



# Kenya Anti-Corruption Commission



## **ANNUAL REPORT**

**2008 - 2009**

*Prepared and issued in accordance with Section 15 of The Anti-Corruption and Economic Crimes Act, 2003*

***On the frontline against corruption***



REPORT OF ACTIVITIES  
AND  
FINANCIAL STATEMENTS  
FOR THE  
FINANCIAL YEAR 2008/2009



KENYA ANTI-CORRUPTION COMMISSION  
ANNUAL REPORT 2008 - 2009

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On the frontline against corruption

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## LIST OF ABBREVIATIONS AND ACRONYMS

<b>ACC</b>	Anti-Corruption Commission	<b>MoJNCCA</b>	Ministry of Justice, National Cohesion and Constitutional Affairs
<b>ACECA</b>	Anti Corruption and Economic Crimes Act	<b>MoR</b>	Ministry of Roads
<b>ADB</b>	African Development Bank	<b>MOU</b>	Memorandum of Understanding
<b>AG</b>	Attorney General	<b>MTS</b>	Medium Term Strategy
<b>AKI</b>	Association of Kenya Insurers	<b>NACC</b>	National Aids Control Council
<b>AMSET</b>	Association of Medical Services Trust	<b>NACP</b>	National Anti-Corruption Plan
<b>APSD</b>	African Public Service Day	<b>NBI</b>	Nairobi
<b>APSEA</b>	Association of Professional Societies of East Africa	<b>NCPB</b>	National Cereals and Produce Board
<b>ASK</b>	Agricultural Society of Kenya	<b>NFA</b>	No Further Action
<b>BKMS</b>	Anonymous Reporting System	<b>NGO</b>	Non-Governmental Organization
<b>CBAM</b>	Community Based Anti-Corruption Monitors	<b>NMK</b>	National Museums of Kenya
<b>CBO</b>	Community Based Organization	<b>NSSF</b>	National Social Security Fund
<b>CDC</b>	Centre for Disease Control	<b>PBC</b>	Pending Before Court
<b>CDF</b>	Constituency Development Fund	<b>PC</b>	Performance Contracting
<b>CD-ROM</b>	Compact Disk – Read Only Memory	<b>PCCB</b>	Prevention and Combating of Corruption Bureau
<b>CJPC</b>	Catholic Justice and Peace Commission	<b>PCK</b>	Postal Corporation of Kenya
<b>CPC</b>	Corruption Prevention Committee	<b>PCSC</b>	Public Complaints and Standing Committee
<b>CPP</b>	Corruption Prevention Plan	<b>PEST</b>	Political Economic Social and Technological Environment
<b>CRA</b>	Corruption Risk Assessment	<b>POEA</b>	Public Officer Ethics Act
<b>DPFB</b>	Deposit Protection Fund Board	<b>PPDA</b>	Public Procurement and Disposal Act
<b>DPP</b>	Director of Public Prosecution	<b>PPDR</b>	Public Procurement and Disposal Regulations
<b>DWO</b>	District Works Officer	<b>KAA</b>	Kenya Airports Authority
<b>EAACA</b>	East African Association of Anti-Corruption Authorities	<b>KACC</b>	Kenya Anti-Corruption Commission
<b>EAPCC</b>	East African Portland Cement Company	<b>KAM</b>	Kenya Association of Manufactures
<b>FAQ</b>	Frequently Asked Questions	<b>KAPU</b>	Kenya Airports Police Unit
<b>FOCUS</b>	Fellowship of Christian Unions	<b>KBC</b>	Kenya Broadcasting Corporation
<b>GDDS</b>	General Data Dissemination System	<b>KCC</b>	Kenya Cooperative Creameries
<b>GJLOS</b>	Governance, Justice, Law and Order Sector	<b>KCIU</b>	Kenya Council of Imams and Ulamaa
<b>GSU</b>	General Service Unit	<b>KEMRI</b>	Kenya Medical Research Institute
<b>HCCC</b>	High Court Criminal Case	<b>KEMSA</b>	Kenya Medical Services Agency
<b>HCDA</b>	Horticultural Development Authority	<b>KEPSA</b>	Kenya Private Sector Alliance
<b>IAO</b>	Integrity Assurance Officer	<b>KESI</b>	Kenya Education Staff Institute
<b>ICPAK</b>	Institute of Certified Public Accountants	<b>KFMB</b>	Kenya Federation of Master Builders
<b>ICT</b>	Information and Communication Technology	<b>KIE</b>	Kenya Institute of Education
<b>IEC</b>	Information, Education and Communication	<b>KIF</b>	Kenya Integrity Forum
<b>IFES</b>	International Fellowship of Evangelical Students	<b>KIPPRA</b>	Kenya Institute for Public Policy Research and Analysis
<b>ILACOM</b>	Intelligence Led Anti-Corruption Model	<b>KISE</b>	Kenya Institute of Special Education
<b>IRMPF</b>	Institutional Risk Management Policy Framework	<b>PPDR</b>	Public Procurement and Disposal Regulations
<b>JKIA</b>	Jomo Kenyatta International Airport	<b>PPOA</b>	Public Procurement Oversight Authority
<b>KISGG</b>	Kenya Institutional Support for Good Governance	<b>PSC</b>	Public Service Commission
<b>KMA</b>	Kenya Maritime Authority	<b>PUI</b>	Pending Under Investigation
<b>KMFRI</b>	Kenya Marine Fisheries Institute	<b>REA</b>	Rural Electrification Authority
<b>KNEC</b>	Kenya National Examinations Council	<b>SDA</b>	Seventh Day Adventist
<b>KPA</b>	Kenya Ports Authority	<b>SGR</b>	Strategic Grain Reserve
<b>KPC</b>	Kenya Pipeline Company	<b>SME</b>	Small Micro Enterprise
<b>KPLC</b>	Kenya Power and Lighting Company	<b>SMS</b>	Short Message Service
<b>KShs.</b>	Kenya Shilling	<b>SWOT</b>	Strengths, Weaknesses, Opportunities and Threats
<b>KTB</b>	Kenya Tourism Board	<b>TSC</b>	Teachers' Service Commission
<b>LATF</b>	Local Authorities Transfer Fund	<b>TTC</b>	Teacher Training College
<b>LBDA</b>	Lake Basin Development Authority	<b>VCD</b>	Video Compact Disc
<b>MD</b>	Managing Director	<b>YEDF</b>	Youth Enterprise Development Fund
<b>MLA</b>	Mutual Legal Assistance	<b>YEDFB</b>	Youth Enterprises Development Fund Board
<b>MoE</b>	Ministry of Education	<b>YFCK</b>	Young Farmers Clubs of Kenya
<b>MoH</b>	Ministry of Health		



## **MISSION STATEMENT**

### **OUR MANDATE**

To combat corruption and economic crime in Kenya through law enforcement, prevention and public education as stipulated in The Anti-Corruption and Economic Crimes Act, 2003.

### **OUR VISION**

To be a world class institution fostering zero tolerance to corruption in Kenya.

### **OUR MISSION**

To combat corruption and economic crime through law enforcement, prevention and public education.

### **OUR CORE VALUES**

Integrity  
Professionalism  
Courage  
Teamwork  
Fidelity to the law  
Excellence in service

## MEMBERS OF THE KENYA ANTI-CORRUPTION ADVISORY BOARD



Eric Okong'o Omogeni  
Chairman



Irene Keino  
Vice Chairperson



Charles Kariuki Wambugu



Naomi Nyambura  
Wagerika



Grace Kaome Injene



John Khameme Wanyela



Dr. Abdallah A. Kibwana



Surru Tanna



Eng. Reuben Kosgei



Jacqueline A. Mugo



Billow Adan Kerrow



Francis Wangara



Justice (RTD)  
Aaron Ringera – Secretary

## OUTGOING MEMBERS OF THE KENYA ANTI-CORRUPTION ADVISORY BOARD



Allan N. Ngugi – Chairman



Shehnaz N. Sumar  
Vice Chairperson



Francis Atwoli



Mariamu El-Maawy



Kipng'etich K. Bett



Anna Muchungu



Richard Boro Ndung'u



Prof. Alfred V. Otieno



Prof. Miriam Were

## MESSAGE FROM THE OUTGOING CHAIRMAN (2004-2009)

### 1. General



This has been another year of considerable success by the Management and Staff of the Commission. The achievements, outlined in the following pages of this Report, testify to the energy, dynamism, skills and knowledge, brought to bear upon a wide spectrum of issues, challenges and demands that are inevitable while discharging a wide mandate encompassing corruption prevention, law enforcement and public education. The Commission deserves our hearty congratulations.

During the reporting year, the Advisory Board supported the Commission in its endeavour to remain focused on discharging its mandate, undeterred by what is often malicious and self-serving criticism. Take for example, the issue of the recovery and sale of the Grand Regency Hotel, the Commission ensured that the legal process for the restoration of the property to the public through the Central Bank of Kenya was flawless and the

securing instruments, that is, the consents were watertight. The Commission was not privy to any prior scheme to sell the hotel to any person/s or corporation whatsoever. The veracity of this assertion was established through the intense cross-examination at the Cockar Commission of Enquiry. Yet from time to time "the sale of the Grand Regency Hotel" still pops up in some mainstream media as evidence of the KACC failure in fighting corruption! While we concede that levels and incidents of corruption in the country are still too high and unacceptably numerous, what has kept us going is the firm belief that the situation would have been infinitely worse without the interventions applied by the Commission in the last four years or so. We are also convinced that history will judge our performance more justly and correctly.

### 2. Appointment of Assistant Directors

As reported last year, the process of filling the positions of two Assistant Directors was concluded with one person recommended for appointment to fill the position of Assistant Director, Investigations and Asset Tracing and another person recommended for appointment to the position of Assistant Director, Finance and Administration. The names were approved by Parliament and the two were duly appointed by H. E. the President on 23<sup>rd</sup> June 2009. This is expected to energize the management team and ease the extra work-load they have had to shoulder due to the vacancies.

### 3. Corporate Governance

It is imperative for the Board and the Commission to have in place excellent corporate governance processes. The Board set the pace by developing and operationalizing its Code of Conduct as well as a tool for evaluating its performance. The Commission is also guided by a Code of Conduct that regulates staff behaviour and has in place transparent and accountable financial, operational and administrative systems. All Commission processes are as a result of comprehensive consultations and observance of relevant laws. In addition, the Board Committees continued to work closely with the Commission Directorates where Board members infused their knowledge, skills and experience to specific programmes and activities. The



result has been harmonious operations with sharpened strategies that delivered excellent outcomes in all areas of operation.

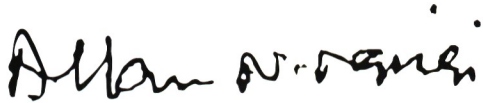
#### 4. Appreciation

Board Members are appointed for a term of five years. Accordingly, the term of those of us, nine in number, appointed in August 2003 came to an end in August 2008. However, an amendment to the ACECA, passed by the 9<sup>th</sup> Parliament, provided for Board Members to remain in office until a new Board was appointed. That has now happened and I would therefore like to take this opportunity to thank all the members of the inaugural Advisory Board for their unfailing support and wise counsel during my tenure as Chairman.

I would also like to thank the Director, Deputy Director and the Assistant Directors for their hard work, dedication and fidelity to duty, and to assure them of our appreciation and admiration of their unmatched skills and competencies in the service of the Commission and the country at large. They are supported by a loyal and competent staff complement which helps to make KACC the formidable anti-corruption agency that is the envy of similar agencies in the region and beyond.

Finally, we wish the new Chairman and the new Board every success during their term of service.

On behalf of the Advisory Board, I take much pleasure in commending our 2008/2009 Annual Report to you.



**Allan N. Ngugi, OGW**  
**CHAIRMAN**  
**KENYA ANTI-CORRUPTION ADVISORY BOARD**

## EXECUTIVE MANAGEMENT TEAM



Justice (RTD) Aaron Ringera  
Director/Chief Executive



Fatuma Sichale  
Deputy Director



Dr. John P. Mutonyi  
Assistant Director  
Investigation and Asset Tracing  
Re-Appointed on 23rd June 2009



Dr. Smokin Wanjala  
Assistant Director  
Preventive Services



Wilson Shollei  
Assistant Director  
Finance & Administration  
Appointed on 23rd June 2009

## MESSAGE FROM THE DIRECTOR



I am delighted to report yet another year of serious pursuit of our mandate as stipulated in the Anti-Corruption and Economic Crimes Act, 2003. This Annual Report is submitted pursuant to Section 15 of the Act which requires the Director to cause an Annual Report to be prepared for each financial year. The report covers the period 1<sup>st</sup> July, 2008 to 30<sup>th</sup> June, 2009. The main thrust of our work continues to be directed at the public sector.

The year under review is significant in two aspects. First, it cumulates our overall achievements in promoting zero tolerance to corruption in Kenya for almost five years because 9<sup>th</sup> September, 2009 marks the 5<sup>th</sup> anniversary since the current management was appointed to office. Second, it marks the end of our strategic plan 2006-2009 which has been our faithful compass for direction and inspiration.

We have gained strength as an institution and have entrenched our role in the minds of a large number of Kenyans. As we look back, we note with satisfaction the progress towards accomplishing our mandate as outlined in the Anti-Corruption and Economic Crimes Act as well as the Strategic Plan 2005 – 2009. The progress is not attributable to the

sole efforts of the Commission, our stakeholders in all sectors have played a role and closer dialogue with them will continue to rekindle Kenyans' hope and confidence in their institutions.

### Law Enforcement

The number of reports received by the Commission has continued to be polished as a result of more informed publics of the Commission's mandate. In the reporting year, the Commission received and processed 4335 reports of which 1270 fell within the Commission's mandate and were taken up for investigations. The level of relevance of reports received by the Commission continued to increase steadily reaching 30 percent in the reporting year compared to 25 percent in the previous year. The anonymous internet based corruption reporting system that guarantees the security and confidentiality of the whistleblowers has continued to record increased usage.

While I do not wish to dilute the urge to read this report in its fullness by giving highlights in my brief statement, some of the major cases fully investigated during the year are worth mentioning. Corruption reports involving Kenya Pipeline Company with Triton Petroleum Company, Kenya Tourism Board (KTB), National Social Security Fund (NSSF), the Kenya Medical Research Institute (KEMRI), National Cereals and Produce Board (NCPB), and the Ministry of Health formed a significant part of investigations in the reporting year. As a result of all investigations carried out in the year, we forwarded 122 files to the Attorney General of which 94 recommended prosecutions of suspects. We are happy to note that the Attorney General concurred with our recommendations in 87 files. Consequently, a sitting Permanent Secretary, Chief Executive Officers as well as other senior public officers and prominent personalities were arraigned in court. The total number of files forwarded to the Attorney General since September, 2004 are 498 of which a total of 382 recommended prosecution of suspects and our recommendations were accepted in 325 files.

Turning to our asset recovery function, we intensified our efforts because we believe it is a critical impetus in the fight against corruption. It renders corruption a worthless venture and the thought of being disgorge



of all illegally gotten wealth makes the culprits hesitant to partake of corruption. In the reporting year, we recovered assets worth **KShs.148.31 million** and **398** suits with an estimated value of over **KShs.5.0 billion** were instituted. Notable cases include 12 filed against current and former Members of Parliament including Cabinet Ministers for recovery of substantial allowances paid illegally to them in their capacity as members of the Parliamentary Service Commission, several cases seeking to recover land belonging to Kenya Agricultural Research Institute (KARI) and the Nairobi City Council among other recovery suits. Assets recovered since inception cumulate to over **KShs.4.5 billion**.

### Preventive Partnerships and Alliances

Preventive activities focus on reforming policies, practices, and procedures with a view to sealing corruption loopholes and other inefficiencies that lead to loss, poor service delivery and multifarious malpractices. Grand corruption that pervades high levels of Government, leads to a broad erosion of confidence in the Government, undermines governance, the rule of law and impedes economic growth among other ills. We continue to partner with external organisations that share our commitment in innovating integrity solutions for transforming our institutions.

During the reporting year, we infused our services in all the three arms of Government in an effort to minimize loopholes and opportunities for corruption that motivate public officers to indulge in corrupt practices. For instance, the Commission's investigation into payment of irregular allowances to members of Parliamentary Service Commission and the subsequent suits to recover the illegal payments has put an end to the practice in Parliament and discouraged illegal payments in the public service with resulting savings to the Exchequer.

Intense scrutiny of public appointments has resulted in greater transparency in the appointment to public offices. We have had a beneficial presence in Police and military recruitment processes as well as other employment in the public service and are happy to note the tremendous improvement in recruitment and appointment processes. We remain optimistic that the ideal situation where all appointments are merited and done in a transparent way will come to pass.

To improve service delivery in the public sector, It was found prudent to institutionalize anti-corruption strategies in public institutions. To this end, the Commission reached an agreement with Public Sector Reform Secretariat to take advantage of synergies resulting from our complementary roles by implementing performance targets under the "Corruption Eradication" indicator in the performance contracts and laid the framework for addressing corruption in public institutions. We continue to refine the indicators and assess the impact of this strategy annually and this has enhanced service delivery, reduced corruption loopholes and increased accountability in the public service.

The establishment of the Public Complaints Standing Committee (Ombudsman) is yet another initiative aimed at increasing accountability in public service. Complaints of maladministration previously received by KACC have now found their rightful place. We laud the government for this intervention and remain committed to deepening our cooperation with all public agencies in the promotion of good governance and transparency.

We are alive to the dynamic disposition of the corrupt. As they become more wary and sophisticated, we employ a high degree of care and skill to detect and pursue them. Through our proactive strategies in corruption prevention, we have had our presence felt where many mega corruption deals were being hatched and have disrupted and frustrated many corruption partakers. This strategy has rendered corruption an unattractive venture.



## Public Education

The importance of education in changing people's attitude towards corruption cannot be overemphasized. We continue to educate members of the public on the causes, dangers and effects of corruption and to enlist their support in corruption detection, prevention and eradication. We have infused education programmes through various organizations in the public sector, local authorities, the education system, the religious sector, youth organizations as well as the general public. We have used various vehicles to reach these groups including the media, workshops, conferences and meetings, music, drama and Information Education and Communication (IEC) materials. As a result, various surveys undertaken during the year indicate that the Commission's work is supported by the broad mass of the public. Without this support our effectiveness would be radically curtailed.

## Institutional Capacity

Through prompt and adequate exchequer releases, the Commission has continued to discharge its mandate without serious constraints. Our programmes as guided by the just lapsed Strategic Plan 2006-2009 were implemented as scheduled. We received donor support from the African Development Bank and the Governance Justice Law and Order Sector (GJLOS) programme which complemented GoK funding.

The Commission through Government support is determined to construct its premises to house its headquarters and signify a sense of institutional permanence. As reported last year, the Commission acquired a plot and is currently undertaking preparatory activities before actual construction begins in the current financial year. To augment our reach, we purchased and customised a van to serve as a mobile office to supplement the Integrity Centre and Mombasa offices.

