

COMPETITION AUTHORITY OF KENYA



RETAIL MARKET INQUIRY REPORT

30th June 2017



EXECUTIVE SUMMARY

Retail trade plays a key role in the economy by supporting the whole trade sector through availing goods and services to the end users in volumes, quantities or packaging that the consumers prefer. Combined with Wholesale trade, it accounts for about 8% of GDP and provides ten (10%) percent of formal employment opportunities and income generation for the population who are directly or indirectly employed in the subsector. Further, it provides entrepreneurial opportunity for Micro, Small and Medium Enterprises (MSMEs) given the ease of entry. The sector supports many families making it one of the leading sources of economic livelihoods in both urban and rural areas

The Kenya's economic blueprint, the Vision 2030, identified and earmarked wholesale and retail trade as key drivers of rapid economic growth and development. It is projected that the Kenya retail which is the second most developed after South Africa is to experience an upward trend. The characteristic nature of the sector has made it more attractive to international supermarkets chains including French Carrefour, Botswana's Choppies, and Game.

Despite the gains realized in the sector, it has experienced various challenges in regards to: market allocation; buyer power (delayed payments approximately Ksh. 40 billion and shelf allocation own brands/private labels); consumer protection concerns specifically dual pricing, sale of unsafe/expired goods, failure to honor warranties.

In efforts to have a better understanding of the sector and promote competition in the sector, the Authority conducted a market inquiry in the retail sector. The inquiry focused on identifying and mitigating any anti-competitive firm conduct, competition constraint





and consumer protection. Specifically, the inquiry aimed at: assessing the effect of government regulations on the retail sector; evaluating the value chain in the sector; appraising the level of competition in the sector and determining the barriers to entry, if any; evaluating the market conduct in the retail sector and shopping patterns of consumers; identifying conduct in the retail sector that may lead to abuse of buyer power; Assessing the impact of private label products; and Identifying consumer protection issues within the sector.

The inquiry findings pointed out the following: existence of abuse of buyer power by the dominant retail chains which is exercised through delayed payments to suppliers, shelf allocation and selling of own brands. Second, presence consumer protection issues including dual pricing where shelf prices differ with till prices, failure to honor warranties and sale of expired/unsafe goods by supermarkets chains.

The concern of delayed payment to suppliers is estimated to grossly impact in the economy, this is through the high mortality of SMEs due to their inability to buy or pay for their inputs. Further, the families that are dependent on SMEs for their livelihood are likely to fall into the poverty trap. A more worrying likely outcome of delayed payment is the closure of supermarket branches due to lack of stock as suppliers have discontinued supplies hence loss of jobs. The preference given to own brand/private label in shelf allocation displaces other brand thereby narrowing their market. The consequence of which is a possibility of collapse or downsizing of such supplier firms. In addition, consumer choices are also likely to be limited in the long run. All these points to unfair competition unlike when shelf space were allocated in a FRAND manner.





In tackling the above concerns in the sector, the inquiry proposes a number of recommendations, however, it advocates for pursuing of the following: Developing rules and regulations that govern the retail sector specifically in regard to payment of suppliers; The Authority to oversee self-regulation of the retail sector; The Authority in collaboration with the Department of Trade to step in and regulate the sector if self-regulation fails; Penalties and fines to be clearly spelt out and enforced on retailers who are culpable of dual pricing practices; Further, investigate how supermarkets address consumer complaints; Enforce penalties on retailers found to be trading in expired goods/ unsafe goods and those who fail to honor warranties; and the Authority to work in collaboration with Anti-counterfeit Agency and Kenya Bureau of Standards to ensure that consumers are protected.





PREFACE

The Competition Authority of Kenya (the Authority) is a State Corporation established by Section 7 of the Competition Act, No.12 of 2010 (the Act) of the Laws of Kenya, to enhance the welfare of the people of Kenya by promoting and protecting effective competition in markets and preventing unfair and misleading market conduct. The Act under Section 18 (1) gives the Authority power to conduct an inquiry or a sectoral study where it considers necessary or desirable for the purpose of carrying out its functions, or upon a direction by the Minister in writing to the Authority, requiring it to conduct an inquiry or a sectoral study into a matter specified in the direction.

The Authority undertakes inquiries into various sectors with the aim of gathering relevant and up-to-date information on competition and consumer protection matters.

This inquiry into the retail sector was limited to supermarkets, their supplies and their consumers. To this end, the Authority interviewed suppliers, retailers and consumers to gain insights into the state of affairs with regard to competition concerns. Of the 47 countries, the inquiry was able to capture views of the retail sector key players in 21 counties in order to have a countrywide perspective of competition and consumer concerns in the retail sector.





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ABBREVIATIONS

ACCC	Australian Competition & Consumer Commission
AGOA	African Growth and Opportunity Act
CAK	Competition Authority of Kenya
CBD	Central Business District
CCRED	Centre for Competition Regulation and Economic Development
CMA	Competition Market Authority (of the UK)
CGSB	Canadian General Standards Board
CPI	Consumer Price Index
EOI	Export Oriented Industrialization
EDLP	Every Day Low Pricing
GDP	Gross Domestic Product
GoK	Government of Kenya
GNDI	Gross National Disposable Income
KRA	Kenya Revenue Authority
KVI	Known Value Items
KIPPRA	Kenya Institute of Public Policy Research & Analysis
OFT	Office of Fair Trading
UON	University of Nairobi
RMI	Retail Market Inquiry
ISI	Import Substitution Industrialization
ISO	International Standards of Organization
KNBS	Kenya National Bureau of Statistics
KEBS	Kenya Bureau of Standards





OECD	Organization for Economic Co-operation and Development
PLB	Private Label Brands
UK	United Kingdom
UN	United Nations
USA	United States of America
SABS	South African Bureau of Standards
SSNIP	Small but Significant and Non-Transitory Increase in Price
SME	Small & Medium Enterprise
WTO	World Trade Organization
KNTC	Kenya National Trading Corporation Limited
MSEA	Micro and Small Enterprise Authority
KenInvest	Kenya Investment Authority
EPC	Export Promotion Council
KenTrade	Trade Network Agency
EPZA	Export Processing Zone Authority
KEPHIS	Kenya Plant Health Inspectorate Services
KIPI	Kenya Industrial Property Institute
POS	Point Of sale
W&M	(Department of) Weights and Measures
USD	United States Dollar
P&G	Proctor and Gamble





GLOSSARY

County – A political and administrative unit under the Kenyan County Government.

Constitution – Written supreme laws governing the country.

Competition Authority of Kenya – The Authority that regulates competition.

Kiosk – a small shop where basic necessities are sold

Branded retail – Stores that have a common and unique identification

Non-branded retail – Stores that do not have a single brand identity

The Competition Act No. 12 of 2010 – The legislation on which the Authority is founded

Soko – an open air market where buyers and sellers meet for trade.

Mitumba – Second-hand products for sale.

Mpesa – Local mobile money transfer platform owned by Safaricom





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CHAPTER 1: BACKGROUND

1.1 Introduction

Retailing, according to OECD, is the selling of goods to customers for personal or household use. It involves the re-sale (sale without transformation) of new and used goods to the general public for household or personal consumption or utilization. Retail markets have been in existence from ancient times, and have undergone major evolution from the initial markets characterized by exchange of products that was done in unorganized open air markets to the current online shopping. The retail market comprises of branded and non-branded stores with the players being the retailers, suppliers and the consumers.

Globally, the sector has expanded tremendously and this could be attributed to the increase in disposable income and the rise of lifestyle shoppers. Regionally, the retail sector is experiencing an upward trend with most retail outlets acting as anchor tenants for new malls. Over the past decades, the rise of the middle class and the rapid economic growth in East Africa economies has brought about significant changes in the business environment that have impacted positively on the retail sector.

As a result there has been a shift from the previous outdoor markets and over-the-counter stores, to the now famous shopping in branded and non-branded supermarket and wholesale stores. These changes have been experienced in Kenya and its neighbors (Johanneson, 2010).



1.1.1 Retail Sector in Kenya

Kenya has one of the fastest growing retail markets in Africa and comprise of both organized and unorganized retail trade. The sector is a key pillar to economic growth and development accounting for approximately eight percent (8%) of the GDP, ten percent (10%) of formal employment and approximately fifty nine percent (59%) of employment in the informal sector.

The growth in the Kenyan retail sector can be linked to the emergence of the middle-class consumers who demand more than the usual groceries. The traditional retailers therefore have had to change store stocks from groceries to non-grocery items to meet this new demand from consumers. Another key market driver has been increasing demand for accessibility, with consumers looking for 'one-stop shops' where they can get everything they need in one place (Euro monitor, 2016).

Proctor and Gamble (P&G) 2017, indicated that the Kenyan Retail sector grew by thirteen percent (13%) in 2016, with expenditure amounting to Kenya shillings 1.8 trillion (USD 17.6 billion). The largest portion of the sector expenditure was attributed to traditional retail outlets at sixty seven percent (67%), followed by supermarkets at thirty percent (30%) and three percent (3%) for special channels like e-commerce.

The retail chain stores (supermarkets) comprises of the local stores owned by national chains; local stores owned by local chains; independent stores; national franchise and; regional/local franchise. The chain stores are made up of well-established local firms operating countrywide such as; Nakumatt, Uchumi, Tuskys and Naivas. Other players



who are expanding and operating with more than one branch forming part of this supermarket segment which includes Chandarana, Maathai, Mulley & Sons, GreenMart, Quickmart, Khetias, among others. International entrants includes Choppies, Carrefour and Game (Oxford Business Group, 2017).

1.2 Challenges in the retail sector in Kenya

Despite the remarkable growth witnessed in the retail sector, it has faced a number of challenges in regard to competition and consumer protection. Key amongst them includes:

- (a) **Abuse of buyer power:** This is argued to have resulted in delayed payments (payments made after the agreed or laid down trade credit period) by supermarkets to their suppliers as supermarkets dictate when to make payments for goods supplied. Late payment of commercial debt is likely to play a significant role in the survival of firms as their liquidity can be severely affected, even forcing some firms to exit the market. The consequence of which is high mortality of SMEs due to inability to purchase, pay for inputs and service loans. Further, households whose livelihoods is dependent on the sector are likely to fall back into the poverty trap thus impacting negatively on the gains on economic growth in the country (Connell, 2014)
- (b) **Market allocation:** the retail sector is seen to be experiencing challenges in regards to market allocation. This is viewed to occur in the form of shelf allocation, shelf stock limits and selling of own brand/private labels. The major retail chains do

allocate shelf to different suppliers unfairly hence extinguishing competition between the suppliers. In addition, own brand are favored in the allocation of shelf hence reducing the market for other brands in the retail chains. The effect of which is downsizing of such suppliers if not complete closure. These practices are signals of restrictions to competition in the sector which if not addressed would lead to entrenchment of anticompetitive practices in the retail sector leading to downward trend in the trade sector and the economy at large.

- (c) **The nature of the agreements.** The contractual agreements between retailers and their suppliers tend to be in favor of retailers given that suppliers have limited option of where to supply their products in the retail sector. Most suppliers therefore have to take the agreements as given by the retailers. In situations where retailers failure to honour the contractual agreements, suppliers have limited options but to continue supplying the retailers with products.
- (d) **Consumer protection concerns:** The sector continues to record various challenges in this area. These include: dual pricing, stocking of expired\unsafe goods, product labeling, failure to honor warranties, handling consumers complaints, and return policy among others. The existence of the above practices is against various provisions that entitles consumers to certain rights.

1.3 Objectives of the Inquiry

In order to have a deeper understanding of the retail sector and propose workable solutions aimed at promoting competition and growth in the sector, an inquiry was

conducted. Broadly the inquiry was to identify and mitigate against any anti-competitive conduct, competition constraint and consumer protection issues in the sector. The specific objectives were to:

- i. Identify conduct in the retail sector that may lead to abuse of buyer power;
- ii. Identify consumer protection issues within the sector;
- iii. Assess the impact of private label products;
- iv. Appraise the level of competition in the sector and determine the barriers to entry, if any;
- v. Evaluate the market conduct in the retail sector and shopping patterns of consumers;
- vi. Assess the effect of government regulations on the retail sector.

1.4 Scope of the inquiry

The inquiry focused on the branded retail chains, their suppliers and supermarket customers/consumers This inquiry targeted the retail chains (supermarkets) with highest footprint including; Nakumatt Holdings Ltd, Tuskys Ltd, Uchumi Ltd, Naivas, Choppies, Ukwala Ltd and other branded retail chain/stores.

There were 21 counties covered out of the total 47 during the inquiry. The counties were; Nairobi, Kajiado, Nyeri, Kiambu, Meru, Embu, Laikipia, Kisii, Kisumu, Trans-Nzoia, Uasin-Gishu, Kericho, Kakamega, Mombasa, Kwale, Kilifi, Taita/Taveta, Machakos, Nakuru and Bungoma. All the major towns in these counties were sampled culminating into one thousand six hundred and thirty-seven (1637) consumers, one hundred and twenty eight (128) retailers and twenty eight (28) suppliers interviews.

1.5 Outline of the inquiry report.

The report is organised as follows, chapter two presents the methodology while chapter three discusses the legal and regulatory framework in the retail sector. Chapter four and five examine the structure of the retail industry in Kenya and the nature of competition in the sector respectively while chapter six presents the market conduct and the geographical patterns of the consumer in the sector.

Chapter seven discusses on buyer power. The impact of branded products and private labels are discussed in chapter eight while the consumer protection issues are examined in chapter nine. Summary of the findings, recommendations and conclusions are presented in chapter ten.



CHAPTER 2: METHODOLOGY

To address the set objectives, this inquiry implemented a representative survey. The details of the survey design are discussed in the subsequent sub-sections.

1.6 Sample design and survey coverage

This sub-section discusses the target population, the sampling frames, sample sizes, data collection tools, data collection procedure, data analysis and the report writing process. The inquiry targeted branded local, regional and national retail chains, suppliers of branded retail chains and the shoppers/consumers at supermarkets. The supermarkets and shoppers were selected at the county level with the inquiry covering 25 out of the 47 counties.

1.7 Sample Size and Allocation

A sample of 130 supermarkets, 100 suppliers and 1,280 consumers/shoppers were estimated for the survey. The sample was distributed to the major counties and was sufficient representation of the 47 counties: towns were selected based on parameters determined to be key trade indicators. These were; population size, existence of a hub city in the county, towns on the trade corridor, towns within 100kms to Kenya's three (3) main cities, infrastructure quality and number of economic activities in the towns.

Table 2.1 shows the distribution of the sample to the counties.



Table 0.1: Distribution of the Retail Sector Survey Sample

S/no	County	Consumers/Shoppers
1	Nairobi	151
2	Kajiado	26
3	Nyeri	70
4	Kiambu	113
5	Meru	74
6	Embu	59
7	Laikipia	55
8	Kisii	104
9	Narok	43
10	Kisumu	67
11	Trans-Nzoia	48
12	Uasin Gishu	63
13	Kericho	61
14	Kakamega	56
15	Mombasa	123
16	Kwale	56
17	Kilifi	112
18	Taita/Taveta	48
19	Machakos	80
20	Nakuru	156
21	Bungoma	72
	Total	1637

2.2.2. Supermarket Sampling Frame, Sample Size and Allocation.

From each county, a random sample of all the supermarkets within the major towns were selected purposively. The purposive sampling method was adopted as it enables the distribution of the sample across the cluster evenly and yields good estimates for the population parameters. The inquiry categorized the supermarkets as national, local and regional chains. From the sample used, the findings are illustrated in table 2.2.

Table 0.2: Sampled geographical distribution of supermarkets in Kenya

Category	Market Percentage
National Supermarket Chains	58.6%
Regional Supermarket Chains	14.7%
Local Supermarket Chains	26.74%

During data collection, there was allowance for replacement of non-responsive supermarkets and also to interview new supermarkets that were not in the initial list in order to cover a variety of supermarkets given that most of the national retail chains had the highest footprint in major towns.

2.2.3 Consumer Sampling Frame, Sample Size and Allocation.

The target consumer population was 1,280. In each selected supermarket, a uniform sample of at least ten (10) consumers/shoppers were randomly selected and interviewed. The consumers were interviewed at different times of the day (three in the morning, lunch-time and evening). This was to enable the inquiry capture different shopping

patterns of consumers/shoppers at different times of the day. For data reliability there were provisions to replace consumers who left the interview before completion.

2.2.4 Supplier Sampling Frame, Sample Size and Allocation

The sampling frame for the suppliers was the list of all supplier organizations which was obtained from the supermarket headquarters. The sampling frame was categorized by type of product the suppliers deal-in such as dairy, vegetables and fruit, Staples, detergents and toiletries, electronics, beauty and cosmetic products.

A sample size of 100 suppliers had been estimated to be sufficient to provide the reliable estimates for the desired indicators. This sample was drawn purposively and was arrived after taking into consideration the fact that the big suppliers for the major supermarkets are the same in almost all regions.

2.2.5 Survey Instruments / Data collection tools

Quantitative research employed structured questionnaires which were administered to the consumers, retailers and suppliers. The structured quantitative questionnaire had a mix of both open and closed-ended questions.

Information was also gathered based on the secondary data. Summary of information captured through the various tools is presented in Table 2.3.

Table 0.3: Summary of data collected by instrument type

Instrument	Type of data collected
1.Consumer Questionnaire	<ul style="list-style-type: none"> (i) Shopping patterns/ Consumer behaviours. (ii) Consumer information (product labeling, receipts and warranties. (iii) Consumer issues with supermarkets.
2.Retailer Questionnaire	<ul style="list-style-type: none"> (i) Supermarket profile. (ii) Selection of supplier by Supermarkets. (iii) Supplier contracts with supermarkets. (iv) Managing supplier contracts. (v) Competitive advantage of retail stores. (vi) Returns and customer service. (vii) Role of Government and institutions.
3.Supplier Questionnaire	<ul style="list-style-type: none"> (i) Supplier profile. (ii) Business Operations. (iii) Supermarkets and Legal Requirement from Suppliers. (iv) Issues with supermarkets and market entry.

2.2.6 Data Collection, Processing and Analysis

The data collection phase was conducted in the months of March to May 2017 using the questionnaires as the main data collection instrument. Pre-tests were undertaken within the Nairobi’s CBD on 18th March 2017 while the actual exercise commenced on 22nd March 2017 and ended on 5th May 2017.

Table 0.4: Data collection results

S/no	Instrument	Data Targeted	Data Collected
1	Consumers	1200	1637
2	Suppliers	100	24
3	Retailers	128	130
	Total	1428	1801

There were provisions for replacement of incomplete interviews to ensure more respondents. However, suppliers target was not achieved due to the difficulty of securing appointments with supplies coupled by the fact that most suppliers were mobile.

Data collected from the fieldwork was processed soon after the fieldwork was finalized. Instrument templates were edited and then data captured using SPSS software. All entered data was checked for consistency and verified before the analysis.



CHAPTER 3: LEGAL, POLICY AND REGULATORY FRAMEWORK IN THE KENYAN RETAIL SECTOR

This chapter discusses the legal and regulatory framework in the Kenyan that are relevant to the retail sector. There are multiple laws and regulations in Kenya's trading sector that apply and affect the retail sector. However, there are none that are specific to the sector.

3.1 Legal Issues Affecting the Retail Sector

The retail sector is governed by the legal framework embodied in the Constitution of Kenya 2010, statutory laws and other policies. The legal issues affecting the retail sector border on compliance with the existing laws and abiding by the regulatory framework requirements.

1.8 Constitution of Kenya

The Fourth Schedule of the Constitution recognizes international trade, public investment and consumer protection as the role of the national government.

The Constitution also recognizes and protects consumers as the final purchaser of goods and services in the retail sector under Article 46. Every consumer in the Kenyan retail sector has a right to goods and services of reasonable quality. Every retailer must ensure that the goods it sells to the consumer are of reasonable quality. In order to ensure that consumer's health and safety is protected when consuming goods and services, the Constitution grants consumers the right to protection of their health and safety.

The right to information is also provided under Article 35 of the Constitution. Retailers are under obligation to ensure that information such as; product labelling, price, ingredients, origin of product are clear and not misleading.



1.8.1 Statutory Laws

In addition to Constitutional provisions, there are several statutory laws applicable to the retail sector. The objective of most of the laws is to regulate the retail sector by ensuring product safety, quality, price control, consumer welfare, product standardization, licensing, and regulation of competition amongst others. These laws includes:

(i) **Competition Act No. 12 of 2010**

The Competition Act No. 12 of 2010(the Act), regulates competition in the retail sector by ensuring that retailers do not participate in anti-competitive conduct. Part III of the Act prohibits restrictive trade agreements, decisions and practices; abuse of dominant position; abuse of buyer power; and unwarranted concentration of economic power.

Restrictive trade practices include: agreements to fix prices, market allocation, collusive tendering, minimum resale price maintenance and applying dissimilar conditions to equivalent transactions with other trading parties amongst others.

The Act prohibits abuse of dominance position. Retailers who possess a dominant position are required to increase efficiency for consumer welfare and not to abuse their dominance positions by imposing unfair purchase, selling prices or trading conditions; and applying dissimilar conditions for equivalent trading transactions.

Another key feature of the Act is the prohibition of abuse of buyer power under Section 24A of the Act. Supermarkets with buyer power must not abuse it to the detriment of consumer welfare and distortion of competition.



Competition Act Part VI provides for consumer protection by protecting consumers against: false and misleading representations; unconscionable conduct; and product safety standards and unsafe goods; and product information standards.

Section 55 of the Competition Act prohibits false and misleading representations that goods are of a particular quality, grade, price, standard, price, new, composition, style, mode or standard.

ii. The Consumer Protection Act No.46 of 2012

This aims at protecting consumers from all forms and means of unconscionable, unfair, unreasonable, unjust or otherwise improper trade practices including deceptive, misleading, unfair or fraudulent conduct.

iii. Product Standardization, Safety and Quality

Product safety and quality is very essential in the retail sector. In order to protect consumers from counterfeit, substandard, low quality and unsafe goods several legislations have been enacted. The following Acts apply to the retail sector.

- (a) The Weights and Measures Act, Cap 513 of the laws of Kenya ensures fair trade practices and consumer protection by shielding consumers' health, safety and economic interests and deals with compensation for loss or injury arising from defects in goods or services provided or sold by traders.
- (b) The Trade Descriptions Act Cap 503 laws of Kenya, prohibits unfair trade practices and misstatements including false indication as to price and false description as to place of origin of imported goods.





(c) The Standards Act Cap 496 law of Kenya promotes the standardization of the specification of commodities, and provide for the standardization of commodities and codes of practice. All products sold in Kenya are required to

(d) The Anti-Counterfeit Act No. 13 of 2008, prohibits trade in counterfeit goods Counterfeiting goods under the Act refers to imitation or copying of goods of another manufacturer without authority of their intellectual property.

Other Acts include Sales of Goods Act Cap 31 of Laws of Kenya, Industrial Property Act No.3 of 2001 and Public Health Act among others.

3.1.3. Taxation

Taxation is governed by the Income Tax Act Cap 470 that imposes income tax from businesses operating in Kenya and Excise Duty Act No.3 of 2015 that provides for the charge, assessment and collection of excise duty. The retailers are bound by law to pay various taxes as appropriate.

3.1.4. Business Permit and licensing

To operate a retail outlet in Kenya, one requires a number of permits and licenses. These are issued by the national, county government and various regulatory authorities. The inquiry indicates that county government issues the following permits and licenses: Single Business Permit (Retail Supermarket and Storage Facility); Food and Chemical Substances (Food Hygiene); Fire Safety Compliance Certificate; Advertisement & outdoor activity license; Parking; Fish processing and traders license – for those dealing in fish; and Wine Merchant (General Liquor License). The National Government on the other hand issues: Certificate of Verification for printing and weighing device; Premises





License – Pest Control Board; Communication – KAMP – PRISK; Public Performance License – Music Copyright Society of Kenya.

It is understood that additional permits are required to make any alterations to retail premises, and that there may be plans by some counties to raise a tourism levy. While the business permit is issued by the County government, the issuance licenses will depend on the type of product sold in the retail sector.

The business permit fees ranges from Kshs. 1000 to Kshs. 80,000 and varies from one county to another depending on a number of factors such as number of employees, business size, location, county etc. For instance, megastores and hypermarkets with more than 100 employees and located in prime areas are charged between Kshs. 15,000 to Kshs. 72,000. Small traders with less than 10 employees are charged between Kshs. 1,250 and Kshs. 6,000 while kiosks are charged between Kshs. 1,000 and Kshs. 4,800.

The reform in the County Governments’ licensing system through the single business permit has not resulted in the expected reduction in the cost of doing business as it is still associated with the high fees and challenges of the implementation mechanism’. This is a result of the County government viewing the business permit only as a source of revenue and not a regulatory tool. The County government has also continued charging additional fees defeating the objective of single business permit. This continues to be a major impediment to the promotion and development of retail trade (National Trade Policy of 2015).

The inquiry indicates that retailers find laws and government regulations to hinder business in the following aspects.



- a) There are several licenses that raises the cost of doing business in the sector. Further, the procedure of obtaining the licenses is bureaucratic coupled with information asymmetry. There are also delay in issuing business permit and certificates
- b) High Value Added Tax (16% VAT) on certain products consequently making retailers reluctant to stock such products..
- c) Poor enforcement of certain Acts and regulations leading to existence of low quality (sub-standard) and counterfeit products in the market.
- d) Inadequate awareness on government policies and regulations leading low compliance levels.
- e) Regulations on advertising and brands increases the cost of business especially for suppliers operating across counties.

3.2. Current Policy Affecting the Retail Market

The National Trade Policy is the key policy framework that regulates the retail sector. This policy is anchored within the Kenya Vision 2030 and Constitution. It articulates Government’s aspiration for poverty eradication and sustainable economic development through providing opportunity for expanded markets, income generation and distribution, increased employment and competitiveness. The Policy recognizes the important role that trade in services plays in overall development of the economy.

The policy complements other existing Sectoral policies and strategies such as Agricultural Sector Development Strategy, National Industrial Policy, Investment Policy among others that affects trade.

3.3. Role of Government and Institutions in the Retail Sector

The retail sector in Kenya is regulated by government and a number of institutions to ensure competitiveness and protection of consumers. The role of the regulatory framework is to implement the laws and policies identified above.

In this regard, the market inquiry asked the retailers how government programmes and policies enable them in their business. The inquiry found out that Government programmes and policies have enabled the sector in the following aspects:

- i. Provision of adequate security to carry out their business.
- ii. Regulation of competition in the market has increased competition amongst the retailers.
- iii. Enhanced product safety and quality thus building consumer confidence in products traded in supermarkets.
- iv. Provision of infrastructure. This has led to establishment supermarkets in areas served by the new infrastructure developments.
- v. Creation of conducive business environment. The government has created a conducive environment for establishing new supermarkets through financial support and providing the necessary permits and licenses. This has enabled investments and establishing of new supermarkets in other regions and counties.

3.4. Conclusions and recommendations

There is no specific legal framework that applies to the retail sector in isolation. However, there exist a number of laws that regulate the sector both directly and in proxy. The national government promotes investments in the retail sector by regulating competition in the market and enforcing various regulations. On the other hand, the county



government is mandated to promote domestic market by issuing trade licenses and opening up of the market. The Constitution also protects consumers in the retail sector by protecting their consumer rights under Article 46.

However, there are numerous challenges in regard to legal and regulatory framework in the sector. These include; high taxation, numerous licenses and delays in issuing licenses, poor enforcement of regulations and inadequate awareness on government regulations among others.

Despite the highlighted challenges, the role of government institutions was recognized as key. This has been enhanced through regulating of competition in the market, enhancing product safety, promoting consumer confidence in product traded by supermarkets, enhancing security, regulating prices, establishing infrastructure and providing conducive business environment. The role of the County government was also recognized as key in promoting local entrepreneurship and regulating business at the county level and that harmonization of their regulatory regimes would enhance the cost of doing business.

To improve the legal and regulatory framework in the sector, the inquiry proposes the following recommendations:

- a) The competition Authority in consultation with key stakeholders to develop and implement rules and guidelines that are specific to the retail sector (supermarkets).
- b) Centralize the issuance of permits and licenses to a few government agencies.
- c) The harmonization of levies and taxes to be collected centrally through the national government.





- d) Transport and advertising fees should be harmonized across counties and be applicable to the whole nation.
- e) Government agencies to create more awareness on their rules and regulations: and regulations to be enforced uniformly to all players in the sector.
- f) The issuance of single business permit should be made more transparent and additional charges be made clear to business persons at the point of issue.





CHAPTER 4: THE STRUCTURE OF THE RETAIL SECTOR

This chapter evaluates the value chain of the retail sector in Kenya. It takes an in-depth look at the different players in the sector that is the suppliers, the retailers and finally the consumers.

4.1. Suppliers in the retail sector.

A supplier can be either a manufacturer who produces goods or a wholesaler, who acts as the link between the manufacturer and the retailer in the retail chain. The supplier ensures that the final product reaches the retailer, who then passes the product to the final consumer.

The Association of Kenya Suppliers is a registered body that brings together suppliers in the country and represents the interests of its members and advocates for a good business environment. Further the suppliers are governed by the Association of Kenya Suppliers. Out of the registered 1,300 members of the association, 1000 members supply supermarkets with goods.

The inquiry looked at the categories of suppliers in Kenya to determine whether they are either producers of the products they supply, wholesalers, or they undertake retail sales.

The results are as in figure 4.1



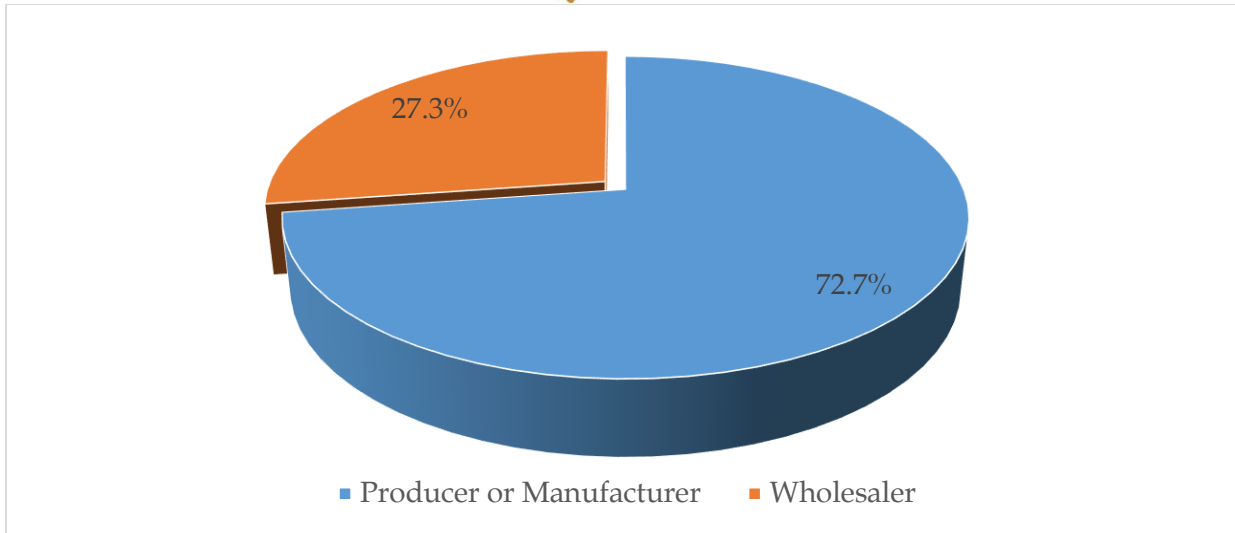


Figure 4.4.1:Categories of suppliers

The findings indicated that seventy two percent (72.7%) of suppliers are producers or manufactures, whereas twenty seven percent (27.3%) are in the wholesale business.

Suppliers in the retail sector in Kenya sell their products to various outlets and the inquiry sought to identify who were their biggest customers.

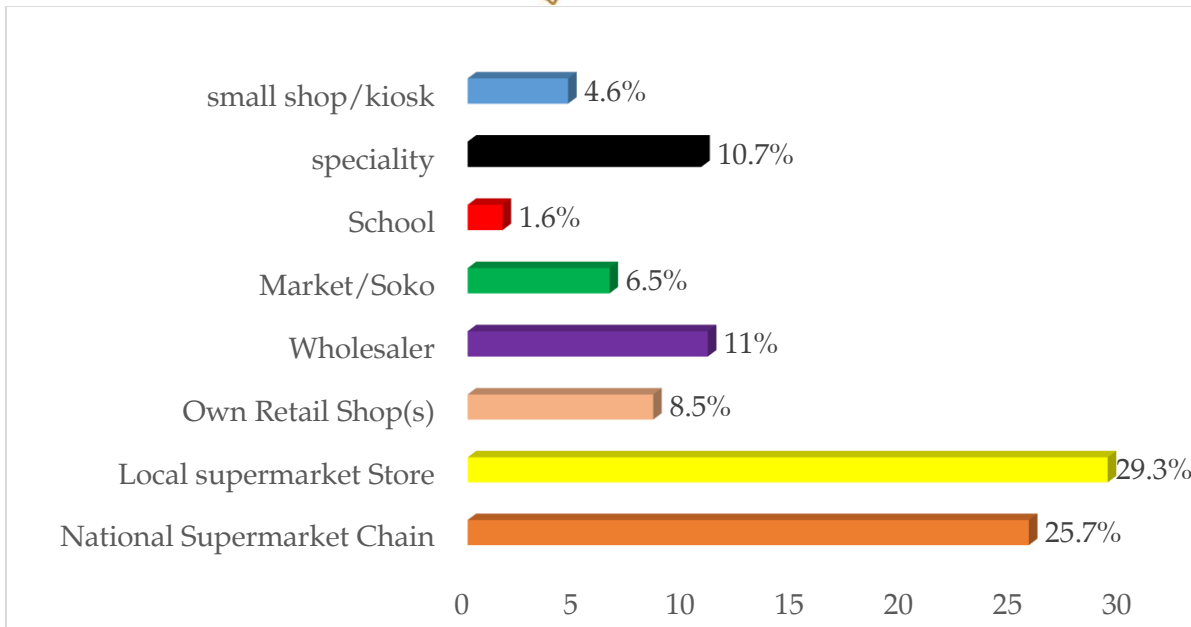


Figure 4.4.2:Where suppliers prefer to sell their products

The findings showed that a big percentage of suppliers’ supply the local supermarkets at twenty nine percent (29.3%), followed by national supermarkets at twenty five percent (25.7%).This two categories of outfits have a high number of consumers visiting them. The effect of this is therefore that consumers are able to get their products at a fairly cheaper price due to the avoidance of the middlemen.

