REPUBLIC OF KENYA

Paper laid by LOM Tuesday 17/4/2018

OFFICE OF THE AUDITOR-GENERAL

REPORT

OF

THE AUDITOR-GENERAL

ON

THE FINANCIAL STATEMENTS OF COMPETITION AUTHORITY OF KENYA

FOR THE YEAR ENDED 30 JUNE 2017

OFFICE OF THE AUDITOR GENERAL
P. O. Box 30084 - 00100 NAIROBI
26 MAR 2018
RECEIVED

COMPETITION AUTHORITY OF KENYA

Creating efficient markets for consumers

THE COMPETITION AUTHORITY OF KENYA

ANNUAL REPORT AND FINANCIAL STATEMENTS 2016/2017

ISO 9001:2015 CERTIFIED

CONTENTS

CORPORATE INFORMATION

Directors

Mr. David Ong'olo	Chairman
Mr. Wang'ombe Kariuki	Director-General
Dr. Kamau Thugge	Principal Secretary, the National Treasury
Dr. Ibrahim Mohamed	Principal Secretary, Ministry of Industry, Trade & Cooperatives
Prof. Githu Muigai	Attorney-General
Mr. Stephen K. Kiptinness	
Ms. Eunice Maranya	
Mr. Protus Sigei	Alternate to the Principal Secretary, The National Treasury
Mr. Michael Onyancha	Alternate Principal Secretary, Ministry of Industry, Trade & Cooperatives
Ms. Elizabeth Ng'ang'a	Alternate to the Attorney General
Mr. Abdirizak Aralle Nunow	
Ms. Carolyn Kimbo Musyoka	
Ms. Leila A. Ali	

Physical Address:

Kenya Railways HQs Block 'D', Ground Floor, Workshop Road off Haile Selassie Avenue,
P.O Box 36265 – 00200, NAIROBI, Kenya.
Tel: +254-20-2628233 or +254-20-2779000
Website: www.cak.go.ke
Email: info@cak.go.ke

Auditors:

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

Legal Advisors:

The Hon. Attorney-General, State Law Office,
P. O. Box 40112-00100, NAIROBI

Mohammed Muigai Advocates, K-REP Centre,
P. O. Box 61323-00200, NAIROBI

Gorei Munialo Mwinali Company Advocates,
Uchumi House 14th Floor Aga Khan Walk,
P. O. Box 10771-00100, NAIROBI

Ogala Akello & Company Advocates,
Office Suite 14, 1st Floor Green House, Ngong Road,
NAIROBI

Rachier & Omollo Advocates, Mayfair Center, 5th Floor,
Ralph Bunche/ Argwings Kodhek Road
P. O. Box 55645-00200 NAIROBI

Wesonga, Wamalwa & Kariuki Associates Advocates
Mezzainine Floor, Suite M14, Madona Hse
Westlands
P.O. Box 45770 – 00100, NAIROBI

Bankers:

Kenya Commercial Bank Limited,
KICC Branch,
P. O. Box 30081–00100,
NAIROBI

National Bank of Kenya,
Times Tower Branch,
P O Box 72866 00200,
NAIROBI

PREAMBLE

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

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

The Authority has a statutory obligation under section 83 of the Competition Act No. 12 of 2010 (the Act) to prepare an Annual report for transmittal to the National Assembly by the Cabinet Secretary/The National Treasury. The Annual Report captures the overall performance by the Authority, based on its key interventions and performance indicators.

The Authority achieves its mandate by regulating market structure and conduct; promoting consumer welfare and advising the government in developing policies and regulation framework to enhance a market based economy. Towards this, the Authority has developed relevant guidelines, concluded co-operation frameworks with sector regulators, operationalized the Competition Regulatory Impact Assessment framework and it is currently implementing a four years Strategic Plan. In addition the Authority informs the ongoing regional economic integration, by working closely with Regional Economic Communities.

This report provides the nature and scope of the Authority's activities; its plans and priorities including the number and nature of complaints and applications determined and or under consideration; number and nature of investigations completed and continuing; and significant/inquiries completed during the 2016/2017 Financial Year.

Vision

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

Mission

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

Motto
Creating efficient markets for consumers.

Core Values
The guiding principles in the operations of the Authority are:

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

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

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

CAK's Quality Objectives:
i. Provision of quality and effective regulation of both market conduct and structure
ii. Protection of consumers from false and misleading market conduct
iii. Optimum utilization of the Authority's resources in the attainment of the its mandate
iv. Enhancement of customer satisfaction that exceeds their expectations by providing quality services
v. The Authority's operations comply with all applicable laws and regulations
vi. The Authority proactively engages its stakeholders and obtains prompt feedback on its services
vii. The Authority attracts, trains and retains highly qualified, skilled and motivated staff for the realization of its mandate.

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

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

a. Promotion and enforcement of compliance with the Act;
b. Receiving and investigating complaints from legal or natural persons and Consumer entities ;
c. Promoting public knowledge, awareness and understanding of the obligations, rights and remedies under the Act and the duties, functions and activities of the Authority;
d. Promoting the creation of consumer bodies and the establishment of good and proper standards and rules to be followed by such bodies in protecting competition and consumer welfare;
e. Recognizing consumer bodies duly registered under the appropriate national laws as the proper bodies, in their areas of operation, to represent consumers before the Authority;
f. Making available to consumers' information and guidelines relating to the obligations of persons under the Act and the rights and remedies available to consumers under the Act;
g. Carrying out inquiries, studies and research into matters relating to competition and the protection of the interests of consumers;
h. Studying government policies, procedures and programmes, legislation and proposals for legislation so as to assess their effects on competition and consumer welfare and publicizing the results of such studies;
i. Investigating impediments to competition, including entry into and exit from markets, in the economy as a whole or in particular sectors and disseminate the results of such investigations to appropriate publics;
j. Investigating policies, procedures and programmes of regulatory authorities so as to assess their effects on competition and consumer welfare; and disseminate the results of such studies to appropriate public;
k. Participating in deliberations and proceedings of Government, Government Commissions, regulatory authorities and other bodies in relation to competition and consumer welfare;
l. Making representations to Government, Government Commissions, regulatory authorities and other bodies on matters relating to competition and consumer welfare;
m. Liaising with regulatory bodies and other public bodies in all matters relating to competition and consumer welfare; and
n. Advising the government on matters relating to competition and consumer welfare.

BOARD OF DIRECTORS

Mr. David O. Ong'olo – Chairman

Mr. David Ong'olo is serving his second term as Chairman following his re-appointment in February, 2016. He has a long standing interest in competition policy and private sector development. He has worked on topics spanning institutional development, sectoral regulation and industrial policy analysis. He is particularly interested in bridging the worlds of rigorous industrial sector analysis and practical policy development and implementation. He holds a Bachelor's Degree in Economics from the University of Nairobi and a Master of Science Degree in Industrial Economics from Lancaster University, United Kingdom.

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

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

Ms. Eunice M. Maranya

Ms. Eunice Maranya is a Business, Management and institutional development specialist with over 15 years banking experience, and seven years of consulting for large donor, private and public sector organizations. She is the Country Director of the Digital Opportunity Trust, a Canadian NGO that works in the youth and Information Communication Technology (ICT) space. She has previously served in the position of Chief Executive Officer of the Kenya Alliance of Residential Associations, a nationally lobby organization for Residents Associations. She has worked as an independent consultant in several areas in development including the UK Department of International Development (DFiD), the Danish International Development Agency (Danida), the United Nations Standard Products and Services Code (UNSPSC) unit, United States Agency for International Development (USAID), International Fund for Agricultural Development (IFAD) projects; financial services sector, corporate and the public sector and has also undertaken several scoping and research assignments. She has sat in the Board of the Communications Commission of Kenya (CCK); now the Communications Authority of Kenya. She is a member of the Institute of Directors, holds an Auditor SA 8000 Standard: Amana Ltd, Switzerland and is a Lead Auditor ISO 9001:2000: SQML Center, South Africa. Ms. Maranya holds a Masters of Business Administration Degree from the United States International University (San Diego) and a Bachelor of Science Degree from the University of Nairobi.

Mr. Stephen Kiptinness

Mr. Stephen Kiptinness is the Lead Partner of Kiptinness & Odhiambo Associates Telecommunication, Media and Technology (TMT) Practice. He has served in locally and internationally reputable corporate firms and parastatals such as Orange Telkom Kenya, Communications Authority of Kenya, Commonwealth Telecommunications Organization, and Kenya Network Information Centre among others. Mr. Kiptinness has advised and consulted for Governments in the East African Community as well as numerous Non-Governmental Organizations. He has also acted for global technology companies, mobile telecommunication companies, Tower companies, numerous content and application Service Provider companies, leading companies in disruptive technology services among others. He also served as one of the inaugural Directors of the Kenya ICT Board, a Director on the Board of the Competition Authority of Kenya and the Scripture Union of Kenya.

Mr. Kiptinness is a Bachelor of Laws (Hons.) graduate at the ILS Law College, Pune and also holds a Masters of Laws, Information Technology Law and Telecommunications Law from London School of Economics. He has been an, Advocate of the High Court of Kenya for fifteen (15) years, a Certified Public Secretary and a Patent Agent.

Dr. Abdirizak A. Nunow

Dr. Abdirizak A. Nunow has 17 years' experience in development issues in Arid and Semi-Arid areas in Eastern Africa and the Horn of Africa. His interests are particularly focused on resource use optimization in the dry lands, environmental conservation and wise use of natural resources; environmental governance and equitable distribution of national and natural resources.

He is an Environmental Impact Assessment (EIA) and Environmental Audit (EA) lead expert for the National Environmental Management Authority (NEMA) and has undertaken several consultancies with various organizations. Dr. Nunow has been a lecturer in environmental science, with particular emphasis on the human ecology of arid and semi-arid lands at Moi University since the year 2000. He has also been Director of Social and Environmental Affairs at the Inter-Parliamentary Union of IGAD (IPU- IGAD) Member States. He is currently a Board Director, Refugee Appeals Board, and a Government Agency under the Directorate of Refugee Affairs. Dr. Nunow holds a PhD in Environmental

Science from the University of Amsterdam, Netherlands. He also has a Masters of Philosophy (M.Phil) in Environmental Planning and Management from the Moi University, Kenya. His gained Honors a double major in Economics and Business Studies at the Kenya University, Nairobi, Kenya.

Carol Musyoka

Carol Musyoka has over 10 years of financial leadership experience working in Kenya and the United States of America. She has successful deal origination, negotiation, structuring and execution experience, having been involved in several landmark corporate finance transactions in Kenya. Ms. Musyoka has had executive director experience from her role as Corporate Director, Barclays Bank, Kenya as well as the Executive Director and Chief Operating Officer at K-Rep Bank. Ms. Musyoka currently sits on the Board of East Africa Breweries Ltd. and British American Tobacco Ltd. She also sits on the Board of Trustees of SOS Children's Villages. She has previously served and retired in boards of BOC Gases, Enablis East Africa, Institute of Economic Affairs, Opportunity Kenya and the Africa Legal Support Facility of the African Development Bank. Ms. Musyoka currently provides training solutions to a number of multinational and locally owned bank in Kenya which range from leading change, managing for value, as well as leadership lessons from disaster situations. She is also a faculty head at the Strathmore Business School where she is currently the course leader, Effective Director corporate governance program. She is also a columnist in the Business Daily newspaper.

On an international level, Ms. Musyoka is part of the Durham, North Carolina based Duke Corporate Education (DUKE CE) faculty and is involved in providing leadership deliveries for some of their global clients. Ms. Musyoka holds a Bachelor of Laws Degree from the University of Nairobi and a Masters of Laws Degree from Cornell University, USA. She is also a recipient of the 2010 Eisenhower Fellowship for International Leadership.

Leila A. Ali

Ms. Leila A. Ali has over 10 years' experience in both managerial and financial industry having worked in Kenya and UK. She has been actively involved in setting up small and medium sized companies from inception to launching into profitable and successful companies. Ms. Leila also held senior financial and accounting roles at Honeywell Limited and Hampton Construction Co. She brings in wealth of experience having served in various boards including Wangari Mathai foundation, Elimu Plus Limited and Acorn Properties UK. She is currently a Financial Expert with Baker Tilly Merali's in charge of planning and execution of large and medium sized company's due diligences and audits including those of Non – Governmental Organizations. Ms. Leila received a Bachelor's degree in Accounting & Finance (Hons) from London South Bank University. She is also an ACCA Affiliate. As a Financial Expert coupled with her past senior finance and accounting roles, serving in various boards, Ms. Leila has gained significant experience in financial reporting, strategic management, accounting, capital markets transactions, investor relation and international operations. Her background provides the board with broad expertise in financial and operational issues.

Mr. Protus Sigei - Alternate to the Principal Secretary, the National Treasury

Mr. Protus Sigei, a Deputy Director of Investments at the National Treasury, has worked in Kenya's public service for over 20 years. He was one of the pioneer seven (7) officers selected by the Government of Kenya in 2004 to be trained, at the Boston Institute for Developing Economies, as trainers in Performance Contracting; subsequent to which he helped introduce performance contracting in Kenya's public service. Mr. Sigei is a member of the Society for Benefit-Cost Analysis, a professional society of academics and practitioners, headquartered at the University of Washington at Seale, USA. He holds a Bachelor of Arts (Hons) Degree in Economics from the University of Nairobi and a Master of Science Degree from the University of York, United Kingdom.

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

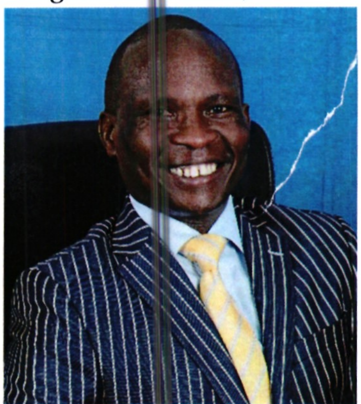
Ms. Elizabeth Ng'ang'a is a Parliamentary Counsel in the Office of the Attorney-General. She has undergone a range of drafting training and boasts of wide experience in legislative drafting. Over the years, M.s Ng'ang'a has served on numerous committees and task forces as a drafting expert, more recently being drafting financial legislation under the National Treasury. She is an advocate of the High Court of Kenya and holds a Bachelor of Laws Degree from the University of Nairobi as well as a postgraduate Advanced Diploma in Legislative Drafting from the University of West Indies Cave Hill Campus, Barbados.

Mr. Michael Onyancha
Alternate to the Principal Secretary, Ministry of Industry, Trade and Cooperatives

Mr. Michael Onyancha currently is, the Director of Weights and Measures, Ministry of East African Affairs, Commerce and Tourism. He joined Public Service in 1984 as Inspector Trainee in the then Ministry of Commerce and Industry rising through ranks to the current position. He holds Bachelor of Education (Hons) Degree in (Mathematics) and Masters of Business Administration Degree from the University of Nairobi. Mr. Onyancha is the Country Representative to the International Organization of Legal Metrology (OIML) and a member of the International Legal Metrology Committee (CIML). He is a board member of East Africa Standards Committee, and a Member of the Institute of Trade Standards Administration, Kenya (ITSA).

MANAGEMENT TEAM

Wang'ombe Kariuki, MBS - Director-General



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

Boniface M. Makongo- Manager, Legal

Mr. Boniface Makongo has over 11 years' experience in litigation, corporate and commercial law. He has previously worked for both the Constituencies Development Fund Board and at the Water Services Trust Fund as a Legal Officer, heading and having helped establish the said departments. Mr. Makongo holds a Master's Degree in International Economic Law from the University of South Africa, a Bachelors of Law Degree from Moi University. He also holds a Diploma in Management in Information systems from the Institute for Management of Information Systems (U.K) as well as a postgraduate Diploma in Corporate Governance. He is an active member of the Law Society of Kenya. The Legal Unit is responsible for providing legal advice and strategic direction on the interpretation and application of relevant legislation in regard to investigations. The Unit also offers Secretarial Services to the Authority's Board.

Stellah Onyancha – Manager, Mergers and Acquisitions

Ms. Stellah Onyancha is a holder of Master of Arts in Economic Policy Management, University of Ghana, Legon; Bachelor of Arts (Hons) in Economics and Business studies, Kenya a University; Diploma in Management of Information Systems (IMIS), Strathmore University College and Certificates in various disciplines. Her main interests are in Competition regulation, through control of mergers acquisition, research and trade related issues.

Gideon Mokaya- Manager, Enforcement and Compliance

Mr. Gideon Mokaya is a holder of a Master of Business Administration from University of Nairobi (2006). Additionally he is a Certified fraud examiner (CFE) and a Certified Public accountant (CPA) K. Mr. Mokaya has over seventeen years work experience in forensic investigations and audit in the public sector having worked with Askim Management Consultants, the Kenya National Audit Office, the Kenya Anticorruption Commission (Ethics and Anti-Corruption Commission). He has broad experience as a team leader in forensic investigations. Mr. Mokaya has also undergone extensive training locally and abroad on investigations skills, developing reliable evidence among others.

Boniface Kamiti- Manager, Consumer Protection

Mr. Boniface Kamiti holds a Masters of Arts Degree in Economic Policy and Management from the University of Nairobi and a Bachelor of Arts Degree in Social Science (Economics) from The Catholic University of Eastern Africa. He has over 10 years' experience gained while working with reputable institutions such as UN-Habitat, United National Development Programme (UNDP) and Centre for Corporate Governance amongst others in various capacities. He is widely trained on Corporate Governance, Results Based Management (RBM) and on conducting consumer related investigations. Boniface is a member of Institute of Directors of Kenya (IOD-K). He has headed the Consumer Protection Department since February 2015.

Robert Mbarani – Manager, Finance

Mr. Robert Mbarani has vast experience in Finance, Accounting and management skills gained from over his 15 years of work with various public sector organizations. He holds a Masters of Business Administration in Finance from Moi University and a Bachelor of Arts (Mathematics and Economics) from the University of Nairobi. Mr. Mbarani also holds a higher Diploma in Human Resource Management and is a member of the Institute of Certified Accountants of Kenya (ICPAK). He has attended various management courses including Corporate Governance, Risk Management and Strategic management. As part of his contribution to the betterment of the society, Mr. Mbarani is involved in a number of Board activities for schools and community based organizations. The Finance Department is responsible for financial management and reporting, resource mobilization, asset management and financial accounting in the Authority.

Anthony Muriithi Njagi – Manager, Human Resource Management and Development and Administration

Mr. Anthony Njagi was appointed the Head of Human Resources and Development unit on 1st May, 2013. Previously, he worked at Kenya Electricity Generating Company Ltd for 16 years where he was involved in implementation of various staff welfare programs. His main interests are in staff development and welfare. Mr. Njagi holds a Master of Business Administration; Moi University, Bachelor of Arts degree in Sociology from Kenyatta University and Higher National Diploma in Human Resources from Inorero University. He has attended various courses on leadership and management. He is also a member of institute of Human Resources Management. The Human Resources and Development Unit seeks to develop the Authority's Human capital by attracting, recruiting, developing, motivating and maintaining a highly skilled workforce to execute the mandate of the Authority.

Eric Mwangi, Manager, Internal Audit

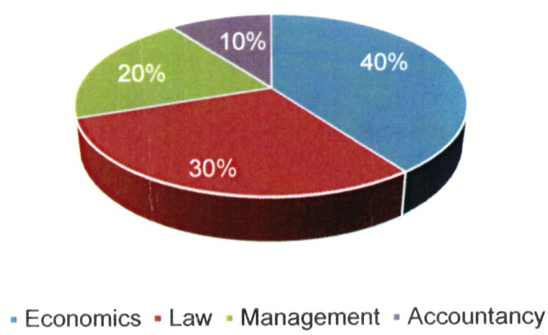
Mr. Eric Mwangi joined Competition Authority of Kenya in December 2014. He has over eleven (11) years' experience in the audit of the Government Parastatals. Previously, he had worked with Kenya National Bureau of Statistics (KNBS), Kenya Film Commission (KFC) as the Manager, Internal Audit and Kenya National Audit Office (KENAO) which is currently the Office of the Auditor General (OAG) as an Auditor. He is a holder of Bachelor of Science Degree (Hons.) and Master of Business Administration (Finance Option) 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 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: 2008 Auditor.

CORPORATE GOVERNANCE

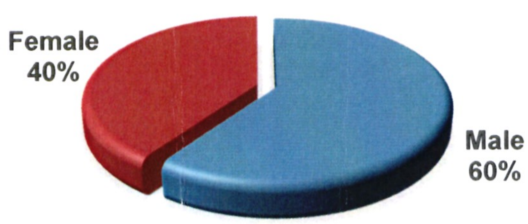
The Authority's Board is established by section 7 of the Act and comprises the Chairman and five (5) independent, non-executive Members, appointed from among persons experienced in competition and consumer welfare matters. The Board also includes The Principal Secretaries to The National Treasury; the Ministry of Industry, Trade and Co-operatives and the Hon. Attorney – General. The Director – General is an *ex-officio* Member and Secretary to the Board.

The Board brings together Members from different professional backgrounds with diverse skills, competencies and complies broadly with constitutional gender balance requirements as shown in Pie Chart 1 and 2.

Pie Chart 1: Board competencies



Pie Chart 2: Board gender representation



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

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

Role of the Chairman

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

Role of the Board

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

(i) Establishing short and long-term goals of the Authority and develop strategies to achieve these goals;

(ii) Monitoring the Authority's performance against these set goals;

(iii) Overseeing preparation of Annual Financial Statements and Reports;

(iv) Approving Annual budgets; and

(v) Ensuring that the Authority has adequate systems of internal controls together with appropriate monitoring of compliance activities to ensure business continuity.

The Board's key achievements during the 2016/ 17 FY were:-

- Completion of the implementation of the Authority's 2013/17 Strategic Plan and development of the 2017/21 Strategic Plan;
- Approved and continually monitored the implementation of the Authority's Annual operating Plans and Budget;

- Implemented the Authority's Performance Contract with The National Treasury;
- Recruited and evaluated the performance of senior Management.
- Reviewed the Authority's financial controls, Financial Statements and reporting systems based on both the Strategic and other long-term plans;
- Oversaw the Authority's management of enterprise risk and approved all significant corporate actions, among others

Board Membership and Attendance

The Board meets at least once every quarter depending on the exigencies of the business. The Board has established four standing committees to assist in the execution of its responsibilities: Technical & Strategy, Finance, Human Resources and Audit. The Board held seven (7) meetings and three retreats to deliberate on items that could not be discharged during a normal Board meeting. The Finance, Audit and Human Resources Committees held three (3) meetings each while the Technical and Strategy Committee held six(6) meetings as shown in the table below:-

Board Member	Classification	Designation	Technical & Strategy Committee	Finance Committee	Human Resource Committee	Audit Committee	Board meetings
Mr David Ong'olo	Independent	Board Chairman					7
Mr Stephen Kiptinness	Independent	Chairman Technical & Strategy Committee	6	2			7
Ms Eunice Maranya	Independent	Chairman Finance Committee	5				4
Ms. Carol Musyoka	Independent	Chairman Human Resource Committee		1	3		5
Dr Abdirizak Nunow	Independent	Chairman Audit Committee	6			3	5
Ms. Leila Ali	Independent				3	2	6

Mr. Michael Onyancha	Representing PS Ministry of Industry, Trade and Co-operatives				2	3	7
Mr. Protus Sigei	Representing PS National Treasury		5			2	6
Ms. Elizabeth Nganga	Representing Hon. Attorney General			1	2		6

Capacity Building for the Board

Training and development programmes were developed to equip the Board with the necessary skills for effective discharge of their mandate. Newly appointed Members underwent a detailed induction that enhanced their understanding of the nature of the Authority's mandate and their obligations under all Statutes underpinning the Authority's operations and the Mwongozo Code of Governance for State Corporations. During the year, Members also attended various capacity building programmes focusing on Competition Law and Policy, Corporate Governance, Internal Audit, leadership and public finance.

Board Evaluation

Board evaluation is key in assessing the performance, efficiency and effectiveness of an organization. The Authority undertakes regular Annual performance evaluation of its Board to enable it to review its strategies to ensure continuous growth and sustainability. The Board evaluation exercise is normally conducted by the State Corporations Advisory Committee (SCAC) and the Board has previously performed remarkably well.

Board Remuneration

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

Board Committees

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

Technical and Strategy Committee
The Committee is mandated to-

(i) Advise on strategic planning for the Authority and related technical aspects of the operational performance of the Authority and implementation of the Act;
(ii) Work with management on technical issues related to the functions of the Authority;
(iii) Review the quality of technical work carried out by the Authority; and
(iv) Advise on risk identification and mitigation measures.

The membership constituted of Mr. Stephen Kiptinness (Chairman), Mr. Wang'ombe Kariuki (Director – General), Ms. Eunice Maranya, Dr. Abdirizak Nunow and Mr. Protus Sigei.

Human Resources Committee
The Committee is mandated to -

i. Review Human Resource policies and succession planning aspects of the Authority;
ii. Review of Human Resources compliance with national legislation;
iii. Organize the structuring and performance evaluation of Senior Staff; and
iv. Oversee and advise the Board on recruitment and promotion of all cadres of staff.

The Members are Ms. Carol Musyoka (Chairperson), Mr. Wang'ombe Kariuki (Director – General), Ms. Leila Ali, Mr. Michael Onyancha and Ms. Elizabeth Ng'ang'a.

Audit Committee
The Committee is mandated to -

i. Periodically review the Authority's Financial reports in liaison with the External Auditors;
ii. Review the Authority's financial statutory and non-statutory reporting obligations; and
iii. Evaluate and advise on the effectiveness and robustness of internal control measures.

The Members are Dr. Abdirizak Nunow (Chairman), Ms. Leila Ali, Mr. Michael Onyancha and Mr. Protus Sigei.

Finance Committee
The Committee is mandated to -

i. Review the budgeting processes of the Authority and measures to broaden sources of Authority's financial resources;
ii. Review the interface between Authority's resource inputs and outputs; and
iii. Advise on internal financial control systems and oversight on financial reporting.

The Members are Ms. Eunice Maranya (Chairperson), Mr. Wang'ombe Kariuki (Director – General), Mr. Stephen Kiptinness, Ms. Elizabeth Ng'ang'a and Carol Musyoka.

Internal Audit and Assurance

As the Authority's third line of defense, the Internal Audit function's main objective is to provide assurance of the risk management, internal controls and governance processes. The assurance is meant to deepen good governance practices and support the achievement of the best internal controls through continual improvement and engagement. The Authority's system of internal controls has been defined by approved policies and procedures which contain operational and financial controls that ensures that the assets are safeguarded, transaction authorized and accurately recorded. Further, they ensure that material errors and irregularities are either prevented or detected within a reasonable time.

Internal assurance was carried out by the independent internal audit function. The objectivity and independence of the Internal Audit was enhanced through professionalism and competence of the function and governance support from the Board Audit Committee to which the function reports. During the Financial year under review, there were thirteen (13) planned audit reviews that were carried out with a view to appraise the compliance levels to the approved policies, relevant legislations as well as evaluate on the adequacy, design and operational effectiveness of internal controls.

Office of the Auditor General also provided the external assurance through systems and financial reviews of the various expenditure cycles of the Authority.

Corruption Prevention Strategies

The Authority continued to implement the Anti- Corruption Policy and Corruption prevention strategies through the guidance of the Corruption Prevention Committee which is comprised of the Heads of the Departments and chaired by the Director-General. These strategies included awareness creation aimed at raising the culture of integrity, ethical and professional conduct at the work place. Further, the Authority's staff awareness levels on ethics and integrity was enhanced through sensitization from Integrity Assurance Officers. Through the guidance of the Ethics and Anti-Corruption Commission, the Authority's Corruption Prevention Committee was sensitized on the new Anti-Bribery Act 2016 as well as other emerging issues on ethics and integrity.

