

REPUBLIC OF KENYA



REPORT

OF

THE AUDITOR-GENERAL

ON

ANTI-COUNTERFEIT AUTHORITY

FOR THE YEAR ENDED

30 JUNE 2021



**anti
counterfeit
authority**
Promoting Genuine

ANTI-COUNTERFEIT AUTHORITY

ANNUAL REPORT AND FINANCIAL STATEMENTS

FOR THE FINANCIAL YEAR ENDING

JUNE 30, 2021

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

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ANTI-COUNTERFEIT AUTHORITY (ACA)
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ACRONYMS

ACA	Anti-Counterfeit Authority
ADR	Alternative Dispute Resolution
A-I-A	Appropriation in Aid
AIMS	ACA Integrated Management Systems
DFID	Department for International Development
FY	Financial Year
HR	Human Resource
IPR	Intellectual Property Rights
IPSAS	International Public Sector Accounting Standards
IT	Information Technology
NEMA	National Environment Management Authority
OSHA	Occupational Safety and Health Administration
PFM	Public Finance Management
SCAC	State Corporations Advisory Committee

I. KEY AUTHORITY INFORMATION AND MANAGEMENT

(a) Background information

The Anti-Counterfeit Authority was established under Section 3 of the Anti-Counterfeit Act No. 13 of 2008 assented on 24th December, 2008 as a corporate body under the State Corporations Act, Chapter 446 of the Laws of Kenya. The Authority is domiciled in Kenya and has branches in Mombasa, Eldoret, Kisumu and satellite offices in Namanga, Malaba, Isebania, Moyale, Busia, JKIA and Lunga Lunga.

The Authority falls within the Ministry of Industrialization, Trade and Enterprises Development that is mandated to provide a policy framework and an enabling environment for industrialization, trade and enterprise development in Kenya. The Authority is expected to play a key role in the realization of the Big “4” agenda through promoting genuine products in manufacturing, fertilizers, seeds, medicine and construction materials. The Authority undertakes its mandate through three (3) departments as follows: Enforcement and Legal services, Research and Awareness and Corporate Services.

(b) Principal Activities

The principal mandate of the Authority is outlined in section 5 of the Anti-Counterfeit Act, 2008 as follows:

- i) to enlighten and inform the public on matters relating to counterfeiting;
- ii) combat counterfeiting, trade and other dealings in counterfeit goods in Kenya;
- iii) devise and promote training programs on combating counterfeiting;
- iv) co-ordinate with national, regional or international organizations involved in combating counterfeiting;
- v) Advise the government through the Cabinet Secretary on policies and measures concerning the necessary support, promotion and protection of intellectual property rights as well as the extent of counterfeiting; and
- vi) carry out inquiries, studies and research into matters relating to counterfeiting and the protection of intellectual property rights.

Vision

A counterfeit-free Kenya

Mission

To Prohibit Counterfeiting through the Promotion and Enforcement of Intellectual Property Rights

(c) Key Management

The Authority’s day-to-day management is under the following key organs:

- Board of Directors
- Executive Director
- Management

(d) Fiduciary Management

The key management personnel who held office during the financial year ended 30th June 2021 and who had direct fiduciary responsibility were:

No.	Designation	Name
1.	Ag. Executive Director	Ms. Fridah Kaberia
2.	Deputy Director Enforcement & Legal Services	Mr. Johnson Adera
3.	Deputy Director Awareness, Research, Policy & Quality Assurance	Dr. John Akoten
4.	Ag. Deputy Director Corporate Services	Ms. Rephah Kitavi
5.	Manager, Education and Public Awareness	Ms. Agnes Karingu
6.	Manager, Research, Strategy and Policy	Mr. Elijah Ruttoh
7.	Manager, Human Resource and Administration	Ms. Mary Mwinga
8.	Manager, Legal Services	Mr. Naylor Mukofu
9.	Ag. Manager, Enforcement	Mr. Lindsay Kipkemoi

(e) Fiduciary Oversight Arrangements

The Authority has put in place measures and structures to enforce fiduciary and oversight arrangements to ensure compliance. The Authority which is the overall governance organ, comprises three key committees namely; Technical Committee, Human Resource, Finance and General-Purpose Committee and Audit and Risk Committee.

These committees provide policy direction and oversight to the Authority's management while advising the Board on various policy matters relating to its mandate. The main objective of the Audit and Risk Committee is to assist the Board in discharging its duties in relation to safeguarding of assets, the operation of adequate systems, control processes and the preparation of accurate financial reporting and statements in compliance with all applicable legal requirements and accounting standards.

Further the Authority submits its quarterly financial statements to the National Treasury through its parent ministry and annual financial statements to the Office of the Auditor General for audit. In addition, the Authority has in place an approved Finance policies and procedures manual.

(f) Headquarters

P.O. Box 47771 - 00100
National Water Plaza
3rd Floor
Dunga Road
Nairobi, Kenya

(g) Contacts

Telephone: (+254) -(0)20-2280000
E-mail: info@aca.go.ke
Website: www.aca.go.ke

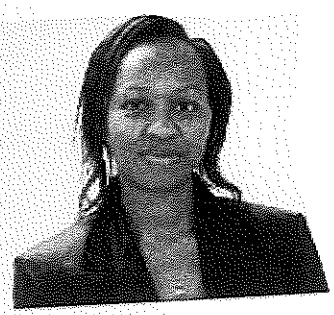
II. THE BOARD OF DIRECTORS

The Board of Directors of the Authority are:



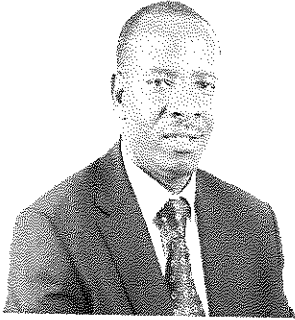

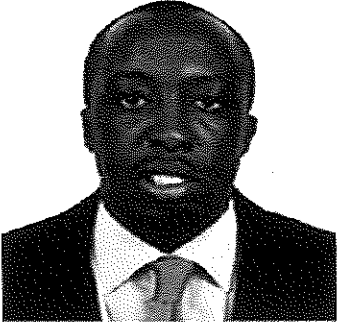

Ms. Flora Mutahi
Chairperson, Board of Directors

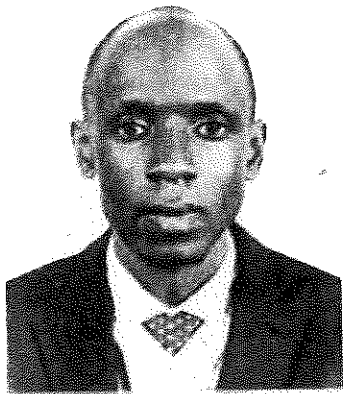

Ms. Flora Mutahi has a long stunning career in the Manufacturing Industry with over 20 years' experience. She was born on 5th June, 1967. She holds an MBA from the University of Cape Town. She is the founder of Melvin Marsh International Limited, Kenya's largest flavored teas company which has received several awards, she also owns a real estate company called Azizi Realtors Limited which deals in sales, rentals and property management. Ms. Mutahi was the former chair of the Kenya Association of Manufacturers board and is also a member of other boards including SBM Bank, UN Global Compact, KEPSA and KAM. She is greatly involved in supporting and empowering women in business through mentorship programs, talks and overall community development activities.



Ms. Fridah Kaberia;
Ag. Executive Director
MBA, BA (Econ), CPA(K), CS(K)

Ms. Fridah Kaberia is the Ag. Executive Director. She holds a Master's in Business Administration in Finance and a degree in Bachelor of Art (Economics) from the University of Nairobi. She is also a Certified Public Accountant, a Certified Secretary and additionally has trained in various strategic leadership and governance courses. Ms. Kaberia, has served in various capacities in the Authority and has over 16 years' experience in financial management and leadership in both Private and Public sector.

 <p>Lt. Col. (Rtd) Bernard N. Njiraini Managing Director, Kenya Bureau of Standards (KEBS)</p>	<p>Lt. Col. (Rtd) Bernard is a holder of Masters of Science in Mechanical Engineering and Post Graduate Diploma in Strategic Studies. He is a member of the Institution of Engineers of Kenya (IEK). He was born on 16th August, 1971. As a military officer he has attended various leadership and command courses including Grade 2 Staff command.</p>
 <p>Ms. Phyllis Wakiaga CEO, Kenya Association of Manufacturers</p>	<p>Ms. Phyllis is a holder of Masters in Business Administration, Higher Diploma in Human Resource, Diploma in Law and Bachelor of Law Degree from the University of Nairobi. She was born on 1st December 1981. She is currently the CEO of Kenya Association of Manufacturers (KAM). Previously, she held the position of Head of Policy Research and Advocacy in the same institution.</p>
 <p>Mr. Joel Bett The National Treasury and Planning</p>	<p>Mr. Joel is a holder of Masters in Economics and Bachelor of Economics both from the University of Nairobi. He was born on 27th March 1978. He is currently the Chief Economist at the National Treasury and Planning.</p>
 <p>Ms. Lilian Nyawanda Kenya Revenue Authority, Commissioner Customs & Border Control</p>	<p>Ms. Lilian Nyawanda has a broad experience in customs administration, policy and legislation having been part of various legislative reviews and changes. She was born on 14th April 1977. She is a high performer who has overseen successful projects such as the transitioning of Kenya, Uganda, Ethiopia, Nigeria, Ghana and Cameroun Customs & Excise functions into the Diageo Centre of Excellence. She is also credited for successfully implementing EGMS at KBL and UDV.</p>

	<p>Ms. Lilian Nyawanda is currently pursuing her PHD in Public Policy & Administration from Walden University and is a member of the National Society of Leadership and Success (Sigma Alpha Pi Honor – Sep 2020).</p>
 <p>Mr. Emmanuel Bitta Office of the Attorney General</p>	<p>Mr. Bitta is a holder of Bachelor of Laws degree from Bangalore University, he also holds post graduate Diploma in Law from Kenya School of Law and is currently undertaking Masters degree in Law, Governance and Democracy at the University of Nairobi. He was born on 29th July 1977. He is currently the Senior Principal State Counsel; Head of Judicial Review and Public Procurement Section; Head of Commercial & Arbitration Section. Previously, he worked in the Civil Litigation Department in the office of Attorney General rising through the ranks from State Counsel II, State Counsel I, Senior State Counsel and Principal State Counsel.</p>
 <p>Dr. Bruno Linyiru Secretary Trade</p>	<p>Dr. Bruno Linyiru is the Secretary Trade, State Department for Trade and Enterprise Development. He was born in 1969. He holds a PhD in Entrepreneurship from JKUAT, an MBA in Finance and Bachelor of Commerce (Accounting option) from the University of Nairobi. He is also a Certified Public Accountant and additionally has trained in various WTO courses. Dr. Linyiru has served as a board member in various State Corporations and Ministerial Committees. He is a visionary, self-driven Finance and enterprise practitioner with over 25 years of both strategic and operational level experience in both Central government and State Enterprises.</p> <p>As Secretary Trade he oversees the functions of International and Domestic Trade. Other key roles include overseeing the realization of the department's mandate of, Buy Kenya Policy, Promotion of Wholesale and Retail Markets, Export Promotion, Fair Trade Practices, Coordination of Regional Trade Matters, Trade Negotiations Services and Advisory Services and Enforcement of International Trade Laws, Regulations and Agreements.</p>



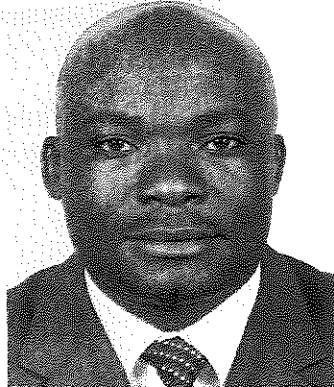


Mr Stephen Simiyu Mutoro
Consumers Federation of Kenya (COFEK)

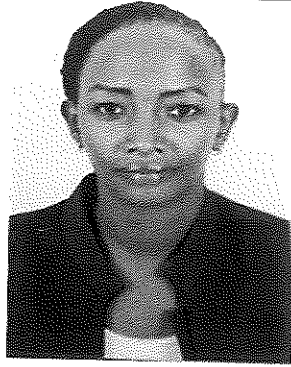

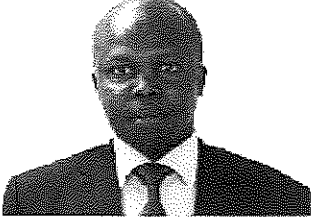
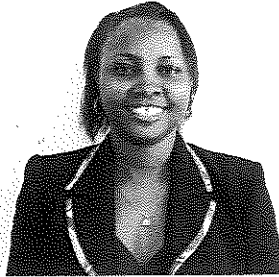
Mr. Mutoro is a holder of Bachelor of Art (Literature) and Master of Art (Criminology) both from University of Nairobi. He was born in 1975. He has worked in government, private sector and civil society collectively for over 20 years. He is currently the Secretary General of the Consumers Federation of Kenya (Cofek). He has served in various boards of parastatals such as National Water Company and Water Resources Management Authority.

III. MANAGEMENT TEAM

The management team is comprised of the following:

 <p>Ms. Fridah Kaberia; Ag. Executive Director MBA, BA (Econ), CPA(K), CS(K)</p>	<p>The Ag. Executive Director is responsible for the day to day operations in the Authority</p>
 <p>Dr. John Akoten; Deputy Director Research, Awareness, Policy and Quality Assurance PhD, MSc, BSc</p>	<p>The Deputy Director is responsible for Awareness, Research, Policy and Quality Assurance</p>
 <p>Mr. Johnson Adera; Deputy Director Enforcement and Legal services LLM, LLB, CS(K)</p>	<p>The Deputy Director is responsible for Enforcement and Legal Services.</p>

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 <p>Ms. Rephah Kitavi; Ag. Deputy Director, Corporate Services Msc. Finance, BA (Econ), CPA (K), CISA</p>	<p>The Ag. Deputy Director is responsible for Human Resource, Administration, ICT and Finance</p>
 <p>Mrs. Agnes Karingu; Manager Education and Public Awareness MBA, BSc</p>	<p>The Manager is responsible for Education and Public Awareness.</p>
 <p>Mr. Elijah Ruttuh; Manager Research and Policy M Econ, B.Ed</p>	<p>The Manager is responsible for Research, Policy and Knowledge management</p>
	<p>The Manager is responsible for Human Resource and Administration</p>

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<p>Ms. Mary Mwinga; Manager Human Resource and Administration MA, BA, Higher Diploma HR</p>	
<div data-bbox="261 405 611 748" data-label="Image"> </div> <p>Mr. Naylor Mukofu; Manager Legal Services Advocate of the High Court, LLM, LLB</p>	<p>The Manager is responsible for Legal Services</p>
<div data-bbox="264 1106 616 1397" data-label="Image"> </div> <p>Mr. Linday Kipkemoi; Manager Enforcement Masters in Governance, Peace and Security Management and Bachelors of Science.</p>	<p>The Manager is responsible for Enforcement operations</p>

IV. CHAIRPERSON'S STATEMENT

It gives me great pleasure on behalf of the Board of Directors to present the Annual Report and Financial Statements for the period ended June 30, 2021. During the financial year, we continued to advance our strategic goals and bolster our progress towards creating "A Counterfeit free Kenya". The work we do each day is vital to our nation's economy and support to the Government Development "Big Four" Agenda, Vision 2030, MTP III (2018-2022), Sector Performance Standards, Sustainable Development Goals and Post Covid-19 Recovery Strategies and Plans.

Overview

The year 2021 just like 2020 will long be remembered as the year of the COVID-19 pandemic. The past year has presented its share of challenges for all of us, as Kenyans and the world at large. In response, we transitioned from the norm of office working to working from home and virtual meetings. Thanks to the advances in Information Technology, the Authority has embraced IT as a mission-critical enabler for every aspect of its operation. These changes led to scaled down operations as result of compliance to the Ministry of Health COVID 19 regulations on social distancing and physical meetings.

Operating Environment

Amidst the COVID-19 pandemic, I am proud to say that, our staff with support from the Board withstood this test of time. While continuity of operations remained a key priority for the Authority, there was no greater priority than the health and safety of our employees and the stakeholders who interacted with us. Even now, we encourage our employees continue to work virtually and for stakeholders to interact with us through online platforms. We look back with great pride and satisfaction on what the Authority was able to deliver on its mandate and make further significant milestones despite challenges occasioned by a number of emerging operational factors.

During the period, the Authority witnessed an increase in Covid-19 pandemic demand driven influx of counterfeit goods like facemasks, testing kits and other Personal protective equipment. The Authority increased its on-line and market surveillance of on-line sale sites and seized suspected counterfeit goods worth Kshs. 48M as a result.

We sustained momentum of the multi-agency operations with partner Government agencies like the Ministry of Interior, National Police Service, Kenya Ports Authority, Kenya Bureau of Standards, Kenya Revenue Authority, and the private sector. This is in line with the implementation framework of the National Action Plan against counterfeits and illicit trade. We intensified surveillance and enforcement inspections and seizures across the country through intelligence led enforcement operations and consumer focused strategies.

Strategy

The Board is cognisance of the fact that to successfully combat trade in counterfeit goods, a multi-faceted approach must be applied. First, the demand for counterfeit goods should be curtailed. This can be done through measures such as creating awareness about the dangers of counterfeiting to the economy, private sector, public sector and to consumers at large in terms of safety, health issues and the value of genuine. Second, the supply of counterfeit goods should be addressed. This can be done through enforcement of the relevant provisions of legislations and regulations and collaborating with relevant enforcement agencies.

