COMPETITION AUTHORITY OF KENYA

Creating efficient markets for consumers

FINANCIAL YEAR 2019/20

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

COVID-19 INTERVENTION

IMPROVED SERVICE DELIVERY

INCREASED ENFORCEMENT

ANNUAL REPORT AND FINANCIAL STATEMENTS

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CORPORATE INFORMATION

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1.	**Humphrey & Company LLP**	Fortis Suites, 8th Floor Upper Hill, Hospital Road P.O. BOX 21398-00100 NAIROBI
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3.	**Lusweti & Nabutola Co. Advocates**	Fatima Court, Block A Left Wing 1st Floor, Suite 10 Argrins Koghek/ Marcus G. Road, opp Studio Hous Hurlingham, P.O. BOX 18790 00200 NAIROBI
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Bankers:

Kenya Commercial Bank Limited,	National Bank of Kenya,
KICC Branch, P. O. Box 30081–00100, NAIROBI	Times Tower Branch, P O Box 72866 00200, NAIROBI

ACRONYMS

CBK	Central Bank of Kenya
CIOC	Constitutional Implementation Oversight Committee
EAC	East Africa Community
FSD (K)	Financial Sector Deepening Kenya
SCAC	State Corporations Advisory Committee
CCC	COMESA Competition Commission
JFTC	Japan Fair Trade Commission
ICPEN	International Consumer Protection Enforcement Network
ICN	International Competition Network
IPA	Innovation for Poverty Action
COMESA	Common Market for Eastern and Southern Africa
CCSA	Competition Commission of South Africa
UoN	University of Nairobi
MoU	Memorandum of Understanding
RTP	Restricted Trade Practices
PPRA	Public Procurement Regulatory Authority

PREAMBLE

The Competition Authority of Kenya ('the Authority') is a State Corporation created under Section 7 of the Competition Act No. 12 of 2010 (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, 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 a conducive environment 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 has a statutory obligation under section 83 of the Act to prepare an Annual Report for submission to the National Assembly by the Cabinet Secretary/the National Treasury and Planning. The Annual Report captures the overall performance of the Authority, based on its key interventions and performance indicators.

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 market inquiries completed during the financial year 2019/20. This report also includes the Authority's Financial Statements for the same period.

OUR IDENTITY

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:

Customer focus

commits to attaining the highest standards in service delivery to all stakeholders;

Integrity

commits to acting in an honest, transparent and responsible manner while implementing its programmes;

Professionalism

shall be guided by professional ethics aimed building an appropriate corporate culture and creating the right corporate image;

Impartiality

shall uphold the highest levels of equity by treating all stakeholders without any discrimination whatsoever;

Teamwork

shall adopt a participatory approach and work together at all levels in the conduct of its business; and

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. Towards this, the Authority commits to comply with all applicable statutory requirements and continual improvement of its Quality Management System based on ISO 9001:2015 International Standard.

The Authority's top management commits to review this policy and establish quality objectives biennially to ensure sustained improvement and suitability.

Quality Objectives

- Provision of quality and effective regulation of both market conduct and structure;
- Protection of consumers from false and misleading market structure and conduct;
- Optimum utilization of the Authority's resources in the attainment of its mandate;
- Enhancement of customer satisfaction that exceeds their expectations by providing quality services;
- The Authority's operations comply with all applicable laws and regulations;
- The Authority proactively engages its stakeholders and obtains prompt feedback on its services;
- 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.

CAK AT A GLANCE

121
Finalized mergers

18
Abuse of Buyer Power cases finalized

24
RTP Cases finalized

22
Advisory Opinions issued

178
Consumer Cases finalized

10
No. of Interns

74
No. of Staff

5
No. of Young Professionals

92%
Budget absorption level

34%
Sustainability Initiatives (savings on tonners; savings on printing paper and reduced carbon emission by training in-house)

BOARD OF DIRECTORS FY 2019-2020

Amb. Nelson Ndirangu, OGW

Date of Birth: 31st December, 1952

Designation: Board Chairman

Term: 1st Term

Ambassador Nelson Ndirangu's appointment brings to the Authority a wealth of experience including trade policy and economic policy.

Amb. Ndirangu has strong leadership and trade negotiation skills of more than 20 years. He was involved with the Competition Policy issues in the WTO where he articulated Kenya's position regarding possible negotiations on multilateral disciplines in Competition Policy.

Amb. Ndirangu has a Master of Arts (M.A.), degree and a post Graduate Diploma in International Economic Relations from the University of East Anglia in the UK, a Post Graduate Diploma in International Trade Policy from the WTO, Switzerland and a Bachelor of Commerce Degree (B.Com Hons.) from the University of Nairobi, Kenya.

Wang'ombe Kariuki, MBS

Date of Birth: 24th July, 1969

Designation: Director - General

Term: 2nd term

Mr. Kariuki has vast experience in competition policy and law formulation and its enforcement. 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. He is currently involved in various international forums aimed at informing the developing of optimal regulatory regime for Digital economy and online platforms.

Mr. Kariuki holds a Master of Science (MSc), Degree in Economic Regulation and Competition from City University, London; a Bachelor of Arts (BA), Degree in Economics and Business Studies from Kenyatta University; and various Certificates in Strategic Leadership and Corporate Governance.

Albert Mwenda

Date of Birth: 10th May, 1971

Designation: Alternate to the Principal Secretary, The National Treasury and Planning

Term: Appointed in December, 2019

Mr. Albert Mwenda is the Director-General Budget, Fiscal and Economic Affairs in The National Treasury and Planning. He also represents the Principal Secretary of the National Treasury and Planning as an Alternate Member in the Commission on Revenue Allocation and Energy and Petroleum Regulatory Authority (EPRA). Mr Mwenda has excellent knowledge of public finance and budgeting as well as fiscal decentralisation at national, regional and international levels.

Previously, he has made significant contribution in the formulation of finance and procurement related laws such as; the Public Finance Management Act, the Public Procurement & Asset Disposal Act and the Public Audit Act. He has also contributed in the design of Kenya's current framework for management of intergovernmental fiscal transfers and coordinated the formulation of annual Division of Revenue Bills and County Allocation of Revenue Bills.

Mr. Mwenda has served as the Chief Executive and member of the Board of Directors of the Institute of Economic Affairs (IEA) Kenya. He has also previously worked as a consultant for organisations such as the World Bank, the United Nations Children's Fund (UNICEF), United Nations Development Programme (UNDP), Norwegian People's Aid (NPA-Rwanda), State University of New York (SUNY Kenya), Society for International Development (SID), among others.

He holds a Master's degree in Public and Economic Policy from the London School of Economics and Political Science (LSE), UK as well as a Masters of Business Administration (Finance) and a Bachelor of Arts degree in Economics both from the University of Nairobi (UON).

Elizabeth Ng'ang'a

Date of Birth: 24th August, 1962

Designation: Alternate to the Attorney-General

Term: Appointed in 2012

Ms. Ng'ang'a is a Parliamentary Counsel in the Office of the Attorney-General. She has undergone various trainings on drafting and has a wide experience in legislative drafting. Over the years, she has served on numerous committees and task forces as a drafting expert, more recently being drafting financial legislation under the National Treasury and Planning.

She is an advocate of the High Court of Kenya and holds a Bachelor of Laws (LLB) Degree from the University of Nairobi, as well as a Postgraduate Advanced Diploma in Legislative and Financial Drafting from the University of West Indies Cave Hill Campus, Barbados.

Redempta Oyeyo

Date of Birth: 10th July, 1960

Designation: Alternate to the Principal Secretary, State Department for Trade

Term: Appointed in February, 2019

Ms. Oyeyo has built her career largely within the public sector having over fifteen (15) years in the public service. She spearheaded the task force that developed the Draft Retail Trade Regulations, 2018 and Code of Practice for the Retail Sector.

She holds a Master of Business Administration (MBA) (Strategic Management) from the University of Nairobi and a Bachelor of Education (Hons.) degree in Business Studies and Economics from Kenyatta University.

Dr. Abdirizak Nunow

Date of Birth: 5th April, 1965

Designation: Independent member

Term: 2nd Term

Dr. Nunow is a Senior Lecturer in Moi University's School of Arts and Social Sciences where he teaches Natural Resources Management in the Department of Geography. He was a member of the Constitution of Kenya Review Commission (CKRC) that undertook the writing of a new constitution for the country. In addition, he worked with the Inter-Parliamentary Union of IGAD (IPU-IGAD) Member States based in Addis Ababa, Ethiopia. He was a member of a Working Group appointed by the Budget and Appropriation Committee (BAC) of the National Assembly, to carry out Socio-Economic Audit of the Constitution of Kenya, 2010.

Dr. Nunow has wide experience in consultancies in social development, strategic planning, impact assessment and environmental audit, among other areas.

He holds a PhD in Environmental and Behavioural Sciences from the University of Amsterdam, a Masters of Philosophy in Environmental Planning from Moi University and a Bachelor of Arts in Economics and Business studies from Kenyatta University.

BOARD OF DIRECTORS WHO EXITED DURING THE FINANCIAL YEAR 2019-2020

Leila Ali

Date of Birth: 11th January, 1979

Designation: Independent Member

Term: Appointed in October, 2019

Ms. Ali has over ten (10) years managerial experience in the financial industry. She has been actively involved in setting up small and medium sized companies from inception to launching into profitable and successful companies. She has wealth of experience having served in various boards, including Wangari Mathai foundation, Elimu Plus Limited and Acorn Properties UK. Her background provides the Board with expertise in financial and operational issues.

Wekesa Khaoya

Date of Birth: 1st January, 1972

Designation: Alternate to the Principal Secretary, the National Treasury and Planning

Term: Appointed in October, 2018

Mr. Khaoya is a Financial Analyst at the National Treasury. He has wide experience in budgeting and economic planning in the public sector. He has previously held positions of Deputy Chief Economist in various ministries and Director of Policy and Research with the National Sports Fund.

Currently, Mr. Khaoya is a Deputy Director of Budget at the National Treasury where he convenes the Governance, Justice, Law and Order Sector. He holds a Master of Science (MSc) from the University of Dortmund, Germany and a B.A (Hons.) degree in Economics and Applied Mathematics from the University of Nairobi. He is a member of the International Society for SPRING Planners and an Associate Member of the Kenya Institute of Management (KIM).

MANAGEMENT TEAM

Wang'ombe Kariuki, MBS

Director - General

Boniface Makongo

Director, Competition and Consumer Protection

Dr. Adano Wario Roba

Director, Planning, Research and Quality Assurance

Eric Mwangi

Director, Corporate Services

Gideon Mokaya

Manager, Enforcement and Compliance

Boniface Kamiti

Manager, Consumer Protection

Ninette Mwarania

Manager, Planning, Policy and Research

Raphael Mburu

Manager, Mergers and Acquisitions

Priscilla Njako

Manager, Buyer Power

Ambrose Ageng'a

Manager, Finance

Mugambi Mutegi

Manager, Communications and External Relations

Mercelline Anduro

Manager, Information and Communications Technology (ICT)

Ochieng' Ochiel

Manager, Internal Audit

Walter Masinde

Manager, Supply Chain Management

Faith Marete

Manager, Human Resources and Administration

Beryl Mwandale

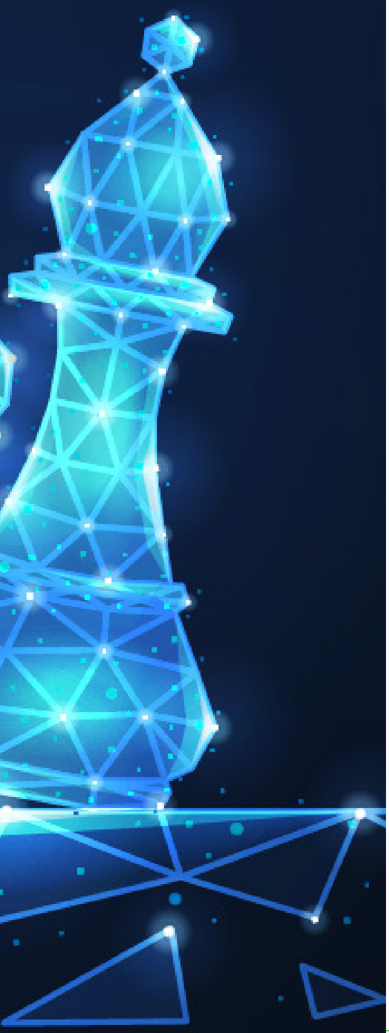
Ag. Head, Risk and Quality Assurance

Alexia Waweru

Ag. Head, Legal Department

Lawyers participate in a Workshop organized by the Authority to sensitize stakeholders about its mandate of sanctioning Abuse of Buyer Power (ABP), the practices that constitute ABP and how they affect the value chain.

> During the year in review, the Board oversaw the development and implementation of the Competition (General) Rules, 2019 to enable stakeholders to have a better appreciation of the processes applicable under the Competition Act, No. 12 of 2010.



CORPORATE GOVERNANCE

The Act, in Section 10 provides that the Board shall comprise of; a Chairman, five (5) independent, non-executive members, appointed from among persons experienced in competition and consumer welfare matters; the following statutory members; the Principal Secretaries to the National Treasury and Planning; the Ministry of Industrialization, Trade and Enterprise Development and the Hon. Attorney – General; and the Director – General who is an ex-officio member of the Board. The Board brings together Members from different professional backgrounds with diverse skills, competencies and complies broadly with the constitutional gender balance requirements as shown in Figures 1 and 2 below.

Figure 1: Professional Background of Board Members

Figure 2: Board Gender Representation

The Board is responsible and accountable to the Government through the National Treasury and adheres to the highest standards of corporate governance and ethics as well as ensuring compliance with all applicable laws. It is committed to ensuring that the Authority's obligations, roles and responsibilities to its various stakeholders are fulfilled through its corporate governance practices. The Members and Management perform their duties with impartiality, honesty, transparency and accountability, professionalism, integrity, care and due diligence and act in good faith to the best interests of the public.

Further, the Board is committed to ensuring that ethics and integrity remain at the core of the Authority's operations. It recognizes that ethical management is key to the Authority's sustainability and is, therefore, continuously adopting practices, systems and processes to integrate ethics in all the Authority's operations. All new members and staff equally undergo mandatory induction training that includes ethical conduct and are required to sign the Code of Conduct and Ethics and to adhere to its principles and provisions.

The Board Chair

The Chairman provides leadership and governance to the Board and creates conditions for overall Board and individual Director's effectiveness, by ensuring that all key and appropriate issues are discussed by the Board in a timely manner. He ensures that the Board plays a full and constructive part in the development and determination of the Authority's strategies and policies. He also ensures that the Board is supplied with timely and sufficient information to enable it discharge its duties effectively. In furtherance of the above, the Chairman ensures adherence to good corporate governance practices and procedures, and continuously promotes the highest standards of integrity, probity and corporate governance throughout the Authority and particularly at Board level.

Role of the Board

The Board is responsible for overall strategic direction and operational guidance of the Authority.

In this regard, the responsibilities of the Board include:

a) Establishing short and long-term goals of the Authority and development of strategies to achieve these goals;

b) Monitoring the Authority's performance against these set goals;

c) Overseeing the preparation of annual financial statements and reports;

d) Approving annual budgets; and

e) Ensuring that the Authority has adequate systems of internal controls coupled with appropriate monitoring of compliance activities to ensure business continuity.

The Board's key achievements during the FY 2019/2020 were: -

a) Approved and continually monitored the implementation of the Authority's Annual Operating Plans and Budget;

b) Implemented the Authority's Performance Contract with The National Treasury and Planning;

c) Considered and determined one hundred and twenty one (121) mergers and imposed penalties worth Ksh. 44 million;

d) Oversaw the development and implementation of the Competition (General) Rules, 2019 in order to enable stakeholders to have a better appreciation of the processes applicable under the Competition Act, No. 12 of 2010;

e) Developed the Records Management and Knowledge Management policies to enhance economic growth and productivity;

f) Approved the Memorandum of Understandings between the Authority and the Energy & Petroleum Regulatory Authority (EPRA);

g) Reviewed the Authority's financial controls, financial statements and reporting systems based on both strategic and long-term plans; and

h) Oversaw the Authority's management of Enterprise Risk and approved all significant corporate actions, among others.

Board Membership and Attendance

The Board meets at least once every quarter depending on the exigencies of the business. The Board has established two standing committees to assist in the execution of its responsibilities: Technical & Strategy and Audit Committees. The Board held nine (9) meetings and one retreat to deliberate on items that could not be discharged during a normal Board meeting.

The number of meetings for the Board and Committee, including the online meetings, were held as shown in Tables 1 & 2 below: -

Table 1: Attendance for the current Board Members for the FY 2019-2020

Board Member	Classification	Designation	Technical & Strategy Committee (Total number of meetings held: 6)	Audit Committee (Total number of meetings held: 3)	Full Board Meetings (Total number of meetings held: 9)
Mr. Albert Mwenda	Representing PS National Treasury & Planning	Member	2	1	2
Ms. Elizabeth M. Ng'ang'a	Representing Hon. Attorney General	Member	5	3	7
Mr. Abdirazak A. Nunow	Independent Member	Member	6	3	5

Table 2: Board attendance for Board Members whose terms expired during the FY 2019-2020

Board Member	Classification	Designation	Technical & Strategy Committee (Total number of meetings held: 7)	Audit Committee (Total number of meetings held: 3)	Full Board Meetings (Total number of meetings held: 9)
Ms. Leila Ali	Independent member	Member	4	3	3

Capacity Building for the Board

Training and development programs were developed to equip the Board with the necessary skills for effective discharge of their mandate. During the year, Members attended various capacity building programs focusing on Competition Law and Policy.

Board Committees

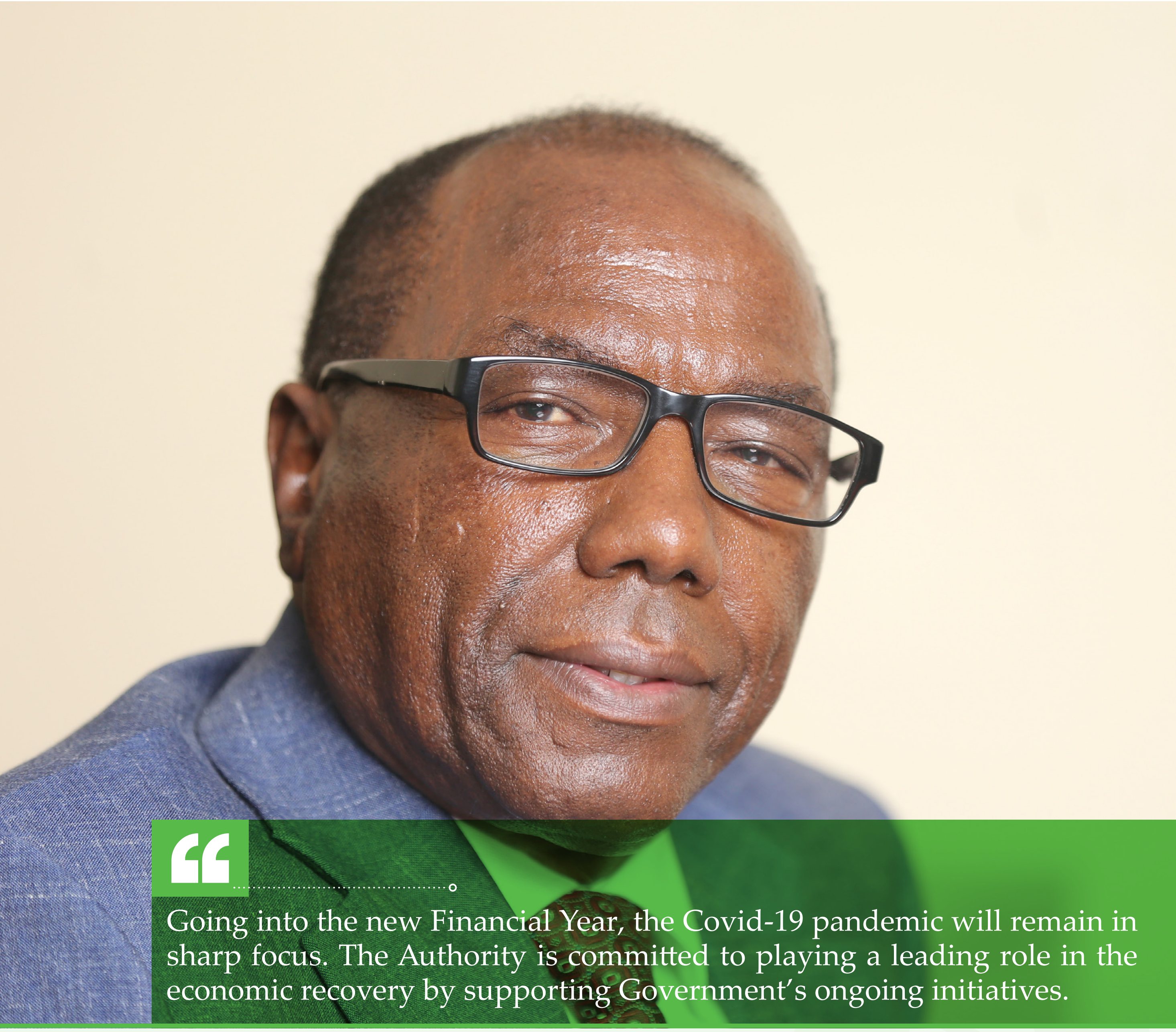
There are currently two (2) standing committees of the Board which assist it to discharge its functions and responsibilities effectively. Operations of each committee are defined in the terms of reference approved by the Board. In order to adequately interrogate issues presented by the management, the Board had constituted the following Committees within the financial year:

a) Technical and Strategy Committee

The committee consisted of four (4) members, namely; Mr. Abdirizak Nunow (Chair), Ms. Redempta Oyeyo, Ms. Elizabeth Ng'ang'a and Mr. Albert Mwenda. This Committee is mandated to advise on strategic planning, implementation of the Act, work with management on the technical aspects of the operational performance and functions of the Authority.

b) Audit Committee

The Committee consisted of four (4) members, namely; Ms. Redempta Oyeyo (Chair), Dr. Abdirizak Nunow, Ms. Elizabeth Ng'ang'a and Mr. Albert Mwenda. This Committee is mandated to periodically review the Authority's Financial reports in liaison with the External Auditors, review the Authority's financial statutory and non-statutory reporting obligations and risk assurance; and checks on effectiveness and robustness of internal control measures.



"Going into the new Financial Year, the Covid-19 pandemic will remain in sharp focus. The Authority is committed to playing a leading role in the economic recovery by supporting Government's ongoing initiatives."

▼2.9%
Economic growth

2.5%
Contract of Kenyan Economy

Ksh 53.7b
Stimulus Programme

▲0.9%
GDP growth

97.97%
Board's score during Annual Evaluations done by SCAC

On behalf of the Board, I take this opportunity to present the Authority's Annual Report and Financial Statements for the FY 2019/2020. This report highlights the achievements, learning points, and challenges of the Authority during the reporting period.

Most importantly, we share the programs and activities undertaken by the Authority in effectively executing its mandate of promoting competition, consumer welfare and prevention of abuse of buyer power.

During the review period, the Global economic growth decelerated by 2.9% in 2019. To put this fiscal performance in perspective, this decline was the worst recorded since the global financial crisis that hit the World in 2007/2008.

The Sub-Saharan Africa's real GDP growth slightly slowed to 3.1% in the review period from 3.3% growth in 2018. According to the Economic Survey 2020, Kenya's real GDP grew by 5.4% down from the previous year's 6.3%. Agriculture, Fishing and Forestry sectors were most responsible for the slowdown. It is, however, encouraging to note that key sectors such as accommodation and food service sector, electricity supply, information and communication, wholesale and retail continued to contribute positively to the economy.

In January 2020, the World after the COVID-19 discovery projected that the global economy will contract by 4.9% due to the impact of disrupted supply chains, subdued global production levels, volatile financial and oil markets volatility, among others.

The World Bank projects that Sub-Saharan economy will record its first recession in 25 years. Official government data projects that Kenya's economic growth will contract to 2.5% given that most sectors of the economy, especially tourism, aviation and construction, slowed down significantly, or shut down altogether. Fortunately, the Government has moved in to cushion the economy from the adverse impact of the COVID-19 pandemic through a Ksh. 53.7 billion stimulus programme targeting key growth sectors such as tourism, manufacturing, agriculture, health, among others. The Authority intends to fully participate in the post COVID-19 economic recovery through various activities and programs aligned to execution of its mandate.

During the review period, the Authority continued to implement its Strategic Plan 2017/18 – 2020/21 which is aligned with the Government's Economic Agenda. Facilitation of the Government's economic targets was done through various activities, including investigations into key sectors including the manufacturing in order to extinguish anti-competitive practices. In addition, the Authority escalated its advocacy and enforcement in order to enhance compliance with the Competition Act.

The Authority's Strategic Plan focused on several broad areas, including deepening competition law enforcement, removal of regulatory obstacles in key sectors of the economy, and increasing deterrence of abuse of buyer power, and enhancing our visibility and corporate image, among others.

In the review period, the Competition (General) Rules, 2019 came into force. These Rules enhance transparency, predictability and accountability between the Authority and its stakeholders.

Additionally, the Competition (Amendment) Act, 2019 came into force. This accorded the Authority enhanced oversight powers needed to address emerging challenges in the economy, specifically by deepening the provisions managing the abuse of buyer power under the Act in order to address emerging challenges in the economy.

In the year under review, the Board continued to executive its mandate with an aim of enhancing the operations and activities of the Authority and also to bolster the interactions with sector-specific regulators, development partners, among others. To address potential consumer protection concerns in digital credit markets, the Authority is collaborating with Innovation for Poverty Action (IPA) which will also facilitate joint training and research.

In order to enhance service delivery, in light of our expanded mandate, the Authority populated vacant positions and continued to implement various policies aimed at enhancing staff welfare and attracting and retaining talent. In this regard, the Authority resourced experienced and qualified personnel, especially in the Buyer Power Department.

To ensure continued service delivery during the COVID-19 the Authority invested in its ICT Department in terms of enhancing skills, software and hardware. Going into the new Financial Year, the COVID-19 pandemic will remain in sharp focus. The Authority is committed to playing a leading role in the economic recovery by supporting Government's ongoing initiatives. The recognition of the Authority's critical role in creating competitive markets and enhancing consumer welfare has seen our budgetary resources remain relatively stable over the past five years.

We appreciate the sustained support accorded by the National Treasury, from whom the Authority drew 67% of its budget during the financial year under review. The Authority has and will consistently use these resources prudently by ensuring the highest standards of corporate governance and ethics are observed as well as complying with all applicable statutory law. At the Board level, this monitoring is conducted through (2) Standing Committees - including Technical and Strategy as well as Audit. The Authority's professionalism and fidelity when utilizing its resources resulted to getting awarded as the best Government agency applying the International Public Sector Accounting Standards (IPSAS) at the 2019 Financial Reporting (FiRe) Awards. This was the third consecutive time that the Authority has received this commendation.

Additionally, the Board scored 97.97% during the Annual Evaluations conducted by the State Corporations Advisory Committee (SCAC). This exemplary performance is further a clear testament of the inculcation of good governance structures and measures within the Authority. Over the course of my first full financial year as Board Chair, I have experienced exemplary cooperation, teamwork and support all of which have enabled us execute our mandate of promoting effective competition and protecting consumers from misleading market conduct.

I am indebted to my fellow Board members and the Management for the support accorded to me.

Amb. Nelson Ndirangu, OGW

Chairman

DIRECTOR-GENERAL'S STATEMENT

> The Authority investigated and finalized 178 consumer complaints, which is an increase of 28% from the previous year. This is attributable to increased awareness about our mandate.

28%
Finalized consumer complaints from previous year

Ksh 2.1b
held by retailers was paid out to SMEs as a result of the Authority's intervention

14.18%
mergers attributable to the enactment of the merger thresholds

21 Cases in the manufacturing sector

Over **20** sensitization sessions with various stakeholders

Sensitization of key policy makers in **19** county governments

As required by law, I hereby present to you the Authority's Annual Report and Financial Statements for the FY 2019/2020. This report comes at a time when we are contending with a challenging and unprecedented socioeconomic environment. In my remarks, I will highlight in detail the activities undertaken by the Authority in the past twelve (12) months. Special focus will be on our interventions in response to the COVID-19 pandemic, from an enforcement and organizational perspective, and our continued commitment to deliver our mandate effectively even during these challenging times.

I shall also share the Authority's medium-term plan which we are developing with the clear and renewed understanding that competitive and functioning markets are critical especially during a crisis.

During the year under review, the Authority continued to implement its Strategic Plan 2017/18 – 2020/21 which is aligned with the Vision 2030 Blueprint, Third Medium Term Plan (MTP III) and the Sustainable Development Goals. Our Plan, and its alignment with aforementioned blueprints, takes cognizance of the fact that effective enforcement of competition law and policy is a catalyst for sustainable economic development.

One of the Authority's major interventions was in the house construction sector where investigations were conducted on the main paint manufacturers with the objective of extinguishing collusive conduct. Paint is a key component in the construction and housing industry and therefore, any anti-competitive conduct between producers of this input severely disenfranchises consumers in terms of product pricing and choice.

The Authority also investigated producers of edible oil, bread and fruit juice in order to eliminate any practices that amount to deceiving consumers through false or misleading claims regarding ingredients and/or nutritional benefits. As a result, the Authority ordered the parties found culpable of breaching the Competition Act to immediately remedy the infractions, pay penalties, and implement compliance programs within their corporates.

The Authority's approach to consumer welfare interventions was to prioritize activities which have an impact on a large number of Kenyans, while also focusing on advancing its awareness creation activities at the grassroots level. For instance, the Authority commemorated the annual World Consumer Rights Day 2020, themed: The Sustainable Consumer, on March 15, 2020 by conducting roadshows in Migori, Kisumu and Kakamega counties. The Authority engaged residents of these towns about their consumer rights, obligations and the Authority's consumer complaint handling process.

It is, therefore, encouraging to note that during the review period, the Authority investigated and finalized one hundred and seventy-eight (178) consumer complaints, which represented an increase of 28% from the previous year. This is attributable to increased awareness about our mandate. The consumer cases we processed cut across sectors such as e-commerce, aviation, retail, construction, cosmetics, and hospitality, among others.

During a crisis such as what the World is experiencing, businesses may get tempted to exploit consumers either through unjustifiable increases in prices or hoarding products in order to artificially create a surge in demand. In March 2020, when the first patient with COVID-19 was recorded in Kenya, the Authority initiated an extensive investigation into businesses supplying homecare products such as masks and sanitizers and essential food commodities, to ensure customers are not exploited through price gouging.

The Authority penalized businesses found to have breached the law, including ordering them to refund consumers they had overcharged. Additionally, we ordered manufacturers and distributors of essential commodities to expunge exclusivity clauses in their contracts. It is notable that the prices of these commodities have remained stable over the period. The Authority continues to monitor the situation and is adequately equipped to ramp up enforcement if and when our intelligence points to pricing models that are not being signalled by the forces of supply and demand.

As guided by our Strategic Plan, the Authority continued to focus its interventions on sectors that have a wide impact on Kenyans and the economy. In this regard, another standout enforcement initiative was an investigation into the retail sector, which focused on twenty-five (25) medium and large retailers. The main objective of the retail sector investigation was securing the sustainability of the sector, which supports the livelihood of tens of thousands of Kenyans. This stems from the recognition that abuse of buyer power in any sector exposes small enterprises to business collapse, an unfavourable outcome which would entrench concentration of dominant players.

It was determined that four (4) retailers had delayed payments to their local suppliers, most of whom are SMEs, for a period exceeding ninety (90) days. Following engagements with the Authority, the affected retailers were ordered to develop clear payment plans to offset delayed payments. In addition, monitoring to ensure adherence to the plans was done and shall progress into the next financial year. As a result of the Authority's intervention, Ksh. 2.1 billion held by retailers was paid out to SMEs.

It is noteworthy that Parliament, in recognition of the need to curtail abuse of buyer power in the economy, donated extra powers to the Authority through amendments of the Competition Act. The new provisions clearly elucidate conducts that constitute abuse of buyer power while providing the minimum requirements of contracts, including terms of payment, interest payable, and mechanism of dispute resolution, among others. Further, the amended law empowers the Authority to issue Prudential and Reporting Orders to businesses found in breach of the Act, as was evidenced in the aforementioned retail sector investigation.

Another key legislative development that happened during the year was the coming into force of the Competition (General) Rules, 2019. One highlight of these Rules is the review of the merger thresholds, exempting mergers whose combined turnover or assets is below Ksh. 500 Million from having to notify the Authority. This review is aimed at promoting small and medium-sized enterprises to be more competitive, reducing transaction costs and promoting innovation. The Rules also expunged the dual notification requirement for transactions with a regional dimension. These changes are expected to spur economic activity and play a facilitative role in the country's post-COVID recovery.

During the year under review, the Authority made determinations on 121 mergers. This was a decline from the previous year's 141 mergers which is attributable to the enactment of the merger thresholds elucidated earlier on. However, the Authority has witnessed more complex mergers that have cross-border dimension and new frontiers of competition assessment such as digital economy and big data. The biggest merger activity was in the manufacturing sector with twenty one (21) cases. The economy continues to experience consolidation in the banking sector with four mergers applications reviewed and determined by the Authority.

To promote stakeholder engagement and compliance with the Act, the Authority escalated its advocacy efforts, including rolling out awareness creation activities. Specifically, the Authority conducted over twenty (20) sensitization sessions with various stakeholders. We also sensitized key policy makers in nineteen (19) county governments about the provisions of the Competition Act and empowered them with information necessary to develop pro-competitive regulations and laws.

In enhancing the Authority's visibility and corporate image, we undertook various activities and programmes which are aimed at increasing the awareness about the Competition Act among our stakeholders. During the review period, the Authority published all its determinations, clearly articulating the reasoning behind each decision. This is aimed at increasing the transparency of our processes and ensure that we remain accountable to our stakeholders.

We have also relaunched our Newsletter in which we elucidated more about the Authority's activities, including giving incisive information about competition law enforcement in the country. We also kept our stakeholders, including the Media, apprised of key developments in our ongoing enforcement interventions through the issuance and publicizing of various Statements, Orders and Press Releases.

The Authority also continued implementing existing MoUs with other agencies. These include the Public Procurement Regulatory Authority, Communications Authority, the Kenya Civil Aviation Authority, and Insurance Regulatory Authority, among others.

These inter-agency relations are set to take on more significance as dwindling resources will necessitate more collaboration, including conducting joint research, information exchange and enhancing human capacity development through joint trainings. The Authority under the Second Development Policy Operation, and in collaboration with PPRA and the support of the World Bank, reviewed applicable standard tender documents which are aimed at combating irregularities in public procurement by bidders who conduct business with government.

In adherence to the directives issued by the Government aimed at curtailing the spread of COVID-19, the Authority facilitated all members of staff to work from home. Service delivery was therefore, not affected given the fact that the Authority has fully automated its functions. The Case Management Systems (CMS), and the "E-filing Portal" fully automated filing of mergers and exemption applications, register restrictive trade practices, consumer complaints, and abuse of buyer power enforcement. In line with this, the Authority conducts its activities in a paperless environment.

We wish to reassure our stakeholders that the Authority has deployed robust measures to ensure that our systems adhere to the highest standards in terms of confidentiality, data integrity, security, usability and availability. Further, the Authority has deployed a fully functional Disaster Recovery Site.

The Authority's online platform has created efficiencies. For instance, the Authority now takes an average of thirty (30) days to analyze merger applications, an improvement from the previous year's thirty seven (37) days. These incremental efficiencies are aligned with our commitment to play a positive role in improving the country's overall ease of doing business within the remit of the law.

In order to share experiences on international best practices, especially on emerging areas in competition law enforcement and consumer protection, the Authority continues to engage with regional and global partners. The Authority participated in workshops hosted by the United Nation Conference on Trade and Development (UNCTAD) and the African Competition Forum (ACF), International Consumer Protection and Enforcement Network (ICPEN), Organization for Economic Co-operation and Development (OECD), Federal Trade Commission (FTC), among others. These forums are important for knowledge sharing and networking. Traditionally, these workshops have been organized and executed in physical setups, however, the move to virtual applications will ensure that these interactions endure and executed with lower costs.

In addition, the Authority in March 2020 hosted an International Competition Network (ICN) Merger Working Group Webinar on Sound Decision Making, attracting over 160 participants from ICN member States, drawn from all continents. The Webinar was aimed at promoting the adoption of best practices in the design and operation of merger review regimes, thereby promoting their effectiveness in enhancing competitive markets.

The COVID-19 pandemic has occasioned a paradigm shift for competition regulation as well as how government services are delivered. The clarity of purpose within the Authority is that we need to adopt a long-term approach to our activities and interventions, with the goal being executing our mandate while facilitating economic recovery with optimal utilization of resources.

The Authority is also alive to the fact that there could be need to momentarily allow cooperation and collaboration between some competitor businesses, especially those supplying essential goods and commodities required in the fight against the COVID-19.

These interventions should be short-term in nature since their sustained existence would undo the gains made over the years in competition enforcement. In this regard, the Authority is developing Block Exemptions which are aimed at addressing supply chain challenges by preventing the decline in production, distribution and retailing of essential commodities key in the fight against COVID-19.

Going forward, we anticipate changes in consumer behaviour as more consumers make more purchases online. As mentioned earlier, the e-commerce space in the country has exhibited a renewed vibrancy as consumption trends change. This may entrench the dominance of some players while increasing distrust among and complains by consumers. This will call for our enhanced surveillance, market research and inquires as well as judicious enforcement action.

Our biggest asset in actualizing the aforementioned targets remains our members of staff. The Authority continued investing in our employees by facilitating them to attend various trainings, conferences and workshops, in order to enhance their skills and competences. Members of professional bodies were also supported to attend professional development courses.

The National Treasury has also continued to support the Authority's programmes through financial support. I also recognize the support the Board has given the Management in actualizing the activities that had been planned for the financial year under review. As we transit to a new business dispensation, the Authority shall remain reliant on the continued support of our key stakeholders in order to fulfil our mandate of promoting competition in our markets while enhancing consumer welfare.

Wang'ombe Kariuki, MBS

Director-General

The Authority on June 9, 2020 held discussions with the Board of the Kenya Association of Manufacturers (KAM) on areas of the Authority's enforcement that are pertinent to the manufacturing sector, including challenges its members are facing in regard to delayed payments by a few retail supermarkets, and agreed on the way forward to manage these challenges.

INTERNAL AUDIT AND ASSURANCE

The Internal Audit function provides independent assurance that the Authority's governance, risk management and internal control processes are operating effectively. This is achieved by assessing the governance structures/practices in place, implementation of the risk management framework and the level of compliance with the Competition Act, documented policies and procedures and government guidelines issued from time to time. It further assesses the Authority's activities and expenses to ensure value for money for all its undertakings. Additionally, internal audit is charged with the responsibility of mainstreaming and reporting on matters of integrity within the Authority.

Functionally, Internal Audit reports to the Board of Directors through the Board Audit Committee and administratively to the Director-General. This dual reporting structure ensures that the independence and objectivity of the function is guaranteed. During the reporting period, the function assessed the Authority's operations in all the departments - both technical and support - and provided an assurance to the Board and the management on the adequacy, reliability and completeness of the controls implemented. Fifteen (15) audits and two reviews of the institutional risk management framework (IRMF) were conducted. During the period under review, the Authority also reported to the Ethics and anti-corruption Commission (EACC) on its activities geared towards corruption deterrence, detection and reporting. There were zero reported cases of corruption during the financial year under review.

QUALITY MANAGEMENT SYSTEM

The Authority's commitment to meet and exceed customer expectations is built on a Quality Management System based on ISO 9001:2015; the international standard to which it was certified in the FY 2015/16. Compliance to this standard has streamlined operations and created consistency in the Authority's approach and in the quality of the decisions it makes which is a key outcome especially in its enforcement activities.

The Quality Management System (QMS) is maintained through regular Internal Audits and Surveillance Audits as a demonstration of its commitment to ensuring continual improvement in the service delivery. During the year under review, the Authority carried out two internal audits and one surveillance audit the results of which were important in strengthening the system. In addition, in order to equip the Authority with adequate skills to manage the system, the Authority trained a number of its members of staff as QMS auditors. Implementation of the QMS has enabled the Authority harness efficiencies in its operations including in the resolution of customer complaints and using customer feedback in helping improve our service delivery.

