COMPETITION AUTHORITY OF KENYA
Creating efficient markets for consumers

USHINDANI

Ushindani *(Swahili for 'Competition')* is a biannual newsletter produced by the Competition Authority of Kenya

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DIRECTOR GENERAL'S FOREWORD

The last one year has been a defining period for the Authority one in which we chose to hold ourselves up to the light rather than wait for others to do so.

Our recent Peer Review by the Organisation for Economic Co-operation and Development (OECD) was, in many ways, an act of institutional maturity.

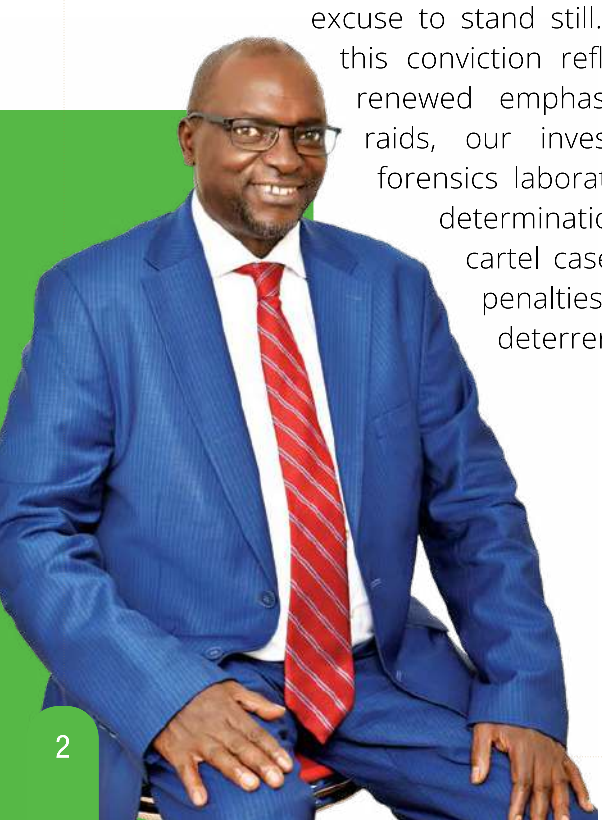
Kenya was among the first countries in Africa to adopt competition legislation, and I am proud of the foundation we have built since the Authority became operational in 2011.

The review affirmed the strength of our legal framework and the professionalism of our staff, while being direct about where we fall short: our budget and staffing remain below regional benchmarks while our enforcement activity has not always matched the ambition of our mandate.

I want to be equally direct in response. We accept these findings not as criticism to be managed, but as a roadmap to be followed.

Resourcing constraints are real, and I have made the case to the National Treasury for the support the Authority needs to do its work at the scale Kenyans deserve. And the feedback from our parent ministry is encouraging.

But we will not use resourcing as an excuse to stand still. You will see this conviction reflected in our renewed emphasis on dawn raids, our investment in a forensics laboratory, and our determination to close cartel cases with stiffer penalties that are deterrent enough.



I am also conscious that the nature of competition harm is changing faster than many regulatory frameworks can keep pace with. Digital platforms operate by different rules than the markets our founding legislation was written for, and artificial intelligence is now capable of facilitating forms of collusion and consumer manipulation with minimal paper trail that investigators have traditionally relied upon.

This is not a distant, theoretical concern. It is already shaping how prices are set and how consumers are nudged into decisions they might not otherwise make. Meeting this challenge will require us to think differently about what a "market" is and how we detect harm within it, and I am glad this edition gives real space to that conversation.

None of this work happens in isolation. Our obligations now extend across COMESA and the East African Community, our consumer protection mandate increasingly intersects with that of other regulators, and the businesses we oversee operate in a region that is, happily, integrating faster than ever. Coordination, not competition between institutions, will define whether this integration serves Kenyans well.

I am also reminded, often, that our work is ultimately about people, not just markets. Our teams' response to communities affected by the Chesongoch landslide in November 2025 was a demonstration of something I truly believe in: that institutions built to create fairness in one sphere have a responsibility to extend that spirit wherever they can.

I hope this edition leaves you with a clear sense of where we stand, and where we intend to go. «

Mr. David Kemei

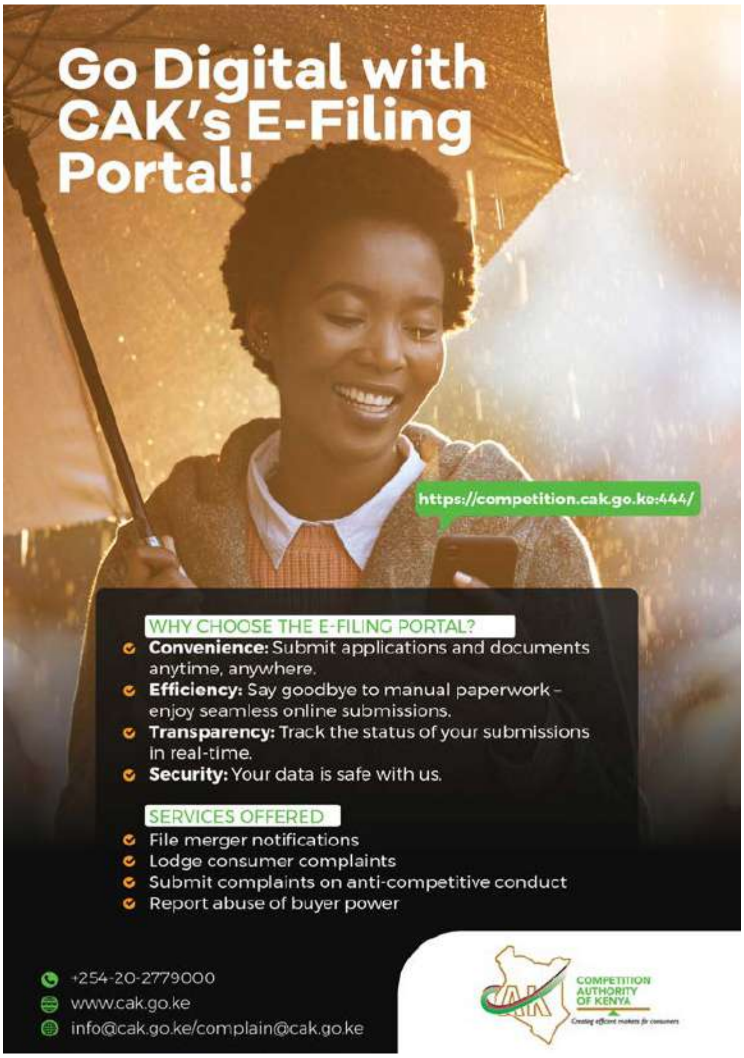
EDITOR'S NOTE

Dear Readers,

Welcome to Issue No. 12 of Ushindani.

This issue opens with a significant milestone for the Authority: Kenya's competition enforcement framework was submitted for review by the Organisation for Economic Co-operation and Development (OECD), a mark of the country's commitment to a modern, internationally-recognized competition regime.

We bring you the Director-General's reflections on the review's findings, both the strengths recognized and the areas flagged for improvement, alongside a full breakdown of the OECD's report.



Enforcement remains at the heart of our mandate. We take you inside a dawn raid to explain why the Authority conducts surprise inspections, and we report on the conclusion of our investigation into Guaranty Trust Bank Kenya Limited (GT Bank), which was fined for contravening the Competition Act.

On the consumer front, we highlight the ongoing development of a Financial Consumer Protection Framework, a multi-regulator initiative designed to harmonize protections across Kenya's financial services sector as digital finance continues to expand.

This edition also looks outward and forward. Our regional affairs feature unpacks the evolving COMESA and EAC merger control landscape and what it means for businesses operating across borders.

Beyond enforcement and policy, we are proud to share how the Authority has extended support to communities recovering from the Chesongoch landslide in Elgeyo-Marakwet County, part of our broader commitment to being socially responsible entity.

As always, we close with a refresher on the law itself under "Know Your Act," this time examining Section 21 on restrictive trade practices, and a brain teaser to test your wit.

We hope this edition informs and engages you as much as it did us in putting it together. As always, your feedback shapes future issues. Your feedback is welcome through *editorial@cak.go.ke*

Mugambi Mutegi

Editor, Communications Manager-CAK

Ushindani (Swahili for 'Competition') is a biannual Newsletter of the Competition Authority of Kenya.

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Background: Why Peer Review was Conducted

- Kenya's competition enforcement framework was submitted for review by the Organisation for Economic Co-operation and Development (OECD) as a mark of the country's commitment to implementing a modern, effective and internationally recognized competition regime.
- Peer reviews are founded upon the voluntary willingness of a country to open its enforcement practices and policies to scrutiny by members of the international competition community.
- By taking this step, Kenya demonstrated its confidence in the CAK and its dedication to benchmarking national practice against global standards, with a view to continuous improvement.
- The review provided an external, evidence-based assessment of where Kenya's framework is performing well and where targeted improvements can deliver the greatest impact. Strong and effective national competition agencies promote and protect competition throughout the economy, increasing productivity and overall economic performance.
- The process involved self-assessment through a comprehensive questionnaire, followed by an assessment by our stakeholders, in June 2025. The stakeholders were drawn from government bodies, sector regulators, the judiciary, the private sector, academia and civil society.
- This internal and external assessment was analyzed and presented in a detailed report. The report was further interrogated by three competition practitioners, from Brazil, South Africa and the European Commission during the Global Forum on Competition in December 2025.
- The final report was launched in February 2026, providing recommendations that are intended as a practical roadmap to assist Kenya in building upon the foundation already laid, while addressing areas where greater enforcement capacity, transparency and institutional resilience are needed. ■

Mr. David Kemei, Director-General, Competitition Authority of Kenya.

