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THE NATIONAL ASSEMBLY


THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY & COOPERATIVES


REPORT ON

THE INQUIRY INTO ALLEGED DISCRIMINATION OF LOCAL INVESTORS IN
TRANSPORT AND LOGISTICS SECTOR BY MULTINATIONAL COMPANIES IN KENYA.

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 19 NOV 2025	DAY: Wed
TABLED BY:	Hon. Marianne Kitany Vice-chair, Trade Committee
CLERK-AT THE TABLE	Mudo Atabo

CLERK'S CHAMBERS,
DIRECTORATE OF DEPARTMENTAL
PARLIAMENT BUILDINGS
NAIROBI

NOVEMBER 2025

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SPEAKER'S OFFICE P. O. Box 41842, NAIROBI.

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ABBREVIATIONS

BAT	-	British American Tobacco
CAK	-	Competition Authority of Kenya
MNCs	-	Multinational Companies
ToR	-	Terms of Reference
KTA	-	Kenya Transporters Association
EABL	-	East Africa Breweries Limited

CHAIRPERSON'S FOREWORD

It is my pleasure to submit this report on the inquiry into the alleged discrimination and unfair treatment of local investors in the transport and logistics sector by multinational companies operating in Kenya. This inquiry emanated from a formal complaint submitted by the Kenya Transporters Association (KTA) to the Departmental Committee on Trade, Industry and Cooperatives alleging that local transporters were being systematically excluded by multinational companies (MNCs) operating in Kenya. The Association posited that unfair trade practices in contravention of Kenya's competition laws and local content requirements.

Pursuant to the provisions of Article 95(1) of the Constitution and Standing Order 216(5), the Committee resolved to undertake an inquiry into the alleged systemic breaches of competition laws by multinational companies operating in Kenya as well as broader concerns relating to local content compliance in warehousing, transport, and related sectors, and potential transfer pricing practices by MNCs.

To this end, the Committee held seven (7) meetings with complainant Kenya Transporters Association (KTA), and key stakeholders including the Competition Authority of Kenya (CAK), British American Tobacco (BAT), Kenya Breweries Limited (KBL), GlaxoSmithKline Limited (GSK), Coca-Cola Beverages Kenya Limited, Nestle Kenya and Unilever Kenya Limited. These consultations provided critical insights into the nature of business practices in the logistics and warehousing sector and the regulatory safeguards in place to promote fair competition.

The comprehensive report by the CAK on the alleged abuse of dominant position by MNCs provided conclusive insights on the matters under inquiry, enabling the Committee to reach a definitive position on the allegations. Based on the evidence adduced, the Committee found that the allegations of discriminatory conduct, abuse of dominance, or predatory pricing by the multinational companies concerned were unsubstantiated and concluded that the matter did not warrant further action against the multinational companies concerned.

The Committee unanimously adopted its report at a sitting held on 4th October, 2025.

I wish to express my appreciation to the Honourable Members of the Committee, the stakeholders and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Trade, Industry and Cooperatives, and pursuant to the provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the

Report of the Committee on its inquiry into alleged discrimination of local investors in the transport and logistics sector by Multinational Companies in Kenya.



HON. BERNARD MASAKA SHINALI, MP
CHAIRPERSON, COMMITTEE ON TRADE, INDUSTRY AND
COOPERATIVES

PART ONE

I.0 PREFACE

I.1 Establishment and Mandate of the Committee

- I. The Departmental Committee on Trade, Industry and Cooperatives is one of the Departmental Committees of the National Assembly established under Standing Order 216 whose mandate pursuant to the Standing Order 216 (5) is as follows:
 - b. **To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;**
 - c. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - (ba) *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - d. *To study and review all legislation referred to it;*
 - e. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - f. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and may be referred to them by the House;*
 - g. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - (fa) *To examine treaties, agreements and conventions;*
 - h. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - i. *(Deleted)*
 - j. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - k. *To examine any questions raised by Members on a matter within its mandate.*

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, Trade, including securities exchange, consumer protection, pricing policies, commerce, industrialization including special economic zones, enterprise promotion and development including Micro, small & medium enterprise (MSMEs), and small and medium enterprise (SMEs), intellectual property, industrial standards, anti-counterfeit and cooperatives development.
3. In executing its mandate, the Committee oversees the Ministry of Investment, Trade and Industry and the Ministry of Cooperatives and Micro, Medium and Small Enterprises (MSMEs).

I.2 Committee Membership

4. The House constituted the Committee on Thursday, 27th October, 2022 and comprises the following Members:

Chairperson

Hon. Benard Masaka Shinali, MP
Ikolomani Constituency

Orange Democratic Movement (ODM)

Vice Chairperson

Hon. Marianne Jebet Kitany, MP Aldai.
Constituency

United Democratic Alliance (UDA)

Hon. Robert Githinji Gichimu, MP
Gichugu Constituency

United Democratic Alliance (UDA)

Hon. Dr. Wilberforce Ojiambo Oundo, MP
Funyula Constituency

Orange Democratic Movement (ODM)

Hon. Dr. Beatrice Kahai Adagala, MP
Vihiga County

Amani National Congress (ANC)

Hon. Joyce Kamene, MP
Machakos County

Wiper Democratic Movement-Kenya

Hon. Joshua Mbithi Mutua Mwalyo, MP
Masinga Constituency

Independent Member

Hon. Anthony Tom Oluoch, MP
Mathare Constituency

Orange Democratic Movement (ODM)

Hon. Guyo Adhe Wario, MP
North Horr Constituency
KANU

Hon. Samuel Sakimba Parashina, MP
Kajiado South

Orange Democratic Movement (ODM)

Hon. Amos Maina Mwago, MP
Starehe Constituency
Jubilee Party

Hon. Adams Korir Kipsanai, MP
Keiyo North Constituency

United Democratic Alliance (UDA)

Hon. Michael Wainaina Wambugu, MP
Othaya Constituency

United Democratic Alliance (UDA)

Hon. Alfred Kiprono Mutai, MP
Kuresoi North Constituency

United Democratic Alliance (UDA)

Hon. Bwire John Okano, MP
Taveta Constituency

Wiper Democratic Movement-Kenya

I.3 Committee Secretariat

5. The Committee Secretariat comprises the following technical staff:

Mr. Abenayo Wasike
Principal Clerk Assistant I/Head of Secretariat

Ms. Carolyne Musyoka
Hansard Reporter II (Clerk Assistant)

Ms. Everlyn Orina
Clerk Assistant III

Ms. Priscilla Saidi
Research Officer III

Ms. Pauline Sifuma
Hansard Officer II

Ms. Peris Kaburi
Sarjeant At Arms

Ms. Priscilla Wangu
Fiscal Analyst II

Ms. Florence Wanja
Protocol Officer

Mr. Cosmas Akhonya
Audio officer

Mr. Daniel Psirmoi
Media Relations Officer III

PART TWO

2.0 INTRODUCTION

6. The Committee is in receipt of a letter from the Kenya Transporters Association (KTA) Limited, dated 6th February, 2024. In the letter, the Association raised concerns about the discrimination of local investors in the transport and logistics sector by multinational companies (MNCs).
7. The, Kenya Transporters Association (KTA) Limited stated that, the Multinational Companies (MNCs) prefer to deal with fellow multinationals in the transport sector. This discrimination they said amounted to unfair trading practice.
8. The committee on Trade, Industry and Cooperatives invited Competition Authority of Kenya (CAK), Kenya Transporters Association (KTA), British American Tobacco (BAT), Kenya Breweries Limited (KBL), Nestle Kenya and Unilever Limited to submit their memoranda.

2.1 TERMS OF REFERENCE

9. The Committee developed and was guided by the following terms of reference in conducting the inquiry;
 - (a) To establish whether unfair treatment of local transporters by multinational companies has created an unfair business environment;
 - (b) To assess the level of compliance with local content requirement in the warehousing, transport and related sectors by multinationals companies; and
 - (c) To establish whether transfer pricing by multinational companies has created an unfair business environment in the provision of transportation and logistics services.

PART THREE

3.0 SUBMISSIONS FROM VARIOUS MULTINATIONAL COMPANIES IN THE COUNTRY AND THE COMPLAINT BY KENYA TRANSPORTERS ASSOCIATION ON ALLEGED DISCRIMINATION OF LOCAL INVESTORS IN TRANSPORT AND LOGISTICS SECTOR BY MULTINATIONAL COMPANIES.

10. The Committee held meetings with various multinational companies and government institutions including the Competition Authority of Kenya (CAK), Kenya Transporters Association (KTA), British American Tobacco (BAT), Kenya Breweries Limited (KBL), Nestlé Kenya Limited and Unilever Kenya Limited.

They submitted as hereunder –

1.1 SUBMISSIONS BY KENYA TRANSPORTERS ASSOCIATION (KTA)

11. Kenya transporters association (KTA) through its representative appeared before the committee and submitted as follows:
12. That the local investors in the sector of transport, logistics and Warehousing are not getting a fair treatment especially when dealing with large multinationals, who opt to ignore the local capacity and deal with fellow multinationals. This is affecting its members, and sought the committee indulgence to create a fair playing ground that will allow local participation based on experience, expertise and that they are Kenyan.
13. Additionally, they stated that many countries have introduced a percentage of local content to protect home ground businesses and felt that it is time Kenya took a similar approach.
14. The association, however raised their Key Areas of Concern as follow;
- i Limited Local Participation: MNCs often outsource logistics and warehousing services abroad, using contracts applicable across their operations. This bypasses local companies and hinders their ability to compete.
 - ii Disparity in Investment: Local entrepreneurs own the majority (90%) of trucks in Kenya, while MNCs contribute only 10%. However, MNCs secure over 70% of logistics contracts, leaving local investors with limited opportunities and unfair conditions.

- iii **Uneven Economic Impact:** Local businesses typically reinvest profits within Kenya, whereas MNCs repatriate theirs. Supporting local participation is crucial for economic growth, especially in sectors like transport with substantial domestic capacity.
 - iv **Regional and Global Markets:** Kenyans in freight logistics aim to be prepared for regional, continental, and global markets, especially as integration efforts favor intra-African trade. However, achieving this goal requires a strong domestic foundation. Without a solid local foothold, Kenyan companies risk missing out on these opportunities, hindering growth for current and future generations.
 - v **Unfair Practices by Shipping Lines:** Shipping lines engage in practices that stifle competition. This includes a single company acting as a cargo carrier, operating a Container Freight Station (CFS), providing land transport (through bills of lading), owning a clearing and forwarding (C&F) company, and managing an empty container depot. There have been allegations of these companies' preventing customs agents from booking exports and forcing importers/exporters to use their affiliated companies.
15. The association informed the committee about the following anti-competitive behaviors by MNCs in the Kenyan transport and logistics sector:
- i **Exclusive Contracts:** MNCs secure exclusive agreements with key suppliers or distributors, shutting out smaller local companies from essential resources and markets.
 - ii **Discriminatory Practices:** MNCs favor large customers with discounts and preferential treatment, while putting smaller competitors at a disadvantage.
 - iii **Barriers to Entry:** MNCs leverage their market power to create barriers that make it difficult for new companies to compete effectively.
 - iv **Anti-Competitive Agreements:** MNCs engage in collusive agreements with competitors or suppliers, such as price-fixing or market allocation schemes, to maintain their dominance.

- v Predatory Pricing: In some cases, MNCs resort to predatory pricing, temporarily lowering prices to drive out competitors and then raising them once they have achieved a monopoly.
- vi Lack of Transparency: A lack of transparency in pricing and contracting practices by MNCs makes it challenging for regulators and competitors to identify anti-competitive

16. The association advocated for a quota system, where at least 60% of transport and logistics work is reserved for local Kenyan enterprises. Kenya has sufficient local capacity to justify this proposal.

1.2 SUBMISSIONS BY KENYA BREWERIES LIMITED (KBL)

The managing director submitted that;

17. Kenya Breweries Limited is a local company, incorporated as a private limited liability company on 8th September 1922. The first beer was brewed on 14th December 1922. In 1926, KBL declared its first dividend of 12.5% at the first annual general meeting, the first clear sign of the company's success and local heritage.
18. Procurement of local raw materials began in 1929, when the KBL board decided to start using malted barley in the production process instead of imported malt extracts, significantly improving beer appearance and flavour. When the war broke out and the demand for beer increased in the 1940s, KBL held its first nationwide barley competition to encourage farmers to grow suitable barley. This became an annual event, marking the beginning of a new crop that benefited hundreds of farmers and made the company independent of overseas supplies.
19. In 1935, KBL acquired Tanganyika Breweries, which had been established in 1932 as a private company. In 1936, KBL and Tanganyika Breweries Limited merged, leading to the change of name to East African Breweries Limited (EABL). EABL would later acquire financial holding in Uganda Breweries in 1959. In 1962, a merger was completed with Allsopps (East Africa) Ltd, another beer company in Nairobi, and EABL became a holding company with KBL becoming the major trading company in the group, holding trading assets and liabilities for units in Nairobi and Kisumu. In the 1980s, KBL established two plants in

Kenya, one in Kisumu for manufacture of beer and CGI which was producing glass bottles and was later sold to a South African firm.

20. KBL is currently the second largest taxpayer in Kenya with a total tax contribution averaging KES 80 billion annually. Out of KES 2 trillion in tax revenue that KRA collects on average per year, KES 820 billion comes from large taxpayers and KBL contributes 10% of the large taxpayers' tax revenue contribution in Kenya.
21. The economic value is generated through employment of a skilled and semi-skilled workforce derived in Kenya. In terms of employment, KBL's direct value chain activities provide employment to 45,000 farmers, 180,000 retail trade employees operating in the over 45,000 outlets countrywide where they sale products and finished goods transport services employees and 120 local distributors directly employing 2,400 people.
22. KBL invested in its first vehicle transportation system in 1958. The fleet was very organized, rising to become one of the best in East Africa until 1997, when it began outsourcing logistics services. This was prompted by a change in KBL business strategy and a need to focus on core activities, improving service & cost efficiencies
23. They were not able to address any specific concerns raised by Kenya Transporters Association (KTA) because no specific issues have been raised directly to KBL by KTA or its directors. They have also confirmed to the committee that there were no any formal or informal engagements with KTA.
24. In logistics procurement process, an e-auction was conducted with 25 potential Kenyan registered companies who were invited, 22 of whom participated in the Request for Proposal (RFP) and e-auction. The process of tender evaluation involved a 3-step process of pre-tender engagement, technical (post RFP submission) and commercial (post e-auction analysis) evaluation. This process is embedded in KBL's procurement policy, and it is designed to be independent, transparent, equitable, upholding the highest levels of procurement integrity and abides by all applicable laws of Kenya.
25. The technical evaluation was focused on addressing systemic and strategic logistics concerns KBL had been facing within the value chain and to deliver transformational benefits in the form of reducing KBL's carbon footprint. The requirements included: -
 - a) Safety and risk management— onboard cameras, sure locks and mix telematics;

- b) Commitment to reducing carbon footprint, new vehicles with governance on truck ageing and management;
 - c) Control tower— delivering visibility for route planning and optimization to deliver efficiencies through traffic management;
 - d) Truck mechanization with the right design that has pallet loadable equipment across different product categories and
 - e) City logistics solutions providing adequate trailer capacity, guaranteeing product integrity and security in transit.
26. After a rigorous procurement process, the tender was awarded to four Kenyan registered companies namely Ponty Pridd, DHL, Agility and Acceler. The process was conducted in a fair and transparent manner in accordance with KBL's procurement policy and applicable laws in Kenya.
27. The MD stated that the participating logistics companies are all locally registered, employing in excess of 21,000 Kenyan people and operating with the laws in Kenya. KBL contracting processes are in compliance with all applicable laws in Kenya including the Competition Act 2010.

1.3 SUBMISSIONS BY BRITISH AMERICAN TOBACCO (BAT)

The managing director BAT appeared before the committee and submitted as follows:

28. That BAT Kenya has a rich local heritage with a history spanning over 117 years in Kenya. The company is public, having been listed on the Nairobi Securities Exchange since 1969, and has approximately 5,700 shareholders, of which 5,500 are local.
29. The company's value chain covers business partnerships with over 80,000 Kenyans, including tobacco farmers, traders and suppliers. This generates direct and indirect employment opportunities for more than 1,800 Kenyans with the Kenya operation having more than 400 employees. Additionally, the company runs a robust twelve-month internship program, currently with a cohort of 57 interns.
30. The MD informed the committee that the company contributes Kshs.93.2 billion to the country's GDP annually, BAT Kenya generates revenues for the government in terms of domestic taxes and foreign exchange. In 2023, BAT paid Ksh19.4 billion in domestic taxes

and generated forex of over USD 100 million. Additionally, BAT Kenya paid an annual solatium compensatory contribution required under the Tobacco Control Act, 2007 being 2% of the annual value of tobacco manufactured or imported annually. From the effective date of this levy in 2019, BAT Kenya has paid Ksh481 million.

31. In response to the allegations made against multinationals, the MD stated as follows;

- i. The MNCs engage in exclusive contracts with fellow MNCs in transport and logistics sector: BAT Kenya submitted that it does not engage in exclusive contracts for transport services with other multinationals as alleged or at all. The list of suppliers provided herein is confirmation that the Company transacts equitably with both local and global suppliers for provision of logistics and transport services while appreciating the capabilities of each group of suppliers.
- ii. The MNCs subject local transporters to Anti-Competitive pricing: BAT Kenya does not subject its local suppliers to anti-competitive pricing as alleged or at all. On the contrary, the Company considers pricing based on what has been offered by the suppliers during the tender process and further negotiations with successful bidders after conclusion of the tender process. Further, it is worth noting that special considerations are also set out in BAT Kenya's contracts with its transport and logistics suppliers giving the parties an opportunity to review and vary the pricing depending on market conditions and changes in the services during the period of the contract e.g. changes triggered by changes in legislation or movements in local fuel prices.
- iii. The MNCs engage in predatory pricing aimed at driving them out of business:
As regards to the allegations that BAT Kenya is engaging in predatory pricing with the aim of driving local transporters out of business, the same is not correct. Predatory pricing by definition is the practice of setting prices for a product/service unrealistically low in order to eliminate the competition. Logistics suppliers are not the Company's competitors neither is the Company a player in the transport and logistics sector. Further, BAT Kenya has mitigated the risk of any supplier employing predatory pricing by putting in place a tendering process through which the Company receives price proposals from its suppliers and not vice versa. These proposals are scrutinized and validated to ensure compliance with the law, alignment with good industry standards

and ensure supplier sustainability. BAT Kenya does not dictate the prices for its suppliers. Further it is in the interest of the Company to have a wide pool of suppliers to encourage good quality goods/service delivery and competitive pricing

- iv. The MNCs contracts with fellow MNCs in the transport sector lack transparency: BAT Kenya has undertaken competitive bidding to ensure that it secures quality services and competitive pricing. The bidding processes and procedures are communicated to all relevant suppliers with clear timelines for submission of proposals. The entire bidding process is undertaken through an online platform to which all bidders have visibility of the bids and access to information. The bidding documents and processes are communicated to the proposed bidders in advance through the RFP which contains terms and conditions that would eventually form contractual terms with the successful bidders subject to further negotiations. The outcome of the bidding process is always communicated to the suppliers formally which is a clear indication of transparency in the sourcing process.

32. In concluding, BAT Kenya submitted that it is transparent in its engagements with its suppliers and has been fair in its treatment of the suppliers in recognition of upholding their values of conducting business in a responsible and sustainable manner. BAT Kenya has enabled its suppliers to engage in business in a constructive and professional manner including giving feedback during the regular review meetings with suppliers. No formal or informal complain has been raised by Kenya transporters of association (KTA) to BAT over the matters mentioned.

I.4 SUBMISSIONS BY UNILEVER KENYA LIMITED

The managing director Unilever Kenya submitted that;

33. They have a total of 15 logistics suppliers in Kenya, 3 suppliers in warehousing and 12 suppliers in transport. 3 are locally incorporated entities that are subsidiaries of global companies (all incorporated in Kenya) and 12 local entities that have no global parent company structure.
34. The 3 locally incorporated entities in warehousing are; E.A.S storage co Ltd, Conventional cargo Conveyors and AGL Kenya Ltd while the 12 suppliers in transport are; Conventional cargo conveyors, Agility logistics ltd, Swan carriers ltd, Simba trucking ltd, Amitruck ltd, Sندی ltd, Ponty Pridd, Expediters ltd, offshore global logistics ltd, Edgescope ltd, Dodoma transport agency ltd, DHL supply chain Kenya ltd and Mearsk.
35. In warehousing, out of the 3 suppliers, 2 are local entities (E.A.S storage ltd and Conventional cargo conveyors) that have no global parent company structure, while 1 is a local entity (AGL Kenya ltd) that is a subsidiary of a global company creating over 400 direct jobs for Kenyans.
36. In transport, Clearing and Forwarding, out of 13 suppliers, 11 are local entities that have no global parent company structure and 2 are local entities that are subsidiaries of a Global Company.
37. The MD informed the committee that as a standard operating procedure, prior to any onboarding of their logistics suppliers, they undertake a thorough RFQ (Request for Quotes) process, in which they seek tenders for services and supplies with clear standard terms and conditions. Upon closure of the tender period, they shortlist those suppliers that meet the criteria of the RFQ, schedule interviews/negotiations to agree on specific parameters of the nature of services or products that they are seeking provision or supply for, payment terms and other elements touching on the specific engagements.
38. Safety, Health, Environment and Security is priority for operations because they endeavor to run safe operations and value life and safety of all stakeholders in the Supply Chain. As such, failure to meet the prerequisite mandatory standards related to Safety automatically disqualifies the potential bidder from proceeding to the next step, however, as a mitigating

factor, they work with the Suppliers to develop their readiness on the areas that fall short for future qualifications.

