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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY & COOPERATIVES

REPORT ON

**THE INQUIRY INTO ALLEGED DISCRIMINATION OF LOCAL INVESTORS IN
TRANSPORT AND LOGISTICS SECTOR BY MULTINATIONAL COMPANIES IN KENYA.**

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 19 NOV 2025	DAY: Wed
TABLED BY:	Hon. Marianne Hitony Vice-chair, Trade Committee
CLERK-AT THE TABLE:	Mudo Atabo

**CLERK'S CHAMBERS,
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI**

NOVEMBER 2025

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19 NOV 2025
SPEAKER'S OFFICE P. O. Box 41842, NAIROBI.

ABBREVIATIONS

BAT	-	British American Tobacco
CAK	-	Competition Authority of Kenya
MNCs	-	Multinational Companies
ToR	-	Terms of Reference
KTA	-	Kenya Transporters Association
EABL	-	East Africa Breweries Limited

CHAIRPERSON'S FOREWORD

It is my pleasure to submit this report on the inquiry into the alleged discrimination and unfair treatment of local investors in the transport and logistics sector by multinational companies operating in Kenya. This inquiry emanated from a formal complaint submitted by the Kenya Transporters Association (KTA) to the Departmental Committee on Trade, Industry and Cooperatives alleging that local transporters were being systematically excluded by multinational companies (MNCs) operating in Kenya. The Association posited that unfair trade practices in contravention of Kenya's competition laws and local content requirements.

Pursuant to the provisions of Article 95(1) of the Constitution and Standing Order 216(5), the Committee resolved to undertake an inquiry into the alleged systemic breaches of competition laws by multinational companies operating in Kenya as well as broader concerns relating to local content compliance in warehousing, transport, and related sectors, and potential transfer pricing practices by MNCs.

To this end, the Committee held seven (7) meetings with complainant Kenya Transporters Association (KTA), and key stakeholders including the Competition Authority of Kenya (CAK), British American Tobacco (BAT), Kenya Breweries Limited (KBL), GlaxoSmithKline Limited (GSK), Coca-Cola Beverages Kenya Limited, Nestle Kenya and Unilever Kenya Limited. These consultations provided critical insights into the nature of business practices in the logistics and warehousing sector and the regulatory safeguards in place to promote fair competition.

The comprehensive report by the CAK on the alleged abuse of dominant position by MNCs provided conclusive insights on the matters under inquiry, enabling the Committee to reach a definitive position on the allegations. Based on the evidence adduced, the Committee found that the allegations of discriminatory conduct, abuse of dominance, or predatory pricing by the multinational companies concerned were unsubstantiated and concluded that the matter did not warrant further action against the multinational companies concerned.

The Committee unanimously adopted its report at a sitting held on 4th October, 2025.

I wish to express my appreciation to the Honourable Members of the Committee, the stakeholders and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Trade, Industry and Cooperatives, and pursuant to the provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the

Report of the Committee on its inquiry into alleged discrimination of local investors in the transport and logistics sector by Multinational Companies in Kenya.



HON. BERNARD MASAKA SHINALI, MP
CHAIRPERSON, COMMITTEE ON TRADE, INDUSTRY AND
COOPERATIVES

PART ONE

I.0 PREFACE

I.1 Establishment and Mandate of the Committee

- I. The Departmental Committee on Trade, Industry and Cooperatives is one of the Departmental Committees of the National Assembly established under Standing Order 216 whose mandate pursuant to the Standing Order 216 (5) is as follows:
 - b. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - c. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - (ba) *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - d. *To study and review all legislation referred to it;*
 - e. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - f. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and may be referred to them by the House;*
 - g. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - (fa) *To examine treaties, agreements and conventions;*
 - h. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - i. *(Deleted)*
 - j. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - k. *To examine any questions raised by Members on a matter within its mandate.*

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, Trade, including securities exchange, consumer protection, pricing policies, commerce, industrialization including special economic zones, enterprise promotion and development including Micro, small & medium enterprise (MSMEs), and small and medium enterprise (SMEs), intellectual property, industrial standards, anti-counterfeit and cooperatives development.
3. In executing its mandate, the Committee oversees the Ministry of Investment, Trade and Industry and the Ministry of Cooperatives and Micro, Medium and Small Enterprises (MSMEs).

I.2 Committee Membership

4. The House constituted the Committee on Thursday, 27th October, 2022 and comprises the following Members:

Chairperson

Hon. Benard Masaka Shinali, MP
Ikolomani Constituency

Orange Democratic Movement (ODM)

Vice Chairperson

Hon. Marianne Jebet Kitany, MP Aldai.
Constituency

United Democratic Alliance (UDA)

Hon. Robert Githinji Gichimu, MP
Gichugu Constituency
United Democratic Alliance (UDA)

Hon. Dr. Wilberforce Ojiambo Oundo, MP
Funyula Constituency
Orange Democratic Movement (ODM)

Hon. Dr. Beatrice Kahai Adagala, MP
Vihiga County
Amani National Congress (ANC)

Hon. Joyce Kamene, MP
Machakos County
Wiper Democratic Movement-Kenya

Hon. Joshua Mbithi Mutua Mwalyo, MP
Masinga Constituency
Independent Member

Hon. Anthony Tom Oluoch, MP
Mathare Constituency
Orange Democratic Movement (ODM)

Hon. Guyo Adhe Wario, MP
North Horr Constituency
KANU

Hon. Samuel Sakimba Parashina, MP
Kajiado South
Orange Democratic Movement (ODM)

Hon. Amos Maina Mwago, MP
Starehe Constituency
Jubilee Party

Hon. Adams Korir Kipsanai, MP
Keiyo North Constituency
United Democratic Alliance (UDA)

Hon. Michael Wainaina Wambugu, MP
Othaya Constituency
United Democratic Alliance (UDA)

