatization Steering Committees:**
  - a) Development Bank of Kenya Limited
  - b) National Bank of Kenya Limited
  - c) Public Sector Owned Sugar Companies
  - d) Kenya Tourist Development Corporation Hotels
  - e) Kenya Wine Agencies Limited
  - f) Approved Kenya Ports Authority Projects
  - g) Agro-Chemical and Food Company Limited
  - h) Consolidated Bank of Kenya
  - i) Kenya Pipeline Company Limited
  - j) Isolated Power Stations
  - k) Kenya Meat Commission
  - l) New Kenya Co-operative Creameries Limited
  - m) Numerical Machining Complex
  - n) Kenya Electricity Generating Company Limited
  - o) East African Portland Cement Company Limited

During the year, in the absence of the non-public service members of the Commission, none of the Committees was duly constituted. In this respect no committee meetings were also held.



**MANAGEMENT TEAM**

Mr. S. Kitungu	-	Executive Director/CEO
Mr. W. Temesi	-	Finance and Administration Manager
Mr. K. Waithaka	-	Legal Affairs Manager (up to Nov. 2011)
Ms. E. Ngeru	-	Internal Audit Manager (up to Feb. 2012)
Ms. B. Morara	-	Transaction Manager
Mr. D. Ngarama	-	Transaction Manager
Ms. B. Atieno	-	Corporate Affairs Officer
Mr. G. Muinde	-	HR and Administration Officer
Mr. J. Gichohi	-	ICT Officer
Ms. V. Kariuki	-	Accountant
Mr. J. Njagi	-	Procurement Officer

## CHAIRMAN'S STATEMENT

During the year, the work of the Commission continued to be constrained by the absence of the seven members whose term had expired and were to be appointed by the Minister for Finance and approved by the relevant Committee of Parliament. In the absence of a duly constituted Board, during the year, the Commission was not able to address institutional issues that required its attention such as the approval and implementation of job evaluation carried out in 2010/2011. Transaction reports and proposals required to be submitted to the Government also remained at approval stage. Absence of a duly constituted Board also adversely affected stakeholders' consultations which could not go on in the absence of approvals necessary prior to sharing the Commission's work with stakeholders.

Nevertheless, work that remained within the purview of Management continued to be carried out effectively as evidenced by improvement in various performance indicators at the end of the year.

I therefore take this opportunity to thank the Management and staff for the good work and the effort they have made to sustain the Commission's operations during the period that it has not been having a duly constituted Board.

We look forward to a fruitful implementation period once the Board is in place and the transactions waiting for consideration at various levels are approved to enable the Country to achieve the desired national objectives expected to accrue from privatization.



**PROF. PETER K. KIMUYU, MBS  
CHAIRMAN**

## EXECUTIVE DIRECTOR'S STATEMENT

In the absence of a duly constituted Board and approvals for implementation which were still pending at various levels within Government, the year remained challenging as the Commission could not fully deliver its mandate successfully. However, operations that were within the purview of Management were clearly identified in the Performance Contract for the year and were implemented successfully.

During the year, among other activities, major assignments carried out by Management are listed below:

- (i) Management finalized preparatory work and prepared draft detailed proposals for KenGen and Consolidated Bank of Kenya;
- (i) Management continued coordinating on-going contracts with respect to which work on the Isolated Power Stations, East African Portland Cement (EAPC), and Kenya Meat Commission progressed significantly;
- (i) Management reviewed the 2008-2012 Strategic Plan and also commenced preparation of the 2012-2016 Plan, which is currently on hold to allow for Commission members' participation once in place;
- (i) Management continued to provide technical and administrative support to the Treasury on general privatization issues and specific issues that relate to transactions pending approval at various stages;
- (i) Management identified and implemented a Records Management System that would enable the Commission to reduce cost of printing and storing of information while at the same time enhancing documents safety and easing retrieval of documents;
- (i) Management fully operationalized the Integrated Financial Management Information System (IFMIS) and Electronic Funds Transfer using the KCB Quick Pay System;
- (i) Management reviewed the Privatization Programme and submitted its recommendation to the Treasury;
- (i) Management worked with consultants to finalize job evaluation work with respect to which the recommendations are currently awaiting Board approval to implement;
- (i) Management contracted consultants and worked with them to redesign the Commission Website to enhance its utility and appeal to its target audience as well as to effectively communicate PC's corporate identity;
- (i) Management disposed of idle assets as set out in the performance contract for the year;

- (i) Management put in place a Car tracking system with a fuel monitoring facility to enhance the security, accountability and fuel consumption for the Commission vehicles;
- (i) Management identified training needs and identified appropriate training that was attended by officers concerned;
- (i) Management undertook sensitization on privatization processes through various articles and advertisements placed in national and international print media;
- (i) Management carried out a comprehensive archiving process that involved scanning reports and other Commission documents.
- (i) The Commission installed a wireless internet system to enhance its internet availability.
- (i) The Commission carried out an employee and customer satisfaction surveys during the year amongst other activities under the performance contract arrangement with the Government.



**SOLOMON KITUNGU**

**EXECUTIVE DIRECTOR/CEO**

## PROFILES OF COMMISSION MEMBERS

### Prof. Peter K. Kimuyu, MBS – Chairman

Prof. Kimuyu, 62, holds a Master of Arts degree in Economics from the University of Nairobi, a Master of Science degree in Energy Economics from the University of Surrey, England and a Doctor of Philosophy degree in Energy Economics. He is a professor of Economics at the University of Nairobi, where he also served as Director of Economics, at the School of Economics. Prof. Kimuyu, a member of the New York Academy of Sciences has held several Board positions, including Export Promotion Council, where he was the Chairman, the Kenya Commercial Bank and Inoorero University, the latter two of which he still serves on.