Most suppliers have agreements with the supermarkets. The agreements between the supermarkets and their suppliers are either contractual in nature or simply orally agreed upon terms. The agreements dictate conditions such as mode of delivery, payments terms, duration of the contract among others. The inquiry sought to find out whether suppliers and supermarket have contractual agreements and the findings are illustrated in Table 4.1.

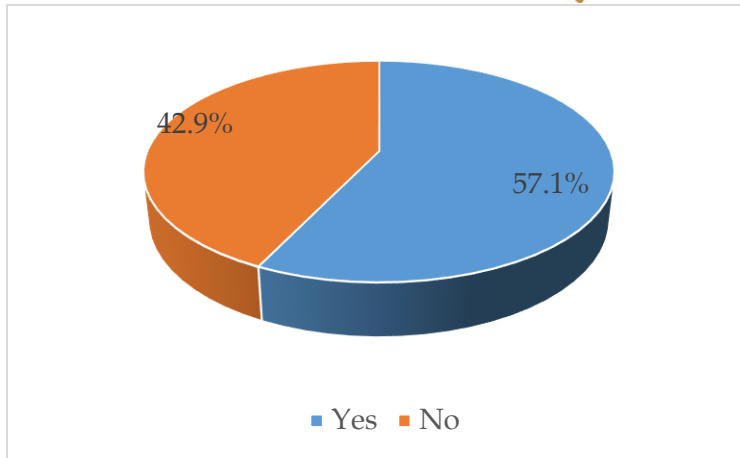
Table 4.1: Percentage of suppliers with contractual agreements with the supermarkets.

S/no	Response	Percentage
1	YES	59.1%
2	NO	27.3%
3	SOME	13.6%
	Total	100%

The inquiry found out that fifty nine percent (59.1%) of suppliers interviewed have contractual agreements with the supermarkets they supply while 27.3 % did not have any agreements with the Supermarkets. However, only about thirteen percent (13.6%) had agreements with some of their supermarkets they supply.

One of the objective of the inquiry was determining whether there were any competition concerns in the sector and in this particular case, whether the supermarkets had exclusive agreements with the suppliers. This would imply that the suppliers were barred from distributing their products to competitors of the supermarkets thereby acting as a hindrance to free and fair distribution of goods and/or services in the market.

Figure 4.4.3:Supplier exclusive agreements with supermarkets.



The inquiry results showed that 57.1% of suppliers interviewed have exclusive agreements with retail outlets whereas 42.9% do not have exclusive agreements. Such agreements may restrict availability of products to competitors and lessen

competition.

The Competition Authority should therefore investigate further the extent to which these agreements restrict competition in the sector and the overall effect on the consumers.

4.2. Retailers

4.2.4. Nature of retail chains in Kenya

The retail sector comprises of establishments that engages in retailing products generally without alteration and rendering services related to the sale of those products. The retail industry is made up of grocery stores, kiosk, shops and supermarkets. In this industry, supermarkets are the large stores. Kiosk and shops have limited assortments.

The retail industry in Kenya predominantly comprises of organized and un-organized sector. Un-organized/ traditional retailing refers to the traditional setups of low cost retailing (Farook & Khader, 2006).

On the other hand, the organized segment is made up of licensed retailers who register formally as companies, partnerships or sole proprietorships. This sector majorly comprises of branded and non-branded retail chains (Supermarkets). In Kenya,



supermarkets are predominantly self-service large scale retailing institution offering full line of cosmetics, pharmaceutical, cookery, foodstuffs, electronics, furniture and clothing.

Modern organized retailing in Kenya offers a large variety of products in terms of quality and value for money and makes shopping a memorable experience.

4.2.5. Evolution of Retail Chains

In Kenya, supermarkets have evolved from small retail shops to big multi stored malls. The evolution of supermarkets in Kenya took place in four waves as explained in the figure below;



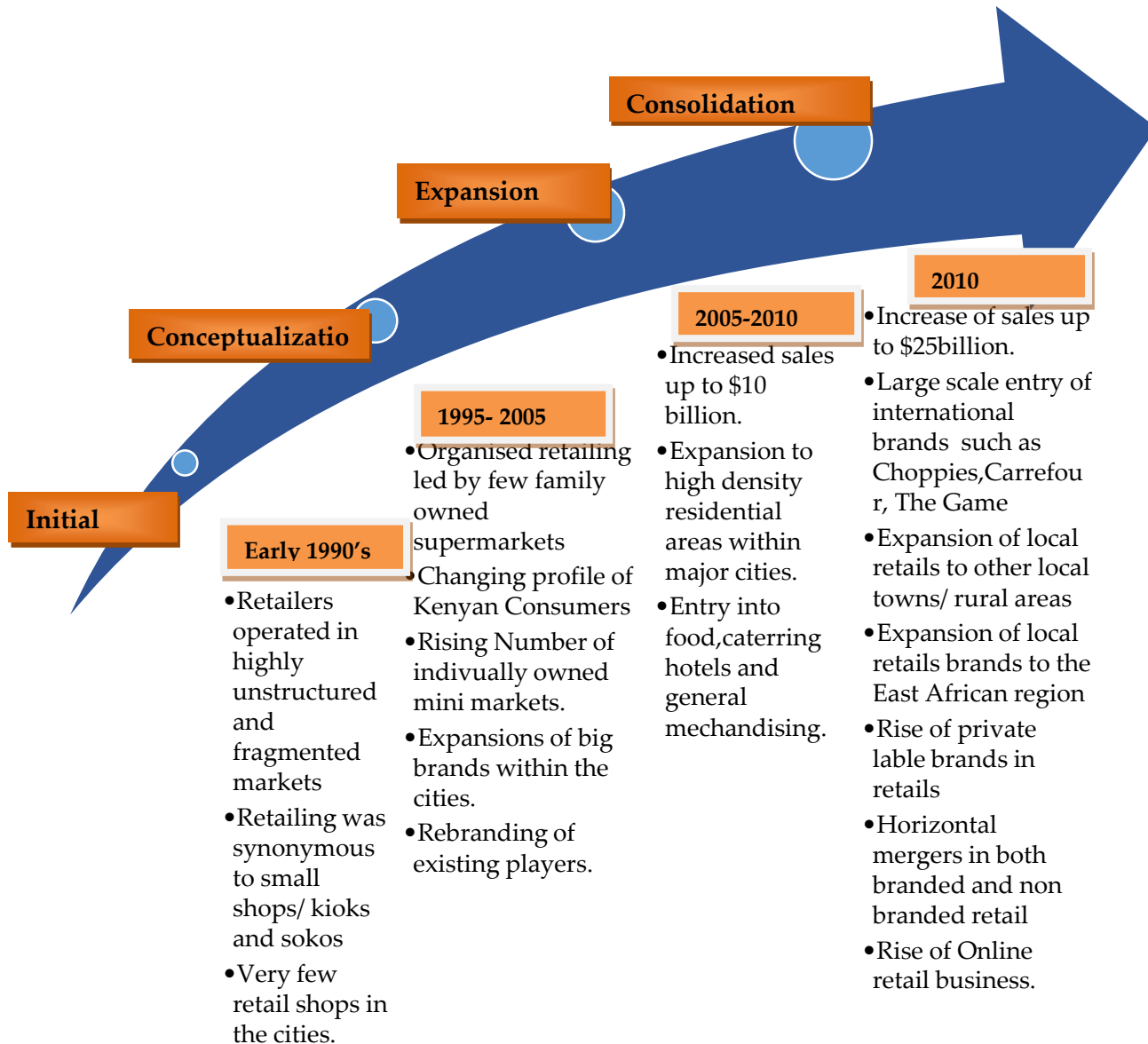


Figure 4.4.4: Illustration of Growth of supermarkets



The growth of the supermarkets is majorly attributed to increased purchasing power of middle class population, enhanced infrastructure, improved foreign investment and increased demand for convenient/one stop shopping (Euromonitor, 2016).

4.2.6. Ownership Structure

Retail sector in Kenya is largely dominated by local and family-owned brands constituting of 25-30% of the market (Cytonn 2016). The family-owned supermarkets are Nakumatt, Tuskys and Naivas, the key players that command the largest market share in Kenya.

The oldest supermarket in Kenya, Uchumi Supermarket – with government as part of the shareholder, was opened in 1976 to promote the distribution of locally made products (Masinde, 2016). In the recent past, this sector has experienced mergers and acquisition with the dominant players trying to acquire the other small players. Examples of such mergers and acquisition are the Turkys- UKwala acquisition, Ukwala- Choppies acquisition, the Naivas – Rihab acquisition in Nakuru, the Khetia – Yattin acquisition in Kisumu, Nakumatt- Yako in Nairobi and the the Khetia – Shariff Supermarket acquisition in Bungoma.

4.2.7. Trends in the Retail Market Industry

The Kenyan retail supermarket industry is composed of 220 players. The major supermarkets are Nakumatt, Tuskys and Naivas which are mainly located in urban centres. The potential entrants include Carrefour, Choppies, Game and Chandarana who are anticipated to open more branches in the coming years.

The nature and intensity of competition is dependent on the number of supermarkets that exist in a certain area, the availability of goods in that particular supermarket,



population in that given area, demographic attributes, supplier channels and promotional activities undertaken (Mutegi, 2013).

The inquiry sought to find out how the income level of target customer determines the choice of location for a supermarket. The findings were as tabulated below;

Table 4.2: Choice of superamrket location as determined by income levels

<i>S/no</i>	<i>Response</i>	<i>Percentage</i>
1	LOW INCOME	9.23%
2	MIDDLE INCOME	58.46%
3	HIGH INCOME	32.31%
	TOTAL	100%

This inquiry established that 58.46% of supermarkets target the middle income earners as their major customers. This implies that most of the supermarkets have established a wide branch network to take advantage of the growing middle class. The low income customers target is at 32.31% of supermarkets while those targeting the high income shoppers is at only 9.23%.

Some international brands are now eying the Kenyan market because of the stable economic and political environment. Over the last two years, some of the major brands that have entered the Kenyan market are; Carrefour, Game and Choppies. Other local

brands that are increasing their foot prints in the country include Mathai, Society Stores, Chieni and Kassmart supermarkets.

4.3. Consumers in the retail sector

A consumer is an individual who buys products or services for personal use and not for manufacture or resale. Consumers usually have different behaviors (behavior pattern) depending on the industry they are dealing with.

A consumer behavior, according to Schiffman & Kanuk, 1997 refers to how individuals make decisions to spend their available resources on consumption-related items.

4.3.1 Shopping Patterns of consumers in the retail industry.

The shopping/buying/purchasing pattern refers to the typical manner in which consumers or firms purchase goods and services. Consumers have diverse perceptions, memories and attitudes which they use as a guiding factor in choosing a preferred retail store. In Kenya there are two categories of consumers; personal and corporate consumers. The shoppers in Kenya are categorized as either bulk shoppers, top-up shoppers, brand-loyal customers or impulsive customers.

The inquiry explored the most preferred shopping stores in which consumers regularly shop at across the country. The findings are illustrated in Figure 4.5.

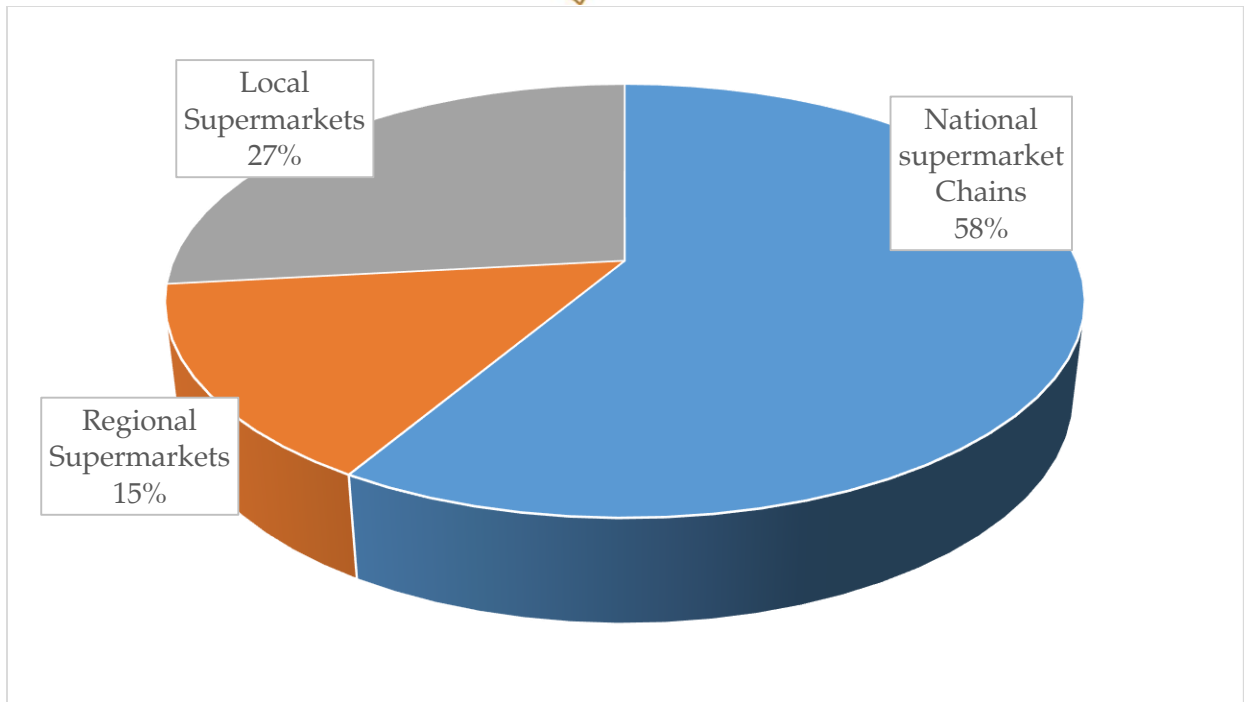


Figure 4.4.5: The preferred shopping outlets by consumers

The findings were that fifty eight percent (58 %) respondents preferred shopping from national chains, fifteen percent (15%) from regional franchise and twenty seven percent (27%) from local chains. Expansion of modern retail outlets has majorly contributed to store type preference. The preference of the local chain of stores may also be attributed to their wide network coverage within major towns in Kenya.

In addition, the inquiry also sought to find out the factors that affect the choice of consumers in selecting a supermarket to shop at. The findings were as illustrated in Table 4.3.

Table 4.3: Factors influencing choice of a supermarket

	Access (%)	Price (%)	Quality (%)	Safety (%)	Security of Premise (%)	Return policy (%)	One stop shopping (%)	Loyalty Card (%)	Customer (%)	Parking (%)	Promotions (%)
Not Very Important	3.8	4.1	9	2.0	2.9	7.5	5.9	21.6	5.1	30.3	18.0
Not Important	9.5	4.9	1.9	4.0	5.4	8.8	10.5	20.8	1.9	16.8	17.8
Somewhat Important	17.1	8.8	5.7	7.4	8.3	13.5	14.1	13.8	3.2	7.9	19.3
Important	36.6	26.9	32.7	39.7	29.9	35.4	35.0	27.1	10.8	20.6	26.4
Very Important	33.0	55.4	58.8	46.9	53.5	34.7	34.5	16.8	79.0	24.4	18.4

From the analysis, choice of the supermarket to visit was influenced by various factors that consumers perceived as important. The order of preference or the ranking of each factor under study by respondents was on level of importance with five (5) as most important and one (1) as the least important. It emerged that price, quality of items, food safety and customer service were cited as the most influential variables (ranked at 5) while factors such as availability of parking, loyalty cards and special promotion were ranked as the least important factors that consumers considered in determining their

choice of supermarket to shop at. Other factors cited as of importance included aisle arrangement, cashless payment options, among others.

The inquiry also examined how frequently consumers shop at different outlets namely; supermarket, wholesale shop, kiosks/small shop or at a soko. The findings are illustrated in the table 4.4.

Table 4.4: Frequency of consumers shopping at different outlets.

	Supermarket (%)	Wholesale (%)	Shops/Kiosks (%)	Soko (%)
Daily	30.4	3.9	56.2	26.3
Several times a Week	9.9	2.7	5.7	5.6
Weekly	21.2	6.9	9.1	27.2
2- 3 times/Month	32.7	13.6	13.6	21.2
Every 1-2 months	5.3	9.0	1.5	3.2
Less than every 2months	.2	8.8	1.4	1.5
Never	.3	55.2	12.5	15.1

General findings from the analysis on consumers shopping patterns revealed that of the categories of supermarkets, wholesalers, soko and kiosks, the supermarkets attracted consumers who did shopping several times a week, wholesalers attracted consumers who shopped only once per quarter leading to an accumulated shopping of four times a year. Shoppers visited sokos for weekly shopping while those who went to kiosks did so several times a week. This implied that majority of consumers do their shopping frequently in a week in supermarkets.

4.4. Conclusion

The retail sector has a number of players from both the supply and the retail side. This ensures that there is high competition in the sector either to attract the retail outlets to store your supplies or to attract customers to visit your stores for purchasing. This competition is healthy for the economy as the consumers are able to have variable choices. However, certain suppliers and retailers have adopted some contractual agreements that are exclusive in nature. In as much as business operations have not been hindered by these agreements and no complaints have been noted to this effect, such agreements restrict the free movement of goods to the consumers. The Authority should therefore investigate and establish the extent to which such agreements contravenes section 21 of the Competition Act.

The Authority should also look at the effect of the recent mergers in this sector and look the compliance of the conditions given during the approvals of the same for instance Nakumatt- Yako merger, Tuskys –Ukwala and Ukwala-Choppies.

CHAPTER 5: NATURE OF COMPETITION IN RETAIL SECTOR

This chapter explores the nature of competition in the retail sector in Kenya. Specifically, it delves into competition amongst industry players, behavior among the industry participants, nature and extent of exclusive agreements at one stop shop destinations, barriers to entry and growth.

According to the Act, competition refers to the process whereby two or more persons supply or attempt to supply to; or acquire or attempt to acquire from, the people in that market the same or substitutable goods or services.

5.1. Competition amongst industry players

Competition in the market is an essential component that ignites and drives strategy execution and implementation in the retail sector. Supermarkets have to constantly review their strategy to remain relevant in the market. The trick is geared towards enticing customer's relationship and induces uniqueness in the supermarkets.

The global nature of competition implies that firms face competition not only from local firms but also from foreign firms all aiming to increase their market share. The intensity of competition is dependent on a number of factors such as the number of supermarkets existing in a certain area, availability of goods in that particular supermarket, population in that given area, demographic attributes, supplier channels and promotional activities available.

The retail sector in Kenya has a number of players. Even though supermarkets tends to compete amongst themselves, they also face stiff competition from other players such as wholesale shops, kiosks and open air markets (sokos).

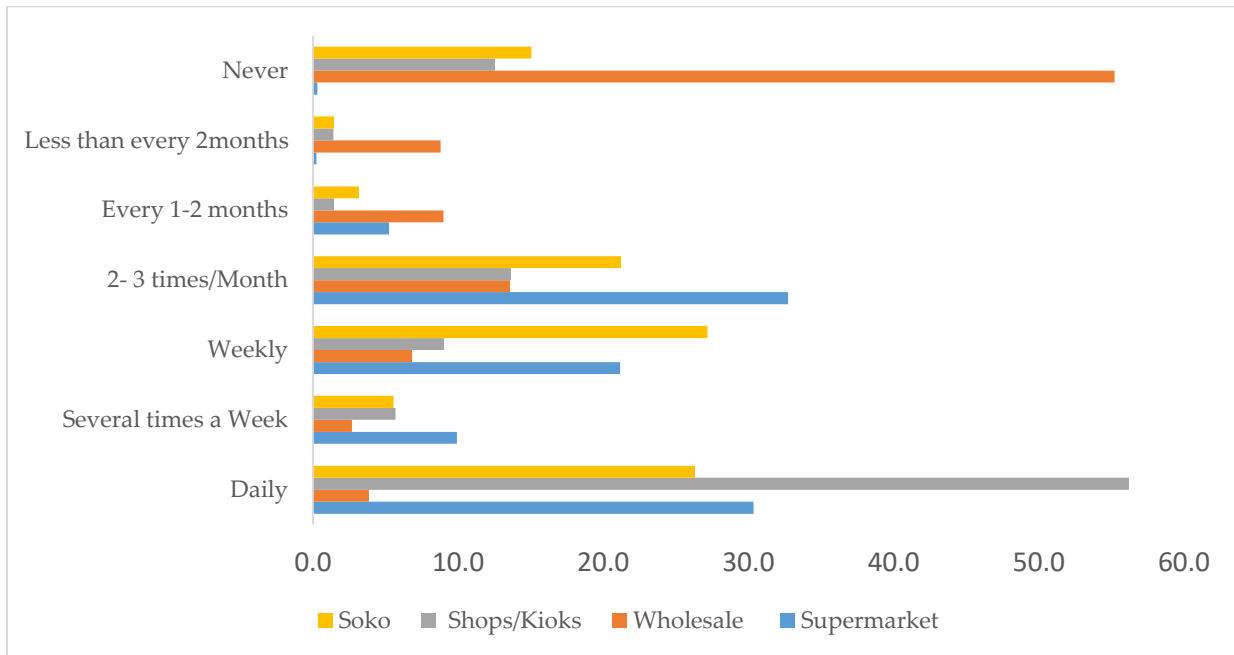


Figure 5.1: Competition among industry players.

From the above analysis the inquiry revealed that the sokos and Kiosk offered stiff competition to the supermarkets as many consumers preferred shopping in them. The study also revealed that many of the consumers do not purchase from wholesalers. This probably is due to the limited spread of wholesale outlets compared to both the supermarkets and the Kiosk and Shops.

The Kenyan supermarkets landscape has adopted some notable non-price attributes to give them a competitive edge over the other sector players. Such attributes include good

customer care, parking availability, cleanliness and ease of accessibility, offering after-sale services, use of loyalty and bonus points among. Also, supermarkets use brand positioning as a tool to ensure consistency and positive business relationship from their customers. The study therefore looked at some of the factors that consumers considered as highly important while choosing on a shopping destination.

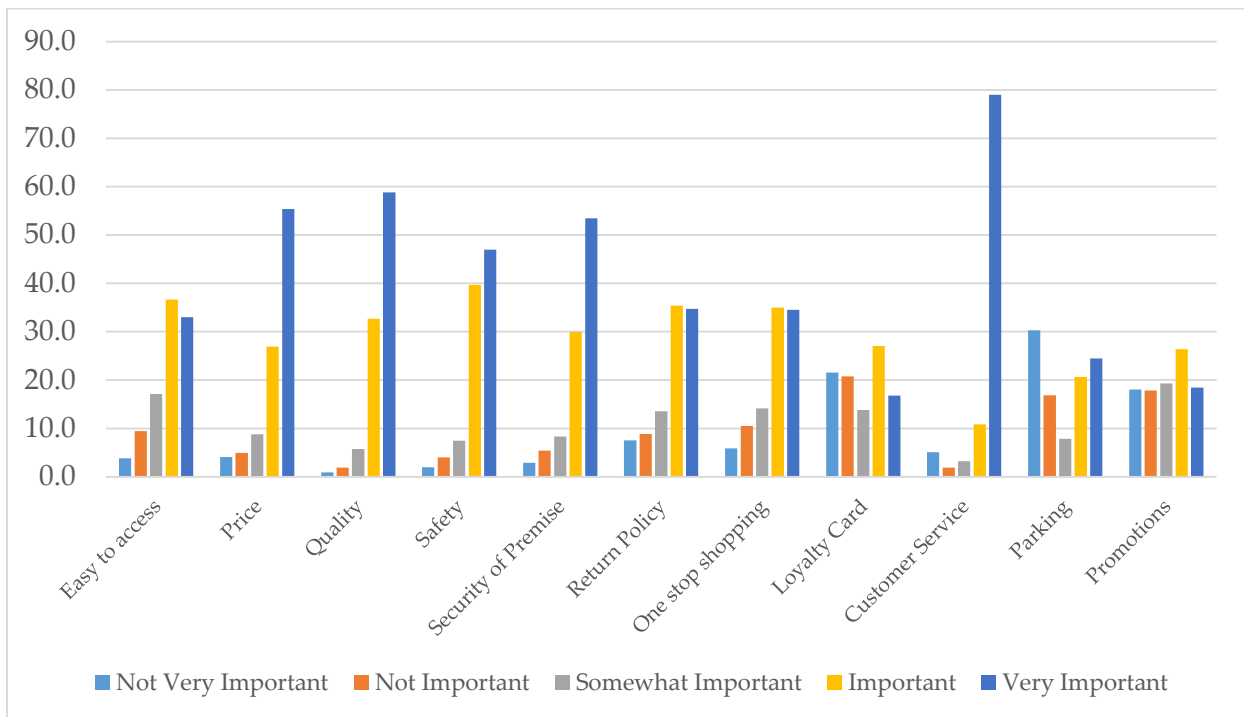


Figure 5.2: Attributes that give supermarkets a competitive advantage.

Among the factors that customers considered to be very important in choosing one stop shop are customer care, quality of goods and services, price, security and safety. Other factors that were given less consideration include accessibility, return policy, packing availability and promotions.

To enhance efficiency and to get a competitive advantage over other competitors, supermarkets in Kenya considers a lot of factors while establishing the best location to put up a store.

The inquiry established that the most common factors put into consideration while putting up a store include the availability of good infrastructure, closeness to customers, areas of less competition space availability among others. With good infrastructure, the customers have easy access to the shops and this results into high volume of sales.

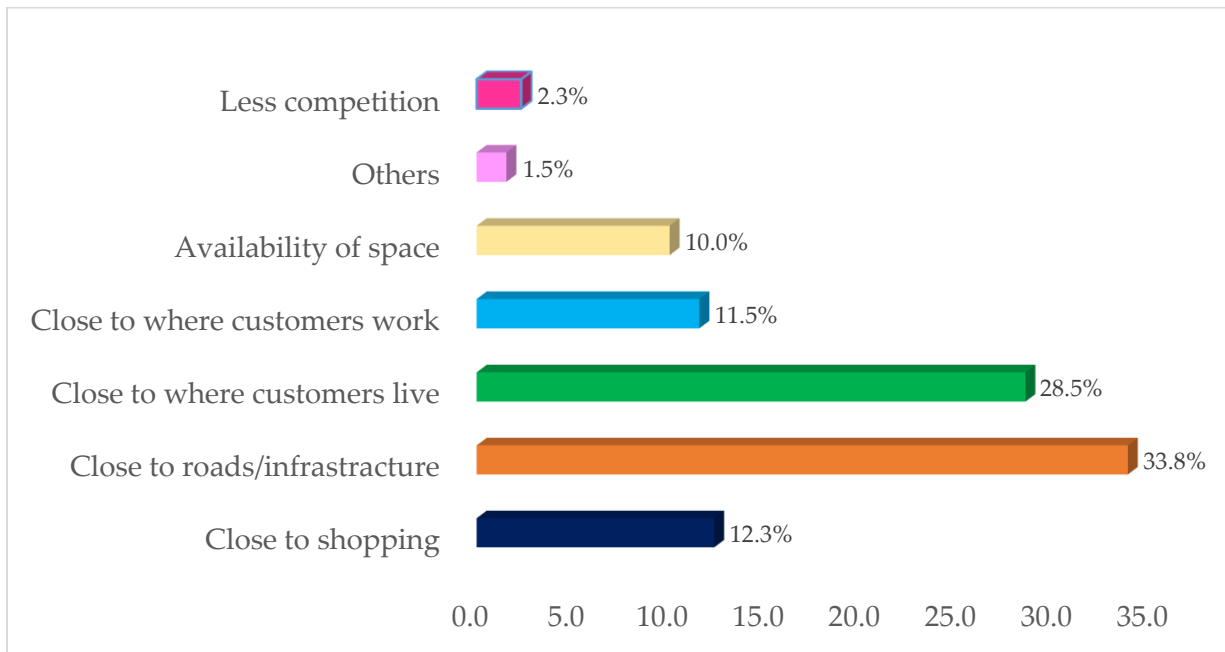


Figure 5.3: Choice Location of Supermarkets

From the study, it was revealed that thirty four percent (34.6%) of the supermarkets consider close to supportive infrastructural developments as a major factor for setup while twenty eight (28.6%) consider closeness to customers as the major factor. Only nine

percent (9.8%) of the retailers would consider space availability before putting up a supermarket while two percent (2.3%) would consider a location with less competition.

The analysis therefore indicated that even though there is high competition in the retail sector, the level of competition experienced has not hindered others from participating in the market as the number who would look for less competitive areas were a mere two percent (2.3%).

5.2. Exclusive Agreements

Exclusive agreements between retailers and shopping malls imply that mall owners are prohibited from leasing space in their malls to competing retailers. Such agreements raise antitrust concerns, because they may foreclose entry and limit competition in a given mall.

An exclusive lease agreement in one shopping mall could place the lessee in a position to increase prices to the detriment of consumers. This is because such agreements give the lessee a monopoly status in the mall and where there are no stiff competition or the competition does not exist at all, the retailers are likely to charge arbitrary prices.

Example of the exclusive agreements in Kenya exists in the "anchor tenancy" role played by supermarkets in shopping malls. Anchor tenants in the shopping malls have the potential to deprive other enterprises from setting up competing businesses in the mall thus creating a barrier to entry which is a breach of competition law as highlighted in Section 21 of the Competition Act.

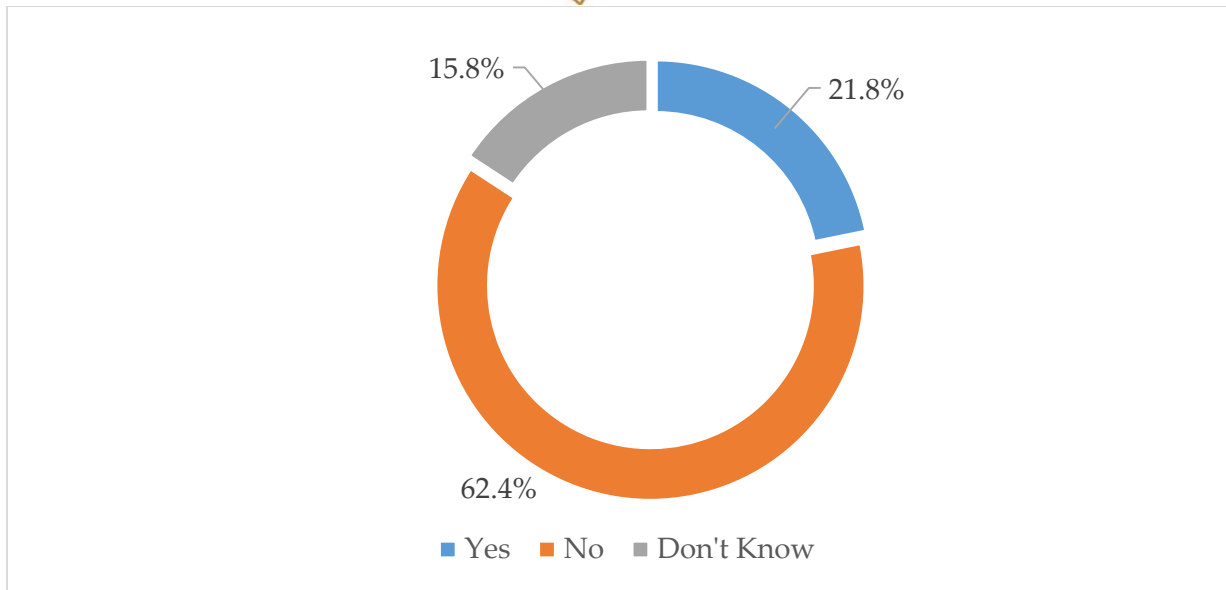


Figure 5.4: Supermarkets in exclusive Agreements with Landlords

From the findings it was revealed that 21.8% of the supermarkets have exclusive agreements with the landlords. The inquiry found out that such agreements were only possible where there were malls. Many of the family owned supermarkets were stationed either in their own buildings or in the buildings where the supermarket will rent all the space.

The percentage of supermarkets in exclusive agreements was therefore minimal and did not raise much of a competition concern. The Authority should however analyze the nature of the exclusive agreements to identify the potential impacts on competition.

5.3. Barriers to entry and growth

Barriers to entry are factors that prevent a startup or existing firm from entering or expanding in a particular market. As a whole, they comprise one of the five forces that determines the intensity of competition in an industry and include; industry rivalry, the bargaining power of buyers, the bargaining power of suppliers and the threat of



substitutes (Porter M. 1980). The attractiveness of a market is determined by the level of competition in that market.¹

A new entrant into the industry is likely to face many challenges in addition to local competition. They must race to complete buildings on time, overcome legal hurdles and establish reliable supply chains (Reuters, 2015). The dominance of some local chains in the modern retail segment also makes it difficult for new entrants and resistance to foreign takeovers complicates mergers and acquisitions (Euromonitor International, 2015).

Even though exclusive agreements in a way does bar new entrants into a market, it was found out that it did not have any significant effect in the Kenyan scenario as a barrier to entry. There was because only 21.8% of retailers had such agreements with the landlords and no retailer had made any complaints in the same regard. In conclusion, the finding pointed out that there were no substantial barriers to entry in the Kenyan retail sector.

¹<https://www.marsdd.com/mars-library/barriers-to-entry-factors-preventing-startups-from-entering-a-market/>



CHAPTER 6: MARKET CONDUCT IN THE RETAIL SECTOR

This chapter looks at the behavior of the main players in the retail sector in Kenya, that is, the consumers, suppliers and retailers. It evaluates the consumer shopping patterns, as well as retailers' and suppliers' behaviors and strategies applied in response to various changes in the market.

6.1. Categories of Shopping

In Kenya, the retail market has been delineated into various types of shopping depending on the available space. *Figure 6.1* illustrates the categories that the Kenyan retail market has adopted.