## Legal Challenges and Desired Reforms

There continues to be serious challenges faced locally in cases that transcend the national borders. The Commission remains prohibited by a court order from requesting, receiving or using information through Mutual Legal Assistance. We are happy to note that as part of removing that obstacle, the Attorney General has tabled a Mutual Legal Assistance Bill before Parliament. This Bill expressly recognises all investigative Agencies established by law as competent authorities to seek, give and use Mutual Legal Assistance. The Commission also hopes that the Money Laundering and Proceeds of Crime Bill will be re-introduced in Parliament.

When these Bills are enacted, the Commission will be able to pursue corruption and economic crimes across the borders. The Commission further continues to suffer under the burden of inability to conclude investigations into the Anglo-leasing scam as a result of Judicial orders barring investigations into those security contracts. We have appealed against all those judgments. We are hopeful that during the ongoing Constitutional Review, the Commission will be entrenched in the Constitution. We have already submitted a proposal to that effect to the Committee of Experts. Such action will mitigate some of the legal challenges encountered by the Commission.

## Outgoing Members of the Advisory Board

I want to exalt the valued contribution of the Advisory Board members who vacated office on 27th May, 2009 upon their replacement. Led by the Chairman Mr. Allan Ngugi, they spared no effort or idea that would propel the Commission to greater heights of knowledge and understanding. At a time when the operating environment was quite hostile to Commission functions, the Board employed their wisdom, tenacity and unwavering support which ensured the Commission remained faithful to its mandate. We thank the former Chairman and the members for their varied knowledge which they offered to the Commission and for

upholding a high level of integrity and professionalism which have all paved the way for our current energized approach to enhancing integrity in Kenya.

### **Our Staff**

We take pride in our staff, acknowledging that our strength and capability to deliver on our mandate is squarely dependent on them. We appreciate their dedication and focus to our mandate and encourage them to continue upholding integrity in all their undertakings. We have continued to enhance their capabilities through rigorous local and international training and development programmes as well as other endeavours to empower them in preparation for a more challenging future.

### **Looking Ahead**

Whilst we cannot predict with precision what the future has in store for the Commission, we remain aware that the environment in which we operate will continue to present new challenges and opportunities. Our resolve to fight corruption and economic crimes in Kenya remains firm and we are confident that the Commission has the strategies, skills and resources that will enable us to anticipate and adapt quickly and effectively to the challenges that we might face. We remain determined to succeed. In the anti-corruption struggle, surrender is not an option.

Aluta Continua!



**Justice (Rtd) A. G. Ringera, EBS**  
**DIRECTOR/CHIEF EXECUTIVE**



## 1. BACKGROUND

### 1.1 INTRODUCTION

The Kenya Anti-Corruption Commission (KACC) was established under the Anti-Corruption and Economic Crimes Act, 2003 (ACECA) with a mandate to spearhead the fight against corruption through law enforcement, prevention and public education.

The Annual Report outlines and documents the Commission's achievements in implementing its mandate in the 2008/2009 period in line with its Strategic Plan (2006-2009). The Report also highlights the setbacks and challenges faced during the period under review. By providing detailed information on aspects of the Commission's operations, the Report gives an opportunity for the Commission and its stakeholders to reflect upon and analyze these achievements, setbacks and challenges with a view to forging a common and shared understanding and direction in moving the anti-corruption, integrity and ethics agenda forward.

### 1.2 MANDATE, FUNCTIONS AND STRUCTURE OF THE COMMISSION

#### 1.2.1 Mandate

The mandate of the Commission is to combat corruption and economic crime in Kenya through law enforcement, prevention and public education as stipulated in The Anti-Corruption and Economic Crimes Act, 2003

#### 1.2.2 Functions

The functions of the Commission are specified in Section 7 of the Act as follows:

- a) to investigate any matter that, in the Commission's opinion, raises suspicion that any of the following have occurred or are about to occur:
  - i) conduct constituting corruption or economic crime;
  - ii) conduct liable to allow, encourage or cause conduct constituting corruption or economic crime;
- b) to investigate the conduct of any person that, in the opinion of the Commission, is conducive to corruption or economic crime;
- c) to assist any law enforcement agency of Kenya in the investigation of corruption or economic crime;
- d) at the request of any person, to advise and assist the person on ways in which the person may eliminate corrupt practices;
- e) to examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures that, in the opinion of the Commission, may be conducive to corrupt practices;
- f) to advise heads of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such bodies that the Commission thinks necessary to reduce the likelihood of the occurrence of corrupt practices;
- g) to educate the public on the dangers of corruption and economic crime and to enlist and foster public support in combating corruption and economic crime;
- h) to investigate the extent of liability for the loss of or damage to any public property and -
  - i) to institute civil proceedings against any person for the recovery of such property or for compensation; and
  - ii) to recover such property or enforce an order for compensation even if the property is outside Kenya or the assets that could be used to satisfy the order are outside Kenya; and



- i) to carry out any other functions conferred on the Commission by or under this Act or any other law.

### 1.2.3 Structure

The mandate and functions of commission are executed through the following structures:

#### i) The Kenya Anti-Corruption Advisory Board

The Kenya Anti-Corruption Advisory Board (KACAB) is established as an unincorporated body under Section 16 of ACECA. The Board is an independent body answerable only to Parliament. It consists of twelve members nominated by various sectors and interests through civic, religious, professional and business organizations/associations and the Director of the Commission. The Director is also the Secretary of the Board. In the 2008/2009 period, the members were:

No.	Name	Nominating Body	Membership Status
1.	Mr. Allan N. Ngugi	Kenya Association of Manufacturers	Chairman up-to 23rd June 2009
2.	Mr. Eric Okong'o Omogeni	Law Society of Kenya	Chairman from 23rd June 2009
3.	Mrs. Shehnaz N. Sumar	Federation of Kenya Employers	Vice Chairman up-to 23rd June 2009
4.	Ms. Irene Keino	Architectural Association of Kenya	Vice Chairman from 23rd June 2009
5.	Mr. Richard B. Ndungu	Institute of Certified Public Accountants of Kenya	Member up-to 27th May 2009
6.	Mr. Billow Adan Kerrow	Institute of Certified Public Accountants of Kenya	Member
7.	Prof Alfred V. Otieno	Institution of Engineers of Kenya	Member up-to 27th May 2009
8.	Eng. Reuben Kosgei	Institution of Engineers of Kenya	Member
9.	Prof. Miriam K. Were	Kenya Medical Association	Member up-to 27th May 2009
10.	Dr. Abdallah A. Kibwana	Kenya Medical Association	Member
11.	Mr. Kipng'etich K. Bett	Kenya Bankers Association	Member up-to 27th May 2009
12.	Mr. John Khameme Wanyela	Kenya Bankers Association	Member
13.	Mrs. Mariamu El-Maawy	Architectural Association of Kenya	Member up-to 27th May 2009
14.	Mrs. Anna Muchungu	Association of Professional Societies of East Africa	Member up-to 27th May 2009
15.	Mrs. Grace Kaome Injene	Association of Professional Societies of East Africa	Member
16.	Mr. Francis Atwoli	Central Organization of Trade Unions	Member up-to 27th May 2009
17.	Mr. Francis Wangara	Central Organization of Trade Unions	Member
18.	Mr. Charles Kariuki Wambugu	Joint Forum of Religious Organizations	Member



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19.	Ms. Naomi N. Wagereka	International Federation of Women Lawyers (FIDA) Kenya Chapter	Member
20.	Mrs. Jacqueline A. Mugo	Federation of Kenya Employers	Member
21.	Mr. Sura Tanna	Kenya Association of Manufacturers	Member
22.	Hon. Justice (Rtd) Aaron Ringera	Director/Chief Executive – KACC and Secretary of the Advisory Board	

The Board's functions are to:

- a) Advise the Commission generally on the exercise of its powers and the performance of its functions under the Act;
- b) Recommend to Parliament persons to be appointed as Director or Assistant Directors of the Commission;
- c) Initiate the process of removal from office of the Director or Assistant Directors for specified reasons; and
- d) Approve grants and donations to the Commission.

## **ii) The Commission**

The Kenya Anti-Corruption Commission is established under Section 6 of the ACECA as a body corporate. It comprises of the Director, Assistant Directors and staff. The Commission has organized its functions into four directorates based on its mandate as follows:

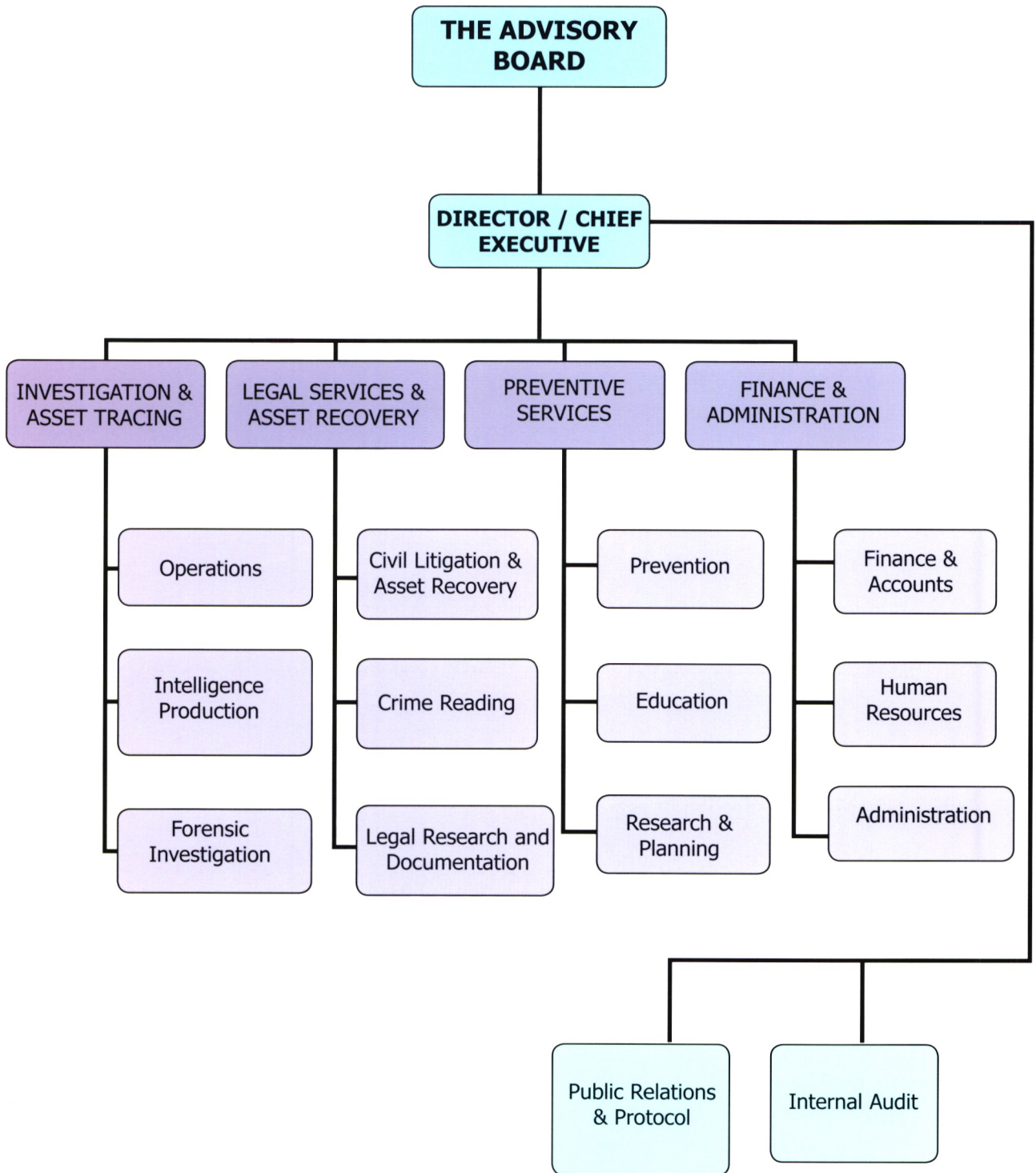
- Investigation and Asset Tracing;
- Legal Services and Asset Recovery;
- Preventive Services; and
- Finance and Administration.

## **iii) Organization Structure of KACC**

Figure 1 represents the Organization Structure of KACC.



Figure 1: Organization Structure



## 2. INVESTIGATION AND ASSET TRACING

### 2.1 INTRODUCTION

This section of the Report details the achievements of the Commission on investigation and asset tracing during the period under review. It covers corruption reports received, investigations conducted and assets traced.

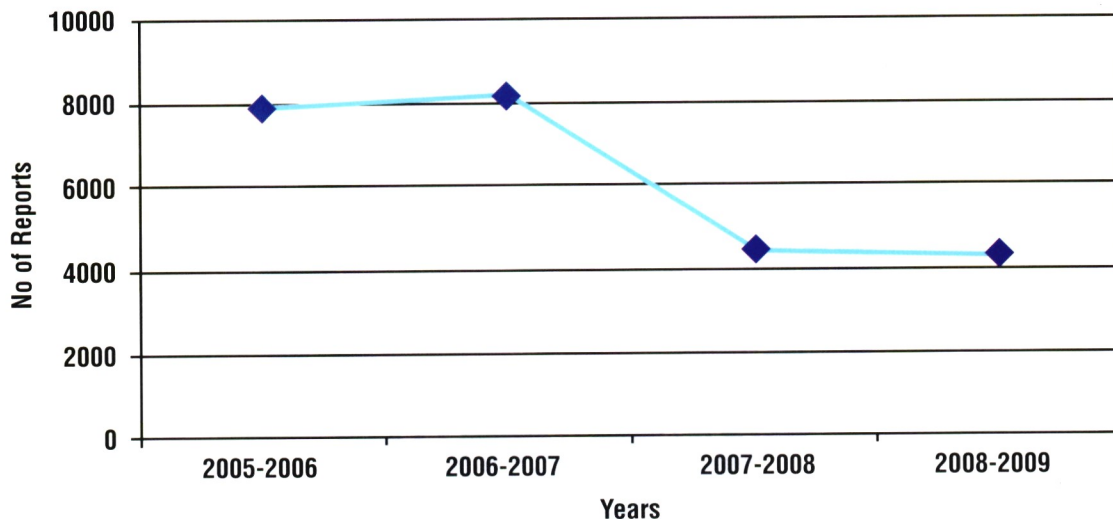
### 2.2 CORRUPTION REPORTING

#### 2.2.1 Corruption Reports

The Commission received 4,335 corruption reports in the FY 2008/09 compared to the 4,485 reports received in 2007/2008. This represents a decline of 3.3 percent. In the period 2006/2007 and 2005/2006 a total of 8,188 and 7,888 reports were received and processed respectively.

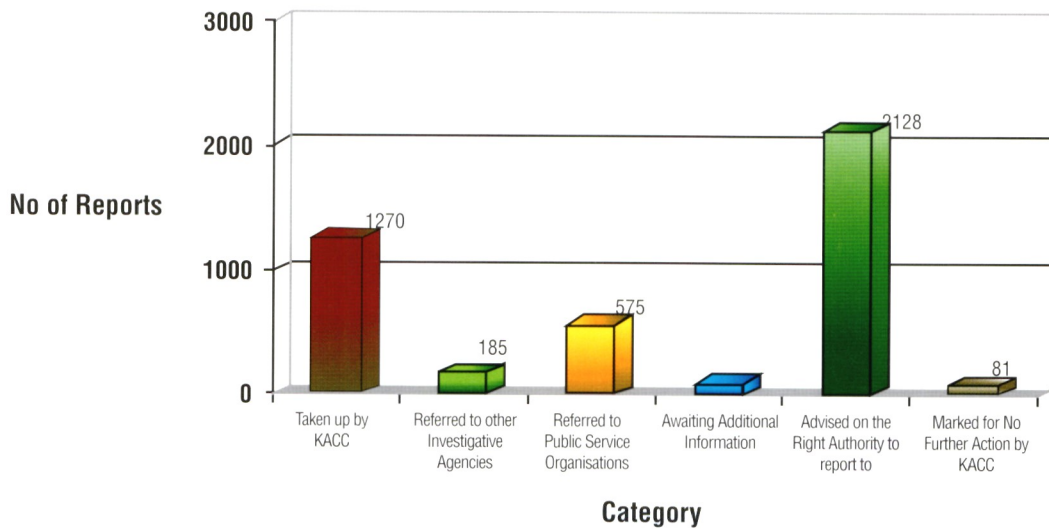
The decline in the number of reports as illustrated in Figure 2 may be attributed to the establishment of the Public Complaints Standing Committee (PCSC) which is dealing with issues of maladministration in the public service and the spillover effects of the post December 2007 elections skirmishes.

**Figure 2: Trends in Corruption Reporting**



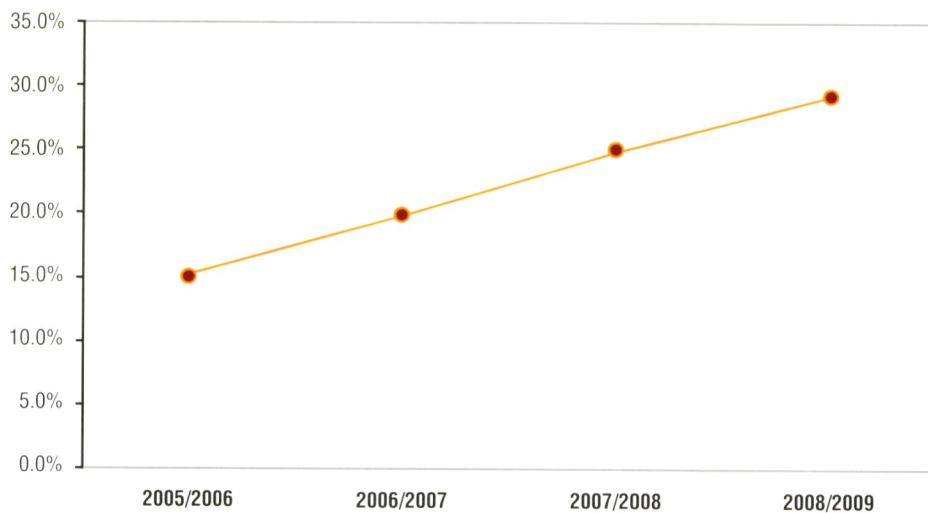
Out of the reports received in the year under review, 1,270 were within the Commission's mandate and were taken up for action. The rest (3,065 reports) were outside the Commission's mandate and hence were referred to relevant organizations and agencies for appropriate action. Figure 3 presents categorization of reports by action taken.

**Figure 3: Categorization of Corruption Reports by Action Taken**



Despite the declining trend of reporting over the last two years, there has been a steady increase of reports within the Commission's mandate as shown in Figure 4. Out of the 4,335 reports that were processed during the period under review, 29 percent were within the Commission's mandate as compared to 25 percent in 2007/2008. In 2006/2007 only 20 percent of the reports contained corruption and economic crimes, while in 2005/2006 those within the Commission's mandate accounted for 15 percent of the 7,888 cases reported.