The Authority also carried out a Corruption Risk Assessment in all its functional areas, developed and implemented appropriate mitigation plans. As a result, zero cases of corruption were reported during the period.

Whistle blowing policy

The Authority is committed to protecting the identity and well-being of all employees and stakeholders when they provide information regarding corruption related activities or participate in investigations. Towards this, it has established three reporting channels through which anonymous reports on unethical/fraudulent behaviour can be made without fear of retaliation from the suspected individuals. The channels are corruption reporting hotline, email and corruption reporting box.

Conflict of Interest

The Members and staff are obligated to fully disclose and declare any potential or real conflict of interest, which comes to their attention, whether direct or indirect. At any meeting of the Authority, Members and staff are expected to declare any interest they may have in an agenda item under discussion. In case of conflict of interest the affected Member or staff is excluded from any discussion or decision on the matter in question.

Code of Conduct

The Authority has continued to observe and implement the provisions of the Gazzeted Code of Conduct. This Code of conduct binds both the Members and staff who must commit to its requirements once they have joined the Authority.

Risk Management

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

Relevant risks are those that are within the control of the Authority, a possible event or outcome that could lead to the organization not being able to operate or fulfil its mandate. In order to ensure the Authority remains up to date in its risk identification and mitigation strategies, the current risk management framework and related tools are being reviewed.

CHAIRMAN'S STATEMENT

It is my great pleasure to present the 4th Annual Report and Financial Statements since the operationalization of the Authority in August 2011. On behalf of the Board, we are proud of the achievements of the Authority and its staff in the 2016/17 Financial Year both in securing important outcomes for consumers, business and the economy.

According to the World Bank Report on Global Economic Prospects, global economic growth slowed in 2016 to a post financial crisis low of 2.3%. This was caused by stagnation of global trade, decelerating investment and increased policy uncertainty. The World Bank anticipates that 2017 will witness a moderate recovery, with global economic growth forecast to increase to 2.7%. The Growth will mainly be driven by improvements in emerging market and developing economies, expected increase in commodity prices and the fact that the divergence in growth performance between commodity exporters and importers is on track to narrow. Equally, fiscal stimulus measures in major economies, especially in the United States could lead to stronger than expected global growth. However, downside risks still dominate global economic prospects and are associated with heightened policy uncertainty, protectionist pressures, and risk of financial market disruptions.

According to the Kenya Economic Survey, 2017 the Kenyan economic growth exhibited a robust performance in recent years with an estimated growth of 5.8% in 2016. This was supported by a stable macroeconomic environment, low oil prices, earlier favorable harvest, rebound in tourism, strong remittance inflows, and an ambitious public investment drive. Nonetheless, according to the World Bank, Kenya's economy is currently facing headwinds that are likely to reduce the GDP growth in 2017 to 5.5% as a result of electoral dynamics, the ongoing drought which has led increased food insecurity and resultant inflation. Further, with hydropower being the cheapest source of energy in Kenya, poor rains will increase energy costs and their effects will spill over to other sectors. Equally, as a net oil importer, the anticipated continued rise in global oil prices compared to the lows of 2016, leading to a dampening effect on economic activity. The Report also forecasts that Kenya faces a marked slowdown in credit growth to the private sector at 4.3%, which is well below the ten-year average of 19%. This is likely to weigh down on private investment and household consumption. The World Bank expects growth to pick up in 2018, driven by the expected normalization of rainfall, a firmer global economy, a rebound in tourism and the resolution of challenges curbing credit growth. During the reporting period, the Authority registered a significant increase in the number of investment through mergers with an international dimension, from 44% in

2016/2017 to 72%, which could be attributed to the reported robust growth and attests to attractiveness of Kenya as an investment destination.

Towards realization of the Vision 2030, the Authority under the MTP III, will focus on dismantling the regulatory obstacles in different sectors, implementing the recommendations from the Banking and USSD market inquiries, focus of developing the lending market in Kenya, review and align competition instruments with market realities, develop and operationalize the Competition Act Rules. It will also enhance surveillance in various sectors of the economy for potential anti-competitive regulations and policies, develop and implement frameworks with RECs to facilitate harmonization of laws and regulations for cross border competition and consumer issues. Further, the Authority will develop and implement guidelines that prevent the emergence of market structures which impede effective competition and sensitize the business community on the consumer protection provisions of the Act.

During the period under review, the Authority registered remarkable developments in the realization of its mandate. With the support of the National Assembly the Authority's enforcement jurisdiction has now been expanded and as result the Authority now has statutory capacity to carry out more effective market inquiries in addition to enhancing consumer welfare through the additional powers bestowed to it. In order to streamline the investment climate in the Country following the amendment of the Act the Authority will soon be issuing Guidelines to explicitly exclude mergers with benign competition effect from notification. Towards addressing the challenges currently affecting the retail sector of the economy the Authority intends to operationalize its Buyer Power Guidelines. This is intended to reduce the mortality of SMEs occasioned by abuse of Buyer Power by the major retailers. Due to the need to reduce the compliance burden and enhance transparency, the Authority has Gazzetted Guidelines to operationalize the Leniency programme.

During the period, the Authority completed the implementation of the 2013/14-2016/17 Strategic Plan and finalized development of its 2017/18-2020/21 Strategic Plan. The Authority continues to register an overall improvement in its performance due to enhanced resources, human and capital, which has deepened its regulatory capacity. Further, I am happy to report that the Management not only achieved most of the Performance targets pursuant to the Performance Contract with the National Treasury but also put in place measures that ensured the Authority's continued delivery of its mandate.

In addition, the automation of our processes through implementation of the ERP and Case Management system's coupled with transition to ISO 9001:2015 Standard are anticipated to enhance the Authority's efficiency in service delivery. I would like to thank all our stakeholders especially our parent Ministry and the Development Partners for the support they continue to accord the Authority without which our achievements would not have been realized. Finally, I wish to appreciate the Management and staff for their efforts in supporting the realization of the Authority's mandate.

David Ong'olo

DIRECTOR GENERAL`S STATEMENT

I hereby present the Authority`s Annual Report and Financial Statements for the 2016/2017 financial year pursuant to section 83 of the Act being the last Annual Report for the implementation of the Authority`s Strategic Plan of 2013/2014 to 2016/2017. The Report focuses on the following thematic areas: Enforcement of Competition and Protection of Consumers, Research, Advocacy and Awareness Creation, Mobilization and Optimal Utilization of Resources, Infrastructure and Human Capital Development and Visibility and Corporate Image. In addition, the report highlights the impact of the Authority`s decisions to the economy.

To manage emerging enforcement challenges, the Authority through the National Treasury, pursued amendments to the Act to address abuse of buyer power and its negative effects on sustainability of suppliers, particularly small and medium enterprises. Additionally, the amendments gave it more powers to investigate and impose administrative penalties for abuse of dominance cases. These amendments also provided for consumer provisions to initiate *Suo Moto* investigations as well as pursue administrative remedies. This is anticipated to enhance the rate of compliance with the Act through speedy finalization of consumer and restrictive trade practices cases. The amendments also provided for block exclusions for mergers that do not meet the mandatory thresholds. Consequently, the Authority will develop and implement buyer power and merger threshold guidelines to assist in the evaluation of abuse of buyer power cases and provide for block exclusions respectively hence saving the small and micro enterprises.

The World Bank projected the Kenyan economy to grow by 5.9% in 2016 and 6% in 2017 (Kenya Economic Update (KEU), October, 2016). The key drivers for this growth include: a vibrant services sector, enhanced construction, currency stability, low inflation, low fuel prices, a growing middle-class and rising incomes, a surge in remittances, and increased public investment in energy and transportation. Additionally, according to Analyse Africa Investment report (2016), Kenya recorded one of the biggest increases in Foreign Direct Investment with project numbers rising by 49% totaling $2.4B in investments.

The increase in the number of mergers with international dimension from 44% in 2015/2016 to 71% in 2016/2017 was attributed to the conducive business environment, favorable investment climate and also the upgrading of the Kenya status to the middle income. 16.13% of the mergers with international dimension involved private equity investments.

To sustain this growth the Authority ensures speedy conclusion of merger applications. Specifically, merger applications with combined turnover of Ksh. 1 billion were finalized within fourteen (14) days from sixteen (16) days in the previous year and mergers that may affect competition negatively, from forty two (42) days from the previous year to Forty (40) days. This reduction in timeline for handling mergers compares more favorably with the statutory timeline of sixty days provided in the Act. This scenario was also supported by the amendments actualized during the reporting period.

In order to ensure ease of entry, the Authority also investigated twenty two (22) restrictive trade practices cases mainly in manufacturing, telecommunications, land and air transport, advertising and research. Nine (9) of these cases were finalized leading to imposition of various administrative remedies, including financial penalties and declaratory Orders. A total of seven (7) exemption applications were also received and evaluated. Three (3) exemption applications were completed, two of which were granted. One exemption application on professional associations was rejected based on the need to maintain competitive pricing of transaction costs and to continually enhance quality of service.

As a result of sustained consumer awareness initiatives, the number of complaints increased by 13.6% during the year. The Authority handled a total of 75 consumer cases/complaints, and 50% of the cases were finalized as compared to 42% in the previous year. A majority of the cases emanated from the banking, retail and communication sectors, some of which were also resolved through the Authority's collaboration with other relevant Government Agencies such as Kenya Bureau of Standards (KEBS).

A key initiative the Authority undertook was to ensure disclosure and transparency in the Digital Financial Services (DFS), by requiring providers of financial transactions conducted through mobile phones to disclose charges and fees when conducting transactions. This applies to transactions which include person to person transfers, bill payments and mobile banking services such as balance enquiry amongst others.

In actualizing the recommendations of Banking Phase I inquiry, the Authority in partnership with Financial Sector Deepening (FSD), conducted the Phase II of banking sector inquiry which focused on the demand-side features of the Kenyan banking market that prevents, restrict or distort competition in the provision of banking services. The findings of the inquiry reveal that there exists a number of demand-side issues to competition in the industry, including consumer engagement, information asymmetries and switching barriers. The report proposes a number of interventions to be undertaken by the Authority and/or other regulatory bodies, that would be appropriate in order to remedy, mitigate or prevent such harm to competition or adverse effect to consumers.

In its effort to enhance competition and remove regulatory obstacles, the Authority prioritized the financial sector to deepen financial inclusion. Towards this, the Authority conducted a study in the Unstructured Supplementary Service Data (USSD). This initiative led to the reduction of USSD charges and increased transparency leading to consumer protection. The intervention also enhanced competition as consumers are able to compare prices and make informed choices. The Authority is also monitoring the interoperability initiative by the sector players to ensure that consumers can transact across networks.

The Authority in collaboration with the University of Nairobi under the auspices of the Centre for Competition Law and Economic Policy (CCLEP) together with the World Bank undertook a retail sector study. The study was informed by supplier complaints with regard to delayed payments by the retailers. On completion of the study, the Authority will disseminate the findings to stakeholders and implement the recommendations as appropriate.

To enhance efficiency and reduce transaction costs, the Authority is in the final stages of implementing the Enterprise Resource Planning (ERP) and the Case Management System. Automation of the processes will facilitate electronic filing by stakeholders, therefore easing the burden of manual applications while reducing the time taken to process merger notifications, consumer complaints and other cases. In this regard, the Authority will sensitize the stakeholders with a view to appreciate and use the system.

The Authority in its effort to unlock growth potential and dismantle regulatory obstacles to competition, commenced the implementation of the Product Market Regulatory indicative study recommendations. The Authority in collaboration with the World Bank sensitized officials from ten county governments and sector regulators on regulatory obstacles to effective competition and economic growth and recommended procompetitive reforms.

In order to enhance information exchange, benchmarking on the best practices and capacity building, the Authority signed an MOU with the Competition Commission of South Africa (CCSA). The Japanese Federal Trade Commission (JFTC) conducted training on investigation processes and techniques and informed various guidelines under the auspices of its MOU with the Authority.

In order to deepen collaboration, enhance capacity and incorporate international best practices the Authority participated and presented position papers at competition and consumer forums such as International Competition Network (ICN), African Competition Forum (ACF), International Consumer Protection and Enforcement Network (ICPEN) and United Nations Conference on Trade and Development (UNCTAD).

The above achievements were not without challenges. These included:-

1. **Information asymmetry:** - The Authority faced challenges in obtaining the requisite information to facilitate its analysis of cases. This challenge is compounded by continuous dynamism in the market. Further, there are delays in getting the required information and selective submission of information creating a challenge in concluding investigations. Therefore, it requires continuous involvement in research activities. Additionally the MOUs signed with sector regulators has enabled the Authority to get information to assist in the analysis of competition and consumer matters.
2. **Inadequate Capacity and Skills gap:** The Authority`s mandate was expanded to deal with abuse of buyer power and enhance the investigation capacity for consumer related violations. In order to effectively deliver on this mandate, the Authority is required to enhance capacity and to deepen its skills, specifically in enforcement, consumer protection and legal affairs while at the same time, rethinking its organizational structure and Human Capital head Count.
3. **Globalization and Regional Economic Communities (RECs):** The creation of regional competition authorities has resulted in double merger notifications leading to increased cost of doing business The operationalization of the EAC Competition Authority is going to further aggravate the situation. To mitigate against these challenge the Authority intends to engage the regional agencies to harmonize the thresholds.
4. **Limited local experts with competition skills and expertise:** In order to mitigate against this, the Authority is engaging with local universities to inform curriculum development and research on competition law and policy to enhance the skills level on competition in the country.
5. **Low competition culture:** The Authority had engagement with ten (10) devolved Governments to ensure compliance with the Act. This leaves a balance of 37, which will be prioritized in the strategic plan 2017/2018-2020/21 implementation period.

In the coming year, the Authority will commence the implementation of its 2nd Strategic Plan (2017/2018-2020/2021) in light of its expanded mandate as a result of the amendments to the Act. It will continue to sustain its advocacy initiatives, by implementing the recommendations of the Banking Phase II and Retail Sector studies. The Authority also intends to focus on ensuring sustained development of the leasing market and also to enhance awareness to consumers and upscale its service delivery through the automation process. As I invite you to read the Authority's Annual Report and Financial Statements for the 2016/2017 financial year, I wish to thank the Board, stakeholders and the Authority team for their support and commitment in pooling together to create efficient markets for consumers.

Wang'ombe Kariuki, MBS

ENFORCEMENT OF COMPETITION AND REGULATION OF MERGERS

The Authority promotes and safeguards competition by regulating the market conduct and market structure. Market conduct is regulated by investigating and sanctioning restrictive trade practices and abuse of dominance. On the other hand, market structure is regulated through evaluation and approval of merger applications and investigation of mergers consummated without approval and unwarranted concentration of economic power.

Control of Restrictive Trade Practices

Section 21 and 22 of the Act prohibits agreements or coordinated practices whose object or effect is to lessen competition as they detriment the ease of doing business in the economy. The Authority, is therefore, pursuant to section 31 of the Act, empowered to initiate investigations into such possible violations upon receipt of a complaint or after taking cognizance of possible violations on own motion. However, cognizant of the fact that such coordinated practices may also generate public benefits, exemptions may be granted pursuant to section 26, 28 and 29 of the Act upon application under section 25. The grant of exemption is only possible if the benefits to the public outweigh negative effects on competition.

Additionally, the law recognizes that unilateral conduct of dominant firms may also negatively affect ease of doing business and consumers by engaging in exploitative and exclusionary practices. Consequently, section 24 of the Act prohibits practices that constitute abuse of dominance. These include (i) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions; (ii) limiting or restricting production, market outlets or market access, investment, distribution, technical development or technological progress; (iii) discrimination in dealing; and (iv) abuse of intellectual property right.

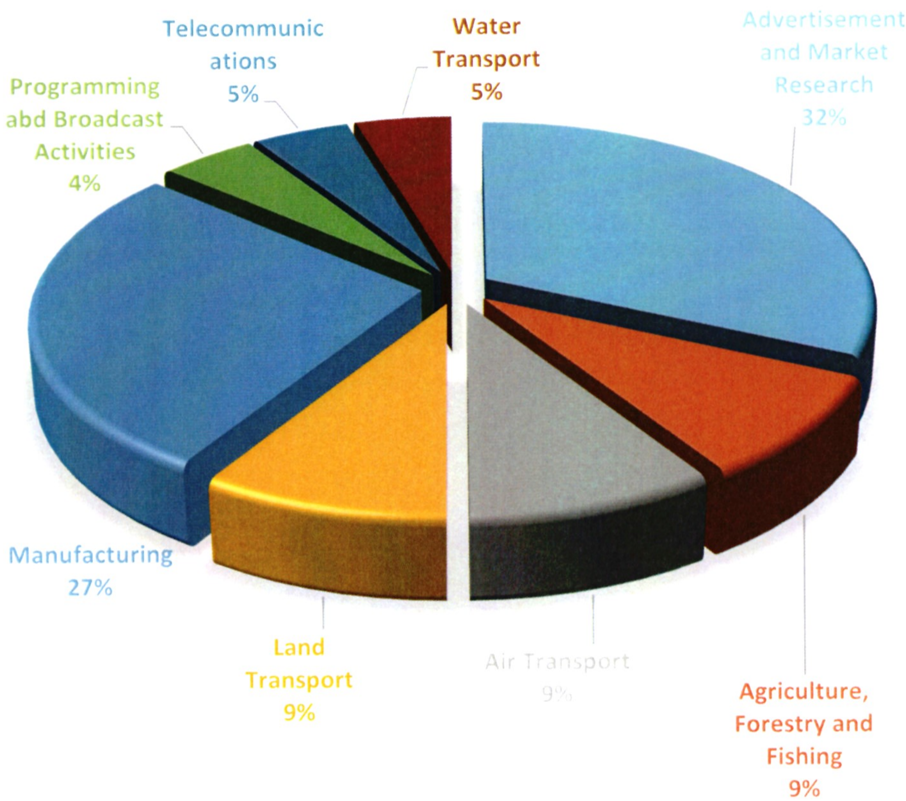
To attend to the emerging competition issues in the economy, Parliament amended the competition Act. Specifically, to address the increase in abuse of buyer power within the supplier and buyer relationships. The abuse of buyer power instances include (i)Late payment where buyers fail to honour the agreed terms of payment,(ii)De-listing by unilateral termination of a commercial relationship without notice, or subject to an unreasonably short notice period and without an objectively justified reason, (iii)Threat of de–listing to obtain undue advantage and suppress suppliers from raising genuine complains against the buyers,(iv) Unjust return of goods which the buyer purchased from a supplier,(v) Buyers transfer of costs or risks to suppliers by imposing a requirement for the suppliers to fund the cost of a promotion,(vi)Transferring commercial risks meant to be on the buyer to the suppliers,(vii)Refusal to receive ordered goods; A buyer's refusal to accept delivery of goods for reasons not attributable to the supplier after having entered into a contract,(viii) unfavourable treatment like demanding lower buying prices than all other suppliers or demanding limitations on supplies to other buyers.

The Act was further amended in alignment with international best practices by enhancing financial penalties on undertakings engaging in abuse of dominance and prohibited coordinated practices that diminish ease of entry and investment climate.

During the period under review, the Authority investigated twenty two (22) restrictive trade practice cases, nine (9) of which were finalized while the others were at various stages of investigations at the close of the reporting period. Various remedies, including financial penalties and declaratory orders, were imposed to undertakings found to have infringed the Act. A total of seven (7) exemption applications were received and evaluated. Three (3) exemption applications were completed in air transport, healthcare and professional services sectors. The applications in the transport and healthcare sectors were granted while one regarding professional services was rejected. The others were at various stages of evaluation at close of the Reporting period. The Authority also carried out compliance audits of its previous decisions including mergers consummated without approval.

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

Fig 1: RTP cases per sector handled in 2016/2017



The following is a summary of a RTP cases handled during the period:

Sample RTP case

a) **Uber Case**

The Authority investigated Uber, in February 2017, pursuant to the provisions of section 31 of the Act following allegations that it was undercutting its competitors through predatory pricing. It was alleged that Uber had revised its prices per kilometer from Kshs. 35 to Kshs. 25. The rate of Kshs 25 were considered to be predatory.

It was noted that there are two types of taxis; traditional taxis and application based taxis. The latter do not own any vehicles and drivers but create a virtual marketplace for the procurement of Taxi services. Uber is an application based taxi service provider. It works with independent operators and fleet partners.

The investigations established that;

a. The services offered by traditional taxis (taxi ranks and corporate cabs) and the application based (digital hailing) taxis were substitutes. The relevant product market was therefore broadly considered as the provision of taxi services,

b. Uber was not dominant in the relevant market in terms of section 23 of the Act as its market share was approximately 29% fleet and 30% by revenue,

c. Uber was facing credible competitors in the market like Kenatco, Little, Toxify, Mondo ride, Taxicabs, corporate cab among others,

d. The Kshs. 35 per kilometer which was charged by Uber though not predatory since it was above the average variable cost was informed by Automobile Association of Kenya rates.

e. There was ease of entry and exit in the industry as players could move from one platform to another and from traditional to app-based taxi services. Uber did not therefore have market power or ability to behave independently of its competitors and customers.

Premised on the above, the allegations of predatory pricing could not be sustained and the case was closed. As a result of the Authority's findings it enabled the customers to continue enjoying more competitive prices.

Exemption Cases

In regard to exemptions, some of the exemptions considered were:-

a) **Exemption Application by Institute of Certified Public Accountants of Kenya (ICPAK)**

ICPAK, a professional association, submitted an exemption application pursuant to section 29 of the Act for a proposed Audit Fees Guidelines for its members for an indefinite period. In terms of section 29 (7) a professional association means the controlling body established or registered under any law in respect of recognized professions.

The anticompetitive contents of the Guidelines included:

a. Providing minimum recommended fees to be charged by its members on various categories of professional services;
b. Providing factors to be considered by members in charging professional services,
c. Monitoring prevailing conditions and issue revised recommended fees as and when there is need;
d. That charging below the recommended minimum fees will amount to professional misconduct unless the services are on a pro-bono basis.

Fixing of prices is expressly prohibited under Section 21(3) and since the object is to prevent, distort or lessen competition. However, the Authority may exempt all or part of the rules of a professional association if they are aimed at; maintaining professional standards or the ordinary function of the profession. Further, in evaluating exemption applications by professional associations, the Authority takes into account whether these agreements contribute to or result in improving or preventing decline in the provision of services, promoting technical or economic progress or stability in any industry and/or obtaining a benefit for the public which outweighs or would outweigh the lessening in competition.

ICPAK argued that setting the fees guidelines would offer a basis for establishing a reasonable level of remuneration, commensurate and in accordance with recognized standards. They also indicated that setting the minimum fees would provide a fair playing ground for all practitioners hence preventing undercutting in the industry. It also pretended that the fees guidelines would eliminate illegal practitioners/quacks.

The evaluation considered :-

a. The findings of the Product Market Regulatory (PMR) Study Report titled **`Unlocking Growth potential in Kenya, Dismantling regulatory obstacles to Competition`**. According to the Report, Kenya's PMR score (a measure of the intensity of regulations) for the accounting, legal and architecture professions is higher than the average score for OECD countries and Latin America Caribbean average. This indicates that our professional services are highly regulated through price fixing and recommendations, restriction on advertising among others. The report recommends elimination of minimum prices for professional services as well as elimination of any other constraints on the advertising.

b. International best practice which recommends that setting of minimal prices do not incentivize innovation, efficiencies or technical progress aimed at reducing costs since the auditors are assured of minimum returns.

c. Setting of minimum prices will not lead to reduction of quacks in the market.

Based on the above evaluation, the Authority concluded that the proposed arrangement would stifle innovation and lead to higher fees to the detriment of customers and therefore did not meet the threshold set under section 26(3) of the Act for grant of an exemption.

It is expected that as a result of this decision, the consumers of accounting and auditing services will enjoy more competitive prices. To conclude, and cognizance of the fact that minimum prices rarely generate any benefit to the consumers, the Authority does not envisage granting of such exemption applications.

Compliance Cases

The following are some compliance initiatives of the Authority for mergers consummated without approval on which it imposed financial remedies with the aim of deterring undertakings from engaging in such practices.

a) Heron Portico Hotel and Pro Dema Limited

The Authority was made aware of the alleged acquisition of Pro Dema Limited by Heron Portico, (managed by Sarovar Hotels & Resorts) through media reports. The Authority conducted investigations and established that Heron Portico Hotel had acquired the entire business of Pro Dema Limited (trading as Zehneria) without the Authority's approval.

The transaction constituted a merger within the definition of **section 41(1) (2)** and **(3)** of the Act as Heron Portico acquired control of the Pro Dema Limited.

Section 42 (2) of the Competition Act prohibits any person, either individually or jointly or in concert with any other person, to implement a proposed merger to which the Act applies, unless the proposed merger is approved by the Authority.

The Authority may under **section 42(6)** impose a financial penalty in an amount not exceeding ten percent (10%)of the preceding year's gross annual turnover in Kenya of the undertaking or undertakings in question, if proved they consummated the merger without the Authority's approval.

The Authority's investigations established that (i) Heron Portico Hotel and Pro Dema Limited implemented a merger without prior approval from the Authority, (ii) Pro Dema Limited was facing difficult business times, and (iii) that the merger qualified for exclusion in terms of Paragraph 38 of the consolidated merger guidelines since the combined turnover was less than Kshs 1 billion. However, this did not exempt it from mandatory notification to the Authority.

The Parties presented the mitigating factors and the Authority appreciated that the transaction's effect on competition was negligible. The Authority also noted that the transaction had enormous public benefit due to the fact that the acquisition guaranteed salvaging a failing firm. In addition the Authority appreciated the cooperation of the Parties during the investigations.

Premised on the mitigating factors the Authority imposed a 3% financial penalty on the relevant turnover which amounted to Kshs. 6, 144,189.78on Heron Portico.

b) Vitol and Buckeye

The transaction involved the acquisition of 50% of VIP Terminals Holdings B.V, controlled by Vitol, by Buckeye North Sea Cooperatief U.A (Buckeye).

In the evaluation, the Authority established that Buckeye had acquired 50% shareholding in VIP Terminals Holdings B.V (VIPBV) on 4th January, 2017without authorization of the Authority in contravention of the Act.

Further investigation established that the merger qualified for exclusion in terms of Paragraph 38 of the consolidated merger guidelines and that Buckeye had no operations in Kenya and hence has no assets or relevant turnover

Having considered the mitigating factors of the case with regard to effect on competition, public interest and cooperation of the parties, the Authority imposed a financial penalty of KES. **37,895,000** which was 5.5% of the relevant turnover.

Regulation of Mergers

The activities that constitute regulation of market structure are provided under Part IV of the Act. Kenya's merger control regime provides jurisdiction for all types of mergers (Horizontal, Conglomerate and vertical). All mergers are notifiable to the Authority, however, mergers and acquisitions that do not meet the required thresholds for mandatory notification are excluded pursuant to section 42 of the Act.

The Authority handled a total of one hundred and fifty (150) merger notifications from various sectors, majority of which were in manufacturing, healthcare services, logistics and property. A higher number (72%) of the mergers received had an international dimension compared to (44%) in the previous year, of which 16.13% involved private equity investments. The increase in the number of mergers with international dimension was attributed to the conducive business environment, favourable investment climate and also the upgrading of the Kenya status to the middle income.

