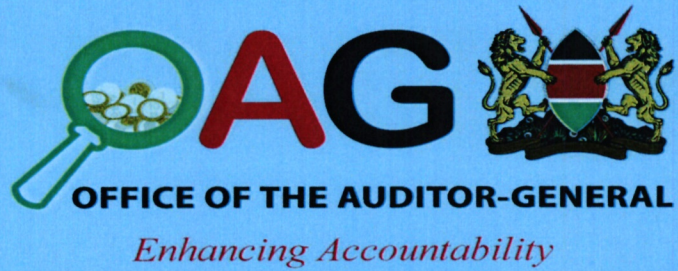


REPUBLIC OF KENYA



<b>REPORT</b>	
THE NATIONAL ASSEMBLY PAPERS LAID	
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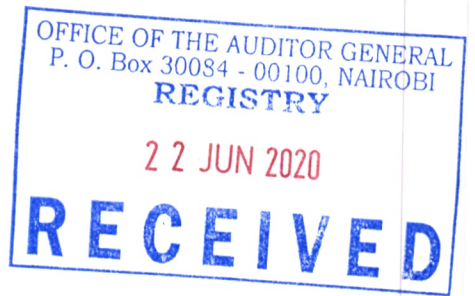
**THE AUDITOR-GENERAL**

PARLIAMENT  
OF KENYA  
LIBRARY

**ON**

**ANTI-COUNTERFEIT AUTHORITY**

**FOR THE YEAR ENDED  
30 JUNE, 2019**



**anti  
counterfeit  
authority**

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**ANTI-COUNTERFEIT AUTHORITY**

**ANNUAL REPORT AND FINANCIAL STATEMENTS**

**FOR THE FINANCIAL YEAR ENDING**

**JUNE 30, 2019**

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

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## I. KEY AUTHORITY INFORMATION AND MANAGEMENT

### (a) Background information

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

The Authority falls within the Ministry of Industry, Trade and Cooperatives that is mandated to provide a policy framework and an enabling environment for industrialization, trade and cooperative development in Kenya. The Authority is expected to play a key role in the realization of the Big “4” agenda through promoting genuine products in manufacturing, fertilizers, seeds, medicine and construction materials.

### (b) Principal Activities

The principal mandate of the Authority is to enlighten and inform the public on matters relating to counterfeiting; combat counterfeiting, trade and other dealings in counterfeit goods in Kenya; devise and promote training programs on combating counterfeiting; co-ordinate with national, regional or international organizations involved in combating counterfeiting; Advise the government through the Cabinet Secretary on policies and measures concerning the necessary support, promotion and protection of intellectual property rights as well as the extent of counterfeiting; and carry out inquiries, studies and research into matters relating to counterfeiting and the protection of intellectual property rights.

#### **Vision**

A counterfeit-free Kenya

#### **Mission**

To Prohibit Counterfeiting through the Promotion and Enforcement of Intellectual Property Rights

### (c) Key Management

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

- Board of Directors
- Executive Director
- Management

### (d) Fiduciary Management

The key management personnel who held office during the financial year ended 30<sup>th</sup> June 2019 and who had direct fiduciary responsibility were:

No.	Designation	Name
1.	Executive Director	Mr. Elema Halake
2.	Deputy Director Enforcement & Legal Services	Mr. Johnson Adera

No.	Designation	Name
3.	Deputy Director Awareness, Research, Policy & Quality Assurance	Dr. John Akoten
4.	Deputy Director Corporate Services	Ms. Fridah Kaberia
5.	Manager, Education and Public Awareness	Agnes Karingu
6.	Manager, Research, Strategy and Policy	Elijah Ruttoh
7.	Manager, Human Resource and Administration	Mary Mwinga
8.	Manager, Internal Audit	Hassan Kidzuga
9.	Manager, Finance and Accounts	Rephah Kitavi

#### (e) Fiduciary Oversight Arrangements

In order to fulfil its Fiduciary Oversight Arrangements, the Board has set up 3 (three) principal Committees which sets forth the purposes, goals and responsibilities of the committees as well as qualifications for committee membership, procedure for appointment and removal and committee reporting to the Board. This is intended to facilitate efficient decision making of the Board in discharging its duties and responsibilities. These are:

##### **Audit and Risk Management Committee;**

The Audit and Risk Management Committee is appointed by and shall act at the direction of the Board, to review policy papers and make recommendations on the functions delegated to them. Members of the committee include:

- i. Stephen Mutoro
- ii. Joel Bett
- iii. Michael Onyancha
- iv. Benard Njiraini

The terms of reference of the Audit and Risk Management Committee shall be to assist the Board in the oversight of:-

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

**Human Resource, Finance and General Purposes Committee;**

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

Members of the committee include:

- i. Phyllis Wakiaga
- ii. Joel Bett
- iii. Major (Rtd) Samuel Kariuki
- iv. Emmanuel Bitta
- v. Stephen Mutoro

**Finance Matters:-**

- i. To Review and make recommendations to the Board on the financial strategy of the Authority ensuring its adequacy and soundness in providing for the Authority's current operations and long-term stability.
- ii. To review, discuss and make recommendations to the Board concerning significant financial planning, management and reporting issues of the Authority.
- iii. To review and make recommendations to the Board on financial issues arising from the annual financial statements of the Authority.
- iv. To Review and discuss the Authority's procurement procedures to ensure that they are effective and in accordance with legal and regulatory requirements for the time being in force.
- v. To support the Authority in the achievement of procurement plans.
- vi. To monitor and review the managements' strategy toward ensuring efficiency and integrity of the Authority's procurement systems.
- vii. Perform such other duties and responsibilities as may be assigned to the Committee by the Board of Directors from time to time.

**Human Resource Matters:-**

- i. Review the Authority's executive remuneration strategy to ensure that management is rewarded appropriately for its contributions to Authority growth and that the executive remuneration strategy supports organization objectives and stakeholder interests.
- ii. Review the overall remuneration policy for all employees of the Authority and recommend to the Board of Directors the amendment and administration of incentive and other remuneration plans for the employees (including allowances, retirement and other benefits).
- iii. Review the corporate goals and objectives relevant to the performance of the management, including an annual review of their performance in light of these goals and objectives.

- iv. Review the organization structure of the Authority and ensure it is manned by staff with the relevant skills and experience, and recruitment for management positions is competitive whether internally or externally.
- v. Review and monitor the performance of the Authority as it affects employees, including, but not limited to, issues such as gender sensitivity and morale.
- vi. Review and recommend to the Board of Directors any employment or severance agreement with executive officers.
- vii. Monitor the Authority's management succession plan and implementation of succession strategies adapted by the Board of Directors.
- viii. Perform or delegate to the management, the review and monitoring of the trustee functions of the Authority with respect to the employee pension or welfare benefit scheme sponsored by the Authority.
- ix. Consult with management on major policies affecting employee relations and welfare of the staff of the Authority.

#### **Technical Committee;**

The Technical Committee is appointed by and shall act at the direction of the Board, to review policy papers and make recommendations on the functions delegated to them.

Members of the committee include:

- i. Bernard Njiraini
- ii. Major (Rtd) Samuel Kariuki
- iii. Phyllis Wakiaga
- iv. Michael Onyancha
- v. Emmanuel Bitta

The purpose of the Technical Committee shall be to:-

- i. Review the fundamental technical basis of the Authority's operations in order to enable the Board of Directors to make informed, strategic operational decisions and vote on related matters.
- ii. Ensure that in all recommendations from the management, world-class standards are developed, practiced and leveraged throughout the Authority to create stakeholder value and ensure that statutory mandates are effectively fulfilled.
- iii. Review and monitor the Authority's research and development reports.
- iv. Review and monitor operational strategy based on current social, economic and political factors.
- v. Review technology systems as well as major investments in new operational models, partnerships and alliances.
- vi. Review issues affecting the acceptance of the Authority's policy prescriptions by government and other stakeholders.
- vii. Review significant emerging issues, policy briefs and regulatory improvements.
- viii. Review all proposals made to or by the Authority for amendments to the Act and Regulations and make appropriate recommendations to the Board of Directors.

**(f) Headquarters**

P.O. Box 47771 - 00100  
National Water Plaza  
3<sup>rd</sup> Floor  
Dunga Road  
Nairobi, Kenya

**(g) Contacts**

Telephone: (+254)-(0)20-2280000  
E-mail: [info@aca.go.ke](mailto:info@aca.go.ke)  
Website: [www.aca.go.ke](http://www.aca.go.ke)

**(h) Bankers**

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

**(i) Independent Auditors**

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




**(j) Principal Legal Adviser**



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


**II. THE BOARD OF DIRECTORS**

The Board of Directors of the Authority are:

 <p>Ms. Flora Mutahi                  Chairperson, Board of Directors</p>	<p>Date of Birth: 5<sup>th</sup> June, 1967</p> <p>Ms. Flora Mutahi has a long stunning career in the Manufacturing Industry with over 20 years' experience. She holds an MBA from the University of Cape Town. She is the founder of Melvin Marsh International Limited, Kenya's largest flavored teas company which has received several awards, she also owns a real estate company called Azizi Realtors Limited which deals in sales, rentals and property management. Ms. Mutahi was the former chair of the Kenya Association of Manufacturers board and is also a member of other boards including SBM Bank, UN Global Compact, KEPSA and KAM.</p> <p>She is greatly involved in supporting and empowering women in business through mentorship programs and talks and overall community development activities.</p>
 <p>Mr. Elema Halake                  Executive Director</p>	<p>Date of Birth: 1972</p> <p>Mr. Halake has a long stunning career in Public service spanning over 20 years working in different organizations in various capacities across the country. He has vast experience in management and leadership of law enforcement activities and coordination at national, regional and international levels. Prior to joining ACA, Mr. Halake held the position of Director at the Independent Policing Oversight Authority (IPOA). He holds a Bachelor of Arts and a Master's degree in Development studies from the Catholic University of Eastern Africa. He has a graduate certificate in Criminal justice, USA and was honored and decorated with Silver Star (SS) of Kenya medal by his Excellency, The President of the Republic of Kenya in 2006 for his courage and commitment to duty.</p>




 <p><b>Lt. Col. (Rtd) Bernard N. Njiraini</b> Ag. Managing Director, Kenya Bureau of Standards (KEBS)</p>	<p>Date of Birth: 16<sup>th</sup> August, 1971</p> <p>He is a holder of Masters of Science in Mechanical Engineering, Post Graduate Diploma in Strategic Studies, He is a member of the Institution of Engineers of Kenya (IEK). As a military officer he has attended various leadership and command courses including Grade 2 Staff command. He is currently Managing Director, Numerical Machining Complex and the Acting Managing Director, Kenya Bureau of Standards</p>
 <p><b>Ms. Phyllis Wakiaga</b> CEO, Kenya Association of Manufacturers</p>	<p>Date of Birth: 1/12/1981</p> <p>She is a holder of Masters in Business Administration, Higher Diploma in Human Resource, Diploma in Law and Bachelor of Law Degree from the University of Nairobi. She is currently the CEO of Kenya Association of Manufacturers (KAM). Previously, she held the position of Head of Policy Research and Advocacy in the same institution.</p>
 <p><b>Mr. Joel Bett</b> National Treasury</p>	<p>Date of Birth: 27/03/1978</p> <p>He is a holder of Masters in Economics and Bachelor of Economics both from the University of Nairobi. He is currently the Principal Economist at the National Treasury and was previously the senior Economist at the Ministry of Industrialization and Enterprise Developments.</p>

