



PRESS RELEASE

THE COMPETITION AUTHORITY OF KENYA SANCTIONS CARTEL CONDUCT IN STEEL SECTOR

FOR IMMEDIATE RELEASE

WEDNESDAY 23rd AUGUST, 2023

The Competition Authority of Kenya ('the Authority') is a State Corporation established under section 7 of the [Competition Act No.12 of 2010 \('the Competition Act'\)](#). The Authority enforces the Competition Act with the objective of enhancing the welfare of Kenyans by, among other roles, sanctioning cartel conduct such as price fixing.

In execution of this role, the Authority has pursuant to an investigation, **penalized nine (9) steel manufacturers a total of KES. 338,849,427.89**. The companies engaged in cartel conduct whose effect was to increase the cost of construction of homes and infrastructure by artificially inflating the prices of steel products. Contextually, **steel products** such as bars, pipes, beams, and sheets, account for over **20% of the total cost of constructing a house**.

The Authority has penalized Nail and Steel Products Limited, Brollo Kenya Limited, Blue Nile Wire Products Limited, Tononoka Rolling Mills Limited, Devki Steel Mills, Doshi & Hardware Limited, Corrugated Steel Limited, Jumbo Steel Mills, and Accurate Steel Mills Limited for engaging in **price fixing**, through agreeing and collectively setting prices and price adjustment timelines.

Further, the aforementioned firms, with the exception of Accurate Steel Mills, have been penalized for **output restriction** by agreeing to limit imports of certain steel components, thereby causing an artificial shortage that raised prices.

Price fixing and output restriction are illegal under the Competition Act since they hinder competition in markets (business-customer environment). **Competitive markets benefit consumers through lower prices, increased choice, and quality of goods and services. Business rivals are also motivated to innovate.**

Dr. Adano Wario, the Authority's Acting Director-General, said the **penalties are proportionate to the offence**, specifically harm to consumers who have been decrying the high cost of steel products in the country. The penalty imposition is meant to **restore competition in the sector and deter companies** from deploying anti-competitive practices as a business strategy.

"Cartels are conceived, executed, and enforced by businesses to serve their commercial interests, and to the economic harm of consumers. In this matter, the steel firms illegally colluded on prices and margins as well as output strategies," said Dr. Wario.

"This penalty is the highest-ever imposed by the Authority and it should send a clear message that cartel conduct is illegal under the Competition Act. In a liberalized market like ours, the forces of supply and demand should signal prices, free from manipulative business practices. Agreements between competitors seek to defeat this fundamental facet of a free economy."

As part of the investigation, the Authority is **engaging five (5) other steel firms in settlement negotiations** as prescribed under section 38 of the Competition Act. The engagement is aimed at achieving a speedy and cost-effective resolution and a return of effective competition in the sector. **The settlement outcome shall be published in the Kenya Gazette.**

Further, the Authority has required the companies involved in the investigation to desist from engaging in anti-competitive conduct in future as well as roll out competition compliance programs in their operations.

The steel sector intervention is a progression of the Authority's efforts to facilitate a competitive market in the construction space in support of **Government's efforts** to provide, among others, **affordable housing** to Kenyans. In 2021, the Authority penalized four paint manufacturers a total of Ksh. 66 Million for cartel conduct, including price fixing. The Authority had also earlier intervened in the cement sector.

NOTES TO THE EDITOR

1. Investigations into the steel sector commenced in August 2020 when the Authority, on its own motion, conducted a countrywide covert field screening. Intelligence gathered from exercise pointed to coordinated conduct by manufacturers, specifically on pricing and output restriction.
2. Subsequently, the Authority in December 2021 conducted a [search and seizure \(dawn raid\)](#) of the premises of eight firms where electronic and physical evidence was secured. The raids in Nairobi, Mombasa and Kisumu were conducted pursuant to sections 31 & 32 of the Competition Act and other relevant legislation that relates to the application, issuance and execution of search warrants.
3. Upon reviewing the evidence, the Authority in March 2022 issued notices of investigation to six (6) other steel companies not subjected to searches, but deemed as parties of interest in the investigation. They are; Blue Nile, Accurate, Jumbo, Nail and Steel, Corrugated, and Brollo.
4. Thereafter, the Authority interviewed the companies and their legal representatives and issued a notice of proposed decision to the parties in May 2022. By end of August 2022, the parties had made oral and written submissions. The hearings were held in line with the tenets of **fair administrative action**. Upon reviewing the evidence and rebuttals, the Authority determined that the companies breached the Competition Act.
5. Some of the evidence the Authority relied on included:
 - i. Meeting minutes proved existence of discussions where the parties resolved to restrict importation of 0.9mm coils and plates;
 - ii. Coordinated release of pricelists through analysis of ex-factory prices;
 - iii. Monitoring competitors' stock levels and sales volume monitoring; and
 - iv. Agreeing and/or discussing skipping importation of raw materials to stabilize prices and product specifications in order to protect/enhance profit margins.

6. A breakdown of the penalties;

	COMPANY	PENALTY (KES)
1.	Corrugated Steel Ltd.	86,979,378.53
2.	Tononoka Rolling Mills Ltd.	62,715,074.03
3.	Devki Steel Mills Ltd.	46,296,011.25
4.	Doshi & Hardware Ltd.	41,554,290.58
5.	Jumbo Steel Mills Ltd.	33,140,459.40
6.	Accurate Steel Mills Ltd.	26,826,344.31
7.	Nail and Steel Products Ltd.	22,816,546.01
8.	Brollo Kenya Ltd.	9,360,429.48
9.	Blue Nile Wire Products Ltd.	9,160,894.30
TOTAL		338,849,427.89

7. Under the Competition Act, the Authority may impose a financial penalty of up to 10% of a company's gross **annual turnover of the year preceding Authority's decision**. When calculating the penalty, the Authority considers, among others, duration and scale of the violation, harm to consumers, as well as cooperation by the parties.
8. The Authority encourages members the Public with credible information regarding anti-competitive practices to submit the same to the Authority under the [Informant Reward Scheme](#). Alternatively, through the [Leniency Programme](#), an undertaking that voluntarily discloses existence of a prohibited practice in confidence, and cooperates in investigations, may not be subject to all or part of a fine that could otherwise be imposed.

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