



## COMPETITION AUTHORITY OF KENYA PORTAL FILING INSTRUCTIONS

### A. INTRODUCTION

#### 1. SCOPE

1.1 This Manual is applicable as a guide in the online filing of mergers and acquisitions by stakeholders through the portal.

#### 2. PURPOSE

2.1 The main purpose of this Manual is to guide the Authority's stakeholders in filing of mergers and acquisitions using the portal in its regulation of market structure through control of mergers and acquisitions as provided for in Part IV of the Competition Act, No. 12 of 2010, (the Act).

2.2 By rendering public, the guidelines and instructions to be followed in online filing of mergers and acquisitions, the Authority expects to create awareness and provide a reference point on how the online filing of mergers and acquisitions is to be carried out aimed at increasing the ease of doing business to foster transparency and predictability of mergers and acquisitions.

2.3 The main objectives of the instructions are to:

- 2.3.1 Provide a step by step guidance on how to file mergers online;
- 2.3.2 Equip the merger filing stakeholders with a reference point;
- 2.3.3 Provide a template for future trainings of stakeholders on merger filing;
- 2.3.4 Provide valuable records on CMS and the portal thus reducing the risk of deviation from common practice;
- 2.3.5 Enable the stakeholder filing to track case progress through the system; and

2.3.6 Lower printing, archiving and transportation costs.

### 3. TERMS, DEFINITIONS AND ABBREVIATIONS

3.1 **Competition Authority of Kenya** – Abbr; CAK, also referred here-in after as ‘the Authority/CAK’ is the government agency mandated to regulate market structure and conduct in the Kenyan economy and protect consumers against unfair and misleading market conduct.

3.2 **Portal** – refer to the CAK developed online platform for submitting; complaints, cases and filings. The portal access link is: <https://competition.cak.go.ke:444/>. This address may change from time to time and shall be duly updated in the Authority’s website.

3.3 **Authority’s Website** – Refers to the address: [www.cak.go.ke](http://www.cak.go.ke)

3.4 **CMS** – is the Case Management System, a system developed by the Authority to provide a platform for receiving cases from the portal once they are submitted by the filing parties.

3.5 **Filing Parties** – unless otherwise stated, refer to the target and acquirer(s) involved in a transaction or the representatives appointed to act on behalf of the target and the acquirer.

3.6 **Acquirer** – Refer to the entity (ies), including natural persons, that intend to exercise control over the target.

3.7 **Target** – Refer to the entity to whose control is changing.

### 4. DECLARATION

4.1 The Authority has developed these instructions without any prejudice and filing parties should, therefore, ensure that they acquaint themselves with the portal as they prepare their submissions. The Authority will be available to train and offer additional guidance on the filing process to any filing party if need be.

### 5. FILING INSTRUCTIONS

5.1 The filing process starts with creation of an account through the portal by the parties to a merger. The account is created independently where a merger transaction is to be submitted by more than one party.

- 5.1.1 To create an account, open your browser and key in the portal address (<https://competition.cak.go.ke:444/>). The portal address can also be accessed through the Authority's main website.
- 5.1.2 Click on register and enter the respective details as directed by the platform. Parties can choose to use individual email addresses or adopt a single corporate email address for their account.
- 5.1.3 Once registered, log on to the system and click on the Menu button.
- 5.1.4 Select mergers on the resultant selection panel.

## 5.2 Initiation of filing.

- 5.2.1 The portal will provide two options to select from, '*First* or '*Subsequent*'. The first filing party is any of the entities to a transaction who is initiating the filing process. Once filing is initiated and title of the merger in the provided box entered, click the '*save*' button on the bottom right corner of the window.
- 5.2.2 The system will auto-generate a special filing number (CAK\MNF\04\XXXX) which will be sent to the email used to register the account. This **must** be shared with the subsequent filing party (ies) on email to enable them file under the same application.
- 5.2.3 The subsequent filing party (ies) shall be asked to enter the shared number once they execute sub-instruction 5.2.1.

**NB, it is imperative that parties to a transaction use the same filing number.**

- 5.2.4 Once the parties have initiated filing as guided by Instruction 5.2, click on the '+' sign under the 'Merger Party Filings' section for the portal to proceed to open the Merger Notification Form (MNF).