The Editorial Team recently sat down with the DG to unpack the OECD Peer Review, what it set out to assess, where Kenya's competition regime held up well, and where the review flagged room to grow. In this candid conversation, the DG shares his take on the findings, what they mean for how the Authority enforces competition law going forward.

Q1. Why was this OECD peer review process significant?

This peer review is a significant milestone for us, and frankly, a mark of where Kenya stands in the international competition community. It's worth remembering that Kenya was among the very first countries in Africa to adopt competition legislation at all.

The review process recognized that history and the progress that's come with it: the establishment of the CAK in 2011 with a genuinely comprehensive mandate, and the interventions we've made across various sectors since. And alongside that recognition, the reviewers also gave us recommendations on areas we can look at for further improvement.

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Submitting ourselves voluntarily to this kind of external scrutiny by our peers is not a small thing. It demonstrates maturity, transparency and accountability. And it demonstrates that we're genuinely committed to continual improvement. This review will sharpen our processes, our work, and feed directly into our future strategic plans. ■

Q2. What are the main positive findings in the report?

The review affirms several core strengths of our competition regime. Reviewers noted that the Competition Act's cross-sectoral application reflects legislative comprehensiveness, and that the Act itself has matured over time, amended repeatedly to accommodate lessons from enforcement experience.

On merger control, the regime was described as well-established, with clear notification thresholds and effective coordination with sector regulators. Our sanctioning and investigative powers were similarly characterized as robust, backed by guidelines that are publicly accessible. This is a marker of our transparency.

Beyond the legislative architecture, they highlighted Kenya's the Constitution of Kenya's consumer rights provisions give our law an added layer of protection. Our awareness-creation and advocacy work was also recognized as effective, and reviewers specifically urged CAK to lean more deliberately on high-profile cases as an advocacy tool going forward.

On the people side, our staff were recognized as experienced, diligent, and professional, and specifically praised for their responsiveness to consumer complaints. That said, the review is candid that enforcement practice continues to evolve, and it flags an ongoing need for capacity building and expanded staff numbers to keep pace.

Taken together, the picture is one of a credible, maturing regime with strong institutional foundations and a clear, actionable path for strengthening it further. ■

Q3. The report indicates that enforcement activity has been low. How do you respond to that?

We accept this is an area for improvement, but it's one that needs to be interrogated contextually, particularly against two factors: the number of personnel available to the Authority, and the time it typically takes to close a single cartel case.

> *The review provided an external, evidence-based assessment of where Kenya's framework is performing well and where targeted improvements can deliver the greatest impact. Strong and effective national competition agencies promote and protect competition throughout the economy, increasing productivity and overall economic performance.*

Let me put this in perspective. Take the Competition and Markets Authority (CMA) in the UK. In FY 2025, the CMA employed around 1,130 people to serve a population of roughly 68 million.

That translates to about one staff member for every 60,000 people, with a budget of over KES 20 billion. The CAK, by comparison, has 75 staff serving a population of similar size, on a budget of approximately KES 700 million. That disparity matters.

Regarding timelines, the CAK takes an average of three years to close a cartel case which is well within the range seen at other well-established competition agencies globally. We are not an outlier problem. And our recent investment of KES 45 million in a forensic lab should help bring that turnaround time down further.

That said, we are not using resourcing as an excuse to stand still. Our legal framework has been lauded as robust, and the real task now is translating that framework into more visible enforcement activity and stronger deterrence, including scaling up dawn raids in the key sectors of the economy where action will benefit the majority of Kenyans.

We are also exploring a review of our penalty and settlement procedures, drawing on the useful recommendations coming out of the OECD. We have invested heavily in advocacy, which is the carrot, if I can call it that. I think the time is right to lean more into the stick. ■

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Q4. Are you concerned that relying heavily on settlements without admissions of wrongdoing undermines the Authority's credibility?

The report raises a legitimate issue worth reflecting on. Settlements are a resource-efficient, proportionate tool, but only when underpinned by clear rules, meaningful penalties, and genuine acknowledgement of liability.

Remember, the CAK's main goal is returning the market to a competitive and efficient model as quickly as possible. We do not exist primarily to collect penalties. So, there is a balance to strike. Where an entity acknowledges fault, a settlement is often the most appropriate way to close the matter amicably.

That said, we are reviewing our Consolidated Administrative Remedies and Settlement Guidelines to make settlement discounts more transparent, without undermining deterrence. We shall also improve the depth of information shared publicly when decisions are made so as to improve understanding of how competition law is applied in Kenya.

Ultimately, this is a fine balance to strike. Being transparent with the public while still honoring our non-disclosure commitments to stakeholders involved in these processes. ■

Q5. Building on this, the report flags concerns about the CAK's budget and staffing. What steps are being taken to address this?

Adequate resourcing is critical to CAK discharging its mandate effectively, and we are candid about the fact that our budget and staffing levels remain below both international and regional benchmarks.

We have actively engaged the National Treasury to make the case for increased financial and human resource support, while remaining cognizant of the limited fiscal room the country is currently operating within.

The report's recommendation that our funding should not be adjusted based on fines and penalties is an important principle, and we support it fully. This matters especially because penalization doesn't equate to collection.

The CAK could penalize a firm KES 1 billion today, and only realize that revenue three years later, once the judicial review process concludes. If the appeal doesn't end in our favor, we don't receive the penalty at all.

We also recognize the need for dedicated operational structures for competition enforcement, distinct from our consumer protection functions, so that enforcement gets the focused attention it requires. There are ongoing discussions on this front, including with the Public Service Commission, and we are hopeful these will improve the situation in the medium term. ■

Q6. The report raises questions about political independence — specifically around the appointment and dismissal of Board members. Is the CAK truly independent?

The CAK's independence is guaranteed in law, and we are committed to protecting it in practice. The report's observations about the absence of explicit eligibility criteria for Board appointments as well as the lack of formal dismissal rules, are structural issues. These are best addressed through legislative reform, if legislators deem it necessary.

That said, the current model has not translated into any actual interference in practice. The Authority's Board, Management and staff have consistently conducted themselves with the utmost professionalism. We remain fully supportive of any governance improvements that would strengthen our institutional credibility and insulate our mandate execution from any perception of political influence. ■

Q7. The report notes that the CAK has never prohibited a merger. Should the public be concerned that mergers are not being scrutinized rigorously enough?

Merger control in Kenya is well established. The absence of outright prohibitions does not mean mergers are not scrutinized in detail. In fact, that is the global norm. Most competition agencies worldwide approve the majority of mergers without conditions. Outright prohibition is reserved for that small subset of deals where competition concerns simply can't be remedied structurally or behaviorally.

In a number of cases, we have approved mergers subject to conditions, including blocking a full buyout, securing SME contracts post-transaction, safeguarding jobs, among others.

We accept the recommendation that our substantive analysis should give greater weight to competition effects alongside public interest considerations, and that structural remedies should be prioritized where possible.

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Rashmi Pillai, Chief Executive Officer, FSD Kenya, during the OECD Peer Review Report launch in February 2026.

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We are exploring revisions to our merger guidelines for clearer, more robust analysis, enhancing our economic analysis capacity as recommended, and publishing our determinations more comprehensively. ■

Q8. How effective have the CAK's market studies been, and what improvements are planned?

We have conducted a number of impactful inquiries and studies across important sectors such as USSD, banking, animal feeds, among others. That said, the impact of these market studies is sometimes constrained by challenges in gathering information, particularly where stakeholders conflate the research process with an active investigation and become guarded as a result.

We also face personnel constraints, which limits how many impactful interventions we can run simultaneously. Going forward, we are committed to refocusing our limited resources on high-impact markets, and engaging more closely with policymakers to ensure that market study findings better translate into concrete enforcement, advocacy, or policy outcomes. ■

Q9. What are your overall priorities in responding to the peer review recommendations, and what should Kenyans expect to see?

As noted earlier, the CAK welcomes the peer review report and its recommendations in the constructive spirit in which they were developed. Our priorities going forward are clear.

First, strengthening enforcement so that anti-competitive conduct is detected through more detailed screening criteria, investigated thoroughly, and sanctioned more effectively. Second, improving our transparency. And third, continuing to lobby for enhanced resourcing.

We shall also increase the frequency and visibility of our enforcement actions, improving early detection of anti-competitive conduct, conducting more dawn raids, and putting our newly established forensics laboratory to full use.

The CAK is equally committed to ensuring our decisions remain grounded in sound economic analysis, and to building a body of jurisprudence that guides businesses, promotes compliance, and grows a genuine competition culture in Kenya.

We are also exploring how to revitalize our leniency and whistleblower programmes through, for instance a secure encrypted submission platform that can drive uptake. And we intend to significantly deepen cooperation with the Public Procurement Regulatory Authority on bid-rigging detection, alongside deepening our engagement with international competition fora.