QUALITY POLICY

The Competition Authority of Kenya 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. Towards this, the Authority commits to comply with all statutory and other applicable requirements and to continual improvement of its Quality Management System based on ISO 9001:2015 International Standard.

The Policy and the established quality objectives shall be reviewed to ensure their continual suitability and adequacy, shall be communicated, understood and applied throughout the organization and shall be available to relevant interested parties as appropriate.

SUMMARY OF FIVE TOP CORPORATE RISKS AS AT 30TH JUNE 2020

	RISKS AND LIKELY CONTRIBUTORY FACTORS	MITIGATION ACTION PLANS
1.	**Strategy Implementation Risk** • Increased litigation costs • Inability to effectively litigate matters in the Tribunal or courts • Inability to effectively detect and investigate the increased sophistication of perpetrators' tactics • Insufficient human resources to effectively execute the Authority's mandate	• Automation of systems enabled staff to work remotely • Collaboration with other regional and international competition agencies on investigations and case analysis; • Continuous deepening skills of technical staff through further training on case analysis, investigations and evidence collection; and • Use of consultants to provide expertise and on the job training in competition law and consumer protection issues
2.	**Business Continuity Risk** • Lack of an operational/ functional Disaster Recovery Plan and Business Continuity Plan • Inadequate succession planning • Inadequate emergency response procedures	• Established and functional Disaster Recovery Site in place; • Defined succession management policy in place; • Regular systems audit, monitoring and reporting of the DR site; and • Enhanced budgetary allocations for acquisition of IT software and hardware
3.	**Inadequate funding Risk** • Constrained capacity to generate sufficient internal revenue • Nature of the authority (Non-commercial government agency)	• Sustained relationships with development partners on a continuous basis; and • Increased lobbying for more budgetary allocation at the National Treasury on a continuous basis

	RISKS AND LIKELY CONTRIBUTORY FACTORS	MITIGATION ACTION PLANS
4.	**Reputational Risk** • Inadequate advocacy and awareness creation • Ineffective decisions (impact of the decision and time taken) and failure to make decisions • Non-compliance with laws governing CAK	• Effective governance practices and clearly defined operational and reporting structures; • The Authority publishes public interest issues on the CAK website on a continuous basis; • Established whistle blower policy is in place; • The Authority has developed various guidelines based on new amendments to the Competition Act No. 12 of 2010; • The Authority's intervention into the retail sector has resulted in increased visibility and favourable reputation; • Enhanced provision for litigation costs to effectively litigate matters in the Competition Tribunal or courts; • Continuously deepening relationships with stakeholders through various interactions and cooperation frameworks with state agencies; and • Increased awareness creation activities throughout the year especially at the county level
5.	**Cyber Security and Information Security** • Inadequate IT controls to manage and Secure information • Web, network and system attacks • Staff accessing harmful links and sites • Inadequate controls on the sites accessible to staff	• Continuous implementation if the Business Continuity plan and disaster recovery plan; • Training and awareness for staff members regularly; • Acquisition of genuine licenses and use of up to date software ; • Enhanced verification with service provider; and • Regular incident analysis and reporting

ENTERPRISE RISK MANAGEMENT

The Authority has committed to a process of Enterprise Risk Management (ERM) aligned with the principles of best practice corporate governance and ERM standards. The Authority's Risk Framework aims to improve its capacity to identify and mitigate risks. Effective risk management is imperative to the Authority and has been identified as one of the areas of focus in our current Strategic Plan 2017/2018 – 2020/2021, which will enable the Authority achieve its core mandate as outlined in its Mission and Vision statements. The realization of the strategic objectives depends primarily on the Authority's ability to take calculated risks in a way that does not jeopardize the direct interests of its stakeholders. Sound assessment of risk enables us to anticipate and respond to changes in our organizational environment, as well as make informed decisions under conditions of uncertainty.

The Authority has committed to ensuring that risk management is embedded within its operations and that every individual is accountable for risk management in their day to day activities as risk culture. The continuous monitoring of risks and effective mitigation strategies enabled the Authority to minimize the effect of the COVID-19 pandemic within the period under review. There is continuous monitoring of situations and implementation of mitigating measures to avert any adverse impacts in future.

BUSINESS CONTINUITY MANAGEMENT

The Authority continues to implement its Business Continuity Management (BCM). The overall objective of the BCM is to ensure the safety of customers, visitors, employees and all other personnel associated with the Authority, the continuity of business and technological operations in the event of a crisis or disruptive incident. The Authority's business continuity management system designates the need to maintain and improve business processes by taking preventive and corrective actions, based on the results of management review and re-appraising the scope of systems and business continuity objectives. The Business Continuity Plan provides for immediate actions after an incident hence the need to have minimal disruptions to ensure continuity of service and business operations.

The Authority developed the BCM framework which defines the basic minimum levels of requirements for safety, availability and continuity of its operations and services. Subsequently, all departments developed a Business Impact Analysis (BIA) that provides guidelines for development, maintenance and exercising the Business Continuity Plans (BCP). In the implementation of the BCM framework, staff are regularly trained to be sensitized on its provisions. The Authority also has an established Disaster Recovery Site in readiness of an eventuality or downtime of its ICT systems.

We are committed to ensuring safety of the customers, visitors, our employees as well as any third parties (such as outsourced service providers, contractors, stakeholders) using its services, operating within its premises and the continuity of operations to provide its key services in the event of any disruptive incident. The Corona Virus (COVID-19) continues to spread, seriously affecting business operations around the world. As governments and organizations act to protect their citizens, operations and employees at home and abroad, these actions threaten to produce business interruptions, travel risks and other effects that could be detrimental to business continuity.

Awareness has been heightened at the Authority of individual responsibility to staff members and communities at large. The three priorities guiding decisions during this time of uncertainty: to keep employees safe, to ensure service to customers and partners, and to do our part in preventing the spread of the virus. During these challenging and uncertain times, the resilience of our systems will aid in post COVID-19 recovery strategies.

THE AUTHORITY'S INTERVENTIONS IN RESPONSE TO COVID-19

i. Investigations into Unconscionable Price Increases and Hoarding

Following the confirmation of the first novel COVID-19 outbreak in March 2020 in Kenya, the Authority established that some manufacturers and retailers were contemplating collusive behaviour with the intention of subsequently increasing prices and/or hoarding various consumer goods following the pronouncement by the Government of the first confirmed Coronavirus outbreak (COVID-19) in Kenya.

The Authority initiated investigations focusing on pharmaceutical products and basic commodities stocked by the retailers. The investigation covered over one hundred (100) businesses spread across fifteen (15) counties; Nakuru, Embu, Kiambu, Mombasa, Kisumu, Kwale, Kilifi, Trans Nzoia, Kisii and Homa Bay, among others.

The investigation sought to establish businesses that were in contravention of section 56(1) of the Act, which states, "it shall be an offence for a person in trade in connection with the supply or possible supply of goods or services to another person, to engage in conduct that is, in all the circumstances, unconscionable."

As part of the investigation, the Authority issued a remedial order to Cleanshelf Supermarkets after investigations determined that the retailer unconscionably adjusted prices of Tropikal brand hand sanitizers (500 ml), in contravention of section 56 of the Act. It was established that the retailer usually sold the specific hand sanitizers at Ksh. 800/=. The Authority determined that the retailer sold the same batch of product to consumers at varying prices above Ksh. 800/=, including Ksh. 1000/=, with the prices increase taking effect within hours.

The retailer, therefore, exploited its relative strength to commercially detriment consumers whose bargaining position has been diminished following the pronouncement of existence of COVID-19. The Authority issued a remedial order in respect of the player in the retail sector; to contact and refund all the consumers who purchased nine hundred and sixty (960) pieces of the product above the usual selling price and submit evidence to support the same.

Pursuant to section 9 (1) of the Act, the Authority followed through with a compliance process and confirmed that fifty three (53) customers had been contacted and refunded. Further, it was recommended that the management of Cleanshelf Supermarket develops a competition compliance program to sensitize its employees on restrictive trade practices and consumer welfare and to continue refunding the customers as long as they presented evidence.

ii. Order on Exclusivity Agreements on Essential Services

The Authority issued an Order to major manufacturers and distributors of essential foodstuffs and commodities, who had entered into exclusive agreements without its approval, to expunge them immediately. The Order applied to manufacturers and distributors of; maize flour, wheat flour, edible oils, rice, toilet papers, sanitizers and facemasks.

The agreements facilitate allocation of distributorship territories, brand exclusivity, quantities supplied, and deter manufacturers of competing brands from accessing the same distributors to deliver their products to retail outlets contrary to section 21(1) of the Act.

Such exclusive arrangements distort allocation of optimal prices for these commodities, ultimately denying consumers in some regions of the country from accessing the commodities at competitive prices. This situation may be exacerbated further by the COVID-19 pandemic.

The manufacturers and distributors were also ordered to cease and desist from entering into such exclusive agreements unless authorized by the Authority. Additionally, distributors who operate their own retail outlets were ordered to avail the aforementioned essential commodities, and other commodities they distribute, to other retail outlets on non-discriminatory terms.

iii. Block Exemptions on Concerted Decisions, Practices and Agreements

In order to address supply chain challenges which may be occasioned by the COVID-19 pandemic, the Authority has developed Draft Block Exemptions. The Guidelines, which are currently under review, envision excluding certain decisions, practices or agreements between manufacturers, distributors or retailers of essential commodities and foodstuff from certain sections of the Competition Act.

The essential commodities are; disinfectants, sanitizers, sanitary towels, toilet paper, toiletries, ventilators, surgical masks, gloves and thermometers while the essential foodstuff are; maize and maize products, rice, edible oils and fats, sugar, milk, wheat and wheat products and baby food.

The purpose of the exemptions is to support the programs designed to fight spread and recovery of COVID-19, as well as prevent the decline in the production, distribution and retail of the aforementioned commodities in the market. This will be achieved through allowing certain business coordination between competitors during this pandemic in the supply chain of these commodities.

iv. Home-based deployment & Automation of Services

Following the first case of COVID-19 in Kenya, 90% of the Authority's members of staff immediately commenced working remotely. This operational change did not result in service disruption since the Authority had already automated its core mandate and support functions through the Case Management System (CMS), the E-Filing Public Portal and the Enterprise Resource Planner (ERP).

The CMS and the Portal have fully automated the Authority's key mandates, which include; filing of mergers and exemption applications, restrictive trade practices such as abuse of dominance, as well as filing consumer and Abuse of Buyer Power complaints. The ERP automated processes of procurement, human resources, and enhanced financial management and auditing of the financial resources allocated to the Authority.

Automation has facilitated members of staff to work remotely, thereby ensuring continued and unfettered delivery of the Authority's mandate while also protecting their health and, in the long-term, ensuring the sustainability of our human capital. The Authority has purchased laptops for all its staff, allowing them to access the technical and support functions. The ICT Department also offers round the clock support to staff members and other stakeholders in order to ensure minimal downtime.

Further, and in order to curtail the spread of COVID-19, the Authority stopped receiving cases filed in physical form, instead directing all stakeholders to lodge their applications through the E-Filing Portal.

Home-based deployment has also called for enhanced performance management services. The Authority's staff members are required to submit weekly work reports that track their activities and deliverables. There was also increased virtual and consistent discussions between employees and their supervisors regarding specific assignments.

Mr. Victor Malu, Senior Future Systems Advisor at FSD Kenya, speaks at one of the panels organized at the Authority's 6th Annual Symposium. The Symposium, which was attended by over 170 delegates, was themed *Financial Inclusion and SMEs Growth through Competition Regulation.*

AUTHORITY'S PERFORMANCE BASED ON STRATEGIC THEMES

THEME 1: DELIVERING EFFECTIVE ENFORCEMENT

1. REGULATION OF RESTRICTIVE TRADE PRACTICES

Section 9 (a) and (b) ensures compliance with the Act in order to promote and enforce competition. This is achieved through investigations of agreements or concerted practices and unilateral or abuse of dominance practices prohibited under sections 21, 22 and 24 of the Act. The Act further prohibits such co-ordinated practices and unilateral conduct as they have a negative effect on competition, either by object or effect, with the reverberating effect of diminishing the ease of doing business, investment climate and competitiveness of the national economy.

Although coordination of practices by undertakings, association of undertakings and professional associations are prohibited under sections 21, 22 and 29 of the Act, they may be granted an exemption by the Authority, upon application under section 25, where the overriding public benefits to be generated from such arrangements is assessed.

Pursuant to section 31 of the Act, the Authority initiated investigations into alleged violations upon receipt of complaints and through screening of various sectors. In the period under review, the Authority investigated forty (40) restrictive trade practices, twenty four (24) of which were finalized while the rest were at various stages of investigations at the close of the period under review. Various remedies, including financial penalties and issued restraining orders, were imposed to undertakings found to have infringed the Act.

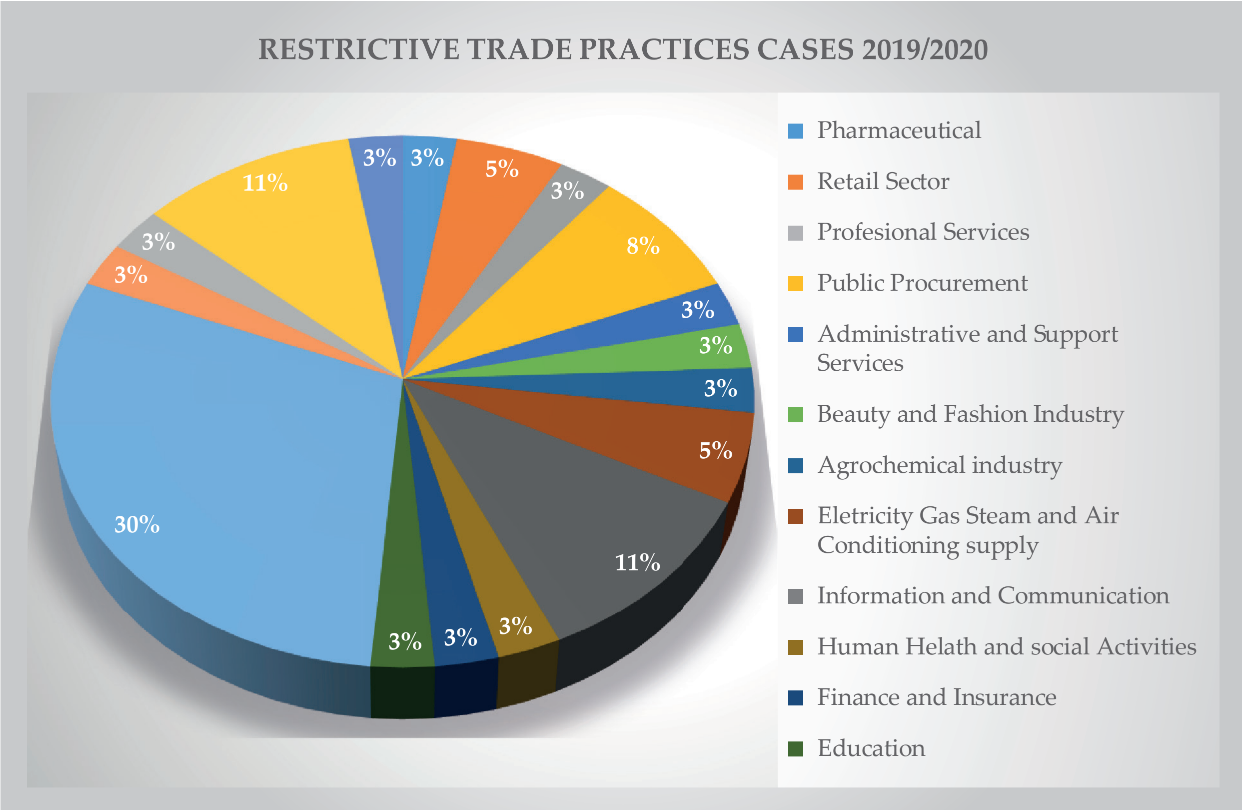
Two (2) exemption applications in the Agriculture and Energy sectors were received and are still undergoing review in line with the provisions of section 25 and 26 of the Act.

In order to increase transparency and predictability on how the Authority determines applicable financial remedies imposed on undertakings found to have engaged in prohibited practices, the Guidelines on Restrictive Trade Practices and Fining & Settlements were reviewed. These reviews were informed by the amendments of the Act in 2016 and 2019, enactment of the Competition (General) Rules, 2019 specifically on settlement rules. In addition, the reviews considered the development in jurisprudence on competition law and feedback by way of stakeholders' comments. It also reviewed the assessment of horizontal and vertical agreements to align the guidelines to international best practices.

Compliance audits were also carried out to ensure adherence to the Authority's decisions and the Act. Towards this end, the Authority reviewed compliance to Conditions set for eight (8) approved mergers and two (2) decisions in relation to the consumer welfare. It established that key conditions such as maintaining employment levels and/or maintenance of the distribution channels of the target firms in the conditional mergers were implemented. Additionally, it was also established that consumer protection decisions on ensuring proper packaging, labelling of products and repair of defective motor vehicles were adhered to.

The specific restrictive trade practices cases, exemption applications, compliance cases handled and advisory requests handled during the period under review are provided for in Annexes 1, 2, 3 and 4. The summary of the cases handled per sector affected are highlighted under Figure 3 below.

Figure 3. Restrictive Trade Practices Cases FY 2019/2020



The greatest percentage of the investigations were in the manufacturing market segment. This was attributed to the Authority's initiatives of screening and initiating investigations suo-moto based on the market intelligence gathered in the period under review. Information and communication sector recorded the second-highest number of investigations, which is explained by the complaints received due to increased usage of the digital space in the period under review.

Some of the Restrictive Trade Practices Cases investigated during the review period

INVESTIGATIONS INTO THE PAINTS MANUFACTURERS AND DISTRIBUTORS IN KENYA

The Authority initiated investigations into an alleged collusive conduct between certain players in the paints manufacturing and distribution sector of Kenya in July, 2018 pursuant to the provisions of section 31 of the Act. This was in light of the fact that the manufacturing and housing sectors are part of the Big Four Agenda to drive economic growth in the country.

A search and seizure exercise (Dawn Raid) was conducted at the premises of Crown Paints PLC (Crown), Basco Products Kenya Limited (Basco), Kansai Plascon Kenya Limited (Plascon) and Galaxy Paints and Coatings Limited (Galaxy) in December, 2018 with the intent of retrieving information on the alleged conduct.

The Authority reviewed the information to determine whether there was alleged collusive conduct between these manufacturers and distributors of paint products. The alleged concerted practices are harmful to competition since the transparency of strategies by firms is likely to increase prices or reduce product availability in the market to the detriment of the consumer welfare.

Pursuant to section 38 of the Act, Basco Products (K) Ltd elected to settle the matter soon after the Dawn Raid and paid a financial settlement amount of Kenya Shillings twenty million, seven hundred and ninety nine thousand, two hundred and seventy seven and seventy cents (KSh. 20,799,277.70). The Company also undertook to desist from any anticompetitive conduct and put in place a Competition Compliance Program to sensitize its leadership and key staff on competition law

The investigations with respect to three other paint manufacturers and distributors were concluded in July 2019 with the Authority making a preliminary finding that the parties were involved in an anti-competitive agreement on prices, discount structure and transport charges.

Accordingly, the parties were accorded an opportunity to respond to the allegations levelled against them pursuant to section 34 of the Act through written and oral submissions which were presented on various dates between September and November, 2019.

The Authority, made a determination that the parties were in breach of section 21(1) and (3) of the Act. All the parties were in the process of finalizing the matter.

INVESTIGATIONS INTO THE JET-AI FUEL MARKET IN KENYA

A number of oil marketers in Kenya petitioned the National Assembly to investigate alleged influx of illegal oil marketers in the country. The petitioners pointed out that the market had been penetrated by allegedly unlicensed and illegal agents that were supplying jet fuel below the landing cost to the detriment of legitimate suppliers. The National Assembly recommended the Authority to investigate the business practices of the OMCs involved in the supply and distribution of Jet A1 fuel.

Pursuant to this recommendation and powers vested on the Authority under section 31 of the Act, the Authority initiated investigations into the activities of undertakings involved in the supply of Jet A1 fuel in the country, specifically relating to possible abuse of dominance and/or cartelization. The findings from the investigation were that the matter related to the investigation of business practices among oil marketing companies engaged in the supply and distribution of Jet A1 fuel (Dual Purpose Kerosene (DPK) in Kenya; The product Landing Cost is similar for all the OMCs since Jet A1 fuel is imported into the country for all OMCs; The competition between the OMCs involved in the Jet A1 fuel business was purely based on the volume margins which should be above the Landing Costs for the business to make economic sense to the importers and retailers; JKIA has an approximate monthly demand of 60 million litres of Jet A1 fuel. Approximately 40 million litres of this is consumed by Kenya Airways PLC and that ASM are the providers of the fuel to the dominant OMC. Further, the dominant OMC has been a strong market player for several years and its market shares can be attributed to having a running contract with ASM and which eventually spiked when ASM secured additional, high value contracts with Kenya Airways in 2019 which is transitory and the resellers rely on the OMCs to sell them the products and it would be to their detriment to sell the product at below their buying price. It was therefore clear that the selling price of the suppliers of Jet fuel was way above the "In Tank Price" and hence not engaging in "under cutting" as averred by the petitioner.

The Authority concluded that there was effective competition among the OMCs and that the product was priced above the landing costs. Accordingly, the findings of the investigation were forwarded to the Departmental Committee of Energy, of the National Assembly.

2. REGULATION OF MERGERS

The competition Act requires that all mergers are approved by the Authority. To reduce the regulatory burden on SMEs the Competition (General) rules, 2019, which became effective on 6th December 2019, exempt all mergers whose combined turnover/assets is below Ksh. 500 million from notification.

The objective of merger control is to ensure that undertakings do not acquire dominance and market power through mergers or acquisitions, which they can use to negatively affect competition and negatively affect consumers.

During the period under review, the Authority received a total of one hundred and twenty one (121) notifications, out of which one hundred and sixteen (116) were finalized while five (5) were ongoing at the end of the reporting period. The merger notifications were mainly from the following sectors; manufacturing (17.40%), distribution (9.9%), ICT (8.3%), energy (7.4%) and retail distribution (5.8%).

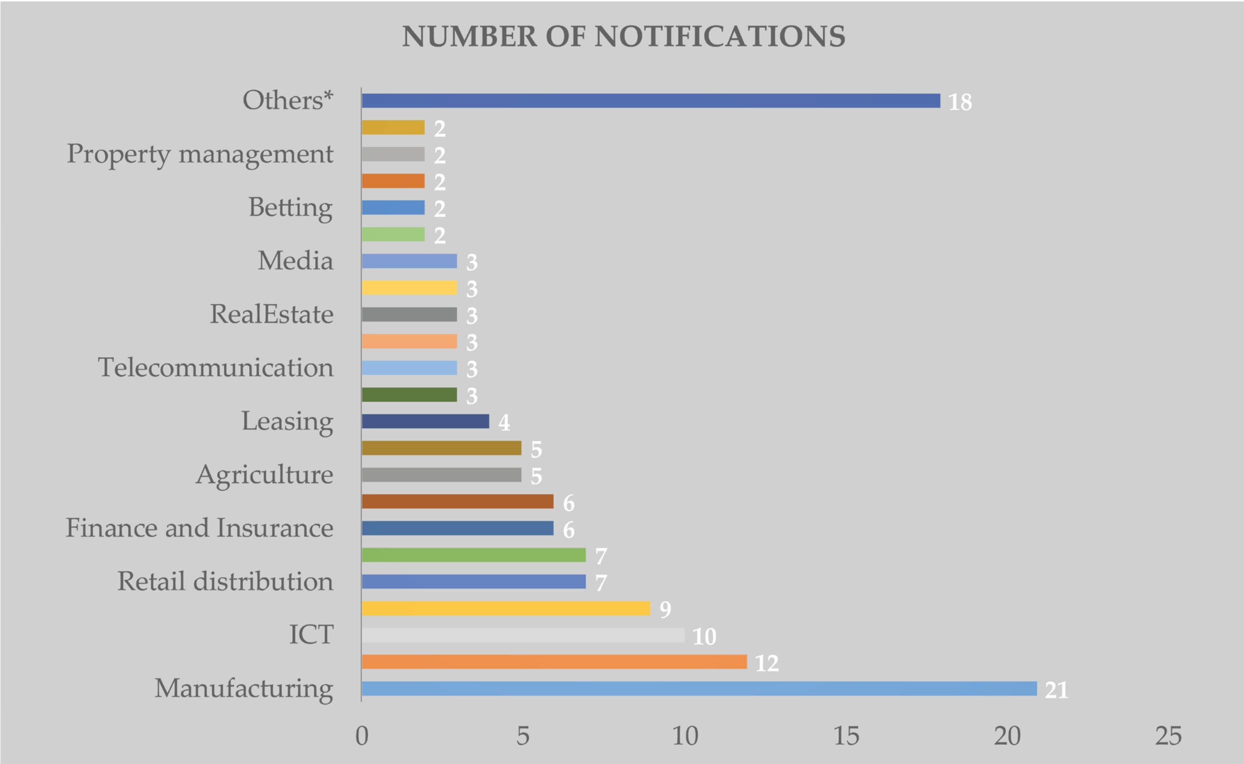
The Authority determined one hundred and twenty-one (121) mergers; Forty-four (44) of which met the thresholds for full merger analysis as stipulated in the Merger Threshold Guidelines. Its noteworthy that pursuant to the Competition Rules 2019, mergers with a COMESA dimension are no longer notified to the Authority. In this regard, four (4) mergers were reviewed through the COMESA Competition Commission as provided for in the Competition (General) Rules, 2019. Seventy-six (76) of the notifications satisfied the criteria for exclusions and hence were excluded from the provisions of Part IV of the Act while one was ongoing as at year end. In addition, twenty-two (22) transactions which were nevertheless notified to the Authority did not qualify as mergers in terms of sections 2 and 41 of the Act.

Table 3 shows slight reduction of mergers in 2019/2020 compared to 2018/2019. The decline can be attributed to array of factors, including the new merger thresholds as a result of which SMEs (with combined assets/turnover of below Kshs. 500 below)" no longer require to notify; notifications to COMESA that previously used to be brought to the Authority, and the outbreak of COVID-19, with a resultant economic downturn.

Table 3: The Comparison between Transactions Handled during the FY 2018/19 and 2019/20

Item	2018/2019	2019/2020
Merger transactions	45	44
Transactions excluded from provisions of Part IV of the Act	96	77
TOTAL	**141**	**121**
Non-merger transactions (restructuring & advisory opinions)	41	22
Transactions carried forward	21	5
Mergers with international dimension	87	72
Mergers with local dimension	54	49

Figure 4: Number of Mergers Handled per Sector in 2019/2020



** Transactions labelled **'Others'** include sectors that recorded less than two (2) notifications during the year. Some of the sectors are mining, advertising, security, recruitment, digital payments systems among others.*

THE RETAIL SECTOR

The retail sector witnessed increased activities in the period under review as evidenced by new entrants, expansion and exits. Nakumatt, was until recently a leading player in the sector with over sixty (60) outlets across the country, having been in existence for over thirty (30) years, exited the market. This left a wide gap in the sector that resulted in entry by international firms, restructuring, mergers & acquisitions by international and local retail outlets, including online Platforms.

The entry and expansion by Majid al Futtaim, under the brand name Carrefour, has seen the outlet open eight (8) stores, majority of which were former Nakumatt locations. Other retailers have also taken the spaces exited by Nakumatt.

AMETHIS AND NAIVAS

Amethis acquired 30% shareholding in Naivas, with controlling rights. Amethis, which also has an interest in Ramco Group, was seeking to use its investment to improve Naivas' customer experience and policy as the entity seeks expansion.

The Authority determined that the transaction was unlikely to lead to a substantial lessening or elimination of competition in the market for formal wholesale and retail distribution of consumer goods in Kenya. However, the Authority noted the potential public interest issues arising post-merger specifically, in regard to the existing contacts and debts with suppliers.

To ameliorate the aforementioned concerns, the Authority approved the transaction on condition that: -

a) The merged entity honours all the current contracts with suppliers and SMEs for the surviving period of such contracts;

b) The merged entity ensures that prior to implementation of the proposed transaction, all the outstanding debts owed to its suppliers and other SMEs are paid to the extent permitted by the contracts entered into between the parties; and

c) The merged entity reviews its existing and future contracts with suppliers and SMEs to ensure that any clauses that are contrary to the Buyer Power provisions of the Act and the Buyer Power Guidelines are removed.

SOKONI RETAIL KENYA LIMITED AND QUICK MART LIMITED

The Authority approved investment of over two billion Kenya Shillings by Sokoni Retail Kenya Limited (Sokoni) in Quick Mart Supermarkets. The outlet commenced operation in 2006, operated eleven (11) stores with majority of them located within the Nairobi suburbs (Ruaka, Embakasi, Ruai, Ruiru, among others) with only two (2) operating in upmarket Nairobi.

Having acquired Tumaini Supermarkets earlier on, the investment in Quick Mart in exchange for 100% shareholding paved way for Sokoni to put the two retail stores together. Post-transaction two entities now operate twenty five (25) outlets across the country, most of which are found within Nairobi. The investment also enabled Adenia to open more Quick Mart stores within Nairobi with some being granted 24 hour operating licenses.

The Authority's review and analysis of the merger did not find any likelihood of the proposed transactions leading to negative competition and public interest concerns and hence it was approved unconditionally.

THE FINANCIAL SECTOR STRATEGIES THROUGH MERGERS AND ACQUISITIONS

Over the past few years, the banking and insurance sectors have seen shifts in policy and market dynamics. The sectors have witnessed consolidation and mergers both locally and entry from international institutions. The following were some of the transactions that the Authority considered and determined, during the year under review;

NATIONAL BANK OF KENYA (NBK) AND KENYA COMMERCIAL BANK GROUP PLC (KCB)

The Authority approved the acquisition of National Bank of Kenya Limited by KCB on condition that 90% of the merged entity's employees will be retained for a period of eighteen (18) months from the closing of the merger.

KCB is a non-operating holding company incorporated in Kenya and listed at the Nairobi Securities Exchange (NSE) and is cross-listed at the Dar es Salam Stock Exchange, Uganda Securities Exchange and Rwanda Stock Exchange. KCB, through its subsidiaries, provides various financial services including retail and corporate banking services, forex trading, financing of trade and other auxiliary banking activities. The bank also provides asset financing, insurance brokerage, bancassurance, leasing, stock brokerage, investment advisory, and partnership services. One of its subsidiaries, KCB Bank Kenya Limited, operates as a commercial bank in Kenya.

National Bank of Kenya Limited (NBK) is a public limited liability company incorporated in Kenya and listed at the NSE. It is also licensed to operate as a commercial bank in Kenya. NBK provides retail and corporate banking services, investment banking and brokerage services, insurance services, among other financial services. The proposed transaction was an offer by KCB to acquire up to 100% of the share capital of NBK through a share swap. The transaction therefore qualified as a merger within the meaning of Sections 2 and 41 of the Act.

The Central Bank of Kenya (CBK) classifies commercial banks operating in Kenya into three tier groups using a composite weighted index (CWI) that considers net assets, customer deposits, capital and reserves, number of deposit accounts and number of loan accounts. While KCB and NBK may focus, or are stronger, on certain aspects of banking, their products offerings are in three main business lines namely; **(i) Retail banking (ii) Corporate banking and (iii) Non-banking products**, specifically the sale of short-term insurance.

It is the Authority's view that the CBK's CWI provides a detailed analysis of the market structure and forms a concrete basis for assessment of the impact that the proposed transaction would have on competition. According to information from the CBK, there are forty two (42) licensed banks in Kenya. Based on their asset base, the banks are classified into three tiers – Tiers 1, 2 and 3. Data from the CBK further shows that the market shares and concentration for the leading banks in the market for retail and corporate banking services are as follows: KCB (14.14%), NIC/CBA Banks (10.67%), Cooperative Bank of Kenya (9.93%), Equity Bank (9.85%), Standard Chartered Bank (7.11%), Diamond Trust Bank (6.72%), Barclays Bank of Kenya (6.57%), CFC Stanbic (5.65%), I & M Bank (4.78%). These banks are classified as Tier 1.

Collectively, commercial banks in Tiers 2 and 3 control 24.58% of the market for retail and corporate banking services market. NBK, a Tier 2 bank, had a market share of 2.37%, according to CBK data. It is worth noting that the NBK had been ceding market share. In 2015, the bank had a market share of 3.42%. Post-merger, the market share of merged entity stood at 16.51%. Further, the merged entity would face competition from other banks, more so Tier 1 institutions which control 49.47% of the market. Therefore, the proposed transaction was not likely to lead to lessening of competition in the market for retail and corporate banking services in Kenya.

Data from the Insurance Regulatory Authority (IRA) indicated that there were eight thousand one hundred and twenty three (8,123) licensed insurance intermediaries as at August 2017.

Commercial banks mainly operate insurance agency services. Customers can access insurance products directly from an insurance company, brokers or agents. Data gathered by the Authority indicates that these segments control 18%, 31.5% and 50.5% market share respectively.

Data from the IRA further indicates that KCB and NBK's combined insurance business represents a market share less than 1% in an industry that is valued at over Ksh. 200 billion. In the brokerage business, some of the market players include Minet Insurance Brokers, D&G Insurance Brokers, Bim Biz Insurance Brokers, Royal Associate Insurance Brokers and Chancery Insurance Brokers.

Based on the foregoing, it was the Authority's view that the proposed transaction was unlikely to raise competition or market foreclosure concerns since the target had a minimal market presence. Further, the market has thousands of players who will offer competitive restraint. During merger analysis, the Authority also considers the financial health of the parties and the extent to which the proposed transaction will impact the sustainability of the businesses in question. In this regard, it is important to note that NBK's profits decreased by 84% from Ksh. 410,784,000.00 in 2017 to Ksh. 7,008,000.00 in 2018 due to reduced lending. Loans and advances to customers in 2018 dropped by Ksh 9.9 billion (or 17%) to Ksh. 48 billion compared to Ksh. 57.88 billion in the previous year. This drop was attributable to increased loan impairment.

As at December 2018, NBK's core capital stood at Ksh. 2.34 billion. This was four times lower than the Ksh. 9 billion it closed 2017 with. This left the bank significantly in breach of regulatory capital ratios. NBK's total capital to total risk weighted assets ratio stood at 3.7% compared to the minimum statutory limit of 14.50%. Although its liquidity ratio is above the minimum requirement of 20%, NBK's total capital to total risk-weighted assets was deficient to the extent of -10.4% at the end of 2018. Additionally, the bank's core capital to total debt liabilities stood at a negative 5.5% while core capital to total assets stands at negative 7.9%.

Based on the financial position elucidated above, it was clear to the Authority that NBK was under financial distress and required additional capital injection in order to continue operating as a going concern. KCB delivered positive financial results in 2018. The bank closed the financial year with total assets of Ksh. 714.3 billion, while its profits improved by 22% to Ksh. 24 billion. The bank's return on average equity was 21.9%. Further, the bank was not in breach of minimum statutory limits.

Another key consideration during merger analysis is public interest concerns that maybe occasioned by proposed transactions. Public interest concerns during merger analysis include the; Extent to which a proposed merger would impact employment opportunities; Impact on competitiveness of small and medium enterprises (SMEs); Impact on particular industries/ sectors; and Impact on the ability of national industries to compete in international markets.

The Authority was of the view that the proposed merger is likely to result in negative public interest concerns that needed to be considered and addressed. Specifically, the Authority anticipated that the merger would result in duplication of certain roles which was likely to lead to loss of employment. Premised on the above, the Authority approved the proposed acquisition of National Bank of Kenya Limited by KCB Group on condition that 90% of the merged entity's employees will be retained for a period of eighteen (18) months from closing of the merger. In the Authority's view, the limitation on the number of employees that would be laid off will enable the merged entity progress with the restructuring. The time limitation of 18 months was informed by case precedence and submissions by the parties.

ACCESS BANK PLC AND TRANSNATIONAL BANK

In this transaction, the Authority unconditionally approved the merger between Access Bank PLC and Transnational Bank. Access Bank, the acquirer, is a Nigerian Bank listed on the Nigerian Stock Exchange to provide financial and monetary intermediation services such as money markets. It has operations in Rwanda, Zambia, Nigeria, Ghana, Gambia, Sierra Leone, and the Democratic Republic of Congo with the merger granting it access into the country. On the other hand, Transnational Bank is a limited liability banking services provider, providing retail, corporate and foreign exchange services in Kenya.

In its review of the transaction which sought to inject over one billion Kenya Shillings into the Kenyan economy through the bank, the Authority did not identify any market overlaps in the transaction based on the fact that the acquirer had no presence in the country premerger. The transaction was, therefore, unlikely to lead to a lessening or prevention of competition in the banking sector in the Kenya and was approved unconditionally.

COMMERCIAL BANK S. A E AND MAYFAIR BANK

The Authority also reviewed a notifiable exclusion transaction involving Commercial Bank S. A E and Mayfair Bank. The acquirer, Commercial Bank S.A.E is an Egyptian Bank listed on the Cairo Stock Exchange and the London Stock Exchange. It provides banking services in Egypt and entered into the country through the acquisition of the Mayfair Bank. The acquirer sought to revamp the target bank with over three (3) billion Kenya Shillings of investment.

Mayfair bank is a traditional brick and mortar as well as digital virtual banking entity that provides banking and other financial services to its customers mostly found in major cities in Kenya. The Authority, in its review, considered the market for banking and the transaction was excluded since it was unlikely to lead to lessening of competition or raise any negative public interest considerations and met the thresholds for thresholds for exclusion as provided for in the competition (General) Rules 2019.

ICEA Lion Insurance Holdings Limited and Eastern Africa Holdings Limited

The Authority unconditionally approved the acquisition of control of ICEA Lion Insurance Holdings Limited by Eastern Africa Holdings Limited. The acquirer, East Africa Holdings Limited is incorporated in United Kingdom and affiliated to Leapfrog Strategic Africa. The target, ICEA Lion Insurance Holding, is an insurance service provider incorporated in Kenya. Specifically, the entity provides general and life insurance services as well as assets and fund management services.

In its competition and public interest analysis of the transaction, the Authority did not identify any overlaps given that the acquirer had no presence in Kenya before the merger. The Authority cognizant of the investment value of over Ksh. 10 billion into the Kenyan economy did not identify any elements of the transaction that were likely to raise any negative competition concerns or detriment public interest.

ICEA Lion and Stanlib Kenya Limited

ICEA Lion acquired the business and assets of Stanlib Kenya Limited which at the time was exiting the country. Stanlib Kenya Limited is a subsidiary of Liberty Holdings Limited which is listed on the Johannesburg stock exchange. The Authority in its determination identified the relevant market for asset and fund management services. Data from the Retirement Benefits Authority (RBA) indicated that post-merger the merged entity will hold a market share of 15% putting it at number three (3) in the market after Sanlam and Gen Africa respectively.

The Authority was of the view that the merger would safeguard the over Ksh. 120 billion assets funds, including pension funds, managed by the target through the transfer to the acquirer. Additionally, the transaction would not confer any dominance to the acquirer and, therefore, was not likely to negatively affect competition in the market. It was also unlikely to lead to negative public interest concerns. Therefore, in order facilitate exit of Stanlib without substantial harm to fund management in the country, the transaction was approved unconditionally.

Competition (General) Rules, 2019 in Eliminating Double Merger Notifications

On 6th December, 2019, the Kenyan Competition (General) Rules, 2019 ('Rules') were gazetted with the main aim of enhancing transparency, predictability and accountability among the business community regarding the competition law enforcement process.

The Rules also enable the competition Authority of Kenya to prioritize enforcement, thereby minimizing regulatory burden and cost.

Specifically, the Rules have introduced a single notification regime for transactions with a regional dimension involving both the Authority and the COMESA Competition Commission (CCC). In such scenarios, the Rules now prescribe a single notification regime whereby, if at least two-thirds of the merging parties' combined turnover or assets (whichever is higher) is generated or located in Kenya, approval only needs to be sought from the Authority.