Hon. Alfred Kiprono Mutai, MP
Kuresoi North Constituency
United Democratic Alliance (UDA)

Hon. Bwire John Okano, MP
Taveta Constituency
Wiper Democratic Movement-Kenya

I.3 Committee Secretariat

5. The Committee Secretariat comprises the following technical staff:

Mr. Abenayo Wasike
Principal Clerk Assistant I/Head of Secretariat

Ms. Carolyne Musyoka
Hansard Reporter II (Clerk Assistant)

Ms. Everlyn Orina
Clerk Assistant III

Ms. Priscilla Saidi
Research Officer III

Ms. Pauline Sifuma
Hansard Officer II

Ms. Peris Kaburi
Sarjeant At Arms

Ms. Priscilla Wangu
Fiscal Analyst II

Ms. Florence Wanja
Protocol Officer

Mr. Cosmas Akhonya
Audio officer

Mr. Daniel Psirmoi
Media Relations Officer III

PART TWO

2.0 INTRODUCTION

6. The Committee is in receipt of a letter from the Kenya Transporters Association (KTA) Limited, dated 6th February, 2024. In the letter, the Association raised concerns about the discrimination of local investors in the transport and logistics sector by multinational companies (MNCs).
7. The, Kenya Transporters Association (KTA) Limited stated that, the Multinational Companies (MNCs) prefer to deal with fellow multinationals in the transport sector. This discrimination they said amounted to unfair trading practice.
8. The committee on Trade, Industry and Cooperatives invited Competition Authority of Kenya (CAK), Kenya Transporters Association (KTA), British American Tobacco (BAT), Kenya Breweries Limited (KBL), Nestle Kenya and Unilever Limited to submit their memoranda.

2.1 TERMS OF REFERENCE

9. The Committee developed and was guided by the following terms of reference in conducting the inquiry;
 - (a) To establish whether unfair treatment of local transporters by multinational companies has created an unfair business environment;
 - (b) To assess the level of compliance with local content requirement in the warehousing, transport and related sectors by multinationals companies; and
 - (c) To establish whether transfer pricing by multinational companies has created an unfair business environment in the provision of transportation and logistics services.

PART THREE

3.0 SUBMISSIONS FROM VARIOUS MULTINATIONAL COMPANIES IN THE COUNTRY AND THE COMPLAINT BY KENYA TRANSPORTERS ASSOCIATION ON ALLEGED DISCRIMINATION OF LOCAL INVESTORS IN TRANSPORT AND LOGISTICS SECTOR BY MULTINATIONAL COMPANIES.

10. The Committee held meetings with various multinational companies and government institutions including the Competition Authority of Kenya (CAK), Kenya Transporters Association (KTA), British American Tobacco (BAT), Kenya Breweries Limited (KBL), Nestlé Kenya Limited and Unilever Kenya Limited.

They submitted as hereunder –

1.1 SUBMISSIONS BY KENYA TRANSPORTERS ASSOCIATION (KTA)

11. Kenya transporters association (KTA) through its representative appeared before the committee and submitted as follows:
12. That the local investors in the sector of transport, logistics and Warehousing are not getting a fair treatment especially when dealing with large multinationals, who opt to ignore the local capacity and deal with fellow multinationals. This is affecting its members, and sought the committee indulgence to create a fair playing ground that will allow local participation based on experience, expertise and that they are Kenyan.
13. Additionally, they stated that many countries have introduced a percentage of local content to protect home ground businesses and felt that it is time Kenya took a similar approach.
14. The association, however raised their Key Areas of Concern as follow;
- i Limited Local Participation: MNCs often outsource logistics and warehousing services abroad, using contracts applicable across their operations. This bypasses local companies and hinders their ability to compete.
 - ii Disparity in Investment: Local entrepreneurs own the majority (90%) of trucks in Kenya, while MNCs contribute only 10%. However, MNCs secure over 70% of logistics contracts, leaving local investors with limited opportunities and unfair conditions.

- iii Uneven Economic Impact: Local businesses typically reinvest profits within Kenya, whereas MNCs repatriate theirs. Supporting local participation is crucial for economic growth, especially in sectors like transport with substantial domestic capacity.
- iv Regional and Global Markets: Kenyans in freight logistics aim to be prepared for regional, continental, and global markets, especially as integration efforts favor intra-African trade. However, achieving this goal requires a strong domestic foundation. Without a solid local foothold, Kenyan companies risk missing out on these opportunities, hindering growth for current and future generations.
- v Unfair Practices by Shipping Lines: Shipping lines engage in practices that stifle competition. This includes a single company acting as a cargo carrier, operating a Container Freight Station (CFS), providing land transport (through bills of lading), owning a clearing and forwarding (C&F) company, and managing an empty container depot. There have been allegations of these companies' preventing customs agents from booking exports and forcing importers/exporters to use their affiliated companies.

15. The association informed the committee about the following anti-competitive behaviors by MNCs in the Kenyan transport and logistics sector:

- i Exclusive Contracts: MNCs secure exclusive agreements with key suppliers or distributors, shutting out smaller local companies from essential resources and markets.
- ii Discriminatory Practices: MNCs favor large customers with discounts and preferential treatment, while putting smaller competitors at a disadvantage.
- iii Barriers to Entry: MNCs leverage their market power to create barriers that make it difficult for new companies to compete effectively.
- iv Anti-Competitive Agreements: MNCs engage in collusive agreements with competitors or suppliers, such as price-fixing or market allocation schemes, to maintain their dominance.

- v Predatory Pricing: In some cases, MNCs resort to predatory pricing, temporarily lowering prices to drive out competitors and then raising them once they have achieved a monopoly.
- vi Lack of Transparency: A lack of transparency in pricing and contracting practices by MNCs makes it challenging for regulators and competitors to identify anti-competitive

16. The association advocated for a quota system, where at least 60% of transport and logistics work is reserved for local Kenyan enterprises. Kenya has sufficient local capacity to justify this proposal.

