



Ethics and Anti-Corruption Commission

ANNUAL REPORT 2010/2011

*Prepared and issued in accordance with Section 15 of The Anti-Corruption
and Economic Crimes Act, 2003*

On the frontline against corruption



Ethics and Anti-Corruption Commission

ANNUAL REPORT OF ACTIVITIES AND FINANCIAL STATEMENTS

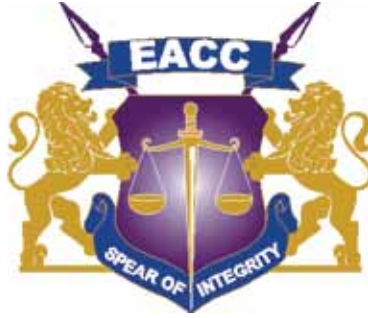
FOR THE

FINANCIAL YEAR 2010/2011

FOR THE KENYA ANTI-CORRUPTION COMMISSION

Prepared and issued in accordance with Section 15 of the Anti-Corruption and Economic Crimes Act, 2003





REPORT OF ACTIVITIES

AND

FINANCIAL STATEMENTS

FOR THE

FINANCIAL YEAR 2010/2011

FOR THE KENYA ANTI-CORRUPTION COMMISSION



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I. LIST OF ABBREVIATIONS AND ACRONYMS

ACECA	- Anti-Corruption and Economic Crimes Act	KEPSA	- Kenya Private Sector Alliance
ADB	- African Development Bank	KShs	- Kenya Shillings
AIRC	- Annual Integrity Review Conference	KACC	- Kenya Anti-Corruption Commission
APSD	- African Public Service Day	KENAO	- Kenya National Audit Office
APSEA	- Association of Professional Societies in East Africa	KISGG	- Kenya Institutional Support for Good Governance
BKMS	- Business Keeper Monitoring System	LATF	- Local Authority Transfer Fund
CACCS	- Constituency Aids Control Committees	MOU	- Memorandum of Understanding
CAMPS	- Conference of African Ministers for Public Service	MLA	- Mutual Legal Assistance
CCN	- City Council of Nairobi	NBI	- Nairobi
CDF	- Constituency Development Fund	NCPB	- National Cereals and Produce Board
CIC	- Constitution Implementation Committee	NEMA	- National Environment Management Authority
CPD	- Continuing Professional Development	NGOs	- Non-Governmental Organizations
DDO	- District Development Officer	NKU	- Nakuru
EACC	- Ethics and Anti-Corruption Commission	NACC	- National Anti-Corruption Council
EIA	- Environmental Impact Assessment	NACP	- National Anti-Corruption Plan
EFT	- Electronic Funds Transfer	NCPS	- National Corruption Perception Survey
FY	- Financial Year	NSIS	- National Security Intelligence Service
GOK	- Government of Kenya	NSSF	- National Social Security Fund
HCCC	- High Court Civil Case	NWCPC	- National Water Conservation & Pipeline Corporation
HC JR	- High Court Judicial Review	NVS	- National Values System
IAO	- Integrity Assurance Officer	NYS	- National Youth Service
IEC	- Information, Education and Communication	PPDA	- Public Procurement and Disposal Act
ITP	- Integrity Testing Programme	PPDR	- Public Procurement and Disposal Regulations
ICT	- Information and Communication Technology	PPOA	- Public Procurement Oversight Authority
IDP	- Internally Displaced Persons	PS	- Permanent Secretary
IPRS	- Integrated Population Registration System	PSIP	- Public Service Integrity Programme
KACAB	- Kenya Anti-Corruption Advisory Board	SACCO	- Savings and Credit Co-operative
KPA	- Kenya Ports Authority	UNCAC	- United Nations Convention against Corruption
KPLC	- Kenya Power and Lighting Company	UNODC	- United Nations Office on Drugs and Crime
KPC	- Kenya Pipeline Company		
KEMRI	- Kenya Medical Research Institute		



II. KACC MISSION STATEMENT

MANDATE

To combat corruption and economic crime in Kenya through law enforcement, prevention and public education as stipulated in The Anti-Corruption and Economic Crimes Act, 2003.

VISION

To be a world class institution fostering zero tolerance to corruption in Kenya.

MISSION

To combat corruption and economic crime through law enforcement, prevention and public education.

CORE VALUES

Courage
Integrity
Teamwork
Professionalism
Fidelity to the law
Excellence in service



III. MEMBERS OF THE KENYA ANTI-CORRUPTION ADVISORY BOARD



Eric Okong'o Omogeni
Chairman



Irene Keino –
Vice Chairperson



The late Suru Tanna – passed
away on 26th November 2010



Jacqueline A. Mugo



Billow Adan Kerrow



Grace Kaome Injene



John Khameme Wanyela



Dr. Abdallah A. Kibwana



Naomi Nyambura Wagereka



Eng. Reuben Kosgei



Charles Kariuki Wambugu



Francis Wangara



Prof. PLO Lumumba, PhD



IV. MESSAGE FROM THE CHAIRMAN

At the time of writing this Foreword, important changes with far reaching ramifications in the fight against corruption had taken place in Kenya. Parliament enacted the Ethics and Anti-Corruption Commission Act, 2011 which established the Ethics and Anti-Corruption Commission (EACC) to replace Kenya-Anti-Corruption Commission (KACC). The enactment is in line with the requirement of the Constitution of Kenya which mandated Parliament to enact legislation to establish an independent ethics and anti-corruption commission for the purposes of enforcement of Chapter 6 of the Constitution and any other legislation made pursuant thereto.

The EACC Act brought into force a Commission whose organizational structure is different from that hitherto existing under KACC. The management structure under EACC effectively abolishes the Advisory Board, the office the Director and Assistant Directors. My message in this annual report thus doubles up as an obituary for the Advisory Board.

Be that as it may, the statutory changes have also brought some positive elements the most important of which is the anchorage of the new Commission in the Constitution. This effectively shields the Commission from threats of disbandment by adversaries of the anti-corruption war. Luckily, such a move will now require a Constitutional amendment which might not be easy to achieve especially if driven by short-term personal interests.

It is however disturbing to note that in a period of about 10 years the anti-corruption agency has undergone reconstitution a record four times. This began with the declaration of Kenya Anti-Corruption Authority as unconstitutional and its consequential disbandment in 2000. The Authority was succeeded by Anti-Corruption Police Unit which was dissolved following the establishment of KACC through enactment of the Anti-Corruption and Economic Crimes Act, 2003. KACC has now been replaced by EACC following enactment of the EACC Act, 2011. I thank Kenyans for ensuring a firm foundation is laid for the new Commission through entrenchment in the Constitution.

The period under review marked the first anniversary in office for the outgoing management team that was recruited by the outgoing Advisory Board. I salute and extend my sincere and warmest gratitude to the outgoing Director, Professor PLO Lumumba and his team for the courage, determination and tireless contribution exhibited during the period they steered the war against corruption. I have no doubt that as at the time of their departure, the war against corruption had gained momentum and was destined for greater heights.

The Advisory Board continued to render advice and complemented the Commission's activities. The Board members participated in the Commission's outreach programmes. In addition, the Board undertook study tours to India, China and Hong Kong and participated in an inter-ministerial study tour to South Africa to benchmark best practices in the fight against corruption.

I am also pleased to note that the period saw a strategic increase in the staff compliment

from 273 to 366 together with the extension of the Commission's services to other regions in the country with the opening of offices in Garissa, Nyeri and Eldoret. Plans are also underway to open offices in Bungoma and Embu. It is the hope of the outgoing Advisory Board that the incoming Commissioners will find it worthy to have the presence of EACC in all counties.

Despite the determination and passion of staff, who I must say, have made sterling contribution to the fight against corruption, the Commission continued to face myriad challenges. These included the setback in commencing construction of the Commission's headquarters at Karen due to objections lodged by the Karengata Association at the National Environment Tribunal. Happily though, the objection has since been withdrawn and the project would hopefully take off to address office space constraints.

Slow judicial process continued to impact negatively on the work of the Commission. However, with an invigorated Judiciary, an independent Director of Public Prosecution and a constitutionally backed EACC, I am hopeful that a new partnership in the justice system by the said bodies will hasten the adjudication and conclusion of corruption cases. It is anticipated that the partnership will facilitate speedy disposal of corruption cases and enhance conviction rate. Only then can we make corruption an unattractive and costly venture.

Having had a quick glance at the new EACC Act that was enacted at a time when Parliament was immensely under pressure to beat Constitutional deadlines I have no doubt some urgent amendments to fill some gaps that arose from the hasty passage of the Bill will be necessary. I hope the National Assembly will stand firmly by the new Commission and become the bastion for a robust and effective war against corruption in Kenya.

In conclusion, I encourage the staff of the Commission to remain steadfast in the war against corruption. I have no doubt that the impending vetting might be quite unsettling but God brings men into deep waters not to drown them, but to cleanse them. I trust you will all overcome and emerge stronger. We all place the remaining journey on the war against corruption in your hands.

As the Advisory Board exits, I take this opportunity to remind Kenyans that corruption still poses a big threat to our national development. I therefore appeal to all of us to continually put the anti-corruption war on the front burner.

God bless Kenya.



OKONG'O OMOGENI
CHAIRMAN, KENYA ANTI-CORRUPTION ADVISORY BOARD



I. EXECUTIVE MANAGEMENT TEAM



Prof. PLO Lumumba, PhD
Director/Chief Executive



Dr. John P. Mutonyi
Deputy Director



Mr. Wilson Shollei
Assistant Director, Finance &
Administration



Prof. Jane K. Onsongo
Assistant Director, Preventive
Services



Mr. Pravin Bowry
Assistant Director, Legal
Services and Asset Recovery

VI. MESSAGE FROM THE DIRECTOR

The writing of the foreword to this annual report marks two events of significance but of opposite effect to the Commission. On the one hand, it is the first full year report under my stewardship as Director, having joined the Commission in July 2010 while on the other; I do so on my way out following the abolition of the office of the Director and Assistant Directors through the enactment of Ethics and Anti-Corruption Commission Act, 2011.

The promulgation of the new Constitution on the 27th, August 2010 while presenting an opportunity to enlarge and sharpen the institutional as well as legislative framework for fighting corruption has yet to have the desired effect in the fight against corruption.

In order to align the Commission to the Constitution as well as have a more robust anti-corruption legislation incorporating recommendations contained in the United Nations Convention Against Corruption (UNCAC) Gap Analysis, the Commission worked closely with the Ministry of Justice, National Cohesion and Constitutional Affairs, State Law Office, Kenya Law Reform Commission, National Assembly and UNODC among others to formulate and develop the desired Bill for enactment by Parliament. However most of the recommendations that were discussed and deemed appropriate by these stakeholders and recommended for incorporation in the proposed legislation, did not find favour with the Constitution Implementation Commission (CIC), the Cabinet and ultimately Parliament with the effect that the Ethics and Anti-Corruption Commission Act as enacted has significantly weakened institutional as well as legal framework for the fight against corruption.

The failure to grant the Commission the power to prosecute for corruption, to perform lifestyle audits and to use new investigative techniques is a blow to the Commission's desire to escalate the fight against corruption. Besides the failure to make proper provisions on transition that would have guaranteed the protection of on-going investigations has not only slowed to almost a halt the Commission's momentum, but has created an air of uncertainty among the staff of the Commission.

In the past one year, however, the Management and staff of the Commission escalated the daunting task of steering the country towards a corruption free society. During this period the Commission prepared a three-year strategic plan charting out its path, expected achievements for the next five years in the fight against corruption. Further, the High Court cleared the Commission as a competent authority for the purposes of entering into Mutual Legal Assistance (MLA) with foreign governments.

The last twelve 12 months saw the Commission intervene and disrupt a possible loss of public funds in excess of KShs 1.51 billion. Some of the public bodies that were targeted include NSSF, Sotik Town Council, Kitutu Chache CDF and the Postal Corporation of Kenya.

The Commission during the year submitted a total of 134 files to the Attorney General recommending 113 files for prosecution, 16 for closure and 5 for administrative or other action taken. 62 files are already before the Courts.



In the discharge of the Preventive mandate the Commission provided advisory services to over 423 public sector institutions since inception. This activity included preparation of codes of conduct and ethics, development of institutional corruption prevention policies and risk assessments. It established Adili Clubs in schools and higher education institutions to instill good moral values in the youth.

Within the past twelve months, the Commission hosted and participated in international conferences and meetings where its activities and programs were applauded. The efforts being made by KACC in fighting corruption in the country were appreciated by all despite the political challenges it faced. As I have stated in other fora, the fight against corruption requires concerted efforts by all but more importantly the political will.

In order to accelerate recovery of public property in the hands of corrupt individuals, the Commission in conjunction with the Attorney General and the Minister for Justice National Cohesion and Constitutional Affairs recently developed and published Amnesty request to people willing to return public property irregularly acquired. This strategy is intended to aid in the war against corruption and does not equate to blanket forgiveness. An admission of guilt must be entered and necessary restitution offered by the offender.