The Rules have also reduced the merger filing fees for Small and Medium Enterprises (SMEs), with the aim of enabling them to unlock their contribution to the economy. Specifically, mergers where the parties' combined turnover/Assets does not exceed Kshs. 500 Million, are now exempt from notification to the Authority.

This is expected to reduce the transactional costs of SMEs which intend to merge, thereby making them more credible competitors by improving their portfolio, while supporting a sector which plays an important role in economic development in terms of job creation.

Further, this intervention is in line with the Government's broader agenda of promoting start-ups and attracting investment in the economy. Further, the new thresholds will enable the Authority focus its resources on transactions which have a significant impact on competition.

So far, the Authority has received four (4) extra-territorial information requests on transaction notified to COMESA but were not notified to Kenya. Also, the referral of cases to national agencies has been actualized with the Authority having made one such request to COMESA successfully.

3. BUYER POWER

Buyer power refers to the influence that can be exerted by a purchaser (buyer) to obtain more favourable terms than would otherwise pertain, or to impose on a supplier a long term opportunity cost which would be significantly disproportionate to any resulting long term cost to the buyer. An undertaking with buyer power is able to influence the bargaining process and compel its suppliers to reduce prices below the level that is profitable or competitive. It is also able to extract other terms of supply that are more favourable than a supplier's ordinary contractual terms and engage in conduct that would otherwise not be accepted, but for the existence of buyer power.

Conducts amounting to abuse of buyer power include delays in payment without justifiable reason in breach of agreed terms of payment; unilateral termination or threats of termination of a commercial relationship without notice or on an unreasonably short notice period without an objectively justifiable reason; refusal to receive or return goods without justifiable reason; transfer of costs or risks to suppliers of goods or services by imposing a requirement for the suppliers to fund the cost of a promotion; and demand for limitations on supplies to other buyers. Others include: transfer of commercial risks meant to be borne by the buyer to the suppliers; demanding for preferential terms unfavourable to the supplier; reducing prices by a small but significant amount where there is difficulty in substitutability of alternative buyers and reducing prices below competitive levels.

Any conduct that amounts to abuse of buyer power in a market in Kenya, or a substantial part of Kenya, is an offence punishable by imprisonment for a term not exceeding five years, or a maximum fine of 10 million shillings, or both. The Authority is additionally enabled to take administrative measures to remedy infringements.

Amendments to the Act, which took effect in December 2019, expanded the mandate of the Authority with regard to regulation of abuse of buyer power. Section 31 of the Act now explicitly includes abuse of buyer power among the market conduct that the Authority can investigate either on its own initiative or upon receipt of a complaint. Furthermore, the Authority can inquire into sectors or undertakings that are experiencing or are likely to experience incidences of abuse of buyer power and monitor their activities. To ensure compliance, the Authority may impose reporting and prudential requirements. With this power, the Authority can act pre-emptively in order to safeguard the wellbeing of markets.

While utilising the powers donated by Parliament in the recent amendments, the Authority commenced a sector-wide investigation into incidences of abuse of buyer power in the retail sector, culminating in among other interventions and imposition of prudential and reporting requirements.

To foster self-regulation, the Authority may require industries and sectors in which instances of abuse of buyer power are likely to occur to develop a binding code of practice. The developed code shall be published by the Authority in consultation with the relevant stakeholders, relevant Government agencies and the Attorney-General. Following the investigation into the retail sector referred to above, the Authority has requested stakeholders in the sector to prepare and submit to it a code of practice for publication.

Situations of unwritten contracts are often open to abuse since terms are not on record. In a situation where buyer power exists, the supplier may have little choice except to abide by what the buyer dictates. Furthermore, terms of engagement can be varied on the whims of the buyer. With the 2019 amendments, the Act sets out the minimum terms that shall constitute a contract of supply. An agreement between a buyer and a supplier undertaking shall include:

- the terms of payment;
- the payment date;
- the interest rate payable on late payment;
- the conditions for termination and variation of the contract with reasonable notice; and
- a mechanism for the resolution of disputes.

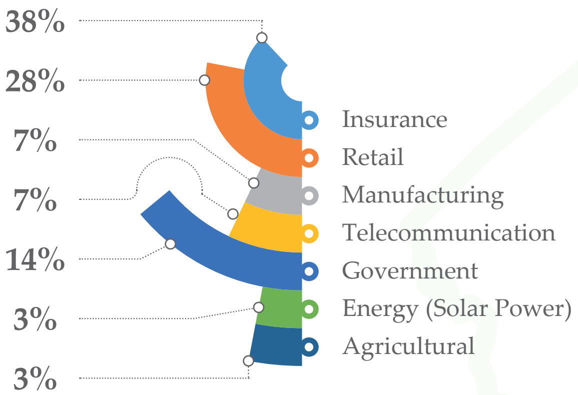
The Authority has identified sectors that have high incidences of abuse of buyer power, specifically the insurance and retail sectors, with a view to developing template contracts in consultation with the stakeholders for adoption by players in these sectors.

In determining a complaint of alleged abuse of buyer power, the Authority applies a two-tiered approach established under the Act and clarified in the Buyer Power Guidelines. The first test is to establish whether the buyer was in a position of buyer power as against the supplier. The test takes into account all relevant circumstances including the nature and determination of contract terms between the concerned undertakings; the commercial significance of the products in relation to the buyer undertaking; the buyer's significance to the seller; the ability of the buyer undertaking to easily switch to competing suppliers and the supplier to easily switch buyers. Dominance is not necessary since abuse of buyer power occurs even in markets with low levels of concentration. Consequently, consideration of market shares bears equal weight with all relevant factors.

The second test is subject to a positive finding of existence of buyer power. It comprises investigation into whether the buyer engaged in any of the conducts that are prohibited by the Act. Where the outcome of the second test is also affirmative, the Authority will make a finding of breach of section 24A (1) of the Act, which prohibits abuse of buyer power in a market in Kenya.

In the year under review, the Authority investigated thirty two (32) abuse of buyer power cases from which eighteen (18) were concluded. Of these cases, 38% emanated from the insurance sector, 28% from the retail sector and 14% from government procurement. The remainder were from manufacturing, telecommunications, energy and agriculture sectors as shown in Figure 5 below. All cases emanating from government procurement were forwarded to the Public Procurement Regulatory Authority (PPRA).

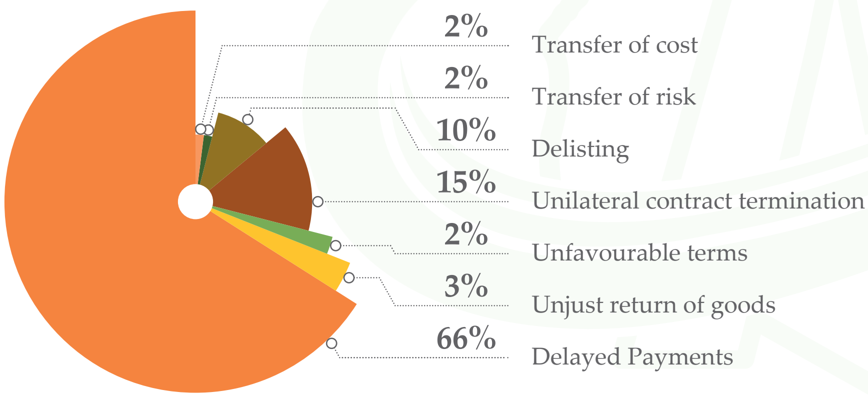
Figure 5. Buyer Power Cases by Sector



Informed by the high prevalence of abuse of buyer power reports in the insurance sector, the Authority in liaison with the Office of the Attorney General and other stakeholders including the Ministry of Industrialization, Trade and Enterprise Development plans to develop a template contract for consideration and adoption by players in the sector in liaison with the sector regulator, Association of Kenya Insurers, Kenya Motor Vehicle Repairer's Association, among other stakeholders.

In terms of abuse of buyer power conducts investigated, delayed payments was the most prevalent at 66%, followed by unilateral termination without notice or on short notice at 15%. Figure 6 below indicates the prevalence of the various types of conducts in the complaints presented to the Authority.

Figure 6. Nature of Conduct Complained about



The use of buyer power can negatively affect sustainability of suppliers. Price cuts precipitated by exertion of buyer power reduce a supplier's incomes and consequently the capacity for research and development. The more costs are shifted from the supplier to the powerful purchaser, the greater the likelihood that the supplier will ultimately become unsustainable and exit the market. With this in mind, the Authority prioritised investigations into cases with the greatest impact on SMEs in view of their pivotal position in the economy. Data from the Kenya National Bureau of Statistics indicates that SMEs contribute up to 40% of the GDP and constitute up to 98% of all businesses in the country. The vast majority of suppliers are SMEs with a substantial disparity in bargaining power between themselves and buyers of their goods and services for resale in the market. They are the biggest casualties of abuse of buyer power. In this regard, below are some notable matters investigated in the year;

CHRED DESIGNS LIMITED VS GREENLANDS AGRO-PRODUCERS (K) LIMITED

Chred Designs Limited, presented a complaint against Greenlands Agro-producers (K) Limited, an exporter of horticultural products, claiming that from September 2018 Greenlands engaged in abuse of its buyer power by delaying payments, followed by unilateral termination of the contract of supply. Chred claimed to have been in a commercial agreement with Greenlands for the supply of perforated packaging bags for use in packaging horticulture products for local and export markets between the years 2017 and 2019.

Chred alleged that termination of the contract in 2019 was precipitated by its demands that all its delayed payments be honoured. Following several such demands, the buyer abruptly stopped placing orders in December 2019, effectively terminating the contractual relationship. The Authority's investigations and assessment established as follows:

1. Greenlands held a position of buyer power over Chred.

This was arrived at in consideration of the following factors: Following assessment of the market, the Authority established that although the majority of horticulture companies procure perforated bags for the export market, securing business with such companies was not open to small suppliers at the level Chred was found to be at. Existing bigger suppliers in the market with established long-lasting relationship with the companies took up that business leaving SME suppliers to supply to smaller undertakings such as Greenlands; Chred's ability to switch to alternative buyers was limited by its size and was further suppressed by the withheld payments which made it difficult to invest in expansion in order to qualify for access to bigger buyers; and The contract between the parties was not reduced into writing. The Authority construed its terms from business documents exchanged by the parties, such as local purchase orders (LPOs) and invoices. The mode of operation between the parties was such that Greenlands would issue LPO and Chred would make deliveries of the ordered goods. The duration within which payment was made varied between thirty-five (35) to ninety (90) days at the discretion of Greenlands. This ability to adjust the contract to its convenience and the fact that the supplier had to accept the new terms pointed to a superior bargaining position.

2. Greenland's engaged in conduct in abuse of buyer power.

Evidence provided by the supplier and which Greenlands admitted confirmed that the buyer had: Delayed payment in the amount of Three Hundred and Twenty Four Thousand, Eight Hundred (Ksh.324,800); and Unilaterally terminated the contract without notice and without an objectively justifiable reason.

Investigation of records from Chred established that the conduct of the buyer had reduced its profitability and caused it to default on a bank finance. Greenlands opted to settle the matter by settling the sum of Three Hundred and Twenty Four Thousand, Eight Hundred Kenya shillings (Ksh. 324,800.00) to Chred. The Authority's decision secured the recovery and sustainability of the supplier.

KISHLIZ ENTERPRISES VS LEMIGO DALA HOLDINGS

Conduct in abuse of buyer power is actionable only where there is an existence of buyer power. In the instant case, Kishliz Enterprises, a supplier of general hygiene products presented a complaint against Lemigo Dala Holdings, alleging abuse of buyer power by delaying payment. The Lemigo Dala Holdings is a retailer running two supermarket branches.

Kishliz alleged that it delivered goods worth Forty One Thousand, Seven Hundred and Sixty

Kenya shillings (Ksh. 41,760.00) to Lemigo Dala in June 2019 and issued an invoice for the amount. Of this, the invoiced sum, Lemigo Dala paid Six Thousand, Seven Hundred and Twenty Kenya shillings (Ksh. 6,720.00) leaving Thirty-five Thousand and Forty Kenya shillings (Ksh. 35,040.00) outstanding. Consequently, Kishliz discontinued supplies and moved to alternative retailers, thereby terminating its relationship with the retailer. It subsequently presented a complaint to the Authority.

On investigation, the Authority found as follows:

1. Lemigo Dala did not have buyer power over Kishliz:

It was established that there was a good spread of alternative outlets in the relevant geographical market. There were a total of 9 alternative retail undertakings competing with Lemigo Dala in the relevant market; The fact that the supplier was able to easily and quickly find alternative market for its goods negated any possibility of dependency on the buyer for the distribution of its products to the consumer; and The buyer was not in a position to obtain more favourable terms than would ordinarily be possible or to impose a long term opportunity cost which if carried out would be disproportionately injurious to the supplier than to itself. Termination of the contract of supply was not likely to cause more loss to Kishliz than to Lemigo Dala.

Premised on these findings, the Authority did not proceed to investigate occurrence of conduct in abuse of buyer power and closed the investigation.

CONTRIBUTION TO SECURING FUNCTIONAL SUPPLY CHAINS - RETAIL SECTOR INVESTIGATIONS

In April 2020, the Authority received information of retail supermarkets failing to pay local suppliers on time. Pursuant to section 31(1) of the Act, the Authority commenced investigations into the matter, focusing on twenty five (25) undertakings across the country identified as having the capacity to exercise buyer power. Information was requested regarding their debt portfolios for outstanding supply payments over ninety (90) days. Concurrently, the Authority requested for information from local suppliers of supermarkets on their outstanding debts beyond 90 days and received submissions from seventy three (73) suppliers.

Analysis of the information and documents presented to the Authority revealed that the vast majority of retail supermarkets were not in breach of the law and were honouring supplier payments on time. However, four (4) top-tier retailers, who were found to have delayed payments past ninety (90) days, were required to present payment plans to reduce their debt portfolios. Subsequent consistent compliance checks are being conducted to ensure adherence.

The Authority imposed Prudential and Reporting Orders under section 24A (2) on Tuskys retailer and continues to monitor compliance. Tuskys to date has paid a total of Ksh. 2.1 billion owed to various suppliers.

In addition to preserving supply chains, especially of essential supplies, the surveillance of the retail sector secured payment of suppliers and promoted understanding of the obligations of buyers under the Act. The Authority held consultative meetings with Business Membership Organisations such as Association of Kenya Suppliers, Retail Trade Association of Kenya and Kenya Association of Manufacturers thereby introducing the beginning of self-regulation.

As part of the activities to commemorate the World Consumer Rights Day 2020, the Authority conducted a roadshow in Migori, Kisumu and Kakamega counties between 11th and 13th March, 2020. The Authority's staff sensitized residents of these counties about their rights, obligations and sustainable consumption of goods and services.


COMPETITION
AUTHORITY
OF KENYA
Creating efficient markets for consumers
World Consumer
Rights Day 2020
15th March, 2020
Matumizi Endelevu ya Huduma
Bidhaa

THEME 2: CONSUMER PROTECTION

The Authority's mandate of protecting consumers is derived from Part VI of the Act. It provides for investigations of consumer cases relating to false or misleading representations; unconscionable conduct; and unsafe, defective or unsuitable goods. This mandate is in line with Article 46 of the Constitution.

HANDLING OF CONSUMER COMPLAINTS

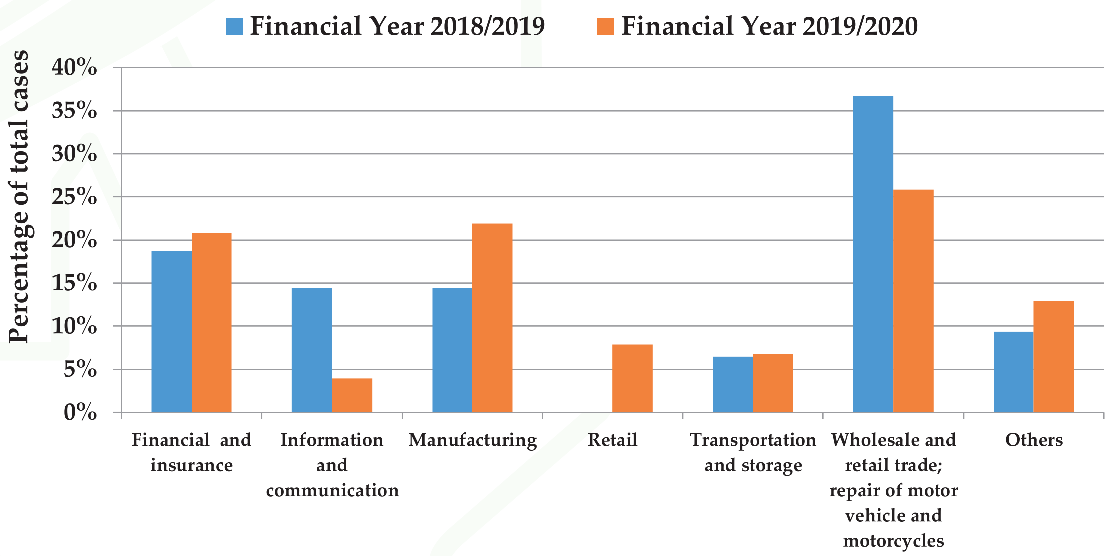
During the period under review, the Authority received, investigated and finalized consumer complaints into different markets, specifically wheat and maize flour, breads, juices and edible oil.

In the FY 2019/20, a total of one hundred and seventy-seven (178) consumer complaints were handled, a 28% increase compared to FY 2018/19. In the FY 2019/2020 the number of complaints in the Manufacturing sector increased by 8% from the previous year to thirty nine (39) complaints.

As noted in figure 1 below, cases handled in the financial and insurance, transportation and storage, accommodation and food services sectors increased to thirty seven, twelve and two consumer complaints representing 21%, 7% and 1% respectively. These increases are as a result of the Authority's continued consumer rights campaign initiatives, including creation of awareness to the consumers at the County level and increased media campaigns.

The year under review recorded complaints relating to telecommunications, airline, construction, health, administrative activities as well as media and advertising services.

Figure 7: Comparison of Consumer Complaint Cases between FY 2018/19 and FY 2019/20



KEY CONSUMER RELATED CASES HANDLED

Majority of the Kenyan populace is increasingly becoming health conscious in terms of the food they consume. According to Euro monitor International, Kenyan middle class consumers are increasingly interested in health benefits for most edible commodities. Further, it is notable that with the advancements in technology and increasing use of the internet, consumers in Kenya remain prime targets for advertising and marketing practices that are deceptive.

Article 46 of the Constitution of Kenya provides that consumers have the right to information necessary for them to gain full benefit from goods and services. It further provides that consumers have the right to the protection of their health, safety, and economic interests. The Authority is therefore cognizant of the need for manufacturers to be clear on the information they are providing to consumers through labelling of products.

Pursuant to its mandate, the Authority undertook a market screening into the food retail sub-sector, targeting food products that have a national coverage. The targeted food products were edible oil and fats, fruit juices, breads and maize/wheat flour.

The investigations into the food retail sub-sector aimed at establishing whether the companies had violated the Act, and complied with the Kenya Standards on labelling of pre-packaged goods and specific standards on the products. Section 60 (1) of the Act provides that it shall be an offence, in trade, for a person to supply goods that are intended to be used, or are of a kind likely to be used, by a consumer, being goods of a kind in respect of which a consumer product information standard has been prescribed. In this case, the prescribed consumer product information standard is the Kenyan Standard.

It is worth noting that the Authority in undertaking the investigations consulted with the Kenya Bureau of Standards (KEBS). This is also provided for in section 67 of the Act which states that the Authority shall consult with the KEBS in all matters involving definition and specification of goods and the grading of goods. Highlights of the investigations into these markets are as below:

INVESTIGATIONS INTO EDIBLE OILS AND FATS

Alongside price, consumers' purchasing decisions are heavily influenced by nutritional and dietary information provided by manufacturers. Generally, consumers rely on the information provided in the product labels to make decisions on the healthier and more nutritional choices.

If the information provided by the manufacturers in these labels are false, then harm caused to such consumers may be grave as they are misled to believe that they are making healthy choices. The average annual consumption of edible oil is 500 million litres annually. This evidences the important role the sub sector plays in the food basket of the Kenyan consumer. Therefore, the dissemination of false or misleading claims on products would have a huge negative impact on consumers.

As indicated earlier, the Authority undertook a market screening of the edible fats and oils sold in Kenya. The main objective of the market screening was to further investigate the health claims on the products, with particular focus on aspects regarding cholesterol levels, fortification with vitamins and minerals, the presence of certain ingredients, and the use of references that have not been approved by the relevant prescribed product information standards in Kenya.

The Authority's investigations established that some of the manufacturers of edible oils and fats were referencing the nutritional information of their products to United States Food and Administration (USFDA) reference, creating the false impression to consumers that the products were tested by the USFDA.

The Authority concluded that this was a contravention of Section 55 of the Act, which prohibits suppliers of goods and services from giving false or misleading information to consumers. Regarding levels of fortification and cholesterol, the Authority, in its investigations established that the levels were within allowable levels according the relevant Kenya country Standards.

The Authority therefore ordered the responsible manufacturers to revise the labels to accurately depict nutritional values derived from tests that they have undertaken rather than relying on book values derived from USFDA. The timelines for implementation ranged between three months and nine months to effect these changes, determined on a case by case basis. It is expected that all manufacturers will have complied by May 2021.

INVESTIGATIONS INTO THE JUICES SECTOR

The Authority investigated fresh juice products in the market. This was necessitated by the growing use of unsubstantiated nutritional claims by some manufacturers in the Kenyan market. The scope of the screening focused on; product manufacture, product labeling and display, ingredients/contents of products, displays of disclaimers, among others.

The investigations into the major fruit juice manufactured in Kenya established that the companies had failed to indicate in their labelling that the juices were made from concentrates. This was in contravention of the Act and prescribed standard on labelling of juices. Nonetheless the Authority did not establish harm from the above labelling.

The Authority's intervention in the juices sub-sector saw all the manufacturers whose products were investigated revise their labelling to reflect that they are manufactured from concentrates. To augment the investigations, the Authority continues to sensitize manufacturers on the provisions of the Act, and on consumer rights in the food sector. The sensitizations have been positively taken by the manufacturers who continue to collaborate with the Authority to ensure they are in compliance with the Act.

INVESTIGATIONS INTO THE BAKERY SECTOR

Regarding investigations into the bread sub-sector, the focus of the Authority was on product labelling and display of date and month of manufacture and best before dates, ingredients of products, display of disclaimers, among others. The investigations were based on the provisions Section 55, 59, and 60 on false or misleading representations, product safety standards and unsafe goods and product information standards, respectively.

The investigations focused on all the bread manufacturers in Kenya with the aim of establishing whether they were in compliance with the Act and the relevant standard on labelling of bread. A review of the labelling by bread manufacturers established that had not indicated the month of manufacture on the label of their breads. Additionally, the 'best before dates' were indicated as sell by or expiry dates, while some bread manufacturers had indicated that their breads were fortified with minerals, without necessarily indicating the specific minerals. Some bakeries which manufacture pre- packaged bread did not provide any product information on the labels of their bread.

After conclusion of the investigations, the Authority required all the manufacturers to change their labelling to reflect the words "Best before" and manufacture dates and month on the label of their breads. Those that had not indicated the specific vitamins and minerals in their labels were required to include the information on the wrapper of their breads.

INVESTIGATIONS INTO THE MAIZE FLOUR SECTOR

The Authority recognizes the importance of the wheat and maize flour sub-sector as the majority of Kenyans consume maize and wheat flour. It is in this regard that the Authority launched sector wide investigations into the fortification and labeling claims as displayed by various manufacturers of maize and wheat flour.

It was positive to note that the majority of the manufacturers had complied with labelling standards. Additionally, the fortification was within the required levels. However, it was established that Soko Maize meal and Pembe Maize flour produced by Capwell Industries Limited and Pembe Flour Mills Limited, respectively, were not in compliance with the relevant consumer information standards and labelling requirements. Nonetheless, no consumer harm was established.

The investigations culminated into a settlement under section 38 of the Act. Pembe Flour Mills Limited and Capwell Industries Limited made an undertaking to ensure that all its products contain the minimum required nutritional and mineral value standards, to comply with the provisions of the Act and all applicable legislation by providing information to consumers on the labelling of their products as required by any standards.

The Authority will ensure continuous monitoring the markets to ensure consumers are provided with information necessary for them to gain full benefit of the goods or services as provided for in Article 46 of the Constitution.

THEME 3: PLANNING, RESEARCH AND QUALITY ASSURANCE

The overall objective of the policy and research activities of the Authority are to support implementation of Section 9 of the Act, to ensure that the Authority's decisions are optimal. In this regard, the Authority undertakes market inquiries, research studies, provides policy advice to government and liaises with relevant sector regulators on competition policy and consumer protection matters.

The Act also empowers the Authority to carry out competition advocacy which is one of the main pillars of modern competition law that aims at creating, expanding and strengthening awareness of competition law and policy in the economy.

Towards achieving this objective, the Authority sensitized over four hundred (400) stakeholders during the period under review. These included lawyers and advocates, nineteen (19) county governments, sector regulators and business communities among others. As a result of the advocacy initiatives, there has been an increase in the number of competition law advocates from four (4) in 2013 to over forty-seven (47) advocates in the country. Further, county governments have begun engaging the Authority to provide advice on competition policy analysis for their proposed laws and policies. The Authority' visibility in both the traditional and new media has also been enhanced following our advocacy activities. The policy, research and competition advocacy initiatives undertaken during the financial year are:

A. Market Inquiries - Airline sector study

The Authority in collaboration with African Competition Forum (ACF) carried out a cross-country study in the airline industry. The ACF is an informal network of African Competition Authorities, whose principal objective is to promote the adoption of competition principles in the implementation of national and regional economic policies of African countries. The ACF members who participated in the cross country study were: Egypt, Nigeria, South Africa, Gambia, Mauritius, Angola, Kenya and also COMESA.

The study sought to understand the market structure, alliances, state involvement and regulatory setting for the domestic, regional and international market for Kenya; to identify competition concerns and to identify regional and continental priorities for Kenya in the air passenger transport. The objectives of the ACF study were:

i) Mapping of the airline industry to appreciate the regional and international dynamics that are of primary relevance to the member country;

ii) To understand the market structure, alliances, state involvement and regulatory setting for the airline industry in the different ACF member countries;

iii) To understand the market structure, alliances and state involvement and regulatory setting on regional and international services that impact on continental trade and tourism;

iv) To get an understanding of the type of competition concerns that exist in respect of the airline industry in the different ACF member countries; and

v) To provide a platform for identifying regional and continental priorities in respect of the airline industry.

The study recommended the following in order to increase competition in the prioritized routes:

i) Review the existing bilateral agreements to ensure consistency with the Yamoussoukro Decision framework;

ii) Encourage partnerships, mergers and consortium within African Airspace by offering incentives to operators;

iii) Collaboration with Aviation Authorities to assess price competition concerns; and

iv) Improvement of airport infrastructure is essential in increasing the airport capacity, as it is a determinant of landing and take-off slots.

However, due to the ongoing COVID-19 pandemic, the ACF member states agreed that the recommendations made in the report may no longer be applicable since the airline industry had been greatly affected by the pandemic. It was, therefore, agreed that the duration of the study be extended with the aim incorporating the impacts the pandemic has on the findings of the study and make relevant recommendations going forward.

B. Impact Assessment

The Authority, on its own motion in 2014, investigated the Construction Industry, specifically the cement subsector pursuant to section 31 of the Act. The investigations were premised on a screening of the sector which identified structural and behavioral markers for possible collusive behavior. The investigations established collusion amongst the members of the East African Cement Producers Association (EACPA) who had been collecting and disseminating commercial and strategic industry specific information on a monthly basis.

The information exchange enabled the members to align their business strategy in a manner that distorted competition by targeting market shares leading to the constraining of output. Information sharing among competitors is detrimental to competition in that it has potential to result in cartel conduct in the industry. This dampens competition and permits firms to conjointly control the quantity of goods offered in the market, set higher prices and lessen incentives to innovate and advance product quality. Evidence from empirical studies indicates that cartels conduct in an industry can result in a price increase, on average, by at least 20%.

The Authority sought to remedy this situation by requiring the parties to stagger the information exchange with a six months lag from the then monthly collation and sharing. Further, the Authority closely monitored the sector so as to ensure there was no anti-competitive conduct that might be prejudicial to fair competition and the public.

Understanding the impact of the Authority's interventions is imperative towards increasing accountability, improving on decisions guided by lessons learnt and the welfare gains of competition policy and law implementation. Therefore, in 2019, the Authority conducted an Impact assessment on its intervention in the cement subsector with the sole objective of assessing the economic benefits accrued in terms of consumer savings, better access to cement, greater product variety, and investment into the economy.

Cement production and consumption has experienced a gradual increase since 2014 sustained by large infrastructure projects that were ongoing in various parts of the country, as illustrated in the table below;

Table 4. Cement Production and Consumption in Kenya, 2014-2019

Year	2014	2015	2016	2017	2018	2019
Production (tonnes)	5,882,500	6,352,900	6,715,400	6,230,500	6,069,900	5,969,200
Consumption (tonnes)	5,196,700	5,708,800	6,310,100	5,788,900	5,948,700	5,933,300
Imports (tonnes)	36,400	37,600	15,100	14,700	23,000	26,400

Source: Economic Survey, 2020

The assessment indicated that consumer prices fell from an average of Ksh. 680 per 50 Kg bag to an average of Ksh. 625 between 2017 and 2019 culminating into consumer savings approximated at Ksh. 1,445,730,000(US$ 14,457,300) between 2017 and 2018, and Ksh. 3,117,060,000 (US$ 31,170,600) between 2018 and 2019. The Authority's intervention resulted in price reduction on the cement to the benefit of the consumer.

From
Ksh 680
Per 50kg bag

To
Ksh 625
Per 50kg bag
Between 2017 & 2019

Ksh 1.45b
FY 2017/18

Ksh 3.12b
FY 2018/19

C. Partnerships and Networks

In order to enhance competition in the national economy, the Authority engaged regional and international competition agencies and other institutions on information exchange and sharing of experiences on competition and consumer protection. Specifically, the investigation into the Pharmaceutical industry, the complaint against KQ, the Airline study, mergers and acquisition cases all relied on information from the Authority's partnerships at the PPRA, KCAA and the Business Registration Services.

Highlights from the engagements were;

i) Public Procurement Regulatory Authority

The Authority engaged the Public Procurement Regulatory Authority (PPRA). During the year under review, the two regulators:

a. Developed a Checklist of Bid Rigging Red Flags and Reporting Guidelines of Suspected Collusion in Public Procurement

This checklist of bid rigging red flags and Reporting Guidelines is meant to deal with competition concerns of bid rigging in public procurement. The Authority has operationalized the checklist.

b. Capacity Building on Bid Rigging & Evidence Gathering

This training equipped the Authority's staff with necessary knowledge and skills to deal with competition concerns in public procurement focusing on bid rigging.

c. **Competition Rules**

During the period under review, the two agencies reviewed Standard Tender Documents and collaborated to combat illegal coordination among bidders through the Competition (General) Rules, 2019. The Rules have specific provisions on agreements among competitors and tools to enhance deterrence.

ii) Kenya Civil Aviation Authority

In order to promote consumer protection in the Aviation industry, the Authority in collaboration with the Kenya Civil Aviation Authority (KCAA) held a joint sensitization session on consumer welfare in the aviation sector. During the session, the Authority incorporated the use of technology to reach and interact with the industry stakeholders through webinars.

iii) Energy and Petroleum Regulatory Authority

The energy sector plays a critical role in the socio-economic development of the national economy. Petroleum and electricity, as sources of energy, are the key catalysts of the economic development. The Authority and the Energy and Petroleum Regulatory Authority (EPRA) signed a Memorandum of Understanding that established a cooperation framework to address competition and consumer protection concerns in the energy sector.

The cooperation includes, but not limited to, carrying out joint investigations, evaluations and analysis of specified issues arising or incidental to both the Competition Act 2010 and the Energy Act 2019. In the coming financial year, both institutions will implement the work plan to operationalize this MoU.

D. Adoption of International Best Practices that Suite the Authority

Despite the challenges posed by COVID-19 during the second half of the period under review, the Authority's participation in international conferences aimed at sharing information and experiences, learning and adopting international best practices on competition and consumer protection law and policy enforcement was not hampered. Some of the conferences which were held include:

i) Webinar by International Competition Network (ICN) Merger Working Group on Sound Decision Making hosted by the Authority

The ICN is a network of over 132 competition agencies around the world. The organization aims to promote efficient and effective competition across the globe dealing with emergent trends in the realm of competition with the aim of consumer protection. During the period under review, the Authority hosted the webinar on sound decision making in merger analysis whose main objective was to promote the adoption of best practices in the design and operation of merger review. The webinar attracted over one hundred and sixty nine (169) participants from the academia, international practitioners and competition agencies across the world. The session was useful in informing the Authority's merger analysis process.

ii) International Competition Network (ICN) Virtual Meeting on Competition Law Enforcement at the Intersection of Competition, Consumer Protection and Privacy

The objective of the conference was to share experiences and increase the understanding of ICN members on the regulatory challenges posed by the intersection of competition law enforcement, consumer protection and privacy law enforcement. During the session, the Authority harnessed international best practices that will be key in informing decision making and competition enforcement, particularly for the digital economy.

ii) UNCTAD Webinar on Key Competition and Consumer Protection Priorities for Regional Integration in Africa

The Authority participated in the above webinar whose main aim was to share knowledge and experience on key competition and consumer protection priorities for regional integration in Africa in the wake of COVID-19 pandemic. The panelists who discussed the key issues pertaining to Competition and African integration were drawn from the Regional Organizations, Member States, Informal Networks and academia, NGOs and the UNCTAD. Other panelists were drawn from COMESA Competition Commission, Competition Authority of Kenya, West African Economic and Monetary Union (WAEMU) Commission, University of Ngaoundéré-Cameroon and AU Consumer Association.

The webinar focused on the following three areas:

a) The experience of regional organizations in the field of competition and consumer protection;

b) The work of regional networks in the field of competition and consumer protection; and

c) The contribution of the Africa Continental Free Trade Agreement in the field of competition.

iii) UNCTAD Webinar on the Role of International Cooperation During the COVID-19 Pandemic

The Authority participated in the above webinar organized by UNCTAD's Competition Division whose objective was to share experiences on competition law enforcement during the COVID-19 pandemic. Further, the competition agencies also shared experiences on the resultant benefits of effective cooperation between the agencies geared towards promoting competition and consumer protection in their economies during and post the COVID-19 pandemic.

The webinar attracted over two hundred (200) participants from competition agencies across all continents in the world with panelists drawn from UNCTAD Competition and Consumer Policies Division, Albanian Competition Authority, Brazilian Competition Authority, Indonesian Competition Commission and Competition Commission of South Africa. The commentators for the webinar were drawn from Austrian Competition Authority, Japan Fair Trade Commission, Russian Federal Antimonopoly Services, US Department of Justice and US Federal Trade Commission.

There was a consensus on the need for increased international cooperation between various agencies to clump down on issues of Consumer Protection and Restrictive Trade Practices particularly regarding the price fixing, collusion, sharing sensitive business information and other potential competition concerns that may arise during COVID-19 pandemic period. The Authority also took part in the UNCTAD, Africa International Trade and the ACF Webinars.

E. Stakeholder Engagement

i) Competition and Consumer Protection Forums with County Governments

During the year under review, the Authority together with Public Procurement Regulatory Authority sensitized counties on competition and public procurement as provided for in the Competition Act, 2010 and Public Procurement and Asset Disposal Act, 2015, respectively. This is in line with the MoU signed between the two State agencies.

The advocacy forums took place in sixteen (16) counties. County officials were sensitized on the mandates of the two sector regulators as well as Regulatory Impact Assessment framework, Competition (General) Rules 2019, Mergers & Acquisitions, Buyer Power & its Abuse, Enforcement & Compliance with the Act, various guidelines and Public Procurement & Disposal Act (Code of Ethics for suppliers and the business community).

Sensitization was carried out in the following counties; Nyeri, Tharaka Nithi, Makueni, Taita Taveta, Tana River, Bomet, Kisii, Homa-Bay, Kisumu, Siaya, Nandi, Samburu, Baringo, West Pokot, Turkana and Nairobi. Through the forums, the two State agencies deepened the competition culture and entrenched public procurement and asset disposal policies in the regional governments, as well as creating awareness on the agencies' mandates and raising their corporate image and visibility.

ii) Annual Capacity Building Workshop on Competition Law and Policy

The Authority held its 6th Annual Capacity Building Workshop on Competition Law and Economic Regulation in September 2019. The training workshop covered Law for Economic Regulation and Competition and Economics for Competition and Regulation with the objective of equipping stakeholders with requisite knowledge in competition law and policy. The participants included sector regulators, the legal fraternity, government agencies, business community, consumer bodies, journalists and participants from other key sectors of the economy.

A total of eighty-two (82) stakeholders were trained during the year. This brings to a total of three hundred and sixty six (366) stakeholders who have been trained over the years on various aspects of competition law and economic regulation. The annual training programme was integrated to include both theoretical and practical aspects incorporating moot cases to help the stakeholders understand how the Authority arrives at its decisions.

iii) Annual Symposium on Competition Law and Policy

This event brings together stakeholders with an objective of deepening their understanding of competition enforcement mechanisms and fostering competition in the economy. The Authority held its 6th Annual Competition and Economic Regulation Symposium in September 2019. The theme was; "Financial Inclusion and SMEs growth through Competition Regulation". The Symposium was attended by one hundred and seventy (170) stakeholders representing Government agencies, private sector players, consumer organizations, law firms, development agencies, among others. The panelists included representatives from the Authority, FSD Kenya, Public Procurement Regulatory Authority, the US department of Justice, COMESA Competition Commission, Ethics and Anti-Corruption Commission, the World Bank Group, Capital Markets Authority and Kenya Bankers Association. To this end, the Authority made the following commitments to stakeholders during the Symposium;

COMMITMENT	DELIVERY DATE
Digital Finance – market inquiry on Digital Credit and contribute to the Development of the Consumer Protection Framework on Digital Financial Services	30th June 2020
Development of the Leasing sector Framework	30th June 2021
Public Procurement – Capacity building for procuring entities and Development of a Checklist of Bid Rigging Red Flags and Reporting Guidelines on Reporting Guidelines of Suspected Collusion in Public Procurement	30th June 2020

iv) Competition (General) Rules, 2019

The Rules became operational in December 2019 and will ensure predictability in decision making in fostering competition and ensuring consumer protection. The Authority sensitized stakeholders on the Competition (General) Rules, 2019. The participants were members of the public, lawyers, trade associations, consumer bodies, sector regulators, government agencies and corporates in the financial and other key sectors of the economy.

v) Advocacy initiatives on Buyer Power

Buyer power regulation is still a relatively new area. In order to increase awareness among stakeholders, and in line with the Authority's function of promoting public knowledge, awareness, and understanding of the obligations, rights and remedies under the Act and the duties, functions and activities of the Authority, the Authority conducted seven sensitisation (7) initiatives focused on the enforcement of abuse of buyer power. Of these, five (5) were on the initiative of the Authority and two (2) on the request of specific undertakings. A total of two hundred and sixty five (265) people were trained. In order to ensure a broad complete view of the nature of abuse of buyer power, its effect on markets and the Authority's enforcement, staff from three departments of the Authority - Buyer Power, Enforcement and Compliance and Mergers and Acquisitions - conducted the trainings.

The specific areas of training during the engagement covered an overview of the Act, the law on abuse of buyer power and its enforcement, treatment of buyer alliances and joint purchasing agreements (buyer cartels) and consideration of buyer power concerns in merger decisions.

The following were the groups that were trained;

a) **Kenya Association of Manufacturers (KAM) – Nairobi and Mombasa Chapters**

b) **Lake Region Economic Block (LREB) - Kisumu**

c) **North Rift Economic Blocks (NOREB) - Eldoret**

d) **Toyota Kenya Ltd**

e) **Safaricom Plc Limited**

f) **Members of the Legal Fraternity**

The capacity building programmes for individual corporate undertakings took into account the relevant concerns in their respective sectors while the training for members of the legal fraternity had the specific intention of building capacity of legal service providers, especially those that practice in the area of competition law for more effective and efficient enforcement of the Act.

