

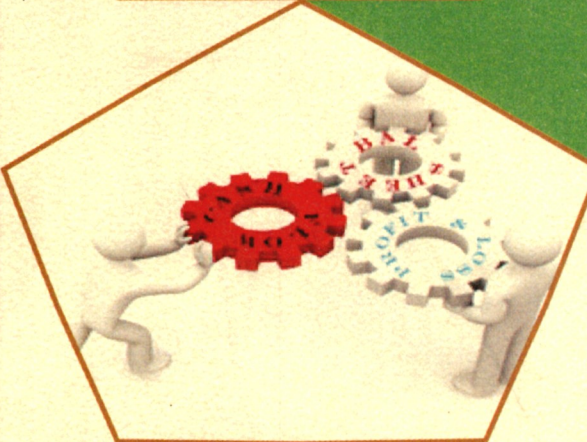
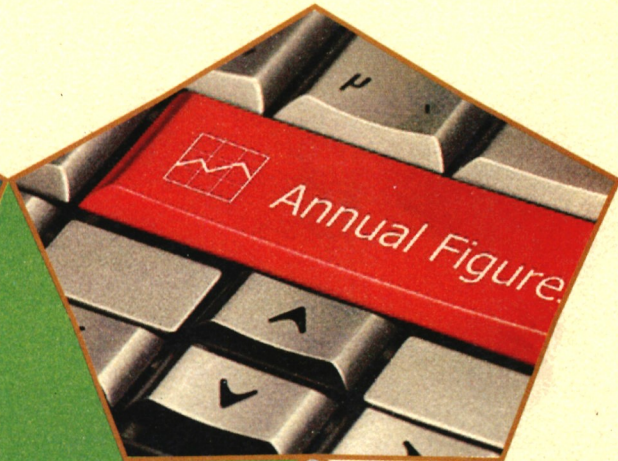


COMPETITION  
AUTHORITY  
OF KENYA

Creating efficient markets for consumers



# ANNUAL REPORT 2014/2015





PARLIAMENT  
OF KENYA  
LIBRARY



COMPETITION  
AUTHORITY  
OF KENYA

*Creating efficient markets for consumers*

## ANNUAL REPORT 2014/2015

## Table of Contents

<b>PART I: ANNUAL REPORT 2014/2015</b> .....	iii
CORPORATE INFORMATION .....	iv
BOARD OF DIRECTORS .....	3
MANAGEMENT TEAM .....	7
CORPORATE GOVERNANCE .....	10
The Authority's Board .....	10
Role of the Board .....	10
Key Board Activities .....	10
Board Committees .....	11
Technical and Strategy Committee .....	11
Human Resources Committee .....	11
Audit and Risk Management Committee .....	12
Finance Committee .....	12
Internal Audit and Assurance .....	12
Risk Management .....	13
Strategic Planning .....	13
CHAIRMAN'S STATEMENT .....	14
DIRECTOR-GENERAL'S STATEMENT .....	16
Regulation of Market Structure .....	20
Regulation of Market Conduct .....	24
Consumer Protection Initiatives .....	26
Research and Advocacy Activities .....	29
Human Capital Management and Development.....	39
Supply Chain Management .....	41
Financial Management .....	41
<b>CORPORATE SOCIAL RESPONSIBILITY</b> .....	<b>42</b>
<b>PART II: FINANCIAL STATEMENTS FOR THE YEAR 2014/2015</b> .....	<b>43</b>
Statement of the Directors' Responsibility .....	44
Report of the Auditor-General on the Competition Authority of Kenya for the year ended 30th June 2015 .....	45
Statement of Financial Performance .....	47
Statement of Financial Position .....	48
Statement of Changes in Net Assets .....	49
Statement of Cash flows .....	50

Statement of Comparison of Budgets and Actual Amounts .....	51
Notes to the Financial Statements .....	52
Progress on follow up of Auditor Recommendations.....	73
ANNEX 1: Corporate Risks .....	74
ANNEX 2: Summary of Merger Notifications .....	76
ANNEX 3: Summary of Advisory Opinions .....	100
ANNEX 4: Summary of Enforcement and Compliance Cases .....	104
ANNEX 5: Exemption Applications .....	108
ANNEX 6: Summary of Consumer Affairs Cases .....	109

**PART I**

**ANNUAL REPORT**

**2014/2015**

## CORPORATE INFORMATION

- Directors:** Mr. David Ong'olo - Chairman (*1<sup>st</sup> Term Expired on 31<sup>st</sup> December 2014 and was reappointed on 12/2/2016 for a further 3 yrs*)
- Mr. Francis W. Kariuki - Director-General
- Dr. Kamau Thugge - Principal Secretary, The National Treasury
- Dr. Ibrahim Mohamed - Principal Secretary, Ministry of East African Affairs, Commerce and Tourism
- Prof. Githu Muigai - The Attorney-General
- Ms. Judith A. Guserwa
- Mr. Stephen K. Kiptinness
- Canon Charles G. Komu
- Ms. Eunice Maranya
- Ms. Susan A. Ayako
- Mr. Protus Sigei - Alternate to P. S, The National Treasury
- Mr. Michael Onyancha - Alternate to P. S, Ministry of East African Affairs, Commerce and Tourism
- Ms. Elizabeth Ng'ang'a - Alternate to The Attorney-General

### Physical Address:

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

**Auditors:** Auditor-General,  
Kenya National Audit Office,  
Anniversary Towers,  
P. O. Box 30084 – 00100,  
NAIROBI.

### **Legal Advisors:**

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

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

Goretti Munialo Mwinali Company Advocates  
Uchumi House 14<sup>th</sup> Floor Aga Khan Walk  
P.O. Box 10771-00100  
NAIROBI.

### **Bankers:**

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

## PREAMBLE

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

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

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

The Authority achieves its mandate by regulating market structure and conduct; promoting consumer welfare and also advising the government in developing policies and regulations to support market based economy. Towards this, the Authority has developed relevant guidelines, concluded co-operation frameworks with sector regulators and it is currently implementing a four years strategic plan. To inform the ongoing regional economic integration, the Authority works closely with Regional Economic Communities.

This report provides the nature and scope of the Authority's activities, its plans and priorities including the number and nature of complaints and applications decided and or under consideration, number and nature of investigations completed and continuing, significant studies and inquiries completed during the 2014/2015 Financial year.

## Vision

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

## Mission

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

## Motto

Creating efficient markets for consumers.

## Core Values

The guiding principles in the operations of the Authority are:

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

## Mandate

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

- a) Promotion and enforcement of compliance with the Act;
- b) Receiving and investigating complaints from legal or natural persons and Consumer bodies;
- 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 publicise the results of such investigations;
- j) Investigating policies, procedures and programmes of regulatory authorities so as to assess their effects on competition and consumer welfare and publicise the results of such studies;
- k) Participating in deliberations and proceedings of government, government Commissions, regulatory authorities and other bodies in relation to competition and consumer welfare;
- l) Making representations to government, government Commissions, regulatory authorities and other bodies on matters relating to competition and consumer welfare;
- m) Liaising with regulatory bodies and other public bodies in all matters relating to competition and consumer welfare; and
- n) Advising the government on matters relating to competition and consumer welfare.

## BOARD OF DIRECTORS

### Mr. David O. Ong'olo – Chairman



Chairman 1<sup>st</sup> term expired on 31/12/2014, and was reappointed on 12/2/2016 for a further three years. Mr. Ong'olo has a long standing interest in competition policy and private sector development and has worked on areas spanning institutional development, sectoral regulation and industrial policy analysis. He is particularly interested in bridging the worlds of rigorous industrial sector analysis and practical policy making and implementation. He holds a Bachelor's degree in Economics from the University of Nairobi and a Master of Science degree in Industrial Economics from Lancaster University, U.K.

### Mr. Francis W. Kariuki – Director – General

Mr. Kariuki has a vast experience in competition enforcement having risen through the ranks to become the 1<sup>st</sup> Director-General of the Competition Authority of Kenya. His main interests are in competition regulation and also Economics of institutions' development. He is very well respected in the Competition Enforcement World for his advocacy efforts and other initiatives geared towards modernizing various competition regimes. Francis is a holder of Master of Science in Economic Regulation and Competition from City University- London; BA-Economics & Business Studies (Kenyatta University) and various Certificates in Strategic Leadership and Corporate Governance.



### Ms. Judith A. Guserwa



Ms. Judith Abrahams Guserwa is the managing partner of J.A. Guserwa & Company Advocates - a firm specializing in Labour and Commercial Law, a procurement law expert with close to 30 years practice as an advocate of the High Court of Kenya. She holds an LL.B degree and LL.M degree from the University of Nairobi and an MBA in Strategic Management. She is a member of the Chartered Institute of Arbitrators (CI Arb), International Labour Organization (ILO) consultant in labour and human capital and director at the State Corporations Appeals Tribunal. Judith is also a former member of the Public Procurement Oversight Authority Review Board, Law Society of Kenya Council Member.

### Mr. Stephen K. Kiptinness

Mr. Kiptinness was appointed Member of the Competition Authority on 26th September, 2012 for a period of three (3) years. He is a Senior Partner in Kiptinness & Odhiambo Associates—a technology media telecommunications law practice, an Advocate of the High Court of Kenya. He has also been appointed and served on several national and regional committees in ICT law and Competition Law. Mr. Kiptinness also lectures on Cyberspace, E-Commerce, Competition, Telecommunications, Media and Entertainment Law at the University of Nairobi's School of Law. His previous work experience has included roles such as Head of Regulatory Affairs at Telkom Orange, Senior Legal Officer at the Communications Commission of Kenya, Manager of the Alternative Dispute Resolutions Centre at the Commonwealth Telecommunications Organization in London, and as Legal Assistant at Oraro & Co. Advocates. Mr. Kiptinness obtained his LL.B degree from the ILS Law College and LL.M from the London School of Economics. He is a member of the Law Society of Kenya and the Institute of Certified Public Secretaries Kenya. He is also a certified patent agent for the Kenya Industrial Property Institute and a Notary Public.



### Canon Charles G. Komu



Canon Gikunju was appointed Member of the Competition Authority on 26<sup>th</sup> September, 2012 for a period of three (3) years. Canon Komu started his career in the Government service with the Ministry of Works (Purchasing and Supply Department.). He joined the Tea Industry (Kenya Tea Development Authority) in 1980 as a trainee Factory Manager which saw him serve tea farmers in Central Kenya, North Rift, Nyanza and Eastern Regions rising to the position of Regional operations Manager. He holds a Bachelor of Science Degree in Human Resources, a Masters in Strategic Management and Diploma in Management and Logistics. He also holds a certificate in

advanced Christian Leadership from Haggai Institute of Advanced Christian Leadership from Hawaii - USA. He is a full Member of Kenya Institute of Management and a life Member of Kenya Red Cross.

### Ms. Susan A. Ayako

Ms. Ayako was appointed Member of the Competition Authority on 26th September, 2012 for a period of three (3) years. She is a Lecturer at the School of Economics of the University of Nairobi. Ms. Ayako is an associate Member of the Kenya Institute of Banking. She graduated from the University of Nairobi in 1986 and earned a Master's Degree in Economics in 1988 from the same University. She subsequently received training in Monetary Economics and Industrial Organization in Carleton University, Ottawa, Canada.





### **Ms. Eunice M. Maranya**

Ms. Eunice Maranya is a Business, Management and institutional development specialist with over 15 years of banking experience and 7 years of consulting for large donor, private and public sector organizations. She is the Country Director of the Digital Opportunity Trust, a Canadian NGO that works in the youth and ICT space. She was also the CEO of KARA, a nationally lobby organization for Residents Associations. She has worked as an independent consultant in several areas in development including DFiD, Danida, UNDPSSC unit, USAID, IFAD projects; financial services sector, corporate and the public sector and has also undertaken several scoping and research assignments. She has previously sat in the Board of the Communications Commission of Kenya (CCK); now the Communications Authority of Kenya. Eunice holds an MBA from the United States International University (San Diego) and a BSc from the University of Nairobi. 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.

### **Mr. Protus Sigei**

#### **Alternate to the Principal Secretary/ The National Treasury**

Mr. Sigei, a Deputy Director of Investments at the National Treasury, has worked in Kenya's public service for over two decades. He holds a B.A (Hons) degree in Economics from the University of Nairobi and a Master of Science from the University of York, U.K. He was one of the pioneer seven (7) officers selected by the Government of Kenya in 2004 to be trained, at the Boston Institute for Developing Economies, as trainers in Performance Contracting; subsequent to which he helped introduce performance contracting in Kenya's public service.

Mr. Sigei is a member of the Society for Benefit-Cost Analysis, a professional society of academics and practitioners, headquartered at the University of Washington at Seattle, USA.





**Mr. Michael Onyancha**

**Alternate to the Principal Secretary Ministry of East African Affairs, Commerce and Tourism**

Mr. Onyancha currently is, the Director of Weights and Measures, Ministry of East African Affairs, Commerce and Tourism. He joined Public Service in 1984 as Inspector Trainee in the then Ministry of Commerce and Industry rising through ranks to the current position. He holds BED Hons (Mathematics) and MBA from the University of Nairobi. Mr. Onyancha is the Country representative

to the International Organization of Legal Metrology (OIML) and a member of the International Legal Metrology Committee (CIML), Board member of East Africa Standard Committee, Member of the Institute of Trade Standard Administration, Kenya (ITSA).

**Ms. Elizabeth Ng'ang'a**

**Alternate to the Attorney-General**

Ms. Ng'ang'a is a Parliamentary Counsel in the Office of the Attorney-General. She is an advocate of the High Court of Kenya and holds a Bachelor of Laws degree from the University of Nairobi as well as a postgraduate Advanced Diploma in Legislative Drafting from the University of West Indies Cave Hill Campus, Barbados. She has also not only undergone a range of other drafting training but also boast of a wide experience in legislative drafting. Over the years, Ms. Ng'ang'a has served on numerous committees and task forces as a drafting expert, more recently being drafting financial legislation under the National Treasury.



## MANAGEMENT TEAM



### **Francis W. Kariuki - Director-General**

Mr. Kariuki has a vast experience in competition enforcement having risen through the ranks to become the 1<sup>st</sup> Director-General of the Competition Authority of Kenya. His main interests are in competition regulation and also Economics of institutions' development. He is very well respected in the Competition Enforcement World for his advocacy efforts and other initiatives geared towards modernizing various competition regimes. Francis is a holder of Master of Science in Economic Regulation and Competition from City University- London; BA-Economics &

Business Studies (Kenya University) and various Certificates in Strategic Leadership and Corporate Governance.

### **Stellah Onyancha – Manager, Mergers and Acquisitions**

Ms. Onyancha is a holder of Master of Arts in Economic Policy Management( University of Ghana, Legon); Bachelor of Arts (B.A. Hons) in Economics and Business Studies( Kenya University); Diploma in Management of Information Systems (IMIS (Strathmore University College) and various Certificates in Competition Policy and Law; Her main interests are in Competition regulation, research and trade related issues. Stellah has been in charge of the Mergers and Acquisitions Department since August, 2011 when the Competition Authority was established.



### **Robert Mbarani – Manager, Finance**

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



### **Anthony Muriithi Njagi – Manager, Human Resources and Development and Administration**

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

### **Boniface M. Makongo- Manager, Legal**

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



### **Gideon Mokaya- Manager, Enforcement and Compliance**

He has a Master of Business Administration from University of Nairobi (2006). Additionally he is a Certified fraud examiner (CFE) and a Certified Public Accountant (CPA) K. Mokaya has over seventeen years work experience in forensic investigations and audit in the public sector having worked with Askim Management Consultants, Kenya National Audit Office, Kenya Anticorruption Commission and Ethics and Anticorruption Commission. He has broad experience as a team leader in forensic investigations. He has been a trainer on investigative interviewing skills and investigations file compilation both at EACC and DCI training school. Mokaya has also undergone extensive training locally and abroad on investigations skills. He has been the Head of enforcement and compliant Department since February 2015.



### **Boniface Kamiti- Manager, Consumer Protection**

Mr. Kamiti is a holder of an MA Degree in Economic Policy and Management from the University of Nairobi and a BA Degree in Social Science (Economics) from The Catholic University of Eastern Africa. He has 10 years wealth of experience gained working for reputable institutions such as UN-Habitat, UNDP and Centre for Corporate Governance amongst others in various capacities. Boniface has undertaken projects under the Africa Peer Review Mechanism (APRM) and has also been a Lecturer in Development Economics. He is widely trained on Corporate Governance and Results Based Management. Boniface is a member of Institute of

Directors of Kenya (IOD-K). He has headed the department since February 2015.

### **Eric Mwangi Manager, Internal Audit**

Mr. Mwangi joined Competition Authority of Kenya in December 2014. He has over eleven (11) years of vast experience in the audit of the Government Parastatals. Previously, he had worked with Kenya National Bureau of Statistics (KNBS), Kenya Film Commission (KFC) as the Manager, Internal audit and Kenya National Audit Office (KENAO) which is currently the Office of the Auditor General (OAG) as an auditor.

He is a holder of Bachelor of Science degree (Hons) and Master of Business Administration (Finance Option) from the University of Nairobi. He is a Certified Public Accountant (Kenya), Certified Fraud Examiner (CFE) and Certified Information Systems Auditor (CISA). Mr. Mwangi is an active member of the Institute of Certified Public Accountant (ICPAK), Association of Certified Fraud Examiners (ACFE) and Information System and Control Association (ISACA). Besides he is a qualified quality management system ISO 9001:2008 auditor.



## CORPORATE GOVERNANCE

The Board is committed to ensuring that the Authority's obligations, roles and responsibilities to its various stakeholders are fulfilled through its corporate governance practices. The Members and the Management undertake to perform their duties with impartiality, honesty, transparency and accountability, professionalism, integrity, care and due diligence and to act in good faith to the best interests of the public. The Board is committed to ensuring that the Authority complies with all applicable laws and statutes.

### The Authority's Board

The Authority's Board is established under section 7 of the Act and comprises of five (5) independent, non-executive Members. The Chairman is appointed by the Cabinet Secretary/The National Treasury from among persons experienced in competition and consumer welfare matters. The National Treasury, the Hon Attorney – General and the Principal Secretary to the Ministry of East African Affairs, Commerce and Tourism are also represented on the Board. The Director – General is an *ex-officio* Member and Secretary of the Board.

### Role of the Board

The Members are responsible for the overall management of the Authority. In addition, the Members are responsible for drawing up strategies for the long term success of the Authority as well as carrying out the fiduciary duty of monitoring and overseeing the activities of the Management.

To actualize the aforementioned, the Members meet regularly to make determinations/decisions. These matters include determination of merger applications and other enforcement activities including determinations resulting from restrictive trade practices investigations and exemption applications; providing the Strategic direction of the Authority and overseeing the Authority's compliance with statutory and regulatory obligations.

The Chairman is primarily responsible for providing leadership to the Board including Chairing of the Board's meetings. The Chairman also ensures that the Board is supplied with timely and sufficient information to enable it to discharge its duties effectively. The Director – General is the Chief Executive, and is responsible for the day to day management of the Authority.

The Board was evaluated on 17<sup>th</sup> December, 2014 by the State Corporations Advisory Committee (SCAC) and achieved an overall score of 4.4.out of 5.

### Key Board Activities

The Board meets at least once every quarter depending on the exigencies of the business. Members receive adequate notice for meetings and detailed papers on issues to be discussed are transmitted before the meetings.

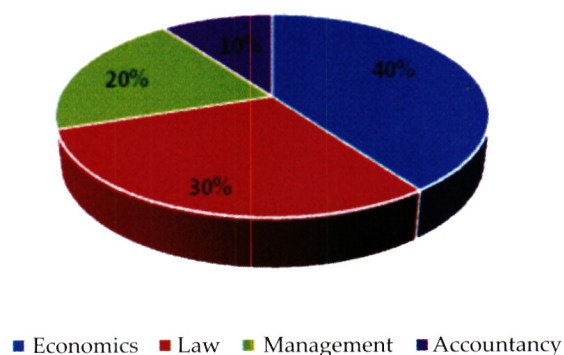
During the year under review, the Authority's Board held eleven (11) full Board meetings. With regard to the Board's Committees the Human Resources Committee held 9 meetings; Technical and Strategy Committee held 10 meetings; Audit and Risk Committee held 4 meetings, and; Finance Committee held 2 meetings.

The Board also participated in the celebrations to mark the World Consumer Rights Day, the World Competition Day and several consultative workshops held with the Authority's stakeholders.

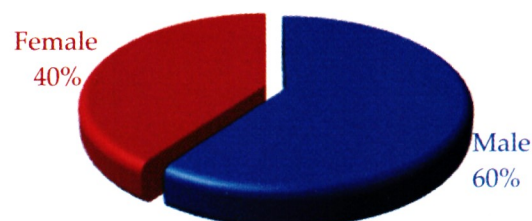
## Board Composition

The Board consists of the following diverse competencies and complies with constitutional gender requirements as shown in Pie Chart 1 and 2.

Pie Chart 1: Board competencies



Pie Chart 2: Board gender representation



## Board Committees

As highlighted above, in order to adequately interrogate issues presented by the Management, the Board has constituted the following Committees:-

### Technical and Strategy Committee

The Committee is mandated to:

- i. Advise on strategic planning for the Authority and related technical aspects of the operational performance of the Authority;
- ii. Work with management on technical issues related to the functions of the Authority; and
- iii. Review the quality of technical work carried out by the Authority.

The membership is constituted of Mr. Stephen Kiptinness (Chairperson), Mr. Francis W. Kariuki (Director – General), Ms. Eunice Maranya, Ms. Susan A. Ayako and Mr. Protus Sigei.

### Human Resources Committee

The Committee is mandated to:-

- i. Review Human Resource policies and succession planning aspects of the Authority;
- ii. Review of Human Resources compliance with national legislation; and
- iii. Organize the structuring and performance evaluation of Senior Staff.

The Members are Ms. Judith Guserwa (Chairperson), Mr. Francis W. Kariuki (Director – General), Canon Charles G. Komu, Mr. Michael Onyancha and Ms. Elizabeth Ng'ang'a.

## Audit and Risk Management Committee

The Committee is mandated to:-

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

The Members are Canon Charles G. Komu (Chairperson), Ms. Judith Guserwa, Mr. Michael Onyancha and Mr. Protus Sigei.

## Finance Committee

The Committee is mandated to: -

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

The Members are Ms. Eunice Maranya (Chairperson), Mr. Francis W. Kariuki (Director – General), Mr. Stephen Kiptinness, Ms. Elizabeth Ng'ang'a and Ms. Susan A. Ayako.

## Internal Audit and Assurance

Internal audit is a function mandated to provide assurance on the internal control environment and risk management assurance processes of the Authority, deepening good governance practices and supporting it in achieving best controls through continual improvement.

The objective of the internal audit is enhanced through governance support from the Board audit and risk committee to which the function reports. Its role is to provide confirmation that the Authority's policies and procedure as approved by the Board are complied with. Internal assurance was carried out by the Internal Audit department that reports to the Board Audit and Risk Committee.

During the year under review, six planned audit reviews covering various departments of the Authority were conducted. The reviews were aimed at appraising the adequacy, design, and operating effectiveness of controls. The internal audit further enhanced compliance by recommending and overseeing implementation of internal controls in the identified weak areas.

The Authority's external assurance for the period under review was provided by the Kenya National Audit Office (KENAO). KENAO carried out a systems and financial audit on the Authority's expenditure cycles.

## Risk Management

Pursuant to the Authority's development of the Enterprise Risk Management (ERM) framework in the 2013/14 Financial Year the Authority developed the Enterprise Risk Register. This ensures that a risk management culture is embedded into the day to day operations of the Authority. During the year, the Authority implemented various mitigation mechanisms and as a result the current implementation status of the Authority's corporate risk register is as detailed in **Annex 1**.

## Strategic Planning

The Authority is currently implementing a four year Strategic Plan. The Strategic Plan is aligned to the Medium Term Plan II of the Vision 2030 and acts as the interface for the Authority's mandate and the objectives of the Vision 2030 Economic Blue print.

This plan focuses on the following thematic areas:-

- i) Enforcement of competition and protection of consumers;
- ii) Research, advocacy and awareness creation;
- iii) Mobilization and optimal utilization of resources;
- iv) Infrastructure and human capital development; and
- v) Visibility and Corporate image.

During the period, the Authority undertook a Monitoring and Evaluation exercise and the resultant M&E Report indicates that eighty percent (80%) of the planned activities in the five thematic areas had been achieved. As a result, the Authority will be embarking on the review of the current Strategic Plan in the 2015/16 Financial Year. It is envisaged that the subsequent Strategic Plan will focus specifically on enforcement activities on key sectors of the economy, in terms of poverty alleviation and shared prosperity. In addition, the Strategic Plan will lay out strategies to deepen service delivery through automation of Authority's various processes.

## CHAIRMAN'S STATEMENT



It is my great pleasure to present the third Annual Report and 2<sup>nd</sup> Financial Statements since the operationalization of the Authority in August 2011. On behalf of the Board, I would like to thank all the Management and appreciate their efforts in supporting the Vision of the Board. This has enabled the Authority create visibility and credibility in a very short term during its formative stage.

During the year under review, the Authority registered an overall improvement in its performance due to improved resources, human and capital, which facilitated the Authority's regulatory capacity; in terms of the number and nature of cases concluded and the number of days taken to conclude the same. This performance

was made possible by the enormous support we received from the National Treasury, Parliament, Development partners and other stakeholders.

The Authority prioritized its activities to focus on supporting the Government's current transformational agenda. Towards this, the Authority's enforcement during the year had the objective of removing obstacles to effective competition in the financial; telecommunications and agriculture sectors. It is expected that enhanced competition in these sectors will not only reduce poverty in Kenya but also increase financial inclusion.

In particular, the Authority undertook inquiries aimed at facilitating accessibility of agriculture inputs specifically the fertilizer. The findings/recommendations of the inquiry will be implemented in the 2015/2016 financial year. Also, the Authority embarked on two (2) studies aimed at identifying the competition bottlenecks in the financial sector. The USSD and the Banking Phase II studies are expected to be finalized in the coming financial year. In addition, the Authority concluded investigations into a price-fixing arrangement in the insurance sector.

At the regional front, the Authority is cognizant of the emerging issues as a result of creation of Regional Economic Communities (RECs). These include the East African Community (EAC) and the Common Market for East and Southern Africa (COMESA). Towards this, the Authority continued to advise the Government on the best frameworks of deepening integration, while mitigating against the challenges of cross border competition infractions and overlapping jurisdictions. These efforts realized the review of COMESA merger regime during the period. Going forward, we expect to expand these initiatives in all existing and upcoming RECs in order to ensure that RECs act as dependable drivers of regional integration while at the same time establishing regulatory frameworks to mitigate against non-tariff barriers, which may include competition policy issues.