39. In terms of pricing the MD stated that; they use competitive bidding to determine prices for their logistics services. As part of the contract pricing review mechanism, there is an agreed model to review price based on macro factors e.g. fuel, forex fluctuations and any other macro or micro economic parameter that impacts cost of product or service. Further, in the event of unusual disruptions in the macro environment that has material impact to the suppliers or Unilever, they are open negotiations to allow for adjustments that ensure sustainable business to either of the parties.
40. The MD confirmed to the committee that there were no any formal or informal engagements with KTA.

I.5 SUBMISSIONS BY NESTLÉ KENYA LIMITED

The managing director Nestlé Kenya Limited appeared before the committee and submitted as follows:

41. That Nestlé is a company that prioritizes compliance with laws and regulations in the markets where they operate. Nestlé Nairobi Factory has been a significant player in the region's manufacturing industry since its establishment in 1965. Our well-known brands in Kenya, such as MILO, NESCAFE, and MAGGI seasoning cubes, have become household names.
42. While providing clarity on their selection criteria for transporters with whom they engage in business, the MD stated that the company choose its transporters through a tendering system, inviting qualified and interested bidders to bid based on the following criteria:
- i. Capacity and capability to effectively meet the company's transportation requirements.
 - ii. Possession of the appropriate type and quality of vehicles for sensitive food products.
 - iii. Ability to track and control operations.
 - iv. Compliance with certifications for vehicles and drivers.
 - v. Cost competitiveness.

43. Based on these criteria, the company is currently working with local players who provide distribution services in Kenya. These players include Ponty Pridd Holdings and Edge Scope Limited, both of which are fully locally owned small-scale transporter service providers.
44. They were not able to address any specific concerns raised by Kenya Transporters Association (KTA) because no specific issues have been raised directly to Nestlé by KTA. They have also confirmed to the committee that there were no any formal or informal engagements with KTA.

1.6 SUBMISSIONS BY THE COMPETITION AUTHORITY OF KENYA (CAK)

The Authority submitted that;

45. It has addressed anti-competitive practices such as abuse of dominance and restrictive agreements in various sectors in enforcing the Act, thus fostering a competitive landscape that benefits consumers and promotes innovation. Additionally, the Authority's oversight of mergers and acquisitions has been instrumental in balancing the interests of market players while also safeguarding public interest.
46. It is the intent of government to enhance support to local investors in the transport and logistics sector to gain the required capacity for increased productivity. Improved productivity of quality products will in turn improve the competitiveness of the country as well as create employment opportunities for Kenyans, revenue for the state, poverty reduction, promote value addition, stimulate production and product diversification and encourage growth of local industries.
47. The Authority has on various occasions intervened in this sector to protect and enhance competition in this sector. In 2019 the Authority received complaint from Gateway Marine Services (GMS) Ltd (GMS) against Maersk Kenya Ltd (Maersk) on alleged abuse of dominance by Maersk in the Reefer Cargo Market. Specifically, it was alleged that Maersk imposed rates at which GMS charged its clients and also imposed a condition that all Controlled Atmosphere (CA) containers should use generators from Maersk. Further, it was alleged that Damco Kenya (Damco) was allocated to handle bookings while GMS' service was limited to transportation only, this allegedly resulted in unfair competition between the GMS and Damco.

48. The Authority noted that the issues raised by KTA may be interrogated within the provisions of the Competition Act. In this regard, the Authority, if required, may initiate an investigation into the alleged conduct with an aim of providing evidence-based information for taking appropriate remedial measures and ensuring there is a fair play in the transport and logistics sector. For purposes of the inquiry, the Authority considered two markets that is:

- a) The provision of Trucking and Cargo Haulage services and;
- b) The provision of Shipping and Logistics services.

On whether 60% of transport and logistics work should be reserved for local transport companies; The Authority noted that;

49. KTA proposed a quota system where at least 60% of the transport and logistics work is reserved for local transport companies.
50. In view of this request, the Authority notes that section 21(1) of the Act prohibits agreements between undertakings, decisions by associations of undertakings, decisions by undertakings or concerted practices by undertakings that have as their object or effect the prevention, distortion or lessening of competition in trade in any goods or services in Kenya, or a part of Kenya, unless they are exempt in accordance with the provisions of section D of Part III of the Act.
51. Specifically, section 21 (3) (b) and 21 (3) (i) prohibits arrangements which divide markets by allocating customers, suppliers, areas or specific types of goods or services and otherwise prevent, distort or restrict competition.
52. It is the Authority's position therefore that KTA's prayer to reserve 60% of transport services for local (Kenyan-owned) firms undermines the object of the Act and if granted will contravene the provisions section 21 of the Act.

On whether MNCs secure exclusive agreements with key suppliers or distributors, shutting out small local companies from essential resources and markets?

53. The Authority noted that, in their Petition, KTA alleged that MNCs engage in exclusive agreements with key suppliers or distributors, shutting out small local companies from essential resources and markets. In support of this allegation, KTA through their letter

dated 8th August 2025, submitted a joint witness statement signed by various members of the Association.

54. In the joint statement, the KTA members indicated that the MNCs lock out local players by sourcing the services out of the country, where MNCs operating in Kenya and other developing countries automatically opt for other foreign companies to offer them services, totally discriminating locals. The members further submitted that there is also presence of incentives paid abroad for award of contracts for local business.
55. KTA members further submitted that in 2025, KBL logistics and warehouse contracts were awarded in London. The whole contracting was handled in a very opaque way which was designed to lock out local transport and logistics firms out of KBL. In KBL over 70% of all transport work and 100% of warehouse work is controlled by MNCs. This saw KBL through Diageo London getting "savings in advance" paid in London by DHL and Bollore for over 4 million pounds by each company.
56. From the foregoing, KTA's allegations centre on exclusive arrangements by the MNCs. Exclusive agreements occur in a vertical relationship where a buyer is obligated to purchase goods or services only from a specific seller for a set period. Such agreements are common between suppliers and distributors or manufacturers and retailers.
57. Under the Act, both horizontal (between competitors) and vertical (between different supply chain levels) agreements may be prohibited if they distort or restrict competition. Section 21(3) of the Act outlines examples of potentially anticompetitive agreements, including exclusive distribution arrangements.

On whether MNCs have been engaging in discriminatory practices leading to market foreclosure

58. The Authority submitted that in their Petition, KTA alleged MNCs are engaging in discriminatory practices by favouring large customers with discounts and preferential treatment while putting smaller competitors at a disadvantage.
59. Section 24 (2) (c) of the Act prohibits applying dissimilar conditions to equivalent transactions with other trading parties. This form of abuse by a dominant undertaking involves an assessment of whether as between equivalent transactions, there is discrimination between trading undertakings in the supply of goods or services. This form of

abuse involves any discount, allowance, rebate or credit given or allowed in relation to the supply of goods or services. The conduct may apply to a vertically integrated undertaking as well as a non-vertically integrated one.

60. From the contracts submitted by the MNCs, it has been observed that the contracts entered with both local and international companies comprised similar contractual terms and that from the list of trucking companies contracted by the MNCs majority were local companies. As such there was no evidence found to establish that the MNCs were discriminating the local transporters leading to market foreclosure.
61. Based on the evidence gathered, the Authority did not find the existence of the alleged discriminatory practices by the MNCs that could lead to market foreclosure contrary to section 24(2)(c) of the Act.

On whether MNCs have been engaging in predatory pricing

62. CAK noted that in their Petition, KTA alleged that MNCs resort to predatory pricing temporarily lowering prices to drive out competitors and then raising them once they have achieved a monopoly.
63. Predatory pricing is an anti-competitive strategy where a dominant company deliberately sets its prices below cost with the intent to eliminate competitors or deter new entrants. Once competitors are driven out and the firm secures or strengthens its dominant position, it may then raise prices to recoup losses—often to the detriment of competition and consumers' welfare. In analysing predatory practices and specifically in this investigation on vertical integration, dominance or market power must be established on the part of the MNCs pursuant to section 23 of the Act.
64. The relevant market for KTA's complaint is trucking and cargo haulage services, the MNCs operate in the manufacture of products such as alcoholic beverages, tobacco, fast-moving consumer goods, and cement. As such, issues of dominance or market power do not arise in this case, and KTA's allegations of predatory pricing are not applicable.

On whether MNCs have been engaging in anticompetitive agreements specifically price fixing.

65. CAK notes that in the Petition, KTA alleged that MNCs engage in collusive agreements with competitors or suppliers such as price fixing or market allocation schemes to maintain their dominance.
66. The Act requires that each company establish prices and other competitive terms on its own, without agreeing with a competitor. When purchasers make choices about what products and services to buy, they expect that the price has been determined on the basis of supply and demand, not by an agreement among competitors. When competitors agree to restrict competition, the result is often higher prices.
67. Similarly, although the relevant market in KTA's complaint is trucking and cargo haulage services, the MNCs operate in the manufacture of products such as alcoholic beverages, tobacco, fast-moving consumer goods, and cement. Therefore, determining dominance or market power in this context is not viable, and the allegations of price fixing raised by KTA do not arise.

1.6 SUBMISSIONS BY COCA-COLA COMPANY (TCCC)

The Managing Director Coca-Cola Company (TCCC) submitted that;

68. In Africa, Coca-Cola Beverages Africa (CCBA) is the largest bottler, accounting for about 40% of all Coca-Cola beverage volumes on the continent. In Kenya, Coca-Cola Beverages Kenya (CCBK) serves as the anchor bottler, operating six production sites located in Embakasi, Embakasi-Umoja, Nyeri, Eldoret, Kisumu, and Molo.
69. They have significantly contributed to the country's economic development by fostering robust supply chains in wholesale, retail, and agriculture. The Coca-Cola System generates both direct and indirect employment, with over 4,000 jobs in Kenya.
70. In project Investment, they have driven economic growth and created opportunities across the value chain through investments totaling nearly 19 billion Kenyan Shillings over the past seven years. These investments include establishing an ultramodern juice plant, a new production line, a wastewater treatment facility, and expanded logistics capacity.

71. On Business Sustainability, CCBK actively supports Kenya's socio-economic vision by championing women empowerment and entrepreneurship. Since 2010, over 700,000 women in the supply chain have benefited from its initiatives, while the "Nawiri" program has helped nearly 80,000 MSMEs and retailers grow their businesses.
72. On Environmental Sustainability, they have advanced recycling and economic inclusion programs, directly impacting over 10,615 women, youth, and people with disabilities since 2022. The company also plans to expand its role in water conservation, sports, culture, and youth empowerment initiatives.
73. The MD stated that on Logistics Management, the Coca-Cola System's nationwide distribution model ensures efficient product delivery through over 190,000 outlets across Kenya. CCBK manages a private fleet of nearly 280 vehicles, sourced locally from companies such as Isuzu East Africa, CFAO Kenya, Scania East Africa, and Simba Colt Motors, thereby supporting Kenya's automotive industry.
74. When it comes to Logistics Procurement Process, CCBK emphasizes local sourcing for transport and logistics services to support both inbound raw materials and outbound finished products. Its procurement and tender evaluation processes are grounded in transparency, independence, and integrity, in line with CCBA's procurement policy and Kenyan law.
75. The following defines the high-level procurement process:
- i. Establish a Data-Driven Baseline: Build a factual foundation for the sourcing event using real, accurate data.
 - ii. Define Business Requirements: Identify clear objectives for the sourcing event, focusing on practical and achievable outcomes.
 - iii. Evaluate the Supply Base: Assess current and potential suppliers, considering technological advancements and new opportunities.
 - iv. Negotiate with Selected Suppliers: Engage in balanced and transparent negotiations, comparing outcomes to ensure fairness.
 - v. Report and Secure Approvals: Present findings and results to stakeholders for review and approval of the proposed path forward.

- vi. Ongoing Supplier and Category Management: Continuously manage supplier relationships and material categories to maximize value in alignment with targeted objectives

76. Supplier Guiding Principles:

- i. Commitment to human rights: We believe that shared values should form the foundation of our relationships with suppliers. We expect our direct suppliers to uphold these guiding principles and ensure respect for all human rights.
- ii. Compliance with laws and regulations: Suppliers must adhere to all applicable local and national laws, rules, regulations, and requirements in the manufacturing and distribution of products and services.
- iii. Safety and risk management: Suppliers are required to comply with safety standards, including the use of In-Vehicle Monitoring Systems (IVMS) and ensuring the roadworthiness of their vehicles.
- iv. Environmental responsibility: Suppliers must demonstrate a commitment to reducing environmental impact by utilizing newer vehicles and adhering to governance practices related to vehicle aging and management.

77. The agency submitted that Coca-Cola Beverages Kenya (CCBK) embraces a strong local approach by hiring, producing, distributing, and sourcing within Kenya, thereby strengthening the value chain and creating both direct and indirect employment opportunities. The company is committed to competitive and compliant local sourcing of logistics services while upholding integrity, legal compliance, and adherence to its code of conduct. Beyond business operations, CCBK prioritizes community well-being, ensuring its practices reflect responsible corporate citizenship and contribute positively to the societies in which it operates.

I.7 SUBMISSIONS BY GLAXOSMITHKLINE LIMITED (GSK)

The Managing Director submitted that;

78. On Transport Service Providers, the company as a low volume transporter of its products compared to other players in the transport sector. They engage a third-party logistics service provider which independently and competitively selects the transport providers who ultimately deliver our products to distributors within Kenya.
79. Their products are transported by road to the distributors by use of specialized and dedicated temperature-controlled road vehicles in compliance with the Guidelines and Regulations. The transporters of pharmaceutical products must also be licensed by the PPB to engage in such business.
80. The MD stated that their domestic distribution model leverages local transporters, with specialized trucks. This model ensures timely deliveries within the country but also supports local transporters are independently selected by the third-party logistics service provider. The third-party providers are:
- i. Jonathan Transporters;
 - ii. Fargo Courier Limited; and
 - iii. Jihan Transporters.
81. On Security Service Providers, the providers engaged by the company are evaluated on the grounds of fair market value, capacity for service delivery, credit terms, security and safety policies for their staff and conflicts of interest.
82. The company is guided by the provisions of the Private Security Regulation Act, Cap 207 of the Laws of Kenya in its selection of security service providers. To this end, the security service providers engaged by the company must be compliant with statutory requirements such as being licensed by the Private Security Regulation Act.
83. Currently, the company has engaged the following locally registered entities for the provision of various security services:
- a) G4S Kenya Limited;
 - b) Instarect Limited;
 - c) Advanta Africa Limited;
 - d) Chrome Partners Limited;
 - e) Penta Converters Limited; and

f) Magre Safekey Limited.

PART FOUR

4.1 COMMITTEE OBSERVATIONS

Based on the terms of reference, the Committee observed as follows-

(a) whether unfair treatment of local transporters by multinational companies has created an unfair business environment;

84. With respect to allegations of discriminatory practices leading to market foreclosure, The KTA submitted that the local investors in the sector of transport, logistics and Warehousing are not getting a fair treatment especially when dealing with large multinationals, who opt to ignore the local capacity and deal with fellow multinationals. This was affecting its members, and sought the committee indulgence to create a fair playing ground that would allow local participation based on experience, expertise and that local ownership.
85. Further the association submitted that, Multinational companies secure exclusive agreements with key suppliers or distributors, shutting out smaller local companies from essential resources and markets. They alleged that Multinational companies favor large customers with discounts and preferential treatment, while putting smaller competitors at a disadvantage.
86. In response to these allegations the multinational companies submitted that, they undertaken competitive bidding to ensure that they secure quality services and competitive pricing. The bidding processes and procedures are communicated to all relevant suppliers with clear timelines for submission of proposals. The entire bidding process is undertaken though an online platform to which all bidders have visibility of the bids and access to information. The bidding documents and processes are communicated to the proposed bidders in advance through the RFP which contains terms and conditions that would eventually form contractual terms with the successful bidders subject to further negotiations. The outcome of the bidding process is always communicated to the suppliers formally which is a clear indication of transparency in the sourcing process.

87. The multinational companies further submitted that they do not engage in exclusive contracts for transport services with other multinationals as alleged or at all. They transact equitably with both local and global suppliers for provision of logistics and transport services while appreciating the capabilities of each group of suppliers.
88. They also submitted that they are transparent in their engagements with their suppliers and have been fair in their treatment of the suppliers in recognition of upholding their values of conducting business in a responsible and sustainable manner. They stated that they have enabled their suppliers to engage in business in a constructive and professional manner including giving feedback during the regular review meetings with suppliers.
89. The CAK advised that Section 24 (2) (c) of the Act prohibits applying dissimilar conditions to equivalent transactions with other trading parties. This form of abuse by a dominant undertaking involves an assessment of whether as between equivalent transactions, there is discrimination between trading undertakings in the supply of goods or services. This form of abuse involves any discount, allowance, rebate or credit given or allowed in relation to the supply of goods or services. The conduct may apply to a vertically integrated undertaking as well as a non-vertically integrated one.
90. From the contracts submitted by the MNCs, CAK had observed that the contracts entered with both local and international companies comprised similar contractual terms and that from the list of trucking companies contracted by the MNCs majority were local companies. As such there was no evidence found to establish that the MNCs were discriminating the local transporters leading to market foreclosure contrary to section 24(2)(c) of the Act.

(b) To assess the level of compliance with local content requirement in the warehousing, transport and related sectors by multinationals companies;

91. The Kenya Transporters Association submitted that there is limited Local Participation as Multinational companies often outsource logistics and warehousing services abroad, using contracts applicable across their operations. This bypasses local companies and hinders their ability to compete.

92. They also informed the committee that there is Disparity in Investment; Local entrepreneurs own the majority (90%) of trucks in Kenya, while multinational companies contribute only 10%. However, multinational companies secure over 70% of logistics contracts, leaving local investors with limited opportunities and unfair conditions.
93. The association advocated for a quota system, where at least 60% of transport and logistics work is reserved for local Kenyan enterprises. Kenya has sufficient local capacity to justify this proposal.
94. In responding to allegations, the multinational companies stated that; majority of suppliers contracted are locals and they have ensured that they continue to have a positive social impact in terms of job creation and improving livelihoods as well as improving the local economy through tax contribution across the value chain.
95. The Competition Authority of Kenya was of the view that reservation of 60% of transport services for local firms undermines the object of the Act and if granted will contravene the provisions of section 21 of the Competition act.

(c) On whether transfer pricing by multinational companies has created an unfair business environment in the provision of transportation and logistics services;

96. The association of local transporters submitted that, in some cases, the multinational companies resort to transfer pricing or even predatory pricing, temporarily lowering prices to drive out competitors and then raising them once they have achieved a monopoly.
97. As regards to this allegation that multinational companies engaging in predatory pricing with the aim of driving local transporters out of business, they stated that the information is not true.
98. The multinational companies stated that they mitigated the risk of any supplier employing predatory pricing by putting in place a tendering process through which they receive price proposals from their suppliers and not vice versa. These proposals are scrutinized and validated to ensure compliance with the law, alignment with good industry standards and ensure supplier sustainability. They also don't dictate the prices for their suppliers. Further it is in their interest to have a wide pool of suppliers to encourage good quality goods/service delivery and competitive pricing.

99. The Competition Act requires that each company establish prices and other competitive terms on its own, without agreeing with a competitor. When purchasers make choices about what products and services to buy, they expect that the price has been determined on the basis of supply and demand, not by an agreement among competitors. When competitors agree to restrict competition, the result is often higher prices.
100. CAK noted that Predatory pricing is an anti-competitive strategy where a dominant company deliberately sets its prices below cost with the intent to eliminate competitors or deter new entrants. Once competitors are driven out and the firm secures or strengthens its dominant position, it may then raise prices to recoup losses often to the detriment of competition and consumers' welfare. In analysing predatory practices and specifically in this investigation on vertical integration, dominance or market power must be established on the part of the MNCs pursuant to section 23 of the Act.
101. The relevant market for KTA's complaint is trucking and cargo haulage services, the MNCs operate in the manufacture of products such as alcoholic beverages, tobacco, fast-moving consumer goods, and cement. As such, there is no common market and issues of dominance or market power do not arise in this case, and KTA's allegations of predatory pricing and price fixing are therefore not applicable.
102. All Multinational companies engaged indicated to the committee that there were no formal or informal engagements with KTA with respect to the matter at hand.

4.2 COMMITTEE FINDINGS

Based on the Committee observations and submissions received the Committee makes the following findings: -

(a) On Allegations of Unfair Treatment of Local Transporters by Multinational Companies

- i. while local transporters raised legitimate concerns about limited access to logistics contracts and perceived preferential treatment of multinational peers, the evidence provided did not substantiate claims of deliberate discrimination or exclusionary conduct by multinational corporations (MNCs);

- ii. The Competition Authority of Kenya (CAK) confirmed that, from its inquiry, the contractual terms offered to both local and foreign suppliers were substantially similar and that a majority of transport service providers contracted by MNCs were, in fact, Kenyan-owned enterprises;
- iii. Accordingly, the Committee finds no evidence of unfair discrimination or market foreclosure contrary to Section 24(2)(c) of the Competition Act, 2010, which prohibits applying dissimilar conditions to equivalent transactions.
- iv. Based on the evidence adduced, and from the report by the Competition Authority of Kenya, the Committee finds that no evidence was presented to demonstrate discriminatory conduct, abuse of dominance, transfer pricing, predatory pricing or breach of the Competition Act by the multinational companies operating within Kenya's transport, logistics, and warehousing sectors. The Committee therefore concluded that that the matter did not warrant further action against the multinational companies concerned.