1.2 SUBMISSIONS BY KENYA BREWERIES LIMITED (KBL)

The managing director submitted that;

17. Kenya Breweries Limited is a local company, incorporated as a private limited liability company on 8th September 1922. The first beer was brewed on 14th December 1922. In 1926, KBL declared its first dividend of 12.5% at the first annual general meeting, the first clear sign of the company's success and local heritage.
18. Procurement of local raw materials began in 1929, when the KBL board decided to start using malted barley in the production process instead of imported malt extracts, significantly improving beer appearance and flavour. When the war broke out and the demand for beer increased in the 1940s, KBL held its first nationwide barley competition to encourage farmers to grow suitable barley. This became an annual event, marking the beginning of a new crop that benefited hundreds of farmers and made the company independent of overseas supplies.
19. In 1935, KBL acquired Tanganyika Breweries, which had been established in 1932 as a private company. In 1936, KBL and Tanganyika Breweries Limited merged, leading to the change of name to East African Breweries Limited (EABL). EABL would later acquire financial holding in Uganda Breweries in 1959. In 1962, a merger was completed with Allsopps (East Africa) Ltd, another beer company in Nairobi, and EABL became a holding company with KBL becoming the major trading company in the group, holding trading assets and liabilities for units in Nairobi and Kisumu. In the 1980s, KBL established two plants in

Kenya, one in Kisumu for manufacture of beer and CGI which was producing glass bottles and was later sold to a South African firm.

20. KBL is currently the second largest taxpayer in Kenya with a total tax contribution averaging KES 80 billion annually. Out of KES 2 trillion in tax revenue that KRA collects on average per year, KES 820 billion comes from large taxpayers and KBL contributes 10% of the large taxpayers' tax revenue contribution in Kenya.
21. The economic value is generated through employment of a skilled and semi-skilled workforce derived in Kenya. In terms of employment, KBL's direct value chain activities provide employment to 45,000 farmers, 180,000 retail trade employees operating in the over 45,000 outlets countrywide where they sell products and finished goods transport services employees and 120 local distributors directly employing 2,400 people.
22. KBL invested in its first vehicle transportation system in 1958. The fleet was very organized, rising to become one of the best in East Africa until 1997, when it began outsourcing logistics services. This was prompted by a change in KBL business strategy and a need to focus on core activities, improving service & cost efficiencies
23. They were not able to address any specific concerns raised by Kenya Transporters Association (KTA) because no specific issues have been raised directly to KBL by KTA or its directors. They have also confirmed to the committee that there were no any formal or informal engagements with KTA.
24. In logistics procurement process, an e-auction was conducted with 25 potential Kenyan registered companies who were invited, 22 of whom participated in the Request for Proposal (RFP) and e-auction. The process of tender evaluation involved a 3-step process of pre-tender engagement, technical (post RFP submission) and commercial (post e-auction analysis) evaluation. This process is embedded in KBL's procurement policy, and it is designed to be independent, transparent, equitable, upholding the highest levels of procurement integrity and abides by all applicable laws of Kenya.
25. The technical evaluation was focused on addressing systemic and strategic logistics concerns KBL had been facing within the value chain and to deliver transformational benefits in the form of reducing KBL's carbon footprint. The requirements included: -
 - a) Safety and risk management— onboard cameras, sure locks and mix telematics;

- b) Commitment to reducing carbon footprint, new vehicles with governance on truck ageing and management;
- c) Control tower— delivering visibility for route planning and optimization to deliver efficiencies through traffic management;
- d) Truck mechanization with the right design that has pallet loadable equipment across different product categories and
- e) City logistics solutions providing adequate trailer capacity, guaranteeing product integrity and security in transit.

26. After a rigorous procurement process, the tender was awarded to four Kenyan registered companies namely Ponty Pridd, DHL, Agility and Acceler. The process was conducted in a fair and transparent manner in accordance with KBL's procurement policy and applicable laws in Kenya.
27. The MD stated that the participating logistics companies are all locally registered, employing in excess of 21,000 Kenyan people and operating with the laws in Kenya. KBL contracting processes are in compliance with all applicable laws in Kenya including the Competition Act 2010.

I.3 SUBMISSIONS BY BRITISH AMERICAN TOBACCO (BAT)

The managing director BAT appeared before the committee and submitted as follows:

28. That BAT Kenya has a rich local heritage with a history spanning over 117 years in Kenya. The company is public, having been listed on the Nairobi Securities Exchange since 1969, and has approximately 5,700 shareholders, of which 5,500 are local.
29. The company's value chain covers business partnerships with over 80,000 Kenyans, including tobacco farmers, traders and suppliers. This generates direct and indirect employment opportunities for more than 1,800 Kenyans with the Kenya operation having more than 400 employees. Additionally, the company runs a robust twelve-month internship program, currently with a cohort of 57 interns.
30. The MD informed the committee that the company contributes Kshs.93.2 billion to the country's GDP annually, BAT Kenya generates revenues for the government in terms of domestic taxes and foreign exchange. In 2023, BAT paid Ksh19.4 billion in domestic taxes

and generated forex of over USD 100 million. Additionally, BAT Kenya paid an annual solatium compensatory contribution required under the Tobacco Control Act, 2007 being 2% of the annual value of tobacco manufactured or imported annually. From the effective date of this levy in 2019, BAT Kenya has paid Ksh481 million.

