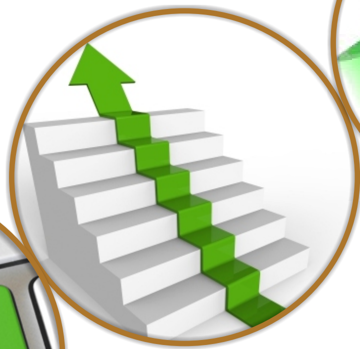
COMPETITION AUTHORITY OF KENYA

Creating efficient markets for consumers



ANNUAL REPORT & FINANCIAL STATEMENTS 2015/2016

THE COMPETITION AUTHORITY OF KENYA

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ANNUAL REPORT
& FINANCIAL STATEMENTS 2015/2016

TABLE OF CONTENTS

PART I

PART II

PART I

ANNUAL REPORT 2015/2016

CORPORATE INFORMATION

Directors

Mr. David Ong'olo	- Chairman (Re-appointed in 12th February 2016)
Mr. Francis W. Kariuki	- Director-General
Dr. Kamau Thugge	- Principal Secretary, The National Treasury
Dr. Ibrahim Mohamed	- Principal Secretary, Ministry of Industrialization and Enterprise Development
Prof. Githu Muigai	- The Attorney-General
Ms. Judith A. Guserwa	- Deputy Chairman (Term Expired on 25th September 2015)
Mr. Stephen K. Kiptiness	-(Re- appointed on 29th June 2016)
Canon Charles G. Komu	-(Term Expired on 25th September 2015)
Ms. Eunice Maranya	-(Re- appointed on 29th June 2016)
Ms. Susan A. Ayako	-(Term Expired on 25th September 2015)
Mr. Protus Sigei,	-Alternate to the Principal Secretary, The National Treasury
Mr. Michael Onyancha,	-Alternate to the Principal Secretary Ministry of Industrialization and Enterprise Development
Ms. Elizabeth Ng'ang'a	- Alternate to The Attorney-General
Mr. Abdirizak Aralle Nunow	– Appointed on 29th June 2016
Ms. Carolyn Kimbo Musyoka	– Appointed on 29th June 2016
Ms. Leila A. Ali	– Appointed on 29th June 2016

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Kenya National Audit Offices,
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P. O. Box 30084 – 00100,
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State Law Office,
P. O. Box 40112-00100,
NAIROBI.

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NAIROBI.

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NAIROBI.

Ogala Akello & Company Advocates,
Office Suite 14, 1st Floor Green House,
Ngong Road,
Nairobi.

Rachier & Omollo Advocates,
Mayfair Center, 5th Floor,
Ralph Bunche/ Argwings Kodhek Road
P. O. Box 55645-00200
Nairobi

Bankers:

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

PREAMBLE

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

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

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

The Authority achieves its mandate by regulating market structure and conduct; promoting consumer welfare and advising the government in developing policies and regulation framework to enhance our market based economy. Towards this, the Authority has developed relevant guidelines, concluded co-operation frameworks with sector regulators, generated the Competition Regulatory Impact Assessment framework and it is currently implementing a four years Strategic Plan. To inform the ongoing regional economic integration, the Authority works closely with Regional Economic Communities.

This report provides the nature and scope of the Authority's activities; its plans and priorities including the number and nature of complaints and applications determined and or under consideration; number and nature of investigations completed and continuing; and significant studies and inquiries completed during the 2015/2016 Financial Year.

Vision

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

Mission

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

Motto

Creating efficient markets for consumers.

Core Values

The guiding principles in the operations of the Authority are:

i. Customer focus - commits to attaining the highest standards in service delivery to all stakeholders.
ii. Integrity - commits to acting in an honest, transparent and responsible manner while implementing its programmes.

iii. Professionalism - shall be guided by professional ethics aimed at building an appropriate corporate culture and creating the right corporate image.
iv. Impartiality - shall uphold the highest levels of equity by treating all stakeholders without any discrimination whatsoever.
v. Teamwork - shall adopt a participatory approach and work together at all levels in the conduct of its business.
vi. Innovation and Creativity - shall be a learning organization that embraces change and continuously enhances creativity and innovation in its business processes.

Quality Policy

The Authority is committed to enhance the welfare of the people of Kenya by promoting and protecting effective competition in markets and preventing unfair and misleading market conduct.
Toward this the Authority shall comply with all applicable requirements and continually improve its effectiveness by implementing a quality management system based on ISO 9001:2008.
The Authority's top management commits to review this policy and established quality objectives biennially to ensure sustained improvement and suitability. .

Quality Objectives

i. Provision of quality and effective regulation of both market conduct and structure
ii. Protection of consumers from false and misleading market conduct
iii. Optimal utilization of the Authority resources in the attainment of its mandate
iv. Enhancement of customer satisfaction that exceeds their expectations by providing quality service
v. The Authority's operations comply with all applicable laws and regulations
vi. The Authority attracts, trains and retains highly qualified skilled and motivated staff for the realization of its mandate.

Mandate

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

a) Promotion and enforcement of compliance with the Act;
b) Receiving and investigating complaints from legal or natural persons and Consumer entities ;
c) Promoting public knowledge, awareness and understanding of the obligations, rights and remedies under the Act and the duties, functions and activities of the Authority;
d) Promoting the creation of consumer bodies and the establishment of good and proper standards and rules to be followed by such bodies in protecting competition and consumer welfare;
e) Recognizing consumer bodies duly registered under the appropriate national laws as the proper bodies, in their areas of operation, to represent consumers before the Authority;
f) Making available to consumers' information and guidelines relating to the obligations of persons under the Act and the rights and remedies available to consumers under the Act;
g) Carrying out inquiries, studies and research into matters relating to competition and the protection of the interests of consumers;
h) Studying government policies, procedures and programmes, legislation and proposals for legislation so as to assess their effects on competition and consumer welfare and publicizing the results of such studies;
i) Investigating impediments to competition, including entry into and exit from markets, in the economy as a whole or in particular sectors and disseminate the results of such investigations to

appropriate publics;

j) Investigating policies, procedures and programmes of regulatory authorities so as to assess their effects on competition and consumer welfare; and disseminate the results of such studies to appropriate public;

k) Participating in deliberations and proceedings of Government, Government Commissions, regulatory authorities and other bodies in relation to competition and consumer welfare;

l) Making representations to Government, Government Commissions, regulatory authorities and other bodies on matters relating to competition and consumer welfare;

m) Liaising with regulatory bodies and other public bodies in all matters relating to competition and consumer welfare; and

n) Advising the government on matters relating to competition and consumer welfare.

BOARD OF DIRECTORS

Mr. David O. Ong'olo – Chairman (Re-appointed on 12th February 2016)

Mr. David Ong'olo was re-appointed Chairman of the Competition Authority for a period of three years. He has a long standing interest in competition policy and private sector development. He has worked on topics spanning institutional development, sectoral regulation and industrial policy analysis. He is particularly interested in bridging the worlds of rigorous industrial sector analysis and practical policy development and implementation. He holds a Bachelor's Degree in Economics from the University of Nairobi and a Master of Science Degree in Industrial Economics from Lancaster University, United Kingdom.

Mr. Francis W. Kariuki, Director – General

Mr. Francis Kariuki has vast experience in competition enforcement and is the first Director-General of the Competition Authority of Kenya. His main interests are in competition regulation and Economics of institutions' development. He is a distinguished authority in the Competition Enforcement World for his advocacy efforts and other initiatives geared towards modernizing various competition regimes. Mr. Kariuki holds a Masters of Science Degree in Economic Regulation and Competition from City University, London; a Bachelor of Arts degree in Economics and Business Studies from Kenyatta University; and various Certificates in Strategic Leadership and Corporate Governance.

Ms. Eunice M. Maranya (Re-appointed on 29th June 2016)

Ms. Eunice Maranya is a Business, Management and institutional development specialist with over 15 years banking experience, and seven years of consulting for large donor, private and public sector organizations. She is the Country Director of the Digital Opportunity Trust, a Canadian NGO that works in the youth and Information Communication Technology (ICT) space. She has previously served in the position of Chief Executive Officer of the Kenya Alliance of Residential Associations, a nationally lobby organization for Residents Associations. She has worked as an independent consultant in several areas in development including the UK Department of International Development (DFiD), the Danish International Development Agency (Danida), the United Nations Standard Products and Services Code (UNSPSC) unit, United States Agency for International Development (USAID), International Fund for Agricultural Development (IFAD) projects; financial services sector, corporate and the public sector and has also undertaken several scoping and research assignments. She has sat in the Board of the Communications Commission of Kenya (CCK); now the Communications Authority of Kenya and is now a Board member of the Competition Authority of Kenya. She is a member of the Institute of Directors, holds an Auditor SA 8000 Standard: Amana Ltd, Switzerland and is a Lead Auditor ISO 9001:2000: SQML Center, South Africa. Ms. Maranya holds a Masters of Business Administration Degree from the United States International University (San Diego) and a Bachelor of Science Degree from the University of Nairobi.

Stephen Kiptinness (Re-appointed on 29th June 2016)

Mr. Stephen Kiptinness is the Lead Partner of Kiptinness & Odhiambo Associates Telecommunication, Media and Technology (TMT) Practice. He has served in locally and internationally reputable corporate firms and parastatals such as Orange Telkom Kenya, Communications Authority of Kenya, Commonwealth Telecommunications Organization, and Kenya Network Information Centre among others. Mr. Kiptinness has advised and consulted for Governments in the East African Community as well as numerous Non-Governmental Organizations. He has also acted for global technology companies, mobile telecommunication companies, tower companies, numerous content and application service provider companies, leading companies in disruptive technology services among others. He also served as one of the inaugural Directors of the Kenya ICT Board, a Director on the Board of the Competition Authority of Kenya and the Scripture Union of Kenya.
Mr. Kiptinness is a Bachelor of Laws (Hons.) graduate at the ILS Law College, Pune and also holds a Masters of Laws, Information Technology Law and Telecommunications Law from London School of Economics. He has been an, Advocate of the High Court of Kenya for fifteen (15) years, a Certified Public Secretary and a Patent Agent.

Dr. Abdirizak A. Nunow

Dr. Abdirizak A. Nunow has 17 years experience in development issues in Arid and Semi-Arid areas in Eastern Africa and the Horn of Africa. His interests are particularly focused on resource use optimization in the dry lands, environmental conservation and wise use of natural resources; environmental governance and equitable distribution of national and natural resources.
He is an Environmental Impact Assessment (EIA) and Environmental Audit (EA) lead expert for the National Environmental Management Authority (NEMA) and has undertaken several consultancies with various organizations. Dr. Nunow has been a lecturer in environmental science, with particular emphasis on the human ecology of arid and semi-arid lands at Moi University since the year 2000. He has also been Director of Social and Environmental Affairs at the Inter-Parliamentary Union of IGAD (IPU-IGAD) Member States. He is currently a Board Director, Refugee Appeals Board, a Government Agency under the Directorate of Refugee Affairs. Dr. Nunow holds a PhD in Environmental Science from the University of Amsterdam, Netherlands. He also has a Masters of Philosophy (M.Phil) in Environmental Planning and Management from the Moi University, Kenya. His attained Honors a double major in Economics and Business Studies at the Kenyatta University, Nairobi, Kenya.

Carol Musyoka

Carol Musyoka has over 10 years of financial leadership experience working in Kenya and the United States of America. She has successful deal origination, negotiation, structuring and execution experience, having been involved in several landmark corporate finance transactions in Kenya. Ms. Musyoka has had executive director experience from her role as Corporate Director, Barclays Bank, Kenya as well as the Executive Director and Chief Operating Officer at K-Rep Bank. Ms. Musyoka currently sits on the Board of East Africa Breweries Ltd. and British American Tobacco Ltd. She also sits on the Board of Trustees of SOS Children's Villages. She has previously served and retired in boards of BOC Gases, Enablis East Africa, Institute of Economic Affairs, Opportunity Kenya and the Africa Legal Support Facility of the African Development Bank.Ms. Musyoka currently provides training solutions to a number of multinational and locally owned bank in Kenya which range from leading change, managing for value, as well as leadership lessons from disaster situations. She is also a faculty at the Strathmore Business School where she is currently the course leader, Effective Director corporate governance program. She is also a columnist in the Business

Daily newspaper. On an international level, Ms. Musyoka is part of the Durham, North Carolina based Duke Corporate Education (DUKE CE) faculty and is involved in providing leadership deliveries for some of their global clients. Ms. Musyoka holds a Bachelor of Laws Degree from the University of Nairobi and a Masters of Laws Degree from Cornell University, USA. She is also a recipient of the 2010 Eisenhower Fellowship for International Leadership.

Leila A. Ali

Ms Leila A. Ali is a holder of Bachelors of Accounting & Finance (Hons) London South Bank University, London UK. She has experience in accounting having worked in various institutions, she is currently a Board Member of the Wangari Maathai Foundation and the Managing Director of the Hampton Construction Co. Ltd. Through her strong communication & organizational skills she is willing to contribute towards the success of dynamic results.

Ms. Susan A. Ayako (Term expired on 25th September 2015)

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

Canon Charles G. Komu (Term expired on 25th September 2015)

Canon Charles Gikunju was appointed Member of the Competition Authority on 26th September, 2012 for a period of three (3) years. Canon Komu started his career in the Government service with the Ministry of Works (Purchasing and Supply Department.). He joined the Tea Industry (Kenya Tea Development Authority) in 1980 as a trainee Factory Manager which saw him serve tea farmers in Central Kenya, North Rift, Nyanza and Eastern Regions rising to the position of Regional operations Manager. He holds a Bachelor of Science Degree in Human Resources, a Master's Degree in Strategic Management and Diploma in Management and Logistics. He also holds a certificate in advanced Christian Leadership from Haggai Institute of Advanced Christian Leadership from Hawaii, USA. He is a full Member of Kenya Institute of Management and a life Member of the Kenya Red Cross Society.

Ms. Judith A. Guserwa (Term expired on 25th September 2015)

Ms. Judith Guserwa is the managing partner of J.A. Guserwa & Company Advocates - a firm specializing in Labour and Commercial Law. She is a procurement law expert and has close to 30 years practice as an advocate of the High Court of Kenya. She is an a member of the Charted Institute of Arbitrators (CIArb), an International Labour Organization (ILO) consultant in labour and human capital, and director at the State Corporations Appeals Tribunal. Judith is also a former member of the Public Procurement Oversight Authority Review Board, and a Law Society of Kenya Council Member.

She previously worked with the Federation of Kenya Employers and Muthoga Gaturu & Company Advocates, before setting up her own practice in 1992. She holds a Bachelors of Laws Degree and Masters of Laws Degree from the University of Nairobi as well as a Masters of Business Administration in Strategic Management.

Mr. Protus Sigei
Alternate to the Principal Secretary, The National Treasury

Mr. Protus Sigei, a Deputy Director of Investments at the National Treasury, has worked in Kenya's public service for over 20 years. He was one of the pioneer seven (7) officers selected by the Government of Kenya in 2004 to be trained, at the Boston Institute for Developing Economies, as trainers in Performance Contracting; subsequent to which he helped introduce performance contracting in Kenya's public service. Mr. Sigei is a member of the Society for Benefit-Cost Analysis, a professional society of academics and practitioners, headquartered at the University of Washington at Seattle, USA. He holds a Bachelor of Arts (Hons) Degree in Economics from the University of Nairobi and a Master of Science Degree from the University of York, United Kingdom.

Ms. Elizabeth Ng'ang'a
Alternate to the Attorney-General

Ms. Elizabeth Ng'ang'a is a Parliamentary Counsel in the Office of the Attorney-General. She has undergone a range of drafting training and boasts of wide experience in legislative drafting. Over the years, M.s Ng'ang'a has served on numerous committees and task forces as a drafting expert, more recently being drafting financial legislation under the National Treasury. She is an advocate of the High Court of Kenya and holds a Bachelor of Laws Degree from the University of Nairobi as well as a postgraduate Advanced Diploma in Legislative Drafting from the University of West Indies Cave Hill Campus, Barbados.

Mr. Michael Onyancha
Alternate to the Principal Secretary, Ministry of Industrialization, Cooperatives and Enterprise Development

Mr. Michael Onyancha currently is, the Director of Weights and Measures, Ministry of East African Affairs, Commerce and Tourism. He joined Public Service in 1984 as Inspector Trainee in the then Ministry of Commerce and Industry rising through ranks to the current position. He holds Bachelor of Education (Hons) Degree in (Mathematics) and Masters of Business Administration Degree from the University of Nairobi. Mr. Onyancha is the Country Representative to the International Organization of Legal Metrology (OIML) and a member of the International Legal Metrology Committee (CIML). He is a board member of East Africa Standard Committee, and a Member of the Institute of Trade Standard Administration, Kenya (ITSA).

MANAGEMENT TEAM

Francis W. Kariuki - Director-General

Mr. Francis Kariuki has vast experience in competition enforcement and is the first Director-General of the Competition Authority of Kenya. His main interests are in competition regulation and Economics of institutions' development. He is a distinguished authority in the Competition Enforcement World for his advocacy efforts and other initiatives geared towards modernizing various competition regimes. Mr. Kariuki holds a Master's of Science Degree in Economic Regulation and Competition from City University, London; a Bachelor of Arts Degree in Economics & Business Studies from Kenyatta University; and various Certificates in Strategic Leadership and Corporate Governance.

Boniface M. Makongo- Manager, Legal

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

Stellah Onyancha – Manager, Mergers and Acquisitions

Ms. Stellah Onyancha is a holder of Master of Arts in Economic Policy Management, University of Ghana, Legon; Bachelor of Arts (Hons) in Economics and Business studies, Kenyatta University; Diploma in Management of Information Systems (IMIS), Strathmore University College and Certificates in various disciplines.

Her main interests are in Competition regulation, through control of mergers acquisition, research and trade related issues.

Gideon Mokaya- Manager, Enforcement and Compliance

Mr. Gideon Mokaya is a holder of a Master of Business Administration from University of Nairobi (2006). Additionally he is a Certified fraud examiner (CFE) and a Certified Public accountant (CPA) K. Mr. Mokaya has over seventeen years work experience in forensic investigations and audit in the public sector having worked with Askim Management Consultants, the Kenya National Audit Office, the Kenya Anticorruption Commission (Ethics and Anti-Corruption Commission). He has broad experience as a team leader in forensic investigations. Mr. Mokaya has also undergone extensive training locally and abroad on investigations skills, developing reliable evidence among others.

Boniface Kamiti- Manager, Consumer Protection

Mr. Boniface Kamiti holds a Masters of Arts Degree in Economic Policy and Management from the University of Nairobi and a Bachelor of Arts Degree in Social Science (Economics) from The Catholic University of Eastern Africa. He has over 10 years' experience gained while working with reputable institutions such as UN-Habitat, United National Development Programme (UNDP) and Centre for Corporate Governance amongst others in various capacities. He is widely trained on Corporate Governance, Results Based Management (RBM) and on conducting consumer related investigations. Boniface is a member of Institute of Directors of Kenya (IOD-K). He has headed the Consumer Protection Department since February 2015.

Robert Mbarani – Manager, Finance

Mr. Robert Mbarani has vast experience in Finance, Accounting and management skills gained from over his 15 years of work with various public sector organizations. He holds a Masters of Business Administration in Finance from Moi University and a Bachelor of Arts (Mathematics and Economics) from the University of Nairobi. Mr. Mbarani also holds a higher Diploma in Human Resource Management and is a member of the Institute of Certified Accountants of Kenya (ICPAK). He has attended various management courses including Corporate Governance, Risk management and Strategic management. As part of his contribution to the betterment of the society, Mr. Mbarani is involved in a number of Board activities for schools and community based organizations.

The Finance Department is responsible for financial management and reporting, resource mobilization, asset management and financial accounting in the Authority.

Anthony Muriithi Njagi – Manager, Human Resource Management and Development and Administration

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

Eric Mwangi, Manager, Internal Audit

Mr. Eric Mwangi joined Competition Authority of Kenya in December 2014. He has over eleven (11) years experience in the audit of the Government Parastatals. Previously, he had worked with Kenya National Bureau of Statistics (KNBS), Kenya Film Commission (KFC) as the Manager, Internal Audit and Kenya National Audit Office (KENAO) which is currently the Office of the Auditor General (OAG) as an Auditor. He is a holder of Bachelor of Science Degree (Hons.) and Master of Business Administration (Finance Option) from the University of Nairobi. He is a Certified Public Accountant (Kenya), Certified Fraud Examiner (CFE) and Certified Information Systems Auditor (CISA). Mr. Mwangi is an active member of the Institute of Certified Public Accountants (ICPAK), Association of Certified Fraud Examiners (ACFE) and Information System and Control Association (ISACA). He is also a qualified Quality Management System ISO 9001: 2008 Auditor.

CORPORATE GOVERNANCE

In line with good corporate governance principles the Board commits to ensuring that the Authority's obligations, roles and responsibilities to its various stakeholders are clearly defined and fulfilled. In adherence to these principles the Board and management continues to perform their duties with impartiality; honesty; transparency and accountability; professionalism; integrity; care and due diligence; and to act in good faith to the best interests of the public. It is also committed to ensuring that the Authority complies with all applicable laws and statutes.

The Authority's Board

The Authority's Board was established by section 7 of the Act and comprises the Chairman who is appointed by the Cabinet Secretary/The National Treasury from among persons experienced in competition and consumer welfare matters and five (5) independent, non-executive Members, appointed competitively and vetted by the National Assembly. The National Treasury, the Hon Attorney General's Office and the Ministry of Industrialization and Enterprise Development are also represented in the Board. The Director - General is an ex-officio Member and Secretary of the Board.

The Board is generally responsible for the overall strategic direction and operational guidance of the Authority and in this regard during the 2015/ 16 Financial Year, the Board's oversight role revolved around:

i. Reviewing and monitoring implementation of the Authority's 2013/17 Strategic Plan;
ii. Approving and monitoring implementation of the Authority's Annual operating Plans and Budget;
iii. Recruiting and evaluating the performance of the management based on the Authority's Performance Contract with the National Treasury and putting in place a succession planning policy;
iv. Reviewing the Authority's financial controls, financial statements and reporting systems based on both the Authority's Strategic and other long-term plans;
v. Reviewing the Authority's ethical standards and legal compliance programs and procedures; and
vi. Overseeing the Authority's management of enterprise risk and approving all significant corporate actions.

Role of the Chairman

The Chairman is primarily responsible for providing leadership to the Board including chairing Board meetings. He also ensures that the Board is provided with timely and sufficient information to enable the discharge of its duties effectively. However, the Authority experienced a challenge in this regard since the tenure of its Chairman expired on 31st December, 2014 and was only renewed on 12th February, 2016. The Authority's operations were also hampered by the fact that the tenures of five (5) independent Members expired early in the Financial Year on 25th September, 2015 and the Authority therefore only had a Board in place for three months in the entire Financial Year.

Board Evaluation

The Board was evaluated on 17th September, 2015 by the State Corporations Advisory Committee (SCAC) and the results shall be released after the newly appointed independent Members are inducted.

Key Board Activities

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

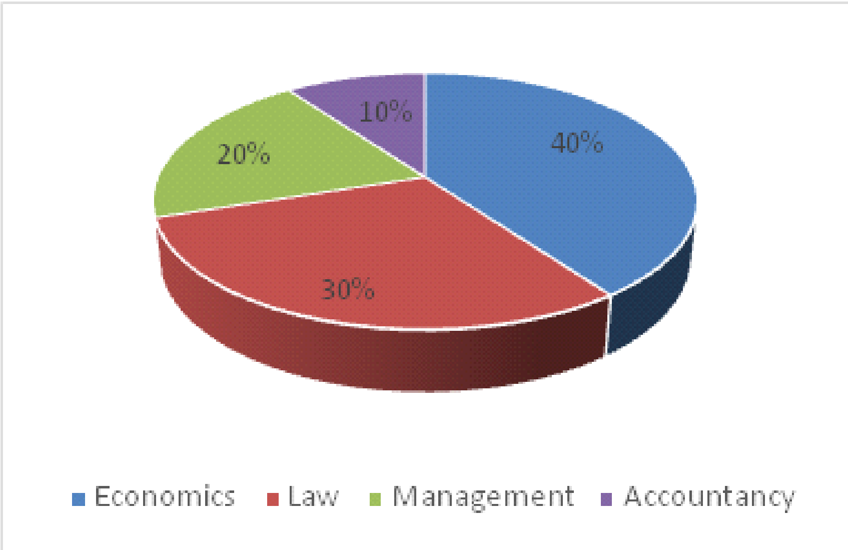
The Board had established four standing committees to assist in the execution of its responsibilities; Technical & Strategy, Finance, Human Resources and Audit. However, due to the challenges alluded above, during the year under review, the Authority's Board held only four (4) meetings.

The Finance, Audit and Human Resources Committees held a meeting each while the Technical and Strategy Committee held two (2) meetings.

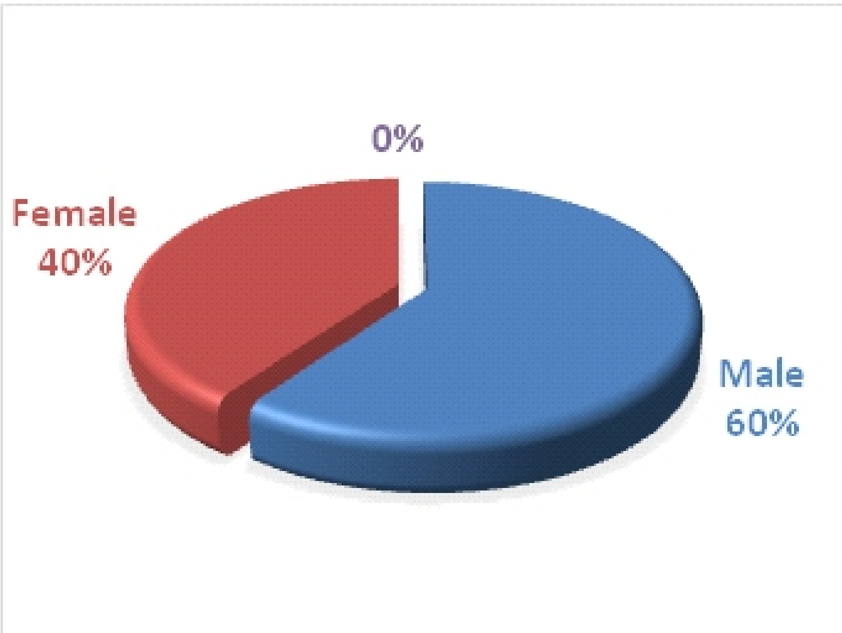
Board Composition

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

Pie Chart 1: Board competencies



Pie Chart 2: Board gender representation



Board Committees

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

Technical and Strategy Committee

The Committee is mandated to:

i. Advise on strategic planning for the Authority and related technical aspects of the operational performance of the Authority and implementation of the Competition Act No. 12 of 2010;
ii. Work with management on technical issues related to the functions of the Authority; and
iii. Review the quality of technical work carried out by the Authority.

The Members were Mr. Stephen Kiptinness (Committee Chairperson), Mr. Francis W. Kariuki (Director – General), Ms. Eunice Maranya, Ms. Susan A. Ayako and Mr. Protus Sigei

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Human Resources Committee

The Committee is mandated to: -

i. Review Human Resource policies and succession planning aspects of the Authority;
ii. Review of Human Resources compliance with national legislation; and
iii. Organize the structuring and performance evaluation of Senior Staff;
iv. Oversee and advise the Board on recruitment and promotion of all cadres of staff.

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

Audit and Risk Management Committee

The Committee is mandated to:-

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

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

Finance Committee

The Committee is mandated to: -

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

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

The Authority also has gazetted a Code of Conduct which sets the minimum standards binding on its Members and staff in their dealings with all the Authority's stakeholders. The Authority maintains a Conflict of Interest Register and Board Members and staffs are required to declare their interests, and are prohibited from dealing in any matter where there is a likelihood of conflict between their private endeavors and their duties as Public Officers. In addition the Authority maintains a Gift Register and all staff are required to hand over all gifts received in the course of their duties the same are subsequently transparently disposed at auction.

Internal Audit and Assurance

The Authority's Internal Audit objective and scope is to provide assurance on risk management, internal controls and governance processes. The assurance is meant to deepen good governance practices and support the achievement of the best internal controls through continuous improvement and engagement. The Authority's system of internal controls has been defined by approved policies and procedures which contain operational and financial controls to ensure that the Authority's assets are safeguarded, transactions authorized and accurately recorded, material errors and irregularities are either prevented or detected within reasonable time.