**Figure 4: Trend of Corruption Reports within the Commission's Mandate**

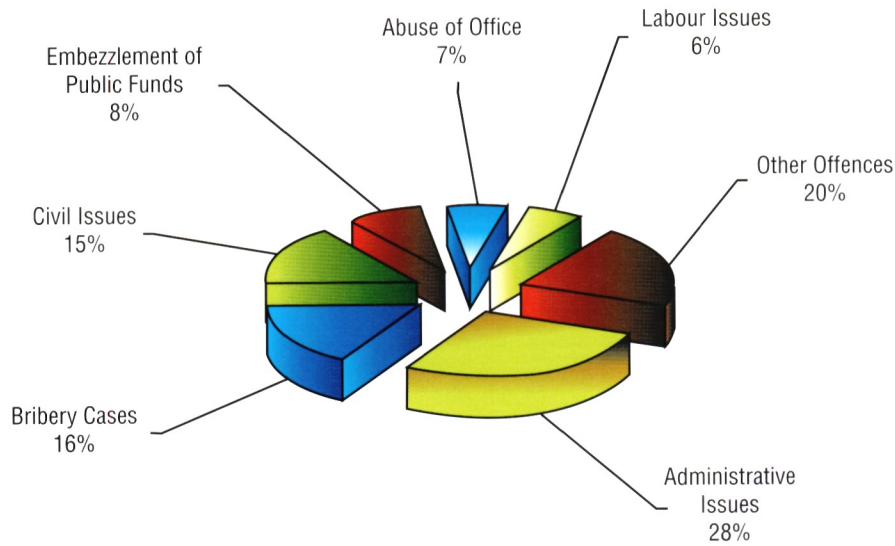


### 2.2.2 Nature of Reports

The majority of complaints received during the year were administrative in nature accounting for 28 percent of the total. Other reports comprised: Bribery Cases (16%), Civil Issues (15%), Labour-related (6%), Embezzlement of Public Funds (8%), Abuse of Office (7%) and Others (20%).



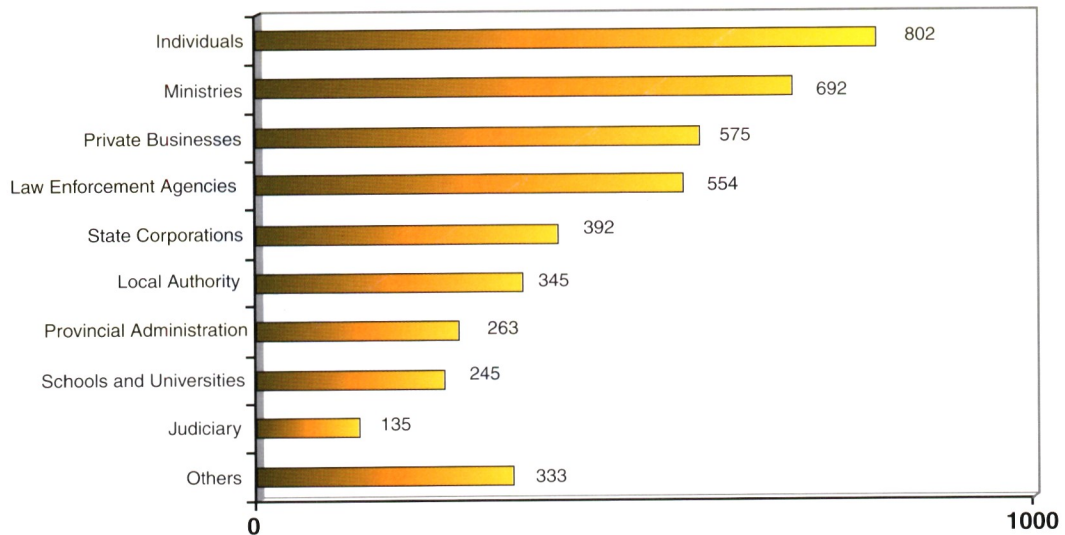
**Figure 5: Categorization of Corruption Reports by Nature of Malpractice**



### 2.2.3 Corruption Reports on Individuals and Institutions

Further disaggregation of the reports received by the Commission indicates that 802 were against private individuals while 3,533 were on institutions and persons working within the institutions as represented in Figure 6.

**Figure 6: Corruption Reports on Individuals and Institutions**



## 2.3 INVESTIGATIONS

### 2.3.1 Reports Taken up for Investigations

The 1,270 reports taken for action by the Commission were dealt with as summarized in Table 1.

**Table 1: Summary of Investigations Conducted**

Status of Investigations	July 2008-June 2009
Completed Investigations	122
Cases Pending Under Investigations	195
Cases Referred to other Agencies for Investigations	13
Inquiries Undertaken and Recommended for No Further Action after Preliminary Investigations	217
Reports Under Intelligence Development	723
<b>TOTAL</b>	<b>1,270</b>

As a result of the completed investigations during the period under review, a total of 101 suspects were arrested and charged.

### 2.3.2 Highlights on Investigations

Some of the notable cases investigated by the Commission in the year under review include 13 case files taken to various courts (see Table 2), 7 investigation files completed and forwarded to the Attorney General for direction (See Table 3) and 16 reports still under investigation (See Table 4).

It is worth noting that while certain aspects of investigations were completed as reported in Table 3, there are other aspects of the same investigations that are still ongoing. This explains why certain investigations are highlighted as completed and ongoing in Tables 3 and 4 respectively.

**Table 2: Cases Before Court**

No.	Case File Number	Particulars of Offence	Persons Charged	Amount Involved KShs. (million)
1.	Court File No. 17/09, CRNo. 141/416/09	Loss of KShs. 8,925,444.00 that was disbursed for tourism marketing and promotion activities during the financial year 2007/2008 by the Kenya Tourism Board.	Former Permanent Secretary (PS) Mrs. Rebecca Mwikali Nabutola, former Managing Director of KTB Mr. Ongong'a Achieng, former Chairman of KTB Mr. Duncan Muriuki Kaguuru and Maniago Safaris Limited.	8.93
2.	Court File No. 16/09, CRNo. 141/390/09	Irregular procurement of various medical items and equipment at Ministry of Health (MoH).	Dr. Shadrack Mwititi Ithinji, the Ministry Principal Procurement Officer Mr. Zachary Bolo Awino and other ministry officials.	300
3.	Court File No. 6/09 CRNo.141/123/2009	Fraudulent acquisition of public funds by former Managing Director of Kenya Reinsurance Corporation Ltd.	Former Managing Director (MD) of Kenya Reinsurance Corporation Ltd, Mr. Johnson Jackson Githaka.	7.26



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4.	Court File No. 7/09, CRNo. 141/145/09	Irregular disposal of several houses owned by Kenya Pipeline Company contrary to the public procurement and disposal regulations.	Former Managing Director Mr. George Joshua Okungu and a former Company Secretary Mrs. Mary Kiptui.	481.60
5.	Court File No. 820/09, CRNo. 141/382/09	Irregular award of contracts for road gravelling in Trans Nzoia District.	Two former Permanent Secretaries; Mr. Samson Teela Akute and Mr. Peter Maina Wakori alongside a former District Commissioner Mr. Godfrey Mate.	1,396
6.	Court File No. 12/09, CRNo. 141/323/09	Irregular disposal of land belonging to Prudential Bank (Under Liquidation) by Deposit Protection Fund Section of Central Bank of Kenya (DPFB).	Senior officer of Central Bank of Kenya Deposit Protection Fund Board Ms. Leah Aida Wambete and four officers from the Ministry of Lands Solomon Otuol, Daniel Kavani, Moses Maseno and Benjamin Njeru.	3.86
7.	Court File No. 02/09, CRNo. 141/76/09	Fraudulent acquisition of public property by former Chief Accountant National Museums of Kenya.	Former Chief Accountant of National Museums of Kenya Mr. Abdirizak Mohamed Abdille.	1.44
8.	Court File No1/08 CR No.141/43/08	Irregular procurement of non pharmaceuticals by Kenya Medical Supplies Agency (KEMSA).	Former Chief Executive Officer of KEMSA, Mr Charles Kandie and the Procurement Manager of KEMSA Edward Buluma.	84.24
9.	Court File No. 2/09, CRNo. 781/45/09	Conflict of Interest by a Government officer in Narok District who was running a business M/s Osinoni Investments through which office stationery was supplied to the Narok District Treasury.	Former District Cashier Mrs. Jane Njeri Nkurrenah.	0.1
10.	Court File No. 265/09 CR No. 664/119/09	Irregular procurement of second hand CAT 140G graders through single sourcing from Associated Equipment Company (PTY) Limited of South Africa by South Nyanza Sugar Company Limited (SONY) contrary to procurement	The former Managing Director of SONY Mr. Ambrose Otieno.	1.5



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		guidelines issued by the Directorate of Procurement. The graders were never delivered to SONY though a down payment was made.		
13.	Court File No. 18/09 CR No.141/515/09	Irregular release of 126,488,499 litres of petroleum products worth KSh 7.6 Billion held by the Kenya Pipeline Co. Ltd by officials of the Kenya Pipeline Co. Ltd under collateral financing agreement without the authority of the financier.	Four senior managers of Triton and three KPC officials; Mr. Yagnesh Mohanlal Devani, Mahindra Pathak, Julius Kyalo Kilonzo, Collin Otieno, Benedict Mbevi Mutua, Peter Manono Mecha, Phanuel Okwengu Silvano and Triton Petroleum Company Ltd.	7,600
14.	Court File No. 22/09 CR No.141/604/09	Fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.	The former KEMRI Director, Dr Davy Koech. Total	19.3
<b>Total</b>				<b>9,904.23</b>

**Table 3: Completed Investigations**

No.	Institution	Nature of Inquiry	Amount Involved KShs. (million)
1.	National Cereals and Trustees of Strategic Grain Reserve (SGR)	Irregular selling of 3.4 Million bags from SGR; Members of Parliament and senior civil servants influenced the allocation of SGR maize by writing introductory notes to their friends and relatives; and that National Cereals and Produce Board (NCPB) irregularly procured maize, fertilizers and gunny bags.	3,400
2.	State Law Office	Allegations that a senior officer from the Attorney General's Office engaged in various acts of corruption and Abuse of Office.	5.6
3.	Public Land-Kizingo in Mombasa	Irregular acquisition of public land situated at Kizingo area of Mombasa Island. Thirteen parcels of land valued at KShs. 73 million were irregularly alienated. The land is confirmed to	73



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		have been surveyed and had government pool houses before the illegal alienation.	
4.	Lake Basin Development Authority	Abuse of office against the Management of the Lake Basin Development Authority (LBDA) who acting in concert with certain advocates, fraudulently and without authority, executed and recorded a consent order in court requiring the said LBDA to pay a firm of Consulting Engineers the sum of KShs. 80,000,000.00.	80
5.	Ministry of Health	Procurement irregularities involving procurement officials at the Ministry of Health and private suppliers covering five tenders for the supply of pharmaceuticals, medical equipment and non-pharmaceutical items.	270.43
6.	Nairobi Remand and Allocation Prison (NRAP)	Abuse of Office against the officials of the Prisons Department's Nairobi Remand and Allocation Prison (NRAP) in that they misappropriated KShs. 40 Million meant for the construction of staff houses.	40
7.	Ministry of Roads (MoR)	Fraudulent payment of KShs. 77 million by officials at the Ministry of Roads to a supplier for bitumen which had not been supplied.	77
<b>Total</b>			<b>3,946.03</b>

**Table 4: On-going Investigations**

No.	Institution	Nature of Inquiry	Amount Involved KShs. (million)
1.	Kenya Pipeline Company (KPC)	Irregular procurement and payments to consultants and contractors in the KShs. 6 Billion Kenya Pipeline capacity enhancement project (commonly known as Line I) and for Kenya Pipeline spare parts worth KShs. 45 million.	6,045
2.	Kenya Medical Supplies Agency (KEMSA)	Misappropriation of public funds by way of inflated pending bills by officials of Kenya Medical Supplies Agency and the Ministry of Health.	1,200
3.	National Social Security Fund (NSSF)	Loss of KShs.1.3 Billion of Pension Funds from National Social Security Fund through Discount Securities and irregular survey, purchase, sale and transfer of 5 No. plots measuring about 5 acres by National Social Security Fund located between Kenyatta Avenue, Loita Street, Market Street and Uhuru Highway at the Nairobi Central	1,670

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4.	Postal Corporation of Kenya (PCK)	Business District valued at KShs. 1.37 Billion. Conflict of interest - entering into a skewed Contract by the Management of Postal Corporations of Kenya and fraudulent payments from PCK's Posta Pay System.	20
5.	Government Officers in Narok District	Conflict of interest by a former District Works Officer (DWO) who was said to run a Construction Company Ltd, through which he was awarded many road and building construction tenders in Narok District. It was further alleged that he was managing and approving payments to the contractor (his company).	20.58
6.	Kenya Airports Authority	Irregular procurement of services of Information Communication Technology (ICT) Consultants and payment of exorbitant salaries and allowances contrary to laid down public procurement regulations.	29
7.	KPC and M/S Gas Company Ltd	Misappropriation of KShs. 130 million allocated to a joint venture project for Liquefied Petroleum Gas (LPG) between Kenya Pipeline Company and M/s Gas Company Ltd.	130
8.	Kenya Airports Authority (KAA)	Irregular variation of Consultancy Contract by the Kenya Airports Authority (KAA) for the expansion of passenger terminal facilities at Jomo Kenyatta International Airport (JKIA), Nairobi. It is alleged that the cost of the expansion and re-organization of JKIA which was originally estimated at \$15million (about KShs. 1.2 Billion) has been varied to \$190 million (about KShs. 15.28 Billion) resulting in additional consultancy fees of USD 3.3 million (KShs. 264Million).	15,280
9.	Provincial Administration - Molo District	Misappropriation of KShs. 6 million by the Provincial Administration in Molo District meant to compensate for the losses incurred by Internally Displaced Persons (IDPs).	6
10.	Youth Enterprises Development Fund Board (YEDFB).	Irregularities in procurement of intermediaries and disbursement of funds at the Youth Enterprise Development Fund Board (YEDFB).	300
11.	East African Portland Cement Company (EAPCC)	Irregularities related to cement distributorship and loss of funds at the East African Portland Cement Company (EAPCC).	23
12.	Councillors and Chief Officers of Narok County Council	Misappropriation of funds from the tourism sector meant for development in the wards in line with recommendation of the inter-Ministerial Task Force constituted in 2005 by the Ministry of Local Government.	37.1



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13.	Immigration Department	Irregular issue of work permits and citizenship to foreigners by the Ministry of State for Immigration and Registration of Person.	N/A
14	Lake Basin Development Authority (LBDA)	Misappropriation of the Authority's funds by senior managers using the imprest system to siphon out funds (13 million) meant for development of the Authority. Another KShs. 7,897,841.20 being rates reimbursed by the Municipal Council of Kisumu for land rates paid to Lake Basin Development Authority by the Dominion Farms limited was embezzled by an advocate who never made any disclosure.	20.90
15.	City Council of Nairobi	Fraudulent procurement of 120 acres of land situated within Mavoko Municipality to be used as public cemetery by the City Council of Nairobi. In the transaction, KShs. 283 million was paid out by the City Council of Nairobi but the vendor received KShs. 110 Million only.	283
16.	National Aids Control Council (NACC)	Irregular procurement of consultancy services for formulation of Governance Structure and equipment by the National Aids Control Council (NACC) management.	1.5
<b>Total</b>			<b>25,066</b>

## 2.4 ILLEGALLY ACQUIRED AND UNEXPLAINED ASSETS TRACED

During the period under review the Commission traced illegally acquired assets of an estimated value of KShs.5.61 billion compared to KShs.2.54 billion in the 2007/08 financial year. Table 5 provides the details of assets tracing investigations conducted during the period under review. Some of these investigations were completed and recovery suits filed in court.

**Table 5: Completed Assets Tracing Investigations**

No.	Type of Asset	Brief description	Approximate Value in KShs. million
1.	13 residential houses on a 16 acre piece of land	Properties belonged to Municipal Council of Eldoret that were grabbed by a former mayor.	113.50
2.	Cash (liquid Assets)	KShs. 173 million, being amount paid out fraudulently by the Ministry of Local Government through the City Council of Nairobi in purchase of a 120 acre cemetery land in Machakos. Out of the KShs. 283 Million paid out for the land, only KShs. 110 million was received by the vendor.  KShs. 13 million accumulated un-surrendered imprest by senior managers of Lake Basin Development Authority.	1,438.89



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		<p>KShs. 7.89 million, being theft by agent, one advocate who received money on behalf of the Lake Basin Development Authority but failed to remit or make full disclosure.</p> <p>KShs. 181 million irregular payments made to a prominent law firm by Kenya Sugar Board.</p> <p>KShs. 680 million, being sums of money irregularly paid out by Kenya Sugar Board on behalf of Miwani Sugar Company (1989) (in Receivership) Ltd to one ordinary creditor and another one who were debenture holders.</p> <p>KShs. 384 million, being payments received by a former Managing Director of Kenya Power and Lighting Company through an off-shore account based in Jersey; being proceeds of bribery to award contracts. The same is already frozen.</p>	
3.	Parcels of land	<p>5 acres of land forming part of State Lodge – Eldoret</p> <p>9,394 acres of land together with developments thereon belonged to Miwani Sugar Mills Ltd but was fraudulently transferred.</p> <p>5 plots measuring about 5 acres owned by the National Social Security Fund located between Kenyatta Avenue, Loita Street, Market Street and Uhuru Highway at the Nairobi Central Business District.</p>	3,700
4.	Others (including cases of tax evasion)	<p>Unremitted tax by a suspect who is a Financial Controller in a public institution)</p> <p>Bitumen that hitherto, the officials at the Ministry of Roads made payment to a supplier without being supplied.</p>	31
5.	Land, buildings and motor vehicles	<p>KShs. 72.8 million worth of unexplained wealth accumulated by a Chief Accountant who served at a government ministry.</p> <p>KShs. 17 million worth of unexplained wealth accumulated by a Police Constable who was based at a weighbridge.</p> <p>KShs. 30 million worth of unexplained wealth accumulated by one senior police officer that cannot be justified by his known source of income.</p> <p>KShs. 60 million worth of unexplained accumulated wealth by an accountant serving at the Judiciary that is not commensurate with his known sources of income.</p>	179.80
6	Land, buildings and motor vehicles	<p>Accumulation of wealth by Mr. Patrick Ochieno Abachi, a Chief Accountant in a government ministry. This is not commensurate with his known source of income and that he owns assets in form of land, buildings and motor vehicles estimated at over KShs. 72 million.</p>	72
<b>Total</b>			<b>5,612.19</b>



**Table 6: On-going Asset Tracing Investigations**

No.	Type of Asset	Brief description	Approximate Value in KShs. million
1.	Land, buildings and motor vehicles	Acquisition of unexplained wealth by a senior traffic police officer that is not commensurate with his known sources of income. The officer, together with his wife, has accumulated wealth in form of land, buildings and motor vehicles.	30
2.	Land, buildings and cash	Acquisition of unexplained wealth not commensurate with known source of income for a Police Officer manning a weighbridge.	17.21
3.	Unexplained Payment	Unsubstantiated payments of KShs. 680 million on behalf of Miwani Sugar Company (1989) (in Receivership) Ltd. to two creditors, one ordinary creditor and the other, a debenture holder. In both cases, it is alleged that the payments were made without due consultations with Miwani Sugar Company (1989) Ltd. (in Receivership) or the Board's approval. The monies paid out were subsequently used as bribes to a Chief Executive Officer of the Kenya Sugar Board, the area MP and one time Minister of Agriculture, among others.	680
4.	Motor vehicles, undeveloped land and houses	A former Chief Executive Officer with the Kenya Sugar Board, a Parastatal under the Ministry of Agriculture has, within a short period of his employment in the Public Service Commission since 2003 acquired assets estimated at over KShs. 90 million which is far beyond the known source of his income.	90
5.	Block of flats, parcels of land & motor vehicles	Accumulated Properties not commensurate with known sources of income by an Accountant based at Judiciary. His properties so far traced are estimated at about KShs. 60 million.	60
6.	Offshore funds Total	Allegations of money laundering by a former Managing Director of Kenya Power and Lighting Company (KPLC) through award of contracts and that he received payments into his off-shore account based in Jersey, USA. The funds estimated at Sterling Pounds 3 million (approximately KShs. 384 Million) have been formerly frozen by Jersey Authorities and recovery efforts are in progress.	384
<b>Total</b>			<b>1,261.21</b>

## 2.5 PROACTIVE INVESTIGATION

### 2.5.1 Disruption of Corruption Networks

The Commission continued to apply a proactive strategy in the detection of unreported corruption and the identification of potential areas for corrupt practices. This approach demonstrates the determination of the Commission to seek out and combat corruption wherever it may be. This strategy has proved effective in uncovering many serious cases of corruption, in both the public and private sectors, which might otherwise have remained unreported. Table 7 provides the various corruption networks disrupted.

