

COMPETITION AUTHORITY OF KENYA

Creating efficient markets for consumers

ANNUAL REPORT AND FINANCIAL STATEMENTS

FINANCIAL YEAR 2017/18

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COMPETITION AUTHORITY OF KENYA

Creating efficient markets for consumers

ANNUAL REPORT

& Financial Statements for the Financial Year 2017/2018

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CORPORATE INFORMATION

Board of Directors

	NAME	DESIGNATION
1.	Mr. David Ong'olo, MBS	Board Chairman
2.	Mr. Wang'ombe Kariuki, MBS	Director General
3.	Dr. Kamau Thugge, CBS	Principal Secretary, The National Treasury and Planning
4.	Dr. Ibrahim Mohamed, CBS	Principal Secretary, Ministry of Industry, Trade and Cooperatives
5.	Hon. Justice Paul Kihara Kariuki	Attorney General
6.	Mr. Protus Sigei	Alternate to the Principal Secretary, The National Treasury and Planning
7.	Mr. Michael Onyancha	Alternate to the Principal Secretary, Ministry of Industry, Trade and Cooperatives
8.	Ms. Elizabeth Ng'ang'a	Alternate to the Attorney General
9.	Mr. Stephen K. Kiptinness	Independent Board Member
10.	Ms. Eunice Maranya	Independent Board Member
11.	Dr. Abdirizak Arale Nunow	Independent Board Member
12.	Ms. Carol Musyoka	Independent Board Member
13.	Ms. Leila A. Ali	Independent Board Member

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P.O Box 36265 – 00200, NAIROBI, Kenya.
Tel: +254-20-2628233 or +254-20-2779000
Website: www.cak.go.ke
Email: info@cak.go.ke

Auditors:
Auditor General
Kenya National Audit Offices, Anniversary Towers,
P. O. Box 30084 – 00100, NAIROBI.

Legal Advisors:

1. The Hon. Attorney - General, State Law Office, P. O. Box 40112-00100, **NAIROBI**	2. Rachier & Omollo Advocates, Mayfair Center, 5th Floor, Ralph Bunche/ Argwings Kodhek Road, P. O. Box 55645– 00200, **NAIROBI**
3. Goretti Munialo Mwinali Company Advocates, Uchumi House 14th Floor Aga Khan Walk, P. O. Box 10771-00100, **NAIROBI**	4. Wesonga, Wamalwa & Kariuki Associates Advocates Mezzainine Floor, Suite M14, Madona Hse Westlands P. O. Box 45770 – 00100, **NAIROBI**
5. Mohammed Muigai Advocates, K-REP Centre, P. O. Box 61323 - 00200, **NAIROBI**	6. Kibungei & Co. Advocates Postbank House, 2nd Floor, Banda Street, Haile Selassie Avenue, P.O. BOX 103082 – 00101, **NAIROBI**
7. Ogola Okello & Company Advocates, Office Suite 14, 1st Floor Green House, Ngong Road, P. O. Box 62550 – 00200, **NAIROBI**	

Bankers:

Kenya Commercial Bank Limited, KICC Branch, P. O. Box 30081– 00100, **NAIROBI**	National Bank of Kenya, Times Tower Branch, P O Box 72866 00200, **NAIROBI**

ACRONYMS

CBK	-	Central Bank of Kenya
CIOC	-	Constitutional Implementation Oversight Committee
EAC	-	East Africa Community
FSD(K)	-	Financial Sector Deepening Kenya
SCAC	-	State Corporations Advisory Committee
CCC	-	COMESA Competition Commission
JFTC	-	Japan Fair Trade Commission
ICPEN	-	International Consumer Protection Enforcement Network
ICN	-	International Competition Network
COMESA	-	Common Market for Eastern and Southern Africa
CCSA	-	Competition Commission of South Africa
UoN	-	University of Nairobi
MoU	-	Memorandum of Understanding
RTP	-	Restricted Trade Practices
PPRA	-	Public Procurement Regulatory Authority
CCLEP	-	Centre for Competition Law and Economic Policy

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PREAMBLE

The Authority is a State Corporation created under section 7 of the Act. Its mandate is to enhance the welfare of the people of Kenya by promoting and protecting effective competition in markets and preventing unfair and misleading market conduct throughout Kenya, in order to:

i) Increase efficiency in the production, distribution and supply of goods and services;
ii) Promote innovation;
iii) Maximize the efficient allocation of resources;
iv) Protect consumers;
v) Create a conducive environment for investment, both foreign and local;
vi) Capture national obligations in competition matters with respect to regional integration initiatives;
vii) Bring national competition law, policy and practice in line with best international practices; and
viii) Promote the competitiveness of national undertakings in World markets.

The Authority has a statutory obligation under section 83 of the Competition Act No. 12 of 2010 (the Act) to prepare an Annual Report for submission to the National Assembly by the Cabinet Secretary, The National Treasury and Planning.

The Annual Report captures the overall performance by the Authority, based on its key interventions and performance indicators.

The Authority achieves its mandate by regulating market structure and conduct; promoting consumer welfare and advising the Government in developing policies and regulation framework to enhance market based economy. Towards this, the Authority has developed relevant rules and guidelines, concluded co-operation frameworks with sector regulators, rolled out a Competition Regulatory Impact Assessment Framework. All these initiatives are encapsulated in the Authority's Strategic Plan 2017/18 – 2020/2021. To inform the ongoing regional economic integration, the Authority works closely with the relevant Government and Ministerial Agencies as well as Regional Economic Communities.

This report provides the nature and scope of the Authority's activities; its plans and priorities including the number and nature of complaints and applications determined and/or under consideration; number and nature of investigations completed and continuing; and significant studies and inquiries completed during the FY 2017/18. The report also includes the Authority's Financial Statements for the same period.

VISION

"A Kenyan economy with globally efficient markets
and enhanced consumer welfare
for shared prosperity"

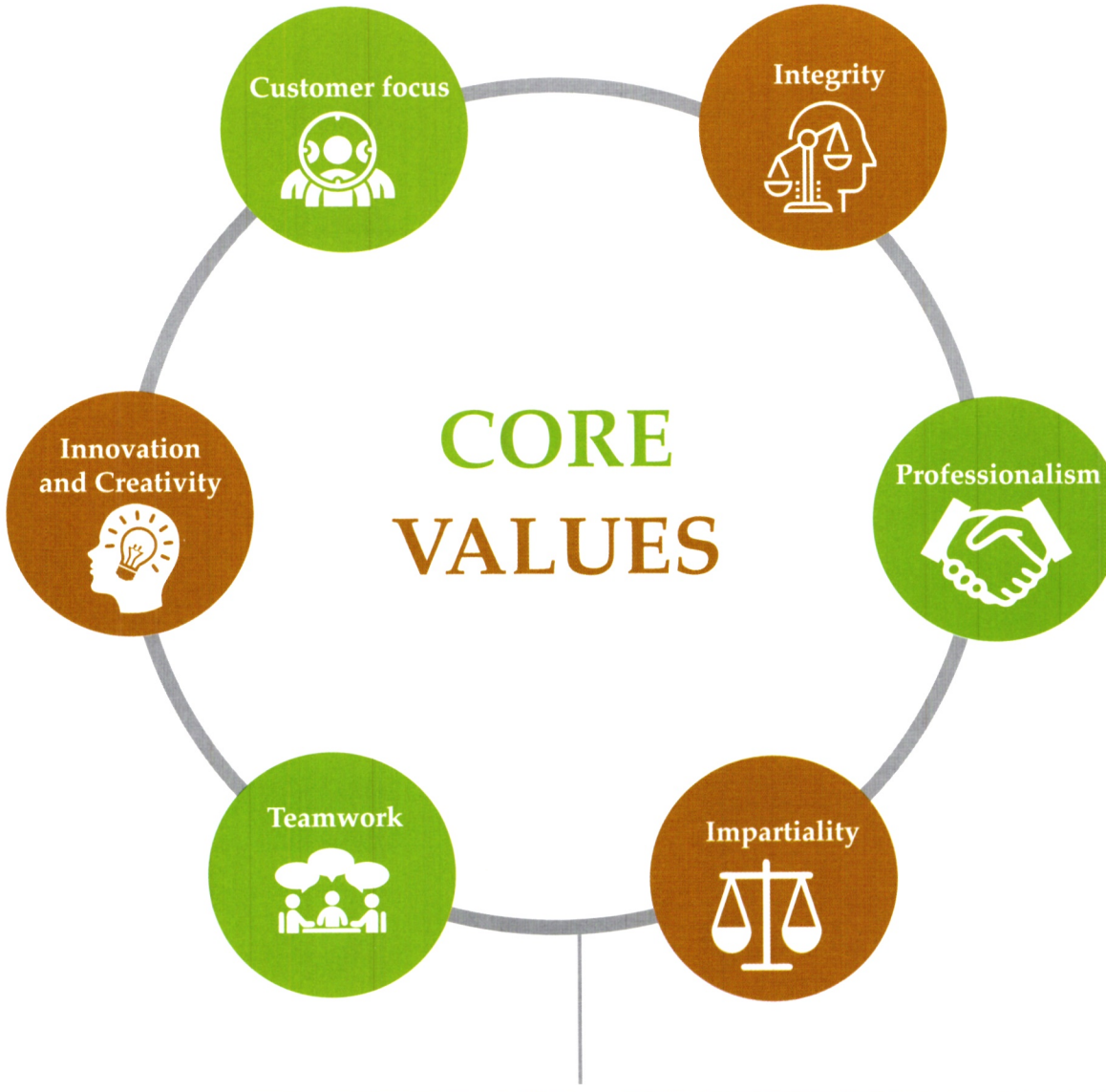
MISSION

"To enhance competition and consumer welfare in the
Kenyan economy by regulating market structure
and conduct in order to ensure efficient markets
for sustainable growth and development."

MOTTO

"Creating efficient markets
for consumers."

The guiding principles in the operations of the Authority are:



Customer focus
- commits to attaining the highest standards in service delivery to all stakeholders;

Integrity
- commits to acting in an honest, transparent and responsible manner while implementing its programmes;

Professionalism
- shall be guided by professional ethics aimed building an appropriate corporate culture and creating the right corporate image;

Impartiality
- shall uphold the highest levels of equity by treating all stakeholders without any discrimination whatsoever;

Teamwork
- shall adopt a participatory approach and work together at all levels in the conduct of its business; and

Innovation and Creativity
- shall be a learning organization that embraces change and continuously enhances creativity and innovation in its business processes.

Quality Policy

The Authority is committed to enhance the welfare of the people of Kenya by promoting and protecting effective competition in markets and preventing unfair and misleading market conduct. Towards this, the Authority commits to comply with all applicable statutory requirements and continual improvement of its Quality Management System based on ISO 9001:2015 International Standard.

The Authority's top management commits to review this policy and establish quality objectives biennially to ensure sustained improvement and suitability.

Quality Objectives

i) Provision of quality and effective regulation of both market conduct and structure;

ii) Protection of consumers from false and misleading market structure and conduct;

iii) Optimum utilization of the Authority's resources in the attainment of its mandate;

iv) Enhancement of customer satisfaction that exceeds their expectations by providing quality services;

v) The Authority's operations comply with all applicable laws and regulations;

vi) The Authority proactively engages its stakeholders and obtains prompt feedback on its services;

vii) The Authority attracts, trains and retains highly qualified, skilled and motivated staff for the realization of its mandate.

Mandate

The Authority's mandate is to promote and safeguard competition in the national economy and to protect consumers from unfair and misleading market conduct. This, as indicated in the Act, has the objective of enhancing the welfare of the people of Kenya. The Act's approach is competition neutrality which means it applies to all persons including the national and devolved Governments' actions, and State Corporations in so far as they engage in trade.

The Authority achieves its mandate through the following specific functions:-

a) Promotion and enforcement of compliance with the Act;

b) Receiving and investigating complaints from legal or natural persons and Consumer entities;

c) Promoting public knowledge, awareness and understanding of the obligations, rights and remedies under the Act and the duties, functions and activities of the Authority;

d) Promoting the creation of consumer bodies and the establishment of good and proper standards and rules to be followed by such bodies in protecting competition and consumer welfare;

e) Recognizing consumer bodies duly registered under the appropriate national laws as the proper bodies, in their areas of operation, to represent consumers before the Authority;

f) Making available to consumers' information and guidelines relating to the obligations of persons under the Act and the rights and remedies available to consumers under the Act;

g) Carrying out inquiries, studies and research into matters relating to competition and the protection of the interests of consumers;

h) Studying government policies, procedures and programmes, legislation and proposals for legislation so as to assess their effects on competition and consumer welfare and publicizing the results of such studies;

i) Investigating impediments to competition, including entry into and exit from markets, in the economy as a whole or in particular sectors and disseminate the results of such investigations to appropriate publics;

j) Investigating policies, procedures and programmes of regulatory authorities so as to assess their effects on competition and consumer welfare; and disseminate the results of such studies to appropriate public;

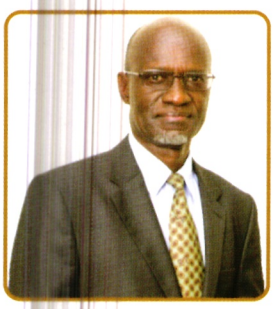
k) Participating in deliberations and proceedings of Government, Government Commissions, regulatory authorities and other bodies in relation to competition and consumer welfare;

l) Making representations to Government, Government Commissions, regulatory authorities and other bodies on matters relating to competition and consumer welfare;

m) Liaising with regulatory bodies and other public bodies in all matters relating to competition and consumer welfare; and

n) Advising the government on matters relating to competition and consumer welfare.

BOARD OF DIRECTORS



1. Mr. David O. Ong'olo, MBS – Chairman

Mr. David Ong'olo is serving his second term as the Chairman of the Authority for a period of three (3) years. He has a long standing interest in competition policy and private sector development. He has worked on topics spanning institutional development, sectoral regulation and industrial policy analysis. He is particularly interested in bridging the worlds of rigorous industrial sector analysis and practical policy development and implementation. He holds a Bachelor's Degree in Economics from the University of Nairobi and a Master of Science Degree in Industrial Economics from Lancaster University, United Kingdom.



2. Mr. Wang'ombe Kariuki, MBS - Director General

Mr. Wang'ombe Kariuki has vast experience in competition enforcement and is the first Director-General of the Competition Authority of Kenya and serving his second term. His main interests are in competition regulation and Economics of institutions' development. He is a distinguished authority in the Competition Enforcement World for his advocacy efforts and other initiatives geared towards modernizing various competition regimes. Mr. Kariuki holds a Master's of Science Degree in Economic Regulation and Competition from City University, London; a Bachelor of Arts degree in Economics and Business Studies from Kenyatta University; and various Certificates in Strategic Leadership and Corporate Governance.



3. Ms. Eunice M. Maranya

Ms. Eunice Maranya is serving her second term. She is a Business, Management and institutional development specialist with over 15 years banking experience, and seven years of consulting. She is the Country Director of the Digital Opportunity Trust, a Canadian NGO that works in the youth and Information Communication Technology (ICT) space. She has previously served in the position of Chief Executive Officer of the Kenya Alliance of Residential Associations. She has sat in the Board of the Communications Commission of Kenya (CCK); now the Communications Authority of Kenya. She is a member of the Institute of Directors, holds an Auditor SA 8000 Standard: Amana Ltd, Switzerland and is a Lead Auditor ISO 9001:2000: SQML Center, South Africa. Ms. Maranya holds a Masters of Business Administration Degree from the United States International University (San Diego) and a Bachelor of Science Degree from the University of Nairobi.



4. Mr. Stephen Kiptinness

Mr. Stephen Kiptinness is serving his second term. He is the Lead Partner of Kiptinness & Odhiambo Associates Telecommunication, Media and Technology (TMT) Practice. He has served in locally and internationally reputable corporate firms and parastatals such as Orange Telkom Kenya, Communications Authority of Kenya, Commonwealth Telecommunications Organization, and Kenya Network Information Centre among others. Mr. Kiptinness has advised and consulted for Governments in the East African

Community as well as numerous Non-Governmental Organizations. He has also acted for global technology companies, mobile telecommunication companies, tower companies, numerous content and application service provider companies, leading companies in disruptive technology services among others. He also served as one of the inaugural Directors of the Kenya ICT Board, and the Scripture Union of Kenya. Mr. Kiptinness is a Bachelor of Laws (Hons.) graduate at the ILS Law College, Pune and also holds a Masters of Laws, Information Technology Law and Telecommunications Law from London School of Economics. He has been an Advocate of the High Court of Kenya for fifteen (15) years, a Certified Public Secretary and a Patent Agent.



5. Dr. Abdirizak Nunow

Dr. Abdirizak Nunow holds a PhD in Environmental and Behavioural Sciences from the University of Amsterdam, and a B.A. in Economics and Business studies and an M.Phil in Environmental Planning from Kenyatta University and Moi University respectively. He is currently a Senior Lecturer in Moi University's School of Arts and Social Sciences where he teaches natural resources management in the department of geography.

Dr. Nunow was a member of the Constitution of Kenya Review Commission (CKRC) that undertook the writing of a new constitution for the country. In addition, Dr. Nunow worked with the Inter-Parliamentary Union of IGAD (IPU-IGAD) Member States based in Addis Ababa, Ethiopia, as the Director for Social and Environmental Affairs. More recently, he was a member of a Working Group appointed by the Budget and Appropriation Committee (BAC) of the National Assembly, to carry out Socio-Economic Audit of the Constitution of Kenya, 2010.

Dr. Nunow has also wide experience in consultancies in social development, humanitarian disaster management, food security, strategic planning and environmental impact assessment and environmental audit, among other areas.



6. Ms. Carol Musyoka

Ms. Carol Musyoka has several years of financial leadership experience. She has extensive deal origination, negotiation, structuring and execution experience, having been involved in several landmark corporate finance transactions in Kenya. Her executive management and board experience includes her role as the Corporate Director, Barclays Bank of Kenya as well as the Executive Director and Chief Operating Officer of K-Rep Bank, Kenya's first micro finance institution. Carol has considerable experience and training over her banking career. She currently sits as a non-executive director on the Boards of East Africa Breweries Ltd, British American Tobacco Ltd and the national carrier, Kenya Airways. She also chairs the Board of the recently constituted Business Registration Services, a parastatal created to house the Kenyan Companies Registry. She has previously served on, and retired from the Boards of at least 12 private and Not for Profit organizations including BOC Gases, Institute of Economic Affairs, Opportunity Kenya and the African Legal Support Facility of the African Development Bank.

Carol currently provides bespoke training solutions to a number of multinational and locally owned companies in the region on Leadership and Corporate Governance. She has also been a co-facilitator on Fast Forward, a local leadership development program that provides "Leadership Unusual" insights to Chief Executive Officers and C-Suite Management of leading Kenyan companies. On an international level, Carol is part of the Durham, North Carolina based Duke Corpo-

rate Education faculty and is involved in providing leadership deliveries for some of their global clients.

Her skills in breaking down complex financial events and contextualizing the same to local situations have been well received and are a constant feature of her weekly Monday articles in Kenya's leading business newspaper, the Business Daily. Carol is a holder of a Bachelor of Law degree from the University of Nairobi and a Master of Law degree from Cornell University, USA. Carol, is also a recipient of the 2010 Eisenhower Fellowship for International Leadership.



7. Ms. Leila Ali

Ms. Leila A. Ali has over 10 years' experience in both managerial and financial industry having worked in Kenya and UK. She has been actively involved in setting up small and medium sized companies from inception to launching into profitable and successful companies. Ms. Leila also held senior financial and accounting roles at Honeywell Limited and Hampton Construction Co. She has served in various Boards including Wangari Mathai foundation, Elimu Plus Limited and Acorn Properties UK. She is currently a Financial Expert with Baker Tilly Merali's in charge of planning and execution of large and medium sized company's due diligences and audits including those of Non – Governmental Organizations.

Ms. Leila received a Bachelor's degree in Accounting & Finance (Hons) from London South Bank University. She is also an ACCA Affiliate. Ms. Leila has significant experience in financial reporting, strategic management, accounting, capital markets transactions, investor relation and international operations.



8. Mr. Protus Sigei - Alternate to the Principal Secretary, The National Treasury and Planning

Mr. Protus Sigei has built his career largely within the public sector in Kenya. He holds a B.A (Hons) degree in Economics (with Math) from the University of Nairobi and a Master of Science from the University of York, U.K. He is also an alumnus of Queen's University, Canada (Program on Investment Appraisal and Risk Analysis), and INSEAD (Competitive Strategy). He has served in the Boards of directors of several entities, during which he has served in various Board committees.

He was one of the pioneer seven (7) individuals selected by the Government of Kenya in 2004 to be trained, at the Boston Institute for Developing Economies, as trainers in Performance Contracting; subsequent to which he helped introduce and roll out performance contracting in Kenya's Public Service. He is a member of the Society for Benefit-Cost Analysis, a professional society of academics and practitioners, headquartered at the University of Washington at Seattle, USA. He is also a Member of the Australian Institute of Company Directors.



9.Ms. Elizabeth Ng'ang'a - Alternate to the Attorney General

Ms. Elizabeth Ng'ang'a is a Parliamentary Counsel in the Office of the Attorney-General. She has undergone a range of drafting training and boasts of wide experience in legislative drafting. Over the years, Ms. Ng'ang'a has served on numerous committees and task forces as a drafting expert, more recently being drafting financial legislation under the National Treasury.

She is an advocate of the High Court of Kenya and holds a Bachelor of Laws Degree from the University of Nairobi as well as a postgradu-

ate Advanced Diploma in Legislative and financial Drafting from the University of West Indies Cave Hill Campus, Barbados.



10. Mr. Michael Onyancha - Alternate to the Principal Secretary, Ministry of Industrialization, Cooperatives and Enterprise Development

Mr. Michael Onyancha currently is the Director of Weights and Measures, Ministry of Industrialization, Cooperative and Enterprise Development. A position he hold having risen through the ranks. He holds Bachelor of Education (Hons) Degree in (Mathematics) and Masters of Business Administration Degree from the University of Nairobi. Mr. Onyancha is the Country Representative to the International Organization of Legal Metrology (OIML) and a member of the International Legal Metrology Committee (CIML). He is a Board member of East Africa Standard Committee, and a Member of the Institute of Trade Standard Administration, Kenya (ITSA).

MANAGEMENT TEAM



Wang'ombe Kariuki, MBS	
Position	Director General
Date joined the Authority	January 2013
Profession	Economist
Key Qualifications	Msc. Economic Regulation and Competition (City University, London) BA Economics & Business Studies (Kenyatta University) and various Certificates in Strategic Leadership and Corporate Governance



Stellah Onyancha	
Position	Director, Competition and Consumer Protection
Date joined the Authority	May 2014
Profession	Economist
Key Qualifications	MA Economic Policy Management; BA (Hons) Economics and Business studies; Diploma in Management of Information Systems (IMIS) and Certificates in various disciplines.



Eric Mwangi	
Position	Director Corporate Affairs
Date joined the Authority	December 2014
Profession	Accountant
Key Qualifications	Bsc. (Hons.); MBA (Finance); CPA (K), Certified Fraud Examiner (CFE) and Certified Information Systems Auditor (CISA). Member of the Institute of Certified Public Accountants (ICPAK); Information System and Control Association (ISACA); active member of the Institute of Internal Auditors of Kenya.



Boniface Makongo	
Position	Manager Legal
Date joined the Authority	December 2013
Profession	Lawyer
Key Qualifications	Master's Degree in International Economic Law from the University of South Africa; LLB from Moi University; Diploma in Management in Information systems from the Institute for Management of Information Systems (U.K) as well as a PGD in Corporate Governance.



Mr. Gideon Mokaya	
Position	Manager, Enforcement and Compliance
Date joined the Authority	February 2015
Profession	Investigator
Key Qualifications	MBA from University of Nairobi (2006). A Certified fraud examiner (CFE) and a Certified Public accountant (CPA) K. A member of ACFE and ICPAK. A postgraduate diploma on Competition law from Kings College, London. Has certifications in Forensics, Competition investigations and Asset recovery.



Laura Lime	
Position	Ag. Manager, Internal Audit
Date joined the Authority	March 2015
Profession	Auditor
Key Qualifications	MA Economic Policy Management (University of Nairobi) BA. Economics (Moi University) Advanced Diploma in Business and Accounting from ACCA and is a member of the Institute of Internal Auditors Kenya.



James Mutisya	
Position	Ag, Mergers and Acquisitions
Date joined the Authority	May 2014
Profession	Economist
Key Qualifications	Masters Degree in Economic Policy Management (Makerere University) BA (Economics and Sociology), Egerton University



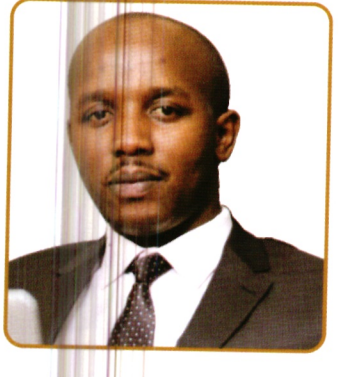
Boniface Kamiti	
Position	Manager, Consumer Protection
Date joined the Authority	February 2015
Profession	Economist
Key Qualifications	Master of Global Competition and Consumer Law University of Melbourne (Melbourne Law School); MA Economic Policy and Management (University of Nairobi) BA Social Sciences (Economics) from the Catholic University of Eastern Africa. He is widely trained on Corporate Governance, Results Based Management (RBM) and on conducting consumer related investigations.



Ninette Mwarania	
Position	Manager, Policy and Research
Date joined the Authority	April 2018
Profession	Marketing and Social Research Practitioner
Key Qualifications	MBA (Marketing Management) from the University of Nairobi; BComm. Hons. (Banking and Finance) from Kenyatta University; Certificate in Monitoring and Evaluation for Kenya Institute of Management (KIM). An active member of the Marketing and Social Research Association (MSRA).



Anthony Mureithi	
Position	Manager, Human Resources and Administration
Date joined the Authority	May 2013
Profession	Human Resources Practitioner
Key Qualifications	MBA from Moi University; BA Sociology from Kenyatta University; Higher National Diploma in Human Resources from Inorero University. An active member of the IHRM and KIM



Mugambi Mutegi	
Position	Manager, Communications and External Relations
Date joined the Authority	April 2018
Profession	Communications Practitioner
Key Qualifications	Bsc. Biotechnology from Kenyatta University; MA Communication Studies (on-going) from the University of Nairobi. Mugambi is an active member of PRS (K)



Ambrose Agenga	
Position	Manager, Finance
Date joined the Authority	June 2018
Profession	Accountant
Key Qualifications	MBA from the University of Nairobi and a BComm. from Catholic University of Eastern Africa. He is an active member of the Institute of Certified Public Accountants of Kenya (ICPAK).

CORPORATE GOVERNANCE

The Authority's Board is established by section 7 of the Act and comprises the Chairman and five (5) independent, non-executive members, appointed from among persons experienced in competition and consumer welfare matters. The Board also includes the Principal Secretaries to The National Treasury; the Ministry of Industry, Trade and Co-operatives and the Hon. Attorney General. The Director General is an ex-officio member and Secretary to the Board. The Board brings together Members from different professional backgrounds with diverse skills, competencies and complies broadly with the constitutional gender balance requirements as shown in Figure 1 and 2 below.

Figure 1: Board Competencies

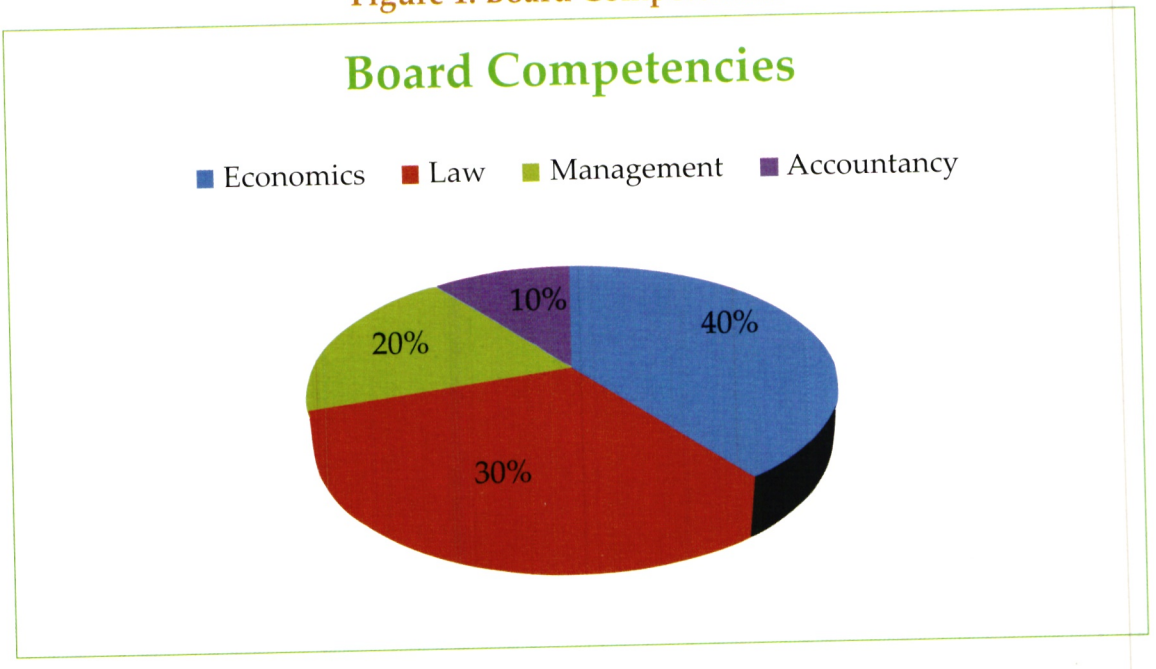
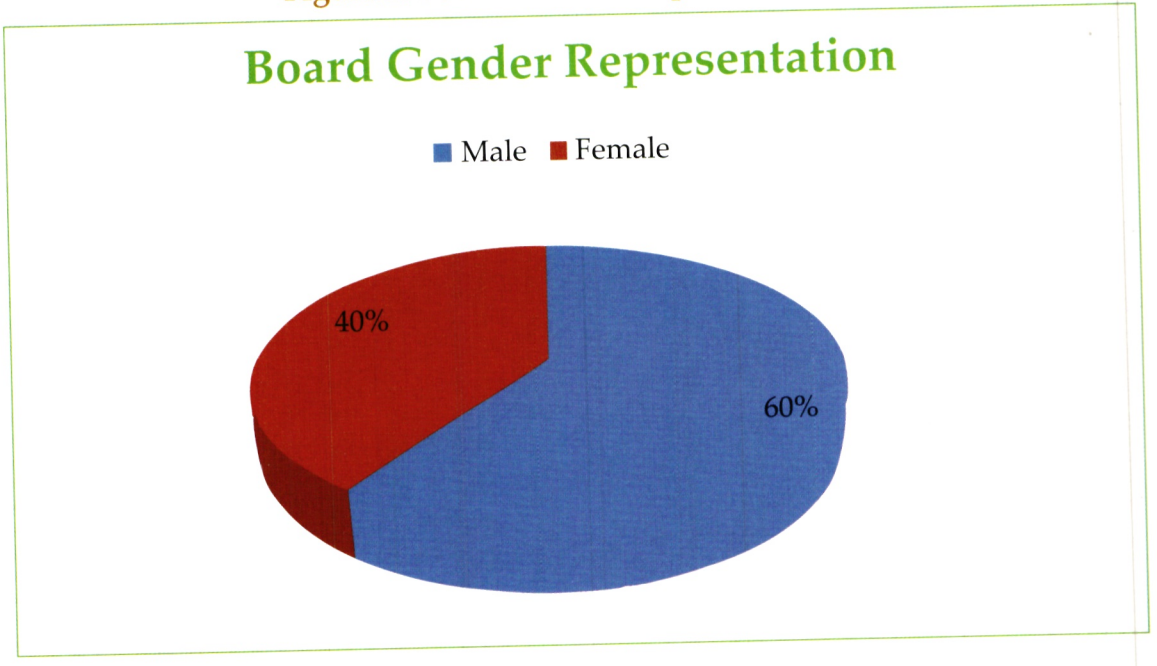


Figure 2: Board Gender Representation



The Board is responsible and accountable to the Government through the National Treasury and Planning and adheres to the highest standards of corporate governance and ethics as well as ensuring compliance with all applicable laws. It is committed to ensuring that the Authority's obligations, roles and responsibilities to its various stakeholders are fulfilled through its corporate governance practices. The Members and Management perform their duties with impartiality, honesty, transparency and accountability, professionalism, integrity, care and due diligence and act in good faith to the best interests of the public.

Further, the Board is committed to ensuring that ethics and integrity remain at the core of the Authority's operations. It recognizes that ethical management is key to the Authority's sustainability and is therefore, continuously putting in place practices, systems and processes to integrate ethics in all its operations. All new Members and staff equally undergo mandatory induction training that includes ethical conduct and are required to sign the Code of Ethics and to adhere to its principles and provisions.

Role of the Chairman of the Board

The Chairman provides leadership and governance of the Board and creates conditions for overall Board and individual Director's effectiveness by ensuring that all key and appropriate issues are discussed by the Board in a timely manner. He ensures that the Board plays a full and constructive part in the development and determination of the Authority's strategies and policies. He also ensures that the Board is supplied with timely and sufficient information to enable it discharge its duties effectively. In furtherance of the above, the Chairman ensures adherence to good corporate governance practices and procedures, and continuously promotes the highest standards of integrity, probity and corporate governance throughout the Authority and particularly at Board level.

Role of the Board

The Board is responsible for overall strategic direction and operational guidance of the Authority. In this regard, the responsibilities of the Board include:

i) Establishing short and long-term goals of the Authority and develop strategies to achieve these goals;
ii) Monitoring the Authority's performance against these set goals;
iii) Overseeing the preparation of annual financial statements and reports;
iv) Approving annual budgets; and
v) Ensuring that the Authority has adequate systems of internal controls together with appropriate monitoring of compliance activities to ensure business continuity.

The Board's key achievements during the FY 2017/18 were:-

- Developed and launched the 2017/18-2020/21 Strategic Plan;
- Approved and continually monitored the implementation of the Authority's Annual operating Plans and Budget;
- Implemented the Authority's Performance Contract with The National Treasury and Planning;
- Recruited Directors and filled the vacancies for Managers;
- Reviewed and approved the Authority's Human Resource Instruments, revised organizational structure and established a new department to handle Abuse of Buyer Power complaints;
- Reviewed and approved Rules and Guidelines to boost transparency, accountability and predictability of the Authority's decisions;
- Considered one hundred and forty eight (148) mergers, and the imposition of financial penalties totaling to KES 35 million; for undertakings that violated the provisions of the Competition Act.

- Reviewed the Authority's financial controls, financial statements and reporting systems based on both strategic and long-term plans;
- Oversaw the Authority's management of enterprise risk and approved all significant corporate actions, among others.

Board Membership and Attendance

The Board meets at least once every quarter depending on the exigencies of the business. The Board has established four (4) standing committees to assist in the execution of its responsibilities:
Technical and Strategy, Finance, Human Resources and Audit. The Board held ten (10) meetings and three (3) retreats. The number of meetings held for the Board and Committees are as shown in the table below:-

Table : Board Membership and Attendance

Board Member	Classification	Designation	Technical & Strategy Committee (Total number of meetings held: 12)	Finance Committee (Total number of meetings held: 6)	Human Resource Committee (Total number of meetings held: 9)	Audit Committee (Total number of meetings held: 4)	Full Board Meetings (Total number of meetings held: 10)
Mr. David Ong'olo	Independent member	Board Chairman	n/a	n/a	n/a	n/a	10
Mr. Stephen Kiptinness	Independent member	Chairman Technical & Strategy Committee	12	6	n/a	n/a	9
Ms. Carol Musyoka	Independent member	Chairman Human Resource Committee	n/a	2	8	n/a	8
Dr. Abdirazak A. Nunow	Independent member	Chairman Audit Committee	11	n/a	n/a	4	8

Board Member	Classification	Designation	Technical & Strategy Committee (Total number of meetings held: 12)	Finance Committee (Total number of meetings held: 6)	Human Resource Committee (Total number of meetings held: 9)	Audit Committee (Total number of meetings held: 4)	Full Board Meetings (Total number of meetings held: 10)
Ms. Eunice Maranya	Independent member	Member	11	6	n/a	n/a	9
Ms. Leila Ali	Independent member	Member	n/a	n/a	7	3	8
Mr. Michael Onyancha	Representing PS State Department of Trade	Member	n/a	n/a	7	4	7
Mr. Protus Sigei	Representing PS National Treasury	Member	12	n/a	n/a	2	4
Ms. E.M Ng'anga	Representing Hon. Attorney General	Member	n/a	5	9	n/a	4

Capacity Building for the Board

Training and development programs were organized to equip the Board with the necessary skills for effective discharge of their mandate. During the year, members also attended various capacity building programs focusing on Competition Law and Policy, Corporate Governance, Internal Audit, Leadership and Public Finance.