 <p>Major (Rtd) Samuel Muraya Kariuki Kenya Revenue Authority</p>	<p>Date of Birth: 05/12/1960</p> <p>Major (Rtd) Kariuki is a career security man having been in the industry for over 30 years. He has a wide experience in security profession having successfully worked as Senior Military Police officer and a trainer in the Army. After leaving the army in early 1995, Major (Rtd) Kariuki joined one of the large manufacturing organizations the East African Breweries Limited (EABL) as a security manager. In 2003 he joined Kenya Revenue Authority as the Senior Assistant Commissioner In charge of Security and safety. Currently he is the Acting Deputy Commissioner, Border Control &amp; Enforcement in the same organization.</p>
 <p>Mr. Emmanuel Bitta Office of the Attorney General</p>	<p>Date of Birth: 29/07/1977</p> <p>He is a holder of Bachelor of Laws degree from Bangalore University, holds post graduate Diploma in Law from Kenya School of Law and is currently undertaking Masters degree in Law, Governance and Democracy at the University of Nairobi. He is currently the Senior Principal State Counsel; Head of Judicial Review and Public Procurement Section; Head of Commercial &amp; Arbitration Section. Previously, he worked in the Civil Litigation Department in the office of Attorney General rising through the ranks from State Counsel II, State Counsel I, Senior State Counsel and Principal State Counsel.</p>
 <p>Mr Michael N. Onyancha</p>	<p>Date of Birth: 01/01/1960</p> <p>He is a holder of Bachelor of Education (Mathematics) and a Masters degree both from the University of Nairobi. He is currently pursuing a doctorate at the same university. He has worked in government for over 12 years and is currently the Director Weights and Measures, Kenya. He has also served as a Deputy Director in charge of Enforcement and Training and in a previous capacity as an Assistant Director in charge of Budget and Prosecutions.</p>

Weights and Measures Kenya	
 <p>Mr Stephen Simiyu Mutoro Consumers Federation of Kenya (COFEK)</p>	<p>Date of Birth: 1975</p> <p>He is a holder of Bachelor of Art (Literature) and Master of Art (Criminology) both from University of Nairobi. He has worked in government, private sector and civil society collectively for over 20 years. He is currently the Secretary General of the Consumers Federation of Kenya (Cofek). He has served in various boards of parastatals such as National Water Company and Water Resources Management Authority.</p>

### III. MANAGEMENT TEAM

The management team is comprised of the following:

 <p>Mr. Elema Halake; MA(Development Studies), BA</p>	<p>The Executive Director</p>
 <p>Dr. John Akoten; PhD, MSc, BSc</p>	<p>Dr Akoten is the Deputy Director Awareness, Research, Policy and Quality Assurance.</p>
 <p>Mr. Johnson Adera; LLM, LLB, CS-K</p>	<p>Mr. Adera is the Deputy Director Enforcement &amp; Legal Services.</p>

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Ms. Fridah Kaberia; MBA, BA (Econ),  
CPA(K)  
ICPAK No: 11559

Ms. Kaberia is the Deputy Director Corporate Services



Mrs. Agnes Karingu; MBA, BSc

Mrs. Karingu is the Manager Education and Public Awareness.



Mr. Hassan Kidzuga; MBA (Finance), B.Com,  
CPA (K)

Mr Hassan is the Manager Internal Audit



Mr. Elijah Ruttoh; M Econ, B.Ed

Mr Ruttoh is the Manager Research

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Ms. Rephah Kitavi; Msc Finance, BA (Econ), CPA (K), CISA

Ms. Kitavi is the Manager Finance and Accounts



Ms. Mary Mwinga; MA, BA, Higher Diploma HR

Ms. Mwinga is the Manager Human Resource and Administration

#### IV. CHAIRPERSON'S STATEMENT

On behalf of the Board of Directors, it is my pleasure to present the Annual report and Financial Statements of the Authority for the financial year ended June 30, 2019.

##### **Overview**

During the year under review, which also marks the Authority's 9<sup>th</sup> Anniversary since it commenced operations in July 2010, we look back with great pride and satisfaction on what the Authority has achieved so far. The Authority was able to deliver on its mandate and make further significant milestones despite challenges occasioned by a number of operational factors.

##### **Operating Environment**

Counterfeiting still remains a big challenge in our country and in pursuit of the fulfilment of our mandate as established by law and policy to prohibit trade in counterfeit goods and sensitise the public on matters relating to counterfeiting, I am pleased to report that we are working hard to build a robust Intellectual Property rights enforcement institution in the country. We are using a multi-faceted approach ranging from enhancing our collaboration, intelligence based enforcement operations and consumer focused strategies in the fight against counterfeits.

We have enhanced our regional and international collaboration with Governments and bodies fighting trade in counterfeits. In the year of reporting, we participated in regional advocacy programs in the East African Region with a visit by the Board of Directors to the Tanzania Fair Competition Commission to strengthen collaboration in the war against cross border trade in counterfeit goods.

The Authority continues to work closely with the Ministry of Interior, National Police Service, Kenya Ports Authority, Kenya Bureau of Standards, and Kenya Revenue Authority and all related stakeholders.

##### **Strategy**

The Authority reviewed its Act and Regulations and now we have the Anti-Counterfeit Act, 2008 (as amended) following the Statute Law Act 2018 that transformed the Agency into an Authority. ACA's transition from an agency to an authority prompted the realignment of its current strategic plan to better position the organization to successfully deliver on its mandate. This exercise also doubled up as a mid-term review of the 2017 – 2022 strategic plan. The revamped strategy will enhance the Authority's operational efficiency and effectiveness in delivery of its mandate. The Authority also increased its staff capacity by 38% hence expanding the operations of the Authority to various entry points in the country.

##### **Risk Management**

The Board has committed the Authority to a process of risk management that is aligned to the principals of best practice and corporate governance. Sound assessment of risks enables us to anticipate and respond to changes in our operating environment as well as make informed decisions under conditions of uncertainty.

The risk management process has been embedded in our operating systems and processes so that our responses to risk remain current and dynamic.

### **Corporate Governance**

Strong corporate governance is integral to the Boards long-term success and is essential in delivering ACAs strategy. Thus, the Board continues to strengthen its boardroom capabilities and giving policy direction under the guidance of Mwongozo, the code of governance for state corporations.

### **Future Outlook**

The Authority is committed towards its mandate, and looks forward to continue implementing its functions in a transparent, objective, just and fair manner. The Authority remains committed to deepening relationship with its stakeholders and key partners. Further the Authority plans to implement the recently launched National Action Plan and implementation framework to Combat Illicit trade.

### **Acknowledgement**

On behalf of the Board of Directors and Staff, I express my sincere gratitude to the Government of Kenya, Ministry of Trade Industry & Cooperatives, British Embassy in Kenya, Parliamentary Departmental Committee on Trade Industry & Cooperatives, the National Treasury and other stakeholders for their continued support. This has gone a long way towards building a solid institution that is responsive to its mandate and stakeholder's expectations.

I also wish to salute my fellow Board members for dedicating their time and effort to steer the Authority. Their advice and guidance has played a key role in the attainment of the impressive performance. To our staff, thank you for your professional and diligent contribution in delivery of the aforementioned achievements.

I look forward to a promising financial year 2019/2020.



Ms. Flora Mutahi  
**Chairperson of the Board**

## V. REPORT OF THE EXECUTIVE DIRECTOR

### Overview

The Anti-Counterfeit Authority has continued to carry out its mandate of prohibiting counterfeits and enforcement of intellectual property rights.

During the year under review the Authority made good progress on all areas of its operations and we are happy to note the achievement of its ambitious performance targets set in the annual work plan, derived from the Strategic Plan 2017 - 2022.

### Performance and utilization of funds

The Authority undertook investigation of 189 cases on intellectual property rights infringements. The value of counterfeit goods seized amounted to Ksh. 993.4M and the goods destroyed during the period amounted to Ksh.59.5M. The Authority also received 201 complaints by IPR owners and 506 complaints from consumers. By close of the period, the Authority had 70 cases filed in court. However, the Presidential Directive on port exit affected the Authority's presence and operations at the main ports of entry.

The Authority was able to get funding from British Embassy through DFID to automate ACA's processes and carry out a National Baseline Survey on Illicit Trade. Twenty Five (25) outreach programs were also undertaken to sensitise Kenyans on counterfeits and the Authority's mandate. The Authority also spearheaded the development and launch of the National Action Plan to Combat Illicit Trade. On the research side aimed at informing policy and strategy, the Authority carried out two market intelligence surveys on the electronic and electrical sector and the fertilizer sector in different parts of the country, as well as internal surveys on the customer satisfaction, employee satisfaction, prevalence of alcohol and drug abuse in the Authority and corruption perception among employees of the Authority. Several recommendations were made from these reports for implementation by the management.

During the year, the Authority received Kshs. 424,844,000 from the National Treasury and recorded a 64% budget utilization during the period.

### Annual work programme

The Authority monitored the implementation of its Annual Work plan for the year 2018-2019 based on the balanced score card. Overall, there has been notable progress on the achievement of the Annual Work plan. Investigations of complaints were initiated and inspection of premises and goods was intensified. The set-up of the Multi Agency team also enhanced our operations in the ports of entry.

### Human Capital

To enhance performance, ACA recruited 46 additional staff in order to meet the ever-increasing demands of our customers. The Authority considers staff training as a critical component towards improving work performance. During the year, several training courses were offered particularly to the inspectors. Senior staff were trained on relevant management and strategic leadership training programmes to strengthen the Authority's managerial capacity.

**Future Outlook**

With an enhanced institutional capacity in 2019-2020 financial year, the Authority plans to strengthen its enforcement activities through surveillance, intelligence based investigations and prosecution of offenders. We shall sensitize key stakeholders in the enforcement such as the police and judiciary about the Anti-Counterfeit Act and continue to reach out to grassroots Kenyans to sensitise them on the mandate of the Authority. The Authority will carry out more research to inform the Authority in its operations and inform policy direction.

**Appreciation**

I would like to sincerely thank our Board of Directors for their continued support, staff of the Authority for the dedicated service and all our stakeholders for their faith and confidence in the Authority.

We look forward to greater collaboration with all our stakeholders as we endeavour to make Kenya counterfeit-free.



Mr. Elema Halake, SS  
**Executive Director**

## **VI. CORPORATE GOVERNANCE STATEMENT**

### **Introduction**

The Board regards corporate governance as pivotal to the attainment of the Authority's core mandates and ensuring that ACA remains effective. The Board recognizes that for governance to be effective, it must be realized through leadership and collaboration, with the Board at the helm leading by example and complimenting the senior management. This enables effective and efficient decision-making and gives a structural aid for the management to discharge their duty to promote the success of ACA while taking into account the interest of stakeholders.

As a State Corporation established by the Anti-Counterfeit Act, 2008, the Authority is implementing the Mwongozo Code of Corporate Governance issued by His Excellency the President on 26<sup>th</sup> April, 2015 vide the Executive Order No. 7. The implementation of Mwongozo ensures enhanced transparency and disclosure, strengthened sustainability and performance management as well as compliance with Laws and Regulations.

### **The Board of Directors**

The Board has a formal schedule of matters reserved for it. The directors receive appropriate and timely information so that they can maintain full and effective control over strategic, financial, operational, compliance and governance matters.

Ultimately, the Board determines ACA's strategic objectives, values, key policies and procedures in accordance with best practice. It is responsible for establishing and maintaining the overall internal controls of financial, operational and compliance functions as well as monitoring performance of the executive management.

The Board has delegated the authority for day-to-day management of ACA to the Executive Director. However, it retains overall responsibility for ACA's financial performance, compliance with laws and regulations, and monitoring of its operations.

Under the leadership of the Executive Director, the role of corporate management is to conduct the day-to-day operations of ACA in a way that is consistent with the strategic plans and budgets approved by the Board. In this context, the ED makes recommendations to the Board with respect to matters of corporate strategy and policy. The Board then makes the decisions, which it deems appropriate, and supervises the execution of such decisions and reviews.

### **Board Size and Composition**

The Authority's Board is established under section 6 of the Anti-Counterfeit Act 2008. It is composed of 9 members drawn from the private and public sector institutions with a role in combating counterfeits.

The Chairman is appointed by the Cabinet Secretary Ministry of Industry, Trade and Cooperatives from amongst the two independent members; the Principal Secretary State Department for Trade or his or her representative; the Principal Secretary in the ministry responsible for matters relating to Finance or his or her representative; the Executive Director appointed by the Board; the

Commissioner-General of the Kenya Revenue Authority, who may be represented by the Commissioner of Customs; the Attorney General or his representative, the Managing Director of the Kenya Bureau of Standards; the Chief Executive of the Kenya Association of Manufacturers or a representative and two members appointed by the Cabinet Secretary, not being public officers who have experience in matters relating to Intellectual property rights; consumer protection, or trade.