31. In response to the allegations made against multinationals, the MD stated as follows;

- i. The MNCs engage in exclusive contracts with fellow MNCs in transport and logistics sector: BAT Kenya submitted that it does not engage in exclusive contracts for transport services with other multinationals as alleged or at all. The list of suppliers provided herein is confirmation that the Company transacts equitably with both local and global suppliers for provision of logistics and transport services while appreciating the capabilities of each group of suppliers.
- ii. The MNCs subject local transporters to Anti-Competitive pricing: BAT Kenya does not subject its local suppliers to anti-competitive pricing as alleged or at all. On the contrary, the Company considers pricing based on what has been offered by the suppliers during the tender process and further negotiations with successful bidders after conclusion of the tender process. Further, it is worth noting that special considerations are also set out in BAT Kenya's contracts with its transport and logistics suppliers giving the parties an opportunity to review and vary the pricing depending on market conditions and changes in the services during the period of the contract e.g. changes triggered by changes in legislation or movements in local fuel prices.
- iii. The MNCs engage in predatory pricing aimed at driving them out of business:
As regards to the allegations that BAT Kenya is engaging in predatory pricing with the aim of driving local transporters out of business, the same is not correct. Predatory pricing by definition is the practice of setting prices for a product/service unrealistically low in order to eliminate the competition. Logistics suppliers are not the Company's competitors neither is the Company a player in the transport and logistics sector. Further, BAT Kenya has mitigated the risk of any supplier employing predatory pricing by putting in place a tendering process through which the Company receives price proposals from its suppliers and not vice versa. These proposals are scrutinized and validated to ensure compliance with the law, alignment with good industry standards

and ensure supplier sustainability. BAT Kenya does not dictate the prices for its suppliers. Further it is in the interest of the Company to have a wide pool of suppliers to encourage good quality goods/service delivery and competitive pricing

- iv. The MNCs contracts with fellow MNCs in the transport sector lack transparency: BAT Kenya has undertaken competitive bidding to ensure that it secures quality services and competitive pricing. The bidding processes and procedures are communicated to all relevant suppliers with clear timelines for submission of proposals. The entire bidding process is undertaken through an online platform to which all bidders have visibility of the bids and access to information. The bidding documents and processes are communicated to the proposed bidders in advance through the RFP which contains terms and conditions that would eventually form contractual terms with the successful bidders subject to further negotiations. The outcome of the bidding process is always communicated to the suppliers formally which is a clear indication of transparency in the sourcing process.

32. In concluding, BAT Kenya submitted that it is transparent in its engagements with its suppliers and has been fair in its treatment of the suppliers in recognition of upholding their values of conducting business in a responsible and sustainable manner. BAT Kenya has enabled its suppliers to engage in business in a constructive and professional manner including giving feedback during the regular review meetings with suppliers. No formal or informal complain has been raised by Kenya transporters of association (KTA) to BAT over the matters mentioned.

I.4 SUBMISSIONS BY UNILEVER KENYA LIMITED

The managing director Unilever Kenya submitted that;

33. They have a total of 15 logistics suppliers in Kenya, 3 suppliers in warehousing and 12 suppliers in transport. 3 are locally incorporated entities that are subsidiaries of global companies (all incorporated in Kenya) and 12 local entities that have no global parent company structure.
34. The 3 locally incorporated entities in warehousing are; E.A.S storage co Ltd, Conventional cargo Conveyors and AGL Kenya Ltd while the 12 suppliers in transport are; Conventional cargo conveyors, Agility logistics ltd, Swan carriers ltd, Simba trucking ltd, Amitruck ltd, Sendy ltd, Ponty Pridd, Expeditors ltd, offshore global logistics ltd, Edgescope ltd, Dodoma transport agency ltd, DHL supply chain Kenya ltd and Mearsk.
35. In warehousing, out of the 3 suppliers, 2 are local entities (E.A.S storage ltd and Conventional cargo conveyors) that have no global parent company structure, while 1 is a local entity (AGL Kenya ltd) that is a subsidiary of a global company creating over 400 direct jobs for Kenyans.
36. In transport, Clearing and Forwarding, out of 13 suppliers, 11 are local entities that have no global parent company structure and 2 are local entities that are subsidiaries of a Global Company.
37. The MD informed the committee that as a standard operating procedure, prior to any onboarding of their logistics suppliers, they undertake a thorough RFQ (Request for Quotes) process, in which they seek tenders for services and supplies with clear standard terms and conditions. Upon closure of the tender period, they shortlist those suppliers that meet the criteria of the RFQ, schedule interviews/negotiations to agree on specific parameters of the nature of services or products that they are seeking provision or supply for, payment terms and other elements touching on the specific engagements.
38. Safety, Health, Environment and Security is priority for operations because they endeavor to run safe operations and value life and safety of all stakeholders in the Supply Chain. As such, failure to meet the prerequisite mandatory standards related to Safety automatically disqualifies the potential bidder from proceeding to the next step, however, as a mitigating

factor, they work with the Suppliers to develop their readiness on the areas that fall short for future qualifications.

39. In terms of pricing the MD stated that; they use competitive bidding to determine prices for their logistics services. As part of the contract pricing review mechanism, there is an agreed model to review price based on macro factors e.g. fuel, forex fluctuations and any other macro or micro economic parameter that impacts cost of product or service. Further, in the event of unusual disruptions in the macro environment that has material impact to the suppliers or Unilever, they are open negotiations to allow for adjustments that ensure sustainable business to either of the parties.
40. The MD confirmed to the committee that there were no any formal or informal engagements with KTA.

I.5 SUBMISSIONS BY NESTLÉ KENYA LIMITED

The managing director Nestlé Kenya Limited appeared before the committee and submitted as follows:

41. That Nestlé is a company that prioritizes compliance with laws and regulations in the markets where they operate. Nestlé Nairobi Factory has been a significant player in the region's manufacturing industry since its establishment in 1965. Our well-known brands in Kenya, such as MILO, NESCAFE, and MAGGI seasoning cubes, have become household names.
42. While providing clarity on their selection criteria for transporters with whom they engage in business, the MD stated that the company choose its transporters through a tendering system, inviting qualified and interested bidders to bid based on the following criteria:
- i. Capacity and capability to effectively meet the company's transportation requirements.
 - ii. Possession of the appropriate type and quality of vehicles for sensitive food products.
 - iii. Ability to track and control operations.
 - iv. Compliance with certifications for vehicles and drivers.
 - v. Cost competitiveness.

