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OFFICE OF THE AUDITOR-GENERAL

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DAY: Tuesday
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CLERK-AT-THE-TABLE:

REPORT

OF

THE AUDITOR-GENERAL

ON

COMPETITION AUTHORITY OF KENYA

FOR THE YEAR ENDED
30 JUNE, 2019

FINANCIAL YEAR 2018/2019

ANNUAL REPORT AND FINANCIAL STATEMENTS

COMPETITION AUTHORITY OF KENYA

Creating efficient markets for consumers



OFFICE OF THE AUDITOR GENERAL
P. O. Box 20026 - 00100, NAIROBI
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CORPORATE INFORMATION

	NAME	DESIGNATION
1.	Amb. Nelson Ndirangu	Board Chair
2.	Mr. David Ong'olo	Board Chairman (Immediate former)
3.	Mr. Wang'ombe Kariuki	Director General
4.	Dr. Julius Muia	Principal Secretary, The National Treasury
5.	Dr. Ibrahim Mohamed	Principal Secretary, Ministry of Industry, Trade and Cooperatives
6.	Hon. Paul Kihara Kariuki	Attorney General
7.	Mr. Protus Sigei	Alternate to the Principal Secretary, The National Treasury (term expired)
8.	Mr. Michael Onyancha	Alternate Principal Secretary, Ministry of Industry, Trade and Cooperatives (term expired)
9.	Ms. Elizabeth Ng'ang'a	Alternate to the Attorney General
10.	Mr. Stephen K. Kiptinness	Independent Board Member
11.	Ms. Eunice Maranya	Independent Board Member
12.	Dr. Abdirizak Arale Nunow	Independent Board Member
13.	Ms. Carol Musyoka	Independent Board Member
14.	Ms. Leila A. Ali	Independent Board Member
15.	Mr. Martin Wekesa Khaoya	Alternate to the Principal Secretary, The National Treasury (Appointed October 2018)
16.	Ms. Redempta Oyeyo	Alternate Principal Secretary, Ministry of Industry, Trade and Cooperatives (Appointed March 2019)

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AUDITORS:

The Auditor General
Kenya National Audit Office
Anniversary Towers
P. O. Box 30084 – 00100
NAIROBI

LEGAL ADVISORS:

No.	ADVOCATES	ADDRESS
1.	Attorney General	The Hon. Attorney-General, State Law Office P. O. Box 40112 - 00100 **NAIROBI**
2.	Mohammed & Muigai LLP	MM Chambers K-Rep Center, 4th Floor Wood Avenue, Off Lenana Road, Kilimani P. O. Box 61323 – 00200 **NAIROBI**
3.	Rachier & Amollo Advocates	Mayfair Center, 5th Floor Ralph Bunche Road P. O. Box 55645 – 00200 **NAIROBI**
4.	Kibungei & Company Advocates	Postbank House, 2nd Floor Banda Street P. O. Box 103082-00101 **NAIROBI**
5.	Humphrey & Company LLP	Fortis Suites, 8th Floor Hospital Road, Upper Hill P. O. Box 21398- 00100 **NAIROBI**
6.	Wesonga Wamalwa & Kariuki Associates, Advocates	Mezannine Floor, Suite M14 Madonna House, Westlands Road Westlands P. O. Box 45770 – 00100 **NAIROBI**
7.	Nduta, Munene & Komu Advocates	KMA Center, Chyulu Road Block D, 1st Floor Upper Hill P. O. Box 20201 – 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**
Barclays Bank of Kenya Westend Branch P.O. Box 30120 – 00100 **NAIROBI**	

ACRONYMS

CBK	-	Central Bank of Kenya
CCC	-	COMESA Competition Commission
CCLEP	-	Centre for Competition Law and Economic Policy
CCSA	-	Competition Commission of South Africa
CIOC	-	Constitutional Implementation Oversight Committee
COMESA	-	Common Market for Eastern and Southern Africa
EAC	-	East Africa Community
FSD(K)	-	Financial Sector Deepening Kenya
ICN	-	International Competition Network
ICPEN	-	International Consumer Protection Enforcement Network
JFTC	-	Japan Fair Trade Commission
MoU	-	Memorandum of Understanding
PPRA	-	Public Procurement Regulatory Authority
RIIP	-	Regional Integration Implementation Program
RTP	-	Restricted Trade Practices
SCAC	-	State Corporations Advisory Committee
UoN	-	University of Nairobi
WTO	-	World Trade Organization

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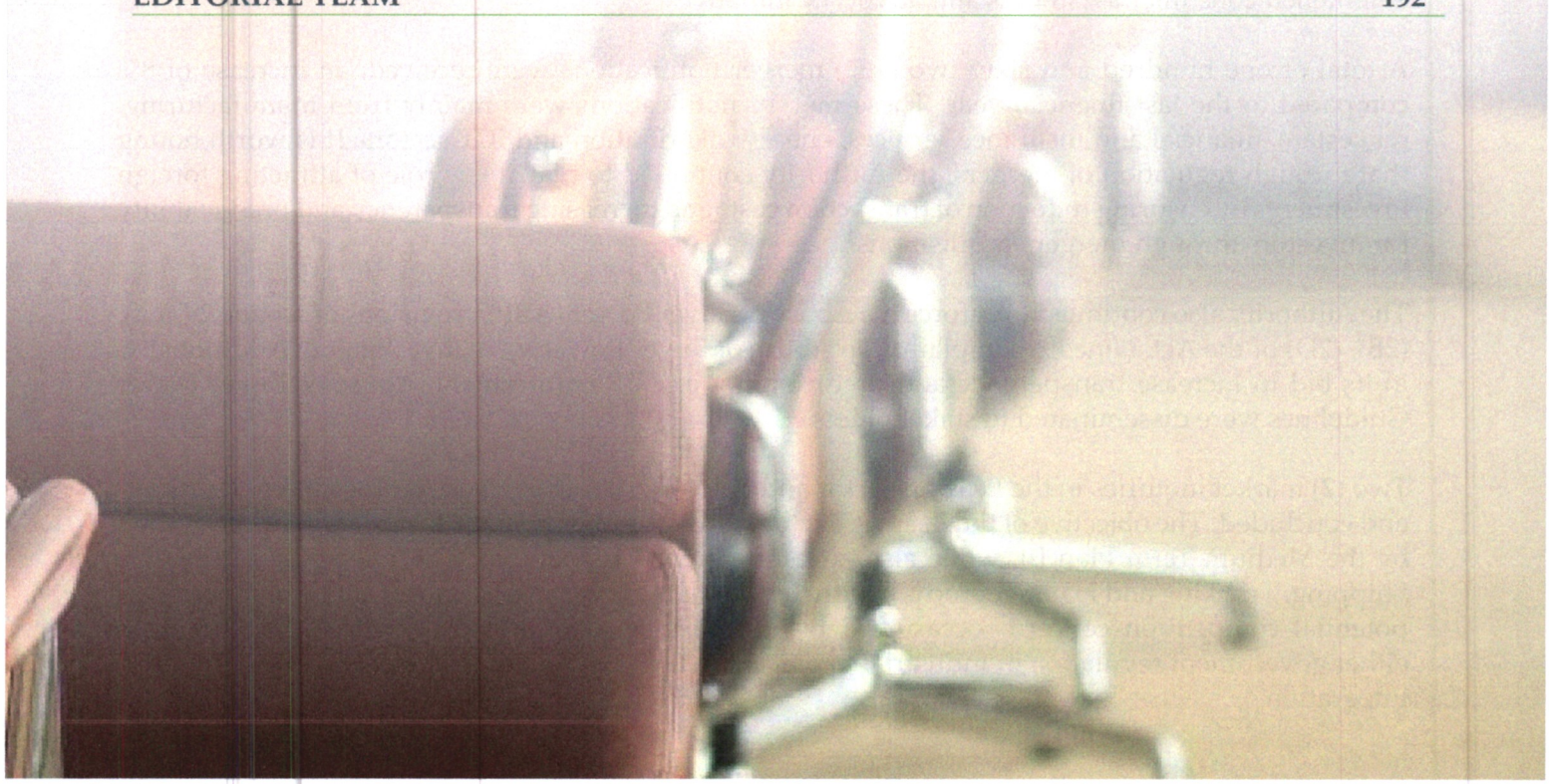
EDITORIAL TEAM 192



EXECUTIVE SUMMARY

In compliance with Section 83 of the Competition Act No. 12 of 2010, the Authority has prepared a report on its operations for the financial year 2018/19, based on activities and initiatives implemented under the four themes of its current Strategic Plan (2017/2018 – 2020/2021). The themes are

i. Deliver Effective Enforcement;
ii. Consumer Protection;
iii. Planning, Research and Quality Assurance;
iv. Visibility and Corporate Image; and
v. Organizational Sustainability

The Authority's Strategic Plan is aligned to the Government's current Big 4 Economic Agenda which is focusing on providing decent Housing, jobs creation through growth of the Manufacturing sector, affordable and universal Health Care and Food Security. The authority has prioritized elimination of regulatory obstacles and anti-competitive practices in this sector.

Further, in line with its 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", the Authority initiated investigated competition and consumer protection cases aimed at promoting competition in markets and preventing unfair and misleading market conduct. The Authority also engaged key stakeholders through advocacy initiatives aimed at deepening and building awareness of competition law and policy.

During the year under review, the Authority increased deterrence on anti-competitive practices by investigating eighteen (18) Restrictive Trade Practices (RTPs) cases compared to fifteen (15) in the financial year 2017/18. These cases were from the energy, manufacturing, e-commerce, education, food processing, publishing, agrochemicals, professional services, pharmaceuticals, agriculture, forestry and fishing, motor vehicle and advertising sectors. Similarly, in ensuring that consumer protection is enhanced, the Authority investigated one hundred and thirty six (136) cases representing 34% increase compared to the previous financial year. The increase is attributed to the Authority's heightened consumer awareness and advocacy initiatives.

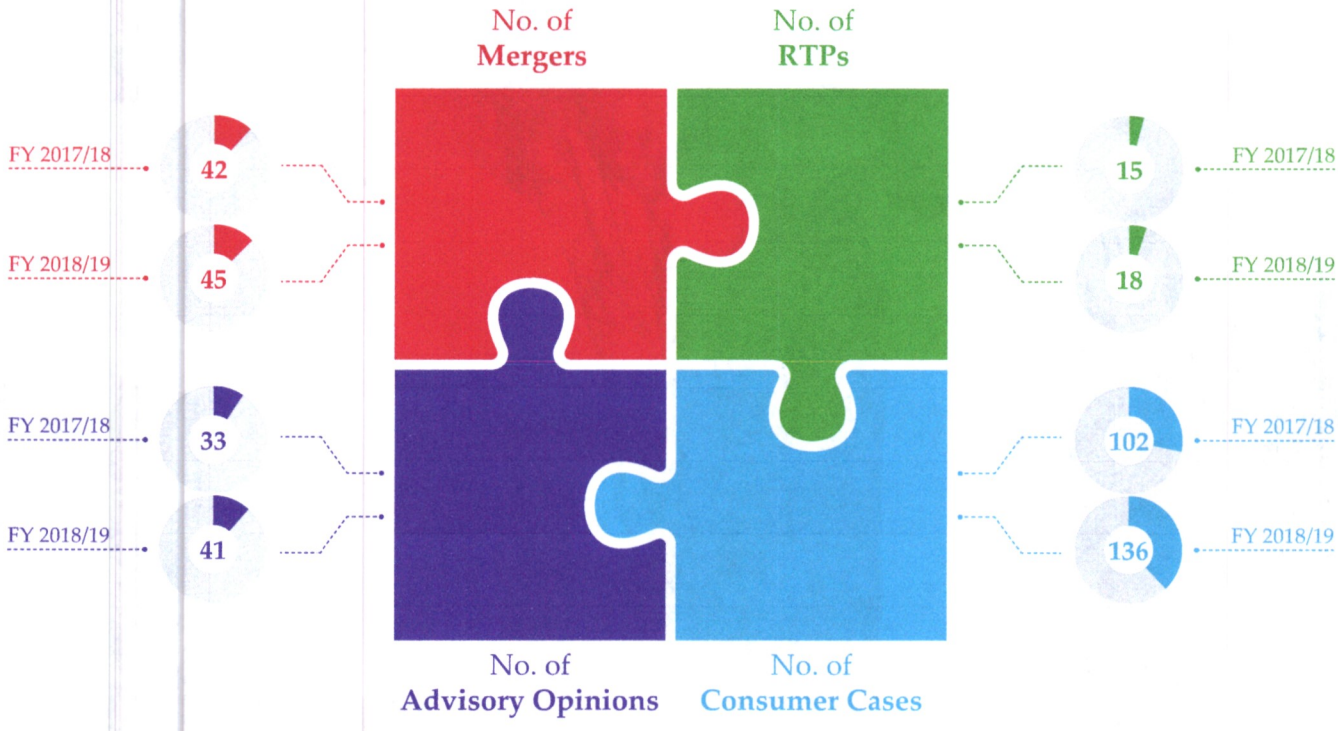
A total of one hundred and sixty two (162) merger notifications were received, an increase of 8% compared to the last financial year. These merger notifications were mainly from manufacturing, real estate, financial and insurance services, energy, distribution and ICT sectors. It is worth noting that through regulation of mergers, the Authority continued to play a key role of attracting foreign investments by ensuring reduction of transaction costs and increasing transparency and predictability for investors through mergers/acquisitions.

The Authority also continued to enforce the Abuse of Buyer Power (ABP) provisions of section 24 (2A), (2B), (2D) of the Act. Nine (9) complaints on Abuse of Buyer Power were investigated. Additionally, in its bid to increase transparency and predictability in ABP enforcement, Abuse of Buyer Power Guidelines were disseminated to stakeholders.

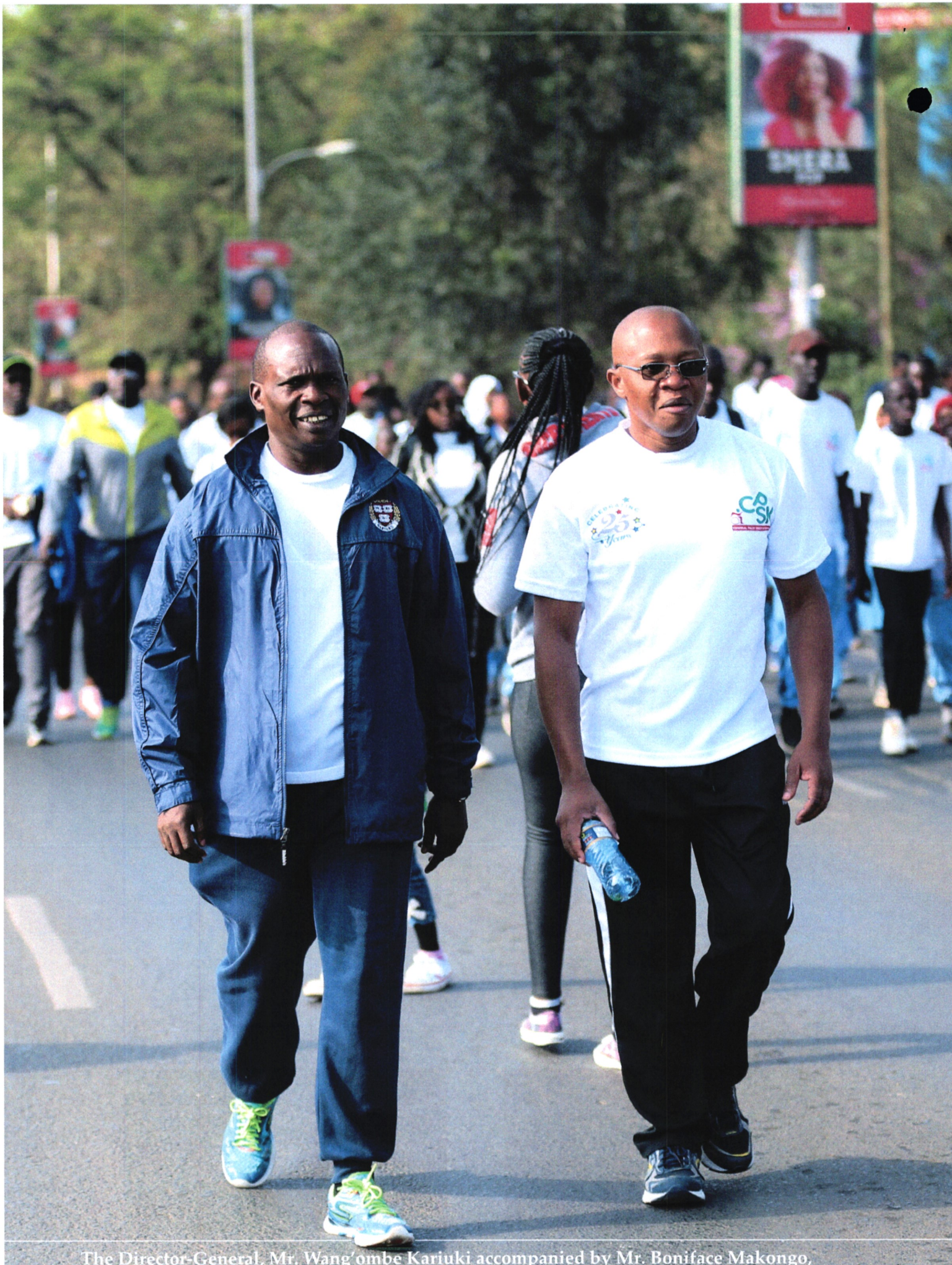
Two (2) market inquiries in the Leasing Sector and Shipping, Trucking and Haulage were conducted and concluded. The objective of the Leasing Sector study was to develop a leasing framework guided by the Medium Term Plan III, while also, identifying anti-competitive concerns in the sector. The Shipping, Trucking and Haulage study, conducted along the Northern Corridor, aimed at identifying potential competition concerns occasioned by the infringement of the competition law through either government regulation or industrial practices, and eliminating them in order to boost regional integration.

The Authority engaged stakeholders including policy makers, sector regulators, county governments, legal practitioners, investment bankers and business journalists to create awareness and deepen the culture of competition in the economy.

Last but not least, the Authority articulated competition and consumer protection issues and disseminated its decisions through traditional and new media platforms such as; print, television, radio and social media aimed at expanding its brand visibility, demographic and geographical reach and to create awareness on its mandate.







The Director-General, Mr. Wang'ombe Kariuki accompanied by Mr. Boniface Makongo,

PREAMBLE

The Competition Authority of Kenya (the Authority) is a State Corporation created under Section 7 of the Competition Act No. 12 of 2010 (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 a conducive environment 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 Act to prepare an Annual Report for submission to the National Assembly by the Cabinet Secretary/the National Treasury and Planning. The Annual Report captures the overall performance of the Authority, based on its key interventions and performance indicators.

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 studies and market inquiries completed during the financial year 2018/19. This report also includes the Authority's Financial Statements for the same period.



VISION

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

MISSION

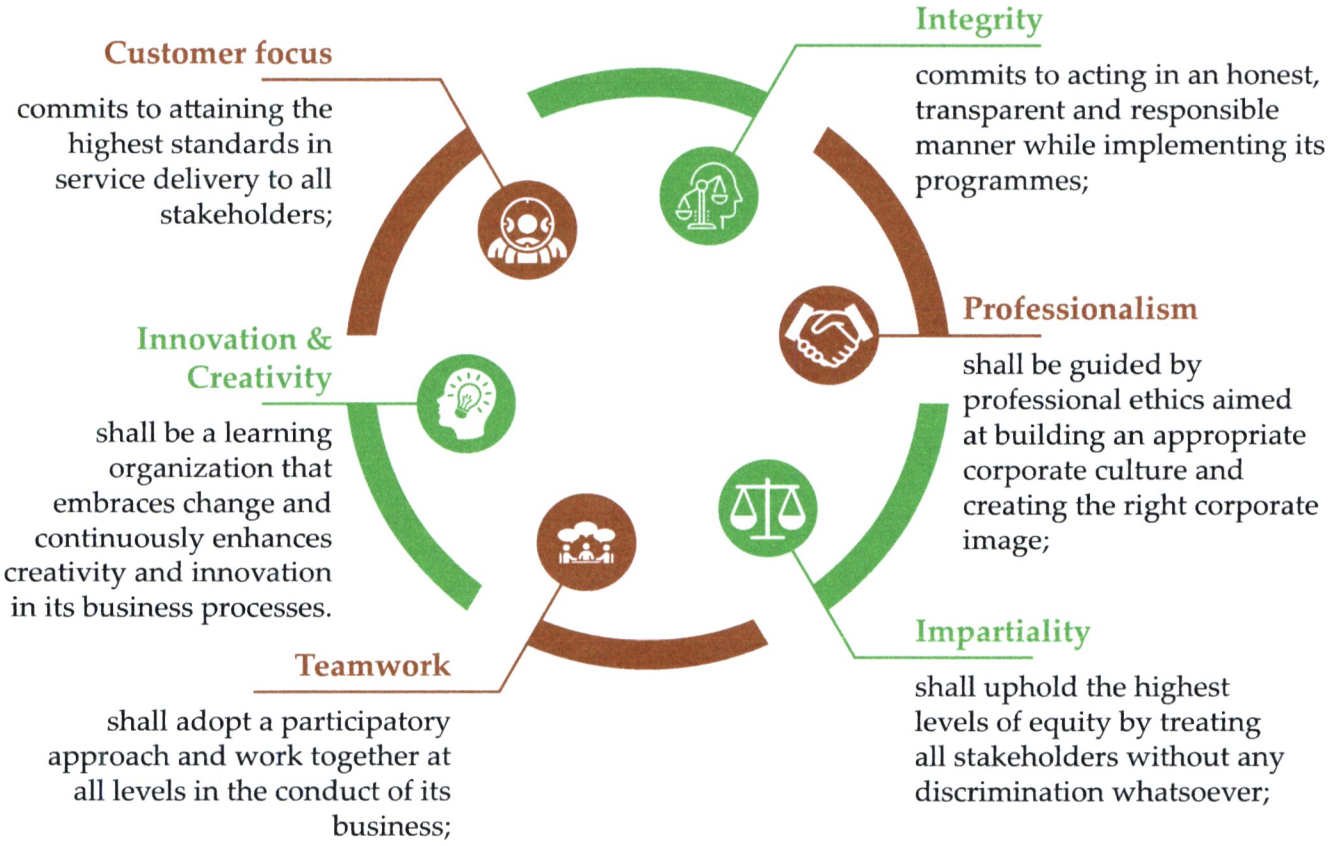
"To enhance competition and consumer welfare in the Kenyan economy by regulating market structure and conduct in order to ensure efficient markets for sustainable growth and development."

MOTTO

Creating efficient markets for consumers.

CORE VALUES

The guiding principles in the operations of the Authority are:



QUALITY POLICY

The Competition Authority of Kenya 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 statutory and other applicable requirements and to continual improvement of its Quality Management System based on ISO 9001:2015 International Standard.

This Policy and the established quality objectives shall be reviewed to ensure their continual suitability and adequacy, shall be communicated, understood and applied throughout the organization and shall be available to relevant interested parties as appropriate.

QUALITY OBJECTIVES

Provision of quality and effective regulation of both market conduct and structure;

Protection of consumers from unfair and misleading market conduct;

Optimal utilization of the Authority's resources in the attainment of its mandate;

Enhancement of customer satisfaction that exceeds their expectations by providing quality services;

The Authority's opertaions comply with all applicable laws and regulations;

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 provided in the Act, has the objective of enhancing the welfare of the people of Kenya. The Act applies to all persons including the national and devolved Governments' actions, and State Corporations in so far as they engage in trade. This is referred to as competition neutrality.

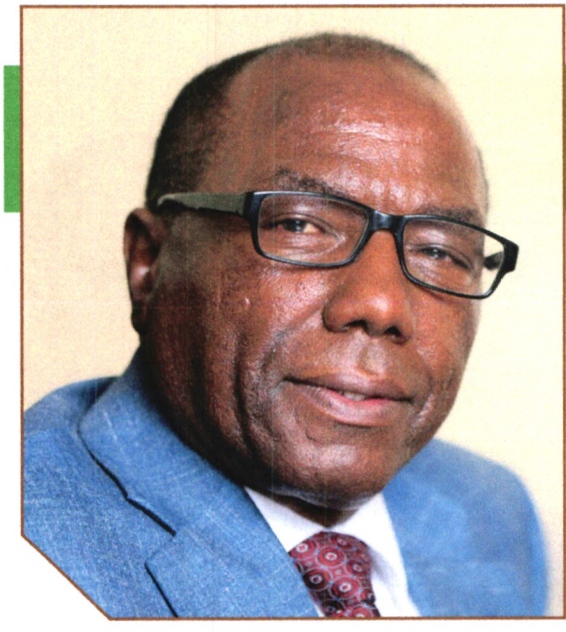
The Authority achieves its mandate through the following specific functions:-

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.



Mr. David Ong'olo (Immediate former Board Chairman) hands over to Amb. Nelson Ndirangu *in May 2019*

BOARD OF DIRECTORS



Amb. Nelson Ndirangu, OGW

Date of Birth: 31st December, 1952
Designation: Board Chairman
Term: 1st Term

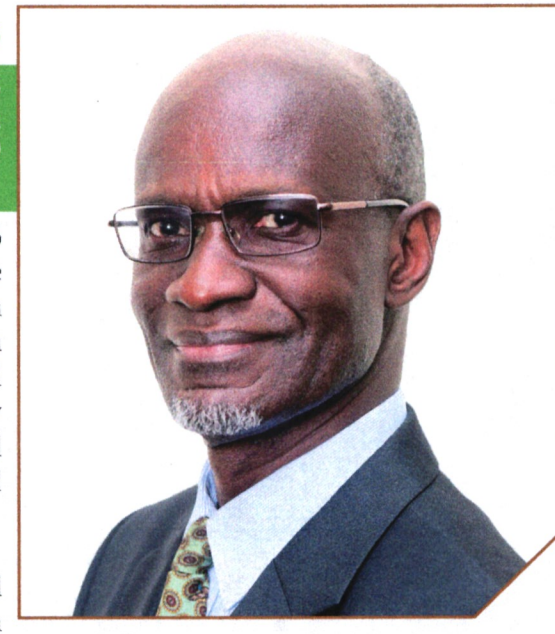
Ambassador Nelson Ndirangu's appointment brings into the Authority a wealth of experience on Competition Policy including trade policy and economic policy.

Amb. Ndirangu has strong leadership and trade skills of more than 20 years in trade competition policies, strategic planning, programmatic design, implementation, team building and setting of impact assessment systems. He was involved with the competition Policy issues in the WTO where he articulated Kenya's position regarding possible negotiations on multilateral disciplines in Competition Policy.

Amb. Ndirangu has a Master of Arts (M.A.), degree and a post Graduate Diploma in International Economic Relations from the University of East Anglia in the UK, a Post Graduate Diploma in International Trade Policy from the WTO, Switzerland and a Bachelor of Commerce Degree (B.COM Hons.) from the University of Nairobi, Kenya.

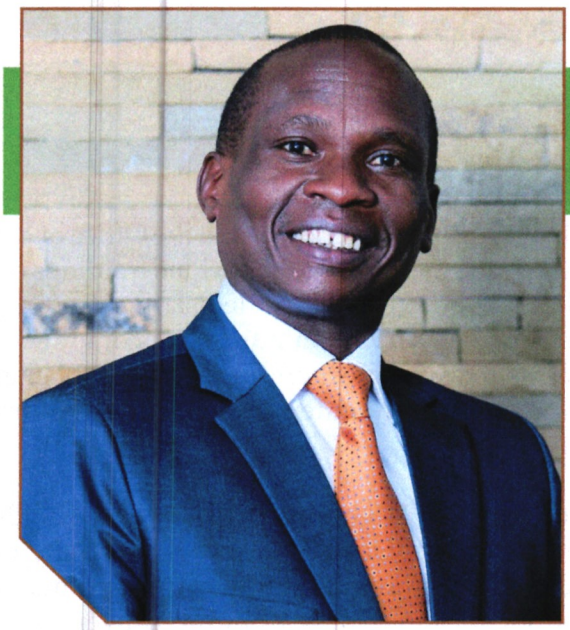
Mr. David O. Ong'olo, MBS

Date of Birth: 18th August, 1955
Designation: Board Chairman
Term: 2nd term expired in February, 2019



Mr. Ong'olo was re-appointed on 12th February, 2016 as the Chairman of the Authority for a period of three (3) years. He has a long standing interest in competition policy and private sector development. He has worked on topics spanning from institutional development, sectoral regulation to 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 Master of Science (MSc) Degree in Industrial Economics from Lancaster University, United Kingdom and a Bachelor Degree in Economics from the University of Nairobi.



Mr. Wang'ombe Kariuki, MBS

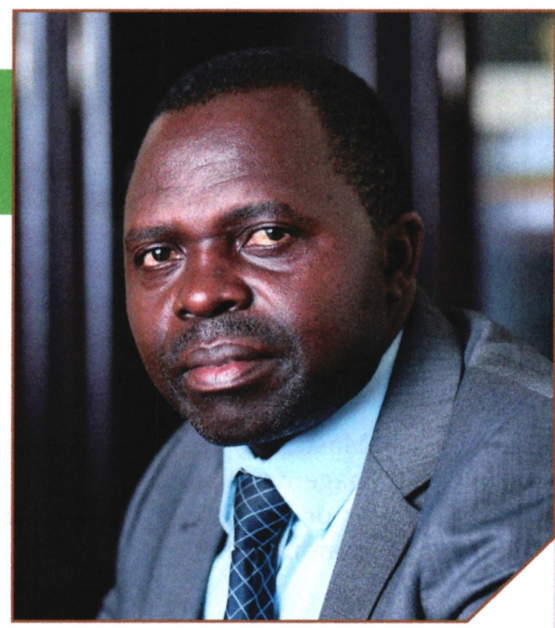
Date of Birth: 24th July, 1969
Designation: Director General
Term: 2nd Term

Mr. Kariuki has vast experience in competition Policy and law formulation enforcement. 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. He is currently involved in various international forums aimed at informing the developing of optimal regulatory regime for Digital economy and online platforms.

Mr. Kariuki holds a Master of Science (MSc), Degree in Economic Regulation and Competition from City University, London; a Bachelor of Arts (BA), Degree in Economics and Business Studies from Kenyatta University; and various Certificates in Strategic Leadership and Corporate Governance.

Mr. Wekesa Khaoya

Date of Birth: 1st January, 1972
Designation: Alternate to the Principal Secretary, the National Treasury
Term: Appointed in October, 2018



Mr. Khaoya is a Financial Analyst at the National Treasury. He has wide experience in budgeting and economic planning in the public sector. He has previously held positions of Deputy Chief Economist in various ministries and Director of Policy and Research with the National Sports Fund.

Currently, Mr. Khaoya is a Deputy Director of Budget at the National Treasury where he convenes the Governance, Justice, Law and Order Sector. He holds a Masters of Science (MSc) from the University of Dortmund, Germany and a B.A (Hons) degree in Economics and Applied Mathematics from the University of Nairobi. He is a member of the International Society for SPRING Planners and an Associate Member of the Kenya Institute of Management (KIM).



Ms. Elizabeth Ng'ang'a

Date of Birth: 24th August, 1962
Designation: Alternate to the Attorney-General
Term: Appointed in 2012

Ms. Ng'ang'a is a Parliamentary Counsel in the Office of the Attorney-General. She has undergone various trainings on drafting and has a wide experience in legislative drafting. Over the years, she has served on numerous committees and task forces as a drafting expert, more recently being drafting financial legislation under the National Treasury and Planning.

She is an advocate of the High Court of Kenya and holds a Bachelor of Laws (LLB) Degree from the University of Nairobi as well as a Postgraduate Advanced Diploma in Legislative and Financial Drafting from the University of West Indies Cave Hill Campus, Barbados.

Ms. Redempta Oyeyo

Date of Birth: 10th July, 1960
Designation: Alternate to the Principal Secretary, State Department for Trade
Term: appointed in February 2019



Ms. Oyeyo has built her career largely within the public sector having over fifteen (15) years in the public service. She spearheaded the task force that developed the Draft Retail Trade Regulations, 2018 and Code of Practice for the Retail Sector.

She holds a Master of Business Administration (MBA) (Strategic Management) from the University of Nairobi and a Bachelor of Education (Hons) degree in Business Studies and Economics from Kenyatta University.



Mr. Protus Sigei

Designation: Alternate to the Principal Secretary, the National Treasury
Term: served from 2012 to October, 2018

Protus Sigei has built his career largely within the public sector. He has served in the Boards of several entities and various Board committees. He is a member of the Society for Benefit-Cost Analysis, a professional society of academics and practitioners, headquartered at the University of Washington at Seattle, USA. He is also a Member of the Australian Institute of Company Directors.

He holds a Master of Science (MSc) Degree from the University of York, U.K and a B.A (Hons) degree in Economics (with Mathematics) from the University of Nairobi. He is also an alumnus of Queen's University, Canada (Program on Investment Appraisal and Risk Analysis), and INSEAD (Competitive Strategy).

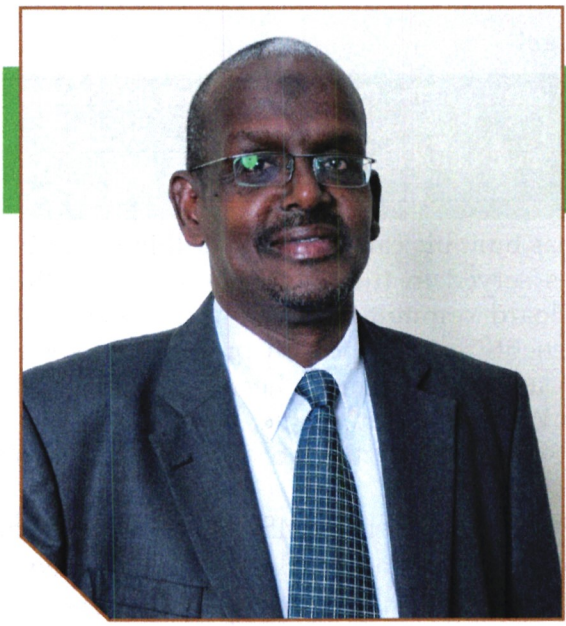
Mr. Michael Onyancha

Date of Birth: 1st January, 1960
Designation: Alternate to the Principal Secretary, Ministry of Industry, Trade and Cooperatives
Term: served from 2012 to February, 2019



Mr. Michael Onyancha is the Director of Weights and Measures, Ministry of Industry, Trade and Cooperatives. 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 Standard Committee, and a Member of the Institute of Trade Standard Administration, Kenya (ITSA).

He holds a Master of Business Administration (MBA) Degree and Bachelor of Education (Hons) Degree in (Mathematics) from the University of Nairobi.



Dr. Abdirizak Nunow

Date of Birth: 5th April, 1965
Designation: Independent member
Term: 1st term expired in June 2019

Dr. Nunow is a Senior Lecturer in Moi University's School of Arts and Social Sciences where he teaches Natural Resources Management in the Department of Geography. He was a member of the Constitution of Kenya Review Commission (CKRC) that undertook the writing of a new constitution for the country. In addition, he worked with the Inter-Parliamentary Union of IGAD (IPU-IGAD) Member States based in Addis Ababa, Ethiopia. He was a member of a Working Group appointed by the Budget and Appropriation Committee (BAC) of the National Assembly, to carry out Socio-Economic Audit of the Constitution of Kenya, 2010.

Dr. Nunow has wide experience in consultancies in social development, strategic planning, impact assessment and environmental audit, among other areas.

He holds a PhD in Environmental and Behavioural Sciences from the University of Amsterdam, a Masters of Philosophy in Environmental Planning from Moi University and a Bachelor of Arts in Economics and Business studies from Kenyatta University.

Ms. Carol Musyoka

Date of Birth: 29th August, 1972
Designation: Independent member
Term: 1st term expired in June 2019



Ms. Musyoka has several years of financial leadership experience. She has extensive deal origination, negotiation, and structuring and execution experience. Her executive management and Board experience includes her role as the Corporate Director, Barclays Bank of Kenya as well as the Executive Director and Chief Operating Officer of K-Rep Bank.

Ms. Musyoka is a holder of a Master of Law (LLM) Degree from Cornell University, USA and a Bachelor of Law (LLB) Degree from the University of Nairobi, and is also a recipient of the 2010 Eisenhower Fellowship for International Leadership.



Ms. Leila Ali

Date of Birth: 11th January, 1979
Designation: Independent Member
Term: 1st term expired in June 2019

Ms. Ali has over ten (10) years managerial experience in the financial industry. She has been actively involved in setting up small and medium sized companies from inception to launching into profitable and successful companies. She has wealth of experience having served in various boards including Wangari Mathai foundation, Elimu Plus Limited and Acorn Properties UK. Her background provides the Board with expertise in financial and operational issues.

Ms. Leila is a holder of a Bachelors degree in Accounting & Finance (Hons) from London South Bank University. She is also an ACCA Affiliate.

Ms. Eunice M. Maranya

Date of Birth: 3rd June, 1959
Designation: Independent Member
Term: 2nd term expired in June 2019



Ms. Maranya is a Business, Management and institutional development specialist with over fifteen (15) years banking experience and seven (7) years of consulting.

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 Master of Business Administration (MBA) Degree from the United States International University (San Diego) and a Bachelor of Science (BSc) Degree from the University of Nairobi.



Mr. Stephen Kiptinness

Date of Birth: 12th November, 1974
Designation: Independent Member
Term: 2nd term expired on 29th June 2019

Mr. Kiptinness is the Lead Partner of Kiptinness & Odhiambo Associates Telecommunication, Media and Technology (TMT) Practice. He has served in locally and internationally various corporate firms and parastatals such as Orange Telkom Kenya, Communications Authority of Kenya, Commonwealth Telecommunications Organization, and Kenya Network Information Centre among others.

He has acted for global technology companies, mobile telecommunication companies, tower companies, numerous content and application service provider companies, among others.

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

MANAGEMENT TEAM



Wang'ombe Kariuki, MBS
Director-General

Mr. Kariuki has vast experience in competition Policy and law formulation enforcement. 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. He is currently involved in various international forums aimed at informing the developing of optimal regulatory regime for Digital economy and online platforms.

Mr. Kariuki holds a Master of Science (MSc), Degree in Economic Regulation and Competition from City University, London; a Bachelor of Arts (BA), Degree in Economics and Business Studies from Kenyatta University; and various Certificates in Strategic Leadership and Corporate Governance.



Boniface Makongo
Director, Competition and Consumer Protection

Mr. Makongo has over 15 years of experience in litigation, corporate and commercial law. He joined the Competition Authority of Kenya in December, 2013 as the Manager, Legal Services. He was appointed Director, Competition and Consumer Protection on 5th May, 2019, placing him in charge of the Authority's three technical departments. Mr. Makongo has previously worked for both Constituencies Development Fund Board and Water Services Trust Fund as a Legal Officer, heading both institutions Legal Departments which he also helped establish.

Mr. Makongo holds a Masters Degree in International Economic Law from the University of South Africa, a Bachelors of Law Degree from Moi University and a Diploma in Management of Information systems from the Institute for Management of Information Systems (U.K) as well as a postgraduate Diploma in Corporate Governance and is a Certified Public Secretary. He is an active member of the Law Society of Kenya and ICPS (K).



Dr. Adano Wario Roba
Director, Planning, Research and Quality Assurance

Dr. Roba joined the Authority in July 2018 and is responsible for developing effective strategies for economic analysis and policy, research, strategy and quality management system and performance management. He has conducted extensive applied research covering broad areas of interest and therefore brings nearly 15 years of research and policy experience to the Authority.

Prior to joining the Authority, Dr. Roba was a Senior Policy Analyst at the National Treasury's Fiscal & Economic Affairs Department. During his tenure, he was also involved in several taskforces that developed legislation on climate change, petroleum, minerals, energy and their related policies and regulations.

Dr. Roba has also served as a Senior Lecturer in environmental economics at University of Eldoret and Moi University. Dr Roba earned his PhD (cum laude) from the University of Amsterdam (the Netherlands) and an MSc from the University of York (UK). He has a number of monographs, peer reviewed articles and book chapters to his name, and also in collaboration with colleagues.



Eric Mwangi
Director, Corporate Services

Mr. Mwangi joined the Authority in December 2014 as the Manager Internal Audit. He was appointed Director Corporate Services in February 2018. 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 Masters 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.



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 (CPAK). Mr. Mokaya has over seventeen years work experience in forensic investigations and audit, having worked at the Kenya National Audit Office and the Kenya Anticorruption 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 Master of Global Competition and Consumer Law Degree from the University of Melbourne, a Master 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 expertise on consumer related investigations, Corporate Governance and Results Based Management (RBM). Boniface is a member of Institute of Directors of Kenya (IOD-K). He has headed the Consumer Protection Department since its inception (December, 2015).