Internal assurance was carried out by an independent internal audit function. The objectivity and independence of the Internal Audit was enhanced through governance support from the Board Audit Committee to which the function reports. The Board Audit Committee's terms of reference were strengthened by the Public Finance Management Regulations 2015 and the Audit Committee Guidelines for National Government on the appointment, mandate and responsibilities of the Committees which were communicated through the Gazette Notice Vol. CXVIII- No. 40 of 15th April 2016.

During the Financial Year, ten (10) planned audit reviews were carried out to check the compliance levels to the approved policies, procedures and relevant legislations. It was also meant to appraise the adequacy, design and operational effectiveness of internal controls. The Office of the Auditor General provided the external assurance through systems and financial reviews on the various expenditure cycles of the Authority.

Corruption Prevention Strategies

The Authority has established a Corruption Prevention Committee comprising of the Heads of Departments and Chaired by the Director – General which spearheads the implementation of the Anti-Corruption Policy and its corruption prevention strategies. The Ethics and Anti-Corruption Commission (EACC) trained four additional Integrity Assurance Officers who are key in the implementation of the Anti- Corruption policy and strategies as well as training of other staff on the ethics and integrity matters. In addition, the Authority carried out a Corruption Risk Assessment in all its departments which facilitated the development and implementation of the mitigation strategies thus leading to zero reported cases of corruption.

Risk Management

Risk management is a strategic function of Authority's business and is applied in the day to day operations across all departments. This ensures that all risks are managed optimally and comply with the approved policies and tenets of good corporate governance. In the year under review, the Authority continued to implement the various mitigation strategies to ensure that the risk levels are minimized.

See the Corporate risk matrix, Annex I.

Strategic Planning

The Four year Strategic Plan 2013/14 – 2016/17 provides a springboard for the Authority to achieve its mandate and strive towards realizing the goals of Kenya Vision 2030. The plan focuses on the following priority areas-

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

During the year, the Authority reviewed its strategic activities, and the results that over ninety percent (90%) of the planned activities in the priority areas had been achieved. As a result, the Authority will be developing a new strategic plan in the 2016/17 financial year.

CHAIRMAN'S STATEMENT

It is my honour to present the fourth Annual Report and third Financial Statements of the Authority. The Authority continues to record achievements by securing important outcomes for consumers, businesses and the economy. In this regard, I appreciate the role played by my colleagues and management in supporting the realization of the Authority's mandate. I would like to recognize the pivotal role played by the previous Board, particularly Ms. Judith Guserwa, Ms. Susan Ayako and Cannon Charles Gikunju whose term has since expired. On the same note, I take this early opportunity to welcome the newly appointed independent Members Dr Abdirazak A. Nunow, Ms. Carolyn K. Musyoka and Ms. Leila Ali who joined the Board on 29th June, 2016 and also congratulate Mr. Stephen Kiptinness and Ms. Eunice Maranya on their re-appointment.

The Authority continues to register an overall improvement in its performance due to enhanced regulatory capacity. Particularly, its visibility and credibility as an outstanding State Corporation that adheres to high levels of integrity is very inspiring. I also congratulate the entire CAK fraternity on achievement of ISO 9001:2008 Certification. During the year under review, the Authority operated in a challenging environment occasioned by delays in constitution of the Board but am happy to report that the management not only achieved most of the Performance targets pursuant to the Performance Contract with the National Treasury but also put in place mitigation measures that ensured continued delivery of its mandate.

This performance however, could not have been achieved in the absence of the enormous support we received from the National Treasury, Ministry of Industrialization and Enterprise Development, the Attorney General's office, Parliament, Development Partners and cooperation from our Stakeholders. In this regard, I wish to appreciate the special contribution of the National Treasury, our parent Ministry, which has been very forthcoming in spite of the challenging and ever increasing demand for resources from other entities at both National and County level. The World Bank's International Finance Corporation (IFC), Financial Sector Deepening Kenya and the Common Market for Eastern and Southern Africa (COMESA) Regional Integration Implementation Programme (RIIP) also continued to play a significant role in supporting the Authority's achievements and their continued contribution is highly appreciated.

Enforcement of competition is a very dynamic area that requires close collaboration with other Competition Agencies both regionally and internationally. Engagements and collaborations on a range of projects are imperative in strengthening our relationships with our international counterparts and helping to address matters of mutual interest. In this regard, I wish to note that the Authority has seen an increase in the number of international engagements with peer institutions around the globe. Specifically, the Cooperation Agreement concluded with the Japan Fair Trade Commission on 10th June, 2016 will enhance the Authority's enforcement capacity. Going forward, the Authority remains committed to addressing the emerging issues arising from Regional Economic Communities. To this end, the Authority has prioritized engagement with both the COMESA Competition Commission and the newly established East African Competition Authority to address regulatory bottlenecks.

The Authority has also prioritized activities that focus on supporting the Government's current transformational agenda aimed at achieving the Kenya Vision 2030 through focused implementation of the Medium Term Plan (MTP) II. In this regard, the Authority's enforcement during the year had the objective of removing obstacles to effective competition in the financial, agriculture, advertising and beverages sectors.

During the period, the Authority's activities were aligned to its current Strategic Plan's thematic areas namely; Enforcement of competition and protection of consumers; Research, advocacy and awareness creation; Mobilization and optimal utilization of resources; Infrastructure and human capital development; and Visibility and corporate image. The Authority is nearing completion of the cycle for the 2013/14 -2016/17 Strategic Plan and the process of reviewing the same has been initiated.

To enhance the Authority's enforcement capacity, it took cognizance of some lacuna in the Act and with the support of The National Treasury made proposals to remedy the same. I am happy to report that the Amendments are now before the National Assembly and once enacted will buttress the Authority's statutory capacity to undertake more effective market inquiries, exclude mergers with benign competition effect, enable investigation on abuse of buyer power, embolden the Authority's consumer protection mandate as well as set the thresholds for restrictive trade practice penalties.
In order to further enhance transparency, predictability and accountability, the Authority reviewed and updated Guidelines on handling mergers, restrictive trade practices and has also developed Leniency Guidelines which shall be rolled out in the 2016/17 Financial Year. The process of engaging stakeholders on the proposed Exemption Filing Fees Guidelines is ongoing. The Authority also developed various policies to enhance execution of its mandate.

Going forward, the Authority shall expedite full automation of its processes and transit to ISO 9001:2015. It shall also continue to enhance its capacity to manage the ever emerging dynamics, in its enforcement and advocacy initiatives. Lastly, I thank all our stakeholders and once again commend the Board, Management and staff for their dedication and commitment.

David Ong'olo

DIRECTOR GENERAL'S STATEMENT

It is my pleasure to present the Authority's Annual Report and Financial Statements for the 2015/2016 Financial Year pursuant to Section 83 of the Act. The Report covers the Authority's performance for the period; specifically it's initiatives in investigations of restrictive trade practices, consumer complaints, merger evaluations and advocacy initiatives. It also covers capacity building, awareness creation and its engagements with stakeholders at the regional and international levels. In addition, the Report highlights the impact, to the economy of the enforcement decisions the Authority undertook during the period.

During the year, the Authority handled one hundred and fifty-one (151) mergers mainly in the manufacturing, real estate, telecommunications and financial sectors. Forty-four percent (44%) of the mergers had an international dimension and involved investments in Private Equity and Venture Capital. Overall, the Authority determined the applications within an average of forty-two (42) days against the statutory provision of sixty (60) days.

The Authority initiated and finalized investigations in the alcoholic beverages and advertising sectors. The key contraventions established by the investigations related to price fixing and exclusivity agreements and the offending parties were penalized. During the period, the Authority also embarked on the investigation in the fertilizer sector which warranted its first search and seizure operations.

The Special Compliance Program (SCP) which was initiated in the previous financial year was also finalized. The objective of the program was to encourage voluntary compliance by Trade Associations with Section 21 and 22 of the Act which prohibits restrictive trade practices such as price fixing, market allocation, collusive tendering, among others. As a result, a number of Trade Associations in the Financial and Agricultural sectors, which the Authority had prioritized, have amended their governing instruments to comply with the provisions of the Act.

The Authority received sixty-six (66) consumer complaints mainly in the banking and retail sectors. Generally, the complaints were on false and misleading representation and unconscionable conduct. Only forty-two percent (42 %) of these complaints were finalized mainly through mediation due to the statutory limitation which constrained the Authority's remedial capacity.

The Authority finalized and launched the Product Market Regulatory (PMR) impact study and Competition Regulatory Impact Assessment (CRIA) report. These initiatives were aimed at identifying obstacles to competition in the economy specifically in the banking, energy, telecommunication, agriculture, professional services and air transport sectors. The key findings of the study were that some of the existing regulations in the agriculture supply chain were crowding out private investments in the sector due to the expanded role in the State Owned Enterprises.

The Authority's advice is that the existence of the stated regulations negatively affects the investment climate of the country and hence reduces competition. Also, it was established that in some of the prioritized sectors there were high barriers to entry due to the requirement of local ownership and the policy of allocating spectrum specifically in the telecommunication sector. Arising from the above initiatives, the Authority pursued and signed Memorandum of Understanding (MOU) with the Agricultural Foods Authority (AFFA) and the Insurance Regulatory Authority (IRA) with the object of removing the competition constraints in those sectors. The MOUs` have facilitated a common approach to competition analysis and consumer welfare hence minimizing contradictory decisions; forum shopping while facilitating information sharing, among regulators, to the benefit of investors.

In line with vision 2030, the Authority prioritized market enquiries in the telecommunications and financial services sector. In particular, the Authority focused on inquiries in Unstructured Supplementary Service Data (USSD) which is the interface between the mobile phone user and the service provider. The objective of the inquiry was to determine whether the provision of USSD services has constraints to competition in terms of pricing, accessibility and quality of service. The study is at its validation stage, though the preliminary findings point towards discriminatory and excessive pricing. In addition, the Authority embarked on Banking phase II market inquiry which is focusing on constraints to competition and consumer welfare in the sector with emphasis on switching costs, transparency of pricing and consumers behavioral aspects. The inquiry is expected to be finalized in the next financial year.

To ensure close collaboration at both regional and international levels competition enforcement, the Authority participated in initiatives towards operationalization of EAC Competition Authority and also informed the Guidelines of COMESA Competition Commission. The Authority also concluded an MOU with COMESA Competition Commission. To facilitate enhancement of regulatory capacity, the Authority concluded an MOU with Japan Fair Trade Commission which will facilitate training of staff, information exchange and technical support.

In the spirit of continually building capacity and adopting international best practices, the Authority participated and presented position papers at competition forums organised by International Competition Network (ICN) , African Competition Forum (ACF), Organisation for Economic Co-operation and Development (OECD) and United Nations Conference on Trade and Development (UNCTAD) among others.

The Authority received an Advocacy contest award organized by the ICN and The World Bank for its advocacy efforts which led to increased competition resulting from its intervention in the tea sector which facilitated the entry of the purple specialty tea. The purple specialty tea earns on average of one hundred shillings (Kshs. 100) per kilogramme compared to the green leaf tea which earns on average of thirty shillings (Kshs. 30) per kilogramme. This improved earnings for the small scale farmers who shifted to the growing of purple tea by an average of two hundred and thirty three percent (233%).

In order to sustain its regulatory capacity, the Authority has continued to populate its organization structure, enhanced skills development especially in emerging areas such as forensic investigations, bid rigging and leveraging on IT to increase efficiency. In addition, the Authority is also collaborating with the research institutions and universities with the aim of motivating them to focus their research and curriculum development in the competition enforcement field.

The achievements highlighted above were not seamless. The Authority experienced the following challenges:

i. Low awareness of competition and consumer protection issues: The awareness levels of the Authority's mandate are still relatively low which is hampering compliance with the Act. To address this, the Authority will enhance its publicity efforts to increase visibility at National and County Governments levels, among corporates and consumers.

ii) The appointment of the Board Members.

In the year under review, the terms of six Board members expired which hampered the Authority's operations due to delayed decision making. In order to avoid recurrence of this in future, the Authority will propose to the appointing authority to support the amendment of Act to allow for staggering of the tenures of the Board members to ensure that there is always quorum to transact business at all times, and also expedite information depositing and smooth transition.

iii) Lack of alignment with regional competition agencies.

Conflicting Competition laws at regional and national levels have compelled the businesses to do double merger notifications which are not only a bureaucratic bottleneck but also increase the cost of compliance. To mitigate this, the Authority has concluded an MOU with COMESA Competition Commission and will enhance engagement with both the Commission and the yet to be established East African Competition Authority to set the clear thresholds to address the problem.

iv) Lack of local research capacity

Due to the specialized nature of competition enforcement, local universities and research institutions lack capacity to undertake research in the area necessitating reliance on foreign institutions that are not only expensive but also unable to tailor some of the research to the local setting. The Authority is engaging the COMESA Competition Commission to set up a Centre of Excellence at a local university to build local capacity.

In the coming year, the Authority intends to dedicate its resources towards sustaining its advocacy initiatives, deepen staff's skills and rolling out the Leniency Program. The Authority will also initiate investigations against Trade Associations in the financial and agricultural sectors that did not comply with the SCP, whose governing instruments and practices may be in contravention of the Act, in addition to rolling out the SCP to other sectors of the economy. The Authority will enhance quality service delivery by transiting from ISO 9001:2008 to ISO 9001:2015 Quality Management System and fully automate its operations by rolling out the Enterprise Resource Planning (ERP) System and the Case management System. The Authority will also review its Strategic Plan in light of its expanded mandate and enhance its enforcement effort after the proposed amendments to the Act are in place.

Finally, I wish to take this opportunity to thank the Board, development partners, stakeholders and CAK team for their cooperation, support and commitment. Together we shall continue striving to create efficient markets for consumers. I also invite you to read the Authority's Annual Report and Financial Statements for the 2015/2016 financial year.

Wang'ombe Kariuki

REGULATION OF MARKET STRUCTURE AND CONDUCT

In fulfilling its mandate, the Authority undertook the following initiatives, which are captured in its strategic plan and cascaded in the Performance Contract and work plans, whose objective is ensuring efficient markets for sustainable growth and development in the Kenyan economy.

Regulation of Mergers and Acquisitions

Merger regulation entails a forward looking approach in regulating market structure as per the Act and in accordance with best international practice. This is aimed at preventing anti-competitive conduct before it occurs. Regulation of market structure is provided for under Part IV (control of mergers) and Part V (control of unwarranted concentration of economic power) of the Act. Specifically the Authority;

i. Analyses all mergers applications;

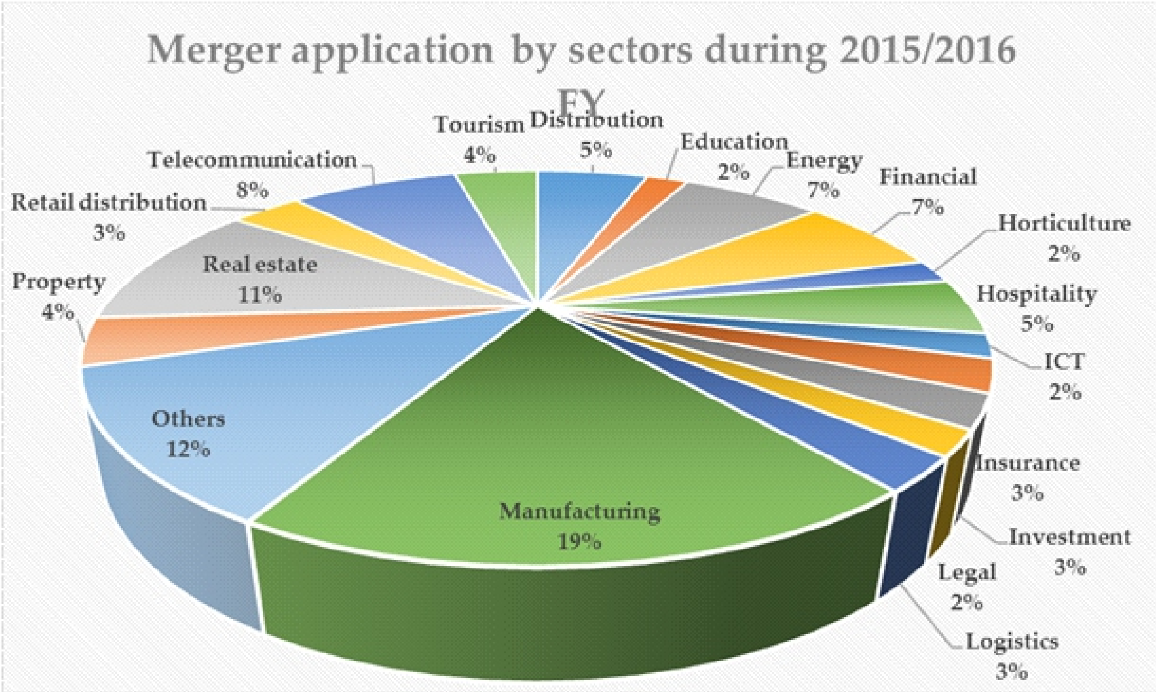
ii. Investigates all mergers that may have been consummated without approval, and;

iii. Identifies and analyses sectors which may feature unwarranted concentration of economic power.

During the period under review, the Authority considered a total of 151 merger notifications compared to 148 of the 2014/2015 financial year. Out of the 151, nineteen (19) were brought forward from the previous year. Mergers with an international dimension constituted 44% while local ones constituted 56% of the 129 notifications excluding non-mergers, compared to 49% and 51% respectively in the previous period. Out of these, thirty eight (38) applications met the required merger threshold for mandatory notification and seventy nine (79) were excluded from provisions of Part IV of the Act while two (2) were mergers consummated without approval; twenty two (22) did not qualify as mergers as provided for under the consolidated guidelines while ten (10) were at various stages of evaluation by closure of the financial year. The table below further compares the 2The specific merger notifications during the period under review are provided for in **Annex II.**

ITEM	2014/2015	2015/2016
Merger transactions	35	38
Exclusions Transactions	71	79
Non-merger Transactions (e.g. restructuring)	20	22
Mergers Consummated without approval	0	2
Brought forward	18	19
Transactions carried forward	19	10
Mergers with International Dimension excluding non-mergers	49%	44%
Local Dimension Merger Transactions excluding non-mergers	51%	56%

All the applications were analyzed and approved within the statutory timelines of 60 days. Specifically, the average number of days to finalize a merger upon receipt of complete information was 42 days, while for exclusion applications, it was 14 days. The chart below illustrates the notifications in terms of sectors handled during the review period.014/2015 and the 2015/2016 reporting periods.



In the evaluation of mergers, the Authority uses the following criteria:

a) Competition Assessment

The applicable competitive effects test is whether a proposed merger is likely to prevent or lessen competition or create or strengthen a dominant position. These tests are interrelated as prevention or lessening of competition results only from mergers that are likely to create, maintain or enhance the ability of the merged undertaking, unilaterally or in coordination with other undertakings, to exercise market power.

b) Public interest test (PIT)

The PIT Guidelines takes cognizant of the need to enhance and sustain employment, of both human and capital resources, through supporting

(i) Measures to ensure no substantial job losses occur as a result of mergers and that the effects on employment are mitigated in the short run;

(ii) Salvaging of failing and dormant undertakings and;

(iii) Encouraging mergers of media undertakings that will enhance production of local content/programs and thereof support youth employment.

The following are some of the notable merger transactions determined by the Authority, whose main motivation was on promotion of growth of the local enterprises, continuity of business, salvaging a failing firm, and the avoidance of unjustified job losses post-transaction.

Global restructuring involving the acquisition of Nairobi Bottlers Limited (NBL) by Coca Cola Beverages Limited (CCBA), and the Keringet Brand in Kenya by The Coca Cola Company (TCCC).

Transaction 1: Acquisition of Nairobi Bottlers Limited by Coca-Cola Beverages Limited

Transaction 2: Acquisition of Keringet Brand by The Coca-Cola Company

(Behavioral remedy and probable negative public interest outcome post-transaction)

The First transaction involved the acquisition of Nairobi Bottlers Limited (NBL) by Coca-Cola Beverages Limited (CCBA) for a consideration of equity in CCBA in accordance with a negotiated and agreed ratio based on a relative valuation of the assets being contributed. The acquisition of a controlling stake in NBL by CCBA was not going to change the existing market share, as the competitor market landscape was not directly affected with this acquisition, since the proposed transaction involved change of control in NBL. The transaction was approved unconditionally because it did not raise any competition or public interest concern.

The Second transaction involved the acquisition of Keringet Brand. This was a horizontal merger that involved a 100% acquisition of the issued shares in Crown beverages (the non-alcoholic section of SABMiller (Keringet Brand) by The Coca-Cola Company (TCCC) while the bottling part shall be ceded to Coca-Cola Beverages Limited (CCBA).

TCCC is a non-alcoholic beverage company, whose products include; Coca-Cola, Coke light, Diet coke, Coke zero, Fanta, Sprite, Stoney, Krest, Schweppes, Minute maid and Dasani .TCCC owns all the brands and trademarks but the bottling of the said is done by independent bottlers who are licensed by the TCCC and are assigned specific regions in which to operate.

SABMiller is a public limited company with its registered office in the United Kingdom and a primary listing in the United Kingdom as well the Johannesburg Stock Exchange. SABMiller wholly owns Crown Beverages Limited (CBL) which in turn owns the brand Keringet. CBL is involved in the bottling and distribution of mineral water specifically Keringet brand and other alcoholic beverages nationally.

There were overlaps between the merging parties in respect of bottled water. The relevant market was therefore the national market for bottled water. The top five water bottling companies in terms of market shares based on sales were; Crown Beverages (13.87%), Excel (10.05%), Coca-Cola (9.01%), Highlands (5.68%) and Acquamist Ltd (5.58%). The merged parties would have a combined market share of 22.88%, making them the top player in the market and as a result were unlikely to prevent or lessen competition in the relevant market for bottled water as both brands were to be maintained.

With regard to public interest issues, the transaction was likely to raise negative public interest concerns based on the fact that the merging parties could only give commitments for two years and could not provide the possible post-merger outcomes for the bottling of Keringet brand in Molo plant.

Based on the foregoing the transaction was approved on the following conditions:-

The production of Keringet brand shall be continued for at least three (3) years after completion of the transaction;

The acquirer shall retain the current number of one hundred and eighty six (186) employees at the Molo Plant (Keringet brand) for a period of at least two (2) years after the completion of the transaction, and shall thereafter retain one hundred and forty (140) employees at the plant;

The resultant entity shall retain seventy two (72) number of employees in administration division in its Nairobi Beverages Limited and Crown Beverages Limited companies;

The Coca Cola Company shall continue to honour the existing third party distributors contracts with regard to the Keringet brand; and

The merged entity shall provide detailed annual reports on the post-merger effects on employment and future plans on employment for the next five (5) years commencing from January, 2016.

Acquisition of 70% of the Issued Share Capital of Telkom Kenya Limited by Jamhuri Holdings Limited (Salvaging a Failing Firm)

The transaction involved Jamhuri Holdings Limited (Jamhuri) acquiring 70% shareholding in Telkom Kenya Limited (TKL) and TKL's debt due to Orange East Africa S.A.

Jamhuri was newly incorporated entity of Helios Investors III, L.P (Helios Fund III) to acquire shares in TKL.

Telkom Kenya Limited (TKL) the target undertaking, is incorporated in Kenya, and was jointly owned by Orange East Africa S.A. and the Government of Kenya. TKL is involved in following services; fixed line telecommunications, mobile telecommunications, fibre-optic data services, data processing, hosting and related activities. TKL has licences to provide services on national and international mobile, fixed, and broadband platforms.

The relevant product markets for the proposed transaction are the markets for the provision of telecommunications services which include: fixed line telecommunications market, mobile telecommunications market, fibre-optic data services market, data processing market, hosting market and related activities. Post-merger, the number of players, and market concentration would not change since Orange East Africa S.A. was transferring its ownership in TKL to Jamhuri. Therefore the transaction raised no competition concerns.

With regard to public interest issues, audited financial statements of TKL show significant loses before taxation for five (5) consecutive years which alluded to TKL. In the absence of the proposed transaction, TKL would have to try strategies other than borrowing as it was currently heavily indebted, and would otherwise be forced to exit the market.
Based on the fact that the transaction was likely to salvage a failing firm, the transaction was fast-tracked and approved unconditionally.

Acquisition of 100% of the Issued share capital in Central Glass Industries Limited by Consol Glass Proprietary Limited from East African Breweries Limited.
(Public interest consideration - Capacity to grow and retention of Jobs)

Consol Glass Proprietary Limited (Consol), the acquiring undertaking, is incorporated in South Africa as a wholly owned subsidiary of Consol Holdings Proprietary Limited. The undertaking is involved in the manufacture and supply of glass packaging solutions for a number of industries including beer, wine, alcoholic fruit beverage, spirits, non-alcoholic beverage and food.

Central Glass Industries Limited, the target undertaking, is incorporated in Kenya as a wholly owned subsidiary of East Africa Breweries Limited (EABL). It is in the business of manufacturing glass containers in flint, amber and green colours.

The activities of Consol and Central Glass were found to overlap in the respect of manufacture of glass containers. Analysis showed that pre-merger Central Glass Industries had a market share of 27%, while Consol had a market share of 0.5% in Kenya. Post- Merger, the market share of the merged entity would increase to 27.5%.

Analysis found that the transaction would result in the existing vertical integration between Central Glass and EABL being broken, as EABL disposed off its shareholding in Central Glass Industries Limited to an undertaking that does not operate in the downstream market of product packaging.
The competition test showed that the merger would not lead to lessening or prevention of competition in

the market for manufacture of glass containers. Instead the transaction would likely lead to efficiencies in terms of increased production for the merged entity from 31,500 metric tonnes per year to 36,500 metric tonnes per year. Additionally, the merger could likely confer ability to the merged entity to compete in the local and regional markets.

In order to mitigate against any job losses and ensure efficiency in the transaction the merger was approved on condition that all existing employees (87 employees) would be retained on the same terms and conditions and the merged entity would increase production from the current 31,500 metric tonnes to 36,500 metric tonnes within three (3) years of the merger.

Acquisition of assets of Yako Supermarket Limited By Nakumatt Holdings Limited (Public interest consideration)

The transaction was a horizontal merger involving the acquisition of non-current assets of Yako Supermarket Limited (Yako) by Nakumatt Holdings Limited (NKH). Post-merger, NKH will control all the supermarket chains of Yako.

NKH, the acquiring undertaking, is incorporated in Kenya, and engages in retail market for groceries and household goods spread all over the main urban centers in Kenya, Uganda, Rwanda and Tanzania. In Kenya, NKH has outlets in Nairobi, Mombasa, Likoni, Malindi, Nyali, Kisumu, Kakamega, Eldoret, Kisii, Nakuru, Kitale, Thika, Kiambu, Meru and Nanyuki.

Yako Supermarket Limited, the target undertaking, is incorporated in Kenya, and engaged in retail market for groceries and household goods with three branches of supermarkets spread across the western region of Kenya specifically Kakamega, Bungoma and Busia.

The relevant product market was the market for Branded Formal Retail while the geographic market was defined as Kakamega town since the overlaps between the merging parties was in Kakamega only, while the acquiring undertaking did not have operations in Bungoma and Busia.

The pre-transaction market shares of the players in Kakamega were NKH 16.7%, Tuskys Ltd 16.7%, Yako Ltd 16.7%, Mama Watoto Ltd 33.2% and Walias Ltd 16.7%. Post-transaction NKH market share would combine with that of Yako to stand at 33.4%.
Based on the foregoing, the transaction was unlikely to lead to lessening or preventing of competition in the relevant market, since the merged entity could face competition from the other branded formal retailers who command 66.6% of the market share. The merged entity will also face competition from the informal retailers who also sell groceries and household goods.

In addition, branded formal retail stores are not very far from each other. In Kakamega, Yako Supermarket is about 100 metres away from Tuskys. Two branches of Mama Watoto Supermarkets are about 100 metres away from Yako Supermarket. Walias and Nakumatt are about 400 metres and about 500 metres away from Yako respectively. Yako, Tuskys, Walias and Nakumatt Supermarkets are located along Kakamega Webuye Road. Mama Watoto is located along Cannon Awori Street which is about 100 metres from Kakamega Webuye Road.

Also Kakamega town has minimal barriers to entry owing to two entries in the last two years (2010 and 2011 Nakumatt Ltd and Tuskys Ltd respectively). This is also buttressed with the fact that there is space availability along Kakamega-Mumias Road and Amalemba, which may allow entry of new players and expansion of the existing ones.

The transaction therefore, would not lead to any negative competition concerns. The transaction was approved on condition that the merged entity retains all two hundred and eighty three (283) employees of Yako Supermarket.