Of the mergers notified, Forty one(41) applications met the required merger threshold for mandatory notification and seventy six (76) were excluded from provisions of Part IV of the Act, while twenty (20) were non-mergers and thirteen (13) were ongoing by the end of the financial year.

To deepen the investment climate and ease of doing business, the Authority amended the Act and provided for block exclusions for mergers which do not meet the thresholds required for mandatory notification. In the next financial year, the Authority will operationalize Guidelines to provide for block exclusions of merger hence saving the Small and micro enterprises from notifications related costs. To enhance transparency, predictability and clarity among the business community, the Authority also intends to review and adopt merger notification Forms.

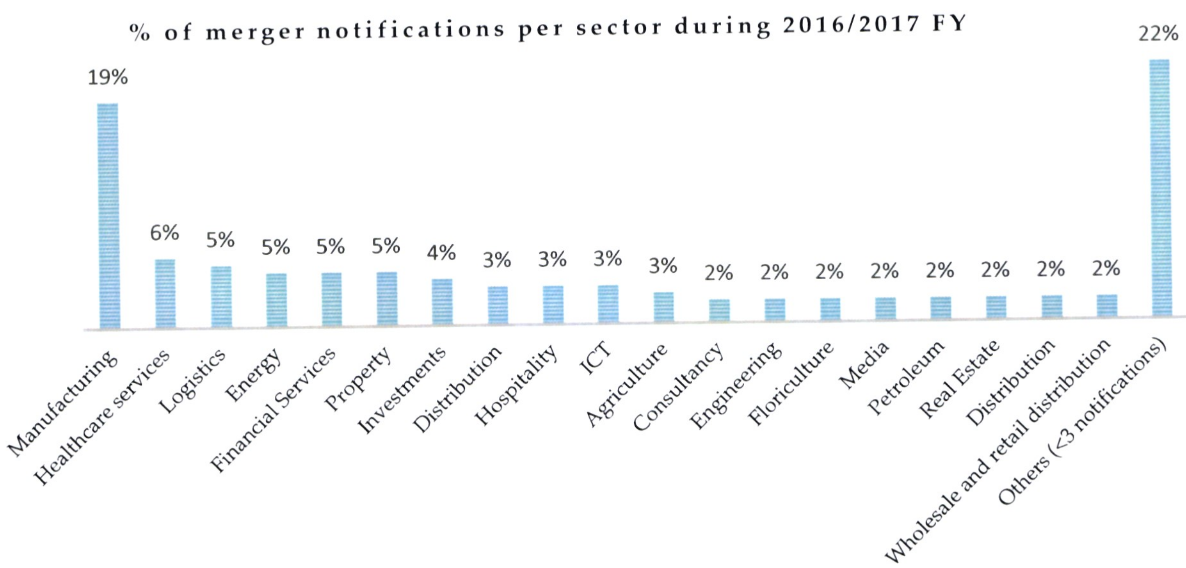
During the period, the Authority promoted the Investment Climate through speedy analysis and finalization of merger applications. Specifically, merger applications which were below the required merger threshold of Kenya shillings one billion(KES 1billion) and did not raise any competition concerns were finalized within fourteen (14) days from sixteen (16) days in the previous year, while mergers that may affect competition negatively, from forty two (42) days from the previous year to Forty (40) days. This reduction in timelines for handling merger applications led to the minimization of the transaction costs for the business community. This reduction in timeline for handling mergers compares more favorably with the statutory timeline of sixty days provided in the Act.

Additionally, the Authority in its efforts to enhance efficiency and further reduce the transaction cost for itself and the business community, is in the process of transiting from manual merger filing to online merger filing. This is intended to facilitate the stakeholders to file their applications with the Authority electronically and ease the burden of manual applications hence further reduction in the timelines taken to analyse and finalize merger applications.

The specific merger notifications during the period under review are provided as Appendix V

ITEM	2015/2016	2016/2017
Merger transactions	38	41
Exclusions Transactions	79	76
Non-merger Transactions(restructuring)	22	20
Transactions carried forward	10	13
Mergers with International Dimension excluding non-mergers	44%	72%
Local Dimension Transactions excluding non- mergers	56%	28%

Merger Applications for 2016/2017 Financial Year

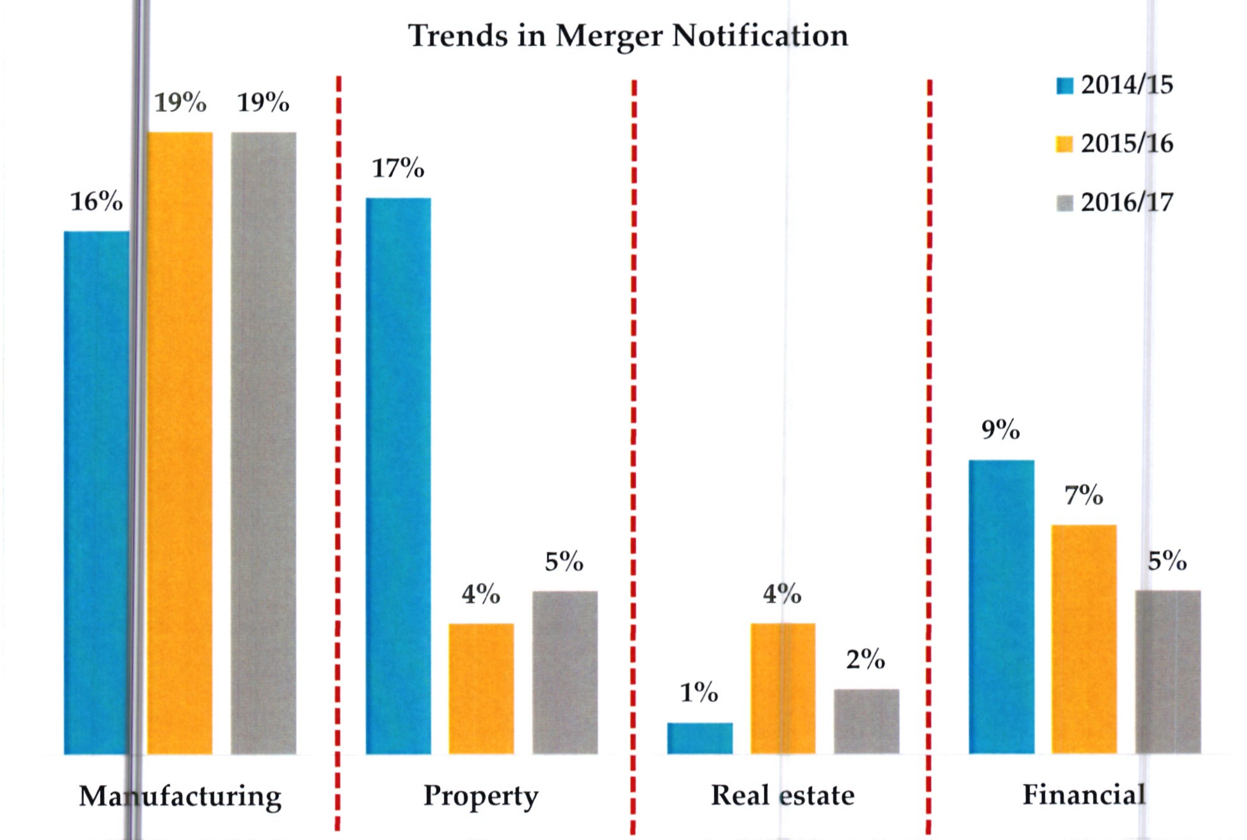


Note:

Other sectors category (22%) shown above consists of: assembly, audit, aviation, cleaning services, floriculture, construction, dairy, green energy, horticulture, insurance, online market, pest management, printing, publishing, Information Technology (IT), internet market, freights and forwarding, green energy, horticulture, insurance, online market, pest management, printing and publishing, security, services, telecommunication, tours and travel training and transport.

Trends in merger notifications

The Manufacturing sector recorded the highest notifications commanding 19% of the total number of applications received in 2015/2016 and 2016/17. In 2014/15, it was second at 16% after property at 17%. The high number of notifications in manufacturing sector may be attributed to the deliberate measures the Government put in place given that the sector is an important driver of economic growth and a source of employment in Kenya. Other sectors such as financial, investment, logistics, energy, health, real estate and telecommunications have been alternating in percentage of notifications as indicated by the table below.



Notable Merger Transactions

The following are some of the mergers handled by the Authority during the year.

ACQUISITION OF 100% OF THE ISSUED SHARE CAPITAL IN GULF AFRICAN PETROLEUM CORPORATION BY TOTAL OUTRE-MER S.A.

The transaction involved the acquisition of the entire issued share capital in Gulf African Petroleum Corporation (GAPCO) by Total Outre-Mer S.A (Total).

In Kenya, the acquiring undertaking trades through Total Marketing Kenya Limited, which is involved in marketing and logistics of petroleum products. GAPCO operates through GAPCO Kenya Limited which is primarily engaged in the importation, storage, marketing and retailing of petroleum products.

The relevant product markets considered for the transaction were the; upstream market for the importation of Petroleum Products, Storage of Petroleum Products and the downstream market of retail of Petroleum products. The relevant geographical market, which refers to the area over which substitution takes place, was the coastal region where the targets' importation, storage and retail activities are prominent.

The **upstream market for Importation of Petroleum products** into Kenya is centrally coordinated and regulated by the Ministry of Energy and Petroleum through the Open Tender System (OTS).There are currently thirteen (13) Oil Marketing Companies (OMCs) that participate in the monthly OTS tenders as per information obtained from Energy Regulatory Commission (ERC), 2016.

Based on the fact that the upstream importation of petroleum products is regulated by the Ministry of Energy and Petroleum, and as indicated, thirteen OMCs participate in the tendering, the transaction was unlikely to lessen or prevent competition in the upstream market for the importation of petroleum products into the country.

Regarding the market for **Storage of Petroleum Products**, the major players in Mombasa are; Hashi Energy, Mombasa Joint Terminal (MJT) for (Kenol-Kobil Limited and Total Kenya Limited, Vitol Tank Terminals International (VTTI) Kenya Limited, Vivo Energy Kenya Limited, Gulf Energy Limited, GAPCO Kenya Limited, Mbaraki Bulk Terminal limited, Tecaflex Limited, Kenya Petroleum Refineries Limited (KPRL), Libya Oil Kenya Limited and Kenya Pipeline Company (KPC).

Post-merger, the Acquirer, based on its utilization requirements, had the potential to exclude third party OMCs, who currently enjoy hospitality services at GAPCO terminal 2 facility, given that there are those who store their products solely with GAPCO. This would constrain the remaining capacity of private players who offer hospitality in the industry.

The **downstream market for retail of Petroleum products** is regulated by ERC, where the maximum retail pump prices of petroleum products are determined in accordance with the formula set out by

ERC. Total Kenya has a countrywide network of 180 service stations, out of which twenty seven (27) are in the coastal region. On the other hand, GAPCO Kenya Limited operates a total of 9 petrol stations country wide, eight (8) of which are in the coastal region, and one (1) in Nairobi.

Investigations revealed that all the petrol stations are within a 5 KM competitive distance from each other except along the highways to other towns. Also, the distances between the acquiring party's stations and the targets stations are significant enough that no competition concern is likely to arise post transaction. This was also corroborated by the fact that there are several petrol stations at close proximity which will offer competitive restraint to the merged entity.

The Authority approved the transaction **on condition** that the Merged entity: i) respects all hospitality agreements that GKL had entered into with third parties in relation to Mombasa Terminal; ii) maintain the present policy of making hospitality at Mombasa Terminal 2 available to third parties and entering onto relevant hospitality agreements with third parties, provided that contractual terms are agreed between merging parties and its customers and third parties fully comply with all applicable Kenyan laws and regulations on health, safety and environmental ("HSE") requirements, as well as all HSE standards and terminal policies in force at any given time in relation to Mombasa Terminal 2.

Regarding public interest considerations, the Authority concluded that the transaction was likely to lead to loss of jobs. The Authority required the merging parties, among others, not to terminate any of the current short-term employment contracts of GAPCO employees and not to terminate any permanent and pensionable long-term employment contracts of GAPCO employees before the end of the 24 month period from the Completion Date.

The benefits to be accrued as a result of the conditions attached to the continuity of supply of petroleum and oil products and also safeguarding of employees from unjustified retrenchments.

THE ACQUISITION OF 57.73% SHAREHOLDING IN GENERAL MOTORS EAST AFRICA LIMITED (GMEA) BY ISUZU MOTORS LIMITED (ISUZU).

The transaction involved the acquisition by Isuzu of 57.73% of the shareholding in General Motors Asia Pacific Holdings LLC (GMAPH) currently held by General Motors East Africa Limited (GMEA). Following the transaction, GMAPH ceded all its shares in GMEA to Isuzu thereby conferring control to the acquirer over the target.

Isuzu Motors Limited (Isuzu), the acquiring undertaking, is incorporated in Japan and listed in the Tokyo Stock Exchange. The acquirer engages in the manufacture and distribution (sales and service) of Isuzu branded automobiles, motor vehicle parts and components. Its products include; trucks, busses, pick-up trucks and sports utility vehicles, powertrain, and industrial and marine engines.

Currently, Isuzu has no subsidiaries in Kenya. However, through General Motors East Africa Limited (GMEA), it distributes Isuzu light duty trucks, medium duty trucks, heavy-duty commercial trucks, small buses, and large buses.

General Motors East Africa Limited (GMEA), the target undertaking, is incorporated in Kenya as a joint venture between the Kenyan Government and General Motors Company (GM).

GM is involved in the manufacture and distribution (sales and service) of automobiles and motor vehicle parts. In Kenya, GM through GMEA is involved in the assembling, sale and servicing of Isuzu motor vehicles. It also imports and retails fully built Chevrolet vehicles being private cars and Sports Utility Vehicles. However, the post-merger agreement was that GMEA would cease the Chevrolet line of business.

The relevant product markets within which this transaction was analysed were the: i) Market for sale of motor vehicles; ii) Market for maintenance and repair of motor vehicles; and iii) Market for sales of motor vehicle parts and accessories while the geographic market was national (Kenya).

The players in **the market for sale of motor vehicles** are: GMEA with Isuzu and Chevrolet brands; Toyota Kenya(Toyota brand); Simba Colt (Mitsubishi Canter, Mitsubishi FUSO and Mitsubishi Pick-ups brands); Cooper Motor Company (CMC) Holdings(MAN trucks, UD trucks, Case Construction, Eicher and Bobcat brands); Tata Motors; DT-Dobie(Dodge and Volkswagen brands); and Crown Motors.

Given that Isuzu was coming in to directly sell its products which were initially being sold through GMEA in Kenya, the transaction was unlikely to lessen or prevent competition in the Market for sale of motor vehicles.

In the market for maintenance and repair of motor vehicles, GMEA was responsible for the repair and maintenance of all its vehicle brands specifically Isuzu and Chevrolet. GM however indicated that it was winding up the Chevrolet brand in Africa, which raised concerns on how the contracts for aftersales services for the Chevrolet brand would be honoured to the customers. Therefore, there was need for GMEA to provide aftersales support for the Chevrolet brand it sold for a period of 10 years following the completion of the proposed transaction.

Lastly, in the **market for sale of motor vehicle parts and accessories**, other than GMEA and its appointed dealers, the market is dominated by second hand part sellers and importers who command a larger share of sales in the country given that new parts are deemed expensive. The analysis showed that market structure and concentration was unlikely to change post-merger. Regarding public interest, there was a likelihood that the transaction was to lead to job losses.

Based on the foregoing, the Authority approved the merger on condition that the merged entity would: i) absorb all the GMEA employees; ii) continue with the aftersales service of all the vehicle brands, Isuzu and Chevrolet sold and leased by GMEA for duration all aftersales service contracts; iii) honour all existing dealership agreements between GMEA and its dealers and communicate to all GMEA customers the continuation of aftersales services.

Due to the conditions attached to the merger, the Authority ensured that the jobs are safeguarded, in line with vision 2030, customers' welfare were considered, they are informed and that there was a smooth transition without incurring unnecessary expenses or losses as a result of the merger.

CONSUMER PROTECTION

The Authority is mandated to protect consumers from unfair and misleading market conduct. It achieves this through investigation and resolution of consumer violations involving false and misleading representations, unconscionable conduct and unsafe, defective or unsuitable goods. The investigations may be triggered by a receipt of a consumer complaint or initiated by the Authority after a market screening.

The period under review saw the Authority's investigative mandate enhanced through amendments to the Act, by introducing Section 70A which gives it powers to initiate investigations on its own motion into consumer matters as well as impose administrative remedies including financial penalties on consumer violations, which is essential for deterrence.

Through the amendments, the Authority has also been empowered to enter into settlement agreements with undertakings concerned at any time during or after investigations, thus enabling faster resolution of consumer cases. The Settlements may include an award of damages to the complainant and/or imposition of a pecuniary penalty.

With regard to enforcement consumer protection, the key achievements of the Authority are as follows:-

Transparency in Mobile Money Payments and Mobile Based Credit

The Authority recognizes that price awareness is an important aspect of consumer protection. Article 46 of the Constitution also provides that consumers have the right "to information necessary for them to gain full benefit from goods and services". Therefore pursuant to section 56(4) of the Act, the Authority carried out investigations into the disclosure and transparency practices by Providers of Financial services availed through the mobile phone technology. These services include; mobile phone loans, person to person transfers, bill and merchant payments and banking services such as balance enquiry, airtime top up and mobile money top up amongst others.

The findings indicated that there was generally lack of price disclosure and transparency in the telecoms, banking and other loan providers through mobile apps. This was contrary to Section 56(4) of the Act. To remedy this conduct, the Authority ordered all Service Providers to adhere to provision of inflight (during a transaction) charging information to a consumer amongst other requirements. So far 60% of the providers have implemented, including Safaricom, Airtel and banking institutions such as Bank of Africa, Co-operative Bank of Kenya, Family Bank, Kenya Commercial Bank, Commercial Bank of Africa amongst others have implemented the requirements. The rest of the providers are in the process of implementing. The delay has been occasioned by the different technological platforms they employ.

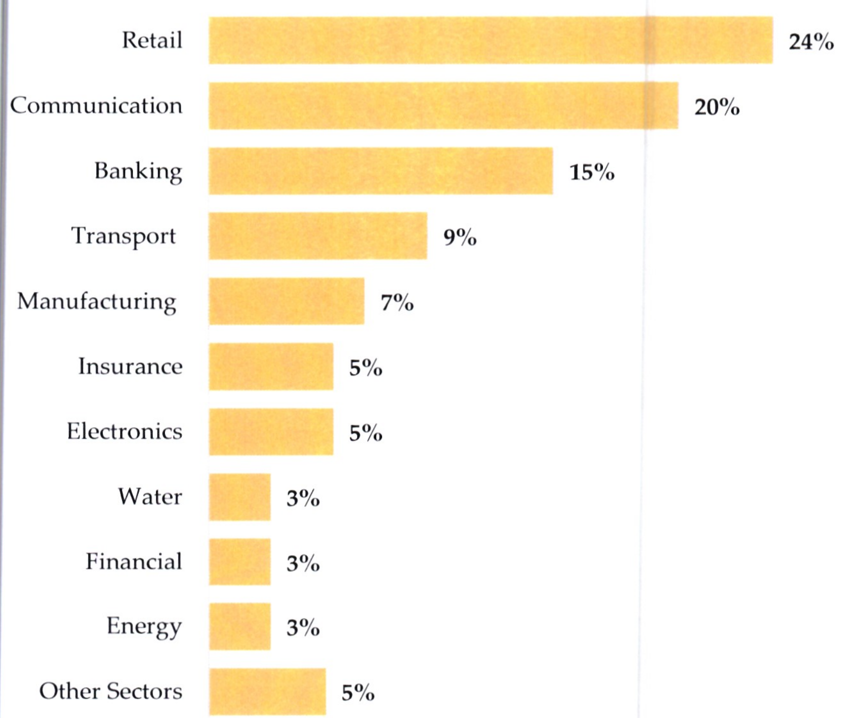
This intervention by the Authority has impacted over 39 million mobile subscribers[1] in Kenya and it promotes inclusion in the Digital Financial Services. It also empowers consumers to exercise choice while promoting price competition amongst the Financial Services Providers. The Authority in the coming financial year, shall focus on mobile phone billing as well as transparency and disclosures of information in the Financial Services sector. The focus will also be on determining the disclosure practices of Mobile Network Operators on Mobile Credit Information.

Resolution of consumer related violations

The Authority handled a total of 66 consumer cases/complaints out of which 50% were concluded, as compared to 42% in the previous year. The resolution was enhanced as a result of the empowerment of the Authority to obtain information and take evidence, as well as collaboration with other Government Agencies as per Section 68 of the Act.

An analysis of the consumer cases handled shows that majority of the cases emanated from the retail and communication sectors accounting for 24% and 20% of the total cases respectively while the banking sector accounted for 15% of the cases handled as shown in the bar chart below.

Sectors of Consumer Protection Cases Received In 2016/2017



Note:
Other Sectors (Agriculture, Health, Education, Real Estate, and Cooperative) each consist of 1% each.

Consumer issues from the retail and communication sectors ranged from false and misleading representation on price, quality, existence of warranty and promotions for subscription on Pay TV services. The majority of complaints in the banking sector involved unconscionable conduct regarding non-disclosures of charges and fees and restriction of choice of insurance services by banks (bancassurance).

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

Wycliffe Muma vs Airtel Kenya Limited- False and Misleading Representation in the Telecommunication Sector.

The complainant alleged that he was erroneously billed on his airtime account for accessing internet services by Airtel Limited despite receiving a text informing him of having a balance of 500 MB on his Airtel number contrary to section 55 (a) (v) of the Act.

Upon the Authority's intervention, Airtel agreed to remedy the contravention by crediting the complainant's account with the equivalent amount. Through such interventions the Authority's objective is to deter similar contraventions which cumulatively have a great impact on the economy and especially to the vulnerable members of our society.

Supermarkets Vs the Authority - False and Misleading Representation in the Retail Sector

KEBS forwarded to the Authority an anonymous complaint alleging that supermarkets were misleading consumers by having their labels on the refrigerator volume capacity in cubic feet which did not match the manufacturer's volume capacity which are in litres. This is in contravention of Section 55(a) (i) (v).

After undertaking the investigation, the Authority established that volume in litres refers to the internal capacity while cubic feet refers to the size of the fridges and freezers. Based on the findings, the Authority compelled manufacturers and supermarkets to within seven (7) days change labels for fridges and freezers to reflect both the cubic feet and volume in litres. Our intervention ensured that the labels on the displays in the supermarket educated consumers on the cubic feet and volumes.

Moses Kalum Vs Silafrica Company - False and Misleading Representation in the Manufacturing Sector

The complainant alleged that he bought a Five Thousand Litres Tank (5,000 L) from Simtank Company Limited and assured him that they would replace the tank in case of any defect/failure. However, the tank burst after a few months of use and upon contacting the seller, no action was taken to resolve the issue.

The Authority investigated the matter under Section 55 (a) (i) of the Act, which culminated in the company remedying the contravention by replacing the defective tank with a new one. This case demonstrates that consumers' rights to goods of reasonable quality is guaranteed and enforceable, and the producers/sellers are obligated to honor their warranties.

Daphne Bagshaw Vs Nakumatt, Nyali- false and misleading/Unconscionable conduct in the Retail Sector.

The complainant alleged that she bought a Hotpoint gas cooker from Nakumatt, Nyali. She later discovered that the oven heat could not be controlled especially during baking, contrary to what the manual entailed.

Upon the Authority's investigation under Section 55 and 56 of the Act, Nakumatt offered to replace the cooker in question. However, the complainant had already bought a table top oven and was willing to use the cooker for other purposes. As a redress, complainant was compensated with a gift voucher of Ksh.10, 000 by Nakumatt and retained the cooker. Nakumatt committed to sensitize its staff to create awareness to its customers regarding the various gas cooker models.

Collaboration with consumer bodies

The Authority achieved its mandate on promotion of consumer bodies by profiling and recognizing a newly formed consumer organization by the name Consumer Downtown Association. The Authority also collaborated with various consumer bodies in consumer awareness creation activities such as: Consumer Summit and Expo 2016 held on 14th November 2016 organized by Consumer Federation of Kenya (COFEK), Kenya Consumer Roundtable Meeting on Dairy & Horticulture Safety and Loss in Kenya held on 17th November 2016 organized by Consumer Unit Trust Society (CUTS) International. Additionally, in marking the World Consumer Rights Day (WCRD) held in Nakuru on 15th March 2017, the Authority invited and facilitated consumer organizations to participate in sensitization and education of consumers regarding their rights and obligations on e-commerce. The event attracted consumer organizations such as Kenya Consumer Organization, Consumer Information Network (CIN), Downtown Consumer Organization and CUTS International.

RESEARCH AND ADVOCACY

The Authority has an advisory role to the National and International Governments in regard to competition and consumer welfare matters. To achieve this mandate research and advocacy plays a key role. The Authority conducts market inquiries/ studies in prioritized sectors to assess the state of competition and consumer protection concerns. The findings of these inquiries inform policy advice. In advocacy, the Authority employs soft-enforcement initiatives to foster competition culture and adoption of best practices by continuously driving the advocacy agenda that is responsive to market dynamics.

A. Market Inquiries

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

(i) Unstructured Supplementary Service Data (USSD)

The Authority finalized the Unstructured Supplementary Service Data (USSD) inquiry. USSD is a Global System for Mobile (GSM) communication technology used to send a text between a mobile phone and an application program in the network. It is a standard for transmitting information over GSM network.

The economy has witnessed an increase in the use of mobile telecommunications technology to conduct a variety of financial transactions leading to a significant growth in financial inclusion especially for those in the informal sector. The Financial Services Industry contributes approximately 6.8% to the Kenyan GDP (Economic Survey 2017).

The objectives of the inquiry was to establish the state of competition, pricing and the quality and accessibility in the provision of USSD services. The inquiry findings pointed to excessive pricing, price discrimination and Abuse of Dominance. A key recommendation of the report is that there is need for effecting interoperability in order to reduce the network effects that contribute to market power in the markets for mobile financial services.

The Authority's approach was to employ soft enforcement initially, specifically in regard to excessive pricing on USSD. Towards this the Authority committed Safaricom Ltd to revise and standardize its USSD prices. This has led to price reduction by 60% with resultant consumer benefit of reduced transaction costs in mobile banking services.

(ii) Banking Sector Phase II Inquiry

The Authority finalized the banking sector phase II inquiry whose main objectives were to: establish if there are any barriers to bank customers switching providers; identify how both transparency and substitutability can be improved to address competition issues; assess the level of and current practices around consumer control over their transactional data and how this is sold or accessed by third parties.

Some of the key findings pointed that there was: lack of transparency and compliance with disclosure requirements in relation to charges, the terms of service, total cost of credit and sharing of consumer data; lack of transparency of loan costs and features especially for the digital lenders who provide minimal information about the service; and lack of a legislative framework on the privacy of consumer data.

The report recommends: improving price transparency, encouraging price comparison tools, improving access to customer information, and centralised KYC.

The Report should be implemented under the MTP III, in collaboration with The National Treasury and the Central Bank of Kenya.

(iii) Retail Market Inquiry

The Authority collaborated with the University of Nairobi under the auspices of the Centre for Competition Law and Economic Policy (CCLEP) in undertaking an inquiry into the retail sector. The sector plays a significant role in the economy by contributing 8% of the GDP. The objective of the inquiry was to assess the level of competition, consumer protection concerns and the regulatory framework in the retail sector.

