

REPUBLIC OF KENYA



*Enhancing Accountability*

## REPORT

OF


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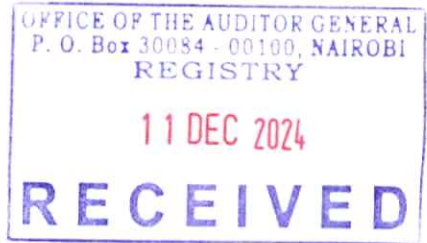
## THE AUDITOR-GENERAL

ON

## COMPETITION AUTHORITY OF KENYA

FOR THE YEAR ENDED  
30 JUNE, 2024

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
DATE: 11 MAR 2025	
DAY: Tuesday	
TABLED BY:	Hon Owen Baya, MP Deputy Majority leader
CLERK-AT THE-TABLE:	Getrude Chebet



COMPETITION AUTHORITY OF KENYA

ANNUAL REPORT

AND

FINANCIAL STATEMENTS

FOR THE FINANCIAL YEAR ENDED

30<sup>TH</sup> JUNE, 2024

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

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## ACRONYMS

ABP	Abuse of Buyer Power	ICN	International Competition Network
AGPO	Access to Government Opportunities	IRMF	Institutional Risk Management Framework
AIDS	Acquired Immuno-Deficiency Syndrome	KEMRA	Kenya Motor Repairers Association
AIG	American International Group	KNBS	Kenya National Bureau of Statistics
BCM	Business Continuity Management	KOTDA	Konza Technopolis Development Authority
BCMS	Business Continuity Management System	LC	Local Content
CAK	Competition Authority of Kenya	MSMEs	Micro, Small and Medium Enterprises
CBK	Central Bank of Kenya	NARTD	Non-Alcoholic Ready to Drink
CCC	COMESA Competition Commission	NCA	National Competition Agencies
COMESA	Common Market for Eastern and Southern Africa	NCPWD	National Council for Persons with Disability
CSR	Corporate Social Responsibility	NTSA	National Transport Safety Authority
DCI	Directorate of Criminal Investigations	PPRA	Public Procurement Regulatory Authority
DCP	Digital Credit Providers	PWD	People with Disability
EACCA	East Africa Community Competition Authority	QMS	Quality Management System
EAC	East Africa Community	RTP	Restrictive Trade Practices
EU	European Union	YPP	Young Professionals Program



## CORPORATE INFORMATION

### i. Physical Address

15<sup>th</sup> Floor CBK Pension Towers  
Harambee Avenue  
P.O. Box 36265 – 00200  
NAIROBI, Kenya

Tel: +254-20-2628233 or +254-20-2779000

Website: [www.cak.go.ke](http://www.cak.go.ke)

Email: [info@cak.go.ke](mailto:info@cak.go.ke)

### ii. Independent Auditors

Auditor General  
Office of the Auditor General  
Anniversary Towers, University Way  
P.O. Box 30084, GPO 00100  
NAIROBI, Kenya

### iii. Legal Advisors

No.	Name of Law Firm	Address
1.	Office of the Attorney General & Department of Justice	Sheria House, Harambee Avenue, P.O. Box 40112 - 00100, NAIROBI
2.	Rachier & Amollo Advocates	Mayfair Centre, Ralph Bunche Road, P.O. Box 55645 - 00200, NAIROBI
3.	Wesonga, Wamalwa & Kariuki Associates Advocates	Embassy House, Harambee Avenue, P.O. Box 45770 - 00100, NAIROBI
4.	Ramadhan Mukira Advocates	Manga House, Kiambere Road Upperhill, P.O. Box 103797 - 00101, NAIROBI

iv. **Bankers**

Kenya Commercial Bank Limited, KICC Branch, P.O. Box 30081 - 00100, NAIROBI	National Bank of Kenya, Times Tower Branch, P.O. Box 72866 - 00200, NAIROBI
ABSA Bank, Yaya Centre Branch, P.O. Box 30120 – 00100, NAIROBI	Family Bank Limited, Family Bank Towers Branch, P.O. Box 74175 – 00200, NAIROBI



## PREAMBLE

Competition Authority of Kenya (**'the Authority'**) is established under section 7 of the Competition Act CAP 504 Laws of Kenya (**'the Act'**). Its mandate is to enhance the welfare of the people of Kenya by promoting and protecting effective competition in markets and preventing unfair and misleading market conduct throughout Kenya to:

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

The Authority has a statutory obligation under section 83 of the Act to prepare an Annual Report for submission to the National Assembly by the Cabinet Secretary, The National Treasury and Economic Planning. The Report captures the overall performance of the Authority, based on its key interventions and performance indicators.

This Report also provides the nature and scope of the Authority's activities; its plans and priorities including the number and nature of complaints and applications determined and/or under consideration; number and nature of investigations completed and continuing; and significant studies and market inquiries completed during the Financial Year 2023/2024. It also includes the Authority's Financial Statements for the same period.

### **i. Vision**

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

### **ii. Mission**

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

### **iii. Motto**

Creating efficient markets for consumers.



#### iv. Core Values

The guiding principles in the operations of the Authority are:

- i. Customer focus – we commit to attaining the highest standards in service delivery to all stakeholders in line with ISO 9001:2015;
- ii. Integrity – we commit to act in an honest, transparent, and responsible manner while implementing our programmes;
- iii. Professionalism – we are guided by professional ethics aimed at building an appropriate corporate culture and creating the right corporate image;
- iv. Impartiality – we uphold the highest levels of equity by treating all stakeholders without any discrimination whatsoever;
- v. Teamwork – we adopt a participatory approach and work together at all levels in the conduct of business; and
- vi. Innovation and Creativity – we are a learning organization that embraces change and continuously enhances creativity and innovation in our business processes.

#### v. Mandate

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

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

- a. Promoting and enforcing compliance with the Act;
- b. Receiving and investigating complaints from legal or natural persons and Consumer entities;
- c. Promoting public knowledge, awareness, and understanding of the obligations, rights, and remedies under the Act and the duties, functions, and activities of the Authority;
- d. Promoting the creation of consumer bodies and the establishment of good and proper standards and rules to be followed by such bodies in protecting competition and consumer welfare;
- e. Recognizing consumer bodies duly registered under the appropriate national laws as the proper bodies, in their areas of operation, to represent consumers before the Authority;
- f. Making available to consumers information and guidelines relating to the obligations of persons under the Act and the rights and remedies available to consumers;
- g. Carrying out inquiries, studies, and research into matters relating to competition and the protection of the interests of consumers;



- h. Studying Government policies, procedures and programmes, legislation, and proposals for legislation to assess their effects on competition and consumer welfare and publicizing the results of such studies;
- i. Investigating impediments to competition, including entry into and exit from markets, in the economy as a whole or particular sector and publicize the results of such investigations;
- j. Investigating policies, procedures, and programmes of regulatory authorities to assess their effects on competition and consumer welfare and publicize the results of such studies;
- k. Participating in deliberations and proceedings of government, government commissions, regulatory authorities, and other bodies about competition and consumer welfare;
- l. Making representations to Government, Government commissions, regulatory authorities, and other bodies on matters relating to competition and consumer welfare;
- m. Liaising with regulatory bodies and other public bodies in all matters relating to competition and consumer welfare; and
- n. Advising the Government on matters relating to competition and consumer welfare.



**A SNAPSHOT OF IMPACT IN THE FY 2023/24 (To be presented as a pictorial)**

<p>ICN Advocacy workshop - February 2024</p>	<ul style="list-style-type: none"> <li>• Over 40 ICN members came together to chart a way forward for competitive markets</li> <li>• Nairobi Action point on competitive Food and Agriculture markets</li> <li>• Launch of the Competition and Consumer Case Digest</li> </ul>
<p>Consumers International Global Congress - December 2023</p>	<ul style="list-style-type: none"> <li>• Over 500 leaders from consumer advocacy, civil society, government, and business came together to build a resilient future for consumers</li> </ul>
<p>Consumer savings</p>	<p>KES 14.4 million from consumer redress</p>
<p>Delayed payments recovered in Abuse of Buyer Power Cases</p>	<p>KES 89.52 million</p>
<p>Impact of Enforcement on consumers and businesses</p>	<p>Interventions in the Paints Sector</p> <ul style="list-style-type: none"> <li>• price reduction of paint products, resulting in consumer savings of KES 0.9 billion between 2018 and 2022</li> <li>• Availability of a wider variety of paints and increased innovation resulting from sustained competition among the players</li> <li>• Opening up the market to Small and Medium Enterprises (SMEs) paint manufacturers</li> <li>• The merger decision in the NARDs sector benefitted consumers through high-quality products, wider choices, sustained supply of their preferred soda and water brands, and the presence of innovative products</li> <li>• The NARDs market nevertheless remained competitive and SME producers accessed the market and provided competition to Coca-Cola products in product segments such as energy drinks and water.</li> </ul>
<p>Stakeholder engagement</p>	<p>Various stakeholders engaged in Competition Law and Policy</p> <ul style="list-style-type: none"> <li>• 4 LSK Chapters – Kisii, Kericho, Meru and Nyeri</li> <li>• 5 Counties – Nairobi, Machakos, Kitui, Murang’a and Kiambu</li> <li>• 3 sectors – Manufacturing, Retail and Insurance</li> <li>• Commemoration of the World Consumer Rights Day - Nairobi, Machakos, Kitui, Murang’a and Embu</li> </ul>



	<ul style="list-style-type: none"> <li>• Sensitization of the Administrative Guidelines and merger filing procedure</li> </ul>
Penalties and Fines for Contravention of the Competition Act	<ul style="list-style-type: none"> <li>• Carrefour case – KES 1.1 billion</li> <li>• Steel Manufacturers case – KES 339 million</li> </ul>
Commission for Administrative Justice score	<ul style="list-style-type: none"> <li>• 100%</li> </ul>



## MANAGEMENT SYSTEMS

### i. Quality Management System (ISO 9001:2015)

During the year under review, the Authority successfully maintained its certification to the ISO 9001:2015 International Standard, thereby sustaining its Quality Management System (QMS). This QMS enhances the Authority's operational efficiency, particularly in managing customer complaints and using customer feedback to improve service delivery. Additionally, the implementation of the QMS, combined with the automation of key processes, continued to enhance efficient resource utilization and a continual improvement focus across all the Authority's processes. The QMS standard also emphasizes the importance of top leadership commitment and the engagement of members at all levels of the organization.

Monitoring of our organization's QMS is conducted through a combination of internal and external audits as well as continuous evaluation of quality objectives. The audits are systematically carried out to ensure compliance with established standards and to identify areas for improvement. Furthermore, quality objectives are closely monitored using key performance indicators that provide measurable targets and management reviews to align with our strategic objectives. The Authority also incorporates customer feedback mechanisms to gain deeper insights into performance trends and areas requiring attention. These methods help to ensure that our QMS remains robust and effective and support our commitment to continual improvement.

### ii. Quality Policy

The Authority is committed to enhancing the welfare of the people of Kenya by promoting and protecting effective competition in markets and preventing unfair and misleading market conduct. Towards this end, the Authority commits to comply with all applicable statutory requirements and continual improvement of its QMS based on ISO 9001:2015 International Standard. The Authority's top Management commits to review this policy and establish quality objectives biennially to ensure sustained improvement and suitability. The policy shall be communicated, understood, and applied throughout the organization and shall be available to relevant interested parties, as appropriate.

### iii. Quality Objectives

The Authority's quality objectives are related to;

1. The provision of quality and effective regulation of both market conduct and structure, buyer power, and protection of consumers from unfair and misleading market conduct;
2. The enhanced use of research and data to make informed and optimal decisions to support the delivery of the Authority's mandate
3. Ensuring optimal utilization of the Authority's resources in the attainment of its mandate;
4. Enhancing customer satisfaction to exceed expectations by providing quality services;
5. Ensuring the Authority's operations comply with all applicable laws and regulations; and



6. Attracting, training, and retaining highly qualified, skilled, and motivated staff for the realization of its mandate.

**iv. Business Continuity Management System (ISO 22301:2019)**

A significant milestone was achieved in FY 2023/24 with the Authority's being certified to ISO 22301:2019 Business Continuity Management System (BCMS). This internationally recognized certification underscores a commitment to ensuring operational resilience and continuity in the face of disruptions. The ISO 22301:2019 provides a strong framework for developing and maintaining an effective business continuity plan, enabling proactive addressing of potential threats and ensuring the uninterrupted delivery of critical services.

The benefits of ISO 22301:2019 certification for the Authority are multifaceted. It enhances the ability to respond swiftly and effectively to emergencies, minimizing downtime and protecting core functions. This not only safeguards our reputation but also instils confidence of our stakeholders in the Authority. Furthermore, the certification process fosters a culture of continuous improvement, as business continuity strategies are regularly reviewed and updated to align with industry best practices. During the year under review, the Authority relocated its office premises from Kenya Railways Staff Retirement Benefits Scheme, Block "D" Ground Floor to CBK Pension Towers 15<sup>th</sup> Floor, showcasing a significant instance where BCMS strategies were effectively deployed.

The Authority diligently monitors its BCMS through a comprehensive framework designed to ensure operational resilience and preparedness. Regular testing of business continuity plans, including table top exercises as well as internal audits are conducted to evaluate the effectiveness of response strategies. Continuous monitoring is also achieved through real-time tracking of key performance indicators and periodic reviews of recovery objectives. Feedback from these exercises and actual incidents are systematically analysed to identify areas for improvement.

**v. Business Continuity Policy**

The Authority is committed to enhancing the welfare of the people of Kenya by promoting and protecting effective competition in markets and preventing unfair and misleading market conduct. To meet the strategic objectives and ensure the continuity of its operations, the Authority shall adopt and follow well-defined and time-tested plans and procedures, build redundancy in teams and infrastructure, and manage a quick and efficient transition to the backup arrangement for business systems and services.

Towards this, the Authority commits to comply with all applicable requirements and continual improvement of its BCMS based on ISO 22301 International Standard. It further reiterates its commitment to delivering the fastest transition and the highest quality of services through backup arrangements ensuring that the customers, processes, and services do not suffer in any way. The Business Continuity objectives will address the management of incidents before, during, and after a disruption.

**vi. Information Security Management System (ISO/IEC 27001:2022)**



The Authority is actively pursuing certification to ISO/IEC 27001:2022 - Information Security, Cybersecurity, and Privacy Protection International Standard demonstrating our commitment to the highest standards of information security management. Significant progress has been made on this journey, including comprehensive documentation of the Authority's Information Security Management System (ISMS) and extensive training programs for implementers and internal auditors.

The documentation process involved a detailed analysis and classification of security policies, procedures, and controls, to ensure a thorough understanding and effective application of the standard's requirements. The ISMS is monitored through regular internal audits, continuous risk assessments, and surveillance of security controls. Additionally, incident management procedures and periodic reviews ensure that any vulnerabilities are promptly addressed. This approach not only aligns with the requirements of the standards but also buttresses our resilience against emerging threats, ensuring the confidentiality, integrity, and availability of our information assets.

#### **vii. Enterprise Risk Management**

The Authority has made significant strides in enhancing its Enterprise Risk Management Framework (ERMF) by anchoring it on the principles of ISO 31000 and the Committee of Sponsoring Organizations (COSO) Framework, among others. This comprehensive approach ensures that the Authority has a strong governance structure to identify, assess, and mitigate risks effectively. By aligning with these internationally recognized standards, the Authority has reinforced its commitment to strategic objectives, control, and accountability, thereby safeguarding its operations against potential threats.

The Board oversaw the implementation of ERM to ensure strong governance frameworks are in place. Consequently, ERM has strengthened adherence to strategic objectives, control, and accountability. The major risks facing the Authority at the corporate level included cybersecurity, business continuity, strategy implementation, reputational risk, and inadequate funding. An effective ERMF is maintained through thorough quarterly reviews and analysis of incident reports. These reviews include a detailed assessment of potential risks, evaluation of their impact on strategic objectives, and the implementation of necessary mitigation strategies. Incident reports are documented and reviewed to identify trends, root causes, and areas for improvement. This dual approach ensures that risks are continuously monitored and managed proactively.



## INTERNAL AUDIT AND ASSURANCE

The Internal Audit function provides assurance that the existing internal controls and processes are in place and optimized for effective and efficient risk mitigation.

Twelve (12) main audits, seven (7) follow-ups, four (4) spot checks on cash, one (1) spot check on inventory stores, and two (2) reviews of the Authority's Institutional Risk Management Framework (IRMF) were undertaken during the period under review. The audits confirmed that there was a sound system of internal controls designed to ensure that the Authority's processes met the set objectives.

### i. Corruption Prevention

The Authority has a zero-tolerance policy for corruption and bribery-related activities. Three (3) new staff members, five (5) Young Professionals (YP), and ten (10) interns onboarded in the Authority in the year under review were sensitized on the phenomenon of corruption and the obligations of State and Public Officers under the Leadership and Integrity Act, 2012 and the Bribery Act, 2016. This sensitization is part of efforts to maintain a culture of integrity, ethical conduct, and professionalism within the Authority. During the reporting period, there were no reported cases of corruption.


The Authority collaborated with the Ethics and Anti-Corruption Commission (EACC) to train members of the Corruption Prevention Committee (CPC) in the Authority on the Bribery and Corruption Risk Assessment Guidelines. In addition, quarterly reports from various Departments were prepared and submitted to EACC within the stipulated deadlines.

### ii. Whistleblowing Policy

The Authority has a whistle-blowing policy that provides for reporting of suspected corruption cases. Reporting channels including anonymous web portal reporting, an ethics hotline, and email were maintained during the reporting period. Through these channels, anonymous reports on unethical/fraudulent behavior are made without fear of retribution. There were no corruption cases reported during FY 2023/24.




**BOARD OF DIRECTORS FY 2023/2024**

Ref.	Directors	Details
	 <p><b>Mr. Shaka Kariuki</b></p> <p><b>Date of Birth:</b> 5<sup>th</sup> April 1969 <b>Designation:</b> Board Chair <b>Term:</b> Appointed on February, 2023</p>	<p>Mr. Kariuki was appointed Chairperson of the Board of Directors for three years, with effect from 10<sup>th</sup> February 2023.</p> <p>He serves as the Co-CEO of Kuramo Capital Management, LLC an independent investment management firm driving catalytic private institutional capital to fast-growing African businesses. In his role as the Chairman of the Investment Committee of Kuramo Capital, he leads Kuramo Capital’s investment activities across Africa. Additionally, Mr. Kariuki leads Kuramo Capital’s Board Governance strategy across all portfolio companies.</p> <p>Further, Mr. Kariuki currently serves in leadership roles in various companies across the African continent, including in Kenya, Ethiopia, Zimbabwe, South Africa, and the Democratic Republic of Congo. He also serves on various advisory boards of companies in Europe and the USA. He is the former chairperson of Deseret First Credit Union in the USA.</p> <p>He has extensive experience in key leadership roles in various investment and asset classes, including in private equity, fixed incomes, domestic and emerging markets, investment banking, and hospitality.</p> <p>Mr. Kariuki received a Master’s in Government from Harvard University and holds a B.S. in Economics and an MBA with an emphasis in Finance from Brigham Young University. He is a member of the CFA Institute and the Harvard Club in New York City.</p>



Ref.	Directors	Details
	 <p><b>Dr. Adano Roba, PhD</b></p> <p><b>Date of Birth: 28<sup>th</sup> May 1968</b></p> <p><b>Designation: Ag. Director-General and Director Planning, Research, Risk and Quality Assurance</b></p>	<p>Dr. Roba was appointed the Acting Director General on 9<sup>th</sup> January 2023. He has broad areas of interest in applied research and has over 15 years of research and policy experience. He joined the Authority in July 2018 and is responsible for developing effective strategies for economic analysis, policy, research, quality management systems, and performance.</p> <p>Before joining the Authority, he was a Senior Policy Analyst at the National Treasury's Fiscal &amp; Economic Affairs Department, where he was involved in several taskforces that developed legislation on climate change, petroleum, minerals, energy, and their related regulations. He also served as a Senior Lecturer in environmental economics at both the University of Eldoret and Moi University. Dr. Roba earned his PhD from the University of Amsterdam, the Netherlands, and an MSc from the University of York, UK. He has several monographs, peer-reviewed articles, and book chapters to his name, and in collaboration with colleagues.</p>
	<p><b>Mr. Stephen Githinji</b></p> <p><b>Date of Birth: 29<sup>th</sup> June 1985</b></p> <p><b>Designation: Alternate to the Hon. Attorney-General</b></p> <p><b>Term: Appointed in January, 2023</b></p>	<p>Mr. Githinji is a State Counsel in the Office of the Attorney-General and Department of Justice. He has undergone various trainings on drafting and has wide experience in legislative drafting. Over the years, Mr. Githinji has served on numerous committees and task forces as a drafting expert.</p> <p>He is an advocate of the High Court of Kenya and holds a Bachelor of Laws Degree from the Catholic University of Eastern Africa as well as a Postgraduate Diploma in Law from the Kenya School of Law.</p>



Ref.	Directors	Details
	 <p><b>Mr. Joseph Zacharia Ngugi</b></p> <p><b>Date of birth: 14<sup>th</sup> June 1966</b></p> <p><b>Designation: Alternate to the Principal Secretary, The National Treasury and Economic Planning</b></p> <p><b>Term: Appointed in March, 2024</b></p>	<p>Mr. Ngugi is the Director of macro Planning in the Macro and Fiscal Affairs Department at the National Treasury. Mr Ngugi heads the Tax Policy Division at the National Treasury. He represents the Principal Secretary of the National Treasury in Kenya Petroleum Refinery Limited. He holds a Bachelor of Arts (Economics and Sociology) Degree from Egerton University and a Master of Arts (Economics) from the University of Nairobi. Mr Ngugi has excellent knowledge of tax policy with over twenty years of experience. He has spearheaded the preparation of the Excise Duty Act, of 2015, the Tax Procedures Act, of 2015, the Tax Appeals Tribunal Act, of 2013, Act, the Miscellaneous and Fees Act, of 2016, and the VAT Act, of 2013. He also participated in the preparation of the East African Community Customs Management Act 2004 and the East African Community Common External Tariff.</p> <p>Mr Ngugi also Participated in the review of the domestic tax legislation every year and participated in East African Community meetings on Customs and other tax-related matters. Mr. Ngugi has previously served as alternate Director at the Kenya Trade Network Agency, Retirements Benefits Authority, and Coffee Development Fund.</p>



Ref.	Directors	Details
	 <p><b>Mr. Joseah Rotich</b></p> <p><b>Date of birth: 19<sup>th</sup> December 1965</b></p> <p><b>Designation: Alternate to the Principal Secretary, State Department for Trade and Enterprise Development</b></p> <p><b>Term: Appointed in October, 2020</b></p>	<p>Mr. Rotich has a wealth of experience in trade and economic policy. In addition to over 25 years of experience in trade policy, he has leadership and strong coordination skills along with long-term experience in trade negotiations. He has spearheaded several trade negotiations among them: EAC-EU EPA, COMESA-EAC-SADC Tripartite FTA as lead negotiator for the EAC Partner States, the African Continental Free Trade Area (AfCFTA) as key Kenyan negotiator and chair of the Technical Working Group (TWG) on Rules of Origin since commencement of the negotiations, and EAC-CET and EAC Rules of Origin Review and Kenya-UK EPA and Kenya-USA as lead negotiator on market access and Rules of Origin, among other bilateral negotiations.</p> <p>He has also worked at the Kenya Embassy in Brussels as a Commercial Counsellor for 6 years (2002-2009) covering the EU, Belgium and Luxembourg, African, Caribbean and the Pacific Partner States (ACP) activities, and World Customs Organisation (WCO). Mr. Rotich holds a Post Graduate Degree from Brussels University (ULB) in International Economic Law, and Diploma in Multilateral Diplomacy/Conferencing from the United Nations Institute for Trade and Research (UNITAR), a Bachelor of Arts (Economics) Hons, from Moi University, among other trainings on trade policy including WTO, and Leadership.</p>
		<p>Ms. Munuve holds a Master's Degree in Strategic Management, a Post Graduate Diploma, and a</p>



Ref.	Directors	Details
	 <p><b>Ms. Lena Munuve</b></p> <p><b>Date of birth: 26<sup>th</sup> May 1970</b> <b>Designation: Non-Executive Director</b> <b>Term: Appointed in November, 2021</b></p>	<p>Certificate in Leadership Development from the University of Nairobi, Chartered Institute of Marketing (CIM) UK, and the University of Witwatersrand South Africa, respectively. Ms. Munuve is an experienced business executive with over 20 years of local and International work experience gained in corporations such as Esso (K) Ltd, ExxonMobil, Kenya Shell Ltd &amp; Vivo Energy.</p> <p>At these organizations, she has been involved in maximizing business opportunities, improving customer service and contract management, change management, and new business development, among others. She has Board experience in various organizations in the Public and Private sectors.</p>
	 <p><b>Dr. David Wanyama, PhD</b></p> <p><b>Designation: Non-Executive Director</b> <b>Date of birth: 1<sup>st</sup> January 1978</b> <b>Term: Appointed in November, 2021</b></p>	<p>Dr. Wanyama is a strategy and governance expert with over 20 years of commercial and consulting experience. Dr. Wanyama has a PhD Finance, an MBA in Finance, a Bachelor of Commerce (Management), a Diploma in Co-operative Management, an International Diploma in Insurance, a Credit Management Diploma, and a CPA (K). He is currently undertaking a Master of Laws degree at the University of East London.</p> <p>Dr. Wanyama's areas of expertise are strategy, leadership, governance, finance, and accounting. His consultancy experience transcends various sectors including banking, investments, agriculture, and insurance. He has lectured at local universities on portfolio management, management, and financial accounting among other subjects. Dr. Wanyama also has experience</p>




Ref.	Directors	Details
	 <p><b>Dr. Alome Achayo, PhD</b></p> <p><b>Date of birth: 9<sup>th</sup> October 1968</b></p> <p><b>Designation: Non-Executive Director</b></p> <p><b>Term: Appointed in November, 2021</b></p>	<p>serving in Boards of various institutions in the Public and Private sector.</p> <p>Amb. Dr Achayo is an accomplished leader with a wealth of experience across multiple sectors, including commercial enterprises, healthcare, diagnostics, and most recently diplomacy in foreign services. Recognized for her strategic acumen having had responsibilities as a Director, Managing Director, CEO, and Research Scientist, she can craft and implement innovative systems, she has been instrumental in driving transformative change within organizations. Her leadership style is characterized by strong interpersonal skills, natural charisma, and a talent for unifying and motivating teams toward achieving common goals. With a proven track record in fostering robust partnerships, optimizing operational efficiency, and spearheading collaborative initiatives, she demonstrates exceptional proficiency in talent development, investor relations, and international leadership.</p> <p>Her academic credentials, postgraduate and doctoral are a testament to her commitment to continuous learning and professional growth in her field of medical research and strategy. She has undertaken rigorous studies at prestigious institutions such as the Galilee International Management Institute (Israel), The University of Nairobi (UoN), the United States International University (USIU), Jomo Kenyatta University of Agriculture (JKUAT), and is currently advancing her education in Public Health at Brunel University in the United Kingdom. This solid educational foundation underpins her ability to navigate complex challenges and deliver impactful</p>



Ref.	Directors	Details
		<p>results across diverse environments, whilst serving her country.</p>
	<div data-bbox="312 495 579 891" data-label="Image"> </div> <p data-bbox="312 898 579 931"><b>Mr. Abdi Mohamed</b></p> <p data-bbox="312 987 679 1021"><b>Date of birth: 22<sup>nd</sup> June 1974</b></p> <p data-bbox="312 1032 799 1066"><b>Designation: Non-Executive Director</b></p> <p data-bbox="312 1077 791 1111"><b>Term: Appointed in November, 2021</b></p>	<p data-bbox="817 450 1481 1200">Abdi Mohamed is a Health and Conflict Management specialist with over 20 years of experience in both public and private sectors in the Horn of Africa region (Somalia, Ethiopia, Sudan, South Sudan, and Kenya). Mr. Abdi is currently a Strategy Development and Program Management Specialist -Consultant at Kenbridge Consulting Ltd. He has also served in senior management positions as the Technical Specialist (Health, Food, Security, &amp; Climate Change) at Save the Children-Somalia; Peace Building and Conflict Management Advisor at Road International-Somalia, Program Coordinator at International Medical Corps for Sudan and South Sudan, and Senior Health Coordinator at Comitato Collaborazione Medica-Italy for Somalia. He has also served as a Council Member, at Tharaka University.</p> <p data-bbox="817 1245 1481 1814">Mr. Abdi holds a Bachelor of Arts (Sociology and Psychology) degree from the University of Nairobi, and a Master of Arts (Public Policy and Administration) from Kenyatta University. Abdi also holds a Diploma in Nursing from KMTC. In addition, he has completed the Strategic Leadership Development Program at Kenya School of Government, and a Certified Trainer of Facilitator (TOF) at AMREF International Training Centre-Nairobi. He is passionate about peacebuilding, conflict management, livelihoods, market systems, education, health programs, and corporate governance.</p>