Out of the thirty eight (38) full mergers handled, the Authority received eleven (11) applications under the Joint Ventures (JV) and Private Equity (PE) investment funds. The analysis of JV and PE mergers is a topical issue world-wide. This has necessitated the review of the merger guidelines to clarify that for a joint venture to constitute a "merger" within the meaning of the Act, it must perform, for a long duration (typically 10 years or more), all the functions of an autonomous economic entity, including:

a) operating in a market and performing the functions normally carried out by undertakings operating on the same market; and
b) Having a management dedicated to its day-to-day operations and access to sufficient resources including finance, staff and assets (tangible and intangible) in order to conduct for a long duration its business activities within the area provided for in the joint-venture agreement.

With regard to PE Investment funds, the main motivations for these types of transactions are often to enhance efficiency of operations in firms, spread risk and or bring in technical know-how, investments, among others. The uniqueness of PE Investment funds is that they do not consolidate accounts of investee companies, and investment is for a specific period of time during which they assume control of the investee company. Investments of such nature are prevalent in sectors including; real estate, financial, energy, education and telecommunication sectors. Often, such transactions will not raise any substantive competition concerns. However, where they are likely to raise competition concerns, they will be subjected to the type of analysis that is employed in the context of mergers.

Transactions involving JV and PE Investment Funds which were notified to the Authority during the review period included the following:

i. Acquisition of 100% of the entire issued share capital in Vipingo Estate Limited by Centum Investment Company Limited;
ii. Acquisition by Old Mutual Alternative Investments Holdings proprietary Limited (OMAIH) of the remaining 50% shareholding in African Fund Managers (AFM Mauritius);
iii. A joint venture between Helios Investment Partners LLP (Helios) and Certain Shareholders of Acorn Group Limited (Acorn);
iv. Acquisition of 70% of the issued share capital of Telkom Kenya Limited by Jamhuri Holdings Limited;
v. Acquisition by OMP Africa Investment company PTY Limited of 40% of the ordinary shares in Two Rivers Lifestyle Centre Limited;
vi. Acquisition of certain assets in Stellar Investment Holdings Limited by Catalyst OCL Investment LLC;
vii. Acquisition by Centum Investment Company Limited of additional 19.75% of the issued share capital in Longhorn Publishers Limited giving it a controlling interest of 51%;
viii. Acquisition by Catalyst Kinetic Investments LLC acquisition of 43.8% of the issued share capital in Kinetic Holdings;
ix. Acquisition by Section Investments Limited of 100% of the issued share capital in Mount Kenya Safari Club Holdings Limited;
x. Acquisition by Stanlib Limited of 100% of the issued share capital in Greenspan Mall Limited; and
xi. Acquisition by Stitching Bewaarder TBL Mirror Fund II of the issued share capital in Highlands Mineral Water Company limited;

Additionally, during the year under review, the Authority:

i. Reviewed, developed and adopted consolidated merger guidelines meant to further enhance clarity, transparency, predictability in the merger notification process, and to conform with international best practice;
ii. Interacted and exchanged information with other competition agencies, specifically

It is notable that cooperation with regional bodies, sector regulators and competition agencies has enhanced merger control process, while the sensitization and interaction with stakeholders has led to increase in conformity to the merger review process.

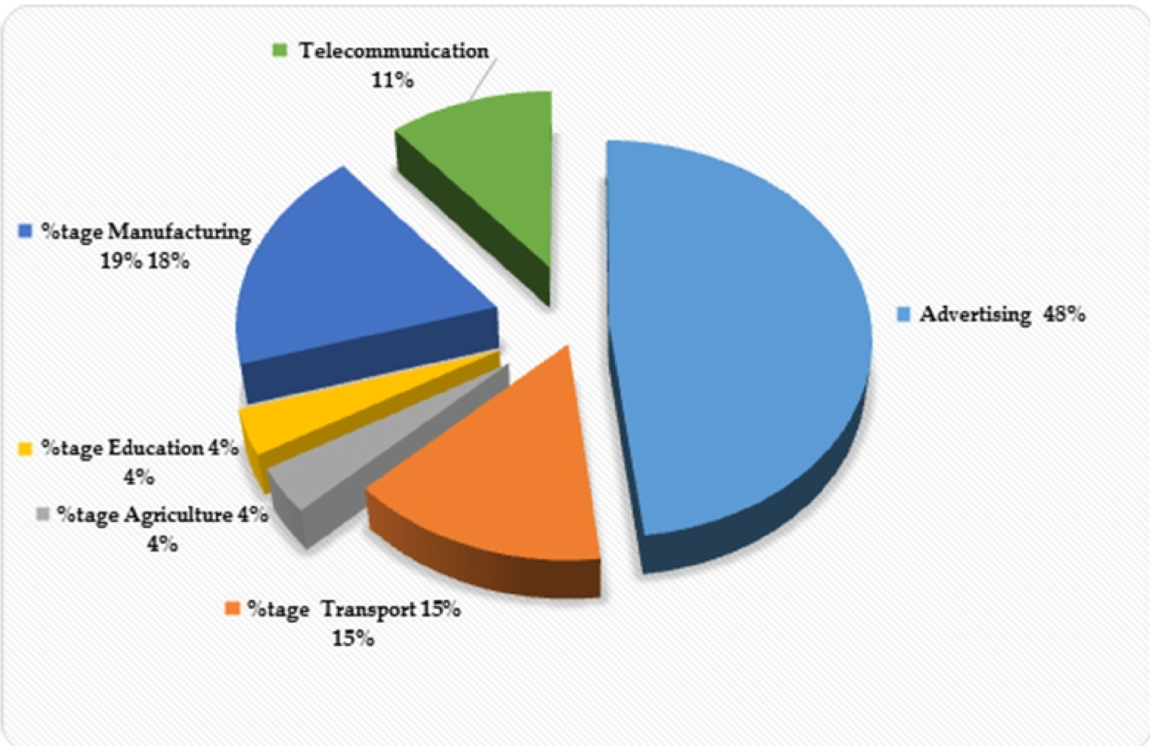
CONTROL OF RESTRICTIVE TRADE PRACTICES

The Authority under section 9(a) and (b) of the Act is mandated to enforce compliance with the Act through investigation of alleged prohibited conduct. Pursuant to Section 31, the Authority is empowered to initiate investigation upon receipt of a complaint or after taking cognizance of possible violation through its own intelligence or from the public. Section 21 and 22 of the Act prohibits agreements whose object or effect is to lessen competition. However, exemptions may be granted pursuant to Section 26 of the Act upon application under Section 25 if benefits of such arrangements outweigh negative effect on competition. Further, exemption applications relating to intellectual property rights and professional associations may be granted pursuant to Section 28 and 29 of the Act respectively. Additionally, Section 24 of the Act prohibits practices that constitute abuse of dominance.

During the period under review, the Authority investigated twenty seven (27) restrictive trade practices cases compared to nineteen (19) investigated in the previous year of which fourteen (14) were carried forward from the previous reporting period. Twelve (12) of the cases were finalized against four (4) in the previous year as at the end of the reporting period and appropriate remedies imposed, including financial remedies amounting to Kenya shillings fourteen million, three hundred and thirty six thousand, four hundred and sixty six (kshs14,336,466.00). Three exemption applications were received and evaluated, one of which was finalized and the exemption granted while two were ongoing at the end of the year under review.

Additionally, the Authority carried out initiatives to ensure compliance with its decisions and orders, and also to ensure compliance with various commitments/undertakings by the parties. The Authority imposed financial penalties for the firms which implemented mergers without prior approval amounting to Kenya shillings three million, five hundred and twenty six thousand and fifty seven and twenty five cents (Kshs. 3,526,057.25).

Fig 1: RTP cases per sector handled in 2015/2016



Some of the RTP's and exemptions cases handled during the period under review are highlighted below.

1. Horizontal agreements

a) Outdoor Advertising Association of Kenya (OAAK)

The Authority initiated investigations into the advertising industry in Kenya in February, 2015. The investigations revealed that the members of the Outdoor Advertising Association of Kenya had used the auspices of the Association to fix prices through a Circular dated 29th April, 2014 addressed to Media Buying Agencies and Clients giving a notice of revision of billboard prices.

Key Highlights

The members of OAAK who signed the circular were: Magnate Ventures Ltd, A1 Outdoor Ltd, Live Ad Ltd, Look Media Ltd, Consumer Link Communications Ltd, Adsite Ltd, Tangerine Investments, Spellman & Walker Ltd, Notos Ltd and Firm Bridge Ltd.

The investigations established that:

(a) The Circular was executed by all the twelve members of the Association;
(b) The Circular was as a result of the Association meeting held on 29th April, 2014;
(c) The prices fixed were related to the 12M X 10M billboards in Nairobi and major towns at Kshs. 160, 000 per month and Kshs. 150,000 per month both exclusive of VAT in all other towns;
(d) The new rates were to come into effect starting 1st August, 2014.
(e) Such horizontal agreements on prices are hardcore restrictions on competition and are therefore perse prohibited.
(f) The recommendation of the minimum price was a contravention under Section 21 (1), (3) (a) and 22 (b) of the Act.

Having concluded the investigations, CAK issued a notice of proposed decision under Section 34 of the Act to all the members of OAAK in their individual capacity.

All the parties opted to settle with the Authority on individual terms and a cumulative penalty amounting to eleven million, eight hundred and ninety nine thousand, six hundred and thirty two Kenya shillings (Kshs. 11,899,632.00) had been received from eight members. The figure was based on the respective relevant turnovers and after consideration of the various mitigating including cooperation, withdrawal of the circular, first time offender, among others, as provided for under CAK's Fining and Settlement Policy.

The intervention of the Authority on this matter led to the reduction of the prices to between one hundred and one hundred twenty thousand Kenya shillings (Kshs 100,000-120,000) from the agreed price of one hundred and sixty thousands Kenya shillings (Kshs 160,000).This translates to between twenty (20%) to twenty five percent (25%) savings to the advertising agencies and the general public.

2. Vertical agreements

b) Competition Authority of Kenya and Crown Beverages Limited

The Authority initiated investigations into the alcoholics' beverages sector in March 2014. This was based on previous complaints that some players in the sector could be engaging in restrictive trade practices and information obtained from internal intelligence.

Key Highlights

The investigations established that the Distribution Agreement between Crown Beverages and its distributors contained restrictive clauses on;

a.) Resale price maintenance which served to undermine intra-brand competition,
b.) Territory allocation and

c.) Restriction not to deal in competing brands.

Based on the above facts, the Authority concluded that Crown Beverages had breached the Act. The Authority and Crown Beverages subsequently entered into a Settlement Agreement whose terms included financial penalty of Kenya shillings two million, four hundred and thirty six thousand and eight hundred and thirty four (Kshs. 2,436,834). This was informed by considering the mitigating and aggravating factors which included cooperation, their minimal market share and first time offender. Crown Beverages was also required to amend the offending clauses of the Agreement and communicate the same to the distributors and actualize their in-house competition compliance policy.

3. Exemption

4DX and Blue Sky World Ltd

This was an exemption application by 4DX and Blue Sky World Limited for proposed: 4DX Auditorium and Strategic Alliance Agreement. The parties to the agreement were:

a.) CJ 4DPLEX Co. Ltd (4DX)

1. A corporation existing and incorporated under the laws of the Republic of Korea whose registered office is at 451 Samil-daero (70 Gyeongun-dong), Lions Building, Jongno-gu, Seoul 110-310, Korea. The company is the provider of the equipment and has no presence in Kenya.

b.) Blue Sky World Ltd

2. Blue Sky World Ltd is the exhibitor in this transaction and is an international company which was set up in 1994 and provides advertising and marketing services in media and entertainment fields, as well as film production sphere, cinema business and public relations.

Key Highlights

The investigations established that 4DX Auditorium Agreement had the following restrictive clauses relating to territory and brand exclusivity;

a. Exclusivity over a period of time, protected territory and rights of first refusal to the Exhibitor,
b. Barring the distributors from participating in any competing business in the territory,
c. Not to engage, or propose to engage, in the design, manufacture assembly, installation or sale of any system similar in design or function to the 4DX system, and
d. A minimum amount of surcharge revenue to be charged and collected by the Exhibitor for admission to a 4DX presentation.

The conduct is prohibited under Section 21 and 22 of the Act and exemption is provided for under Section 25 of the Act. Exemptions can thus be granted by the Authority if satisfied that there are exceptional and compelling reasons of public policy as prescribed under Section 26 (3) of the Act.

The evaluation of the exemption application revealed that the exemption would lead to generation of more employment, supporting of the cinema industry in Kenya and transfer of technology, among others.

Premised on the fact that public benefits from the arrangement would override detriment to competition, the exemption application was approved unconditionally for a period of three years effective June 2016, for the 4DX Auditorium Agreement and Strategic Alliance agreement.

Compliance Initiatives

Unauthorized acquisition of Armajaro Trading Limited by Ecom Agro industrial Corporation Limited

This matter concerns the acquisition of 100% of the issued share capital of Armajaro Trading Limited (ATL) by Ecom Agro industrial Corporation Limited (ECOM). The transaction constituted a merger within the meaning of section 2 and Section 41 (1) (2) (3) of the Act as ECOM acquired 100% control over ATL.

Key Highlights

1. ECOM voluntarily reported to the Authority and disclosed that it had acquired ATL without getting requisite approval.
2. Section 42 (5) of the Act provides that any person who contravenes the provisions of Section 42 (2) commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding five years or to a fine not exceeding ten million shillings, or both.
3. Section 42 (6) provides that in addition to the penalties described in the above paragraph, the Authority may impose a financial penalty in an amount not exceeding ten percent of the preceding year's gross annual turnover in Kenya of the undertaking or undertakings in question.
4. It was established that ATL was a failing firm and the intervention by ECOM to acquire it saved it from going into liquidation.
5. The Authority, after taking cognizance of the mitigating and aggravating factors which included voluntary disclosure, cooperation, failing firm and the size of the transaction imposed a financial penalty of Kenya shillings three million, five hundred and twenty six thousand and fifty seven and twenty five cents (Kshs. 3,526,057.25) which was 5% of the relevant turnover on ECOM.

To conclude this part, amendments to the Act made in 2014-2015 provided for the leniency program under section 89A to enhance effectiveness in detection, finalization and general compliance with the Act, specifically regarding Section 21 and 22. The Authority has developed Leniency Program Guidelines which will be operationalized in the year 2016/2017. In addition, it has reviewed the consolidated Restrictive Trade Practices (RTP) guidelines to incorporate specific guidelines on predatory pricing, intellectual property rights and block exemptions. These initiatives were to enhance clarity, transparency and predictability in line with the international best practices.

The Authority has established that sufficient evidentiary information is a prerequisite to effective determination of restrictive trade practices cases. The Authority for the first time since its inception conducted a search and seizure operation in order to secure reliable evidence from players in the fertilizer sector in Kenya.

The Authority considers that remedies for violations regarding restrictive trade practices should be based on the nature of the infringement. Premised on the foregoing, the Authority will continue to invest on skills of its employees on economic and IT forensic analysis as well as forensic investigation of competition cases.

PROTECTION OF CONSUMERS

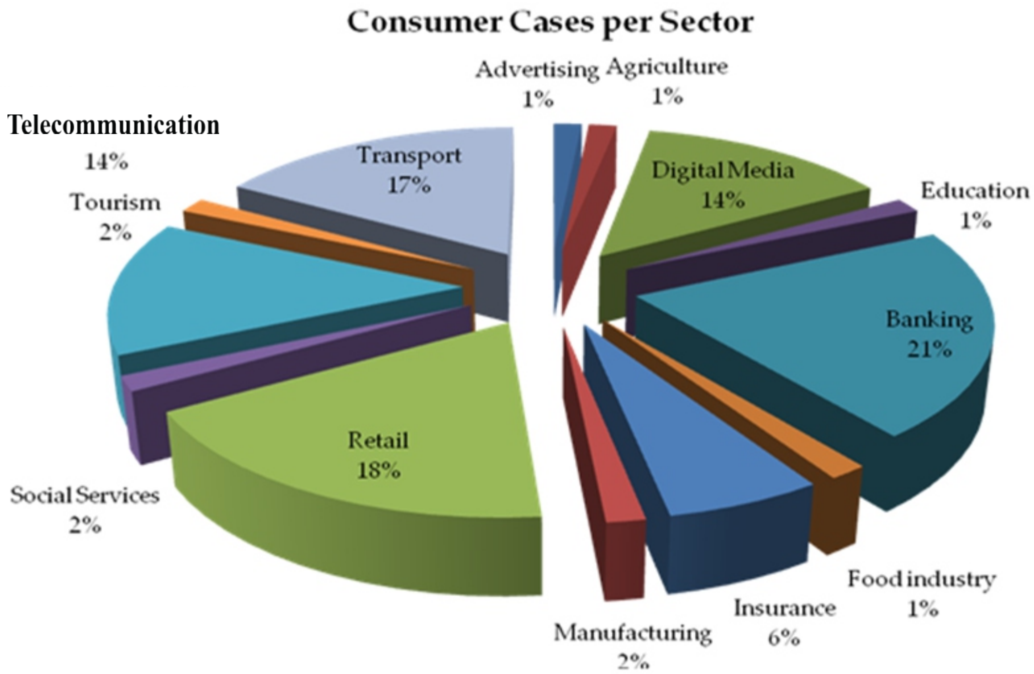
The Constitution of Kenya Article 46 provides for the rights of consumers which includes rights to: goods and services of reasonable quality; information necessary for them to gain full benefit from goods and services; protection of their health, safety and economic interest; and compensation for loss or injury arising from defects in goods and services. In compliance with the Constitution, Sections 55-70 of the Act provides for protection of consumers.

Pursuant to Section 9 (b), (d) and (e) of the Act, the Authority is mandated to receive and investigate consumer complaints, collaborate with consumer bodies and create awareness to consumers regarding their rights, obligations and remedies under the Act.

In its investigation process and pursuant to section 67 and 68 of the Act, the Authority consulted with other Government agencies such as Kenya Bureau of Standards (KEBS) and Department of Weights and Measures. The Authority also held consultative meetings with Consumer bodies aimed at charting a way forward for enhancing the protection of consumers.

In the financial year 2015/2016, the Authority handled a total of 66 consumer cases/ complaints. Twenty eight (28) of the cases were finalized, sixteen (16) forwarded to other relevant Government Agencies, while twenty two (22) are ongoing. It is notable that the cases investigated increased by 154% from the previous reporting period where 26 cases were handled. This is attributable to sustained sensitization and awareness initiatives. A summary of the cases handled during the reporting period is in **Annex V**

The bulk of complaints received were from Banking and Retail sectors which recorded 21% and 18% respectively while broadcasting had 14% as shown in the pie-chart below. Further, the Authority has witnessed an increase in the number of complaints relating to online transactions and banc assurance on false and misleading representations and unconscionable conduct.



Highlights of consumer cases handled in the period:

GORDON OYUGI VS JOSAMBO AUTO SPARES- False and Misleading Representation in the Retail Sector.

The complainant alleged that he bought a second hand engine from Josambo Auto Spares at a cost of Kshs 40,000, which he was assured was in good condition. However, the engine was leaking and emitting smoke. This complaint was investigated under Section 55 (b) (v) of the Act. Upon the Authority's intervention, the parties agreed to settle the dispute by the complainant returning the engine and being refunded the purchase price. This ensured that the consumer's rights to goods of reasonable quality are protected.

AMRO INSURANCE BROKERS VS NIC BANK- Unconscionable Conduct in the Banc assurance sub-sector.

The Authority received a complaint on 15th April 2016 from Amro Insurance Brokers, regarding coercion by NIC Bank's banc assurance Division. He alleged that his client was instructed to cancel an insurance policy he had obtained from Amro Insurance Brokers and to procure a fresh one through the bank's agency since the bank was financing his loan facility for a motor vehicle. After intervention by the Authority, NIC Bank accepted the client's choice of insurance agent. The bank was cautioned vide a letter dated 16th June, 2016, to desist from such conduct as it was in contravention of section 56(2) (a) and (d) of the Act.

CHETAN AMLANI VS NAKUMATT- Unconscionable Conduct in the Retail Sector.
Mr. Chetan Amlani alleged that he obtained a Nakumatt Global card from Nakumatt South C branch Customer Service Center and paid Kshs 100 which he thought would be credited to his card for activation but later learnt that the Kshs. 100 was a charge for obtaining the card. According to the complainant, the staff at Nakumatt did not explain this to him prior and he thought that the card was supposed to be obtained for free. The complaint was investigated pursuant to section 56(3) of the Act. After intervention from the Authority, the complainant was refunded the amount into his card and the case was finalized on 17th February 2016.
This case points to the fact that consumers can lodge complaints where their rights to protection of their economic interests are violated, even though the transactions may seem trivial. Such transactions affect a wider population and may have a great impact on the economy.

Due to dynamism of markets coupled with innovations, new technologies, products and services, the Authority has seen challenges arising out of online transactions, Data Privacy and Ownership and Digital Financial Services (DFS) among others. To enhance consumer protection with these emerging issues, the Authority is undertaking soft enforcement through engagement of the service providers. It is also engaging the business community to create awareness as a way of minimizing violations of consumer rights.

POLICY AND RESEARCH INITIATIVES

The Authority is mandated under section 9 (g) and 18 of the Act, to engage, conduct and facilitate research into matters relating to competition and consumer protection. The utility of the research conducted is to inform regulatory action by the Authority and statutory instruments by other policy formulating bodies. The intended outcome of these activities is the consistent application of competition principles across sectors in addition to compliance with the Act.

In the year under review, the Authority prioritized and undertook market inquiries in the telecommunications and financial services sectors as a way of contributing to the achievement of Kenya Vision 2030.
The following market inquiries were conducted;

1. Unstructured Supplementary Service Data Market (USSD) in the telecommunications sector
The Market inquiry into the USSD market was commissioned by the Competition Authority of Kenya in conjunction with Financial Sector Deepening Kenya (FSD) and was carried out as part of its mandate to promote and safeguard competition in Kenya and to protect consumers from unfair and misleading market conduct.
The objectives of the market inquiry were as follows:

i) To determine whether the provision of USSD services leads to constraints in competition in financial services and related markets
ii) To establish whether the pricing for USSD services are competitive.
iii) To establish the quality and accessibility of USSD services

This inquiry is at the validation stage, but preliminary findings points towards excessive pricing, price discrimination and exclusionary abuse of dominance.

2. Banking Sector Inquiry Phase II
The Authority in conjunction with Financial Sector Deepening Program conducted a market inquiry into the Banking sector. The Banking Phase I Inquiry, which was completed, focused on barriers to competition in the sector from a supply-side perspective. It examined the structure of the banking industry to determine whether there were indicators of market concentration, pricing levels out of line with those seen in comparator markets or excessive profitability. It found that profitability of the banks and interest rate spreads in Kenya are comparable to those in other relevant countries. It also found that with the exception of certain savings market segments, the banking sector was not overly

concentrated(i.e., supplied by relatively few firms).
However, the Authority was concerned that demand-side factors may be impacting the effectiveness of market function. It is on this basis that the banking sector inquiry phase II was initiated. The objective of the study was to determine whether there are features besides market structure which impact on competition and consumer protection specifically:

i. Barriers to switching providers and transparency of pricing to consumers of financial services.
ii. Concerns over compliance of mobile credit providers with credit reporting requirements and the use and disclosure of consumer transaction information, particularly in the context of mobile credit scoring.

Upon finalization of the above studies, the Authority intends to implement their recommendations with the aim of correcting the market distortions that have led or continue to cause sub-optimal market outcomes through Advocacy and/or Enforcement activities.

3. Special Compliance Process

Under the Special Compliance Process, the Authority engaged Trade Associations in the Agricultural & Agro Processing Sector and in the Financial Services Sector. The objectives were to:

i. Ensure that Trade Associations are in compliance with the Act;
ii. Facilitate the identification and rectification of past conduct;
iii. Increase awareness and foster better practices in the future; and
iv. Address and resolve inadvertent contravention.

Some of the achievements of this process include:

i. Increased awareness of the Competition Policy and Law with the associations in agriculture and finance sector such as East African Tea Traders Association, Cereal Millers Association, Kenya Bankers Association, Association of Kenya Insurers , Association of Kenya Re-Insurers, Kenya Forex Bureau Association, BIMA Intermediaries Association, Kenya Association of Stock Brokers and Investment Group.
ii. Some of the Trade Associations applied for exemptions.
iii. A number of Trade Associations have rolled out internal compliance programs.
iv. The Authority has developed a framework to monitor the Associations' compliance with the Act.

ADVOCACY INITIATIVES

Competition advocacy refers to those activities conducted by the Authority related to the promotion of a competitive environment for economic activities by means of non-enforcement mechanisms, mainly through its relationships with governmental bodies and other stakeholders. Through this initiative, the Authority advises the government on matters relating to competition and consumer welfare. As part of the advocacy initiatives, the following were achieved:

1. The Product Market Regulation Report: "Unlocking growth potential in Kenya: Dismantling Regulatory Obstacles to Competition".

The *"Unlocking growth potential in Kenya: Dismantling Regulatory Obstacles to Competition"* Report was launched on 9th December, 2015 by the Cabinet Secretary for National Treasury, Mr. Henry K. Rotich. The report identifies regulations affecting the ability and incentives of firms to enter the market and compete. It provides a set of recommendations to transform key sectors namely agriculture, telecommunications, electricity, professional services, insurance, and air transport which are key drivers of the economy and Kenya Vision 2030.
At a broad level, findings show that great improvements could be achieved in Kenya by undertaking reforms in order to limit:

i) **Government interventions and the role of State-owned enterprises** (SOEs) to situations where the private sector is unable to operate, and define a clear policy on the extent of Government intervention.

ii) **Barriers to entrepreneurship,** in particular review rules that are likely to create discriminatory conditions between market players and to limit their business strategy options.

iii) **Barriers to trade and investment** such as differential treatment of foreigners with regard to public procurement, and relatively higher tariff for agriculture products.

The Authority continued to implement the PMR report by engaging actors in the financial and agricultural sectors which culminated in the signing of MOUs with the Agriculture Food and Fisheries Authority and Insurance Regulatory Authority.

Further, the report supports the enforcement of the Authority's mandate to advice on policies, regulations, and rules that can distort competition, affect market performance and harm consumers.

COOPERATION FRAMEWORKS

The Authority signed Memoranda of Understanding (MOU) with sector regulators, regional and international competition agencies. These MOU's are appropriate, effective and flexible tools for expressing the common intent of the parties involved. Sector regulators operate within their specific sectors on issues pertaining mainly to technical and economic regulation. In some cases, competition regulation is provided for in the statutes which govern sector regulator operations. This gives rise to the issue of concurrent jurisdictions between sector regulators and the competition authorities. These MOUs are:

i. Agricultural Foods Authority (AFA)

The MOU with AFA was signed on 29th March 2016 and will facilitate the Authority's overall objective of promoting the principles, of Competition Law and Policy by providing an avenue for information sharing and the application of competition principles in the agricultural sector.

ii. Insurance Regulatory Authority (IRA)

The Authority signed the MOU with IRA on 11th April 2016 which will facilitate information sharing besides assisting the Authority in enhancing enforcement of contraventions of the Act.

iii. Kenya Bureau of Standards (KEBS)

Pursuant to section 67, the Act requires the Authority to consult with the Kenya Bureau of Standards (KEBS) in all matters involving definition, specification, standards and grading of goods. Further to this, the MOU which was signed on 23rd February 2016 will facilitate investigations of consumer complaints.

iv. Department of Weights and Measures

It was the realization of the Authority that consumer issues also arise in the area of weights and measures. In this regard, the MOU which was signed on 10th February, 2016 will facilitate information sharing in the areas of policy formulation, complaints, operational procedures and analysis of matters arising from the Competition Act, Weights and Measures Act and Trade Descriptions Act.

REGIONAL AND INTERNATIONAL COMPETITION AGENCIES

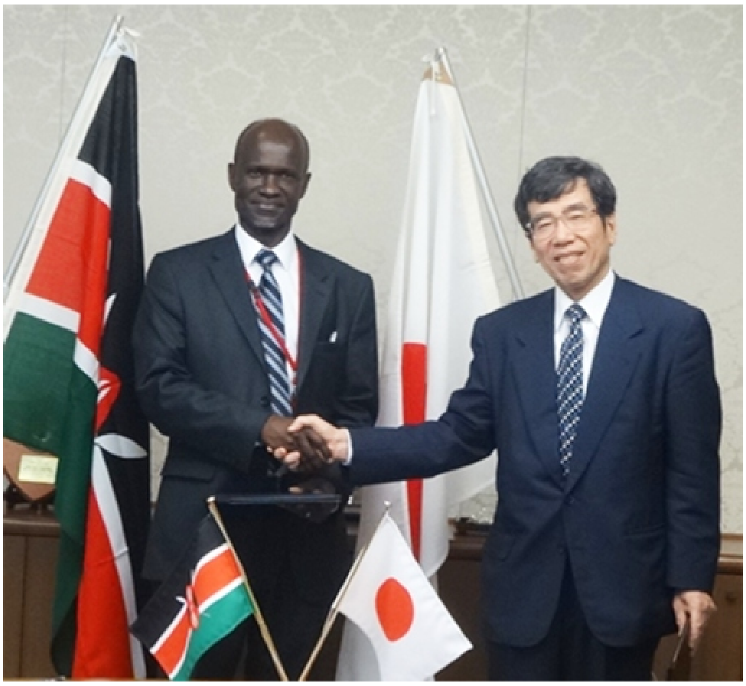
The Authority has continued to interact with regional and international competition agencies in its endeavor to extinguish anticompetitive concerns with cross-border implications.