(b) On Compliance with Local Content Requirements in the Warehousing, Transport, and Logistics Sectors

- i. Submissions from MNCs indicated that the majority of their contracted suppliers were local companies.
- ii. The Competition Authority of Kenya advised that a mandatory reservation of 60% of contracts to local firms in transports and logistics would contravene Section 21 of the Competition Act, as it would distort competitive market dynamics and undermine efficiency objectives.
- iii. The Committee therefore finds that enforcement of a fixed quota system would be inconsistent with prevailing competition laws and Kenya's trade liberalization commitments.

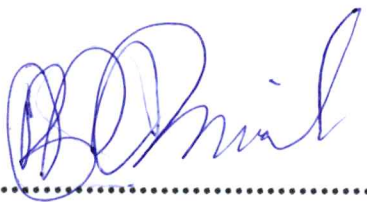
(C) On Transfer Pricing and alleged predatory pricing practices by Multinational Companies

- i. The CAK clarified that predatory pricing constitutes an abuse of dominance under Section 23 of the Competition Act only where a dominant player deliberately sets prices below cost to eliminate competitors. In this case, since the MNCs operate primarily in manufacturing (e.g., beverages, tobacco, and cement) rather than the transport services market, the question of dominance within the logistics sector did not arise.
- ii. From the evidence submitted, the Committee finds that the allegations of transfer pricing or predatory pricing were unsubstantiated as no evidence was adduced to support the indication that the MNCs dictated pricing for transport suppliers or engaged in below-cost pricing strategies designed to eliminate competition.

(d) The Committee also noted the absence of formal engagement between KTA and the MNCs on these concerns prior to presentation of the complaint to the House, underscoring the need for structured stakeholder dialogue mechanisms between local industry associations, MNCs, and relevant regulatory agencies.

4.3 COMMITTEE RECOMMENDATION

- I. The Committee recommends that the Competition Authority of Kenya (CAK) continue its market surveillance role under Sections 21 and 24 of the Competition Act, 2010, to ensure continued adherence to fair competition and non-discriminatory contracting practices across the logistics and warehousing sectors.

Signature.....  Date..... 19/11/2025

HON. BERNARD MASAKA SHINALI, MP
CHAIRPERSON, COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

THE NATIONAL ASSEMBLY PAPERS LAID

DATE: 19 NOV 2025 DAY:

TABLED BY:

CLERK-AT-THE-TABLE:



THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FOURTH SESSION

VOLUME II

ANNEXURES.

Minutes

Adoption Schedule

Submission by Kenya Breweries Limited (KBL)

Submission by British American Tobacco (BAT)

Submission by Unilever Kenya Limited

Submission by Nestle Kenya Limited

Submission by The Competition Authority of Kenya (CAK)

Submission by Coca- Cola Company (TCCC)

Submission by GlaxosmithKline Limited (GSK)

MINUTES OF THE 37th SITTING OF THE FOURTH SESSION OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES, HELD AT THE VICTORIA CONFERENCE ROOM, ARGYLE GRAND HOTEL ON SATURDAY, 4TH OCTOBER 2025, AT 3.00 p.m.

PRESENT

- | | | |
|--|---|-------------------------|
| 1. Hon. Benard Masaka Shinali, M.P | - | Chairperson |
| 2. Hon. Kitany Marianne Jebet, M.P | - | Vice-Chairperson |
| 3. Hon. Sakimba Parashina Samuel, M.P | | |
| 4. Hon. Alfred Kiprono Mutai, M.P | | |
| 5. Hon. Githinji Robert Gichimu, M.P | | |
| 6. Hon. (Dr) Oundo Wilberforce Ojiambo M.P | | |
| 7. Hon. Adhe Wario Guyo, M.P | | |
| 8. Hon. Dr. Adagala Beatrice Kahai, M.P | | |

APOLOGIES

1. Hon. Oluoch Anthony Tom, M.P
2. Hon. Maina Mwago Amos, M.P
3. Hon. Mwalyo Joshua Mbithi Mutua, M.P
4. Hon. Kamene Joyce, M.P
5. Hon. Michael Wainaina Wambugu, M.P
6. Hon. Bwire John Okano, M.P
7. Hon. Korir Adams Kipsanai, M.P

SECRETARIAT

- | | | |
|-------------------------|---|-------------------------------------|
| 1. Mr. Abenayo Wasike | - | Principal Clerk/Head of Secretariat |
| 2. Ms. Carolyne Musyoka | - | Hansard Reporter II (Clerk Asst) |
| 3. Ms. Evelyn Orina | - | Clerk Ass III |
| 4. Ms. Priscilla Saidi | - | Research Officer |
| 5. Ms. Cosmas Akhonya | - | Audio Officer III |
| 6. Ms. Lynn Masai | - | Intern |

AGENDA

1. Preliminaries/Introductions
 - i. Prayers
 - ii. Adoption of the Agenda
 - iii. Remarks by the Committee Chairperson
2. Confirmation of Minutes / Matters Arising
3. **Consideration and adoption of the Report inquiry into the alleged discrimination and unfair treatment of local investors in the transport and logistics sector by multinational companies operating in Kenya**
4. Any other Business/Adjournment/Date of the next meeting

MIN.NO NA/TIC/2025/171:

PRELIMINARIES

The Chairperson called the meeting to order at 03.25 pm. A word of prayer was said, followed by self-introductions by the Committee Members and the Secretariat. The Chairperson briefed the Members of the Agenda which was adopted, having been proposed by the Hon. (Dr) Oundo Wilberforce Ojiambo M.P and seconded by the Hon. Adhe Wario Guyo, M.P

MIN.NO NA/TIC/2025/172:

CONFIRMATION OF MINUTES

The agenda was deferred.

MIN.NO NA/TIC/2025/173:

**CONSIDERATION AND ADOPTION OF
THE REPORT ON INQUIRY**

Based on the findings from the inquiry, Committee made the following observations;

(a) On Allegations of Unfair Treatment of Local Transporters by Multinational Companies

- (i) while local transporters raised legitimate concerns about limited access to logistics contracts and perceived preferential treatment of multinational peers, the evidence provided did not substantiate claims of deliberate discrimination or exclusionary conduct by multinational corporations (MNCs);
- (ii) The Competition Authority of Kenya (CAK) confirmed that, from its inquiry, the contractual terms offered to both local and foreign suppliers were substantially similar and that a majority of transport service providers contracted by MNCs were, in fact, Kenyan-owned enterprises;
- (iii) Accordingly, the Committee finds no evidence of unfair discrimination or market foreclosure contrary to Section 24(2)(c) of the Competition Act, 2010, which prohibits applying dissimilar conditions to equivalent transactions.

(b) On Compliance with Local Content Requirements in the Warehousing, Transport, and Logistics Sectors

- (i) Submissions from MNCs indicated that the majority of their contracted suppliers were local companies.
- (ii) The Competition Authority of Kenya advised that a mandatory reservation of 60% of contracts to local firms in transports and logistics would contravene Section 21 of the Competition Act, as it would distort competitive market dynamics and undermine efficiency objectives.
- (iii) The Committee therefore finds that enforcement of a fixed quota system would be inconsistent with prevailing competition laws and Kenya's trade liberalization commitments.

(c) On Transfer Pricing and alleged predatory pricing practices by Multinational Companies

- (i) The CAK clarified that predatory pricing constitutes an abuse of dominance under Section 23 of the Competition Act only where a dominant player deliberately sets prices below cost to eliminate competitors. In this case, since the MNCs operate primarily in manufacturing (e.g., beverages, tobacco, and cement) rather than the transport services market, the question of dominance within the logistics sector did not arise.
- (ii) From the evidence submitted, the Committee finds that the allegations of transfer pricing or predatory pricing were unsubstantiated as no evidence was adduced to support the indication that the MNCs dictated pricing for transport suppliers or engaged in below-cost pricing strategies designed to eliminate competition.
- (iii) The Committee also noted the absence of formal engagement between KTA and the MNCs on these concerns prior to presentation of the complaint to the House, underscoring the need for structured stakeholder dialogue mechanisms between local industry associations, MNCs, and relevant regulatory agencies.

COMMITTEE RECOMMENDATIONS

- 1. Based on the evidence adduced, and from the report by the Competition Authority of Kenya, the Committee finds that no evidence was presented to demonstrate discriminatory conduct, abuse of dominance, transfer pricing, predatory pricing or breach of the Competition Act by the multinational companies operating within Kenya’s transport, logistics, and warehousing sectors. The Committee therefore concluded that that the matter did not warrant further action against the multinational companies concerned.
- 2. The Committee further recommends that the Competition Authority of Kenya (CAK) continue its market surveillance role under Sections 21 and 24 of the Competition Act, 2010, to ensure continued adherence to fair competition and non-discriminatory contracting practices across the logistics and warehousing sectors.

MIN.NO NA/TIC/2025/174: ADOPTION OF THE REPORT

The Committee adopted the report having proposed by Hon. (Dr) Oundo Wilberforce Ojiambo M.P and seconded by the Hon. Githinji Robert Gichimu, M.P.

MIN.NO NA/TIC/2025/175: ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 5:35 pm. The next meeting will be held on notice.

Signature  Date 19/11/2025

**HON. BERNARD MASAKA SHINALI, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND
COOPERATIVES**



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

Consideration and Adoption of Report on inquiry on the alleged discrimination of local transporters against MNC

ADOPTION SCHEDULE

No.	MEMBER NAME	SIGNATURE
1.	Hon. Benard Masaka Shinali, MP- Chairperson	
2.	Hon. Kitany Marianne Jebet, MP - Vice Chairperson	
3.	Hon. Dr. Oundo Wilberforce Ojiambo, MP	
4.	Hon. Adagala Beatrice Kahai, MP	
5.	Hon. Githinji Robert Gichimu, MP	
6.	Hon. Kamene Joyce, MP	
7.	Hon. Mwalyo Joshua Mbithi Mutua, MP	
8.	Hon. Oluoch Anthony Tom, MP	
9.	Hon. Guyo Adhe Wario, MP	
10.	Hon. Korir Adams Kipsanai, MP	
11.	Hon. Maina Mwago Amos, MP	
12.	Hon. Sakimba Parashina Samuel, MP	
13.	Hon. Alfred Kiprono Mutai, MP	
14.	Hon. Michael Wainaina Wambugu, MP	
15.	Hon. John Bwire, MP	



16th September 2024

The National Assembly
Office of the Clerk
Main Parliament Buildings
P.O. Box 41842-00100
NAIROBI

Your Reference

Email comms and NA/DDC/TRADE/2024/122

Advance By Email
Original by Recorded Delivery

Attention: Clerk of the National Assembly
cna@parliament.go.ke

Dear Sir,

RE: MEETING WITH THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

We refer to the above matter and your email letter dated 10th September 2024 by the clerk of the Departmental Committee on Trade, Industry and Cooperatives ("Committee"), inviting the Managing Director of Kenya Breweries Limited ("KBL") to appear before the Committee on 17th September 2024 to submit its comments to concerns raised by the Kenya Transporters Association Limited (KTA) in respect of purported unfair trading practices (the "Complaint").

Background on Kenya Breweries Limited

Kenya Breweries Limited is a local company, incorporated as a private limited liability company on 8th September 1922 and the first beer was brewed on 14th December 1922. In 1926, KBL declared the first dividend of 12.5% at the first annual general meeting, the first clear sign of the company's success and local heritage.

Procurement of local raw materials began in 1929, when the KBL board decided to start using malted barley in the production process instead of imported malt extracts, significantly improving beer appearance and flavour. When the war broke out and the demand for beer increased in the 1940s, KBL held the first national wide barley competition to encourage farmers to grow suitable barley. This became an annual event, marking the beginning of a new crop that benefited hundreds of farmers and made the company independent of overseas supplies.

In 1935, KBL acquired Tanganyika Breweries, which had been established in 1932 as a private company. In 1936, KBL and Tanganyika Breweries Limited merged leading to the change of name to East African Breweries Limited (EABL). EABL would later acquire financial holding in Uganda Breweries in 1959. In 1962,

Kenya Breweries Limited
A subsidiary of East African Breweries plc
Garden City Business Park, Block A, 5th Floor
Peponi Road, Off Ngumba Road,

P.O. Box 30161 - 00100, Nairobi, Kenya
T: + 254 20 864 4000/856 3701
E: kenyabreweries@eabl.com
www.eabl.com





a merger was completed with Allsopps (East Africa) Ltd as EABL becomes a holding company and KBL is currently the major trading company in the group, with controlling trading assets and liabilities for units in Nairobi and Kisumu. In the 1980, KBL established two plants in Kenya, one in Kisumu for manufacture of beer and CGI which was producing glass bottles and was later sold to a South African firm.

Construction of the Maltings plant in Industrial area, Nairobi commenced in 1953 and the plant was completed the following year. The plant currently collects and processes barley and sorghum from across Kenya, malts barley for supply not just for KBL but for supply across East Africa.

KBL invested in its first vehicle transportation system in 1958. The fleet was very organized, rising to become one of the best in East Africa until 1997, when we began outsourcing logistics services. This was prompted by a change in KBL business strategy and a need to focus on core activities, improving service & cost efficiencies.

In 1970, President Jomo Kenyatta lay the foundation stone of the company's headquarters at Ruaraka and launched a multi-million-shilling five-year expansion programme. By then, KBL had invested in modernizing and expanding production capacity of the Tusker plant by over 110,000 cases per month. In 1973, KBL celebrated 50 years Golden Jubilee with the opening of the new headquarters by His Excellency, Daniel Arap Moi – the then Vice President of Kenya.

Since the 1970s, KBL has been supporting the growth of sports in the country, with TUSKER FC having won the Madaraka Cup, Guinness Cup and Nairobi Football League Cup two years in a row by 1972. Tusker FC continues to be success story for KBL to date, a proud legacy of budding youth talent in sports.

In 2000, Diageo (formerly Guinness) acquired majority control of EABL. In 2005, EABL Foundation was launched aimed at enriching the lives of marginalised people in East Africa. It has supported millions of vulnerable communities get clean water, acquire employable skills through vocational training and providing social amenities that have improved public health of beneficiary communities.

All our plants are ISO certified for quality management systems, environmental management, occupational health and safety management and food safety management system.

KBL is currently the second top taxpayer in Kenya with a total tax contribution averaging KES 80 billion annually. Out of KES 2 trillion in tax revenue that KRA collects on average per year, KES 820billion comes from large taxpayers and KBL contributes 10% of the large taxpayers' tax revenue contribution in Kenya.

Based on an oxford economic survey published in August 2023, KBL contributes £417mn (KES 70billion)¹ in direct (i.e. direct operations) and indirect (i.e. indirect impact in the form of payment to suppliers who employ staff, generate GDP and pay taxes) economic impact through its business activities in Kenya. For every shilling generated through KBL's business activities, there is a KES 2 multiplier impact in gross value added to the economy, translating to KES 140billion (i.e. 1.4% contribution to GDP) in induced economic impact.

¹ £1=KES 169.34



The economic value is generated through employment of a skilled and semi-skilled workforce derived in Kenya. In terms of employment, KBL's direct value chain activities provide employment to 45,000 farmers, 180,000 retail trade employees operating in the over 45,000 outlets countrywide, 21,000² grain and finished goods transport services employees, 120 local distributors directly employing 2400 people.

KBL has invested KES 6bn in a biomass plant, which was commissioned in 2022. The biomass steam plant has contributed to the reduction of EABL's carbon emissions by an impressive 40,000 tons per annum, thus promoting its cleaner energy alternatives, reducing KBL's carbon footprint by 95% annually and reducing the high costs associated with energy consumption. This investment has created value chain linkages to local farmers of macadamia, rice, sugarcane bagasse, traders who own sawmills within a 150km radius to the factories in Nairobi and Kisumu, from whom we buy the agricultural waste from, which is used as biomass fuel, transported by Kenyan logistics companies.

Having operated a 100% returnable beer glass bottle business for over 100 years, KBL has now partnered with local distributors who have invested additional capacity to support KBL's ambition to have 100% returnable glass within its value chain. Currently, over 17 million spirit bottles have been collected in the past year. This underscoring KBL's dedication to reducing its carbon footprint and supporting the circular economy in Kenya.

Logistics Management

KBL has over 200 brands that are manufactured and distributed across Kenya and for sale in other East African Community (EAC) countries.

KBL is a full supply chain business, sourcing 80% of its raw materials locally and selling 95% of its finished goods locally. Imports comprise of items that are not adequately available in Kenya or the EAC region. 95% of KBL's imported goods are processed through the Inland Container Depot in Embakasi (ICDE), accounting for almost 2% of Kenya Ports Authority (KPA) activities in terms of volume of containers processed at ICDE. This makes KBL one of the biggest users of the rail and port services in Kenya. Last mile transportation to the warehouses together with the warehousing services are all contracted to Kenyan registered companies that are providing jobs to the Kenyan people.

KBL is certified as an Authorised Economic Operator (AEO) by Kenya Revenue Authority (KRA) Customs and Border Control Department. KBL was awarded AEO status in 2010 for demonstrating consistent excellence in securing our supply chain. This programme accords KBL preferential clearance procedures which decrease our logistics cost, which also requires our logistics service providers to operate with the highest professional integrity³.

² Daily number of trucks multiplied by number of employees per truck including loaders.

³<https://kra.go.ke/images/publications/List-of-AEOS-2024010224.pdf>



Logistics Procurement process

In a recent transport tender issued by KBL, an e-auction was conducted with 25 potential Kenyan registered companies were invited to participate, 22 of whom participated in the Request for Proposal (RFP) and e-auction. The RFP scope included a primary transport component (i.e. finished goods transfer, Ethanol, CO₂, Grain and Trade assets) and a secondary distribution component⁴. The process of tender evaluation involved a 3-step process of pre-tender engagement, technical (post RFP submission) and commercial (post e-auction analysis) evaluation. This process is embedded in KBL's procurement policy, and it is designed to be independent, transparent, equitable, upholds the highest levels of procurement integrity and is within all applicable laws of Kenya.

The technical evaluation was focused on addressing systemic and strategic logistics concerns KBL had been facing within the value chain and to deliver transformational benefits in the form of reducing KBL's carbon footprint. In summary, the requirements included: -

- a) Safety and risk management - onboard cameras, sure locks and mix telematics;
- b) Commitment to reducing carbon footprint, new vehicles with governance on truck ageing and management;
- c) Control tower - delivering visibility for route planning and optimization to deliver efficiencies through traffic management;
- d) Truck mechanization with right design that has pallet loadable equipment across different product categories and
- e) City logistics solutions providing adequate trailer capacity, guaranteeing product integrity and security in transit.

Commercial evaluations focused on the competitiveness of the bids based on the technical proposal commitments, suppliers' cost model and commitment to work within proposed contract terms. It also considered prospective suppliers' proposals/opportunities to address current business concerns/gaps. After a rigorous procurement process, the tender was awarded to four Kenyan registered companies namely Ponty Pridd, DHL, Agility and Acceler.

The above process was conducted in a fair and transparent manner in accordance with KBL's procurement policy and applicable laws in Kenya.

Summary

As highlighted above, we have engaged locally registered logistics companies, who employ Kenyans to manage KBL's warehousing and logistics activities. KBL procurement process is designed and implemented to provide a fair and transparent opportunity for all companies to participate in the public tender process.

⁴ Secondary component arises since we deliver finished goods to distributors as opposed to product self-collection model under ex-works incoterms (excluding exports)



Our contracting processes are in compliance with all applicable laws in Kenya including the Competition Act 2010.

We are currently not able to address any specific concerns raised by member of the Kenya Transporters Association (KTA) because no specific issues have been raised directly with us by KTA or its directors. We confirm to the committee that we do not have any formal or informal engagements with KTA.

Yours faithfully,

For: Kenya Breweries Limited

Mark Ocitti
Managing director





Head Office
8 Likoni Road, Industrial Area
P.O. Box 30000-00100
Nairobi, Kenya

Tel: +254 (0) 711 062000
Email: info_ke@bat.com
Website: www.batkenya.com

3rd June 2024

The Clerk of the National Assembly

Main Parliament Buildings
P. O Box 41842 – 00100,
Nairobi.

Email: cna@parliament.go.ke

'Advance delivery via Email'

Attention: Jeremiah Ndombi, MBS

Dear Sir,

**MEETING WITH THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON
TRADE, INDUSTRY AND COOPERATIVES**

We refer to your letters dated 24th April 2024 and 24th May 2024 in which allegations of unfair and discriminatory treatment towards local transporters were made against British American Tobacco Kenya plc ("BAT Kenya" or the "Company").

In our letter dated 29th April 2024, we made a request for more information relating to the specific allegations made against BAT Kenya, which we are yet to receive. Be that as it may, we wish to make the following submissions in response to your letters:

A. BACKGROUND

BAT Kenya has a rich local heritage with a history spanning over 117 years in Kenya. The company is public, having been listed on the Nairobi Securities Exchange since 1969, and has approximately 5,700 shareholders, of which 5,500 are local.