Ninette K. Mwarania
Manager, Planning, Policy & Research

Ms. Mwarania joined the Authority in 2018 and heads the Planning, Policy and Research (PPR) Department which is the Central Planning Unit for the Authority. Additionally, PPR monitors performance to ensure that the authority's vision is realized, advances the Authority's internal and external knowledge management and enhances institutional risk management practices.

Ninette has over thirteen (13) years' work experience in marketing and social research in both the private and public sector, having previously worked with Consumer Insight Africa, Millward Brown East Africa and the Kenya Tourism Board.

Ninette holds a Master of Business Administration (Marketing Management) degree from the University of Nairobi and a Bachelor of Commerce (Banking and Finance) Degree from Kenyatta University. She is an active member of the Marketing and Social Research Association (MSRA).



Priscilla M. Njako
Manager, Buyer Power

Ms. Njako joined the Authority in March 2019. Prior to that she worked both in legal practice and at various institutions of higher learning. In her career experience, now spanning twenty years, she served at managerial positions including as Head of Faculty and Head of Examinations and Research.

Priscilla's key responsibilities include investigating complaints of Abuse of Buyer Power and delayed payments and carrying out market assessment. Her duties also include engaging in research to identify the most effective practices for effective enforcement. Priscilla has a keen interest in enforcement of competition law in ways that are apt for the needs of developing countries.

Priscilla holds a Master of Laws Degree (LLM) from the University of South Africa, Bachelor of Laws Degree (LL.B) from University of Nairobi and a Diploma in Law from the Kenya School of Law. She also holds a Certified Public Secretaries qualification (CPSK) from Kenya Accountants and Secretaries Board (KASNEB) and various certificates in Competition Law. She is an active member of the Law Society of Kenya.



Raphael Mburu
Manager, Mergers & Acquisitions

Mr. Mburu possesses advanced skills in Competition Law dealing with regulation of market structure. This has been through establishing and developing broad knowledge in analysis of complex mergers and acquisitions, carrying out market inquiries and sector studies, investigation of policies, procedures and programmes of regulatory authorities to assess their effect on competition and consumer welfare and advising Government on competition matters.

His knowledge and expertise in Competition Law has further been enhanced by training in Economics for Competition Law, EU Competition Law, quantitative methods for competition analysis, regulatory law for economic regulators, development of various competition tool kits such as Subsidiary rules and merger threshold guidelines and participation in International Workshops, conferences and Symposia that revolved around emerging issues and trends in mergers, private equity & venture capital, remedies in merger review and international merger enforcement and cooperation.

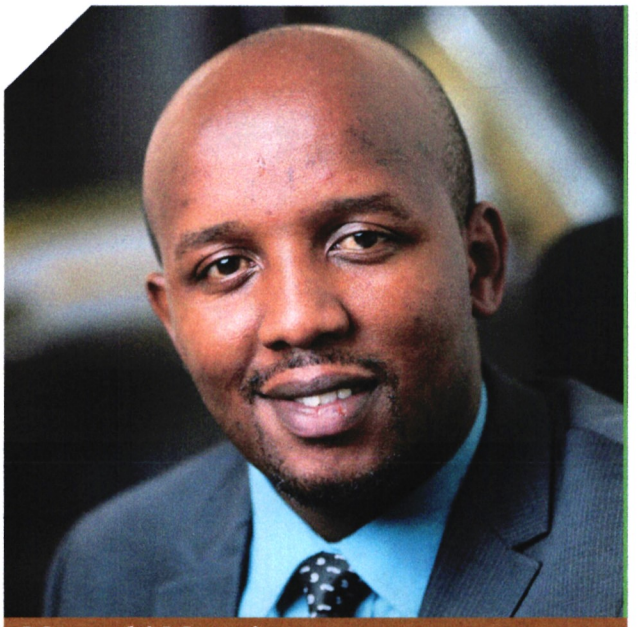
Raphael holds a Bachelors Degree in Science (Statistics and Chemistry) from JKUAT, has completed graduate studies in Economics for Competition Law and EU Competition Law for King's College London, has certification in Leadership from London Business School and in Quantitative Methods for Competition Analysis from Barcelona Graduate School of Economics



Anthony N. Muriithi
Manager, HR & Administration

Mr. Njagi joined the Authority in May 2013. Previously, he worked at Kenya Electricity Generating Company Ltd where he was involved in implementation of various staff welfare programs. His main interests are in staff development and welfare issues.

He holds a Master of Business Administration from Moi University, Bachelor of Arts degree in Sociology from Kenyatta University and Higher National Diploma in Human Resource Management. He has certificates on leadership and management. He is also a member of institute of Human Resources Management.



Mugambi Mutegi
Manager, Communications and External Relations

Prior to joining the Authority, Mr. Mugambi worked at the Nation Media Group (NMG). He served as a writer and editor attached to the Business Daily publication, taking a keen interest in competition law and policy.

His main role at the Communications & External Relations Department is ensuring that the Authority's stakeholders are well appraised about the Authority's mandate. The department develops and executes strategies through which the Authority can increase its visibility as well as enhance its corporate image among its key stakeholders.

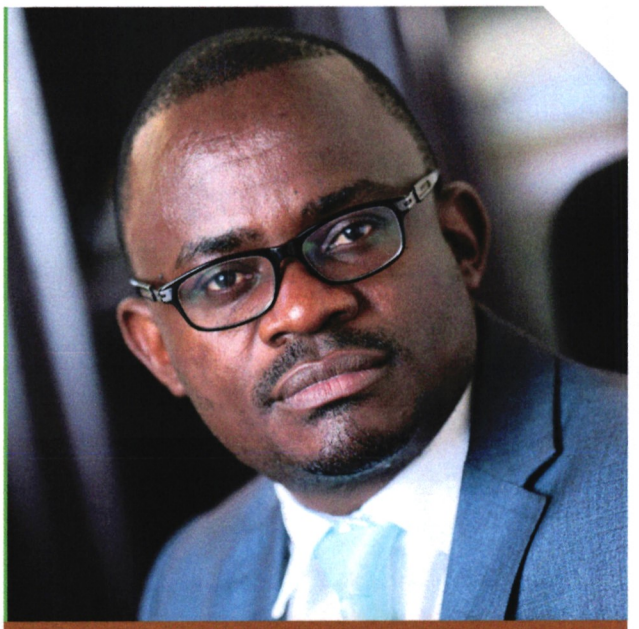
Mugambi's background working at a leading media company has benefitted the Authority as it seeks to strength its relations with members of the 4th estate, a key stakeholder in creating awareness about the Authority's mandate. Mugambi holds a Bachelor's degree in Biotechnology from the Kenyatta University.



Ambrose Ageng'a
Manager, Finance

CPA Ambrose Ageng'a is a holder of a Master of Business Administration (Finance option) degree from the University of Nairobi and a Bachelor of Commerce Degree from the Catholic University of Eastern Africa. He is also a Certified Public Accountant of Kenya (CPAK) and an active member of the Institute of Certified Public Accountants of Kenya (ICPAK).

CPA Ageng'a has over nineteen (19) years' work experience in both the private and public sector, having previously worked with Mastermind Tobacco, Kenya Revenue Authority and the Salaries and Remuneration Commission. He has also been involved in audit committee activities at both the County and National Government levels.



Ochieng' Ochiel
Manager, Internal Audit

Mr. Ochiel has vast experience in the fields of auditing, finance and taxation both in public and private sectors spanning over sixteen years. He holds a Masters of Business Administration (MBA) degree from the University of Nairobi, a Bachelors of Commerce degree (Accounting) from Daystar University, Certified Public Accountant (CPAK) and Certified Information Systems Auditor (CISA) from Strathmore University.

Prior to his appointment as the Manager, Internal Audit at the Authority, he served as the Senior Internal Audit and Risk Management officer at the Kenya Civil Aviation Authority. His prior work experience were at the Kenya Rural Roads Authority (internal auditor), Compassion International (partnership auditor) and Kenya Utalii College (senior internal auditor).

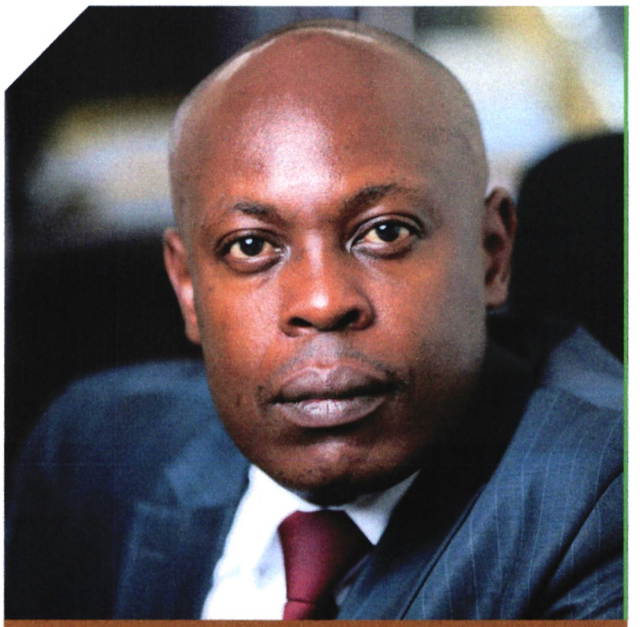
Mr. Ochiel's key responsibilities include offering independent and objective assurance on the effectiveness of the internal controls, risk management and governance processes. He is a member of the Institute of Certified Public Accountants of Kenya (ICPAK) and the Information System and Control Association (ISACA).



Mercelline Anduro
Manager, ICT

Ms. Anduro was appointed Manager ICT in February 2019. She has over fourteen years experience in network management, database administration, web design, corporate communication, hardware and software maintenance and user support from the Public Sector. She has been involved in various ICT projects, ICT Strategy formulation, execution and alignment with business, ICT security, Business Continuity Management, Project Management and Forensic investigations.

Ms. Anduro has vast experience in information communication and technology field drawn from over 12 years' experience working with the Public sector. She holds a degree in Business Information Technology from Kenya Methodist University, Diploma in Computer Studies from Pwani University. She is also a qualified Microsoft Certified Solutions Associate and Microsoft Certified Professional. She has attended various management courses including Corporate Governance, Risk Management, Information Security management and Business Continuity management. She is an active member of the Computer Society of Kenya.



Walter Masinde
Manager, Supply Chain Management

Mr. Masinde holds a Master of Business Administration (MBA) degree (Procurement & Supply Chain Management) from the University of Nairobi, Bachelor of Business Administration (BBA) and possesses a postgraduate Diploma in Purchasing and Supply Chain Management (CIPS-UK), Diploma in Supplies Management (KNEC) and a Procurement Practitioners License from the Kenya Institute of Supplies Management.

He holds professional memberships to the Kenya Institute for Supplies Management (KISM) and the Chartered Institute of Purchasing and Supply (UK).

Mr. Masinde is an accomplished professional in Supply Chain Management with over ten (10) years' experience.



Mr. Boniface Kamiti, Manager, Consumer Protection, during a courtesy call to Nyeri Governor, H.E Mutahi Kahiga, on 15th March 2019 ahead of the Annual World Consumer Rights Day.

CORPORATE GOVERNANCE STATEMENT

The Authority's Board is established under 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 is responsible and accountable to the Government 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 Board 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 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.

The Board also includes the Principal Secretaries to The National Treasury and Planning; 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 (see figure 1) with diverse skills, competencies.

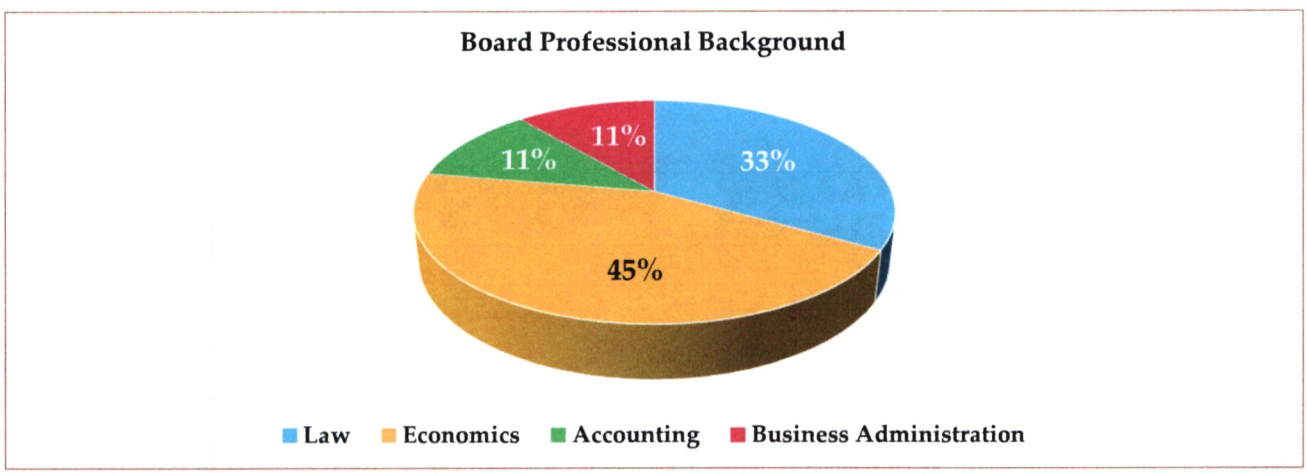


Figure 1: Board professional background

The Board as constituted complies with the constitutional gender balance requirements as shown in figure 2 on the next page, with the female members constituting 56% while the male directors are 44%.

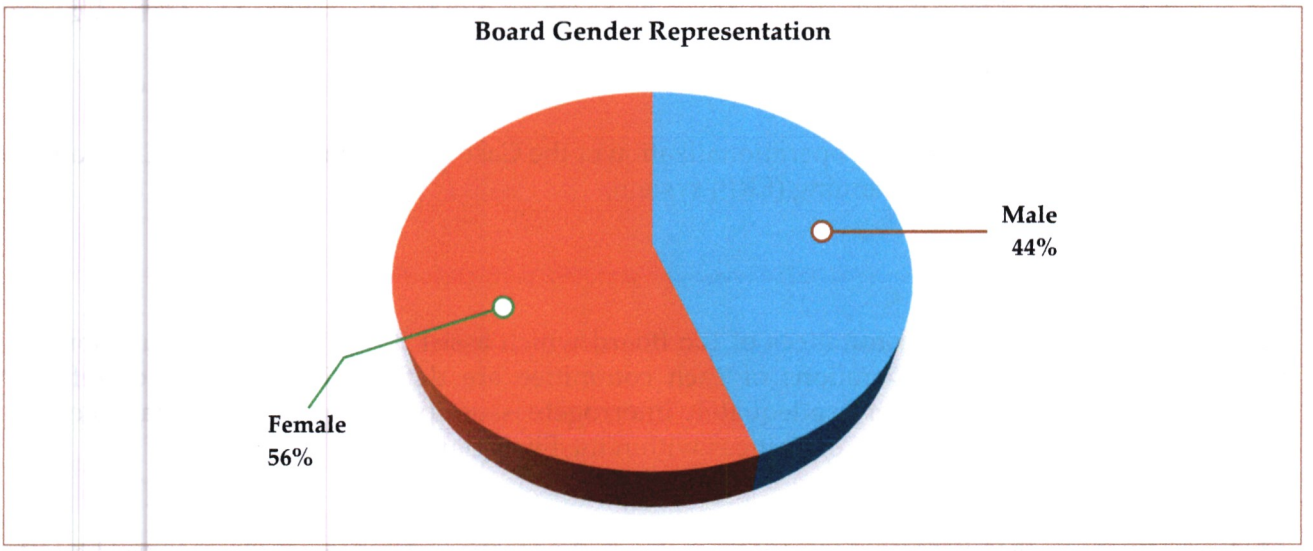


Figure 2: Board's gender representation

THE BOARD CHAIR

The Chairman provides leadership and governance to the Board and ensures that the Board plays a full and constructive part in the development and determination of the Authority's strategies and policies. He also ensures that the Board is supplied with timely and sufficient information to enable it discharge its duties effectively. In furtherance of the above, the Chairman 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 policy 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 the 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 2018/19 FY were:

i. Proposed amendments to the Competition Act;
ii. Approved and continually monitored the implementation of the Authority's Annual Strategic Plans and Budget;
iii. Implemented the Authority's Performance Contract with The National Treasury and Planning;
iv. Reviewed the Authority's financial controls, financial statements and reporting systems based on both strategic and long-term plans;
v. Oversaw an increase in the absorption amounts from Ksh. 399.1 million in 2017/18 to Ksh. 525.4 million in 2018/19;
vi. Oversaw the Authority's management of enterprise risk and approved all significant corporate actions, among others;
vii. Rolled out of the Staff Mortgage Scheme;

viii. Adopted an E-Board system to enhance efficiency in coordination of Board and management meetings;
ix. Adopted a policy on circular resolutions to increase efficiency in determination of Board matters; and
x. Provided finances for the operationalization of the Case Management System (CMS) and the Enterprise Resource Planning (ERP) system.

BOARD COMMITTEES

There are four (4) standing committees of the Board which assist it to discharge its functions and responsibilities electively. 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 constituted the following Committees within the Financial year: -

Technical and Strategy Committee

The committee consisted of five (5) members, namely; Mr. Stephen Kiptinness (Chair), Ms. Leila Ali, Ms. Redempta Oyeyo and Ms. Elizabeth Ng'ang'a. The Director-General, Mr. Wang'ombe Kariuki is an ex-officio member of the committee.

The Committee is mandated to guide on Strategic Planning, Performance Targets: implementation of the Act, work with management on the technical aspects of the operational performance and functions of the Authority.

Human Resources Committee

The Committee consists of five (5) members, namely; Ms. Carol Musyoka (Chair), Ms. Eunice Maranya, Dr Abdirizak A. Nunow and Mr. Wekesa Khaoya. The Director General is an ex-officio member of the committee.

This Committee is mandated to review Human Resource policies and succession planning of the Authority in order to ensure compliance with national policies and legislation. It is also mandated to organize the structure and performance evaluation of Senior Staff, oversee and advise the Board on recruitment and promotion of the senior staff.

Audit Committee

The Committee consisted of four (4) members, namely; Dr. Abdirazak Nunow (Chair), Mr. Stephen Kiptinness, Ms. Elizabeth Ng'ang'a and Mr. Martin Khaoya.

This Committee is mandated to periodically review the Authority's financial reports in liaison with the External Auditors, review the Authority's financial statutory and non-statutory reporting obligations and provide oversight on risk assurance and mitigation measures implemented; and checks on effectiveness and robustness of internal control measures.

Finance Committee

The Committee consisted of five (5) members, namely; Ms. Eunice Maranya (Chair), Ms. Leila Ali, Ms. Redempta Oyeyo, Ms. Carol Musyoka and Mr. Wang'ombe Kariuki (Director–General). The Director General is an ex-officio member of the committee.

This Committee is mandated to review the budgeting processes, propose measures to broaden sources of finance, review the interface between the Authority's resource inputs and outputs and advise on internal financial control systems and oversight on financial reporting.

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 eleven (11) meetings and three (3) retreats to deliberate on items that could not be discharged during a normal Board meeting. The number of meetings for the Board and Committees were held as shown tables 1&2 below: -

Board Member	Classification	Designation	Technical & Strategy Committee (Total number of meetings held: 9)	Finance Committee (Total number of meetings held: 4)	Human Resource Committee (Total number of meetings held: 8)	Audit Committee (Total number of meetings held: 5)	Full Board Meetings (Total number of meetings held: 11)
Amb. Nelson Ndirangu	Independent member	Board Chairman (appointed in May, 2019)	n/a	n/a	n/a	n/a	2
Ms. Redempta Oyeyo	Representing PS Ministry of Industry, Trade & Cooperatives	Member (appointed in February, 2019)	4	1	n/a	n/a	5
Mr. Wekesa Khaoya	Representing PS National Treasury	Member (appointed in October, 2018)	n/a	n/a	n/a	3	4
Ms. Elizabeth M. Ng'ang'a	Representing Hon. Attorney General	Member	4	n/a	n/a	4	8

Table 1: Board Membership and Attendance for the Current Directors for the FY 2018-2019

Board Member	Classification	Designation	Technical & Strategy Committee (Total number of meetings held: 9)	Finance Committee (Total number of meetings held: 4)	Human Resource Committee (Total number of meetings held: 8)	Audit Committee (Total number of meetings held: 5)	Full Board Meetings (Total number of meetings held: 11)
Mr. David Ong'olo	Independent member	Board Chairman (term expired in February 2019)	n/a	n/a	n/a	n/a	6
Mr. Stephen Kiptinness	Independent member	Chairman Technical & Strategy Committee (2nd term expired in June, 2019)	9	n/a	n/a	5	8
Ms. Carol Musyoka	Independent member	Chairman Human Resource Committee (2nd term expired in June, 2019)	n/a	n/a	8	n/a	8
Dr. Abdirazak A. Nunow	Independent member	Chairman Audit Committee (1st term expired in June, 2019)	n/a	n/a	7	5	11
Ms. Eunice Maranya	Independent member	Member (1st term expired in June, 2019)	n/a	4	7	n/a	11
Ms. Leila Ali	Independent member	Member (1st term expired in June, 2019)	6	2	n/a	n/a	7
Mr. Michael Onyancha	Representing PS Ministry of Industry, Trade & Cooperatives	Member (served from 2012 to February, 2019)	5	3	n/a	n/a	5
Mr. Protus Sigei	Representing PS National Treasury	Member (served from 2012 to October, 2018)	n/a	n/a	n/a	2	3

Table 2: Board Membership and Attendance for Directors whose Terms Expired During the FY 2018-2019

BOARD TRAINING/INDUCTION

The Board was inducted on the mandate of the Authority as provided for in the Competition Act No. 12 of 2010. In addition to this, the Chairman was trained on Mwongozo in the June 2019. The induction and training took place in Kenya.

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 evaluation exercise is conducted by the State Corporations Advisory Committee (SCAC). In 2018, the Board scored 4.6067 out of 5 marks, representing 92.13%, an excellent score.

BOARD REMUNERATION

Members are remunerated in accordance with the State Corporation Advisory Committee guidelines. Directors are entitled to a sitting allowance for every meeting attended, lunch allowance (in lieu of lunch being provided), accommodation allowance and mileage reimbursement where applicable. In addition, the Chairman is paid a monthly honorarium and issued with airtime.

COMPETITION (AMENDMENT) BILL, 2019

Competition agencies world over, have amended their laws with the intention of addressing challenges faced when enforcing their competition laws. These challenges have been in form of gaps in the law which have the effect of limiting the ability required to address a competition issue; a contradiction in the provisions of the law or a need to buttress the provisions of the law to empower the agency. In Kenya, for instance, the competition law has previously been amended in 2014 and 2016 to address challenges faced by the Authority in enforcing the Act. Amendments have been introduced to empower the Authority to sufficiently address competition issues that have arisen from time to time. Towards addressing the above challenges, during the year under review, the Board proposed the following amendments which have the objective of:-

i. Empowering the Authority to carry out market inquiries on Abuse Buyer of Power matters.
ii. De-linking the abuse of buyer power provisions from the abuse of dominance provisions to do away with the misinterpretation under section 24 of the Act that abuse of buyer power can only exist once dominance has been established.
iii. Expanding the criteria for assessment of abuse of buyer power.
iv. Introducing a provision listing the acts which qualify as abuse of buyer power.
v. Introducing a provision on minimum requirements for the contractual relationship between buyers and suppliers.
vi. Providing for development of Codes of Practice by players in the various economic sectors and for the Codes to be anchored under the Act.
vii. Providing for abuse of buyer power under section 31 of the Act to clarify that investigations under the Act also cover such case.

PROFESSIONAL ASSOCIATIONS

In addition, the Authority proposed introduction of a penalty for failure to comply with section 29 (1) which requires that professional associations submit their professional rules to the Authority, where such rules contain a restriction, for approval.

CHAIRMAN'S STATEMENT

1.4%

Gross Domestic Product (GDP) expansion from 2017 - 2018



On behalf of the Board, it is my pleasure to present the Annual Report and the Financial Statements for FY 2018/19 in which we describe our efforts to promote competition and consumer welfare and highlight the Authority's financial performance. The Authority continued to focus its interventions in sectors that have significant impact on the majority of the Kenyan population, while fostering innovation and growth.

The year under review stood out for many reasons. Top among them is the fact that the country's Gross Domestic Product (GDP) expanded by 6.3% in 2018, compared to 4.9% in 2017. According to the Economic Survey 2019, this growth resulted from vibrant agriculture, manufacturing, transport and service sectors and a stable macroeconomic policy. This was evidenced by an increase in the number of merger notifications submitted to the Authority during FY 2018/19.

The Authority continues to play a role in facilitating economic growth. The Government's Big 4 Agenda sets out ambitious, but achievable, goals touching on the manufacturing sector, universal healthcare, food production and affordable housing. The Authority has a key role to play in each of these sectors. The Authority reviewed its Strategic Plan 2017/18 – 2020/21 in order to align its activities and its interventions to support the realization of Big 4 Agenda.

Towards developing an effective regulatory regime to support the Authority's enforcement agenda, the Authority proposed amendments to the Act, through the Competition (Amendment) Bill, 2019. Specifically, the Bill proposes deepening the Buyer Power provisions within the Act by providing that buyers must provide suppliers with contracts explicitly indicating payment dates and interest accrued upon failure to honor this agreement. This Bill also recognizes the development of Codes of Practice, a form of soft enforcement, governing various sectors. The Bill, which we anticipate will be passed into law this financial year, also introduces a penalty for professional associations that fail to submit their Rules containing anti-competitive clauses for review by the Authority.

Further, the Authority drafted policy documents meant to boost transparency, accountability and predictability in our decisions and interactions with stakeholders. These policies are expected to lower the cost of doing business in the country, enhance efficiency in business transactions, thus improving our investment climate.

The Authority draws approximately 70% of its budget from the National Treasury and Planning. We are grateful for the support accorded to us as is evidenced by the budget growth from Ksh. 525 Million in FY 2015/16 to the Ksh. 553.2 Million FY 2018/19. Improved enforcement efforts have greatly supplemented this allocation through fines and penalties.



The Authority has been feted 2 years in a row for being the best Government agency applying the International Public Sector Accounting Standards (IPSAS) Accrual basis of reporting



The Authority's greatest asset is its talented and professional employees who have, over the years, been recruited through a rigorous and competitive process. The Board, in recognition of the staff's centrality to the success of the organization, has approved twenty nine (29) policies meant to improve their welfare and make the Authority the employer of choice.

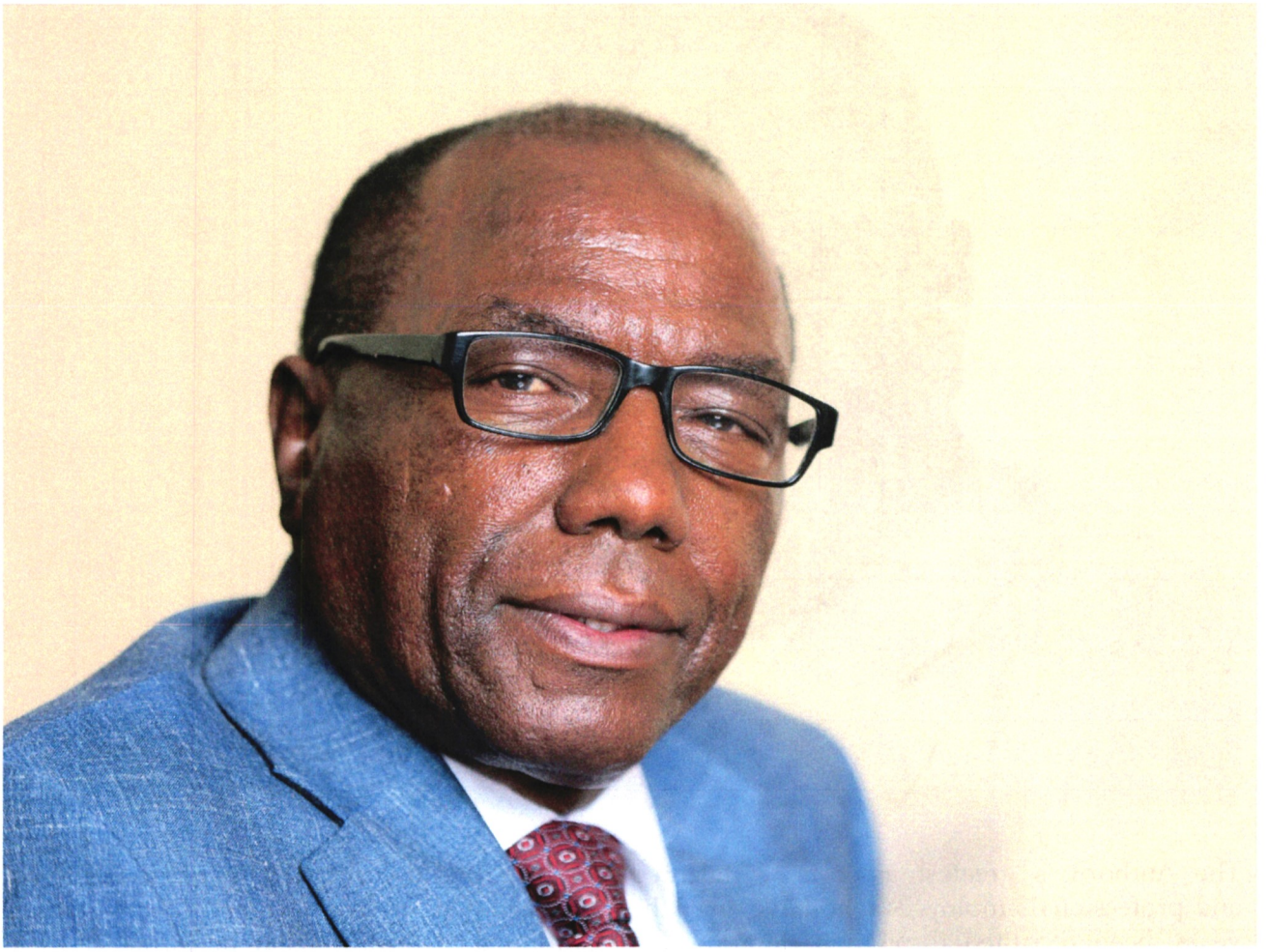
For instance, the Authority has implemented Staff Mortgage and Car Loan schemes at attractive rates.

Good corporate governance is central to the Authority's existence. The Authority is guided by policies and procedures which are monitored on various levels, beginning with the Board through the four (4) technical committees. It is important to highlight that due to this, the Authority was feted at the 2018 Financial Report (FiRe) Awards for being the best Government agency applying the International Public Sector Accounting Standards (IPSAS) Accrual basis of reporting. This was the second year in a row that the Authority emerged top in this category. The Board has continued to record stellar performance in the evaluation by the State Corporations Advisory Committee. During the FY 2017/18 evaluation, the Board's overall score was 4.6065 out of 5 which is equivalent to 92.13%.

I remain grateful to my fellow Board members, and the Management for the support accorded to me so far. It is with this kind of cooperation, Teamwork and hard work we shall be able to fulfil our statutory mandate of increasing consumers' welfare.

Amb. Nelson Ndirangu, OGW
Chairman

KAULI YA MWENYEKITI



1.4%

asilimia ya pato la kitaifa iliongezeka kutokamwaka 2017 - 2018

Kwa niaba ya kamati ya bodi, ningependa kuwasilisha ripoti ya mwaka na taarifa ya mwaka wa kifedha 2018/19 ambayo inaeleza juhudi zetu za kukuza ushindani na ustawi wa watumiaji na kuonyesha utendakazi wa fedha za Halmashauri. Halmashauri iliendelea kutilia maanani sekta ambazo ziko na umuhimu mkubwa miongoni mwa wakenya wengi, mbali na kuhimiza uvumbuzi na ukuzaji.

Mwaka unaokaguliwa ulikuwa wa mafanikio mengi sana. Kwanza kabisa pato la kitaifa liliongezeka kwa asilimia sita nukta tatu (6.3%) kulinganishwa na mwaka 2017 ambapo kulikuwa na asilimia nne nukta tisa (4.9%). Kulingana na uchunguzi wa kiuchumi mwaka 2019, ukuaji huu wa kiuchumi ulitokana na umahiri wa sekta ya kilimo, utengenezaji wa bidhaa, usafiri na sekta ya huduma pia sera za kiuchumi zilizo stawi. Hii imethibitishwa na kuongezeka kwa idadi ya arifu za kuunganisha kampuni zilizowasilishwa kwa Halmashauri mwaka wa kifedha 2018/19.

Halmashauri inaendelea kutekeleza jukumu lake kukuza uchumi. Ajenda kuu nne za serikali tawala almaarufu "Big 4 Agenda" zimeweka malengo ya juu, ila zaweza timizikika, katika sekta ya utengenezaji wa bidhaa, siha na afya kwa wote, ukuzaji wa vyakula na bei nafuu kwa makao/nyumba. Halmashauri iko na jukumu muhimu la kutekeleza kwa kila sekta. Halmashauri ilihakiki Mkakati Maalum wa mwaka 2017/18 – 2020/21 ili

Mamlaka ilituzwa kuwa bora zaidi miaka miwili mfululizo kati ya mashirika ya kiserikali mwaka wa 2018 kwa kutekeleza kikamilifu kanuni za kimataifa kuripoti uhasibu wa umma

kuweka juhudi mbalimbali za kusaidia kutimiza ajenda hizo kuu nne.

Ili kukuza mfumo bora wa kisheria wa kusaidia utekelezaji wa jukumu lake la kuhakikisha sheria imefuatwa, Halmashauri ilipendekeza mabadiliko kwa sheria kupitia mswada wa 2019. Mswada huo unapendekeza kuwepo vifungu zaidi katika sheria ya kuthibiti nguvu za mnunuzi ambapo mnunuzi anastahili kuweka maktaba na muuzaji iwe na uwazi kwa tarehe za malipo na riba itakayotozwa iwapo mnunuzi atashindwa kutekeleza mkataba huo. Mswada huu pia unajumuisha matukio ambayo yatawezesha kwa urahisi sekta mbalimbali za serikali. Mswada huu ambao unatarajiwa kupitishwa mwaka huu wa kifedha, utajumuisha adhabu kwa vyama vya kitaalam mbalimbali ambavyo havitaweza kuwasilisha kanuni zao zilizo na vipengee vinavyo vilivyo na mienendo inayoleta vizuizi kwa biashara kwa Halmashauri ili zikaguliwe.
Vile vile, Halmashauri ilirasimu sera ili kuongeza uwazi, uwajibikaji na utabiri wa mawaidha yanayohusisha wadau mbalimbali. Sera hizi zinatarajiwa kushusha gharama ya kufanya biashara nchini hivyo basi kuwezesha shughuli za biashara kuimarika na kuboresha hali ya uwekezaji.

Halmashauri hupata kima cha asilimia sabini (70%) kutoka hazina kuu ya nchi. Tunashukuru kwa msaada huo hasa ikithibitishwa na kukua kwa kiwango cha bajeti kutoka shilingi milioni mia tano elfu ishirini na tano katika mwaka wa kifedha 2015/2016 hadi shillingi milioni mia tano hamsini na tatu mwaka wa kifedha 2018/2019. Mgao huu umepigwa jeki na faini zinazotozwa wanaovunja sheria.

Raslimali kuu ya Halmashauri hii ni wafanyikazi wake walio na talanta na tajiriba ya juu ambao miaka yote wameajiriwa kupitia mikakati iliyo na uwazi na ushindani wa hali ya juu. Bodi, kwa kutambua umuhimu wa wafanyikazi kufanikisha malengo ya Halmashauri, wamepitisha sera ishirini na tisa (29) ili kuboresha ustawi wao na kuifanya Halmashauri mwajiri bora zaidi. Kwa mfano, Halmashauri imetekeleza mikopo ya nyumba na magari kwa wafanyikazi iliyo na viwango vya chini vya riba.

Mfumo bora wa kutekeleza shughuli umekuwa nguzo kuu kwa Halmashauri. Halmashauri inaongozwa na sera na utaratibu ambao hufuatiliwa kwa viwango mbalimbali, kuanzia Bodi kupitia kamati nne za kiufundi. Kutokana na hayo, Mamlaka ilituzwa kuwa bora zaidi kati ya mashirika ya kiserikali mwaka wa 2018 kwa kutekeleza kikamilifu kanuni za kimataifa kuripoti uhasibu wa umma. Imekuwa miaka miwili mfululizo kwa Mamlaka kupata tuzo hiyo. Bodi imeendelea kurekodi matokeo bora kwa tathmini ya mashirika ya umma. Wakati wa tathmini ya mwaka wa kifedha 2017/18, Bodi, kwa jumla, ilijizolea alama 4.6065 juu ya 5 ambayo ni sawa na asilimia 92.13%.

Nawashukuru wanabodi wenzangu na usimamizi kwa kunipa mkono wa tahania kufikia hapa. Ni kutoka na umoja, ushirikiano na bidii hii tutakavyoweza kuafikia malengo yetu kisheria.

Balozi Nelson Ndirangu. OGW.
Mwenyekiti

DIRECTOR GENERAL'S STATEMENT

141

Number of finalized mergers in FY 2018/19

34%

Increase in consumer complaints

7th

Kenya improved 19 positions to position 61 globally and was ranked as the 7th most improved country globally.

It gives me utmost pleasure to present the Annual Report and Financial Statements for the FY 2018/19, highlighting the Authority's major achievements and activities planned for the medium term. The Authority is in the second year of implementing its Strategic Plan 2017/18 – 2020/21 which pays special attention to enforcement of competition law and policy and amplified advocacy initiatives.

During FY 2018/19, the Authority reviewed and aligned its Strategic Plan to the Big Four Agenda, focusing our interventions on areas the Government has earmarked as enablers of socioeconomic development. The Plan also considered the Vision 2030 Blueprint, the Medium Term Expenditure Framework III (MTEF) and the Sustainable Development Goals (SDGs).

Through these sector-specific investigations, the Authority extinguished anti-competitive practices and consumer welfare infractions found to be impairing economic growth and disenfranchising consumers from choice, competitive products and innovation.
In the FY 2019/20, the Authority shall step up its enforcement efforts to ensure that pending investigations are finalized, attendant remedial interventions implemented, as well as initiate new inquires that have the potential of positively impacting a large number of Kenyans.

Already, the Authority has proposed amendments to the Competition Act No.12 of 2010 seeking to strengthen its enforcement mandate. The Competition (Amendment) Bill, 2019, among other things, proposes that buyers must provide suppliers with contracts explicitly indicating payment dates and interest accrued upon failure to honor this agreement.

The proposed law advocated for the development of Codes of Practice, a form of soft enforcement governing various sectors and which serve as alternative dispute mechanisms. Further, the Bill, which we anticipate will become law in FY 2019/20, introduces a penalty for professional associations that fail to submit their Rules containing anti-competitive clauses for review by the Authority.

Another key achievement of the FY 2018/19, also borne of an amendment to the Act, was the formation of the Buyer Power Department within the Authority. This Department investigates businesses abusing their influence over suppliers. The Department prioritized its initial investigations on the retail industry, the worst affected, but will, in the FY 2019/20, extend its interventions to sectors with a bearing on the realization of the Big Four Agenda, while ensuring maximum societal impact.

An oft-mentioned fact is that SMEs are a catalyst of inclusive growth and development. In recent years, several small businesses have closed shop due locally for various reasons. The Authority is confident that the interventions it has implemented or proposed to address anti-competitive practices, accompanied by those taken by other Government agencies, will help address the mortality rate among SMEs and boost their already significant contribution to the country's GDP.

One the goals of the Authority's Strategic Plan is enhancing transparency, accountability and predictability of its decision-making process. Towards this, the Authority reviewed its Market Definition Guidelines, taking into account the challenges faced when regulating the digital sector in light of advancements in competition law enforcement. The Guidelines introduce globally mainstreamed concepts like Big Data, multisided markets and digital markets. They also provide transparency and clarity to our stakeholders about why market definition is a critical process during merger analysis and how the Authority conducts it.

While on the subject of digital markets, it is important to mention that Kenya Digital Economy Blueprint envisions that all arms of Government adopt technology to improve service delivery, promote transparency and reduce corruption, save costs, among other benefits. Increasingly, digital media is becoming the preferred channel through which Kenyans interact with Government to provide feedback, register complaints and seek services.

During the financial year under review, the Authority launched a public portal enabling stakeholders submit applications and register consumer complaints online, eliminating the need for physical applications. The Authority has also automated its support processes like Human Resource and Procurement as part of a progressive and deliberate effort to fully digitize its operations.

Automation has greatly reduced the time in which the Authority analyzes applications and process saving investors valuable time and money. Regulatory roadblocks can have a negative impact on economic progress and development and, therefore, the Authority, in its quest to facilitate businesses, ensures that it dispenses with applications submitted to it in the shortest time possible, while remaining true to professionalism, transparency and predictability.