**Table 7: Disrupted Corruption Networks**

<b>Institution</b>	<b>Type of Offence</b>	<b>Estimated Amount in KShs. million</b>
Kenya Sugar Board	Irregular approval	2,200
Mombasa Old Port	Tax evasion	2
Kenya Ports Authority	Mis-procurement of cranes	1,000
Ministry of Education	Irregular payments	63
East African Portland Cement	Mis-procurement of clinker	1,000
Youth Enterprise Development Fund	Embezzlement	300
Kenya Pipeline Company Limited	Irregular payments	12
<b>Total</b>		<b>4,600</b>

### 3. STATUTORY REPORTS TO THE ATTORNEY GENERAL

#### 3.1 INTRODUCTION

Pursuant to the provisions of Section 15 (4)(a) of ACECA, this part of the Report presents information set out in the Quarterly Reports as required under Section 36 of ACECA for the year under review.

Under Section 35 of the ACECA, the Commission is required to report to the Attorney General on the results of investigations. Section 36 on the other hand requires the Commission to prepare Quarterly Reports setting out the number of reports made to the Attorney General and such other statistical information relating to those reports as the Commission considers appropriate.

#### 3.2 QUARTERLY REPORTS

During the period under review, the Commission prepared and published in the Kenya Gazette four Quarterly Reports as required by law. A total of 122 reports on concluded investigations were made to the Attorney General, representing an increase of 9.9 percent over last year's total of 111 reports. Out of these reports, 94 of them, representing 77 percent recommended prosecution of named suspects, 19 of them, representing 15.6 percent recommended closure of the files and 9 representing 7.4 percent recommended administrative action as shown in Tables 8 and 9.

**Table 8: Files Forwarded to the Attorney General**

<b>Recommendations to the AG</b>	<b>Quarter 1</b>	<b>Quarter 2</b>	<b>Quarter 3</b>	<b>Quarter 4</b>	<b>Total</b>
No. of files recommended for prosecution	26	26	23	19	<b>94</b>
No. of files recommended for administrative or other action	2	3	0	4	<b>9</b>
No. of files recommended for closure	5	8	1	5	<b>19</b>
<b>Total</b>	<b>33</b>	<b>37</b>	<b>24</b>	<b>28</b>	<b>122</b>

**Table 9: Action by Attorney General on Files Forwarded\***

Action by the AG	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
Cases taken up for prosecution	18	16	13	14	<b>61</b>
Administrative or other action taken	0	1	0	4	<b>5</b>
Recommendations to prosecute not accepted	1	0	1	0	<b>2</b>
Files closed	3	6	1	5	<b>15</b>
Files returned for further investigation	2	2	3	1	<b>8</b>
Recommendations for administrative or other action not accepted	0	0	0	0	<b>0</b>
Files forwarded in previous quarters and received during this quarter	11	13	21	10	<b>55</b>
Recommendations for closure not accepted	0	0	0	0	<b>0</b>
Files pending action	6	9	4	1	<b>20</b>

\*Actions taken include those on files forwarded to the AG in previous years.

### 3.3 CRIMINAL CASES PRESENTED BEFORE COURT

During the period under review, a total of 76 criminal cases were presented before court as shown in Table 10.

**Table 10: Criminal Cases Presented Before Court**

Particulars of charge	Number of cases
Soliciting & receiving of benefit	54
Impersonating an investigator	1
Unlawful acquisition of public property	2
Abuse of office	5
Conflict of interest	2
Wilfully failing to comply with procurement procedures	6
Fraudulent payment for services not rendered	1
Irregular sale of public property	1
Conspiracy to defraud	1
Uttering false document	1
Fraudulent disposal of public property	1
Fraudulent disposition of mortgaged property	1
<b>Total</b>	<b>76</b>

#### 3.3.1 Investigatory Applications

During the period under review, the Commission filed 173 applications and obtained warrants to investigate bank accounts (133) and search premises of persons or associates of persons suspected of engaging in corruption, economic crime or related offences (40).



## 4. LITIGATION AND RECOVERY OF ILLEGALLY ACQUIRED PUBLIC AND UNEXPLAINED ASSETS

### 4.1 INTRODUCTION

This section covers a summary of steps taken during the year in civil proceedings instituted by the Commission for recovery of illegally acquired and unexplained assets as required by Section 15 of ACECA. The Commission in the execution of this function filed suits, preservation and forfeiture applications. The Commission also entered into Out-of-Court settlements and recovered illegally acquired assets.

### 4.2 RECOVERED PUBLIC ASSETS

The Commission recovered corruptly acquired public assets valued at KShs. 148.31 million through civil court proceedings and Out-of-Court settlements (See Tables 11 and 12). The properties recovered are located in Nairobi, Nakuru, Tigoni and Kisii. Most of the assets recovered belong to Kenya Agricultural Research Institute (KARI) and the City Council of Nairobi.

**Table 11: Recovered Public Assets through Civil Court Proceedings**

Item	Case Particulars	Public Body for whom Property Recovered	Approximate Value in KShs. million.
1.	Nbi Hcc. No. 2134 of 2007, KACC vs. Peter Gikura & Lawrence Waweru	LR. No.22008/24 recovered on behalf of Kenya Agricultural Research Institute – Tigoni.	8
2.	Nbi Hcc. No. 2133 of 2007, KACC vs. Cones Machinery Ltd	LR. No. 22008/7 recovered on behalf of Kenya Agricultural Research Institute – Tigoni.	8
3.	Kisii Hcc. No. 117 of 2008, KACC vs. Wilkister Moige Samwel	Kisii/ Mun. Block 111/440, recovery of land reserved for Gusii Technical Institute.	0.50
4.	Kisii Hcc. No. 118 of 2008, KACC vs. Jackson Moindi Ontegi	Kisii/ Mun. Block 111/435 recovery of land reserved for Gusii Technical Institute.	0.50
5.	Nbi Hcc. No. 169 of 2007, KACC vs. Kenneth N. Ogeto	LR. No. 209/13539/65 Woodley/ Joseph Kang'ethe Estate on behalf of City Council of Nairobi.	20
6.	Nbi Hcc. No. 83 of 2007, KACC vs. Eunice Kyanda	LR. No. 209/13539/78 Woodley/ Joseph Kang'ethe Estate on behalf of City Council of Nairobi.	20

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7.	Nbi Hcc. No. 333 of 2008, KACC vs. Stephen Kirima Kogi	LR. 209/13539/76, Woodley/ Joseph Kang'ethe Estate on behalf of City Council of Nairobi.	20
8	Nbi Hcc. No. 1295 of 2007, KACC vs. Susan Wangu	LR. No. 22008/13, recovered on behalf of Kenya Agricultural Institute (Tigoni).	8
9.	Nbi Hcc. No. 2135 of 2007, KACC vs. Irene Wanjiru	LR. No. 22008/17 recovered on behalf of Kenya Agricultural Research Institute – Tigoni.	8
10.	Nbi Hcc. No. 1294 of 2007, KACC vs. Simon Kuria	LR. No. 22008/25 recovered on behalf of Kenya Agricultural Research Institute – Tigoni.	32
11.	Nbi Hcc. No. 2181 of 2007, KACC vs. Jerioth Wangui	LR. No. 22008/14 recovered on behalf of Kenya Agricultural Research Institute – Tigoni.	8
12	Nbi Hcc. No. 2140 of 2007, KACC vs. Thomas Kariuki	LR. No. 22008/12 recovered on behalf of Kenya Agricultural Research Institute – Tigoni.	8
13	Nku Hcc. No. 29 of 2009, KACC vs. Michael Rotich	Nku/ Mun. Block 11/669.	0.5
14	Nbi Hcc. No. 30 of 2007, KACC vs. Tom Chetalam	Nku/ Mun. Block11/670.	0.5
15	Nbi Hcc. No. 27 of 2007, KACC vs. Dr. John Ndung'u	Nku/ Mun. Block11/663.	0.5
17	Eld. Hcc. No.112 of 2007, KACC vs. Dr. Victor Maina	Ministry of Health being salary paid irregularly.	0.21
21	Mks Cmcc. No. 76 of 2009, KACC vs. Elkana Syongo	Ministry of Foreign Affairs being allowances irregularly paid.	1.73
<b>Total</b>			<b>144. 44</b>



**Table 12: Recovered Public Assets through Out-of-Court Settlements**

Item	Name	Public Body for whom Property Recovered	Value in KShs. million.
1	Dr. D. M. Nguku	City Council of Nairobi, being irregular house allowance.	0.24
2	Frost Otieno Josiah	Ministry of Foreign affairs being allowances irregularly paid.	2.8
3	Florence T. Biryia	National Aids Control Council monies unlawfully paid.	0.27
4	George Omondi Arum	National Aids Control Council monies unlawfully paid.	0.28
5	Lawrence Omondi Okudo	National Aids Control Council monies unlawfully paid.	0.28
<b>Total</b>			<b>3.87</b>

#### 4.2.1 On-going Cases for Recovery

During the year, the Commission filed 148 civil cases for recovery of public assets acquired through corruption and economic crime as shown in Table 13.

**Table 13: Cases for recovery of public landed assets and embezzled funds**

Item	Particulars	No. of Cases	Approx. Value in KShs. million
1	Cases filed for recovery of public houses and land.	131	1,567.70
2.	Cases filed for recovery of embezzled funds.	4	10.48
3.	Cases filed for recovery of illegally paid allowances to MPs.	12	31.50
<b>Total</b>			<b>1,609.68</b>

#### 4.2.2 Preservation of Suspect Assets

Since inception, the Commission has preserved suspect property by making applications for preservation orders under section 56 of ACECA. However, the Court of Appeal in the case of Dakane Ali v. KACC and 2 others, Court of Appeal Civil Application Nbi 255 of 2007 cast doubt on the propriety of applications for preservation orders without first filing a substantive suit. The Commission then resorted to filing applications for orders of injunctions (interlocutory applications) to prevent wasting and or alienation of illegally acquired assets by the Defendants while the suit was awaiting trial.

#### 4.2.3 Forfeiture Proceedings

The Commission under Section 55 of ACECA filed applications for forfeiture to the State of unexplained assets held by any person subject of investigation. In this regard, the Commission filed applications to recover unexplained assets from public officers whose known sources of income could not justify their wealth.

#### 4.2.4 Constitutional and Judicial Review Applications

Majority of persons who are either under investigation, charged with corruption and economic crime offences or subject of civil recovery cases have filed Constitutional References or applications for prerogative orders. These references and applications seek to stop or delay investigations, proceedings before court and recovery process. Some of the major cases are highlighted in Table 14.



**Table 14: Constitutional References and Applications for Prerogative Orders**

Particulars of Case	Act precipitating the reference/judicial review application	Nature of Complaint in the reference/judicial review application
NBI H.C.C Pet. No. 615 of 2008 Patrick Abachi & 6 Others	The Commission, pursuant to a warrant of search, searched the premises of the 1 <sup>st</sup> Petitioner and carried documents which showed that the 1 <sup>st</sup> Petitioner had registered companies in his name, that of his wife and close relatives through which he purchased properties worth over 100 Million. The Commission then filed for forfeiture proceedings.	The petitioners claim that the search conducted and forfeiture proceeding filed violated Sections 70, 74, 75 & 76 of the Constitution on property, privacy and arbitrary search.
NBI H.C.C Pet. No. 1 of 2009 Douglas K. Ruto	The Commission upon receipt of a complaint that the petitioner who was a DO in Makueni was soliciting for a bribe from sand harvesters, moved and arrested him and later charged him in Embu ACC No. 22 of 2005.	The Petitioner alleges that his constitutional rights have been infringed by the Commission, the police and the AG, by institution of ACC No. 22 of 2005.
NBI H.C. JR. App. No. 102/09 Westmont Holdings SDN BHD	After the Grand Regency was sold, the Commission participated in the proceedings of a Commission of Inquiry into the sale of the grand regency.	The applicant has made an application for release of the report on the Commission of Inquiry into the sale of Grand Regency and has joined the Commission as a party.
Hc. Jr. No. 124 of 2009 Dr. Charles Kandie	The Commission after investigation established the applicant failed to appoint a technical committee to undertake technical evaluation on procurement tenders for KEMSA.	The applicant has applied for judicial review for orders of prohibition to restrain his arrest and prosecution in ACC No. 9 of 09 on a technical evaluation report on KEMSA.
Hc. Jr. No. 123 of 2009 Jackson G. Mwangi Mildred S. Odwori Edward Buluma Mercy Kasina Dorcas Kwanyera George Walukana	The Commission investigated irregularities in respect of failure by the applicants who were employees of Kenya Medical Supplies Agency (KEMSA) to observe procurement procedures in the procurement of drugs and pharmaceutical equipment on behalf of KEMSA and recommended criminal prosecution by AG.	The applicants have applied for judicial review by way of orders of prohibition, to restraining their arrest, and charging on account of technical evaluation report on KEMSA and prosecution in case ACC No. 9 of 2009.
Nbi. Hcc. No. 498 of 2008 Embakasi Ranching Co. Ltd	The predecessor to the Commission pursuant to a complaint that the company was alienating public land took documents from the company, related to membership and other statutory/proceedings records.	They are seeking for orders that retention of the documents have been illegal and should be returned to them.
NBI H.C. C JR No. 273 of 2006 Dol International Ltd.	The Commission in investigating fraudulent procurements of drugs and pharmaceutical equipment by the Ministry of Health established collusion between the applicant and Ministry officials.	The application seeks to prohibit prosecution of its director in relation to the said procurements.

<p>NBI H.C. PET. No. 227 of 2009 George Okungu</p>	<p>The Commission investigated abuse of office and malpractices on the part of the applicant who was the Managing Director Kenya Pipeline Co. Ltd. and established abuse of office and irregularities in the sale of corporation houses and advised charges to be preferred by the AG.</p>	<p>The applicant has challenged the constitutionality of ACC NO. 7 of 2009 on charges of malpractices/abuse of office while at Kenya Pipeline Co. Ltd.</p>
<p>Nbi H.c. Pet. No. 230 of 2009 Mary Kiptui</p>	<p>The Commission investigated abuse of office and malpractices on the part of the applicant who was the Company Secretary Kenya Pipeline Co. Ltd. and established abuse of office and irregularities in the sale of corporation houses and advise charges to be preferred by the AG.</p>	<p>The applicant has challenged the constitutionality of ACC NO. 7 of 2009 on charges of malpractices/abuse of office while at Kenya Pipeline Co. Ltd.</p>

### 4.3 LEGAL RESEARCH AND DOCUMENTATION

In the period under review, the Commission undertook the following:

- i) Comparative analysis of anti-corruption laws in specific countries.
- ii) Made proposals to the Kenya Law Reform Commission for consideration in the amendments of the Evidence Act, Chapter 80 Laws of Kenya as follows:
  - a) Admissibility of evidence captured in tape, audio and visual devices; and
  - b) Admissibility of evidence in electronic records and information.
- iii) Made proposals to the Inter-Ministerial task team on the Mutual Legal Assistance Bill, 2009 in regard to including the Commission as a Competent Authority. In addition, the Commission's proposal to amend the Criminal Procedure Code to provide for plea bargaining was effected by way of amendment by Parliament.

## 5. CORRUPTION PREVENTION

### 5.1 INTRODUCTION

The Corruption Prevention mandate of the Commission is provided for in Section 7 of the ACECA. The mandate encompasses advising any person upon request on issues relating to the fight against corruption and economic crime; examining practices and procedures of public bodies to identify and seal corruption loopholes and to secure a review of work methods; advising heads of public bodies; educating the public and enlisting their support in the fight against corruption; conducting research on corruption and governance issues; and engendering co-operation with other persons or bodies in the fight against corruption and economic crime.

This section of the Report presents the Commission's achievement on corruption prevention in the reporting year.

### 5.2 ADVISORY SERVICES

#### 5.2.1 Examinations and Review of Systems, Policies and Procedures

Examinations and risk assessments are carried out to identify corruption loopholes and recommend measures for sealing them. The following examinations and risk assessments were conducted.

##### (i) Local Authority Transfer Fund (LATF)

The Table 15 provides a summary of key findings and recommendations on the examination of the policies, systems and procedures of LATF.

**Table 15: Summary of main Findings and Recommendations on the Examination of LATF**

Findings	Recommendations
Lack of operational guidelines on disbursement of LATF.	Develop Disbursement procedures manual.
Inadequate monitoring and control systems on utilization of funds making it difficult to ascertain proper application of the funds.	Strengthen the monitoring and control systems for utilization.
Irregular procurement procedures.	Adherence to the PPDA and regulations. Institute disciplinary action against errant officers.
Lack of mechanisms to detect multiple, over and under disbursement to Local Authorities or transfer to unauthorized bank accounts.	Institute appropriate mechanisms to detect irregular disbursements.

## (ii) Kenya Maritime Authority

The Commission carried out a Corruption Risk Assessment on the Kenya Maritime Authority in response to a request by the Director General of the Authority. The key findings and recommendations are provided in Table 16.