Of special note, the Authority conducted a joint sensitization with the State Department of Trade (SDT) for retail sector stakeholders in the Lake Region Economic Block (LREB) and the North Rift Economic regions on 28th and 30th January 2020, respectively. The objective was sensitization of the region's retail stakeholders on the Competition Act, the Buyer Power Provisions of the Act, the current status of the Draft Trade Regulations and the Retail Sector Code of Practice. The Retail Trade Association of Kenya (RETRAK - which is a Business Membership Organization (BMO) for retailers in the Country) was part of the initiative and mobilised attendance from its members.

Trainees were drawn from a broad spectrum of the business community in the two blocks including:

a) **Small and medium-sized enterprises (SMEs);**

b) **Wholesalers – large and small;**

c) **Retailers and their Suppliers;**

d) **Small and Large Manufacturers;**

e) **Business Membership Organizations (BMO's); and**

f) **Policy makers in the Counties.**

It provided an opportunity to create awareness on the law and mandate of the Authority as well as receive feedback from stakeholders in the regions' business communities. Creating awareness on abuse of buyer power and enforcement of the law remains critical component of effective enforcement of this area. The Authority has lined up initiatives targeting especially stakeholders in upcountry counties and BMO in the insurance, retail and hospitality sectors.

vi) World Competition Day 2019

This is an annual event commemorated across the globe on the 5th of December by Competition Agencies marking the adoption of the United Nations set of multilaterally agreed equitable principles and rules for the control of restrictive business practices by the General Assembly. The global theme was; "Ensuring Effective Competition in an Increasingly Online World". The Authority held a stakeholders' sensitization forum majorly drawn from the providers of digital financial services and other financial institutions about its mandate, efforts to promote competition in this sector, emerging consumer protection issues and the need to set up consumer complaints handling mechanisms.

vii) The World Consumer Rights Day (WCRD)

This annual event was marked on 15th March with aims at promoting, protecting and creating awareness on the rights of consumers globally. The theme of the event was, "Sustainable Consumer" placing emphasis on how consumers need to be responsible as they make choices of goods and services to meet their needs while ensuring that the they do not harm the environment as per the Sustainable Development Goal 12 on ensuring sustainable consumption and production patterns. Consumers were sensitized on their rights and responsibilities, remedies available to consumers under the Competition Act and how to lodge a consumer complaint with the Authority.

viii) Sensitization of Consumer Bodies

The Authority, pursuant to Section 9 of the Act, is mandated to collaborate with consumer bodies. This is achieved through promoting the creation of consumer bodies and recognition of consumer bodies duly registered under the appropriate national laws as the proper bodies. During the period under review, the Authority sponsored the Consumer Grassroots Association's Consumer Registration Drive at St. Mary's Catholic Church in Ongata Rongai, Kajiado County. The main objective of the event was to educate the public to understand the mandate of the Authority and deepen the culture of competition and consumer protection law in the economy. The event brought public and private consumer protection agencies aimed at strengthening and enhancing Consumer Protection and Education in the economy.

ix) Training of Stakeholders

a) **Getbucks Kenya Staff on Competition Law & Policy:** The Authority sensitized

Getbucks Kenya staff on consumer protection provisions of the Act focusing on the general overview of the Act and Consumer Protection provisions on consumer issues. The participants were sensitized on consumer issues in the financial services sector and on how to file complaints with the Authority.

b) **Micro, Small and Medium Sized Enterprises (MSMEs):** The Authority also participated in the Kenya Quality Awards and Innovation Pipeline workshops 2020 activity which was conducted by Kenya Bureau of Standards (KEBS). The participants were drawn from Micro, Small and Medium-sized Enterprises in Kenya. The main objective was to promote and entrench a quality culture among MSMEs involved in the line of production. The event provided insights to MSMEs on how to be a one-stop shop centre of information for easier access to information on business processes, standardization and product certification in Kenya and internationally. The Authority sensitized the participants on its mandate and the provisions of the Competition Act.

c) **Safaricom PLC Limited:** The Authority sensitized the staff of Safaricom PLC on buyer power issues affecting the telecommunication industry. The objectives of the training were capacity building and knowledge sharing. The specific areas of training were; mandate of the Authority, buyer power provisions and merger analysis.

d) **Kenya Association of Manufacturers (KAM):** The Authority sensitized stakeholders in the manufacturing sector on competition law provisions in so far as buyer power is concerned. The objective was to promote public knowledge, awareness, and understanding of the obligations, rights and remedies under the Act and the duties, functions and activities of the Authority.

e) **Association of Kenya Suppliers (AKS):** The Authority sensitized stakeholders in the manufacturing sector and suppliers under the umbrella of AKS. The main objective of the sensitization was to learn more about Competition Law and Policy in general and abuse of buyer power provisions more specifically.

This has led to increased awareness resulting in increased in cases being reported to the Authority for determination.

f) **Toyota Kenya Limited:** The Authority sensitized staff of Toyota Kenya on competition law provisions in so far as buyer power is concerned. The objective was to promote public knowledge, awareness, and understanding of the obligations, rights and remedies under the Act and the duties, functions and activities of the Authority.

g) **Lake Region Economic Block (LREB):** The Authority sensitized stakeholders from the retail sector in the Lake Region Economic Block. The key objective was to sensitize the region's retail stakeholders on the Competition Act, the Buyer Power Provisions of the Act, the current status of the Draft Trade Regulations and the Retail Sector Code of Practice. The stakeholders who participated were from: Small and Medium-sized Enterprises (SMEs), wholesalers – large and small, retailers - and their suppliers, small and large manufacturers, Business Membership Organizations (BMO's), and policy makers in counties.

h) **North Rift Economic Block (NOREB):** The Authority in collaboration with the State Department of Trade of the Ministry of Trade sensitized retail sector stakeholders in the North Rift Economic Block (NOREB) region on the Abuse of Buyer Power Provisions of the Act, the Retail Trade Sector Regulation and Retail Sector Code of Practice. The participants learnt about the provisions of the Act in so far the enforcement of buyer power provisions is concerned.

F. Awards / Honours / Recognitions

Financial Reporting (FiRe) Award: The Authority, for the third time in a row, won the Financial Reporting (FiRe) Award under the Public Sector Accounting Category for prudent financial reporting. This was under the International Public Sector Accounting Standards (IPSAS) accrual category. This is a prestigious award in East Africa for financial reporting sponsored by the Capital Markets Authority (CMA), Institute of Certified Public Accountants of Kenya (ICPAK), Nairobi Securities Exchange (NSE) and the Public-Sector Accounting Standards Board-Kenya (PSASB).

THEME 4: VISIBILITY AND CORPORATE IMAGE

During the Financial Year under review, the Authority rolled out various initiatives aimed at increasing the public's awareness about its activities and mandate, as well as strengthen its corporate image. In order to ensure that the Authority remains accountable, transparent and predictable to its stakeholders, all determinations were published on the Website, clearly highlighting the reasoning behind each decision.

The determinations were augmented by issuance of press releases as part of enforcement efforts against illegal increases of prices and hoarding of essential commodities following the COVID-19 pandemic as well as delayed payments by retail supermarkets. To promote enforcement the Authority made eighteen (18) appearances on television and radio where various matters concerning abuse of buyer power, as well as consumer protection, were articulated. These media interviews targeted an expansive demographic scope, in terms of audience and their geographic location, and provided an opportunity to sensitize the public about the various channels through which to contact and interact with the Authority.

To enhance the Authority's position as a thought leader on matters competition law enforcement, top management, led by the Director-General, authored five (5) opinion pieces which were published in the country's major newspapers. The Authority augmented its social media presence, resulting in increased followers across all platforms. All the Authority's major announcements and activities are disseminated to stakeholders through new media channels such as Twitter, Facebook and YouTube.

In recognition of the role the Media plays in facilitating execution of its mandate and in furtherance of efforts to furnish journalists with relevant, topical, and timely information regarding its activities, the Authority held capacity building sessions for business reporters. Further, the Authority hosted thirty (30) financial journalists at a Webinar during which salient issues relating to merger assessment, abuse of buyer power and consumer protection were discussed.

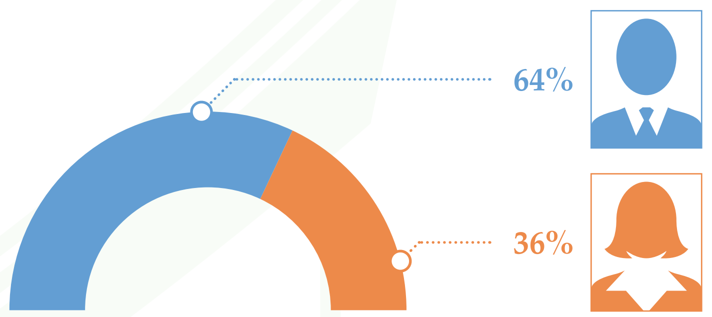
THEME 5: ORGANIZATIONAL SUSTAINABILITY

1. HUMAN CAPITAL

The Human Resource and Administration function supports the achievement of the Authority's mandate as enshrined in section 13 of the Act by attracting, training and retaining highly qualified, skilled and motivated staff.

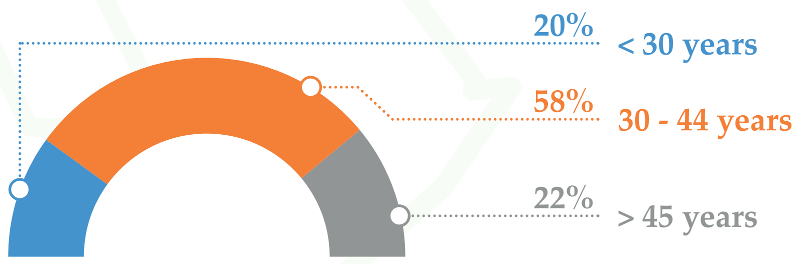
The Authority has continued to enhance capacity through the acquisition of talent in order to effectively deliver its mandate. During the year, nine (9) positions were competitively filled. The current staff establishment is comprised of forty-seven (47) male and twenty-seven (27) female employees, thus complying with the constitutional gender balance requirement as Figure 8 below shows;

Figure 8: The Authority's Staff by Gender



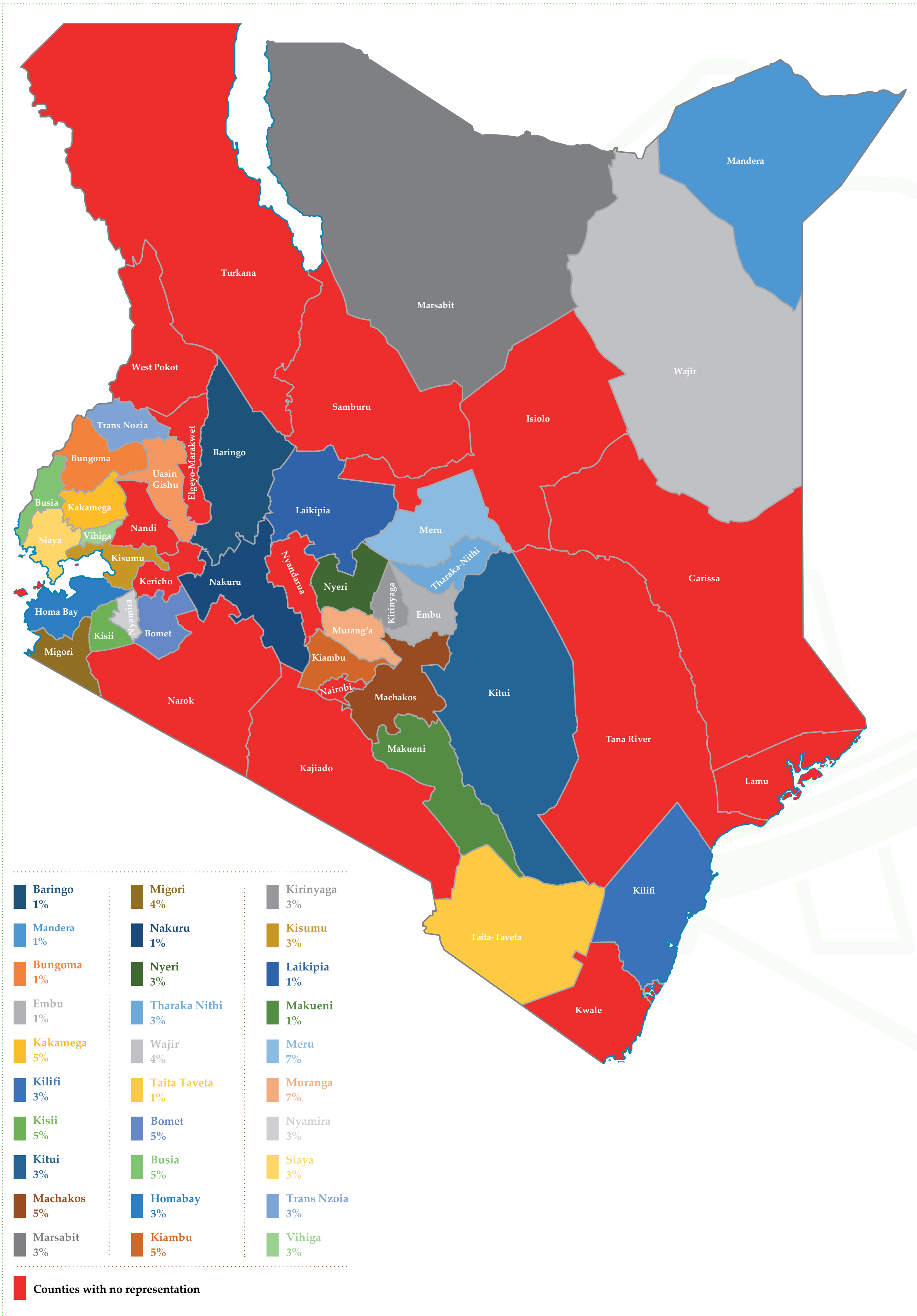
The age diversity in the staff establishment has ensured that the Authority's productivity is enhanced, creativity and innovation is achieved and there is an effective succession management strategy (Figure 9).

Figure 9: Staff by Age Category



The Staff composition complied with the Constitutional requirement on regional diversity as Figure 10 shows;

Figure 10: Staff Representation by Counties



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The percentage of persons with disability (PWDs) in the workforce stood at 3% during the period under review. The Authority endeavours to increase the numbers of the PWDs in the workforce in order to comply with the requirements of the National Council for Persons with Disability. As part of our continued commitment to supporting PWDs, we continue to redesign our office premises to make them accessible as per the recommendations of the accessibility audit carried out in collaboration with the National Council of Persons with Disability.

To enhance the Authority's capacity in line with the emerging trends of Digital economy, Bid Rigging and abuse of Buyer Power in addition to management and leadership skills, the Authority facilitated staff members to attend various trainings, workshops and conferences locally and internationally with the aim of enhancing technical and behavioural competencies, learning best practices in various jurisdictions. The Authority also facilitated staff to undertake Continuous Professional Development Programmes geared towards succession planning, effective management and career progression. The Authority has leveraged on undertaking online trainings and has thus adopted to the Global paradigm shift brought about by the COVID-19 Pandemic.

The Authority continued to run the apprenticeship programme to build capacity on Competition Law and Policy in the labour market. Towards this, the Authority recruited five (5) Young Professionals who are Master Degree holders with a bias in Law and Economics. In support of the Government's agenda of equipping the youth with requisite skills, the Authority engaged ten (10) fresh university graduates for the internship program and twenty (20) continuing university students for Industrial attachment.

During the period under review, the Authority adopted the Home-based deployment in response to the COVID-19 pandemic. In the effort to enhance employees' productivity during this period, all employees were provided with laptops to facilitate the remote working arrangement and a monitoring framework adopted. Employees' welfare was enhanced by providing services and benefits that not only motivate them but also enhance their productivity. These included the provision of a medical scheme for staff - both out and in-patient, Group Personal Accident- 24 hours and Group life–sum assured and the Annual wellness program which was enhanced to take care of the Psycho-social wellness in consideration of the current dispensation.

To attract and motivate staff and ensure staff welfare, the Authority operates schemes which facilitate employees to acquire residential houses and vehicles at negotiated interest rates. Additionally, the Authority operates a defined contribution retirement benefits scheme for employees on permanent and pensionable terms of employment. The assets are held, managed and administered in a separate trustee scheme. Employees on contract are entitled to service gratuity as per the terms of their employment.

To enhance trust and staff engagement levels across the organization and at the same time achieve the work-life balance, the Authority embraced various modes of teambuilding. An end of year team building was held where talents, contributions and efforts were recognized by awarding the employee of the year 2019. In addition, the Authority held quarterly town halls and issued communiques to apprise staff members on its activities. The town halls were conducted virtually and the main objective was to check on the employees.

The Authority adopted various measures to ensure that its employees remain safe from the Pandemic that continues to cause Health and Economic crisis within the country and the world. The Authority adopted the following measures and protocols as a way of curtailing the transmission of the novel virus;

i) Remote Based Deployment: This was made possible by the fact that the Authority has automated its functions and provided its employees with adequate working tools, such as laptops;

ii) Offering psychosocial support: This was done through virtual wellness programs and sensitizations;

iii) Enhanced communication by giving regular feedback to issues affecting staff through virtual informal staff meetings (town halls);

iv) Provision of Personal Protective Equipment (PPE's) e.g. N95 Masks, adequate and accessible hand sanitizers, among others;

v) Workload reporting: The Authority developed a framework for monitoring the productivity of staff members during the remote working; and

vi) Change Management: The Authority continued to put measures in place in order to equip, support and prepare its employees to adapt to the dynamics of the work place and external changes making them more productive to the benefit of the national economy and general public.

2. STANDING COMMITTEE ACTIVITIES

In compliance with statutory requirements and enhancing employee welfare, the Authority continues to implement the workplace policies championed by the various standing committees as follows;

Committee	Objective	Achievements
HIV & AIDS	To mainstream HIV & AIDS by creating awareness to staff members and stakeholders	Conducted a wellness program where the staff members and their families were sensitized on HIV & AIDS and non-communicable diseases Voluntary counselling and testing of HIV & AIDS Carried out an outreach program targeting its external stakeholders on HIV & AIDS Specifically, during the County sensitization forums and the World Consumer Rights Day
Environmental Conservation and Sustainability	To ensure and enhance environmental conservation and sustainability	The Authority partnered with Kenya Forest Service (KFS) in a tree planting exercise where one thousand one hundred (1100) indigenous trees at Ngong Road Forest Station, Nairobi County were planted
Gender Mainstreaming	To promote gender equality and freedom from all forms of discrimination in the workplace, especially for special interest groups through ensuring compliance with policies, laws and practice	Ensured that the 1/3 Gender Rule representation has been maintained with a representation of 36% female and 64% Male in the staff compliment 30% of the Authority's public procurement tender opportunities assigned to special category groups where 5.14% were assigned to PWDs, 8.11% to Youth and 86.75% to Women

Committee	Objective	Achievements
National Cohesion Values and Principles of Governance	To promote National Cohesion, Values and Principles of Governance in the Authority and to the general public	Capacity building on National Values and Principles of governance to all staff members, prepared the 2019 Annual President's Report and submit in a soft copy as a way of embracing the Authority's initiative of reducing paperwork The Authority was mentioned sixteen (16) times in the 2019 Annual President's Report, an improvement from 13 times in the 2018 Annual President's Report for exemplary implementation of the five (5) commitments and way forward in the 2018 Annual President's Report and measures taken and progress achieved in the realization of National Values and Principles of Governance The Authority was the fourth-highest mentioned MDA out of the 354 institutions that submitted their reports through the Directorate of National Cohesion and Values Designed staff business cards in braille as a way of embracing inclusivity and non-discrimination of visually impaired persons and developed National Values e-shots and shared with internal and external stakeholders as a way of disseminating the values to all
Disability Mainstreaming	To mainstream disability in the workplace and ensure accessibility and inclusivity Promoting inclusion of Persons Living with Disability (PWDs), for both members of staff and external stakeholders.	The Authority's Service Charter has also been recently translated into braille and placed in the reception areas to ensure that stakeholders who have eyesight impairments can familiarize themselves with the Authority's service delivery commitments Conducted awareness to both management and staff members Conducted an accessibility audit in collaboration with the National Council of Persons with disability to ensure the workplace is accessible and inclusive to PWDs Provision of integrated services for PWDs, including the provision of an access ramp to access the Authority's offices, two (2) designated parking slots, accessible washrooms, and business cards with braille

3. RESOLUTION OF PUBLIC COMPLAINTS

The Authority submits quarterly reports to the Commission on Administrative Justice (CAJ) detailing resolution of service delivery complaints, adherence to the commitments of the Authority's Citizens' Service Charter, and processing of Access to Information requests, among others.

Every Financial Year, the Commission issues a certificate to all public entities and scores them based on the aforementioned criteria which, cumulatively, promote efficient service delivery to Kenyans.

Table 5 below illustrates the Authority's scores over the past seven years;

FINANCIAL YEAR	SCORE (%)
2013/2014	92
2014/2015	95
2015/2016	96
2016/2017	101
2017/2018	100
2018/2019	101
2019/2020	100

4. INFORMATION AND COMMUNICATION TECHNOLOGY

The Authority has continued to leverage on ICT to improve efficiencies of its processes. In light of this, the Authority is developing a mobile application, which aims to increase efficiencies in processes such as filing complaints, viewing determinations, calculating merger thresholds, merger tracking tools, among other unique features. The application is available for both iOS and Android operating systems. The benefits accrued from the mobile application are customers can connect better and there is increased awareness on the Authority.

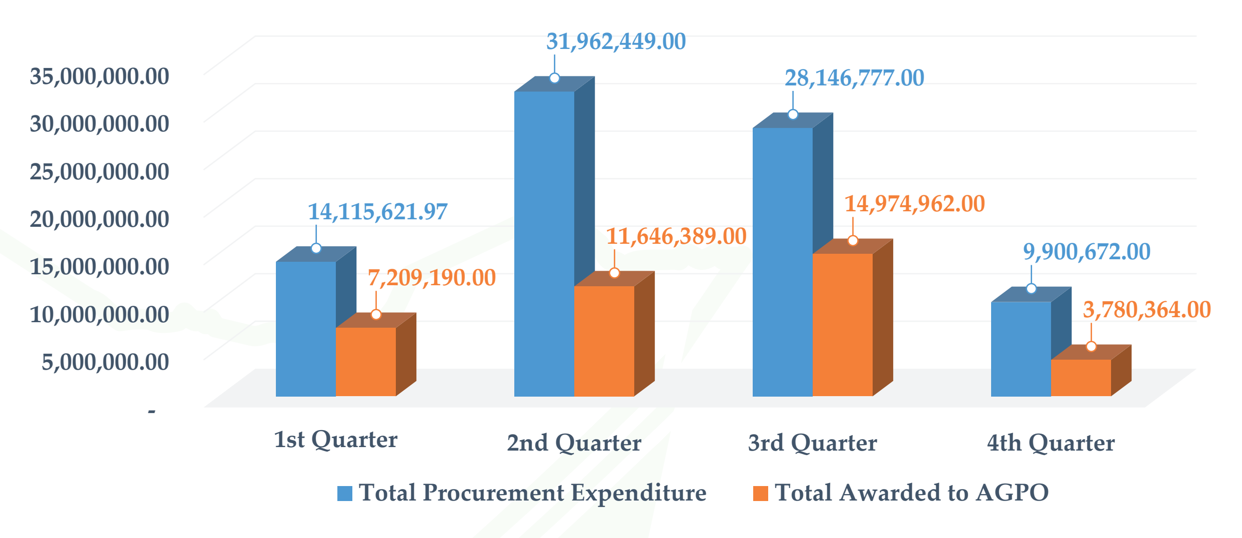
Remote-based deployment was supported enabled by automated systems ensuring that productivity was not affected and the Authority was able to fulfil its mandate during the pandemic. Additionally, the Authority adopted online collaboration platforms to not only enable Board members and staff work seamlessly remotely, but also facilitate webinars and meetings with different stakeholders.

The Authority was also able to test disaster recovery preparedness by carrying out a fail-over test of key processes. Fail-over testing was a key process in evaluating the Authority's preparedness in cases of eventualities.

5. PUBLIC PROCUREMENT

The Authority has ensured that the Access to Government Procurement Opportunities (AGPO) is maintained above the minimum 30% threshold. During the period under review the Authority awarded 44.71% of its' total procurement spend on tenders to the disadvantaged groups (Youth, Women & PWD's) through the Access to Government Procurement Opportunities(AGPO) and 72.24% to the local content.

Figure 11: Tenders Awarded under AGPO Against Total Procurement Expenditure



6. FINANCIAL MANAGEMENT

The Authority, a regulatory state agency under the Ministry of the National Treasury and Planning, continued to draw the bulk of its funding from the National government by way of annual exchequer releases and Appropriation in Aid (A-I-A) collections. During the year under review, the Authority's revenue amounted to Ksh. 553.5 million comprising of Ksh. 371.1 million (67.1%) direct exchequer support and Ksh. 182.4 million (33%) being A-I-A. The revenue received in the year under review was a marginal improvement of Ksh. 0.5 million over the previous financial year.

During the financial year ended 30th June, 2020, the Authority's net expenditure amounted to Ksh. 464.2 million translating into 92% absorption of the total funds allocation. This was a reduction of 3% over the previous year. The absorption was largely affected by the impact of the novel COVID-19 pandemic which affected implementation of planned programs and limiting expenditure in quarter four (4) to expenditure on essential services only. The details of the Authority's income and expenditure is shown in the accompanying financial statements on pages 99 to 128;

STATEMENT OF DIRECTORS' RESPONSIBILITIES

Section 81 of the Public Finance Management Act No.18 of 2012 and section 14 of the State Corporations Act Cap 446, require the Directors to prepare financial statements in respect of the Authority, which give a true and fair view of the state of affairs of the Authority at the end of the financial year and the operating results of the Authority for that year. The Directors are also required to ensure that the Authority keeps proper accounting records which disclose with reasonable accuracy the financial position of the Authority. The Directors are also responsible for safeguarding the assets of the Authority.

The Directors are responsible for the preparation and presentation of the Authority's financial statements, which give a true and fair view of the state of affairs of the Authority for and as at the end of the financial year ended 30th June, 2020. 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, 2012 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 30th June, 2020, 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 3rd August, 2020 and signed on its behalf by

....	....
Amb. Nelson Ndirangu, OGW	**Wang'ombe Kariuki, MBS**
Board Chairman	*Director General*

REPORT OF THE AUDITOR GENERAL ON COMPETITION AUTHORITY

REPUBLIC OF KENYA

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OFFICE OF THE AUDITOR GENERAL

Enhancing Accountability

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NAIROBI

REPORT OF THE AUDITOR-GENERAL ON COMPETITION AUTHORITY OF KENYA FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of Competition Authority of Kenya set out on pages 99 to 128, which comprise the statement of financial position as at 30 June, 2020, and the statement of financial performance, statement of changes in net assets, statement of cash flows and the statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Competition Authority of Kenya as at 30 June, 2020, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Public Finance Management Act, 2012 and Competition Act, 2010.

Basis for Opinion

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

Key Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

Basis for Conclusion

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

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

Responsibilities of Management and the Board of Directors

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

In preparing the financial statements, Management is responsible for assessing the Authority's ability to continue to sustain services disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless

Management is aware of the intention to terminate the Authority or to cease operations.

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

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

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

Auditor-General's Responsibilities for the Audit

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

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

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

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

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

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.

- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue to sustain it services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Authority to cease to continue to sustain it services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Authority to express an opinion on the financial statements.

- Perform such other procedures as I consider necessary in the circumstances.

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

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.

Nancy Gathungu
AUDITOR-GENERAL

Nairobi

22 January, 2021

FINANCIAL STATEMENTS

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NOTES TO THE ANNUAL FINANCIAL STATEMENTS

STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30TH JUNE, 2020

	Note	2019/2020 Kshs.	2018/2019 Kshs.
REVENUE			
Revenue from Non-Exchange Transactions			
Government Transfers	4	312,244,313	387,220,000
Development Partners (COMESA)	4	10,000,000	7,000,000
Fines and Penalties	5	44,415,812	4,214,073
		366,660,124	**398,434,073**
Revenue from Exchange Transactions			
Merger Filing Fees-Local	5	49,000,000	55,000,600
Merger Filing Fees-COMESA	5	82,300,619	75,451,772
Interest from Fixed Deposits	6	3,552,964	21,096,186
Other Income	7	3,136,929	3,165,985
		137,990,511	**154,714,543**
		504,650,635	**553,148,615**
EXPENDITURE			
Employee Costs	8	247,335,877	221,660,067
Remuneration of Directors	9	7,127,298	24,429,493
Depreciation & Amortisation Expense	10	32,588,634	35,629,363
Policy,Research and Market Enquiries	11	56,179,193	76,013,863
Repairs & Maintenance	12	11,961,826	13,733,281
Contracted Services	13	9,699,797	14,909,485
General Expenses	14	97,991,032	139,272,149
Finance Costs	15	427,686	499,794
Loss on Disposal of Assets	16	539,162	-
Total Expenses		**463,850,505**	**526,147,494**
Surplus (Deficit) for the Year		40,800,130	27,001,121
Remission to National Treasury	36(a)	36,720,117	24,301,009
Net Surplus (Deficit) for the Year		**4,080,013**	**2,700,112**

The notes set out on pages 112 to 128 form an integral part of these Financial Statements

STATEMENT OF FINANCIAL POSITION AS AT 30TH JUNE, 2020

	Note	2019/2020 Kshs	2018/2019 Kshs
ASSETS			
Current Assets			
Cash and Cash Equivalents	17	172,270,126	367,184,708
Receivables & Prepayments	18	74,377,665	20,031,293
Inventories	19	5,302,795	6,071,208
		251,950,586	**393,287,210**
Non-Current Assets			
Securities & Deposits	20	357,812,398	299,805,126.72
Computer Softwares	21	59,499,977	61,250,783
Property, Plant & Equipment	22	48,211,750	51,707,211
		465,524,125	**412,763,120**
TOTAL ASSETS		**717,474,712**	**806,050,330**
LIABILITIES			
Current Liabilities			
Payables & Accruals	23	70,821,301	70,570,557
Provisions	24	6,057,767	4,949,910
Current Deferred Capital Grant	25	4,505,388	-
		81,384,455	**75,520,467**
Non-Current Liabilities			
Employee Benefit Obligation	26	30,778,712	20,051,624
Non Current Deferred Capital Grant	25	44,350,300	-
		75,129,012	**20,051,624**
TOTAL LIABILITIES		**156,513,467**	**95,572,091**
Net Current Assets		**170,566,131**	**317,766,743**
Net Assets		**560,961,246**	**710,478,238**
Represented by:			
Equity			
Equity Contribution by the Treasury	27	53,381,820	53,381,820
General Reserve Fund	28	507,579,426	657,096,420
		560,961,246	**710,478,240**

The financial statements set out on pages 99 to 103 were approved by the Board of Directors on 3rd August, 2020 and were signed on its behalf by:

Amb. Nelson Ndirangu, OGW
Board Chairman

CPA Ambrose Ageng'a,
Head of Finance
ICPAK No.3461

Wang'ombe Kariuki, MBS
Director General

STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 30TH JUNE, 2020

	Note	Contribution by Treasury	Mortgage & Car Loan Schemes	Accumulated Fund	Total Fund
		Kshs	Kshs	Kshs	Kshs
1st July 2018		53,381,820	-	630,095,300	**683,477,120**
Surplus/deficit for the Year		-		27,001,120	**27,001,120**
Transfer to Car loan Scheme		-	100,000,000	(100,000,000)	**-**
Transfer to Mortgage Scheme		-	200,000,000	(200,000,000)	**-**
Interest Earned on Mortgage and Car Funds			4,255,181	(4,255,181)	**-**
At 30th June 2019		**53,381,820**	**304,255,181**	**352,841,239**	**710,478,240**
1st July 2019		**53,381,820**	**304,255,181**	**352,841,239**	**710,478,240**
Surplus/deficit for the Year		-		4,080,013	**4,080,013**
Interest Earned on Mortgage and Car Funds		-	12,631,001	-	**12,631,001**
Surplus Paid to National Treasury	36(b)	-	-	(166,228,008)	**(166,228,008)**
At 30th June 2020		**53,381,820**	**316,886,182**	**190,693,244**	**560,961,246**

STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30TH JUNE, 2020

	Note	2019/2020	2018/2019
		Kshs	Kshs
Cashflows from Operating Activities			
Surplus from Operating Activities		4,080,013	27,001,120
Depreciation & Amortisation Expense	10	32,588,634	35,629,363
Loss on Disposal of Assets	16	539,162	-
		37,207,809	**62,630,483**
Adjustments for Changes in Working Capital			
Increase/(Decrease) in Receivables & Prepayments	18	(54,346,372)	(1,864,884)
Increase/(Decrease) in Inventories	19	768,413	(6,071,208)
Increase/(Decrease) in Securities & Deposits	20	(58,007,272)	(299,805,127)
Decrease/(Increase) in Payables & Accruals	23	250,743	40,136,947
Decrease/(Increase) in Provisions	24	1,107,857	757,077
Decrease/(Increase) Employee Benefit Obligation	26	10,727,088	-
Decrease/(Increase) Deferred Capital Grant	25	48,855,687	-
		(50,643,855)	**(266,847,195)**
Net Cashflows from Operating Activities		**(13,436,047)**	**(204,216,713)**
Cashflows from Investing Activities			
Purchase of Computer Softwares	21	(16,983,209)	(17,830,213)
Purchase of Non-Current Assets	22	(10,898,320)	(24,643,052)
		(27,881,529)	**(42,473,265)**
Cashflows from Financing Activities			
Surplus Paid to National Treasury	36(b)	(166,228,008)	-
Interest Earned on Mortgage and Car Schemes		12,631,001	-
		(153,597,007)	**-**
Net Increase/(Decrease) in cash and cash equivalents		**(194,914,582)**	**(246,689,977)**
Cash and cash equivalents at 1st July		367,184,708	613,874,685
Cash and Cash Equivalents as at 30th June		**172,270,126**	**367,184,708**

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS FOR THE YEAR THE ENDED 30TH JUNE, 2020

	Original Budget 2019/2020 Kshs	Final Budget 2019/2020 Kshs	Actual on Comparable Basis 2019/2020 Kshs	Performance Difference 2019/2020 Kshs	
Revenue					
Exchequer Allocation	306,000,000	306,000,000	312,244,313	(6,244,313)	-2%
Fines,Penalties and Levies	70,000,000	70,000,000	44,415,812	25,584,188	37%
Merger Filling Fees-Local	50,000,000	50,000,000	49,000,000	1,000,000	2%
Merger Filling Fees-COMESA	80,000,000	80,000,000	82,300,619	(2,300,619)	-3%
Donor Funding-RIIP	9,000,000	9,000,000	10,000,000	(1,000,000)	-11%
Interest from Fixed Deposits	5,000,000	5,000,000	3,552,964	1,447,036	29%
Other Income	3,500,000	3,500,000	3,136,929	363,071	10%
Total Income	**523,500,000**	**523,500,000**	**504,650,635**		
Expenses					
Employee Costs	256,100,000	256,100,000	247,335,877	8,764,123	97%
Remuneration of Directors	24,500,000	24,500,000	7,127,298	17,372,702	29%
Policy,Research and Market Enquiries	85,500,000	85,500,000	56,179,193	29,320,807	66%
Contracted Services	13,800,000	13,800,000	9,699,797	4,100,203	70%
Repairs & Maintenance	12,900,000	12,900,000	11,961,826	938,174	93%
Finance Costs	600,000	600,000	427,686	172,314	71%
General Expenses	130,100,000	130,100,000	97,991,032	32,108,968	75%
Total Expenses	**523,500,000**	**523,500,000**	**430,722,710**		

Notes:

i. Other than the depreciation and amortisation recognized in the statement of financial performance and actual payments for the purchase of Assets shown on the face of the statement of comparison of budget and actual amounts, there are no reconciling items to warrant a reconciliation between surplus as per statements of financial performance and comparison of budget and actual amounts.

ii. An explanation of differences between actual and budgeted amounts (10% over/ under) have been provided in detail under note 35 as required by IPSAS 24.14

STATEMENT OF ACCOUNTING POLICIES AND BASIS OF PREPARATION

1. Basis of preparation

The Authority's annual financial statements have been prepared in accordance and comply with International Public Sector Accounting Standards (IPSAS) issued by the Public Sector Accounting Standards Board in Accordance with section 194(1)b of the Public Finance Management Act No.18 of 2012.

The financial statements have been prepared on an accrual basis of accounting and are in accordance with the historical cost basis of measurement. Assets, liabilities, revenues and expenses were not offset. The financial statements have been prepared and presented in Kenya Shillings, which is the functional and reporting currency of the Authority. All figures have been rounded off to the nearest shilling.

The financial statements have been prepared in accordance with the PFM Act No.18 of 2012, the State Corporations Act Cap 446, and International Public Sector Accounting Standards (IPSAS).

1.1 Adoption of new and revised standards

The Authority did not early – adopt any new or amended standards in the year ended 30th June, 2020. A summary of the significant accounting policies, which have been consistently applied in the preparation of these annual financial statements, are disclosed below.

2. Summary of significant accounting policies

2.1 Going concern assumption

These annual financial statements have been prepared based on the expectation that the Authority will continue to operate as a going concern for at least the next 12 months.

2.2 Materiality

Material omissions or misstatements of items are material if they could, individually or collectively, influence the decisions or assessments of users made on the basis of the financial statements. Materiality depend on the nature or size of the omission or misstatement judged in the surrounding circumstances. The nature or size of the information item, or a combination of both, could be the determining factor.

Assessing whether an omission or misstatements could influence decision of users and so be material requires consideration of the characteristics of those users. The framework for the preparation and presentation of the financial statements state that users are assumed to have a reasonable knowledge of government, its activities, accounting and a willingness to study the information with reasonable diligence. Therefore, the assessment takes into account how users with such attributes could reasonably be expected to be influenced in making and evaluating decisions.

2.3 Revenue recognition

Revenue is the gross inflow of economic benefits or service potential during the reporting period when those inflows result in an increase in net assets other than increases relating to contributions from Government as owner.

i. Revenue from non-exchange transactions

Non-exchange transactions are transactions that are not exchange transactions. In a non-exchange transaction, the Authority receives value from another entity without directly giving approximately equal value in exchange, or gives value to another entity without directly receiving approximately equal value in exchange.

Recognition and measurement

An inflow of resources from a non-exchange transaction recognized as an asset is recognised as a revenue except to the extent that a liability is also recognized in respect of the same inflow.

As the Authority satisfies a present obligation recognised as a liability in respect of an inflow of resources from an asset, it reduces the carrying amount of the liability recognised and recognises an amount of revenue equal to that reduction.

Revenue from non-exchange transaction is measured at the amount of the increase in net assets recognised by the Authority.

a. Fines and penalties

The Authority recognizes revenues from fines and penalties when received and the asset recognition criteria are met. To the extent that there is a related condition attached that would give rise to a liability to repay the amount, deferred income is recognized instead of revenue.

b. Exchequer transfers

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.

c. 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.

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.

ii. Revenue from exchange transactions

An exchange transaction is one where the Authority receives a fee and in exchange investigates and assesses whether a merger is likely to substantially prevent or lessen competition and whether a merger can or cannot be justified on substantial public grounds and or for exemptions.

Fair value is the amount for which an asset could be exchanged or a liability extinguished, between knowledgeable, willing parties in an arm's length transaction.

STATEMENT OF ACCOUNTING POLICIES AND BASIS OF PREPARATION (Cont...)

Measurement

Revenue is measured at the fair value of the consideration received or receivable, net of trade discounts and volume rebates.

a. Merger filing fees

The Authority recognizes revenue from local merger filling fees by reference to the stage of completion when the outcome of the transaction can be estimated reliably. The stage of completion is measured by reference to labour hours incurred to date as a percentage of total estimated labour hours. Where the outcome cannot be measured reliably, revenue is recognized only to the extent that the expenses incurred are recoverable .The Authority's share of the Merger filling fees from COMESA Competition Commission is recognized when received.

2.4 Budget information

The Authority is typically subject to budgetary limits in the form of appropriations or budget authorisations, which is given effect through authorising legislation. Public Finance Management Act No.18 of 2012 requires public entities to include in their reports information on whether resources were obtained and used in accordance with the legally adopted budget.