43. Based on these criteria, the company is currently working with local players who provide distribution services in Kenya. These players include Ponty Pridd Holdings and Edge Scope Limited, both of which are fully locally owned small-scale transporter service providers.
44. They were not able to address any specific concerns raised by Kenya Transporters Association (KTA) because no specific issues have been raised directly to Nestlé by KTA. They have also confirmed to the committee that there were no any formal or informal engagements with KTA.

1.6 SUBMISSIONS BY THE COMPETITION AUTHORITY OF KENYA (CAK)

The Authority submitted that;

45. It has addressed anti-competitive practices such as abuse of dominance and restrictive agreements in various sectors in enforcing the Act, thus fostering a competitive landscape that benefits consumers and promotes innovation. Additionally, the Authority's oversight of mergers and acquisitions has been instrumental in balancing the interests of market players while also safeguarding public interest.
46. It is the intent of government to enhance support to local investors in the transport and logistics sector to gain the required capacity for increased productivity. Improved productivity of quality products will in turn improve the competitiveness of the country as well as create employment opportunities for Kenyans, revenue for the state, poverty reduction, promote value addition, stimulate production and product diversification and encourage growth of local industries.
47. The Authority has on various occasions intervened in this sector to protect and enhance competition in this sector. In 2019 the Authority received complaint from Gateway Marine Services (GMS) Ltd (GMS) against Maersk Kenya Ltd (Maersk) on alleged abuse of dominance by Maersk in the Reefer Cargo Market. Specifically, it was alleged that Maersk imposed rates at which GMS charged its clients and also imposed a condition that all Controlled Atmosphere (CA) containers should use generators from Maersk. Further, it was alleged that Damco Kenya (Damco) was allocated to handle bookings while GMS' service was limited to transportation only, this allegedly resulted in unfair competition between the GMS and Damco.

48. The Authority noted that the issues raised by KTA may be interrogated within the provisions of the Competition Act. In this regard, the Authority, if required, may initiate an investigation into the alleged conduct with an aim of providing evidence-based information for taking appropriate remedial measures and ensuring there is a fair play in the transport and logistics sector. For purposes of the inquiry, the Authority considered two markets that is:

- a) The provision of Trucking and Cargo Haulage services and;
- b) The provision of Shipping and Logistics services.

On whether 60% of transport and logistics work should be reserved for local transport companies; The Authority noted that;

49. KTA proposed a quota system where at least 60% of the transport and logistics work is reserved for local transport companies.
50. In view of this request, the Authority notes that section 21(1) of the Act prohibits agreements between undertakings, decisions by associations of undertakings, decisions by undertakings or concerted practices by undertakings that have as their object or effect the prevention, distortion or lessening of competition in trade in any goods or services in Kenya, or a part of Kenya, unless they are exempt in accordance with the provisions of section D of Part III of the Act.
51. Specifically, section 21 (3) (b) and 21 (3) (i) prohibits arrangements which divide markets by allocating customers, suppliers, areas or specific types of goods or services and otherwise prevent, distort or restrict competition.
52. It is the Authority's position therefore that KTA's prayer to reserve 60% of transport services for local (Kenyan-owned) firms undermines the object of the Act and if granted will contravene the provisions section 21 of the Act.

On whether MNCs secure exclusive agreements with key suppliers or distributors, shutting out small local companies from essential resources and markets?

53. The Authority noted that, in their Petition, KTA alleged that MNCs engage in exclusive agreements with key suppliers or distributors, shutting out small local companies from essential resources and markets. In support of this allegation, KTA through their letter

dated 8th August 2025, submitted a joint witness statement signed by various members of the Association.

54. In the joint statement, the KTA members indicated that the MNCs lock out local players by sourcing the services out of the country, where MNCs operating in Kenya and other developing countries automatically opt for other foreign companies to offer them services, totally discriminating locals. The members further submitted that there is also presence of incentives paid abroad for award of contracts for local business.
55. KTA members further submitted that in 2025, KBL logistics and warehouse contracts were awarded in London. The whole contracting was handled in a very opaque way which was designed to lock out local transport and logistics firms out of KBL. In KBL over 70% of all transport work and 100% of warehouse work is controlled by MNCs. This saw KBL through Diageo London getting "savings in advance" paid in London by DHL and Bollore for over 4 million pounds by each company.
56. From the foregoing, KTA's allegations centre on exclusive arrangements by the MNCs. Exclusive agreements occur in a vertical relationship where a buyer is obligated to purchase goods or services only from a specific seller for a set period. Such agreements are common between suppliers and distributors or manufacturers and retailers.
57. Under the Act, both horizontal (between competitors) and vertical (between different supply chain levels) agreements may be prohibited if they distort or restrict competition. Section 21(3) of the Act outlines examples of potentially anticompetitive agreements, including exclusive distribution arrangements.

On whether MNCs have been engaging in discriminatory practices leading to market foreclosure

58. The Authority submitted that in their Petition, KTA alleged MNCs are engaging in discriminatory practices by favouring large customers with discounts and preferential treatment while putting smaller competitors at a disadvantage.
59. Section 24 (2) (c) of the Act prohibits applying dissimilar conditions to equivalent transactions with other trading parties. This form of abuse by a dominant undertaking involves an assessment of whether as between equivalent transactions, there is discrimination between trading undertakings in the supply of goods or services. This form of

abuse involves any discount, allowance, rebate or credit given or allowed in relation to the supply of goods or services. The conduct may apply to a vertically integrated undertaking as well as a non-vertically integrated one.

