

REPUBLIC OF KENYA



*Laid on the table of
the House by Hon. Duale
on 26.02.2015
Mmw*

KENYA NATIONAL AUDIT OFFICE



REPORT

OF

**KENYA NATIONAL AUDIT OFFICE
THE AUDITOR-GENERAL**

ON

**THE FINANCIAL STATEMENTS OF
ANTI-COUNTERFEIT AGENCY**

**FOR THE YEAR ENDED
30 JUNE 2014**



**anti
counterfeit
agency**

educate, enforce, eliminate

ANTI-COUNTERFEIT AGENCY

ANNUAL REPORT AND FINANCIAL STATEMENTS

**FOR THE FINANCIAL YEAR ENDED
JUNE 30, 2014**

**Prepared in accordance with the Accrual Basis of Accounting Method under the International Public Sector
Accounting Standards (IPSAS)**

Table of Content

Page

I.	KEY ENTITY INFORMATION AND MANAGEMENT	ii
II.	THE BOARD OF DIRECTORS	vi
III.	MANAGEMENT TEAM.....	x
IV.	CHAIRMAN'S STATEMENT	xii
V.	REPORT OF THE CHIEF EXECUTIVE OFFICER.....	xiii
VI.	REPORT OF THE DIRECTORS	xv
VII.	STATEMENT OF DIRECTORS' RESPONSIBILITIES	xvi
VIII.	REPORT OF THE INDEPENDENT AUDITORS ON THE ANTI-COUNTERFEIT AGENCY	xvii
IX.	STATEMENT OF FINANCIAL PERFORMANCE	1
X.	STATEMENT OF FINANCIAL POSITION.....	2
XI.	STATEMENT OF CHANGES IN NET ASSETS	3
XII.	STATEMENT OF CASH FLOWS.....	4
XIII.	STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS.....	5
XIV.	NOTES TO THE FINANCIAL STATEMENTS.....	6

I. KEY ENTITY INFORMATION AND MANAGEMENT

(a) Background information

The Anti-Counterfeit Agency was established under Section 3 of the Anti-Counterfeit Act No. 13 of 2008 as a corporate body under the State Corporations Act, Chapter 446 of the Laws of Kenya.

The Agency falls within the Ministry of Industrialization and Enterprise Development to provide a policy framework and an enabling environment for industrialization in Kenya. The Cabinet Secretary is expected to play a key role in the realization of Kenya Vision 2030 whose goal is to make Kenya a newly-industrializing, middle-income economy by the year 2030. To achieve this goal, the economy is expected to grow at 10% per annum for the next two decades. Six economic sectors have been identified to generate this growth. These are tourism, agriculture, manufacturing, wholesale and retail trade, business process outsourcing and financial services.

(b) Principal Activities

The principal activity/mission of the Agency is to enlighten and inform the public on matters relating to counterfeiting; combat counterfeiting, trade and other dealings in counterfeit goods in Kenya in accordance with the Act or any other written law; devise and promote training programs to combat counterfeiting; and co-ordinate with national, regional or international organizations involved in combating counterfeiting.

(c) Key Management

The Agency’s day-to-day management is under the following key organs:

No.	Designation	Name
1.	Ag. Executive Director	Dr. John Akoten
2.	Deputy Director Enforcement & Legal Services	Mr. Johnson Adera
3.	Ag. Deputy Director Research & Awareness	Mrs. Agnes Karingu

(d) Fiduciary Management

The key management personnel who held office during the financial year ended 30th June 2014 and who had direct fiduciary responsibility were:

No.	Designation	Name
1.	Executive Director - Former	Mr. Stephen Mallowah
2.	Ag. Executive Director - Current	Dr. John Akoten
3.	Deputy Director Enforcement & Legal Services	Mr. Johnson Adera
4.	Ag. Deputy Director Research & Awareness	Mrs. Agnes Karingu

(e) Fiduciary Oversight Arrangements

The Board has set up 4 (four) principal Committees which sets forth the purposes, goals and responsibilities of the committees as well as qualifications for committee membership, procedure for appointment and removal and committee reporting to the Board. This is

intended to facilitate efficient decision making of the Board in discharging its duties and responsibilities.

These are:

▪ **Audit and Risk Management;**

The Audit and Risk Management Committee is appointed by and shall act at the direction of the Board, to review policy papers and make recommendations on the functions delegated to them. The terms of reference of the Audit and Risk Management Committee shall be to assist the Board in the oversight of:-

- The integrity of the financial statements of the Agency.
- The review of the systems established to ensure sound public financial management and internal controls, as well as compliance with policies, laws, regulations, procedures, plans and ethics.
- The review of the internal and external audit findings and recommendations and proposing corrective and preventive action where necessary.
- The internal and external auditor's qualifications and independence.
- The performance of the Agency's internal audit function and the external independent auditors.
- The compliance by the Agency with legal and regulatory requirements.
- The effective management by the Agency of financial and non-financial risks.
- The maintenance of an effective and efficient risk management capability by the Agency.

▪ **Finance and General Purposes;**

The Finance and General Purposes Committee is appointed by and shall act at the direction of the Board, to review policy papers and make recommendations on the functions delegated to them. The terms of reference of the Finance and General Purposes Committee shall be:-

- To Review and make recommendations to the Board on the financial strategy of the Agency ensuring its adequacy and soundness in providing for the Agency's current operations and long-term stability.
- To review, discuss and make recommendations to the Board concerning significant financial planning, management and reporting issues of the Agency.
- To review and make recommendations to the Board on financial issues arising from the annual financial statements of the Agency.
- To Review and discuss the Agency's procurement procedures to ensure that they are effective and in accordance with legal and regulatory requirements for the time being in force.
- To support the Agency in the achievement of procurement plans.
- To monitor and review the managements' strategy toward ensuring efficiency and integrity of the Agency's procurement systems.
- To undertake any other task as specifically assigned by the Board from time to time.