Kenyans should expect a more visible, credible, and active competition authority that delivers tangible benefits for consumers, businesses, and the whole economy. ■

TATHMINI YA WASHIRIKI WA OECD YA SHERIA NA SERA YA USHINDANI: KENYA 2025

MAANGAZIO • WWW.OECD.ORG/COMPETITION

Tathmini ya Washiriki wa OECD ilifanywa ili kukagua sheria na mfumo wa sera ya ushindani ya Kenya, kama ilivyotekelezwa na Mamlaka ya Ushindani ya Kenya (CAK). Inaangazia mafanikio muhimu, kutambua changamoto kuu zinazoweza kutokea na kutoa mapendekezo ya kusaidia Kenya kuimarisha mfumo na taasisi zake za ushindani. **Ripoti kamili inapatikana katika https://doi.org/10.1787/8725ce19-en**.

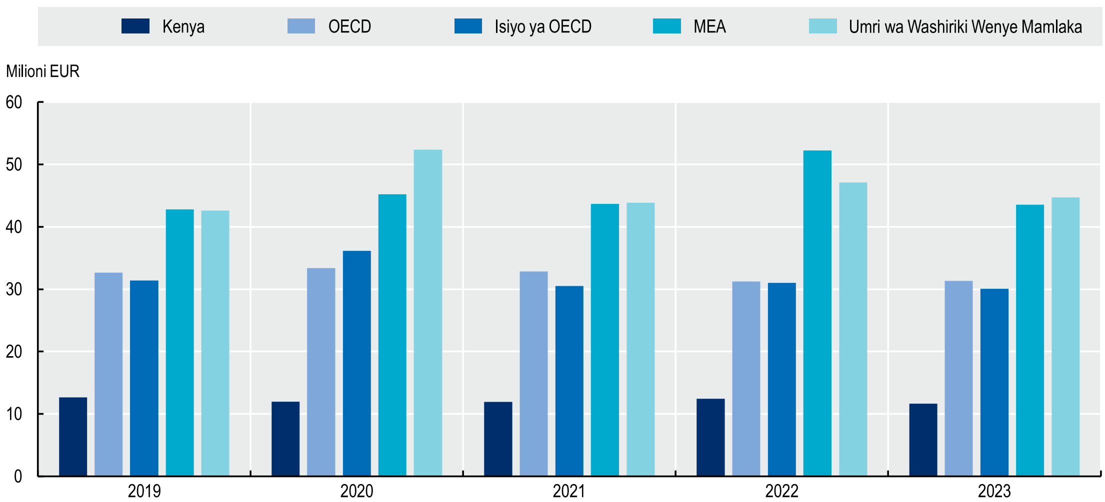
Mfumo wa kitaasisi na kisheria

Kenya ilikuwa miongoni mwa nchi za kwanza barani Afrika kupitisha sheria ya ushindani mwaka wa 1989. Mfumo wa sasa ulipitishwa mwaka wa 2010 na CAK ilianza kuutumia mwaka wa 2011. Sheria ya Ushindani ya Kenya ilianzisha utaratibu wa kisasa ambao misingi yake mikuu inaendana na kanuni bora za kimataifa, ikiipa CAK mamlaka kamili yanayohusu mikataba yenye vizuizi, matumizi mabaya ya nafasi ya kutawala soko, udhibiti wa muungano, utafiti wa soko, utetezi na ulinzi wa wateja. Sheria hiyo inatumika katika sekta zote za uchumi, ikiwemo mashirika ya umma yanayofanya biashara. CAK pia huhudumu kama mamlaka ya ulinzi wa wateja.

Ingawa mfumo wa kisheria ni imara, changamoto kadhaa za muundo na kitaasisi hupunguza ufanisi wake. Kimuundo wa kitaasisi, mipangilio ya utawala ya CAK inaweza kuacha maamuzi yake katika uwezekano wa kuathiriwa na ushawishi wa kisiasa. Wanabodi watatu kati ya tisa ni wawakilishi wa moja kwa moja wa serikali, na hakuna taratibu zilizo wazi au vigezo vya kustahiki miadi. Wakati wa mchakato wa tathmini ya washiriki, hakuna wanachama huru wa Bodi waliokuwa ofisini, wawakilishi walioteuliwa na serikali pekee ndio walikuwa. Vivyo hivyo, kutokuwepo kwa kanuni wazi na za msingi za kuondoa madarakani maafisa waandamizi pamoja na uteuzi wa vipindi tofauti kunapunguza utabirika na uhuru wa mamlaka.

Upungufu wa rasilimali huathiri zaidi utendaji kazi wa taasisi. Bajeti ya CAK inaendelea kuwa chini sana kulingana na viwango vya kimataifa na kikanda (Mchoro wa 1), na viwango vya wafanyakazi vilivyowekwa kwa ajili ya utekelezaji wa ushindani viko chini sana kuliko katika mamlaka zinazolingana. CAK pia haina Mtaalamu Mkuu wa Uchumi aliyejitolea au kitengo cha uchumi, na hivyo kudhoofisha uwezo wake wa kusaidia uchunguzi tata na kazi ya sera kwa uchambuzi mkali wa kiuchumi.

Mchoro wa 1: Bajeti (katika EUR 2015) kwa kila GDP milioni 1, 2019-2023



Chanzo: OECD CompStats, World Bank na CAK.

Unsettling digital lending and digital applications financing

By Dr. Adano Roba, Ph.D.,
Director Policy & Research
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&

Boniface Kamiti
Manager Consumer Protection,
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Kenya's Companies Act, 2015, was meant to be a clean break from the past, a sweeping overhaul of the legal and institutional architecture governing corporate and financial conduct in the country.

Yet when the law came into force, it quietly carried forward a fault line that has gone largely unexamined. Companies already incorporated under the repealed law were never required to re-register or align themselves with the new regime. What looked like regulatory convenience at the time created a structural loophole in law.

By exempting existing entities from re-incorporation, the Companies Act inadvertently created a two-tier system where non-deposit-taking (credit-only) institutions were never brought squarely into the new compliance framework to govern their operations and conduct in Kenya.

Nowhere is this regulatory lacuna more visible than in digital lending. A wave of foreign-owned platforms, many without a local office, has expanded financial access for millions of Kenyans but often at a steep cost to consumer welfare.

To drive this home, in 2021 the Competition Authority of Kenya received a complaint from a consumer who had borrowed KES 300,000 against their vehicle logbook from a credit-only digital lending firm.

The contracted loan tenure was 24 months, at an interest rate of 10%, which translates to 120% per annum as simple interest.

> *By exempting existing entities from re-incorporation, the Companies Act inadvertently created a two-tier system where non-deposit-taking (credit-only) institutions were never brought squarely into the new compliance framework to govern their operations and conduct in Kenya.*

The lender installed a tracker on the borrowers' vehicle and, before the disbursement of the funds, required the customer to meet the re-insurance cost and undisclosed fees and charges.

As a consequence, the borrower received KES 200,000 of the total loan amount of KES 300,000, and commenced loan repayment without default. Five months later, and upon requesting for their loan statement, the customer realized that the outstanding amount stood at KES 500,000. This loan amount was more than the total cost of the loan, being the principal amount plus interest and fees.

Efforts by the customer to resolve the issue with the lender bore no fruits. On the contrary, the borrower was slapped with an attachment notice against the vehicle, with a false claim that the loan was non-performing. The auction was fast-tracked, raising questions about the availability and integrity of the dispute resolution mechanisms.

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Photo/www.magnific.com

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This is not an isolated case. In the financial year to June 2023, we attended to 180 complaints against digital lenders and microfinance institutions. This number went up by 10 the next year and the trend continues.

A critical review of these issues points to a major impediment to achieving a well-functioning financial system in a rapidly evolving business environment. If not adequately addressed, it threatens to undermine this critical sector and erode the gains made in achievement of financial inclusion to the detriment of consumers' financial health.

Consumers often face misleading and false claims by business operators, luring them into buying products or services that do not match the marketed claim. Sometimes, for instance, the true cost of loans or the penalties for default are hidden at the time of onboarding, hoodwinking the consumer to make uninformed decisions. In the case example above, consumers face unconscionable conduct through arbitrary asset auctions and demands for payment far exceeding what was initially disclosed or reasonable, leaving them in both emotional and financial distress.

In 2018, the CAK undertook an investigation into the terms and conditions for loan contracts by micro-finance institutions. It established that the contracts contained misinformation and unconscionable clauses which infringed the rights of consumers, to information necessary to make informed decisions and choices, and hence obtain full benefits from goods and services.

This is not a privileged demand but a requirement under Article 46 of the Constitution of Kenya. To remedy the situation, the CAK directed the concerned microfinance institutions to revise or expunge the offending clauses. Investigations into more than 60 complaints against non-deposit-taking microfinance institutions further revealed that the majority related to hidden fees, predatory lending, and coercive loan-recovery practices. This places the Authority in a unique position to address the challenges consumers face in championing for good business practices.

> *Consumers often face misleading and false claims by business operators, luring them into buying products or services that do not match the marketed claim. Sometimes, for instance, the true cost of loans or the penalties for default are hidden at the time of onboarding, hoodwinking the consumer to make uninformed decisions.*

180 Complaints against digital lenders and microfinance institutions attended to by the Authority in FY22/23

One key concern in the digital lending space is the unsettling regulatory landscape within which these institutions operate. The proliferation of misleading digital lenders has been propelled by an ineffective legal, regulatory and supervisory framework for credit-only institutions. Consumers are paying the ultimate price.

Given the current lending landscape, regulating the practices of credit-only lending institutions, without stifling vibrant competition, should become a priority for coordinated approach among competition, data protection, and financial sector regulators.