Figure 6.1: Categories of Shopping in Kenya



The set ups for the retail outlets in Kenya has taken three main forms of shopping namely; convenience shopping, top-up shopping, and one-stop shopping. This enables the different retailers to identify the location they are able to set up. Convenience shopping is the day to day purchases done by consumers that does not require prior thought or planning. It is mostly done at a location close to the consumer's house or place of work and items under this category include groceries, soft drinks, snack foods, newspapers and magazines. Top up shopping are items purchased to bridge the gap between the usual shopping periods, in cases where the previously purchased items get finished. One stop shopping on the other hand is done at huge stores that offer all household items under the same roof.



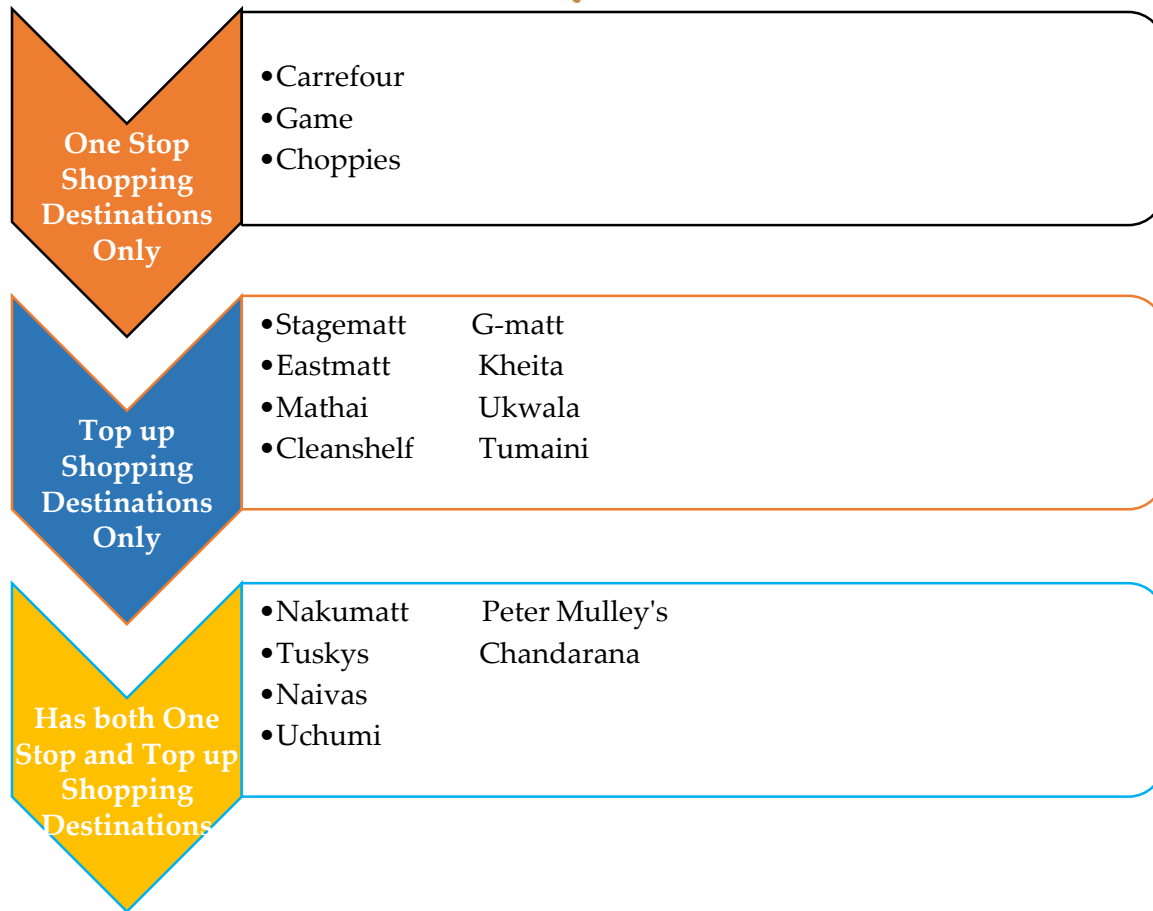


Figure 6.2: An illustration of supermarkets shopping patterns

6.2. Consumer Shopping Patterns

Shopping patterns refer to the typical manner in which consumers or firms purchase goods and services. Consumers have diverse perceptions, memories and attitudes which they use as a guiding factor in choosing a preferred retail store. According to Stavkova, Stejskal, & Toufarova¹, there are five factors which influence a consumer's purchasing decision and shopping patterns, these are: cultural factors, social factors, physical factors, personal factors and the marketing mix.



One of the objectives of this inquiry was to determine the consumers' shopping patterns and factors that are considered in making the decision of where to shop. The inquiry divided the supermarkets into three categories: national chains, regional chains and local stores and it explored the most preferred shopping stores in which consumers regularly shop at across the country.

Consumers are strategic when choosing a location to carry out their shopping. According to a survey undertaken by The AlixPartners², price is not the only deciding factor for consumers since they desire much more from their shopping experience. Such factors include: customer service, accessibility, availability of loyalty cards, technology in the form of Mpesa payments and use of visa cards to pay). The inquiry sought to find out the factors considered by Kenyan consumers in choosing or selecting a supermarket outlet and the findings are as illustrated in *Figure 6.3*.



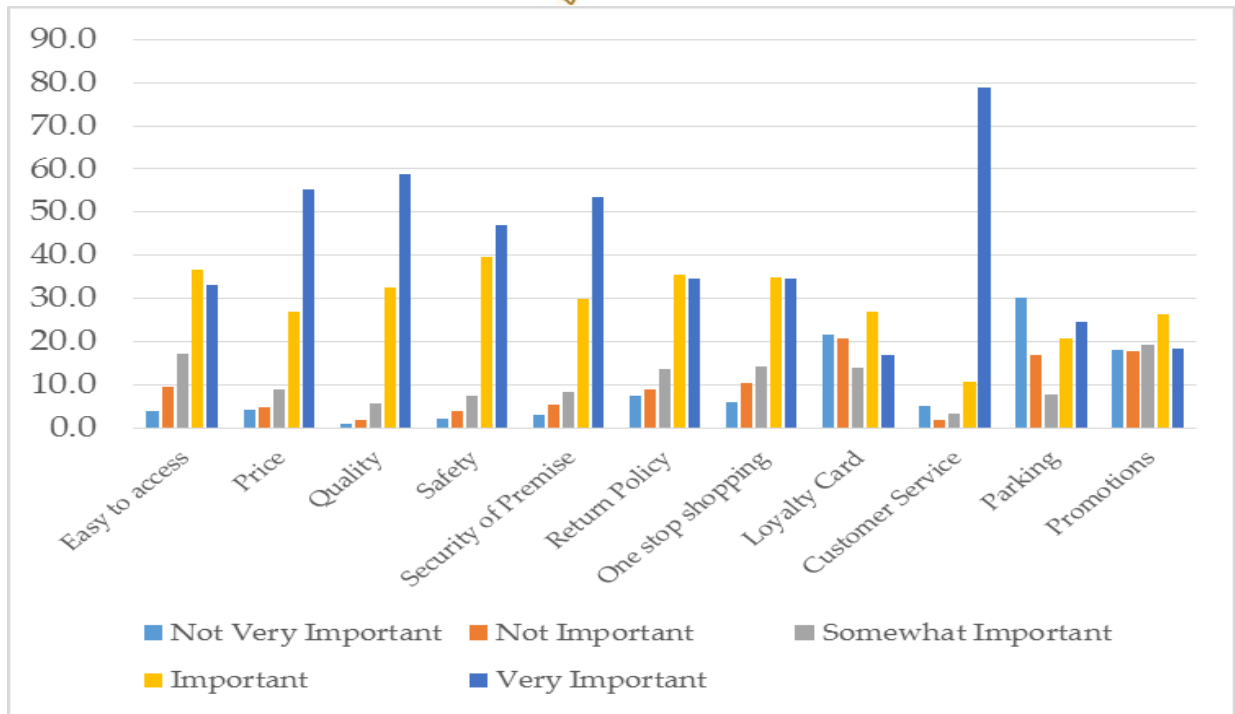


Figure 6.3: Factors influencing choice of a supermarket

The choice of the supermarket to shop at is influenced by various factors that the consumers perceive as important. It emerged that price, quality of items, food safety and customer service were cited as the most important factors, while availability of parking, loyalty cards and special promotion were the least important factors. The other factors cited included aisle arrangement, cashless payment options, among others.

6.3. Conduct of retailers in Kenya

The market conduct of retailers can be manifested through how they relate to each other; and how they react to various price changes in the market. Membership in trade associations is one of the ways in which retailers advocate for matters affecting them and propagate for better working environment. Through such associations, members can

engage in conduct such as: sharing of information, dividing of markets, setting up terms of trade (agreeing on price, discounts, delivery) and also limiting output. In Kenya there is RETRAK, which is the central body that represents the interests of Kenyan retailers to the government, parliament and other relevant bodies. RETRAK does the following among others to its members: advocacy on behalf of the Retail Industry; holds networking events; and source of industry information. The inquiry asked sampled retailers whether they were members of an association and the results are as illustrated in *Figure 6.5*.

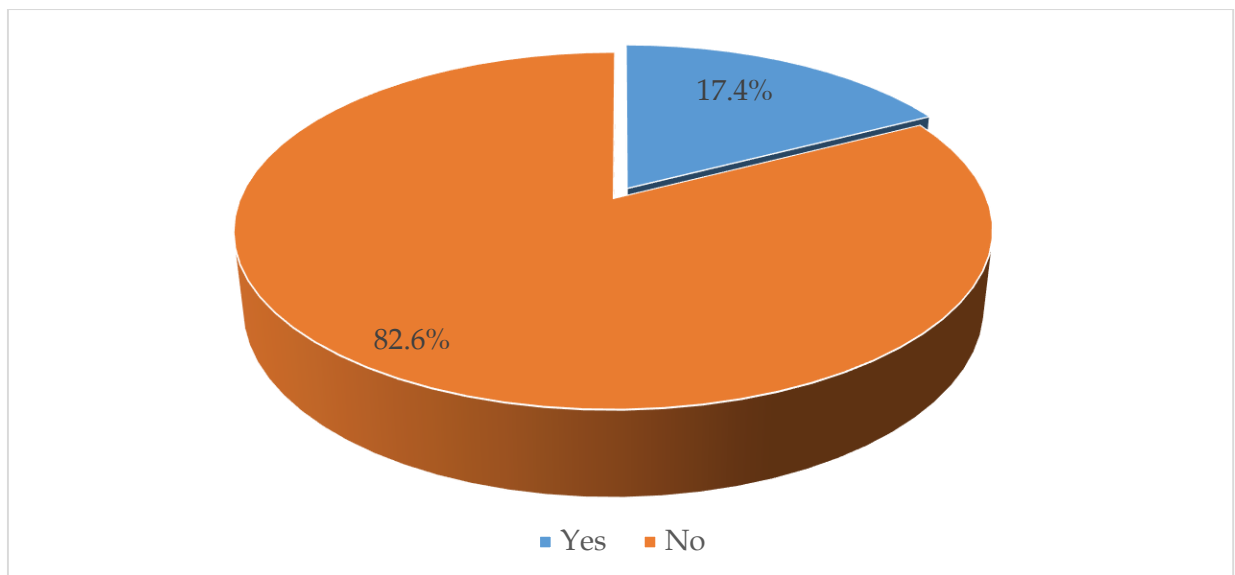


Figure 6.5: Percentage of business membership to of a trade/industry association

A majority of the retailer interviewed (82.6%) were not members of a trade/industry association whereas only 17.4% indicated that they were affiliated to a particular association. This suggests that there is less potential to engage in any anti-competitive practices in the retail sector. The Authority should however look at the possibility of the retailers sharing information amongst themselves particularly those that relate to daily price changes.

6.3.4. Changes in costs of production.

Costs of production may change due to various reasons including changes in costs of raw materials, weather changes (in the case of farm products), general inflation in the economy, crisis in energy production, and national monetary and fiscal policies by the government³. Retailers will adopt different strategies to ensure that variations in costs do not affect their businesses, given that the aim of their existence is to make profits for sustainability. This inquiry sought to establish the manner in which retailers handle changes in production costs and *Figure 6.6* summarizes the results.

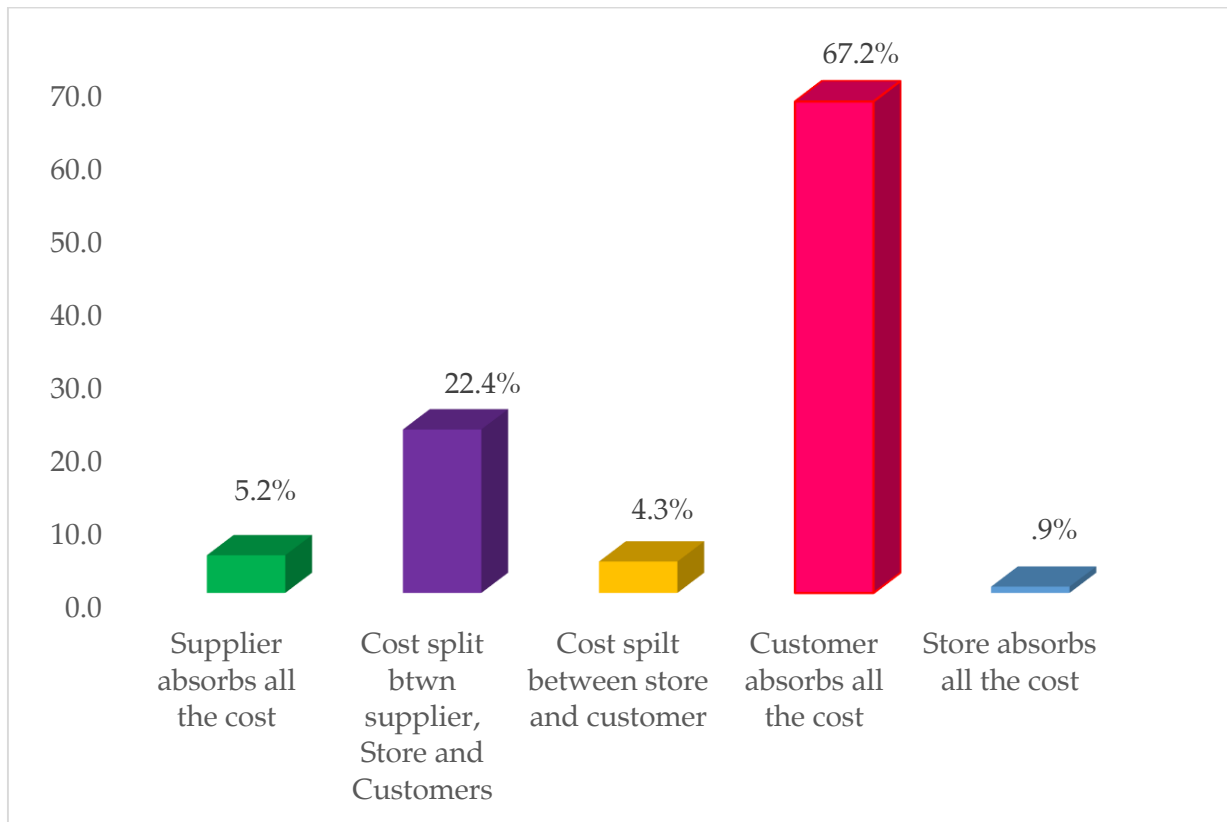


Figure 6.6: Retailers reaction to increase in production costs

The inquiry findings show that 67.2%% of the retailers would pass the increment of production costs to the consumers, 22.4% would split the additional costs between themselves, suppliers and the consumers. There were retailers who stated that the suppliers absorb all the costs (5.2%), others indicated the cost is split between the store and the consumers (4.3%) and finally those retail outlets that absorb all the costs.

It is important to note that changes in costs of production for different products may be handled differently by the stores, for example, for perishable goods, the store or the supplier, may opt to absorb the increase in price in order to ensure that the stock moves and avoid losses.

6.3.5. How suppliers deal with changes in costs of production

This inquiry also looked into how suppliers handle price changes in the cost of production.

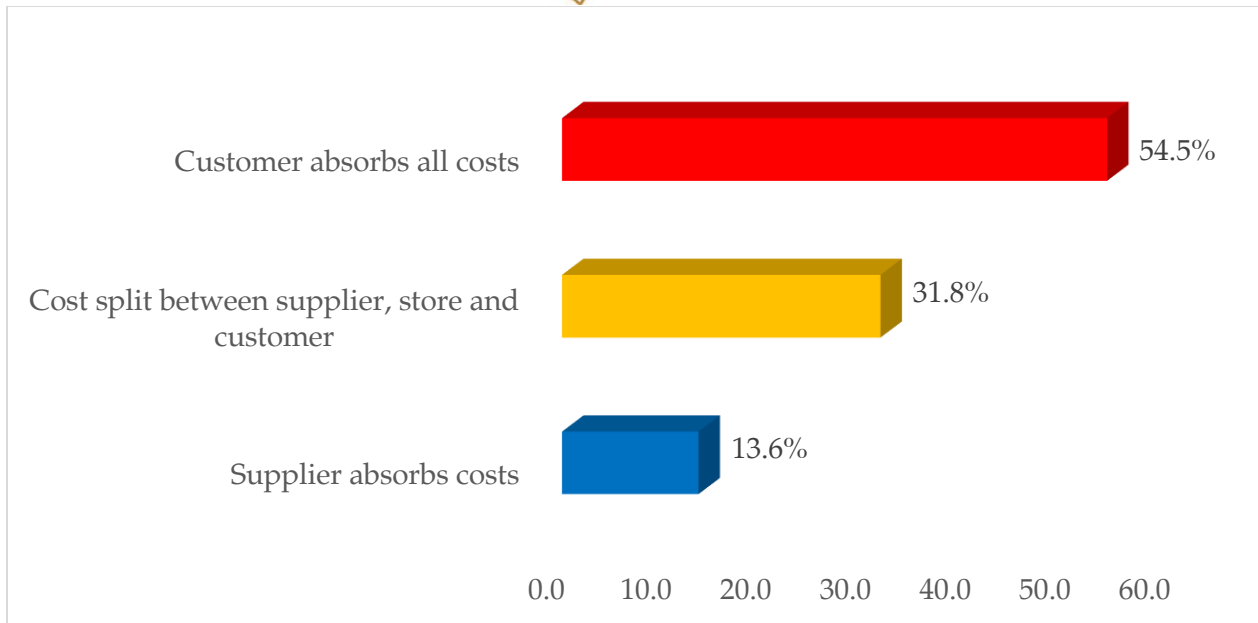


Figure 6.7: Suppliers reaction to increase in production costs

A majority of suppliers (54.5%) indicated that the additional costs were passed over to the consumers. 31.8% split the costs between themselves, the retailer and the consumers whereas 13.6% absorbed all the additional costs.

Where prices go up, the consumers are expected to bear the cost, as indicated by both retailers and suppliers. There is a risk of unscrupulous traders taking advantage of consumers by hiking prices, especially of essential commodities. To curb against such cases, the government can step in to by conducting market surveillance to ensure price increases as comparable across the country based on all the associated cost. Giving subsidies to producers may also help to reduce the increase in production costs for basic consumer goods. Unstable economic environment results in increase in prices of raw materials, which is in turn cascaded to the consumer. By ensuring that there is a sound economy in place, the government protects the consumers from high costs of products.

CHAPTER 7: BUYER POWER

This chapter discusses the concept of buyer power by identifying the various potential ways in which retail supermarkets can abuse the same while dealing with their suppliers. Further it analyses the behavior of retailers towards their suppliers to determine if there is evidence of abuse of buyer power for policy considerations and lastly explores the harm of buyer power to consumers and suppliers.

7.1. Concept of Buyer Power

Competition regulators are increasingly getting concerned with the impact of buyer power which retailers exert on suppliers and the unfair trading terms especially for small suppliers who are not in a position to bargain for better terms. Abuse of buyer power and the potential harm it has on consumers in the Kenyan retailer sector was the justification behind the amendment of Competition Act in 2016 recognizing the need for the Authority to address dynamic changes in the competition regime including abuse of buyer power (Competition Authority of Kenya, 2017). This was as a result of complaints raised by the Small and Medium Enterprises (SMEs) on abuse of credit terms by their customers to the Authority.

The Competition Act Section 24A prohibits abuse of buyer power in the Kenyan market or substantial part of the Kenyan market. Before determining whether abuse of buyer power exists, the first consideration is to determine whether the said undertaking possesses buyer power.

The Competition Act of Kenya under section 24 defines “**buyer power**” as, ‘the *influence* exerted by an *undertaking or group of undertakings* in the position of a purchaser of a product or service to *obtain from a supplier more favorable terms*, or to *impose a long*

term opportunity cost including harm or withheld benefit which, if carried out, would be significantly disproportionate to any resulting long term cost to the undertaking or group of undertakings'

7.2. Buyer power and consumer harm

The relationship between retailers and suppliers in the retail market sector is of utmost importance as it impacts on competition in the market and consumer welfare. Therefore, the buyer power that retailers wield cannot be deemed as merely passive as the market power they exert can be abused leading to detrimental effects both to suppliers and consumers (International Consumers, 2016). While retailers may argue that they are influenced by demand forces from customers and competition from the supply-side, it can be argued that they also play a key role in shaping consumer demand and that, because of the power they wield in the marketplace, they have a strong influence over what consumers buy, and how and where they buy it (International Consumers, 2016).

Possession of buyer power in itself is not anti-competitive if it leads to consumer welfare and efficiency. The ability of a buyer to dictate terms of trade with upstream suppliers may enhance consumer welfare if the lower prices obtained from the buyer power is passed on to consumers in the form of retail prices (OECD, 2008)). However, where the retailers do not pass the lower prices obtained through buyer power to consumers in the retail price, this will not lead to consumer welfare. It indeed raises the retail price to the final consumer leading to expensive products.

In determining the harm of buyer power on consumers, this market inquiry sought to determine if retailers adjusted their contract terms when productions costs go up.

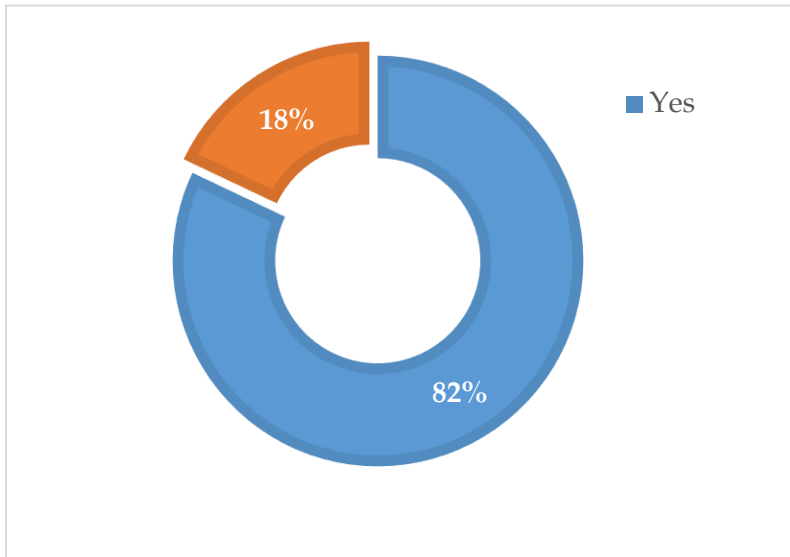


Figure 7.1: Retailers contract terms if production cost go up

From the findings, most of the retailers adjust their contracts if the production costs go up (82%) while only a few (18%) do not adjust. Retailers will adjust the terms of the contract.

In order to determine who bears the unexpected costs of change of contractual

arrangements that arise when product costs go up, the market inquiry asked the retailers how they react under such scenario.

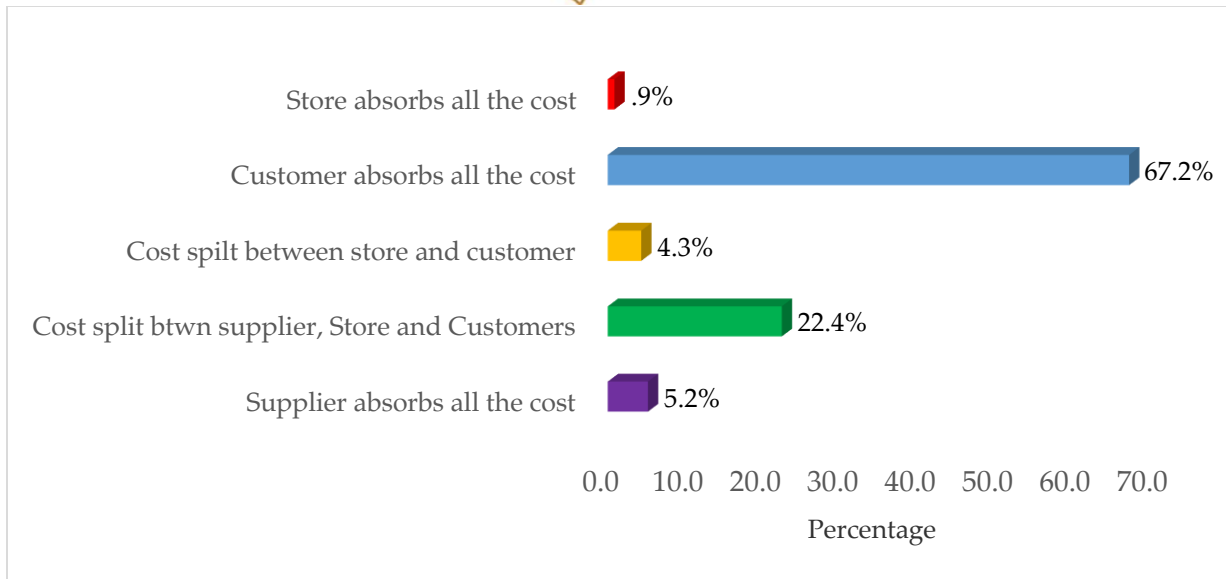


Figure 7.2: What retailers would do if the cost of products would go up for some reason

The finding of the inquiry indicate that risks associated with productions costs are majorly borne by the customer who absorbs all the cost (67.2%). In some cases, the cost is split among the supplier, store and customers (22.4%) or split between the store and customer (4.3%). The supplier will absorb costs in limited cases (5.2%). In very rare instances is the contract adjusted so that the store absorbs all the costs (0.9%). The unexpected costs that arise will be borne by the consumers in the form of high retail prices in most cases. This results into consumer harm.

7.3. Buyer power and market power

One aspect of determining possession of buyer power is by looking at the market power of an undertaking or undertakings. Arising from previous studies, it was found that increase in the retail power of supermarkets led to increase of buyer power of supermarkets and hence increase in supermarkets' buyer power and retailer power are



deemed mutually reinforcing (International Consumers, 2016). While it is agreed that buyer power is a form of market power—in this case a supermarket retailer (or wholesaler or buying group)—is able to exercise in relation to its suppliers, the supplier power of suppliers in the retail market cannot be offset by the market power possessed by the supermarkets (CMA, 2008).

The retail sector in Kenya is booming and currently Kenya is the 2nd biggest market for retail investors in Africa. Supermarkets are fast growing in Kenya regardless of the many challenges facing owners, there are currently about 220 supermarkets in the country (Kulmia, 2014).

In Kenya, the market for the retail of groceries and other household goods is multilayered. The major market players in the supermarket industry include Nakumatt Holdings Ltd, Tuskys Ltd, Uchumi Ltd, Naivas Ltd and Ukwala Ltd (Kulmia, 2014). This market accounts for all branded retail. The second distribution tier includes convenience stores, Gas mats and kiosks such as Chandarana Supermarket Ltd, independent stores and mini-supermarkets, convenient stores such as select and Oil Libya gas marts. The third distribution tier comprises of traditional markets, dukas, open-ended markets and street hawking. The second and third distribution tiers account for non-branded retail.



Table 7.1: National Retail Market

Supermarket	Turnover (Ksh. Billion)	Percentage
Nakumatt Holdings Limited	55.00	28%
Tusker Mattresses Limited	31.00	16%
Naivas Supermarket Limited	16.00	8%
Uchumi	14.40	7%
Eastmatt Supermarket Limited	6.04	3%
Ukwala Supermarket Limited	3.02	2%
Others	68.42	35%
Total-Branded Retail	193.88	36%
Total-Non Branded Retail	347.12	64%
Total Retail	541.00	100%

Source: Parties

7.4. Possession of buyer power in the Kenyan market retail

Apart from the market power, several other factors should be considered in determining possession buyer power, whether monopsony or bargaining power. In determining whether buyer power exists, it is not necessary for the buyer to have a dominant position in the market.

This market inquiry sought to examine the different aspects of the behavior of the retailers towards their suppliers and assess the conduct towards which such behavior

may amount to abuse of buyer power. These practices include agreements on delivery, supply chain practices, withholding of payments, and access to infrastructure and sell of private label products. Together with the analysis carried out above, in determining whether a buyer possess buyer power, CAK in accordance with Section 24 (2B) of the Competition Act shall take into consideration:

- a. The nature and determination of contract terms;
- b. The payment requested for access infrastructure; and
- c. The price paid to suppliers.

7.4.4. The nature and determination of contract terms

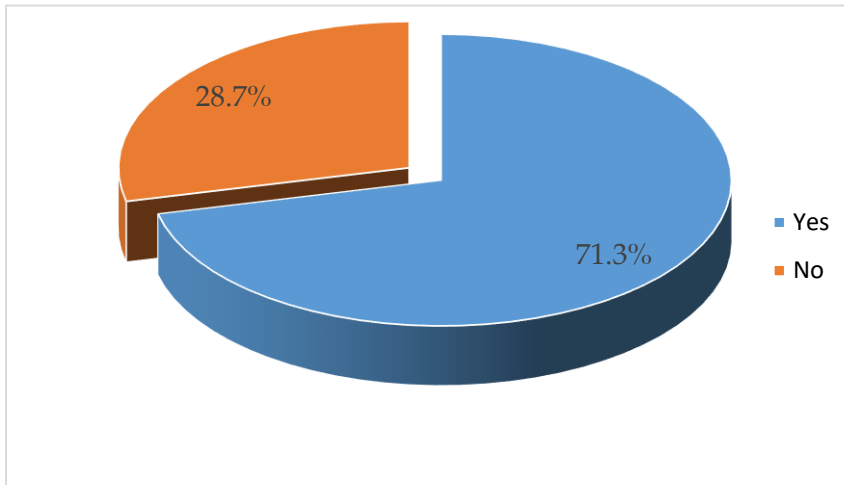
Buyer power gives retailers more than just the ability to extract discounts and obtain low prices from suppliers; buyer power may manifest itself in the contractual obligations that retailers may be able to place on suppliers (Dobson, 2005).

7.4.5. Supplier contracts

Possession of buyer power is evident, when the buyer can credibly resort within a reasonable time frame to alternative sources of supply and refuse to buy products from the seller. Evidence that a buyer has control on supplier contracts can be a clear indication that it possesses buyer power (Dobson & Waterson, 1997).

a) Management of suppliers' contracts

In this regard the market inquiry sought to determine whether local stores management has a role in managing suppliers' contract.



Majority of the management of the local stores play a role in managing contract with suppliers (71.3%) while only a few do not have such a role (28.7%).

Figure 7.3: Role of local stores management in supplier contract management.

b) The level at which suppliers are selected.

The market inquiry sought to determine at which level of the retail are suppliers selected.