Ref.	Directors	Details
	 <p><b>Amenya Omari</b></p> <p><b>Date of birth: 3<sup>rd</sup> November 1983</b>  <b>Designation: Corporation Secretary</b>  <b>Term: Appointed in December, 2020</b></p>	<p>Mr. Omari is a public-sector legal counsel with over 15 years of experience. He is responsible for providing secretarial services to the Authority's Board; advising on corporate governance and legal matters within the Authority; managing the litigation function and overseeing legal representation of the Authority.</p> <p>Before his appointment, Mr. Omari served as the Principal Legal Officer and Head of the Legal Division at the Witness Protection Agency of Kenya. His earlier work experience was at the Office of the Director of Public Prosecutions as Senior Prosecution Counsel and at the Office of the Attorney General where he served as State Counsel.</p> <p>He holds a Master's Degree in Competition Law from the Brussels School of Competition, a Master's Degree in Law from the University of Zimbabwe, a Bachelor of Laws from the University of Nairobi, and a Postgraduate Diploma in Law from Kenya School of Law. He is an Advocate of the High Court of Kenya and a member of both the Law Society of Kenya and the East Africa Law Society. Additionally, he is a Certified Public Secretary CPS(K) and a member of the Institute of Certified Secretaries of Kenya (ICS). His training spans various fields including competition law, consumer protection law, trial advocacy, prosecution, negotiation, witness and victim protection, leadership, management, and communication among others.</p>



**Board of Directors who Exited in the FY 2023/24**

Name	Details
Mr. Albert Mwenda	Date of Birth: 10 <sup>th</sup> May 1971 Designation: Alternate to the Principal Secretary, The National Treasury and Economic Planning Term: Appointed in December, 2019 – March 2024







## MANAGEMENT TEAM

	Management	Details
1.	 <p><b>Dr. Adano Roba, PhD</b></p> <p><b>Designation: Ag. Director General and Director Planning, Research, Risk and Quality Assurance</b></p>	<p>Dr. Roba has broad areas of interest in applied research and has over 15 years of research and policy experience. He joined the Authority in July 2018 and is responsible for developing effective strategies for economic analysis, policy, research, quality management systems, and performance. Before joining the Authority, he was a Senior Policy Analyst at the National Treasury's Fiscal &amp; Economic Affairs Department, where he was involved in several taskforces that developed legislation on climate change, petroleum, minerals, energy, and their related regulations. He also served as a Senior Lecturer in environmental economics at both the University of Eldoret and Moi University. Dr. Roba earned his PhD from the University of Amsterdam, the Netherlands, and an MSc from the University of York, UK. He has several monographs, peer-reviewed articles, and book chapters to his name, and also in collaboration with colleagues.</p>
2.	 <p><b>Eric Mwangi</b></p> <p><b>Designation: Director, Corporate Services</b></p>	<p>Mr. Mwangi joined the Authority in December 2014 as the Manager of Internal Audit. He was appointed Director of Corporate Services in February 2018. He has over nineteen (19) years' experience in auditing Government Parastatals. Previously, he has worked with the Kenya National Bureau of Statistics (KNBS), the Kenya Film Commission (KFC), and the Office of the Auditor General (OAG). He holds a Master of Business Administration (Finance Option) and a Bachelor of Science Degree (Hons.) from the University of Nairobi. He is a Certified Public Accountant (Kenya), Certified Fraud Examiner (CFE), and Certified Information Systems Auditor (CISA). Mr. Mwangi is an active member of the Institute of</p>



		<p>Certified Public Accountants (ICPAK), Association of Certified Fraud Examiners (ACFE), and Information System and Control Association (ISACA). He is also a qualified Quality Management System ISO 9001: 2015 Auditor.</p>
<p>3.</p>	<div data-bbox="304 801 544 1075" data-label="Image"> </div> <p data-bbox="304 1126 507 1160"><b>Amenya Omari</b></p> <p data-bbox="304 1216 762 1335"><b>Designation: Corporation Secretary and Manager, Legal Services</b></p>	<p>Mr. Omari is a public-sector legal counsel with over 15 years of experience. He is responsible for providing secretarial services to the Authority’s Board; advising on corporate governance and legal matters within the Authority; managing the litigation function and overseeing legal representation of the Authority. Before his appointment, Mr. Omari served as the Principal Legal Officer and Head of the Legal Division at the Witness Protection Agency of Kenya. His earlier work experience was at the Office of the Director of Public Prosecutions as Senior Prosecution Counsel and at the Office of the Attorney General where he served as State Counsel. He holds a Master’s Degree in Competition Law from the Brussels School of Competition, a Master’s Degree in Law from the University of Zimbabwe, a Bachelor of Laws from the University of Nairobi, and a Postgraduate Diploma in Law from Kenya School of Law. He is an Advocate of the High Court of Kenya and a member of the Law Society of Kenya and the East Africa Law Society. Additionally, he is a Certified Public Secretary CPS(K) and a member of the Institute of Certified Secretaries of Kenya (ICS). His training spans various fields including competition law, consumer protection law, trial advocacy, prosecution, negotiation, witness and victim protection, leadership, management, and communication.</p>



<p>4.</p>	 <p><b>Ochieng' Ochiel</b></p> <p><b>Manager, Internal Audit</b></p>	<p>Mr. Ochiel has vast experience in the fields of auditing, finance, and taxation both in the public and private sectors spanning over 16 years. He holds a Master of Business Administration (MBA) degree from the University of Nairobi, a Bachelor of Commerce degree (Accounting) from Daystar University, a Certified Public Accountant (CPAK) and a Certified Information Systems Auditor (CISA) from Strathmore University. Before he was appointed the Manager of Internal Audit at the Authority, he served as the Senior Internal Audit and Risk Management officer at the Kenya Civil Aviation Authority. His prior work experience was at the Kenya Rural Roads Authority, Compassion International, and Kenya Utalii College. Mr. Ochiel's key responsibilities include offering independent and objective assurance on the effectiveness of the internal controls, risk management, and governance processes. He is a member of the Institute of Certified Public Accountants of Kenya (ICPAK) and the Information System and Control Association (ISACA).</p>
<p>5.</p>	 <p><b>Dr. Priscilla Njako</b></p> <p><b>Designation: Manager, Buyer Power</b></p>	<p>Dr. Njako joined the Authority in March 2019. Before that, she was engaged in Legal Practice and as a Senior Lecturer in Corporate Law and Competition Law at Catholic University and Strathmore Law School. In her career experience spanning 20 years, she has served in various managerial positions, including Head of Faculty and Head of Examinations and Research. Priscilla's key responsibilities, include investigating complaints of Abuse of Buyer Power and delayed payments and carrying out market assessment. Her duties also include engaging in research to identify the most effective practices for effective enforcement. Priscilla has a keen interest in the enforcement of competition law in ways that are apt for the needs of developing countries. Priscilla holds a Doctorate in Competition Law from the</p>

		University of Pretoria, a Master of Laws Degree (LLM) from the University of South Africa, a Bachelor of Laws Degree (LLB) from the University of Nairobi, and a Diploma in Law from Kenya School of Law. She also holds a Certified Public Secretaries qualification (CPSK) from the Kenya Accountants and Secretaries Board (KASNEB) and various certificates in Competition Law. She is an active member of the Law Society of Kenya and a Certified Public Secretary.
6.	 <p><b>Ninette K. Mwarania</b></p> <p><b>Designation: Manager, Planning, Policy and Research</b></p>	Ninette provides leadership in Research, strategic planning, and policy development, which are critical to advancing the Authority’s mandate. She is also in charge of advocacy and International relations functions responsible for supporting in maintaining effective partnerships. In addition, she oversees knowledge management, resource mobilization, and corporate performance monitoring and evaluation. Ninette holds a Master of Business Administration (Marketing Management) Degree from the University of Nairobi and a Bachelor of Commerce (Banking and Finance) Degree from Kenyatta University. She is an active member of the Marketing and Social Research Association (MSRA) and is a full member of the Kenya Institute of Management (KIM).
7.	 <p><b>Mugambi Mutegi</b></p> <p><b>Designation: Manager, Communications and External Relations</b></p>	Before joining the Authority, Mugambi worked at the Nation Media Group (NMG). He served as a writer and editor attached to the Business Daily publication. His main role at the Communications & External Relations Department is ensuring the Authority’s stakeholders are appraised about the Authority’s mandate. The department develops and executes strategies through which the Authority can increase its visibility as well as enhance its corporate image among key stakeholders. Mugambi’s background working at a leading media company has benefitted the Authority as it seeks to strengthen its relations with members of the 4 <sup>th</sup> estate, a key stakeholder in



		<p>creating awareness about the Authority’s mandate. Mugambi holds a Master of Arts in Communication Studies from the University of Nairobi.</p>
8.	 <p><b>Walter Masinde</b></p> <p><b>Designation: Manager, Supply Chain Management</b></p>	<p>Mr. Masinde holds a Master of Business Administration (MBA) degree (Procurement &amp; Supply Chain Management) from the University of Nairobi, a Bachelor of Business Administration (BBA), and a postgraduate Diploma in Purchasing and Supply Chain Management (CIPS-UK), a Diploma in Supplies Management (KNEC) and a Procurement Practitioners License from the Kenya Institute of Supplies Management. He holds professional memberships to the Kenya Institute for Supplies Management (KISM), the Chartered Institute of Purchasing and Supply (UK), and the Chartered Institute of Logistics and Transport. Mr. Masinde is an accomplished professional in Supply Chain Management with over fifteen (15) years of experience.</p>
9.	 <p><b>Boniface Kamiti</b></p> <p><b>Designation: Ag. Director, Competition and Consumer Protection and Consumer Protection Manager,</b></p>	<p>Mr. Boniface Kamiti joined the Authority in February 2015. He heads the Consumer Protection Department, overseeing the investigation and resolution of consumer-related complaints and issues. Before joining the Authority, he worked with various UN agencies and the Centre for Corporate Governance. Mr. Kamiti holds a Master of Global Competition and Consumer Law Degree from the University of Melbourne, a Master of Arts in Economic Policy and Management from the University of Nairobi, and a Bachelor of Arts in Social Science (Economics) from the Catholic University of Eastern Africa. He has over 15 years of experience in arbitration, conducting consumer-related investigations, programme and project management, Results Based Management, and stakeholder management.</p>

10.	 <p><b>Raphael Mburu</b></p> <p><b>Designation: Manager, Mergers and Acquisitions</b></p>	<p>Mr. Mburu joined the Authority in December 2014. He possesses advanced skills in Competition Law and Economics dealing with the regulation of market structure. He holds a Master of Business Administration (Leadership and Sustainability) from the University of Cumbria, a Post-graduate Diploma in EU competition Law from King’s College London, and a Bachelor of Science Degree from JKUAT. He is an active member of the Competition Law Association, the British Group of the International League of Competition Law (Ligue Internationale du Droit de la Concurrence - LIDC).</p>
11.	 <p><b>Ambrose Ageng’a</b></p> <p><b>Designation: Manager, Finance</b></p>	<p>CPA Ambrose Ageng’a is a holder of a Master of Business Administration (Finance option) degree from the University of Nairobi and a Bachelor of Commerce Degree from the Catholic University of Eastern Africa. He is also a Certified Public Accountant of Kenya (CPAK) and an active member of the Institute of Certified Public Accountants of Kenya (ICPAK). CPA Ageng’a has over 22 years of work experience in both the private and public sectors, having previously worked in corporates the Kenya Revenue Authority, and the Salaries and Remuneration Commission. He has also been involved in Audit Committee activities at both the County and National Government levels.</p>
12.	 <p><b>Mercelline Anduro</b></p>	<p>Ms. Anduro has over 14 years of experience in network management, database administration, web design, corporate communication, hardware and software maintenance, and user support from the Public Sector. She has been involved in various ICT projects, ICT Strategy formulation, execution, and alignment with business, ICT security, Business Continuity Management, Project Management, and Forensic investigations. She holds a Master of Science in Information Systems Management (KCAU), a</p>



	<p><b>Designation: Manager, Information and Communications Technology (ICT)</b></p>	<p>Bachelor's in Business Information Technology (KEMU), and a Diploma in Computer Studies (TUM). She is also a qualified Microsoft Certified Solutions Associate and Microsoft Certified Professional. She has attended various management courses including Corporate Governance, Risk Management, Information Security Management, and Business Continuity Management. She is an active member of the Computer Society of Kenya.</p>
<p>13.</p>	 <p><b>Beryl Mwandale</b> <b>Designation: Principal Risk and Quality Assurance Officer</b></p>	<p>Ms. Mwandale has experience in the fields of auditing, finance, enterprise risk management, business continuity, policy analysis, and quality assurance both in public and private sectors spanning over twelve years. Ms. Mwandale holds a Bachelor of Science Degree in Actuarial Science and a Masters of Finance Degree. She is also a qualified ISO 9001:2015 and ISO 22301:2019 Management Systems Auditor, ISO 31000:2018 Lead Risk Manager, and ISO 27001:2013 implementer. She has attended various courses on Competition Law and Policy, Leadership and Management, Risk Management, Information Security Management, and Business Continuity Management.</p>
<p>14.</p>	 <p><b>Anthony Irungu</b> <b>Designation: Principal Human Resources and Administration Officer</b></p>	<p>Mr. Irungu is a Certified Human Resource Professional (CHRP) with extensive knowledge and experience spanning twelve (12) years in the Human Resource Management field, having worked in both the Public and NGO sectors. He joined the Authority in December 2014 after having previously worked in the National Empowerment Network of People Living with HIV/AIDS in Kenya (NEPHAK) and Plan International Inc. In the Human Resources and Administration function, Mr. Irungu is in charge of facilitating a productive and supportive workplace environment for staff members through the implementation of various policies and programs. Mr.</p>

		<p>Irungu has a Master of Science Degree in Human Resource Management from the Jomo Kenyatta University of Agriculture &amp; Technology and a Bachelor of Business Management (HR Option) from Moi University. He also holds other certifications including a Higher Diploma and Diploma in Human Resource Management. He is an active member of the Institute of Human Resource Management, Kenya.</p>
15.	 <p><b>Benson Nyagol</b> <b>Designation: Ag. Manager, Enforcement, and Compliance</b></p>	<p>Mr. Nyagol has vast experience in competition enforcement nationally and regionally. He joined the Competition Authority of Kenya in 2013 from the Monopolies and Prices Department of the Ministry of Finance, which was responsible for enforcing Restrictive Trade Practices, Monopolies and Price Control Act, CAP 504, Laws of Kenya, the predecessor to the Competition Act Cap 504, Laws of Kenya. Mr. Nyagol holds a BA Degree (Economics) from the University of Nairobi and various certificates in Competition Policy and Law. He has overseen investigations into restrictive trade practices which include cartels and abuse of dominance, in various sectors in Kenya, whose outcomes have been enhanced ease of doing business and consumer savings. To espouse the interests and concerns of Kenya in matters of competition regionally and internationally, Mr. Nyagol has participated in several initiatives that developed the various Regional Economic Community's Regulations and Guidelines.</p>

**Members of Management who Exited in the FY 2023/24**

Name	Details
Mr. Boniface Makongo	Designation: Director, Competition and Consumer Protection Exited in January 2024
Ms. Faith Marete	Designation: Manager, Human Resources and Administration Exited in August 2023
Mr. Gideon Mokaya	Designation: Manager, Enforcement and Compliance Exited in December 2023



## ENVIRONMENTAL AND SUSTAINABILITY REPORT

The Authority aims to create efficient markets for consumers. Its mandate involves promoting and safeguarding competition in the national economy through regulation of market conduct and structure and to protect consumers from unfair and misleading conduct. Below is an outline of the Authority's policies and activities that promote sustainability.

### i. Social Impact

- a. **Disability Mainstreaming:** Toward actualization of **SDG 10 on Reduced Inequalities**, the Authority ensured that the percentage of Persons with Disability (PWDs) in the workforce stood at 5.6% of the total staff establishment, in line with the requirements of the National Council for Persons with Disability (NCPWD). Qualified PWDs are encouraged to apply for available jobs through the NCPWD's Employment Portal hosted by FUZU, a collaborative initiative between the two institutions.
- b. **Promotion of AGPO by allocating and awarding 30% of the Authority's Annual Procurement Contracts to Special Interest Groups:** Through the empowerment of the Youth, Women, and Persons with Disability, under the preference and reservations group in the procurement of goods, works, and services, the Authority awarded 31% of its contracts to supplier in the AGPO category, with 5% of them being PWDs. Further, 48% of goods and services procured by the Authority in the reporting period were locally manufactured.
- c. **Authority's Determinations:** The Authority in delivery of its mandate, excluded a transaction involving the acquisition of 100% of the issued share capital of Orpower TwentyTwo Limited by Kaishan Renewable Energy Development PTE Limited. This transaction is a strategic and financial investment in the renewable energy business, an indication of the Authority's contribution to Green Energy.
- d. **Training:** To enhance organizational sustainability, the Authority facilitated twenty-seven (27) staff to undertake Continuous Professional Development programmes geared towards succession planning, effective management, and career progression. The training was conducted either in physical or virtual setups and in groups to promote efficiency and effectiveness while maximizing available resources.
- e. **Young Professional and Internship Programmes:** The Authority runs an annual programme for Young Professionals (YPs) aimed at exposing young Kenyans to the tenets and practices of competition law. Ten (10) Interns and five (5) YPs were engaged during the review period. The objective of the programme is to expose graduates joining the labour market to a real work



environment to enhance their skillsets and employability. This is in line with SDG Goal 8 on promoting inclusive and sustainable economic growth, employment, and decent work for all.

**ii. Environmental Impact**

- a. **Restoration of Forest Cover:** The Authority partnered with the Kenya Forest Service (KFS), National Environment Trust Fund, Kiptulwa Primary School in Elgeyo Marakwet County, and Matinyani Secondary School in Kitui County tree planting initiatives. In addition, the Authority also joined other stakeholders including the H.E President Dr. William Ruto in planting trees at Kaptagat Forest and Machakos County. At these three events during the reporting period, the Authority's staff members planted a total of 12,600 trees. The Authority has continuously engaged in tree growing to contribute to the restoration of the country's forest cover and mitigate the adverse effects of climate change. Over the last four years, the Authority's tree growing efforts recorded a survival rate of 96%.
  
- b. **Digitalization:** The Authority has sustained its efforts to ensure full digitalization and automation of its processes thus cutting down on printing paper and toners. This is aligned with SDG 13 on Climate Action which has seen the Authority reduce the carbon footprint on its products, services, and processes by 80%. Further, as a Government priority, the Authority has integrated the Competition Portal with the E-Citizen platform as part of efforts to enhance service delivery for members of the public to seamlessly access its services via Single Sign On (SSO). The Authority has, therefore, re-engineered some of its business processes such as the evaluation of exemption applications, the merger application process, and the handling of abuse of buyer power complaints. This resulted in cost and time savings leading to optimized business processes and improved service delivery.



## CHAIRMAN'S STATEMENT

Dear stakeholder, on behalf of the Board of the Competition Authority of Kenya, it gives me the utmost pleasure to present to you the Authority's Annual Report and Financial Statements for the FY 2023/24. The report highlights the Authority's efforts to promote competition and consumer welfare in our markets and our financial performance. During the year, the Authority continued to focus its interventions in sectors that have a significant impact on the majority of the Kenyan population, while seeking to foster innovation, growth and sustainability in our economy.

According to the Economic Survey 2024, the global Gross Domestic Product (GDP) slowed to 3.1% in 2023 compared to 3.5% the previous year. This was more pronounced in advanced economies than in emerging markets and developing economies. Kenya's GDP grew by 5.6% in 2023, compared to 4.9% in 2022. This growth resulted from vibrant agriculture, financial and insurance services, manufacturing, real estate, and transport and storage sectors. The country's interconnectivity with the global economy has made the economy competitive globally, and attractive to foreign direct investment. This was evidenced by an increase in the high net worth merger transactions notified to the Authority.

The Authority is committed to playing a leading role in economic growth by supporting the Government's ongoing initiatives. During the review period, the Authority continued to implement its Strategic Plan 2020/21-2024/25, whose main objective is to expand our competition enforcement frontiers and implement the Government's priority areas as espoused in the Bottom-Up Economic Transformation Agenda (BeTA). Facilitation of the Government's economic targets was achieved through various activities, including investigations into key sectors including the housing, digital, and creative economy, among others, to flag and extinguishing any anti-competitive practices therein

Further, the Authority escalated its hard enforcement against anti-competitive conduct, sanctioning restrictive trade practices, abuse of buyer power and consumer welfare infringements, as well as stepping up its advocacy and awareness creation activities. During the year under review, the Authority cumulatively imposed penalties for infringement of the law amounting to KES 1.4 billion. Penalization is aimed at punishing undertakings that break the law and also deter others from engaging in conduct that harms competition to the detriment consumers. In addition, we facilitated the recovery of KES 89.52 million delayed payments to support the sustainability and growth of Small and Medium-Sized Enterprises.

Additionally, the Authority hosted the International Competition Network (ICN) Advocacy Workshop and the Consumer International Congress, aimed at promoting effective competition advocacy, addressing pressing consumer rights, and fostering a culture of fair and competitive markets. This was an opportunity for competition and consumer protection practitioners and other key stakeholders to engage in constructive discourse, learn from each other's experiences, and embrace strategies that will drive positive change in our respective jurisdictions.



Towards developing an effective regulatory regime to support the Authority's enforcement initiatives, the Authority proposed amendments to the Act, through the Competition (Amendment) Bill, 2024. The Bill proposes, among others, to address regulatory challenges in emerging areas such as the digital economy.

The Authority shall continue to implement its Risk Management and Business Continuity frameworks as well as explore ways to diversify our revenue sources in light of reduced budgetary allocations from the Exchequer.

Lastly, I take this opportunity to record my sincere gratitude to all our stakeholders, especially The National Treasury & Economic Planning and our development partners, for their continued support as we execute our mandate. I also wish to appreciate my colleagues in the Board, and staff for their invaluable contribution and dedication in supporting the organization's mandate. I look forward to more fruitful engagements in the new Financial Year.



**Shaka Kariuki**  
**Board Chair**



## DIRECTOR-GENERAL'S STATEMENT

It gives me the utmost pleasure to present the Annual Report and Financial Statements for the FY 2023/24, highlighting the Authority's major achievements and activities during the past twelve (12) months in our pursuit of creating efficient markets for consumers in Kenya. The Authority is in the third and penultimate year of implementing its Strategic Plan 2020/21-2024/25 which takes cognizance that effective enforcement of competition law is a key promoter of sustainable economic development.

During the period under review, the Authority extinguished anti-competitive practices and consumer welfare infractions which had the effect of impairing innovation economic growth and disenfranchising consumers from choice, competitive products, through sector-specific investigations. The Authority's approach to enforcement is a mix of soft and hard enforcement through advocacy initiatives and hard enforcement through the levying of fines, penalties, and issuance of declaratory orders. To this end, we imposed penalties for infringement of the law amounting to KES 1.4 billion. These penalties resulted from enforcement actions against businesses engaging in restrictive trade practices, abuse of buyer power, mergers implemented without approval, and consumer rights violations. Further, we issued seven (7) advisories to various undertakings and the Government to create a pro-competitive environment.

The Authority investigated and sanctioned seventy-three (73) restrictive trade practice cases across various sectors. In the steel sector, for instance, the Authority penalized manufacturers for engaging in price fixing and output restriction. These interventions, which detailed further in this report, are aimed at identifying and eliminating conduct that eliminates or reduces competition in markets and, ultimately, denying consumers choice in markets, access to innovative products, and prices of goods and services that are singularly fixed by the forces of supply and demand.

Abuse of buyer power depresses the competitiveness of markets through reducing supply prices by significant amounts, threats of termination or unilateral termination of contract without a reasonable justification, delaying payments, refusal to receive or return goods without justifiable reasons, and transfer of costs or risks to suppliers. In the year to June 2024, we concluded eighty-two (82) ABP cases. The Authority's interventions secured the sustainability of SMEs in various sectors by recovering delayed payments owed to suppliers amounting to KES 89.5 million up from KES 45 million recovered from the last reporting period.

During the period under review, the Authority analysed one hundred and seven (107) merger transactions in various sectors. The manufacturing sector registered a substantial increase in merger notifications from 16% of the notified transactions in FY 2022/23 to 35% in the period

under review. In approving these transactions, the Authority ensured that approximately 10,000 jobs were safeguarded in the sector.

Furthermore, the Authority stepped up its consumer protection initiatives to promote consumer welfare. Specifically, we engaged consumers through various channels and forums to educate them on their rights and obligations under the Act. Our sustained awareness creation activities across the country, coupled with ICT tools to decentralize our service points, increased the consumer-related caseload during the year by 30% to six hundred and sixty-eight (668) up from five hundred and twenty-one (521) the previous year. The complaints were mainly against microfinance and digital credit providers. This indicates that consumers are now more aware of their rights, the remedies available to them, and the various channels through which they can lodge complaints.

To address regulatory challenges in emerging areas such as the digital economy, the Authority proposed amendments to the Act seeking to strengthen its enforcement mandate. The Competition (Amendment) Bill, 2024, among other things, clearly highlights conducts amounting to abuse of superior bargaining position and strategic market position. The Bill, which has undergone public participation, is meant to streamline and enhance our enforcement actions by inculcating implementation learnings as well as international best practices. It has been presented to the National Treasury for onward transmission to the National Assembly for consideration.

Ladies and gentlemen, the Kenya Digital Economy Blueprint envisions that all arms of Government adopt technology to improve service delivery, promote transparency, reduce corruption, and save costs, among other benefits. Increasingly, digital media is becoming the preferred channel through which Kenyans interact with the Government to provide feedback, register complaints, and seek services. Towards this, the Authority re-engineered its complaint filing processes relating to exemption and merger applications as well as abuse of buyer power with the aim of enhancing the level of service delivery to Kenyans. In addition, the Authority fully integrated its E-Filing Portal with the E-Citizen platform, including implementing single sign-on, which is expected to increase the visibility and adoption of the Authority's online services.

Advocacy is instrumental to the Authority in obtaining increasing compliance by stakeholders on competition and consumer law and policy. During the year under review, the Authority hosted two international events - the ICN Advocacy Workshop and the Consumer International Congress. Through these interactions, the Authority has been able to share knowledge regarding competition law enforcement and consumer protection and more critically, gain insights into how other jurisdictions are tackling emerging issues. As an Authority, we value international best

practices but are also acutely aware that the solutions we ultimately adopt must be customized to our local context.

The Authority also launched the inaugural Competition and Consumer Protection Law Digest. The digest provides concise and detailed insights into the Authority's decision-making processes and application of the law. The main goal of the Digest is to improve the understanding of competition and consumer protection law among the public and to further develop the depth of jurisprudence.

To better understand our markets, including the level of competition, barriers to entry, and any consumer welfare concerns, the Authority continuously undertakes studies and market inquiries in key sectors of the economy. In the year under review, we conducted three (3) studies and two (2) market inquiries. The recommendations from these studies will enhance decision-making to create efficient markets for consumers.

The achievements highlighted above are a result of collaboration and support from different stakeholders. I would like to thank our parent ministry, the National Treasury and Economic Planning, for the continued financial support and policy guidance. The Board has equally helped facilitate the Authority achieve its targets in the financial year under review.

In the coming year, the Authority shall intensify its enforcement efforts to ensure that pending investigations are finalized, and attendant remedial interventions implemented, as well as initiate new inquiries that have the potential of positively impacting a large number of Kenyans.

Last but not least, the Authority is powered by a skilled and professional workforce. Our staff are our greatest asset and the achievements highlighted in this report are as a result of their hard work.



**Dr. Adano W. Roba, PhD**  
**Ag. Director-General**

## CORPORATE GOVERNANCE AND ACTIVITIES OF THE BOARD

### i. Statement of Corporate Governance

The Authority is committed to maintaining the highest standards of integrity, professionalism ethics, and compliance with all applicable laws in all its operations. In the performance of its functions, the Authority is guided by the Constitution of Kenya, the Competition Act, and other applicable laws. The Board is committed to ensuring that the Authority's obligations, roles, and responsibilities to its various stakeholders are fulfilled through its corporate governance practices.

### ii. The Chairman

The Chairman provides leadership and governance to the Board and fosters the environment for the overall Board and individual Director's effectiveness, by ensuring that the Board considers all key and appropriate issues promptly. He is responsible for ensuring adherence to good corporate governance practices and procedures and continuously promoting the highest standards of integrity, probity, and corporate governance throughout the Authority and particularly at the Board level. The Chairman ensures that the Board plays a full and constructive part in the development and determination of the Authority's strategies and policies. He also ensures that the Board is furnished with timely and sufficient information to enable it to discharge its duties effectively.

### iii. Members of the Board

Section 10 of the Act provides for the composition of members of the board. They comprise of the Chairman, the Principal Secretary for The National Treasury and Economic Planning, the Principal Secretary for the Ministry of Investment, Trade and Industry, and the Hon. Attorney-General.

Members of the board also include five (5) independent, non-executive members, appointed from among persons experienced in competition and consumer welfare matters. The Director-General is an *ex-officio* member. All the Non-Executive Directors are independent of management and free from any business or other relationship, which could interfere with the exercise of their independent oversight.

The Board is responsible for the overall strategic direction and operational guidance of the Authority including;

- (a) Establishing short and long-term goals of the Authority and developing strategies to achieve these goals;
- (b) Monitoring the Authority's performance against these set goals;

- (c) Overseeing the preparation of annual financial statements and reports;
- (d) Approving annual budgets; and
- (e) Ensuring that the Authority has adequate systems of internal controls together with appropriate monitoring of compliance activities to ensure business continuity.