### Mr. Solomon Kitungu

Mr. Kitungu, 51, is the Commission Executive Director/Chief Executive Officer and he holds a Bachelor of Arts (Economics) degree from the University of Nairobi and a Master of Arts (Economics) degree from the University of Manchester, United Kingdom. Mr. Kitungu also has extensive training and experience in public sector, Parastatal and infrastructure reforms and privatization. Prior to joining the Commission as its Executive Director/CEO in 2009, Mr. Kitungu worked in various capacities at the Ministry of Finance rising to the position of Investment Director (Reforms) in the Department of Government Investments and Public Enterprises in 2003. While working at the Treasury, Mr. Kitungu represented the Permanent Secretary, Treasury in a number of Boards of directors of State Corporations.

### Mr. Joseph Kinyua, CBS

Mr. Kinyua, 61, the Permanent Secretary, Ministry of Finance holds a Bachelor of Arts (Economics) degree and Masters of Arts (Economics) degree, both from the University of Nairobi. He has worked in senior positions in the Central Bank of Kenya, the International Monetary Fund, Ministry of Planning and National Development, Ministry of Agriculture and Ministry of Finance. He is a Director of several Boards of State Corporations as well as a Board member of the East African Development Bank and the African Economic Research Consortium (AERC), amongst other international organizations.

### Hon. Prof. Githu Muigai

Professor Githu Muigai, 53, was appointed as Attorney-General of the Republic of Kenya on 29<sup>th</sup> August, 2011, and is the principal legal adviser to the Government. He holds LLB and Ph.D. degrees from the University of Nairobi and an LLM Degree from Columbia University School of Law, New York. He is also a Fellow of the Chartered Institute of Arbitrators (UK) and a member of the American Association of Trial Lawyers. He was called to the bar in 1985. In addition to the practice of law, he is an Associate Professor of Public Law in the School of Law of the University of Nairobi. He is a specialist in Public Law and trans-national legal practice. He is a recognized authority on business regulatory matters and in international commercial arbitration.

He is a member of the Law Society of Kenya, East African Law Society, Chartered Institute of Arbitrators, American Association of Trial Lawyers, Institute of Public Secretaries, Council of Legal Education, International Commission of Jurists International Bar and Association and Commonwealth Lawyers Association.

### Mrs. Esther Koimett, CBS

Mrs. Koimett, 56, is a holder of a Bachelor of Commerce degree and a Master of Business Administration degree, both from the University of Nairobi. She has held various senior positions in Government and the Parastatal sector, including being the Permanent Secretary, Ministry of Tourism. She is currently the Investment Secretary, Ministry of Finance. Mrs. Koimett represents the Permanent Secretary, Ministry of Finance on the Boards of various State Corporations.

### Ms. Roselyn Amadi

Ms. Amadi, 57, is a lawyer by profession and holds a Bachelor of Laws degree from the University of Nairobi. She is an Advocate of the High Court of Kenya and a holder of a Diploma in Law from the Kenya School of Law. She also holds a Diploma in Corporate Governance from KCA University. Ms. Amadi, a Senior Deputy Chief State Counsel at the State Law Office is currently the Deputy Head of the Treaties and Agreements Department at the Attorney General's office. She is also the Secretary of the State Corporations Appeals Tribunal.

## CORPORATE GOVERNANCE STATEMENT

The Commission's corporate governance structure aims at ensuring that the Commission's internal systems, which include policies, procedures, processes and people, serve the interests of the stakeholders and the communities within which we operate. The Commission Board is committed to ensuring that the organization's operations are run in a professional, transparent, just and equitable manner for the benefit of its stakeholders including the Kenyan public.

### Composition of the Commission Board

The Commission Board comprises eleven (11) members, eight (including the Chairman) of whom are from the private sector, two from the Government and the Executive Director/CEO. The Commission members possess a broad range of skills, expertise, experience and knowledge of the organization which are essential to direct the Privatization Commission.

### Meetings

The Commission Board under normal circumstances meets at least every two months for scheduled meetings and on other occasions as may be necessary to deal with specific matters that require attention, between the scheduled meetings. Commission members have access to timely information so that they can maintain full and effective control over strategic, financial and operational Commission issues.

The Commission Board from time to time holds consultative meetings with the Central Government, the Board and Managements of the entities being privatized and other stakeholders in order to seek views on matters in relation to the various privatization transactions.

For the whole year no Board or Board Committee meetings were held as there has been no Board in place since January 2011.

### Commission Board's Responsibilities

The Commission's responsibilities are set out in the Commission's Board Charter. The Board Charter, which incorporates internationally accepted best practices in corporate governance, defines the governance parameters within which the Commission exists and operates and sets out specific responsibilities to be discharged by the Commission, its Committees and members collectively as well as certain roles and responsibilities incumbent upon directors as individuals.

The Commission Board's responsibilities include amongst others:

(a) Defining the purpose of the organization, its strategic intent, objectives, and its values and setting and reviewing the strategic direction and adopting the organization's business plans and providing oversight of performance against targets and objectives;

(b) Providing stewardship of the organization and in discharge of its obligations, assuming the following responsibilities:

- i. Retaining full and effective control over the organization, and monitoring Management's implementation of the organization's plans and strategies;
- ii. Ensuring ethical behaviour and compliance with relevant laws and regulations, audit and accounting principles and corporate policies and procedures;
- iii. Defining levels of materiality, reserving specific powers to the Commission, delegating other matters through written authority and instituting effective mechanisms that monitor the performance of the management team;
- iv. Determining the provisions to be made for capital and recurrent expenditure and reserves;
- v. Receiving any grants, gifts, donations or endowments and making legitimate disbursements there from;
- vi. Acting responsibly towards the organization's stakeholders overseeing the reporting to stakeholders on the direction, governance and performance of the organization; and
- vii. Being committed to the principles of good corporate governance.