Both approaches are well outlined in the ACA Realigned 2019-2022 Strategic Plan that took cognizance of the “Big 4 agenda”, Africa Agenda 2063, the National action plan to combat illicit trade, the third medium term plan and Vision 2030.

Risk Management

The COVID-19 pandemic brought significant uncertainty and changed the risk assessment level for the Authority. To help mitigate on these risks, the Board has committed the management of the Authority to review its risk management process in anticipation and in response to changes brought by the Pandemic so as to make informed decisions during these times of uncertainty.

In the reporting period, the Authority took proactive steps to minimize physical meetings and moved to virtual and on-line meetings with deferred spending on certain IT upgrades. These actions allowed the Authority to meet the FY 2021 planned targets in a period of uncertainty.

Corporate Governance

The Board of the Anti-Counterfeit Authority continues to strengthen its boardroom capabilities and giving policy direction under the guidance of Mwongozo, the code of governance for state corporations. This is anchored on the need for strong corporate governance towards long-term success in delivery of ACA’s strategy.

Future Outlook

As we continue to confront the worst pandemic in the history of our nation, and we continue to grapple with this pandemic, the use of technology will be at the center of our future endeavors. To enhance the operational efficiency and capacity, the Authority will strive to automate all its processes including the enforcement and depot management. This will enhance the capacity of the Authority to stop the importation of counterfeit goods and also increase transparency and accountability in processing and prosecuting IPR related complaints.

A lot of efforts will need towards addressing emerging challenges as a result of influx demand driven COVID 19 Counterfeit goods and the emergence of on-line sites dealing with counterfeit goods. In the meantime, we must enhance our surveillance efforts to win this war. The Authority will implement Post Covid-19 Recovery Strategies in order to protect the genuine manufacturers and consumers from unfair competition from unhealthy and unsafe products.

Over the coming years, we must start a robust Business Process Re-engineering (BPR) to enable the organization to review, interrogate and re-design their service delivery processes in order to serve our stakeholders better.

Acknowledgement

Finally, I want to appreciate the Government of Republic of Kenya through the Ministry of Industrialization, Trade & Enterprise Development, the National Treasury, the National Assembly Parliamentary Committee(s) on Trade and Industry, The US Embassy in Nairobi through the US Customs And Border Protection Nairobi, The TradeMark East Africa and the Department for International Development (DFID) of the United Kingdom through the British High Commission in Nairobi, Kenya, Kenya Association of Manufacturers and other stakeholders for their continued support.

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I also wish to salute my colleagues in the Board for dedicating their time and effort to steer the Authority towards achievement of this impressive performance. To our management and staff thank you for your diligence and tireless efforts in achieving our goals and objectives. God bless ACA; God bless Kenya.



Ms. Flora Mutahi
Chairperson of the Board

V. REPORT OF THE EXECUTIVE DIRECTOR/CHIEF EXECUTIVE OFFICER

Overview

Amid the challenges posed by COVID-19, ACA made positive progress in carrying out its mandate of combating counterfeiting during the 2020-2021 Financial year. I would like to record my appreciation to the board and management team and all staff members who have worked safely, flexibly, and tirelessly towards meeting the performance targets set in the annual work plan that was derived from the re-aligned Strategic Plan 2019 – 2022.

Our COVID-19 Response

The Authority's response to the COVID 19 pandemic was built around protecting our staff and stakeholders while maintaining our service delivery as well as compliance with government regulations on having protective measures at our offices.

Performance and utilization of funds

During the year, the Authority received Kshs. 360,490,000 as recurrent funds from the National Treasury. The Authority also managed to raise Kshs. 21, 591,764.04 through Appropriation in Aid (A-I-A) from various sources such as complaint & destruction fees. The Authority did not have any pending bills in the FY 2020/2021. In FY 2021/2022, the Authority will ensure that pending bills do not exceed 1% of the total approved budget.

Annual work programme

Towards promoting of intelligence-led enforcement and enhancing the efficiency and effectiveness of investigation and prosecution processes, the Authority undertook investigation of 686 cases on intellectual property rights infringements and had 323 cases resolved including those carried forward from the previous year. The value of counterfeit goods seized so far amounted to Kshs 2,168,991,991. We undertook two destruction-of counterfeit goods' worth Kshs. 87,269,896 in quarter two and Kshs. 27,491,465 in quarter three respectively totalling Kshs. 114,761,361.

To implement the re-aligned 2019–2022 Strategic Plan, the Authority developed a comprehensive Balanced Scorecard based work plan which guided the implementation and monitoring of its strategic objectives, initiatives, and performance measures and indicators.

In strengthening internal processes through promotion of good governance, risk management and ISO compliance and elevate ICT to drive strategic interventions towards fostering a customer-oriented culture the Authority made significant progress in developing the ACA Integrated Management System (AIMS). The AIMS has an Intellectual Property Recordation System aimed at enhancing law enforcement efficiency in combating counterfeiting, deterring importation of counterfeit goods into the country and protecting trade from negative consequences of law.

The Authority has been at the forefront of the multi-agency anti-illicit trade efforts as outlined under the implementation matrix of the National Action Plan to Combat Illicit Trade. In the FY 2021/2022, the Authority organized and participated in 24 public outreach activities mostly virtually, due to social distancing restrictions caused by the covid-19 pandemic targeting County Security Committees, County Business communities together with the private sector.

Human Capital

The Authority operates at less than 50% of optimum staffing level as a result of freeze order on recruitment due to a pending merger with key parastatals as recommended by the Presidential task force of parastatal reviews. We however compensated employees, provided administrative and operational facilities as required with great progress in staff training and upskilling to enhance staff performance and overall organizational performance. We absorbed 34 interns/attachees to support critical areas during the financial year. We also implemented the culture and change management program within the organization to improve team work, group cohesion and staff performance.

Future Outlook

Despite news about COVID-19 virus mutations and concerns of prolonged lockdowns, we remain positive about our prospects in the coming years. The future looks promising, as COVID vaccines are currently being rolled out as well as having robust government interventions.

As a customer focused government institution, from the lessons that were learnt in shifting to a 'new normal' we will continue to encourage online engagement in enforcement matters including online complaint raising, online payments, leverage technology in conducting research surveys, surveillance, intelligence-based investigations and prosecution of offenders.

The worldwide disruption caused by the COVID-19 pandemic has resulted in numerous impacts on the workplace which has accelerated the Authority's automation process. Thus, going forward the Authority will also strengthen satellite offices based at the border points which have been operational for the last two years. This will involve deployment of more staff, equipment, vehicles and automation.

Appreciation

I extend my appreciation to the Board of Directors, Management, and staff of the Authority for their continued guidance, support, and dedication. You are the inspiration and motivation behind every success that the Anti-Counterfeit Authority has had on its journey in the last eleven (11) years since inception.

A note of gratitude too, to our stakeholders, the government through the Ministry of Industrialization, Trade and Enterprise Development, the National Treasury and all our stakeholders for their cooperation and support in this war. It has been a difficult year, and we truly value the collaborative spirit of all our stakeholders as we look forward to greater collaboration to make Kenya "A Counterfeit-free" Country.



Fridah Kaberia
Ag. Executive Director

VI. STATEMENT OF ANTI-COUNTERFEIT AUTHORITY'S PERFORMANCE AGAINST PREDETERMINED OBJECTIVES FOR FY 2020/2021

Section 81 subsection 2 (f) of the Public Finance Management Act, 2012 requires the accounting officer to include in the financial statement, a statement of the national government entity's performance against predetermined objectives.

Anti-Counterfeit Authority has three (3) strategic priorities and eleven (11) strategic objectives within its Strategic Plan for the FY 2018/2019- 2021/2022. These strategic priorities are as follows:

- Priority 1: Data driven awareness, enforcement and prosecution
- Priority 2: Strengthen Institutional Capacity
- Priority 3: Productive Stakeholder Engagement

The Authority develops its annual work plans based on the above strategic priorities. Assessment of the Board's performance against its annual work plan is done on an annual basis. The Authority achieved its performance targets set for the FY 2020/2021 period for its three (3) strategic pillars, as indicated in the diagram below:

	Strategic Objectives	Initiatives/Activities/Sub-activities	Key Performance Indicators	Achievements, FY 2020/2021
Strategic Priority 1: Data-driven awareness, enforcement, and prosecution	S.O 1.1: To change consumer perception and attitudes against counterfeits	Package and implement thematic and tactical outreach programmes	Number of awareness programs/activities conducted	24
		Develop IEC materials	IEC materials	10,000 – Brochures 10,000 – Fliers 10,000 - Multi-Agency Booklets 15 -Roll-up Banners 10 – Feather Banners 6 – Sheet and Street Banners
		Leverage media coverage of enforcement and awareness activities	Media coverage	Media coverage done - live coverage of the World Anti-Counterfeit Day (24th June 2021) on TV47
	S.O 1.2:	Develop and operationalize the IPR recordation system	IPR recordal regulations	IP recordation regulations

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	Strategic Objectives	Initiatives/Activities/Sub-activities	Key Performance Indicators	Achievement FY 2020/2021
	To promote intelligence-led enforcement and enhance the efficiency and effectiveness of investigation and prosecution processes			developed and gazetted
		Operationalize the compounding regulations	Compounding regulations	Compounding regulations developed and gazetted
		To register IPR and suo moto complaints received	Total no. of IPR complaints received	159
			Total no. of suo moto complaints received	527
		Investigate and prosecute IPR cases	Total no. of cases registered in court	35
		Resolution of cases through ADR	No. of cases resolved through ADR	269
	S.O 1.3: To ensure the safety and accountability of seized goods	To put in place a depot management system	Depot management system	The system is 80% complete
		Value of seized goods accounted for	Value of seized goods at the depot (Kshs. Million)	255.18
	S.O 1.4: To develop a mechanism for continuous intelligence gathering	To develop and implement an intelligence gathering system	Number of systems the enforcement has access	The Authority got enhanced access to Kentrade system
		To conduct market intelligence surveys	No. of research surveys conducted	1
Strategic Priority 2: Strengthen institutional capacity	S.O 2.1: To mobilize and optimize use of financial resources	Resource mobilization through partnerships and collaborations	Number of programmes	13 awareness programs. 4 for judges and magistrates training, 2 Border Committees (BMC & JOC),

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	Strategic Objectives	Initiatives/Activities/Sub-activities	Key Performance Indicators	Achievements, FY 2020/2021
				KEBS Innovation Pipeline week & 2 -NACADA inteagency forums in Nyeri & Kiambu, 2 - Farmers exhibitions (Kitale & Eldoret), 2-Public Health Sensitizations for agricultural Supply Chain Players
	S.O 2.2: To , strengthen internal processes through promotion of good governance, risk management and ISO compliance	Develop and implement efficiency optimization initiatives e.g. ISO, Kaizen, etc. Develop and implement the risk management framework Compliance to Mwongozo Code of Governance for State Corporations	Number of Internal Quality Audits undertaken Percentage of implementation Percentage of implementation	2 80% 75%
	S.O 2.3: To elevate on ICT to drive strategic interventions	Automation of the enforcement case management and depot management system	Percentage of implementation	80%
	S.O 2.4: To foster a strong result- oriented culture and customer focus	Initiate an organization-wide cultural transformation program	Percentage implementation of the culture change program	50%

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	Strategic Objectives	Initiatives/Activities/Sub-activities	Key Performance Indicators	Achievements FY 2020/2021
		Regularly review HR instruments to ensure compliance with relevant laws and issues	Human Resource manual, organization structure, career progression and staff establishment	Human Resource instruments reviewed
		Determine the level of customer satisfaction	Customer satisfaction index	86.5%
		Determine the level of employee satisfaction	Employee satisfaction index	65.67%
Strategic Priority 3: Productive stakeholder engagement	S.O 3.1: To strengthen stakeholder capacity	Develop and deliver capacity building programs (e.g. product knowledge and investigation) targeting relevant partners at the national and county level	Number of product knowledge training	3
		To undertake stakeholder capacity building and awareness	No. of programmes	19
	S.O 3.2: To strengthen inter-agency collaboration	Develop and implement the National inter-agency action plan on combating illicit trade	Percentage of implementation	60%
		Establish strong collaboration with the county governments	No. of counties engaged in outreach and stakeholder capacity	9 – Nakuru, Laikipia, Nyandarua, Nyeri, Kiambu, Trans Nzoia, Uasin Gishu, West Pokot and Nairobi

The Authority manages performance through the balanced score card system which incorporates targets from the performance contract as well as the aligned strategic plan targets for the year under review.

VII. CORPORATE GOVERNANCE STATEMENT

Introduction

The Board regards corporate governance as pivotal to the attainment of the Authority's core mandates and ensuring that ACA remains effective. The Board recognizes that for governance to be effective, it must be realized through leadership and collaboration, with the Board at the helm leading by example and complimenting the senior management. This enables effective and efficient decision making and gives a structural aid for the management to discharge their duty to promote the success of ACA while taking into account the interest of stakeholders. This statement provides necessary information to enable all stakeholders to evaluate the application of ACA's governance and ethical obligations, that ACA has complied with the obligations and therefore satisfied its obligations thereunder.

The Board Charter

The Charter is a critical corporate governance tool of the Board which documents the composition, roles and responsibilities of the Board. This ensures effectiveness of each Director's contribution in the governance of the Authority by facilitating independent judgement, decision making and professional competencies. The Charter provides guidelines to the Board in the exercise of its mandate of:

- Appointment, induction, skills requirement;
- Articulation of, and commitment to, respect of the rights of stakeholders;
- Separation of roles and responsibilities of the boards individual director;
- Terms of reference for all board members.

The Charter does not replace or supersede any statutory laws and regulations that govern the Authority.

The Board Size, Composition & Appointment

The Board is the highest governing body of the Authority. The Board exercises leadership, enterprise, integrity and judgment in directing the Authority so as to achieve continuing prosperity for the Authority and its stakeholders. The constitution of the Authority's Board is stipulated by the Anti-Counterfeit Act, No. 13 of 2008. It comprises of the following 9 members;

1. The Chairperson from amongst the members appointed by the Cabinet Secretary under number 8 below;
2. The Principal Secretary in the Ministry for the time being responsible for matters relating to trade or his or her representative;
3. The Principal Secretary in the ministry for the time being responsible for matters relating to finance or his or her representative;
4. The Attorney-General or his representative;
5. The Commissioner-General of the Kenya Revenue Authority, who may be represented by the Commissioner of Customs;
6. The Managing Director of the Kenya Bureau of Standards;
7. The Chief Executive of the Kenya Association of Manufacturers or his representative;
8. Two members appointed by the Cabinet Secretary, not being public officers with knowledge on intellectual property rights, consumer protection or trade.

The Executive Director of the Authority is an ex officio Member of the Board.

Oversight role of the Board

The board provides strategic direction with a focus on consistent performance in an atmosphere of transparency and accountability whilst also reviewing and monitoring proper corporate governance throughout the Authority. The responsibilities of the board are clearly spelt out in both the ACA Act and the Board Charter. The board defines the purpose of the Authority, its strategic intent, objectives and its values. It ensures that procedures and practices are in place to protect ACA's assets and reputation.

The board retains full and effective control over ACA and monitors management's implementation of the plans and strategies set by the board; it ensures ethical behavior and compliance with relevant laws and regulations, audit and accounting principles, corporate policies and procedures and the Code of Ethics. It strives to act above and beyond the minimum requirements and benchmark performance against best international practices.

Specifically, the Board is charged with the following responsibilities: -

- (a) Defining the purpose of the ACA, that is, its strategic intent and objectives, and its values which should be clear, concise and achievable;
- (b) Strategy formulation and ensuring there are appropriate policies, systems and structures to effectively and successfully implement the strategies;
- (c) Provide leadership within a framework of prudent and effective structures which enable risks to be assessed;
- (d) Identify the opportunities as well as the principle risks in its operating environment including the preparation of the risk policy plans/risk management policies and implementation of appropriate measures to manage such risks or anticipated impact on the operations;
- (e) Review on a regular basis the adequacy and integrity of the internal controls, acquisition and divestures, management information systems including compliance with applicable laws and regulations;

Board Committees and Responsibilities

In order to fulfil its Fiduciary Oversight Arrangements, the Board has set up 3 (three) principal Committees which sets forth the purposes, goals and responsibilities of the committees as well as qualifications for committee membership, procedure for appointment and removal and committee reporting to the Board in the committee's terms of reference. This is intended to facilitate efficient decision making of the Board in discharging its duties and responsibilities.

1. The Human Resource, Finance & General Purposes committee; Reviews the authority's annual budgets and procurement plans, quarterly and annual financial reports. The Committee also provides oversight on organizational structure, human resource policy, capacity enhancement and administration issues within the organization.
2. Technical Committee; Charged with providing oversight on the Authority enforcement and legal mandates. Also provides oversight on the Authority's research, monitoring, education and awareness functions.

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3. Audit and Risk Committee; Plays a critical role in reviewing financial information, and ensuring that the system of internal controls is effectively administered.