The Board has three standing Committees, which meet as required. The Committees have been established with clear terms of reference to facilitate efficient and effective decision-making of the Board in discharging its duties, powers and authority.

### **Role and functions of the Board**

The Board provides strategic direction with a focus on consistent performance in an atmosphere of transparency and accountability whilst reviewing and monitoring proper corporate governance throughout the Authority. The responsibilities of the Board are clearly spelt out in both the Anti-Counterfeit Act and the Board Charter. The Board defines the purpose of the Authority, its strategic intent, objectives and its values. It ensures that procedures and practices are in place to protect ACA's assets and reputation.

The Board retains full and effective control over ACA and monitors management's implementation of the plans and strategies set by the Board; it ensures ethical behavior and compliance with relevant laws and regulations, audit and accounting principles, corporate policies and procedures and the Code of Conduct. It strives to act beyond the minimum requirements and benchmark performance against best international practices.

The Board's Code of Conduct defines the governance parameters within which the Board exists and operates. In accordance with the principles of good corporate governance, each Board member undertakes to always act in the best interest of ACA and exercise his/her power in the execution of duties in good faith and acts with care and prudence.

Specifically, the Board is charged with the following responsibilities: -

- (a) Defining the purpose of the ACA, that is, its strategic intent and objectives, and its values which should be clear, concise and achievable;
- (b) Strategy formulation and ensuring there are appropriate policies, systems and structures to effectively and successfully implement the strategies;
- (c) Provide leadership within a framework of prudent and effective structures which enable risks to be assessed;
- (d) Identify the opportunities as well as the principle risks in its operating environment including the preparation of the risk policy plans/risk management policies and implementation of appropriate measures to manage such risks or anticipated impact on the operations;
- (e) Review on a regular basis the adequacy and integrity of the internal controls, acquisition and divestures, management information systems including compliance with applicable laws and regulations;

(f) In stewardship and in discharging its obligations, the Board assumes responsibility in the following areas:

1. Retaining full and effective control over ACA, and monitoring management in implementing Board plans and strategies;
2. Ensuring ethical behavior and compliance with relevant laws and regulations, audit and accounting principles, and ACA's own governing documents and Code of Conduct; and
3. Defining levels of materiality, reserving specific powers to the Board and delegating other matters with the necessary written authority to management and instituting effective mechanisms that ensure Board responsibility for management performance of its functions; among other mandates and responsibilities as stipulated in the ACA Act.

#### **Board Committees and Responsibilities**

In order to fulfil its Fiduciary Oversight Arrangements, the Board has set up 3 (three) principal Committees which sets forth the purposes, goals and responsibilities of the committees as well as qualifications for committee membership, procedure for appointment and removal and committee reporting to the Board in the committee's terms of reference. This is intended to facilitate efficient decision making of the Board in discharging its duties and responsibilities.

1. The Human Resource, Finance & General Purposes committee; Reviews the authority's annual budgets and procurement plans, quarterly and annual financial reports. The Committee also provides oversight on organizational structure, human resource policy and capacity enhancement administration issues within the organization.
2. Technical Committee; Charged with providing oversight on the Authority enforcement and legal mandates. Also provides oversight on the Authority's research, monitoring, education and awareness functions.
3. Audit and Risk Committee; Plays a critical role in reviewing financial information, and ensuring that the system of internal controls is effectively administered.

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During the year under review the Authority's Board held 7 full board meetings. The Human Resource, Finance & General Purposes committee held 11 meetings; Technical Committee held 4 meetings and Audit & Risk Committee held 6 meetings which were attended as follows:

<b>Board Member</b>	<b>F ,HR &amp; GP Committee</b>	<b>Technical Committee</b>	<b>Audit Committee</b>	<b>Full Board</b>	<b>Other Activities</b>
Flora Mutahi	2	-	-	6	8
Bernard Njiraini**	0	1	2	5	2
Phyllis Wakiaga	5	4	2	7	9
Joel Bett	11	2	4	7	19
Major (Rtd) Kariuki	2	1	1	6	7
Emmanuel Bitta	8	4	0	6	10
Michael Onyancha	6	2	6	6	14
Stephen Mutoro	5	0	4	4	8

\* Mr. Joseph Wairiuko is an alternate director

\*\* includes official activities and functions of the Authority besides Board meetings.

## VII. MANAGEMENT DISCUSSION AND ANALYSIS

### SECTION A

#### The Authority's operational and financial performance

The Authority has four key result areas. The achievements on each result area during the FY 2018/2019 are indicated below:

#### 1: Enforcement and Prosecution

The following are the number of IPR complaints received, cases investigated and prosecuted in the period indicated:

##### a) IPR Complaints Received, Investigated and Prosecuted:

Financial Year	IPR Received	Investigated	Prosecuted
FY 2018/2019	201	189	70

**Annual achievement:** % of completed investigations within 3 Months (189 IPR complaints investigated/ 201 IPR complaints)\*100 = **94.03%**

##### b) Value of Seized and Destroyed Goods:

Financial Year	Approximate value (Kshs.)	
	Seized	Destroyed
FY 2018/2019	993,434,687	59,545,641

**Annual achievement:** % of seized goods accounted for: **100%**

Cumulative value of goods at the depot as at the end of the FY 2018/19: **Kshs. 1,439,734,139**

#### 2: Public awareness activities

The Authority implemented the following programs: public outreach, sensitization/training, conferences and the media coverage. The Authority carried out several awareness activities in different parts of the country as follows:

- Senators Sensitization Forum - 18th September 2018 at Serena Hotel and sponsored by KEBS. The division conducted this forum to facilitate the appreciation of the proposed amendments of the Anti-Counterfeit Act, 2008. This was attended by 20 senators and some clerks, registering 60 people including media at Boma Hotel.
- Nairobi Central Business District Association (NCBDA) sensitization at KRA conference hall and sponsored by KRA registered 139 pax- this was necessitated by the business community's outcry over harassment by the Multi-Agency team as they enforced their various mandates.
- Kenya Association of Manufacturers (KAM) members sensitization at Intercontinental hotel, sponsored by KAM (50 pax)
- Nairobi ASK international Trade Fair of 1st to 7th October, 2018
- Public Baraza at Lunga Lunga 10<sup>th</sup> October 2018
- Open forum for youth in Kwale County on 10th October 2018
- East African Community (EAC) Jua Kali - Nguvu Kazi exhibitions at Eldoret Uasin Gishu County of 3rd to 10th December 2018.

- Open air outreach with various stop overs between Eldoret and Kitale, on 8th December, 2018
- 4<sup>th</sup> African Summit on Entrepreneurship & innovation (ASENTI) held at USIU on 8<sup>th</sup> and 9<sup>th</sup> November 2018.
- 1st March Sensitization for leaders of farmers associations Uasin Gishu County, at Seko Girls High School, 600 pax
- 5th March 2019 Validation of the National-Anti-Illicit Strategy Forum – a MAAITO initiative supported by ACA and sensitizing participants on recent amendments of the Anti-Counterfeit Act, 100 pax
- Sensitization of over 500 officers at the School of Leadership Police Training College Kiganjo.
- Courtesy call for the Manager School of Leadership Police Training College Kiganjo; for more involvement of ACA & MAAITO in their programs and possibility of an MOU
- 16<sup>th</sup>- 19<sup>th</sup> April 2019 - The Development of the Anti-Counterfeiting Training Manual, held in Kenya Wildlife Service (KWS), Naivasha- 25 pax
- 16<sup>th</sup> May 2019 - Public Participation for the Draft Anti-Counterfeit (Amendments) Regulations 2019 - 102 pax
- 23<sup>rd</sup> and 30<sup>th</sup> May 2019 - The Innovation Pipeline Workshop - 163 pax

#### **4. Research-related activities conducted:-**

The Authority conducted the following research activities:-

- Market intelligence survey on the impact of counterfeiting on the electronic and electrical sector in Kenya – the supplier perspective.
  - Market intelligence survey on the prevalence of counterfeiting of fertilizers in selected counties in Kenya
  - Customer satisfaction survey
  - Employee satisfaction survey
  - Survey to establish prevalence of Alcohol and Drug Abuse in the Authority
  - Corruption perception survey among the employees of the Authority
- Several recommendations were made from these surveys for implementation by the management.

#### **5. Institutional Capacity:**

The Authority achieved 64.36% utilization of allocated funds, and collected Kshs. 21,450,674.45 being complaint and destruction fees against a targeted amount of Kshs. 15,000,000.

During the year under review the Authority recruited 46 officers as shown below:

- a) Manager Human Resource and Administration
- b) Manager Internal Audit
- c) Manager Finance and Accounts
- d) Three (3) Senior Inspectors
- e) Internal Auditor I
- f) Five (5) Drivers
- g) Thirty one (31) Inspector II
- h) Three (3) Legal Officers I

The Authority also complied with statutory obligations by submitting all statutory obligations on time.

**ISO Certification:** To enhance the quality of services offered by the Authority, the Authority maintained certification to ISO 9001:2015.

**Performance Management System based on Balanced Score Card Model:** The Authority is implementing a performance management system based a balanced scorecard model to align operational actions with the strategic objectives of the Authority for effective delivery of services, to ensure effective implementation of the Strategic Plan and enhanced staff performance, and to eliminate wastage.

## SECTION B

### Authority's compliance with statutory requirements

The Authority complied with all its statutory obligations in the current quarter. These are VAT, PAYE, NHIF, NSSF and HELB.

However, the Authority as at June 30, 2019 had several civil matters which relate to legal claims by suspected counterfeiters as follows:

No	MATTER	STATUS OF MATTER	CONTINGENT LIABILITY
1	Anti-Counterfeit Agency vs. Barloword Limited & Another  Civil appeal No. 292 of 2017	Judgement on 27th September 2019	The appeal is based on a high court judgement which only granted costs to the petitioner. Should the appeal be unsuccessful the estimated contingent liability is <b>Ksh. 800,000</b>
2	Match Masters Limited Vs ACA & Another  Civil appeal No. 280 of 2017	Waiting case management notice from Court of appeal	Appeal is related to Case No. 1 above.
3	Adan Abass Nura Vs ACA  Civil Case No. 390 of 2017	Pending Hearing Application to strike out the suit for want of prosecution to be filed	The plaintiff claims in his statement that the seized goods were worth Ksh. 100,000. He claims general damages for slander. The Plaintiff is unlikely to receive more than Ksh. 500,000 as damages. The estimated costs as per the Advocates Remuneration order, including instruction fee, court attendances and disbursements is estimated at Ksh. 100,000. This makes the total contingent liability to be estimated at <b>Ksh. 700,000.</b>

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4	Premier Motors Limited Vs ACA  Petition No.122 of 2018	Judgement 3 <sup>rd</sup> October 2019	No specific damages are claimed but the petitioner seeks general damages. Based on the recent High Court decision in Petition No. 320 of 2015 (appeal pending) where the Authority was condemned to pay <b>Ksh. 550,000</b> in damages and costs the same figure would apply as an estimate in this case.
5	ACA vs. Esther Mawia Mwanja & Anor  Civil Appeal No. 215 of 2018 (Milimani)	Ruling granting Stay of execution pending Appeal delivered on 19th October 2018	<b>Ksh. 4,761,600</b> is claimed by the plaintiff as special damages. If the Authority's appeal is dismissed and costs are due, the estimate costs as per the Advocates Remuneration order would be Ksh. 500,000. This makes the total contingent liability to be estimated as <b>Ksh. 5,261,000</b>
6	Joyce N. Simitu vs ACA  Industrial Case No. 653 of 2012 (Milimani)	Judgement on 14th June 2019. Notice of Appeal filed by the Claimant	Compensation calculated as Claimants three month's gross salary and costs estimated at <b>Ksh. 600,000</b>
7	James Kimani & Others vs. ACA & 2 Others Civil Case No. 160 of 2016 (Milimani)	No date fixed	<b>Kshs. 603,500,000</b> is claimed by the plaintiff as special damages.
8	Francis Wanyange & Anor vs ACA  Petition 320 of 2015 (Nairobi)	Ruling on 14 <sup>th</sup> March 2019  Judgement made in favour of the applicant. Stay application dismissed, directing release and payment of Ksh. 550,000. Appeal pending	<b>Ksh. 550,000</b> was awarded but is subject of Appeal.
9	Samuel Kiptoo vs ACA  Eldoret Civil Case No. 235/2019	Pre-trial on 4/7/2019  Application to strike out plaint and reply to defence filed.	<b>Ksh. 636,100</b> is claimed by the Plaintiff
10	Anti-Counterfeit Authority Versus Peter Mbaria & 3 Others  Kakamega Civil Appeal	Appeal Pending Mention for directions on 13 <sup>th</sup> November 2019	<b>Kshs. 3,120,000</b> was awarded by the lower court

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	No. 64 of 2019		
11	Peter Mugucia & Another vs ACA	The case is ongoing	Peter Mugucia on 8 <sup>th</sup> January 2019 filed a suit against the Authority seeking for damages of Kshs <b>18,571,400</b> for alleged unlawful seizure of goods.