#### iv. Separation of Board and Management

The relationship between members of the board and management remains professional at all times. Each party performs their duty with impartiality, honesty, transparency and accountability, professionalism, integrity, care, and due diligence, and acts in good faith to the best interest of the public. The board has a formal schedule of meetings for deliberation of agenda items. Members of the board are given appropriate and timely information to enable them to provide and maintain full and effective direction and control over strategic, financial, and operational issues of the Authority. The Board is not involved in the conduct of day-to-day business, as this is the responsibility given to the Director-General by the Act. The board, however, retains the responsibility of oversight and approving the policies of the Authority.

#### v. Board Appointments in the FY 2023/24

In March 2024, the Principal Secretary, the National Treasury and Economic Planning, appointed Mr. Joseph Zacharia Ngugi as the alternate to the Principal Secretary of the National Treasury.

#### vi. Composition of the Board FY 2023/24

The Board was composed of nine (9) members assisted by a Corporation Secretary. The Board comprised of Members from different professional backgrounds, representing Kenya's diverse communities. The Board had four committees, the Technical and Strategy, Finance, Human Resources, and Audit Committees to support the execution of its duties.

**Table 1: Board Members' Educational Background**

No.	Name	Position	Educational Background
1.	Mr. Shaka Kariuki	Chairman	Economics
2.	Dr. Adano W. Roba	Ag. Director-General	Economics
3.	Mr. Abdi Ali Mohamed	Member	Sociology
4.	Mr. Stephen Githinji	Member	Law
5.	Mr. Joseph Zacharia Ngugi	Member	Economics
6.	Mr. Joseah Rotich	Member	Economics
7.	Ms. Lena Munuve	Member	Marketing
8.	Dr. Kasera Achayo	Member	Management
9.	Dr. David K. Wanyama	Member	Accounting and Finance
10.	Mr. Amenya Omari	Corporation Secretary	Law

**vii. Board Meeting Attendance**

The Board is required to meet regularly depending on the needs of the business of the Authority. Board meetings should be held at least four (4) times a year, and not more than 4 months should elapse between the date of one meeting and the date of the next meeting. During the period under review, the Board held fifteen (15) meetings to consider the business of the Authority. The Board and Board Committees members' attendance during the year was as follows:

**Table 2: Full Board Meetings Members' Attendance FY 2023/24**

No.	Name	Position	No. of Meetings
1.	Mr. Shaka Kariuki	Chairman	15
2.	Dr. Adano W. Roba	Ag. Director-General	8
3.	Mr. Abdi Ali Mohamed	Member	15
4.	Mr. Stephen Githinji	Member	10
5.	Mr. Joseah Rotich	Member	9
6.	Ms. Lena Munuve	Member	15
7.	Dr. Kaseera Achayo	Member	11
8.	Dr. David K. Wanyama	Member	15

**viii. Technical & Strategy Committee**

This Committee is mandated to advise on strategic planning, and implementation of the Act and guide the management on the technical aspects of the operational performance and functions of the Authority. It is responsible for advising and recommending to the Board the approval of the Strategy, examining the objectives and the progress of the Authority in achieving what it has set out to do in the Performance Contract.

It is the Board's structural means for reviewing management's recommendations on matters under the Act and recommending them to the Board for approval. The Committee is also responsible for examining management recommendations to the Board on Risk Policy, effective processes and systems of risk management, and internal controls and monitoring its implementation.

The Committee consisted of four (4), members, namely; Dr. David K. Wanyama (Chair), Mr. Stephen Githinji, Mr. Abdi Mohamed, and Mr. Joseah Rotich. During the year under review, the Committee held nine (9) meetings.

**Table 3: Table 3: Technical and Strategy Committee Meeting Attendance**

No.	Name	Position	No. of Meetings
1.	Dr. David K. Wanyama	Chair	9
2.	Mr. Stephen Githinji	Member	8
3.	Mr. Abdi Mohamed	Member	9
4.	Mr. Joseah Rotich	Member	8

**ix. Finance Committee**

This Committee is responsible for recommending financial policies, goals, and budgets that support the realization of the mission, values, and strategic goals of the Authority. It also reviews the Authority's financial performance against set goals and targets. It is responsible for ensuring that the Authority has effective and efficient internal financial controls, recommending the Authority's long, medium, and short-term financial plans, and ensuring their consistency with the Strategic Plan. It also ensures that the Authority has optimal liquidity for efficient and effective realization of its mandate reviewing financial reports and making appropriate recommendations to the Board.

The Committee consisted of two (2) members, namely: Mr. Abdi Mohamed (Chair) and Dr. David K. Wanyama. During the year under review, the Committee held four (4) meetings.

**Table 4: Finance Committee Meeting Attendance**

No.	Name	Position	No. of Meetings
1.	Mr. Abdi Mohamed	Chair	4
2.	Dr. David K. Wanyama	Member	4

**x. Human Resource Committee**

This Committee oversees the implementation of the human resource policies and succession planning of the Authority to ensure compliance with national policies and legislation. It organizes the structure and performance evaluation of senior staff and oversees and advises the Board on the recruitment and promotion of the senior staff.

It reviews and recommends human resource policies for the efficient and effective functioning of the Authority. It is responsible for forecasting and recommending the Authority's long, medium, and short-term human resource needs ensuring motivated, qualified, and high-performing staff.

The committee consisted of three (3) members, namely; Ms. Lena Munuve (Chair), Dr. Kasera Achayo, and Mr. Stephen Githinji. During the year under review, the Committee held fourteen (14) meetings.

**Table 5: Human Resource Committee Meetings Attendance**

No.	Name	Position	No. of Meetings
1.	Ms. Lena Munuve	Chair	14
2.	Dr. Kasera Achayo	Member	13
3.	Mr. Stephen Githinji	Member	13

**xi. Audit Committee**

The Board is committed to ensuring that ethics and integrity remain at the core of the Authority's operations. The Audit Committee's objective includes ensuring that the Authority's internal controls are planned, structured, and implemented. Further, the Committee reviews the proposed audit scope, approach, and audit deliverables, and ensures the implementation of internal and external audit recommendations. The mandate relating to financial reporting and related reporting practices requires the audit committee to review the annual financial statements of the Authority, the external auditor's opinion, and their comments on internal controls and other observations.

It also reviews significant accounting and reporting issues and their impact on financial reports as well as legal matters that could significantly affect the financial position of the Authority, among other financial reporting responsibilities. The Board recognizes that ethical management is key to the Authority's sustainability. In furtherance of this, the Board continuously implements systems and processes that purpose to integrate ethical practices in all the Authority's operations. The Audit Committee reports to the full Board on the standing and independence of the internal audit function within the Authority.

The Committee consisted of three (3) members, namely; Dr. Kasera Achayo (Chair), Mr. Joseah Rotich, and Ms. Lena Munuve. During the year under review, the Committee held seven (7) meetings.

**Table 6: Audit Committee Meeting Attendance**

No.	Name	Position	No. of Meetings
1.	Dr. Kasera Achayo	Chair	7
2	Mr. Joseah Rotich	Member	7
3	Ms. Lena Munuve	Member	7

**xii. Board Evaluation FY 2023/2024**

Mwongozo, the Code of Governance for State Corporations, requires that the Board of Directors in State Corporations carry out annual performance evaluations and file a report thereof with the

parent Ministry and the State Corporations Advisory Committee. During the year under review, the Board conducted an evaluation and attained a score of 4.9 out of 5 (98.5%).



## AUTHORITY'S PERFORMANCE AGAINST PREDETERMINED STRATEGIC GOALS

### STRATEGIC GOAL ONE: DELIVERING EFFECTIVE ENFORCEMENT

#### i. Regulation of Mergers

The merger regulation regime in Kenya is guided by Part IV of the Act, and other instruments including Rules, and Guidelines. All proposed mergers within the economy including horizontal, vertical, and conglomerates require approval by the Authority. The intention of the Authority in coming up with Rules is to ensure that transactions that are unlikely to lessen competition, mainly Small and Medium Enterprises based on their annual turnover and assets value, are exempted from the filing process, saving them time and resources. This ensures timely conclusion of transactions.

During the period under review, the Authority handled one hundred and seven (107) notifications. Twenty-two (22) were notifiable mergers, eighteen (18) were excluded from applicable provisions of the Act, five (5) were non-notifiable mergers and twenty-five (25) were advisory opinions, one (1) transaction was deemed abandoned, while thirty-six (36) were mergers notified through the COMESA Competition Commission (CCC). Review of seven (7) notifications were ongoing at the end of the reporting period. Table 8 below shows a comparison between the number of transactions handled during the reporting period and those reviewed in FY 2022/23.

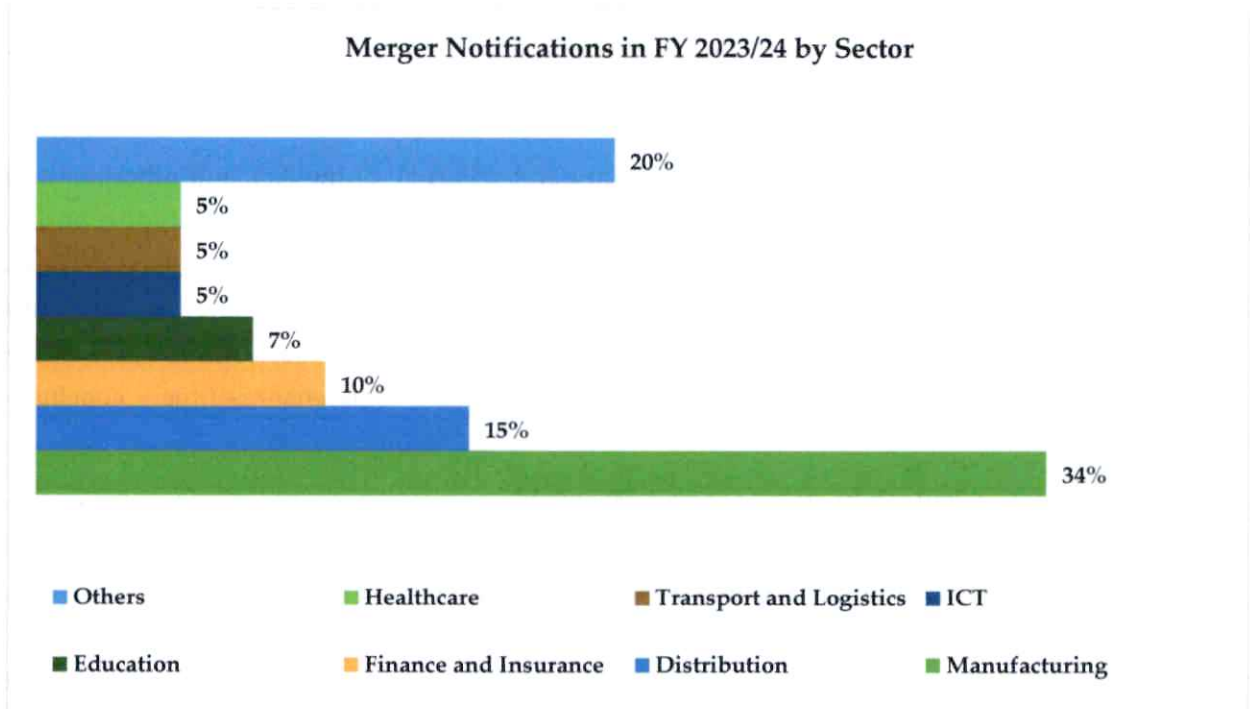
**Table 7: Comparison of transactions handled during FY 2023/24 and FY 2022/23**

Item	2023/24	2022/23
<b>Notifiable merger transactions</b>	22	29
<b>Transactions excluded from the provisions of Part IV of the Act</b>	18	30
<b>Non-merger transactions (restructuring/non-mergers &amp; advisory opinions)</b>	30 <sup>1</sup>	43
<b>Merger transaction notified to CCC</b>	36	31
<b>Abandoned</b>	1	-
<b>TOTAL</b>	<b>107</b>	<b>133</b>
<b>Transactions carried forward</b>	7	4

The manufacturing sector dominated the number of notifications at 34% of the filings, followed by distribution (15%), finance and insurance (10%), and education (7%). The ICT, healthcare, and transport and logistics sectors each accounted for 5% of the filings. Other sectors with less than three notifications accounted for the remaining 20%. This breakdown is illustrated in Figure 1.

<sup>1</sup> Made up of five (5) non-mergers and twenty-five (25) advisory opinions

**Figure 1: Merger Notifications during the FY 2023/24 by Sectors**



*Note: Transactions labelled 'Others' include sectors that recorded less than three notifications. These sectors are consultancy, agriculture, energy, mining, publishing, and accommodation & hotel services.*

**Sample Merger Transactions Assessed**

**Vertical Aspects**

**NCBA Group PLC and AIG Kenya Insurance Company Limited**

The transaction involved the acquisition of the remaining 66.67% shareholding in AIG Kenya Insurance Company Limited by NCBA Group PLC.

The acquirer, NCBA Group, operates in Kenya through various subsidiaries in retail corporate banking, investment banking, bancassurance, digital banking, and asset leasing. The main insurance products offered by NCBA Bancassurance Intermediary Limited, a subsidiary of NCBA Group, are non-life insurance (Home, motor, property, marine, and travel), medical insurance (senior and junior medical cover), life insurance (mortgage protection, group life, credit life insurance, business loan protectors, education insurance policies, savings plans, investments, and pensions) and risk management.

The target, AIG Kenya Insurance Company Limited, is involved in the provision of general insurance services mainly aviation, engineering, fire domestic and industrial liability, marine, motor private, motor commercial, personal accident, theft, and workmen's compensation.

The transaction was a vertical and conglomerate merger in the insurance and financial services sector. The vertical aspects of the transaction were present in the general insurance market through the acquirer's offering of bancassurance services and the target's provision of general insurance services. Bancassurance refers to the distribution of insurance products through bank branches. In the bancassurance setup, the bank serves as a distributor of the insurance company's products to its clientele through a licensed bank-owned intermediary.

In reviewing and analysing the merger, the Authority determined that neither the target nor the acquirer had market power in the upstream general insurance services market nor the downstream bancassurance market pre-transaction. This was unlikely to change post-transaction because the market for the provision of non-life insurance services in Kenya has many players. As such, the Authority determined that the transaction was unlikely to negatively affect competition through foreclosure. Additionally, the transaction did not raise public interest concerns and hence it was approved unconditionally.

#### **Phoenix Beverages Limited and African Originals Limited**

The transaction was an acquisition of a 28.15% minority stake with a controlling interest in African Originals Limited by Phoenix Beverages Limited. Phoenix Beverages Limited's ("PBL") ("the acquirer") ultimate holding company is IBL Ltd (IBL), a publicly listed company incorporated in Mauritius. The acquirer is involved in the manufacture, processing, distribution, and sale of alcoholic and non-alcoholic beverages and has no operations in Kenya. However, through IBL, the acquiring group directly and indirectly controls seven undertakings with operations in Kenya, including Naivas Limited ("Naivas") which operates retail supermarkets.

On the other hand, African Originals Limited ("the target") and its Kenyan-controlled company, Savannah Brands Company Limited ("the Kenyan Target") (together with the targets), are involved in the manufacture, processing, distribution, and sale of alcoholic and non-alcoholic beverages including the Kenyan Originals Alcoholic Fruit Ciders, Kenyan Originals Gin, and Kenyan Originals Iced Tea and Tonic.

This transaction was analysed as a vertical merger since the activities of the Acquirer's affiliate, Naivas, and the Target were vertically integrated. Specifically, the Kenyan Target supplies its products for sale by Naivas. Therefore, the relevant markets defined were the national markets for the manufacture, processing, distribution, and sale of (i) alcoholic ciders; (ii) alcoholic spirits; and (iii) non-alcoholic ready-to-drink (NARTD) beverages.

In the alcoholic cider market in Kenya, EABL's Tusker Cider is the leading brand holding an average market share of 79.33% for the three years to 2022 followed by KWAL's Savanna (5%) and Hunters (1.77%) brands. The target's Kenyan Original Cider brands have a market share of 0.668%. Naivas, a key retail distributor of alcoholic beverages in Kenya (controlling approximately 23.7% market share), contributes to approximately 12% of the target's (Kenyan Original Ciders) total annual sales. Neither the Target nor Naivas seemed to have market power in their levels of the market pre-transaction since their market shares, 0.667%, and 23.7% respectively, are lower than 50%. This is unlikely to change post-transaction, as such, concerns of foreclosure would not arise in the alcoholic cider market.

Further, in the Kenyan spirits market, the target's approximate market shares of 0.0014% and Naivas' 23.7% market share in retail distribution would not raise foreclosure concerns post-transaction. Thus, the proposed transaction is unlikely to diminish competition within the spirits segment. Similarly, the proposed transaction was not expected to impact competition in the non-alcoholic ready-to-drink (NARTD) beverages market in Kenya substantially. The target's Kenyan Original brand had a minor presence, holding less than 0.1% of the NARTD beverages market in Kenya; and neither it, nor Naivas, had market power.

In light of the foregoing, the transaction was approved unconditionally.

#### **Acquisition of a Minority Interest that Leads to Change in Control**

##### **East Africa Growth Holding and I&M Group PLC**

East Africa Growth Holding acquired 10.13% of the issued share capital of I&M Group PLC. The transaction involved the acquisition by East Africa Growth Holding, the acquirer, of 10.13% of the issued share capital of I&M Group PLC, the target, together with all rights attaching or accruing to the shares.

The rights attaching to the shares included certain veto rights on strategic decisions of the target such as the adoption of business plans and implementation of significant changes to the senior management of the target which constituted material influence as contemplated under section 41(3)(g) of the Act. As such, the acquirer would establish certain controlling rights over the target post-transaction.

The acquirer does not control any undertakings and does not therefore have operations in Kenya. However, it is affiliated with AfricInvest, a private equity investor who has invested in more than 200 companies across 35 African countries in several sectors including Prime Bank Limited which offers commercial banking services in Kenya.

I&M Group PLC is a financial institution offering banking and bancassurance services in Kenya and is regulated by the Capital Markets Authority and the Central Bank of Kenya. It has operations across five (5) countries: Kenya, Uganda, Tanzania, Rwanda, and Mauritius.

The Authority analyzed the effects of the merger in the market for commercial banking services where there were overlaps between the services of the target and Prime Bank Limited, an affiliate of the acquirer. It was found that post-merger, the parties would control a 7.69% market share in the relevant market which was not concentrated (HHI of 758.9). Therefore, the transaction was unlikely to substantially lessen or prevent competition in the market for commercial banking services in Kenya.

In light of the foregoing, the transaction was approved unconditionally.

#### ii. Restrictive Trade Practices

The Authority regulates market conduct under Part III of the Act. This part prohibits agreements between undertakings, decisions by undertakings, or concerted practices by undertakings, which have, as their object or effect, the prevention, distortion, or lessening of competition in trade in any goods or services in Kenya. Such practices include fixing purchase or selling prices, dividing or allocating markets, collusive tendering, and sharing of commercially sensitive information, among others.

Further, the Authority also sanctions abuse of dominant positions by undertakings. Some of the practices that constitute abuse of dominance include; limiting or restricting production, market outlets/access through predatory or other practices, imposing unfair purchase or selling prices, or other unfair trading conditions, among others.

Seventy-three (73) restrictive trade practices (RTP) cases were investigated during the reporting period. Out of these, forty-two (42) involved coordinated cartel conduct, twenty-five (25) abuse of dominance, and six (6) involved agreements by associations. Thirty-one (31) of these cases had been finalized as of the end of the reporting period while forty-two (42) were at various stages of investigation.

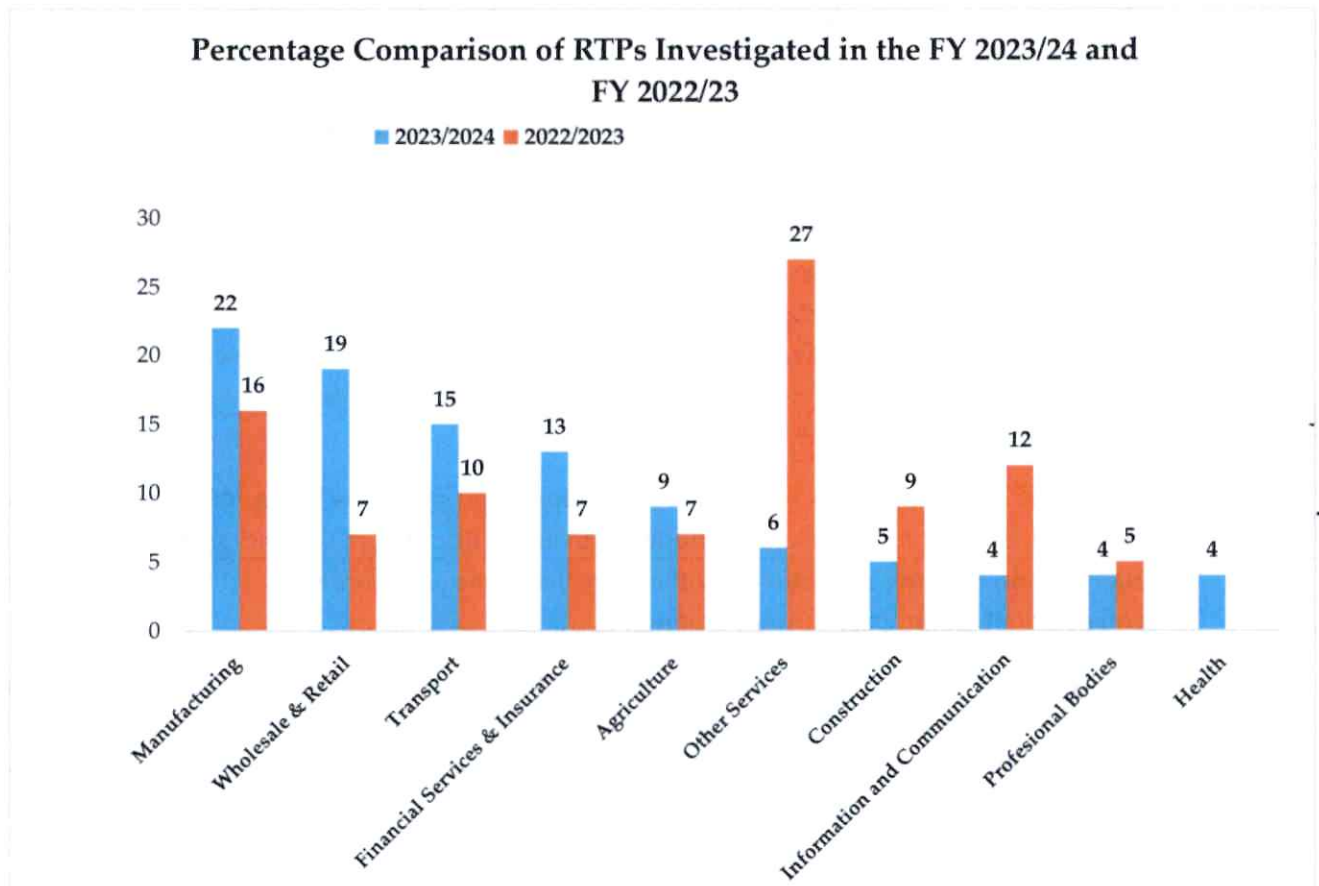
The Act provides that undertakings may apply to the Authority for an exemption from the provisions of the Act that prohibit collusive/coordinated practices prohibited under the Act. In deciding whether to grant an exemption, the Authority considers if the exemption will, among others, provide greater public benefits that outweigh the lessening of competition, maintain or promote exports, and improve or prevent the decline in production of goods or provision of services.

During the year under review, the Authority received three (3) exemption applications. The aviation, manufacturing and agriculture sectors each lodged one (1) application. Two (2) of the applications were determined and exemptions granted while one (1) was still under evaluation at the end of the financial year.

Ten (10) compliance initiatives were conducted to ensure that undertaking adhere to various conditions attached to the Authority’s decisions. Six (6) compliance cases were finalized while four (4) matters were at different stages of compliance checks at the close of the year under review. The compliance conducted during the year emanated from decisions on mergers, consumer protection, and RTPs.

Further, the Authority issued seven (7) advisory opinions to stakeholders.

**Figure 2: Comparison of RTPs investigated in the FY 2023/24 and 2022/23**



The cases investigated during the year under review were distributed among ten (10) sectors namely: manufacturing (21.5%), Wholesale, Retail and Repair of Motor vehicles (19.0%), Transport (15.2%), Financial Services and Insurance (12.6%), Agriculture (8.9%), Other Service Activities (6.3%), Construction (5.1%), Information and Communication (3.8%), Professional Bodies (3.8%), and Health (3.8%).

## Sample RTP Cases Investigated

### Cartel Conduct: Competition Authority Vs the Steel Manufacturers

The Authority initiated investigations into the steel sector in August 2020 pursuant to section 31(1) of the Act. A field screening gathered intelligence that pointed to coordinated conduct by manufacturers of steel, specifically on pricing and output restriction.

Subsequently, under section 32 of the Act, and other relevant legislation that relate to the application, issuance, and execution of search warrants, the Authority conducted a search and seizure (dawn raid) on the premises of eight steel companies where electronic and physical evidence was secured. The search was done on Doshi & Hardware Ltd, Tononoka Rolling Mills Ltd, Abyssinia Group, Mabati Rolling Mills, Apex Steel Ltd, Devki Steel Mills, Insteel Ltd, and Tarmal Wire Products.

Upon reviewing the evidence, notices of investigation were issued to six (6) other steel companies not subjected to searches, but whom the Authority deemed to be parties of interest in the investigation. These firms were; Blue Nile Wire Products, Accurate Steel Mills, Jumbo Steel Mills, Nail and Steel Products, Corrugated Steel Limited, and Brollo Kenya Limited.

Representatives of the fourteen (14) companies were invited to either make oral or written representations pursuant to the Act, Article 47 of the Constitution of Kenya (2010) and the Fair Administrative Action Act. Upon reviewing the evidence and rebuttals, the Authority determined that the companies had engaged in price fixing and output restriction violated the Act.

Upon conclusion of the investigation, nine (9) steel companies were penalized a total of KES 338,849,427.89. The companies penalized were; Nail and Steel Products Limited, Brollo Kenya Limited, Blue Nile Wire Products Limited, Tononoka Rolling Mills Limited, Devki Steel Mills, Doshi & Hardware Limited, Corrugated Steel Limited, Jumbo Steel Mills, and Accurate Steel Mills Limited in price fixing and output restriction.

The other five companies Apex, MRM, Abyssinia, Tarmal, and Insteel opted to enter into settlement negotiations with the Authority as provided under section 38 of the Act. The settlement engagement is aimed at achieving a speedy and cost-effective resolution and a speedy return of effective competition in the affected sector.

Price fixing and output restriction stifle competition in markets and therefore deny consumers from benefitting through lower prices, increased choice, and high quality of goods and services.

The steel sector intervention is a progression of the Authority's efforts to facilitate a competitive market in the construction space in support of the Government's efforts to provide, among others, affordable housing to Kenyans. Contextually, steel products such as bars, pipes, beams, and sheets, account for over 20% of the total cost of constructing a house

### **Abuse of Dominance: Excessive Pricing by Safaricom PLC**

The Authority initiated an investigation against Safaricom PLC under section 31 of the Act following complaints about Safaricom's charges for mobile money transfers compared to other operators. The alleged conduct was contrary to section 24 (2) (a) which prohibits a dominant undertaking from imposing unfair purchase or selling prices as well as unfair trading conditions.

The Authority's investigation established that Safaricom was dominant in the mobile money transfer and payments services market in Kenya, through its M-PESA service. M-PESA had a market share exceeding 86% across all the product sub-categories in the period under review.

Further, it was established that Safaricom enjoys 'network effects' due to its large market share in the voice call market, mobile subscriptions, and mobile money transfer services amongst other complementary markets. This network effect occasions high switching costs for consumers, majorly through the inconvenience, higher costs of cross-platform transactions, lack of agent interoperability, and sub-optimal network infrastructure by the smaller players.

Whereas the Authority did not establish excessive pricing by Safaricom, it was notable that the M-PESA platform remains dominant in the mobile money transfer market, illustrating the network effect and Safaricom's countervailing power.

Additionally, when comparing the alleged excessive prices vis-a-vis the prices charged by other comparable mobile money operators locally and regionally, it was established that M-PESA prices are comparable and competitive. Based on these findings, the Authority concluded that there was no evidence linking Safaricom's excessive pricing practices in its mobile money services.

### **Exemption: Kenya Airways (KQ) and Precision Air (PA)**

Kenya Airways (KQ) and Precision Air (PA) lodged an application in April 2023 for an exemption relating to engaging in potentially restrictive trade practices, for not less than six years, and relating to a proposed Joint Venture Agreement (JV Agreement). The application was made under the provisions of Section 25 of the Act.

Explicitly, the JV agreement would involve coordination on several aspects of the services offered including code-sharing, management activities, revenue management, and sales. Under the JV agreement, KQ and PA were to contribute various services and assets, to the extent necessary, among others: code-sharing, coordination of network management activities, price alignment, coordination of revenue management, and sales coordination

The JV agreement was intended to enable the parties to; i) compete more effectively with air transportation services offered by other airlines and airline alliances and offer the parties' customers a wider choice of travel, and destinations at prices lower than would be feasible without the JV agreement; and ii) optimize the use of aircraft capacity and ground facilities and provide coordinated schedules and coordinated services for international travellers to increase the convenience associated with those services.