#### Conflict of Interest, Disclosure and Purchase of Shares

The Commission Board is cognizant of the prevalence of instances in which conflict of interest could arise, least, not being in matters of purchase of shares of companies or entities being privatized. The Commission Board has thus put in place measures to avoid such instances. These are:

1. Each Commission member undertakes to fully disclose to the Board any real or potential conflict of interest, especially in matters relating to the Privatization



Programme, which comes to his or her attention, whether direct or indirect.

2. A Commission member with such a conflict shall not participate in discussion of any such topic or vote on it unless the Board or Board Committee otherwise directs.
3. With regard to Commission members or their spouses, or children under the age of eighteen (18) years purchasing shares of companies or entities to be privatized, when a privatization of an entity takes place through an Initial Public Offer (IPO) and/or sale of shares, Commission members or their spouses, or children under the age of 18 should not participate in that IPO, though they can purchase the shares, six (6) months after the shares start trading on the market. In the event of shares held by Commission members in companies prior to the commencement of privatization, members will disclose interest.

### Separation of Roles and Responsibilities

The roles of the Chairman and the Executive Director/CEO are separate and their responsibilities clearly defined. The Chairman provides overall leadership to the Commission without limiting the principles of collective responsibility for Commission decisions. The Commission Board's authority for conduct of day to day business has been delegated to the Executive Director/CEO by the Privatization Act, 2005.

### Commission Board Committees

The Commission has established committees to assist it in discharging its responsibilities and obligations. Each committee has specific terms of reference outlining the scope of its responsibility and relevant administrative and procedural arrangements.

The Commission has constituted the following committees; Finance and Strategy Committee, Human Resources and Risk Management Committee, Audit Committee and Privatization Steering Committees for specific privatization transactions.

The terms of reference of the various committees are as follows:

#### **1. Finance and Strategy Committee (FSC)**

The FSC is mandated to assist the Commission Board in discharging its oversight duties with respect to the financial matters of the organization, overall strategic direction of the organization, operational performance, procurement, performance contracting and organizational health.

The Committee comprises six (6) members of the Board (including the Executive Director/CEO). The quorum for the FSC is four (4) members or such number as may be determined by the Board from time to time. The Committee meets every quarter and on any other dates that may be determined by the nature of the organization's operations.

The functions of the Committee are:

- (i) Developing or reviewing the Board's Charter (Board Scorecard) to enhance the Corporate Governance, ethics and achievement of the Corporate Objectives;
- (ii) Assisting the Board in discharging its responsibilities by reviewing the adequacy and completeness of recommendations and reports submitted to the Board for approval;
- (iii) Developing or reviewing the Privatization Commission's financial policies and making appropriate recommendations to the Board on issues of strategy adjustment.
- (iv) Developing or reviewing the progress of the Privatization Commission's execution plans through among others, identification of priority areas;
- (v) Monitoring, evaluating and overseeing the Privatization Commission's health including the review of financial and strategic plans and the overall Privatization Commission Performance Management System.
- (vi) Holding *ad hoc* meetings and consultations with strategic stakeholders on matters within the Committee's jurisdiction;
- (vii) Reviewing and recommending to the Commission for approval the Annual Procurement Plan and reviewing the implementation of the Annual Procurement Plan;
- (viii) Reviewing quarterly reports on the procurements done by the Privatization Commission;
- (ix) Reviewing and recommending for approval to the Board, budget reallocation for estimated procurement expenditure not incorporated in the Annual Procurement Plan.

## 2. **Human Resources and Risk Management Committee (HRRMRC)**

The HRRMRC is appointed by the Board primarily to consider all matters associated with the policies and practices of the Privatization Commission in relation to its human resources and risk management matters.

The HRC comprises six (6) members of the Board (including the ED/CEO) and the quorum is four (4) members or such number as may be as determined by the Board from time to time. The Committee meets every quarter and at such other times as may be determined by the nature of the organization's operations.

The **Human Resources** functions of the Committee are:

- (i) Examining policies and procedures on employment, extension, development and staff promotion;
- (ii) Continually examining the organization structure, core functions and staff establishment, and if necessary, making proposals for harmonization and rationalization in order to eliminate possible wastage arising from redundancy, overlaps and duplications;
- (iii) Examining the procedures for the assessment of needs for employment and staff development and procedures for staff training for operational efficiency and capacity enhancement for further development and consultancy services;
- (iv) Examining and reviewing the terms and conditions of service;
- (v) Examining the adequacy of performance and reward system;
- (vi) Examining and reviewing staff welfare policies; and
- (vii) Proposing innovative ideas to enable the Privatization Commission to achieve its Mission, Vision and Strategic objectives.