▪ **Human Resource;**

The Human Resource Committee is appointed by and shall act at the direction of the Board, to review policy papers and make recommendations on the functions delegated to them. The terms of reference of the Human Resource Committee shall be:-

- Review the Agency's executive remuneration strategy to ensure that management is rewarded appropriately for its contributions to Agency growth and that the executive remuneration strategy supports organization objectives and stakeholder interests.
 - Review the overall remuneration policy for all employees of the Agency and recommend to the Board of Directors the amendment and administration of incentive and other remuneration plans for the employees (including allowances, retirement and other benefits).
 - Review the corporate goals and objectives relevant to the performance of the management, including an annual review of their performance in light of these goals and objectives.
 - Review the organization structure of the Agency and ensure it is manned by staff with the relevant skills and experience, and recruitment for management positions is competitive whether internally or externally.
 - Review and monitor the performance of the Agency as it affects employees, including, but not limited to, issues such as gender sensitivity and morale.
 - Review and recommend to the Board of Directors any employment or severance agreement with executive officers.
 - Monitor the Agency's management succession plan and implementation of succession strategies adapted by the Board of Directors.
 - Perform or delegate to the management, the review and monitoring of the trustee functions of the Agency with respect to the employee pension or welfare benefit scheme sponsored by the Agency.
 - Consult with management on major policies affecting employee relations and welfare of the staff of the Agency.
- **Technical and Public Policy Committee**
- The Technical and Public Policy Committee is appointed by and shall act at the direction of the Board, to review policy papers and make recommendations on the functions delegated to them. The purpose of the Technical and Public Policy Committee shall be to:-
- Review the fundamental technical basis of the Agency's operations in order to enable the Board of Directors to make informed, strategic operational decisions and vote on related matters.
 - Ensure that in all recommendations from the management, world-class standards are developed, practiced and leveraged throughout the Agency to create stakeholder value and ensure that statutory mandates are effectively fulfilled.
 - Review and monitor the Agency's research and development reports.
 - Review and monitor operational strategy based on current social, economic and political factors.
 - Review technology systems as well as major investments in new operational models, partnerships and alliances.
 - Review issues affecting the acceptance of the Agency's policy prescriptions by government and other stakeholders.
 - Review significant emerging issues, policy briefs and regulatory improvements.
 - Review all proposals made to or by the Agency for amendments to the Act and Regulations and make appropriate recommendations to the Board of Directors.

- Delegate authority of the Technical and Public Policy Committee as the Technical and Public Policy Committee deems appropriate and periodically review such delegations.
- Perform such other duties and responsibilities as may be assigned to the Technical and Public Policy Committee by the Board of Directors from time to time.

(f) Headquarters

P.O. Box 47771 - 00100
Tel Posta Towers, 4th Floor
Kenyatta Avenue
Nairobi, KENYA

(g) Contacts

Telephone: (254) 020 228 0000
E-mail: info@aca.go.ke
Website: www.aca.go.ke

(h) Bankers

Kenya Commercial Bank
Kipande House Branch
P.O. Box 30012 – 00100
Nairobi – Kenya




(i) Independent Auditors




Auditor General
Kenya National Audit Office
Anniversary Towers, University Way
P.O. Box 30084
GOP 00100
Nairobi, Kenya





(j) Principal Legal Adviser


The Attorney General
State Law Office
Harambee Avenue
P.O. Box 40112
City Square 00200
Nairobi, Kenya

II. THE BOARD OF DIRECTORS

 <p>A.G.N. Kamau Chairman, Board of Directors</p>	<p>Date of birth: 28/05/1954 Key qualifications: Masters in Law (Law, Governance and Democracy); Certified Public Secretary (CPS), Associate Chartered Institute of Arbitrators. Work experience: Skilled in litigation, risk management, investigation, conveyancing, court settlements, interviewing witnesses, defendants, tribunals and quasi judicial bodies and regulatory bodies and government agencies.</p>
 <p>Dr. John Akoten Ag. Executive Director Secretary of the Board</p>	<p>Date of birth: Has a PhD in International Development Studies (IDS) from the National Graduate Institute for Policy Studies (GRIPS) in Tokyo, Japan; a master's degree in IDS from the same university; and a bachelor's degree from the Jomo Kenyatta University of Agriculture and Technology, Kenya. He is currently the Acting Executive Director at the Anti-Counterfeit Agency, a state corporation mandated to prohibit trade in counterfeit goods in Kenya. Previously, he worked at the Institute of Policy Analysis and Research as a Research Fellow rising to Acting Executive Director, where he acquired almost five years of experience in administration and empirical research work on the exploration of industrial locations, agglomeration, credit and estate.</p>
 <p>Mrs. Eva Odour Chair, Technical Committee Managing Director, Kenya Bureau of Standards</p>	<p>Date of birth: 14/12/1957 Key qualifications: Master of Business Administration - Maaachtrit University and Esami (ongoing), Master of Science (Biochemistry); Bachelor of Science (Chemistry and Biochemistry). Work experience: In charge of Standards Development Division which facilitates all Kenya national Standards and ensuring proper representation of Kenya position in both regional and international standardization. Ensuring trade facilitation in accordance with the WTO TBT agreement and other regional trade protocols (EAC, COMESA) and bilateral agreements on standards and trade.</p>