4. Following is the list of all Board Committee members

HR, Finance & General-Purpose Committee	Technical Committee	Audit & Risk Committee
Phyllis Wakiaga (Chair)	Bernard Njiraini (Chair)	Stephen Mutoro (Chair)
Stephen Mutoro	Phyllis Wakiaga	Joel Bett
Emmanuel Bitta	Emmanuel Bitta	Dr. Bruno Linyiru
Joel Bett	Major. (RTD) Samuel Kariuki	Major (Rtd) Samuel Kariuki
Major (Rtd) Samuel Kariuki	Dr Bruno Linyiru	Benard Njiraini

Board Meetings

During the year under review the Authority's Board held 8 full board meetings. The Human Resource, Finance & General Purposes committee held 6 meetings; Technical Committee held 8 meetings and Audit & Risk Committee held 4 meetings which were attended as follows:

No	Board Member	HR, F & GP Committee	Technical Committee	Audit Committee	Full Board	Any Other Meetings e.g Induction, Adhoc
1	Flora Mutahi	N/A	N/A	N/A	8	12
2	Col. Lt. (Rtd) Bernard Njiraini	N/A	6	2	6	4
3	Phyllis Wakiaga	6	N/A	N/A	8	8
4	Joel Bett	6	N/A	4	8	8
5	Emmanuel Bitta	5	8	N/A	6	2
6	Dr Bruno Linyiru	N/A	8	3	8	13
7	Stephen Mutoro	6	N/A	4	8	10
8	James Wang'ombe	N/A	N/A	N/A	6	6
9	Major (Rtd) Kariuki	3	3	2	5	7
	Pamela Ahogo	1	1	1	1	2
	Lilian Nyawanda	N/A	N/A	N/A	1	1
ALTERNATE BOARD MEMBERS						
	Joseph Wairiuko	N/A	8	N/A	N/A	N/A
	Benard Nguyo	N/A	2	1	2	N/A

Notes:

1. Mr. James Wang'ombe represents the Inspector of State Corporations.
2. Mr. Joseph Wairiuko is the alternate of Phyllis Wakiaga – Kenya Association of Manufacturers in the Technical Committee.
3. Mr. Benard Nguyo is the alternate of Col. Lt. (Rtd) Bernard Njiraini in the Technical and Audit & Risk Committee

4. Pamela Ahago replaced Major (Rtd) Kariuki of Kenya Revenue Authority as the Ag. Commissioner Customs and Border Control from 24th February, 2021 to 12th May, 2021.
5. Lilian Nyawanda replaced Pamela Ahago as the substantive Commissioner Customs and Border Control from 12th May, 2021 to-date.

Board Remuneration

In respect of every Board meeting, a member present is entitled to a sitting allowance of Kshs. 20,000 per sitting, lunch allowance (in lieu of lunch being provided), accommodation allowance and mileage reimbursement where applicable within government set limits for state corporations. The Chairman receives a monthly honorarium of Kshs. 80,000 and Kshs. 7,000 airtime allowance.

Conflict of Interest

Board members are obliged to fully disclose to the Board during meetings any real or potential conflict, which comes to any member's attention, whether direct or indirect. Where a member discloses the conflict of interest he or she is obligated to exclude himself/herself from any discussion or decision over the matter in question.

Board Induction and Training

New board members are inducted by the Chair of the Board and the Executive Director on the operations of the Authority and the role of the member in the board. The Authority also builds the capacity of the board to enable them to have an effective oversight role on the management.

Board Evaluation

Board evaluation is key in assessing the performance, efficiency and effectiveness of an organization. Regular performance evaluations also enable the Authority to review its strategies with a view to ensuring continuous growth and sustainability. During the year, a Board evaluation exercise was carried out and it was conducted by the State Corporations Advisory Committee (SCAC).

Code of Conduct and Ethics

At ACA, good corporate governance is engrained as a valuable contributor to the long-term success of the Authority through creation of the right culture throughout the organization. The core values of diligence, integrity and vigilance steer our decision-making processes. The Authority conducts its operations in compliance with relevant legal principles and high ethical standards. The Board, Management and employees are required to observe the code and high standards of integrity. Further, these standards are applied in all dealings with customers, suppliers and other stakeholders.

To achieve corporate goals, employees are expected to observe the highest standards of professionalism. Employees have a responsibility to contribute to the good governance of the Authority and to maintain its reputation for integrity both within and outside the workplace. The code of conduct provides fundamental principles and guidelines that govern the ethical and legal obligations of all employees at all levels. All employees are bound by the provisions of the Public Officers Ethics Act and any other statutes and regulations issued from time to time.

Management Committee

The Committee is chaired by the Ag. Executive Director and comprises all departmental heads, divisions and units. The Committee is responsible for executing and implementing strategies adopted by the Board. It considers policies and strategic measures for purposes of ensuring optimal performance of the Authority. The Ag. Executive Director provides the pivotal link between the Management and the Board.

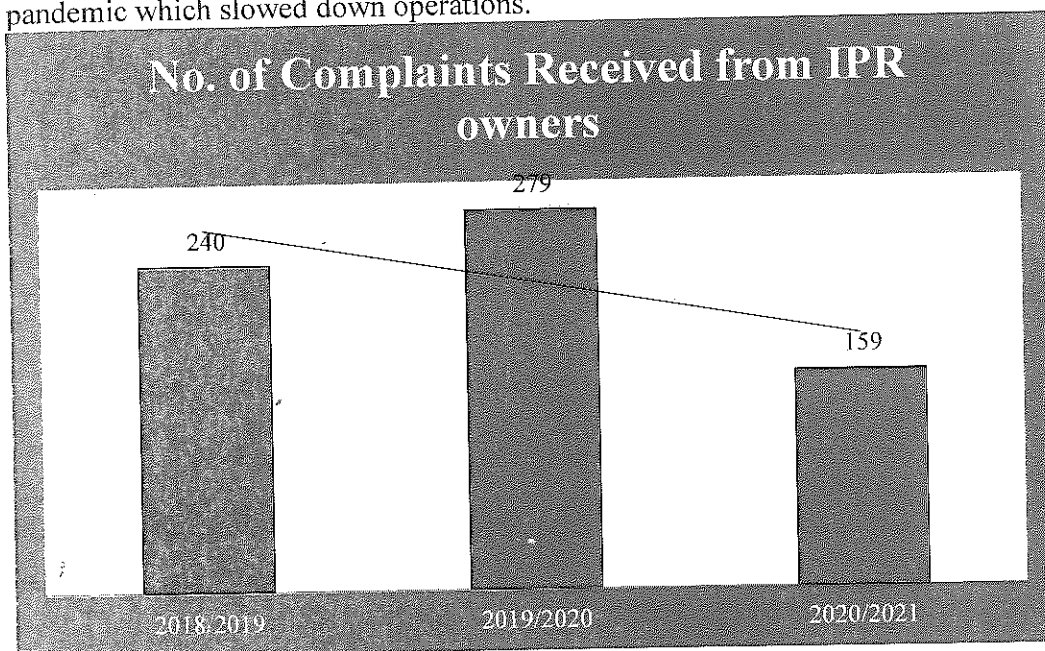
VIII. MANAGEMENT DISCUSSION AND ANALYSIS

Operational and Financial Performance

Enforcement and Legal Services

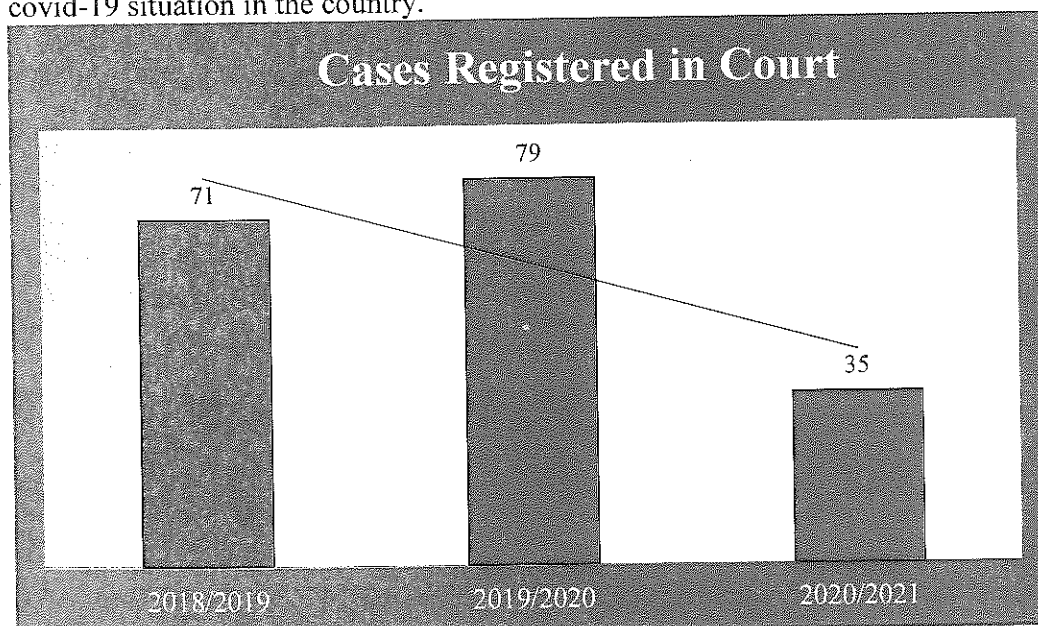
1. Intellectual Property Rights (IPR) complaints

In the last three years, the number of IPR cases received and registered by the Authority averaged over 200 cases in the last three years. The decline in cases in the FY 2021/21 is attributed to the Covid-19 pandemic which slowed down operations.



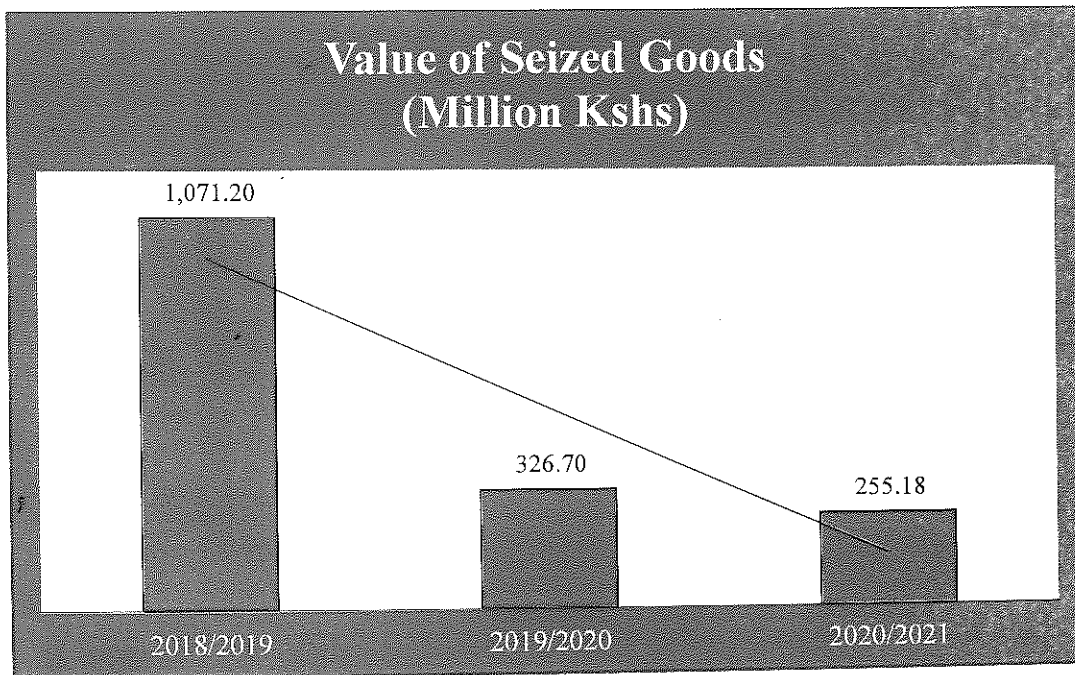
2. Criminal Cases on Intellectual property right infringements

Cases arising from IPR infringements can be resolved through the courts or Alternative Dispute Resolution process. The number of criminal cases increased from 71 cases in the FY 2018/19 to 79 cases in the FY 2019/20 before dropping to 35 cases in the FY 2020/21. The drop is attributed to the covid-19 situation in the country.



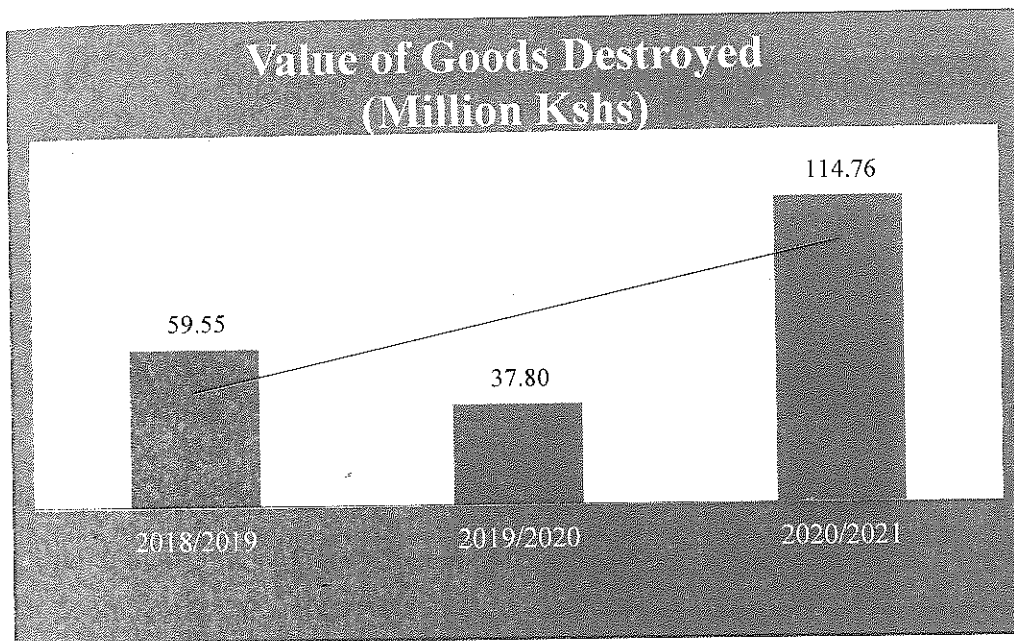
3. Value of Seized Goods

The Anti-Counterfeit Act, 2008 requires any suspected infringing goods be seized and deposited at a counterfeit goods depot. The value of suspected counterfeit goods seized in the FY 2018/19 was Kshs. 1,071 million. The high value is attributed to Multi-Agency operations spearheaded carried out by law enforcement agencies. The Authority seized counterfeit goods worth Kshs. 326 million in the FY 2019/20 which reduced to Kshs. 255 million in the FY 2020/21. The decline in value of goods seized is as a result of exit from the Kilindini Port (Mombasa), Inland Container Depot Nairobi and slowed operations due to covid-19.



4. Value of Destroyed Goods

The Anti-Counterfeit Act, 2008 also requires that any condemned goods be destroyed in accordance to the NEMA regulations. There are three instances in which seized goods are marked for destruction: if the courts have determined that they are counterfeit and forfeit to the state for destruction; goods have been abandoned by the suspect; or the suspect and IPR owner/agent enter into an ADR process and forfeit the goods to the state for destruction. The value of goods destroyed by the Authority declined from Kshs. 59.55 million in the FY 2018/19 to Kshs. 37.8 million in the FY 2019/20 and increased to Kshs. 114.76 million in the FY 2020/21. The decline in value of goods destroyed in the FY 2019/20 was due to postponement of the destruction of goods following the outbreak of Covid-19.



5. Purchase of Counterfeit Goods Depot

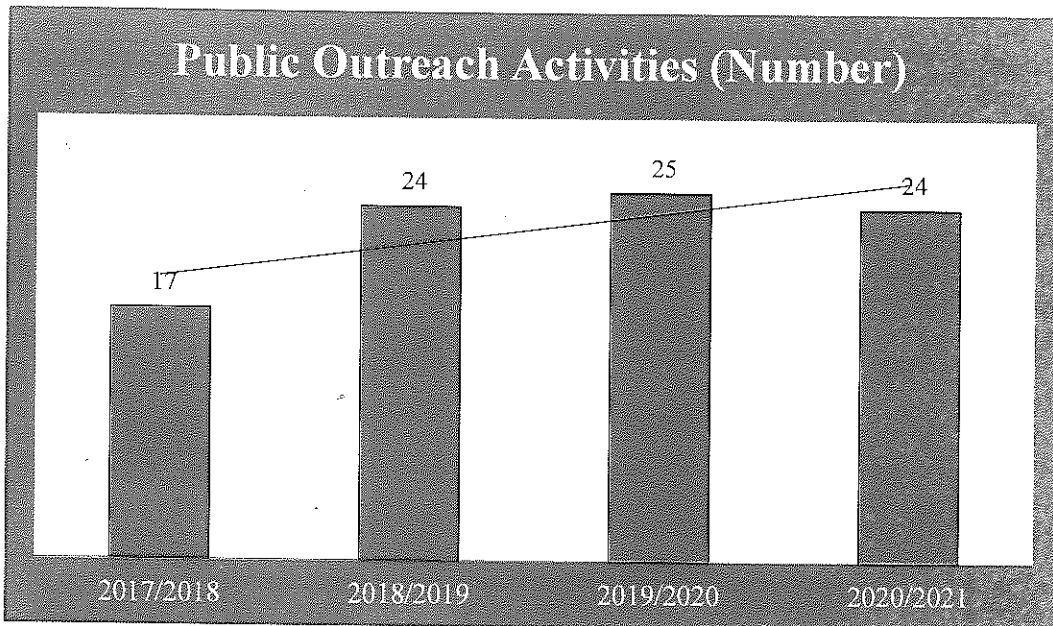
The Authority had planned to purchase two seized goods holding depot in the financial year. This is a three-year project that involves the acquisition of 4 seized goods holding depots (10,000 sq. feet each) at strategic locations to store counterfeit goods as exhibits to be produced in law courts (at a cost of Kshs 212.5 million), in a span of 3 years. As at the end of the financial year, the procurement process was ongoing and the Authority had identified two godown in Nairobi.