The **Risk Management** functions of the Committee are:

- (i) Reviewing and recommending for approval the Commission's risk management policies, processes and practices and assisting in ensure that policies and processes are in place to manage the significant risks to which the Commission is exposed;
- (ii) Reviewing and recommending for approval the Commission's risk appetite and tolerances;
- (iii) Periodically reviewing enterprise-wide risk appetite and risk thresholds for validity and recommending changes as necessary.
- (iv) Assessing the results and effectiveness of the Commission's control self-assessment process;
- (v) Overseeing the development of risk management key performance

indicators, reporting systems and reports to help provide assurance that significant risks are being monitored, assessed and appropriately escalated;

- (vi) Assessing risks impacting key business activities of Commission;
- (vii) Developing appropriate responses to unacceptable risks that arise on an emergency basis, either as reported by the Management's Risk Management and Business Continuity Committee (MRMBCC) through an early warning process or when a risk indicator reaches an unacceptable level;
- (viii) Reviewing and recommending for approval, the charter of the MRMBCC; and
- (ix) Receiving reports from the MRMBCC regarding its activities and discussing matters relating to such activities including any material regulatory issues and material emerging risks to the Commission.

### 3. **Audit Committee**

This Committee consists of five (5) Members and the quorum is three (3) members or such number as may be determined by the Commission from time to time. The Secretary of the Committee is the Internal Audit Manager.

The Committee meets every quarter and at such other times as may be determined by the nature of the organization's operations.

The functions of the Committee are: -

- (i) Assisting the Executive Director/CEO in enhancing internal controls in order to improve efficiency, transparency and accountability;
- (ii) Reviewing audit issues raised by both Internal and External auditors;
- (iii) Resolving unsettled and unimplemented Public Accounts Committee (PAC) and Public Investments Committee (PIC) recommendations; and
- (iv) Enhancing communication between Management, Internal and External audit and fostering an effective internal audit function.

#### 4. Privatization Steering Committees (PSCs)

The PSCs comprise of the members stipulated in Section 27 of the Act. The quorum is four (4) members or such number as may be determined by the Board from time to time. Each Steering Committee meets at such times as the business of a PSC will require.

Each PSC implements the assigned privatization on behalf of the Commission subject to any directions of the Commission.

The functions of the Committees are:

- (i) Liaising with the Management and agreeing on the necessary work and timetable to implement the privatization project;
- (ii) Continually examining the transaction to ensure its integrity. This will involve approvals including but not limited to:
  - a. Approval of Terms of Reference for hiring of transaction advisory services;
  - b. Approval of detailed privatization proposals and recommendation of the same to the Board for approval and submission to Minister for Finance for submission to the Cabinet;
  - c. Approval of bid documents for transaction advisory service;
  - d. Approval of prospectus for public offers;
  - e. Approval of bids and recommendation to the Board for award;
  - f. Negotiations;
  - g. Approval of allotment of shares for public offers;
  - h. Providing general guidance to the Management on the implementation of the privatization transactions;
- (iii) Providing general guidance to the Management on the implementation of the privatization transaction.

### **Commission Members Remuneration**

Commission members are paid various allowances, including sitting allowance, lunch allowance and mileage expenses when they attend Commission meetings and activities as well as annual directors fees, as are approved by the Treasury in line with the Guidelines from the State Corporations Advisory Committee.

### **Internal Controls**

The Commission Board has a collective responsibility for the organization's system of internal control for the reviewing of its effectiveness. The Management has the responsibility of establishing and implementing appropriate systems and controls in running the operations of the organization and providing assurance to the Commission that they have done so. The system of internal controls in place has defined operational procedures and financial controls to ensure that assets are safeguarded, transactions appropriately authorized and recorded properly and that material errors and irregularities are either prevented or detected within a reasonable period of time.

The Commission Board continuously reviews the organization's system of internal control and is satisfied that the system is effective. The foregoing notwithstanding, with a view to testing the effectiveness of the controls at the Commission from time to time, the Commission hosts the Kenya Bureau of Standards to undertake ISO Quality Management System surveillance audits whose results have remained favourable to the Commission.


The Commission Board continues to refine and audit the comprehensive Enterprise Risk Management framework so as to identify new risks, measure these risks and manage the risk positions. Risk Registers are continuously reviewed and updated to include new risks and their attendant risk tolerance limits.

## STATEMENT OF COMMISSION MEMBERS' RESPONSIBILITIES

The State Corporations Act (Cap 446, Laws of Kenya) requires the Commission members to prepare financial statements for each year, which give a true and fair view of the state of affairs of the Commission as at the end of the financial year and of its operating results for that year. It also requires the Commission members to ensure the Commission keeps proper accounting records, which disclose with reasonable accuracy, the financial position of the Commission. They are also responsible for safeguarding the assets of the Commission.

The Commission members accept responsibility for the annual financial statements which have been prepared using appropriate accounting policies supported by reasonable and prudent judgments and estimates in conformity with International Financial Reporting Standards and the requirements of the State Corporations Act. The Commission members are of the opinion that the financial statements give a true and fair view of the state of affairs of the Commission and of its operating results for the year ended 30th June 2012.

The Commission members further accept responsibility for the maintenance of accounting records, which may be relied upon in the preparation of financial statements as well as adequate systems of internal control. Nothing has come to the attention of the members to indicate that the Commission will not remain a going concern for the twelve months from the date of these statements.

