



Institution/Organization Name:	Competition Authority of Kenya
Affiliations; Ministry / Department/ County/Parent Company:	National Treasury & Planning
Economic Sector Alignment:	Macroeconomic Mandate
Big 4 Alignment:	Manufacturing, Affordable Housing, Universal Healthcare, Food Security.
Accounting Officer:	Wang'ombe Kariuki, MBS.
Period: FY	2021 – 2022
Service Name	Investigation of Abuse of Buyer Power complaints
Brief Description Document Purpose/Service	<p>This process entails investigating conduct where an undertaking with significant bargaining power over its supplier(s) imposes terms of supply that are more onerous than is usual in the normal business practice or the supplier's ordinary contractual terms.</p> <p>The Competition Act provides a list of practices that constitute ABP. They include delayed payment by a buyer without justifiable reasons in breach of contractual terms.</p> <p>Other conduct includes demand for preferential terms by a buyer which are unfavourable to the supplier, unilateral termination of a commercial relationship without notice or use of threats of termination to obtain undue advantage and suppress a supplier from raising genuine complaints against the buyers. Businesses can also abuse their buyer power position by transferring commercial risks and operational costs to suppliers.</p>



	<p>The Authority commits to screening complaints within 10 days upon receipt of full information and communicating the decision, including for complaints that do not fall within the Act, within 5 days of the decision.</p> <p>Preliminary investigations will be undertaken within 30 days upon receipt of all necessary information and communication of the determination made within 5 days thereafter.</p> <p>Complex complaints requiring full investigations (including contested matters, cases with large volumes of evidence and involving multiple parties) will be investigated and finalized within 120 days upon receipt of all the requested information and cooperation of parties involved.</p>
Document Control: Change Record/ Version Number	Issue No:1
Process Owner: Name and Position	Wang'ombe Kariuki, MBS Director-General
Process Writer (s); Name and Position	Priscilla Njako Manager, Buyer Power
Process Reviewer (s) Name and Position	Wang'ombe Kariuki, MBS Director-General

STEPS/FLOW/SEQUENCE			
Step	Event/Activity/Action	Time/ No. Of Days	Actor
	<p>INPUTS:</p> <ul style="list-style-type: none"> • Receipt of Buyer Power Complaint; • Duly filled Complaint Form; • Submission by Parties; • Surveillance Reports & Interviews. <p>OUTPUTS: Complaints Analysis Report; Record of Meetings; Record of Interviews; Preliminary Findings Report; Notice of Investigation; Investigation Reports; Public Notices; Notice of Proposed Decision; Report on Findings; Board Pack; Determination of the Board</p> <p>REQUIREMENT: Provide evidence: Contractual agreements, Local Purchase Orders, Delivery Notes, Invoices, Goods Received Notes, communication between parties, e.t.c</p>		

1.	Screening Report and Communicating to the Complainant, including whether the matter does not fall within the Competition Act.	15	Manager, Buyer Power
2.	Preliminary Report	30	Manager, Buyer Power
3.	Outcome of the Preliminary report – <ul style="list-style-type: none"> i. Advice the complainant that the matter does not lie within the mandate of the Authority; ii. Referral to relevant Government Agency where applicable; iii. Request for more information iv. Raise a Notice of Investigations 	5	Manager, Buyer Power
4.	Notice of Investigations	21	Accused Manager, Buyer Power
5.	Investigations Report & Issuance of Notice of Proposed Decision	30	Manager, Buyer Power
6.	Written Submissions and Oral Representations by concerned parties, if necessary, and Submission of Report on Findings.	17	Party(ies) Manager, Buyer Power
7.	In matters where there is no ABP violation, the case is	5	Manager – Buyer Power

	closed and party(s) informed.			
8.	In matters where an ABP violation is noted, a Management Paper is developed for submission to the Technical Committee through the Director-General.	15	Manager – Buyer Power	
9.	Settlement under the Act	At any point during investigations.	Party(ies) & Manager Buyer Power Director-General	
(Add rows as necessary)				
EXCEPTIONS TO THE NORMAL FLOWS				
Title	No.	Description	Time	Actor
Trigger 1: Accused party fails to respond to the Notice of Investigations within 21 days.	1.	Reminder 1	14	Manager, Buyer Power
	2.	Reminder 2	14	Manager, Buyer Power
Trigger 2: Need to seek clarification or seek more information from the accused parties regarding Notice of Investigation.	3.	Response/Clarification	4	Manager, Buyer Power
Trigger 3: Outcome of the Investigations Report.	4.	Close or refer the matter to the relevant Government agency.	11	Manager, Buyer Power
Process Maps/Visuals				

Business process flowcharts/ swim lanes/screen shots