The main purpose of the project is to improve the ease of doing business by facilitating a level-playing field for businesses to invest, be competitive, thrive, grow, create employment, reduce poverty and also help the government achieve the Big '4' agenda by promoting genuine products in manufacturing, fertilizers, seeds, medicine and construction materials. This is in line with national government strategic objectives and policies.

Research and Awareness

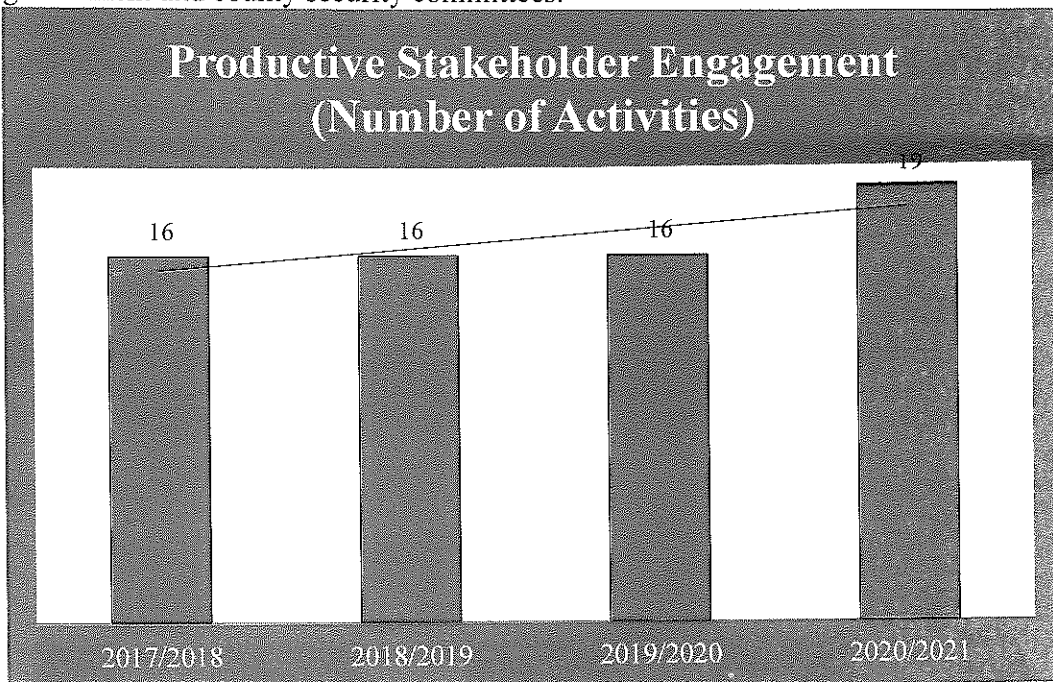
1. Public Awareness

To reduce the demand for counterfeit goods and hence the supply, creating awareness to the public and other stakeholders on the dangers of counterfeits to health and safety and to the economy at large is critical. In the last four years, the Authority carried out a total of 90 public awareness activities.



2. Productive Stakeholder Engagement

The Authority is also mandated to devise and create training programs on counterfeiting. This is aimed at building the capacity of various stakeholders to equip them with the necessary skills and knowledge to handle counterfeiting issues. For instance, training of the IPR holders/agents are meant to help them understand their role in raising IPR complaints and providing relevant information for the successful prosecution of IPR cases, while the training for law enforcement officers and the judiciary are meant to equip them with skills to investigate and prosecute IPR infringements. During the reporting period, the Authority carried out 16 sensitization/training activities for each of the first three years and increased to 19 in the FY 2020/21. These activities were carried out at the counterfeit prone areas including the border points in cooperation with law enforcement agencies, judiciary, county government and county security committees.



3. Research activities

Research activities at the Authority are designed to inform policy, enforcement and awareness activities. Research activities also cover internal surveys to establish the extent to which internal and external stakeholders are satisfied with the Authority's services.

The following are the research activities carried out in the period under review:

- National baseline survey on the extent of counterfeiting and illicit trade in Kenya
- National consumer survey on awareness of counterfeiting and other forms of illicit trade in Kenya
- Market intelligence survey to inform policy, awareness, enforcement and strategy
- Sector-specific survey to identify industry constraints and mitigation measures
- Undertook a survey to determine the effects of ACA's exit from the port of entry
- Carried out a Market intelligence survey on counterfeit trade routes and consumer attitudes towards counterfeits in selected counties in Kenya
- Customer satisfaction survey
- Employee satisfaction survey
- Corruption perception survey among the employees of the Authority

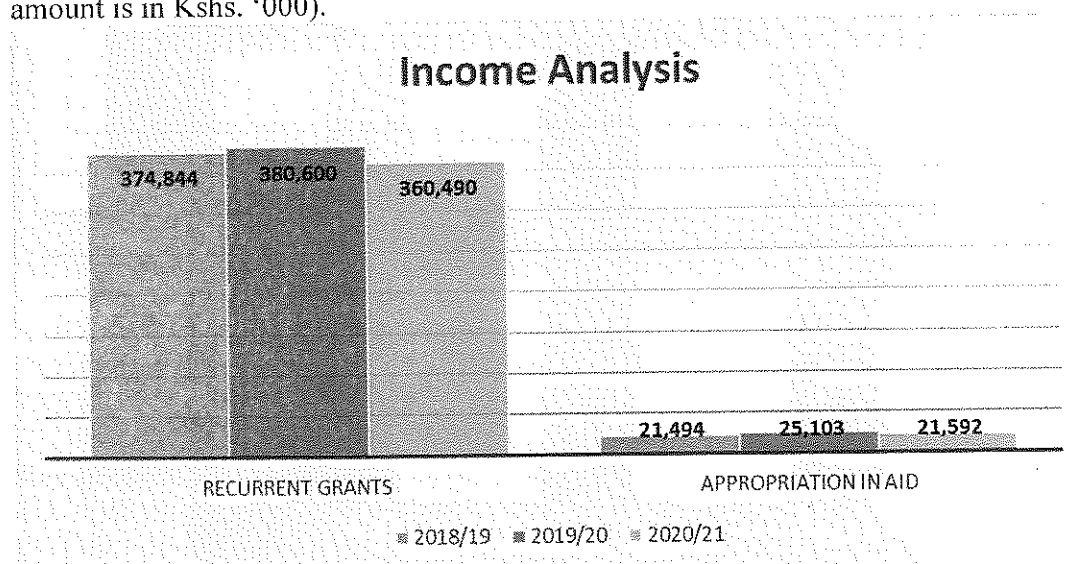
Corporate Services

1. Government Grants

The Authority received recurrent grants of Kshs. 360,490,000 during the period of review down from Kshs. 380,600,000 from the previous period.

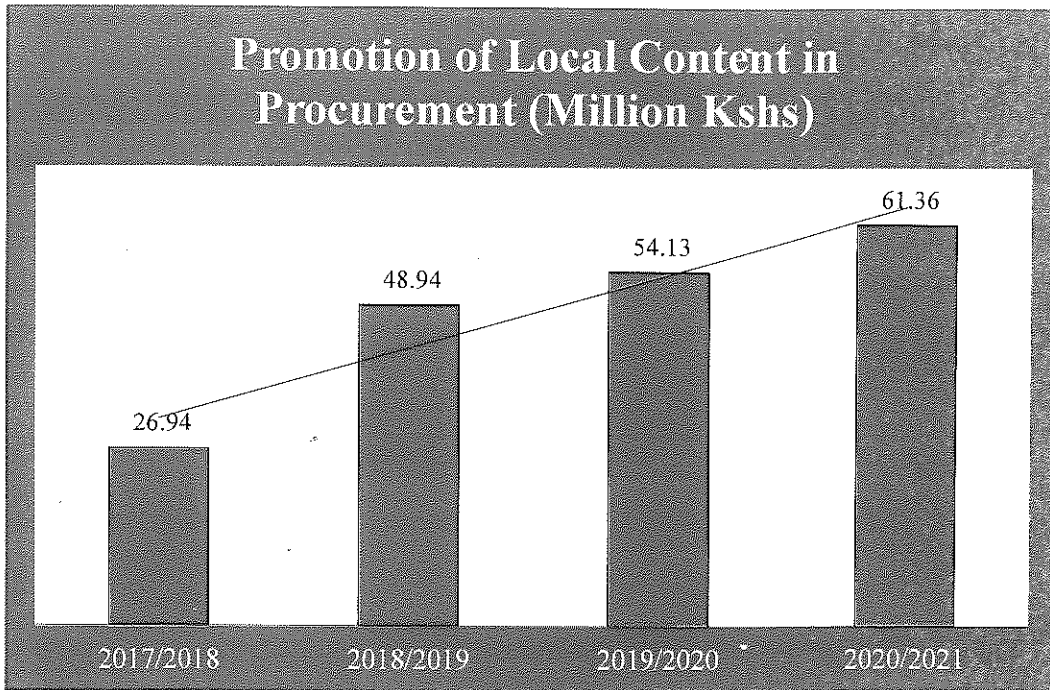
2. Appropriation-in-Aid

The Authority raises appropriation-in-aid (A-in-A) from the laying of complaints by the IPR holders or agents and disposal of counterfeit goods. During the period under review, the Authority raised Kshs. 21.6 million. The table below shows the income received by the Authority for the last 3 years (the amount is in Kshs. '000).



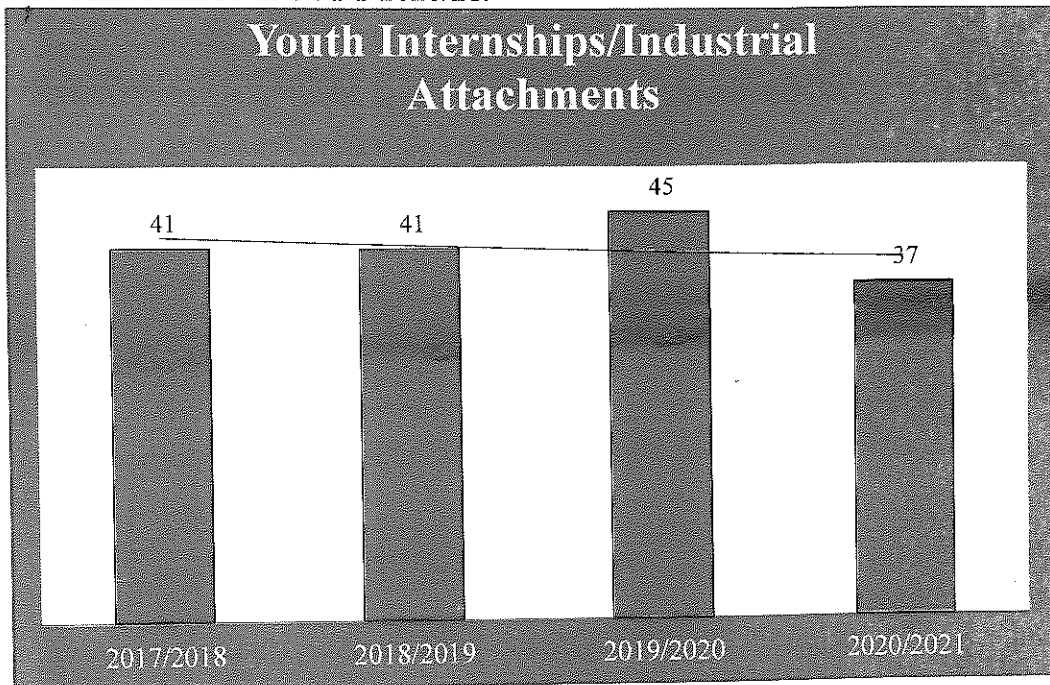
Promotion of Local Content in Procurement

Equally, the Authority has been implementing the Buy Kenya, Build Kenya policy by procuring goods and services with local content.



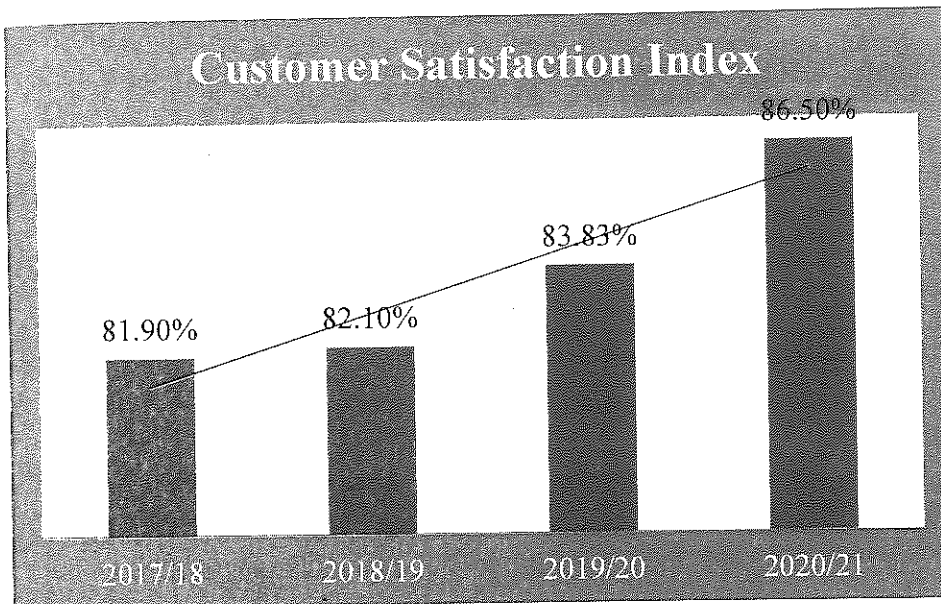
3. Youth Internships/Industrial Attachments

The Authority has been offering internship and industrial attachment opportunities to the youth. During the review period, the Authority engaged 41 youth each in the FY 2017/18 and FY 2018/19, 45 in the FY 2019/20 and 37 in the FY 2020/21.

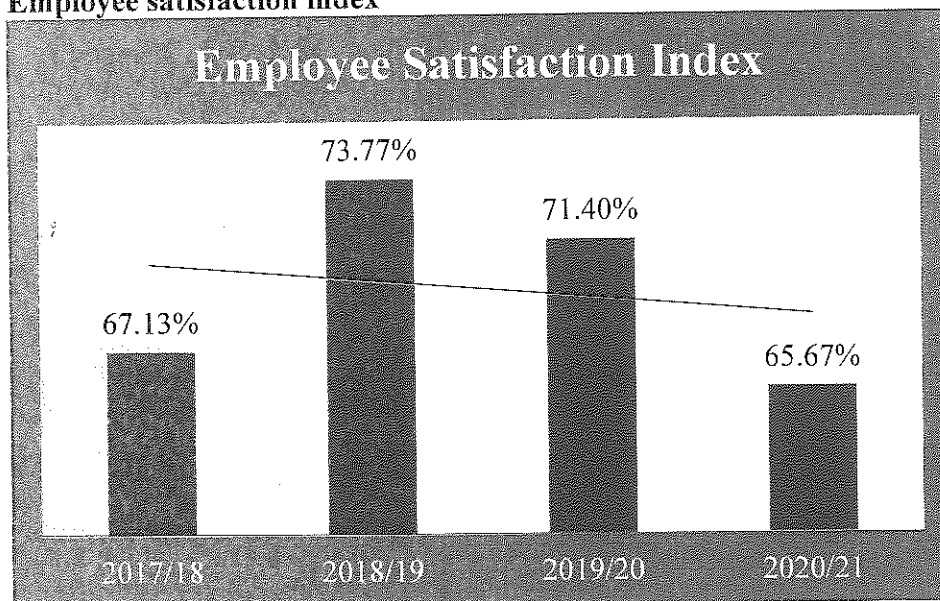


The following are the trends for employee and customer satisfaction surveys over the period:

Customer satisfaction index



Employee satisfaction index



Authority's Compliance with statutory requirements

The Authority complied with all its statutory obligations in the reporting period. These are WHT, PAYE, NHIF, NSSF and HELB.

Key projects the Authority is implementing

The Authority secured a grant from the UK government (DFID) channelled through TMEA of a sum of USD 1,500,000 to fund the following projects: -

1. Digitization of ACA operations
2. National Baseline Survey on Counterfeiting and other Forms of Illicit Trade

The funding is envisioned to facilitate the collection of data on counterfeiting, enhance public awareness on counterfeiting and automate internal and external processes in the fight against

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counterfeiting. This will enable the Authority to better and efficiently serve its stakeholders nationally, regionally and globally.

The financing agreement was signed on 20th August 2018 between ACA and TMEA and witnessed by the chairperson of ACA Board.

To oversee the implementation of the projects, a project steering committee (SC) headed by CEOs of ACA and TMEA and a project implementation committee (PIT), composed of technical officers from ACA and TMEA, were constituted. The project steering committee (SC) provides oversight and strategic direction while the project implementation team (PIT) is in charge of the day-to-day project activities. The projects cover a four-year period from FY 2018/19 to FY 2021/22.