## 5.3 Filing the Merger Notification Form

- 5.3.1 The preamble of the MNF has instructions on what should be filled based on the nature of the transaction being filed. Parties

should read these instructions before proceeding to fill the MNF.

5.3.2 The MNF is divided into four (4) schedules.

5.3.2.1 Schedule I runs from Paragraph 1 to 21. By default, Paras 1-18 contain mandatory minimum information required for any transaction filing. Where a mandatory field is not applicable to a filing party, they should indicate 'N/A' instead of leaving it blank. The attachments accompanying this schedule are mandatory. Where an attachment is not applicable to a filing party, they should attach a detailed letter in the letter head of the company explaining the reason (s) for the absence of the relevant document.

5.3.2.2 Schedule II runs from Para 22-27. It contains questions on products and services supplied by each of the filing parties.

5.3.2.3 Schedule III runs from Para 28-37 appreciates the horizontal and vertical relationships of the merging parties.

5.3.2.4 Schedule IV is a declaration form mandatory to all the filing parties. This must be downloaded, filled, scanned and attached to the portal.

5.3.2.5 The documents uploaded to the portal should be in PDF format.

5.3.3 The portal auto saves progress as a user continues to fill the form. Parties should make any attachment until that time the form is fully filed and is ready to submission.

5.3.4 At any point in the process of filling the MNF, the user can click on the 'save' button to pause the process. This will allow the user to return to the portal later and continue with the filing.

5.3.5 Clicking the 'Submit' button submits the information to the Authority and may not afford a chance to edit the same. Therefore, a user should only submit once they have double

verified that the information and the attachments they intend to submit to the Authority is in order.

- 5.4 The user should ONLY upload the attachments (in PDF format) once they have filled in all the other sections before clicking on 'Submit'
- 5.5 Upon submission, the portal auto generates a PDF version of the submitted information with a time stamp indicating the time and date the information was submitted. Users can click to download this pdf for custody. The same PDF is also emailed to the registered email address for reference.
- 5.6 The portal will also enable the user to check the progress of the case from the homepage on log on.
- 5.7 Further to these instruction is **annexure 1** with a pictorial step by step guide on how to file.

## 6 USEFUL TIPS

- 6.1 Where a merger case is to be filed by the parties or two representatives separately, ascertain the first and subsequent filing parties prior to beginning the process.
- 6.2 As the first filing party, save the auto generated reference number at the start of filing for sharing with the subsequent filing party(ies).
- 6.3 Do not share the password to your portal account or the reference number with other parties unrelated to the transaction.
- 6.4 Only attach relevant documents once the form is fully filled and ready for submission.
- 6.5 Where parties to a filing do not have certain mandatory document(s), prepare a letter \affidavit and attach in place of the document.
- 6.6 Always remember to download the PDF copy of the submitted merger notification form provided by the portal.
- 6.7 Check the portal dashboard for status of your filed transaction.
- 6.8 All the documents to be uploaded should be legible and should have a clear descriptive file name. *For instance; Share purchase Agreement, Board Resolutions, Audited Financial Statements 2XXX, ABC Company Structure.*

Website Address: <https://competition.cak.go.ke:444>

## The CAK Portal Log in Page

[https://competition.cak.go.ke:444/\\_layouts/15/CAK/Pages/Login.aspx](https://competition.cak.go.ke:444/_layouts/15/CAK/Pages/Login.aspx)



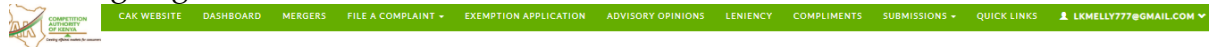
### Public Portal

**Login**

Sign me in automatically

Don't have an account? [register](#) | [Forgot your password? reset](#)

## Landing Page

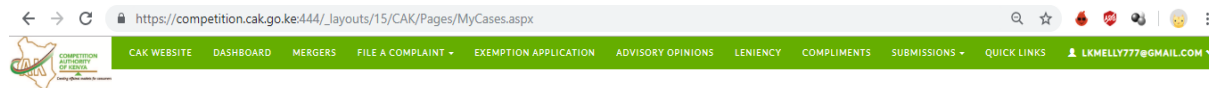


### Dashboard

Cases | Mergers and Acquisitions | Draft MNFs | Submitted MNFs

You have not filed any cases yet.