I. COMESA Competition Commission (CCC)

The Authority continued to advise the government on the best framework of deepening integration, while mitigating against the challenges of cross border competition infractions and overlapping jurisdictions. Premised on this, the Authority concluded an MOU with CCC on 28th April 2016, with the objective of exchange of information, coordination of actions, technical assistance, capacity building and consultation among the two agencies.

ii. Japan Fair Trade Commission (JFTC)

In order to enhance its enforcement capacity, the Authority concluded an MOU with JFTC on the 9th of June 2016 whose objective is to facilitate information sharing, technical assistance and capacity building.



Competition Authority of Kenya Chairman Mr. David Ongólo with the Chairman of Japan Fair Trade Commission Mr. Kazuyuki SUGIMOTO after signing a Memorandum of Understanding (MoU) to enhance CAK's technical assistance and capacity build

AWARENESS CREATION ACTIVITIES

The Authority conducted several activities designed to create awareness of its mandate, which included:

a) County Initiatives

To promote competition culture, consumer protection mandate and enhance corporate visibility at a devolved level, the Authority participated in various forums organized by County Governments as follows:-

i. The Second Annual Lake Region Agribusiness Investment Conference and Exhibition organized by Western Agribusiness Investment Platform held in Vihiga County from 22nd - 25th September 2015. The participants were from fifteen (15) County Governments namely: Vihiga, Kakamega, Trans Nzoia, Narok, Kisumu, Migori, Nyamira, Kericho, Bungoma, Busia, Nandi, Siaya, Homa Bay, Kisii and Bomet.

CAK staff interacting with the public during the Vihiga Agribusiness Conference

ii. Kajiado Public Participation Forum organized by Kajiado County Government on 29th November, 2015 and 6th December, 2015 in Kajiado North and Kajiado East respectively.

iii. Third Annual Devolution Conference organized by the Council of Governors in collaboration with the Ministry of Devolution and Planning in Meru County between 19th and 23rd April, 2016. The devolution conference was attended by delegates from all the forty seven (47) County Governments.

iv. The Authority also carried out consumer awareness campaigns dubbed the Consumer Blitz Campaign (CBC), in shopping malls located in the lower and middle income areas of population including Nairobi Eastlands, Kajiado and Kahawa West areas in the months of October and November 2015 and this will be escalated to other areas. Sensitization was in regards to consumer rights and obligations especially in the retail sector.

b) World Consumer Rights Day (WCRD)

The Annual World Consumer Rights Day (WCRD) was marked by the Authority on 15th March, 2016 in Mombasa in collaboration with the County Government of Mombasa. The global theme was "Antibiotic Resistance", which was customized to read "Stay Safe, Stop Antibiotic Abuse". Some of the stakeholders who participated in commemorating the day included: Sector Regulators and other Government agencies such as Kenya Bureau of Standards (KEBS), Anti-Counterfeit Agency (ACA), Department of Weights and Measures, Insurance Regulatory Authority (IRA), Kenya Medical Research Institute (KEMRI), Kenya Consumer Protection Advisory Committee (KECOPAC), Ministry of Health, Kenya Medical Training College –Mombasa and Kenyatta University Mombasa Campus. Other participants were Pharmaceutical Society of Kenya and Nairobi Tec pharm Ltd. Consumer bodies such as Kenya Consumer Organization (KCO) and Consumer Information Network (CIN) also attended.

Some of the Participants during the 2016 World Consumer Rights in Mombasa.

c)The World Competition Day (WCD)

The WCD as declared by the UN is celebrated annually by competition agencies globally. The day aims at raising awareness on competition issues and the importance of regulating competition in liberalized markets for the benefit of consumers. In the year under review, the Authority celebrated the WCD on 9th December, 2015 whose theme was: "Competition Policy and Law, a Driver for the Ease of Doing Business and Increased Investment". The theme aimed at entrenching competition policy as a key driver in achieving the objectives of Kenya Vision 2030. It also aimed to enhance the Authority stakeholders' support in its enforcement activities. The occasion was graced by Mr. Henry K. Rotich, Cabinet Secretary, and The National Treasury.

CAK Director General (Centre) with the Cabinet Secretary for National Treasury, Mr. Henry K. Rotich, join delegates during the 2016 World Competition Day in Nairobi

CAPACITY BUILDING FORUMS

a) Regulatory Impact Assessment Guidelines Workshop

The Authority in collaboration with The World Bank Group held a workshop on the Competition Regulatory Impact Assessment (RIA) Guidelines on 8th December, 2015 with participants being drawn from government ministries, departments and sector regulators. The RIA guidelines aim at providing guidance for policymakers on how to assess proposed regulation's risk of resulting in major anti-competitive effects in the economy. The guidelines also assist in developing less restrictive alternatives to achieve government policies. The workshop provided practical guidance on how to screen regulations/rules/policies that may have anti-competitive effect.

b) Centre for Competition Law and Economic Policy (CCLEP)

The Authority in collaboration with the University of Nairobi, established a virtual Centre for Competition Law and Economic Policy (CCLEP) to support its work in Kenya and other agencies across the region through capacity building programmes, research, and by providing a platform for information sharing on emerging issues in competition law and economic policy across the EAC and COMESA region. Some of the activities undertaken as part of this initiative are:

i. The Competition Economics and Law Capacity Building Workshop

The Authority, in collaboration with the Centre for Competition, Regulation and Economic Development (CCRED), University of Johannesburg held the annual Competition Economics and Law Capacity building workshops. Both courses were held on 18th to 20th August, 2015 in Nairobi, Kenya. The objective of these workshops was to build capacity for competition practitioners, the business community, government departments and sector regulators.

ii. The Annual Competition Policy and Law Symposium

The Second Annual Symposium on Competition Policy and Economic Regulation was held on 21st August, 2015. The objective of the symposium was to provide a platform to showcase the Authority's work and also gave its stakeholders the opportunity to debate on the emerging issues in competition enforcement. The participants were drawn from the judiciary, business community, sector regulators, government ministries and research institutions. The event was graced by former Judge, Cour de cassation, France and Chairman of the OECD Competition Committee, Frederic Jenny, whose key note address was on “Regional Cooperation and Cartel Enforcement” and “The role and the contribution of economic analysis in the enforcement of competition law”. The symposium sensitized members of the judiciary who included the Chief Justice and President of the Supreme Court of Kenya, Dr. Willy Mutunga.

c) Regional Competition Regulation and Consumer Protection in COMESA and East African Community Workshop

This workshop was held from 28th to 30th June, 2016 with participants drawn from EAC, COMESA, Ethiopia Trade Competition and Consumer Protection Authority, Universities of Nairobi, Makerere and Dar es Salaam as well as CCRED, University of Johannesburg, Office of Attorney General. The Workshop was aimed at enhancing regional integration through development of cooperation mechanisms between national authorities and regional competition regulators in the EAC and COMESA; addressing the emerging issues on cross border competition enforcement matters in regard to mergers and cartels; and creating a nexus between research/universities and competition agencies in order to incorporate research as a key variable in the enforcement process.

Participants during the Regional Competition Regulation and Consumer Protection Workshop held on 28-30th June, 2016

Interactions with Universities

To entrench collaborative research and development of curriculum in Competition Policy & Law, the Authority had the following interactions with Universities:-

i. A presentation on "Importance of competition policy and law to a modernizing Kenyan economy" made at Strathmore Business School on 16th Nov, 2016. The participants included students, lecturers and business executives. (The date here does not seem to fall within the reporting period)

ii. Presentation on "Recent developments in competition law/international trends", "emerging issues in relation to competition law in Kenya" and "Merger Assessment process" presented at the Kenya School of Law during the A-Z training on competition laws held on 25th to 27th August, 2015.

iii. Presentation on the CAK mandate in the area of restrictive trade practices, consumer protection and mergers and acquisitions made to the University of Nairobi students on 6th November, 2015 and 13th November, 2015.

iv. In collaboration with Prof. Eleanor Fox from New York University conducted public lectures at the University of Nairobi and Strathmore University on "*Global Emerging Issues in Antitrust and Competition* Law" on 21st July, 2015.

Opinions and Advocacy to Government

In the year under review, the Authority gave its opinions to the government and sector regulatory bodies in regard to cultivating competition principles and its application in the Kenyan economy which included:

Inter-Agency Review of the Regulatory Environment for Taxi Transport Services.

Following the debut by the app based Taxis in Kenya in 2015, the Government constituted an inter-agency Committee consisting of representatives from the Kenya Revenue Authority, the Nairobi County Government, the National Transport and Safety Authority and Kenya Investment Authority, which was chaired by the Authority. The Committee made recommendations that address the sector challenges and ensure harmonious existence between the traditional taxis and the app based taxis. As a result of the said recommendations, the taxi industry has grown appreciably and attracted investment in the said sector.

Advisory opinions to Corporate and other Stakeholder

During the period, the Authority responded to a number of opinion requests, some of which are highlighted in **Annex VI.**

a.) Participation in government forums

The Authority participated in various other forums relevant to its mandate including:

i. Competition Law Seminar held on 8th October 2015 in Nairobi. The Authority presented the Key note address and also actively participated as panelists in merger and restrictive trade practices sessions. The seminar's objective was to create awareness on new merger regimes and the restrictive trade practices laws in force in Kenya.

ii. The Authority participated in the Stakeholders Consultative Workshop which initiated development of the National Investment Policy under the auspices of the Ministry of Industrialization and Enterprise Development on 13th October, 2015. The policy once developed is aimed at guiding attraction, facilitation, retention, monitoring and evaluating private investments in the country.

iii. The Authority participated in the World's Standards Day national celebrations organized by Kenya Bureau of Standards on 14th October, 2016.

iv. The Authority also participated in the Stakeholders workshop for validation of risk based capital guidelines, insurance agents' guidelines and insurance capital requirements regulations organized by Insurance Regulatory Authority on 18th November, 2015.

v. The Authority has actively been participating in the working group on Bilateral Air Services Agreements (BASAs) in the Northern Corridor Integration projects. The projects are in regard to implementation of Multilateral Air space Agreements and Competition Rules within the Northern Corridor Block which are being coordinated by Ministry of Transport and Infrastructure.

vi. The Authority participated in the forum organized by the Petroleum Institute of East Africa to sensitize its Members for ease of self-regulation on the new Companies Act as well as the Competition Act held on 10th March, 2016. The Authority made a presentation on the "Role of Competition policy and law in Kenya and its relevance to players in the oil and gas sector".

vii. The Authority participated in the marking of World Anti-Counterfeit Day on 28th June, 2016 in Nairobi, exhibited and made a presentation on "the importance of fair business practices in the Kenyan market".

viii. The Authority participated in the Public Forum on Regulation of Dominant Firms in Kenya organized by Institute of Economic Affairs on 13th August, 2015.

ix. The Authority participated in the Oil Industry Stakeholders forum organized by Ministry of Energy and Petroleum on 2nd to 3rd March 2016.

x. The Authority made a presentation to the Tea Task Force appointed by Ministry of Agriculture Livestock and Fisheries to look into the improvement and sustainability of the Tea industry, specifically on the earnings for the growers organized by Tea Directorate on 9th December 2015. The presentation was on the mandate of the Authority and how it interfaces with the Directorate and general competition issues likely to arise from the Tea sector.

xi. The Authority participated in the development of the draft Competition Tribunal Rules workshop from 17th to 21st May 2016. (Consider including what the Authority did in this workshop)

Regional Integration and International Cooperation

The Authority participated in various regional and international forums relevant to its mandate. Specifically, the Authority participated in both regional and international events with the aim of achieving efficient markets through regional integration as follows:

i. Presented a paper on "Priorities for Effective Competition Implementation in the EAC Region" in the East African Community Competition Policy and Law (EACOMP) workshop held from 13th to 14th October 2015 whose objective was to discuss on how to accelerate the implementation of EAC competition Policy and Law.

ii. Participated in Swaziland National Stakeholder workshop on COMESA Competition Regulations facilitated by COMESA Competition Commission held from 2nd to 3rd March 2016. The Workshop aimed at enhancing stakeholder understanding of the COMESA competition Regulations in Swaziland.

iii. Participated in the COMESA Merger Guidelines sensitization forum from 16th to 18th September 2015, in Cairo, Egypt.

iv. Participated in research skills workshop organized by African Competition Forum (ACF) held in April 2016 in Pretoria, South Africa. The objective of the workshop was to discuss how to conduct cross country sectorial studies by ACF Members.

v. In the spirit of building capacity and adopting international best practices, the Authority participated in the International Competition Network (ICN) conference held from 26th to 30th April 2016 in Singapore. The Conference highlighted the enforcement fundamentals, dealing with disruptive technologies. During the ICN World Bank Conference, the Authority won an Advocacy contest, 2016 award for Using advocacy and building credibility to achieve compliance with competition law.

vi. The Authority participated in Inter governmental Group of Experts meeting, UNCTAD in Geneva, Switzerland, from 8th to 10th July 2015 and made a presentation on "International Cooperation on Merger cases as a tool for effective enforcement of competition law".

vii. The Authority participated in the OECD Global Competition Conference held from 29th to 30th October 2015 in Paris, France where it chaired and moderated the main plenary session on, "Serial offenders: Why do some industries seem prone to endemic collusion?"

viii. The Authority presented a paper on "Engaging with consumers at the county level" in International Consumer Protection Enforcement Network (ICPEN) Conference held in April 2016 in London, United Kingdom. The conference theme was "Delivering Better Enforcement Together" and a number of consumer protection issues were discussed.

ix. The Authority in collaboration with Japan Fair Trade Commission (JFTC) conducted a two day training course on Bid Rigging in Public Procurement in February, 2016 in Nairobi. The training focused on competition enforcement with respect to investigation of Competition issues in Public procurement.

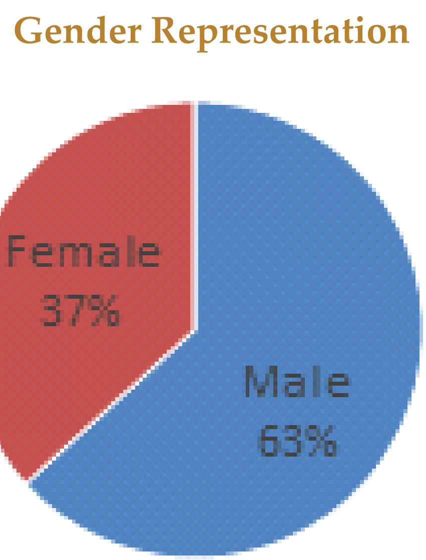
x. Made contributions in the publication of the African and Middle Eastern Antitrust Review 2016 under the article entitled "Special Compliance Process and Block Exemptions", which portrayed the Authority's efforts in bolstering its competition enforcement activities to remedy systemic contraventions. In addition, the Authority contributed to the Handbook of Competition Economics 2016 that provides for details on competition agencies' economists, organizational structure charts and a Q&A explaining their input into competition regulation and the enforcement process.

Human Capital

Pursuant to Section 13 of the Act, the Authority's Human Resource and Administration function continues to attract, train and retain highly qualified, skilled and motivated staff with an aim of creating an efficient and effective system.

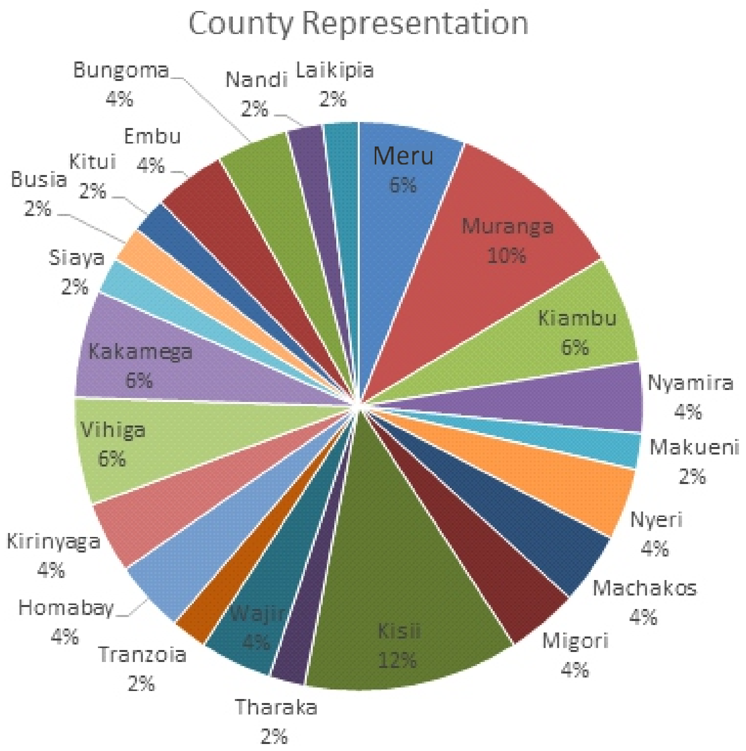
During the period, the Authority enhanced the capacity of its staff with the requisite skills and expertise while also providing a conducive work environment in terms of infrastructure and equipment for optimal productivity.

At the end of the financial year, the Authority's staff establishment was at forty nine (49), out of which thirty one (31) were male while eighteen (18) were female which met the constitutional gender balancing requirement as per figure 3 below.



Staff Gender Representation Chart

The staff establishment also met the Constitutional requirements on diversity as shown in the pie-chart below;



Pie-chart: Staff representation by County.

The third group of the Young Professionals joined the Authority for the one year apprenticeship program, which is meant to build capacity in Competition Policy and Law in the labor market. The Program targets Masters level graduates with a bias in Law and Economics and below the age of thirty (30) years. Twenty University students were also offered Industrial Attachment in various departments within the Authority.

Based on the approved Training Calendar, the Authority sponsored staff members to attend various training programmes aimed at enhancing knowledge, skills and abilities specifically in the areas of merger analysis, investigations, consumer protection amongst other technical areas.

In addition to the above programs, the Authority also facilitated various trainings as required by statutory bodies such as NACADA, National Aids Control Council (NACC), Directorate of Occupational Health Safety Services (DOHSS0), and Commission on Administrative Justice (CAJ), National Gender Equality Commission (NGEC) and National Council People with Disability (NCPWD).

The Authority showed commitment in promoting employee wellbeing at the workplace by providing services and benefits that not only motivated employees but also enhanced their productivity. Towards this, the Authority continued with the provision of a medical scheme for staff- both in and out-patient, comprehensive Group Personal Accident and Group life –sum assured during the period under review.

The Authority's Staff Retirement Pension Scheme was operationalized to cater for the employee's welfare in retirement. The Scheme is a defined contribution where the Authority contributes 20% and the staff 10% of the basic salary.

Despite operating in a non-unionized environment, the Authority realized a sound and cordial relationship across the organization due to structures that have been put into place such as the Management Committee and the DGs 'Kamukunji 'held on a quarterly basis as an open forum where staff interact freely.

Going forward, the Authority will work towards fully populating its approved structure, sustaining capacity building and retention strategies.

Corporate Image and Visibility

During the year, the Authority maintained its resolve of enhancing visibility and corporate image by engaging its stakeholders and keeping them informed on its activities and decisions. Specifically, the Authority conducted a Corporate Social Responsibility (CSR) activity and organized various media events. It also facilitated the handling of customer complaints and filed quarterly reports to the Commission of Administrative Justice (CAJ). The following is a highlight of the activities.

Media Relations

The Authority experienced an increase in inquiries from various media houses and facilitated responses in form of news releases and press conferences. This resulted to coverage in over 133 news and features items in both print and electronic media. It also expanded its presence on social media platforms.

Corporate Social Responsibility (CSR)

The Authority recognizes the role played by Corporate Social Responsibility (CSR) activities on the wellbeing of the society. CSR is an effort that the Authority considers to be very important in giving back to the society. As part of its CSR initiatives, the Authority conducted its third CSR Essay Writing Competition at Kenyatta University, Main Campus on 25th May 2016. The aim of the activity was to create awareness of its mandate among university students. This activity aims at encouraging intellectual discourse among students on Competition Law and Policy. This is in due cognizance of the fact that the Authority is a major beneficiary of the education system where it draws its workforce. The winners in the postgraduate and undergraduate categories are awarded eighty thousand (Kshs. 80,000) and fifty thousand (Kshs. 50,000) respectively, while the first runners-up are awarded fifty thousand (Kshs. 50,000) thirty thousand (Kshs. 30,000) respectively, paid directly to the respective universities to cater for their tuition fees.

To enhance participation in the essay writing competition, the Authority intends to scale up its engagements with universities in Kenya in order to increase awareness.

2016 Essay Writing Competition Finalists

Further, the Authority endeavored to promote environmental conservation and sustainability by planting trees in Murema primary school, Nairobi County. The Authority also continued tending trees planted in the previous reporting period in partnership with the Department of Weights and Measures. In addition, the Authority also participated in marking the World Environmental Day on 5th May 2016, which was held in Nanyuki, Laikipia County.

Business Journalists Workshop

The Authority's third Business Journalists Workshop was held from 29th to 31st May 2016 in Naivasha. The workshop is aimed at building capacity, sharing key decisions and Market Inquiries conducted attracts participants from most media houses. The interaction is key to the Authority because it builds capacity among journalists to effectively and objectively report on National and Regional Competition and Consumer Protection matters.

The facilitators included; Mr. George Lipimile, Director and CEO COMESA Competition Commission, Mr. Chilufya Sampa, Executive Director, Competition and Consumer Protection Commission (CCPC) - Zambia and Mr. Mohammed Nyaoga from Mohammed Muigai Advocates and Ms. Tania Begazo, a Senior Economist at the World Bank.

Going forward, the Authority intends to introduce the Competition Policy and Law journalist of the year awards to honour journalists who report on competition policy and law issues.

Third Business Journalists Workshop facilitators and participants, May, 2016

Complaints Handling

The Authority endeavors to improve on service delivery to its publics as outlined in its Citizenry Service Delivery Charter. Towards this, the Authority values feedback from stakeholders as a critical tool for continuous improvement.

In the year under review, the Authority received and promptly resolved thirty two (32) complaints and returns were filed with Commission on Administrative Justice (CAJ) as per the statutory requirement and a certificate of compliance issued.

ISO 9001:2008 Certification

The Authority attained ISO 9001:2008 certification for Quality Management System (QMS). ISO 9001:2008 is a Standard that defines the basic elements of a QMS that organizations should adopt to ensure that their products and services consistently meet and exceed customer expectations. The Standard ensures that in pursuit of their mandate, organizations clearly identify their services and products, determine and document related processes and assign responsibilities and timelines for each process. ISO 9001:2008 certification also provides for continuous improvement which involves monitoring the performance of the processes, identifying any non-conformity, establishing the root cause(s) and carrying out corrections, corrective and preventive actions as appropriate. Paying particular attention to customer complaints and other feedback also provides further opportunities for improvement.

The Authority's ISO 9001:2008 certification journey started in January 2015 when the management made a deliberate decision to ensure provision of quality services to both its internal and external stakeholders. This involved identification of our customers, their expectations in terms of services and making specific commitments towards meeting the same. Upon successful sensitization and awareness creation across the Authority, the staff led by the Management Representative went through a rigorous exercise to review and establish our internal processes, procedures and related work instructions in line with the requirements of the Standard. An official launch to mark the beginning was purposely held on 30thJune 2015 to coincide with the start of the new financial year.

The next stage involved monitoring and ensuring conformity with the established QMS as well as compliance with the Statutory and Regulatory requirements. In preparation for Certification, a number of Internal and Lead Auditors drawn from all operational areas were trained and utilized in carrying out both ad-hoc and scheduled Internal Audits. Any notable deviation from the system and standard requirements were promptly addressed through agreed corrections and corrective actions. Management was kept up to date through analysis of findings and regular management review meetings.

The Authority competitively sourced a competent firm to carry out pre-certification and Certification audits in November 2015. In February 2016, having addressed all the audit issues raised, the external auditor made the big announcement that; *The Competition Authority of Kenya had been assessed and certified as meeting the requirements of ISO 9001:2008 for the following activities: Promote and safeguard competition in the national economy and to protect consumers from unfair and misleading market conduct*. As a team we achieved a key goal within a record period of twelve months. It's kudos to our Board, management and staff for keeping the focus and withstanding the pressure. The Authority is now a member of an elite group of global companies that have embraced best practices for efficient and effective provision of quality services.

Today our stakeholders can take comfort in the fact that our services are not only of the highest quality but also benchmarked to international standards. This certification ensures consistency in our service delivery, provides a document trail against every activity, forms a basis for training new staff, supports our succession management initiatives and guarantees a systematic and structured approach in managing the quality of our services. The Authority shall continue to proactively review the QMS with a view of ensuring zero Non Conformities and continual improvement.

In cognizance of the new ISO 9001:2015 standard the Authority has taken immediate steps towards transition, key amongst them is setting an internal transition deadline of June 2017, recruiting a consulting partner to guide the process and creating awareness amongst all staff. All our internal processes and procedures shall be reviewed in accordance with the requirements of the new Standard. The Authority remains committed to getting certified against ISO 9001:2015 Standard during the first surveillance audit scheduled to take place before the end of the year 2016.

Knowledge Management

One of the challenges the Authority has faced since inception is Information Asymmetry. The Authority has progressively taken a number of initiatives to mitigate against this shortcoming including revamping its internal Policy and Research unit, subscription to renowned sites, collaboration with other agencies and research bodies and above all, creation of the Knowledge Management (KM) function. These initiatives are all aimed at harnessing, storage, sharing and appropriate dissemination of identified information for purposes of improved decision making.

Knowledge Management is understood as providing the right information to the right persons and other stakeholders; at the right time and more importantly; in the right format. Internally, this leads to continuous development of staff capacity to competently handle emerging competition issues like disruptive innovations and technologies in the marketplace. Externally, knowledge management contributes to Self-Compliance to the Competition Act through creation of awareness and sustained stakeholders engagement. Moreover, Knowledge Management ensures that the end objective is achieved with minimal resources thus efficiency and effectiveness.

The specific expected outcome of KM initiatives is to enhance individual, team, and organizational capability and thereby increase organizational capacity. Together, these outcomes are envisaged to spur overall productivity, improve the quality of decisions, and contribute to growth as well as achievement of Authority's expanded mandate. Further KM aims to increase knowledge and skills of individual staff – arising out of learning and innovation in the knowledge process, engender positive attitudes, strong moral and ethical values – foundations of individual capability development. In turn, individual capabilities collectively contribute to organizational capability and societal capacity in as far as competition matters are concerned.

The current state of Knowledge Management Framework is being mapped out through an assessment and audit in order to ensure that key elements – Accountabilities, Processes, Technologies and Governance are not only in place but also working together and aligned to the automation journey that the Authority has embarked on. For instance, whereas a manual Resource Centre has been in use since operationalization of the Act, the same will be run and managed through Knowledge Bases, an in-built capability within the Case Management System. This will ensure that information flows freely throughout the organization.

In the FY 2015/16 the Authority has been proactive in engaging stakeholders through workshops, seminars and webinars among others. Internally, plenary sessions, brainstorming sessions on both complete and on-going cases are fast becoming a norm. The work environment is also continually improved in a bid to make the working spaces as collaborative as possible. For instance, the Authority put in place a common cafeteria which is a prerequisite for Knowledge Café', a key technique in Knowledge Management. Here, staffs get to interact freely during tea and lunch breaks. In the process, informal knowledge sharing takes place.

Going forward the Authority intends to continue prioritizing knowledge management with a view to empower our decision making channels and also capacity build both our internal and external stakeholders.

Information Communication and Technology (ICT)

The Authority continues to enhance its efficiency through use of ICT for delivery of quality services, dissemination of decisions and engagement with the Stakeholders and the general public. This was further harnessed through the revamping of the Authority's website (www.cak.go.ke) to make it more user friendly and interactive by incorporating social media functions consequently enhancing stakeholders' interactions on the platform.

The Authority has initiated the process of automating its key processes to enhance efficiency in service delivery through the implementation of an Enterprise Resource Planner (ERP) and a Case Management System (CMS).