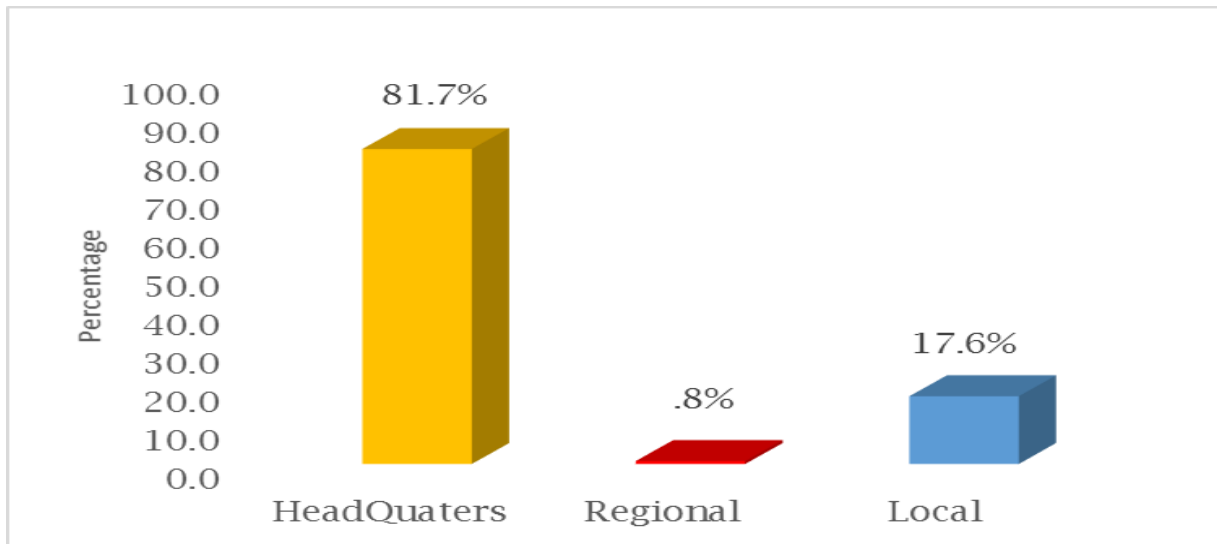


Figure 7.4: Level of supplier selection in the retail market

According to the market inquiry findings, majority of the suppliers are selected at the headquarters (81.7%) while the local store only selects in a few instances (17.6%). The regional office has a very minimal role in selecting suppliers (0.8%). Most retailers prefer selection of suppliers to be done at the headquarters.

c) The role of the local store in selecting suppliers

The market inquiry sought to find out the role of local store in influencing the selection of suppliers

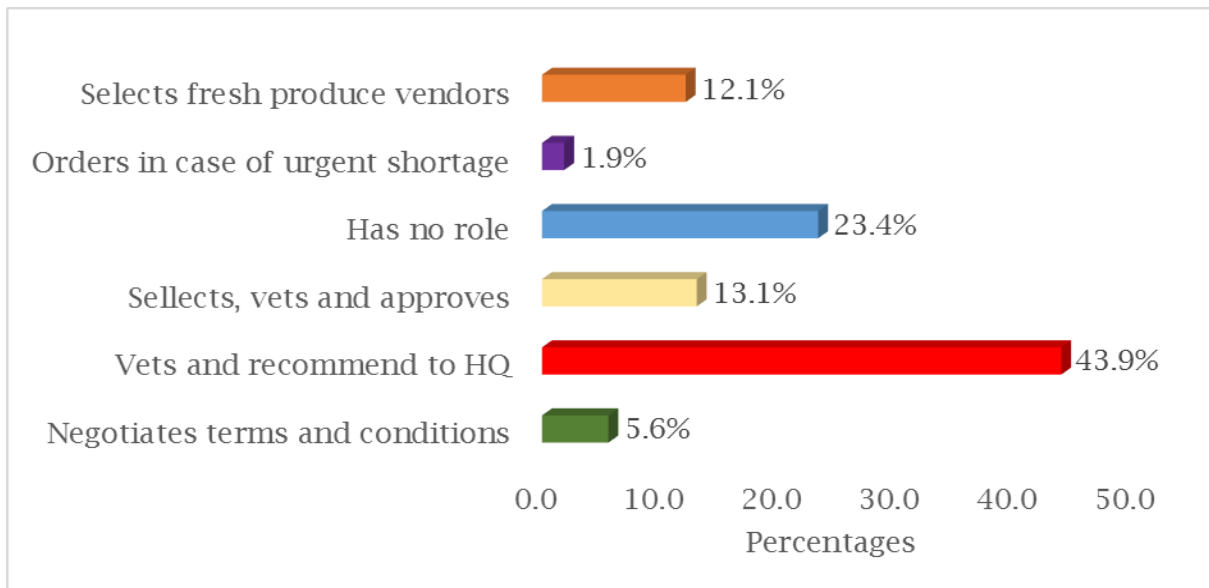


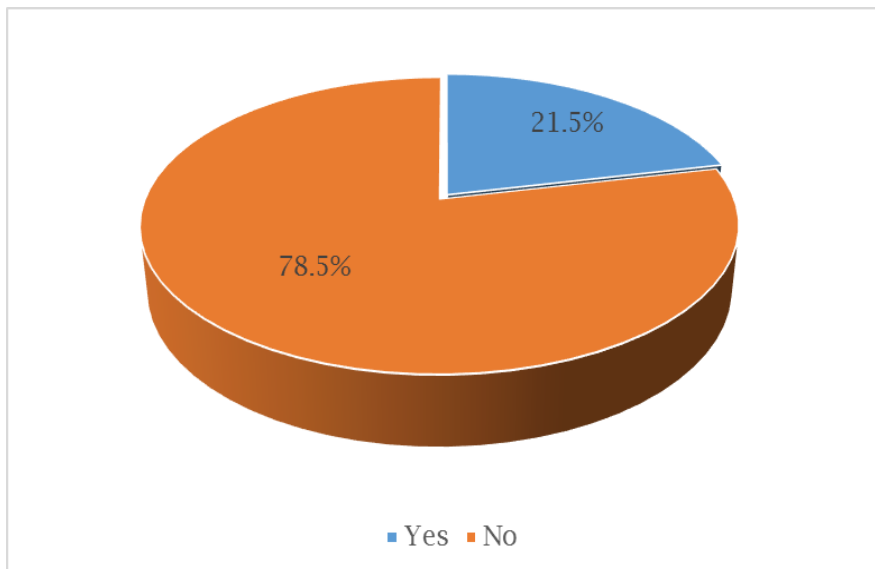
Figure 7.5: The role of the local store in influencing the selection of suppliers

The findings of the inquiry indicate that most of the local store vet and recommend suppliers (43.9%), 23.4% have no role at all. In negotiating terms and conditions only a few have a role (5.6%). In few instances do local store select, vet and approve selection of suppliers (13.1%). However, some local stores select fresh produce vendors (12.1%)

while a few have a role in making orders in case of urgent shortage (1.9%). Selection of suppliers is a role majorly done by the head office.

d) Local stores’ manager selection of suppliers without approval of the head or regional office

The market inquiry also sought to find out if managers at the local store can select suppliers without the head or regional office approval.



According to the findings of the inquiry, a majority of the retailers will not allow the managers of a local store to select a supplier without the approval of the head or regional office (78.5%). In very

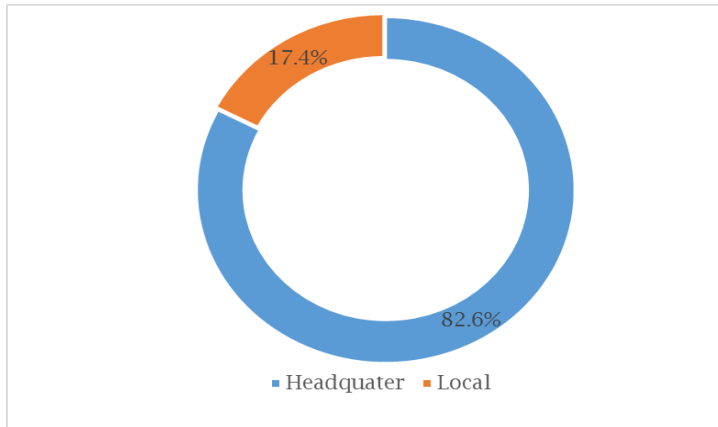
Figure 7.6: Local store selection of suppliers without head or regional office approval

few scenarios will the

head or regional office of the retail allow a manager of a local store to select a supplier without approval (21.5%). The head or regional offices have an influence on the kind of suppliers selected to supply at the local stores.

d) Suppliers’ contract negotiations

The market inquiry sought to determine who negotiates contract terms with suppliers



The findings of the inquiry indicate that a majority of the contracts are negotiated at headquarters and the local store have a minimal role in negotiating contracts with supplier (17.4%). Retailers prefer contracts to be negotiated at the head office.

Figure 7.7: Negotiation of contracts

e) Role of the different levels in negotiating supplier contracts

The market inquiry sought to identify the role of the different levels in negotiating contracts

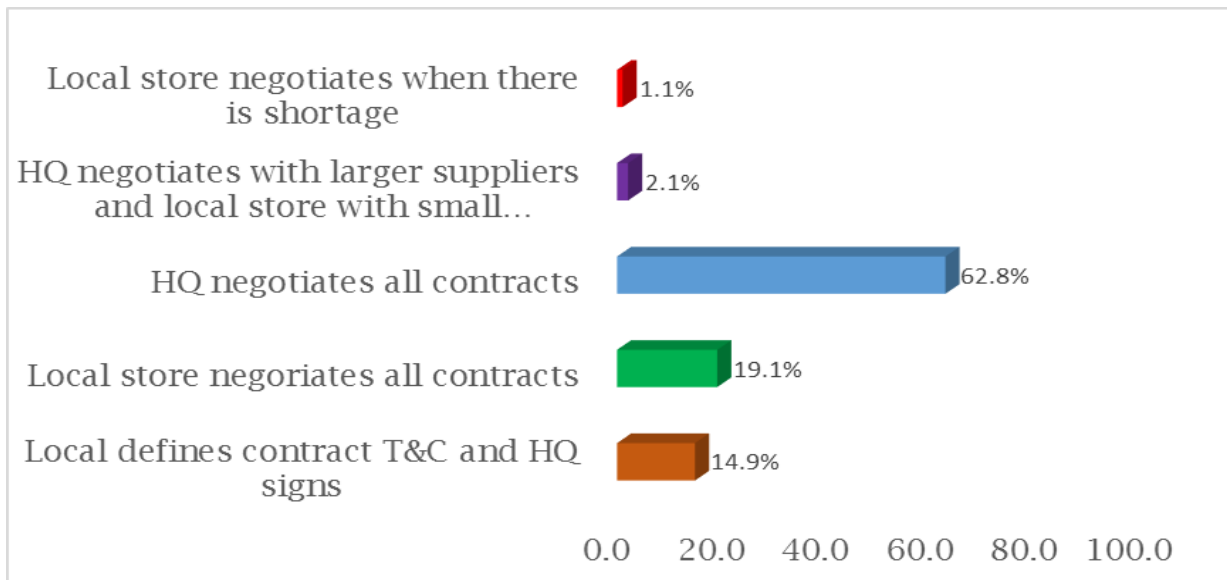
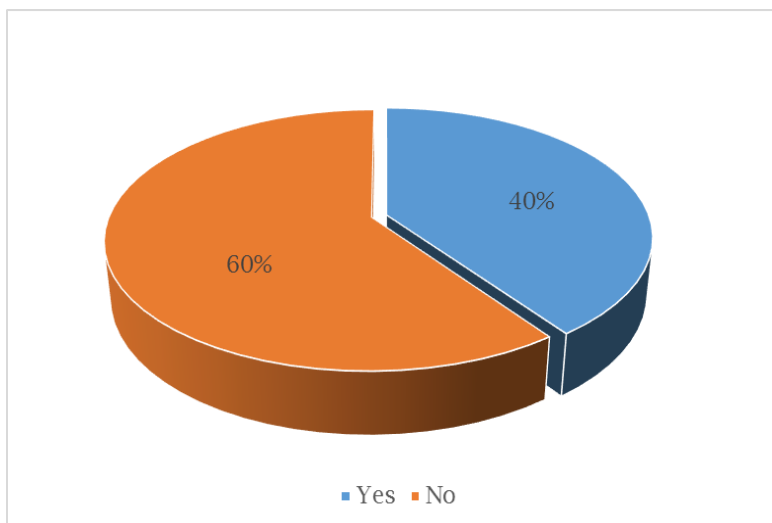


Figure 7.8: Role of the different levels in negotiating supplier contracts

The findings indicate that it is the headquarters that negotiates majority of the contracts (62.8%). The Local store negotiates all contracts in very few cases (19.1%) or defines the contract terms and conditions which are the signed by the head office (14.9%). Cumulatively the head office has a key role in negotiating contract terms with suppliers through negotiating or approving the local store’s defined terms with suppliers (77.7%). In very rare instances will the local store negotiate contracts when there is shortage (1.1%). The role to negotiate contracts is concentrated at the headquarters.

f) The process of selecting suppliers

The market inquiry sought to find out if the suppliers are selected through a competitive tender process.



According to the findings of the market inquiry majority of the retailers do not select suppliers through a competitive process (60%). In others cases only 40% agreed that they select suppliers through a competitive tender process. Majority of the retailers

Figure 7.9: Selection of suppliers through a competitive tender price have a discretion of which supplier to enter into business with or without having a competitive tender process.

g) Retailers approaching selected suppliers to work with

The market inquiry sought to find out if retailers ever approached selected suppliers to work with.

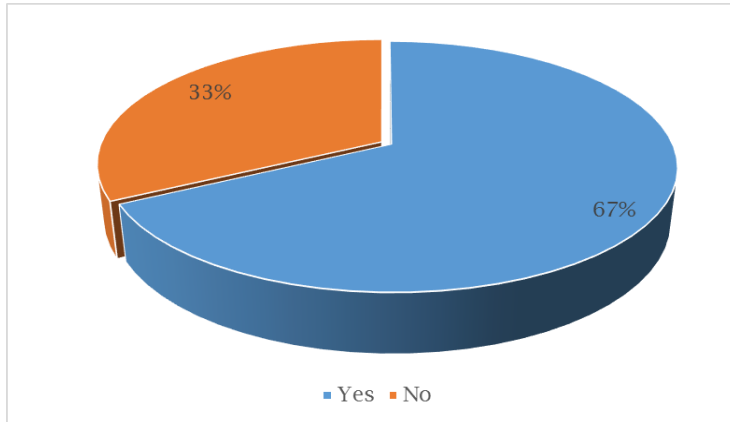


Figure 7.10: Retailers approaching selected suppliers to work with

The findings of the inquiry indicate that majority (67%) of the retailers approached selected suppliers they want to work with while 33% do not approach suppliers. From the findings it can be concluded that the retailers have a control over the suppliers

they would wish to work for.

h) Retailers who have contractual agreements with suppliers

This market inquiry also sought to find out if retailers have contractual agreements with suppliers.

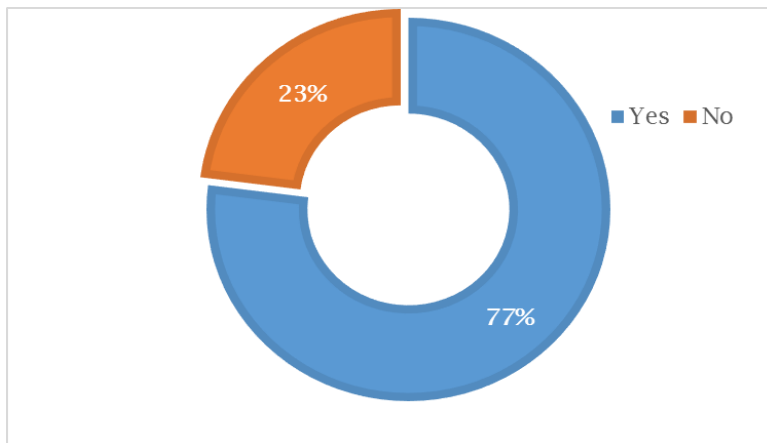


Figure 7.11: Retailers who have contractual agreements with suppliers

Findings of the inquiry indicate that most (77%) of the retailers have contractual agreements with supplier while the rest (23%) did not have contractual agreements with their suppliers.

f) Retailers working with suppliers who approach them first

The market inquiry sought to determine if retailers work with suppliers who approach them first.

Table 7.3: Retailers working with suppliers who approach them first

S/no	Response	Percentage
1	YES	82.7%
2	NO	17.3%
	TOTAL	100%

According to the findings of the inquiry, 82.7% of the retailers work with suppliers who approached them first as opposed to 17.3% who do not.

7.4.6. Management of mode of delivery contracts

a) Preferred mode of delivery

This inquiry sought to determine the mode of delivery of goods suppliers prefer in their contract with supermarkets retailers.

Table 7.4: Suppliers' preferable mode of delivery with supermarkets

S/no	Response	Percentage
1	Supplier Delivers to central depot	12.5%
2	Suppliers delivers to individual outlets	87.5%
	TOTAL	100%

This inquiry indicated that most of the suppliers preferred delivering goods to the individual outlets (87.5%) while 12.5% preferred delivering to the central depot. This implies that majority of the suppliers preferred delivering products to individual outlets.

b) The role to set the actual mode of delivery of goods

The market inquiry sought to determine in practice who generally sets the actual mode of delivery of goods.

Table 7.5: The role to set the actual mode of delivery of goods.

S/no	Response	Percentage
1	STORE	16.7%
2	SUPPLIER	25.0%
3	EQUALLY	58.3%
	TOTAL	100%

The findings of the market inquiry indicated that the mode of delivery is equally decided between the supplier and retailer (58.3%). In some instances, (25%) the supplier decides the mode of delivery while in very few scenarios (16.7%) does the store decide the mode of delivery. In most cases the mode of delivery is a mutual agreement between the supplier and retailer. The supplier however, had an upper hand in deciding the mode of delivery.

c) Actual mode of delivery that actually predominates supplier’s contracts with supermarkets

The market inquiry also sought to determine which mode of delivery actually predominates supplier’s contracts with supermarkets

Table 7.6: The mode of delivery that actually predominates the supplier's contract with supermarkets

S/no	Mode of delivery	Percentage
1	Supplier delivers to central depot	16.7%
2	Supplier delivers to individual outlets	79.2%
3	Central HQ collects from supplier	4.2%
	TOTAL	100%

The findings indicate that suppliers delivering to the individual outlets predominated most of the contracts between supplier and supermarket (79.2%). Delivery to a centralized depot accounts for 16.7%. In very few circumstances did the retailers collect goods from the suppliers (4.2%). The findings indicated that suppliers delivering goods to individual outlet and centralized depot accounted for most of the contracts (95.9%). In actual practice most of the suppliers deliver products to the individual outlets.

a) Payment requested for access to infrastructure

The market inquiry sought to determine whether retailers' contracts with suppliers include shelf allocation fees or product placement fees.

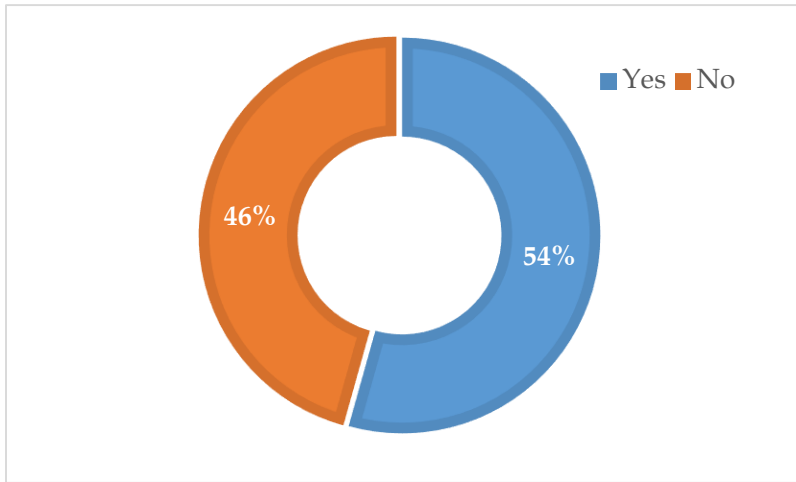


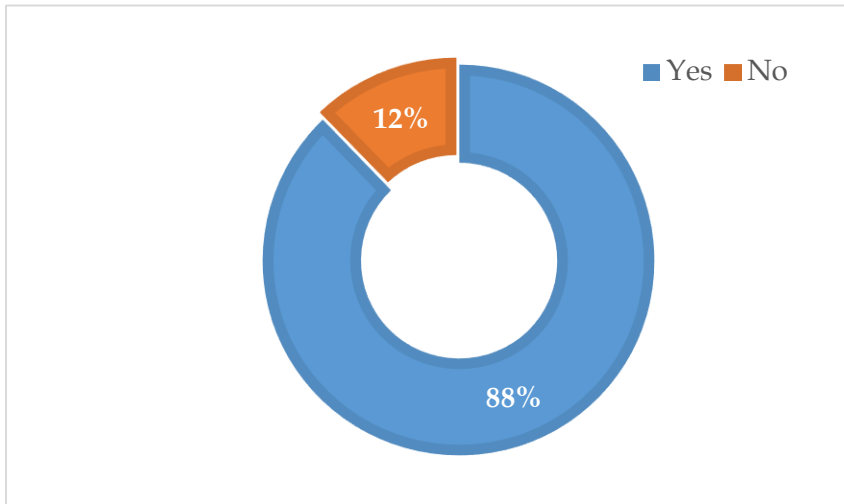
Figure 7.12 : Retailers requesting for access to infrastructure payment from suppliers

The findings of the inquiry showed that most of the retailer included shelf allocation and product placement fees in their contract with suppliers (54%) while 46% did not include the fee. This pointed out that

more than half of the retailers request payment from suppliers in order to have access to infrastructure. This implies that only suppliers who can afford the cost of the infrastructure are allocated shelf hence eliminating small suppliers who have liquidity constraints.

b) Retailers selling its own brand/store branded products.

This market inquiry sought to find out if retailers sell their own brand/store-branded products.



The findings of the inquiry indicate that majority (88%) of the retailers sell their own brand/store branded products. Only twelve percent (12%) do not sell their own brand/store branded products. Own

Figure 7.13: Retailers sell of its own brand/store branded products

brand/store branded products therefore is prevalent in the supermarkets and compete with other regular brands on shelf allocation and price.

Buyers' own brand competing with other brands

When a buyer integrates vertically into the market, its own branded products compete with other products. Buyers' own brand/store-branded products not only compete with other products for access to infrastructure but also the same consumers of which retailers act as a medium for suppliers. Such a buyer can use access to infrastructure as an incentive to abuse its buyer power. The inquiry inquired into how the retailers own brand/store-branded products perform with respect to other products.

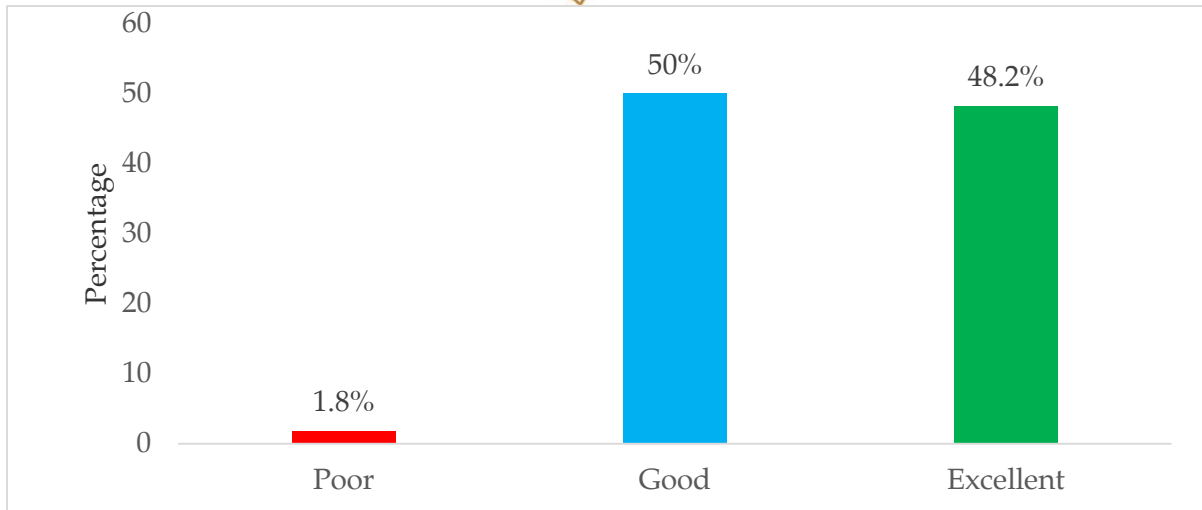


Figure 7.14 : Retailers performance of its own brand/store branded products with respect to other products

From the findings, fifty percent (50%) of the retailers indicated that the performance of retailers own brand/store products was good in comparison to other products. Forty eight percent (48%) felt that their performance was excellent, while only 1.8% considered the as performance poor. The likely impact of selling own brand is squeezing the market for other brands by being allocated more shelf space and being placed at strategic points. However, the inquiry didn't point out any competition effect of selling own brands.

c) Buyers' priorities in shelf allocation

Shelf allocation allows suppliers to sell their products and retailers consider various factors in determining shelf allocation. However, a retailer with buyer power may abuse it when it comes to shelf allocation in order to set prices profitably below normal selling price or to force suppliers to reduce price and other terms of trade below the level that would emerge in a competitive market for reasons other than efficiency (Dobson & Waterson, 1997).

This market inquiry sought to determine the retailers' main priority in allocating shelf-space and visibility of different products and brands.

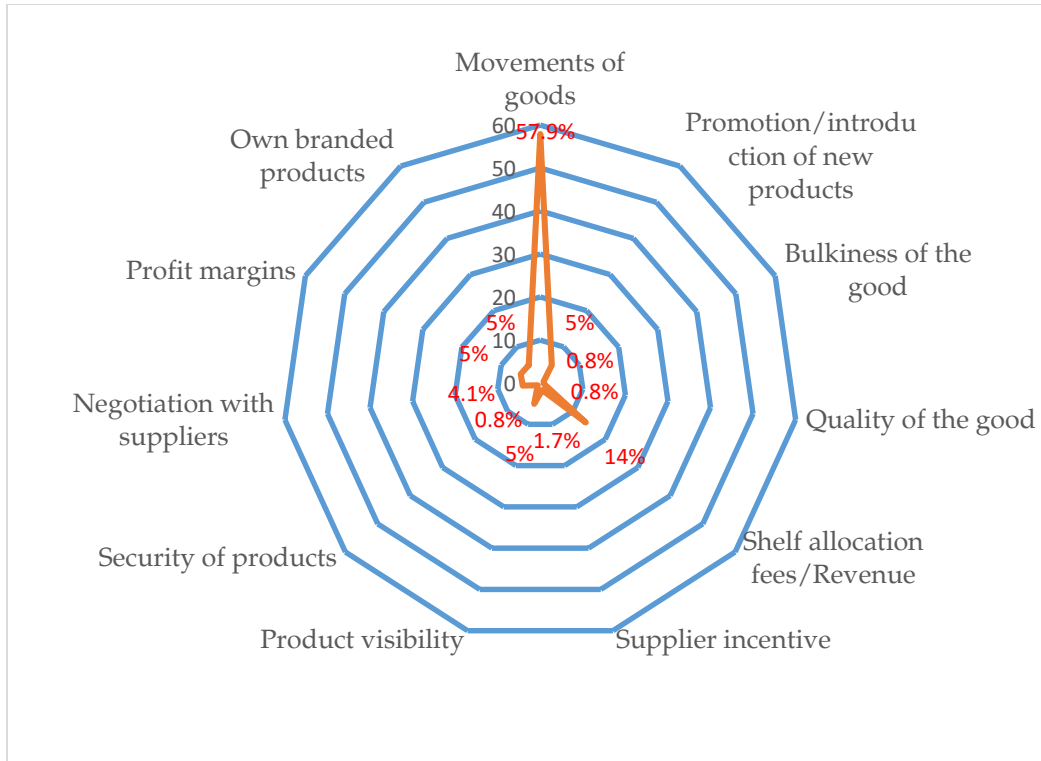


Figure 7.15: Retailers main priorities when allocating shelf-space and visibility of different products and brands

The findings indicate that movement of goods (57.9%) is the main priority that retailers will consider when allocating shelf space and visibility of the different products and brands. Shelf allocation fees/revenue raised from shelf space (14%) is the second priority. Thirdly, retailers considered its own brands (5%), profit margins (5%), product visibility (5%) and promotion of new products (5%). The retailers also negotiate with suppliers

(4.1%), supplier incentives (1.7%) however, play a negligible role in shelf allocation. The quality, security and bulkiness of goods play a very minute role in shelf allocation (0.8%). From the findings, retailers own brands and supplier incentives which can be used by retailers to abuse buyer power were not the main factors considered when allocating shelf space.

This market inquiry sought to determine the retailers' primary factor that informs the decision on allocation of shelf-space and product visibility

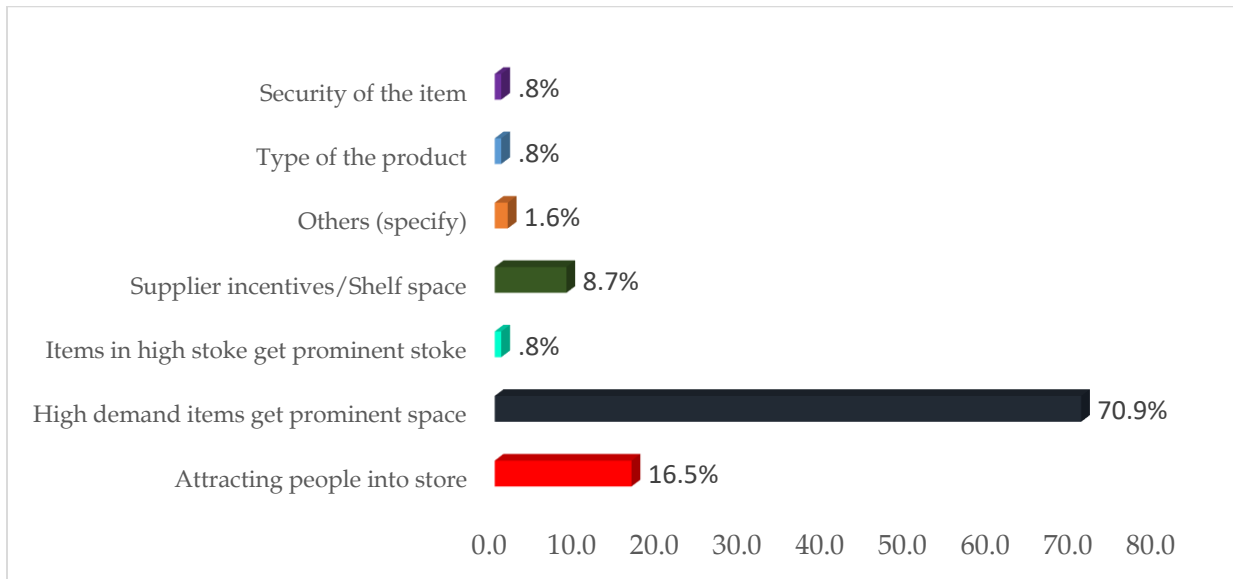


Figure 7.16: Retailers' primary factor that informs the decision on allocation of shelf-space and product visibility

The primary factor that informs the decision on allocation of shelf space and product visibility is the high demand of items (70.9%). Attracting people into the store (16.5%) and supplier incentives (8.7%) are also considered. Security, type of the product and stock

play a very limited role in allocating shelf space and product visibility (0.8%). In most cases retailers considered the movement of goods and demand as their primary factor in allocating shelf space and product visibility.

d) Buyers giving priority to its own brand when allocating shelf-space

Possession of buyer power is evident where a buyer who has integrated vertically in the market gives priority to its own brand when allocating shelf-space (CMA, 2008). This market inquiry sought to determine whether retailers give priority to its own brand when allocating shelf-space.

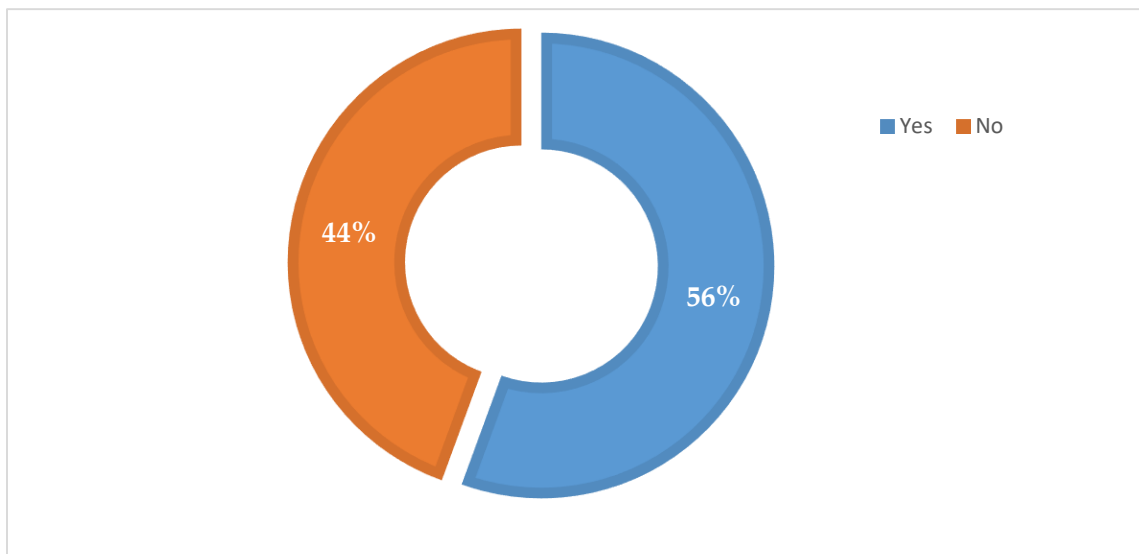


Figure 7.17: Priority of retailers in shelf-space allocation to its own brand

Findings from the inquiry indicated that more than half (56%) of the retailers give their own brands priority when allocating shelf space as compared to forty four percent (44%) who do not give priority to their own products in shelf space allocation. This points out the shelf allocation between own brand (private labels) and other brand is not done in a

FRAND manner therefore having the potential to limit access to key infrastructure by suppliers of other brands.

7.4.7. Price paid to the suppliers

Delayed payments were one of the issues that led to the amendment of the Competition Act of Kenya in 2016 to address abuse of buyer power in the Kenyan retail sector (Competition Authority of Kenya, 2017). In a study carried out in 2016, arising from a sample of 22 suppliers, five supermarkets accounted for 92% of the total debt owed for 60 days and above as illustrated in the table below. Nakumatt and Uchumi alone accounted for 73% of the debt (Kagia, 2017).

Table 7.6 : Lead Retailers in Later Payment, status as at 31st December 2016

Retailers Name	Debt Owed 60 days and above	% share in total outstanding debt of 60 days and above
Nakumatt Holdings Limited	136,450,025	41%
Uchumi Super Markets Limited	106,758,588	32%
Tuskys Ltd	30,263,208	9%
Naivas Supermarket	25,273,596	8%
Chandarana Supermarket Ltd	10,407,401	3%

Source: Kagia, 2017.

It is therefore evident that payments issues predominate the retail market sector in Kenya. This is one way where the abuse of buyer power has manifestly been exercised by the retailers.

a) Preferred mode of payments terms

This market inquiry sought to determine the preferred terms of payment by suppliers from the supermarkets. The objective was to determine the mode of payment the suppliers would prefer.

Table 7.7: Suppliers preferred mode of payment

S/no	Preferred Mode of Payment	Percentage
1	Discount for early payment	8.3%
2	Delivery upfront, pay later	20.8%
3	Payment after delivery days	41.7%
4	Payment upon delivery	29.2%
	TOTAL	100%

The results of the inquiry showed that 41.7% of the suppliers preferred payment after delivery, 29.2% upon delivery and 20.8% part up front. Only 8.3% preferred a discount for early payment.

b) Typical payments terms agreed with suppliers from the retailers.

The market inquiry also sought to determine the typical payments terms agreed with suppliers from the retailers.