The application was analyzed in line with section 26(3) of the Act as well as international best practices. The Authority determined that the application was likely to result in benefits to the public that outweigh the detriment effect to competition. The anticipated benefits were, among others: i) low and competitive fares for consumers as implementation of the JV would lead to cost-sharing and cost-reduction which are then transferred to the customers; ii) enhanced network connectivity and convenience for passengers traveling under one brand, therefore, contrasting with the longer travel times that passengers would otherwise be forced to contend with while transiting through other hubs; iii) increasing variety of choice of destinations with more frequencies and a wider range of schedules for consumers; iv) and enhanced passenger experience through the provision of a seamless service and similar products.

The exemption application was then approved as it met the threshold set out under section 26 of the Act.

### **Compliance: In the Matter of Kansai Plascon (K) Limited Vs. Competition Authority of Kenya**

The Authority, under Article 159 (2) (c) of the Constitution of Kenya, recorded a consent with Kansai Plascon in August 2021 regarding the Competition Tribunal Case No. 2 of 2020 - Kansai Plascon Kenya Limited versus Competition of Authority of Kenya. One of the terms of the consent order required Kansai Plascon to implement a competition compliance programme. The Authority conducted a compliance check to verify the implementation of this programme.

Kansai Plascon submitted evidence of the implementation of the competition compliance programme. Additionally, the Authority was satisfied that Kansai had provided in-depth compliance training for its management and staff. Samples of compliance training materials, presentations as well as attendance records were adduced. Based on the evidentiary information provided, the Authority concluded that Kansai Plascon had fully implemented a competition compliance programme and adhered to all the provisions of the Act and terms of the consent.

### **iii. Enforcement of Abuse of Buyer Power Provisions**

Regulation of Abuse of Buyer Power (ABP) in Kenya is guided by sections 2 and 24A of the Act. During the year under review, the Authority investigated eighty-two (82) cases of abuse of buyer

power, out of which twenty-seven (27) cases, equivalent to 33% were new complaints. Fifty-one (51) were finalized, representing 62% of the cases.

Further, the Authority facilitated the recovery of KES 89.52 million delayed payments owed to suppliers, most of them SMEs, thereby securing jobs and contributing to their sustainability. This was an increase of 97.19% compared to the total amount of KES 45.4 million recovered in the previous financial year. The substantial growth can be attributed to the interplay between improved regulatory frameworks, advocacy, stakeholder engagement, enhanced monitoring, effective penalties, and collaborative efforts in handling complaints.

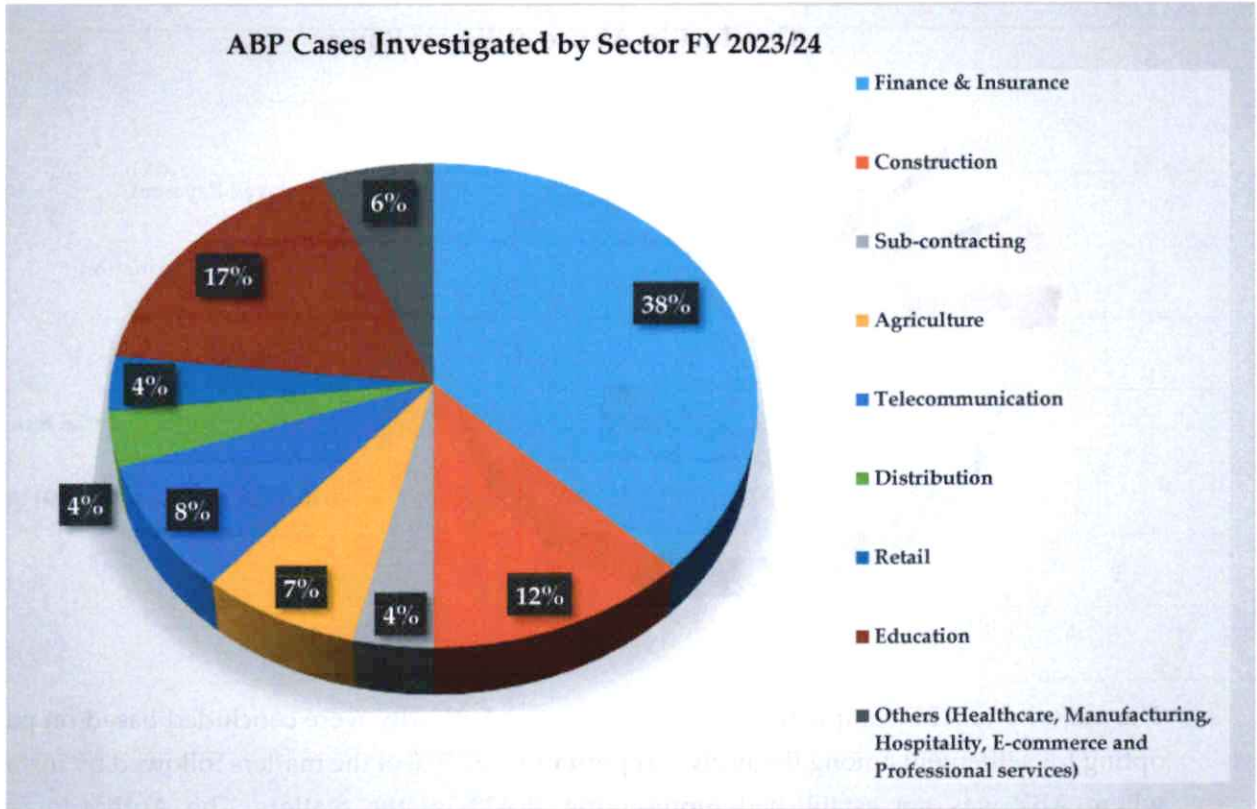
The cases investigated during the year under review were from thirteen (13) sectors namely: finance & insurance, retail, e-commerce, telecommunication, transport, construction, agriculture, healthcare, education, manufacturing, steel, sub-contracting, professional services, and hospitality. A majority of cases investigated were from the finance & insurance sector representing 38% of the cases while complaints from the education sector accounted for 17.07% of the matters handled. In addition, cases relating to incidences of ABP in the finance & insurance sector reduced in the year under review as compared to the previous year. This can be attributed to increased sensitization initiatives in the sector which enables parties to amicably resolve matters that would ordinarily have been lodged with the Authority.

**Table 8: ABP Cases Investigated by Sector**

Sectors		No. of Cases FY 2023/24	No. of Cases FY 2022/23
1.	Finance and Insurance	31	68
2.	Construction	10	3
3.	Sub-contracting	3	-
4.	Agriculture	6	3
5.	Telecommunication	7	4
6.	Retail	3	12
7.	Education	14	-
8.	Distribution services	3	-
9.	Transport	-	3
10.	Others	5*	21
<b>Total</b>		<b>82</b>	<b>114</b>

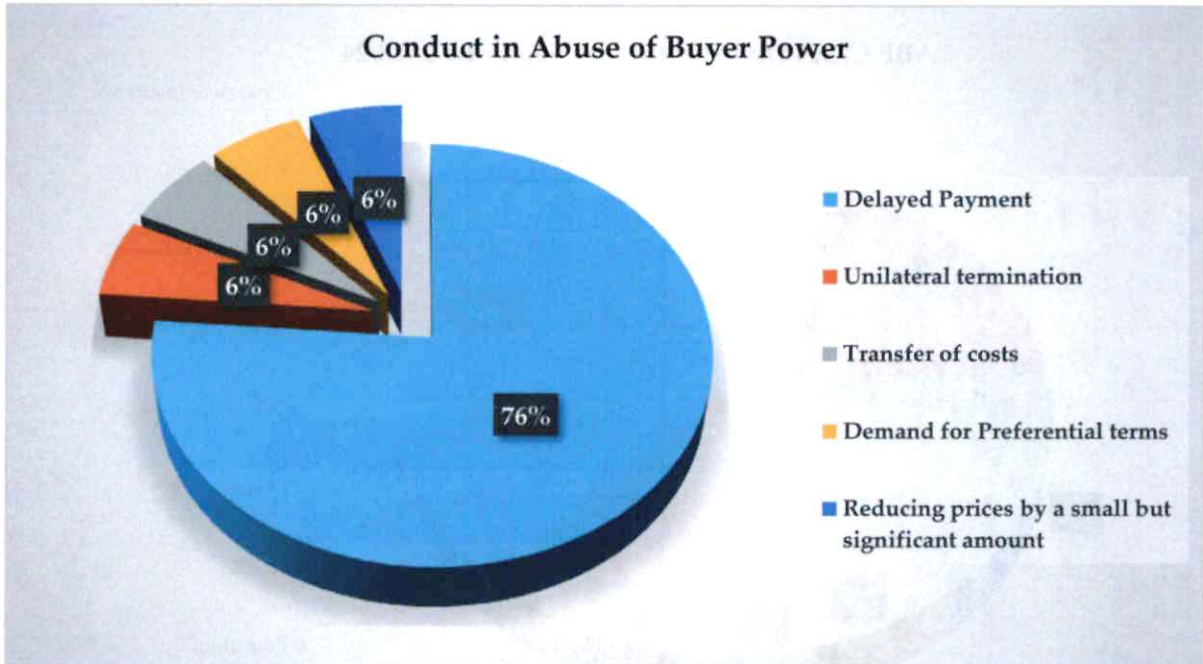
\* *Healthcare, Manufacturing, Hospitality, E-commerce and Professional services*

**Figure 3: ABP Cases Investigated by Sector FY 2023/24**



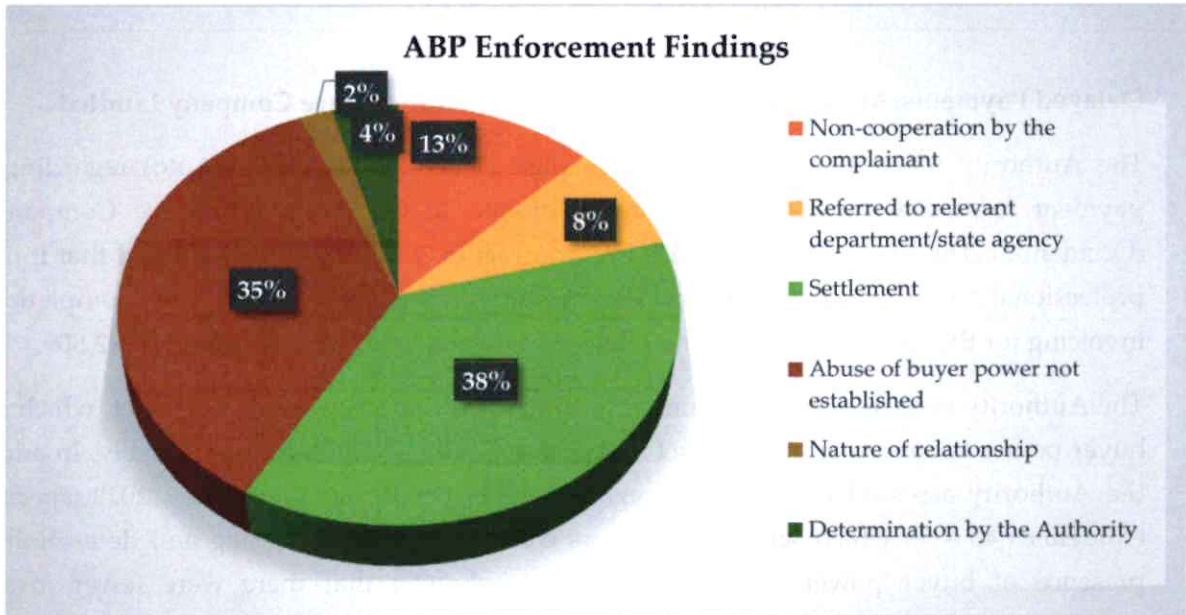
In terms of the nature of conduct investigated, complaints relating to delayed payments were the highest, contributing to 76.24% of the total complaints. Other conducts investigated included unilateral termination of contract, demand for preferential terms, transfer of costs, unilateral variation of contract terms, transfer of commercial risk, demands for preferential terms, and reducing prices by a small but significant amount where there is difficulty in substitutability of alternative buyers, each accounting for 5.94% of the matters, respectively.

**Figure 4: Nature of Conduct in Abuse of Buyer Power**



The majority of ABP complaints investigated by the Authority were concluded based on parties opting for settlement among themselves representing 37.5 % of the matters followed by instances where ABP was not established representing 35.42% of the matters. The Authority issued sanctions for 4.17% of the cases for ABP, referred 8.34% of the matters to relevant department/government agencies, and closed another 12.5% of the cases due to non-cooperation by the complainant. In 2.08% of the cases, the Authority concluded there was no buyer-supplier relationship between the parties.

**Figure 5: ABP Enforcement Findings in FY 2023/24**



### Sample Abuse of Buyer Power Cases

#### Delayed Payments: Flamingo Networks Limited and ICM SPA Limited

The Authority received a complaint from Flamingo Networks LLP (Flamingo), a limited liability company incorporated in Kenya in 2021, against Impresa Costruzioni Maltauro SPA Ltd (ICM SPA Ltd), a company based in Vicenza, Italy which operates in the construction sector.

The parties entered into a contract in which Flamingo was subcontracted by ICM SPA Ltd to issue backfilling of utilities, irrigation, installation of plot connection including; excavation, levelling, laying of sand beds, grouting, installation of manholes, and installation of cast iron covers services at its Konza Technopolis site. Konza Technopolis Development Authority (KOTDA) contracted ICM SPA Ltd as the main contractor for the phase 1 Konza Techno City project.

Flamingo claimed that ICM SPA Ltd delayed payments totaling USD 313,343.33 (Exchange rate 131.87 to KES) without justifiable reason. Upon analysis, the Authority established that ICM SPA Ltd had buyer power against Flamingo and abused that power by delaying payments contrary to section 24A (1) of the Competition Act.

The Authority engaged ICM SPA Ltd through a Notice of Investigations, pursuant to section 31 of the Act, outlining the Flamingo's allegations and inviting them to make submissions. ICM SPA Ltd responded by stating that the delay was not deliberate, but had been occasioned by delays in remittances of payment by KOTDA. Further, ICM SPA Ltd submitted a settlement proposal which the complainant was amenable to. ICM SPA Ltd fully settled the USD 313,343.33 debt,

enabling Flamingo to meet its financial obligations, including settlement its dues to other sub-contractors. This intervention averted job losses.

#### **Delayed Payments: Mash Auto Garage and Occidental Insurance Company Limited**

The Authority received a complaint from Mash Auto Garage (Mash Auto) regarding non-payment for motor vehicle repair services offered to Occidental Insurance Company Ltd (Occidental). The two parties entered into a contract in 2020. Mash Auto alleged that it offered professional motor vehicle repair services to Occidental's clients and that upon completion and invoicing for the work done, Occidental delayed payments amounting to KES 8,992,809.

The Authority reviewed the complaint according to sections 2 and 24A of the Act, which define buyer power and enumerates conduct that amounts to ABP offenses, respectively. In addition, the Authority assessed the complaint against the Buyer Power Guidelines, 2022, specifically Guidelines 43 – 49 which set out the factors considered when assessing and determining the presence of buyer power. Preliminary analysis showed that there were fewer insurance companies in the market offering general insurance as compared to the motor vehicle garages, including those registered under the Kenya Motor Repairers Association (KEMRA).

This imbalance between insurance companies and their service providers leads to dependence on service delivery. The motor repairers have limited input in the determination of contract terms. In addition, insurance companies enjoyed a ready market of service providers, thereby allowing them to easily switch to other service providers. Based on the assessment, the Authority established that Occidental had buyer power over the complainant and that it had abused that power by delaying payments contrary to section 24A (1) of the Act.

Subsequently, the Authority engaged the accused by issuing a Notice of Investigation under section 31 of the Act, outlining Mash Auto's allegations. Occidental responded to the Authority, indicating that they had engaged the complainant and agreed on a settlement proposal to clear the outstanding payment. The Authority engaged both parties to ensure the matter is settled amicably. Occidental settled the delayed amount of KES 8,992,809 thereby enabling Mash Auto to continue its operations and avert the negative consequences of cash-flow constraints.

#### **Unilateral variation of contract terms: Woodlands Company Ltd and Majid Al Futtaim Ltd**

The Authority received a complaint from Woodlands Company Limited (Woodlands), a limited liability company incorporated in Kenya 2003. The complaint was against Majid Al Futtaim Hypermarkets Limited (Majid Al Futtaim) a limited liability company, the owner and proprietor of hypermarket stores operating under the brand name 'Carrefour'.

Woodlands, a supplier of processed honey, claimed to have suffered ABP by Majid Al Futtaim in the form of demand for preferential terms that were unfavorable to Woodlands through reducing prices by a significant amount in the form of imposing rebates and other deductions for products supplied. Further, Woodlands alleged that it was required to post its employees to the retailer's premises at various times including to carry out an all-night stock taking.

The Authority engaged Majid Al Futtaim through a Notice of Investigation, pursuant to section 31 of the Act outlining the allegations claimed by Woodlands. Majid Al Futtaim responded, indicating that it had been in business with the complainant for many years and that the complainant had never raised a concern regarding unfair clauses in its contract. Upon further engagements by the Authority, Majid Al Futtaim denied being liable for Woodlands' losses.

The Authority's investigations revealed that Majid Al Futtaim had buyer power as established under section 24A(5)(d), (f), and (g) of the Act, Guidelines 47 and 48 of the Buyer Power Guidelines, 2022 and abused its buyer power by imposing conducts relevant to section 24A(5)(d)(f) and (g) of the Act.

Majid Al Futtaim was ordered under section 36 of the Act to expunge from its contract clauses that provide for, lead to, or otherwise facilitate ABP. They were also required to refund rebates and other deductions made from Woodland's invoices for 2021 and 2022 amounting to KES 834,180.00. Further, the retailer was ordered to refund Woodlands the marketing support in-store opening fees for 2021 and 2022 amounting to KES 100,000.00. The supermarket chain was also ordered to pay a financial penalty of KES 554,163,936.80 pursuant to section 24 A (1) of the Act. Majid Al Futtaim subsequently appealed to the Competition Tribunal challenging the Authority's decision.

### **Evaluation of the Implementation of the Retail Sector Code of Practice**

To promote self-regulation and sustainability within industries and sectors, and guided by section 24A (2) of the Act, the Authority evaluated the implementation and compliance of the Retail Sector Code of Practice (the Code), which was gazetted in June 2021. Based on the analysis of data submitted by the respondents and focusing on the intended outcomes of the evaluation, the Authority established the following:

- a. The awareness and usage of the Code is moderate among suppliers and retailers. While a majority are aware of the Code, there's inconsistency in its application, with 45% of retailers sampled indicated inconsistency in applying it. Opportunities lie in enhancing outreach to non-members of sector associations and enhanced sensitization to increase awareness and adoption;
- b. The Code is effectively applied in formal agreements between suppliers and retailers, leading to structured business relationships and improved compliance with the

requirements of the Act. This highlighted adherence by sector players to the provisions of section 24A (7) of the Act on agreements between buyer and supplier undertakings;

- c. Suppliers highlighted prevalent ABP conducts by retailers including delayed payments and variations in supply agreements. This underscores the need for a review of the Prompt Payment Committee membership as well as the terms of reference of the Retail Trade Dispute Settlement Committee. This will bring more clarity to the dispute resolution processes; and
- d. Respondents indicated challenges hindering the implementation of the Code including low awareness of the existence of committees and the ineffective facilitation of payments during delays. They further cited a lack of confidence in dispute resolution mechanisms in their existing contracts.

In FY 2024/25, the Authority shall execute a comprehensive implementation plan with specific interventions aimed at ensuring that the Code is successfully and efficiently executed by relevant stakeholders.

#### **iv. Consumer Protection**

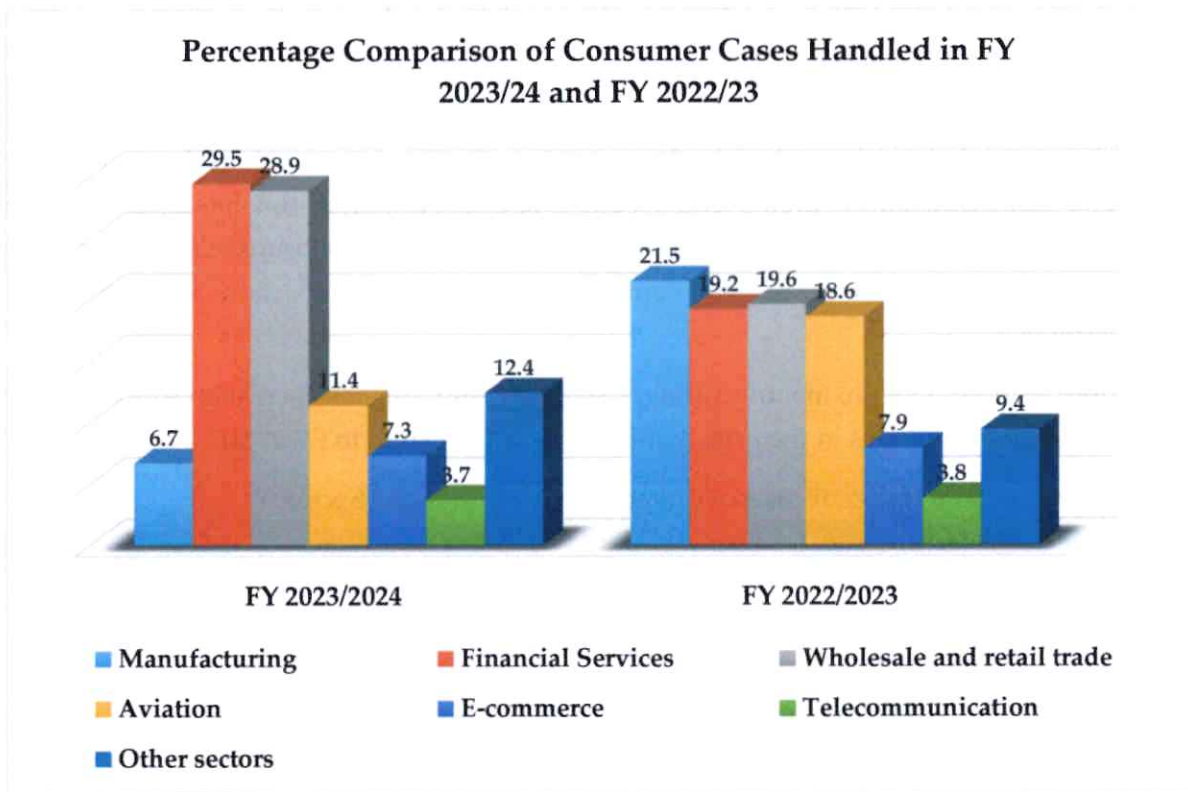
Part VI of the Act empowers the Authority to receive and investigate complaints relating to unfair and misleading market conduct by suppliers of goods and services in the Kenyan economy. Specifically, this mandate covers false or misleading representations, unconscionable conduct, product safety standards, product information standards as well as liability for unsuitable goods and defective products.

The Authority also creates awareness among consumers regarding their rights, obligations, and the remedies available under the Act. Further, the Authority promotes the creation of, and collaboration with, consumer bodies to increase consumer awareness and protection. This is in addition to its role in advising the Government on matters relating to consumer protection.

During the period under review, the Authority received and investigated six hundred and sixty-eight (668) consumer cases drawn from fifteen (15) sectors of the economy. This marked a 28% increase from the five hundred and twenty-one (521) cases investigated in FY 2022/23.

Figure 6 below compares the consumer violation cases handled in FY 2023/24 and FY 2022/23.

**Figure 6: Comparison of Consumer Cases Handled in FY 2023/24 and FY 2022/23**



The financial services sector (29.5%) and wholesale and retail trade sector (28.9%) recorded the highest number of consumer violations, followed by aviation (11.4%), e-commerce (7.3%) and manufacturing (6.7%). Other sectors namely; transport and storage, health, real estate (housing), professional services, electricity and gas (energy), education, accommodation and food services, and construction recorded an increase (3%) in the number of consumer cases handled compared to the FY 2022/23.

Complaints in the financial services sector were mainly against digital lenders and microfinance institutions. During the period under review, the Authority saw an increase in the number of complaints lodged relating to scams and fraud, mainly in e-commerce and trade. These matters are criminal in nature and, therefore, the Authority collaborated with the Directorate of Criminal Investigations (DCI) to address these cases.

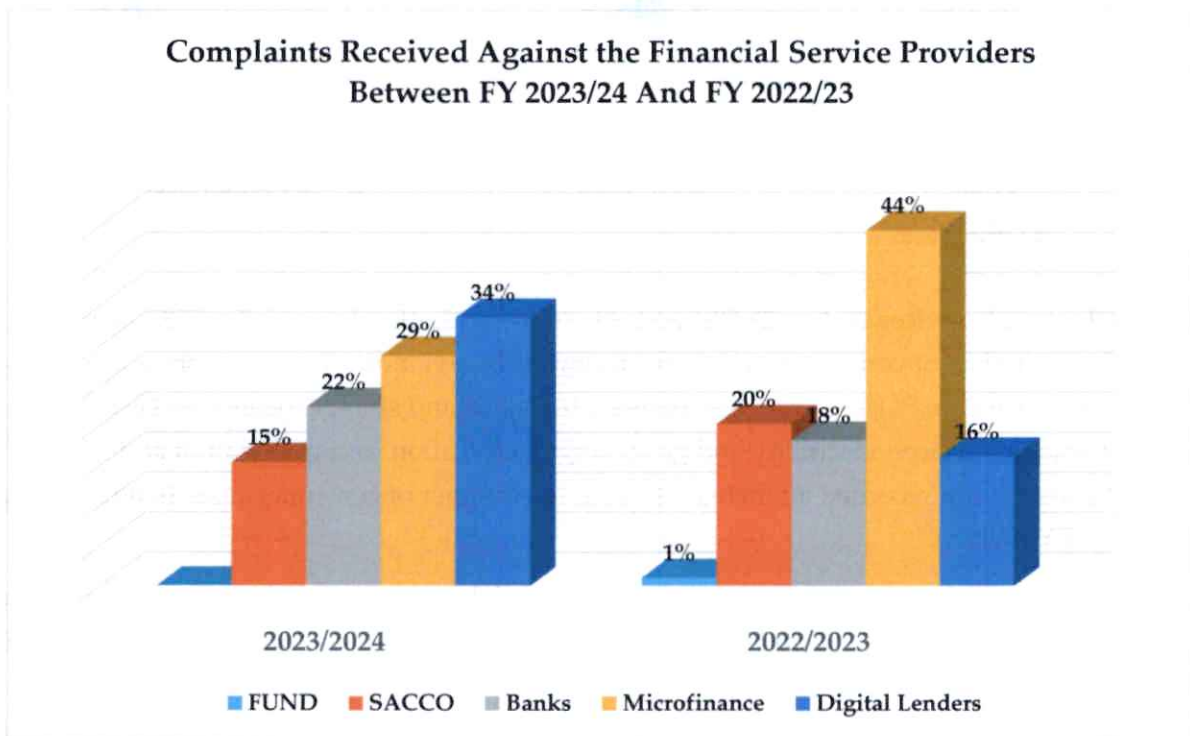
In an endeavour to ensure timely redress of consumer complaints that have an inter-agency dimension, the Authority collaborated with sector regulators including the Kenya Bureau of Standards (KEBS), the Insurance Regulatory Authority (IRA), the Central Bank of Kenya (CBK), the Office of the Data Protection Commissioner (ODPC), the Communications Authority of Kenya (CA), the Sacco Societies Regulatory Authority (SASRA), the Tourism Regulatory Authority (TRA) and the Kenya Civil Aviation Authority (KCAA). For instance, the Authority

collaborated with KEBS on consumer matters involving product information and safety standards and further referred consumer cases to specialized government agencies as prescribed under section 68 of the Act.

The financial services sector recorded the highest year-on-year increase in cases, with the main infringements being false and misleading representations and unconscionable conduct by banks, microfinance institutions, digital lenders, and SACCOs. Further, complaints against both deposit and non-deposit-taking financial institutions, relating to non-disclosure of fees and charges and unilateral mutation of terms and conditions which violated Section 56 of the Act were investigated.

Sectors such as aviation, manufacturing, real estate, and arts and recreation services recorded a reduction in complaints in the period under review compared to FY 2022/23.

**Figure 7: Total number of cases received from the Financial Sector**



During the period under review, cases received from the digital lending sector were 63 (34%) compared to 16 (16%) in FY 2022/23. This sector has over the year continued to record high number of cases, a phenomenon which is attributable to the mushrooming of digital lending companies and applications that ease access of loans to consumers, albeit with attendant violations of consumer welfare provisions.

However, cases in the microfinance sector have been on the decline with the sector accounting for 29% of the consumer welfare cases recorded in FY 2023/24, compared to 44% in the previous

financial year. This decline in cases lodged could be attributed to the Authority's intervention in resolving cases in this key sector as well as sustained awareness creation activities.

Generally, there has been an upward trajectory in the number of complaints relating to digital credit concerning exorbitant interests, lack of disclosure of Terms and Conditions (T&Cs), unilateral alteration of T&Cs, aggressive and harsh loan recovery methods, including harassment of customers' mobile phone contacts. This scenario persists despite the enactment of the Central Bank of Kenya Digital Credit Providers (DCPs) Regulations, 2022 that contain provisions regulating DCPs' commercial conduct, including provisions on lending, pricing, consumer protection, debt collection, and anti-money laundering.