**Table 16: Summary of CRA Findings and Recommendations**

Risks Identified	Recommendations
Lack of a comprehensive maritime policy may lead to corruption in the management of marine source pollution.	Develop a comprehensive maritime policy to provide for effective marine source pollution management by all stakeholders.
Lack of controls to check exercise of discretion in licensing shipping lines and agents, signing certificates, billing and debt collection.	Put in place systems to check discretion in issuance of certificates, licensing, billing and debt collection.
Poor record management in registration of vessels.	Automate records management to enhance security accessibility and ease of retrieval on vessel records.
Lack of adherence to procurement procedures.	Strict adherence to procurement law and regulations.
Inconsistencies between internal financial and procurement procedures with existing laws and regulations.	Harmonize internal financial and procurement procedures with existing laws and regulations.
The practice of issuance of annual licenses before payment is prone to abuse and may lead to loss of revenue.	Harmonize issuance of licensing and payments.
Lack of a clear complaints redress mechanism from the public may undermine checks and balances in service delivery.	Put in place complaints redress mechanism.

## (iii) Pensions Department

During the year under review, the Commission presented a report of examinations into the policy, systems and procedures of work of the Pensions Department to the Ministry of Finance for implementation. The Commission also undertook a follow up on the implementation to establish progress made. Table 17 provides a summary of the recommendations and implementation status at the time of the follow up.

**Table 17: Summary of Recommendations and Implementation Status**

Recommendation	Implementation Status
Develop a file tracking system.	The Pensions Management Information System (PMIS) is being implemented by the Department and is able to track information on pensioners and complaints.  Training of the officers on the use of the PMI system is ongoing.  KNA&DS to be consulted on archiving.
Review the Pensions statutes with a view to providing a legislative framework for implementation of the contributory scheme within the Public Service.	A bill to implement the contributory scheme was drafted.
Initiate a comprehensive audit of District Treasuries and ensure that a formal handover of pension payrolls is done.	A team of internal auditors and accountants was constituted to carry out the audit.
Prepare monthly reconciliations of the hard and soft copies of payrolls.	Reconciliation of payrolls has been implemented.
Prepare a database of all pensioners and dependants and ensure that it is regularly updated.	The Ministry of State for Public Service has embarked on a project to install a HR system that will be compatible with PMIS and IFMIS.  The Department will commission a payroll cleansing exercise in the 2009/2010 financial year
Review the payroll system to be able to detect duplicate bank accounts.	The Department will commission a payroll cleansing exercise in the 2009/2010 financial year.
Develop a system of confirming pensioners' existence after a given period of time instead of stopping their pensions haphazardly.	To be commenced at a later date after the consultant appointed to handle payroll cleansing will have finished the work.
Develop an ICT strategy.	The ICT team to develop an ICT strategy once the PMIS roll out is completed.

**(iv) National Registration Bureau**

The implementation status of the recommendations on the Examination of the National Registration Bureau (NRB) is summarized in Table 18.

**Table 18: Follow-up on Implementation of Examination of NRB**

Recommendations	Implementation status
Spearhead a consultative process to formulate a national registration policy.	The Bureau has used the recommendations of the examination report to seek funding for the preparation of a national registration policy.
Invalidate the use of the first generation identity cards which can be used for fraud.	The first generation ID cards invalidated through a gazette notice.
More technical staff be deployed to hasten processing of IDs and avoid delays that lead to corrupt practices.	Professional officers in the areas of IT, procurement, accounts and Audit have been deployed to the Bureau.
Devise mechanisms of ensuring speedy collection of IDs.	The Bureau is currently working with Postal Corporation of Kenya to work out modalities for handling lost and found ID cards. The aim is to ensure such ID cards are delivered to the owners or are secured.

**(v) City Council of Nairobi (NCC)**

The main purpose of the follow up was to ascertain the status of implementation of the recommendations as shown in Table 19.

**Table 19: Follow-up on Implementation of Examination of NCC**

Main Recommendations	Implementation Progress
Fast track the review of all Council By-Laws to address emerging challenges within the City.	The Council has reviewed and gazetted most By-Laws.
Develop Policy Guidelines on Public Private Partnerships.	Developed a partnership policy on service provision and delivery.
Ensure that all Chief Officers of the Council are recruited competitively based on merit and subjected to contractual terms of service renewable upon satisfactory performance.	Chief Officers have been put on performance contracts.
Ensure that job descriptions and operational guidelines are prepared for all staff.	Consultant contracted to prepare job descriptions and a staff rationalization and needs assessment framework.
Develop Service Charters	Service Charters prepared.
Enter into an agreement with bankers and open collection accounts for rates, rents, permits, etc.	Not yet implemented.
Acquire an integrated financial management information system.	LAIFOMS implemented.



## 5.2.2 Advisory Services on Corruption Prevention Strategies

During the period under review, the Commission provided advice to various institutions on development of corruption prevention strategies as follows:

- Corruption prevention guidelines
- Institutional anti-corruption policy and prevention plans
- Codes of conduct
- Service Charters
- Baseline surveys

### i) Corruption Prevention Guidelines on Public Procurement

The Commission in partnership with the Public Procurement Oversight Authority (PPOA) developed Corruption Prevention Guidelines on public procurement to guide organizations on minimizing operational risks and corruption loopholes. The Guidelines emphasize the need for the procuring entities to institute and implement clear and transparent management systems, rules and procedures that enhance ethics, accountability and effective controls in the procurement process.

### ii) Corruption Prevention Instruments

The Commission provided advisories to various public institutions in mainstreaming corruption prevention strategies through the development of anti corruption policies, corruption prevention plans and codes of conduct. The highlights of which are contained in Table 20.

**Table 20: Nature of Advice Provided**

No.	Institution	Nature of Advice
1.	Kenya Utali College	Developing Corruption Prevention Plan
2.	Jomo Kenyatta Foundation	Preparation of an Institutional Anti-Corruption Policy
3.	Agricultural Finance Corporation	Development of an Anti Corruption Policy
4.	Lake Victoria Water Services Board	Development of an Anti Corruption Policy
5.	Kenya National Library Services	Development of an Anti Corruption Policy
6.	Kenya Rural Electrification	Development of Code of Conduct
7.	National Coordinating Agency for Population and Development	Development of Corruption Prevention Guidelines in Project Management
8.	Kenya Film Corporation	Development of an Anti Corruption Policy
9.	Thika Technical Training Institute	Development of an Anti Corruption Policy and Code of Conduct

## 5.2.3 Partnerships and Coalitions

The Commission engages in a number of partnership and collaborative activities with various institutions in the public and private sectors with a view to enhancing the network of involvement in the fight against corruption through prevention activities. During the year under review, the Commission continued with its partnerships and coalitions programme as shown in Table 21.



**Table 21: Partnerships and Coalitions**

Partner	Nature of Partnership	Output
Public Sector Reforms and Performance Contracting Secretariat	Design and incorporation of six performance targets under the "Corruption Eradication" indicator in the Performance Contracts.  Monitoring implementation of anti-corruption strategies contained in the Performance Contracts  Annual Review of the "Corruption Eradication" Performance targets	Enhanced implementation of anti-corruption strategies in the public sector through development and implementation of Anti-Corruption Policies; Codes of Conduct; Corruption prevention Plans and establishment of Corruption Prevention Committees.
Public Procurement Oversight Authority	Capacity building programme for Local Authorities, University of Nairobi, Kenya Federation of Master Builders (KFMB) for Small and Medium Enterprises (SMEs)	466 officials were trained on the application of procurement law and regulations.
Ministry of Local Government	Development and implementation of institutional Corruption Risk Management plan for the procurement function of Local Authorities	100 officers from 47 Local Authorities trained from Eastern, Central, Coast, North Eastern and Western Provinces.
Ministry of Lands and Kenya National Archives and Documentation Services	Implementation of the recommendations of Records Assessment Report of the Ministry of Lands	New classification system and indexes developed  Closed files appraised and listed  20,000 deed files and 3,000 settlement files organized 3,000 letters in the settlement department filed  Unauthorized restriction to records area enforced through use of existing counter  Records Management included in the Ministries strategic plan
	Mainstreaming corruption prevention strategies through the formulation of a National Policy on Records Management	A Draft Policy on records management developed
Ministry of Finance	Mainstreaming Risk Management in public institutions	Treasury Circular No.3/2009 on Institutional Risk Management Policy Framework (IRMPF) was issued to all public institutions.
	Capacity Building for Internal Auditors –for World Bank funded projects.	Internal Auditors from 42 World Bank funded projects trained on 'Corruption Risks and Prevention Strategies in Financial Management'

Cabinet Office	Implementation of the Best Anti-Corruption Framework Award.	6 Institutions awarded
Association of Professional Societies of East Africa (APSEA)	Collaboration in enhancing governance and ethics among professional associations	2 codes of conduct for the National Nurses Association of Kenya and Kenya Society of Physiotherapists were developed
Association of Kenya Insurers	Collaboration in addressing fraud in the insurance industry	Mainstreamed ethics in continuous professional development training  20 resolutions formulated to address fraud in the insurance industry
		Trained 106 Claims & Branch managers to address fraud in the insurance industry & develop anti-fraud policies
Institution of Certified Public Accountants of Kenya	Collaboration in addressing corruption and enhancing ethics and integrity in the accounting profession	A MOU between KACC and ICPAK was initiated

### 5.3 PUBLIC EDUCATION, TRAINING AND AWARENESS CREATION

Governance and ethics training encompass training for Integrity Assurance Officers, Corruption Prevention Committee members and Integrity Committees. In addition the Commission trains senior managers in institutions on corruption prevention strategies besides carrying out targeted training on corporate governance for examined institutions. During the year under review, the Commission carried out following the training:

#### 5.3.1 Public Service Integrity Programme

##### i) Integrity Assurance Officers (IAOs)

The objective of the IAO training is to equip Public Officers with technical skills to enable them detect and prevent corruption in their respective organizations. During the year under review, a total of 835 Integrity Assurance Officers (IAOs) drawn from 151 public sector institutions were trained by the Commission as shown in Table 22.



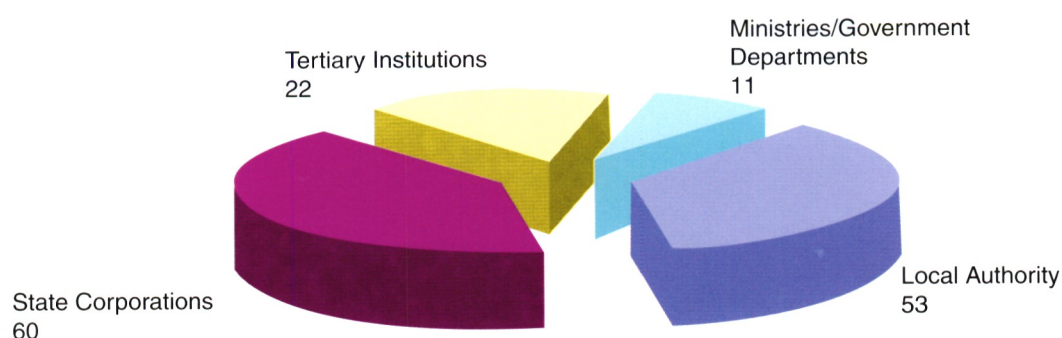
**Table 22: Integrity Assurance Officers Trained**

No.	Province/Institutions	No. of Institutions Trained	No. of officers
1	Nairobi Province	21	203
2	North Eastern Province	12	47
3	Rift Valley Province	15	57
4	Coast Province	25	84
5	Central Province	34	94
6	Nyanza Province	16	51
7	Western Province	20	51
8	Eastern Province	25	63
9	Kenya Airports Authority (KAA) (mid level managers trained)	-	58
10	Ministry of Labour and Human Resources Officers drawn from all departments of the ministry attended	-	37
11	Teachers Service Commission Officers drawn from the headquarters and District Offices attended the training	-	90
<b>Total</b>			<b>835</b>

## ii) Senior Management and Corruption Prevention Committee Training

The training targets members of the Institutional Corruption Prevention Committees who spearhead implementation of corruption prevention strategies in their respective organizations. In the reporting year, the Commission trained 624 corruption prevention committee members and senior managers from 146 public institutions on Corruption Prevention strategies as shown in figure 7.

**Figure 7: Senior Managers, CPC/Integrity Committee Training by Sector**



### 5.3.2 Public Education and Awareness

#### i) Community-Based Corruption Monitors and Facilitators

The training of Community-Based Corruption Monitors and Facilitators is a Commission Strategy aimed at developing capacity among grassroot actors to anticipate, detect and prevent corruption in their localities. The training equips the monitors and facilitators with critical skills and tools to make interventions that forestall corruption in local projects and programmes.

In the reporting year, the Commission trained 113 persons drawn from civil society, Non-Governmental Organizations, Community Based Organizations, and Faith Based Organizations as anti-corruption monitors and facilitators at the grassroots level. The training aimed at equipping participants to demand accountability, transparency, responsibility, responsiveness and uniformity in service delivery by public institutions and officials. Trainees have embarked on training grassroots communities on corruption intervention methods.

#### ii) Youth

As part of involving the youth in the fight against corruption, the Commission co-sponsored and trained participants during the Young Farmers of Kenya National camp whose theme was "Youth and Integrity: Building a Corrupt-Free Society". A total of 250 students and 50 sponsors attended the camp. Participants were trained on integrity, corruption prevention and community participation methods relating to grassroots service provision. Participants were provided with various anti-corruption IEC materials for dissemination.

#### iii) Training for Imams and Moslem Scholars

The Commission conducted training workshops for 253 Imams and Moslem Scholars (Ulamaa) to enlist their support in the fight against corruption. The training equipped participants on how to mainstream anti-corruption, ethics and integrity content into their sermons and training activities.



*Muslim Imams and Moslems Scholars (Ulamaa) during a training workshop*

**iv) Anti-Corruption IEC Materials**

The Commission disseminated a total of 294,574 Information, Education and Communication materials in public, private, civil society and faiths sectors and individuals in the period under review. These materials are as shown in Table 23.

**Table 23: A Summary of IEC Materials Disseminated**

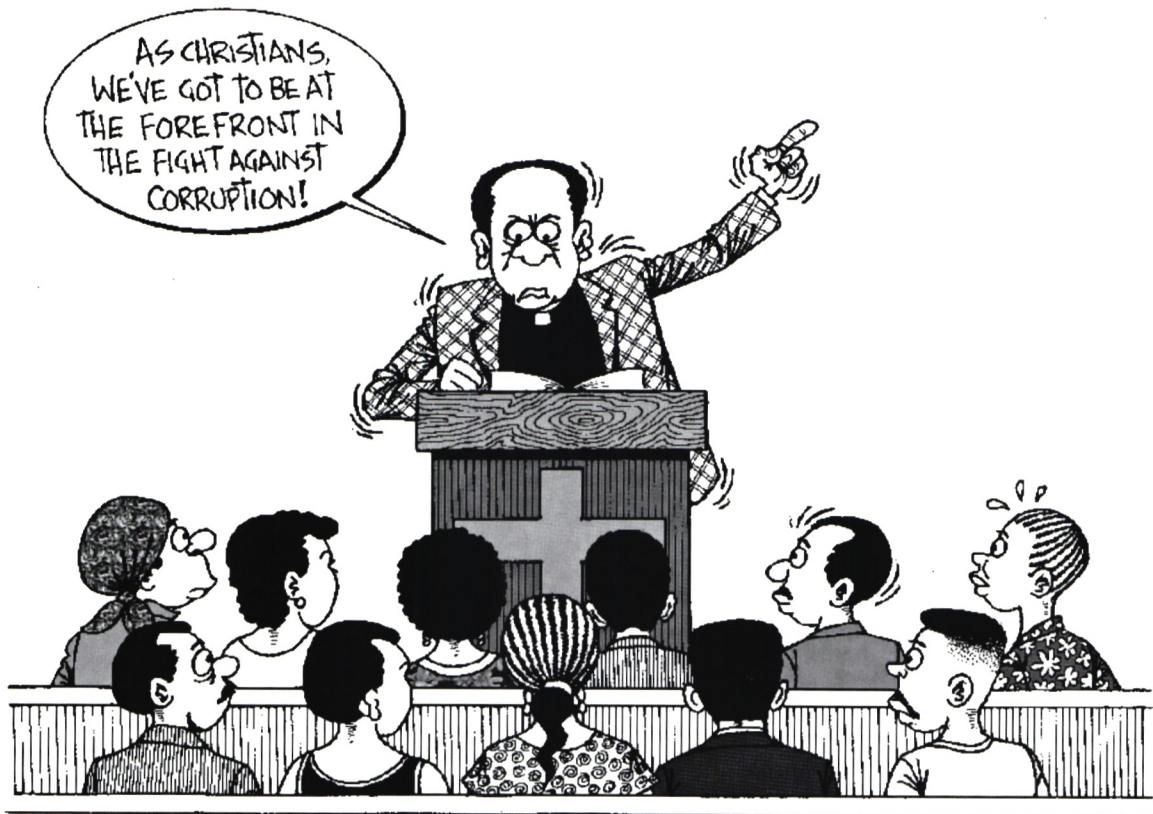
IEC Materials	Quantity
Posters	172,380
Brochures	16,170
Simplified Laws	26,025
Calendars	40,000
Quarterly Newsletters	40,000
<b>Total</b>	<b>294,575</b>



*A visually impaired participant reading IEC materials presented by the Assistant Director, Preventive Services during the Community-based Corruption Monitors and Facilitators training workshop.*

During the period under review, the Commission in collaboration with the Evangelical Alliance of Kenya and Fellowship of Christian Unions (FOCUS) developed a bible study guide entitled **Integrity: A Weapon against Corruption in Kenya**. The Fellowship of Christian Unions (FOCUS) will use the Bible Study Guide in its 30,000 strong member organisation. The Evangelical Alliance of Kenya will use the Guide among its member church and para-church institutions of about 12 million members. Through this strategy, the commission will mainstream anti-corruption, ethics and integrity among a

wide segment of our society. In its effort to reach citizens with visual impairment, the Commission translated "Frequently Asked Questions" and "On the Frontline against Corruption" brochures into Braille format. The Commission in collaboration with African Braille Association has embarked on translating other IEC materials into Braille.



### 5.3.3 Mainstreaming Anti-Corruption Training in Formal Education

#### i) Collaboration in Curriculum Development

The Commission worked closely with the Ministry of Education and the Kenya Institute of Education in developing Curriculum Support Materials. These materials focus on anti-corruption, ethics, integrity and character development. They are intended for use by learners in Early Childhood Education and Development, and in classes 1 to 8 in the primary school cycle. The materials developed consisted of booklets, Teachers' Guides, Brochures, Bookmarks and integrity songs recorded on DVD format as shown in Table 24.

**Table 24: Curriculum Materials Developed**

Type of Material	Number Developed
Booklets	5
Teachers' Guides	2
Brochures	4
Bookmarks	10
Songs and verses in DVD and CD-ROM	2

## ii) Mainstreaming Ethics and Integrity through Music and Drama

The Commission used the Kenya National Schools and Colleges Drama and Music Festivals, clubs and sporting activities to propagate and disseminate anti-corruption messages into the curriculum of learning institutions. In the reporting period, the Commission sponsored 6 categories in the National Music Festivals whose theme was **May We Dwell in Unity, Peace and Liberty**. The anti-corruption special category entries dealt with causes and effects of corruption, benefits of fighting corruption, patriotism, integrity, personal responsibility, corruption reporting and the need for all Kenyans to unite to fight corruption.