Board Evaluation

Board evaluation is key in assessing the performance, efficiency and effectiveness of an organization. The Authority undertakes regular annual performance evaluation of its Board to enable it review its strategies to ensure continuous growth and sustainability. The evaluation exercise was facilitated by the State Corporations Advisory Committee (SCAC) and the Board attained an overall score of 4.635 out of 5 marks, which is equivalent to 92.7%.

Board Remuneration

Members are entitled to a sitting allowance for every meeting attended, lunch allowance (in lieu of lunch being provided), accommodation allowance and mileage reimbursement where applicable. This is done within the limits set by the Government for State Corporations. In addition, the Chairman is paid a monthly honorarium.

Board Committees

There are four (4) standing committees of the Board which assist it to discharge its functions and responsibilities effectively. Operations of each committee are defined in the terms of reference approved by the Board. In order to adequately interrogate issues presented by the management, the Board had constituted the following Committees:-

i) Technical and Strategy Committee

The Committee consists of four (4) members, namely; Mr. Stephen Kiptinness, Ms. Eunice Maranya, Dr. Abdirazak Nunow and Mr. Protus Sigei. It is chaired by Mr. Stephen Kiptinness. The Director General, Mr. Wang'ombe Kariuki sits on the committee as an ex-officio member.

This Committee is mandated to guide on strategic planning and related technical aspects of the operational performance of the Authority and implementation of the Act. It also gives guidance to management on technical issues related to the functions of the Authority. In addition, it guides on the Authority's Corporate Risks and Business Continuity Management framework.

ii) Human Resources Committee

The Committee consists of four (4) members, namely; Ms. Carol Musyoka, Mr. Michael Onyancha, Ms. Leila Ali and Ms. Elizabeth Ng'ang'a. It is chaired by Ms. Carol Musyoka. The Director General, Mr. Wang'ombe Kariuki sits on the committee as an ex-officio member.

This Committee is mandated to review Human Resource policies and succession planning aspects of the Authority, review of Human Resources compliance with national legislation, organize the structuring and performance evaluation of Senior Staff, oversee and advise the Board on recruitment and promotion of staff.

iii) Audit Committee

The Committee consists of four (4) members, namely; Dr. Abdirazak Nunow, Ms. Leila Ali, Mr. Michael Onyancha and Mr. Protus Sigei. It is chaired by Dr. Abdirazak Nunow.

This Committee is mandated to periodically review the Authority's Financial statements in liaison with the External Auditors, review the financial statutory and non-statutory reporting obligations, advise on risk identification and mitigation measures and check on effectiveness and robustness of internal control measures.

iv) **Finance Committee**

The Committee consists of four (4) members, namely; Ms. Eunice Maranya, Mr. Stephen Kiptinness, Ms. Elizabeth Ng'ang'a and Ms. Carol Musyoka. It is chaired by Ms. Eunice Maranya. The Director General, Mr. Wang'ombe Kariuki sits on the committee as an ex-officio member.

This Committee is mandated to review the budgeting processes of the Authority and measures to broaden sources of financial resources and oversight on financial reporting.

Code of Conduct

The Authority has continued to observe and implement the provisions of the Code of Conduct which was gazetted in September 2014 vide Gazette notice No. 110. The Code binds both the Board Members and staff who commit to its requirements upon joining the Authority.

INTERNAL AUDIT AND ASSURANCE

As the third line of defense, the Authority's Internal Audit function's main objective is to provide assurance of the Authority's risk management, internal controls and governance processes. Its aim is to deepen good governance practices and support the achievement of effective internal controls through monitoring and follow up.

The Authority's system of internal controls has been defined by approved policies and procedures which contain operational and financial controls that ensure that assets are safeguarded, transactions authorized and accurately recorded. Further, they ensure that material errors and irregularities are either prevented or detected within a reasonable time. The objectivity and independence of the Internal Audit function was enhanced through governance support from the Board Audit Committee.

Quarterly audit reviews were carried out during the financial year to appraise the compliance levels to the approved policies and relevant legislations as well as adequacy, design and operational effectiveness of internal controls.

The Office of the Auditor General provided external assurance through a system and financial audit on the various expenditure cycles and business processes of the Authority.

CORRUPTION PREVENTION

The Authority has a zero tolerance policy towards corruption. It undertook various sensitization and training initiatives to educate staff members on the phenomenon of corruption, obligations of State and Public Officers under the Leadership and Integrity Act, 2012 and the Bribery Act, 2016, as well as enlightening members on ways of fostering good governance in the Authority. This promotes a culture of integrity, ethical conduct and professionalism in the organization.

The Authority has a whistle blowing policy that provides for an ethics hotline, email and corruption reporting boxes. Through these channels, anonymous reports on unethical/fraudulent behaviour can be made without fear of retaliation from the suspected individuals.

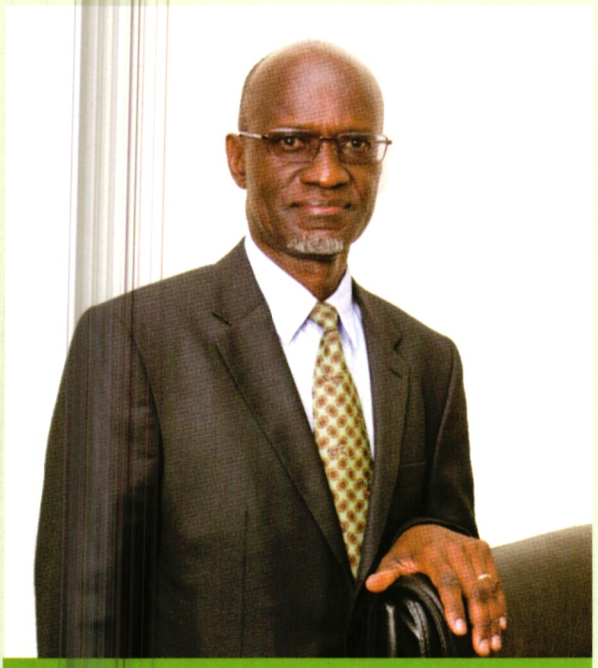
Corruption Risk Assessments were carried out on a quarterly basis in all functional areas to ensure robust mitigation plans were in place and obtain an update of the implementation status. It also ensured that corruption risks were adequately updated. There were zero cases of corruption reported during the financial year.

RISK MANAGEMENT

Risk management is a strategic function of the Authority's business and is applied in the day to day operations across all departments. This ensures that all risks are managed optimally and comply with the approved policies and tenets of good corporate governance. In the year under review, the Authority continued to implement the various mitigation strategies to ensure that the risk levels are minimized.

The Authority's Risk Policy, Procedures and Registers were reviewed and aligned to the current strategic themes and objectives. The Board, Management and Staff were also trained on risk management practices. Risk Champions were appointed and a Risk Management Committee established to spearhead the risk implementation process. The Authority's risk framework was updated and the mitigation strategies are continually being implemented.

CHAIRMAN'S STATEMENT



Mr. David O. Ong'olo, MBS
Chairman

On behalf of the Board, it is my pleasure to present the Annual Report and Financial Statements for the FY 2017/18. As an Authority, we are proud of the milestones achieved during the year in actualizing our mandate, in the face of internal and external challenges in the period.

We live in increasingly globalized markets which necessitates Competition agencies to stay up-to-date with developments in competition law internationally. Indeed, we run the risk of deterring Foreign Direct Investment if regulations and laws are not robust, current, predictable and pro-business. Currently, there is an ongoing global debate revolving around disruptive technologies such as those offered by App based taxi companies as well as Big Data which is also critical locally. Towards this during the FY 2017/18, the Authority stepped up its collaboration with global and regional competition agencies and experts with the aim of increasing its capacity and refining its regulatory framework in this globalized society.

On the regional front, our stakeholders have been facing challenges occasioned by the need for double notification for mergers with a COMESA dimension. In order to attend to this challenge, COMESA and CAK supported the review of this requirement to a single notification. This change will save businesses valuable time and money.

During the period under review, the Kenyan economy navigated a precarious period following the two general elections conducted in August and October 2017, with one of the effects on the Authority being a slight decline in merger notifications with an international dimension. According to the Economic Survey 2018, the extended electioneering period, the interest rate capping law and the prolonged drought contributed to Kenya's GDP's growth target of 4.9%.

The economic performance in 2018 is expected to improve, supported by a growth-focused fiscal plan. Early projections indicate that GDP will grow by over 6% with exchange, interest and inflation rates also expected to remain stable. With the projected GDP growth, the Authority foresees a robust growth in investment. According to the World Bank's Ease of Doing Business 2017 report, Kenya's global ranking improved twelve (12) places to eighty (80) from the previous year's position ninety two (92). This improved performance resulted from the National Government's cross-sector reform initiatives intended to cement Kenya's position as an investment destination of choice.

In order to augment these efforts to improve the business environment in Kenya, the Authority during the FY 2017/18 drafted and exposed to stakeholders nine (9) Rules and Guidelines with the intention of boosting transparency, accountability and predictability in the Authority's interactions with its stakeholders.

Further, the regulations are expected to lower the cost of doing business in the country, enhancing efficiency in business transactions and thus attracting both local and international investments. Small and Medium Sized Enterprises (SMEs) will particularly benefit from the new rules since undertakings with a combined turnover of KES 500 million and below will not have to undergo the rigorous process of merger analysis.

During the period under review, the retail sector was strained as one of the country's leading retail chains came under severe financial distress, highlighting how this sector can pose a systemic risk to the economy. It is with this in mind that some of the Guidelines introduced specifically seek to address the competition challenges in this sector and safeguard the interests of key retail stakeholders, more so suppliers and consumers. This was done through an amendment of the Competition Act No. 12 of 2010, by parliament.

From the foregoing, it is clear that Competition Law, and its application, has a central role to play in helping countries achieve economy-wide gains. Some of the benefits to be derived from a competitive economy is free entry and exit from markets by investors, increased entrepreneurship as well as efficient and innovative businesses.

It is with this overarching and critical economic role in mind that the Authority launched its Second Strategic Plan 2017/18 – 2020/21. This Plan draws from the successes of the previous blueprint which saw the Authority register successes such as dismantling regulatory obstacles, in various sectors of the economy, enhancing regional trade and conducting sector-specific market inquiries.

The current Plan places a greater emphasis on deepening effective enforcement to support the creation of efficient markets for consumers as well as expand areas of focus to include Abuse of Buyer Power. The Authority's Plan also highlights interventions that will address internal weaknesses like inadequate visibility and corporate image, low interaction with some stakeholders and skills gap in some specialized technical areas.
While executing this Plan, the Authority will also contribute significantly to achieving targets set out in the Big 4 Economic Transformation Agenda, the Medium Term Plan III, and the Sustainable Development Goals (SDGs).

I take this opportunity to record my sincere gratitude to all our stakeholders, especially our parent Ministry (The National Treasury & Planning) and our development partners, for their continued support which we believe will be at hand as we execute our mandate.

I also wish to appreciate my colleagues in the Board, Management and staff for their invaluable contribution and dedication in supporting the organization's mandate. I look forward to even more fruitful engagements in the new Financial Year.

David O. Ong'olo, MBS

DIRECTOR GENERAL'S STATEMENT



Mr. Wang'ombe Kariuki, MBS
Director General

It is my pleasure to present to you the Annual Report and Financial Statements for the FY 2017/18 during which the Authority recorded key milestones in its endeavour to make markets work better for consumers and businesses. One of the key highlights from this period is that we started implementing the 2017/18 – 2020/21 Strategic Plan which places a stronger emphasis on both hard and soft enforcement and also compliance by the Authority. The ultimate aim of the Plan is to ensure that businesses and consumers are safeguarded against anti-competitive practices, unfair and misleading market conduct, respectively.

The blueprint also aligns our initiatives with emerging issues in competition law (such as Abuse of Buyer Power) and consumer protection, and lays out interventions meant to address the organization's challenges. A year into the four-year Plan, I am pleased to note that the Authority has recorded improved output from all its functional areas.

The FY 2017/18 was a challenging one for many of our stakeholders who were negatively affected by the prolonged electioneering period and adverse weather conditions.

Despite this economic and political reality, the Authority recorded one hundred and forty eight (148) merger notifications during the period under review, with a majority of them instructively being registered in the second half of the FY. It is important to highlight that 55.3% of the mergers assessed had an international dimension, which attests to Kenya's continued attractiveness as an investment destination.

To maintain this trajectory, the Authority is proactively exploring for avenues for lowering the cost of doing business in the country, through prudent application of competition law and policy. This was the rationale behind the Authority's move to minimize the burden of merger assessment on businesses while maintaining transparency, accountability and predictability.

During the FY, we published, and exposed to the relevant stakeholders, Merger Threshold Rules intended at providing clarity on transactions notifiable at national and regional levels. These Rules will ease calculation of the turnover or assets during merger applications and provide consistency in the computation of merger filing fees.

The Authority envisages that this regulation will spur investments, especially among Small and Medium Sized Enterprises (SMEs), while saving businesses invaluable time and expenses associated with merger filing.

Without diminishing the importance of the other draft regulations, let me highlight one more which will be key in the Authority's quest to execute its mandate and achieve the ambitious deliverables set out in the Strategic Plan. The Competition (General) Rules, which were also exposed to stakeholders to secure their views and buy-in, bring clarity to the processes pertaining to the various provisions in the Act, as well as determination of remedies. This subsidiary legislation will greatly refine how the Authority works while empowering our stakeholders to better understand our processes.

It is one thing to have Competition Law in place and quite another to ensure that stakeholders understand their provisions and, more importantly, comply. To ensure compliance, the Authority investigated fifteen (15) Restricted Trade Practices and instituted

various remedies, including financial penalties. The investigations were in the advertising and market research, manufacturing, air transport, agriculture, forestry & fishing, vehicle tracking & security industry and the petroleum sector.

The Authority also conducted compliance checks to ascertain the level of compliance with the Authority's decisions and the Act. Strict enforcement of the Act by the Authority is critical because businesses are run aground through anti-competitive conduct which denies consumers value for their money in terms of product quality, safety, choice and price.

Consumers are at the core of the Authority's existence. To this end, the Authority stepped up its consumer protection initiatives by investigating cases relating to false or misleading representations; unconscionable conduct; and unsafe, defective or unsuitable goods. As a result, the number of consumer complaints registered during the year increased by 54.5% compared to the previous year. Majority of the cases were from the retail, telecommunication and banking sectors.

The Authority continued to enhance its awareness creation by celebrating the World Competition and World Consumer Rights days, organized County sensitization forums in fourteen (14) Counties, aired infomercials and renewed efforts to engage the media. These interventions will be reinforced in the coming Financial Year, with the aim of improving the Authority's visibility.

The Authority also started implementing recommendations of the Banking Phase II market inquiry which sought to determine the challenges that hinder customers from exerting competitive pressure on commercial banks. The study, which is aimed at contributing to increased financial inclusion as envisioned by the MTP III and the SDGs, focused on issues such as; price transparency, disclosure practices by service providers, ease of switching between banks and data portability. Already, the Authority's interventions in the telecommunications sector have seen a significant drop in charges of Unstructured Supplementary Service Data (USSD) by the country's leading telecom firms, to the benefit of consumers.

Towards realization of the Big 4 Economic Transformation Agenda, the Authority initiated a regional study into the Shipping, Trucking and Haulage industry in Kenya, Uganda, Rwanda and Burundi. The objective of the inquiry is to identify and remedy anti-competitive practices impeding national and intra-regional trade and hence act as an obstacle to the growth of our manufacturing sector. In collaboration with Financial Sector Deepening (FSD) Kenya, the Authority initiated a market study on the level of competition in the leasing sector, with the aim of developing an enabling and competitive market especially for SMEs participating in this sector.

Going forward and in order to continuously achieve its key targets, the Authority has placed special focus on empowering its employees to gain new knowledge and skills on competition law and consumer protection. The Authority participated in several fora which enhanced its enforcement capacity. In addition, the Authority based on the current establishment recruited six employees in Managerial positions.

As the Authority expands, it is imperative to leverage on ICT to improve efficiencies in our processes. In light of this, the Authority piloted two key systems. The Enterprise Resource Planning (ERP) system will increase efficiencies in processes such as Human Resource, Procurement, ICT, and Finance. The Case Management Systems (CMS) will fully automate the Authority's main processes, including facilitating electronic filing of mergers and exemption applications as well as filing consumer complaints.

I wish to thank the Board, staff and stakeholders for their continued support and commitment in executing the mandate of the organization.

Wang'ombe Kariuki, MBS

ENFORCEMENT OF COMPETITION AND REGULATION OF MERGERS

The Authority continued with its mandate of regulating market structure and conduct. This was achieved through merger control, investigation and sanctioning of Restrictive Trade Practices (RTPs).

CONTROL OF RESTRICTIVE TRADE PRACTICES

One of the key functions of the Authority under section 9 (a) and (b) is to ensure compliance with the Act which is achieved through investigations of agreements/concerted practices and unilateral/abuse of dominance practices prohibited under sections 21, 22 and 24 of the Act. The Act prohibits such coordinated practices and unilateral conduct as they have negative effect on competition, either by object or effect, with the resonating effect of dampening ease of doing business, investment climate and competitiveness of the national economy.

Despite the fact that coordination of practices by undertakings, association of undertakings and professional associations are prohibited under sections 21 and 22 of the Act, they may be granted exemption by the Authority, upon application under section 25, where overriding public benefits to be generated from such arrangements is demonstrated.

Pursuant to section 31 of the Act, the Authority initiated investigations into alleged violations upon receipt of complaints and after taking cognizance of possible violations on its own motion.

In order to increase transparency and predictability on how the Authority determines applicable financial remedies imposed on undertakings found to have engaged in prohibited practices the Authority formulated reviewed the Guidelines on administrative penalties. The review of the Guidelines was found pertinent considering that the Act was amended in alignment with international best practices by incorporating financial penalties on undertakings engaging in abuse of dominance and prohibited coordinated practices that diminish ease of entry and investment climate.

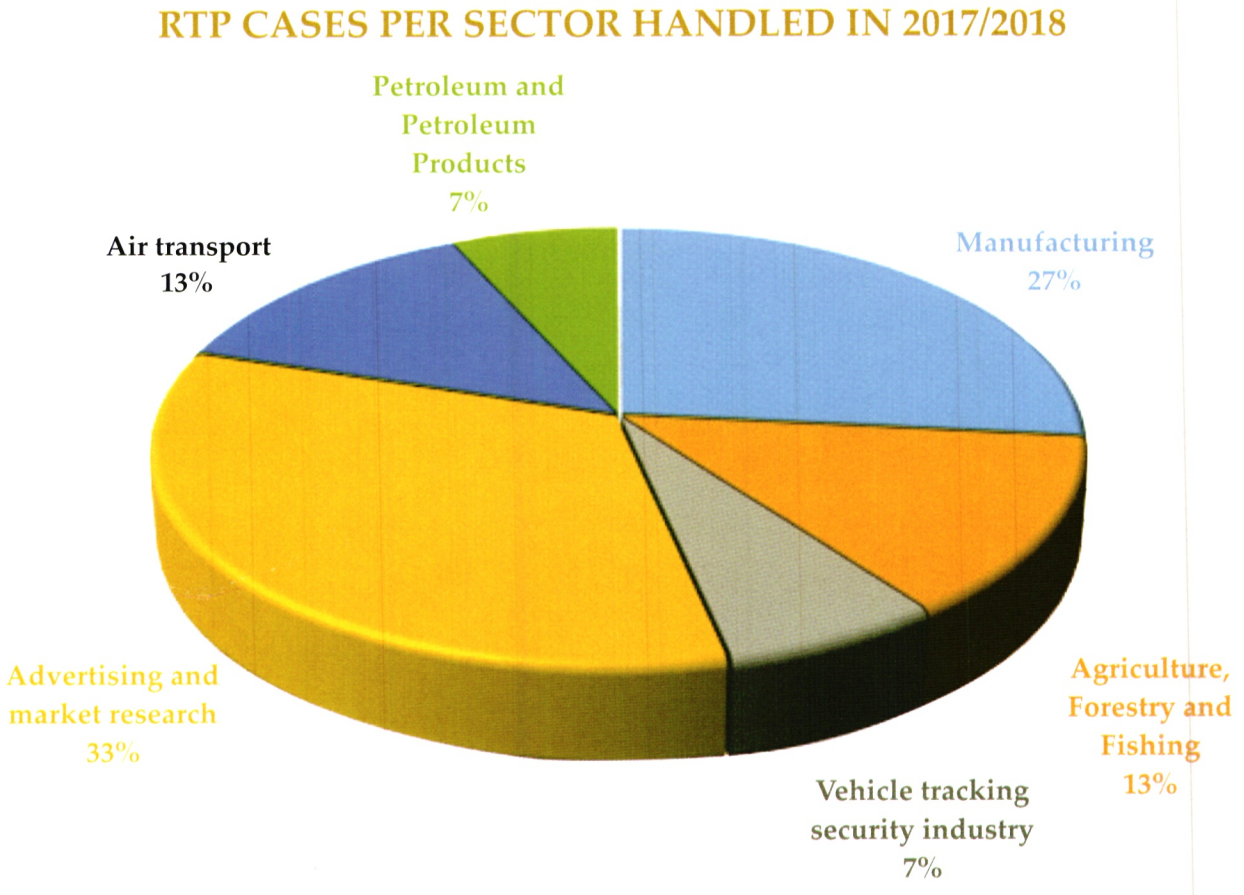
During the period under review, the Authority investigated fifteen (15) Restrictive Trade Practices cases, thirteen (13) of which were finalized while the rest were at various stages of investigations at the close of the reporting period. Various remedies, including financial penalties and declaratory orders, were imposed to undertakings found to have infringed the Act.

Eleven (11) exemption applications were received and evaluated. Seven (7) exemption applications were evaluated in the air transport, agriculture, retail, and professional services sectors. The Authority granted three (3) and rejected four (4) applications that did not meet the threshold of generating overriding benefits to the public. Four applications were at various stages of evaluation at close of the reporting period.

Compliance audits were also carried out to ensure adherence to the Authority's decisions and the Act. Toward this end, the Authority imposed administrative financial penalties and other remedies on undertaking which implemented mergers without approval.

The specific restrictive trade practices cases, exemption applications and compliance cases handled during the period under review are provided for in Annexes 1, 2 and 3. The summary of the cases handled in terms of the sector affected are highlighted under Fig 1 below.

Figure 3: Restrictive Trade Practices Cases



The highest percentage of the investigations were in the Advertising and market research market segment. This was attributed to activities of trade associations within the sector. Manufacturing sector, which is one of the sectors falling within the Big Four Agenda, recorded the second highest number of investigations.

The following is a summary of some of the Restrictive Trade Practices matters handled during the period:

Box 1: Sufuria World and Kaluworks Limited

a) Sufuria World and Kaluworks Limited – Abuse of Dominance (Essential Facility Doctrine)

An essential facility is Facility or infrastructure which is necessary for reaching customers and/or enabling competitors to carry on their business. A facility is essential if its duplication is impossible or extremely difficult due to physical, geographical, legal or economic constraints, an example of an essential facility. Denying access to an essential facility may be considered an abuse of a dominant position by the entity controlling it, in particular where it prevents competition in a downstream market.

The essential facility doctrine is manifested as follows:-

1) The control of the essential facility is by a dominant firm
2) A competitor's inability to practically or reasonably duplicate/replicate the essential facility
3) The denial of the use of the facility to a competitor; and
4) The feasibility of providing the facility to competitors

Sufuria World, a company dealing in manufacture and distribution of aluminium cooking pots, filed a complaint with the Authority in December 2016 alleging that Kaluworks Limited had refused to sell to them aluminum circles. The complainant also alleged that Kaluworks Limited are the sole manufacturers of aluminium circles in Kenya and had refused to sell the raw materials to other local manufacturers but were selling to manufacturers outside the country. The matter was thus tested under the essential facility doctrine.

Key Highlights

Section 24(2)(b) of the Act prohibits dominant firms from engaging in practices that limit or restrict production, market access, investment, among others. Further, pursuant to Section 31 of the Act, the Authority may initiate investigations upon receipt of a complaint or on its own motion.
The Authority initiated investigations to determine if:

a) Kaluworks was dominant;
b) Kaluworks refused to deal with the complainant and other local manufacturers of aluminium pots; and
c) If aluminium circles produced by Kaluworks could be considered an Essential facility.

The key findings of the investigations include:

a) Kaluworks produced aluminium circles for in-house production of a variety of cookware products intended for local and export markets. They could, however, manufacture the circles to third parties upon placing an order which meets certain minimum quantities which guarantees optimal scale of production.

b) Out of the eight manufacturers of aluminium cookware products in Kenya, three (the complainant included) did not manufacture aluminium circles but rely on sourcing the circles from third parties.

b) Out of the eight manufacturers of aluminium cookware products in Kenya, three (the complainant included) did not manufacture aluminium circles but rely on sourcing the circles from third parties.

c) The technologies used in the manufacture of aluminium circles were readily available and could be easily replicated and therefore the aluminium circles produced by Kaluworks were not indispensable to the business of the complainant

Premised on the findings, it was concluded that the allegation did not meet the threshold of abuse of dominance by refusal to deal under the Essential Facility Doctrine. In refusal to deal cases by dominant firms, it is necessary to prove indispensability of the facility to the operation of complainant or other third parties as arbitrary intervention may detriment innovation.

Box 2: Exemption application by WoW Beverages Ltd

b) Exemption application by WoW Beverages Ltd (WoW Beverages)

WoW Beverages and its seven international suppliers (the parties) submitted an application for exemption of certain restrictive clauses as contained in their proposed distributorship agreements on 11th December 2017. They sought exemption for an unspecified period of time.

WoW Beverages is a Kenyan company importing premium beverages including wines, spirits and sparkling water. Some of its brands are; Jack Daniels, Famous Grouse, Macallan and Bacardi-Martini, Catena and, Waterford.
The anticompetitive clauses in the agreements include:-

a) Grant to the distributor the exclusive right, privilege and responsibility of purchasing, importing, promoting, distributing and selling the products in and throughout the designated territory by the suppliers;
b) Barring the manufacturer/suppliers from appointing any other person as its distributors for the sale of products in the designated territory;
c) Barring the manufacturer/supplier from, either by itself or through an agent to supply any of the products to any other person in the designated territory;
d) Barring WoW Beverages from supplying any of the products to any other person outside the designated territory;
e) Prohibiting WoW Beverages from advertising, promoting or otherwise actively seeking customers for the products directly or indirectly outside the designated territory;
f) Prohibiting WoW Beverages from directly or indirectly selling, offering to sell or shipping any products to anyone outside the designated territory;
g) Requiring that wholesale prices to be determined by the manufacturers/suppliers.

The Act prohibits agreements, decisions and concerted practices which divide markets by allocating customers, suppliers or specific types of goods and limits or controls production, market outlets or access, technical development or investments.
However, the Authority can exempt undertakings from these provisions if, by doing so, the agreement will contribute to or result in benefit for the public which outweighs or would outweigh the lessening in competition.

The justification submitted in support of the arrangement included;

a) Protecting local consumers from defective products and guarantee accountability in the event that such products enter the Kenyan market; and
b) Protection of the company's significant investment toward ensuring compromised or adulterated products do not infiltrate the market.

The Authority's assessment of the proposed arrangement concluded that:

a) Goods sold by unauthorized dealers are not necessarily of inferior quality and therefore potentially injurious to consumers;
b) Consumer deception would only occur if lower quality parallel imports were marketed as legitimate;
c) While producers normally do not exercise control over parallel traders, our assessment is that they have to compete with formal distributors and will do their best to provide genuine products, stay in the market and win over as many consumers as possible.
d) Imported products are also subject to controls by competent Government authorities such Kenya Bureau of Standards, Kenya Revenue Authority and Anti-Counterfeit Agency that ensure compliance with several statutory requirements including safety.

The Authority concluded from its evaluation that the application did not meet the threshold for grant of exemption as it was not demonstrated that it will generate public benefits that outweigh lessening of competition. This exemption application, like others the Authority has handled before, are intended to guarantee commercial interests of players other than public interest. The exemption application was therefore rejected

Compliance Initiatives: Merger Implemented Without Authorization

c) Change of Control of Bluejay Limited (Bluejay)

The Authority, using its own intelligence, initiated investigations into the conduct of Bluejay pursuant to Section 42(2) of the Act that prohibits implementing mergers without prior approval of the Authority.

It was established that Bluejay (trading as Betway) were in contravention of Section 42(2) & (3) of the Act by implementing two transactions without prior approval. The first change of control took place in September 2015 that made GM-Gaming the majority shareholder. Further another transaction saw GM holding transferring their majority shareholding to Rosehall Global.

Pursuant to Section 42(6) of the Act, the Authority imposed on Bluejay an administrative financial penalty of Fifteen Million Kenya Shillings (KES 15,000,000).

THE LENIENCY PROGRAMME GUIDELINES

Agreements, decisions or practices between competitors that seek to fix prices, limit output, share markets, customers or sources of supply or other cartel behavior such as bid-rigging are regarded as restricting competition and are presumed have negative market effects. These restrictions are considered to be the most pernicious contravention of the competition law and from international experience the leniency programs have proved to be the most effective tool of breaking them.

To this end, the Authority operationalized section 89A of the Competition Act by gazetting the Leniency Program Guidelines (LPG) in May, 2017. In the new guidelines, an undertaking that voluntarily discloses the existence of an agreement or practice that is prohibited under section 21 and 22 of the Act and cooperates with the Authority in the investigation of the agreement or practice, may not be subjected to all or part of a financial penalties that could otherwise be imposed under the Act.

The LPG has been operationalized at a time when the Authority has enhanced its investigation capacity by the number of its staff involved in cartel investigations and upgrading the forensic investigation skills of the staff. Section 36 of the Competition Act has also been amended to provide the Authority with statutory powers to impose financial penalty of up to ten (10) percent of the preceding year's turnover of undertakings found to have engaged in cartel activities.

The LPG sets out the privileges that govern the granting of partial or full immunity to undertakings that have been engaging in cartel conduct and who provide direct and relevant evidence and proactively cooperate in the successful enforcement action.

The salient eligibility criteria for the LPG is that an undertaking or a division of an undertaking would be eligible for leniency only through the legal entity of which it forms part and which controls its decision-making process. A leniency agreement will cover the applicant's directors and employees as long as they respect the obligation to cooperate with the Authority. The leniency applicant must also not coerce others or instigate others to operationalize the agreement. A parent undertaking of a subsidiary would be eligible as well as its subsidiary. If a subsidiary applies, it would be eligible for leniency in relation to its participation in the prohibited conduct but not in relation to its parent's participation in the prohibited conduct (as the parent undertaking is not under the control of the subsidiary). Leniency can also be granted to one of the legal entities involved in a joint venture.

A successful leniency applicant that is 'first through the door' shall be granted 100% reduction of the penalties, the applicant who is 'second through the door' may be granted up to 50% reduction of penalties and the 'third through the door' gets 30% penalty reduction. The Authority encourages leniency applicants or stakeholders to visit its website (www.cak.go.ke) to get the detailed LPG guidelines and the application forms. The applicants can also apply in confidence to leniency@cak.go.ke

BUYER POWER

The Authority engaged in initiatives towards operationalizing of abuse of Buyer Power provisions under the Act. Towards this end, the Authority developed Abuse of Buyer Power Guidelines and draft Buyer Power Rules which were exposed to the stakeholders and their comments incorporated. Operationalization of abuse of Buyer Power provisions of the Act has been a priority agenda of the Authority given that this is an emerging issue which negatively affects sustainability of suppliers, particularly small and medium enterprises considering there were inadequate regulatory regime to address it.

Buyer Power is the ability of a buyer to reduce price profitably below a supplier's normal selling price, or more generally, the ability to obtain terms of supply more favorable than a supplier's ordinary contractual terms. Therefore, an undertaking or group of undertakings having buyer power may influence the bargaining process eventually earning more favorable terms of trade to the detriment of the supplier.

Buyer Power can be defined either as a monopsony or a bargaining Buyer Power. A firm has monopsony power if its share of purchases in the upstream input market is sufficiently large that it can cause the market price to fall by purchasing less and cause it to rise by purchasing more. Bargaining power on the other hand refers to the bargaining strength that a buyer has with respect to its suppliers.

Abuse of Buyer Power can therefore,arise through conduct by a buyer, motivated solely by the hope of gaining a competitive advantage that is likely to lessen suppliers' incentives to invest in new capacity, products and production processes, which is detrimental to the interests of consumers. Such abuses include, but not limited to bidding up prices of inputs by a buyer undertaking with the aim of excluding competitors from the market; late payment where a buyer undertaking delays payment without justifiable reasons in breach of agreed terms of payment to suppliers; demand for preferential terms by buyer undertakings which are unfavourable to the suppliers or demanding limitations on supplies to other buyers;de-listing orunilateral termination of a commercial relationship without notice, or subject to an unreasonably short notice period and without an objectively justified reason; and unjust return of goodswhich the buyer purchased from a supplier.

Buyer Power Guidelines

In order to create transparency in assessment of abuse of Buyer Power, the Authority developed guidelines in 2018. These guidelines provide clarity regarding areas of application of the Act with respect to abuse of Buyer Power. Additionally, the Authority may consult the Ministry responsible for matters related to trade and other relevant government agencies and stakeholders, in implementing abuse of Buyer Power provisions under the Act.

Review of the Authority Structure And Implementation of Buyer Power

In order to ensure that abuse of Buyer Power concerns are promptly addressed, the Authority has reviewed its organizational structure and included a Buyer Power Department that will deal with investigations of abuse of Buyer Power cases, review of contractual issues between suppliers and buyers and offer advisory services on best practices related to Buyer Power. The Authority, will in the coming financial year, populate the Department.

In the period under review, three complaints on non-payment of suppliers in the retail sector have been received and are undergoing review.

Stakeholder Engagements

The Authority was a member of the Technical Committee on the development of regulations in the Retail Sector that brought together key stakeholders to be able to share views regarding the sector and what the relevant Government Ministries and Departments are able to address within their respective mandates.

The Committee is in the process of developing a code of conduct which will self-regulate the retail sector. The code of conduct covers the principle of fair dealing; variation of Supply Agreements/Joint Business Plans and terms of supply; prices and payments; promotions; duties in relation to de-listing; and suppliers and retailers payment disputes tribunal.

The Authority will continue to engage the stakeholders in order to ensure that the code of practice is implemented as a soft enforcement tool. In line with the provisions of section 24(2B) the Authority will also continue to receive and address abuse of Buyer Power complaints. The Authority is also in the process of ensuring that the Code of the Conduct is anchored under the Buyer Power Act so as to ensure it's aligned in the law.

REGULATION OF MERGERS

Mergers are regulated under Part IV of the Act. All mergers that take place in the economy including horizontal, vertical and conglomerate mergers require approval by the Authority. The object of merger control is to ensure that undertakings do not acquire, preserve or strengthen their dominance or market power through merging with others or acquiring them, which they can use to harm competitors and consumers.

The Authority handled a total of one hundred and fifty (150) notifications, out of which one hundred and forty eight (148) were finalized while two (2) were ongoing. The merger notifications were mainly from the following sectors; manufacturing, real estate, distribution, investment, services, advertising and agriculture which accounted for 51.2% of all the mergers that were notified to the Authority while other sectors accounted for the balance of 48.8%. Of the one hundred and fifty (150) notifications, 55.3% had an international dimension mainly involving private equity funds and 44.7% were local.