Providing relevant, accessible and comprehensive information about financial products and services, consumer rights and obligations under the existing legislations, for achieving responsible borrowing practices, would deliver wider financial benefits to the society. Further, there is need to safeguard consumers against exploitative digital platform and forestall future borrowers from falling into the poverty trap occasioned by loan overcharges.

In seizing missed opportunities of protecting consumers in the financial services, awareness creation (education) efforts should be intensified. One such effort is the CAK's collaborative effort with the KICD to incorporate consumer education in junior school curriculum, ensuring that our children grow up to be informed consumers. Additionally, a more nuanced regulatory framework, that seeks compliance with ethical lending standards, while promoting healthy competition, could further fortify the achieved gains.

There is need for striking a balance between healthy competition and safeguarding consumer rights is a milestone regulators would desire to attain in delivering benefits of digital credit markets. This may somewhat be a moving target for redressing consumer complaints, as small and medium enterprises on e-commerce online application also face a bitter experience.

Going forward, as the financial sector evolves and digital lending expands, the regulators should effectively confront regulatory obstacles in the emerging digital markets. This far, a strong case exists for bringing digital lending and microfinance institutions under the purview of regulatory radar by prioritizing enforcement actions, aimed at reducing consumer harm, and enhancing consumer welfare in interconnected facets of the digital market ecosystems. «

Big Tech, Big Food, Fair Play: Inside CAK's Inaugural Research Conference

On 4th and 5th June 2026, the Competition Authority of Kenya (CAK) brought together over 200 researchers, policymakers, lawyers, economists, and industry experts in Nairobi for its inaugural Research Conference on Competition and Consumer Welfare. This is a new platform designed to turn evidence and best practices into better policy.

Three big themes anchored the conversation: digital markets and big data, navigating global trade challenges, and protecting consumers in the digital marketplace. Across two days of keynotes, panels, and breakout sessions, a several issues stood out as especially urgent for ordinary Kenyans.

Digital platforms and your data

Speakers warned that as more of our daily life moves online, companies that control data increasingly control the market itself. Big Tech's ability to quietly acquire promising local start-ups before they trigger merger review was flagged as a growing blind spot, alongside the challenge of keeping AI-driven decision-making fair and transparent.

Small businesses need protection

Delayed payments, unfair contract terms, and "buyer power" abuses by dominant firms continue to squeeze micro, small, and medium enterprises (MSMEs), which contribute roughly a third of Kenya's GDP. The Authority highlighted its enforcement of Abuse of Buyer Power provisions and a proposal to exempt smaller merger deals (under KES 500 million) from lengthy review, freeing up resources for bigger threats.

While opening the conference, Dr. Chris Kiptoo, PS, National Treasury, remarked that competition is not merely a regulatory concept but an economic policy instrument that directly shapes investment decisions, employment outcomes, cost of living, and the sustainability of public finances.

Food prices and market concentration

A session on agriculture showed how concentrated supply chains -- from poultry breeding stock to fertilizer imports -- can quietly inflate the cost of the food on your table. Speakers pointed to weak coordination between regulators across countries as a key reason such abuses go unchecked.

Cross-border cooperation

With trade increasingly regional through frameworks like AfCFTA and COMESA, discussions focused on how Kenya's regulators can share information and act jointly with counterparts elsewhere in Africa to stop cartels and dominant firms from exploiting fragmented national rules.

Fair play for workers

A notable discussion challenged the assumption that competition policy is only about prices. Panelists argued that restrictive "non-compete" clauses that trap workers and suppress wages deserve just as much regulatory attention.

Dr. Chris Kiptoo, Principal Secretary National Treasury, noted that the conference itself was a call to action for stronger policy enforcement, and reaffirmed the National Treasury's commitment to resourcing the Competition Authority and backing the Competition (Amendment) Bill, 2026.

CAK's Director-General Mr. David Kemei reflected on the institution's growth, pointing to over KES 8 billion invested by the Government over the past 15 years and three legislative amendments already enacted, with a fourth before Parliament. He thanked all stakeholders for their sustained support. «

Scan to Access Day 1 Highlights from the Research Conference

CAK Ranked 6th Nationally for Public Service Values

Institutions are built on values, not just mandates — and this year, the numbers prove it.

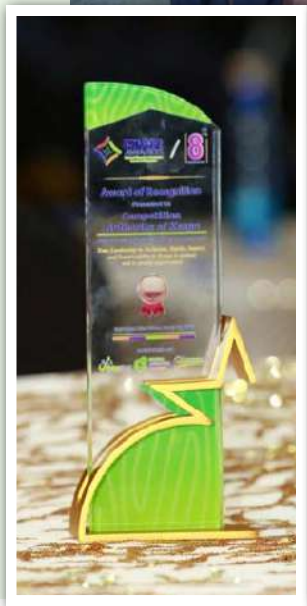
The Authority has been ranked the **6th best-performing public institution in Kenya** for adherence to national values and public service principles under the Constitution, according to the Public Service Commission's Financial Year 2024/2025 evaluation report, released this week.

The Authority scored an overall performance index of **74.42%** — up sharply from **67.19%** the previous financial year — placing it among the top performers out of **511 public institutions** assessed, including constitutional commissions, ministries, state corporations, public universities, and statutory bodies.

The PSC's evaluation weighed several parameters, including:

- Service delivery and performance management
- Good governance
- Transparency and accountability
- Professional ethics
- Equitable allocation of resources and opportunities
- Public participation in policymaking.

The Authority's Director-General, Mr. David Kemei, said the score a testament to an institution that "recognizes that delivering on its mandate the right way is just as important as delivering on it at all." He committed to implementing the PSC's recommendations, noting that embedding constitutional values into daily operations is key to strengthening institutional credibility and public trust. «



The Best performing institutions

The top 10 institutions in the 2024/2025 Values and Principles Compliance Evaluation were:

1. State Department for Lands and Physical Planning - 82.2%
2. Konza Technopolis Development Authority - 79.82%
3. Capital Markets Authority (CMA) - 78.63%
4. National Council for Persons with Disabilities (NCPWD) - 78.34%
5. Kibabii University - 75.84%
6. Competition Authority of Kenya - 74.42%
7. Ewaso Nyiro North Development Authority - 73.37%
8. Water Sector Trust Fund (WSTF) - 71.3%
9. Kenya National Bureau of Statistics (KNBS) - 70.85%
10. Rangwe Technical and Vocational College - 70.56%

The full report can be accessed on the Commission's website
www.publicservice.go.ke

CAK Honored at 2026 National Diversity and Inclusion Awards

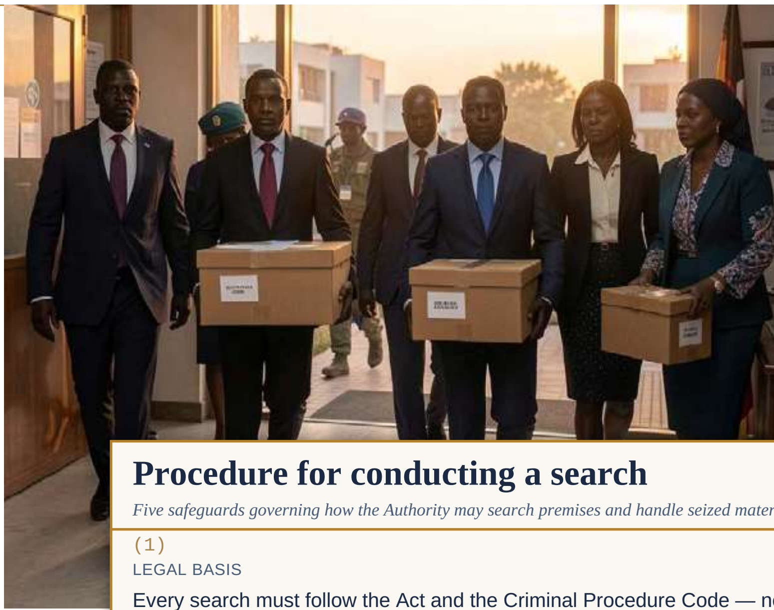
The Authority was recognized at the **8th National Diversity and Inclusion Awards & Recognition (DIAR) Awards**, held on 27th March 2026, for its contributions to building a more inclusive economy and society.

The Authority was celebrated on three fronts:

- **Advancing an inclusive economy** — through its enforcement of competition law and consumer protection
- **Fostering an inclusive workplace** — recognized for internal diversity and belonging practices
- **Inclusive service delivery** — commended for improving accessibility in how it serves the public

Organized by Daima Trust, the DIAR Awards is an annual initiative honoring organizations, institutions, and individuals championing Diversity, Equity, Inclusion, and Belonging (DEIB) in the workplace and in society. This year's gala in Nairobi recognized **100 organizations and 30 individual leaders** out of a highly competitive field for their contributions to DEIB. «

Inside a Dawn Raid: Why the Authority Conducts Surprise Inspections



Why does a competition regulator show up unannounced at a company's doorstep? The answer lies in the nature of the conduct it is trying to confirm.

Cartels do not keep public records of their price-fixing agreements or market-sharing deals. This evidence exists in emails, meeting notes, and internal communications that can be deleted or hidden the moment a company suspects it is being investigated. This is why the Competition Authority of Kenya (CAK) conducts dawn raids or unannounced searches to gather evidence.

The Authority draws this power from **Section 32 of the Competition Act,** which permits it to enter and search the premises of firms suspected of implementing anticompetitive agreements between competitors, commonly referred to as cartel conduct.