60. From the contracts submitted by the MNCs, it has been observed that the contracts entered with both local and international companies comprised similar contractual terms and that from the list of trucking companies contracted by the MNCs majority were local companies. As such there was no evidence found to establish that the MNCs were discriminating the local transporters leading to market foreclosure.
61. Based on the evidence gathered, the Authority did not find the existence of the alleged discriminatory practices by the MNCs that could lead to market foreclosure contrary to section 24(2)(c) of the Act.

On whether MNCs have been engaging in predatory pricing

62. CAK noted that in their Petition, KTA alleged that MNCs resort to predatory pricing temporarily lowering prices to drive out competitors and then raising them once they have achieved a monopoly.
63. Predatory pricing is an anti-competitive strategy where a dominant company deliberately sets its prices below cost with the intent to eliminate competitors or deter new entrants. Once competitors are driven out and the firm secures or strengthens its dominant position, it may then raise prices to recoup losses—often to the detriment of competition and consumers' welfare. In analysing predatory practices and specifically in this investigation on vertical integration, dominance or market power must be established on the part of the MNCs pursuant to section 23 of the Act.
64. The relevant market for KTA's complaint is trucking and cargo haulage services, the MNCs operate in the manufacture of products such as alcoholic beverages, tobacco, fast-moving consumer goods, and cement. As such, issues of dominance or market power do not arise in this case, and KTA's allegations of predatory pricing are not applicable.

On whether MNCs have been engaging in anticompetitive agreements specifically price fixing.

65. CAK notes that in the Petition, KTA alleged that MNCs engage in collusive agreements with competitors or suppliers such as price fixing or market allocation schemes to maintain their dominance.
66. The Act requires that each company establish prices and other competitive terms on its own, without agreeing with a competitor. When purchasers make choices about what products and services to buy, they expect that the price has been determined on the basis of supply and demand, not by an agreement among competitors. When competitors agree to restrict competition, the result is often higher prices.
67. Similarly, although the relevant market in KTA's complaint is trucking and cargo haulage services, the MNCs operate in the manufacture of products such as alcoholic beverages, tobacco, fast-moving consumer goods, and cement. Therefore, determining dominance or market power in this context is not viable, and the allegations of price fixing raised by KTA do not arise.

1.6 SUBMISSIONS BY COCA-COLA COMPANY (TCCC)

The Managing Director Coca-Cola Company (TCCC) submitted that;

68. In Africa, Coca-Cola Beverages Africa (CCBA) is the largest bottler, accounting for about 40% of all Coca-Cola beverage volumes on the continent. In Kenya, Coca-Cola Beverages Kenya (CCBK) serves as the anchor bottler, operating six production sites located in Embakasi, Embakasi-Umoja, Nyeri, Eldoret, Kisumu, and Molo.
69. They have significantly contributed to the country's economic development by fostering robust supply chains in wholesale, retail, and agriculture. The Coca-Cola System generates both direct and indirect employment, with over 4,000 jobs in Kenya.
70. In project Investment, they have driven economic growth and created opportunities across the value chain through investments totaling nearly 19 billion Kenyan Shillings over the past seven years. These investments include establishing an ultramodern juice plant, a new production line, a wastewater treatment facility, and expanded logistics capacity.

71. On Business Sustainability, CCBK actively supports Kenya's socio-economic vision by championing women empowerment and entrepreneurship. Since 2010, over 700,000 women in the supply chain have benefited from its initiatives, while the "Nawiri" program has helped nearly 80,000 MSMEs and retailers grow their businesses.
72. On Environmental Sustainability, they have advanced recycling and economic inclusion programs, directly impacting over 10,615 women, youth, and people with disabilities since 2022. The company also plans to expand its role in water conservation, sports, culture, and youth empowerment initiatives.
73. The MD stated that on Logistics Management, the Coca-Cola System's nationwide distribution model ensures efficient product delivery through over 190,000 outlets across Kenya. CCBK manages a private fleet of nearly 280 vehicles, sourced locally from companies such as Isuzu East Africa, CFAO Kenya, Scania East Africa, and Simba Colt Motors, thereby supporting Kenya's automotive industry.
74. When it comes to Logistics Procurement Process, CCBK emphasizes local sourcing for transport and logistics services to support both inbound raw materials and outbound finished products. Its procurement and tender evaluation processes are grounded in transparency, independence, and integrity, in line with CCBA's procurement policy and Kenyan law.
75. The following defines the high-level procurement process:
- i. Establish a Data-Driven Baseline: Build a factual foundation for the sourcing event using real, accurate data.
 - ii. Define Business Requirements: Identify clear objectives for the sourcing event, focusing on practical and achievable outcomes.
 - iii. Evaluate the Supply Base: Assess current and potential suppliers, considering technological advancements and new opportunities.
 - iv. Negotiate with Selected Suppliers: Engage in balanced and transparent negotiations, comparing outcomes to ensure fairness.
 - v. Report and Secure Approvals: Present findings and results to stakeholders for review and approval of the proposed path forward.

- vi. Ongoing Supplier and Category Management: Continuously manage supplier relationships and material categories to maximize value in alignment with targeted objectives

76. Supplier Guiding Principles:

- i. Commitment to human rights: We believe that shared values should form the foundation of our relationships with suppliers. We expect our direct suppliers to uphold these guiding principles and ensure respect for all human rights.
- ii. Compliance with laws and regulations: Suppliers must adhere to all applicable local and national laws, rules, regulations, and requirements in the manufacturing and distribution of products and services.
- iii. Safety and risk management: Suppliers are required to comply with safety standards, including the use of In-Vehicle Monitoring Systems (IVMS) and ensuring the roadworthiness of their vehicles.
- iv. Environmental responsibility: Suppliers must demonstrate a commitment to reducing environmental impact by utilizing newer vehicles and adhering to governance practices related to vehicle aging and management.