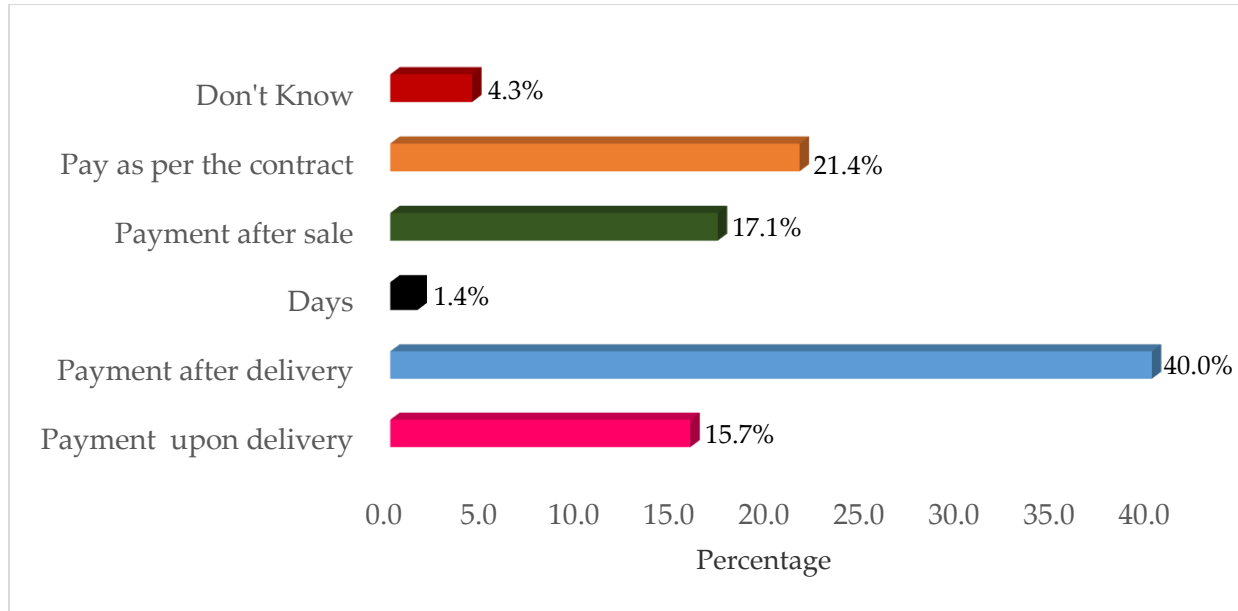
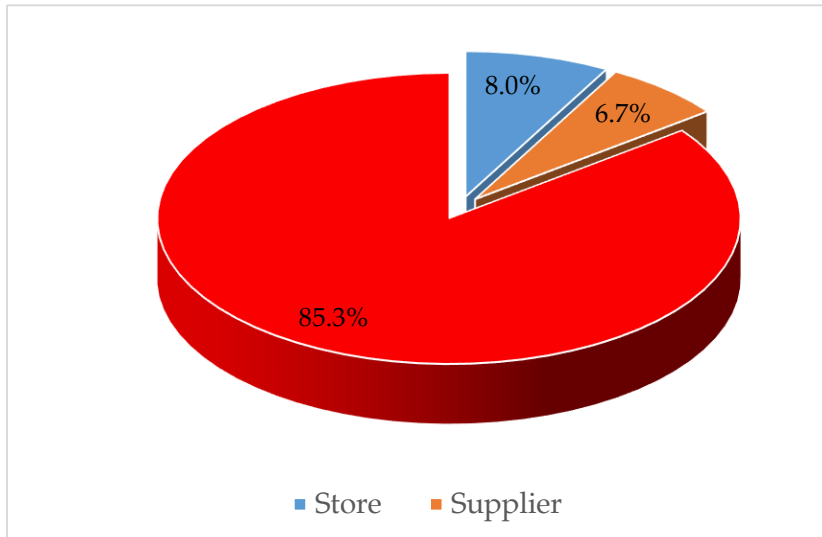


Figure 7.18: Typical payments terms agreed with suppliers from the retailers

The findings from the market inquiry showed 40% of the retailers agree with suppliers to payment after delivery, while 21.4% agreed with suppliers to pay as provided for in the contract. Retailers who agreed on payment upon delivery were 15.7% in comparison to 17.1% agreeing to payment after sales. In very limited scenarios will the payment agreements stimulate the days within which payment shall be made (1.4%). However, 4.3% of the retailers did not know what payment agreements were in place. In as much as the payment terms were agreed on, the inquiry indicated that there were issues of delayed payments signifying non adherence to the agreed terms of payments.

c) Suggestion of payment terms

This market inquiry sought to determine who suggest the terms of payments

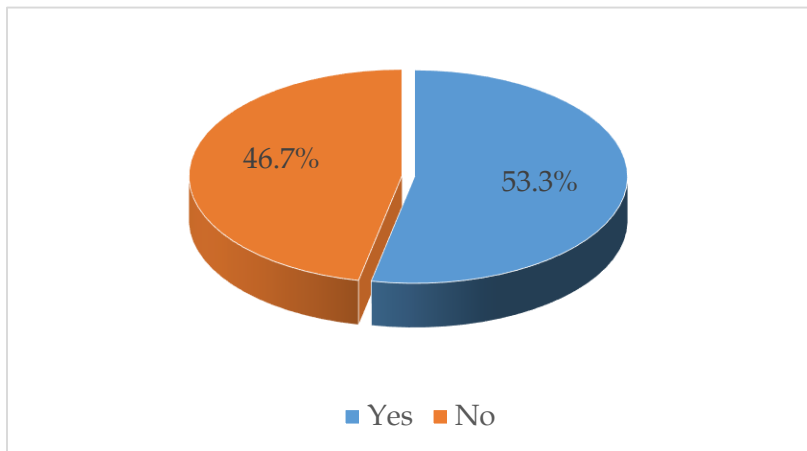


The findings indicated that in most cases the payment terms are mutually agreed upon between the supplier and store (85.3%). The stores and the suppliers suggested the terms of payment in 8% and 6.7% respectively.

Figure 7.19: Suggestion of payment terms

d) Withholding payments

The market inquiry sought to determine if a retailer would ever withhold payments if there was an issue with supplier



The results of the inquiry indicated that 53.3% of the retailers would withhold payment from a supplier if there was any issue compared to 46.7% who

Figure 7.20 : Retailer withholding payments

would never withhold payments.

e) Circumstances under which retailers would withhold payments

This market inquiry sought to find out under what circumstances would retailers withhold payments

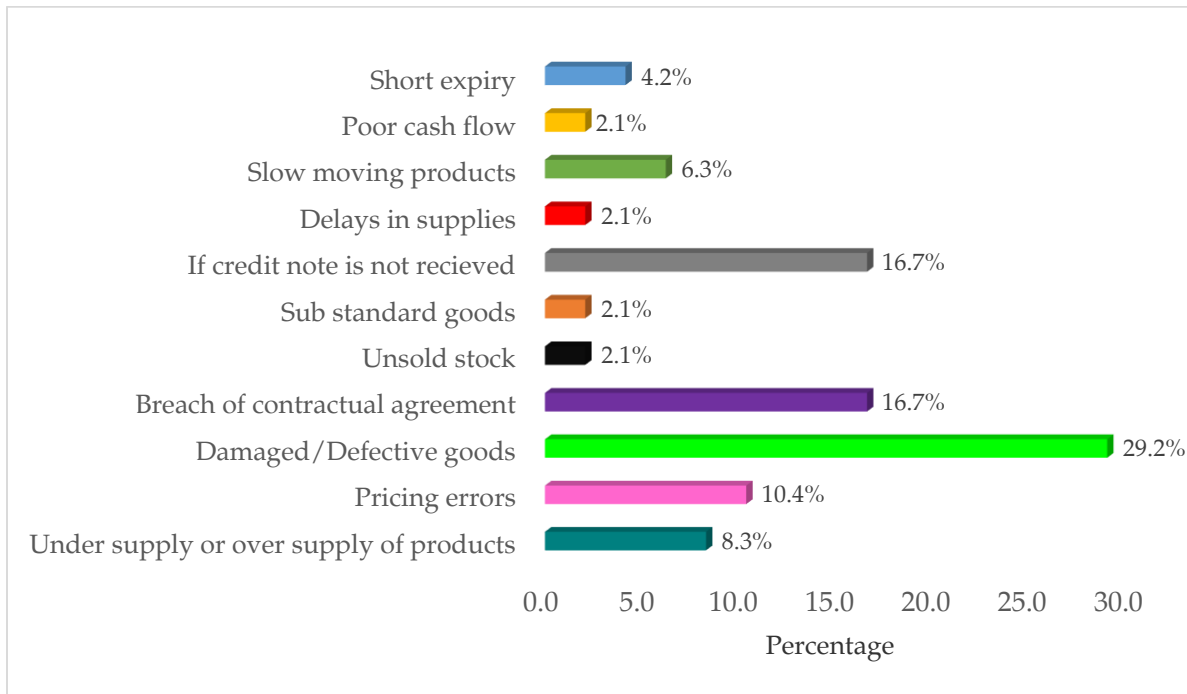


Figure 7.21: Circumstances under which retailers would withhold payments

The inquiry findings showed that retailers would withhold payments under various circumstances. One of the key circumstances under this would happen was when supplied goods are damaged or defective (29.2%). This was followed by breach of contractual agreement at 16.7%, when credit note is not received (16.7%) and price errors (10.4%). The least circumstances under which a retailer would withhold payments were: under/oversupply of products (8.3%); slow moving goods (6.3%); short expiry (4.2%) and

others which accounted for 2.1% (Poor cash flow, delays in supply, sub-standard goods and unsold stock).

f) How many times have the retailers withheld payments in the past

The market inquiry sought to find out how many times have the retailers withheld payments in the past.

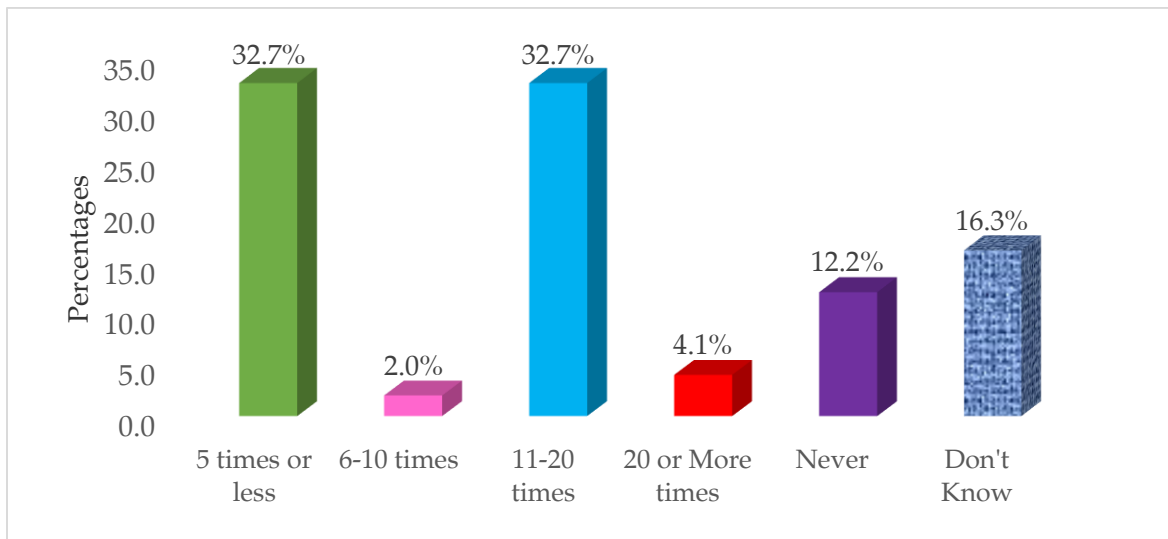


Figure 7.22: Times retailers have withheld payments in the past

Findings of the market inquiry show that retailers have withheld payments five times or less (32.7%) and 11-20 times (32.7%). Very few retailers have never withheld payments (12.4%). For those who have withheld between 6-10 times only account for 2.0% while 20 or more times account 4.1%. Some of the retailers did not know (16.3%). Cumulatively majority of the retailers have in the past withheld payments between 5 times to more than

20 times (71.5%). This signifies that withholding payment by retailers for whatever reason is a common practice in the retail sector in Kenya.

7.5. Conclusion

In determining whether buyer power exists in the market, the Act of Kenya mandates CAK to consider: contractual terms; payment for access to infrastructure; and price paid to suppliers.

From the data collected there is evidence of possession of buyer power by retailers in the market:

a) Market power

Majority of the big supermarkets have a market share (refer to table 7.1) that can be an incentive to abuse of buyer power.

Increase in the retail power of supermarkets leads to increase of buyer power of supermarkets and hence increase in supermarkets' buyer power and retailer power are deemed mutually reinforcing. Ukwala, Nakumatt, Tuskys, Naivas, Uchumi and Eastmatt have a combined retail market share of 65%, while others have 35% of the total retail market share (Table 7.1). As defined in the Act that buyer power can be exercised by a group of undertakings, the major supermarkets having market share subsequently have buyer power.

b) Consumer harm

There is evidence that exercise of buyer power through adjustments of contract when production costs go up and which are majorly borne by consumers have final harm to the consumer in form of high retail prices.

In regard to the issue of prices, it was evident from the study that in the event of any increase in costs, it is not absorbed by the supermarkets but passed on to the customer and hence the buyer power is exercised to the detriment of the consumer. Most of the retailers indicated that in case production costs go up they would adjust their contracts (82%). In case of products costs going up, the consumers would bear all the costs (67.2%). These costs are reflected in high retail prices. Buyer power in the Kenyan retail sector has a detrimental effect on consumer.

c) Nature and determination of contract terms

Determination of suppliers' contract terms, selection and negotiations are concentrated at the retailers headquarter with the local store playing a minimal role. Even where the local stores play any role, it has to do so with the approval of the head office.

The role of determining suppliers' contracts is highly concentrated at the retailers' head office (Figure 7.3). The local stores have a minimal role. Selection of suppliers and negotiation of supplier contracts is highly concentrated at the head office. Even where local store is allowed to select suppliers in most of the cases it cannot do so without the approval of the head or regional office. The role of the local store is majorly to vet and recommend suppliers to the head office for selections. In some instances, the local store is allowed to select vendors for fresh produce. Selection of suppliers offers an incentive to buyer power where the buyer can choose whom to purchase from. The fact that the selecting of suppliers is concentrated at the head office implies that the retailers have control over their local store regarding which supplier they can engage in business with. Data indicate that majority of the retailers do not select suppliers through a competitive tender process (60%) and approach selected suppliers to work with (67%). The result is

a retailer with buyer power may use its power to exert unfavorable trading terms with suppliers because they have the sole discretion to select suppliers. Selection through competitive tender process also gives other suppliers an opportunity to tender for selection and compete against each other

Selecting suppliers based on other considerations other than competitive tender process is an incentive to abuse of buyer power. This as a result harms competition and as it can push some suppliers from the market. Buyers can also use the selection process to switch to other suppliers or threaten to if a supplier does not give them favorable terms.

Most of retailers and suppliers prefer delivery to individual outlets as most preferable mode of delivery. This is what happens in practice. In most of the contractual agreements on the mode of delivery it is a mutual agreement between the retailer and supplier. In this scenario whoever has bargaining strength during the negotiations can use it to influence the contractual terms. Although the market inquiry did not inquire into who bears the costs of delivery, it is an important factor when considering the transfer of risks and unexpected costs such as spoilage or damaged goods during delivery. Whoever bears these risks and costs, will determine whether it will be detrimental to both the consumer and supplier. However, in actual cases the delivery of goods to individual outlets is the mode of delivery that actually predominates supplier's contracts with supermarkets.

d) Payment made for access to infrastructure

Retailers request for payment of access to infrastructure.

Supermarkets request payment for access to infrastructure from the suppliers is evidence of possession of buyer power. In the Kenyan retail sector majority of the sellers request

for payment in the form of shell allocation fees and product placement fees in their contract with suppliers.

e) Retailers own brand products

There is evidence that the retailers have integrated vertically into the market through their own brand products. If not regulated, own brand products and the ability of the buyer to give priority to its own product in access to infrastructure through shelf allocation is an incentive to abuse of buyer power.

Kenyan retailers have integrated vertically into the retail market and produce their own products which compete with other products. Own brand products and other products compete equally at the same level in the market. Consumers do not have any significant preference between own brand and other products, hence there is no stiff competition.

There can be an incentive in abusing buyer power through shelf allocation and shelf fees. Own products have the potential to result into abuse of buyer power where the buyer provides priority to its own product in access to infrastructure. Such a buyer has a higher bargaining power which can be abused. The inquiry indicated that retailers do give priority to own brand in shelf space allocation and product visibility.

When allocating shelf space and product viability, the movement and demand of goods is the major factor that Kenyan retailers considered. Retailers also put into consideration fees and revenues raised. This is a clear indication, that indeed suppliers to some extent consider payments required in granting access to infrastructure for other products. Retailers give priority to their own brands when allocating shelf space and product visibility. Evidence of own brand products that compete with other products in access to infrastructure is evidence of possession of buyer power in the retail sector.

f) Price paid to suppliers

Most retailers withhold payments in case they have an issue with the suppliers and this has been done several times. Most of the retailers would withhold payments if the goods supplied are damaged or defective and the credit note is not received.

Both the suppliers and retailers preferred payment after delivery of goods and upon delivery. In most cases both the supplier and buyer equally agreed on the mode of payments. In regard to buyer power, a party who has a higher bargaining power can extract favorable terms providing an incentive to abuse of buyer power. Most of the retailers have withheld payments between 5 times to more than 20 times in the recent past (71.5%). This amounts to possession of buyer power. Moreover, there is evidence from the findings of the study that the retailers would unilaterally withhold payment for perceived claims of damaged or defective goods with no neutral arbiter over the matter.

CHAPTER 8: PRIVATE BRANDED PRODUCTS

This chapter discusses the impact of Private Branded Products (PBPs) and how they compete with other brands in the retail sector. The inquiry examines the familiarity, quality, safety, price and performance of these products.

PBPs are products that have been exclusively manufactured for a retailer. The marketing of this products is done under the retailer's brand name. These products have the potential to offer retailers benefits such as; control over quality and marketing, high quality profits compared to manufacturers' brands, unique image and improved customer loyalty.

8.1. Impacts of the Private Branded products

The degree of substitutability between private label brands and other brands mirrors customers' perception on quality. Price is a driving factor in the substitutability of PBPs as compared to other brands. When the price difference between private labels and other labels is substantial, customers more often prefer to purchase these private branded products, Fabian Bergès-Sennou et.al, (2017).

Some PBPs win customer loyalty owing to them being strong and popular and as a result, customers have allegiance with those supermarket brands associated with quality, style and design to generate value for money and satisfaction from the product.

In international sphere, the concept of branded products are similar to regional and local retail context, for example in USA, the store brands are considered PBPs, in UK there are considered own brands while in Australia, they are considered as generic brand.



The grocery inquiry undertaken by Australian Competition and Consumer Protection Commission (ACCC, 2008), found out that when private label brands retail at a relatively lower price than the other brands, the buyers enjoy an additional choice and therefore competition is enhanced when all other factors are held constant. When buying private branded labels, consumers do not lose when the trade rises. Further, the inquiry shows that supermarkets do not earn high profits margins from their trade in private label products, as they have no large volumes to drive the supply prices down.

In Kenya, there is a rising trend of branded products and majority of supermarkets have embraced the culture of PBPs. Some of the notable retail chains with these products include; Nakumatt (Blue Label Brand), Uchumi, Khetia, Mulleys, Naivas and Tuskys supermarket. These chains of supermarkets package a number of products across their portfolios and these include; groceries, toiletries and detergents.

Further, in the ever-changing Kenyan retail competitive markets, branding has become the innovative way consumers identify with company products and services hence increasing sales. Retail sector has also taken this opportunity to blend and offer uniqueness of their services and products to loyal customers.

This inquiry determined the impact of private labelled products to consumers by examining the relative importance, familiarity, quality, price, safety and purchase of the branded products by the shoppers.



16.1.4. Importance of Private Labelled Products

Consumers were interviewed in relation to the relative importance of Private Labelled Products in determining their purchase decisions. The finding is summarized in figure 8.1.

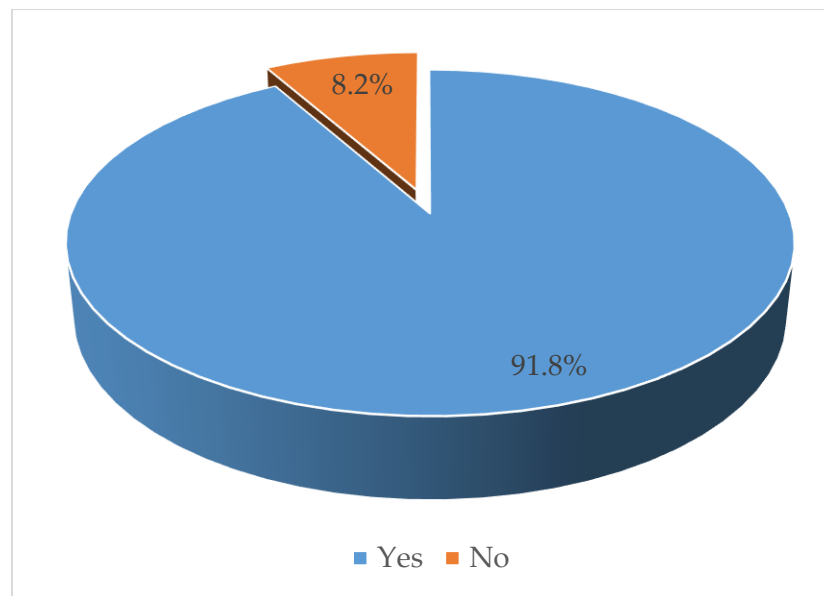


Figure 16.1: Proportion of consumer who consider brand of product important

The study established that 92% of the shoppers considered product brand as important compared to 8% who did not consider the product brand as important in their buying decisions. This implies that majority of the shoppers in supermarkets are guided by product brands while undertaking their shopping.

Further, consumers were interviewed to determine their level of familiarity with Private Labelled Products and the finding is presented in *Table 8.1*.

Table 16.1: Proportion of shoppers who are familiar with private labelled products

S/no	Response	Percentage
1	YES	90.01%
2	NO	9.99%
	TOTAL	100%

In the findings, 90.0% of the consumers said that they were familiar private label brands available in retail supermarkets while 10% were not familiar with these brands. This showed high levels of awareness of the presence of branded labels amongst shoppers in supermarkets.

16.1.5. Quality of the branded product compared to other brands

Private labeled perception of delivering both quality and value attributes have made consumers to develop some relationship towards supermarkets with private label stocks. Growing market shares and increasing variety of private label consumer packaged goods is now a global phenomenon. According to the study (Nielsen, 2014) of the state of private labeled products across the globe, private-label success is strongest in commodity-driven, high-purchase categories and those where consumers perceive little differentiation. In other parts of the world like Asia and Middle-East, private labels struggle to gain consumer trust where consumers cherish brand-loyalty.

There have been instances where major retailers in past based their store brand strategy largely on price without minding about the quality, however with the increasing focus by consumers on quality, most retailers have continued to pay attention to the quality of product on private labeled, Paul W.et.al, (2014).

From the inquiry, the perception of consumers towards quality of private labels was analyzed and the finding is summarized in figure 8.2.

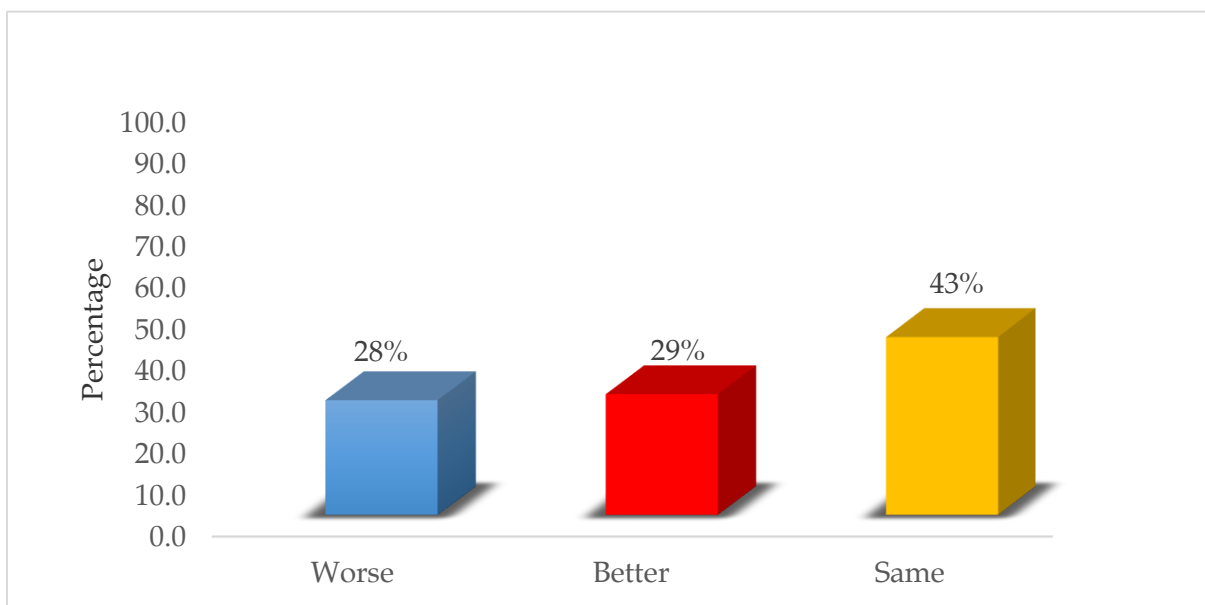


Figure 16.2: Perception towards quality Branded Products

According to the findings, the quality of the branded product compared to other brands was found to be same (43%), better (29%), and worse (28%). Therefore, according to the majority of shoppers, the quality of the branded product compared to other brands was the same.

16.1.6. Price of the branded product compared to other brands

In the war on branded labels (Sue Nicholls, 2016) postulates that price is one of the tactics a retailer may manipulate and use among other tactics so as to win customers. Retailers and manufacturers may also use brand label pricing analysis which helps to understand the interaction between private branded labels and other brands at different price levels.

This inquiry analyzed the price of Private Labelled Products in comparison to other brands and the findings is represented in *Table 8.2*.

Table 16.2: Price of Branded products against other brands

S/no	Price of Branded Products	Percentage
1	LOWER	69.38%
2	HIGHER	20.87%
3	SAME	9.74%
	TOTAL	100%

The inquiry established that 69%, 21% and 10% of the customers felt that price of the branded product compared to other brands were lower, same and higher respectively. Therefore, according to the majority of the shoppers, the prices of branded products are fairly lower than other brands.

16.1.7. Safety of the branded product compared to other brands

The Safety Private Labelled Products was examined in this inquiry and the findings presented in figure 8.3.

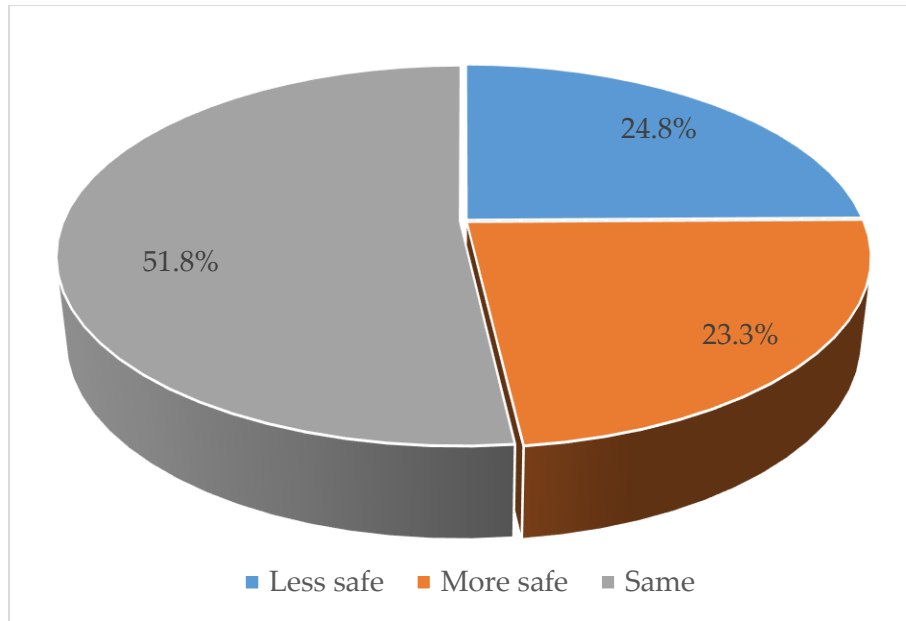


Figure 16.3: Safety of Branded products compared to other brands

The inquiry established that 51.8, 24.8%, 20.9% and 23.3% of the respondents considered branded products to be same, less safe and safer respectively compared to other brands in terms of safety. Branded products are therefore as safe as other products since more than half of the respondents considered them to be either safe or safer compared to other products.

i. Consumer purchases of branded products

This inquiry further established the consumer purchases of private labelled products. The study findings is summarized in Table 8.3.

Table 8.3: Proportion of consumers who purchases Private Branded products

S/no	Response	Percentage
1	YES	88%
2	NO	12%
	TOTAL	100%

The findings showed that 88% of those interviewed indicated that they do buy private labeled products while 12% they do not buy the products. Private label products therefore have a significant market in the retail sector.

16.1.8. Performance of private Branded products

Private labeled products and loyalty have direct results in the increased profits for retailers since consumers have a tendency to purchase a higher percentage of the products from that retailer. Reinartz and Kumar, (2002) found out that there is a weak correlation between customer loyalty (behavioral loyalty) and profitability in their research of four companies operating in different industries.

This inquiry analyzed the performance of Private Labelled Products compared to other brands presented the findings in *figure 8.4*.

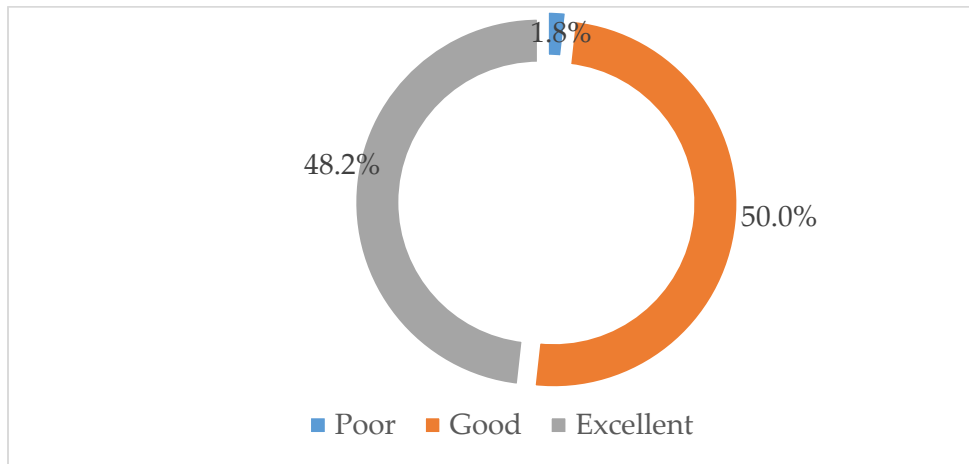


Figure 16.4: Performance of Private Branded products compared to other brands

The inquiry established Private Branded Products' performance was 50%, 48.2% and 1.8% excellent, good and poor respectively compared to other products. This implies that the PBP's are performing fairly well in the Kenyan retail market.

16.2. Conclusions and Recommendations

The following conclusions were drawn from the inquiry:

- i. Customers do consider brand as an important factor in their purchasing decisions;
- ii. Awareness of the presence of private branded labels is high across all the segments of the shoppers in the supermarkets;
- iii. Quality of the private branded product compared to other brands was the same;
- iv. Price of the private branded product compared to other brands were lower than other brands;
- v. Safety of the private branded product compared to other brands was same;

- vi. Private branded products are popularly bought by many customers; and
- vii. Private Branded Products are performing fairly good in the retail market.

To address the issues identified in this inquiry, it is recommended that:-

- i. **Routine monitoring of pricing strategies be undertaken be undertaken:** CAK should undertake routine monitoring of the retail sub-sector to establish if the pricing strategies employed by the retailers of private labels is predatory or not. This will ensure that other competitors or genuine manufactures of such products are not driven out of the market.
- ii. **Product testing and Quality assurance.** CAK in liaison with relevant government agencies should undertake product testing of suspected Private Branded Products which are of low quality or may be unsafe for consumption or which do not comply with the prescribed product information and safety standards.
- iii. **Collaborations with other stakeholders.** CAK should work with other regulatory agencies such as KEBS weights and measures and Anti-counterfeit agency to ensure the safeness of the consumers of the private labelled products. Retailers packaging food items that are not manufactured by themselves should have proper food handling procedure and obtain all the relevant packaging licenses from the specific Authorities.

CHAPTER 9: CONSUMER PROTECTION

This chapter covers the key issues in regard to consumer protection against unfair and misleading market practices, unconscionable conduct and unsafe goods. Consumer protection is provided for in part VI of the Act. Additionally, sections 55-60 of the Act provides for protection of consumers against unfair and misleading representations, unconscionable conduct and unsafe goods. The study looks at the level of awareness of consumers on their rights and specific issues that affects them with regard to product safety, counterfeit products, dual pricing, defective products and supply shortages, among others.

The Authority is mandated to protect consumers across various sectors of the economy by; receiving and investigating consumer related complaints, advising the government on matters relating to consumer protection, collaborating with consumer bodies in ensuring that the wellbeing of consumers is upheld and carrying out consumer awareness forums to educate members of the public on the Act.

18.1. Consumer Rights

Consumer rights are generally a reference to a body of law that pertains to things the producers of goods must do to protect customers from harm. These laws have come into existence through a series of legal disputes and have been shaped by the results of those cases. Consumer rights provide a channel for customers to seek redress against unfair business practices. Through consumer rights, businesses are held accountable when they seek to maximize profit by taking advantage of consumer's lack of information or bargaining power.

Other than the provisions of the Act, the rights of consumers in Kenya are enshrined in Article 46 of the Constitution and they include; the rights to goods and services of reasonable quality, information necessary for consumers to gain full benefits from goods and services, protection of consumer’s health, safety and their economic interest, and compensation of consumers for loss or injury arising from defects in goods and services.

The study assessed how knowledgeable consumers were on their rights by asking respondents whether they felt they knew their rights.

Table 18.1: Proportion of consumers who feel they have rights.