It is therefore, noteworthy that the Authority finalized one hundred and forty one (141) mergers during the period under review. The average time taken to dispense these cases was 37 days, representing an improvement from the previous year's average of 44 days.

Automation of our processes is anticipated to improve these lead-times going forward. This commitment speaks to the Government's concerted efforts to improve the country's business environment to support existing businesses and attract new investors. The fruits of the initiatives manifested in the country's improved performance in the World Bank's Ease of Doing Business Index 2019. Kenya improved 19 positions to position 61 globally and was ranked as the 7th most improved country globally. The ultimate beneficiary of effective competition is the consumer. Towards this, the Authority stepped up our sensitization activities to educate consumers about their rights under the Act and how to register complaints with the Authority. This was done through various channels, including during the observation of the World Competition Day, World Consumer Rights Day, County Sensitization Forums and Nairobi Innovation Week. Further, the Authority revamped its website giving stakeholders (local, regional and international) access to timely and relevant information in a modern and easy-to-consume format. One significant feature of the Authority's new website is that it is now friendly for use by stakeholders who have visual and audio challenges. These sensitization activities, which are being conducted through new and traditional media, are bearing fruits. During the financial year under review, the number of consumer complaints increased by 34%, from one hundred and two (102) to one hundred and thirty six (136). This indicates that consumers are more aware about the remedies available to them and the various channels through which they can lodge complaints.

Globalization has blurred geographical borders. From a competition law and policy enforcement standpoint, this is evidenced by an increased number of cross-border merger applications. While this is commendable, it has also resulted in the proliferation of transnational anti-competitive practices presenting a unique challenge to competition enforcers.

To better understand this



evolving environment, Kenya, in conjunction with the COMESA Competition Commission, hosted a Restrictive Business Practices Workshop to build capacity among member agencies on investigative tools and techniques aimed at extinguishing competition infractions. In addition, the Authority participated in a Merger Workshop organized by the Africa Competition Forum (ACF) aimed at empowering competition agencies with requisite skills and knowledge in an increasingly changing merger analysis environment. While the Authority commits to facilitate business - through continually improving its officers' capacity, increasing its sensitization initiatives, automating its processes, and updating its processes and procedures, among others --, it is imperative that the regulated commit to operate within the law. During the year under review, the Authority investigated eighteen (18) Restrictive Trade Practices (RTPs) cases, up from fifteen (15) cases in FY 2017/18. One of these cases, which is elaborated further in this Report, sought to determine and extinguish cartel-like behavior in the paints manufacturing industry. This investigation has been partly resolved so I will refrain from articulating finer details of the matter. However, these RTP cases point to the fact that, while a competition culture is entrenched in the country, there are some enterprises that are still keen on conducting business through unlawful means. They stand cautioned that conduct such as price-fixing, abuse of dominance, market allocation, among other practices, are illegal and punishable under the Act.

The achievements highlighted above are a result of collaboration and support from different stakeholders. I would like to appreciate our parent ministry, the National Treasury and Planning, for the continued financial and technical support. The Board has equally been instrumental in enabling the Authority achieve what is set out to do in the financial year under review. I would like to thank Mr. David Ong'olo, the outgoing Chairman, for the sober and skilled leadership with which he stewarded the Board for 6 years. Equally, and on behalf of the Management, I would like to welcome the incoming Chairman, Ambassador Nelson Ndirangu. Last but not least, the Authority is powered by a very skillful and professional workforce. Our staff are our greatest asset and the achievements highlighted in this report are as a result of their hard work.

Wang'ombe Kariuki,
MBS Director General

Mr. Benard Ayieko, Principal Analyst, Policy Department, sensitizes a stakeholder about the Authority's mandate during the Nairobi Innovation Week in June 2019.



KAULI YA MKURUGENZI MKUU



Inanipa furaha kuu kuwasilisha ripoti ya mwaka na taarifa ya kifedha ya mwaka 2018/2019, inayodokeza, mafanikio ya Halmashauri na mpangilio wa yale yanayobaniwa kuafikiwa katika muhula wa kadri. Halmashauri iko katika mwaka wa pili wa utekelezaji wa mpangilio wa mikakati ya mwaka wa 2017/18 – 2020/21, ambayo inatilia mkazo sheria na sera ya ushindani wa kibiashara.

Katika mwaka wa kifedha 2018/19, Halmashauri ilihakiki na kuweka sawa Mkakati Maalum kulingana na agenda kuu nne ikizingatia sehemu serikali imeangazia kuwa zitadumisha maendeleo ya kiuchumi. Mkakati vilevile umeangazia ruwaza ya mwaka 2030, muda wa kati mfumo matumizi na malengo ya maendeleo endelevu. Kupitia uchunguzi mahususi wa sekta mbalimbali, Halmashauri iliweza kupambana na mienendo inayozuia ushindani wa kibiashara na kugandamiza wanunuzi na iliyo na uwezo wa kusambaratisha uchumi.

Katika mwaka wa kifedha wa 2019/20, Halmashauri inabania kutilia maanani na kukamilisha uchunguzi wa kesi zinazoendelea, kutekeleza marekebisho mwafaka mbali na kuanzisha uchunguzi ulio na uwezo wa kunufaisha wakenya wengi.

Tayari Halmashauri imependekeza mageuzi kwa sheria ya ushindani ikiwania kuongeza uwezo wake wa utekelezaji wa sheria. Mswada wa mwaka 2019 unapendekeza kuwa mnunuzi anastahili kuweka mkataba na muuzaji yenye na uwazi kwa tarehe za malipo na riba itakayotozwa iwapo mnunuzi atashindwa kutekeleza mkataba huo.

Mswada huu unapendekeza kuundwa kanuni za mienendo ambazo zitawezesha kuendesha kwa urahisi sekta mbalimbali za serikali na kutoa njia mbadala ya kusuluhisha malalamishi. Mswada huu ambao unatarajiwa kupitishwa mwaka huu wa kifedha wa 2019/2020, utajumuisha adhabu kwa vyama vya kitaalam mbalimbali ambavyo havitaweza kuwasilisha kanuni zao zilizo na vipengele vilivyo na mienendo inayoleta vizuizi kwa biashara kwa Halmashauri ili zikaguliwe.

Mafanikio mengine makuu ya mwaka wa kifedha 2018/19, yaliyotokana na mageuzi ya sheria za

mashindano, ni kuanzishwa kwa kitengo cha nguvu ya wanunuzi ndani ya Halmashauri. Hiki kitengo kinachunguza wanunuzi wanaonyanyasa wauzaji/wasambazaji. Kitengo hicho kilipeana kipaumbele uchunguzi wa sekta ya rejareja, sekta ambayo iliathirika sana na unyanyasaji huo. Hata hivyo, mwaka wa 2019/2020 kitengo hicho kitalenga sekta zingine kwa minajili ya kuwezesha malengo ya ajenda kuu nne za serikali.

Ni ukweli usiopingika kuwa biashara ndogondogo (SMEs) ni kiungo muhimu cha kuchochea maendeleo na ukuaji shirikishi. Miaka ya hivi karibuni baadhi ya biashara nyingi ndogondogo zimekua zikifungwa kutokana na sababu mbalimbali. Mamlaka ya usimamizi wa biashara kwa kushirikiana na mamlaka nyingine za serikali tayari imeshachukua hatua mbalimbali kwa lengo la kudhibit vitendo vilivyo kinyume na ushindani wa biashara. Ni dhahiri kwamba hatua hizo zitasaidia kupunguza kasi ya kufungwa biashara ndogondogo, na hatimae kushuhudia matunda ya biashara hizo kwenye ukuaji wa pato la taifa.

Mamlaka ya usimamizi wa biashara imeandaa Mpango Mkakati ambao pamoja na mambo mengine umelenga kuongeza uwazi, uwajibikaji na hali ya kutabilika kwenye mchakato wote wa utoaji wa maamuzi kwenye masuala ya msingi ya Mamlaka. Ili kufikia lengo hili, Mamlaka imepitia upya Muongozo wa Masoko. Mapitio haya yamewezesha kuweka mfumo wa kushugulikia changamoto zilizopo kwenye uratibu wa sekta ya kidigitali kwa kutumia mbinu za kisasa za utekelezaji wa sheria za ushindani sawa wa kibiashara. Muongozo huu mpya umetambua dhana mbalimbali za kisasa zinazotumika ulimwenguni ambazo ni: Big Data; Multisided Markets na Digital Market. Aidha, mapitio haya yanaisaidia mamlaka kuendesha uchambuzi wa michakato ya kuunganisha kampuni za biashara kwa kuzingatia uwazi na urahisi kwa wadau.

Katika nyanja ya Masoko ya kidigitali, ni vyema ikaeleweka kuwa Mpango wa Uchumi wa Kidigitali wa Kenya unazitaka mamlaka zote za Serikali kutumia teknolojia. Matumizi ya teknolojia yana faida nyingi kama vile kuongeza ufanisi kwenye utoaji wa huduma, kuongeza uwazi, kupunguza rushwa, na kuokoa gharama za utoaji wa huduma. Kasi ya wakenya kutumia njia za kidigitali kuwasiliana na mamlaka za serikali imeongezeka, ambapo wakenya wengi wanapendelea njia hiyo kutoa mrejesho wa huduma wanazopata, kusajili malalamiko na vilevile kutafuta huduma. Katika kipindi cha mwaka huu wa fedha, Mamlaka imezindua tovuti inayowasaidia wadau kuwasilisha maombi mbalimbali kwa njia ya mtandao na kusajili malalamiko ya watumiaji wa bidhaa. Hii imewaondolea ulazima wa kusafiri hadi kwenye Ofisi za Mamlaka. Mamlaka pia imeboresha teknolojia kwenye masuala ya rasilimali watu na ugavi, kama sehemu tu ya mpango endelevu unaokusudia kugeuza shughuli zote kuwa za kidigitali.

Teknolojia hizi zimesaidia sana kupunguza muda ambao mamlaka imekua ikipoteza kushughulikia maombi mbalimbali, jambo ambalo limeokoa pia muda na fedha za wawekezaji. Mamlaka inatambua kuwa, taratibu nyingi za kuratibu utoaji huduma zinaweza kudhuru ukuaji wa uchumi na maendeleo. Kwa muktadha huo, Mamlaka imehakikisha kuwa inafanyia kazi ndani ya muda mfupi maombi yote yaliyopokelewa kwa kuzingatia weledi uwazi na uhakika ili kusaidia biashara.

Kufuatia juhudi hizo, Mamlaka imefanikiwa kuidhinisha maombi yapatayo mia moja arobaini na moja (141) ya kuunganisha kampuni za biashara katika kipindi cha mwaka huu. Wastani wa muda uliotumika kushughulikia maombi hayo yote ni siku thelathini na saba (37), hali hii inaonesha mafanikio ikilinganishwa na wastani wa siku arobaini na nne (44) katika kipindi cha mwaka jana.

Kwa ujumla mchakato wa kutoa huduma kwa njia ya kidigitali unatarajiwa kuongezeka siku za mbeleni. Dhamira hii inatokana na juhudi za serikali kuboresha mazingira ya biashara ili kuzisaidia biashara zilizopo na pia kuwavutia wawekezaji wapya. Miongoni mwa mafanikio ya juhudi hizi za serikali kuboresha mazingira ya biashara yamedhihirika kwenye Orodha ya Benki ya Dunia ya Viwango vya urahisi wa kufanya biashara kwa mwaka 2019 (World Banks Ease of doing business Index 2019). Katika orodha hiyo Kenya imepanda nafasi tisa na kushika nafasi ya 61 kidunia na imekua pia nchi ya 7 iliyoboresha zaidi mazingira ya biashara.

Mnufaika wa mwisho wa mazingira bora ya ushindani wa biashara ni mlaji. Ili kuhakikisha hilo Mamlaka imechukua hatua hatua za kuhamasisha na kuelimisha walaji kuhusu haki

zao kwenye sheria , namna ya kusajili malalamiko kwenye Mamlaka. Zoezi hili limeendeshwa kupitia njia mbalimbali, ikiwa pamoja na Siku ya Ushindani wa kibiashara duniani, Siku wa Haki za walaji duniani, Majukwaa ya uhamishaji kwenye Kaunti, na siku ya Uvumbuzi Nairobi. Vilevile, Mamlaka imefufua tovuti yake ambayo inahudumia wadau (wa ndani ya nchi, kikanda na kimataifa) kuwapa taarifa muhimu ndani ya wakati na kwa mtindo wa kisasa na rahisi. Moja ya sifa kubwa za tovuti mpya ni kwamba kwa sasa ni rahisi pia kutumika hata kwa wadau wenye changamoto za kutoona na kutosikia. Juhudi za uhamasishaji ambazo zimekua zikiendeshwa kwa njia mpya na za zamani zimeanza kuzaa matunda. Kwa Mwaka wa fedha uliopita, idadi ya malalamiko ya walaji yaliyopokelewa yaliongezeka kwa asilimia 34 kutoka malalamiko mia moja na mbili (102) hadi kufikia mia moja na thekathini na sita (136). Hali hii inaonesha kuwa walaji wana uelewa mpana zaidi wa stahiki zao na namna mbalimbali za kuwasilisha malalamiko yao.

Teknolojia imedhoofisha nafasi ya mipaka ya kijiografia ya nchi moja moja kuratibu sheria za ushindani wa biashara pamoja na sera. Hali hii imejidhihirisha kwa kuongezeka kwa maombi ya kuunganisha kampuni zinazovuka mipaka ya nchi moja. Jambo hili ni zuri, lakini kwa upande mwingine limepelekea kuongezeka vitendo vilivyo kinyume na ushindani halali wa biashara jambo ambalo linaleta changamoto kwa waratibu wa ushindani.

Kwa kuzingatia mabadiliko yanayondelea kwenye sekta ya ushindani sawa wa kibiashara, Kenya kwa kushirikiana na Tume ya Ushindani ya Jumuiya ya Soko la Pamoja la Mashariki na Kusini mwa Afrika (COMESA) imeandaa warsha ya udhibiti wa vitendo viovu kwenye biashara. Warsha hii imelenga kuziongezea uwezo Mamlaka za nchi wanachama wa umoja huo kwenye masuala ya nyenzo na mbinu za kiuchunguzi zinazolenga kudhibiti ukiukwaji wa ushindani kwenye biashara. Mamlaka pia ilishiriki kwenye Warsha ya Kujadili uunganishaji wa kampuni za biashara iliyoandaliwa na Jukwaa la Ushindani la Afrika (Africa Competition Forum - ACF). Warsha hii ililenga kuziongezea ujuzi na uelewa Mamlaka za ushindani kuhusu mabadiliko yaliyopo kwenye soko la ushindani. Wakati mamlaka imejidhatiti kusaidia biashara kwa kuwaongezea ujuzi na uwezo wataalamu wake, na kuongeza shughuli za uhamasishaji, kuanzisha mchakato wa matumizi ya teknolojia na digitali na kuboresha mifumo yake, ni muhimu yote hayo yakaendeshwa kwa kufuata misingi ya sheria. Kwa mwaka uliopita, Mamlaka imechunguza kesi 18 za vitendo viovu kwenye biashara, hili ni ongezeko kutoka kesi 15 kwa mwaka 2017/18. Moja miongoni mwa kesi hizi (kama ilivoainishwa zaidi kwenye taarifa hii ililenga kuchunguza na kuvunja tabia ya kuunda mfano wa genge la walanguzi kwenye biashara ya utengenezaji wa rangi. Sehemu tu ya uchunguzi kwenye kesi hii tayari umeshakamilika hivyo sitalizungumzia zaidi suala hili. Hata hivyo, vitendo hivi vinaashiria ya kwamba wakati tumekua na utamaduni wa ushindani wa haki kwenye biashara hapa nchini, bado kuna baadhi ya biashara ambazo bado zinamipango ya kujiendesha kwa mbinu zilizo kinyume na taratibu za kisheria. Biashara hizi zinaonywa kuwa vitendo kama vile (price fixing, abuse of dominance, market allocations) ni makosa yanayo stahili adhabu kwa mujibu wa sheria.

Mafanikio yaliyoelezwa hapo juu ni matunda ya ushirikiano na msaada tuliopokea kutoka kwa wadau mbalimbali. Ninatumia fursa hii kushukuru sana Wizara mama, Ofisi ya Hazina na Mipango kwa kuendelea kutupatia msaada wa kifedha na kiutaalamu. Bodi yetu vilevile imeendelea kuwa kiungo muhimu kuwezesha Mamlaka kutekeleza majukumu yake katika kipindi cha mwaka uliopita. Napenda kutumia nafasi hii pia kumshukuru ndugu David Ong'olo, Mwenyekiti aliyemaliza muda wake, kwa uongozi makini kwa kipindi chote cha miaka sita akiongoza bodi, na kwa niaba ya utawala natumia nafasi hii kumkaribisha Mwenyekiti mpya Balozi Nelson Ndirangu. Mwisho niseme kuwa Mamlaka hii inapewa nguvu na uwepo wa watumishi wenye weledi na ujuzi wa hali ya juu. Watumishi hawa ni msingi wa thamani yote ya Mamlaka hii, na kwamba mafanikio yaliyofikiwa ni ishara tosha na ni matunda ya kujituma kwao.

Wang'ombe Kariuki,
Mkurugenzi mkuu



Mr. Linus Melly, Senior Analyst, Mergers & Acquisitions, sensitizes a stakeholder about the Authority's mandate during the Nairobi Innovation Week in June 2019.

CORPORATE GOVERNANCE

INTERNAL AUDIT AND ASSURANCE

The Internal Audit Department has continued to proactively work with management throughout the Financial Year 2018/19 to provide assurance that the existing internal controls and processes are in place and optimized for effective and efficient risk mitigation.

As a Third Line of defense, the aim of Internal Audit is to deepen good governance practices and support the achievement of effective internal controls through continuous monitoring and follow up. The objectivity and independence of the Internal Audit function is enhanced through governance support from the Board Audit Committee.

The Internal Audit Department was able to attain 100% coverage of its Annual Work Plan through its proactive team and cover the entire Authority through internal audit assignments.

Through quarterly audit reviews, the compliance levels to approved policies and relevant legislations were assessed as well as the adequacy, design and operational effectiveness of internal controls. The Office of the Auditor-General provided the external assurance through a systems and financial audit on the various expenditure cycles and business processes of the Authority.

CORRUPTION PREVENTION

The Authority has a zero-tolerance policy towards corruption. The Authority undertook various sensitization and training initiatives to educate and sensitize staff members on the phenomenon of corruption, obligations of State and Public Officers under the Leadership and Integrity Act, 2012 and the Bribery Act, 2016 as well as enlightening members on ways of fostering good governance in Public Sector institutions. This was aimed at raising the culture of integrity, ethical conduct and professionalism in the Authority. Further, in order to bolster the Corruption prevention activities in the departments, the Authority through the help of Ethics and Anti-Corruption Commission trained four Integrity Assurance Officers.

Corruption Risk Assessments were carried out on a quarterly basis in all functional areas to ensure robust mitigations plans were in place, obtain an update on the implementation status of mitigation plans and ensure corruption risks were adequately updated. There were zero cases of corruption reported during the financial year.

A Corruption Perception Index (CPI) survey was carried out in the year under review which indicated an index of 0.8237 which is low as per a scale of 0-3 with 0 being low and 3 as high corruption rating. Converted to a percentage, the rating is 72.55%, which is low rating indication compared to the National Corruption Perception Index is 27% while the global average perception index is 43%. In the coming financial year the Authority shall introduce the following additional measures to ensure the perception tends towards zero;

WHISTLE BLOWING POLICY

The Authority has a whistle blowing policy that provides for an ethics hotline, email and corruption reporting box. Through these channels, anonymous reports on unethical/ fraudulent behaviour can be made without fear of retaliation from the suspected individuals.

RISK MANAGEMENT

Risk Management is a strategic function of the Authority's business and is applied in the day to day operations across all departments. This ensures that all risks are managed optimally and comply with the approved policies and tenets of good corporate governance.

The Authority's Risk Management Framework was operationalized in the financial year 2017/18. It encompasses practices relating to the identification, analysis, evaluation, treatment, mitigation and monitoring of both Strategic and Departmental risks to achieve the Authority's key objectives as envisaged in its Strategic Plan 2017/18-2020/21. Risk management seeks to minimize the adverse impact of risks thus enabling the Authority to leverage on opportunities effectively.

In the year under review, the Authority continued to implement the various mitigation strategies to ensure that the risk levels are minimized by continuously monitoring the mitigation measures, reviewing timelines, engaging the Risk Management Committee through quarterly meetings to evaluate risks, continuous training of risk champions and sensitization of staff members on risk.



AUTHORITY'S PERFORMANCE BASED ON THE STRATEGIC PLAN THEMES

THEME 1: DELIVERING EFFECTIVE ENFORCEMENT

1. REGULATION OF RESTRICTIVE TRADE PRACTICES

The Authority under Section 9 of the Act is mandated to enforce compliance with the Act through investigation of alleged prohibited conduct under the Act. Pursuant to Section 31, the Authority is empowered to initiate investigation upon receipt of complaint or after taking cognizance of possible violation through its own intelligence and other means. Parties to conduct prohibited (cartels) under Section 21 and 22 of the Act may, however, be granted exemption upon application if benefits of such arrangements outweigh negative effect on competition.

Section 30 of the Act provides for Block/Category Exemption to certain prohibited practices under Section 21 and 22 of the Act. This is aimed at reducing transaction costs and allow the Authority to concentrate its resources on material contraventions of the law. During the financial year, the Authority started developing the guidelines to facilitate the operationalization of this provision.

During the period under review, the Authority investigated eighteen (18) Restrictive Trade Practices (RTPs) cases. Eight (8) of these were finalized and appropriate remedies imposed. Three (3) applications for exemption were received, evaluated and finalized. Two of which were granted approval without conditions and one with conditions.

Additionally, the Authority carried out initiatives to ensure compliance with its decisions, orders and commitments by parties. Further, the Authority provided advisory services to undertakings, an initiative which enhanced voluntary compliance with the Competition Act. The RTPs and exemption applications handled during the period under review is illustrated in Fig 3.

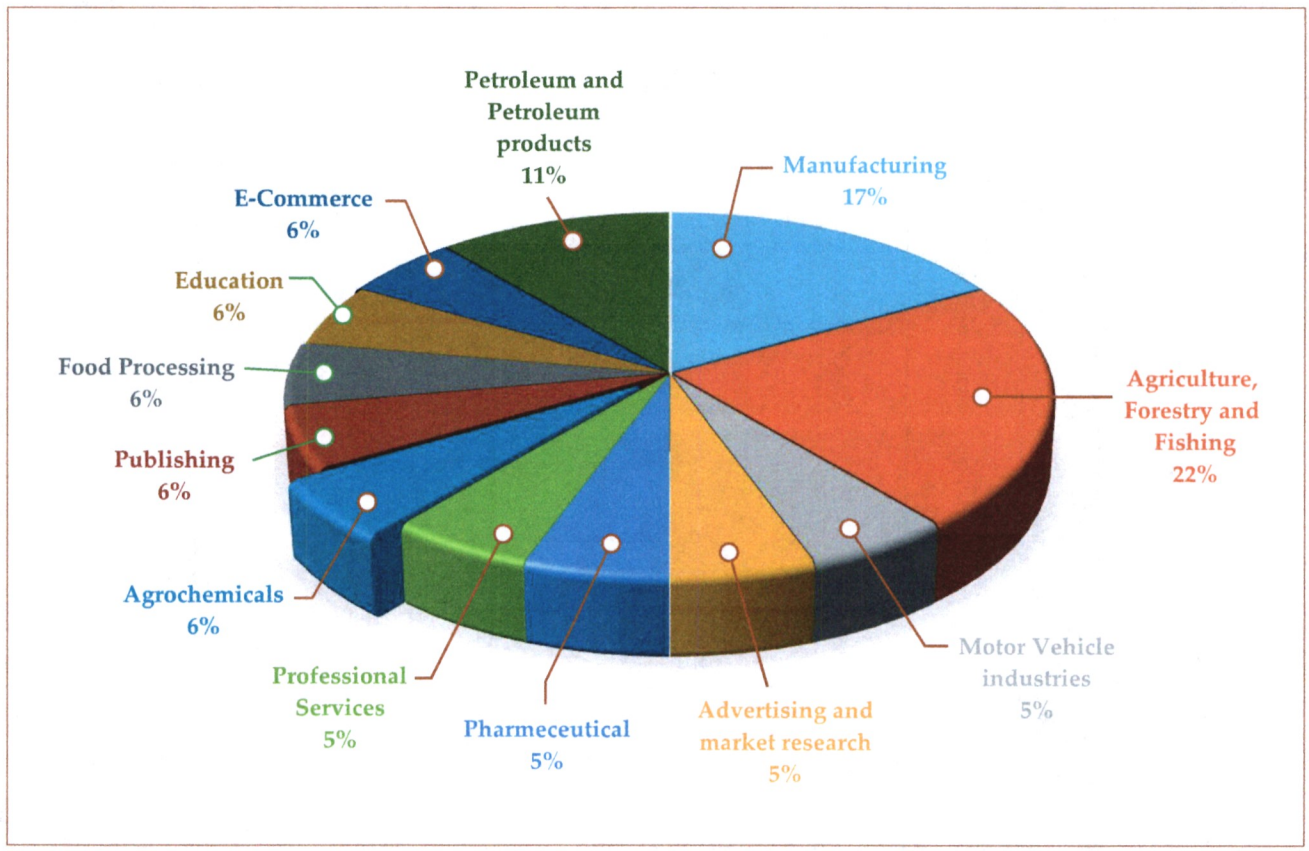


Figure 3: RTPs cases per sector handled in 2018-2019

As illustrated in figure 3 above, majority of the cases handled (22%) during the financial year are from Agriculture, Forestry and Fishing sector which was followed by the manufacturing sector with seventeen (17) percent. An emerging scenario was witnessed during the period where investigations were conducted in non-traditional sectors like e-commerce, education and publishing.

Some of the RTP cases investigated during the period

INVESTIGATION INTO THE PAINTS INDUSTRY

Pursuant to section 31 of the Act and through its market intelligence, the Authority initiated investigations on its own motion into the paints manufacturing sector, to determine whether key players in the sector were engaging in collusive determination of prices and other terms of trade.

Having obtained a court warrant, the Authority undertook a search (Dawn Raid) at the premises of the top four (4) paint manufacturers namely Crown Paints PLC, Basco Products (K) Ltd, Plascon Paints Kenya Ltd and Galaxy Paints and Coatings Ltd. Basco Products (K) Ltd initiated settlement proceedings in the matter pursuant to the provisions of Section 38 of the Act and a Settlement Agreement was entered into. The evaluation of the evidence obtained with regard to the remaining three parties was ongoing at the time of reporting.

COMPLAINT AGAINST SHREE CUTCHI LEVA PATEL SAMAJ SCHOOL

The Authority received a complaint in July 2018 alleging that the management of Shree Cutchi Leva Patel Samaj School and College (SCLPS School) was making it mandatory for parents to acquire laptops from the school for E-learning and not delineating the costs of the laptops from the school levy. The school is comprised of nursery, primary, secondary and college and offers subjects for the International General Certificate of Secondary Education (IGCSE) "O" Level certificate. The complaint was investigated pursuant to the provisions of Section 21(3) and 56(4) of the Act.

Upon receipt of the complaint the Authority issued a cease and desist order under Section 37 of the Act, premised on the fact that the likely harm of the arrangement on the parents/guardians could be irreparable. The said section empowers the Authority to issue an interim relief, upon belief on reasonable grounds, that an undertaking is engaging or is proposing to engage in conduct that constitutes an infringement of Part 3 of the Act.

Following completion of the investigations, the Authority established that tying parents/guardians to purchase the laptops from the school was not based on any commercial or technical justifications. The school was therefore ordered to:

Allow all parents to purchase laptops from alternative vendors and suppliers provided that they meet the required specifications;

Formally communicate to the parents who still opt to obtain the laptops from the school, the breakdown of all the costs involved in the acquisition of the same; and Delineate the cost of the laptop from other school levies in order to facilitate parents willing to acquire the laptops from other sources to nevertheless pay the other relevant levies.

EXEMPTION APPLICATIONS

A. EXEMPTION APPLICATION BY COOPER K-BRANDS LIMITED AND ITS STRATEGIC BUSINESS PARTNERS

Cooper K-Brands Limited (CKL) and its Strategic Business Partners (SBPs) applied for an exemption from the application of Part III of the Competition Act for a period of five (5) years. Cooper K- Brands Limited specializes in manufacture and distribution of livestock nutrition, veterinary products, crop protection and nutrition products.
Specifically, the parties sought exemption of various clauses as follows:

i. Clauses on product exclusivity: prohibiting its SBPs from engaging in competing brands without prior approval;
ii. Clauses on territory allocation: prohibiting its SBPs from making active and passive sales outside allocated territories:
iii. Clauses on restricting sales; prohibiting its SBPs from engaging in retail sales in direct competition with retailers;
iv. Clauses on resale price maintenance: requiring its SBPs to sell the products at a minimum price as directed by Cooper K-Brands Ltd.

The Authority granted exemption on exclusive distributorship agreements between Cooper-K Brands and its Strategic Business Partners for a period of five (5) years from the date of the decision on condition that the termination clauses are amended to provide for reasonable termination notice period. This is based on the fact that CKL does not hold a dominant position in the submarkets for herbicides, pasture & seeds and fungicides & insecticides.

However, the Authority rejected exemption in respect to clauses on territorial allocation, non-compete obligations and resale price maintenance because:

i. The applicant(s) failed to demonstrate factually and convincingly the indispensability of the restrictions in creating stability to the industry;
ii. Competition among the SBPs, and that between the SBPs and stockists, is likely to spur intra-brand competition and will benefit the farmers.

B. KOKO NETWORKS LIMITED (KENYA) AND VIVO ENERGY KENYA LIMITED

KOKO Networks Limited **(KNL)** and Vivo Energy Kenya Limited **(VEK)** submitted application for exemption for some of the provisions contained in their Wholesale Concession and Operating Agreement for a period of ten (10) years.

KNL is a subsidiary of KOKO Networks Limited (Mauritius), a technology company that has developed and owns a proprietary suite of hardware and software technologies for cooking and distribution of liquid denatured ethanol cooking fuel (the Technology Platform).

VEK is a downstream energy company which deals in importation, supply, distribution and sale of petroleum products like Liquefied Petroleum Gas **(LPG)**, automotive fuels, lubricants, aviation fuels and fuel oil.

The parties sought the following exemptions on exclusivity and price fixing:

i. Exclusivity with respect of an arrangement with Vivo who will distribute the KOKO Ethanol to the KOKO Agents appointed by KOKO Networks Limited;
ii. Exclusivity for Vivo to distribute the KOKO Ethanol to KOKO Networks Kenya's Agent Network for sale at KOKO points;
iii. Exclusivity for KOKO Networks Kenya in respect of the distribution in Kenya from its sister company in India, of the KOKO Consumer Hardware; and
iv. The ability for KOKO Networks Kenya and Vivo to jointly set the prices at which the ethanol cooking fuel will be sold to end users of the KOKO Hardware based on a cost-plus model.

The Authority's assessment of the proposed arrangement concluded that:

i. Ethanol as a cooking fuel/solution together with other cooking fuels accounts for 3.4% of the cooking fuel market nationally, 5.4% and 2% in the urban and rural markets respectively. Therefore, the detriment to competition from the exclusivity arrangement will be very minimal;
ii. The exclusivity will promote the technical and economic progress and stability in the cooking fuel industry through increased production of ethanol and modernization of the domestic manufacturing process;
iii. Agreements to fix prices is a hard core restriction under the Act, the applicants did not provide overriding public interest in its support. Therefore, the application and justifications by the applicants with regard to price setting did not satisfy the threshold set by section 26(3); and
iv. The application for exemption and justifications by the applicants with regard to exclusivity satisfied the threshold set by section 26.

The Authority granted in relation to product exclusivity for a period of five years since the exclusivity arrangement by the two firms has a minimal effect on the market; and rejected the application for exemption with regard to joint price setting by the parties because agreements to fix prices amount to a hard-core restriction under the Act and the applicants did not provide overriding public interest in its support.

The parties' intent to sell liquid denatured ethanol in small quantities will make it more affordable to the low income consumers and will likely lead to:

i. Significant health and environmental benefits resulting from the use of ethanol, a clean fuel, as an alternative cooking solution to traditional firewood, charcoal and kerosene; and
ii. Creation of competition in the cooking solutions market in Kenya and benefiting low income consumers by providing affordable cooking solutions.

COMPLIANCE INITIATIVES

The Authority is mandated under section 9(1)(a) to ensure compliance with the Act. Consequently, the Authority conducted various initiatives during the reporting period to ensure compliance with decisions it made under various provisions of the Act as highlighted below.

A. COMPLIANCE WITH CONDITIONS ON THE ACQUISITION BY TOTAL OUTRE-MERS.AOFTHEENTIREISSUEDSHARECAPITALOFGULFAFRICA PETROLEUM CORPORATION (GAPCO)

The Authority approved the acquisition of 100% of the issued share capital in Gulf African Petroleum Corporation by Total Outremer S.A in October 2016 pursuant to the powers conferred upon it by Section 46(6)(a)(ii) of the Act.

Some of the issues raised by the Authority were that the transaction was likely to raise;

i. Competition concerns in the market for the storage of petroleum products at Mombasa Terminal II owing to the fact that the target undertaking was the single largest private player in the provision of petroleum storage facilities; and
ii. Negative public interest concerns on employment.

To remedy these concerns, the merger was approved with the following conditions:

i. The post-merger entity was prohibited from terminating short term employment contracts for 2 years from the date of the implementation of the merger and renew those contracts that were due to expire before the period;
ii. Not to terminate any permanent and pensionable long term employment contracts of GAPCO employees before the end of the 2 year period from the date of the implementation of the merger;
iii. Respect all hospitality agreements that GAPCO had entered into with the third parties on or before 21st July 2016 in relation the Mombasa Terminal II; and
iv. The Merging parties shall maintain the existing policy of hospitality at Mombasa Terminal II available to third parties and entering into relevant agreements with third parties for 3 years from the date of the implementation of the merger.

To ensure compliance with the conditions imposed on the parties, the Authority conducted the 1st anniversary post-merger compliance exercise relating to short term employment contracts and hospitality conditions. Based on the information availed to the Authority, it was observed that Total had complied. The Authority will continue with the post-merger compliance checks to ensure protection of public interest and viability of the third parties that heavily relies on the storage facilities.

B. COMPLIANCE WITH CONDITIONS ON THE ACQUISITION OF GENERAL MOTORS LIMITED (GMEA) BY ISUZU MOTORS LIMITED (ISUZU)

The Authority, in May 2017, approved the acquisition of 57.73% of the shares in General Motors by Isuzu Motors with the following conditions:

i. All the three hundred and eighty-three (383) General Motors employees are absorbed;
ii. Aftersales services of all the Isuzu and Chevrolet vehicle brands sold and leased by GMEA for the duration of the contracts are adhered to;
iii. All existing dealerships agreements between GMEA and its dealers are honored; and
iv. All GMEA customers are informed about the continuation of aftersales services as in (b) above.

To ensure compliance with the conditions imposed on the parties, the Authority conducted a post-merger compliance exercise relating to the conditions. The findings of the compliance exercise indicated that Isuzu Motors complied with the conditions attached to the approved merger.

2. REGULATION OF MERGERS

Mergers are regulated under Part IV of the Act. All mergers (horizontal, vertical or conglomerate) in the economy require approval by the Authority before implementation. The object of merger control is to ensure that undertakings do not acquire, preserve or strengthen their market power or dominance through merger or acquisition, which they can use to negatively affect competition and consumers.

During the Financial Year under review, the Authority handled/processed a total of one hundred and sixty two (162) notifications, out of which one hundred and forty one (141) were finalized while twenty one (21) were ongoing at the close of the year. The merger notifications were mainly from manufacturing, real estate, financial & insurance services, energy, distribution and ICT sectors which accounted for 52.5%.

Of the transactions that were handled, forty five (45) met the thresholds for full merger analysis as provided in the Merger Threshold Guidelines. Ninety six (96) satisfied the criteria for exclusions and hence were excluded from the provisions of Part IV of the Act. In addition, forty one (41) notifications did not qualify as mergers in terms of section 2 and 41. Table 1 compares transactions handled during the FY 2017/18 and 2018/19.

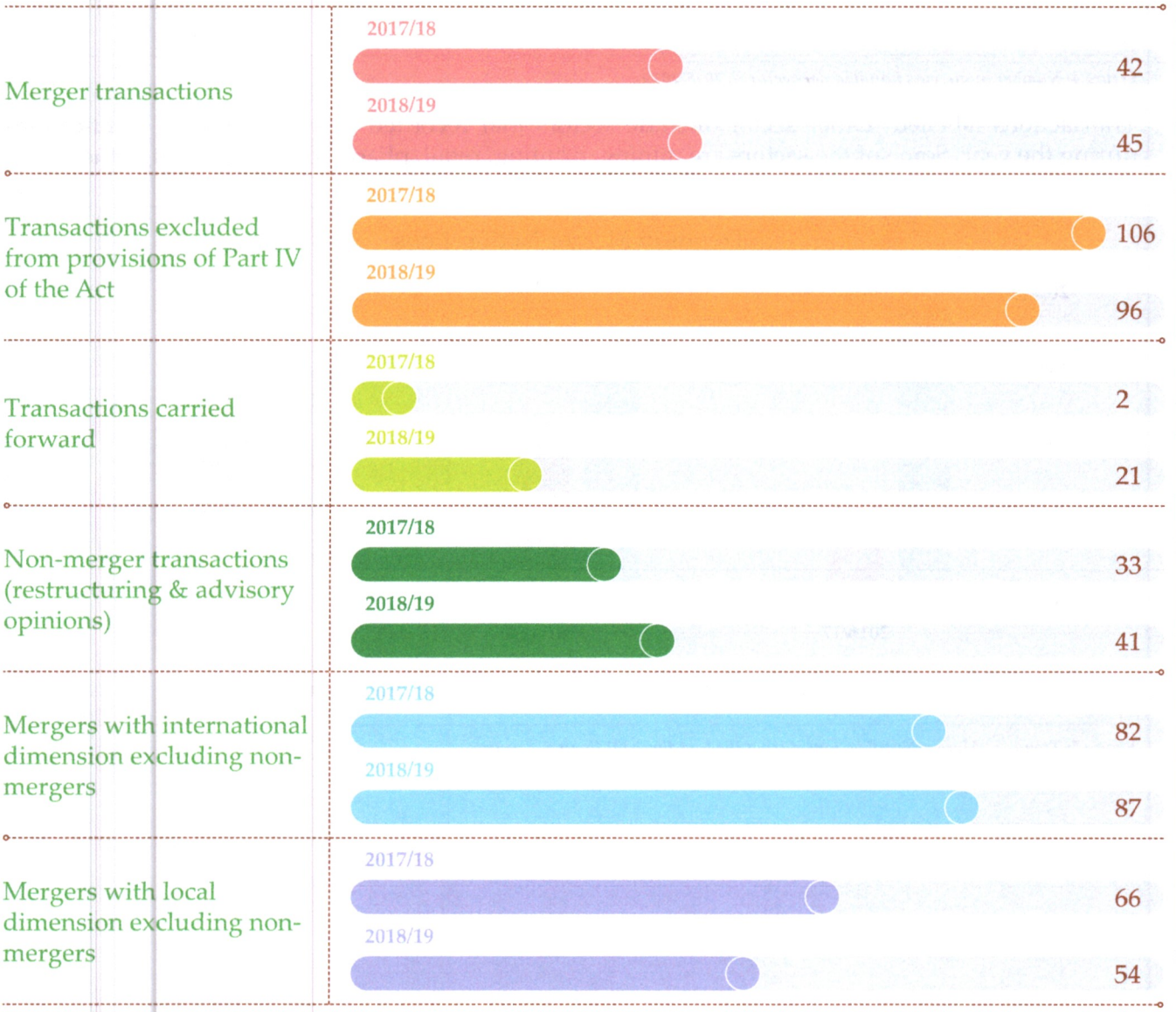


Table 1: Comparison of transactions handled during the FY 2017/18 and 2018/19.