Let me conclude by appealing to you as a fellow Kenyan not to despair in your desire to have a corruption-free society. My departure after such a short time should not discourage men and women of goodwill from taking the mantle from where I reached, to continue the fight. We must take courage from the words of the 26th American President T. Roosevelt who said: -

"In the battle of life it is not the critic who counts, nor the one who points out how the strong person stumbled, or whether the doer of a deed could have done better.

The credit belongs to the person who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly, who errs and come short again and again, because there is not effort without error and shortcoming. Who does actually strive to do deed, who knows the great enthusiasms, the great devotion, spends oneself in a worthy cause, who at best know in the end the triumph of high achievement, and who at worst, if he or she fails at least while daring greatly far better it is to dare mighty things.

To win glorious triumphs even though checkered by failure, than to rant with those timid spirits.

Who neither enjoy nor suffer much, because they live in the grey twilight that knows neither victory nor defeat".

Thank you and God bless you.



PROF. PLO LUMUMBA, PhD
DIRECTOR/CHIEF EXECUTIVE



1. BACKGROUND

1.1 INTRODUCTION

This Annual Report is issued by the Ethics and Anti-Corruption Commission (hereafter EACC) established under Section 3 of the Ethics and Anti-Corruption Commission Act, 2011 (EACC Act), pursuant to Article 79 of the Constitution. EACC is the successor of the Kenya Anti-Corruption Commission (KACC) which was a statutory body established under the Anti-Corruption and Economic Crimes Act, 2003 (ACECA).

The Annual Report is prepared pursuant to the provisions of Section 15 of ACECA now repealed under Section 37 of EACC Act. The Report outlines and documents KACC achievements in the 2010/2011 financial year in line with its Strategic Plan (2009-2013). It also highlights the challenges faced during the period under review and the way forward.

1.2 MANDATE, FUNCTIONS AND STRUCTURE OF KACC

1.2.1 Mandate

The mandate of KACC was to combat corruption and economic crime in Kenya through law enforcement, prevention and public education as stipulated in The Anti-Corruption and Economic Crimes Act, 2003.

1.2.2 Functions

The functions of KACC were specified in Section 7 of the ACECA as follows:

- a) to investigate any matter that, in KACC's opinion, raises suspicion that any of the following have occurred or are about to occur:
 - i) conduct constituting corruption or economic crime;
 - ii) conduct liable to allow, encourage or cause conduct constituting corruption or economic crime;
- b) to investigate the conduct of any person that, in the opinion of KACC, is conducive to corruption or economic crime;
- c) to assist any law enforcement agency of Kenya in the investigation of corruption or economic crime;
- d) at the request of any person, to advise and assist the person on ways in which the person may eliminate corrupt practices;
- e) to examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures that, in the opinion of KACC, may be conducive to corrupt practices;
- f) to advise heads of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such bodies that KACC thinks necessary to reduce the likelihood of the occurrence of corrupt practices;
- g) to educate the public on the dangers of corruption and economic crime and to enlist and foster public support in combating corruption and economic crime;



- h) to investigate the extent of liability for the loss of or damage to any public property and -
- i) to institute civil proceedings against any person for the recovery of such property or for compensation; and
 - ii) to recover such property or enforce an order for compensation even if the property is outside Kenya or the assets that could be used to satisfy the order are outside Kenya; and
- i) to carry out any other functions conferred on KACC by or under this Act or any other law.

1.2.3 Structure

The mandate and functions of KACC were executed through the following structures:

i) The Kenya Anti-Corruption Advisory Board

The Kenya Anti-Corruption Advisory Board (KACAB) was established as an unincorporated body under Section 16 of ACECA. The Board was an independent body answerable only to Parliament. It consisted of twelve members nominated by various sectors and interests through civic, religious, professional and business organizations/associations and the Director of KACC who also served as the Secretary to the Board. In the 2010/2011 period, the members were:

No.	Name	Nominating Body
1.	Mr. Eric Okong'o Omogeni	- Law Society of Kenya
2.	Ms. Irene Keino	- Architectural Association of Kenya
3.	Mr. Billow Adan Kerrow	- Institute of Certified Public Accountants of Kenya
4.	Eng. Reuben Kosgei	- Institution of Engineers of Kenya
5.	Dr. Abdallah A. Kibwana	- Kenya Medical Association
6.	Mr. John Khameme Wanyela	- Kenya Bankers Association
7.	Mrs. Grace Kaome Injene	- Association of Professional Societies of East Africa
8.	Mr. Francis Wangara	- Central Organization of Trade Unions
9.	Mr. Charles Kariuki Wambugu	- Joint Forum of Religious Organizations
10.	Ms. Naomi N. Wagereka	- International Federation of Women Lawyers (FIDA) Kenya Chapter
11.	Mrs. Jacqueline A. Mugo	- Federation of Kenya Employers
12.	The late Mr. Suru Tanna – passed away on 26 th Nov. 2010	- Kenya Association of Manufacturers
13.	Prof. PLO Lumumba, PhD	- Secretary/Chief Executive

The Board's functions were to:

- a) Advise KACC generally on the exercise of its powers and the performance of its functions under the Act;
- b) Recommend to Parliament persons to be appointed as Director or Assistant Directors of KACC;



- c) Initiate the process of removal from office of the Director or Assistant Directors for specified reasons; and
- d) Approve grants and donations to KACC.

ii) Kenya Anti-Corruption Commission

The Kenya Anti-Corruption Commission was established under Section 6 of the ACECA (now repealed) as a body corporate. It comprised of the Director, Assistant Directors and staff. KACC executed its functions through the following four directorates:

- Investigation and Asset Tracing;
- Legal Services and Asset Recovery;
- Preventive Services; and
- Finance and Administration.

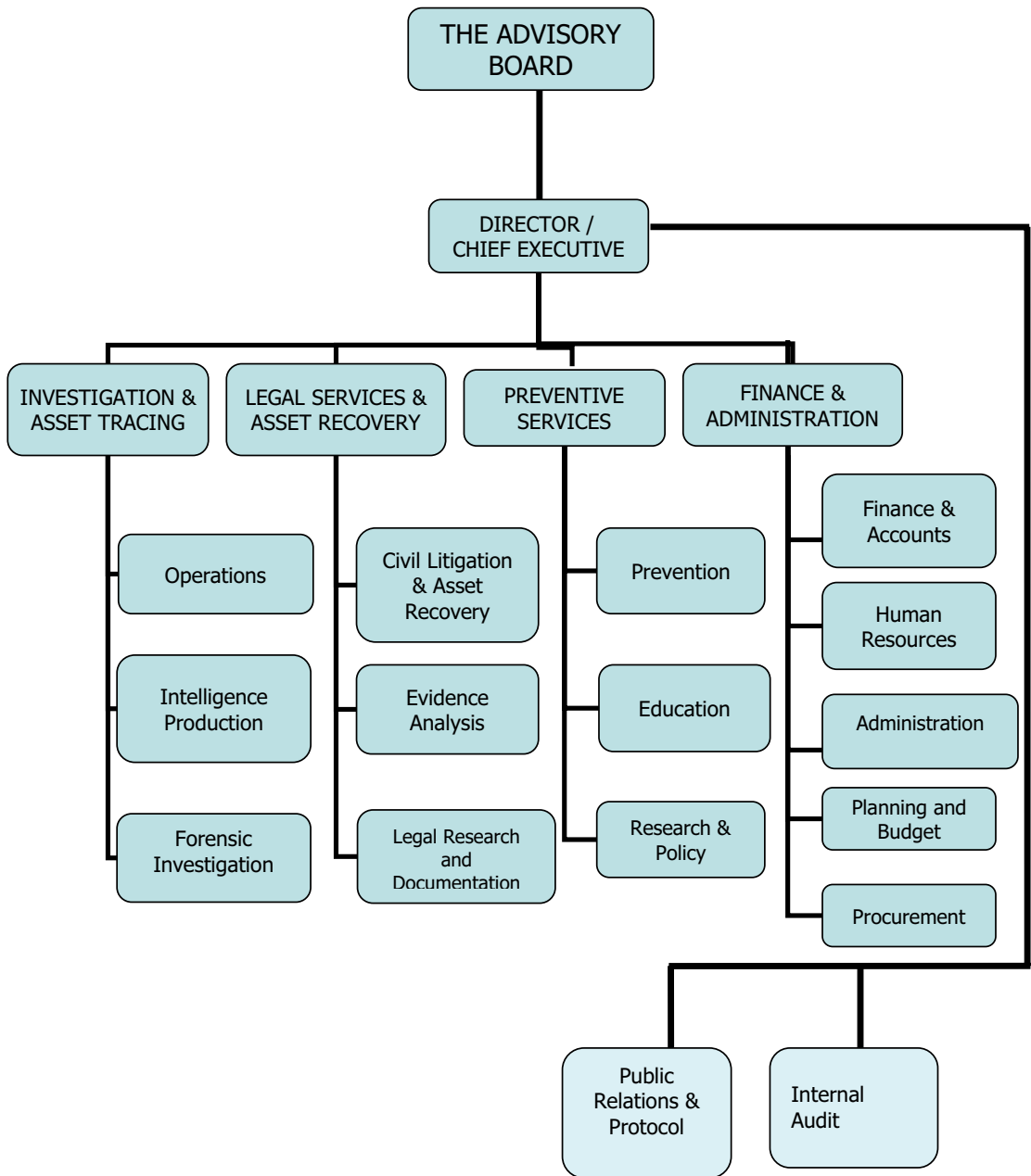
The Directorates were headed by Assistant Directors.

iii) Organization Structure of KACC

Figure 1 represents the Organization Structure of KACC.



Figure 1: Organization Structure of KACC



2. INVESTIGATION AND ASSET TRACING

2.1 INTRODUCTION

Pursuant to its mandate, KACC investigated corruption and economic crimes and traced corruptly acquired assets. This section covers corruption reports received, investigations conducted and assets traced.

2.2 CORRUPTION REPORTING

2.2.1 Corruption Reports

KACC received and analyzed a total of **7,106** reports as shown below:-

Table 1: Corruption Reports by Office

No.	Office	No. of reports
1.	Nairobi	5,890
2.	Mombasa	926
3.	Kisumu	290
Total		7,106

The number of reports received increased by **62.5 percent** to 7,106 from 4,372 in the previous year. This significant increase is partly attributable to the following:-

- Renewed impetus resulting from appointment of new management team.
- Increased media publicity.
- Intensified outreach programme carried out around the country.
- Regional expansion programme.

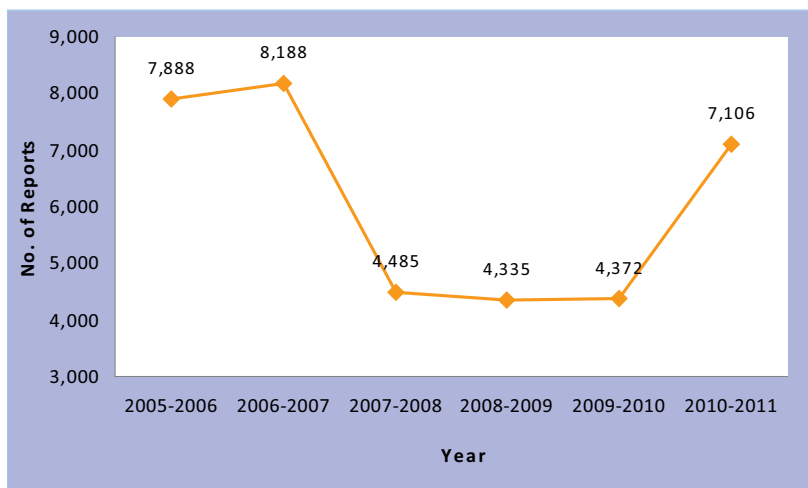


Figure 2: Trends in Corruption Reporting



2.2.2 Classification of Reports

Figure 3 illustrates categorization of the **7, 106** reports based on cadre of officers involved. Majority of the reports involved officers at the lower cadres.

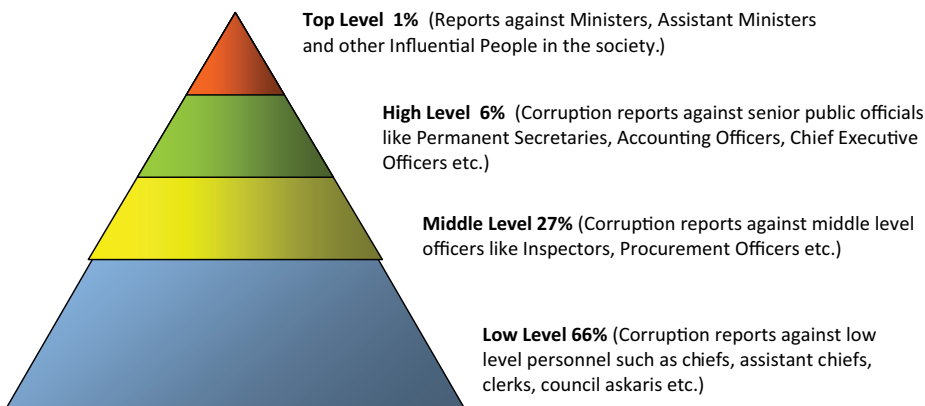


Figure 3: Categorization of Reports Received by Cadre of Public Officers

Out of the reports received, **2,445 (34.4 %)** were taken up by KACC for investigation. Details of action taken on reports received are provided in Figure 4.