S/no	Response	Percentage
1	YES	95.6%
2	NO	4.4%
	TOTAL	100%

The study established that 95.6% of the respondents felt that they had rights as consumers while 4.4% felt that they had no rights. This implies that consumers are aware of their rights which has significantly lowered the propensity to be exploited by the retailers.

However, in terms of the right to redress or compensation of consumers on loss or injury, respondents were asked whether they felt that they can be compensated by retailers in the event they got injuries from the consumption of defective goods.

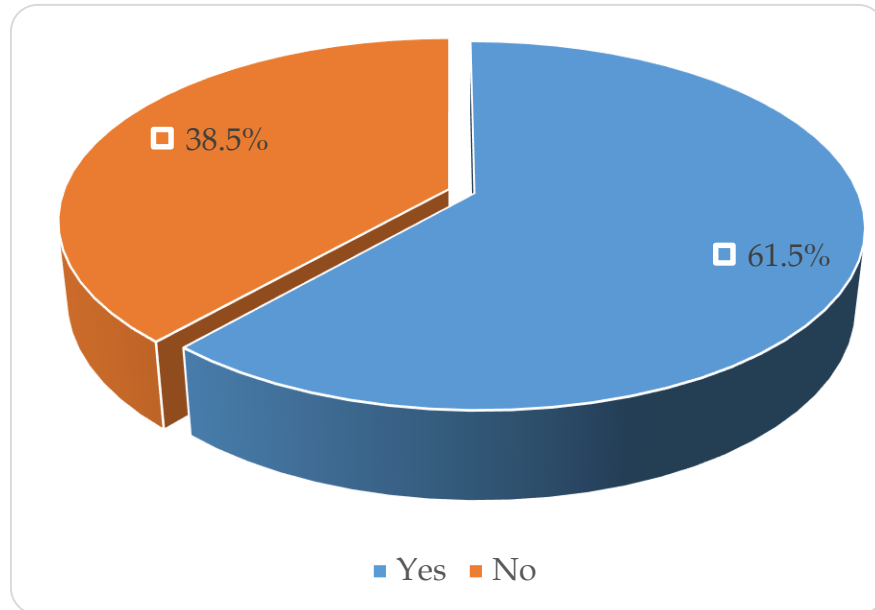


Figure 18.1: Proportion of consumers to get compensation on defective

The study established that 61.5% of consumers felt that they would be compensated on injuries suffered from consumption of defective goods while 38.5% felt otherwise. This implies that there is still a significant size of consumers in the marketplace who suffer injuries from defective goods but are not compensated.

To understand consumers' recourse when faced with a defective or unsafe product, the study examined the rights to protection of consumer's health, safety and economic interests. Consumers were asked whether, in the event that they saw a defective or unsafe product would they report it and to whom would they report it to.

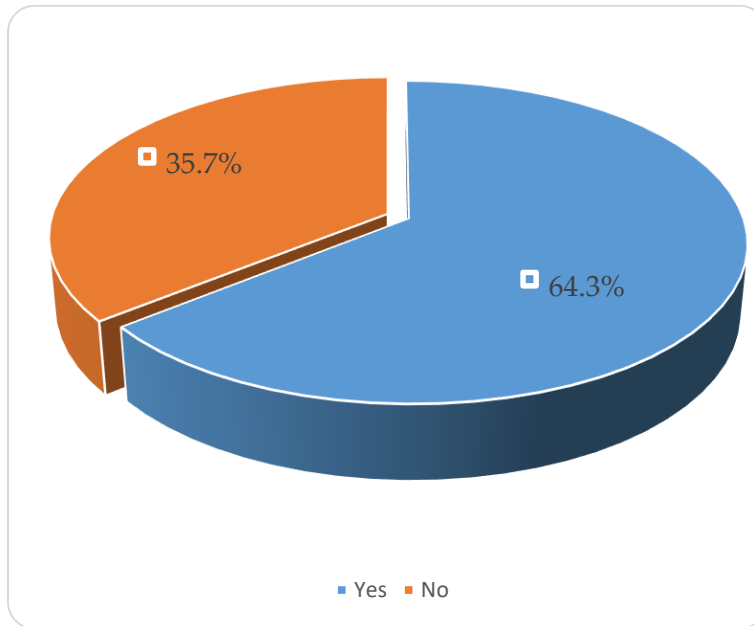


Figure 18.2: Proportion of consumers who would report defective or unsafe product

The study established that 64.3% of the shoppers would report the issue, while 35.7% noted that they would not report a defective or unsafe product. This implies that majority of respondents are aware of their right to health, safety and protection of economic interests. However, a significant number of consumers noted that they wouldn't report for recourse on their defective goods thus limiting their exercise which may limit them to exercise their constitutional rights.

The aspect of consumers' right to information is necessary to gain full benefits from goods and services was looked into by the study and consumers were asked whether they trust the labels of goods they purchase in the supermarkets.

Table 18.2: Consumers who trust the labels of goods they purchase in the supermarkets.

S/no	Response	Percentage
1	YES	61.72%
2	NO	19.67%
3	SOMETIMES/DEPENDS	18.61%
	TOTAL	100%

The inquiry established that 61.72% of consumers trust the information provided in product labels, 19.67% did not trust the information while 18.61% of respondents indicated that they sometimes trust the information on labels, and sometimes they do not.

18.2. Product Safety

Product safety is very important in guaranteeing consumers their ultimate protection of their health. Food safety is vital to public health, poverty reduction and sustainable development.

Food standards applied in Kenya are categorized as either mandatory or voluntary. Mandatory standards are set by government in form of regulations, which include technical requirements such as; testing, certification and labeling, while voluntary standards are set through formal coordinated processes by key stakeholders in the supply chain.



In Kenya, all importers, manufacturers, retailers trading in food products are required by law to ensure that their merchandise meets the quality and safety standards. Consumers on the other hand are guided by the food labels and the diamond mark of quality in ensuring that the products they purchase meets the KEBS' safety standards.

In addition to the KEBS's requirement on food safety standards, the CAK under Section 59 of the Act, requires that goods sold in the Kenyan market should comply with the prescribed consumer product safety standard. Additionally, where a notice declaring particular goods to be unsafe or permanent ban has been imposed on such goods, any supply of such goods in the market contravenes the Act. Further, Sections 63 and 64 of the Act, provides that retailers are liable for sale of unsuitable and defective goods and consumers should be compensated for any loss or injury arising from consumption of such goods.

Furthermore, the study established the proportion of consumers who had encountered sale of expired products in the supermarket. It also looked at the proportion of consumers who had encountered sale of counterfeit and failure to honor warranties by supermarkets.



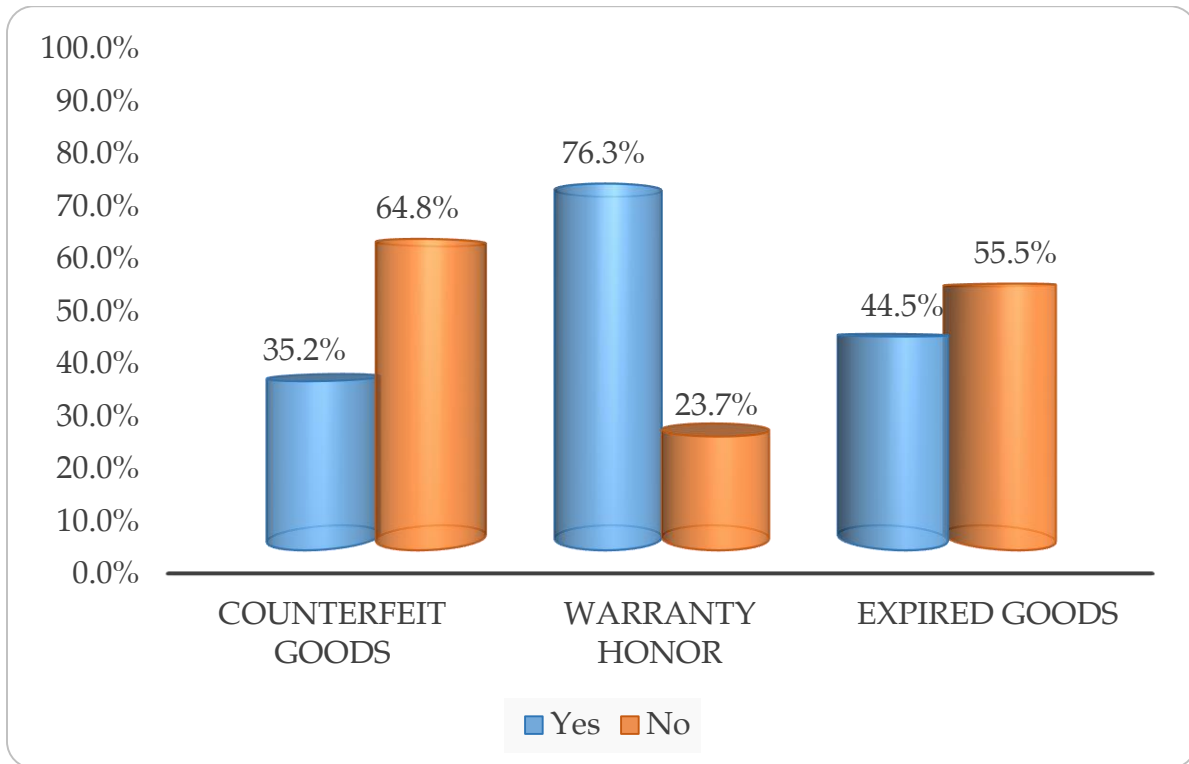


Figure 18.3: Consumers who encountered sale of counterfeit, expired goods and warranty failure.

The findings were that 35.2% and 44.5% of the shoppers had encountered sale of counterfeits goods and expired products from the supermarket respectively. The counterfeits products were mainly food items and electronics goods while the expired products were mainly bakery, dairy and processed flour products. This implies that

counterfeits and expired products are being sold in the supermarkets thus putting consumers at a high risk of being affected from consuming unsafe products.

On the aspect of warranties being honored, the study established that 76.3% of consumers had their warranties being honored by retailers whereas 23.7% of consumers reported that their warranties were not honored in the event of a defective good.

18.3. Information Standards and Labelling

The ISO defines standards as documented agreements containing technical specifications or other precise criteria to be used consistently as rules, guidelines or definitions, to ensure that materials, products, processes and services are fit for their purpose. These standards are adopted and applicable across several countries world over to ensure quality adherence and subsequent consumer safety. However, due to diverse environments, these standards are often normative guidelines that act as a framework for much more customized standard setting through certification bodies.

KEBS is the regulatory body under the Ministry of Industry, Trade and Cooperatives mandated by the government to develop and ensure compliance with the International Standards Organization. The consumer protection guidelines under Part VI, section 60 of the Competition Act provides that the information standards for goods or services should require for particular information to be provided or not, set the form and manner of this information and give a certain meaning to the information.

18.3.4. Consumer Information on Product Labelling

The consumer protection guidelines under section 60 of the Act clearly enlists the main characteristics of the product information to be disclosed as; the availability of the product, benefits of the product, risks of the product, execution of the product,





composition of the product, accessories of the product, after-sale customer assistance concerning the product, the handling of complaints about the product, the method and date of manufacture of the product, the method and date of provision of the product, delivery of the product, fitness for purpose of the product, usage of the product, quantity of the product, specification of the product, geographical or commercial origin of the product, results to be expected from use of the product, results and material features of tests or checks carried out on the product.

The inquiry sought to find out the extent to which consumers check for product information on the items that they purchase.



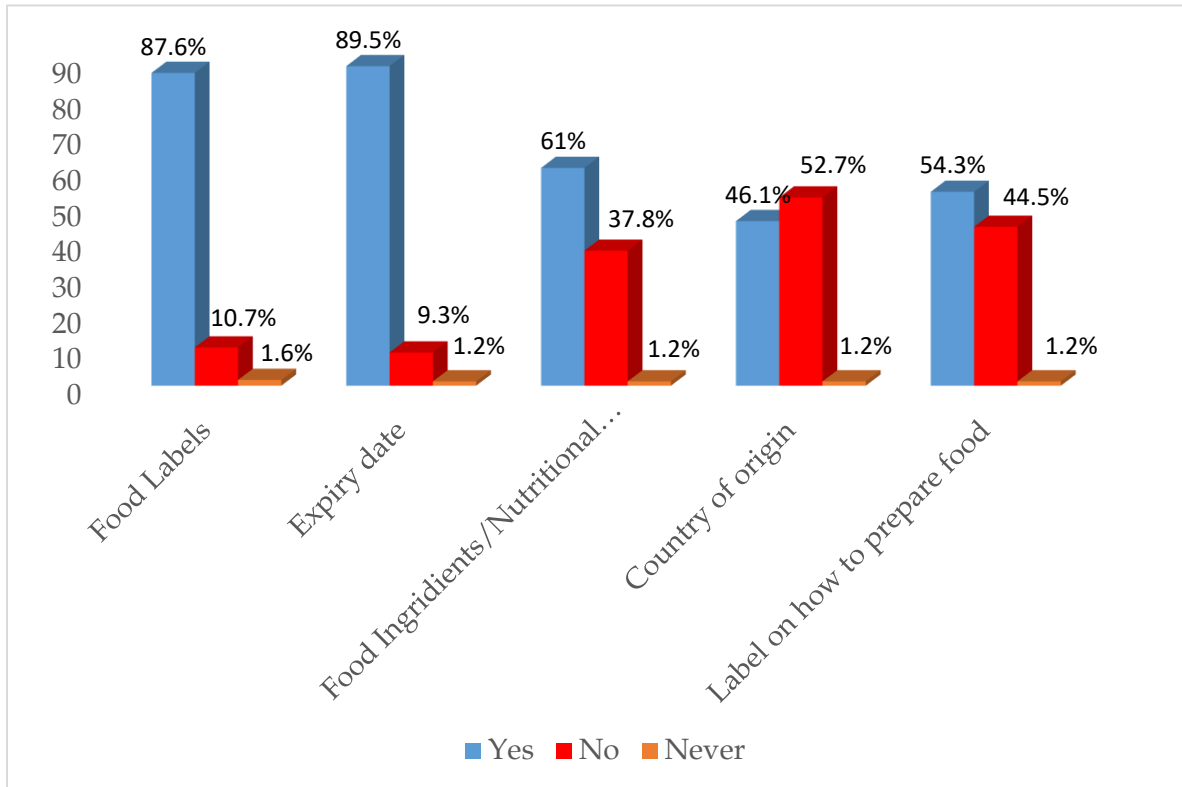


Figure 18.4: Multiple Bar Chart showing the extent of Consumer Information on the Product.

The findings of the inquiry indicated that 1.2% of the consumers never check the product labelling (on information such as; how to prepare food, country of origin, nutritional information, expiry date, among others) 1.4% never check on food labels; 44.5%, 52.7%, 37.9%, 9.3% and 11.1% do not check on label on how to prepare food; country of origin; nutritional information; expiry date and food labels respectively; 54.3%, 46.1%, 60.9%, 89.5% and 87.7% check on label on how to prepare food, food country of origin, nutritional information, food manufacturing/expiry date and food labels respectively. The findings indicate that majority of the consumers check on how to prepare food,

nutritional information, food manufacturing/expiry date and food labels, however, majority of the consumers (52.7%) do not check food country of origin.

18.3.5. Consumer Information on Warranties

A warranty is a guarantee by the manufacturer to the consumer that the product will serve the designed purpose. Warranty can be either a written or oral sales agreement terms that assure the quality, description, or performance of the product included in the sales contract. Receipts are a documented proof of purchase of a product in regard to its monetary value. The value in the receipts ought to correspond to the shelf price. Receipts also specify the type of product purchased and the volume of the specific product and the tax charged.

The inquiry sought to find out if consumers are issued with warranties upon the purchase of an electronic good or appliance.

Table 18.3: Consumers issued with warranties upon purchase of electronics

S/no	Response	Percentage
1	YES	94.11%
2	NO	5.89%
	TOTAL	100%

The inquiry found out that 94.11% of the respondents get issued with warranties whenever they purchase an electronic good or appliance, whereas 5.89% are not issued with warranties. This indicates that most consumers get assurance of the products they have bought by way of being issued with warranties.

The inquiry additionally sought to find out if consumers have ever purchased an electronic good/appliance that did not come with a warranty.

Table 18.4: Proportion of consumers that have ever purchased an electronic good or appliance without a warranty

S/no	Response	Percentage
1	YES	89.16%
2	NO	10.84%
	TOTAL	100%

The findings of the study showed that 89.16% of consumers have never purchased an electronic good or appliance without a warranty whereas 10.84% have purchased such products without being offered warranties. This indicates that majority of the consumers are issued with warranties.

In regard to information on warranties, both consumers and retailers were assessed on the level of information disclosure. The inquiry established that 78.54% of the consumers

are given information in regard to purchase of electronic goods through explanation of warranties by retailers' staff while 21.46% are not given information.

Table 18.5: Proportion of consumers who are explained to warranties by the supermarkets.

S/no	Response	Percentage
1	YES	94.11%
2	NO	5.89%
	TOTAL	100%

The findings of the inquiry indicate that 78.54% of the consumers got an explanation on what the warranty meant, whereas 21.46% did not get any explanation. This indicates that majority of the consumers are made aware of the information in the warranties.

The inquiry also sought to find out if all electronic products sold by the retailers come with a warranty.

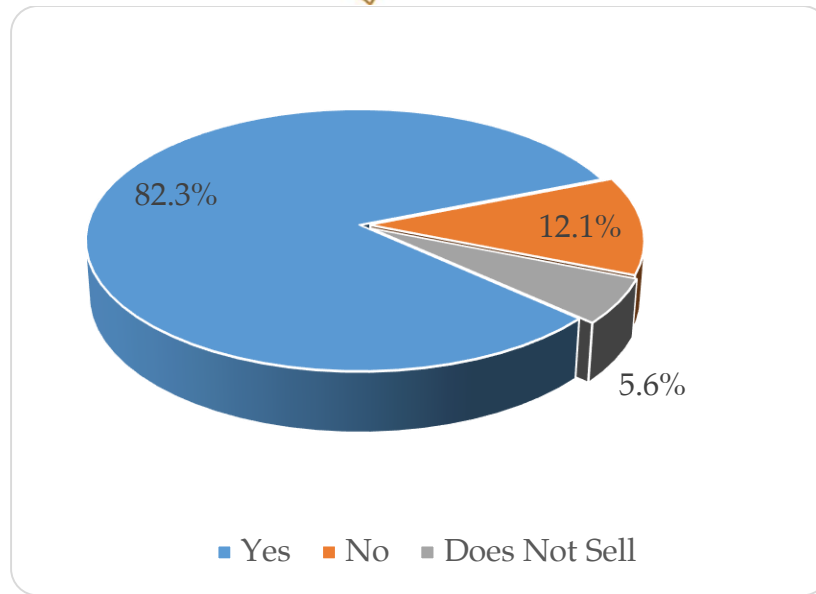


Figure 18.5: Proportion of retailers who sell electronic products with warranties.

From the findings, 82.3% of retailers sell electronic products with a warranty, 12.1% of retailers do not sell electronics with warranties, whereas 5.6% of the retailers interviewed, do not sell electronic goods. This confirms that majority of the goods sold by the retailers to the consumers come with warranties. However, the proportion of retailers who sell electronics without warranties cannot be ignored and there is need to make this a requirement in order to protect consumers from exploitation by existing and would-be rogue traders.

18.4. Receipts

A receipt is a documented proof of purchase of a product in regard to its monetary value. The value in the receipts ought to correspond to the shelf price. Receipts also specify the type of product purchased and the volume of the specific product and the tax charged. In cases where a consumer is aggrieved and requires redress following a complaint from

a product purchased from a retailer, the receipt acts as evidence of purchase. The inquiry sought to find out if shoppers are always issued a receipt upon shopping.

Table 18.6: Proportion of shoppers who are issued with a receipt

S/no	Response	Percentage
1	YES	98.46%
2	NO	1.54%
	TOTAL	100%

The findings indicate that 98.46% of the consumers are always issued with a receipt after purchase, whereas 1.54% are not issued with receipts. This indicates that majority of the shoppers are issued with a receipt.

18.5. Quality of goods being sold with a KEBS Standard mark

KEBS booklet published on 5th April 2016, describes the standardization mark as mandatory for all locally manufactured goods complying with the relevant standards, valid for one year. It is a mark of quality issued by the KEBS on behalf of the Government of Kenya. However, artwork, fresh fruits and vegetables, flowers, pharmaceuticals and pesticides are exempted.

The inquiry sought to find out if the consumers are conversant with the mark of quality and its significance.

S/no	Response	Percentage
1	YES	95.4%
2	NO	4.6%
	TOTAL	100%

Table 18.7: Proportion of shoppers who have seen the KEBS Mark of quality

Of the respondents interviewed, 95.4% of the consumers confirmed to have seen the KEBS logo whereas 4.6% said they did not see it. This indicates that majority of the shoppers are conversant with the KEBS mark of quality.

The inquiry also enquired on compliance on product safety standards in the Kenyan retail market. Specifically, the study sought to identify the proportion of consumers who check the KEBS mark of quality and who had encountered products sold in supermarkets without KEBS' mark of quality.

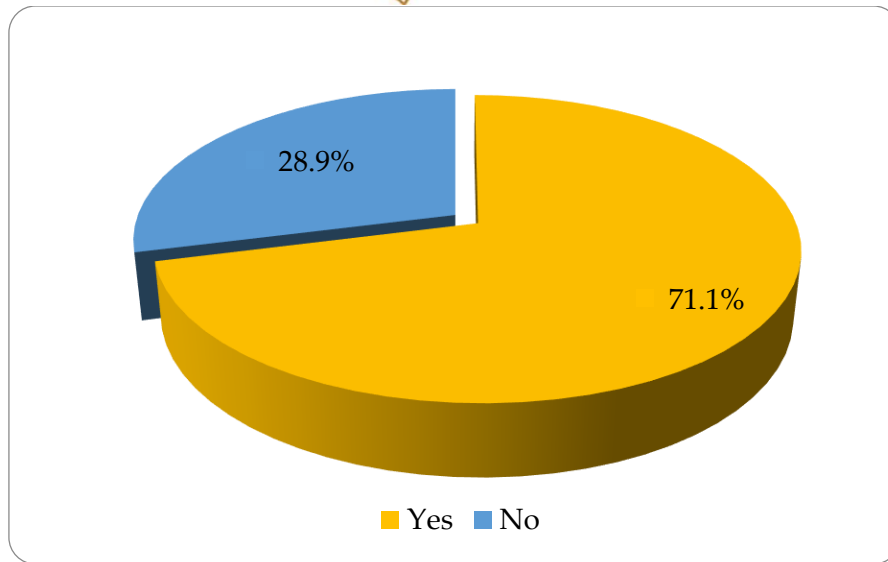


Figure 18.6: Proportion of consumers who check for the KEBS mark of quality

The study established that 71.1% of shoppers check the presence of the KEBS mark of quality on a product while 28.9% of the shoppers do not while purchasing food items in the supermarket. This implies that although majority of consumers checks for this mark of quality, some consumers who do not check for this mark may be exposed into consumption of unsafe products from the supermarkets. Additionally, consumers should be made aware on the importance of this mark of quality in assuring food quality on the products they consume from supermarkets.

Table 18.8: Consumers encountering products in supermarkets without KEBS

S/no	Response	Percentage
1	YES	16.88%
2	NO	83.12%

TOTAL	100%
-------	------

The study found out that 16.88% of the respondents had come across products being sold in supermarkets without the standard mark of quality, whereas 83.12% have not come across such products. This implies that some consumers might have been exposed to consumption of unsafe or low quality products from the supermarket thus infringing their constitutional rights on safe goods.

Table 18.9: Proportion of shoppers who understand the meaning of the KEBS Mark of quality

S/no	Response	Percentage
1	SAFETY OF GOODS/SEAL ASSURES OF QUALITY	88.97%
2	DOESN'T KNOW OR INCORRECT	11.03%
	TOTAL	100%

Regarding the KEBS mark, the study also looked into whether consumers understand what the KEBS mark of quality stands for; with 88.97% of the consumers accepting they understand the meaning of the KEBS mark of quality whereas 11.03% of the consumers do not understand what it stands for. This implies that the majority of the consumers who have seen this mark understand its meaning/implication on the product/good being purchased.

18.6. Complaints Handling Mechanism

A Complaints Handling Mechanism implementation guide published by The Catholic Agency for Overseas Development (CAFOD) in June 2010 defines a complaint as an expression of dissatisfaction about the standard or quality of assistance being provided as a result of negative actions or inactions by staff that causes distress to the consumer. According to CAFOD, complaints are directly associated to the commitments made by an organization in terms of service and product delivery. The people on the receiving end have a right to complaint in case of breaches in conduct whereas the organization receiving the complaint has a duty to respond through a complaint handling mechanism.

The United Nations guidelines for consumer protection direct that governments should have legal measures to enable consumers seek and obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. This incorporates the needs of low-income consumers and promotes voluntary redress systems.

During the inquiry, three key consumer issues with supermarkets were highlighted: i) encountering a counterfeit good, ii) Refusal of a supermarket to honor warranty for a good, and iii) purchase of expired goods. On the basis of the complaints, the inquiry sought to find out if the consumer reported to the supermarket management and if the issues were resolved to the customers' satisfaction.

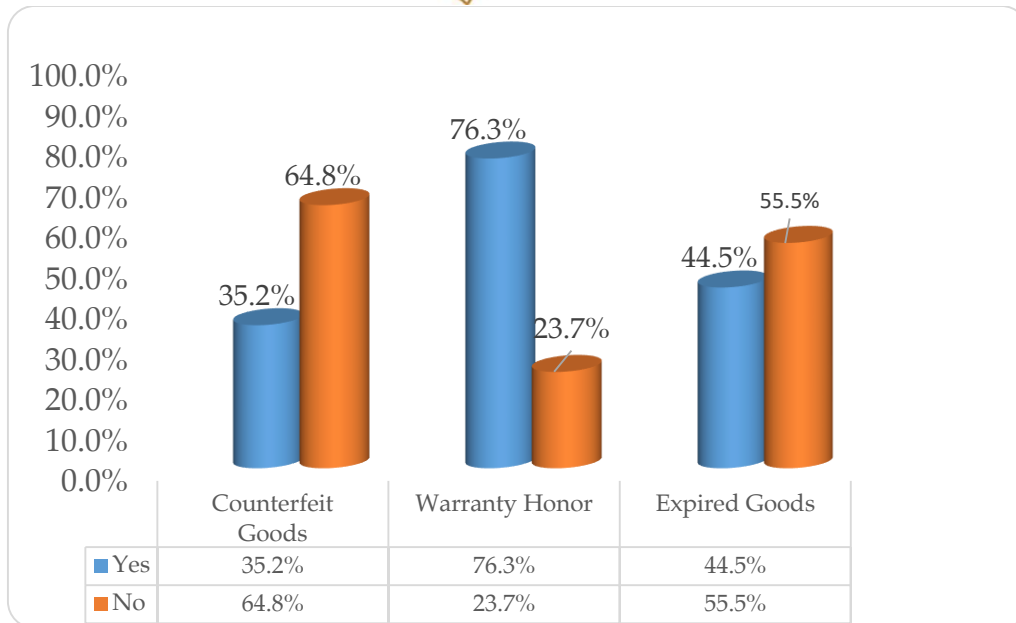


Figure 18.7: Proportion of shoppers who report issues to the Supermarket Management

The results showed that 35.2% of the consumers encountered counterfeit goods while 64.8% did not. While 76.3% had their warranties honored while 23.7 % did not. On the issue of expired goods, 44.5% of the consumers encountered counterfeit goods, if the supermarket failed to honor the warranty and if they encountered expired while 55.5% did not. These findings imply that the majority of the consumers would report to the supermarket management if the supermarket failed to honor their warranty, whereas majority of the consumers did not report upon encountering counterfeit and expired goods.

The study also sought to understand how consumer issues were resolved and if it was done to the customer's satisfaction.

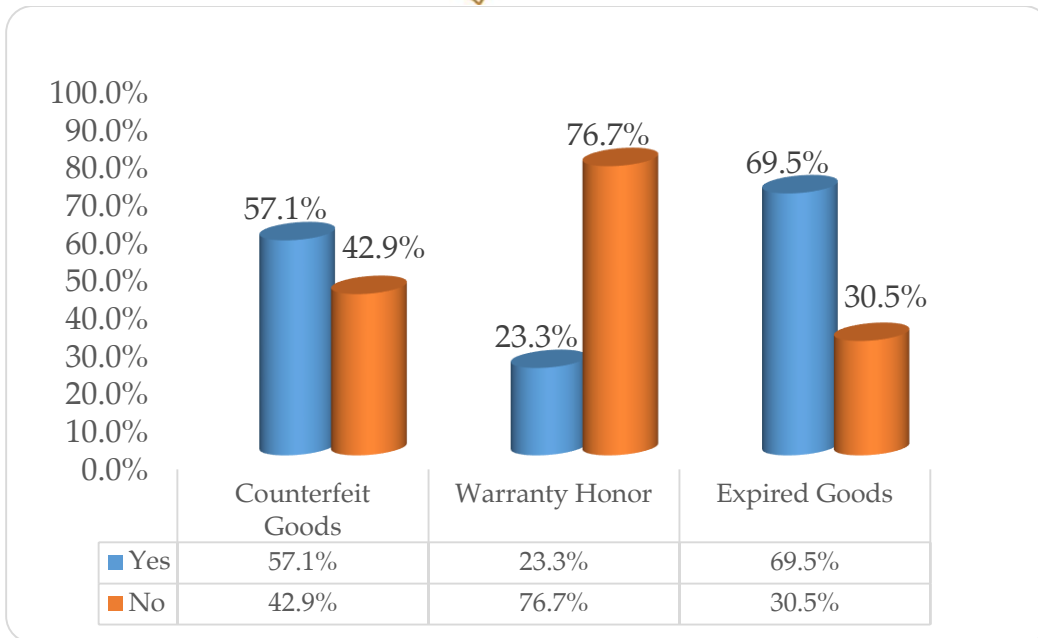


Figure 18.8: Data showing if the Consumer issues were resolved to the Customer’s Satisfaction

From the data collected, from the survey, 57.1%, 23.3% and 69.5% of the consumer confirmed to have issues concerning counterfeit goods, warranty dishonor and expired goods respectively were solved to the consumers’ satisfaction while 42.9%, 76.7% and 30.5% did not report counterfeit goods, warranty dishonor and expired goods respectively. This implies that most of the consumers who reported to the supermarkets concerning counterfeit and expired goods had these issues resolved to their satisfaction. However, of the consumers who reported that the supermarket dishonored the warranty, a majority of them did not have this issue resolved to their satisfaction.

The inquiry also sought to find out if the retailers have a standard system in place to address customer complaints about the store or a product.

Table 18.10: Retailers standard system on customer’s complaints reporting.

S/no	Response	Percentage
1	YES	94.0%
2	NO	6.0%
	TOTAL	100%

It found out that 94.0% of the retailer stores admitted to be having a standard system in place through which the consumers reported their complaints while 6.0% did not. This implies that majority of the retailer stores have a standard system in place where consumers can use to address their complaints.

18.7. Dual Pricing

Dual pricing occurs when the same product is sold at different prices. In the case of the supermarkets, dual pricing occurs when the prices that are displayed on the shelves differs from what the customer is asked to pay at the till. Different jurisdictions have different approaches to handling the matter of dual pricing. In Australia for example, where a retailer advertises a good with different prices, the law requires that the good be sold at the lowest price quoted, or the product be withdrawn altogether until the price difference is resolved. In Canada, the Competition Act does not allow for sale of products at higher prices than that quoted.

In Kenya, the Competition Act under Section 55(b) (i) provides that it is an offence for a trader to make a false or misleading representation with respect to the price of goods or services. This study investigated the issue of dual pricing in the Kenyan retail sector by first determining the level of awareness of consumers on price differences by asking whether they usually check to ensure that the price charged at the till is the same as the display price.

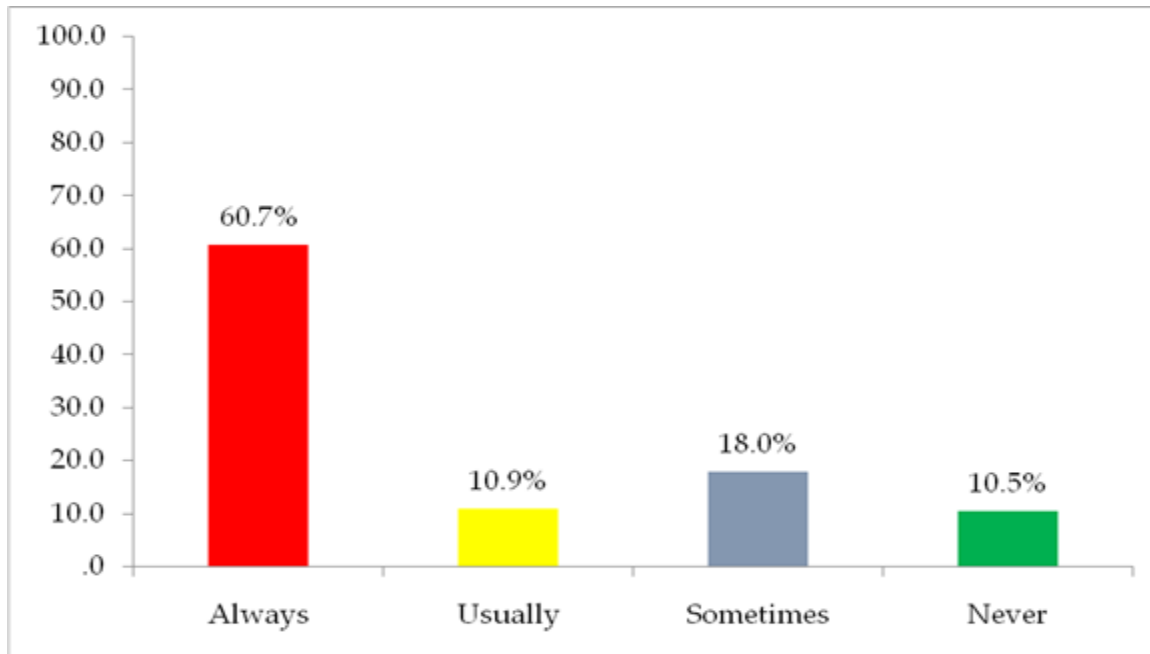


Figure 18.9: Proportion of consumers who check to ensure that the price charged at the till is the same as the display price.