During the period, the Authority's activities were aligned to its current Strategic Plan's thematic areas. These are: Enforcement of competition and protection of consumers; Research, advocacy and awareness creation; Mobilization and optimal utilization of resources; Infrastructure and human capital development; and Visibility and corporate image. As indicated earlier, by the end of this period, the Authority had achieved close to 80% implementation of its strategic plan. In the coming financial year, the Authority shall review the current Plan. To buttress the Authority's enforcement capacity, the Authority took cognizance of the weaknesses in

some areas of the Act and with the support of The National Treasury, Parliament amended some provisions of the Act. These areas included introduction of provisions to develop a leniency programme; Block Exemption Regulations, among others. We expect to advise for further amendments in order to create clarity in regard to, among others, merger regime and also to enhance remedial measures in restrictive trade practices cases.

As an endeavor of enhancing transparency and predictability in the application of the law, the Authority developed and implemented additional guidelines on handling mergers, restrictive trade practices and consumer protection. The Authority also developed various policies to enhance execution of its mandate.

In the coming financial year, the Authority shall continue to populate its organizational structure, based on resources available, so as to cope with the continued increasing enforcement scope. This will be coupled with automation of our processes and regularly review our internal policies in order to sustain our efficiency and effectiveness levels. Our advocacy initiatives shall equally be sustained through the rolling out of Regulatory Impact Assessment (RIA) and continual implementation of the Product Market Regulation (PMR) with the objective of promoting compliance to the Act.

In conclusion, on behalf of the Board, I wish to acknowledge the funding support received from the National Treasury and development partners, particularly, the World Bank Group (WB), Kenya Market Trust (KMT) and Financial Sector Deepening (FSD) program. I further wish to thank all our other stakeholders and also once again commend the Management and staff for their dedication, commitment and continued contribution in ensuring the Authority's mandate is achieved.

**David O. Ong'olo**  
Chairman

## DIRECTOR GENERAL'S STATEMENT



As per the requirements of section 83 of the Act, I wish to undertake this noble duty of presenting the Competition Authority of Kenya's 2014-2015 Financial year Report. This report covers the Authority's performance and other interventions, for the period, in line with its mandate and also elucidates the resources, both capital and human, which were at the Authority's disposal. In addition, the Report highlights the impact, to the economy, of the enforcement decisions the Authority undertook during the period.

As the Chair had indicated earlier, the Authority's activities were generally geared towards realization of the objectives of Kenya's Vision 2030. Specifically, the Authority's enforcement and advocacy activities were aimed at contributing towards efficient market with enhanced consumer welfare for shared prosperity. This saw the Authority prioritizing its enforcement activities in the Agriculture; financial sector and telecommunications sector.

This prioritization was informed by the fact that Agriculture sector contributes 25% of our economy's GDP while the financial and telecommunications sector are key drivers of the investment climate in the country and also major drivers of the financial inclusion agenda.

These enforcement activities were also aimed at entrenching competition policy as an important component of Kenya's growth agenda. This is premised on the fact that the current development agenda (Vision 2030) aims at, among others, reducing poverty, shared prosperity/ inclusive growth to all Kenyans by achieving a 10% Gross Domestic Product (GDP) growth rate. It is a fact that the Government intends to achieve these goals through, among others, improving the investment climate. The Authority, during the period, endeavored to support these initiatives by: reviewing existing regulations that impede proper functioning of a market economy; reviewing the impact of any proposed regulations that may affect investments, in the future; minimizing transaction costs for the regulated, and building capacity within government agencies/departments to support these initiatives.

Towards actualizing the commitments highlighted under The Medium Term Plan I, for Kenya Vision 2030, specifically on enhancing the Competition Agency's capacity (both capital and regulatory) in order to support the achievement of Kenya's growth agenda, the Authority increased its staff by 135%, and continued to deepen their skills through continued on-job training. This was undertaken through the support of consultants from developed competition Agencies like South Africa; re-known researchers from Universities of British Columbia and New York University focusing on investigations of cartel cases; Abuse of Dominance and mergers analysis. The Authority also rolled out its M&E and impact assessment frameworks aimed at assessing the impact of decisions taken by the Authority vis-à-vis the resources expended.

It is important to highlight that the Authority's enforcement Agenda can only be deepened and eased through building of credible regulatory capacity and competition champions. Towards this, the Authority directed its resources to creating awareness of the competition policy and law by supporting awareness creation workshops including with governments (regional and national

governments); Business journalists while at the same time supporting development of MoU's with the sector regulators and training them on Regulatory Impact Assessment (RIA). This was achieved also through profiling and highlighting regulations/laws that impede competition in the economy through conducting of a Product Market Regulatory indicative study. These efforts will continue to be deepened through the Special Compliance Process which is aimed at encouraging behavioral changes in the Financial and Agriculture sectors trade associations. This are the main drivers of the economy.

In summary, main achievements accomplished during the period had tangible benefits to Kenya. For example; the skills development of the CAK staff has seen the Authority finalize an RTP case in retail sub-sector leading to consumer savings of about Kshs. 72 M, especially for the poor; collusive tendering in the insurance sector resulting to saving of Kshs. I million , in a single tender, and; an AoD case in mobile money transfer resulting to reduction of rates by 67%, especially in the bands commonly utilized by the poor. In terms of regulatory capacity deepening, development and publication of merger guidelines has resulted to: reduction of merger analysis and determination from 60 days to 42 days; removing of non-problematic mergers (simple) from rigorous scrutiny; being cleared within 14 days; merger filing fees based on cost of analyzing mergers rather than revenue generation; Increase in the number of Advocates firms handling mergers applications in Kenya from 5 to about 12 currently.

The signing of MoUs with the Communications Authority of Kenya and the Central Bank has facilitated common approach to competition analysis, hence minimization of contradictory decisions; forum shopping while facilitating information sharing, among regulators, to the benefit of investors. The awareness creation workshops has led to the Authority being consulted by the national Government in its privatization programme (alcoholic beverages; petroleum refinery; sugar). This has ensured the privatization program creates functional markets. As we move into the next financial year, we are cognizant that the recommendations/findings of some of the activities undertaken during this period require to be implemented in the coming financial year. Specifically, the Authority will prioritize implementation of the PMR, as directed by H.E The President, in his Speech to mark the World Competition Day. We are also alive to the fact that there are opportunities/expectations in enhancing competition in the Government procurement and also in rolling out of the competition regulatory impact assessment in counties.

The above initiatives will be supported by further enhanced efforts to stimulate interest in Competition Law and Policy, through expansion of the current programme of engaging the youth implementing the Young Professionals Program (YPP) and offering internship to students drawn from various universities.

A number of challenges, though surmountable, continue to affect the Authority's ability to achieve its mandate. Key amongst them being;

- i. **Concurrent Jurisdiction;** There was cooperation challenges from some sector regulators with whom we have concurrent jurisdiction hence increasing the risk of contradictory decisions emanating from government agencies. To remedy this, the Authority continues to actively engage the government bodies through MOU's and other initiatives with a view to enhancing cooperation in the furtherance of their concurrent mandates.

- ii. **Information Asymmetry:** Competition analysis heavily depends on the availability of up to date data. However, there still exists a huge gap both in terms of the quality and quantity of data available. To mitigate against this, the Authority has subscribed to renowned research sites and works closely with both local and international bodies to corroborate and harness the available data and information.
- iii. **Low appreciation of Competition Culture:** The Kenyan market continues to suffer from worrying levels of awareness of the Competition Law and Policy. This in effect distorts market structure and conduct in key sectors of the economy as well as creating uncertainty in the business environment. The Authority's efforts have been refocused towards enhancing their appreciation through awareness creation workshops, and undertaking education and advocacy initiatives.
- iv. **Unresponsive consumer lobby groups:** The Authority recognizes the important role consumer lobby groups play in enhancing consumer protection. However, the existing consumer lobby groups have not played that role effectively thus undermining our efforts to reach a wider consumer base. To this effect, the Authority has embarked on a campaign to profile consumer bodies and undertake activities that will ensure an enhanced engagement as per provisions of the Act.
- v. **Budgetary Constraints:** The ever emerging competing needs at the Exchequer level, continue to make it difficult for the Authority to secure adequate funding for its planned activities. In response to this challenge, the Authority has put in place measures that include prioritization of its activities, sustained engagements with development partners and enhanced efforts towards generation of internal revenues, all geared towards supplementing the annual exchequer allocations.
- vi. **Litigation:** Some of the Authority's decisions have been subjected to lengthy and costly litigation processes. Provisions for this cost therefore affect the resource ability of the Authority. Following the appointment of the Competition Tribunal Chairman, this risk will be minimized.

In the coming year also, the Authority intends to dedicate its resources towards sustaining its advocacy initiatives, deepen staff's skills, implement the Leniency Program, and the rolling out of the Regulatory Impact Assessment framework among other initiatives. In its endeavor to enhance the quality of services, the Authority will finalize the development of a Quality Management System and achieve certification under the ISO 9001:2008 Standard. Further, the automation of its processes through acquisition and implementation of an Enterprise Resource Planning (ERP) System will help achieve the much needed efficiency and effectiveness in our operations. A review of the current Strategic Plan will also enable the Authority set new targets in light of its expanded mandate. Deliberate efforts will also be put in place to enable the Authority evaluate the impact of all its decisions. We shall continue engaging the various stakeholders at local, regional and international levels with a view to enhance cooperation in our enforcement activities.

To conclude, I wish take this opportunity to thank the Board for their timely policy interventions, our stakeholders including development partners for their unwavering support without forgetting the entire 'Team- CAK' for their commitment to serving Kenyans. Let us all continue in our endeavor to create efficient markets for consumers. Finally, I invite you to read the detailed report on the Authority's performance as enumerated in the subsequent pages.

**Wang'ombe Kariuki**

## REGULATION OF MARKET STRUCTURE AND CONDUCT

The Authority, as encapsulated in its strategic plan and cascaded in the Performance Contract and internal work-plans, engaged in the following initiatives geared towards regulating market structure and conduct aimed at ensuring efficient markets for sustainable growth and development.

### Regulation of Market Structure

Merger regulation as legislated in the Act entails a forward looking approach which is aimed at preventing anti-competitive conduct before it occurs. The activities that constitute regulation of market structure are provided under Part IV (control of mergers) and Part V (control of unwarranted concentration of economic power) of the Act. Kenya's merger control system provides for jurisdiction for all types of mergers (Horizontal, Conglomerate and vertical). This meant that all mergers were notifiable to the Authority, even those involving micro- and small enterprises.

The foregoing necessitated the Authority, as mandated under section 42(i) of the Act, to develop guidelines to enable it to declare any proposed merger to be excluded from provisions of part IV of the Act. Therefore, during the financial year, the Authority developed and adopted merger threshold guidelines. These Guidelines were aimed at ensuring that the Authority analyses mergers which are likely to negatively affect competition and public interest while releasing the resources, which are scarce, to more serious competition infractions. The guidelines were also aimed at providing clarity and direction for the business community with regard to the merger notification process hence ensuring predictability and accountability.

The Authority, in the said guidelines highlighted, the following, as clearly notifiable for the benefit of the business community and their legal representatives:

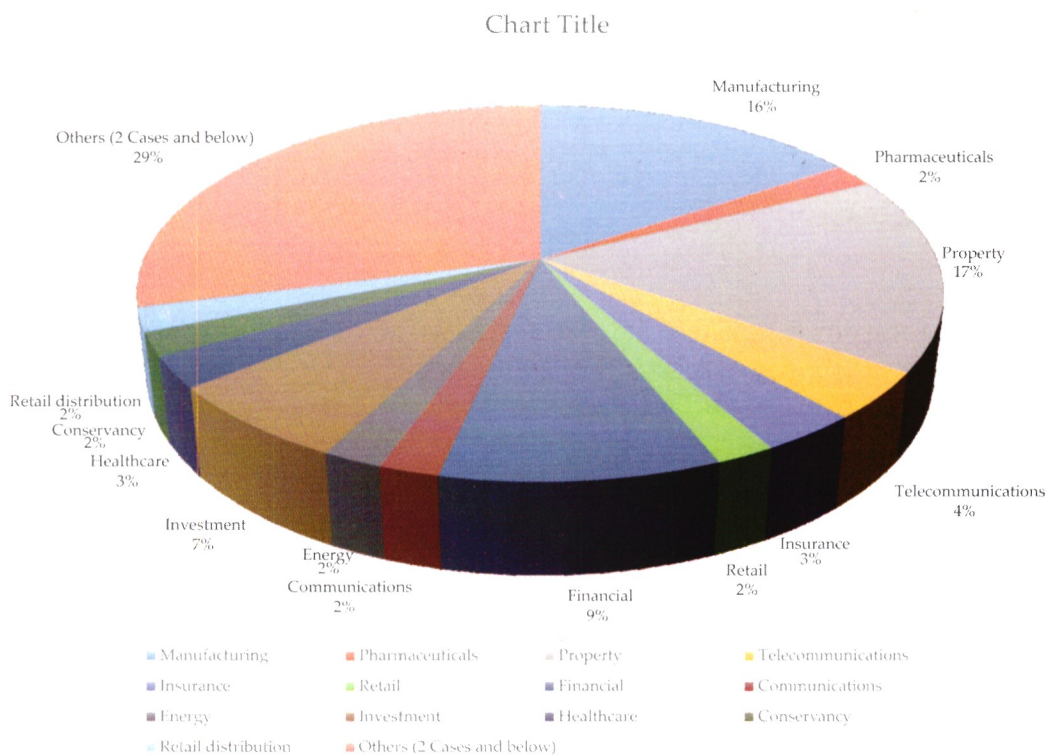
- i. Undertakings which have a minimum combined turnover or assets of one billion shillings and the turnover of the target undertaking is above one hundred million shillings;
- ii. In the health-care sector, where the undertakings which have a minimum combined turnover or assets of five hundred million shillings and the turnover of the target undertaking is above fifty million shillings;
- iii. In the carbon based mineral sector, if the value of the reserves, the rights and the associated exploration assets to be held as a result of the merger exceeds four billion shillings; and
- iv. In the oil sector, where the merger involves pipelines and pipeline systems which receive oil and gas from processing fields belonging to and passing through the meters of, the target undertaking, even where the value of the reserves is below four billion shillings.

During the year, the Authority reviewed and implemented its merger notification process. The reviewed process is meant to enhance transparency and predictability in the merger notification process. Additionally, the Authority implemented merger filing fees after public consultation with stakeholders. It is to be noted that the fees mainly applies to the transactions which meet the required threshold for mandatory notification as highlighted above.

The period under review witnessed an upsurge in the number of mergers notifications. The Authority considered a total of 148 merger notifications compared to 88 of the 2013/2014 financial year. Out of the 148, eighteen (18) were brought forward from the previous year. Mergers with an international dimension constituted 49% of the total notifications. Thirty five (35) applications met the required merger threshold for mandatory notification and were all approved, while seventy one (71) were excluded from provisions of Act. Twenty (20) did not qualify as mergers as provided for under the Authority's Merger Thresholds Guidelines, while twenty one(21) were in various stages of evaluation by closure of the financial year. All the specific mergers notifications during the period under review are provided for in **Annex 2**.

All the notifications were analyzed and approved within the statutory timelines of 60 days. However, the average number of days to finalize a merger on receipt of complete information was 42 days while for exclusion applications were 14 days. The **chart** below illustrates the merger notifications in terms of sectors handled during the review period.

**PIE CHART 3: MERGER APPLICATIONS DURING 2014/2015**



Out of the total number of mergers notified to the Authority, the real estate/property market took the lead during the last financial year followed by the Manufacturing sector. In 2013/2014, most merger applications were received from the agriculture sector, real estate and manufacturing sector on equal proportion.

The following were some of the notable merger transactions determined by the Authority:-

### **Acquisition of Essar Telecom Kenya Limited by Airtel Network Kenya Limited (Salvaging a Failing Firm)**

The transaction was a horizontal merger between ETKL and Airtel because the two are actual competitors at the same level of service delivery in the telecommunications industry.

The transaction was a sale and transfer of mobile business, subscribers and GSM Licenses from ETKL as one component of a two part transaction that involved dividing out the business and assets of Essar Telecoms Limited (ETKL) between Airtel and Safaricom.

Airtel is a limited liability company incorporated in Kenya. It is in the business of providing mobile telecommunication connectivity and a variety of value added services including a mobile money platform. On the other hand, ETKL was incorporated in Kenya and is Kenya's fourth mobile cellular network under the brand "yuMobile", launched in December, 2008. It is in the business of providing mobile telecommunications and associated services in Kenya.

In telecommunications markets, there are two distinct markets; that is the downstream markets and upstream markets. For this transaction the relevant upstream product market is that of the attraction and retention of subscribers while the downstream product market is considered as the market for mobile telecommunications services and finance ancillary services.

Post-merger it was found that the market shares of Airtel Network Kenya Limited would increase as follows: in the market for subscribers, it would increase from 16.5% to 24.5% in the market for voice, from 10.9% to 18.5%; in the market for sms, from 2.7 % to 3.1%; and in the market for mobile data from 13.7% to 17.6%.

The transaction was approved because it did not raise competition concern and it salvaged a failing firm and saved jobs that would have been lost had the target exited the market.

## Acquisition of Essar Telecom Kenya Limited by Safaricom Kenya Limited (Salvaging a Failing Firm)

The transaction was a horizontal merger between ETKL and Safaricom since the two undertakings were actual competitors at the same level of service delivery in the telecommunications industry. It involved the sale and transfer of passive infrastructure and frequency licence from ETKL to Safaricom. This was one component of a two part transaction that involved the parceling out of the business and assets of Essar Telecoms Limited (ETKL) between Safaricom Limited and Bharti Airtel Kenya Limited.

Safaricom is a limited liability company incorporated in Kenya and quoted on Nairobi Securities Exchange. It is involved in the business of providing mobile telecommunications connectivity and a variety of value added services.

ETKL was incorporated in Kenya and is Kenya's fourth mobile cellular network under the brand "yuMobile", launched in December, 2008. It is in the business of providing mobile telecommunications and associated services in Kenya.

In this transaction, two telecommunications market segments were of particular importance; that is the wholesale/upstream market and the retail/downstream market. The retail/downstream market is where firms sell services/products to end users, and wholesale/upstream markets is where firm's sale inputs to other firms, which then use it to deliver services to end users. The relevant market in the upstream market was that of the electromagnetic spectrum and telecommunication towers while for the downstream product market was the market for wireless telecommunications services and finance ancillary services.

The activities of Safaricom and ETKL were found to overlap in respect of the national market for electromagnetic spectrum and telecommunication towers.

There are currently four mobile telecommunications operators within the national upstream market for frequency spectrum. These are; Safaricom (27%), Airtel (27%) Essar (16%) TelKom (30%). Similarly within the market for telecommunications towers, the four players have the following market shares; Safaricom (49%), Airtel (24%), Essar (7%) and TelKom(20%).

Post-merger Safaricom's share of the Spectrum market would increase to 43% from 27% while its share of the market for telecom towers market would increase to 56% from 49%.

The transaction was approved because it was intended to salvage a failing firm and save jobs.

### Advisory opinions offered in terms of Mergers

The Authority also has an advisory function regarding merger transactions. During the period, the Authority responded to a number of opinion requests, within an average period of three (3) days. The specific advisory opinions are highlighted in **Annex 3**.

### Regulation of Market Conduct

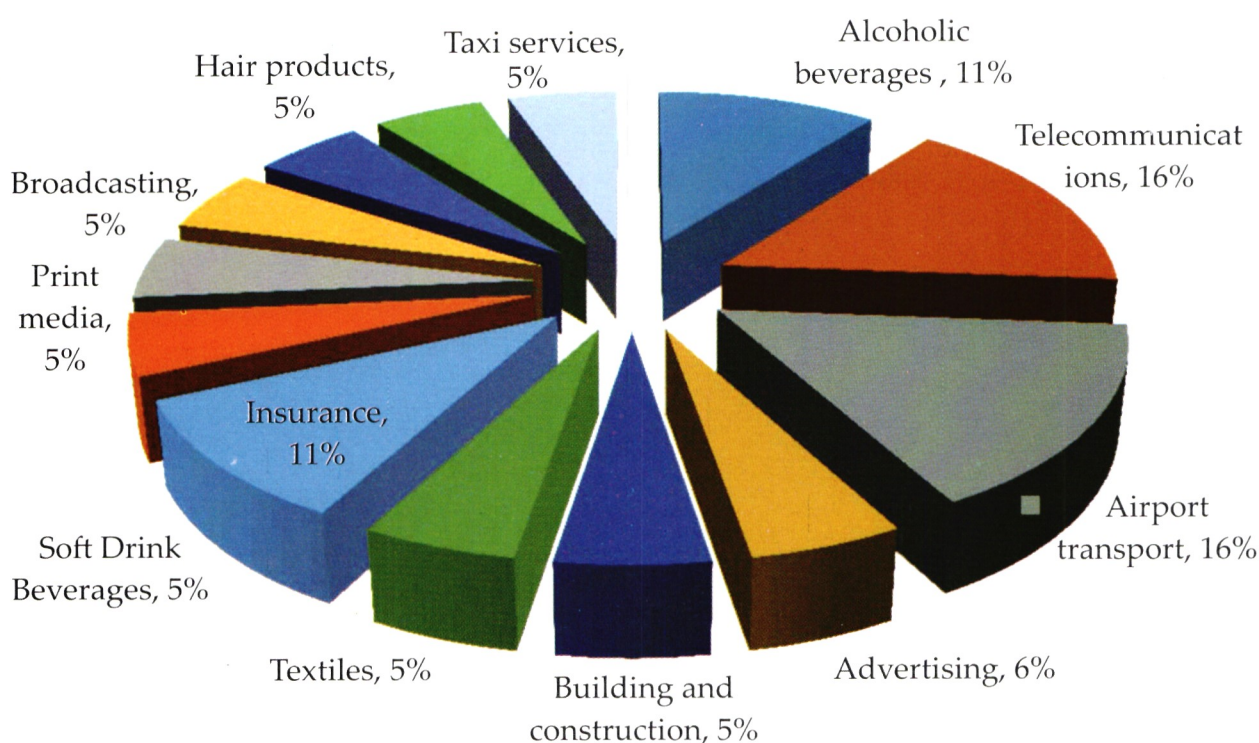
#### Restrictive Trade Practices

One of the functions of the Authority, as provided under section 9 of the Act is to enforce compliance with the Act through investigation of suspected breaches. The Authority can on its own motion or through complaints initiate investigations into restrictive trade practices, which includes cartels and Abuse of Dominance. Additionally, the Authority is mandated to grant exemptions from conducts prohibited under section 21 of the Act, if benefits of such arrangements outweigh detriment to competition.

During the period under review, the Authority investigated nineteen (19) restrictive trade practices cases, four of which were concluded. Various remedies, including financial penalties and declaratory orders, were imposed to undertakings found to have infringed the Act. Two (2) exemption applications were evaluated and exemption granted. All the specific RTP's and exemptions cases handled during the period under review are provided for in **Annex 4 and 5**.

The summary of the cases handled in terms of the sector affected are highlighted under **Pie chart 4** below.

**Pie Chart 4: RTP CASES PER SECTOR HANDLED IN 2014/2015**



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

#### **a) National Intelligence Service and Association of Kenya Reinsurance**

The Authority initiated investigations on 14<sup>th</sup> November, 2013 to complaints lodged by the National Intelligence Service (NIS) against the Association of Kenya Reinsurers (AKR). The allegations were that the Association of Kenya Reinsurers (AKR) vide a circular dated 2nd October, 2013 advised insurance companies interested in tendering for provision of the Renewal of NIS Group Life Scheme-2013/2014, of the minimum applicable rate of premium. The action by AKR, not only undermined the objects and purposes of the Public Procurement and Disposal Act, but also encouraged collusion, price fixing and generally unfair trade practices.

The Authority commenced investigations against AKR for contravention of:

- (a) Section 21 (a) and (c) of the Competition Act No. 12 of 2010 (the Act)- setting of the premium rate and the request to all the insurance companies tendering for Group life cover for the period 2013/2014 to charge the fixed rate amounts; and
- (b) Section 22(1) (b) of the Act regarding recommendation of the minimum premium rate of 15 per mille to insurance companies.

#### **Key Highlights**

The members of the AKR were: Kenya Reinsurance Corporation Limited, African Reinsurance Corporation, East Africa Reinsurance Company, Zep-Re (PTA Reinsurance Company), Continental Reinsurance Limited Kenya.

Preliminary investigations established that:

- (a) AKR had authored and executed the circular;
- (b) The recommendation of the minimum premium rate by AKR was in violation of section 22(1) (b) of the Act;
- (c) The setting of the premium rate and the request to all the insurance companies to charge the fixed rate amounted to collusion and was in violation of section 21 (1)(3)(a) and (c) of the Act;
- (d) The conduct constituted an ad hoc case of collusion on the part of AKR and its members; and
- (e) The effect of the conduct was twofold; it had the effect in the upstream and downstream insurance markets.

Such finding of breach of sections 21 (1) (3) (a) and (c), and 22(1) (b) of the Act means a criminal penalty would be sought under section 21(9) and section 22(6) of the Act. The Authority, however, opted for an administrative penalty under section 36 as read together with section 21(1), (3)(a) and (c), 22(1)(b) and section 31(1)(a) of the Act since this was the most expeditious way to deal with the matter and the fact that AKR submitted their written representations and proposed to enter into a settlement with the Authority.

Having regard to section 38 of the Act, the Authority imposed a financial penalty of Kshs. 721,715 to AKR and also required AKR and its members to give an undertaking that they would desist from any anti-competitive conduct in the future.

The financial penalty was based on the affected turnover which was the total re-insurance premium for the NIS group life cover which could have benefited the members for the preceding year and the mitigating factors presented by AKR such as cooperation and the fact that they were a first time offender.

## b) Exemptions

### I) Kumon Education SA (Pty) Franchise Agreement Exemption Application

Kumon Education SA (PTY) is a private supplementary education programme provider with over two hundred franchisees in Africa. It has been granted its license by Kumon Institute of Education company ltd (Japan) to use and grant licenses within the republic of South Africa and other African countries in respect of the Kumon method of learning Mathematics and English.

On 19th September, 2013, Kumon Education SA (PTY) Limited sought for advisory opinion on their proposed franchise agreement, with an intention to applying for exemption under section 28 of the Act.

Upon review, it was found out that the articles ; 4.11,13.1.4,17,29(2) and 29(3) were restrictive as they provided for fixing of fees and barred franchisees from engaging in similar or competing business activities.

The exemption application was evaluated and Kumon was advised to amend or remove the restrictive clauses which included price fixing and restraint to trade.