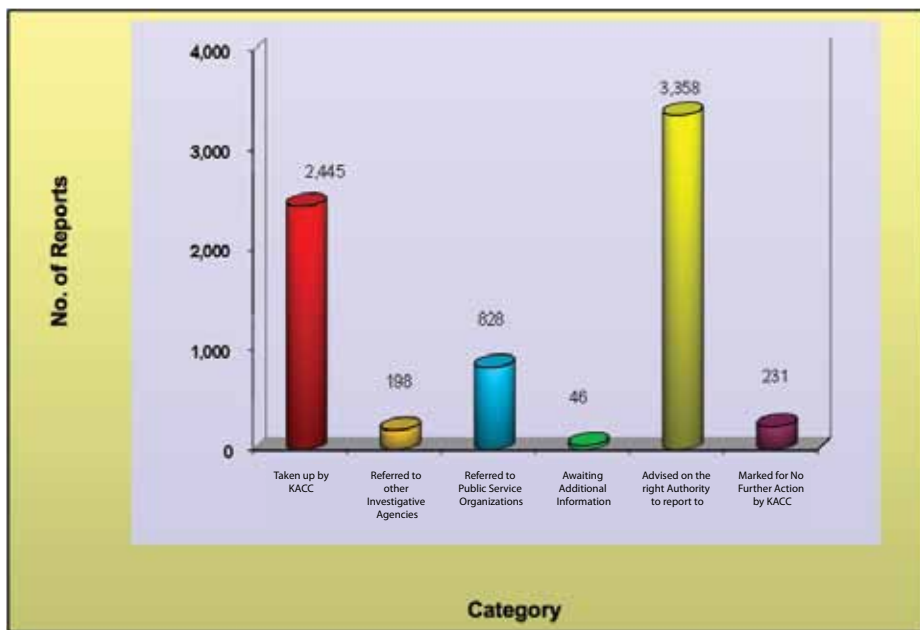


Figure 4: Categorization of Corruption Reports by Action Taken



2.2.3 Reports within KACC's Mandate

Out of the total reports received, **2,445** were within KACC mandate compared to **1,281** in the previous year. This constitutes **34.4 percent** of the total reports received as compared to **29.3 percent** in the previous year. Figure 5 shows the trend of proportionate change in the number of reports within the KACC mandate over the years.

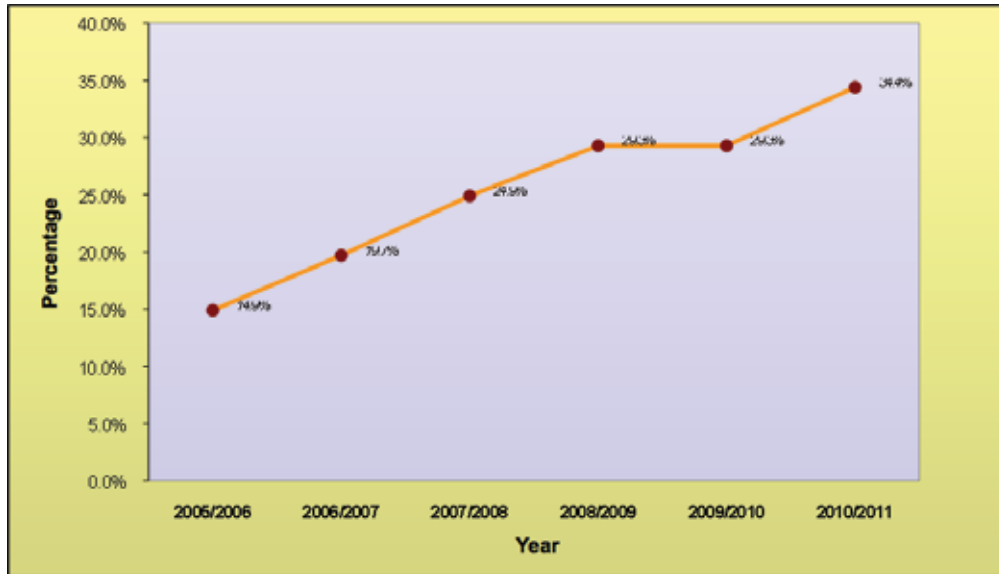


Figure 5: Proportion of Reports Relevant to KACC Mandate

2.3 INVESTIGATIONS

2.3.1 Reports Taken up for Investigations

A total of **2,512** reports were taken up for investigation as summarized in Table 2.

Table 2: Summary of Investigations

No.	Status of investigations	No. of Cases
1.	Cases completed & investigation files forwarded to AG	134*
2.	Cases referred to other agencies for investigations after preliminary investigations	25
3.	Cases recommended for no further action after preliminary Investigations	364
4.	Reports under intelligence development	1,369
5.	Cases Pending Under Investigations	620
Total		2,512

*This includes 67 cases carried over from previous years.

2.3.2 Highlights of Investigations Conducted

The highlights of some of the investigations concluded, on-going investigations and cases before court are presented in Tables 3, 4 and 5 respectively.



Table 3: Highlights of Completed Investigations

No.	Institution	Nature of Inquiry	Amount involved (KShs)
1.	Ministry of Water & Irrigation and Tanathi Water Services Board	Allegation of misappropriation of public funds in a project for equipping of boreholes Under Emergency Drought Programme in Machakos and Makueni Districts by Broad Vision Ltd.	26,000,000
2.	Ministry of Water & Irrigation and National Water Conservation & Pipeline Corporation (NWCPC)	Allegation of irregular procurement of suppliers and inflation of prices by National Water Conservation and Pipeline Corporation (NWCPC) for purchasing materials for equipping boreholes located all over the country.	31,000,000
3.	Kenya Power & Lighting Co. Ltd	Allegation of manipulation of billing and collection system by KPLC staff by crediting Steel Plus Ltd without actual payment being received by KPLC.	2,000,000
4.	Harambee SACCO	Allegation of fraudulent sale of two plots LR 4324 & 1093 (Greenfield Estate, Nairobi) belonging to Harambee Co-operative Sacco by two Central Management Committee members namely Mr. Macloud Mukiti Malonza, the Chairman and Mr. Charles Mongare Geni a member.	2,500,000
5.	Department of Mines & Geology and M/s Criss Cross Company Ltd	Allegation of irregular award of Concession/exploration license by Department of Mines & Geology to an unqualified firm, M/s Criss Cross Company Ltd.	NA
6.	Chemelil Sugar Company Limited (CSCL)	Allegation of irregular sale of 100,000 bags of sugar (of 50kgs each) by Eng. Edward Musebe (Managing Director), Moses Wafula (Finance Manager) and Stanley Kipkoech (Marketing & Corporate Communication Manager) of Chemelil Sugar Company Ltd to M/s SEO & Sons Limited.	120,000,000
7.	Ministry of State for Special Programmes	Allegation of irregular procurement and non-delivery of materials for resettlement of Internally Displaced Persons (IDPs) by the Ministry of State for Special Programmes.	22,650,000
8.	Ministry of State for Special Programmes	Allegation of fraudulent accounting of imprest by Millicent Ochola, the project secretary Western Kenya Community driven Development and flood mitigation project sponsored by the World Bank.	5,530,000
9.	Ministry of State for Special Programmes	Allegation of fraudulent accounting of imprest by Fred Kachilia, the Project Finance Assistant, Western Kenya Community driven Development and flood mitigation project sponsored by the World Bank.	2,657,000
10.	Ministry of Education	Allegation of embezzlement of public funds for the World Bank / GOK Funded Education Sector Support Programme Funds by Jane Ngugi.	8,370,000
11.	Ministry of Education	Allegation of embezzlement of public funds for the World Bank / GOK Funded Education Sector Support Programme Funds by Elizabeth Kaloki.	4,940,000
12.	Ministry of Education	Allegation of embezzlement of public funds for the World Bank / GOK Funded Education Sector Support Programme Funds by Christine Chacha and Concellia Ondiek.	14,000,000



No.	Institution	Nature of Inquiry	Amount involved (KShs)
13.	Ministry of Education	Allegation of embezzlement of public funds for the World Bank / GOK Funded Education Sector Support Programme Funds by Margaret Kamonya Ndanyi, a Senior Education Officer and Head of School and Nutrition Unit.	8,570,000
14.	Tigania West CDF	Allegation of embezzlement of Constituency Development Fund (CDF) for Tigania West by Hon. Kilemi Mwiria, the Member of Parliament for Tigania West and Peter Mwenda, Laurencia, Muroca Tharamba and George Kimathi.	60,000,000
15.	Kenya Sugar Board	Allegation of abuse of office by the Chief Executive of Kenya Sugar Board, Ms Rosemary Mkok (suspended) in the licensing of the Butali Sugar Mills Ltd.	N/A
16.	Kenya Ports Authority (KPA)	Allegation of irregular upfront payment of 40% instead of 20% of the total cost of USD 15,404,000 by the Managing Director of Kenya Ports Authority (KPA) in procurement of 10 rubber Tyres Gantry Cranes (RTG).	1,232,320,000
17.	Mwabila Primary School	Allegation of fraudulent withdrawal of KShs 1.8 million from the Co-operative Bank of Kenya, Nkrumah Branch, Mombasa, meant for Mwabila Primary School by the Head Teacher of Mbwaleni Primary School, Mr. William Wali.	1,800,000
18.	Ministry of Education	Allegation of irregular disbursements of Kenya Educational Sector Support Programme (KESSUP) funds by the former Permanent Secretary for Ministry of Education, Prof. Karega Mutahi.	110,000,000
Total			1,652,337,000



Table 4: Highlights of On-going Investigations

No.	Institution	Nature of Inquiry	Amount involved (KShs)
1.	Ministry of Water & Irrigation	Allegation of conflict of interest and abuse of office in the Ministry of Water and Irrigation.	N/A
2.	NWCPC and Ministry of Water & Irrigation	Allegation of irregular variation of contract price for Umaa Dam, located in Kitui, by NWCPC.	879,000,000
3.	National Youth Service (NYS)	Allegation of irregular award of tenders to sub-contractors by National Youth Service (NYS) for the construction of ten box culverts at Hola – Garsen Road B8.	570,000,000
4.	Ministry of Youth Affairs and Sports, National Youth Service and Ministry of Roads	Allegation of embezzlement of public funds through conspiracy by officers from the Ministry of Youth Affairs and Sports, National Youth Service (NYS) and Ministry of Roads in the on-going construction works of 76Km Hola – Garsen Road, B8 being undertaken by NYS.	4,464,000,000
5.	Harambee SACCO	Allegations of fraudulent purchase of shares from Gina Din Corporate Communications by Central Management Committee of Harambee SACCO.	19,950,000
6.	Constituency Development Fund – Kitutu Chache Constituency	Allegation of tax-evasion by sugar merchants using the Kitutu Chache CDF as a withholding tax agent.	18,000,000
7.	Ministry of State for Special Programmes	Allegation of irregular procurement of four firms, by Ministry of State for Special Programmes officials to carry out renovations and refurbishment of offices.	15,400,000
8.	Kenya Police	Allegation of fraudulent payment of fictitious pending bills at Kiganjo Police Training College.	102,000,000
9.	Turkana North Constituency CDF	Allegation of embezzlement of Turkana North Constituency Development funds.	50,000,000
10.	Ministry of Lands	Allegation of fraudulent alienation of plot No. KWALE/DIANI BLOCK 151, approximately measuring 20.4 acres, belonging to County Council of Kwale.	400,000,000
11.	Kenya Revenue Authority	Allegation of tax evasion by export merchants of hides and skins.	10,000,000
12.	Ministry of Lands and Kenya Agricultural Research Institute (KARI)	Allegation of illegal alienation of 800 acres of KARI land in Naivasha.	300,000,000
Total			6,828,350,000

Table 5 provides the cases that were before court as at 30th June 2011. Some of the cases have been pending before court for a number of years.