The findings indicate that 60.7% of consumers check the price differences between the till and the shelf, as compared to 18.0% who check sometimes, 10.9% who usually check and 10.5% who never check. This indicates that a majority of consumers are price conscious. Those consumers who do not check if there is dual pricing may need some form of

sensitization on the importance of always being on the lookout for such conduct in order to avoid being misled.

Additionally, consumers were asked to state whether in the past 6 months they had encountered a situation where the price displayed on the shelf differed from the till price.

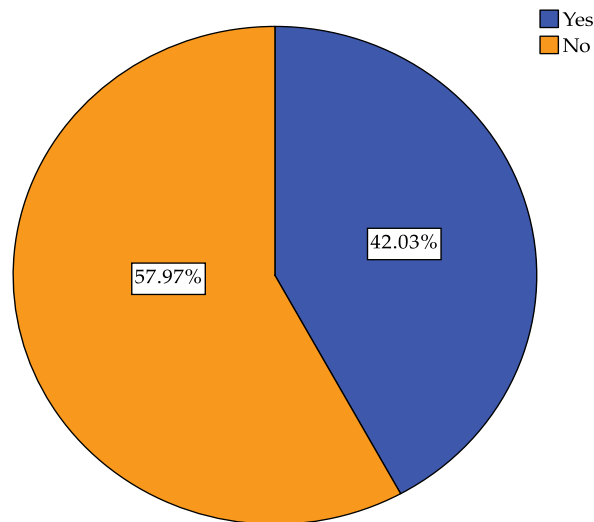


Figure 18.10: Proportion of consumers who had encountered a situation where the price displayed on the shelf differed from the till price.

The results indicate that 42.03% of consumers had encountered price difference between the till and the shelf, compared to 57.97% who had not.

9.8 Return Policy

A return policy is a rule or procedure put in place by a retail merchant, to handle defective or unwanted items that are brought back by their customers after purchase. Return policies vary significantly across retailers; some offer very generous return policies, while

others impose many restrictions on returns. Other retailers do not offer return policies at all.

There are instances where traders indicate on their receipts or hang signs in their shops that goods once sold, cannot be returned, however the law protects consumers in such cases. In this study, retailers were asked whether their stores offered a return policy to handle items returned by customers after purchase.

Table 18.11: Proportion of Retailers who offer return policies

S/no	Response	Percentage
1	YES	99.2%
2	NO	0.8%
	TOTAL	100%

From the analysis of the findings, 99.2% of the retailers have operational return policies. This implies that the rights of consumers are observed to a large extent, and their shopping experience is better, as compared to a situation where goods once purchased cannot be returned. Additionally, the relationship between the customer and the retailer is improved and dealing with returns becomes less strenuous due to the existence of a policy. Customer loyalty is also gained from the experience of having a return policy.

The study also sought to find out whether the return policies by retailers applied to all items in their stores or only to specific items.

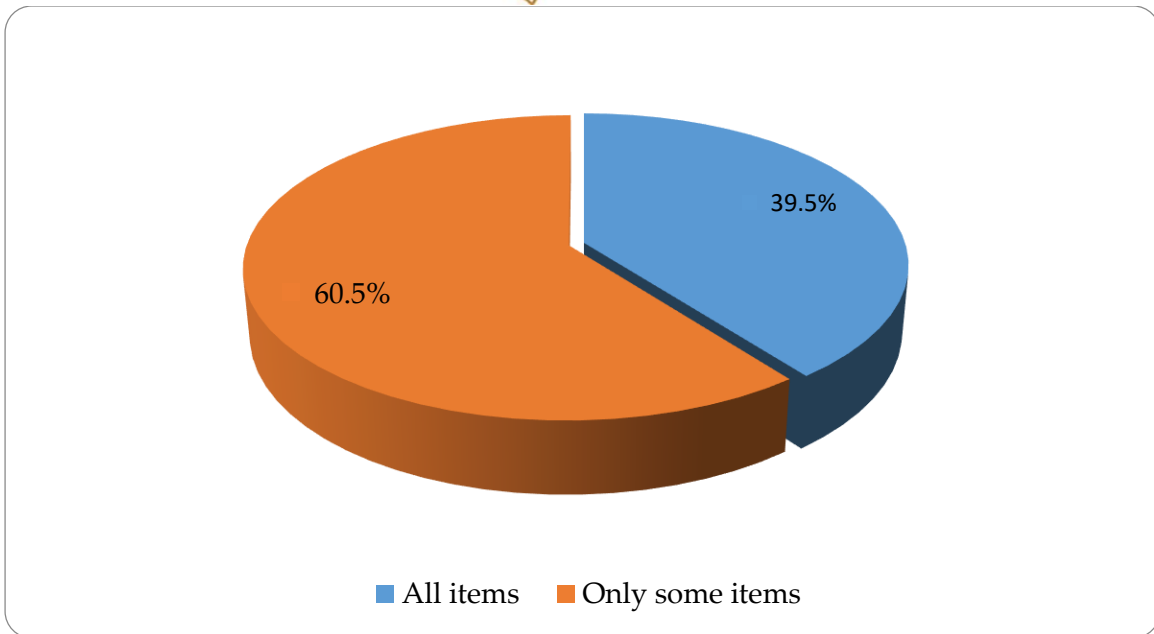


Figure 18.11: Do return policies apply to all items or specific items only.

From the analysis of the findings, 37.6% of the respondents indicated that the return policy applies to all items whereas 62.4% stated that the return policy is applied to certain items making this a discriminatory practice. Most of the retailers apply discretion when making the decision on whether to take back returned goods or not. The retailers, who do not accept returns on all their products, gave examples such as inner garments, which cannot be taken back once tried by the customer, due to their nature. Food items, products with security seals that have been broken, cosmetics, are other examples of goods that are not accepted back.

Further, the study looked into situations that retailers can allow their customers to return goods purchased. Given the variations in return policies by various traders, the manner in which they handle returns is also bound to vary. Respondents in the study were asked

whether they accept returns from defective products, items that customers do not want or have had a change of mind, and finally, whether they accept returns due to recalls.

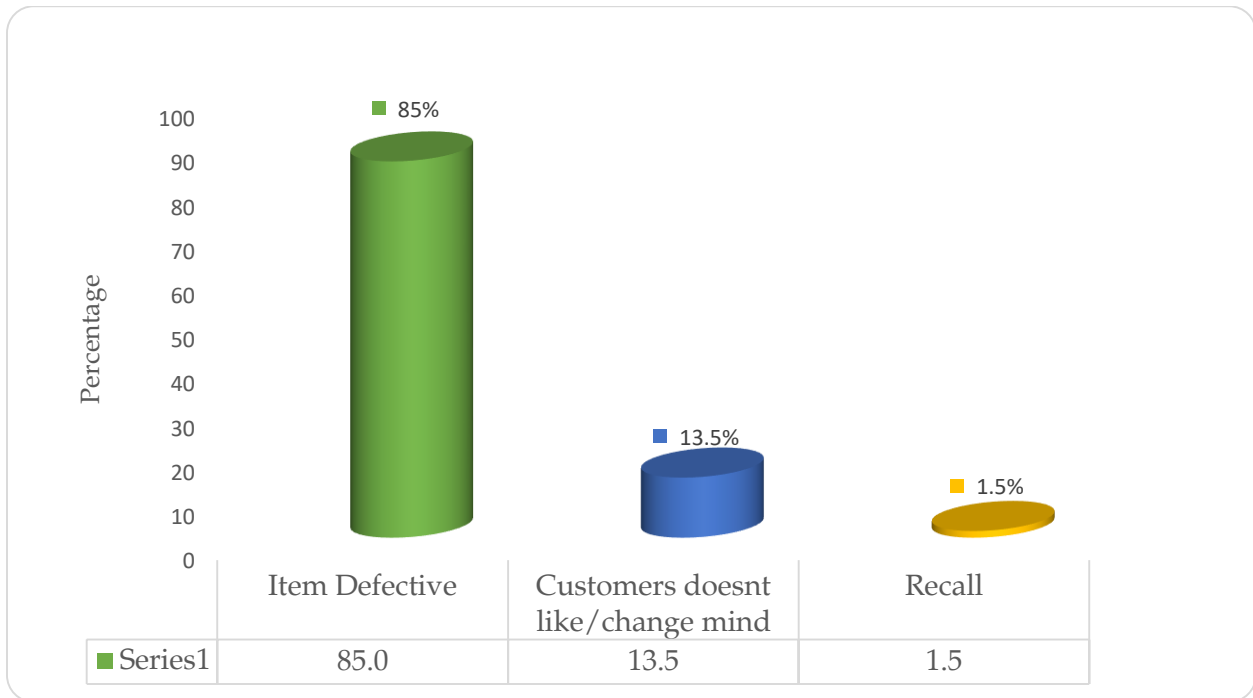


Figure 18.12: Circumstances under which retailers accept returns.

An analysis of the results indicates that a majority of the returned items are due to defects, at 85% while 13.5% of returned goods are applicable where customers have changed their minds or do not want the product anymore and finally goods returned because of a recall which stands at 1.5%. Some of the retailers indicated that in order to accept the return of defective goods, one major factor that is considered is whether the damage to the good is as a result of negligence from the customer or on the retailer's side. For example, a customer may return milk that has not expired, claiming that it is spoilt, but they may have travelled a long distance with the product, without refrigeration.

18.8. Shortages in the retail sector

A shortage is a situation where a product needed cannot be found in sufficient supply. There are two categories of shortages, those that result from genuine scarcity in supply in the market, or artificial shortages that are deliberately caused by traders or distributors. Consumer behavior can also lead to shortages in the market. This usually happens when consumers fear that there is insufficient supply of a product and they engage in panic buying. More often than not, consumers are impacted negatively whenever there are shortages in commodities, as it results in an upward shift in prices and they pay more than what they ordinarily would pay for.

In this study, respondents were asked whether in the last 6 months, they have encountered a situation where supermarkets limited the number of products that consumers can buy because of a shortage in supply.

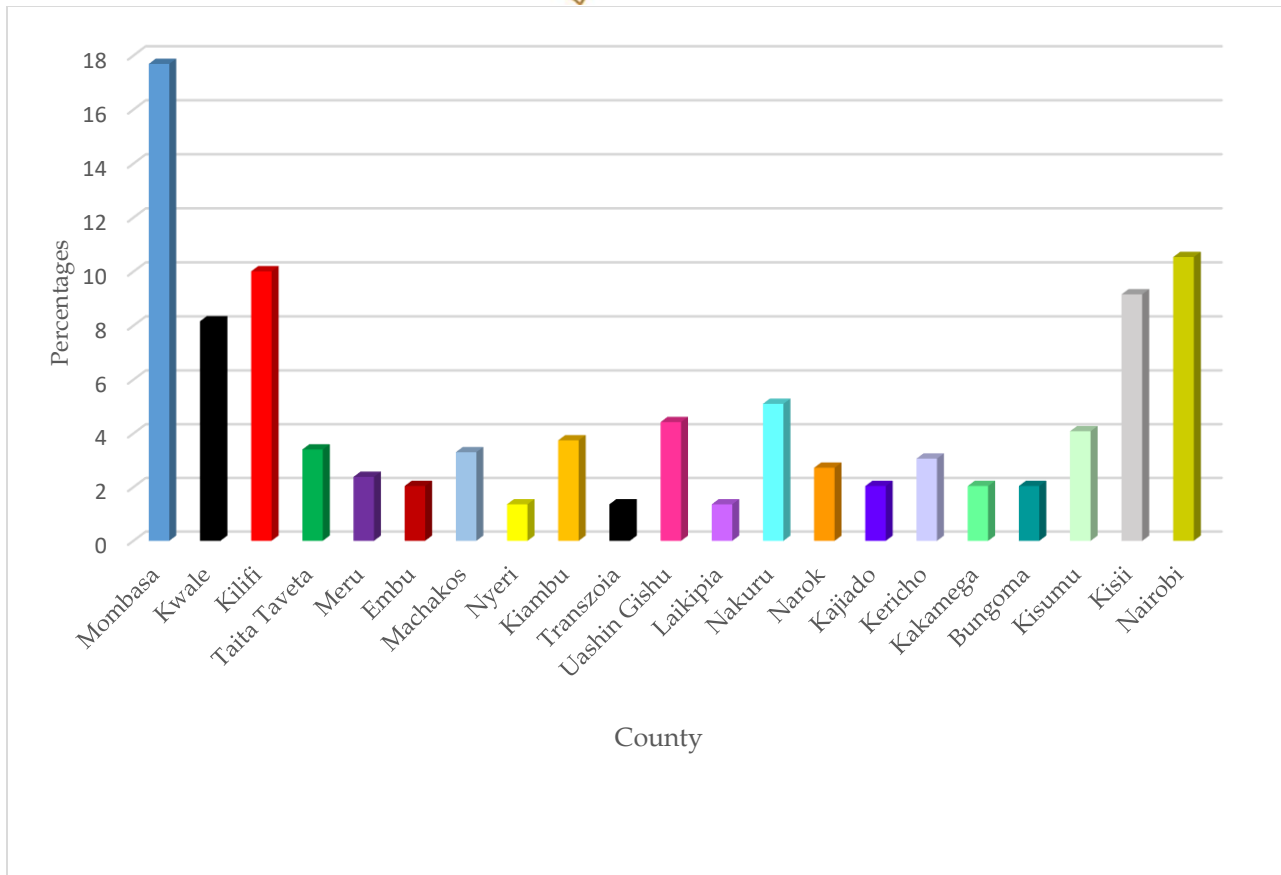


Figure 18.13: Customers who were limited in terms of the number of products they could purchase due to shortages.

An analysis of the findings based on counties where the surveyed showed that Mombasa County reported the highest number of consumers at 17.7 % who had experienced supply shortages in the quantity they could purchase due to shortages, followed by Nairobi, Kilifi and Kisii at 10.5%, 10.2% and 9.2% respectively. Counties that reported low instances of shortages were; Trans-Nzoia, Nyeri, Laikipia tying at 1.3% while Kajiado and Embu tied at 2.01% for customers who reported shortages in the supermarket.

18.9. Recommendations

- i. The Authority needs to invoke its powers under the Act to further carrying out investigations on the three key consumer issues with supermarkets which were highlighted: i) encountering a counterfeit good, ii) Refusal of a supermarket to honour warranty for a good, and iii) purchase of expired goods.
- ii. There is need to carry out further investigations on the how supermarkets are addressing consumer complaints. Even though consumer awareness levels are high, there is still significant negligence on the part of retailers on addressing issues raised by the complaints. Additionally, it is imperative that sensitization of both the retailers and consumers on complaints raising and handling would go a long way in solving disputes on consumer protection.
- iii. There is need to carry sensitizations workshops across the country to educate consumers on the need to pay attention on the product information including the price of the products being charged at the shelf against those being paid at the Point of Sale.
- iv. The Authority in collaboration with other sector regulators and State agencies such as; ACA and KEBS to should come up with robust surveillance systems that can be able detect counterfeits goods, expired goods and unsafe goods and prevent them from reaching the supermarkets shelves. This way customers will not be exposed to the risk of choosing between sub-standard goods in the supermarkets.
- v. To help address the complaints raised, through soft enforcement should urge the supermarkets to adopt a standard reporting template for consumer complaints. The same should be shared with consumer bodies for a buy-in in order to ensure



that consumers report complaints exhaustively. This will be a mitigation against lack of a harmonized reporting framework by consumers.

- vi. There is need for constant surveillance and consistent mystery shopping by CAK to ascertain the extent of dual pricing by the supermarkets and to encourage those who suffer dual pricing to seek appropriate redress. There is also need to carry out investigations on the issue of stock-outs and shortages of supply for essential goods. There is need for CAK to launch investigations in to retail sector to determine the existence of restrictive trade practices that could causing these artificial shortages and stock-outs to the detriment of consumers.



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ANNEX I: GAZZETTE NOTICE



THE COMPETITION ACT

(Act No. 12 of 2010)

NOTICE ON THE RETAIL SECTOR MARKET INQUIRY/SECTOR STUDY

IN EXERCISE of the powers conferred upon the Competition Authority by section 18(1) (a) of the Competition Act, 2010, the Competition Authority notifies the public that it intends to carry a market inquiry into the branded retail sector. The main objective of the study is to assess the state of competition in the market for branded retail by examining the multilayered structure of the market and the conduct of market players.

The market inquiry will explore the dimensions and the intensity of competition between branded retailers and how these impact on price, quality and range of offerings to the Kenyan consumer.

The objective of the market inquiry is to assess the state of competition in the market for branded retail, specifically, the study aims to;

- i. Map the average 'route to retailer' from producers/manufacturers to the retail shelves;
- ii. Assess the level of competition and the determinants of the same including market power;
- iii. Evaluate the allocation of shelf space and the relative bargaining power between retailers and their suppliers;
- iv. Identify any regulatory constraints, if any, to competition;
- v. Establish the extent to which market allocation at the regional/county levels affects competition;

- vi. Establish the nature of and the extent of exclusive agreements at one stop shop destinations and their effects on competition;
- vii. Examine pricing strategies retailers employ especially in regards to responding to new entrants;
- viii. Determine if there are any strategic barriers to entry created by incumbent firms to limit entry in the market;
- ix. Scrutinize the prevalence of dual price displays (**price at the shelves vis a vis the till**) in retail settings and evaluate the time lag between changes in prices at the till relative to shelf prices;
- x. Evaluate the frequency of defective stock being sold and establish the regulatory and internal mechanisms in place to stop the sale of defective goods;
- xi. Assess the level of information asymmetry with specific regards to own labels, product constitution and the effect to consumers.
- xii. Assess the effectiveness of consumer complaint handling mechanisms within the Sector;
- xiii. Establish the proportion of retailers that have fully operational retail return policies and to what extent they are adhered to.

In Conducting the market inquiry, the Competition Authority of Kenya:-

- (a) Shall hold such number of meetings in such places and at such times as it may consider necessary for the proper discharge of its functions; and
- (b) May receive views from members of the public and receive oral and written submissions from any person with relevant information.

Members of the public, with relevant information, may also submit oral or written submissions to the Secretariat of the consultant within (21) days of the publication of this notice.

The Secretariat of the Inquiry shall be based at the Authority's offices located at Kenya Railways Staff Retirement Benefit Scheme Block 'D', 1st Floor, Haile Selassie Avenue P.O. Box 36265-00200 Nairobi. Email: info@cak.go.ke, Telephone; +254202628233.

Wang'ombe Kariuki,
Director-General
Competition Authority of Kenya



ANNEX II: QUESTIONNAIRE –SUPPLIER



COMPETITION AUTHORITY OF KENYA
(CAK)

MARKET INQUIRY INTO THE BRANDED RETAIL SECTOR

QUESTIONNAIRE

TARGET PARTICIPANTS: *SUPPLIERS*





2017

SERIAL NO: _____

INTRODUCTION

[*Enumerator*: Start with greetings]

My Name is _____ and I am representing the Competition Authority of Kenya (Show ID). The Authority is conducting an inquiry into the branded retail sector. The purpose of this inquiry is to identify and address both competition and consumer concerns/issues within Supermarkets in Kenya.

The inquiry is being conducted under the auspices of Section 18 of the Competition Act. The information will be used to inform policy and enable the Authority to address any competition concerns in the branded retail sector.

Do you have any questions or is there anything which I have said on which you would like any further clarification?

Could you please spare some time (around 20 min) for the interview?

Agreement given? YES → CONTINUE WITH INTERVIEW
 NO → SKIP TO A1

A1: Could we return at another time more convenient for you?
YES → SCHEDULE
NO → SKIP TO A2

A2: Could I ask why you choose not to respond? _____
If person is not the responsible person or does not have time, skip to A3

A3: Is there someone else we can talk to at this store?
YES → TAKE NAME/CONTACT
NO → THANK AND TERMINATE INTER



1.0		ADMINISTRATIVE					
1.1	DATE OF INTERVIEW	D	D	M	M	2017	
1.2A	ENUMERATOR ID						
1.2B	NOTETAKER ID						
1.3	SUPPLIER BUSINESS NAME						
1.4	STUDY SITE	COUNTY	_____				
		DISTRICT	_____				
		LOCATION	_____				
1.4A	SOURCE SUPERMARKET SUPERMARKET THAT PROVIDED THE LIST						
1.4B	SOURCE PRODUCT PRODUCT THE LIST WAS FOR						
1.5	TIME	START	H	H	:	M	M
		END	H	H	:	M	M
1.6	LANGUAGE OF INTERVIEW	ENGLISH				1	
		KISWAHILI				2	
		OTHER SPECIFY:				3	
		SPECIFY OTHER					
1.7	NAME OF RESPONDENT:						
1.8	POSITION OF RESPONDENT						

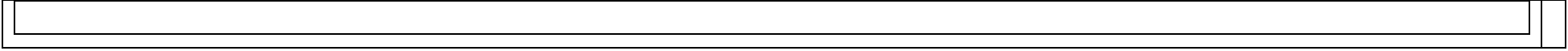
2.0		SUPPLIER PROFILE			
2.1	What year was this business established?	Y	Y	Y	Y
2.2	How many employees do you have?				EMP
2.3	How many years has this company supplied supermarkets?				YEARS
2.4	Does this business belong to any trade/industry associations?	YES = 1			
		NO = 2	SKIP TO 3.1		
2.4B	Which trade/industry organizations?	YES = 1	NO = 2		
3.0		BUSINESS OPERATIONS			
	3.1 How would you primarily categorize this business? SINGLE RESPONSE READ OPTIONS.	Producer or manufacturer	1	SKIP TO 3.1B	
		Wholesaler	2	GO TO 3.1A	
		Retail sales	3	SKIP TO 3.1C	
		Other Spec. _____	4	GO TO 3.1A	
3.1	3.1A	IF WHOLESALER OR RETAILER: Secondly, does your company manufacture or produce (any of) the items you supply?	YES = 1	NO = 2	
	3.1B	IF PRODUCER OR WHOLESALER: Secondly, does your company also operate any retail outlets (e.g. <i>have your own stores</i>)?	YES = 1	NO = 2	
	3.1C	IF PRODUCER OR RETAILER: Secondly, does your company also act as a wholesaler (<i>selling goods produced by other firms on to retail stores</i>)?	YES = 1	NO = 2	
3.2	Roughly, what portion of the value of your business comes from selling goods your company produces itself (vs. wholesale?)				%
3.3.	IF COMPANY IS PRIMARILY A PRODUCER: What goods does your company produce? EXPLAIN _____	STAPLES	1		
		GROCERIES (FRUIT/VEG)	2		
		DAIRY	3		
		DETERGENTS AND TOILETRIES	4		
		SKIN CARE & COSMETICS	5		
		ELECTRONICS	6		
		OTHER	7		
3.4		STAPLES	1		

What goods does this company wholesale? EXPLAIN _____	GROCERIES (FRUIT/VEG)	2
	DAIRY	3
	DETERGENTS AND TOILETRIES	4
	SKIN CARE & COSMETICS	5
	ELECTRONICS	6
	OTHER	7

3.21A In your agreements with supermarkets, what mode of delivery do you generally prefer? CIRCLE ONE		3.21B In practice who generally sets the actual mode of delivery for a contract – you, the supermarket, or both?		3.21C What is the mode of delivery that actually predominates in your contracts with supermarkets? CIRCLE ONE				
Supplier delivers to centralized depot	1	INDICATE STORE=1 SUPPLIER=2 EQUALLY=3		1				
Supplier delivers to individual outlets	2			2				
Central HQ collects from supplier	3			3				
Store collects itself from supplier	4			4				
Other (Specify)	5			5				
SPECIFY OTHER								
DON'T KNOW	98	SKIP TO 3.21C		98				
NO RESPONSE	99	SKIP TO 3.21C		99				
3.22A When you work with supermarkets, what are your preferred terms of payment? ? CIRCLE ONE IF AFTER DELIVERY INDICATE NUMBER OF DAYS AGREED ON			3.22B In practice, who has the most influence on what the terms of payment are – you, the supermarket, or both equally?		3.22C What is the mode of payment you most commonly have in your contracts with supermarkets? MARK CODE & WRITE DAYS IF NEEDED			
Payment upon delivery		1		INDICATE STORE=1 SUPPLIER=2 EQUALLY=3		1		
Payment after delivery		2				2		
SPECIFY DAYS AFTER PAYMENT, E.G. "90 DAYS"		D	D			D	D	D
Payment after sale		4				4		
Part up front/part later		5				5		
Discount for early payment		6				6		
Others(specify)		7		7				
SPECIFY OTHER								
DON'T KNOW		98	SKIP TO 3.22C		98			
NO RESPONSE		99	SKIP TO 3.22C		99			
3.23					YES	1		
					NO	2		

	In general, do your agreements with supermarkets contain a provision to adjust the contract terms if the production costs go up?	DON'T KNOW	8
		N/R	9
3.24	Imagine that production costs for products were to go up for some reason. What would happen? SINGLE RESPONSE READ OPTIONS	SUPPLIER ABSORBS COST	1
		COST SPLIT B/W SUPPLIER & STORE/CUSTOMERS	2
		COST SPLIT B/T STORE AND CUSTOMER	3
		CUSTOMER ABSORBS ALL COST	4
		STORE ABSORBS ALL COST	5

4.0 SUPERMARKET AND LEGAL REQUIREMENTS FOR SUPPLIERS						
4.1A Beyond the legal requirements you must fulfil to be a supplier, what fees or special requirements do supermarkets require you to take on? READ OPTIONS AND MARK YES NO, IF YES MOVE ACROSS FOLLOW-UP QUESTIONS		4.1B EXPLAIN		4.1C Roughly what is your cost of this requirement? WRITE IN KES	4.1D Is it a one-time or recurring cost? ONE TIME=1 → SKIP TO 4.9 RECURRING =2	4.1E How many times do you pay per year? WRITE NUMBER IF EVERY X YRS WRITE 1/X
i. Shelf allocation /product placement? (fees)	YES=1	NO=2				
ii. Certification, labeling packaging requirements	YES=1	NO=2				
iii. Food safety/product safety	YES=1	NO=2				
iv. Production processes	YES=1	NO=2				
v. Storage or transportation regulations	YES=1	NO=2				
vi. Any other requirement by the supermarket?	YES=1	NO=2				
<i>SPECIFY</i>						
4.2 What requirements that supermarkets place on you do you find most difficult or costly to comply with? OPEN						



Now let's discuss the LEGAL requirements you must fulfill in order to supply to supermarkets.							
4.3A To supply supermarkets, do you have to meet any requirements or regulations? YES = 1 NO = 2		4.3B EXPLAIN		4.3C Roughly, what is the cost of meeting this requirement? WRITE ESTIMATE IN KES	4.4D Is it a one-time or recurring cost? ONE TIME = 1 RECURRING = 2	4.4E How often do you pay? WRITE NUMBER IF EVERY X YRS WRITE 1/X YEARS	4.4F Is this a national, or local requirement? NATL =1 COUNTY = 2
i. Licensing, permits	YES=1 NO=2						
ii. Certification, labelling, packaging	YES=1 NO=2						
iii. Food safety/product safety	YES=1 NO=2						
iv. Production, storage or transport	YES=1 NO=2						
v. Any other legal requirement at the national or local level?	YES=1 NO=2						
4.4 Which requirements that government puts on you do you find most difficult or costly to comply with? OPEN							



5.0 ISSUES WITH SUPERMARKETS AND MARKET ENTRY																																		
5.1	<p>I'd like to ask you about difficulties you have had specifically with supermarkets. On a scale of 1 to 5, where 1 is the least importance and 5 is the most importance, how much importance do have the following have as problems for you in doing business with supermarkets? READ [ITEM] AND MARK 1-5. ROTATE ORDER CIRCLE NUMBER OF FIRST ASKED.</p> <p>NOT VERY IMPORTANT = 1 NOT IMPORTANT = 2 SOMEWHAT IMPORTANT = 3 IMPORTANT=4 VERY IMPORTANT=5</p> <table border="1"> <tr><td>i.</td><td>Generating business with new partners</td><td></td></tr> <tr><td>ii.</td><td>Meeting government requirements</td><td></td></tr> <tr><td>iii.</td><td>Excessive supermarket requirements</td><td></td></tr> <tr><td>iv.</td><td>Difficult to recoup losses due to rising costs</td><td></td></tr> <tr><td>v.</td><td>Unfavorable contract terms</td><td></td></tr> <tr><td>vi.</td><td>Delayed payments from supermarkets</td><td></td></tr> <tr><td>vii.</td><td>Noncompliance with contract/agreement</td><td></td></tr> <tr><td>viii.</td><td>Goods not displayed prominently in the stores</td><td></td></tr> <tr><td>ix.</td><td>Loss, breakage & spoilage in store not reimbursed</td><td></td></tr> <tr><td>x.</td><td>Any other important issues?</td><td></td></tr> <tr><td>xi.</td><td><i>SPECIFY OTHER</i></td><td></td></tr> </table>	i.	Generating business with new partners		ii.	Meeting government requirements		iii.	Excessive supermarket requirements		iv.	Difficult to recoup losses due to rising costs		v.	Unfavorable contract terms		vi.	Delayed payments from supermarkets		vii.	Noncompliance with contract/agreement		viii.	Goods not displayed prominently in the stores		ix.	Loss, breakage & spoilage in store not reimbursed		x.	Any other important issues?		xi.	<i>SPECIFY OTHER</i>	
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5.2	<p>Do supermarkets ever delay payment past when they should have paid you?</p> <table border="1"> <tr> <td>YES = 1</td> <td>NO=2 SKIP TO 6.8</td> </tr> </table>	YES = 1	NO=2 SKIP TO 6.8																															
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5.3	<p>IF DELAYS About what percent of payments from supermarkets are delayed?</p> <table border="1"> <tr> <td></td> <td></td> <td></td> <td></td> <td>%</td> </tr> </table>					%																												
				%																														
5.4	<p>When payments are delayed, what is the most time you do not have payment?</p> <table border="1"> <tr> <td></td> <td></td> <td></td> <td>DAYS</td> </tr> </table>				DAYS																													
			DAYS																															
5.5	<p>In the past year, how many times have supermarket buyers have done that (<i>withheld payments</i>)? SINGLE RESPONSE READ OPTIONS</p> <table border="1"> <tr><td>5 TIMES OR LESS</td><td>1</td></tr> <tr><td>6-10 TIMES</td><td>2</td></tr> <tr><td>11-20 TIMES</td><td>3</td></tr> <tr><td>20 OR MORE TIMES</td><td>4</td></tr> <tr><td>NEVER</td><td>5</td></tr> <tr><td>DON'T KNOW</td><td>8</td></tr> <tr><td>NO RESPONSE</td><td>9</td></tr> </table>	5 TIMES OR LESS	1	6-10 TIMES	2	11-20 TIMES	3	20 OR MORE TIMES	4	NEVER	5	DON'T KNOW	8	NO RESPONSE	9																			
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5.5	<p>What reason, if any, is usually for delaying payment?</p> <table border="1"> <tr><td>SLOW SALES</td><td>1</td></tr> <tr><td>CONTRACTUAL ISSUE</td><td>2</td></tr> <tr><td>FINANCE ISSUE</td><td>3</td></tr> <tr><td>NO REASON GIVEN</td><td>4</td></tr> <tr><td>OTHER (SPECIFY)</td><td>5</td></tr> <tr><td><i>SPECIFY OTHER</i></td><td></td></tr> <tr><td>DON'T KNOW</td><td>8</td></tr> <tr><td>NO RESPONSE</td><td>9</td></tr> </table>	SLOW SALES	1	CONTRACTUAL ISSUE	2	FINANCE ISSUE	3	NO REASON GIVEN	4	OTHER (SPECIFY)	5	<i>SPECIFY OTHER</i>		DON'T KNOW	8	NO RESPONSE	9																	
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5.7	How do you respond if this occurs? OPEN		
5.8	Suppose a supplier is trying to enter a new market chain. Do you feel there is scope for new players to enter in to the supply chain of the big supermarket chains?	YES = 1	NO=2
5.9	In your opinion would a new supplier wanting to enter the market need to rely on connections or pay a facilitation fee to get a good contract/do business?	YES = 1	NO=2
THANKYOU			



ANNEX III: QUESTIONNAIRE-CONSUMERS



COMPETITION AUTHORITY OF KENYA

(CAK)

MARKET INQUIRY INTO THE BRANDED RETAIL SECTOR

QUESTIONNAIRE



TARGET PARTICIPANTS: CONSUMERS

2017

SERIAL NO: _____



INTRODUCTION

[*Enumerator*: Start with greetings, show ID]

Hello, my name is _____, I'm from The University of Nairobi and I'm here today doing a study on supermarkets. Can I talk to you for a moment?

[PAUSE]

We're doing a study of supermarkets with the Competition Authority of Kenya. This is the authority that looks after consumer rights. I'd like to ask you some questions about how you shop and the issues you face as a consumer. It's voluntary and will take only about 15-20 minutes, I won't take down your name or personal information. Kindly, can you help me with your participation?

Do you have any questions?

Do you agree?

Yes	→START INTERVIEW
No	→ Thanks, I understand [TERMINATE INTERVIEW].

IF THERE ARE QUESTIONS:

- CAK is the Competition Authority of Kenya; its mandate is to ensure Kenyan markets are competitive, advocate for economic competition, and support consumer protection.
- The current branded retail market (supermarket) inquiry will examine competition and consumer protection issues in large and small retail outlets throughout Kenya.
- Would you like to talk to my supervisor? S/he is right here.