#### **Key Highlights**

Kumon Education SA (Pty), the franchisor, was a private supplementary education programme provider with over 200 franchisees in Africa.

As required by the Act, the Authority solicited for views of the public relating to the exemption application vide a gazette Notice No. 4261 of 27th June, 2014. The franchisor revised clauses relating to price fixing and restraint to trade in compliance with the Authority's advice.

The Authority exempted the Franchise Agreement between Kumon Education SA (PTY) and the sixteen (16) franchisees from the provisions of Part III of the Act for a period of three (3) years, pursuant to section 28 and 26 of the Act.

## Consumer Protection Initiatives

Consumer protection in Kenya is enshrined in the Constitution under Article 46 dealing with the Bill of Rights. Under the Act, the Authority ensures protection of consumer welfare through enforcement of sections 55 - 70. Specifically, the Authority undertakes the following activities in its initiatives towards consumer protection:-

- i. investigates consumer related complaints;
- ii. promotes the creation of consumer bodies and the establishment of standards to be followed by such bodies, and;

- iii. creates awareness to consumers regarding their rights, obligations and remedies under the Act.

During the period under review, the Authority handled 28 consumer cases/ complaints, representing an increase of 100% from the previous reporting period. This can be attributed to sensitization of consumers through the media and direct interaction with the consumers during the World Consumer Rights Day. A summary of the cases handled during the reporting period is in **Annex 6**.

To enhance transparency and certainty in handling consumer cases, the Authority developed the following toolkits: Case Analysis Template, Investigation Plan Template, Call Centre Analysis Form and Consumer Complaint Form. Some of the notable Consumer Protection cases handled in the period are:-

#### **Ms. Beatrice Ndungu Vs Safaricom Limited**

A complaint was lodged by Ms. Beatrice Ndungu and others on non-disclosure by Safaricom Limited on charges payable by consumers for use of its Lipa na Mpesa service in petrol stations and merchant shops/points across the country.

The Authority undertook investigations relying on section 56(4) of the Act which provides that, “A consumer shall be entitled to be informed by a service provider of all charges and fees, by whatever name called or described, intended to be imposed for the provision of a service”.

Subsequently, the Authority pursuant to its consumer protection mandate ordered Safaricom Limited to undertake a campaign in both electronic and print media to sensitize consumers that: settling bills through Lipa na Mpesa service at petrol stations may attract a fee of 0.5% of the transaction value and that applicable charges on Lipa na Mpesa service, if any, can be accessed through the \*234# USSD code. Further, Safaricom was required to disseminate Point of Sale (POS) stickers to all merchant outlets/points and Fuel Tent Cards highlighting clearly the 0.5% or any other applicable charge on the transaction value, to all petrol stations employing the Lipa na Mpesa service throughout the country. The exercise is expected to be finalized by 30<sup>th</sup> September 2015

#### **Ms. Annie Waithera Vs Naivas Komarock**

The Authority received a complaint from Ms. Annie Waithera who complained that she purchased a Hot Point Dispenser from Naivas Komarock. According to Ms Waithera, the dispenser developed a leak which happened less than a month from the date of purchase. The complaint was investigated under section 64(1) which provides that, “where a person, in trade supplies goods manufactured by it, and such goods are found to have a defect as a result of which an individual suffers loss or injury, such person is liable to compensate the individual for the loss or injury suffered.

As a remedy, Naivas Komarock replaced the dispenser with a new one. The consumer was satisfied with the settlement.

## Consumer Awareness Initiatives

As an endeavour of creating awareness to consumers, the Authority marked the Annual World Consumer Rights Day on 15<sup>th</sup> March, 2015 at the Machakos People's Park, in Machakos County. The theme of the day was "My diet, my health" and was attended by over 2,000 participants.



*Part of the members of the public who turned up at the Machakos Peoples Park to mark the 2015 World Consumer Rights Day.*

Some of the Stakeholders who participated in the event and the activities of the day included:

- i) **Sector Regulators:** Kenya Bureau of Standards, Anti-Counterfeit Agency, Agriculture, Fisheries and Food Authority, Insurance Regulatory Authority, NACADA.
- ii) **Health Institutions and Nutritional Bodies:** Getrudes Hospital, Guru Nanak Hospital, Machakos Level Five Hospital, KMTC Machakos, Bishop Kioko Hospital, Shalom Hospital, Kenya Red Cross and Kenya Nutritionists and Dieticians Institute.
- iii) **Consumer Bodies:** Health Care Consumers Federation of Kenya, Kenya Consumer Organization, Kenya Agricultural and Livestock Research Organization, Insurance Consumer Federation of Kenya, Kenya National Farmers Federation.
- iv) **Co-operatives:** Githunguri Dairy Farmers

The activities of the day included a roadshow, exhibitions on healthy foods, consumer education programmes and free medical check-ups



*Members of the public undergoing medical screening at the Machakos People's Park*

*Members of the staff attending to a client who visited the Authority's stand during the 15 March, 2015 World Consumer rights Day at the Machakos People's Park in Machakos County.*



### Research and Advocacy Activities

The Authority in its priority programs, carries out policy, regulation and legislative related research to ensure Competition Policy and Law awareness and advocacy. The intended outcome of these activities is the consistent application of competition principles and compliance with the Competition Act. In addition, this aims to promote sound economic analysis for Competition enforcement.

To this end, the Authority prioritized and began implementing its Advocacy activities in the sectors identified through the PMR Report, specifically in the telecommunication and Insurance sectors. It is notable that the PMR Report identifies areas that the Authority require to focus on namely; government intervention in state owned enterprises, barriers to entry for example multiple regulations in some sectors and restrictions on foreign ownership in some sectors such as transport and insurance.

Taking cognizance of the above, the Authority signed an MOU with the Communications Authority of Kenya during the period and is currently in the process of finalizing another one with the Insurance Regulatory Authority. The MOUs will facilitate information sharing and effective handling of competition enforcement issues in the relevant sectors.

During the year under review, the Authority developed a Monitoring, Evaluation and Impact Assessment Framework. This framework jointly gave indicators for the monitoring of the Authority's performance. In addition, the Authority commenced implementation of the said framework by assessing the impact of CAK's interventions with the aim of increasing the Authority's accountability and to raise awareness of the benefits of enforcing the Competition law in Kenya. To this end, the Authority undertook to implement the Impact assessment component of the framework by reviewing some of the High Impact cases determined by the Authority as shown in **Table 1**.

**Table 1: Cases showing impact of the Authority's intervention**

**CAK Vs (Private Healthcare Providers) PHP consortium:**

In response to a circular by the PHP consortium increasing the price of healthcare by 20%, the CAK required the PHP consortium to withdraw the circular. This Intervention by the CAK resulted in an *estimated annual consumer savings in healthcare of Ksh 162 million*. It is notable that the private health care market in Kenya contributes 22 percent of all of Kenya's health services and is estimated at KSH 27 billion annually. In terms of the distribution of types of private healthcare facilities by ownership, the 2001 Economic Survey revealed that companies owned slightly more than 30 percent of hospitals, less than 15 percent of health centers and more than 55 percent of all "other" health facilities.

The assumption made is that all costs of Kenya's private healthcare providers increased at the same rate as the increase in salary provided to public health sector workers. Therefore it is estimated that once the recommendation was withdrawn, all private healthcare companies might have fully passed on their costs and increased their charges by the same proportion as the increase in public sector salaries. Public sector salary increases appear to have been between 16% – 20 %. Taking the average of 18% as an estimate of the average cost increase faced by private health providers, the avoided price increase as a result of the Authority's efforts was 2% (20% – 18%). This translates into **annual consumer savings of (2% \* Ksh 27 billion \* 30% =) Ksh 162 million per annum**. This initiative made the Authority to be awarded by the International Competition Network and the World Bank Group for "*Promoting pro-competitive reforms that foster growth and reduce inequality.*"



### CAK Vs (Association of Kenya Re-insurers) AKR:

In response to a circular issued by the AKR specifying premiums to be offered to National Intelligence Service (NIS), the Authority investigated and reached a settlement with AKR. As a result of deterring this collusive conduct the Authority brought about an **estimated annual public sector savings of Ksh 100 million in tenders for insurance schemes.**

It is noted that whilst the market rate for reinsurance was KSH 14.4 per mille, the AKR proposed rate was set at Ksh 15.0 per mille. This represented an overcharge due to collusive conduct of 4 percent  $(15.0-14.4)/14.4*100$ .

The gross direct premium for the contract was Ksh 108 million. Of this, the reinsured premium less commission amounted to Ksh 26.2 million. Under the assumption that the direct insurers fully pass through the increased rate on the reinsured premium to NIS, then the **absolute overcharge as a result of the conduct** would be approximately  $(\text{Ksh } 26.2 \text{ million} * 4\% =)$  **Ksh 1.0 million.**

From mid-July 2014 to mid-June 2015, one source lists 108 public sector tenders for insurance services of various kinds (including life assurance, medical and motor vehicle insurance) at both the national and county level. The Government of Kenya Treasury website, meanwhile, lists around 55 tenders for insurance services between April 7 and June 18, 2015. An assumption that there are at least 100 tenders for the provision of insurance services to the public sector per annum is therefore relatively conservative. Assuming that premiums for future tenders are on average of a similar size to the NIS premium, the **total annual saving to the public sector for tenders for insurance schemes** resulting from the undertaking by the AKR would be  **$(100 * \text{Ksh } 1 \text{ million}) =$**

### CAK & Tea Board of Kenya:

Following the Authority's intervention after a complaint that Njeru Industries (NI) was denied the license to set up a tea processing factory, the Authority carried out advocacy to the Tea Board of Kenya and as a result the Complainant was granted the license.

It is understood that the entry of a new specialty tea processor provides smallholder producers with a greater number of potential buyers with whom they can transact and a greater range of production activities in which they can engage. This benefits small producers by allowing them to diversify into higher value activities, and increased competitive pressure between buyers of tea to attract sellers is also expected to increase the price which producers can achieve for their product.

NI currently has 100 acres of purple tea under production its own estate, but in 2014 also procured purple leaf from smallholders outside its estate. According to KTDA data there were 496 purple tea growers across all counties as at June 2013 (this compares to 560,000 green tea growers), with the majority of purple tea grown by these farmers due to come to maturity in 2015. In 2014 payments to farmers by NI for purple tea supplied to the new factory were approx. Ksh 100 per kilo of leaf. Green leaf tea, in comparison, fetched KSH 30 per kilo of leaf. Total purchases of purple leaf by NI amounted to 20 tonnes (taking total payments to farmers to Ksh 2 million).

It is estimated that close to 50 percent of purchases in 2014, or 10 tonnes of purple leaf, were from growers who had previously been growing green leaf exclusively. Therefore the **total additional income to those farmers who switched to purple leaf in 2014** (compared to the amount they might have earned selling green leaf) would have been circa  $(10,000\text{kg} * \text{Ksh } (100-30)/\text{kg} =)$  **Ksh 700,000** gross of the one-off cost of switching to purple leaf.

Assuming that i) competitive pressure on the price of green leaf tea lead to a 10 percent rise in the price paid to farmers for green leaf, and ii) that this pressure was present only in the Kiegoi / Igembe zone (where total purchases for the year ending June 2014 were KSH 650 million (USD 6.6 million)), this would imply a **total annual increase in income to green leaf farmers of approx. (10% \* Ksh 650 million =) Ksh 65 million;** and

During the period, the Authority prioritized its market inquiries to inform the achievement of Vision 2030 in addition to considering high impact interventions. The Authority in its efforts to align its initiatives to the National Development Agenda, initiated and completed market Inquiries in the Agricultural inputs sector, and the financial sector as outlined below. The Authority intends to implement the recommendations of these studies with the aim of correcting the market distortions that have led or continue to cause sub-optimal market outcomes through Advocacy or Enforcement activities.

### **(i) Fertilizer Market Inquiry**

The Market inquiry on fertilizer was commissioned by the Authority as part of its mandate to promote and safeguard competition in Kenya and to protect consumers from unfair and misleading market conduct. The over-arching objective of this study was to identify any anti-competitive conduct competition constraint and consumer protection issues within the market for fertilizer. The specific objectives of this study were to;

- i. *Examine the market structure and market shares of suppliers and importers;*
- ii. *Determine the cost component and price determinants of fertilizer in the retail market;*
- iii. *Determine the current levels of fertilizer demand/consumption at regional and national levels; and*
- iv. *Assess whether the fertilizer subsidy is distorting market prices.*

The Study which relied on both qualitative and quantitative data from various stakeholders across the value chain, focused on the period (2009-2014). The Market inquiry is nearing completion.

### **(ii) Banking Phase I Market Inquiry**

The Authority conducted a market inquiry into the Banking sector intended to be undertaken in two phases. The objectives of the study were;

- i. *To examine whether one or more banks has an inequitable share of market power*
- ii. *To identify situations where an uncompetitive market structure is resulting in inefficient outcomes and harming consumers*

To achieve these objectives, five indicators were employed, An analysis of existing competition and economic concentration, a review of potential competition, a study of entry and exit, an analysis of

outcomes for consumers especially as regards prices and access to banking services in addition to an analysis of the outcome of firms as regards profitability and excess returns.

The first phase of this inquiry took a supply-side approach, examining the structure of the banking industry in Kenya to determine whether there were indicators of market concentration, pricing levels out of line with those seen in comparator markets or excessive profitability. The Study identified the following main key Findings;

- i. Concentration measures do not suggest cause for concern, in most segments the market is dominated by between 4-5 large players and a large number of very small players;*
- ii. There is little evidence that margins or profits in the banking industry are at the top or bottom of peer group country comparisons; and*
- iii. Formal and regulatory barriers to entry into the sector are probably lower than comparator countries;*

The second phase will take a demand-side approach, specifically, it will seek evidence of the effectiveness, or otherwise, of competition in banking markets from a consumer perspective.

### **Awareness Creation Activities**

The Authority conducted several activities designed to create awareness on the mandate of the Authority and train key stakeholders. These included;

#### **i. The Competition Economics Capacity Building**

The Competition Economics Capacity building workshop is an annual event held annually. The objective of this training is to build capacity for competition practitioners, the business community, government departments and sector regulators. The workshop focused on the competition principles as applied in practice and was delivered by means of lectures on theory, practical case studies and using hypothetical case scenarios where the learners were to apply the lessons learnt during the sessions.

#### **ii. The Annual Competition Policy and Law Symposium**

The Symposium which concludes the Competition Economics Capacity building training is an initiative of the Authority, which provides a platform where the Authority showcases its work. This provides a platform for debate on competition issues for the Authority's stakeholders. The 2014-2015 Symposium was the first of its kind and unique in that the Authority's stakeholders who include the business community, sector regulators, government ministries and research institutions, had an opportunity to get an update of the Authority's work and priorities, and thereafter provided the participants the opportunity to critique the same.

### iii. The World Competition Day (WCD)

The WCD, as declared by the UN, is celebrated annually by competition agencies globally. The day aims at raising awareness on market competition issues and the importance of regulating competition in liberalized markets for the benefit of the society. In the year under review, the Authority celebrated the WCD on 4<sup>th</sup> December, 2014 under the theme “*Enforcement of competition law and policy – A key driver for inclusive growth and shared prosperity*”. The Authority focused on this theme as it aims to reiterate and entrench competition policy as a key driver in achieving the objectives set out in Vision 2030 and deepening of the stakeholder's support of its enforcement agenda.



*The audience who attended the World Competition Day at the Safari Park Hotel in Nairobi following the proceedings of the day.*

### iv. Business Journalists Workshop

The Authority organized a business journalists' workshop that targeted business reporters and business news editors. This workshop sought to build capacity of the media personnel to assist them to understand competition principle and to disseminate the right information touching on competition and consumer protection.



## v. County Initiatives

To foster an appreciation of the principles of competition at a devolved level, the Authority made presentations to stakeholders in three Counties, namely Mombasa, Nakuru and Kiambu, in collaboration with the Kenya Maritime Authority. These presentations described the mandate of the Authority focusing on the regulation of market structure and conduct and the benefits of compliance to the Act.

## vi. Interactions with Universities

In order to facilitate collaborative research with the universities aimed at stimulating interest in competition, law and policy, the Authority made a presentation at the Strathmore Business School highlighting the state of play in regard to “Competition regulation in Kenya: Its evolution, present and the future”.

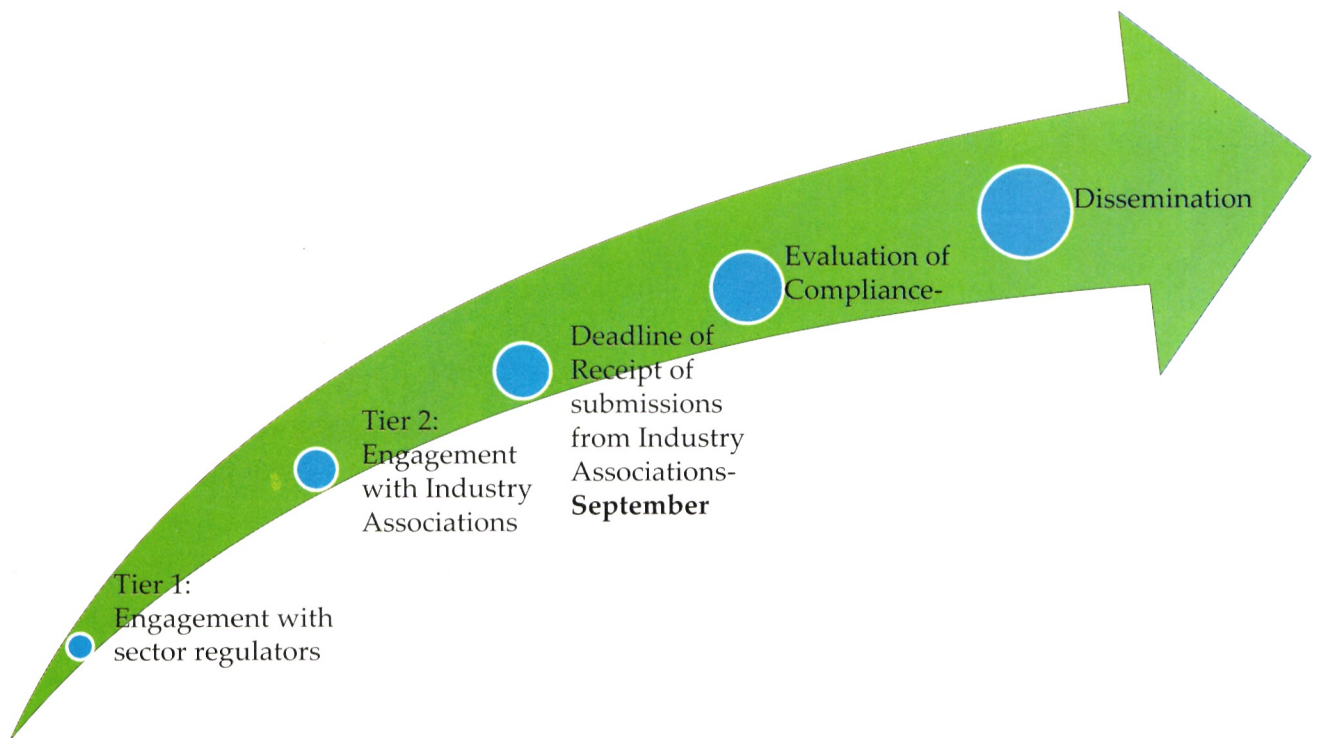
In the same vein, the Authority facilitated an educational tour by Kenyatta University Economics Students Association (KUESA). The visit provided a viable opportunity for the students to be enlightened on the mandate of the Authority.

## vii. The Special Compliance Process (SCP)

In the year under review, the Authority initiated inquiries into activities of trade associations in the Agricultural & Agro Processing Sector and in the Financial Services Sector. The sectors were prioritised based on the National Development Agenda, the potential high impact of intervention in the sector and past cases/contraventions that were indicative of the need for the Authority's intervention. The inquiries are referred to as the SCP with the aim of ensuring that trade associations are in compliance with section 21 and 22 with the Act. This process set out the expectation of Authority for the material co-operation of trade associations and their members. The objectives of the ongoing inquiry are to:

- a) Ensure that Trade Associations are in compliance with the Competition Act and more particularly, with section 21 and 22 of The Act;
- b) Facilitate the identification and rectifying of past conduct regarding competition in their specified markets;
- c) Increase awareness and to foster best practices in the future; and
- d) Address and resolve contraventions, without requiring in-depth investigations under section 31, thus reducing the costs of compliance for Trade Associations and their members.

In light of the objectives outlined above, the SCP was sequenced to begin with individual engagement of tier 1 stakeholders (regulators in both the finance and agriculture sectors), following this was the publication of the gazette notice notifying the general public of the Inquiry. The third activity in the identified sequence was meetings with stakeholders, specifically Trade associations in both the finance and agriculture sector were invited to forums of awareness for the special compliance inquiry as illustrated by **Figure 1**



As per Figure 1, Tier one and two engagements were carried out in the year under review. Following the lapse of the deadline, the Authority plans to undertake investigations into the trade associations that have not complied.

### Opinions and Advocacy to Government

During the year, the Authority offered various opinions to the government with the purpose of promoting competition principles and encouraging the consistent application of the same in the Kenyan economy. These included:

- i. Advise to Agriculture Fisheries and Food Authority (AFFA), Sugar Directorate, regarding the central sugar marketing desk. The Directorate were proposing to set up a single desk for purposes of marketing sugar produced by government mills. The Authority advised that the contemplated arrangements would jeopardize the principles of the competition process and therefore violate the provisions of section 21 of the Competition Act, No 12 of 2010. It would also negate the fundamentals of government's current economic agenda, specifically in creation of a level playing field and adequate space for private investors in the contestable markets.
- ii. Advice to Communications Authority regarding the Kenya Information and Communications (Fair Competition and Equality of Treatment) draft Regulations. The Authority advised that these Regulations are applicable; (i) where a monopoly situation exists, not dominance (ii) in markets where competition law remedies are not sufficient to address the problem and (iii) after undertaking reviews of the telecommunication market taking into consideration the general principles of competition laws.
- iii. Advised the National Treasury on the divestiture transaction by Essar Petroleum from Kenya Petroleum Refineries Limited.

The Authority also participated in various other forums relevant to its mandate. These included:

- i. Tea industry consultative forum which was organized for key tea industry leaders. The Forum's objective focused on the national tea policy that proposes to unlock potential of the industry by assuring sustainability, increasing competitiveness and enhancing investment in the tea industry. The Authority gave its views on the topic *"Towards an efficient and competitive tea industry"*.
- ii. Capital Markets Authority as one of the participants in the implementation committee of the Capital Markets Master Plan. The initiative aims at engaging the key capital markets stakeholders on the development of a robust framework on securities lending and borrowing to enhance liquidity in Kenyan markets.
- iii. The National Treasury stakeholder consultation forum on the Nairobi International Financial Centre.
- iv. Development of a national joint venture policy to guide investment in Kenya. The Authority was part of the team that spearheaded the process.
- v. Stakeholder workshop organized by Insurance Regulatory Authority in regard to the formulation of the policy on insurance for commercial motorcycles. The development of the policy had been necessitated by accidents involving boda bodas' which led to injuries hence causing disability and deaths and therefore becoming a great social economic burden. In addition, The Authority participated in the stakeholders' workshop in discussing the draft Insurance Regulations 2015, which had been drafted pursuant to the provisions of the draft Bill.
- vi. Kenya Institute of Supplies Management Corporate meeting which sought to seek views on implementation of e-procurement systems while outlining the challenges and benefits of implementation.
- vii. International investment conference organized by Kenya Investments Authority and Kenya National Chamber of Commerce and Industry. The objective of the conference was to show case the local, regional and international investment opportunities with the focus on Vision 2030 flagship projects.

### **Regional Integration and International Cooperation**

The Authority participated in various regional and international fora relevant to its Competition Law and Policy mandate. Specifically, the Authority facilitated the participation of staff in both regional and international events with the aim of achieving efficient markets through regional integration. The regional integration will be realized by supporting a strong competition culture in Common Markets.

Towards operationalization of the EAC Competition Authority, the Authority actively participated in the EAC competition experts meeting held in October, 2014, Nairobi Kenya. The objective of the meeting was to deliberate on the proposed structure, categories of staff, job descriptions and budget for the EAC Competition Authority in the Financial Year 2015/2016, as had been directed by the Council of Ministers.

The Authority played a major role in the amendments of COMESA Competition Rules including setting the merger thresholds and reviewing merger filing fees. The COMESA Competition Regulations and Rules were adopted in March 2015. This was achieved by the participation in the Merger Assessment Guidelines Workshops organized by the COMESA Competition Commission in Addis Ababa, Ethiopia from July, 2014 and November, 2014 in Nairobi, Kenya. The workshops took place at an opportune time when regional integration is occupying the center stage as one of the key economic strategies and a rallying point for the development of the African continent.

The Authority also participated in negotiations to realize a Tripartite arrangement between Common Market for Eastern and Southern Africa (COMESA), East Africa Community (EAC) and Southern African Development Community (SADC). The Tripartite arrangement is intended to enhance integration among the three Regional Economic Communities for mutual benefit of twenty-six (26) countries making up their membership.

In addition, the Authority, a member of the Steering Committee, hosted the African Competition Forum (ACF) Secretariat and actively participated in the ACF Agency Effectiveness Workshop held in Dar es Salam, Tanzania from October, 2014 as panelists in two sessions "Roundtable discussions on Strategic Planning and Effective Resource Allocations". The Authority also participated in ACF Benchmarking study in conjunction with World Bank and other ACF steering committee members. The study is a tool to promote competition for the benefit of our country's trade and investment endeavor. The study was also aimed at promoting cooperation in the area of research and learning.

In order to build capacity and adopt the international best practices in the achievement of our mandate, the Authority continued to participate in the International Competition Network (ICN). The ICN is unique as it is the only international body devoted exclusively to competition law enforcement and its members represent national and multinational competition authorities. It provides competition authorities with a specialized yet informal venue for maintaining regular contacts and addressing practical competition concerns. This allows for a dynamic dialogue that serves to build consensus and convergence towards sound competition policy principles across the globe. During the year under review, the Authority participated in panels of ICN workshops including Cartel Workshop and Merger Workshop. The Authority also participated in the 14<sup>th</sup> International Competition Network (ICN) Annual Conference which took place from April 28 to May 1 in Sydney, Australia.

The Authority also participated and articulated Kenya's position in other various workshops and conferences during the year under review. These include the UNCTAD Intergovernmental Experts on Competition meeting where the Authority presented a paper titled "*Informal cooperation among competition Agencies*"

In addition the Authority made contributions in the publication of the African and Middle Eastern Antitrust Review 2015 under the article entitled "*Merger Regulation in Kenya*", which provide an overview of Public Interest Factors in Competition Decisions considered by competition agencies, and the Handbook of Competition Economics 2015 that provides details for competition agencies' economists, organizational structure charts and a Q&A explaining their input into competition regulation and the enforcement process.