## Active Cases



### Dashboard

Cases | Mergers and Acquisitions | Draft MNFs | Submitted MNFs

#### Mergers & Acquisitions

Show 10 entries

Search:

Title	Status	Case Number (CR)	Created On
Kenya Bottlers Limited - Test	Inactive	CAKMNFD43.222	26/4/2019
Kenya Bottlers Limited - Test June 2019	Active	CAKMNFD43.339	06/6/2019

Showing 1 to 2 of 2 entries

Previous 1 Next

# Draft MNFs Pending Submission

The screenshot shows the CAK website dashboard. The navigation bar includes: CAK WEBSITE, DASHBOARD, MERGERS, FILE A COMPLAINT, EXEMPTION APPLICATION, ADVISORY OPINIONS, LENIENCY, COMPLIMENTS, SUBMISSIONS, QUICK LINKS, and a user profile for LKMELLY777@GMAIL.COM. The main content area is titled 'Dashboard' and has tabs for 'Cases', 'Mergers and Acquisitions', 'Draft MNFs', and 'Submitted MNFs'. Under the 'Draft MNFs' tab, a message states: 'No draft MNFs found.'

# Submitted MNFs

The screenshot shows the CAK website dashboard with the 'Submitted MNFs' tab selected. A table lists the following information:

Name and principal business address of the undertaking	Created	Report (click to open)
Name: Kenya Bottlers Limited Address: Church Street, Nairobi CBD, P.O. Box 722-00100 Nairobi Kenya	4/26/2019 5:38:40 AM	MNF Report - Kenya Bottlers Limited _2.pdf
Name: Kenya Bottlers Limited June 6th Address: Church Street, Nairobi CBD, P.O. Box 722-00100 Nairobi	6/6/2019 2:52:52 PM	MNF Report - Kenya Bottlers Limited June 6th .pdf

## TO FILE A MERGER

1.

The screenshot shows the CAK website dashboard with the 'Mergers' menu item highlighted in the navigation bar. A yellow callout box with the text 'Click on Mergers' has an arrow pointing to the 'Mergers' link. The main content area shows 'You have not filed any cases yet.'

2.

The screenshot shows the 'Mergers and Acquisitions' page. A green banner at the top says 'To proceed, please select one option below...'. Below it, the question 'Are you the First or Subsequent Filing Party?' is displayed. Two buttons are shown: 'FIRST' and 'SUBSEQUENT'. A yellow callout box with the text 'Click on either First or subsequent filing party' has an arrow pointing to the 'SUBSEQUENT' button.

3.



### Mergers and Acquisitions

**General**

Title of the merger \*  Merger Source

Contact \*

**Merger Party Filings**

To add a merger party, please save the record first.

Name of Organization	SIC Code	Case	Authorized Representative	Brief History of Firm	Date Incorporated	Value of Assets	Annual Turnover in Kenya	Created On
To enable this content, create the record.								

SAVE

Insert the title of the Merger and click 'save' if you are the first filing party. The Subsequent filing party (ies) will have the title pre-filled

4.

### Mergers and Acquisitions

Your case has been successfully registered. Kindly click on the plus to fill in the merger notification form.

**General**

Title of the merger \*  Merger Source

Contact \*

**Merger Party Filings**

Name of Organization	SIC Code	Case	Authorized Representative	Brief History of Firm	Date Incorporated	Value of Assets	Annual Turnover in Kenya	Created On
No Merger Party records found.								

SAVE

The System Creates a record and emails to the registered user

Click on the + sign to access and Fill the MNF

5.

Merger Notification Form

Read all the instructions on the preface carefully before you embark on filing the form

Competition Authority of Kenya  
Central Post Office Box 30000, Nairobi, Kenya  
Tel: +254 20 2717000 Fax: +254 20 2717001  
Email: info@ca.gov.ke

**1. Preface**

The Commission is pleased to inform you that you have successfully filed your merger notification form. The Commission will process your notification form and issue a decision on whether to approve or prohibit the merger. You are advised to read the instructions carefully before filing the form. The Commission will issue a decision on whether to approve or prohibit the merger within 30 days of the date of filing the form. You are advised to read the instructions carefully before filing the form.