Of the transactions that were notified, forty-two (42) met the thresholds for full merger analysis as provided in the Merger Threshold Guidelines. One hundred and six (106) satisfied the criteria for exclusions and hence were excludedfrom the provisions of Part IV Act. Additionally, the Authority received thirty-three (33) notifications that did not qualify as mergers in terms of section 2 and 41 of the Act. Table 1 compares current and previous year transactions. All mergers Notified in the period under review are provided as Appendix

Table : Mergers Notified in the period under review as compared to the previous Financial Year 2016/17

Item	2016/2017	2017/2018
Merger transactions	41	42
Proposed transactions excluded from provisions of Part IV of the Act[1]	76	106
Non-merger transactions (restructuring& advisory opinions)	20	33
Transaction carried forward	13	2
Mergers with an International dimension excluding non-mergers	72%	55.3%
Mergers with local dimension excluding non-mergers	28%	44.7%

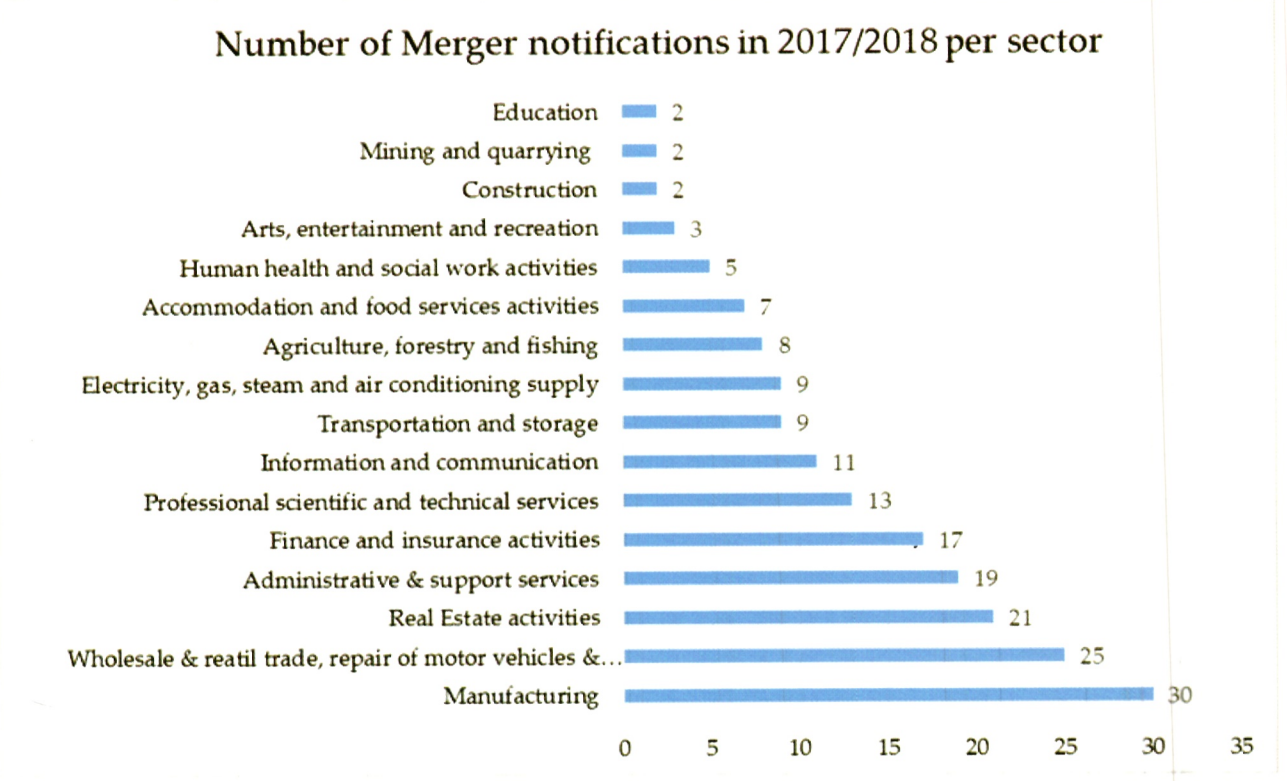
The value of the mergers and acquisitions considered, contributed a total of KES 66,071,547,769 to the Kenyan Economy.

During the year under review, the Authority reviewed and subjected the Merger Threshold Rules to stakeholders' comments. The rules are expected to increase transparency, predictability and accountability among the business community regarding the Authority's merger enforcement process. Specifically, the reviewed Rules are aimed at;

a) Easing the cost of doing business and deepening of the investment climate;
b) Providing clarity on the transactions notifiable at the national and regional levels;
c) Identifying notifiable, those which qualify for exclusions and non-notifiable transactions;
d) Enhancing clarity in the calculation of the relevant turnover or assets; and
e) Ensuring consistency in the computation of relevant merger filing fees.

The draft Rules provide for Block exclusions for transactions where the combined turnover or assets of the parties is below KES 500 Million. This will facilitate mergers across all sectors and hence promote investment especially involving SME's. In addition, the thresholds will save businesses the cost and time associated with notification as they will eliminate the need for double notification of mergers with a COMESA dimension. Further, transactions where the parties have a combined turnover of less than KES 500 Million will not be notified to the Authority. This will greatly facilitate investments by SME's and as such promote competition and economic growth in the country.

Figure : Number of Merger Notifications Handled Per Sector during FY 2017/18



** Others include sectors that recorded less than three (3) notifications during the year. Some of the sectors are: construction, exploration, ICT, Aviation, services, education, media and mining.*

Figure : Trends in Merger Notifications during the last three (3) Financial years

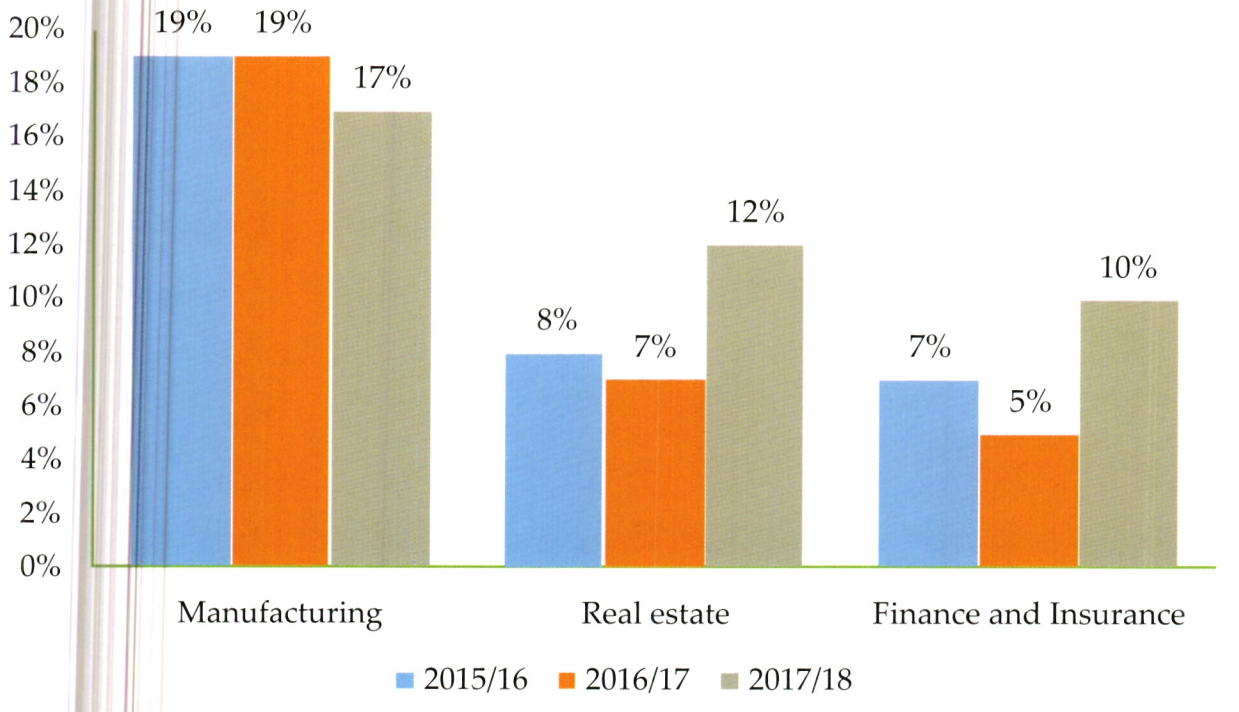


Figure 5 above, shows that notifications in the three sectors which recorded the highest number of notifications during the three years have been increasing except Manufacturing where notifications declined from 19% in 2015/2016 and 2016/2017 to 14% in 2017/2018.

Major Merger Transactions

The following are some of the major merger transactions handled by the Authority:

a) Acquisition of 100% of The Issued Share Capital of Engen International Holdings (Mauritius) Limited by Vivo Energy Holding B.V.

The proposed transaction involved the acquisition of 100% of shares in ENGEN International Holdings (Mauritius) Limited (ENGEN INT) by VIVO Energy Holding B.V. (VIVO Energy), from ENGEN Holdings (Pty) (ENGEN).

Vivo Energy Holding trades in Kenya as Shell, distributing and marketing fuels and lubricants to retail and commercial consumers under the Shell brand. Engen operates in Kenya through Engen Kenya, an oil marketing company involved in the importation, storage and retailing of refined petroleum products through a network of fifteen (15) retail outlets.

The parties to the transaction are both involved in importation and sale of petroleum products, making this the two relevant product markets in which the proposed transaction was analyzed. The relevant product markets that were considered were the markets for; the importation of Petroleum Products and the downstream market for retail of Petroleum products.

The downstream market of retailing petroleum products has a national and local dimension. At the national level, both firms compete with other oil marketers on strategy, concept development as well as advertising.

At the local level, the relevant markets were considered according to individual characteristics of the retail outlets, considering traffic flow patterns, distance between stations and transportation means (commercial or personal vehicles). The concentration of an oil marketer in a given geographic location usually results in serious anticompetitive consequences, denying consumers' choice in identified areas and highways.

Analysis of the geographical locations of the acquirer stations against those of the target was done in order to establish the likelihood of the proposed transaction lessening or preventing competition in the identified geographic markets.

The analysis concluded that, in fifteen (15) of Engen's local markets (where their outlets are located), thirteen (13) of them did not show likelihood of raising competition concerns if the proposed transaction was approved. This conclusion was based on the fact that the distance between the acquiring party's stations and the target's stations were significant enough – at least 3 kilometer radius in line with international best practice - not to raise any competition concerns.

The Authority considered that the presence of several competitor petrol stations – Total and KenolKobil - in close proximity to the merged entity's stations would impose competitive constraint on the merged entity.

However, along Parklands and Enterprise Roads, the Authority's analysis concluded that post-merger the merged entity would have dominance and therefore would likely raise competition concerns since entry barriers are high due to unavailability and affordability of land.

To remedy competition concerns, the Authority approved the transaction on the following conditions;

1) The merged entity divests the Engen retail outlet along Parklands Road to a player currently not operating in this area or to a new entrant. This should be done within thirty six (36) months from the date the merger approval is notified to the parties;
2) Vivo will not renew the current dealership contract with the Enterprise Road retail station, either when it expires in two (2) years, or if the dealer terminates the contract before the end of the existing term;
3) The merged entity honors all existing contracts with its Small and Medium Enterprise (SME) suppliers.

The conditions imposed will safeguard competition and therefore benefit consumers in terms of quality service and innovative products while public interest conditions will help protect the SMEs that play an important role in economic development in terms of job creation.

b) The Acquisition of the Unilever Baking, Cooking and Spreads Business by Sigma Bidco B.V.

This was a global transaction and involved the acquisition of the entire Unilever Spreads business by Sigma Bidco B.V. Sigma Bidco B.V.is controlled by Kohlberg Kravis & Roberts Company Limited Partnership (KKR), which is an American private equity fund. KKR through its subsidiaries has operations across the world and deals in health products, surgical equipment, electronics and toys. The acquirer had no subsidiary in Kenya.

Uniliver's baking, cooking and spreads business, the target business, is owned by Unilever N.V. and Unilever PLC jointly known as Unilever N.V (Unilever). In Kenya, Unilever is active in growing, processing and marketing of tea, production of foods, home and personal care products and spreads.

The acquirer has no subsidiaries in Kenya while the target was involved in the manufacture of products including spreads, food, beverages, cleaning agents and personal care products. The market for spreads (fruit jams and jellies) in Kenya was considered for the analysis of the transaction. Analysis of the merger showed that the transaction was unlikely to raise competition concerns in the market for spreads in Kenya as there were no product overlaps in the activities of the merging parties and the merged entity would face competition from the other two leading players.

In regard to public interest issues, the merger was found likely to lead to loss of employment especially in the target business section. To address this concern, the transaction was, therefore, approved on condition that Sigma Bidco B.V (acquirer) would absorb all the employees of Unilever who were directly involved in the section of business that was acquired.

c) The Acquisition of 100% of the Issued Share Capital Saham SA by Sanlam Emerging Markets (Ireland) Limited

The transaction involved the acquisition of 100% of the issued share capital of Saham SA (Saham) by Sanlam Emerging Markets (Ireland) Limited (SEMIL).

SEMIL is controlled by Sanlam Limited (of South Africa). Sanlam through its subsidiaries in Kenya is a diversified financial services provider and is active in the provision of life and general insurance, reinsurance services, asset and investment management, property market and micro finance. Saham, the target undertaking, provides insurance, reinsurance and consumer credit across Africa and Middle East. In Kenya, Saham is active in the provision of life and general insurance and reinsurance services.

The parties' activities overlap in the provision of life insurance, non-life insurance and reinsurance services and therefore the relevant product markets were defined as the markets for provision of life insurance, non-life insurance and reinsurance while the relevant geographic market was defined as national since the merging parties provide their services across the country.

In the market for life insurance, the merger was found unlikely to raise competition concerns since there are many players, the combined market share of the merging parties was low and entry and exit barriers are not high.

In relation to the non-life insurance market, the transaction was found unlikely to lead to substantial lessening or prevention of competition because there were many registered companies that provide non-life insurance and the post-merger market share was low. In addition, entry and exit barriers were found to be low.

In the market for reinsurance, analysis revealed that the merger was unlikely to raise competition issues since there were strong players capable of imposing competitive constraints on the merged entity post-merger and the parties' market share was low. In addition, foreign based companies through brokers provide reinsurance services and as such it is unlikely that the merged entity would negatively affect competition in the market for reinsurance services in Kenya.

In regard to public interest issues, the merger was found likely to raise negative public interest concerns. Specifically, analysis showed that the merger would likely lead to loss of employment and therefore the proposed transaction was approved on condition that the merged entity retains all the employees of the target undertaking.

The condition imposed to remedy public interest concerns will protect employment and in addition the approval of the transaction will increase the ability of the merged entity to compete with the stronger players and consumers of insurance will likely benefit from the increased competition.

MERGER THRESHOLD RULES, 2018

Following the amendments to the Competition Act No. 12 of 2010 (the Act), the Competition Authority of Kenya, spearheaded by the Mergers and Acquisitions Department embarked on an alignment of the Threshold Rules and Guidelines to address the changes in the Act. These are expected to be actualized during the FY 2018/2019, after they are considered by Parliament.

The main objective of the Rules is to deepen transparency, predictability and accountability among the Business Community regarding the Authority's merger enforcement process and thereby easing cost of doing business and deepening of the investment climate.Specifically, the Rules are aimed at;

a) identifying notifiable transactions, transactions that qualify for exclusion and transactions exempt form notification;
b) enhancing clarity in the calculation of the relevant turnover or assets; and
c) ensuring consistency in the computation of relevant merger filing fees; and
d) Providing clarity on the transactions notifiable to the Authority and the CCC, respectively.

The rules classify merger transactions into three; full mergers, exclusions and mergers exempt from notification.

Under the new rules, full mergers, which require mandatory notification to the Authority, are transactions involving parties with a minimum turnover/assets of KES 1 billion with the target's turnover exceeding KES 500M. Additionally, notwithstanding these thresholds, a full merger can also occur where the combined turnover/assets of the merging entities is above KES 10 billion and the merging parties carry out similar activities or have a vertical nature of relationship. Such transactions are notifiable to the Authority unless they meet the COMESA Competition Commission (CCC) thresholds which will then be notified to CCC only.

Additionally, full mergers also include transactions involving entities which qualify for COMESA notifications but 2/3 of their turnover is generated in Kenya. Exclusions are notifiable merger transactions that inherently include medium sized businesses. The Authority may consider the following mergers for exclusions; transaction where the combined turnover of the parties is between KES 500 million and KES 1 Billion and firms engaged in the prospecting carbon based mineral sector regardless of their turnover or assets. In addition to the exclusion, the Authority may also consider the following transactions for exemption from notification; mergers involving parties whose turnover or assets are below KES 500 million and mergers which meet the CCC thresholds with less than a third of its turnover or assets being generated within Kenya.

The Authority will consider the parties' most recent Audited Financial Statements in calculating the relevant turnover or assets. Where the audited financial statements made available by an undertaking are incomplete or unreliable, the Authority may determine the value of the sales or services of that undertaking by applying the International Financial Reporting Standards. The turnover shall comprise the amounts derived by a party to a merger as revenue in the preceding financial year, from the sale of products and the provision of services, falling within the firms' ordinary activities. While the asset value of an undertaking will be based on the gross value of the firm's assets as recorded on the firm's most recent Balance Sheet.

A summary of the Mergers and Acquisitions proposed Thresholds Rules is as shown in table 3 below:

Table 3 : Merger Threshold Rules

THRESHOLD* (COMBINED VALUE OF ASSETS/TURNOVER (KSHS)	FEES PER PROPOSED MERGER (KSHS)
0 – 500,000,000	Zero (Exempt from notification)
500,000,001 – 1,000,000,000	Zero (May be Excluded from Provisions of Part IV of the Act)
1,000,000,001 – 10,000,000,000	One million (1,000,000)
10,000,000,001– 50,000,000,000	Two million (2,000,000)
>50,000,000,000	Four million (4,000,000)

**The threshold to be considered will be the turnover or assets, whichever is higher*
Source: CAK Merger Threshold Rules, 2018



10 : Sensitization on Merger Threshold Rules.

CONSUMER PROTECTION

The Authority's mandate of protecting consumers is derived from Part VI of the Act, on investigation of consumer cases relating to false or misleading representations; unconscionable conduct; and unsafe, defective or unsuitable goods.

The Amendments to the Act introduced Section 70A, further gives the Authority powers to, on its own motion initiate investigations into consumer matters as well as impose administrative remedies, essential for ensuring compliance and deterrence. Premised on this, the Authority initiated investigations into consumer issues in the food sector, and provided key interventions necessary for protection of consumers.

The key achievements of the Authority with regard to enforcement of consumer protection are as follows:

IMPACT OF THE AUTHORITY'S INTERVENTION IN MOBILE MONEY PAYMENTS AND MOBILE BASED CREDIT

During the period under review the Authority undertook an end line survey to assess the impact of its requirement to all Service Providers in the telecoms, banking and other loan providers to ensure price disclosure and transparency of charges and fees for transactions conducted through the mobile phone pursuant to section 56(4) of the Act. The findings of the survey revealed that the fee disclosure contributed to increased price awareness in mobile money transfers amongst consumers who transacted five hundred shillings (KES 500) or more. Thus, 80% of consumers reported the correct fee amount at the end line survey as compared to 25% who reported before the intervention of the Authority.

The survey also showed that there was significant increase in awareness of price for consumers who had taken mobile phone loans through app based and other lenders using Unstructured Supplementary Service Data (USSD) or SimToolKit, with more than 70% of respondents reporting that they were aware of the prices. There was also increased price awareness on other payment services with over 80% of consumers surveyed, reporting that they were aware that bill payment via mobile money and bank to mobile money transfer carries a fee.

The Authority's intervention in the mobile money payments and mobile based credit has positively impacted over thirty nine (39) million mobile subscribers in Kenya. It has also increased competition as consumers are able to compare prices and make informed choices.

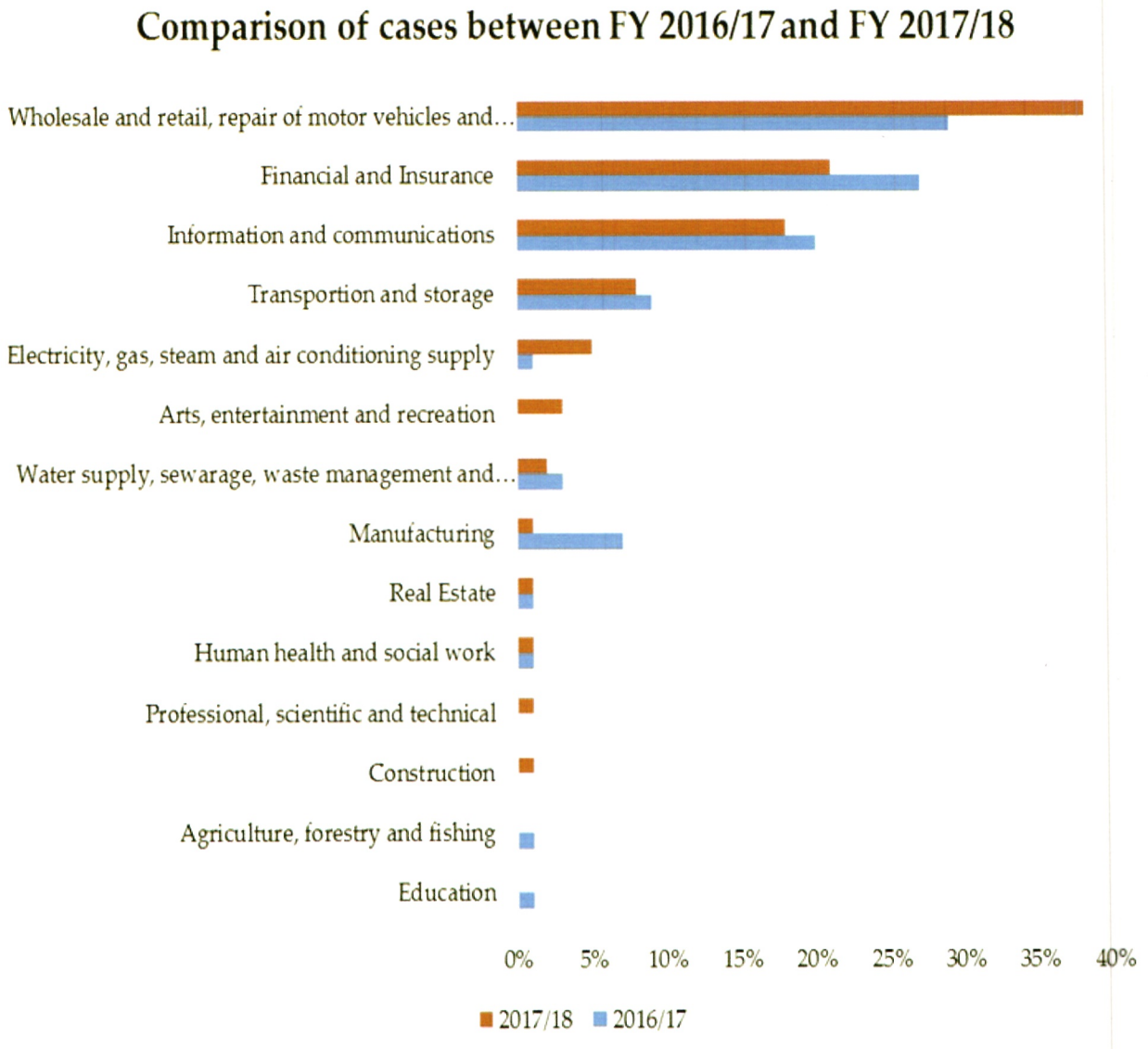
RESOLUTION OF CONSUMER RELATED VIOLATIONS

During the period, the Authority received one hundred and two (102) consumer complaints, which was a notable increase of 66% compared to the previous year. This was attributed to increased awareness on consumer protection mandate of the Authority. The Authority incorporated into its awareness initiatives, sensitization of consumers on the importance of retaining transactional documentation such as receipts and warranty certificates, as evidence to enable it undertake investigations in a timely manner.

The wholesale, retail, repair of motor vehicles and motor cycles' sector accounted for 38% of the total cases, an increase from 29% in the previous year, due to increased awareness of consumer rights. The Financial and Insurance, as well as Information and Communications

sectors declined from 27% and 20% in the previous period to 21% and 18% respectively, which can be attributed to sensitization of the service providers regarding the provisions of the Act. It is worth noting that new complaints were received in the Arts, entertainment and recreation sector, Construction sector, Professional, scientific and technical sectors, which are indicative of increased awareness amongst consumers of the mandate of the Authority. In the coming Financial Year, the Authority will prioritize on initiating investigations into those sectors, and focus on intervening on areas in support of the Big 4 Economic Transformation Agenda.

Figure 6: Consumer Protection Cases



The following is a summary of some of the consumer protection complaints handled:

a) CAK Vs Eco Energy Solutions Ltd- False and Misleading Representation in the Energy Sector

The Authority investigated an anonymous complaint regarding allegations on misleading advertisements by Eco Energy Solutions Ltd. The company falsely represented that consumers who used their "energy saver" products, namely: eco gas saver; diesel fuel saver; petrol saver; and kerosene saver would save 40% of the cooking gas and 20% of fuel respectively.

In its investigations, the Authority pursuant to section 9(1)(m) of the Act liaised with the Energy Regulatory Commission and Kenya Bureau of Standards, who confirmed that the product had not been cleared for sale in Kenya and there can be no chemical reaction between a gas cylinder and the plastic containing the liquid as purported in their advertisements.

The Authority published a Notice in accordance with Section 61 of the Act, warning the public that the Eco Energy Solutions Ltd. products have not been approved by relevant government agencies and the claims made on their efficiency are false and misleading and in contravention of Section 55 of the Act.

Further, the Authority is collaborating with the Communications Authority to ensure that the online advertisements are pulled down from the internet.

Through such interventions consumers are protected from exploitation by unscrupulous businesses. Additionally, businesses are deterred from making unsubstantiated claims regarding their products and from supplying unauthorized goods.

b) Nyaruai vs Artcaffe- False and Misleading Representations in the Food Sector

The Authority investigated a complaint on allegations that Artcaffe misled consumers on the labelling of their chocolate chip cookies by indicating on the package that the cookies were gluten free, while at the same time indicating that the cookies may contain traces of gluten.

Pursuant to Section 70A of the Act, investigations were initiated into the conduct of Artcaffe, for possible contravention of Section 55 (a) (i) of the Act. The investigations culminated to a settlement under section 38 of the Act where Artcaffe made an undertaking to ensure that the labelling of their gluten free cookies shall have adequate and accurate information including ingredients, and does not contain contradicting information. Further, the manufacturing environment is controlled in order to prevent contamination of the cookies with gluten.

Consumers need to be given full information which is accurate, regarding the products they purchase, in order to ensure that their safety is guaranteed and enable them make informed choices. Suppliers are also required to comply with the set consumer safety standards available

c) CAK Vs Bata Shoe Company - False and Misleading Representation/ Unsuitable Goods in the Retail Sector

Several consumers complained on social media on the quality of shoes being sold by Bata Shoe Company (BATA). In response, the Authority requested the affected consumers to report to it and provide evidence of purchase.

Subsequently, pursuant to Section 70A of the Act, the Authority received complaints and initiated investigations into the conduct of BATA, for contravention of Section 55 (a) (i), 63 and 64 of the Act. The Authority engaged the Company and ordered them to redress the matter by replacing the defective shoes.

The Authority also established that BATA's return policy was not in line with the Act. Thus, the Authority ordered that the requirement by BATA that shoes be returned in their original package be amended to allow for flexibility in cases where it may not be possible to have the original package. This was effected by BATA and is evident in all their receipts of purchase.

This case demonstrates that consumers have a right to quality goods and also to redress where their rights have been violated.

IMPROVING THE LIVES OF KENYANS THROUGH CONSUMER PROTECTION - PRICE TRANSPARENCY

The Authority continues to live by its motto of, "creating efficient markets for consumers' through its interventions in the Kenyan market. By focusing on the impact on the poor, the Authority continues to improve the lives of Kenyans, and has done so by requiring that providers of financial services through the mobile phone disclose charges and fees prior to finalizing a transaction.

The Kenya Bureau of Statistics, in its 2018 Economic Survey notes that employment in the informal sector grew by 6.0% from 13.3 million in 2016 to 14.1 million in 2017. It may be presumed that this is just a fraction of Kenyans in the informal sector who may be using mobile lending solutions such as M-shwari and KCB-M-pesa, because it is reported that both mobile lending solutions provide financial services to over 21 million Kenyans. These statistics are confirmed in the Third Quarter Sector Statistics Report by Communications Authority, which indicate that the number of active mobile money transfer subscriptions stood at 29.1 million and mobile money transfer transactions stood at KES 663.7 billion valued at KES 1.8 trillion.

A review of the statistics will confirm that the value of the intervention by the Authority, especially to Kenyans in the informal sector has been phenomenal. When sending money, the sender will, in addition to the name of the recipient, see how much it will cost to send the money. This presents an opportunity for a consumer to decide whether to go ahead with the transaction or not, based on the cost and convenience. Additionally, when withdrawing money from an agent, one is able to see how much it will cost to withdraw the money. After the transaction is completed, a debit receipt delivered through SMS is provided to the customer. This gives comfort to the customer on the charges levied through the use of the service. The disclosure of charges is not only for person to person transfers, but also for mobile bill payments such as electricity or water, as well as for services such meals or shopping. The disclosure of charges has also extended to banking services, where a customer who withdraws money from the bank account to their mobile money wallet, or just needs to check the account balance or statement through the mobile phone, is able

to know how much it will cost to access the service prior to finalizing the transaction.

As indicated above, over 21 million Kenyans utilize mobile money lending solutions such as Mshwari, KCB-Mpesa and Apps such as Branch and Tala. It is worth noting that these Kenyans are now able to know their charges and fees when they borrow the money. This encourages prior planning, timely repayment of loans and efficient usage of financial resources.

Further, in order to reduce transaction costs, the Authority has now made it possible for consumers to register their complaints online without having to physically visit our offices or making a phone call. At the comfort of your home or desk, and by using a hand held device, a consumer can log into the Authority's online complaints portal and register their complaint. The advantage of this system is that a consumer is immediately allocated a reference number and an automatic notification that the complaint is being handled. The system allows the consumer to track the progress of investigations into their complaint. The Authority has also put in place internal measures to ensure that the complaints are given the utmost attention they deserve. Thus, specific officers in the Consumer Protection Department have been tasked with addressing the complaints from the first instance. It is the belief of the Authority that the Complaints Online Portal is a system that will greatly increase efficiency and enable the Authority to be more effective in resolving consumer issues.

RESEARCH AND ADVOCACY

The overall objective of the policy and research activities of the Authority as prescribed in Section 9 of the Act is to ensure that the Authority's decisions are informed by research findings and therefore optimal to promote competition and protect the interests of consumers. In this regard, the Authority undertakes market inquiries, research studies, provides policy advice to government and liaises with relevant sector regulators on competition policy matters.

Competition Advocacy is one of the main pillars of modern competition law which aims at creating, expanding and strengthening awareness of competition in the market. Section 9 of the Act mandates the Authority to undertake advocacy in order to deepen the culture of competition in the economy. Advocacy has played a vital role in securing the willingness and acceptability of key stakeholders in competition law and policy enforcement.

During the reporting period, the Authority initiated market inquiries in the transport Logistics sector, Leasing sector and gave policy advisory to government in matters relating to professional services. The Authority also implemented the recommendations of market inquiries in the retail and banking sectors. The Policy and research activities undertaken during the reporting period are as follows;

A) MARKET INQUIRIES

As mandated under section 9 (g) and 18 of the Act, the Authority is empowered to conduct market inquiries or studies in sectors considered necessary. The following inquiries were conducted:

Figure 7: Market Inquiries at a Glance



(i) Implementation of Banking Phase II Recommendations

The Authority undertook a second phase of the Banking market inquiry with a view of unearthing the demand side issues affecting competition in the banking sector, pursuant to its competition and consumer protection functions as stated in section 9 of the Act, during the FY 2016/17.

In the period under review, the Authority focused on implementing recommendations on price transparency, disclosure practices by Service Providers, searching and switching of services by consumers, transactional data access and sharing. The Authority has since incorporated consumer protection provisions on transparency to the draft Competition Rules which were at an advanced stage of finalization at the end of the Reporting period.

Additionally, the Authority is engaging the Central Bank of Kenya (CBK) on developing regulation on consumer transactional data and data portability for consumers in the sector, with a view of increasing competition and consumer protection in the sector.

(ii) Retail Market Inquiry

In the financial year 2017/2018, the Authority set out to implement the recommendations of the Retail Market Inquiry.

Towards this end, the Authority has developed draft buyer power guidelines which are to be exposed to stakeholders in financial year 2018/2019 before adoption. In addition, the draft rules on Buyer Power have also been developed and forwarded to the National Treasury and Planning for approval .

(iii) Competition in Regional Shipping Trucking & Haulage Sector

The Authority initiated a Regional study into the Shipping, Trucking and Haulage sector in the EAC region and particularly along the Northern Corridor, with a focus on four countries namely; Kenya, Uganda, Rwanda and Burundi.

The overall objective of the study is to identify potential competition concerns occasioned by the infringement of the competition law and government regulations, with a view of extinguishing them and hence minimizing the cost of doing business in Kenya and in the region. This is expected to promote intra-regional trade in the EAC particularly along the Northern Corridor. The study report is expected to inform the interventions of the Authority and will be finalized in the FY 2018/19.

(iv) Leasing Sector Study

The Authority in partnership with Financial Sector Deepening (FSD) Kenya, initiated a market study on competition in the leasing sector in Kenya. The main objective of the study is to assess the state of competition in the market for leasing by examining the structure, conduct of market players and the regulatory framework under which leasing operates.

The study focuses on leasing of equipment (e.g., motor vehicles, medical and agricultural equipment) to various players in the market and the impact it has on small and medium sized enterprises (SMEs). The final report is expected in FY 2018/2019.

(v) Regulation of Professional Services in Kenya

Pursuant to the functions of the Authority, highlighted under Section 9 (h) & (n) of the Act, the Authority is mandated to study government policies, procedures and programmes, legislations and proposals for legislations so as to assess their effects on competition and consumer welfare. Further, the Authority plays a key role of advising government on matters relating to competition and consumer protection.

Based on the foregoing, the Authority provided advice to The National Treasury and the Committee on the Constitutional Implementation Oversight Committee (CIOC), on legislations governing professional services and their effects on competition and consumer welfare.

B) PARTNERSHIPS AND NETWORKS

In establishing partnerships, creating networks and deepening integration regionally and internationally, the Authority interacted with regional and international competition agencies and other institutions on information exchange and sharing of experiences on competition and consumer protection. The key highlights are:

(i) The Centre for Competition Law And Economic Policy

The Centre for Competition Law and Economic Policy (CCLEP) which is a joint initiative of the Authority and the University of Nairobi (UoN) held its annual capacity building workshop on competition law and economic regulation. The objective of the training was to build capacity for stakeholders in competition law and policy.

Under the auspices of CCLEP, a total of sixty nine (69) stakeholders were trained on various aspects of competition law and economic regulation. Those who participated in the training were; government officials, sector regulators, competition practitioners, journalists, consumer groups, business community, among others.

(ii) Competition Commission of South Africa

As part of implementing the Memorandum of Understanding (MoU) signed in October 2016 between CAK and the Competition Commission of South Africa (CCSA), the Authority's staff were attached to the CCSA for an exchange programme for purposes of capacity building in merger analysis and investigation of Restrictive Trade Practices. This has enhanced the Authority's capacity in screening of possible violation of the Act through concerted practices and Abuse of Dominance (AoD).

(iii) COMESA Competition Commission

As part of implementing cooperation framework with the COMESA Competition Commission (CCC), the following key initiatives were undertaken:

1. Regional sensitization workshop on the provisions and application of the COMESA Competition Act for the Business community was held in Nairobi. The main objective of the workshop was to sensitize the business community on the regional competition laws and how compliance benefits both business and consumers in the region;

2. Regional sensitization workshop on the provisions and application of the COMESA Competition Act for Business Reporters. The workshop's objective was to inform the regional business reporters on competition law developments, equip them with the necessary knowledge and skills for accurate reporting on competition law and policy. This will also help to ignite

discussions on the role of the media as a tool for competition advocacy;

3. The Authority held a consultative meeting with CCC geared towards developing a framework to eliminate the double notification challenges. Following this consultative meeting, the Authority developed Merger Threshold Rules with the purpose of addressing issues of double notification thereby easing the cost of doing business in the region. These Rules clarify on transactions which are notifiable to the Authority and the CCC, transactions that qualify for exclusion, thresholds for merger filing fees and mergers exempt from notification requirements

(iv) Public Procurement and Regulatory Authority

In the financial year 2017/18, the Authority signed a Memorandum of Understanding (MOU) with the Public Procurement and Regulatory Authority (PPRA).