Supply Chain Management

The Authority continued to ensure that procurement of goods, services and works and disposal was done in accordance with the Public Procurement and Asset Disposal Act, 2015. This ensured fairness, transparency and accountability in the tendering processes. Out of the total number of contracts awarded for the supply of goods, works and services, the Authority awarded contracts worth Kshs.29M to the Youth, Women and Persons with disabilities in conformance with the government policy. Further, to enhance absorption under this category, the Authority conducted a sensitization workshop on 3rd May, 2016.

During the year under review, the Authority identified and disposed off assorted items, including furniture and ICT equipment, through transfer to four (4) Public Primary Schools within Nairobi County namely Kawangware, Muthurwa, Mathare and Langata.

Financial Management

The Authority continues to prudently apply its limited resources towards the achievement of its strategic objectives and approved annual work plans. To this end and within the confines of the PFM Act 2012, the Authority mobilizes resources mainly from the Exchequer, Development Partners and approved internal sources. During this period, Exchequer funding increased from Kshs.290M to Kshs.374.5M while internally generated revenue (AIA) increased by Kshs.22.5M to Kshs.150M. The main sources of AIA were Merger filling fees (Internal) Kshs.32M, Merger filling fees (COMESA) Kshs.61.4M, Interest earnings Kshs.18.9M, Fines and Penalties Kshs.17.9M. The Authority also received Kshs.19.96M under the COMESA funded Regional Integration Implementation Programme (RIIP). A number of development partners also directly committed an estimated Kshs.43.8M towards our activities.

During the year, 85% of the available funds were utilized including commitments amounting to Kshs.103M made against the Authority's automation project. This project involves concurrent implementation of an Enterprise Resource Planner (ERP) and a Case Management System (CMS) that will facilitate the automation of more than 80% of the Authority's current manual processes hence increased efficiency. In the coming periods the Authority will continue to ensure proper use of its financial resources by prioritizing its activities and strengthening its internal controls, while at the same time ensuring transparency and accountability in its processes. Lobbying at both The National Treasury and Development Partner levels will be sustained to ensure adequate funding for planned activities. This will be supplemented by internally generated revenues. Details of our financial transactions are provided in the Financial Statements as presented in the subsequent pages of this report.

PART II
FINANCIAL STATEMENTS FOR THE YEAR 2015/2016

STATEMENT OF DIRECTOR'S RESPONSIBILITIES

The Public Finance Management Act, 2012 and the State Corporations Act, require the Directors to prepare financial statements in respect of the Authority, which give a true and fair view of the state of affairs of the Authority at the end of the financial year and the operating results of the Authority for that year. The Directors are also required to ensure that the Authority keeps proper accounting records which disclose with reasonable accuracy the financial position of the Authority. The Directors are also responsible for safeguarding the assets of the Authority.

The Directors are responsible for the preparation and presentation of the Authority's financial statements, which give a true and fair view of the state of affairs of the Authority as at the end of the financial year ended on June 30, 2016. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Authority; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Authority; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Directors accept responsibility for the Authority's financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act and the State Corporations Act. The Directors are of the opinion that the Authority's financial statements give a true and fair view of the state of Authority's transactions during the financial year ended June 30, 2016, and of the Authority's financial position as at that date. The Directors further confirm the completeness of the accounting records maintained for the Authority, which have been relied upon in the preparation of the Authority's financial statements as well as the adequacy of the systems of internal financial control.

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

Approval of the financial statements

The Authority's financial statements were approved by the Board on 22/08/2016 and signed on its behalf by:

David Ong'olo ....

Chairman

F.W Kariuki ....

Director General

REPUBLIC OF KENYA

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NAIROBI

HARAMBEE

OFFICE OF THE AUDITOR-GENERAL

REPORT OF THE AUDITOR-GENERAL ON COMPETITION AUTHORITY OF KENYA FOR THE YEAR ENDED 30 JUNE 2016

REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of Competition Authority of Kenya set out on pages 67 to 87, which comprise the statement of financial position as at 30 June 2016, and the statement of financial performance, statement of changes in net assets, statement of comparison of budget and actual amounts and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

Directors' Responsibility for the Financial Statements

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

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

Auditor-General's Responsibility

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. The audit was conducted in accordance with International Standards of Supreme Audit Institutions. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

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

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

Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Competition Authority of Kenya as at 30 June 2016, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accruals Basis) and comply with the Competition Act No.12 of 2010.

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

Nairobi

15 February 2017

Report of the Auditor-General on the Financial Statements of Competition Authority of Kenya (CAK) for the year ended 30 June 2016

STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30TH JUNE 2016

	Note	2015/2016 Kshs.	2014/2015 Kshs.
REVENUE			
Revenue from Non-Exchange Transactions			
Exchequer Transfers		374,500,000	290,000,000
Fines and Penalties		17,862,523	721,715
Other Income		-	923,873
Development Partners (COMESA)		19,960,000	17,073,420
		412,322,523	**308,719,008**
Revenue from Exchange Transactions			
Sale of Tenders		14,000	46,000
Merger filling Fees-Local		32,000,000	39,000,000
Merger filling Fees-COMESA		61,409,760	67,418,104
Interest from Fixed Deposits		18,925,203	2,292,615
Gifts & Donations		48,380	-
		112,397,343	**108,756,719**
		524,719,866	**417,475,727**
EXPENDITURE			
Employee Costs	3	155,620,381	125,957,603
Directors Expenses	4	6,554,022	13,826,989
Depreciation & Amortisation	6	11,720,616	14,749,303
Repairs & Maintenance	7	15,055,454	3,438,642
Contracted Services	8	14,020,682	13,343,796
Finance Costs	11	145,416	133,240
General Expenses	5	139,759,664	122,799,915
Total Expenses		**342,876,235**	**294,249,487**
Surplus for the year		**181,843,631**	**123,226,241**

The notes set out on pages 57 to 70 forms an integral part of the Financial Statements

STATEMENT OF FINANCIAL POSITION AS AT 30TH JUNE 2016

	Note	2015/2016 Kshs	2014/2015 Kshs
ASSETS			
Current Assets			
Cash and Cash Equivalents	9	456,604,128	251,211,375
Receivables From exchange transactions	10	15,601,331	10,713,964
		472,205,459	**261,925,338**
Non-Current Assets			
Property, Plant & Equipment	14(a)	41,546,739	51,925,813
Intangible Assets	14(b)	2,530,688	3,374,250
		44,077,427	**55,300,063**
TOTAL ASSETS		**516,282,886**	**317,225,401**
LIABILITIES			
Current Liabilities			
Payables from Exchange Transactions	16	40,952,586	24,941,644
Provisions	17	2,567,079	3,728,021
		43,519,665	**28,669,665**
Non-Current Liabilities	16	**16,419,783**	**14,399,823**
TOTAL LIABILITIES		**59,939,448**	**43,069,488**
Net Current Assets		**428,685,794**	**233,255,673**
Net Assets		**456,343,438**	**274,155,913**
Represented by:			
Equity			
Equity Contribution by the Treasury	12	52,932,150	52,932,150
Designated Fund	13	449,670	449,670
Accumulated Surplus		402,961,614	220,774,091
Revaluation Reserves		-	-
		456,343,434	**274,155,912**

The Authority's financial statements were approved by the Board on ...22/08/016

and signed on its behalf by:

David Ong'olo ....

Chairman

F.W Kariuki ....

Director General

The notes set out on pages 57 to 70 forms an integral part of the Financial Statements

STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 30TH JUNE 2016

	Note	Contribution by Treasury Kshs	Accumulated Fund Kshs	Designated Fund RIIP Kshs	Total Fund Kshs
1 July 2014 (Restated)		52,932,150	97,547,850	-	**150,480,000**
					-
Surplus (Deficit) for the year		-	123,226,241	-	**123,226,241**
					-
					-
Net Funds Received		-	-	449,670	**449,670**
At 30 June 2015		**52,932,150**	**220,774,091**	**449,670**	**274,155,911**
1 July 2015		**52,932,150**	**220,774,091**	**449,670**	**274,155,911**
Surplus (Deficit) for the year		-	181,843,631	-	**181,843,631**
					-
Adjustment	**22**	-	343,892	-	**343,892**
At 30 June 2016		**52,932,150**	**402,961,614**	**449,670**	**456,343,435**

The notes set out on pages 57 to 70 forms an integral part of the Financial Statements

STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30TH JUNE 2016

	Note	2015/2016	2014/2015
Cashflows from Operating Activities		Kshs	Kshs
Surplus from operating Activities		181,843,631	123,226,241
Add back Depreciation	6	11,720,616	14,749,303
Adjustments	22	343,892	-
		193,908,140	**137,975,543**
Adjustments for Changes in Working Capital			
Increase in Receivables from Exchange Transactions	10	(4,887,367)	(8,562,985)
Increase/(Decrease) in Receivables from Non-Exchange Transactions		-	20,091,986
Increase in Payables from Exchange Transactions	16	18,030,902	13,903,843
Decrease/(Increase) in provisions	17	(1,160,942)	1,046,791
		11,982,594	**26,479,635**
Net Cashflows from Operating Activities		**205,890,733**	**164,455,179**
Cashflows from Investing Activities			
Purchase of Non-Current Assets	14(a)	(497,980)	(9,359,376)
Purchase of Intangible Assets		-	-
		(497,980)	**(9,359,376)**
Cashflows from Financing Activities			
Treasury Contributions		-	-
Designated Fund	13	-	449,670
		-	**449,670**
Net Increase/(Decrease) in cash and cash equivalents		**205,392,753**	**155,545,472**
Cash and cash equivalents at 1st July 2015		251,211,374	95,665,902
Cash and Cash Equivalents as at 30th June 2016		**456,604,127**	**251,211,374**

The notes set out on pages 57 to 70 forms an integral part of the Financial Statements

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS FOR THE YEAR ENDED 30TH JUNE 2016

	Original Budget 2015/2016 Kshs	Final Budget 2015/2016 Kshs	Actual on Comparison Basis 2015/2016 Kshs	Performance Difference 2015/2016 Kshs
Balance b/f	80,000,000	80,000,000	80,000,000	-
Revenue				
Exchequer Allocation	374,500,000	374,500,000	374,500,000	-
Fines,Penalties and Levies	-	-	17,862,523	(17,862,523)
Sale of Tender Documents	-	-	14,000	(14,000)
Merger Filling Fees-Local	35,000,000	35,000,000	32,000,000	3,000,000
Merger Filling Fees-COMESA	68,000,000	68,000,000	61,409,760	6,590,240
Donor Funding-RIIP	50,000,000	50,000,000	19,960,000	30,040,000
Investment Income	8,000,000	8,000,000	18,925,203	(10,925,203)
Other Income	5,000,000	5,000,000	48,380	4,951,620
Total Income	**620,500,000**	**620,500,000**	**604,719,866**	**15,780,134**
Expenses				
Personal Emoluments	224,900,760	224,900,760	142,394,992	82,505,768
Insurance	20,000,000	20,000,000	13,225,389	6,774,611
Staff Welfare	5,100,000	5,100,000	3,932,962	1,167,038
Communication Supplies and Services	4,700,000	4,700,000	3,926,247	773,753
Domestic Travel and Subsistence, and Other Transportation Costs	8,000,000	8,000,000	9,604,218	(1,604,218)
Foreign Travel and Subsistence, and other transportation costs	27,000,000	27,000,000	29,893,569	(2,893,569)
Printing, Advertising and Information Supplies and Services	16,500,000	16,500,000	10,436,452	6,063,548
Office rent, rates, utilities and parking	28,500,000	28,500,000	25,383,342	3,116,658
Training Expenses	30,000,000	30,000,000	24,417,246	5,582,754
Official Entertainment and conference facilities	20,000,000	20,000,000	10,944,509	9,055,491
Board Allowances & expenses	16,500,000	16,500,000	6,554,022	9,945,978
Specialised Services,Policy,Research	50,000,000	50,000,000	13,102,796	36,897,204
Office and General Supplies and Services	10,000,000	10,000,000	4,040,087	5,959,913
Contracted Services	29,000,000	29,000,000	14,020,682	14,979,319
Subscriptions	2,000,000	2,000,000	480,634	1,519,367
Motor Vehicle Running Costs	3,000,000	3,000,000	2,214,180	785,820
Routine Maintenance - Other Assets	19,500,000	19,500,000	14,497,366	5,002,634
Purchase of Assets	104,100,000	104,100,000	497,980	103,602,020
Exchange Differences	-	-	-	-
Other operating expenses	1,699,240	1,699,240	2,086,925	(387,685)
Provision for Depreciation	-	-		-
	620,500,000	**620,500,000**	**331,653,598**	**288,846,402**
Surplus/(Deficit)			**273,066,268**	

NOTES TO THE FINANCIAL STATEMENTS

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

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

2. Summary of significant accounting policies

a) Revenue Recognition

I) Revenue from non-exchange transactions - IPSAS 23

Exchequer allocations

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

Transfers from other government entities

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

ii) Revenue from exchange transactions - IPSAS 9

Rendering of Services-merger filling fees, levies

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

Sale of tender goods

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

b) Budget Information - IPSAS 24

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

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

c) Property, Plant and Equipment - IPSAS 17

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

d) Intangible Assets - IPSAS 31

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

e) Provisions - IPSAS 19

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

Contingent liabilities

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

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

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

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

Contingent assets

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

f) Changes in accounting policies and estimates - IPSAS 3

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

g) Employee Benefits - IPSAS 25

The Authority operates a retirement benefit scheme for all its permanent and pensionable employees. Further an amount equivalent to 31% (Confirm figure in other place in the document indicates a figure total 30%. CAK 20% and employee 10% of basic salary) of basic salary has been set aside as gratuity for all employees on contract. The Authority's contributions towards employee pension scheme and staff gratuity for employees on contract are charged to the statement of financial performance in the year to which the employees rendered their services to the Authority.

h) Foreign Currency transactions - IPSAS 4

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

i) Related Parties - IPSAS 20

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

	2015/2016 Kshs.	2014/2015 Kshs.
Key Management Compensations		
i) Salaries and Other short term employment Benefits	43,814,520	33,420,000
Board Remuneration		
ii) Allowances paid to Board Members	6,554,022	5,120,000
Grants From Related Parties		
iii) Grants from GOK	374,500,000	310,000,000

j) Leases

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

k) Cash and Cash equivalents

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

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

For the purposes of these financial statements, cash and cash equivalents also include short term cash imprests and advances to authorized public officers and/or institutions which were not surrendered or accounted for at the end of the financial year.

l) Significant Judgments and sources of estimation uncertainty - IPSAS 1

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

Estimates and assumptions

The key assumptions concerning the future and other key sources of estimation uncertainty at the reporting date, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are described below. The Authority based its assumptions and estimates on parameters available when the financial statements were prepared. However, existing circumstances and assumptions about future developments may change due to market changes or circumstances arising beyond the control of the Authority. Such changes are reflected in the assumptions when they occur.

Useful lives and residual values

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

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

Provisions

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

3. Employee Costs

	2015/2016	2014/2015
	Kshs	Kshs
Salaries and Allowances	122,952,614	101,787,956
Contribution to Pensions	11,277,280	2,779,387
Gratuity	9,326,040	14,374,960
Staff Medical Insurance	13,225,389	5,968,509
Staff leave Days Provision	(1,160,942)	1,046,791
	155,620,381	**125,957,603**

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

	2015/2016	2014/2015
4. Board Expenses	**Kshs**	**Kshs**
Sitting allowance	1,420,000	4,640,000
Honoraria	369,655	480,000
Training & Induction	1,509,100	8,629,087
Telephone	30,000	71,100
Insurance	319,110	6,802
Local travel Costs (airlines, bus, etc)	583,056	-
Official Entertainment and conference facilities	104,835	-
Domestic Travel Daily Subsistence Allowance	61,750	-
International Travel Costs (Airtickets)	1,095,490	-
Foreign travel-Daily Subsistence Allowance	1,020,529	-
Sundry Items (e.g. airport tax, taxis, etc)	12,497	-
Meals (Breakfast/Lunch/Dinner)-domestic	28,000	-
	6,554,022	**13,826,989**

	2015/2016	2014/2015
5. General Expenses	**Kshs**	**Kshs**
Domestic Travel Subsistence	9,604,218	4,297,287
Foreign Travel Subsistence	29,893,569	22,266,333
Utilities	5,158,485	4,108,087
Staff Welfare	3,932,962	3,199,501
General Publishing and Printing Services	7,263,980	3,054,600
General Advertising Services	2,812,769	7,219,422
Purchase of Newspapers, Magazines and Periodicals	359,703	378,577
Rent and Rates	24,151,104	26,656,718
Awareness and Publicity Compaigns	3,415,465	2,877,927
Policy,Research and Market Enquiries	565,400	39,320
COMESA RIIP	6,261,956	-
Enforcement of RTPS	823,926	456
Consumer welfare	2,036,049	4,024,042
Supplies and Accessories for Computers and Printers	1,484,830	931,154
General Office Supplies	2,490,425	4,995,059
Purchase of Uniforms and Clothing Staff	-	65,618
Sanitary and Cleaning Materials, Supplies and Services	64,832	101,825
Training Expenses	24,417,246	19,189,249
Fuel and Lubricants	640,747	639,568
Motor Vehicle Insurances	1,015,345	379,255
Official Entertainment and conference facilities	10,944,509	16,011,781
Subscription to Professional Bodies	480,634	1,939,470
Forex Gain/(Loss)	-	2,206
Insurance of Assets	1,941,510	78,566
Withholding tax Expense	-	343,892
	139,759,664	**122,799,915**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

6. Depreciation and Armotisation	2015/2016 Kshs	2014/2015 Kshs
Property,plant and Equipment	10,877,054	13,624,553
Intangible Assets	843,563	1,124,750
	11,720,616	**14,749,303**

7. Repairs & Maintenance	2015/2016 Kshs	2014/2015 Kshs
Motor Vehicles	558,087	687,652
Property,plant and Equipment	14,497,366	2,750,990
	15,055,454	**3,438,642**

8. Contracted Services	2015/2016 Kshs	2014/2015 Kshs
Consultancy	9,369,860	7,987,866
Hire of security	1,193,500	812,000
Office Cleaning Expenses	1,904,800	2,997,600
Legal Services	856,522	850,330
Audit Fees	696,000	696,000
	14,020,682	**13,343,796**

9. Cash and cash equivalents	2015/2016 Kshs	2014/2015 Kshs
KCB-KICC Main operating account	233,111,176	125,778,473
KCB-KICC Staff Gratuity account	23,492,952	25,432,902
Short-term Investments	200,000,000	100,000,000
	456,604,128	**251,211,375**

Cash and cash equivalents are measured at fair value. The carrying amount approximates fair value due to the short period to maturity. Cash and cash equivalents comprise cash at bank , cash on hand and short- term investments (90 days) held to maturity.

10. Receivables from Exchange Transactions	2015/2016 Kshs	2014/2015 Kshs
Staff Imprest	2,275,328	3,181,724
Other Staff Debtors	1,880,302	-
Sundry Debtors	618,756	-
Prepayments (Rent)	2,291,159	-
Prepayments (Insurance)	6,214,320	5,123,242
Interest Receivable	1,833,904	2,292,615
Telephone Prepaid	301,890	116,384
Prepaid Newspapers	185,672	-
	15,601,331	**10,713,964**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

	2015/2016	2014/2015
11. Finance Charges	**Kshs**	**Kshs**
General Bank Charges	145,416	133,240
	145,416	**133,240**

	2015/2016	2014/2015
12. Equity Contribution by the National Treasury	**Kshs**	**Kshs**
As at 1st July	52,932,150	52,932,150
Movement During the Year	-	-
As at 30th June	**52,932,150**	**52,932,150**

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

	2015/2016	2014/2015
13. Designated Fund	**Kshs**	**Kshs**
As at 1st July	449,670	-
Movement During the Year	-	449,670
As at 30th June	**449,670**	**449,670**

Designated Fund consists of development funding and Contributions by the Treasury for acquisition of assets or development projects and are recognized as a financing reserve when received. No repayment of the financing is expected by the Authority. This amount relates to three(3) computers valued at Ksh.449,670 recieved by the Authority during Financial Year 2014/2015 for use in the implementaion of the Regional Integration Implementation Programme.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

14 (a) Property,Plant and Equipment. 2014/2015

Fixed Assets	Motor Vehicle	Office Equipment	Computer Equipment	Furniture & Fittings
Cost / Valuation				
As at July 2014	23,513,707	7,689,244	19,109,373	22,960,325
Accumulated Depreciation	9,030,997	1,011,026	7,041,486	4,263,328
Carrying Value	**14,482,710**	**6,678,218**	**12,067,888**	**18,696,997**
		2015/2016		
Cost / Valuation				
As at July 2015	23,513,707	7,689,244	19,109,373	22,960,325
Additions	-	497,980	-	-
Accumulated Depreciation	12,651,675	1,908,051	11,063,713	6,600,453
As at June 2016	**10,862,033**	**6,279,173**	**8,045,660**	**16,359,872**

Reconciliation of Property ,Plant and Equipment 2014/2015

Opening Balance	19,310,280	5,737,965	9,774,747	21,367,997
Additions	-	1,894,284	7,465,092	-
Depreciation	4,827,570	954,031	5,171,952	2,671,000
As at June 2016	**14,482,710**	**6,678,218**	**12,067,887**	**18,696,997**

Reconciliation of Property ,Plant and Equipment 2015/2016

Opening Balance	14,482,710	6,678,218	12,067,888	18,696,997
Additions	-	497,980	-	-
Depreciation	3,620,678	897,025	4,022,227	2,337,125
As at June 2016	**10,862,033**	**6,279,173**	**8,045,661**	**16,359,872**

Rate of depreciation

Motor Vehicle	25.00%
Office Equipment	12.50%
Computer Equipment	33.33%
Furniture & Fittings	12.50%

COMPETITION AUTHORITY OF KENYA

Creating efficient markets for consumers

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

14 (b) Intangible Assets 2015/2016

	Opening Balance	Amortisation	Carrying Value	Cost/ Valuation	Prior Year Adjustments	Accumulated Armotisation	Carrying Value	Rate
Computer Software	3,374,250	843,563	2,530,688	4,499,000	-	1,968,313	2,530,688	25%
	3,374,250	**843,563**	**2,530,688**	**4,499,000**	**-**	**1,968,313**	**2,530,688**	

Intangible assets consist of various computer software systems purchased for use by the Authority. The Authority recognises Intangible Assets acquired separately at cost/valuation less accumulated amortisation. Amortisation is charged on a reducing basis over their useful lives as estimated by management from time to time.The opening balance of intangible assets value has been adjusted downwards to reflect the changes in the valuers final report and a prior period entry passed to restate the opening balance.

15. Post Employment Benefits

	2015/2016				2014/2015			
Staff	Openning Balance	Additional Contribution	Withdrawals	Closing Balance	Openning Balance	Additional Contribution	Withdrawals	Closing Balance
Gratuity	22,499,887	9,326,040	(7,306,080)	24,519,847	9,563,188	15,385,605	2,448,905	22,499,887
Staff Pension	3,953,740	11,277,280	-	15,231,020		3,953,740	-	3,953,740
	26,453,627	**20,603,320**	**(7,306,080)**	**39,750,867**	**9,563,188**	**19,339,345**	**2,448,905**	**26,453,627**

Post employment benefits consists of Gratuity of 31% of basic pay provided for the payment to employees on contract upon separation as well as contributions towards a defined benefit scheme at 20% of basic pay for all pensionable staff.Both the Authority and employees contribute to the fund.The employer's contribution towards the scheme and 31% for gratuity are charged against income as incurred. Included in the withdrawals is a Kshs 1,010,645.00 which relates to payment made in financial year 2014/2015.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

16. Payables from Exchange Transactions

	2015/2016 Kshs.	2014/2015 Kshs.
Current-Payables		
Local Creditors	26,151,577	7,236,027
Witholding Taxes	19,276	427,816
Witholding VAT	138,207	529,724
Staff Creditors	184,781	237,385
Other Payroll Liabilities	2,802,139	194,175
Accrued staff Salary adjustments	-	1,438,101
Contractors retention	1,288,184.65	33,400
CAK Pension Scheme Deductions	-	3,953,740
Staff Gratuity	7,089,419	7,089,419
Deferred Lease Payment	3,279,003	3,801,857
	40,952,586	**24,941,644**

	2015/2016 Kshs.	2014/2015 Kshs.
Non-Current-Payables		
Staff Gratuity	16,419,783	14,399,823
	16,419,783	**14,399,823**

Trade payables represent outstanding payments to suppliers for services consumed. Payroll deductions include amounts outstanding for statutory deductions and co-operative societies. Staff creditors comprise of unpaid staff salaries and other amounts due to staff.
Under current liabilities, staff gratuity of Kshs 7,089,419 relates to amount provided for staff who had quailfied for pension as per their contract letter before the pension scheme was Under current liabilities, staff gratuity of Kshs 7,089,419 relates to amount provided for staff who had quailfied for pension as per their contract letter before the pension scheme was established.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

17. Provisions

	2015/2016 Kshs.	2014/2015 Kshs.
Staff Leave Days Provision	2,567,079	3,728,021
	2,567,079	**3,728,021**

Provisions are recognised when:

i) A reliable estimate can be made of the obligation.

ii) It is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; and

iii) The Authority has a present obligation as a result of a past event;

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

18. Commitments and Contingencies

Capital commitments	2015/2016 Kshs.	2014/2015 Kshs.
Approved and contracted	102,369,632	-
Approved and not contracted	-	11,000,000

The capital commitments of Kshs. 102,369,632 relate to the cost of development and implementation of ERP and Case Management Systems. Implementation of the two systems is at an advanced stage and they are expected to be completed by December, 2016.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

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

	2015/2016 Kshs.	2014/2015 Kshs.
Surplus for the Year	181,843,631	123,226,241
Adjustements	343,892	-
Depreciation	11,720,616	14,749,303
Movements in Provisions for Employee Costs	(1,160,942)	1,046,791
Working Capital Adjustments		
Changes in Working Capital		
Receivables from exchange Transactions	(4,887,367)	(8,562,985)
Receivables from exchange Transactions	-	20,091,986
Payables from exchange Transactions	18,030,902	13,903,843
	205,890,733	**164,455,179**

20. Financial Risk Management

The Authority's activities exposes it to a variety of credit and liquidity risks. The overal risk management programme focuses on the unpredictability of the market and seeks to minimise potential adverse effects on its oprerations.

The Authority regularly reviews its risk management policies and systems to reflect changes in markets and emerging best practices. Risk management is carried out by the management under the direct supervision of the board of directors.

The board provides policies for overal risk management as well as policies covering specific areas such as interest rate risk, credit risk and liquidity risk.

a) Credit Risk Management

Credit Risk refers to the risk that a counterparty will default on its contractual obligation resulting in financial loss to the Authority.

Credit Risk arises from bank balances,receivables and amounts due from related parties. Although this risk is unlikely to occur in the short term, it is mitigated as follows:

i) Cash and short-term deposits are placed with well established financial institutions of high quality and credit standing and also approved by the National Treasury;

ii) Funds are invested in short-term facilities; and

iii) The organisation does not raise debtors in its ordinary course of business.

Credit risk with respect to accounts receivable is limited due to the nature of the Authority’s business and its reliance on government grant as the main source of funding. Market risk is the risk that the value of an investment will decrease due to changes in market factors. The above stated mitigating factors apply to market risk as well.

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

a) Credit Risk Management Continued.

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

	2015/2016 Kshs.	2014/2015 Kshs.
Cash at Bank	456,604,128	251,619,207
Prepaid Rent	2,291,159	-
Staff Travel Imprests	2,894,084	3,168,984
Prepaid Insurance	6,214,320	5,123,242
Investment Income Receivables (bank interest)	1,833,904	2,292,615
	469,837,595	**262,204,048**

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

b) Liquidity Risk Management

Liquidity risk is the risk that the Authority will not be able to meet its financial obligations when they fall due. The Authority's approach to managing liquidity is to ensure, as far as possible, that it will always have sufficient liquidity to meet its liabilities when due, under both normal and stressed conditions, without incurring unacceptable losses or at the risk of damaging the Authority's reputation.

The Authority ensures that it has sufficient cash on demand to meet expected operational expenses,including the servicing of financial obligations;this excludes the potential impact of extreme circumstances that cannot reasonably be predicted.All liquidity policies and procedures are subject to review and approval by the board of directors.