**SECTION C**

**Key projects and investment decisions the Authority is planning/implementing**

**TMEA funded project**

**Background**

The Authority received USD 1.5 million from the UK Department for International Development (DFID) channelled through Trademark East Africa (TMEA), who will provide technical and project financing support. The funding is envisioned to develop a National Database on Counterfeiting and other forms of Illicit Trade and determine the National Public Awareness Level on Counterfeiting, automate internal and external processes in the fight against counterfeiting, Integrate ACA Systems to other National, Regional and International Trade Systems. This will enable the Authority to better and efficiently serve its stakeholders nationally, regionally and globally.

**Achievements of the Project for the FY 2018/2019**

Below is a summary of the key achievements of project for the Financial year under review:

No	Activity	Achievement – FY 2018/2019
1.	Financing agreement	Signed on 20 <sup>th</sup> August 2019
2.	Project management structures.	A two tier project management structure was established as follows: A steering committee (SC) to provide oversight and strategic direction and a project implementation team (PIT) for the day to day project activities.
3.	Project technical assistant	A technical assistant was recruited and reported on 10 <sup>th</sup> January 2019 to carry out the day to day activities of the project.
4.	National baseline survey	Terms of reference were developed, the procurement process undertaken as per TMEA procurement guidelines and a contract signed with the consultant.
5.	Automation of processes	Terms of reference were developed, the procurement process undertaken as per TMEA procurement

		guidelines and a contract signed with the consultant.
6.	ACA ICT Infrastructure	An infrastructure expert was engaged in Q4 to survey the current ICT infrastructure and propose a scalable infrastructure setup to adequately support the Authority's automation objectives.
7.	Change management	In order to ensure that the project has a high-level backing to be implemented successfully and that stakeholders actually use them, a change management strategy was developed. During the reporting period the staff, management, board, relevant Government Agencies and other relevant stakeholders were involved.

The Authority had planned to purchase one seized goods holding depot in the current financial year. This is a three year project that will involve the acquisition of 4 seized goods holding depots (10,000 sq. feet each) at strategic locations to store counterfeit goods as exhibits to be produced in law courts (at a cost of Kshs 212.5 million), in a span of 3 years.

The main purpose of the project is to improve the ease of doing business by facilitating a level-playing field for businesses to invest, be competitive, thrive, grow, create employment, reduce poverty and also help the government achieve the Big '4' agenda by promoting genuine products in manufacturing, fertilizers, seeds, medicine and construction materials. This is in line with national government strategic objectives and policies.

## SECTION D

### **Major risks facing the Authority**

The Authority has no market risk, capital risk, credit risk and foreign exchange risk as clearly explained in the notes to the financial statements.

The Authority is however faced with the various operational risks including Security threat of enforcement officers in the course of duty, legal liabilities arising from being sued by counterfeiters, insufficient support and co-ordination from other organizations involved in combating counterfeiting, porous borders, rapid technological advancement and legal limitations to the Anti-counterfeit Act.

The Authority also faces liquidity risk because of delay in receipt of government grants from the National Treasury and budget cuts.

## SECTION E

### **Material errors in statutory/financial obligations**

There are no material errors in statutory or financial obligations.

## SECTION F

### **The Authority's financial probity and serious governance issues**

There is no major financial probity as reported by internal audit/Board audit committee, external auditors, or other National Government Agencies providing oversight; and there are no serious governance issues among the Board or member of the Board and top management including conflict of interest.

## VIII. REPORT OF THE DIRECTORS

The Directors submit their report together with the audited financial statements for the year ended June 30, 2018, which show the state of the Authority's affairs.

### Principal activities

The principal activities of the Authority continue to be to enlighten and inform the public on matters relating to counterfeiting; combat counterfeiting, trade and other dealings in counterfeit goods in Kenya; devise and promote training programs on combating counterfeiting; co-ordinate with national, regional or international organizations involved in combating counterfeiting; Advise the government through the Cabinet Secretary on policies and measures concerning the necessary support, promotion and protection of intellectual property rights as well as the extent of counterfeiting; and carry out inquiries, studies and research into matters relating to counterfeiting and the protection of intellectual property rights.

### Results

The results of the Authority for the year ended June 30, 2019 are set out on page 1.

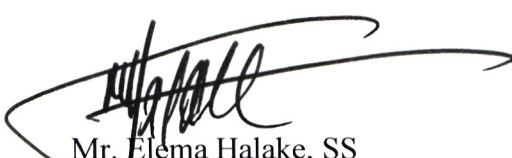
### Directors

The members of the Board of Directors who served during the year are shown from pages vii to x.

### Auditors

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

By Order of the Board

  
Mr. Elema Halake, SS  
Executive Director

Date: 18/6/2020

**IX. STATEMENT OF DIRECTORS' RESPONSIBILITIES**

Section 81(1) of the Public Finance Management Act, 2012, section 14(3) of the State Corporations Act and Section 20(2) of the Anti- Counterfeit Act, 2008 require the Directors to prepare financial statements in respect of the Authority, which give a true and fair view of the state of affairs of the Authority at the end of the financial year and the operating results of the Authority for that year. The Directors are also required to ensure that the Authority keeps proper accounting records which disclose with reasonable accuracy the financial position of the Authority. The Directors are also responsible for safeguarding the assets of the Authority.

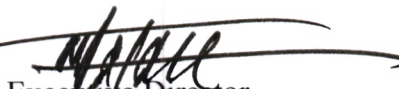
The Directors are responsible for the preparation and presentation of the Authority's financial statements, which give a true and fair view of the state of affairs of the Authority for and as at the end of the financial year ended on June 30, 2019. This responsibility includes: (i) maintaining adequate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

The Directors accept responsibility for the Authority's financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act and the State Corporations Act. The Directors are of the opinion that the Authority's financial statements give a true and fair view of the state of Authority's transactions during the financial year ended June 30, 2019, and of the Authority's financial position as at that date. The Directors further confirm the completeness of the accounting records maintained for the Authority, which have been relied upon in the preparation of the Authority's financial statements as well as the adequacy of the systems of internal financial control.

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

**Approval of the financial statements**

The Authority's financial statements were approved by the Board on 29<sup>th</sup> August, 2019 and signed on its behalf by:

  
Executive Director  
Date..... 18/6/2020

Chairperson of the Board  
  
Date..... 19/6/2020

**X. REPORT OF THE INDEPENDENT AUDITORS ON THE ANTI-COUNTERFEIT  
AUTHORITY**

# REPUBLIC OF KENYA

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NAIROBI

## **REPORT OF THE AUDITOR-GENERAL ON ANTI-COUNTERFEIT AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2019**

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### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Opinion**

I have audited the accompanying financial statements of Anti-Counterfeit Authority set out on pages 1 to 29, which comprise the statement of financial position as at 30 June, 2019, and the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Anti-Counterfeit Authority as at 30 June, 2019, and its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Anti-Counterfeit Act, 2008 and the Public Finance Management Act, 2012..

#### **Basis for Opinion**

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

#### **Emphasis of Matter**

#### **Contingent Liability**

A review of available records at the Authority revealed pending legal proceedings against the Authority that may, if successful, have significant financial impact on its operations. It

was noted that an accused person who was charged with possession of counterfeit electric bulbs and accessories was acquitted of the charges in a Court of Law in 2015. However, the accused person and others instituted a civil case at Milimani Law Courts in 2016 seeking for special damages of Kshs.603,500,000 against the Authority for unlawful arrest, malicious prosecution and destruction of property.

The Management explained that the Authority released part of the goods seized to the accused persons in July, 2015. The accused persons however complained that the remaining goods had been destroyed and they could not take destroyed or damaged goods.

My opinion in respect of this matter is not modified.

### **Key Audit Matters**

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

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

### **Conclusion**

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

### **Basis for Conclusion**

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

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

### **Conclusion**

As required by Section 7(1)(a) of the Public Audit Act, 2015, Except for matter discussed on Report on Effectiveness of Internal Controls, Risk Management and Governance section of my report, based on the audit procedures performed, I confirm that, nothing

else has come to my attention to cause me to believe that internal controls, risk management and overall governance, were not effective.

## **Basis for Conclusion**

### **Information and Communication Technology**

The Authority in their strategic plan formulated various strategic objectives which include integration of Information and Communication Technology (ICT) in operations and to promote good governance. To achieve the objectives, the ICT function is required to develop and implement an efficient framework for data integrity and ICT security. However, as at the time of audit, management had not put in place the following controls:

- Information Technology (IT) strategic plan that supports business requirements and ensures that IT spending remains within the approved IT strategic plan.
- A formal, documented and tested emergency procedure.
- IT continuity plan and disaster recovery plan, IT continuity plan and disaster recovery plan kept off-site, backups stored in a secure offsite storage facility.

In the circumstances, failure to develop and implement business continuity plan and disaster recovery plan and establish off-site back up facilities exposes the Authority to possible loss of business in the event of a disaster.

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

### **Responsibilities of Management and those Charged with Governance**

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

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

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

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

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

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

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

In addition to the audit of the financial statements, a compliance review is planned and performed to express a conclusion with limited assurance as to whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution. The nature, timing and extent of the compliance work is limited compared to that designed to express an opinion with reasonable assurance on the financial statements.

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

occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

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

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

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the Management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion, my conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Authority to cease to continue to as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Authority to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

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

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships

and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



**Nancy Gathungu**  
**AUDITOR-GENERAL**

**Nairobi**

**05 February, 2021**

ANTI-COUNTERFEIT AUTHORITY (ACA)  
 ANNUAL REPORTS AND FINANCIAL STATEMENTS  
 FOR THE YEAR ENDED JUNE 30, 2019

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**XI. STATEMENT OF FINANCIAL PERFORMANCE  
 FOR THE YEAR ENDED 30 JUNE 2019**

	Note	2018-2019 Kshs	2017-2018 (Restated) Kshs
<b>Revenue from non-exchange transactions</b>			
Recurrent – Government grant	6	374,844,436	395,402,000
		<b>374,844,436</b>	<b>395,402,000</b>
<b>Revenue from exchange transactions</b>			
Other income	7	21,493,519	13,118,667
		<b>21,493,519</b>	<b>13,118,667</b>
<b>Total revenue</b>		<b>396,337,955</b>	<b>408,520,667</b>
<b>Expenses</b>			
Employee costs	8	194,717,140	163,582,859
Remuneration of Directors	9	11,385,372	2,638,874
Depreciation and amortization expense	10	28,579,297	21,216,045
Repairs and maintenance	11	4,941,754	3,331,435
General expenses	12	126,569,945	60,917,053
<b>Total expenses</b>		<b>366,193,508</b>	<b>251,686,266</b>
<b>Surplus/( deficit) for the period</b>		<b>30,144,447</b>	<b>156,834,401</b>

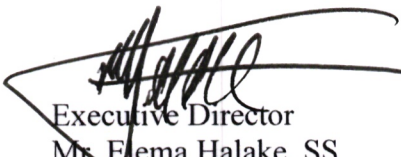
The notes on pages 7 to 29 form an integral part of these Financial Statements.