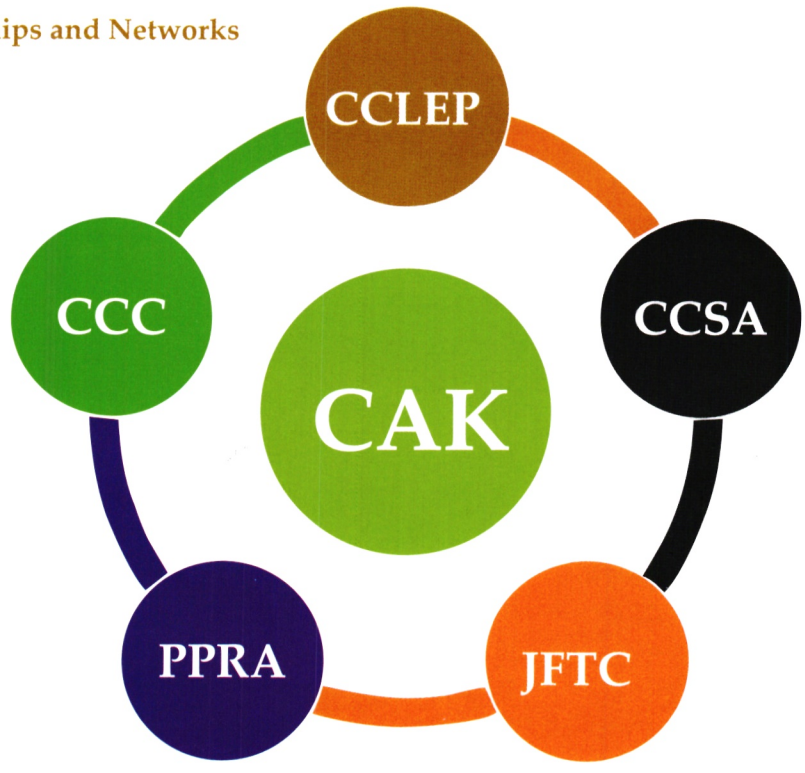
The MoU establishes a framework for cooperation aimed at effectively addressing competition concerns in Public Procurement.

This framework will promote procedural cooperation and coordination when dealing with cases of collusive tendering and consumer protection in the Public Sector. It will also facilitate information sharing and offer a platform for joint awareness creation that will ensure consistency in decision making.

(v) Japan Fair Trade Commission

In implementing the MoU signed with the Japan Fair Trade Commission (JFTC) and in partnership with Japan International Cooperation Agency (JICA), five (5) staff were trained in Japan on Restrictive Trade Practices (RTP), evaluation of exemption applications, merger analysis and development of various guidelines. The staff were able to deepen their understanding and sharpen skills on merger analysis and RTP investigations.

Figure 8: Partnerships and Networks



C) ADOPTION OF INTERNATIONAL BEST PRACTICES

The Authority participated in international conferences aimed at learning and adopting international best practices on competition law and policy enforcement. Some of the conferences include:

:

(i) 2017 International Consumer Protection and Enforcement Network Conference

The Authority participated in the ICPEN conference held in Istanbul, Turkey. The workshop focused on consumer protection in the digital economy. The topics discussed were: strategy on ICPEN growth, terms and conditions in the digital economy, marketing through social media and enforcement cooperation. This was a key platform for sharing information and global experiences between various competition agencies globally on consumer protection and enforcement.

(ii) The Ninth Annual African Consumer Protection Dialogue Conference

The Authority participated in the 9th Annual African Consumer Protection Dialogue Conference held in Banjul, The Gambia. The objective of the conference was to discuss synergies and strategies for effective consumer protection, competition policies and laws to better protect consumers. These experiences are useful in informing the Authority's competition and consumer protection enforcement efforts.

(iii) International Competition Network / Organization for Economic Co-Operation and Development / Korea Policy Centre (ICN-OECD/KPC) Competition Economics Workshop

The Authority participated in the ICN-OECD/KPC Competition Economics workshop held in Seoul, Korea. During the workshop the Authority made a presentation on buyer power Rules to the plenary of Competition experts who informed the Rules. The engagement with the experts gave assurance that the Rules are in line with International Best Practices.

(iv) International Competition Network (ICN) Annual Conference

During the period under review, the Authority participated as panellists in the ICN 2018 Annual Conference held in New Delhi, India. ICN brings together all global competition agencies and focuses on inculcating best international practices in enforcement of competition policy and law. The objectives of the conference were to share experiences on merger cases, enforcement activities, strategies to enhance cooperation and convergence in sanctioning international cartels, strengthen cooperation between ICN members and Non-Governmental Advisors (NGAs) and promote good practice to protect competition.

D) AWARDS / HONOURS / RECOGNITIONS

In the financial year under review, the Authority was feted for exemplary accomplishments as follows:

(i) Competition Advocacy Contest

The International Competition Network (ICN) and the World Bank Group announced the launch of the Competition Advocacy Contest whose objective is to highlight key role competition agencies play in promoting competition. In the contest, competing agencies showcase their advocacy success stories under a given theme.

The Authority submitted its success stories and emerged co-winners together with the United Kingdom's Competition and Markets Authority in promoting structural reforms in key sectors. The Authority was feted for promoting

transparency in the digital financial services market by ensuring that mobile money providers and commercial banks disclose the cost of their financial services prior to executing a transaction. This has resulted in deepening of financial services and inclusion in the economy.

(ii) Financial Reporting (FiRe) Award

The Authority won the FiRe Award under the Public Sector Accounting Category. This is a prestigious award in East Africa for financial reporting sponsored by Capital Markets Authority (CMA), Institute of Certified Public Accountants of Kenya (ICPAK), Nairobi Securities Exchange (NSE) and the Public-Sector Accounting Standards Board-Kenya (PSASB).

E) STAKEHOLDER ENGAGEMENT

(i) County Competition and Consumer Protection Awareness Workshops

The Authority conducted advocacy forums in fourteen (14) counties and sensitized County officials, sector regulators and Law Society of Kenya (LSK) branch members on the role and mandate of the Authority as well as:-

- Regulatory Impact Assessment framework;
- Competition Rules;
- Buyer Power Guidelines;
- Consumer Protection Guidelines;
- Guidelines on Engagement with Consumer Bodies;
- Block Exemption Guidelines;
- Merger Threshold Guidelines;
- Fining & Settlement Guidelines.

Sensitization was carried out in the following counties; Mombasa, Isiolo, Meru, Narok, Kwale, Kitui, Kilifi, Garissa, Kirinyaga, Uasin Gishu, Kakamega, Kericho, Nakuru and Bungoma. Through the forums, the Authority was able to increase its awareness of its mandate and visibility.



11: County sensitization forum in Meru County



12 : County sensitization in Kilifi County



13: County sensitization forum in Mombasa County

(ii) Annual Symposium on Competition Law and Economic Regulation

This is an annual symposium that brings together stakeholders with an objective of deepening their understanding of competition enforcement mechanisms and fostering competition in the economy.

The Authority held its 4th Annual Competition and Economic Regulation Symposium in September 2017 in Nairobi. The theme was ***"Competition Enforcement in the Digital Disruptive Technology and other Market Dynamics"***. The symposium was attended by one hundred and fifty (150) stakeholders representing Government agencies, private sector players, consumer organizations, law firms, development agencies, among others.

The keynote address was delivered by Mr. Toh Han Li, Chief Executive of the Competition and Consumer Commission of Singapore who hailed the e-commerce platforms for allowing Small and Medium Enterprises to go beyond their physical catchment areas to offer consumers more choices for goods and services. The key topics discussed at the Symposium were:

- Competition enforcement in disruptive technology;
- Consumer protection in the digital era;
- Cartel detection and sanctions;
- Competition issues in the retail sector;
- Increased multijurisdictional enforcement.

Stakeholders were able to understand competition issues in the digital era and the challenges facing competition agencies in regulating disruptive technologies.



14: Mr. Toh Han Li, the Chief Executive of the Competition Commission of Singapore with members of the Board and Management of the Competition Authority of Kenya

(iii) World Competition Day

This is an annual event commemorated across the globe on the 5th December by Competition Agencies which marks the adoption of the United Nations set of multilaterally agreed equitable principles and rules for the control of restrictive business practices by the General Assembly. The global theme was "Re-imagining Competition Policy and Law in the era of Disruption" which was premised on the latest innovations that played a great role in disrupting traditional markets.

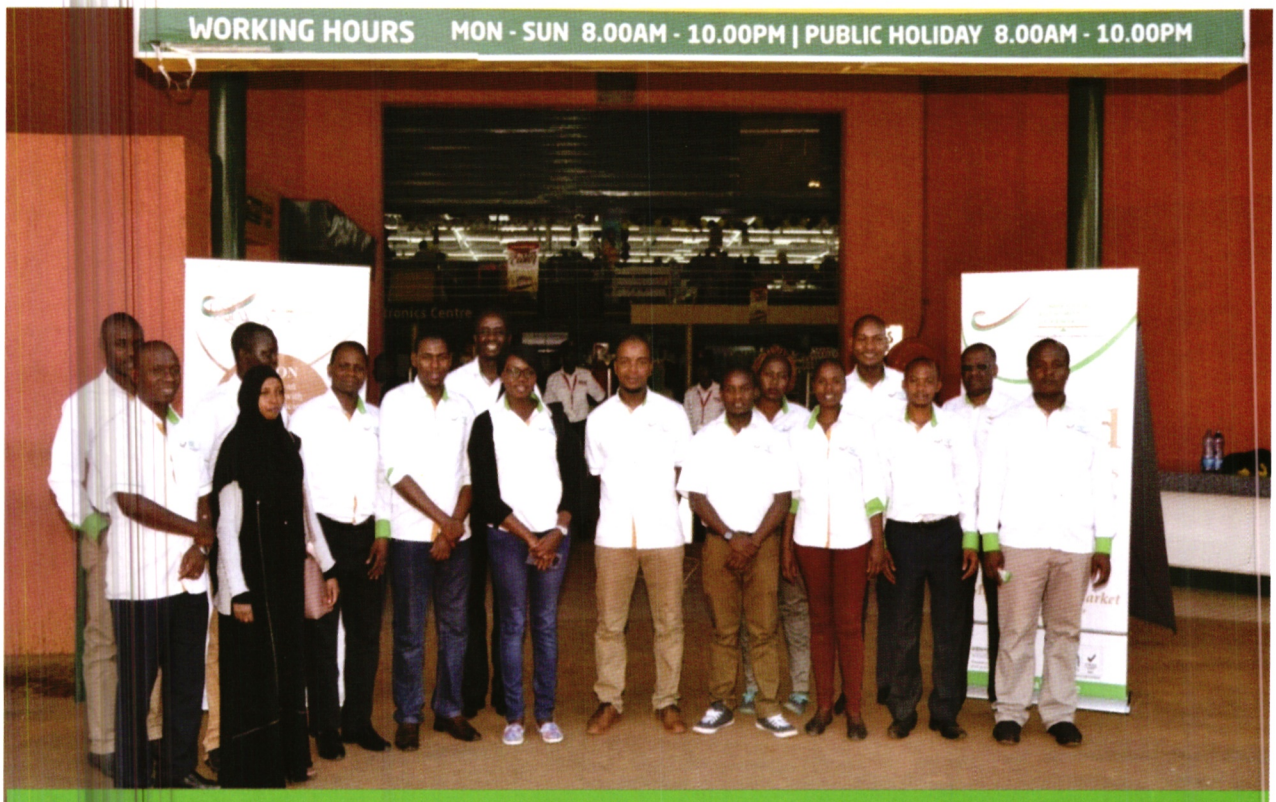
In marking the day, the Authority engaged the media – a key stakeholder in competition advocacy on the theme and embarked on a face-to-face interaction with the general public in Thika town. The objective was to sensitize the public and the business community on competition and consumer related issues. The Authority sensitized members of the public on its mandate and triggered considerable interest from the public on competition and consumer concerns.



Photo 15: Competition Authority of Kenya staff during the World Competition Day Celebrations held in Thika Town on 5th December, 2017

(iv) The World Consumer Rights Day (WRCD)

This is an annual event marked on 15th March that aims at promoting, protecting and creating awareness on the rights of consumers globally. The Authority commemorated the WCRD in Kisii County under the theme, "Making Digital Market Places Fairer". Consumers were sensitized on their rights with regard to technology and digital evolution brought about by the emergence of e-commerce. Marking the event in Kisii County was in line with the Authority's Consumer Sensitization Programme dubbed "CAK Mashinani" which targets to reach out to the local "mwananchi" to create awareness on consumer matters.



16: CAK staff during the World Consumer Rights Day celebrations held in Kisii County on 15th March 2018

VISIBILITY AND CORPORATE IMAGE

In order for the Authority to execute its mandate of ensuring that markets are efficient for consumers, businesses and the Kenyan economy, it is critical that a competition culture is ingrained in the country.

To achieve this competition culture, the Authority has to; increase and improve targeted outreach and awareness; enhance its corporate visibility (locally, regionally and internationally); and strengthen its relations with the media fraternity.

This is centered on the fact that stakeholder perceptions and expectations will positively enable the Authority execute its mandate.

The 2017 Kenya Competition Survey Report, which was supported by the World Bank, established that the Authority, and its mandate, is not well known in the country. Therefore, to deepen the organization's visibility and corporate image, the Authority undertook the following interventions as guided by its Strategic Plan 2017/18 – 2020/21.

(i) Outreach and Awareness Initiatives

The Authority, in recognition of the national reach that the mass media channels command, engaged the country's top three local TV stations to air a series of advertisements aimed at educating the public about its mandate. The advertisements enlightened consumers on their rights under the Act and the channels through which they can submit complaints. Businesses were also educated about the repercussions of implementing mergers without approval of the Authority as well as engaging in restrictive trade practices such as allocating market territories or abusing their dominant positions.

The Authority anticipates that the number of consumer complaints registered will increase significantly following the advertisements. Following the advertisements, the Authority noted an increase in engagements in its social media properties -Twitter and Facebook pages with new and existing users.

(ii) Media Engagement

During the period, the Authority renewed its efforts to engage the country's media fraternity - a key and effective stakeholder in the dissemination of information on competition and consumer protection related matters and raising awareness about its mandate.

The Authority prepared and disseminated press releases to the media, highlighting its key decisions and the rationale behind them. These detailed press releases are aimed at empowering journalists with the information regarding the competition regulation and consumer protection. This has resulted in improved reportage as well as increased the scope of the media houses reporting about the Authority's activities.

The Authority anticipates that its stakeholders will be incrementally informed, and accurately so, about the mandate of CAK.

(iii) Environmental Conservation

The Authority understands and appreciates the important role that the environment plays in promoting development and in ensuring that the goals set out in Vision 2030 are achieved.

During the FY 2017/18, the Authority partnered with North Coast Beach Hotel, Mombasa in planting one hundred and fifty (150) indigenous trees where the Authority catered for the cost involved in the tree planting. The Hotel provided space and committed to monitor their growth. This tree planting exercise was in line with the directive given by His Excellency the President that all State Corporations should dedicate 10% of their annual Corporate Social Responsibility budget towards tree planting.

ORGANIZATIONAL SUSTAINABILITY

People and Culture

The Human Resource and Administration function supports the achievement of the Authority's mandate as enshrined in Section 13 of the Act by; attracting, training and retaining highly qualified, skilled and motivated staff.

In order to enhance staff skills, knowledge and abilities in the areas of competition law and policy, merger analysis, investigations, consumer protection, management and leadership amongst other technical areas, the Authority sponsored staff members both internationally and locally to attend various trainings, workshops and conferences. These included both individual and group trainings aimed at enhancing technical and behavioral competencies.

The Authority also sponsored long-term management, leadership trainings and Continuous Professional Development geared towards succession planning and management, career and professional development. In line with the mandate of the Authority, staff were exposed to various workshops and conferences with the aim of learning international best practices in various jurisdictions.

The Authority actualized the one year apprenticeship programme with the aim of building capacity on Competition Law and Policy in the labor market. Towards this, the Authority recruited four Young Professionals, who are holders of Masters Degrees with a bias in Law and Economics and below the age of thirty (30) years. Twenty four (24) university students were also offered Industrial attachment in the Authority during the year. Towards supporting the government's agenda of equipping the youth with requisite skills, the Authority conducted interviews for Interns who commenced their program on 1st July, 2018.

Towards enhancing capacity and managing succession,the Authority reviewed her Organizational Structure to introduce the Buyer Power function among other positions and policies to support succession management and carreer progression. This review also involved an expansion of the functional areas that did not have a clear provision for upward mobility. Based on the foregoing, the optimal staff establishment has been revised to ninety nine (99).

In its effort to enhance employees' welfare, the Authority promotes employee well-being at the workplace by providing services and benefits that not only motivate them but also enhance their productivity. These include the provision of a staff medical scheme, Group Personal Accident -24 hours and Group life –sum assured, an Annual employee wellness program and a Car loan scheme. Additionally, it operates a Defined Contribution Retirement Benefits Scheme for its employees on Permanent and Pensionable terms of employment, the assets of which are held, managed and administered in a separate trustee scheme. It also pays service gratuity for employees on contract under their terms of employment.

In compliance with statutory requirements and enhancing employee welfare, the Authority maintained operations of the various statutory committees including Occupational, Health and Safety, Alcohol and Drug abuse, HIV and Aids, Disability Mainstreaming, Gender mainstreaming and Environmental sustainability.



17: Members of the Environmental Sustainability Committee during a tree planting exercise: Left to right; Mr. Martin Mutegi, Mr. Nicholas Kithaka, Mr. Maurice Nzuki and Ms. Hilda Sang



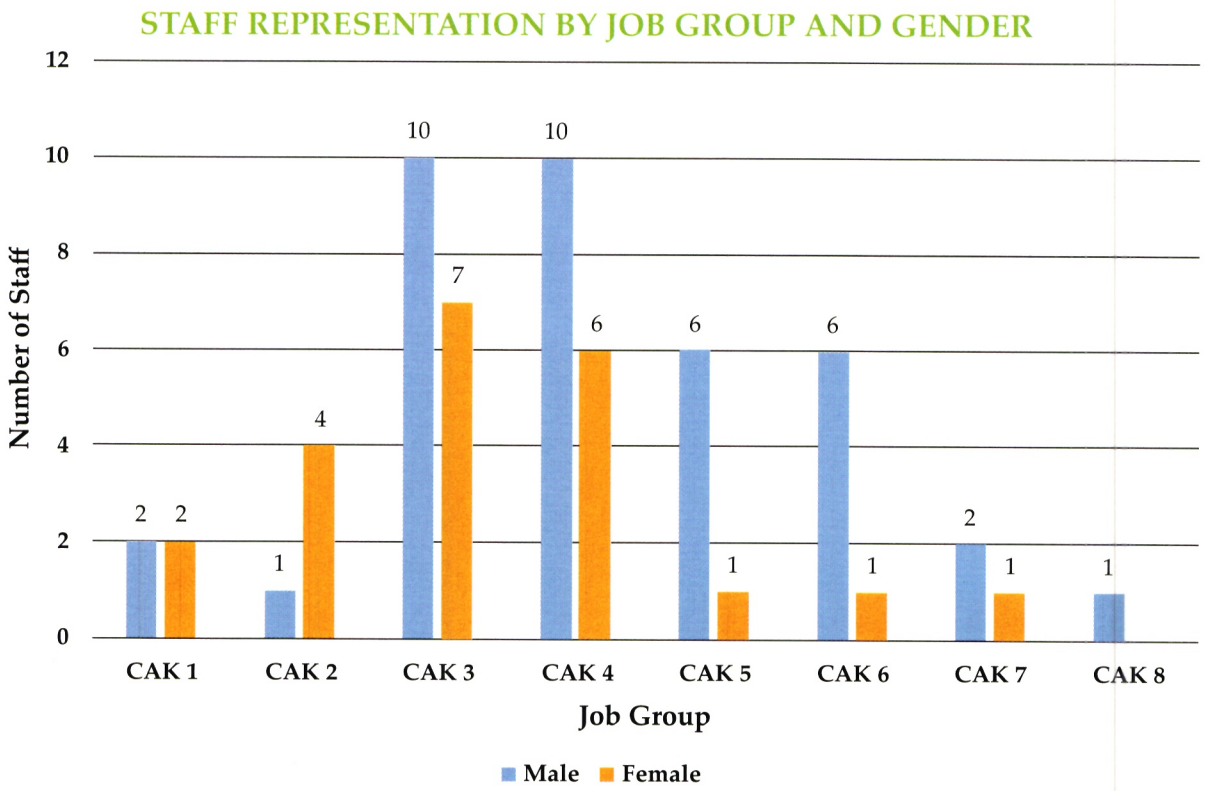
18 : CAK Staff during the team building where they also planted trees

To enhance a sound and cordial industrial relationship across the organization and enhance effectiveness and efficiency, the Authority organized a teambuilding where all members of staff participated.

Diversity and Inclusion

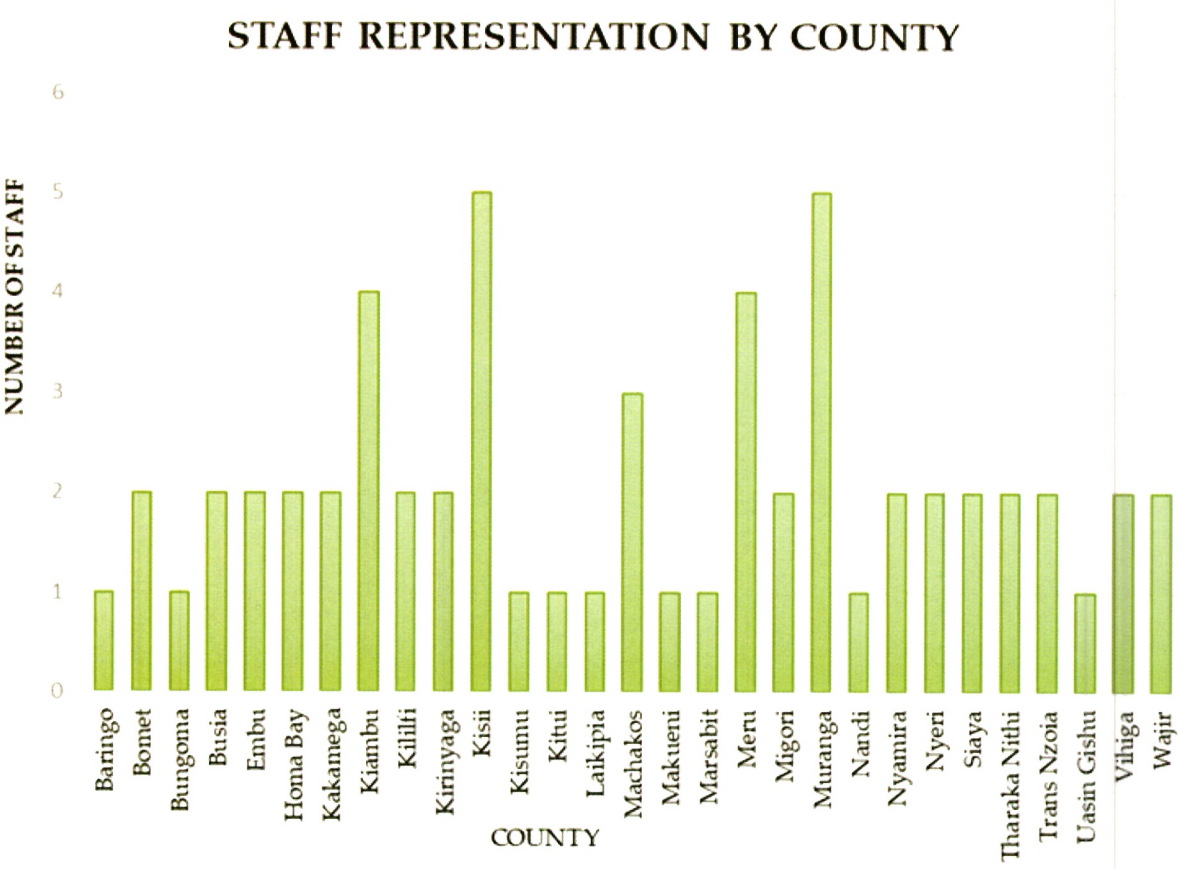
The Authority has continued to enhance capacity through acquisition of talent to effectively deliver its mandate. During the year a total of six (6) positions were competitively filled and the current staff number is comprised of thirty eight (38) male and twenty two (22) female thus complying with the Constitutional gender requirement as per the Figure 9 below;

Figure 9: Staff Representation by Gender



The Staff complement equally complied with the Constitutional requirement on diversity as per the Figure 10 below;

Figure 10: Staff Representation by County



Procurement Function

The Procurement function is mandated to manage the procurement and asset disposal processes as per the Public Procurement &Asset Disposal Act, 2015 (PPAD). During the FY 2017/18, the Authority complied with the PPAD Act, 2015 on preference and reservations group allocation and awarded contracts worth KES 39.2 Million to this group out of the total contracts sum of KES 108 Million which is equivalent to 36% of the total awards.

In compliance with the PPAD Act, 2015, sensitization workshops were held in three Counties namely Nairobi, Mombasa and Kisumu. This was geared towards creating awareness to the preference and reservations groups on procurement requirements and documentation for prequalification, access to 30% allocation, E-procurement and overview of the Procurement law. This contributed to reduced turnaround time for all purchases. The procurement processes have been automated in compliance with the Presidential Directive that all public entities automate their procurement modules by January, 2019. This is expected to enhance effectiveness, transparency and sustainability of the procurement processes.

Information and Communication Technology (ICT)

The Authority continued to leverage on ICT to improve its service delivery, efficiency of internal operations, engagement with stakeholders as well as the general public. This was achieved through automation of its core processes.



19 : The Authority's staff during the CMS sensitization (From left to right; Mr. Eric Gathuto Mwangi, Ms. Ann Grace Mukami and the Late Mr. Sylady Mose Oreko)

For the period under review, the Authority trained its staff and stakeholders and also piloted both Enterprise Resource Planning (ERP) and Case Management System (CMS). The Stakeholders were trained on how to file online submissions of either mergers, complaints, market inquiries or exemptions applications through the Authority's Competition Portal.



20 : Ms. Ann-Grace Mukami, the Authority's System Administrator guides one of the participants on how to navigate the Case Management System

Suppliers were also trained on how to register their companies' profiles and tender (receive and submit) using the E-Procurement portal.

The rollout of Short Messaging Service (SMS) gateway for better communication with its stakeholders was also implemented. The SMS gateway will be integrated with the CMS so as to provide automatic updates to its stakeholders on the progress of cases submitted to the Authority. The gateway will also improve interactions with the general public since the Authority can be contacted using the SMS Short code available on its website.



21 : Stakeholders sensitization forum on the CMS and ERP systems

The Authority trained all its staff members on the principles of Information Security Management System (ISO27001:2013) and integrated these principles into its processes. This will ensure that data integrity and privacy of information is always.

Quality Management System

The Authority attained ISO 9001:2015 certification in the year 2017. The Quality Management System (QMS) has been maintained through regular Internal Audits and Surveillance Audits. Through the implementation of the QMS requirements, the Authority has achieved enhanced efficiency and effectiveness in its operations and at the same time meeting and exceeding customer expectations.

Knowledge Management

The FY 2017/18 year marked the Authority's progress and milestone in the establishment of knowledge management processes within the authority. Successive outcomes of improved knowledge sharing and documentation in the domain of competition among the internal staff improved and defined the overall objective of the Authority. Successful outreach, advocacy and knowledge sharing to stakeholders has also considerably improved, with more consistent activities such as the annual symposium, capacity building workshops and awareness creation taking center stage during this period.

During the early stages of the FY 2017/18, staff were taken through an induction process of knowledge management sensitization program to improve both tacit and explicit knowledge transfers among the staff. Some of the initiatives undertaken included exchange of expert information delivered in plenary sessions by staff who attended trainings, workshops and conferences. Experts in Competition Law and Policy also gave various talks at the Authority. Additionally, the use of webinars and tele-presence enhanced the knowledge management

framework further.

To improve on the process of sharing and documenting knowledge within the Authority, an ambitious knowledge management tool that is embedded in the Case Management system has shifted the Authority's knowledge processes, documentation, external stakeholder engagements, knowledge sharing and knowledge resources storage. This will significantly improve and bring a memorable experience in knowledge management within the authority. Over the last quarter of the financial Year, an informative audit and knowledge management survey was conducted within the Authority to determine the extent of knowledge management implementation within the Authority. The outcome of this audit and survey was impressive and showed tremendous improvement on how knowledge management understanding and appreciation has improved. The contents of the survey shall be used to improve knowledge management guidelines, strategies, and policies and in the coming financial years.

Lastly, as we move forward to the coming years, the focus of the Authority will be to improve on its knowledge management tools on the website and other platforms as well as continuous engagements with external stakeholders on learning. Automation of processes will also enhance information sharing, dissemination, creation and storage of knowledge generated within and without the organization.

Business Continuity Management

The Authority implemented the Business Continuity Management (BCM) in the FY 2017/18. The overall objective of the BCM is to ensure the safety of customers, visitors, employees and all other personnel associated with the Authority, the continuity of business and technological operations in the event of a crisis or disruptive incident.

The Authority developed the BCM framework which defines the basic minimum levels of requirements for safety, availability and continuity of its operations and services. All departments developed a Business Impact Analysis (BIA) that provides guidelines for development, maintenance and exercising the Business Continuity Plans (BCP) which were approved by the Board.

In the implementation of the BCM framework, staff were trained and sensitized on its provisions. The Authority also established a Disaster Recovery site in readiness of an eventuality or downtime of its ICT systems.

Financial Management

The Authority continues to prudently apply its resources towards the achievement of its strategic objectives and approved annual work plans. To this end and within the confines of the Public Finance Management Act of 2012 and regulations of 2015, the Authority mobilizes resources mainly from the Exchequer, Development Partners and approved internal sources. During this period, Exchequer funding increased from KES 340 million to KES 381.25 million while internally generated revenue (A-I-A) amounted KES 162.1 million. The Authority also received KES 20 million under the COMESA Regional Integration Implementation Programme (RIIP). A number of Development Partners also directly committed an estimated KES 17 million towards the Authority's activities.

Going forward, the Authority will continue to ensure proper use of its Financial resources by prioritizing its activities and strengthening its internal controls while at the same time ensuring transparency and accountability in its processes. Engagements with both The National Treasury and Planning and Development Partners will be sustained to ensure adequate funding for planned activities. This will be supplemented by internally generated revenues. It is important to note that expenditure in the Authority is duly guided by internally approved Finance Policies, Govern-

ment Circulars and other relevant laws. Details of the Authority's financial transactions are provided in the Financial Statements as presented in the subsequent pages of this report.



22 : Editorial Team for the FY 2017/18 Annual Report

Appendix I: Restrictive Trade Practices Cases

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
1	CAK and Kenya Breweries Ltd	Manufacturing	The Authority initiated investigation on its own motion into the alcoholic beverages sector pursuant to the provisions of Section 31 of the Act. KBL had entered into vertical distribution agreements with its distributors which provided territorial exclusivity and dealing in products of competitors.	Section 21(3) (a), (b) and (e)	The Authority established that the Distributorship agreement between Kenya Breweries Limited and its Distributors contained clauses that could likely lead to the lessening of intra-brand competition. Kenya Breweries Limited invoked section 38 of the Act providing for Settlement where it was agreed that they amend the identified problematic clauses and develop an internal Competition Compliance Policy. The same has been actualized and the Authority has confirmed that the initiatives taken by KBL sufficient in actualizing the commitments in the Settlement Agreement.
2	Sufuria World Limited Vs Kaluworks Limited	Manufacturing	Sufuria World, a company dealing in manufacture and distribution of aluminium cooking pots, filed complaint with the Authority in December 2016 alleging that Kaluworks Limited had refused to sell to them aluminum circles. The complainant also alleged that Kaluworks Limited was the sole manufacturer of aluminium circles in Kenya refused to sell the raw materials to other local sufuria manufacturers but were selling to sufuria manufacturers outside the country.	24(2)(b)	The main focus of the investigation was to establish whether Kaluworks was dominant, and whether aluminum circles was indispensable and therefore absolutely necessary to the business of the complainant. The Authority established that Kaluworks facility could easily be replicated. The allegations therefore failed to meet the threshold of abuse of dominant position by refusal to deal.
3	Solpia Kenya and Style Industries Ltd	Manufacturing	Solpia Kenya complained to the Authority alleging that Style Industries Ltd were engaging in RTPs, including, imposing unfair selling prices & conditions to suppliers who sell their products, blackmail to the existing Solpia clients, and applying harsh conditions to suppliers who supply Solpia's goods.	Section 24 (1), and (2) (b) of the Act	The Authority commenced investigations against Style Industries Limited for Abuse of Dominance practices in violation of Section 24(1), (2) (b) of the Act. Styles Industries Limited was accused of abuse of dominance because of conduct involving threatening stockists that stocked the complainant's products with account closure, removal of discounts and refusal to supply products. Settlement negotiations pursuant to section 38 of the Act was on-going at the close of the reporting period.
4	Sugar sector investigation	Agriculture, Forestry and Fishing	The Authority initiated investigations on its own motion regarding allegations from the public that market players were hoarding sugar to create artificial shortages that would drive the price upwards.	Section 21 (3) (e)	The Authority interrogated the sugar value chain for cartel like conduct and for any impediments to competition in the sector. The investigations established that high sugar prices could have been catalyzed by the inefficiencies of the sugar millers, the current importation regime and sharing of strategic information through their association. Further, it was established that the sharing of information was as a result of a policy directive by the sector regulator. The sharing of information could have led to dampening of competition. The Authority pursuant to Section 9 of the Act advised Agriculture and Food Authority to employ strategies aimed at increasing production and minimizing sharing of disaggregated and historical information.
5	CAK vs Kenya Automotive Security Association (KASA)	Vehicle tracking security industry	The Authority initiated investigations following anonymous complaint alleging that KASA was engaging in agreements to set minimum rates on motor vehicle tracking gadgets.	Section 21	The investigations established that the association had deliberations regarding selling rates which did not culminate into a price fixing agreement. The Authority therefore concluded that the deliberations had not been actualized nor was there an agreement to that effect.

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
6	CAK vs. Advertising Practitioners Association (APA)	Advertising and Market research	The Authority on its own motion investigated the conduct of APA members for allegations of fixing prices (directly and/or indirectly) and other trading conditions and allocating markets to its members by limiting the number of advertising firms they forward to clients for consideration.	Section 21(3), 2 2 (1) (b)	The investigations established that the pitching process was not limited to a few APA members as suspected and did not block none APA members. The Authority also established that the Association had operationalized an MOU on pitching costs which amounted to the Association members agreeing on trading terms APA was therefore directed to abolish the MOU on pitching process through a resolution of the Association and develop a Competition Compliance program for approval by the Authority.
7	CAK vs Tangerine	Advertising and Market research	The Authority, on its own motion, investigated allegations relating to members of the Outdoor Advertising Association of Kenya (OAAK) engaging in Restrictive Trade Practices by fixing prices to be charged by its members for advertising services. Tangerine as a member of the Association was alleged to be involved in price fixing by setting up minimum prices for the 12m by 10m billboard.	Section 22 (1) (b)	The investigation revealed that members of the OAAK were in contravention of Section 22(1)(b) of the Act. In accordance to section 22(4) of the Act, Tangerine was found to be jointly liable with the Association. They invoked Section 38 and entered into a settlement agreement with the Authority. Tangerine paid a financial penalty amounting to KES 240,000.
8	CAK and Ingenious Concepts Limited	Advertising and Market research	The Authority, on its own motion, investigated allegations relating to members of the Outdoor Advertising Association of Kenya (OAAK) engaging in Restrictive Trade Practices by fixing prices to be charged by its members for advertising services. Ingenious as a member of the Association was alleged to be involved in price fixing by setting up minimum prices for the 12m by 10m billboard.	Section 22 (1) (b)	The case is ongoing.
9	CAK and Notos Limited	Advertising and Market research	The Authority, on its own motion, investigated allegations relating to members of the Outdoor Advertising Association of Kenya (OAAK) engaging in Restrictive Trade Practices by fixing prices to be charged by its members for advertising services. Notos as a member of the Association was alleged to be involved in price fixing by setting up minimum prices for the 12m by 10m billboard.	Section 22 (1) (b)	The investigation revealed that members of the OAAK were in contravention of Section 22(1)(b) the Act. In accordance to section 22(4) of the Act, Notos was found to be jointly liable with the Association. They invoked section 38 to enter into a settlement agreement with the Authority. However the proprietor provided evidence that the company was wound up before finalization of the settlement agreement.
10	Kenya Air Travel Association (KATA) vs International Air Transport Association (IATA)	Air Transport	KATA complained to the Authority alleging that IATA was applying discriminatory tactics in the appointment of Default Insurance Premium (DIP) providers locking out some insurance companies. In addition they claimed that members of IATA (airlines) had agreed on the frequency of remittance of monies collected by Airline Agents through online system, known as Billing and Settlement Plan.	Section 21 (1) and (3)	It was established that there was no evidence that the decisions of IATA in the provision of DIP had either directly or indirectly allocated customers, limited access or otherwise prevented, distorted or restricted competition. Further the Authority established that the accreditation for the provision of the DIP was through a competitive process. Based on the findings the Authority concluded that IATA did not contravene any provisions of the Act.