Each of the 6 anti-corruption and ethics categories had an average of 15 participating teams giving a total of 4000 participants at the National Finals. In the reporting year there were 50 items on the Play, Dance, Choir, Choral and Solo verses, Narratives and Mime presented at the National Finals.

The Kenya Anti-Corruption Commission presented book vouchers worth Ksh.535,000 to the Ministry of Education to be awarded to the winning schools in the Anti-Corruption Category. The Commission sensitized over 200,000 pupils, students, policy makers, teachers, parents and members of the general public on anti-corruption, ethics and integrity issues during the National Drama and Music Festivals. A total of 11,000 IEC materials were disseminated to schools and colleges and members of public. The materials included booklets, brochures and posters.

## iii) Mainstreaming Ethics and Integrity in the National Examinations

As a result of collaborative efforts with Kenya National Examinations Council (KNEC) and Kenya Institute of Education (KIE) a question on **"Ufisadi"** in the Kiswahili Insha Paper was administered by the KNEC in the 2008 Kenya Certificate of Secondary Education (KCSE) national examinations.

## iv) Drama Adjudicators Training

The Commission in partnership with the Ministry of Education organized a training workshop for the provincial and National Drama Adjudicators where a total of 97 adjudicators were trained on mainstreaming Anti-Corruption, Ethics and Integrity methods in the Drama Adjudication Process.

## v) Training of Schools' Boards of Governors and Curriculum Implementers

The Commission trained school managers and curriculum implementers on anti-corruption, good governance, ethics and integrity for effective infusion and integration into the curriculum. Six training workshops were carried out in the 2008/09 Financial Year. Participants were drawn from: Nairobi Province Primary Schools Head Teachers, Heads of Department for Kigari and Machakos Teachers Colleges, and Utalii College.

## vi) Training and Sensitization Workshops

Through workshops and seminars, the Commission enlists public support in the fight against corruption. In the period under review the Commission trained a total of 4,501 persons as shown in Table 25.

**Table 25: Training and Sensitization**

Institution/Training Activity	Levels of Officers	No. of Officers
<b>Private Sector</b>		
Africa Youth Trust	Members of AYT	19
Association of Kenya Insurers (AKI)	Chief Executive Officers	129
<b>Civil Society Sector</b>		
Catholic Justice and Peace Commission (CJPC)	Leaders of CJPC Kasikeu diocese	50
Seventh Day Adventist (SDA) Church	Treasurers/Business Managers from East & Central Africa	100
Pioneer Paralegal Network (PIPANE)	Members of PIPANE (a CBO) from Kangudo District	50
<b>Public Sector</b>		
New Kenya Co-operative Creameries (New KCC)	Staff of New KCC	33
Kenyatta National Hospital	Integrity Assurance Officers	33
Director of Public Prosecution (DPP)	Induction for newly appointed State Counsel	60
Ministry of State for Defence - Kenya Ordnance Factory Corporation	All staff	127
Horticultural Crops Development Authority (HCDA)	Management Staff	9
Young Farmers Clubs of Kenya (YFCK)	Students and Patrons	300
Ministry of Planning and National Development	Senior Staff	30
Ministry of Lands	Clerks joining from other Government Departments	32
Kenya Airports Police Unit (KAPU)	Different cadres of police officers serving at airports	50
Ministry of Planning and National Development	Commissioners of the Poverty Eradication Commission	30
Association of Kenya Insurers (AKI)	Claims Managers from Nairobi Province	43
Ministry of Tourism	Phase one of staff training	62
Machakos Teachers' Training College	Board of Governors, Management and Heads of Departments	40
Masaku County Council	All cadres of staff	120
Kenya Police	General Service Unit (GSU) officers	650
Athi Water Services Board	Staff	58
Youth Enterprise Development Fund	All Staff and board members	25
Kigari Teachers' Training College	Teaching and Non-teaching staff	80
East African Portland Cement Company (EAPCC)	Middle and Senior Level Managers	34
Ministry of Lands	Newly posted clerical and secretarial staff	110
Public Service Commission (PSC)	Staff	80
Kenya Army	Army Captains from the School of Amour in Isiolo	50
Kenya National Drama Festival	Playwrights and Drama Adjudicators	97
Ministry of Agriculture	Middle Level Managers	200
Youth Enterprise Development Fund (YEDF)	All staff	27
Kenya Institute of Policy Research and Analysis (KIPRA)	All cadres of staff including the Executive Director	35



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Ministry of Finance	Senior Officers	25
East African Portland Cement Company (EAPCC)	Second Phase Seminar for support staff	86
Judiciary Open Day		
Nairobi Province Head Teachers Anti-Corruption Training	Head teachers and their deputies	70
Ministry of Agriculture	Middle and Senior Managers (Provincial Director)	24
Kenya Police	Police Officers undergoing refresher training	24
Community Based Anti-Corruption Monitors and Facilitators Workshop	First phase of CBAM)	56
Kenya Utalii Collge	All staff	123
Western Province Secondary School Heads Association	Heads of Secondary schools	500
Association of Kenya Insurers (AKI)	Regional Branch and Claims Managers – R. Valley	22
Egerton University - Njoro	Deans of Faculty, Chairmen of Departments and Senior Administrators	169
Kenya Broadcasting Corporation (KBC)	All levels of staff from Cenral,Nairobi,Coast and Nyanza provinces	301
Adili Clubs Consultative Forum	Representatives from KIE, TSC, TTCS, Schools and MEOs	14
Director of Public Prosecutions (DPP)	Newly recruited State Counsel	60
National Coordinating Agency for Population and Development	All levels	16
Ministry of Development of Northern Kenya and Other Arid Regions	Senior Officers	30
Kenya Marine Fisheries and Research Institute (KMFRI)	All staff	98
<b>Total</b>		<b>4,501</b>

## **5.4 RESEARCH INTO CORRUPTION AND GOVERNANCE ISSUES**

### **5.4.1 The Nature, Extent and Magnitude of Corruption in Kenya**

The Commission relies on research in determining the nature, extent and magnitude of Corruption in Kenya upon which its anti-corruption interventions are based. Furthermore, the Commission disseminates widely all its research publications to all stakeholders to facilitate application of research findings in their anti-corruption programmes. In the year under review, the Commission conducted two major surveys as follows:

#### **i) National Corruption Perception Survey 2008**

The main objective of the 2008 National Corruption Perception Survey was to measure the extent of corruption in Kenya. The main findings of the Survey were that:

- a) The proportion of respondents who felt that the level of corruption had increased in Kenya was higher in 2008 (66.7%) than in 2007 (47.9%) and 2006 (48%).
- b) There was a marked increase in the average bribe paid by service seekers in public institutions from KShs. 2,711.46 in 2007 to KShs. 3,664.93 in 2008.



- c) In terms of ranking Government ministries, the Ministry of Internal Security and Provincial Administration was perceived as the most corrupt as cited by 72.2 percent of the respondents. This was followed by the Ministry of Medical Services (16.3%), Ministry of Lands (13.7%), Ministry of Local Government (12%), Ministry of Basic and Primary Education (9.2%), Ministry of Public Health (8.6%) and Ministry of Immigration and Registration of Persons (7.8%).
- d) With regard to Government departments, Government Hospitals were ranked as the most corrupt (22.2 percent of respondents) and were followed by the Regular Police (21.8%), Traffic Police (19.3%), Provincial Administration (18.1%), Administration Police (13.2%) and Local Authorities (12.4%) and Lands Offices (8.7%).
- e) Government effort in the fight against corruption was perceived by 42.9 percent of the respondents as 'moderately well' and 40.9 percent as 'not well'. 8.6 percent perceived the effort as 'very well'.
- f) The responsibility to fight corruption is the Government's (48.1%) as well as Everyone's (47.6%). In terms of spearheading the fight against corruption, 28.2 percent of respondents indicated that the Government should take the lead then followed by the Presidency (20.1%), KACC (17.6%), Community/Everyone (9.8%), the Police (6.6%), Provincial Administration (4.7%) and Parliament (3.6%).
- g) The media is perceived to be the most effective in the fight against corruption as indicated by 21 percent of the respondents followed by Kenya National Commission on Human Rights (18.8%) and Kenya Anti-Corruption Commission (18.7%).

#### **ii) The 2009 National Enterprise Survey on Corruption**

The main objective of this Survey was to establish the impact of corruption in the business environment in Kenya and to recommend measures to enhance business development and growth. The Survey focused on the cost, nature, form, extent, intensity and effects of corruption on enterprise development in the country. A total of 3,092 enterprises were covered nationally. This was the second Survey conducted by the Commission since 2006. The key findings were that:

- a) There was no significant difference in the number of enterprises perceived to be paying bribes to win public sector contracts between 2006 and 2009. An identical 52.8 percent of the respondents in 2006 and 2009 thought that most enterprises paid bribes to win public sector contracts. Comparatively, fewer enterprises paid bribes to win private sector contracts than public sector contracts.
- b) A significant proportion of the enterprises (34.9%) used between 1-10 percent of their income on bribes to public officers to transact business. The most affected sectors were Manufacturing, Wholesale and Retail, Transport and Communication and Construction.

#### **5.4.2 Evaluation of the Anonymous Corruption Reporting System**

During the period under review, the Commission with technical assistance from GTZ conducted an evaluation of the anonymous corruption reporting system to identify gaps and limitations of the system as well as lessons learned in the use of the system in order to make recommendations to optimize the use of the system. This evaluation was the second review of the system.



### 5.4.3 Implementation of the National Anti-Corruption Plan (NACP)

During the year under review, the Commission continued to coordinate and spearhead the implementation of the National Anti-Corruption Plan which is a multi-sectoral participatory approach of fighting corruption ensuring mutual support and cooperation from all the 14 participating sectors. These sectors are:- The Legislature; Judiciary; the Executive; Enforcement Agencies; Watchdog Agencies; the Media; Kenya Anti-Corruption Commission; Private Sector; Religious Sector; Civil Society; Labour and Education. This plan is part of the frame work to rally support and commitments from all sectors and society in fighting corruption and economic crime.

The Commission continued to support activities of Kenya Integrity Forum Secretariat, which provides support to all the NACP sectors to ensure timely implementation of their anti-corruption activities.

## 6 INSTITUTIONAL CAPACITY BUILDING

### 6.1 INTRODUCTION

The Commission's operations with regard to the finance and administration function in the year under review were guided by the four strategies outlined in the Strategic Plan namely:

- i) To efficiently use mobilized budgetary resources;
- ii) To strengthen governance and management systems;
- iii) To deploy an efficient internal and external communication system; and
- iv) To enhance physical organizational and operational security.

### 6.2 MOBILIZATION AND UTILIZATION OF FINANCIAL RESOURCES

The Commission was allocated KShs.1.24 billion in its Recurrent Vote and KShs. 62.8 million in the Development Vote as Approved Estimates for FY 2008/09. In addition, the Commission received financial support from development partners under the Governance, Justice, Law and Order Sector Reform Programme (GJLOS-RP) and the Kenya Institutional Support for Good Governance (KISGG) Programme funded by the African Development Bank (ADB).

The main programmes funded under the GJLOS-RP were geared towards reducing corruption opportunities in public institutions, increasing stakeholder partnership in the fight against corruption and mainstreaming anti-corruption initiatives in co-curricular activities. Those funded under KISGG included anti-corruption outreach awareness, Community-based Corruption Monitors training, acquisition of mobile office facilities, as well as enhancing investigation and asset recovery skills for Commission staff.

### 6.3 HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

In the period under review, the Commission continued to enhance its human resources capacity by filling vacant positions and training staff in various fields as discussed below:

#### 6.3.1 Recruitment

The Commission filled vacant positions in its establishment bringing the staff strength to 247 employees out of an approved establishment of 273.

#### 6.3.2 Skills and Competency Development

In its efforts to enhance staff competencies and skills, the Commission trained a total of 208 officers were trained in Corporate Governance, Investigations and Assets tracing, Intelligence, Management, Records Management, Prevention Analysis, Policy Analysis, and Finance and Procurement as shown in Table 26.



**Table 26: Staff Training**

No.	Nature of Training	No. of Officers Trained
1.	Corporate Governance	2
2.	Investigations and Asset Tracing	128
3.	Intelligence	29
4.	Management	18
5.	Records Management and Automation	4
6.	Policy Analysis	10
7.	Finance and Procurement	7
8.	Systems Software (SPSS and ACL)	10
<b>Total</b>		<b>208</b>

## 6.4 INFORMATION COMMUNICATION TECHNOLOGY (ICT)

In keeping with rapid technological advancement, the Commission updated its existing ICT systems. This included an Electronic Documents Management system, a modern storage and backup management systems, enhanced internet and network security systems, and enhanced Case and Intelligence data management system.

## 6.5 CORPORATE COMMUNICATION

During the period under review, the Commission developed a Communication Policy and Media Strategy as part of the process to enhance internal and external communication. As part of the Media Strategy, the Commission issued 15 press releases for publication by various media houses, held 4 press conferences, 9 television and radio talk-shows. The Commission also advertised its activities and achievements in the 2009 Commonwealth Year Book.

In its commitment to provide quality and ethical services to its customers, the Commission developed a Customer Service Charter which defines quality standards and expectations on service delivery.

The Commission also reached out to its stakeholders through its interactive website which recorded an average of 250 hits per day. It was noted that the majority of the visitors to the website were local at 57 percent. The rest were from the United States (26%), European countries (12%) and Others (5%).

## 6.6 MOBILE CLINICS

To improve accessibility to the Commission, a mobile office vehicle was acquired before the end of the year under review. The mobile office vehicle will be used during outreach programmes as 'Mobile Report Centre'. It is hoped that with the launch of the 'Mobile Report Centre' the Commission will make itself easily available to those who in the past experienced difficulties doing so.

## 7 NATIONAL AND INTERNATIONAL ENGAGEMENTS

### 7.1 INTERNATIONAL ENGAGEMENTS

#### 7.1.1 International Anti-Corruption Day

The Commission coordinated with other agencies the commemoration of the International Anti-Corruption day celebrated on 9th December. The day aims at raising awareness on corruption and the role of the United Nations Convention against Corruption (UNCAC) in combating and preventing corruption.



*Permanent Secretary, Ministry of Justice, National Cohesion & Constitutional Affairs and Commission Staff during the International Anti-Corruption day commemoration*

#### 7.1.2 African Public Service Celebrations

The Commission exhibited at the African Public Service Day (APSD) in Dar es Salaam, Tanzania from 15<sup>th</sup> to the 19<sup>th</sup> of June 2009 as part of the Kenyan delegation. The theme for the event was "Fostering Partnerships and Collaborations for Sustainable Development and improved Service Delivery in Africa". The exhibition drew participation from Tanzania, Kenya, Zimbabwe and South Africa. The Kenyan pavilion displayed high standards of professionalism and was awarded 2<sup>nd</sup> position in the Best Pavilion Category.



*The Kenyan High Commissioner to Tanzania H.E. Mutinda Mutiso (extreme left) being updated by Staff of the Commission on the activities and programmes of the Commission at the KACC Stand during the APSD exhibition in Tanzania.*

### **7.1.3 East Africa Association of Anti-Corruption Authorities (EAAACA)**

The Commission participated in the 2<sup>nd</sup> EAAACA Annual General meeting held in Kigali - Rwanda on 19<sup>th</sup> September 2008. The meeting agreed that manuals on Prevention, Investigation and a Code of Conduct be developed for the region.

## **7.2 NATIONAL ENGAGEMENTS**

### **7.2.1 3<sup>rd</sup> Annual Integrity Review Conference**

The Commission organised the 3<sup>rd</sup> Annual Integrity Review Conference which was held on 16<sup>th</sup> and 17<sup>th</sup> July 2008 and attended by over 1,300 participants. During the Conference, delegates reviewed the achievements, constraints, shared experiences and set priority areas for future action on the implementation of the National Anti-Corruption Plan.



*Right Hon. Raila Odinga, EGH, MP, Prime Minister; Hon. Martha Karua, EGH, Minister for Justice National Cohesion & Constitutional Affairs; Mrs. Fatuma Sichale, Deputy Director, KACC; Ambassador Francis Muthaura, EGH, Permanent Secretary, Secretary to the Cabinet and Head of Public Service; Dr. Smokin Wanjala, Assistant Director KACC & Amina Mohammed, Permanent Secretary, Ministry of Justice National Cohesion & Constitutional Affairs proceeding to the Plenary Hall during the 3rd Annual Integrity Review Conference*

### **7.2.2 The United Nations Convention against Corruption (UNCAC) Governance Action Plan (GAP) Analysis**

The Commission in collaboration with other stakeholders developed a Gap Analysis Report on Kenya's compliance with the United Nations Convention against Corruption (UNCAC). The report identifies the policy, legislative and administrative gaps to be addressed in strengthening the framework of the fight against corruption.

### **7.2.3 Proposed Protocol on Preventing and Combating Corruption in East Africa**

The Commission participated in the national stakeholders meeting to review a draft East African Community Protocol on Preventing and Combating Corruption at the Laico Regency Hotel in Nairobi on 4th March 2009. The Protocol is an agreement among the five partner states which aims at spearheading and coordinating the fight against corruption at the regional level. The protocol makes provision for cooperation among the law enforcement agencies, joint training, corruption prevention mechanisms, sharing of information, asset tracing and recovery, and punishment of perpetrators of corruption within the region. The meetings are intended to seek the views of stakeholders at national level for purposes of improving on the contents of the Protocol and to gain the support and consensus of the partner States.

The views of the respective States will be incorporated into the draft Protocol which will then be presented to the Council of Ministers for recommendation to the EAC Summit for adoption. When adopted, the Protocol will become part and parcel of the East African Community Treaty and an agreement among the five partner States aimed at spearheading and coordinating the fight against corruption at regional level. The meeting was organized by the EAC Secretariat at Arusha and coordinated by the Ministry of East African Community.

#### 7.2.4 Judiciary Open Day

The Commission participated in the Judiciary Open Day in Kakamega on 20th March 2009 during which it disseminated its IEC materials and received corruption reports from the public. This is part of a collaborative effort with stakeholders in war against corruption.

#### 7.2.5 Western Province Secondary Schools Head Teachers Conference

Every year, the Commission is invited to make presentations during the various Provincial Secondary Schools Head Teachers' Conferences. In the reporting period, KACC was invited to make a presentation on 'Integrity in School Management' at the Western Province Secondary Schools Head Teachers Association Annual General Meeting held in Eldoret from May 25 – 29, 2009.

The presentation focused on corruption, unethical practices in school management, and role of school managers in promoting a culture of integrity in schools. The Commission was able to sensitize a total of 600 managers in the education sector on anti-corruption, ethics and integrity issues.

### 7.3 CORPORATE GUESTS AND FORUMS

In the period under review, the Commission hosted guests from various anti-corruption agencies and institutions that included Indonesia, Namibia, Southern Sudan, Uganda, Tanzania, Botswana, Ethiopia, European Commission, Australia and United Kingdom. The visits provided opportunities for the guests and the Commission to learn and exchange best practices in the war against corruption.