Dawn raids are utilized by competition regulators the world over to investigate suspected cartel conduct such as price fixing, restricting market output, market or consumer allocation, and bid rigging/collusive tendering.

The purpose of a dawn raid is simple: to gather evidence and information from businesses suspected of conspiring to raise prices, restrict output, or stifle innovation in the economy before that evidence can be altered, hidden, or destroyed.

Raids have proven to be one of the most effective investigative tools available to competition agencies, for three main reasons:

- **They provide direct, unfiltered evidence:** Because the visit is unannounced, investigators see records and communications as they exist in the ordinary course of business, not as a company chooses to present them after the fact.
- **They yield raw data for deeper analysis:** The evidence gathered enables the Authority build both direct and circumstantial evidence, strengthening cases against the firms involved.
- **They catch conspirators by surprise:** The element of surprise is what makes a dawn raid effective. It removes the opportunity for businesses to tamper with or dispose of evidence before investigators arrive.

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Procedure for conducting a search

Five safeguards governing how the Authority may search premises and handle seized material.

(1)
LEGAL BASIS
Every search must follow the Act and the Criminal Procedure Code — no separate, informal search process.

(2)
INVENTORY OF ITEMS REMOVED
Anything taken from the premises must be listed on a signed inventory, countersigned by the officer and the undertaking's representative or agent.

(3)
IF THE REPRESENTATIVE REFUSES TO SIGN
The refusal itself, and the reasons given, must be recorded on the inventory.

(4)
HANDLING SEIZED MATERIAL
The Authority may detain, retain, or return any seized item at its discretion — at any point during or after the investigation.

(5)
PERMITTED HOURS
Searches take place between sunrise and sunset — unless a search warrant specifically authorises another time.

Sunrise → sunset, default window

> *Dawn raids are utilized by competition regulators the world over to investigate suspected cartel conduct such as price fixing, restricting market output, market or consumer allocation, and bid rigging/collusive tendering.*

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Dawn raids are not new to the Authority. Since its inception, the CAK has conducted a series of raid exercises across different sectors of the Kenyan economy, including: paints, fertilizer, steel, mattresses.

Each of these exercises has contributed to the Authority's broader effort to detect and deter cartel conduct that raises prices for Kenyan consumers and distorts fair competition.

During a dawn raid, the Authority must operate within a clear set of rules designed to balance effective enforcement against the rights of the businesses being investigated.

For instance, only persons authorized in writing by the Authority may enter and inspect a business, and investigators are required to carry that authorization and identify themselves before beginning any search.

Once inside, they must inform whoever is, or reasonably appears to be, in charge of the premises of their intention to exercise their powers under the Act. The search itself must also stay within scope.

In the event that relevant evidence sits on a computer system, authorized officers may search that system directly, or ask someone on-site to assist them, and may remove devices or data for examination and safekeeping, always against a signed receipt. Anything taken from the premises must be recorded in a signed inventory.

Where necessary, the Authority may also call in the police to help execute a raid.

The Authority intends to continue using dawn raids as a key measure to deter unfair and misleading market conduct and to safeguard healthy competition among market players in Kenya.

For the full legal basis of the Authority's powers of entry and search, see Section 32 of the Competition Act and the Competition (General) Rules, 2019.

CAK Penalizes GT Bank for Unconscionable Conduct

Photo/Courtesy

The Authority initiated investigations against Guaranty Trust Bank Kenya Limited (GT Bank) where they were accused of engaging in practices amounting to misrepresentation of the standard, quality, and value of its services, applying default interest retrospectively without timely notification, recalling facilities unfairly and applying backdated fees and charges, delaying in communication on facility renewals, applying default interest retrospectively without prior notice or recall, and while charges are still accruing. They were found to be in contravention of provisions of the Act and GT Bank was fined KES 33,180,000.00, instructed to refund ASL Limited KES 13,211,285 and required to comply with the provisions of the Act and the Competition (General) Rules 2019.

KES **33,180,000**

Amount GT Bank was fined for the contravention of provisions of the Act.

KES **13,211,285**

Amount GT Bank was instructed to refund ASL Limited and to comply with the provisions of the Act and the Competition (General) Rules 2019.

Scan to Access the Determination

Development of Financial Consumer Protection Framework

The Authority's caravan during the commemoration of WCRD 2026 in Kakamega County.

Kenya has witnessed rapid development of financial services fueled by emerging innovations in the digital space, leading to increased financial inclusion. According to the FinAccess Report 2024, formal financial access increased from 83.7 percent in 2021 to 84.8 percent in 2024, largely driven by advancements in digital technology. The growing fintech ecosystem has transformed financial services sector by introducing diverse solutions that reduce costs and enhance consumer convenience across multiple sectors.

While these innovations have improved efficiency and accessibility, their integration with rapidly expanding digital financial services has also introduced novel and complex challenges. Consumers are exposed to fraudulent conduct, unlimited mining rights and misuse of personal data, predatory lending practices, lack of disclosure of terms and conditions including fees and charges, vicious cycle of borrowing and over-indebtedness leading to poor financial health, among others. Existing consumer protection frameworks are largely fragmented and sector-specific, limiting their effectiveness in addressing these emerging risks, vulnerabilities, and cross-cutting challenges.

The existing regulatory gap has contributed to inconsistent consumer safeguards and duplicative supervisory arrangements, undermining regulatory effectiveness. This has necessitated development of a comprehensive and harmonized consumer protection framework to address regulatory gaps, eliminate inconsistencies, and ensure comprehensive, consistent, and effective consumer protection across Kenya's financial services ecosystem.

In light of the foregoing, regulators that oversee financial services sector have developed a Financial Consumer Protection Framework (Framework) to address emerging risks and strengthen consumer protection. The initiative supported by Financial Sector Deepening (FSD) Kenya and the World Bank Group (WBG) through the National Treasury has been undertaken by multi institutional technical Working Group (TWG) comprising of Central Bank (CBK), Insurance Regulatory Authority (IRA), Sacco Societies Regulatory Authority (SASRA), Capital Markets Authority (CMA), Retirement Benefits Authority (RBA), Competition Authority of Kenya (CAK), Communication Authority (CA) and Kenya Bankers Association (KBA). The development of the framework was also supported by other stakeholders including; Consumer Bodies and Financial Services Providers.

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The development and implementation of the Framework is also a key initiative recognized in Kenya's National Financial Inclusion Strategy 2025–2028, complementing ongoing financial education and literacy initiatives outlined in the Strategy. It further aligns with the Fourth Medium Term Plan (MTP IV) under Vision 2030, particularly in advancing financial inclusion, supporting digital economy development, and strengthening institutional coordination.

> *According to the FinAccess Report 2024, formal financial access increased from* ***83.7 percent*** *in* ***2021*** *to* ***84.8 percent*** *in* ***2024****, largely driven by advancements in digital technology.*

KEY RECOMMENDATIONS OF THE FRAMEWORK

- **7 regulators, 1 rulebook** — Regulators unite under one consumer protection standard for all financial services.
- **Why now** — a response to rising digital fraud, hidden fees, predatory lending, and data misuse.
- **6 core principles** — fair treatment, transparency, suitability, fund protection, complaint resolution, data protection.
- **Cooling-off period** — cancel a new financial product within a set window, penalty-free.
- **No reckless lending** — lenders must check affordability first, and help strugglers before penalizing them.
- **No exit fees** — repay early, close, or switch accounts without extra charges or forced add-ons.
- **Plain-language "Key Facts"** — costs, risks, and terms disclosed upfront; no hidden fees.
- **Fair debt collection** — no harassment or shaming; free complaint handling, with regulator escalation.
- **Fraud reversal duty** — Financial Service Providers (FSPs) must proactively help reverse mistaken or fraudulent transactions.
- **Burden of proof shifts** — FSPs, not consumers, must prove a disputed transaction was authorized.
- **Extra care for vulnerable consumers** — staff trained to identify and support at-risk customers.
- **Honest marketing** — ads and promotions must be truthful, clear, and not misleading.
- **Agents held accountable** — FSPs remain responsible for the conduct of their agents.
- **Framework reviewed every 5 years** — kept current as products and risks evolve.

The Framework provides a comprehensive and harmonized approach to consumer protection and market conduct supervision across the financial services sector. It aims at promoting fairness, transparency, and equitable treatment of consumers. It seeks empowerment of consumers through provision of clear, timely and accurate information and to ensure financial products in the market are appropriate and responsive to consumer needs. The Framework aims at appropriate protection of consumers' funds and other assets by financial service providers, while ensuring consumer complaints are handled fairly, effectively and efficiently. Further, consumers' personal data is kept confidential and secure, protected from loss and unauthorised use, in accordance with requirements of the existing data protection laws.

The Framework promotes cooperation and collaboration among regulators to harmonize policy approaches, strengthen market conduct oversight, and enhance the responsiveness of financial service providers to consumer needs. It establishes mechanisms for effective dispute resolution, strengthening inter-agency coordination, and promoting responsible innovation in line with Kenya's digital transformation agenda. Under the Framework, the regulators will maintain and, where appropriate, strengthen practical arrangements that facilitate coordination on consumer protection, market conduct supervision, and promotion of shared learning; including but not limited to regulatory instruments, administrative measures, sharing of information, and other forms of partnership and cooperation.