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
11	Dennis vs Travel agents operating the Nairobi – Mandera Air Route	Air Transport	Dennis complained of a possible collusion between airlines and travel agents operating in the Nairobi-Mandera Route.	21(1)(2)(a) 3(a) (b) and 22(1)(b)	The Authority investigated the allegation and concluded that Travel Agents in the Mandera route were coordinating in the selling of tickets and therefore were in violation of section 21(1),(2)(a) and 3(a) (b) and 22(1) (b) of the Act. However, the Authority concluded that the coordination was necessary essential for sustainability of the route, absence of which would lead to losses and exit by operators to the detriment of consumers. The travel agents were directed to apply for an exemption pursuant to section 25 of the Act.
12	Transcend Media vs WPP –Scan Group	Advertisement and Market Research	Transcend, a member of the APA complained of the possibility of bid rigging and undercutting by WPP –Scan Group.	Section 21 (3)	Investigations by the Authority did not find any evidence to prove the bid rigging allegation and therefore closed the matter.
13	Interrogation of the Maize Flour market	Agriculture, Forestry and Fishing	The Authority initiated interrogation into the maize supply chain on own motion pursuant to Section 31 of the Competition Act No. 12 of 2010 (the Act.	Section 31	Allegations on cartels in the supply chain of maize at the milling level have been perennial, however, the interrogations did not establish the alleged claims of cartels in the relevant market.
14	CAK vs Total Kenya Limited	Petroleum and Petroleum Products	The Authority received an anonymous complaint regarding the dealership arrangement between Total Kenya Limited (Total) and its dealers. It was alleged that Total was engaged into anti-competitive practices specifically in relation to its rental policy and discriminative treatment of between its Commercial and Young Dealers (YD).	Section 21	Investigations revealed that the dealership Agreements by Total contained unreasonable and anti-competitive provisions which forbid dealers from operating a competitor's outlet within a radius of 20 Kilometers. The Authority ordered Total Kenya Ltd to amend its dealership contract by expunging the restrictive clauses which was effected.

Appendix II: Exemption Cases

No.	Application	Sector	Case Summary	Relevant Section of the Act	Status
1	KLM, Kenya Airways and Precision Airline	Air Transport	Kenya Airways Limited (KQ) and Precision Air PLC (Precision) submitted an application for exemption, in regard to a proposed Joint Venture (JV) pursuant to section 25 of the Act. The proposed JV had clauses relating to price alignment, joint sales and marketing, joint network management, code sharing and revenue management which fall within the prohibitions under section 21 of the Act.	Section 25/26	Upon evaluation of the JV agreement, pursuant to Section 26 of the Act, the Authority was of the opinion that more public benefits were likely to accrue from the arrangement and therefore approved the application for a period of one (1) year.
2	Institute of Certified Public Secretaries of Kenya (ICPSK)	Professional, scientific and technical	The ICPSK applied for an exemption to be allowed to formulate guidelines on minimum recommended fees to be charged by its members for the provision of Audit Governance Audits.	Section 26/29	The Authority declined the application pursuant to Section 26 of the Act due to the fact that there were no public benefits which would outweigh the lessening in competition that would result or would be likely to result from the proposed conduct.
3	East Africa Tea Trade Association	Agriculture, Forestry and Fishing	EATTA applied for the exemption following the recommendations of the Special Compliance Program (SCP) initiated by the Authority targeting the Agriculture and Finance sectors. They sought exemption on setting of commission for brokers and warehousing fees among others.	Section 25 and 26	The Authority considered the constraints relating to exclusion from trade association in terms of Section 22 (1) (a) of the Act and concluded that the conditions are necessary for the stability of the trade and maintaining exports that and therefore satisfies the threshold under Section 26 (3) of the Act. The Authority granted an exemption on certain activities of the Association but declined the request for setting commission and warehousing fees. The applicants appealed against the Authority's Decision at the Competition Tribunal. The case is ongoing.
4	Wines of the World (WoW)	Alcoholic Beverages	WoW Beverages and its seven (7) international suppliers (the parties) submitted an application for exemption of certain restrictive clauses as contained in their proposed distributorship agreements granting Wow Beverages the right to import and distribute their products in Kenya.	Section 25 and 26	The Authority declined the application pursuant to Section 26 of the Act because applicant had failed to demonstrate the public benefits arising out of the execution of the agreement, in terms of, preventing the decline of the industry through barring parallel importation.
5	Institute of Surveyors of Kenya (ISK)	Professional, Scientific and Technical	ISK applied for an exemption to be exempted from application of Section 21 and be allowed to formulate guidelines to set minimum fees	Section 25 and 26	The Authority declined the application pursuant to section 26 of the Act because the applicants failed to demonstrate the indispensability of the rules in maintaining the professional standards, improving or preventing the decline of the said profession and how the condition would obtain benefit to the public which would outweigh the lessening of competition.
6	Shipping Contractor Association (SCA)	Marine Cargo Handling	SCA made an application to be allowed to fix tariffs for the various services offered to shipping agents at the Port of Mombasa.	Section 25/26	Analysis of the application is ongoing.

No.	Application	Sector	Case Summary	Relevant Section of the Act	Status
7	Kumon Education SA (PTY) Ltd	Education	Kumon Education SA are seeking an exemption in regard for 18 Franchisees that provide supplementary education in mathematics and English. Particularly the franchisees will prohibited from operating any other business teaching the Kumon methods within a radius of one (1) kilometer. Further the franchisees will be prohibited from operating a similar business to Kumon one (1) year after termination of the contract.	Section 25/26	Analysis of the application is ongoing
8	Cooper-K Brands limited (CKL) and its strategic business Partners	Agro-Chemical	CKL sought an exemption from the application of part III A of the Act to certain provisions of their Strategic Business Partnership agreements which may have effects contemplated in Section 23(3) of the Act.	Section 25/26	Analysis of the application is ongoing.
9	Tuskys and Nakumatt	Retail	Tuskys applied for an exemption to be allowed to finance Nakumatt business.	Section 25 and 26	The application was withdrawn by Tuskys Limited.

Appendix III: Compliance Cases

No	Case/activity	Sector / market affected	Case summary	Violation/ theory of harm	Case Status/Decision
1	Bluejay (Betway) Company	Betting	The Authority, using its own intelligence, initiated investigations into the conduct of Bluejay Limited pursuant to section 42(2) of the Act that prohibits implementing mergers without prior approval of the Authority.	43(1) of the Act	It was established that Bluejay were in contravention of section 42(3) and 43(1) of the Act by implementing two transactions without prior approval. An administrative financial penalty of Fifteen Million Kenya Shillings (KES15,000,000) was imposed on Bluejay.
2	Total & Gulf Africa Petroleum Company	Petroleum and Petroleum Products	The Authority approved a merger between Total Kenya and Gulf Africa Petroleum Company. The Merger was approved with employment and hospitality conditions for the Mombasa Terminal II facility.	Section 47	Compliance check established that Total was adhering to the merger conditions. Compliance initiatives will be carried out for the next two (2) years.
3	Special Compliance Program	Agriculture and Financial Sectors	The SCP was motivated by the realization that despite the Act coming into force in 2011, many trade associations continued to have rules, practices and procedures, which were likely to convene the Act. The core objectives of the SCP therefore were; to ensure that trade associations complied with sections 21 and 22 of the Act, increase awareness of the Act and to foster best practices in the future. Businesses from the agricultural and financial sectors gave undertakings to the Authority on reviewing their constitutions, Articles and Memorandums of Associations and rule books with a view to expunge identified restrictive clauses.	Section 21 and 22	The Authority conducted compliance checks on commitments made by various undertakings under the Special Compliance Program in the Agricultural and Financial Sectors. It was established that the firms had largely complied with the undertakings made to the Authority. The Authority will continue to undertake compliance checks for the next two (2) years.

Appendix IV: Advisories on RTP's

No	Inquiry	Sector/ Market Affected	Case Summary	Relevant Section of the Act	Status
1	KWAL-Distel	Alcoholic Beverages Distribution	KWAL-Distel applied to the Authority for an exemption on certain "Restrictive Trade Clauses" contained in a proposed Supply and Distribution Agreement between them and Distell Limited.	Section 9	The Authority noted that it had previously granted an exemption to the parties relating to exclusive bottling, manufacturing and distributorship of Distell products by Kenya Wine Agencies Limited for a period of five (5) years through its determination of 11th December 2014 and further communicated to the public through Gazette 3826 dated 29th May 2015. Further the Authority had approved acquisition of additional shares in KWAL that resulted to 52% majority shareholding by Distell international Holdings in KWAL Limited on 19th May 2017. Based on the above acquisitions the Authority advised the parties that they needed not to apply for an exemption as Section 21(8) of the Act exempted such practices between parent companies and their subsidiaries.

Appendix V: Advisory Opinions on Certain Transactions

S/No.	Parties involved	Issue and advisory opinion given
1.	BOWMANS, Coulson Harney Advocates	The advocates sought an advisory opinion on whether the proposed acquisition by Isuzu Motors South Africa Proprietary Limited (IMSA) of Isuzu Light Commercial Vehicles business conducted by General Motors South Africa Proprietary Limited (GMSA) was notifiable under Section 41 (2) of the Competition Act No. 12 of 2010 (the Act). Based on the information they provided, they were advised that the proposed transaction qualified as a merger within the meaning of Competition Act No. 12 of 2010 since there would be change in control on a part of a business of GMSA that directly supplies Isuzu Light Commercial vehicles and parts to Isuzu East Africa Limited.
2.	TACT Consultancy Services	TACT Consultancy Services sought the Authority's opinion on whether the proposed acquisition of all assets of a company by another company is a merger within the meaning of the Act. Based on the information provided by the party, they were advised that the proposed transaction was a merger within the meaning of Section 2 and 41(1), (2) & (3) of the Act.
3.	Simba & Simba Advocates	The Advocates sought opinion on whether the proposed transfer of Business of Kisii Bottlers Limited and Rift Valley Bottlers Limited to Mount Kenya Bottlers Limited is notifiable within the meaning of the Act. They were advised that the transaction was not notifiable since there was no change in control as a result of the proposed transaction since both the acquirer and the targets are subsidiaries of the same holding company.
4.	Daly & Inamdar Advocates	The Advocates sought advice on whether the proposed transfer of part of the business of De La Rue Currency & Security print Limited to De La Rue Kenya EPZ Limited was notifiable. They were advised that the acquisition of the currency printing business of DLR Currency & Security falls under "the acquisition of part of a business" in the Act, however, the fact that the two are ultimately owned and controlled by Thomas De La Rue AG, implies that there would be no effective change of control as both parties will remain wholly owned by Thomas De La Rue AG post transaction. Therefore, based solely on the information they provided, the transaction did not require prior authorization by the Authority as it did not result in change of control.

S/No.	Parties involved	Issue and advisory opinion given
5.	BOWMANS Coulson Harney L.L.P	The Advocates sought confirmation that the proposed acquisition by Tullow Kenya B.V of an additional 10% participating interest in Oil Block 12A located in Elgeyo Marakwet and Baringo Counties, Kenya, from Africa Oil Kenya B.V is not a merger within the meaning of the Act. Based on the information from the Advocates, Tullow had material influence/indirect control of Oil Block 12A before and after the additional 10% participating interest in oil Block 12A and therefore the proposed transaction is not a merger within the meaning of section 2 and 41 of the Act and therefore does not require prior approval by the Authority.
6.	Anjarwalla & Khanna Advocates	The Advocates sought confirmation that the proposed acquisition of 50% interest in assets relating to "into plane Services" did not constitute a merger in terms of section 2 and 41 of the Act. Based on the information they provided, they were advised that the transaction constituted a merger as per section 2 and 41 of the Act.
7.	Anjarwalla & Khanna Advocates	The Advocates sought Authority's opinion on whether the proposed acquisition of 70% share capital of the Nature's Bounty Co by KKR & Co. L.P was notifiable. Based on the information they provided, they were advised that the acquirer would not acquire direct or indirect control over the strategic commercial affairs of the target's business in Kenya since; i) the target has no significance presence in Kenya evidenced by the turnover generated, ii) the target did not have a subsidiary, assets, employees or an office in Kenya, and iii) no agreements existed between the target and the distributors in Kenya. Therefore, the transaction did not require prior authorization by the Authority.
8.	Anjarwalla & Khanna Advocates	The Advocates sought for an opinion whether lease in respect to the property known as Solai/Ndungiri Block 7/3 Nakuru from Kim's Poultry Farm Limited to Avipro East Africa Limited for ten (10) years constituted a merger. They were advised that the 10 year lease agreement does not constitute a merger since there will be no change in control of the business of lessor. Therefore, based solely on the information provided by the advocates, the transaction did not require prior authorization by the Authority.
9.	Mboya Wangong'u & Waiyaki Advocates	The Advocates sought advisory opinion on whether proposed sale of assets constituted a merger. Based on the information they provided, they were advised that the transaction did not qualify as a merger within the meaning of the Act since there would be no change in control on a part of business of Africa Expeditions Limited nor does Tullow intend to use the facility to generate revenue. The transaction therefore did not quality as a merger and therefore not notifiable.
10.	N.A. Owino & Company Advocates	The Advocates sought advice from the Authority whether the proposed lease of Yatin Supermarket by Khetia Supermarket constitutes a notifiable merger. Based on the information provided by the advocates, the Authority concluded that the arrangement between Khetia and Yatin Limited did not confer control of Yatin Limited to Khetia. Therefore, the transaction did not require prior notification by the Authority.
11.	Oraro & Company Advocates	The Advocates sought the Authority's opinion regarding the proposed internal restructuring of joint companies. The Authority advised them that the transaction did not qualify as a merger within the meaning of the Competition Act since there was no change in control of Mufindi Paper Limited, Tulip Travel Limited and Timsales Limited did not qualify as a merger within the meaning of the Act. However, the proposed transactions involving Comply Industries Limited and TJS Agro Limited (subsequently West Kenya Sugar Company Limited) qualified as a merger within the meaning of the Act since there would be change in control of these companies. The transaction therefore required prior authorization of the Authority before it was implemented.
12.	Simba & Simba Advocates	The Advocates sought the Authority's confirmation whether the proposed acquisition of 51% shares in Feast Foods Processors Limited by Funguo Investments Limited met the thresholds for exclusion as provided in the Merger Threshold Guidelines. According to the Guidelines, mergers involving undertakings which have a minimum combined turnover or assets of one billion and the turnover of the target undertaking is above one hundred million shillings are notifiable to the Authority while transactions where the combined turnover or assets of the merging parties is between one hundred million shillings and one billion shillings qualify for exclusion. Premised on the foregoing and having considered the information provided by the Advocates, the transaction qualified as a merger within the meaning of Section 2 and 41 of the Act.
13.	Kiruti & Co. Advocates	The Advocates sought the Authority's opinion in regard to: i) threshold to be met by any company in order for it to be subject to the Competition Act No. 12 of 2010 and in particular for it to require the Authority's approval; and ii) whether the companies licensed as Export Processing Zones are subject to the provisions of the Act given that their core business is to promote and facilitate export oriented industrialization and not focus on the Kenyan market. They were advised that; i) all undertakings have a mandatory obligation to apply to the Authority with respect to a proposed merger and ii) the Act applies to all mergers in the Export Processing Zones.

S/No.	Parties involved	Issue and advisory opinion given
14.	Freshfields Bruckhaus Deringer LLP	The Authority had requested the parties (Total S.A and Maersk Olie OG Gas A/S) to respond to claims that Total had acquired sole control of Maersk. The parties responded that they were still working towards fullfiling the conditions precedent to the transaction and obtaining necessary regulatory approvals. They had also indicated that based on previous decision by the Authority, in which Maersk Oilacquired 25% interest in the Production Sharing Contracts for Oil Exploration Blocks 10BB, 13T, and 10BA from Africa Oil Kenya. They were of the opinion that the proposed acquisition does not fall within the purview of the Act because Maersk Oil performs no business in Kenya. They were advised that the proposed acquisition of the entire issued share capital of Maersk oil by Total was notifiable as it would lead to a change of control of a section of business of Maersk Oil in Kenya.
15.	Muhoro & Gitonga Advocates	The parties sought to know about the number of application forms to be submitted when applying for Merger approval as well as where they could be obtain the Standard Industrial Classification (SIC) Code. They were advised that each party should file the application attaching the requisite documents. In regard to SIC code, they were informed that the code is available in the google website.
16.	Wanguku & Gitonga Advocates	The advocates called to inquire whether the Authority charges any fees for exclusion cases. They were advised that there is no fee charged for merger application meeting exclusion thresholds.
17.	Lawi Ogutu of M & M Advocates	The advocates sought to know about the process and documentation required when filing for an exclusion Merger process. They were taken through the process, documents required and where to obtain them from.
18.	MMAN Advocates	The advocate inquired about limitation of action period for a merger that has been consummated without the Authority's approval. Especially after what time the Authority would not initiate investigations. They were advised that in regards to the Act Section 86 would apply to the extent in which a cease of infringement would apply. Further noting that such an offence is criminal and not civil in nature and therefore the limitation of Action would not apply.

Appendix VI: Merger Notifications

Merger notifications for 2017/2018 Financial Year				
S/No	**Parties involved**	**Sector/ Market**	**Summary**	**Decision**
1.	Abraaj Healthcare Group Hospitals Mauritius Limited and Avenue Group Limited	Health	The transaction involved acquisition of 56.2% shareholding in the Avenue Group Limited by Abraaj Healthcare Group Hospitals Mauritius Limited.	**Approved with condition** that Abraaj Healthcare Group Hospitals Mauritius Limited shall retain all the employees of Avenue Group Limited.
2.	Metropolitan Hospital Holdings Limited and Ladnan Hospital Limited	Health	The transaction involved acquisition of 100% shareholding in Ladnan Hospital Limited by Metropolitan Hospital Holdings Limited. Analysis revealed that that it would not negatively affect competition but would likely raise negative public interest issues in regards to employment.	**Approved with condition** that the merged entity retains all the employees of Ladnan Hospital Limited.
3.	Synergy Communications and Alldean Networks Limited, Simbanet Com Limited & Wananchi Telecom Limited	ICT	The merger involved acquisition of entire issued share capital of Alldean Networks Limited, Simbanet COM Limited and Wananchi Telecom Limited by Synergy Communications. Analysis revealed that the transaction would not affect competition negatively nor raise any negative public interest concerns.	Approved unconditionally
4.	Kuehne+Nagel Limited and Trillvane Limited	Manufacturing	The transaction involved acquisition of the entire issued share capital of Trillvane Limited by Kuehne+Nagel Limited. Analysis revealed that that it would not negatively affect competition but would likely raise negative public interest issues.	**Approved with condition** that the merged entity retains 124 employees of the target at least one year after the date of completion of the transaction.
5.	Simba Corporation Limited and Associated Vehicle Assemblers Limited	Manufacturing	The transaction involved acquisition of the entire issued share capital of Associated Vehicle Assemblers Limited by Simba Corporation Limited. Analysis revealed that that it would not negatively affect competition but would likely raise negative public interest issues.	**Approved with conditions** that the emerged entity; a) shall keep the plant open to existing third party brands and any other competing brands that may wish to use the AVA plant for assembly for as long as there exists excess capacity at the plant; and ; b) honours all existing assembly contracts with third party assemblers at the AVA plant.
6.	Coca Cola Company and Coca Cola Beverages Africa Proprietary Limited	Manufacturing	The transaction involved acquisition of control in Coca Cola Beverages Africa Proprietary Limited by Coca Cola Company. Analysis revealed that it would negatively affect competition and likely raise negative public interest issues	**Approved with condition** that the merged entity:- 1. a) continues the production of Keringet brand for at least three (3) years after the completion of the transaction, b) retains one hundred and eighty six (186) employees at the Molo Plant for a period of at least two (2) years after the completion of the transaction, and thereafter retain one hundred and forty (140) employees at the plant; and further retain seventy two (72) employees at the administrative divisions in its Nairobi Beverages Limited companies; c) continue honoring the existing third party distribution contracts with regard to the Keringet brand; and; d) provide detailed annual reports to the Authority on the post-merger effects on employment and future plans on employment for the next five (5) years commencing from January, 2016. 2) With regard to the transaction involving the acquisition of control in Equator Bottlers by Coca Cola Beverages Africa, the merged entity would ensure retention of at least two thousand, two hundred and seventy nine (2,279) employees post transaction and submit a compliance report to the Authority on the same, 2 years post transaction.

Merger notifications for 2017/2018 Financial Year				
S/No	**Parties involved**	**Sector/ Market**	**Summary**	**Decision**
7.	Panalpina Airflo Limited, Panalpina Airflo B.V. & Panalpina Kenya Limited and Air Connection	Manufacturing	The transaction involved acquisition of the freight forwarding business of Air Connection Limited by Panalpina Airflo Limited, Panalpina Airflo B.V. and Panalpina Kenya Limited. Analysis revealed that that it would not negatively affect competition but would likely raise negative public interest issues.	**Approved with condition** that the merged entity retains at least 95% which is one hundred and fifty nine (159) of the employees of the target for at least one (1) year after the date of completion of transaction.
8.	Sigma Bidco B.V. and Unilever	Manufacturing	The transaction involved acquisition of control of the Unilever baking, cooking and spreads business by Sigma Bidco B.V. Analysis revealed that that it would not negatively affect competition but would likely raise negative public interest issues.	**Approved with condition** that the acquirer absorbs all the employees of Unilever directly involved in the section of business that was acquired.
9.	Ramco Plexus Limited and Panthera Publishers Limited	Manufacturing	The transaction involved acquisition of 90% of the issued share capital of Panthera Publishers Limited by Ramco Plexus Limited. Analysis revealed that that it would not negatively affect competition but would likely raise negative public interest issues.	**Approved with condition** that the acquirer retains all the twenty one employees of the target post-merger
10.	Star Bright Holdings Limited and Carzan Flowers (Kenya) Limited	Agriculture	The transaction involved acquisition of entire issued share capital of Carzan Flowers (Kenya) Limited by Star Bright Holdings Limited. Analysis revealed that the transaction would not affect competition negatively or raise any negative public interest issues.	Approved unconditionally
11.	Sanlam Emerging Markets (Ireland) Limited and Saham S.A.	Financial	The transaction involved acquisition of 100% of the issued share capital of Saham S.A by Sanlam Emerging Markets (Ireland) Limited. Analysis revealed that that it would not negatively affect competition but would likely raise negative public interest issues.	**Approved with condition** therefore approved on condition that the acquirer retains all the employees of the target.
12.	The Print Stores Limited and International Paper & Board Supplies Limited	Manufacturing	The transaction involved acquisition of the assets and business of International Paper & Board Supplies Limited by The Print Stores Limited. Analysis revealed that that it would not negatively affect competition but would likely raise negative public interest issues.	**Approved with condition** that the acquirer absorbs not less than 45 out of the 78 employees of the target business.
13.	Vivo Energy Holding B.V. and Engen International Holdings (Mauritius) Limited	Energy	The transaction involved acquisition of 100% of the shares in Engen International Holdings (Mauritius) Limited by Vivo Energy Holding B.V. Analysis revealed that that it would negatively affect competition and would likely raise negative public interest issues.	**Approved with conditions** that the merged entity: i) divests all the assets of the Parklands retail station within 36 months from the date of the Notice of Determination; ii) does not renew the current dealership contract with the Enterprise Road retail station either when it expires in two (2) years or if the dealer terminates the contract before the end of the remaining contract period; iii) honours all the existing contracts with small and medium-sized enterprises; and iv) retains all employees of the target.

Merger notifications for 2017/2018 Financial Year				
S/No	Parties involved	Sector/ Market	Summary	Decision
14.	Oman Trading International Limited and AAH (BVI) Limited	Wholesale and retail	The transaction involved acquisition of 40% of the ordinary shares in AAH (BVI) Limited by Oman Trading International Limited. Analysis revealed that the merger would not affect competition negatively nor have any public interest issues.	Approved unconditionally
15.	Extologix Proprietary Limited and AON Kenya Insurance Brokers	Financial	The transaction involved acquisition of control in AON Kenya Insurance Brokers Limited by Extologix Proprietary Limited. Analysis revealed that the transaction would not affect competition negatively nor have any public interest issues.	Approved unconditionally
16.	Star Foods Holding Limited and Nairobi Java House Limited	Hospitality	The transaction involved acquisition of 100% shareholding in Nairobi Java House Limited by Star Foods Holding Limited. Analysis revealed that the transaction would not affect competition negatively nor have any public interest issues.	Approved unconditionally
17.	Mr. Benson Sande Ndeta and Savannah Cement Limited	Manufacturing	The transaction involved acquisition of indirect control of Savannah Cement Limited by Mr. Benson Sande Ndeta. Analysis revealed that the transaction would not affect competition negatively nor have any public interest issues.	Approved unconditionally
18.	Diamond (BC) B.V. Sealed Air Corporation (Sealed Air) and Sealed Food Hygiene	Manufacturing	The transaction involved acquisition of the DiverseyCare Division of Sealed Air Corporation (Sealed Air) and of Sealed Air's Food Hygiene and Cleaning Business within its Food Care Division. Analysis revealed that the transaction would not affect competition negatively nor have any public interest concerns.	Approved unconditionally.
19.	Prime Bank Limited and Tausi Assurance Company Limited	Financial	The transaction involved acquisition of an additional 42.07% shares in Tausi Assurance Company Limited by Prime Bank Limited. Analysis revealed that the transaction would not affect competition negatively nor have any public interest issues.	Approved unconditionally
20.	Christopher John Kirubi and Haco Tiger Brands E.A Limited	Manufacturing	The transaction involved acquisition of additional 51% ordinary shares in Haco Tiger Brands E.A Limited by Christopher John Kirubi. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
21.	Okavango Kenya Mauritius Limited and Kipeto Energy Limited	Energy	The transaction involved acquisition of controlling interest in Kipeto Energy Limited by Okavango Kenya Mauritius Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
22.	Linde Akitiengesellschaft and Praxair Inc.	Manufacturing	The transaction involved merger/share swap between Linde Akitiengesellschaft and Praxair Inc. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
23.	Remgro International Holdings (PTY) Limited and Capevin Holdings Limited	Manufacturing	The transaction involved acquisition of sole control of Capevin Holdings Limited by Remgro International Holdings (PTY) Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally

Merger notifications for 2017/2018 Financial Year				
S/No	**Parties involved**	**Sector/ Market**	**Summary**	**Decision**
24.	Telco Holdings Techtel Investo Limited and Mobile Decisioning Holdings Limited	Telecommunication	The transaction involved acquisition of 76.12% of the share capital of Mobile Decisioning Holdings Limited by Telco Holdings Techtel Investo Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
25.	MRP Retail Kenya Limited and Deacons (East Africa) PLC	Wholesale and Retail	The transaction involved acquisition of the assets and operations of Mr. Price Business Line in Kenya from Deacons (East Africa) PLC by MRP Retail Kenya Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
26.	GVR Trust and Real People Kenya Limited	Financial	The transaction involved acquisition of 100% of the shares in Real People Kenya Limited by the Trustees of the GVR Trust. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
27.	First Chartered Securities Limited & ICEA Lion Assurance Company Limited and East Africa Reinsurance Company Limited	Financial	The transaction involved acquisition of additional 3% of the issued shares of East Africa Reinsurance Company Limited by First Chartered Securities and ICEA Lion Assurance Company Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
28.	Mitsui & Co Limited and ETC Group Limited	Agriculture	The transaction involved acquisition of 22.44% of the issued share capital and joint control in ETC Group Limited by Mitsui & Co Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
29.	Mayfair Healthcare Holdings Limited and Bliss GVS Health Care Limited	Health	The transaction involved acquisition of 51% of the shares of Bliss GVS Health Care Limited by Mayfair Healthcare Holding Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
30.	SBM Bank (Kenya) Limited and Chase Bank (Kenya) Limited	Financial	The transaction involved acquisition of certain assets and the assumption of certain liabilities from and of Chase Bank (Kenya) Limited (in receivership) by SBM Bank (Kenya) Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
31.	Polytanks & Containers Kenya Limited and Polytanks Limited	Manufacturing	The transaction involved acquisition of certain assets of Polytanks Limited by Polytanks and Containers Kenya Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
32.	Kamongo Waste Paper (Kenya) Limited and Kamongo Waste Paper Limited, Nairobi Paper Mills Limited & Fina Stationers Limited	Manufacturing	The transaction involved acquisition of the assets of Kamongo Waste Paper Limited, Nairobi Paper Mills Limited & Fina Stationers Limited by Kamongo Waste Paper (Kenya) Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally

Merger notifications for 2017/2018 Financial Year				
S/No	**Parties involved**	**Sector/ Market**	**Summary**	**Decision**
33.	American International Group and Validus Holdings Limited	Financial	The transaction involved acquisition of direct control of Validus Holdings Limited by American International Group. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
34.	ABB Verwaltungs Limited and General Electric Industrial Solutions	Energy	The transaction involved acquisition of General Electric Industrial Solutions Business by ABB Verwaltungs Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
35.	American Tower Corporation (ATC) Kenya Operations Limited and Telkom Kenya Limited Towers	Telecommunication	The transaction involved acquisition of 97.2% of Telkom Kenya Limited Towers by American Tower Corporation (ATC) Kenya Operations Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
36.	Mammoth Foam Africa and Super Foam Limited	Manufacturing	The transaction involved acquisition of 100% of the issued share capital of Super Foam Limited by Mammoth Foam Africa. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
37.	Isuzu Motors South Africa Proprietary Limited (IMSA) and General Motors South Africa Proprietary Limited (GMSA)	Manufacturing	The transaction involved acquisition of the Isuzu Light Commercial Vehicle (LCV) business of General Motors South Africa Proprietary Limited (GMSA) by Isuzu Motors South Africa Proprietary Limited (IMSA). Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
38.	Ramco Plexus Limited and Pressmaster Africa Limited	Manufacturing	The transaction involved acquisition of the entire issued share capital of Pressmaster Africa Limited by Ramco Plexus Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
39.	United Technologies Corporation and Rockwell Collins Inc.	Manufacturing	The transaction involved acquisition of 100% of the shares of Rockwell Collins Inc. by United Technologies Corporation. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
40.	I & M Insurance Agency Limited and Youjay's Insurance Brokers Limited	Financial	The transaction involved acquisition of 100% of the issued share capital of Youjay's Insurance Brokers Limited by I & M Insurance Agency Limited. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
41.	Omya (Schweiz) AG. And Mavuno Fertilizers Limited	Manufacturing	The transaction involved acquisition of 51% shareholding in Mavuno Fertilizers Limited by Omya (Schweiz) AG. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issues.	Approved unconditionally.
42.	Best Global Brands and Best Kenya Limited	Wholesale and Retail	The transaction involved acquisition of 100% of Best Kenya Limited by Best Global Brands. Analysis revealed that the transaction would not affect competition negatively nor raise any public interest issue	Approved unconditionally.

Appendix VII: Merger Exclusions

Mergers that were excluded from Part IV of the Competition Act No. 12 of 2010. The transactions were excluded since they would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.

S/ No	Parties Involved	Sector	Details
1.	Deere & Company and Wirtgen Group Holding GMBH	Wholesale and Retail	The transaction involved acquisition of 100% share capital in Wirtgen Group Holding by Deere and Company.
2.	Creditinfo International GMBH and Alternative Circle	Real Estate	The transaction involved acquisition of 51% of shares in Alternative Circle by Creditinfo International GMBH.
3.	Safran S.A. and Zodiac Aerospace	Aviation	The transaction involved acquisition of sole control of Zodiac Aerospace by Safran S.A.
4.	Sean Adrian Khan & Sheilah Aggarwal Khan and Jambo Maji Limited	Manufacturing	The transaction involved acquisition of shares in Jambo Maji Limited by Sean Adrian Khan & Sheilah Aggarwal Khan.
5.	Flame Tree Africa Limited and Shethia Industrial Chemicals	Manufacturing	The transaction involved acquisition of brands of Shethia Industrial Chemicals Limited by Flame Tree Africa Limited.
6.	Iway Africa Kenya Limited and Callkey (E.A) Limited	ICT	The transaction involved acquisition of certain customer contracts of Callkey (E.A) Limited by Iway Africa Kenya Limited.
7.	Cyrus Ndiritu Maina and Fredblack Insurance Brokers Limited	Financial	The transaction involved acquisition of 60% of the issued share capital in Fredblack Insurance Brokers Limited by Cyrus Ndiritu Maina.
8.	Omnia Group Proprietary Limited and Umongo Petroleum Proprietary Limited	Wholesale and Retail	The transaction involved acquisition of control in Umongo Petroleum Proprietary Limited by Omnia Group Proprietary Limited.
9.	Business Partners International Kenya (II) Limited and Business Partners International Kenya SME Fund LP	Financial	The transaction involved acquisition of assets of Business Partners International Kenya SME Fund LP by Business Partners International Kenya (II) Limited.
10.	Emerg Investments Limited and Azali Limited	Financial	The transaction involved acquisition of 100% shares in Azali Limited by Emerg Investments Limited from Heritage Insurance Company Limited.
11.	Wilson Mwangi Methu and Institute of Advanced Technology Limited	Education	The transaction involved acquisition of controlling interest in the Institute of Advanced Technology Limited by Wilson Mwangi Methu.
12.	Baraka Holy Land (Israel) Limited and Baraka Israel Enterprises Limited	Transport	The transaction involved acquisition of 735 shares in Baraka Israel Enterprises Limited by Baraka Holy Land (Israel) Limited.
13.	New Just Fun (PTY) Limited and Deneb Investments Limited	Wholesale and Retail	The transaction involved a merger between Deneb Investments Limited and New Just Fun (PTY) Limited.
14.	Stuart William Millar and Hygrotech East Africa Limited	Agriculture	The transaction involved acquisition of 60% the shares in Hygrotech East Africa Limited by Stuart William Millar from Rocer Corporate Limited.
15.	O-Play Kenya Limited and Phoneserve Technologies Company Limited	ICT	The transaction involved acquisition of the entire issued share capital of Phoneserve Technologies Company Limited by O-Play Kenya Limited.
16.	Depar Limited and Oryx Energies Kenya Limited	Wholesale and Retail	The transaction involved acquisition of the LPG Business of Oryx Energies Kenya Limited by Depar Limited.
17.	FTG Holdings Limited and Polyplay Limited	Manufacturing	The transaction involved acquisition of all shares and assets of Polyplay Limited by FTG Holdings Limited.
18.	Mace Management Services Limited and Integrated YMR Partnership Kenya	Services	The transaction involved acquisition of additional 39% partnership interest in Integrated YMR Partnership Kenya by Mace Management Services Limited.
19.	Joseph Saiyalele Kuluo, Sachen Chandaria & Vishal Khagram and Mwiro Limited	Real Estate	The transaction involved acquisition of 100% ordinary shares in Mwiro Limited by Joseph SaiyaleleKuluo, SachenChandaria& Vishal Khagram.