Table 5: Highlights of Cases Before Court

No.	Case File Number	Particulars of Offence	Persons charged	Amount Involved (KShs)
1.	CR: 141/07/2010 CF: ACC. 1/10	Fraudulent acquisition of public property contrary to Section 45(1)(a) of ACECA.	1. Dr. Davy Koech - Former Director, KEMRI 2. Dunstan Ngumo 3. Renison Kirui 4. William Seurei	560,000,000
2.	CR: 141/ 1035/ 2009 CF: ACC. 36/09	Fraudulently making payment from public property contrary to Section 45(2)(a)(iii) of ACECA.	1. Justice Said Chitembwe (Suspended) 2. Rachel Lumbasyo - Former Managing Trustee, NSSF	1,300,000,000
3.	CR: 141/604/2009 CF: ACC. 22/09	Fraudulent acquisition of public property Contrary to Section 45(1)(a) of ACECA.	Dr. Davy Koech - Former Director, KEMRI	19,300,000
4.	CR:141/861/2009 CF:31/2009	Fraudulent acquisition of public property contrary to Section 45(1)(a) of ACECA. Willful failure to comply with law relating to the incurring of expenditure contrary to Section 45(2)(b) of ACECA.	1. Murigu Wamai Graw Enterprises 2. Lucy Kinyanjui, 3. Douglas Kiboi - Senior Stores Clerks, Ministry of Roads	77,000,000
5.	CR:141/73/10 CF:ACC .05/2010	Conspiracy to defraud contrary to Section 317 of the Penal Code and obtaining by false pretences contrary to Section 313 of the Penal Code.	1. Joshua Kulei 2. Ezekiel Kipkulei Komen 3. Prakash Bhundia 4. Peter Kipyegon Lagat 5. Wilson Gachanja	130,000,000
6.	CR:141/515/2009 CF:AC 18	Conspiracy to defraud contrary to Section 317 of Penal Code, obtaining by false pretenses contrary to Section 313 of the Penal Code, fraudulent disposition of mortgaged goods and Abuse of Office contrary to Section 46 of ACECA in irregularly releasing petroleum oil to Triton Company Limited belonging to various financiers (Kenya Commercial Bank, Emirates National Oil Corporation of Dubai, Glencore Ltd of UK and Fortis Bank of Europe).	1. Yagnesh Devani 2. Triton Company Ltd 3. Benedict Mutua (KPC) 4. Julius Kilonzo (Triton) 5. Phanuel Okwengu (KPC) 6. Peter Manono Mecha (KPC) 7. Collins Otieno (Triton)	7,600,000,000
7.	CR:711/07/10 CF:ACC. 1/2010 (NAKURU)	Fraudulent disposal of public property contrary to Section 45(1)(b) as read with Section 48(i) of ACECA.	1. Javan Ombaso Sagero 2. Paul Mogire Sindani	8,750,000



No.	Case File Number	Particulars of Offence	Persons charged	Amount Involved (KShs)
8.	CR:141/37/08 CF:ACC. 03/2010	Conspiracy to defraud contrary to Section 317 of the Penal Code.	1. Maurice Dantus 2. Dr. Shem Ochuodho 3. John Macharia 4. Terry Kiarie 5. Triple A Capital Limited	2,000,000,000
9.	CR:141/145/2009 CF:AC 7/2009	Willful failure to comply with applicable guidelines relating to disposal of public property contrary to Section 45 (2) (b) as read with Section 48(1) and (2) of ACECA.	1. George Joshua Okungu 2. Mary Kiptui	550,000,000
10.	CR:141/51/2008 CF: 03/2008	Willful failure to follow applicable procedures & guidelines relating to management of public funds contrary to Section 45(2)(b) of ACECA in contract for Migori Awendo Road.	1. Eng. Barnabas Gibuna Ariga 2. Eng. Nicholas Nyamweya Nyariki 3. Mr. Hudson Ratemo Okindo	99,000,000
11.	ACC 8/2005	Abuse of office contrary to Section 46 of ACECA and giving false information Contrary to Section 129 of the Penal Code.	1. Mr. Sylvester Mwaliko 2. Joseph Magari 3. Mr. Onyonka 4. Mr. Sitonik	90,900,000
12.	CF: 31/2011	Abuse of office contrary to Section 101 of the Penal Code in depositing funds at Eurobank without authority of Trustees and liquidating shares.	1. Ben Mtueta – 2. Stanley Chemng'orem	256,000,000
13.	ACC 40/2007	Fraudulent disposal of public property contrary to Section 45(1)(b) as read with Section 48(i) of ACECA.	1. Johnson Jackson Githaka 2. John Faustin Kinyua	12,100,000
14.	ACC 35/08	Fraudulent disposal of public property contrary to section 45(i)(b) of ACECA.	1. Johnson Jackson Githaka 2. John Faustin Kinyua 3. Mary Njeri Nganga Kimingi 4. Rockhound Properties Ltd	12,000,000
15.	ACC 7/2011	Knowingly giving false statement contrary to Section 41(2) of ACECA and Fraudulent acquisition of public property Contrary to section 45(1)(a) of ACECA.	Margaret Kamonya Ndanyi	8,570,000
16.	CR:141/67/2010 NBI.39/2010	Soliciting & receiving a benefit contrary to Section 39(3) (a) as read with Section 48 (1) of the ACECA.	Cllr. John Njenga	650,000
17.	CR:141/39/2011 NBI.ACC.5/2011	Offering and giving benefit contrary to Section 39(3)(b) of the ACECA as read with Section 48 (1) of ACECA.	1. Vincent Shimoli 2. Michael Maina Alias Chale	500,000



No.	Case File Number	Particulars of Offence	Persons charged	Amount Involved (KShs)
18.	CR:141/147/2011 NBI ACC.11/2011	Soliciting & receiving a benefit contrary to Section 39(3) (a) as read with Section 48 (1) of ACECA.	Kipkirui Cheruyoit Koskei, & others	300,000
19.	CR:255/226/2011 NYERI ACC.4/2011	Soliciting & receiving a benefit contrary to Section 39(3) (a) as read with Section 48 (1) of ACECA.	James Makura – State Counsel, Nyeri	50,000
20.	CR:781/338/2010 NKU ACC.6/2010	Soliciting & receiving a benefit contrary to Section 39(3) (a) as read with Section 48 (1) of ACECA.	John Laku - District Land Adjudication Officer Narok	40,000
21.	CR:521/87/2011 EMBU.ACC.7/2011	Soliciting & receiving a benefit contrary to Section 39(3) (a) as read with Section 48 (1) of ACECA.	Leonard Kithae - District Registrar Of Persons, Mandera	30,000
22.	ACC 15/2010 MSA	Willful failure to follow applicable procedures & guidelines relating to procurement funds contrary to Section 45(2)(b) of ACECA procurement of seven tractors for Lamu West CDF.	1. Omar Ali Ahmed 2. Salim Abdalla Famau 3. Rukiya Lali Shee	7,000,000
23.	ACC 12/2010 MSA	Willful failure to follow applicable procedures & guidelines relating to management of public funds contrary to Section 45(2)(b) of ACECA in contract.	James Mwathethe Mulewa	5,075,000
Total				12,737,265,000

2.4 ILLEGALLY ACQUIRED AND UNEXPLAINED ASSETS TRACED

During the period under review, KACC traced illegally acquired assets amounting to an estimated value of KShs 771 million. A total of 27 cases were completed during the financial year. Table 6 provides the highlights of the assets traced.



Table 6: Completed Asset Tracing Investigations

No.	Type of Asset	Brief Description	Approximate Value (KShs)
1.	Land	Inquiry into allegation of irregular alienation of public utility land Kisumu Municipal Council/ Block 7/240 by Ondara Mak'ojwado, Fredrick Otieno, and Aula Akoth.	16,400,000
2.	Cash	Inquiry into allegation of fraudulent acquisition of public funds by M/s Moeckings General Contractors through the irregular procurement of cemetery land LR. No. 1459/2 City Council of Nairobi.	2,000,000
3.	Land	Inquiry into allegations of fraudulent disposal of public utility property- Kisumu/Block 8/148- R by Simon Okore.	6,000,000
4.	Cash	Inquiry into allegation of embezzlement of public funds by Dr. Daniel Mulwa Nguku of City Council of Nairobi.	8,000,000
5.	Land	Inquiry into allegations of unlawful alienation of alleged public utility Land LR. 209/9636 located at Viwandani Nairobi.	17,000,000
6.	Land	Inquiry into allegations that the CCN's property LR.No.3734/261 and LR 11173 situated in Lavington and reserved as the Mayoral Residence was fraudulently acquired by Mrs. Isabella Vicky Nzalambi.	70,000,000
7.	Cash	Inquiry into allegations of fraudulent acquisition of public funds by Concelia Ondieki and Christine Chacha.	3,000,000
8.	Cash	Inquiry into allegations of embezzlement of funds by Youth Enterprise Development Fund Board officials.	13,600,000
9.	Cash	Inquiry into allegation of fraudulent acquisition of public funds by Joseph Sagwe Nyangate formerly of West Mugirango CDF Committee.	860,000
10.	Land	Inquiry into alleged fraudulent alienation parcel of land L.R.26707 from Kiunga Marine National Reserve.	8,000,000
11.	Cash	Inquiry into allegation of fraudulent acquisition of public funds by Maina Chege in the cemetery land case.	9,450,000
12.	Cash	Inquiry into allegations of embezzlement of funds by Mr. Madahana Mbaya.	1,200,000
13.	Cash and Land	Inquiry into allegations of unexplained wealth held by Stanley Mombo Amuti formerly of NWSC.	40,000,000
14.	Cash	Inquiry into alleged fraudulent acquisition of public funds by Alphonse Munene Mutinda on from the City Council of Nairobi.	25,900,000
15.	Cash	Asset Tracing investigation against Francis Obare Onduko for recovery of unsurrendered imprests.	1,300,000
16.	Land	Inquiry into allegations of irregular acquisition of public land and building structure at Kizingo area of Mombasa by one Shukri Baramadi.	12,000,000
17.	Cash	Inquiry into embezzlement of public funds by Ms. Mary Ng'ethe of City Council of Nairobi and Mr. Edward Nayang'au Omotii.	13,000,000
18.	Cash	Inquiry into allegations of misappropriation of KShs 26.22 million CDF funds against West Mugirango Constituency M.P. James Gesami, John Onger, Shelmith Mugo, Francis Obare, Aloise Abuga, and Joseph Sagwe.	26,200,000
19.	Land	Inquiry into allegations of fraudulent acquisition of Kenya Railways land by Hon. Kazungu Kambi Assistant Minister for Medical Services.	100,000,000



No.	Type of Asset	Brief Description	Approximate Value (KShs)
20.	Cash	Inquiry into alleged fraudulent acquisition of West Mugirango CDF by Hon. James Gesami and Mr. Richard Bugei.	2,500,000
21.	Land	Inquiry into fraudulent acquisition of Eldoret Municipality/Block 7/305 Land by David Kiptugen.	12,000,000
22.	Cash	Inquiry into alleged fraudulent acquisition of KShs8.6 million by Herman S. Chavera.	8,600,000
23.	Cash	Asset tracing for recovery of value of unexplained assets from James Mwathethe Mulewa.	81,500,000
24.	Cash	Asset tracing for recovery from Paul Chapia Onduso fraudulently paid by City Council of Nairobi in relation to purchase of cemetery land.	9,600,000
25.	Cash	Asset tracing for recovery from Dr. James Gesami and Gracan Construction Company.	2,500,000
26.	Cash	Inquiry into allegations of corruption against Binlaw Construction Company Limited, Joseph Moguche Zachariah and Thomas Moturi Oyunge.	280,000,000
27.	Cash	Inquiry into allegations of embezzlement by Dorothy Ndia, a Secretary, Ministry of Education.	1,100,000
Total			771,710,000



Table 7: On-going Asset Tracing Cases

No.	Type of Asset	Brief Description	Approx. Value (KShs)
1.	Land	Inquiry into allegation of irregular acquisition of public land belonging to KARI in Naivasha.	350,000,000
2.	Land	Inquiry into allegation of irregular alienation of a parcel of land Block No.1/374 belonging to Postal Corporation of Kenya in Karatina from Block1/375.	Yet to be determined
3.	Land	Inquiry into allegation of irregular allocation of public land LR.No.209/14209, 211,212,213 earmarked for Pumwani Maternity Hospital to private developers.	104,000,000
4.	Cash	Inquiry into allegation of financial fraud involving some members of staff of Egerton University resulting in the loss of public funds.	40,000,000
5.	Land	Inquiry into allegation of irregular alienation of a government residential house LG17 in Nanyuki Municipality to a private developer.	1,200,000
6.	Land	Inquiry into allegation of irregular purchase of land for Kenyan Embassy in Tokyo, Japan.	1,100,000,000
7.	Land	Inquiry into allegation of irregular allocation of Kenya Agricultural Research Institute (KARI) land in Trans Nzoia County.	Yet to be determined
8.	Land	Inquiry into allegation of embezzlement and mismanagement of assets belonging to Kenya Railway Staff Retirement Benefit Scheme by some Trustees.	Yet to be determined
9.	Land	Allegation of irregular acquisition of the official residence for the District Criminal Investigation Officer, Eldoret.	14,000,000
10.	Land	Inquiry into allegation of embezzlement of public funds at Samburu County Council.	20,000,000
11.	Land	Inquiry into allegation of irregular allocation of public Land belonging to Rabai Road Primary School.	6,000,000
12.	Land	Inquiry into allegation of irregular acquisition of public land parcel no 209/14748 (5.3 ha) belonging to Kenya Police Anti Stock Theft Unit for horse stables at Langata by private developers.	260,000,000
13.	Land	Inquiry into allegation of irregular acquisition of property no. LR. 209/13539 in Woodley East/Joseph Kang'ethe Estate, Nairobi, under the trust of the City Council of Nairobi, by private developers.	Yet to be determined
14.	Land	Inquiry into allegation of irregular allocation of public land belonging to Kenya Airports Authority, at Moi International Airport Mombasa to private developers.	1,070,000,000
15.	Land	Inquiry into allegation of irregular acquisition of parcel of public utility land, LR 209/8294 in Akiba Estate, South C by a private developer.	20,000,000
16.	Land	Inquiry into allegation of irregular acquisition of public land reserved for Administration Police lines at Community area, Nairobi by private developers.	600,000,000
17.	Cash & Fixed Assets	Inquiry into allegation of unexplained wealth by a senior traffic police officer in Malindi.	34,000,000
18.	Land	Inquiry into allegation of irregular acquisition of 2 acres of public land at Njabini by a former Minister for Lands through a company associated with the Minister.	10,000,000
Total			3,629,200,000



2.5 PROACTIVE INVESTIGATION

2.5.1 Disruption of Corruption Networks

Table 8 provides a summary of the proactive disruptions undertaken by KACC. This averted a loss of KShs 3.9 Billion.