**2. Information to be provided by the filer**

The filer shall provide the following information to the Commission:

- Name of the filer
- Address of the filer
- Contact details of the filer
- Name of the target
- Address of the target
- Contact details of the target
- Date of incorporation of the target
- Value of assets of the target
- Annual turnover of the target
- Business of the target
- Market share of the target
- Other relevant information

**3. Declaration by the filer**

The filer hereby declares that the information provided in this form is true and correct to the best of the filer's knowledge and belief.

**4. Declaration by the target**

The target hereby declares that the information provided in this form is true and correct to the best of the target's knowledge and belief.

**5. Declaration by the Commission**

The Commission hereby declares that it has received the notification form and will process it within the prescribed time frame.


### 6. Schedule 1, Mostly Mandatory Basic Information





[Zimbra: Inbox](#) x [Mergers & Acq...](#) x [ShareFile Login](#) x [Radio Garden](#) x [Email: Departm...](#) x [Mergers Excl...](#) x [MAU LLP PA...](#) x [Merger Party](#) x

[https://competition.cak.go.ke:444/\\_layouts/15/CAK/Pages/MergerParty.aspx?mGuid=cac49c09-7c25-43d3-9d30-de342711d4cd](https://competition.cak.go.ke:444/_layouts/15/CAK/Pages/MergerParty.aspx?mGuid=cac49c09-7c25-43d3-9d30-de342711d4cd)


Menu ☰

**SCHEDULE I - BASIC INFORMATION**

**1. State the name and principal business address of the undertaking filing this notification. \***

Name...

Principal business address...

**2a. Provide the following details of the contact person for the undertaking filing this notice\***

Name...

Position...

Address...

Telephone...

Email...

Fax...

**2b. Provide the Names of the directors of the undertaking and their nationalities\***


Name... Nationality... +

**2c. Attach a copy of current CR/12 or equivalent issued\***

## 7. Necessary Attachments to Schedule I

[Zimbra: Inbox](#) x [Mergers & Acq...](#) x [ShareFile Login](#) x [Radio Garden](#) x [Email: Departm...](#) x [Mergers Excl...](#) x [MAU LLP PA...](#) x [Merger Party](#) x

[https://competition.cak.go.ke:444/\\_layouts/15/CAK/Pages/MergerParty.aspx?mGuid=cac49c09-7c25-43d3-9d30-de342711d4cd](https://competition.cak.go.ke:444/_layouts/15/CAK/Pages/MergerParty.aspx?mGuid=cac49c09-7c25-43d3-9d30-de342711d4cd)


Menu ☰

Provide copies of the following documents:

**Signed copy of Sale and Purchase Agreement \***

BROWSE...

**Audited Financial Statements for the last three years \***

YEAR 1: BROWSE...

YEAR 2: BROWSE...

YEAR 3: BROWSE...

**Cover Letter \***

BROWSE...

**The latest Board resolutions and related documents regarding the merger \***

BROWSE...

**A breakdown of employees, and plans to realise cost savings, efficiencies and plans documenting investment evaluations \***

BROWSE...

**Copies of Certificate of Incorporation/Registration certificate or equivalent and similar documents including other shareholder companies where there is chain ownership \***


Hold down the Ctrl key to select multiple files.

BROWSE...

## 8. Schedule II

[Zimbra: Comp...](#) | [Mergers & Ac...](#) | [ShareFile Login](#) | [Radio Garden](#) | [Email: Departm...](#) | [Mergers Excl...](#) | [MAU LLP PAN](#) | [Merger Party](#)

[https://competition.cak.go.ke:444/\\_layouts/15/CAK/Pages/MergerParty.aspx?mGuid=cac49c09-7c25-43d3-9d30-de342711d4cd](https://competition.cak.go.ke:444/_layouts/15/CAK/Pages/MergerParty.aspx?mGuid=cac49c09-7c25-43d3-9d30-de342711d4cd)


Menu

**SCHEDULE I. BASIC INFORMATION**

**SCHEDULE II. PRODUCTS AND SERVICES SUPPLIED BY EACH OF THE MERGING PARTIES**

22. List the products that you sell and/or services that you provide.

23. For each of the main products and services specify the amounts supplied (in volume and/or Kshs) into each geographic area where you sell your products or provide services (e.g. national, county(ies), international. If international, specify the countries).

24. Provide estimates of your market shares and those of your competitors (including the other merging party) in each of the markets you operate for the last three years.

25. Identify your main actual and potential suppliers, for each product/service grouping (including the other merging party(ies) where applicable).