Prof. Peter K. Kimuyu, MBS..........Chairman, Privatization Commission

Mr. Solomon Kitungu..........Executive Director/CEO



**REPORT OF THE AUDITOR GENERAL**

REPUBLIC OF KENYA

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Fax: +254-20-311482  
E-mail: cag@kenyaweb.com

P.O. Box 30084-00100  
NAIROBI

**KENYA NATIONAL AUDIT OFFICE****REPORT OF THE AUDITOR-GENERAL ON PRIVATIZATION COMMISSION  
FOR THE YEAR ENDED 30 JUNE 2012****REPORT ON THE FINANCIAL STATEMENTS**

I have audited the accompanying financial statements of Privatization Commission set out on pages 26 to 39, which comprise the statement of financial position as at 30 June, 2012, and the statement of comprehensive income, statement of changes in capital and revenue reserves and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 14 of the Public Audit Act, 2003. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

**Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 13 of the Public Audit Act, 2003.

**Auditor-General's Responsibility**

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 15 (2) of the Public Audit Act, 2003 and submit the audit report in compliance with Article 229(7) of the Constitution of Kenya. The audit was conducted in accordance with International Standards on Auditing. Those standards require compliance with



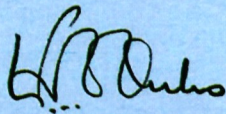
ethical requirements and that the audit be planned and performed with a view to obtaining reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

#### **Opinion**

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Commission as at 30 June 2012, and of its financial performance and its cash flows for the year then ended, in accordance with International Financial Reporting Standards and comply with the Privatization Act, 2005 of the Laws of Kenya.



**Edward R.O. Ouko, CBS**  
**AUDITOR- GENERAL**

**Nairobi**

**6 March 2013**

**STATEMENT OF COMPREHENSIVE INCOME****FOR THE YEAR ENDED 30<sup>TH</sup> JUNE, 2012**

		<b>2011/12</b>	<b>2010/11</b>
	<b>Note</b>	<b>Kshs</b>	<b>Kshs</b>
<b>Income</b>			
Government grants	3	200,000,000	360,000,000
Other income	4	48,538,092	4,815,453
<b>Total Income</b>		<b>248,538,092</b>	<b>364,815,453</b>
<b>Expenditure</b>			
Staff cost & benefits	5	84,387,954	103,248,938
Boards expenses	6	2,112,130	15,765,029
Transaction advisory costs	7	11,503,236	121,922,828
Operating expenses	8	28,371,477	25,074,881
Depreciation	9	13,057,658	14,484,007
Amortization	10	2,990,785	2,939,125
Audit fees	2b(iv)	300,000	672,000
<b>Total expenses</b>		<b>142,723,240</b>	<b>284,106,807</b>
<b>Surplus for the year</b>		<b>105,814,852</b>	<b>80,708,646</b>

**STATEMENT OF FINANCIAL POSITION  
AS AT 30TH JUNE 2012**

		2011/12	2010/11
	Note	Kshs	Kshs
<b>Assets</b>			
<b>NON CURRENT ASSETS</b>			
Property Plant and Equipment (NBV)	9	34,792,815	45,156,017
Intangible Assets	10	170,007	3,005,791
<b>Total Noncurrent assets</b>		<b>34,962,822</b>	<b>48,161,808</b>
<b>CURRENT ASSETS</b>			
Trade and Other Receivables	11	1,462,331	1,287,007
Inventories	12	656,880	626,035
Cash and bank balances	13	59,023,253	87,447,314
Short-term call deposit	13	320,000,000	200,000,000
<b>Total current assets</b>		<b>381,142,464</b>	<b>289,360,356</b>
<b>Total Assets</b>		<b>416,105,286</b>	<b>337,522,164</b>
<b>EQUITY AND LIABILITIES</b>			
<b>CAPITAL AND RESERVES</b>			
Cumulated surplus	15	388,868,851	283,053,999
Capital Grants	16	3,276,200	3,276,200
		<b>392,145,051</b>	<b>286,330,199</b>
<b>CURRENT LIABILITIES</b>			
Trade and Other payables	17	23,960,235	51,191,965
<b>TOTAL EQUITY AND LIABILITIES</b>		<b>416,105,286</b>	<b>337,522,164</b>

These Financial Statements were approved by -

Prof. Peter K. Kimuyu, MBS..........Chairman, Privatization Commission

Mr. Solomon Kitungu..........Executive Director/CEO

## STATEMENT OF CHANGES IN CAPITAL AND REVENUE RESERVE FOR THE YEAR ENDED 30<sup>TH</sup> JUNE, 2012

	Revenue Reserve	Capital Grants	Surplus for the year	Total
	Kshs	Kshs	Kshs	Kshs
Reserves as at 1 <sup>st</sup> July, 2010	202,345,353			<b>202,345,353</b>
Surplus for the year			80,708,646	<b>80,708,646</b>
Capital Grants		3,276,200		<b>3,276,200</b>
<b>At 30<sup>th</sup> June 2011</b>	<b>202,345,353</b>	<b>3,276,200</b>	<b>80,708,646</b>	<b>286,330,199</b>
Reserves as at 1 <sup>st</sup> July 2011	<b>283,053,999</b>	<b>3,276,200</b>		<b>286,330,199</b>
Surplus for the year			105,814,852	<b>105,814,852</b>
<b>At 30<sup>th</sup> June 2012</b>	<b>283,053,999</b>	<b>3,276,200</b>	<b>105,814,852</b>	<b>392,145,051</b>

## STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2012

		2011/12	2010/11
		Kshs	Kshs
<b>CASH FLOW FROM OPERATING ACTIVITIES</b>			
<b>Operating surplus for the period</b>		<b>105,814,852</b>	<b>80,708,646</b>
Adjustments for ;			
Depreciation		13,057,658	14,484,006
Amortization		2,990,785	2,939,125
Gain on disposal		(106,563)	
<b>Cash inflows before working capital Changes</b>		<b>121,756,732</b>	<b>98,131,777</b>
<b>Working capital Changes</b>			
(Increase) Decrease in Trade and other Receivables		(175,326)	(255,088)
( Increase ) Decrease in Inventories		(30,845)	(259,560)
Increase (Decrease ) in Trade and other payables		(27,231,730)	16,193,698
		<b>(27,437,901)</b>	<b>15,679,050</b>
<b>Net cash generated from operations</b>		<b>94,318,830</b>	<b>113,810,827</b>
<b>INVESTING ACTIVITIES</b>			
Disposal of motor vehicle		200,000	
Purchase of furniture		(273,400)	(268,800)
Purchase of computers		(2,499,371)	(1,919,000)
Purchase of Office equipment		(15,120)	(53,900)
Purchase of software		(155,000)	(200,000)
<b>Net cash from investing activities</b>		<b>(2,742,891)</b>	<b>(2,441,700)</b>
<b>Net increase (decrease) in Cash and Cash equivalents</b>		<b>91,575,939</b>	<b>111,369,127</b>
Cash and Cash equivalents at the beginning of the year		287,447,314	176,078,187
<b>Cash and Cash equivalents at the end of the year</b>	<b>13</b>	<b>379,023,253</b>	<b>287,447,314</b>

## 1. GENERAL INFORMATION

Privatization Commission is incorporated and domiciled in Kenya under the Privatization Act, 2005. The core business of the Commission is to formulate, manage and implement Government of Kenya's Privatization Programme.

## 2. SIGNIFICANT ACCOUNTING POLICIES

The Principal accounting policies in the preparation of the financial statements are set out below. These policies will be consistently applied, unless otherwise stated.

### (a) Basis of Preparation

The financial statements are prepared in compliance with International Financial Reporting Standards (IFRS). The financial statements are presented in the functional currency, Kenya Shillings and rounded to nearest shilling and prepared under the historical cost based accounting as modified by the revaluation of certain fixed assets.

### (b) Significant Accounting judgments and estimates

The preparation of financial statements in conformity with IFRS requires use of estimates and assumptions that affect the reported amounts of revenues and expenses during the reporting period. Estimates and judgments evaluated and based on managements' experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances, that have significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are described below:-

#### (i) Income Recognition

The Commission operations are financed by Government Grants and donations. The grants are accounted for on cash basis whereas the donations are accrued as appropriate.

##### Grants

Government grants are recognized where there is reasonable assurance that the grants will be received and all attaching conditions will be complied with.

##### Revenue Grant

Grants received to compensate expense or for the purpose of giving immediate support to the Commission with no future related costs are recorded as income in the income statement within the year of receipt.

##### Capital Grant

Where a grant is related to an asset, the asset amount is presented in the balance sheet by deducting the related grant in arriving at carrying amount of the asset.

### (ii) Property, Equipment and Depreciation

Annually, Directors make estimates in determining the depreciation for property, plant and equipment using internal technical expertise. The rates used are set out in the accounting policy for the property and equipment. These estimates are continually evaluated and based on historical experience and other factors, including expectations of future events that are believed to be under the prevailing circumstances.

Depreciation is calculated on the straight line basis at annual rates estimated to write off the carrying values of the assets over their useful lives.

The annual depreciation rates in use are:-

1. Motor vehicles	25%
2. Furniture	12.5%
3. Office Equipment	12.5%
4. Computers	30%

### (iii) Intangible assets

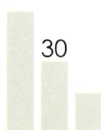
Computer software development costs recognized as assets are amortized using the straight line method over their useful lives, not exceeding a period of three years.

### (iv) Provisions

Provisions are recognized when the Commission has a present obligation (legal or constructive) as a result of first events, it is probable that outflow or resources embodying economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

### (v) Employee's benefits entitlements

Entitlements to annual leave are recognized when they accrue to employees. Provision is made for the estimated liability in respect of annual leave accrued on the balance sheet date.



**3. GOVERNMENT GRANTS**

	<b>2011/2012</b>	<b>2010/11</b>
	<b>Kshs</b>	<b>Kshs</b>
Government Grants-recurrent expenditure	150,000,000	160,000,000
Government Grants-transaction Advisory costs	50,000,000	200,000,000
<b>Total</b>	<b>200,000,000</b>	<b>360,000,000</b>

**4. OTHER INCOME**

	<b>2011/12</b>	<b>2010/11</b>
	<b>Kshs</b>	<b>Kshs</b>
Interest income	46,858,760	4,176,453
Sale of tender documents	105,500	639,000
Gain on sale of Motor vehicle	106,562	
Other income	1,467,270	
<b>Total</b>	<b>48,538,092</b>	<b>4,815,453</b>

**5. STAFF EXPENSES**

	<b>2011/12</b>	<b>2010/11</b>
	<b>Kshs</b>	<b>Kshs</b>
Basic salaries	45,726,544	50,192,652
House allowance	7,893,333	9,459,839
Remunerative allowance	960,000	960,000
Leave allowance	808,042	883,136
Acting allowance		17,323
Responsibility Allowance	420,000	420,000
Commuter Allowance	2,452,000	2,943,968
Employer contribution to NSSF	59,000	62,000
Gratuity	10,614,063	16,354,940
Medical Scheme	3,523,425	7,539,802
Domestic travel & accommodation	53,800	222,991
Foreign travel & accommodation	7,225	6,488
Training expenses including capacity building	10,441,334	13,183,847
Purchase of uniforms & clothing	136,688	124,720
Welfare expenses	1,292,500	877,234
<b>Total</b>	<b>84,387,954</b>	<b>103,248,938</b>



**(a) Staff expenses**

- Included in the staff expenses is Executive Director/CEO salary, allowances and gratuity amounting to Kshs 15,669,791
- Basic salaries includes a provision for 13<sup>th</sup> Month salary for 2011/12
- Gratuity expenses include a provision of 31% gratuity payable to all staff for the period ending 30<sup>th</sup> June 2012 which amounted to Kshs 7.9 Million.