S/ No	Parties Involved	Sector	Details
20.	Kahawa Bora Millers Limited and Highland Coffee Company Limited	Agriculture	The transaction involved acquisition of Coffee mill and coffee milling equipment by Kahawa Bora Millers Limited from Highland Coffee Company Limited.
21.	Total Outre-Mer&Worldline SA. And Intouch SAS	Payment systems	The transaction involved acquisition of majority shareholding in Intouch SAS by Total Outre-Mer and Worldwide SA.
22.	Craig Kielburger and Me to You Limited	Real estate	The transaction involved acquisition of nine (9) ordinary shares held by Me To You Limited in Kujitolea Limited by Craig Kielburger.
23.	Universal International Music B.V. and AI Records (Kenya) Limited	Services	The transaction involved acquisition of 70% of the shares in AI Records (Kenya) Limited by Universal International Music B.V.
24.	Pan African Housing Fund, LLC and Kikuyu MIH Project Limited	Real Estate	The transaction involved acquisition of 50% of the issued share capital in Kikuyu MIH Project Limited by Pan African Housing Fund, LLC.
25.	Barrentine Limited and Mingi Roses Limited	Agriculture	The transaction involved acquisition of the entire issued share capital of Mingi Roses Limited by Barrentine Limited.
26.	Trinc Digital Limited and Gukena Frequency Modulation	Telecommunication	The transaction involved acquisition of 51% share capital of Gukena Frequency Modulation Limited by Trinc Digital Limited.
27.	Mohammed HasnainShabbirNoorani&HasnainAbdulkader and Business Liasons Limited and Muorgate Holdings Limited	Real Estate	The transaction involved acquisition of all the shares of Business Liasons Limited & Muorgate Holdings Limited by Mohammed HasnainShabbirNoorani and HasnainAbdulkader.
28.	Vronbisman Limited and ESS Equipment Kenya Limited	Mining	The transaction involved acquisition of 51% of the issued share capital of ESS Equipment Kenya Limited by Vronbisman Limited.
29.	Araveli For Mamas Limited and Me To We Limited	Hospitality	The transaction involved acquisition of the assets of Me To We Limited by Araveli For Mamas Limited.
30.	Business Venture Investments No: 2032 Proprietary Limited and Waco International Holdings Proprietary Limited	Construction	The transaction involved acquisition of 100% of the shares in Waco International Holdings Proprietary Limited by Business Venture Investments No: 2032 Proprietary Limited. The transaction was excluded since it would not negatively affect competition and their combined value of assets was below the threshold for mandatory merger notification.
31.	Minga Limited and Me To We Limited	Real Estate	The transaction involved acquisition of assets of Me To We Limited by Minga Limited.
32.	Samina Habib Wali Mohammed and Kilimanjaro Bottled Water Limited	Manufacturing	The transaction involved transfer of 70 shares in Kilimanjaro Bottled Water Limited from Denise Schneider-Walimohammed to Samina Habib Walimohammed.
33.	Glace Bay Limited & Gerald Costa and Screen Media (Kenya) Limited	ICT	The transaction involved acquisition of 100% of the shares of Screen Media (Kenya) Limited by Glace Bay Limited and Gerald Costa.
34.	Voltalia SA and Kopeve Solar Park Limited.	Energy	The transaction involved acquisition of 100% of the issued share capital of Kopere Solar Park Limited by Voltalia SA.
35.	Bogani Training Limited and Me To We Limited	Hospitality	The transaction involved acquisition of the Assets of Me To We Limited by Bogani Training Limited.
36.	Ringier Africa AG & Seek International Investments Proprietary Limited and One Africa Media Proprietary Limited, Cheki Africa Media, Brighter Monday Kenya Limited, Cheki Kenya Limited & BuyRent Kenya Limited	ICT	The transaction involved acquisition of joint control of One Africa Media Proprietary Limited, Cheki Africa Media, Brighter Monday Kenya Limited, Cheki Kenya Limited & BuyRent Kenya Limited by Ringier Africa AG & Seek International Investments Proprietary Limited.
37.	Fanisi Investments (Mauritius) Limited and Haltons Limited	Real Estate	The transaction involved acquisition of control of Haltons Limited by Fanisi Investments (Mauritius) Limited.

S/ No	Parties Involved	Sector	Details
38.	Zaad Holdings Limited and Hygrotech Properties Proprietary Limited	Manufacturing	The transaction involved acquisition of 100% issued shares in Hygrotech Properties Proprietary Limited by Zaad Holdings Limited
39.	Mitsui & Company Limited and Maersk Product Tankers A/S	Transport	The transaction involved acquisition of joint control of Maersk Product Tankers A/S by Mitsui & Company Limited.
40.	Technology Partners Limited and Alsaa Investments Limited	Services	The transaction involved acquisition of 99% of the issued share capital of Alsaa Investments Limited by Technology Partners Limited.
41.	Simon Walsh and Mandhari Plants and Designs Limited	Services	The transaction involved acquisition of 50% of the shares in Mandhari Plants and Designs Limited by Simon Walsh.
42.	FCT Investment Mauritius and Tanzanite Petroleum Services Limited	Services	The transaction involved acquisition of 100% of the shares of Tanzanite Petroleum Services Limited by FCT Investment Mauritius.
43.	Compagnie Generale Des Etablissements Michelin SCA and Fenner PLC	Manufacturing	The transaction involved acquisition of sole control of Fenner PLC by Compagnie Generale Des Etablissements Michelin SCA.
44.	King (Cayman) Holdings Limited and Thomson Reuters Corporation	Real Estate	The transaction involved acquisition of the financial and risk business of Thomson Reuters Corporation by King (Cayman) Holdings Limited.
45.	Delonex Kenya (One) Limited and Tullow Kenya B.V.	Energy	The transaction involved acquisition of additional 10% participating interest in Block 12A located in Elgeyo Marakwet and Baringo Counties, Kenya by Delonex Kenya (One) Limited from Tullow Kenya B.V. The transaction was excluded since it would not affect competition and the parties operate in the excluded sector, and therefore, the transaction meets the threshold for exclusion as provided in the Merger Threshold Guidelines.
46.	Roroma Africa Limited and Toridoll Kenya Limited	Hospitality	The transaction involved acquisition of 90% of the issued share capital of Toridoll Kenya Limited by Roroma Africa Limited.
47.	Kamongo Waste Paper (Kenya) Limited and Fina Stationers Limited	Manufacturing	The transaction involved acquisition of 100% of the Business and assets of Fina Stationers Limited by Kamongo Waste Paper (Kenya) Limited.
48.	Godfrey MuhunyoMugo& Gladys NyamburaMuhunyo and Chomoa Limited	Real Estate	The transaction involved acquisition of shares in Chomoa Limited by Godfrey MuhunyoMugo& Gladys NyamburaMuhunyo.
49.	Akili Networks Incorporated and Akili Partners Limited	ICT	The transaction involved acquisition of 100% of the issued shares in Akili Partners Limited by Akili Networks Incorporated.
50.	Caroline AwuorAbade and EXP Momentum Limited	ICT	The transaction involved acquisition of 91.7% of the shareholding in EXP Momentum Limited by Caroline AwuorAbade.
51.	William Roy Carr-Hartley and Usare Limited	Services	The transaction involved acquisition of 100% of the issued shares in Usare Limited by William Roy Carr-Hartley. The transaction was excluded since it would not negatively affect competition and both the acquirer and the target had no turnover in the previous year 2016.
52.	IPSOS East Africa Limited and Synovate Kenya Limited	Services	The transaction involved acquisition of by IPSOS East Africa Limited.
53.	EngieAfrique SAS and Fenix International Kenya Limited	Energy	The transaction involved acquisition of 100% of the issued share capital of Fenix International Kenya Limited by EngieAfrique SAS.
54.	Me to We Limited and Kiel Initiatives Limited	Hospitality	The transaction involved acquisition of a controlling stake in Kiel Initiatives Limited by Me to We Limited.
55.	Daniel Haywood and Ramani Land Services	Services	The transaction involved acquisition and redistribution of shares in Ramani land Services Limited to Daniel Haywood and Graham Shaw from Rosesilvia Akinyi Osiemo.

S/ No	Parties Involved	Sector	Details
56.	Adcock Ingram Healthcare Proprietary Limited and Genop Holdings Proprietary Limited	Health	The transaction involved acquisition of the entire issued share capital of Genop Holdings Proprietary Limited by Adcock Ingram Healthcare Proprietary Limited.
57.	Piotr Sebastian Hutter and Desert Rose Kenya Limited	Hospitality	The transaction involved acquisition of 50% shareholding in Desert Rose Kenya Limited by Piotr Sebastian Hutter. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification
58.	Ascent ASL Mauritius Limited & Ascent Investment Africa Limited and Auto Springs Mauritius Limited	Wholesale and Retail	The transaction involved acquisition of 75% of the issued share capital in Auto Springs Mauritius Limited by Ascent ASL Mauritius Limited & Ascent Investment Africa Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification
59.	Amea Holdings Limited and Aldwych International Limited	Energy	The transaction involved acquisition of the entire issued share capital of Aldwych International Limited by Amea Holdings Limited.
60.	Bestseller Foundation and Samasource Kenya Limited	ICT	The transaction involved acquisition of 38.55% of the shares in Samasource Kenya Limited by Bestseller Foundation.
61.	Anarrosi Partners Limited and Collection Africa Limited	Financial	The transaction involved acquisition of 100% of the issued share capital of Collection Africa Limited by Anarrosi Partners Limited.
62.	Metrofile Holdings Limited and G4S Secure Data Solutions	ICT	The transaction involved acquisition of 100% of the issued share capital of G4S Secure Data Solutions by Metrofile Holdings Limited.
63.	Total S.A and Maersk Olie OG Gas A/S	Energy	The transaction involved acquisition of 100% shareholding in Maersk Olie OG Gas A/S by Total S.A. The transaction was excluded since it would not affect competition and the parties operate in the excluded sector, and therefore, the transaction meets the threshold for exclusion as provided in the Merger Threshold Guidelines.
64.	Barnes Southern Palace Holdings Proprietary Limited and Scaw South Africa Proprietary Limited	Manufacturing	The transaction involved acquisition of 74% of the issued share capital of Scaw South Africa Proprietary Limited by Barnes Southern Palace Holdings Proprietary Limited.
65.	Baloo Energy Holding PTE Limited and SocietePetroliere Kenya Limited	Wholesale and Retail	The transaction involved acquisition of 70% of the issued share capital of SocietePetroliere Kenya Limited by Baloo Energy Holding PTE Limited.
66.	Pan-Africa Investment Company and Mobius Motors Limited	Manufactory	The transaction involved acquisition of additional shares (37.58%) in Mobius Motors Limited by Pan-African Investment Company.
67.	Gatma Holdings Limited and Eke Property Limited	Service	The transaction involved acquisition of entire issued share capital of Eke Property Limited by Gatma Holdings Limited.
68.	Nelson Zavai Onzere and Eagle View Limited	Real Estate	The transaction involved acquisition of 100% of the issued share capital of Eagle View Property Limited by Nelson Zavai Onzere.
69.	Stitching DOB Equity, CFAO SAS, Magister Advisors and Sendy Limited	Manufacturing	The transaction involved acquisition of 11.7%, 10.66% and 1.49% of the shares of Sendy Limited by Stitching DOB Equity, CFAO SAS, Magister Advisors respectively with certain veto rights.
70.	Pinner Heights Kenya Limited and ARM Energy Limited	Manufacturing	The transaction involved acquisition of 100% shareholding in ARM Energy Limited by Pinner Heights Kenya Limited.
71.	Globoleq Holdings (Kenya) Limited and Malindi Solar Group Limited	Energy	The transaction involved acquisition of 90% of the issued share capital of Malindi Solar Group Limited by Globoleq Holdings (Kenya) Limited.
72.	Tamarind Management Limited and Kengele's Management Group Limited	Hospitality	The transaction involved acquisition of assets of Kengele's Management Group Limited by Tamarind Management Limited.
73.	SKC 2 PCC and Sino Guru Limited and Interstat Limited	Hospitality	The transaction involved acquisition of joint indirect controlling interest in Interstat Limited by SKC 2 PCC and Sino Guru Limited.

S/ No	Parties Involved	Sector	Details
74.	Escrow Financial Solutions Limited and CDSC Registrars Limited	Service	The transaction involved acquisition of 30% of the issued share capital and Management control of CDSC Registrars Limited by Escrow Financial Solutions Limited.
75.	Hankyu Hanshin Express Company Limited and Intraspeed South Africa Proprietary Limited	Transport	The transaction involved acquisition of 66.7% shareholding in Intraspeed South Africa Proprietary Limited by Hankyu Hanshin Express Company Limited.
76.	Goodlife Pharmacy Limited and City Square Pharmacy	Wholesale and Retail	The transaction involved acquisition of certain assets of City Square Pharmacy by Goodlife Pharmacy Limited.
77.	Guangdong New South Overseas Investment Holding Co. Limited and Africa Economic Zones Limited	Construction	The transaction involved acquisition of 60% stake in Africa Economic Zones Limited by Guangdong New South Overseas investment Holding Co. Limited.
78.	Silentnight Bedding Limited and Silentnight Kenya Limited	Manufacturing	The transaction involved transfer of the business and assets of Silentnight Kenya Limited to Silentnight Bedding Limited.
79.	Schole Mauritius Limited and Makini School Limited	Education	The transaction involved acquisition of the entire issued share capital of the Makini School Limited by Schole Mauritius Limited.
80.	Africa Khusini Technology Holdings Kenya Limited and BCX Kenya Limited	ICT	The transaction involved acquisition of 2,100,000 ordinary shares and 23,000,000 Preference shares in the share capital of BCX Kenya Limited by Africa Khusini Technology Holdings Kenya Limited.
81.	Turner & Townsend International Limited and Actis Development Partners Limited	Real Estate	The transaction involved acquisition of 79.5% of the issued shares in Actis Development Partners Limited by Turner & Townsend International Limited.
82.	GL Bioenergy Limited and Great Lakes Energy Africa (K) Limited	Energy	The transaction involved acquisition of 100% of the shares by GL Bioenergy Limited in Great Lakes Energy Africa (K) Limited.
83.	MrBerjeesh D Surty, MrsAnusuaberjeeshSurty and MrAnsar Abbas Shaikh and Kenya Chemicals &Dystuffs Limited	Manufacturing	The transaction involved acquisition of 100% of the issued share capital in Kenya Chemicals &Dystuffs Limited by MrBerjeesh D Surty, MrsAnusuaberjeeshSurty and MrAnsar Abbas Shaikh.
84.	Slopes Media House Limited and NyumbaYaMumbi TV	ICT	The transaction involved acquisition of 100% of the issued shares in NyumbayaMumbi TV by Slopes Media House Limited.
85.	Mr. Rakesh Shah and ADCC International East Africa Limited	Services	The transaction involved acquisition of 99.21% of the issued shares of ADCC International east Africa Limited.
86.	Kamongo Waste Paper (Kenya) Limited and Nairobi Paper Mills Limited	Manufacturing	The transaction involved acquisition of 100% of the business and assets of Nairobi Paper Mills Limited by Kamongo Waste Paper (Kenya) Limited.
87.	JimmiGathu Incorporated Limited and New Dawn Africa News Agency Limited	ICT	The transaction involved acquisition of assets and shares in New Dawn Africa News Agency Limited by JimmiGathu Incorporated Limited.
88.	Co-operative Bank of Kenya Limited (as trustee of the StanlibFahari I-Reit) and Starling Park Properties LLP	Real Estate	The transaction involved acquisition of 100% of the Partnership interest in Starling Park Properties LLP by Co-operative Bank of Kenya Limited.
89.	Societe Nouvelle De Gestion Et De Conservation D'Archives and Emanage Africa Limited	ICT	The transaction involved acquisition of the entire issued share capital of Emanage Africa Limited by Societe Nouvelle De Gestion Et De Conservation D'Archives.
90.	Stafruit Finco B.V and Specialty Chemicals Business of Akzo Nobel N.V	Manufacturing	The transaction involved acquisition of 100% of the Specialty Chemicals Business of Akzo Nobel N.V. by Stafruit Finco B.V.
91.	Cytonn Asset Managers Limited and Serian Asset Managers Limited	Financial	The transaction involved acquisition of 100% of the issued shares in Serian Asset Managers Limited by Cytonn Asset Managers Limited.

S/No	Parties Involved	Sector	Details
92.	Ananta Limited and Dufry Kenya Limited	Wholesale and Retail	The transaction involved acquisition of 40% of the issued share capital with veto power in Dufry Kenya Limited by Ananta Limited.
93.	Novastar Ventures East Africa Fund I LP and Mobile Web Limited	ICT	The transaction involved acquisition of control of Mobile Web Limited (trading as Hivisasa) by Novastar Ventures East Africa Fund I LP.
94.	Cockerill east Africa Limited and Socabelec East Africa Limited	Wholesale and Retail	The transaction involved acquisition of the assets and business of Socabelec East Africa Limited by Cockerill East Africa Limited.
95.	Goodlife Pharmacy Limited and Magreb Pharmacy Limited	Wholesale and Retail	The transaction involved acquisition of certain assets of Magreb Pharmacy Limited by Goodlife Pharmacy Limited.
96.	Rise Fund Certify LP and Cellulant Corporation	Financial	The transaction involved acquisition of 44.04% of Cellulant Corporation by the Rise Fund Certify LP.
97.	Complast Holdings Limited and Complast Industries Limited	Manufacturing	The transaction involved acquisition of 100% of the issueds shares of Complast Industries Limited by Complast Holdings Limited.
98.	Coconut Holdings Limited and Kwale International Coconuts Company Limited	Manufacturing	The transaction involved acquisition of 50% of the issued shares capital of Kwale International Coconuts Company Limited by Coconut Holdings Limited.
99.	Tamgo International Limited and Blackwood Hodge (Kenya) Limited	Wholesale and Retail	The transaction involved acquisition of 100% of the issued shares in Blackwood Hodge (Kenya) Limited by Tamgo International Limited.
100.	Bigcold Kenya Limited and Reach Logistics (K) Limited	Transport	The transaction involved acquisition of certain assets of Reach Logistics (K) Limited by Bigcold Kenya Limited.
101.	Explolanka Freight FZCO and Air Sea Logistics Limited (ASL)	Transport	The transaction involved acquisition of 55% of the issued shares in Air Sea Logistics Limited (ASL) by Explolanka Freight FZCO.
102.	Britam Income Property (Two) LLP and Goodison Two Eighteen (EPZ) Limited	Real Estate	The transaction involved acquisition of 100% of the shares of Goodison Two Eighteen (EPZ) Limited by Britam Income Property (Two) LLP.
103.	VolmaryGmBH and Kentalya Limited & Plantations Plants Kenya Limited	Agriculture	The transaction involved acquisition of 50% of the issued shares in Kentalya Limited and Plantations Plants Kenya Limited by Volmary GmbH.
104.	Joseph SaiyalelKuluo, SachenChandaria& Vishal Khagram and Mwiro Limited	Real Estate	The transaction involved acquisition of 100% of the ordinary shares in Mwiro Limited by Joseph SaiyalelKuluo, SachenChandaria& Vishal Khagram. The transaction was excluded since it would not negatively affect competition and the acquirers and the target had no turnover for the preceding year 2016. Therefore, the transaction meets the thresholds for exclusion under the merger threshold guidelines.
105.	BSP Fund LLC and I-Hub Limited & Gearbox	Financial	The transaction involved acquisition of the entire issued capital of I-Hub Limited & Majority Share capital of Gearbox Limited by BSP Fund LLC.
106.	N.M.C Healthcare LLC and Lifecare Holdings Limited	Health	The transaction involved acquisition of 60% of the shares of Lifecare Holdings Limited by N.M.C. Healthcare LLC.

Appendix VIII: Non- Mergers

For the following applications, analysis revealed that there would be no change in control post-merger and therefore the transaction was not a merger

S/No.	Parties	Sector	Details
1.	Critical Mass Growth Investments Limited and Critical Mass Growth Limited	Financial	The transaction involved acquisition of Critical Mass Growth Limited by Critical Mass Growth Investments Limited.
2.	Roderick A.H. Jones & Claire L.A Jones and Mrua Limited	Real Estate	The transaction involved acquisition of 990 shares in Mrua Limited by Roderick A.H Jones and Claire L.A Jones.
3.	Mohammed Aslam Khan & Mohammed Arshad Khan and Heli services Limited	Real Estate	The transaction involved acquisition of 51% shareholding in Heli services Limited from Chanzu Enterprises by Mohammed Aslam Khan & Mohammed Arshad Khan.
4.	Gulf Power Limited and Gulf Energy Limited	Energy	The transaction involved restructuring of the shareholding of Gulf Energy Limited in Gulf Power Limited.
5.	Trinc Digital Limited and Homeboyz Radio 2017 Limited	ICT	The transaction involved acquisition of 51% shareholding in Homeboyz Radio 2017 Limited from Radio Africa Limited by Trinc Digital Limited.
6.	Georges Pierre Samuel Roumeguere and Egeshana	Real Estate	The transaction involved transfer of one share in Egeshana Limited from Jonathan Bjorn Seex to Georges Pierre Samuel Roumeguere.
7.	Stanbic Africa Holdings Limited and Stanbic Holdings PLC	Financial	The transaction involved acquisition of 15% issued shares of Stanbic Holdings PLC by Stanbic Africa Holdings Limited.
8.	Ms. Sheela Shah & Ms. Melanie Richards and Zabibu Limited	Real Estate	The transaction involved transfer of 100% shares in Zabibu Limited from Hekima Nominees Limited &Saguda Nominees Limited to Ms. Sheela Shah & Ms. Melanie Richards.
9.	Kamaljeet Singh Bhari and Morpheus Limited	Financial	The transaction involved acquisition of 100% shares in Morpheus Limited by Kamaljeet Singh Bhari.
10.	Isabel Ann Hansen & Thomas Tolstrup Hansen and Kulabu Limited	Real Estate	The transaction involved acquisition of 100% shares in Kulabu Limited by Isabel Ann Hansen & Thomas Tolstrup Hansen from Barnabas Kiprono Bwambok and Stephen Ouma Otieno.
11.	Virtual Properties and Olonyori Estate Management Company Limited	Real Estate	The transaction involved acquisition of 41% of shares in Olonyori Estate Management Company Limited by Virtual Properties.
12.	Viazi Limited and Karen Breeze Limited	Financial	The transaction involved restructuring by the shareholders of Karen Breeze Limited and Viazi Limited.
13.	Starbridge Finance Limited, GITF Mauritius Limited, Aviator Africa Limited and Roundabout Finance Limited and African Banking Corporation Limited	Financial	The transaction involved acquisition of 65% of the share capital of African Banking Corporation Limited by Starbridge Finance Limited, GITF Mauritius Limited, Aviator Africa Limited and Roundabout Finance Limited.
14.	Feldman Eviatar and Horticulture Hotspot Holdings PLC	Agriculture	The transaction involved acquisition of 100% of issued shares of Horticulture Hotspot Holdings PLC by Feldman Eviatar.
15.	Naivas International Limited and Naivas Limited	Wholesale and Retail	The transaction involved acquisition of 100% share capital of Naivas Limited by Naivas International Limited.
16.	Mount Mayfair Limited and Mount Robbin Limited	Hospitality	The transaction involved transfer of 297,675 shares in Mount Robbin Limited to Mount Mayfair Limited.
17.	Spenomatic Labs and Chemicals Limited and Kenya Chemicals & Dyestuffs Limited	Wholesale and Retail	The transaction involved acquisition of 100% shares in Kenya Chemicals & Dyestuffs Limited.
18.	Alexandra Seaward & Others and Super Panorama Limited	Real estate	The transaction involved acquisition of shares in Super Panorama Limited by Alexandra Seaward & Others.
19.	International Finance Corporation and Africastalking (K) Limited	ICT	The transaction involved acquisition of 30.8% shares in Africastalking (K) Limited by International Finance Corporation.
20.	Africa Healthcare Master Fund PTE Limited and Seven Seas Technologies Limited	Manufacturing	The transaction involved investment in Seven Seas Technologies Limited by the Africa Healthcare Master Fund PTE Limited.
21.	Small Foundation and Open Capital Group Limited	Services	The transaction involved acquisition of 15.2% of the ordinary shares of Open Capital Group Limited by Small Foundation.

S/No.	Parties	Sector	Details
22.	Stuart Gerald Herd and Busara Limited	Financial	The transaction involved acquisition of 100% shares in Busara Limited by Stuart Gerald Herd.
23.	Edward Bernadus Verbeek and LiekeVerbrugge and Livingea Holdings Limited	Financial	The transaction involved acquisition of 100% shares in Livengia Holdings Limited by Edward BernadusVerbeek and LiekeVerbrugge.
24.	Diniz Holdings Limited and Express Kenya Limited	Transport	The transaction involved acquisition of 38.36% of the shares in Express Kenya Limited by Diniz Holdings Limited.
25.	Goodison twenty Five Limited &Golum Investment Limited and Metropolitan Cannon Life Insurance Limited & Cannon assurance Limited	Financial	The transaction involved acquisition of 25% of the issued shares in Metropolitan Cannon Life Insurance Limited & Cannon Assurance Limited by Goodison Twenty Five Limited and Golum Investment Limited.
26.	Veritas Financial Services Limited and VFS International (Kenya) Limited	Financial	The transaction involved acquisition of 60% of the shares in VFS International (Kenya) Limited from Thomas Andrew Wright to Veritas Financial Services Limited.
27.	Falcon Ventures Holdings LLC and Savannah Heights Limited	Wholesale and Retail	The transaction involved acquisition of 30% of the issued shares in Savannah Heights Limited by Falcon Ventures Holdings LLC.
28.	Lin Bingwei, Lin Xiangpin and Others and De Xiang Kenya Company Limited	Real Estate	The transaction involved restructuring/redistribution of issued shares in De Xiang Kenya Company Limited to Lin Bingwei, Lin Xiangpin and Others.
29.	Frontier Fund II & Beta and Frontier Energy Power Projects	Energy	The transaction involved transfer of shares/interest from Frontier Energy Power Projects to Frontier Fund II & Beta.
30.	Aristocrats Concrete Limited and Aristocrats Homes Limited	Real Estate	The transaction involved transfer of 90% of paid up and issued share in Aristocrats Homes Limited to Aristocrats Concrete Limited.
31.	Purplefire Limited and Smart Banking Solutions	Financial	The transaction involved a merger between Smart Banking Solutions and Purplefire Limited.
32.	Maria Deborah Epsom and Fadhili Limited	Real Estate	The transaction involved transfer of 100% of the shares in Fadhili Limited from Saguda Nominees Limited and Hekima Nominees Limited to Maria Deborah Epsom.
33.	MS Kenya, MSI Delaware and MSML Mauritus and Msurvey	ICT	The transaction involved restructuring of MS Kenya, MSI Delaware and MSML Mauritus and Msurvey.
34.	Margot Kiser and NorbuPwani Limited	Real Estate	The transaction involves proposed acquisition of two shares in NorbuPwani Manda Limited by Margot Kiser. Ongoing
35.	Dipak Laksham Patel Ramesh and Kesar Investment Limited	Real Estate	The transaction involves proposed acquisition of 100% shares in Kesar Limited by Dipak Laksham Patel Ramesh. Ongoing