From its Nairobi Office based at Likoni Road – Industrial Area, BAT Kenya oversees operations in over 20 countries in East & Southern Africa, with its manufacturing facility in Nairobi being a regional hub for the BAT Group – exporting more than 60% of total production. The Nairobi facility is home to BAT Kenya's cigarette making factory while the Thika facility is a tobacco leaf processing plant. The company's value chain covers business partnerships with over 80,000 Kenyans, including tobacco farmers, traders and suppliers. This generates direct and indirect employment opportunities for more than 1,800 Kenyans with the Kenya operation having more than 400 employees. Additionally, we run a robust 12-month internship program, currently with a cohort of 57 interns.

With its operations contributing Kshs. 93.2 billion to the country's GDP annually, BAT Kenya continues to generate revenues for the government in terms of domestic taxes and foreign exchange. In 2023, BAT paid Kshs. 19.4 billion in domestic taxes and generated forex of over USD 100 million. Additionally, BAT Kenya pays an annual solatium compensatory contribution required under the Tobacco Control Act, 2007

being 2% of the annual value of tobacco manufactured or imported annually. From the effective date of this levy in 2019, BAT Kenya has paid Kshs. 481 million.

As part of its Environmental, Social and Governance agenda BAT Kenya runs a robust afforestation program in collaboration with local communities and its farmer suppliers in the Western and Nyanza region. Under this program, more than 54 million trees have been planted since 1978. The Company has an annual target of planting 2 million trees and has committed 23 million trees to the National Greening Kenya Campaign.

BAT Kenya champions sustainability in its operations and has an agenda geared towards creating shared value for its stakeholders by driving sustainable business and building resilient supply chains.

B. BAT SUPPLIER MANAGEMENT

BAT Kenya works with a vast network of suppliers and recognizes the critical role these suppliers play in the overall success of the Company. The Company partners with these suppliers and endeavors to create mutually beneficial and sustainable relationships for the future. These relationships are managed through appropriate contracts with attendant service level agreements. The contracts set out the terms and conditions of each supplier's engagement, expectations, conflict resolution and escalation of concerns.

A key ingredient for these supplier relationships is having a set of established principles contained in policies and procedures that are applicable to BAT Kenya and its suppliers.

To this end, BAT Kenya requires that its suppliers comply with the following policies which are embedded in the contracts to promote adherence not only by the suppliers but their employees, agents and sub-contractors:

1. Supplier Code of Conduct and Standards of Business Conduct

These policies emphasize BAT Kenya's commitment to deliver its business results with integrity, honesty and transparency. The policies provide that BAT Kenya and its suppliers must act with integrity and comply with local legislation while providing goods/services.

The policies further emphasize BAT Kenya's zero tolerance approach to:

- a. Bribery and corruption practices and that suppliers must never engage in conduct which may constitute bribery and corruption to influence any decision or action on behalf of BAT Kenya.
- b. All forms of discrimination whether against employees or third parties.

- c. Unfair competition and unlawful antitrust practices. BAT Kenya and its suppliers must compete fairly and ethically and comply with local competition laws.

A key factor in managing supplier relationships is conflict management. BAT Kenya has set out clear mechanisms for its suppliers to speak up if something feels wrong, through Speak Up channels communicated to the suppliers. BAT Kenya has given its suppliers its assurances to the effect that allegations of breach would be treated seriously. The Speak Up platform is available to all suppliers and third parties for disclosure on any issues of impropriety.

2. Environmental Health and Safety Policy and Warehouse Standards

BAT Kenya acknowledges the importance of health and safety for all its employees and suppliers conducting business for and on behalf of the Company. This policy emphasizes the need for environmental and safety management in the conduct of business and sets out measures and controls put in place to ensure appropriate environmental and occupational health and safety for implementation by the suppliers.

It is a requirement that all suppliers providing services/goods to the Company comply with all regulatory, licensing and permit requirements.

C. **BAT KENYA'S SUPPLY CHAIN AND LOGISTICS SERVICES**

BAT Kenya has a total of 20 third party logistics suppliers (3PLs) contracted between the years 2023 and 2024 to provide various transport and logistics services for the Company. The list of suppliers is as below.

Vendor Name	Category	Services provided
DHL Global Forwarding K Ltd	Global	Transport and Logistics
AGL Kenya Limited	Global	Transport and Logistics
Maersk Kenya Ltd	Global	Transport and Logistics
Conventional Cargo Conveyors Limited	Local	Transport
Oyani Tob Sacco	Local	Transport
Kuehne Nagel Limited	Global	Transport and Logistics
Fargo Courier Ltd	Local	Transport
Busia Tobacco Transporters	Local	Transport
Bungoma Tobacco Transporters	Local	Transport
DHL Worldwide Express (K) Ltd	Global	Transport and Logistics
Armstrong Movers And Storage Ltd	Local	Transport
DHL Supply Chain Kenya Limited	Global	Transport and Logistics
Meru and Tharaka Nithi Tobacco SACCO Transporters	Local	Transport

Wells Fargo Limited	Local	Transport
New Planet Express	Local	Transport
Ena Tobacco Growers	Local	Transport
Agility Logistics	Local	Transport
Urgent Cargo	Local	Transport
Ombulu Investment Limited	Local	Transport
Apollo Tours	Local	Transport

You will note that out of the 20 suppliers contracted by BAT Kenya, 70% are local suppliers and 30% are global suppliers. The global suppliers provide end-to-end supply chain and logistics services including warehousing, clearing and forwarding in addition to transport services.

D. SUPPLIER SOURCING PROCESS

BAT Kenya prides itself in having a robust procurement process that is transparent and efficient thereby ensuring that the Company transacts in compliance with local laws, promotes the local industry and delivers quality and efficient products to its consumers. In particular, our sourcing process entails:

1. A robust tendering process that involves issuance of a Request for Proposals (RFPs) to potential suppliers with clear terms and conditions.
2. A thorough review of the RFPs submitted by the suppliers with four (4) key areas of focus being:
 - a. Technical capabilities for provision of the services;
 - b. Sustainability (Environmental, Social and Governance) checks;
 - c. Competitive financial proposals by the bidders; and
 - d. Due Diligence and Anti-Financial Crimes checks

E. RESPONSE TO THE ALLEGATIONS AGAINST THE COMPANY

In response to the four (4) allegations made against multinationals in your letter dated 24th April 2024, we wish to state as follows:

- i. The MNCs engage in exclusive contracts with fellow MNCs in transport and logistics sector.

BAT Kenya submits that it does not engage in exclusive contracts for transport services with other multinationals as alleged or at all. The list of suppliers provided herein is confirmation that the Company transacts equitably with both local and global suppliers for provision of logistics and transport services while appreciating the capabilities of each group of suppliers.

- ii. The MNCs subject local transporters to Anti-Competitive pricing.

BAT Kenya does not subject its local suppliers to anti-competitive pricing as alleged or at all. On the contrary, the Company considers pricing based on what has been offered by the suppliers during the tender process and further negotiations with

KALAHARI CEMENT LIMITED
INCORPORATED IN THE REPUBLIC OF KENYA ON 27 MAY 2025 UNDER THE COMPANIES ACT CHAPTER 486, LAWS OF KENYA
(COMPANY REGISTRATION NUMBER PVT-PQ158DVM)

THE CAPITAL MARKETS ACT
(CHAPTER 485A, LAWS OF KENYA)

REGULATION 4(3) OF
THE CAPITAL MARKETS (TAKE-OVERS & MERGERS) REGULATIONS, 2002

NOTICE

NOTICE OF INTENTION BY KALAHARI CEMENT LIMITED (KALAHARI OR THE OFFEROR) TO ACQUIRE: 1) 13,144,442 ORDINARY SHARES IN EAST AFRICAN PORTLAND CEMENT PLC (EAPC OR THE OFFEREE) FROM ASSOCIATED INTERNATIONAL CEMENT LIMITED, AND 2) 13,180,442 ORDINARY SHARES IN EAPC FROM CEMENTIA HOLDING AG

1 Introduction

1.1 Pursuant to regulation 4(3) of the Capital Markets (Take-overs & Mergers) Regulations, 2002 (the "Take-over Regulations"), Kalahari hereby announces that on 31 July 2025, it served a notice on EAPC, the Capital Markets Authority ("CMA"), the Nairobi Securities Exchange ("NSE") and the Competition Authority of Kenya ("CAK") to acquire:

1.1.1 13,144,442 ordinary shares (the "AIC Sale Shares") in the issued share capital of EAPC from Associated International Cement Limited (AIC), a company registered in accordance with the laws of England with registration number 00470173, and whose registered office is at Bardon Hill, Bardon Road, Coalville, Leicestershire, England, LE67 1TL (AIC) (the "Proposed AIC Acquisition"); and

1.1.2 13,180,442 ordinary shares (the "Cementia Sale Shares") in the issued share capital of EAPC from Cementia Holding AG, a company registered in accordance with the laws of Switzerland with registration number CHE-107.867.696 and whose registered office is at Grafenauweg 10, 6300 Zug, Switzerland (Cementia) (the "Proposed Cementia Acquisition").

The AIC Sale shares and the Cementia Sale Shares together are referred to as the "Sale Shares".

AIC and Cementia together are referred to as the "Sellers".

The Proposed AIC Acquisition and the Proposed Cementia Acquisition together are referred to as the "Proposed Transaction".

2 The Offeror

2.1 The Offeror is an investment vehicle that has specifically been incorporated for the purpose of making the Offer. The Offeror is registered in the Republic of Kenya with registration number PVT-PQ158DVM under the Companies Act, Chapter 486, Laws of Kenya whose registered office is at ALN House, Eldama Ravine Close, Off Eldama Ravine Road, Westlands, P.O. Box 764 - 00606, Nairobi, Kenya.

2.2 The Offeror is a subsidiary of Pacific Cement Limited (Company number 219881) which holds 90% of the paid-up shares in the Offeror and Comercio Et Consil Limited (Company number 221514) which holds 10% of the paid-up shares in the Offeror.

2.3 The following are companies related to and associated with the Offeror:

Name	Country of Incorporation	Shareholder and Percentage Shareholding	Principal Activities
Pacific Cement Limited	Mauritius	Edhah Abdallah Munif - 100%	Investment holding company
Comercio Et Consil Limited	Mauritius	Edhah Abdallah Munif - 100%	Investment holding company
Bamburi Cement PLC	Kenya	Amsons Industries (K) Ltd: 100%	Manufacturing of cement
Amsons Industries (K) Ltd	Kenya	i. Amsons Industries (T) Ltd - 90% ii. Edhah Abdallah Munif - 10%	Investment holding company
Camel Oil (T) Ltd	Tanzania	i. Abdallah Munif Nahdi - 50% Amsons Group Trading DMCC - 40% ii. Edhah Abdallah Munif - 10% iii. Yasser Abdallah Nahdi - 10%	Wholesale of solid, liquid and gaseous fuels and related products.
Amsons Industries (T) Ltd.	Tanzania	i. Edhah Abdallah Munif - 80% ii. Hassan Abdallah Nahdi - 10% iii. Yasser Abdallah Nahdi - 10%	Manufacturing of cement, lime plaster and of gain mill products.
East Africa Warehousing (T) Limited	Tanzania	i. Edhah Abdallah Munif - 80% ii. Hassan Abdallah Nahdi - 10% iii. Yasser Abdallah Nahdi - 10%	Freight transport by road.
Camel Oil Limitada - Mozambique	Mozambique	i. Abdallah Munif Nahdi - 70% ii. Edhah Abdallah Munif - 10% iii. Hassan Abdallah Nahdi - 10% iv. Yasser Abdallah Nahdi - 10%	Wholesale of solid, liquid and gaseous fuels and related products - Main Activity.
Kalahari Trans Zambia Limited	Zambia	i. Camel Oil (T) Ltd - 90% ii. Edhah Abdallah Munif - 10%	Freight transport by road and cargo handling.

The Offeree

3.1 EAPC (registration number: C15/54) is a public limited liability company incorporated in Kenya in 1933, and whose registered office is situated at LR No. 337/113/1, Namanga Road, off Mombasa Road, P.O. Box 40101-00100, Nairobi, Kenya.

3.2 EAPC is listed on the Nairobi Securities Exchange and trades under the ticker symbol "PORT".

3.3 EAPC owns an integrated cement plant located on the outskirts of Kenya's capital, Nairobi. Its brands include Blue Triangle Cement, its longest-standing brand in the market, and Green Triangle Cement, an innovative product designed with less clinker and lower energy consumption, providing a sustainable alternative that meets the growing demands of environmentally-conscious customers in the construction sector. Other brands in its product portfolio include Falcon Cabro, Olympia Cabro, Tri-Hex Cabro, Cosmic Cabro and Brick (Quad) Cabro.

3.4 EAPC has a long history of working with the local communities in the areas in which it operates via its corporate social responsibility (CSR) activities. EAPC's CSR initiatives focus on three key pillars: education, environmental stewardship, and water provision. It has identified three primary communities where its operations have the most impact: Kibini Hill and Bissil in Kajjado County, and Athi River in Machakos County. Additionally, EAPC responds to urgent philanthropic requests and unforeseen natural disasters, such as floods and famines, as part of its broader community engagement efforts.

3.5 EAPC owns 100% of East African Portland Cement Uganda Limited.

3.6 As set out in EAPC's annual report for the year ended 30th June 2024, the details of EAPC's current top 5 shareholders as at 30th June 2024 are set out below:

S/N	Name of Shareholder	Percentage of shares held
1.	Bamburi Cement Plc	12.5%
2.	Associated International Cement Limited	14.6%
3.	Cementia Holding AG	14.6%
4.	The National Treasury	25.3%
5.	National Social Security Fund	27%
Total for the Top Five Shareholders		94%
Other Shareholders		6%
Total		100%

The Sellers

4.1 AIC is presently the owner of the AIC Sale Shares that are the subject of the Proposed AIC Acquisition and the AIC Sale Shares amount to approximately 14.80% of the total issued share capital of EAPC.

4.2 Cementia is presently the owner of the Cementia Sale Shares that are subject of the Proposed Cementia Acquisition and the Cementia Sale Shares amount to approximately 14.80% of the total issued share capital of EAPC.

5 Current shareholding by Kalahari and related parties in EAPC

5.1 The Offeror does not hold any shares directly in EAPC.

5.2 Bamburi Cement Plc (a related company to the Offeror) holds approximately 12.5% of ordinary shares in EAPC. Mr. Edhah Abdallah Munif indirectly holds shares in Bamburi Cement Plc through Amsons Industries (K) Ltd.

5.3 None of the directors of the Offeror hold directorships in EAPC.

6 Share Purchase Agreement

6.1 Kalahari entered into a share purchase agreement with the Sellers on 31 July 2025 pursuant to which each of the Sellers have accepted Kalahari's offer to purchase the Sale Shares and agreed to sell the Sale Shares to Kalahari, the ("SPA") subject to the terms and conditions contained therein.

6.2 Completion of the Proposed Transaction will be subject to all the conditions set out in paragraph 11 below having been satisfied or (to the extent legally capable of waiver) waived and the SPA completed in accordance with its terms. The conditions of the SPA are outlined in paragraph 11 below.

7 Completion

7.1 Pursuant to the SPA, closing shall take place five (5) business days following the first business day on or by which all the conditions in the SPA as more particularly set out in paragraph 11 below have been fulfilled (or waived to the extent legally capable of waiver).

8 Consideration

8.1 The consideration for the Sale Shares is **KES 27.30 per Sale Share**, payable in USD as determined in accordance with the SPA.

9 Application for exemption from making a take-over offer

9.1 Kalahari does not intend to make a general offer to acquire all the voting shares in EAPC following the Proposed Transaction, and will apply to the Capital Markets Authority for an exemption from the requirement to make a take-over offer to all shareholders of EAPC.

9.2 Kalahari does not intend to delist EAPC from the NSE after completion of the Proposed Transaction.

9.3 Consequently, pursuant to Regulation 5 of the Take-over Regulations, Kalahari shall submit an application to the Capital Markets Authority for a written exemption from compliance with Regulation 4 of the Take-over Regulations on the grounds that such exemption shall: (i) facilitate the Proposed Transaction that is an acquisition for the purpose of a strategic investment in a listed company that is tied up with management or other technical support relevant to the business of such company; and (ii) there are circumstances which serve the public interest, by ensuring that Kalahari, as a long-term strategic investor, assists EAPC in achieving its strategic objectives whilst deepening the capital markets regime which is vital for Kenya's economic prosperity.

10 Persons acting in concert, current holdings and agreements with holders of voting shares

There are no persons acting in concert with Kalahari and Kalahari does not have an option to acquire any additional shares in EAPC. The Sellers and Kalahari have entered into the SPA.

11 Conditions

11.1 Completion of the Proposed Transaction will be subject to the fulfilment (or waiver to the extent legally capable of waiver by the written agreement of the Sellers and Kalahari) of the conditions precedent listed below:

11.1.1 obtaining competition approval from the relevant competition authority provided that if such approval is given with any conditions, then such conditions are acceptable to Kalahari in accordance with the terms of the SPA;

11.1.2 the granting of an exemption by the Capital Markets Authority to Kalahari under Regulation 5 of the Take Over Regulations from the obligation to make a mandatory takeover offer for EAPC;

11.1.3 in respect of the mining licence held by EAPC, notification to and the granting, by the Cabinet Secretary for the Ministry of Mining, Blue Economy and Maritime Affairs of its written approval to the change of control of EAPC in accordance with Section 51 (6) and (7) of the Mining Act (Chapter 306 of the Laws of Kenya) [the **Mining Licence Approval**], provided that if such approval is given with any conditions provided that if such approval is given with any conditions, then such conditions are acceptable to Kalahari in accordance with the terms of the SPA;

11.1.4 if the Proposed Transaction is capable of being executed as a block trade, approval having been obtained from the NSE and CMA (the **Block Trade Approval**), or if the Block Trade Approval is not granted by the NSE or CMA, the granting of an approval from the CMA to implement the sale of the Sale Shares as a private transfer in accordance with section 31(1A) of the Capital Markets Act and regulation 57(d) of the Licensing Regulations (the **Private Transfer Approval**);

11.1.5 if required by the CMA, Kalahari procuring the publication by EAPC of the circular to the shareholders of EAPC in relation to the Private Transfer Approval application pursuant to the Capital Markets Act; and

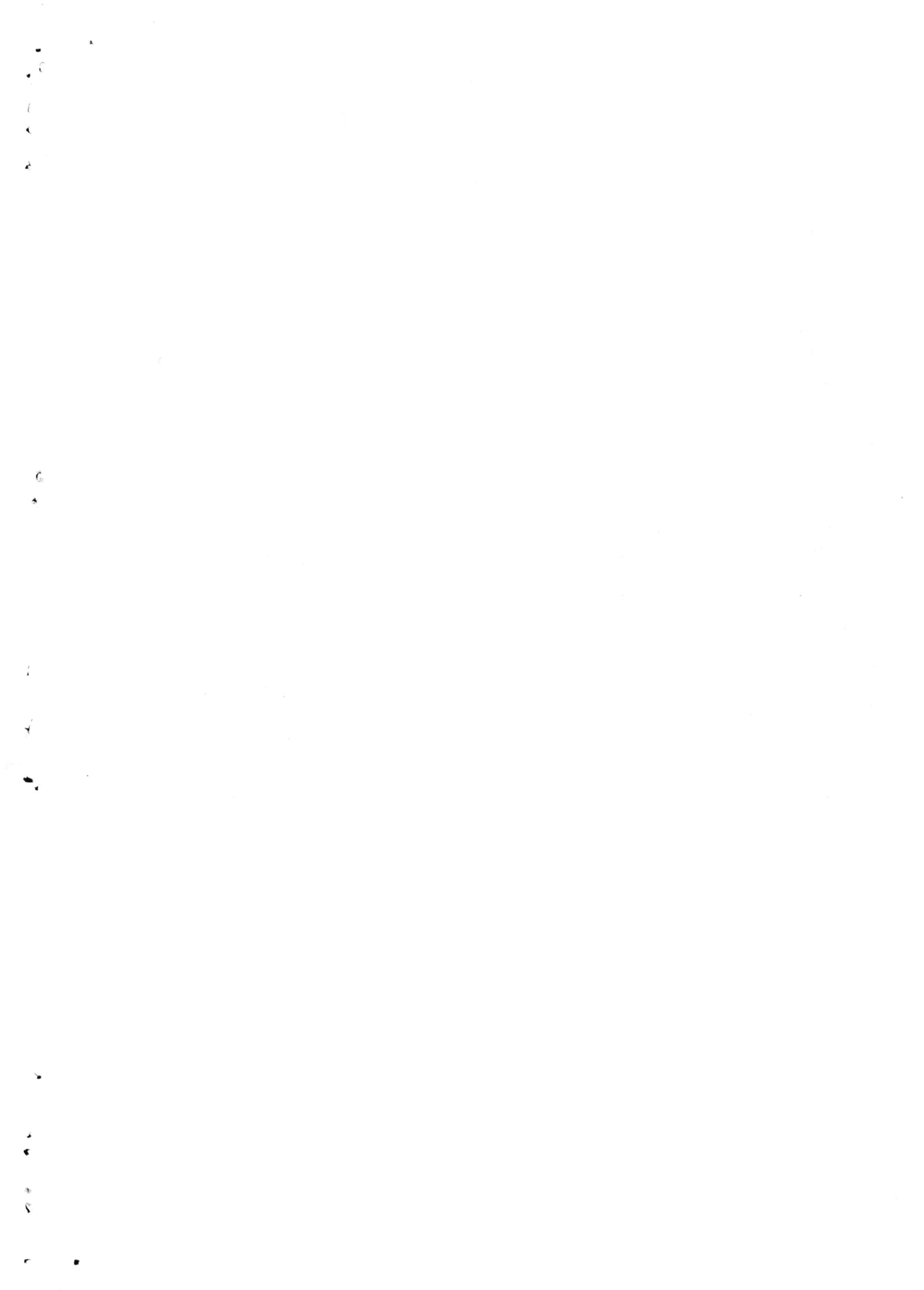
11.1.6 if Kalahari elects for the balance of the Consideration to be financed rather than paid in cash, Kalahari shall provide the Sellers with an unconditional, irrevocable on-demand guarantee from a licensed and reputable bank, in a form and substance acceptable to the Sellers, to secure the payment of the balance.