The key findings include that the leading supermarkets have a combined market share of 58% thus exerting influence to obtain more favorable terms from supplier especially on payment terms, nonexistence of warranties or failure to honor, where they exist. In addition there is lack of general concern to address consumer complaints in the retail sector.

The report's recommendations shall be implemented starting 2017/2018 Financial year.

B. Partnerships and Networks

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

(i) The Centre for Competition Law and Economic Policy (CCLEP)

In implementing the MoU between the Authority and the University of Nairobi, the Parties operationalized a virtual Centre for Competition Law and Economic Policy. The Centre's role is to increase awareness on competition law and policy through research, capacity building and facilitate information sharing on emerging issues across the EAC and COMESA region.

Under the auspices of CCLEP, the Annual Competition Economics and Law capacity building was held where fifty eight (58) stakeholders were trained. The objective of the training was to build capacity for government officials, sector regulators, competition practitioners, regional competition agencies and the business community.

(ii) African Competition Forum (ACF)

The ACF is an informal network of African national and regional competition agencies whose objective is to promote the adoption of competition principles in the implementation of economic policies in Africa. ACF has 34 members including 30 national competition agencies and four regional agencies. The Authority is a member of the Steering Committee which is composed of representatives from eleven (11) countries. These are South Africa, Mauritius, Senegal, Benin, Egypt, Ethiopia, Kenya, Tanzania, Tunisia, The Gambia and Zambia.

In its efforts of deepening regional integration through removal of Non-Tariff Barriers (NTBs) and Competition obstacles, the Authority hosted the ACF Steering Committee meeting in Kenya. Further, the Authority participated in ACF biannual meeting. Under the ACF, the Authority in collaboration with the following ACF countries is conducting a comparative study in the construction and telecommunication sectors.

(iii) Competition Commission of South Africa (CCSA)

The Authority and the Competition Commission of South Africa signed a Memorandum of Understanding (MoU) on 6th October 2016. The purpose of the MoU is to foster cooperation in the enforcement of competition law and policy through information sharing, capacity building and consultations. Under this cooperation, the Authority interacted with the CCSA during the assessment of six (6) complex mergers and Restrictive Trade Practices' (RTP) cases. The interactions supported credible decisions and fast tracking of investigations.

(iv) COMESA Competition Commission (CCC)

In implementing the cooperation framework with CCC, key activities undertaken in this regard include; participation of CCC in the Authority's Annual symposium while the Authority informed the CCC's Restrictive Trade Practices Guidelines. The cooperation also benefitted the Authority in terms of information exchange relating to twelve (12) merger analysis and two RTPs cases that have regional dimension. Through these interactions, the Authority fast tracked investigations.

(v) Japan Fair Trade Commission (JFTC)

The Authority signed a MoU with the Japan Fair Trade Commission (JFTC). The areas of cooperation are capacity building on Restrictive Trade Practices, evaluation of exemption applications, merger analysis, development of various guidelines. During the year, twenty five (25) staff were trained on investigative techniques and reviewed various guidelines. The MoU going forward, provides for training of at least five (5) CAK staff per year, in competition matters by JFTC under the JICA Program.

C. Adoption of International Best Practices

(i) Collaboration with International Competition Network (ICN)

International Competition Network brings together all global competition agencies and focuses on inculcating best practices in enforcement of Competition law and policy. The Authority participated in the ICN events namely; ICN Annual Conference, ICN Cartel workshop, and ICN Chief/Senior Economist workshop. The Key areas of benefit to the Authority from ICN includes: Developing guidelines on merger control, fining and settlements of RTP cases among others. In addition, the Authority informed in development of ICN work products, shared its special compliance program targeting the trade associations and presented its advocacy initiatives focusing on specialty tea. We wish to highlight that the Authority's initiatives in dismantling barriers to entry and abusive behavior that restricted competition in purple tea exports was hailed as a model market intervention.

(ii) Collaboration on International Consumer Protection and Enforcement Network ICPEN

International Consumer Protection and Enforcement Network is a global organization composed of Consumer Protection Authorities from over sixty countries working together to combat fraudulent, deceptive and unfair trading practices. The Authority participated in the ICPEN Best Practice Workshop and shared its intervention in ensuring disclosure and transparency in the Digital Financial Services. The Authority gained technical skills on issues regarding online investigations and unfavorable terms and conditions in the digital economy.

D. Advocacy Initiatives

(i) Engagement with Counties

The Authority in collaboration with the World Bank sensitized officials from ten (10) counties on Competition Policy and Regulations. The counties represented were: Kisumu, Nyeri, Machakos, Kakamega, Mombasa, Nakuru, Narok, Meru, Kiambu and Isiolo.

Further, the sensitization was necessitated by concerns in the counties key amongst them being: formulation of county policies, legislations, laws and rules that maybe hinder competition. The sensitization initiative enabled the Authority to increase its visibility in the counties and assisted in identifying the key areas of collaboration in advocating for pro-competitive practices.

(ii) Engagement with Sector Regulators

The Authority sensitized various sector regulators on Competition Policy and Law. The aim of the sensitization highlighting specific policy actions on inter-institutional collaboration and a cross-sectoral strategy to implement a national competition policy that can contribute to inclusive growth across sectoral and geographical areas. Participants were drawn from Kenya Vison 2030 Delivery Secretariat, PPRA, CMA, CA, AFA, ODPP, KenInvest, NCPB, OAG, Ministry of Transport and Infrastructure, among others.

(iii) Awareness for Ministries, Departments and Agencies

The Authority sensitized various Ministry officials, sector regulators and private sector players on Competition Policy and Law. The object of the engagement was *"enhancing regulatory quality to enable healthy competition in markets"*. The participants included sector regulators, corporates and legal practitioners.

(iv) Regulatory Impact Assessment (RIA) Framework on Competition

The Authority in conjunction with the relevant stakeholders developed a Regulatory Impact Assessment (RIA) Framework on Competition to guide policy makers and sector regulators to ensure that the proposed and existing laws and regulations do not create obstacles to the growth of market economy in Kenya. The formulated Framework provides guidance for Sector Regulators and policy makers on how to apply a screening test to determine whether proposed (or existing) laws and / or regulations are likely to extinguish competition. The framework is currently being rolled out to policy makers and sector regulators. In the next Financial Year, the Authority will develop a Monitoring and Evaluation Framework that will allow it to carry out periodic audits on the existing laws and regulations with the aim of deepening competition in Kenya.

(v) Advisory Opinions

In line with section 9 (h) of the Act, which empowers the Authority to advise the Government on competition Law, the Authority provided the following advisory opinions:

(i) Informing Government Agencies on Competition in Policy formulation

In ensuring that that Government agencies comply with the provisions of the Competition Act No. 12 of 2010, the Authority reviewed the National Investment Policy developed by the Kenya Investment Authority to assess its effect on competition in the economy. The Authority on request by Kenya Investment Authority informed the Global Competitiveness Index (GCI) on the intensity of local competition. GCI as a World Economic Forum Index that measures the competitiveness landscape of 138 economies. Further, the Authority reviewed the Kenya Film Classification Board's Film and Stage Plays Act Cap 222 Bill to assess its effect on competition in the economy. These engagement has seen State agencies examine their rules and regulations to ensure that they are compliant with the Act.

(ii) Draft National Information and Communication Technology (ICT) policy framework

The Authority submitted its advisory opinion to the Ministry of Information, Communication and Technology. The draft policy covered a number of key issues in the ICT sector including; mobile money, management of radio spectrum, infrastructure development and sharing and open access system. Specifically, the Authority advised with respect to: Radio spectrum, Infrastructure, Equity ownership; and Mobile Money Interoperability. The advisory opinion was generally aimed at deepening competition through facilitation of infrastructure management and sharing, encourage interoperability, reduce barriers to entry and enhance spectrum management amongst others.

(iii) Professional Services

The Authority provided advice on professional services with regard to professional fee guidelines for services. The professionals body had applied for exemptions and argued that the objective of the guidelines were to achieve fair competition among the practitioners. In its advice to the professional body, the Authority rejected the exemption application pointing out that introduction of fee guidelines would decrease competition, increase costs, reduce innovation and efficiencies and limit the choices to customers consequently raising the cost of the services beyond the reach of some customers. The Authority advised against setting of minimum fees for professional services to be charged by its members which amounts to price fixing among competitors.

(iv) Licensing in the Timber Industry

The Authority received a merger application regarding the proposed acquisition of the entire issued share capital of Pan African Paper Mills 2015 Limited by Tarlochan Limited.

During the analysis of the merger, the Authority became party to the fact that the acquirer had applied for an exclusive license from the Kenya Forest Services (KFS) to harvest trees from government forests in the North Rift and Western Conservancies which comprise the following six counties: Uasin Gishu, Elgeyo Marakwet, Trans-Nzoia, Nandi, Kakamega and Bungoma. A total of 25,000 Ha compared to the 45,000 Ha of total raw materials available. The terms of the license proposed by the acquirer were likely to lead to substantial lessening or prevention of competition including foreclosing the upstream market for logging to other saw millers in the upstream market for logging in the six counties.

The Authority was also alive to the fact that PPM was under receivership and the acquisition was meant to salvage a failing/dormant firm which without the merger, would render the assets of Pan Paper valueless. Additionally, the acquisition was likely to create employment opportunities for about 3,000 people in Webuye and areas bordering the mill and to spur growth in the region.

To address the competition and public interest concerns and ensure revival of the dormant firm, the Authority held intensive consultations with the Kenya Forest Service, the sector regulator. The Authority advised KFS and the government:-

i. To set aside a total of 25,000 Ha (18, 000 Ha for pulpwood and 7,000 Ha for fuelwood). This will leave approximated 20,000 Ha for use by other firms in the area.

ii. Materials for pulpwood and fuelwood to be sold to Panpaper at gazetted rates so as to realize the economic value of planted trees and also ensure the same rate to all the other players.

iii. Materials to be used only for conversion into pulp and other products made thereof at Webuye Pan Paper mill.

The Authority's intervention and the fact that they worked closely with the Kenya Forest Service to arrive at an informed decision, ensured that the licensing took cognizance of the Authority's advice. This ensured that there was no input foreclosure to one hundred and forty nine (149) existent market players (big and small saw millers in the region) and maintained employment estimated at seven thousand (7,000).

(v) The Banking (Amendment) Act 2016

The Banking (Amendment) Act 2016 proposed capping of borrowing and deposit interest rates for the banking sector. The Authority provided its opinion to the National Treasury on the Amendment pointing out that the enactment of the Amendment would result into credit squeeze for most SMEs thus inhibiting their growth. Since SMEs play a key role in the growth and development of the economy, the Authority advised against the legislative controls on the interest because banks will tighten lending to SMEs by classifying them as high risk borrowers denying them access to credit that is crucial for their business operations. This would lead to scaling down of SMEs operations.

VISIBILITY AND CORPORATE IMAGE

The Authority appreciates that Stakeholder Perceptions and Expectations will positively or negatively affect the execution of its mandate and hence it has always worked to ensure an enhanced visibility and corporate image.

Stakeholder Perceptions Study

The study, *Competition Survey and Outreach Strategy* was conducted by World Bank for the Authority, with an aim of understanding how the Authority's stakeholders perceive its service delivery. The study also aimed at informing the Authority's Outreach Strategy to various stakeholders it serves.

The key findings of this study indicated that over 90% of its external stakeholders strongly agreed that competition between companies allows for greater consumer choice, better prices for consumers, and increased productivity and innovation among companies. Further, the Report recommends that the Authority needs to develop stakeholder specific strategies for awareness; increase coordination with other regulatory agencies; engage with universities on training programs as well as Research; actively carry out investigations and publicize results; and use specific findings from the survey to inform the outreach strategy.

The study further revealed that the lack of private sector awareness about the competition law is an important challenge that the Authority needs to focus on.

Arising from the findings of the study, the Authority will seek to develop its outreach strategy, promote public knowledge, awareness and understanding as well as make available to consumers' information and guidelines of their obligations, rights and remedies under the Act. Further, to supplement the findings, the Authority will conduct a Customer Satisfaction Survey during the 2017/2018 to assess the level of change of its customers' satisfaction index.

Bi - Annual Newsletter

The Authority achieved a milestone by publishing its inaugural e-newsletter. This was a landmark step not only for disseminating news to our stakeholders but also as a means of forging the desired synergies with them and create public awareness on our mandate, mission and vision.

The newsletter delves into local and international competition practices with up-to-date competition news. Through this medium of communication, we get an opportunity of sharing with our stakeholders some of the decisions we pass and their impact to the Kenyan economy.

Essay Writing Competition

As one of its Corporate Social Responsibility initiatives, the Authority runs an annual Essay Writing Competition targeting both undergraduate and postgraduate students in private and public universities. The objective of the initiative is to create awareness on competition and consumer protection issues. The award for the competition is Kshs. 80,000 for the post-graduate category and Kshs. 50,000 for the undergraduate category while the runners-up get Kshs. 50, 000 and Kshs. 30, 000 respectively, paid directly to the Institutions of learning as tuition fees.

This year's competition attracted entries from 16 universities. The event was graced by three independent judges drawn from the Centre for Competition, Regulation and Economic Development (CCRED), South Africa; the African Economic Research Consortium (AERC) and Bowmans Advocates.

Environmental Conservation

The Authority is cognizant of the role environmental conservation plays in promoting development and achieving Vision 2030. During the year under review, the Authority partnered with Nairobi Primary School in planting one hundred (100) indigenous trees where the Authority met all costs involved in the exercise, while the school provided space and commitment to monitor survival.

During the same period under review, the Authority developed an e-waste policy that provides guidance on how obsolete electrical and electronic equipment will be managed. In its bid to fully implement this initiative, the Authority sought the guidance of National Environment Management Authority (NEMA)

CONSUMER MANAGEMENT

Complaints Handling

In order to effectively serve its customers, the Authority has put in place mechanisms for addressing its customer complaints including; designated email, complaints box, dedicated telephone line, and feedback form. The Authority also conducts analysis of complaints and compliments received to assess customer feedback and improve on our customers' expectations. All complaints received during the year were resolved and quarterly reports provided to the Commission of Administrative Justice (CAJ).

Media Relations

The Authority recognizes the role played by media in awareness creation on matters relating to competition and consumer protection. To enable journalists report objectively, the Authority has in the past run capacity building programmes which have resulted in increased coverage and accuracy. The Authority shall sustain the engagement with the media by introducing the journalists' award to recognize excellence in reporting competition issues.

The World Competition Day

This is an Annual event celebrated across the globe on 5th December by Competition Agencies which marks the adoption of the United Nations General Assembly set of multilaterally agreed equitable principles and rules for the control of the restrictive business practices. The global theme of the year's celebration was *"Building Capacity on Competition Law and Policy"* and the Authority marked it by holding a week long sensitizations on its mandate in private and public universities across the country.

A total of 16 universities were reached across the country, and the Authority used this opportunity to make presentations and creating awareness on the importance and benefits of competition regulations, and informed the universities' students and staff of its mandate and opportunities available for collaboration. From these universities' visits, the Authority noted that more visits need to be made to these learning institutions as a way of enhancing relations with universities and establishing co-operation frameworks for future engagements, in areas of developing curriculum and research.

The World Consumer Rights Day

This is an Annual event that aims at promoting, protecting and creating awareness on the basic rights of consumers. During the year, the Authority in collaboration with other stakeholders joined hands to mark the World Consumer Rights Day in Nakuru County. The global theme for the year was *"Consumer Rights in the Digital Age"*. The day's activities primarily focused on the need to create awareness and protect consumers on the use of e-commerce rights.

The theme coincided with the Authority's initiatives of ensuring that providers of Digital Financial Services (DFS) for transactions conducted through the mobile phone. The Authority also seized this opportunity to engage members of the public on a wide range of consumer related issues.

The event was attended by various sector regulators, corporates, consumer organizations, law firms and individual citizens.

Annual Competition Symposium

Ms. Joyce Karanja, one of the Panelists addresses the Authority's stakeholders during the 2016/2017 Annual Symposium in Nairobi.

The Authority's Symposium is an Annual meeting that brings together stakeholders with an aim of deepening their understanding of competition enforcement mechanisms and fostering competition for the benefit of consumers. The Symposium also aims at facilitating discussions and interactions among stakeholders on the various issues and topics related to competition.

During the year the Authority held its 3rd Annual Competition and Economic Regulation Symposium on 15th September, 2016 in Nairobi. The theme was, *"Emerging issues in the Merger Regime and Cartel Investigations: Conduct of Dawn Raids and Application of Leniency Programmes in the Region"*. The keynote address was delivered by Prof. William Kovacic, a Professor of Law and Policy at George Washington University and a former Commissioner of the Federal Trade Commission (FTC). Prof. Kovacic's address was on *Merger Analysis and Cartel Investigations: Lessons for young Agencies*. Other speakers were drawn from the Centre for Competition Regulation and Economic Development in South Africa; Competition Commission of South Africa; Anjarwalla and Khana Advocates; Coulson Harney Advocates; East Africa Venture Association. The symposium brought together other stakeholders from Government Ministries,

Departments and Agencies, Regional Competition Agencies, private sector, universities, lawyers and law firms among others.

ORGANIZATIONAL SUSTAINABILITY

People and Culture

The Authority culture considers its employees as the most valued assets. Thus, it has continued to enhance capacity through acquisition of talent to effectively deliver its mandate. During the year, a total of twelve (12) positions were competitively filled and the total number of staff as at June 30, 2017 stood at sixty (60) alongside two officers seconded to the Authority from the Directorate of Criminal Investigations in order to boost investigative capacity.

The Authority is committed in assisting employees realize their full potential and make their greatest possible contribution to execution of its mandate. Towards this, the Authority sponsored staff members to attend various skills development courses aimed at enhancing their skills, knowledge and abilities. In the areas of competition law and policy, merger analysis, investigations and consumer protection, staff were exposed to various trainings with the aim of learning international best practices in other jurisdictions. The trainings included both individual and group trainings aimed at enhancing technical and behavioral competencies. In addition, it sponsored long term management and leadership trainings geared towards succession planning and career development. As a result of change management training, staff have responded positively to various changes taking place within the Authority.

The Authority continued to implement the one year apprenticeship programme with the aim of building capacity on Competition Law and Policy in the labor market. Towards this, the Authority recruited five (5) Young Professionals, holders of Masters Degree with a bias in Law and Economics and below the age of thirty (30) years. Twenty (20) undergraduates from various universities were also offered Industrial attachment during the year.

In our commitment to promote employee well-being at the workplace, we have continued to provide services and benefits that not only motivate employees but also enhance their productivity. Towards this, the Authority has maintained a healthy workforce through the provision of a medical scheme. In addition, employees also benefited from a wellness program where they underwent a full medical check-up at the place of work. In conjunction with the medical Service Provider, the Authority ran an Employee Assistance Program to offer support services to staff.

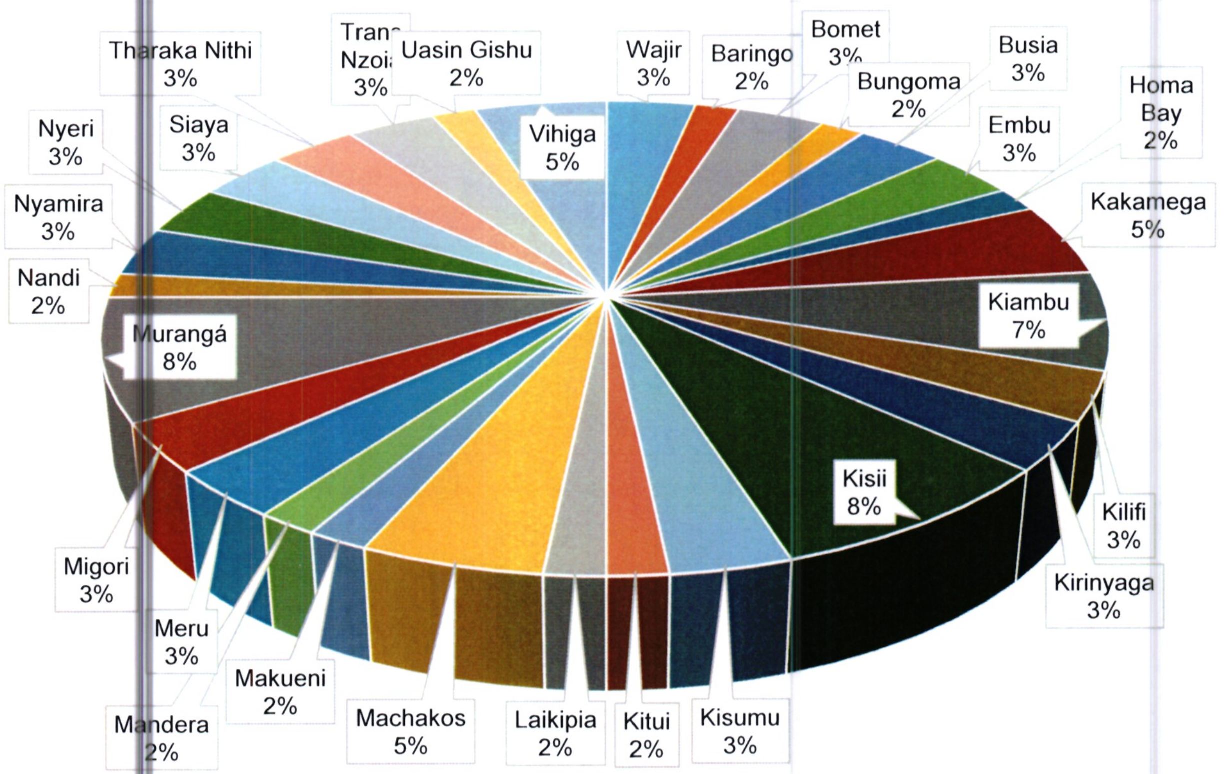
During the period, the Authority operationalized a Staff Car Loan Scheme meant to benefit staff members, enhance morale, and improve attraction and retention of staff. The Scheme is implemented as per the Salaries and Remuneration Commission's guidelines.

Sound and cordial relationship between staff and management was realized through Quarterly DG's Kamukunjis. This forums provide an opportunity for management and employees to interact on matters of work environment, performance and employees welfare. This was further augmented by regular Management meetings.

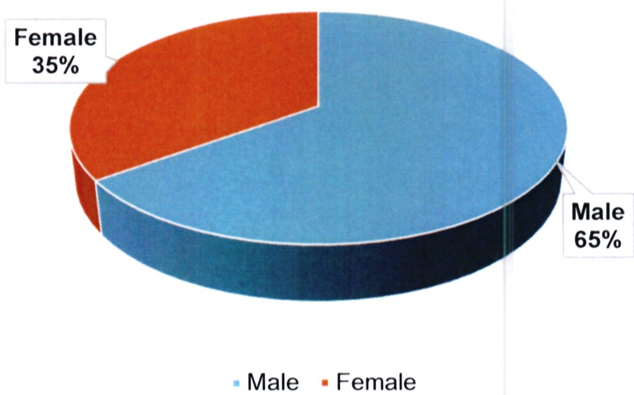
The Authority operates a defined Contribution Retirement Benefits Scheme for its employees on Permanent and Pensionable terms of employment, the assets of which are held, managed and administered in a separate trustee scheme as per the RBA requirements. The Authority also pays Service gratuity for employees on contract under their terms of employment.

Diversity and Inclusion

In accordance with the Constitutional requirement, the Authority continued to ensure diversity and inclusion in all its activities. As at 30th June 2017, the staff establishment had a representation of twenty nine (29) Counties as per the figure below;



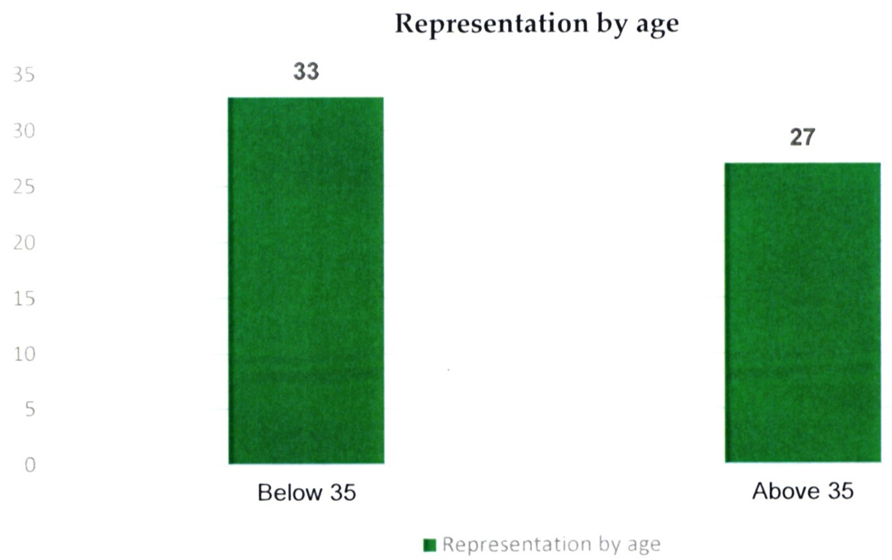
The staff establishment further met the Gender rule requirement as per the figure below;

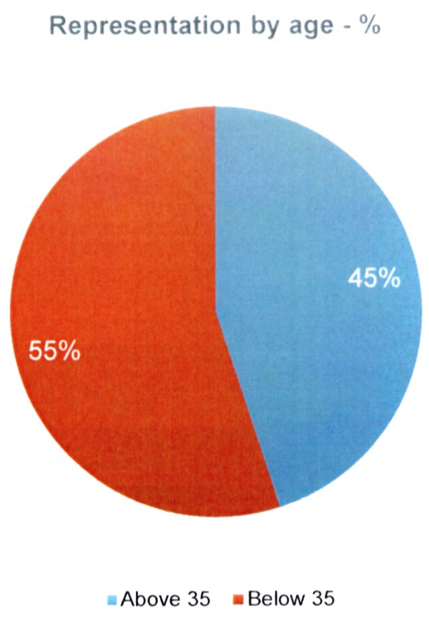


Total staff: 60

Below 35 years: 33 = 55%

Above 35 years: 24 = 45%





In addition, uptake of Procurement Contracts by Preference and Reservation groups significantly increased from 30.5% in the year 2015/2016 to 44.9% in the reporting period which is attributable to the sensitization carried out during the reporting period. This is in compliance with the Public Procurement and Asset Disposal Act 2015.

In fulfillment of statutory requirements, the Authority undertook the following activities to ensure a conducive and safe work environment for optimal performance.

i. Translation of the Service Delivery Charter into Braille:-to enable visually impaired to access our services.
ii. Sign Language interpretation: - trained four (4nos) staff in order to bridge communication gap between the deaf and the hearing community.
iii. Modification of office environment:- to accommodate Persons with Disability
iv. Establishment of a mother's room: - for nursing mothers.
v. Provision of flexi hours for nursing mothers for a period of six months upon return from maternity.
vi. Employment: - One Person with Disability (PWD) was employed during the year under review. The Authority will progressively enhance the recruitment of PWDs.

Automation

In view of leveraging on ICT to improve service delivery , efficiency of internal operations and engagement with stakeholders and the general public, the Authority continued to implement an automation process that begun in the previous financial year. The Case Management System will support online merger filing and complaint handling, automated investigations and enforcement processes while the Enterprise Resource Planner will support e-procurement and online recruitment among other corporate services functions.

In recognition of importance of Business Continuity and Information Security, the Authority installed and commissioned a Data Centre to host its critical systems and procured a high availability offsite Data Recovery facility. The Authority has integrated the principles of ISO 27001:2013 Information Security Management System into its processes ensuring that the automated system has controls to protect privacy of information.

