



September 28<sup>th</sup>, 2018.

**SPEECH GIVEN AT THE CAK'S 5<sup>TH</sup> ANNUAL SYMPOSIUM THEMED**  
**"THE ROLE OF COMPETITION LAW AND POLICY IN INCLUSIVE GROWTH &**  
**DEVELOPMENT"**

1. Good morning and a warm welcome to the Competition Authority of Kenya's 5th annual Symposium.
2. The World over, competition agencies are faced with one major challenge – regulating markets to ensure they are efficient and competitive while at the same time being seen to be pro-innovation, growth and development. It is on this basis that the Authority interacts with key stakeholders in order to inform its enforcement and policy development initiatives.
3. For instance, Kenya's telecommunication industry has for the past two years been dominated by heated discussions about the level of competition in this sector. One set of telecom firms has been calling for their collective rival to be declared dominant, claiming that its size and business practices is stifling their growth and profitability.
4. I am sure opinion about this matter, even in this room, is as varied as the number of guests we have here today.
5. Kenyans have also been debating about the cost of their electricity -- a key utility for households and critical input for the manufacturing sector – and offering diverse solutions to the problem. Some stakeholders argue that a single distributor regime breeds complacency. Today we have representatives from the energy sector with us to deliberate on these pertinent issues.
6. In regard to the ongoing debate on the recently-introduced VAT rates, we have experienced Associations announcing an increase in prices of their commodities and services, ostensibly to compensate for the new 8% charge on fuel. The Authority would like to remind them that this kind of collaborative behavior extinguishes the fundamental tenant of competition process – independence in pricing. It is illegal. They should cease and desist.
7. It is against this background that the Authority is holding this year's Symposium.



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8. Under the theme “The role of competition law and policy in inclusive growth and development”, the Authority is seeking to spur and participate in a debate on topical issues that directly impact our economy.
9. Ladies and gentlemen, one trap that competition agencies the world over should avoid falling into is underestimating the impact their policies and decisions have on their respective economies.
10. For instance, regulators who may be quick to impose regulatory regimes void of stakeholders involvement will definitely curtail innovation and impede growth of entire sectors to the detriment of consumers – the ultimate beneficiaries of competition.
11. The Authority is aware of its central position in the economic landscape and, therefore, every year since 2014, we hold symposia such as this one as part of wider advocacy efforts to engage with our stakeholders.
12. Our objective is to share knowledge and competition analysis reasoning considerations upon which we based our decisions and receive feedback from our stakeholders, some of which informs policy directives.
13. Allow me to share some positive outcomes from last year’s Symposium. Some of the topics canvassed at the 2017 event were multijurisdictional enforcement and competition enforcement of disruptive technologies.
14. The Authority is happy to note that, in collaboration with the COMESA Competition Commission, we have introduced new merger thresholds and reduced filing fees. The zero thresholds regime, which unjustifiably forced undertakings with no turnover to notify the two regulators of planned mergers, has also been repealed.
15. These interventions have eased regional commerce and generated benefits for businesses, especially Small Medium Enterprises, by reducing the duration and cost of transactions as well as boosted operational efficiencies.
16. Kenya’s taxi business has in recent years been upended by the entry of e-hailing cab services. This has led to tension between owners of these platforms as well as the owners and drivers of the vehicles.
17. As I mentioned earlier, competition agencies like ourselves must always be seen to be pro-competition, pro-innovation and focused on protecting the competition process rather than the competitors.
18. Over the past year since, the Authority has engaged with different stakeholders in this critical sector in a bid to thrash out some of the unresolved issues all the while being careful to preserve competition to consumers’ benefit.
19. The challenges experienced in our retail sector was likewise the subject of debate during the last Symposium. The Authority, with the support of the National Treasury and other relevant Government agencies, has revised its organizational structure to create a fully-functional department to deal with abuse of Buyer Power. The department will be

populated during this Financial Year. We encourage the top-notch lawyers and economists present here today to apply when we advertise for these positions.

20. Ladies and gentlemen, the Government's Big 4 Transformative Agenda sets out ambitious but achievable goals touching on the manufacturing sector, universal healthcare, food production and affordable housing.
21. The Authority has a key role to play in each of these sectors and has instituted interventions to deepen competition. Allow me not go into the specifics since some of them are the subject of ongoing investigations.
22. Some of the gains realized so far is the drafting of several Rules and Guidelines which are meant to boost transparency, accountability and predictability for stakeholders interacting with the Authority.
23. These regulations, some of which will be operational in coming weeks, are expected to lower the cost of doing business in the country, enhancing efficiency in business transactions and thus attracting both local and international investments.
24. The Authority is also working with Parliament, the National Treasury and other key Government stakeholders, to review the regulatory framework of various professional services with the ultimate objective of creating more competition. This initiative intends to review, among others, the mode of pricing in the sector and minimum standards for joining Associations.
25. To improve competition in the transport sector, the Authority has initiated a regional study into the Shipping, Trucking and Haulage industry with the aim of identifying and remedying anti-competitive practices impeding national and intra-regional trade.
26. Further, the Authority is conducting a market study in the leasing sector in order develop a framework to support the growth of the industry. This intervention will especially benefit SMEs. We are therefore imploring our stakeholders to support these initiatives since competitive markets are beneficial to us all.
27. Ladies and gentlemen, allow me to leave it at that. Thank you all for gracing this Symposium. It is the Authority's hope that the deliberations will be as useful to you as we believe they will be to us.

**David Ong'olo**

**Chairman – Competition Authority of Kenya.**