Table 8: Proactive disruptions undertaken

No.	Institution	Brief description of the corrupt activity	Averted Loss (KShs)
1.	TANATHI Water Services Board	15 irregular procurements and construction contracts at the water service board.	250,000,000
2.	Kenya Railways Retirement Benefits Scheme	Irregular disposal of Kenya Railway Retirement Benefits Scheme houses at Matumbato Road, Upperhill by some of its Trustees.	2,000,000,000
3.	Kilindini Port, Mombasa	Tax evasion by various merchants through false declarations on imported items.	28,000,000
4.	Mbooni Constituency CDF	Irregular payments for CDF sponsored Mau Drift contract in Mbooni Constituency for works not undertaken.	3,400,000
5.	Kisumu Municipal Council	Irregular allocation of 40 plots by the Municipal Council through influence of senior council officials.	20,000,000
6.	Kilindini Port, Mombasa	Tax evasion related to hides and skins by under-declaration by export merchants.	10,000,000
7.	Kilindini Port, Mombasa	Importation of counterfeit electronic products by merchants in collusion with some public officers.	4,000,000
8.	Kitutu Chache Constituency CDF	Allegation of tax-evasion by sugar merchants using the Kitutu Chache CDF as a withholding tax agent.	18,000,000
9.	City Council of Nairobi	Irregular issuance of single business permits by some employees of the council to business premises.	800,000,000
10.	Sotik Town Council	Irregular allocation of 15 plots in the local authority measuring 3.17 hectares.	10,000,000
11.	Eldoret Municipal Council	Evasion of stamp duty and land rates facilitated by a syndicate printing fake titles and other land documents in Eldoret.	50,000,000
12.	Catering and Tourism Development Levy Trustee	Irregular procurement of a contractor for construction of hotel and training facility in Mombasa by the Trustee.	700,000,000
Total			3,893,400,000



2.5.2 Integrity Testing Programme

Integrity Testing is a proactive initiative designed to assess the integrity of officers and to inculcate a culture of responsibility and integrity in public institutions. KACC intensified the implementation of the Integrity Testing Programme in line with the resolutions of the Permanent Secretaries /Accounting Officers and Chief Executives of state corporations on 6th February 2010, during the first workshop at Kenya Institute of Administration on Strategies to fight/eliminate corruption in the Public Service.

As a result, a sensitization programme was launched, targeting all public institutions. A total of **48** public institutions were sensitized on the programme. In addition, **185** tests were executed as illustrated in Table 9.

Table 9: Summary of Integrity Tests Executed

No.	Type of Results	No. of Tests	Action Taken				
			Administrative Action Recommended	Referred to Other Agencies/ Departments	Court Action	Further Tests	No Further Action
1	Pass	60	0	0	0	0	60
2	Fail	73	51	4	4	7	7
3	Inconclusive	42	0	2	0	31	9
4	Attempt	10	0	2	0	5	3
Total		185	51	8	4	43	79



3. STATUTORY REPORTS TO THE ATTORNEY GENERAL

3.1 INTRODUCTION

Under Section 15 (4) (a) of ACECA (now repealed), KACC was required to set out in this Report information in its four Quarterly Reports made pursuant to Section 36 of the ACECA. The information to be contained in this Report includes the number of reports submitted to the Attorney General under Section 35 of the ACECA and such other statistical information relating to those reports as KACC deems appropriate.

3.2 REPORTS TO THE ATTORNEY GENERAL

A total of 134 reports on concluded investigations were forwarded to the Attorney General, representing an increase of 29 percent from 104 reports in the previous year. Out of these reports, 113 (84%) had recommendations for prosecution of named suspects, 4 (2.9%) for administrative action and 17 (12.6%) for closure of the files, as shown in Tables 10 and 11.

Table 10: Files Forwarded to the Attorney General

No.	Recommendations to the AG	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
1.	No. of files recommended for prosecution	12	24	47	30	113
2.	No. of files recommended for administrative action	0	1	3	0	4
3.	No. of files recommended for closure	2	2	7	6	17
Total		14	27	57	36	134

Table 11: Action taken by the Attorney General

No.	Action by AG	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
1.	Recommendation to prosecute accepted	10	22	36	27	95
2.	Recommendation to prosecute not accepted	2	0	1	2	5
3.	Recommendation for administrative or other action accepted	0	1	1	1	3
4.	Recommendation for administrative or other action not accepted	0	0	0	0	0
5.	Recommendation for closure accepted	1	1	7	5	14
6.	Recommendation for closure not accepted	1	0	0	0	1
7.	Files returned for further investigations	2	3	4	1	10
8.	Files forwarded in previous quarters and received during this quarter	0	18	6	3	27
9.	Files awaiting Attorney General's action	0	0	5	1	6
Total		16	45	60	40	161



3.3 CRIMINAL CASES PRESENTED BEFORE COURT

A total of 101 criminal cases were presented before court. Most of the cases involved soliciting and receiving of benefit as indicated in Table 12.

Table 12: Criminal Cases Presented Before Court

No.	Particulars of charge	Number of cases
1.	Soliciting & receiving of benefit	65
2.	Offering & giving of benefit	2
3.	Impersonating an investigator	3
4.	Abuse of office	2
5.	Unlawful /fraudulent acquisition of public property	11
6.	Willful failure to comply with procurement procedures	4
7.	Failure to pay taxes	2
8.	Conspiracy to defraud/commit an offence of corruption	2
9.	False accounting by a public officer/ Deceiving principal	10
10.	Conflict of interest	0
Total		101

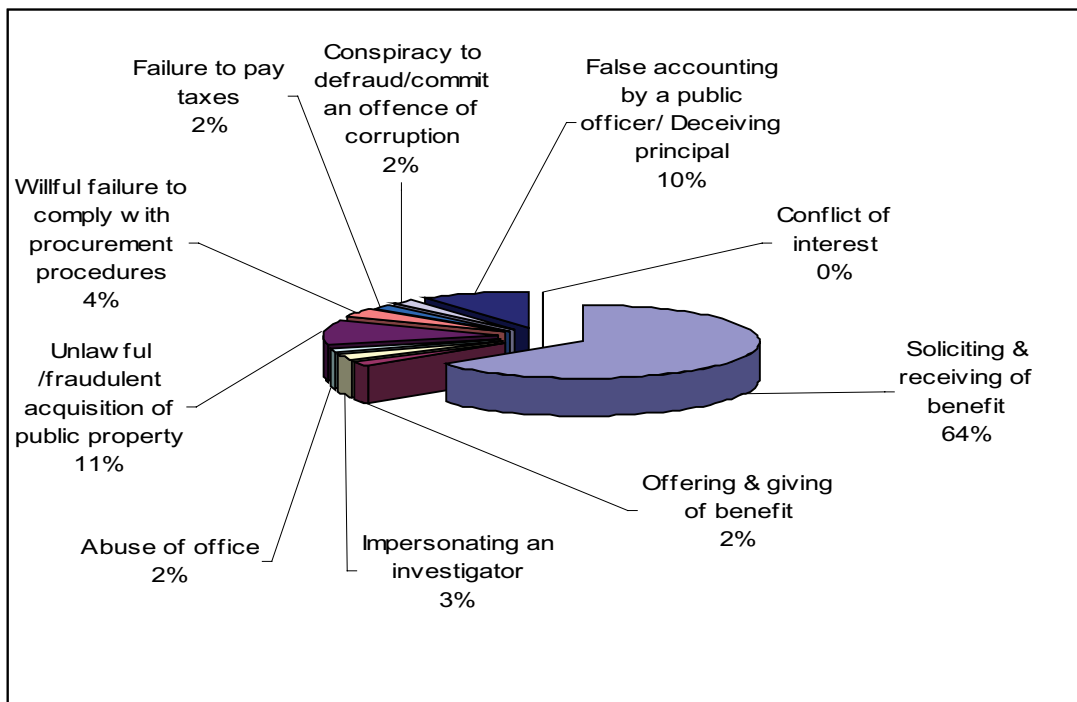


Figure 6: Criminal Cases Presented Before Court

3.4 APPLICATIONS FOR SEARCH WARRANTS

KACC filed sixty (60) applications and in all cases, obtained warrants to investigate bank accounts and search premises of persons or associates of persons suspected of engaging in corruption, economic crime or related offences. All the warrants were successfully executed and all relevant documents were obtained for use in investigations.



4. LITIGATION AND RECOVERY OF ILLEGALLY ACQUIRED PUBLIC AND UNEXPLAINED ASSETS

4.1 INTRODUCTION

This section covers a summary of steps taken during the year in civil proceedings instituted by KACC for recovery of illegally acquired assets. KACC filed suits and applications for injunctions. It also entered into Out-of-Court settlements and recovered illegally acquired assets.

4.2 RECOVERY OF PUBLIC ASSETS

4.2.1 Recovered Public Assets

Through court proceedings and Out-of-Court settlements, KACC recovered public assets amounting to a total of KShs 41,190,218 which had been corruptly acquired as indicated in Tables 13 and 14. The properties recovered are located in Nairobi, Kisumu, and Kakamega.

Table 13: Recovered Public Land

No.	Particulars	Public body on whose behalf property recovered	Approximate Value (KShs)
1.	Kisumu/ Municipality Block 7/497, Samson Omollo Ogutha	Kenya Railways	6,000,000
2.	Kakamega Municipality Block 11/235, Ramesh Kotecha	Government Houses-Kakamega	1,700,000
3.	Eldoret/ Municipality Block 7/305, David Kiptugen	Industrial Plot, Eldoret Town	12,000,000
4.	LR. No. 3734/261, Isabella Vicky Nzalambi	City Council of Nairobi	15,000,000
Total			34,700,000

Table 14: Recovered Embezzled Public Funds

No.	Name	Public body on whose behalf cash was recovered	Approximate Value (KShs)
1.	Dr. Daniel Nguku	City Council of Nairobi	136,000
2.	Naftari Ontweka Onteri	National Water Conservation & Pipeline Corporation	1,814,511
3.	Dr. Victor Kipyegon Maina	Ministry of Health	132,567
4.	Rose Ougo	Western Kenya Project	222,000
5.	Kizito Wekesa Barasa	Western Kenya Project	222,000
6.	Miriam Ntsingui Ameka	Western Kenya Project	222,000
7.	Millicent Atieno Acholla	Western Kenya Project	222,000
8.	Jairus Mogalo	Kenya Re	19,140
9.	Dr. Kimithi Ng'ang'a, David Kamau & Ecotact Limited	City Council of Nairobi	1,500,000
10.	Isabella Vicky Nzalambi	City Council of Nairobi	2,000,000
Total			6,490,218



4.2.2 Suits Filed and Preservation Orders

KACC filed six (6) civil suits for recovery of public property or for compensation for damage to public assets with an approximate value of KShs 143,000,000. It also filed five (5) Applications for injunction and obtained temporary injunction orders to preserve the properties. A summary of the suits filed is presented in Table 15.

Table 15: Recovery Suits Filed

No.	Particulars of claim	Case Reference	Approximate value[KShs]	Status
1.	Unexplained assets acquired by Defendant while serving as a public officer	Mombasa High Court Civil Case No. 292 of 2010, KACC vs. James Mwathethe Mulewa	31,000,000	Preservation orders in respect of unexplained wealth obtained.
2.	Property suspected to have been acquired using funds embezzled from the City Council of Nairobi for purchase of the Mavoko Cemetery	Nairobi High Court Civil Case No. 739/2010, KACC vs. Dr. Daniel M. Nguku & Janet Kavula Nguku	8,000,000	Parties exchanging documents
3.	LR No. 11510 and LR No. 11511	Nairobi High Court Civil Case No. 324 of 2010, KACC vs. Julie Nyawira Mathenge & Ano.	15,000,000	Title revoked vide Gazette Notice of 26/11/2010
4.	LR No. 11509	Nairobi High Court Civil Case No. 325 of 2010, KACC vs. Julie Nyawira Mathenge & Ano.	8,000,000	Title revoked vide Gazette Notice of 26/11/2010
5.	Mombasa Island/Block XXVI/285	Mombasa High Court Civil Case No. 246 of 2010, KACC vs. Comen Ltd & Ano.	31,000,000	Title revoked
6.	Kisumu Municipality Block 7/409	Kisumu High Court Civil Case No. 105 of 2010, KACC vs. Roselyn Anne Onyuka & Others	50,000,000	Parties exchanging documents
Total			143,000,000	

4.2.3 Constitutional References, Judicial Review Applications and Other Cases against KACC

Constitutional References, Judicial Review Applications and other civil cases filed against KACC were intended to stop or delay investigations, criminal and civil proceedings by KACC or instituted under ACECA. KACC defended these proceedings in order to prevent any resultant orders that would impede its work. Some of the major cases are highlighted in Table 16.