77. The agency submitted that Coca-Cola Beverages Kenya (CCBK) embraces a strong local approach by hiring, producing, distributing, and sourcing within Kenya, thereby strengthening the value chain and creating both direct and indirect employment opportunities. The company is committed to competitive and compliant local sourcing of logistics services while upholding integrity, legal compliance, and adherence to its code of conduct. Beyond business operations, CCBK prioritizes community well-being, ensuring its practices reflect responsible corporate citizenship and contribute positively to the societies in which it operates.

I.7 SUBMISSIONS BY GLAXOSMITHKLINE LIMITED (GSK)

The Managing Director submitted that;

78. On Transport Service Providers, the company as a low volume transporter of its products compared to other players in the transport sector. They engage a third-party logistics service provider which independently and competitively selects the transport providers who ultimately deliver our products to distributors within Kenya.
79. Their products are transported by road to the distributors by use of specialized and dedicated temperature-controlled road vehicles in compliance with the Guidelines and Regulations. The transporters of pharmaceutical products must also be licensed by the PPB to engage in such business.
80. The MD stated that their domestic distribution model leverages local transporters, with specialized trucks. This model ensures timely deliveries within the country but also supports local transporters are independently selected by the third-party logistics service provider. The third-party providers are:
- i. Jonathan Transporters;
 - ii. Fargo Courier Limited; and
 - iii. Jihan Transporters.
81. On Security Service Providers, the providers engaged by the company are evaluated on the grounds of fair market value, capacity for service delivery, credit terms, security and safety policies for their staff and conflicts of interest.
82. The company is guided by the provisions of the Private Security Regulation Act, Cap 207 of the Laws of Kenya in its selection of security service providers. To this end, the security service providers engaged by the company must be compliant with statutory requirements such as being licensed by the Private Security Regulation Act.
83. Currently, the company has engaged the following locally registered entities for the provision of various security services:
- a) G4S Kenya Limited;
 - b) Instarect Limited;
 - c) Advanta Africa Limited;
 - d) Chrome Partners Limited;
 - e) Penta Converters Limited; and

f) Magre Safekey Limited.

PART FOUR

4.1 COMMITTEE OBSERVATIONS

Based on the terms of reference, the Committee observed as follows-

(a) whether unfair treatment of local transporters by multinational companies has created an unfair business environment;

84. With respect to allegations of discriminatory practices leading to market foreclosure, The KTA submitted that the local investors in the sector of transport, logistics and Warehousing are not getting a fair treatment especially when dealing with large multinationals, who opt to ignore the local capacity and deal with fellow multinationals. This was affecting its members, and sought the committee indulgence to create a fair playing ground that would allow local participation based on experience, expertise and that local ownership.
85. Further the association submitted that, Multinational companies secure exclusive agreements with key suppliers or distributors, shutting out smaller local companies from essential resources and markets. They alleged that Multinational companies favor large customers with discounts and preferential treatment, while putting smaller competitors at a disadvantage.
86. In response to these allegations the multinational companies submitted that, they undertaken competitive bidding to ensure that they secure quality services and competitive pricing. The bidding processes and procedures are communicated to all relevant suppliers with clear timelines for submission of proposals. The entire bidding process is undertaken through an online platform to which all bidders have visibility of the bids and access to information. The bidding documents and processes are communicated to the proposed bidders in advance through the RFP which contains terms and conditions that would eventually form contractual terms with the successful bidders subject to further negotiations. The outcome of the bidding process is always communicated to the suppliers formally which is a clear indication of transparency in the sourcing process.

87. The multinational companies further submitted that they do not engage in exclusive contracts for transport services with other multinationals as alleged or at all. They transact equitably with both local and global suppliers for provision of logistics and transport services while appreciating the capabilities of each group of suppliers.
88. They also submitted that they are transparent in their engagements with their suppliers and have been fair in their treatment of the suppliers in recognition of upholding their values of conducting business in a responsible and sustainable manner. They stated that they have enabled their suppliers to engage in business in a constructive and professional manner including giving feedback during the regular review meetings with suppliers.
89. The CAK advised that Section 24 (2) (c) of the Act prohibits applying dissimilar conditions to equivalent transactions with other trading parties. This form of abuse by a dominant undertaking involves an assessment of whether as between equivalent transactions, there is discrimination between trading undertakings in the supply of goods or services. This form of abuse involves any discount, allowance, rebate or credit given or allowed in relation to the supply of goods or services. The conduct may apply to a vertically integrated undertaking as well as a non-vertically integrated one.
90. From the contracts submitted by the MNCs, CAK had observed that the contracts entered with both local and international companies comprised similar contractual terms and that from the list of trucking companies contracted by the MNCs majority were local companies. As such there was no evidence found to establish that the MNCs were discriminating the local transporters leading to market foreclosure contrary to section 24(2)(c) of the Act.

(b) To assess the level of compliance with local content requirement in the warehousing, transport and related sectors by multinational companies;

91. The Kenya Transporters Association submitted that there is limited Local Participation as Multinational companies often outsource logistics and warehousing services abroad, using contracts applicable across their operations. This bypasses local companies and hinders their ability to compete.

92. They also informed the committee that there is Disparity in Investment; Local entrepreneurs own the majority (90%) of trucks in Kenya, while multinational companies contribute only 10%. However, multinational companies secure over 70% of logistics contracts, leaving local investors with limited opportunities and unfair conditions.
93. The association advocated for a quota system, where at least 60% of transport and logistics work is reserved for local Kenyan enterprises. Kenya has sufficient local capacity to justify this proposal.
94. In responding to allegations, the multinational companies stated that; majority of suppliers contracted are locals and they have ensured that they continue to have a positive social impact in terms of job creation and improving livelihoods as well as improving the local economy through tax contribution across the value chain.
95. The Competition Authority of Kenya was of the view that reservation of 60% of transport services for local firms undermines the object of the Act and if granted will contravene the provisions of section 21 of the Competition act.