The following are the milestones of the projects:

Deliverable	Update
National Baseline Survey on Counterfeit and other forms of Illicit Trade	<p>The following are the key achievements for the reporting period:</p> <ul style="list-style-type: none"> • Final review of the final drafts of the Baseline report on counterfeit and other forms of illicit trade by the Technical Committee and the Executive Forum • Training of Stakeholders (Government Agencies and Private Sector firms) on Data • Launch of the Baseline report on counterfeit and other forms of illicit trade on 10th June 2020 • Launch of the National Illicit Trade Observatory on 10th June 2020 • Continuously updating the National Illicit Trade Observatory to monitor trends and Track Implementation of Recommendations of the National Baseline Survey on the Extent of Counterfeiting and Illicit Trade in Kenya
Development of the ACA Integrated Management System (AIMS)	<p>System development is at advanced stages; The achievements for the reporting period and the key upcoming activities are itemized below:</p> <ul style="list-style-type: none"> • Continuous user testing and enhancement of the system. • Payment Integration finalized for over the counter and MPesa channels. • System piloting scheduled to begin in October 2021. • System scheduled to be rolled out by November 2021.
ICT Infrastructure upgrade	<p>The key achievements for the reporting period and the ongoing activities are itemized below:</p> <ul style="list-style-type: none"> • Delivery and Installation of all hardware and software finalized. • Technical training undertaken. • Documentation and knowledge transfer currently ongoing.
Change Management	<p>The key achievements for the reporting period and the ongoing activities are itemized below:</p> <ul style="list-style-type: none"> • User testing and piloting of the AIMS system with ACA staff. • Initial engagements with external stakeholders on the system under development. • External user piloting scheduled to begin in September 2021.

Risk Management

The Board confirms its responsibility for the Authority’s system of internal controls, including taking reasonable steps to ensure that adequate systems are being maintained. Effective internal control systems have been operationalized to assess and mitigate any risks the Authority may be exposed to. A comprehensive policy on the risk management framework to identify, measure and manage all key risks has been put in place by the Board and integrated into the overall management reporting structure. These risks are further demarcated onto the Strategic Corporate Risk Matrix which is closely monitored by the Board. The Audit and Risk Committee of the Board, through its delegated mandate from the Board, regularly reviews the effectiveness of the internal control system. The Head of the Internal Audit Department reports directly to the Board’s Audit and Risk Committee.

Enterprise Risk Management

ACA remains committed to robust risk management practices as an integral part of good management. The Board, through its Audit and Risk Committee, exercises an oversight role on the Enterprise Risk Management (ERM) processes implemented by Management. During the year under review, ACA continued to embed a risk-awareness culture aimed at supporting strategic and operational objectives. Key corporate and emerging risks related to specific strategic objectives were assessed, evaluated and are closely monitored by the Board and Management.

Our risk management framework, allows us to identify, measure, manage and monitor strategic and operational risks across the Authority. The framework provides management with a clear line of sight over risk to enable informed decision making.

Key Risks

ACA’s key risks and mitigation measures are shown in the table below:

Key Risks and Mitigations

No	Risk	Risk Driver	Risk Rating	Mitigation strategies
1	Inadequacy in enforcement of IPR	Inadequate capacity to independently verify IP violations	Extreme	Engage IPR owners to offer certified brand training to enforcement officers
		Rapid technological advancements		Enhance market surveillance and research
		Inadequate inter agency collaboration and coordination		Establish information sharing channels
		Porous borders		Develop and implement an inter-agency framework
		Changes in policy environment		Establish presence at the border points
2	Insecurity of staff	Insufficient armed police officers during enforcement operations	High	MOUs with NPS for facilitation during operations
3	Financial risks	Inadequate funding	Moderate	Implement the resource mobilisation strategies

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		Delay in exchequer disbursements		Ensure timely requests for exchequer disbursements
4	Discontinuity of operations in the event of a disaster	Inadequate business continuity and Disaster recovery plans	Moderate	Establish an offsite data site

Material errors in statutory or financial obligations

There are no material errors in statutory or financial obligations.

The Authority's financial probity and serious governance issues

There is no major financial probity as reported by internal audit/Board audit committee, external auditors, or other National Government Agencies providing oversight; and there are no serious governance issues among the Board or member of the Board and top management including conflict of interest.

IX. ENVIRONMENTAL AND SUSTAINABILITY REPORTING

Anti-Counterfeit Authority exists to transform lives. This is our purpose; the driving force behind everything we do. It is what guides us to deliver our strategy, putting the customer/Citizen first, delivering relevant goods and services, and improving operational excellence. Below is an outline of the organization's policies and activities that promote sustainability.

1. Sustainability strategy and profile

The Authority being a corporate entity with perpetual existence lives in an interactive manner with the greater community. The Authority has in place a Corporate Social Responsibility Policy and has a CSR Committee that initiates CSR Activities within the corporate work plans to address fundamental challenges that face our society in the spirit of Sustainable Development Goals – the global development agenda to be achieved by 2030.

Due to budgetary constraints that affects sustainability of planned projects, we have a resource mobilization strategy in place to target external resources for the FY 2021/22. We had increase in our Appropriation-in-Aid (A-in-A) amounting to Kshs. 21.6M to supplement government funding. Further the enforcement of recordation regulations will lead to increase in sources of funding for the Authority's operations.

2. Environmental performance

In delivering on the environmental dimensions of the 2030 Agenda for Sustainable Development, the Authority is in the third year of implementing a paperless board solution thus remaining true to the tenets of environmental sustainability yielding a positive net impact for both the organization and the environment as a whole.

The Authority is also implementing the ACA Integrated Management System that seeks to automate key operational process in enforcement case management and depot management. In an effort towards achieving of Goal 13 of the Sustainable Development Goals on urgent action to combat climate change and its impacts on the environment, the Authority procures NEMA certified destruction facilities that comply with environmental standards in destruction of counterfeit goods.

Due to the environmental impact and limited capacity of destruction facilities available, the Authority has not destroyed fluorescent counterfeit goods seized until access to such facility or alternative means of disposing the goods.

3. Employee welfare

To achieve Goal No. 5 of the Sustainable Development Goals on achieving gender equality and empower all women and girls, the Authority complies with relevant Kenyan laws on affirmative action and has in place the ACA Human Resource policy that respects diversity in terms of gender, disability, age, national cohesion principles among others. ACA HR policy has guidelines on recruitment of staff, employee welfare with a generous medical cover, training and upskilling as well as sanction and reward system.

In order to improve safety and health at the work place, ACA has a management committee to ensure safety and compliance with Occupational Safety and Health Act of 2007, (OSHA).

During the reporting period, the Authority implemented the Change Management Program together with Consultants from the Institute of Human Resource Management, Nairobi, Kenya. These efforts are meant to equip employees embrace change management as a way of life in the ever-changing business environment.

4. Market place practices-

a) Responsible competition practice.

The Authority has several management committees to address Integrity, Ethics and anti-corruption issues within the organization. We have in place the Corruption Prevention Committee as well as the Public Complaints Committee with dedicated reporting platforms for confidential reporting to safeguard consumer inquires and interests.

The Authority decrees staff to remain apolitical without political responsibility or political involvement as per Public Service code of conduct.

The Authority in combating trade in counterfeit contributes towards promotion fair trade practices and ease of doing business in the country. Trade in counterfeits is a key detriment of fair trade in the country.

The Authority also works with other government agencies in enforcement and public outreach programs aimed at increasing synergy in the war against illicit trade in the country.

b) Responsible Supply chain and supplier relations

In line with Public Procurement and Asset Disposal Act of 2015 and Public Finance Management Act of 2012, the Authority initiates transparent and accountable procurement process in order get value for money from goods, services and works procured.

The Authority has maintained good relation with its suppliers leading to enhanced efficiency of its operations and value-addition. The Authority has no pending bills as a result of honouring supplier contracts and maintain a payment of 30 days after invoicing for supplies made to the Authority.

c) Responsible marketing and advertisement

The Authority has increased its on-line and market surveillance initiatives to curb Covid-19 pandemic demand driven influx of counterfeit goods like facemasks, testing kits and other Covid-19 related equipment's. The Authority has close surveillance of on-line sale sites that have grown as a result of social distancing initiatives and netted goods worth Kshs. 48M as a result.

d) Product stewardship

In our efforts to safeguard consumer rights and interests, we continue leverage ACA social media platforms in Twitter, Facebook and the website to sensitize the general public on dangers of counterfeit products particularly relating to face masks and sanitizers.

The Authority has also put in place a Business Continuity Plan and policy to mitigate the adverse effects of Covid-19 and have in place recovery strategies to protect the genuine manufacturers and consumers from unfair competition from unhealthy and unsafe products.

5. Corporate Social Responsibility / Community Engagements

In order to promote road safety among Boda Boda Riders, the Authority procured and printed reflective road-safety jackets and issued to riders in various town across the country. The Authority has also mainstreamed road safety requirement with a management committee and training of staff internally.

The Authority also participated in planting of trees during counterfeit goods destruction events. We also participated in this year's tree planting at the Moi Referral & Training Hospital in Eldoret. These are efforts geared towards Environmental sustainability through afforestation and control of pollution.

In line with government directives to offer Youth Internships/Industrial Attachments/ Apprenticeships, during the reporting period, we attached 37 youths in various departments giving opportunities to deserving Kenyans with a view to impart the requisite knowledge and practical experience or exposure in readiness for the job market.

X. REPORT OF THE DIRECTORS

The Directors submit their report together with the audited financial statements for the year ended June 30, 2021, which show the state of the Authority's affairs.

i) Principal activities

The principal activities of the Authority continue to be to enlighten and inform the public on matters relating to counterfeiting; combat counterfeiting, trade and other dealings in counterfeit goods in Kenya; devise and promote training programs on combating counterfeiting; co-ordinate with national, regional or international organizations involved in combating counterfeiting; Advise the government through the Cabinet Secretary on policies and measures concerning the necessary support, promotion and protection of intellectual property rights as well as the extent of counterfeiting; and carry out inquiries, studies and research into matters relating to counterfeiting and the protection of intellectual property rights.

ii) Results

The results of the Authority for the year ended June 30, 2021 are set out on page 1.

iii) Directors

The members of the Board of Directors who served during the year are shown from pages vi to ix. During the year director Major (Rtd) Kariuki retired and director Pamela Ahago was appointed with effect from 24th February 2021. Director Lilian Nyawanda replaced Pamela Ahago as the substantive Commissioner Customs and Border Control from 12th May, 2021.

iv) Surplus remission

In accordance with Regulation 219(2) of the Public Financial Management (National Government) Regulations, regulatory entities shall remit in to Consolidated Fund, ninety per centum of its surplus funds reported in the audited financial statements after the end of each financial year. The Authority is not classified as a regulatory authority and therefore did not remit surplus funds to the Consolidated Fund.

v) Auditors

The Auditor General is responsible for the statutory audit of the Authority in accordance with Article 229 of the Constitution of Kenya and the Public Audit Act, 2015.

By Order of the Board



Fridah Kaberia
Ag. Executive Director

Date: 16/11/2021

XI. STATEMENT OF DIRECTORS' RESPONSIBILITIES

Section 81(1) of the Public Finance Management Act, 2012, section 14(3) of the State Corporations Act and Section 20(2) of the Anti- Counterfeit Act, 2008 require the Directors to prepare financial statements in respect of the Authority, which give a true and fair view of the state of affairs of the Authority at the end of the financial year and the operating results of the Authority for that year. The Directors are also required to ensure that the Authority keeps proper accounting records which disclose with reasonable accuracy the financial position of the Authority. The Directors are also responsible for safeguarding the assets of the Authority.

The Directors are responsible for the preparation and presentation of the Authority's financial statements, which give a true and fair view of the state of affairs of the Authority for and as at the end of the financial year ended on June 30, 2021. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Authority; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Authority; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Directors accept responsibility for the Authority's financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act and the State Corporations Act. The Directors are of the opinion that the Authority's financial statements give a true and fair view of the state of Authority's transactions during the financial year ended June 30, 2021 and of the Authority's financial position as at that date.

The Directors further confirm the completeness of the accounting records maintained for the Authority, which have been relied upon in the preparation of the Authority's financial statements as well as the adequacy of the systems of internal financial control.

Nothing has come to the attention of the Directors to indicate that the Authority will not remain a going concern for at least the next twelve months from the date of this statement.

Approval of the financial statements

The Authority's financial statements were approved by the Board on 27th August, 2021 and signed on its behalf by:

Signature:

Name: Flora Mutahi
Chairperson of the Board

Signature

Name: Fridah Kaberia
Ag. Executive Director

REPUBLIC OF KENYA

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OFFICE OF THE AUDITOR GENERAL

Enhancing Accountability

HEADQUARTERS
Anniversary Towers
Monrovia Street
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NAIROBI

REPORT OF THE AUDITOR-GENERAL ON ANTI-COUNTERFEIT AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2021

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazetted notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal control, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of the Anti-Counterfeit Authority set out on pages 1 to 33, which comprise the statement of financial position as at 30 June 2021, and the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Anti-Counterfeit Authority as at 30 June, 2021, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Anti-Counterfeit Act No.13 of 2008 and the Public Finance Management Act, 2012.

Basis for Opinion

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

Emphasis of Matter

Contingent Liability

As previously reported and as disclosed at Note 25, review of records revealed pending legal proceedings against the Authority that may, if successful, have significant impact on its operations. This includes five (5) civil cases with a contingent liability of Kshs.6,361,600 which had adverse rulings but the Authority appealed against the ruling. There is also a case where an accused person was charged with possession of counterfeit electric bulbs and accessories but was acquitted of the charges in a Court of Law in 2015. However, the accused person and others instituted a civil case at Milimani Law Courts in 2016 seeking for special damages of Kshs.603,500,000 against the Authority for unlawful arrest, malicious prosecution and destruction of property. Although, the Authority released part of the goods seized to the accused persons in July, 2015, they complained that the remaining goods had been destroyed and they could not take destroyed or damaged goods.

Key Audit Matters

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

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

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

Basis for Conclusion

Information and Communications Technology

As previously reported, the Authority in their Strategic Plan formulated various strategic objectives which include integration of Information and Communication Technology (ICT) in operations and to promote good governance. To achieve the objectives, the ICT function is required to develop and implement an efficient framework for data integrity and ICT security. However, as at the time of audit, Management had not put in place the following controls:

- Information Technology (IT) Strategic Plan that supports business requirements and ensures that IT spending remains within the approved IT Strategic Plan.
- A formal, documented and tested emergency procedure.
- IT Continuity Plan and Disaster Recovery Plan kept off-site; backups stored in a secure offsite storage facility.

In the circumstances, failure to develop and implement Business Continuity Plan and Disaster Recovery Plan and establish off-site back up facilities exposes the Authority to possible loss of business in the event of a disaster.

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

Responsibilities of Management and those charged with Governance

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

In preparing the financial statements, Management is responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless Management is aware of the intention to liquidate the Authority or to cease operations.