The Authority will continue to investigate alleged consumer complaints against DCPs that have aspects of false or misleading representations and unconscionable conduct. This notwithstanding, the Authority will enhance its collaboration with the CBK on matters relating to pricing, aggressive and demeaning debt collection methods, and money laundering issues. The Authority will also continue to collaborate with the ODPC regarding complaints that touch on data privacy infringements.

Following the Authority's interventions in the year under review, the consumer savings realized amounted to KES 14,424,247.00. The percentage of the total number of cases concluded vis-a-vis the total cases handled in the FY 2023/24 was 57%, occasioned by the increase in number of complaints received towards the end of the period under review.

### Sample Consumer Protection Case

#### Product Recall: LG Electronics Inc. (LG) TV Stands

The Authority received notification from electronics manufacturer, LG, indicating that they had received complaints from consumers, relating to TV stands for some of the models of their 86-inch Smart TVs in the USA, Germany, and Australia. The consumers indicated that the assembling instructions were unclear such that once assembled, the stand remained loose.

LG confirmed that seven (7) TV stands of the affected model had been sold to consumers in Kenya, but none had lodged complaints. LG recalled and replaced all the affected stands and provided the Authority with an outline of the corrective actions taken to address the issues raised by consumers.

The recall process was assessed under Rule 28(1) of the Rules which empowers suppliers to recall goods upon detection of a safety-related hazard or receipt of complaints by consumers regarding any dangerous characteristic of the goods or injury resulting from the use of the goods.

Rules 28(2), (3), (4), and (5) of the Rules were also applied in assessing the complaint, which provides for the procedure governing voluntary product recalls in Kenya. Further, Rules 29(1)

and (2) of the Rules which stipulate that products that have been recalled in foreign jurisdictions shall also be recalled in Kenya, were applied as well.

The Authority ensured that the consumers who had purchased the stands were offered replacements by LG. Additionally, LG put in place corrective measures to prevent the recurrence of similar complaints. LG updated its Quick Start Guide and Instruction Manual relating to the affected products to include additional information advising consumers on the appropriate installation process of the stands.

#### **False or Misleading Representations and Unconscionable Conduct: Ngao Credit**

A complaint was received from a complainant regarding a loan facility of KES 150,000.00 secured from Ngao Credit Limited (Ngao) using a motor vehicle logbook as collateral. The complainant alleged that later learned it was mandatory to renew her vehicle's comprehensive insurance through Ngao's sister company. When insurance cover became due for renewal, and even before the actual deadline, she claims she received an insurance sticker through her e-mail and an invoice of KES 42,800.00 for a sum assured of KES 50,000.00. This represented an increase from her previous year's premium of KES 30,800.00 for the same sum assured.

The complainant disputed high increase in the premium payable, but Ngao allegedly declined to cancel the insurance cover and allow her scout for a better deal. In addition, Ngao lumped the KES 42,800.00 premium payment to the complainant's principal loan amount, further attracting interest and penalty charges amounting to KES 19,761.43.

The Authority investigated the alleged conduct pursuant to section 70(A) of the Act, as read together with Section 31 of the Act. A Notice of investigation was sent to Ngao indicating the probable violations of: (i) Article 46 (1)(a), (b), and (c) of the Constitution of Kenya and sections 55 (a)(ii) and 56 (1) of the Act relating to false or misleading representations and unconscionable conduct respectively. The unconscionable conduct was assessed against the requirements of sections 56 (2) (a), (d) & (e) and 56 (3) (4) of the Act.

Upon conclusion of the investigation, which involved reviewing evidentiary information from the parties, the Authority concluded that Ngao had not violated the aforementioned provisions of law because;

- a. The complainant held three loan categories; the main asset-backed loan, the Insurance Premium Finance (IPF) loan, and a mobile loan;
- b. That the mobile loan had run into arrears as well as the IPF loan which attracted penalties, some of which were waived by Ngao;
- c. The complainant had been given the option to renew her insurance from her preferred insurance but did not action it;

- d. The complainant failed to disclose she had a mobile loan which was in default at the time; and
- e. That the renewal of the insurance was a measure to cover the interests of Ngao, wherein the complainant had failed to act on the renewal.

### **False or Misleading Representations and Unconscionable Conduct: Catherine Oganga Vs iPhone Street Kenya Limited**

The Authority received a complaint from against iPhone Street Kenya Limited (“i-street”) regarding an iPhone 13 Pro Max she had bought at KES 165,000.00.

Less than 2 months after the purchase, the complainant started experiencing network challenges and the phone malfunctioned, prompting her to raise a complaint with the retailer. The only remedy was offered by i-street was resetting the phone. A few days after the reset, the issues recurred. The complainant stated that requested a replacement of the phone or a refund, but the request was declined with no reason.

Investigations were undertaken into the alleged conduct under section 70(A) of the Act, as read together with section 31 of the Act. A Notice of investigation was sent to i-street for possible violation of Article 46 (1)(a) (c) and (d) of the Constitution, section 55 (a)(i), 55(b)(v) and section 56(1) of the Act, which relate to false or misleading representations and unconscionable conduct, respectively. The alleged unconscionable conduct was assessed against the requirements of sections 56(2)(a) (b), (d), and (e) of the Act.

The complainant was refunded her full purchase amount. The Authority issued a warning to the phone retailer to desist from engaging in similar conduct in future. The Authority’s investigation established that the phone sold to the complainant was a refurbished model, but it was marketed as new.

## **STRATEGIC GOAL TWO: RESEARCH AND ADVOCACY**

The Authority conducts market inquiries, studies, and research into matters relating to competition and consumer protection. During the year under review, the Authority conducted two (2) market inquiries and three (3) market studies informed by emerging concerns in the business environment.

The Act also empowers the Authority to conduct competition advocacy initiatives as one of the main pillars of contemporary competition law. This is aimed at creating, expanding, and strengthening awareness of competition law and policy in the economy. Advocacy has been instrumental to the Authority in obtaining increasing compliance by stakeholders on competition and consumer law and policy enforcement. In the year under review, nineteen (19) advocacy engagements were conducted as illustrated in Table 11.

### **i. Market Inquiries**

#### **a) Online Food and Groceries Delivery Platforms**

In December 2023, the Authority concluded a study into the online food and grocery platforms market in Kenya. The report was published in April 2024. The main objective of the study was to determine how digital platforms (e-commerce) operate in practice and suggest regulatory and policy intervention relating to competition and consumer protection enforcement. Data collection was conducted in Nairobi and Mombasa counties. Some of the respondents included sector regulators, consumer bodies, and trade associations.

The study indicated that there were no explicit regulations on online platforms in Kenya highlighting the need to comprehensively address deficiencies in regulation of the digital platforms. Assessment of market power indicated that platforms did not have market power over retailers. However, platforms had market power over couriers with regard to the determination of charges, an indication that platforms unilaterally set the charges with no latitude for negotiation with couriers.

Further, the study established that platforms collect consumer data including contact information, personal identity information, transactional information, and device information. This data was often shared with their subsidiaries/affiliates and, in some instances, with third parties. This data is used to refine personalized recommendations, speed the delivery process, and provide a personalized user experience.

In addition, the study established that consumers in the online food and groceries market in Kenya were multi-homing due to commoditization, constant promotional efforts by the platforms, minimal switching barriers, and low to no cost of onboarding on multiple platforms. Consumers of online platforms have access to a wide variety of restaurants and price comparisons for their product requirements.

Consumers considered delivery speed as the most important factor when choosing their preferred platforms whereas delivery-related complaints were the most reported complaints by consumers. Delivery delays and products not meeting consumer expectations were the most common complaints raised. Reported complaints were handled by the platforms in collaboration with the retailers, e-payment platforms, and couriers depending on the nature of the consumer complaints. Mobile money was the most commonly used online payment method due to its convenience.

The study recommended that the Authority continuously monitors the online food and grocery market for anticompetitive conduct and analyze the contract terms between the platforms and the users to determine issues of superior bargaining position. Further, it was recommended that the Authority undertake online shopping-focused consumer awareness campaigns and engage the platforms on the various consumer welfare issues established by the study, including complaints handling and redress mechanisms, data privacy, and delayed delivery among others. Additionally, there was a need for collaboration between the Authority and other relevant regulators on how to regulate e-commerce-related consumer concerns, as well as data privacy issues. Finally, advocacy initiatives are to be undertaken to provide the platforms with a framework for self-regulation including developing and implementing codes of conduct.

#### **b) Animal Feeds Inquiry**

During the year under review, the Authority initiated a market inquiry in the animal feed markets. The objective of the inquiry was to assess the market interactions, structures, outcomes, and other factors that may be affecting competition along the animal feed value chain and recommend interventions to support sustainable growth and competition. The inquiry was ongoing at the end of the reporting period and will be concluded in FY 2024/25.

### **ii. Market Studies**

#### **a) ACF Study on Agricultural and Agro-Processing Sector Value Chain and Trade Flow Patterns – Kenya Chapter**

The ACF initiated a cross-country study of food value chains in agricultural and agro-processing and trade flow patterns at different regional levels. The study aimed to understand concentration and competition issues within regional and continental value chains in agriculture and agro-processing. The Kenya chapter focussed on coffee and tea which are the country's main export products, and maize and sugar whose importations rose in 2022 and 2023 respectively to cushion the country from the high cost of living and to ease shortages. Some of the countries that Kenya exports coffee to are the Democratic Republic of Congo and Mauritius. Kenya exports tea to South Africa, Mauritius, and Zambia. The country imports Maize from Tanzania, Zambia, and Uganda. The study's objective was to improve opportunities for investment, growth, and price competitiveness within the context of continental and regional integration initiatives.

Some highlights from the inquiry are;

- i. **Ease of doing business:** The Government should consider simplifying the process of accessing documentation required for the importation or exportation of products to minimize the lengthy procedure. This can be achieved through one-stop shops, computerization, and digitization of the manual processes;
- ii. **Collaboration in competition enforcement:** Regional institutions and regional-level enforcement agencies are key to building a better holistic response to anti-competitive conduct. Collaboration among the regional competition agencies is imperative in tackling regional anti-competitive behaviour such as cross-border cartels in food markets;
- iii. **Co-operation:** The Authority will continue to work together with national and other sector regulators in the agricultural sector to deepen the culture of competition through various advocacy initiatives aimed at eliminating market failures in agricultural food value chains;
- iv. **Access to financing:** The choice of the farmers to access capital is determined by the ease of accessing it; improving digital finance services can help address the challenge of access to finance, credit, and savings by the smallholder farmers in rural areas especially where traditional finance models have not adequately addressed the demands in rural agricultural production markets; and
- v. **Free Trade Area:** African countries to promote regional and continental trade in agricultural food products by facilitating the implementation of the Tripartite Free Trade Area (FTA) Agreement provisions through harmonization and consistent implementation of customs procedures, transit procedures, tariff liberalization, and Rules of Origin.

**b) Ex-Post Evaluation of the Competition Enforcement Decisions in Paints Manufacturing and Non-Alcoholic Ready-To-Drinks Beverage Sectors in Kenya**

The Authority conducted an Impact Assessment (ex-post evaluation) of its two previous decisions in the paints sector (cartel sanctioning decision in 2020) and Non-Alcoholic Ready-to-Drink (NARDs) beverages sector (merger decision in 2019 – Coca-Cola Beverages Africa and Almasi Beverages Limited). Data collection was done in sixteen (16) counties, targeting consumers, distributors, retailers, and manufacturers in the two sectors.

The assessment found that the Authority's decision in the paints sector benefitted consumers through price reduction of paint products, resulting in consumer savings of KES 0.9 billion between 2018 and 2022. Additionally, the intervention benefitted paint consumers through availing a wider variety of paints through increased innovation. Further, it was determined that SME paint manufacturers are accessing the market without restrictions from the bigger players.

The merger decision in the NARD sector benefitted consumers through high-quality products, wider choice/variety through innovation, and sustained supply of their preferred soda and water. However, no apparent consumer price reduction gains were experienced in the sector. The NARDs market nevertheless remained competitive and SME producers accessed the market and provided competition to Coca-Cola products in product segments such as energy drinks and water.

Despite the welfare gains arising from the Authority's interventions, the impact assessment recommended a re-evaluation of the merger analysis criteria to extend beyond the basic test of market structure and concentration, public interest test, and theory of harm. The analysis should integrate futuristic probable impacts of the decision on the value chain. The Authority's investigative approaches into anti-competitive conduct should also be enhanced through strengthening collaborations with regional competition agencies, particularly the CCC and East Africa Community Competition Authority (EACCA). This is particularly critical in sectors that have the potential to foster cross-border cartels.

**c) Effect of Mergers & Acquisitions on the performance of the Manufacturing Sector in Kenya (Financial Performance, Employment, Prices, Output, MSMEs/SMEs) Report**

The Kenyan manufacturing sector has over the recent past witnessed several M&As. This trend is expected to continue in the coming years. In this regard, the Authority conducted research to establish the impact of these transactions on the performance of the manufacturing sector.

The studies assessed the target undertakings by interrogating their financial performance, the price trends of their products, production capacities, and the impact of the transactions on employment. The study further assessed whether the Authority's move to revise merger thresholds in 2019 led to the reduction of merger transactional costs, by enabling MSMEs to consolidate more easily and become effective competitors through enhanced profitability. Lastly, the study sought to establish the adequacy of the Public Interest Test (PIT) during analysis of transactions lodged with the Authority.

The study established that mergers in the manufacturing sector resulted in a positive effect on the financial performance of the entities involved, irrespective of their size, nature of shareholding, and the nationality of directors. This was mainly demonstratable through a increased production capacities. A positive effect on the profitability of MSMEs in the short run was observed in addition to an increase in the number of employees. The study did not establish a clear relationship between price movements and mergers in the sector.

It was determined that the revision of the merger thresholds had not sufficiently reduced the merger-related transactional costs for MSMEs in the sector, particularly due to the inclusion of assets in the determination of thresholds. Most MSMEs in this sector, therefore, still met

the threshold for notification resulting in increased transactional costs. This finding was attributed to the asset-intensive nature of the sector which sees more players meet and exceed the current exclusion threshold of KES 500 million. Therefore, the revision did not sufficiently ease the ability of MSMEs to consolidate and become effective competitors in their markets. Further, the respondents indicated that the factors currently considered under the PIT are insufficient to address emerging issues such as sustainability and ESG issues.

From the foregoing, the Authority determined that there is need to consider a further revision of the merger notification thresholds for the manufacturing sector, specifically focusing on the relationship between assets and turnover. During merger analysis, the Authority should also consider additional factors in addressing public interest concerns in the sector, such as local ownership of companies, CSR, and ESG issues relating to the parties.

### **iii. Stakeholder Engagement**

The Authority participated in various partnerships networking initiatives and stakeholder engagement activities aimed at sharing information and experiences, learning and adopting international best practices on competition, consumer protection law, and deterrence of abuse of buyer power. These are summarized in Table 11 below:

**Table 9: Stakeholders Engagement during the FY 2023/24**

No.	Event/Forum	Stakeholders Engaged	Objective / key message	Expected Outcome
1.	The ICN Advocacy Workshop	The ICN Advocacy Working Group Workshop held in Nairobi was hosted by CAK. The workshop was attended by delegates from 26 countries drawn from sector regulators, consumer bodies, business associations, the legal fraternity, government agencies, corporations, and competition agencies.	The workshop provided an avenue for ICN members and other participants to exchange information and knowledge to facilitate the development of practical competition law enforcement tools.	Promotion of effective competition law enforcement and fostering a competition culture within the ICN member States' markets.
2.	10 <sup>th</sup> Annual Capacity Building Workshop and Symposium on Competition Law and Policy	The training and symposium engaged representatives from the Authority's stakeholders including sector regulators, consumer bodies, business associations, the legal fraternity,	The workshop covered: Competition Regulation, Market Structure and Consumer Protection; and Restrictive Trade Practices and the Role of Research in Competition Enforcement.  The symposium theme was " <i>The Role of Competition and Consumer</i> "	Strengthening awareness of competition law and policy



No.	Event/Forum	Stakeholders Engaged	Objective / key message	Expected Outcome
		government agencies, corporates, and competition agencies.	<i>Protection Policy in Advancing Sustainable Consumption and Production and; Complementarity or Conflict: Interaction between Competition and Industrial Policies."</i>	
3.	County Sensitization Forums	County officials in Kiambu, Murang'a, Kajiado, Nairobi, and Machakos counties.	Sensitization of county officials from the counties' executives and assemblies on competition law and consumer protection law. This was aimed at: <ul style="list-style-type: none"> <li>i. Empowering the county officials to ensure they do not pass laws that restrict competition; and</li> <li>ii. Creating awareness of potential competition and consumer protection concerns in the counties.</li> </ul>	Pro-competitive regulatory designs by county Governments
4.	7 <sup>th</sup> Series of the Innovation Pipeline Symposium - KEBS	MSMEs	Empowering the MSMEs through training and certification	Informed and empowered MSMEs on competition law and policy
5.	Sensitization of Stakeholders on Merger Filing Processes and The	Industry associations and law firms including Kenya Association of	Raising awareness about the Authority's mandate in the regulation of mergers among a key	Improve compliance with the Act and create awareness of the merger filing process including payment



No.	Event/Forum	Stakeholders Engaged	Objective / key message	Expected Outcome
	Consolidated Administrative Remedies and Settlement Guidelines 2023	Manufacturers, Kenya National Chamber of Commerce, The Law Society of Kenya, EA Private Equity.	set of stakeholders, thereby facilitating enhanced compliance with the Act	of filing fees through the E-Citizen portal
6.	Sensitization workshops and stakeholder engagement for MSMEs, Retail, and Insurance sector in Kisumu and Machakos Counties	MSMEs, Retail and Insurance sector (Retailers, Manufacturers and Suppliers, Insurance firms, Assessors, Investigators)	Create awareness among the stakeholders regarding the benefits of a competitive market structure and the harmful effects of unfair market practices at the local and national level	Fair commercial dealings between buyers and sellers and reduced instances of ABP
			Members of Kenya National Chamber of Commerce and Industries (KNCCI) and the Micro and Small Enterprises Authority (MSEA) sensitized on the ABP provisions of the Act	Stakeholders understand the provisions of the Competition Act on Abuse of B Stakeholders understand the provisions of the Competition Act on ABP/Enforcement Procedures on ABP and the process of lodging complaints
7.	Sensitization for East African Breweries Limited (EABL)	EABL Top Management	Personnel from legal, procurement, production, and top management were sensitized on the importance of compliance with the Competition Act	Stakeholders understand the provisions of the Competition Act on ABP/Enforcement Procedures on ABP and the process of lodging complaints



No.	Event/Forum	Stakeholders Engaged	Objective / key message	Expected Outcome
8.	Sensitization workshop for Kenya Dentist Association (KDA)	Members of the KDA	Creation of awareness of the ABP provisions in the Act and its importance in achieving effectual enforcement of the competition law.	<ul style="list-style-type: none"> <li>Understanding the provisions of the Competition Act on ABP and the Buyer Power Guidelines, 2022</li> <li>Value of written contracts and legal requirements for contracts under the Competition Act.</li> </ul>
9.	Kenya Bureau of Standards (KEBS) Innovation Pipeline Symposium in Eldoret	MSMEs	Empowering MSMEs on the ABP provisions in the Act	<ul style="list-style-type: none"> <li>Increased cooperation with other state agencies</li> <li>Understanding the provisions of the Competition Act on Abuse of Buyer Power</li> </ul>
10.	KEBS Innovation Pipeline Symposium in Mombasa	MSMEs	Empowering MSMEs on the ABP provision in the Act.	<ul style="list-style-type: none"> <li>Increased cooperation with other state agencies</li> <li>Understanding the provisions of the Competition Act on Abuse of Buyer Power</li> </ul>
11.	Kenya Bankers Association Launch of Chora Plan Financial Literacy Program	Financial Sectors players including major banks, CBK, VISA, AMFI, KBA,	Collaboration in ensuring consumer protection through financial literacy	Joint advocacy activities
12.	KEBS COPOLCO ISO Meeting	Consumer Bodies, Consumer Lobby	Incorporation of consumers in standards development and use of	Joint forums spearheaded by KEBS



No.	Event/Forum	Stakeholders Engaged	Objective / key message	Expected Outcome
		Groups, COPOLCO Committee representatives, and KEBS	standards as a tool for consumer protection	
13.	COMESA Case Handlers Conference and Training	US FTC, COMESA, ACF, National Competition Authorities	Enhancing Investigation Skills for Case Handlers	Yearly training for case handlers
14.	Public Participation regarding review of Consumer Protection provisions	Industry players, academic institutions, consumer bodies, and Legal Firms	Receive feedback on the proposed amendments	Inform improvements on the proposed amendments
15.	Sensitization of KCB staff on Consumer Protection	KCB Kenya staff members	Create awareness among KCB staff members on the legal framework for consumer protection in Kenya and the functions and powers of the Authority under the Competition Act.	Increased compliance with consumer protection laws.
16.	Consumer Open Day and Exhibition in Kitengela, Kajiado County.	Consumer Downtown Association	<ul style="list-style-type: none"> <li>• Bring together business operators and companies within Kajiado</li> <li>• Showcase products and services</li> <li>• Give companies a chance to speak</li> </ul>	<ul style="list-style-type: none"> <li>• Addressing Consumer concerns and engaging with consumers one-on-one.</li> </ul>



No.	Event/Forum	Stakeholders Engaged	Objective / key message	Expected Outcome
				<ul style="list-style-type: none"> <li>Private sector to exhibit and sell their products at the two-day event</li> </ul>
17.	World Consumer Rights Day (WCRD) 2024	The Authority held WCRD in four counties namely Embu, Kajiado, Machakos, and Murang'a by holding consumer campaigns in shopping malls sensitizing students and staff in two (2) Junior Secondary Schools in each county.	<p>The main objectives included:</p> <ol style="list-style-type: none"> <li>To educate consumers on their rights, obligations, and remedies;</li> <li>Sensitize Junior Secondary learners on consumer protection;</li> <li>Engage consumer bodies through participation;</li> <li>Sensitizing consumers how to lodge complaints</li> <li>Attend to consumer inquiries and queries; and</li> <li>Receive and document consumer complaints for further action.</li> </ol>	Increased visibility countrywide and more consumer complaints lodged
18.	Consumers International Global Congress	Hosted by the Authority in partnership with the CCC. The forum attended by sector regulators, consumer bodies, business	The main focus of the Congress was to develop practical solutions to consumer protection issues, especially in emerging areas, and build a powerful coalition across government, international agencies,	Enhanced consumer welfare



No.	Event/Forum	Stakeholders Engaged	Objective / key message	Expected Outcome
		associations, the legal fraternity, government agencies, corporates, competition and consumer agencies.	business, and civil society while ensuring that consumers are part of the dialogue.	
19.	LSK Sensitization	The Authority engaged advocates in 4 counties namely: Meru, Nyeri, Kisii, and Kericho in February 2024.	Sensitization on competition law and policy and the provisions of the Competition Act.	Strengthened awareness of competition law and policy.



**iv. Advisory Opinions on various Bills, Regulations, Policies and Guidelines**

During the year under review, the Authority reviewed various Bills and Regulations to inform and ensure that the various laws and policies are compliant with the provisions of the Act. These are summarized in **Table 10** below:

**Table 10: Advisory opinions rendered during the FY 2023/24**

No.	Bill/Policy/Guidelines/Regulations Reviewed	Sector	Summary of the Bill/Policy	Advisory Opinion/Comments
1.	The Draft Credit Guarantee Policy, 2024	MSMEs	The object of the Credit Guarantee Policy is to provide a clear policy framework that will support the establishment and sustainability of credit guarantees to facilitate credit access to MSMEs.	The Authority opined that there is need to include sections on data protection in line with the Data Protection Act, 2019, consumer protection and a framework for assessing and onboarding credit guarantors.
2.	The Draft COMESA Competition and Consumer Protection Regulations	Regional body	The CCC proposed the COMESA Competition and Consumer Protection Regulations (as amended in November 2023) which shall be applicable in all the COMESA Member States' territories to assist and facilitate investigations undertaken by the Commission, including the enforcement of its decisions.	The Authority submitted comments to the Commission on various clauses for their consideration and incorporation.
3.	The Draft Government Owned Enterprises Bill, 2024	Trade	The Bill was meant to provide for the establishment, control, governance, performance and ownership of Government Owned Enterprises; public service obligations in respect of Government	A review of the Bill established no existence of competition and/or consumer protection concerns.



No.	Bill/Policy/Guidelines/Regulations Reviewed	Sector	Summary of the Bill/Policy	Advisory Opinion/Comments
			Owned Enterprises; and for connected purposes.	
4.	Electric Mobility Adoption in Kenya and Potential Competition Concerns	Transport	The adoption of e-mobility is pushing the world to shift away from carbon-dioxide-emitting fossil fuels towards more environment-friendly energy supplied from electrical power sources which are charged through the electricity grid.	The Authority in collaboration with sector-specific regulators involved in the regulation of EVs such as NTSA, KEBS, Ministry of Roads and Transport should establish a framework that will proactively look at the developments in the sector thereby promoting the growth of electric vehicle adoption in Kenya but more specifically address and/or extinguish any potential anti-competitive practices as exclusive contracts, unilateral exclusionary conducts, coordinated conduct and effects and any consumer protection concerns in the industry.
5.	The proposed East African Community (EAC) Competition Act 2006	Regional Body	The EAC Competition Authority (EACCA) proposed amendments to the consumer provisions of the EAC Act 2006 in April 2024. The Act applies to all EAC member states territories to assist and facilitate their mandate on enforcement of consumer protection	The Authority being the national competition and consumer protection enforcement agency in Kenya submitted comments to EACCA on various clauses for their consideration and incorporation.
6.	Memorandum on the inquiry by the Departmental Committee of the	Telecommunications	The regulation of mobile termination rates and how a dominant incumbent MNO is likely to abuse the same has been an issue addressed at both the Authority and CA	The Authority recommended that there was a need to review the mobile termination rates downwards in the country as proposed by the CA. Lower



No.	Bill/Policy/Guidelines/Regulations Reviewed	Sector	Summary of the Bill/Policy	Advisory Opinion/Comments
	National Assembly on Communication, Information, and Innovation into the Review of Mobile Termination Rates by the Communications Authority of Kenya		levels. Before 2014, termination rates in Kenya were KES 2.21. These declined to KES 0.99 after 2014 and more recently to KES 0.58 following a decision by the Communication and Multimedia Appeals Tribunal on 5th August 2022. Higher termination rates can lead to consumers paying more for voice calls and having less freedom of choice and incumbent operators can use high mobile termination rates to exclude rivals who are unable to match these low on-net prices for calls to incumbents' customers because they face a high call termination rate charged by incumbents. Thus, incumbents use high call termination rates and on-net discounts	rates will have the overall effect of reducing barriers to entry in the market which will prevent abuse of dominance by an incumbent, narrow differences between on-net and off-net prices (and therefore reduce 'tariff-mediated network effects'), increase customer choice, reduce cost of doing business, increase voice traffic and operator revenues and thus increase tax revenues. This will ultimately generate efficiency in the telecommunications sector for the benefit of Kenyan consumers.



**v. Collaboration with Regional Agencies**

During the period under review, the Authority engaged the CCC and EACCA in various joint activities;

**Table 11: Collaboration with Regional Agencies**

Agency	Activity	Action point
CC	Bid Rigging Workshop	<ul style="list-style-type: none"> <li>Organize joint sessions with the PPRA and EACC with a view of agreeing on how to collaborate in detecting and investigating Bid Rigging</li> <li>Seek an understanding whether the procurement system in place at the Authority's level and the PPRA level has mechanisms that minimize risks of Bid Rigging</li> <li>Consider purchasing software that will investigate and analyze data on bid rigging cases</li> <li>Invest in capacity building of detecting and investigating bid rigging.</li> </ul>
EACCA	Experts meeting to validate the EAC Regional Strategy on Implementation of the African Continental Free Trade Area (AfCFTA)	The Experts' Meeting validated the draft EAC Regional Strategy on AfCFTA Implementation subject to the incorporation of updated statistics on Trade in Services from the Republic of Burundi. EAC Secretariat and Partner States to consider AfCFTA activities for implementation.
CCC	COMESA Competition Commission stakeholder validation workshop on the COMESA competition regulations	<ul style="list-style-type: none"> <li>The amendments propose expanding the Commission's authority to address anti-competitive practices, regulating mergers and acquisitions, and unfair trade practices, with an emphasis on consumer protection issues after the submissions by member states on the Draft COMESA Competition Regulations and the stakeholder validation workshop.</li> <li>The amendment process will advance to an intergovernmental committee of legislative drafters for review</li> <li>The revised draft will then be presented to an intergovernmental committee of attorneys</li> </ul>

Agency	Activity	Action point
		<p>general from member states for further review and approval before being submitted to the COMESA Council of Ministers.</p>
CCC	Finance Workshop on disbursement of merger filing fees	<ul style="list-style-type: none"> <li>• National Competition Agencies (NCAs) to communicate their most preferred interval of fee remittance.</li> <li>• NCA's to finalise their merger fee disbursement channels and communicate the details including bank accounts to the COMESA Competition Commission Secretariat. Changes should be communicated promptly.</li> <li>• COMESA Competition Commission Secretariat to organize more capacity buildings for finance officers in the region to fill in capacity gaps.</li> <li>• COMESA Competition Commission Secretariat to regularly issue communiqués emphasizing the use of revenue to strengthen competition and consumer protection by member agencies.</li> <li>• COMESA Competition Commission to explore possibilities of establishing a minimum threshold of revenue due to member countries before sharing revenue with affected agencies.</li> <li>• Member agencies to nominate key contact persons for purposes of remittances.</li> <li>• NCA's to reconcile revenue remittances and communicate any discrepancies to COMESA Competition Commission Secretariat in good time.</li> <li>• COMESA Competition Commission Secretariat to share merger fees projections with the assumptions underpinning the same. This will inform the basis of NCA's estimations of revenue expected from CCC.</li> <li>• COMESA Competition Commission Secretariat to explore avenues of sharing fines and penalties revenue between CCC and among NCA's.</li> </ul>

Agency	Activity	Action point
		NCA's advised to explore ways to ensure rule 8(4) is complied with in their respective jurisdictions.
EACCA	EACCA administrative processes and procedures	<ul style="list-style-type: none"> <li>• Consider amendment of the EAC Competition Act, 2006 to address the identified gaps</li> <li>• Develop guidelines on market definition, exemptions, fines, and penalties to facilitate implementation of the Act; and</li> <li>• Develop a framework for information sharing between the EAC Competition Authority and Partner States to facilitate investigations of cross-border anti-competitive business practices.</li> </ul>

### **STRATEGIC GOAL THREE: VISIBILITY AND ORGANIZATIONAL SUSTAINABILITY**

#### **i. Information and Communication Technology**

The Authority continued to leverage ICT to ensure seamless operations and support service delivery to its stakeholders. Additionally, the Authority leveraged technology to align with the Government's vision of enhancing service delivery through digitization and automation of the Authority's critical processes.