Dated 01 August 2025

By Order of the Board of Directors

A. Hussein

For and on behalf of KALAHARI CEMENT LIMITED



- a) Jonathan Transporters;
- b) Fargo Courier Limited; and
- c) Jihan Transporters.

1.2. Security service providers

1.2.1. Security service providers engaged by the Company are evaluated on the grounds of fair market value, capacity for service delivery, credit terms, security and safety policies for their staff and conflicts of interest. The Company utilizes questionnaires, based on the above-mentioned grounds, to assess the entity's security capabilities and identify potential risks associated with working with them.

1.2.2. The Company is guided by the provisions of the Private Security Regulation Act, Cap 207 of the Laws of Kenya in its selection of security service providers. To this end, the security service providers engaged by the Company must be compliant with statutory requirements such as being licensed by the Private Security Regulatory Authority as required under the Private Security Regulation Act. The Private Security Regulation Act requires that persons providing security services to be companies incorporated and established in Kenya as a licensing condition. Additionally, foreign entities providing security services in Kenya are also required to be registered in accordance with the laws of Kenya and have at least twenty five percent local shareholding. Further, to be licensed as a security provider in Kenya, an entity must have management staff who are registered as private security service providers, have been vetted and cleared by the Private Security Regulatory Authority.

Additionally, product security is key to the Company as issues such as theft, tampering and contamination pose significant risks to consumers. As such, the Company ensures that proportionate security measures are taken in line with the Pharmacy and Poisons (Transportation of Pharmaceuticals) Rules, 2022 and the Guidelines for Good Distribution Practices for Health Products and Technologies in Kenya, 2023.

1.2.3. Currently, the Company has engaged the following locally registered entities for the provision of various security services:

- a) G4S Kenya Limited;
- b) Instarect Limited;
- c) Advanta Africa Limited;
- d) Chrome Partners Limited;
- e) Penta Converters Limited; and
- f) Magre Safekey Limited.

FURTHER SUBMISSIONS BY GLAXOSMITHKLINE LIMITED IN RESPONSE TO THE INQUIRY BY THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES INTO THE DOMINANT MARKET POSITION BY MULTINATIONAL COMPANIES IN THE KENYAN TRANSPORTATION AND LOGISTICS SECTOR

During the meeting held on 15 October 2024, the Committee requested that the Company makes further submissions on the following items:

- a) Transport service providers; and
- b) Security services.

In this regard, we submit as follows:

1.1. Transport service providers

1.1.1. The Company itself as a low volume transporter of its products compared to other players in the transport sector. We engage a third-party logistics service provider which independently and competitively selects the transport providers who ultimately deliver our products to distributors within Kenya. This is an area we have outsourced to get the best expertise in the sector based on the regulation of transportation of pharmaceuticals by the Pharmacy and Poisons Board (the **PPB**).

1.1.2. Our Products are transported by road to our distributors by use of specialized and dedicated temperature-controlled (where applicable) road vehicles in compliance with the Guidelines and the Regulations. The transporters of pharmaceutical products must also be licensed by the PPB to engage in such business.

Materials used in the manufacture of pharmaceuticals and pharmaceutical products should be stored and transported under conditions which ensure that their quality is maintained. Transportation of such products is usually regarded as an extension of the storage activities as per the Guidelines for Transportation of Pharmaceuticals in Kenya, 2019 (the "**Guidelines**") as issued by the Pharmacy and Poisons Board (PPB) and the Pharmacy and Poisons (Transportation of Pharmaceuticals) Rules, 2022 (the "**Rules**").

The Pharmacy and Poisons Act Cap 244 of the laws of Kenya, requires that temperature control systems fitted in the vehicles should be able to continuously maintain air temperatures within the set point limits and the temperature monitoring device accuracy should be within ± 0.5 °C.

Further, vehicles used for the transportation of pharmaceuticals should have humidity monitoring systems and devices with a humidity measuring device with an accuracy of $\pm 5\%$ RH and humidity monitoring must be documented.

1.1.3. Our domestic distribution model leverages local transporters, with specialized trucks. This model ensures timely deliveries within the country but also supports local businesses. To this end, local transporters are independently selected by the third-party logistics service provider.

1.1.4. The third-party logistics service provider has currently engaged the following locally registered entities for the transportation of our products.



GlaxoSmithKline Limited
Likoni Road
P. O. Box 78392 - 00507
Nairobi, Kenya

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F +254 20 6933 385
M +254 722 830 291/ 733 619 371
www.gsk.com

22 October 2024

Clerk of the National Assembly
Main Parliament Buildings
P.O Box 41842-00100
Nairobi

Attention:

By email: cna@parliament.go.ke

Dear Sir,

RE: INQUIRY INTO THE DOMINANT MARKET POSITION BY MULTINATIONAL COMPANIES IN THE KENYAN TRANSPORTATION AND LOGISTICS SECTOR

We refer to your letter dated 17 September 2024, our written submissions forwarded under cover of our letter dated 14 October 2024 and our meeting with the National Assembly Departmental Committee on Trade, Industry and Cooperatives (the "Committee") held at the Bunge Tower on 15 October 2024.

Please find enclosed further submissions as requested by the Committee during our meeting held on 15 October 2024.

Please do not hesitate to contact us should you need any further information or clarification.

Yours Sincerely,

Electronically signed by: Mark Pfister
Reason: I am signing for the reasons
as stated in the document.
Date: Oct 22, 2024 15:28 GMT+2

Mark Pfister

General Manager
Sub-Saharan Africa

~~Mark Pfister~~
Evah Amwayi
Paul Arunga
Nabeel Rehma



ADDENDUM

CONTRACTED THIRD – PARTY TRANSPORT & LOGISTICS

1. AGAPE WHOLESALERS LIMITED
2. BOLLORE TRANSPORT AND LOGISTICS (K)
3. BULLS TRUCK LIMITED
4. GOOS TRANSPORTERS LTD
5. HAJIMO COMPANY LIMITED
6. HASSKA TRANSPORTERS LTD
7. HG INTERNATIONAL FREIGHT CARRIERS
8. INDEX CARGO LOGISTICS LIMITED
9. JOSEPH IRUNGU GACHIRA
10. JUNBU SENIOR WHOLESALERS LTD
11. KINGSIZE OUTSOURCE LIMITED
12. MARY KABURA MAINA
13. MOHA KALA DIDOW
14. MUIOH ENTERPRISES
15. P & G TRANSPORTERS LIMITED
16. PAUL KEMBOI JUMA
17. PONTY PRIDD HOLDINGS LIMITED
18. RAS COMPANY LTD
19. RICHARD MAINGI KALIKU
20. ROADMASTERS LIMITED
21. ROSINJE DISTRIBUTOR LIMITED
22. SAJOMS TRUCKS LIMITED
23. SAMUEL KIPKEMOI KIBET
24. SAMUEL KIPTOO KEMBOI
25. SAMUEL KURUI KIPLAGAT
26. SANTAFE SUPPLIES LTD
27. SIFA DISTRIBUTORS LIMITED
28. SMART HIGHWAY LOGISTICS LIMITED
29. STEPHEN MUYA NJOROGI
30. STRATEGIC SODA DEPOT
31. WAVELINE COMMERCIAL ENTERPRISES

CONTRACTED THIRD-PARTY SECURITY SERVICES PROVIDERS

1. SEKURA INTERNATIONAL LIMITED
2. TRIBUS-TSG SECURITY LIMITED



Coca-Cola Beverages
Kenya Limited
Company Registration No.
C.18626
Airport North Road
Embakasi
PO Box 18034-00500
Nairobi
Kenya
T + 254 20 6998000

Your Ref: NA/DDC/Trade/2024/137

18 October 2024

The National Assembly
Office of the Clerk
Main Parliament Building
P.O Box 41842 -00100
NAIROBI

Attention: Clerk of the National Assembly
cna@parliament.go.ke

Dear Sir,

**RE: SUPPLEMENTARY INFORMATION FOR THE DEPARTMENTAL COMMITTEE ON
TRADE, INDUSTRY AND COOPERATIVES ON THE INQUIRY INTO THE DOMINANT
MARKET POSITION BY MULTINATIONAL COMPANIES IN THE KENYAN
TRANSPORT AND LOGISTICS SECTORS**

Following our meeting with the aforementioned Committee on 15 October 2024, we write to firstly thank you for the time and attention in considering the submission from Coca-Cola Beverages Kenya (CCBK).

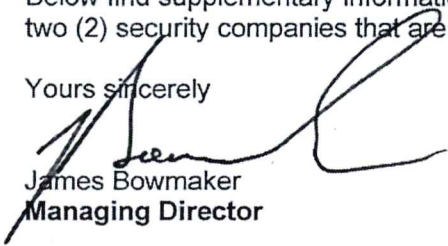
Secondly, we acknowledge that during the presentation, the Committee requested CCBK to furnish additional information as follows:

1. A list of the 31 local transport and logistics companies referenced in our submission as being engaged by CCBK.
2. Information on the security companies engaged by CCBK.

We wish to highlight that point 2. was not part of the original request outlined in the letter dated 31st September 2024.

Below find supplementary information on list of the thirty one (31) transport and logistics company and two (2) security companies that are engaged by CCBK.

Yours sincerely


James Bowmaker
Managing Director

CC J Mutisya – CFO
J Mwendwa – PACS



3. Evaluate the Supply Base: Assess current and potential suppliers, considering technological advancements and new opportunities.
4. Negotiate with Selected Suppliers: Engage in balanced and transparent negotiations, comparing outcomes to ensure fairness.
5. Report and Secure Approvals: Present findings and results to stakeholders for review and approval of the proposed path forward.
6. Ongoing Supplier and Category Management: Continuously manage supplier relationships and material categories to maximize value in alignment with targeted objectives.

Embedded are the core principles guiding the process ("Supplier Guiding Principles"):

- Commitment to human rights – We believe that shared values should form the foundation of our relationships with suppliers. We expect our direct suppliers to uphold these guiding principles and ensure respect for all human rights.
- Compliance with laws and regulations – Suppliers must adhere to all applicable local and national laws, rules, regulations, and requirements in the manufacturing and distribution of products and services.
- Safety and risk management – Suppliers are required to comply with safety standards, including the use of In-Vehicle Monitoring Systems (IVMS) and ensuring the roadworthiness of their vehicles.
- Environmental responsibility – Suppliers must demonstrate a commitment to reducing environmental impact by utilizing newer vehicles and adhering to governance practices related to vehicle aging and management.

Commercial evaluations are based on each supplier's ability to demonstrate compliance with these Supplier Guiding Principles, at the request and to the satisfaction of the CCBA group. These minimum requirements are included in all agreements with the CCBA group's direct and authorized suppliers.

Currently, 31 local transport and logistics companies are engaged through a competitive process to provide these services.

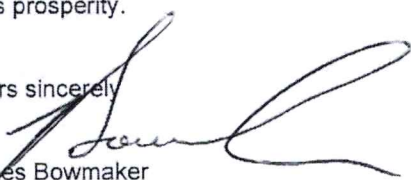
Conclusion

As demonstrated, Coca-Cola Beverages Kenya believes in the region's potential and its ability to achieve significant growth through collaboration between CCBK and local suppliers. The business in Kenya is centered on a local approach - we hire locally, produce locally, distribute locally and source locally. CCBK remains steadfast in its commitment to a competitive and compliant local sourcing of logistics services. These relationships play a vital role in strengthening the local value chain and creating both direct and indirect employment opportunities across the country.

Our commitment extends beyond business operations. We adhere to a comprehensive business model founded on integrity, compliance with laws, and respect for our code of conduct. We believe in doing good for the communities where we operate, ensuring that our business practices reflect our values and our role as responsible corporate citizens.

This dedication is guided by our purpose to "Refresh the World and Make a Difference" in Africa and contribute to its prosperity.

Yours sincerely,


James Bowmaker
Managing Director

CC Joe Mutisya – Chief Financial Officer
John Mwendwa – PACS Director



making in ensuring a predictable and stable operating environment that can unlock the full potential of such investment and solidify our long-term commitment to Kenya's prosperity..

Doing business sustainably

CCBK is actively contributing to the vision of Kenya . A significant part of this contribution comes from the System's women empowerment initiatives, which, since 2010, have empowered over 700,000 women directly and indirectly involved in the supply chain. Additionally, through the 'Nawiri' vendors program, the System has trained thousands of Medium Small & Micro Enterprises (MSMEs) to grow their businesses and livelihoods, reaching nearly 80,000 retailers across the country.

In terms of environmental sustainability, in collaboration with other organizations and communities, the System has driven collection, recycling and economic inclusion initiatives that since 2022 have benefited over 10,615 women, youth and people with disabilities.

Looking ahead, the Coca-Cola System plans to expand its efforts in water conservation, as well as its support for sports, culture, and youth empowerment initiatives across Kenya, further contributing to the country's socio-economic development.

Logistics Management

The Coca-Cola System's distribution model is a key driver of its success, ensuring efficient delivery of its products to consumers. Under this model, the bottlers prepare, package, merchandise, distribute and sell beverages bearing the brands of the TCCC Group to vendors, who then make them available to consumers.

To maintain a nationwide distribution footprint across all major towns, and to bring our beverages to consumers, through the vast sales network that comprises more than 190,000 outlets, CCBK operates and owns its private fleet of close to 280 vehicles supporting seamless delivery across the country. By sourcing this fleet from local businesses such as Isuzu East Africa Limited, CFAO Kenya Limited, Scania East Africa Limited and Simba Colt Motors Limited, CCBK not only ensures reliability in its logistics but also actively contributes to the growth of Kenya's automotive industry and value chain. CCBK augments its fleet by an additional 25%-30% using third-party providers based on demand and volume fluctuations.

Logistics Procurement Process

Based on our operational needs, CCBK prioritizes local sourcing of goods and services, including transport and logistics support, from third-party providers for both inbound and outbound services wherever feasible. This approach is aimed at meeting our requirements efficiently. The sourcing scope includes inbound logistics for raw materials and outbound logistics for delivering ready-to-drink beverages to distributors and retailers.

Our sourcing and tender evaluation processes are embedded in CCBA's procurement policy, ensuring independence, transparency, and the highest standards of integrity, in full compliance with the applicable laws of Kenya.

CCBA, along with its subsidiaries and controlled entities, is guided by a set of core values that represent the highest standards of quality, integrity, and excellence. CCBA is committed to complying with the law and respecting human rights, as well as the customs and cultures of the communities within which our group operates.

The following defines the high-level procurement process:

1. Establish a Data-Driven Baseline: Build a factual foundation for the sourcing event using real, accurate data.
2. Define Business Requirements: Identify clear objectives for the sourcing event, focusing on practical and achievable outcomes.



Local sourcing for sustainable supply chains

With 76 years of operation in Kenya, Coca-Cola Beverages Kenya plays an important role in supporting the country's economic development at various levels, supporting the growth of robust supply chains for wholesale, retail, and agriculture.

The Coca-Cola System generates economic value through both direct and indirect employment across the value chain. In East Africa, the System directly employs 10,000 people, with over 4,000 of these jobs based in Kenya. A recent economic impact study, conducted by Steward Redqueen shows that for every direct job created by the Coca-Cola System, 18 additional jobs are supported elsewhere in Kenya.

Indirectly, the System supports nearly 36,800 jobs through its local suppliers and their suppliers (upstream), as well as through its network of 238 distributors, 193,373 retail outlets, and their associated suppliers and recyclers (downstream). This broad impact demonstrates the System's role in driving economic growth and job creation throughout the region.

CCBA's contribution begins with supporting upstream suppliers, including sourcing raw materials for juice production, and extends through local production. CCBA works closely with retail customers and supports local packaging collection and recycling efforts, further strengthening the entire supply chain and promoting sustainability within the local economy.

The future of CCBA is directly related to the well-being and prosperity of the communities we serve. It makes sense for us to invest in businesses that operate in the same market as we do and, as a consequence, contribute to the economic growth in countries where we operate.

Understanding that our procurement spend has the potential to support the growth and development of local suppliers, and, through them, to contribute to employment creation in our host communities, we set out to identify opportunities to increase local sourcing.

As a System, we are committed to local sourcing, building sustainable supply chains across the continent, and increasing the use of local raw materials when possible and available. Our locally procured goods and services span a wide range, including raw materials, packaging materials, promotion, and other essential services.

A recent economic impact study, conducted by Steward Redqueen found that the impact on the supply chain include:

- In 2023, the Coca-Cola System supported the creation of 63 billion Kenyan Shillings of value in our value chain. This is equivalent to a contribution of 0.49% to Kenya's GDP.
- The System supports local sourcing. In 2023, over 22 billion Kenyan Shillings, which equates to 68% of total procurement expenses, was spent on domestic suppliers in Kenya.
- Tax payments supported by the Coca-Cola System throughout the value chain equal over 26 billion Kenya Shillings.

Project investments

The Coca-Cola Beverages Kenya contribution has created engines for economic growth and many opportunities up- and downstream. The investment of nearly 19 billion Kenyan Shillings over the last seven years includes an ultramodern juice plant, a new production line, a new waste-water treatment plant and an expanded logistics capacity.

On the 21st of May 2024, during H.E. President Ruto's State visit to the United States of America, the Coca-Cola System announced its intention to grow its investment in Kenya by up to \$175 million over the next five years should the business achieve its anticipated growth targets in the country. The investment is aimed at accelerating the Coca-Cola System's capacity and capability expansion over the next five years. The System's decision to invest underscores its belief in the long-term potential of Kenya's economy, and the efforts the government is



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Your Ref: NA/DDC/Trade/2024/137

14th October 2024

The National Assembly
Office of the Clerk
Main Parliament Building
P.O Box 41842 -00100
NAIROBI, KENYA

Attention: Clerk of the National Assembly
cna@parliament.go.ke

Dear Sir,

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES ON THE INQUIRY INTO THE DOMINANT MARKET POSITION BY MULTINATIONAL COMPANIES IN THE KENYAN TRANSPORT AND LOGISTICS SECTORS

We refer to the above matter and your email letter dated 30th September 2024 by the Clerk of the National Assembly, inviting the Managing Director of Coca-Cola Beverages Kenya (CCBK) to appear before the Committee on 15th October 2024 to submit its comments to concerns raised by the Kenya Transporters Association Limited (KTA).

Pursuant to the invitation, please find below the submission by Coca-Cola Beverages Kenya ("CCBK").

About Coca-Cola Beverages Kenya

The Coca-Cola Company ("TCCC") is a US-registered, publicly listed company with its headquarters in Atlanta, Georgia, USA. TCCC and certain wholly owned subsidiaries (the "TCCC Group") own trademarks and manufacture beverage bases, concentrates and syrups used in the preparation of non-alcoholic ready-to-drink ("NARTD") beverages. Globally, the TCCC Group owns, or is the licensee of, the trademarks and related intellectual property rights in the Coca-Cola brand and other NARTD brands.

The TCCC Group manufactures and sells beverage bases, concentrates and syrups to authorised bottlers, who are, with limited exceptions, such as the Coca-Cola Beverages Africa ("CCBA") group, independent of the TCCC Group. These bottlers in turn prepare and package NARTD beverages in authorised containers bearing TCCC Group trademarks, which beverages are then sold and distributed to wholesalers and retailers, who ultimately sell to consumers. The bottlers provide valuable input into local market conditions and ensure sufficient preparation, packaging and distribution of NARTD beverages to meet market demand. The deployment, under TCCC's direction, of an authorised bottling network to efficiently prepare, package, market, distribute and sell beverages bearing the brands of the TCCC Group is commonly referred to as the "Coca-Cola System" or the "System".

CCBA is the largest Coca-Cola bottler on the continent and accounts for about 40% of all beverages bearing brands of the TCCC Group by volume in Africa. CCBK is the anchor bottler in Kenya with six production sites across the country located in Embakasi, Embakasi-Umoja, Nyeri, Eldoret, Kisumu and Molo.