Quality Management System

The Authority was certified to ISO 9001:2008 in 2015. The Quality Management System (QMS) has been maintained and continually improved through regular Internal Audits as well as Surveillance Audits done by Certifying Body, SGS. During the year the Authority met ISO 9001:2015 Standard requirements and thus recommended for certification. Embracing this standard will lead to risk based management, process improvement and enhanced customer satisfaction.

Knowledge Management

Knowledge Management in the Authority improved significantly during the reporting period. Notable improvement is the development of the Case Management processes that will be adequately manage the process of sharing, dissemination, creation and storage of knowledge generated within and without the organization. Notable initiatives, includes the standard practice within the organization of exchange of expert information delivered in plenary sessions by staff who have attended trainings, workshops and conferences. In addition, accessibility to communities of practice, through webinars and tele-presence have constantly been used to enhance knowledge management. In the next Financial Year, the Authority will further expand the platform for knowledge and information sharing for both staff and stakeholders.

Resource Mobilization

We are pleased to report another year of strong financial sustainability. The Authority continues to rely on the Exchequer for funding of its activities. This is supplemented by internally generated revenues mainly from local and regional merger filling fees, penalties, fines and other investment incomes. During the year, we received an allocation of Kshs. 340M while Appropriation in Aid (AIA) grew by 14% to Kshs. 149M.

The Authority will continue to explore new partnerships as well as new sources of funding with a view of guaranteeing its financial sustainability and ensuring implementation of planned activities in the wake of the growing competing demands at the Exchequer level and a shrinking donor basket. Prioritization and expected impact analysis will continue to inform our allocation of financial resources while our internal systems will be enhanced for efficiency, effectiveness and accountability.

For more information about our financial performance please refer to the Financial Statements section.

PART II FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR 2016/2017

COMPETITION AUTHORITY OF KENYA
Creating efficient markets for consumers

STATEMENT OF DIRECTORS' RESPONSIBILITES

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

The Directors are responsible for the preparation and presentation of the Authority's financial statements, which give a true and fair view of the state of affairs of the Authority as at the end of the financial year ended on June 30, 2017. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Authority; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Authority; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Directors accept responsibility for the Authority's financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act and the State Corporations Act. The Directors are of the opinion that the Authority's financial statements give a true and fair view of the state of Authority's transactions during the financial year ended June 30, 2017, 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.

Approval of the financial statements

The Authority's financial statements were approved by the Board on 29/08/2017 and signed on its behalf by:

David Ong'olo ....
Chairman

Wang'ombe Kariuki ....
Director General

REPUBLIC OF KENYA

Telephone: +254-20-342330
Fax: +254-20-311482
E-mail: oag@oagkenya.go.ke
Website: www.kenao.go.ke

P.O. Box 30084-00100
NAIROBI

OFFICE OF THE AUDITOR-GENERAL

REPORT OF THE AUDITOR-GENERAL ON COMPETITION AUTHORITY OF KENYA FOR THE YEAR ENDED 30 JUNE 2017

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of Competition Authority of Kenya set out on pages 63 to 83, which comprise the statement of financial position as at 30 June 2017, and the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects the financial position of Competition Authority of Kenya as at 30 June 2017, 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.

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

Basis for Opinion

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

Key Audit Matters

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

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

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

In preparing the financial statements, management is responsible for assessing the Fund'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 the management either intends to liquidate the Authority or to cease operations, or have no realistic alternative but to do so.

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

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

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

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

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

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

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

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

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

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

- Obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities to express an opinion on the financial statements.

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

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

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

FCPA Edward R. O. Ouko, CBS
<u>AUDITOR-GENERAL</u>

Nairobi

19 March 2018

STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30TH JUNE 2017

	Note	2016/2017 Kshs.	2015/2016 Kshs.
REVENUE			
Revenue from Non-Exchange Transactions			
Exchequer Transfers		340,000,000	374,500,000
Fines and Penalties		38,641,420	17,862,523
Development Partners (COMESA)		14,000,000	19,960,000
		392,641,420	**412,322,523**
Revenue from Exchange Transactions			
Merger Filing Fees-Local		50,000,000	32,000,000
Merger Filing Fees-COMESA		36,417,599	61,409,760
Interest from Fixed Deposits		22,491,433	18,925,203
Sale of Tenders		3,000	14,000
Gifts & Donations		-	48,380
Other Income	3	3,650,400	-
		112,562,432	**112,397,343**
		505,203,852	**524,719,866**
EXPENDITURE			
Short-term Employee Benefits	4	175,586,302	155,620,381
Directors Expenses	5	17,199,476	6,554,022
Feasibility Studies,Policy,Research and Market Enquiries	6	21,090,415	-
Contracted Services	7	37,549,866	14,020,682
Repairs & Maintenance	8	2,319,853	15,055,454
Depreciation & Amortisation	9	16,045,689	11,720,616
Finance Costs		168,452	145,416
General Expenses	10	129,432,897	139,759,664
Total Expenses		**399,392,949**	**342,876,235**
Surplus for the year		**105,810,903**	**181,843,631**

The financial statements set out on pages 62 to 83 were approved by the Board of Directors on ....29/08/2017..........and were signed on its behalf by:

David Ong'olo ....
Chairman

Wang'ombe Kariuki ....
Director General

The Statement of Financial Performance is to be read in conjuction with the notes to and forming part of the Financial Statements set out in pages 68 to 82.

STATEMENT OF FINANCIAL POSITION
AS AT 30TH JUNE 2017

	Note	2016/2017 Kshs	2015/2016 Kshs
ASSETS			
Current Assets			
Cash and Cash Equivalents	11	515,893,282	456,604,128
Receivables from Exchange Transactions	12	13,153,764	15,601,331
		529,047,047	**472,205,459**
Non-Current Assets			
Property, Plant & Equipment	13	49,814,742	41,546,735
Intangible Assets	13	1,898,015	2,530,688
Work in Progress	14	61,363,473	-
		113,076,229	**44,077,423**
TOTAL ASSETS		**642,123,276**	**516,282,882**
LIABILITIES			
Current Liabilities			
Payables from Exchange Transactions	15	56,053,629	40,952,586
Provisions	16	4,247,000	2,567,079
		60,300,629	**43,519,665**
Non-Current Liabilities	17	**19,639,574**	**16,419,783**
TOTAL LIABILITIES		**79,940,203**	**59,939,448**
Net Current Assets		**468,746,418**	**428,685,794**
Net Assets		**562,183,073**	**456,343,434**
Represented by:			
Equity			
Equity Contribution by the Treasury	18	52,932,150	52,932,150
Designated Fund	19	449,670	449,670
Accumulated Surplus		508,801,252	402,961,614
		562,183,072	**456,343,434**

The Statement of Financial Position is to be read in conjuction with the notes to and forming part of the Financial Statements set out in pages 68 to 82.

STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30TH JUNE 2017

	Note	2016/2017	2015/2016
		Kshs	Kshs
Cashflows from Operating Activities			
Surplus from operating Activities		105,810,903	181,843,631
Depreciation	9	16,045,689	11,720,616
Adjustments	20	28,735	343,892
Loss on Disposal	21	1,205,859	-
		123,091,186	**193,908,140**
Adjustments for Changes in Working Capital			
Increase/(Decrease) in Receivables from Exchange Transactions	12	2,447,566	(4,887,367)
Increase/(Decrease) in Payables from Exchange Transactions	15	18,320,834	18,030,902
Increase/(Decrease) in provisions	16	1,679,920	(1,160,942)
		22,448,320	**11,982,594**
Net Cashflows from Operating Activities		**145,539,506**	**205,890,733**
Cashflows from Investing Activities			
Purchase of Non-Current Assets	13	(86,250,351)	(497,980)
Purchase of Intangible Assets		-	-
		(86,250,351)	**(497,980)**
Cashflows from Financing Activities			
Treasury Contributions		-	-
Designated Fund		-	-
		-	**-**
Net Increase/(Decrease) in cash and cash equivalents		**59,289,155**	**205,392,753**
Cash and cash equivalents at 1st July 2016		456,604,127	251,211,374
Cash and Cash Equivalents as at 30th June 2017		**515,893,282**	**456,604,127**

The Cashflow Statement is to be read in conjuction with the notes to and forming part of the Financial Statements set out in pages 68 to 82.

STATEMENT OF CHANGES IN NET ASSETS
FOR THE YEAR ENDED 30TH JUNE 2017

	Note	Contribution by Treasury Kshs	Accumulated Fund Kshs	Designated Fund RIIP Kshs	Total Fund Kshs
1st July 2015		52,932,150	220,774,091	449,670	**274,155,911**
Surplus (Deficit) for the year		-	181,843,631	-	**181,843,631**
Adjustments		-	343,892	-	**343,892**
At 30th June 2016		**52,932,150**	**402,961,614**	**449,670**	**456,343,434**
1st July 2016		**52,932,150**	**402,961,614**	**449,670**	**456,343,434**
Surplus (Deficit) for the year		-	105,810,903	-	**105,810,903**
Adjustments			28,735		**28,735**
At 30 June 2017		52,932,150	508,801,252	449,670	562,183,072

The Statement of Changes in Net Assets is to be read in conjuction with the notes to and forming part of the Financial Statements set out in pages 68 to 82.

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS
FOR THE YEAR ENDED 30TH JUNE 2017

	Original Budget 2016/2017 Kshs	Final Budget 2016/2017 Kshs	Actual on Comparison Basis 2016/2017 Kshs	Performance Difference 2016/2017 Kshs
Balance b/f	60,000,000	60,000,000	60,000,000	-
Revenue				
Exchequer Allocation	340,000,000	340,000,000	340,000,000	-
Fines,Penalties and Levies	15,000,000	15,000,000	38,641,420	(23,641,420)
Development Partners	40,000,000	40,000,000	-	40,000,000
Merger Filling Fees-Local	35,000,000	35,000,000	50,000,000	(15,000,000)
Merger Filling Fees-COMESA	40,000,000	40,000,000	36,417,599	3,582,401
Donor Funding-RIIP	30,000,000	30,000,000	14,000,000	16,000,000
Interest from Fixed Deposits	15,000,000	15,000,000	22,491,433	(7,491,433)
Other Income	100,000	100,000	3,131,400	(3,031,400)
Total Income	**575,100,000**	**575,100,000**	**564,681,852**	**10,418,148**
Expenses				
Personal Emoluments	230,269,600	230,269,600	158,891,147	71,378,453
Insurance	20,400,000	20,400,000	16,695,155	3,704,845
Staff Welfare	7,700,000	7,700,000	7,604,935	95,065
Communication Supplies and Services	6,000,000	6,000,000	4,971,357	1,028,643
Domestic Travel and Subsistence	8,600,000	8,600,000	7,888,926	711,074
Foreign Travel and Subsistence	30,500,000	30,500,000	19,145,094	11,354,906
Printing and Advertising	15,500,000	15,500,000	14,733,704	766,296
Office rent, rates, utilities and parking	31,500,000	31,500,000	28,294,136	3,205,864
Training Expenses	35,000,000	35,000,000	28,826,012	6,173,988
Official Entertainment and Conference	15,000,000	10,000,000	6,037,143	3,962,857
Board Allowances & expenses	17,500,000	17,500,000	17,199,476	300,524
Policy,Research and Market Enquiries	67,500,000	67,500,000	21,090,415	46,409,585
Office and General Supplies and Services	8,800,000	8,800,000	6,095,454	2,704,546
Contracted Services	33,000,000	38,000,000	37,549,866	450,134
Subscriptions	2,000,000	2,000,000	926,553	1,073,447
Motor Vehicle Running Costs	2,600,000	2,600,000	1,815,677	784,323
Routine Maintenance - Other Assets	12,000,000	12,000,000	1,620,736	10,379,264
Purchase of Assets	30,000,000	30,000,000	24,886,878	5,113,122
Other operating expenses	3,250,000	3,250,000	2,715,354	534,646
	577,119,600	**577,119,600**	**406,988,019**	**170,131,581**
Surplus/(Deficit)			**157,693,834**	

NOTES TO THE FINANCIAL STATEMENTS

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

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

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

2. Summary of significant accounting policies

a) Revenue Recognition

i) Revenue from non-exchange transactions - IPSAS 23

Exchequer allocations

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

Transfers from other government entities

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

ii) Revenue from exchange transactions - IPSAS 9

Rendering of Services-merger filling fees,levies

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

Sale of tender goods

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

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

b) Budget Information - IPSAS 24

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

c) Property,Plant and Equipment - IPSAS 17

All property, plant and equipment are stated at cost less accumulated depreciation and impairment losses. Cost includes expenditure that is directly attributable to the acquisition of the items. When significant parts of property, plant and equipment are required to be replaced at intervals, the Authority recognizes such parts as individual assets with specific useful lives and depreciates them accordingly. Likewise, when a major inspection is performed, its cost is recognized in the carrying amount of the asset as a replacement if the recognition criteria are satisfied. All other repair and maintenance costs are recognized in surplus or deficit as incurred. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration the asset is initially measured at its fair value.
It is the policy of the Authority to charge full depreciation on all its non-current assets in the year of purchase and no depreciation in the year of disposal.

d) Intangible Assets - IPSAS 31

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

e) Provisions - IPSAS 19

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.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

Contingent liabilities

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

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

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

Contingent assets

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

f) Changes in accounting policies and estimates- IPSAS 3

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

g) Employee Benefits - IPSAS 25

Retirement Benefits Plans

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

h) Foreign Currency transactions - IPSAS 4

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

i) Related Parties - IPSAS 20

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

	2016/2017	2015/2016
	Kshs.	**Kshs.**
Key Management Compensations		
i) Salaries and Other short term employment Benefits	51,452,640	43,814,520
Board Remuneration		
ii) Allowances paid to Board Members	5,220,000	1,789,655
Grants From Related Parties		
iii) Grants from GOK	340,000,000	374,500,000

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

j) Leases

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

k) Cash and Cash equivalents

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

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

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

Estimates and assumptions

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

Useful lives and residual values

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

i. The condition of the asset based on the assessment of experts employed by the Authority
ii. The nature of the asset, its susceptibility and adaptability to changes in technology and processs
iii. The nature of the processes in which the asset is deployed
iv. Availability of funding to replace the asset
v. Changes in the market in relation to the asset

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

Provisions

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

3. Other Income

Other income amounting to Kshs 3,650,400.00 relates to training fees recieved against Law and Economic regulation course done in collaboration with University of Nairobi. This collection will offset the related expenses.

	2016/2017	2015/2016
4. Short-term Employee Benefits	**Kshs**	**Kshs**
Salaries and Allowances	141,529,875	122,952,614
Contribution to Pensions	6,288,711	11,277,280
Gratuity	10,088,640	9,326,040
Staff Medical Insurance	16,695,155	13,225,389
Staff leave Days Provision	983,921	(1,160,942)
	175,586,302	**155,620,381**

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

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

5. Board Expenses	2016/2017 Kshs	2015/2016 Kshs
Sitting Allowance	4,260,000	1,420,000
Honoraria	960,000	369,655
Training & Induction	5,496,455	1,509,100
Telephone	108,000	30,000
Insurance	648,913	319,110
Local travel Costs	1,331,878	583,056
Conference Facilities	1,104,644	104,835
Domestic Travel Daily Subsistence Allowance	527,800	61,750
International Travel Costs (Airtickets)	2,072,800	1,095,490
Foreign Travel-Daily Subsistence Allowance	612,986	1,020,529
Sundry Items	2,000	12,497
Lunch Allowance	74,000	28,000
	17,199,476	**6,554,022**

6. Feasibility Studies,Policy,Research and Market Enquiries	2016/2017 Kshs	2015/2016 Kshs
Awareness and Publicity Compaigns	3,141,080	-
Policy,Research and Market Enquiries	1,066,780	-
Regulation of mergers and acquisitions	539,810	-
Enforcement of RTPS	568,450	-
Consumer welfare	1,095,340	-
COMESA RIIP	13,024,640	-
UON/CAK MOU	1,654,315	-
	21,090,415	**-**

7. Contracted Services	2016/2017 Kshs	2015/2016 Kshs
Consultancy	33,491,266	9,369,860
Hire of security	1,350,000	1,193,500
Office Cleaning Expenses	1,252,800	1,904,800
Legal Services	759,800	856,522
Audit Fees	696,000	696,000
	37,549,866	**14,020,682**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

8. Repairs & Maintenance	2016/2017 Kshs	2015/2016 Kshs
Motor Vehicles	699,117	558,087
Property,plant and Equipment	1,620,736	14,497,366
	2,319,853	**15,055,453**

9. Depreciation and Armotisation	2016/2017 Kshs	2015/2016 Kshs
Property,plant and Equipment	15,413,017	10,877,054
Intangible Assets	632,672	843,563
	16,045,689	**11,720,617**

10. General Expenses	2016/2017 Kshs	2015/2016 Kshs
Domestic Travel Subsistence Costs	7,888,926	9,604,218
Foreign Travel Subsistence Costs	19,145,094	29,893,569
Communication Costs	4,971,357	5,158,485
Staff Welfare	7,604,935	3,932,962
Printing and Advertising Costs	14,733,704	7,263,980
General Advertising Services	-	2,812,769
Purchase of Newspapers, Magazines & Periodicals	-	359,703
Rent and Rates	28,294,136	24,151,104
Awareness and Publicity Compaigns	-	3,415,465
Policy,Research and Market Enquiries	-	565,400
COMESA RIIP	-	6,261,956
Enforcement of RTPS	-	823,926
Consumer welfare	-	2,036,049
Supplies and Accessories for Computers	-	1,484,830
General Office Supplies	6,095,454	2,490,425
Sanitary and Cleaning Materials	-	64,832
Training Expenses	28,826,012	24,417,246
Fuel and Lubricants	-	640,747
Motor Vehicle Expenses	1,116,560	1,015,345
Official Entertainment and Conference Facilities	6,037,143	10,944,509
Subscription to Professional Bodies	926,553	480,634
Insurance of Assets	2,546,902	1,941,510
Forex Loss	40,261	-
Loss on Disposal of Assets	1,205,859	-
	129,432,897	**139,759,664**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

11. Cash and Cash Equivalents	2016/2017 Kshs	2015/2016 Kshs
KCB-KICC Main operating Account	238,996,172	233,111,176
KCB-KICC Staff Gratuity Account	26,706,580	23,492,952
NBK-Staff Car Loan Account	100,190,530	-
Short-Term Investments	150,000,000	200,000,000
	515,893,282	**456,604,128**

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

12. Receivables from Exchange Transactions	2016/2017 Kshs	2015/2016 Kshs
Staff Travel Imprests	3,087,598	2,275,328
Staff Debtors	578,604	1,880,302
Sundry Debtors	-	618,756
Prepayments (Rent)	2,431,604	2,291,159
Prepayments (Insurance)	7,055,958	6,214,320
Interest Receivable	-	1,833,904
Telephone Prepaid	-	301,890
Prepaid Newspapers	-	185,672
	13,153,764	**15,601,331**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

13. Property, Plant and Equipment

Cost / Valuation	Motor Vehicle	Office Equipment	Computer Equipment	Furniture & Fittings	Intangible Assets	Work in Progress	Total Amount
As at 1st July 2015	23,513,707	7,689,245	19,109,373	22,960,325	4,499,000	-	77,771,650
Additions	-	497,980	-	-	-	-	497,980
Disposals	-	-	-	-	-	-	-
As at 30th June 2016	**23,513,707**	**8,187,225**	**19,109,373**	**22,960,325**	**4,499,000**	**-**	**78,269,630**
As at July 2016	23,513,707	8,187,225	19,109,373	22,960,325	4,499,000	-	78,269,630
Additions	-	1,408,900	20,287,478	3,190,500	-	61,363,473	86,250,351
Disposals	-	-	-	(1,575,000)	-	-	(1,575,000)
As at 30th June 2017	**23,513,707**	**9,596,125**	**39,396,851**	**24,575,825**	**4,499,000**	**61,363,473**	**162,944,981**
Accumulated Depreciation/Amortisation							
As at 1st July 2015	9,030,997	1,011,026	7,041,486	4,263,328	1,124,750	-	22,471,587
Charge for the year	3,620,678	897,025	4,022,227	2,337,125	843,563	-	11,720,618
Disposals	-	-	-	-	-	-	-
As at 30th June 2016	**12,651,675**	**1,908,051**	**11,063,713**	**6,600,453**	**1,968,313**	**-**	**34,192,205**
As at July 2016	12,651,675	1,908,051	11,063,713	6,600,453	1,968,313	-	34,192,205
Charge for the year	2,715,508	961,009	9,443,435	2,293,064	632,672	-	16,045,689
Disposals	-	-	-	(369,141)	-	-	(369,141)
As at 30th June 2017	**15,367,183**	**2,869,060**	**20,507,148**	**8,524,377**	**2,600,985**	**-**	**49,868,753**
Net Book Value							
As at 30th June 2016	**10,862,032**	**6,279,174**	**8,045,660**	**16,359,872**	**2,530,687**	**-**	**44,077,425**
As at 30th June 2017	**8,146,524**	**6,727,065**	**18,889,703**	**16,051,449**	**1,898,015**	**61,363,473**	**113,076,228**

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

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

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

14. Work in Progress

Work in Progress, Kshs 61,363,473 relates to amount incurred and paid during the year towards the implementation of the ERP and Case Management Systems. The same will be capitalised under Intangible Assets once the system implementation is completed and the same is accepted by users.

15. Payables from Exchange Transactions	2016/2017 Kshs.	2015/2016 Kshs.
Local Creditors	47,492,185	26,151,577
Witholding Taxes	194,636	19,276
Witholding VAT	643,932	138,207
Staff Creditors	777,108	184,781
Contractors Retention	1,654,723	1,288,184
Payroll Liabilities	3,442,567	2,802,139
Pension Scheme Provision	-	7,089,419
Deferred Lease Payment	1,848,478	3,279,003
	56,053,629	**40,952,586**

Local Creditors represent outstanding payments to suppliers for services consumed. Payroll deductions include amounts outstanding for statutory deductions and co-operative societies. Staff creditors comprise of unpaid staff salaries and other amounts due to staff. Pension scheme provision relates to amount which had been provided for pension contribution for staff who had qualified for pension before the scheme was set up. The scheme has since been actualised and the provision reversed.

16. Provisions	2016/2017 Kshs.	2015/2016 Kshs.
Staff Leave Days Provision	3,551,000	2,567,079
Audit Fees Provision	696,000	-
	4,247,000	**2,567,079**

Provisions are recognised when:

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

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

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

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

Non-Current Liabilities	2016/2017 Kshs.	2015/2016 Kshs.
Staff Gratuity	19,639,574	16,419,783
	19,639,574	**16,419,783**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

18. Equity Contribution by National Treasury	2016/2017 Kshs	2015/2016 Kshs
As at 1st July	52,932,150	52,932,150
Movement During the Year	-	-
As at 30th June	**52,932,150**	**52,932,150**

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

19. Designated Fund	2016/2017 Kshs	2015/2016 Kshs
As at 1st July	449,670	449,670
Movement During the Year	-	-
As at 30th June	**449,670**	**449,670**

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

20. Adjustments in Cashflow Statement

This figure relates to last Financial Year's supplier invoices which had not been accrued. These invoices were meant to reduce the Accumulated Surplus balance forward because the expense was incured during the last Financial Year, therefore we debited the Accumulated Surplus and credited the Cashbook.

21. Loss on Disposal of Assets

Loss on disposal of assets represents the book value of Assets (Chairs) donated to various primary schools within Nairobi County. The same were written off from our books.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

22 Explanation of Variance between the Budget and the Actual Expenses

a) Fines,Penalties and Levies

The variance on fines, penalties and levies was due to a one off reciept of Kshs 35.9M received during the last quarter that had not been anticipated at the time of budgeting.

b) Development Partners

The amounted initially expected from Development Partners such FSD and World Bank was not received as the donors preferred to fund the activities directly and only share the reports with the Authority

c) Merger Filling Fees-Local

The impressive merger filling fees can be attributed to the increased awareness of Competition Law hence inceased compliance. Also the improved investment climate contributed to the same.

d) Funding under the RIIP project

RIIP budget and workplan coordinated at the National Treasury was rationalised from initial Kshs 30M to Kshs 14M hence the variance.

e) Interest from Fixed Deposits

This exceeded the budget as we invested the Kshs100M set aside for ERP and CASE management in fixed deposits. It was expected the systems would have been live by December 2016 but due some challenges it was not possible, so most of the amount was available for investment.

f) Personal Emoluments

Employee costs were lower than the budget due to delays in filling vacant positions in the approved structure which include 3 directors, 2 managers and other lower positions. This was occasioned by delays in getting the necessary approvals.

g) Foreign Travel and Subsistence, and other transportation costs

The actual expense was less than the budgeted amount because the Authority employed cost cutting by scaling down on foreign trips.

h) Official Entertainment and conference facilities

Official Entertainment expenses are low because the the Authority outsourced the staff tea services leading to increased efficiency.

i) Specialised Services,Policy,Research and Market Enquiries

The actual expense is less as most of activities budgeted under this vote were undertaked directly by development partners who funded the same. This was due to failure to secure the funding from the target Development Partners.

j) Subscriptions

We anticipated subscribing to International research sites for purposes of data but later it discovered it will be cheaper to buy the specific data we would require instead of subscribing for entire year.

k) Routine Maintenance

We had anicipated signing SLAs for the ERP and Case management systems during the year but the same was not possible as we yet to go live on both systems.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

	2016/2017	2015/2016
23. Capital Commitments	**Kshs.**	**Kshs.**
As at 30th June	47,385,742	102,369,632

This commitments relates to the cost of development and implementation of ERP and CASE management systems. Implementation of the 2 systems is at an advanced stage and the expected to be completed during Financial Year 2017/18.

	2016/2017	2015/2016
24. Reconciliation of Net Surplus for the year to Net Cash from Operating Activities	**Kshs.**	**Kshs.**
Surplus for the Year	105,810,903	181,843,631
Adjustments	28,735	343,892
Depreciation	16,045,689	11,720,616
Loss on Disposal of Assets	1,205,859	
Increase/(Decrease) in provisions	1,679,920	(1,160,942)
Changes in Working Capital		
Receivables from exchange Transactions	2,447,566	(4,887,367)
Payables from exchange Transactions	18,320,834	18,030,902
	145,539,506	**205,890,733**

25. Financial Risk Management

The Authority's activities exposes it to a variety of credit and liquidity risks. The overal risk management programme focuses on the unpredictability of the market and seeks to minimise potential adverse effects on its oprerations.

The Authority regularly reviews its risk management policies and systems to reflect changes in markets and emerging best practices. Risk management is carried out by the management under the direct supervision of the board of directors.

The board provides policies for overal risk management as well as policies covering specific areas such as credit risk and liquidity risk.

a) Credit Risk Management

Credit Risk refers to the risk that a counterparty will default on its contractual obligation resulting in financial loss to the Authority.