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

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

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

Auditor-General's Responsibilities for the Audit

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

or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

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

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

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

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

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue as a going concern. If I conclude that a material

uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Authority to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Authority to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

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

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


CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

23 December, 2021

**XIII. STATEMENT OF FINANCIAL PERFORMANCE
 FOR THE YEAR ENDED 30 JUNE 2021**

	Note	2020-2021 Kshs	2019-2020 Kshs
Revenue from non-exchange transactions			
Recurrent – Government grant	6	360,490,000	380,600,000
		360,490,000	380,600,000
Revenue from exchange transactions			
Rendering of services	7	20,198,566	24,748,178
Other income	8	-	300,400
		20,198,566	25,048,578
		380,688,566	405,648,578
Total revenue			
Expenses			
Use of goods and services	9	123,820,084	108,050,507
Employee costs	10	229,576,222	235,885,360
Remuneration of Directors	11	10,016,422	9,837,045
Depreciation and amortization expense	12	16,808,743	22,772,961
Repairs and maintenance	13	3,757,881	4,144,066
		383,979,352	380,689,939
Total expenses			
Other gains			
Gain on foreign exchange transactions		104,816	54,639
Surplus/Deficit for the period		(3,185,970)	25,013,278

ANTI-COUNTERFEIT AUTHORITY (ACA)
ANNUAL REPORTS AND FINANCIAL STATEMENTS FOR THE YEAR ENDED JUNE 30, 2021

XIV. STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2021

	Note	2020-2021 Kshs	2019-2020 Kshs
Assets			
Current assets			
Cash and cash equivalents	14	429,393,825	435,360,049
Current portion of receivables from exchange transactions	15(a)	11,591,458	8,663,863
Receivables from non-exchange transactions	16	21,017,410	-
Inventories	17	3,906,039	4,076,804
		465,908,732	448,100,716
Non-current assets			
Property, plant and equipment	18	16,809,977	33,481,012
Intangible assets	19	-	137,708
Long term receivables from exchange transactions	15(b)	-	33,944
		16,809,977	33,652,664
Total assets		482,718,709	481,753,380
Liabilities			
Current liabilities			
Trade and other payables from exchange transactions	20	13,980,772	8,089,598
Current Provisions	21	7,189,022	8,928,897
Total liabilities		21,169,794	17,018,495
Net assets			
Reserves – General reserve		115,874,996	115,874,996
- Development		112,500,000	112,500,000
- Revaluation		15,904,628	15,904,628
Accumulated surplus		217,269,291	220,455,261
Total Net assets		461,548,915	464,734,885
Total net assets and liabilities		482,718,709	481,753,380

The Financial Statements set out on pages 1 to 6 were signed on behalf of the Board of Directors by:

Fridah Kaberia

.....
Ag. Executive Director
Fridah Kaberia

Date 16/11/2021

Ms. Rephah Kitavi

.....
Head of Finance
Ms. Rephah Kitavi
ICPAK No: 11437

Date 16/11/2021

Ms. Flora Mutahi

.....
Chairperson of the Board
Ms. Flora Mutahi

Date 16/11/2021

**XV. STATEMENT OF CHANGES IN NET ASSETS
 FOR THE YEAR ENDED 30 JUNE 2021**

Note	General reserve Kshs	Capital / Development Grants/ Fund Kshs	Revaluation Reserve Kshs	Accumulated surplus Kshs	Total Kshs
At July 1, 2019	115,874,996	62,500,000	15,904,628	195,441,983	389,721,607
Surplus for the period		-	-	25,013,278	25,013,278
Depreciation	-	-	-	-	-
Development Grants received during the year	-	50,000,000	-	-	50,000,000
At June 30, 2020	115,874,996	112,500,000	15,904,628	220,455,261	464,734,885
At July 1, 2020	115,874,996	112,500,000	15,904,628	220,455,261	464,734,885
Profit/loss for the period		-	-	(3,185,970)	(3,185,970)
At June 30, 2021	115,874,996	112,500,000	15,904,628	217,269,291	461,548,915

Note:

1. The development fund is for acquisition of depots to be used for storage of seized suspected counterfeit goods.

ANTI-COUNTERFEIT AUTHORITY (ACA)
ANNUAL REPORTS AND FINANCIAL STATEMENTS FOR THE YEAR ENDED JUNE 30, 2021

XVI. STATEMENT OF CASHFLOWS
FOR THE YEAR ENDED 30 JUNE 2021

	Note	2020-2021 Kshs	2019-2020 Kshs
Cash flows from operating activities			
Receipts			
Government grants and subsidies	6	360,490,000	380,600,000
Rendering of services	7	20,198,566	24,748,178
Other income	8	-	300,400
Foreign exchange gain		104,816	54,639
Total Receipts		380,793,382	405,703,217
Payments			
Compensation of employees	10	(229,576,222)	(235,885,359)
Remuneration of Directors	11	(10,016,422)	(9,837,045)
Repairs and maintenance	13	(3,757,881)	(4,144,066)
Use of goods and services	9	(123,820,084)	(108,050,507)
Total Payments		(367,170,609)	(357,916,977)
Net cash flows from operating activities		13,622,773	47,786,240
Working capital changes	24	(19,588,997)	2,791,320
Cash flows from investing activities			
Development grant		-	50,000,000
Purchase of property, plant and equipment		-	(978,460)
Purchase of intangible assets		-	-
Decrease/ increase in non-current receivables		-	-
Net cash flows used in investing activities		-	51,812,860
Net increase/(decrease) in cash and cash equivalents		(5,966,224)	99,599,100
Cash and cash equivalents at 1 JULY	14	435,360,049	335,760,949
Cash and cash equivalents at 30 JUNE	14	429,393,825	435,360,049

Fridah Kaberia

.....
Ag. Executive Director
Fridah Kaberia

Date 16/11/2021

Ms. Rephah Kitavi

.....
Head of Finance
Ms. Rephah Kitavi
ICPAK No: 11437

Date 16/11/2021

Ms. Flora Mutahi

.....
Chairperson of the Board
Ms. Flora Mutahi

Date 16/11/2021

ANTI-COUNTERFEIT AUTHORITY (ACA)
ANNUAL REPORTS AND FINANCIAL STATEMENTS FOR THE YEAR ENDED JUNE 30, 2021

XVII. STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS
FOR THE PERIOD ENDED 30 JUNE 2021

	Original budget		Adjustments		Final budget		Actual on comparable basis		Performance difference		Percentage of utilization
	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs	n
Revenue											
Government grants – Recurrent	340,490,000	20,000,000	360,490,000		360,490,000						
Rendering of services	20,000,000	-	20,000,000		20,198,566		198,566				
Rolled over funds	45,000,000	-	45,000,000		45,000,000						
Foreign exchange gain	-	-	-		104,816		104,816*				
Total income	405,490,000	20,000,000	425,490,000		425,793,382		303,382				
Expenses											
Compensation of employees	248,385,836	-	248,385,836		229,576,222		18,809,614				92
Remuneration of Directors	11,000,000	-	11,000,000		10,016,422		983,578				91
Repairs and maintenance	6,200,000	-	6,200,000		3,757,881		2,442,119				61
Use of Goods and services	139,904,164	20,000,000	159,904,164		123,820,084		36,084,080				77
Depreciation	-	-	-		16,808,743		-				
Total expenditure	405,490,000	20,000,000	425,490,000		383,979,352		58,319,391				
Surplus for the period	-	-	-		41,814,030		-				

Notes to explain the variance:

1. Repairs and maintenance – this budget is provided for use on need basis.
2. Use of Goods and services – The procurement process was incomplete for some requisitions, non-responsive quotations for other requisitions.
3. Depreciation - This is a non-cash item hence not budgeted for.

* Revenue from other income and foreign exchange gain are not budgeted for.

XVIII. NOTES TO THE FINANCIAL STATEMENTS

1. GENERAL INFORMATION

Anti-Counterfeit Authority was established under Section 3 of the Anti-Counterfeit Act No. 13 of 2008 as a corporate body under the State Corporations Act, Chapter 446 of the Laws of Kenya, and derives its authority and accountability from this Act. The Authority is wholly owned by the Government of Kenya and is domiciled in Kenya.

The Authority's principal activity is to enlighten and inform the public on matters relating to counterfeiting; combat counterfeiting, trade and other dealings in counterfeit goods in Kenya; devise and promote training programs on combating counterfeiting; co-ordinate with national, regional or international organizations involved in combating counterfeiting; Advise the government through the Cabinet Secretary on policies and measures concerning the necessary support, promotion and protection of intellectual property rights as well as the extent of counterfeiting; and carry out inquiries, studies and research into matters relating to counterfeiting and the protection of intellectual property rights.

2. STATEMENT OF COMPLIANCE AND BASIS OF PREPARATION

The Authority's financial statements have been prepared on a historical cost basis except for the measurement of revalued amounts of certain property, plant and equipment at fair value. The preparation of the financial statements in conformity with International Public Sector Accounting Standards (IPSAS) allows the use of estimates and assumptions. It also requires management to exercise judgement in the process of applying the Authority's accounting policies. The areas involving a higher degree of judgement or complexity, or where assumptions and estimates are significant to the financial statements, are disclosed in Note 5 of these financial statements.

The financial statements have been prepared and are presented in Kenya shillings, which is the functional and reporting currency of the Authority.

The financial statements have been prepared in accordance with the PFM Act, the State Corporations Act, 2012, the Anti-Counterfeit Act, 2008 and Accrual Basis of Accounting Method under International Public Sector Accounting Standards (IPSAS). The Accounting policies adopted have been consistently applied to all the years presented.

ADOPTION OF NEW AND REVISED STANDARDS

i. New and amendments standards and interpretations in issue effective in the year ended 30 June 2021.

Standard	Impact
Other Improvements to IPSAS	<p>Applicable: 1st January 2021:</p> <p>a) Amendments to IPSAS 13, to include the appropriate references to IPSAS on impairment, in place of the current references to other international and/or national accounting frameworks.</p> <p>b) IPSAS 13, Leases and IPSAS 17, Property, Plant, and Equipment. Amendments to remove transitional provisions which should have been deleted when IPSAS 33, First Time Adoption of Accrual Basis International Public Sector Accounting Standards (IPSASs) was approved.</p> <p>c) IPSAS 21, Impairment of Non-Cash-Generating Assets and IPSAS 26, Impairment of Cash Generating Assets. Amendments to ensure consistency of impairment guidance to account for revalued assets in the scope of IPSAS 17, Property, Plant, and Equipment and IPSAS 31, Intangible Assets.</p> <p>d) IPSAS 33, First-time Adoption of Accrual Basis International Public Sector Accounting Standards (IPSASs). Amendments to the implementation guidance on deemed cost in IPSAS 33 to make it consistent with the core principles in the Standard.</p>

ii. New and amended standards and interpretations in issue but not yet effective in the year ended 30 June 2021.

Standard	Effective date and impact
IPSAS 41: Financial Instruments	<p>Applicable: 1st January 2023:</p> <p>The objective of IPSAS 41 is to establish principles for the financial reporting of financial assets and liabilities that will present relevant and useful information to users of financial statements for their assessment of the amounts, timing and uncertainty of an entity's future cash flows. IPSAS 41 provides users of financial statements with more useful information than IPSAS 29, by:</p>

Standard	Effective date and impact
	<ul style="list-style-type: none"> • Applying a single classification and measurement model for financial assets that considers the characteristics of the asset's cash flows and the objective for which the asset is held; • Applying a single forward-looking expected credit loss model that is applicable to all financial instruments subject to impairment testing; and • Applying an improved hedge accounting model that broadens the hedging arrangements in scope of the guidance. The model develops a strong link between an entity's risk management strategies and the accounting treatment for instruments held as part of the risk management strategy.
<p>IPSAS 42: Social Benefits</p>	<p>Applicable: 1st January 2023</p> <p>The objective of this Standard is to improve the relevance, faithful representativeness and comparability of the information that a reporting entity provides in its financial statements about social benefits. The information provided should help users of the financial statements and general purpose financial reports assess:</p> <ul style="list-style-type: none"> (a) The nature of such social benefits provided by the entity; (b) The key features of the operation of those social benefit schemes; and (c) The impact of such social benefits provided on the entity's financial performance, financial position and cash flows.
<p>Amendments to Other IPSAS resulting from IPSAS 41, Financial Instruments</p>	<p>Applicable: 1st January 2023:</p> <ul style="list-style-type: none"> a) Amendments to IPSAS 5, to update the guidance related to the components of borrowing costs which were inadvertently omitted when IPSAS 41 was issued. b) Amendments to IPSAS 30, regarding illustrative examples on hedging and credit risk which were inadvertently omitted when IPSAS 41 was issued. c) Amendments to IPSAS 30, to update the guidance for accounting for financial guarantee contracts which were inadvertently omitted when IPSAS 41 was issued. <p>Amendments to IPSAS 33, to update the guidance on classifying financial instruments on initial adoption of accrual basis IPSAS which were inadvertently omitted when IPSAS 41 was issued.</p>

Early adoption of standards

The Authority did not early - adopt any new or amended standards in the year 2020/2021.

4. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

a) **Revenue recognition**

i) **Revenue from non-exchange transactions**

Fees, taxes and fines

The Authority recognizes revenues from fees, taxes and fines when the event occurs and the asset recognition criteria are met. To the extent that there is a related condition attached that would give rise to a liability to repay the amount, deferred income is recognized instead of revenue. Other non-exchange revenues are recognized when it is probable that the future economic benefits or service potential associated with the asset will flow to the Authority and the fair value of the asset can be measured reliably. The Authority did not receive any income from fees, taxes and fines.

Transfers from other government entities

Revenues from non-exchange transactions with other government entities are measured at fair value and recognized on obtaining control of the asset (cash, goods, services and property) if the transfer is free from conditions and it is probable that the economic benefits or service potential related to the asset will flow to the Authority and can be measured reliably. Recurrent grants are recognized in the statement of comprehensive income. Development/capital grants are recognized in the statement of financial position and realized in the statement of comprehensive income over the useful life of the assets that has been acquired using such funds.

Rendering of services

The Authority recognizes revenue from rendering of services by reference to the stage of completion when the outcome of the transaction can be estimated reliably. The stage of completion is measured by reference to labour hours incurred to date as a percentage of total estimated labour hours.

Where the contract outcome cannot be measured reliably, revenue is recognized only to the extent that the expenses incurred are recoverable. The Authority did not receive any income from rendering of services.

Sale of goods

Revenue from the sale of goods is recognized when the significant risks and rewards of ownership have been transferred to the buyer, usually on delivery of the goods and when the amount of revenue can be measured reliably and it is probable that the economic benefits or service potential associated with the transaction will flow to the entity. The Authority did not receive any income from sale of goods.

Interest income

Interest income is accrued using the effective yield method. The effective yield discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount. The method applies this yield to the principal outstanding to determine interest income each period. The Authority did not receive any interest income.

ii) Revenue from exchange transactions – IPSAS 9

Dividends

Dividends or similar distributions are recognized when the Authority's right to receive payments is established. The Authority did not receive any dividends.

Rental income

Rental income arising from operating leases on investment properties is accounted for on a straight-line basis over the lease terms and included in revenue. The Authority did not receive any rental income.

b) Budget information – IPSAS 24

The original budget for FY 2020-2021 was approved by the National Assembly on 11th June 2020. Subsequent revisions/reallocations were made to the approved budget in accordance with arising needs of the Authority. The additional appropriations were added to the original budget by the Authority upon receiving the respective approvals in order to conclude the final budget. Accordingly, the Authority recorded additional appropriations of Kshs. 20,000,000 on the 2020-2021 budget following the board's approval.

The Authority's budget is prepared on a different basis to the actual income and expenditure disclosed in the financial statements. The financial statements are prepared on accrual basis using a classification based on the nature of expenses in the statement of financial performance, whereas the budget is prepared on a cash basis. The amounts in the financial statements were recast from the accrual basis to the cash basis and reclassified by presentation to be on the same basis as the approved budget. A comparison of budget and actual amounts, prepared on a comparable basis to the approved budget, is then presented in the statement of comparison of budget and actual amounts.

In addition to the Basis difference, adjustments to amounts in the financial statements are also made for differences in the formats and classification schemes adopted for the presentation of the financial statements and the approved budget.

A statement to reconcile the actual amounts on a comparable basis included in the statement of comparison of budget and actual amounts and the actuals as per the statement of financial performance has been presented under section xvii of these financial statements.

c) Taxes

Current income tax

Current income tax assets and liabilities for the current period are measured at the amount expected to be recovered from or paid to the taxation authorities. The tax rates and tax laws used to compute the amount are those that are enacted or substantively enacted, at the reporting date in the area where the Authority operates and generates taxable income.

Current income tax relating to items recognized directly in net assets is recognized in net assets and not in the statement of financial performance. Management periodically evaluates positions taken in the tax returns with respect to situations in which applicable tax regulations are subject to interpretation and establishes provisions where appropriate.

Deferred tax

Deferred tax is provided using the liability method on temporary differences between the tax bases of assets and liabilities and their carrying amounts for financial reporting purposes at the reporting date.

Deferred tax liabilities are recognized for all taxable temporary differences, except in respect of taxable temporary differences associated with investments in controlled entities, associates and interests in joint ventures, when the timing of the reversal of the temporary differences can be controlled and it is probable that the temporary differences will not reverse in the foreseeable future.

Deferred tax assets are recognized for all deductible temporary differences, the carry forward of unused tax credits and any unused tax losses. Deferred tax assets are recognized to the extent that it is probable that taxable profit will be available against which the deductible temporary differences, and the carry forward of unused tax credits and unused tax losses can be utilized, except in respect of deductible temporary differences associated with investments in controlled entities, associates and interests in joint ventures, deferred tax assets are recognized only to the extent that it is probable that the temporary differences will reverse in the foreseeable future and taxable profit will be available against which the temporary differences can be utilized.

The carrying amount of deferred tax assets is reviewed at each reporting date and reduced to the extent that it is no longer probable that sufficient taxable profit will be available to allow all or part of the deferred tax asset to be utilized. Unrecognized deferred tax assets are re-assessed at each reporting date and are recognized to the extent that it has become probable that future taxable profits will allow the deferred tax asset to be recovered.

Deferred tax assets and liabilities are measured at the tax rates that are expected to apply in the year when the asset is realized or the liability is settled, based on tax rates (and tax laws) that have been enacted or substantively enacted at the reporting date.

Deferred tax relating to items recognized outside surplus or deficit is recognized outside surplus or deficit. Deferred tax items are recognized in correlation to the underlying transaction in net assets.

Deferred tax assets and deferred tax liabilities are offset if a legally enforceable right exists to set off current tax assets against current income tax liabilities and the deferred taxes relate to the same taxable Authority and the same taxation authority.

Sales tax

Expenses and assets are recognized net of the amount of sales tax, except:

- When the sales tax incurred on a purchase of assets or services is not recoverable from the taxation authority, in which case, the sales tax is recognized as part of the cost of acquisition of the asset or as part of the expense item, as applicable
- When receivables and payables are stated with the amount of sales tax included

The net amount of sales tax recoverable from, or payable to, the taxation authority is included as part of receivables or payables in the statement of financial position.

d) Investment Property

Investment properties are measured initially at cost, including transaction costs. The carrying amount includes the replacement cost of components of an existing investment property at the time that cost is

incurred if the recognition criteria are met and excludes the costs of day-to-day maintenance of an investment property.

Investment property acquired through a non-exchange transaction is measured at its fair value at the date of acquisition. Subsequent to initial recognition, investment properties are measured using the cost model and are depreciated over a 30-year period.

Investment properties are derecognized either when they have been disposed of or when the investment property is permanently withdrawn from use and no future economic benefit or service potential is expected from its disposal. The difference between the net disposal proceeds and the carrying amount of the asset is recognized in the surplus or deficit in the period of de-recognition.