Annexure III: List of vertically integrated Shipping Lines into Container Freight Stations (CFS)

No.	Shipping Line	Affiliated CFS
1.	Diamond Shipping Services Limited	African Line Terminal & Logistics Ltd

Source: KIFWA



Annexure II: List of vertically integrated Shipping Lines into Empty Containers Depots

No.	Shipping Lines	Affiliate Container Depots
1.	Inchcape Shipping Ltd	Dodwell
2.	Maersk Shipping (K) Ltd	Damco Depot
3.	Maersk Shipping (K) Ltd	APMT Depot

Source: KIFWA



Annexure I: List of vertically integrated Shipping Lines into clearing and forwarding

No.	Shipping Lines	Affiliate Clearing And Forwarding Companies
1.	Maersk line/ Maersk K Ltd	Damco
2.	Oceanfreight (EA) Ltd	Kenfreight (EA) Ltd
3.	Magelline Shipping	Magelline Logistics
4.	CMACCM Group	Ceva Interfreight (K) Ltd
5.	CMACCM Group	Responsive Logistics Ltd
6.	Express Shipping & Logistics Ltd	ECS Logistics (K) Ltd
7.	Inchcape Shipping Services (K) Ltd	Dodwell & Co. (EA) Ltd
8.	Access Shipping Agency Ltd	Access Africa Logistics Ltd
9.	Diamond Shipping Services Ltd	Sharaf Logistics Ltd
10.	WEC Line (K) Ltd	Rift Valley Logistics Ltd
12.	East African Commercial and Shipping Ltd Mediterranean Shipping Company	Bollere Logistics now Africa Global Logistics (AGL)
13.	Seaforth Shipping (K) Ltd	Sea Trade Ltd
14.	Simatech Group UAE	Sima Marine Africa

- ii. **On whether vertical integration by shipping lines is in breach of the Act:** From the investigations the Authority observed that the shipping lines are vertically integrated at various supply chains. However, the Authority notes that **vertical arrangements are not prohibited under the Act as some pro-competitive justifications for such conduct may arise which include prevention of free riding and creation of dedicated distributors or promoting investments.**
- iii. **On whether the shipping lines are dominant and/or have market power:** From the submissions by the shipping lines, it is observed that Maersk is leading in terms of market share at 37 % in 2022 and 35% in 2023 based on the total volumes of containers handled at the Port of Mombasa followed by CMA CGM with 27% in 2022 and 25% in 2023, MSC with 14% in 2022 and 16% in 2023 and I. Messina with 1% in both years. The other shipping lines jointly controlled 21% in 2022 and 23 % in 2023. As such, none of the players have met the 50% dominance threshold as per the provisions of section 23 of the Act. **In this respect, the Authority concludes that while Maersk and CMA CGM have market power due to their ability to set prices or trading terms without being effectively constrained by their customers, competitors or suppliers in the relevant market, however the same does not amount to a violation of section 24 of the Act;**
- iv. **On whether the shipping lines engaged in discrimination in dealing, limitation of market access and unfair trading contrary to section 24 of the Act:** The Authority concludes following review of the submissions by KIFWA no evidence was established to support the allegations.

H. RECOMMENDATION

98. Based on its engagement with KTA and KIFWA, together with the analysis of submissions from both associations and the multinationals implicated in this matter, the Authority did not establish any violations of the Competition Act. However, the Authority will continue monitoring of the relevant sectors to detect and address any emerging anticompetitive conduct, and to take appropriate intervention measures should such practices arise.



David K. Kemei
Director-General

25th September 2025

above the Authority did not find the alleged exclusive agreements among the MNCs that would amount to a violation of section 24 (2) (a) of the Act.

- iii. **On whether MNCs have been engaging in discriminatory practices leading to market foreclosure:** From the contracts submitted by the MNCs, it has been observed that the contracts entered with both local and international companies comprised similar contractual terms and that from the list of trucking companies contracted by the MNCs majority were local companies. **As such there was no evidence found to establish that the MNCs were discriminating the local transporters leading to market foreclosure that would amount to a violation of section 24 (2) (c) of the Act.**
- iv. **On whether MNCs have been engaging in predatory pricing:** while the relevant market for purposes of KTA's complaint is the provision of trucking and cargo haulage services, the MNCs engage in the manufacture of different products such as alcoholic beverages, tobacco, fast moving consumer goods and cement. **As such, issues of dominance or market power do not arise in this case, and KTA's allegations of predatory pricing are not applicable.**
- v. **On whether MNCs have been engaging in anticompetitive agreements specifically price fixing:** Similarly, although the relevant market in KTA's complaint is trucking and cargo haulage services, the MNCs operate in the manufacture of products such as alcoholic beverages, tobacco, fast-moving consumer goods, and cement. Therefore, determining dominance or market power in this context is not viable, and the allegations of price fixing raised by KTA do not arise. **Therefore, concludes that it did not establish existence of alleged price fixing by the MNCs that would amount to a violation of section 21 (3) (a) of the Act.**

b) The Provision of Shipping and Logistics Services

- i. **On whether the shipping lines are engaging in price fixing contrary to section 21 (3) (a) of the Act:** From the investigations and evidence adduced, the charges for THC and ISPS are prescribed by KPA, hence the allegation of price collusion fails in this instance. Further, DO charges for 20ft containers and 40ft containers during the relevant period ranged from USD 65, USD 70, USD 75, USD84 and USD88 which charges were corroborated by submissions by KMA. As such, no similarity was found in these charges, and the allegation of price collusion therefore fails in this instance. **Accordingly, no contravention of section 21(3)(a) of the Act was established.**

which does not charge any terminal handling charges. The revenue obtained is not paid to KPA but is repatriated outside the country. They also noted that demurrage fees are charged at USD 20 per day per empty container in other countries like Tanzania but in Kenya the shipping lines charge are up to USD 100 per day.

95. In order to establish the veracity of the allegations by KIFWA, the Authority engaged KIFWA for further evidence in its letter dated 16th July, 2025 in the form of witness statements of its members who had faced discriminatory practices by the shipping lines. KIFWA in its email of 15th August, 2025 submitted various documents containing their complaints and no witness statements were made available. Despite further reminders to adduce the same, no witness statements to support their allegations were provided, and in an email dated 1st September, 2025, the Authority sent a follow up email following an earlier telephone communication of 1st September 2025 to which KIFWA responded indicating that they do not have any more information or evidence to provide to the Authority.

96. *In light of the foregoing and based on the evidence from the investigations, there was no indication that shipping lines were engaging in practices amounting to imposition of unfair trading conditions in breach of section 24 (2) (a) of the Act.*

G. CONCLUSION

97. After analyzing the claims, reviewing the information provided, and considering the responses to questions, the Authority concluded as follows:

a) Provision of Trucking and Cargo Haulage Services

- i. **On reservation of 60% of transport and logistics work for local transport companies:** It is the Authority's position therefore that KTA's prayer to reserve 60% of transport services for local (Kenyan-owned) firms undermines the object of the Act and if granted will contravene the provisions section 21 of the Act.
- ii. **On the allegation of MNCs securing exclusive agreements with key suppliers or distributors, shutting out small local companies from essential resources and markets:** From the investigations and evidence adduced, it was observed that the contracts entered between the MNCs and the international trucking companies are for short durations such as **two or three years** and **non-exclusive** in nature. Additionally, it was also observed that the contracts entered with both local and international companies comprised similar contractual terms and that from the list of trucking companies contracted by the MNCs majority were local companies. **Based on the**

90. *In light of the foregoing, and based on the evidence, there was no indication that shipping lines engaged in practices amounting to limitation of market access or investment in violation of section 24(2)(b) of the Act.*

c. Unfair trading conditions

91. Section 24 (2) (a) of the Act prohibits directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions.

92. On this allegation, KIFWA indicated that there were documentation delays by most shipping lines for example, delays in generation of local charges invoices as some shipping lines generate invoices from outside Kenya e.g. Maersk delays the processing of delivery charges, approving of revolving funds applications, payment confirmation including not recognizing the banker's cheques issued by local banks by subjecting them to further scrutiny which causes losses to KIFWA members. Further, some shipping lines issue delivery orders after 3 days such as Hapag-Lloyd and One line which leads to accrual of demurrage and also delay refund of container deposits in violation of KMA notice directing shipping lines to refund deposits within 5 days. KIFWA indicated that such delays are not imposed upon the shipping lines affiliates but only the local independent firms.

93. KIFWA further submitted that the shipping lines also impose charges for services which are not rendered. For example, for the estimate of 800,000 Twenty Foot Equivalent Units (TEUs) destined for the Kenyan market, the shipping lines charged an amount of USD 159,200,000.00 as illustrated below:

Table 1: List of fees charged for services not rendered

No.	Charge	Amount USD \$	Amount USD (800,000 TEU)
1.	Cleaning	30.00	24,000,000.00
2.	Terminal Handling Charges (THC)	99.00	79,200,000.00
3.	Depot charge	70.00	56,000,000.00
TOTAL		199.00	159,200,000.00

Source: KIFWA

94. KIFWA also submitted that the shipping lines also charge terminal handling charges USD 99 per 20ft container despite not owning any terminal in Kenya which is owned by the KPA



1st September 2025 to which KIFWA responded indicating that they do not have any more information or evidence to provide to the Authority.

84. *In light of the foregoing and based on the evidence of the investigations, there was no indication that shipping lines were engaging in discriminatory conducts such as favoring large customers with discounts and preferential treatment, destination charges, poaching customers of independent clearing and forwarding agents through unfair discounts and other terms, concealment of charges by shipping lines as ships disbursements which are not charged to their affiliates, disregarding the foreign exchange rates in the country and requiring local agents to pay higher, documenting delays by small local firms leading to accrual of demurrage costs, and denying business to Kenyan exporters in the green logistics containers and requiring them to use their affiliated agents.*

85. *The Authority therefore concludes the evidence gathered, gathered did not establish any discriminatory practices in violation of section 24 (2) (c) of the Act.*

b. Limitation of Market access and investment

86. Limitation of market access and investments is envisaged under section 24 (2) (b) of the Act which prohibits the limiting or restricting production, market outlets or market access, investment, distribution, technical development or technological progress through predatory or other practices.

87. According to KIFWA, the shipping lines are denying them customers due to the vertical integration as the shipping lines favour their affiliated clearing and forwarding companies, trucking companies, container freight stations, empty depots amongst others.

88. The Authority, in assessing this type of conduct by MNCs is required to establish that the actions by the shipping lines have the overall exclusionary effect of leading to the removal of an actual or potential competitor or the suppression or weakening of competition in a market.

89. In order to establish the veracity of the allegations by KIFWA, the Authority engaged KIFWA for further evidence in its letter dated 16th July, 2025 in the form of witness statements of its members who had faced discriminatory practices by the shipping lines. KIFWA in its email of 15th August, 2025 submitted various documents containing their complaints and no witness statements were made available. Despite further reminders to adduce the same, no witness statements to support their allegations were provided, and in an email dated 1st September, 2025, the Authority sent a follow up email following an earlier telephone communication of 1st September 2025 to which KIFWA responded indicating that they do not have any more information or evidence to provide to the Authority.

assessment of whether as between equivalent transactions, there is discrimination between trading undertakings in the supply of goods or services. This form of abuse involves any discount, allowance, rebate or credit given or allowed in relation to the supply of goods or services. The conduct may apply to a vertically integrated undertaking as well as a non-vertically integrated one.

80. According to the complaint by KIFWA, these shipping lines perpetuated discrimination in dealing to small Kenyan firms in the clearing and forwarding and trucking sector due to their dominance and vertical integration by favoring their affiliates. According to KIFWA, some of the conducts exhibited by these shipping lines included discrimination in tariff on destination charges, which are charges collectable from the port of Mombasa, poaching customers of the independent clearing and forwarding agents through unfair discounts and other favourable terms, concealment of charges by the shipping lines as ships disbursements, which are not charged to their affiliates, disregarding the foreign exchange rates in the country and requiring the agents to pay higher, failing to observe the directives of KMA, documentation delays for the small firms leading to accrual of demurrage and denying the Kenyan exporters in the green logistics containers and requiring them to use their affiliated agents.
81. This discriminatory conduct thus applies to vertical relationships pursuant to section 21 (2) (b) of the Act and is envisaged under section 21 (3) (e) of the Act which prohibits agreements which limit or control production, market outlets or access, technical development or investment and applies to cases where vertically integrated dominant undertakings favor their own operations. As discussed above, where a shipping carrier has market power, they may potentially use these types of vertical arrangements to prevent competitors such as the local trucking or clearing and forwarding agents from accessing customers due to the vertical integration which favors their affiliated agencies.
82. However, discrimination by parties in a vertical relationship is analyzed by a “**rule of reason**” approach and may be only problematic if they result in prevention or lessening of competition in a market.
83. In order to establish the veracity of the allegations by KIFWA, the Authority engaged KIFWA for further evidence in its letter dated 16th July, 2025 in the form of witness statements of its members who had faced discriminatory practices by the shipping lines. KIFWA in its email of 15th August, 2025 submitted various documents containing their complaints and no witness statements were made available. Despite further reminders to adduce the same, no witness statements to support their allegations were provided, and in an email dated 1st September, 2025, the Authority sent a follow up email following an earlier telephone communication of

iii. Whether the shipping lines are engaging in abuse of dominance in breach of section 23 and 24 of the Act?

75. In analyzing vertical arrangements and specifically on vertical integration, dominance or market power pursuant to section 23 of the Act must be established on the part of the shipping lines.

76. A dominant position is defined under sections 4 (3) and 23 of the Act. Section 24(1) prohibits any abuse of a dominant position by an undertaking in a market for goods or services in Kenya. For an infringement of section 24 to arise, four conditions must be met:

- i. the entity at issue must qualify as an undertaking;
- ii. the undertaking must hold a dominant position and/or market power on a relevant market;
- iii. the undertaking's conduct must qualify as an abuse; and
- iv. the abusive conduct must be within a market in Kenya or substantial part of Kenya.

77. The Act presumes that a market shares of at least 50% is evidence that a firm is dominant. Where an undertaking has less than 50% market share, the Authority will consider whether the undertaking has market power or the ability to exercise market power. Market power refers to the ability of a company or a group of companies to establish their policies such as their prices, product quality and investments in innovation, to a significant extent without a severe competitive constraint from competitors, customers or consumers.

78. It is observed that Maersk is leading in terms of market share (37% in 2022 and 35% in 2023) based on the total volumes of containers handled at the Port of Mombasa followed by CMA CGM with 27% in 2022 and 25% in 2023, MSC with 14% in 2022 and 16% in 2023 and I. Messina with 1% in both years. The other shipping lines jointly controlled 21% in 2022 and 23 % in 2023. As such, none of the players have met the 50% dominance threshold as per the provisions of section 23 of the Act. In this respect, it is noted that Maersk and CMA CGM have market power as they may be able to set prices or trading terms without being effectively constrained by their customers, competitors or suppliers in the relevant market. While possession of market power in itself is not a violation of section 24 of the Act, during the investigation, the Authority did not make adverse findings against the shipping lines as illustrated below:

a. Discrimination in dealing

79. Section 24 (2) (c) of the Act prohibits applying dissimilar conditions to equivalent transactions with other trading parties. This form of abuse by a dominant undertaking involves an

complained of dwindling business due to shipping lines who are well integrated further down the chain providing door to door services. This can be achieved via the *Through Bill of Lading* (TBL) where one carrier bears full responsibility and risks of moving cargo until it reaches the client's destination".

71. In Kenya, section 16 of the Merchant Shipping Act 2012, intended to limit vertical integration by shipping lines where it prohibited their investment in shipping agency, clearing and forwarding, terminal operation among others. Specifically, subsection 1 of section 16 of the said Act provides that "No owner of a ship or person providing the service of a shipping line shall, either directly or indirectly, provide in the maritime industry the service of crewing agencies, pilotage, clearing and forwarding agent, port facility operator, shipping agent, terminal operator, container freight station, quay side service provider, general ship contractor, haulage, empty container depots, ship chandler or such other service as the Minister may appoint under section. Any person who contravenes the provisions of subsection (1) commits an offence and shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

72. Section 16 of the Merchant Shipping Act was intended to address the issue of vertical integration by confining shipping lines to cargo haulage. However, the provision was challenged in *Mombasa High Court Petition No. 18 of 2010 Maersk Kenya Limited and Others Vs Hon. Attorney General & Others*, the parties by consent agreed that section 16 of the Merchant Shipping Act 2009 is inconsistent with Articles 40 and 50 of the Constitution.

73. From the Authority's engagement with relevant stakeholders in shipping industry, it was established that the following shipping lines are vertically integrated along the value chain, specifically in clearing and forwarding, empty containers depots and container freight stations (Refer to Annexures I, II and III).

74. Vertical arrangements are analyzed by a "rule of reason" approach and may be only problematic if they result in a substantial prevention or lessening of competition in a market. In conclusion, vertical arrangements are not prohibited under the Act as some pro-competitive justifications for such conduct may arise which include prevention of free riding and creation of dedicated distributors or promoting investments.



cargo manifests with the customs and port authorities and attending to merchants' requests if there is a change of ownership of the cargo. The shipping lines further submitted that the DO charge for both 20ft containers and 40ft containers during the relevant period ranged from USD 65, USD 70, USD 75, USD84 and USD88 which charges were corroborated by submissions by KMA. As such, no similarity was observed in these charges.

67. On ISPS, shipping lines submitted that ISPS charges stem from the International Ship and Port Facility Security Code (ISPS Code), which was developed by the International Maritime Organization (IMO). The ISPS Code became mandatory under the Safety of Life at Sea (SOLAS) Convention on 1 July 2004, establishing minimum security standards for ships, ports, and government agencies involved in international trade. ISPS charge recoups a similar charge imposed by KPA to shipping lines pursuant to Clause 10 of the Tariff Book as Security Dues. The shipping lines submitted that the ISPS charge for 20ft containers and 40ft containers during the relevant period ranged from USD 6 and USD 9. These charges were corroborated by submissions by Kenya Maritime Authority (KMA).

68. From the foregoing, the charges for THC and ISPS are prescribed by KPA, hence the allegation of price collusion fails in this instance. Further, DO charges for 20ft containers and 40ft containers during the relevant period ranged from USD 65, USD 70, USD 75, USD84 and USD88 which charges were corroborated by submissions by KMA. As such, no similarity was found in these charges, and the allegation of price collusion therefore fails in this instance. Accordingly, no contravention of section 21(3)(a) of the Act was established.

ii. Whether vertical integration by shipping lines is in breach of the Act

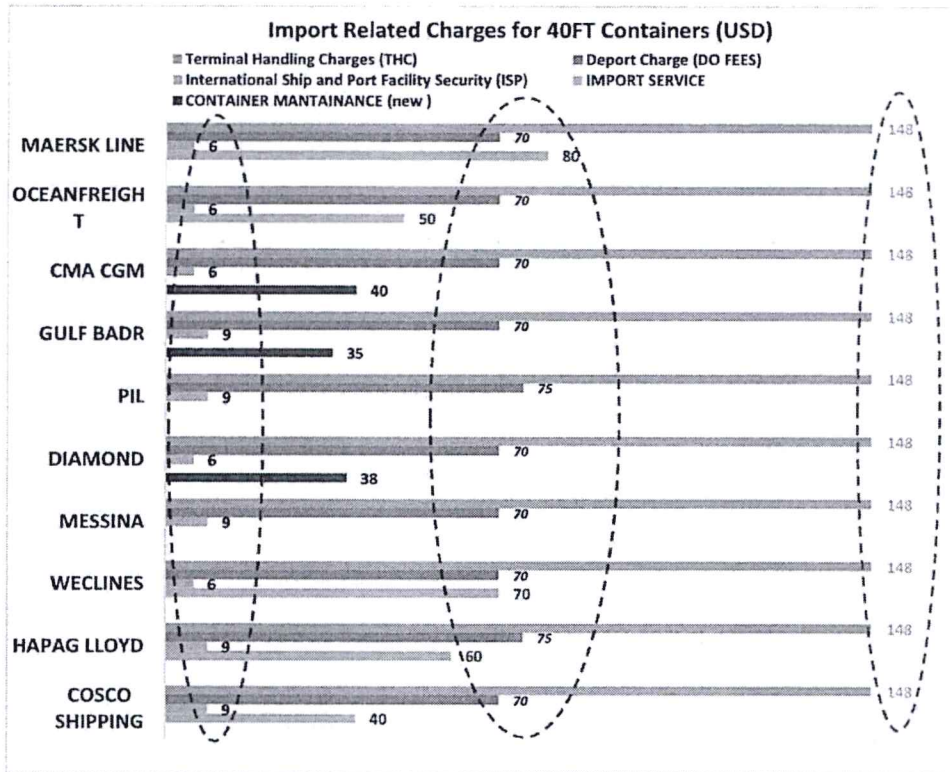
69. Vertical integration is a business practice where an undertaking expands or carries out its operations at multiple stages of its supply chain which otherwise would have been done or carried out by a separate firm or relied on an outside firm. According to the Authority's 2019 Shipping Report, a number of shipping lines had extended to other logistics services, which included shipping agencies, ship contractors, container freight stations, clearing and freight forwarding companies and trucking companies.

