



PRESS RELEASE

THE COMPETITION AUTHORITY OF KENYA SALVAGES OVER 1,000 JOBS THROUGH ENFORCEMENT OF ABUSE OF BUYER POWER PROVISIONS IN THE INSURANCE INDUSTRY

FOR IMMEDIATE RELEASE

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The Competition Authority of Kenya (the Authority) is a State Corporation established by Section 7 of the Competition Act No. 12 of 2010. The Authority is mandated to enforce the Act with the objective of enhancing the welfare of the people of Kenya by, among other key issues, controlling Abuse of Buyer Power (ABP).

Conclusion of investigations by the Authority into ABP incidences against **(20) Motor Vehicle Repairer and five (5) Motor Vehicle Assessors** from across the country has **salvaged the livelihoods of approximately 1,000 Kenyans** and enabled this key sub-sector remain competitive during the COVID-19 pandemic period.

The investigations targeted **eighteen (18) major insurance companies** that unjustifiably reneged on honoring payments to these SMEs businesses, in some instances for services rendered and completed five (5) years ago. These overdue invoices forced the SMEs to take up expensive loans, downsize, or increase the cost of their services in order meet their business overheads, including paying salaries. Others were forced to shut down.

Further, the Authority's intervention has occasioned the **release of over Ksh. 38 Million to these businesses**, ensuring their sustainability and job opportunities.

"Large business undertakings sometimes fail to honor agreement terms with their suppliers, who are often SMEs, under the misguided belief that the suppliers do not have legal recourse," said Ms. Priscilla Njako, Manager, Buyer Power Department.

"Such actions place thousands of livelihoods at risk since their sources of income come under unbearable and unjustifiable financial strain. Big businesses are therefore reminded of their obligation to abide by the Competition Act and honor their supply agreements."



In addition to the interventions in the insurance industry, the Authority has, **since July 2021, secured the release of Ksh. 5 Million** in overdue payments to SMEs in the telecommunications and agro-processing sectors.

The Competition Act provides a non-exhaustive list of conduct which manifests ABP in the marketplace. These include delayed payments by a buyer, unilateral termination (or threat of termination) of a commercial agreement, and a buyer's refusal to receive or return goods without justifiable reasons in breach of contractual terms. ABP also manifests when buyers transfer costs (such as marketing expenses) or risks to suppliers, demand preferential terms that are unfavorable to suppliers or direct suppliers to limit products sold to competitors.

Mr. Harrison Ikunda, the Chief Executive Officer of Kenya Motor Repairers Association (KEMRA), noted that payment delays have drained relationships between its members and their landlords, staff and suppliers, among others.

"We approached the Authority when our members complained about payment delays by different insurance companies. The funds released to us has facilitated the survival and growth of our businesses," said Mr. Ikunda.

The Authority advises businesses to enhance their **record-keeping practices** in order to facilitate easy retrieval of evidentiary information.

Further, suppliers and buyers should cultivate a culture of conducting business while referencing **written contracts** in order to minimize conflicts. To facilitate this, the Authority has developed **Model contracts** for use by contracting parties in the insurance and retail sectors. The customizable Model contracts are accessible via the link <https://www.cak.go.ke/buyer-power/>

Under the Model contracts, which were developed by the Authority pursuant to the Competition Act, it is now **mandatory for contracts between buyer and supplier undertakings to contain, as a minimum, provisions including terms of payment, conditions for termination and variation, and dispute resolution mechanisms.**

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For more information, contact:

Mugambi Mutegi

Manager - Communications and External Relations, Competition Authority of Kenya

P.O. Box 36265-00200 - Nairobi, Kenya

Direct Line: - +254-202-779107

E-mail: mmutegi@cak.go.ke

Twitter: @CAK_Kenya E-Filing Portal: <https://competition.cak.go.ke:444/>

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