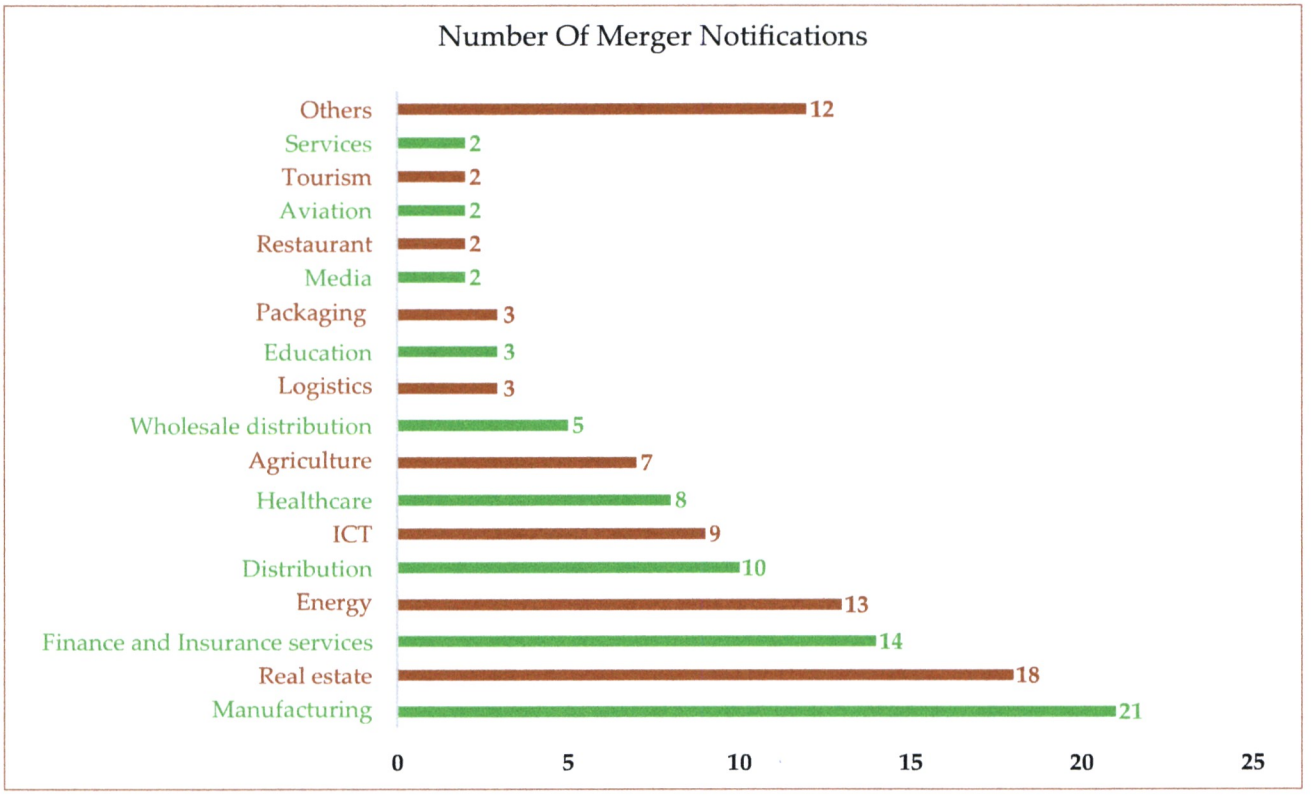


Figure 4: Number of mergers handled per sector in 2018/2019

Transactions labelled 'Other sector' include sectors that recorded less than two (2) notifications during the year. Some of the sectors are mining, printing, retail, pharmaceuticals among others.

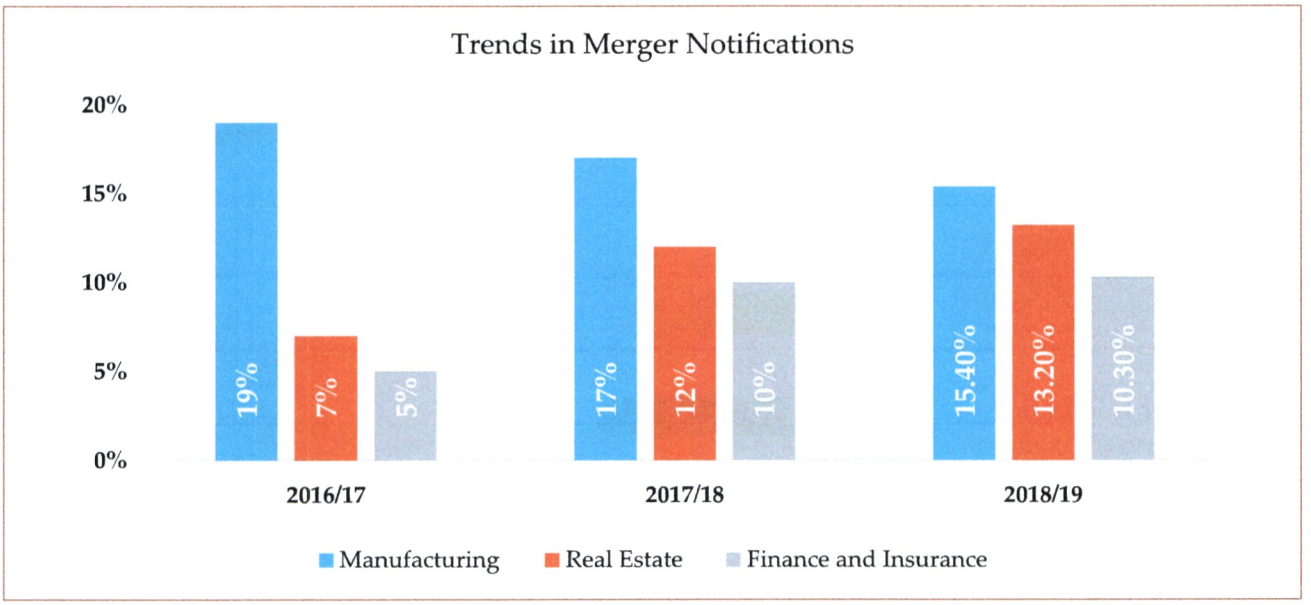


Figure 5: Trends in Merger Notifications during the last three (3) financial years

REGULATIONOFMERGERS,FOCUSONTHEMANUFACTURING,ENERGYANDAVIATION SECTORS

The Authority, in its endeavor to support realization of the Big Four Agenda has paid special attention to the mergers and acquisitions in the manufacturing and energy sectors.. It has also noticed an increase in merger notifications in the aviation sector in Kenya.

A. MANUFACTURING SECTOR

The year under review has seen 52.94% of all the filed mergers and acquisitions touching directly on the Big Four Agenda sectors.
Some of the major transactions that were considered by the Authority in the year under review include;

ARYSTA LIFESCIENCE AND UPL CORPORATION

The transaction involved the acquisition of Arysta Lifescience, a Kenyan entity that is engaged in the supply of insecticides, by UPL Corporation, an Indian Controlled entity that deals in crop protection chemicals. The transaction was crucial to the Agrochemicals industry which is a key player in ensuring food security. Additionally, it enabled farmers to get access to a wider variety of agrochemicals from India which provided a diversity from the American type of agrochemicals.

The merger was approved on condition that the merged entity continues packaging the target's agrochemical products in small packages ranging from 50ml/50g to 1litre/1Kilogram and maintain the distribution model of the target, which entails; a national agent; distributors and stockists, and the organization of farmers' trainings on agrochemical products.

This would ensure that the farmers who depend on products from the target are able to gain access to the products after the merger and thus food production is not affected.

GOLDEN BISCUITS AND TRUFOODS

The Authority considered and determined the acquisition of Golden Biscuits by TruFoods. The transaction was unique in that it would salvage a failing firm that was experiencing financial difficulties. The merger led to the retention of the brand in the market and thus ensured that the market structure did not change.

Further, through the Authority's intervention, the acquirer was required to retain not less than half of the employees of the target thus salvaging employment.

ABYSSINIA IRON AND STEEL AND TOP STEEL

Abyssinia Iron and Steel acquired Top Steel in a transaction that saw over Ksh. 1 billion invested in the iron and steel sector. The Iron and Steel products are a major contributor of construction sector and as such, the merger will ensure continued supply of steel.

The iron and steel sector study that was concluded in 2017 by the Authority informed the decision in approving the merger unconditionally based on the fact that such conditions were likely to generate efficiencies to both entities that have been operating at below 50% capacity and thus increase their competitiveness.

Generally, the sector has experienced investments geared towards increasing capacity to handle the expected influx in demand for inputs into the various drivers of the Big Four Agenda.

B. THE ENERGY SECTOR

Unlike other sectors, new solutions of clean power generation have elicited investments interest in Kenya which has seen continuous increase in merger notifications from 9 in 2017/2018 to 13 (an increase of 44%) during the 2018/2019 FY. Generation and use of this type of power compared to traditional ones is likely to increase efficiency and benefits in economic empowerment of rural population, health and environment.

This has resulted in an increase in merger notifications targeting investments in the non-traditional energy sectors such as solar energy, wind energy, geo-thermal among others. During the FY 2018/2019, the Authority handled thirteen (13) transactions in the energy sector as compared to nine (9) in the previous year. Majority of these transactions involved foreign investors who invested in rural areas in-terms of micro grids solar system targeting small group of people.

In the Financial Year 2018/2019, the following transactions in the energy sector were reviewed;

i. Fairfax Africa Holdings Incorporation and Consolidated Group Limited,
ii. Novastar Ventures East Africa Fund 1 LP & FPCI Energy Access Venture Fund and Paygo Energy Limited,
iii. AEP Africa Limited and Iber Africa Power (E.A Limited),
iv. Olea Holding SA & Siachi Home SAS and the Grup Limited,
v. FPCI Energy Access Ventures Fund and Holdco Solarise Africa Limited,
vi. Mau LLP and Aldwych Holdings Limited, and
vii. IFM and VTTI BV, and
viii. Azura Power Limited and Thika Holdings Limited.

These transactions were fast racked with determination being done in less than 30 days after receipt of all information. This is due to the fact that they were found to be pro-competition and also support social economic development of the rural population.

According to parties to the merger transactions and a UNDP study1, adoption of cheaper clean sources of energy especially in the rural areas has resulted in economic, health and environmental benefits. Such benefits include; cheaper and cleaner power than grid power, creation of jobs and social benefits, increased access to information technology, has reduced deforestation, reduction in smoke exposure hence decrease in acute respiratory infections and eye ailment and improved hygiene through effective management of excreta and waste management (biogas power).

C. THE AVIATION SECTOR

Mergers and acquisitions in the transportation sector are typically explained as attempts to capture economies of scale and scope through shared infrastructure and related cost-saving measures. In the past 15 years, the global airline industry has seen an increasing number of international mergers and acquisitions.

During the financial year under review, the Authority received and determined three (3) merger notifications in the aviation sector. The transactions are as described below:

DYNASTY ACQUISITION CO INC. (DYNASTY CO) AND STANDARD AERO HOLDING CORP.

The proposed transaction involved the acquisition of 100% of the share capital of StandardAero Holding Corp by Dynasty Acquisition Company Inc. Dynasty Co is a special acquisition vehicle while StandardAero is involved in the provision of maintenance, repair and overhaul (MRO) services to engines original equipment manufacturers (OEMs), business aviation, military and industrial power owner/operators and has a single service center at Wilson Airport in Nairobi. StandardAero uses small mechanical equipment to carry out its MRO activities.

LONGVIEW AIRCRAFT COMPANY AND BOMBARDIER INC.

The proposed transaction involved the acquisition of all of the assets related to the Q Series Program and the de Havilland trademark from Bombardier by LAACL. The Asset Purchase Agreement covers all the assets and intellectual property associated with the Dash 8 series 100, 200, 300, as well as the Q400 program operations at the Downsview manufacturing facility in Ontario, Canada. In Kenya, Bombardier will cede its entire Q400 series program to the acquirer.

STITCHING DEPOSITARY PGGM INFRASTRUCTURE FUNDS AND MACQUARIE AIRFINANCE LIMITED

The proposed transaction involved acquisition of 25% interest in Macquarie Airfinance Limited by Stiching Depositary PGGM Infrastructure Funds with joint control.Stiching Depositary PGGM Infrastructure Fund is a fund established under Dutch law. Macquarie AirFinance Group Limited (MAGL) is incorporated in the United Kingdom and is active in the worldwide market for aircraft leasing. A subsidiary of MAGL leases aircraft to a Kenyan airline.

In conclusion, the Authority anticipates increase in mergers in non-traditional sectors such as renewable energy and aviation and towards this we are continuously building capacity to facilitate analysis of merger applications in these sectors.

D. MARKET DEFINITION IN THE BANKING SECTOR

When Analyzing mergers in the banking sector, the Authority takes into consideration the classification of banks by the Central Bank of Kenya (CBK), a regulating body mandated to watch banking activities in the economy. The classification has three peer groups based on a Weighted Composite Index (WCI) that comprises net assets, customer deposits, capital and reserves, number of deposit accounts and number of loan accounts.

Guided by the CBK classification, the Authority assesses the market shares in the different categories that include; total net assets, total deposits, total shareholders' funds, total number of deposit accounts and number of loan accounts using a composite weighted index (CWI).

It is worth noting that while banks may focus more on one or be stronger in certain aspects of banking broadly their products offerings are in three main business lines, namely
(i) Retail banking
(ii) Corporate banking and
(iii) Non-banking products such as the sale of short-term insurance as agent for various underwriters.

NIC BANK AND CBA BANK

The transaction involved a share swap between the two banks leaving NIC as the surviving entity. The two entities are involved in the provision of retail and corporate banking services of deposit taking, lending, forex trading, financing of trade and other auxiliary banking activities.

While each party may focus more on or be stronger in certain aspects of banking, their products offerings can be classified into three main business lines, namely (i) Retail banking (ii) Corporate banking and (iii) Non-banking products, specifically, the sale of short-term insurance as agent for various underwriters.

Retail banking entails current accounts, savings accounts, lending, Micro-lending and credit cards. On the other hand, corporate banking entails providing current accounts and fixed deposits for corporate bodies, lending and investment banking of brokerage and corporate advisory services.

Based on the above, the Authority identified two relevant product markets that were likely to be affected by the transaction; market for retail and corporate banking services; and market for Insurance intermediaries.

In the market for retail and corporate banking services, there are 42 licensed banks in Kenya according to the CBK. Based on asset base, the current market shares and concentration for the top players in the market for retail and corporate banking services are as follows: Kenya Commercial Bank (KCB) (14.14%), Cooperative Bank of Kenya (9.93%), Equity Bank (9.85%), Standard Chartered Bank (7.11%), Diamond Trust Bank (6.72%), Barclays Bank of Kenya (6.57%), **Commercial Bank of Africa (CBA) (6.05%)**, CFC Stanbic (5.65%), I & M Bank (4.78%), **NIC Bank (4.62%)**, Others tier 2 and 3 banks (24.58%).

The post-merger, the market share of merged entity was found to be 10.67% making the merged entity the second largest bank by market size index. However, the merged entity will face competition from the other tier 1 banks controlling over 55.32% of the market.

In the market for insurance intermediaries, there are eight thousand one hundred and twenty-three (8,123) licensed insurance Intermediaries According to Insurance Regulatory Authority, the regulating body. Most banks also operate agency services and compete with other agencies. Additionally, the insurance agencies also provide insurance services directly to their customers.

Generally, insurance provided directly by the insurance companies account for about 18% of the market share. Agents on the other hand accounts for 50.5% of the market, with the brokers controlling the remaining 31.5% of the market. The transaction was found unlikely to raise competition concerns due to the minimal accretion likely to result in this market.

Mergers Implemented Without the Authority's Approval

Parties to a proposed merger are obligated by Section 42(3) of the Act to notify the Authority of any proposed merger and/or acquisition before it is implemented. Within the year under review, the Authority investigated five (5) mergers that had been implemented without the Authority's approval. The parties were penalized an aggregate amount of approximately Ksh. 2,760,810.00.

The Authority offers free advisory opinions and therefore, parties have no excuse regarding their failure to notify. Parties in doubt should consider consulting the Authority, either in writing, via a telephone call or by visiting the Authority's offices. The Authority received twenty (20) requests to provide advisory opinions on various distinct types of mergers and acquisitions to which the parties were advised accordingly.

Revised Market Definition Guidelines

The Authority has reviewed the Market Definition Guidelines in order to encompass new trends such as digital economy. This is geared towards supporting growth in this sector as encapsulated in the Kenya Government's MTP III of Vision 2030 and the Digital Economy Blueprint. The reviewed Guidelines, while cognizant of the need to facilitate innovation and growth in the digital economy, take into account the challenges faced when regulating this sector in light of advancements in competition law enforcement.

The Guidelines introduce globally mainstreamed concepts like Big Data, multisided markets and digital markets. They also provide transparency and clarity to our stakeholders about why market definition is a critical process during merger analysis and how the Authority conducts it. This process was undertaken through a consultative process Nationally, Regionally and Internationally.

3. ABUSE OF BUYER POWER

The term 'buyer power' refers to the circumstance in which the demand side of a market is sufficiently concentrated that buyers can exercise market power over sellers. A buyer with market power is able to influence the bargaining process and force suppliers to reduce price below the level that would emerge in an otherwise competitive market. The buyer is also able to force other terms of supply more favorable than a supplier's ordinary contractual terms.

Price cuts through exertion of buyer power reduce sellers' legit incomes. Section 24(2A) of the Act makes it an offence for a party to engage in conduct that amounts to abuse of buyer power. Contravention of section 24(2A) attracts criminal liability. Alternative administrative penalties are provided for at section 36 of the Act. They include imposition of a financial penalty of up to ten percent of the immediately preceding year's gross annual turnover of the offending party.

The Authority's Abuse of Buyer Power Guidelines provide the process of determining accountability under the Act.

An undertaking has buyer power if in relation to at least one supplier, it can credibly threaten to impose a long term opportunity cost. This will be determined based on an analysis of the following: the terms of the supply contract; actual position and concentration of buyer undertakings in the market relative to supplier undertakings; commercial significance of the products in relation to the buyer undertaking; the buyer's significance to the seller; the ability of the buyer undertaking to easily switch to competing suppliers and the supplier to easily switch buyers and the credibility of a threat to use an alternative source of supply.

Acts constituting abuse of buyer power include late payment without justifiable reasons in breach of agreed terms of payment; demand for preferential terms which are unfavourable to the suppliers; demanding limitations on supplies to other buyers; depressing prices below competitive levels; unilateral termination of a commercial relationship without notice or subject to an unreasonably short notice period without an objectively justified reason; use of de-listing threats to obtain undue advantage and restrain suppliers from raising genuine complaints; unjust refusal to accept delivery; transfer or risk such as by return of goods which the buyer purchased from a supplier and transfer of costs which should otherwise be on the buyer to the

supplier such as by imposing a requirement for a supplier to fund the cost of a promotion.

Abuse of Buyer Power Cases

Operationalisation of Abuse of Buyer Power (ABP) provisions of the Act continued to be a priority agenda of the Authority. During the reporting period, the Buyer Power Department created after review of the Authority's organizational structure was populated. The Authority was able to address concerns of businesses abusing their influence over weaker suppliers. The Authority investigated nine (9) ABP complaints, four (4) of which were finalised and five (5) were at various stages of investigation at the close of the reporting period. The cases were mainly drawn from the retail sector six (6) cases, and the remaining ones from the insurance and automotive repair two (2) cases and installation, maintenance and repair of solar systems one (1) case.

In order to increase transparency and predictability in enforcement, Abuse of Buyer Power Guidelines developed the previous year continued to be given effect and applied in investigation of complaints. They were also disseminated to stakeholders through various forums and published on the Authority's website. The Authority received and incorporated input from relevant government agencies and stakeholders into the Draft Competition (Abuse of Buyer Power) Rules, 2019 as part of a process leading to ultimate presentation to the National Treasury and Planning.

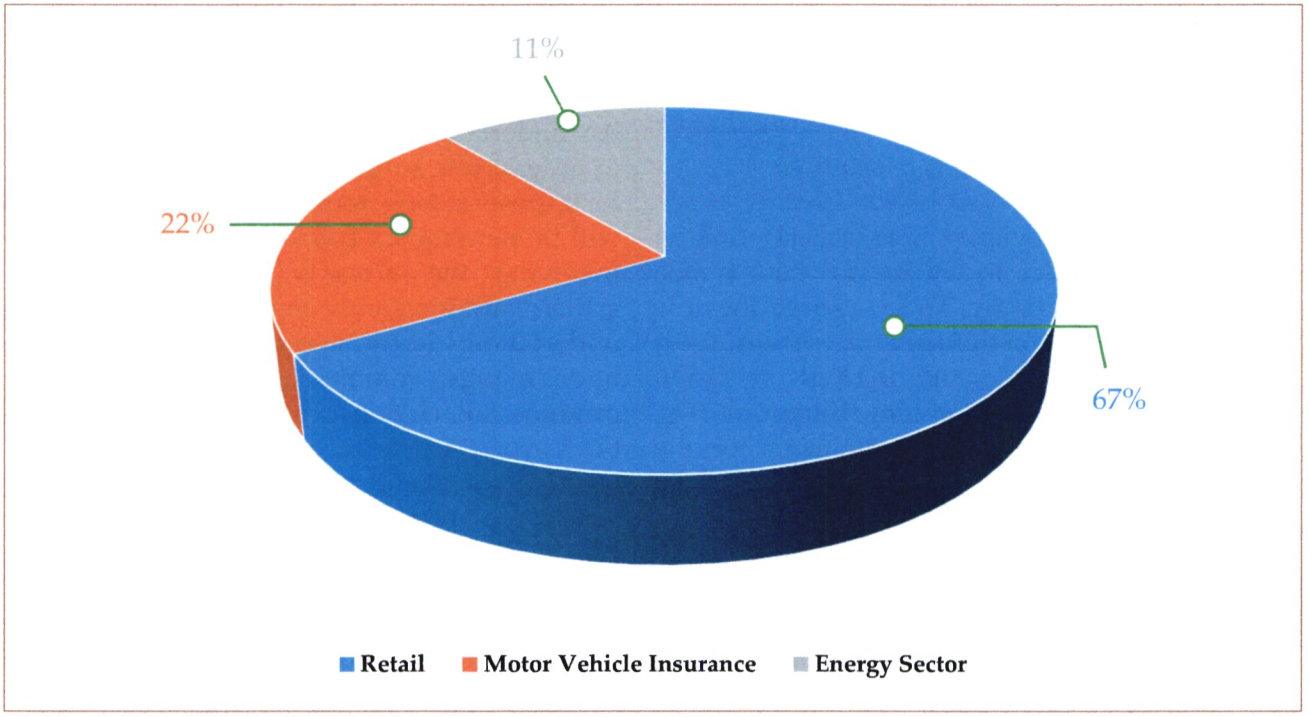


Figure 6: Buyer Power cases handled in 2018/19 per sector

The highest percentage of investigations were in the retail sector as illustrated in figure 6. These can be attributed to high incidences delayed payments which are sometimes an outcome of ABP.

THEME 2: CONSUMER PROTECTION

The Authority's mandate of protecting consumers is derived from Part VI of the Act. It provides for investigations of consumer cases relating to false or misleading representations; unconscionable conduct; and unsafe, defective or unsuitable goods. This mandate is in line with Article 46 of the Constitution.

During the period under review, the Authority received and investigated one hundred and thirty six (136) consumer complaints and also initiated investigations on its own motion into the manufacturing sector, specifically on edible oils, fruit juices, flour and bread, which are still ongoing. Also, the Authority provided advisory opinions to consumers.

Consumer Related Violations

As earlier indicated, the Authority handled one hundred and thirty-six (136) cases in the FY 2018/19. An increase from one hundred and two (102) cases handled in the previous period. The increase of thirty-four percent (34%) of reported cases is attributable to the increased consumer awareness initiatives by the Authority. A total of ninety eight (98) were resolved and closed, thereby saving the specific consumers over Kshs. 1.7 million. Through its intervention, the Authority ensures that it deters companies from reneging on their obligation to consumers. Thus, the service offered to subsequent consumers is improved. Thirty nine (39) cases are still ongoing as illustrated in figure 7.

The wholesale and retail trade, repair of motor vehicles and motorcycles' sector reported the highest number of cases, accounting for thirty-seven percent (37%) of the total cases handled. Nonetheless, to prove the Authority's interventions are bearing fruit, the cases in this sector reduced by 1% compared to last year's. There was a notable increase (15%) in cases handled in the manufacturing sector during the period, up from 0.06% handled in the previous financial year. This was as a result of the Authority's proactive investigations in the manufacturing sector, as illustrated in figure 8.

Further, new complaints were received in the accommodation and food service sector, as well as in agriculture, forestry and fishing sector. Additionally, the Authority provided nineteen (19) advisory opinions to consumers.

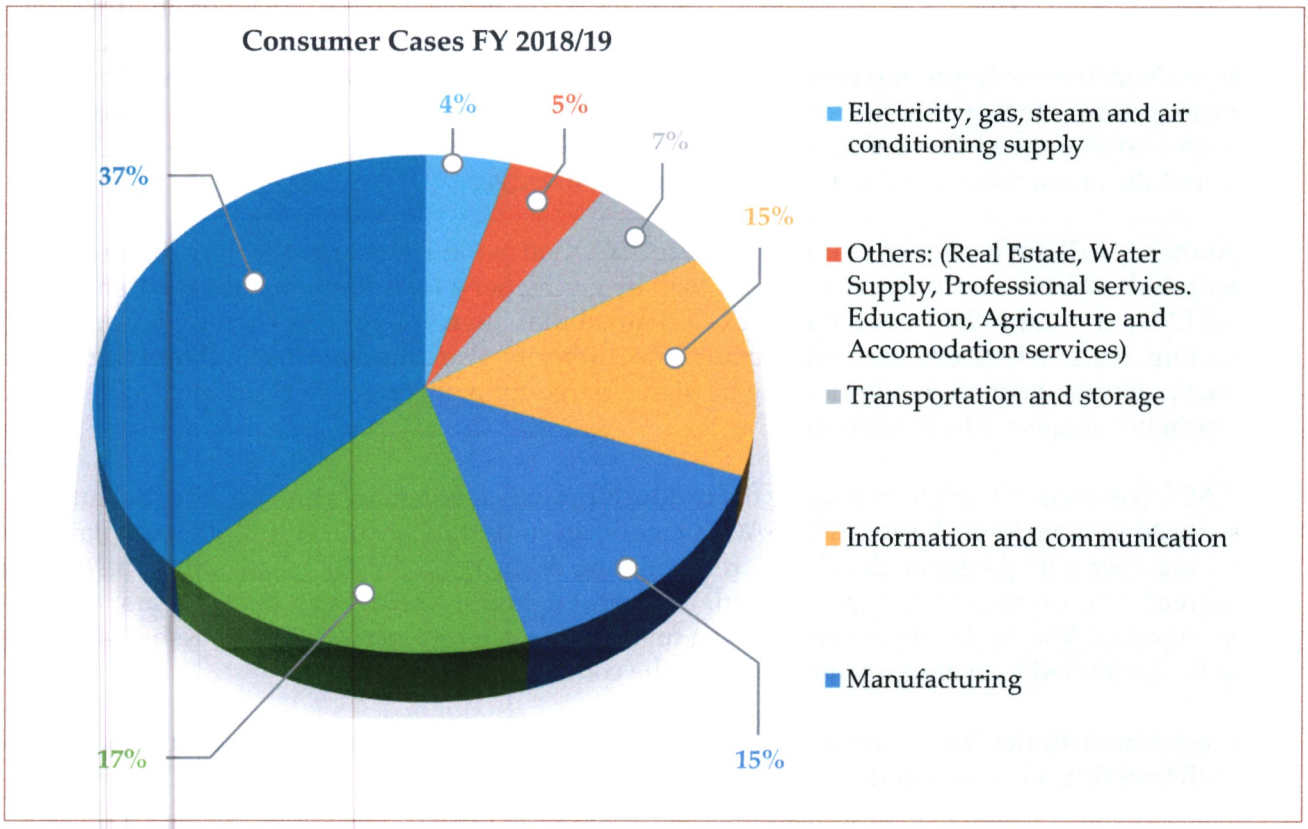


Figure 7: Consumer cases FY 2018-2019

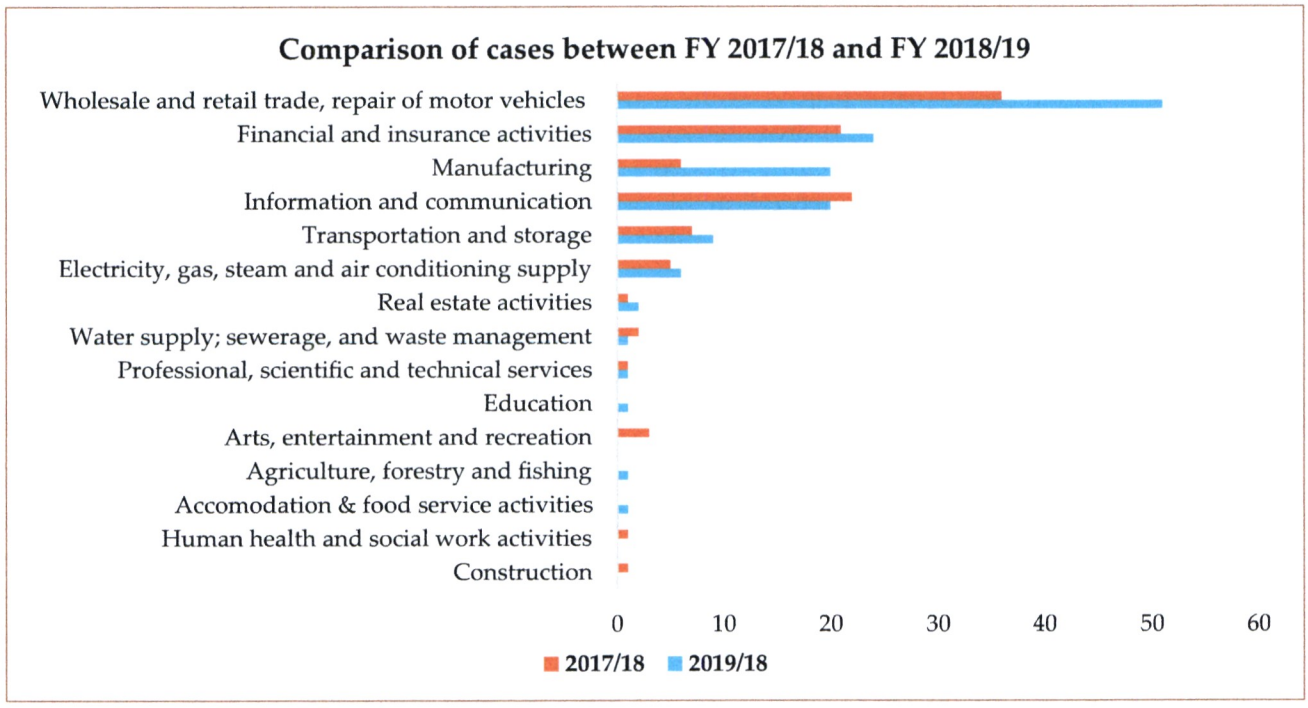


Figure 8: Comparison of cases between FY 2017/18 and FY 2018/19

Highlights of some of the Consumer Protection Complaints Handled

Complaint against Harambee Sacco - Section 55 (False or Misleading Representations) and section 56 (Unconscionable Conduct in the Financial Services Sector)

A complaint was lodged with the Authority in January 2018, by a consumer alleging that she applied for a development loan of Ksh. 336,000 in May 2012, at an interest rate of 12% per annum, which she was to repay in 48 months. She was required to pay Ksh. 7,000 monthly on reducing balance to offset the loan, but the terms and conditions were changed from 12% to 18% per annum, without any notification from the SACCO. In December 2017, she was informed that she had been underpaying her loan and she owed the SACCO an amount of Ksh. 212,283.60. As a result, the SACCO had recovered the amount from her shares without her knowledge.

The Authority in its investigations found that the SACCO had made a false or misleading representation to the complainant regarding interest on her loan by giving her a loan contract indicating an interest rate of 12% per annum. However, the SACCO claimed that interest rates had been reviewed to 18% per annum, with no notice to the complainant. The Authority also found the SACCO had engaged in conduct that was unconscionable by using its higher bargaining power to offset the alleged defaulted loan from her shares without informing her.

The SACCO exercised its right to remedy the conduct through a settlement agreement to the Authority pursuant to section 38 of the Act. The SACCO made an undertaking to restitute the complainant's shares together with foregone dividends; recalculation of the complainant's loan using the original and agreed interest rate of 12% per annum, and cancellation of the alleged loan arrears, amongst other remedies. The Authority also imposed a financial penalty representing 7% of Kshs 548, 283.60 being the combined loan amount and shares of the complainant.

This case demonstrates the importance of disclosing to consumers information necessary for them to gain full benefit from goods and services as required in Article 46 of the Constitution of Kenya.

Complaint against B Tredy Online Store - Sections 55 (False or Misleading Representations and 56 Unconscionable conduct)

The complainant alleged that she purchased a dress from an online Instagram store, B Trendy, where dresses are advertised using pictures. When she went to pick it up, she was given a very different dress from the one on the picture. She asked the seller to give her an exchange or refund but the seller refused citing the shop's policy which does not allow for a refund or exchange once goods have been sold.

Upon the Authority's intervention, B Trendy exchanged the complainant's dress for a new one. The shop also changed its policy to allow consumers to either exchange or obtain a refund for items purchased from the store, thereby complying with the Act.

The case shows the vulnerability of consumers who purchase items over the internet. It is therefore crucial that online businesses ensure that their terms and conditions do not violate the rights of consumers to quality products and the right to compensation.

Complaint against Faulu Microfinance Bank - Section 56 (Unconscionable Conduct in the Financial Services Sector)

A complaint was lodged with the Authority by a consumer alleging that he took a loan of Kshs. 1,500,000 from the Bank in June 2013, repayable in 60 months, at an interest rate of 12% per annum, which was later revised to 16% per annum in 2016, without any notification. Upon their calculation, they discovered that the loan was attracting an interest rate of about 30% per annum, and not 16% or 12% per annum, as purported by the Bank. The complainant was of the opinion that the bank did not fully disclose all the information relating to the loan.

The Authority in its investigations, found that the consumer was not able to understand the loan documents and was not informed of the difference between the flat rate and reducing balance rate. According to the consumer, the 12% per annum was cheaper. Additionally, at the point of getting the loan, the complainant was not informed of the conversion of the 12% per annum flat rate, to a 20.3% per annum reducing balance.

Pursuant to section 38 of the Act, the Bank entered into a settlement agreement and made an undertaking to waive all penalty interest amounting to Kshs. 117,991.55 that had accrued on the loan due to non-payment; revise the interest rate from 16% per annum to 12% per annum to be applied to the remaining loan balance of Kshs. 385, 569.92; and extend the loan repayment period to allow settlement of the remaining loan amount. Additionally, the Bank undertook to sensitize its staff on the provisions of the Act and consumer protection guidelines.

The case shows that financial institutions need to take initiative to educate consumers regarding key terms of service such as charges and fees in financial transactions. The awareness of consumers regarding these terms and conditions enhances financial inclusion.

THEME 3: PLANNING, RESEARCH AND QUALITY ASSURANCE

The overall objective of the policy and research activities of the Authority as prescribed in Section 9 of the Act, is to ensure that the Authority's decisions are informed by Research. In this regard, the Authority undertakes market inquiries, research studies, provides policy advice to government and liaises with relevant sector regulators on competition policy and consumer protection matters.

The Act also empowers the Authority to carry out competition advocacy which is one of the main pillars of modern competition law that aims at creating, expanding and strengthening awareness of competition law and policy in the economy. Section 9 of the Act mandates the Authority to undertake advocacy in order to deepen the culture of competition in the economy. The policy, research and competition advocacy initiatives undertaken during the financial year are:

A. Market Inquiries

i. Regional Shipping, Trucking and Haulage Sector study

The Authority conducted a regional study on competition in the Shipping, Trucking and Haulage sector along the Northern Corridor. The overall objective was to identify potential competition concerns occasioned by the infringement of the competition law through either government regulation or industrial practices, in order to reduce the cost of doing business, promote the ease of doing business and enhance regional integration.

The key findings of the study included:

i. Competitiveness of shipping lines depends on tariff rates, frequency of services, destination charges, documentation requirements and other supporting services;
ii. Some shipping lines offer other logistical services like Clearing and Forwarding, Container Freight Services, Inland Hauling apart from the Traditional Maritime Transport Services;
iii. Trucking companies varied widely in fleet sizes, number of employees and the types of cargo transported across the Northern Corridor and;
iv. There were several Non-Tariff Barriers (NTBs) such as the number of road blocks in each of the countries, along the Northern Corridor contributing to the increase of transport costs.

The findings from this study will guide the development of an advocacy framework, and shared with the relevant Government agencies in the coming fiscal period.

ii. Leasing Sector study

The Authority in collaboration with Financial Sector Deepening Kenya (FSD Kenya) undertook a study in the leasing sector with the objective of advising of the development of a leasing framework, guided by the Medium Term Plan (MTP) III. Further, the study sought to identify anti-competitive concerns in this sector. The study focused mainly on the leasing of medical and agricultural equipment and motor vehicles to Small and Medium Enterprises (SMEs) and other players in the sector.

The study found out that while an effective leasing regulatory framework to support the sector is lacking, the market is relatively developed for 'blue chip' and multinational clients, unlike for SMEs. This is because SMEs leasing is perceived as a risky investment due to lack of credit history information and uncertainty over lessor rights in case of default. The major legal and regulatory framework problems, as well as fiscal and accounting treatment remain unaddressed, however, market segments are concentrated with no signs of collusion, especially with regard to leasing finance to SMEs. Market data gaps and lack of understanding of leasing by SMEs remains a significant barrier to SMEs leasing and the application of VAT to leases for equipment that, if purchased, would be VAT-exempt, raises a cost barrier to leasing by 16%.

The study recommends the development of a leasing framework that clarifies various terms and their legal effects, harmonizing these with other Act (s) that apply to the sector. It is imperative that obligations in law are established, requiring leasing companies (including commercial banks) to report their leasing activities in a standardized format to the relevant government body. Further, the Consumer Protection Act No. 46 of 2012, Auctioneer Act No. 5 of 1996, Moveable Property Rights Act No. 13 of 2017, Hire Purchase Act No. 42 of 1968 and the VAT Act No. 35 of 2013 should be amended and their application revised, in order to exempt lease payments for assets which are VAT exempt if purchased. The fiscal benefits under the Income Tax Act of 1974 such as accelerated depreciation on heavy machinery should be extended, while at the same time, reviewing specific aspects of the Income Tax (Leasing) Rules, and permitting accelerated depreciation on assets, particularly where this is applied to purchases.

The Authority will in the coming financial year, develop a policy document to advising the National Treasury on the leasing framework that will see the uptake of leasing among the SMEs increasing.

iii. Banking Phase II Inquiry

During the financial year under review, the Authority initiated implementation of the recommendation of Banking Phase II market inquiry by proposing a policy on transparency, suitability, choice and credit information system in the banking sector. The policy proposed the development of a framework on data and account portability in the financial sector and regulation of non-bank financial institutions including digital financial providers. This was aimed at achieving financial inclusion, financial service innovation, increased interconnectivity, increased competition and improved pricing and product quality for consumers.

Subsequently the Authority has engaged the National Treasury and other relevant stakeholders in developing the Consumer Protection Framework for the digital financial services sector, in the coming fiscal year.

B. Partnerships And Networks

In an effort to strengthen partnerships, create networks and deepen 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. The key highlights are:

i. The Centre for Competition Law and Economic Policy

The Centre for Competition Law and Economic Policy (CCLEP), which is a joint initiative of the Authority and the University of Nairobi (UoN), held its annual Capacity Building Workshop on Competition Law and Economic Regulation. The objective of the training was to equip stakeholders with requisite knowledge in competition law and policy.

Under the auspices of CCLEP, a total of sixty-six (66) stakeholders were trained during the year under review, adding to a total of three hundred (300) stakeholders who have been trained over the years, on various aspects of competition law and economic regulation. In a departure from the previous years, this year's annual training programme was integrated to include both theoretical and practical aspects incorporating moot cases to help the stakeholders understand how the Authority arrives at its decisions. The training also introduced Consumer Protection session, where participants were trained on the Consumer Protection Law.



Stakeholders follow proceedings during the Annual capacity building workshop on competition law and economics held at the Sarova Stanley Hotel, Nairobi.

ii. Memorandum of Understanding between CAK and other Agencies

- **Public Procurement Regulatory Authority**

The Authority engaged the Public Procurement and Regulatory Authority (PPRA) with the aim of promoting procedural cooperation and coordination when dealing with cases of collusive tendering and consumer protection in the public sector. Subsequently, a Joint Working Group to actualize the implementation of the Memorandum of Understanding (MoU) was formed.

Implementation of this MoU is being supported by the World Bank through the National Treasury and Planning, as Competition in Public procurement is an enabler of the realization of the Big 4 Agenda. It also plays a great role in the growth of SMEs, who contribute to creation of employment in Kenya. This support was granted under the Development Policy Objective (DPO). Implementation will continue for the next three years.



Director General of the Competition Authority of Kenya Mr. Wang'ombe Kariuki (right) and Director General of the Public Procurement Regulatory Authority, Mr. Maurice Juma during the signing of the MoU.



Director General CAK, Mr. Wang'ombe Kariuki (left) and Director General KCAA, Capt. Gilbert Kibe during the signing of the MoU.