*Director General, Mr. Wang'ombe Kariuki Making a presentation during International Competition Network-World Bank Group Competition Advocacy meeting held in Washington DC.*

Upon signing the MOU with Ministry of Commerce of the People's Republic of China (MOFCOM) in June, 2014, the Authority in conjunction with MOFCOM developed a work plan to actualize the MOU. Similarly, the Authority engaged the Japan Fair Trade Commission (JFTC) with the aim of establishing an MOU, with the objective of procuring technical assistance on issues regarding competition law and policy.

### **Human Capital Management and Development**

The Authority continues to focus on attracting, training and retaining highly qualified, skilled and motivated staff for the realization of its mandate. This process is guided by the recently completed Job Analysis and Evaluation report.

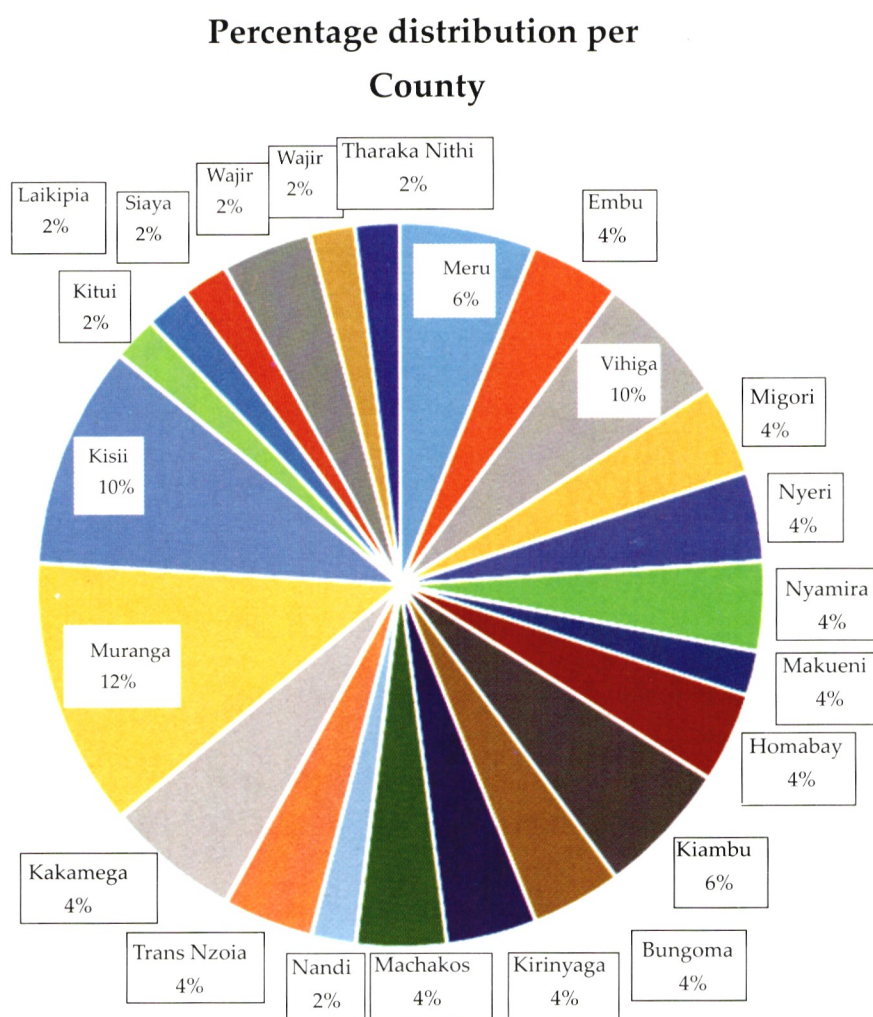
During the year twenty six (26) staff were recruited bringing the total workforce to fifty (50) against an establishment of seventy (70). On gender parity sixty-two (62%) were men and thirty-eight (38%) were female, thus meeting the constitutional gender threshold requirement.



*Some of the members of the staff recruited during the 2014/15 Financial Year in one of the CAK events*

In addition, new five young professionals were competitively recruited for a one year apprenticeship programme. This is the second group to join the Authority under this programme. Twenty(20) university students were also offered attachment/internship in the Authority in the same period.

The staff establishment had majority of the Counties represented thus enhancing the aspect of regional balance as per the Pie Chart 5 below;



In the year 2014/2015, staff members attended training programs aimed at enhancing their skills in the areas of Competition Law and Policy, merger analysis, investigations and consumer protection.

Towards the improvement of Staff Welfare, the Authority trained Peer Counselors to augment the work of the constituted committees for HIV & AIDs and Alcohol, Drugs and Substance Abuse. It also developed policies on Fire Safety and Occupation Health and Safety, trained fire marshals and first aiders and carried out a fire safety audit. Subsequently, the Authority implemented the recommendations including installation of a Fire Alarm System and firefighting equipment.

## Information Communication and Technology

To enhance ICT usage, the Authority successfully expanded the LAN and installed a video conferencing facility within its offices. A Staff computer ratio of 1:1 was realized during the period under review. The Authority has further embarked on a journey to automate its processes through acquisition of an ERP and is actively implementing its approved business continuity and disaster recovery plans. This will translate into improved efficiency and effectiveness in our operations.

## Supply Chain Management

The procurement function in the Authority is guided by The Constitution of Kenya 2010, The Public Procurement & Disposal Act, 2005 & The Public Procurement & Disposal Regulations 2006 and subsequent legal notices. Pursuant to Legal Notice No.114, the Authority achieved 34.5% in the allocation of contracts to the designated categories of preference groups. In line with the directive on Government procurement, the Authority is actively involved in the implementation of the e-procurement system under IFMIS.

## Financial Management

The Authority's approved budget for 2014/2015 was Kshs.440M, with Kshs.290M coming from the Exchequer and the balance being raised internally through various Appropriations in Aid (AIA) initiatives. Merger filing fees which came into effect in August 2014 helped raise Kshs.39M while an additional Kshs.67M was received from the COMESA Competition Commission, being the country's accumulated share of the regional merger filing fees. The other sources of AIA for the Authority were fines and penalties amounting to Kshs.721, 715. A further Kshs.17.1M was received from the National Treasury to support activities under the Regional Integration Implementation Programme (RIIP) under COMESA. The Authority achieved an 80% utilization rate with the short fall arising from unutilized funds resulting from delays caused by the procurement process of the ERP system, to automate the Authority's processes and also due to late recruitment of new staff.

During this period direct funding from development partners totaled to \$288,286. This was mainly towards the various market inquiries/studies and capacity building activities undertaken during the year.

Expenditure in the Authority is duly guided by internally approved Finance Policies, Public Finance Management Act, various government circulars and other relevant laws. Details of the Authority's financial statements for 2014/15 are presented in the subsequent pages of this report.

## CORPORATE SOCIAL RESPONSIBILITY

The Authority conducts an annual Essay Writing Competition for undergraduate and graduate students as its Corporate Social Responsibility (CSR) event. The competition aims at motivating research in the area of competition policy regulation and also encourages creativity among university students in both public and private universities. The competition is held on a rotational basis at different universities. This year's competition was the second annual CSR event and it was held at the University of Nairobi on 30<sup>th</sup> June, 2015.

The event is a competitive process where the shortlisted essays are presented before external judges drawn from research institutions and policy think tanks to be in the panel that made the verdict of the winners.

This year's competition attracted seventy two (72) and fifteen (15) essays for the undergraduate and graduate categories respectively. Seven (7) and five (5) essays for the undergraduate and graduates respectively were identified for the final presentation.

In the undergraduate category, Ms. Mukumu Irene and Mr. Cliff Otima of the University of Nairobi emerged as the winner and 1<sup>st</sup> runners-up respectively, while in the graduate category, Benjamin Ashuma of JKUAT and Bradford David of Moi University emerged winner and 1<sup>st</sup> runners-up.

The winning essays in the undergraduate category attracted rewards of Ksh. 50,000 and Ksh. 30,000 respectively, while winning essays in the graduate category attracted rewards of Ksh. 80,000 and Ksh. 50,000 respectively. The prices are towards tuition fees payable directly to the individual institutions.

Going forward, the Authority plans to offer winners in the undergraduate category an opportunity for internship. It also intends to enhance participation of all universities by enhancing publicity.



*2015 Essay writing competition participants.*

**PART II FINANCIAL STATEMENTS  
FOR THE YEAR 2014/2015**

## STATEMENT OF DIRECTORS' RESPONSIBILITIES

The Public Finance Management Act, 2012 and the State Corporations Act, require the Directors to prepare financial statements in respect of the Authority, which give a true and fair view of the state of affairs of the Authority at the end of the financial year and the operating results of the Authority forth at 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 fairview of the state of affairs of the Authority as at the end of the financial year ended on June 30, 2015. This responsibility includes:

- (I) Maintaining adequate financial management arrangements and ensuring that the secontinue to be effective through out 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 mis statements, 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 PFMA stand the State Corporations Act. The Directors are of the opinion that the Authority's financial statements give a true and fairview of the state of Authority's transactions during the financial year ended June 30, 2015, 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..... <sup>29/02/16</sup> ..... and signed on its behalf by:  
David O. Ong'olo .....

**Chairman**

F.W Kariuki .....

**Director General**

## REPUBLIC OF KENYA

Telephone: +254-20-342330  
Fax: +254-20-311482  
E-mail: [oag@oagkenya.go.ke](mailto:oag@oagkenya.go.ke)  
Website: [www.kenao.go.ke](http://www.kenao.go.ke)



P.O. Box 30084-00100  
NAIROBI

### OFFICE OF THE AUDITOR-GENERAL

#### REPORT OF THE AUDITOR-GENERAL ON COMPETITION AUTHORITY OF KENYA FOR THE YEAR ENDED 30 JUNE 2015

---

##### REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of Competition Authority of Kenya set out on pages 74 to 100, which comprise the statement of financial position as at 30 June 2015, and the statement of financial performance, statement of changes in net assets, statement of comparison of budget and actual amounts and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 14 of the Public Audit Act, 2003. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

##### **Management's Responsibility for the Financial Statements**

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

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

##### **Auditor-General's Responsibility**

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 15(2) and (3) of the Public Audit Act, 2003 and submit the audit report in compliance with Article 229(7) of the Constitution of Kenya. The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

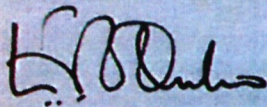
An audit involves performing procedures to obtain evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement

of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial statements.

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

### Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of Competition Authority of Kenya as at 30 June 2015, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accruals Basis) and comply with Competition Act No.12 of 2010.



**FCPA Edward R. O. Ouko, CBS**  
**AUDITOR-GENERAL**

Nairobi

**24 March 2016**

## STATEMENT OF FINANCIAL PERFORMANCE AS AT 30TH JUNE

		2014/2015	2013/2014
	Notes	Kshs.	(Restated) Kshs.
<b>REVENUE</b>			
<b>I Revenue from Non-Exchange Transactions</b>			
Exchequer Transfers		290,000,000	290,000,000
Fines and Penalties		721,715	5,300,000
Other Income		923,873	-
Development Partners (COMESA)		17,073,420	-
		<b>308,719,008</b>	<b>295,300,000</b>
<b>II Revenue from Exchange Transactions</b>			
Sale of Tenders		46,000	1,660,000
Merger filling Fees-Local		39,000,000	-
Merger filling Fees-COMESA		67,418,104	-
Investment Income		2,292,615	-
Other Income		-	600,810
Commission on IPPD Salary Processing		-	10,740
Gifts & Donations		-	10,000
		<b>108,756,719</b>	<b>2,281,549</b>
<b>TOTAL REVENUE</b>		<b>417,475,727</b>	<b>297,581,549</b>
<b>EXPENDITURE</b>			
Employee Costs	3	125,957,602	80,533,327
Board Expenses	4	13,826,989	11,078,965
Depreciation & Amortisation	6	14,749,303	7,722,284
Repairs & Maintenance	7	3,438,642	1,490,777
Contracted Services	8	13,343,796	12,269,670
Finance Costs	11	133,240	83,007
General Expenses	5	122,799,915	86,855,669
<b>Total Expenses</b>		<b>294,249,486</b>	<b>200,033,699</b>
<b>Surplus/(Deficit) for the year</b>		<b>123,226,241</b>	<b>97,547,851</b>

The Statement of Financial Performance is to be read in conjunction with the notes to and forming part of the Financial Statements set out on pages 52 to 72.

## STATEMENT OF FINANCIAL POSITION

AS AT 30TH JUNE

	NOTE	2014/2015 Kshs	2013/2014 (Restated) Kshs
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and Cash Equivalents	9a	251,211,375	95,665,899
Receivables From exchange transactions	10a	10,713,964	2,150,979
Receivables From Non-Exchange Transactions	10b	-	20,091,986
		<b>261,925,339</b>	<b>117,908,865</b>
<b>Non-Current Assets</b>			
Property, Plant & Equipment	14i	51,925,813	56,190,989
Intangible Assets	14ii	3,374,250	4,499,000
		<b>55,300,063</b>	<b>60,689,989</b>
<b>TOTAL ASSETS</b>		<b>317,225,402</b>	<b>178,598,854</b>
<b>LIABILITIES</b>			
<b>Current Liabilities</b>			
Payables from Exchange Transactions	19a	24,941,644	16,885,082
Provisions	20	3,728,021	2,681,230
		<b>28,669,665</b>	<b>19,566,311</b>
<b>Non-Current Liabilities</b>	19a	<b>14,399,823</b>	<b>8,552,542</b>
<b>TOTAL LIABILITIES</b>		<b>43,069,488</b>	<b>28,118,854</b>
<b>Net Current Assets</b>		<b>233,255,674</b>	<b>98,342,553</b>
<b>Net Assets</b>		<b>274,155,914</b>	<b>150,480,000</b>
<b>Represented by:</b>			
<b>Equity</b>			
Equity Contribution by the Treasury	12	52,932,150	52,932,150
Designated Fund	13	449,670	-
Accumulated Surplus		220,774,092	97,547,851
		<b>274,155,912</b>	<b>150,480,000</b>

The financial statements set out on pages 74 to 78 were approved by the Board of Directors on

29/02/016

.....and were signed on its behalf by:

David O. Ong'olo

**Chairman**

F.W Kariuki

**Director General**

The Statement of Financial Position is to be read in conjunction with the notes to and forming part of the Financial Statements set out on pages 52 to 72.

**STATEMENT OF CHANGES IN NET ASSETS  
FOR THE YEAR ENDED 30 JUNE 2015**

	NOTE	Contribution by Treasury Kshs	Accumulated Fund Kshs	Designated Fund RIP Kshs	Total Fund Kshs
<b>1 July 2013</b>		-	-	-	-
Contribution for the year		52,420,436	-	-	52,420,436
Charge for the year			-		-
Surplus/(Deficit) for the Year		-	100,477,997	-	100,477,997
Net Funds Received		-	-	-	-
<b>At 30 June 2014</b>		<b>52,420,436</b>	<b>100,477,997</b>	<b>-</b>	<b>152,898,432</b>
Prior Period Adjustment	18	511,715	(2,930,147)	-	(2,418,432)
<b>At 1 July 2014 (Restated)</b>		<b>52,932,150</b>	<b>97,547,850</b>	<b>-</b>	<b>150,480,000</b>
Contribution for the year		-	-	-	-
Charge for the year			-		-
Surplus (Deficit) for the year		-	123,226,241	-	123,226,241
Net fund Movement	13	-	-	449,670	449,670
<b>At 30 June 2015</b>		<b>52,932,150</b>	<b>220,774,091</b>	<b>449,670</b>	<b>274,155,911</b>

The Statement of Changes in Net Assets is to be read in conjunction with the notes to and forming part of the Financial Statements set out on pages 52 to 72

## STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 30TH JUNE 2015

	NOTE	2014/2015 Kshs	2013/2014 (Restated) Kshs
<b>Cashflows from Operating Activities</b>			
Surplus from operating Activities		123,226,241	97,547,850
Add back Depreciation	6	14,749,303	7,722,284
		<b>137,975,544</b>	<b>105,270,134</b>
<b><u>Adjustments for Changes in Working Capital</u></b>			
Increase/(Decrease) in Receivables from Exchange Transactions	10a	(8,562,985)	(2,150,979)
Increase/(Decrease) in Receivables from Non-Exchange Transactions	10b	20,091,986	(20,091,986)
Increase/(Decrease) in Payables from Exchange Transactions	19a	13,903,843	25,437,624
Increase/(Decrease) in provisions	20	1,046,791	2,681,230
		<b>26,479,635</b>	<b>5,875,889</b>
<b>Net Cashflows from Operating Activities</b>		<b>164,455,179</b>	<b>111,146,022</b>
<b>Cashflows from Investing Activities</b>			
Purchase of Non-Current Assets	14i	(9,359,376)	(36,240,073)
Purchase of Intangible Assets		-	-
		<b>(9,359,376)</b>	<b>(36,240,073)</b>
<b>Cashflows from Financing Activities</b>			
Treasury Contributions		-	20,759,949
Designated Fund	13	449,670	-
		<b>449,670</b>	<b>20,759,949</b>
<b>Net Increase/(Decrease) in cash and cash equivalents</b>		<b>155,545,473</b>	<b>95,665,899</b>
<b>Cash and cash equivalents at 1st July 2014</b>		95,665,899	-
<b>Cash and Cash Equivalents as at 30th June 2015</b>		<b>251,211,372</b>	<b>95,665,899</b>

The Statement of Cash flows is to be read in conjunction with the notes to and forming part of Financial Statements set out on pages 52 to 72.

**STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS**  
 FOR THE YEAR ENDED 30TH JUNE 2015

	Original Budget 2014-2015	Final Budget 2014-2015	Actual on Comparison Basis 2014- 2015	Performance Difference 2014-2015
	Kshs	Kshs	Kshs	Kshs
<b>Revenue</b>				
Exchequer Allocation	290,000,000	290,000,000	290,000,000	-
Fines, Penalties and Levies	-	-	721,715	(721,715)
Sale of Tender Documents	-	-	46,000	(46,000)
Merger Filing Fees-Local	20,000,000	20,000,000	39,000,000	(19,000,000)
Merger Filing Fees-COMESA	60,000,000	60,000,000	67,418,104	(7,418,104)
Donor Funding-RIIP	70,000,000	70,000,000	17,073,420	52,926,580
Investment Income	-	-	2,292,615	(2,292,615)
Other Income	-	-	923,873	(923,873)
<b>Total Income</b>	<b>440,000,000</b>	<b>440,000,000</b>	<b>417,475,727</b>	<b>22,524,273</b>
<b>Expenses</b>				
Personal Emoluments	163,600,000	163,600,000	119,989,094	43,610,907
Insurance	20,000,000	20,000,000	5,968,509	14,031,491
Staff Welfare	2,600,000	2,600,000	3,199,501	(599,501)
Communication Supplies and Services	4,400,000	4,400,000	3,022,612	1,377,388
Domestic Travel and Subsistence, and Other				
Transportation Costs	6,500,000	6,500,000	4,297,287	2,202,713
Foreign Travel and Subsistence, and other				
transportation costs	21,000,000	21,000,000	22,266,333	(1,266,333)
Printing, Advertising and Information Supplies and				
Services	14,000,000	14,000,000	10,652,599	3,347,401
Office rent, rates, utilities and parking	27,000,000	27,000,000	27,742,194	(742,194)
Training Expenses	20,000,000	20,000,000	19,189,249	810,751
Official Entertainment and conference facilities	15,000,000	15,000,000	16,011,781	(1,011,781)
Board Allowances & expenses	12,760,000	12,760,000	13,826,989	(1,066,989)
Specialised Services, Policy, Research and Market				
Enquiries	31,000,000	31,000,000	6,941,745	24,058,255
Office and General Supplies and Services	7,000,000	7,000,000	6,093,655	906,345
Contracted Services	21,500,000	21,500,000	13,343,796	8,156,204
Subscriptions	1,000,000	1,000,000	1,939,470	(939,470)
Motor Vehicle Running Expenses	3,900,000	3,900,000	1,706,476	2,193,524
Routine Maintenance - Other Assets	8,500,000	8,500,000	2,750,990	5,749,010
Purchase of Assets	58,000,000	58,000,000	9,359,376	48,640,624
Exchange Differences	-	-	2,206	(2,206)
Other operating expenses	2,240,000	2,240,000	555,698	1,684,302
	<b>440,000,000</b>	<b>440,000,000</b>	<b>288,859,558</b>	<b>151,140,442</b>
<b>Surplus/(Deficit)</b>			<b>128,616,169</b>	

## NOTES TO THE FINANCIAL STATEMENTS

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

The Authority's financial statements have been prepared in accordance with and comply with International Public Sector Accounting Standards (IPSAS). The financial statements are presented in Kenya Shilings (Kshs.) which is the functional and reporting currency of the Authority and all values are rounded to the nearest cent. The accounting policies have been consistently applied. The financial statements have been prepared on the basis of the historical cost, except where otherwise stated in the accounting policies below. The Cash Flow statement is prepared using the indirect method. The Financial statements are prepared on accrual basis.

### 2. Summary of significant accounting policies

#### a) Revenue Recognition

##### i) Revenue from non-exchange transactions-IPSAS 23

##### Exchequer allocations

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

##### Transfers from other government entities

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

##### ii) Revenue from exchange transactions-IPSAS 9

##### Rendering of Services-merger filing fees, levies

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

##### Sale of tender goods

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

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### b) Budget Information - IPSAS 24

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

### c) Property, Plant and Equipment - IPSAS 17

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

### d) Intangible Assets - IPSAS 31

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

### e) Provisions - IPSAS 19

Provisions are recognized when the Authority has a present obligation (legal or constructive) as a result of a past event, it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation. Where the Authority expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognized as a separate asset only when the reimbursement is virtually certain. The expense relating to any provision is presented in the statement of financial performance net of any reimbursement.

### Contingent liabilities

Contingent liabilities are possible obligations that arose from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within control of the Authority; or a present obligation that arises from past events but is not recognised because:

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

i. It is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or

ii. The amount of the obligation cannot be measured with sufficient reliability.

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

### Contingent assets

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

### f) Changes in accounting policies and estimates- IPSAS 3

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

### g) Employee Benefits - IPSAS 25 Retirement Benefits Plans

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

### h) Foreign Currency transactions - IPSAS 4

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

### i) Related Parties - IPSAS 20

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

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

	2014/2015	2013/2014 (Restated)
	Kshs.	Kshs.
<b>Key Management Compensations</b>		
i) Salaries and Other short term employee costs	<u>33,420,000</u>	<u>22,905,446</u>
<b>Board Remuneration</b>		
ii) Allowances paid to Board Members	<u>5,120,000</u>	<u>5,385,804</u>
<b>Grants From Related Parties</b>		
iii) Grants from GOK	<u>310,000,000</u>	<u>290,000,000</u>

### j) Leases

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

### k) Cash and Cash equivalents

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

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

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

### Estimates and assumptions

The key assumptions concerning the future and other key sources of estimation uncertainty at the reporting date, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are described below. The Authority based its assumptions and estimates on parameters available when the financial statements were prepared. However, existing circumstances and

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

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. 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

### Provisions

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

### 3. Employee Costs

	2014/2015	2013/2014 (Restated)
	Kshs	Kshs
Salaries and Allowances (See Note 18)	101,787,956	62,669,610
Contribution to Pensions	2,779,387	78,620
Gratuity	14,374,960	8,270,787
Staff Medical Insurance	5,968,509	6,833,080
Staff leave Days Provision	1,046,791	2,681,230
	<b>125,957,602</b>	<b>80,533,327</b>

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

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### 4. Board Expenses

	2014/2015	2013/2014 (Restated)
	Kshs	Kshs
Sitting allowance (See Note 18)	4,640,000	4,425,804
Honoraria	480,000	960,000
Training & Induction	8,629,087	5,081,070
Telephone	71,100	20,000
Insurance	6,802	592,091
	<b>13,826,989</b>	<b>11,078,965</b>

### 5. General Expenses

	2014/2015	2013/2014 (Restated)
	Kshs	Kshs
Domestic Travel Subsistence and Other Transportation Costs (See Note 18)	4,297,287	4,846,410
Foreign Travel Subsistence, and other transportation costs (See Note 18)	22,266,333	18,700,308
Utilities	4,108,087	4,350,035
Staff Welfare	3,199,501	1,455,530
General Publishing and Printing Services	3,054,600	6,547,901
General Advertising Services	7,219,422	9,639,018
Purchase of Newspapers, Magazines and Periodicals	378,577	273,793
Rent and Rates	26,656,718	25,836,686
Awareness and Publicity Campaigns	2,877,927	2,495,129
Policy, Research and Market Enquiries	39,320	
Enforcement of RTPS	456	13,128
Consumer welfare	4,024,042	
Supplies and Accessories for Computers and Printers	931,154	323,685
General Office Supplies	4,995,059	2,041,385
Purchase of Uniforms and Clothing Staff	65,618	-
Sanitary and Cleaning Materials, Supplies and Services	101,825	-
Training Expenses	19,189,249	4,836,751
Fuel and Lubricants	639,568	423,461
Motor Vehicle Insurances	379,255	672,571
Official Entertainment and conference facilities	16,011,781	4,153,532
Subscription to Professional Bodies	1,939,470	245,247
Forex Gain/(Loss)	2,206	1,100
Insurance of Assets	78,566	-
Withholding tax Expense	343,892	-
Rounding off Adjustment	1	-
	<b>122,799,915</b>	<b>86,855,669</b>

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### 6. Depreciation and Amortisation

	2014/2015 Kshs	2013/2014 Kshs
Property, plant and Equipment	13,624,553	7,722,284
Intangible Assets	1,124,750	-
	<b>14,749,303</b>	<b>7,722,284</b>

### 7. Repairs & Maintenance

	2014/2015 Kshs	2013/2014 Kshs
Motor Vehicles	687,652	518,385
Property, plant and Equipment	2,750,990	972,392
	<b>3,438,642</b>	<b>1,490,777</b>

### 8. Contracted Services

	2014/2015 Kshs	2013/2014 (Restated) Kshs
Consultancy	7,987,866	7,383,594
Hire of security	812,000	1,037,400
Office Cleaning Expenses	2,997,600	1,954,675
Legal Services	850,330	1,198,000
Audit Fees (See Note 18)	696,000	696,000
	<b>13,343,796</b>	<b>12,269,670</b>

### 9. Cash and cash equivalents

	2014/2015 Kshs	2013/2014 (Restated) Kshs
KCB-KICC Main operating account (See Note 18)	125,778,473	87,113,357
Cash-on hand and in Transit	-	-
KCB-KICC Staff Gratuity account	25,432,902	8,552,542
Short-term Investments	100,000,000	-
	<b>251,211,375</b>	<b>95,665,899</b>

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### Detailed analysis of the cash and cash equivalents

#### a.) Banks

Name of the Bank	Bank A/C No.	Currency	2014/2015	2013/2014 (Restated)
KCB,KICC Branch	1136286179	Kshs.	125,778,473	87,113,357
KCB,KICC Branch	1136286179	Kshs.	25,432,902	8,552,542
			<b>151,211,375</b>	<b>95,665,899</b>

#### b.) Short term Deposits

Name of the Bank	Deposit Type	Currency	2014/2015	2013/2014
KCB,KICC Branch	Short term 90 days deposit	Kshs.	<b>100,000,000</b>	-

Cash and cash equivalents are measured at fair value. The carrying amount approximates fair value

## 10. Receivables

### a) Receivables from Exchange Transactions

	2014/2015 Kshs	2013/2014 (Restated) Kshs
Staff Travel & Other Imprests Debtors	3,181,724	2,066,000
Prepayments (Rent ) (See Note 18)	0	0
Prepayments (Fuel Deposit)	-	104,277
Prepayments (Insurance )	5,123,242	-
Interest Receivable	2,292,615	-
Telephone Prepaid	116,384	-
Prior year Adjustment (See Note18)	-	(19,298)
	<b>10,713,964</b>	<b>2,150,979</b>

## 10. Receivables

### b) Receivables from Non-Exchange Transactions

	2014/2015 Kshs	2013/2014 Kshs
Exchequer Amount due from The National Treasury	-	20,000,000
Other Debtors (ACF-Medical Refund)	-	91,986
30th June 2015	-	<b>20,091,986</b>

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

Receivables are stated at the fair value as reduced by appropriate allowances for estimated irrecoverable amounts. The carrying amount of these receivables approximate fair value due to the short period to maturity of these instruments. Receivables in exchange for which the entity gives approximately equal value to another entity are recognised separately as receivables from exchange transactions. Receivables received without directly giving approximately equal value in exchange are recognised as receivables from non-exchange transactions.