	<p>Date of birth: 25/09/1956 Key qualifications: Doctor of Philosophy (PhD) in Plant Pathology, Kenyatta University; Master of Science (Plant Pathology) University of Hawaii, USA); Bachelor of Science (Education) Botany and Zoology). Work experience: Managing Director at Kenya Plant Health Inspectorate Service (KEPHIS).</p>
<p>Dr. James Micah Onsando Chair, Finance & General Purpose Committee Managing Director, KEPHIS</p>	
	<p>Date of birth: 1973 Key qualifications: Master of Science; Bachelor of Science, Agricultural Economics (Hons) Work experience: Experience in designing social economic analysis surveys and consumer studies.</p>
<p>Tutui Nanok Chair, Audit Committee Consumer Protection Expert</p>	
	<p>Date of birth: 24/05/1980 Key qualifications: Moi University (LLB, Hons, 2004), Kenya School of Law (Diploma in Law, 2005) Work experience: Practice in wide range of high profile civil and commercial litigation in the superior courts and in alternative dispute resolution including prosecuting and defending enforcement or other proceedings on intellectual property rights.</p>
<p>Mr. Roger Sagana Chair Human Resource Committee Intellectual Property Rights Expert</p>	
<p>Henry Kibet Mutai, PhD Managing Director, Kenya Industrial Property Institute</p>	<p>Date of birth: 17/11/1971 Key qualifications: Doctor of Philosophy (PhD) – University of Melbourne; Master of Laws; Bachelor of Laws (LLB) – University of Nairobi Work experience: Managing Director, Kenya Industrial Property Institute.</p>

 <p>Mr. Martin Gumo National Treasury</p>	<p>Date of birth: 01/11/1954 Key qualifications: Bachelor of Commerce – University of Nairobi; CPA(K) Work experience: Key negotiator in the EAC Common Market Protocol negotiations</p>
 <p>Ms. Beatrice Memo Kenya Revenue Authority</p>	<p>Date of birth: 06/08/1959 Key qualifications: Master of Business Administration (Strategic Management); Bachelor of Commerce - University of Nairobi. Work experience: Commissioner of Customs Services. Oversee the operations of the Customs Services Department within Kenya Revenue Authority</p>
 <p>Selasio Njiru Department of Weights & Measures</p>	<p>Date of birth: 25/09/1954 Key qualifications: KAG University B.A. Bible and Theology (on going) Work experience: Deputy Director Technical and Laboratory Services. Main duties include Enforcement of Trade Description Act Cap 505; approval of metrological patterns for trade use and review of Technical testing Procedures for Legal Metrological Equipments.</p>
 <p>Ms. Betty Maina Kenya Association of Manufacturers</p>	<p>Date of birth: 03/04/1965 Key qualifications: MSC in Development Administration and Planning – University College London; BA (Hons) Land Economics, University of Nairobi. Work experience: Leading Kenya Premier Business Association, representing the interest of the industry with nearly 600 members. Work undertaken is both advocacy as well as business service provision.</p>

	<p>Date of birth: 8/09/1974 Key qualifications: Moi University (LLB, Hons, Kenya School of Law (Diploma in Law) Work experience: Principal State Counsel – Department of Public Prosecutions. Work includes undertaking criminal prosecutions, representing Government Ministries and Departments, representing Government of Kenya in international meetings and conferences.</p>
<p>Mr. Alexander Muteti Office of Public Prosecutions</p>	<p>Date of birth: Work experience: an Advocate of the High Court of Kenya with sixteen years of well-rounded experience in law specializing in Intellectual Property. She was instrumental in drafting intellectual property laws in Kenya and the establishment of the Kenya Copyright Board, which currently employs 38 members of staff. She was a Herchel Smith Scholar at Queen Mary University of London and a research fellow at the Max Planck Institute of Tax, Intellectual Property and Competition Law, Munich. Dr Ouma has taught Intellectual Property Law at the University of Nairobi and co taught at the Queen Mary University of London and at the WIPO/African University MIP course in Mutatre, Zimbabwe. She has been involved in various research projects and has published in the area of Intellectual Property Law.</p>
	<p>Date of birth: 29/07/1977 Key qualifications: Bangalore University, LLB 2nd Class Honours , Kenya School of Law (Diploma in Law) Work experience: Formulation and monitoring the implementation of case management strategies within the section. Providing guidance and consultation on all complex litigation within the section. Undertaking research for the Attorney General in Judicial review cases, constitutional matters and advisory opinions.</p>
<p>Ms. Marisela Ouma Executive Director Kenya Copyright Board</p>	<p>Emmanuel Bitta Ag. Senior Principal State Counsel Office of Attorney General</p>

III. MANAGEMENT TEAM



Dr. John Akoten
PhD, MSc, BSc

Ag. Executive Director



Mr. Johnson Adera
LLM, LLB, CPS

Deputy Director Enforcement & Legal Services






Mrs. Agnes Karingu
MBA, BSc

Ag. Deputy Director Research & Awareness



Mr. Michael Aremon

Assistant Director, Quality Assurance

<p>MBA (Ongoing), BCom, CISA</p>	
 <p>Mr. Abdikadir Mohamed MBA (Ongoing), BSc</p>	<p>Assistant Director Enforcement</p>
 <p>Mr. Elijah Ruttoh M Econ (Econometrics), B.Ed</p>	<p>Assistant Director Research</p>
 <p>Ms. Fridah Kaberia MBA (Finance), BA (Econ), CPA(K)</p>	<p>Ag. Assistant Director Finance</p>

IV. CHAIRMAN'S STATEMENT

It is with great pleasure that I present my report in the fourth year of operations of the Anti-Counterfeit Agency.