- **Kenya Civil Aviation Authority**

This co-operation framework is aimed at promoting competition and enhancing consumer protection in the aviation sector. The framework aims at addressing regulatory issues of common interest, cooperation in areas of concurrent jurisdiction and information sharing. A Joint Working Committee between the two State Agencies was formed to actualize implementation of the MoU. So far, the Authority and KCAA have jointly investigated two (2) consumer complains relating to the aviation sector, as envisaged in the MoU.

- **Competition Commission of South Africa**

As part of implementing the Memorandum of Understanding (MoU) between the Authority and the Competition Commission of South Africa (CCSA), the Commission advanced technical assistant to train the Authority's staff on economic analysis in competition enforcement, merger analysis and market inquiries.

- **COMESA Competition Commission**

In implementing the cooperation framework with COMESA Competition Commission (CCC), the Authority engaged CCC on issues of bilateral cooperation. The engagement was geared towards creating a harmonious cross-border merger analysis framework, information exchange and joint investigation of RTPs. Through these interactions, the Authority fast-tracked RTP investigations and merger analysis. Additionally, the Authority in collaboration with CCC held a regional workshop on Restrictive Business Practices for case handlers. The workshop's main objective was to build capacity for case handlers in investigating anti-competitive business practices in the Common Market with a bias in planning, conducting and reporting of cases.

- **Japan Fair Trade Commission**

In executing the MoU signed with Japan Fair Trade Commission (JFTC) in partnership with Japan International Cooperation Agency (JICA), twenty six (26) staff from the Authority were trained in Japan on Restrictive Trade Practices (RTP), evaluation of exemption applications, merger analysis and development of various guidelines. The staff were able to deepen their understanding and gain skills on merger analysis and RTP investigations.



CAK staff during a training session on competition law enforcement conducted by the Japan Fair Trade Commission in Tokyo, Japan.

C. Adoption of International Best Practices

The Authority participated in international conferences aimed at sharing information and experiences, learning and adopting international best practices on competition and consumer protection law and policy enforcement. Some of the conferences were:

i. 2019 International Consumer Protection and Enforcement Network Conference

The Authority participated in the high-level International Consumer Protection and Enforcement Network (ICPEN) conference. The workshop focused on cross-border consumer protection cooperation and enforcement. The topics discussed were marketing practices directed at children in the digital world, sharing information for cross-border enforcement, international cooperation agreements on consumer protection, financial services, consumer education, unsolicited sales of goods and services and alternative dispute resolution systems strategy on ICPEN growth.

The Authority chaired the ICPEN Working Group on Unfair and Misleading Market Practices in the Financial Services Sector sharing its experience on regulation of digital markets. Towards this end, guidelines are being developed, to guide the improvement of financial literacy among the member states.

The Authority also participated in the African Consumer Protection agencies training workshop on investigations focusing on online payments, violation of consumer rights and mobile payments. The key recommendation from the conference was that there is need for increased cooperation and information sharing between agencies to effectively address consumer protection issues.

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A Plenary session taking place at the ICPEN event held in Lusaka, Zambia.

ii. The 10th Annual African Consumer Protection Dialogue Conference, 2019

The Authority participated in the 10th Annual African Consumer Protection Dialogue Conference. The theme of the conference was, "Celebrating a Decade of Growth for African Cross-Border Consumer Protection Collaboration". The objective of the conference was to underscore the importance of consumer protection cooperation for the region and provide best practices for coordination among public authorities responsible for the enforcement of consumer protection laws. During the conference, the Authority's capacity in handling consumer related investigations was enhanced. These experiences are useful in informing the Authority's consumer protection enforcement efforts.

iii. International Competition Network Annual Conference

During the period under review, the Authority participated in the 18th Annual International Competition Network (ICN) Conference hosted by the Colombian Superintendence of Industry and Commerce. ICN brings together all global competition agencies and focuses on inculcating best international practices in enforcement of competition law and policy.

The objectives of the conference were to share experiences on procedural fairness, vertical mergers, enforcement cooperation, agency organizational design, leniency, private enforcement, vertical restraints and to strengthen cooperation between ICN members and Non-Governmental Advisors (NGAs) and promote good practice to protect competition.

The Authority was represented in the plenary session that focussed on best practices in regulating dominance and market power in the digital era. The Authority shared its experience on interventions in the digital markets like taxi-hailing, Unstructured Supplementary Service Data and digital financial services.

Through sharing experiences between agencies, the Authority is able to harness international best practices that inform decision making and competition enforcement, particularly on emerging competition issues. This will go far in supporting the Governments Digital economy Blueprint.

iv. African Competition Forum Merger Workshop

The African Competition Forum (ACF) merger workshop discussions were anchored on shaping participants practical and substantive skills in analyzing mergers. The participants from across the ACF membership included competition and consumer protection agencies from Nigeria, Zimbabwe, Mauritius and Eswatini. Regional agencies represented were COMESA Competition Commission and the East African Community Competition Authority. The Authority shared its experience on market definition, theories of harm and assessment of cross-border mergers. This knowledge is useful in analyzing and fast tracking both national and cross-border mergers.



A section of representatives from CAK, EAC Competition Authority, Mauritius Competition Commission, United States Federal Trade Commission and the COMESA Competition Commission during the ACF merger workshop held in Nairobi. Competition Commission.

D. Stakeholder Engagement

i. Competition and Consumer Protection Forums with County Governments

The Authority conducted advocacy forums in eighteen (18) counties and sensitized County officials on its mandate as well as Regulatory Impact Assessment framework, Competition (General) Rules 2019, Buyer Power Guidelines, Consumer Protection Guidelines, Guidelines on Engagement with Consumer Bodies, Block Exemption Guidelines, Merger Threshold Guidelines, and Fining and Settlement Guidelines.

Sensitization was carried out in the following counties; Kericho, Nyamira, Migori, Vihiga, Kakamega, Bungoma, Trans-Nzoia, Kajiado, Machakos, Kitui, Garissa, Mombasa, Kiambu, Muranga, Embu, Isiolo, Laikipia and Nyandarua. Through the forums, the Authority was able to increase awareness of its mandate and visibility. The emerging issues recorded from these forums include support to counties that are developing policies to ensure that they are not anti-competitive, investigations into various mergers implemented without approval in different counties and capacity building for the County officials on competition law and policy.

ii. Annual Symposium on Competition Law and Economic Regulation

This event brings together stakeholders with an objective of deepening their understanding of competition enforcement mechanisms and fostering competition in the economy.

The Authority held its 5th Annual Competition and Economic Regulation Symposium in September 2018. The theme was "The Role of Competition Law and Policy in Inclusive Growth & Development". The Symposium was attended by one hundred and sixty (160) stakeholders representing Government agencies, private sector players, consumer organizations, law firms, development agencies, among others.



Panelists during the 5th Annual Competition Symposium

The keynote address was delivered by Ms. Lynn Robertson (Competition Expert and Manager for Africa) Competition Division of Organisation for Economic Co-operation and Development (OECD). The key topics discussed at the Symposium were Competition Regulation and Consumer Protection in the big data era, non-regulated digital financial services, parallel/ grey imports and how it affects competition and consumers in the economy and competition in Electricity Supply Industry (ESI).

iii. World Competition Day 2018

This is an Annual event observed across the world on the 5th December by Competition Agencies marking the adoption of the United Nations set of multilaterally agreed equitable principles and rules for the control of restrictive business practices by the General Assembly. The global theme was "Digital Economy, Innovation and Competition" which was premised on the latest innovations that played a great role in disrupting traditional markets.

The Authority engaged the general public through traditional and new media, shared information on competition law and consumer protection enforcement.

iv. The World Consumer Rights Day

This is an annual event marked on 15th March that aims at promoting, protecting and creating awareness on the rights of consumers globally. The Authority commemorated the World Consumer Rights Day (WCRD) in Nyeri County under the theme, "Better and Secure Digital Products". Consumers were sensitized on their rights with regard to technology and digital evolution brought about by the emergence of E-commerce.

Marking the event in Nyeri County was in line with the Authority's Consumer Sensitization Programme dubbed "CAK Mashinani" which targets to reach out to the local "mwananchi" to create awareness on consumer matters. The Authority also sensitized the County of Nyeri officials on competition and consumer protection issues.



CAK staff members sensitizing the public on Competition and Consumer Protection issues during the WCRD held in Dedan Kimathi Stadium, Nyeri County.

v. Sensitization of Consumer Bodies

The Authority, pursuant to Section 9 of the Act, is mandated to collaborate with consumer bodies on the following areas:

i. Promote 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; and
ii. Recognize consumer bodies duly registered under the appropriate national laws as the proper bodies, in their areas of operation, to represent consumers before the Authority.

The Authority trained consumer bodies from different sectors. A total of eight (8) consumer bodies namely Consumer Information Network (CIN), Consumers of Financial Services Association (COFSA), Association of Insurance Consumers of Kenya, Kenya Consumer Protection and Advisory Committee (KECOPAC), Consumer Unity and Trust Society (CUTS International), Consumer Downtown Association (CDA), Kenya Consumers Organization (KCO) and Consumer Grassroots Association (CGA) attended the training. The main objective of the training was to enable consumer bodies to understand and appreciate competition and consumer protection law, the mandate of the Authority, resource mobilization and strategic planning.

vi. Sensitization / Training of Stakeholders

- **Association of Kenya Suppliers:** The Authority in its bid to increase transparency and predictability in enforcement of the Abuse of Buyer Power (ABP), disseminated the Abuse of Buyer Power Guidelines to members of the Association of Kenya Suppliers (ASK). The key objective was to sensitize them on the guidelines as well as enforcement of the buyer power provisions in the Act. During the dissemination, the Authority also sensitized the ASK members on the Act, regulation of ABP, assessment of conduct using the guidelines and the role of suppliers in the enforcement of the law.



The Chairman of the Association of Suppliers of Kenya Mr. Kimani Rugendo (centre) and the CEO Mr. Ishmael Bett (seated extreme right), during the sensitization workshop on Abuse of Buyer Power Guidelines.

- **Stakeholder Consultative Forum on Competition (Abuse of Buyer Power) Rules, 2019:** Stakeholders were sensitized on the Competition (Abuse of Buyer Power) Rules 2019. These included Retail Trade Association of Kenya (RETRAK), Kenya Association of Manufacturers (KAM), Kenya National Chamber of Commerce and Industry (KNCCI), Fresh Produce Exporters Association of Kenya (FPEAK), Ministry of Agriculture, Livestock and Fisheries and Council of Governors.

- **Law Society of Kenya:** The Authority participated in the Law Society of Kenya (LSK) Continuous Development Workshops aimed at sensitizing the members on the Competition Act. The Authority's presentations covered mergers and acquisitions, consumer protection and COMESA Competition Commission's rules and regulations. The LSK Members were sensitized on their role in ensuring compliance and enforcement of the provisions of the Act, while representing their clients.

- **Kenya Bankers Association:** The Authority participated in a workshop organized by Kenya Bankers Association (KBA) to sensitize its members on the Authority's mandate. The Authority's presentation focused on emerging consumer protection issues identified in the banking sector, findings of the Banking Sector Phase II Study and consumer surveys undertaken regarding disclosures and transparency in the Digital Financial Services. Members were encouraged to develop complaint handling mechanisms in order to increase the customer satisfaction levels.

- **Kenya Commercial Bank:** The Kenya Commercial Bank (KCB) management team were sensitized on the Authority's mandate. The sensitization centered on emerging consumer protection issues in the credit market. The bank committed to review its policies and procedures to ensure that emerging issues in the credit market are mitigated in order to increase disclosure and transparency in information sharing to consumers.

- **Platinum Credit Limited:** The Authority carried out an awareness creation workshop for Platinum Credit Limited management on its mandate and discussed emerging issues in the credit market. The team committed to review its policies and procedures to ensure that emerging issues in the credit market are mitigated in order to increase disclosure and transparency in information sharing to consumers.

- **The Judiciary:** The Authority facilitated in a training organized by the Judiciary Training Institute in collaboration with South Sudanese Judges on the East African Community Law and its relationship with domestic law. The key focus was on EAC competition law and policy and its

relationship with the National Competition laws.

- **Agricultural Society of Kenya (ASK):** The Authority participated in Kitale and Meru ASK Shows. The theme of the ASK Shows was "promoting innovation and technology in agriculture and trade". The Authority's key objective was to reach out to the general public to inform them of its mandate. The Authority sensitized at least two thousand (2,000) members of the public.



CAK staff, Mr. Evans Nyangena (right) and Ms. Cecilia Kyenze (second left) sensitizing stakeholders at the Meru ASK Show.

- **Nairobi Innovation Week:** The Authority participated in the Nairobi Innovation Week which is an annual event organized by the University of Nairobi that brings together stakeholders in the innovation ecosystem to celebrate achievements and discuss issues and challenges affecting the innovation space. The event attracted various participants including government agencies, private sector players, research centres, universities, media agencies and Embassies. The Authority sensitized members of the public on its mandate.



Members of the public who visited the Authority's booth at the Nairobi Innovation Week held at the University of Nairobi being sensitized on various aspects of competition law and consumer protection.

vii. Advisory Opinions

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

- **Data Protection Bill 2018:** The Bill was introduced to establish a comprehensive data protection regime in Kenya and aims to protect personal data collected, used or stored by both private and public entities as well as provide for the right to privacy of individuals. The Authority assessed the possible effects the proposed Data Protection Bill 2018 would have on Competition and Consumer Protection. In its brief to the Ministry of ICT and Innovation, the Authority reiterated the need to ensure the Bill enhances consumer protection and facilitates competition across various markets, where data is essential for competition among players focusing on time bound access of personal data, fees charged by a data controller to access personal data, transfer period by a data controller upon data porting request, storage of data collected in Kenya and liability of data privacy breach by third parties.

- **Petition by the Transport Operators Workers' Union of Kenya on Creation of Regulation of Digital Taxi/Cab Operators (E-Hailing Apps) in Kenya:** The Authority presented its advisory opinion to the Departmental Committee on Transport, Public Works and Housing. Based on its mandate, which include regulation of market conduct including on price fixing; territorial allocation and also Abuse of Dominance (foreclosure through exclusive agreements, predatory pricing, among others) and; advising the government and other government agencies in regard to competition and consumer protection matters. The Authority advised that pricing is the most important and fundamental benefit resulting from market competition, and proposed harmonization of rates will extinguish it, to the detriment of consumers' welfare. In addition, there exists free entry and minimal switching costs by drivers, among the apps based taxis, and also between the traditional and apps based taxis. This ensures that platform providers do not possess market power. Threat of entry (by new competitors) and exit (by partners), ensures constant innovation and introduction of new products. Due to the importance of the new economy disruptive technology including apps based taxis in the growth of our economy, the Authority in its current Strategic Plan has prioritized enforcement in this area (including research) to inform the best regulatory regime to support the disruptive technology.

- **Competition in the Telecommunication Sector in Kenya:** The Authority presented its advisory opinion to the Parliamentary Departmental Committee on Communication, Information and Innovation. The Authority posits that innovations in the telecommunication sector have resulted to the sector becoming a key driver in all the major sectors in the economy including Banking, transport (Digital taxi hailing) and also in Government services. In addition, the current Capitalization of Nairobi Securities Exchange is 40% Safaricom shares and on daily trading it constitutes 30-50%. This scenario demands that any regulation focusing on the sector should have a Multi-Agency approach because its ramifications/ effects would cut across all the drivers of the economy. Further, the Authority opines that the sector regulator should introduce credible initiatives to reduce switching costs and also ease of entry especially through promulgating and publicizing a spectrum allocation policy and initiatives to progressively minimize the club effect. Any regulatory intervention should be aimed at supporting and increasing consumer welfare and at no time should regulatory intervention have an object of deepening private shareholder's gains/profits in lieu of consumers' benefits.

- **Tea Sector in Kenya:** The Authority in response to the invitation by the Senate AD Hoc Committee on the Tea Sector, presented its advisory opinion on the perceived monopoly of KTDA in the tea industry in Kenya. Tea is generally an export commodity (crop) and therefore, single marketing and advertisement ensures economies of scale relevant to penetrate and sustain the competitive global market. The current arrangement between KTDA and the tea factories does not meet this criteria. Indeed, this is a contractual arrangement which is time bound. To spur competition, innovation and growth in the tea sector is desirable to amend, and eliminate some of the regulatory barriers that hinder entry in the sector. These include a licensing regime that requires the benefits the incumbents to sanction the entry of a competitor. The Sector regulator should also endeavor to facilitate entry and manufacture of unorthodox tea, which not only increases farmers' earnings but offers credible competition to the traditional tea. This could be through research and supportive regulatory regime including marketing mechanisms.

D. Awards / Honours / Recognitions

i. Financial Reporting (FiRe) Award

The Authority, for the second time in a row, won the Financial Reporting (FiRe) Award under the Public Sector Accounting Category. This was under the International Public Sector Accounting Standards (IPSAS) accrual category. This is a prestigious award in East Africa for financial reporting sponsored by the Capital Markets Authority (CMA), Institute of Certified Public Accountants of Kenya (ICPAK), Nairobi Securities Exchange (NSE) and the Public-Sector Accounting Standards Board-Kenya (PSASB).

ii. Agricultural Show Society Award

The Authority was feted at the Kitale and Meru Agricultural Shows for having the best non-agriculture based statutory body stand and the best regulatory authority and corporation stand. The Authority participates in these events in order to interact with its stakeholders across the country on its mandate through such advocacy initiatives aimed at creating awareness on competition and consumer protection issues.



CPA Eric Mwangi (left), Director, Corporate Services, CPA Joshua Ogallo (second right) Senior Investigation Officer, CPA Anthony Mutula (right), Principal Accountant receiving CAK's 2018 Financial Report (FiRe) Award

THEME 4: VISIBILITY AND CORPORATE IMAGE

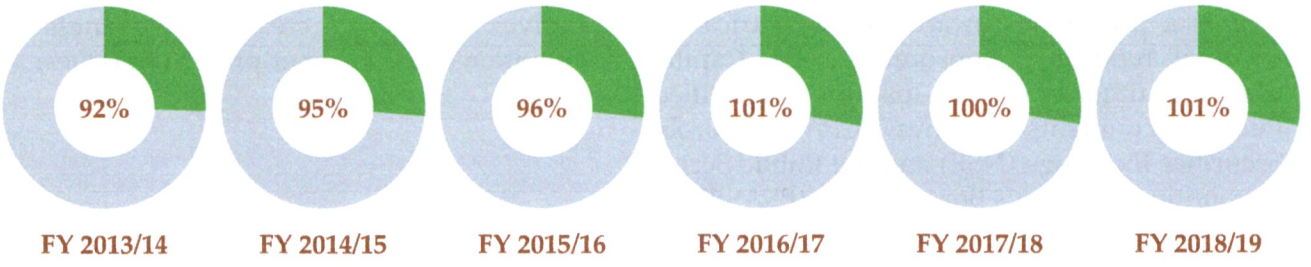
The Authority rolled out initiatives aimed at creating awareness about its role and functions and improving the organization's corporate image. The Authority's staff appeared on various traditional media platforms (print, television and radio) where they articulated various matters concerning enforcement of competition law and policy as well as consumer protection. These appearances, which targeted an expansive demographic scope, provided the Authority with an opportunity to sensitize the public about the various channels through which to contact and interact with the Authority.

In addition to this, social media presence was also enhanced. The Authority's major announcements and activities are regularly disseminated to our stakeholders through new media channels such as Twitter, Facebook and YouTube.

The website was revamped, providing stakeholders with a user-friendly source of up-to-date information about the Authority, including its latest determinations as well as the instruments that guide decision-making. The website is also friendly to Persons with Disabilities.

RESOLUTION OF PUBLIC COMPLAINTS

The Authority submits quarterly reports to the Commission on Administrative Justice (CAJ) detailing resolution of service delivery complaints, adherence to the commitments of the Authority's Citizens' Service Charter, and processing of Access to Information requests, among others.
Every Financial Year, the Commission issues a certificate to all public entities and scores them based on the aforementioned criteria which, cumulatively, promote efficient service delivery to Kenyans. Below are the Authority's scores over the past six years;



CAK's Annual Scores for Resolution of Public Complaints

THEME 5: ORGANIZATIONAL SUSTAINABILITY

1. Human Capital

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

The Authority has continued to enhance capacity through acquisition of talent to effectively deliver its mandate. During the year, a total of nine (9) positions were competitively filled. The current staff number is comprised of forty-four (44) male and twenty five (25) female, thus complying with the constitutional gender balancing requirement as per the figure 9 below;

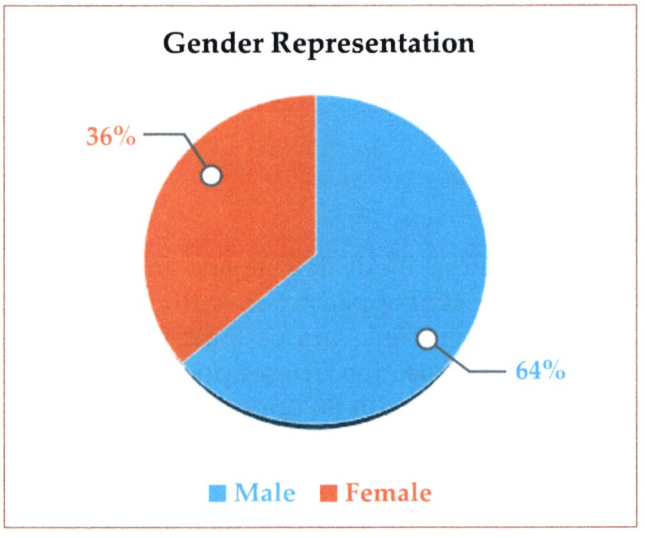


Figure 9: Gender Representation

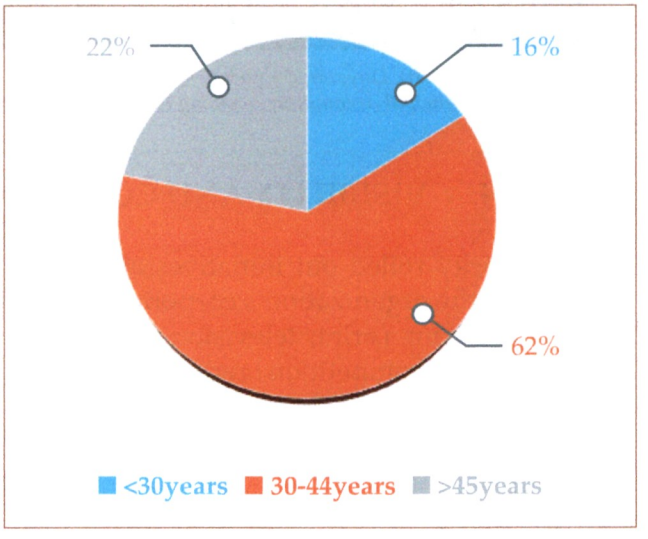


Figure 10: Staff age group

Staff by age category below is an indication that the Authority's establishment is comprised of youth as the majority but at the same time well represented in the other age bands contributing to an effective succession management.
The Staff composition complied with the Constitutional requirement on regional diversity as per the figure 11 below;

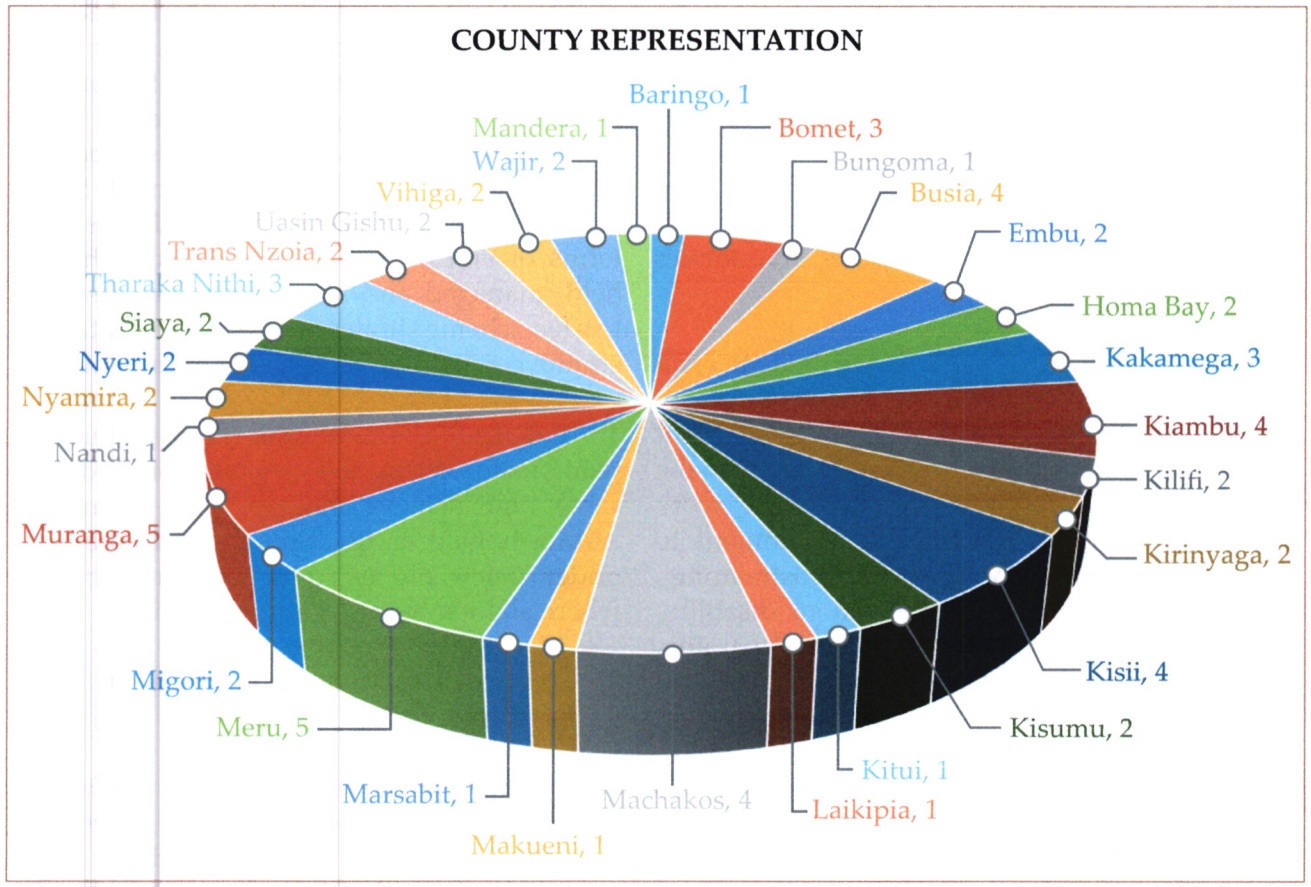


Figure 8: Comparison of cases between FY 2017/18 and FY 2018/19

- **Disability Mainstreaming** - The percentage of persons with disability (PWDs) in the workforce increased from 1.6% in the prior year to 2.8% during the period under review. As part of our commitment to supporting PWDs, we continue to redesign our office premises to make them accessible.

- **Training and Development** - In order to enhance staff skills, knowledge and abilities in the areas of competition law and policy, consumer protection, management and leadership amongst other technical areas, the Authority facilitated staff members to attend various trainings and workshops, locally and internationally, individually or in groups with the aim of enhancing technical and behavioral competencies, learning best practices in various jurisdictions.

The Authority also facilitated staff to undertake Continuous Professional Development programmes geared towards succession planning, management and career progression. The number of staff trained in specific areas include five (5) officers on Leadership Programs, fifteen (15) in the Senior Management Course, forty eight (48) in Technical Development and twenty six (26) in the Continuous Professional Development programmes.

The Authority continued to run 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 who are Master Degree holders with a bias in Law and Economics and below the age of thirty (30) years. Towards supporting the government's agenda of equipping the youth with requisite skills, the Authority engaged the first group of five (5) interns and twenty-four (24) university students were also offered Industrial attachment.

- **Satisfaction and Work Environment Survey** - During the reporting period, the Authority carried out an Employee Satisfaction and Work Environment Survey in collaboration with an independent consultant. The main objective of the survey was to assess the effectiveness of the actions taken to address the recommendations made by the last survey conducted in the

financial year 2015/2016 and establish the current employee satisfaction levels and way forward. The survey assessed various factors contributing to employee satisfaction which include HR policies & practices, employee engagement, management/leadership, the organizational culture, physical environment (work stations, health & safety, restrooms, space- ergonomics and the social environment).

Perception towards work environment and how it impacts on staff morale and productivity as well as the levels of employee commitment and engagement were measured while the following social aspects were gauged: work life balance, conduciveness of environment to lactating mothers, HIV & AIDS mainstreaming, alcohol and drug abuse prevention, disability mainstreaming, gender mainstreaming, environmental conservation & sustenance, and national principles & values mainstreaming.

The Authority's overall employee satisfaction index stands at 79.5% which is a 5.5% improvement from its biennial survey. The overall satisfaction is majorly driven by feedback and work/life balance, benefits and compensation, performance management and organization relations, information and teamwork.

- **Skills Gap Audit Survey** - The Authority conducted its second Skills Gap Audit Survey aimed at continually improving the efficiency and effectiveness of its employees in June 2019. The output of the skills gap analysis guide the development of individual training plans, identify staff members who have knowledge in particular areas, as well as those who lack certain skills facilitating the mentoring process within teams.

The key recommendations, which relate to Technical, Managerial, Leadership, Team Work development and Etiquette will be incorporated in the financial year 2019/20 training calendar.

Staff Welfare - In its effort to enhance employees' welfare, the Authority promotes employee well-being at the workplace by providing services and benefits that not only motivate them but also enhance their productivity. These include the provision of a medical scheme for staff- both out and in-patient, Group Personal Accident -24 hours and Group life –sum assured, an Annual employee wellness program and a car loan scheme. In addition, the Authority also operationalized the Staff Mortgage Scheme with the aim of supporting its employees to acquire residential houses. The Authority also 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. It also pays service gratuity for employees on contract terms of employment.

To enhance a sound and cordial industrial relationship across the organization and at the same time achieve the work-life balance, the Authority held its first Sports day in the period under review and also organized a teambuilding where all members of staff participated.

2. Information And Communication Technology

The Authority has embraced technology for operational efficiency and effectiveness in the achievement of its mandate. During the year under review, the Authority fully operationalized its core automation projects that is, the Enterprise Resource Planning (ERP) and the Case Management system (CMS). The stakeholders were trained on how to access the Authority's services through the CMS public portal. The portal is an e-platform for filing of merger notifications and registering complaints.

The Authority also automated the operations of both the Board and Management by the adoption of an E-Board system to enhance its efficiency. The system enables the Board and Management to manage meetings effectively, with advantages of reduced paper work and remote attendance capability thus reducing traveling and printing cost. The system perfectly blends security, functionality and optimal user experience. The main aim being greater efficiency in Board engagements.

The automation of the Authority's major processes has yielded significant reduction in printing costs of up to 39.4% in cost of toners and 22.5% in terms of printing paper cost for the period under review.

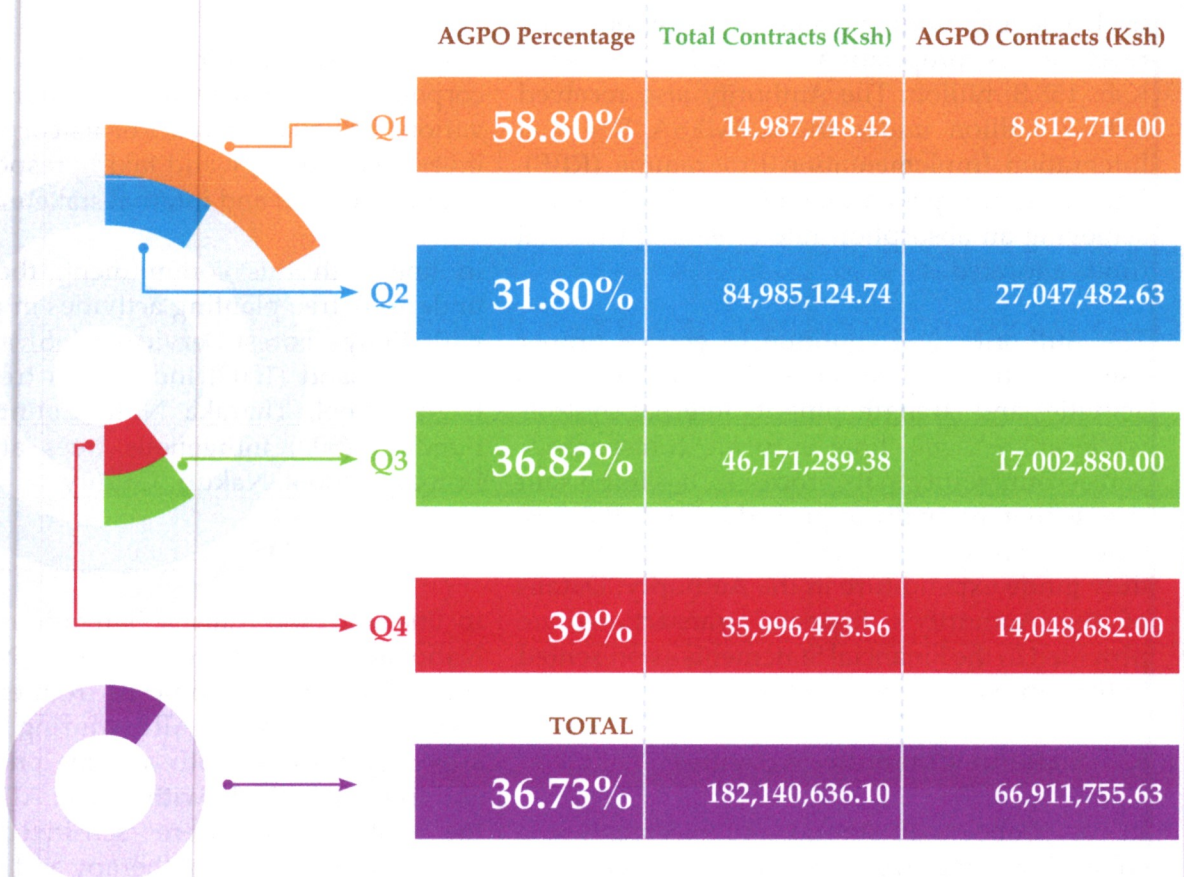
The Authority improved its ICT infrastructure by procuring additional servers to compliment both

its production and data recovery sites with the aim of enhancing business continuity. Efficiency being a crucial aspect of any organization, the Authority embarked on virtualization by migrating from Microsoft Hyper-V to the more flexible VMware environment. This will provide more efficient, cost effective ways to reduce downtime, gain IT productivity and increase hardware savings.

Emerging trends indicate that Kenyans have adopted smart devices as one of the ways to access information. The Authority therefore embarked on developing a Mobile App as one of the ways to reach and provide services to Kenyans. The development is at an advanced stage and will be launched in the next financial year.

3. Public Procurement

During the period under review, the Authority awarded 36.73% of the total tenders to the disadvantaged groups (Youth, Women & PWDs) in compliance with the Access to Government Procurement Opportunities (AGPO) policy as per the table 3 shown below:



	AGPO Percentage	Total Contracts (Ksh)	AGPO Contracts (Ksh)
Q1	58.80%	14,987,748.42	8,812,711.00
Q2	31.80%	84,985,124.74	27,047,482.63
Q3	36.82%	46,171,289.38	17,002,880.00
Q4	39%	35,996,473.56	14,048,682.00
TOTAL	36.73%	182,140,636.10	66,911,755.63

Ratio of AGPO Contracts in FY 2018-2019

In line with the Buy Kenya Build Kenya initiative of promoting local content 60.2% of the total tenders were awarded to local suppliers of goods and services.

The Authority has automated its procurement processes as per the Presidential directive which requires all agencies to adopt e-procurement, to increase efficiency and cost saving on consumables.

4. Sensitization on AGPO

The Authority carried out sensitizations to the Youth,Women & PWDs in four counties namely Meru, Nyeri, Nakuru and Uasin Gishu with an aim of sensitizing the target group on the provisions of the Public Procurement and Asset Disposal Act (PPAD), 2015 and training on the procurement portal. The Authority endeavours

to continue sensitizing Youth,Women & PWDs in all counties. This has led to fifteen (15) new AGPO registrations from these regions. Additionally the sensitization program enabled creation of awareness of the Authority.

5. Financial Management

The Authority continues to prudently utilize its resources towards the achievement of its strategic objectives. To this end and within the confines of the Public Finance Management Act No. 18 of 2012 and Public Finance Management Regulations of 2015, the Authority mobilizes resources mainly from the Exchequer, Development Partners and approved internal sources. During this period, the Authority received Kshs 387.2 million from the Exchequer funding while internally generated revenue (Appropriation in Aid) amounted Ksh. 158.8 million. The Authority also received Ksh. 7 million under the COMESA Regional Integration Implementation Programme (RIIP). The Authority spent a total of Ksh. 525.4 million achieving an absorption rate of 95% of the total funds allocated.

The Authority will continue to ensure proper use of its financial resources by prioritizing its activities and strengthening its internal controls while at the same time ensuring transparency and accountability in its processes. It is important to note that internally approved Finance Policies, Government Circulars and other relevant laws, duly guide expenditure in the Authority. Details of the Authority's financial transactions are provided in the Financial Statements as presented in the subsequent pages of this report.

6. Statutory Committee Activities

In compliance with statutory requirements and enhancing employee welfare, the Authority maintained operations of the various Statutory Committees. The committees include:-

i. Corporate Social Responsibility (CSR)

The Authority sponsored and participated in the 2019 Cerebral Palsy Charity Walk as part of its Corporate Social Responsibility, to raise awareness about Cerebral Palsy as well as support the activities of the Cerebral Palsy Society of Kenya.

Cerebral Palsy Society of Kenya is a charitable Organization working towards the improvement of the welfare of children and persons afflicted by the disorder in Kenya. The Society supports over 500 persons living with Cerebral Palsy access rehabilitation, special needs education, and economic empowerment. The Society provides highly subsidized therapy session for the children/persons afflicted with the disorder, enabling them attain their realized potential.

The Authority commits to continue positively impacting the society within which it operates through various CSR projects.

ii. Environmental Conservation And Sustenance Committee

The Authority continues to be a responsible corporate citizen with focus on participation in various initiatives as part of its corporate social investment strategy and taking responsibility to both its external and internal stakeholders.

In line with this commitment, the Authority undertook tree planting activities in partnership with Kenya Forest Services (KFS) and planted one thousand (1000) indigenous trees at Njuri High School, Tharaka Nithi County and five hundred (500) indigenous trees at Gituamba Primary School, Nakuru County.

iii. HIV & AIDS

In line with the Maisha II requirement by the National Aids Control Council (NACC), the Authority sensitized officials from eighteen (18) counties on HIV & AIDS during the county advocacy forums, with a focus on prevention and living positively with HIV & AIDS. Further, the stakeholders were sensitized on HIV transmission, retroviral therapy and how to deal with priority populations at risk of being infected with HIV & AIDS. The counties were; Kericho, Nyamira, Migori, Vihiga, Kakamega, Bungoma, Trans Nzoia, Kajiado, Machakos, Kitui, Garissa, Mombasa, Kiambu, Muranga, Embu, Isiolo, Laikipia and Nyandarua.

Additionally, during the week-long World Consumer Rights Day commemoration that took place in Dedan Kimathi Stadium in Nyeri County, the Authority sensitized county officials and members of the public on HIV & AIDS

prevention and transmission. The awareness creation also focused on ways in which the County officials and residents can play a role in preventing stigmatization, re-infections and also curbing the spread of HIV & AIDS for both the infected and affected.

iv. Alcohol and Drug Abuse

The Authority being aware that Alcohol and Drug Abuse (ADA) is one of the most critical challenges facing the world today established a committee of twelve (12) members. The Committee is mandated to ensure prevention, early detection and intervention on substance abuse in the workplace, while fulfilling the requirements in terms of compliance with the National Authority for the Campaign Against Drug Abuse (NACADA).

Upon the realization that drug and substance abuse problems have detrimental effects on the productivity, safety and welfare of public institutions as well as the community, the Authority put in place ADA workplace policy and employee assistance programmes which were implemented in the year under review. In addition, three (3) sensitizations on ADA were conducted to young professionals, new employees, interns and attachees.

v. National Cohesion and Values

The National Cohesion and Values Committee held a training for its members on national values and principles of governance, as enshrined in Article 10(2) of the Constitution of Kenya 2010. The training was facilitated by officials from the Directorate of National Cohesion and Values.

Additionally, the Authority was recognized under the Presidential 6th Annual Report, 2018 which informs the State of the Nation Address, on the measures it has taken and progress achieved in the realization of national values and principles of governance. The committee also used various platforms like WhatsApp to sensitize staff members on the National Values and Principles of Governance.