Table 16: Constitutional References, Judicial Review Applications and Other Cases

No.	Particulars of claim	Reason for Constitutional Reference or Judicial Review application	Nature of claim
1.	Nairobi High Court Misc. JR No. 258 of 2010, Edward N. Omotii	The applicant was being investigated in connection with embezzlement of public funds through purported purchase of the land at Mavoko for used by the City Council of Nairobi as a public cemetery.	Seeking orders to prohibit KACC & AG from charging the applicant on account of involvement in the purchase of LR. NO. 14759/2, the Public Cemetery for the City Council of Nairobi.
2.	Nairobi CA No. 95 of 2010, Justice Said Juma Chitembwe	The applicant, who is a judge of the High Court of Kenya, was aggrieved by the order of the Court of Appeal staying Kibera CM Corruption Criminal Case No. 36 of 2009 of 2010 in which he is an accused person without his participation in the appeal from which the order was made.	Order to vary the order staying the Criminal case.
3.	Nairobi High Court Misc. CR App. No.648/010, Davy Koech	KACC obtained orders to preserve funds in the applicants account in 2009. The applicant claims that he needs the money for the upkeep of his family.	Stay of execution of children's case no. 796/010, search orders granted in Kibera Misc. No. 54/09, be quashed and varied.
4.	Nairobi High Court Misc. CR App. No. 645/010, Triple A Capital Limited & Others	Applicants are facing prosecution in ACC. No. 3/010 in which they are the accused.	Applicants are seeking stay of prosecution of Acc. No. 3/010.
5.	Mombasa High Court No.457 of 2009, Kenya Power & Lighting Company Ltd vs. KACC	Alleged failure on the part of KACC to initiate investigations and proceedings in relation to LR Nos. MN/1/10935/10936, 10937, 10938 & 10937.	Orders to compel KACC to initiate criminal proceedings against the 1-5 th Defendants to surrender LR Nos. MN/1/10935/10936, 10937, 10938 & 10937.
6.	Nairobi High Court Misc. App. No. 443 of 2010, R (Ex parte Peter Maina Wakori)	Applicants are facing prosecution in Criminal Case No. 20/09 R vs. Teela Akute, Peter Maina Wakori & Geoffrey Mate.	Orders to quash Charge sheet in Criminal Case No. 20/09.
7.	Kisii High Court Petition No. 3 of 2010, Peter Ochara Onum & Others	Alleged misuse of CDF in West Mugirango Constituency.	Orders to compel KACC to investigate the allegations of misuse of CDF in West Mugirango Constituency.
8.	Nairobi High Court JR No. 264 of 2010, Thomas Moindi & Others	Allegations of misuse of CDF for West Mugirango Constituency.	Orders to compel KACC to investigate the allegations of misuse of CDF.
9.	Nairobi High Court Misc. No. 98 of 2010, Wairimu Waiyaki (For Zipporah Naisenyaa - deceased)	Purported revocation of the Title Deeds of the Applicant by the Land Registrar in relation to houses in Woodley.	Leave of court to apply for Judicial review orders to prohibit CCN from interfering or cancelling their Title in relation to House No. 166/10, Woodley and especially the Kenya Gazette of 26.11.010.



No.	Particulars of claim	Reason for Constitutional Reference or Judicial Review application	Nature of claim
10.	Nairobi High Court Misc. No. 99 of 2010, Francesca Otete	Purported revocation of the Title Deeds of the Applicant by the Land Registrar in relation to houses in Woodley.	Leave of court to apply for Judicial Review orders to prohibit CCN from interfering or cancelling their Title in relation to House No. 166/10, Woodley and especially the Kenya Gazette of 26.11.010.
11.	Nairobi High Court Misc. No. 101 of 2010 Stephen Muturi Gachago & Ano.	Purported revocation of the Title Deeds of the Applicant by the Land Registrar in relation to houses in Woodley.	Leave of the court to apply for Judicial review orders of prohibiting CCN from interfering or cancelling their Title in relation to House No. 166/10, Woodley and especially the Kenya Gazette of 26.11.010.
12.	Eldoret High Court JR No. 44 of 2010 William Ruto & 5 Others	Purported revocation of the Title Deeds of the Applicant by the Land Registrar in relation to Plots in Eldoret Municipality Block 8.	Leave of the court to apply for Judicial review orders of prohibiting Registrar of Lands at Uasin Gishu from interfering or cancelling their Title in relation to Plots in Eldoret Municipality Block 8 and especially the Kenya Gazette of 26.11.010.
13.	NEMA Tribunal Appeal (Nairobi) No. 65 of 2011 Committee Members of Karen Langata District Association	The approval by the Authority to build KACC Headquarters in Karen did not take into account relevant environmental safeguards.	The Appeal has been withdrawn with costs to the Appellants.
14.	Nairobi High Court Misc. No. 19 of 2011	Cancellation of Title Deed by the registrar in Woodley Estate.	Applicant has applied for leave to apply for Judicial review orders of prohibiting CCN from interfering or cancelling their Title in relation to House, Woodley and especially the Kenya Gazette of 26.11.010.
15.	Malindi High Court JR No. 17 of 2010 Fahim Twaha	Purported revocation of the Title Deeds of the Applicant by the Land Registrar in Mombasa.	Orders of Judicial review orders prohibiting Registrar of Lands at Wundanyi from interfering or cancelling their Title in Mombasa Municipality and especially the Kenya Gazette of 26.11.010
16.	Mombasa High Court JR No. 85 of 2010 David Muturi Kimana	Purported revocation of the Title Deeds of the Applicant by the Land Registrar in Mombasa.	Orders of Judicial review orders prohibiting Registrar of Lands at Wundanyi from interfering or cancelling their Title in Mombasa Municipality and especially the Kenya Gazette of 26.11.010
17.	Mombasa High Court JR No. 92 of 2010 Kongowea Market Estate Ltd	Purported revocation of the Title Deeds of the Applicant by the Land Registrar in Mombasa	Orders of Judicial review orders prohibiting Registrar of Lands at Mombasa from interfering or cancelling their Title in Mombasa Municipality and especially the Kenya Gazette of 26.11.010



No.	Particulars of claim	Reason for Constitutional Reference or Judicial Review application	Nature of claim
18.	Mombasa High Court JR No. 105 of 2010 Nova Properties Ltd	Purported revocation of the Title Deeds of the Applicant by the Land Registrar in Mombasa.	Orders of Judicial review orders prohibiting Registrar of Lands at Mombasa from interfering or cancelling their Title in Mombasa Municipality and especially the Kenya Gazette of 26.11.010
19.	Eldoret High Court JR No. 2 of 2011 Maria Soti Educational Trust	Purported revocation of the Title Deeds of the Applicant by the Land Registrar in relation to Kaptagat Forest.	Orders of Judicial review orders prohibiting Registrar of Titles & The AG from interfering or cancelling their Title in relation to Plots in Kaptagat Forest and especially the Kenya Gazette of 26.11.010
20.	Nairobi High Court Misc. No. 156 of 2011 Mary Ng'ethe	Our investigations for the recovery of funds lost in the purchase of the Mavoko Cemetery by the City Council of Nairobi.	Orders to stop her prosecution in Kibera CMCRC NO 19 of 2010 in relation to her role in the purchase of the cemetery land at Mavoko
21.	Nairobi High Court Petition No. 53 of 2011 Allan Waweru Mburu	Investigations into the purchase of Land by the Kenyan Embassy in Japan.	Orders of mandamus, to be reinstated to his former office at the Ministry of Foreign Affairs where he was suspended from pending investigations on the purchase of Embassy land in Japan and elsewhere.
22.	Mombasa High Court Misc. No. 27/011 Midland Finance & Securities Ltd	Investigations into Anglo-leasing-type scandal.	Orders prohibiting KACC from receiving mutual legal assistance it has sought from the Switzerland Government.
23.	Nakuru High Court Misc. No. 64 of 2011, Apex Finance International & Anglo-Leasing Finance International Ltd vs. KACC	Investigations into Anglo-leasing-type scandal.	Orders prohibiting KACC from receiving mutual legal assistance it has sought from the Switzerland Government.
24.	Mombasa High Court No. 103 of 2010 Supernova Ltd	Purported revocation of the Title Deeds of the Applicant by the Land Registrar.	Order to quash the decision of Commissioner of Lands and the minister of Lands to cancel their Title Deeds.
25.	Mombasa High Court No. 105 of 2010 Supernova Ltd	Purported revocation of the Title Deeds of the Applicant by the Land Registrar.	Order to quash the decision of Commissioner of Lands and the minister of Lands to cancel their Title Deeds.
26.	Nairobi High Court. JR No. 19 of 011 Dedan Gichuru	Purported revocation of the Title Deeds of the Applicant by the Land Registrar.	Order to quash the decision of Commissioner of Lands and the minister of Lands to cancel their Title Deeds.
27.	Embu High Court Misc. App. No. 27 of 2011 Boniface Mulama & Others	Purported revocation of the Title Deeds of the Applicant by the Land Registrar.	Leave to apply for judicial review orders of prohibition and certiorari against KACC.



No.	Particulars of claim	Reason for Constitutional Reference or Judicial Review application	Nature of claim
28.	Nairobi High Court Case No. 234/011 Thomas Ombasa Soigwa vs. KACC & AG	Purported revocation of the Title Deeds of the Applicant by the Land Registrar.	Order to quash the decision of Commissioner of Lands and the minister of Lands to cancel their Title Deeds.
29.	Mombasa HCCC No.8 of 2010 Tubman Otieno	Investigations into the procurement at the Mombasa City Council.	Orders to stop his being charged by the AG on the basis of investigations by KACC.

4.2.4 Restoration of Recovered Properties

On 2nd day of December 2010, KACC through a public function at Woodley Estate, Nairobi, returned 24 properties, which had been illegally acquired. The properties belong to the City Council of Nairobi and are situated in Nairobi. The public restoration of property is in accordance with the law and is aimed at bringing to the attention of the public the recovered properties thereby; raising public awareness; and preventing any illegal re-alienation of the same property.

4.3 LEGISLATIVE RECOMMENDATIONS

4.3.1 The Ethics and Anti-Corruption Commission Act, 2011

In collaboration with other stakeholders, KACC made proposals towards the formulation of the Ethics and Anti-Corruption Commission Bill. The proposals were forwarded to the Ministry of Justice, National Cohesion and Constitutional Affairs which was spearheading the formulation of the Bill. The Bill has since been enacted into the Ethics and Anti-Corruption Commission Act, 2011 which commenced on 5th September 2011. This Act establishes the Ethics and Anti-Corruption Commission which is the legal successor of the Kenya Anti-Corruption Commission.

4.3.2 Anti-Corruption and Economic Crimes (Amnesty and Restitution) Regulations, 2011

KACC, jointly with the Ministry of Justice, National Cohesion and Constitutional Affairs, formulated the Anti-Corruption and Economic Crimes (Amnesty and Restitution) Regulations to operationalize Sections 25A and 56B of ACECA. The Regulations were gazetted by the Minister for Justice, National Cohesion and Constitutional Affairs on the 13th May 2011 vide Legal Notice No. 44 of 2011 and came into force immediately.

Section 25A empowers the Commission, in consultation with the Minister and the Director of Public Prosecution, to give an undertaking not to institute or continue with investigations against any person suspected of an offence under ACECA. The applicant for amnesty must make a true and full disclosure of material facts relating to acts of corruption s/he has engaged in. In addition, the applicant must make full reparation for the offence and pay for all loss of public property occasioned by the corrupt conduct.



Section 56B allows the Commission to negotiate and enter into a settlement with any person against whom the Commission intends to bring or has brought civil proceedings or application in court.

The Regulations aim at enabling the Commission undertake speedier recovery of illegally acquired assets and address challenges of investigating and prosecuting past corruption.



5. CORRUPTION PREVENTION

5.1 INTRODUCTION

KACC implemented programmes to prevent corruption through provision of advisory services, partnerships and coalitions against corruption, implementation of the Public Service Integrity Programme (PSIP), public education and awareness creation, and research on corruption and governance related issues. This section of the report presents KACC's achievements on corruption prevention in the reporting year.

5.2 ADVISORY SERVICES

5.2.1 Examinations and Review of Systems, Policies and Procedures

KACC examined and reviewed systems, policies, procedures and practices of work in order to identify corruption loopholes and provide recommendations to seal them. The following institutions were examined:

1. National Aids Control Council

The examination focused on Procurement and Financial Management. Some of the key findings and recommendations are presented in Table 17.

Table 17: Summary of Findings and Recommendations on the Examination of National Aids Control Council (NACC)

No.	Findings	Recommendations
1.	Lack of funding ceilings for Aids Control Units (ACUs) gives NACC discretion to determine funds to be granted to ACUs and creates loopholes to favour some ACUs to achieve some vested interests.	The Director NACC to establish funding ceilings to address discretion and possible favouritism in funding ACUs.
2.	Unchecked discretion in allocation of sponsorship funds for youth forums and technical support for youth service organizations.	The Director NACC to develop procedures and guidelines for invitation and award of funds under the youth forums and technical support programs.
3.	Delays by most Constituency Aids Control Committees (CACCs) and District Development Officers (DDOs) to account for funds advanced to them for field operations.	The Director NACC to enforce provisions of Section 31 of the Government Financial Management Act, 2004 which requires that all cash advances are accounted for within 48 hours after completion of an activity or period for performance of an activity.
4.	Irregularities in accounting for funds disbursed under the Great Lakes Initiative on Aids (GLIA) to one of the project implementers.	KACC to initiate investigations into the irregularities in the accounting for funds. Institute measures for proper management and accountability of disbursed funds.
5.	Violation of evaluation criteria contained in tender documents of some tenders.	KACC to initiate investigations on the affected tenders. The Director NACC to ensure compliance with the tender processes as stipulated in the Procurement law and the regulations.