### 11. Finance Charges

	2014/2015 Kshs	2013/2014 Kshs
General Bank Charges	133,240	83,007
	<b>133,240</b>	<b>83,007</b>

### 12. Equity Contribution by the National Treasury

	2014/2015 Kshs	2013/2014 (Restated) Kshs
<b>As at 1st July 2014</b>	52,932,150	-
Cash at Bank as at 1st July 2013	-	25,407,819
Imprest Debtors o/s as at 30th June 2013		634,595
Fuel Deposit Balance as at 01st July 2013		27,738
Fixed Assets as per valuation		29,365,100
Outstanding tax liability as at 30th June 2013		(484,117)
Consultancy Creditors (Eliud & Associates) as at 30th June 2013		(1,238,300)
Staff Gratuity to January 2013-June 2013		(1,292,400)
Prior Year Adjustment (See Note 18)		511,715
Rounding off Adjustments		0
	<b>52,932,150</b>	<b>52,932,150</b>

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

### 13. Designated Fund

	2014/2015 Kshs	2013/2014 Kshs
As at 1st July	-	-
Movement During the Year	449,670	-
As at 30th June 2015	<b>449,670</b>	-

Designated Fund consists of development funding and Contributions by the Treasury for acquisition of assets or development projects and are recognized as a financing reserve when received. No repayment of the financing is expected by the Authority. During the year ended 30th June 2015, the Authority received three(3) computers valued at Ksh.449,670 for use in the implementation of the Regional Integration Implementation Programme.

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### 14. Property, Plant and Equipment.

(i)	Cost/ Valuation	2014/2015		Carrying Value	Cost/ Valuation	2013/2014		Accumulated Depreciation	Carrying Value	Rate
		Accumulated Depreciation	Disposals			Prior Year Adjustments	Prior Year Adjustments			
Motor Vehicle	23,513,707	9,030,997	14,482,710	14,482,710	23,513,707	-	4,203,427	19,310,280	25%	
Office Equipment	7,689,244	1,011,026	6,678,218	6,678,218	5,269,960	525,000	56,995	5,737,965	12.5%	
Computer Equipment	19,109,373	7,041,486	12,067,888	12,067,888	9,667,181	1,977,100	1,869,534	9,774,747	30%	
Furniture & Fittings	22,960,325	4,263,328	18,696,997	18,696,997	21,384,325	1,576,000	1,592,328	21,367,997	12.5%	
	<b>73,272,649</b>	<b>21,346,836</b>	<b>51,925,813</b>	<b>51,925,813</b>	<b>59,835,173</b>	<b>4,078,100</b>	<b>7,722,284</b>	<b>56,190,989</b>		

### Reconciliation of Property, Plant and Equipment-2014/2015

Reconciliation	Opening			Prior Year		
	Balance	Additions	Disposals	Adjustments	Depreciation	Total
Motor Vehicle	19,310,280	-	-	-	(4,827,570)	14,482,710
Office Equipment	5,737,965	1,894,284	-	-	(954,031)	6,678,218
Computer Equipment	9,774,747	7,465,092	-	-	(5,171,952)	12,067,888
Furniture & Fittings	21,367,997	-	-	-	(2,671,000)	18,696,997
	<b>56,190,989</b>	<b>9,359,376</b>	<b>-</b>	<b>-</b>	<b>(13,624,553)</b>	<b>51,925,813</b>

### Reconciliation of Property, Plant and Equipment-2013/2014

Reconciliation	Opening			Old Assets		
	Balance	Additions	Disposals	Valuation	Prior Year Adjustments	Total
Motor Vehicle	-	16,813,707	-	6,700,000	-	19,310,280
Office Equipment	-	455,960	-	4,814,000	525,000	5,737,965
Computer Equipment	-	6,231,781	-	3,435,400	1,977,100	9,774,747
Furniture & Fittings	-	12,738,625	-	8,645,700	1,576,000	21,367,997
	<b>-</b>	<b>36,240,073</b>	<b>-</b>	<b>23,595,100</b>	<b>4,078,100</b>	<b>56,190,989</b>

The Authority received several items of property plant and equipment from the government at inception in 2013. The Authority was not required to pay for the property. To recognize the property in its books, the Authority did a professional valuation of the property towards the end of the 2013/2014 financial year. The valuer had issued a report and put the value of the assets at Kshs. 23,595, 100 in September 2014. These values were adopted in the Authority's statement of financial position as at 30th June 2014 as adjusting post balance sheet events in accordance with IPSAS. However, subsequently the valuer issued a final report that put the value of the assets at Kshs. 27,673,200. Consequently, the values of the assets have been adjusted to recognize the new values. This has been done by adjusting the value in the statement of Financial Position by Kshs. 4,078,100 in 2014 and a prior period adjustment made to recognise the new values.



## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### 17. Reconciliation Between Budget and Statement of Financial Performance

Reconciliation of Budget Surplus with surplus in the Statement of Financial Performance

	2014/2015	2013/2014 (Restated)
	Kshs.	Kshs.
Net surplus as per Statement of Financial Performance	123,226,241	97,547,851
<b>Adjusted for:</b>		
Prior period Errors (See Note 18)	-	(2,930,145)
Purchase of Non-Current Assets	(9,359,376)	(36,240,073)
Depreciation and Armotisation	14,749,303	7,722,284
<b>Net surplus as per approved budget</b>	<b>128,616,167</b>	<b>66,099,917</b>

### 18. Prior year Adjustments

#### i) Property Plant & Equipment & Intangible Assets

The valuation of Property Plant and Equipment and Intangible assets received from the National Treasury had a net understatement of Kshs.2,807,100 being Kshs.4,078,100 understatement for Property Plant & Equipment and Kshs1,271,000 overstatement of intangible assets during the 2013/14 financial year. As a result, the 2013/14 Non Current Assets were understated by Kshs.2,807,100.

	2013/2014 (Restated)
<b>Property Plant &amp; Equipment</b>	52,112,889.00
ADD: Increase Due to Revaluation	4,078,100.00
Restated Amount	56,190,989.00
<b>Intangible Assets</b>	5,770,000.00
LESS: Decrease due to Devaluation	(1,271,000.00)
Restated Amount	4,499,000.00

#### ii) Employee cost

Among the members of staff seconded to the Authority were the Director General and the head of ICT. The two officers received a top up salary through the Authority's inhouse payroll system over and above the amount paid to them through the Integrated Personnel Payroll Database (IPPD). During the year 2013/2014 both payrolls were posted in the books leading to an overstatement of employee costs and understatement of cash and cash equivalents by Kshs.422,024 being the amount paid through (IPPD) and also replicated in the inhouse payroll. The effect was an overstated employee costs and understated cash and cash equivalents by the same amount. An amount of Ksh. 8,270,787 that was in respect of Gratuity due to employees on contract was combined as part of salaries & Allowance, now shown separately in the notes.

	2013/2014 (Restated)
<b>Employees Cost (Salaries and Allowances)</b>	71,362,421.00
LESS : Overstatement of Employees Costs	(422,024.00)
: Gratuity disclosed separately in the notes (Note 3)	(8,270,787.00)
Restated Amount	62,669,610.00

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### iii) Board Expenses

Kshs.112,000 relates to board sitting allowance expenses in the Financial year 2013/2014 which the auditors in the management letter indicated they had not seen. The Authority could not trace the voucher at the time and the Auditors recommended a reversal of the same. However, in the subsequent year after rearranging the filing system the voucher was discovered and was posted in the books. This led to an increase in board expenses/accumulated surplus and a decrease in the cash and cash equivalent balances by Kshs.112,000.

	2013/2014 (Restated)
<b>Board Expenses - Sitting Allowances</b>	
ADD: Increase in Sitting Allowances	4,313,804.00
Restated Amount	112,000.00
	4,425,804.00

### vi) General Expenses

#### a) Rent Chargeable and Payables/Receivables from exchange Transactions

During the year 2013/2014, the Authority recognised actual rent paid of Kshs.22,615,824 as opposed to amortising

	2013/2014 (Restated) Kshs.
<b>Rent and Rate</b>	22,615,824.00
ADD: Increase in rent due to the adoption of IPSAS 13	3,220,862.00
Restated Amount	25,836,686.00
<b>Receivables from Exchange Transactions (Prepayment - Rent)</b>	4,226,261.00
LESS: Decrease in rent prepaid due to adoption of IPSAS 13	(2,055,984.00)
LESS: Decrease in Staff Imprest Receivable	(19,298.00)
Restated Amount	2,150,979.00
<b>Payables from Exchange Transactions</b>	13,424,818.00
ADD: Deferred Lease Rentals/Payments	3,460,264.00
Restated Amount	16,885,082.00

### b) Travel Expenses

An imprest surrender of Kshs.19,117.50 was credited to foreign travel instead of Travel imprest in the year 2013/2014. Further, the travel imprest advanced was recorded as Kshs.375,792 instead of Kshs.375,972 in the books resulting in transposition error of Kshs.180 in the FS. The correction of the errors in the current financial year resulted in the restatement of travel imprest debtors and foreign travel expenses by Kshs.19,298. Similarly, the Authority also corrected in the current financial year an over payment of Kshs.10 to a supplier in the year 2013. (The supplier had been paid Ksh.45,250 instead of Kshs.45,240).

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

	2013/2014 (Restated) Kshs.
<b>Foreign Travel Subsistence, and other transportation costs</b>	18,681,010.00
ADD: Increase	19,298.00
Restated Amount	<u>18,700,308.00</u>

	2013/2014 (Restated) Kshs.
<b>Domestic Travel Subsistence and Other Transportation Costs</b>	4,350,390.00
ADD : Over payment to a supplier	10.00
ADD : Reclassification of Hire of Transport	496,010.00
Restated Amount	<u>4,846,410.00</u>

### c) Contracted services & Audit fees

In the last Financial year 2013/2014, the Authority had shown separately Kshs.696,000 fees paid to external auditors on the face of the statement of financial performance. In the current year however, the Authority reclassified the fees into contracted services and lumped it together with other contracted services as recognised in the statement of financial performance. This was the basis of restating the comparative information for ease of comparison.

	2013/2014 (Restated) Kshs.
<b>Contracted Services</b>	11,573,670
LESS: Amount Audit fees reclassified under contracted Services	696,000
Restated Amount	<u>12,269,670</u>

### v) Cash and cash equivalents

The above prior period adjustment have affected the cash and cash equivalent of the Main Operation Account for the year 2013/2014 as follows:

	2013/2014 (Restated)
<b>Cash and cash equivalents (KCB- KICC Main Operating A/C)</b>	86,803,344.00
ADD : Overstatement of employees costs	422,024.00
LESS: Travel expense (Over payment made to supplier)	(10.00)
Board Expenses (Sitting Allowances)	(112,000.00)
Restated Amount	<u>87,113,358.00</u>

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### vi) Reconciliation of Net Assets, Accumulated Surplus, Equity Contribution and Total Expenses

The effects of the corrections of the errors as noted above to the net assets, accumulated surplus, total expenses, and equity contribution is as shown below:

	2014/2015 Kshs.	2013/2014 (Restated) Kshs.
<b>a) Reconciliation of Net Assets</b>		
<b>Net Assets as at 30th June 2014</b>		152,898,432
Increase in Computer Equipment		1,977,100
Increase in office Equipment		525,000
Increase in Furniture & Fittings		1,576,000
Decrease in Intangible Assets		(1,271,000)
Increase in Cash & Cash Equivalent		422,024
Decrease in Cash & Cash Equivalent		(112,000)
Increase in Cash & Cash Equivalent		45,240
Decrease in Cash & Cash Equivalent		(45,250)
Decrease in Imprest Receivables		(19,298)
Increase in Deferred Lease Payment		(3,460,263)
Decrease in Rent Receivables		(2,055,985)
<b>Net Assets restated as at 1st July 2014</b>	<b>-</b>	<b>150,480,000</b>
<b>b) Reconciliation of Accumulated Surplus</b>		
<b>Surplus for 2013/2014 as previously stated</b>		100,477,997
Decrease in employee benefits		422,024
Increase in Board Expenses		(112,000)
Decrease in Travel Expenses		45,240
Increase in Travel Expenses		(45,250)
Increase in Foreign Travel Expenses		(19,298)
Increase in Rent Expense		(3,576,688)
Decrease in Rent Expense		355,826
Increase in Rent Expense		
<b>Surplus for 2013/2014 as currently restated</b>	<b>-</b>	<b>97,547,852</b>

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### c) Reconciliation of Equity Contribution

	2014/2015	2013/2014 (Restated)
	Kshs.	Kshs.
<b>Net Equity Contribution as at 30th June 2014</b>		52,420,435
Increase in the Value of Office Equipment		525,000
Increase in the Value of Computer Equipment		1,977,100
Increase in the Value of Furniture & Fitting		1,576,000
Increase in the Value of Computer Software		(1,271,000)
Increase in deferred lease liability		(2,295,385)
<b>Net Equity Contribution as currently restated</b>	<b>-</b>	<b>52,932,150</b>

### d) Reconciliation of Total Expenses

<b>Total Expenses as previously stated</b>		197,103,553
Less employee costs previously double posted		(422,023)
Add back board expenses not posted		112,000
Add back amount paid to supplier as per PV		45,250
Less actual rent as previously stated		(45,240)
Less minimum lease payment as currently restated		(22,615,824)
Add amount paid to supplier as per bank statement		25,836,685
Add imprest surrender not expensed		19,298
<b>Total Expenses as currently stated</b>	<b>-</b>	<b>200,033,699</b>

### e) Change in Treasury Contribution due to prior period adjustments

Increase in Computer Equipment		1,977,100
Increase in office Equipment		525,000
Increase in Furniture & Fittings		1,576,000
Decrease in Intangible Assets		(1,271,000)
Deferred lease payments as at 30th June 2013		(2,295,385)
<b>Net effect due to prior period Adjustments</b>		<b>511,715</b>

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### 19. Payables from Exchange Transactions

	2014/2015	2013/2014 (Restated)
	Kshs.	Kshs.
<b>Current-Payables</b>		
Local Creditors	7,236,027	9,014,990
Withholding Taxes	427,816	80,040
Withholding VAT	529,724	-
Staff Creditors	237,385	10,000
Other Payroll Liabilities	194,175	3,000
Accrued staff Salary adjustments	1,438,101	3,306,144
Accrued staff Gratuity adjustments	-	1,010,645
Contractors retention	33,400	
CAK Pension Scheme Deductions	3,953,740	-
Staff Gratuity	7,089,419	
Deferred Lease Payment (See note 18)	3,801,857	3,460,263
	<b>24,941,644</b>	<b>16,885,082</b>
<b>Non-Current-Payables</b>		
Staff Gratuity	14,399,823	8,552,542
	<b>14,399,823</b>	<b>8,552,542</b>

Trade payables represent outstanding payments to suppliers for services consumed. Payroll deductions include amounts outstanding for statutory deductions and co-operative societies. Staff creditors comprise of unpaid staff salaries and other amounts due to staff.

### 20. Provisions

	2014/2015	2013/2014
	Kshs.	Kshs.
Staff Leave Days Provision	3,728,021	2,681,230
	<b>3,728,021</b>	<b>2,681,230</b>

Provisions are recognised when:

- a reliable estimate can be made of the obligation.
- it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; and
- the Authority has a present obligation as a result of a past event;

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

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### 21. Commitments and Contingencies

#### i) Capital commitments

	2014/2015 Kshs.	2013/2014 Kshs.
Approved and contracted	-	-
Approved and not contracted	11,000,000	-
	<b>11,000,000</b>	<b>-</b>

#### ii) Recurrent commitments

	2014/2015 Kshs.	2013/2014 Kshs.
As at 30th June 2015	-	5,555,730

Capital commitments are disclosed in respect of contracted amounts for which delivery by the contractor is outstanding at the accounting date, and for amounts which the Board's approval has been obtained but not yet contracted for.

The Authority has contractual obligations with its suppliers of various contracted services most of them running up to 30th November 2015.

### 22. Reconciliation of Net Surplus for the year to Net Cash from Operating Activities

	2014/2015 Kshs.	2013/2014 Kshs.
Surplus for the Year	123,226,241	97,547,852
<b>Adjusted for:</b>		
Depreciation	14,749,303	7,722,284
Movements in Provisions for Employee Costs	1,046,791	2,681,230
<b>Working Capital Adjustments</b>		
<b>Changes in Working Capital</b>		
Receivables from exchange Transactions	(8,562,985)	(2,150,979)
Receivables from exchange Transactions	20,091,986	(20,091,986)
Payables from exchange Transactions	13,903,843	25,437,624
	<b>164,455,179</b>	<b>111,146,025</b>

### 23. Financial Risk Management

The Authority's activities expose it to a variety of credit and liquidity risks. The overall risk management programme focuses on the unpredictability of the market and seeks to minimise potential adverse effects on its operations. The Authority regularly reviews its risk management policies and systems to reflect changes in markets and emerging best practices. Risk management is carried out by the management under the direct supervision of the board of directors. The board provides policies for overall risk management as well as policies covering specific areas such as interest rate risk, credit risk and liquidity risk.

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### a) Credit Risk Management

Credit Risk refers to the risk that a counterparty will default on its contractual obligation resulting in financial loss to the Authority. Credit Risk arises from bank balances, receivables and amounts due from related parties.

Although this risk is unlikely to occur in the short term, it is mitigated as follows:

- i. Cash and short-term deposits are placed with well established financial institutions of high quality and credit standing and also approved by the National Treasury;
- ii. Funds are invested in short-term facilities; and
- iii. The organisation does not raise debtors in its ordinary course of business. Credit risk with respect to accounts receivable is limited due to the nature of the Authority's business and its reliance on government grant as the main source of funding. Market risk is the risk that the value of an investment will decrease due to changes in market factors. The above stated mitigating factors apply to market risk as well.

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

	2014/2015	2013/2014 (Restated)
	Kshs.	Kshs.
Cash at Bank	251,619,207	95,665,899
Amount Due from Treasury	-	20,000,000
Prepaid Rent	-	-
Fuel Deposit	-	104,277
Staff Travel Imprests	3,168,984	2,066,000
Prepaid Insurance	5,123,242	-
Medical Advances	-	91,986
Investment Income Receivables (bank interest)	2,292,615	-
	<b>262,204,048</b>	<b>117,928,162</b>

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

### b) Liquidity Risk Management

Liquidity risk is the risk that the Authority will not be able to meet its financial obligations when they fall due. The Authority's approach to managing liquidity is to ensure, as far as possible, that it will always have sufficient liquidity to meet its liabilities when due, under both normal and stressed conditions, without incurring unacceptable losses or at the risk of damaging the Authority's reputation. The Authority ensures that it has sufficient cash on demand to meet expected operational expenses, including the servicing of financial obligations; this excludes the potential impact of extreme circumstances that cannot reasonably be predicted. All liquidity policies and procedures are subject to review and approval by the board of directors.

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

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

	2014/2015 Kshs.	2013/2014 Kshs.
Trade payables all due within 30 days	7,236,027	9,014,990
Staff Creditors	237,385	10,000
Taxes	957,539	80,040
Payroll Deductions	194,175	3,000
Provisions	3,728,021	2,681,230
Contractors retention	33,400	33,400
Staff Gratuity Accrued	7,089,419	8,552,542
Staff Pension Scheme	3,953,740	-
	<b>23,429,706</b>	<b>20,375,201</b>

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

### 24. Leases

The Authority has a six (6) year lease arrangement with the landlord of the Kenya Railways Staff Retirement benefits scheme; the premises from which its head office is located. The terms of the arrangement require the Authority to pay a standard amount of rent quarterly in advance with an annual escalation rate of 5%. Obligations incurred under this lease are recharged against income in equal instalments over the period of the lease. The Authority recognized Kshs.16,785,758 and Ksh.3,801,857 as the rent and deferred lease payments respectively accruing from the arrangement. As at the balance sheet date, the Authority had the following balances relating to the lease.

	Kshs.
Total Minimum future lease payments 47,559,648	
Total Minimum future lease payments	
Current year Rental -2014/2015	16,785,758
Year 2015/2016	16,785,758
Year 2016/2017	16,785,758
Year 2017/2018	13,988,132

### 25. Comparatives

Prior period comparative information has been presented in the current financial year where necessary, comparative figures have been adjusted to conform to changes in presentation for the current year.

### 26. Subsequent Events

There have been no events subsequent to the financial year and with significant impact on the financial statements for the year ended 30<sup>th</sup> June 2015.

## NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

### 27. Contingent Liabilities

During the financial year, the Authority had the following court cases:

#### 1. Constitutional Petition Number 239/2015

##### **Consumer Federation of Kenya (COFEK) vs Nakumatt Holdings Ltd, Atul Shah, Kenya Bureau of Standards, Competition Authority of Kenya & Attorney General.**

In this matter, the petitioner filed a Constitutional Petition against all the above Respondents resulting from complaints by consumers on the differences between the till and shelf price at the 1st Respondent. The petitioner is seeking a declaration that the Authority has failed to discharge its consumer protection mandate and further seeking an order that it be consulted by the Authority in the future exercise of the said mandate. The Authority has filed its response demonstrating the fact that it was undertaking investigations into the matter pursuant to its mandate and the fact that the petition is both pre-mature and unfounded. The Authority is waiting for the matter to be set down for determination.

#### 2. Nairobi High Court Miscellaneous Application No. 360/2014

##### **Republic vs Competition Authority of Kenya Exparte Ukwala Supermarket Ltd & Tusker Mattresses Ltd**

In this matter, the Applicants moved to court by way of judicial review seeking the quashing of the Authority's decision in a merger notification. All parties have filed their respective pleadings. However, the parties are exploring an out of court settlement in the matter that will also involve refund of the Authority's duly incurred legal expenses. In the event that the parties fail to agree, the matter will be set down for hearing.

#### 3. Kericho High Court Miscellaneous Application No. 3/2015 KTDA Management Services vs Competition Authority of Kenya & the Attorney General

In this matter, the Applicants moved to court by way of judicial review seeking the quashing of the Authority's Tea Inquiry report and a Stay Order was granted by the High Court against use of the Report by the Authority until the Judicial Review is determined.

The Authority has filed its response to the matter demonstrating the validity and procedural probity of the report and is awaiting determination of the matter. However, the applicant has also challenged the inclusion of interested parties in the matter and ruling on the same is awaited.

#### 4. Nairobi Industrial Court Case No. 145 of 2013

##### **Republic versus Beldine Omolo Exparte Wang'ombe Kariuki & 3 Others**

In this matter an employee of the Public Service Commission who had previously been deployed to the Authority has sued it, challenging her redeployment back to the National Treasury and seeking special damages amounting to Kshs 2,838,302.

The Authority has filed its defense in the matter, however the Claimant has delayed in setting down the matter for hearing.

#### 5. Nairobi Miscellaneous Application No. 418 of 2013

##### **Republic versus Competition Authority of Kenya ex parte Airtel Networks Limited**

In this matter, Airtel Networks had filed judicial review proceedings challenging the Authority's decision to enter settlement negotiations with Safaricom Limited against whom they had filed a complaint under Part III of the Competition Act.

Parties however, negotiated an out of court settlement of the matter and the Authority was refunded its legal fees

## PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATION


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

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


### Guidance Notes:

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

David O. Ong'olo  
**Chairman**

  
.....

F.W Kariuki  
**Director General**

  
.....