To reiterate the statutory functions of the Agency, it is mandated to:

- a) enlighten and inform the public on matters relating to counterfeiting:
- b) combat counterfeiting trade and other dealings in counterfeit goods in Kenya in accordance with this Act:
- c) devise and promote training programmes on combating counterfeiting:
- d) co-ordinate with national, regional or international organizations involved in combating counterfeiting:
- e) carry out any other functions prescribed for it under any of the provisions of this Act or under any other written law and:
- f) perform any other duty that may directly or indirectly contribute to the attainment of the foregoing.

The fulfilment of the above objectives by the Anti-Counterfeit Agency therefore provides its score card. Elsewhere in this report, management has detailed the activities and initiatives taken in achieving the above objectives.

I am hearted by the fact that in spite of scarce resources and a skeleton workforce, the Agency has achieved so much in pursuance of its fulfilment of its statutory obligations in such a short time.

The Board has been able to guide the preparation of the Agency's first Strategic Plan which forms the blue print for the Agency's activities for the next five years.

For the achievements that the Agency has recorded as contained in the pages in this report, I, on behalf of the Board of Directors commend the Ministry of Industrialization & Enterprise Development and the Government as a whole, my fellow Directors in the Board and Management and staff of the Agency.

The Board and I would however like to encourage greater cooperation between the Agency and the Intellectual Property Rights holders together with those of our regional and international collaborators as this is the key to the success of the Agency in its endeavours.

There has been a tendency to criticize the Agency on its perceived inability to effect more arrests and slow down the activities of the counterfeiters. The reality of the situation is that the Agency is still ill-equipped to optimize its enforcement mandate. It should also always be born in mind that counterfeiting is essentially a crime like any other and that nowhere in the world has crime ever been eliminated and the best that can be done is to minimize its adverse effects.

I am happy that the Anti-Counterfeit Agency is working towards this goal and scoring well and I am confident that as time goes by it will continue to minimize the adverse effects of counterfeiting.

V. REPORT OF THE CHIEF EXECUTIVE OFFICER

The Agency falls under the Industry sub-sector within the Tourism, Trade and Industry Sector. The Key Result Area that relates to the mandate of the Agency is Global Competitiveness and by virtue of its mandate is a collaborative Agency.

In many ways, the Financial Year 2013/14 was both challenging and incredibly eventful. The Agency signed its third Performance Contract with the Government of the Republic of Kenya, through the Permanent Secretary of the Ministry of Industrialization and Enterprise Development for the Financial Year 2013/14. Various policies were reviewed and are bearing fruits in terms of result based, more effective and more responsive Agency. Indeed, this has proved to be a landmark year in which the Agency registered strong performance.

The Agency successfully implemented the Performance Contract for the FY 2013/14 and managed to achieve majority of the Performance Contract targets. The Agency achieved a composite score of **2.9658** after performance evaluation for the year 2013/14 which is very good.

In line with the overall mandate; in carrying out public awareness on intellectual property and counterfeiting, the Agency took part in Law Society of Kenya Awareness Week in where they exhibited with other law enforcement agencies. The Tax Payers Awareness Week which was held in collaboration with the Kenya Revenue Authority (KRA) was another forum the Agency used to educate the taxpayers. The Agency held a workshop in collaboration with WIPO in Mombasa. Awareness campaigns e.g. the Fagia Bandia Campaign which covered Busia, Malaba, Kajiado, Namanga, Kisumu etc was carried out in collaboration with the US Embassy.

The Agency held media breakfast in collaboration with the Joint Campaign Against Counterfeiting (JCAC) members and coverage was witnessed in both print and electronic media for public information. We have also conducted Police Sensitization Programs and also participated in East African Cables countrywide training of electricians. We participated in a number of ASK shows i.e. Nakuru ASK, Mombasa ASK show and Nairobi ASK show. The Agency held a sensitization dinner for the Judiciary and LSK in Mombasa in collaboration with US Embassy in which was mainly attended by Prosecutors, Magistrates, Deputy PC Coast and Court Clerks.

The Agency is collaborating with institutions such as KRA, Interpol, RILO, ESA, KEBS and COFEK among others who are engaged in the enforcement of IPR protection. The Agency is also in collaboration with KIPPRA for research purposes. We are also in collaboration with other stakeholders from both the public and private sector in various awareness activities through the Joint Committee Against Counterfeits (JCAC) to help educate the public.

During the Financial Year, the Enforcement Department together with the Awareness Division has made significant progress on intellectual property enforcement, investigations, and seizures. These seizures are in addition to the increased training, arrests, warrant executions, and other activities that the Agency has successfully undertaken.

The Agency has a nationwide mandate and jurisdiction. It has proven to be exceedingly difficult for the Agency to provide services to all parts of the country especially key entry points and border posts. However, the Agency has been operating from its headquarters in Nairobi and sending its enforcement staff to various towns to carry out enforcement activities. This, at times, has proved to be less efficient.

To partly address the problem, the Agency recently opened a branch office in Mombasa but the office is manned by only two inspectors who cannot do much. The branch office requires more inspectors. The Agency also plans to open new offices in Kisumu and Eldoret once funds are available. The Kisumu office will take care of the entry points (such as Sioport and Malaba) as well as Kisumu city which is an upcoming and growing city in Western Kenya, while the Eldoret office will take care of Eldoret International Airport which is increasingly becoming the conduit for counterfeit goods.

On the side of public outreach, although the Agency has created awareness about counterfeiting and piracy among the public, especially those in key urban centres, much is needed to sensitize the public about the dangers of consuming these illicit goods. The rural populace should also be targeted this time round since counterfeiting and piracy can immensely affect food security and productivity of the rural populace.

