

**RETAIL SECTOR SURVEILLANCE**

**GUIDING QUESTIONS**

1. **INTRODUCTION**

Pursuant to its mandate and powers under sections 9(1)(g), 24A and 31(4) of the Competition Act No.12 of 2010 (the Act), the Competition Authority of Kenya (the Authority) is undertaking a retail a sector surveillance to ensure compliance with the Act. The information received will be used to guide the Authority’s enforcement in the retail sector market and shall not be used for any purpose other than that for which it is intended.

Any person who gives or discloses any material to the Authority may claim confidentiality in respect of the whole or any part of that material under section 20 of the Act.

1. **INSTRUCTIONS**
2. Please fill in the following questionnaire on the basis of the facts of your company.
3. Answer ALL questions. In case any question is not applicable to your company, please indicate ‘not applicable’.
4. Use extra sheets for answering any question, if needed, noting to mention the question number in the additional sheets.

**Note 1** : A soft copy of the questionnaire can also be downloaded from the website of the Authority at [www.cak.go.ke](http://www.cak.go.ke)

**Note 2** : Please furnish the details as required in respective questions to enable the accurate evaluation of the company.

**Note 3** : Wherever a copy of any document is required in the questionnaire, please ensure that the same is forwarded along with the questionnaire.

**Note 4** : **The duly filled-in questionnaire should reach the Authority on or before Tuesday 30th March, 2021.**

In case of any difficulty or questions, please send your query to Arnold Okanga at email. [aokanga@cak.go.ke](mailto:aokanga@cak.go.ke) or contact at Tel No. 0718 998844.

1. **BASIC** **INFORMATION**

**NAME OF COMPANY:**

**BRAND NAME (if different from above)**:

* 1. How long have you been in operation? (*Indicate the year of establishment)*
  2. Please indicate all the stores/branches operated by the company in the last two years in the table below. Where necessary, this table can be added as a separate document

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| **No.** | **Store/outlet** | **Location** | **Year of Establishment** | **Closed over the last two years (tick as appropriate)** |
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* 1. If any branches have been closed in Q2. above, please indicate the reasons for the closure.

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| **Store/outlet** | **Year of Closure** | **Reason(s) for Closure** |
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* 1. What key factors do you consider when opening a new outlet *(tick as appropriate)*

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| Availability and adequacy of parking space |  | Demographics |  |
| Convenience for suppliers to make deliveries |  | Accessibility |  |
| Low crime rate |  | Footfall |  |
| Future development plans made for this area |  | Businesses and competition in the proximity |  |
| Others (Specify) |  | | |

* 1. What trade association(s) do you belong to? *(Indicate on the names, key requirements for joining the trade association, objectives of the association(s), and benefits associated with being a member)*

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| **No.** | **Trade Association** | **Objectives of Association** | **Benefits of Membership** |
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1. **ORGANIZATIONAL STRUCTURE**
   1. List the Directors and Shareholders of the Company?\*

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| **Shareholders** | **Directors** |
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* 1. What is the organizational structure for purposes of reporting? *(Organizational ladder i.e. chief executive officers, directors, operation managers, procurement managers)*
  2. How many staff have you employed in the stores/outlets you operate? *(Number of employees overall broken down per store/outlet)*

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| **Store/outlet** | **Number of staff** |
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1. **SUPPLIERS**
   1. How do you procure your products? *(Indicate centralized or decentralized procurement)*
   2. How many suppliers does the undertaking have, divided into the general nature of goods/services supplied? *(Number of suppliers for FMCG, Consignment Goods, Services, Tenancy etc.)*
   3. What is the general nature of your suppliers? *(Whether suppliers are SMEs, Big Manufactures, International Suppliers etc. Where all applicable, indicate the various percentage of supply per category)*
   4. Do you stock your own brands? *(Tick as appropriate)*

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| Yes |  |
| No |  |

* 1. If yes in Q12, list the own brands stocked by the undertaking and the key reasons for stocking own brands. (*Indicate number and type of retailer branded products if any, and reasons for stocking own brands e.g., quality considerations, shortages of supply, competitiveness of undertaking etc.*)

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| **No.** | **Name of own brand and nature of product** | **Reason for stocking** |
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1. **CONTRACTS**
   1. What is the nature of agreements for supply with your suppliers (both goods and services)? (*Indicate whether contracts have been reduced into writing or not, whether negotiated or standard form)* Where the contracts are written attach a sample. Where contracts vary based on item of supply and supplier engaged, attach samples of all the types of contracts entered into.
   2. What are the typical terms of contract with your suppliers in relation to: terms of payments, interest payable on late payment and conditions for termination and variation of the contract? *(Indicate briefly)*

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| **Term** | **Summary** |
| Payment Terms |  |
| Interest payable on late payment |  |
| Conditions for termination |  |
| Dispute resolution mechanisms |  |

* 1. When was the last revision/amendment of the terms of contracts if any?
  2. How many supplier contracts have been terminated in the last 24 months and what are the general reasons for such termination.