ANTI-COUNTERFEIT AUTHORITY (ACA)  
ANNUAL REPORTS AND FINANCIAL STATEMENTS  
FOR THE YEAR ENDED JUNE 30, 2019

**XII. STATEMENT OF FINANCIAL POSITION  
AS AT 30 JUNE 2019**

	Note	2018-2019 Kshs	2017-2018 (Restated) Kshs
<b>Assets</b>			
<b>Current assets</b>			
Cash and cash equivalents	13	335,760,949	268,213,370
Receivables from non-exchange transactions	14	11,255,125	4,310,306
Inventories	15	3,767,291	1,194,773
		<b>350,783,365</b>	<b>273,718,449</b>
<b>Non-current assets</b>			
Property, plant and equipment	16	54,414,027	42,567,105
Intangible assets	17	999,193	2,173,141
		<b>55,413,220</b>	<b>44,740,246</b>
<b>Total assets</b>		<b>406,196,585</b>	<b>318,458,695</b>
<b>Liabilities</b>			
<b>Current liabilities</b>			
Trade and other payables from non -exchange transactions	18	12,713,536	6,437,887
Employee benefit obligation – staff gratuity	19	3,557,061	1,943,649
Employee obligation – Net Pay	20	113,899	
Ministry of Public Service	21	90,482	
<b>Total liabilities</b>		<b>16,474,978</b>	<b>8,381,536</b>
<b>Net assets</b>			
Reserves – Self insurance		115,874,996	116,374,996
- Development		62,500,000	12,500,000
- Revaluation		15,904,628	15,904,628
Accumulated surplus		195,441,983	165,297,535
<b>Total Net assets</b>		<b>389,721,607</b>	<b>310,077,159</b>
<b>Total net assets and liabilities</b>		<b>406,196,585</b>	<b>318,458,695</b>

The Financial Statements set out on pages 1 to 6 were signed on behalf of the Board of Directors by:

  
Executive Director  
Mr. Elema Halake, SS

  
Head of Finance  
Ms. Rephah Kitavi  
ICPAK No: 11437

  
Chairperson of the Board  
Ms. Flora Mutahi

Date 18/6/2020

Date 17/06/20

Date 19/6/2020

**XIII. STATEMENT OF CHANGES IN NET ASSETS  
FOR THE YEAR ENDED 30 JUNE 2019**

**Attributable to the owners of the controlling Authority**

	Reserves				Total Kshs
	General reserve	Development reserve/Capital Reserve	Revaluation Reserve	Accumulated surplus	
	Kshs	Kshs	Kshs	Kshs	
<b>At July 1, 2017</b>	<b>117,857,684</b>	<b>12,500,000</b>	<b>15,904,628</b>	<b>8,463,134</b>	<b>154,725,446</b>
Surplus for the period	-	-	-	156,834,401	156,834,401
Depreciation	-1,482,688	-	-	-	-1,482,688
<b>At June 30, 2018</b>	<b>116,374,996</b>	<b>12,500,000</b>	<b>15,904,628</b>	<b>165,297,536</b>	<b>310,077,159</b>
<b>At July 1, 2018</b>	<b>116,374,996</b>	<b>12,500,000</b>	<b>15,904,628</b>	<b>165,297,536</b>	<b>310,077,159</b>
Surplus for the period		-	-	30,144,447	30,144,447
Depreciation	-500,000	-	-	-	-500,000
Development Grants received during the year	-	50,000,000	-	-	50,000,000
Revaluation gain	-	-	-	-	-
<b>At June 30, 2019</b>	<b>115,874,996</b>	<b>62,500,000</b>	<b>15,904,628</b>	<b>195,441,983</b>	<b>389,721,606</b>

Note:

1. The Authority maintains general reserves to be used both for purchase of fixed assets and fund day-to-day operations of the Authority.
2. The development reserve is for acquisition of depot to be used for storage of seized suspected counterfeit goods.

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**XIV. STATEMENT OF CASHFLOWS  
FOR THE YEAR ENDED 30 JUNE 2019**

	Note	2018-2019 Kshs	2017-2018 Kshs
<b>Cash flows from operating activities</b>			
<b>Receipts</b>			
Government grants and subsidies	6	374,844,436	395,402,000
Other income, rentals and Authority fees	7	21,493,519	13,118,667
<b>Total Receipts</b>		<b>396,337,955</b>	<b>408,520,667</b>
<b>Payments</b>			
Compensation of employees	8	(194,717,140)	(163,582,860)
Remuneration of Directors	9	(11,385,372)	(2,638,874)
Repairs and maintenance	11	(4,941,754)	(3,331,435)
General expenses	12	(126,569,945)	(60,917,052)
<b>Total Payments</b>		<b>(337,614,211)</b>	<b>(230,470,221)</b>
<b>Net cash flows from operating activities</b>		<b>58,723,744</b>	<b>178,050,446</b>
<b>Cash flows from investing activities</b>			
Development grant	6	50,000,000	-
Purchase of property, plant and equipment	16	(39,637,272)	(9,718,418)
Purchase of intangible assets	17	(115,000)	(2,462,012)
Decrease/ increase in current receivables		(1,423,893)	5,134,592
<b>Net cash flows used in investing activities</b>		<b>8,823,835</b>	<b>(7,045,838)</b>
<b>Net increase/(decrease) in cash and cash equivalents</b>		<b>67,547,579</b>	<b>171,004,608</b>
Cash and cash equivalents at 1 JULY		268,213,370	97,208,762
<b>Cash and cash equivalents at 30 JUNE</b>	13	<b>335,760,949</b>	<b>268,213,370</b>

**XV. STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS  
FOR THE PERIOD ENDED 30 JUNE 2019**

	Original budget	Adjustments	Final budget	Actual on comparable basis	Performance difference
	2018-2019	2018-2019	2018-2019	2018-2019	2018-2019
	Kshs	Kshs	Kshs	Kshs	Kshs
<b>Revenue</b>					
Government grants – Recurrent	382,494,322	(7,649,886)	374,844,436	374,844,436	-
Rolled over funds	51,350,000	8,233,433	59,583,433	-	-
Other income and Authority fees	15,000,000	-	15,000,000	21,493,519	6,474,194*
<b>Total income</b>	<b>448,844,322</b>	<b>583,547</b>	<b>449,427,869</b>	<b>396,337,955</b>	<b>6,474,194</b>
<b>Expenses</b>					
Compensation of employees	258,584,000	-	258,584,000	194,717,440	64,090,566
Remuneration of Directors	7,000,000	5,000,000	12,000,000	11,385,372	614,628
Repairs and maintenance	5,500,000	1,500,000	7,000,000	4,941,754	2,058,246
General expenses	177,760,322	(5,916,453)	171,843,869	126,569,945	45,273,925
Depreciation	-	-	-	28,579,297	(28,579,297)
<b>Total expenditure</b>	<b>448,844,322</b>	<b>583,547</b>	<b>449,427,869</b>	<b>366,193,508</b>	<b>83,234,361</b>
<b>Surplus for the period</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>30,144,447</b>	<b>-</b>
<b>Capital Budget</b>					
Rolled over funds	95,000,000	(8,233,433)	86,766,567	86,766,567	-
Government grant – development ( Purchase of Go-down)	50,000,000	-	50,000,000	50,000,000	-
<b>Total Income</b>	<b>145,000,000</b>	<b>(8,233,433)</b>	<b>136,766,567</b>	<b>136,766,567</b>	<b>-</b>
<b>Expenses</b>					
Purchase of assets	82,500,000	(8,233,433)	74,266,567	39,752,272	34,514,295
Purchase of Go – down	62,500,000	-	62,500,000	-	62,500,000
<b>Total Capital Expenditure</b>	<b>145,000,000</b>	<b>(8,233,433)</b>	<b>136,766,597</b>	<b>39,752,272</b>	
<b>Surplus for the Period</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>97,014,295</b>	

**Notes to explain the variance:**

1. Budget reallocations were done by the Budget Implementation Committee due to arising needs in the Authority
2. The Authority used reserves of Kshs. 146,350,000 to finance recurrent and development Activities
3. Reserves used in the recurrent and capital budget. These reserves were not included in arriving at surplus for the periods as they were not new incomes to the Authority in the year. They are however included in the calculation of the performance differences.
4. Depreciation - This is a non-cash item hence not budgeted for
5. Compensation of employees
  - \* Kshs. 2,900,016 Executive Director's salary (241,668\*12) salary that was approved and allocated for in the year but is yet to be paid as we are awaiting approval by SCAC.
  - \*Kshs. 628,680 Executive Director's gratuity (52,390\*12) that would have been earned if the salary had been approved by SCAC.
  - \*The salaries for the new employees that joined the Authority had been budgeted for the whole year but ended up being utilized from Mid-February when the employees joined the Authority.
6. General expenses
  - Procurement process was incomplete/ invoices had not been received by the end of the financial year.
7. Purchase of assets
  - The go down acquisition was unresponsive due to the structural integrity issues as evaluated by technical experts from the State Department for public works.
  - \* Other income includes non-budgeted for recoveries from staff totaling KES 19,325 and is therefore excluded in the computation of performance difference.

## XVI. NOTES TO THE FINANCIAL STATEMENTS

### 1. GENERAL INFORMATION

Anti-Counterfeit Authority was established under Section 3 of the Anti-Counterfeit Act No. 13 of 2008 as a corporate body under the State Corporations Act, Chapter 446 of the Laws of Kenya, and derives its authority and accountability from this Act. The Authority is wholly owned by the Government of Kenya and is domiciled in Kenya.

The Authority's principal activity is enlighten and inform the public on matters relating to counterfeiting; combat counterfeiting, trade and other dealings in counterfeit goods in Kenya; devise and promote training programs on combating counterfeiting; co-ordinate with national, regional or international organizations involved in combating counterfeiting; Advise the government through the Cabinet Secretary on policies and measures concerning the necessary support, promotion and protection of intellectual property rights as well as the extent of counterfeiting; and carry out inquiries, studies and research into matters relating to counterfeiting and the protection of intellectual property rights.

### 2. STATEMENT OF COMPLIANCE AND BASIS OF PREPARATION – IPSAS 1

The Authority's financial statements have been prepared on a historical cost basis except for the measurement of revalued amounts of certain property, plant and equipment at fair value. The preparation of the financial statements in conformity with International Public Sector Accounting Standards (IPSAS) allows the use of estimates and assumptions. It also requires management to exercise judgement in the process of applying the Authority's accounting policies.

The financial statements have been prepared and are presented in Kenya shillings, which is the functional and reporting currency of the Authority.

The financial statements have been prepared in accordance with the PFM Act, the State Corporations Act, the Anti-Counterfeit Act and International Public Sector Accounting Standards (IPSAS). The Accounting policies adopted have been consistently applied to all the years presented.

### 3. ADOPTION OF NEW AND REVISED STANDARDS

#### i. Relevant new standards and amendments to published standards effective for the year ended 30 June 2019

Standard	Impact
IPSAS 40: Public Sector Combinations	<b>Applicable: 1<sup>st</sup> January 2019:</b> The standard covers public sector combinations arising from exchange transactions in which case they are treated similarly with IFRS 3 (applicable to acquisitions only) Business combinations and combinations arising from non-exchange transactions which are covered purely under Public Sector combinations as amalgamations.