With regard to research there are no authoritative data on counterfeiting that government can rely on. In this respect the Agency will carry out a baseline survey countrywide to determine in extent of counterfeiting in Kenya. This will inform policy on the operations of the Agency.

Counterfeiting and piracy remains a serious development challenge not only in developed countries but also in developing economies. Globally, by 2008 the vice was costing the world US\$ 650 billion. This is expected to rise to US\$ 1.77 trillion by the year 2015 if the vice is not stopped. In Kenya, it is estimated that the government is losing Kshs 19 billion in lost taxes while the private sector is losing Kshs 50 billion in lost sales revenue. Other effects include lost investments, lost job opportunities, retrenchment, as well as safety and health hazard. Consumers also suffer because they do not obtain value for money of what they purchase.

To address this problem, the Agency wishes to undertake the following activities in the short-term:

- a) Carry out enforcement activities through surveillance, seizure and prosecution of offenders;
- b) Sensitize the public about the dangers of purchasing counterfeit goods;
- c) Carry out educational activities about counterfeiting and piracy at various levels of our educational system;
- d) Sensitize key stakeholders in the enforcement such as the police and judiciary about the Anti-Counterfeit Act and the importance of tackling the vice;
- e) Engage in forums, nationally and regionally, to drum up support and sensitize various stakeholders about the need to tackle the problem in a more holistic and programmatic way;
- f) Carry out research to determine awareness levels on counterfeiting among the public and the extent of the counterfeiting problem.

Finally, I would like to commend our Board of Directors, staff of the Agency and also thank each and every one of our stakeholders for your continued support over recent times, your faith and your confidence. We look forward to sharing our efforts, both small and large, with you as we move along through these exciting new chapters.

VI. REPORT OF THE DIRECTORS

The Directors submit their report together with the audited financial statements for the year ended June 30, 2014 which show the state of the Agency's affairs.

Principal activities

The principal activities of the entity continue to be to enlighten and inform the public on matters relating to counterfeiting; combat counterfeiting, trade and other dealings in counterfeit goods in Kenya in accordance with the Act or any other written law; devise and promote training programs to combat counterfeiting; and co-ordinate with national, regional or international organizations involved in combating counterfeiting

Results

The results of the entity for the year ended June 30, 2014 are set out on page 1

Directors

The members of the Board of Directors who served during the year are shown from page vi to ix.

Auditors

The Auditor General is responsible for the statutory audit of the Agency in accordance with the Section 68(2)(k) of the Public Finance Management (PFM) Act, 2012.

By Order of the Board



For: Dr. John Akoten
Ag. Executive Director
Nairobi

Date: 29/01/15

VII. STATEMENT OF DIRECTORS' RESPONSIBILITIES

Section 81(1) of the Public Finance Management Act, 2012 and the State Corporations Act, require the Directors to prepare financial statements in respect of the Agency, which give a true and fair view of the state of affairs of the Agency at the end of the financial year and the operating results of the Agency for that year. The Directors are also required to ensure that the Agency keeps proper accounting records which disclose with reasonable accuracy the financial position of the Agency. The Directors are also responsible for safeguarding the assets of the Agency.

The Directors are responsible for the preparation and presentation of the Agency's financial statements, which give a true and fair view of the state of affairs of the Agency for and as at the end of the financial year ended on June 30, 2014. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the entity; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Agency; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Directors accept responsibility for the Agency's financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act and the State Corporations Act. The Directors are of the opinion that the Agency's financial statements give a true and fair view of the state of Agency's transactions during the financial year ended June 30, 2014, and of the Agency's financial position as at that date. The Directors further confirm the completeness of the accounting records maintained for the Agency which have been relied upon in the preparation of the Agency's financial statements as well as the adequacy of the systems of internal financial control.

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

Approval of the financial statements

The Agency's financial statements were approved by the Board on August 29, 2014 and signed on its behalf by:



For: Ag. Executive Director



Chairman

REPUBLIC OF KENYA

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OFFICE OF THE AUDITOR-GENERAL

REPORT OF THE AUDITOR-GENERAL ON ANTI-COUNTERFEIT AGENCY FOR THE YEAR ENDED 30 JUNE 2014

REPORT OF THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of Anti-Counterfeit Agency set out on pages 1 to 13, which comprise the statement of financial position as at 30 June 2014, and the statement of financial performance, statement of changes in net assets and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 14 of the Public Audit Act, 2003. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of audit.

Management's Responsibility for the Financial Statements

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

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

Auditor-General's Responsibility

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 15 of the Public Audit Act, 2003. The audit was conducted in accordance with International Standards of Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

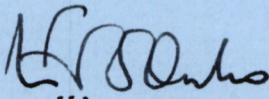
An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk

assessments, the auditor considers internal control relevant to the Agency'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 Agency's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

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

Opinion

In my opinion, the financial statements present fairly, in all material respects the financial position of the Agency as at 30 June 2014, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards and comply with the Anti-Counterfeit Act, 2008.



Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

3 February 2015

IX. STATEMENT OF FINANCIAL PERFORMANCE

For the year ended 30 June 2014

	Note	2014 Kshs	2013 Kshs
Revenue from non-exchange transactions			
Transfers from other Governments –	3	172,051,200	172,951,199
Government Grant			
Retained Reserves		-	25,000,000
Revenue from exchange transactions			
Finance income – external investments	4	187,855	152,970
Other Income	5	4,467,000	6,772,450
Total revenue		<u>176,706,055</u>	<u>204,876,619</u>
Expenses			
Employee costs	6	90,307,839	95,224,658
Board of Directors Expenses	7	7,150,783	7,651,640
Depreciation and amortization expense	8	15,377,102	12,335,271
General expenses	9	90,699,981	85,293,683
Total expenses		<u>203,535,705</u>	<u>200,505,252</u>
Deficit for the period		<u>(26,829,650)</u>	<u>4,371,367</u>

The notes set out on pages 6 to 13 form an integral part of the Financial Statements

X. STATEMENT OF FINANCIAL POSITION
As at 30 June 2014

	Note	2014 Kshs	2013 Kshs
Assets			
Current assets			
Cash and cash equivalents	10	80,270,622	59,652,615
Receivables from non-exchange transactions	11	3,090,805	3,010,815
Inventories	12	1,343,955	2,074,199
		84,705,382	64,737,629
Non-current assets			
Property, plant and equipment	13	42,482,311	46,129,210
Intangible assets	14	254,678	968,176
		42,736,989	47,097,386
Total assets		127,442,371	111,835,015
Liabilities			
Current liabilities			
Trade and other payables from non-exchange transactions	15	1,796,506	9,607,122
Staff Gratuity	16	31,103	4,222,304
		1,827,609	13,829,426
Accumulated Funds			
Revenue Reserves		23,309,014	50,138,664
Government Grant		102,305,748	47,866,925
		125,614,792	98,005,589
Total Accumulated Funds and liabilities		127,442,371	111,835,015

The Financial Statements set out on pages 1 to 13 were signed on behalf of the Board of Directors by:

Ag. Executive Director

Date... 29/01/2015

Chairman of the Board

Date... 29/01/2015

XI. STATEMENT OF CHANGES IN NET ASSETS**For the year ended 30 June 2014**

	Government Grant Kshs	Accumulated surplus Kshs	Total Kshs
Balance as at 30 JUNE 2012	18,519,769	70,767,298	89,287,067
Depreciation	(6,652,844)	-	(6,652,844)
Surplus/(deficit) for the period	-	4,371,367	4,371,367
Retained Reserves	-	(25,000,000)	(25,000,000)
Development Funds	36,000,000	-	36,000,000
Balance as at 30 JUNE 2013	47,866,925	50,138,665	98,005,590
Surplus for the period	-	(26,829,650)	(26,829,650)
Depreciation	(5,436,177)	-	(5,436,177)
Retained Reserve	-	-	-
Development Funds	59,875,000	-	59,875,000
Balance as at 30 JUNE 2014	102,305,748	23,309,015	125,614,763

XII. STATEMENT OF CASH FLOWS

	Note	2014 Kshs	2013 Kshs
Cash flows from operating activities			
Operating Activities			
Reserve for the Year		(26,829,650)	4,371,367
Development Government Grant		59,875,000	36,000,000
Adjustments for items not involving movement of cash			
Add: Depreciation		15,377,102	12,335,271
Less: Retained Reserves		-	(25,000,000)
Cash Flow from Operation activities before Increase or Decrease in Working Capital		48,422,452	27,706,638
<hr/>			
Working Capital Changes			
Decrease in Receivables		161,492	71,909
Increase (Decrease) in Inventories		730,243	(509,377)
Increase in Pre payments		(241,483)	(91,833)
Increase (Decrease) in Payables		(12,001,816)	4,935,588
		(11,351,564)	4,406,287
Net cash flows from operating activities		37,070,888	32,112,925
<hr/>			
Cash flows from investing activities			
Purchase of property, plant, equipment and intangible assets		(16,452,881)	(20,432,439)
Net cash flows used in investing activities		(16,452,881)	(20,432,439)
<hr/>			
Net increase in cash and cash equivalents		20,618,007	11,680,486
<hr/>			
Cash and cash equivalents at 1 JULY 2013		59,652,615	47,972,129
Cash and cash equivalents at 30 JUNE 2014		80,270,622	59,652,615
<hr/>			

XIII. STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS

	Original budget	Adjustments	Final budget	Actual on comparable basis	Performance difference
	2014	2014	2014	2014	2014
	Kshs	Kshs	Kshs	Kshs	Kshs
Revenue					
Government grants and subsidies	172,051,200	-	172,051,200	172,051,200	-
Finance Income	200,000	-	200,000	187,854	(12,145)
Sale of tender	15,000	-	15,000	15,000	-
Other Incomes	6,785,000	-			
Retained Reserves	20,000,000	7,000,000	6,785,000	4,452,000	(2,333,000)
Total income	199,266,200	7,000,000	206,051,200	203,706,054	(2,345,145)
Expenses					
Compensation of employees	123,451,200	(19,944,200)	103,507,000	102,726,465	780,535
Board Services	7,000,000	200,000			
Goods and services	33,100,000	17,990,000	7,200,000	7,150,783	49,217
Rent paid	30,500,000	(1,700,000)	51,090,000	49,797,470	1,292,530
Depreciation	-	15,400,000	28,800,000	28,483,882	316,118
			15,400,000	15,377,102	22,898
Total expenditure	194,051,200	11,945,800	205,997,000	203,535,702	2,461,298
Surplus for the period	5,215,000	(5,160,800)	54,200	170,352	

XIV. NOTES TO THE FINANCIAL STATEMENTS

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

The entity's financial statements have been prepared in accordance with and comply with International Public Sector Accounting Standards (IPSAS). The financial statements are presented in Kenya shillings, which is the functional and reporting currency of the entity and all values are rounded to the nearest whole number. The accounting policies have been applied to 2013/2014 financial year presented.

The financial statements have been prepared on the basis of historical cost. The cash flow statement is prepared using the indirect method. The financial statements are prepared on accrual basis.