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

	2015/2016 Kshs.	2014/2015 Kshs.
Trade payables all due within 30 days	26,151,577	7,236,027
Staff Creditors	184,781	237,385
Taxes	157,482	957,539
Payroll Deductions	2,802,139	194,175
Provisions	2,567,079	3,728,021
Contractors retention	1,288,185	33,400
Staff Gratuity Accrued	7,089,419	7,089,419
Staff Pension Scheme	-	3,953,740
	40,240,662	**23,429,706**

NOTES TO THE FINANCIAL STATEMENTS-CONTINUED

21. Leases

The Authority has a a six (6) year lease arrangement with the landlord of the Kenya Railways Staff Retirement benefits scheme;the premises from which its head office is located.The terms of arrangement require the Authority to pay a standard amount of rent quarterly in advance with an annual escalation rate of 5%. Obligations incurred under this lease are charged against income in equal instalments over the period of the lease. The Authority recognized Kshs. 19,340,504.04 and Ksh.4,040,218.97 as the rent and deferred lease payments respectively accruing from the arrangement.

		2015/2016 Kshs.
Total Minimum future lease payments		30,773,890
Total Minimum future lease payments		
Current year Rental -2015/2016		16,785,758
	Year 2016/2017	16,785,758
	Year 2017/2018	13,988,132

22. Withholding Tax

During Financial Year 2014/2015, Kshs 343, 892 being Withholding Tax on Interest Recievable on Fixed Deposits was recorded in our books as a Liability. On maturity of the Fixed Deposit we only received interest net of Withholding Tax and as a result this entry was not reversed. Subsequently a journal was passed to correct this by debiting Withholding Tax Liability Account and crediting Accumulated Surplus b/f.

23. Taxation

The Authority is exempt from taxation under the Income Tax act chapter 470 of the laws of Kenya.

24. Contingent liabilities/Assets

a) Const. Pet. No. 239/2015 COFEK vs Nakumatt Holdings Ltd, Atul Shah, Kenya Bureau of Standards, Competition Authority of Kenya & Attorney General.

COFEK filed a Petition against all the above Respondents resulting from consumer complaints on differences between the till and shelf price at the 1st Respondent's Supermarkets. The matter barely raises any serious cause of action against the Authority since it does not disclose any particular Constitutional provisions contravened among other weaknesses. However, in the event of adverse outcome, the Authority could incur up to Kshs.500,000 in court costs.

b) Industrial Claim No. 897/2014 Beldine Omollo vs Wang'ombe Kariuki, CAK, The PSC, Principal Secretary, The National Treasury and The Attorney General.

The Authority has been sued for wrongful dismissal by a former employee who was on secondment from the National Treasury. She is seeking Kshs. 2,500,000/= plus costs of the suit and interest at court rates. The plaintiff has not raised any substantive legal issues to support her claim. As at 30th June 2016 the matter was still pending in court

25. Comparatives

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

26. Subsequent Events

There have been no events subsequent to the financial year end with significant impact on the financial statements for the year ended June 30,2016.

PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATION

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

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

Guidance Notes:

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

David O. Ong'olo ....
Chairman

F.W Kariuki ....
Director General

ANNEX 1 : Corporate Risks

IMPLEMENTATION STATUS OF THE MITIGATION PLANS FOR CORPORATE RISKS AS AT 30TH JUNE, 2016

No	Risk	Causes	Mitigating Plans	Status
1.	Inadequate internal human resource capacity.	• Failure to fully populate the approved organization structure.	• Fast - track the full population of the Organization structure as approved.	▪ The current staff establishment is at 55 out of the approved 70 number.
2.	Weakness of the competition law.	• Unclear legal procedures in enforcement of the law. • CAK has capacity to investigate but cannot prosecute a case. • Lack of administrative procedures.	• Propose amendments to certain sections of the Competition Act. • Develop various regulations to elucidate the law in terms of enforcement procedures.	▪ Some of the proposed amendments incorporated in through the Competition Amendment Bill, 2016. ▪ The Authority has developed guidelines in consumer protection, mergers and Restrictive Trade Practices (RTP).
3.	Litigation.	• Frivolous litigants. • Breach of law. • Impact of CAK's decisions	• Enhanced provision for litigation costs.	▪ Kshs. 20 M allocated for legal costs in the 2015/16 FY budget. ▪ Tribunal established.
4.	Information asymmetry.	• Lack of cooperation from some stakeholders. • Lack of data (both internal and external).	• Enhance cooperation frameworks with stakeholders. • Market inquiries to build CAK's database. • Amendment of the Act to compel parties to give information.	▪ MOUs concluded with KEBS, IRA and AFFA. ▪ Five market inquiries have been completed. ▪ The proposed amendments incorporated in the Competition Amendment Bill, 2016.
5.	Overreliance on the exchequer for funds.	• Inability to generate sufficient internal revenue. • Nature of CAK (Non - commercial government agency).	• Initiatives for enhanced resource mobilization. • Conduct joint activities with other institutions in order to share costs. • Lobbying at the national level.	▪ Penalties and fines ▪ Merger filing fees from COMESA Competition Commission ▪ Participated in various County forums ▪ Proposals to the development partners such as Belinda Gates, FSD, and TrademarkEA were done. ▪ Engagement with the National Treasury to have the CAK budget enhanced. Recurrent and development budget increased byKshs. 20M and Kshs. 54.5M respectively.
6.	Misappropriation of funds.	• Inadequate or lack of internal controls in financial management. • Lack of integrity.	• Enhance the finance policies and procedures and other internal financial controls. • Enhanced sensitization and integrity. • Enforce compliance with the Code of Conduct	▪ Finance Procedure Manual developed and approved and is currently being implemented. ▪ Code of Conduct being implemented.
7.	Staff turnover.	• Uncompetitive remuneration and motivation. • Unconducive work environment.	• Engage SRC on the conclusion of the Job Evaluation exercise. • Implement reward and recognition systems. • Continuously improve the work environment. • Enhance internal staff communication through appropriate plans, policies and procedures.	▪ Work environment improved through: Computer: Staff ratio is 1:1, additional furniture. ▪ Improved the internal communication ▪ Policy on talent management approved.
8.	Sub-optimal IT infrastructure.	• Lack of a Business Continuity Plan • Most processes are manual	• Acquire and implement the ERP and Case Management systems.	▪ The ERP and Case Management systems being implemented. ▪ Training on Business Continuity Management done.
9.	Lack of knowledge on existence of CAK.	• Inadequate awareness campaigns. • Inadequate funds for marketing.	• Enhance publicity strategies as per the communication plan. • Lobby for more funds for public relations.	▪ Communications policy developed and being implemented. ▪ Resource mobilization effort enhanced.

ANNEX II: Merger Notifications

Merger notifications for 2015/2016 Financial Year				
S/No	**Parties involved**	**Sector/market**	**Summary**	**Decision**
1	Tusker Mattresses and Ukwala Supermarkets 18/7/2015	Retail distribution	The transaction involved purchase of the business and assets of Ukwala Supermarkets (Kisumu) Limited by Choppies Enterprises Kenya Limited. Analysis of the transaction revealed that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
2	Ecom Agro industrial Corp. Limited and Armajaro Trading Limited 17/11/2014	Agriculture	The transaction was an acquisition of 100% of the issued share capital of Armajaro Trading Limited by EcomAgro industrial Corp Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
3	Effco Solutions Limited and Mine site Kenya Limited 5/12/2014	Mining	The merger involved acquisition by Effco Solutions Limited of the entire issued share capital in Mine site Kenya Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification	Excluded from the provisions of Part IV of the Act.
4	Kongoni Farm Limited and Schreurs Naivasha Limited 26/1/2015	Horticulture	The transaction involved acquisition of 100% of the Assets of Schreurs Naivasha Limited by Kongoni River Farm Limited. Analysis of the transaction revealed that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
5	Hass Consult Limited and Ithanji Company Limited 6/7/2015	Property	The transaction involved acquisition of 100% of the issued share capital of Ithanji Company Limited by Hass Consult Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
6	Rift Valley Solar Park 2/4/2015	Energy	The transaction involved reorganization of Rift Valley Solar Park hence no change in beneficial ownership.	Not a merger.
7	Consol Glass Proprietary Limited and Central Glass Industries 17/4/2015	Manufacturing	The transaction involved acquisition of the entire issued share capital in Central Glass Industries Limited by Consol Glass proprietary Limited from East African Breweries Limited. Analysis of the transaction revealed that it would not negatively affect competition but would likelyraise negative public interest issues and therefore approved on condition that the merged entity retains the current eighty seven (87) employees and increases production from the current 31,500 Metric Tonnes to 36,500 Metric Tonnes within three (3) years of the merger.	Approved with conditions.
8	Ashut Engineering Limited and Afro Plastics Kenya Limited 201/4/2015	Manufacturing	The transaction involved acquisition of the assets of Afro Plastics Kenya Limited by Ashut Engineers Limited. Analysis of the transaction revealed that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
9	Sucriere Des Mascareignes Limited and Transmara Sugar Company 5/5/2015	Manufacturing	The transaction was acquisition of 51% of the issued share capital of Transmara Sugar Company Limited by Sucriere Des Mascareignes Limited. Analysis of the transaction revealed that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.

10	The Coca Cola Beverages Africa Limited and Nairobi Bottlers Limited 7/5/2015	Manufacturing	The transaction involved acquisition of Nairobi Bottlers Limited by The Coca Cola Beverages Limited. Analysis of the transaction revealed that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
11	The Coca Cola Company and Crown Beverages Limited 7/5/2015	Manufacturing	The transaction was an acquisition of Keringet Brand by The Coca Cola Company. Analysis of the transaction revealed that it would not negatively affect competition but would raise negative public interest issues. The merger was therefore approved on condition that production of Keringet brand shall be continued for at least three (3) years after the completion of the transaction, the acquirer shall retain the current number of one hundred and eighty six (186) employees at the Molo Plant (Keringet brand) for a period of at least two (2) years after the completion of the transaction and shall thereafter retain one hundred and forty (140) employees at that	Approved with conditions .
12	Centum Investment Company Limited and Vipingo Estate Limited 13/5/2015	Real Estate	The transaction involved acquisition of 100% of the entire issued share capital in Vipingo Estate Limited by Centum Investment Company Limited. Analysis of the transaction revealed that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
13	Ms. Amrita Kaur Dhillon and Corpack Kenya Limited 14/5/2015	Manufacturing	The transaction was an acquisition of the entire issued share capital of Corpack Kenya Limited by Ms. Amrita kaur Dhillon. Analysis of the transaction revealed that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
14	Netsol Kenya Limited and Brookside Hill Limited 25/5/2015	Real Estate	Netsol Kenya Limited acquired 100% of the issued share capital of Brookside Hill Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
15	Nakumatt Holdings Limited and Yako Supermarket Limited 8/6/2015	Retail distribution	Nakumatt Holdings Limited acquired the assets of Yako Supermarket Limited. Analysis of the transaction revealed that it would not negatively affect competition but would raise negative public interest issues. It was therefore approved on conditions that the merged entity retains all two hundred and eighty three (283) employees of Yako Supermarkets.	Approved with conditions.
16	Nokia Corporation and Alcatel Lucent 17/6/2015	Telecommunication	The transaction was an acquisition of over 50% issued share capital of Alcatel-Lucent by Nokia Corporation. Analysis of the transaction revealed th at it would not negatively affect competition but would raise negative public interest issues. The merger was therefore approved on condition that Nokia Corporatio retains at least forty three (43) of the fifty three (53) of Alcatel Lucent employees in Kenya.	Approved with conditions.
17	St. Patrick's Missionary Society Registered Trustees and Goodison Two Hundred Thirty Two Limited 3/7/2015	Real Estate	The transaction involved acquisition of 100% issued share capital of Goodison Two Hundred Thirty Two Limited by St. Patrick's Missionary Society Registered Trustees. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification	Excluded from the provisions of Part IV of the Act.
18	Zigler Management S.A. and Tekeleza Limited 5/5/2015	Financial	Zigler Management S.A. acquired the entire issued share capital of Tekeleza Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from provisions of Part IV of the Act

19	Razco Limited and Alpha Dairy 19/6/2015	Manufacturing	The transaction involved acquisition of the business and assets of Alpha Dairy Limited by Razco Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
20	CNRC Marco Polo Holdings S.P.A and Pirelli & C.S.P.A 22/6/2015	Manufacturing	CNRC Marco Polo Holdings S.P.A. acquired 65% of the shareholding of Pirelli & C. S.P.A. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
21	Kenya Academic Services Limited and Kenya College of Accountancy 24/6/2015	Education	The merger involved acquisition of Kenya College of Accountancy (KCA) University's non-degree programs and related assets by Kenya Academic Services Limited. Analysis showed that the transaction would not affect competition negatively nor raise any negative public interest issues.	Approved unconditionally.
22	Delta Machinery East Africa Limited and Tribatyre Africa Limited 6/7/2015	Distribution	The transaction involved acquisition of certain assets of Tribatyre Africa Limited by Delta Machinery East Africa Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from provisions of Part IV of the Act.
23	Mombasa Heavy Equipment Limited and Roosevelt Limited 29/6/2015	Real Estate	Mombasa Heavy Equipment Limited acquired 100% of the issued share capital as well as subscribing for the unissued shares in Roosevelt Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
24	East African Paper Mills and Chandaria Industries Limited 1/7/2015	Manufacturing	Mr. Mahesh Chandaria acquired control through a share swap agreement in Chandaria Industries Limited. Analysis of the transaction revealed it would not affect competition negatively nor raise negative public interest issues.	Approved unconditionally.
25	Norwich Union properties Limited and Lyric Investments Limited 7/7/2015	Real Estate	The transaction involved acquisition of Land Reference number 209/623 by Norwich Union Properties Limited from Lyric Investment Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from provisions of Part IV of the Act.
26	First Assurance Holdings Limited and First Assurance Company Limited 7/7/2015	Insurance	First Assurance Holdings Limited acquired 63.32% of the issued share capita l of First Assurance Company Limited. Analysis revealed that the transaction would not raise competition concerns but would raise public interest issues. The merger was approved on condition that the merged entity retains the 120 employees of the target u ndertaking.	Approved with conditions.
27	Old Mutual Alternative Investments Holdings and African Fund Manager 9/7/2015	Insurance	Old Mutual Alternative Investments Holdings proprietary Limited (OMAIH) acquired the remaining 50% shareholding i n African Fund Managers (AFM Mauritius). Analysis revealed that the merger would not affect competition negatively nor raise public interest issues.	Approved unconditionally.

28	Old Mutual Alternative Investments Holdings Proprietary Limited (OMAIH) and African Infrastructure Investment Fund 2 General Partner Proprietary Limited (AFIIF2 S.A. GP) 13/7/2015	Insurance	Old Mutual Alternative Investments Holdings Proprietary Limited (OMAIH) acquired the remaining 50% shareholding in African Infrastructure Investment Fund 2 General PartnerProprietary Limited (AFIIF2 S.A GP). Analysis revealed that the merger would not affect competition negatively nor raise public interest	Approved unconditionally.
29	Bimas Kenya Limited and Initiative & Management Assistance Services Limited 13/7/2015	Financial	The transaction involved acquisition of the Microfinance business of Business Initiatives and Management Assistance Services Limited by Bimas Kenya Limited. The transaction was not a merger since there was no change of control post transaction.	Not a merger.
30	Royal Dutch Shell and Share Capital of BG Group PLL 20/7/2015	Energy	Royal Dutch Shell PLC acquired the entire issued share capital of BG Group PLC. The transaction was excluded since it would not affect competition negatively and did not meet the merger threshold.	Excluded from the provisions of Part IV of the Act.
31	Section Investments Limited and Mount Kenya Safari Club Holdings Limited 3/8/2015	Hospitality	The transaction involved acquisition of 100% of issued share capital of Mount Kenya Safari Club Holdings Limited by Section Investments Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
32	Kenya Education Limited and Brook House School Limited 4/7/2015	Education	The transaction involved acquisition of the entire issued share capital of Brook House Schools Limited by Kenya Education Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act
33	Dawa Limited and Kel Chemicals Limited 11/8/2015	Manufacturing	Dawa Limited acquired 100% of the issued share capital in Kel Chemicals Limited. Analysis revealed that the merger would not affect competition negatively nor raise public interest issues.	Approved unconditionally.
34	Christopher Edward Young & Rachel Leah Sander and Nature Systems Kenya 13/8/2015	Tourism	The entire issued share capital in Nature Systems Kenya Limited was acquired by Christopher Edward Young & Rachel Leah Sander. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification	Excluded from the provisions of Part IV of the Act.
35	Johnson Controls (proprietary) Limited and CBRE Corporate Outsourcing Proprietary Limited 14/8/2015	Management	The transaction was an acquisition of all the business and assets in Kenya of Johnson Controls (proprietary) Limited by CBRE Corporate Outsourcing (PTY) Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
36	Constantia Flexibles International GMBH (CFLEX) and Afripack Holdings Proprietary Limited 18/8/2015	Packaging	The transaction involved purchase of Constantia Flexibles International GMBH (CFLEX) of the assets of Afripack Holdings Proprietary Limited (Afripack Holdings). The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
37	Flame Tree Africa Limited and Beauty Plus Trading E.A. 24/8/2015	Cosmetics	The transaction was an acquisition of Mr. Sigoria Shauri T/A Beauty Plus Trading East Africa by Flame Tree Africa Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
38	Tapes Kenya Limited and Kip Melamine Company. 25/8/2015	Manufacturing	The transaction involved acquisition of assets belonging to KIP Melamine Company by Taifa Tapes Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold formandatory merger notification.	Excluded from the provisions of Part IV of the Act.

39	KKRC Credit Advisors and JBF Global PLC (Limited) 28/8/2015	Financial	The transaction involved acquisition of JBF Global PTE Limited by KKR Credit Advisors (US) LLC. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
40	Victoria Industrial Chemicals Company Limited and Victoria Courts Trading Limited 28/8/2015	Manufacturing	Victoria Industrial Chemicals Company Limited acquired 50% of the shareholding in Victoria Courts Trading Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
41	Choppies Enterprises Kenya Limited (CEKL) and Ukwala Supermarkets(Nakuru Ukwala Supermarkets Limited, Ukwala Kisumu, Ukwala Nairobi) 28/8/2015	Retail distribution	The transaction involved purchase of the business and assets of Ukwala Supermarkets (Nakuru) by Choppies Enterprises Kenya Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
42	Betiereko Limited and Msitu Ziwani Limited 28/8/2015	Real Estate	Betiereko Limited acquired Msitu Ziwani Limited from Stephen Jackson and Rosalind Reeve. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
43	Global Travel Services & Kuoni Reisen Beteilinungs AG and Private Safaris 15/9/2015	Tourism	Kuoni Reisen AG transferred 100% shareholding in Private Safaris (East Africa) Limited to Kuoni Global Travel Services AG and Kuoni Risen Beteiligungs AG. The transaction was not a merger since there was no change in ownership.	Non-merger.
44	Vivo Energy Holding B.V. (VE Group) and Shell & Vitol Lubricants BV (SVL Group) 23/9/2015	Energy	The transaction was a reorganization of the activities of VIVO Energy Holding BV (VE Group) and Shell and Vitol Lubricants BV (SVL Group). This was a non- merger since there was no change in ownership.	Non-merger.
45	QG Africa Infrastructure and Seruji Cement Limited 9/9/2015	Manufacturing	The transaction was an acquisition of 49.8% issued share capital together with certain rights as shareholder and a subscription for 100% preference shares in Seruji Limited by QG infrastructure I L.P. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
46	VIP Terminals Finance and VTTI B.V 15/7/2015	Energy	The transaction was an acquisition of 50% of the shares in VTTI B.V. by VIP Terminals Finance B.V. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
47	EA Infra Holdings (Mauritius) Limited and Incorp Limited 11/7/2015	Financial	The merger was an acquisition of 30% ordinary shares in Incorp Limited by EA Infra Holdings (Mauritius) Limited. Analysis revealed that the merger would not affect competition nor raise public interest issues.	Approved unconditionally.
48	I&M Holdings and Greenspan Mall Limited 15/9/2015	Real Estate	The acquisition of all the issued share capital in Giro Commercial Bank Limited by I&M Holdings Limited. Analysis of the transaction revealed that the merger would not raise competition concerns. However, the merger was found to raise some public interest issues as it would have led to loss of jobs. The transaction was approved on condition that all the one hundred and eight (108) employees of Giro Bank are retained by the post- merger entity.	Approved with conditions.

49	Stanlib Kenya Limited and Greenspan Mall Limited 15/9/2015	Property	The transaction was an acquisition of 100% of the issued share capital of Greenspan Mall Limited by Stanlib Limited (as promoter of Fahari Property Income Fund). The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
50	Trinity Energy Limited and Aglo Energy Refining Corporation (K) Limited 18/9/2015	Energy	The transaction was an acquisition of 100% of the issued share capital of Aglo Energy Refining Corporation (Kenya) Limited by Trinity Energy Lim ited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
51	Rodger Steadman & Halima Steadman and Larkwood Properties 18/9/2015	Property	Roger Steadman and Halima Steadman acquired 100% of the issued share capital of Larkwood Properties Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
52	Unity Capital partners and Unity Homes Limited 22/9/2015	Property	The transaction involved acquisition of the shares in Unity Homes Limited by Unity Capital Partners. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
53	Heron Portico and Zehneria Hotel 22/9/2015	Hospitality	The merger was consummated without Authority's approval	Ongoing
54	Inter-consumer Products Limited and Kenya Hotels Properties Limited 25/9/2015	Manufacturing	The transaction involved acquisition of Kenya Hotels Properties Limited by Inter-consumer Products Limited	Forwarded to Enforcement and Compliance Department
55	Sovereign Trust Limited and Kenya Hotels Properties Limited 29/9/2015	Hospitality	The transaction involved acquisition of 5,874,391 shares in Kenya Hotels properties Limited by Sovereign Trust Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
56	Sun Capital Partner and Finlays Horticultural Investments & Finlay 5/10/2015	Horticulture	Zara UK Acquico acquired 100% of the issued and outstanding shares in Finlays Horticulture Investments Limited and Finlays Horticultural Holdings Limited. The merger was excluded since it would not cause competition concerns.	Excluded from the provisions
57	Flashcom Holdings Limited and Flashcom Limited 5/10/2015	Telecommunication	This was an acquisition of the entire issued share capital in Flashcom Limited by Flashcom Holdings Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
58	Zephaniah Gitau Mbugua and Frashcom Holdings Limited 5/10/2015	Telecommunication	The transaction was an acquisition of the entire issued share capital in Flashcom Holdings Limited by Zephaniah Gitau Mbugua. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
59	Frashcom Holdings Limited and Universal Connected 5/10/2015	Telecommunication	The transaction involved acquisition of the entire issued share capital in Universal Connect by Flashcom Holdings Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.

60	Julius Kinyua Njagi and Flashcom Holdings Limited 9/10/2015	Telecommunication	The transaction was an acquisition of the entire issued share capital in Flashcom Holdings Limited by Julius Kinyua Njagi. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act .
61	Sperantes Holdings Limited and Xpedia Management Limited 12/10/2015	Telecommunication	The transaction involved restructuring of Xpedia Management Limited. The transaction was not a merger since it involved restructuring and therefore no change in the beneficial ownership.	Non-merger.
62	Ollerai Investments Limited and Oltepesi Properties Limited 21/10/2015	Real Estate	Ollerai Investments Limited acquired 51,670 ordinary shares in Oltepesi Properties Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
63	Nakumatt Holdings 13/10/2015	Retail distribution	The transaction involved reorganization of Nakumatt Holdings Limited. The transaction was a non-merger since it was a reorganization and therefore no change in ownership/control	Non-merger.
64	AON UK Holdings Intermediaries Limited and AON Kenya Insurance Brokers Limited 22/10/2015	Insurance	The transaction involved acquisition of additional 16% ordinary shares in AON Kenya Insurance Brokers Limited by Aon UK Holdings Intermediaries Limited. Analysis revealed that the merger would not have negative effects on competition nor raise public interest issues.	Approved unconditionally.
65	Rivallyn Overseas Holdings Limited and Quadco Two Hundred and Eighty Nine Limited 22/10/2015	Real Estate	Rivallyn Overseas Holding Limited acquired all the issued and outstanding shares in Quadco Two Hundred and Eighty Nine Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
66	Caribe Restaurants Limited and Sous Chef Limited 29/10/2015	Hospitality	The transaction involved acquisition of Ninety Seven per cent (97%) of the issued share capital in Sous Chef Limited by Caribe Restaurants Limited. Analysis revealed that the merger would not affect competition negatively.	Excluded from the provisions of Part IV of the Act.
67	Hunting Energy Services International Services and Alpha Logistics Services Limited 30/10/2015	Logistics	The transaction involves a joint venture between Hunting Energy Holdings Limited and Alpha Logistics Services (EPZ) Limited	Ongoing.
68	Watson Bidco B.V and Agribio Africa Limited Fides Kenya Limited & Color Vision Roses Limited 10/11/2015	Horticulture	This was a transfer of beneficial ownership and control of Agribio Africa Limited, Fides Kenya Limited and Color Vision Roses Limited From Green Group B.V. to Watson Bidco B.V. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of the Act.
69	Flower Bulbs East Africa Limited and Africallalily Kenya 2/11/2015	Floriculture	The transaction was transfer of shares of Africallalily Kenya Limited to Flower Bulbs East Africa Limited. The transaction was not a merger.	Non-merger.
70	CDC Group PLC and Gems Cambridge International School Limited (Gems Kenya) 2/11/2015	Education	The transaction involved indirect acquisition of up to 33.3% of the issued share capital of Gems Cambridge International School Limited by CDC Group PLC. The transaction was not a merger since there was no change in control of the target.	
71	VK Logistics Limited and General Cargo Services Limited 2/11/2015	Logistics	VK Logistics Limited acquired 100% issued share capital of General Cargo Services Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from provisions of Part IV of the Act

72	VK Logistics Limited and General Cargo(Transport) Limited 10/11/2015	Logistics	VK Logistics Limited acquired 80% issued share capital of General cargo (Transport) Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act .
73	Kwale International Coconuts Company Limited (KICCL) and Serendi Kenya Limited 12/11/2015	Agriculture	The transaction was an acquisition of 100% of issued and outstanding shares in Serendi Kenya Limited by Kwale International Coconuts Company Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act .
74	Pan African Equipment (Kenya) Limited and Lima Management Services Limited 12/11/2015	Distribution	The transaction involved acquisition of various assets of Lima Limited byPan African Equipment (Kenya) Limited. Analysis revealed that the merger would not have negative effects on competition nor raise public interest issues.	Approved unconditionally.
	Pan African Equipment (Kenya) Limited and Lima management Services Limited 12/11/2015	Distribution	The transaction involved acquisition of the entire shareholding of Lima Management Services Limited by Pan African Equipment (Kenya) limited. The transaction was excluded since it would not cause negative competition effects.	Excluded from the provisions of Part IV of the Act.
75	Pan African Equipment (Kenya) Limited and Farm machinery Distributors (East Africa) Limited 17/11/2015	Distribution	Pan African Equipment (Kenya) limited acquired the entire shareholding of Farm machinery Distributors (East Africa) Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
76	Delonex Kenya (One) Limited and Marathon Kenya Limited 20/11/2015	Exploration	Delonex Kenya (One) Limited acquired 50% participating interest held by Marathon Kenya Limited B.V. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
77	Piotr Sebastian Hutter & Greze Gorz Leszel Kepski and Focus Limited 25/11/2015	Real Estate	Mary Gabrielle Eleonora Beckmann, Teresa Jadwiga Sapienha, Wycliffe Itengu Matekwa, Sarah Nyambura Ndung'u, Stella Murugi Mwaniki, Dominic Mwale Ogega and Maray Ciumwari Mwaniki acquired 100% of the issued share capital of Eco Focus Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
78	Nakuru Polysack Industries Limited and The Business Assets of Kabazi Canners Limited 25/11/2015	Manufacturing	The matter involved acquisition of the business assets of Kabazi Canners limited by Nakuru Polysack Industries Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of the Act.
79	I & M Holdings and Burbidge Capital Limited 30/11/2015	Financial	The acquisition of 65% of the issued share capital of Burbridge Capital by I&M Holdings Limited. Analysis revealed that the merger would not affect competition.	Approved unconditionally.
80	Panalpina Welttrasport (Holdings) AG and Airflo Limited 1/12/2015	Logistics	The transaction involved acquisition of 75% of the issued share capit al of Airflo Limited by Panalpina Wettransport (Holding) AG. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions ofthe Act.