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| **Year** | **Reasons for Termination** |
| January – December 2019 |  |
| January – December 2020 |  |
| January – March 31st 2021 |  |

* 1. How are changes in terms of supply communicated to suppliers? *(Indicate whether retailer issues notices or via other communication means e.g. email)*
  2. What are the requirements for suppliers to start supplying your outlets/stores? Is there a fee charged? *(Indicate qualifications for listing)*

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| **No.** | **Qualifications for Listing** |
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* 1. In which instances do you decline to accept ordered goods or return delivered goods? *(Indicate reasons for refusal to accept goods or for return of goods)*

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| **No.** | **Reasons for Refusal to Accept Goods** |
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| **No.** | **Reasons for Returning Goods to Supplier** |
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* 1. What obligations, including monetary support rest on a supplier in the event of promotions?

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| **No.** | **Obligations of Supplier in Promotions** |
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* 1. In what instances do you require suppliers to send their employees to any of your stores/outlets? *(Where relevant, indicate the nature of specific products that require supplier staff, what the staff does, how many staff per branch or if they are they shared by different branches)*

1. **PAYMENT OF SUPPLIERS**
   1. What are the modes of payment of suppliers? *(Whether by cash, cheque, wire transfer, etc.)*

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* 1. What is the payment period for the various categories of goods? *(Indicate payment period for FMCG, Consignment, Tenancy and Services. Indicate whether the period is standard for all and whether it is captured in suppliers’ contracts)*

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| **Nature of Goods Supplied** | **Payment Period** |
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* 1. In which instances are payment periods not adhered to? *(Indicate causes of non-adherence to payment periods e.g. dispute in amounts owed, reconciliation issues, and frequency of non-adherence to payment periods)*

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* 1. What measures have you adopted to alleviate instances of non-adherence to payment periods with suppliers? *(Indicate internal measures undertaken to ensure prompt payment)*

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* 1. What is the payment arrangement for suppliers of retail branded products? *(Do indicate whether the suppliers are paid dividends)*

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1. **SUPPLIER DEBT**
   1. Are all suppliers paid centrally or does each of the outlets pay its suppliers?

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* 1. What is the total debt owed to suppliers of goods and services, separately as at 15th March 2021? *(Provide documentation on amount of debt)*

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| **Debt owed to suppliers of goods at 15th March, 2021** | **Debt owed to suppliers of services at 15th March, 2021** |
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* 1. Of the global debt indicated above, indicate amount owed to suppliers over 60 days after delivery *Provide a list of all suppliers owed and age of debt)*

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| **Debt owed to suppliers of goods 60 days past delivery at 15th March, 2021** | **Debt owed to suppliers of services 60 days from due date at 15th March, 2021** |
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* 1. What debt arrangements exist, if any, with your bankers for payment of suppliers? *(Indicate on the existence of escrow accounts if at all)*

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* 1. What other systems are in use jointly with suppliers or separately to ensure timely settlement of debt? *(Indicate any existing systems to ensure prompt payment.)*

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If none, in existence do you plan on using such systems? Indicate which.

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1. **EXPANSION, INVESTMENT AND FUNDING**
   1. What is the source of funding for current and future expansion? (*Indicate sources of funding for current or planned expansion e.g. through debt, equity, private venture capital, or other means)*

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* 1. How many loan/financial facilities does the company have? *(Indicate period of facility, and amount of facility)*

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| **No.** | **Amount** | **Period** |
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1. **PROCUREMENT**
   1. What are the existing procurement procedures for goods and services? *(Indicate whether direct procurement or indirect by use of tenders. If by use of tenders, Indicate modes of tender procurement)*

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* 1. How are procurement procedures organized? (*Indicate whether procedures and methods are organized centrally from the HQ or whether different stores/outlets design their own procurement procedures*)

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1. **DISPUTE RESOLUTION MECHANISMS**
   1. What are the causes of common disputes with suppliers? *(e.g. reconciliations, return of goods, termination of contract etc.)*

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| **No.** | **Cause of Dispute** |
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* 1. What dispute resolution mechanisms have you put in place, if any?

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| **No.** | **Mechanism** |
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* 1. What is the average duration of dispute resolution? *(Indicate average amount of time taken to resolve disputes)*

*\*6.*

*Rights of under the Data Protection Act no. 24 of 2019*

1. *to be informed of the use to which personal data is to be put;*
2. *to access personal data in custody of the Authority;*
3. *to object to the processing of all or part of their personal data so far as allowed by section 31 of the Competition Act;*
4. *to correct false or misleading data (Giving false info to the Authority is an offence under s. 90 of the Competition Act); and*
5. *to required deletion of false or misleading data*

**SIGNATURE AND UNDERTAKING**

I understand:

* + 1. That it is an offence in terms of section 90(d)of the Competition Act for a person to provide false information to the Authority; and
    2. Section 91 of the Competition Act provides a penalty of a fine, imprisonment or both if I am found guilty of knowingly providing false information to the Authority.

Signed on behalf of

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*(Name of Company)*

……………………………………………………….. (Signature)

……………………………………………………….. (Full name)

……………………………………………. (Official seal or stamp where applicable)

-END-