ANNEX 1 : Corporate Risks

IMPLEMENTATION STATUS OF THE MITIGATION PLANS FOR CORPORATE RISKS AS AT 30 <sup>th</sup> JUNE, 2015				
No	Risk	Causes	Mitigating Plans	Status
1.	Inadequate internal human resource capacity.	<ul style="list-style-type: none"> <li>Failure to recruit adequate human resource.</li> <li>Inadequately skilled personnel in some areas e.g. Forensics and consumer protection.</li> </ul>	<ul style="list-style-type: none"> <li>Fast-track job evaluation and implementation of the report.</li> <li>Secondment of staff from other organizations such as DCI.</li> <li>Enhance young professionals and internship programs.</li> </ul>	<ul style="list-style-type: none"> <li>Job evaluation report approved by the Board and 52 staff employed.</li> <li>An inspector and a corporal from Directorate of Criminal Investigation (DCI) expected in the next FY.</li> <li>5 YPPs were hired during the year 2014/2015. Also 20 students offered internship positions for the FY 2014/15.</li> </ul>
2.	Sub-optimal staff productivity.	<ul style="list-style-type: none"> <li>Lack of a performance management system.</li> <li>Standard operating procedures (SOPs) not fully developed.</li> </ul>	<ul style="list-style-type: none"> <li>Full implementation of the Performance Management System.</li> <li>Enhance performance contracting goals cascading process to ensure goals are effectively cascaded.</li> <li>Full implementation of the Performance Management System.</li> <li>Standard operating procedures to be developed in all areas.</li> </ul>	<ul style="list-style-type: none"> <li>Heads of Departments Signed PC with the DG. The same has been cascaded downwards to other staff below the HODs.</li> <li>ISO procedure for all the functional areas in the Authority have been developed.</li> </ul>
3.	Weakness of the competition law.	<ul style="list-style-type: none"> <li>Unclear legal procedures in enforcement of the law.</li> <li>CAK has capacity to investigate but cannot prosecute a case.</li> <li>Lack of administrative procedures.</li> </ul>	<ul style="list-style-type: none"> <li>Propose amendments to certain sections of the Competition Act.</li> <li>Develop various regulations to elucidate the law in terms of enforcement procedures.</li> </ul>	<ul style="list-style-type: none"> <li>Some of the proposed amendments incorporated in the Act through the Finance Act, 2014.</li> <li>The Authority has developed guidelines in consumer protection, mergers and Restrictive Trade Practices (RTP).</li> </ul>
4.	Litigation.	<ul style="list-style-type: none"> <li>Frivolous litigants.</li> <li>Breach of law.</li> <li>Impact of CAK's decisions</li> </ul>	<ul style="list-style-type: none"> <li>Enhanced provision for litigation costs.</li> </ul>	<ul style="list-style-type: none"> <li>Kshs. 10 M allocated for legal costs in the 2014/15 FY budget.</li> </ul>
5.	Information asymmetry.	<ul style="list-style-type: none"> <li>Lack of cooperation from stakeholders.</li> <li>Lack of data (both internal and external).</li> <li>Inadequate internal research capacity</li> </ul>	<ul style="list-style-type: none"> <li>Enhance cooperation frameworks with stakeholders.</li> <li>Subscription to research firms.</li> <li>Develop knowledge management systems.</li> <li>Market inquiries to build</li> </ul>	<ul style="list-style-type: none"> <li>MOUs concluded with CBK and CA.</li> <li>More staff were hired and are being trained on the various issues on research issues.</li> <li>We have subscribed to an international reputable research firm.</li> <li>Knowledge management policy approved and committee operational.</li> </ul>
6.	Overreliance on the exchequer for funds.	<ul style="list-style-type: none"> <li>Inability to generate sufficient internal revenue.</li> <li>Nature of CAK (Non-commercial government agency).</li> </ul>	<ul style="list-style-type: none"> <li>Initiatives for enhanced resource mobilization.</li> <li>Conduct joint activities with other institutions in order to share costs.</li> <li>Lobbying at the national level.</li> </ul>	<ul style="list-style-type: none"> <li>Introduction of the Merger filing fees.</li> <li>Held a dissemination seminar in conjunction with the World Bank.</li> <li>Proposals to the Donors were done.</li> </ul>

No	Risk	Causes	Mitigating Plans	Status
7.	Inadequate internal budgeting process.	<ul style="list-style-type: none"> <li>Ineffective planning.</li> <li>Inadequate internal human capacity.</li> </ul>	<ul style="list-style-type: none"> <li>Enhanced training of staff to deepen skills in planning.</li> </ul>	<ul style="list-style-type: none"> <li>The Finance Department has been populated with the competent staff. This has enhanced segregation of duties.</li> </ul>
8.	Misappropriation of funds.	<ul style="list-style-type: none"> <li>Inadequate or lack of internal controls in financial management.</li> <li>Lack of integrity.</li> </ul>	<ul style="list-style-type: none"> <li>Enhance the finance policies and procedures and other internal financial controls.</li> <li>Enhanced sensitization and integrity.</li> <li>Enforce compliance with the Code of Conduct</li> </ul>	<ul style="list-style-type: none"> <li>Finance Procedure Manual developed and approved and is currently being implemented.</li> <li>Capacity in the finance Department has been enhanced after recruitment of the two more staff.</li> <li>Code of Conduct approved by EACC and Gazzetted.</li> </ul>
9.	Staff turnover.	<ul style="list-style-type: none"> <li>Uncompetitive remuneration and motivation.</li> <li>Unconducive work environment.</li> </ul>	<ul style="list-style-type: none"> <li>Fast-track job evaluation exercise and implementation of the report.</li> <li>Implement reward and recognition systems.</li> <li>Continuously improve the work environment.</li> <li>Enhance internal staff communication through appropriate plans, policies and procedures.</li> </ul>	<ul style="list-style-type: none"> <li>Following SRC approval, competitive terms offered.</li> <li>Work environment improved through: Computer: Staff ratio is 1:1, additional furniture.</li> <li>Improved the internal communication.</li> <li>Policy on talent management approved.</li> </ul>
10.	Inadequate succession planning.	<ul style="list-style-type: none"> <li>Lack of proper and effective human resource policy on succession planning.</li> </ul>	<ul style="list-style-type: none"> <li>Fast-track job evaluation exercise and implementation of the report.</li> <li>Develop a succession management policy.</li> </ul>	<ul style="list-style-type: none"> <li>JE report has been implemented.</li> <li>Succession Management Policy has been developed, approved and is being implement.</li> </ul>
11.	Inadequate IT infrastructure.	<ul style="list-style-type: none"> <li>Budgetary constraints in procurement of IT infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>Procure improved IT infrastructure and ensure correct specifications.</li> <li>Incorporate IT infrastructure needs in the IT budget.</li> </ul>	<ul style="list-style-type: none"> <li>New ICT equipment procured and distributed to staff.</li> <li>The ERP system to be implemented in 2015/16 FY</li> <li>Business continuity plan to be developed in 2015/16 FY.</li> </ul>
12.	Negative perception by stakeholders.	<ul style="list-style-type: none"> <li>Ineffective decisions (impact of the decision and time taken) and failure to make decisions.</li> <li>Inadequate advocacy or awareness.</li> </ul>	<ul style="list-style-type: none"> <li>Revamping CAK's website including use of CAK's website to publish CAK's decisions and explaining of CAK's decisions to stakeholders.</li> <li>Create and Implement Impact Assessment, Monitoring and Evaluation Framework.</li> <li>Publish the impact of CAK's decisions.</li> </ul>	<ul style="list-style-type: none"> <li>The Authority publicizes its decisions through the media and upload them on the website.</li> <li>The website has been revamped and is always updated.</li> <li>A Monitoring and Impact Assessment Framework developed.</li> </ul>
13.	Lack of knowledge on existence of CAK.	<ul style="list-style-type: none"> <li>Inadequate awareness campaigns.</li> <li>Lack of sectorial prioritisation.</li> <li>Inadequate funds for marketing.</li> </ul>	<ul style="list-style-type: none"> <li>Enhance the communication plan.</li> <li>Create a sectorial prioritization m target high impact sectors.</li> <li>Lobby for more funds for public relations. annual to</li> </ul>	<ul style="list-style-type: none"> <li>Communications policy developed and being implemented.</li> <li>Customer Satisfaction and Consumer Baseline survey carried out.</li> <li>Sectorial prioritization policy in place and is being implemented.</li> <li>Resource mobilization effort enhanced.</li> </ul>

## ANNEX 2 : Summary of Merger Notifications

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
1	Frontier Services and Phoenix Aviation Limited 30/4/2014	Aviation	The transaction involved acquisition of 49% shareholding in Phoenix Aviation Ltd and 5 aircraft by Frontier Services Group. Analysis showed that the merger would not negatively affect competition nor raise negative public interest issues.	Merger approved unconditionally
2	Bullpak Ltd and Nampak Kenya Ltd 12/5/2014	Manufacturing	The transaction involved the acquisition of 51% shareholding in Bullpak Limited by Nampak Kenya Ltd. Analysis showed that the transaction would not affect competition negatively nor lead to negative public interest issues	Merger approved unconditionally
3	Mt. Kenya University and Parkways Ltd 15/5/2014	Tertiary education	Mount Kenya acquired an idle land from Parkways with an intention of developing it to a parking for its teaching and non-teaching staff. Analysis showed that the transaction would not affect competition negatively nor lead to negative public interest	Merger approved unconditionally
4	Cargil Kenya Ltd and Lesiolo Grain Handlers 16/7/2014	Warehousing	The transaction involved acquisition of 100% of the issued shares in Lesiolo Grain Handlers by Cargil Kenya Limited. Analysis showed that the transaction would not affect competition negatively nor lead to negative public interest issues	Merger approved unconditionally
5	Access Kenya Group Limited and Internet Solutions Kenya Limited 17/6/2014	Internet	The transaction involved acquisition of all the assets and certain contracts of internet solutions by Access Kenya Limited. Analysis showed that the transaction did not qualify as a merger.	Not a merger
6	Africa Oil Logistics Limited and Ardan Logistics Limited. 17/6/2014	Logistics and support	Africa Oilfield Logistics acquired the entire issued shares in Ardan Logistics Kenya. Analysis of the transaction revealed that the merger would not raise competition concerns and the combined turnover was below the required merger threshold for mandatory notification.	Merger excluded from the provisions of Part IV of the Act
7	Holcim Limited and Lafarge S.A. 16/9/2014	Manufacturing	The transaction involved acquisition of two thirds of the issued share capital of Lafarge. Analysis showed that the transaction would not affect competition negatively nor lead to negative public interest issues	Merger approved unconditionally

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
8	Goodlife Pharmacy Limited and Mimosa Pharmacy Limited 25/6/2014	Pharmaceuticals	The transaction involved acquisition of all assets and business of Mimosa Pharmacy Limited by Goodlife Pharmacy Limited. Analysis showed that the transaction would not affect competition negatively and the combined turnover was below the required merger threshold for mandatory notification.	Merger excluded from the provisions of Part IV of the Act
9	Kazana Limited and Mida Villas 25/6/2014	Property	The transaction involved acquisition of 100% of the issued shared share capital in Mida Villas by Kazana Limited. Analysis showed that the transaction would not affect competition negatively nor lead to negative public interest issues and the combined turnover was below the required merger threshold for mandatory notification.	Merger excluded from the provisions of Part IV of the Act
10	Hamilton Harrison and Matthews Advocates and Oraro and Company Advocates 26/6/2014	Legal services	The transaction involved amalgamation of the two law firms. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the required threshold for mandatory merger notification.	Merger was excluded from the provisions of Part IV of the Act.
11	Transcentury Limited and Aureos East Africa Fund 25/6/2014	Investment	The transaction involved acquisition of the minority shareholding held by Aureos East Africa Fund LLC in Cable Holdings Kenya Limited in exchange for the shares of Transcentury Limited. Analysis showed that the transaction was not a merger.	Not a merger
12	Van Rees Kenya Limited and Van Rees Kenya Branch 26/6/2014	Tea Trading	The transaction involved acquisition of the entire business of Van Rees BV Group Kenya branch by another wholly owned subsidiary of the Van Rees Group and hence the transaction was not a merger.	Not a merger
13	MTN Business Kenya Limited and MTN Business Limited 27/6/2014	Telecommunications	The transaction involved transfer of business assets and liabilities of MTN Business Limited to MTN Business Kenya Limited. Transaction was not merger because the transacting parties are subsidiaries of Satellite Data Networks.	Not a merger

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
14	Young & Rubicam and Young & Rubicam Brands Limited 26/6/2014	Advertising	The transaction involved acquisition of 58% of the issued shares in Young Rubicam Brands by Young and Rubicam Inc. The transaction was excluded since the acquiring undertaking was exercising its right pursuant to Deposit and Settlement Agreements to recover loans it had advanced to individual shareholders in the target. Young and Rubicam Brands Limited was no longer operating and the proposed transaction would not affect competition negatively. Analysis showed that the merger would not negatively affect competition nor raise negative public interest issues and the combined turnover was below the required merger threshold for mandatory notification.	Transaction was excluded from provisions of Part IV of the Act.
15	Kieran Day and Kafila 30/6/2014	Property	The transaction involved acquisition of the entire issued shares in Kafila Limited by Kieran Day. Analysis showed that the merger would not negatively affect competition and the combined turnover was below the required merger threshold for mandatory notification.	The merger was excluded from provisions of Part IV of the Act
16	Kieran Day and Kianga Limited 30/6/2014	Property	The transaction involved acquisition of the entire issued shares in Kianga by Kieran Day. Analysis showed that the merger would not negatively affect competition and the combined turnover was below the required merger threshold for mandatory notification.	The merger was excluded from provisions of Part IV of the Act
17	Metropolitan International Holding Proprietary and Cannon Assurance Limited 30/6/2014	Insurance	The transaction involved acquisition of 62.29% of the shareholding in Cannon Assurance Limited by Metropolitan International Holdings Proprietary Limited. Analysis revealed that the transaction would not affect competition negatively nor raise negative public interest issues.	The merger was approved unconditionally
18	Tusker Mattresses Limited and Ukwala Supermarkets 30/6/2014	Retail distribution	The transaction involved acquisition of the business and operations of Ukwala by Tuskys. The two undertakings are involved in retail distribution/sale of general merchandise. Analysis showed that the merger would enhance Tuskys dominance in the Central Business District.	Merger approved with conditions.

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
19	British American Investment Company Kenya and Housing Finance Company Kenya 1/7/2014	Financial	The transaction involved acquisition of 57,270,000 ordinary shares of Housing Finance Company of Kenya by British American Investments Company Kenya Limited from Equity Bank Limited. Analysis showed that the merger would not negatively affect competition nor raise negative public interest issues.	Merger approved unconditionally
20	Fanisi Capital Limited and Ngare Narok Meat Industries Limited 2/7/2014	Processing	The transaction involved acquisition of 40.15% shareholding in Ngare Narok Meat Industries Limited by Fanisi Investments Mauritius No. 1 Limited. Analysis showed that the merger would not negatively affect competition and the combined turnover was below the required merger threshold for mandatory notification.	Merger excluded from the provisions of Part IV of the Act
21	Safaricom and M - Software 3/7/2014	Communications	The transaction involved acquisition of M-Ledger Software by Safaricom from Dynamic Data Systems Limited. Acquisition of M -Ledger software did not lead to change in control and did not confer Safaricom material influence on policies of the target. The transaction therefore was not a merger.	Not a merger
22	Mara Corporation Limited & The Smoke Shop Africa and The Wines of World Wine Shop & Bar Limited 27/10/2014	Hospitality	The transaction involved acquisition of 100% of the issued share capital of the Wines of the World Wine Shop & Bar Limited by Mara Corporation Limited and the Smoke Shop Africa Limited. The analysis revealed that the merger would not have negative effects on competition and the combined turnover was below the required merger threshold for mandatory notification.	Merger was excluded from the provisions of Part IV of the Act.
23	Orchid Capital Limited & Genghis Capital and Winton Investment Services Limited 6/10/2014	Investment and banking services	The transaction involved acquisition of all assets of Winton by Genghis and all employees by Orchid Capital Limited. The analysis revealed that the merger would not have negative effects on competition and the combined turnover was below the required merger	Merger was excluded from the provisions of Part IV of the Act.
24	Brendan Winston Hill & Nicholas Francis William Rowe and Malte Walter Sommer Latte 14/7/2014	Property	The transaction involved acquisition of 72% shareholding in Ragati River Management Limited by Mr. Brendan Winston Hill and Mr. Nicholas Francis Rowe. The analysis revealed that the merger would not have negative effects on competition and the combined turnover was below the required merger threshold for mandatory notification.	Merger was excluded from the provisions of Part IV of the Act

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
25	Lucero Drive Limited and Russet Insurance Agency 23/7/2014	Insurance	The transaction involved acquisition of 75% of the issued shares in Russet Insurance by Lucero drive Limited. Analysis showed that the transaction would not affect competition negatively and the combined turnover was below the required merger threshold for mandatory notification.	Merger was excluded from the provisions of Part IV of the Act
26	Arifali Madhan & Zahra Madhani and Barawaji Limited 24/7/2014	Property	The transaction involved acquisition of 100% of the issued shares of Barawaji Limited by Mr. Arifali Madhani and Mrs. Zahra Madhani. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the required merger threshold for mandatory notification.	Merger was excluded from the provisions of Part IV of the Act.
27	Millio E&P (K) Limited and PCL & Afrex & Flow Energy TTY Limited 24/7/2014	Energy	The transaction involved farm -in over 60% of the Contract area comprising Block L6 in Flow Energy Limited, Afrex Limited and Panacontinental Oil & Gas NL by Milio E&P Limited in Kenya. The analysis revealed that the merger would not have negative effects on competition and the combined turnover was below the required merger threshold for mandatory notification.	Merger excluded from the provisions of Part IV of the Act
28	Metsec Cables Limited and Doshi Enterprises 8/9/2014	Manufacturing	The transaction involved transfer of the entire cable business of Doshi Limited to Metsec Cables. The transaction was a restructuring since no change in ownership post transaction was to result.	Not a Merger
29	Kati Autere & Christopher Bagot and Hugo Simba Limited 31/7/2014	Floriculture	The transaction involved acquisition of 100% of the issued share capital in Hugo Simba Limited by Kati Autere & Christopher Bagot. Analysis indicated that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory notification.	Merger was excluded from the provisions of Part IV of the Act
30	Rivallyn Overseas Holdings Limited and Medina Residence Limited 31/7/2014	Property	Rivallyn Overseas Holding Company acquired the entire issued ordinary capital of Medina Residence limited. Analysis of the transaction revealed that that the merger would not lessen competition nor raise any negative public interest concerns.	Merger approved unconditionally

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
31	Viking House Best of Kenya Limited and Anil Mandevia & Bina Mandevia 31/7/2014	Property	The transaction involved acquisition of the entire business of Anil and Bina Mandevia by Viking House Best of Kenya Limited. The transaction was not a merger since no change of control would be conferred to the acquirer.	Not a merger
32	Vittoria Limited and Kingsdale Limited 31/7/2014	Property	The transaction involved acquisition of the entire issued share capital of Kingsdale Limited by Vittoria Limited. Analysis indicated that the combined turnover of the parties was below the merger threshold and it would not affect competition negatively.	Merger excluded from the provisions of Part IV of the Act
33	Bakki Holdco Limited and K-Rep Bank Limited 5/9/2014	Financial	The transaction involved acquisition of 65.9% of the issued share capital of K-Rep Bank Limited by Bakki Holdco Limited. Analysis showed that the merger would not negatively affect competition nor raise negative public interest issues.	Merger approved unconditionally
34	Prudential Corporation Limited and Blueshield Holdings Limited 14/8/2014	Insurance	The transaction involved acquisition of 100% of the issued share capital of Shield Assurance Company Limited by Prudential Corporation Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
36	Airtel Kenya Limited and Essar Telecommunication Kenya 9/9/2014	Telecommunications	The transaction involved sale and transfer of mobile business subscribers and GSM Licenses from Essar Telecom Kenya Limited to Airtel Networks Kenya Limited. Analysis indicated that the transaction would not negatively affect competition and with regard to public interest, the target was a failing firm.	Merger approved unconditionally
37	Safaricom Limited and Essar Limited 9/9/2014	Telecommunications	The transaction involved sale and transfer of passive infrastructure and frequency license from Essar Telecom Kenya limited to Safaricom Limited. Analysis of the transaction revealed that it would not have negative effects on competition and in terms of public interest, the target was failing in Kenya.	Merger approved unconditionally

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
38	Scan Group Limited and EXP Momentum Limited Kenya 9/9/2014	Advertising	Scangroup acquired 80.4% of the issued share capital of EXP Momentum Limited. Analysis revealed that the merger would not affect competition negatively nor would it raise negative public interest concerns.	Merger was approved unconditionally
39	Huhtamaki Finance and Omega Corporation 10/9/2014	Petroleum	The transaction involved acquisition of the all issued shares of Omega Corporation Limited by Huhtamaki Finance B.V. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
40	Elicio NV and Electrawinds 18/9/2014	Energy	The transaction involved acquisition of Electrawinds Kenya Limited by Elicio NV. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
41	Sunbird Business Services Limited and ESBC Limited 23/9/2014	Modular Construction	The transaction involved acquisition of 100% of the shares of ESBC Limited by Sunbird Business Services Limited. The acquirer did not have business presence in Kenya and hence no turnover. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
42	Schneider Electric Industries SAS and Power Technics (E.A.) Limited 30/9/2014	Electrical	Schneider Electric Industries SAS acquired majority shares in Power Technics (East Africa) Limited, certain assets and business of Power Technics Limited, Computer Technics and Prisma Electric Limited.	Merger approved unconditionally
43	Gulf Petroleum & Essar Petroleum 1/10/2014	Petroleum	The transaction involved acquisition of the entire issued shares of Essar Petroleum (East Africa) Limited by Gulf Petrochem EPZ. Analysis revealed that the merger would not affect competition negatively nor would it raise negative public interest concerns.	Merger approved unconditionally

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
44	Interswitch and Paynet 3/10/2014	Internet	The transaction involved acquisition of 85% of the issued share capital of Paynet Holdings Limited by Interswitch Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
45	Jimmy Mutuku and Muthaiga Green Acre 8/10/2014	Property	The transaction entailed acquisition of entire issued share capital of Muthaiga Green Acres Limited by Mr. Jimmy Mutuku Kiamba. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
46	Seruji Limited and Savannah Cement 10/10/2014	Manufacturing	The merger involved acquisition of 60% shareholding of Savannah cement by Seruji Limited. Analysis of the transaction revealed that it would not have negative effects on competition and public interest issues in Kenya.	Merger approved unconditionally
47	Mwalimu National Savings and Equitorial Commercial Bank 16/10/2014	Financial	The transaction entailed acquisition of 51% of the issued shares of Equitorial Commercial Holding Limited by Mwalimu National Savings and Credit Co-operative Society Limited. Analysis showed that the transaction would not lead to substantial lessening and prevention of competition nor lead to negative public interest issues.	Merger approved unconditionally
48	Mimosa Pharmacy and Dove Chemist 22/10/2014	Pharmaceuticals	Mimosa Pharmacy Limited acquired the entire business of Dove Chemist. The transaction was not a merger since the target is a wholly owned subsidiary of the acquirer.	Not a merger
49	Fidelity Shield and Equatorial Commercial Bank 23/10/2014	Financial	The transaction entailed acquisition of the rental Real Property business of Equatorial Commercial Bank Limited in respect of Land Reference Number 209/19717 by Fidelity Shield Insurance Company Limited. Analysis showed that the transaction would not impede competition nor raise any negative public interest issue.	Merger approved unconditionally

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
50	Windsor View Garden and Sammy Maina Kamau 23/10/2014	Property	The transaction involved acquisition of 99.8% of the issued share capital of Windsor View Gardens Limited by Sammy Maina Kamau. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
51	Bellevue Investments and others 24/10/2014	Investment	The transaction involved acquisition of Bellevue Investments Limited, Valleyview Properties Limited, Allied Storage Limited, Rhina Properties Limited, Kenya Inland Port Enterprises Limited and Brandon Properties Limited by Rowan Holdings Limited. Analysis of the transaction revealed that the transaction was not a merger.	Not a merger
52	Mr. Brenda and Mr. Nicholas & Ragati River Management 24/10/2014	Conservation	The transaction entailed acquisition of 72% shareholding in Ragati River Management Limited by Mr. Brendan Winston Hill and Mr. Nicholas Francis William Rowe. Analysis revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
53	Imaran Global and Imaran Investment 31/10/2014	Property	Imaran Global Limited acquired 100% of the issued shares of Imaran Investment Limited held in Imaran Limited through a restructuring. The transaction was not a merger since there was no change in shareholding nor shareholders.	Not a merger
54	M Holdings Limited and Oriental Commercial 4/11/2014	Financial	The transaction was a merger where M Holding Limited acquired 51% of the issued shares of Oriental Commercial Bank Limited. Analysis revealed that the merger would not raise any negative competition and public interest concerns.	Merger approved unconditionally
55	Clarity Limited and Raven Limited 4/11/2014	Telecommunications	The transaction entailed acquisition of the License of Raven Limited by Clarity Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
	Leapfrog II Holdings Limited and Resolution Health East Africa 5/11/2014	Healthcare	The transaction involved acquisition of 61.2% of the issued share capital of Resolution Health East Africa Limited by Leapfrog II Holdings Limited. Analysis revealed that the transaction would not impede competition nor raise any negative public interest.	Merger approved unconditionally
57	Fortunes Hotel and Paradise Company 6/11/2014	Hotel & accommodation	The transaction involved acquisition by Fortune Hotels Corporation of 100% of the issued share capital of Paradise Safari Park Limited and 85% of the issued share capital of Paradise Investments and Development Kenya Limited held by Paradise Company Limited. A analysis revealed that the transaction would not impede competition nor raise any negative public interest issues.	Merger approved unconditionally
58	Elewana Africa Limited and Cheli & Peacock Group 7/11/2014	Hotel & accommodation	The transaction entailed acquisition of the entire issued share capital of Cheli and Peacock Group by Elewana Africa Limited. Analysis of the transaction revealed that the merger would not raise competition concerns nor spawn negative public interest issues.	Merger approved unconditionally
59	Kenapen (East Africa) Limited and Kenapen Industries Limited. 7/11/2014	Manufacturing	The transaction entailed acquisition of the business and assets of Kenapen Industries Limited by Kenapen (E.A.) Industries Limited. Analysis indicated that the transaction would not affect competition negatively.	Merger excluded from the provisions of Part IV of the Act
60	Gamcode and Kenbet Gaming 11/11/2014	Betting	The transaction involved acquisition of all the issued share capital in Kenbet Gaming Limited by Gamcode Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
61	Mitie Investment and Source Eight 10/11/2014	Investment	Mitie Investments acquired majority share capital (51%) of Source Eight Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
62	Etana Properties and Noordin Esmail Adamali & Najmudin Adamali 12/11/2014	Property	The transaction involved acquisition of Land Reference Number 1870/III/226 belonging to Noordin Esmail Adamali & Najmudin Adamali by Etana Properties. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
63	Ecom AgroIndustrial Corp Limited and Amarjaro Trading Limited 17/11/2014	Manufacturing	The transaction involved acquisition of Amarjaro Trading Limited by Ecom AgroIndustrial Corp Limited without prior approval by the Authority.	Case transferred to Enforcement and Compliance Department
64	Sunbird Business and TFA East African Investments Limited 22/10/2014	Modular Construction	Sunbird Business Services Limited acquired 70% of the issued shares of TFA East African Investments Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
65	Platform Specialty and Arysta Lifescience 25/11/2014	Agriculture	The transaction involved acquisition of the entire (100%) share capital of Arysta Lifescience Limited by Platform Specialty Products Corporation Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
66	Equity Group Holdings and Equity Bank Limited 14/11/2014	Financial	Equity Group Holdings Limited restructured its operations where its banking business and certain assets and Liabilities of Equity Holdings Limited were transferred to Equity Bank (Kenya) Limited. Analysis revealed that the shareholding and control of the target would not change pre and post transaction.	Not a merger
67	Imba, Mobilari, Casio and Canyon, Gateway, Palazzo and Jupiter 20/11/2014	Investment	The transaction involved acquisition of Canyon Limited, Gateway Limited Palazzo Limited & Jupiter Real by Casio Limited, Mobilari Limited, and Imba Investments Limited. The transaction was not a merger since there was no change in beneficial ownership post transaction.	Not a merger