The implementation of the Framework will not only address consumer vulnerability and emerging risks in the financial services sector but also support innovation, inclusion, and sustainable growth within Kenya's financial system. «

Taking the Mandate to the People: CAK Engages Stakeholders Countrywide

County Sensitization Workshops

The CAK team calls on Nakuru County Deputy Governor H.E. David Kones (centre) during the Authority's county sensitization forum in Nakuru.

Advocates in Vihiga County attend the Competition Authority of Kenya's sensitization forum, part of its countywide advocacy drive on competition and consumer protection.

The Authority conducted sensitization in seven (7) counties namely; Nairobi, Nakuru, Narok, Uasin Gishu, Kakamega, Vihiga and Bungoma, targeting senior county officials both Executive and Assembly members, Legal fraternity, manufacturing, retail, finance & insurance sectors players, suppliers (Youth, Women and PWDs), students and consumers.

The aim of sensitization was to advocate for pro-competitive laws and policies, deepen the competition culture, and increase predictability and transparency to businesses. The advocacy initiatives focused on the mandate areas, not limited to Regulatory Impact Assessment, Buyer Power, Consumer Protection, Mergers and Supply Chain Management.

The county forums were to advocate for pro-market policies (as provided for in the Act). The forum weighed extensively on the efficacy of the county policies, legislations, and regulations in extinguishing distorting market regulations and practices and sensitizing stakeholders on the provisions of the Competition Act.

World Consumer Rights Day

The World Consumer Rights Day (WCRD) is commemorated on every 15th March by the global consumer movement which highlight the importance of consumer rights and to address consumer needs. It advocates for the protection and promotion of the fundamental rights of all consumers while challenging unethical market practices that jeopardize these rights. Kenya stood in solidarity with other nations in celebrating this vital occasion. The day was marked by an array of activities tailored on consumers and typically bringing together consumer advocacy members in over 100 countries. The theme for this year's World Consumer Rights Day 2026 was "Safe Products, Confident Consumers".

Members of the public gather around the CAK caravan in Nakuru County during the commemoration of World Consumer Rights Day on 15th March 2026, themed 'Safe Products, Confident Consumers.

Restoring Hope, Growing Futures: CAK's Commitment to Communities

CAK Director-General Mr. David Kemei (second from right) and Elgeyo Marakwet County Governor H.E. Wisley Kipyegon Rotich (second from left) during the CAK CSR visit to Elgeyo Marakwet County.

When a devastating landslide struck the Chesongoch area of Elgeyo-Marakwet County in late 2025, it left behind profound loss and disruption. More than 35 lives were lost, homes were destroyed, and critical infrastructure was swept away. Among the most affected were local schools, where damaged classrooms, destroyed learning materials, and safety concerns threatened to interrupt the education of hundreds of learners. As communities grappled with the aftermath of the disaster, the future of many children hung in the balance.

In response to a formal request for assistance from the County Government of Elgeyo-Marakwet, the Competition Authority of Kenya (CAK), through its Corporate Social Responsibility programme, undertook an intervention to support recovery efforts in the affected communities. Recognizing that education is a cornerstone of social and economic development, the Authority prioritized measures aimed at helping learners return to a stable and supportive school environment.

> *The Authority extended targeted support to four schools in Elgeyo-Marakwet County. It included **1,102** KICD-approved textbooks, **800** exercise books, **3,000** pens, **600** sanitary towels, and **6,950** kilograms of dry food supplies (maize, beans and rice), which directly benefited approximately **750** learners.*

Before progressing support, CAK conducted a reconnaissance visit to assess the extent of the damage and determine priority needs. The assessment revealed severe disruption across schools in the region. At St. Paul's Kapkondot Secondary School, only 14 of the expected 150 Grade 10 learners had reported back by the time of the visit. In other institutions, damaged perimeter fencing exposed learners to safety risks, while shortages of textbooks, stationery, and food further slowed the recovery of normal learning activities. The low attendance and strained learning conditions reflected the broader challenges facing families as they worked to rebuild their lives following the disaster.

Based on these findings, the Authority extended targeted support to four schools: St. Paul's Kapkondot Secondary School, Chesongoch Primary Boarding and Day School, Queen of Peace Mixed Day Secondary School, and Queen of Peace Cheseger Primary School. The support included 1,102 KICD-approved textbooks, 800 exercise books, 3,000 pens, 600 sanitary towels, and 6950 kilograms of dry food supplies (maize, beans and rice). The support directly benefited approximately 750 learners, helping to restore stability in the learning environment, ease pressure on affected families, and ensure that education continued despite the challenges facing the community.

To mark the commencement of the intervention, the initiative was officially flagged off in Iten by the Director-General of the Competition Authority of Kenya, Mr. David Kemei, and the Governor of Elgeyo-Marakwet County, H.E. Wisely Rotich. Speaking during the ceremony, Mr. Kemei underscored the importance of safeguarding access to education during times of crisis, noting that learning should not become another casualty of disaster.

"I commend the teachers and school administrators who have continued to provide guidance, stability and hope to learners

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CAK Director-General Mr. David Kemei, Elgeyo Marakwet County Governor H.E. Wisley Kipyegon Rotich, the headteacher of Queen of Peace Primary School, and the area chief during the flag-off of the CSR activity.

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during this difficult period. Your dedication has ensured that learning continues despite the challenges faced by the Chesongoch community," he said.

Mr. Kemei further observed that just as fair competition creates a level playing field for businesses, access to quality education creates opportunities for children, enabling them to pursue their aspirations and contribute meaningfully to society.

Governor Rotich welcomed the intervention, noting that it reflected the value of partnerships between national institutions and county governments in addressing urgent community needs.

"The Authority's support is a demonstration that Government institutions care about the communities they serve. We are grateful for the books, the food and the partnership, and we look forward to continued collaboration," he said.

While supporting disaster-affected communities remains a key pillar of its social impact agenda, the Authority also continues to champion environmental sustainability initiatives that contribute to long-term community wellbeing. In June 2026, CAK planted 3,000 fruit and indigenous tree seedlings at Seiyo Primary School in Uasin Gishu County in support of the Government's target of planting 15 billion trees by 2032. The initiative brought together learners, teachers and neighboring schools, fostering a sense of shared responsibility for environmental conservation.

The exercise builds on the Authority's long-standing commitment to environmental stewardship. To date, CAK has planted more than 26,000 trees across several counties, including Marsabit, Isiolo and Bomet, achieving an estimated survival rate of 95 per cent through partnerships with stakeholders such as the Kenya Forest Service.

Together, these initiatives reflect CAK's broader commitment to building resilient communities through education support, environmental stewardship, and responsive public service. «

+26,000

Trees CAK has planted to date, across several counties, including Marsabit, Isiolo and Bomet, achieving an estimated survival rate of 95 per cent through partnerships with stakeholders such as the Kenya Forest Service.

3,000

Fruit and indigenous tree seedlings planted by CAK in June 2026, at Seiyo Primary School in Uasin Gishu County.

Mr. Gideon Sang, Senior Analyst, CAK (left), and an officer from the Kenya Forest Service during a tree-planting exercise at Seiyo Primary School, Uasin Gishu County.


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Tujenge Jamii Pamoja

Why is it time to tailor competition regulation tools to tackle competition in digital platform markets

By Dr. Arthur Odima, Ph.D.,

Principal Analyst, Policy and Research, Competition Authority of Kenya

Competition law and policy enforcers consistently face challenges in understanding the economic forces that drive competition in digital platform markets. Specifically, regulators struggle to draw clear market boundaries using conventional tools, because these platforms serve multiple groups of users at once, such as advertisers and consumers, and a price change on one side of the market often ripples through to the other, where the firm may not be dominant.

Perhaps the biggest challenge is measuring market power itself. The usual yardsticks, price sensitivity, market shares, and the ability of consumers to switch to competitors, do not easily translate in multisided markets. What may seem perfectly competitive on one side may be quietly squeezing users on the other.

The markets created and dominated by large digital platforms are characterized by low levels of competition since many firms operate as monopolies. The major competition concerns may, in part, be occasioned by the conduct of the platforms themselves, as evidenced by the wave of high-profile enforcement cases brought against them globally. But it can also stem from structural factors like network effects and economies of scale and scope.

This article examines how competition contraventions manifest on digital platforms, and how competition tools can regulate them.

Perhaps the biggest challenge is measuring market power itself. The usual yardsticks, price sensitivity, market shares, and the ability of consumers to switch to competitors, do not easily translate in multisided markets. What may seem perfectly competitive on one side may be quietly squeezing users on the other.

Digital markets are characterized by accelerated network effects, where the platform becomes more useful to the user as the subscriber base increases, as well as exponential growth due to popularity that is not tied to geographical borders. High switching costs and barriers to entry reinforce monopolistic outcomes.

Firms that have successfully harnessed these conditions have morphed into powerful gateways, controlling how and when markets and information are accessed.

Further, entrenched market power in online platform markets could result in monopolistic conditions, where a single marketplace becomes the principal point of access thereby dampening competition by acting as a gatekeeper between consumers and other competitor firms. Some gatekeepers also use access to customer data to restrict

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competition. This issue is even more pronounced when firms are vertically integrated (at different levels of the value chain), thereby increasing their capacity to collect and extract value from customer data, increasing their competitive advantage.

Such platforms can then assume the role of gatekeepers over the online stores and application marketplaces they themselves own and operate in. They compete for the market instead of competing in the market, leading to 'winner takes-all' outcomes.