Appendix IX: Consumer Protection Cases

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
1.	Mr. Nicholas vs African Salihiya	Transport	The complainant alleged that African Salihiya was overcharging for incoming parcels from China.	Section 56(3) Unconscionable Conduct	The matter was closed on 21st July 2017 due to lack of sufficient evidence to enable the Authority pursue the matter.
2.	Institute of Customer Service Kenya(ICS) vs Unicode Computers	Retail	The complainant alleged that they purchased a faulty Lenovo laptop from Unicode Computers and they promised to replace it with a brand new one but this was not done.	Section 55 a(i) b(v) False or Misleading Representation and 56 (1)(2)(a) Unconscionable Conduct	The complainant failed to provide the requisite evidence (receipt of purchase). The case was closed on 20th July 2017.
3.	Ms. Margaret Vs Airtel Kenya Ltd Complaint	Retail	The complainant alleged that Airtel exchanged for her a smart tablet she had won in their promotion for a smart phone worth Kshs 3,999, but the phone was defective.	Section 55 a (i) and (v) False or Misleading Representation	Upon the Authority's intervention, the complainant was compensated and the case was closed on 20th July 2017.
4.	Milimani Maternity Hospital Limited vs K-Rep Bank	Banking	The complainant alleged they received a letter from Credit Reference Bureau Africa Limited stating that their client was a bad debtor, even after they had cleared their loan.	Section 55(a) False or Misleading Representation and 56(3) & (4) Unconscionable Conduct	The complainant failed to provide the requisite evidence (payment schedule of the loan). Case closed on 19th July 2017.
5.	Ms. Ann Vs Wrigley EA Company (PK)	Retail	The complainant alleged that chewing the PK gum resulted in mouth ulcers. She further alleged that her body might be reacting to the chemical composition used in producing PK gum.	Section 55(a)(v) False or Misleading Representation	The evidence in regard to medical analysis was not sufficient to prove the case, and hence it was closed on 14th September 2017.
6.	Mr. Daniel vs Glass Craft Ltd	Retail	Mr. Daniel vs Glass Craft Ltd	Section 55 (a) (v) False or Misleading Representation Section 56 (1), (2) (a) Unconscionable Conduct	Upon the Authority's intervention, the defendant requested the complainant to return the faulty machines for repair/replacement. The matter was closed in September 2017.
7.	Mr. Ezra Vs Tuskys Pioneer	Retail	The complainant allegedly bought goods at Tuskys Pioneer and wrongly used Tuskys Shell Mountain View till number to pay for the goods through M-PESA. Tuskys were neither willing to give him the goods, nor refund the money.	Section 56 (2)(a) Unconscionable Conduct	Upon the Authority's intervention, Tuskys refunded the complainant the full amount. The matter was closed on 30th August 2017.
8.	Ms. Winrose Vs Zuku	Telecommunications	The complainant alleged that there had been unexplained frequent internet service downtimes, which she alleges was more than uptime on average.	Section 56 (3) and (4) Unconscionable Conduct	Upon the Authority's intervention, ZUKU offered to resolve the matter but the complainant had unsubscribed from the service. The matter was closed on 19th July 2017.
9.	Mr. Nehemy vs Safaricom Nanyuki Branch	Telecommunications	The complainant alleged that he bought a Lenovo phone from Safaricom Shop in Nanyuki which was defective, and they were taking too long to resolve the matter.	Section 55 (a) (i) False or Misleading Representation Section 56 (2) (a) Unconscionable Conduct Section 64 (1) Defective Goods	The Authority initiated investigations into the matter and as a result the defendant resolved the issue by providing a new phone to the complainant. The matter was closed on 7th September 2017.
10.	Mr. Peter vs. Delight Solar (Nakuru)	Retail	The complainant alleged that Delight solar declined to repair his radio despite being under warranty and requested him to pay Kshs. 2,000 to purchase another radio.	Section 55 (b) (v) False or Misleading Representation	The complaint did not provide sufficient evidence (receipt of purchase) and consequently the matter was closed on 30th July 2017.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
11.	Mr. Boniface vs. Retex Marketing	Telecommunications	The complainant claimed that Retex Marketing through a promotion, misled him to buy a Viwa tablet which they had indicated was a Techno model	Section 55 (a) (i) & (v) False or Misleading Representation Section 56 (d) (e) & (v) Unconscionable Conduct	The complaint did not provide sufficient evidence (receipt of purchase) and consequently the matter was closed in August 2017.
12.	Ms. Teresiah vs Smart Mobile Communication	Telecommunications	The complainant bought a smartphone, from the accused and was misled that the phone could use a Whatsapp application, but it failed to download the App. She was never given redress by the accused.	Section 55 (a) (i) (v) False or Misleading Representation Section 56 (1) (2) (a) Unconscionable Conduct	The Authority initiated investigation however, the complainant withdrew the case. The matter was closed on 11th October 2017.
13.	Mr. Kirogo and Manufacturer of Toast bread	Retail	The complainant alleged that he suffered harm as a result of purchase and consumption of Toast bread containing black particles.	Section 59 (2)(a)	The complaint was closed for lack of medical evidence in October 2017.
14.	Mr. Wesley vs. Newfortis (formally Nyeri teachers) Sacco	Cooperatives	The complainant claimed that the SACCO was charging him an interest of Kshs. 40,000 for paying the loan early, which was not disclosed prior.	Section 56 (2) (a)(b)(c) and (d) Section 56(3) (4) Unconscionable Conduct	The Authority engaged SASRA informing them of the rising trend in cases for interest on early payment. A circular was sent by the Authority to all deposit taking SACCOS requiring them to align their operations with the requirement of the Competition Act. The matter was closed on 7th November 2017.
15.	Clement vs. EABL	Gambling	The complainant alleged that he participated in the Guinness "TOP THE TABLE promotion" Upon sending the promotion codes, he received a response indicating that the code(s) had been used.	Section 55 (a)(v), (vi) False or Misleading Representation	The Authority initiated investigations however, EABL was found not to be in violation of the Act, as the codes had been used. The case was closed on 6th November 2017.
16.	Mr. Simon vs Cooperative Bank of Kenya	Banking	The complainant alleged that he secured a facility with Co-operative Bank of Kenya through Asset Financing. He finished paying the loan but the vehicle had not been transferred to him.	Section 56 2 (a) Unconscionable Conduct	The Authority initiated investigations; however, the complainant has also forwarded the matter to NTSA, who resolved the matter. The case was closed on 1st November 2017.
17.	Ms. Carol Vs KCB Bank	Banking	The complainant took a loan from KCB but was later informed of charges that had not been disclosed prior.	Section 56 (3) and (4) Unconscionable Conduct	The complainant withdrew the matter before the Authority could finalize the investigations. The case was closed on 22nd November 2017.
18.	CAK vs BATA Shoe Company	Retail	Several consumers complained on social media of the quality of shoes being sold by Bata Shoe Company, and ten lodged complaints officially with the Authority regarding the same.	Section 55 (a) (i) False or Misleading Representation Section 63 Unsuitable Goods and Section 64 Defective Goods	The Authority conducted investigations into the matter and ordered BATA to: a) Redress the matter by replacing the faulty shoes. b) Amend their return policy to allow consumers to return shoes without the original package. The case was closed in April 2018.
19.	Mr. Simon vs Nairobi Water Company	Water	The complainant alleged that Nairobi Water Company disconnected his domestic water supply claiming that he vends the water and had not been reconnected to water supply despite paying Ksh. 80,000 as directed by Nairobi Water Company.	56(2) (a) Unconscionable Conduct	Upon the Authority's intervention, Nairobi Water Company reconnected his water supply hence the closure of the case on 3rd May 2018.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
20.	Ms. Lucy Vs National Bank of Kenya (NBK)	Banking	The complainant took a loan with NBK and claims to have repaid it in full. The bank however informed her that she still owed them but they never gave an explanation on the amount owed. NBK further instructed her employer to recover the amount from her pay.	N/A	The matter did not lie within the Authority's mandate and was referred to Central Bank of Kenya on 30th October 2017 for further action.
21.	Mr. Raheel vs Kenya Pipeline Ltd	Energy	The complainant alleged that Kenya Pipeline Company was increasing the storage and transport fees to petroleum importers without approval from Energy Regulatory Commission (ERC) since it is the sole provider.	N/A	The matter was found not to lie within the mandate of the Authority and was referred to ERC.
22.	Mr. Stephen Vs Zuku	Telecommunications	Mr. Stephen complained of frequent down times of Zuku Internet.	Sections 56(1)(2)(a) & (e) Unconscionable Conduct	Upon the Authority's intervention, the matter was resolved to the complainant's satisfaction and closed on 8th November 2017.
23.	Ms. Linda Vs Naivas Supermarket	Retail	The complainant alleged that she was charged for used cartons by Naivas Supermarket (Westlands branch) after doing shopping.	N/A	The complaint did not provide sufficient evidence (receipt of purchase) and consequently the matter was closed on 8th November 2017.
24.	Mr. Weldon vs. 1xBet Ltd.	Gambling	The complainant claimed he deposited Kshs. 5,300 to 1xBet Ltd, with an intention of placing a bet. He later decided to withdraw the money for personal use. However, the company declined the withdrawal.	Section 56 (1) (2) (a) (b) (c) and (d) Unconscionable Conduct	The Authority investigated the matter leading to the complainant being given a full refund. The matter was closed on 22nd November 2017.
25.	Mr. Erick Vs Gotv	Telecommunications	The complainant had an issue with poor internet connectivity from GOtv that was not being addressed despite several complaints. He had also overpaid Ksh.300 which was not refunded.	Section 55 False or Misleading Representation	Upon the Authority's intervention, the matter was resolved to the complainant's satisfaction and the case was closed on 22nd November 2017.
26.	Mr. Mena Vs Kansec Electronics Ltd	Retail	Mr. Mena complained that he bought a Lenovo-YOGA Tab-3-pro advertised by Kansec Electronics limited but the product was not delivered.	N/A	The Authority determined that this was a fraud case and therefore referred the case to Directorate of Criminal Investigation on 8th November 2017.
27.	Mr. Tom vs Airtel Kenya	Telecommunications	The Complainant alleged that Airtel Kenya disconnected his line for unknown reasons and they refused to acknowledge and address his complaint.	Section 56 (d) Unconscionable Conduct	Upon the Authority's intervention, Airtel redressed the matter by restoring the services. The matter was closed on 14th December 2017.
28.	Mr. Rafe Vs DT Dobie	Transport	The complainant took his car for repairs and asked to be given an estimate of the cost prior to commencement of the work but DT Dobie sent him an invoice of work already done. He further claims the prices were exorbitant.	Sections 55 (b)(i) False or Misleading Representation Section 56 (2) (d) & (4) Unconscionable Conduct	The Authority initiated investigations into the matter and DT Dobie fully refunded the complainant. Subsequently, the matter closed on 22nd December 2017.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
29.	Ms. Lilian vs. Nakuru County	Retail	The complainant claimed that Nakuru County Racecourse is not categorizing trade licenses according to the size of the business. Small businesses and large businesses are paying the same amount for trade licenses which are likely to cause foreclosure of small businesses.	N/A	The Authority established there was no contravention of the Act and hence the case was closed on 20th December 2017.
30.	Mr. David Vs Jumia Kenya	Ecommerce	The complainant ordered a Samsung Galaxy S6 via Jumia but he received a Samsung Galaxy S5 instead. He complained but was informed that since he had broken the security seal- which was in a foreign language -they could not refund or replace the phone.	Sections 55(a)(i) False or Misleading Representation Section 56(2) Unconscionable Conduct	Upon the Authority's intervention Jumia apologized to the complainant and issued a full refund, hence the matter was closed on 22nd December 2017.
31.	Mr. Joel vs Anonymous	Telecommunications	The complainant alleged that he bought a mobile phone and realized that the specifications advertised were different from the actual specs.	Sections 55 False or Misleading Representation	The complainant did not provide the requisite evidence to enable the Authority pursue the matter hence the case was closed in December 2017.
32.	Mr. Kevin vs Kilimall International	Ecommerce	The complainant alleged to have purchased several items on Kilimall International Limited website but found that the goods were defective and totally different from the pictures on the website. He notified Kilimall but did not get any redress.	Section 55 (a)(i) False or Misleading Representation Section 56(1) Unconscionable Conduct	Upon the Authority's intervention, Kilimall fully refunded the complainant. The case was closed on 28th December 2017.
33.	Mr. Steven vs Chokmart mini-supermarket	Retail	The complainant alleged that Chokmart mini-supermarket was overpricing and double pricing the consumers since it enjoys monopoly in the area.	Section 55 (b) (i) False or Misleading Representation	The complainant failed to provide the requisite evidence to enable the Authority pursue the matter hence the case was closed in January 2018.
34.	Ms. Cathy vs Uchumi , Nakumatt and TUSKYS	Retail	The complainant alleged that there was unavailability of original Moskill Mats mosquito repellant in Uchumi, Nakumatt, Naivas and other supermarkets and instead, only the less effective Vapemats were available.	N/A	It was established that the matter does not lie within the mandate of the Authority and the complainant was referred to the Ministry of Trade, Industry and Cooperatives and Kenya Association of Manufacturers, in December 2017.
35.	Ms. Baldeep Vs Good Life Pharmacy	Retail	The complainant alleged that she purchased items on sale from Good life Pharmacy Nanyuki Branch but later realized that the prices charged on the till were higher than the prices on the label of the items.	Section 55 (b) (i) False or Misleading Representation	Upon the Authority's intervention, Good Life Pharmacy fully refunded the complainant. Further, the Authority wrote a warning letter to Goodlife indicating that information they provide to consumers should not be false or misleading and in contravention of the Act. The matter was closed on 5th January 2018.
36.	Ms. Alexina vs Naivas supermarket	Retail	The complainant bought a thermos flask at Naivas Supermarket which was not retaining heat and when the complainant returned it she was turned away.	Section 55 (a) (i) False or Misleading Representation Section 56 (2) (a) Unconscionable Conduct	The Authority intervened and Naivas Supermarket fully refunded the complainant. The matter was then closed in December 2017.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
37.	Mr. Kathurima VS Galaxy Mobile Accessories Ltd	Retail	The complainant purchased a phone but later discovered that the warranty was void and facts were misrepresented by the seller that the phone was covered under Samsung Warranty.	Section 55 (b) (v) False or Misleading Representation	The complainant did not provide sufficient evidence (receipt of purchase) and consequently the matter was closed on 12th February 2018.
38.	Gloden Electrical Vs National Construction Authority (NCA)	Construction	The complainant alleged misconduct by NCA staff which led to them being penalized during the renewal of their contract. He also claimed the penalty was hefty	N/A	The Authority established that the matter does not lie within its mandate and referred the case to the Commission of Administrative Justice for action on 19th February 2018
39.	Mr. Adam Vs Posta	Retail	The complainant alleged that Postal Corporation of Kenya was misrepresenting detained package letters as parcels and overcharging the handling fee for the same.	Section 55 (b) (v) False or Misleading Representation	The Authority established from the Postal Corporation of Kenya that their charges are in accordance with the provisions of the Universal Postal union, and the complainant was advised accordingly. The matter was closed on 23rd March 2018.
40.	Mr. Weldon vs. Gamcode Ltd (Betin Kenya)	Gambling	The complainant claimed that he placed a bet, and the outcome of the game was exactly as he had predicted. However, Gamcode cancelled his bet immediately the results were known.	Section 55 (a) (v) False or Misleading Representation Section 56 (1), (2) (a) Unconscionable Conduct	The Authority investigated the matter and the complainant was compensated. Additionally, the Authority sent a Warning Letter to Gamcode and required them to ensure the following:- i) Consumers are informed of any changes/cancellation immediately an error is detected by the company (Strictly before the start of the matches); ii) Consumers have a right to cancel the Bet. The cash out feature should be available in the published Bets in order to offer consumers an opportunity to cancel the Bet, in case they change their mind; and iii) In the event a Bet is cancelled, consumers should be refunded back their stake immediately. The case was then closed in March 2018.
41.	Mr. Tumani vs ZUKU and Kenya Power	Telecommunications	The complainant alleged that he was inconvenienced by their down times. He also complained that the cost of electricity tokens is high. He proposes that Kenya Power should subsidize the cost of electricity tokens and give its customers value for their money.	Section 56(1), 2(a) and (e) Unconscionable Conduct	The complainant was unable to provide the requisite evidence for both cases and therefore the case was closed on 9th March 2018.
42.	Mr. Duncan vs Zuku	Telecommunications	The complainant claimed that Zuku had offered him internet speeds of at least 5 Mbps/s and a maximum speed of 5.4Mbps/s. However, upon testing the speed, he noted that Zuku was offering him an internet speed which was lower.	Section 55 (a)(ii) &(v) False or Misleading Representation Section 56 (a) & (d) Unconscionable Conduct	Upon the Authority's intervention, ZUKU redressed the matter and the complainant also confirmed that the internet speeds had stabilized, hence the case was closed on 9th March 2018.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
43.	Ms. Jacqueline VS ZUKU	Telecommunications	The complainant claimed that Zuku had terminated her internet services before the due date even though she was paying every month.	Section 56(1) Unconscionable Conduct	The complainant failed to provide the Authority with the necessary information to enable investigation of the matter. The matter was closed in March 2018.
44.	Ms. Betty and AMEDO Centre	Retail	The complainant alleged that she purchased items from Amedo Centre on hire purchase agreement and cleared the repayments. However, Amedo started deducting her guarantor's account claiming that she had defaulted on the payments.	Section 56(1)(2) (a, b, c, d) Unconscionable Conduct	The complainant failed to provide the Authority with the necessary information to enable investigation of the matter. The matter was closed on 9th April 2018.
45.	Mr. Solomon vs Bordar Ltd	Retail	The complainant alleged that the white fawitt floor tiles from Bordar Ltd were of bad quality as they turned colour to black-grey when cleaned with plain water.	Section 55 (a)(i) False or Misleading Representation Section 63 (c)(d) & (e)	The Authority engaged KEBS and established that the tiles complied with the standard requirements. The complainant was advised accordingly and the case was closed on 21st March 2018.
46.	Ms. Joyce Vs SKYWARD AIRLINE LTD	Transport	The complainant alleged that she made a confirmed booking with Skyward Airline from Nairobi to Eldoret. However, on the travel date, she had not been booked on the flight. She further alleged that she asked for a refund which was not issued.	Section 55 (b)(iv)(v) False or Misleading Representation Section 56 (2)(d)(e) Unconscionable Conduct	The Authority intervened and upon contacting the airline, the complainant was refunded in full on 19th April 2018. The matter was then closed.
47.	Ms. Rose vs Nairobi Water Company	Water	The complainant alleged that there was a disputed 20 year bill that Nairobi Water company wanted her to settle in 6 months. She alleged that her water supply was disconnected in October 2017 as a result of the disputed bill and has since not been reconnected.	Section 56(2)(a) Unconscionable Conduct	The Authority established that the complainant had not paid the water bills for over 10 years thus the action by Nairobi Water to disconnect the water supply was not a violation of the Act. The case was closed on 21st March 2018.
48.	Mr. Ken vs Anonymous	Retail	The complainant alleged to have purchased a caprice wine and found the seal was broken. He further alleged that the seller refused to refund/replace due to their policy of "goods once sold cannot be returned".	Section 55(a)(iii) False or Misleading Representation Section 56(1)(2)(a) Unconscionable Conduct Section 59(1)(a), (2)(b) Product Safety & Unsafe Goods Section 64(1) Defective Goods	The complainant was unable to provide the evidence of purchase required to aid in investigation and thus withdrew the matter on 27/2/2018.
49.	Mr. Edwin vs Jumia	Ecommerce	The Complainant alleged that Jumia negligently indicated that they would grant a Kshs. 500 discount for purchase of a phone. He made the purchase, and their system either by default or design failed to deduct the discount thereby resulting in him paying the full amount for the phone. Jumia was unwilling to refund the same.	Section 55 (a) (v) False or Misleading Representation	The Authority intervened and the complainant was issued with a voucher of Ksh. 500 for his use to make another purchase. The matter was then closed in March 2018.
50.	Ms. Annie vs Zuku Kenya	Telecommunications	The complainant alleged that she paid Zuku for installation of internet but the installation did not happen and she requested for a refund which she was informed would take 21 working days to be processed as per the refund policy but this also did not happen.	Section 55(b) (v) False or Misleading Representation Section 56(2) Unconscionable Conduct	Upon the Authority's intervention, Zuku refunded the complainant the full amount. The case was closed on 20th April 2018.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
51.	Mr. Salman vs Tuskys Kisii (Chigware Branch)	Retail	The complainant alleged that he bought Sayona Subwoofer from Tuskys Kisii branch, but it was defective and therefore returned it on warranty, however he had not received any feedback despite several follow ups.	Section 55 (b) (v) False or Misleading Representation Section 56 2 (a) and (e) Unconscionable Conduct	The Authority's staff visited the Supermarket in Kisii regarding the issue, and thereafter the complainant confirmed that the matter was resolved. The case was closed on 3rd May 2018.
52.	Mr. Alex Vs KCB Kisii	Banking	The complainant alleged that he paid for a Cashlite machine in KCB Kisii Branch but it was never delivered. Further, he was never refunded despite several follow ups.	Section 56 (1), (2)(a), (d) and (e) Unconscionable Conduct	Upon the Authority's intervention, the complainant was refunded the full amount by KCB. Further, a warning letter was issued to KCB regarding the conduct and the matter was closed in April 2018.
53.	Ms. Joan vs Samsung	Retail	The complainant alleged that she bought a refrigerator at Nakumatt prestige. After some time the refrigerator stopped working and on returning it the complainant was told the spare parts were not in the country.	Section 55 (b) (ii) False or Misleading Representation	Upon the Authority's intervention, the complainant was refunded in full and the matter was closed on 19th April 2018.
54.	Mr. Andrew vs the Government of Kenya	Telecommunications	The complainant alleged that the Government is transmitting information to people without physical interaction and telepathy, he says that the transmitted messages are disturbing.	N/A	The Authority established that the matter does not lie within its mandate and the complainant was advised accordingly. The case was referred to CAJ on 9th April 2018.
55.	Ms. Rosebel vs. Jumia	Retail	The complainant alleged that she bought a Ramtons Fridge from Jumia. Upon delivery, she found that the fridge was faulty since it was not cooling. She was not given redress despite complaining.	Section 56 (1) & (2) (d) Unconscionable Conduct Section 63 (d) Unsuitable Goods	Upon the Authority's intervention, the complainant was refunded back her money by Jumia. The case was closed on 9th March 2018.
56.	Mr. Sam vs CIC Insurance	Financial	The complainant alleged that CIC Insurance Company had refused to cover his vehicle after it was involved in an accident in February 2017 even though he has a running insurance cover for the vehicle from CIC Insurance Company brokered by Maxwell Agents.	Section 56 (1), (2)(a) Unconscionable Conduct	The complainant failed to provide the requisite evidence to enable the Authority pursue the matter hence the matter was closed on 25th May, 2018.
57.	Mr. Misheck VS Safaricom Limited	Telecommunications	The complainant claimed that his KES 10,000 and over 200 Bonga points were mysteriously transferred from his mobile to a strange KCB Mpesa Account.	N/A	The Authority initiated investigations into the matter, which was determined to be fraud related through identity theft. Safaricom Ltd intervned and resolved the issue by compensating the complainant with the full amount. Case was closed on 18th May, 2018.
58.	Mr. Otieno vs Metropolitan SACCO	Financial	The complainant alleged that he cleared a Metropolitan SACCO loan in December 2016 and the SACCO has refused to assist him remove his name listed at Credit Reference Bureau (CRB) for the last 25 months despite promises from the SACCO Bungoma Branch Manager assuring that the matter will be sorted out.	Section 56(1), (2)(a), (e) Unconscionable Conduct	The Authority initiated investigations into the matter. However, the complainant confirmed the matter was resolved and he did not wish to pursue it further. The case was then closed on 16th May 2018.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
59.	Mr. Christopher Vs Davis & Shirtliff	Retail	The complainant alleged that he purchased a battery and solar system from Davis & Shirtliff in July 2016. In July 2017, the battery failed to work and he took it back for repair. He claims that it had a warranty of two years however, Davis & Shirtliff have not returned his battery despite making several follow ups.	Section 55(b)(v) False or Misleading Representation Section 56 (1)(2)(a) and (c) Unconscionable Conduct	Upon the Authority's intervention, Davis & Shirtliff settled the matter amicably by giving the complainant a new battery. The matter was then closed on 6th June 2018.
60.	Mr. Joseph Vs Californian Electronics	Retail	The complainant alleged that he bought a Smartphone from Californian Electronics. Later, the phone developed some defects and it could not switch on. He reported the issue to the accused who took the phone for repair, but the issue was never resolved.	Section 55 (b) (ii), (v) False or Misleading Representation Section 56 (1), (2) (a) Unconscionable Conduct	Upon the Authority's intervention, the complainant was issued with a new phone and the matter was closed in April 2018.
61.	Mr. Lewis vs Royal Mabati Kisii Branch	Retail	The complainant alleged that he ordered for iron sheets from Royal Mabati, Kisii Branch, and paid for the same after choosing the colour he wanted. When he went to collect the iron sheets he was informed that his choice of colour was not available and hence made to choose another colour which again was out of stock. He then requested for a refund which was not honored.	Sections 56 (1) (2) (a) (d) and (e) Unconscionable Conduct	The Authority initiated investigations into the matter and Royal Mabati made a full refund to the complainant who was satisfied with the redress. Case was closed on 25th May, 2018.
62.	Mr. Washington vs Equity Bank, Bancassurance division	Bancassurance	The complainant alleged his client was forced by Equity Bank to cancel an ongoing insurance cover of her vehicle and take another cover with Equity's preferred agency for her to benefit from a loan by the bank.	Section 56(2)(a), (b), (d), (e) Unconscionable Conduct	The Authority initiated investigations into the matter, however, the agent informed the Authority that the client was not willing to pursue the matter and hence it was closed on 21st May 2018.
63.	Mr. Rogers and Western Coach Express	Transport	The complainant alleged that he sent a parcel via Western Coach Express to Nambale, and since that time the parcel had not been received by his recipient. He complained to the Company but they were not willing to assist him.	Section 55(a), (v) False or Misleading Representation Section 57 (2)(d) (e) Unconscionable Conduct in Business Transactions	The Authority intervened and the complainant was advised by Western Coach Express to collect his parcel at their Nambale branch hence the case was closed on 10th April 2018.
64.	Ms. Maureen vs Boundless Communication Ltd	Retail	The complainant alleged that she bought a phone at Boundless Communication which was advertised to have 64GB capacity, but she discovered that the actual capacity was 16GB. She complained, but was not given redress.	Sections 55(a) (i) and (v) False or Misleading Representation Section 56(1), (2) (a), (d) and (e) Unconscionable Conduct	Upon the Authority's intervention, the accused refunded the complainant her full amount, and this was confirmed by the complainant. The accused was issued with a warning letter and the matter was closed on 6th June 2018.
65.	Mr. Tom Vs Stawika Capital Limited	Financial	The complainant alleged that he applied for a loan but later noticed that there was a change of terms and that he was required to make repayments weekly over a period of 3 weeks which was not as advertised. The complainant alleged that he repaid the loan in two installments. He later decided to apply for another loan, which was rejected. He was informed that he was still in arrears of his previous loan.	Section 56 (1) False or Misleading Representation	The Authority initiated investigations into the matter and thereafter the complainant confirmed to the Authority that the issue had been resolved to his satisfaction. The matter was then closed on 25th May 2018.

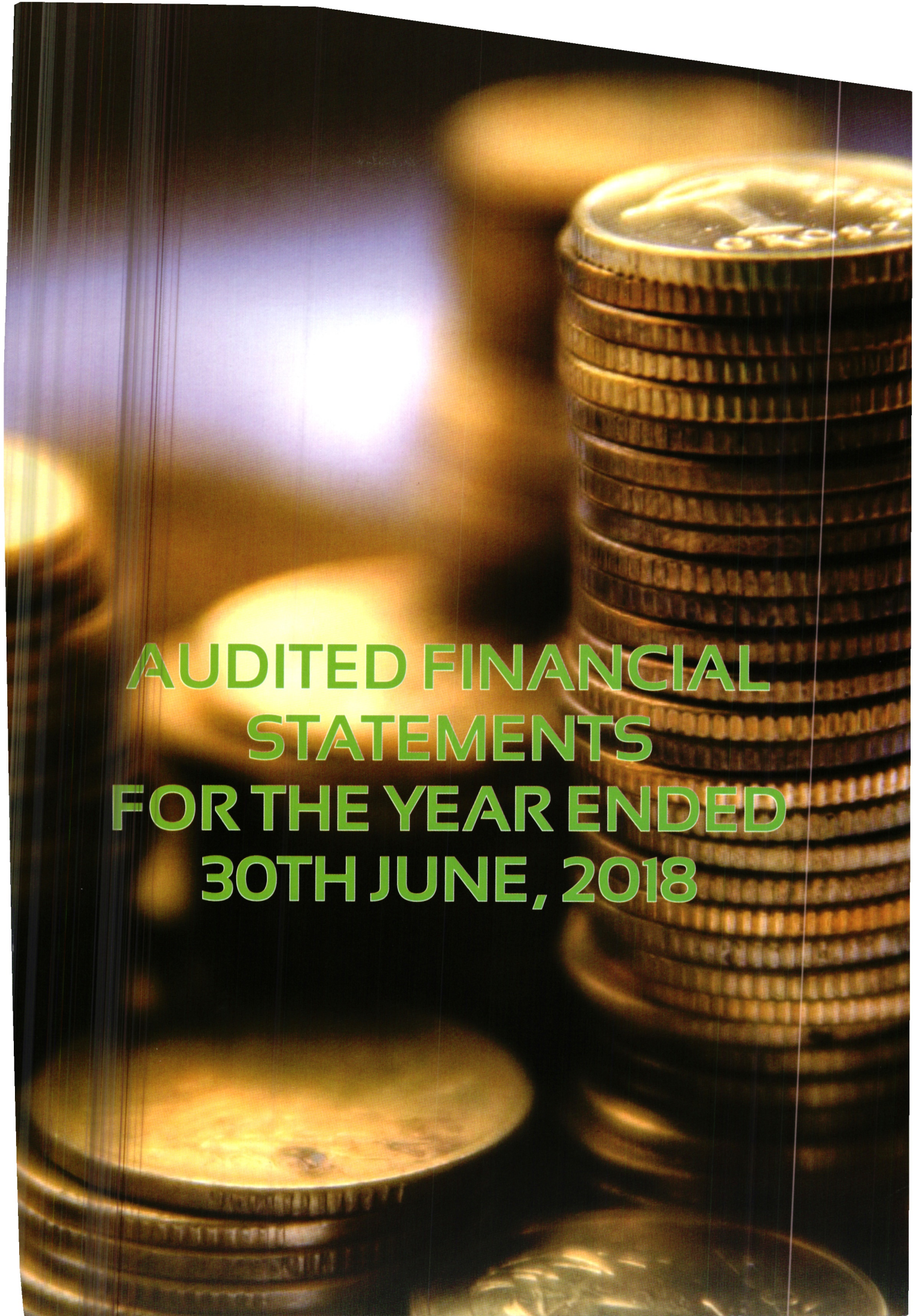
No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
66.	Mr. Chetan Vs Cambridge Opticians	Medical	The complainant alleged that he went for an eye check-up at Cambridge Opticians where he was charged Kshs. 500. He requested for the results of the check up and was informed that it would cost him an additional Kshs. 500, which he paid. He was informed that the extra Kshs. 500 charged, would be waived if he purchased new glasses from their shop. He purchased the glasses but they refused to refund the KES 500	Section 55 (b) (i) False or Misleading Representation Section 56 (1), (2) (d), (3) and (4) Unconscionable conduct	Upon the Authority's intervention, the complainant was refunded the Ksh.500. Case was then closed on 18th May 2018.
67.	Ms. Sarah vs. KCB	Banking	Banking The complainant alleged that she deposited Kshs. 137,204 to HELB's KCB account to clear her HELB loan, which never reflected in the HELB account.	Section 56 Unconscionable Conduct	The Authority established from KCB that the amount was received but in two tranches. The complainant's HELB account was credited with the amount. The case was closed in June 2018.
68.	Mr. Daniel vs. Metropolitan National SACCO	Cooperatives	The complainant alleged that Metropolitan National SACCO deducted him illegal charges amounting to Kshs. 355,342 from a loan he took from the SACCO. No prior information on the deductions was given by the SACCO.	N/A	The Authority engaged SASRA who advised that the matter was a dispute between the complainant and the SACCO, thus could only be handled by the Co-operatives Tribunal. The Case was referred to the Co-operatives Tribunal and was closed on 5th June, 2018.
69.	Ms. Caroline vs Madison General Insurance	Insurance	The complainant alleged that Madison General Insurance declined her claim for her car, which was involved in an accident. The complainant had a comprehensive insurance policy from the insurance company.	N/A	The Authority established that the matter did not lie within its mandate and subsequently referred the matter to the Insurance Regulatory Authority (IRA) on 14th June, 2018.
70.	Mr. George vs Mr. Charles	Financial	The complainant alleged that Mr. Charles, an M-PESA administrator had failed to activate an M-PESA till number the complainant had resold to a third party, even after being paid. He further claimed that he was forced to refund the third party the amount.	N/A	The complainant was advised to pursue the matter with the police, as it was criminal in nature. The case was closed on 4th June, 2018.
71.	Mr. George Vs Buy USA	Ecommerce	The complainant alleged that he purchased a bag pack from Buy USA, to be delivered on 28th April 2018, but that never happened, citing unavoidable delays. He requested for a refund from Buy USA but this was also not effected.	Section 56 (1)(2)(a) and (e) Unconscionable Conduct	The Authority initiated investigations into the matter, however the complainant informed the Authority that the goods were eventually delivered and hence the case was closed on 6th July 2018.
72.	CAK vs. Toyota Kenya Ltd (TKEN)	Transport	The Authority received several complaints regarding the poor quality of HINO buses by Toyota Kenya.	Section 55 False or Misleading Representation Section 56 Unconscionable Conduct Section 59 Product Safety & Unsafe Goods	The investigations are ongoing.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
73.	CAK vs. HP Laptops	ICT	The Authority received a Safety Recall Notice regarding HP Notebook Computer Batteries which was announced on 4th January, 2018. In the notice, HP indicated that certain notebook computer batteries were overheating. The batteries were shipped with specific HP Notebook Series sold worldwide from December 2015 through December 2017 and/or were sold as accessories or spares, or provided as replacements through support.	Section 59 Product Safety & Unsafe Goods	The investigations are ongoing.
74.	Anonymous vs Eco Energy Solutions Ltd.	Energy	The complainant alleged that Eco Energy Solutions Ltd had falsely represented that consumers who used their "energy saver" products, namely: eco gas saver; diesel fuel saver; petrol saver; and kerosene saver would save 40% of the cooking gas and 20% of fuel respectively.	Section 55(i)(ii) False or Misleading Representation	The Authority published a Notice warning the public that the Eco Energy Solutions Ltd products have not been approved by relevant government agencies and the claims made on their efficiency were false and misleading. The investigations are ongoing.
75.	Ms. Nyaruai Vs Artcaffe	Retail	The complainant alleged that she purchased gluten free cookies from Artcaffe which affected her health as she is gluten intolerant. Upon contacting Artcaffe, she was informed there was a disclaimer that the cookies had traces of gluten.	Section 55(a)(i)(v) False or Misleading Representation Section 56(1) (2)(a) (d) (e) Unconscionable Conduct Section 63(1) Unsuitable Goods	The Authority initiated investigations which culminated to a settlement agreement, where Artcaffe made an undertaking to ensure that the labelling of their gluten free cookies shall have adequate and accurate information including ingredients, and does not contain contradicting information. Further, the manufacturing environment is controlled in order to prevent contamination of the cookies with gluten.
76.	Mr. Kelvin VS Auto Cats International Ltd	Transport	The complainant bought a motor vehicle at Auto Cats International Limited which later developed mechanical problems. He also established that the mileage had been tampered with. The complainant felt the dealer underestimated the mileage and overpriced the vehicle. The complainant informed the accused of the same and requested for reduction of initial price and motor vehicle repair, but was not granted.	Section 55 (a) (i) False or Misleading Representation Section 56 (1) (2)(a) Unconscionable Conduct	The investigations are ongoing.
77.	Ms. Stella Vs Faulu Microfinance Bank	Banking	The complainant alleged that her parents took a loan from Faulu Micro-finance at an interest rate of 12% p.a but the bank later adjusted it to 16% p.a without prior notification. The complainant stated that upon their calculation, they discovered that the loan was attracting an interest rate of about 30% and not 16% or 12% as purported by Faulu.	Section 56 (2) (a), (c), (e) and (3) Unconscionable Conduct	The investigations are ongoing.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
78.	Mr. Robert vs Pioneer Insurance Company	Insurance	The complainant had been remitting Ksh. 1000 as premium to Pioneer Insurance Company since July 2016 from his Pension. He instructed the accused to stop further deductions, but the same was not effected.	Section 56 (3) Unconscionable Conduct	The investigations are ongoing.
79.	Ms. Patience vs Harambee SACCO	Financial	The complainant alleged that she took a loan and she was to repay in 34 months which she cleared. Later, she applied for a new loan from the same SACCO but was informed that she still owed the SACCO and the same was recovered from her SACCO shares without her knowledge.	Section 56 (3) Unconscionable Conduct	The investigations are ongoing.
80.	Apollo & Co Advocates vs KPLC	Energy	The complainant alleged that in the month of November/December 2017, several consumers started receiving inflated power bills from Kenya Power & Lighting Co. Ltd (KPLC). He added that KPLC was recovering Ksh. 8.1 Billion in backdated bills from electricity consumers allegedly incurred on diesel generated power in the year 2017 but were not factored in the monthly charges.	Section 24(2)(a) Abuse of Dominant Position Section 55 (b)(i) False or Misleading Representation Section 56(2) (3) (4) Unconscionable Conduct Section 57(1)(2) (i) Unconscionable Conduct in Business Transactions	The investigations are ongoing.
81.	Mr. Vincent Vs Kenya Orient Insurance (Orient)	Insurance	The complainant alleged that Kenya Orient was taking too long to honor his insurance claim after his vehicle was involved in an accident.	Section 56 (1) (2) (a)(b)(d) Unconscionable Conduct	The investigations are ongoing.
82.	Mr. Stephen vs Kenya Orient Insurance	Insurance	The complainant alleged that Kenya Orient Insurance Ltd has failed to fully compensate him for repairs of his vehicle which was involved in an accident.	Section 55(a)(ii), (b)(i) False or Misleading Representation Section 56 (1) & (2)(a)(b)(c)(e) Unconscionable Conduc	The investigations are ongoing.
83.	Mr. Francis vs. Cute Kitchen Ltd	Retail	The complainant claims that he purchased a sugarcane machine from Cute Kitchen Ltd. After one week, the machine became defective and he reported the matter to the seller who promised that he would send him a spare part to rectify the issue. However, the seller did not honor the promise.	Section 55 (a)(i) & (b) (v) False or Misleading Representation Section 56 (1) (2) (a) & (b) Unconscionable Conduct	The investigations are ongoing.
84.	Mr. Felix vs Chloride Exide-Kisii Service Center	Retail	The complainant alleged to have bought a new battery which had a one year warranty from Semo-Kisii town, which was found to be faulty. He returned the battery to Semo and was referred to Chloride Exide-Kisii Service Centre where he was told that the battery had low acid which led to its malfunction and thus could not be refunded.	Section 56 (1), (2)(a) (e) Unconscionable Conduct	The investigations are ongoing.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
85.	Mr. Barnes and Modern Coast Express	Transport	The complainant alleged that he sent a parcel from Nairobi to Kisumu via Modern Coast Express in their T- Mall office and the parcel was not delivered. He further alleged that the bus company refused to give an explanation nor avail the parcel even after writing to them three times.	Section 56 (1)(2)(a) Unconscionable Conduct	The investigations are ongoing.
86.	Mr. Obed Vs KPLC	Energy	The complainant alleged that KPLC had overcharged him. On complaining to KPLC, they reviewed the bill downwards which was still so high considering his usual bill.	N/A	The investigations are ongoing.
87.	Ms. Agnes vs KPLC	Energy	The complainant alleged that her bill was overstated in the month of February, 2018.	N/A	The investigations are ongoing.
88.	Kenyon limited vs Toolcraft ltd	Retail	The complainant bought a Mig welding machine from Toolcraft Limited. The complainant alleged that the machine was substandard since it broke down severally and has never been put into use. The complainant alleged he took the machine to the accused for repairs but it was still not working.	Section 55 (a) (i), (b) (ii), (v) False or Misleading Representation Section 56 (1), (2) (a) Unconscionable Conduct	The investigations are ongoing.
89.	CAK vs Coca-Cola Company	Manufacturing	The Authority received a test report by State University of New York regarding synthetic polymer contamination in bottled water. The report indicated that Dasani water, supplied in Kenya, was amongst the contaminated brands.	Section 55(a)(i) False or Misleading Representation Section 59(1), (2) Product safety & Unsafe Goods	The investigations are ongoing.
90.	Mr. Edwin VS Equity Bank	Banking	The complainant alleged that in October 2016 he finished paying for an Equiloan but the bank still indicated that he had an outstanding balance.	Section 56(1)(3)(4) Unconscionable Conduct	The investigations are ongoing.
91.	Mr. Tom Vs M/S Oguttu & Company	Legal	The complainant alleged that he had sourced for legal services from Oguttu Mboya & Company Advocates regarding a case at the Cooperative Tribunal in Kisumu and he has never received information of the verdict since the ruling was done. He asked the Authority to help him get the verdict for the case.	N/A	The investigations are ongoing.
92.	Mr. Nicholas Vs Stranmore Holdings Ltd	Retail	The complainant alleged that the accused refused to notify him of the arrival of his motor vehicle from Japan in April 2017, and in the process it accrued storage charges.	N/A	The investigations are ongoing.
93.	Mr. Joseph Vs Safaricom PLC	Telecommunications	The complainant alleged that the 1GB data bundle advertised by Safaricom is not actually 1GB and therefore misleading and fraudulent to consumers.	Section 55(a)(v) False or Misleading Representation	The investigations are ongoing.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case Status/Decision
94.	Mr. Werner Vs Nakumatt Ltd (Under Receivership)	Retail	The complainant alleged that his Nakumatt loyalty card had accumulated about 40,000 points that he was not able to redeem.	Section 56 (1), (2) (a) and (b) of the Act Unconscionable Conduct	The investigations are ongoing.
95.	Mr. Paul vs Zuku	Telecommunications	The complainant alleged that he purchased an unlimited internet bundle of up to 30 mbps, however, the connection was below 5 mbps for a consecutive period of 5 months. He lodged complaints with the service provider but never received any redress.	56 (1) (2) (a) (d) & (e) of the Act on Unconscionable Conduct.	The investigations are ongoing.
96.	Mr. Gabriel vs. TNT World Couriers	Transport	The complainant alleged that he used TNT World Couriers to send a package to the UK. TNT mishandled the goods leading to financial loss of an approximate sum of 700 Euros. Upon complaining to the service provider, the service provider only offered a compensation of 1 Dollar.	Section 57(2) (a) (c) (d) (f) (g) and (k) i.e. unconscionable conduct in business transactions	The investigations are ongoing.
97.	Mr. Geoffrey Vs Get Bucks Kenya	Financial	The complainant alleged he took a loan at Get Bucks Kenya and he has been paying but the payable amount has increasing rather than reducing.	Section 56(2)(c)(d)(e) (3) and (4) of the Act	The investigations are ongoing.
98.	Mr. Samson vs Infinity Enterprises	Retail	The complainant alleged that he bought two smartphones from Infinity Youth Enterprises. On using the phones he realized the phones had no internal memory and had no provision for external memory expansion as represented during the sale.	Section 55 (a) (i), (b) (v) and 56 (1) (2) (a) of the Act	The investigations are ongoing.
99.	Mr. Kennedy vs Sanlam Life Insurance Co. ltd	Insurance	The complainant accused Sanlam Life Insurance for failure to pay for the policies taken by his mother after her death.	Section 56 Unconscionable Conduct	The investigations are ongoing.
100.	Mr. Rufus vs Property Reality Company (PRC)	Real Estate	The complainant alleged that he purchased a plot from PRC but the company did not meet its side of the bargain and when he sought compensation, the company keeps promising to pay back but has not done so for over two years.	Section 56(1)(2) Unconscionable Conduct	The investigations are ongoing.



AUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2018

REPUBLIC OF KENYA

OFFICE OF THE AUDITOR-GENERAL

REPORT

OF

THE AUDITOR-GENERAL

ON

THE FINANCIAL STATEMENTS OF COMPETITION AUTHORITY OF KENYA

FOR THE YEAR ENDED 30 JUNE 2018

REPORT OF THE INDEPENDENT AUDITOR TO THE MEMBERS OF THE COMPETITION AUTHORITY OF KENYA FOR THE YEAR ENDED 30TH JUNE, 2018.

REPUBLIC OF KENYA

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OFFICE OF THE AUDITOR-GENERAL

REPORT OF THE AUDITOR-GENERAL ON COMPETITION AUTHORITY OF KENYA FOR THE YEAR ENDED 30 JUNE 2018

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of Competition Authority of Kenya set out on pages 108 to 130, which comprise the statement of financial position as at 30 June 2018, and the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts 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 35 of the Public Audit Act, 2015. 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

In my opinion, the financial statements present fairly, in all material respects, the financial position of Competition Authority of Kenya as at 30 June, 2018, and (of) its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards Accrual Basis and comply with Competition Act, 2010.

Confirmation on Lawfulness and Effectiveness on Use of Funds

Further, as required by Article 229(6) of the Constitution, I confirm that, nothing has come to my attention to cause me to believe that public money has not been applied lawfully and in an effective way.

Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Competition Authority of Kenya in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no Key Audit Matters to report in the year under review.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis) 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.

In preparing the financial statements, management is responsible for assessing the Authority's ability to continue as a going concern/ sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the management either intends to cease operations of the Authority, or have no realistic alternative but to do so.
Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

Those charged with governance are responsible for overseeing the Authority's financial reporting process.

Auditor-General's Responsibilities for the Audit of the Financial Statements

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances and for the purpose of giving an assurance on the effectiveness of the Authority's internal control.

- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.

- Conclude on the appropriateness of the management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue as a going concern or to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Authority's to cease to continue as a going concern or to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Authority's to express an opinion on the financial statements.

- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.

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

Nairobi

10 December 2018

STATEMENT OF DIRECTORS' RESPONSIBILITIES ON THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2018

Statement of Directors' responsibilities on the Financial Statements for the year ended 30th June, 2018

The Public Finance Management Act, 2012 and the State Corporations Act, require the Directors to prepare financial statements in respect of the Authority, which give a true and fair view of the state of affairs of the Authority at the end of the financial year and the operating results of the Authority for that year. The Directors are also required to ensure that the Authority keeps proper accounting records which disclose with reasonable accuracy the financial position of the Authority. The Directors are also responsible for safeguarding the assets of the Authority.