2. Summary of significant accounting policies

a) Revenue recognition

i) Revenue from non-exchange transactions – IPSAS 23

Fees, taxes and fines

The entity recognizes revenues from fees, taxes and fines when the event occurs and the asset recognition criteria are met. To the extent that there is a related condition attached that would give rise to a liability to repay the amount, deferred income is recognized instead of revenue. Other non-exchange revenues are recognized when it is probable that the future economic benefits or service potential associated with the asset will flow to the entity and the fair value of the asset can be measured reliably.

Transfers from other government entities

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

ii) Revenue from exchange transactions – IPSAS 9

Sale of goods

Revenue from the sale of goods is recognized when the significant risks and rewards of ownership have been transferred to the buyer, usually on delivery of the goods and when the amount of revenue can be measured reliably and it is probable that the economic benefits or service potential associated with the transaction will flow to the entity.

Interest income

Interest income is accrued using the effective yield method. The effective yield discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount. The method applies this yield to the principal outstanding to determine interest income each period.

b) Budget information – IPSAS 24

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

c) Property, plant and equipment – IPSAS 17

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

d) Leases – IPSAS 13

Finance leases are leases that transfer substantially the entire risks and benefits incidental to ownership of the leased item to the Entity. Assets held under a finance lease are capitalized at the commencement of the lease at the fair value of the leased property or, if lower, at the present value of the future minimum lease payments. The Entity also recognizes the associated lease liability at the inception of the lease. The liability recognized is measured as the present value of the future minimum lease payments at initial recognition.

Subsequent to initial recognition, lease payments are apportioned between finance charges and reduction of the lease liability so as to achieve a constant rate of interest on the remaining balance of the liability. Finance charges are recognized as finance costs in surplus or deficit.

An asset held under a finance lease is depreciated over the useful life of the asset. However, if there is no reasonable certainty that the Entity will obtain ownership of the asset by the end of the lease term, the asset is depreciated over the shorter of the estimated useful life of the asset and the lease term.

Operating leases are leases that do not transfer substantially all the risks and benefits incidental to ownership of the leased item to the Entity. Operating lease payments are recognized as an operating expense in surplus or deficit on a straight-line basis over the lease term.

e) Intangible assets – IPSAS 31

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

The useful life of the intangible assets is assessed as either finite or indefinite.

f) Inventories – IPSAS 12

Inventory is measured at cost upon initial recognition. To the extent that inventory was received through non-exchange transactions (for no cost or for a nominal cost), the cost of the inventory is its fair value at the date of acquisition.

Costs incurred in bringing each product to its present location and conditions are accounted for, as follows:

- Raw materials: purchase cost using the weighted average cost method
- Finished goods and work in progress: cost of direct materials and labor and a proportion of manufacturing overheads based on the normal operating capacity, but excluding borrowing costs

After initial recognition, inventory is measured at the lower of cost and net realizable value. However, to the extent that a class of inventory is distributed or deployed at no charge or for a nominal charge, that class of inventory is measured at the lower of cost and current replacement cost.

Net realizable value is the estimated selling price in the ordinary course of operations, less the estimated costs of completion and the estimated costs necessary to make the sale, exchange, or distribution.

Inventories are recognized as an expense when deployed for utilization or consumption in the ordinary course of operations of the Entity.

g) Nature and purpose of reserves

The Entity creates and maintains reserves in terms of specific requirements. Entity to state the reserves maintained and appropriate policies adopted.

h) Changes in accounting policies and estimates – IPSAS 3

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

i) Employee benefits – IPSAS 25

Retirement benefit plans

The Entity provides retirement benefits for its employees. Defined contribution plans are post employment benefit plans under which an entity pays fixed contributions into a separate entity (a fund), and will have no legal or constructive obligation to pay further contributions if the fund does not hold sufficient assets to pay all employee benefits relating to employee service in the current and prior periods. The contributions to fund obligations for the payment of retirement benefits are charged against income in the year in which they become payable.

j) Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year.

k) Comparative figures

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

l) Subsequent events – IPSAS 14

There have been no events subsequent to the financial year end with a significant impact on the financial statements for the year ended June 30, 2014.

3. Transfers from other governments – gifts and services-in-kind

	2014	2013
	Shs	Shs
Operational grant		
Disbursements from the parent Ministry during the Financial Period.	172,051,200	172,951,199

4. Finance income - external investments

	2014	2013
	Shs	Shs
Cash investments and fixed deposits	187,855	152,970

5. Other income

	2014	2013
	Shs	Shs
Complaint Filing Fees	2,466,000	2,776,950
Destruction & Storage Fees	1,986,000	1,274,800
British High Commission Grants	-	1,736,700
Sale of Tender Documents	15,000	984,000
Total other income	4,467,000	6,772,450

6. Employee Costs

	2014	2013
	Shs	Shs
Employee related costs - salaries and Allowances	72,577,768	78,855,040
Casual & Interns	501,100	427,500
Employee related costs - contributions to staff gratuity	1,662,848	2,307,650
Employee related costs - contributions to NSSF, pensions and medical aids	15,566,123	13,634,468
Total Employee costs	90,307,839	95,224,658

ANTI-COUNTERFEIT AGENCY (ACA) ANNUAL REPORT AND ACCOUNTS 2013/2014

7. Board of Directors Expenses

	2014	2013
	Shs	Shs
Board Allowances	4,082,820	3,677,500
Board Domestic Travel and other Expenses	392,200	2,705,140
Board Committees, Conferences & Seminars	1,631,763	225,000
Chairman Honoraria & Tel. Allow	1,044,000	1,044,000
Total Board of Directors Expenses	7,150,783	7,651,640