Once a firm acquires the gatekeeper position and entrenched market power, it is likely to impose entry barriers through conduct such as interoperability restrictions on its competitors. Others may engage in self-preferencing where a platform, without justification, prioritizes the display or ranking of its products, or uses operators' non-public data on the platform to develop its own products or inform decision-making. Gatekeepers can also unfairly impose discriminatory conditions and restrictions on app developers, or prevent promotion of competing payment methods.

Further examples of such conduct are; deliberate delays of apps review and approvals, unfairly removing apps from their app stores; impairing a user's rights to make decisions about processing of their data; processing users' data without their consent; unnecessarily preventing SMEs from fairly obtaining industry and market data generated by the platform

Given the unique and complex nature of these markets and contraventions, competition agencies must be very intentional. In so doing, regulators must first define the criteria for designating a firm as a gatekeeper and provide a list of core platform services.

Secondly, they should ensure legal clarity by elucidating anti-competitive conducts that are prohibited once a firm is designated as a gatekeeper. In addition, the agencies should develop digital online platform market specific rules explaining the obligations on designated gatekeepers and the remedies available when culpability is proven.

The rules must equally define the scope of their application. In the event that jurisdictions decide to amend their regulatory frameworks to include Strategic Market Position, then prohibitions must be specified in that respect. Agencies could also explore the use of market inquiries as an initial step to regulating digital markets. It is encouraging that the Competition Act is currently under review, with a focus of the proposed changes seeking to better attend to anti-competitive conduct in digital markets. Just like the aforementioned competition issues affect users and customers in Europe, America, or South Africa, where significant progress has been made by regulators, Kenya too needs to step up to the enforcement challenge.

Entrenched market power in online platform markets could result in monopolistic conditions, where a single marketplace becomes the principal point of access thereby dampening competition by acting as a gatekeeper between consumers and other competitor firms.

Photo / www.magnific.com

Navigating the Evolving Regional Competition Landscape

Kenya's membership in both the Common Market for Eastern and Southern Africa (COMESA) and the East African Community (EAC) means that businesses operating in the country are increasingly required to navigate competition law obligations that extend well beyond the domestic framework established under the Competition Act.

The operative instruments governing these regional obligations are the COMESA Competition and Consumer Protection Regulations, 2025 and the COMESA Competition and Consumer Protection Rules, 2025, which came into force on 5th December 2025, repealing the COMESA Competition Regulations, 2004.

Alongside these sit the East African Community Competition Act, 2006 (as amended by the EAC Competition (Amendment) Act, 2023), the EAC Competition (Mergers and Acquisitions) Regulations, 2025, and the EAC Competition (Thresholds for Notification of Mergers and Acquisitions) Notice, 2024.

The COMESA Framework

The 2025 Regulations, administered by the renamed COMESA Competition and Consumer Commission (CCCC), introduce a fully suspensory merger control regime requiring CCCC approval before any notifiable transaction may be implemented. Notification is triggered where the following thresholds are met.

Trigger	Threshold
Combined COMESA turnover or assets (all parties)	≥ COM$60 million
Turnover or assets of at least two parties (each)	≥ COM$10 million
Transaction value — digital markets	≥ COM$250 million

(all figures in COM$ — the COMESA Dollar, the Common Market's official unit of account, pegged at 1:1 to the US Dollar):

Implementing a merger without the requisite approvals constitutes gun-jumping and attracts penalties of up to 10% of the parties' COMESA turnover.

The 2025 Regulations also formalize an enforceable consumer protection mandate, with express prohibitions on false or misleading representations, unfair contract terms, unconscionable conduct, and harmful digital conduct including dark patterns.

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Photo/www.shutterstock.com

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Importantly, the 2025 Regulations do not displace Kenya's domestic regime under the Competition Act. The CAK and the CCCC continue to execute their mandate concurrently, with jurisdictional allocation determined by whether a given transaction or conduct meets the COMESA thresholds.

The EAC Framework

The East African Community Competition Authority ("EACCA") commenced receipt of merger notifications on 1st November, 2025. A transaction is a cross-border merger under Regulation 4 of the EAC Competition (Mergers and Acquisitions) Regulations, 2025, where the target or acquirer (or either of them) operates in two or more EAC Partner States and meets the following thresholds:

The regime is suspensory: failure to notify, or pre-closing implementation, attracts fines of up to 10% of annual EAC turnover, with unnotified mergers deemed void under Section 11 of the EAC Competition Act.

The EACCA intends to operate as a one-stop shop, such that a notification to the EACCA removes the requirement to notify national authorities. In practice, however, parties may still need to notify the CAK even where a merger is also notifiable to the EACCA.

Complementarities and Coordination Challenges

At a structural level, the two regimes share compatible foundations. Both have now adopted suspensory merger control regimes, assert one-stop-shop principles designed to reduce the burden of multiple national filings, and have the same overarching objective: promoting competitive markets and deepening regional economic integration.

Given the overlapping jurisdictions of the CCCC, EACCA, and CAK, businesses looking at a merger or acquisition with any regional angle should:

Check all three regimes early. Before signing anything, work out which jurisdiction(s) the deal falls under.

If a deal meets the thresholds for different jurisdiction, you may need to pay filing fees separately

If it's unclear whether a deal meets a threshold, ask for an advisory opinion upfront. It is far cheaper and faster than discovering a missed notification requirement down the line.

Trigger	Threshold
Combined EAC turnover or assets (all parties)	≥ USD 35 million
Turnover or assets of at least two parties (each)	≥ USD 20 million
Two-thirds exception	No notification required if each party derives ≥ 2/3 of its EAC turnover/assets from a single Member State

Kenya Deepens Regional Leadership as EACCA Chair, Hosts 24th Commissioners' Meeting in Nairobi

Kenya's role in shaping a fair, competitive, and integrated East African market has been on full display over the first half of the year, as Director-General Mr. Kemei David steered the East African Community Competition Authority (EACCA) through regional engagements in his capacity as Chairperson.

In May 2026, Mr. Kemei travelled to Moshi, Tanzania, for the 23rd Meeting of EACCA Commissioners, bringing together counterparts from across the EAC Partner States. Discussions covered the consideration of cross-border merger notifications, strengthening the Authority's governance and legal frameworks, the need to amend the EAC Competition Act, 2006, and draft Terms of Reference for a regional Case Management System.

The Moshi meeting closed with a two-day capacity building workshop for judges of the East African Court of Justice, designed to deepen judicial understanding of competition and consumer protection frameworks in the region, with Mr. Kemei sharing Kenya's enforcement experience and perspectives on regional integration.

Kenya then took the host seat for the 24th Meeting of EACCA Commissioners, held in Nairobi and running through 19th June 2026, with Commissioners attending from Kenya, Tanzania, Burundi, Rwanda, and Somalia. The week opened with three days of capacity building facilitated by competition law experts from Leiden University in the Netherlands, covering the European Union's competition law

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Highlights from the EACCA Commissioners' Meeting held in Nairobi in June 2026

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Kenya Deepens Regional Leadership as EACCA Chair, Hosts 24th Commissioners' Meeting in Nairobi

DG David Kemei interacting with participants of a capacity-building workshop for judges of the East African Court of Justice, convened by the EACCA in Moshi, Tanzania (April 2026) where he shared Kenya's competition enforcement experience and key lessons for the region.

framework, a comparative analysis with EAC law, and the risks and opportunities of transplanting established legal frameworks into a regional regulator.

Commissioners and staff also explored merger control, digital markets, and institutional cooperation among regional competition authorities, before the substantive Commissioners' Meeting addressed a range of agenda items central to the Authority's mandate.

Together, the two meetings underscore the sustained momentum behind EACCA's work and Kenya's central role within it. As current EACCA Chairperson, Mr. Kemei has helped keep cross-border merger control, legal reform, and judicial capacity firmly on the regional agenda — reaffirming Kenya's commitment to a well-regulated, competitive East African market.

Kenya Set to Get Its First Competition and Consumer Welfare Policy

CAK Director-General Mr. David Kemei (right) and Rory Macmillan of Macmillan Keck, Attorneys and Solicitors, the consultant engaged to draft Kenya's Competition and Consumer Welfare Policy.

Kenya has had a Competition Act for over a decade, but never an overarching Policy to anchor it within the country's broader economic transformation agenda — until now. In March 2026, the Competition Authority of Kenya formally kicked off the process of developing one, convening an inception meeting with the two consultants engaged to draft it.

The move follows approval from the National Treasury, the Authority's parent Ministry, and comes with support from FSD Kenya. Once developed, the Policy will go through public participation before it is finalised, giving Kenyans a direct say in shaping it.

So what's the difference between the Act and the Policy? Think of the Act as the rule book: it sets out the legal framework for tackling restrictive trade practices, abuse of buyer power, abuse of dominance, merger control, and consumer welfare. The Policy, on the other hand, will explain why those rules exist — articulating the country's vision for fairer markets, stronger investor confidence, and wider socio-economic benefits for Kenyans.

Beyond the vision-setting, the Policy is expected to do practical work too: clarifying policy objectives, strengthening coordination among sector regulators, and aligning enforcement priorities with fast-changing market dynamics.

It's an important next step in Kenya's competition and consumer protection journey — watch this space for updates as the process progresses.

Protecting Consumers in the Age of Algorithms

By Mr. David Kemei,
Director-General, Competition Authority of Kenya

Photo/www.magnific.com

Many of us have tried to book a hotel room online only to be met with a flashing red alert warning, "only one room is left", often amplifying non-existent scarcity and urgency. Chatbots in online food delivery platforms suggest "popular" options and combinations, nudging you to spend more. Dynamic search-engine ranking determines which results appear most prominently, often favoring items boosted through paid promotions. On social media platforms, targeted adverts are our second shadow.