2. Kenyatta University

The advisory focused on Supply Chain Management System. Some of the key findings and recommendations are presented in Table 18.

Table 18: Summary of key Findings and Recommendations on the Advisory of Kenyatta University

Item	Findings	Recommendations
1.	Lack of a customized Procurement and Disposal Procedures Manual.	Formulate a customized Procurement and Disposal Procedures Manual consistent with the PPDA, 2005 and PPDR, 2006.
2.	Kenyatta University ISO Procedures Manual not in conformity with the PPDA, 2005 and PPDR, 2006.	Review the ISO Procedures Manual to be consistent with PPDA, 2005 and PPDR, 2006.
3.	Violation of PPDR, 2006 in constituting the tender evaluation committees.	Constitute the Tender Evaluation Committees in strict adherence to Regulation 16 of PPDR, 2006.
4.	Preparing a consolidated Annual Procurement Plan not based on the departmental procurement plans.	Prepare the consolidated Annual Procurement Plan based on the departmental procurement plans.
5.	Preparing some bid documents with faulty or insufficient evaluation criteria.	Prepare Bid documents with sufficient evaluation criteria. Train the user departments on how to develop specifications.
6.	Using restricted tendering procedure for goods, services and works without fulfilling the requirements and thresholds as set out in PPDA, 2005 and PPDR, 2006 and in some cases not stating the criteria used in selecting firms out of the many in existence.	Ensure adherence to Section 29 (3) of PPDA, 2005, and Regulations 53 and 54 of PPDR, 2006, which specifies the conditions to be fulfilled before using restricted tendering or direct procurement.
7.	Evaluation criteria altered at the evaluation stage for some bids.	Evaluate bids in strict adherence to the criteria set out in the tender documents.
8.	Evaluation Committee recommending award of contracts before due diligence is carried out.	Carry out post qualification (due diligence) review before award of contracts.
9.	Irregular award of some contracts for supply of goods and services without adjudication and award by the Procurement Committee.	Ensure that award of contracts below Ksh.500, 000 is made by the Procurement Committee.
10.	Receiving and accepting goods without approval by the Inspection and Acceptance Committee.	Ensure that Inspection and Acceptance Committee performs its role as highlighted by PPDR, 2006, Regulation 17.



3. Nairobi City Water and Sewerage Company

The examination covered all functions of the company. Table 19 provides the summary of key findings and recommendations.

Table 19: Summary of key Findings and Recommendations on the Examination of Nairobi City Water and Sewerage Company

Item	Findings	Recommendations
1.	Service delivery does not adhere to the provisions of the Service Charter.	The Managing Director should ensure strict adherence to the provisions of the Service Charter.
2.	Irregular connections of meters and sewers before the requisite surveys are carried out.	The Managing Director should take appropriate disciplinary action against staff involved in irregular connection. Educate the public on the requirements and process of water connections and sewer services.
3.	Manipulation of the Customer Management System (CMS) to allow multiple accounts for one meter.	Enforce CMS data base integrity through redefining access controls, continuous monitoring and systems audit.
4.	Lack of written guidelines on the processes and fees applied in the sewer connections.	The Managing Director should ensure that the guidelines for sewer connection are created, adhered to and provided to all clients.
5.	Poor segregation of duties in financial management.	The Managing Director to ensure proper segregation of duties.
6.	The Revenue Accounting office was not reconciling collections and banking in a timely manner.	The Managing Director to ensure timely banking of collections and preparation of reconciliations.
7.	Failure by management to implement agreed Internal Audit recommendations.	The Managing Director to ensure that management implements the Internal Audit recommendations.
8.	Receiving and accepting some goods without inspection.	The Managing Director to ensure that all goods, services and works are inspected by the Inspection and Acceptance Committee.
9.	Lack of a secure and efficient records management system.	The Managing Director to put in place a secure and efficient records management system.

4. National Social Security Fund

The examination focused on the procurement process and implementation of an ICT infrastructure project.



Table 20: Summary of Key Findings and Recommendations on the Advisory of National Social Security Fund

No.	Findings	Recommendations
1.	The Consolidated Annual Procurement Plan was not approved by the Chief Executive Officer as required by Public Procurement and Disposal General Manual.	KACC advised NSSF to terminate the tendering process on the basis of the findings. This advice was accepted by the management which agreed to review the tender process. KACC is monitoring the review to ensure compliance with its advice and to offer further advice.
2.	The Consolidated Annual Procurement Plan did not provide for the supply, installation, configuration, customization and commissioning of the ICT infrastructure which was being procured.	
3.	There was no feasibility study done before initiation of the project to ensure value for money.	
4.	Key requirements omitted from specifications in the tender documents were later introduced as addendums.	

5. Provincial General and District Hospitals

The examination focused on Service Delivery in Provincial General and District Hospitals. Table 21 highlights some of the findings and recommendations made.

Table 21: Summary of Key Findings and Recommendations on the Examination of Provincial General and District Hospitals

No.	Findings	Recommendation
1.	Severe shortages of medical and other staff leading to heavy workload, delays in service delivery and corrupt conduct.	Recruit additional staff in all the facilities.
2.	Some medical officers use Government facilities to perform certain procedures on private patients without adhering to laid-down procedures. This leads to loss of revenue.	The Permanent Secretary, Ministry of Medical Services should ensure that the procedures for attending to private patients in Government hospitals are strictly adhered to.
3.	In some hospitals, proper records are not maintained for movement of laundry items. This creates a loophole for theft.	Medical Superintendents to maintain proper records on movement of laundry items.
4.	Conflict of interest of some staff members in referral of patients to private facilities even where the hospital can provide the service cheaply or for free.	<ol style="list-style-type: none"> 1. The Permanent Secretary, Ministry of Medical Services to sensitize members of the public on available services so as to empower them to demand for their rights. 2. Malpractices to be investigated and disciplinary action taken.
5.	Granting of waiver of medical charges to undeserving patients through influence of politicians, staff and other persons.	The Waivers Committee should adhere to the criteria and conditions for grant of waivers.
6.	Poor management of patients' records leading to delays in service delivery.	Put in place an efficient records management system.
7.	Absenteeism of medical staff is a major cause of delay in provision of services which may lead to desperate patients offering bribes to fast-track provision of services.	<ol style="list-style-type: none"> 1. Ensuring that effective supervision of staff is carried out in the hospitals. 2. Take appropriate disciplinary measures against staff who flout regulations.



6. Other Examination Activities

- a) On-going examination of the National Cereals and Produce Board (NCPB).
- b) Presentation of examination reports were made on:
 - i) Civil Registration Department
 - ii) Provincial General and District Hospitals focusing on Procurement and Financial Management
 - iii) Provincial General and District Hospitals focusing on Service Delivery

5.2.2 Follow-up on the implementation of Examination Report Recommendations

Follow up activities were made at National Environment Management Authority (NEMA) to establish the status of implementation of examination recommendations made by KACC in the previous years. A summary of the status is provided in Table 22.

Table 22: Implementation Status of Recommendations on the Examination of the National Environment Management Authority (NEMA)

No.	Finding	Recommendation	Status
1.	Lack of a national environmental policy.	Formulate a national environmental policy.	National Environmental Policy not formulated.
2.	Existence of numerous and conflicting sector specific legislation and lack of guidelines on the management of the environment.	Harmonize the various sector specific laws and guidelines on the management of the environment.	Task Force on the re-orientation of EMCA to the new Constitution in place.
3.	Lack of sector specific checklists to assist environmental officers carrying out these inspections.	Develop and apply sector specific environmental management checklists.	NEMA has already developed an inspection manual; a document that provides technical and procedural guidance to environmental inspectors. The Inspectors have been trained on the same.
4.	Inadequate capacity to carry out its mandate.	Enhance capacity (human, physical and financial).	Decentralization follow up is currently ongoing with the aim of addressing the challenges faced by the officers and enhancing their operational efficiency.
5.	Lack of a code of conduct leading to professional negligence by environmental Lead Experts.	Develop and enforce codes of conduct for environmental Lead Experts.	Code of Practice has been developed and issued. All practicing experts have subscribed to the code.



Table 23: Implementation Status of Recommendations on the Examination of the National Registration Bureau

No.	Finding	Recommendation	Action taken
1.	Lack of a clear national integrated policy and system on registration of persons.	An all inclusive and consultative process of preparing a comprehensive national policy on registration to address all aspects of registration of persons such as births, death, Identity cards, passports, refugees and aliens. In addition, the policy should address the implementation and operations of the proposed Integrated Population Registration System (IPRS).	A taskforce chaired by the Director of registration of persons on behalf of the PS ministry of immigration is in place and various registration instruments are being reviewed. Membership is drawn from various other institutions such as KRA, Ministry of Lands and ministry of justice among others.
2.	At the time of the Examination, registration offices in the field had no method of making enquiries to the Head office on the status of delayed identity cards.	The Permanent Secretary Ministry of State for Immigration and Registration of Persons should ensure that the Bureau develops clear channels of receiving complaints and feedback mechanisms to ensure that customers receive information without delays to avoid exploitation by unscrupulous persons.	The Bureau has implemented an SMS system which is being used by applicants to check on the status of the ID production.
3.	Delays in surrendering and banking revenue. Misappropriation of revenue through issuance of IOU and failure to surrender all the receipts timely.	All monies collected by the District Registrars should be banked intact and pay in slips surrendered to the District Accountants for receipting. Enhancing supervision to ensure compliance with the government revenue collection and surrender procedures.	Adoption of direct banking of money collected to the Ministry's account using electronic funds transfer (EFT) adopted by the Ministry. Enhanced supervision to ensure that funds and receipts are surrendered timely.
4.	Supporting travel claims with forged and altered receipts.	Ensuring that all officers who visit the Head Office for official duty sign a register and are issued with a letter indicating details of their visit. The letter should be used to complement other imprest surrender documents.	All trips to Head Office are supported by approvals from the provincial Coordinators and staff report to the newly created department on field services.



No.	Finding	Recommendation	Action taken
5.	Procurement of most of office requirements at the head office including stationery and Registration forms 101 and 136A. This creates opportunity for frequent travel to the head office to collect items, some of which are readily available in most parts of the Country. The Bureau therefore incurs a lot of expenditure in terms of traveling allowances and fuel which far outweigh the value of materials collected. This practice has led to situations where field officers apply for imprest under the pretext of traveling to the Head Office.	Decentralization of procurement of common user items by allocating District Registrars funds through the normal Authority to Incur Expenditure (AIE) to purchase standard items which are available at the District level through the e District Tender Committees. The Head Office should continue to procure, store and distribute registration materials such as Identity Cards, registration forms and other materials like films, cameras, and finger print ink for security purposes. However, distribution of the above to the field offices should be done through regional deliveries either at the Province or through a cluster of Districts conveniently identified.	The Bureau decentralized the procurement of common user items during the 2010/2011 financial year and allocated budgets to the District offices for this item. In addition, procurement is being undertaken in liaison with the District procurement committees. Registration materials are being collected from the provincial coordinators and other designated areas nearer to the registration offices in the field.
6.	At the time of the Examination, those who lost ID cards were required to pay KShs 20 for abstracts at a police station. Some police stations could not provide receipts for payment of KShs 20. and were referred to District Treasuries. The delay inconveniences applicants and may create room for extortion.	The Permanent Secretary Ministry of State for Immigration and Registration of Persons should liaise with the Permanent Secretary Ministry of State for Provincial Administration and Internal Security and Commission of Police to facilitate availability of receipt books for abstracts in all police stations.	Commissioner of police directed that the police abstract are issued free of charge. This has reduced delay in issuance of IDs and the associated corruption opportunities.

5.2.3 Advisory Services on Corruption Prevention Strategies

KACC issued an advisory to all public institutions on good records management as a tool for fighting corruption. The following institutions have since sought to partner with KACC to improve their records management systems.

1. Kenya Maritime Authority
2. The Office of the Prime Minister, Ministry of State for planning, National Development and Vision 2030
3. Ministry of State for Immigration and Registration of Persons
4. Ministry of Medical Service
5. Ministry of Foreign Affairs
6. Public Service Commission of Kenya
7. Provincial Administration - Nyanza Province
8. Tana Water Services Board
9. Ministry of Environment and Minerals Resources



5.2.4 Partnerships and Coalitions

KACC engaged in a number of partnership and collaborative activities with various institutions in public and private sector with a view to preventing corruption as provided in Table 24. Implementation of the anti-corruption strategies within the Performance Contracting framework has enhanced integrity of systems, internal controls and risk management in most public institutions which has led to improved service delivery.