##### **a. Digitalization Strategy**

The Authority developed a Digitalization Strategy whose aim is to enhance the adoption and innovative use of ICT for effective and efficient service delivery, ease its way of doing business, and collaborate on information needed for decision-making.

Tremendous progress in automation, digitizing, and digitalization of processes to enhance service delivery has been made in the recent past. This is through the automation of merger filing, and analysis, filling and reviewing of restrictive trade practices, consumer complaints, buyer power complaints, and service delivery complaints.

This strategy assessed the importance, and the current state, and identified the drivers of digitalization. Consequently, it enabled the Authority to come up with the requisite resource mobilization framework to undertake its digitalization activities.

##### **b. Enhanced ICT Infrastructure**

The Authority upgraded its data center by acquiring additional data processing and storage equipment to support the increased data generated from the automation of its functions. To safeguard digital assets from potential cybersecurity threats and actors, the Authority continued sensitizing the end users, monitoring and hardening the ICT infrastructure by maintaining firewall licenses as well as antiviruses for end-user devices and server protection. This was done in addition to the implementation of the aforementioned information security management system (ISO/IEC 27001:2022) requirements.

##### **c. Enhanced accessibility of services**

To enhance service delivery and enable the Public to seamlessly access the Authority's services, integration of the E-Filing Portal with the E-citizen platform through a single sign-on was undertaken in the reporting period. By onboarding its services to the E-citizen platform, the Authority's services could be accessed from anywhere, at any time, and using any device. Further, the Authority expects that the integration will increase the accessibility and visibility of its services.

**ii. Supply Chain Management**

The Authority maintained Access to Government Procurement Opportunities (AGPO) above the minimum 30% threshold, as prescribed by the Public Procurement and Asset Disposal Act, 2015, and Public Procurement and Asset Disposal Regulations, 2020. The Authority awarded 31% and 48% of its total procurement spending on tenders to special interest groups (Youth, Women & PWDs) and local content (LC), respectively, as per the tables below.

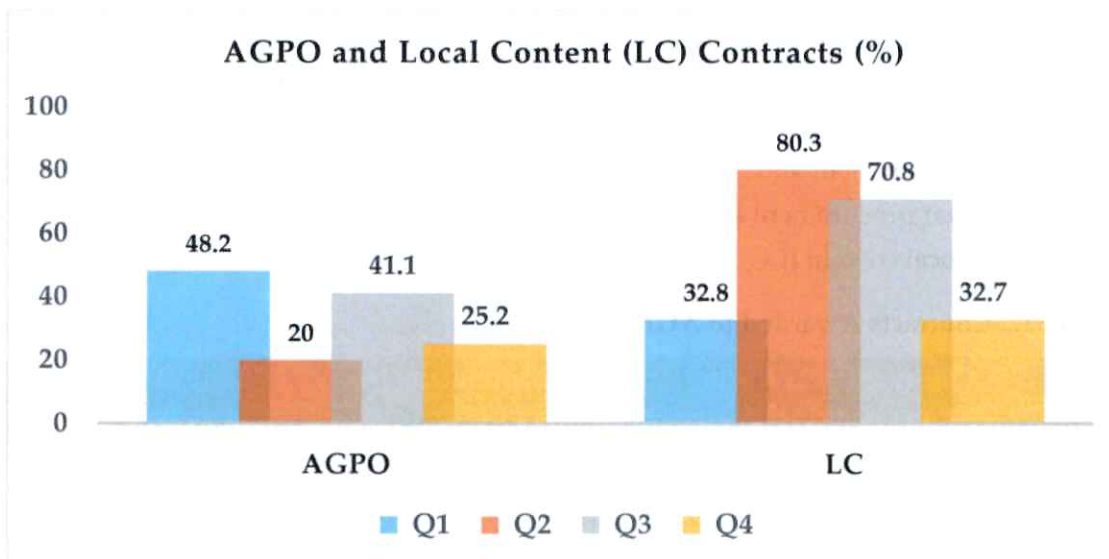
**Table 12: Contracts Awarded to AGPO**

S/N	Contracts awarded to AGPO (KES)	Total procurements per quarter (KES)	% of contracts awarded to AGPO group
Q1	20,616,645 .00	42,805,751.10	48
Q2	8,361,730.00	41,731,592.48	20
Q3	10,323,630.00	25,115,049.40	41
Q4	22,358,348 .00	88,627,563.41	25
<b>Totals</b>	<b>61,660,353.00</b>	<b>198,279,956.29</b>	<b>31</b>

**Table 13: Contracts Awarded to Local Content**

S/N	Contracts awarded to Local Content LC (KES)	Total procurements per quarter (KES)	% of contracts awarded to LC
Q1	14,030,231.00	42,805,751.10	33
Q2	33,502,894.00	41,731,592.48	80
Q3	17,794,276.00	25,115,049.40	71
Q4	29,019,408.81	88,627,563.41	33
<b>Totals</b>	<b>94,336,809.81</b>	<b>198,279,956.29</b>	<b>48</b>

**Figure 8: Percentage of contracts awarded to AGPO and Local Content by Quarter**



In adherence to the good governance tenets of transparency and accountability, the Authority published its tenders and contracts in the Public Procurement Information Portal (PPIP). Further, contracts awarded under Local Content (Buy Kenya Build Kenya) and AGPO were transmitted to the State Department of Industrialization & Enterprises Development in the Ministry of Investment, Trade and Industry, and The National Treasury, respectively, in compliance with PPDA, 2015 and Regulations, 2020.

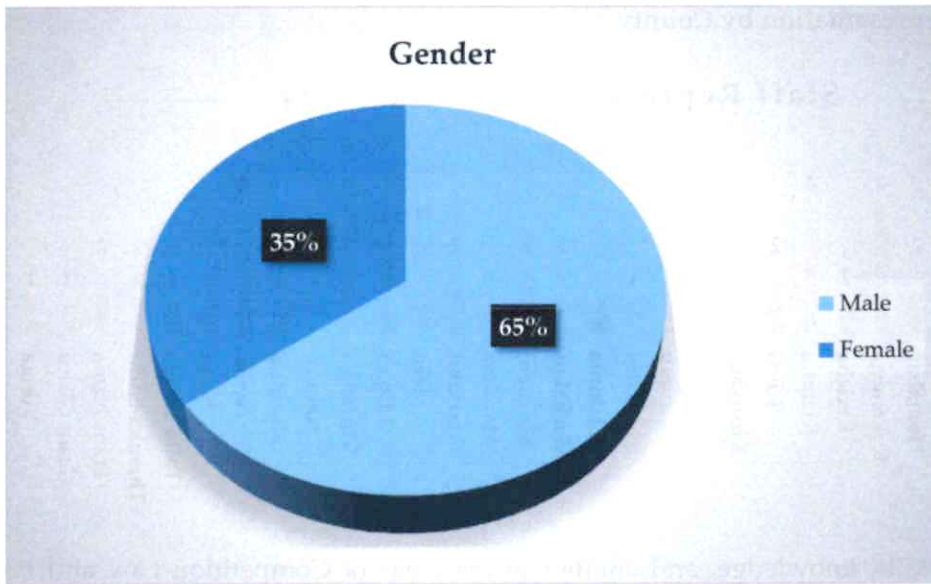
### iii. Human Capital

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

The Authority continued to enhance capacity through the acquisition of talent to effectively deliver on its mandate. During the year under review, three (3) positions were competitively filled i.e. a Human Resources and Administration Officer, an Internal Auditor, and a Driver.

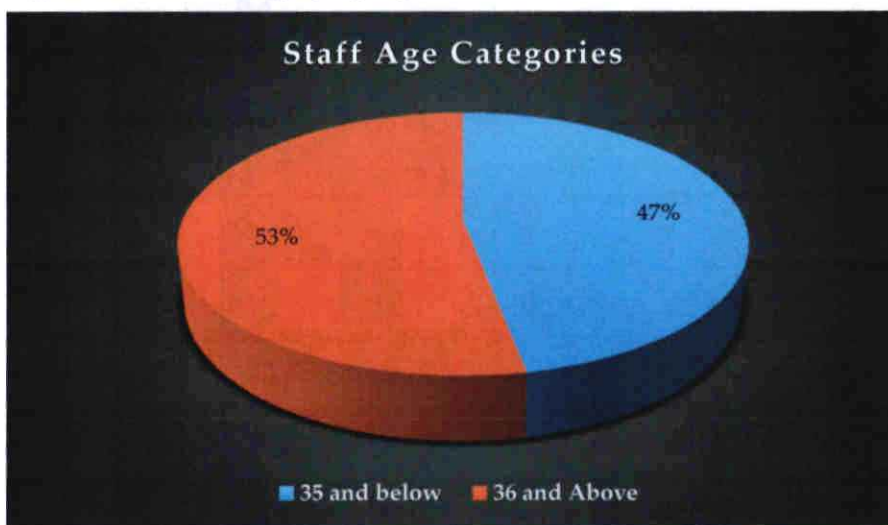
The current total staff number is seventy-one (71); this is comprised of forty-six (46) male and twenty-five (25) female employees. This staff gender distribution complies with the Constitutional two-thirds rule as per the figure below;

**Figure 9: Staff Gender Representation**



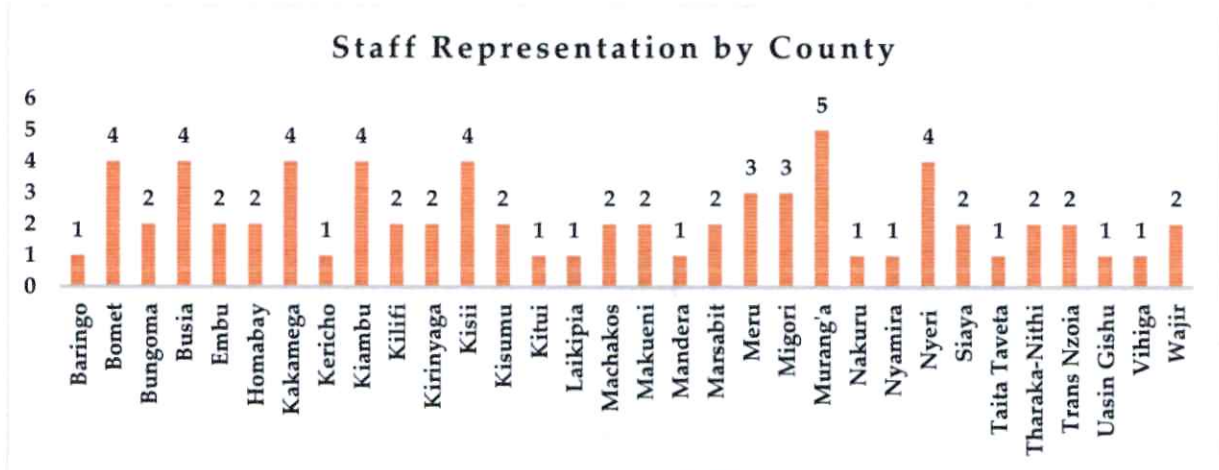
The Authority 's staff establishment is comprised of personnel in various age bands, ensuring that that the organization has a good mix of knowledge, skills, and experience to undertake its mandate. The staff members in the youth bracket (35 years and below) make up 47% of the total Authority staff.

Figure 10: Staff Category by Age



The Authority staff composition complied with the Constitutional (Article 10) requirement on regional diversity as enshrined in Article 10 as per Figure 11 below;

**Figure 11: Staff Representation by County**



To enhance staff skills, knowledge, and abilities in the areas of Competition Law and Policy, Consumer Protection, Management, and Leadership amongst other technical areas, the Authority collaborated with various development partners as highlighted below;

**Figure 12: Staff Training**



The Authority's members of staff were facilitated to attend various training that included workshops and conferences, both locally and internationally to enhance technical and behavioural competencies, and learning best practices in various jurisdictions. The Authority also prioritized its staff members' good standing with the professional associations by facilitating them to attend Continuous Professional Development training. This supported the Authority's efforts toward deepening of skills, succession planning, effective management, and career progression.

The Authority continued to operate the one-year apprenticeship programme (Young Professional Programme) with the aim of building capacity on the Competition and Consumer Protection Law in the labour market. Towards this, five (5) Master Degree holders with a bias in Law, Economics, or Business-related fields and aged thirty-five (35) years and below, were engaged on a rotational basis across various technical departments.

Further, the Authority engaged ten (10) University Graduates joining the labour market with a view of exposing them to a real work environment to enhance their skillsets and employability. This is in support of the government's agenda of equipping the youth with requisite skills.

The percentage of PWDs in the workforce stood at 5.6%, which is above the 5% requirement as set out by the National Council for Persons with Disability (NCPWD). The Authority encourages qualified PWDs to apply for job vacancies through the NCPWD employment portal hosted by FUZU.

The Authority continued to implement the following staff retention and motivation initiatives;

- Conducted various capacity-building initiatives in collaboration with key partners to equip staff with the requisite competencies to achieve its mandate;
- Facilitated a readiness for retirement training for its staff aged 55 and above;
- Issuance of staff mortgage and car loan benefits;
- Implementation of various staff recognition programs to reward outstanding performance; and
- Continued with the provision of a comprehensive medical scheme for staff and their families, as well as undertaking annual medical wellness programs geared towards enhancing the psycho-social wellness of employees.

### **Statutory Compliance Activities**

In compliance with statutory requirements and enhancing employee welfare, the Authority continues to implement the workplace policies championed by the various standing committees as follows;

**Table 14: Standing Committees**

S/No.	Committee	Objective	Activities
1.	HIV & AIDS	To mainstream HIV & AIDS by creating awareness among staff members and stakeholders	<ul style="list-style-type: none"> <li>Organized a corporate wellness day where staff members were sensitized on HIV &amp; AIDS and non-communicable diseases and offered voluntary counseling and testing</li> <li>Distributed 800 free condoms within the Authority's premises for staff members and other stakeholders</li> <li>Distributed over 2,880 condoms and created awareness of HIV and AIDS to members of the Public in Machakos, Kajiado, Embu, and Murang'a counties.</li> <li>Participated in the World's AIDS Day on 1<sup>st</sup> December 2023</li> </ul>
2.	Environmental Conservation and Sustainability	To ensure and enhance environmental conservation and sustainability	Planted 12,600 trees in Elgeyo-Marakwet, Machakos, Bomet and Kitui counties.
3.	National Cohesion Values and Principles of Governance	To promote National Cohesion, values, and principles of Governance in the Authority and to the general public	<ul style="list-style-type: none"> <li>Carried out sensitizations to the Board all staff members with a view of promoting adoption of national cohesion values and principles of good governance.</li> <li>Sensitized senior county government officials from Kiambu, Murang'a, Machakos, Kajiado, and Nairobi on national cohesion, values, and principles of governance.</li> </ul>

S/No.	Committee	Objective	Activities
4.	Disability Mainstreaming	<ul style="list-style-type: none"> <li>Mainstream disability in the workplace and ensure accessibility and inclusivity</li> <li>Promote the inclusion of PWDs, for both members of staff and external stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>The Authority has four (4) staff members who are Persons with Disability out of a total of seventy-one (71) employees. This translates to 5.6% of the Authority's staff establishment compared to the 5.0% requirement of the NCPWD.</li> <li>The Authority conducted an accessibility audit in collaboration with NCPWD</li> <li>Authority staff were sensitized on Disability Mainstreaming as part of the Authority induction programme.</li> <li>Training of PWD staff to empower them with various skills and expose them accordingly.</li> </ul>
5.	Road Safety	Mainstream road safety issues within the Authority in line with NTSA guidelines.	<ul style="list-style-type: none"> <li>Sensitized staff members on road safety on different occasions, including over the festive period of 2023, the Easter period of 2024, the school opening period of January and May 2024, and during floods of Oct-Nov 2023 and March 2024.</li> <li>Acquired road safety equipment (lollipop signage) and personal protective equipment (reflector jackets) for sensitization of schools to boost the school's road safety initiatives.</li> <li>Sensitized new staff members on road safety as part of their induction</li> </ul>

S/No.	Committee	Objective	Activities
6.	Alcohol and Drug Abuse Prevention	Prevent alcohol and drug abuse in the Authority and by stakeholders	<ul style="list-style-type: none"> <li>Sensitized county officials in five (5) counties namely Nairobi, Kajiado, Machakos, Kiambu, and Murang'a, on Alcohol and Drug Abuse Prevention from 11th - 15th March, 2024.</li> <li>Sensitized new staff members on the workplace policy on alcohol and drug abuse as part of their induction.</li> </ul>

#### iv. Visibility and Corporate Image

The Authority identified awareness creation activities as critical in enhancing knowledge about its mandate among stakeholders in a bid to create a competition culture, enhance consumer welfare in our economy and bolster compliance with the Act. To promote stakeholder engagement, various activities meant to articulate the enforcement and implementation of the Act were undertaken. During the review period, the Authority published all its determinations on the Website and other social media platforms, clearly articulating the reasoning behind each decision. This was aimed at increasing the transparency of our processes and ensuring that we remain accountable to our stakeholders.

Stakeholders were apprised of enforcement interventions through the issuance and publicizing of various statements, orders, press releases, opinion pieces, and activities through new media channels such as X (Twitter), LinkedIn, and YouTube as highlighted in the table below;

**Table 15: Publications**

TITLE	AUTHOR	LINK
<b>Opinion Pieces</b>		
Fair markets key to food security	Dr. Adano Wario & Carin Smaller	<a href="https://www.businessdailyafrica.com/bd/opinion-analysis/columnists/fair-markets-key-to-food-security--4621234">https://www.businessdailyafrica.com/bd/opinion-analysis/columnists/fair-markets-key-to-food-security--4621234</a>
Enhancing Consumer Welfare in Digital Platforms	Ninette Mwarania & Cecilia Kyenze	<a href="https://www.cak.go.ke/enhancing-consumer-welfare-digital-platforms">https://www.cak.go.ke/enhancing-consumer-welfare-digital-platforms</a>

TITLE	AUTHOR	LINK
Every Project is an Opportunity to Learn, Unlearn, and Relearn: My Take on the 2024 ICN Advocacy Workshop	Ninette Mwarania	<a href="https://www.cak.go.ke/every-project-opportunity-learn-unlearn-and-relearn-my-take-2024-icn-advocacy-workshop">https://www.cak.go.ke/every-project-opportunity-learn-unlearn-and-relearn-my-take-2024-icn-advocacy-workshop</a>
Promoting Consumer Welfare through the implementation of the competition policy	Ninette Mwarania	<a href="https://www.cak.go.ke/promoting-consumer-welfare-through-implementation-competition-policy">https://www.cak.go.ke/promoting-consumer-welfare-through-implementation-competition-policy</a>
Students and teachers are transferable assets in a merger transaction	Mugambi Mutegi	<a href="https://www.cak.go.ke/students-and-teachers-are-transferable-assets-merger-transaction">https://www.cak.go.ke/students-and-teachers-are-transferable-assets-merger-transaction</a>
Mainstreaming competition law in legal training for effective representation	Dr. Priscilla Njako	<a href="https://www.cak.go.ke/mainstreaming-competition-law-legal-training-key-effective-representation">https://www.cak.go.ke/mainstreaming-competition-law-legal-training-key-effective-representation</a>
The place of competition agencies in the transition to a circular economy	Ninette Mwarania	<a href="https://www.cak.go.ke/place-competition-agencies-transition-circular-economy">https://www.cak.go.ke/place-competition-agencies-transition-circular-economy</a>
<b>Other Publications</b>		
4 Press Releases & 3 Speeches	The Authority	<a href="https://www.cak.go.ke/information-center/Speeches-Press-Releases">https://www.cak.go.ke/information-center/Speeches-Press-Releases</a>
Competition and Consumer Protection Law Digest	The Authority	<a href="https://www.cak.go.ke/sites/default/files/2024-02/cak_competition_and_consumer_protection_law_digest.pdf">https://www.cak.go.ke/sites/default/files/2024-02/cak_competition_and_consumer_protection_law_digest.pdf</a>
14 Determinations Published	The Authority	<a href="https://www.cak.go.ke/information-center/CAK-latest-determinations">https://www.cak.go.ke/information-center/CAK-latest-determinations</a>
6 IEC Videos Produced	The Authority	<a href="https://www.youtube.com/@competitionauthorityofkenya2933/videos">https://www.youtube.com/@competitionauthorityofkenya2933/videos</a>
3 Podcasts Produced	The Authority	<ul style="list-style-type: none"> <li>Understanding Buyer Power <a href="https://mwangocapital.substack.com/p/30-12-2023-understanding-buyer-power?utm_source=publication-search">https://mwangocapital.substack.com/p/30-12-2023-understanding-buyer-power?utm_source=publication-search</a></li> <li>Enhancing Consumer Experience on Online Delivery Platforms</li> </ul>

TITLE	AUTHOR	LINK
		<p><a href="https://mwangocapital.substack.com/p/27-05-2024-enhancing-consumer-experience-online">https://mwangocapital.substack.com/p/27-05-2024-enhancing-consumer-experience-online</a></p> <ul style="list-style-type: none"> <li>Unmasking Cartels <a href="https://mwangocapital.substack.com/p/21-06-2024-unmasking-cartels">https://mwangocapital.substack.com/p/21-06-2024-unmasking-cartels</a></li> </ul>
<p><b>Appeared in the Press over 150 times.</b></p>	<p>Legacy &amp; New Media</p>	<ul style="list-style-type: none"> <li>Nine steel manufacturers slapped with record Sh338.8M fine for market distortion <a href="https://ntvkenya.co.ke/business/nine-steel-manufacturers-slapped-with-record-sh338-8m-fine-for-market-distortion-price-collusion/">https://ntvkenya.co.ke/business/nine-steel-manufacturers-slapped-with-record-sh338-8m-fine-for-market-distortion-price-collusion/</a></li> <li>Competition Authority of Kenya's KES 338.8M fine on 9 steel manufacturers for market distortion is the authority's largest sanction since inception, dwarfing the KES 66.0M penalty to 4 paint firms in 2021 <a href="https://x.com/ambokojh/status/1694284979348398204?s=48&amp;t=K5w1uEWSKonTnYEvg4DhvA">https://x.com/ambokojh/status/1694284979348398204?s=48&amp;t=K5w1uEWSKonTnYEvg4DhvA</a></li> <li>Competition tribunal upholds KES 7 million fine slapped on Makini School. <a href="https://www.businessdailyafrica.com/bd/corporate/competition-tribunal-upholds-sh7m-fine-slapped-on-makini-school-4373096">https://www.businessdailyafrica.com/bd/corporate/competition-tribunal-upholds-sh7m-fine-slapped-on-makini-school-4373096</a></li> <li>Watchdog probes market fixing among makers of animal feeds. <a href="https://www.standardmedia.co.ke/business/business/article/2001482642/watchdog-probes-market-fixing-among-makers-of-animal-feeds">https://www.standardmedia.co.ke/business/business/article/2001482642/watchdog-probes-market-fixing-among-makers-of-animal-feeds</a></li> <li>Consumer Protection: Consumer International Global Congress gets underway Congress convened by the</li> </ul>

TITLE	AUTHOR	LINK
		<p>Competition Authority of Kenya.  <a href="https://www.facebook.com/share/v/ErkPGwg8zzog494c/?mibextid=gik2fB">https://www.facebook.com/share/v/ErkPGwg8zzog494c/?mibextid=gik2fB</a></p> <ul style="list-style-type: none"> <li>• Global meeting opens in Kenya to promote consumer rights.  <a href="https://www.thestar.com.my/news/world/2023/12/07/global-meeting-opens-in-kenya-to-promote-consumer-rights">https://www.thestar.com.my/news/world/2023/12/07/global-meeting-opens-in-kenya-to-promote-consumer-rights</a></li> <li>• The 2024 International Competition Network Advocacy Workshop Kicks off in Nairobi <a href="https://www.kenyaleo.co.ke/the-2024-international-competition-network-advocacy-workshop-kicks-off-in-nairobi/">https://www.kenyaleo.co.ke/the-2024-international-competition-network-advocacy-workshop-kicks-off-in-nairobi/</a></li> </ul>

**Table 16: Summary of Performance against Predetermined Objectives for FY 2023/24**

Strategic Goal	Objective	Key Performance Indicators	Target	Achievements	Remarks
<b>Delivering Effective Enforcement</b>	To reform the Merger Analysis Process to Minimize Financial Burden on Businesses	% of Merger Notifications finalized	100	93	7% carried forward to the FY 2024/25
	To Enhance Deterrence of Unfair Market Conduct to Safeguard Access to Markets and Consumers	No. of ABP cases finalized	60	51	Occasioned by budgetary constraints
		No. of sectors sensitized	3	3	<ul style="list-style-type: none"> <li>• Manufacturing</li> <li>• Insurance</li> <li>• Retail</li> </ul>
	Increase detection and take measures to address misleading and unfair practices that harm consumers	% of consumer cases finalized	70	57	Occasioned by delay in submission of the requested information by players and budgetary constraints
	To enhance deterrence of anti-competitive practices for sustained consumer welfare	% of cases concluded	100	42	Occasioned by delay in submission of the requested information by players
	To entrench the Authority as a Centre for Competition and Consumer Protection Law	No. of advocacy engagements with competition and consumer protection law scholars, researchers, Economists, and practitioners	3	19	Examples – County Sensitization Forums, Case Law Digest, Opinion Pieces, conferences, workshops,



Strategic Goal	Objective	Key Performance Indicators	Target	Achievements	Remarks
					World Consumer Rights Day
<b>Research &amp; Advocacy</b>	To advance knowledge of sectoral and emerging markets	No. of research reports	3	5	<ul style="list-style-type: none"> <li>• Impact assessment</li> <li>• Food delivery and grocery platforms study</li> <li>• Manufacturing sector study</li> <li>• Agro-processing study</li> <li>• Animal feeds market inquiry</li> </ul>
	To Enhance Effective Advocacy	No. of conferences on Competition and Consumer Protection	1	2	<ul style="list-style-type: none"> <li>• ICN Advocacy Workshop</li> <li>• Consumers International Congress</li> </ul>
<b>Visibility and Organizational Sustainability</b>	To enhance institutional risk management practices, business continuity, and implementation of standards	Re-certification to ISO 9001:2015 Quality Management Standard	1	2	The Authority is scheduled for recertification in January 2025



**FINANCIAL STATEMENTS FOR THE FY2023/24**



## REPORT OF THE DIRECTORS

The Directors submit their report together with the audited financial statements for the year ended 30<sup>th</sup> June 2024, which show the state of the Competition Authority's affairs.

### i) Principal activities

The principal activities of the Authority continued to be regulation of market structure and conduct and consumer protection.

### ii) Results

The results of the Authority for the year ended June 30, 2024, are set out on page 104

### iii) Directors

The members of the Board of Directors who served during the year are shown on pages 17 - 25.

### iv) Surplus Remission

In accordance with Regulation 219 (2) of the Public Financial Management (National Government) Regulations 2015, the Authority is required to remit into the Consolidated Fund, 90% of its surplus funds reported in the audited financial statements after the end of each financial year. The Authority has made a provision of Kshs. 6,098,153 for remission (FY 2022/23 Ksh. 13,112,202) to the Consolidated Fund.

### v) Auditors

The Auditor General is responsible for the statutory audit of the Authority in accordance with Article 229 of the Constitution of Kenya and the Public Audit Act 2015.