These are inexhaustive examples of how digital platforms utilize Artificial Intelligence (AI) to influence consumers' purchasing decisions.

But not everything AI is gloomy. The technology is positively used in credit scoring and in agriculture, where it supports better resource management and productivity. In healthcare, AI-supported diagnosis leads to better outcomes. Students are enjoying personalized e-learning while teachers have automated previously laborious administrative tasks.

UNCTAD projects the global AI market to surge from $189 billion in 2023 to $4.8 trillion by 2033, driven by rapid adoption and technological advances that is making AI more accessible for businesses. Globally, 48% of businesses currently utilize AI, and over 83% consider it a top strategic priority.

The Kenya Artificial Intelligence Strategy launched in March 2025 is laudable. It seeks to position Kenya as a leader in AI technology adoption, anchored on three pillars; building accessible and modern infrastructure; data and governance; and promoting research, innovation and commercialization of AI tools.

*UNCTAD projects the global AI market to surge from **$189 billion** in **2023** to **$4.8 trillion** by **2033**, driven by rapid adoption and technological advances that is making AI more accessible for businesses. Globally, **48%** of businesses currently utilize AI, and over **83%** consider it a top strategic priority.*

It is therefore timely that this year's World Competition Day, commemorated annually on December 5, is themed: "Artificial Intelligence, Consumers and Competition Policy." It acknowledges AI tools present immense benefits, but that its adoption is not without risks, including competition and consumer protection concerns.

From a competition law perspective, AI can enable businesses engaging in anticompetitive conduct to further conceal their illegal conduct. Unlike overt evidence of cartel conduct decoded through WhatsApp messages, email trails or paperwork, algorithmic tools facilitate opaque forms of collusion. This includes competitors deploying similar algorithms to track and automatically respond to each other's prices, leading to stable but higher costs for consumers.

AI reinforces tacit coordination where firms independently monitor their rivals' pricing strategies and

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deploy technology to automatically adjust theirs, sustaining cartel outcomes even without direct communication. Additionally, AI can reinforce existing market power by leveraging dominant firms' vast proprietary datasets that impede smaller competitors from accessing the market.

From a consumer protection perspective, abuse of AI tech results in negative outcomes. AI algorithms have reduced pricing clarity, as they analyze a consumer's data in the background, leading to consumers paying different prices for the same product or service, therefore buttressing inequality. As already exemplified with online hotel booking practices, AI facilitates dark pattern marketing to aggressively manipulate consumer behaviour. Additionally, AI may lead to privacy breaches, fraud and impersonation.

These concerns require a multi-pronged intervention.

Firstly, there is need to adopt and promote best practices to address algorithmic transparency, fairness, and accountability, including developing ethical guidelines and harmonizing regulatory frameworks across Government. Improved coordination between implementing agencies with cross-cutting mandates is therefore critical.

It is for this reason that the Competition Authority of Kenya has proposed amendments to the Competition Act to better attend to anti-competitive practices in digital markets. The proposed changes to the law are aligned with the aforementioned AI Strategy. The Office of the Data Protection Commissioner plays an equally critical role in data sovereignty and ensuring the datasets used to train and operate AI models is collected, processed and stored lawfully.

Secondly, regulators must invest in tools and systems that are as intelligent as those they are trying to oversight. For instance, the Netherlands Competition Agency has developed a web scraper with automatic data capture and analysis features, easing its evidence gathering capabilities. Another tool scans telemarketing phone calls to detect wrongdoing. Moreover, market studies to understand the inner workings of these digital markets should be prioritized. Regulatory sandboxes that facilitate controlled experimentation, stakeholder engagement, and early flagging of AI risks should also be explored.

Thirdly, Kenyan consumers should be empowered to identify and avoid AI-driven manipulative tactics, and assert their rights when businesses overstep or engage in unfair practices. This necessity is proven by the fact that, even with robust consumer and data protection laws, Kenyans' personal data is still illegally accessed and processed across various platforms.

Lastly, AI and digital markets transcend borders. Competition and consumer protection regulators must foster cooperation by engaging in partnerships to share knowledge, tools and best practices, to adopt coherent AI regulations and unified consumer protection strategies.

For feedback, email:
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> ***From a consumer protection perspective, abuse of AI tech results in negative outcomes. AI algorithms have reduced pricing clarity, as they analyze a consumer's data in the background, leading to consumers paying different prices for the same product or service, therefore buttressing inequality.***

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TRIBUTE

4,322 days, One Remarkable Career: Celebrating Njoro's retirement

A moment of celebration as colleagues honour Mr. Joseph Njoroge Ngugi for his years of loyal and distinguished service to the Authority.

On 5th June 2026, the Authority honored Mr. Joseph Njoroge Ngugi upon his retirement, in a ceremony marking the end of an eleven-year, ten-month journey of dedicated service with the CAK.

Mr. Ngugi joined public service on 8th September 1990 as a Driver at the National Treasury, quickly distinguishing himself through professionalism, punctuality, and unwavering commitment to duty.

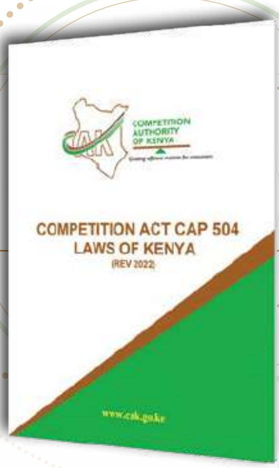
His consistency did not go unnoticed. On 1st October 2021, he was promoted to Senior Driver at the CAK in recognition of his competence and the trust he had earned across the institution. He served in that role with the same diligence until his retirement on 4th June, 2026.

Beyond safely navigating demanding roads to ensure staff reached official engagements, Mr. Ngugi was widely regarded as a strong team player. He was honored as humble, cooperative, colleague who was always ready to assist across the Authority.

In his remarks, Director-General David Kemei thanked Mr. Ngugi on behalf of the Board, Management, and staff for his loyal and distinguished service, describing him as "a true public servant" whose dedication leaves a lasting example for others.

Asante sana, Njoro and congratulations on a well-earned new chapter!

Know Your Act



Section 21. Restrictive trade practices

1) Agreements between undertakings, decisions by associations of undertakings, decisions by undertakings or concerted practices by undertakings which have as their object or effect the prevention, distortion or lessening of competition in trade in any goods or services in Kenya, or a part of Kenya, are prohibited, unless they are exempt in accordance with the provisions of Section D of this Part.

2) Agreements, decisions and concerted practices contemplated in subsection (1), include agreements concluded between—

   a) parties in a horizontal relationship, being undertakings trading in competition; or

   b) parties in a vertical relationship, being an undertaking and its suppliers or customers or both.

3) Without prejudice to the generality of the provisions of subsection (1), that subsection applies in particular to any agreement, decision or concerted practice which—

   a) directly or indirectly fixes purchase or selling prices or any other trading conditions;

   b) divides markets by allocating customers, suppliers, areas or specific types of goods or services;

   c) involves collusive tendering;

   d) involves a practice of minimum resale price maintenance;

   e) limits or controls production, market outlets or access, technical development or investment;

   f) applies dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

   g) makes the conclusion of contracts subject to acceptance by other parties of supplementary conditions which by their nature or according to commercial usage have no connection with the subject of the contracts;

   h) amounts to the use of an intellectual property right in a manner that goes beyond the limits of fair, reasonable and non-discriminatory use;

   i) otherwise prevents, distorts or restricts competition.

4) Subsection (3)(d) shall not prevent a supplier or producer of goods or services from recommending a resale price to a reseller of the goods or a provider of the service, provided—

   a) it is expressly stipulated by the supplier or producer to the reseller or provider that the recommended price is not binding; and

   b) if any product, or any document or thing relating to any product or service, bears a price affixed or applied by the supplier or producer, and the words "recommended price" appear next to the price so affixed or applied.

5) An agreement or a concerted practice of the nature prohibited by subsection (1) shall be deemed to exist between two or more undertakings if—

   a) any one of the undertakings owns a significant interest in the other or has at least one director or one substantial shareholder in common; and

   b) any combination of the undertakings engages in any of the practices mentioned in subsection (3).

6) The presumption under subsection (5) may be rebutted if an undertaking or a director or shareholder concerned establishes that a reasonable basis exists to conclude that any practice in which any of the undertakings engaged was a normal commercial response to conditions prevailing in the market.

7) For the purposes of subsection (5), "director" includes—

   a) a director of a company as defined in the Companies Act (Cap. 486);

   b) in relation to an undertaking conducted by a society, a person responsible jointly with others for its management;

   c) a trustee of a trust; or

   d) in relation to an undertaking conducted by an individual or a partnership, the owner of the undertaking or a partner of the partnership;

   e) in relation to any other undertaking, a person responsible either individually or jointly with others for its management.

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8) Subsection (1) does not apply in respect of an agreement entered into between, or a practice engaged in by—

   a) a company and its wholly owned subsidiary or a wholly owned subsidiary of that subsidiary company; or

   b) undertakings other than companies, each of which is owned or controlled by the same person or persons.

9) A person who contravenes the provisions of this section commits an offence and shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding ten million shillings, or both.

BRAIN TEASER

SUDOKU Puzzle

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11th Edition Solved

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