Credit Risk arises from bank balances,receivables and amounts due from related parties. Although this risk is unlikely to occur in the short term, it is mitigated as follows:

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

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

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

Credit risk with respect to accounts receivable is limited due to the nature of the Authority's business and its reliance on government grant as the main source of funding. Market risk is the risk that the value of an investment will decrease due to changes in market factors. The above stated mitigating factors apply to market risk as well.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

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

	2016/2017 Kshs.	2015/2016 Kshs.
Cash at Bank	515,893,282	456,604,128
Prepaid Rent	2,431,604	2,291,159
Staff Travel Imprests	3,087,598	2,894,084
Staff Debtors	578,604	-
Prepaid Insurance	7,055,958	6,214,320
Interest from Deposits Receivable	-	1,833,904
	529,047,047	**469,837,595**

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

b) Liquidity Risk Management

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

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

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

	2016/2017 Kshs.	2015/2016 Kshs.
Trade payables	47,492,185	26,151,577
Staff Creditors	777,108	184,781
Taxes	838,568	157,482
Payroll Deductions	3,442,567	2,802,139
Provisions	3,551,000	2,567,079
Contractors retention	1,654,723	1,288,185
Pension Scheme Provision	-	7,089,419
	57,756,151	**40,240,662**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

26. Leases

The Authority has a a six (6) year lease arrangement with the landlord of the Kenya Railways Staff Retirement benefits scheme;the premises from which its head office is located. The terms of the arrangement require the Authority to pay a standard amount of rent quarterly in advance with an annual escalation rate of 5%. Obligations incurred under this lease are charged against income in equal instalments over the period of the lease. The Authority recognized Kshs.19,425,206 and Ksh.1,848,478 as the rent and deferred lease payments respectively accruing from the arrangement.As at the balance sheet date,the Authority had the following balances relating to the lease.

	Kshs.
Total Minimum future lease payments	13,988,132
Current year Rental 2016/2017	16,785,758
Year 2017/2018	13,988,132

27. Contingent liabilities/Assets

a) Nrb Const. Pet. No. 239/15 Cofek -vs- Competition Authority of Kenya & 4 others

The Applicant seeks an Order that the Authority has failed to discharge its Mandate as provided for in the Competition Act, 2010 the court surcharges the DG for failure of discharging the said mandate. The Authority has a high chance of success, however incase the Courts find against us we might incur Ksh. 560,000 in legal costs.

b) Industrial Claim No. 897/14 Beldine Omollo -vs- Competition Authority of Kenya & 4 others

The Applicant seeks damages for wrongful dismissal by the Authority.The Authority has a high chance of success, however incase the Courts rules against us we might incur Kshs. 2,400,000 in damages.

c) Pet. No. 124/2017 John Gachanga & Another -vs- Competition Authority of Kenya

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

d) Kericho JR No. 3/15 KTDA Management Services -vs- Competition Authority of Kenya & The Attorney General

The Applicant seeks an order to stop the Authority from using and/or releasing the Tea Sector Market Inquiry report. The Authority has a high chance of success, however incase the Courts find against us we might incur legal costs amounting to Kshs. 440,800.

e) Nrb. HCC. Misc App. No. 360/14 R -vs- CAK Ex-parte Tuskys & Ukwala

The Applicants were challenging the Authority's decision on Merger it had determined. The Court decided in the Authority's favor and we were awarded costs to the tune of Kenya Shillings One Million and Forty Two Thousand (Kshs. 1,042,000/-) but the same is being challenged in Court.

28. Taxation

The Authority is exempt from taxation under the PFMA Regulation No. 34, Section 219. This regulation requires corporations exempted from income tax to remit 90 percent of surplus to National Treasury.

PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATION

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

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

Guidance Notes:

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

David Ong'olo ....
Chairman

Wang'ombe Kariuki ....
Director General

Appendix I: Restrictive Trade Practices Cases

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
1	Uniform Case	Manufacturing	Uniforms shop Ltd complained to the Authority that Animet Ltd and Haria Ltd were colluding with schools to recommend to parents where to buy school uniforms.	Section 21 (3) (b)	The Authority established that the practice of recommending/requiring parents/guardians to source school uniforms from certain outlets is prevalent. The Authority engaged the Ministry of Education to develop a policy to deal with the competition concerns in the procurement of uniforms in schools.
2	CAK and Uber	Land Transport	Allegations of predatory pricing against Uber as a dominant player by industry players	Section 24(2)	Investigations revealed that Uber was not dominant, and was not charging predatory prices.
3	Airtel & Safaricom (Abuse of Dominance)	Telecommunications	Airtel Network Ltd complained to the Authority that Safaricom was abusing its dominant position by implementing a differential on-net off-net call rates through a promotion and the peak and off-peak scheme.	Section 24(2) (a) and (c)	Investigations established that promotions by Safaricom did not amount to Abuse of Dominance (AOD) and case was closed.
4	Cement Sector Investigation	Manufacturing	The Authority initiated investigations into the conduct of players in the cement industry during a study conducted by ACF indicated possibility of collusion.	Section 21 (1),(3)(b),(e) and (i)	The information sharing did not affect competition at that point. However, the Authority ordered stoppage of sharing of information.

5	Fertilizer Investigations	Manufacturing	The matter is in regard to alleged market allocation and price fixing in the sector by fertilizer importers.	Section 21(3)	The Authority established that sharing of the data was pursuant to the Ministry of Agriculture's direction. The parties were ordered to individually forward the information required to the Government through AFA.
6	CAK & Kenya Automobile Security Association	Land Transport	The case is based on proposed price fixing for motor vehicle tracking gadgets	Section 21	Investigations ongoing.
7	CAK and Base One Media	Advertising and Market research	Members of the Association were involved in price fixing by setting up minimum prices for the 12m by 10m billboard	Section 22 (1) (b)	The case was finalized after Base-one paid the penalty for engaging in price-fixing
8	Media House Owners	Advertising and Market Research	Investigations focused on collusive conduct which put competitors at a disadvantage.	Sec 21(1) and 21(3).	The case was closed because of lack of evidence.
9	CAK and Lufthansa Group	Advertising and Market research	The conduct was in regard to Abuse of Dominance through discrimination in dealing with provision of reservation services.	Section 24	The investigations were finalized.
10	CAK and Kenya Breweries Ltd	Manufacturing	The Authority initiated investigations into the sector in March 2014 where the preliminary finding is that KBL had a restrictive distributorship model	Section 21(3) (a), (b) and (e)	Kenya Breweries Limited invoked section 38 of the Act providing for Settlement. The Settlement negotiations were on-going at the close of the reporting period.

11	CAK and Advertising Practitioners Association	Advertising and Market research	It was alleged that firms in this sector were colluding on prices. The Authority initiated investigation in the matter.	Section 21(3), 22(1)(b)	Investigations are on-going.
12	CAK and Ingenious Concepts Limited	Advertising and Market research	Members of the Association were involved in price fixing by setting up minimum prices for the 12m by 10m billboard	Section 21(1), 21(3)(e) and 24 (2)(b) of the Act	The firm failed to honor the terms of the settlement and the Authority is pursuing the matter.
13	CAK and Tangerine Investment Limited	Advertising and Market research	Members of the Association were involved in price fixing by setting up minimum prices for the 12m by 10m billboard	Section 22 (1) (b)	The firm failed to honor the terms of the settlement and the Authority is pursuing the matter.
14	CAK and Notos Limited	Advertising and Market research	Members of the Association were involved in price fixing by setting up minimum prices for the 12m by 10m billboard	Section 22 (1) (b)	Investigations on-going
15	CAK and Multi-choice Kenya	Programming and Broadcast	The Authority, on its own motion launched investigations into the conduct of firms and persons in the pay TV sub-sector with the aim of establishing whether there were any infractions of the Act. The investigations were triggered by the exit of Pay TV market players (GTV and Smart TV) after only a short period.	Section 21(1), 21(3) (e) and 24 (2) (b) of the Act.	The case was finalized. The Authority concluded that exclusivity rights, as they were, not anticompetitive. Multichoice was ordered to desist from engaging in agreements that are of detrimental to competition.

16	International Air Transport Association and Kenya Air Travel Association	Air Transport	Agreements by trade associations (IATA) to set trading conditions that are prohibitive	Section 21 (1) and (3)	Investigations Ongoing
17	Solpia Kenya and Style Industries Ltd	Manufacturing	Allegations that Style Industries were engaging in RTPs, including, imposing unfair selling prices & conditions to suppliers who sell their products, blackmail to the existing Solpia clients, and applying harsh conditions to suppliers who supply Solpia's goods.	Section 24 (b) of the Act	The case is ongoing
18	Shipping Logistics	Water Transport	Complaints by KIFWA regarding: Unjustified levels and strong tactics by dominant multinational; shipping logistic service providers, shipping line agents have expanded their role to provide other services including in-house clearing	1) section 21(3)(f) of the Act	Sector study to be initiated to inform the investigation process.
19	Nairobi – Mandera Air Route	Air Transport	Dennis Tiyo complained of a possible collusion between airlines and trading agents operating in the route.	Section 21	Investigations ongoing

20	Sugar sector investigation	Agriculture, Forestry and Fishing	Allegations of hoarding of sugar to create artificial shortages that would drive the price upwards	Section 21 (3) (e)	Case findings shared with the sector regulator and engagements ongoing.
21	Transcend media vs WPP –Scan Group	Advertisement and Market Research	Transcend, a member of the APA complained of the possibility of bid rigging and undercutting by WPP – Scan Group	Section 21 (3)	Investigations ongoing
22	Sufuria World Limited Vs Kalu Works Limited	Manufacturing	Complainant alleges that Kalu Works Limited the sole manufacturer of Aluminium sheets in Kenya refused to sell the raw materials to other local manufacturers within the country but has no problem selling to manufacturers outside the country.	24(2)(b	Investigations ongoing

Appendix II: Exemption Cases

No	Application	Sector	Case Summary	Relevant Section of the Act	Status
1.	Pretzel International & Snack byte Co Ltd	Retail Sector	Pretzel sought exemption to enter into franchises agreement with Snackbyte to grant exclusivity, by enforcing tying purchases and restrictions to engage in competing business.	Section 25 and 26	At final stages of completion.
2.	Institute of Certified Public Accountants of Kenya	Professional, scientific and technical	ICPAK sought an exemption to develop minimum pricing guidelines.	Section 26 and 29	The application was rejected
3.	KLM, Kenya Airways and Precision Airline.	Air Transport	Sought exemption to have joint ticketing.	Section 25 and 26	The application was approved for a period of one year
4.	Institute of Surveyors of Kenya Exemption	Professional, scientific and technical.	ISK applied to be exempted from setting minimum fees.	Section 26 and 29	On-going.
5.	East Africa Tea Trade Association	Agriculture, forestry and fishing	Application for an exemption	Section 25 and 26	On-going.
6.	Institute of Certified Public Secretaries of Kenya (ICPSK)	Professional, scientific and technical	ICPSK applied to be exempted from setting minimum fees.	Section 26 and 29	On-going

7.	Two Rivers Lifestyle Centre and Majjid Al Futain Ltd	Retail Sector	Sought exemption that the lessor shall not lease any part of the Centre to any hypermarket, supermarket, butcheries, green grocer or fruit and vegetable store without written consent of the lease.	Section 25 and 26	Pending

Appendix III: Compliance Cases

No	Case/activity	Sector / market affected	Case summary	Violation/ theory of harm	Case Status/Decision
1.	Heron Portico Hotel and Pro Dema Limited	Hospitality	Through a newspaper article in the Business Daily of April 17th April 2015, the Authority learnt of the alleged acquisition of Zehneria Hotel by Heron Portico.	Matter relates to a merger consummated contrary to the provisions of section 42(2) and 43(1) of the Act	Investigations on-going
2.	Vitol and Buckeye	Energy	Through a notification made to the Authority regarding Vivo Energy Holding B.V. (Vivo Energy) and Vitol Holding B.V. (Vitol), the Authority discovered that there was an acquisition of 50% of VIP Terminals Holdings B.V, controlled by Vitol, by Buckeye North Sea Cooperatief U.A (Buckeye).	Matter relates to an alleged merger consummated contrary to the provisions of section 42(2) and 43(1) of the Competition Act No. 12 of 2010.	The matter was investigated and it was established that a merger was consummated without approval of the Authority in contravention of the Act. A financial penalty of KES. 37,895,000 was imposed to the parties.
3	Country side Dairies & Siraal	Agriculture	This was a merger consummated without approval.	Matter relates to a merger consummated contrary to the provisions of section 42(2) and 43(1) of the Act	Investigations established that there was infringement of the Act and a financial penalty of Kshs. 600,000 was

					imposed on the parties.
4	Interconsumer and Belsize matter	Toiletries	The matter involved a merger implemented without approval.	Matter relates to a merger consummated contrary to the provisions of section 42(2) and 43(1) of the Act	The matter was investigated and forwarded to the Office of the Director of Public Prosecutions (ODPP)
5	Ipsos Synovate	Research	The matter involved a merger implemented without approval	Matter relates to a merger consummated contrary to the provisions of section 42(2) and 43(1) of the Act	Investigations on-going
6	Bluejay (Betway) Company	Betting	The Authority initiated an investigation into allegations of a possible change of control implemented without the Authority's approval.	Matter relates to a merger consummated contrary to the provisions of section 42(2) and 43(1) of the Act	Investigations on-going.

Appendix IV: Advisories

No	Inquiry	Sector/ Market Affected	Case Summary	Relevant Section of the Act	Status
1.	Duracell Ltd	Manufacturing	Hasbash (K) Ltd sought an advisory whether as a sole distributor of Duracell, they could carry competing brands.	Section 21	The Authority advised that it was in order to sell other brands.
2.	Responsible Alcoholic Drinks Companies Association (Radca)	Manufacturing	The Association sought advisory whether an exemption application was a requisite for the company's distribution arrangements.	Section 21 and 25	The Authority advised that for vertically integrated arrangements exemptions are not compulsory.
3.	Pernord Ricard Kenya	Manufacturing	The company sought an exemption for PRK since it is a subsidiary that distributes a number of products of PRG group in Kenya.		The Authority advised that the agreements between the company and the subsidiaries do not need exemptions
4.	Dormaine Kenya	Manufacturing	The party sought advisory regarding the various sole agreements that they have with their suppliers.		The Authority advised that vertical agreements with subsidiary companies do not need exemptions.
5.	Platinum Distillers Ltd	Manufacturing	The party sought professional advice on unethical business practices by certain unnamed multinational player in alcoholics industry	Section 21	The party was advised to wait for the conclusion of an ongoing court case.
6.	Wines of the World Beverage Limited	Manufacturing	The party sought advice on six sole distributorship agreements between them and their suppliers.	Section 21 and 25	The party was advised to amend the proposed agreements to exclude the restrictive clauses or apply for exemption.

Appendix V: Merger Cases

S/No.	Case title	Sector	Case summary	Decision
1	CDC Group PLC and I&M Holdings Limited	Financial services	The transaction involved acquisition of minority stake of 10.68% of the issued share capital in I & M Holdings Limited with certain rights. Analysis of the transaction revealed it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
2	Humphrey Kariuki Ndegwa and Dalbit Petroleum Limited	Energy	The transaction involved acquisition indirect control in Dalbit Petroleum Limited by Humphrey Kariuki Ndegwa. Analysis of the transaction revealed it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
3	Tarlochan Limited and Pan African Paper Mills 2015	Manufacturing	The transaction involved acquisition of 100% of the shares in Pan African Paper Mills 2015 Limited by Tarlochan Limited. Analysis revealed that the transaction would affect competition negatively but not negatively raise public interest issues.	Approved conditionally
4	Total Outremer SA and Gulf Africa Petroleum Corp	Petroleum	The transaction involved acquisition of 100% of the issued share capital in Gulf African Petroleum Corporation by Total Outre-Mer S.A. Analysis showed that the transaction would affect competition negatively and raise negative public interest issues.	Approved conditionally
5	Garda World (Kenya) Limited and Kenya Kazi Limited	Security	The transaction involved acquisition of 100% of the shares in Kenya Kazi Limited by Gardaworld (Kenya) Limited. Analysis of the transaction revealed it would not affect competition negatively nor negatively raise public interest issues.	Approved unconditionally
6	Jambo Africa Limited and Jambo Biscuits (K) Triumph Development & Kilimanjaro Foods Limited	Manufacturing	The transaction involved acquisition of the business and assets of Jambo Biscuits (K) Limited, Triumph Development Limited & Kilimanjaro Foods Limited	Approved unconditionally

			by Jambo Africa Limited (Mauritius). Analysis of the transaction revealed it would not affect competition negatively nor raise negative public interest issues.	
7	China National Agrochemical Corporation and Syngenta AG	Manufacturing	The transaction involved acquisition of sole control of Sygenta AG by China National Agrochemical Corporation (CNAC). Analysis of the transaction revealed that it would not affect competition negatively nor have negative public issues.	Approved unconditionally
8	Yan Zhao Global Limited and Abercrombie & Kent Kenya & Others	Tours	The transaction involved acquisition of control of Abercombie & Kent Kenya Limited (Abercombie) by Yan ZhaO Global Limited (yan Zhao), form A&K Cayman L.P and other Minority Shareholders. Analysis of the transaction revealed that it would not affect competition negatively nor have negative public issues.	Approved unconditionally
9	One Holding Limited and Wananchi Marine Products (Kenya) Limited	Commercial Fish farming (Pisciculture)	The transaction involved acquisition of assets of Wanainchi Marine Products (Kenya) Limited by One Holdings Limited. Analysis revealed it would not affect competition negatively nor negative public interest issues.	Approved unconditionally
10	One Holding Limited and Sosco Fishing Industries Limited	Agriculture	The transaction involved acquisition of 100% of the ordinary shares in Sosco Fishing Industries Limited by One Holdings Limited. Analysis of the transaction revealed that it would not affect competition negatively nor have negative public issues.	Approved unconditionally
11	HNA Aviation Group Company Limited and LA Compagnie Dexploit Atton Des Services Auxiliaries	Aviation	The transaction involved acquisition of 49.99% of the share capital and voting rights in LA Campagnie D'Exploitation De Services Auxiliaries Aeriens S.A by HNA Aviation Group Company Limited. Analysis of the transaction revealed it would not affect competition negatively nor have negative public interest issues.	Approved unconditionally

12	Mimosa Pharmacy limited and Dan Pharmacie Limited	Distribution	The transaction involved acquisition of assets of Dan Pharamacie Limited by Mimosa Pharmacy Limited. Analysis of the merger revealed that it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
13	Toyota Tsusho Csv Africa Private Limited and Seven Seas Technologies Limited	ICT	The transaction involved acquisition of 38,852 ordinary shares of Seven Seas Technologies Limited by Toyota Tshusho CSV Africa Private Limited. Analysis of the transaction revealed it would not affect competition negatively nor have negative public interest issues.	Approved unconditionally
14	Mimosa Pharmacy and Palmland Pharmacy	Wholesale and Distribution	The transaction involved acquisition of assets of Palmland Pharmaceuticals Limited by Mimosa Pharmacy Limited. Analysis of the transaction indicated that it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
15	Leapfrog Investments Healthcare Opportunities Holdings and Africa Chemist & Beauty care Inc.	Healthcare Services	The transaction involved acquisition by Leapfrog Investments Healthcare Opportunities Holdings of the majority interest in Africa Chemist and Beauty Care INC. Analysis of the transaction revealed it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
16	Kuramo Africa Opportunity (K) and Trans Century Limited	Engineering	The transaction involved subscription for 24.99% shareholding in Trans-Century Limited with 100% of the redeemable preference shares in TC Mauritius Holdings by Kuramo Africa Opportunity Kenyan Vehicle Limited. Analysis of the transaction revealed that it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
17	Mabati Rolling Mills Limited and Safal Building Systems Limited	ICT	The transaction involved acquisition of 50% of the issued share capital in Mitek Industries South Africa by Mabati Rolling Mills Limited. Analysis of the	Approved unconditionally

			transaction revealed it would not affect competition negatively nor raise negative public interest issues.	
18	Lake Oil Limited and Hashi Energy Limited	Energy	The transaction involved acquisition of the retail petroleum business of Hashi Energy Limited by Lake Oil Limited. Analysis of the transaction revealed it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
19	Weetabix Limited and Weetabix East Africa Limited	Manufacturing	The transaction involved acquisition of a controlling interest in Weetabix East Africa Limited by Weetabix Limited. Analysis revealed it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
20	Greenside Limited and Juja Pulp & Paper Limited	Manufacturing	The transaction involved acquisition of 99% shares in Juja Pulp & Paper Limited by Greenside Limited. Analysis of the transaction revealed that it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
21	Aldwych Holdings Limited and Finance Corporation & Africa Power Company	Financial services	The transaction involved a joint venture between Africa Finance Corporation (AFC) and Aldwych Holdings Limited. Analysis of the transaction revealed that it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
22	General Electric Company and Baker Hughes Inc.	Engineering	The transaction involved acquisition of 62.5% of the voting rights in Baker Hughes Incorporated by General Electric Company. Analysis of the transaction indicated that it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
23	CMI Africa Holding and JV Holdco	Manufacturing	The transaction involved acquisition of 50% shareholding in Cummins C&G Holdings Limited by CMI Africa Holdings B.V (Cummins B.V). Analysis revealed it would affect competition negatively but not negatively raise public interest	Approved conditionally

			issues. The transaction was approved on condition that the parties execute a non-exclusivity provision in their distribution agreement and the non-exclusivity provision in the distribution agreement so executed will not be amended, reviewed, deleted and/or in any way varied without the Authority's approval.	
24	Ameths Packaged Food Limited and Kenafric Development Limited	Manufacturing	The transaction involved acquisition of 49% of the issued share capital of Kenafric Development Limited by Ameths Packaged Food Limited, together with certain Veto Rights. Analysis of the transaction revealed it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
25	Mrs. Pravina Samani and AMS Properties Limited	Property	The transaction involved acquisition of additional 3% shareholding in AMS Properties Limited by Mrs. Pravina Samani resulting in 52% shareholding and control. Analysis of the transaction revealed it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
26	Vitol Africa BV and Vivo Energy Holdings BV	Energy	The transaction involved acquisition of 19.91% of the shareholding in Vivo Energy Holdings B.V from Shell Overseas Investments B.V by Vitol Africa B.V. Analysis of the transaction revealed it would not affect competition negatively nor raise public interest issues.	Approved unconditionally
27	Bayer/KWA Investments Co and Monsanto Kenya Limited	Manufacturing	The transaction involved acquisition of 100% of the issued share capital of Monsanto Kenya Limited by Bayer Aktiengesellschaf/Kwa Investment Company. Analysis of the transaction revealed it would not affect competition negatively nor raise any negative public interest issues.	Approved unconditionally

28	Distell International Holdings Limited and KWA Holdings EA Limited	Manufacturing	The transaction involved acquisition of additional 26% shareholding in KWAL Holdings East Africa Limited by Distell International Holdings Limited resulting in 52% majority shareholding. Analysis revealed that the merger would cause competition concerns and raise negative public interest issues. It was therefore approved on condition that the merged entity continues the manufacturing and sale of Kibao, Kingfisher, County Brandy, Papaya , Caprice, Viceroy, Cellar Cask and Juice brands currently being undertaken by the target and ensure that the forty two (42) employees currently working in the production unit of Kenya Wine Agencies are not retrenched or declared redundant for at least three (3) years otherwise than in accordance with the provisions of Employment Act, 2007	Approved conditionally
29	The Abraaj Healthcare Services Hospital Mauritius Limited and Healthlink Management Limited	Healthcare Services	The transaction involved acquisition of 75% shareholding in Healthlink Management Limited by the Abraaj Healthcare Services Group Hospitals Mauritius Limited. Analysis revealed that the transaction revealed that it would not affect competition negatively nor raise any negative public interest issues.	Approved unconditionally
30	Kibo Plastics Packaging Limited and Blowplast Limited	Manufacturing	The merger involved acquisition by Kibo Plastic packaging Limited of a minority (14.02%) shareholding with controlling interest in Blowplast Limited. Analysis of the transaction revealed that it would not affect competition negatively nor raise any negative public interest issues.	Approved unconditionally
31	GEPF Limited and ETG Inputs Holdco Limited	Manufacturing	The transaction involved acquisition of joint control of ETG inputs Holdco Limited by the Government	Approved unconditionally

			Employees Pension Fund Limited of South Africa, represented by the Public Investment Corporation SOC Limited. Analysis of the transaction revealed that it would not affect competition negatively nor any negative public interest issues.	
32	Imperial Capital Limited and Surgipharm Limited	Wholesale distribution	The transaction involved acquisition of 70% of shares in Surgipharm Limited by Imperial Capital Limited. Analysis of the transaction revealed that it would not affect competition negatively nor raise any negative public interest issues.	Approved unconditionally
33	Unifert Holding SAL & Khalil Chahine Melki and Lachlan Kenya Limited	Agriculture	The transaction involved sale of Seventy Five Thousand shares of Lachlan Kenya Limited to Unifert Holding SAL and Khalil Chanine Melki. Analysis of the transaction revealed that it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
34	Kansai Plascon East Africa Limited and Sadolin Paints (EA) Limited	Manufacturing	The transaction involved acquisition of the entire issued share capital of Sadolin Paints (E.A) Limited by Kansai Plascon East Africa Limited. Analysis of the transaction revealed that it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally
35	Isuzu Motors Limited and General Motors Asia Pacific Holding Limited	Manufacturing	The transaction involved acquisition of shares in in General Motors East Africa Limited by Isuzu Motors Limited. Analysis revealed that it would not affect competition negatively but would likely raise negative public interest issues and therefore approved on condition that the merged entity absorb all of the 383 General Motors East Africa Limited (GMEA), continue with the aftersales service of all the vehicle brands, Isuzu and Chevrolet sold and leased by GMEA for duration of all the aftersales service contracts; honour all existing	Approved on conditions

			dealership agreements between GMEA and its dealers; and communicate to all GMEA customers the continuation of after sales service as indicated above.	
36	Coca-Cola SABCO East Africa East Africa Limited and Kretose Investments Limited	Manufacturing	The merger involved acquisition of 100% of shares in Kretose Investment by Coca Cola Beverages Africa Proprietary Limited. The merger was approved on condition that the merged entity retains at least two thousand, two hundred and seventy nine (2,279) employees post transaction. In addition, the acquirer shall submit a compliance report to the Authority 2 years post transaction.	Approved with conditions
37	Diamond Trust Bank Kenya Limited and Habib Bank Limited	Financial services	The merger involved acquisition of business, assets and liabilities of Habib Bank Kenya Limited by Diamond Trust Bank Kenya Limited. Analysis of the transaction revealed that it would not affect competition negatively but would raise negative public interest issues. The merger was therefore approved on condition that the acquirer, Diamond Trust Bank retains at least forty one (41) employees of Habib Bank post transaction.	Approved on condition
38	Simba Corporation Limited and Hemingways Holdings Limited	Hospitality	The merger involved acquisition by subscription of the shares in Hemingways Holdings Limited by Simba Corporation Limited. Analysis revealed that it would not affect competition negatively nor raise any negative public interest issues.	Approved unconditionally
39	Pinebridge Investments E.A Limited and Sanlam Finlay Property Limited	Financial services	The transaction involved acquisition of 60% of the shares in Pinebridge Investments East Africa Limited by Sanlam Emerging Markets Proprietary Limited. Analysis revealed that the merger would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally

40	Safaricom Limited and Bandwidth and Cloud Services Group Limited	Internet	The merger involved acquisition of Fibre Optic Cable from Bandwith And Clound Services Group Limited by Safaricom Limited. Analysis of the transaction revealed that it would not affect competition negatively nor raise any negative public interest issues.	Approved unconditionally
41	PostHoldings INC. and Weetabix East Africa Limited	Manufacturing	The transaction involved acquisition of indirect control of Weetabix East Africa Limited by PostHoldings, INC through its wholly owned Subsidiary, Westminster Acquisitions Limited. Analysis revealed that it would not affect competition negatively nor raise any public interest issues.	Approved unconditionally
42	Amit Ashok Doshi & Pratibha Ashok Doshi and Peter Ian Talbot & Jill Mary Talbot	Real Estate	The transaction involved acquisition of Site Villa Limited by Amit Ashok Doshi & Pratibha Ashok Doshi from Peter Ian Talbot & Jill Mary Talbot. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
43	Humphrey Kariuki Ndegwa and Kigumba Limited	Petroleum	The transaction involved transfer of 100% ordinary shares in Kigumba Limited to Humphrey Kariuki Ndegwa. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
44	Longhorn Publishers Limited and Law Africa Publishing Limited	Publishing	The transaction involved acquisition of 74% of the issued share capital of Law Africa Publishing Limited by Longhorn Publishers Limited. The transaction was excluded since it would not affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act

45	Africinvest Fund III LLC and Silafrica Plastics & Packaging International Limited	Manufacturing	The transaction involved acquisition of shares and certain veto rights in Silafrica Plastics and Packaging International Limited by Africinvest Fund III LLC. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
46	Winwa Development Limited and Barbara Robin Steen Limited 30/6/2016	Consultancy	The transaction involved sale of shares in Steenstrup Consulting Services Limited held by Barbara Steen to Winwa Development Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
47	Hunting Energy Holdings Limited and Hunting Alpha (EPZ) Limited	Manufacturing	The transaction involved acquisition of 60% of the issued share capital of Hunting Alpha (EPZ) Limited by Hunting Energy Holdings Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
48	Sunset Ridge Properties Limited & Humphrey Kariuki Ndegwa and Crosskey Investments Limited	Hospitality	The transaction involved acquisition of 100% issued ordinary shares in Crosskey Investments Limited to Sunset Ridge properties Limited (99%) and Humphrey Kariuki Ndegwa (1%). The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
49	Fleurantalya Limited and Gunter Franz Herneth	Agriculture	The transaction involved acquisition of 100% shareholding in Plantation Plants Kenya Limited by Fleurantalya A.S. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act

50	Rosewild Trade & Invest Proprietary Limited and Chlor-Alkali Holdings Proprietary Limited	Manufacturing	The transaction involved transaction between Rosewild Trade and Investment Proprietary Limited and Chlor Alkali Holdings Proprietary Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
51	Enel Green Power Kenya Limited and Cloverfield Energy Services Limited	Green Energy	The transaction involved acquisition of 93% off the issued share capital in Cloverfield Energy Services Limited by Enel Green Power Kenya Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
52	Dhiren Chandaria and Insta Products (EPZ) Limited	Manufacturing	The transaction involved acquisition of 80% shares in Insta Products (EPZ) Limited by Dhiren Chandaria. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of the Act.
53	Insta Products (EPZ) Limited and Nutro Manufacturing (EPZ) Limited	Manufacturing	The transaction involved acquisition of 100% shares in Nutro Manufacturing (EPZ) Limited by Insta Products (EPZ) Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
54	IMCD Kenya Limited and Chemicals & Solvents	Manufacturing	The transaction involved acquisition of the business (including assets) of Chemicals & Solvents by IMCD Kenya Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.