Transfers are made to or from investment property only when there is a change in use.

e) Property, plant and equipment – IPSAS 17

All property, plant and equipment are stated at cost less accumulated depreciation and impairment losses. Cost includes expenditure that is directly attributable to the acquisition of the items. When significant parts of property, plant and equipment are required to be replaced at intervals, the Authority recognizes such parts as individual assets with specific useful lives and depreciates them accordingly. Likewise, when a major inspection is performed, its cost is recognized in the carrying amount of the plant and equipment as a replacement if the recognition criteria are satisfied. All other repair and maintenance costs are recognized in surplus or deficit as incurred. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration the asset is initially measured at its fair value. It is the policy of the Authority to charge full depreciation on all its non-current assets in the year of purchase and no depreciation in the year of disposal.

The Authority applies the following depreciation rates for the different classes of assets:

- Motor vehicle : 25%
- General Equipment : 12.5%
- Furniture and Fittings : 12.5%
- Computers : 33 1/3%

f) Leases – IPSAS 13

Finance leases are leases that transfer substantially all the risks and benefits incidental to ownership of the leased item to the Authority. Assets held under a finance lease are capitalized at the commencement of the lease at the fair value of the leased property or, if lower, at the present value of the future minimum lease payments. The Authority also recognizes the associated lease liability at the inception of the lease. The liability recognized is measured as the present value of the future minimum lease payments at initial recognition.

Subsequent to initial recognition, lease payments are apportioned between finance charges and reduction of the lease liability so as to achieve a constant rate of interest on the remaining balance of the liability. Finance charges are recognized as finance costs in surplus or deficit.

An asset held under a finance lease is depreciated over the useful life of the asset. However, if there is no reasonable certainty that the Authority will obtain ownership of the asset by the end of the lease term, the asset is depreciated over the shorter of the estimated useful life of the asset and the lease term.

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Operating leases are leases that do not transfer substantially all the risks and benefits incidental to ownership of the leased item to the Authority. Operating lease payments are recognized as an operating expense in surplus or deficit on a straight-line basis over the lease term.

The Authority depreciates leasehold improvements at a rate of 16.7%.

g) Intangible assets–IPSAS 31

Intangible assets acquired separately are initially recognized at cost. The cost of intangible assets acquired in a non-exchange transaction is their fair value at the date of the exchange. Following initial recognition, intangible assets are carried at cost less any accumulated amortization and accumulated impairment losses. Internally generated intangible assets, excluding capitalized development costs, are not capitalized and expenditure is reflected in surplus or deficit in the period in which the expenditure is incurred.

The useful life of the intangible assets is assessed as either finite or indefinite.

The Authority depreciates intangible assets at a rate of 33 1/3%.

h) Research and development costs

The Authority expenses research costs as incurred. Development costs on an individual project are recognized as intangible assets when the Entity can demonstrate:

- The technical feasibility of completing the asset so that the asset will be available for use or sale
- Its intention to complete and its ability to use or sell the asset
- How the asset will generate future economic benefits or service potential
- The availability of resources to complete the asset
- The ability to measure reliably the expenditure during development.

Following initial recognition of an asset, the asset is carried at cost less any accumulated amortization and accumulated impairment losses. Amortization of the asset begins when development is complete and the asset is available for use. It is amortized over the period of expected future benefit. During the period of development, the asset is tested for impairment annually with any impairment losses recognized immediately in surplus or deficit. During the period the Authority did not incur any development costs.

i) Financial instruments – IPSAS 29

Financial assets

Initial recognition and measurement

Financial assets within the scope of IPSAS 29 Financial Instruments: Recognition and Measurement are classified as financial assets at fair value through surplus or deficit, loans and receivables, held-to-maturity investments or available-for-sale financial assets, as appropriate. The Authority determines the classification of its financial assets at initial recognition.

Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. After initial measurement, such financial assets are subsequently measured at amortized cost using the effective interest method, less impairment. Amortized cost is calculated by taking into account any discount or premium on acquisition and fees or costs that are an integral part of the effective interest rate. Losses arising from impairment are recognized in the surplus or deficit.

Held-to-maturity

Non-derivative financial assets with fixed or determinable payments and fixed maturities are classified as held to maturity when the Authority has the positive intention and ability to hold it to maturity. After initial measurement, held-to-maturity investments are measured at amortized cost using the effective interest method, less impairment. Amortized cost is calculated by taking into account any discount or premium on acquisition and fees or costs that are an integral part of the effective interest rate. The losses arising from impairment are recognized in surplus or deficit.

Impairment of financial assets

The Authority assesses at each reporting date whether there is objective evidence that a financial asset or an entity of financial assets is impaired. A financial asset or an entity of financial assets is deemed to be impaired if, and only if, there is objective evidence of impairment as a result of one or more events that has occurred after the initial recognition of the asset (an incurred 'loss event') and that loss event has an impact on the estimated future cash flows of the financial asset or the entity of financial assets that can be reliably estimated. Evidence of impairment may include the following indicators:

- The debtors or an entity of debtors are experiencing significant financial difficulty
- Default or delinquency in interest or principal payments
- The probability that debtors will enter bankruptcy or other financial reorganization
- Observable data indicates a measurable decrease in estimated future cash flows (e.g. changes in arrears or economic conditions that correlate with defaults)

Financial liabilities

Initial recognition and measurement

Financial liabilities within the scope of IPSAS 29 are classified as financial liabilities at fair value through surplus or deficit or loans and borrowings, as appropriate. The Authority determines the classification of its financial liabilities at initial recognition.

All financial liabilities are recognized initially at fair value and, in the case of loans and borrowings, plus directly attributable transaction costs.

Loans and borrowing

After initial recognition, interest bearing loans and borrowings are subsequently measured at amortized cost using the effective interest method. Gains and losses are recognized in surplus or deficit when the liabilities are recognized as well as through the effective interest method amortization process.

Amortized cost is calculated by taking into account any discount or premium on acquisition and fees or costs that are an integral part of the effective interest rate.

Inventories – IPSAS 12

Inventory is measured at cost upon initial recognition. To the extent that inventory was received through non-exchange transactions (for no cost or for a nominal cost), the cost of the inventory is its fair value at the date of acquisition.

Costs incurred in bringing each product to its present location and conditions are accounted for, as follows:

- Raw materials: purchase cost using the weighted average cost method
- Finished goods and work in progress: cost of direct materials and labour and a proportion of manufacturing overheads based on the normal operating capacity, but excluding borrowing costs

After initial recognition, inventory is measured at the lower of cost and net realizable value. However, to the extent that a class of inventory is distributed or deployed at no charge or for a nominal charge, that class of inventory is measured at the lower of cost and current replacement cost.

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

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

k) Provisions – IPSAS 19

Provisions are recognized when the Authority has a present obligation (legal or constructive) as a result of a past event, it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation. Where the Authority expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognized as a separate asset only when the reimbursement is virtually certain. The expense relating to any provision is presented in the statement of financial performance net of any reimbursement.

l) Contingent liabilities

The Authority does not recognize a contingent liability, but discloses details of a possible obligation whose existence is contingent on the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the Authority in the notes to the financial statements, unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

m) Contingent assets

The Authority does not recognize a contingent asset, but discloses details of a possible asset whose existence is contingent on the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the Authority in the notes to the financial statements. Contingent assets are assessed continually to ensure that developments are appropriately reflected in the financial statements. If it has become virtually certain that an inflow of economic benefits or service potential will arise and the asset's value can be measured reliably, the asset and the related revenue are recognized in the financial statements of the period in which the change occurs.

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n) Nature and purpose of reserves

The Authority creates and maintains reserves in terms of specific requirements. The Authority maintains general reserves to be used both for purchase of fixed assets and day to day operations of the Authority the details of which are shown in the statement of changes in net assets.

o) Changes in accounting policies and estimates – IPSAS 3

The Authority recognizes the effects of changes in accounting policy retrospectively. The effects of changes in accounting policy are applied prospectively if retrospective application is impractical.

p) Employee benefits – IPSAS 25

Retirement benefit plans

The Authority provides retirement benefits for its permanent and pensionable employees. Further an amount equivalent to 31% of basic salary is set aside as gratuity for all employees on contract. The Authority's contribution towards employee pension scheme and gratuity for those on contract is charged to the statement of financial performance in the year to which the employees rendered their services to the Authority. The Authority will have no legal or constructive obligation to pay further contributions if the fund does not hold sufficient assets to pay all employee benefits relating to employee service in the current and prior periods.

q) Foreign currency transactions

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

r) Borrowing costs

Borrowing costs are capitalized against qualifying assets as part of property, plant and equipment. Such borrowing costs are capitalized over the period during which the asset is being acquired or constructed and borrowings have been incurred. Capitalization ceases when construction of the asset is complete. Further borrowing costs are charged to the statement of financial performance.

s) Related Parties

The Authority regards a related party as a person or an Authority with the ability to exert control or to exercise significant influence over the Authority, or vice versa. Members of the Authority and its subsidiaries are regarded as related parties and comprise of the Board of Directors, Executive

Arrangements

Aspects of service concession arrangements that it enters into in determining treatment and disclosure requirements. In particular, where a private party

contributes an asset to the arrangement, the Authority recognizes that asset when, and only when, it controls or regulates the services the operator must provide together with the asset, to whom it must provide them, and at what price. In the case of assets other than 'whole-of-life' assets, it controls, through ownership, beneficial entitlement or otherwise – any significant residual interest in the asset at the end of the arrangement. Any assets so recognized are measured at their fair value. To the extent that an asset has been recognized, the Authority also recognizes a corresponding liability, adjusted by a cash consideration paid or received.

u) Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at various commercial banks at the end of the financial year and Mpesa bulk payment account.

v) Comparative figures

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

w) Subsequent Events – IPSAS 14

There have been no events subsequent to the financial year end with the significant impact on the financial statements for the year ended June 30, 2021.

5. SIGNIFICANT JUDGEMENTS AND SOURCES OF ESTIMATION UNCERTAINTY

The preparation of the Authority's financial statements in conformity with IPSAS requires management to make judgments, estimates and assumptions that affect the reported amounts of revenues, expenses, assets and liabilities, and the disclosure of contingent liabilities, at the end of the reporting period. However, uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of the asset or liability affected in future periods.

Estimates and assumptions

The key assumptions concerning the future and other key sources of estimation uncertainty at the reporting date, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are described below. The Authority based its assumptions and estimates on parameters available when the consolidated financial statements were prepared. However, existing circumstances and assumptions about future developments may change due to market changes or circumstances arising beyond the control of the Authority. Such changes are reflected in the assumptions when they occur. IPSAS 1.140

Useful lives and residual values

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

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

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- The nature of the asset, its susceptibility and adaptability to changes in technology and processes
- The nature of the processes in which the asset is deployed
- Availability of funding to replace the asset
- Changes in the market in relation to the asset

Provisions and contingent liabilities

Provisions were raised and management determined an estimate based on the information available. Additional disclosure of these estimates of provisions is included in Note 21.

Provisions are measured at the management's best estimate of the expenditure required to settle the obligation at the reporting date, and are discounted to present value where the effect is material.

The Authority reviews its obligations at each balance sheet date to determine whether provisions need to be made and if there are any contingent liabilities.

6. Transfers from Ministries, Departments and Agencies

State Department for Trade	Amount recognized to Statement of Comprehensive Income KShs	Amount deferred under deferred income KShs	Amount recognised in capital fund. KShs	Total transfers 2020-2021 KShs	Prior year 2019-2020 KShs
State Department for Trade	360,490,000	-	-	360,490,000	430,600,000
Total	360,490,000	-	-	360,490,000	430,600,000

7. Rendering of services

Description	2020-2021 Kshs	2019-2020 Kshs
Complaint Filling fees	3,834,618	5,498,533
Destruction and storage fees	16,363,948	19,249,645
Total revenue from the rendering of services	20,198,566	24,748,178

8. Other Income

Description	2020-2021 Kshs	2019-2020 Kshs
Income from staff recoveries	-	300,400
Total other income	-	300,400

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Use of goods and services

Description	2020-2021	2019-2020
	Kshs	Kshs
Communication supplies and services	4,931,717	2,123,625
Printing, advertising and services	1,417,367	4,267,504
Uniforms, Safety gear and specialized materials	5,677,596	-
Domestic travel and daily subsistence allowance	22,209,266	21,252,321
Foreign travel and daily subsistence allowance	-	1,794,211
Audit fees	722,000	800,000
Hospitalities and services	3,332,576	3,281,104
Professional and consultancy services	2,631,662	3,484,803
Awareness & Promotional activities	20,560,808	9,550,717
Office and General supplies/services	5,614,714	5,828,447
Electricity	1,915,039	1,302,527
Fuel, oil and lubricants	3,945,647	2,513,140
General Insurance	1,521,194	1,773,615
Bank & Mpesa charges	219,639	200,108
Destruction charges	2,494,500	2,475,787
Transport cost- for seized goods	145,900	249,950
Research ;	4,468,250	4,002,900
Rental	32,389,570	31,237,551
Security costs	2,358,800	2,186,144
Corporate social responsibility	-	373,000
Parking charges	1,148,530	1,087,408
Membership and subscription fees	674,615	1,377,700
Training	5,440,694	6,887,945
Total use of goods and services	123,820,084	108,050,507

10. Employee Costs

Description	2020-2021	2019-2020
	Kshs	Kshs
Salaries and wages	186,082,586	190,848,368
Employee related costs - contributions to pensions, NSSF and medical aids	41,997,422	41,824,153
Casuals and interns	959,626	1,663,539
Employee related costs - contributions to staff gratuity	536,588	1,549,300
Employee costs	229,576,222	235,885,360

11. Remuneration of Directors

Description	2020-2021	2019-2020
	Kshs	Kshs

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Board committees' conferences and seminars	453,800	1,374,200
Directors emoluments	5,420,000	4,796,000
Other allowances	3,098,622	2,622,845
Chair's Honoraria	1,044,000	1,044,000
Total director emoluments	10,016,422	9,837,045

12. Depreciation and amortization expense

Description	2020-2021	2019-2020
	Kshs	Kshs
Property, plant and equipment	16,671,036	21,911,475
Intangible assets	137,707	861,486
Depreciation govt. grant restatement	-	-
Total depreciation and amortization	16,808,743	22,772,961

13. Repairs and Maintenance

Description	2020-2021	2019-2020
	Kshs	Kshs
Buildings and stations	321,831	22,550
Vehicles and Cycles	2,833,998	2,910,316
Furniture and Equipment	59,240	47,960
Computers and accessories	531,812	638,940
Communication Equipment	11,000	524,300
Total repairs and maintenance	3,757,881	4,144,066

14. Cash and cash equivalents

Description	2020-2021	2019-2020
	Kshs	Kshs
a) Current account –KCB Main Account	248,056,036	256,414,741
KCB Revenue Account	25,998,319	23,599,133
KCB Development Account	155,014,371	155,021,076
MPESA Bulk Payment Account	325,099	325,099
Total cash and cash equivalents	429,393,825	435,360,049

15. Receivables from exchange contracts

15.(a) Current portion of receivables from exchange transactions

Description	2020-2021	2019-2020
	Kshs	Kshs
Current Receivables		
Medical insurance	5,435,846	5,471,333
Rent	4,642,097	1,486,699
Service Charge	392,802	-
Group Personal Insurance	315,093	344,711
Parking	280,000	-
General Insurance	525,620	524,184
Withholding Tax	-	-

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Fuel	-	836,936
Total current receivables	11,591,458	8,663,863

15.(b) Long term receivables from exchange transactions

Description	2020-2021	2019-2020
	Kshs	Kshs
Non-current receivables		
Withholding Tax	-	33,944
Total non-current receivables	-	33,944
Total receivables a+b	-	8,697,807

16. Receivables from non-exchange contracts

Description	2020-2021	2019-2020
	Kshs	Kshs
Government recurrent grants	20,000,000	
Staff imprests	1,017,410	-
Total	21,017,410	-

17. Inventories

Description	2020-2021	2019-2020
	Kshs	Kshs
Consumable stores	3,906,039	4,076,804
Total inventories at the lower of cost and net realizable value	3,906,039	4,076,804

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18. Property, Plant and Equipment

Cost	Motor vehicles		Furniture and fittings		Computers		Office Equipment		Leasehold Improvement		Total	
	Kshs		Kshs		Kshs		Kshs		Kshs		Kshs	
At 30 th June 2019	111,003,476	-	33,347,582	-	23,377,840	16,798,702	37,890,596	-	-	222,418,196	-	-
Additions	-	-	-	-	978,460	-	-	-	-	978,460	-	-
At 30 th June 2020	111,003,476	-	33,347,582	-	24,356,300	16,798,702	37,890,596	-	-	223,396,656	-	-
Additions	-	-	-	-	978,460	-	-	-	-	978,460	-	-
At 30 th June 2021	111,003,476	-	33,347,582	-	24,356,300	16,798,702	37,890,596	-	-	223,396,656	-	-
Depreciation	-	-	-	-	-	-	-	-	-	-	-	-
At 30 June 2018	-	-	-	-	-	-	-	-	-	-	-	-
Depreciation	(70,837,525)	(22,469,237)	(2,455,077)	(13,095,619)	(11,724,524)	(22,086,914)	(140,213,819)	(4,749,789)	(27,790,349)	(168,004,168)	(3,713,334)	(21,911,475)
At 30 th June 2019	(15,582,367)	(2,455,077)	(24,924,314)	(16,857,943)	(3,762,325)	(12,965,315)	(26,836,705)	(30,550,039)	(189,915,644)	(34,256,607)	(206,586,680)	-
Depreciation	(86,419,892)	(1,873,300)	(26,797,614)	(4,088,448)	(20,946,391)	(989,844)	(3,713,334)	(3,706,568)	(16,671,036)	-	-	-
At 30 th June 2020	(11,246,549)	(1,702,811)	(28,500,425)	(20,946,391)	(3,170,171)	(821,094)	(30,550,039)	(3,706,568)	(16,671,036)	-	-	-
Depreciation	(97,666,441)	(26,797,614)	(28,500,425)	(24,116,562)	(14,776,253)	-	-	-	-	-	-	-
At 30 th June 2021	(7,270,392)	(1,702,811)	(28,500,425)	(24,116,562)	(14,776,253)	-	-	-	-	-	-	-
	(104,936,833)	(28,500,425)	(28,500,425)	(24,116,562)	(14,776,253)	-	-	-	-	-	-	-
Net book values	-	-	-	-	-	-	-	-	-	-	-	-
At 30 th June 2020	13,337,035	6,549,968	3,409,909	2,843,543	7,340,557	33,481,012	16,809,976	-	-	-	-	-
At 30 th June 2021	6,066,642	4,847,157	239,738	2,022,449	3,633,990	-	-	-	-	-	-	-