By Order of the Board



**Dr. Adano W. Roba**  
**Secretary to the Board**

## STATEMENT OF DIRECTORS' RESPONSIBILITIES

Section 81 of the Public Finance Management (PFM) Act No.18 of 2012 and section 14 of the State Corporations Act Cap 446, require the Directors to prepare financial statements in respect of the Authority, which give a true and fair view of the state of affairs of the Authority at the end of the financial year and the operating results of the Authority for that year. The Directors are also required to ensure that the Authority keeps proper accounting records which disclose with reasonable accuracy the financial position of the Authority. The Directors are also responsible for safeguarding the assets of the Authority.

The Directors are responsible for the preparation and presentation of the Authority's financial statements, which give a true and fair view of the state of affairs of the Authority for and as at the end of the financial year ended 30<sup>th</sup> June, 2024. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Authority; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Authority; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

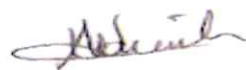
The Directors accept responsibility for the Authority's financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act, 2012 and the State Corporations Act. The Directors are of the opinion that the Authority's financial statements give a true and fair view of the state of Authority's transactions during the financial year ended 30<sup>th</sup> June, 2024, and of the Authority's financial position as at that date. The Directors further confirm the completeness of the accounting records maintained for the Authority, which have been relied upon in the preparation of the Authority's financial statements as well as the adequacy of the systems of internal financial control.

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

The Authority's financial statements were approved by the Board on 20<sup>th</sup> August, 2024 and signed on its behalf by



Shaka Kariuki  
Board Chairman



Dr. Adano W. Roba  
Ag. Director General

# REPUBLIC OF KENYA

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OFFICE OF THE AUDITOR-GENERAL

*Enhancing Accountability*

HEADQUARTERS  
Anniversary Towers  
Monrovia Street  
P.O Box 30084-00100  
NAIROBI

## REPORT OF THE AUDITOR-GENERAL ON COMPETITION AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2024

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### PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in the Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure the Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, risk management environment and internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An Unmodified Opinion is issued when the Auditor-General concludes that the financial statements are fairly presented in accordance with the applicable financial reporting framework. The Report on Financial Statements should be read together with the Report on Lawfulness and Effectiveness in the Use of Public Resources, and the Report on Effectiveness of Internal Controls, Risk Management, and Governance.

The three parts of the report aim to address the Auditor-General's statutory roles and responsibilities as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012, and the Public Audit Act, 2015. The three parts of the report when read together constitute the report of the Auditor-General.

### REPORT ON THE FINANCIAL STATEMENTS

#### Opinion

I have audited the accompanying financial statements of Competition Authority of Kenya set out on pages 104 to 143, which comprise the statement of financial position as at 30 June, 2024, and the statement of financial performance, statement of changes in net assets, statement of cash flows and the statement of comparison of budget and actual

amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Competition Authority of Kenya as at 30 June, 2024, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Competition Act, 2010 and the Public Finance Management Act, 2012.

### **Basis for Opinion**

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Competition Authority of Kenya Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### **Key Audit Matters**

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

### **Other Information**

The Directors responsible for the other information set out on page (6) to (102) which comprise of Corporate Information, Environmental and Sustainability Report, Chairman Statement, Director-General Statement, Corporate Governance and Activities of the Board, Performance Against Predetermined Strategic Goals, Report of Directors and the Statement of Directors' Responsibilities. The other information does not include the financial statements and my auditor's report thereon.

In connection with my audit on Competition Authority financial statements, my responsibility is to read the other information and in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If based on the work I have performed, I conclude that there is a material misstatement of this Other Information, I am required to report that fact. I have nothing to report in this regard.

My Opinion on the financial statements does not cover the Other Information and accordingly, I do not express an audit opinion or any form of assurance conclusion thereon.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### **Conclusion**

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the effects of the matter described in the Basis for Conclusion on Lawfulness and Effectiveness in the Use of Public Resources section of my report, I confirm that nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

### **Basis for Conclusion**

#### **Unauthorized Board Meetings**

The statement of financial performance reflects board expenses of Kshs.19,191,881 which includes an amount of Kshs.6,798,633 in respect of sitting and lunch allowances as disclosed in Note 13 to the financial statements. However, it was noted that the board held thirteen (13) full board sittings, fifteen (15) human resource committee sittings and eight (8) technical and strategy committee sittings. This was contrary to the Guidelines issued through Circular No.OP/CAB/ 9 1A dated 11 March, 2020 that restrict the number of board and board committees meetings to six (6). Management did not provide evidence of approval of the extra meetings from the Cabinet Secretary as required by the circular.

In the circumstances, Management was in breach of the law.

The audit was conducted in accordance with ISSAIs 3000 and 4000. The Standards require that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements comply in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

## REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### **Conclusion**

As required by Section 7(1)(a) of the Public Audit Act, 2015 and based on the audit procedures performed, I confirm that nothing has come to my attention to cause me to believe that internal controls, risk management and governance were not effective.

### **Basis for Conclusion**

The audit was conducted in accordance with ISSAIs 2315 and 2330. The Standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal controls, risk Management and overall governance were operating effectively in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

## **Responsibilities of Management and the Board of Directors**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis) and for maintaining effective internal controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless Management is aware of the intention to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

The Board of Directors is responsible for overseeing the Authority's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to overall governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

## **Auditor-General's Responsibilities for the Audit**

My responsibility is to conduct an audit of the financial statements in accordance with Article 229(4) of the Constitution, Section 35 of the Public Audit Act, 2015 and the International Standards for Supreme Audit Institutions (ISSAIs). The standards require that, in conducting the audit, I obtain reasonable assurance about whether the financial statements as a whole are free from material misstatements, whether due to fraud or error and to issue an auditor's report that includes my opinion in accordance with Section 48 of the Public Audit Act, 2015. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with IFPP will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In conducting the audit, Article 229(6) of the Constitution also requires that I express a conclusion on whether or not in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities

that govern them and that public resources are applied in an effective way. In addition, I consider the entity's control environment in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1) (a) of the Public Audit Act, 2015.

Further, I am required to submit the audit report in accordance with Article 229(7) of the Constitution.

Detailed description of my responsibilities for the audit is located at the Office of the Auditor-General's website at: <https://www.oagkenya.go.ke/auditor-generals-responsibilities-for-audit/>. This description forms part of my auditor's report.

  
FCPA Nancy Gathungu, SBS  
AUDITOR-GENERAL

Nairobi

23 December, 2024

**STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2024**

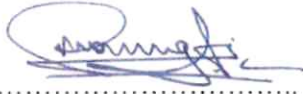
	Notes	2023/2024 Kshs	2022/2023 Kshs
<b>Revenue from Non-Exchange Transactions</b>			
Transfers from other Governments Entities	6	410,409,068	346,229,039
Levies, Fines, and Penalties	7	33,059,327	15,652,071
<b>Total Revenue from Non-Exchange Transactions</b>		<b>443,468,395</b>	<b>361,881,110</b>
<b>Revenue from Exchange Transactions</b>			
Rendering of Services	8	149,729,215	158,710,781
Finance Income	9	17,148,826	14,717,953
Other Income	10	1,086,244	1,445,155
<b>Total Revenue from Exchange Transactions</b>		<b>167,964,285</b>	<b>174,873,889</b>
<b>Total Revenue</b>		<b>611,432,680</b>	<b>536,754,999</b>
<b>Expenses</b>			
Use of Goods and Services	11	98,864,741	96,546,994
Employee Costs	12	284,678,764	281,735,106
Board Expenses	13	19,191,881	15,996,436
Depreciation and Amortization Expense	14	27,153,082	21,013,794
Policy, Risk, Competition & Consumer Protection Expenses	15	107,132,695	87,371,640
Repairs and Maintenance	16	26,449,619	21,786,015
Contracted Services	17	14,710,221	9,129,308
<b>Total Expenses</b>		<b>578,181,004</b>	<b>533,579,293</b>
<b>Other Gains (Losses)</b>			
Gain (Loss) on Sale of Assets	18	(13,315,158)	(991,837)
Provision for Unrealised Forex Gain (Loss)	34	(13,160,793)	12,385,245
<b>Surplus (Deficit) for the Year</b>		<b>6,775,725</b>	<b>14,569,114</b>
Remission to National Treasury	32	6,098,153	13,112,203
<b>Net Surplus for the Year</b>		<b>677,573</b>	<b>1,456,911</b>

The notes set out on pages 112 to 142 form an integral part of these Financial Statements.

Competition Authority of Kenya

Annual Report and Financial Statements For the year ended 30<sup>th</sup> June, 2024

The financial statements set out on pages 104 to 111 were signed on behalf of the Board of Directors on 20<sup>th</sup>, August 2024 by:



.....  
Shaka Kariuki  
Board Chairman



.....  
CPA Ambrose Ageng'a  
Head of Finance  
ICPAK No.3461



.....  
Dr. Adano W. Roba  
Ag. Director General

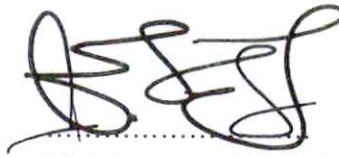
**STATEMENT OF FINANCIAL POSITION AS AT 30<sup>TH</sup> JUNE 2024**

	Notes	2023/2024 Kshs	2022/2023 Kshs
<b>Assets</b>			
<b>Current Assets</b>			
Cash and Cash equivalents	19	328,993,997	571,984,680
Receivables from Exchange Transactions	20	28,273,906	22,085,226
Inventories	21	1,871,794	1,263,109
<b>Total Current Assets</b>		<b>359,139,698</b>	<b>595,333,015</b>
<b>Non-Current Assets</b>			
Property, Plant and Equipment	22	285,876,330	49,593,274
Intangible Assets	23	26,189,175	28,625,815
Receivables from Exchange Transactions	20	227,182,943	185,952,015
Car and Mortgage Schemes Bank Balance	24	112,837,310	153,042,328
<b>Total Non- Current Assets</b>		<b>652,085,758</b>	<b>417,213,432</b>
<b>Total Assets</b>		<b>1,011,225,455</b>	<b>1,012,546,448</b>
<b>Liabilities</b>			
<b>Current Liabilities</b>			
Trade and other Payables	25	52,508,230	30,390,904
Current Provisions	26	19,156,736	7,102,033
Deferred Income	27	40,816,485	46,485,673
Employee Benefit Obligation	28	3,230,820	37,274,640
Surplus Payable to National Treasury	32	6,098,153	13,112,202
<b>Total Current Liabilities</b>		<b>121,810,424</b>	<b>134,365,452</b>
<b>Non-Current Liabilities</b>			
Deferred Income	27	350,902,354	349,108,483
Non-Current Employee Benefit Obligation	28	15,158,567	6,395,974
<b>Total Non- Current Liabilities</b>		<b>366,060,921</b>	<b>355,504,458</b>
<b>Total Liabilities</b>		<b>487,871,345</b>	<b>489,869,910</b>
<b>Net Assets</b>		<b>523,354,110</b>	<b>522,676,537</b>
Car and Mortgage Schemes	29	416,886,181	416,886,181
Accumulated Surplus	30	53,086,109	52,408,537
Capital Fund	31	53,381,820	53,381,820
<b>Total Net Assets</b>		<b>523,354,110</b>	<b>522,676,538</b>
<b>Total Net Assets and Liabilities</b>		<b>1,011,225,455</b>	<b>1,012,546,448</b>

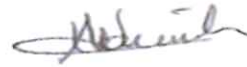
The financial statements set out on pages 104 to 111 were signed on behalf of the Board of Directors on 20<sup>th</sup>, August 2024 by:



Shaka Kariuki  
Board Chairman



CPA Ambrose Ageng'a  
Head of Finance  
ICPAK No.3461



Dr. Adano W. Roba  
Ag. Director General

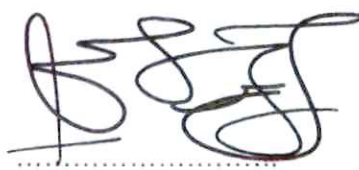
**STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2024**

	Kshs	Kshs	Kshs	Kshs
	Car and Mortgage Scheme	Accumulated Surplus	Capital Fund	Total Fund
<b>As at July 1, 2022</b>	<b>416,886,182</b>	<b>50,951,625</b>	<b>53,381,820</b>	<b>521,219,627</b>
Surplus for the year	-	1,456,911	-	1,456,911
<b>As at June 30, 2023</b>	<b>416,886,182</b>	<b>52,408,536</b>	<b>53,381,820</b>	<b>522,676,538</b>
<b>As at July 1, 2023</b>	<b>416,886,182</b>	<b>52,408,536</b>	<b>53,381,820</b>	<b>522,676,538</b>
Surplus for the year	-	677,573	-	677,573
<b>As at June 30, 2024</b>	<b>416,886,182</b>	<b>53,086,109</b>	<b>53,381,820</b>	<b>523,354,111</b>

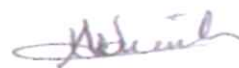
The financial statements set out on pages 104 to 111 were signed on behalf of the Board of Directors on 20<sup>th</sup>, August 2024 by:



Shaka Kariuki  
Board Chairman



CPA Ambrose Ageng'a  
Head of Finance  
ICPAK No.3461



Dr. Adano W. Roba  
Ag. Director General

**STATEMENT OF CASHFLOWS FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2024**

	Notes	2023/2024	2022/2023
		Kshs	Kshs
<b>Cash flows from operating activities</b>			
<b>Receipts</b>			
Transfers from other Governments Entities	6	410,409,068	346,229,039
Levies, Fines, and Penalties	7	33,059,327	15,652,071
Rendering of Services	8	149,729,215	158,710,781
Finance Income	9	17,148,826	14,717,953
Other Income	10	1,086,244	1,445,155
<b>Total Receipts</b>		<b>611,432,680</b>	<b>536,754,999</b>
<b>Payments</b>			
Use of Goods and Services	11	98,864,741	96,546,994
Employee Costs	12	284,678,764	281,735,106
Board Expenses	13	19,191,881	15,996,436
Policy, Risk, Competition & Consumer Protection Expenses	15	107,132,695	87,371,640
Repairs and Maintenance	16	26,449,619	21,786,015
Contracted Services	17	14,710,221	9,129,308
<b>Total Payments</b>		<b>551,027,921</b>	<b>512,565,499</b>
<b>Net Cash Flows from/ (used in) Operating Activities</b>	33	<b>44,436,175</b>	<b>342,387,386</b>
<b>Cash Flows from Investing Activities</b>			
Purchase of PPE and Intangible assets	22	(274,490,868)	(12,675,740)
Proceeds from sale of PPE/Insurance Compensation Received	18	176,214	698,155
<b>Net Cash Flows from/(used in) Investing Activities</b>		<b>(274,314,654)</b>	<b>(11,977,586)</b>
<b>Cash Flows from Financing Activities</b>			
Surplus Paid to National Treasury	32	(13,112,203)	-
<b>Net Cash Flows from Financing Activities</b>		<b>(13,112,203)</b>	<b>-</b>
<b>Net Increase/(Decrease) in Cash &amp; Cash Equivalents</b>		<b>(242,990,683)</b>	<b>330,409,800</b>
Cash and Cash Equivalents at 1 July	19	571,984,680	241,574,880
<b>Cash and Cash Equivalents at 30 June</b>	19	<b>328,993,998</b>	<b>571,984,680</b>

**STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS FOR THE ENDED 30<sup>TH</sup> JUNE 2024**

	Original budget	Adjustments	Final budget	Actual on comparable basis	Performance difference	% of utilization
	Kshs	Kshs	Kshs	Kshs	Kshs	
	a	b	c=(a+b)	d	e=(c-d)	f=d/c*100
<b>Revenue</b>						
Transfers from Other Governments entities	387,100,000	-	387,100,000	410,409,068	23,309,068	106%
Levies, Fines and Penalties	47,000,000	-	47,000,000	33,059,327	(13,940,673)	70%
Rendering of Services	140,000,000	-	140,000,000	149,729,215	9,729,215	107%
Finance Income	10,000,000	-	10,000,000	17,148,826	7,148,826	171%
Other Income	3,000,000	-	3,000,000	1,086,244	(1,913,756)	36%
<b>Total Income</b>	<b>587,100,000</b>	<b>-</b>	<b>587,100,000</b>	<b>611,432,680</b>	<b>24,332,680</b>	<b>104%</b>
<b>Expenses</b>						
Use of Goods and Services	116,340,000	(15,750,000)	100,590,000	98,864,741	1,725,259	98%
Employee costs	296,520,000	2,650,000	299,170,000	284,678,764	14,491,236	95%
Board Expenses	17,000,000	2,300,000	19,300,000	19,191,881	108,119	99%
Depreciation & Amortization Expense	18,944,000	-	18,944,000	27,153,082	(8,209,082)	143%
Policy, Risk, Competition & Consumer Protection Expenses	102,300,000	5,100,000	107,400,000	107,132,695	267,305	100%
Repairs and Maintenance	24,200,000	2,500,000	26,700,000	26,449,619	250,381	99%
Contracted Services	11,796,000	3,200,000	14,996,000	14,710,221	285,779	98%
<b>Total Expenditure</b>	<b>587,100,000</b>	<b>-</b>	<b>587,100,000</b>	<b>578,181,004</b>	<b>8,918,997</b>	<b>98%</b>
<b>Surplus for the period</b>				<b>33,251,676</b>		

**Notes:**

- i. Other than the differed capital income recognized in the statement of financial performance and actual payments for the purchase of assets, there are no reconciling items to warrant a reconciliation between surplus as per statements of financial performance and comparison of budget and actual amounts.
  
- ii. An explanation of differences between actual and budgeted amounts (10% over/ under) have been provided in detail under note 39 as required by IPSAS 24.14

## NOTES TO THE FINANCIAL STATEMENTS

### 1. General Information

Competition Authority of Kenya is established by and derives its authority and accountability from Competition Act No. 12 of 2010. The Entity is wholly owned by the Government of Kenya and is domiciled in Kenya. The Entity's principal activity is to enhance the welfare of the people of Kenya by promoting and protecting effective competition in markets and preventing unfair and misleading market conduct.

### 2. Statement of Compliance and Basis of Preparation

The financial statements have been prepared on a historical cost basis except for the measurement at re-valued amounts of certain items of property, plant and equipment, marketable securities and financial instruments at fair value, impaired assets at their estimated recoverable amounts and actuarially determined liabilities at their present value. The preparation of financial statements in conformity with International Public Sector Accounting Standards (IPSAS) allows the use of estimates and assumptions. It also requires management to exercise judgement in the process of applying the Entity's accounting policies. The areas involving a higher degree of judgement or complexity, or where assumptions and estimates are significant to the financial statements, are disclosed in Note 5 of these financial statements.

The financial statements have been prepared and presented in Kenya Shillings, which is the functional and reporting currency of the Entity. The financial statements have been prepared in accordance with the PFM Act, the State Corporations Act (include any other applicable legislation), and International Public Sector Accounting Standards (IPSAS). The accounting policies adopted have been consistently applied to all the years presented.

### 3. Adoption of new and revised standards

#### a) New and amended standards and interpretations in issue effective in the year ended 30<sup>th</sup> June, 2024

The Authority did not early adopt any new or amended standards in the year ended 30<sup>th</sup> June, 2024.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

While amendments to IPSAS 13, IPSAS 21 and IPSAS 26 and IPSAS 17& 33 removing the transitional provisions have no impact of note to the Authority's financial Statements given the Authority's dealings does not ordinarily result in a significant portion of cash generating assets and the Authority is not a first time IPSAS adopter.

**b) New and amended standards and interpretations in issue but not yet effective in the year ended 30<sup>th</sup> June, 2024**

IPSAS 41 which became effective as from 1<sup>st</sup> January 2023 outlines the requirements for recognition and measurements of financial assets, financial liabilities and some contracts to buy or sell non-financial items. Financial instruments are initially recognized when the Authority becomes a party to the contractual provisions of the instruments and are classified into various categories depending on the type of the instrument. The basis of subsequent measurement is either amortized cost or fair value depending on the categorisation of the particular instrument.

However, adoption and application of IPSAS 41 had no significant qualitative and or quantitative impact on the Authority's financial statements for the year ended 30<sup>th</sup> June, 2024 given the reliance on direct government funding through exchequer to fund its operation. Financial instruments are not projected to form a significant part of the Authorities assets in the foreseeable future.

A summary of the significant accounting policies, which have been consistently applied in the preparation of these annual financial statements, are disclosed below.

**c) Early adoption of standards**

The Authority did not early adopt any new or amended standards in the financial year.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### 4. Summary of Significant Accounting Policies

#### a) Revenue Recognition

##### i) Revenue from non-exchange transactions

###### **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. To the extent that there is a related condition attached that would give rise to a liability to repay the amount, the amount is recorded in the statement of financial position and realised in the statement of financial performance over the useful life of the assets that has been acquired using such funds.

##### ii) Revenue from exchange transactions

###### **Merger filling fees**

This is an amount payable to the Authority by merging parties when filing for a merger in exchange for the Authority considering the application and granting approval with or without conditions as the case may be. The amount payable is graduated from **Ksh.1M-Ksh.4M** for turnover or asset base from **Ksh.1B-Ksh.50B** respectively whichever is higher.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

The Authority recognizes revenue from local merger filing fees by reference to the stage of completion when the outcome of the transaction can be estimated reliably. The stage of completion is measured by reference to labour hours incurred to date as a percentage of total estimated labour hours. Where the outcome cannot be measured reliably, revenue is recognized only to the extent that the expenses incurred are recoverable. The Authority's share of the Merger filing fees from COMESA Competition Commission is recognized when received.

### b) Budget information

The Authority is typically subject to budgetary limits in the form of appropriations or budget authorisations, which is given effect through authorising legislation. Public Finance Management Act No.18 of 2012 requires public entities to include in their reports information on whether resources were obtained and used in accordance with the legally adopted budget.

The original budget for FY 2023/24 was approved by the National Treasury on 30th June, 2022. Subsequent revisions or additional/reduced appropriations were made to the approved budget in accordance with specific approvals from the Authority's board.

The Entity's budget is prepared on a different basis to the actual income and expenditure disclosed in the financial statements. The financial statements are prepared on accrual basis using a classification based on the nature of expenses in the statement of financial performance, whereas the budget is prepared on a cash basis. The amounts in the financial statements were recast from the accrual basis to the cash basis and reclassified by presentation to be on the same basis as the approved budget.

A comparison of budget and actual amounts, prepared on a comparable basis to the approved budget, is then presented in the statement of comparison of budget and actual amounts. In addition to the basis difference, adjustments to amounts in the financial statements are also made for differences in the formats and classification schemes adopted for the presentation of the financial statements and the approved budget.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

A statement to reconcile the actual amounts on a comparable basis included in the statement of comparison of budget and actual amounts and the actuals as per the statement of financial performance has been presented under note 39 of these financial statements.

### c) Property Plant and equipment

The cost of an item of property, plant and equipment is recognized as an asset when;

- It is probable that future economic benefits or service potential associated with the item will flow to the Authority; and
- The cost can be measured reliably.

All property, plant and equipment are stated at cost less accumulated depreciation and impairment losses. Cost includes expenditure that is directly attributable to the acquisition of the items. When significant parts of property, plant and equipment are required to be replaced at intervals, the Authority recognizes such parts as individual assets with specific useful lives and depreciates them accordingly. Likewise, when a major inspection is performed, its cost is recognized in the carrying amount of the 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.

The useful lives of items of property, plant and equipment have been assessed as follows:

Item	Depreciation Method	Average Useful Life
Furniture and fixtures	Reducing balance	8 Years
Motor Vehicles	Reducing balance	4 Years
Office equipment	Reducing balance	8 Years
IT equipment		
Computer equipment	Reducing balance	3 Years

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

The depreciable amount of an asset is allocated on a systematic basis over its useful life. The Authority assesses at each reporting date whether there is any indication that the Authority's expectation about the residual value and the useful life of an asset have changed since the preceding reporting date. If any such indication exists, the Authority revises the expected useful life and/or residual value accordingly.

The change is accounted for as a change in an accounting estimate. The depreciation charge for each period is recognized in surplus or deficit. Items of property, plant and equipment are derecognized when disposed of or when there are no further economic benefits or service potential expected from the use of the asset.

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

### d) Leases

The Authority has a running operating lease agreement with the CBK Pension Towers for the provision of the office block that houses its Headquarters. Obligations arising out of the operating lease are recognised as an expense on a straight line basis over the lease term. The difference between the amounts recognized as an expense in the Statement of Financial Performance and the contractual payments are recognised as an operating lease liability or asset as appropriate.

### e) Intangible Assets

An intangible asset is recognized as an asset when;

- It is probable that future economic benefits or service potential associated with the item will flow to the Authority; and
- The cost or fair value can be measured reliably.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

Intangible assets are carried at cost less any accumulated amortisation and any impairment losses. The cost of intangible assets acquired in a non-exchange transaction is their fair value at the date of the exchange. The amortisation period and the amortisation method for intangible assets are reviewed at each reporting date.

The useful life of the intangible assets is assessed as either finite or indefinite. Reassessing the useful life of an intangible asset with finite useful life after it was classified as infinite is an indicator that the asset may have been impaired. As a result, the asset is tested for impairment and the remaining carrying amount is amortised over its useful life. Intangible assets are acquired.

Amortisation is provided to write down the intangible assets, on a reducing balance basis, to their residual values as follows:

Item	Depreciation Method	Average Useful Life
Computer software	Reducing balance	4 Years

### f) Inventories

Inventories are initially measured at cost except where inventories are acquired through a non-exchange transaction, then their cost are the fair value as at the date of acquisition. Inventories are recognized as an expense when deployed for utilization or consumption in the ordinary course of operations of the Authority.

### g) Provisions

Provisions are recognized when:

- The Authority has a present obligation (legal or constructive) as a result of a past event,
- It is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; and
- A reliable estimate can be made of the amount of the obligation.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

The amount of the provision is the best estimate of the expenditure expected to be required to settle the obligation at the reporting date. Where the Authority expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognized as a separate asset only when the reimbursement is virtually certain. The expense relating to any provision is presented in the statement of financial performance net of any reimbursement.

Provisions are reviewed at each reporting date and are adjusted to reflect the current best estimate and are reversed if it is no longer probable that an outflow of economic resources embodying economic benefits or service potential will be required, to settle the obligation. The details of the provisions made in preparing these Financial Statements are disclosed in note 26.

### **h) Contingent liabilities**

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

### **i) Contingent assets**

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

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### j) Nature and purpose of reserves

The Authority creates and maintains reserves in terms of specific requirements. As at 30<sup>th</sup> June, 2024, the Authority had accumulated reserves of Ksh. 54,402,318 consisting of surpluses arising from the excess of income over expenses in the Statement of Financial performance.

### k) Changes in Accounting policies and estimates

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

### l) Employee Benefits

The Authority operates a retirement benefit scheme for all its permanent and pensionable employees. Further an amount equivalent to 31% of basic salary has been set aside as gratuity for all employees on contract.

The provisions for employee entitlements to salaries and annual leave represent the amount which the Authority has a present obligation to pay as a result of employees' services provided for at the reporting date. The contribution towards employee pension scheme and staff gratuity for employees on contract are recognized in the statement of financial performance in the year in which the employees rendered their services to the Authority.

### m) Foreign Currency Transactions

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

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### n) Financial Assets and Liabilities

The Authority recognizes financial assets or liability in the statement of financial position only when it becomes a party to the contract giving rise to the asset or liability. On initial recognition, the asset or liability is measured using the fair value model. However, where the effect of discounting is immaterial, as is often the case due to the nature of Authority's operations, short term payables and receivables are measured at the original invoice amount. Subsequent recognition is based on the amortized cost model. The Authority derecognizes a financial asset/liability when the Authority's rights/obligations under the contracts creating a financial liability or asset expires or the Authority transfers its rights/obligations to a third party. Any residual right or obligation under such contracts is recognized as a separate asset/liability.

### o) Related Parties

The Authority regards a related party as a person or an entity with the ability to exert control individually or jointly, or to exercise significant influence over the Authority, or vice versa.

Members of key management and their close family members are regarded as related parties and comprise the Director General, members of the Authority's board and Managers. Other related parties include; The Competition tribunal and the parent Ministry; The National Treasury. Details of transactions with related parties are as disclosed in note 35.

### p) Cash and Cash Equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at various commercial banks at the end of the financial. The details of the Authority's cash balances are shown in note 19.

### q) Comparative Figures

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

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### r) Subsequent Events

Events after the reporting date are those events, both favourable and unfavourable, that occur between the reporting date and the date when the financial statements are authorised for issue. Subsequent events can be classified into two types:

- those that provide evidence of conditions that existed at the reporting date (adjusting events after the reporting date); and
- those that are indicative of conditions that arose after the reporting date (non-adjusting events)

The Authority will adjust the amounts recognised in the financial statements to reflect adjusting events after the reporting date once the event occurred. The Authority will disclose the nature of the event and an estimate of its financial effects or a statement that such estimate cannot be made in respect of all material non-adjusting events, where non-disclosure could influence the economic decisions of users taken on the basis of the financial statements.

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, 2024.

### 5. Significant judgements and sources of estimation uncertainty

In preparing annual financial statements in conformity with IPSAS management is required to make judgements, estimates and assumptions that affect the amounts of revenues, expenses, assets and liabilities represented in the annual financial statements and related disclosures at the end of the reporting period.

However, uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of the asset or liability affected in future periods. Significant judgements, estimates and assumptions include;

#### Estimates and assumptions

The key assumptions concerning the future and other key sources of estimation uncertainty at the reporting date that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are described below.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

The Authority based its assumptions and estimates on parameters available when the financial statements were prepared. However, existing circumstances and assumptions about future developments may change due to market changes or circumstances arising beyond the control of the Authority. Such changes are reflected in the assumptions when they occur as required by IPSAS 1.140.