55	Nancy Mokua and My Kenyan Networks Limited	Services	The transaction involved acquisition of Kenya Networks Limited by Nancy Mokua. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
56	Azimuth Power (UK) Limited (APUK) and Azimuth Power Limited (Azimuth)	Energy	The transaction involved acquisition of all the issued share capital in Azimuth Power Limited by Azimuth Power (UK) Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
57	TBL Dairy Ventures B.V and Bio Food Products Limited	Manufacturing	The transaction involved acquisition of 100% of the shareholding in Bio Food Products Limited by TBL Dairy Ventures B.V. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions Part IV of the Act.
58	Print Arts Limited and Nairobi By Taws	Printing	The transaction involved acquisition of sole control of Taws Limited by Prints Arts Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
59	Sunfloritech Limited and Bluesky (Kenya) Limited	Horticulture	The transaction involved acquisition of the Assets and Liabilities of Bluesky (Kenya) Limited by Sun Floritech Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
60	Soko Incorporated and Sasa Africa Limited	Property	The transaction was an acquisition of 100% of the issued share capital in Sasa Africa Limited by Soko Incorporated. The transaction was excluded since it	Excluded from the provisions of Part IV of the Act

			would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	
61	Rose Thogo & Joseph Wambuki and Ryden International Limited	Property	The transaction was an acquisition of 55% ordinary shares in Ryden International Limited by Rose Thogo and Joseph Wambugi Njogu. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
62	Quantum Power EA Limited and QPEA Management Limited	Energy	The transaction involved acquisition of 100% shareholding in QPEA Management Limited by Quantum Power E.A Limited of Mauritius. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
63	M/S Mitchele Cotts Limited and M/S Coast Hauliers Limited	Logistics	The transaction involved acquisition of certain assets of Coast Hauliers Limited by Seven Stars Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
64	Ahmed Mohamed Saggaf & Khadija Ahmed Abdalla and Jacqueline Range, Christopher Range & Susan Davison (Amuarabia)	Property	The transaction involved acquisition of 100% of the issued share capital in Amuarabia Holdings Limited by Ahmed Mohamed Saggaf & Khadija Ahmed Abdallah. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions Part IV of the Act.
65	Necotrans Africa and Freightmax Company Limited	Logistics	The transaction involved acquisition of the entire issued share capital in Freightmax Company Limited by Necotrans Africa. The transaction was excluded since it would not affect competition	Excluded from the provisions of Part IV of the Act.

			negatively and the combined turnover was below the threshold for mandatory merger notification.	
66	Newtekk Multimedia Services Company Limited and Film Studios Kenya Limited	Media	The transaction involved acquisition of 100% of the issued share capital in Film Studios Kenya Limited by Newtekk Multimedia Services Company Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
67	Panalpina Airflo Limited and Methodius Services Limited	Property	The transaction involved acquisition of assets of Methodius Services Limited by Panalpina Airflo Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
68	James Olubayi and Alexander Forbes	Investment	The transaction involved acquisition of 28.528% of the issued share capital in Alexander Forbes Financial Services (EA) Limited by James Olubayi. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Acct
69	Ringier Kenya Limited and Laini Majani Investment Limited	Investment	The transaction involved joint venture between Ringier Africa AG (Ringier Africa) and One Africa Media (PTY) Limited (OAM) in the form of a Group merger of certain assets and subsidiaries. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
70	Jacob Mutethia Kundu and Yellow Stone Transport Limited	Logistics	The transaction involved acquisition of all issued shares in Yellow Transport Limited by Jacob Mutethia Kundu. The transaction was excluded	Excluded from the provisions of the Act.

			since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	
71	Mimosa Pharmacy limited and Shreeji Pharmacy Limited	Distribution	The transaction involved acquisition of assets in Shreeji Pharmacy Limited by Mimosa Pharmacy Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Pat IV of the Act.
72	Mimosa Pharmacy and Medworld Limited	Wholesale and Distribution	The transaction involved acquisition of all the assets of Medworld Limited by Mimosa Pharmacy Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
73	Fides Holdings BV and De Ollies BV	Floriculture	The transaction involved acquisition of the entire issued share capital in DE Ollies B.V by Fides Holding B.V. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
74	K201637893 (South Africa) Proprietary Limited (BIDCO) and Universal Industries Limited (Bidco)	Manufacturing	The transaction involved acquisition of 100% shareholding in Universal Industries Corporation (Proprietary) Limited by K2016379893 (South African) (Proprietary) Limited (Bidco). The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
75	Gamcode Limited and Samson Capital Investments Limited	Investment	The transaction involved acquisition of 90% of the issued share capital of Gamcode Limited by Samson Capital Investments Limited. The transaction was excluded since it would not affect competition	Excluded from the provisions of Part IV of the Act.

			negatively and the combined turnover was below the threshold for mandatory merger notification.	
76	UX Holdings Limited and UAEx Kenya	Financial services	The transaction involved acquisition of 100% of the issued shares in UAEx Limited by UX Holdings. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from provisions of Part IV of the Act.
77	Wendel SE and Tsebo Holding (Pty) Limited	Hospitality	The transaction involved acquisition of sole control of Tsebo Holding (PTY) Limited by Wendel SE. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
78	Shriji Stationers Limited and School Supermarket Limited	Stationery	The transaction involved sale and purchase of all assets in stock & Trademark in School Supermarket Limited by Shriji Stationers Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
79	Direct Wheelers Express Limited and Tripple Twin Logistics Limited	Logistics	The transaction involved acquisition of business and assets in Tripple Twin Logistics Limited to Direct Wheelers Express Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
80	Simon Kamau Kimiru & Others and Image Font Limited	Printing	The transaction involved sale of two (2) ordinary shares in Image Font Limited to Simon Kamau and Said Mohamed Farali. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.

81	Siraal Investments Limited and Countryside Dairy Limited	Dairy	The transaction involved acquisition of 52% of the issued share capital in Countryside Dairy Limited by Siraal Investments Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
82	EOH International Proprietary Limited and Twenty Third Century Systems Kenya Limited	IT	The transaction involved acquisition of 51% of the issued share capital in Twenty Third Century Systems (Kenya) Limited by EOH International Proprietary Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
83	Necst Motors Kenya Limited and Auto-Sueco Kenya Limited	Assembling	The transaction involved acquisition of the assets of Auto-Sueco Kenya Limited by Necst Motors Kenya Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
84	South lake Medical Centre & Flamingo Horticulture Limited	Healthcare Services	The transaction involved sale and purchase of certain assets and stock of Flamingo Horticulture Kenya Limited by South Lake Medical Centre Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
85	Stitching DOB Equity and Countryside Dairy Limited	Dairy	The transaction involved acquisition of 49% of the issued share capital in Countryside Dairy by Stitching DOB Equity. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.

86	Biobest N.V. and The Real IPM Company Kenya Limited	Pest management	The transaction involved acquisition of 85% of the issued share capital of the Real IPM Company (Kenya) Limited by Biobest N.V. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
87	Amish Investment Limited and Bidco Africa Limited & Co-Ro	Manufacturing	The transaction involved new joint venture between Amish Investment Limited and The ultimate shareholders of Bidco Africa Limited and Co-Ro A/S Denmark. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
88	Eye Level Exposure Limited and Chemserve Cleaning Services 29/12/2016	Cleaning Services	The transaction involved acquisition of 72% of the issued share capital of Chemserve Cleaning Services Limited by Eye Level Exposure Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
89	Igal Roni Elfezouaty and Panda Flowers Limited	Floriculture	The transaction involved acquisition of shares in Panda Flowers Limited by Igal Roni Elfezouaty. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
90	Igal Roni Elfezouaty and Prigal Limited	Floriculture	The transaction involved acquisition of control of Prigal Limited by Igal Roni Elfezeouaty. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.

91	Ascent Investment Africa Limited/Ascent KCP Africa Limited and Kisumu Concrete Products Limited	Manufacturing	The transaction involved acquisition of 45% of the shareholding in Kisumu Concrete Products Limited by Ascent Investment Africa Limited and Ascent KCP Africa Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
92	SBM Holdings Limited and Fidelity Commercial Bank Limited	Financial services	The transaction involved acquisition of a controlling interest in Fidelity Commercial Bank Limited by SBM Africa Holdings Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
93	Ringier Africa Ag and One Africa Media Limited	Online market	The transaction involved a joint venture between Ringier Africa AG ("Ringier Africa) and One Africa Media (PTY) LTD ("OAM") in the form of a Group Merger of certain Assets and Subsidiaries. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
94	Sheb Investments Limited and Sasini Coffee House Limited	Services	The transaction involved acquisition of 100% shareholding of Sasini Coffee House Limited by Sheb Investments Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
95	Buckeye Partners & VIP Terminals Holdings B.V.	Petroleum	The transaction involved acquisition of 50% of VIP Terminals Holding B.V by Buckeye North Sea Cooperative U.A. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.

96	Neeltje Willemijn Rosenstok and Msukumo Limited	Consultancy	The transaction involved acquisition of shares in Msukumo Limited by Neeltje Willemijn Rosenstock. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
97	BucKeye North Sea Cooperative U.A Generateir U.A and UP Terminal Holdings B.V	Logistics	The transaction involved acquisition of 50% of VIP Terminals Holding B.V by Buckeye North Sea Cooperative U.A. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
98	Waceke Nduati and Mahurubi Holdings Limited	Training	The transaction involved acquisition of shares in Limited by Waceke Nduati. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
99	Hela Kenya Private Limited and Hela Intimates EPZ Limited	Manufacturing	The transaction involved acquisition of 100% of the issued share capital of Hela Intimates EPZ Limited by Hela Kenya Private Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
100	Redis Holdings (UK) Limited and Redis Construction Kenya Limited	Construction	The transaction involved transfer of shares in Redis Construction Kenya Limited to Redis Holdings (UK) Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory notification.	Excluded from the provisions of Part IV of the Act.
101	Energy & Climate Advisory Limited and Climate & Energy Advisory Limited	Energy	The transaction involved acquisition of 100% of the issued share capital in Climate and Energy Advisory Limited by Energy and Climate Advisory Limited. The transaction was excluded since it would not	Excluded from provisions of Part IV of the Act.

			affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	
102	Monique Dorothy Theresa Brown and Margaret W. Mungai and African Classic Limited	Real Estate	The transaction was an acquisition of shares in African Classics Limited by Monique Dorothy Theresa Brown and Margaret Wanjiku Mungai. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
103	Seven Stars Limited and Coast Hauliers Limited	Logistics	The transaction involved acquisition of certain assets of Coast Hauliers Limited by Seven Stars Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
104	Savannah Flowers Limited and Savannah International Limited	Horticulture	The transaction involved purchase of certain assets of Savannah International Limited by Savannah Flowers Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
105	Financial Access Capital Management and Telemedia Africa and E-Biashara Africa Limited	Media	The transaction involved acquisition of 49% of the shares in Financial Access (East Africa) Limited by Financial Access Consulting Services B.V. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Pat IV of the Act.
106	Mombasa Heavy Equipment Limited & Euro Holdings & Roosevelt Limited & Delta Machinery E.A Limited	Engineering	The transaction involved share swap in Mombasa Heavy Equipment Limited, Delta Machinery East Africa Limited and Roosevelt Limited. The transaction was excluded since it would not affect	Excluded from the provisions of Part IV of the Act.

			competition negatively and the combined turnover was below the threshold for mandatory merger notification.	
107	Mane South Africa Proprietary Limited and Deli Spices Investment Holdings Proprietary	Wholesale and retail	The transaction acquisition of 50% of the shares in Deli Spices Investment Holdings Proprietary Limited with voting rights by Mane South Africa Proprietary Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
108	SNC-Lavalin Group Inc. and WS Atkins	Consultancy	The transaction involved acquisition of the entire issued share capital of WS Atkins PLC by SNC-La Valin Group Inc. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the merger threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
109	Healthcare Services Global (K) Limited and Cancer Care (K) Limited	Healthcare Services	The transaction involved acquisition of 93.66% of the issued share capital of Cancer Care Kenya Limited by Healthcare Services Global (Kenya) Limited. The merger was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
110	HNA Holding Company Limited and CWT Limited	Transport	The transaction involved acquisition of the entire issued share capital of CWT Limited by HNA Holding Group Company Limited. The merger was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
111	Avacare Global Limited and Statim Pharmaceuticals Limited	Healthcare Services	The transaction involved acquisition of 100% of the issued shares in Statim Pharmaceuticals Limited by Avacare Global. The merger was excluded since it would not affect competition negatively and the	Excluded from the provisions of Part IV of the Act.

			combined turnover was below the threshold for mandatory notification	
112	Collotype Labels International Limited and TP Kenya Limited	Distribution	The transaction involved acquisition of 100% stake in TP Kenya Limited by Collotype Labels International (RSA) PTY Limited. The merger was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory notification.	Excluded from the provisions of Part IV of the Act
113	Travel Circle International (Mauritius) Limited and Private Safaris (EA) Limited	Logistics	The transaction involved acquisition of 100% shareholding in Private Safaris (EA) Limited by Travel Circle International (Mauritius) Limited. The merger was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory notification.	Excluded from the provisions of Part IV of the Act
114	Novastar Venture East Africa Fund 1 LP in iProcure Limited	ICT	The transaction involves proposed acquisition of four hundred and eighty five (485) Series B shares totaling 13.1% shareholding in I-Procure Limited (i-Procure), together with certain Veto rights by Novastar Venture East Africa Fund 1 LP. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
115	Cinven & Canadian Persian Investment & Canadian Pension Investment & Kuon Holdings & GTA Travel Holdings	Tours	The transaction involved acquisition of joint control of GTA Travel Holdings Limited, Kuoni Holdings PLC and their subsidiaries by Cinven and the Canada Pension Plan Investment Board from EQT VII. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act

116	Elephant Vert S.A. and Kenya Biologics Limited	Agriculture	The transaction involved acquisition of 64% of the issued share capital of Kenya Biologics Limited by Elephant Vert S.A. The merger was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory notification.	Excluded from the provisions of Part IV of the Act.
117	Newtekk Multimedia Services Company Limited and Airmedia Kenya Limited	Media	The transaction involved acquisition of 100% of the issued share capital of Air Media Kenya Limited by Newtekk Multimedia Services Company Limited. The transaction was excluded since it would not affect competition negatively and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
118	Reorganisation of NIC Group	Financial services	The transaction involved internal reorganization of NIC Group and hence did not qualify as a merger since the beneficial ownership would not change.	Not a merger
119	HNA Tourism Group Co. Limited and Carlson Hotels	Hospitality	The transaction was an acquisition of entire issued share capital in Carlson Hotels, INC (including 51.3%shareholding of Carlson Hotels in Rezidor Hotel Group AB) HNA Tourism Group Company Limited. The transaction did not qualify as a merger since the target has no control in any undertaking in Kenya, HNA Tourism Group and HNA Aviation are different undertakings.	Not a merger
120	ALS Limited and Uhani Limited	Property	The transaction involved acquisition of 90% of the shares in Uhani Limited to ALS Limited. The transaction was not a merger since there would be no change in control in the target post transaction.	Not a merger
121	Mario Ludwing Enzesberger and Kabidhi Limited	Real Estate	The transaction involved acquisition of two (2) ordinary shares in Kabidhi Limited by Mario Ludwing Enzesberger. The transaction did not	Not a merger

			qualify as a merger since there would be no change of control of the target undertaking post transaction.	
122	Stuart Gerald Cullinan Herd & Others and Morijoi Limited	Manufacturing	The transaction involved transfer of 99.47% shares in Morijoi by Stuart Gerald Cullinam Herd and others. The transaction did not qualify as a merger since there was no change in control post transaction.	Not a merger
123	Tunkey Africa Limited and Tunrquest Limited	ICT	The transaction involved share swap by Turnkey Africa Limited for shares in Turnquset Limited Mauritius. The transaction did not qualify a merger since there was no change in control.	Not a merger
124	Reltex Tarpaulins (Africa) EPZ Limited (In administration), sale of Assets	Manufacturing	The transaction involved sale of shares of Reltex Tarpaulins (Africa) EPZ Limited by M/S International Fzco. The transaction did not qualify as a merger since the acquirer did not acquire control of the target.	Not a merger
125	Richard Thomas Corcoran and Iliki Limited	Trust	The transaction involved transfer of one (1) ordinary share from Tamsin Alicia Corcoran to Richard Thomas Corcoran held in Iliki Limited. The transaction did not qualify as a merger since there was no change in control post-transaction.	Not a merger
126	Christopher Martin Brenna and Tamsin Alicia Corcoran	Distribution	The transaction involved transfer of shares from Tamsin Alicia Corcoran and Christopher Martin Brennan to Richard Thomas Corcoran in Sukani Limited. The transaction did not qualify as a merger since there was no change in control of Sukani Limited post-transaction.	Not a merger
127	KKR& Company and Hitachi Koki Limited	Manufacturing	The transaction involved acquisition of shares in Hitachi Koki Limited by KKR & Company Limited. The transaction did not qualify as a merger since the acquirer and the target did not have subsidiaries in Kenya.	Not a merger

128	Richard Thomas Corcoran and Tamsin Alicia Corcoran	Non-operational	The transaction involved transfer of one (1) share from Tamsin Alicia Corcoran to Richard Thomas Corcoran. The transaction did not qualify as a merger since there was no change in beneficial ownership post transaction.	Not a merger
129	The Abraaj Healthcare Services Hospital Mauritius Limited and Healthlink Management Limited	Healthcare Services	The transaction involved substitution of acquirer in the acquisition of 75% shareholding in Healthlink Management Limited. The transaction was not a merger since it involved substitution of shareholders and hence, no change in control.	Not a merger
130	Catrostom Limited and Njumbi Poa Limited	Property	The transaction involve transfer of 100% issued share capital in Njumbi Poa Limited to Catrostom Limited. The transaction did not qualify as a merger since there was no change in control of the target undertaking.	Not a merger
131	Moringa Sca Sicar & Moringa Mauritius Africa and Asante Capital EPZ Limited	Investment	The transaction involved acquisition of 44.2% shareholding in Asante Capital EPZ by Moringa Sca Sicar and Moringa Mauritius Africa. The transaction was not a merger because the acquisition would not lead to control of the target.	Not a merger
132	Taifadime Limited and Nathan & Ariana Company Limited	Trade	The transaction involved acquisition of 30% shareholding in Nathan & Arianna Company Limited by Taifadime Limited. The transaction did not qualify as a merger since the acquirer would not assume any control in the target.	Not a merger
133	Hugh Gordon Fraser and Louise Mary McConnell	Investment	The transaction involved acquisition of 50% shareholding in Vipingo vacations Limited held by Louise Mary McConnell to Hugh Gordon Fraser. The transaction did not qualify as a merger since the acquirer would not establish control over the target.	Not a merger
134	Riley Falcon Security Services Limited and Riley Security Limited	Security	The transaction involved acquisition of 100% issued share capital in Riley Security Limited by Riley Falcon Security Services Limited. The transaction	Not a merger

			did not qualify as a merger since there was no change in control post transaction.	
135	MG Holdings Limited and Multiple Hauliers (EA) Limited, Multiple Solutions Limited & Multiple ICD Kenya Limited	Logistics	The transaction involved transfer of shares in Multiple Hauliers (E.A) Limited, Multiple Solutions Limited and Multiple ICD (Kenya) Limited to MG Holdings Limited. The transaction did not qualify as a merger since there was no change in control in the targets.	Not a merger
136	Transfer of shares in Kasas Limited	The company is not trading	The transaction involved transfer of shares from Guy Spencer Elms to Timothy Neville Walsh. It did not qualify as a merger since there was no change in control post-transaction.	Not a merger
137	Mount Mayfair Limited and Mount Robin Limited	Investment	The transaction involved transfer of 297,675 shares in Mount Robbin Limited from Mount Mayfair Limited to the shareholders of Mount Mayfair Limited. It did not qualify as a merger because there was no change in beneficial ownership.	Not a merger
138	Compagnie De Saint Gobain S.A. and Schenker Winkler Holding AG	Construction	The transaction involved acquisition of the entire issued share capital in Schenker Winkler Holding by Compagnie De Saint-Gobain S.A.	Ongoing
139	Mazars Kenya and Thomas Daniel & Associates	Audit	The transaction involves proposed acquisition of the business of Thomas Daniel & Associates by Mazars Kenya	Ongoing
140	Synergy Communications and Alldean Networks Limited, Simbanet COM Limited & Wananchi Telecom	ICT	The transaction involves proposed acquisition of all the issued share capital in Alldean Networks Limited, Simbanet COM Limited and Wananchi Telecom by Synergy Communications.	Ongoing
141	Panalpina Airflo Limited, Panalpina Airflo and Air Connection Limited & Panalpina Kenya Limited	Freight forwarding	The transaction involved proposed acquisition of the flight forwarding business of Air connection Limited by Panalpina Airflo Limited, Panalpina Airflo BV and Panalpina Kenya Limited	Ongoing

142	Coca-Cola Company and Cocacola Beverages Africa Proprietary Limited	Manufacturing	The transaction involves proposed acquisition of Coca Cola Beverages Africa Proprietary by the Coca-Cola Company.	Ongoing
143	Abraaj Healthcare Services Group Hospitals and Mauritius Limited & Avenue Group Limited	Healthcare Services	The transaction involves acquisition of 56.2% of the issued shares in Avenue Hospitals Limited by Abraaj Healthcare Services Group Hospitals	Ongoing
144	Metropolitan Hospital Holdings Limited and Ladnan Hospital Limited	Healthcare Services	The transaction involves acquisition of 100% of the issued shares in Ladnan Hospital Limited by Metropolitan Hospital Holdings Limited.	Ongoing
145	Metropolitan Hospital Holdings Limited and Metropolitan Hospitals Limited	Healthcare Services	The transaction involves proposed acquisition of 100% of the issued shares in Metropolitan Hospitals Limited by Metropolitan Hospital Holdings Limited	Ongoing
146	Simba Corporation Limited and Associated Vehicle Assemblers Limited	Assembling	The transaction involves proposed acquisition of the entire issued share capital of Associated Vehicle Assemblers Limited by Simba Corporation Limited.	Ongoing
147	Extologix Proprietary Limited and Insurance Brokers Limited	Insurance	The transaction involves proposed acquisition of control in AON Kenya Insurance Brokers Limited by Extologix Proprietary Limited through Heartland Holdings Limited.	Ongoing
148	Iway Africa Kenya & Callkey (E.A.) Limited	Telecommunication	The transaction involves proposed purchase of certain customer contracts of Callkey Eat Africa Limited by Iway Africa Limited.	Ongoing
149	Tullow Kenya BV and Africa Expenditions Limited	Energy	The transaction involves proposed acquisition of camps from Africa Expenditions Limited by Tullow Kenya BV.	Ongoing
150	Deere & Company and Wirtgen Group Holdings (GMBH)	Distribution	The transaction involves proposed acquisition of 100% shares in Wirtgen Group Holdings by Deere & Company.	Ongoing

Advisory opinions-Mergers

S/No	Parties involved	Issue and advisory opinion
1.	Oranga and Co. Advocates	The Advocates sought to know if the Authority has jurisdiction on a transaction involving a target which is a subsidiary having turnover of KES. 5 million. They were advised of the merger threshold and further requested to write to the Authority with details of the merging parties to enable the Authority to give a more informed advice.
2.	Coulson Harney Advocates	The Advocates sought clarification on what will happen if parties to a merger decide not to proceed with a merger after they have applied. They were advised that the parties must fill a merger withdrawal form in addition to formally writing to the Authority. Also, with regard to Gazette Notice, they were advised that they can write and request that the Authority hold the determination for a specific period which will be agreed upon. At the end they were advised to formally write so that CAK can give the legal advice from an informed point of view.
3.	Dismas Architects	The architects sought to know the grounds the CAK grant exemption in regard to Section 28 of the Act upon application by the parties. They were advised to put their request in writing specifically what they sought exemptions on and forward the same to the attention of the Director General.
4.	Hamilton Harrison & Matthews Advocates	The Advocates sought to know how they could be attending to annual events/trainings and workshops held by CAK. They were assured of being contacted and incorporated in the list of invitees who would be attending the workshop
5.	Kaplan & Stratton Advocates	The advocates sought to know how to go about filing the notice of merger withdrawal. They were guided appropriately and taken through the form and were satisfied.
6.	Cliff Decker Hofmeyr Advocates	The lawyers were following up on their previous enquiries about control of a business and mergers and acquisition. They were advised that a firm controls another if it holds 50%+1 shares of the said firm. Control may also occur where a firm has less than 50% shareholding in the target but materially controls it. Also, strategic documents and issues highlighted in Section 41(3) of the Act will be looked at to determine control. On cross-directorship, they were guided that the Authority will look at the relationship between the parties as stipulated in various documents but the determination of whether there is acquisition of control will be determined as a case by case basis.