Mr. Wang'ombe Kariuki leads the CAK team in a tree planting session at Gituamba Primary school in Nakuru County, in June 2019) and 3649 (Pupils and Teachers from Gituamba Primary School in Nakuru County, joined by the Authority's Environmental Committee



STATEMENT OF DIRECTORS' RESPONSIBILITIES

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

The Directors are responsible for the preparation and presentation of the Authority's financial statements, which give a true and fair view of the state of affairs of the Authority for and as at the end of the financial year ended 30th June, 2019. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Authority; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Authority; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.
The Directors accept responsibility for the Authority's financial statements, which have been



prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act, 2012 and the State Corporations Act. The Directors are of the opinion that the Authority's financial statements give a true and fair view of the state of Authority's transactions during the financial year ended 30th June, 2019, 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 31st July, 2019 and signed on its behalf by

Amb. Nelson Ndirangu
Board Chairman

Wang'ombe Kariuki
Director General

REPORT OF THE AUDITOR GENERAL ON COMPETITION AUTHORITY

REPUBLIC OF KENYA

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NAIROBI

REPORT OF THE AUDITOR-GENERAL ON COMPETITION AUTHORITY OF KENYA FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of Competition Authority of Kenya set out on pages 90 to 121, which comprise the statement of financial position as at 30 June, 2019, and the statement of financial performance, statement of changes in net assets, statement of cash flows and the statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Competition Authority of Kenya as at 30 June, 2019, 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 Public Finance Management Act, 2012 and Competition Act, 2010.

Basis for Opinion

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

Key Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

Basis for Conclusion

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

Basis for Conclusion

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

Responsibilities of Management and the Board of Directors

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis) and for maintaining effective internal 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 and for its assessment of the effectiveness of internal control, risk management and overall governance.

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

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

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

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

Auditor-General's Responsibilities for the Audit

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. 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 and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation

to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

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.

- 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 applicable 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 it 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 it services.

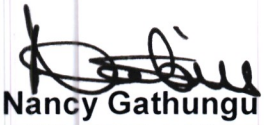
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Authority 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.



Nancy Gathungu
AUDITOR-GENERAL

Nairobi

22 January, 2021

STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30TH JUNE, 2019

	Note	2018/2019 Kshs.	2017/2018 Kshs.
REVENUE			
Revenue from Non-Exchange Transactions			
Exchequer Transfers	5	387,220,000	381,250,000
Development Partners (COMESA)	5	7,000,000	20,000,000
Fines and Penalties	4	4,214,073	35,469,767
		398,434,073	**436,719,767**
Revenue from Exchange Transactions			
Merger Filing Fees-Local	4	55,000,600	42,000,000
Merger Filing Fees-COMESA	4	75,451,772	58,438,461
Interest from Fixed Deposits	6	21,096,186	20,876,738
Other Income	7	3,165,985	5,274,190
		154,714,543	**126,589,389**
		553,148,615	**563,309,156**
EXPENDITURE			
Employee Costs	8	221,660,067	191,371,562
Remuneration Directors	10	24,429,493	15,745,077
Policy,Research and Market Enquiries	14	76,013,863	40,105,981
Contracted Services	12	14,909,485	18,605,538
Repairs & Maintenance	11	13,733,281	3,719,086
Depreciation & Amortisation Expense	9	35,629,363	13,173,125
Finance Costs	13	499,794	235,655
General Expenses	15	139,272,149	116,095,756
Total Expenses		**526,147,495**	**399,051,778**
Surplus (Deficit) for the Year		**27,001,120**	**164,257,378**

The notes set out on pages 95 to 120 form an integral part of these Financial Statements

STATEMENT OF FINANCIAL POSITION AS AT 30TH JUNE, 2019

	Note	2018/2019 Kshs	2017/2018 Kshs
ASSETS			
Current Assets			
Cash and Cash Equivalents	16	367,184,708	519,070,315
Receivables & Prepayments	18	20,031,293	18,166,409
Inventories	32	6,071,208	-
		393,287,210	537,326,714
Non-Current Assets			
Security Deposits	17	299,805,127	94,804,370
Computer Softwares	19	61,250,783	63,771,558
Property, Plant & Equipment	20	51,707,211	42,342,535
		412,763,120	200,918,463
TOTAL ASSETS		806,050,330	738,155,187
LIABILITIES			
Current Liabilities			
Payables & Accruals	21	70,570,557	41,783,732
Provisions	22	4,949,910	4,192,833
		75,520,467	45,976,565
Non-Current Liabilities	24	20,051,624	8,701,503
TOTAL LIABILITIES		95,572,091	54,678,067
Net Current Assets		317,766,743	586,064,529
Net Assets		710,478,240	683,477,120
Represented by:			
Equity			
Equity Contribution by the Treasury	25	53,381,820	52,932,150
Designated Fund	25	-	449,670
Accumulated Surplus	34	657,096,420	630,095,300
		710,478,240	683,477,120

The financial statements set out on pages 89 to 93 were approved by the Board of Directors on 31st July, 2019 and were signed on its behalf by:

Amb. Nelson Ndirangu
Board Chairman

Ambrose Ageng'a
Head of Finance
ICPAK No.3461

Wang'ombe Kariuki
Director General

STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 30TH JUNE, 2019

	Note	Kshs	Kshs	Kshs	Kshs
1st July 2017		53,381,820	-	508,801,253	**562,183,073**
Surplus paid to Exchequer	**35**	-	-	(42,963,330)	**(42,963,330)**
Surplus (Deficit) for the year		-	-	164,257,377	**164,257,377**
At 30th June 2018		**53,381,820**	**-**	**630,095,300**	**683,477,120**
1st July 2018		**53,381,820**	**-**	**630,095,300**	**683,477,120**
Surplus/deficit for the Year	33	-		27,001,120	**27,001,120**
Transfer to Car loan Scheme	34	-	100,000,000	(100,000,000)	**-**
Transfer to Mortgage Scheme	34	-	200,000,000	(200,000,000)	**-**
Interest on Car loan Scheme	34		4,255,181	(4,255,181)	**-**
At 30th June 2019		**53,381,820**	**304,255,181**	**352,841,239**	**710,478,240**

STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30TH JUNE, 2019

	Note	2018/2019	2017/2018
		Kshs	Kshs
Cashflows from Operating Activities			
Surplus from Operating Activities		27,001,120	164,257,377
Depreciation & Amortisation Expense	9	35,629,363	13,173,125
		62,630,483	**177,430,502**
Adjustments for Changes in Working Capital			
Increase/(Decrease) in Receivables & Prepayments	18	(1,864,884)	(5,012,645)
Increase/(Decrease) in Inventories	32	(6,071,208)	-
Increase/(Decrease) in Securities and Deposits	17	(299,805,127)	-
Increase/(Decrease) in Payables & Accruals	21	40,136,947	(25,207,969)
Increase/(Decrease) in Provisions	22	757,077	(54,167)
		(266,847,195)	**(30,274,781)**
Net Cashflows from Operating Activities		**(204,216,713)**	**147,155,721**
Cashflows from Investing Activities			
Purchase of Intangible Assets	19	(17,830,213)	(1,142,679)
Purchase of Non-Current Assets	20	(24,643,052)	(5,068,310)
		(42,473,265)	**(6,210,989)**
Cashflows from Financing Activities			
Surplus Paid to National Treasury		-	(42,963,330)
		-	**(42,963,330)**
Net Increase/(Decrease) in cash and cash equivalents		**(246,689,977)**	**97,981,402**
Cash and cash equivalents at 1st July 2018		613,874,685	515,893,282
Cash and Cash Equivalents as at 30th June 2019		**367,184,708**	**613,874,685**

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS FOR THE YEAR THE ENDED 30TH JUNE, 2019

	Original Budget 2018/2019	Final Budget 2018/2019	Actual on Comparable Basis 2018/2019	Performance Difference 2018/2019
	Kshs	Kshs	Kshs	Kshs
Retained Earnings	200,000,000	200,000,000	200,000,000	-
Revenue				
Exchequer Allocation	394,000,000	394,000,000	387,220,000	6,780,000
Fines,Penalties and Levies	70,000,000	44,000,000	4,214,073	39,785,928
Development Partners	17,700,000	-	-	-
Merger Filling Fees-Local	50,000,000	50,000,000	55,000,600	(5,000,600)
Merger Filling Fees-COMESA	50,000,000	50,000,000	75,451,772	(25,451,772)
Donor Funding-RIIP	20,000,000	7,000,000	7,000,000	-
Interest from Fixed Deposits	15,000,000	17,000,000	21,096,186	(4,096,186)
Other Income	5,000,000	3,000,000	3,165,985	(165,985)
Total Income	**821,700,000**	**765,000,000**	**753,148,615**	**11,851,385**
Expenses				
Employee Costs	245,700,000	238,400,000	221,660,067	16,739,933
Remuneration Directors	24,900,000	24,900,000	24,429,493	470,507
Policy,Research and Marketing Enquiries	102,500,000	77,190,000	76,013,863	1,176,137
Contracted Services	25,300,000	15,000,000	14,909,485	90,515
Repairs & Maintenance	15,000,000	16,000,000	13,733,281	2,266,719
Finance Costs	1,000,000	625,000	499,794	125,206
General Expenses	148,300,00	150,360,000	139,272,149	11,087,851
Purchase of Assets	59,000,000	42,525,000	42,473,265	51,735
Staff Mortgage Housing Scheme	200,000,000	200,000,000	200,000,000	-
	821,700,000	**765,000,000**	**732,991,397**	**32,008,603**
Surplus/(Deficit)			**20,157,218**	

Notes:

i. *Other than the depreciation and amortization recognized in the statement of financial performance and actual payments for the purchase of Assets included on the face of the statement of comparison of budget and actual amounts, there are no reconciling items to warrant a reconciliation between surplus as per statements of financial performance and comparison of budget and actual amounts.*

ii. *An explanation of differences between actual and budgeted amounts (10% over/ under) have been provided in detail under note 34 as required by IPSAS 24.14*



Mr. Feisal Adan, a Senior Analyst explains about consumer rights during the 2019 World Consumer Rights Day in Nyeri County

STATEMENTOFACCOUNTINGPOLICIESAND BASIS OF PREPARATION

1. Basis of preparation

The Authority's annual financial statements have been prepared in accordance and comply with International Public Sector Accounting Standards (IPSAS) issued by the Public Sector Accounting Standards Board in Accordance with section 194(1)b of the Public Finance Management Act No.18 of 2012.

The financial statements have been prepared on an accrual basis of accounting and are in accordance with the historical cost basis of measurement. Assets, liabilities, revenues and expenses were not offset. The financial statements have been prepared and presented in Kenya Shillings, which is the functional and reporting currency of the Authority. All figures have been rounded off to the nearest shilling.

The financial statements have been prepared in accordance with the PFM Act No.18 of 2012, the State Corporations Act Cap 446, and International Public Sector Accounting Standards (IPSAS).

1.1 Adoption of new and revised standards

The Authority did not early – adopt any new or amended standards in the year ended 30th June, 2019.

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

2. Summary of Significant Accounting Policies

2.1 Going Concern assumption

These annual financial statements have been prepared based on the expectation that the Authority will continue to operate as a going concern for at least the next 12 months.

2.2 Materiality

Material omissions or misstatements of items are material if they could, individually or collectively, influence the decisions or assessments of users made on the basis of the financial statements. Materiality depend on the nature or size of the omission or misstatement judged in the surrounding circumstances. The nature or size of the information item, or a combination of both, could be the determining factor.

Assessing whether an omission or misstatements could influence decision of users and so be material requires consideration of the characteristics of those users. The framework for the preparation and presentation of the financial statements state that users are assumed to have a reasonable knowledge of government, its activities, accounting and a willingness to study the information with reasonable diligence. Therefore, the assessment takes into account how users with such attributes could reasonably be expected to be influenced in making and evaluating decisions.

2.3 Revenue recognition

Revenue is the gross inflow of economic benefits or service potential during the reporting period when those inflows result in an increase in net assets other than increases relating to contributions from Government as owner.

i. Revenue from Non-exchange transactions

Non-exchange transactions are transactions that are not exchange transactions. In a non-exchange transaction, the Authority receives value from another entity without directly giving approximately equal value in exchange, or gives value to another entity without directly receiving approximately equal value in exchange.

Recognition and measurement

An inflow of resources from a non-exchange transaction recognized as an asset is recognised as a revenue except to the extent that a liability is also recognized in respect of the same inflow. As the Authority satisfies a present obligation recognised as a liability in respect of an inflow of resources from an asset, it reduces the carrying amount of the liability recognised and recognises an amount of revenue equal to that reduction.

Revenue from non-exchange transaction is measured at the amount of the increase in net assets recognised by the Authority.

a) Fines and penalties,

The Authority recognizes revenues from fines and penalties when received and the asset recognition criteria are met. To the extent that there is a related condition attached that would give rise to a liability to repay the amount, deferred income is recognized instead of revenue.

b) Exchequer transfers

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, deferred income is recognized instead of revenue.

c) 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.

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.

ii. Revenue from exchange transactions

An exchange transaction is one where the Authority receives a fee and in exchange investigates and assesses whether a merger is likely to substantially prevent or lessen competition and whether a merger can or cannot be justified on substantial public grounds and or for exemptions.

Fair value is the amount for which an asset could be exchanged or a liability extinguished, between knowledgeable, willing parties in an arm's length transaction.

Measurement

Revenue is measured at the fair value of the consideration received or receivable, net of trade discounts and volume rebates.

STATEMENTOFACCOUNTINGPOLICIESAND BASIS OF PREPARATION CONTINUED

(a) Merger filling fees

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

2.4 Budget information

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

The original budget for FY 2018-2019 was approved by the National Treasury on 26th September, 2018. Subsequent revisions or additional/reduced appropriations were made to the approved budget in accordance with specific approvals from the Authority's board. The additional/reduced appropriations are added/subtracted to the original budget by the Authority upon receiving the respective approvals in order to conclude the final budget. Accordingly, the Authority recorded reduced appropriations of **Kshs.56.7M** on the financial year 2018-2019 budget following the board's approval.

The approved budget is prepared on an accrual basis and presented by functional classifications linked to performance outcome objectives and covers the period 1st July, 2018 to 30th June, 2019. 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.

A comparison of budget and actual amounts, prepared on a comparable basis to the approved budget, is presented in the statement of comparison of budget and actual amounts.

2.5 Property, Plant and Equipment

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

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

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

Item	Depreciation Method	Average Useful Life
Furniture and fixtures	**Reducing balance**	**8 years**
Motor Vehicles	**Reducing balance**	**4 Years**
Office equipment	**Reducing balance**	**8 years**
IT equipment		
1. Computer equipment	**Reducing balance**	**3 years**
2. Servers	**Reducing balance**	**3 years**

The depreciable amount of an asset is allocated on a systematic basis over its useful life.

The Authority assesses at each reporting date whether there is any indication that the Authority's expectation about the residual value and the useful life of an asset have changed since the preceding reporting date. If any such indication exists, the Authority revises the expected useful life and/or residual value accordingly. The change is accounted for as a change in an accounting estimate. The depreciation charge for each period is recognized in surplus or deficit.

Items of property, plant and equipment are derecognized when disposed of or when there are no further economic benefits or service potential expected from the use of the asset.

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

2.6 Leases

The Authority has a running operating lease agreement with the Kenya Railways Staff Retirement Benefit Scheme that also includes an annual escalation clause of 5% for the provision of the office block that houses its Headquarters. Obligations arising out of the operating lease are recognised as an expense on a straight line basis over the lease term. The difference between the amounts recognized as an expense in the Statement of Financial Performance and the contractual payments are recognised as an operating lease liability or asset as appropriate.

2.7 Intangible Assets

An intangible asset is recognized as an asset when;

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

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

The amortisation period and the amortisation method for intangible assets are reviewed at each reporting date.

STATEMENTOFACCOUNTINGPOLICIESAND BASIS OF PREPARATION CONTINUED

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

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

Item	Depreciation Method	Average Useful Life
Computer software	**Reducing balance**	**4 years**

2.8 Provisions, Contingent liabilities and Contingent assets

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

The amount of the provision is the best estimate of the expenditure expected to be required to settle the obligation at the reporting date.

Where the Authority expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognized as a separate asset only when the reimbursement is virtually certain. The expense relating to any provision is presented in the statement of financial performance net of any reimbursement. Provisions are reviewed at each reporting date and are adjusted to reflect the current best estimate and are reversed if it is no longer probable that an outflow of economic resources embodying economic benefits or service potential will be required, to settle the obligation. The details of the provisions made in preparing these Financial Statements are disclosed in note 21.

Contingent liabilities and Contingent assets
The Authority is involved in a number of legal case proceedings that form part of the nature of its operations. Due to the inherent uncertainties precipitated by the nature of the cases, no accurate quantification of any cost, or timing of such costs, which may arise from any of the legal proceedings can be made.

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. Contingencies are disclosed in note 28.

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.

2.9 Changes in Accounting policies and estimates

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

2.10 Employee benefits

The Authority operates a retirement benefit scheme for all its permanent and pensionable employees. Further an amount equivalent to 31% of basic salary has been set aside as gratuity for all employees on contract. The provisions for employee entitlements to salaries and annual leave represent the amount which the organisation has a present obligation to pay as a result of employees' services provided for at the reporting date. The contribution towards employee pension scheme and staff gratuity for employees on contract are recognized in the statement of financial performance in the year in which the employees rendered their services to the Authority.

2.11 Foreign Currency transactions

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

2.12 Related parties

The Authority regards a related party as a person or an entity with the ability to exert control individually or jointly, or to exercise significant influence over the Authority, or vice versa. Members of key management and their close family members are regarded as related parties and comprise the Director General, members of the Authority's board and Managers. Other related parties include; The Competition tribunal and the parent Ministry; The National Treasury. Details of transactions with related parties are as disclosed in note 27.

2.13 Cash and Cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at various commercial banks at the end of the financial .The details of the Authority's cash balances are shown in note 16.

2.14 Commitments

Commitments represent goods/services that have been contracted/ordered, but no delivery has taken place at the reporting date. These amounts are not recognised in the statement of financial position as a liability or as expenditure in the statement of financial performance as the annual financial statements are prepared on an accrual basis of accounting but are however disclosed as part of the disclosures in note 29.

STATEMENTOFACCOUNTINGPOLICIESAND BASIS OF PREPARATION CONTINUED

2.15 Comparative figures

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

2.16 Subsequent events

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

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

The Authority will adjust the amounts recognised in the financial statements to reflect adjusting events after the reporting date once the event occurred.

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

3. Significant judgements and sources of estimation uncertainty

In preparing annual financial statements in conformity with IPSAS management is required to make judgments, estimates and assumptions that affect the amounts of revenues, expenses, assets and liabilities represented in the annual financial statements and related disclosures at the end of the reporting period. However, uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of the asset or liability affected in future periods. Significant judgements, estimates and assumptions include;

3.1 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 as required by IPSAS 1.140

Useful lives and residual values

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

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 processes
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

3.2 Depreciation and amortisation

The Authority's management determines the estimated useful lives and related depreciation charges. This estimate is based on the Industry norm. Management will increase the depreciation charge where useful lives are less than previously estimated useful lives.

3.3 Inventories

Inventories are initially measured at cost except where inventories are acquired through a non-exchange transaction, then their cost are the fair value as at the date of acquisition. Subsequently inventories are measured at the lower of cost and net realizable value.

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

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

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2019

4. Fees and Fines & Penalties

Description	2018/2019 Kshs.	2017/2018 Kshs.
Merger filling fees-Local	55,000,600	42,000,000
Merger filling fees-COMESA	75,451,772	58,438,461
Fines & Penalties	4,214,073	35,469,767
Total	**134,666,445**	**135,908,228**

The filling fees relates to revenue generated from merger cases filed by merging/acquiring Companies both locally and with the COMESA regional Competition body-COMESA Competition Commission. The Authority's share of the COMESA filling fees is arrived at using a predetermined formula agreed upon by and applicable to all the member Countries and is recognized when received.

Fines and penalties are levied against companies found to infringe the Competition law by engaging in unfair trade practices including consummating mergers without approval by the Authority.

5. Transfers from Ministries, Departments and Agencies

	Amount recognized in Statement of financial performance Kshs.	Amount deferred under deferred Income Kshs.	Amount recognized in capital fund Kshs.	Total grant income during the year Kshs.	2018/2019 Kshs.
The National Treasury-Exchequer	387,220,000	-	-	-	387,220,000
The National Treasury-RIIP	7,000,000	-	-	-	7,000,000
Total	**394,220,000**	**-**	**-**	**-**	**394,220,000**

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

6. Finance Income-External Investments

Description	2018/2019 Kshs.	2017/2018 Kshs.
Cash investments and Fixed deposits	21,096,186	20,876,738
Total	**21,096,186**	**20,876,738**

The Authority recognizes that the revenue it receives both from exchequer and Appropriation in Aid (AIA) are not necessarily evenly matched with its spending pattern .Accordingly, any surplus cash is invested in short-term fixed deposits to generate AIA by way of interest on deposits.

7. Other Income

Other income amounting to Ksh. 3,165,985.00 relates to training fees levied against Law and Economic regulation course which the Authority conducts annually in collaboration with the University of Nairobi.

8. Employee related Costs

	2018/2019 Kshs.	2017/2018 Kshs.
Salaries and Allowances	173,156,288	148,236,684
Contribution to pensions	14,814,640	14,417,224
Staff Gratuity	14,936,072	10,509,467
Staff Medical Insurance	17,995,991	18,262,354
Provision for Staff leave	757,077	(54,167)
Total	**221,660,068**	**191,371,562**

9. Depreciation and Amortization

	2018/2019 Kshs.	2017/2018 Kshs.
Property, Plant & Equipment	15,278,375	12,540,516
Intangible Assets	20,350,988	632,609
Total	**35,629,363**	**13,173,125**

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2019 CONTINUED

10. Remuneration of Directors

	2018/2019 Kshs.	2017/2018 Kshs.
Sitting & Lunch allowances	5,190,000	4,500,000
Honoraria	724,240	960,000
Board Induction & Travel	13,609,936	2,949,900
Telephone	106,434	80,730
Insurance	665,486	728,535
Local Travel costs	2,082,188	1,288,529
Conference facilities	2,051,210	211,437
Domestic Travel Daily Subsistence allowances	-	819,000
International Travel Costs	-	1,570,765
Foreign Travel daily Subsistence allowances	-	2,576,943
Sundry expenses	-	9,238
Lunch allowance	-	50,000
Total	**24,429,493**	**15,745,077**

11. Repairs and Maintenance

	2018/2019 Kshs.	2017/2018 Kshs.
Motor Vehicles	504,780	762,108
Property, Plant & Equipment	13,228,501	2,959,979
Total	**13,733,281**	**3,719,087**

12. Contracted Services

	2018/2019 Kshs.	2017/2018 Kshs.
Consultancy	9,965,878	14,037,548
Hire of security	1,057,920	1,179,620
Cleaning expenses	1,710,440	1,513,667
Legal services	1,479,247	1,178,703
Audit fees	696,000	696,000
Total	**14,909,485**	**18,605,538**

13. Finance Costs

Finance costs of Kshs.499,794 relates to bank charges levied by banks in running the five bank Accounts held by the Authority in various commercial banks.

14. Policy, Research and Market Enquiries

	2018/2019 Kshs.	2017/2018 Kshs.
Awareness & Publicity Campaigns	16,051,107	9,840,551
Policy, research & Market Enquiries	39,535,948	6,975,508
Regulation of mergers & acquisitions	2,846,485	1,303,000
Consumer Campaigns	1,399,769	2,776,330
Enforcement of Restrictive Trade Practices	9,045,911	4,771,912
COMESA-RIIP	6,944,644	14,438,680
Buyer Power	190,000	-
Total	**76,013,864**	**40,105,981**

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2019 CONTINUED

15. General Expenses

	2018/2019 Kshs.	2017/2018 Kshs.
Domestic Travel subsistence allowances	12,655,087	9,064,345
Foreign Travel subsistence allowance	15,362,210	8,253,465
Communication costs	7,031,208	5,796,105
Staff Welfare	6,994,503	5,459,688
Printing & Advertising	7,420,475	10,292,740
Rent & rates	36,537,494	29,539,317
General office supplies	2,150,730	3,784,572
Training Expenses	34,632,094	30,963,282
Other Motor vehicles running expenses	1,772,008	724,758
Official entertainment and conferencing facilities	10,367,718	7,580,884
Subscriptions to professional bodies	1,015,353	848,462
Insurance of Assets	3,333,269	3,788,139
Total	**139,272,149**	**116,095,757**

16. Cash and Cash Equivalents

	2018/2019 Kshs.	2017/2018 Kshs.
KCB-KICC Main operating account	96,263,374	335,729,865
KCB-KICC Staff Gratuity account	24,482,247	9,874,505
NBK-Dollar account	96,439,088	23,465,944
KCB-Short-term Investment on Call	150,000,000	150,000,000
Total	**367,184,708**	**519,070,315**

17. Security Deposits

	2018/2019 Kshs.	2017/2018 Kshs.
NBK - Staff car loan Scheme account	99,805,127	94,804,370
BBK - Staff Mortgage Scheme account	200,000,000	-
Total	**299,805,127**	**94,804,370**

The deposits with Kenya Commercial and Barclays Banks are placed as security against Staff Car and mortgage advances to support concessionary interest rate car and mortgage loans to staff.

18. Receivables from Exchange transactions

	2018/2019 Kshs.	2017/2018 Kshs.
Staff travel imprest	-	1,484,391
Staff debtors	167,113	149,386
Trade receivables	19,667	64,213
Staff car loan scheme receivables	8,830,310	9,575,884
Prepaid rent	2,790,499	2,580,329
Prepaid insurance	7,481,715	4,011,261
Prepaid internet services	173,587	150,945
Advance deposit	150,000	150,000
Bank Interest receivable	418,404	-
Total	**20,031,295**	**18,166,409**

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2019 CONTINUED

19. Intangible Assets-Computer Software

	2018/2019 Kshs.	2017/2018 Kshs.
Cost		
At the beginning of the year	4,499,000	4,499,000
Additions	80,138,544	-
At the end of the year	**84,637,544**	**4,499,000**
Amortization		
At the beginning of the year	3,233,594	2,600,985
Amortization	20,350,988	632,609
At the end of the year	**23,584,582**	**3,233,594**
Net Book Value	61,052,962	1,265,406
Computer Software Under development	197,821	62,506,152
Total	**61,250,783**	**63,771,558**

Computer software under development, Kshs 197,821 relates to amounts incurred and paid towards the implementation of mobile App software to provide an interactive SMS solution to the Authority's automated processes. It is the policy of the Authority to amortize all Intangible Assets at the rate of 25% on a reducing balance basis.

20. Property, Plant and Equipment

	Motor vehicles	Office Equipment	Computer Equipment	Furniture & fittings	Total
Depreciation rate	25%	12.5%	33%	12.5%	
Cost					
At 1st July 2017	**23,513,707**	**9,596,125**	**39,396,851**	**24,575,825**	**97,082,508**
Additions	-	1,240,500	3,490,610	337,200	5,068,310
Disposals	-	-	-	-	-
Transfers/adjustments	-	-	-	-	-
At 30th June 2018	**23,513,707**	**10,836,625**	**42,887,461**	**24,913,025**	**102,150,818**
Additions	13,825,000	1,807,738	6,266,354	2,743,960	24,643,052
Disposals	-	-	-	-	-
Transfers/adjustments	-	-	-	-	-
At 30th June 2019	**37,338,707**	**12,644,363**	**49,153,815**	**27,656,985**	**126,793,870**
Depreciation and impairment					
At 1st July 2017	**15,367,183**	**2,869,060**	**20,507,148**	**8,524,377**	**47,267,768**
Depreciation	2,036,631	995,945	7,459,358	2,048,582	12,540,516
Impairment	-	-	-	-	-
At 30th June 2018	**17,403,814**	**3,865,005**	**27,966,506**	**10,572,959**	**59,808,284**
Depreciation	4,983,723	1,097,419	7,061,730	2,135,502	15,278,374
Disposals	-	-	-	-	-
Impairment	-	-	-	-	-
Transfer/adjustment	-	-	-	-	-
At 30th June 2019	**22,387,537**	**4,962,424**	**35,028,236**	**12,708,461**	**75,086,658**
Net book values					
At 30th June 2019	**14,951,170**	**7,681,939**	**14,125,579**	**14,948,524**	**51,707,212**
At 30th June 2018	**6,109,893**	**6,971,620**	**14,920,955**	**14,340,066**	**42,342,534**

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2019 CONTINUED

21. Trade and other payables from Exchange transactions

	2018/2019 Kshs.	2017/2018 Kshs.
Amounts owed to suppliers for goods and services	46,616,337	37,113,812
Withholding taxes	309,168	47,088
Withholding VAT	995,327	382,567
Staff Claims	13,740,365	129,940
Contractors retentions	1,058,833	-
Unremitted Payroll deductions	4,282,328	3,601,054
Deferred Lease liability	3,568,200	509,270
Total	**70,570,557**	**41,783,732**

22. Current Provisions

	2018/2019 Kshs.	2017/2018 Kshs.
Provision for Staff leave balances	4,253,910	3,496,833
Provision for Audit fees	696,000	696,000
Total	**4,949,910**	**4,192,833**

23. Employee benefits obligations

The Authority contributes to the statutory National Social Security Fund (NSSF). This is a defined contribution scheme registered under the National Social Security Act. The entity's obligation under the scheme is limited to specific contributions legislated from time to time and is currently at Kshs.200 per employee per month.

24. Non-current Provisions

	2018/2019 Kshs.	2017/2018 Kshs.
Staff Gratuity	20,051,624	8,701,503
Total	**20,051,624**	**8,701,503**

25. Contributions by owner - The National Treasury and Planning

At inception, the Authority inherited a number of assets comprising mainly of furniture, computers, cash balances and payments due to suppliers with a net amount of Kshs. 52,932,150 from the then department of monopolies and pricing at the National Treasury. In addition, in the financial year 2014/2015, the National Treasury contributed three computers with an invoice value of Kshs.449, 670 for use by the Authority in the Regional Integration Implementation Programme. The Authority was not expected to pay for these assets. The contributions have been recognized in the statement of Net assets as a financing reserve.

26. Cash generated from operations

	2018/2019 Kshs.	2017/2018 Kshs.
Surplus for the year	27,001,120	164,257,377
Adjusted for :		
Depreciation	35,629,363	13,173,125
Contribution to provisions	757,077	(54,167)
Finance income		
Working Capital adjustments		
Increase in inventory	(6,071,208)	
Increase in receivables	(1,864,884)	(5,012,645)
Increase in deferred income	-	-
Increase in payables	40,136,947	(25,207,969)
Security Deposits - Staff Car & Mortgage Schemes	(299,805,127)	
Net cash flow from operating activities	**(204,216,712)**	**147,155,721**

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2019 CONTINUED

27. Financial Risk Management

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

Credit risks

Credit Risk refers to the risk that a counterparty 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 Authority does not raise receivable 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.
The Authority's exposure to credit risk at the end of the financial year is represented by.

	2018/2019 Kshs.	2017/2018 Kshs.
Cash at bank	367,184,708	613,874,685
Security Deposits	299,805,127	
Staff travel imprest	-	1,484,391
Staff debtors	167,113	149,386
Trade debtors	19,667	64,213
Staff car loan debtors	8,830,310	9,575,884
Prepaid rent	2,790,499	2,580,329
Prepaid insurance	7,481,715	4,011,261
Prepaid Internet Services	173,587	150,945
Total	**686,452,726**	**631,891,094**

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

Liquidity

The Authority's liquidity risk is as a result of funds availability to cover future commitments. The Authority manages liquidity risk by monitoring forecasted cash flows and ensuring that the necessary funds are available to meet any commitments which may arise. Cash which is not utilized is invested immediately in Treasury bills and call accounts. The amounts that best describes the Authority's exposure to liquidity risk at the end of the financial year is made up as follows.;

	Less than 1 month Kshs.	Between 1-3 months Kshs.	Over 5 months Kshs.	Total Kshs.
At 30th June, 2019				
Trade payables	46,616,337	-	-	46,616,337
Staff claims	13,740,365	-	-	13,740,365
Taxes	1,304,495	-	-	1,304,495
Payroll deductions	4,282,328	-	-	4,282,328
Staff leave Provisions	4,949,910	-	-	4,949,910
Contractors retention	1,058,833	-	-	1,058,833
Total	**71,952,267**			**71,952,267**

	Less than 1 month Kshs.	Between 1-3 months Kshs.	Over 5 months Kshs.	Total Kshs.
At 30th June, 2019				
Trade payables	37,113,812	-	-	37,113,812
Staff claims	129,940	-	-	129,940
Taxes	429,655	-	-	429,655
Payroll deductions	3,601,054	-	-	3,601,054
Staff leave Provisions	4,192,833	-	-	4,192,833
Total	**45,467,294**	-	-	**45,467,294**

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2019 CONTINUED

Market risks

Market risk is the risk that the value of an investment will decrease due to changes in market factors. The above stated mitigating factors apply to market risk as well.

The Authority has transactional currency exposures. Such exposure arises through purchases of services especially fees for international conferences that are done in currencies other than the local currency and receivables mainly arising from COMESA revenue.

Invoices denominated in foreign currencies are paid within 7 days from the date of receipt of the invoice and conversion at the time of payment is done using the prevailing exchange rate.

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

	US $ dollar	Kshs.
Cash at Bank- National bank of Kenya	953,229.16	96,304,437

28. Related Party Transactions

		2018/2019 Kshs.	2017/2018 Kshs.
a.	Grants from National Government		
	i. Exchequer budgetary support	387,220,000	381,250,000
	ii. COMESA-Regional Integration Implementation Programme	7,000,000	20,000,000
Total		**394,220,000**	**401,250,000**
b.	Gifts/donations declared by employees	15,000	-
c.	Key management compensation		
	i. Directors' emoluments	6,579,725	5,460,000
	ii. Compensation to the Director General	9,910,000	9,120,000
	iii. Compensation to key management	68,736,080	44,134,852
Total		**85,225,805**	**58,714,852**

29. Contingent Assets and Contingent liabilities

a. Court cases

The Authority has cases pending before the Kenyan courts emanating from ongoing investigations that are part of the Authority's nature of operations. The outcome thereof may result in legal costs or damages awarded against or for the Authority. The details of the cases are disclosed here below.

		2018/2019 Kshs.	2017/2018 Kshs.
Court cases against The Authority		1,631,000	1,500,000
Case Reference Vs. CAK	**Details of the case**	**Remarks**	
Misc. Civil App. No. 57 / 2019 Style Industries Limited vs Court cases against The Authority	Judicial review proceeding challenging CAK decision and seeking to restraint orders against prosecution of Company directors.	Likely legal liability in the sum of Kshs. 580,000.00	
Pet. No. 392/18 Okiya Omtata & Another vs Competition Authority of Kenya & others	Suit against the Authority on alleged failure to curtail the Kenya Power & Lighting Company monopoly.	Likely legal liability in the sum of Kshs. 870,000.00	
Pet No. 215/19 Evans Aseto & Another vs National Bank of Kenya & Another, and the Competition Authority of Kenya & Another	The Petition seeks orders to stay the acquisition of National Bank of Kenya (NBK) by Kenya Commercial Bank (KCB) and that the stay be granted pending hearing and determination of the suit.	Likely legal liability in the sum of Kshs. 181,200	

b. Surplus payable to the Exchequer

The Authority has received an assessment from Kenya Revenue Authority demanding payment of Kshs.147M as surplus for the year ended 30th June, 2018 under section 219 of the Public Finance Management Act Regulation 2015.The Authority has disputed the claim citing an approval granted by the National Treasury for appropriation of the entire surplus to the Staff Housing Mortgage Scheme. Discussions between KRA, The National Treasury are still ongoing.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2019 CONTINUED

30. Commitments

	2018/2019 Kshs.	2017/2018 Kshs.
Authorized, contracted and ongoing	22,737,081	20,000,000
Authorized but not yet contracted		
Total	**22,737,081**	**20,000,000**

The committed expenditure will be financed by allocated operational budget for future periods.

Operating leases-as leases (expense)

	2018/2019 Kshs.	2017/2018 Kshs.
Minimum lease payments due		
• Within one year	25,596,080	25,918,127
• In second to fifth year	110,438,784	125,270,945
Total	**136,034,865**	**151,189,072**

Operating lease payments represent rentals payable by the Authority for leased office space. Leases are negotiated for an average term of five years. No contingent rent is payable.

31. Pending bills

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

32. Inventories

	2018/2019 Kshs.	2017/2018 Kshs.
Consumable stores	6,071,208	-

33. Explanation Of Budget Variances Higher/ Lower Than 10%

a. Fines & penalties 90%
The Authority had budgeted to receive fines & penalties from the results of various cases it was investigating in the last financial year whose outcomes had been determined and the parties issued with and accepted demand notes. However, in the course of the financial year, the parties decided to seek redress from the courts and thereby delaying the collection of the fines.

b. Merger filling fees-local 10%
The revenue from merger filling fees locally increased during the financial year due to increased awareness of the Authority's regulatory role in Mergers and acquisitions leading to more applications being filed at the Authority than had been anticipated. Conversely, the Authority also witnessed reduced cases of mergers consummated without approval.

c. Merger filling fees-COMESA 51%
During, the financial year 2018/19, the Authority intensified its engagement with the COMESA region Competition Commission in regards to the agreed revenue sharing formulae as well as the need to share the details of the computation and the supporting schedules. The Authority's officers are now working closely with the Commission leading to prompt remissions and agreement on the amounts receivable.

d. Interest from deposits 23%
The Authority's revenue from interest on deposits increased beyond the Kshs.17M revised budget due to improved cash flow management which ensured that no idle cash is kept in the bank but immediately invested with the approved banks.

e. Staff welfare 20%
The actual cost of activities under corporate social responsibility and team building were lower than budgeted due to the location of the activities which could not accurately be predicted at the time of budgeting. The actual locations lead to savings in transportation costs.

f. Communication supplies and services 10%
Communication supplies include provision of airtime to senior staff for use in official engagements. The Authority had anticipated a reporting date earlier in the financial year for new management and senior staff earmarked for recruitment during the financial year.

However, due to a delay in recruitment and subsequently the reporting dates, a significant proportion of airtime was not purchased leading to the savings.

g. Printing, advertising and information services 20%
The Authority has been going through a period of automation aimed at creating efficiencies in the way it does business. The financial year 2018/19 saw a number of Automation system going live leading to efficiency savings in printing costs. In addition, the Authority prioritized information dissemination through its websites and social media platform over advertisements.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2019 CONTINUED

h. Subscriptions 15%
The Authority had anticipated subscribing to international research sites for purposes of data mining at the time of budgeting. However, during the year the Authority realized that there would be cost savings in buying the specific data on need basis rather than subscribing for the entire year.

i. Motor running costs 51%
The Authority had anticipated an increase in motor vehicle running expenses proportionate to the increase in the number of vehicles as evidenced by the budget for a new motor vehicle. However, due to logistical issues related to procurement taking longer than expected, the associated incremental costs became minimal.

j. Routine maintenance of other assets 17%
The Authority had budgeted for the cost of renovating its reception area to make it more user friendly especially to persons leaving with disability. However, challenges getting a service provider within the budgeted cost led to the Authority not undertaking this activity.

k. Other operating costs 13%
Other operating expenses include finance costs associated with operation of the bank accounts held by the Authority in various commercial banks and insurance of other Authority assets. The budget was informed by the Authority's expectation of an increase in the number of assets as well as the opening of a staff mortgage scheme account. However, both the new assets and the Mortgage bank account were actualized towards the end of the financial year leading to a cost saving in the other operating expenses vote.

34. Accumulated Surplus

The Authority' total accumulated surplus as at 30th June,2019 was Kshs.657,096,420.However,a total of Kshs,300,000,000 represents an amount placed as security with Kenya Commercial Bank and Barclays bank to secure staff Housing Mortgage and Car loans at concessionary rates pursuant to the National Treasury approval. In addition, the Authority's Mortgage and car loan policies as well as contracts signed with the banks provide for a portion of the interests (Kshs.4, 255,181 in FY 2018/19) on unutilized balances to be credited back into the fund for purposes of sustainability. This amount is included as part of the surplus not available for distribution.

35. Surplus Remission

The Authority has made provisions to remit to the exchequer Ksh. 18,801,916.60 as per the provisions of Section 219 (2) of the Public Financial Management Act regulations 2015 being ninety per centum (90%) of the surplus Kshs 27,734,920 recorded in the Statement of financial Performance for the year.

	Kshs.
Surplus for the year	27,001,120
Adjusted for:	
i. Depreciation	15,278,375
ii. Amortization	20,350,988
Adjusted surplus	**62,630,483**
Less capital expenditure:	
i. Non-current assets	24,643,052
ii. Intangible assets	17,830,213
iii. Interest from Secured Car loan Scheme	4,255,181
Net adjusted Surplus for the year	**15,902,037**
90% Surplus due to the Exchequer	14,311,833

36. Events after the reporting date

There have been no material adjusting and non- adjusting events subsequent to the reporting date with a significant impact on the financial statements for the year ended 30th June, 2019.