81	Orchid Capital Limited and Genghis Capital Limited 1/12/2015	Investment	The transaction involved transfer of the business of Orchid Capital Limited to Genghis Capital Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of the Act.
82	East African Coffee LLP & Ecom Agro Industrial Corp Limited and Coffee Dorman PTE Limited & Bombax Coffee Holdings PTE Limited 4/12/2015	Hospitality	The transaction was a share purchase by East Africa Coffee Co. LLP and Ecom Agro industrial Corp Limited of Coffee Domain PTE Limited and Bombax Coffee Holding PTE from Verb Foundation. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of the Act.
83	High Chem East Africa Limited 4/12/2015	Retail distribution	The transaction involved transfer of shares in High Chem East Africa Limited. The transaction was not a merger since there was no change in control post transaction.	Non-merger.
84	Delonex Kenya (One) Limited and Tullow Kenya B.V 8/12/2015	Energy	Delonex Kenya (One) Limited acquired 25% participating interest held by TullowKenya B.V. in Block 12A. The transaction was not a merger since it would not lead to establishment of control post transaction.	Non-merger.
85	Joyce Alukwili and Photomap Limited 9/12/2015	Photography	The transaction was a transfer of shares in Photomap Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from provisions of the Act.
86	Centric Energy Kenya Limited & others and Maersk Oil Exploration International Limited 10/12/2015	Energy	The matter involved farm out between Centric Energy (Kenya) Limited, Africa Oil Turkana Limited, Africa Oil Kenya BV, Maersk Oil Exploration International K1 Limited, Maersk Oil Exploration K2 Limited, and Maesrk Oil Exploration International K3 Limited, with respect to B lock 10BA, Block 10BB and Block 13T Republic of Kenya. The transaction was not a merger as it would not lead to establishment of control post transaction.	Non-merger.
87	Trouay & Cauvin Limited. 10/12/2015	Distribution	The transaction was a reorganization of Trouvay & Cauvin Limited. The transaction was not a merger since there was no change in ownership post transaction.	Non-merger.
88	Tracy & Thomas Bowman and Guia Limited, Tafaraji & Gudulia Limited 14/12/2015	Construction	The transaction was a transfer of Nine (9) ordinary shares in Guia Limited, Tafaraji and Gudulia Limited to Tracy Bowman & Thomas Bowman. The transaction was not a merger since there would be no change in control post transaction.	Non-merger.
89	Kenya Power Lighting Company Limited Staff Retirement Scheme and Kenya Power & Lighting Company Limited Staff Retirement Scheme 2006 and Gulf Power Limited 14/12/2015	Financial	The transaction was an acquisition of 10% of the shares of Gulf Power Limited by Kenya Power & Lighting Company Limited Staff retirement Scheme and Kenya Power & Lighting Company Limited Staff Retirement Scheme 2006. The transaction did not lead to change in control and therefore was not a merger.	Non-merger.
90	Nirav Agencies Limited and Pisu Energy Services Africa Limited 16/12/2015	Energy	Nirav Agencies Limited acquired 100% of the assets and business of Pisu Energy Services Africa Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of the Act.

91	Radio Africa Limited and My Kenya Networks Limited 18/12/2015	Telecommunication	The transaction was an acquisition of 1005 of the issued shares of My Kenyan Network Limited by Radio Africa Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
92	Shanif Dewany & Charles Omanga and Horizon Africa Capital Limited 18/12/2015	Financial	Shanif Dewany and Charles Omanga acquire 100% of the issued share capital in Horizon Africa Capital Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of the Act.
93	Daly & Figgs Advocates and Inamdar & Inamdar 31/12/2015	Legal	The transaction involved amalgamation of Daly & Figgis Advocates with Inamdar & Inamdar Advocates. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of part IV of the Act.
94	Stitching Bewaarder TBL Mirror Fund II and Highlands Mineral Water Company Limited 7/1/2016	Manufacturing	Stitching Bewaarder TBL Mirror Fund II purchased shares in Highlands Mineral Water CompanyLimited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
95	MS GlobalAG and Bayer East Africa Limited 11/1/2016	Distribution	The transaction involved purchase by MS Global AG of the Material Science assets, Liabilities and Agreements by Bayer East Africa Limited. The transaction was not a merger since there would be no control post transaction.	Non-merger.
96	Anthem Inc. and Cigna International Health Services Kenya Limited 12/1/2016	Healthcare	Anthem Inc. acquired 100% of the issued share capital of Cigna International Health Services Kenya Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of the Act.
97	Fleurlen & Nooijen B.V (F&n) and Jambo Fish Limited (Jambo Fish) 13/1/2016	Aquaculture	The matter involved sale of shares in Jambo Fish Lim ited to Fleuren & Nooijen B.V.The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
98	AcornInvestments Limited and Helios Investment III LIP 14/1/2016	Property	The transaction involved a joint venture between Helios Investment partners LLP (Helios) and Certain Shareholders of Acorn Group Limited (Acorn). Analysis indicated that the merger would not have negative effects on competition nor raise public interest issues.	Approved unconditionally.
99	Flame Tree Africa Limited and Suzie Beauty Limited 19/1/2016	Manufacturing	The transaction involved acquisition of the brands of Suzie Beauty Limited by Flame Tree Africa Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
100	Jamhuri Holding Limited and Telkom Kenya Limited 27/1/2016	Telecommunication	The transaction involved acquisition of 70% of the issued share capital of Telkom Kenya Limited by Jamhuri Holdings Limited. Analysis revealed that the merger would not raise competition concerns or public interest issues.	Approved unconditionally.
101	Alistair Cavenagh and Crosskey Investment Limited & Trustcorp (Jersey) Limited 28/1/2016	Investment	Alistair Cavenagh acquired 99% of the shares in Crosskey Investment Limited from Trustcorp (Jersey) Limited. The transaction was not a merger since beneficial ownership would not change post-transaction.	Non-merger

102	Kittony Waiyaki & Company Advocates and J.W. Nduati & Associates 4/2/2016	Legal	The transaction involved a merger between Kittony Waiyaki & Company Advocates and J.W. Nduati & Associates. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notifications.	Excluded from the provisions of the Act
103	A.K. Somji 4/2/2016	Investment	The transaction involved internal family restructuring of Kenyan Companies belonging to A.K. Somji. The transaction was not a merger since there was no change in control of the target undertaking post transaction.	Non-merger
104	Innscor International Franchising Limited and Innscor Africa Limited 4/2/2016	Investment	The transaction involved restructuring of Innscor Investments Kenya Limited. The transaction was not a merger since there was no change in ownership post transaction.	Non-merger
105	Anheuser Busch INBEV SA/NV and SabMiller PLC 11/1/2016	Manufacturing	The merger involved acquisition of the controlling shareholding of Sab Miller PLC by Anheuser-Busch INBEV SA/NV. Analysis revealed that the merger would not raise competition concernsor public interest issues.	Approved unconditionally.
106	OMP Africa Investment Company PTY Limited and Two Rivers Lifestyle Centre Limited 17/2/2016	Real estate	OMP Africa Investment company PTY Limited acquired 40% of the ordinary shares in Two Rivers Lifestyle Centre Limited. Analysis revealed that the merger would not raise competition concerns nor raise public interest issues.	Approved unconditionally.
107	Wananchi Satellite Distribution Limited and Wananchi Group Kenya Limited 18/2/2016	Telecommunication	The transaction involved transfer of Wananchi Group Kenya Limited's direct-to-home Business to Wananchi Satellite Distribution Limited. The transaction was not a merger since there was no change of control of the target undertakingpost transaction.	Non-merger.
108	Croton Industries east Africa Incorporated (CROTON) and ECO Fuel Limited (ECO Fuel) 19/2/2016	Energy	Croton Industries East Africa Incorporated acquired all the issued share capital in Eco Fuel Kenya Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover of the undertakings was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
109	Godrej East Africa Holdings Limited and Canon Chemicals Limited 23/2/2016	Manufacturing	The transaction involved acquisition of 100% of the issued share capital of Canon Chemicals Limited by Godrej East Africa Holdings Limited. Analysis revealed that the merger would not raise competition concernsor public interest issues.	Approved unconditionally.
110	Catalyst OCL Investment LLC and Stellar Investment Holdings Limited 29/2/2016	Manufacturing	The transaction was an acquisition of certain assets in Stellar Investment Holdings Limited by Catalyst OCL Investment LLC pursuant to the provision of a convertible debt instrument. Analysis indicated that the merger would not negatively affect competition nor raise any negative public interest.	Approved unconditionally.
111	Financial Access Consulting Services B.V and Financial Access Capital partners B.V 29/2/2016	Financial	Financial Access Consulting Services B.V. acquired 49% of the shares in Financial Access (East Africa) Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IVof the Act.
112	EQT Services (UK) Limited and Kuoni Travel Holdings Limited 1/3/2016	Tourism	The transaction involved acquisition of sole control of Kuoni Travel Holdings by EQT Services (UK) Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act

113	Land O'Lakes Kenya Holdings Proprietary Limited and Bidco Africa Limited 8/3/2016	Manufacturing	The transaction is a joint venture between Land O'Lakes Kenya Holding Proprietary Limited and Ultimate Shareholders of Bidco Africa Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of part IV of the Act
114	Kenya Towers Limited and East Africa Towers Co. Limited & Safaricom Limited 19/2/2016	Telecommunication	The parties sought an advisory opinion	Opinion issued.
115	Strides Pharma (Cyprus) Limited and Universal Corporation Limited 18/3/2016	Manufacturing	Strides Pharma (Cyprus) Limited acquired 51% of the issued share capital in Universal Corporation Limited. Analysis of the transaction revealed that it would not negatively affect competition issues.	Approved unconditionally.
116	Network International LLC and Actis Emph Limited & Others 21/3/2016	ICT	Network International LLC acquired the entire issued share capital of Emerging Markets Holding (Mauritius) Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of the Act.
117	Alstair Cavenagh and Bundu Sport Tours Limited 22/3/2016	Tourism	The transaction involved transfer of 99% of the shares in Bundu Sport Tours Limited from Trustcorp (Jersey) Limited to Alstair Cavenagh. The transaction was not a merger as there would be no change in beneficial ownership post transaction.	Non-merger
118	Siraal Investments Limited and Countryside Dairy Limited 22/3/2016	Manufacturing	The transaction involved proposed acquisition of 52% of the issued share capital of Countryside Dairy. The merger was consummated without the Authority's approval and therefore forwarded to Enforcement and Compliance for further action.	Forwarded to Enforcement and Compliance Department
119	CCI Global (Mauritius) Limited and Direct Channel Simbatech (K) Limited 30/3/2016	ICT	The transaction was a merger between CCI Global (Mauritius) Limited and Direct Channel Simbatech (Kenya) Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of the Act.
120	REIO Limited and Benaa Limited 2/3/2016	Real Estate	Reio Limited acquired 750 shares of the unissued share capital of Benaa Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of the Act.
121	Africa Bovine Limited an KEG Holdings Limited 12/4/2016	Energy	The transaction involved acquisition of 30% of the ordinary shares in KEG Holding Limited by Africa Bovine Limited. Analysis of the transaction revealed that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
122	Air Traffic limited and Cleodhurst Limited 13/4/2016	Aviation	Air Traffic Limited acquired 70% of the shares in Cleodhurst Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
123	Wilderness Holdings Limited and Musiara Limited 3/5/2016	Hospitality	The transaction was an acquisition by Wilderness Holdings Limited of 51% of the issued share capital in Musiara Limited, Goodison Forty Two Limited and Goodison Ninety One limited and 49% of the issued share capital of Governors Aviation Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.

124	Centum Investments Company Limited and Longhorn Publishers Limited 21/4/2016	Publishing	Centum Investment Company Limited acquired additional 19.75% in the issued share capital of Longhorn Publishers Limited giving it a controlling interest of 51%. Analysis of the transaction revealed that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
125	Reunert Limited and Metal Fabricators of Zambia PLC 29/4/2016	Distribution	The transaction involved acquisition of 75.39% of the Ordinary shares in Metal Fabricators of Zambia PLC by Reunert Limited . Analysis indicated that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
126	Humphrey Kariuki Ndegwa and Kigumba Limited 29/4/2016	Petroleum	The transaction involved the acquisition of Kigumba Limited by Humphrey Kariuki Ndegwa. This would lead to Mr. Ndegwa gaining indirect control in Dalbit Petroleum Limited	Ongoing.
127	Apis Growth 4 Limited and 3G Direct Pay Limited 5/5/2016	Financial	APIS Growth 4 Limited indirectly acquired Direct Pay Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
128	Kisima Management Company Limited and Section Investments Limited 11/5/2016	Hospitality	The transaction involved acquisition of control in Section Investment by Kisima Management Company Limited. Analysis revealed that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
129	Kenya Towers Limited and East Africa Towers Limited 5/5/2016	Telecommunication	Kenya Towers Limited acquired certain passive infrastructure of East Africa Towers Company Limited. Analysis of the transaction revealed that it would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
130	PH Business Solutions Limited and Mentor Management Limited 10/5/2016	Real Estate	PH Business Solutions Limited acquired a controlling interest in a section of the business of Mentor management Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
131	Joseph Charleson & Gillian Charleson and Natural Habitat Safaris Limited 5/12/2016	Tourism	The transaction involved transfer of 51% of shares in Natural Habitat Safaris Limited from Natural Habitat INC. to Joseph Charleson and Gillian Charleson. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
132	WS Atkins International and Howard Humphreys (EA) Limited 13/5/2016	Consultancy	The transaction involved acquisition of the entire issued share capital of Howard Humphreys (East Africa) Limited by WS Atkins International limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
133	POA International Limited and Argon Telecom Services Limited 20/5/2016	Telecommunication	The transaction involved transfer of 99% of the shares in Argon Telecom Services Limited from Argon Telecom Services Limited (UK) to POA International Limited. The transaction was not a merger since there was no change in beneficial ownership post transaction.	Non-merger.
134	NTT Data International LLC and DELL Inc 20/5/2016	Internet	The transaction was an acquisition by NTT Data International LLC and its affiliates of the Information Technology Service Business of Dell Inc. The transaction was not a merger since the acquirer does not have operations in Kenya and there were no change in control of DELL INC subsidiary in Kenya post transaction.	Non-merger.

135	Gamcode Limited and Konicom Limited 17/5/2016	Services	Gamcode Limited acquired 100% shareholding in Konicom Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
136	Edward Ndegwa Wachira and Red Hot Branding Limited 20/5/2016	Advertising	The transaction involved acquisition of 850 shares in Red Hot Branding Limited currently held by Ovidian Advertising and Design Limited by Edward Ndegwa Wachira. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act .
137	John Miles and John Miles Arbitration Investigation 3/5/2016	Legal	The transaction involved acquisition by John Miles of One share from Sonal Sejpal in John Miles Arbitration Investigation and Consultancy Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
138	Catalyst Kinetic Investments LLC and Kinetic Holdings Limited 24/5/2016	Manufacturing	Catalyst Kinetic Investments LLC acquired 43.8% of the shares of Kinetic Holdings Limited. Analysis revealed that the transaction would not negatively affect competition nor raise any negative public interest issues.	Approved unconditionally.
139	Mara EPZ Limited and Indu Farm Export Processing Zone Limited 17/5/2016	Manufacturing	The transaction involved acquisition of the business assets of Indu Farm Export Processing Zone Limited by Mara EPZ Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
140	Goodison Two Hundred and Seventy Three Limited and Genghis Capital Limited 3/5/2016	Property	Goodison Two Hundred and Seventy Three Limited acquired 100% of the issued share capital in Genghis Capital Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
141	CDC Africa Cement Limited and ARM Cement Limited 3/6/2016	Manufacturing	CDC Africa Cement Limited acquired 40.7% of the Ordinary shares and control in ARM Cement Limited with certain veto rights. Analysis revealed that the merger would not negatively affect competition nor raise any negative public interest.	Approved unconditionally.
142	CDC Group PLC and I&M Holdings Limited 3/6/2016	Financial	CDC proposes to acquire minority stake of 10.68% of the issued share capital in I&M Holdings Limited with certain veto rights	Ongoing.
143	Amit Ashok Doshi & Pratibha Ashok Doshi and Peter Ian Talbot & Jill Mary Talbot 2/5/2016	Real Estate	The transaction involves acquisition of Site Villa Limited by Amit Ashok Doshi & Pratibha Ashok Doshi from Peter Ian Talbot & Jill Mary Talbot	Ongoing.
144	Dow Dupont Inc. and The Dow Chemical Company & E I. du Pont De Nemours 13/6/2016	Distribution	The transaction involved acquisition of shares in the Dow Chemical Company and E.I Du Pont De Nemours and Company by Dow Dupont INC. Analysis revealed that the transaction would not negatively affect competition nor raise public interest issues	Approved unconditionally.
145	MSS Seidor S.L and Bluekey Holdings Proprietary Limited 15/6/2016	ICT	MSS Seidor S.L acquired 60% of the issued share capital of Blue key Holdings Proprietary Limited. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
146	Sunset Ridge Properties Limited & Bundu Sports Tours Limited & Humphrey Kariuki Ndegwa and Crosskey Investments Limited 20/6/2016	Tourism	The transaction involves transfer of 100% issued shares from Crosskey Investments Limited to Sunset Ridge Properties Limited.	Ongoing.

147	Fusion Real Estate Development Trust Commercial and Meru Greenwood Park Limited 21/6/2016	Real Estate	The transaction involved acquisition of Meru Greenwood Park Limited by The Fusion Real Estate Development Trust-Commercial. The transaction was excluded since it would not negatively affect competition and the combined turnover was below the threshold for mandatory merger notification.	Excluded from the provisions of Part IV of the Act.
148	Longhorn Publishers Limited and Law Africa Publishing Limited 25/6/2016	Publishing		Ongoing.
149	AfricinvestFund III LLC and Silafrica Plastics & Packaging International Limited 29/6/2016	Manufacturing	The transaction involves acquisition of shares and certain veto rights in Silafrica Plastics and Packaging International Limited by Africinvest Fund III LLC.	Ongoing.
150	Tarlochan Limited and Pan African Paper Mills 2015 30/6/2016	Manufacturing	The transaction involves acquisition of 100% of the shares in Pan African Paper Mills 2015 Limited by Tarlochan Limited.	Ongoing.
151	Winwa Development Limited and Barbara Robin Steen Limited 30/6/2016	Real Estate	The transaction involves sale of shares in Steenstrup Consulting Services Limited by Barbara Steenstrup to Winwa Development Limited.	Ongoing.
151	Winwa Development Limited and Barbara Robin Steen Limited 30/6/2016	Real Estate	The transaction involves sale of shares in Steenstrup Consulting Services Limited by Barbara Steenstrup to Winwa Development Limited.	Ongoing.

ANNEX III: Enforcement and Compliance Cases

S/No	Cases/Inquiry	Sector/ Market Affected	Case Summary	Relevant Section of the Act	Case Status/Decision
1.	CAK and Crown Beverages	Alcoholic Beverages	Allegations of price fixing and territory allocation agreements with distributors	The conduct relates to restrictive vertical agreements which were in contravention of section 21 (3)(a)	Crown entered into a settlement with CAK and paid a pecuniary penalty of xx million and undertook to have an internal competition compliance program.
2.	CAK and Kenya Breweries Ltd (KBL)	Alcoholic Beverages	CAK initiated investigations into the sector in March 2014. Two players Crown beverages Ltd .and Kenya Breweries Ltd .was found to be in contravention of section 21 through their respective distributor agreements	Section 21(3) (a), (b) and (e)	Crown beverages had settled. KBL is yet to settle and since taken the matter to the Competition Tribunal for redress.
3.	CAK and Magnate Ventures	Advertising	CAK investigated members of the Outdoor Advertising Association of Kenya regarding price fixing for the 10M X 12M billboards in Kenya	Conduct relates to collusion on price under the auspices of the Outdoor Advertising Association of Kenya Platform which is prohibited under sections 21(1), (3)(a) and 22(2) (a) of the Act	Investigations were completed and magnate opted for a settlement paying 5 million in pecuniary penalties.
4.	CAK and Tangerine				The party settled with CAK
5	CAK and Base One Media				Party has proposed to settle and pay a financial penalty of 100,000
6.	CAK and Look Media				The party settled with CAK and paid a financial penalty
7.	CAK and Spellman & walker				The party settled with CAK and paid a financial penalty
8.	CAK and Ingenious				Settlement with the party still being pursued
9.	CAK and Firm Bridge				Party settled the matter with CAK paying Kshs.604,000 in financial penalties
10.	CAK and Consumer Link				Party settled the matter with CAK paying Kshs. 1.2 million in financial penalties
11.	CAK and A1 Outdoor Ltd				The party settled with CAK paying a financial penalty
12.	CAK and Live Ad				The party settled with CAK paying a financial penalty
13	CAK and Adsite Ltd				The party settled with CAK paying a financial penalty
14.	CAK and Notos Ltd				The party settled with CAK paying a financial penalty
15.	Multi-choice Kenya	Media	CAK on its own motion launched full investigations into the conduct of firms and persons in the pay TV subsector with the aim of establishing whether there were any infractions of the Act. The suspicion was triggered by; exit of	The conduct investigated related to vertical agreements prohibited under section 21(1) and 21(3) of the Act.	Investigations concluded and a notice of proposed decision issued to Multi-choice pursuant to the provisions of section 24 of the Act.
16.	Cement Sector Investigation	Building & construction	The Authority initiated investigations into the conduct of players in the cement industry following an ACF Study of cement indicated possibility of collusion in the industry.	The investigations focused on likelihood of collusion on price and restricting output under the auspices of the east African Cement Producers Association which are violations under Sections 21 (1),(3)(b),(e) and (i) of the Act	Investigations finalized and hearing conferences held for all the parties.CAK is in the process of taking a decision on the matter at the time of publication of this report.

17.	Uniform Case	Textiles	The Nakuru Residents Association complained in January 2016 that schools in Nakuru were colluding with two uniforms shops in the town.	The conduct relates to allocation of customers which is prohibited under section 21 (3) (b) of the Act.	Investigations complete which established the conduct was wide spread throughout the country. Public Notice issued in the dailies in February 2016 cautioning school Heads and Uniform shops against the conduct. CAK has engaged with the Ministry of Education advising on the need to develop guidelines to inform the procurement of uniforms in public schools.
18.	Media House Owners & CAK	Media	There was an allegation of the three media houses having colluded to deny the other competitors spaces for advertisement	The investigations focused on collusive conduct to put competitors at a disadvantage which is prohibited under Section 21 (1) and 21 (3) (f) of the Act.	Investigations on-going.
19.	IATA (KATA and IATA)	Aviation	Agreements by trade associations (IATA) to set trading conditions that are prohibitive	The theory of harm in the case is market foreclosure through the conduct of a trade association which is prohibited under section 21(1) and (3)(i),	Investigations on-going.
20.	Interrogations intothe Advertising Industry APA	Advertising	It was alleged firms in the sector were colluding on prices and bids.	The theory of harm in the case is collusion on price and bid rigging which are prohibitions under section 21(1) &(3)(a), (c)	Investigations on-going.
21.	Solpia Kenya and Style Industries Ltd	Manufacturing	Allegations that Style Industries were engaging in RTPs, including, imposing unfair selling prices and conditions to suppliers who sell their goods, blackmail to the existing Solpia clients, and Applying harsh conditions to suppliers who supply Solpia's goods.	CAK investigated the possibility of a dominant player in the market restricting its distributors from dealing with its competition which is a violation under section 24 (b) of the Act.	Investigations are complete. CAK is in the process of issuing a notice of proposed decision at the time of this document's publication.
22.	CAK and Lufthansa Group	Aviation	CAK received a complaint in anonymity that the conduct by Lufthansa amounted to abuse of dominance of some routes	The conduct relates to abuse of dominance which is prohibited under section 24 of the Act	Investigations are on-going.
23.	Interconsumer and Belsize matter	toiletries	The matter is in regard to a merger between Interconsumer Industries and Belsize Industries which was consummated without approval.	This is a violation under section 42(2) of the Act.	The matter was forwarded to the Office of the Director of Public Prosecution.
24.	Fertilizer investigations	Agriculture	The matter is in regard to possible market allocation price fixing in the fertilizer sector by the fertilizer importers	Investigations focusing on collusion on price, market and output by market players prohibition under section 21(3) of the Act.	Investigations are on-going.
25.	Airtel&Safaric-om (Abuse of Dominance)	Telecommu-nications	Airtel Network Ltd complained to the Authority that Safaricom was abusing its dominant position by implementing a differential on-net off-net call rates through a promotion and the peak and off-peak scheme.	The theory of harm is unilateral exclusionary conduct by a dominant undertaking which is prohibited under section 24(2) (a) and (c) of the Act.	Investigations areon-going.
26.	Nairobi – Marsabit Air Route	Aviation	A regular passenger plying Nairobi Mandera route alleged the possibility of collusion between airlines and trading agents operating in that route.	The investigations re focusing on collusive conduct to fix price which is prohibited under section 21(1) and (3) (a) of the Act.	Investigations areon-going.
27.	CAK & Kenya Automobile Security Association (KASA)	Transport	CAK received a complaint alleging collusion on price of motor vehicle tracking gadgets by members of KASA	Conduct relate to collusion under the auspices of a trade association which is prohibited under section 21(1), (3) and 22 of the Act	Investigationsare on-going.

ANNEX IV: Exemption Cases

S/No	Exemption	Sector/ Market Affected	Summary	Status
1.	Institute of certified Public Accountants of Kenya (ICPAK)	Education	ICPAK applying to be exempted from setting minimum fees to be charged by its members for services offered.	CAK was in consultation with the National Treasury pursuant to the provisions of section 29 3) (c) of the Act at the time of publishing this document.
2.	Institute of Surveyors of Kenya	Lands	ISK applying to be exempted from setting minimum fees.	CAK was in consultation with the Ministry of Lands and Urban Planning pursuant to the provisions of section 29(3) (c) of the Act at the time of publishing this document.
3.	4DX Auditorium Agreement	Cinema	Blue Sky World Ltd sought an exemption regarding the 4DX Auditorium Agreement which was to grant it exclusivity and rights of first refusal if executed	Exemption of three years was granted to the parties
4.	Two Rivers Mall exemption application	Retail	Application for exemption in respect of a lease agreement between Majid Al Futtaim Hypermarkets Limited(traded as Carrefour - the Lessee) and Two Rivers Lifestyle Centre Limited	The m atter is held in abeyance awaiting the communication from parties to the agreements.
6.	Kenya Bankers Association	Banking	Seeking exemption for the implementation of a national switch where the association will recommend a minimum cost	The Agreement was interrogated and found not to have any anticompetitive or restrictive clauses. The parties were advised appropriately

ANNEX V: Consumer Protection Cases

S/NO	CASE TITLE	SECTOR	SECTION OF THE ACT	CASE OPENING	SUMMARY	STATUS
1	Chetan Amlani versus Nakumatt	Retail	Section 56 (3) Unconscionable Conduct	27-May-15	Complainant alleged that he obtained a Nakumatt Global card from Nakumatt South C branch and paid Kshs 100 which he thought would be credited to his card for activation but later learnt that the Kshs. 100 was a charge for obtaining the card. Resolved through the complainant being refunded the amount into his card.	Finalized 17th February, 2016
2	Airtel Kenya versus Amanda J. Koech	Telecommunication	Section 56 (3) Unconscionable Conduct	27-May-15	Complainant alleged that on two separate occasions in May 2015, she purchased bundles of 350mbs from Airtel, for Kshs, 250 but only 250mbs was awarded. Airtel refunded the amount to the complainant after intervention from the Authority.	Finalized on 19th February 2016
3	Veronicah Kilonzo versus Nakumatt TRM	Retail	Sec. 59(2a) Product Safety Standards and Unsafe Goods Section 61(1a) Notice to Consumers	3-Jul-15	The complainant alleged that he bought Knorr cheese pasta sauce from Nakumatt TRM and on mixing it with pasta; she found worms as she was eating. In the process of investigations, the complainant indicated that the matter had been resolved.	Finalized on 19th February 2016
4	Allan Abwuza versus Jambojet	Transport	Section 56(3) Unconscionable Conduct	10-Sep-15	Mr. Abwuza complained of undue delays by Jambojet in refunding him for an unutilized air ticket worth Kshs 13, 875. Upon the Authority's intervention, he was refunded the said amount.	Finalized on 29th September 2015
5	Amro Insurance Brokers versus NIC Bank	Banking	Section 56 Unconscionable Conduct	15-Apr-16	Amro Insurance Brokers complained regarding his client was coerced by NIC Bank'sbanc assurance Division to cancel an insurance policy he had obtained from Mwihia Gikaru's Agency and to procure a fresh one through the bank's agency. After intervention by the Authority, NIC Bank accepted the client's choice of insurance agent. The bank was warned to desist from such conduct.	Finalized on 27th May 2016
6	Kingsley Makokha versus East African Foton	Transport	Section 59 (2) (b) Product Safety Standards and Unsafe goods and 64(1) Liability for defective goods	23-Feb-15	Complainant alleged that Nairobi International School had purchased 5 new Foton Aumark 26 seater buses from Foton East Africa Limited, which has had mechanical issues right from start. The complainant was not willing to pursue the matter and the case was closed.	Case closed on 25th April 2016.