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Standard	Impact
	<i>The Authority does not have an interest in a joint arrangement and therefore the standard does not apply</i>

ii. **New and amended standards and interpretations in issue but not yet effective in the year ended 30 June 2019**

Standard	Effective date and impact:
<b>IPSAS 41:</b> Financial Instruments	<p><b>Applicable: 1<sup>st</sup> January 2022:</b></p> <p>The objective of IPSAS 41 is to establish principles for the financial reporting of financial assets and liabilities that will present relevant and useful information to users of financial statements for their assessment of the amounts, timing and uncertainty of an entity's future cash flows. IPSAS 41 provides users of financial statements with more useful information than IPSAS 29, by:</p> <ul style="list-style-type: none"> <li>• Applying a single classification and measurement model for financial assets that considers the characteristics of the asset's cash flows and the objective for which the asset is held;</li> <li>• Applying a single forward-looking expected credit loss model that is applicable to all financial instruments subject to impairment testing; and</li> <li>• Applying an improved hedge accounting model that broadens the hedging arrangements in scope of the guidance. The model develops a strong link between an entity's risk management strategies and the accounting treatment for instruments held as part of the risk management strategy.</li> </ul>
<b>IPSAS 42:</b> Social Benefits	<p><b>Applicable: 1<sup>st</sup> January 2022</b></p> <p>The objective of this Standard is to improve the relevance, faithful representativeness and comparability of the information that a reporting entity provides in its financial statements about social benefits. The information provided should help users of the financial statements and general purpose financial reports assess:</p> <ol style="list-style-type: none"> <li>(a) The nature of such social benefits provided by the entity;</li> <li>(b) The key features of the operation of those social benefit schemes; and</li> <li>(c) The impact of such social benefits provided on the entity's financial performance, financial position and cash flows.</li> </ol>

**iii. Early adoption of standards**

The Authority did not early - adopt any new or amended standards in year 2019.

**4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**a) Revenue recognition**

**i) Revenue from non-exchange transactions – IPSAS 23**

**Fees, taxes and fines**

The Authority recognizes revenues from fees, taxes and fines when the event occurs and the asset recognition criteria are met. To the extent that there is a related condition attached that would give rise to a liability to repay the amount, deferred income is recognized instead of revenue. Other non-exchange revenues are recognized when it is probable that the future economic benefits or service potential associated with the asset will flow to the Authority and the fair value of the asset can be measured reliably. *The Authority did not receive any income from fees, taxes and fines.*

**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. *The Authority received the below transfers from the Ministry of Industry, trade and Cooperatives.*

<b>Transfer date</b>	<b>Type of transfer</b>	<b>Financial period</b>	<b>State Department</b>	<b>Amount</b>
28.09.18	Recurrent	2018/19	Trade	95,623,580.50
31.01.19	Recurrent	2018/19	Trade	91,798,638.00
25.02.19	Development	2018/19	Trade	25,000,000.00
30.04.19	Development	2018/19	Trade	12,500,000.00
14.05.19	Recurrent	2018/19	Trade	187,422,217.50
20.05.19	Development	2018/19	Trade	12,500,000.00
<b>TOTAL</b>				<b>424,844,436.00</b>

**ii) Revenue from exchange transactions – IPSAS 9**

**Rendering of services**

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.

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Where the contract outcome cannot be measured reliably, revenue is recognized only to the extent that the expenses incurred are recoverable. *The Authority did not receive any income from rendering of services.*

***Sale of tender documents***

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. *The Authority did not receive any income from sale of tender documents.*

***Interest income***

Interest income is accrued using the effective yield method. The effective yield discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount. The method applies this yield to the principal outstanding to determine interest income each period. *The Authority did not earn interest on income.*

***Dividends***

Dividends or similar distributions are recognized when the Authority's right to receive payments is established. *The Authority did not receive any dividends.*

***Rental income***

Rental income arising from operating leases on investment properties is accounted for on a straight-line basis over the lease terms and included in revenue. *The Authority did not receive any rental income.*

**b) Budget information – IPSAS 24**

The original budget for FY 2018-2019 was approved by the National Assembly. Subsequent revisions/reallocations were made to the approved budget in accordance with rationalization by the National Treasury and approvals from the State Department of Trade. The additional appropriations were added to the original budget by the Authority upon receiving the respective approvals in order to conclude the final budget. Accordingly, the Authority recorded additional appropriations of KES 7,000,000 on the 2018-2019 budget following SDT's approval and reduced KES 16,150,000 following the National Treasury's budget rationalization and a further KES 7,649,886 due to budget cuts by the National Government caused by austerity measures.

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

In addition to the Basis difference, adjustments to amounts in the financial statements are also made for differences in the formats and classification schemes adopted for the presentation of the financial statements and the approved budget.

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

**c) Taxes**

***Current income tax***

Current income tax assets and liabilities for the current period are measured at the amount expected to be recovered from or paid to the taxation authorities. The tax rates and tax laws used to compute the amount are those that are enacted or substantively enacted, at the reporting date in the area where the Authority operates and generates taxable income.

Current income tax relating to items recognized directly in net assets is recognized in net assets and not in the statement of financial performance. Management periodically evaluates positions taken in the tax returns with respect to situations in which applicable tax regulations are subject to interpretation and establishes provisions where appropriate.

***Deferred tax***

Deferred tax is provided using the liability method on temporary differences between the tax bases of assets and liabilities and their carrying amounts for financial reporting purposes at the reporting date.

Deferred tax liabilities are recognized for all taxable temporary differences, except in respect of taxable temporary differences associated with investments in controlled entities, associates and interests in joint ventures, when the timing of the reversal of the temporary differences can be controlled and it is probable that the temporary differences will not reverse in the foreseeable future.

Deferred tax assets are recognized for all deductible temporary differences, the carry forward of unused tax credits and any unused tax losses. Deferred tax assets are recognized to the extent that it is probable that taxable profit will be available against which the deductible temporary differences, and the carry forward of unused tax credits and unused tax losses can be utilized, except in respect of deductible temporary differences associated with investments in controlled entities, associates and interests in joint ventures, deferred tax assets are recognized only to the extent that it is probable that the temporary differences will reverse in the foreseeable future and taxable profit will be available against which the temporary differences can be utilized.

The carrying amount of deferred tax assets is reviewed at each reporting date and reduced to the extent that it is no longer probable that sufficient taxable profit will be available to allow all or part of the deferred tax asset to be utilized. Unrecognized deferred tax assets are re-assessed at each reporting date and are recognized to the extent that it has become probable that future taxable profits will allow the deferred tax asset to be recovered.

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Deferred tax assets and liabilities are measured at the tax rates that are expected to apply in the year when the asset is realized or the liability is settled, based on tax rates (and tax laws) that have been enacted or substantively enacted at the reporting date.

Deferred tax relating to items recognized outside surplus or deficit is recognized outside surplus or deficit. Deferred tax items are recognized in correlation to the underlying transaction in net assets.

Deferred tax assets and deferred tax liabilities are offset if a legally enforceable right exists to set off current tax assets against current income tax liabilities and the deferred taxes relate to the same taxable Authority and the same taxation authority.

**Sales tax**

Expenses and assets are recognized net of the amount of sales tax, except:

- When the sales tax incurred on a purchase of assets or services is not recoverable from the taxation authority, in which case, the sales tax is recognized as part of the cost of acquisition of the asset or as part of the expense item, as applicable
- When receivables and payables are stated with the amount of sales tax included

The net amount of sales tax recoverable from, or payable to, the taxation authority is included as part of receivables or payables in the statement of financial position.

**d) Investment Property**

Investment properties are measured initially at cost, including transaction costs. The carrying amount includes the replacement cost of components of an existing investment property at the time that cost is incurred if the recognition criteria are met and excludes the costs of day-to-day maintenance of an investment property.

Investment property acquired through a non-exchange transaction is measured at its fair value at the date of acquisition. Subsequent to initial recognition, investment properties are measured using the cost model and are depreciated over a 30-year period.

Investment properties are derecognized either when they have been disposed of or when the investment property is permanently withdrawn from use and no future economic benefit or service potential is expected from its disposal. The difference between the net disposal proceeds and the carrying amount of the asset is recognized in the surplus or deficit in the period of de-recognition.

Transfers are made to or from investment property only when there is a change in use.

**e) Property, plant and equipment – IPSAS 17**

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

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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.

The Authority applies the following depreciation rates for the different classes of assets:

- Motor vehicle : 25%
- General Equipment : 12.5%
- Furniture and Fittings : 12.5%
- Computers : 33 1/3%

**f) Leases – IPSAS 13**

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

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

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

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

The Authority depreciates leasehold at a rate of 16.7%

**g) Intangible assets–IPSAS 31**

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

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

The Authority depreciates intangible assets at a rate of 33 1/3%.

**h) Financial instruments – IPSAS 29**

***Financial assets***

***Initial recognition and measurement***

Financial assets within the scope of IPSAS 29 Financial Instruments: Recognition and Measurement are classified as financial assets at fair value through surplus or deficit, loans and receivables, held-to-maturity investments or available-for-sale financial assets, as appropriate. The Authority determines the classification of its financial assets at initial recognition.

***Loans and receivables***

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. After initial measurement, such financial assets are subsequently measured at amortized cost using the effective interest method, less impairment. Amortized cost is calculated by taking into account any discount or premium on acquisition and fees or costs that are an integral part of the effective interest rate. Losses arising from impairment are recognized in the surplus or deficit.

***Held-to-maturity***

Non-derivative financial assets with fixed or determinable payments and fixed maturities are classified as held to maturity when the Authority has the positive intention and ability to hold it to maturity. After initial measurement, held-to-maturity investments are measured at amortized cost using the effective interest method, less impairment. Amortized cost is calculated by taking into account any discount or premium on acquisition and fees or costs that are an integral part of the effective interest rate. The losses arising from impairment are recognized in surplus or deficit.

***Impairment of financial assets***

The Authority assesses at each reporting date whether there is objective evidence that a financial asset or an entity of financial assets is impaired. A financial asset or an entity of financial assets is deemed to be impaired if, and only if, there is objective evidence of impairment as a result of one or more events that has occurred after the initial recognition of the asset (an incurred ‘loss event’) and that loss event has an impact on the estimated future cash flows of the financial asset or the entity of financial assets that can be reliably estimated. Evidence of impairment may include the following indicators:

- The debtors or an entity of debtors are experiencing significant financial difficulty
- Default or delinquency in interest or principal payments
- The probability that debtors will enter bankruptcy or other financial reorganization
- Observable data indicates a measurable decrease in estimated future cash flows (e.g. changes in arrears or economic conditions that correlate with defaults)

***Financial liabilities***

***Initial recognition and measurement***

Financial liabilities within the scope of IPSAS 29 are classified as financial liabilities at fair value through surplus or deficit or loans and borrowings, as appropriate. The Authority determines the classification of its financial liabilities at initial recognition.

All financial liabilities are recognized initially at fair value and, in the case of loans and borrowings, plus directly attributable transaction costs.

***Loans and borrowing***

After initial recognition, interest bearing loans and borrowings are subsequently measured at amortized cost using the effective interest method. Gains and losses are recognized in surplus or deficit when the liabilities are recognized as well as through the effective interest method amortization process.

Amortized cost is calculated by taking into account any discount or premium on acquisition and fees or costs that are an integral part of the effective interest rate.

**i) Research and development costs**

The Authority expenses research costs as incurred. Development costs on an individual project are recognized as intangible assets when the Authority can demonstrate:

- The technical feasibility of completing the asset so that the asset will be available for use or sale
- Its intention to complete and its ability to use or sell the asset
- How the asset will generate future economic benefits or service potential
- The availability of resources to complete the asset
- The ability to measure reliably the expenditure during development

Following initial recognition of an asset, the asset is carried at cost less any accumulated amortization and accumulated impairment losses. Amortization of the asset begins when development is complete and the asset is available for use. It is amortized over the period of expected future benefit. During the period of development, the asset is tested for impairment annually with any impairment losses recognized immediately in surplus or deficit.

**j) Inventories – IPSAS 12**

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

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

- Raw materials: purchase cost using the weighted average cost method

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- Finished goods and work in progress: cost of direct materials and labour and a proportion of manufacturing overheads based on the normal operating capacity, but excluding borrowing costs

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

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

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

**k) 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***

The Authority does not recognize a contingent liability, but discloses details of a possible obligation 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, unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

***Contingent assets***

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

**l) Nature and purpose of reserves**

The Authority creates and maintains reserves in terms of specific requirements. The Authority maintains general reserves to be used both for purchase of fixed assets and day to day operations of the Authority the details of which are shown in the statement of changes in net assets.