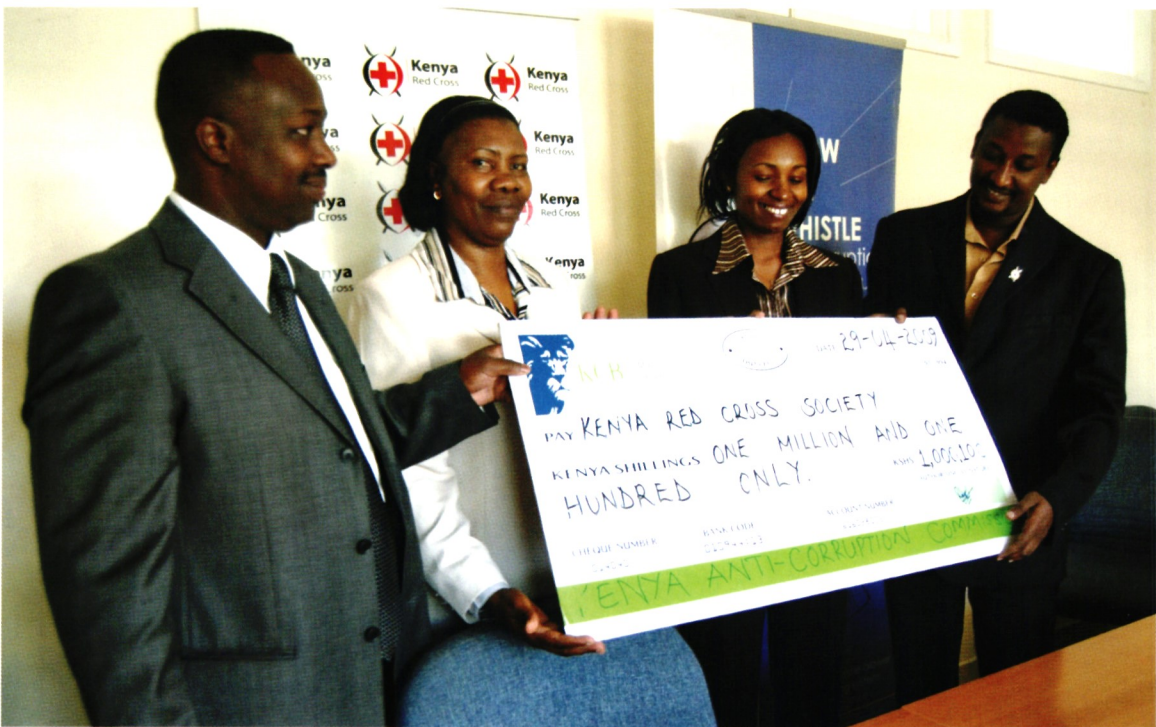
*Hon. Justice (Rtd) Aaron Ringera (extreme right) in a meeting with Mr. Mochammad Jasin, Commissioner of the Indonesia Anti-Corruption Commission (second from right) and his delegation.*



*The Hon. Minister for Justice National Cohesion and Constitutional Affairs (extreme right) with Commission Officers during his visit to the Integrity Centre.*

## 7.4 COMMISSION STAFF PARTICIPATION IN COMMUNITY ACTIVITIES

The entire KACC family made a donation of KShs. 1 million to the Kenya Red Cross Society towards the National Famine appeal as part of its staff participation in outreach and community activities.



*KACC Staff presenting a donation of one million Kenya shillings from the Advisory Board, Management and Staff to Kenya Red Cross Society in response to the famine appeal.*

## 8 CHALLENGES AND WAY FORWARD

### 8.1 INTRODUCTION

During the period under review, the Commission faced numerous challenges, mainly at the policy, legal and institutional levels. The Commission continued to operate in the absence of a national anti-corruption policy which is necessary in spelling out the broad national direction and focus in the war against corruption and economic crime. The legal framework remained weak in certain aspects, particularly in light of the lack of prosecutorial powers for the Commission, the numerous constitutional references that have stifled progress in the finalization of cases before court and inability of the Commission to access wealth declarations of key public officials. The main challenges are presented below.

### 8.2 CHALLENGES

#### 8.2.1 Policy and Legal Framework

The Kenya Vision 2030 and its first Medium Term Plan (2008-2012) recognise the need to have a national anti-corruption policy to provide strategic direction on the fight against corruption and economic crime. The absence of a national strategic direction and focus in the war against corruption has greatly affected coordination and commitment of various public institutions and other stakeholders towards this end.

Furthermore, the lack of a legal framework for Mutual Legal Assistance (MLA), Whistleblower Protection, Anti-money Laundering, Freedom of Information among others has constrained the Commission's work in prevention, investigation and asset recovery.

#### 8.2.2 Judicial Process

The process of adjudication of corruption and civil recovery cases has been slow thus affecting the Commission's performance in the fight against corruption. In addition, frequent transfers of Special Magistrates who preside over Anti-Corruption Courts have further exacerbated the problem.

#### 8.2.3 Adverse Court Decisions

Court decisions in declaring certain provisions of ACECA unconstitutional and stopping some investigations by the Commission have adversely affected the operations of the Commission.

#### 8.2.4 Enforcement of Corruption Prevention Recommendations

The lack of adequate legal powers by the Commission to enforce its corruption prevention recommendations has hampered progress and commitment in securing review of work methods and sealing corruption loopholes in public bodies whose policies, systems, procedures and practices of work have been examined by the Commission and found to be prone to corruption.

#### 8.2.5 Regional Presence

There has been increased public pressure for the Commission to extend its services to the people at the community level. However, the Commission has not been able to meet this need due to inadequate resources.

## 8.3 WAY FORWARD

### 8.3.1 KACC Strategic Plan 2009-2012

The year under review marked the end of the Commission's first Strategic Plan (2006-2009). Consequently the Commission embarked on the end-term review of the Strategic Plan and preparation of the second Strategic Plan (2009-2012) in line with the Vision 2030 and its first Medium Term Plan (2008-2012).

### 8.3.2 Construction of KACC Headquarters

During the period under review, the Commission commenced the process of constructing its headquarters. Once completed, the headquarters will provide adequate office space for the Commission's staff and operations.

### 8.3.3 Commission Outreach

The Commission will enhance its regional presence through community outreach programmes. These programmes will involve corruption reporting, provision of advisory services, awareness creation and enlisting public support at the grassroots level.

### 8.3.4 Commission Service Charter

In the year under review, the Commission developed and operationalized its Service Charter which sets quality service levels and commitment on the part of the Commission to meet the expectations of its customers. The Commission will use the Service Charter to enhance engagement with and receive feedback from its customers in relation to service delivery.

### 8.3.5 Enhancing Commission's Effectiveness

The Commission will lobby the relevant institutions to seek to enhance the Anti-Corruption Legal Framework with a view to:

- i) Anchor the Commission in the Constitution with necessary independence and powers.
- ii) Provide in the Constitution that fundamental rights and freedoms of the individual are subject to the public interest of detecting and investigating crime.
- iii) Grant the Commission powers to charge and prosecute persons suspected of corruption and economic crime offences.
- iv) Restore the special powers of investigation the Commission exercised prior to the legislative amendments of 2007 to the ACECA which considerably watered down its powers.

## 9 FINANCIAL STATEMENT

### 9.1 CORPORATE INFORMATION FOR THE YEAR ENDED 30 JUNE 2009

#### Anti-Corruption Advisory Board Members

The members of the Advisory Board who served during the year and to the date of this report are shown below;

1.	Mr.Allan N. Ngugi	Chairman up-to 23rd June 2009
2.	Mrs. Shehnaz N. Sumar	Vice chairman up-to 23rd June 2009
3.	Mr. Richard B. Ndungu	Member up-to 27th May 2009
4.	Prof Alfred V. Otieno	Member up-to 27th May 2009
5.	Prof. Miriam K. Were	Member up-to 27th May 2009
6.	Mr. Kipng'etich K. Bett	Member up-to 27th May 2009
7.	Mrs. Mariamu El-Maawy	Member up-to 27th May 2009
8.	Mrs. Anna Muchungu	Member up-to 27th May 2009
9.	Mr. Francis Atwoli	Member up-to 27th May 2009
10.	Mr. Eric Okong'o Mogeni	Chairman from 23rd June 2009
11.	Ms. Irene Keino	Vice Chairman from 23rd June 2009
12.	Mr. Charles Kariuki Wambugu	Member
13.	Ms. Naomi N. Wagereka	Member
14.	Mr. John Khameme Wanyela	Member
15.	Mrs. Jacqueline A. Mugo	Member
16.	Eng. Reuben Kosgei	Member
17.	Dr. Abdallah A. Kibwana	Member
18.	Mr. Sura Tanna	Member
19.	Mrs. Grace Kaome Injene	Member
20.	Mr. Francis Wangara	Member
21.	Mr. Billow Adan Kerrow	Member
22.	Justice Aaron Ringera	Member/ Secretary

#### Secretary

Justice Aaron Ringera  
P.O BOX 61130-00200  
Nairobi

#### Principal Place of Business

Integrity Centre  
Valley Road/ Milimani Junction  
P.O. Box 61130-00200  
Nairobi, Kenya

#### Auditors

Controller & Auditor General  
Kenya National Audit Office  
P.O. Box 30084-00100  
Nairobi

#### Principal Bankers

Kenya Commercial Bank  
Milimani Branch  
P.O. Box 69695-00400  
Nairobi



## 9.2 REPORT OF THE DIRECTOR For the Year Ended 30<sup>th</sup> June 2009

The Director presents the report together with the audited financial statements for the year ended 30<sup>th</sup> June 2009.

### Activities

The principal activities of the Commission are to investigate corruption and economic crime, recover lost public property and obtain compensation for damaged public property, prevent corruption and conduct public education on the dangers of corruption.

### Results

The results for the year are set out on page 54.

### Members of the Advisory Board

The members of the KACC advisory Board who served during the year are listed on page 49.

### Auditor

The auditor of the Commission for the year ended was the Controller and Auditor General in line with the Public Audit Act, 2003 and Anti-Corruption and Economic Crimes Act, 2003. The auditor for the Commission continues to be the Controller and Auditor General.

### On behalf of the Commission



**Justice Aaron Ringera**  
Director/Chief Executive

**7<sup>th</sup> September 2009**

### 9.3 STATEMENT OF THE DIRECTOR'S RESPONSIBILITIES

The Anti-Corruption and Economic Crimes Act 2003, requires the Commission to cause to be prepared financial statements for each financial year which give a true and fair view of the financial affairs of the Commission as at the end of the financial year and the operating results for the year.

The Commission is also responsible for keeping proper accounting records which disclose with reasonable accuracy the financial position of the Commission in addition to ensuring that the assets are safeguarded.

The Commission accepts responsibility for the Annual Report together with the financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgments and estimates, in conformity with the International Financial Reporting Standards and with the requirements of the Public Audit Act, 2003. The Commission is of the opinion that the Annual Report together with financial statements gives a true and fair view of the state of the financial affairs of the Commission and of its operating results. The Commission further accepts responsibility for the maintenance of accounting records which may be relied upon in the preparation of financial statements, as well as adequate systems of the internal financial control.

Nothing has come to the attention of the Commission to indicate that the Commission will not remain a going concern for at least twelve months from the date of this statement.

**Signed on behalf of the Commission by:**



**Justice Aaron Ringera**  
**Director/Chief Executive**

**7<sup>th</sup> September 2009**



## 9.4 REPORT OF THE CONTROLLER AND AUDITOR GENERAL

REPUBLIC OF KENYA

Telephone: +254-20-342330  
Fax: +254-20-311482  
E-mail: cag@kenyaweb.com



P.O Box 30084-00100  
NAIROBI

### KENYA NATIONAL AUDIT OFFICE

#### REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA ANTI-CORRUPTION COMMISSION FOR THE YEAR ENDED 30 JUNE 2009

I have audited the financial statements of the Kenya Anti-Corruption Commission set out on pages 6 to 16 which comprise the balance sheet as at 30 June 2009, the statement of comprehensive income, the statement of changes in equity and the statement of cash flow for the year then ended, together with a summary of significant accounting policies and other explanatory notes in accordance with the provisions of Section 20 of the Public Audit Act, 2003. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

#### **The Commission's Responsibility for the Financial Statements**

The Commission is responsible for the preparation of financial statements which give a true and fair view of the Commission's state of affairs and its operating results in accordance with the International Financial Reporting Standards. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

#### **Responsibility of the Controller and Auditor General**

My responsibility is to express an independent opinion on the financial statements based on the audit. The audit was conducted in accordance with the International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed with a view to obtaining reasonable assurance that the financial statements are free from material misstatement.

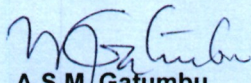
An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the



purpose of expressing an opinion on the effectiveness of the Commission's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Commission, as well as evaluating the overall presentation of the financial statements. I believe the audit provides a reasonable basis for my opinion.

**Opinion**

In my opinion, proper books of account have been kept and the accompanying financial statements give a true and fair view of the financial position of the Commission as at 30 June 2009 and of its surplus and cashflows for the year then ended in accordance with the International Financial Reporting Standards and comply with the Anti-Corruption and Economic Crimes Act, 2003.



**A.S.M. Gatumbu**  
**CONTROLLER AND AUDITOR GENERAL**

**Nairobi**

**28 September 2009**



## 9.5 STATEMENT OF FINANCIAL POSITION

### As at 30<sup>th</sup> June 2009

ASSETS	Note	2009 KShs.	2008 KShs.
<b>Non Current Assets</b>			
Property, Plant and Equipment	2	180,390,810	169,934,139
Intangible Assets	3	37,714,339	53,158,278
Gratuity Fund Investment	4	129,037,889	170,096,469
Asset Recovery Account	5	8,865,798	1,843,628
		<b>356,008,836</b>	<b>395,032,514</b>
<b>Current Assets</b>			
Inventories	6	11,462,815	9,120,620
Trade and other receivables	7	5,898,320	19,569,168
Cash and Cash Equivalentents	8	146,150,448	75,415,101
		<b>163,511,583</b>	<b>104,104,889</b>
<b>Total Assets</b>		<b>519,520,418</b>	<b>499,137,403</b>
<b>EQUITY AND LIABILITIES</b>			
Accumulated Fund	14	192,330,372	178,561,372
Revenue Reserves	15	188,696,139	148,123,886
		<b>381,026,511</b>	<b>326,685,258</b>
<b>Non Current Liabilities</b>			
Gratuity Fund	4	129,037,889	170,096,469
Asset Recovery Account	5	8,865,798	1,843,628
		<b>137,903,687</b>	<b>171,940,097</b>
<b>Current Liabilities</b>			
Trade and Other Payables	9	90,220	12,048
Accrued Liabilities and Charges	10	500,000	500,000
		<b>590,220</b>	<b>512,048</b>
<b>Total Equity and Liabilities</b>		<b>519,520,418</b>	<b>499,137,403</b>

The Financial Statements on Pages 54 to 65 were approved on 7<sup>th</sup> September 2009 and signed on behalf of the Commission by:



Justice Aaron Ringera  
Director/Chief Executive



Wilson K.C Shollei  
Assistant Director: Finance and Administration

## 9.6 STATEMENT OF COMPREHENSIVE INCOME For the Year Ended 30<sup>th</sup> June 2009

REVENUE	Note	2009 KShs.	2008 KShs.
Government Grants (GoK)	<b>11</b>	1,220,897,743	1,234,000,000
Development Partners/ Donor Support	<b>12</b>	73,049,660	60,000,000
Other Income	<b>13</b>	21,187,184	2,393,908
<b>Total Revenue</b>		<b>1,315,134,587</b>	<b>1,296,393,908</b>
<b>EXPENDITURE</b>			
Administration Expenses	<b>18</b>	864,641,323	898,934,099
Operating and Maintenance	<b>22</b>	334,505,910	319,025,630
<b>Total Expenditure</b>		<b>1,199,147,233</b>	<b>1,217,959,728</b>
<b>Surplus for the Year</b>		<b>115,987,354</b>	<b>78,434,180</b>

## 9.7 CASH FLOW STATEMENT

### Cash Flow Statement for the Year Ended 30<sup>th</sup> June 2009

	Notes	2009 KShs.	2008 KShs.
From operating activities			
Net income from operations		115,987,354	78,434,180
Add back non-cash payment (Depreciation)		54,385,649	60,309,558
Loss on disposal on property, plant & equipment			118,641
		<b>170,373,003</b>	<b>138,862,379</b>
Increase/(Decrease) in inventories		(2,342,195)	1,250,336
Increase/(Decrease) in receivables & Prepayments		13,670,848	34,237,178
Increase/Decrease in payables		78,172	(762,920)
<b>Net cash utilized from operating activities</b>		<b>181,779,828</b>	<b>173,586,973</b>
<b>From Investing Activities</b>			
Purchase of property, plant and equipment		(35,629,381)	(99,520,512)
Proceeds from disposal of plant, property and equipment		-	1,348,640
Net cash utilized in investing activities		(35,629,381)	(98,171,872)
<b>From Financing activities</b>			
Refund of Surplus to the Treasury		(75,415,101)	(92,742,002)
<b>Net cash used in Financing activities</b>		<b>(75,415,101)</b>	<b>(92,742,002)</b>
<b>Net increase in cash and cash equivalents</b>		<b>70,735,347</b>	<b>(17,326,901)</b>
<b>Bank and Cash equivalents at beginning of year</b>		<b>75,415,101</b>	<b>92,742,002</b>
<b>Bank and cash equivalent at end of year</b>		<b>146,150,448</b>	<b>75,415,101</b>

## 9.8 STATEMENT OF CHANGES IN EQUITY

### Statement of Changes in Equity For the Year Ended 30<sup>th</sup> June 2009

	Accumulated Fund (KShs.)	Revenue Reserve (KShs.)	Total (KShs.)
As at 1 <sup>st</sup> July 2007	111,983,013	162,431,708	274,414,721
Refund of Surplus (FY 2004/5) to Treasury	-	(92,742,002)	(92,742,002)
Grants	66,578,359	-	66,578,359
Surplus for the Year	-	78,434,180	78,434,180
<b>Balance as at 30 June 2008</b>	<b>178,561,372</b>	<b>148,123,886</b>	<b>326,685,258</b>
As at 1 <sup>st</sup> July 2008	178,561,372	148,123,886	326,685,258
Refund of Surplus (FY 2006/7) to Treasury	-	(75,415,101)	(75,415,101)
Grants	13,769,000		13,769,000
Surplus for the Year	-	115,987,354	115,987,354
<b>Balance as at 30<sup>th</sup> June 2009</b>	<b>192,330,372</b>	<b>188,696,139</b>	<b>381,026,511</b>

The Accumulated Fund represents the surplus for the year and capital transfer of inventory, plant and equipment inherited from the defunct Anti-Corruption Police Unit (ACPU), Investigation Software and motor vehicles received as grants.

## 9.9 NOTES TO THE FINANCIAL STATEMENTS For the Year Ended 30<sup>th</sup> June 2009

### 1. Summary of Significant Accounting Policies

The principal accounting policies adopted in the preparation of these financial statements are set out below. These policies have been consistently applied to all the years presented.