**(b) The number of employees at the end of the year were****(i) By category**

	2011/12	2010/11
Management staff	9	11
Other staff	13	14
<b>Total</b>	<b>22</b>	<b>25</b>

**(ii) By Gender**

	2011/12	2010/11
Male	59%	62%
Female	41%	38%
<b>Total</b>	<b>100%</b>	<b>100%</b>

**6. BOARD EXPENSES**

	2011/12	2010/11
	Kshs	Kshs
Sitting and Lunch allowance		7,018,000
Honoraria	960,000	720,000
Directors fees	1,000,005	4,000,000
Other Boards expenses	152,125	4,027,029
<b>Total</b>	<b>2,112,130</b>	<b>15,765,029</b>

**7. TRANSACTION ADVISORY SERVICES**

	2011/12	2010/11
	Kshs	Kshs
Transaction Advisory services	11,503,236	121,922,828
<b>Total</b>	<b>11,503,236</b>	<b>121,922,828</b>

The Transaction Advisory cost refers to the cost of hiring Transaction Advisory Services. The total funds received for the year of Kshs 50 Million and the funds brought forward amounting to kshs 284Million that were directly related to Transaction Advisory Services

was not fully utilized due to delay in the approval of detailed Privatization Proposals hence the related deliverables and payments. In addition there was no Commission Board in place to approve detailed privatization proposal for submission to Parliament. The unutilized balance is reflected in the surplus for the year and is carried forward and held in the Cash and Bank balances.

## 8. OPERATING EXPENSES

	2011/12	2010/11
	Kshs	Kshs
Telephone expenses	1,076,132	1,273,659
Internet connections	455,203	365,107
Courier & postal services	17,746	76,236
Publishing & printing services	915,350	246,893
Subscription to newspapers and magazines	295,219	264,540
Advertising, awareness & publicity campaigns	1,403,419	4,008,541
Rent & rates- non residential	4,117,226	3,890,292
Official entertainment	1,198,675	905,674
Insurance costs	840,487	859,473
General office supplies	564,672	671,929
Supplies & accessories for computer & printers	214,654	400,785
Sanitary & cleaning materials	26,983	9,434
General consultancy	5,355,166	5,705,840
Refined fuels & lubricants	356,083	322,597
Bank service commission and charges	60,899	144,238
Subscription and donations	68,667	372,334
Contracted guard and cleaning services	559,448	683,683
Legal expenses	284,516	
Withholding tax	7,028,814	617,325
Steering Committee & stakeholders workshop expenses	2,251,319	2,627,099
Maintenance expenses- Motor vehicle	89,287	100,781
Maintenance expenses- Office furniture & fittings	3,450	47,950
Maintenance expenses- Office equipment	492,989	509,402
Maintenance expenses- IT equip & computers	571,506	842,636
Maintenance expenses- buildings	123,567	128,433
<b>Total</b>	<b>28,371,477</b>	<b>25,074,881</b>

**9. PROPERTY, PLANT AND EQUIPMENT****9A: Property, plant and equipment as at 30<sup>th</sup> June 2012**

	Motor Vehicles Kshs.	Furniture and fittings Kshs.	Equipment Kshs.	Computers Kshs.	Totals Kshs
<b>COST/ VALUATION</b>					
At 1 <sup>st</sup> July 2011	<b>13,554,409</b>	<b>57,801,496</b>	<b>3,256,720</b>	<b>10,389,382</b>	<b>85,002,007</b>
Additions during the year		273,400	15,120	2,499,371	2,787,891
Disposals during the year	(747,500)				(747,500)
<b>As at 30.6.2012</b>	<b>12,806,909</b>	<b>58,074,896</b>	<b>3,271,840</b>	<b>12,888,753</b>	<b>87,042,398</b>
<b>DEPRECIATION</b>					
As at 1.07.11	<b>8,806,924</b>	<b>21,498,079</b>	<b>1,145,734</b>	<b>8,395,243</b>	<b>39,845,990</b>
Charge for the Year	3,201,727	7,259,362	408,980	2,187,589	13,057,658
Dep on disposal	(654,062)				(654,062)
<b>As at 30.6.2012</b>	<b>11,354,589</b>	<b>28,757,441</b>	<b>1,554,714</b>	<b>10,582,843</b>	<b>52,249,587</b>
<b>NET BOOK VALUE</b>					
As at 30 <sup>th</sup> June 2012	<b>1,452,320</b>	<b>29,317,455</b>	<b>1,717,126</b>	<b>2,305,910</b>	<b>34,792,815</b>
As at 30 <sup>th</sup> June 2011	<b>4,747,485</b>	<b>36,303,417</b>	<b>2,110,986</b>	<b>1,994,128</b>	<b>45,156,017</b>

Computers include Computers, printers and other IT equipment worth kshs 6,326,000 that had been fully depreciated as at 1<sup>st</sup> July 2011. Although the items are still useful to the organization they were not revalued due to volatile changes in information technology.