**m) 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.

**n) Employee benefits – IPSAS 25**

**Retirement benefit plans**

The Authority provides retirement benefits for its permanent and pensionable employees. Further an amount equivalent to 31% of basic salary is set aside as gratuity for all employees on contract. The Authority's contribution towards employee pension scheme and gratuity for those on contract is charged to the statement of financial performance in the year to which the employees rendered their services to the Authority. The Authority will have no legal or constructive obligation to pay further contributions if the fund does not hold sufficient assets to pay all employee benefits relating to employee service in the current and prior periods.

**o) Foreign currency transactions**

Transactions in foreign currencies are initially accounted for at the ruling rate of exchange on the date of the transaction. Trade creditors or debtors denominated in foreign currency are reported at the statement of financial position reporting date by applying the exchange rate on that date. Exchange differences arising from the settlement of creditors, or from the reporting of creditors at rates different from those at which they were initially recorded during the period, are recognized as income or expenses in the period in which they arise. The Authority did not have any foreign currency transactions in the financial year ended 30<sup>th</sup> June 2018.

**p) Borrowing costs**

Borrowing costs are capitalized against qualifying assets as part of property, plant and equipment. Such borrowing costs are capitalized over the period during which the asset is being acquired or constructed and borrowings have been incurred. Capitalization ceases when construction of the asset is complete. Further borrowing costs are charged to the statement of financial performance.

**q) Related Parties**

The Authority regards a related party as a person or an Authority with the ability to exert control individually or jointly, or to exercise significant influence over the Authority, or vice versa. Members of key management are regarded as related parties and comprise of the board members, Executive Director and Deputy Directors.

**r) Service Concession Arrangements**

The Authority analyses all aspects of service concession arrangements that it enters into in determining the appropriate accounting treatment and disclosure requirements. In particular, where a private party contributes an asset to the arrangement, the Authority recognizes that asset when, and only when, it controls or regulates the services the operator must provide together with the asset, to whom it must provide them, and at what price. In the case of assets other than 'whole-of-life' assets, it controls, through ownership, beneficial entitlement or otherwise – any significant residual interest in the asset at

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the end of the arrangement. Any assets so recognized are measured at their fair value. To the extent that an asset has been recognized, the Authority also recognizes a corresponding liability, adjusted by a cash consideration paid or received.

**s) 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 and petty cash outstanding from any of the Authority's branches.

**t) Comparative figures**

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

**u) Subsequent Events – IPSAS 14**

There have been no events subsequent to the financial year end with the significant impact on the financial statements for the year ended June 30, 2019.

## **5. SIGNIFICANT JUDGEMENTS AND SOURCES OF ESTIMATION UNCERTAINTY**

The preparation of the Authority's financial statements in conformity with IPSAS requires management to make judgments, estimates and assumptions that affect the reported amounts of revenues, expenses, assets and liabilities, and the disclosure of contingent liabilities, at the end of the reporting period. However, uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of the asset or liability affected in future periods.

In the process of applying the accounting policies, management makes judgments, estimates and assumptions about the carrying amounts of assets and liabilities within the next financial year. The estimates and associated assumptions are based on historical experience and other factors that are considered to be relevant. Actual results may differ from these estimates including expectations of future events that are believed to be reasonable under the circumstances.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognized in the period in which the estimate is revised if the revision only affects that period or in the period of the revision and future periods if the revision affects both current and future periods.

### **Key sources of estimation uncertainty**

The following are the key assumptions concerning the future, and other key sources of estimation uncertainty at the statement of financial position date that has a significant risk of causing material adjustment to the carrying amounts of assets and liabilities within the next financial year:

#### **Equipment**

Critical estimates are made by the Directors in determining depreciation rates of equipment.

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**Impairment**

At each statement of financial position date, the organization reviews the carrying amounts of its tangible assets to determine whether there is any indication that those assets have suffered an impairment loss. If any such indication exists, the recoverable amount of the asset is estimated in order to determine the extent of the impairment loss. Where it is not possible to estimate the recoverable amount of an individual asset, the organization estimates the recoverable amount of the cash generating unit to which the asset belongs.

**Provisions and contingent liabilities**

The Authority reviews its obligations at each balance sheet date to determine whether provisions need to be made and if there are any contingent liabilities.

*Estimates and assumptions*

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

*Useful lives and residual values*

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

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

**6. Transfers from government**

Description	2018-2019	2017-2018
	Kshs	Kshs
<b>Unconditional grants</b>		
Operational grant	374,844,436	395,402,000
Development grant	50,000,000	-
<b>Total government grants and subsidies</b>	<b>424,844,436</b>	<b>395,402,000</b>

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**7. Other Income**

<b>Description</b>	<b>2018-2019</b>	<b>2017-2018</b>
	<b>Kshs</b>	<b>Kshs</b>
Complaint Filling fees	5,478,522	3,446,954
Destruction and storage fees	15,995,672	9,627,071
Income from staff recoveries	19,325	-
Income from disposal of assets	-	44,642
<b>Total other income</b>	<b>21,493,519</b>	<b>13,118,667</b>

**8. Employee Costs**

<b>Description</b>	<b>2018-2019</b>	<b>2017-2018</b>
	<b>Kshs</b>	<b>Kshs</b>
Salaries and wages	159,578,997	135,602,290
Employee related costs - contributions to pensions, NSSF and medical aids	31,533,339	24,656,296
Casuals and interns	1,991,391	1,710,861
Employee related costs - contributions to staff gratuity	1,613,413	1,613,412
<b>Employee costs</b>	<b>194,717,140</b>	<b>163,582,859</b>

**9. Remuneration of Directors**

<b>Description</b>	<b>2018-2019</b>	<b>2017-2018</b>
	<b>Kshs</b>	<b>Kshs</b>
Board committees conferences and seminars	762,650	-
Directors emoluments	5,784,001	2,017,400
Other allowances	3,825,592	621,474
Chair's Honoraria	1,013,129	-
<b>Total director emoluments</b>	<b>11,385,372</b>	<b>2,638,874</b>

**10. Depreciation and amortization expense**

<b>Description</b>	<b>2018-2019</b>	<b>2017-2018</b>
	<b>Kshs</b>	<b>Kshs</b>
Property, plant and equipment	27,790,349	20,649,230
Intangible assets	1,288,948	2,049,503
Depreciation govt. grant restatement	(500,000)	(1,482,688)
<b>Total depreciation and amortization</b>	<b>28,579,297</b>	<b>21,216,045</b>

**11. Repairs and Maintenance**

<b>Description</b>	<b>2018-2019</b>	<b>2017-2018</b>
	<b>Kshs</b>	<b>Kshs</b>
Buildings and stations	36,610	-
Vehicles and Cycles	4,347,182	1,666,207

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Furniture and Equipment	186,100	792,796
Computers and accessories	349,022	505,952
Communication Equipment	22,840	366,480
<b>Total repairs and maintenance</b>	<b>4,941,754</b>	<b>3,331,435</b>

**12. General Expenses**

Description	2018-2019	2017-2018
	Kshs	Kshs
Communication supplies and services	3,403,297	1,945,299
Printing, advertising and services	5,435,648	2,207,404
Domestic travel and daily subsistence allowance	19,360,540	7,707,305
Foreign travel and daily subsistence allowance	5,829,781	2,699,230
Audit fees	522,000	600,000
Hospitalities and services	2,393,441	1,931,703
Professional and consultancy services	5,741,355	2,607,938
Promotional activities	21,215,868	3,324,386
Office and General supplies/services	4,228,908	3,273,487
Electricity	1,452,517	95,512
Fuel, oil and lubricants	4,283,298	2,560,500
General Insurance	1,624,763	1,514,052
Bank & Mpesa charges	208,565	111,478
Destruction charges	1,656,266	2,268,227
Transport cost- for seized goods	183,420	268,219
Research	4,225,060	2,131,590
Rental	24,996,178	20,846,720
Security costs	1,682,000	1,688,960
Parking charges	699,057	521,764
Membership and subscription fees	1,414,338	277,313
Training	16,013,645	2,335,965
<b>Total general expenses</b>	<b>126,569,945</b>	<b>60,917,052</b>

**13. Cash and cash equivalents**

Description	2018-2019	2017-2018
	Kshs	Kshs
Current account –KCB Main Account	207,794,465	247,426,085
KCB Revenue Account	19,169,112	10,930,735
KCB Development Account	108,489,803	9,850,550
MPESA Bulk Payment Account	307,568	-

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Petty cash Kisumu	-	6,000
<b>Total cash and cash equivalents</b>	<b>335,760,948</b>	<b>268,213,370</b>

14. Receivables from non - exchange contracts

Description	2018-2019	2017-2018
	Kshs	Kshs
<b>Prepayments</b>		
Medical insurance	5,697,270	3,336,472
Rent	3,833,950	71,043
Group Insurance	295,967	282,810
Parking	280,000	
General Insurance	597,594	520,981
Withholding Tax	33,944	
<b>Other</b>		
Staff Imprests	516,400	99,000
<b>Total current receivables</b>	<b>11,255,125</b>	<b>4,310,306</b>

15. Inventories

Description	2018-2019	2017-2018
	Kshs	Kshs
Consumable stores	3,767,291	1,194,773
<b>Total inventories at the lower of cost and net realizable value</b>	<b>3,767,291</b>	<b>1,194,773</b>

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**16. Property, Plant and Equipment**

	Motor vehicles	Furniture and fittings	Computers	Office Equipment	Leasehold Improvement	Total
Cost	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs
At 30 <sup>th</sup> June 2017	81,921,909	28,920,106	12,042,370	14,822,475	35,355,646	173,062,506
Additions	4,815,000	96,000	2,819,470	352,998	1,634,950	9,718,418
<b>At 30<sup>th</sup> June 2018</b>	<b>86,736,909</b>	<b>29,016,106</b>	<b>14,861,840</b>	<b>15,175,473</b>	<b>36,990,596</b>	<b>182,780,924</b>
Additions	24,266,567	4,331,476	8,516,000	1,623,229	900,000	39,637,272
<b>At 30<sup>th</sup> June 2019</b>	<b>111,003,476</b>	<b>33,347,582</b>	<b>23,377,840</b>	<b>16,798,702</b>	<b>37,890,596</b>	<b>222,418,196</b>
<b>Depreciation</b>						
At 30 June 2017	(61,321,799)	(18,842,224)	(11,346,094)	(9,827,590)	(18,226,882)	(119,564,589)
Depreciation	(9,515,726)	(3,627,013)	(1,749,525)	(1,896,934)	(3,860,032)	(20,649,230)
<b>At 30<sup>th</sup> June 2018</b>	<b>(70,837,525)</b>	<b>(22,469,237)</b>	<b>(13,095,619)</b>	<b>(11,724,524)</b>	<b>(22,086,914)</b>	<b>(140,213,819)</b>
Depreciation	(15,582,367)	(2,455,077)	(3,762,325)	(1,240,791)	(4,749,789)	(27,790,349)
<b>At 30<sup>th</sup> June 2019</b>	<b>(86,419,893)</b>	<b>(24,924,314)</b>	<b>(16,857,943)</b>	<b>(12,965,315)</b>	<b>(26,836,703)</b>	<b>(168,004,168)</b>
<b>Net book values</b>						
At 30 <sup>th</sup> June 2019	<b>24,583,583</b>	<b>8,423,268</b>	<b>6,519,896</b>	<b>3,833,387</b>	<b>11,053,893</b>	<b>54,414,027</b>
At 30 <sup>th</sup> June 2018	15,899,384	6,546,869	1,766,221	3,450,949	14,903,681	42,567,105

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**17. Intangible assets – software**

Description	2018-2019	2017-2018
	Kshs	Kshs
<b>Cost</b>		
At beginning of the year	11,839,700	9,377,688
Additions	115,000	2,462,012
<b>At end of the year</b>	<b>11,954,700</b>	<b>11,839,700</b>
Additions–internal development	-	-
<b>At end of the year</b>	<b>11,954,700</b>	<b>11,839,700</b>
<b>Amortization and impairment</b>		
At beginning of the year	9,666,558	7,617,055
Amortization	1,288,948	2,049,503
<b>At end of the year</b>	<b>10,955,507</b>	<b>9,666,558</b>
<b>NBV</b>	<b>999,193</b>	<b>2,173,142</b>

**18. Trade and other Payables from exchange transactions**

Description	2018-2019	2017-2018
	Kshs	Kshs
Trade payables	12,713,536	6,437,887
<b>Total trade and other payables</b>	<b>12,713,536</b>	<b>6,437,887</b>

**19. Staff Gratuity**

Description	2018-2019	2017-2018
	Kshs	Kshs
Staff gratuity b/d	1,943,648	330,236
Gratuity for the year	1,613,413	1,613,412
<b>Total staff gratuity</b>	<b>3,557,061</b>	<b>1,943,648</b>

**20. Net Pay**

Description	2018-2019	2017-2018
	Kshs	Kshs
Tobias Korir	49,363	-
Michael Aremon	64,536	-
<b>Total Net Pay</b>	<b>113,899</b>	<b>-</b>

These are unpaid terminal dues for staff who had not yet cleared with the Authority by the end of the financial year.

