

LAWS OF KENYA

COMPETITION ACT

NO. 12 OF 2010

Revised Edition 2019 [2010]

Published by the National Council for Law Reporting with the Authority of the Attorney-General www.kenyalaw.org

NO. 12 OF 2010

COMPETITION ACT

ARRANGEMENT OF SECTIONS

PART I - PRELIMINARY

Section

- 1. Short title.
- 2. Interpretation.
- 3. Objects of the Act.
- 4. Interpretation of expressions.
- 5. Application.
- 6. Extra-territorial operation.

PART II – ESTABLISHMENT, POWERS AND FUNCTIONS OF THE COMPETITION AUTHORITY

- 7. Establishment of the Authority.
- 8. Conduct of business and affairs of the Authority.
- 9. Functions of the Authority.
- 10. Members of the Authority.
- 11. Remuneration of members of the Authority.
- 12. Director-General.
- 13. Staff.
- 14. Common seal.
- 15. Delegation by the Authority.
- 16. Protection from personal liability.
- 17. Liability of the Authority for damages.
- 18. Power to hold inquiries.
- 19. Establishment of divisions of the Authority.
- 20. Confidentiality.

PART III - RESTRICTIVE TRADE PRACTICES

A – Restrictive Agreements, Practices and Decisions

- 21. Restrictive trade practices.
 - B Restrictive Trade Practices Applicable to Trade Associations
- 22. Application to practices of trade associations.

C – Abuse of Dominant Position

- 23. Criteria for determining dominant position.
- 24. Abuse of dominant position and buyer power.
- 24A. Abuse of buyer power.

D - Exemption of Certain Restrictive Practices

- 25. Grant of exemption for certain restrictive practices.
- 26. Determination of application for exemption.
- 27. Revocation or amendment of exemption.
- 28. Exemption in respect of intellectual property rights.
- 29. Exemption in respect of professional rules.
- 30. Notification of grant, revocation or amendment of exemption.

Competition

E - Investigation into Prohibited Practices

- 31. Investigation by Authority.
- 32. Entry and search.
- 33. Power of Authority to take evidence.
- 34. Proposed decision of Authority.
- 35. Hearing conference to be convened for oral representation.
- 36. Action following investigation.
- 37. Interim relief.
- 38. Settlement.
- 39. Publication of decision of Authority.
- 40. Appeals to the Tribunal.

PART IV - MERGERS

- 41. Merger defined.
- 42. Control of mergers.
- 43. Notice to be given to Authority of proposed merger.
- 44. Period for making determination in relation to proposed merger.
- 45. Hearing conference in relation to proposed merger.
- 46. Determination of proposed merger.
- 47. Revocation of approval of proposed merger.
- 48. Review of decisions of Authority by Tribunal.
- 49. Compliance with other laws and appeals.

PART V – CONTROL OF UNWARRANTED CONCENTRATION OF ECONOMIC POWER

- 50. Identifying unwarranted concentration of economic power.
- 51. Hearing conference.
- 52. Orders to dispose of interests.
- 53. Appeals from the Authority's order.
- 54. Offences and penalties.

PART VI - CONSUMER WELFARE

- 55. False or misleading representations.
- 56. Unconscionable conduct.
- 57. Unconscionable conduct in business transactions.
- 58. Warning notice to public.
- 59. Product safety standards and unsafe goods.
- 60. Product information standards.
- 61. Notice to consumers.
- 62. Authority to declare product safety or information standards.
- 63. Liability in respect of unsuitable goods.
- 64. Liability for defective goods.
- 65. Unidentified manufacturer.
- 66. Defence.
- 67. Consultations with the Kenya Bureau of Standards.
- 68. Referral of complaints to Government agencies.
- 69. Notification by consumer Bodies.
- 70. Offences and penalty.
- 70A. Authority to initiate investigation into complaint.

Competition

PART VII – ESTABLISHMENT AND POWERS OF THE COMPETITION TRIBUNAL

- 71. Establishment of the Competition Tribunal.
- 72. Procedure on appeals to the Tribunal.
- 73. Persons entitled to appeal to the Tribunal.
- 74. Hearing and determination of appeal.
- 75. Tribunal to refer appeals back for reconsideration.
- 76. Provisions pending determination of appeal.
- 77. Authority's right of appeal.

PART VIII - FINANCIAL PROVISIONS

- 78. Funds of the Authority.
- 79. Financial year.
- 80. Annual estimates.
- 81. Accounts and audit.
- 82. Investment of funds.

PART IX - MISCELLANEOUS

- 83. Annual reports.
- 84. Prohibition on disclosure of information.
- 85. Disclosure of private interest by staff.
- 86. Time within which investigation may be initiated.
- 87. Hindering administration of Act.
- 88. Failure to comply with summons.
- 89. Failure to comply with order.
- 89A. Leniency programme.
- 90. Other offences.
- 91. General penalty.
- 92. Jurisdiction of magistrate's courts.
- 93. Rules.

PART IX - REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

- 94. Definition.
- 95. Assets and other property.
- 96. Rights, powers, liabilities, etc.
- 97. Legal proceedings.
- 98. Secondment to Authority.
- 99. Repeal of Cap. 504.
- 100. Savings.

SCHEDULE -

PROVISIONS AS TO THE AUTHORITY