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
68	Exotix Partners LLP and Equity Investment Bank Limited 21/11/2014	Investment	The transaction involved a merger by way of Joint Venture between Equity Investment Bank Limited and Exotix Partners LLP. Analysis showed that the transaction would not raise any competition concerns nor lead to negative public interest issues.	Merger approved unconditionally
69	Pan African Insurance Holdings and Gateway Insurance 21/11/2014	Insurance	The transaction entailed acquisition of 51% of the issued share capital of Gateway Insurance Company Limited by Pan Africa Insurance Holdings. Analysis showed that the transaction would not raise any competition concerns nor lead to negative public interest issues.	Merger approved unconditionally
70	ASL Limited and Others 24/11/2014	Manufacturing	The transaction involved restructuring of the business of ASL Packaging, Print Store, Packaging divisions and Paper divisions. Analysis revealed that there would be no change in shareholding post-merger.	Not a merger
71	Mutuya Holdings and CBA Real Property Holdings 24/11/2014	Property	The transaction involved consolidation of assets of CBA Real Property Holdings Limited and Mutuya Holdings Limited. Analysis revealed that the transaction would not raise any competition concerns nor lead to negative public interest issues.	Merger approved unconditionally
72	Amyr Abdulla and Eltech Communications Limited 28/11/2014	ICT	The transaction entailed acquisition of the entire issued share capital of Eltech Communications Limited by Amyr Abdulla. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
73	AD Holdings Limited and Global Horizons Limited 28/11/2014	Manufacturing	AD Holdings acquired 95% of the issued share capital of Nalepo Expeditions Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
74	Eaton Towers and Kenya Towers 29/11/2014	Telecommunications	The transaction entailed acquisition of the entire issued share capital of Kenya Towers Limited by Eaton Towers Kenya Limited	Merger approved unconditionally
75	Rowan Holdings and others 1/12/2014	Investment	The transaction involved acquisition of majority shareholding in Baywood Investments Limited, Cornwall Limited, Reynolds Properties Limited, Kenya General Agency Limited and Bradford limited by Rowan Holdings Limited and White Ash Limited. The transaction was not a merger since it involved restructuring.	Not a merger
76	Screen Check and Nicholas Mining Industries 3/12/2014	Mining	The transaction entailed acquisition of 100% of the issued shares of Nicholas Mining Industries Limited and Rift Valley Resources & Exploration Limited by Screen Check East Africa Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
77	Capwell Industries and Chania Flour Mills 2/12/2014	Manufacturing	The transaction entailed acquisition of the Business and assets of Chania Flour Mills Limited by Capwell Industries. Analysis indicated that the merger would not impede competition nor raise any negative public interest issues.	Merger approved unconditionally
78	Housing Finance Limited 2/12/2014	Financial	The transaction entailed group restructuring of the Mortgage Finance Business of the Housing Finance Limited. The transaction was not a merger since it involved restructuring of the Housing Finance Limited.	Not a merger
79	Catalyst JBB Holdings Limited and Jamii Bora Bank 4/12/2014	Financial	The transaction involved acquisition of 4.449% of the issued share capital of Jamii Bora Bank Limited by Catalyst JBB Holdings Limited. The transaction was not a merger since it involved acquisition of less than 51% of shareholding.	Not a merger

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
80	Saaz Investments and Brenthouse 4/12/2014	Investment	The transaction involved acquisition of the entire issued share capital in Nairobi Business Part and BrentHouse Investments Limited by Saaz Investments Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
81	Specialized Power Systems Limited and Beaver Investments 4/12/2014	Electrical	The transaction entailed acquisition of 100% of the issued share capital of Beaver Investments Limited by Specialized Power Systems & Mrs. Darshan Kaur. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
82	Effco Solutions Limited and Minesite Kenya	Property	The transaction involved acquisition of 100% of the issued shares of Minesite Kenya Limited by Effco Solutions	Ongoing
83	Largo Investments and Ubbink East Africa 5/12/2014	Manufacturing	The transaction involved acquisition of the entire issued share capital of Ubbink East Africa Limited by Largo Investments Limited. Analysis of the transaction revealed that the merger would not raise competition concerns nor spawn negative public interest issues.	Merger approved unconditionally
84	Set Green Hill Academy and Imperial Primary School Limited 5/12/2014	Private primary education	Set Green Hill Academy acquired 100% of the issued ordinary shares of Imperial Primary School. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
85	ChongQing China Base and Capital Chinese Centre 11/12/2014	Investment	The transaction entailed acquisition of 100% of the issued share capital of Chinese Centre for Promotion of Investment Development and Trade in Kenya by Chongqing Chinabase Import and Export Company Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
86	Jet Travel Limited and Raptim Intercontinental 11/12/2014	Aviation	The transaction involved acquisition by Raptim Intercontinental B.V. Of 100% of the issued shares in Jet Travel Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
87	St. Francis of Assissi and Bluetone Limited 10/12/2014	Property	Brothers of the Regular Third Order of Penance of Saint Francis of Assissi Registered Trustees acquired 100% of the issued shares in Bluetone Investments Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
88	The Nature Conservancy and Colcheccio 10/12/2014	Conservancy	The transaction involved acquisition of 99.99% shareholding of Colcheccio Limited by the Nature conservancy. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
89	Colywn Limited and Paradigm Holdings 15/12/2014	Investment	The transaction involved acquisition of 80% of the ordinary shares of Paradigm Holdings Limited by Colywn Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
90	Imperial Bank and Imperial Securities 15/12/2014	Financial	The transaction involved restructuring in relation to Imperial Bank Limited. The transaction was not a merger since it involved restructuring of the bank.	Not a merger
91	Dunbar Investments and Hillcrest Investments 17/12/2014	Investment	The transaction entailed acquisition of 60% of the ordinary shares of Hillcrest Investments Limited by Dunbar Investments Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	Merger excluded from the provisions of Part IV of the Act
92	Centum Investment Company Limited and Almasi Beverages Limited 17/12/2014	Manufacturing	The transaction entailed acquisition of additional 3% of the issued shares in Almasi Beverages Limited by Centum Investment Company Limited. Analysis showed that the transaction would not affect competition negatively nor raise any negative public interest.	The merger was approved unconditionally
93	The Nature Conservancy and Community Trustees 19/12/2014	Conservancy	The transaction was an acquisition of Loisaba Community Trust Registered Trustees by the Nature Conservancy. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
94	T.V. Africa Holdings Limited and Pilipili Media Limited 22/12/2014	Broadcasting	TV Africa Holdings acquired the frequencies, transmission equipment and other assets of Pilipili Media Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
95	Tsebo Outsourcing Group International and Alterrain Services Incorporated 23/12/2014	Catering	The transaction involved acquisition of 100% of the issued ordinary shares of Alterrain Services Incorporated by Tsebo Outsourcing Group International. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
96	H.B. Fuller B.V. (Benelux) and Continental Products Limited (CPL) 24/12/2014	Manufacturing	The transaction involved acquisition of 100% shareholding of Continental Products Limited by H.B. Fuller Benelux B.V. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
97	Mimosa Pharmacy Limited and Eldochem Pharmacy Limited 29/12/2014	Pharmaceuticals	The transaction entailed acquisition of some assets of Eldochem Pharmacy Limited by Mimosa Pharmacy Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
98	Leapfrog II Holdings Limited and AFB Kenya Limited 30/12/2014	Financial	The merger entailed acquisition of 17.2% of the issued share capital of AFB Mauritius Limited by Leapfrog II Holdings Limited. Analysis revealed that the transaction would not impede competition nor raise any negative public interest.	The merger was approved unconditionally
99	Kongoni Farm Limited and Schreurs Naivasha Limited 26/1/2015	Horticulture	The transaction involves proposed acquisition of 100% of the assets of Schreurs Naivasha Limited by Kongoni Farm Limited	Ongoing
100	Mohammed Hassanali (HassConsult) and Ithanji Development Company Limited 26/1/2015	Property	The transaction involved acquisition of 100% of the issued share capital of Ithanji Company Limited by Hass Consult Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
101	Stonewood Africa Limited and Amal Devani & Somche Investments Limited 29/1/2015	Property	The transaction entailed acquisition of Somche Investments Limited by Stonewood Africa and Amal Devani. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
102	Tech Mahindra Limited and Sofgen Holdings Limited 2/2/2015	Manufacturing	The exclusion involved acquisition of 100% of the issued share capital of Sofgen Holdings Limited by Tech Mahindra Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
103	Nas Holdings Limited and Largo Investments Limited 30/1/2015	Manufacturing	The transaction involved acquisition of 100% of issued share capital of Largo Investments by NAS Holdings. Analysis of the transaction revealed that the merger would not raise competition concerns nor hurt public interest.	Merger approved unconditionally
104	Charm Industries and European Perfumes & Cosmetics 10/2/2015	Manufacturing	The transaction involved acquisition of the assets of European Perfumes and Cosmetics Company Limited by Charm Industries. Analysis showed that the merger would not negatively affect competition nor raise any negative public interest issue.	The merger was approved unconditionally
105	Ideal Tours & Travel Limited and Hajiri Limited 12/2/2015	Tours	The transaction involved acquisition of 100% of the issued shares in Hajiri Limited by Ideal Tours and Travel Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
106	Onfon Media Limited and Mobile Planet Limited 11/2/2015	Communications	The transaction entailed acquisition of the Google Business of Mobile Planet Limited by Onfon Media Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
107	Directel Listas Telefonicas 11/2/2015	Telecommunications	The transaction entailed reorganization of Directel Listas Telefonicas.	The transaction was not a merger.

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
108	Old Mutual Holdings Limited and UAP Holdings Limited 17/2/2015	Insurance	The transaction involved acquisition of an aggregate of 60.6% of shareholding in UAP Holdings Limited by Old Mutual Holdings Limited acting in concert with Old Mutual Life Assurance Company (South Africa Limited) Analysis of the transaction showed that it would not negatively affect competition nor raise any negative public interest issue.	The merger was approved unconditionally
109	A-Listing marketing & Amal Devani and Le Petit Jardin Limited 25/2/2015	Hospitality	The transaction entailed acquisition of all the issued share capital in Le Petit Jardin Limited by A-List Marketing Limited and Amal Devani. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
110	Loisaba Community Trust Registered Trustees & Munira Anyonge and Oryx Limited 27/2/2015	Conservancy	The transaction involved acquisition of all the issued share capital of Oryx Limited by Loisaba Community Trust Registered Trustees and Munira Anyonge. Analysis of the transaction	The merger was excluded from provisions of Part IV of the Act
111	Chirag Africa Limited and Chirag Kenya Limited 5/3/2015	Manufacturing	The transaction entailed acquisition by Chirag Africa Limited of the Brands and Assets of Chirag (Kenya) Limited. The merger was approved based on the fact that it would not affect competition negatively nor raise negative public issues.	The merger was approved unconditionally
112	SVG Healthcare Limited and Humming Healthcare Limited 5/3/2015	Healthcare	The transaction involved acquisition of the business and assets of Humming Healthcare Limited (in receivership) by SVG Healthcare Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
113	Unga Holdings Limited and Ennsvalley Bakery Limited 13/3/2015	Baking	Unga Holdings Limited acquired 52% shareholding in Ennsvalley Bakery Limited. Analysis revealed that the merger would not raise any competition concerns nor negative effects on public issues.	The merger was approved unconditionally

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
114	Asilia Kenya Limited and Encounter Camps Limited 18/3/2015	Tourism	The transaction entailed acquisition of the business and assets of Encounter Camps Limited by Asilia Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
115	Medisel Kenya Limited and Unicorn Pharma Kenya Limited 20/3/2015	Healthcare	The transaction involved reorganization of Medisel (Kenya) Limited and Unicorn Pharma (Kenya) Limited	The transaction was not a merger.
116	Nirzar ratnakar Jundre & Others and Tropiflora Limited 27/3/2015	Agriculture	The transaction involved acquisition of 80% of the ordinary shares of Tropiflora Limited by Nirzar Ratnakar Jundre, Ratnalu Mohan Choudhery, Mohammed Gani Mohamed Ehiya and Mohamed Gani Sadiq Batcha. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
117	Monyaka Investments Limited and Madoido Limited 30/3/2015	Property	The transaction involved acquisition of the entire issued share capital in Madoido Limited by Monyaka Investments Limited and Others. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
118	Reorganization of Kenya Commercial Bank 30/3/2015	Financial	The transaction entailed re-organization of Kenya Commercial Bank Limited.	The transaction was not a merger.
119	Solar Century East Africa Limited and Solar Park Limited 2/4/2015	Renewable energy	The transaction entailed acquisition of 100% of the issued share capital of Rift Valley Solar Park Limited by Solar Century East Africa Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
120	Soc Stores Limited and Samrats Supermarket Limited (Meru & Maua 10/4/2015	Retail distribution	The transaction involved acquisition of Samrat's Supermarket Limited (Meru and Maua Branches (by Society Stores Limited.	On-going
121	Central Glass Industries and Consol Glass Properties Limited 17/4/2015	Manufacturing	The transaction involves proposed acquisition of the entire issued share capital of Central Glass Industries by Consol Glass Proprietary Limited	Ongoing
122	Ashut Engineering Limited and Afro Plastics (K) Limited 20/4/2015	Manufacturing	The transaction involves proposed acquisition of the assets of Afro -Plastics Limited by Ashut Engineers Limited	Ongoing
123	AFB Kenya Limited and Weza Tele Limited 21/4/2015	Financial	The transaction involved acquisition of the business of Weza Tele Limited by AFB Kenya Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
124	Fourth Generation Capital Limited and AFB Kenya Limited 27/4/2015	Financial	The transaction involves proposed acquisition of AFB Kenya's Business (SmartXash Business Unit) by Fourth Generation Capital Limited	Ongoing
125	WTS Energy Holding B.V.and Radar Recruitment Limited 30/4/2015	Energy	The transaction involved acquisition by WTS Energy Holding B.V. of the entire shareholding of Jonathan Andrew Sutton and George Bernard Sutton in Radar Recruitment Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
126	Sucriere Des Mascareignes Nes Limited and Transmara SugarCompany Limited 5/5/2015	Milling	The transaction involves proposed acquisition of 51% of the issued share capital of Transmara Sugar Company Limited by Sucriere Des Mascarreignes Limited	Ongoing
127	Coca Cola Beverages Africa Limited and Nairobi Bottlers Limited 7/5/2015	Manufacturing	The transaction involves proposed acquisition of the bottling plants of Nairobi Bottlers by yet to be established CCBA which will be a subsidiary of SABMiller	Ongoing

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
128	The Cocal Cola Company and Crown Beverages Limited 7/5/2015	Manufacturing	The transaction involves proposed acquisition of Keringeti brand by TCC from CBL	Ongoing
129	Viva Afya Limited and Viva Afya Holdings (Africa) PTE Limited 8/5/2015	Healthcare	The transaction involved acquisition of the entire shareholding of Viva Holdings Africa PTE Limited in Viva Afya Limited by Ms. Liza Kimbo & mr. Moses Waithaka. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
130	Vipingo Estate Limited and Centum Investment Company 13/5/2015	Property	The transaction involves proposed acquisition of the entire issued share capital of Vipingo Estate Limited by Centum Investments Limited	Ongoing
131	Corpack Kenya Limited and Dodhia Packaging Limited 14/5/2015	Manufacturing	The transaction involves proposed acquisition of the entire issued share capital of Corpack Kenya Limited by Ms. Amrita Kaur Dhillon which will result in the establishment of control over Corpack Kenya Limited	Ongoing
132	People Media Group Limited and Mediamax Network Limited 15/5/2015	Broadcasting	The transaction involved reorganization of People Media Group Limited and Mediamax Network Limited	Not a merger
133	Welrods Limited and Araweld Limited 20/5/2015	Welding consummables	The transaction involved acquisition of 100% of the issued share capital of Araweld Limited by Welrods Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
134	Netsol Kenya Limited and Brookside Hill Limited 25/5/2015	Property	The transaction involves proposed acquisition of 100% issued share capital of Brookside Hill Limited by Netsol Kenya Limited	Ongoing

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
135	Mauritius Kenya Investment Limited and Apex Africa Capital Limited 25/5/2015	Financial	The transaction entailed acquisition of 100% of the issued share capital of Apex Africa Capital Limited by Mauritius Kenya Investment Holding Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
136	Sofiander Capital Partners BVBA - SPRL and Mukima Ridge Ten Limited 2/6/2015	Property	The transaction entailed acquisition of 100% of the issued share capital of Mukima Ridge Ten Limited by Sofiander Capital Partners BVBA -SPRL. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
137	Onfon Media Limited and Mobile Planet Limited 4/6/2015	Communications	The transaction involved acquisition of the business of Mobile Planet Limited by Onfon Media Limited. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
138	Nakumatt Holdings Limited and Yako Supermarket Limited 8/6/2015	Retail distribution	The transaction involves proposed acquisition of certain assets of Yako Supermarket Limited by Nakumatt Holdings Limited	Ongoing
139	Nokia Corporation and Alcatel Lucent 17/6/2015	ICT	The transaction involves proposed acquisition of between 50 -100% of the issued share capital of Alcatel Lucent through an open tender of shares to current shareholders	Ongoing
140	St. Patricks Missionary Society Registered Trustees and Goodison Two Hundred Thirty Two Limited 17/6/2015	Property	The transaction involves proposed acquisition of 100% issued share capital of Goodison Two Hundred Thirty Two Limited by St. Patrick's Missionary Society Registered Trustees	Ongoing

S/No.	Parties involved and commencement date	Sector/market	Summary	Decisions
141	Ziegler Management S.A. and Tekeleza Limited 19/6/2015	Property	The transaction entails proposed acquisition of the entire issued share capital of Tekeleza Limited by Ziegler Management S.A.	Ongoing
142	Razco Limited and Alpha Dairy Products 19/6/2015	Dairy	The transaction involves proposed acquisition of the business and assets of Alpha Dairy Limited by Razco Limited	Ongoing
143	Stanlib Kenya Limited and Bay Holdings Limited 22/6/2015	Property	The transaction involved acquisition of a Real Property (land) belonging to Bay Holdings through acquisition of 100% of the issued share capital by Stanlib. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
144	Stanlib Kenya Limited and Signature International Limited 22/6/2015	Property	The transaction involved acquisition of a Real Property (land) belonging to Signature through acquisition of 100% of the issued share capital by Stanlib. Analysis of the transaction revealed that the merger would not affect competition negatively and the combined turnover of the merging parties was below the threshold for mandatory merger notification.	The merger was excluded from provisions of Part IV of the Act
145	CNRC Marco Pollo Holding SPA and Pirelli & C.S.P.A 24/6/2015	Manufacturing	The transaction entails proposed acquisition of 65% of the shareholding of Pirelli & C.S.P.A. by CNRC Marco Polo Holdings S.P.A.	Ongoing
146	Kenya Academic Services Limited and Kenya College of Accountancy University 25/6/2015	Tertiary education	The transaction entails proposed acquisition of Kenya College of Accountancy University's non-degree programs and related assets by Kenya Academic Services Limited	Ongoing
147	Delta Machinery East Africa Limited and Tributyre Africa Limited. 29/6/2015	Manufacturing	The transaction involves proposed acquisition of certain assets of Tributyre Africa Limited by Delta Machinery East Africa Limited.	Ongoing
148	Mombasa Heavy Equipment Limited and Roosevelt Limited. 29/6/2015	Construction	The transaction involves proposed acquisition of 100% of the issued share capital as well as subscribing for the unissued shares of Roosevelt Limited by Mombasa Heavy Equipment Limited.	Ongoing

### ANNEX 3 : Summary of Advisory Opinions

S/No	Parties Involved and Date	Issue and advisory opinion given
1	Amin & co Advocates 8 <sup>th</sup> July 2014	The Advocates sought advisory opinion with regards to a proposed merger that does not meet the mandatory threshold. They were advised to formally write to us, detailing the nature of the transaction and attaching the requisite documents.
2	University of England 16 <sup>th</sup> July 2014	A student inquired about the process of merger notification and documentation review and was advised in regards to the documentation requirements, thresholds and the merger process
3	Millers & Co Advocates 18 <sup>th</sup> July 2014	The Advocates sought to know the relevant process involved for a merger for a limited liability company proposing to acquire the share capital of another limited liability company. They were advised in regards to the documentation requirements and the merger process. They further paid a visit to CAK offices on the 21 <sup>st</sup> of July for further explanation and clarification.
4	Coulson Harney Advocates 23 <sup>rd</sup> July 2014	The Advocates sought to know the basis of merger threshold and what is considered to arrive at the threshold. They were advised that the turnover is considered and when an undertaking does not have a turnover, then value of assets is considered in place of turnover. The Advocates sought further clarification whether proposed acquisition between unrelated companies is notifiable to the Authority, and were advised that the new competition Act No 12 of 2010 mandates the Authority to evaluate
5	Raffman Dhanji Elms & Virdee Advocates 23 <sup>rd</sup> July 2014	The Advocates sought an advisory opinion whether a proposed acquisition of a locally incorporated undertaking by a foreign individual required notification to the Authority. They were advised that so long as the transaction involves an undertaking under the Kenyan jurisdiction, notification to the Authority was mandatory.
6	Walker Kontos Advocates 24 <sup>th</sup> July 2014	The Advocates sought confirmation whether members of the Authority Tribunal were appointed. They were advised accordingly and referred to Gazette Notice number 19046 dated 6 <sup>th</sup> December 2012 that GAZETTED Mr. Omudho Awitta (Maj. Gen) (Rtd) and Ms. Wanja Wambugu
7	Mr Patel of Eldoret Steel Mills 30 <sup>th</sup> July 2014	Mr. Patel called to request to be advised on how to make a merger application together with the required support documentation. He was advised in regards to the documentation requirements, thresholds and the merger process.
8	Wambuga & Advocates 31 <sup>st</sup> July 2014	The Advocates sought if a proposed acquisition of some additional shares 66% of a shareholding of an anonymous company by another anonymous company constituted a merger. They were advised to write formally explaining the nature of the transaction.
9	Kaplan & Stratton Advocates 7 <sup>th</sup> August 2014	The Advocates sought whether Kenya has its own classification of the ISIC code, or if it relied on the UN SIC code. They were advised to use the UN ISIC code as is available on <a href="http://unstats.un.org/unsd/cr/registry/regcst.asp?CI=27">http://unstats.un.org/unsd/cr/registry/regcst.asp?CI=27</a> since Kenya doesn't have its own

S/No	Parties Inv olved and Date	Issue and advisory opinion given
10	Webber Wentzel Attorneys South Africa 7 <sup>th</sup> & 8 <sup>th</sup> August 2014	The Attorneys sought the merger notification form and requested for a word version. They were advised that it is the policy of the Authority to only upload PDF documents. They further inquired whether two parties could apply jointly. They were advised that as per the Act, each party was to notify the Authority. They were further referred to CAK's website to access information regarding merger threshold and merger filing fees.
11	KM Advocates 8 <sup>th</sup> August 2014	The Advocates sought information on ISIC codes. They were advised to use the UN ISIC codes. They further sought weather to complete the new MNF or the old MNF, and weather the parties could pay merger filing fees using a bankers cheque. They were advised that the new forms had come to effect, and after confirmation with the finance manager, they were advised that bankers cheque was acceptable.
12	Kaplan & Stratton Advocates 11 <sup>th</sup> August 2014	The Advocates sought whether different subsidiaries of a holding company acquiring a Kenyan incorporated company needed to file one transaction or each subsidiary acquiring part of the Kenyan company need to apply differently. They were advised to file each transaction separately.
13	Kaplan & Stratton Advocates 11 <sup>th</sup> August 2014	The Advocates sought whether the merger threshold as per the gazette notice is in relation to the combined turnover or assets They were advised that it applied to the combined turnover, but assets were considered in cases where a company did not have a turnover.
14	Hamilton Harrison & Mathews 8 <sup>th</sup> September 2014	The Advocates sought on how to file the new MNF and which schedules were relevant to exclusion matters. They were advised that if he was certain the notification did not meet the threshold set, then he was to fill schedule I and IV of only
15	Rosemary Kirike of Chania flour mills 15 <sup>th</sup> September 2014	Sought to inquire wheth er Chania flour mills needed approval from the Authority on a sale of assets to Capwell industries, as Chania flour mills was not operational. They were advised that they needed to formally apply by filing a MNF and filling the relevant schedules to enable the Authority to provide an informed advice.
16	Walker & Kontos Advocates 15 <sup>th</sup> September 2014	The Advocates sought to know about the new merger filing regime and whether companies could pay jointly and through a banker's cheque. They were advised that they needed to apply and pay the fees, and that we accept banker's cheque.
17	Coulson Harney Advocates 18 <sup>th</sup> September 2014	The Advocates sought whether the Authority can evaluates a transaction and communicate decision based on unsigned sales purchase agreement. They were advised that the Authority considers a signed and/or stamped SPA as authenticated, and forwarding unsigned SPA constitutes incomplete filing.
18	Christine from Fiva Africa Ltd 10 <sup>th</sup> October 2014	Christine sought clarification on application of merger fees and threshold. She also wanted to know at what point the fees is payable. She was advised that the fees threshold applies to Health sector (Combined turnover of greater than 500 million) and other sectors (excluding oil exploration and drilling) with turnover greater than one billion and less than 50 billion, have a payable fees of one million, 50 billion onwards attracts a fees of 2 million. She was further informed that the fees is payable on application.