7.	James Gatura	Mr. James Gatura sought to inquire about the process of making an application and was guided that he needed to furnish the Authority with a duly filled MNF, SPA, and audited financial statements of the transacting parties for the last three years.
8.	Judy Thongori & Co. Advocates	The Advocates inquired about merger filling process. They were advised that it requires a filled MNF, SPA and audited financial statements of the transacting parties for the last three years. For further information, they were referred to the Authority's website.
9.	MMAN Advocates	MMAN Advocates inquired whether it was mandatory that an original SPA be attached when filing for a notification. They were informed that it was necessary to attach a copy of the signed original agreement. In-case the transacting parties are not based in Kenya, they can scan the agreement and forward to the Authority.
10.	Mabati Rolling Mills (representatives)	The representatives sought clarification on merger notification forms and merger threshold Guidelines. They were guided on how to make an application and interpretations of the Merger Threshold Guidelines.
11.	MMAN Advocates	The Advocates inquired about the state of SPA when submitting a Merger Notification whether it should be the original/copy scanned. They were advised that it should be a copy of the original.
12.	Anjarwalla & Khanna Advocates 18/10/2016	The Advocates inquired on how long an application would take to complete. They were advised that upon receipt of all the information required, an exclusion will take less than 15 days and 60 days for a notifiable merger.
13.	Mugambi Ayugi Njonjo Advocates	The Advocates inquired about the process of merger application up to determination. The process was explained to them (Non-merger, exclusion and notifiable merger).
14.	Kenafric Industries Ltd	Kenafric Industries sought advice on a transaction involving internal reorganization where the parent company, Kenafric was transferring some of its assets and activities to its subsidiary. They were informed to do a formal application and attach the relevant documents. They were advised that determination is on case by case basis.
15.	Bowmans Advocates	The advocates sought advice in regard to two parties A & B getting into a joint venture agreement in which A was to contribute assets and both A&B have 50%-50% stake each. And in which the joint venture entity was not yet formed. The parties sought to inquire how to file such a transaction. They were advised that each party is supposed to fill MNF together with the Joint Venture Agreement would suffice since the JV company was still non-existent.
16.	Deloitte Touche	The firm inquired whether a transaction involving acquisition of assets of a dormant EPZ company by a foreign company for use outside Kenya is notifiable or not. They were advised to write to the Authority from where they would get a response.

18.	Cyrus Maina & Co Advocates	The Advocates wanted to be guided on whether a certain transaction is notifiable or not. They were advised that since the acquirer would exercise veto rights in the target relating to financial decisions then the transaction is notifiable.
19.	Ann McKay Advocates	Mackay Advocates had written to the Authority seeking advisory opinion on whether an acquisition of 51% of issued shares is a merger within the context of section 2 and 41 of the Act. Upon confirmation, they requested to be walked through filling the MNF. They were guided appropriately.

Appendix VI: Consumer Protection Cases

No.	Cases	Sector/Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
1.	Beatrice Ndungu And Safaricom Limited	Telecommunication	The complainant alleged that Safaricom Ltd was misleading the public by indicating that Lipa na Mpesa service was free, while in practice charges applied to consumers using the service to pay for fuel at petrol stations.	Section 56(4) Unconscionable Conduct	The Authority ordered Safaricom to publicize that the service at certain petrol stations may attract a service charge at the payment points country wide, including petrol stations. Case closed.
2.	Go TV Vs Kiplangat	Digital Media	The complainant alleged that, he bought a GOTV decoder after paying Kshs. 1,200 with a promise of free to air channels. But the service provider did not honor the promise and instead he is charged for the free to air channel.	Section 55 False and Misleading Representations	The matter was closed for lack of evidence.
3.	Independent Insurance agents versus insurance agencies owned by banks (Banc assurance)	Insurance	Timothy Mwangi alleged that the Independent Insurance Agents owned by banks (Banc assurance) were engaging in unconscionable conduct. However, the complainant transferred to the East African Society of Insurance Intermediaries (EASII).	Section 56(4) Unconscionable conduct	The matter was closed for lack of evidence.
4.	Rogers Monda Vs DSTV (Multichoice)	Digital Media	The complainant alleged he subscribed for the compact plus package on DSTV upon their representation that channel 203 and 207 will be showing English Premier League matches. However, DStv moved the said matches to channel 205, without their notice.	Section 55 (a) (v) and 56 (1) False and Misleading Representations; Unconscionable Conduct	The matter was resolved and Multichoice Company Kenya restored the EPL matches to Compact Plus Bouquet.

5.	Joel Koskei Vs DSTV (Multichoice)	Digital Media	The complainant alleged he subscribed for the compact plus package on DSTV upon their representation that channel 203 and 207 will be showing English Premier League matches. However, DStv moved the said matches to channel 205, without their notice. .	Section 55 (a) (v) and 56 (1) False and Misleading Representations; Unconscionable Conduct	The matter was resolved and Multichoice Company Kenya restored the EPL matches to Compact Plus Bouquet.
6.	Daphne Bagshaw Vs Nakumatt, Nyali	Retail	Daphne Bagshaw alleged that she bought a Hotpoint gas cooker from Nakumatt, Nyali. She later discovered that the heat could not be controlled.	Section 56 (1) and (2)(a) Unconscionable conduct	The matter was resolved and the complainant was compensated.
7.	Hussein Kamal Vs Kilimall International	Electronics	The complainant accused Kilimall International of supplying "a fake "Samsung" branded charger, which was not in its original packaging, and did not have any KEBS import certification (ISM) as required by law".	Section 55(a) (i) False or Misleading Representations	The matter was resolved and the complainant was refunded in full.
8.	Stephen Kyalo Kisungu Vs GoTV	Digital Media	The complainant alleged he bought a GoTV decoder from a GoTV dealer who promised that he would enjoy two months access to all channels offered and thereafter, he would pay a one off payment of Kshs 1,200 for the channels offered. GoTV later on communicated an increase to Kshs.1, 800 for the free to air channels.	Section 55(a) False and Misleading Representations 56(3) and(4) Unconscionable Conduct	The matter was resolved.
9.	Mawira Fredrick Mate Vs GoTV	Communications	The complainant alleged he bought a GoTV decoder from a GoTV dealer who promised that he would enjoy two months access to all channels offered and thereafter, he would pay a one off payment of Kshs 1,200 for the channels offered. GoTV later on communicated an increase to Kshs 1,800 for the free to air channels.	Section 55 (a) False and Misleading Representations, Section 56 (3)and(4) Unconscionable Conduct	The matter was resolved.

10.	Mr. John Orimbo Vs Airtel Kenya	Telecommunication	The complainant alleged that he does not receive the unlimiNET bundle as advertised by Airtel in their service' terms and conditions.	Section 56(2) Unconscionable conduct	The matter was resolved and the complainant compensated.
11.	Milimani Maternity Hospital Limited Vs K-Rep Bank	Banking	The complainant alleged they received a letter from Credit Reference Bureau Africa Limited stating that their client is a bad debtor. Further requests for evidence was not forthcoming from the complainant.	Section 55 (a) False and Misleading Representations, Section 56(3)and(4) Unconscionable Conduct	The matter was closed for lack of evidence.
12.	Samson Wanyangu Vs. Toyota Kenya Ltd	Transport	The complainant claims that his vehicle - Hino 300 minibus (KCD 069Q) which he bought from Toyota Kenya Ltd. had various defective problems including, braking system, chassis problems and wiring faults. He notes that although the vehicle was delivered as a brand new vehicle, it started to develop a braking system failure almost immediately.	Section 55 False and Misleading Representations, Section 56 Unconscionable Conduct and Section 59 Product Safety Standards and Unsafe Goods	Investigations are ongoing.
13.	Reuben Kipkorir Vs DSTV	Digital Media	The complainant alleges that his account had been selected for DSTV compact promotion which runs for three months. And if he paid within three days, he would get all premium sports channels.	Section 55 (a) (v) False and Misleading Representations and Section 56 (2) (d) Unconscionable Conduct	The matter was resolved and the complainant was given an offer of one month's free subscription.
14.	Mr. Kimari William Vs. Commercial Bank of Africa (CBA)	Banking	The complainant alleges that CBA is charging a fee (of Ksh.5.00/-) with regard to using their mobile app when requesting for account balances and Checking Mini - Statement.	Section 56 (3) and (4) Unconscionable Conduct	The matter was closed for lack of evidence.

15.	Elijah Mutunga Vs GOTV	Communications	The Complainant lodged a complaint regarding GoTV offering a product on one year subscription abut after one year changed the payments to quarterly subscription . As result he changed to another bouquet whose subscription GoTV also raised.	Section 55 (a)(v) False and Misleading Representations and Section 56(3) Unconscionable Conduct	The matter was resolved.
16.	Amro Insurance Brokers Vs Equity Bank	Insurance	Amro Insurance complained of unfair competition by Equity Bank who are forcing Bluestar Academy, to cancel an insurance policy taken for a bus that Equity has financed, in order to take a policy with their agent. However, they responded through an email dated 3rd January 2017 indicating that Equity Bank had dropped the issue and were able to process the cover settling the impasse without further interference.	N/A	The matter was closed.
17.	KEBS Vs Tuskys Greenspan Supermarket	RETAIL - Supermarkets	KEBS complained that the promotion on Kelloggs Cornflakes, (being sold at Tuskys), was deceiving consumers that they will get a free bowl once they purchase 3 packs of Kelloggs Cornflakes, but there was no bowl in the packages.	Section 55 (a) (v) False and Misleading Representation	The Authority intervened and Tusky's removed the product from the shelves.
18.	Mr. Wycliffe Muma Vs Airtel Networks Kenya Ltd.	Telecommunications	The complainant alleged that he was erroneously charged by Airtel.	Sections 55 (a) (v) 56 (4) False and Misleading Representation and Unconscionable conduct	After the Authority's intervention, the complainant was refunded airtime.
19.	Ruskin Onyambu Vs Anisuma Traders Ltd	Retail Sector	The Complainant accused Anisuma Traders Ltd of failing to honor the warranty on a Sony mobile phone model number E5633 he bought on 30/6/2016 which was auto-shutting down randomly despite being fully charged immediately after purchase.	Section 55 (b) (v); Section 56 (2) (a) False and Misleading Representations and Unconscionable conduct	Upon the Authority's intervention, the complainant's phone was repaired.

20.	James Ruoro Vs Insurance Regulatory Authority(IRA)	Insurance	The complainant alleges that banks are inserting a clause or giving clients a condition that they have to take up insurance with their in house insurance agencies for them to qualify for financing.	N/A	The case was closed for lack of evidence.
21.	Bonface Asembo And Josambo Auto Spares	Transport	The complainant alleged that he purchased a gearbox from Josambo Auto Spares which failed to function. He wished to return it, as per the seller's 1 week return policy but the seller was not willing to take the gear box back.	Section 55 (b)(v) False and Misleading Representations	The Authority intervened and the complainant was refunded the full price of the gear box.
22.	Margaret Khagena Bulimo And Tricom Ronald Ngala	Retail	Margaret Khagena Bulimo alleged to have bought a Nokia 105 phone on 12th November, 2015 worth Ksh. 3,000 from Tricom Ronald Ngala and that Tricom have failed to honour their 1 year warranty on the phone after it became faulty.	Section 55 (b) (ii), (v); Section 56 (1), 56 (2) (a) False and Misleading Representations and Unconscionable conduct	Upon intervention of the Authority, the complainant was issued with a new phone.
23.	Anonymous Complainant Vs Kenya Nutritionists And Dieticians Institute (KNDI)	Health	The complaint claimed that they attend to TB patients but are not given risk allowance. The matter does not lie within the confines of the Act but matter falls within the jurisdiction of the Ministry of Health.	Does not lie within the provisions of the Act	Referred to the relevant Ministry for resolution and the complainant informed.
24.	Bob Maina Vs Toyota Kenya	Transport	The complainant claims that he bought a vehicle - Hino 300 minibus from Toyota Kenya Ltd, which developed various problems including; clutch failure, braking system failure, cracked chassis and extended chassis.	Section 55 (a) (ii) (v) and b (v) Section 59 (2) (b) and Section 64 (1) False and Misleading Representations, unsafe and defective goods	The investigations are ongoing.
25.	Diana Vs Toyota Kenya	Transport	The complainant claims that she bought a vehicle - Hino 300 minibus from Toyota Kenya Ltd, which developed various problems including; clutch failure, braking	Section 55 (a) (ii) (v) and b (v) Section 59 (2) (b) and Section 64 (1) False and misleading	The investigations are ongoing.

			system failure, cracked chassis and extended chassis.	representations, unsafe and defective goods	
26.	Mumias Shuttle Limited vs Toyota Kenya Limited	Transport	The complainant claims that he bought a vehicle - Hino 300 minibus from Toyota Kenya Ltd, which various problems including; clutch failure, braking system failure, cracked chassis and extended chassis.	Section 55 (a) (ii) (v) and b (v) Section 59 (2) (b) and Section 64 (1) False and Misleading Representations, unsafe and defective goods	The investigations are ongoing.
27.	Kioko Nginya Vs Gotv Kenya And Multichoice	Pay TV	Alleges on 27th July, 2016, he paid GOtv Ksh. 920 for pay TV services, however, they failed to restore the service.		After intervention by the Authority, the service was restored.
28.	Mr. Justin Karunguru Vs Gyto Security Limited	Water Sector	The complainant alleged that residents of High-rise Estate, Mbagathi road are forced to buy water from Kibera vendors at Ksh.70/litre because water bowers/tankers are denied entry into the estate. Upon investigation, the Authority found that there was an operational borehole in the Estate and the water bowsers are allowed entry as long as they are authorized by NHC.	N/A	The matter was closed due to lack of evidence.
29.	Rashid Said Omari And KCB	Banking	The complainant alleged that he repaid a KCB loan in full but was listed with CRB as a defaulter.	Section 56 (1), (2)(a) Unconscionable conduct	The matter was resolved after the intervention of the Authority.
30.	Load Runners Limited And ASL Credit Limited	Financial	The complainant alleged to have secured a credit facility in 2013 through the hire purchase at ASL, he lost assets but ASL denied them moratorium period. They have so far paid back more than the amount borrowed but still owe approximately half of the amount borrowed.	N/A	The matter does not lie with CAK mandate and was referred to the State Law Office and the complainant informed.
31.	Mr. George Murugi And Ms. Mercy Kariuki Vs	REAL ESTATE	The complainants alleged that they were approached by Baobab agents to sign up for a holiday. They were informed that they	N/A	It was noted that the matter was not under the confines of the Act and

	Baobab Development Group		have won a holiday, however, for them to enjoy the holiday, they had to first invest in some property in Malindi. After making a deposit, they signed a contract but realized that they didn't agree to the terms of the contract thereby requesting for a refund which was not forthcoming.		was referred to the National Land Commission and the complainant informed.
32.	Mr. Brian Muthiora Vs MMM Ponzi Scheme	Financial	Mr. Brian Muthiora notified the Authority the existence of a possible Ponzi Scheme called MMM Kenya, and requested that the Authority investigates the same.	N/A	It was found that the matter does not fall within the mandate of the Authority and was referred to CBK and the complainant informed.
33.	Allan Abwuza Vs NBK	Banking	The complainant alleged that NBK negatively listed him with CRB despite having cleared his loan. The bank communicated to Mr. Abwuza that his loan is still in arrears.	N/A	It was found that the matter does not lie within the mandate of the Authority and was referred to CBK and the complainant informed.
34.	Anjugu-Okome Vs KCB	Financial	The complainant alleged to have taken a loan from KCB which withheld one month payment out the disbursed amount. Further, in November he took a top up loan from KCB and some funds were withheld as a month installment to cushion themselves from possible default and to be refunded after full repayment.	Section 56 (2)(a), (3), (4) Unconscionable conduct	Upon the intervention of the Authority, the matter was resolved.
35.	William Kimari Vs Equity Bank	Banking	The Complainant took an overdraft facility on 25th February, 2015 from Equity Bank Kenya. He alleges that Equity Bank wrongfully listed him at Credit Reference Bureau without issuing him with a notice of	N/A	The Case does not lie within the mandate of the Authority and was forwarded to CBK and the complainant informed.

			outstanding payment and notice of intent to list him as required by law.		
36.	Caleb Gitonga Vs Delpoint Electronics	Retail	The complainant alleged that he bought a DVD player from Delpoint Electronics which stopped functioning after a week. He returned the item but was required to pay for repairs.	Section 63 and 64 Unsuitable and defective goods.	The case was closed for lack of evidence.
37.	Complaint By Anastacia Tagi	Retail	The complainant alleged that she purchased a faulty phone The phone had a warranty of 12 months.	Section 63 and 64 unsuitable and defective goods.	The matter was closed for lack of evidence and unresponsiveness on the part of the complainant
38.	Darius Walume Vs Kharn Communication	Retail	The complainant alleged that he participated in a raffle competition with Kharn Communications and won 2 phone which he was asked to pay for ksh.6000. He paid 1000/ and was promised that if he is unable to pay the balance he would be refunded his money within two weeks. However, the refund was not forthcoming even after several follow-ups.	N/A	The matter was forwarded to the Betting Control and Licensing Board (BCLB) and the complainant informed.
39.	Liquid Telecom Kenya Vs Mr. Isaac Waithaka	Telecommunications Internet provision	The complainant alleged that he applied for two internet services with Liquid Telecom, one at his home and another one for Trots Foundation. He never received the services and was not refunded installation fee. He claimed to have lost Ksh.40, 000 from the above transactions.	Section 55 (v) and 56 (1), 56(2) (a) of the Act. Misleading and Unconscionable conduct	The matter was closed for lack of evidence.
40.	William Kimari Vs Commercial Bank Of Africa (CBA)	Banking	Mr. Kimari alleges that he was penalized Ksh.3, 000 by CBA for auto pay failure. The statement sent to him by the bank, indicates a minimum payment, which the customer assumed to be the amount he was required to pay.	Section 55 (b) (i) False and Misleading representations.	Upon the intervention of the authority the matter was resolved.

41.	Moses Kalum Vs Simtank Company	Manufacturing Sector	The complainant bought a Simtank in February 2016 and was assured they would replace the tank in case of any defect/failure. His tank burst in December 2016 and when he reported the matter to Simtank company no action was taken.	Section 55 (a) (i) False and Misleading representation	Upon the Authority's intervention the matter was resolved and the tank was replaced with a new one.
42.	Gathogo Ruhiu Vs Orange Telkom Kenya Ltd	Telecommunications	The complainant claimed that he was signed up for a Stock Tips premium service without his consent. Upon registering his complaint with the Authority, he was advised to first contact Orange, who guided him to send the message STOP to 21250. The complainant was satisfied with the resolution and informed the Authority.	Section 56(4) Unconscionable conduct	The case was closed.
43.	Lynne Ng'ang'a Vs Dynasty Dynamics Electronics	Electronic	The complainant alleged that she bought a Hisense TV set 40" at Dynasty Dynamics and later discovered it had a crack on the screen. She was advised to seek redress from the seller first before lodging a complaint with the Authority. Subsequently, the matter was resolved by the seller and she was refunded the price of the TV.	Section 55 (a) (i) and 55(b) (iii). False and misleading representation	The case was closed.
44.	Ernest Muriu Vs APA And ICPAK	Insurance	The complainant alleged that an Accountants Insurance Scheme that APA and ICPAK entered into was unfair and that he was restricted on which broker / insurance agent he can use. An analysis on the case by the Authority recommended that the complainant has an option of getting insurance from another insurance provider and that there was no violation of the Act.	N/A	There was no violation of the Act. The complainant was advised of the same.
45.	Green Media Ltd Vs. Faulu Bank	Banking	The complainant claims that, Spectrum Auctioneers Ltd (on behalf of Faulu Bank	Section 57, (c) (d) (g) (h) & (k)	The matter was closed for lack of evidence.

			Ltd) took the company's lorry at Ukulima market without giving them a Notice. He alleges that the company had secured loan from the bank which was being repaid on timely basis.		
46.	Samson Wanyango Vs. Toyota Kenya Ltd	Transport	The complainant claims that he bought a vehicle - Hino 300 minibus from Toyota Kenya Ltd, which developed various problems including; clutch failure, braking system failure, cracked chassis and extended chassis.	Section 55 (a) (ii) (v) and b (v); Section 59 (2) (b) and 64 (1) False and Misleading, unsafe and defective goods	The investigations are ongoing.
47.	Ms. Ann Njambi Gitau Vs Wrigley EA Company (PK)	Retail sector	The complainant alleges the chewing the PK gum has resulted to ulcers developing in her mouth. She claimed that ingredients of the gum may have caused the ulcers.	Section 59 Unsafe goods	The investigations are ongoing.
48.	Daniel Nderu Vs Glass Craft Ltd	Retail	The complainant alleges that he purchased a peanut butter machine from Glass Craft, which was faulty. He returned the machine but they declined to take it back. After the Authority's intervention, the seller requested that the machine be return for repair/replacement. However, the complainant is yet to return the item.	Section 55 (a) (v) and 56 (1), (2) (a) False and misleading and unconscionable conduct	The investigations are ongoing.
49.	Wesley Machungo Vs. Newfortis *(Formally Nyeri Teachers)* Sacco	Cooperative s	The complainant claims that the SACCO is charging him an interest of Kshs. 40,000 for paying the loan early and that the charge was not disclosed to him prior.	Section 56 (2) (a)(b)(c) and (d)/ Section 56(3) (4) Unconscionable conduct	The investigations are ongoing.
50.	Stephen Kiambi Vs Manufacturer Of Eco Gas Saver	Energy	Complaint is regarding a misleading advert by the defendant on eco gas saver which alleged to save on gas consumption by attaching a bottle which has some chemical to a gas cylinder. He alleges that there can be	Section 55(i)(ii) False and Misleading Representations	The investigations are ongoing.

			no chemical reaction between the gas cylinder and the plastic containing the gas saver liquid as purported in the advert.		
51.	Institute Of Customer Service Kenya (ICS) Vs James Maina , Managing Director Unicode Computers	ICT	The complainant alleges that they purchased a faulty Lenovo laptop from Unicode Computers on 5/4/2016 and they promised to replace it with a brand new one but this has not been done.	Section 55(a)i, b(v) and 56 (1)(2)(a) False and misleading and unconscionable conduct	The investigations are ongoing.
52.	Boniface Kamau Vs. Retex Marketing	Telecommunications	The complainant claims that Retex marketing through a promotion, misled him to buy a Viwa tablet which they had indicated was a Techno model.	Section 55, (a) (i) & (v) Section 56, (d) (e) & (v) False and misleading and unconscionable conduct	The investigations are ongoing.
53.	Grace Kinuthia Vs Huggies Company	Retail Sector	The complainant alleged that she has been buying Huggies diapers at Nakumatt but since November 2016, she noticed a change in its quality across all the Huggies sub-brands. The diapers get soaked in less than two hours and as a result, her baby developed rash.	Sections 55 (a) (i), 59 (1) (a) (2) (a) (b) (c) and Section 63 (1) (c)False and misleading representation and unsafe and unsuitable goods	The case was closed for lack of evidence.
54.	CAK Vs BATA Shoe Company	Retail	Several consumers complained that Bata shoes particularly toughees were of low quality and were getting worn out with less than 7 days of use.	Section 55 (a) (i), 63 and 64 False and misleading representation, unsuitable and defective goods	The investigations are ongoing.
55.	Carol Wanjiku Mwai Vs KCB Bank	Banking	The complainant took a loan of Kshs. 709,750 from KCB but was later given a statement that reflected her loan as Kshs. 750,894.65 She also claimed that KCB had wrongfully deducted from her two installments totaling to Kshs. 34, 000.	Section 56 (3) and (4) of the Act	The investigations are ongoing.

			…plainant alleged that P&G company …elling poor quality diapers by the brand …ame 'Pampers which are leaking.	Sections 55 (a) (i), 59 (1) (a) (2) (a) (b) (c) and Section 63 (1) (C) of the Act. False and misleading representation , unsafe and unsuitable goods	The case was closed for lack of evidence.
		…ergy	The complainant bought an M-Kopa 400 (TV and solar system) but the system was not working and her efforts for getting a redress failed.	Sections 55(b)(v); 56(1); and 63(1)(d) False and misleading representations and unsuitable goods	The case was closed due to lack of evidence.
	…n Ruttoh	Education	The complainant claimed that his sister enrolled for a laboratory course in certain college in Eldoret but was discontinued after two years for not having the required qualification for the course.	N/A	The case was closed for lack of evidence.
59.	Ezra Maroria Vs Tuskys Pioneer	Retail	The complainant alleged to have bought goods at Tuskys Pioneer and wrongly used Tuskys Shell Mountain View till number to pay the goods through M-Pesa. He was later advised that he utilized the money at Tuskys Shell Mountain View to which the complainant refutes.	56 (2)(a) Unconscionable conduct	The investigations are ongoing.
60.	Nyaruai Gitonga Vs Artcaffe	Retail	The complainant alleged that she purchased gluten free cookies from Artcaffe which affected her health as she is gluten intolerant. Upon contacting Artcaffe, she was informed there was a disclaimer that the cookies had traces of gluten.	Section 55(a) (i) (v) 56(1) (2) (a) (d) (e) 63(1) False and Misleading conduct and unconscionable conduct.	The investigations are ongoing.
61.	Peter Otieno Vs. Delight Solar(Nakuru)	Retail	The complainant alleged that Delight solar declined to repair his radio despite having a valid warranty and instead requested him to pay Kshs. 2,000 to purchase another radio.	Section 55, (b) (v)) Unconscionable conduct.	The investigations are ongoing.

Annual Report & Financial Statements FY 2016/2017

62.	Simon Mburu And Equity Bank	Banking	The complainant alleges that he suffered a financial stress following recovery of a loan installment that was overdue from his bank account by the defendant. The amount recovered was KES 8,000. He also alleges that he was not notified of the said deduction.	56(3) &4 Unconscionable conduct.	The investigation was closed due to lack of evidence.
63.	Reuben Kibui Kihara Vs Stagemart Supermarket Nakuru	Retail	The complainant alleges that on July 2016 he purchased a second juice extractor blender after the first blender- a Sayona brand bought from the Stagematt Supermarket, failed to work. He returned the blender only to be told that he had to incur a further KES 1000 for ferrying the product to the manufacturer despite having a one year warranty.	Section 63 (1), 64(1) and (2) Unsuitable and defective goods.	The case was closed due to lack of evidence.
64.	Mr. Nehemy Kihara vs Safaricom Nanyuki Branch	Telecommunication	The complainant alleges that he bought a Lenovo phone from Safaricom shop in Nanyuki which was faulty.	Section 55 (a) (i), Section 56 (2) (a) and Section 64 (1) False and Misleading representation, unconscionable conduct and defective goods.	The investigations are ongoing.
65.	Simon Chege vs Nairobi Water Company	Water	The complainant alleged that Nairobi Water Company disconnected his domestic water supply claiming that he vends the water and has not been reconnected back despite paying Ksh. 80,000 as directed by the Company.	56(2) (a) Unconscionable conduct	The investigations are ongoing.
66.	Clement vs EABL	Retail	The complainant alleged to have been duped that his codes had been used twice in the "top of the table promotion" run by EABL	55 (a)(v), (vi) 56(2) (a) False and Misleading representations and unconscionable conduct.	The investigations are ongoing.