Property plant and Equipment includes the following assets that are fully depreciated:

	Cost or valuation	Normal annual depreciation charge
Plant and machinery	-	-
Motor vehicles, including motor cycles	47,617,256	11,904,314
Computers and related equipment	23,377,840	7,784,821
Office equipment, furniture and fittings	31,763,071	3,970,384
Total	102,758,167	23,659,519

19. Intangible assets – software

Description	2020-2021	2019-2020
	Kshs	Kshs
Cost		
At beginning of the year	11,954,700	11,954,700
Additions	-	-
At end of the year	11,954,700	11,954,700
Additions–internal development	-	-
At end of the year	11,954,700	11,954,700
Amortization and impairment		
At beginning of the year	11,816,992	10,955,506
Amortization	137,708	861,486
At end of the year	11,954,700	11,816,992
NBV	-	137,708

20. Trade and other Payables from exchange transactions

Description	2020-2021	2019-2020
	Kshs	Kshs
Trade payables	12,380,772	7,289,598
Audit Fees (Provision)	1,600,000	800,000
Total trade and other payables	13,980,772	8,089,598

21. Current provisions

Description	Gratuity	Employer pension contribution for suspended staff	Half basic salary for suspended staff	Total
	Kshs	Kshs	Kshs	Kshs
Balance b/d 01.07.2020	4,007,096	641,974	4,279,827	8,928,897
Additional provisions	536,588	251,257	1,675,044	2,462,889
Provisions utilized	(4,202,764)	-	-	(4,202,764)
Total Provisions as at 30.06.2021	340,921	893,231	5,954,871	7,189,022

22. Financial Risk Management

The Authority's activities expose it to a variety of financial risks including credit and liquidity risks and effects of changes in foreign currency. The Authority's overall risk management programme focuses on unpredictability of changes in the business environment and seeks to minimise the potential adverse effect of such risks on its performance by setting acceptable levels of risk. The Authority does not hedge any risks and has in place policies to ensure that credit is only extended to customers with an established credit history.

The company's financial risk management objectives and policies are detailed below:

(i) Credit risk

The Authority has exposure to credit risk, which is the risk that a counterparty will be unable to pay amounts in full when due. Credit risk arises from cash and cash equivalents, and deposits with banks, as well as other receivables (staff imprests).

Management assesses the credit quality of each customer, taking into account its financial position, past experience and other factors. Individual risk limits are set based on internal or external assessment in accordance with limits set by the directors. The amounts presented in the statement of financial position are net of allowances for doubtful receivables, estimated by the Authority's management based on prior experience and their assessment of the current economic environment.

The carrying amount of financial assets recorded in the financial statements representing the Authority's maximum exposure to credit risk without taking account of the value of any collateral obtained is made up as follows:

	Total amount Kshs	Fully performing Kshs	Past due Kshs
At 30 June 2021			
Receivables from exchange transactions	11,591,458	11,591,458	-
Receivables from non-exchange transactions	21,017,410	21,017,410	-
Bank balances	430,682,207	430,682,207	-
Total	463,291,075	463,291,075	-
At 30 June 2020			
Receivables from exchange transactions	8,697,807	8,663,863	33,944
Receivables from non-exchange transactions	-	-	-
Bank balances	435,360,049	435,360,049	-
Total	444,057,856	444,023,912	-

The customers under the fully performing category are paying their debts as the credit risk associated with these receivables is minimal and the allowance for the company has recognised in the financial statements is considered adequate for irrecoverable amounts.

The board of directors sets the Authority's credit policies and objectives which the various aspects of credit risk management are operated.

(ii) Liquidity risk management

ultimate responsibility for liquidity risk management rests with the Authority's directors, who have built appropriate liquidity risk management framework for the management of the Authority's short, medium and long-term funding and liquidity management requirements. The Authority manages liquidity risk through continuous monitoring of forecasts and actual cash flows.

The table below represents cash flows payable by the Authority under non-derivative financial liabilities by their remaining contractual maturities at the reporting date. The amounts disclosed in the table are the contractual undiscounted cash flows. Balances due within 12 months equal their carrying balances, as the impact of discounting is not significant.

	Less than 1 month	Between 1-3 months	Over 5 months	Total
	Kshs	Kshs	Kshs	Kshs
At 30 June 2021				
Trade payables	12,222,922	53,600	104,250	12,380,772
Provisions	2,726,300	-	5,721,801	8,789,022
Employee benefit obligation	340,921	-	-	340,921
Total	15,290,143	53,600	5,826,051	21,169,794
At 30 June 2020				
Trade payables	7,185,348	104,250	-	7,289,598
Provisions	4,921,801	-	800,000	5,721,801
Employee benefit obligation	4,007,096	-	-	4,007,096
Total	16,114,245	104,250	800,000	17,018,495

(iii) Market risk

The board has put in place an internal audit function to assist it in assessing the risk faced by the Authority on an ongoing basis, evaluate and test the design and effectiveness of its internal accounting and operational controls.

Market risk is the risk arising from changes in market prices, such as interest rate, equity prices and foreign exchange rates which will affect the Authority's income or the value of its holding of financial instruments. The objective of market risk management is to manage and control market risk exposures within acceptable parameters, while optimising the return. Overall responsibility for managing market risk rests with the Audit and Risk Management Committee.

The Authority's Risk management committee is responsible for the development of detailed risk management policies (subject to review and approval by Audit and Risk Management Committee) and for the day to day implementation of those policies.

There has been no change to the Authority's exposure to market risks or the manner in which it manages and measures the risk.

a. Foreign currency risk

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The Authority has transactional currency exposures. Such exposure arises through complaint and fees received from clients that are done in currencies other than the local currency. Invoices denominated in foreign currencies are paid after the date of the invoice and conversion at the time of payment is done using the prevailing exchange rate.

The Authority did not have a carrying amount of foreign currency denominated monetary assets and monetary liabilities during the financial year 2020/2021.

b. Interest rate risk

Interest rate risk is the risk that the Authority's financial condition may be adversely affected as a result of changes in interest rate levels. The Authority's interest rate risk arises from bank deposits. This exposes the company to cash flow interest rate risk. The interest rate risk exposure arises mainly from interest rate movements on the company's deposits.

Management of interest rate risk

To manage the interest rate risk, management has endeavoured to bank with institutions that offer favourable interest rates.

Sensitivity analysis

The Authority analyses its interest rate exposure on a dynamic basis by conducting a sensitivity analysis. This involves determining the impact on profit or loss of defined rate shifts. The sensitivity analysis for interest rate risk assumes that all other variables, in particular foreign exchange rates, remain constant. The analysis has been performed on the same basis as the prior year and the Authority faced no major interest rate risk during the financial period under review.

(iv) Capital Risk Management

The objective of the Authority's capital risk management is to safeguard the Board's ability to continue as a going concern. The Authority capital structure comprises of the following funds:

	2020-2021	2019-2020
	Kshs	Kshs
Accumulated Fund	115,874,996	115,874,996
Revaluation reserve	15,904,628	15,904,628
Retained earnings	218,757,673	220,455,261
Capital reserve	112,500,000	112,500,000
Total funds	463,037,297	464,734,885
Total borrowings	-	-
Less: cash and bank balances	(430,682,207)	(435,360,049)
Net debt/(excess cash and cash equivalents)	32,355,090	29,374,836
Gearing	7%	6%

a) Nature of related party relationships

Entities and other parties related to the Authority include those parties who have ability to exercise control or exercise significant influence over its operating and financial decisions. Related parties include management personnel, their associates and close family members.

The Authority is related to

- i) The National Government;
- ii) The Ministry of Industrialization, Trade and Enterprise Development;
- iii) Board of directors;
- iv) Key management

b) Related party transactions

The following transactions were carried out with related parties.

	2021 Kshs	2020 Kshs
Transfers from GOK	360,490,000	430,600,000
Transfers to related parties	-	-
	360,490,000	430,600,000

c) Key management remuneration

	2021 Kshs	2020 Kshs
Directors' Emoluments	5,420,000	4,796,000
Compensation to key management	46,792,824	49,312,666
	52,212,824	54,108,666

24. Working Capital Changes

Item	Financial year 2018/19	Financial year 2019/20	Working capital changes 2019/20	Financial year 2020/21	Working capital changes 2020/21
Staff imprests	516,400.00	-	516,400.00	1,017,410.00	(1,017,410.00)
Government Grant		-	-	20,000,000.00	(20,000,000.00)
Inventories	3,767,290.46	4,076,804.13	(309,513.67)	3,906,039.46	170,764.67
Prepayments	10,738,724.77	8,697,807.45	2,040,917.32	11,591,457.92	(2,893,650.47)
Payables	16,474,978.25	17,018,495.61	543,517.36	21,169,794.23	4,151,298.62

a) Nature of related party relationships

Entities and other parties related to the Authority include those parties who have ability to exercise control or exercise significant influence over its operating and financial decisions. Related parties include management personnel, their associates and close family members.

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	52,212,824	54,108,666

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Government Grant		-	-	20,000,000.00	(20,000,000.00)
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Prepayments	10,738,724.77	8,697,807.45	2,040,917.32	11,591,457.92	(2,893,650.47)
Payables	16,474,978.25	17,018,495.61	543,517.36	21,169,794.23	4,151,298.62

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Total changes in working capital					(19,588,997.18)
			2,791,321.01		

25. Contingent Liability

Contingent Liabilities	2020-2021	2019-2020
	Kshs	Kshs
Court cases against the Authority	6,361,600	9,431,000
Total	6,361,600	9,431,000

The Authority had five (5) civil cases completed that had adverse rulings. The Authority has filed an appeal in all the cases and they are ongoing. The table below gives the details of the cases:

Case Citation	Date of Award	Amount
Petition No.121 of 2018 Stanley Magare Vs. ACA & 3 Others.	4 th June 2020	Kshs. 100,000 plus costs of the suit.
Civil Appeal No. 215 of 2018 (Milimani) ACA vs. Esther Mawia Mwanja & Anor	4 th April 2018	Kshs. 4,761,600
Industrial Cause No. 653 of 2012 (Milimani) Joyce N. Simitu vs ACA	14 th June 2019	Kshs. 600,000
Petition 320 of 2015 (Nairobi) Francis Wanyange & Anor vs ACA	23 rd November 2018	Kshs. 350,000
High Court at Embu Petition No. 5 of 2019 {John Kariuki T/A Khifam Ltd vs Uzuri Foods}	17 th November 2020	Kshs. 550,000

26. Capital Commitments

Capital commitments	2020-2021	2019-2020
	Kshs	Kshs
Authorised for	140,000,000	112,500,000
Authorised and contracted for	-	-
Total	140,000,000	112,500,000

The Authority committed Kshs. 140M for the acquisition of two go downs in Nairobi.

27. Events after the reporting period

There were no material adjusting and non-adjusting events after the reporting period.

28. Ultimate and Holding Authority

The Authority is a State Corporation under the Ministry of Industrialization, Trade and Enterprise Development. Its ultimate parent is the Government of Kenya.

29. Currency

The financial statements are presented in Kenya Shillings (Kshs).

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APPENDIX

Appendix I: PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS

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

Reference No. on the External audit report	Issue/Observations from Auditor	Management Comments	Focal point person to resolve the issue	Status (Resolved/ Not Resolved)	Timeframe
	<p>Emphasis of Matter</p> <p>A review of available records at Anti-Counterfeit Authority revealed pending legal proceedings against the Authority that may, if successful, have significant financial impact on its operations. We noted that an accused person who was charged with possession of counterfeit electric bulbs and accessories was acquitted of the charges in a Court of Law in 2015. However, the accused person & others instituted civil case at Milimani Law Courts in 2016 seeking for special damages of Kshs.603,500,000 against the Authority for unlawful arrest, malicious prosecution and destruction of property.</p> <p>The management explained that the Authority released part of the goods seized to the accused persons in July 2015. The accused persons however complained that the remaining goods have been destroyed and they could not take destroyed and/or damaged goods.</p>	<p>The Authority did notify the accused persons to avail themselves for the release of the goods as ordered by the Court. They availed themselves in the presence of their lawyer on 13th July 2015. The Authority released part of the goods seized to the accused persons on this date. They however complained that the remaining goods have been destroyed and that they could not take destroyed and/or damaged goods. The Authority has discharged its statutory duty under Section 27 of the Anti-Counterfeit Act and Regulation 16 {1} of the Anti-Counterfeit Regulations, 2010.</p> <p>Consistent with the discharge of this burden, the Authority is going to pursue a counterclaim in the civil suit for the accused person {now Plaintiffs in the civil case} to pay to the Authority storage fees from the date they rejected the goods.</p> <p>In the meantime, the seized goods are in safe custody and the Authority has continued to put a strong defence against the suit. This is sufficient mechanism consistent with the law and in the best interest of the Authority.</p>	Deputy Director Enforcement & Legal Services	Ongoing	June 2022
	<p>Information and Communication Technology</p> <p>The Anti-Counterfeit Authority, in the strategic plan formulated various strategic objectives which</p>	<p>1) The Authority with donor support from Trademark East Africa has set up an offsite back up facility.</p>	Deputy Director Corporate Services	Ongoing	June 2022

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<p>include integration of Information and Communication Technology (ICT) in operations and to promote good governance. To achieve the objectives, the ICT function is required to develop and implement an efficient framework for data integrity and ICT security. However, as at the time of audit, management had not put in place the following controls:</p> <ul style="list-style-type: none"> • Information Technology (IT) strategic plan that supports business requirements and ensures that IT spending remains within the approved IT strategic plan. • A formal, documented and tested emergency procedure. • IT continuity plan and disaster recovery plan, IT continuity plan and disaster recovery plan kept off-site, Backups stored in a secure offsite storage facility. <p>In the circumstances, failure to develop and implement Business Continuity Plan and disaster recovery plan, establish off-site back up facilities may expose the authority to possible loss of business in the event of disasters.</p>	<p>2) The IT division developed the IT strategic plan in the financial year 2020/2021 which was approved by the Board.</p> <p>3) The Authority has constituted a team to develop the corporate Business Continuity plan which will include the IT BCP and Disaster Recovery Plan in the current financial year 2021/2022</p>		
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Shabira

Ag. Executive Director

Date: 16/11/2021

Wahid Khan

Chairperson of the Board

Date: 16/11/2021

ANTI-COUNTERFEIT AUTHORITY (ACA)
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XIX. APPENDIX II: PROJECTS IMPLEMENTED BY THE ENTITY

The Authority is implementing several projects funded by DFID through Trademark East Africa.

Project Title	Project Number	Donor	Period/duration	Donor Commitment	Separate donor reporting required as per the donor agreement	Consolidated in these financial statements
Digitalization of ACA enforcement operations	N/A	DFID/TMEA	FY 2018/19 to FY 2021/22	Kshs.137,608,700	No	No
National baseline survey	N/A	DFID/TMEA	FY 2018/19 to FY 2021/22	Kshs. 26,341,300	No	No

Note: The financial reporting and procurement is undertaken by Trade Mark East Africa.

Status of Projects Completion

No	Project	Total project cost (Kshs)	Total expended to date (Kshs)	Completion % to date	Budget (Kshs)	Actual (Kshs)	Sources of funds
1.	Digitization of ACA operations	137,608,700	79,175,384	79	137,608,700	79,175,384	TMEA
2.	National baseline survey	26,341,300	26,341,300	100	26,341,300	26,341,300	
TOTAL		163,950,000	105,516,684		163,950,000	105,516,684	

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Appendix III: INTER-ENTITY TRANSFERS

ENTITY NAME:		ANTI COUNTERFEIT AUTHORITY		
Break down of Transfers from the State Department of Trade				
FY 2020/2021				
a.	Recurrent Grants			
		<u>Bank Statement Date</u>	<u>Amount (KShs)</u>	<u>Indicate the FY to which the amounts relate</u>
		03.09.20	85,122,500	2020/2021
		29.01.21	85,122,500	2020/2021
		22.04.21	85,122,500	2020/2021
		10.05.21	85,122,500	2020/2021
		05.07.21	20,000,000	2020/2021
		Total	360,490,000	
		Total	360,490,000	

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

Manager Finance & Accounts
 Anti-Counterfeit Authority

Head of Accounting Unit
 State Department of Trade

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Sign [Signature]