The Directors are responsible for the preparation and presentation of the Authority's financial statements, which give a true and fair view of the state of affairs as at the end of the financial year ended on June 30, 2018. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Authority; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Authority; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Directors accept responsibility for the Authority's financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act and the State Corporations Act. The Directors are of the opinion that the financial statements give a true and fair view of the state of Authority's transactions during the financial year ended June 30, 2018, and of the financial position as at that date. The Directors further confirm the completeness of the accounting records maintained for the Authority, which have been relied upon in the preparation of the Authority's financial statements as well as the adequacy of the systems of internal financial control.

The Authority's financial statements were approved and signed on behalf of the Board by:

David Ong'olo .....Chairman Date 4th December, 2018

F.W Kariuki .....Director General Date 4th December, 2018

STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30TH JUNE, 2018

	Note	2017/2018 Kshs.	2016/2017 Kshs.
REVENUE			
Revenue from Non-Exchange Transactions			
Exchequer Transfers		381,250,000	340,000,000
Fines and Penalties		35,469,767	38,641,420
Development Partners (COMESA)		20,000,000	14,000,000
		436,719,767	**392,641,420**
Revenue from Exchange Transactions			
Merger Filing Fees-Local		42,000,000	50,000,000
Merger Filing Fees-COMESA		58,438,461	36,417,599
Interest from Fixed Deposits		20,876,738	22,491,433
Sale of Tenders		-	3,000
Other Income	3	5,274,190	3,650,400
		126,589,389	**112,562,432**
		563,309,156	**505,203,852**
EXPENDITURE			
Short-term Employee Benefits	4	191,371,562	175,586,302
Directors Expenses	5	15,745,077	17,199,476
Feasibility Studies,Policy,Research and Market Enquiries	6	40,105,981	21,090,415
Contracted Services	7	18,605,538	37,549,866
Repairs & Maintenance	8	3,719,086	2,319,853
Depreciation & Amortisation	9	13,173,125	16,045,689
Finance Costs		235,655	168,452
General Expenses	10	116,095,756	129,432,897
Total Expenses		**399,051,779**	**399,392,949**
Surplus for the year		**164,257,377**	**105,810,903**

The notes set out on pages 113 to 130 form an integral part of these Financial Statements.

STATEMENT OF FINANCIAL POSITION AS AT 30TH JUNE, 2018

	Note	2017/2018 Kshs	2016/2017 Kshs
ASSETS			
Current Assets			
Cash and Cash Equivalents	11	613,874,685	515,893,282
Receivables from Exchange Transactions	12	18,166,409	13,153,764
		632,041,094	**529,047,047**
Non-Current Assets			
Property, Plant & Equipment	13	42,342,535	49,814,742
Intangible Assets	14	63,771,558	63,261,488
		106,114,093	**113,076,229**
TOTAL ASSETS		**738,155,187**	**642,123,276**
LIABILITIES			
Current Liabilities			
Payables from Exchange Transactions	15	41,783,732	56,053,629
Provisions	16	4,192,833	4,247,000
		45,976,565	**60,300,629**
Non-Current Liabilities	17	**8,701,503**	**19,639,574**
TOTAL LIABILITIES		**54,678,067**	**79,940,203**
Net Current Assets		**586,064,529**	**468,746,418**
Net Assets		**683,477,120**	**562,183,073**
Represented by:			
Equity			
Equity Contribution by the Treasury	18	52,932,150	52,932,150
Designated Fund	19	449,670	449,670
Accumulated Surplus		630,095,300	508,801,252
		683,477,120	**562,183,073**

The financial statements set out on pages 108 to 130 were approved by the Board of Directors on 4th December,2018 and were signed on its behalf by:

David Ong'olo .....
Chairman

F.W Kariuki .....
Director General

STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30TH JUNE 2018

	Note	2017/2018	2016/2017
		Kshs	Kshs
Cashflows from Operating Activities			
Surplus from Operating Activities		164,257,377	105,810,903
Depreciation	9	13,173,125	16,045,689
Adjustments		-	28,735
Loss on Disposal		-	1,205,859
		177,430,502	**123,091,186**
Adjustments for Changes in Working Capital			
Increase/(Decrease) in Receivables from Exchange Transactions	12	(5,012,645)	2,447,566
Increase/(Decrease) in Payables from Exchange Transactions	15	(25,207,969)	18,320,834
Increase/(Decrease) in provisions	16	(54,167)	1,679,920
		(30,274,781)	**22,448,320**
Net Cashflows from Operating Activities		**147,155,721**	**145,539,506**
Cashflows from Investing Activities			
Purchase of Non-Current Assets	13	(5,068,310)	(86,250,351)
Purchase of Intangible Assets		(1,142,679)	-
		(6,210,989)	**(86,250,351)**
Cashflows from Financing Activities			
Surplus paid to Exchequer	20	(42,963,330)	-
		(42,963,330)	**-**
Net Increase/(Decrease) in cash and cash equivalents		**97,981,403**	**59,289,155**
Cash and cash equivalents at 1st July 2017		515,893,282	456,604,127
Cash and Cash Equivalents as at 30th June 2018		**613,874,685**	**515,893,282**

STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 30TH JUNE 2018

	Note	Contribution by Treasury Kshs	Accumulated Fund Kshs	Designated Fund RIIP Kshs	Total Fund Kshs
1st July 2016		52,932,150	402,961,614	449,670	**456,343,434**
Surplus (Deficit) for the year		-	105,810,903	-	**105,810,903**
Adjustments		-	28,735	-	**28,735**
At 30th June 2017		**52,932,150**	**508,801,252**	**449,670**	**562,183,072**
1st July 2017		**52,932,150**	**508,801,252**	**449,670**	**562,183,072**
Surplus paid to Exchequer		-	(42,963,330)	-	**(42,963,330)**
Surplus (Deficit) for the year			164,257,377		**164,257,377**
At 30 June 2018		**52,932,150**	**630,095,300**	**449,670**	**683,477,120**

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS FOR THE YEAR ENDED 30TH JUNE 2018

	Notes	Original Budget 2017/2018 Kshs	Final Budget 2017/2018 Kshs	Actual on Comparison Basis 2017/2018 Kshs	Performance Difference 2017/2018 Kshs
Balance B/f		60,000,000	60,000,000	60,000,000	-
Revenue					
Exchequer Allocation		395,000,000	395,000,000	381,250,000	13,750,000
Fines,Penalties and Levies		30,000,000	30,000,000	35,469,767	(5,469,767)
Development Partners		50,000,000	50,000,000	-	50,000,000
Merger Filling Fees-Local		50,000,000	50,000,000	42,000,000	8,000,000
Merger Filling Fees-COMESA		40,000,000	40,000,000	58,438,461	(18,438,461)
Donor Funding-RIIP		20,000,000	20,000,000	20,000,000	-
Interest from Fixed Deposits		20,000,000	20,000,000	20,876,738	(876,738)
Other Income		3,000,000	3,000,000	5,274,190	(2,274,190)
Total Income		**668,000,000**	**668,000,000**	**623,309,156**	**44,690,844**
Expenses					
Personal Emoluments		236,111,000	236,111,000	173,109,208	63,001,792
Insurance		34,400,000	34,400,000	18,262,354	16,137,646
Staff Welfare		10,100,000	10,100,000	5,459,688	4,640,312
Communication Supplies and Services		8,900,000	8,900,000	5,796,105	3,103,895
Domestic Travel and Subsistence, and Other Transportation Costs		9,100,000	9,100,000	9,064,345	35,655
Foreign Travel and Subsistence, and other transportation costs		24,500,000	24,500,000	8,253,465	16,246,535
Printing, Advertising and Information Supplies and Services		13,500,000	13,500,000	10,292,740	3,207,261
Office rent, rates, utilities and parking		34,375,000	34,375,000	29,539,317	4,835,683
Training Expenses		35,000,000	35,000,000	30,963,282	4,036,718
Official Entertainment and conference facilities		8,000,000	8,000,000	7,580,884	419,116
Board Allowances & expenses		22,104,000	22,104,000	15,745,077	6,358,923
Specialised Services,Policy,Research and Market Enquiries		134,000,000	124,000,000	40,105,981	83,894,019
Office and General Supplies and Services		8,400,000	8,400,000	3,784,572	4,615,428
Contracted Services		28,600,000	28,600,000	18,605,538	9,994,462
Subscriptions		3,000,000	3,000,000	848,462	2,151,538
Motor Vehicle Running Costs		2,000,000	2,000,000	1,486,866	513,134
Routine Maintenance - Other Assets		13,000,000	13,000,000	2,956,979	10,043,021
Purchase of Assets		39,500,000	49,500,000	6,210,989	43,289,011
Other operating expenses		3,410,000	3,410,000	235,655	3,174,345
	21	**668,000,000**	**668,000,000**	**388,301,504**	**279,698,496**
Surplus/(Deficit)	21			**235,007,652**	

NOTES TO THE FINANCIAL STATEMENTS

1. Statement of compliance and basis of preparation - IPSAS 1

The Authority's financial statements have been prepared in accordance with and comply with International Public Sector Accounting Standards (IPSAS). The financial statements are presented in Kenya Shilings (Kshs.) which is the functional and reporting curency of the Authority and all values are rounded to the nearest cent. The accounting policies have been consistently applied.

The financial statements have been prepared on the basis of the historical cost, except where otherwise stated in the accounting policies below.The Cash Flow statement is prepared using the indirect method. The Financial statements are prepared on accrual basis.

2. Summary of significant accounting policies

a) Revenue Recognition

i) Revenue from non-exchange transactions - IPSAS 23

Exchequer allocations

The Authority recognizes Revenue from exchequer allocation when the monies are received and asset recognition criteria are met. To the extent that there is a related condition attached that would give rise to a liability to repay the amount, defered income is recognized instead of revenue. Other non exchange revenues are recognized when it is probable that the future economic benefits or service potential associated with the asset will flow to the Authority and fair value of the asset can be measured reliably.

Transfers from other government entities

Revenues from non-exchange transactions with other government entities are measured at fair value and recognized on obtaining control of the asset (cash, goods, services and property) if the transfer is free from conditions and it is probable that the economic benefits or service potential related to the asset will flow to the Authority and can be measured reliably.

ii) Revenue from exchange transactions - IPSAS 9

Rendering of Services-merger filling fees,levies

The Authority recognizes revenue from rendering of services by reference to the stage of completion when the outcome of the transaction can be estimated reliably. The stage of completion is measured by reference to labour hours incurred to date as a percentage of total estimated labour hours. Where the contract outcome cannot be measured reliably, revenue is recognized only to the extent that the expenses incurred are recoverable.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

b) Budget Information - IPSAS 24

The annual budget is prepared on the accrual basis, that is, all planned costs and income are presented in a single statement to determine the needs of the Authority. As a result of the adoption of the accrual basis for budgeting purposes, there are no major timing differences to include in the reconciliation between the actual comparable amounts and the amounts presented as a separate additional financial statement in the statement of comparison of budget and actual amounts.

c) Property,Plant and Equipment - IPSAS 17

All property, plant and equipment are stated at cost less accumulated depreciation and impairment losses. Cost includes expenditure that is directly attributable to the acquisition of the items. When significant parts of property, plant and equipment are required to be replaced at intervals, the Authority recognizes such parts as individual assets with specific useful lives and depreciates them accordingly. Likewise, when a major inspection is performed, its cost is recognized in the carrying amount of the asset as a replacement if the recognition criteria are satisfied. All other repair and maintenance costs are recognized in surplus or deficit as incurred. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration the asset is initially measured at its fair value.

It is the policy of the Authority to charge full depreciation on all its non-current assets in the year of purchase and no depreciation in the year of disposal.

d) Intangible Assets - IPSAS 31

Intangible assets acquired separately are initially recognized at cost. The cost of intangible assets acquired in a non-exchange transaction is their fair value at the date of the exchange. Following initial recognition, intangible assets are carried at cost less any accumulated amortization and accumulated impairment losses. Internally generated intangible assets, excluding capitalized development costs, are not capitalized and expenditure is reflected in surplus or deficit in the period in which the expenditure is incurred.

e) Provisions - IPSAS 19

a past event, it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.Where the Authority expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognized as a separate asset only when the reimbursement is virtually certain.The expense relating to any provision is presented in the statement of financial performance net of any reimbursement.

Contingent liabilities

Contingent liabilities are possible obligations that arose from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within control of the Authority; or a present obligation that arises from past events but is not recognised because: i.It is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or ii) the amount of the obligation cannot be measured with sufficient reliability.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

The Authority does not recognize a contingent liability, but discloses details of any contingencies in the notes to the financial statements, unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

Contingent assets

The Authority does not recognize a contingent asset, but discloses details of a possible asset whose existence is contingent on the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the Authority in the notes to the financial statements. Contingent assets are assessed continually to ensure that developments are appropriately reflected in the financial statements. If it has become virtually certain that an inflow of economic benefits or service potential will arise and the asset's value can be measured reliably, the asset and the related revenue are recognized in the financial statements of the period in which the change occurs.

f) Changes in accounting policies and estimates- IPSAS 3

The Authority recognizes the effects of changes in accounting policy retrospectively. The effects of changes in accounting policy are applied prospectively if retrospective application is impractical.

g) Employee Benefits - IPSAS 25

Retirement Benefits Plans

The Authority operates a retirement benefit scheme for all its permanent and pensionable employees.Further an amount equivalent to 31% of basic salary has been set aside as gratuity for all employees on contract. The Authority's contribution towards employee pension scheme and staff gratuity for employees on contract are charged to the statement of financial performance in the year to which the employees rendered their services to the Authority.

h) Foreign Currency transactions - IPSAS 4

Transactions in foreign currencies are initially accounted for at the ruling rate of exchange on the date of the transaction. Trade creditors or debtors denominated in foreign currency are reported at the statement of financial position reporting date by applying the exchange rate on that date. Exchange differences arising from the settlement of creditors, or from the reporting of creditors at rates different from those at which they were initially recorded during the period, are recognized as income or expenses in the period in which they arise.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

i) Related Parties - IPSAS 20

The Authority regards a related party as a person or an Authority with the ability to exert control individually or jointly, or to exercise significant influence over the Authority, or vice versa. Members of key management are regarded as related parties and comprise Managers and Directors including the Director General.

The following transactions were carried out with related parties:

		2017/2018 Kshs.	2016/2017 Kshs.
Key Management Compensations			
i)	Salaries and Other short term employment Benefits	53,254,852	51,452,640
Board Remuneration			
ii)	Allowances paid to Board Members	5,460,000	5,220,000
Grants From Related Parties			
iii)	Grants from GOK	381,250,000	340,000,000

j) Leases

Leases under which the lessor effectively retains the risks and rewards of ownership are classified as operating leases. Obligations incurred under operating leases are charged against income in equal instalments over the period of the lease

k) Cash and Cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at various commercial banks at the end of the financial year. For the purposes of these financial statements, cash and cash equivalents also include short term cash imprests and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

l) Significant Judgements and sources of estimation uncertainty-IPSAS 1

In preparing the financial statements in conformity with IPSAS, management makes estimates and assumptions that affect the amounts of revenues, expenses, assets and liabilities,and the related disclosures, presented in the financial statements at the end of the reporting period. Use of available information and the application of judgement is inherent in the formation of estimates. Actual results in the future could differ from these estimates which may be material to the annual financial statements. Significant judgements include : provision for audit fees, leave provision, useful lives and depreciation methods and asset impairment. Notes relating to the subject are included under the affected areas of the financial statements

Estimates and assumptions

The key assumptions concerning the future and other key sources of estimation uncertainty at the reporting date, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are described below. The Authority based its assumptions and estimates on parameters available when the financial statements were prepared. However, existing circumstances and assumptions about future developments may change due to market changes or circumstances arising beyond the control of the Authority. Such changes are reflected in the assumptions when they occur.

Useful lives and residual values

The useful lives and residual values of assets are assessed using the following indicators to inform potential future use and value from disposal:

i) The condition of the asset based on the assessment of experts employed by the Authority

ii) The nature of the asset, its susceptibility and adaptability to changes in technology and processs

iii) The nature of the processes in which the asset is deployed

iv) Availability of funding to replace the asset

v) Changes in the market in relation to the asset

Provisions

Provisions were raised and management determined an estimate based on the information available. Provisions are measured at the management's best estimate of the expenditure required to settle the obligation at the reporting date, and are discounted to present value where the effect is material.

3. Other Income

Other income amounting to Kshs 5,274,190.00 relates to training fees recieved against Law and Economic regulation course done in collaboration with University of Nairobi. This collection will offset the related expenses.

4. Short-term Employee Benefits	2017/2018 Kshs	2016/2017 Kshs
Salaries and Allowances	148,236,684	141,529,875
Contribution to Pensions	14,417,224	6,288,711
Gratuity	10,509,467	10,088,640
Staff Medical Insurance	18,262,354	16,695,155
Staff leave Days Provision	(54,167)	983,921
	191,371,562	**175,586,302**

The cost of all short-term employee benefits is recognised during the period in which the employee renders the related service. The provisions for employee entitlements to salaries and annual leave represent the amount which the organisation has a present obligation to pay as a result of employees' services provided for at the reporting date. The provisions have been calculated at undiscounted amounts based on current salary rates.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

5. Board Expenses	2017/2018 Kshs	2016/2017 Kshs
Sitting Allowance	4,500,000	4,260,000
Honoraria	960,000	960,000
Training & Induction	2,949,900	5,496,455
Telephone	80,730	108,000
Insurance	728,535	648,913
Local travel Costs	1,288,529	1,331,878
Conference Facilities	211,437	1,104,644
Domestic Travel Daily Subsistence Allowance	819,000	527,800
International Travel Costs (Airtickets)	1,570,765	2,072,800
Foreign Travel-Daily Subsistence Allowance	2,576,943	612,986
Sundry Items	9,238	2,000
Lunch Allowance	50,000	74,000
	15,745,077	**17,199,476**

6. Feasibility Studies,Policy,Research and Market Enquiries	2017/2018 Kshs	2016/2017 Kshs
Awareness and Publicity Compaigns	9,840,551	3,141,080
Policy,Research and Market Enquiries	6,975,508	1,066,780
Regulation of mergers and acquisitions	1,303,000	539,810
Enforcement of Restrictive Trade Practices	2,776,330	568,450
Consumer Walfare	4,771,912	1,095,340
COMESA RIIP	14,438,680	13,024,640
UON/CAK MOU	-	1,654,315
	40,105,981	**21,090,415**

7. Contracted Services	2017/2018 Kshs	2016/2017 Kshs
Consultancy	14,037,548	33,491,266
Hire of security	1,179,620	1,350,000
Office Cleaning Expenses	1,513,667	1,252,800
Legal Services	1,178,703	759,800
Audit Fees	696,000	696,000
	18,605,538	**37,549,866**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

8. Repairs & Maintenance	2017/2018 Kshs	2016/2017 Kshs
Motor Vehicles	762,108	699,117
Property,plant and Equipment	2,956,979	1,620,736
	3,719,086	**2,319,853**

9. Depreciation and Armotisation	2017/2018 Kshs	2016/2017 Kshs
Property,plant and Equipment	12,540,516	15,413,017
Intangible Assets	632,609	632,672
	13,173,125	**16,045,689**

10. General Expenses	2017/2018 Kshs	2016/2017 Kshs
Domestic Travel Subsistence Costs	9,064,345	7,888,926
Foreign Travel Subsistence Costs	8,253,465	19,145,094
Communication Costs	5,796,105	4,971,357
Staff Welfare	5,459,688	7,604,935
Printing and Advertising Costs	10,292,740	14,733,704
Rent and Rates	29,539,317	28,294,136
General Office Supplies	3,784,572	6,095,454
Training Expenses	30,963,282	28,826,012
Motor Vehicle Expenses	724,758	1,116,560
Official Entertainment and Conference Facilities	7,580,884	6,037,143
Subscription to Professional Bodies	848,462	926,553
Insurance of Assets	3,788,139	2,546,902
Forex Gain/(Loss)	-	40,261.00
Loss on Disposal of Assets	-	1,205,859.00
	116,095,756	**129,432,897**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

11. Cash and Cash Equivalents	2017/2018 Kshs	2016/2017 Kshs
KCB-KICC Main operating Account	335,729,865	238,996,172
KCB-KICC Staff Gratuity Account	9,874,505	26,706,580
NBK-Staff Car Loan Account	94,804,370	100,190,530
NBK-Dollar Account	23,465,944	-
Short-Term Investments	150,000,000	150,000,000
	613,874,685	**515,893,282**

Cash and cash equivalents are measured at fair value. The carrying amount approximates fair value due to the short period to maturity. Cash and cash equivalents comprise cash at bank , cash on hand and short- term investments (90 days) held to maturity.

12. Receivables from Exchange Transactions	2017/2018 Kshs	2016/2017 Kshs
Staff Travel Imprests	1,484,391	3,087,598
Staff Debtors	149,386	578,604
Trade Debtors	64,213	-
Staff Car Loan Debtors	9,575,884	-
Prepayments (Rent)	2,580,329	2,431,604
Prepayments (Insurance)	4,011,261	7,055,958
Other Prepayments	150,945	-
Advance Deposit	150,000	-
	18,166,409	**13,153,764**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

13. Property, Plant and Equipment

Cost / Valuation	Motor Vehicle	Office Equipment	Computer Equipment	Furniture & Fittings	Total Amount
As at 1st July 2016	23,513,707	8,187,225	19,109,373	22,960,325	73,770,630
Additions	-	1,408,900	20,287,478	3,190,500	24,886,878
Disposals	-	-	-	(1,575,000)	(1,575,000)
As at 30th June 2017	**23,513,707**	**9,596,125**	**39,396,851**	**24,575,825**	**97,082,508**
As at July 2017	23,513,707	9,596,125	39,396,851	24,575,825	97,082,508
Additions	-	1,240,500	3,490,610	337,200	5,068,310
Disposals	-	-	-	-	-
As at 30th June 2018	**23,513,707**	**10,836,625**	**42,887,461**	**24,913,025**	**102,150,818**
Accumulated Depreciation					
As at 1st July 2016	12,651,675	1,908,051	11,063,713	6,600,453	32,223,892
Charge for the year	2,715,508	961,009	9,443,435	2,293,064	15,413,017
Disposals	-	-	-	(369,141)	(369,141)
As at 30th June 2017	**15,367,183**	**2,869,060**	**20,507,148**	**8,524,377**	**47,267,768**
As at July 2017	15,367,183	2,869,060	20,507,148	8,524,377	47,267,768
Charge for the year	2,036,631	995,945	7,459,358	2,048,582	12,540,516
Disposals	-	-	-	-	-
As at 30th June 2018	**17,403,814**	**3,865,006**	**27,966,506**	**10,572,958**	**59,808,284**
Net Book Value					
As at 30th June 2017	**8,146,524**	**6,727,065**	**18,889,703**	**16,051,449**	**49,814,740**
As at 30th June 2018	**6,109,893**	**6,971,619**	**14,920,955**	**14,340,067**	**42,342,534**

The assets categorised and depreciated on a reducing balance using the rates shown below;

Motor Vehicle	25.00%
Office Equipment	12.50%
Computer Equipment	33.33%
Furniture & Fittings	12.50%

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

14. Intangible Assets

Cost / Valuation	Computer Software	Total Amount
As at 1st July 2016	4,499,000	4,499,000
Additions	-	-
Disposals	-	-
As at 30th June 2017	**4,499,000**	**4,499,000**
As at July 2017	4,499,000	4,499,000
Additions	-	-
Disposals	-	-
As at 30th June 2018	**4,499,000**	**4,499,000**
Accumulated Amortisation		
As at 1st July 2016	1,968,313	1,968,313
Charge for the year	632,672	632,672
Disposals	-	-
As at 30th June 2017	**2,600,985**	**2,600,985**
As at July 2017	2,600,985	2,600,985
Charge for the year	632,609	632,609
Disposals	-	-
As at 30th June 2018	**3,233,594**	**3,233,594**
Net Book Value		
As at 30th June 2017	1,898,015	1,898,015
As at 30th June 2018	**1,265,406**	**1,265,406**
Computer Software under Development	62,506,152	62,506,152
Total Intangible Assets	**63,771,558**	**63,771,558**

Computer software under development, Kshs 62,506,152.00 relates to amounts incurred and paid towards the implementation of Enterprise Resource Management (ERP) and Case Management System (CMS). The ERP will automate the support functions namely, Finance, Human Resources, Procurement and ICT while the CMS will automate all the processes of the Technical Departments. So far major milestones have been achieved and currently were pilot testing both systems. On go live and sign off of the both systems the entire amount will be capitalized under Computer Software

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

15. Payables from Exchange Transactions	2017/2018 Kshs.	2016/2017 Kshs.
Local Creditors	37,113,812	47,492,185
Witholding Taxes	47,088	194,636
Witholding VAT	382,567	643,932
Staff Creditors	129,940	777,108
Contractors Retention	-	1,654,723
Payroll Liabilities	3,601,054	3,442,567
Deferred Lease Payment	509,270	1,848,478
	41,783,732	**56,053,629**

Local Creditors represent outstanding payments to suppliers for services consumed. Payroll deductions include amounts outstanding for statutory deductions. Staff creditors comprise of amounts due to staff.

16. Provisions	2017/2018 Kshs.	2016/2017 Kshs.
Staff Leave Days Provision	3,496,833	3,551,000
Audit Fees Provision	696,000	696,000
	4,192,833	**4,247,000**

Provisions are recognised when:

i) A reliable estimate can be made of the obligation,

ii) It is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; and

iii) The Authority has a present obligation as a result of a past event.

Provisions are reviewed at each reporting date and are adjusted to reflect the current best estimate or reversed if it is no longer probable that an outflow of resources embodying economic benefits or service potential will be required, to settle the obligation.Employees entitlement to annual leave is recognised when it accrues. A provision is made on the estimated liability for annual leave as a result of services rendered by employees up to the amount of the obligation.

17.Non-Current Liabilities

	2017/2018 Kshs.	2016/2017 Kshs.
Staff Gratuity	8,701,503	19,639,574
	8,701,503	**19,639,574**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

18. Equity Contribution by National Treasury	2017/2018 Kshs	2016/2017 Kshs
As at 1st July	52,932,150	52,932,150
Movement During the Year	-	-
As at 30th June	**52,932,150**	**52,932,150**

The amounts represent assets and liabilities surrendered to the Authority and either realised or settled by the Authority as well as Asset funds provided by the Treasury.

19. Designated Fund	2017/2018 Kshs	2016/2017 Kshs
As at 1st July	449,670	449,670
Movement During the Year	-	-
As at 30th June	**449,670**	**449,670**

Designated Fund consists of development funding and Contributions by the Treasury for acquisition of assets or development projects and are recognized as a financing reserve when received. No repayment of the financing is expected by the Authority. This amount relates to three(3) computers valued at Ksh.449,670 recieved by the Authority during Financial Year 2014/2015 for use in the implementaion of the Regional Integration Implementation Programme.

20. Surplus paid to Exchequer

The Authority paid to The Exchequer Khs Kshs 42,963,329.60 during the year being 90% surplus payable on surplus reported the Audited Financial Statements for Financial Years 2014/2015, 2015/2016, 2016/2017. This is in compliance with the Section 219 (2) of Public Finance Management Act regulations, 2015.

PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATION

The following is the summary of issues raised by the external auditor,and management comments that were provided to the auditor. We have nominated focal persons to resolve the various issues as shown below with the associated time frame within which we expect the issues to be resolved.

Reference No. on the external audit Report	Issue/ Observations from Auditor	Management Comments	Focal Person to resolve the Issue	Status: (Resolved/ Not Resolved)	Time frame:
NONE					

Guidance Notes:

i) Use the same reference Numbers as contained in the external Audit Report;
ii) Obtain the "The Issue/Observation" and "management comments",required above,from final external audit report
iii) Before approving the report,discuss the time frame with the appointed Focal Point persons within your Authority responsible for implementation of each issue;
(iv) Indicate the status of "Resolved" or "Not Resolved" by the date of submitting this report to National Treasury.

David O. Ong'olo..... Date 4th December,2018
Chairman

F.W Kariuki..... Date 4th December,2018
Director General

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

25. Leases

The Authority has a a six (6) year lease arrangement with the landlord of the Kenya Railways Staff Retirement benefits scheme;the premises from which its offices are located.The terms of the arrangement require the Authority to pay a standard amount of rent quarterly in advance with an annual escalation rate of 5%.Obligations incurred under this lease are charged against income in equal instalments over the period of the lease.As at the balance sheet date,the Authority had the following balances relating to the lease.

Total Minimum future lease payments	2017/2018 Kshs.	2016/2017 Kshs.
Not later than year	25,918,127	13,988,132
Later than 1 year but not later than 5 years	125,270,945	-
	151,189,072	13,988,132

26. Contingent liabilities/Assets

a) John Gachanga & Another vs Competition Authority of Kenya

The Petitioner seeks a Mandatory Injunction compelling the Authority to release to the Petitioners all documents including Board Minutes and Resolutions, EFT Transfers of the evidence of payment of the purchase price of the shares, contracts and other correspondence submitted by Savannah Cement Limited. The Authority has a high chance of success, however incase the Courts find against us we might incur Ksh 300,000 in legal costs

b) Beldine Omollo vs Wang'ombe Kariuki, CAK, The PSC, Principal Secretary, The National Treasury and The Attorney General.

The Authority has been sued for wrongful dismissal by a former employee who was on secondment from the National Treasury. The Authority has a high chance of success, however incase the Court rules against us we might incur Kshs. 2,400,000.00.

c) Ashford Koome & Another vs Safaricom Limited &Competition Authority of Kenya & The Attorney General

In this case the Petitioner filed a Petition against the Authority on grounds that the Authority is bound by law to ensure that Safaricom Limited operates within the law with respect to the pre-charge and/or charge interest on borrowed airtime and that the Authority has failed, neglected and/ or declined to exercise its statutory obligations with respect to the OKOA Jahazi service. The Authority has a high chance of success but in the event that the Court finds against us, we might incur legal costs to the tune of Kshs 197,200.00

27. Taxation

The Authority is exempt from taxation under the Section 219 (2) of Public Finance Management Act regulations, 2015. The regulation requires that State Corporations exempted from Income Tax to remit 90% of Surplus to National Treasury. This year we remitted Kshs 43,552,744.60 being 90 % surplus of the audited accounts for Financial Years 2014/2015, 2015/2016, 2016/2017.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

All the Authority's receivables are fully performing and are expected to be repaid.

b) Liquidity Risk Management

Liquidity risk is the risk that the Authority will not be able to meet its financial obligations when they fall due. The Authority's approach to managing liquidity is to ensure, as far as possible, that it will always have sufficient liquidity to meet its liabilities when due, under both normal and stressed conditions, without incurring unacceptable losses or at the risk of damaging the Authority's reputation.

The Authority ensures that it has sufficient cash on demand to meet expected operational expenses,including the servicing of financial obligations;this excludes the potential impact of extreme circumstances that cannot reasonably be predicted.All liquidity policies and procedures are subject to review and approval by the board of directors.

The amounts that best describes the Authority's exposure to liquidity risk at the end of the financial year is made up as follows.

	2017/2018 Kshs.	2016/2017 Kshs.
Trade payables all due within 30 days	37,113,812	47,492,185
Staff Creditors	129,940	777,108
Taxes	429,655	838,568
Payroll Deductions	3,601,054	3,442,567
Provisions	4,192,833	3,551,000
Contractors retention	-	1,654,723
	45,467,294	**57,756,151**

24. Financial Risk Management

The Authority's activities exposes it to a variety of credit and liquidity risks. The overall risk management programme focuses on the unpredictability of the market and seeks to minimize potential adverse effects on its operations.The Authority regularly reviews its risk management policies and systems to reflect changes in markets and emerging best practices. Risk management is carried out by the management under the direct supervision of the board of directors.The board provides policies for overall risk management as well as policies covering specific areas such as credit risk and liquidity risk.

a) Credit Risk Management

Credit Risk refers to the risk that a counterparty will default on its contractual obligation resulting in financial loss to the Authority.Credit Risk arises from bank balances, receivables and amounts due from related parties. Although this risk is unlikely to occur in the short term, it is mitigated as follows:

I) Cash and short-term deposits are placed with well-established financial institutions of high quality and credit standing and also approved by the National Treasury;

ii) Funds are invested in short-term facilities; and

iii) The organization does not raise debtors in its ordinary course of business.

Credit risk with respect to accounts receivable is limited due to the nature of the Authority's business and its reliance on government grant as the main source of funding.

Market risk is the risk that the value of an investment will decrease due to changes in market factors. The above stated mitigating factors apply to market risk as well.

The amounts that best describes the Authority's exposure to credit risk at the end of the financial year is made up as follows.

	2017/2018 Kshs.	2016/2017 Kshs.
Cash at Bank	613,874,685	515,893,282
Staff Travel Imprests	1,484,391	3,087,598
Staff Debtors	149,386	578,604
Trade Debtors	64,213	-
Staff Car Loan Debtors	9,575,884	-
Prepaid Rent	2,580,329	2,431,604
Prepaid Insurance	4,011,261	7,055,958
Other Prepayments	150,945	-
	631,891,094	**529,047,046**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

22. Capital Commitments

Capital Expenditure contracted for as at balance sheet date but not recognised in the financial statements is as follows;

	2017/2018 Kshs.	2016/2017 Kshs.
ERP and Case Management System	20,000,000	47,385,742
E-Board	5,000,000	-
Email Server	5,000,000	-
Forensic Tool Kit	6,000,000	-
Trucking and Shipping Study	15,000,000	-
Staff Mortgage	200,000,000	-
As at 30th June	251,000,000	47,385,742

	2017/2018 Kshs.	2016/2017 Kshs.
Surplus for the Year	164,257,377	105,810,903
Adjustments	-	28,735
Depreciation	13,173,125	16,045,689
Loss on Disposal of Assets	-	1,205,859
Movements in Provisions for Employee Costs	(54,167)	1,679,920
Changes in Working Capital		
Receivables from exchange Transactions	(5,012,645)	2,447,566
Payables from exchange Transactions	(25,207,969)	18,320,834
	147,155,721	**145,539,506**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

21. Explanation of variance between the Budget and Actual Expenses

a) Exchequer Allocation-Kshs 13,750,000

The Authority did not receive Quarter 4 Development allocation amounting to Kshs 13,750,000.00 from the National Treasury as expected. This amount was part of the approved budget.

b) Fines,Penalties and Levies-Kshs.5,469,769

Fines and penalties exceeded the budget by Kshs 5.4M due to a one off collection of penalties amounting to Kshs 14M from a source which was not included as part of the projections at the budgeting stage.

c) Development Partners-Kshs 50,000,000

Kshs 50,000,000.00 initially expected from Development Partners, FSD and World Bank was not received, however the donors provided technical support.

d) Merger Filling Fees-Local-Kshs.8,000,000

Merger filing fees collected during the year was below the target due to prolonged election period which affected the investment climate leading to a drop in the number of megers applications.

e) Merger Filling Fees-COMESA-Local-Kshs.18,438,461

Merger filing fees COMESA exceeded the budget by Kshs 18M due to increase in mergers filed at the COMESA level. The Authority has no control over the data used to do projections on the revenue expected at COMESA except to use past remission trends.

g) Other Incomes-Kshs.3,150,928

Other incomes include interest from short term investments (Kshs.876,738) and training fees from the annual Competition law and policy training (Kshs.2,274,190). The Authority had anticipated a modest turn out during the training but due to increased awareness of the Authority's manadate, the turnout exceeded expectation leading to training fees exeeding the budget. Equally the Authority had two major projects running concurrently-ERP and Case management system whose allocated funding were invested in short term securities even as deliverables drugged on during the year as parties consulted.

i) Personal Emoluments-Kshs.63,001,792 and Insurance Kshs.16,137,646

The low absorption in these votes n is attributed to delay in the recruitment of management and other staff which was occasioned by obtaining the necessary approval from National Treasury.

j) Communication Supplies and Services-Kshs.3,103,895

The low absorption in this vote can be attributed to delay recruitment of managers and other staff as we had budgeted for their airtime and telephone allowances.

k) Foreign Travel and Subsistence, and other transportation costs-Kshs.16,246,535

During the period the Authority had budgeted for significant amounts to enable it participate in major international events in competition matters. However this was severely affected by the government freeze on international travel by public servants leading to low absorption.



CAK

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against

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