26. Identify your main actual and potential customers, for each product/service grouping (including the other merging party(ies) where applicable).

27. Explain the nature of the vertical relationship and how it is likely to affect competition in the upstream and downstream markets.

## 9. Attachments to Schedule II

[Zimbra: Comp...](#) | [Mergers & Ac...](#) | [ShareFile Login](#) | [Radio Garden](#) | [Email: Departm...](#) | [Mergers Excl...](#) | [MAU LLP PAN](#) | [Merger Party](#)

[https://competition.cak.go.ke:444/\\_layouts/15/CAK/Pages/MergerParty.aspx?mGuid=cac49c09-7c25-43d3-9d30-de342711d4cd](https://competition.cak.go.ke:444/_layouts/15/CAK/Pages/MergerParty.aspx?mGuid=cac49c09-7c25-43d3-9d30-de342711d4cd)


Menu









Provide copies of the following documents:  
**Documents prepared for the Board of Directors, regulatory bodies in relation to the transaction**  
 BROWSE...

**Reports, surveys, analysis or other documents assessing the transaction with respect to its impact on competition**  
 BROWSE...

**Latest business plans, marketing plans, sales report and strategic plan**  
 BROWSE...

**SCHEDULE III. EVALUATION OF HORIZONTAL OVERLAPS AND VERTICAL RELATIONSHIPS OF MERGING PARTIES**

**SCHEDULE IV. DECLARATION**

 Kenya Railways Staff |
  P.O. Box 36265-00200 |
  +254 20 2628233 254 20 |
  info@cak.aa.ke |
  CAK on |
  CAK on |
 


## 10. Schedule 3

COMPETITION AUTHORITY OF KENYA  
Creating efficient markets for consumers

Menu

SCHEDULE I. BASIC INFORMATION

SCHEDULE II. PRODUCTS AND SERVICES SUPPLIED BY EACH OF THE MERGING PARTIES

SCHEDULE III. EVALUATION OF HORIZONTAL OVERLAPS AND VERTICAL RELATIONSHIPS OF MERGING PARTIES

28. For each of the products you produce or services you provide; a) give monthly data over previous three years on prices charged, and sales by region, b) state whether you charge a national price and the rationale, and c) provide details of your pricing strategy (including discounts and rebates).

29. Sales volumes, monthly over previous three years for main products, by area

30. Are there products or services you consider to be reasonably substitutable with your products or services? Taking into account these products or services, provide an estimate of your market shares and those of your competitors and indicate the sources of your information.

31. Explain the basis on which you compete (such as on price, quality, service, distribution) in each of the markets possibly affected by the merger.

## 11. Attachments to Schedule 3

COMPETITION AUTHORITY OF KENYA  
Creating efficient markets for consumers

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Provide copies of the following documents:

Business plans; marketing plans, including for relevant subsidiaries and divisions and current Strategic Plan

BROWSE...

Periodic (such as monthly and quarterly) review of sales and market trends including by customer category and by different geographic areas for the last three (3) years

BROWSE...

Pricing schedules including terms of discounts and rebates offered

BROWSE...

SCHEDULE IV. DECLARATION

SAVE SUBMIT

## 12. Schedule IV, Declaration

SCHEDULE II. PRODUCTS AND SERVICES SUPPLIED BY EACH OF THE MERGING PARTIES

SCHEDULE III. EVALUATION OF HORIZONTAL OVERLAPS AND VERTICAL RELATIONSHIPS OF MERGING PARTIES

**SCHEDULE IV. DECLARATION**

Downloads:

- Declaration template: merger notification form declaration template
- Confidentiality claim form: confidentiality\_claim\_form

Attach signed declaration

BROWSE...

I confirm that the person named in reply to question 4 (if any) is authorized to act on my behalf for the purposes of this Notice.

Attach proof of payment of merger filing fees

BROWSE...

Other documents

Use this field to attach any other documents pertinent to the transaction. Hold down the Ctrl key to select multiple files.

BROWSE...

SAVE SUBMIT

The Confidentiality Claim Forms and the Merger Declaration Forms may be downloaded here, Filled and stamped/sealed and scanned copies uploaded into the relevant spaces.

One can save at any point in time and revert to it later. However, the attachments should not be attached at this point. Only add the attachments prior to submission

Click on the Submit button once ready to submit, otherwise, click on save