S/No	Parties Involved and Date	Issue and advisory opinion given
19	Coulson Harney Advocates 21 <sup>st</sup> October 2014	The Advocates sought whether a transaction where a firm transfers assets to its holding company requires approval by the Authority. They were advised to file the transaction to be evaluated, and if it is not covered by the Competition Act, a negative clearance would be issued or they would be advised accordingly.
20	Anjarwalla & Khanna Advocates 24 <sup>th</sup> October 2014	The Advocates sought how long it would take to evaluate a transaction and communicate decision to the parties. They were advised that it depends on whether the applicants make complete filing in the first instant. They were further advised that the statutory period is 60 days but the Authority can lessen this period.
21	Coulson Harney Advocates 27 <sup>th</sup> October 2014	The Advocates sought whether it was mandatory when applying for exclusion for a merger transaction to attach a filled MNF. They were advised that it was affirmative.
22	Muthaura, Mugambi, Ayugi and Njojo Advocates 27 <sup>th</sup> October 2014	The Advocates sought clarification on who among or between merging parties is supposed to pay merger filing fees. They were advised that the Authority does not dictate who to pay, rather it is left to the parties concerned to agree between themselves.
23	Coulson Harney Advocates 20 <sup>th</sup> November 2014	The Advocates sought about the time lines required for an application regarding exclusion. They were advised that the time to finalize such an application depends on whether a given filing is complete. Upon receipt of a complete filing, it should not take longer than 20 working days.
24	Walker & Kontos Advocates 15 <sup>th</sup> December 2014	The Advocates sought the jurisdictional consideration of the merger threshold, that is if a company is merging with another and one of them does not have a turnover in Kenya. They were advised that the turnover rule/guideline applies to turnover in Kenya.
25	Zambia Competition Commission 27 <sup>th</sup> February 2015	The commission through Mr Malio sought whether it was possible to get a copy of the completed report for Toyota Tsusho Corporation. He was advised to officially make a request to the Authority through the DG and the manager MMA
26	Anjarwalla & Khanna Advocates 6 <sup>th</sup> March 2015	The Advocates sought on the threshold and on the exclusion guidelines. They were advised that undertakings which have a minimum combined threshold of one billion shillings and the turnover of the target undertaking is above one hundred million shillings shall not be considered for exclusion under section 42(1) of the Act by the Authority. They also sought whether the Authority had mandate to inform other competition authorities on a cross border merger. They were advised that any merging parties in any jurisdiction have to inform Authorities in those jurisdictions of their merger activities, or intentions.
27	Anjarwalla & Khanna Advocates 26 <sup>th</sup> March 2015	The Advocates sought if turnover applies to importers who are based in South Africa and have significant exports to Kenya. They were advised that revenue is counted as being generated in Kenya for merger purposes if any of the merging parties has operations through a Kenyan subsidiary.
28	Daly & Figgis Advocates 7 <sup>th</sup> April 2015	The Advocates sought to know whether the proposed charges to the COMESA merger notification will affect merger notification with CAK. They were advised that the charges will not affect notification with CAK and all transactions falling within CAK's merger thresholds need to be notified.

S/No	Parties Involved and Date	Issue and advisory opinion given
29	Daly & Figgis Advocates 14 <sup>th</sup> April 2015	The Advocates sought, through a visit by Judy and Samson, to know the full filing for exclusion and mergers and their difference. They were advised of the expected filing documentation and the statutory number of days it takes for a determination.
30	Mboya Wangongu & Waiyaki Advocates 18 <sup>th</sup> June 2015	The Advocates sought to inquire on the threshold of an exclusion case in which their client a Real Estate Investment Trust (REIT) was acquiring 100% of a company that owns assets in which the asset generates a turnover of 30 million shillings annually. They were advised that 100% acquisition of shares falls under mandatory notification and any turnover under one billion shillings in industries other than the Health & Pharmaceutical sectors qualifies for an exclusion.
31	Kaplan & Stratton Advocates 29 <sup>th</sup> June 2015	The Advocates sought to inquire whether a joint venture scenario is notifiable to the Authority. They were advised that the best approach would be for the parties to make a notification to the Authority so as to enable an informed decision. They were further referred to the consolidated merger guidelines available on CAK's website, Section 3 Paragraph 30-35 for a deeper understanding on the Authorities approach to Joint Venture.

**ANNEX 4: Summary of Enforcement and Compliance Cases**

No.	Case/activity and Commencement date	Sector / market affected	Case summary	Violation/ theory of harm	Case Status/Decision
1.	NIS Vs Association of Kenya Reinsures	Insurance	NIS complained that the Association colluded in fixing premium rating for its Group Life Cover	The conduct by the Association of Kenya Reinsurers relates to collusive tendering which is prohibited under section 21(3) (c) of the Act.	AKR opted for a settlement and a financial penalty of Kshs. 721, 715 was imposed in addition to other remedies
2	CAK Vs. Multichoice	Broadcasting	Various problems identified by the Authority in the PayTV sub -sector, including; collapse of PayTV market players such as; GTV and Smart TV, after only a few years in the market, and allegations of discrimination and abuse of dominance by Pay TV market players and other broadcasters led to the investigations into the conduct of firms and persons in the subsector.	The conduct under investigations relates to vertical agreements prohibited under of the Act and Abuse of dominance which is prohibited under section 21 and 24 (2) (b) under the Act, respectively.	Investigations have been concluded and multi-choice have made their written submission based on the Authority's proposed decision. Awaiting a hearing conference.
3	CAK and Crown Beverages Ltd (CBL)	Alcoholic beverages	Allegation of resale price maintenance and territory allocation agreements.	The conduct relates to vertical exclusive agreements which are prohibited under section 21 of the Act	Investigations finalized awaiting determination
4	Uniform Shop Ltd Vs Animate Limited and Haria Uniform Limited	Textiles	Uniform Shop Limited has alleged that Banda school has entered into exclusive uniform supply arrangement with Animate Limited and Haria Uniform Limited	The conduct relates to allocation of customers, suppliers, areas or specific types of goods or services. This prohibited under section 21 (3) (b) of the Act.	Investigations were finalised and an advocacy remedy initiated to sensitise the public.
5	CAK and Kenya Breweries	Alcoholic beverages	Allegation of abuse of dominance and vertical agreements thereby inhibiting intra-brand competition	The conduct relates to abuse of dominance and vertical exclusive agreements which are prohibited under section 21 and 24 of the Act, respectively.	Investigations finalized awaiting hearing conference.

No.	Case/activity and Commencement date	Sector / market affected	Case summary	Violation/ theory of harm	Case Status/Decision
6	CAK Vs Cement manufactures	Building and construction	Allegation of existence of unwarranted concentration of economic power and coordination of activities	The theory of harm of the case is collusion on prices, market allocation and restricting output. These kinds of conduct are prohibited under section 21 (a), (b), and (e) of the Act	Investigations finalised awaiting hearing conferences of the parties to the matter.
7	Consumer Information Network (CIN) Vs Kenya Taxi Cabs Association (KTCA):	Taxi services	CIN alleged that taxi associations in Nairobi were levying a uniform charge to various destinations.	The conduct relates to collusion on prices which is prohibited under section 21 (3) (a) of the Act.	Case concluded. There was no conclusive evidence was forthcoming
8	CAK and Outdoor Advertising Association of Kenya	Advertising	Price fixing by an Association	The theory of harm of the case is price fixing, by an association, which is prohibited under section 21 and 22 of the Act, respectively	Investigations finalized and findings of violation of the Act made.
9	Solpia Kenya Ltd against style Industries	Hair Products	Allegations of restrictive trade practices and abuse of dominance	Styles industries may be abusing its alleged dominant position by restricting its clients/distributors from dealing with competing goods	Investigations ongoing.
10	CAK and Saham Asurance Company Limited	Insurance sector	Abuse of dominant position in the provision of DIP	The theory of harm of the case is charging of excessive premiums. This kind of conduct is prohibited under section 24 of the Act	Investigations on going
11	Fly 540 Aviation Ltd Vs Kenya Airways and Jambojet	Aviation	Fly 540 has alleged that Kenya Airways through their wholly owned subsidiary Jambojet Ltd is engaging in predatory pricing.	The main theory of harm in the case is predating on competitors to force them to exit the market to the detriment of the consumer. The conduct relates to abuse of dominance which is prohibited under Section 24 of the	The investigation was terminated since there was no conclusive evidence.

No.	Case/activity and Commencement date	Sector / market affected	Case summary	Violation/ theory of harm	Case Status/Decision
12	KATA and IATA	Air transport sector	Allegations of allocation of market and limiting market access by a trade association.	The theory of harm in this case is foreclosing of a market through the conduct of a trade association. These kinds of conduct are prohibited under section 21(3) (b) and (e) and 22 (b) (ii).	IATA applied to court for judicial review of the Authority's Stop and Desist Order.
13	Transglobal Cargo Centre Ltd and KAA and competitors at JKIA	Airport cargo handling and ground services	Discrimination by KAA Abuse of dominance by swiss port Concerted practices by competitors	The case is about an alleged abuse of dominance by Swissport which discriminates against other competitors. This kind of conduct is prohibited under sections 21 and 24 of the Act	The Authority is still awaiting evidence/ clarification from the complainants on this matter.
14	SBC Kenya Limited:	Carbonated soft drinks	SBC Kenya Limited complained of removal and defacing of its advertising material by a competitor.	The conduct acts to prevent, distort or restrict competition which is prohibited under section 21(3) (i)	Investigations are ongoing, Authority awaiting further evidence and clarification from the complainants
15	Kenya International Freight Warehouse Association (KIFWA) Vs Shipping Logistics Service Providers.	Shipping	KIFWA alleged that conduct by dominant multinational shipping logistic service providers led to high cost of doing business at the port of Mombasa.	The conduct relates to Abuse of dominance which is prohibited under section 24 of the Act	Investigations ongoing, the Authority has sought for and is awaiting evidence from the sector regulator, Kenya Maritime Authority.
16	CAK Vs Daily Newspapers	Print media	The Major Print Media Houses had been simultaneously increasing the prices of their daily newspapers.	The conduct relates to collusion on prices which is prohibited under section 21 (3) (a) of the Act.	The case was finalised and there was no conclusive evidence
17	CAK Vs Telkom Kenya Limited	Telecommunications	Charging unfairly high access prices by Telkom Kenya Limited.	The conduct relates to imposition of unfair selling price which is prohibited under section 24 (2) (a) of the Act	The Case was finalized. The Authority did not find a contravention of the Act

No.	Case/activity and Commencement date	Sector / market affected	Case summary	Violation/ theory of harm	Case Status/Decision
18	Wananchi Group and Jamii Telecommunications and Access Kenya (25th October, 2014)	Telecommunications	A complaint by Wananchi Group regarding anticompetitive behavior by Jamii Telecommunications and Access Kenya	Restriction to market access through exclusive agreements by Jamii Telecommunications and Access Kenya which is prohibited under section 21 of the Act	The matter was forwarded to the Communications Authority of Kenya.
19	Airtel Vs Safaricom	Telecommunications	Airtel raised concerns that Safaricom is violating the terms of the Mpesa settlement agreement with the Authority by engaging in anticompetitive practices in the market.	The Theory of harm- Safaricom may be restricting its Mpesa agents from dealing with its Competitors contrary to section 24 of the Act.	Investigations ongoing

### ANNEX 5: Exemption Applications

No.	Case/activity	Sector / market affected	Exemption Case summary	Violation/ theory of harm	Case Status/Decision
1.	KWA Holdings E. A Ltd (KHEAL), Distel Pty Exemption application (26th August, 2014)	Alcoholic beverages	Exemption for exclusive agreements relating to; a) Production and bottling agreement b) Sale and distribution agreement.	The matter relates to exemption application which is provided for under section 25 of the Act	The application was finalized and exemption certificate issued for a period of 5 years.
2	Kumon Education SA (PTY) and prospective Franchisees	Education	Kumon Education SA Limited, a company incorporated in South Africa, made an application under section 28 of the Act for exemption of their proposed three(3) year Franchise Agreement with various Franchises. Exemption for franchise agreements	The matter relates to exemption application which is provided for under section 28 of the Act dealing with intellectual property rights.	The application was determined and an exemption for 3 years in respect to 16 franchisees.
3	British American Investment Company Kenya Limited and (BRITAM) and sports Stadia Management Board.(SSMB)	Sports	SSMB notified the Authority of its intention	The Matter relates to exemption	Issued a certificate of clearance as the Agreement did not meet the threshold set under section 21 (1) of the Act.

ANNEX 6: Summary of Consumer Affairs Cases

No.	Case/ inquiry	Sector/market affected	Relevant section of the Law	Case summary	Status/Decision
1.	Festus Mbuimwe vs Orange Limited	ICT	Section 55(b)(ii) on false and misleading representation	A complaint was lodged against Orange, citing misleading representation in regard to their "7days unlimited" internet offer which was in fact not unlimited.	Case finalized. Orange complied with a directive by the Authority to create awareness on their capping policy that comes with the internet offer.
2.	Annie Waithera and Naivas-Komarock	Retail	Section 64(1) on defective goods	Annie Waithera complained that she purchased a Hot Point Dispenser from Naivas Komarock Which later developed a leak, this happened less than a month from date of purchase.	Case finalized. The complainant's defective Hot Point Dispenser was replaced by a new one. The consumer was satisfied with the settlement by Naivas - Komarock.
3.	Beatrice Ndungu vs Safaricom Limited	Telecommunications	Section 56(4) on disclosure of charges	Beatrice Ndungu complained of charges on Lipa Na Mpesa services that the provider, Safaricom Ltd, had not informed consumers.	Case finalized. The Authority ordered Safaricom to create awareness and change Point of Sale (POS) materials in all petrol with Lipa na Mpesa service and merchant shops.
4.	CAK and Diamond Trust Bank (DTB)	Banking	Section 56 and 57.	The Authority received a complaint that Kenyans applying for Canadian Visas are compelled to transact at Diamond Trust Bank and also obliged to buy United States Dollars at Kshs 110 per USD, this was higher than the prevailing average market rates.	Case Finalized. DTB letter dated 27 <sup>th</sup> May 27, 2015 gave a satisfactory explanation and allayed the fears raised, as not being accurate.
5.	Marisella Ouma Vs Zuku	Telecommunications	Section 56 (3) and (4) on unconscionable conduct	Marisella Ouma alleged that Zuku changed her package from the one she was subscribed to, to a different one and billed her for the new package without prior notification. Zuku did not give the complainant an option of choosing from other packages.	Case Finalized. Zuku officially apologized for the conduct through the intervention of Competition Authority of Kenya.

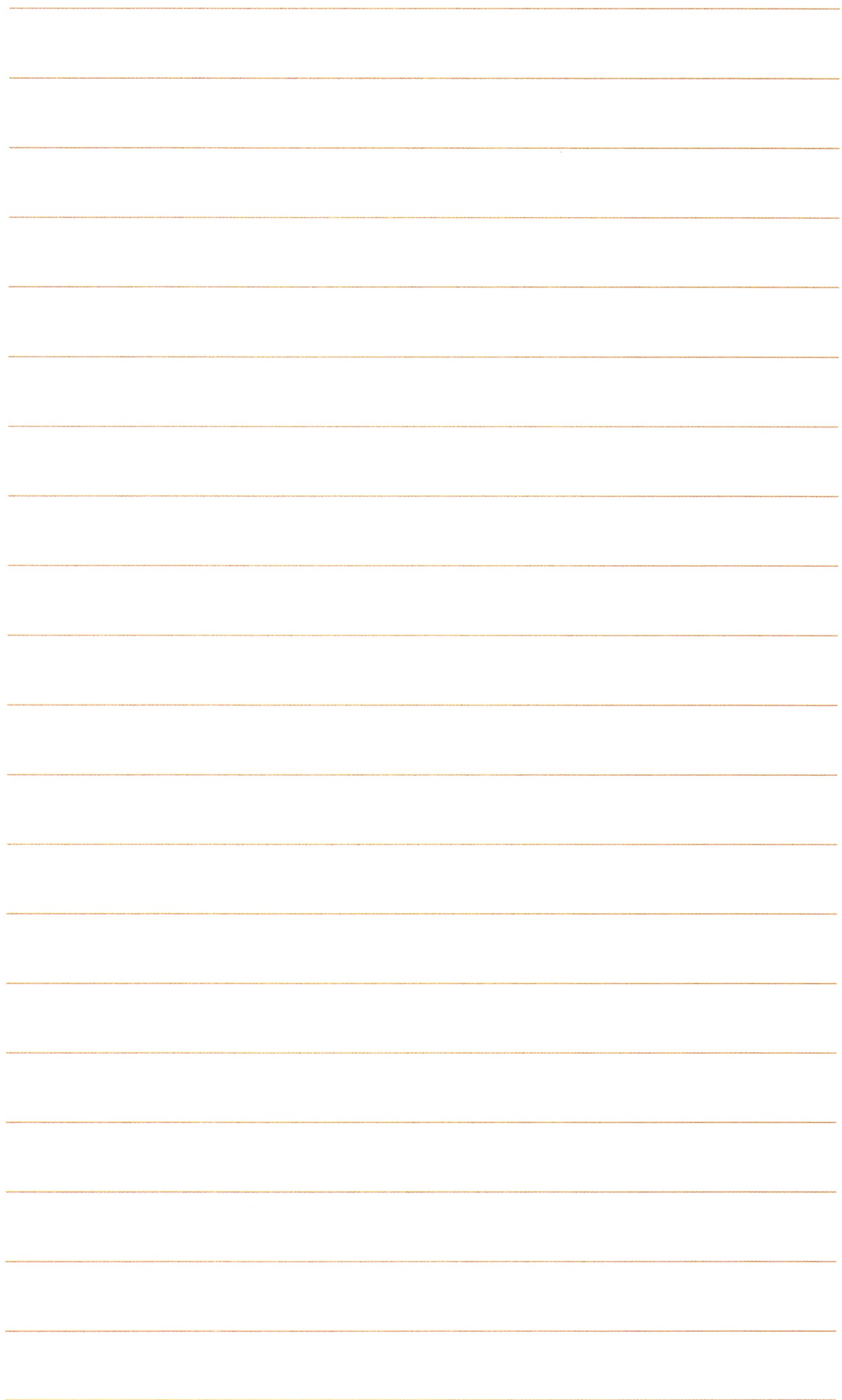
No.	Case/ inquiry	Sector/market affected	Relevant section of the Law	Case summary	Status/Decision
6.	Hassan Khan and Standard Chartered Bank	Banking	Section 56 and 57	Hassan Khan alleged that their client called Ideal Ceramics Ltd took a loan facility with Standard Chartered Bank who have a clause stipulating that their client must place their insurance business through	The complainant reached a settlement with Standard Chartered Bank. They resorted to withdraw the matter.
7.	Daniel Kathurima and Gotv	Telecommunications	Sections 55(a)(v) on misleading representations and 56(2)(a), 56(2)(d) and 56(2)(e) on unconscionable conduct	A complaint was launched by Daniel Kathurima citing alleged misleading advertising by the Gotv regarding the World Cup.	Case Finalized. The matches were not aired as advertised.
8.	James Malala vs Dorothy (Director Nabongo TTC)	Education	N/A	<p>The complainant lodged a case with the Authority, in which he cited that, Dorothy Saiah Director and owner of Nabongo TTC School conned his wife and his two kids Kshs 45,000 paid on 26<sup>th</sup> July 2013 K - Rep Bank Nabongo TTC A/C.</p> <p>He claims that his donor Rosemary wired \$ 3000 Australian dollars 222,900/= to Nabongo Ttc Bank Of Africa on 25th august 2013 money for fees and upkeep's but Dorothy told him the bank taxed 20,000/= from 222,900/= and further wrote overcharge fees receipts for Esther 92,000/= ecde certificate course day scholar instead of 60,000/=</p>	The complainant was advised to seek redress from the Criminal and Investigation Department since the matter was found to be criminal. Further the complainant was also advised to report the same to the Ministry of Education.

No.	Case/ inquiry	Sector/market affected	Relevant section of the Law	Case summary	Status/Decision
9.	Lucy Kimani vs Wananchi Group	ICT	Falls under Communications Authority	This case was lodged by Lucy Kimani citing poor service by Wananchi Group in regard to their internet service. She was not getting assistance despite numerous complaints.	The complaint was forwarded to Communications Authority for further action.
10.	Mr. Erick Maina Njuguna vs. Viva Company	Telecommunications	Falls under the Communications Authority	Mr. Erick Maina alleged that VIVA Company violated a business agreement, on marketing of short code 20242 and key word SMART services, by failing to refund him kshs. 51,000 for the job he had worked for, as per their agency agreement.	Matter forwarded to the Communications Authority as it does not fall within the Competition Act
11.	Mr. Hillary Kariuki vs. AutoXpress Ltd Kenya	Transport (Motor vehicle)	Section 55 (a) (i) on false or misleading representation	Mr. Hillary Kariuki alleged that Linglong tyres size, 185/70R14LL700, he had bought from AutoXpress Ltd Kenya had a lesser tread depth than indicated by the manufacturer (Shadong Linglong Tyre Co. (China)).	Case finalized. There was no evidence to prove alleged false and misleading representations by AutoXpress Ltd.
12.	Allion Insurance Brokers vs. Kenya Commercial Bank (KCB)	Banking	Section 56 (2) on unconscionable conduct	Mr. Khan, the Director, Allion Insurance Brokers alleged that KCB had communicated to one of his client to renew a policy under conditions that he should only renew the insurance policy with a company of KCB's choice.	Case finalized. The complainant did not avail the required evidential documents. He indicated that he was not interested in pursuing the matter.
13.	Reckitt vs Clorox	Advertising	N/A	The complainant, David Ahawo wrote to the Authority regarding consumers being misled by a Clorox advert.	Case finalized. Complainant was unable to provide evidence of consumers being misled and withdrew the case.
14.	John Kariuki vs Tuskys Supermarket	Retail (Supermarket)	Section 55(b)(i) on false and misleading representation	John Kariuki complained of variances between the prices on the tag of a toy he bought at Tuskys and the price at the till.	Case Finalized. After investigations, Tuskys contacted the complainant and apologized for the error. The supermarket also undertook measures to reduce such complaints by improving their complaints resolution mechanism. The complainant was satisfied with the remedy.

No.	Case/ inquiry	Sector/market affected	Relevant section of the Law	Case summary	Status/Decision
15.	Mary Mwangi vs Tuskys Supermarket	Retail(Supermarket)	Section 55(b)(i) misleading representation on false and	Mary Mwangi complained on variances in prices at Tuskys Supermarket between the shelf and till prices.	Case Finalized. After investigations, Tuskys contacted the complainant and apologized for the error. The supermarket also undertook measures to reduce such complaints by improving their complaints resolution mechanism at their shops to deal with such occurrences. The complainant was satisfied with the remedy.
16.	Stephen Wausi Vs. Chase Bank	Banking	Section 56 (3) and (4) on unconscionable conduct	Stephen Wausi alleged that Chase Bank was debiting clients' accounts in 2012 and 2013, claiming that the charges were incurred through ATM withdrawals.	Case Finalized. The complainant failed to provide evidence of the bank's deductions.
17.	Wilfred Okola vs. Nakumatt Holdings Ltd	Retail	Section 55 (b)(i) on misleading representation	The complainant alleged that he purchased a backpack at Nakumatt Mega using his card. He claimed that he was verbally told that the price of the bag was in the range of Kshs1,300 but later , he realized that he had been charged Kshs13,200 plus.	Case Finalized. There was no proof of violation.
18.	Chetan Amlani Vs Nakumatt Supermarket	Retail	Section 55 (b)(i) on misleading advertising	The complainant alleged that he was overcharged Kshs. 3 on the price of Festive White Milky Bread 400g in Nakumatt South C the price on the shelf was Kshs. 46 but at the till, he was charged Kshs. 49. Mr. Amlani further complained about charges on issuing of a new Nakumatt Global Card.	Case finalized. The complaint on overcharging on the Nakumatt Global Card was finalized with Nakumatt intervening and resolving the issue. The case in regards to the complaint on overcharging on the price of bread is ongoing, as it is subject to court proceedings.

No.	Case/ inquiry	Sector/market affected	Relevant section of the Law	Case summary	Status/Decision
19.	Amit KrGupta vs Zuku Wananchi Group Ltd	Telecommunications	Section 56 (3) and (4) on unconscionable conduct.	The complainant was in a contract with Zuku Wananchi Group Kenya Limited. He claims that Zuku changed their billing cycle from monthly to 28 days. This he claims allows the company to get 13 subscriptions payments in a year as opposed to 12. Also Zuku is exploiting customers by raising their subscription price frequently leading to a raise of 77% in the last 18 months.	Case Closed. Complainant not interested in pursuing the case further.
20.	Murram Cruncher and Game company	Wholesale and retail distributor	N/A	The complainant lodged a case with the Authority, in which he alleged that, game company is engaging in a misleading advertising by claiming that it can "beat any price".	The case was forwarded to the Advertising Standards Body of Kenya which arbitrates on advertising complaints amongst players.
21.	Duke Mclovin and Yu mobile	Telecommunication	CA act cap 411a (Laws of Kenya section 44).	The complainant lodged a case with the Authority, in which he alleged that, Yu mobile is sending misleading messages i.e. i. Claiming to offer free services which turn out to entail a charge. ii. By literally sending misleading text messages involving bonus Credit.	The complaint was forwarded to Communication Authority for action as this falls within their mandate.
22.	KASNEB and Wachira Kariuki	Education (Examinations)	N/A	Wachira Kariuki alleged that KASNEB charges discriminatory feesto holders of Foreign Accountancy Qualifications specifically ACCA, who wish to be registered in Kenya to enable them practice as accountants.	The case was forwarded to Commission on Administrative Justice (CAJ) and the complainant advised accordingly.
23.	Maisha Mabati and CAK	Manufacturing (Roofing materials)	Section 55(a) (i) misleading representation.	The Authority initiated the case where Maisha Mabati claimed that their iron sheets lasted (5) times longer than normal iron sheets.	Case finalized. It was confirmed that the advert "5 TIMES LAST LONGER" is no longer running, it has been amended so far.

No.	Case/ inquiry	Sector/market affected	Relevant section of the Law	Case summary	Status/Decision
24.	Go TV vs Kiplangat	Telecommunication	N/A	The complainant alleged that, he bought GO TV decoder after paying Kshs. 1,200 with a promise of free to air channels. But the Service Provider did not honor the promise and instead he is charged for the free to air channels.	Case ongoing
25.	Aberdare Book Merchants Co. Ltd and Barclays Bank Kenya Limited	Banking	Section 57 (1) and (2) Unconscionable Conduct	Aberdare Book Merchants alleged that despite servicing their loan, Barclays Bank still required them to pay safe custody fees for three titles held as security. They also alleged that Barclays unilaterally debited their account. Barclays also withheld three of their titles to enforce payments, this has denied them opportunity to access credit of kshs. 20 million offered by Equity Bank Ltd.	The same case is pending in High Court Milimani Civil Case No. 222 of Julius Githaiga Kiiru vs Barclays Bank of Kenya. Since <i>Sub Judice</i> rule applies.
26.	Andrew Oduor and Sugar Miller Sukari	Agriculture (sugar sector).	Section 56 (1)	It is alleged that the final Weighing Scales by the Miller Sukari Industries are not correct and the way they conduct the weighing process is unethical since the complainant is not allowed to access the weighing scale.	Investigations ongoing









P.O. Box 36265 - 00200  
Nairobi, Kenya  
Tel: (+254-020) 262 8283  
Email: [info@cak.go.ke](mailto:info@cak.go.ke)  
Website: [www.cak.go.ke](http://www.cak.go.ke)