37. Ultimate and holding entity

The Authority is a State Corporation under the Ministry of The National Treasury. Its ultimate parent is the Government of Kenya.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APPENDIX I: 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** *(Name and designation)*	**Status: (Resolved/ Not Resolved)**	**Time frame:** *(Put a date when you expect the issue to be resolved)*

Director General

Date: _____

APPENDIX II: INTER-ENTITY TRANSFERS

	ENTITY NAME:	COMPETITION AUTHORITY OF KENYA		
	Break down of Transfers from the ministry of the National Treasury FY 2018/2019			
a.	**Recurrent Grants**			
		Bank Statement Date	**Amount (KShs)**	**FY to which the amounts relate**
		17/08/2018	84,750,000	2018/19
		26/10/2018	77,970,000	2018/19
		05/02/2019	84,750,000	2018/19
		15/05/2019	84,750,000	2018/19
		Total	**332,220,000**	
b.	**Development Grants**			
		Bank Statement Date	**Amount (KShs)**	**FY to which the amounts relate**
		07/11/2018	27,500,000	2018/19
		20/02/2019	13,750,000	2018/19
		27/02/2019	13,750,000	2018/19
		Total	**55,000,000**	
	GrandTotal		**387,220,000**	

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

Manager, Finance
Competition Authority of Kenya

Sign

APPENDIX III: RESTRICTIVE TRADE PRACTICES CASES

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/ Decision
1.	CAK vs Basco Products (K) Ltd	Manufacturing	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the paints manufacturing and distribution in Kenya on its own motion pursuant to the provisions of section 31 (1) of the Act. 1. In December 2018, the Authority carried a search and seizure exercise at the premises of Basco Products (K) Ltd and other players and seized materials relevant to the investigation.	Section 21(3) (a) and 22(1) (b)	Basco Products Kenya Ltd initiated settlement proceedings into the matter pursuant to the provisions of section 38 of the Act. Consequently, the Authority entered into a settlement agreement with Basco Products Kenya Ltd.
2.	CAK vs Crown Paints Kenya PLC	Manufacturing	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the paints manufacturing and distribution in Kenya on its own motion pursuant to the provisions of section 31 (1) of the Act. 2 In December 2018, the Authority carried a search exercise at the premises of Crown Paints Products (K) Ltd and other players and seized materials relevant to the investigation.		Investigations ongoing

No.	Cases/inquiry	Sector/Market affected	Case Summary	Case status/ Decision
3.	CAK vs Galaxy Paints Limited	Manufacturing	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the paints manufacturing and distribution in Kenya on its own motion pursuant to the provisions of section 31 (1) of the Act. 3. In December 2018, the Authority carried a search exercise at the premises of Galaxy Paints (K) Limited and other players and seized materials relevant to the investigation.	Investigations ongoing
4.	CAK vs Kansai Plascon Kenya Limited	Manufacturing	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the paints manufacturing and distribution in Kenya on its own motion pursuant to the provisions of section 31 (1) of the Act. 4. In December 2018, the Authority carried a search exercise at the premises of Kansai Plascon Kenya Ltd and other players and seized materials relevant to the investigation.	Investigations ongoing

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/ Decision
5.	CAK vs Shree Cutchi Leva Patel Samaj School and College (SCLPS)	Education	The Authority received a complaint from a parent alleging that the school was compelling parents to buy laptops exclusively from the school contrary to section 21(3)(a) of the Act.	Section 21 and section 56(4)	The Authority established that the school is a Trust that is also engaged in other income generating activities hence qualified as an undertaking as contemplated by the Act. The Authority established that the conduct did not have commercial or technical justifications and therefore ordered the school to cease and desist from the conduct and allow parents to procure laptops from other vendors as long as they met the specifications, delineate the costs of the laptops from the school levies and formally communicate the same to parents. The parties complied and the matter was concluded.

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/ Decision
6.	CAK vs Manufacturers of Plastic tanks and pipes.	Manufacturing	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the plastics manufacturing and distribution in Kenya suo moto pursuant to the provisions of section 31 (1) of the Act. Specifically, the investigations were pursuant to some allegations of possible collusion of manufacturers of water tanks and pipes relating to margins, discounts and rebates on transport costs contrary to the provisions of section 21 (3)(a) of the Act.	Section 21(3)(a)	The Authority, premised on the information available to it, did not find any evidence of collusion.
7.	Kiru Tea Factory Ltd vs Kenya Tea Development Agency (KTDA)	Agriculture, Forestry and Fishing	Kiru Tea Factory Ltd raised a complaint with the Authority against KTDA and KTDA Management Limited alleging they were engaging in Abuse of Dominance.	Sections 21 and 24	The Authority carried out investigations on the matter and established that it did not fall within its mandate. Therefore the Authority, pursuant to section 9(m) of the Act forwarded the matter to Agriculture and Food Authority (AFA).

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/ Decision
8.	Jumia Ltd vs Safaricom PLC	E-Commerce	Ecart Services Kenya Limited (t/a Jumia) complained to the Authority alleging that Safaricom PLC was engaging in practices that amounted to Abuse of Dominance by obstructing the access of Jumia Ltd platform on the Safaricom PLC network on 30th October 2018 for approximately ten hours.	Section 24	The Authority's investigations established that the Safaricom PLC network was an essential facility for the development of downstream competition. However, the Authority did not find evidence to establish that the lack of access of Jumia Ltd's platform on the material day was occasioned by Safaricom PLC as alleged. On the contrary, it was established that the lack of access was occasioned by a technical hitch by a 3rd party rather than a Commission or Omission by Safaricom PLC. Consequently, the matter was closed and the same was communicated to the parties.

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/ Decision
9.	Investigations into Sugar sector	Agriculture, Forestry and Fishing	Allegation of coordination in determination of cane prices sugar payable to farmers by Kenya Sugar Millers Association.	Section 21(1) and 22(1)(b)	The investigations found that the practice of creating zones to particular sugar millers could be anticompetitive. The findings of the investigations were shared with the Task Force into the Sugar Sector formed by the Cabinet Secretary of The Ministry of Agriculture, Livestock and Fisheries.
10.	CAK vs United Grain Millers Association	Food processing	The Authority in its own motion initiated investigations on United Grain Millers Association in regard to its alleged intention of raising the prices of maize flour (Unga) by similar margins as that of the increase in VAT.	Section 21 and 22	The Authority's investigations into the sector established it was regulated by many government agencies and has several players. Further, there were no findings that the Association had engaged in practices that violated the Act.
11.	Jomo Kenyatta Foundation (JKF) vs Oxford University Press(OUP)	Publishing	JKF alleged that Oxford University Press was engaging in predatory pricing by offering teachers guide learning materials at very low prices.	Section 24	The investigations established that JKF was not dominant in the relevant market and abuse of dominance by predation was not established. The case was therefore closed.

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/ Decision
12.	CAK vs certain companies supplying KEMSA with pharmaceutical products.	Pharmaceutical	The Authority initiated investigations into the conduct and practices of the undertakings, firms and persons engaged in the supply of pharmaceutical products to the Government through Kenya Medical Supply Authority (KEMSA).	Section 21(3)	Investigations ongoing
13.	Coffee sector investigations	Agriculture, Forestry and Fishing	The Authority initiated investigations on own motion into the practices and conduct of various players in the coffee value chain to determine any existence of restrictive trade practices in violation of the Act.	Section 21 (1)	Investigations ongoing
14.	CAK vs Oil Marketing Companies (OMCs) involved in the supply and distribution of jet fuel	Petroleum and petroleum products	The Departmental Committee on Energy ("the Committee") of the National Assembly recommended the Authority to review and investigate business practices among OMCs involved in Jet A-I fuel business with a view of ensuring a level playing field among the operators.	Sections 21 and 24	Investigations ongoing
15.	CAK vs Ingenious Concepts Limited	Advertising and Market research	The Authority, on its own motion, investigated allegations relating to members of the Outdoor Advertising Association of Kenya (OAAK) engaging in Restrictive Trade Practices by fixing prices to be charged by its members for advertising services. Ingenious as a member of the Association was alleged to be involved in price fixing by setting up minimum prices for the 12m by 10m billboard.	Sections 21	The Authority of imposed a penalty of Ksh. 193,024 which is 8% of the relevant turnover.

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/ Decision
16.	CAK vs Agro-chemicals Association of Kenya	Agrochemicals	The Authority pursuant to section 31 of the Act initiated investigations into the activities of members of the Agro-Chemicals Association of Kenya (AAK). Specifically, the objective of the interrogations is to ensure there exists competition among importers of Agrochemical products and that competition is not impeded by sharing of commercial sensitive information including prices, quantities among others.	Section 22	Investigations ongoing
17.	CAK vs Akzonobel	Manufacturing	Allegation of Akzonobel implementing restrictive agreements with other paints manufacturers in Kenya	Section 21	The matter was referred to COMESA Competition Commission.

APPENDIX IV: EXEMPTION CASES

No.	Application	Sector	Case Summary	Relevant Section of the Act	Status
1.	Koko Networks Ltd (Kenya) and Vivo Energy Kenya Ltd	Energy	Koko Networks Ltd and Vivo Energy Ltd applied to the Authority for exemption on:- i. Products exclusivity ii. Price fixing	Section 25	Upon evaluation of the agreement between the two companies pursuant to section 25 of the Act, the Authority granted the exemption of clauses relating to exclusivity in product dealing but rejected clauses related to price fixing. Agreements on resale price maintenance is a hard core restriction under the Act and the applicants did not provide overriding public interest justification in its support.

No.	Application	Sector	Case Summary	Relevant Section of the Act	Status
2.	Cooper K-Brands Ltd(CKL) and its strategic business Partners	Agro-Chemicals	CKL sought an exemption on:- i. Product Exclusivity ii. Territorial Allocation iii. Restrictive of passive and active sales iv. Resale price maintenance	Section 25	The Authority pursuant to the provisions of Section 26 of the Act granted Cooper K-Brands and their Strategic Business Partners exemption in relation to product exclusivity. However, the Authority rejected the clauses in relation to territorial allocation, resale price maintenance and non-compete obligation as the justifications did not meet the threshold for grant of an exemption.
3.	Kenya Ship Contractors Association (KSCA)	Maritime Transport	The Kenya Ships Contractors Association (KSCA) submitted an application for exemption to for a period of five (5) years to: - i. set fees for ship support services they offer at the Port of Mombasa. The support services provided include; watch keeping, tallying services, lashing and unlashing cargo and trimming bulk cargo.	Section 25	The application was approved because it was anticipated that setting minimum rates will improve the health and safety standards at the port, and also guarantee enhanced level of performance and quality of services provided by the members of the Association.

APPENDIX V: ABUSE OF BUYER POWER CASES

No.	Case	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/ Decision
1.	Equatorial Energies Limited vs. Anstonfield Solesa Kenya Limited	Energy Sector	The complainant, Equatorial Energies Limited, alleged that Anstonfield Solesa Kenya Limited was abusing its Buyer Power by delaying payments without a justifiable reason.	Sections 24(2A) (2B)(2D)	The Authority established that Equatorial Energies Limited was not economically dependent on Anstonfield Solesa Kenya Limited and therefore the complaint did not fall under the purview of the Act. The case was closed.
2.	Pembe Flour Mills Limited & Kabansora vs. Millers Limited Ukwala Supermarkets Limited	Retail	The Authority received a complaint from Pembe and Kabansora, both alleging that they had supplied Ukwala with goods for which they had not been paid.	Sections 24(2A) (2B)(2D)	The Authority established that Ukwala did not have buyer power as defined in Section 24(2D) in regards to the two suppliers, therefore, the complaint did not fall under the purview of the Act. The case was closed.
3.	Flashmak Kenya Limited vs. Saltes Supermarkets Limited	Retail	The Authority received a complaint from Flashmak Limited alleging that they had supplied Saltes Limited with goods for which they had not been paid for, over and above the agreed credit period.	Sections 24(2A) (2B)(2D)	Investigations ongoing

No.	Case	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/ Decision
4.	Bhumi Distributors Ltd vs. Saltes Supermarkets Limited	Retail	The Authority received a complaint from Bhumi Distributors Limited alleging that they had supplied Saltes Supermarkets Limited with goods for which they had not been paid over and above the agreed credit period.	Sections 24(2A) (2B)(2D)	Investigations ongoing
5.	Cactus Technologies vs. East Africa Portland Cement Company Limited	Retail	The Authority received a complaint of an alleged non-payment of goods supplied to East African Portland Cement Company by Cactus Technologies.	Sections 24(2A) (2B)(2D)	The Authority established that the matter was a dispute of settlement of a debt and not one abuse of Buyer Power by East African Portland Cement Company Limited. Therefore the complaint did not fall under the purview of the Act. The case was closed
6.	Hendeta Provision Store Limited vs. Karrymart Limited	Retail	The Authority received a complaint from Hendeta Provision Store Limited alleging that Karrymart Limited abused its position as a buyer by failing to pay for supply of candles against the terms of a supply agreement without justifiable reasons.	Sections 24(2A) (2B)(2D)	The Authority determined that the claims made by the complainant did not meet the threshold of Abuse of Buyer Power. Hendeta Provision Store Limited was not economically dependent on Karrymart Limited and had options which it utilized. The case of debt collection rather than abuse of buyer power and was closed.

No.	Cases/inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/ Decision
7.	Orchards Limited vs. Majid Al Futtaim Hypermarkets Limited	Retail	The Authority received a complaint from Orchards Limited alleging abuse of buyer power by Majid Al Futtaim Hypermarkets Limited in terms of demand for rebates, unilateral termination of contract (delisting), passing of costs to the supplier, passing of risks to the supplier and demand to deploy permanent staff to the premises of Majid Al Futtaim Hypermarkets Limited.	Sections 24(2A) (2B)(2D)	Investigations ongoing
8.	Kenya Motor Repairers Association (KEMRA) vs. Various Insurance Companies	Insurance and Automotive Repair	The complainant, KEMRA, alleged that its members were being subjected to Buyer power Abuses that included delaying payments, delisting and threats of delisting, demand for rebates and passing of risk to the members of the Association.	Sections 24(2A) (2B)(2D)	Investigations ongoing
9.	Nordics Assessors Limited vs. CIC Insurance Company Limited; Monarch Insurance Company Limited; Trident Insurance Company Limited and Xplico Insurance Company Limited)	Insurance and Automotive Repair	The complainant, Nordics Assessors, alleged that the various insurance companies listed were abusing their Buyer Power by refusing to make payments after the performance of agreed assessment on motor vehicles for purposes of post-accident repairs.	Sections 24(2A) (2B)(2D)	Investigations ongoing

APPENDIX VI: MERGER CASES

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
1.	Sai Office Supplies Limited and Lino Stationers Limited.	Wholesale distribution	The transaction involved acquisition of the business and assets of Lino Stationers Limited by Sai Office Supplies Limited. Analysis revealed that it would not negatively affect competition but would likely raise public interest issues.	**Approved with condition** that the merged entity absorbs not less than 57 out of the 74 employees after the completion of the proposed transaction.
2.	Abyssinia Iron & Steel Limited and Top Steel Kenya Limited	Manufacturing	The transaction involved acquisition of certain assets of Top Steel Kenya Limited by Abyssinia Iron and Steel Limited. Analysis revealed that it would not negatively affect competition but would likely raise public interest issues.	**Approved on condition** that the merged entity retains sixty-six (66) of the eighty nine (89) employees of the target post-merger.
3.	Kongoni River Farm Limited and Kreative Roses Limited	Agriculture	The transaction involved acquisition of certain Assets and part of the Business of Kreative Roses Limited by Kongoni River Farm Limited. Analysis revealed that it would not negatively affect competition but would likely raise public interest issues.	**Approved on condition** that the target retains forty three (43) of its employees while the acquirer absorbs the remaining three hundred and sixty two (362) employees for at least one (1) year after the completion of the proposed transaction.

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
4.	UPL Corporation Limited and Arysta Lifescience INC	Manufacturing	The transaction involved acquisition of the entire share capital in Arysta Lifescience Inc. by UPL Corporation Limited. Analysis revealed that it would not negatively affect competition but would likely raise public interest issues.	**Approved with conditions** that the merged entity for a period of 12 months from the date of closing of the proposed transaction i) continues packaging the target's agrochemical products in packages ranging from 50ml/50g to 1 ltr/1 kg, ii) maintain current distribution model of the target, which entails; a national agent; distributors and stockists, and the organization of farmers trainings on agrochemical products; and iii) submit a compliance report to the Authority after a period of 12 months.
5.	Brenntag (Holding) B.V or its Nominee and Desbro (Kenya) Limited	Manufacturing	The transaction involved acquisition of 100% of the Business and Assets of Desbro (Kenya) Limited by Brenntag (Holding) B.V or its Nominee. Analysis revealed that it would not negatively affect competition but would likely raise public interest issues.	The transaction was **approved on condition** that the acquirer retains the eighty (80) employees engaged in the target's business post-transaction for a period of one year.
6.	Commercial Bank of Africa Limited and NIC Group PLC	Financial and insurance services	The transaction involved a merger between Commercial Bank of Africa Limited and NIC Group PLC. Analysis revealed that it would not negatively affect competition but would likely raise negative public interest issues.	The transaction was a**pproved on condition** that; none of the one thousand, eight hundred and seventy-two (1,872) employees of the merged entity are declared redundant within a period of 12 months or one calendar year from the date of closing of the transaction in Kenya.

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
7.	Trufoods Limited and Golden Biscuits (1985) Limited	Manufacturing	The transaction involved acquisition of the Business and Assets of Golden Biscuits (1985) Limited by Trufoods Limited. Analysis revealed that it would not negatively affect competition but would likely raise public interest issues.	The transaction was **approved on condition** that 50% (30) of the target's permanent employees are absorbed by the acquirer.
8.	Kuramo Africa Opportunity Kenyan Vehicle III Limited and Genafrica Asset Managers Limited	Fund management	The transaction involved acquisition of 90.84% of the shares in Genafrica Asset Managers Limited by Kuramo Africa Opportunity Kenyan Vehicle III Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any public concerns.	**Approved unconditionally**
9.	Fairfax Africa Holdings Incorporation and Consolidated Infrastructure Group Limited	Energy	The transaction involved acquisition of control of Consolidated Infrastructure Group Limited by Fairfax Africa Holdings Incorporation. Analysis revealed that the transaction would neither affect competition negatively nor raise any public concerns.	**Approved unconditionally**
10.	Tunza Health Investments and Pyramid Healthcare Limited	Healthcare	The transaction involved investments by Tunza Health Investments in Pyramid Healthcare Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any public concerns	**Approved unconditionally**

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
11.	Sai Office Supplies Limited and Office Mart Limited	Wholesale distribution	The transaction involved acquisition of the Business and Assets of Office Mart Limited by Sai Office Supplies Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any public concerns.	**Approved unconditionally**
12.	Africinvest Azure SPV and Prime Bank Limited	Finance and insurance activities	The transaction involved acquisition of up to 25% shareholding in Prime Bank Limited by Africinvest Azure SPV. Analysis revealed that the transaction would neither affect competition negatively nor raise any public concerns.	**Approved unconditionally**
13.	AEP Energy Africa Limited and Iberafrica Power (E.A.) Limited	Energy	The transaction involved acquisition of the entire issued share capital in Iberafrica Power (E.A) Limited by AEP Energy Africa Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any public concerns.	**Approved unconditionally**
14.	Summit Real Estate Proprietary Limited and Nova Academics Tatu City Property Limited	Real estate	The transaction involved acquisition of Nova Academics Tatu City Property Limited by Summit Real Estate Proprietary Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any public concerns.	**Approved unconditionally**

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
15.	Sokoni Retail Kenya and Tumaini Self Service Limited	Retail Distribution	The transaction involved acquisition of control of Tumaini Self Service Limited by Sokoni Retail Kenya. Analysis revealed that the transaction would neither affect competition negatively nor raise any public concerns.	**Approved unconditionally**
16.	ISS Global Forwarding (Kenya) Limited and Kenyan Freight Forwarding Business and Assets of Dodwell & Co. (East Africa) Limited and Inchcape Shipping Services Kenya Limited.	Logistics	The transaction involved acquisition of the Kenyan Freight Forwarding Business and Assets of Dodwell & Co. (East Africa) Limited and those of Inchcape Shipping Services Kenya Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any public concerns.	**Approved unconditionally**
17.	PPG Holdings Limited and Zelepak Africa Limited	Manufacturing	The transaction involved acquisition of control of Zelepak Africa Limited by PPG Holdings Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
18.	Bic East Africa Limited and Haco Industries Kenya Limited	Manufacturing	The transaction involved acquisition of the stationery and shavers manufacturing, sales and distribution of stationery, lighters and shavers Business of Haco Industries Kenya Limited by BIC East Africa Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any public concerns.	**Approved unconditionally**

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
19.	Artcaffe Group and Art-Caffe Coffee & Bakery Limited	Confectionery	The transaction involved acquisition of 100% of the shares of Art-Caffee Coffee & Bakery Limited by Artcaffe Group. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
20.	Wild Elegance Africa Limited and Wild Elegance Fashions Limited	Manufacturing	The transaction involved acquisition of the Assets and Business of Wild Elegance Fashions Limited by Wild Elegance Africa Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
21.	ACTIS International Limited and Abraaj Investment Management Limited	Hospitality	The transaction involved acquisition of indirect control of Abraaj Investment Management Limited by ACTIS International Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
22.	Rubis Energie SAS and KenolKobil PLC	Retail distribution	The transaction involved acquisition of control of KenolKobil PLC by Rubis Energie SAS. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
23.	Blue Nile Rolling Mills Limited and Blue Nile Wire Products Limited	Manufacturing	The transaction involved acquisition of the assets and business of Blue Nile Wire Products Limited by Blue Nile Rolling Mills Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
24.	Ramco Plexus Limited and Sintel Security Print Solutions Limited	Printing	The transaction involved acquisition of 73.6% of the issued share capital of Sintel Security Print Solutions Limited by Ramco Plexus Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
25.	Education Asia Holdings Limited and Hillcrest Investments Limited	Education	The transaction involved acquisition of 100% of the issued shares of Hillcrest Investments Limited by Education Asia Holdings Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
26.	MAU LLP's and Pan African Infrastructure Development Fund 2 SA & Pan African Infrastructure Development Fund 2 LLC	Energy	The transaction involved acquisition of investments of Pan African Infrastructure Development Fund 2 SA and Pan African Infrastructure Development Fund 2 LLC by Mau LLP's. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
27.	Dynasty Acquisition Company Inc. and Standardaero Holding Corp	Aviation	The transaction involved acquisition of sole control of Standardaero Holding Corp by Dynasty Acquisition Company Inc. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
28.	Simba Cement Limited and Cemtech Limited	Manufacturing	The transaction involved acquisition of the entire business and assets of Cemtech Limited by Simba Cement Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
29.	2667980 Ontario Inc. and AGT Food & Ingredients Inc.	Distribution	The transaction involved acquisition of sole control of AGT Food & Ingredients Inc. by 2667980 Ontario Inc. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns	**Approved unconditionally**
30.	Beyond Energy Investment Limited and BBOXX Capital Kenya Limited	Energy	The transaction involved acquisition of 40% shares with controlling rights of BBOXX Capital Kenya Limited by Beyond Energy Investments Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
31.	Echotel International Proprietary Limited and IwayAfrica Kenya Limited	ICT	The transaction involved acquisition of 80% of the issued share capital of IwayAfrica Kenya Limited by Echotel International Proprietary Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
32.	Heritour Limited and Abercrombie & Kent Group of Companies	Tourism	The transaction involved acquisition of control of Abercrombie & Kent Group of companies by Heritour Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
33.	Suresh Naran Varsani and Speedex Logistics Limited.	Logistics	The transaction involved acquisition of additional 47.5% shareholding in Speedex Logistics Limited by Suresh Naran Varsani from Harji Mavji Kerai for an aggregate of 97.5% shareholding. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
34.	Actus Education Holdings AB and Riara Group	Education	The transaction involved acquisition of 22.32% of the issued share capital with controlling rights in the Riara Group of Schools Limited by Actus Education Holdings AB. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
35.	Aquapani Limited and Aquamist Limited	Manufacturing	The transaction involved acquisition of 100% of the issued share capital of Aquamist Limited by Aquapani Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
36.	Aquapani Limited and Aquaplast Limited	Manufacturing	The transaction involved acquisition of 100% of the issued share capital of Aquaplast Limited by Aquapani Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
37.	TIM Bidco 1 Limited and Enchanting Africa Limited	Tourism	The transaction involved acquisition of control of Enchanting Africa Limited by TIM Bidco 1 Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
38.	Boeing Company and Embraer S.A	Manufacturing	The transaction involved acquisition of control of the commercial aviation Business of Embraer S.A by the Boeing Company. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
39.	Compagnie Financiere Michelin SCMA and CFAO	Manufacturing	The transaction involved creation of a joint venture between CFAO and Compagnie Financiere Michelin SCMA. Analysis revealed that the transaction would not affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
40.	TPG and Abraaj Growth Markets Health Fund L.P., Abraaj Growth Markets Health Fund (B) L.P.	Healthcare	The transaction involved investment by TPG in Assets held by Abraaj Growth Markets Health Fund L.P., Abraaj Growth Markets Health Fund (B) L.P. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
41.	Azura Power Limited and Thika Holding Limited	Energy	The transaction involved acquisition of 90% of the shares in Thika Holding Limited by Azura Power Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
42.	Frontier Energy and Chania Green Generation Limited	Energy	The transaction involved acquisition of control of Chania Green Generation Limited by Frontier Energy. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**

Merger Notifications				
No.	Parties involved	Sector/Market	Summary	Decision
43.	Saudi Arabian Oil Company and Saudi Basic Industries Corporation	Manufacturing	The transaction involved acquisition of sole control of Saudi Basic Industries Corporation by Saudi Arabian Oil Company. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
44.	Cytonn Investment Partners Twenty LLP and Wasini Resorts Limited	Tourism	The transaction involved acquisition of control of Wasini Resorts Limited by Cytonn Investment Partners Twenty LLP. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**
45.	Inchcape Kenya Limited and RMA Motors (K) Limited	Distribution	The transaction involved acquisition of control of RMA Motors (K) Limited by Inchcape Kenya Limited. Analysis revealed that the transaction would neither affect competition negatively nor raise any negative public concerns.	**Approved unconditionally**



COMPETITION
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Creating efficient markets for consumers

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The Authority acknowledges and appreciates the hard work that went into developing this Annual Report and wishes to thank the following individuals for their dedication, commitment and professionalism:

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No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
136.	Samuel Kumbu Vs Select Management	Financial and insurance activities	The complainant alleged that he obtained a loan from the accused, and claimed they misled him that the loan would be disbursed in 24 hours but this was done after 2 weeks. He also claimed they were still deducting his salary even after completing the loan amount.	Section 56	Upon the Authority's intervention, the complainant was offered a replacement mattress.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
133.	CAK v Del Monte Kenya	Manufacturing	The Authority initiated investigations into claims that Del Monte Kenya Limited products namely Del Monte Apple juice and Del Monte pineapple is 100% natural as indicated on their packaging material.	Section 55 (a) (i) False or misleading representation and section 59 (1) (a) and (2) (a) of the Act on Product safety standards and unsafe products	Upon the Authority's intervention, the complainant was offered a replacement mattress.
134.	CAK v Bakhresa	Manufacturing	The Authority initiated investigations into claims that Bakhresa namely Azam Pineapples juice is rich in vitamin C and contains no preservatives as indicated on their packaging materials.	Section 55 (a) (i) False or misleading representation and section 59 (1) (a) and (2) (a) of the Act on Product safety standards and unsafe products	Investigations are ongoing
135.	CAK and U FRESH Enterprises Ltd	Manufacturing	The Authority initiated the case to verify the manufacturer's claims regarding the composition of the product.	Section 55 (a) (i) False or misleading representation and section 59 (1) (a) and (2) (a) of the Act on Product safety standards and unsafe products	Investigations are ongoing

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
130.	Patrick Ondieki v Royal Mabati Limited (RML)	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that RML do not deliver iron sheets as they advertise on their page that delivery is within 48 hours. His order took almost one month and they didn't respond when he called. He had made his order on 4th December, 2018 and it was delivered on 19th January, 2019.	55 (a) (ii), (v) and (b) (v) False or misleading representation 56 (1), (2) (a) and (e) Unconscionable conduct	Investigations are ongoing
131.	CAK v Kevian Kenya Limited	Manufacturing	The Authority initiated investigations into claims that Kevian Kenya Limited products namely Pick N Peel orange juice is 100% natural as indicated on their packaging material.	Section 55 (a) (i) False or misleading representation and section 59 (1) (a) and (2) (a) of the Act on Product safety standards and unsafe products	Investigations are ongoing
132.	CAK v Ceres (PTY) Fruit Juices	Manufacturing	The Authority initiated investigations into claims that Ceres product namely Ceres Hanepoot white grape juice is 100% natural, source of vitamin C and contains no preservatives as indicated on their packaging materials.	Section 55 (a) (i) False or misleading representation and section 59 (1) (a) and (2) (a) of the Act on Product safety standards and unsafe products	Investigations are ongoing

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
126.	Laura Lime v Slumberland Kenya Limited	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that she purchased a bed that comprised of a divan, mattress and a head board from Slumberland, all worth Ksh. 76, 000 but later discovered that the mattress was not well aligned with the bed.	Section 55(a)(i), False or misleading representation 56(1)(2)(a) Unconscionable conduct	Upon the Authority's intervention, the complainant was offered a replacement mattress.
127.	Njihia John v Kamisafe Lightings	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that he bought a Kamisafe Lamp but was not given a charging cord. He further alleged that the lamp discharges power after fifteen minutes upon being fully charged.	Sections 56 (1) (2) (a) and (e) Unconscionable conduct and section 63 on unsuitable goods	Investigations are ongoing
128.	William Mungai v KCB	Financial and insurance activities	The complainant claimed that he completed repaying a loan he took in 2011 in October 2017 but the Bank claimed that the loan was outstanding.	Sections 56(1)-(4) Unconscionable conduct	Investigations are ongoing
129.	Leonard Rono v Royal Mabati Limited (RML)	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that he made an order for roofing materials with the assurance of receiving the order within 7 to 14 days. Later, he was told to change the order to the readily available materials as what he had ordered was not available. He agreed and was forced to pay extra cash for the new order. When he did not receive the order or communication regarding the order, he decided to pay for the delivery and picked the order on 28th December 2018.	55 (a) (ii), (v) and (b) (v) False or misleading representation 56 (1), (2) (a) and (e) Unconscionable conduct	Investigations are ongoing

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
123.	Marvin Elly v Jumia	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged he had made an online order to purchase LG TV set from Jumia Kenya, and was given a two year warranty. After a week of using the TV,it became defective prompting him to take it to the LG Service Center where he was informed that the warranty does not apply to the Kenyan market.	Sections 55 (a) (i) (b) (v) False or misleading representation and 56(1), (2) (a) (d) (e) on Unconscionable conduct	Investigations are ongoing
124.	Joseph Agwata Okari v Royal Mabati Ltd (RML)	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that his client ordered for 20 pieces of roll tops and 24 pieces of iron sheets on 5th June 2018 from RML, which were not delivered as promised.	Section 55(a)(i)(ii) on False or misleading representation Section 56(1), (2)(a) (b)(c)(d)(e) of the Act on Unconscionable conduct	Investigations are ongoing
125.	Dipak Shah v Chloride Exide	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that he had bought a car battery from Chloride Exide on 16th October, 2018 and later discovered that it was faulty.	Sections 55 (a) (i), (b) (ii) (v), False or misleading representation and 56 (1) (2) (a) and (e) Unconscionable conduct	Investigations are ongoing

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
120.	Rogers Onyancha Advocates v Almasi Bottlers	Manufacturing	On behalf of his clients, the complainant alleged to have found foreign matter inside soda purchased from Almasi Bottlers.	Section 59(1)(a) (2) (b), Product safety and unsafe goods 63 and 64 Unsuitable goods	Investigations are ongoing
121.	Gilbert Owino v Royal Mabati Limited (RML)	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that he purchased corrugated charcoal grey mabati from RML after seeing an advert in the newspaper that RML delivers within 48 hours to any destination in Kenya. However RML failed to deliver thereby causing the complainants roof that was partially done with timber to rot. He further alleged that RML later undertook to supply him with blue corrugated instead of grey which he accepted, but this was also never delivered.	55 (a) (ii), (v) and (b) (v) False or misleading representation 56 (1), (2) (a) and (e) Unconscionable conduct	Investigations are ongoing
122.	Gideon Tarus v Safaricom Ltd.	Information and communication	The complainant alleged that Safaricom deactivated his Mpesa accounts and blocked him from registering any new Safaricom line using his ID.	Section 56 Unconscionable conduct	Investigations are ongoing

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
117.	Gerald Mbugua v Yang Guang Property Design and Manufacturing Ltd	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant ordered doors and frames from Yang Guang Property Design and paid Ksh. 179, 370 as down payment. However, the doors and frames delivered differed in measurements despite the fact that the contractor had visited the site and taken measurements. Upon raising the complaint with the company he was advised that the delivered goods were as per the ordered products and they could not be replaced.	Section 56(1) (2) (a) (d) and (e) of the Act on Unconscionable conduct	Investigations are ongoing
118.	Francis Gitahi v Nairobi Bottlers Ltd	Manufacturing	The complainant alleged that he bought a Fanta Soda which was contaminated	Section 59(1)(a) (2) (b), Product safety and unsafe goods 63 and 64 Unsuitable goods	Investigations are ongoing
119.	Ms. Irene Wangui Kinyanju v National of Kenya	Financial and insurance activities	The complainant alleged that on 17th March, 2018, she received two text notifications on her phone indicating that her Visa card had completed two online transactions from *www.boohoo.com* and deductions were made without her consent. She alleged that she had not received any communication from the Bank despite reporting to them.	Sections 56 Unconscionable conduct	Investigations are ongoing

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
114.	CAK v Fluor manufacturers	Manufacturing	The Authority initiated investigations into the edible oil sector to establish claims by manufacturers regarding the products composition.	Section 55, (a) (i) False or misleading representation	Investigations are ongoing
115.	Lilian v Toyota Kenya Limited (TKEN)	Transportation and storage	The complainant alleged that she bought a 33 seater bus in 2015 which experienced multiple problems. Upon lodging a complaint with TKEN an engine overhaul was done reducing vehicle capacity to a 29 seater. Despite the repairs, the vehicle still experienced problems. The complainant claimed for a refund but TKEN refused citing that the vehicle had already been used.	Section 55 (a) (i) (v), False or misleading representation 56 (1) (2) (a) (c) (d) (e), Unconscionable conduct 63 (1) (d) (e) and 64 (1) of the Act on unsafe and defective products	Investigations are ongoing
116.	Chris Godman v Kenya Airways	Transportation and storage	The complainant alleged that Kenya Airways oversold his flight from Kigali to Nairobi despite him arriving at the airport on time. He was forced to board another Kenya Airways flight from Kigali to Nairobi but he missed on connecting British Airways flight from Nairobi to London. He was advised to pay for the Kenya Airways flight from Nairobi to London then later seek for refund. He paid £3,211.20 to Kenya Airways for a ticket and continued with his journey. He was never refunded despite several follow ups.	Section 55 (b) (v) False or misleading representation and 56(1) (2) (a) and (d) of the Act on Unconscionable conduct	Investigations are ongoing

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
108.	CAK v IFFCO	Manufacturing	The Authority initiated investigations into the edible oil sector to establish claims by manufacturers regarding the products composition.	Section 55, (a) (i) False or misleading representation	Investigations are ongoing
109.	CAK v BIDCO Africa Limited	Manufacturing	The Authority initiated investigations into the edible oil sector to establish claims by manufacturers regarding the products composition.	Section 55, (a) (i) False or misleading representation	Investigations are ongoing
110.	CAK v PWANI Oil products Limited.	Manufacturing	The Authority initiated investigations into the edible oil sector to establish claims by manufacturers regarding the products composition.	Section 55, (a) (i) False or misleading representation	Investigations are ongoing
111.	CAK v GOLDEN AFRICA	Manufacturing	The Authority initiated investigations into the edible oil sector to establish claims by manufacturers regarding the products composition.	Section 55, (a) (i) False or misleading representation	Investigations are ongoing
112.	CAK v KAPA	Manufacturing	The Authority initiated investigations into the edible oil sector to establish claims by manufacturers regarding the products composition.	Section 55, (a) (i) False or misleading representation	Investigations are ongoing
113.	CAK v UNILEVER	Manufacturing	The Authority initiated investigations into the edible oil sector to establish claims by manufacturers regarding the products composition.	Section 55, (a) (i) False or misleading representation	Investigations are ongoing

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
104.	Edwin Wafula Makokha vs Equity Bank Kenya Limited	Financial and insurance activities	The client alleged that in October 2016 he finished paying for an Equiloan of Ksh. 740, 657.50 taken in 2011. However, the bank indicated that there was an outstanding balance of Ksh. 122, 996.27 as at 30th January, 2018.	Section 56(1)(3)(4) on unconscionable conduct	Investigations are ongoing
105.	Geoffrey Wainaina v Get Bucks Kenya Limited	Financial and insurance activities	The complainant alleged that he obtained a loan at Get Bucks Kenya Limited and he has been paying but the loan was increasing rather than reducing.	Section 56(2)(c)(d)(e) (3) and (4) of the Act on unconscionable conduct	Investigations are ongoing
106.	Daniel Kariuki Mwangi v Royal Mabati Limited (RML)	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that he procured Mabati from RML at a cost of Kshs. 133,425 with the company assuring him delivery of the materials within 4 working days. However, this was not complied and forced him to hire a private vehicle at a cost of Kshs 7,000. Nevertheless, RML declined to release the order.	Section 56 (1), (2) (a) and (e) of the Act on unconscionable conduct	Investigations are ongoing
107.	CAK v Bread manufacturers	Manufacturing	The Authority initiated investigations against bread manufacturers. The aim of investigations was to determine whether there was false or misleading representation in relation to ingredients.	Section 55, (a) (i) False or misleading representation	Investigations are ongoing

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
101.	Stella Ndung'u v Faulu Microfinance Bank	Financial and insurance activities	The complainant claimed that her parents took a loan from Faulu Micro-finance in June, 2013 at an interest rate of 12% p.a but the bank adjusted it in 2016 to 16% p.a. Further, upon their calculation, the actual interest rate was found to be 30% and not 16% or 12% as purported by Faulu.	Section 56 (2) (a), (c), (e) and (3) Unconscionable conduct	Investigations are ongoing
102.	Patience Kwekwe v Harambee SACCO	Financial and insurance activities	The complainant alleged that she took a loan of Ksh.360, 000 at an interest rate of 12% p.a. and she was to repay in 34 months. She cleared the loan in June 2015. In December, 2017, she applied for a new loan from the same SACCO but was informed that she still owed the SACCO an amount of about Ksh.200, 000 which was recovered from her SACCO shares without her knowledge.	Section 56 (3) Unconscionable conduct	Harambee Sacco invoked section 38 of the Act to enter into a settlement agreement with the Authority. The settlement proceedings were ongoing at the time of reporting.
103.	Vincent Kisua v Kenya Orient Insurance	Financial and insurance activities	The complainant alleged that Orient Insurance delayed in honoring his insurance claim after his vehicle was involved in an accident. He alluded that the insurer kept changing garages seeking different opinions forcing the complainant to incur related costs of the vehicle.	Section 56 (1) (2) (a)(b) (d) Unconscionable conduct	Investigations are ongoing

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
98.	Diana Tarichia vs David Mureithi/ Project Homes Ltd	Real estate activities	Complainant alleged that she had purchased a house unit from the accused. She was promised the house would be built as per the approved plan. However, the house built was different from the plan. When she complained, she was informed that it could not be changed.	N/A	The matter did not lie within the mandate of the Authority. The complainant later informed the Authority that the matter had been amicably resolved and the case was closed on 30th May 2019.
99.	CAK v HP Laptops	Information and communication	The Authority through its own intelligence noted that HP recalled more than 100,000 laptop batteries, worldwide due to overheating. CAK required HP to publish a public recall notice to consumers in two widely circulated local dailies. HP published the recall notice on 29th August 2018 in Nation and Standard Newspapers.	Section 59 Product safety standards and unsafe goods	Investigations are ongoing
100.	Anonymous complainant v Eco Gas Saver manufacturer	Electricity, gas, steam and air conditioning supply	The complainant alleged that the accused was misleading consumers regarding the eco gas saver, and alluded that there could be no chemical reaction between the gas cylinder and the plastic containing the gas saver liquid as alleged by the accused.	Section 55 (i) and (ii) False or misleading representation	Investigations are ongoing