#### (i) Basis of preparation and form of presentation

The financial statements are prepared in compliance with International Financial Reporting Standards (IFRSs). The financial statements are presented in functional currency, Kenya shillings (KShs.), which is the prevailing currency within the primary economic environment, and prepared in accordance with the measurement bases prescribed by IFRSs.

The preparation financial statement in conformity with IFRS requires the use of estimates and assumptions. It also requires management to exercise its judgment in the process of applying the Commission's policies.

The financial statements are prepared in accordance with and comply with International Financial Reporting Standards (IFRS).

#### (ii) Revenue Recognition

Income is recognized in the period in which it is received. Government and donor funding is only recognized on receipt. Income is not accrued if its recoverability is considered doubtful.

Interest income is recognized on a time proportion basis using the effective interest rate method.

#### (iii) Revenue

The revenue constitutes all funds accruing to the Commission in the form of exchequer allocations, funds from development partners and other income arising from investment and sale of tenders including proceeds of disposal of assets.

#### (iv) Grants

Grants related to assets, including non monetary grants at fair value, are recognized when there is reasonable assurance that the grant will be received and the Commission will comply with the conditions attaching to them.

#### (v) Property, Plant and Equipment

All categories of property, plant and equipment are initially recorded at cost.

Subsequent costs are included in the asset's carrying amount or recognized as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the Commission and the cost can be measured reliably. All other repairs and maintenance are charged to the profit and loss account during the financial period in which they are incurred.



Increases in the carrying amount arising on revaluation are credited to a revaluation surplus reserve in accumulated funds. Decreases that offset previous increases of the same asset are charged against the revaluation surplus; all other decreases are charged to the profit and loss account. Each year the difference between depreciation charged based on the revalued carrying amount of the asset (the depreciation charged to the profit and loss account) and depreciation based on the asset's original cost is transferred from the revaluation surplus to retained earnings. Leasehold land is not depreciated

Depreciation is calculated on a reducing balance basis at rates designed to write down the assets to their estimated residual values over their estimated useful lives using the following annual rates:

	<b>Rate per annum (%)</b>
Computers & Software	33.33
Motor vehicles	25.00
Plant and equipment	12.50
Surveillance Equipment	12.50
Furniture, Fixtures & Fittings	12.50

Property, plant and equipment are periodically reviewed for impairment. Where the carrying amount of an asset is greater than its estimated recoverable amount, it is written down immediately to its recoverable amount. An impairment loss is recognized in the income statement, whenever the carrying amount of an asset exceeds its recoverable amount. Gains and losses on disposal of property, plant and equipment are determined by comparing the proceeds with the carrying amount and taken into account when determining the surplus of the year.

#### **(vi) Inventories**

Inventories are valued at the lower of cost and net realizable value. Cost is determined on a first- in- first- out basis.

#### **(vii) Trade and other receivables**

Trade receivables are recognized and carried at original invoice amount less an allowance for any uncollectible amounts. An estimate for doubtful debts is made when collection of the full amount is no longer probable. Bad debts are written off as incurred.

#### **(viii) Cash and cash equivalents**

Cash and cash equivalents comprise cash on hand; bank balances demand deposits and short-term, highly liquid investments readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash and cash equivalents that are not readily accessible are classified under deferred assets. For the purposes of the cash flow statement, cash and cash equivalents consist of cash on hand and deposits in banks, and short term highly liquid investments.

#### **(ix) Trade and other payables**

Liabilities for trade and other amounts payable are carried at cost which is the fair value of the

consideration to be paid in the future for goods and services received, whether or not billed to the Commission.

### (x) Provisions and accruals

Provisions are recognized when the Commission has a present obligation (legal or constructive) as a result of a past event, and it is probable that an outflow of resources embodying economic benefits.

### (xi) Employee benefits

The Commission sets aside on monthly basis the gratuity for its employees. This is managed separately as sinking fund in accordance with Section 13(4) of the Anti- Corruption and Economic Crimes Act, 2003.

The Commission also contributes to a statutory defined contribution pension scheme, the National Social Security Fund (NSSF). Contributions are determined by local statute. Any contributions made to the NSSF in respect of current service are charged against income in the year of contribution.

### (xii) Income taxes

The Commission being a non trading entity is not subject to taxation. No tax is therefore provided in these accounts.

## 2. Property, plant and equipment

Cost/Valuation	Land (KShs.)	Plant & Equipment (KShs.)	Surveillance Equipment (KShs.)	Furniture, Fixtures & Fittings (KShs.)	Motor Vehicles (KShs.)	Computers (KShs.)	Total (KShs.)
<b>Year Ended 30<sup>th</sup> June 2008</b>							
Opening net book value		<b>19,229,648</b>	<b>23,248,147</b>	<b>10,913,394</b>	<b>33,992,260</b>	<b>22,836,973</b>	<b>110,218,422</b>
Additions	52,101,910	3,256,090	930,866	188,906	24,496,355	13,941,275	94,915,402
Disposals					(1,467,281)		(1,467,281)
Charge for the year		(2,810,717)	(3,022,377)	(1,387,787)	(14,255,334)	(12,258,188)	(33,734,404)
<b>Closing net book Value</b>	<b>52,101,910</b>	<b>19,675,020</b>	<b>21,156,636</b>	<b>9,714,513</b>	<b>42,766,000</b>	<b>24,520,060</b>	<b>169,934,139</b>
<b>At 30<sup>th</sup> June 2008</b>							
Cost or Valuation	52,101,910	25,232,830	27,500,177	12,661,356	101,592,600	44,786,218	263,875,091
Accumulated Depreciation		<b>(5,557,810)</b>	<b>(6,343,541)</b>	<b>(2,946,843)</b>	<b>(58,816,600)</b>	<b>(20,266,160)</b>	<b>(93,940,954)</b>
Net book value	52,101,910	19,675,020	21,156,636	9,714,513	42,766,000	24,520,060	169,934,139
<b>At 1<sup>st</sup> July 2008</b>							
Cost or Valuation	52,101,910	25,232,830	27,500,177	12,661,356	101,592,600	44,786,218	263,875,091
Accumulated Depreciation		<b>(5,557,810)</b>	<b>(6,343,541)</b>	<b>(2,946,843)</b>	<b>(58,816,600)</b>	<b>(20,266,160)</b>	<b>(93,940,954)</b>



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Cost/Valuation	Land (KShs.)	Plant & Equipment (KShs.)	Surveillance Equipment (KShs.)	Furniture, Fixtures & Fittings (KShs.)	Motor Vehicles (KShs.)	Computers (KShs.)	Total (KShs.)
<b>Net Book amount</b>	<b>52,101,910</b>	<b>19,675,020</b>	<b>21,156,636</b>	<b>9,714,513</b>	<b>42,766,000</b>	<b>24,520,060</b>	<b>169,934,139</b>
<b>Year Ended 30<sup>th</sup> June 2009</b>							
Opening net book value	52,101,910	19,675,020	21,156,636	9,714,513	42,766,000	24,520,060	169,934,139
Additions	2,256,460	2,970,930	3,757,190	1,061,657	31,261,752	4,679,992	45,987,981
Charge for the year		(2,830,744)	(3,114,228)	(1,347,021)	(18,506,938)	(9,732,377)	(35,531,308)
<b>Closing net book Value</b>	<b>54,358,370</b>	<b>19,815,206</b>	<b>21,799,598</b>	<b>9,429,149</b>	<b>55,520,814</b>	<b>19,467,673</b>	<b>180,390,810</b>
<b>At 30<sup>th</sup> June 2009</b>							
Cost or Valuation	54,358,370	28,203,760	31,257,367	13,723,013	132,854,352	49,466,210	309,863,072
Accumulated Depreciation		8,388,554	(9,457,769)	(4,293,864)	(77,333,538)	(29,988,537)	(129,472,262)
<b>Net book value</b>	<b>54,358,370</b>	<b>19,815,206</b>	<b>21,799,598</b>	<b>9,429,149</b>	<b>55,520,814</b>	<b>19,467,673</b>	<b>180,390,810</b>

### 3. Intangible Assets

Cost	2009(KShs.)	2008 (KShs.)
At start of the year	87,416,579	16,233,109
Additions	3,410,400	71,183,470
<b>Total</b>	<b>90,826,979</b>	<b>87,416,579</b>
Amortization		
At start of the year	34,258,298	7,683,147
Additions	18,854,341	26,575,153
<b>At end of the year</b>	<b>53,112,640</b>	<b>34,258,300</b>
<b>Net Book Value</b>	<b>37,714,339</b>	<b>53,158,278</b>

Intangible assets consist of computer software development and licenses. These are amortized on reducing balance basis to write them down to their estimated residual value over their estimated useful lives at the rate of 33.33% per annum

### 4. Gratuity Fund Investment

The gratuity fund constitutes a proportion of basic salary set aside on monthly basis as a sinking fund to cater for benefits payable to employees when due.

	2009 (KShs.)	2008 (KShs.)
Balance brought forward	170,096,468	84,263,579
Additions	150,524,931	153,448,571
Payments	(191,583,511)	(67,615,682)
<b>Total</b>	<b>129,037,888</b>	<b>170,096,468</b>



## 5. Asset Recovery Account

The asset recovery account comprises of funds received from recovery of corruptly acquired assets on behalf of public organizations.

	<b>2009</b> <b>(KShs.)</b>	<b>2008</b> <b>(KShs.)</b>
Funds recovered in the year	1,843,628	2,086,378
Disbursements	7,022,170	(242,750)
<b>Total</b>	<b>8,865,798</b>	<b>1,843,628</b>

## 6. Inventories

	<b>2009</b> <b>(KShs.)</b>	<b>2008</b> <b>(KShs.)</b>
Consumables	6,799,710	5,026,901
Library books	4,663,105	4,093,719
<b>Total</b>	<b>11,462,815</b>	<b>9,120,620</b>

## 7. Trade and other receivables

	<b>2009</b> <b>(KShs.)</b>	<b>2008</b> <b>(KShs.)</b>
Imprest Debtors	1,669,205	239,750
Staff Advances	230,000	390,952
Deposits	3,991,115	3,991,076
Prepayments	-	14,947,390
<b>Total</b>	<b>5,898,320</b>	<b>19,569,168</b>

## 8. Cash and cash equivalents

	<b>2009</b> <b>(KShs.)</b>	<b>2008</b> <b>(KShs.)</b>
Recurrent Bank Account	88,338,204	66,821,016
Development Account	57,742,687	7,898,090
Cash on hand	69,557	695,995
<b>Total</b>	<b>146,150,448</b>	<b>75,415,101</b>

## 9. Trade and other payables

	<b>2009</b> <b>(KShs.)</b>	<b>2008</b> <b>(KShs.)</b>
Trade payables	-	180
Other payables	90,220	11,868
<b>Total</b>	<b>90,220</b>	<b>12,048</b>



## 10. Accrued liabilities and charges

	2009 (KShs.)	2008 (KShs.)
Audit fees	500,000	500,000
<b>Total</b>	<b>500,000</b>	<b>500,000</b>

## 11. Government Grants (GoK)

Government grants represent exchequer receipts during the year.

## 12. Development Partners/Donor Support

	2009 (KShs.)	2008 (KShs.)
ADB/GJLOS- Grants	13,049,660	-
Government Grants (GoK)	60,000,000	60,000,000
<b>Total</b>	<b>73,049,660</b>	<b>60,000,000</b>

## 13. Other Income

	2009 (KShs.)	2008 (KShs.)
Sale of tender documents	2,051,426	1,139,101
Interest Income	19,135,758	1,254,807
<b>Total</b>	<b>21,187,184</b>	<b>2,393,908</b>

## 14. Accumulated Fund

	2009 (KShs.)	2008 (KShs.)
Balance brought forward	178,561,372	111,983,013
Change during the year	13,769,000	66,578,359
<b>Total</b>	<b>192,330,372</b>	<b>178,561,372</b>

## 15. Revenue Reserve

	2009 (KShs.)	2008 (KShs.)
Balance brought forward	148,123,886	162,431,708
Refund of surplus	(75,415,101)	(92,742,002)
Surplus for the year	115,987,354	78,434,180
<b>Total</b>	<b>188,696,139</b>	<b>148,123,886</b>

## 16. Contingencies

### Contingent liabilities

The Commission has given no guarantees to third parties. In the ordinary course of business, the Commission has been sued in various cases with potential exposure estimated at KShs. 41.5 million.

The Commission is a defendant or co-defendant in various litigations and claims. The outcomes of these litigations and claims is yet to be determined, hence the Commission has not made any provisions in these accounts towards contingent liabilities.

## 17. Operating and maintenance

Included in the operating and maintenance expenditure is an amount of KShs. 26.7million described as security expenses.

## 18. Administration Expenses

	<b>2009 (KShs.)</b>	<b>2008 (KShs.)</b>
Basic salaries	467,879,032	481,906,013
Basic wages paid- Temporary employees	10,547	-
Personal Allowances	183,667,963	193,467,855
Employer Contribution : Health Insurance Schemes	590,400	609,000
Government Pension & Retirement Benefits	141,797,702	148,053,778
Insurance costs	37,304,128	40,840,117
Hospitality, Supplies and Services - (Board, Committees & Conferences)	33,391,551	34,057,336
	<b>864,641,323</b>	<b>898,934,099</b>

## 19. Key management personnel costs

Included in the Administration expenses of KShs. 864.6 million is an amount of KShs. 82.9 million paid to key management personnel comprising of the Director, Deputy Director and Assistant Directors.

	<b>2009 (KShs.)</b>	<b>2008 (KShs.)</b>
Key management personnel costs	82,940,000	94,566,667
<b>Total</b>	<b>82,940,000</b>	<b>94,566,667</b>

## 20. Comparative

Where necessary, comparative figures have been adjusted to conform to changes in presentation in the current year so as to be in line with the government of Kenya budgeted expenditure items. In some instances expenditure as reflected in account names have been amalgamated or split to fit into this year's classification.



## 21. Reporting Currency

These financial statements are presented in Kenya Shillings (KShs.) as the reporting currency

## 22. Operating and Maintenance

	<b>2009</b> <b>(KShs.)</b>	<b>2008</b> <b>(KShs.)</b>
Utilities, supplies and service	7,620,333	5,700,202
Communication, supplies and services	24,259,854	15,485,786
Domestic travel, subsistence & other transport costs	21,126,660	14,397,880
Foreign travel, subsistence & other transport costs	11,158,057	12,400,811
Printing, advertising, information supplies & services	31,923,299	29,086,853
Rentals of produced assets	41,231,167	38,283,715
Training expenses ( including capacity building)	33,653,761	25,547,966
Specialized materials and supplies	558,015	501,600
Office and general supplies & services	6,447,307	6,479,442
Fuel, oils and lubricants	12,956,096	12,416,092
Other operating expenses (Note 23)	58,984,035	70,716,156
Routine maintenance-Vehicle & other transport equipment	11,570,036	11,651,563
Routine maintenance-other assets	5,293,216	2,213,392
Other miscellaneous, current transfers, grants & subsidies	700,000	-
Refurbishment of buildings	1,328,483	2,234,335
Research, feasibility studies, project preparation and design	11,309,945	11,481,638
Depreciation expenses	54,385,649	60,309,558
Loss on disposal	-	118,641
<b>Total</b>	<b>334,505,910</b>	<b>319,025,630</b>

## 23. Other Operating Expense

	<b>2009</b> <b>(KShs.)</b>	<b>2008</b> <b>(KShs.)</b>
Bank charges	226,074	191,201
Contracted guards and cleaning services	1,257,012	935,239
Memberships fees, dues and subscriptions	777,280	337,680
Legal dues, arbitration and compensation	4,481,467	10,419,040
Security expenses	26,697,000	26,700,000
Contracted professional services	23,977,852	31,128,099
Witness expenses	1,067,350	504,898
Audit fees	500,000	500,000
<b>Total</b>	<b>58,984,035</b>	<b>70,716,156</b>







**Table 17: Summary of Recommendations and Implementation Status**

Recommendation	Implementation Status
Develop a file tracking system.	<p>The Pensions Management Information System (PMIS) is being implemented by the Department and is able to track information on pensioners and complaints.</p> <p>Training of the officers on the use of the PMI system is ongoing.</p> <p>KNA&amp;DS to be consulted on archiving.</p>
Review the Pensions statutes with a view to providing a legislative framework for implementation of the contributory scheme within the Public Service.	A bill to implement the contributory scheme was drafted.
Initiate a comprehensive audit of District Treasuries and ensure that a formal handover of pension payrolls is done.	A team of internal auditors and accountants was constituted to carry out the audit.
Prepare monthly reconciliations of the hard and soft copies of payrolls.	Reconciliation of payrolls has been implemented.
Prepare a database of all pensioners and dependants and ensure that it is regularly updated.	<p>The Ministry of State for Public Service has embarked on a project to install a HR system that will be compatible with PMIS and IFMIS.</p> <p>The Department will commission a payroll cleansing exercise in the 2009/2010 financial year</p>
Review the payroll system to be able to detect duplicate bank accounts.	The Department will commission a payroll cleansing exercise in the 2009/2010 financial year.
Develop a system of confirming pensioners' existence after a given period of time instead of stopping their pensions haphazardly.	To be commenced at a later date after the consultant appointed to handle payroll cleansing will have finished the work.
Develop an ICT strategy.	The ICT team to develop an ICT strategy once the PMIS roll out is completed.

**(iv) National Registration Bureau**

The implementation status of the recommendations on the Examination of the National Registration Bureau (NRB) is summarized in Table 18.



## (ii) Kenya Maritime Authority

The Commission carried out a Corruption Risk Assessment on the Kenya Maritime Authority in response to a request by the Director General of the Authority. The key findings and recommendations are provided in Table 16.

**Table 16: Summary of CRA Findings and Recommendations**

Risks Identified	Recommendations
Lack of a comprehensive maritime policy may lead to corruption in the management of marine source pollution.	Develop a comprehensive maritime policy to provide for effective marine source pollution management by all stakeholders.
Lack of controls to check exercise of discretion in licensing shipping lines and agents, signing certificates, billing and debt collection.	Put in place systems to check discretion in issuance of certificates, licensing, billing and debt collection.
Poor record management in registration of vessels.	Automate records management to enhance security accessibility and ease of retrieval on vessel records.
Lack of adherence to procurement procedures.	Strict adherence to procurement law and regulations.
Inconsistencies between internal financial and procurement procedures with existing laws and regulations.	Harmonize internal financial and procurement procedures with existing laws and regulations.
The practice of issuance of annual licenses before payment is prone to abuse and may lead to loss of revenue.	Harmonize issuance of licensing and payments.
Lack of a clear complaints redress mechanism from the public may undermine checks and balances in service delivery.	Put in place complaints redress mechanism.

## (iii) Pensions Department

During the year under review, the Commission presented a report of examinations into the policy, systems and procedures of work of the Pensions Department to the Ministry of Finance for implementation. The Commission also undertook a follow up on the implementation to establish progress made. Table 17 provides a summary of the recommendations and implementation status at the time of the follow up.

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