**9B: Property, plant and equipment as at 30<sup>th</sup> June 2011**

	Motor Vehicles Kshs.	Furniture and fittings Kshs.	Equipment Kshs.	Computers Kshs.	Totals Kshs
<b>COST/ VALUATION</b>					
At 1 <sup>st</sup> July 2010	<b>13,554,409</b>	<b>57,532,696</b>	<b>3,202,820</b>	<b>8,470,382</b>	<b>82,760,307</b>
Additions during the year		268,800	53,900	1,919,000	2,241,700
<b>As at 30.6.2010</b>	<b>13,554,409</b>	<b>57,801,496</b>	<b>3,256,720</b>	<b>10,389,382</b>	<b>85,002,007</b>
<b>DEPRECIATION</b>					
As at 1.07.10	5,418,322	14,272,892	738,644	4,932,126	25,361,984
Charge for the Year	3,388,602	7,225,187	407,090	3,463,127	14,484,006
<b>As at 30.6.2011</b>	<b>8,806,924</b>	<b>21,498,079</b>	<b>1,145,734</b>	<b>8,395,243</b>	<b>39,845,990</b>
<b>NET BOOK VALUE</b>					
As at 30 <sup>th</sup> June 2011	4,747,485	36,303,417	2,110,986	1,994,128	45,156,017
As at 30 <sup>th</sup> June 2010	8,136,087	43,259,804	2,464,177	3,538,255	57,398,323

**10. INTANGIBLE ASSETS****10A: Intangible assets as at 30<sup>th</sup> June 2012**

<b>COST/ VALUATION</b>	<b>Kshs.</b>
At 1 <sup>st</sup> July 2011	8,817,374
Additions during the year	155,000
<b>As at 30.6.2011</b>	<b>8,972,374</b>
<b>AMORTIZATION</b>	
As at 1.07.11	5,811,583
Charge for the Year	2,990,784
<b>As at 30.6.2012</b>	<b>8,802,367</b>
<b>NET BOOK VALUE</b>	
As at 30 <sup>th</sup> June 2012	170,007
As at 30 <sup>th</sup> June 2011	3,005,791

Intangible assets relate to acquisition of an Integrated Financial management Information system, Microsoft office 2007, Windows XP, Corel Draw Graphics suite and Acrobat readers licenses.

**10B: Intangible assets as at 30<sup>th</sup> June 2011**

<b>COST/ VALUATION</b>	<b>Kshs.</b>
At 1 <sup>st</sup> July 2010	8,617,374
Additional during the year	200,000
<b>As at 30.6.2011</b>	<b>8,817,374</b>
<b>AMORTIZATION</b>	
As at 1.07.10	2,872,458
Charge for the Year	2,939,125
<b>As at 30.6.2011</b>	<b>5,811,583</b>
<b>NET BOOK VALUE</b>	
As at 30 <sup>th</sup> June 2011	3,005,791
As at 30 <sup>th</sup> June 2010	5,744,916

Intangible assets relate to acquisition of an Integrated Financial management Information system, Microsoft office 2007, Windows XP, Development of Website, Corel Draw Graphics suite and Acrobat readers licenses.

**11. TRADE AND OTHER RECEIVABLES**

	<b>2011/12</b>	<b>2010/11</b>
	<b>Kshs</b>	<b>Kshs</b>
Staff loan/advances	53,893	177,303
Interest receivable	1,408,438	1,109,704
<b>Total</b>	<b>1,462,331</b>	<b>1,287,007</b>

## 12. INVENTORIES

Inventories comprise of stores consumables items whose turnover is very high. First in first out valuation method is used and the inventories are stated in the financial statements at cost.

The inventories held at the end of the financial year were classified as follows:

	2011/12	2010/11
	Kshs.	Kshs.
Stationery	515,755	443,075
Accessories for computers and printers	137,625	182,960
Detergents and cleaning materials	3,500	
<b>Total</b>	<b>656,880</b>	<b>626,035</b>

## 13. CASH AND BANK BALANCES

	2011/12	2010/11
	Kshs.	Kshs.
Cash in Hand	41,970	20,479
Cash at Bank	58,981,283	87,426,835
Short-term call deposit	320,000,000	200,000,000
<b>Total</b>	<b>379,023,253</b>	<b>287,447,314</b>

Short-term call deposits were invested in KCB and Co-operative Banks

## 14. REVENUE RESERVE

	2011/12	2010/11
	Kshs.	Kshs.
Opening Balance	283,053,999	202,345,353
Surplus for the year	105,814,852	80,708,646
<b>Closing Balance</b>	<b>388,868,851</b>	<b>283,053,999</b>

## 15. CAPITAL GRANTS

	2011/12	2010/11
	Kshs.	Kshs.
Capital Grants	3,276,200	3,276,200
<b>Total</b>	<b>3,276,200</b>	<b>3,276,200</b>

Capital grants relate to fixed assets donated to Privatization Commission during the year 2008/2009.

## 16. TRADE AND OTHER PAYABLES

	2011/12	2010/11
	Kshs.	Kshs.
Trade creditors	1,448,728	14,548,761
Provisions	22,511,507	36,643,204
<b>Total</b>	<b>23,960,235</b>	<b>51,191,965</b>

## 17. CONTINGENT LIABILITY

The Commission has a pending court case where by it has been sued by the former internal Audit Manager Esther Wangeci Ngeru for wrongful termination of her services. This is as per IAS 37.

## 18. COMPARATIVES

Where necessary, comparative figures have been adjusted to conform to changes in presentation in the current year.

## 19. INCORPORATION

The Commission is a body Corporate established under the Privatization Act 2005.

## 20. CURRENCY

The financial statements are presented in Kenya Shillings (Kshs).

**STATEMENT OF ASSETS AND LIABILITIES**

During the financial year, no State Corporation was privatized.

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