The original budget for FY 2019-2020 was approved by the National Treasury on 30th September, 2019. Subsequent revisions or additional/reduced appropriations were made to the approved budget in accordance with specific approvals from the Authority's board. The additional/reduced appropriations are added/subtracted to the original budget by the Authority upon receiving the respective approvals in order to conclude the final budget.

The approved budget is prepared on an accrual basis and presented by functional classifications linked to performance outcome objectives and covers the period 1st July, 2019 to 30th June, 2020.

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.

A comparison of budget and actual amounts, prepared on a comparable basis to the approved budget, is presented in the statement of comparison of budget and actual amounts.

2.5 Property, plant and equipment

The cost of an item of property, plant and equipment is recognized as an asset when;

- It is probable that future economic benefits or service potential associated with the item will flow to the Authority; and
- The cost can be measured reliably.

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

Item	Depreciation method	Average useful life
Furniture and fixtures	Reducing balance	8 years
Motor vehicles	Reducing balance	4 years
Office equipment	Reducing balance	8 years
Computer equipment	Reducing balance	3 years
Servers	Reducing balance	3 years

The depreciable amount of an asset is allocated on a systematic basis over its useful life.

The Authority assesses at each reporting date whether there is any indication that the Authority's expectation about the residual value and the useful life of an asset have changed since the preceding reporting date. If any such indication exists, the Authority revises the expected useful life and/or residual value accordingly. The change is accounted for as a change in an accounting estimate. The depreciation charge for each period is recognized in surplus or deficit.

Items of property, plant and equipment are derecognized when disposed of or when there are no further economic benefits or service potential expected from the use of the asset.

It is the policy of the Authority to charge full depreciation on all its non-current assets including intangible assets in the year of purchase and no depreciation in the year of disposal.

2.6 Leases

The Authority has a running operating lease agreement with the Kenya Railways Staff Retirement Benefit Scheme that also includes an annual escalation clause of 5% for the provision of the office block that houses its Headquarters. Obligations arising out of the operating lease are recognised as an expense on a straight line basis over the lease term. The difference between the amounts recognized as an expense in the Statement of Financial Performance and the contractual payments are recognised as an operating lease liability or asset as appropriate.

2.7 Intangible assets

An intangible asset is recognized as an asset when;

- It is probable that future economic benefits or service potential associated with the item will flow to the Authority; and

- The cost or fair value can be measured reliably.

Intangible assets are carried at cost less any accumulated amortisation and any impairment losses. The cost of intangible assets acquired in a non-exchange transaction is their fair value at the date of the exchange.

The amortisation period and the amortisation method for intangible assets are reviewed at each reporting date.

The useful life of the intangible assets is assessed as either finite or indefinite. Reassessing the useful life of an intangible asset with finite useful life after it was classified as infinite is an indicator that the asset may have been impaired. As a result, the asset is tested for impairment and the remaining carrying amount is amortised over its useful life.

Intangible assets are acquired.

Amortisation is provided to write down the intangible assets, on a reducing balance basis, to their residual values as follows:

Item	Depreciation method	Average useful life
Computer software	Reducing balance	4 years

2.8 Provisions, contingent liabilities and contingent assets

Provisions

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.

The amount of the provision is the best estimate of the expenditure expected to be required to settle the obligation at the reporting date.

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. Provisions are reviewed at each reporting date and are adjusted to reflect the current best estimate and are reversed if it is no longer probable that an outflow of economic resources embodying economic benefits or service potential will be required, to settle the obligation. The details of the provisions made in preparing these Financial Statements are disclosed in note 24.

Contingent liabilities and contingent assets

The Authority is involved in a number of legal case proceedings that form part of the nature of its operations. Due to the inherent uncertainties precipitated by the nature of the cases, no accurate quantification of any cost, or timing of such costs, which may arise from any of the legal proceedings can be made.

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. Contingencies are disclosed in note 32.

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.

2.9 Changes in Accounting policies and estimates

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.

2.10 Employee benefits

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

2.11 Foreign currency transactions

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

2.12 Related parties

The Authority regards a related party as a person or an entity with the ability to exert control individually or jointly, or to exercise significant influence over the Authority, or vice versa. Members of key management and their close family members are regarded as related parties and comprise the Director General, members of the Authority's board and Managers. Other related parties include; The Competition tribunal and the parent Ministry; The National Treasury. Details of transactions with related parties are as disclosed in note 31.

2.13 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 .The details of the Authority's cash balances are shown in note 17.

2.14 Commitments

Commitments represent goods/services that have been contracted/ordered, but no delivery has taken place at the reporting date. These amounts are not recognised in the statement of financial position as a liability or as expenditure in the statement of financial performance as the annual financial statements are prepared on an accrual basis of accounting but are however disclosed as part of the disclosures in note 33.

2.15 Comparative figures

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

2.16 Subsequent events

Events after the reporting date are those events, both favourable and unfavourable, that occur between the reporting date and the date when the financial statements are authorised for issue. Subsequent events can be classified into two types:

- those that provide evidence of conditions that existed at the reporting date(adjusting events after the reporting date); and
- those that are indicative of conditions that that arose after the reporting date(non-adjusting events)

The Authority will adjust the amounts recognised in the financial statements to reflect adjusting events after the reporting date once the event occurred.

The Authority will disclose the nature of the event and an estimate of its financial effects or a statement that such estimate cannot be made in respect of all material non-adjusting events, where non-disclosure could influence the economic decisions of users taken on the basis of the financial statements.

3. Significant judgements and sources of estimation uncertainty

In preparing annual financial statements in conformity with IPSAS management is required to make judgments, estimates and assumptions that affect the amounts of revenues, expenses, assets and liabilities represented in the annual financial statements and related disclosures at the end of the reporting period. However, uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of the asset or liability affected in future periods. Significant judgements, estimates and assumptions include;

3.1 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 as required by IPSAS 1.140

Useful lives and residual values

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

i. The condition of the asset based on the assessment of experts employed by the Authority

ii. The nature of the asset, its susceptibility and adaptability to changes in technology and processes

iii. The nature of the processes in which the asset is deployed

iv. Availability of funding to replace the asset

v. Changes in the market in relation to the asset

3.2 Depreciation and amortization

The Authority's management determines the estimated useful lives and related depreciation charges. This estimate is based on the Industry norm. Management will increase the depreciation charge where useful lives are less than previously estimated useful lives.

3.3 Inventories

Inventories are initially measured at cost except where inventories are acquired through a non-exchange transaction, then their cost are the fair value as at the date of acquisition. Subsequently inventories are measured at the lower of cost and net realizable value.

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

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

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2020

4. Transfers from ministries, departments and agencies

	Amount recognized in Statement of financial performance	Amount deferred under deferred income	Deferred capital grant	Total grant income during the year	2019/2020
	Kshs.	Kshs.	Kshs.	Kshs.	Kshs.
The National Treasury - Recurrent	306,100,000	-	-	306,100,000	306,100,000
The National Treasury - Development	6,144,313	-	48,855,687	55,000,000	55,000,000
The National Treasury - RIIP	10,000,000	-	-	10,000,000	10,000,000
Total	**322,244,312**	**-**	**48,855,687**	**371,100,000**	**371,100,000**

All transfers recorded and recognized in the statement of financial performance have been confirmed and reconciled with those recorded by the transferring ministry-The National Treasury.

5. Fines & penalties and merger filing fees

Description	2019/2020	2018/2019
	Kshs.	Kshs.
Fines & penalties	44,414,812	4,214,073
Merger filling fees-local	49,000,000	55,000,600
Merger filling fees-COMESA	82,300,619	75,451,772
Total	**175,715,431**	**134,666,445**

The filling fees relates to revenue generated from merger cases filed by merging/acquiring companies both locally and regionally with the COMESA Competition Commission. The Authority's share of the COMESA filling fees is arrived at using a predetermined formula agreed upon by and applicable to all the member countries and is recognized when received.

Fines and penalties are levied against companies found to infringe the competition law by engaging in unfair trade practices including consummating mergers without approval by the Authority as well as infringements of consumer rights/welfare.

6. Interest from fixed deposits

Description	2019/2020	2018/2019
	Kshs.	Kshs.
Cash investments and fixed deposits	3,552,964	21,096,186
Total	**3,552,964**	**21,096,186**

The Authority recognizes that the revenue it receives both from exchequer and Appropriation in Aid (AIA) are not necessarily evenly matched with its spending pattern. Accordingly, any surplus cash is invested in short-term fixed deposits to generate AIA by way of interest on deposits.

7. Other income

Other income amounting to Kshs 3,136,929 relates to training fees levied against law and economic regulation course which the Authority conducts annually in collaboration with the University of Nairobi. Participants pay a fee to meet the running costs of the course.

8. Employee costs

	2019/2020	2018/2019
	Kshs.	Kshs.
Salaries and allowances	196,292,092	173,156,288
Contribution to pensions	15,420,229	14,814,640
Staff gratuity	15,644,740	14,936,072
Staff medical insurance	19,562,959	17,995,991
Provision for staff leave	411,857	757,077
Total	**247,335,877**	**221,660,068**

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2020 (Cont...)

9. Remuneration of directors

	2019/2020	2018/2019
	Kshs.	Kshs.
Sitting & lunch allowances	2,026,995	5,190,000
Honoraria	960,000	724,240
Board induction & travel	3,815,815	13,609,936
Telephone	35,000	106,434
Insurance	225,866	665,486
Local travel costs	57,077	2,082,188
Conference facilities	6,546	2,051,210
Total	**7,127,299**	**24,429,493**

10. Depreciation and amortization expense

	2019/2020	2018/2019
	Kshs.	Kshs.
Property, plant & equipment	13,854,619	15,278,375
Computer softwares	18,734,015	20,350,988
Total	**32,588,634**	**35,629,363**

11. Policy, research and market enquiries

	2019/2020	2018/2019
	Kshs.	Kshs.
Awareness & publicity campaigns	13,112,188	16,051,107
Policy, research & market enquiries	29,478,248	39,535,948
Regulation of mergers & acquisitions	1,188,481	2,846,485
Consumer campaigns	4,930,891	1,399,769
Enforcement of restrictive trade practices	3,475,668	9,045,911

COMESA-RIIP	2,846,668	6,944,644
Buyer power	1,147,050	190,000
Total	**56,179,193**	**76,013,864**

12. Repairs and maintenance

	2019/2020	2018/2019
	Kshs.	**Kshs.**
Motor vehicles	988,725	504,780
Property, plant & equipment	10,973,101	13,228,501
Total	**11,961,826**	**13,733,281**

13. Contracted services

	2018/19	2018/2019
	Kshs.	**Kshs.**
Consultancy	647,704	9,965,878
Hire of security	786,600	1,057,920
Cleaning expenses	1,807,538	1,710,440
Legal services	5,761,955	1,479,247
Audit fees	696,000	696,000
Total	**9,699,797**	**14,909,485**

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2020 (Cont...)

14. General expenses

	2019/2020	2018/2019
	Kshs.	Kshs.
Domestic travel subsistence allowances	8,850,406	12,655,087
Foreign travel subsistence allowance	6,187,159	15,362,210
Communication costs	6,325,651	7,031,208
Staff welfare	1,672,401	6,994,503
Printing & advertising	3,711,854	7,420,475
Rent & rates	38,046,137	36,537,494
General office supplies	3,270,290	2,150,730
Training expenses	15,749,684	34,632,094
Motor vehicles running expenses	1,587,238	1,772,008
Official entertainment and conferencing facilities	6,635,494	10,367,718
Subscriptions to professional bodies	1,006,313	1,015,353
Insurance of assets	4,948,404	3,333,269
Total	**97,991,032**	**139,272,149**

15. Finance costs

Finance costs of Kshs.427,686 relates to bank charges levied by banks in running bank accounts held by the Authority in various commercial banks.

16. Loss on disposal of assets

Loss on disposal of assets relates to assets donated to various schools within Nairobi County. The assets had a cost and accumulated depreciation of Kshs. 1,741,230 and Kshs. 1,202,068 respectively resulting to a loss of Kshs. 539,162.

17. Cash and cash equivalents

	2019/2020	2018/2019
	Kshs.	Kshs.
KCB-KICC main operating account	97,500,955	96,263,374
KCB-KICC Staff gratuity account	33,564,062	24,482,247

NBK-Dollar account	41,205,109	96,439,088
KCB-Short-term Investment on call	-	150,000,000
Total	**172,270,126**	**367,184,708**

18. Receivables and prepayments

	2019/2020	2018/2019
	Kshs.	**Kshs.**
Staff travel imprest	109,200	-
Staff debtors	22,154	167,113
Trade receivables	19,847	19,667
Staff car loan scheme receivables	9,735,814	8,830,310
Staff car mortgage loan scheme receivables	54,618,287	-
Prepaid rent	2,846,332	2,790,499
Prepaid insurance	6,462,571	7,481,715
Prepaid internet services	-	173,587
Prepaid training fees	328,460	-
Advance deposit	235,000	150,000
Bank interest receivable	-	418,404
Total	**74,377,665**	**20,031,295**

19. Inventories

	2019/2020	2018/2019
	Kshs.	**Kshs.**
Consumables	**5,302,795**	**6,071,208**

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2020 (Cont...)

20. Securities & deposits

	2019/2020	2018/2019
	Kshs.	Kshs.
NBK-Staff car loan scheme account	103,627,096	99,805,127
Absa-Staff mortgage scheme account	254,185,302	200,000,000
Total	**357,812,398**	**299,805,127**

These are bank balances as at 30th June, 2020 in National Bank of Kenya and Absa Bank, which are placed as security against staff car and mortgage advances to support concessionary interest rate loans to staff. The contract with the banks stipulate that the cash balances are available to the Authority on call or upon termination by either party in which case the outstanding loans shall revert to commercial terms enforceable between the lender and the borrower. All risks related to the scheme are borne by the banks except where the Authority is found directly culpable.

21. Computer softwares

	2019/2020	2018/2019
	Kshs.	Kshs.
Cost		
At the beginning of the year	84,637,544	4,499,000
Additions	13,883,096	80,138,544
At end of the year	**98,520,640**	**84,637,544**
Amortization		
At the beginning of the year	23,584,582	3,233,594
Amortization	18,734,015	20,350,988
At end of the year	**42,318,597**	**23,584,582**
Net Book Value	**56,202,044**	**61,052,962**

	2019/2020	2018/2019
	Kshs.	Kshs.
Computer software under development	3,297,933	197,821
Total	**59,499,977**	**61,250,783**

Computer software under development, Kshs 3,297,933 relates to amounts incurred and paid towards the implementation of Mobile App Software to provide an interactive SMS solution to the Authority's automated processes.

It is the policy of the Authority to amortize all Intangible Assets at the rate of 25% on a reducing balance basis.

22. Property, plant and equipment

	Motor Vehicles	Office Equipment	Computer Equipment	Furniture & fittings	Total
Depreciation rate	25%	12.5%	33%	12.5%	
Cost					
At 1st July 2018	**23,513,707**	**10,836,625**	**42,887,461**	**24,913,025**	**102,150,818**
Additions	13,825,000	1,807,738	6,266,354	2,743,960	24,643,052
Disposals	-	-	-	-	-
Transfers/adjustments	-	-	-	-	-
At 30th June 2019	**37,338,707**	**12,644,363**	**49,153,815**	**27,656,985**	**126,793,870**
Additions	-	4,603,320	6,295,000	-	10,898,320
Disposals	-	(622,000)	(908,780)	(210,450)	(1,741,230)
Transfer/adjustments	-	-	-	-	-
At 30th June 2020	**37,338,707**	**16,625,683**	**54,540,035**	**27,446,535**	**135,950,960**
Depreciation and impairment					
At 1st July 2018	**17,403,814**	**3,865,005**	**27,966,506**	**10,572,959**	**59,808,284**
Depreciation	4,983,723	1,097,419	7,061,730	2,135,502	15,278,375
Impairment	-	-	-	-	-
At 30th June 2019	**22,387,537**	**4,962,424**	**35,028,236**	**12,708,461**	**75,086,659**

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2020 (Cont...)

	Motor Vehicles	Office Equipment	Computer Equipment	Furniture & fittings	Total
Depreciation	3,737,792	1,495,779	6,764,289	1,856,759	13,854,619
Disposals	-	(302,971)	(783,096)	(116,001)	(1,202,068)
Impairment	-	-	-	-	-
Transfer/adjustment	-	-	-	-	-
At 30th June 2020	**26,125,330**	**6,155,232**	**41,009,428**	**14,449,220**	**87,739,210**
Net book values					
At 30th June 2019	**14,951,170**	**7,681,939**	**14,125,579**	**14,948,524**	**51,707,211**
At 30th June 2020	**11,213,377**	**10,470,451**	**13,530,607**	**12,997,315**	**48,211,750**

23. Payables and accruals

	2019/2020	2018/2019
	Kshs.	**Kshs.**
Local creditors	24,785,039	46,616,337
Withholding taxes	16,667	309,168
Withholding VAT	71,143	995,327
Staff claims	107,038	13,740,365
Contractors retentions	-	1,058,833
Unremitted payroll deductions	3,742,281	4,282,328
Deferred lease liability	5,379,016	3,568,200
Surplus payable to exchequer	36,720,117	-
Total	**70,821,301**	**70,570,557**

24. Provisions

	2019/2020	2018/2019
	Kshs.	Kshs.
Provision for staff leave balances	4,665,767	4,253,910
Provision for audit fees	1,392,000	696,000
Total	**6,057,767**	**4,949,910**

25. Deferred capital grant

Development/capital grant is recognized in the statement of financial position and armotized in the statement of financial performance over the useful life of the assets that have been acquired using such funds. Current deferred capital grant, Kshs. 4,505,388 will be realized in the statement of financial performance within the next one year while non-current deferred capital grant, Kshs. 44,350,300 will be realized in the subsequent years.

26. Employee benefits obligations

This refers to amount set aside as gratuity for staff who are on contract. The Authority contributes 31% of basic pay per employee per month.

27. Equity contribution by Treasury

The Authority inherited a number of assets comprising mainly of furniture, computers, cash balances and payments due to suppliers with a net amount of Kshs. 52,932,150 from the then department of monopolies and pricing at the National Treasury. In addition, in the financial year 2014/2015, the National Treasury contributed three computers with an invoice value of Kshs.449, 670 for use by the Authority in the Regional Integration Implementation Programme. The Authority was not expected to pay for these assets. The contributions have been recognized in the statement of Net assets as a equity contribution by the National Treasury.

28. General reserve fund

The general reserve fund of Kshs. 507,579,246 represents accumulated surpluses comprising arising from normal operations of the Authority. The distribution of this amount is subject to the Authority retaining at least 10% annual surplus of the year or any other amount as the board in consultation with the Cabinet Secretary may determine. Pursuant to such consultation, as at 30th June, 2020, Kshs. 316,886,182 portion of the general reserve fund represent an amount placed as security with Absa and National banks of Kenya to secure staff housing mortgage and car loans at concessionary rates for its staff.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2020 (Cont...)

29. Cash generated from operations

	2019/2020	2018/2019
	Kshs.	Kshs.
Surplus for the year	4,080,013	27,001,120
Adjusted for :		
Depreciation	32,588,634	35,629,363
Loss on disposal of non-current assets	539,162	-
Provisions	1,107,857	757,077
Working Capital adjustments		
Increase in receivables & prepayments	(54,346,372)	(1,864,884)
Increase in inventory	768,413	(6,071,208)
Security deposits-staff car & mortgage schemes	(58,007,272)	(299,805,127)
Increase in payables & Accruals	250,743	40,136,947
Employee benefit obligations	10,727,088	-
Increase in deferred grant	48,855,687	-
Net cash flow from operating activities	**(13,436,047)**	**(204,216,712)**

30. Financial Risk Management

The Authority has a policy and framework on risk management. The Strategic risk register is reviewed quarterly by management. The Authority's activities expose it to interest, credit and liquidity risks.

Credit risks

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 Authority does not raise receivables 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.

The Authority's exposure to credit risk at the end of the financial year is best represented by.

	2019/2020	2018/2019
	Kshs.	**Kshs.**
Cash at bank	172,270,126	367,184,708
Security Deposits	357,812,398	299,805,127
Staff travel imprest	109,200	-
Staff debtors	22,154	167,113
Trade debtors	19,847	19,667
Staff car loan debtors	9,735,814	8,830,310
Staff mortgage loan debtors	54,618,287	-
Prepaid rent	235,000	2,790,499
Prepaid insurance	2,846,332	7,481,715
Prepaid internet services	6,462,571	173,587
Prepaid training fees	328,460	
Total	**604,460,189**	**686,452,726**

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

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2020 (Cont...)

Liquidity

The Authority's liquidity risk is as a result of funds availability to cover future commitments. The Authority manages liquidity risk by monitoring forecasted cash flows and ensuring that the necessary funds are available to meet any commitments which may arise. Cash which is not utilized is invested immediately in Treasury bills and call accounts. The amounts that best describes the Authority's exposure to liquidity risk at the end of the financial year is as follows;

	Less than 1 month	Between 1-3 months	Over 5 months	Total
	Kshs.	Kshs.	Kshs.	Kshs.
At 30th June, 2020				
Accounts payables	24,785,039	-	-	24,785,039
Staff claims	107,038	-	-	107,038
Taxes	87,810	-	-	87,810
Payroll deductions	3,742,281	-	-	3,742,281
Staff leave provisions	6,057,767	-	-	6,057,767
Total	**34,779,935**			**34,779,935**

	Less than 1 month	Between 1-3 months	Over 5 months	Total
	Kshs.	Kshs.	Kshs.	Kshs.
At 30th June, 2019				
Trade payables	46,616,337	-	-	46,616,337
Staff claims	13,740,365	-	-	13,740,365
Taxes	1,304,495	-	-	1,304,495
Payroll deductions	4,282,328	-	-	4,282,328
Staff leave Provisions	4,949,910	-	-	4,949,910
Contractors retention	1,058,833	-	-	1,058,833
Total	**71,952,268**			**71,952,268**

Market risks

Market risk is the risk that the value of an investment will decrease due to changes in market factors. The above stated mitigating factors apply to market risk as well. The Authority has transactional currency exposures. Such exposure arises through purchases of services especially fees for international conferences that are done in currencies other than the local currency and receivables arising mainly from the Authority's share of merger filling fees from COMESA Competition Commission. Invoices denominated in foreign currencies are paid within 7 days

from the date of receipt of the invoice and conversion at the time of payment is done using the prevailing exchange rate. The carrying amount of the Authority's foreign currency denominated monetary assets and monetary liabilities at the end of the reporting period are as follows:

	US $ dollar	Kshs.
Cash at bank- National Bank of Kenya	383,001.61	41,205,109

31. Related party transactions

	2019/2020	2018/2019
	Kshs.	Kshs.
a) Grants from National Government		
i. Exchequer budgetary support	361,100,000	387,220,000
ii. COMESA-Regional Integration Implementation Programme	10,000,000	7,000,000
Total	**371,100,000**	**394,220,000**
b) Gifts/donations declared by employees	-	15,000
c) Key management compensation		
i. Directors' emoluments	3,212,861	6,579,725
ii. Compensation to the Director General	9,910,000	9,910,000
iii. Compensation to key management	69,136,835	68,736,080
Total	**82,259,696**	**85,225,805**

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2020 (Cont...)

32. Contingent assets and contingent liabilities

a. Court cases

The Authority has cases pending before the Kenyan courts and before the Competition Tribunal the nature of which are of a judicial review in the form of seeking declaratory orders requiring specific actions from the Authority as opposed to special or general damages. The outcome thereof may result in legal costs or damages awarded against or for the Authority. The details of the cases are disclosed here below.

Case Reference Vs. CAK	Details of the case	Remarks
Tribunal Case No. CT002/2020 Kansai Plascon vs CAK Tribunal Case No. CT 003/2020 Galaxy Paints vs CAK Tribunal Case No. CT 004/2020 Crown Paints vs CAK	Judicial review proceedings challenging the Authority's decision and seeking Set Aside Orders, Orders of Certiorari & costs of the Memorandum of Appeal.	Likely legal liability in the sum of Kenya Shillings two million, nine hundred thousand (Ksh 2, 900, 000).
Nairobi Constitutional Petition No. 6 of 2020 Galaxy Paints, AG & CAK	Judicial review proceedings challenging the Authority's decision and seeking Declaratory Orders, Orders of Certiorari and costs of the Petition.	Likely legal liability in the sum of Kenya Shillings Nine Hundred and Sixty Thousand. **(Ksh 960, 000).**
Tribunal Case No. CT 006/2020 Majid Al Futtaim Hypermarkets Limited, CAK and Orchards Limited.	Appeal challenging the Authority's decision delivered against it on 4th February, 2020 and seeking Declaratory Orders and Costs of Appeal.	Likely legal liability in the sum of Kenya Shillings Nine Hundred Thousand. **(Ksh 900, 000).**
Mombasa Constitutional Petition No 201 of 2019 Kenya Transporters Association Limited versus CAK & Others	A suit challenging the Authority's mandate in curtailing the monopolistic tendencies and seeking Declaratory and Certiorari Orders.	Likely legal liability in the sum of Kenya Shillings seven hundred and sixty thousand. **(Ksh 760, 000).**
Civil Case No. E471 of 2019 Alexander Mugo & Others V KBL, CAK & Others	A suit challenging the Authority's mandate with respect to Abuse of Dominance and seeking Declaratory Orders.	Likely legal liability in the sum of Kenya Shillings three hundred and fifteen thousand. **(Ksh. 315, 000).**

33. Commitments

	2019/2020	2018/2019
	Kshs.	**Kshs.**
Authorized, contracted and ongoing	5,339,566	22,737,081
Authorized but not yet contracted		
Total	**5,339,566**	**22,737,081**

The committed expenditure will be financed by allocated operational budget for future periods.

Operating leases-as leases (expense)

	2019/2020	2018/2019
Minimum lease payments due	**Kshs.**	**Kshs.**
• Within one year	26,875,884	25,596,080
• In second to fifth year	83,562,900	110,438,784
Total	**110,438,784**	**136,034,865**

Operating lease payments represent rentals payable by the Authority for leased office space. Leases are negotiated for an average term of five years. No contingent rent is payable.

34. Pending bills

As at the close of the financial year, the Authority did not have any bills which have not been adequately covered by its cash reserves. All the Authority's recorded liabilities as at the end of the year are current and are adequately covered.

35. Explanation of budget variances higher/lower than 10%

a. Fines & penalties 37%

The Authority had budgeted to receive fines & penalties from the results of various cases it was investigating in the last financial year whose outcomes had been determined and the parties issued with and accepted demand notes. However, in the course of the financial year, the parties decided to seek further interpretation from the Competition Tribunal thereby delaying the collection of the fines.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 2020 (Cont...)

b. Interest from deposits 29%

The Authority's revenue from interest on deposits decreased significantly following a diminished cash reserves due to payment of surpluses for the previous years pursuant to section 219(2) of the Public Financial Management (national government) regulation 2015. There was therefore no adequate cash reserves to invest with the approved banks.

c. All Expenditure heads for the FY 2019/20

Other than employee costs and repairs and maintenance, all other expenditure heads experienced significant drops in utilization ranging from 21% for purchase of assets to 71% for remuneration of directors owing to late approval of the budget which came on 30th September, 2019 to the negative effects of the COVID 19 pandemic which frustrated several procurement efforts in addition to a government directive to limit expenditure to only essential services.

36. Surplus Remission

a. The Authority has made provisions to remit to the exchequer Kshs 36,720,117 as per the provisions of Section 219 (2) of the Public Financial Management Act regulations 2015 being ninety per centum (90%) of the surplus as adjusted by the non-qualifying items as recorded in the Statement of financial Performance for the year.

b. The Authority paid to the Exchequer Kshs 166,228,008 during the year being 90% surplus payable on surplus reported on the audited Financial Statements for financial years 2014/2015, 2015/2016, 2016/2017, 2017/2018 and 2018/2019.

37. Events after the reporting date

There have been no material adjusting and non- adjusting events subsequent to the reporting date with a significant impact on the financial statements for the year ended 30th June, 2020.

38. Ultimate and holding entity

The Authority is a State Corporation under the Ministry of The National Treasury. Its ultimate parent is the Government of Kenya.

APPENDIX I: PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATION

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

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Person to resolve the issue *(Name and designation)*	Status: (Resolved/ Not Resolved)	Time frame: *(Put a date when you expect the issue to be resolved)*

Director General

Date...3rd August, 2020

APPENDIX II: INTER-ENTITY TRANSFERS

	ENTITY NAME:	**COMPETITION AUTHORITY OF KENYA**		
	Break down of Transfers from the ministry of the National Treasury			
	FY 2019/2020			
a.	**Recurrent Grants**			
		Bank Statement Date	**Amount (KShs)**	**FY to which the amounts relate**
		21/08/2019	76,525,000	2019/20
		07/10/2019	5,000,000	2019/20
		15/11/2019	76,525,000	2019/20
		10/02/2020	76,525,000	2019/20
		24/04/2020	5,000,000	2019/20
		11/06/2020	76,525,000	2019/20
			316,100,000	
b.	**Development Grants**			
		Bank Statement Date	**Amount (KShs)**	**FY to which the amounts relate**
		08/10/2019	27,500,000	2019/20
		19/03/2020	13,750,000	2019/20
		24/04/2020	13,750,000	2019/20
		Total	**55,000,000**	
	Grand Total		**371,100,000**	

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

Manager, Finance

Competition Authority of Kenya

Sign ....

Mr. Eric Mwangi, Director, Corporate Services, plants a tree in Ngong Road Forest, Nairobi as part of the Authority's contribution to preserve and conserve the environment and boost ongoing efforts to attain 10% tree cover by 2022. The exercise was part of the Authority's annual CSR activities. A total of 1,110 indigenous trees were planted.

APPENDICES

1.1 RESTRICTIVE TRADE PRACTICES CASES

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
1.	CAK vs Crown Paints Kenya PLC	Manufacturing	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the paints manufacturing and distribution in Kenya on its own motion pursuant to the provisions of section 31 (1) of the Act. In December 2018, the Authority carried a search exercise at the premises of Crown Paints Products (K) Ltd and other players and seized materials relevant to the investigation and later interviewed the Crown representatives.	Section 21 (1) and (3) (a)	The Authority concluded the investigations and after considering the parties submissions, arrived at a determination that Crown Paints PLC was in contravention of section 21 (1) and (3) (a) of the Act. Crown Paints however appealed the decision at the Competition Tribunal.
2.	CAK vs Galaxy Paints Limited	Manufacturing	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the paints manufacturing and distribution in Kenya on its own motion pursuant to the provisions of section 31 (1) of the Act. In December 2018, the Authority carried a search exercise at the premises of Galaxy Paints (K) Limited and other players and seized materials relevant to the investigation and later interviewed the Galaxy representatives.	Section 21 (1) and (3) (a)	The Authority concluded the investigations and after considering the parties submissions, arrived at a determination that Galaxy Paints and Coatings Ltd was in contravention of section 21 (1) and (3) (a) of the Act. Galaxy Paints and Coatings Ltd however appealed the decision at the Competition Tribunal.

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
3.	CAK vs Kansai Plascon Kenya Limited	Manufacturing	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the paints manufacturing and distribution in Kenya on its own motion pursuant to the provisions of section 31 (1) of the Act. In December 2018, the Authority carried a search exercise at the premises of Kansai Plascon Kenya Ltd and other players and seized materials relevant to the investigation and later interviewed the Plascon representatives.	Section 21 (1) and (3) (a)	The Authority concluded the investigations and after considering the parties submissions, arrived at a determination that Kansai Plascon Kenya Limited was in contravention of section 21 (1) and (3) (a) of the Act. Kansai Plascon Kenya Limited however appealed the decision at the Competition Tribunal.
4.	Pharmaceutical Industry	Pharmaceutical	The investigation was initiated on the Authorities own volition in order to determine the competitiveness of the sector. The Authority examined the conduct of firms supplying the Government with Anti-TB drugs and Antiretroviral medication for the 2013-2019 by way of review of tender documents.	Section 21(3)	Based on the information provided, the investigation did not establish any bid rigging indicators and the matter was closed with further recommendations of collaborative sensitization with KEMSA staff on the provisions of the Act.

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
5.	CAK vs Oil Marketing Companies (OMCs)	Petroleum and petroleum products	The Departmental Committee on Energy ("the Committee") of the National Assembly received a petition from two individuals on behalf of Oil Marketing Companies (OMCs). Specifically, the petition alluded to an influx of illegal OMCs operating at the Kenyan airports allegedly leading to undercutting. The Committee recommended that the Authority should review and investigate business practices among OMCs involved in Jet A-I fuel business.	Sections 21, 23 and 24	Investigations were concluded and it was determined that there was effective competition among the OMCs. The findings of the investigation were communicated to the Departmental Committee of Energy, of the National Assembly.
6.	Andrew Karimi vs Kemnet technologies Ltd	Information and Communication	Andrew Karimi, a resident of Greatwall Gardens in Athi River, wrote to the Authority and alleged that the management company of the estate has barred all other Internet Service Providers (ISP) from operating or setting up in the estate, save for Kemnet Technologies Ltd thus denying the residents choice.	Sections 23 and 24 (b)	It was established that the relevant geographic market affected by the alleged conduct did not meet the threshold of a market as prescribed under section 4(c) of the Act and that Kemnet Technologies, served a very insignificant portion of the fixed data market in Kenya unlikely to result in any negative effects in the market. Based on the findings, the matter was closed.

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
7.	Timothy Kiige vs Safaricom PLC	Information and Communication	The complainant alleged that he had been unable to access the Safaricom App for about three (3) weeks. He claimed that he was only able to use Safaricom internet bundles to access the App. Effectively, Safaricom had barred other internet sources from being utilized by consumers to access or operate the Safaricom Application.	Sections 23 and 24 (b)	The Authority established that MySafaricom App is available on other internet platforms and that the instances of unavailability of the App on third party internet platforms was as a result of internet speed fluctuations/instability. It also established that the limitation of the activation of MySafaricom App to its mobile internet is for purposes of authentication and minimizing vulnerabilities including confidentiality and integrity. Based on the findings the matter was closed.
8.	James Kagotho vs Safaricom PLC	Telecommunication	The Authority received a complaint from Mr. James Kagotho of Cosmere Ventures, representing between 20-30 Content Service Providers (CSPs), seeking intervention and guidance regarding the sudden increase in Safaricom's bulk SMS prices. The complainant alleged that this amounted to abuse of dominance.	Section 24	The matter was referred to the Communications Authority of Kenya for reason that the complaint is considered as a sector regulatory matter since it falls within the Kenya Information and Communications (Tariff) Regulations, 2010.

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
9.	Kennedy Sirengo vs Safaricom PLC	Telecommunication	The Authority received a complaint from Mr. Kennedy Sirengo, who is in the online auctioneering business, alleging that Safaricom was discriminating against him by denying him a system with enhanced features (B2B with API) while allowing other categories of customers access.	Section 24(2) (c) of the Act	The findings of the investigation were that the customer had subscribed to the payment platform in early 2019 whereas Safaricom withdrew the B2B service via API, in August, 2018. This meant that he could not qualify for the service at that time. Additionally, the proposed tariff B2B via API is currently undergoing review by the CBK pursuant to Regulation 35 of the National Payment Regulations to ensure that Safaricom complies with Anti-Money Laundering and Countering Financial Terrorism. Based on the findings, the matter was closed.
10.	Kennedy Ngugi vs Glovo App LLC	Retail Sector	The Authority received a complaint from Mr. Kennedy Ngugi (the complainant) against Glovo App Company (Glovo), a company engaged in the provision of on-demand delivery services in Kenya. The complainant alleged that some of the vendor contractual agreements entered into between Glovo and its suppliers, have restrictive clauses that bind the suppliers on exclusive terms.	Section 21	Glovo App LLC was advised to revise the contracts with third party vendors to remove clauses that had restrictive effects. This was effected following which the matter was closed.

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
11.	Cereal Millers Association	Manufacturing	Cereal Millers Association complained to the Authority that the Ministry and the Wheat stakeholder were engaged in price setting of Wheat.	Section 9	The matter was referred to the Agriculture and Food Authority which implements regulations guiding on licensing and the process requirements of wheat importation.
12.	Provision of security services for University of Nairobi	Public Procurement	The Authority received complaint from an anonymous party claiming cases of bid rigging and collusion in the provision security services at the University of Nairobi	Section 22	The University of Nairobi amended the particular clause which was barring the complainant from bidding and this was communicated to the bidder before the lapse of time for the bidding process. Based on the amendments and the participation of the complainant, the matter closed.
13.	CAK vs Edible Oil Manufactures	Manufacturing	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the edible oil manufacturing and distribution in Kenya. The investigation was initiated suo moto pursuant to the provisions of section 31 (1) of the Act. 1. The investigations were triggered by the rigidity of the retail prices of various edible oils products in the local market despite apparent steady decrease in the cost of palm oil, the main raw material in the industry.	Section 21(3) (a) (b) (e) and (f) 22(1) (b)	The Authority did not find any evidence of collusion by the players and therefore the case was closed. The Authority will continue to periodically monitor the sector.

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
14.	CAK vs EABL	Alcoholic beverages Market	The Authority received a petition by Bunge La Wananchi against EABL on the allegations of the abuse of dominance in the production and supply of the Euro Brown Beer Bottles.	Section 24	The matter is in the High Court and therefore, awaiting determination
15.	Kenya Transporters Association	Transport	The Association complained to the Authority that the there was a government directive on the compulsory usage of the Standard gauge Railway which according to them was anticompetitive.	Section 9	The Investigations were halted after the parties filed a suit resulting from the same cause of action in the High Court.
16.	Unfair trade practices by health providers (Jubilee Insurance)	Finance and Insurance	The Authority received a complaint against healthcare insurers, specifically Jubilee Insurance (Jubilee). The complainant alleges that a majority of doctors are locked out of agreements to provide professional services because they have not signed restrictive and exploitative contract with a healthcare insurer or a health insurer agent.	Sections 21 and 24	Investigations into this matter are ongoing.

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
17.	Shipping, haulage and trucking sector matter	Transport sector	A screening of the Shipping, haulage and trucking sector for possible restrictive trade practices was undertaken following the outcomes of a regional market study in the sector. In the period under review, the COMESA Competition Commission commenced investigations on alleged concerted practices of shipping liners in the region which included Kenya.	Section 21	Matter held in abeyance pending the outcome of the investigations by COMESA on the same sector.
18.	Investigations into the Energy Dealers Association (EDA)	Electricity, Gas, Steam, and Air Conditioning supply	The Authority received information that EDA has been engaging in certain restrictive trade practices namely, price fixing and information exchange contrary to sections 21 and 22 of the Act. The EDA had not sought an exemption from the Authority.	Sections 21 and 22	Investigations are ongoing
19.	Capabuil vs Institute of Certified Public Accountants of Kenya (ICPAK)	Professional Services	The Authority received a complaint from Capabuil Ltd alleging that ICPAK was engaging in a restrictive trade practice through its implementation of a new Continuous Professional Development (CPD) policy. It was alleged that the policy intends to reduce CPD hours that ICPAK recognizes for clients attending seminars offered by independent trainers and introducing exorbitant fees payable by independent trainers.	Sections 21, 25, and 29	Investigations are ongoing

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
20.	Review of Security tenders of National Housing Corporation	Public Procurement	The Authority initiated investigations into the parties engaged in the provision of private security services in Kenya on its own motion pursuant to the provisions of section 31 (1) of the Act.	Section 21	Investigations inot the matter are ongoing
21.	Inter-tropical Timber trading Ltd and others	Manufacturing	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the supply of both treated wooden poles and concrete poles at the Kenya Rural Electrification Authority based on a complaint on the alleged flaws in the tendering processes.	Section 21	Investigations are ongoing
22.	Bar soaps investigations	Manufacturing	The Authority initiated investigations into the parties engaged in the manufacture of bar soaps in Kenya on its own motion pursuant to the provisions of section 31 (1) of the Act.		The review of the bar soaps sector indicated that the sector is competitive and that there are no apparent restrictive trade practices. Based on the findings, the matter was closed.