70. Vertical integration enables shipping companies to provide customers with last-mile delivery. According to the 2019 Shipping Report, the global trend is moving toward door-to-door services where importers may prefer dealing with one logistic partner in movement of their goods in the logistic chain.⁴ While vertical integration is very beneficial to importers who prefer dealing with one service provider for door-to-door services, some actors (e.g. empty container depots and clearing and forwarding agents) along the logistics chain have

⁴<https://bit.ly/3icv1PQ>



Figure 2: Import Charges by Various shipping lines for a 40FT container in Kenya



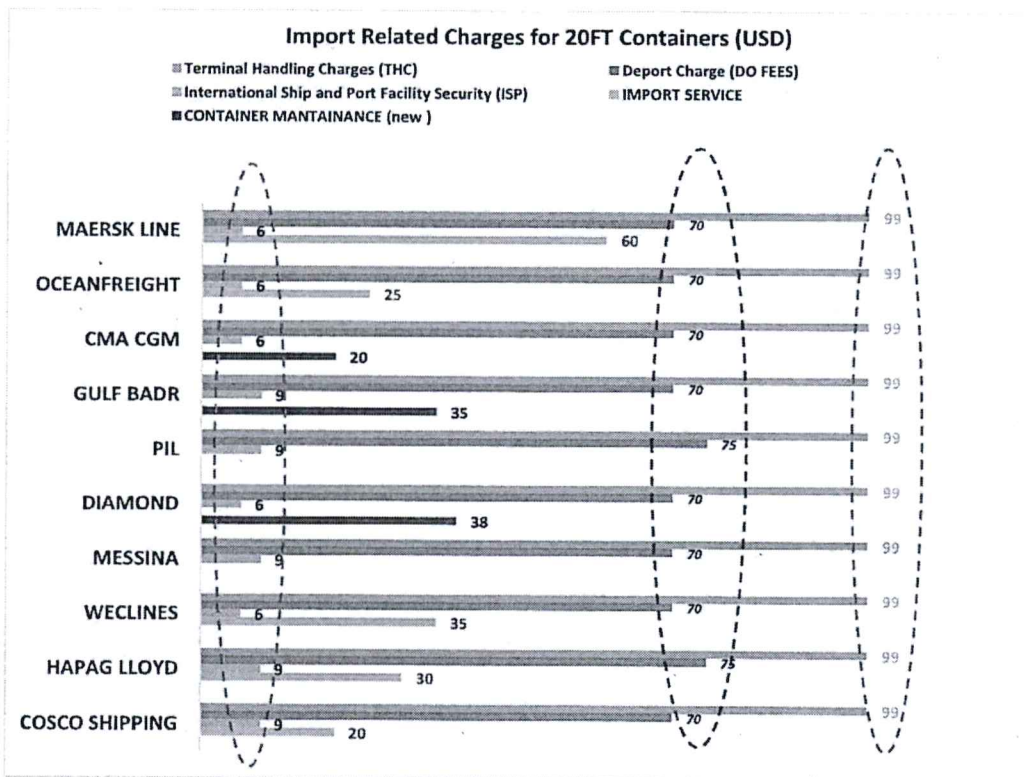
Source (KIFWA): Current Import Charges by Various shipping lines for 40 FT

64. In order to establish the veracity of the allegations by KIFWA, the Authority engaged shipping lines such as CMA CGM, MSC, PIL, I. Messina and Maersk as well as regulators such as KPA and KMA.
65. The Authority following its engagement with shipping lines observed that THC charges are levied by KPA on importers and exporters to cater for operational and stevedoring services provided at the terminal. The charge is prescribed by KPA and collected on its behalf by shipping lines, after which it is periodically remitted to KPA. These charges are pursuant to Clause 12 of the KPA Tariff Book (Stevedoring – Containerized Cargo), which stipulates that such charges shall be applied on both standard 20ft and 40ft containers. They further submitted that they bill THC at cost with no mark up or revenue to themselves.
66. With regard to DO charges, the shipping lines submitted that these charges comprise an agency administrative fee that covers the cost related to the release of cargo discharged at the port of Mombasa. The services rendered include the receiving, scrutinizing, and filing of critical shipping documents such as the bill of lading. The services also include the filing of

61. In their complaint, KIFWA submitted that the shipping lines were charging uniform charges such as the Terminal Handling Charges (THC) at USD 99 for 20ft and USD 148 for 40ft, Delivery Order(DO) fees at USD 70 and International Ship and Port Facility Security Charges (ISPS) for both 20ft and 40ft containers at USD 6 and USD 9. Additionally, they submitted that these shipping lines were charging THC fees despite not owning any terminal in Kenya which is owned by Kenya Ports Authority (KPA).

62. The Authority during its last appearance before the Committee had established that there were similar charges across the shipping lines for THC at USD 99 for 20ft, DO fees at USD 70 and ISP at USD 6 and USD 9. These prices raised suspicion of collusion in the market as demonstrated in the figure below:

Figure 1: Import Charges by Various shipping lines for a 20FT container in Kenya



Source (KIFWA): Current Import Charges by Various shipping lines for 20 FT

63. The Authority had further established there were similar charges across the shipping lines for 40ft container charges for THC at USD 148, DO fees at USD 70 and ISP at USD 6 and USD 9 as demonstrated in the figure below:



integration, dominance or market power must be established on the part of the MNCs pursuant to section 23 of the Act.

56. *The relevant market for KTA's complaint is trucking and cargo haulage services, the MNCs operate in the manufacture of products such as alcoholic beverages, tobacco, fast-moving consumer goods, and cement. As such, issues of dominance or market power do not arise in this case, and KTA's allegations of predatory pricing are not applicable.*

v. **Whether MNCs have been engaging in anticompetitive agreements specifically price fixing.**

57. In the Petition, KTA alleged that MNCs engage in collusive agreements with competitors or suppliers such as price fixing or market allocation schemes to maintain their dominance.

58. The Act requires that each company establish prices and other competitive terms on its own, without agreeing with a competitor. When purchasers make choices about what products and services to buy, they expect that the price has been determined on the basis of supply and demand, not by an agreement among competitors. When competitors agree to restrict competition, the result is often higher prices.

59. *Similarly, although the relevant market in KTA's complaint is trucking and cargo haulage services, the MNCs operate in the manufacture of products such as alcoholic beverages, tobacco, fast-moving consumer goods, and cement. Therefore, determining dominance or market power in this context is not viable, and the allegations of price fixing raised by KTA do not arise.*

b) Findings of the complaint raised by Kenya International Freight & Warehousing Association (KIFWA)

i. **Whether the shipping lines are engaging in price fixing contrary to section 21(3)(a) of the Act**

60. Section 21(1) of the Act requires that each undertaking should set its prices and other trading terms and conditions without agreeing with a competitor. When purchasers make choices about what products and services to buy, they expect that the price has been determined on the basis of supply and demand, not by an agreement among competitors. When competitors agree to restrict competition, the result is often higher prices.

49. *Based on the analysis of evidence gathered, the Authority did not find the alleged exclusive agreements among the MNCs that would amount to a violation of section 24 (2) (a) of the Act.*

iii. **Whether MNCs have been engaging in discriminatory practices leading to market foreclosure**

50. In the Petition, KTA alleged MNCs are engaging in discriminatory practices by favouring large customers with discounts and preferential treatment while putting smaller competitors at a disadvantage.

51. Section 24 (2) (c) of the Act prohibits applying dissimilar conditions to equivalent transactions with other trading parties. This form of abuse by a dominant undertaking involves an assessment of whether as between equivalent transactions, there is discrimination between trading undertakings in the supply of goods or services. This form of abuse involves any discount, allowance, rebate or credit given or allowed in relation to the supply of goods or services. The conduct may apply to a vertically integrated undertaking as well as a non-vertically integrated one.

52. From the contracts submitted by the MNCs, it has been observed that the contracts entered with both local and international companies comprised similar contractual terms and that from the list of trucking companies contracted by the MNCs majority were local companies. As such there was no evidence found to establish that the MNCs were discriminating the local transporters leading to market foreclosure.

53. *Based on the evidence gathered, the Authority did not find the existence of the alleged discriminatory practices by the MNCs that could lead to market foreclosure contrary to section 24(2)(c) of the Act.*

iv. **Whether MNCs have been engaging in predatory pricing**

54. In the Petition, KTA alleged that MNCs resort to predatory pricing temporarily lowering prices to drive out competitors and then raising them once they have achieved a monopoly.

55. Predatory pricing is an anti-competitive strategy where a dominant company deliberately sets its prices below cost with the intent to eliminate competitors or deter new entrants. Once competitors are driven out and the firm secures or strengthens its dominant position, it may then raise prices to recoup losses—often to the detriment of competition and consumers' welfare. In analysing predatory practices and specifically in this investigation on vertical

of the Act outlines examples of potentially anticompetitive agreements, including exclusive distribution arrangements.

44. These are assessed using the “rule of reason” approach, which evaluates the actual or likely competitive effects in the relevant market. The Authority considers both upstream (supplier market) and downstream (buyer market) effects, along with contextual factors like market structure, intent, and potential pro-competitive justifications such as efficiency gains or prevention of free riding.
45. Section 3 of the Act provides that the object of the Act 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—(a) increase efficiency in the production, distribution and supply of goods and services; (b) promote innovation; (c) maximize the efficient allocation of resources; (d) protect consumers; (e) create an environment conducive for investment, both foreign and local; (f) capture national obligations in competition matters with respect to regional integration initiatives; (g) bring national competition law, policy and practice in line with best international practices; and (h) promote the competitiveness of national undertakings in world markets.
46. Enforcement under the Act requires that the agreement has an effect in Kenya—either through direct sales to Kenyan customers, involvement of Kenyan entities, or targeted marketing within the country. Vertical arrangements are not outrightly prohibited but are only problematic if they lessen or distort competition in Kenya or substantial part of Kenya. Where a party holds market power as contemplated under section 23 of the Act, such vertical arrangements could be used to exclude competitors, including local service providers, from the market.
47. In order to establish the veracity of KTA’s allegations, the Authority engaged the MNCs by requesting them to provide a list of trucking companies (local and international) engaged during the years 2022, 2023 and 2024 in offering trucking services and a description of their terms and conditions.
48. A review of the contracts submitted by the MNCs revealed that these contracts are for short durations such as **two or three years**. Further, that these contracts are **non-exclusive** in nature, to the effect that these MNCs reserve the right to seek alternative suppliers of the trucking services. It was also observed that the contracts entered with both local and international companies comprised similar contractual terms and that from the list of trucking companies contracted by the MNCs majority were local companies as opposed to the allegations by KTA in the petition.

distortion or lessening of competition in trade in any goods or services in Kenya, or a part of Kenya, unless they are exempt in accordance with the provisions of section D of Part III of the Act.

37. Specifically, section 21 (3) (b) and 21 (3) (i) prohibits arrangements which divide markets by allocating customers, suppliers, areas or specific types of goods or services and otherwise prevent, distort or restrict competition.
38. *It is the Authority's position therefore that KTA's prayer to reserve 60% of transport services for local (Kenyan-owned) firms undermines the object of the Act and if granted will contravene the provisions section 21 of the Act.*

ii. **Whether MNCs secure exclusive agreements with key suppliers or distributors, shutting out small local companies from essential resources and markets?**

39. In the Petition, KTA alleged that MNCs engage in exclusive agreements with key suppliers or distributors, shutting out small local companies from essential resources and markets. In support of this allegation, KTA through their letter dated 8th August 2025, submitted a joint witness statement signed by various members of the Association.
40. In the joint statement, the KTA members indicated that the MNCs lock out local players by sourcing the services out of the country, where MNCs operating in Kenya and other developing countries automatically opt for other foreign companies to offer them services, totally discriminating locals. The members further submitted that there is also presence of incentives paid abroad for award of contracts for local business.
41. KTA members further submitted that in 2025, KBL logistics and warehouse contracts were awarded in London. The whole contracting was handled in a very opaque way which was designed to lock out local transport and logistics firms out of KBL. In KBL over 70% of all transport work and 100% of warehouse work is controlled by MNCs. This saw KBL through Diageo London getting "savings in advance" paid in London by DHL and Bollore for over 4 million pounds by each company.
42. From the foregoing, KTA's allegations centre on exclusive arrangements by the MNCs. Exclusive agreements occur in a vertical relationship where a buyer is obligated to purchase goods or services only from a specific seller for a set period. Such agreements are common between suppliers and distributors or manufacturers and retailers.
43. Under the Act, both horizontal (between competitors) and vertical (between different supply chain levels) agreements may be prohibited if they distort or restrict competition. Section 21(3)

- b) limiting or restricting production, market outlets or market access, investment distribution, technical development or technological progress through predatory or other practices;
- c) applying dissimilar conditions to equivalent transactions with other trading parties;
- d) making the conclusion of contracts subject to acceptance by other parties of supplementary conditions which by their nature or according to commercial usage have no connection with the subject-matter of the contracts; and
- e) abuse of an intellectual property right.

31. Additionally, section 9 of the Act stipulates the functions of the Authority including; participating in deliberations and proceedings of government, government commissions, regulatory authorities and other bodies in relation to competition and consumer welfare; making representations to government, government commissions, regulatory authorities and such other bodies on matters relating to competition and consumer welfare and advising the government on matters relating to competition and consumer welfare.

32. Pursuant to section 31 of the Act, the Authority has the mandate to investigate any conduct or practice alleged to constitute an infringement of prohibitions relating to restrictive trade practices or abuse of dominance either *suo moto* or upon receipt of a complaint. Further, pursuant to section 32 and 33 of the Act, the Authority is empowered to conduct its investigations through summoning for evidence.

33. This Report outlines the key findings of the investigation as well as the Authority's recommendation following conclusion of the investigation.

F. CONSIDERATION OF COMPETITION ISSUES FROM THE COMPLAINTS

34. For purposes of this investigation, the Authority considered two markets that is, the provision of Trucking and Cargo Haulage services and the provision of Shipping and Logistics services.

a) Findings of the complaint raised by Kenya Transporters Association (KTA)

- i. Whether 60% of transport and logistics work should be reserved for local transport companies?

35. KTA proposed a quota system where at least 60% of the transport and logistics work is reserved for local transport companies.

36. In view of this request, the Authority notes that section 21(1) of the Act prohibits agreements between undertakings, decisions by associations of undertakings, decisions by undertakings or concerted practices by undertakings that have as their object or effect the prevention,



25. Section 21 (3)(a) prohibits price fixing, division of markets, collusive tendering, minimum resale price maintenance, controlling production, market access or outlets, applying dissimilar conditions to equivalent transactions with other trading parties thereby placing them at a competitive disadvantage, making the conclusion of contracts subject to acceptance by other parties of supplementary conditions which by their nature or according to commercial usage have no connection with the subject of the contracts and the use of an intellectual property right in a manner that goes beyond the limits of fair, reasonable and non-discriminatory use.
26. On the aspect of dominance, section 23 (1) of the Act provides the criteria for determining a dominant position. Specifically, an undertaking is considered dominant if it:
- a) controls not less than one-half of the total goods produced, supplied or distributed in Kenya or any substantial part of Kenya; or
 - b) controls not less than one-half of the services that are rendered in Kenya or any substantial part of Kenya.
27. Section 23 (2) of the Act further provides that notwithstanding the above, an undertaking is also deemed to be dominant for the purposes of the Act where the undertaking:
- a) though not dominant, controls at least 40% but not more than 50% of the market share unless it can show that it does not have market power; or
 - b) controls less than 40% of the market share but has market power.
28. The Act presumes that having a market share of at least 50% is evidence of dominance. Where an undertaking has less than this share, the Authority considers whether the undertaking has market power, or the ability to exercise market power.
29. Market power is the ability of a company or a group of companies to establish their policies such as their prices, product quality and investments in innovation, to a significant extent without a severe competitive constraint from competitors, customers or consumers. In competition law analysis, the market power concept is used to identify whether a company would have the ability to act anti-competitively in a given market.
30. Section 24(1) of the Act further prohibits any conduct which amounts to the abuse of a dominant position in a market in Kenya, or a substantial part of Kenya. Section 24(2) further outlines these conducts as follows: Without prejudice to the generality of subsection (1), abuse of a dominant position includes—
- a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

D. SUMMARY OF ISSUES CONSIDERED BY THE AUTHORITY

19. The Authority, having considered the Petition, noted that some of the issues raised did not fall within the statutory mandate of the Authority. These issues are: limited local participation, disparity of investment, uneven economic impact, lack of transparency and failure to access regional and global markets.
20. The issues raised in the complaints that fall within the mandate of the Authority as per the provisions of the Act are the following:
- a) Exclusive contracts;
 - b) Discriminatory Practices;
 - c) Market foreclosure attributed to barriers to entry;
 - d) Predatory pricing; and
 - e) Anticompetitive agreements.
21. The Authority also considered the proposal by KTA for a quota system under which at least 60% of the transport and logistics work would be reserved for local transport companies.

E. APPLICABLE LAW AND PROCEDURE

22. The investigation by the Authority sought to evaluate the evidence and all relevant information in order to determine the appropriate course of action in response to the allegations raised by KTA and KIFWA. Specifically, KTA alleged that certain multinational corporations (MNCs) are engaging in discriminatory practices that disadvantage local investors, while KIFWA raised concerns regarding the conduct of shipping companies in relation to clearing and forwarding, cargo haulage, and warehousing—conduct which allegedly restricts local firms' access to these critical logistics services.
23. The Petition as initially framed had an overlap between the issues raised by KTA and those raised by KIFWA. This necessitated the Authority to isolate and categorize the concerns appropriately: some issues were unique to KTA, others specific to KIFWA, and required a broader market analysis under competition law principles. The complaints considered disclose elements of collusive conduct and abuse of dominance.
24. On restrictive trade practices, section 21(1) of the Act prohibits agreements between undertakings, decisions by associations of undertakings, decisions by undertakings or concerted practices by undertakings which have as their object or effect the prevention, distortion or lessening of competition in trade in any goods or services in Kenya, or a part of Kenya, unless they are exempt.

strategic business interest in the transport sector.³ Members benefit from collective representation in negotiations with government and regulatory bodies.

ii. Kenya International Freight And Warehousing Association (KIFWA)

14. Kenya International Freight & Warehousing Association (KIFWA) is an Association duly registered under the Societies Act, Cap 108 Laws of Kenya.
15. KIFWA is the sole advocacy body for all the Customs Agents fondly known as Clearing Agents in Kenya, all licensed by the Commissioner of Customs and Border Control under Section 145 of East African Community Customs Management Act (EACCMA) 2004 and Regulation 149 to 152 of East African Community Customs Management Regulation 2010 with a duty of championing for a fair, conducive business environment for all legitimate trade.
16. Some of the objectives of KIFWA are to protect the legitimate trade of Clearing and Forwarding Agents, Freight Agents, Warehouse men and such other trades as may be or may become closely allied thereto; Promote the adoption of uniform documents and standard terms and conditions of services provided by members; present and advocate the views and policies of the Association to Governments, other authorities, associations and organizations and Initiate, promote, support or approve legislative and other measures affecting or likely to affect the interests of the Association amongst others.

iii. Multinational Companies (MNCs) in the Manufacturing Sector

17. KTA has accused the following MNCs in their complaint; British American Tobacco (BAT), Kenya Breweries Limited (KBL), Unilever Kenya Limited and Bamburi Cement PLC (Bamburi).

iv. Shipping Lines

18. KIFWA has accused the following shipping lines in their complaint; Maersk Shipping Company, Mediterranean Shipping Company (MSC), Pacific International Line (PIL), CMA CGM and I. MESSINA.

³ <https://www.kta.co.ke/index.php/membership>

- b) Poaching customers of independent clearing and forwarding agents through unfair discounts and other terms;
 - c) Disregarding the foreign exchange rates in the country and requiring local agents to pay higher;
 - d) Delays in documentation leading to accrual of demurrage costs, and;
 - e) Denying business to Kenyan exporters in the green logistics containers and requiring them to use their affiliated agents.
9. Subsequently, the Authority appeared and presented its preliminary findings before the Committee on 3rd July, 2025 and thereafter submitted an Interim Report dated 31st July, 2025 addressing the issues raised in the complaint and the proposed way forward which included giving the Authority more time to conclude on the investigations. The Authority engaged the relevant parties to assess the alleged anticompetitive practices. Investigations are now concluded, and the analysis and findings are presented below.

C. PARTIES TO THE COMPLAINT

i. Kenya Transporters Association (KTA)

10. This is a business association of road transporters whose broad objective is to provide a common voice to articulate business constraints facing its members while also contributing toward the realization of a safe, reliable, efficient, professional and environmentally friendly road freight industry in Kenya. KTA was formed in 1969 as the Kenya African Road Transporters Association (KARTA) and later renamed the Kenya Transport Association (KTA) in 1982. The association was transformed into a company limited by guarantee in 2011.¹
11. KTA is steered by a team of 9 directors and 7 staff members charged with the day-to-day running of the Secretariat. The Secretariat is headed by the Chief Executive Officer. The Association's Secretariat is located opposite Tudor Water Sports along Tom Mboya Avenue, Tudor, Mombasa.²
12. KTA aims to promote the interests of its members by advocating for favorable policies, regulations, and working conditions in the transport and logistics sector. Specifically, KTA engages with the Kenyan government and other stakeholders to address issues affecting the transport sector, such as road safety, infrastructure development, and taxation policies.
13. Members of the association are drawn from any company, association, corporate body, partnership or person engaged in the transport industry as well as organizations/firms with

¹ <https://www.kta.co.ke/index.php/about-kta>

² Ibid.



empty container depot. They also alleged that these companies prevent customs agents from booking exports and forcing importers/exporters to use their affiliated companies. KTA's request to the Committee was that the MNCs be required to reserve a 60% quota of the transport services to the locally owned Kenyan firms.