**21. Ministry of Public Service**

Description	2018-2019	2017-2018
	Kshs	Kshs
Training Levy	90,482	-
<b>Total Ministry of Public Service</b>	<b>90,482</b>	<b>-</b>

## 22. Financial Risk Management

The Authority's activities expose it to a variety of financial risks including credit and liquidity risks and effects of changes in foreign currency. The Authority's overall risk management programme focuses on unpredictability of changes in the business environment and seeks to minimise the potential adverse effect of such risks on its performance by setting acceptable levels of risk. The Authority does not hedge any risks and has in place policies to ensure that credit is only extended to customers with an established credit history.

The company's financial risk management objectives and policies are detailed below:

### (i) Credit risk

The Authority has exposure to credit risk, which is the risk that a counterparty will be unable to pay amounts in full when due. Credit risk arises from cash and cash equivalents, and deposits with banks, as well as other receivables (staff imprests).

Management assesses the credit quality of each customer, taking into account its financial position, past experience and other factors. Individual risk limits are set based on internal or external assessment in accordance with limits set by the directors. The amounts presented in the statement of financial position are net of allowances for doubtful receivables, estimated by the Authority's management based on prior experience and their assessment of the current economic environment.

The carrying amount of financial assets recorded in the financial statements representing the Authority's maximum exposure to credit risk without taking account of the value of any collateral obtained is made up as follows:

	<b>Total amount Kshs</b>	<b>Fully performing Kshs</b>	<b>Past due Kshs</b>
<b>At 30 June 2019</b>			
Receivables from non-exchange transactions	11,255,125	11,255,125	-
Bank balances	335,760,949	335,760,949	-
<b>Total</b>	<b>347,016,074</b>	<b>347,016,074</b>	<b>-</b>
<b>At 30 June 2018</b>			
Receivables from non-exchange transactions	4,310,306	4,211,306	99,000
Bank balances	268,213,370	268,207,370	6,000
<b>Total</b>	<b>272,523,676</b>	<b>272,418,676</b>	<b>105,000</b>

The customers under the fully performing category are paying their debts as they continue trading. The credit risk associated with these receivables is minimal and the allowance for uncollectible amounts that the company has recognised in the financial statements is considered adequate to cover any potentially irrecoverable amounts.

The Authority has significant concentration of credit risk on amounts due from staff imprests.

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	Less than 1 month	Between 1-3 months	Over 5 months	Total
	Kshs	Kshs	Kshs	Kshs
<b>At 30 June 2019</b>				
Trade payables	11,067,099	-	1,646,437	12,713,536
Employee benefit obligation	3,557,061	-	-	3,557,061
<b>Total</b>	<b>14,624,160</b>	<b>-</b>	<b>1,646,437</b>	<b>16,270,597</b>
<b>At 30 June 2018</b>				
Trade payables	4,040,560	232,790	2,164,537	6,437,887
Employee benefit obligation	1,943,649	-	-	1,943,649
<b>Total</b>	<b>5,984,209</b>	<b>232,790</b>	<b>2,164,537</b>	<b>8,381,536</b>

The board of directors sets the Authority's credit policies and objectives and lays down parameters within which the various aspects of credit risk management are operated.

**(ii) Liquidity risk management**

Ultimate responsibility for liquidity risk management rests with the Authority's directors, who have built an appropriate liquidity risk management framework for the management of the Authority's short, medium and long-term funding and liquidity management requirements. The Authority manages liquidity risk through continuous monitoring of forecasts and actual cash flows.

The table below represents cash flows payable by the Authority under non-derivative financial liabilities by their remaining contractual maturities at the reporting date. The amounts disclosed in the table are the contractual undiscounted cash flows. Balances due within 12 months equal their carrying balances, as the impact of discounting is not significant.

**(iii) Market risk**

The board has put in place an internal audit function to assist it in assessing the risk faced by the Authority on an ongoing basis, evaluate and test the design and effectiveness of its internal accounting and operational controls.

Market risk is the risk arising from changes in market prices, such as interest rate, equity prices and foreign exchange rates which will affect the Authority's income or the value of its holding of financial instruments. The objective of market risk management is to manage and control market risk exposures within acceptable parameters, while optimising the return. Overall responsibility for managing market risk rests with the Audit and Risk Management Committee.

The Authority's Finance Department is responsible for the development of detailed risk management policies (subject to review and approval by Audit and Risk Management Committee) and for the day to day implementation of those policies.

There has been no change to the Authority's exposure to market risks or the manner in which it manages and measures the risk.

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**a. Foreign currency risk**

The Authority has transactional currency exposures. Such exposure arises through complaint and fees received from clients that are done in currencies other than the local currency. Invoices denominated in foreign currencies are paid after the date of the invoice and conversion at the time of payment is done using the prevailing exchange rate.

The Authority did not have a carrying amount of foreign currency denominated monetary assets and monetary liabilities during the financial year 2017/2018.

**b. Interest rate risk**

Interest rate risk is the risk that the Authority's financial condition may be adversely affected as a result of changes in interest rate levels. The Authority's interest rate risk arises from bank deposits. This exposes the company to cash flow interest rate risk. The interest rate risk exposure arises mainly from interest rate movements on the company's deposits.

*Management of interest rate risk*

To manage the interest rate risk, management has endeavoured to bank with institutions that offer favourable interest rates.

*Sensitivity analysis*

The Authority analyses its interest rate exposure on a dynamic basis by conducting a sensitivity analysis. This involves determining the impact on profit or loss of defined rate shifts. The sensitivity analysis for interest rate risk assumes that all other variables, in particular foreign exchange rates, remain constant. The analysis has been performed on the same basis as the prior year and the Authority faced no major interest rate risk during the financial period under review.

**(iv) Capital Risk Management**

The objective of the Authority's capital risk management is to safeguard the Board's ability to continue as a going concern. The Authority capital structure comprises of the following funds:

	2018-2019		2017-2018
	Kshs		Kshs
Accumulated Fund	115,874,996		116,374,996
Revaluation reserve	15,904,628		15,904,628
Retained earnings	195,659,218		165,310,389
Capital reserve	62,500,000		12,500,000
Total funds	389,938,842		310,090,013
Total borrowings	-		-
Less: cash and bank balances	(335,760,949)		(268,213,370)
Net debt/(excess cash and cash equivalents)	54,177,893		41,876,643

**23. Related Party Balances**

**a) Nature of related party relationships**

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Entities and other parties related to the Authority include those parties who have ability to exercise control or exercise significant influence over its operating and financial decisions. Related parties include management personnel, their associates and close family members.

The Authority is related to

- i) The National Government;
- ii) The Ministry of Industry, Trade and Cooperatives;
- iii) Key management;
- iv) Board of directors;

**b) Related party transactions**

The following transactions were carried out with related parties.

	2019 Kshs	2018 Kshs
Transfers from GOK	424,844,436	395,402,000
Transfers to related parties	-	-
	<b>424,844,436</b>	<b>395,402,000</b>

**c) Key management remuneration**

	2019 Kshs	2018 Kshs
Directors'	5,784,001	2,017,400
Key management compensation	39,691,178	20,665,588
	<b>45,475,179</b>	<b>22,682,988</b>

**24. Events after the reporting period**

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

**25. Contingent Liability**

The Authority had pending lawsuits which relate to legal claims by suspected counterfeiters as follows:

A consignment of ink and toner cartridges valued at Kshs 4,761,600 was lost at the Kyang'ombe depot and the owner of the seized goods M/s Toner Mart Technologies had sued the Authority. Judgment in respect of this case was determined and the Authority was ordered to pay Kshs 7,500,000 to M/s Toner Mart Technologies. These amounts have not been provided for in these financial statements.

James Kimani Mwangi of Ms SWEPCO Ltd has sued the Authority for damages after the court ruled that he had no case to answer in a case where the Authority had charged him with four counts of having in his possession in the course of trade, counterfeit goods contrary to section 32(a) as read with section 35(1) of the Anti-Counterfeit Act, 2008. Judgment in respect of this case had not been determined as at June 30, 2018. The amounts have not been provided for in these financial statements as it was not possible to accurately quantify the potential liability arising from this case.

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The Authority entered into a contract for legal services with Sichangi Partners Advocates. The Authority instructed Sichangi Partners to represent it on various legal cases that were in court involving the Authority. Sichangi Partners Advocates billed the Authority Kshs. 8,550,500. Out of this amount the Attorney General had granted approval of one matter, petition No. 55 of 2015 for Kshs. 850,500. The Authority has so far paid Kshs. 850,500. The balance of the invoices amounting to Kshs. 7,700,00.00 is yet to be settled as the matter is actively being investigated by the Ethics and Anti-Corruption Commission.

#### 26. Taxation

The Authority is tax exempt by an Act of Parliament.

#### 27. Capital Commitments

<b>Capital commitments</b>	<b>2018-2019</b>	<b>2017-2018</b>
	<b>Kshs</b>	<b>Kshs</b>
Authorised for	62,500,000	-
Authorised and contracted for	-	-
<b>Total</b>	<b>62,500,000</b>	<b>-</b>

The Authority committed KES 62.5M for the acquisition of go down.

#### 28. Events after the reporting period

There were no material adjusting and non-adjusting events after the reporting period.

#### 29. Ultimate and Holding Authority


The Authority is a State Corporation under the Ministry of Industry, Trade and Cooperatives. Its ultimate parent is the Government of Kenya.

#### 30. Currency

The financial statements are presented in Kenya Shillings (Kshs).

**XVII. Appendix I: PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS**

There were no key audit matters in the Audited Financial Statements for the year ended June 30, 2018.

  
Executive Director

Date.....

18/6/2020

  
Chairperson of the Board

Date.....

19/6/2020

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**XVIII. Appendix II: INTER-ENTITY TRANSFERS**

<b>ENTITY NAME:</b>		<b>ANTI COUNTERFEIT AUTHORITY</b>		
<b>Break down of Transfers from the State Department of Industry</b>				
<b>FY 2018/2019</b>				
a. Recurrent Grants				
		<u>Bank Statement Date</u>	<u>Amount (Kshs)</u>	<u>Indicate the FY to which the amounts relate</u>
		28.09.18	95,623,580	2018/2019
		31.01.19	91,798,638	2018/2019
		14.05.19	187,422,218	2018/2019
		<b>Total</b>	<b>374,844,436</b>	
b. Development Grants				
		25.02.19	25,000,000	2018/2019
		30.04.19	12,500,000	2018/2019
		20.05.19	12,500,000	2018/2019
		<b>Total</b>	<b>50,000,000</b>	

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

Manager Finance & Accounts  
 Anti-Counterfeit Authority

Head of Accounting Unit  
 State Department of Trade

Sign

P. Mumbura

Sign-----