8. Depreciation and amortization expense

	2014	2013
	Shs	Shs
Property, plant and equipment	14,663,604	11,621,773
Intangible assets	713,498	713,498
Total depreciation and amortization	15,377,102	12,335,271

9. General expenses

The following are included in general expenses:

	2014	2013
	Shs	Shs
Asset Tagging	205,000	-
Comm. Supplies & Services	3,188,523	2,290,017
Corporate Social Responsibility	162,000	-
Destruction & Storage	68,000	-
Domestic Travel & Daily Subsistence Allowance	7,488,648	5,022,715
Finance Costs	158,870	161,534
Foreign Travel & Daily Subsistence Allowance	4,929,978	2,753,255
Fuel , Oil & Lubricants	2,132,761	1,791,740
General Insurance Costs	1,507,664	760,454
Hospitalities & Services	1,144,990	1,672,551
Membership & Subscriptions Fees	706,273	295,377
Office & Gen. Supplies/Services	3,667,428	4,274,787
Parking Charges	1,211,268	2,907,500
Printing, Advertising & Services	4,656,470	7,423,349
Professional & Consultancy Services	6,119,354	9,474,142
Promotional Activities	6,008,225	2,363,986
Provision For Audit Fees	1,236,560	858,000
Research	691,260	-
Rent	28,483,882	30,317,841
Routine Maintenance - Others	946,043	696,580
Routine Maintenance - Vehicles	1,918,909	855,492
Security Charges	2,547,360	2,466,920
Specialized Materials/Supplies	-	198,070
Staff Uniforms & Gear	133,980	-
Training Expenses	7,315,757	4,405,744
Transport Cost – For Seized Goods	43,220	-

ANTI-COUNTERFEIT AGENCY (ACA) ANNUAL REPORT AND ACCOUNTS 2013/2014

Utilities - Electricity	4,027,558	4,303,629
Total general expenses	90,699,851	85,293,683

10. Cash and cash equivalents

	2014	2013
	Shs	Shs
Petty Cash – Head Quarter	-	3,791
Petty Cash – Mombasa	-	2,291,000
ACA KCB Main Bank Account	54,958,252	28,512,425
ACA KCB Development Account	9,263,520	17,726,973
ACA KCB Revenue Account	10,559,071	8,105,210
ACA NIC Bank Limited – Short-term Deposit	5,489,779	5,301,925
Total cash and cash equivalents	80,270,622	59,652,615

11. Receivables from non-exchange contracts

Prepayments	2014	2013
	Shs	Shs
Fuel Reserve	124,089	-
Medical Insurance	2,361,128	1,972,563
Group Insurance – WIBA	65,037	143,661
General Insurance - Prepayment	425,051	323,230
Training Prepayment	-	294,370
Account Receivables – Staff Imprests	115,500	276,991
Total current receivables	3,090,805	3,010,815

12. Inventories

	2014	2013
	Shs	Shs
Consumable stores	1,343,955	2,074,199

ANTI-COUNTERFEIT AGENCY (ACA) ANNUAL REPORT AND ACCOUNTS 2013/2014

13. Property, plant and equipment		Motor Vehicles		Computers		Office Equipment		Furniture & Fittings		Leasehold Improvements		Total	
		Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs
Cost													
At 1 July 2012		24,513,973	6,598,491	8,879,952	18,361,181	10,592,719						68,946,316	
Additions		14,605,680	2,354,480	1,350,000	1,363,915	-						19,674,075	
At 30 June 2013		39,119,653	8,952,971	10,229,952	19,725,096	10,592,719						88,620,391	
Additions		9,554,353	329,314	1,266,523	541,500	4,761,191						16,452,881	
At 30 June 2014		48,674,006	9,282,285	11,496,475	20,266,596	15,353,910						105,073,272	
Depreciation													
At 1 July 2012		11,094,486	3,902,425	1,969,112	4,008,519	3,242,021						24,216,563	
Depreciation		9,779,913	2,981,339	1,278,744	2,465,637	1,768,984						18,274,617	
At 30 June 2013		20,874,399	6,883,764	3,247,856	6,474,156	5,011,005						42,491,180	
Depreciation		12,168,501	1,396,796	1,437,056	2,533,325	2,564,103						20,099,781	
At 30 June 2014		33,042,900	8,280,560	4,684,912	9,007,481	7,575,108						62,590,961	
Net book values													
At 30 June 2014		15,631,106	1,001,725	6,811,563	11,259,115	7,778,802						42,482,311	
At 30 June 2013		18,245,254	2,069,206	6,982,096	13,250,940	5,581,714						46,129,210	

14. Intangible assets - software

Cost	Shs
At 1 July 2012	1,384,273
Additions	758,364
At 30 June 2013	2,142,637
Additions – internal development	-
At 30 June 2014	2,142,637
Amortization and impairment	
At 1 July 2012	(460,963)
Amortization	(713,498)
At 30 June 2013	(1,174,461)
Amortization	(713,498)
Impairment loss	-
At 30 June 2014	(1,887,959)
Net book values	
At 30 June 2014	254,678
At 30 June 2013	968,176

15. Trade and other payables from non exchange transactions

	2013/2014	2012/2013
	Shs	Shs
Audit Fees	995,280	754,000
Account Payable Liabilities	729,226	8,853,122
PAYE	72,000	-
Total trade and other payables	1,796,506	9,607,122

16. Staff Gratuity

	2013/2014	2012/2013
	Shs	Shs
Staff Gratuity b/d	4,222,304	3,023,725
Gratuity for the year	1,662,848	2,307,650
Payments	(5,854,049)	(1,109,071)
Total Staff Gratuity	31,103	4,222,304

17. Events after the reporting period

There are no material non-adjusting events after the reporting date.