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
23.	Citimed Family Health Clinic vs Silver Springs Pharmacy	Human Health and Social Activities	Citimed Family Health Clinic complained against Silver Springs Pharmacy and alleged that Silver Springs Pharmacy Limited was engaging in anti-competitive practices. Specifically, it was alleged that Silver Springs Pharmacy had recently branded its outlet with the exact colours of Citimed Family Health Clinic in a bid of to confuse Citimed clients and that Spring Pharmacy wrongfully presented themselves as medical doctors.	N/A	The review of the matter established that the issue on piracy of a purported trademark does not fall within the mandate of the Authority and the complainant was referred to Kenya Industrial Property Institute (KIPI). Further, the issue relating to the alleged misrepresentation of Silver Spring Pharmacy employees as Medical Doctors was equally found to fall within the purview of Kenya Medical Practitioners and Dentist Board (KMPDC). Accordingly the complainant was referred to the said institutions.
24.	Claros Company Limited vs KPLC	Public Procurement	The Authority received a complaint against KPLC on irregularities in tender for the provision of labour & transport construction services. The complainant alleged that the tender submissions responses were not read during the tender opening in March, 2019 and that KPLC floated another tender which was due in June, 2019, whereby they did not share with the unsuccessful bidders the response to the appeals.		The review of the matter established that the tender anomalies was in reference to procedural irregularities of the tender process which fall outside the mandate of the Authority and was referred to PPRA.

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
25.	Security tenders at Postal Corporation of Kenya	Public Procurement	The Authority received a complaint from an anonymous party claiming cases of bid rigging and collusion in the provision of security services at Postal corporation	Section 22	The evaluation of tender documents from Postal Corporation did not reveal any elements of bid rigging. Based on the findings, the matter was closed.
26.	IPCA vs. KEMSA	Pharmaceuticals	The Authority received a complaint against KEMSA by IPCA for alleged restrictive clause on the technical specifications for tender for the supply of Artesunate injection 60MG.	Section 21	The review of the matter established that the alleged restrictive clauses on the tender specification did not fall under the ambit of the Authority and the matter was referred to PPRA for further action.
27.	Richard vs Githiga Sacco	Transport	The Authority received a complaint on allegations of monopolization of the provision of public transport services along Githiga-Kiambu-Nairobi and Githunguri-Githiga-Limuru routes and Cianda - Ngorongo route.	Section 24	The findings of the investigation were that there were a number of other matatu Saccos that were plying the same route that included Bakaki, Banana Hill, Kidagi, Kijabe and Lira line saccos. Based on the findings, the route was established to be competitive and the matter was closed.
28.	Beauty Point College vs Anonymous accused party	Beauty and Fashion Industry	The Authority received a complaint from beauty point college against an unnamed organization concerning the defacing of the complainant's billboards, giving false information regarding the products of the complainant as well as use of unsafe/ substandard products.	Sections 23 and 24	Investigations are ongoing

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
29.	Sufuria World vs Kaluworks Limited	Manufacturing	The Authority received a complaint from Sufuria World Limited against Kaluworks Limited relating to refusal to supply aluminum circles to Sufuria World Limited.	Sections 23 and 24	The Authority established that the technologies used in the manufacture of aluminium circles were readily available and could be easily replicated. The Authority determined that the allegations did not meet the threshold of abuse of dominance by refusal to deal. Based on the findings the matter was closed.
30.	PET Bottle Recycling Versus PETCO	Manufacturing	The Authority received a complaint against PETCO factory in Athi River denied market access to bottles by charging Ksh. 25 as opposed to Ksh. 20 which is the common market price for the collectors.	Section 24	The findings of the investigation was that the complaint did not meet the threshold of Abuse of Dominance since PETCO is not dominant in the relevant market. Based on the findings, the matter was closed.
31.	CAK vs Animal Feeds Manufactures	Manufacturing	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the Animal feeds manufacturing and distribution in Kenya. The investigation was initiated suo moto pursuant to the provisions of section 31 (1) of the Act.	21(3) (a) (b) (e) and (f)	Investigations are ongoing

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
32.	CAK vs Agro-chemicals Association of Kenya	Agrochemical Industry	The Authority pursuant to section 31 of the Act initiated investigations into the activities of members of the Agro-Chemicals Association of Kenya (AAK) to establish if the members were sharing commercially sensitive information including prices, quantities produced as alleged by a market screening of the sector.	Section 22	The investigation established that importation transactions related to agrochemicals were captured by an independent entity and were not shared with the Association. Based on the findings, the matter was closed.
33.	CAK vs Better SMS	Telecommunications	The Authority received a complaint in anonymity against Better SMS on allegations that BSL had entered into certain understanding/ arrangements with certain media houses to ensure that they dominantly provided premium Short Message Services to the detriment of its competitors.	Section 24 (1) and (2)	Investigations are ongoing
34.	Midicom Limited vs SBG Securities	Forex Trading	The Authority received a complaint from Midicom Limited against SBG Securities alleging restrictions in accessing the forex market and customer allocation.	Section 24 (a) and (c)	Investigations are ongoing

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
35.	CAK vs Kenya Association of Travel Agents	Travel and Tourism	The Authority's market intelligence indicated that the Kenya Association of Travel Agents (KATA) had planned to adopt a 'No Credit' policy to ensure the business sustainability of their members during and post COVID-19 period. The adoption of this policy would see travel agents cease to extend credit facilities for travel to their customers thus restricting their dealings to cash-paying clients. This position could be views as agreements on terms of trade contrary to Sections 21 and 22 of the Act	Sections 21 and 22	Investigations are ongoing
36.	Bakex Limited Vs Others Millers	Manufacturing	The Authority received a complaint from Bakex Limited alleging that other millers were dominant in the market were abusing their dominance by selling their goods below the cost of production in other regions in the country.	Section 24	Investigations are ongoing
37.	Fire-fighting Services	Service	The Authority initiated investigations into the conduct and practices of the undertakings engaged in the provision of firefighting products and services. The investigation was initiated suo moto pursuant to the provisions of section 31 (1) of the Act.	Sections 21,22 and 24	The findings of the investigations were that the sector was competitive as assessed by ease of entry and exit and the number of players in the market. The matter was closed.

No.	Cases/ inquiry	Sector/Market affected	Case Summary	Relevant Section of the Act	Case status/Decision
38.	Coffee Sector	Agriculture	The Authority initiated investigations suo moto pursuant to the provisions of section 31 (1) of the Act, into the practices and conduct of various players in the coffee value chain to determine the competitiveness of the sector.	Section 21(1)	The investigations revealed that there is need to review industry policy and eliminate the conflict of interest by coffee marketing agents resulting from single economic entities having their subsidiaries operate along the various segments of the value chain. The coffee agents seemed to favour their sister companies when shopping for millers. It was recommended that further engagements be held with AFA (coffee Directorate) on how to ensure the sector remains competitive.
39.	Gateway Marine Services Limited vs Maersk Kenya Limited	Transport	Gateway Marine Services alleged abuse of Dominance by Maersk Kenya Limited in the reefer cargo market.	Sections 23 and 24	Investigations are ongoing
40.	Unfair commission charges by Glovo, Jumia and Uber Eats	Retail Sector	The Authority received a complaint from Chris Wings against Glovo, Jumia and Uber Eats on allegations that the accused were offering unfair trading conditions amongst different players in the market.	Sections 21 and 24	Investigations are ongoing

Mr. Dan Kachuai, a Young Professional with the Authority, records a consumer complaint from a bodaboda operator in Kisumu during the commemoration of the World Consumer Rights Day (WCRD) in March 2020. The WCRD is commemorated annually to raise awareness about consumers' rights and obligations.

1.2 COMPLIANCE MATTERS

No	Case/ activity	Sector / market affected	Case summary	Status/Decision
1.	Sai Office Supplies & Lino Stationers	Office supplies	The Authority approved the implementation of the merger on condition that the acquirer absorbs not less than fifty seven (57) out of the seventy four (74) employees after the completion of the transaction.	Information provided to the Authority established that the parties had complied with condition of absorbing at-least 57 employees of the acquired entity.
2.	UPL & Arysta Life Science	Agrochemicals	The Authority approved the merger on condition that the acquirer would continue packaging the targets agrochemical products in packages ranging from 50ml/50g to 1litre/1 kilogram, and that the acquirer would maintain the distribution model of the target.	The Authority established that the parties had complied with conditions of the merger approval.
3.	Abyssinia Iron & Top Steel	Steel	The Authority approved the implementation of the merger subject to the acquirer retaining the sixty six (66) employees engaged in the target's business.	The Authority established that the parties had complied with conditions of retaining 66 employees of the acquired firm.
4.	Mobile Transparency	Finance	The Authority pursuant to section 56 (4) of the Act, investigated the financial providers over non- disclosure of fees charged on their mobile transactions and carried out checks to establish the level of compliance with the Act.	The Authority established that the targeted financial institutions had complied with financial disclosure requirements by upgrading the mobile applications to be able to disclose the transaction costs to customers prior to effecting the same.
5.	Kongoni River Farm & Kreative Roses Ltd	Horticulture	The Authority approved the implementation of the merger on condition that the target retains forty three (43) of its employees while the acquirer absorbs the remaining three hundred and sixty two (362) employees for at least one (1) year after the completion of the transaction.	The Authority established that the parties had complied with the employment condition of the merger.

No	Case/ activity	Sector / market affected	Case summary	Status/Decision
6.	Tru-foods Limited and Golden Biscuits (1985) Limited	Processed foods	The Authority approved the implementation of the merger on condition that the Tru-foods absorbs 30 employees (50%) of the targets permanent employees.	The Authority established that the parties had complied with the employment condition of the merger.
7.	Breenn-tag (Holdings) BV & Desbro (Kenya) Limited	Agrochemicals	The Authority approved the implementation of the merger subject to the acquirer retaining 80 employees of the target firm.	The Authority established that the parties had complied with the employment condition of the approved merger.
8.	NIC Group PLC & Commercial Bank of Africa	Finance	The Authority approved the implementation of the merger on condition that none of the one thousand, eight hundred and seventy-two (1,872) employees of the merged entity were declared redundant within a period of 12 months or one calendar year from the date of closing of the transaction in Kenya	Ongoing
9.	Samson A. Wanyangu & Toyota Kenya	Motor Industry	The Authority received several complaints from persons who had purchased the HINO buses from Toyota Kenya Limited (Toyota).The alleged that the HINO buses model 300 and 500 had defective braking system failure, unstable chassis, clutch performance problems, overheating problems and poor wiring system.	Compliance is ongoing

No	Case/ activity	Sector / market affected	Case summary	Status/Decision
10.	James Kariuki Githi-ri and 1XBET	Betting	The Authority received a complaint from James Githi-ri in March 2019 who alleged that 1XBET denied access to his money (Ksh. 28,000) that was in his 1XBET account after placing and winning three bets. The Authority found that the 1XBET terms and conditions stipulated that they reserved the right to limit the maximum stakes or odds on certain customers without notifications which was found to be unfair and misleading to the customers.	The player exited the market and the matter was closed.
11.	ARM and National Cement	Manufacturing	The Authority approved the implementation of the merg-er subject to the merging en-tity ensuring continued oper-ation of the Kaloleni and Athi River Plants of the target; and retaining at least one thou-sand and fifty-four (1054) (95%) of the one thousand one hundred (1100) employ-ees of the target post-merg-er.	The Authority established that the parties had complied with the employment condi-tion of the approved merger. Further compliance will be conducted in the Financial year 2020/2021 on retaining plant operations for the tar-get firm.
12.	Nyaruai Gitonga vs Art-caffe	Retail Sector	The complainant had pur-chased cookies represented as gluten free from Artcaffe. The cookies allegedly affect-ed her health negatively as she was gluten intolerant. After investigations, the Arte Caffe gave a written under-taking vide the settlement agreement to in future refrain from engaging in any con-duct that is in contravention of the Act.	Information provided to the Authority established that Artcaffe had complied with the settlement agreement conditions.

No	Case/ activity	Sector / market affected	Case summary	Status/Decision
13.	Kenya Breweries Limited	Alcoholic beverages	The Authority had investigated the arrangements between KBL and its distributors and found that they had the effective of restricting competition. EABL was required to amend the contracts to be non-exclusive in nature.	The Authority reviewed the distributor agreements and established that EABL had amended the contracts. Based on the findings, the matter was closed.
14.	Total Out-re-mer S.A & Gulf Africa Petroleum Coorp.	Petroleum and petroleum products	The Authority approved the Total Kenya Ltd merger with Gulf Petroleum Company on condition that the parties continue to provide petroleum products storage to the competitors at Mombasa. Additionally, they were required to provide security of employment to the existing Gulf Africa Petroleum Company employees.)	A review of the compliance with the merger conditions on hospitality for the third and final year revealed that Total provided the required hospitality.

1.3 EXEMPTIONS

No	Application	Sector	Case Summary	Relevant Section of the Act	Status
1	Energy Dealers Association	Electricity, Gas, Steam and Air Conditioning Supply	The Energy Dealers Association applied for an exemption on potential restrictive trade practices relating to a mutual cylinder exchange agreement on Cylinder Reciprocal and Hospitality Agreement of 2019 signed among its members for a period of ten (10) years.	Section 25	Exemption evaluation process held in abeyance pending the conclusion of an investigation touching on the subject of the exemption application.
2	Cooper K Brands (CKL)	Agrochemical	CKL sought an exemption application in regard to certain provisions of their Strategic Business Partnership agreements which may have effects contemplated in section 21(3) of the Act. This application was presented following the lapse of the first exemption period.	Section 25	Evaluation of the exemption is on-going.

1.4 ADVISORY OPINIONS

No	Case/ activity	Sector / market affected	Case summary	Violation/ theory of harm	Case Status/Decision
1	Tuskys Franchising	Retail sector	The Authority received an advisory request from Tusker Mattresses Limited regarding a proposed franchising project. Specifically, Tuskys sought advice on the necessary legal steps and requirements that they should put into consideration to enable the project become a success.	N/A	The Authority advised that a franchise agreement may qualify for a category exemption under Section 30 of the Act if the conditions set out in the Block Exemption Guidelines are satisfied. Tuskys was requested to furnish the Authority with the final draft of the Franchising Agreement, once prepared and before execution, for its review.
2	Advisory On Content Syndication Agreement between Wireless Group Media Ltd And Radio Africa Limited	Media and Telecommunication Sector	The Authority received a request for information or an advisory opinion on a matter concerning Exemptions on restrictive trade practices. The request was received from TripleOK Law, a law firm representing Standard group in a suit against Radio Africa Limited. (*Radio Africa Limited v The Standard Group PLC & Another Civil Case No. E253 of 2019*)	N/A	Matter is still open

Mr. Boniface Kamiti, Manager Consumer Protection, addressing delegates during a sensitization session organized to commemorate the World Competition Day on December 5, 2019. The theme of the event was *Ensuring Effective Competition in an Increasingly Online World.*

1.5 NOTIFIABLE MERGERS FOR THE FY 2019/2020

S/ No	Parties involved	Sector/ Market	Summary	Decision
1.	Coca Cola Sabco (East Africa) Limited and Almasi Beverages Limited	Manufacturing	The transaction involved acquisition of a controlling stake in Almasi Beverages Limited by Coca Cola Sabco (East Africa) Limited (CCSEA). CCSEA is a subsidiary of Coca Cola Beverages Africa Proprietary Limited (CCBA). Analysis revealed that it would negatively affect competition and would likely raise negative public interest issues.	Approved on condition that: i. CCBA continue to operate the bottling plants of the Merged Entity in Nyeri, Eldoret, Nairobi, Molo and Kisumu for the foreseeable future, but in any event, will do so for at least three (3) years after completion of the Proposed Transaction; ii. The Merged Entity shall reserve the lower deck of the coolers lent to SMEs by the Merged Entity for products of competitors. However, this condition does not apply to and excludes the brands of The Coca-Cola Company's three (3) largest global NARTD competitors; iii. For a three (3) year period following completion of the Proposed Transaction, no more than twenty-one (21) permanent employees out of the total 1760 permanent employees of the Merged Entity will lose their jobs as a result of the legal reorganisation that CCBA intends to implement in 2020. This condition supersedes any previous employment conditions imposed on the merging parties as a result of any prior merger approvals granted by the Authority; iv. The bottler agreement dated 1 September 2012 (as amended) entered into with Coastal Bottlers Limited will be honoured in accordance with its terms;

S/ No	Parties involved	Sector/ Market	Summary	Decision
				v. CCBA shall ensure that the agreements between the Merged Entity and its distributors shall be amended to permit such distributors to distribute other NARTDs, to the extent (if at all) the agreements provide otherwise. The Merged Entity shall have a period of nine (9) months following completion of the Proposed Transaction to ensure that all such amendments are completed; and vi. CCBA shall ensure that the agreements between the Merged Entity and its distributors shall be amended to remove all clauses which stipulate the prices and profit margins for the sale of its products, to the extent (if at all) the agreements contain such clauses; provided that, the Merged Entity shall retain the ability to set maximum recommended resale prices for its distributors. The Merged Entity shall have a period of nine (9) months following completion of the Proposed Transaction to ensure that all such amendments are completed.
2.	HID Corporation and De La Rue Kenya Limited	Electronic security printing services	The transaction involved acquisition of 100% of the issued share capital in De La Rue Kenya Limited by HID Corporation. Analysis revealed that the transaction was unlikely to affect competition negatively. However, it was likely to raise negative public concerns in relation to current contracts with the Government.	Approved on condition that all existing contracts that the target (De La Rue) has with the Kenyan Government are honoured.

S/No	Parties involved	Sector/ Market	Summary	Decision
3.	KCB Group Plc and National Bank of Kenya Limited	Finance and Insurance	The transaction involved acquisition of 100% issued shares in National Bank of Kenya Limited by KCB Group Plc. Analysis revealed that the transaction was unlikely to affect competition negatively but would likely raise public interest concerns.	Approved on condition that; Ninety (90) percent of the employees of the merged entity equal to five thousand five hundred and seventy-two (5,572) are retained for a minimum period of two years;
4.	Metro Concepts East Africa Limited and Metro Plastics (Kenya) Limited	Manufacturing	The transaction involved acquisition of plastic manufacturing business of Metro Plastics (Kenya) Limited by Metro Concepts East Africa Limited. Analysis revealed that the transaction was unlikely to affect competition negatively but would raise negative public concerns.	Approved on condition that; the acquirer absorb at least ninety (90) employees of the target.
5.	National Cement Company Limited and ARM Cement Plc(under administration)	Manufacturing	The transaction involved acquisition of all the assets, business and properties of ARM Cement Plc by National Cement Company Limited. Analysis revealed that the transaction was unlikely to affect competition negatively but would raise negative public concerns.	Approved on condition that; the merged entity ensures continued operation of the Kaloleni and Athi River plants of the target and; ii. Following completion of the proposed transaction the acquirer retains at least one thousand and fifty four (1054) (95%) of the one thousand one hundred (1100) employees of the target post-merger.

S/ No	Parties involved	Sector/ Market	Summary	Decision
6.	KUL Graphics Limited, The Rodwell Press Limited, Printfast Kenya Limited, Digital Hub Limited and Colourprint Limited by the Print Exchange Limited	Printing	The transaction involved establishment of a joint venture and the acquisition of certain assets of KUL Graphics Limited, the Rodwell Press Limited, Printfast Kenya Limited, Digital Hub Limited and Colourprint Limited by the Print Exchange Limited. Analysis revealed that the transaction was unlikely to affect competition negatively but would have negative public concerns.	Approved on condition that the parties keep at least one hundred and forty-six (146) employees of the merging parties (102 permanent and 44 on contract).
7.	Unilever Overseas Holding Limited B.V. and Chemi & Cortex Kenya Limited	Retail distribution	The transaction involved acquisition of control of Chemi & Cortex Kenya Limited by Unilever Overseas Holding Limited B.V. Analysis revealed that the transaction would affect competition negatively but not raise any negative public concerns.	Approved on condition that the acquirer continue to provide the products (Whitedent bodyline, Baby Soft, Skin glow, Siri, U & Me, Lovely, Banister, Bannister and Tressa) of the target in the market for at least three (3) years after the completion of the transaction.
8.	Indo Oceania Ventures Limited and Mayfair Healthcare Holdings Limited.	Manufacturing	The transaction involved acquisition of control of Mayfair Healthcare Holdings Limited by Indo Oceania Ventures Limited. Analysis revealed that the transaction was unlikely to affect competition negatively but would raise negative public concerns.	Approved on condition that; all the employees one thousand two hundred and fifty-seven (1,257) would be retained post-merger.

S/ No	Parties involved	Sector/ Market	Summary	Decision
9.	KenolKobil Plc and Gulf Energy Holdings Limited	Petroleum	The transaction involved acquisition of control of Gulf Energy Holdings Limited by KenolKobil Plc. Analysis revealed that the transaction was unlikely to affect competition negatively but would raise negative public concerns.	Approved on conditions that; i. For a period of twenty-four (24) months from the date of implementation of the proposed transaction, the merged entity shall not declare any of the one hundred and two (102) employees of the target undertaking redundant and ensure that basic remunerations and other benefits to all the employees transferred to the merged entity are no less favourable than those provided at the date of the signing of the initial agreement. ii. For the duration of the existing contract between the Gulf Energy and the SMEs operating within the retail stations, the merged entity shall ensure that these SMEs enjoy the same benefits within the contract as provided at the signing of the contract; iii. The merged entity shall ensure that the contracts entered into between Gulf Energy and the retail station dealers is maintained for the length of such contracts; and iv. The merged entity to furnish the Authority with annual reports regarding the aforementioned conditions for a duration of twenty-four (24) months or up to the expiry of the longest of any of the existing contracts between Gulf Energy and the SMEs or the Dealers, whichever is longer.

S/ No	Parties involved	Sector/ Market	Summary	Decision
10.	Marinvest S.r.l and Ignazio Messina & C.S.PA. & Roro Italia S.r.l.	Logistics	The transaction involved acquisition of control of Ignazio Messina & C.S.P.A and Roro Italia S.r.l. Analysis revealed that the transaction would likely affect competition negatively but was unlikely to raise any negative public concerns.	Approved on condition that; The target, Ignazio Messina, continues to operate in these routes independently of the acquiring group, Marinvest Shipping Company (MSC), post-merger through ring-fencing of their operations on the EAF-SAF and SAF-EAF routes. The ring fencing shall exist for as long as MSC has a stake in Ignazio Messina. Ring Fencing Conditions The IM East Africa Business will be kept separate from the MSC East Africa Business and no steps will be taken to integrate or otherwise align the activities or conduct of IM and MSC's respective East African Operations. The day-to-day affairs and business of IM's East African Operations shall be managed by IM, in accordance with its business trading policies and practices as at the Approval Date, except as may be necessary to comply with any changes in applicable law or good industry practice. The IM East Africa Business shall exercise, in its sole discretion, final and determinative power regarding the strategic marketing and/or pricing policies of IM's East African Operations and will operate the East African Operations in the Ordinary Course of Business independently of MSC. MSC and IM shall ensure that none of the MSC representatives (or representatives of MSC affiliate companies) appointed to the board of directors of IM shall be engaged in the direct day-to-day management of the IM East Africa Business.

S/ No	Parties involved	Sector/ Market	Summary	Decision
				MSC and IM shall ensure that no Competitively Sensitive Non-Public Information of the IM East Africa Business is discussed at IM board meetings unless the MSC board representatives (or representatives of MSC affiliate companies) first recuse themselves from such discussion. MSC and IM shall establish "information barriers" between the operations of the IM East Africa Business, on the one hand, and MSC, on the other hand, so as to ensure that: Information barriers exist in relation to Competitively Sensitive Non-Public Information of the IM East Africa Business (as determined by IM, acting reasonably in its discretion) and that of MSC (i.e. in order to prevent any flow of such information between IM and MSC). These barriers may consist of both physical and procedural measures, as determined by IM, acting reasonably in its discretion; and All members of the board of IM who obtain lawful access to the IM East Africa Business' Competitively Sensitive Non-Public Information shall retain same in secret and confidentially other than for use as permitted in terms of the Shareholders Agreement. IM, acting reasonably in its discretion, can establish any other practical and/or operational measures necessary to maintain the segregation of the IM East Africa Business' Competitively Sensitive Non-Public Information from that of MSC, as well as the independent operation of IM's East African Operations. These measures shall not impede MSC (or MSC affiliate companies): (i) to comply with its reporting and/or disclosure obligations under any applicable law; and/or (ii) to obtain legal or other professional advice; and/or (iii) to legitimately protect its rights as a shareholder in IM.

S/ No	Parties involved	Sector/ Market	Summary	Decision
				For the avoidance of doubt, nothing in the above Conditions will prevent or otherwise limit the ability of IM and MSC to integrate their operations outside of East Africa. This includes any initiatives to engage in joint purchasing or other input procurement initiatives from Global Suppliers, even if such initiatives have an impact on the procurement activities of IM's East African Operations. In addition, nothing in the above Conditions will prevent or otherwise limit the ability of IM and MSC to enter into consortia agreements,1 or to enter into arm's length agreements for the provision of inland operational services (including but not limited to cargo handling and warehousing, cargo inland transportation or containers logistics (i.e. storage, repairs or positioning). Duration: The Ring-fencing Condition will apply for as long as MSC has a stake in IM. Monitoring of compliance with the conditions: MSC and IM shall produce an annual report which details their compliance with the conditions contemplated in paragraph 3 above. Such report will be submitted to the Authority within one month of each anniversary of the Approval Date and will be accompanied by affidavits or declarations attesting to the accuracy thereof by directors of MSC and IM respectively.

S/ No	Parties involved	Sector/ Market	Summary	Decision
11.	Amethis Retail and Naivas International	Distribution	The transaction involved acquisition of control of Naivas International by Amethis Retail. Analysis revealed that it was unlikely to negatively affect competition but likely raise negative public interest issues.	Approved on condition that; The merged entity to honour all the current contracts with suppliers and SMEs for the surviving period of such contracts; The merged entity to ensure that prior to implementation of the proposed transaction, all the outstanding debts owed to its suppliers and other SMEs are paid to the extent permitted by the contracts entered into between the parties; and The merged entity to review its existing and future contracts with suppliers and SMEs to ensure that any clauses that are contrary to the Buyer Power provisions of the Act and the Buyer Power Guidelines are removed.
12.	Access Bank Plc and Transnational Bank Plc	Finance and Insurance	The transaction involved acquisition of 100% of the shares in Transnational Bank Plc by Access Bank Plc. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally
13.	ATC Heston B.V and Eaton Towers Holding Limited	Telecommunication	The transaction involved acquisition of 100% issued shares in Eaton Towers Holding Limited by ATC Heston B.V. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally

S/ No	Parties involved	Sector/ Market	Summary	Decision
14.	Caryle Group and Compania Espanola De Petroleos S.A.U	Health-care	The transaction involved acquisition of 40% interest with certain veto rights of Compania Espanola De Petroleos S.A.U by Caryle Group from Cespa Holding LLC. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns	Approved unconditionally
15.	Doctor No Parent Limited and CR Honos Parent Limited	Security systems	The transaction involved acquisition of 100% of the issued share capital of CR Honos Parent Limited by Doctor No Parent Limited. Analysis revealed that it was unlikely to negatively affect competition nor raise any negative public concerns.	Approved unconditionally
16.	DSV A/S and Panalpina Wettransport Holding AG	Logistics	The transaction involved acquisition of 100% of the publicly held shares held in Panalpina Wettransport Holding AG by DVS A/S. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally
17.	Hospital Holdings Investment B.V. and AAR Health Care Holding Limited	Health-care	The transaction involved acquisition of 54.237% of shares in AAR Health Care Holding Limited by Hospital Holdings Investment B.V. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally
18.	Marsyetu Limited and Mija Limited	Retail distribution	The transaction involved acquisition of control of Mija Limited by Marsyetu Limited. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally

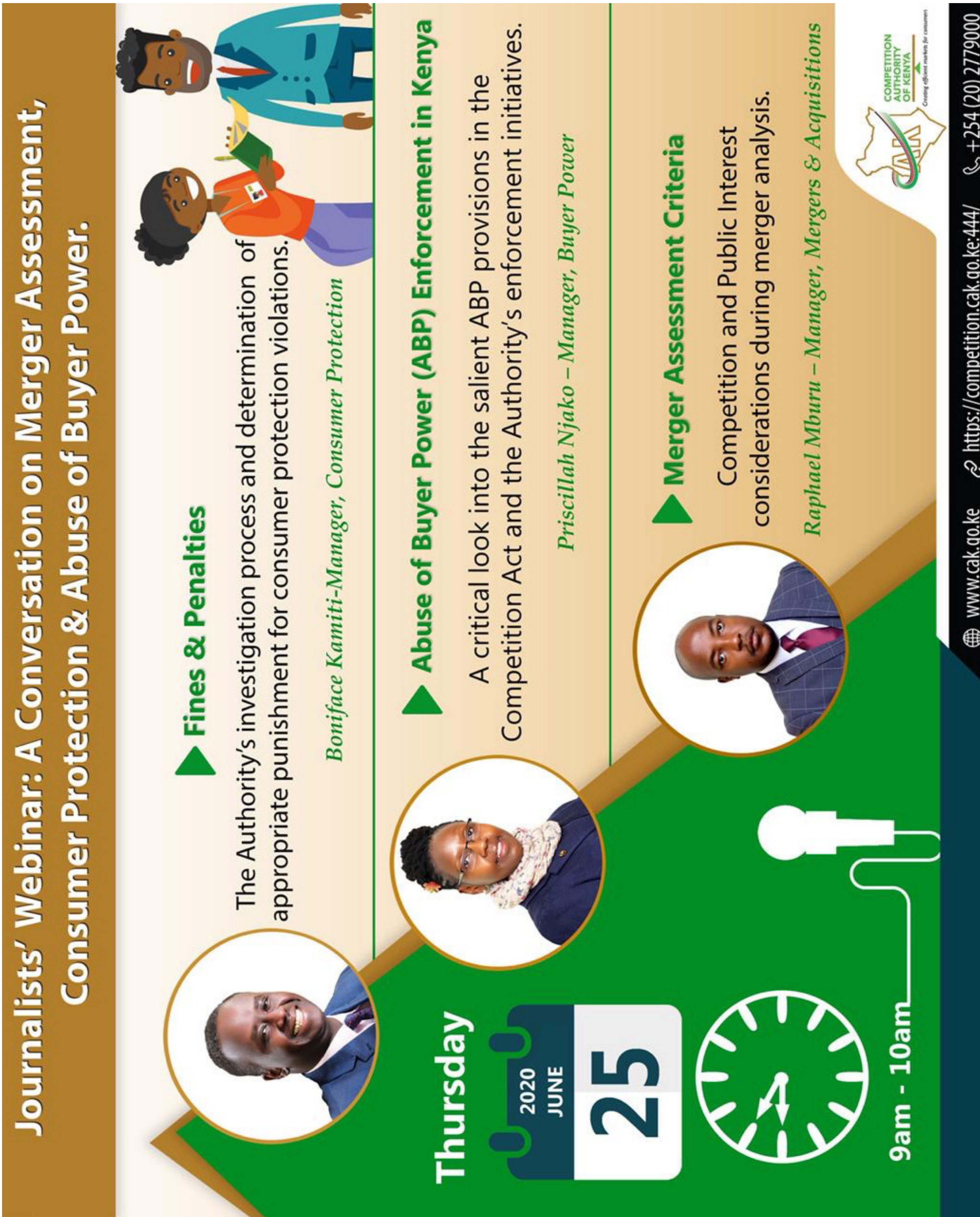
S/ No	Parties involved	Sector/ Market	Summary	Decision
19.	Prif Africa Holding Limited and Icolo Limited.	ICT	The transaction involved acquisition of 20% of the issued shares with controlling interest of Icolo Limited by Prif Africa Holding Limited. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally
20.	Sunsuper PTY Limited and Macquarie Airfinance Limited	Leasing	The transaction involved acquisition of 25% interest with controlling interest in Macquarie Airfinance Limited by Sunsuper PTY Limited. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally
21.	Yellow House Limited and Bamburi Special Products Limited	Manufacturing	The transaction involved acquisition of certain assets of Bamburi Special Products Limited by Yellow House Limited. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally
22.	E3 Energy DMCC and Global Petroleum Products Kenya Limited	Distribution	The transaction involved acquisition of 85% of the issued share capital of in Global Petroleum Kenya Limited by E3 Energy DMCC. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally

S/ No	Parties involved	Sector/ Market	Summary	Decision
23.	Eastern Africa Holdings Limited and ICEA Lion Insurance Holdings Limited	Finance and insurance services	The transaction involved acquisition of 24.1% shares in ICEA Lion Insurance Holdings Limited by Eastern Africa Holdings Limited Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally
24.	KCB Bank Kenya Limited and Imperial Bank Limited	Finance and insurance activities	The transaction involved acquisition of certain assets and assumption of liabilities of Imperial Bank Limited by KCB Bank Kenya Limited. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally
25.	AFG International B.V. and Panalpina Airflow Limited	Logistics	The transaction involved acquisition of 100% of the ordinary shares in Panalpina Airflow Limited by AFG International B.V. Analysis revealed that it was unlikely to negatively affect competition nor likely raise negative public interest issues.	Approved unconditionally
26.	IX Africa, Veer Investments Limited & MIIT Investments Limited and IX Africa Data Centre Limited	ICT	The transaction involved acquisition of control of IX Africa Data Centre Limited by IX Africa, Veer Investments Limited & MIIT Investments Limited Analysis revealed that it was unlikely to negatively affect competition but would likely raise negative public interest issues.	Approved unconditionally.
27.	Pwani Oil Products Limited and Ushindi Brand	Manufacturing	The transaction involved acquisition of Ushindi Brand by Pwani Oil Products Limited. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally

S/ No	Parties involved	Sector/ Market	Summary	Decision
28.	Lake Agro Limited and Dominion Farms Limited	Agriculture	The transaction involved acquisition of plant, machinery, equipment, stock and property of Dominion Farms Limited by Lake Agro Limited. Analysis revealed that the transaction was unlikely to affect competition negatively nor raise any negative public concerns.	Approved unconditionally
29.	AIF Power East Africa Limited & Energy LLP and Iberafrica Power (E.A) Limited	Energy	The transaction involved acquisition of the entire issued share capital of Iberafrica Power (E.A) Limited by AIF Power East Africa Limited. Analysis revealed that it was unlikely to negatively affect competition or raise negative public interest issues.	Approved unconditionally.
30.	Bain Capital Investors, LLC and Kantar Group	Services (Data analytics)	The transaction involved acquisition of indirect control of companies comprising Kantar Group. Analysis revealed that the transaction was unlikely to affect competition negatively or raise any negative public concerns.	Approved unconditionally
31.	Cemetech Investments Limited and Axel Investments Limited	Property	The transaction involved acquisition of 100% shareholding in Axel Investments Limited by Cemtech Investments Limited. Analysis revealed that the transaction was unlikely to affect competition negatively or raise any negative public concerns.	Approved unconditionally
32.	Elgon Kenya Limited and Dilpack Kenya Limited	Distribution	The transaction involved acquisition of the assets of Dilpack Kenya Limited by Elgon Kenya Limited. Analysis revealed that the transaction was unlikely to affect competition negatively or raise any negative public concerns.	Approved unconditionally

S/ No	Parties involved	Sector/ Market	Summary	Decision
33.	ICEA Lion Asset Management Limited and Stanlib Kenya Limited	Asset Management	The transaction involved acquisition of the assets and business of Stanlib Kenya Limited by ICEA Lion Asset Management Limited. Analysis revealed that the transaction was unlikely to affect competition negatively or raise any negative public concerns.	Approved unconditionally
34.	Madison Hotel & Resorts Limited and Kingdom 5-KR-185 Limited	Hospitality	The transaction involved acquisition of control of Kingdom 5-KR-185 Limited by Madison Hotel & Resorts. Analysis revealed that the transaction was unlikely to affect competition negatively or raise any negative public concerns.	Approved unconditionally
35.	Pledge Holdco Limited and Maziwa	Manufacturing	The transaction involved acquisition of 33.9% of the issued capital and joint control of Maziwa by Pledge Holdco Limited. Analysis revealed that the transaction was unlikely to affect competition negatively or raise any negative public concerns.	Approved unconditionally
36.	Snetor East Africa Limited and Plexchem Limited	Manufacturing	The transaction involved acquisition of the entire business of Plexchem Limited by Snetor East Africa Limited. Analysis revealed that the transaction was unlikely to affect competition negatively or raise any negative public concerns.	Approved unconditionally
37.	Sokoni Retail Kenya Limited and Quick Mart Limited	Retail distribution	The transaction involved acquisition of control of Quick Mart Limited by Sokoni Retail Kenya Limited. Analysis revealed that it was unlikely to negatively affect competition or raise negative public interest issues.	Approved unconditionally

S/ No	Parties involved	Sector/ Market	Summary	Decision
38.	VIVO Energy Investments B.V. and KUKU Foods Kenya Limited	Hospitality	The transaction involved investments in KUKU Foods Kenya Limited by VIVO Energy Investments B.V. Analysis revealed that the transaction was unlikely to affect competition negatively or raise any negative public concerns.	Approved unconditionally
39.	Aurora Bidco UK Limited and Accelya Topco Limited	ICT	The transaction involved acquisition of control of Accelya Topco Limited by Aurora Bidco UK Limited. Analysis revealed that the transaction was unlikely to affect competition negatively or raise any negative public concerns.	Approved unconditionally
40.	Omidyar Network Fund Llc, Acumen Fund Inc., Stitching Dob Equity & Microgrid Catalytic Capital Partners and Windgen Power USA Inc.	Finance and insurance activities	The transaction involved acquisition of 863,477 preference shares in Windgen Power USA Inc. by Omidyar Network Fund Llc, Acumen Fund Inc., Stitching Dob Equity and Microgrid Catalytic Capital Partners. Analysis revealed that the transaction was unlikely to affect competition negatively or raise any negative public concerns.	Approved unconditionally



Following the emergence of Covid-19, the Authority substituted its physical sensitization sessions with Webinars. On June 25, 2020, the Authority hosted two online-based workshops that touched on various key elements and developments regarding its mandate and decision-making process.

CAK Sensitization Webinar on Competition (General) Rules, 2019

Introduction

Overview of Competition (General) Rules, 2019

Alexia Waweru - Senior Legal Officer

Consumer Protection

Unsafe Goods & Imposition/Disclosure of Unilateral Fees & Charges

John Kamau - Principal Investigations Officer, Consumer protection

Exemptions

Eligibility for Block Exemptions

Benson Nyagol - Principal Investigations Officer, Enforcement & Compliance

Assessment of Mergers

Regional Mergers and New Thresholds

Linus Melly - Senior Analyst, Mergers & Acquisition

Thursday

2020
JUNE
25

10am - 12pm

COMPETITION AUTHORITY OF KENYA
Creating efficient markets for consumers

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1.6 MERGER EXCLUSIONS

Mergers that were excluded from Part IV of the Competition Act No 12 of 2010. The transactions were excluded since they were unlikely to negatively affect competition and the combined turnover/assets of the merging parties was below the threshold for mandatory merger notification.

S/ No	Parties involved	Sector	Details
1	Actiflex Limited and Mapflex East Africa Limited	Manufacturing	The acquisition of assets of Mapflex East Africa Limited by Actiflex Limited.
2	Audrey Patricia Cheng and Moringa School	Education	The acquisition of 50% shareholding in Moringa School by Audrey Patricia Cheng.
3	Avipro East Africa Limited and Kim's Poultry Farm Limited	Manufacturing	The acquisition of assets of Kim's Poultry Farm by Avipro East Africa Limited.
4.	Clearskies Limited and Deep Blue Limited	Hospitality	The acquisition of certain business and assets of Deep Blue Limited by Clearskies Limited.
5.	Co-creation Hub Limited and I-Hub Limited	ICT	The acquisition of the entire issued share capital of I-Hub Limited by Co-Creation Hub Limited.
6.	Engie Afrique SAS and Mobisol Kenya Limited	Energy	The acquisition of 100% of the issued share capital of Mobisol Kenya Limited by Engie Afrique SAS.
7.	Julie Ann Dowd and Enkaji House PLC	Real Estate	The acquisition of sole control of Enkaji House PLC by Julie Ann Dowd.
8.	FCPI Energy Access Ventures Fund and Mawingu Networks Limited	ICT	The acquisition of 31.4% of the entire issued share capital in Mawingu Networks Limited by FCPI Energy Access Ventures Fund.
9.	Gridworks Development Partners LLP and Mettle Solar Investment Proprietary Limited.	Renewable Energy	The acquisition of 40% of the issued share capital with controlling rights of Mettle Solar Investment Proprietary Limited by Gridworks Development Partners.
10.	Kensalrise Limited and Maize Milling Limited	Manufacturing	The acquisition of assets of Maize Milling Limited by Kensalrise Limited.
11.	Tenlot International LLC and Kenya Charity Sweepstake	Betting	The acquisition of 84% of the issued shares in Kenya Charity Sweepstake Limited by Tenlot International LLC.
12.	Largadere Travel Retail S.A.S and International Duty Free S.A.	Retail distribution	The acquisition of all the issued share capital in International Duty Free S.A by Largadere Travel Retail S.A.S.