### Useful lives and residual values

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

- The condition of the asset based on the assessment of experts engaged by the Authority
- The nature of the asset, its susceptibility and adaptability to changes in technology
- The nature of the processes in which the asset is deployed
- Availability of funding to replace the asset
- Changes in the market in relation to the asset

### Depreciation and amortisation

The Authority's management determines the estimated useful lives and related depreciation charges on the basis of the industry norm and increases the depreciation charge where useful lives are less than previously estimated.

#### 6. a) Transfers from Ministries, Departments and Agencies

		Amount recognized in Statement of financial performance	Capital grant received from Exchequer	Amount expensed during the year	Total grant income during the year	
		Ksh.	Ksh.	Ksh.	Ksh.	Ksh.
					2023/2024	2022/2023
The	National	410,409,068	27,000,000	27,309,068	410,100,000	652,100,000
Treasury						
<b>Total</b>		<b>410,409,068</b>	<b>27,000,000</b>	<b>27,309,068</b>	<b>410,100,000</b>	<b>652,100,100</b>

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

All transfers recorded and recognized in the Statement of Financial performance have been confirmed and reconciled with those recorded by the transferring Ministry-The National Treasury.

### b) Transfers from Other Government Entities

Description	2023/2024	2022/2023
	Ksh.	Ksh.
Unconditional grants		
Operational grant	404,100,000	-
Total Unconditional Grants	404,100,000	-
Conditional grants		
Regional Integration Implementation Program (RIIP)	6,000,000	9,000,000
<b>Total</b>	<b>410,100,000</b>	<b>9,000,000</b>

The Authority annual budget is supported by amounts collected by way of Appropriation in Aid constituting about 30% of the total revenue receipts. The rest is supported by the central government through exchequer transfers, which constitute about 70% annually.

In addition, the Authority is one of the implementing agencies of the Regional Integration Implementation Program under the COMESA Competition Commission Integration Program. In the FY 2023/2024, the Authority received **Ksh. 6M** (FY 2022/23 - **Kshs.9M**) towards this program.

### 7. Fees, Fines & Penalties

Fees, Fines and penalties are levied against companies found to infringe the Competition law by engaging in unfair trade practices. This includes consummating mergers without approval by the Authority as well as infringements of consumer rights/welfare. Fines and penalties levied during the year were Kshs 33,059,327 (FY 2022/23 - Kshs 15,652,071).

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### 8. Rendering of services

Rendering of services fees relates to revenue generated from merger cases filed by merging/acquiring Companies both locally and regionally with the COMESA Competition Commission. The Authority's share of the COMESA filing fees is arrived at using a predetermined formula agreed upon by and applicable to all the member Countries and is recognized when received. The total received in respect of each category is as shown below;

Description	2023/2024	2022/2023
	Ksh.	Ksh.
Merger filling fees-Local	39,000,000	39,000,000
Merger filling fees-COMESA	110,729,215	119,710,781
<b>Total</b>	<b>149,729,215</b>	<b>158,710,781</b>

### 9. Finance Income

Descriptions	2023/2024	2022/2023
	Ksh.	Ksh.
Interest from fixed deposits	17,148,826	14,717,953
<b>Total</b>	<b>17,148,826</b>	<b>14,717,953</b>

This is interest from investments of surplus cash mainly from gratuity, car and mortgage accounts in short-term fixed deposits to generate AIA.

### 10. Other Income

Description	2023/2024	2022/2023
	Ksh.	Ksh.
Training fees	1,086,244	1,268,600
Insurance compensation received	-	176,555
<b>Total</b>	<b>1,086,244</b>	<b>1,445,155</b>

Other income relates to training fees charged on law and economic regulation course which the Authority conducts annually. Participants pay a fee to meet the running costs of the course.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### 11. Use of Goods & Services

	2023/2024	2022/2023
	Ksh.	Ksh.
Insurance of Assets	1,827,729	3,194,648
Staff Welfare	5,322,211	2,520,935
Communication Costs	5,348,496	5,960,003
Domestic Travel Subsistence Costs	4,994,196	4,648,202
Foreign Travel Subsistence Costs	-	2,260,045
Printing and Advertising Costs	3,884,335	2,534,336
Rent and Rates	46,229,601	45,498,861
Training Expenses	19,904,034	19,923,807
Official Entertainment and Conference Facilities	4,975,249	4,514,087
General Office Supplies	3,518,346	1,953,918
Motor Vehicle Expenses	1,824,600	1,775,402
Subscription to Professional Bodies	561,916	1,351,326
Bank Charges	474,029	411,424
<b>Total</b>	<b>98,864,741</b>	<b>96,546,994</b>

### 12. Employee Costs

	2023/2024	2022/2023
	Ksh.	Ksh.
Salaries and Allowances	216,929,967	221,274,055
Contribution to Pensions	19,532,644	17,992,719
Staff Gratuity	20,016,126	20,701,852
Staff Medical Insurance	25,285,719	21,566,846
Housing Levy	3,325,691	-
Decrease in Provision for Staff Leave	(411,383)	199,633
<b>Total</b>	<b>284,678,764</b>	<b>281,735,106</b>

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### 13. Board Expenses

	2023/2024	2022/2023
	Ksh.	Ksh.
Honoraria	960,000	938,249
Sitting & Lunch Allowances	6,798,633	3,737,985
Board Induction & Travel	6,411,823	3,106,440
Telephone	84,000	86,000
Insurance	129,667	234,156
Local Travel Costs	4,807,759	4,248,962
Conference Facilities	-	3,644,644
<b>Total</b>	<b>19,191,881</b>	<b>15,996,436</b>

### 14. Depreciation and Amortization

	2023/2024	2022/2023
	Ksh.	Ksh.
Property, Plant & Equipment	20,564,990	11,471,855
Intangible Assets	6,588,092	9,541,939
<b>Total</b>	<b>27,153,082</b>	<b>21,013,794</b>

### 15. Policy, Risk, Competition & Consumer Protection Expenses

	2023/2024	2022/2023
	Ksh.	Ksh.
Awareness & Publicity Campaigns	7,628,880	4,308,959
Policy, Research & Market Enquiries	58,777,280	40,945,646
Regulation of Mergers & Acquisitions	7,400,162	7,558,699
CPD Investigations and Enforcement	9,975,617	1,047,563
Enforcement of Restrictive Trade Practices	10,059,703	15,216,222
COMESA-RIIP	6,061,454	9,443,026
Risk and Quality Assurance	3,915,263	6,304,475
Buyer Power	3,314,337	2,374,851
Development of open gauge system	-	172,200
<b>Total</b>	<b>107,132,695</b>	<b>87,371,640</b>

**NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)**

**16. Repairs and Maintenance**

	2023/2024	2022/2023
	Ksh.	Ksh.
Motor Vehicles	960,546	992,310
Property, Plant & Equipment	25,489,073	20,793,705
<b>Total</b>	<b>26,449,619</b>	<b>21,786,015</b>

**17. Contracted Services**

	2023/2024	2022/2023
	Ksh.	Ksh.
Consultancy	1,707,245	1,999,070
Hire of Security	1,260,920	837,520
Cleaning Expenses	2,844,720	2,058,800
Legal Services	8,201,336	3,537,918
Audit Fees	696,000	696,000
<b>Total</b>	<b>14,710,221</b>	<b>9,129,308</b>

**18. Gain (Loss) on Disposal of Assets**

The Authority disposed assets with a cost of Kshs 40,139,700 and accumulated depreciation of Kshs 26,521,371 translating to a book value of Kshs 13,618,329. Cash received from insurance as compensation for 3 laptops lost amounted to Ksh 176,214. The 3 laptops had a cost of Kshs 451,600 and accumulated depreciation of Kshs 402,243 hence book value of Kshs. 49,256 thereby a gain of Kshs. 126,956. This translated to a loss on disposal of assets of Ksh 13,315,158 (FY 2022/23 - Loss of Ksh 991,837).

NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

19. Cash and Cash Equivalents

	2023/2024	2022/2023
	Ksh.	Ksh.
Current Account	178,444,589	547,631,375
Staff Gratuity Account	29,033,755	10,902,638
NBK-Dollar Account	121,515,653	13,450,668
<b>Total</b>	<b>328,993,997</b>	<b>571,984,680</b>

Detailed Analysis of the Cash and Cash Equivalents

Financial Institution	Account Number	2023/2024	2022/2023
		Ksh.	Ksh.
<b>a) Current Account</b>			
Kenya Commercial Bank	1136286179	164,329,742	69,623,577
Family Bank	068000026095	14,114,848	478,007,798
<b>Sub- Total</b>		<b>178,444,589</b>	<b>547,631,375</b>
<b>b) Gratuity</b>			
Kenya Commercial Bank	1143496191	29,033,755	10,902,638
<b>Sub- Total-</b>		<b>29,033,755</b>	<b>10,902,638</b>
<b>c) Dollar Account</b>			
National Bank of Kenya	02060204765100	121,515,653	13,450,668
<b>Sub- Total</b>		<b>121,515,653</b>	<b>13,450,668</b>
<b>Grand Total</b>		<b>328,993,997</b>	<b>571,984,680</b>

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### 20. Receivables from Exchange Transactions

#### (a) Receivables from Exchange Transactions (Current)

	2023/2024	2022/2023
	Ksh.	Ksh.
Staff Travel Imprest	265,200	1,624,380
Staff Debtors	72,189	-
Staff Car Loan Scheme Debtors	2,530,361	1,949,083
Staff Mortgage Loan Scheme Debtors	17,567,171	12,717,730
Prepaid Parking Charges	116,000	-
Prepaid Insurance	7,421,734	5,794,034
Prepaid Training Fees	301,252	-
<b>Total</b>	<b>28,273,906</b>	<b>22,085,226</b>

#### (b) Receivables from Exchange Transactions (Long-term)

	2023/2024	2022/2023
	Ksh.	Ksh.
Staff Car Loan Scheme Debtors	5,754,734	2,987,621
Staff Mortgage Loan Scheme Debtors	221,428,208	182,964,394
<b>Total</b>	<b>227,182,943</b>	<b>185,952,015</b>

### 21. Inventories

	2023/2024	2022/2023
	Ksh.	Ksh.
Consumable stores	1,871,794	1,263,109

During the year the Authority procured inventories worth Kshs 2,742,850 and consumed/expensed inventories worth Kshs 2,134,165.

NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

22. Property, Plant and Equipment

	Motor Vehicles	Office Equipment	Computer Equipment	Furniture & fittings	Work in Progress	Total
Depreciation rate	25.00%	12.50%	33.33%	12.50%	0%	
<b>Cost</b>						
As at 1 <sup>st</sup> July 2022	44,023,707	27,540,209	52,361,571	35,440,910	-	159,366,397
Additions	-	4,395,740	6,410,000	-	-	10,805,740
Disposals	(3,900,000)	(12,000)	(7,056,731)	(1,130,550)	-	(12,099,281)
As at 30 <sup>th</sup> June 2023	40,123,707	31,923,949	51,714,840	34,310,360	-	158,072,856
As at 1 <sup>st</sup> July 2023	40,123,707	31,923,949	51,714,840	34,310,360	-	158,072,856
Assets reclassified	-	6,649,102	(412,940)	-	-	6,236,163
Additions	-	63,241,009	8,500,000	18,701,320	177,746,219	268,065,968
Disposals	-	(4,490,547)	(7,161,798)	(23,988,355)	-	(35,640,700)
As at 30 <sup>th</sup> June 2024	40,123,707	97,323,513	52,640,103	29,023,325	177,746,219	396,856,867
<b>Accumulated Depreciation</b>						
As at 1 <sup>st</sup> July 2022	33,955,870	9,975,103	45,416,305	18,069,738	-	107,417,015
Charge for the year	2,419,349	2,744,590	4,201,740	2,106,175	-	11,471,855
Disposals	(3,509,560)	(7,877)	(6,283,073)	(608,780)	-	(10,409,289)
As at 30 <sup>th</sup> June 2023	32,865,660	12,711,817	43,334,973	19,567,133	-	108,479,582
As 1 <sup>st</sup> at July 2023	32,865,660	12,711,817	43,334,973	19,567,133	-	108,479,582
Assets reclassified	-	5,116,946	(853,944)	-	-	4,263,002
Charge for the year	1,814,512	10,226,584	5,708,494	2,815,401	-	20,564,990
Disposals	-	(2,316,285)	(6,943,739)	(13,067,013)	-	(22,327,037)
As at 30 <sup>th</sup> June 2024	34,680,171	25,739,061	41,245,783	9,315,521	-	110,980,537
<b>Net Book Value</b>						
As at 30 <sup>th</sup> June 2023	7,258,047	19,212,132	8,379,867	14,743,227	-	49,593,274
As at 30 <sup>th</sup> June 2024	5,443,536	71,584,452	11,394,319	19,707,804	177,746,219	285,876,330

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

Assets reclassified relates to correction of assets classes of assets which were previously wrongly classified. This will have no material effect on prior financial statements. Work in progress relates to ongoing office partition works at CBK Pension Towers following relocation of offices from Kenya Railways.

### 23. Intangible Assets

	2023/2024	2022/2023
	Ksh.	Ksh.
<b>Depreciation Rate</b>	25%	25%
<b>Cost</b>		
At the beginning of the year	108,057,937	106,187,937
Assets reclassified	(6,236,163)	
Additions	-	1,870,000
Disposals	(4,499,000)	-
<b>At end of the year</b>	<b>97,322,774</b>	<b>108,057,937</b>
<b>Accumulated Amortization</b>		
At the beginning of the year	79,432,122	69,890,183
Assets reclassified	(4,263,002)	-
Amortization	6,588,092	9,541,939
Disposals	(4,198,713)	-
<b>At end of the year</b>	<b>77,558,499</b>	<b>79,432,122</b>
<b>Net Book Value</b>	<b>19,764,275</b>	<b>28,625,815</b>
Work in Progress	6,424,900	-
<b>Total</b>	<b>26,189,175</b>	<b>28,625,815</b>

Work in progress relates to ongoing upgrade of the ERP system.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### 24. Car and Mortgage Schemes Bank Balances

	2023/2024	2022/2023
	Ksh.	Ksh.
NBK-Staff Car Loan Scheme Account	39,902,880	42,195,553
ABSA-Staff Mortgage Scheme Account	41,154,004	76,280,137
KCB-Staff Mortgage	232,942	253,458
KCB-Staff Mortgage Call Account	31,547,483	34,313,179
<b>Total</b>	<b>112,837,310</b>	<b>153,042,328</b>

These are funds available as at 30th June, 2024 in National Bank of Kenya for staff car loan scheme and Kenya Commercial Bank and Absa Bank for staff for mortgage scheme. As at 30<sup>th</sup> June, 2024, the outstanding car loan and staff mortgage amounted to Kshs 5,754,734 and Kshs 221,428,208 respectively.

### 25. Trade and other Payables

	2023/2024	2022/2023
	Ksh.	Ksh.
Trade Payables	45,833,328	18,833,550
Staff Claims	647,500	432,227
Withholding Taxes	41,556	36,450
Withholding VAT	45,906	319,872
Withholding Rent	-	415,705
Unremitted Payroll Deductions	5,939,940	5,255,854
Deferred Lease Liability	-	5,097,245
<b>Total</b>	<b>52,508,230</b>	<b>30,390,904</b>

**NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)**

**26. Current Provisions**

	Staff Leave	Audit Fees	Forex Loss	Total
	Ksh.	Ksh.	Ksh.	Ksh.
Provisions as at 1st July, 2023	5,710,033	1,392,000	-	7,102,033
Additional provisions	(411,383)	696,000	13,162,086	12,054,702
Provision utilized during the year	-	(1,392,000)	-	(1,392,000)
<b>Provisions as at 30th June, 2024</b>	<b>5,298,650</b>	<b>696,000</b>	<b>13,162,086</b>	<b>19,156,736</b>

**27. Deferred Capital Income**

	2023/2024	2022/2023
	Ksh.	Ksh.
As at 1 <sup>st</sup> July	395,594,156	80,723,195
Additions during the year	27,000,000	325,000,000
Amortized during the year	(30,875,318)	(10,129,039)
<b>As at 30<sup>th</sup> June</b>	<b>391,718,839</b>	<b>395,594,156</b>
Current Portion	40,816,485	46,485,673
<b>Non-Current Portion</b>	<b>350,902,354</b>	<b>349,108,483</b>

Development/capital income, Ksh. 30,875,318 was recognized in the statement of financial position and amortised in the statement of financial performance over the useful life of the related asset. Current deferred capital income, Ksh. 40,816,485 relating to long-term capital assets acquired will be realized in the statement of financial performance within the next one year while non-current deferred capital grant, Ksh. 350,902,354 will be realized in the subsequent years.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### 28. Employee Benefit Obligation

The Authority contributes to the statutory National Social Security Fund (NSSF) which is a defined contribution scheme registered under the National Social Security Act. The Authority's obligation under the scheme is limited to specific contributions legislated from time to time.

Other than NSSF, the Authority also has a registered defined contribution scheme for all its employees on permanent and pensionable employment. The Scheme is administered by a Board of Trustees which is a mix of sponsor appointed and member elected trustees. Employees contribute 10% while the Authority contributes 20% of basic salary. Employer contributions are recognised as expenses in the statement of financial performance within the period they are incurred.

In addition, the statutory NSSF and the defined contribution scheme, the Authority also sets aside as gratuity for all employees on contract gratuity pay at the rate of 31% of basic pay per employee per month payable to the employees upon expiry of the contract and or during separation. The amount contributed is final obligation and is recognized in the statement of financial performance in the year contributed.

#### Staff Gratuity

	2023/2024	2022/2023
	Ksh.	Ksh.
As at 1 <sup>st</sup> July	43,670,614	70,373,316
Contributions during the year	20,321,593	20,701,852
Payments during the year	(45,602,820)	(47,404,553)
<b>As at 30<sup>th</sup> June</b>	<b>18,389,387</b>	<b>43,670,614</b>
Current Portion	3,230,820	37,274,640
Non-Current Portion	15,158,567	6,395,974

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### 29. Car and Mortgage Scheme

The car and mortgage scheme reserve of Ksh. 416,886,181 (FY 2022/23-Kshs. 416,886,181) represents an amount placed with Absa, KCB and National banks of Kenya to secure staff housing mortgage and car loans at concessionary rates. The amount includes Kshs. 100,000,000 for setting up the car loan scheme, Kshs. 300,000,000 for setting up staff housing mortgage scheme and Kshs. 16,886,881 being interest on the accounts running balances.

### 30. Accumulated Surplus

Accumulated surpluses, Ksh. 53,086,109 (FY 2022/23-Kshs. 52,408,537) arose from 10% annual surplus retained by the Authority after remitting 90% to consolidated fund as required under regulation 219 of the Public Finance Management Act (national government) regulation 2015.

### 31. Capital Fund

The Authority inherited a number of assets comprising mainly of furniture, computers, cash balances and payments due to suppliers with a net assets value of Ksh. 52,932,150 from the then Department of Monopolies and Pricing at the National Treasury.

In addition, in the financial year 2014/2015, the National Treasury contributed three computers with an invoice value of Ksh.449,670 for use by the Authority in the Regional Integration Implementation Programme. The Authority was not expected to pay for these assets.

### 32. Surplus Remission

The Authority, being a regulatory agency is required to submit 90% of reported surplus to the consolidated fund as per the provisions of Section 219 (2) of the Public Financial Management Act (national government) regulations 2015. In the year under review, the Authority will remit Kshs. 6,098,153 to the Exchequer (FY 2022/23 – Kshs. 13,112,202).

	2023/2024	2022/2023
	Ksh.	Ksh.
Surplus for the period	6,775,725	14,569,114
Less: Allowable deductions by NT	677,573	1,456,911
90% Payable to NT	6,098,153	13,112,202

**NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)**

**33. Cash Generated from Operations**

	2023/2024	2022/2023
	Ksh.	Ksh.
Surplus for the Year	6,775,725	14,569,114
<b>Adjusted for :</b>		
Depreciation	27,153,082	21,013,794
Loss (Profit) on Disposal of Non-Current Assets	13,315,158	991,837
Working Capital Adjustments		
(Increase)/Decrease in Receivables from Exchange Transactions	(47,419,608)	19,059,041
(Increase)/Decrease in Inventories	(608,685)	1,222,643
(Increase)/Decrease in Securities & Deposits	40,205,018	(15,807,765)
Increase/(Decrease) in Trade and Other Payables	22,117,327	12,274,829
Increase/(Decrease) in Current Provisions	12,054,702	895,633
Increase/(Decrease) Employee Benefit Obligation	(25,281,227)	(26,702,701)
Increase/(Decrease) Deferred Capital Grant	(3,875,318)	314,870,961
<b>Net cash flow from operating activities</b>	<b>44,436,175</b>	<b>342,387,386</b>

**34. Financial Risk Management**

The Authority has a policy and framework on risk management. The Strategic risk register is reviewed quarterly by management. The Authority's activities expose it to interest, credit and liquidity risks.

**Credit risks**

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

- a) Cash and short-term deposits are placed with well-established financial institutions of high quality and credit standing and also approved by the National Treasury;
- b) Funds are invested in short-term facilities; and
- c) The Authority does not raise receivables in its ordinary course of business.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

Credit risk with respect to accounts receivable is limited due to the nature of the Authority's business and its reliance on government grant as the main source of funding. The Authority's exposure to credit risk at the end of the financial year is best represented by;

	2023/2024	2022/2023
	Ksh.	Ksh.
Cash at Bank	328,993,997	571,984,680
Security and Deposits	112,837,310	153,042,328
Staff Travel Imprest	265,200	1,624,380
Staff Car Loan Debtors	8,285,095	4,936,704
Staff Mortgage Loan Debtors	238,995,379	195,682,124
Prepaid Parking	116,000	-
Prepaid Insurance	7,421,734	5,794,034
Prepaid Training	301,252	-
<b>Total</b>	<b>697,215,967</b>	<b>933,064,248</b>

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

### Liquidity

The Authority's liquidity risk is as a result of funds availability to cover future commitments. The Authority manages liquidity risk by monitoring forecasted cash flows and ensuring that the necessary funds are available to meet any commitments which may arise.

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

At 30th June, 2024	Less than 1 month	Between 1-3 months	Over 5 months	Total
	Ksh.	Ksh.	Ksh.	Ksh.
Trade and other Payables	45,833,328	-	-	45,833,328
Taxes	87,462	-	-	87,462
Payroll Deductions	5,939,940	-	-	5,939,940
Staff Leave Provisions	5,994,650	-	-	5,994,650
<b>Total</b>	<b>57,855,380</b>	<b>-</b>	<b>-</b>	<b>57,855,380</b>

**NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)**

At 30th June, 2023	Less than 1 month	Between 1-3 months	Over 5 months	Total
	Ksh.	Ksh.	Ksh.	Ksh.
Trade and other payables	18,833,550	-	-	18,833,550
Taxes	772,027	-	-	772,027
Payroll deductions	5,255,854	-	-	5,255,854
Staff leave Provisions	7,102,033	-	-	7,102,033
<b>Total</b>	<b>31,963,465</b>			<b>31,963,465</b>

**Market risks**

Market risk is the risk that the value of an investment will decrease due to changes in market factors. The above stated mitigating factors apply to market risk as well. The Authority has transactional currency exposures. Such exposure arises through purchases of services especially fees for international conferences that are done in currencies other than the local currency and receivables arising mainly from the Authority’s share of merger filing fees from COMESA Competition Commission. Invoices denominated in foreign currencies are paid within 7 days from the date of receipt of the invoice and conversion at the time of payment is done using the prevailing exchange rate.

The carrying amount of the Authority’s foreign currency denominated monetary assets and monetary liabilities at the end of the reporting period are as follows:

	US \$ dollar	Ksh.
<b>Cash at bank- National Bank of Kenya</b>	838,977	121,515,653

As at 30<sup>th</sup> June, 2024 the NBK dollar account had USD 838,976.53 with book exchange rate of 144.8364 against CBK exchange rate of 129.1497 translating to unrealised foreign exchange loss of Kshs 13,160,793.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### 35. Related Party Transactions

	2023/2024	2022/2023
	Ksh.	Ksh.
<b>a) Grants from National Government</b>		
i. Exchequer budgetary support	404,100,000	652,100,000
ii. COMESA-RIIP	6,000,000	9,000,000
<b>Total</b>	<b>410,100,000</b>	<b>661,100,000</b>
<b>b) Gifts/donations declared by employees</b>		-
<b>c) Key management compensation</b>		
(i) Directors' emoluments	19,191,881	15,996,436
(ii) Compensation to the Director General	17,820,435	20,652,816
(iii) Compensation to key management	104,932,673	111,706,756
<b>Total</b>	<b>141,944,989</b>	<b>148,356,008</b>

### 36. Contingent Assets and Contingent Liabilities

#### Court cases

No.	Title	Case Summary	Contingent/Liability
1.	<b>CMC Milimani No. E 8140 Gulf African Bank vs Simspur Ltd &amp; Others</b>	Gulf African Bank Limited has instituted a suit against Simspur Limited, Gideon Simiyu Wafula, George Omwakwe Omuyaku and Competition Authority of Kenya. The claim is against Simspur Ltd for failure to own an undertaking of Kshs 2,468,337.98.	The plaintiff has sought general damages against the Authority. The Authority is likely to incur legal liability in the sum of Kshs 158,000.
2.	<b>HCCOMMA/E244/2023 The Makini School Limited vs CAK</b>	Appeal from the decision of the Competition Tribunal. The firm of Ramdhan Mukira acting for the Authority.	Legal liability is KES. 709,000 being legal fees to external lawyers.

**NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)**

**37. Commitments**

	2023/2024	2022/2023
	Ksh.	Ksh.
Authorized, contracted and ongoing	51,415,972	238,003,371
Authorized but not yet contracted	-	-
<b>Total</b>	<b>51,415,972</b>	<b>238,003,371</b>

This relates to the ongoing office partitioning works at our new offices at CBK Pension towers

**38. Operating Leases-as Leases (expense)**

	2023/2024	2022/2023
	Ksh.	Ksh.
Minimum lease payments due		
Within one year	-	36,748,800
In second year	-	36,748,800
<b>Total</b>	<b>-</b>	<b>73,497,600</b>

Operating lease payments represent rentals payable by the Authority for leased office space. The lease will be reviewed biennially before commencement of 3<sup>rd</sup> and 5<sup>th</sup> years. No contingent rent is payable.

**39. Explanation of budget variances higher/lower than 10%**

**a) Fines & penalties**

The Authority had budgeted to receive fines & penalties from the results of various cases it was investigating and were at various stages of either completion or negotiations with the parties. However, various outcomes unfavourable to the Authority including notices of appeal against the findings delayed the conclusion of those cases and the expected revenue.

## NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

### b) Finance Income

This consists interest income from unutilised funds mainly from gratuity, car loan and staff mortgage. Since the process acquiring these assets is lengthy, more funds were available during the year for investing in fixed deposits.

### c) Other income

This is income from annual training organised by the Authority. This year recorded low uptake of the training.

### d) Depreciation & Amortisation Expense

The Authority during relocation to from Kenya Railways to CBK Pension Towers acquired new assets resulting to higher depreciation the initially budgeted.

## 40. Pending Bills

As at the close of the financial year, the Authority did not have any bill which have not been adequately covered by its cash reserves. All the Authority's recorded liabilities as at the end of the year are current and are adequately covered.

## 41. Events after the reporting date

There have been no material adjusting and non- adjusting events subsequent to the reporting date with a significant impact on the financial statements for the year ended 30<sup>th</sup> June, 2024.

## 42. Ultimate and holding entity

The Authority is a State Corporation under the Ministry of the National Treasury and Planning. Its ultimate parent is the Government of Kenya.

**APPENDIX 1: PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATION**

The following is the summary of issues raised by the external auditor, and management comments that were provided to the auditor.

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Person to resolve the issue (Name and designation)	Status: (Resolved/ Not Resolved)	Time frame: (Put a date when you expect the issue to be resolved)



Director General

**APPENDIX II: INTER-ENTITY TRANSFERS**

<b>ENTITY NAME: COMPETITION AUTHORITY OF KENYA</b>				
<b>Break down of Transfers from the ministry of the National Treasury</b>				
<b>FY 2023/24</b>				
<b>a.</b>	<b>Recurrent Grants</b>			
		<b>Bank Statement Date</b>	<b>Amount (Ksh.)</b>	<b>FY to which the amounts relate</b>
		16-08-23	94,275,000	2023/2024
		15-11-23	94,275,000	2023/2024
		08-03-24	94,275,000	2023/2024
		17-05-24	94,275,000	2023/2024
		<b>Total</b>	<b>377,100,000</b>	
<b>b.</b>	<b>Development Grants</b>			
		<b>Bank Statement Date</b>	<b>Amount (Ksh.)</b>	<b>FY to which the amounts relate</b>
		29-08-23	13,500,000	2023/2024
		27-02-24	13,500,000	2023/2024
		<b>Total</b>	<b>27,000,000</b>	
	<b>Grand Total</b>		<b>404,100,000</b>	

The above amounts have been communicated to and reconciled with the Parent Ministry.



Manager, Finance  
Competition Authority of Kenya