

COFEK STATEMENT ON THE OCCASION OF COMPETITION AUTHORITY OF KENYA LAUNCH OF STRATEGIC PLAN AND CELEBRATION OF WORLD COMPETITION DAY. TUESDAY, 10TH DECEMBER 2013.

- Cabinet Secretaries Adan Mohamed and Henry Rotich
- Chairman, Competition Authority
- Director General, Competition Authority
- Ladies and Gentlemen

It gives me pleasure to address this important session on the occasion of launch of Competition Authority of Kenya (CAK) strategic plan and celebration of World Competition day. Please allow my pessimism but it is difficult for the Kenyan consumer, on average, to celebrate competition. Perhaps it is more appropriate to say that as CAK celebrates, the consumer is mourning lack of competition in Kenya.

As the apex Federation representing consumers, Cofek had and still holds huge expectations of the CAK. This is especially so when the Competition Act was passed. When the Act could not be operationalized by then Finance Minister for nearly a year later, we were part of the advocacy voices to get the legislation to be implemented. Unfortunately, the visibility of CAK has not been to the level some of us expected it to be.

Cofek and I are still putting our hopes on CAK for the simple reason that aspects of fair market regulation and consumer protection are not only intertwined but find a convergence in CAK's vision and mission.

Because of our many expectations on CAK, most of which are yet to be realized, we at Cofek call CAK as the "prefect of all regulatory bodies". Whether that has come to pass is anyone's guess. Whether that prefecture will be felt soon is no longer the role of CAK alone. That is why we have been partnering with the Authority since early last year.

Through the Authority, we have also forged very close working relationship with The National Treasury. While at it, allow me to commend the exemplary leadership offered by Mr Rotich and his team. We appreciate his accessibility and the listening on the Value Added Tax Act, among other myriad issues.

Ladies and gentlemen, we are aware that industry competition will be limited by the extent to which applicable laws are complied with and enforced. In this context, there is need to review of the Competition Act laws to in order to align it to the Constitution of Kenya 2010 and to the Consumer Protection Act 2012. Further the strategic plan being launched today require a collaborative mechanism between the industry and consumers from the CAK board and management structure.

When we see approved mergers in almost every gazette notice, the question we should be asking ourselves in this room is just how much is the CAK encouraging coercive monopolies at the expense of consumer protection? We must also be asking loudly about whether or not it is not time to introduce an independent Fair Trade Tribunal to address both competitor and consumer aggression challenges.

Since we are already partners, Cofek has the following major expectations in regard to Consumer Protection:

- ✚ The need to harmonize consumer protection arrangements for all regulatory bodies as well as the CAK bringing together all regulators and Cofek together, at least twice a year, to review matters of common interest
- ✚ To review the powers of regulators with respect to imposing levies to determine the applicable fees but not collect the same. We urge that KRA shall instead collect the same. While on this I must register our opposition to cases where regulators impose fees and end up declaring surpluses which measure confirms our fears of consumer exploitation. We should also be wary of irrational legislations such NSSF Bill on the 6% increment as well as ERC springing a surprise Water Resources Management levy of 5 cents per Kilowatt per hour. We must start asking critical questions about Kenya's role of the National Treasury in regulating and/or guiding the overall taxation policy and the extent to which regulators can impose justifiable taxation.
- ✚ We expect to work with CAK to mount serious joint campaigns on consumer information, education and communication in enhancing consumer awareness across the country. The Kenyan consumer needs the visibility of the CAK in as much as the Federal Trade Commission (FTC) is viewed in the US.
- ✚ At Cofek, we want to see a more robust contribution of CAK in developing regulations for Consumer Protection Act 2012 to ensure effective implementation of the Act. This would only happen by supporting independent consumer research on consumption issues. On this, it will be critical to enhance our partnership with CAK on developing ICT initiatives, software applications and mobile phone-related innovations to enhance consumer awareness and access to information.
- ✚ Together with CAK, we would be grateful to develop a curriculum to be considered by Kenyan universities on introducing high level courses on business ethics and consumer protection. Beyond the institutions of higher learning, such courses should target only the general public but the private sector players.
- ✚ We must also invest in a joint well-structured cost-effective strategy and action plan to fight cartels and prevent unethical business practices. This will begin from basics such as consumers reporting injustices and anti-competitive behaviour from businesses across all sectors. They could ie
- ✚ Joint preparation and marking of next year's World Consumers Day on 15th March 2014

- ✚ Sufficient budgetary allocation to CAK's consumer protection division so as to utilize ICT and other initiatives. We expect to be holding at least one public review meeting with CAK every quarter.
- ✚ We expect that CAK will second some of its staff to Cofek and vice versa.

On fair market regulations the following are our expectations:

- a) Strong mechanisms should be put in place to protect consumers from monopoly, cartels, non-disclosure and poor accountability.
- b) There should be uniform application of laws across service providers. We are concerned that monopolies in certain sectors are not being stemmed as we had hoped
- c) Development of consumer organization capacity through research and co-funding
- d) Strengthening regulatory bodies directly responsible for consumer issues to make them more effective and ensure fair play in the market.

Cofek is already working with the Government and other stakeholders towards improvement of consumer protection and fair market regulations in Kenya. Sooner than later the Ministry of East African Affairs, Commerce and Tourism is expected to gazette the board of the Kenya Consumer Protection Advisory Committee. Being a government agency, we do expect that the Committee will work with various key consumer bodies such as the Kenya Bureau of Standards, among others, to enhance consumer protection.

Cofek and I are keen to ensure that the Consumer Protection Act 2012, which we actively participated in its formulation, is fully implemented. It is in this regard that we are currently working with various stakeholders including the Ministry of East African Affairs, Commerce and Tourism to develop regulations that will facilitate effective implementation of the Act.

As we mark the World Competition Day, we trust that CAK will rise to the occasion and enhance competition in Kenya while protecting consumers from unfair and misleading market conduct. Finally, I urge all of you to join Cofek and volunteer your valuable time and ideas to Cofek Sector Units which bring together professionals in diverse expertise to advise the Federation. Thank you once again and God bless.

Stephen Mutoro

Secretary General

Consumers Federation of Kenya