S/ No	Parties involved	Sector	Details
13.	Lutein Limited and Star Optics Limited	Health	The acquisition of business and assets of Star Optics Limited by Lutein Limited.
14.	Mohammed Mahmoud Idow & Abdibasit Abdinur Maalim and Turk Cell Communications Company	Retail distribution	The acquisition of shares in Turk Cell Communications Company by Mohammed Mahmoud Idow & Abdibasit Abdinur Maalim.
15.	Porini Safari Camps Limited and Kindani Limited.	Tourism	The acquisition of assets of Kindani Limited by Porini Safari Camps Limited.
16.	Rajnikant Shah and Bakpharm Limited	Health	The acquisition of control in Bakpharm Limited by Rajnikant Shah.
17.	Snetor Chimie East Africa and Agrinco Limited	Leasing	The acquisition of leased premises of Agrinco Limited by Snetor Chimie East Africa.
18.	Stitching PGGM Infrastructures Fund and Macquire Airfinance Limited	Leasing	The acquisition of 25% interest with veto rights in Macquire Airfinance Limited by Stitching PGGM Infrastructures Fund.
19.	Stitching DOB Equity and Moringa School Limited	Education	The transaction involved the acquisition of 20% of the issued share capital of Moringa School Limited by Stitching DOB Equity.
20.	Tuffsteel Limited and Hwan Sung Industries (Kenya) Limited	Manufacturing	The transaction involved the acquisition of direct control of Maxamcorp Holdings S.L.by entities controlled by Rhone Capital LLHwan Sung Industries (Kenya) Limited by Tuffsteel Limited.
21.	Uplands Meat Products Limited and Gilani Butchery Limited.	Retail	The transaction involved the acquisition of 100% of the issued share capital in Gilani Butchery Limited by Uplands Meat Products Limited.
22.	Acumen Fund Inc. and Tulaa Holdings Limited	Agriculture	The transaction involved the acquisition 87,603 of the preference seed shares in Tulaa Holdings Limited by Acumen Fund Inc.
23.	Aurecon 25 Proprietary Limited and Aurecon Kenya Limited	Energy	The transaction involved acquisition of indirect control of Aurecon Kenya Limited by Aurecon 25 Proprietary Limited.
24.	Azelis UK Holdings Limited and Orkila Holding SAL	Distribution	The transaction involved acquisition of sole control of Orkila Holding SAL by Azelis UK Holdings Limited.

S/ No	Parties involved	Sector	Details
25.	Azuri Technologies Kenya Limited and Ruh Solar Limited	Energy	The transaction involved the control of Ruh Solar Limited by Azuri Technologies Kenya Limited.
26.	Bereket Goitom and Canaaneast Company Limited	Distribution	The transaction involved allotment of shares in Canaaneast Company Limited to Bereket Goitom.
27.	Bilashaka Flowers Limited and Jirani Mzuri PLC	Agriculture	The transaction involved the acquisition of all the shares of Jirani Mzuri PLC by Bilashaka Flowers Limited.
28.	Brother Enterprises Holding Limited and Lanxess Cisa Proprietary Limited	Manufacturing	The transaction involved the acquisition of 100% issued shares of Lanxess Cisa Proprietary Limited by Brother Enterprises Holding Limited through its wholly owned subsidiary Brother Industrial (SA) PTY Limited.
29.	Buzz Merger Sub Limited and Worldwide Vision Limited	Online dating	The transaction involved the acquisition of control of Worldwide Vision Limited by Buzz Merger Sub Limited.
30.	Carepay international B.V. and Carepay Limited	Digital payment systems	The transaction involved the acquisition of 2.57% shares with controlling rights in Carepay Limited by Carepay International B.V.
31.	Cequens Holdings Limited and Synq Africa Holdings Limited	Telecommunication	The transaction involved the acquisition of 80% of the issued share capital in Synq Africa Holdings Limited by Cequens Holdings Limited.
32.	Co-Creation Hub Limited and I-Hub Limited	Consultancy	The transaction involved the acquisition of the entire issued share capital in I-Hub Limited by Co-Creation Hub Limited.
33.	Commercial International Bank (Egypt) S.A.E. and Mayfair Bank Limited	Finance and insurance services	The transaction involved the acquisition of control of Mayfair Bank Limited by Commercial International Bank (Egypt) S.A.E.
34.	Edelman Kenya Limited and Gina Din Corporate Communications Limited	Corporate communications	The transaction involved the acquisition of the entire business of Gina Din Corporate Communications Limited by Edelman Kenya Limited.
35.	Energy Media Holdings Limited and Go Communications Limited	Media	The transaction involved the acquisition of 100% of the issued share capital in Go Communications Limited by Energy Media Holdings Limited.

S/ No	Parties involved	Sector	Details
36.	Eric Muigai Kenyatta and EcoFlow Waste Solutions Limited	Waste Management	The transaction involved the acquisition of shares in EcoFlow Waste Management Solutions Limited by Eric Muigai Kenyatta.
37.	FB Franchising Kenya Limited and Hoggers Limited	Hospitality	The transaction involved the acquisition of the franchise business of Hoggers Limited by FB Franchising Kenya Limited.
38	Henry Kinyua Omollo and Game Tosha Limited	Betting	The transaction involved the acquisition of 100% of the issued share capital of Game Tosha Limited by Henry Kinyua Omollo.
39.	Jatin Mukundrai Patel, Rupa Jatin Patel,Sahil Jatin Patel & Pranay Jatin Patel and Kenon Investments Limited	Real Estate	The proposed transaction involved acquisition of all the issued share capital in Kenon Investments Limited by Jatin Mukundrai Patel, Rupa Jatin Patel, Sahil Jatin Patel & Pranay Jatin Patel.
40.	Kiboko Holdings Limited and Hydro Aluminium Limited	Mining	The transaction involved acquisition of 56% of the issued share capital in Hydro Aluminium Limited by Kiboko Holdin.gs Limited
41.	Kudura Power East Africa Limited and Africa Impact Ventures LLC	Energy	The proposed transaction involved the acquisition of business and assets of Africa Impact Ventures LLC and Kudura Power East Africa Limited.
42.	Lightsun Limited and Solar Kiosk Kenya Limited.	Distribution	The transaction involved the acquisition of assets of Solar Kiosk Kenya Limited by Lightsun Limited.
43.	London Stock Exchange Group Plc and Refinitiv Business	Trading	The transaction involved acquisition of control of Refinitiv Business by London Stock Exchange Group Plc.
44.	Nitin Zubin Ramesh Parik & Binita Dyson and Jaribu Jabavu Limited	Property	The transaction involved the acquisition of 2 shares each and allotment of 598 and 597 shares in Jaribu Jabavu Limited.
45.	Outotec OYJ and Metso OYJ	Leasing	The transaction involved the acquisition of control of the mineral business of Metso OYJ by Outotec OYJ.
46.	Oxford Medical Centre LLC and Lifecare Holdings Limited	Healthcare	The transaction involved the acquisition of control of Lifecare Holdings Limited by Oxford Medical Centre LLC.

S/ No	Parties involved	Sector	Details
47.	Rift Investments Limited and Digital Innovation Packaging Limited & A-One Plastics Limited	Printing	The transaction involved the acquisition of direct control in Digital Innovation Packaging Limited & A-One Plastics Limited by Rift Investments Limited.
48.	Securex Agencies Kenya Limited and Svensson & Iysson Agencies Limited	Security services	The transaction involved the acquisition of security alarm and response business of Svensson & Iysson Agencies Limited By Securex Agencies Kenya Limited.
49	Simba Proprietary Limited and Pioneer Food Group Limited.	Hospitality	The transaction involved acquisition of sole control of Pioneer Food Group Limited by Simba Proprietary Limited
50.	Soc Spear Limited and Spear Supermarket Limited	Distribution	The transaction involved the acquisition of supermarket business and part of assets of Spear Supermarket Limited by Soc Spear Limited
51.	Stitching DOB Equity & Acumen Fund Inc. and Coconut Holdings Limited (CPR/2015/206636)	Manufacturing	The transaction involved the acquisition of joint control in Coconut Holdings Limited (CPR/2015/206636) by Stitching DOB Equity and Acumen Fund Inc.
52.	Stitching DOB Equity & Acumen Fund Inc. and Coconut Holdings Limited (CPR/2015/206636)	Manufacturing	The transaction involved the acquisition of shares in Coconut Holdings Limited (CPR/2015/206636) by Stitching DOB Equity & Acumen Fund Inc.
53.	Stiftelsen the World We Need & Gurpreet Kaur Kenth and T3 EPZ Limited	Manufacturing	The transaction involved the acquisition of joint control of T3 EPZ Limited by Stiftelsen the World We Need & Gurpreet Kaur Kenth.
54.	TBL Dairy Ventures B.V. and MA Cuisine Limited	Manufacturing	The proposed transaction involved acquisition of direct control of MA Cuisine Limited by TBL Dairy Ventures B.V.
55.	Traviata II Sarl and Axel Springer SE	ICT	The transaction involved the acquisition of joint control of Axel Springer SE by Traviata II Sarl.
56.	Upesy World Limited and Gravity Limited	ICT	The transaction involved the acquisition of mobile application business of Gravity Limited by Upesy World Limited.
57.	Upfield Europe B.V. and Arivia S.A.	Manufacturing	The transaction involved the acquisition of entire issued share capital of Arivia S.A. by Upfield Europe B.V.

S/ No	Parties involved	Sector	Details
58.	Virunga Power Holdings Kenya Limited and Tindinyo Falls Resort Limited.	Energy	The proposed transaction involves the acquisition of 85% shareholding in Tindinyo Falls Resort Limited by Virunga Power Holdings Kenya Limited.
59.	Alpha Vision CMA Kenya Limited and Radiotelle Limited	Media	The transaction involved the acquisition of shares and assets in Radiotelle Limited by Alpha Vision CMA Kenya Limited.
60.	Aragorn Parent Corporation and Overdrive Holding Inc.	Publication	The transaction involved the acquisition of sole control of Overdrive Holding Inc. by Aragorn Parent Corporation.
61.	Balvinder Kishori Lal Sahni and Securex Investment Limited	Property	The transaction involved acquisition of 50% shares in Securex Investment Limited by Balvinder Kishori Lal Sahni.
62.	BRCK Limited and Boelist Investments Limited	ICT	The transaction involved acquisition of certain assets of Boelist Investments Limited by BRCK Limited.
63.	Fanisi Capital Fund II LLC and St. Bakhita Holdings Limited	Education	The transaction involved acquisition of 30.8% issued share capital of Bakhita Holdings Limited by Fanisi Capital Fund II LLC.
64.	Finclusion Africa Holdings Limited & Growth State Holdings Proprietary Limited and Mybucks S.A.	Finance and insurance services	The transaction involved acquisition of 98.98% shareholding in Mybucks S.A. by Finclusion Africa Holdings Limited & Growth State Holdings Proprietary Limited
65.	Goodlife Pharmacy Limited and Eldochem Chemists	Distribution	The transaction involved acquisition of certain assets of Eldochem Chemists by Goodlife Pharmacy
66.	Goodlife Pharmacy Limited and Westmall Chemist Limited	Distribution	The transaction involved acquisition of certain assets of Westmall Chemist Limited by Goodlife Pharmacy Limited.
67.	Hass Petroleum Limited and Sahara Petrol Stations	Distribution	The transaction involved acquisition of assets of three (3) petrol stations of Sahara Petrol Stations by Hass Petroleum Limited.
68.	Moringa Entities and Asante Capital EPZ Limited	Agriculture	The transaction involved acquisition of shareholding in Asante Capital EPZ Limited by Moringa Entities.
69.	Nairobi Securities Exchange Limited and AKS Nominees Limited	Stock Trading	The transaction involved acquisition of control of AKS Nominees Limited by Nairobi Securities Exchange Limited.

S/ No	Parties involved	Sector	Details
70.	Sadhana Anil Kumar Puri and Ramani Limited	Property development	The transaction involved acquisition of control of Ramani Limited by Sadhana Anil Kumar Puri.
71.	Samuel Kibunja Watene and Stratostaff East Africa Limited	Hiring and recruitment	The transaction involved acquisition of 47 ordinary shares in Stratostaff East Africa Limited by Samuel Kibunja Watene.
72.	Starbright Holdings Limited and Livewire Limited	Agriculture	The transaction involved acquisition of the entire issued share capital in Livewire Limited by Starbright Holdings Limited.
73.	Superior Homes (Kenya) Plc and Vipingo Limited	Property	The transaction involved acquisition of all the issued share capital of superior homes at Vipingo Limited by Superior Homes (Kenya) Limited.
74.	Simba Foam Limited and Slumber Land	Manufacturing	The transaction involved acquisition of assets of Slumber Land by Simba Foam Limited.
75.	Pan African Housing Fund LLC and Barkey Wharf Limited	Property Management	The transaction involved acquisition of sole control of Barkey Wharf Limited by Pan African Housing Fund LLC.
76.	Freshpick Processors Limited and Organic Growers & Packers (EPZ) Limited	Manufacturing	The transaction involved acquisition of assets and business of Organic Growers & Packers (EPZ) Limited by Freshpick Processors Limited.
77.	Altima Africa Limited (Samuel Kibunja Watene) and Stratostaff E.A Limited	Recruitment	The transaction involved acquisition of additional 47% of the issued share capital of Stratostaff E.A Limited by Altima Africa Limited (Samuel Kibunja Watene).

1.7 NON-MERGERS

For the following applications, analysis revealed that there would be no change in control post-merger and the combined turnover/assets of the parties is less than Ksh. 500 million and meets the thresholds for transactions that do not need the Authority's approval as provided for in the Competition (General) Rules, 2019.

S/ No	Parties involved	Sector	Details
1.	Erdemann Property Limited and Erdemann Gypsum Limited	Distribution	The transaction involved acquisition of assets, business and assumption of liabilities of Erdemann Gypsum Limited by Erdemann Property Limited.

S/ No	Parties involved	Sector	Details
2.	Foodplus Holdings Company and Chandaria Supermarket Limited	Retail	The transaction involved acquisition of 100% issued share capital in Chandaria Supermarket Limited by Foodplus Holdings Company.
3.	GBA Kenya Limited and Grassroots Business Partners Inc.	Consultancy	The transaction involved acquisition of business of Grassroots Business Partners Inc. by GBA Kenya Limited.
4.	Hospital Holdings Investments B.V. and Kiambu Road Investment Limited	Healthcare	The transaction involved acquisition of 81.22% of the shares in Kiambu Road Investment held by NGH Investment B.V. by Hospital Holdings Investments B.V.
5.	Jason Louis-Carmichael and Mobile Consultations Africa Limited	ICT	The transaction involved acquisition of shares in Mobile Consultations Africa Limited belonging to Mobile Medical Doctors Holding by Jason Louis-Carmichael.
6.	Terragon Holdings Mauritius and Terragon Kenya Limited	Media	The transaction involved acquisition of 100% shares in Terragon Kenya Limited by Terragon Holdings Mauritius from Terragon Limited.
7.	Chiromo Special Products Limited and Rhino Special Products Limited	Design	The transaction involved acquisition of business of Rhino Special Products Limited by Chiromo Special Products Limited.
8.	Potential Investors and Circle Gas Limited	Energy	The transaction involved subscription of 50% shares in Circle Gas Limited by 19 potential investors.
9.	Apex Africa Capital Limited and AIB Africa Capital Limited.	Stock brokerage	The transaction involved acquisition of 100% of the issued share capital in AIB Africa Capital Limited by Apex Africa Capital Limited.
10.	Asante Capital EPZ Limited and Live Love Well	Real Estate	The transaction involved acquisition of 35% of the issued share capital with controlling rights in Live Love Well by Asante Capital EPZ Limited.
11.	DNI-4PL Proprietary Contract and Blue Label Mobile Proprietary Limited	Telecommunication	The transaction involved acquisition of 85% of the issued share capital in Blue Label Mobile Proprietary Limited by DNI-4PL Proprietary Limited.

S/ No	Parties involved	Sector	Details
12.	Husky Holdings (AUST) PTY Limited and Husky Outdoor Equipment Limited (Kenya)	Advertising	The transaction involved restructuring of Husky Outdoor Equipment (Kenya) and Husky Holdings (AUST) PTY Limited.
13.	James Terjanian and Pink House Property Limited	Property Management	The transaction involved acquisition of control of Pink House Property Limited.
14.	Terroir Founders Partnership and DGB Proprietary Partnership	Distribution	The transaction involved transfer of 91.27% of the issued share capital in DGB Proprietary Partnership by Terroir Founders Partnership.
15.	Zebra Jobs Kenya Limited and Africa Jobs Network Limited	Recruitment	The transaction involved restructuring of Zebra Jobs Kenya Limited and Africa Jobs Network Limited.
16.	Musa Nyandusi Lwegado & John Akodo Ayugi and Mayfair Health Services Limited	Healthcare	The transaction involved the acquisition of 100% of the entire issued share capital of Mayfair Health Services Limited by Musa Nyandusi Lwegado and John William Akado Ayugi
17.	IPS & Advanced Bio-/extracts and Botanical Extracts EPL Limited	Manufacturing	The transaction involved acquisition in various proportions, a total of 28.4% of the shares in Botanical Extracts EPZ Limited (target) by Investment Promotion Services Kenya (IPS) and Advanced Bio Extracts Limited (acquirers).
18.	G4S International (NL) B.V. and G4S Kenya Limited	Security	The transaction involved the transfer of 82% of the share capital of G4S Kenya Limited by G4S International Holdings 101 (NL) B.V. to G4S International (NL) B.V.
19.	Dimensions Data Solutions Limited(DDS) and Internet Solutions Kenya Limited(IS)	ICT	The transaction involved integration of the operations of DDS and IS

S/ No	Parties involved	Sector	Details
20.	Mohit Sahni and Anzen Risk Management	Consultancy	The transaction involved transfer of all shares in Anzen Risk Management Limited to Mohit Sahni by Sahil Kiran Patel and Jitin Dipak Mediratta.
21.	Distributed Power African Limited and Econet Energy Kenya Ltd & Norman Moto	Energy	The transaction involved transfer of all shares in Econet Energy Kenya Limited held by Cumii International Limited (CIL) (4,999 shares) and Norman Moyo (1 share) to Distributed Power Africa Limited.
22.	AGV Holdings Limited and Entertainment Networks Group Kenya Limited	Property	The transaction involved acquisition of the acquisition of 70% of issued shares in Entertainment Network Group Kenya Limited by AGV Holdings Limited

1.8 MERGERS Notified to COMESA Competition Commission under the Competition (General) Rules, 2019

Mergers that meet the COMESA Competition Commission Merger Notification Threshold and a t least two-thirds of the turnover or assets (whichever is higher) is not generated or located in Kenya.

S/ No	Name/Parties	Sector	Committee Responsible for Initial Decision (CID) Determination
1.	Zaad International BV and EASEED Group Limited	Agriculture	The merger was not likely to substantially lessen or prevent competition in the Common Market or any substantial part of it. Further, the transaction is unlikely to be incompatible with the COMESA treaty objective of full market integration.
2.	MUA Insurance Kenya Limited and Saham Assurance Company Kenya Limited	Insurance	The merger was not likely to substantially lessen or prevent competition in the Common Market or any substantial part of it. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.
3.	Mitsubishi Corporation and BBOXX Limited	Energy	The merger was not likely to substantially lessen or prevent competition in the Common Market or any substantial part of it. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.
4.	Vertical Bidco GMBH and Thyssenkrupp Elevator AG	Elevators and Escalotors	The merger was not likely to substantially lessen or prevent competition in the Common Market or any substantial part of it. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.

The Competition Authority of Kenya in June 2020 visited four (4) adult and children care centres in Nairobi and shared essential foodstuff and other basic necessities with over 200 residents. These institutions housing and caring for vulnerable members of our society typically rely on the support of well-wishers. This sustenance need has been exacerbated by the Covid-19 pandemic.

1.9 BUYER POWER ANNUAL REPORT MATRIX

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
1.	Bhumi Distributors Limited vs Saltes Supermarkets Limited	Retail	Bhumi Distributors Limited alleged abuse of buyer power by Saltes Supermarket through delaying payments without a justifiable reason and terminating the supply contract unilaterally and without notice.	Section 24(2A)	The Authority established that the supplier was no longer in operation rendering further action under the Act untenable. Investigations were closed.
2.	Flashmak Kenya Limited vs Saltes Supermarkets Limited	Retail	Flashmak Kenya Limited alleged abuse of buyer power by Saltes Supermarket through delaying payments without a justifiable reason and terminating the supply contract unilaterally and without notice.	Section 24(2A)	The Authority established that the supplier was no longer in operation rendering further action under the Act untenable. Investigations were closed.
3.	Solut Technology Limited vs Safaricom PLC	Telecommunications	Solut Technology Limited alleged that Safaricom PLC had buyer power and abused that power by unlawful appropriation of Solut's intellectual property.	Section 24(2A)	Authority determined that the matters complained about could not amount to contravention of sections 24(2A) of the Act. The parties did not have a binding agreement between them establishing Solut as a supplier and Safaricom as the buyer. Acceptance of Safaricom's terms and conditions were a prerequisite to a contract arising. Solut did not accept the terms and conditions, the parties were therefore not in a buyer/supplier relationship as required by the Competition Act.
4.	Papaya Holdings Ltd vs Bllissead Enterprise	Retail	Papaya Holdings presented a complaint of abuse of buyer power in the form of withholding payments by Blissead Enterprise a retail business that operated six (6) supermarkets.	Section 24(2A)	The Authority established that the buyer had since closed its outlets and the conduct was no longer continuing. Investigations were closed.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
5.	Orchards Limited vs Majid Al Futtaim Hypermarkets Limited	Retail	Orchards Limited, a supplier of probiotic yoghurts alleged abuse of buyer power by Majid Al Futtaim Hypermarkets Limited (Carrefour Hypermarkets) in terms of imposition of rebates, unilateral termination of contract (delisting), transfer of commercial risk to the supplier by returning goods already ordered and delivered and transfer of commercial costs by demanding that Orchards deploy permanent staff to Carrefour Stores.	Section 24(2A)	The Authority established that Majid Al Futtaim had a position of buyer power over Orchards. Orchards had economic dependency on Carrefour Stores. The product of bio yoghurts was found to be best suited to the high-end market, where the retailer's shops are mainly located. The Authority established that the retailer issued standard form contracts that were not negotiable, which it was able to do so by virtue of the position of buyer power over Orchards and other suppliers. Investigations established that Majid Al Futtaim's contracts contained terms enabling conduct in abuse of buyer power by imposition of progressive and annual rebates, return of near expiry goods, transfer of commercial costs by requiring deployment of permanent Orchards staff in its stores, and unilateral termination. And further that Carrefour had engaged in the conduct. Majid Al Futtaim Hypermarket Limited was ordered under section 36 of the Act to take action to expunge from its contracts clauses that provide for, lead to or otherwise facilitate abuse of buyer power and pay a penalty of 10% of its gross annual turnover from the sale of goods supplied by Orchard Limited.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
6.	Nordics Assessors vs CIC Insurance Company Limited	Insurance and Automotive Repair	The complainant, Nordics Assessors, alleged that CIC Insurance Company Limited was abusing its Buyer Power by refusing to make payments after the performance of agreed assessment on motor vehicles for purposes of post-accident repairs.	Section 24(2A)	The conduct complained of, took place before Section 24(2A) of the Act came into effect. The complaint could not be pursued against CIC Insurance Company Limited based on the principle of non-retrospectivity of the law. The complainant was advised to pursue other options available to it in Law.
7.	Nordics Assessors vs Xplico Insurance company Limited	Insurance and Automotive Repair	The complainant, Nordics Assessors, alleged that Xplico Insurance company Limited was abusing its Buyer Power by refusing to make payments after the performance of agreed assessment on motor vehicles for purposes of post-accident repairs.	Section 24(2A)	The conduct complained of took place before Section 24(2A) of the Act came into effect. The complaint could not be pursued against Xplico Insurance Company Limited based on the principle of non-retrospectivity of the law. The complainant was advised to pursue other options available to it in Law.
8.	Nordics Assessors vs Trident Insurance company Limited	Insurance and Automotive Repair	The complainant, Nordics Assessors, alleged that Trident Insurance company Limited was abusing its Buyer Power by refusing to make payments after the performance of agreed assessment on motor vehicles for purposes of post-accident repairs.	Section 24(2A)	The conduct complained of took place before Section 24(2A) of the Act came into effect. The complaint could not be pursued against Trident Insurance Company Limited based on the principle of non-retrospectivity of the law. The complainant was advised to pursue other options available to it in Law.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
9.	Kishliz Enterprises vs Lemigo Dala Supermarket	Retail	The Kishliz Enterprises presented a complaint of alleged abuse of buyer power by the complainant through delayed payment of goods delivered. The complainant claimed that on various dates in 2019, it made suppliers on the basis of local purchase orders of Lemigo Dala. Upon presentation of invoices, only part of the invoiced amount was made. Following this, Kishliz terminated its contract with Lemigo Dala by stopping supplies and moved to alternative outlets.	Section 24(2A)	The buyer was not found to be in possession of buyer power, investigations were closed. The Authority established that Kishliz did not have economic dependence on Lemigo Dala. There were comparable alternative outlets, evidenced by the action of Kishliz to stop supplies to Lemigo Dala in preference for other outlets. It was established that the opportunity cost to be suffered by Kishliz upon termination was not proportionately greater than that suffered by Lemigo Dala. Investigations were closed.
10.	Nordics Assessors vs Invesco Insurance Limited	Insurance and Automotive Repair	The complainant, Nordics Assessors, alleged that Invesco Insurance Limited was abusing its Buyer Power by refusing to make payments after the performance of agreed assessment on motor vehicles for purposes of post-accident repairs.	Section 24(2A)	The conduct complained of took place before Section 24(2A) of the Act came into effect. The complaint could not be pursued against Invesco Insurance Company Limited based on the principle of non-retrospectivity of the law. The complainant was advised to pursue other options available to it in Law.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
11.	Electrical Two Thousand vs Kamiti Main Prison	State Department of Correctional Services	The complainant, Electrical Two Thousand, alleged abuse of buyer power exercised by State Department of Correctional Services in the form of delayed payment for goods and services delivered. The complainant claimed that it supplied building materials to State Department of Correctional Services totalling to Ksh. 1.58 million in 2018.	Section 24(2A)	The conduct complained against arose from public procurement. The Act enables the Authority to regulate conduct by government when it is engaging in trade. The definition of trade did not extend to the conduct of the State Department of Correctional Services in this case. The complaint therefore fell under the purview of the Public Procurement Regulatory Authority (PPRA) as enabled by the Public Procurement and Asset Disposal Act, 2015 The file was forwarded to the PPRA for further action.
12.	Twinlex Textiles vs Kamiti Main Prison	State Department of Correctional Services	The complainant, Twinlex Textiles, alleged abuse of buyer power exercised by State Department of Correctional Services in the form of delayed payment for goods and services delivered. The complainant alleged supplied suiting materials to Kamiti Main Prison Industry totalling Ksh. 297,000 in 2016 and State Department of Correctional Services failed to pay for the supplies.		The conduct complained against arose from public procurement. The Act enables the Authority to regulate conduct by government when it is engaging in trade. The definition of trade did not extend to the conduct of the State Department of Correctional Services in this case. The complaint therefore fell under the purview of the Public Procurement Regulatory Authority (PPRA) as enabled by the Public Procurement and Asset Disposal Act, 2015 The file was forwarded to the PPRA for further action.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
13.	Webs Enterprises vs Services against Ministry of Interior and Coordination of National Government	State Department of Correctional Services	The complaint was of alleged abuse of buyer power through non-payment by the State Department of Correctional Services. The complainant alleged to have supplied the Kamiti main prison with aluminium sheets for the making of number plates as well as polythene paper bags totalling Ksh. 10.8 million and Ksh. 1.25 million respectively in 2016.	Section 24(2A)	The conduct complained against arose from public procurement. The Act enables the Authority to regulate conduct by government when it is engaging in trade. The definition of trade did not extend to the conduct of the State Department for Correctional Services in this case. The complaint therefore fell under the purview of the Public Procurement Regulatory Authority (PPRA) as enabled by the Public Procurement and Asset Disposal Act, 2015 The file was forwarded to the PPRA for further action.
14.	Manyota Limited vs the Judiciary	Judiciary	The complainant alleged to have entered into a commercial agreement with the Judiciary to construct a five (5) storey building at Embu High Court. Upon completion of construction in December 2017, the Judiciary failed to pay the contract fee agreed, which totalled KSH. 57.2 million.	Section 24(2A)	The conduct complained against arose from public procurement. The Act enables the Authority to regulate conduct by government when it is engaging in trade. The definition of trade did not extend to the conduct of the Judiciary in this case. The complaint therefore fell under the purview of the Public Procurement Regulatory Authority (PPRA) as enabled by the Public Procurement and Asset Disposal Act, 2015 The file was forwarded to the PPRA for further action.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
15.	Cowood Limited vs Chavakali High School and St. Patricks' Netima Boys	Ministry of Education	The Authority received a complaint on delayed payment by Chavakali High School and St. Patricks' Netima Boys respectively. Cowood alleged that it entered into commercial agreements with Chavakali and St. Patricks' Netima Schoold for the supply treated sun-dried maize in mid-2017. Following delivery, both schools failed settle his invoices.	Section 24(2A)	The Authority established that though the complaint is one of alleged abuse of buyer power which is regulated under the Act, it arose from public procurement which is under the Public Procurement and Asset Disposal Act, 2015 (PPADA). In addition, the Authority concluded that the conduct of both schools does not fall within the definition of trade under Section 5(5) as read together with Section 2 of the Act. The matter was therefore forwarded to the Public Procurement Regulatory Authority (PPRA) for further action.
16.	Regent Automobile Valuers & Assessors vs Invesco Insurance	Insurance	The complainant, Regent Automobile Valuers & Assessors, alleged that Invesco Insurance Limited was abusing its Buyer Power by refusing to make payments after the performance of agreed assessment and valuation on motor vehicles for purposes of post-accident repairs.	Section 24A	The Authority closed the case after the parties agreed on a settlement.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
17.	Chred Designs Ltd vs Greenlands Agroproducers (K) Ltd	Agriculture	Chred presented a complaint alleging abuse of buyer power by Greenlands by delaying of payments followed by unilateral termination of the contract. The complainant entered into a contract for supply of packaging material for export of horticultural products. It alleged that following delivery of a consignment in September 2018, Greenlands failed to pay and on Chred making demands for payment, unilaterally terminated the contractual relationship.	Section 24(2A)	The Authority found that Greenlands had buyer power against Chred and was able to impose terms. Further, the supplier had economic dependence on the buyer. The contract between the parties was unwritten and variable on Greenlands choice. The Authority found that there was conduct in abuse of buyer power through delayed payments and unilateral termination by Greenlands. The case was closed after Greenlands opted to settle by paying the delayed payments.
18.	Beta Solutions Limited vs Linksoft Intergrated Services (East Africa) Limited	Telecommunications	The complainant, Beta Solutions Limited, claimed that it was subcontracted by Linksoft Intergrated Services (East Africa) Limited, the main contractor, to put up Telecommunication masts Client. In spite of carrying out various projects to completion, and after inspection and certification of the projects as fully completed by the Client, Linksoft delayed payments unjustifiably in a sum amounting to Ksh. 2,560,737. Further, it unilaterally terminated the contract between the two parties.	Section 24(2A)	The Authority found that Linksoft had buyer power against Beta Solution. The supplier had economic dependence on the buyer given the nature of the subcontracting market. The Authority found that there was conduct in abuse of buyer power through delayed payments and unilateral termination by Linksoft. The file was closed after Linksoft opted to settle the matter by paying the delayed payments.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
1.	Members of Kenya Motor Repairers Association vs Kenya Orient Insurance Company	Insurance	A complaint by six (6) members of Kenya Motor Repairers Association (KEMRA) against Kenya Orient Insurance Limited for alleged delayed payments without justifiable reasons in breach of the agreed terms of payment; de-listing; demand for unfavourable terms; and transfer of commercial risk to the repairers amounting to abuse of buyer power.	Section 24(2A)	Investigations are ongoing.
2.	Members of the Kenya Motor Repairers Association vs Invesco Assurance Company	Insurance	A complaint by five (5) members of Kenya Motor Repairers Association (KEMRA) against Invesco Assurance Company for delayed payments without justifiable reasons in breach of the agreed terms of payment; de-listing, demand for unfavourable terms; and transfer of commercial risk to the repairers amounting to abuse of buyer power.	Section 24(2A)	Investigations are ongoing.
3.	Members of Kenya Motor Repairers Association vs Trident Insurance Company	Insurance	A complaint by seven (7) members of Kenya Motor Repairers Association (KEMRA) against Trident Insurance Company for delayed payments without justifiable reasons in breach of the agreed terms of payment; de-listing; demand for unfavourable terms; and transfer of commercial risk to the repairers amounting to abuse of buyer power.	Section 24(2A)	Investigations are ongoing.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
4.	Nordics Assessors vs Monarch Insurance Company Limited	Insurance and Automotive Repair	The complainant, Nordics Assessors, alleges that Monarch Insurance Company Limited abused its Buyer Power by refusing to make payments after the performance of agreed assessment on motor vehicles for purposes of post-accident repairs as well as unilaterally terminating the supply contract.	Section 24(2A)	Investigations are ongoing.
5.	Nordics Assessors vs AMACO Insurance Company Limited	Insurance and Automotive Repair	The complainant, Nordics Assessors, alleges that AMACO Insurance Company Limited abused its Buyer Power by refusing to make payments after the performance of agreed assessment on motor vehicles for purposes of post-accident repairs as well as unilaterally terminating the supply contract.	Section 24(2A)	Investigations are ongoing.
6.	Nordics Assessors vs Corporate Insurance Company Limited	Insurance and Automotive Repair	The complainant, Nordics Assessors, alleged that Corporate Insurance Company Limited abused its Buyer Power by refusing to make payments after the performance of agreed assessment on motor vehicles for purposes of post-accident repairs as well as unilaterally terminating the supply contract.	Section 24(2A)	Investigations are ongoing.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
7.	Phontain Controls (K) Ltd vs Tusker Mattresses Ltd	Retail	Phontain Controls (K) Ltd filed a complaint alleging abuse of buyer power through a delay of payment for security services rendered and unilateral de-listing by Tusker Mattresses Limited, a retailer.	Section 24(2A)	Investigations are ongoing.
8.	Maisha Bora Company Limited vs Various Supermarkets	Retail	Maisha Bora, the complainant presented a complaint against various insurance companies for delayed payments and return of goods already delivered.	Section 24A	Investigations are ongoing.
9.	Regent Automobile Valuers & Assessors vs Jubilee Insurance	Insurance	The complainant, Regent Automobile Valuers & Assessors, alleges that Jubilee Insurance abused its buyer power by refusing to make payments after the performance of agreed assessment and valuation on motor vehicles for purposes of post-accident repairs.	Section 24A	Investigations are ongoing.
10.	Nationwide Electrical Industries vs Havi Construction Ltd	Construction	The complainant, Nationwide Electrical Industries, alleges delayed payments in abuse of buyer power by Havi Construction. The amount owed is claimed to be Ksh. 354,991.22.00	Section 24A	Investigations are ongoing.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
11.	Colbriz Super Foods Limited vs Alexandre Chocolatiers Ltd		The complainant, Colbriz Super Foods Limited, alleges that they supplied Alexandre Chocolatiers with unsalted butter, whipping cream and yoghurt and Alexandre Chocolatiers Ltd have abused their buyer power by delaying payments of Ksh. 434,768.	Section 24A	Investigations are ongoing.
12.	Kartech Engineering Ltd vs Tusker Mattresses Ltd		The complainant, Kartech Engineering Ltd, is a company specializing in fabrication of institutional utilities and was contracted by Tusker Mattresses Limited to service and install smoke and vapour extraction systems in all their outlets countrywide. The complaint alleges non-payment of amount of over Ksh. 1.6 million by Tusker Mattresses limited which occurred in abuse of buyer power.	Section 24A	Investigations are ongoing.
13.	Christopher Ochieng vs Jackyz Liquor Store	Retail	The complainant, Christopher Ochieng, alleges to have supplied liquor to Jackyz Liquor Store. The complainant alleges non-payment of Ksh. 479,720 in circumstances of abuse of buyer power.	Section 24A	Investigations are ongoing.

No.	Case	Sector/ Market affected	Case Summary	Relevant Section of the Act	Case Status/Decision
14.	Omega Risk Management Ltd vs Tusker Mattresses Ltd		The complainant, Omega Risk Management Ltd, alleges to have had a contractual agreement with Tusker Mattresses Ltd to provide them with security and risk management services since 2010. The complainant alleges non-payment of the amount of Ksh. 62 million being a delayed payment in abuse of buyer power.	Section 24A	Investigations are ongoing.