(c) On whether transfer pricing by multinational companies has created an unfair business environment in the provision of transportation and logistics services;

96. The association of local transporters submitted that, in some cases, the multinational companies resort to transfer pricing or even predatory pricing, temporarily lowering prices to drive out competitors and then raising them once they have achieved a monopoly.
97. As regards to this allegation that multinational companies engaging in predatory pricing with the aim of driving local transporters out of business, they stated that the information is not true.
98. The multinational companies stated that they mitigated the risk of any supplier employing predatory pricing by putting in place a tendering process through which they receive price proposals from their suppliers and not vice versa. These proposals are scrutinized and validated to ensure compliance with the law, alignment with good industry standards and ensure supplier sustainability. They also don't dictate the prices for their suppliers. Further it is in their interest to have a wide pool of suppliers to encourage good quality goods/service delivery and competitive pricing.

99. The Competition Act requires that each company establish prices and other competitive terms on its own, without agreeing with a competitor. When purchasers make choices about what products and services to buy, they expect that the price has been determined on the basis of supply and demand, not by an agreement among competitors. When competitors agree to restrict competition, the result is often higher prices.
100. CAK noted that Predatory pricing is an anti-competitive strategy where a dominant company deliberately sets its prices below cost with the intent to eliminate competitors or deter new entrants. Once competitors are driven out and the firm secures or strengthens its dominant position, it may then raise prices to recoup losses often to the detriment of competition and consumers' welfare. In analysing predatory practices and specifically in this investigation on vertical integration, dominance or market power must be established on the part of the MNCs pursuant to section 23 of the Act.
101. The relevant market for KTA's complaint is trucking and cargo haulage services, the MNCs operate in the manufacture of products such as alcoholic beverages, tobacco, fast-moving consumer goods, and cement. As such, there is no common market and issues of dominance or market power do not arise in this case, and KTA's allegations of predatory pricing and price fixing are therefore not applicable.
102. All Multinational companies engaged indicated to the committee that there were no formal or informal engagements with KTA with respect to the matter at hand.

4.2 COMMITTEE FINDINGS

Based on the Committee observations and submissions received the Committee makes the following findings: -

(a) On Allegations of Unfair Treatment of Local Transporters by Multinational Companies

- i. while local transporters raised legitimate concerns about limited access to logistics contracts and perceived preferential treatment of multinational peers, the evidence provided did not substantiate claims of deliberate discrimination or exclusionary conduct by multinational corporations (MNCs);

- ii. The Competition Authority of Kenya (CAK) confirmed that, from its inquiry, the contractual terms offered to both local and foreign suppliers were substantially similar and that a majority of transport service providers contracted by MNCs were, in fact, Kenyan-owned enterprises;
- iii. Accordingly, the Committee finds no evidence of unfair discrimination or market foreclosure contrary to Section 24(2)(c) of the Competition Act, 2010, which prohibits applying dissimilar conditions to equivalent transactions.
- iv. Based on the evidence adduced, and from the report by the Competition Authority of Kenya, the Committee finds that no evidence was presented to demonstrate discriminatory conduct, abuse of dominance, transfer pricing, predatory pricing or breach of the Competition Act by the multinational companies operating within Kenya's transport, logistics, and warehousing sectors. The Committee therefore concluded that that the matter did not warrant further action against the multinational companies concerned.

(b) On Compliance with Local Content Requirements in the Warehousing, Transport, and Logistics Sectors

- i. Submissions from MNCs indicated that the majority of their contracted suppliers were local companies.
- ii. The Competition Authority of Kenya advised that a mandatory reservation of 60% of contracts to local firms in transports and logistics would contravene Section 21 of the Competition Act, as it would distort competitive market dynamics and undermine efficiency objectives.
- iii. The Committee therefore finds that enforcement of a fixed quota system would be inconsistent with prevailing competition laws and Kenya's trade liberalization commitments.

(C) On Transfer Pricing and alleged predatory pricing practices by Multinational Companies

- i. The CAK clarified that predatory pricing constitutes an abuse of dominance under Section 23 of the Competition Act only where a dominant player deliberately sets prices below cost to eliminate competitors. In this case, since the MNCs operate primarily in manufacturing (e.g., beverages, tobacco, and cement) rather than the transport services market, the question of dominance within the logistics sector did not arise.
- ii. From the evidence submitted, the Committee finds that the allegations of transfer pricing or predatory pricing were unsubstantiated as no evidence was adduced to support the indication that the MNCs dictated pricing for transport suppliers or engaged in below-cost pricing strategies designed to eliminate competition.


(d) The Committee also noted the absence of formal engagement between KTA and the MNCs on these concerns prior to presentation of the complaint to the House, underscoring the need for structured stakeholder dialogue mechanisms between local industry associations, MNCs, and relevant regulatory agencies.

4.3 COMMITTEE RECOMMENDATION

- I. The Committee recommends that the Competition Authority of Kenya (CAK) continue its market surveillance role under Sections 21 and 24 of the Competition Act, 2010, to ensure continued adherence to fair competition and non-discriminatory contracting practices across the logistics and warehousing sectors.

Signature.....  Date..... 19/11/2025

HON. BERNARD MASAKA SHINALI, MP
CHAIRPERSON, COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

Consideration and Adoption of Report on inquiry on the alleged discrimination of local transporters against MNC

ADOPTION SCHEDULE

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2.	Hon. Kitany Marianne Jebet, MP - <i>Vice Chairperson</i>	
3.	Hon. Dr. Oundo Wilberforce Ojiambo, MP	
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