4. The Committee subsequently resolved to initiate an investigation and summoned the Authority to appear before it on 4th September 2024. The Committee directed the Authority to examine the complaints and submit a report. On 17th September 2024, the Authority received a letter from the Committee detailing a range of issues raised by KTA, to guide the inquiry.
5. Premised on the foregoing, the Authority initiated a market screening by engaging KTA, the umbrella body for commercial road transporters with an active membership of over 250 transport companies in Kenya that advocates for policies that foster a favourable business environment for road transport. The Authority also engaged the Kenya International Freight & Warehousing Association (KIFWA), a member advocacy body representing over 1200 member entities comprising of Clearing and Forwarding Agents, Freight Agents, Warehouse agents and for all the Customs Agents known as Clearing Agents in Kenya.
6. Though KTA initially submitted a complaint to the Parliamentary Committee raising concerns that suggested potentially anti-competitive conduct, after further engagement with the Authority during the preliminary interrogation of the complaint, KTA clarified the specific focus of their complaint. KTA indicated that their primary concern was not with vertical integration by shipping lines, but rather with the conduct of certain MNCs operating in Kenya –such as Bamburi Cement PLC, East African Breweries Limited (EABL), Kenya Breweries Limited (KBL), British American Tobacco (BAT) and Unilever Kenya Limited. According to KTA, these MNCs allegedly enter into exclusive arrangements with other multinational logistics providers, thereby excluding capable local transport and logistics firms from participating in the market.
7. KTA provided an example involving KBL, where it was alleged that logistics and warehousing contracts were awarded in London, resulting in 70% of all transport work and 100% of warehouse operations being controlled by multinational firms such as DHL Express Global (DHL) and Bolloré Transport and Logistics Kenya Limited (Bolloré). Despite the availability and capacity of local firms to perform the work, these contracts were allegedly concentrated among a few MNCs.
8. Further, during the Authority's interrogation, KIFWA submitted to the Authority and alleged that some of the practices engaged in by shipping lines include:
 - a) Discrimination in tariff on destination charges;



FINAL REPORT IN THE MATTER OF THE KENYA TRANSPORTERS ASSOCIATION (KTA) REGARDING ALLEGED ANTI-COMPETITIVE PRACTICES BY MULTINATIONAL COMPANIES IN KENYA.

A. BACKGROUND

1. The Competition Authority is established by Section 7 of the Competition Act CAP 504 Laws of Kenya (the Act), with the mandate of enforcing the Act. The object of the Act as set out in Section 3 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—(a) increase efficiency in the production, distribution and supply of goods and services; (b) promote innovation; (c) maximize the efficient allocation of resources; (d) protect consumers; (e) create an environment conducive for investment, both foreign and local; (f) capture national obligations in competition matters with respect to regional integration initiatives; (g) bring national competition law, policy and practice in line with best international practices; and (h) promote the competitiveness of national undertakings in world markets.
2. On 11th April 2024, the Authority received a request for information from the Departmental Committee on Trade, Industry and Cooperatives of the National Assembly regarding a complaint by the Kenya Transporters Association (KTA). KTA alleged that local investors in the transport and logistics sector were being discriminated against by multinational companies (MNCs), which preferred dealing exclusively with other MNCs which provide transport and other logistics services.

B. THE PETITION

3. The Petition to Parliament by KTA included the following allegations: limited local participation because MNCs often outsource logistics and warehousing services abroad; disparity in investment whereby MNCs secure over 70% of logistics contracts yet they own only 10% of the trucks; and unfair practices by shipping lines whereby a single shipping company acts as a cargo carrier, operating a Container Freight Station (CFS), providing land transport through bill of lading, owning a clearing and forwarding company and managing



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Competition Authority of Kenya
CBK Pension Towers, 15th Floor
Harambee Avenue
P.O. Box 36265 – 00200
NAIROBI

Your Ref: NA/DDC/TRADE/2024/123

Our Ref: CAK/EC/05/296/A (13)

Date: 25th September, 2025

Office of the Clerk of the National Assembly
The National Assembly
Main Parliament Buildings
P.O. Box 41842 – 00100
NAIROBI.

Attn: Peter K. Chemweno

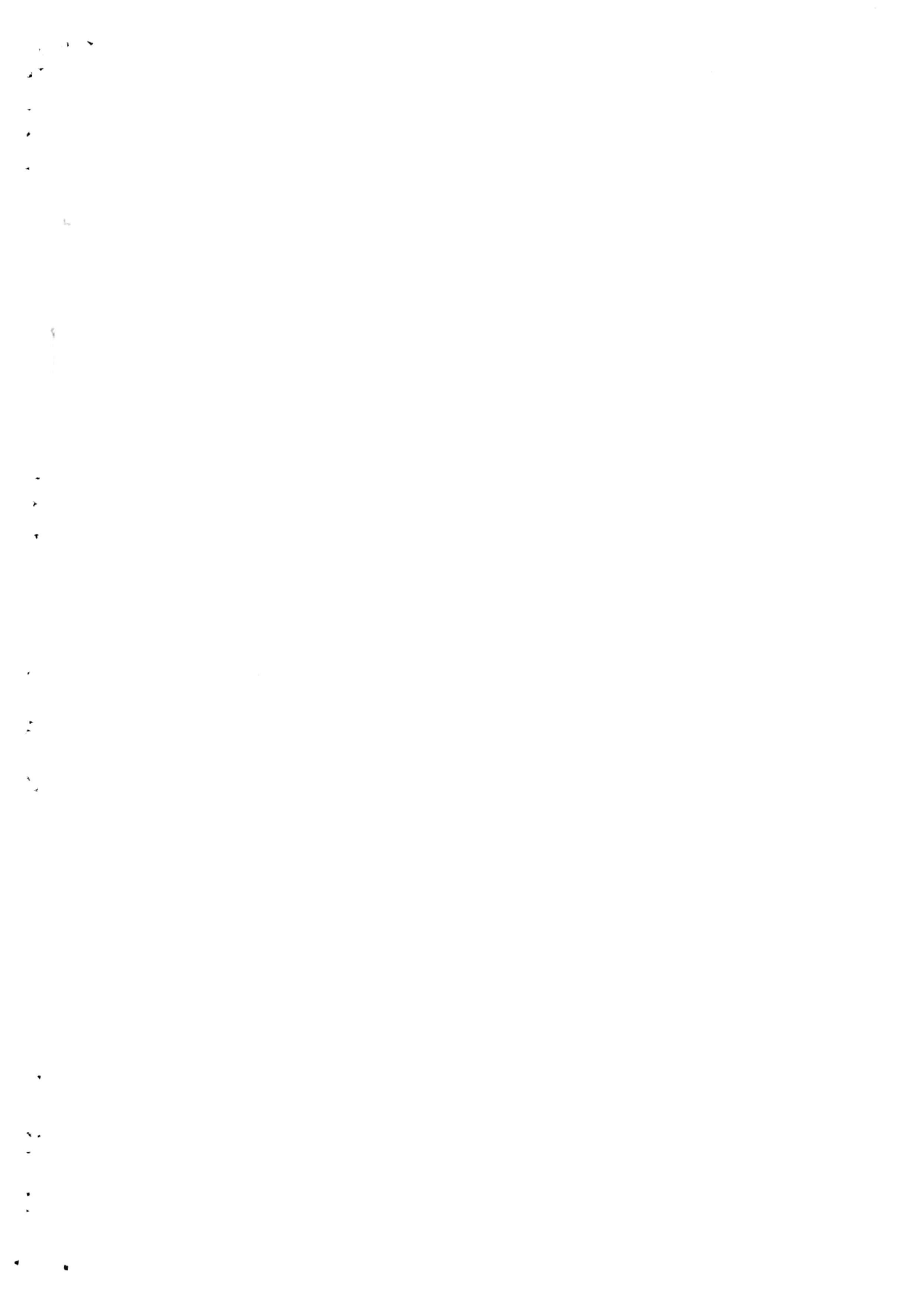
**FINAL REPORT TO THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY
AND COOPERATIVES ON THE INQUIRY INTO THE ABUSE OF DOMINANT
POSITION BY MULTINATIONAL COMPANIES IN KENYAN TRANSPORT AND
LOGISTICS**

We refer to your letter under the Ref: NA/DDC/TRADE/2024/123 dated 18th June 2025 and the Authority's appearance before the Departmental Committee on Trade, Industry and Cooperatives on 3rd July 2025.

Following our presentation of preliminary findings to the Committee and the interim report that was submitted on 31st July 2025, the Authority hereby submits its Final Memorandum addressing the issues raised in the complaint.

Mr. David Kemei
DIRECTOR – GENERAL





E-Tender process

All prequalified suppliers are subjected to competitive bidding through a live e-tender. The purpose for this is to ensure pricing is market driven and not fixed and this is done in real time where suppliers are able to bid “blindly” to protect the pricing integrity. The pre-qualified suppliers are trained on how to use the system before the go-live day to ensure none is disadvantaged throughout the process.

Tender analysis and award

A cross functional tender committee comprising Logistics, Procurement, SHE , Security and Finance, participates in the tender evaluation and adopts a pre-signed weighted scoring method to award. The matrix comprises Safety, Security, Service and Cost scores.

The tendering process ensures fairness, transparency, and merit in the sourcing process.

Pricing

We use competitive bidding to determine prices for our logistics services. As part of the contract pricing review mechanism, there is an agreed model to review price based on macro factors e.g fuel, forex fluctuations and any other macro or micro economic parameter that impacts cost of product or service. Further, in the event of unusual disruptions in the macro environment that has material impact to the suppliers or Unilever, we open negotiations to allow for adjustments that ensure sustainable business to either of the parties.

Conclusion

Our broad agenda on localization covers sourcing of materials and services. The localization of the logistics service has ensured that we continue to have a positive social impact in terms of job creation and improving livelihoods as well as improving the local economy through tax contribution across the value chain. We shall on a continued basis scan the environment to ensure we identify, develop and offer opportunities to the SME sector.

We hope that the above has given meaningful insights and we look forward to having a round table discussion with you on the same.

Thank you.

Yours Faithfully,

For and On behalf of Unilever Kenya Limited,



LUCK OCHIENG
Managing Director

or supply for, payment terms and other elements touching on the specific engagements. Following the shortlisting of suppliers and depending on the circumstances and mutual negotiations, we mutually adjust to accommodate specific requests from the suppliers, including review of the payment terms and any other parameters agreed thereof.

Upon successful identification of suppliers, we then enter contractual terms agreed by both parties, it could be through a Purchase Order or if the nature of the service requires, we execute contracts for a duration of the Term stipulated in the negotiations and at the cost/price agreed between the Parties.

We wish to highlight that, any changes envisaged or proposed from our suppliers or ourselves are also discussed, and adjustments made based on the needs and situations that present themselves during the course of our contractual relationships.

Tendering process

The tendering process has 3 key stages:

- Prequalification -Technical evaluation
- E-tender
- Bid Analysis

Prequalification

Unilever values long-term partnerships with the suppliers that we develop over time to support our operations. For business continuity and to support capability development for new suppliers, we include at least 3 new players in every tender. The tender process is competitive bidding. All invited suppliers are required to meet the technical requirements regarding SHE (Safety, Health and Environment), Security, financial and service capability to be able to supply or provide a service.

SHE and Security is priority for our operations because we endeavor to run safe operations and value life and safety of all stakeholders in our Supply Chain. As such, failure to meet the pre-requisite mandatory standards related to Safety automatically disqualifies the potential bidders from proceeding to the next step, however, as a mitigating factor, we work with the Suppliers to develop their readiness on the areas that fall short for future qualifications.

In addition, Unilever prioritizes responsible sourcing and requires that our suppliers also do the same. Responsible sourcing ensures that we are taking care of the people and the environments we operate in. Our suppliers are therefore required to pay minimum wage, provide conducive work environment for employees, comply to legal working hours and ensure Human Rights principles are strictly adhered to among other requirements.

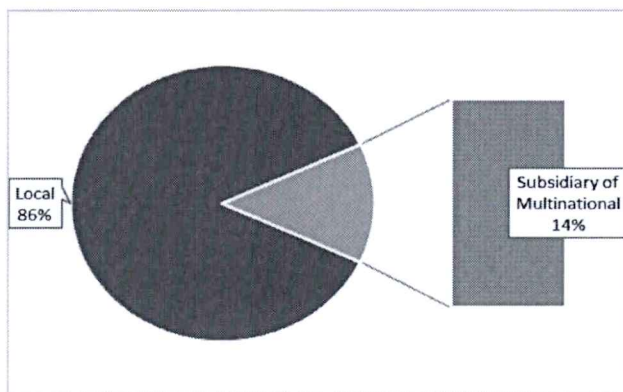
The potential bidders are given a checklist to self-examine themselves, followed by physical site visits to verify their status.

The minimum compliance would include and not limited to:

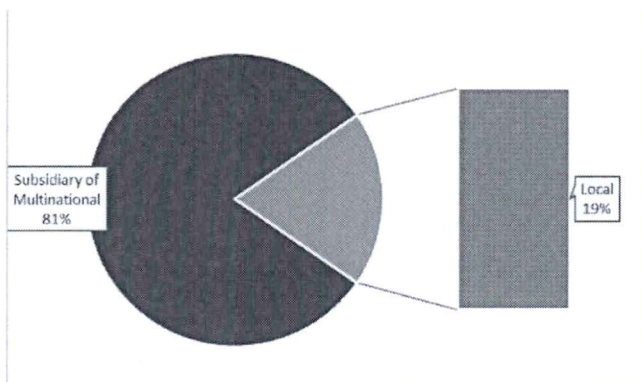
- Systems-Telematics (Journey monitoring system)
- WMS (Warehouse Management Systems)
- Safety performance management system
- Driver trainings and background checks
- Vehicle integrity-Periodic vehicle maintenance schedules
- Incident management – ability to investigate all road safety incidents.

DODOMA TRANSPORT AGENCY LTD	Transport	TZ Local
DHL SUPPLY CHAIN KENYA LTD	Transport	Local Subsidiary of Global Company
Mearsk	Clearing & Forwarding	Local Subsidiary of Global Company

Transport, Clearing and forwarding (86% of our transporters spend sits with local entities with no global presence)



Warehousing (81% of the total warehouse spends is in FG warehouse owned by Unilever and run by AGL)



The FG warehouse is contracted to a subsidiary of Multinational because of limited capability with local players in terms of IT infrastructure, Safety standards, volume /capacity and security standards. Unilever warehouses have the same standards globally. There is room to work with relevant stakeholders to develop this capability and localize this scope fully.

As a standard operating procedure, prior to any onboarding of our Logistics suppliers, we undertake a thorough RFQ (Request For Quotes) process, in which we seek tenders for services and supplies with clear standard terms and conditions. Upon closure of the tender period, we shortlist those suppliers that meet the criteria of the RFQ, schedule interviews/negotiations to agree on specific parameters of the nature of services or products that we are seeking provision

- Set up of a fully equipped training room for our drivers to ensure continuous learning and interaction with road safety information by Dec 2024. This work is in progress and when completed, it will play a vital role in capacity building for our drivers.

The logistics spend is split between Warehousing (35% of the spend) and Transport (65% of the spend). Unilever has over a few years taken deliberate efforts in ensuring local players are well represented in the logistics spend. Some local entities are designed in structure as subsidiaries of global parent companies for the purpose of capacity & capability aggregation and financial muscle for regional scaling.

We have a total of 15 logistics suppliers in Kenya, 3 suppliers in warehousing and 12 suppliers in transport. In our supplier list shared below, you will note that we have 3 locally incorporated entities that are subsidiaries of global companies (all incorporated in Kenya) and 12 local entities that have no global parent company structure.

- Warehousing-Out of the 3 suppliers, 2 are local entities that have no global parent company structure, while 1 is a local entity that is a subsidiary of a global company (AGL Kenya creating over 400 direct jobs for Kenyans).
- Transport, Clearing and Forwarding - Out of 13 suppliers, 11 are local entities that have no global parent company structure and 2 are local entities that are subsidiaries of a Global Company (DHL Supply Chain and Mearsk).

Below is the list of the suppliers based on our 2023 Full year.

Warehouse suppliers

Supplier	Scope	Type of supplier
E.A.S STORAGE CO LTD	Warehousing	100% Local
CONVENTIONAL CARGO CONVEYORS	Warehousing	100% Local
AGL KENYA LIMITED	Warehousing	Local Subsidiary of a global company

Transport, Clearing and Forwarding Suppliers

Supplier	Scope	Type of supplier
CONVENTIONAL CARGO CONVEYORS	Transport, Clearing and Forwarding	Local
AGILITY LOGISTICS LTD	Transport, Clearing and Forwarding	Local
SWAN CARRIERS LIMITED	Transport	Local
SIMBA TRUCKING CO. LTD	Transport	TZ Local
Amitruck Limited	Transport	Local
Sendy Limited	Transport	Local
Ponty Pridd	Transport	Local
Expediters Ltd	Transport	Local
Offshore Global Logistics Limited	Transport	Local
EDGESCOPE LTD	Transport	Local



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REF: NA/DDC/TRADE/2024/114

TO:
JEREMIAH NDOMBI, MBS
CLERK OF THE NATIONAL ASSEMBLY

RE: MEETING WITH THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES.

This letter is in response to your request NA/DDC/TRADE/2024/114 of 29th August 2024. We appreciate the opportunity to share with you some of the initiatives we are driving to support local businesses and communities within our supply chain.

Logistics Landscape

Unilever's relationships with partners are guided by Unilever's Responsible Partnership Policy(RPP).

The Unilever's Responsible Partnership Policy (RPP) reinforces our commitment to working together with our suppliers towards a long-term, sustainable and successful future for all parties. The RPP is instrumental in ensuring we deliver our business objectives while making a positive social impact on the lives of millions of people in our supply chains around the world and reducing our environmental impact. These ambitions are at the core of our Unilever Sustainable Living Plan (USLP). Localization is at the core of Unilever Supply Chain and over the last years, we have been intentional about developing local SME Logistics partners in addition to other sourcing categories. Some of the key capability development programs and partnerships include the below:


- Training - Onboarding of SME transporters and ensuring they meet the Unilever standards through extensive training. Over the last 3 years we have successfully developed Offshore Logistics and Expeditors Ltd (this is woman-owned SME) to fully meet our requirements and deliver on our transportation needs.
- Partnership with NTSA on Road safety campaign for local SME Transport companies. Unilever spent Kes 2.4m on the 'Drive to Zero' Safety awareness campaign in liaison with NTSA and our Logistics partners. This attracted over 70 drivers and from local transport companies who were trained and commissioned as Road Safety Ambassadors. This program ensures that we work collaboratively with the players in the transport industry to operate safely.
- Partnership with Defensive Driving School (DDS) for safe driving curriculum that is rolled out to all out SME transport companies including those that are subcontracted by our Logistics Partners. In December 2023 , Unilever spent Kes 2.1m to pay for refresher training for all drivers employed by our major Key Distributors. This benefit is not only to Unilever, but it extends to all the transporters in our value chain who by extension offer their services other users, and in turn, we are able to influence the industry positively on matters safety.

review meetings with suppliers. To our knowledge, no complaint has been raised by any of our suppliers over the matters mentioned above. Consequently, the allegations made against the Company are disputed.

We trust that the above information provides clarity on the matters raised in your letters dated 24th April 2024 and 24th May 2024. Should there be need for any further clarification, please do not hesitate to contact Billy Tsuma (Email billy_tsuma@bat.com).

Yours faithfully,

For **BRITISH AMERICAN TOBACCO KENYA PLC**


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successful bidders after conclusion of the tender process. Further, it is worth noting that special considerations are also set out in BAT Kenya's contracts with its transport and logistics suppliers giving the parties an opportunity to review and vary the pricing depending on market conditions and changes in the services during the period of the contract e.g. changes triggered by changes in legislation or movements in local fuel prices.

iii. The MNCs engage in predatory pricing aimed at driving them out of business.

As regards the allegations that BAT Kenya is engaging in predatory pricing with the aim of driving local transporters out of business, the same is not correct. Predatory pricing by definition is the practice of setting prices for a product/service unrealistically low in order to eliminate the competition. Logistics suppliers are not the Company's competitors neither is the Company a player in the transport and logistics sector.

Further, BAT Kenya has mitigated the risk of any supplier employing predatory pricing by putting in place a tendering process through which the Company receives price proposals from its suppliers and not vice versa. These proposals are scrutinized and validated to ensure compliance with the law, alignment with good industry standards and ensure supplier sustainability. BAT Kenya does not dictate the prices for its suppliers.

Further it is in the interest of the Company to have a wide pool of suppliers to encourage good quality goods/service delivery and competitive pricing.

iv. The MNCs' contracts with fellow MNCs in the transport sector lack transparency.

As earlier mentioned, BAT Kenya undertakes competitive bidding to ensure that it secures quality services and competitive pricing. The bidding processes and procedures are communicated to all relevant suppliers with clear timelines for submission of proposals. The entire bidding process is undertaken through an online platform to which all bidders have visibility of the bids and access to information.

The bidding documents and processes are communicated to the proposed bidders in advance through the RFP which contains terms and conditions that would eventually form contractual terms with the successful bidders subject to further negotiations.

The outcome of the bidding process is always communicated to the suppliers formally which is a clear indication of transparency in the sourcing process.

F. CONCLUSION

In conclusion, BAT Kenya submits that it is transparent in its engagements with its suppliers and has been fair in its treatment of the suppliers in recognition of upholding our values of conducting business in a responsible and sustainable manner. BAT Kenya has enabled its suppliers to engage in business in a constructive and professional manner including giving feedback during the regular