From Left to Right: Mrs. Jane Njoroge, General Manager, Technical Services, and Deputy to the Director General, PPRA, Mr. Wang'ombe Kariuki, Director General, CAK and Amb. Nelson Ndirangu, Board Chair, CAK follow proceedings during the 2019 Annual Symposium on Competition Law and Policy

1.10 CONSUMER PROTECTION CASES

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
1.	Dipak Shah vs Chloride Exide Ltd.	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that he bought a car battery from Chloride Exide Ltd on 16th October, 2018 and later discovered that it was faulty. Chloride Exide Ltd allegedly declined to replace the battery.	Sections 55 (a) (i), (b) (ii) (v), 56 (1) (2) (a) and (e)	After the Authority's intervention. it was established that the complainant had purchased a lower capacity battery which was unsuitable for his car. The complainant was asked to top up the amount and was given a higher capacity battery, (N90MFL Powerlast battery (90 amp) which was suited for his car. He was satisfied with the redress and the matter was then closed.
2.	William Mungai Vs Kenya Commercial Bank	Financial and insurance activities	The complainant took a loan in 2011 claimed that he finished repaying in October 2017 but the Bank alleged that he still had a loan balance. He alleged that the bank made a total of 75 monthly deductions as opposed to 72 deductions as per the loan agreement. It was established that the dispute arose due to underpayments, and penalty charges resulting from it.	Section 56(1)-(4)	After the Authority's intervention the parties agreed on the amount the complainant was to pay and the duration of the said payment. The matter was then closed after redress.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
3.	Gerald Mbugua vs Yang Guang Property Design and Manufacturing Ltd	Wholesale and retail trade, repair of motor vehicles and motorcycles	The complainant alleged he ordered for doors and frames from Yang Guang Property Design. The contractor visited the site and took measurements, but what was delivered did not fit. He was then advised that the delivered goods were as per the ordered products and they could not be replaced.	Section 56(1) (2) (a) (d) and (e)	The Authority contacted the accused party regarding the allegations through a Notice of Investigation. The complainant, however, later indicated that they had agreed to resolve the matter amicably. The matter was closed after redress.
4.	Allan Thuo vs Bet Sure	Arts, entertainment and recreation	The complainant alleged that his bet was cancelled 20 minutes before a football game ended and alleged that he was about to win. He was then refunded the stake on the bet only but he now wanted the company to credit his account with the amount he had purportedly won.	Section 56 (1)& (2) (a) (d) (e)	The Authority established that the matter did not lie within its mandate and referred the complainant to the Betting Control and Licensing Board. The matter was then closed.
5.	Ms. Irene Wangui Kinyanjui vs National Bank of Kenya (NBK)	Financial and Insurance activities	The complainant alleged that she received two text notifications on her phone indicating that her Visa card had completed two online transactions. According to her, the deductions were made without her consent. She alleged that she had not received any communication from the Bank despite reporting to them	Section 56	After the intervention of the Authority, NBK compensated the complainant for all the deductions. The matter was closed after redress.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
6.	CAK VS IFFCO	Manufacturing	The Authority undertook investigations into the edible oils sector to establish claims by IFFCO regarding the composition of their product Amber Cooking Oil, specifically, the level of Vitamin E.	Section 55 (a)(i))	Upon analysis of their submissions and results from tests that were undertaken, the Authority established that IFFCO was not in contravention of the Act, and the matter was closed as a result.
7.	Vincent Kisua Vs Kenya Orient Insurance	Financial and insurance activities	The complainant alleged that Kenya Orient was taking too long to honour his insurance claim after his vehicle was involved in an accident. They kept changing garages to seek different opinions in the meanwhile he had to pay for the vehicle's loan. Kenya Orient later informed him that the vehicle was repaired but he was not satisfied.	Section 56 (1) (2) (a)(b)(d	The Authority wrote a Notice of Investigation to Kenya Orient, who indicated that the vehicle had been fully repaired. The Authority therefore required the complainant to have the vehicle inspected by NTSA for a comprehensive report on the status of the vehicle. The complainant later indicated that he had fixed the vehicle and taken it to NTSA where it passed the test, and he no longer wished to pursue the matter and the Authority then closed the case.
8.	Samuel Kumbu Vs Select Management	Financial and insurance activities	The complainant alleged that he got a loan from the Select Management, and claimed they misled him that the loan would be disbursed in 24 hours but this was done after 2 weeks. He also claimed they were still deducting his salary even after completing the loan amount.	N/A	The Authority requested the complainant to provide relevant documentation. The loan agreement he provided showed that he had signed the loan application form. However, the complainant later indicated that the signature had been forged. The complainant was advised to report the issue of forgery to the Directorate of Criminal Investigation. The matter was closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
9.	Patience Kwekwe vs Harambee SACCO	Financial and insurance activities	The complainant alleged that she took a loan at an interest rate of 12% p.a. and she was to repay in 34 months. She cleared the loan in June 2015. In December, 2017, she applied for a new loan from the same SACCO but was informed that she still owed the SACCO an amount of about Ksh. 200, 000 which was recovered from her SACCO shares without her knowledge.	Section 56 (3)	The Authority wrote a Notice of Investigation and after further engagements, Harambee Sacco opted to exercise their rights to settle the matter under section 38 of the Act. The Sacco was penalized Ksh. 38,379.85 which was 10% of the principal amount of the loan amounting to Ksh. 336,000. The complainant's loan was also re-calculated. Other remedies included cancellation of the alleged loan arrears and restitution of the complainant's shares. The matter was closed.
10.	Stella Ndung'u Vs Faulu Microfinance Bank	Financial and Insurance activities	The complainant claimed that her parents took a loan from Faulu Micro-finance in June, 2013 at an interest rate of 12% p.a. but the bank adjusted it in 2016 to 16% p.a. Further, upon their calculation, the actual interest rate was about 30% and not 16% or 12% as purported by Faulu.	Section 56 (2) (a), (c), (e) and (3)	It was established that there was misrepresentation regarding flat rate and reducing balance rate of interest that was presented to the complainant. The Authority further engaged the Central Bank of Kenya to get an expert opinion on the calculation of interest rates. Faulu Microfinance Bank exercised their right to settle the matter with the Authority under section 38 of the Act. They were penalized Ksh. 150,000 representing 10% of the loan amount of Ksh. 1,500,000. Other remedies included waiving all penalty interest accruing to the complainant. The matter was closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
11.	David Kosse vs G4S Ltd	Whole-sale and retail trade, repair of motor vehicles and mo-torcycles	Complainant pur-chased a parcel at Kilimall, which was to be delivered via G4S. However, the parcel got lost at the hands of G4S.	Section 56 (1), (2) (a) (d) and (e)	The Authority wrote a No-tice of Investigation to G4S, and the complainant later informed the Authority that Kilimall had refunded him the money and he wished to close the matter. The case was then closed.
12.	Ms. Laura Lime vs Slum-berland Kenya Limited	Whole-sale and retail trade, repair of motor vehicles and mo-torcycles	The Complainant purchased a bed and mattress from Slum-berland, which she later discovered was not well aligned. She raised the complaint but was told she failed to report the issue im-mediately, and thus the matter could not be resolved.	Sections 55(a)(i),(b)(v) and 56(1),(2)(a)	The Authority wrote a Notice of investigation to Slumber-land, who indicated their will-ingness to resolve the matter. The matter was closed after the complainant confirmed that the issue was resolved.
13.	Jeremy Agunga vs Shine Motors Spares	Whole-sale and retail trade; repair of motor vehicle and mo-torcycles	The complainant had bought an engine from the Shine Motors Spares and returned it because it was not working. However, the accused was not willing to refund him his money.	Section 56 (1) (2) (a) (b) and (e)	A Notice of Investigation was sent to the accused par-ty. Shine Motors called and confirmed that a post-dated cheque had been prepared for the complainant but he never went to collect it. Upon being informed, the complainant collected the cheque and was satisfied with the resolution. The case was then closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
14.	John Kiura vs Faulu Microfinance Bank	Financial and Insurance activities	The complainant alleged to have taken a loan in 2013 from Faulu Bank which he fully settled in April 2018. He was later informed by the bank that he had not settled Ksh. 20,000. He visited the Bank and was assured that it was a system error. After sometime, he was informed by the bank that his employer had delayed to repay the amount which had at the time accrued interest. He was later listed at the CRB.	Section 56 (1), 2 (a) and 3	The Authority wrote a Notice of Investigations to Faulu, and the complainant later informed the Authority that he was withdrawing the case since the matter was resolved amicably. The Authority received confirmation from Faulu Microfinance Bank that the matter was resolved and closed the matter.
15.	Maren Okoth vs Amaron Batteries	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant bought a car battery from Motor Rank Enterprises Limited but within two weeks, she noticed that the battery was draining too fast. She took it back to Motor Rank twice but they never sorted the issue and advised her to take it to Amaron offices in Nairobi who did not resolve the matter.	Sections 55 (a) (i), (b) (v), 56 (1), (2) (a) (d) (e), 63 (1) (d) (e) & 64	The Authority investigated the matter, and noted that the complainant received assistance on the matter from the main Amaron office in India. She expressed her wish to withdraw the matter as it had been resolved amicably. The matter was then closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
16.	John Kiptum vs NIC Bank	Financial and Insurance activities	The complainant alleged that he owed the bank two loans, a car loan and a personal loan. When he fell into arrears, the bank sent him a repossession notice. He paid some amount to his account and instructed that the amount be used to settle the car loan, however the bank opted to offset the personal loan instead.	Section 56	After further investigation, it was established that the complainant was in arrears. The complainant later confirmed that the matter had been resolved as he cleared all the pending arrears. The matter was then closed.
17.	Wambui Ngimeria Maina vs Jumia Ltd	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that she purchased two FIFA 2020 PlayStation video games. However, Jumia Ltd failed to deliver the items as promised. Instead, Jumia Ltd changed the delivery dates without her knowledge and still failed to deliver the items.	Section 56 (1)(2)(a)	After further enquiry from the complainant regarding the matter, she confirmed that she was refunded and did not wish to pursue the matter. The matter was then closed.
18.	Joseph Ngare vs Sairam Supermarkets	Wholesale and retail trade; repair of motor vehicle and motorcycles	The Complainant alleged that he bought a rice cooker from Sairam Supermarket which was not working. Attempts to secure reimbursement allegedly failed.	Sections 55 (a) (i), (b) (ii) (v), 56 (1) (2) (a), 63 and 64	Despite several requests for further information from the Authority, the complainant failed to provide evidence required to proceed with the investigation, The Authority therefore closed the matter.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
19.	Mary Kamau vs Jumia Kenya	Whole-sale and retail trade; repair of motor vehicle and motorcycles	The complainant purchased a TV model Vision plus 43 inch curved from Jumia on 3rd September, 2019, and the agent told her the TV had a one (1) year warranty. The TV did not function as expected which was returned for repair but never functioned even after the repair.	Sections 55 (a)(v) and b(v), 56(1), (2) (a) (e),	After intervention from the Authority, the complainant confirmed that her matter was resolved. The matter was closed.
20.	David Mwaura vs Bolt Kenya	Transportation and Storage	He requested for a ride on 20th September, 2019 through the Bolt App which was successful and he was picked up from his residence. The total cost for the trip was Ksh.200 which was discounted to Ksh.160 but deduction made on visa card account were totaling to Ksh.800. He raised the issue with Bolt but his ticket was closed and no help was offered.	Section 56 (2) (a) (d)	The complainant was requested to provide necessary information such as bank statement to confirm the deductions, which he failed to provide despite several reminders. The Authority closed the matter for failure by the complainant to supply supporting documentation.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
21.	Julius Onyango vs Stanbic Bank	Financial and Insurance activities	Complainant applied for a car loan facility with Stanbic Bank in December, 2018. The vehicle was officially released to him on 19th December, 2018. He failed to remit monthly repayments as required which led to the bank sending auctioneers who towed the car. He was required to meet the towing and yard parking charges plus repay the outstanding balance due to the bank, which he was disputing.	Section 56(1), (2) (a) (b), (3)	The Authority closed the case after reviewing a response from Stanbic Bank which confirmed that the complainant had been informed about the eventualities of repossession and the attendant cost.
22.	Ciru Kariuki vs Total Kenya	Media/ Advertising	She stopped at Total petrol station in Hurlingham area to fuel and get her car washed. Later, she discovered two large stickers at the rear end of her car which were promoting Total Quartz oil. Her consent was not sought before the promotional stickers were affixed on her car.	N/A	The case did not fall within the mandate of the Authority. The complainant was referred to the Advertising Standards Body of Kenya and the matter closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
23.	Anonymous vs manufacturer of Eco Gas Saver	Electricity, gas, steam and air conditioning supply	The complainant alleged that the accused was misleading consumers that the consumption of gas reduced when you affix the eco gas saver to the gas cylinder. He further alleged that there can be no chemical reaction between the gas cylinder and the plastic containing the gas saver liquid. He indicated that the offending advertisements were in platforms such as YouTube and Google search engine.	Section 55(i)(ii)	The Authority investigated the matter and also consulted with the Kenya Bureau of Standards and Energy and Petroleum Regulatory Authority (EPRA). It was established that Eco Gas Saver was not licensed to operate in Kenya, and its products had not obtained regulatory approvals. The Authority further engaged Google LLC and You Tube LLC requiring them to remove the offending advertisements. The links were removed and the matter closed.
24.	Lennah Abbygael vs Nairobi Bottlers Ltd (NBL)	Manufacturing	The Authority investigated allegations regarding contaminated Keringet water bottle bought by the complainant	Sections 59 (1) (a), (2) (a), 63 and 64	After investigating the matter including interrogating the bottle, it was established that the water bottle did not have batch numbers, essential in undertaking product tracing. The Authority closed the investigation and informed the complainant that the absence of markings such as batch number would not provide the source of the product, necessary to investigate the product.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
25.	Sammy Ndolo Vs Nairobi Bottlers Ltd (NBL)	Manufacturing	The Authority investigated allegations against NBL regarding contaminated Keringet water bottle bought by the complainant	Sections 59 (1) (a), (2) (a), 63 and 64	After investigating the matter including interrogating the bottle, it was established that the water bottle did not have batch numbers, essential in undertaking product tracing. The Authority closed the investigation and informed the complainant that the absence of markings such as batch number would not provide the source of the product, necessary to investigate the product.
26.	CAK vs Italian Gelati Food Products	Manufacturing	The Authority initiated investigations against Italian Gelati for allegedly labelling its yoghurt as being 100% veg.	Section 55 (a)(i)	The Authority sent a Notice of investigation to Italian Gelati Food Products who in their submissions, satisfactorily demonstrated that the yoghurt was 100% veg. The matter was then closed.
27.	CAK vs. HP Laptops	Information and Communication	Following a trigger via intelligence search, the Authority noted that HP recalled more than 100,000 laptop batteries, worldwide due to overheating.	Section 59	The Authority engaged HP Kenya, and they submitted information indicating that 50% of the affected batteries had been replaced. Further, it was noted that the recall was open-ended and thus the Authority continues to monitor the market for complaints that may arise regarding the HP batteries.
28.	Edna Karimi Vs Zuku	Information and communication	The complainant alleged that she paid for installation of internet services from Zuku but they never did the installation and have refused to refund her the money.	Section 56	The complainant was requested to provide evidence of payment for the installation service, which she never did despite several reminders. The matter was closed due to lack of evidence

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
29.	Wilson Nguyo Vs Kenya Commercial Bank (KCB)	Financial and insurance services	The complainant alleged that he borrowed Ksh. 50,000.00 from KCB-Mpesa and repaid a day after the set timeline. He was charged a penalty of 5% which he felt was unjustified.	Section 56	The Authority engaged KCB and the penalty was waived by the bank. The complainant was satisfied with the decision. The matter was thus closed.
30.	Heather Kanana Njue vs Spirtzcolour an Online Instagram Store	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant ordered for a pair of shoes worth Ksh. 5,800 from Spritzcolour. Inquired on the progress of delivery by writing a direct message to Spritzcolour but was told they will neither deliver the shoe nor offer a refund.	Sections 55 (b) (v) and 56 (1) (2) (a) (d) and (e)	The Authority established that the matter was a scam and advised the complainant to report the matter to the Directorate of Criminal Investigation (DCI). The matter was closed.
31.	Annemarie Musawale Vs Jumia Kenya	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant ordered and paid for Sandalwood soap which was not delivered and refund not made.	Section 56 (1) (2) (a) (d)	After intervention of the Authority, the complainant was refunded her money, and the matter was closed.
32.	Everlyne Taabu vs Kapi Ltd	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant purchased Dudu Krin dog shampoo and after using the product, she developed burns on her hands. She alleged that she has used the product before and did not experience burns.	Sections 59 (1) (a), (2) (a) (b) (c) (3) (b), 60 (1) (7) (a) (b)	After further investigation and consulting with Kenya Bureau of Standards (KEBS), it was established that they were not able to undertake testing of the product to determine whether it contains harmful ingredients. However, the Veterinary and Medicines Directorate (VMD) have a mandate of ensuring quality standards in the use of veterinary medicines. The matter was forwarded to VMD for further investigation and the complainant informed. The case was closed

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
33.	Kipkurui Kosgei Vs Motor Hut Ltd	Whole-sale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that he deposited Ksh. 60,000 with the accused, with the intention of buying a vehicle from him. However, upon inspection by a mechanic, the vehicle was found to be defective. The accused was not willing to refund him his money.	Section 56 (1), (2)(a)	The Authority wrote a Notice of Investigation to the accused. Following a meeting held with Motor Hut Ltd, they refunded the complainant his money. They were also required to amend their template sales agreement to provide a timeline within which a customer should confirm purchase or decline, after which they get their deposit back or risk losing the deposit. The matter was then closed
34.	CAK vs Del Monte Kenya	Manufacturing	The Authority initiated investigations into claims that Del Monte Kenya has made regarding its products namely Del monte Apple Juice and Del monte Pineapple juice that the products are 100% natural juices.	Sections 55 (a) (i) and 59 (1) (a) and (2) (a)	It was established that Del Monte had failed to indicate on the labelling that the Apple Juice was made from concentrate. Del Monte opted to enter into a settlement with the Authority pursuant to section 38 of the Act. They also amended their labels to reflect that the juices are made from concentrate. The Authority closed the matter.
35.	Julia Njeri vs City Walk	Whole-sale and retail trade; repair of motor vehicle and motorcycles	The complainant bought shoes from City Walk worth Ksh. 10,000 which peeled on the first day of being worn.	Section 55 (a)(i) and 56 (1)(2)(a)(e).	The Authority sent a Notice of Investigation to City Walk and they responded that they were consulting with the supplier. They later refunded the complainant in full. The case was then closed.
36.	Chetan Amlani vs Denko Properties	Construction	The complainant alleged that Denko Properties had failed to honour a contract to construct greenhouses in his piece of land and were unwilling to refund him his investment money.	N/A	The Authority closed the matter since the matter does not fall within its mandate. The complainant was advised accordingly.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
37.	David Herbling vs Carrefour	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that a clause in Carrefour's terms and condition under the loyalty scheme which sets a minimum balance of 10,000 points as a basis to be eligible to redeem the points infringes on consumer rights.	Section 56 (1), (2)(b)	The Authority closed the matter since the matter does not fall within its mandate. The complainant was advised accordingly.
38.	Jacob Okelloh vs Kilimall	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant bought a bluetooth sound bar speaker which upon delivery, did not match the descriptions as advertised on the Kilimall website.	Section 55 (a)(i)	The Authority sent a Notice of Investigation and Kilimall resolved the matter. The complainant confirmed that he was satisfied with the way the matter was and the matter was closed.
39.	Francisca Owuor vs Royal Mabati Limited	Wholesale and retail trade; repair of motor vehicle and motorcycles	She ordered for 600 pieces of iron sheets, from Royal Mabati Limited and made payment. She was however, promised that delivery would happen within seven days. Delivery did not happen and until the time of reporting the case, no communication had been made about the issue.	Sections 55 (a)(ii) 56 (1) 2(a) (b) (d) and (e)	In the process of investigations, the complainant confirmed to the Authority that her materials had been delivered and she was satisfied.
40.	Kevin Isika vs Kilimall	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant ordered and paid for Christmas gifts which were not delivered.	Sections 55 (1) (ii) , 56 (1) (2) (a) (b) (d) (e)	The matter was closed following a confirmation of refund from the complainant.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
41.	Carole Muthaura vs Victoria Courts	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant ordered and paid for two mattresses that were delivered, but were not compatible with the beds. The seller was not willing to replace them.	Sections 55 (1) (i) 56 (1) (2) (a)(b)&(d)	After the intervention of the Authority the complainant confirmed replacement of the mattresses. The case was closed.
42.	Lydia Seurei vs Jambo Jet	Transportation and storage	She booked for a return air ticket from Nairobi to Eldoret, however, she could not travel due to the Presidential Directive regarding cessation of movement due to COVID-19. She requested her tickets to be kept open which was declined by the service provider and was charged cancellation charges.	Section 56(1) (2) (a) (b) &(d)	The matter was resolved following intervention by the Authority as Jambo Jet agreed to keep the tickets open for use within one year. The matter was closed.
43.	Ben Harris vs Bei Nafuu Business Centre	Transport and Storage	The complainant allegedly hired a Toyota Premio from Bei Nafuu and after fuelling it, it broke down. He was issued with a RAV4, which he also had to fuel. He was promised a refund of the fuel used on the Premio worth Ksh.3000, but even after several follow ups, this did not happen.		After the intervention of the Authority, the complainant was refunded his money. The matter was closed.
44.	Lucy Wanjiku Maina vs Gakuyo Investments	Financial and insurance activities	The complainant had deposited Ksh. 2.1 Million with Gakuyo Real Estate and she had requested to withdraw her savings but never received a response from Gakuyo.	Section 56	The complainant was informed about the fact the same matter was actively being investigated by the DCI on the issue, and was advised to lodge the complaint with them.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
45.	Josephat Nyamwange vs Salama Pharmaceuticals	Retail Sector	The complainant bought a hand wash soap at Ksh.1400, which had been sold to him at Ksh.800 the previous week.	Section 56	The complainant did not have sufficient evidence in terms of purchase receipt to support his allegations and the matter was closed.
46.	Hillary Kipchumba Kipkoech vs Platinum Credit Ltd	Financial and insurance activities	The complainant alleged that his loan balance of Ksh. 135,000 was increasing rather than reducing yet he had been remitting monthly instalments on time. He alleged that Platinum Credit Ltd did not disclose all the facts regarding interest rate and other charges, especially on early repayment of the loan.	Section 56 (1), (2) (a), (c) (d) (e) (3) & (4).	After investigation, it was established that the complainant had been made aware of the interest rates and charges through the Terms and Conditions. The Terms indicated that in the event of early loan repayment, loan administration fees will be charged. The Authority found no violation of the Act and case was closed.
47.	Centre for Corporate Governance vs Nego International Limited	Other service activities	Centre for Corporate Governance alleged that Nego International Ltd were misleading consumers by putting false information on their website regarding the history of the institution and their ability to undertake corporate governance courses.	Section 55 (a) (ii), (v) (vi)	The matter was closed after the Authority established that it does not lie within its mandate. The complainant was advised to forward the matter to DCI.
48.	Fred Obade vs Rocaffe Restaurant	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant visited Rocaffe Restaurant and paid his bill amounting to Ksh. 4,350 via his debit card. However, the transaction was swiped twice. Despite several reminders, the restaurant failed to refund the money.	Section 56 (1) (2) (a) and (d)	The matter was resolved on intervention by the Authority as Rocaffe Restaurant refunded the complainant. The matter was closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
49.	Dennis Gachoka vs Spire Bank	Financial and Insurance activities	Complainant alleged that he had secured a loan worth Ksh. 4,200,000 with Spire Bank before leaving the bank where he had been servicing the facility without default. Spire Bank had his name listed with a Credit Reference Bureau.	Section 56 (1), (2) (a) (d) & (e)	The matter was resolved on intervention by the Authority as Spire Bank further indicated that his credit status was updated to reflect that he was not a defaulter.
50.	Eustace Nderitu vs Jambo Jet	Transportation and storage	The complainant booked a oneway flight from Mombasa to Nairobi scheduled for 19th March, 2020, via Jambo Jet. He requested Jambo Jet to open the tickets for travel at a later date, following the Presidential Directive on cessation of movement due to COVID-19 but Jambo Jet indicated that they could only do that for tickets cancelled seven (7) days before travel date.	Section 56 (1) (2) (a) (c) and (d)	The Authority engaged Jambo Jet and later the complainant notified the Authority that they had agreed to cancel his booking without any penalty and allowed the full amount to be used later (up to 6 months). The case was closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
51.	Fredrick Koskei vs Minet Limited	Financial and Insurance activities	The complainant alleged that Minet's Medical cover does not allow change of beneficiary until the end of contract period and that Minet Limited can only add new born or remove a beneficiary with the limit being 4 beneficiaries. He considered it to be unfair to the consumers since they should be allowed to remove and add a beneficiary at least every year and not five years as it is now.	Sections 55 (a) (v), 56 (1) (2) (a) and (d)	The complainant was asked to seek redress from his employer the Teachers Service Commission (TSC). The matter was closed.
52.	Shisha Boo vs Magunas	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant alleged that her mother went to Magunas Super Store to purchase Fields of Africa hand sanitizer (60ml) amongst other things, which was retailing at Ksh. 145. However, when the complainant went to purchase the same hand sanitizer the price had increased to Ksh. 155.	Section 56(1) (2) (a) (d)(e)	The Authority established that there was no violation of the Act since the prices adjusted upwards occasioned by the increased demand for sanitizers due to the pronouncement of the first case of COVID-19 in Kenya. It was also established that the price increase was not unconscionable. The matter was closed
53.	Ken Karanja vs Kibo Africa	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant purchased a motor bike and was promised handle bars and the back plate, which were never delivered	Sections 55 (a) (v) 56 (2) (a) (e)	The Authority sent a Notice of Investigation and Kibo Africa responded that they were experiencing challenges with obtaining the items. The complainant later confirmed that he had received the items, and the matter was closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
54.	Andrew Wanjiru vs Showmax	Information and Communication	He subscribed for a promotion being run by Showmax, Get 3 months' subscription for the price of 1 month. After paying, he got only one month and when he complained to Showmax, he was informed it was only for selected customers.	Section 55(a)	After further review, it was established that there was additional information he required to subscribe. The complainant was also not sure if he had followed the instructions required for subscription to the promotion. The matter was therefore closed.
55.	Allan Chacha vs Modern Coast Bus Company	Transportation and Storage	Allan Chacha's family was travelling from Nairobi to Isebania town on 16th March, 2020 at 8pm, the bus carried his wife and daughter but left his sister at the bus station together with her luggage; this made him to incur more travel costs.	N/A	Complainant was advised to lodge the complaint with NTSA. The mater was closed.
56.	Patrick Okoti vs Bob Morgan Sacco.	Administrative and support service activities	Bob Morgan Services Limited terminated the employment services of the complainant on 29th September, 2018, allegedly on disciplinary grounds. He had saved with Bob Morgan Sacco Ksh. 209,244.00, which he was to be paid upon separating with his employer, but they were not willing to do so.	Sections 56(1), (2)(a)(d)	Through the Authority's intervention, the complainant confirmed in writing that Bob Morgan Sacco had paid him Ksh. 209,244.00 owed to him. The matter was closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
57.	Francis Gitahi vs Mini Bakeries	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant bought a Supa Loaf bread on 13th March, 2020 from one of the Mini Bakeries' distributors, he noticed that the bread had a dead cockroach. He also alleged that that he had received dirty bread from Mini Bakeries.	N/A	The complainant was advised to lodge quality related issues of Supa Loaf bread with KEBS. The matter was closed.
58.	Apollo & Co Advocates and Other vs KPLC	Electricity, gas, steam and air conditioning supply	The complainant alleged that in the month of November/December 2017, several consumers started receiving inflated power bills from Kenya Power He added that Kenya Power was recovering Ksh. 8.1 Billion backdated bills from electricity consumers allegedly incurred on diesel generation in the year 2017, but were not factored in the monthly charges. There is a court injunction instructing Kenya Power to stop and cease the billing of electricity consumers with inflated backdated electricity bills.	Sections 24(2)(a), 55 (b)(i), 56(2), 57(2), 56(3), (4) and 57 (i)	The Authority closed the matter as it was later established that the same was also pending before a Court of Law. The complainant was advised accordingly.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
59.	Dr. Gergely Jandrasits vs Africa Impact	Accommodation and Food Service Activities	The complainant alleged he visited Kenya as a tourist under a package offered by the accused. The accused is domiciled in The Republic of South Africa. He however was not happy with the services provided. He was later refunded a smaller amount of money compared to his companions under the same package.	Section 55(a)(ii), 56 (1)	The matter was officially forwarded to National Consumer Commission of South Africa for further investigation since the accused is domiciled in South Africa. The complainant was informed of the same and the matter closed.
60.	Analita Wanjiru vs BIMAS Kenya Limited	Financial and insurance services	She took a loan of Ksh. 3.8 Million from BIMAS Kenya Limited and defaulted which resulted in the piece of land that had been offered as collateral to be put up for auctioning.	Section 56 (1)	It was established that there was no contravention of the Act. The matter was closed.
61.	Jonathan Mbui vs Britam Insurance	Financial and Insurance Services	He lodged a complainant that his retirement benefits had been channelled to Britam Insurance for annuity purchase without his knowledge.	N/A	The case does not lie within the mandate of the Authority and complainant was referred to Retirement Benefits Authority (RBA). The matter was closed.
62.	CAK VS Troy Medicare	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant indicated that Troy Medicare Pharmacy had hiked the price of Hand Sanitizers from Ksh. 600 to between Ksh. 1500 and 1800 per 500 ml bottle.	Section 56 (1), (2) (a) & (d)	The case was closed after the complainant failed to respond to the Authority's several requests to provide supportive documentations of the purchase.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
63.	Peter Wangera Vs Best Lady Outlets-Nakuru	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant indicated that there was almost a triple price hike of spray bottles at Bestlady outlets in Nakuru. That is, on 16th March, 2020, the prices of the spray bottles were at Ksh. 130 and on 17th March, 2020, the prices rose to Ksh. 250.	Section 56 (1), (2) (a) & (d)	The case was closed after the complainant failed to respond to the Authority's several requests to provide evidence of purchase.
64.	Tonnie Mello Vs Safaricom Plc	Information and Communication	The complainant applied and paid for Fixed Data Internet service in January 2019, after Safaricom Plc. conducted a survey of his premises. He alleged that Safaricom Plc. claimed they could not provide the service to his business and refused to refund him the 5,750 paid for that service despite numerous reminders over the course of 1 year.	Section 56 (1), (2) (a) (d) & (e)	The case was closed after the complainant failed to respond to the Authority's several requests to provide evidence of payment.
65.	Charity Cheruto Kipkorir vs Kenya Commercial Bank	Financial and insurance services	The complainant alleged that she was deducted Ksh. 29,000.00 from her account by the bank, the deduction allegedly being partial recovery for a certain transaction yet she did not have any debt with the bank.	Section 56(1)	Upon the Authority's intervention, the complainant was refunded her money by the bank, and case was closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
66.	Tom Amadi vs Fadhili	Financial and insurance activities	The complainant alleged that he took a mobile loan from Fadhili Mobile on 20th September 2019 which was repayable in 4 months and the first payment due on 27th September 2019. He however, received threats from Fadhili a few hours after taking the loan that his loan was in default and that his name would be negatively listed with CRB. He further alleged that Fadhili were not reachable and was therefore forced to repay the loan in order to avoid further harassment.	Section 56	The case was closed after the complainant failed to submit evidence despite several reminders
67.	Alberto Estrada vs Kenya Airways	Transportation Services	The complainant together with two other persons purchased tickets to fly by KQ to three destinations on different dates. KQ unilaterally cancelled the first scheduled flight and postponed the second one hence the complainants were not able to use the tickets. KQ refunded the full amount paid for the tickets but the complainants were claiming damages up to a tune of USD 15,585.00 for costs associated with accommodation.	Sections 55 & 56	After review of the matter, the Authority noted that the complainant had been fully refunded by Kenya Airways, and he was seeking compensation for other costs. The complainant was referred to the Kenya Civil Aviation Authority (KCAA). The matter was closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
68.	Ezekiel Oriedo vs StarTimes Kenya	Communications	The complainant accused Startimes of running misleading advertisements in the form of promotional text messages. He alleged that he was promised a one month free service upon renewal of his subscription. After renewing, he claims to have not benefited from the offer.	Section 55(a)(v)	Further investigations revealed that Startimes did not engage in any conduct that was in violation of the Act. The matter was closed.
69.	Catherine Gitahi vs Mibisco Ltd	Manufacturing	The complainant bought cakes that had a cockroach baked with it. She raised a complaint with the seller who referred her to the manufacturer but no redress was given.	Sections 55(a)(i), 56 (1) and 59(1)	The Authority in its investigation requested for further information in order to proceed with the investigation. However, the complainant failed to provide sufficient evidence. The matter was closed.
70.	Patrick Kariuki vs Jumia	E-Commerce	The complainant alleged that he placed an order for a finger print and card issuance machine with Jumia but they delivered a faulty device. Jumia agreed to give a replacement within a month but later informed the complainant to wait for the arrival of a new version of the device which the complainant claims was not going to meet his needs. When he asked for a refund, he was informed that he could only be issued with a credit note for the refund.	Sections 55(a)(i)(v), 56(i), 63 and 64	After the Authority's intervention, the complainant confirmed that he was refunded his money amounting to Ksh 13,999 and the matter closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
71.	Davies and Davies vs Westgate	Retail	The complainant alleged that he bought a dress for his wife but the dress was not in good shape and of the wrong size. The accused refused to accept the dress back when he returned it to be exchanged.	Section 55 (a)(v) and 56 (b)(v)	The complainant was requested to provide further information necessary to proceed with investigations. However, since he failed to provide the information, the Authority proceeded to close the matter.
72.	Geoffrey Wainaina vs Get Bucks Kenya	Financial and insurance activities	The complainant alleged he took a loan at Get Bucks Kenya. He alleges that the loan amount was increasing rather than reducing.	Section 56(2)(c)(d)(e) (3) and (4)	The Authority sent a Notice of Investigations to Get Bucks Kenya requiring the company to respond to the allegations. However, Get Bucks wrote to the Authority indicating they had met with the complainant and agreed to resolve the matter amicably. Get Bucks also opted to settle the matter under section 38 of the Act. They were penalized Ksh. 19,800 representing 10% of the loan amount, as well as resolving the matter with the complainant. The Authority sensitized Get Bucks on the provisions of the Act, and the matter was closed.
73.	Sammy Muriuki vs Platinum Credit Kenya Limited.	Financial and Insurance activities	The complainant alleged that the loan interest charged was not the same as the one he was informed at the point of loan application. He alleged that the charges were inflated after repossession of the vehicle and imposition of bank charges.	Section 56 (1), (2) (a), (c) (d) (e) (3) and (4).	After investigations by the Authority, it was established that the complainant was aware of the terms and conditions of the loan, including the charges. The Authority established that there was no violation to the provisions of the Act. The matter was closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
74.	Abraham Marangu Vs Harambee Sacco	Financial and insurance activities	The complainant took a loan in 2011, and the SACCO revised the monthly instalment without his knowledge.	Section 56 (1), (2) (a), (d) (3) and (4)	Investigations indicated that the complainant had not paid off some loans he had with other facilities, thus jeopardizing repayments at Harambee Sacco. It was established that the Sacco had not violated any of the provisions of the Act, and the matter was thus closed.
75.	Kennedy & Gloria Manyonyi vs Stanbic Bank.	Financial and insurance activities	The complainant alleged that he got a mortgage facility of Ksh.12,000,000.00 in 2008 from Stanbic Bank to purchase a maisonette. The loan was to be repaid over a period of 20 years. However, some key terms & conditions had been changed by the bank without prior notification to him.	Sections 55(b)(i), 56 (1), (2)(a) (b)(d), (3)	The Authority held a meeting with the complainant and advised that the Authority cannot investigate the matter since the matter is before a court of law. The matter was closed.
76.	Issac Odera vs KSM	Wholesale and retail trade; repair of motor vehicle and motorcycles	The complainant bought a 32-inch TV set, after three days the TV volume stopped working. He sought for assistance from the seller but he was not assisted. He wanted the Authority to assist him get a replacement or refund from the seller.	Sections 55 (a) (i) b(v), 56(1), 56(2) (a) (e) 59(1) (a), 63 & 64	After intervention by the Authority, the complainant indicated that his TV had been repaired by the accused party.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
77.	Jeffrey Cherogony vs Faulu Microfinance Bank	Banking Sector	The complainant bought a vehicle on hire purchase agreement from Faulu Microfinance Bank on 3rd October, 2016. He was advanced Ksh. 1,260,000.00 at an interest rate of 14% fixed rate repayable within 36 months with monthly instalment of Ksh. 50,157.00. The vehicle was later repossessed due to non-payments.	Section 56 (1), (2) (a), (d) (3) and (4).	The complainant was requested for information necessary to proceed with the investigations, however, despite several reminders, he did not submit the information. The Authority therefore closed the matter.
78.	Christopher Juma vs Tahmeed Coach	Transport Sector	The complainant was to travel from Voi to Nairobi. He booked online and he received a message confirming booking and payment. On arriving at the office he was informed he cannot travel that day until 2 days later, or the only way he could travel is if he pays an additional Ksh.300.	Section 56 (1) (2) (a) (b) (d) and (e) of the Act	After investigations into the matter, it was established that the complainant had presented himself earlier than the day he was supposed to travel. The matter was closed as the accused had not violated the Act.
79.	Gideon Tarus vs Safaricom Plc.	Telecommunication Sector,	The complainant alleged that Safaricom deactivated his Mpesa accounts and blocked him from registering any new Safaricom line using his ID.	Section 56	Investigations established that the matter was fraud related and therefore Safaricom Plc is liaising with the DCI. The matter was therefore closed.
80.	Mostafa Nabawy vs Bata Kenya	**Retail Sector**	The complainant purchased a pair of shoes from Bata in Westside Mall, Nakuru for his mother but they were big in size. When he returned them they declined to accept them or refund him.	Section 56(1)(2)(a)	The complainant was refunded the money after intervention by the Authority. The matter was closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
81.	Daniel Wainaina Ngunyi vs Direct Line Insurance	**Insurance**	The complainant claimed that he acquired a six months third party policy for his vehicle at a cost of Kshs 50, 000 from Directline Assurance but later discovered that it was for only three weeks.	Sections 55(a)(ii)(v) and 56 (1), (2) (a)(b) (c)(d) (e), (3) and (4)	Investigations established that the complainant had been advised to pay for an annual policy by Directline Assurance. The complainant later informed the Authority that he had decided to follow the advice and requested that the matter be closed.
82.	Andrew Kamande Vs Metropol Credit Reference Bureau	**Finance Services**	The complainant alleged that Metropol Credit Reference Bureau is misleading consumers through its advertisements on both the website and print media that they offer free credit report once per year.	Sections 55 (b)(i) and 56 (1) (2) (a) (d) (e), (3) and (4).	Investigations established that the free credit report is offered once a year. Additionally, customers can use various options to access the free credit report. The complainant had used an option to receive the report through the mobile phone, which would have necessitated him to be charged. The complainant was informed of the options, and indicated that he wanted the matter closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
83.	CAK vs Royal Mabati Factory Ltd (RMFL)	Wholesale and retail trade; repair of motor vehicle and motorcycles	Complaints from difference consumers were by the Authority. The complaints ranged from allegations that RMFL failed to deliver purchased roofing products despite indicating that they will be delivered within the time period they had indicated; consumers paying for delivery services despite RMFL advertising that they offer free delivery countrywide; and consumer being forced to change their orders after paying for their preferred products due to shortages despite RMFL confirming the availability of the consumer's preferred order prior to payment.	Section 55(a) (ii) and (b) (v) and Section 56.	After investigations, the Authority made a determination penalizing Royal Mabati Factory Ltd. RMFL appealed against this decision at the Competition Tribunal and the High Court.
84.	Jane Wambui Kingangi vs Medimart Health Care	Human Health and Social work activities	The complainant alleged that she purchased seven (7) packets of masks at a cost of Ksh. 5,000 each from the accused, retail price of each packet is normally less than Ksh. 1,000. She feels exploited by the conduct of the accused, who had taken advantage of Corona Virus to exploit her. She wants a refund of not less than Ksh. 28,000.	Sections 55 (b) (i) and 56(1) and (2) (e)	Despite several reminders, the complainant failed to provide information necessary to proceed with the matter. The case was closed.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
85.	Epher Nashimiyu vs Jumia Kenya	Wholesale and retail trade; repair of motor vehicle and motorcycles	Complainant purchased several items from Jumia Kenya worth Ksh. 80,070 but they were never delivered yet he had already paid.	Section 56(1)(2)(a)	After intervention by the Authority, the complainant was refunded his money, and the matter was therefore closed.
86.	Chris Godman vs Kenya Airways	Transportation and storage	The complainant alleged that Kenya Airways oversold his flight from Kigali to Nairobi despite him arriving at the airport on time. He was forced to board another Kenya Airways flight from Kigali to Nairobi but he missed his connecting flight from Nairobi to London on British Airways. He was advised to pay for the Kenya Airways flight from Nairobi to London then later seek for refund. He paid £3,211.20 to Kenya Airways for a ticket and continued with his journey. He was never refunded despite several follow ups.	Sections 55 (b) (v) and 56(1) (2) (a) and (d).	The Authority made a determination in this matter and directed that Kenya Airways refund the cost of the ticket to the complainant.
Key Ongoing Cases					
87.	Hesiron Mugwaneza vs Discount Capital Ltd (DCL)	Financial and Insurance service activities	The complainant alleged that DCL failed to return the log book of a vehicle for a loan which had been secured despite Faulu Microfinance Bank taking over the loan. He indicated that he did not owe DCL any amount of money.	Sections 55(a)(ii) and 56(1), (2)(a)(b)(c) (d) of the Act.	The investigations are ongoing.

No.	Case	Sector	Case Summary	Relevant Section Of The Act	Case Status
88.	CAK vs Banks on unconscionable terms and conditions in contracts	Financial and insurance activities	The focus is on investigations to establish whether there are unconscionable aspects in mortgage contracts by Banks to their consumers.	Section 56 (1)(2) on unconscionable conduct	Investigations are ongoing.
89.	Charles Kimani vs Internet Service Providers	ICT sector	This is a sector wide investigation focusing on internet service providers.	Sections 55 (a) (v) and 56 (1) (2) (a)	Investigations are ongoing.
90.	Competition Authority of Kenya vs E-Commerce Companies	Wholesale and retail trade; repair of motor vehicle and motorcycles	This is a sector wide investigation focusing on online companies.	Section 56 (1) of the Act, Art. 46 of Constitution	Investigations are ongoing.

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