1.0		ADMINISTRATIVE DATA															
1.1	DATE OF INTERVIEW	D	D	M	M	1	7										
1.2A	ENUMERATOR ID																
1.2B	NOTE TAKER ID																
1.3	STUDY SITE	COUNTY: _____ SUB COUNTY: _____ LOCATION OF THE STORE: _____ STORE NAME/BRAND : _____															
1.4	STORE ID																
1.5	TIME	START TIME <table border="1" style="width: 100%; text-align: center;"> <tr> <td>H</td> <td>H</td> <td>:</td> <td>M</td> <td>M</td> </tr> </table> END TIME <table border="1" style="width: 100%; text-align: center;"> <tr> <td>H</td> <td>H</td> <td>:</td> <td>M</td> <td>M</td> </tr> </table>						H	H	:	M	M	H	H	:	M	M
H	H	:	M	M													
H	H	:	M	M													
1.6	LANGUAGE OF INTERVIEW						English	1									
							Swahili	2									
							Other (Specify below)	3									
							SPECIFY OTHER:										
1.7	SEX DO NOT ASK, MARK APPROPRIATE BOX						FEMALE	2									
							MALE	1									

SPECIAL CASES:

IF COUPLE: ASK WHO PRIMARILY DOES THE SHOPPING AND INTERVIEW THAT PERSON

IF HOUSEKEEPER/DOMESTIC HELP: CONTINUE INTERVIEW AND ASK QUESTIONS ABOUT HIS/HER BUYING (NOT BUYING FOR EMPLOYER)

2.0		SHOPPING PATTERNS/CONSUMER BEHAVIOR							
		Let's start by talking about where you usually shop.							
2.1	How many different supermarkets (like this one) do you regularly shop at? WRITE NUMBER. CLARIFY IF NEEDED: <i>A supermarket is a large store that sells a wide range of grocery and other products.</i>								
2.2	In addition to [STORE NAME] Which other supermarkets do you regularly shop at? (SPECIFY NAME/LOCATION OF STORE FOR UP TO 2 ADDITIONAL STORES; IF MORE THAN 2 STORES SPECIFY WHICH YOU MOST REGULARLY SHOP AT. IF NO, NAME THE CHAIN NAME & LOCATION OR "DON'T REMEMBER")	1		THIS SUPERMARKET		2		3	
2.3 Which is your main supermarket? CLARIFY IF NEEDED: <i>The main supermarket is the one where you spend the largest part of your regular shopping budget.</i> SPECIFY THE LIST NUMBER FROM Q2.2 ABOVE									
2.4 Now, I'd like to ask how frequently you shop at different kinds of places. How often do you shop at [STORE TYPE]? SR RO		Daily (6-7 times /wk)	Several times a week (2-5 times/wk)	Weekly (once/wk)	2-3 times/ mo.(every 2 weeks)	Every 1-2 mos. (every 2 mos., every 2 mos, 4 times/ yr)	Less than every 2 mos. (2-3 times/yr, once per year)	Never	
i.	A supermarket?	1	2	3	4	5	6	7	
ii.	A wholesale shop?	1	2	3	4	5	6	7	
iii.	Kiosk/small shop?	1	2	3	4	5	6	7	
iv.	A soko?	1	2	3	4	5	6	7	
2.5 In what kind of shop do you mainly buy [ITEM]? SR RO READ ACROSS SUPERMARKET = 1 WHOLESALE = 2 SMALL SHOP/ KIOSK = 3 SOKO = 4 SPECIAL SHOP = 5 (electronic shop) OTHER = 6 SPECIFY _____ IF DOES NOT BUY MARK 9 FOR N/A AND SKIP TO NEXT IF ANSWER IS (1),SUPERMARKET SKIP TO NEXT LINE						IF 2.5 IS NOT 1 SUPERMARKET 2.6 Do you ever buy [ITEM] at a supermarket?			
i.	Food and Beverages					YES=1	NO=2		
ii.	Detergents & toiletries (Soaps, disinfectants, cleaning products)					YES=1	NO=2		
iii.	Skin care & Cosmetics (Lotions, beauty products, Deodorants)					YES=1	NO=2		


iv.	Electronics/appliances		YES=1	NO=2
-----	------------------------	--	-------	------

2.7 On a scale of 1 to 5 where one is the least important and five is most important, how important are the following in determining which supermarket to shop at? SR RO ROTATE ORDER CIRCLE FIRST ITEM		NOT VERY IMPORTANT = 1 NOT IMPORTANT = 2 SOMEWHAT IMPORTANT = 3 IMPORTANT = 4 VERY IMPORTANT = 5		
i.	Price		vii.	Can return defective goods (<i>warranties</i>)
ii.	Quality of items		viii.	Can buy everything in one store (<i>one-stop shopping</i>)
iii.	Store is easy to get to (<i>close to me</i>)		ix.	Has special promotions
iv.	Safety of products (<i>food safety</i>)		x.	Has loyalty card
v.	Clean/modern facilities		xi.	Parking
vi.	Security (<i>of premises</i>)		xii.	Any other factor? (SPECIFY)_____

3.0 TRAVEL TO THE SUPERMARKET

3.1 Where did you come to the store from today (e.g., <i>what was your starting destination for this shopping trip</i>)? SINGLE RESPONSE READ OPTIONS	HOME	1	3.2 How long did it take you to travel from there? <input type="text"/> <input type="text"/> <input type="text"/> MINUTES
	WORK	2	
	SCHOOL	3	
	ANOTHER SHOP	4	
	OTHER (SPECIFY)	5	
	OTHER SPECIFY		
	REFUSE	9	
3.3 What is the main mode of travel you used (<i>to get to the store today</i>)? SINGLE RESPONSE READ OPTIONS MARK 5 TAXI FOR ANY PAID RIDE	CAR	1	3.4 When you finish shopping at this store, where is your next destination? SINGLE RESPONSE READ OPTIONS
	MOTORBIKE	2	
	WALKING	4	
	TAXI	5	
	MATATU	6	
	OTHER (SPECIFY)	7	
	OTHER SPECIFY		
3.5 How long will it take you to get there?			<input type="text"/> <input type="text"/> <input type="text"/> MINUTES

4.0 CONSUMER INFORMATION (PRODUCT LABELING, RECEIPTS, AND WARRANTIES)

4.1 The next questions concern food items that you buy in a supermarket.					
i.	For foods you buy at the supermarket, do you usually (<i>more often than not</i>) check the label before you buy or use?	YES = 1	NO = 2	IF NEVER BUY FOOD AT SUPERMARKET MARK 9 N/A AND GO TO Q 4.2	
ii.	Do you usually (<i>more often than not</i>) check the manufacturing or expiry date?	YES = 1	NO = 2		
iii.	Do you usually (<i>more often than not</i>) check the ingredients or nutritional information?	YES = 1	NO = 2		
iv.	Do you usually (<i>more often than not</i>) check the country of origin?	YES = 1	NO = 2		
v.	Do you ever check the label to see how to properly prepare it?	YES = 1	NO = 2		
vi.					
4.2	Do you trust the information you read on labels for goods you purchase?	YES	1	SKIP TO Q 4.4	
		NO	2	SKIP TO Q 4.4	
		SOMETIMES/DEPENDS	3	GO TO Q 4.3	
4.3	What does it depend on (<i>whether you trust the label</i>)? MULTIPLE RESPONSE DO NOT READ OR PROMPT	BRAND	1	TYPE OF FOOD	4
		SHOP	2	OTHER	5
		COUNTRY OF ORIGIN	3		
4.4A Have you ever seen this logo before? SHOW CARD		YES = 1	NO = 2	If no → SKIP TO Q 4.5	
4.4B What does it mean to you? SPECIFY					
UNDERSTANDS LOGO CODE		ANSWERED ANY OF FOLLOWING: KENYA BUREAU OF STANDARDS SEAL, ASSURES QUALITY/SAFETY OF GOODS, GOODS ARE GENUINE/NOT COUNTERFEIT		1	
		DOES NOT KNOW OR INCORRECT		2	
4.4c When purchasing goods, do you check for this mark?			YES = 1	NO = 2	
4.4d Have you ever encountered a product at a supermarket without this mark?			YES = 1	NO = 2	
					
4.5	How often do you check if the price tag or price listed on the shelf is for the right item? [SINGLE RESPONSE, READ OPTIONS]	ALWAYS	1		
		USUALLY	2		
		SOMETIMES	3		
		NEVER	4		
4.6	When you shop at the supermarket, are you always issued a receipt?	YES = 1	NO = 2		
4.7	How often do you check (at the till or on the receipt) that the price charged is the same as the display price? [SINGLE RESPONSE, READ OPTIONS]	ALWAYS	1		
		USUALLY	2		
		SOMETIMES	3		
		NEVER	4		
4.8	In the last 6 months, have you encountered a difference between the listed price and the price charged?	YES = 1	NO = 2		
4.9	Have you ever purchased an electronic item or appliance from a supermarket? (<i>Includes all kinds of electronics</i>)	YES = 1 GO TO NEXT	NO = 2 SKIP TO Q 5.1		

4.10	The last time you purchased an electronic good or appliance at a supermarket, did it come with a warranty?		YES = 1	NO = 2 SKIP TO 4.12
4.11	Did anyone in the store explain the warranty to you?		YES = 1	NO = 2
4.12	Have you ever purchased an electronic good/appliance from a supermarket that DID NOT come with a warranty?		YES = 1 GO TO Q 4.12B	NO = 2 SKIP TO Q 5.1
4.12B	IF Q 4.11 = YES SPECIFY GOOD			
5.0	CONSUMER ISSUES WITH SUPERMARKETS			
5.1 Now I'd like to talk about issues you may have encountered in the last six months in supermarkets . In the last six months have you [ISSUE]?		5.1B What was the product (The last time this happened)? SPECIFY	5.2 Did you report it to the supermarket management (where you bought the item(s))? YES = 1 → Q5.3 NO=2→ Q 5.5	5.3 Was issue resolved to your satisfaction? YES=1→ NEXT NO=2→ Q 5.4 PARTIALLY=3 → Q5.4
YES = 1 → GO TO Q 5.1B SPECIFY NO = 2 → GO TO NEXT LINE				
i. Encountered a counterfeit good?		YES = 1 NO = 2	YES = 1 NO = 2	
ii. Has a supermarket refuse to honor a warranty for a good?		YES = 1 NO = 2	YES = 1 NO = 2	
iii. Purchased anything for which the expiration date was past?		YES = 1 NO = 2	YES = 1 NO = 2	
IF ANY ISSUE ABOVE WAS NOT REPORTED TO MANAGEMENT, GO TOT 5.5. IF REPORTED BUT NOT RESOLVED AT THE STORE LEVEL (5.2=2) GO TO 5.4. IF MORE THAN ONE ISSUE, ASK ABOUT LAST ISSUE ONLY.				
5.4 Did you report it further? YES=1→Q5.6 NO=2-→Q5.5		5.5 Why didn't you report it? SR DON'T READ NO TIME = 1 RED TAPE = 2 WON'T HAVE RESULT = 3 DON'T KNOW HOW = 4 FEAR OF BRIBE = 4 FEAR OF PUNISHMENT=5 NOT WORTH IT = 6 OTHER = 7	5.6 To whom did you report it? CONSUMER BODY = 1 GOVT AGENCY = 2 MANUFACTURER = 3 SUPERMARKET HQ = 4 LOCAL AUTHORITY (POLICE/VILLAGE CHIEF) = 5 SOCIAL MEDIA = 6 OTHER = 6 SPECIFY	5.6B OTHER SPECIFY
YES = 1	NO = 2			
5.7 In the last 6 months , have you bought anything in a supermarket without instructions on use included?			YES = 1	NO = 2
5.8 In the last 6 months , have you seen a supermarket limit how many products can be bought because of short supply or promotion?			YES = 1	NO = 2
6.0	PRODUCT BRANDING			

6.1	When you buy a product, is the brand of the product important for you?	YES = 1	NO = 2
6.2	Some supermarkets package and brand their own products with the name of the supermarket. Are you familiar with these products?	YES = 1	GO TO NEXT
		NO = 2	GO TO Q 7.1
6.3	Overall, how is the quality of store brands compared to other brands? SINGLE RESPONSE READ OPTIONS	WORSE = 1	
		BETTER = 2	
		SAME = 3	
6.4	Overall, how does the price of store brands compare to other brands? SINGLE RESPONSE READ OPTIONS	LOWER = 1	
		HIGHER = 2	
		SAME = 3	
6.5	Overall, how safe are store brands compared to other brands? SINGLE RESPONSE READ OPTIONS	LESS SAFE = 1	
		MORE SAFE = 2	
		SAME = 3	
6.6	Do you ever buy these store-branded products?	YES = 1	NO = 2

7.0 CONSUMER RIGHTS					
7.1	Do you feel you have rights as a consumer?			YES = 1	NO = 2
7.2	Imagine you had gotten sick or been injured by a defective product. Do you feel you would be able to get recourse?			YES = 1	NO = 2
7.3	If you had an issue and could not resolve it with the store, who would you raise the issue with (next)? MR DO NOT READ DO NOT PROMPT	CONSUMER ASSOCIATION	1	SOCIAL MEDIA	6
		GOVT AGENCY	2	OTHER	7
		MANUFACTURER	3	SPECIFY	
		SUPERMARKET HQ	4	WOULD NOT REPORT	8
		LOCAL AUTHORITY (POLICE/VILLAGE CHIEF)	5	DON'T KNOW	9
7.4	If that happened (that you had an issue the store would not resolve), would you know how to raise the issues with the relevant authority?			YES = 1	NO = 2
7.5	If you saw a defective or unsafe product at a supermarket, would you report it?			YES = 1	NO = 2 SKIP TO 7.7
7.6	To whom would you report it? MULTIPLE RESPONSE DO NOT READ DO NOT PROMPT	CONSUMER ASSOCIATION	1	SOCIAL MEDIA	6
		GOVT AGENCY	2	OTHER	7
		MANUFACTURER	3	SPECIFY	
		SUPERMARKET HQ	4	DON'T KNOW	8
		LOCAL AUTHORITY (POLICE/VILLAGE CHIEF)	5		
7.7	Imagine you had a serious issue with a product. Why might you NOT lodge the complaint? MULTIPLE RESPONSE DO NOT READ ANSWERS OR PROMPT	TAKES TOO MUCH TIME	1	FEAR OF BRIBE /BEING ASKED FOR SOMETHING	5
		TOO MUCH RED TAPE/BUREAUCRACY	2	FEAR OF PUNISHMENT	6
		IT WON'T HAVE RESULT	3	NOT WORTH IT	7
		I DON'T KNOW HOW	4	OTHER	8

7.8	ROTATE ORDER CIRCLE FIRST QUESTION ASKED			
	i.	If you approached the authorities, do you feel you would be punished for lodging a complaint?	YES = 1	NO = 1
	ii.	If you were to lodge a complaint, do you feel officials would accept it without asking for an informal payment or something else in return?	YES = 1	NO = 1
	iii.	If you were to lodge a complaint, do you feel officials will handle it promptly and effectively?	YES = 1	NO = 1
8.0	CLOSING			
	<i>Thank you very much. We're almost done – if you don't mind I'd just like a little information about you.</i>			
8.1	Which of the age groups below do you belong to?	A	Under 25	1
		B	25-34	2
		C	35-44	3
		D	45-54	4
		E	55-64	5
		F	65 or older	6
8.2	Do you mind telling us what you do? (<i>occupation, profession</i>)?	OPEN:		
8.3	What is the highest level of education you've completed?	LESS THAN SECONDARY	1	
		SECONDARY	2	
		VOCATIONAL/COLLEGE	3	
		UNIVERSITY OR ABOVE	4	
8.4	For quality assurance, a supervisor may need to contact you to clarify your responses and insure the interview was done in a suitable manner. Is there a contact were we could reach you for clarification? This will not be entered with the data and it is optional. WRITE NUMBER	FILL ONE ONLY:		
		EMAIL		
		PHONE		
		OTHER		
		REFUSED	9 → END OF INTERVIEW	
8.5	If we call you back, we will introduce ourselves as the CAK supervisor. Who should we ask for? WRITE NAME			

END OF INTERVIEW: Thank you very much for participating in our study. Have a nice day!



ANNEX III: QUESTIONNAIRE-RETAILERS



**COMPETITION AUTHORITY OF KENYA
(CAK)**

MARKET INQUIRY INTO THE BRANDED RETAIL SECTOR

QUESTIONNAIRE

TARGET PARTICIPANTS: *RETAIL*

SERIAL NO: _____

INTRODUCTION

[Enumerator: Start with greetings]



My Name is _____ and I am representing the Competition Authority of Kenya (Show ID). The Authority is conducting an inquiry into the branded retail sector. The purpose of this inquiry is to identify and address both competition and consumer concerns/issues within Supermarkets in Kenya.

The inquiry is being conducted under the auspices of Section 18 of the Competition Act. The information will be used to inform policy and enable the Authority to address any competition concerns in the branded retail sector.

Do you have any questions or is there anything I have said, which you would like any further clarification?

Could you please spare some time (around 20 min) for the interview?

Consent given? YES → CONTINUE WITH INTERVIEW
 NO → SKIP TO A1

A1: Could we return at another time more convenient for you?
YES → SCHEDULE
NO → SKIP TO A2

A2: Could I ask why you choose not to respond? _____
If person is not the responsible person or does not have time, skip to A3

A3: Is there someone else we can talk to at this store?
YES → TAKE NAME/CONTACT
NO → THANK AND TERMINATE INTERVIEW

1.0		ADMINISTRATIVE													
1.1	DATE OF INTERVIEW	<table border="1"> <tr> <td>D</td> <td>D</td> <td>M</td> <td>M</td> </tr> </table> 2017				D	D	M	M						
D	D	M	M												
1.2A	ENUMERATOR ID														
1.2B	NOTE TAKER ID														
1.3A	SUPERMARKET BRANCH/LOCATION	_____ _____													
1.3B	SUPERMARKET ID														
1.4	STUDY SITE	COUNTY _____ DISTRICT _____ LOCATION _____													
1.5	TIME	START TIME <table border="1"> <tr> <td>H</td> <td>H</td> <td>:</td> <td>M</td> <td>M</td> </tr> </table> END TIME <table border="1"> <tr> <td>H</td> <td>H</td> <td>:</td> <td>M</td> <td>M</td> </tr> </table>				H	H	:	M	M	H	H	:	M	M
H	H	:	M	M											
H	H	:	M	M											
1.6	LANGUAGE OF INTERVIEW			ENGLISH	1										
				SWAHILI	2										
				OTHER SPECIFY:	3										
1.7	NAME OF RESPONDENT														
1.8	TITLE/POSITION														
1.9	INTERVIEW STATUS			COMPLETE	1										
				PARTIAL	2										

2.0		STORE PROFILE			
2.1	Which best describes your supermarket? SINGLE RESPONSE READ OPTIONS	LOCAL STORE OWNED BY NATIONAL CHAIN	1	NATIONAL FRANCHISE	4
		LOCAL STORE OWNED BY LOCAL CHAIN	2	REGIONAL/LOCAL FRANCHISE	5
		INDEPENDENT STORE	3		
2.2	What year was this store (<i>this branch or location</i>) established? <small>YEAR</small>	Y	Y	Y	Y
2.3	CHAINS/FRANCHISES ONLY How many branches of this store do you have in this county ?	NUMBER			
		DON'T KNOW	99		
2.4	How many employees do you have in this store?	NUMBER			
		DON'T KNOW	99		
2.5	Does this supermarket belong to any trade/industry associations? IF NO SKIP TO 3.1	YES		1	
		NO		2	
2.6	Which trade/industry organizations?				

3.0		SUPPLIERS			
<i>IDENTIFYING LOCAL SUPPLIERS</i>					
Let's start by discussing how your organization selects suppliers.					
3.1	At which levels of the organization are suppliers chosen? MULTIPLE RESPONSE READ OPTIONS	HQ		1	
		REGIONAL		2	
		LOCAL		3	
3.2	IF LOCAL STORE HAS ROLE IN SELECTING SUPPLIERS: What role in does the local store have in influencing the selection of suppliers? OPEN: _____ _____ _____ _____				
3.3	Can managers at this store select any suppliers without head or regional office approval	YES		1	
		NO		2	



NUMBER AND TYPE OF LOCAL SUPPLIERS			
3.4	How many suppliers do you work with in total ?	NUMBER	
		DON'T KNOW	99
3.5	How many of your suppliers are local (supply only to this store)?	NUMBER	
		DON'T KNOW	99
		IF ZERO OR NO KNOWLEDGE SKIP TO 3.11	
3.6	Which of your local suppliers is the largest (in terms of the total value of goods supplied to your store)? _____ *Get contacts for supplier after interview		

3.7	Roughly what percent of the total value of purchases does this supplier provide?	NUMBER	
		DON'T KNOW	99

IF NO LOCAL SUPPLIERS OR NO KNOWLEDGE OF LOCALS SUPPLIERS CIRCLE 1 AND SKIP TO 3.11

SKIP TO 3.11	1
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3.8 NATIONAL CHAIN STORES WITH CENTRALIZED DELIVERY ONLY: Which products are supplied by local suppliers (vs. suppliers from headquarters)? OPEN:

DO 3.9 IF STORE HAS LOCAL SUPPLIERS (LIST MAY BE REQUESTED IN ADVANCE AND COMPLETED ON SEPARATE SHEET WITH ID OF STORE)

3.9 LIST OF SUPPLIERS How many suppliers supply this store with [ITEM]? INDICATE NUMBER OF LOCAL SUPPLIERS NOT SUPPLIERS FROM CENTAL DEPOT				3.10 Can you list the top suppliers in terms of contract value for [ITEM], up to four?*			
i.	Staples			1)		3)	
				2)		4)	
ii.	Dairy products			1)		3)	
				2)		4)	
iii.	Groceries (veg/fruit)			1)		3)	
				2)		4)	
iv.	Detergents/ toiletries			1)		3)	
				2)		4)	
v.	Skin care/cosmetics**			1)		3)	
				2)		4)	
vi.	Electronics**			1)		3)	
				2)		4)	

*Get addresses for suppliers after interview. **If they do not sell these products write "N/A Do not sell" in the row.

SUPPLIER CONTRACTS			
3.11	Are agreements with suppliers negotiated by the central headquarters office, regionally, or by this individual store? MULTIPLE RESPONSE READ OPTIONS	HQ	1
		REGIONAL	2
		LOCAL	3
3.12	Explain the roles of the different levels in negotiating with suppliers: OPEN: _____ _____ _____		
	FILTER IF NO KNOWLEDGE OR ROLE (EVEN INFORMAL) OF CONTRACTS MARK 1 AND SKIP TO 3.25	SKIP TO 3.25	1
3.13	Are your suppliers selected through a competitive tender process?	YES	1
		NO	2
			SKIP TP 3.15
3.14	Roughly what percent are selected via such a process?		%
3.15	Does the store or chain ever approach select suppliers you want to work with in order to work together?	YES	1
		NO	2
3.16	Do you ever work with suppliers who approached you first (e.g., venders who were marketing their products)	YES	1
		NO	2
3.17	Do you usually have contractual agreements with your suppliers?	YES	1
		NO	2
		SOME	3
			SKIP TO Q 3.19
3.18	Roughly what percent of your suppliers are under a contractual agreement with you?		%
3.19	Are any of the agreements you (or the chain) have with suppliers exclusive – that is, they limit the supplier to supplying only your store(s)?	YES	1
		NO	2
		DON'T KNOW	8
		N/R	9
			SKIP TO 3.20A
3.19B	IF EXCLUSIVE EXPLAIN: _____		

3.20A For a typical contract, what is the duration of the contract? SPECIFY MONTHS OR MARK APPROPRIATE BOX	3.20B Is this duration included in the contract at the insistence of your store, the suppliers, or both equally?	3.20C What would be the preferred contract duration for your store? SPECIFY MONTHS OR CODE
MONTHS: M M	INDICATE STORE=1 SUPPLIER=2 EQUAL=3	M M
MONTH TO MONTH		96
SUPPLY AS AGREED ON		97
DON'T KNOW		98
NO RESPONSE		99



3.21A What is the typical mode of delivery for goods being supplied to your store agreed on? CIRCLE ONE				3.21B Is this delivery method at the request of by your store, the suppliers, or both equally?				3.21C What would be the preferred delivery method be for your store?									
Supplier delivers to centralized depot				1				INDICATE STORE=1 SUPPLIER=2 EQUALLY=3				1					
Supplier delivers to individual outlets				2								2					
Central HQ collects from supplier				3								3					
Store collects itself from supplier				4								4					
Other (Specify)				5								5					
SPECIFY OTHER																	
DON'T KNOW		98		SKIP TO 3.21C								98					
NO RESPONSE		99		SKIP TO 3.21C								99					
3.22A What are the typical payment terms agreed on with suppliers?]? CIRCLE ONE IF AFTER DELIVERY INDICATE NUMBER OF DAYS AGREED ON				3.22B Did the store or the supplier suggest these payment terms?				3.22C Which method is most preferred by the store? MARK CODE & WRITE DAYS IF NEEDED									
Payment upon delivery				1				INDICATE STORE=1 SUPPLIER=2 EQUALLY=3				1					
Payment after delivery				2								2					
SPECIFY DAYS AFTER PAYMENT, E.G. "90 DAYS"				D		D		D						D		D	
Payment after sale				4								4					
Part up front/part later				5								5					
Discount for early payment				6								6					
Others(specify)				7								7					
SPECIFY OTHER																	
DON'T KNOW		98		SKIP TO 3.21C								98					
NO RESPONSE		99		SKIP TO 3.21C								99					

4.1	Does the management of this store have a role in managing the contract of any suppliers (e.g., when there are disagreements, poor contract fulfilment)?	YES	1
		NO	2
4.1B	EXPLAIN		
	FILTER IF NO ROLE IN MANAGING CONTRACTS, NO MATTER HOW INFORMAL, SKIP TO 5.0		
		SKIP TO 5.0	1



4.2 I'd like to ask you about problems you with suppliers. Have you had a problem with [ITEM]? CIRCLE YES OR NO				4.2B Which is the biggest problem? 4.2C Which is the second most important? MARK 1 AND 2 IN APPROPRIATE BOX	
xi.	Difficult to find suppliers	YES=1	NO=2		
xii.	No suppliers of products we need	YES=1	NO=2		
xiii.	Suppliers have exclusive contracts with other stores	YES=1	NO=2		
xiv.	Goods supplied are not of the quality we need	YES=1	NO=2		
xv.	Excessive breakage or spoilage	YES=1	NO=2		
xvi.	Delays in supply	YES=1	NO=2		
xvii.	Noncompliance with contract/agreement	YES=1	NO=2		
xviii.	Charge too much for delivery	YES=1	NO=2		
xix.	Any other issue with suppliers?	YES=1	NO=2		
	SPECIFY				

4.3A	Suppose your store had an issue with a supplier that was not resolved. What would your store do to encourage compliance? OPEN				

4.3B	IF NOT MENTIONED ABOVE: Would you ever withhold payment from a supplier if there was an issue?	YES	1		
		NO	2	SKIP TO Q 4.4	
4.3C	EXPLAIN: Under what circumstances (would you withhold payment to a supplier)?				

4.3D		5 TIMES OR LESS	1	NEVER	5
		6-10 TIMES	2	DON'T KNOW	8

In the past year, how many times have you had to do that (<i>withhold payments due to a contract issue/dispute</i>)? SINGLE RESPONSE READ OPTIONS	11-20 TIMES	3	NO RESPONSE	9
	20 OR MORE TIMES	4		

3.23A What about other contract terms and provisions? Do contracts with suppliers generally include provisions for... MARK YES/NO AND EXPLAIN			3.23B Do they ever include this?		
i. Shelf allocation or product placement fees?	YES = 1	NO = 2	YES = 1		NO = 2
<i>EXPLAIN:</i>					
ii. Certification requirements (<i>e.g. organic, fair trade</i>) above those of the law?	YES = 1	NO = 2	YES = 1		NO = 2
<i>EXPLAIN:</i>					
iii. Labelling/packaging/barcoding?	YES = 1	NO = 2	YES = 1		NO = 2
<i>EXPLAIN:</i>					
iv. Any other requirements?	YES = 1	NO = 2	YES = 1		NO = 2
<i>EXPLAIN:</i>					
3.24	Is there a provision to adjust the contract terms if production costs go up?	YES	1		
		NO	2		
3.25	Imagine that production costs for products were to go up for some reason. What would happen? SINGLE RESPONSE READ OPTIONS	SUPPLIER ABSORBS COST	1		
		COST SPLIT B/W SUPPLIER & STORE/CUSTOMERS	2		
		COST SPLIT B/T STORE AND CUSTOMER	3		
		CUSTOMER ABSORBS ALL COST	4		
		STORE ABSORBS ALL COST	5		

4.4	<p>What requirements do you have that suppliers find it difficult to satisfy? That may prevent them from working with you? OPEN</p> <hr/> <hr/> <hr/> <hr/>
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5.0	COMPETITIVE ADVANTAGE								
	Now I'd like to talk about your store's market niche and competitive advantage.								
5.1	<p>Who are your target customers? (What phrase describes them?) OPEN</p> <hr/> <hr/> <hr/> <hr/>								
5.2	<p>How do you categorize the customers that mainly shop in your store? SINGLE RESPONSE READ OPTIONS</p>	<table border="1"> <tr><td>LOW INCOME</td><td style="text-align: center;">1</td></tr> <tr><td>MIDDLE INCOME</td><td style="text-align: center;">2</td></tr> <tr><td>HIGH INCOME</td><td style="text-align: center;">3</td></tr> </table>	LOW INCOME	1	MIDDLE INCOME	2	HIGH INCOME	3	
LOW INCOME	1								
MIDDLE INCOME	2								
HIGH INCOME	3								

		5.3 Who do you see as this store's main competitors for food items ? MULTIPLE RESPONSE READ OPTIONS	5.3B Which is your MAIN competitor in foods? MARK 1 IN CORRECT BOX	5.4 Who do you see as this store's main competitors for electronics/appliances ? MULTIPLE RESPONSE READ OPTIONS	5.4B Which is your MAIN competitor in electronics? MARK 1 IN CORRECT BOX	
i.	OTHER SUPERMARKETS	1		1		
ii.	SMALL SHOP/KIOSKS	2		2		
iii.	SOKO	3		3		
iv.	SPECIALITY SHOPS (e.g., electronics store, health food store)	4		4		
v.	OTHER (SPECIFY)	5		5		

vi.	OTHER SPECIFY				
vii.	DOES NOT SELL ITEM	6		6	

5.5 On a scale of 1 to 5 where one is the least important and five is most important, how important are the following in determining which supermarket to shop at? SR RO ROTATE ORDER CIRCLE FIRST ITEM		NOT VERY IMPORTANT = 1 NOT IMPORTANT = 2 SOMEWHAT IMPORTANT = 3 IMPORTANT = 4 VERY IMPORTANT = 5			
vii.	Price		xiii.	Can return defective goods (<i>warranties</i>)	
viii.	Quality of items		xiv.	Can buy everything in one store (<i>one-stop shopping</i>)	
ix.	Store is easy to get to (<i>close to me</i>)		xv.	Has special promotions	
x.	Safety of products (<i>food safety</i>)		xvi.	Has loyalty card	
xi.	Clean/modern facilities		xvii.	Parking	
xii.	Security (<i>of premises</i>)		xviii.	Any other factor? (SPECIFY) _____	

6.0 RETURNS AND CUSTOMER SERVICE

6.1	Does your store offer a return policy?	YES	1	SKIP TO Q 6.4
		NO	2	
6.2	Does it apply to all items or only certain items? Explain if some items: _____	ALL ITEMS	1	
		ONLY SOME ITEMS → EXPLAIN	2	
6.3	IF ITEM CAN BE RETURNED: Under what circumstances can items be returned?	ITEM DEFECTIVE	1	
		CUSTOMER DOESN'T LIKE/ CHANGES MIND	2	
		RECALL	3	
		OTHER (SPECIFY)	4	
		SPECIFY OTHER		
6.4	Do you have a standard system in place if a customer has a complaint about the store or a product?	YES	1	
		NO	2	

6.5	Do all electronic products you sell come with a warranty? IF NO EXPLAIN: _____	YES	1
		NO	2
		DOES NOT SELL	3
6.6	Does your store have a policy to inform customers before purchase of the terms of the warranty or if a warranty is not available?	YES	1
		NO	2

6.7 STORE LOCATION: What was the MAIN rationale for the decision to locate this supermarket here? <i>That is, what is the advantage of this store being located here?</i> SINGLE RESPONSE DO NOT READ OPTIONS		6.8 Which was the SECOND reason?	
i.	Close to shopping (<i>mall/shopping center</i>)	1	1
ii.	Close to roads/infrastructure (<i>near high way or transport hub</i>)	2	2
iii.	Close to where customers live	3	3
iv.	Close to where customers work	4	4
v.	Availability of space	5	5
vi.	Other (Specify)	6	6
vii.	SPECIFY OTHER		
viii.	Don't know	7	7

6.9	Many stores act as "anchor stores" in a shopping centre or development and have an agreement that they will be the only store of their kind in the centre. Does this store enjoy that exclusivity?	YES	1	
		NO	2	SKIP TO Q 6.11
		DON'T KNOW	9	SKIP TO Q 6.11
6.10	EXPLAIN			
6.11	Imagine a new supermarket wanted to enter this market. What would be the primary obstacles to it doing so? [PROBE: Market obstacles? Current players already dominate market? Regulations?]			
	OPEN _____ _____ _____			

7.0 BRANDING AND SHELF ALLOCATION					
7.1	Does this store sell its own brand/store-branded products?		YES NO	1 2	SKIP TO Q 7.3
7.2	IF HAVE STORE-BRANDED PRODUCTS: How do these products perform with respect to other products?		POOR GOOD EXCELLENT	1 2 3	
7.3	Now I'd like to ask you about how you allocate shelf-space and visibility of different products and brands. What is your main priority in allocating shelf space? OPEN _____ _____ _____ _____ _____ _____ _____				
7.4		7.4 What primarily informs the decision on allocation of shelf-space and product visibility? The second factor? SINGLE RESPONDS READ OPTIONS	7.4A Primary factor	7.4B Secondary factor	
	i.	Attracting people into store (<i>advertisement and promotion</i>)	1	1	
	ii.	High demand items get prominent space	2	2	
	iii.	Items in high stock get prominence	3	3	
	iv.	Supplier incentives/shelf space fees	4	4	
	v.	Other (Specify)	5	5	
vi.	SPECIFY OTHER				
7.5	IF STORE HAS OWN BRAND ONLY: Does your store give priority in placement to its own store brand when allocating shelve space?		YES NO	1 2	

8.0 ROLE OF GOVERNMENT AND INSTITUTIONS				
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