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
95.	Charles Titim vs Bata Shoe Company	Manufacturing	The complainant alleged that Bata Shoe Company had been producing shoes of questionable quality. In addition to this, consumers' feet developed irritation from wearing Ngoma shoes and Gumboots. He further alleged that Bata Shoe Company was importing tons of unprocessed suspicious materials to manufacture their shoes, which made their staff to cough, choke and vomit.	N/A	The matter did not lie within the mandate of the Authority and was forwarded to KEBS on 6th May, 2019.
96.	Durex Condoms Recall	Wholesale and retail trade; repair of motor vehicle and motorcycles	The Authority through media screening learnt that on 30th July, 2018, Durex initiated a product recall in the UK and Ireland of specific batches of non-latex Durex Real Feel and Durex Latex Free condoms.	Section 59 Product safety and unsafe products	The Authority engaged the distributor of the condoms in the country and established that the said brand was not sold in the Kenyan market and thus the case was closed in January 2019.
97.	Anonymous complainant vs Gold Crown Beverages (K) Ltd	Manufacturing	The complainant alleged that Kericho Gold Crown Beverages Ltd was misleading the public and international market that their product originated from Kenya, yet it was made in Malawi.	Section 55(a)(i), b(i-ii) False or misleading representation	The complainant failed to provide sufficient evidence to enable the Authority pursue the matter and the case was closed in April 2019.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
92.	Ruth Naliaka Bushuru vs Jumia	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that she had purchased a Smart TV from Jumia, and paid for the same. Her order was later cancelled without her knowledge and her refund was not forthcoming.	Section 55 (b) (v) False or misleading representation and 56 (1), (2) (a), (d) and (e) unconscionable conduct	Upon the Authority's intervention, the complainant was refunded the full amount and the matter was closed on 27th February 2019.
93.	Emmanuel Kiprono vs Neochicks Poultry Ltd	Agriculture, forestry and fishing	The complainant alleged that he had bought an egg incubator from Neochicks Poultry Ltd but it was not serving the intended purpose properly due to its size and design. He added that the accused was not willing to assist despite the incubator being under warranty.	55(a) (i), (b) (i)(v) False or misleading representation 56(1)(2) (a) (d) (e) unconscionable conduct	The Authority established from KEBS that there was no set standard for incubators and the complainant was advised accordingly. The case was closed on 31st January 2019.
94.	CAK vs Excel Chemicals Limited	Manufacturing	The Authority initiated investigations into claims that Excel Chemicals Limited has made regarding its product namely- Fruit Full, Orange Carrot Nectar Juice, that it contains no preservatives.	55 (a) (i) False or misleading representation and 59 (1) (a) and (2) (a) of the Act on product safety and unsafe products	The Authority engaged Bureau Veritas for testing and it was established that there was no violation of the Act. The case was closed in October 2018.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
87.	Joshua Abaki vs Phone Dealer	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that he had purchased a phone under the pretense that it had certain features. He later found out that the said features were nonexistent	Section 55 (b)(i) false or misleading representation	The complainant failed to provide information supporting his allegations and the matter was closed in April 2019.
88.	Moses Adundo vs Kilimall	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that he had ordered goods through Kilimall which had not been delivered.	Section 56(1)(2)(a) and (e) unconscionable conduct	The complainant failed to provide more information supporting his claims and the case was closed in March 2019
89.	Ngethe Kariuki vs Tala Kenya Ltd	Financial and insurance activities	The complainant alleged that he was harassed by Tala Kenya Ltd for delaying to pay his loan.	N/A	The matter did not lie within the mandate of the Authority and was closed on 25th May 2019.
90.	John Njoroge vs Hot Point Appliances	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that he had purchased a fridge which was defective. He was given a replacement by the accused but it was also faulty.	Section 55 (a) (i) False or misleading representation and 56(1) (2)(a) and (e) unconscionable conduct	Upon the Authority's intervention, the fridge was replaced with a different brand, and the matter was closed on 30th April 2019.
91.	Albine Ogot vs Benadir Electonics	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant claimed that he had bought a Hisence smart television from Benadir Electonics. After 3 months, the screen could not display the images and he returned it to the seller who was yet to repair or replace the TV.	Section 55 (a) (v) & b (v) False or misleading representation & 56 (2) (a unconscionable conduct) (d)	Upon the Authority's intervention, Benadir Electronics repaired the TV and the matter was closed on 23rd May 2019.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
84.	Agnes Nyambura Kamau vs Urithi Housing Co-operative Society Ltd	Financial and insurance activities	The complainant alleged that she had registered for a fish pond project with the accused and paid Ksh. 200000 in October 2016. She was however never informed that the fish pond had been allocated to someone else. She then wrote a letter of withdrawal and was promised a refund in three months which was never done.	Section 56(1), (2) (a)(b)(c)(d) (e) Unconscionable conduct	The Authority engaged Urithi and the complainant was fully refunded. The matter was closed in April 2019.
85.	Samson Kieli vs UK Stechforf Birmingham	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that he purchased a tractor from the accused via an advert on the internet, and after remitting payment, the seller went silent.	N/A	The Authority contacted Competition & Markets Authority in the UK to assist in tracking the seller but they established the details of the seller were false. The complainant was informed to seek assistance from the police and the matter was closed on 18th April 2019
86.	Hezekia Kiplagat vs Free Predicts Futbol	Information and communication	The complainant alleged that www.freepredicts.futbol site was a scam aimed at defrauding Kenyans by predicting game outcomes.	N/A	The matter did not lie within the Authority's mandate and was forwarded to the Betting Control and Licensing Board. The matter was then closed on 25th April 2019

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
81.	Patriciah Wanyoike vs Kenya Power	Electricity, gas, steam and air conditioning supply	The complainant alleged she was billed by KPLC on estimates resulting in erroneous billing.	N/A	The complaint has been forwarded to Energy and Petroleum Regulatory Authority, and the matter was closed in March 2019.
82.	Vincent Okoko vs Kenya Womens Finance Trust (KWFT)	Financial and Insurance activities	The complainant alleged that he took a loan from KWFT which was disbursed to him in September, 2017. On 17th November, 2017 his business premise burned down and he wrote a letter to KWFT asking for 3 months grace period. On 16th March, 2018, the insurance sent a voucher under his name however, KWFT signed it without his consent and went ahead to deduct Kshs.113,333 from the voucher amount to offset the accumulated loan of 3 months.	Section 56 (1) (2) (a) Unconscionable conduct	The Authority established that the matter had been raised with Insurance Regulatory Authority and the complainant had been fully refunded. The matter was closed in February 2019
83.	Abraham Nyambane vs Bata Shoe Company	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that he had bought shoes from Bata and after three days of usage, the shoes started wearing out. He returned the shoes to the vendor and was given a replacement. However, the exchanged shoes had a similar defect. When he returned the second pair of shoes, they declined to exchange them.	Section 56(1), (2) (a) Unconscionable conduct and 59(2) (b) Product safety and unsafe products	The Authority engaged Bata and they replaced the shoes. The matter was closed in June 2019.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
77.	Caroline Wanjiru Njoroge vs Madison General Insurance	Financial and insurance activities	The complainant alleged that Madison General Insurance declined a claim for her car, which was involved in an accident, despite having a comprehensive insurance policy from the company.	Section 56(1) and (2)(a)(b)(c)(e) unconscionable conduct	The complaint was forwarded to IRAon 30th January, 2019.
78.	Tom Attaro vs M/S Oguttu & Company	Professional, scientific and technical services	The complainant alleged that he had sourced for legal services from Oguttu Mboya & Company Advocates, but he had never received any information regarding the case.	N/A	The matter did not lie within the mandate of the Authority and it was forwarded to the Advocates Complaints Commission in December 2018.
79.	Evans Juma Otieno vs Tabana Wireless	Information and communication	The complainant alleged that he engaged Tabana Wireless for wireless connection in Siaya County and was referred to a technician to do installation. He paid the required Ksh. 10,000 to the technician as instructed by Tabana, but he was neither connected nor refunded his money.	Section 56 (1), (2)(a)(b)(d)(e) unconscionable conduct	The matter was forwarded to Communications Authority on 30th January 2019
80.	Bosco Kenyatta vs Coca Cola a 500ml Coca Cola soda	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that approached the Authority on 15/4/2019 and registered a complaint claiming that he had purchased only to discover a chewed tooth stick inside the bottle.	Section 59 Product safety and unsafe products	The Authority was not able to proceed with the case since the complainant failed to provide supporting information. The matter was closed in April 2019.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
74.	Apollo & Co Advocates and Other vs Kenya Power & Lighting Co. Ltd (KPLC)	Electricity, gas, steam and air conditioning supply	The complainant alleged that in the month of November/December 2017, several consumers received inflated power bills from KPLC. He added that KPLC was recovering Ksh. 8.1 Billion backdated bills from electricity consumers allegedly incurred on diesel generation in the year 2017.	Section 55 (b)(i) false or misleading representation Section 56(2) and 57(2) unconscionable conduct	There was a court injunction instructing KPLC to stop and cease the billing of electricity consumers with inflated backdated electricity bills, and hence the case was closed in February 2019.
75.	Obed Onsarigo Vs KPLC	Electricity, gas, steam and air conditioning supply	The complainant alleged that KPLC had overcharged him. According to him, his bill per month was usually around Ksh 250 but in February, the KPLC sent him a bill of Ksh 21,877. On complaining to KPLC, the complainant they reviewed the bill to Ksh 7,000 which was still so high considering his usual bill.	N/A	The case was forwarded to Energy and Petroleum Regulatory Authority and the matter was closed in April 2018
76.	Agnes Muinde vs KPLC	Electricity, gas, steam and air conditioning supply	The complainant alleged that the bill presented to her by Kenya power was overstated for the month of February, 2018. She was given a bill of Ksh 23,253 which was erroneous since she has been paying a bill of between Ksh 4,000 to Ksh 8,000. The complainant provided the bills for the months of November, December, 2017 and January, February 2018.	N/A	Case forwarded to Energy and Petroleum Regulatory Authority in April 2018, and the matter was closed.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
70.	Daisy Nipher vs Kitsch Innovations Limited	Information and communication	The complainant alleged that she had purchased an iPhone 6s 64GB from the accused which was defective. She had made a formal complaint to the accused party but she was never assisted.	Sections 56(1) (2) (a) (d) Unconscionable conduct.	Upon the Authority's intervention, the complainant was fully refunded and the matter was closed on 21st January, 2019.
71.	Zuhura Muhiki vs Hot Point Appliances	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that she had bought a fridge from Hot Point Appliances, which broke down three time.	Section 55 (b) (v) of the Act. False or misleading representation Section 56 (1) (2) (a) (e) of the Act Unconscionable conduct.	Upon the Authority's intervention, the complainant was issued with a credit note. The case was closed on 19th February, 2019.
72.	Kefa Nyakundi vs Equity Bank	Financial and Insurance activities	The complainant alleged that he took a loan from Equity Bank Nakuru Branch. Other than the monthly payment, the bank without any reference to him forcefully took Kshs. 40,000 from his account and adjusted the loan.	Section 56 (1) (2) (a) and (d) of the Act on unconscionable conduct	The case was closed on 18th March, 2019, due to failure by the complainant to provide supporting evidence.
73.	CAK vs Toyota Kenya Ltd (TKEN)	Transportation and storage	The Authority received several complaints regarding the quality of HINO buses and interviewed 12 SACCOS and Companies confirming the same.	Section 55, False or misleading representation Section 56 Unconscionable conduct & Section 59 Unsafe products	Upon the Authority's intervention, TKEN undertook to compensate the affected individuals. The Authority is conducting compliance checks.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
67.	Hilda Cheptoo vs Kenya Institute of Management (KIM)	Education	The complainant alleged that she had enrolled for a professional course at the Kenya Institute of Management. She was given a proforma invoice of Kshs 56,000 which she paid but was later informed that it was erroneous. She was informed she would not sit for exams unless she paid an additional amount of Kshs 16,000.	Section 55(b)(i) False or misleading representations and 56(1)(2)(a)(e) Unconscionable conduct.	The Authority engaged KIM and they scrapped off the additional amount. The matter was closed in February 2019.
68.	Davis Okoti vs Granary Capital Ltd	Financial and insurance activities	Complainant alleged that he had obtained a loan and after paying his last instalment, he was informed of a fine of Ksh.5, 000, which had not been indicated earlier. He provided the loan application form which clearly outlined the terms and conditions of the loan, including the Ksh.5000 fine, to which he had signed against.	Section 56(4) Unconscionable conduct.	The Authority established that there was no violation of the Act and the case was closed on 10th January 2019.
69.	Mark Mukuha vs Taxify	Transportation and Storage	The complainant alleged he had been charged a fee of Ksh 1,250 which was equivalent to travelling 42.9 Kilometers but the actual distance travelled was 12 Kilometers. He reported the matter of overcharging to Taxify Kenya but no remedy was given.	Sections 55 (b) (i) False or misleading representation and 56 (1) (2) (a) (d) (e) Unconscionable conduct.	The Authority engaged Taxify and the complainant was fully refunded. The matter was closed in December 2018.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
63.	Francis Gwer vs Jumia Kenya	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant bought a phone from Jumia Kenya which was faulty. He was given a replacement which was also faulty.	Section 55 False or misleading representations.	The Authority engaged the accused and they fully refunded the complainant. The matter was closed on 10th February 2019.
64.	Walter Amoko vs Jumia Travel	Accommodation and food service activities	The complainant had made a booking with Jumia Travel for a hotel and made a prepayment. He was later informed that the hotel was not available and hence requested for a refund.	Section 56 Unconscionable conduct.	Upon the Authority's intervention, the complainant was refunded. Additionally, the Authority issued a warning to Jumia Travel. The matter was closed on 10th January 2019.
65.	Muthee Kagwa vs Royal Mabati Ltd (RML)	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant had ordered for iron sheets from RML worth Ksh.241, 000 in September and the same had never been delivered.	Section 55(a) (v) False or misleading representations and 56(1) (2) (a) and (e) Unconscionable conduct.	Upon the Authority's intervention, the complainant confirmed that the order was delivered and the matter was closed on 22nd January 2019.
66.	John Baptist Gathambu Nyamu vs Platinum Credit Limited	Financial and Insurance activities	The complainant had borrowed a an amount of Kshs 52,000 from Platinum Credit. He alleged that the interest rate had not been brought to his attention at the time of application. Further, he alleged that he had paid a total of Ksh. 65,531 and after inquiring he was told he had a balance of Kshs 117, 029.	Section 56(1), (2) (a) (c) (d) (e) (3) and (4) Unconscionable conduct.	The Authority engaged Platinum Credit Limited and they indicated that they had waived the total loan arrears. The matter was closed in April 2019.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
60.	Edwin Karuri vs Jamii Telcom	Information and communication	The complainant alleged that he had bought a 25 GB internet bundle from Jamii Telcom but was advised by the accused that he had purchased airtime and not bundles.	Section 56 (1), (2) (a) and (e) Unconscionable conduct.	The Authority engaged Jamii Telcom and established the complainant had used up all his bundles. The complainant failed to provide more information to support his claims and the case was closed in October 2018.
61.	David Herbling vs Bata Kenya	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant claimed that he had bought a Standard Newspaper from Bata's store. Despite the newspaper cover indicating a discounted price of Kshs 50, he was charged Kshs 60. Upon further enquiry from the retailer, he was told that the Bata receipt system could not process Kshs 50 hence the charge of Kshs 60 was applied.	N/A	The Authority intervened and the complainant was refunded. The matter was closed on 30th January 2019.
62.	Nicholas Awiti vs Mshwari	Information and communication	The complainant alleged that he requested for an Mshwari loan that took too long to be disbursed. When he requested to cancel the request, he was informed that an Mshwari loan cannot be cancelled once requested.	Section 56(1) Unconscionable conduct.	The Authority established that there was no violation of the Act and the matter was closed on 13th January 2019.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
55.	Ms. Agata Radomska vs Laundromatt Dry Cleaners	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that the drycleaners damaged her husband's wedding tie and refused to take responsibility.	Section 56(1) and (2) Unconscionable conduct.	Upon the Authority's intervention, the matter was resolved and the complainant was compensated. The matter was closed.
56.	Responsible Gaming Society of Kenya vs Standard Media Group	Information and communication	The complainant accused Standard Media Group of engaging in deceptive advertisement on diverse dates.	Section 55 (a) (i) False or misleading representations.	The matter did not lie within the mandate of the Authority and was forwarded to the Betting Control and Licensing Board in December 2018.
57.	Chelangat Evaline vs Startup Technology	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant had bought a computer from Startup Technology. However, the machine was faulty and attempts by the dealers at fixing it were unsuccessful.	N/A	The matter was closed in February 2019 after the complainant confirmed that she was fully refunded.
58.	Emmaculate Kemunto vs Multichoice Ltd (DSTV Kenya)	Information and communication	The complainant alleged that she bought a HD-DSTV decoder from Multichoice Kenya with a 1 month DSTV Compact subscription + Wifi router with 10GB of data for over three months. However, she did not receive the third month's Wifi data.	Section 55 (a) (v) False or misleading representations.	The Authority intervened and the complainant had data credited in her account. The matter was closed on 6th February 2019.
59.	David Maiyo vs Eldoret Water and Sanitation (Eldowas)	Water supply; sewerage, waste management and remediation activities	The complainant alleged that Eldowas delayed to connect his account.	Section 56 (1) (2) (a) (c) (d) (e), Unconscionable conduct	Upon the Authority's intervention, the complainant's water account was reconnected and his meter adjusted. The case was closed in August 2018.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
51.	Wahida Jamal vs Tuskys Supermarket, Kilifi	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant claimed that she returned a faulty microwave to Tuskys Supermarket, Kilifi for repair under warranty. The supermarket returned the microwave but it had a broken glass door and handle. She declined to take the machine from the supermarket.	Section 56 (1) (2) (a) & (d) Unconscionable conduct.	The complainant failed to provide evidence of purchase, thus the Authority could not proceed with the investigation. The matter was closed.
52.	Mulika Mpango vs Safaricom PLC	Information and communication	The complainant claimed that Safaricom PLC had suspended their company's telephone line without giving them a notice.	Section 57 (1) (2) (a) (d) (g) & (k) Unconscionable conduct in business transactions.	Upon the Authority's intervention, Safaricom PLC restored the complainant's line. The matter was closed.
53.	Phillis Weru vs Hotpoint Appliances Limited	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that she had bought a Whirlpool dryer from Hot-Point Appliances Limited which was defective and therefore wanted a refund.	Section 56 (1) (2) (a) (e) Unconscionable conduct, 63 Unsuitable goods and 64 Defective goods.	The Authority intervened and the complainant was given a full refund. The case was closed.
54.	Newton Gitonga vs Softcare	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that softcare diapers were substandard and were leaking.	Section 55 (a) (i) False or misleading representations.	The complainant failed to provide the receipt of purchase and a sample of the diaper to enable the Authority proceed with investigation. The case was closed.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
48.	Zuzana Kohutova vs Kenya Airways	Transportation and storage	The complainant alleged that she had purchased flight tickets from Kenya Airways. The tickets were however not accepted due to a pricing system error and she was asked to pay additional fees. Further, she was told that if she was not willing to pay the additional fees, she should apply for cancellation of the ticket to receive a refund.	Section 56 (1) (2) (3) & (4) Unconscionable conduct.	Kenya Airways resolved the matter by re-issuing the complainant with another ticket, and the matter was closed.
49.	Joshua Abaki vs anonymous	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that he had bought a phone with an internal memory of 8 GB and was assured by the seller that it could support an android system and particular applications like WhatsApp and Facebook. He later discovered that the memory was 256 MB. The seller refused to exchange or refund.	Section 55 (a) (i), (v) False or misleading representations and 56 (1), (2) (a), (d) and (e) Unconscionable conduct.	The complainant failed to provide the requisite evidence to enable the Authority pursue the matter. The case was therefore closed.
50.	Odhiambo Makaduol vs Nestle Kenya Ltd	Manufacturing	Manufacturing The complainant alleged that he had been served with an illicit Nescafe classic coffee product, packed and distributed by Nestle Kenya Ltd.	Section 59 Product safety and unsafe goods.	The matter did not lie within the mandate of the Authority and was forwarded to KEBS on 30th April 2019.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
44.	Mohamed Omar Ali vs Telkom Kenya Ltd	Information and communication	The complainant alleged that he had subscribed for a 3GB monthly bundle package with Telkom Kenya Ltd. However, his subscription had been exhausted after approximately one and a half hours. He wanted the accused to justify his data usage.	Section 55(a) (ii) and (b) (i) False or misleading representations and 56(2) Unconscionable conduct.	The Authority initiated investigations on the accused. The complainant however withdrew from the case. The matter was closed.
45.	Consul Designate vs Airtel Kenya	Information and communication	The complainant alleged that Airtel Kenya had been involved in misleading consumers by making them inadvertently subscribe to daily alerts that consume funds from their accounts.	N/A	The complainant failed to provide more information relating to the alleged daily alerts. The matter was closed on November 2018.
46.	Rombosia Nelima Laura vs Anisuma Traders	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that she had purchased a Sony Home Cinema System which was defective but the accused was not willing to replace the system despite it having a warranty.	Sections 55(a) (i) & (v) False or misleading representations, 56(1) (2) (a) (e) Unconscionable conduct and 59 2(b) Product safety and unsafe goods.	The Authority engaged Anisuma Traders and they agreed to replace the faulty system. However the complainant failed to visit the accused for a replacement and the matter was closed.
47.	Ms. Maria Thiege vs B-Trendy	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that she had purchased a dress from an online instagram store, B Trendy, but received a different dress from what she had ordered. Neither an exchange nor refund was forthcoming from the accused.	Sections 55(a) (i) False or misleading representations and 56(1) (2) (d) & (e) Unconscionable conduct.	The Authority engaged B Trendy and they exchanged the complainant's dress .The matter was closed.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
40.	CAK vs Naivas Supermarket	Wholesale and retail trade, repair of motor vehicles and motorcycles	The Authority initiated investigations into misleading advertisements by Naivas Supermarket regarding their marinated chicken being sold at their Westlands branch. The adverts indicated that the price was for the whole chicken, whereas it was actually the price per kg, which was misleading consumers.	Sections 55(1)(b) False or misleading representations.	The Authority issued a warning letter to the supermarket on 6th Sept 2018. The supermarket complied with the Authority's orders by changing the advertisements to reflect the correct information. The case was closed.
41.	Sheila Dawin vs Zuku	Information and communication	The complainant alleged that Zuku was falsely advertising their prices for Home Internet and TV. She indicated that the prices on their website were for new customers only. Further, the complainant added that Zuku had increased their prices in October 2018 without notifying customers.	Section 55 (b)(i) False or misleading representation	The complainant failed to provide the requisite evidence and later indicated that she did not wish to pursue the matter. The case was closed.
42.	Moses K. Mwangi vs Simba Tractors	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant had purchased a plough from the accused and it broke down on the first day of use. He had complained to Simba Tractors but he got no assistance.	N/A	The matter did not lie within the mandate of the Authority and was forwarded to Kenya Bureau of Standards on 26th February 2019.
43.	Mobin Habib vs Cozy Collection	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant had ordered for two drying racks. He had not been informed of additional charges for delivery to Mombasa. The racks delivered were not what he had ordered.	Section 55(a)(i) False or misleading representations and 56(1)(2)(a)(d) and (4) Unconscionable conduct.	The Authority engaged Cozy Collection and they refunded the complainant. The matter was closed.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
36.	Lincoln Mutwiri vs KCB	Financial and insurance activities	The complainant alleged that he had taken a KCB M-pesa loan on 25th June 2018 and had repaid it on 22nd July 2018 but the bank still insisted that he had not repaid.	Section 56 (1) (2) Unconscionable conduct.	The case was closed on 31st October 2018 after the complainant was made to understand that his repayment of the loan had been unsuccessful and he needed to re-do it.
37.	Newton Midamba vs Bodytech	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that he had bought a cologne perfume from Bodytech Shop in Bububuru but the product was an imitation.	N/A	The complaint was forwarded to the Anti-Counterfeit Agency.
38.	Amadi Kevo vs ZUKU	Information and communication	The complainant alleged that Zuku advertised that their internet speeds were up to 30Mbps but they offered lower speeds.	Section 55 False or misleading representations.	The complainant failed to provide the requisite information and the matter was closed.
39.	Kevin Isika vs Zucchini Greengrocers Limited	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that he had bought bread from Zucchini Greengrocers Limited which was burnt and was not suitable for human consumption. He had complained to the Company but had received no response.	Section 56 (1) (2) (a) (d) Unconscionable conduct. Section 63 & 64 Unsuitable goods and defective goods.	Upon the Authority's intervention, the matter was resolved amicably and the complainant was refunded. The case was closed.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
32.	Gordon Moodley vs Bergman Group	Financial and insurance activities	The complainant claimed that he bought shares from Bergman Group. He was further required to pay an additional amount of $2,700 for processing and another $1,000 since the shares were being sold before its maturity period of 2 years. The transaction turned out to be a scam.	N/A	The matter did not lie within the mandate of the Authority and was forwarded to the Directorate of Criminal Investigations on 4th September 2018.
33.	Marieta Wachira vs Titanium Phones & Tablets	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that she had bought a Samsung S6 from Titanium Phones & Tablets but the phone was faulty. She took it back and repaired the screen, but the problem recurred. She went back to Titanium Phones & Tablets and bought an iPhone S6 which developed the same issue. She established that the phones were meant for Asian networks only.	Section 56 (1) (2) (a) (d) and (e) Unconscionable conduct.	The Authority engaged Titanium Phones & Tablets and it was agreed that the complainant contacts the accused to resolve matter. However, she failed to visit the accused and the case was closed on 14th December 2018.
34.	Ishwarlal Bulsara vs anonymous	Financial and insurance activities	The complainant alleged that his pension had not been remitted to his bank account for the last 1 year from Kenya Railways Corporation.	N/A	The complainant was advised to liaise with Kenya Railways Corporation, as the matter did not lie within the mandate of the Authority.
35.	Walter Wamalwah vs JazaCart	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that he had paid for a TCL Smart TV model 32D2930 from JazaCart but instead, he received a TCL TV model 32S4900.	Section 55 (a)(i), (b) (i) False or misleading representations and 56 (1), (2) (e) Unconscionable conduct.	Upon the Authority's intervention, the complainant was refunded. The matter was closed.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
29.	Kwame Nkrumah vs Blue Water Group Ltd	Information and communication	The complainant alleged that he had contacted Blue Water Group Ltd to produce a Skiza tune for him and made a payment of Ksh. 3,000 through Mpesa. He was told that the production of his Skiza tune would be completed within 72 working hours. That did not materialize and his request for a refund was not honored.	Sections 55(a) (ii) (v) False and misleading representations and 56(1) (2) and (e) Unconscionable conduct.	The complainant later confirmed that he had been refunded. The case was closed.
30.	Owino David Odero vs Ismail Hassan	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that he had bought a Yamaha MOXF6 Piano on OLX posted by Ismail Hassan. After paying Ksh.91, 000, he was informed that the item was at Abu Dhabi and was forced to pay insurance fee of Ksh. 39,000. He was still being asked to pay Ksh. 58,690 for clearance which he did not pay. The item was never delivered to him.	Section 55 (b)(i)(iii) False or misleading representations and 56 (1), (2)(a)(d) (e), (4) Unconscionable conduct.	The matter was forwarded to the Directorate of Criminal Investigations on 12th July 2018 as it did not lie within the mandate of the Authority.
31.	Felista Kaimuri vs Urithi Housing Cooperative society	Financial and insurance activities	The complainant alleged that she had purchased a fish pond from Urithi and as per the agreement, was to receive a return of Ksh. 40,000 every 6 months. She was paid Ksh. 34,000 after 9 months, and was informed that the remaining balance had been deducted as tax. This had not been disclosed in the agreement. She decided to withdraw from the project due to non-payment of returns and was asked to wait for 3 months.	Section 55 (a) (v) False or misleading representations and 56(1) (2) (a) (d) (e) (4) of the Act, Unconscionable conduct	The Authority engaged Urithi and she was fully refunded The matter was closed.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
25.	Martin Situbi and Ann Maina vs Maasai Mara University	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainants alleged that they supplied assorted electronic items to the Maasai Mara University but they had not been paid for over six months.	N/A	The matter was outside the purview of the Authority's mandate and was referred to Public Procurement and Regulatory Authority.
26.	Stephen Kiptiness vs Auto-xpress Ltd	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that he had bought tyres and was informed that the side wall and rim protector curvature would bulge outwards and would have a better fit after a few days. This never happened and when he complained, he was informed that nothing could be done.	Section 55(a) False or Misleading representations.	The Authority engaged Auto-xpress Ltd and the complainant was fully refunded. The matter was closed.
27.	Kevin Isika vs Carrefour	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant claimed that he had bought milk from Carrefour Supermarket, Sarit Centre, which was spoilt. He then contacted the supermarket and was advised to return the milk for replacement.	Section 59 (1) (a) Product Safety and Unsafe goods & 60 (1) Product information.	Upon the Authority's intervention, the milk was replaced and the matter was closed.
28.	David Maiyo vs Railways	Transportation and storage	The complainant alleged that he paid for a Madaraka Express ticket for a Nairobi-Mombasa bound train but his family was forced to pay for another ticket to travel because the payment had not reflected in the system.	Section 56(1) and (2)(a) and (e) Unconscionable conduct.	Upon the Authority's intervention, a refund was made to the complainant and the case was closed.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
22.	Alice Wambui vs Standard Chartered Bank Alice Wambui vs Standard Chartered Bank	Financial and insurance activities	The complainant alleged that she applied for a loan at an interest rate of 15.9% from Standard Chartered Bank repayable for a period of 60 months. She further informed that the interest rate had been fluctuating and that she was not sure whether the bank effected the capping of interest rates as directed to commercial banks by the Central Bank of Kenya. She also added that the bank charged her for a credit card that she had not been using.	Sections 55(b) (ii) False or misleading representations and 56(1) (2) (a) (c) (d) (e), 56(3) (4) Unconscionable conduct.	The Authority engaged Standard Chartered Bank who indicated that the complainant had not contacted hem for redress. The Authority sent the details of the complainant to Standard Chartered Bank. The matter was resolved amicably by her receiving a refund totaling to Kshs 60,000. The case was closed in November 2018
23.	Nyawira Karimi vs Clothes designer	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged to have engaged the clothes designer in Mombasa to have two (2) suits and a trouser made. Upon collection, she realized that the trousers were tight, short and did not have buttons, and that the hemming was done in different colors.	Section 56 (1), (2) (a) (d) and (e) of the Act Unconscionable conduct.	Upon the Authority's intervention, the complainant was refunded the money and the case was closed.
24.	Mathew Ochieng vs Spaceman IT Mart Mombasa	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that he returned a laptop he had purchased from the accused for repair but it took too long though it was still under warranty.	Section 56 (1) (2) Unconscionable conduct	Upon the Authority's intervention, Spaceman IT Mart replaced the laptop with a new one and the matter was closed.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
20.	Simon Mbevu vs Infinity Youth Enterprises	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant bought two Smartphone Soccer T30 and T20 from Infinity Youth Enterprises. He alleged that the phones were not accepting memory cards.	Section 55 (a) (i),(b) (v) False or misleading representations and Section 56 (1), (2) (a) of the Act Unconscionable behavior.	Upon the Authority's intervention, Infinity Youth Enterprises settled the matter amicably by giving the complainant new phones. The complainant was satisfied with the resolution. The matter was then closed.
21.	Rachel Kariuki vs Text Book Centre	Wholesale and retail trade, repair of motor vehicles and motorcycles	Complainant alleged that she bought a printer from Text Book Centre – Galleria Mall Branch that was not functional. On making a complaint to Text Book Centre for a refund, she was informed that they do not offer refunds. Instead, they took the printer for repair and informed her that they had found no fault in the printer.	55 (a) (i) and (v) False or misleading representations and 56 (1) (2) (a) (d) & (e) of the Act (Unconscionable conduct)	The Authority engaged Text Book Centre and they confirmed that the printer was in good condition. There being no evidence supporting the allegations, the matter was closed on 5th October 2018.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
18.	Joseph Mathenge vs Safaricom PLC	Information and communications	The complainant alleged that the 1GB data bundle advertised by Safaricom was not actually 1GB and therefore misleading and fraudulent to consumers. In addition to this, he had sent Ksh.2000 from his Safaricom line to his Vodacom line but the amount did not reflect. He also claimed that he was overcharged while using Safaricom's East Africa roaming bundle.	Section 55(a)(v) False or misleading representations.	Upon the Authority's intervention, the complainant was fully refunded the Ksh. 2,000, and the overcharge from the East Africa roaming bundle. Safaricom PLC also refunded the other 155 customers affected by the overcharge on roaming bundles. The matter was closed.
19.	Gabriel Magumba vs TNT World Couriers	Transportation and storage	The complainant claimed that he used TNT World Couriers to send a package to the UK and they mishandled the goods leading to a total loss and refusal by the recipient to accept them. He claimed that the loss was approximately 700 Euros. The courier only offered to pay $1 for the claim, even after the complainant had presented to them a clear evidence on how the goods had been damaged on transit.	Section 57(2) (a) (c) (d) (f) (g) and (k) Unconscionable conduct in business transactions	TNT World Courier indicated that the complainant had declared a value of $1 when sending the goods. The Authority established that the complainant failed to declare the true value of the shipment. The matter was closed.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
15.	Kelvin Kubai vs Auto Cats International Ltd	Transportation and storage	The complainant bought a Mitsubishi lancer at Auto Cats International Limited. The vehicle developed mechanical problems after sometime which included a faulty gearbox. He also confirmed with quality service inspectors that the mileage had been tampered with.	Section 55 (a) (i) False or Misleading representations and Section 56 (1) (2) (a) Unconscionable conduct	The Authority engaged the Directorate of Criminal Investigations to assist in the investigation. However, the complainant informed the Authority that he did not wish to pursue the matter further.
16.	Nyaruai Gitonga vs Artcaffe	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that she purchased gluten free cookies from Artcaffe which affected her health as she was gluten intolerant. Upon contacting Artcaffe, she was informed that there was a disclaimer that the cookies had traces of gluten.	Section 55(a) (i) (v) False or misleading representations 56(1) (2) (a) (d) (e) Unconscionable conduct and 63(1) Unsuitable goods.	The Authority engaged Artcaffe and they agreed to settle the matter pursuant to Section 38 of the Act. The case was forwarded the Enforcement and Compliance Department for compliance check.
17.	Robert Motatiro vs Pioneer Insurance Company	Financial and insurance activities	The complainant had been remitting Ksh. 1,000 as premium to Pioneer Insurance Company since July 2016 from his pension. He instructed the accused to stop further deductions through a letter but they did not honour his instructions.	N/A	The Authority engaged Pioneer Insurance Company and they responded that they had not been receiving the complainant's premium remittances. The complainant sent updated statements which confirmed that there were no premium remittances. The matter was closed in November 2018.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
12.	Nicholas Adams vs Stranmore Holdings Ltd	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that the accused refused to notify him of the arrival of his motor vehicle from Japan in April 2017, and in the process it accrued storage charges.	N/A	The complainant failed to provide evidence of purchase of the vehicle to enable the Authority pursue the matter hence the case was closed.
13.	Kennedy Kemboi vs Sulman Life Insurance Ltd	Financial and insurance activities	Complainant alleged that Sulman Life Insurance Ltd failed to pay up for policies taken by Christine Chelimo Kogo (deceased).	Section 55 False or Misleading representations	The matter was forwarded to Insurance Regulatory Authority (IRA) who established that policy payments had never been remitted. The Authority informed the complainant of this response from IRA and the matter was closed.
14.	Stephen Kiptinness vs Kenya Orient Insurance Ltd	Financial and insurance activities	The complainant alleged that Kenya Orient Insurance Ltd had failed to fully compensate him for repairs of his vehicle which had been involved in an accident.	Section 55(a)(ii), (b)(i) False or misleading representations Section 56 (1), (2)(a)(b)(c)(e) Unconscionable conduct.	The matter was forwarded to IRA. The complainant confirmed that he had been compensated and the case was closed.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
8.	Antony Maina vs Malibu Telkoms	Information and communication	The complainant alleged that Malibu Telkoms and Tricom Technologies failed to notify the Authority of their merger.	Sections 41(1) and 42 (2) (a) 42(3) 42(5) and 42(6).	The matter is being investigated.
9.	Mr. Rufus Waithaka vs Property Reality Company (PRC)	Real estate activities	The complainant alleged that he purchased land from PRC but the company failed to provide the land and his efforts to get a refund had failed for two years.	N/A	The matter did not lie within the mandate of the Authority and he was referred to the Directorate of Criminal Investigations.
10.	Francis Nyakundi vs Cute Kitchen Ltd	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged that he purchased a sugarcane machine from Cute Kitchen Ltd and after one week, it became defective. He took it back to the seller who indicated that they were not in a position to repair it. He was referred to a workshop in industrial area.	Section 55 (a)(i) and 55 (b) (v) False or Misleading Representation & Section 56 (1) (2) (a) & (b) Unconscionable Conduct	Upon the Authority's intervention, the complainant was refunded an estimated cost of Ksh. 35,000 for repairs. He confirmed that he was satisfied with the redress and the case was closed.
11.	Mr. Barnes Kwoba Were vs Modern Coast Express	Transportation and storage	The complainant alleged that he sent a parcel containing various personal items including electronic items from Nairobi to Kisumu via Modern Coast Express and the parcel was never received by his recipient. Further, the bus company declined to give an explanation nor avail the parcel even after writing to them.	Section 56 (1)(2)(a) Unconscionable conduct	The Authority engaged Modern Coast Express and they agreed to amicably settle the matter. The complainant was compensated with the amount of personal items that had been declared at the time of sending the parcel. The case was closed on 8th August 2018.

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
5.	Felix Nyangwara vs Chloride Exide-Kisii Service Center	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant bought a battery from Chloride Exide in Kisii Town, which had a one-year warranty. It was however not working and he returned the battery. He was referred to Chloride Exide-Kisii Service Centre which assessed and informed him that the battery had a low acid level, which led to its malfunctioning and thus could not be refunded/replaced. The complainant therefore left the battery behind for repair, but the Service Centre never fixed it.	Section 56 (1), (2)(a) (e) Unconscionable Conduct	Upon the Authority's intervention, the complainant was issued with a new battery and the case was closed.
6.	Kenyon Limited vs Toolcraft Ltd	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant bought a Mig welding machine from Toolcraft Limited. He alleged that the machine was substandard since it had broken down severally and had not been used since the time of purchase. He took the machine to the accused for repairs but it still never worked.	Section 55 (a) (i), (b) (ii), (v), False or misleading representation 56 (1), (2) (a) Unconscionable Conduct	Upon the Authority's intervention, the complainant was given a full credit note and they were satisfied with the redress. The case was then closed.
7.	Paul Nanjero vs Zuku	Information and communication	The complainant alleged that he entered into an agreement with Zuku to provide him with unlimited internet connection of up to 30 Mbps at a fee of Ksh. 4, 800 monthly. However, he persistently had poor internet connectivity that hardly reached 5 Mbps.	Section 56 (1), (2) (a) & (d) of the Act, Unconscionable conduct	The complainant's issue was resolved through his confirmation that the connectivity had improved. The case was closed.

APPENDIX VII: CONSUMER CASES

No.	Case	Sector/Market	Case Summary	Relevant Section of the Act	Case status/ Decision
1.	Boniface Waweru vs Safaricom Plc.	Information and communication	The complainant alleged that he had made two transactions but had not been awarded the respective points under the Maisha ni M-Pesa Tu promotion as advertised. He raised the matter with Safaricom and was informed that the issue would be resolved within 24 hours. The issue had not been resolved three days later neither had Safaricom contacted him.	Section 55 (a)(v) False or misleading representations and 56 (1) Unconscionable conduct.	Upon the Authority's intervention, the complainant confirmed that Safaricom had resolved the matter, and the case was closed.
2.	Susan Warui vs Naivas Supermarket	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant had bought 15 packets of long life milk from Naivas Supermarket and the milk went bad before the expiry date.	Section 56 (1) (2) Unconscionable conduct.	The Authority engaged Naivas Supermarket and they replaced the milk. The case was closed.
3.	Ms. Jane Rose Omondi vs Zuku	Information and communication	The complainant alleged that she had been experiencing fluctuations in connectivity.	Sections 55(a) (ii) False or misleading representations and 56(1) Unconscionable conduct.	Zuku improved her signal upon the Authority's intervention. The matter was closed.
4.	Gillian Neky vs Jumia Kenya	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant claimed that she had purchased phones worth Kshs 50,000 from Jumia and a confirmation on the same was sent to her e-mail. However, she was later informed by Jumia that the items she had purchased were phone cases and not phones.	Section 56 Unconscionable conduct.	Upon the Authority's intervention, the complainant was given a full refund. The case was closed.