7	Go TVversus Kiplangat	Digital Media	Section 55 False and Misleading Representations	Jun-15	The complainant alleged that, he bought a GO TV decoder after paying Kshs. 1,200 with a promise of free to air channels. But the service provider did not honor the promise and instead he is charged for the free to air channels. The complaint is in the final stages of redress.	Investigations areongoing.
8	Marisella Ouma versus Zuku	Digital Media	Section 56 (3) and (4) Unconscionable Conduct	Jan-15	The complainant alleged ZUKU had charged her for Pay Tv service without her consent, whereas she had subscribed for internet only. Upon intervention by the Authority, Zuku apologized to her and indicated that that they had new packages to serve customers who needed internet only. Complainant confirmed that she was satisfied with the redress.	Finalizedon 16th May 2016.
9	David Ahawo versus Clorox	Advertising	N/A	-Feb -15	Mr. Ahawo lodged a complaint against Clorox Ltd in which he claimed Clorox had advertised that "nothing cleans and disinfects better than Clorox" which was damaging to their brand. The case was closed due to lack of evidence.	Case closed on 15th July,2015
10	Hilary Kariuki versusAuto Express Ltd	Transport	Section 55 Misleading representation	-Mar - 15	Mr. Kariuki alleged that AutoXpress Ltd who are dealers ofLing long Tyres in Kenya had falsely misled him that the Linglong Tyres–LL700 Tyres Size 14 had a thread depth of 8.1mm. Upon purchase and measuring, he found the depth to be less than indicated. The Authority in its investigations liaised with KEBS which tested the tyres and reported that they met the prescribed Kenyan standards. Therefore, there was no violation of the provisions of the Act.	Finalized on 15TH April 2016.
11	Stephen Wausi versus Chase Bank	Banking	Section 56 (3) and (4) Unconscionable Conduct	-May-15	Mr. Wausi complained about Chase Bank debiting clients' accounts claiming that those were ATM withdrawals that were made. The case was closed due to lack of evidence.	Case closed on 1st October 2015
12	Wilfred Okola versus Nakumatt Mega	Retail	Section 55 (b)(i) False and Misleading Representations	May-15	Mr. Okola alleged that he purchased a Samsonite backpack at Nakumatt Mega using his credit card and was charged Kshs 13,200, while he had been verbally told that the price was Kshs 1,300. After investigations, the Authority found that the complainant had authorized the payments and gave consent for the payment. Therefore, there was no violation of the provisions of the Act.	Case finalized on 10th August 2015

13	Mary Mwangi versus Tuskys Supermarket	Retail	Section 55(b) (i) False and Misleading Representations	23-May-15	Ms. Mwangi complained about variance in till and shelf prices at Tuskys supermarket. The Authority met with Tuskys, who contacted the complainant and apologized for the error. The supermarket undertook measures to curb the error by improving customer service at their shops to deal with such occurrences.	Finalizedon 11th January 2016.
14	Joab Ochieng versus JUMIA Online shop	Retail (Online Trading)	Section 55 (a) (i) and 55 (b) (v) False and Misleading Representations	3-Jun-16	Mr. Ochieng had purchased a treadmill from JUMIA which failed to meet his specifications. He wished to return it, as per their return policy but there was a delay in accepting the return of the item. Investigations are ongoing.	Investigations are ongoing.
15	John Kariuki versus Tuskys Supermarket	Retail	Section 55(b) (i)	23-May-15	Mr. Kariuki alleged that there was a variance in till and shelf prices at Tuskys supermarket. The Authoritymet with Tuskys, who contacted the complainant and apologized for the error. The supermarket undertook measures to curb the error by improving customer service at their shops to deal with such occurrences.	Finalizedon 11th January 2016.
16	Mr. Erick Mana Njuguna versus Viva Company	Telecommunication	N/A	5-Jun-15	Mr. Njuguna alleged that VIVA Company violated a business agreement by failing to refund him Kshs. 51,000 for the job he had worked for, as per their agency agreement. The matter did not fall within the provisions of the Act, and was referred to Communications Authority (CA)	Forwarded to CA on 7th, July 2015.
17	Murram Cruncher versus Game Company	Retail	N/A	5-Jun-15	The complainant alleged that, Game Company was engaging in a misleading advertising by claiming that it can "beat any price". The matter did not fall within the provisions of the Act, and was referred to Advertising Standards body of Kenya for arbitration.	Forwarded to Advertising Standards body of Kenya on 21st October 2015.
18	Duke Mclovin versus Yu Mobile (Airtel)	Telecommunications	N/A	8-Jun-15	The complainant alleged that, Yu mobile was sending misleading messages claiming to offer free services which turned out to entail a charge. The matter did not fall within the provisions of the Act, and was referred to Communications Authority (CA).	Forwarded to CA on 7th, July 2015.

19	Naivas Westlands versus Mark Bichachi	Retail	Sec. 59 (2a) and 61(1a) Product Safety Standards and Unsafe Goods	19-Jun-15	The complainant bought Daima Yoghurt from Naivas Westlands which seemed to have rust stains at the top metal seal so he sent it back to Naivas but they refused to accept it. On follow up, the complainant informed the Authority that the matter was resolved.	Finalized on 26th February 2016.
20	Independent Insurance agents versus Insurance agencies owned by banks (Banc assurance)	Insurance	Unconscionable conduct	17-Mar-14	Timothy Mwangi alleged that the Independent Insurance Agents owned by banks (Banc assurance) were engaging in unconscionable conduct. However, the complainant transferred to the East African Society of Insurance Intermediaries (EASII). The Authority has advised EASII to collect such complaints from their members and forward to the Authority for investigation.	Investigations are ongoing
21	Mr. Indi Sagoo versus Toyotsu Auto Mart Kenya	Transport	N/A	13-Jul-15	Mr. Sagoo alleged that Toyotsu Auto Mart Kenya has failed to provide transfer documents for the vehicle he had bought from them since July, 2012. This limited him to register the vehicle, hence could not use it. The complainant informed the Authority that the matter was resolved.	Finalized on 6th October 2015.
22	Jamlickmate Mutungi versus Star Times	Communications	N/A	9-Jul-15	Mr. Mutungi complained in regards to no response by Star Times in reference to his digital box which was non responsive. The complaint was forwarded to Communications Authority (CA).	Forwarded to CA on 15th August 2015.
23	Kenyans Seeking Answers versus A Supplier Of Motor Vehicle Parts	Transport	N/A	24-Jul-15	The complainant alleged that a company that deals in motor vehicle spare parts had declined to sell spare parts to them for resale. The case was closed for lack of evidence.	Case closed on 23rd September 2015.
24	Patrick Wahome (Website Developer)	Communications	N/A	10-Jul-15	The customer wanted to know whether laws that control the running of an adult website are in the Authority's jurisdiction. The customer was advised to contact Communications Authority (CA)	Referred to CA on 15th August 2015.
25	Khan-Allion Insurance versus Kenya Commercial Bank	Insurance	Section 56 Unconscionable conduct	18-Feb-15	Mr. Khan alleged that Kenya Commercial Bank (KCB) had communicated to one of his client to renew a policy under KCB. The complainant later indicated he was no longer interested in pursuing the matter.	Case closed on 22nd July 2015.
26	Nancy Wanja Kirunja versus Barclays Bank of Kenya	Banking	N/A	24-Jul-15	The complainant alleged she took a Barclays loan and serviced for a while before defaulting on only two occasions. However BBK had only credited Kshs 50,000 into her account. The Authority after investigations found that BBK had not violated the Act.	Finalized on 17th December 2015.

27	Aberdare Book Merchants Co. Ltd versus Barclays Bank Kenya Limited	Communications	Section 57 (1) and (2) Unconscionable Conduct in Business Transactions	5-Mar-15	Aberdare Book Merchants alleged that despite servicing their loan, they were still required to pay custody fees for three titles held as security. They also allege that Barclays unilaterally debited their account. However the complainant filed the case with the court against BBK.	Case closed as matter is before a court of law.
28	Rogers Monda versus DSTV (Multichoice)	Digital Media	Section 55 (a) (v) and 56 (1) False and Misleading Representations; Unconscionable Conduct	18-Aug-15	The complainant alleged he subscribed for the compact plus package on DSTV upon their representation that channel 203 and 207 will be showing English Premier League matches. However, DStv moved the said matches to channel 205, without their notice. The Authority carried out investigations and the complaint is in the final stages of redress.	Investigations are ongoing .
29	Joel Koskei versus DSTV (Multichoice)	Digital Media	Section 55 (a) (v) and 56 (1) False and Misleading Representations; Unconscionable Conduct	18-Aug-15	The complainant alleged he subscribed for the compact plus package on DSTV upon their representation that channel 203 and 207 will be showing English Premier League matches. However, DStv moved the said matches to channel 205, without their notice. The Authority carried out investigations and the complaint is in the final stages of redress.	Investigations are ongoing .
30	Frank Onguko versus . Afya Sacco	Financial	N/A	25-Aug-15	The complainant alleged that Afya SACCO was charging its members a 10% commission of loan balance for early payment of loans. The case was forwarded to the Cooperative Tribunal.	Finalized on 21st December 2015.
31	Stephen Kyalo Kisungu versus GoTV	Digital Media	Section 55(a) False and Misleading Representations 56(3) and(4) Unconscionable Conduct	18-Aug-15	The complainant alleged he bought a GoTV decoder from a GoTV dealer who promised that he would enjoy two months access to all channels offered and thereafter, he would pay a one off payment of Kshs 1,200 for the channels offered. GoTV later on communicated an increase to Kshs.1,800 for the free to air channels. The Authority carried out investigations and the complaint is in the final stages of redress.	Investigations are ongoing .
32	Mawira Fredrick Mate versus GoTV	Communications	Section 55 (a) False and Misleading Representations, Section 56 (3) and (4) Unconscionable Conduct	24-Aug -15	The complainant alleged he bought a GoTV decoder from a GoTV dealer who promised that he would enjoy two months access to all channels offered and thereafter, he would pay a one off payment of Kshs 1,200 for the channels offered. GoTV later on communicated an increase to Kshs1,800 for the free to air channels. The Authority carried out investigations and the complaint is in the final stages of redress.	Investigations are ongoing .

33	Milimani Maternity Hospital Limited versus K-Rep Bank	Banking	Section 55(a) False and Misleading Representations, Section 56(3)and(4) Unconscionable Conduct	7-Aug -15	The complainant alleged they received a letter from Credit Reference Bureau Africa Limited stating that their client is a bad debtor. The investigations are in the final stages.	Investigations are ongoing.
34	Yasif Soroya versus Fauzi Auto Tyres, Shangai Auto tyres, Thunderer Auto Tyres and Paksands Auto tyres	Transport	N/A	7-Aug-15	The complainant alleged that the four companies based in China and Taiwan had been selling the same tyres in Kenyan market. The case was regarded to have competition concerns	The complaint is being investigated under competition concerns.
35	Fred Nyongesa and Wycliffe Wafula versus Sothern Sun Hotel	Tourism and Hospitality	N/A	14-Aug-15	The complaints were on behalf of the Southern Sun Hotel staffs that, the Southern Sun Hotel was charging VAT fees on the staffs' earnings. The matter does not fall under CAK's jurisdiction hence his case was referred to Kenya Revenue Authority (KRA).	Referred To KRA on 3rd May 2016.
36	Gordon Oyugi versus Josambo Auto Spares	Transport	Section 55 (b) (v) False and Misleading Representations	8-Dec-15	The complainant alleged that he bought a second hand engine from Josambo Auto Spares at a cost of Kshs 40,000, which he was assured was in good condition. However, the engine was leaking and emitting smoke. Upon the Authority's intervention, the complainant was refunded his money.	Finalized on 2nd March 2016.
37	Allan Abwuza versus Kenya Commercial Bank	Banking	N/A	15-Jan-16	The complainant alleged that KCB had made unauthorized deductions of Kshs 1800 from his account from use of his ATM card. The complainant was refunded the amount upon the Authority's intervention.	Finalized on 19th February 2016.
38	Allan Abwuza versus Airtel Kenya	Communications	Section 55 False and Misleading Representation	16-Oct-15	The complainant alleged that he had loaded his line with Ksh.500 and purchased a 90 day data bundle but instead he was awarded an UNLIMINET bundle which expires after sevendays. The complainant was refunded the amount by Airtel upon the Authority's intervention.	Finalized on 2nd November 2015.
39	Samuel Kumbu versus Faulu Kenya	Banking	Section 55 (a) (v) False and Misleading Representations	24-Nov-15	The complainant alleged that Faulu Bank took longer to issue him with a loan than the promised 14 days. He was unable to give evidence of the bank's commitment to him to give the loan in 14 days. The case was therefore closed due to lack of evidence.	Finalized on 4th April 2016.
40	John Simon Maundu versus Tuscom Shop	Retail	Section 55 (a)(i) and (b)(v) False and Misleading Representations and Section 56 (2) (a) Unconscionable Conduct	5-May-16	Mr. Maundu alleged that he bought a phone from Tuscom Shop which was faulty. The seller issued a new phone upon realization that the matter was been investigated by the Authority.	Finalized on 16th May 2016.

41	Fred Obade versus National Bank Of Kenya	Banking	N/A	24-Feb-16	Mr. Obade alleged that National Bank of Kenya (NBK) had failed to close a savings account in his name that had been opened without his consent. After the intervention of the Authority, the complainant confirmed that the account had been closed.	Finalized on 17th May 2016.
42	Douglas Nyaga versus Meru South Savings And Credit Sacco	Social Services	N/A	9-Mar-16	The complainant alleged that Meru South Cooperative Savings and Credit Society Sacco which was his former employer terminated his services-un procedurally and failed to pay him a sum of Kshs. 40,000 (Salaries and allowances).	Referred To NSSF & Min. of Labour, Social Security and Services on 29th March 2016.
43	Florence Wabwire versus Huruma Self Help Group	Financial	N/A	17-Mar-16	The complainant alleged that Huruma Self Help Group had conned her and other group members of their contributions. The complainant was advised to liaise with the Criminal Investigation Department (CID) and the Social Services office which registers organizations like Huruma Self Help Group.	Referred to the Directorate of Criminal Investigation (DCI) and the Social Services Department on 16th May 2016.
44	Samuel Kumbu versus National Bank of Kenya	Banking	N/A	24-Nov-15	Mr. Kumbu claimed that National Bank of Kenya had negatively listed his name with Credit Reference Bureau (CRB) as a defaulter for a loan he had already cleared. The case was referred to Central Bank of Kenya, who is the regulators of banks as well as CRB.	Referred to CBK on 10th December 2015.
45	Festus Muriithi versus Safaricom	Telecommunication	Section 55 (b) (i) False and Misleading Representations and Section 56 (4) Unconscionable Conduct	15-Oct-15	The complainant alleged that Safaricom had promised not to charge their business for money transfer from their till no. 759790 but they later realized that they were being charged for every withdrawal they made. The complainant abandoned the complaint.	Closed on 3rd February, 2016.
46	Parakit Insurance versus Stanbic Insurance Agency	Financial	N/A	13-Nov-15	Parakit insurance alleged that CFC bank used their position as financiers to have clients of Parakit transfer their business to their (CFC's) agency i.e. Stanbic Insurance Agency. The matter does not lie within CAK jurisdiction hence referred.	Referred to Insurance Regulatory Authority (IRA) on 21st December 2015.
47	Evans Nyamwaka versus Kimisitu Investment Company Limited	Capital Markets/Investment	Section 57(1) Unconscionable Conduct in business transactions	2-Dec-15	The complainant alleged that he invested in shares with Kimisitu SACCO. The company was charging 2% and 3% to the seller and buyers respectively. The Authority investigated the matter and required the Sacco to redress the complainant, which they did.	Finalized on 14th April 2016.

55	Ernest Muriu versus APA Insurance and Institute of Certified Public Accountants of Kenya (ICPAK)	Insurance	N/A	21-Mar-16	APA and ICPAK entered into an Accountants' Insurance Scheme. On enquiring from his agent how he could access his benefits, he was informed that this was restricted on which broker / insurance agent he could use. An analysis on the case recommends that the complaint has an option of getting insurance from any other insurance provider and that there was no violation of the Act.	Case closed on 27th May 2016.
56	Samson Wanyangu versus. Toyota Kenya Ltd	Transport	Section 55 False and Misleading Representations, Section 56 Unconscionable Conduct and Section 59 Product Safety Standards and Unsafe Goods	12-May-16	The complainant claims that his vehicle-Hino 300 minibus (KCD 069Q) which he bought from Toyota Kenya Ltd had various defective problems including, braking system, chassis problems and wiring faults. He notes that although the vehicle was delivered as a brand new vehicle, it started to develop a braking system failure almost immediately. Investigations are ongoing.	Investigations are ongoing.
57	Reuben Kipkorir versus DSTV	Digital Media	Section 55 (a) (v) False and Misleading Representations and Section 56 (2) (d) Unconscionable Conduct	30-May-16	The complainant alleges that his account had been selected for DSTV compact promotion which runs for three months. And if he paid within three days, he would get all premium sports channels.	Investigations are ongoing.
58	Isaac N. Nganga (Ruiscol Enterprises versus Ruisca Enterprises	Food Industry	N/A	27-May-16	The complainant alleges that Ruisca has come up with the production and packaging of *pilau masala* products similar to theirs under brand name RUISCA. He further alleges that the package features are exactly as theirs including a postal address and product logo. The complaint lies within the jurisdiction of the Anti-Counterfeit Agency.	Referred to Anti Counterfeit Agency and Kenya Intellectual Property Institute on 10th June 2016.
59	Mr. Kimari William versus Commercial Bank of Africa (CBA)	Banking	Section 56 (3) and (4) Unconscionable Conduct	9-May-16	The complainant alleges that CBA is charging a fee (of Ksh.5.00/-) with regard to using their mobile app when requesting for account balances and Checking Mini-Statement.	Investigations are ongoing
60	George Kariuki versus Ongata Rongai Bus Services	Transport	N/A	19-May-16	Mr. Kariuki alleged that the Ongata Rongai Bus Services were hiking fares and picking up passengers in undesignated areas. He wanted the Authority to regulate transport fares and suspend the license for the bus company. The complaint was therefore referred to National Transport and Safety Authority for investigation.	Referred to NTSA on 27th May 2016.

ANNEX VI: Advisory Opinions

S/No	Parties Involved and Date	Issue and advisory opinion given
MERGERS AND ACQUISITIONS		
1	Kaplan & Stratton Advocates 29th July 2015	The Advocates sought advisory opinion on whether transaction entailing joint ventures are notifiable to the Authority. They were advised to formally notify the Authority and produce the relevant details so as to enable the Authority provide an info rmed advice. They were also referred to the consolidated merger guidelines section 3, 30-35 on Joint Ventures.
2	Iseme Kamau & Maema Advocates 29th July 2015	The Advocates sought to know whether a transaction they were about to file to the Authority met t he thresholds as provided for in the merger threshold guidelines. They were advised to formally write to the Authority and give all the details to enable the Authority give an informed advice.
3	Munyala & Maondo Advocates 7th August 2015	The Advocates sought to know whether a transaction where a shareholder in an undertaking selling his shares to another shareholder in the same undertaking requires approval from the Authority. They were advised to make a formal application by submitting the required docum ents after which they would be advised accordingly
4	The Competition Commission of South Africa 11th August 2015	The Competition Commission of South Africa sought a consultative meeting with CAK officers regarding a merger between Old Mutual Alternative investment segment, African fund managers and African Infrastructure investment fund II General Partnership (S.A). This was because CAK was handling the same matter. The discussion dwelt on the definition of the relevant market and agreed to continuously interact and share information on the matter and other cases that may arise.
5	DlaCliffedekkerhofmeyr 24th August 2015	The Advocates inquired about a proposed merger transaction regarding Old Mutual Alternative investment segment, African fund managers and African Infrastructure investment fund II General Partnership (S.A). They were informed that the merger filing fees was still unpaid, of which they informed the authority that they were following up with the parties and would revert back to the Authority in due course.
6	Anjarwalla & Khanna Advocates 26th August 2015	The Advocates inquired about filling fees for exclusions. They were advised that exclusions are not subject to filing fees. They further sought to know if a company with a turnover of less than KES 100 million must file for an exclusion. They were advised with regards to the exclusion guidelines clause 5(e) that such a company may fall within the ambit of an exclusion.
7	Muthaura, Mugambi, Ayugi & Njonjo Advocates 27th August 2015	The Ad vocates sought to know if the transfer of shares from two companies A and B constitute a merger. Specifically if B owns one share and A owns 999 shares, more if B is a sister company to A. The Advocates also sought to know if application not meeting threshold are subject to clearance by the Authority. They were advised to formally write to indicating clearly whether the transfer of shares in A and B would result in change of control, and to provide relevant documents to enable the Authority give an informed advice. As for the application not meeting the threshold, they were advised that they still need to apply to be excluded from the provisions of part IV of the Act.
8	Anjarwalla & Khanna Advocates 27th August 2015	The Advocates sought clarification on re structuring as per the Act and consolidated merger guidelines, in which their client had, sought to transfer its sales and marketing business segment from one of its joint venture groups to another. They additionally sent an email with a diagram of the proposed transaction. The Authority scheduled a meeting on 31st August 2015, in which detailed discussions where held regarding restructuring and control of business. During the meeting the Advocates together with their client were asked to clarify issues rel ating to the control of the joint venture groups presented and to formally write to the Authority to enable it make an informed decision as to whether, based on the status of control, the transaction qualifies as restructuring or acquisition of business. Upon submission of the requirements, the parties were advised that the transaction was a non-merger transaction and did not require prior authorisation as per the Act.
9	Muthaura, Mugambi, Ayugi & Njonjo Advocates 3rd September 2015	The Advocates sought advice regarding acquisition of additional shares by a holding company which already had 65% interest in a company. They were advised that it was not a notifiable transaction since they already had control of the undertaking.
10	Safaricom Ltd 21st September 2015	Safaricom Ltd. sought to know if a transaction involving conversion of shares is notifiable, in which they briefly explained the nature of the proposed transaction. They were advised to formally write to the Authority and provide full details of th e transaction and any other agreements relating to it as that would enable the Authority give an informed advice.
11	TWB attorneys 22nd September 2015	The Attorneys sought assistance in regards to a merger that meets the COMESA thresholds, and had sought clarification on the jurisdiction of the filing , and if it was necessary to file to the Authority and also COMESA. They were advised that COMESA threshold have to be met for a merger to be notifiable to COMESA this included: 1. The merging parties must op erate in two or more COMESA States and have revenue of more than US$ 5 million. (an undertaking operates in a member State if it has an annual turnover or value of assets in that member State exceeding US$5 million) 2. The target undertaking must operate i n member State and has a turnover of greater than US$ 5 million. 3. If it is not the case that 2/3 of the annual turnover in the common market of each merging party is achieved within one and the same member State. If all the three criterion above are met, then the merger is notifiable to COMESA.
13	Muthaura, Mugambi, Ayugi & Njonjo (MANN) Advocates 30th September 2015	The Advocates sought clarification on the various types and number of documents to be forwarded to the Authority for a merger filing. They were advised that for complete filing the Authority requires, among others: i. Signed Sale and Purchase agreement ii. Dully filled, signed and stamped Merger Notification Forms by each of the merging parties iii. Audited financial statements for the preceding three years; and iv. Board minutes authorizing the transaction. They further inquired if an individual buying shares in a company constitutes a merger. They were advised that such a transaction is notifiable to the Authority for evaluation in cases of a change in control.

14	Kaplan & Stratton Advocates 10th October 2015	The Advocates sought clarification on the minimum number of years that a condition to absorb employees of a target company would be effected. They were advised that this depends on each case, circumstances that prevail, and any economic condition or otherwise condition that may occur that necessitates laying off employees post transaction.
15	Munyala & Maondo Advocates 15th October 2015	The Advocates sought clarification on the time lines provided by the Authority after it makes a determination on an application for a transaction to be effected. They were advised that the Authority expects all transactions to be effected as stipulated on SPA. They were further advised that the honours is on transactin g parties together with their representatives to inform the Authority in case the same does not happen. The Advocates were also informed that the Authority conducts a post-merger compliance check, if necessary, 1 - 2 years after a determination is made.
16	Pamoja Capital 19th October 2015	Pamoja Capital sought to know about filing a merger application which they intended to file with CAK. They specifically sought to know the details of how filing is done, whether jointly or individually and whether it coul d be done at the same time. They also sought clarification about the filing fees i.e. whether the two parties are required to pay separately or jointly. They were advised that each party to a transaction has to notify the Authority as per the provisions of the Act, unless they provide a justification on why they need to apply jointly. Regarding merger filing fees, it was upon the parties to agree to pay jointly or separately in whichever proportion that they agree on and that the fees is based on the thresholds of the combined turnover.
17	Anjarwalla & Khanna Advocates 11th November 2015	The Advocates sought weather and undertaking subsidiary outside Kenya's turnover is considered as part turnover in Kenya. They were advised that the combined turnover considered is the turnover of undertakings in Kenya. Also in terms of turnover, they inquired whether a legal firm selling a piece of land to recover legal fees due forms part of the legal firms turnover. They were advised to write to the Authority with the details of the transaction to enable the Authority give an informed opinion.
18	Muthaura, Mugambi, Ayugi & Njonjo (MANN) Advocates 24th November 2015	The Advocates sought assistance in regards to whether they should do a double filing to both the Authority and COMESA for mergers that have COMESA dimensions. They were Advised to formally write to the Authority and seek an opinion on whether to file to COMESA or the CAK, clearly stating their thresholds. They were further advised that if a filing meets COMESA thresholds, then it would be notifiable to COMESA. The COMESA threshold that have to be met for a merger to be notifiable to COMESA: 1. The merging parties must operate in two or more COMESA states and have revenue of more than US$ 5 million. (an undertakin g operates in a member state if it has an annual turnover or value of assets in that member state exceeding US$5 million) 2. The target undertaking must operate in member state and has a turnover of greater than US$ 5 million. 3. If it is not the case that 2/3 of the annual turnover in the common market of each merging party is achieved within one and the same member state. If all the three criterion above are met, then the merger is notifiable to COMESA.
19	Daly &Figgis Advocates 27th November 2015	The Advocates sought assistance in regards to a potential transaction in which an acquirer had surpassed the Kshs 1 Billion threshold both in revenues and in assets, and in a transaction where they were acquiring 10% stakes in a target firm. They were advised that :if there was an element of control that comes with the 10% stakes, then they should write to the Authority and submit documents relevant to the transaction to enable the Authority give an informed opinion. Otherwise a transaction of 10% stakes that does not result in establishment control was not notifiable.
21	Muthaura, Mugambi, Ayugi&Njonjo (MANN) Advocates 29th January 2016	The Advocates sought to know if the Authority had ever issued a non-employment or divesture condition when making merger determination and also sought to have the latest Annual report. They were advised that conditions are issued on a case by case basis and are based on the information that the Authority has at its disposal.
22	Muthaura, Mugambi, Ayugi&Njonjo (MANN) Advocates 2nd February 2016	The Advocates sought to know if entering into a lease agreement with a Land Lord that states that a business of similar activity would not be allowed to lease the same building was in contravention of the Act. They were advised that Part III of the competition Act, Section 21 on restrictive trade practices, would be contravened under such an agreement.
23	Ramsey Advocates 5th April 2016	The Advocates inquired about the merger notification process. The advocate inquiring was not clear whether the application they were about to make was an exclusion or an exception. They were explained for the difference and directed to the relevant merger notification form. She was also requested to get in touch in case she required further clarification.
POLICY, RESEARCH AND ADVOCACY		
24	Inter-Agency Review of the Regulatory Environment for Taxi Transport Services February 2016	Following the debut by the app based Taxis in Kenya in 2015, the Government constituted an inter - agency Committee consisting of representatives from the Competition Authority of Kenya, Kenya Revenue Authority, the Nairobi County Government, the Nationa l Transport and Safety Authority and Kenya Investment Authority, which was chaired by the Authority. The Committee made recommendations that addressed the sector challenges and ensured harmonious existence between the traditional taxis and the app based taxis. As a result of the said recommendations, the taxi industry has grown appreciably and attracted investment in the said sector.
ENFORCEMENT AND COMPLIANCE		
25	Kenya Wine Agencies Ltd (KWAL) of 23rd May 2016	Sought advisory opinion on whether their p roposed distribution agreement falls within the prohibited agreements under part III of the Act. They were advised that the proposed agreements were prohibited under section 21 of the Act and therefore are prohibited. They were also advised to amend the restrictive clauses in the proposed agreement.
26	4DX and Blue Sky World limited agreement of 11th January 2016.	4DX sought the advisory of the Authority on whether the proposed auditorium agreement and Strategic Alliance Agreement would require exemptions under the provisions of the Act. They were advised that the proposed agreements were prohibited under section 21 of the Act and therefore are prohibited. They were also advised to apply for exemption.

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