Table 24: Partnerships and Implementation Status

No.	Partner	Nature of Partnership	Implementation Status
1.	Office of the Prime Minister, Performance Contracting Department	Provision of advisory and technical support for corruption prevention. Monitoring implementation of anti-corruption strategies under the Performance Contracts.	<ol style="list-style-type: none"> 320 institutions advised on corruption prevention in line with the requirement under the Performance Contracts. Technical support provided to 37 institutions on corruption prevention strategies and 45 institutions on development of governance documents. Assessment of implementation of anti-corruption strategies undertaken in 38 institutions.
2.	Procurement and Oversight Authority (PPOA) and Kenya Private Sector Alliance (KEPSA)	Monitoring of public procurement processes.	<ol style="list-style-type: none"> A partnership for public procurement contract monitoring comprising KACC, PPOA and KEPSA was established. The partnership developed five action plans on creation of an interactive real time mechanism of exposing critical information on contract performance stages to contract stakeholders. This will enable stakeholders to review, support and advice on contracts and facilitate early detection of contract malpractices therefore leading to the prevention and reduction of malpractices in the execution of contracts.
3.	Ministry of Lands	Enhancing internal controls in records management systems as a corruption prevention strategy.	<ul style="list-style-type: none"> Introduction of inerasable green cards to address the aspect of fake. Introduction of an on line tracking systems in Deed plans Records Centre. Re-arrangement of green cards for ease of retrieval. Implementation of open-plan offices in Land Registration, Nairobi, and Central Records sections. Installation of CCTVs. Advisory offered in the following areas, development of a Records Management Policy; File tracking management systems at all levels and Information Technology System.



No.	Partner	Nature of Partnership	Implementation Status
4.	Kenya Private Sector Alliance (KEPSA)	Enhancement of good governance and ethical practices in the private sector.	MOU signed and a work plan developed for implementation.
5.	Association of Professional Societies in East Africa (APSEA)	Enhancement of professional ethics and integrity and development of governance instruments.	<ul style="list-style-type: none"> ▪ Developed Codes of Conduct and Ethics for 3 professional associations. ▪ Development of Codes for three professional associations on-going. ▪ Developed a monitoring and evaluation framework for the implementation of Codes of Conduct for professional associations. ▪ Advisory offered on enhancement of ethics and governance to professional associations. ▪ Provided advisories to 6 professional Associations on development of Codes of Conduct and ethics.
6.	Nairobi Central Business District Association (NCBDA)	Advocacy on ethical, anti-corruption and good governance in business practices.	MOU signed and work plan development on-going.
7.	Kenya Revenue Authority (KRA)	Integrity Testing Programme (ITP).	MOU signed for joint implementation of ITP at KRA.



Prof. PLO Lumumba signing an MOU with Eng. Patrick Obath of KEPSA



Prof. PLO Lumumba signing an MOU with KRA Commissioner General Mr. M. G. Waweru

5.3 PUBLIC EDUCATION, TRAINING AND AWARENESS CREATION

5.3.1 Public Service Integrity Programme

The Public Service Integrity Programme (PSIP) is designed to enhance the fight against corruption in the public service by involving public officers in corruption prevention initiatives and capacity development for programme implementation.

The key PSIP activities in the period under review include:

i). Training of Integrity Assurance Officers

KACC trained a total of 499 Integrity Assurance Officers (IAOs) from 150 public institutions on corruption prevention to equip them with requisite skills and knowledge to facilitate them to coordinate mainstreaming of anti-corruption strategies within their institutions. Table 25 provides a summary of the trainings conducted.

Table 25: Integrity Assurance Officers (IAOs) Trained

No.	Type of Public institution	No. of Institutions	Number of staff trained
1.	Ministries	13	25
2.	State Corporations	60	252
3.	Local Authorities	35	75
4.	Tertiary Institutions	42	147
Total		150	499

ii). Training of Corruption Prevention Committees

A total of 1,395 members of Corruption Prevention Committees (CPCs) from 146 public institutions were trained on mainstreaming corruption prevention strategies in the public sector as shown in Table 26.

Table 26: Corruption Prevention Committees Members Trained

No.	Type of Public Institution	No. of Institutions	No. of Members Trained
1.	Ministries	16	425
2.	State Corporations	68	724
3.	Local Authorities	24	111
4.	Tertiary Institutions	38	135
Total		146	1,395

These trainings have contributed to enhancement of skills and competencies of public officers in spearheading corruption prevention in their respective institutions. This has led to improved service delivery and better corporate governance.

5.3.2 Public Education and Awareness

Education, Training and Awareness programmes aim at improving governance, fostering integrity and enhancing the provision of public goods and services. The programmes are conducted through a number of activities that enlist and foster public support in the fight against corruption in Kenya. In the reporting year, KACC undertook public education awareness as follows:

a) Media Education

Mass media inform, educate and entertain various segments of society. The Commission used the following products and methods in disseminating good governance, anti-corruption,



ethics and integrity content tailored to meet the needs of members of the public:

- i) Radio spots, infomercials, filmlets and documentary – KACC produced and aired 25 radio spots, 15 TV infomercials, 5 filmlets, and one (1) documentary. These products focused on KACC, its programmes and achievements, challenges, arenas of corruption in various sectors, messages on integrity and community empowerment and methods of disrupting corruption. The products were aired on KTN, NTV, Citizen TV, K24, Family TV, Kiss TV, Classic TV, Factual Films and selected radio stations. As a result, the Commission was able to reach majority of Kenyans.
- ii) Presenter Mentions: KACC engaged the publicity services of Star FM, Sifa FM, Baraka FM, Milele FM, Sayari FM, KBC Western Station and Nosim FM stations through presenter mentions during the regional anti-corruption outreach clinics in 15 counties. In addition, KACC had live interviews and call-ins on Star FM, Sifa FM, Kass FM, Sayari TV, Sayari Radio, Koch FM and Pamoja FM stations during the Outreach Clinics in the counties. Through this channel, the Commission was able to engage citizens in a topical discussion on good governance and anti-corruption activities.

b) Community Based Anti-Corruption Monitors and Facilitators

The programme sought to empower communities to participate in the fight against corruption at the local level. KACC trained 112 representatives of civil society organizations as community based anti-corruption monitors and facilitators to equip them with skills and knowledge to detect, monitor and report corruption practices in their localities. In addition, the facilitators and monitors were trained on corruption prevention strategies. One of the key outputs of the training was the formation of a National Integrity Network to co-ordinate corruption prevention activities at the national and regional levels.

c) Regional Anti-Corruption Outreach Clinics

KACC conducted Regional Anti-Corruption Outreach Clinics in fifteen (15) counties namely; Kilifi, Mombasa, Kisii, Migori, Kisumu, Kakamega, Nairobi, Kiambu, Kajiado, Kitui, Machakos, Nyeri, Garissa, Uasin Gishu and Narok. The outreach clinics consisted of general sensitization and awareness creation, providing advisory services corruption reporting, and distribution of IEC materials through the use of a mobile office. Citizens submitted over 1,200 corruption related reports to KACC. The outreach enhanced public engagement in the fight against corruption.





His Excellency Hon. Stephen Kalonzo Musyoka, E.G.H, M.P. Vice President of the Republic of Kenya and Minister for Home Affairs officially launching the outreach programme at the Kenya Institute of Administration



Local Community listening to KACC officers during Outreach programme in Nyeri

d) Production and Dissemination of Information, Education and Communication Materials



Professor Jane Onsongo- Assistant Director – Preventive Services Directorate presenting backpacks to pupils of outstanding performance

As part of the strategy to intensify anti-corruption public education, KACC developed and disseminated various Information, Education and Communication (IEC) materials. The IEC materials were translated into Kiswahili to enhance wider readership and understanding among Kenyans. This information is presented in Tables 27 and 28. In addition, KACC produced and disseminated 50,000 wall and 6,500 desk calendars.

Table 27: Production of IEC Materials

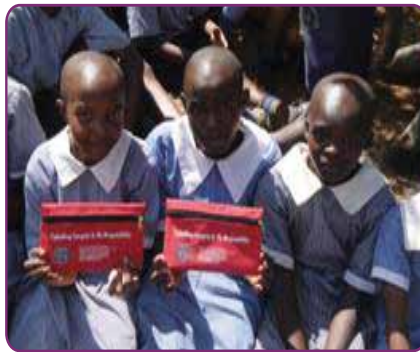
Item	Language	No. of Copies Printed
10 different types of posters	Kiswahili	80,000
6 books and booklets on anti-corruption laws and general information	Kiswahili	176,000
Anti-Corruption Bible Study Guide	English	40,000
6 books and booklets on anti-corruption laws and general information	English (Revised Editions)	122,000
Roll-up banners with anti-corruption messages	Kiswahili and English	18
TOTAL		418,018

Table 28: Dissemination of IEC Materials

Consumer	Quantity
Public Institutions	114,310
Churches/ Faith based institutions	7,400
General Public through Outreach Programmes	134,180
Individuals	1,600
Others e.g. Non-Governmental Organizations, Community Based Organizations	6,551
Total	264,041

e) Development of Curriculum and Educational Support Materials

KACC in collaboration with the Ministry of Education developed and disseminated various curriculum and education support material (booklets, bookmarks, brochures, Pouches and backpacks) for use in formal learning institutions. Titles of the booklets included; *Your Character Counts*, *Integrity Starts with Me*, *Values for Life*, *Rekindling the Spirit of Patriotism*, *Good Little Children*, *Young Voices*, *I love My Country - Kenya and the Integrity Torch*. The support materials are aimed at promoting good governance, anti-corruption, ethics and integrity programming in the institutions. They focus on positive character development and behaviour change among in- and out-of-school youth.



f) Development of a Leadership and Integrity Course

Through the Kenya Government's Permanent Secretaries/Accounting Officers/Chief Executives of State Corporations' Fora on Combating and Preventing Corruption in the Public Sector, KACC was tasked jointly with Kenya Institute of Administration (KIA), Kenya National Audit Office (KENAO) and National Security Intelligence Services (NSIS) to develop a Course Curriculum on Leadership and Integrity to be offered to senior public officers. The draft course curriculum is made up of 5 modules and 16 units as follows:

- i). Module 1: Leadership, Integrity and Governance in Kenya – 3 Units
- ii). Module 2: Corruption Prevention and Sustainable Development – 2 Units
- iii). Module 3: Legal, Policy and Institutional Framework in the Fight against Corruption – 3 Units
- iv). Module 4: Detection and Prevention of Corruption and Fraud – 4 Units
- v). Module 5: Financial Management and Fraud Prevention – 4 Units

The draft course curriculum is awaiting adoption by the Government for implementation.

g) Sensitization and Training Programmes on Anti-Corruption, Ethics and Integrity

KACC conducted various sensitization and training programmes to Public, Private, civil society and Faith-based organizations, learning institutions and professional bodies. These programmes were aimed at creating awareness about corruption and its effects while at the same time enlisting and fostering public support in the anti-corruption process. They also provided an opportunity for partnership in the fight against corruption in Kenya. The institutions covered are provided in Table 29.



KACC officers with Chuka University Student Leaders

Table 29: Integrity and Anti-Corruption Training

No.	Institution / Target Audience	Number of Persons Trained
1.	National Council of Churches of Kenya (Church Leaders, Programme Officers and Youth Leaders from Central, South and North Rift Valley regions)	80
2.	Law Society of Kenya (Legal Practitioners from the Mount Kenya and Rift Valley regions under the Continuing Legal Education Programme)	100
3.	Learning Institutions (Teachers and Students in South Nyanza, Coast Province, Central and Nairobi Province)	12,000
4.	Public Sector Institutions	1,983
5.	Private Sector Institutions	1,206
6.	Student and Youth Movements	13,297
7.	Civil Society and Faiths Sector Institutions	1,222
8.	Public and Private Universities (Student Leaders)	4,000
Total		33,888

h) Integrity Clubs in Learning Institutions

KACC partnered with the Ministry of Education in the launch and roll out of Adili/Integrity Clubs in schools country wide. These Clubs are aimed at inculcating integrity and ethical behaviour and re-engineering social values as envisaged in the Constitution of Kenya and Kenya Vision 2030. As a result, the Ministry of Education issued a Circular instructing all educational institutions to establish Adili Clubs. So far, over 100 primary and secondary schools have established Integrity Clubs. In addition, KACC trained 60 Integrity Clubs patrons drawn from 60 learning institutions to enable them run the Clubs effectively. KACC also trained student leaders drawn from Moi, Pwani, Kenyatta, Daystar, Kabarak, Maseno, Baraton, and Chuka Universities, among others.

i) The Kisumu Trade Fair

KACC participated in the Kisumu Trade Fair in July 2010. During the Show, KACC conducted anti-corruption civic education, created awareness on evils of corruption, offered advisory services and received 27 corruption reports. It is estimated that over 30,000 persons were reached and 29,298 IEC Materials disseminated.

5.4 RESEARCH INTO CORRUPTION AND GOVERNANCE ISSUES

Research undertaken by the Commission provides empirical evidence on causes and effects of corruption. It also assesses the outcomes and impacts of anti-corruption and governance related measures. The research work at the Commission is complimented by other research institutions, government agencies and non-state agencies such as Transparency International. The year under review saw marked improvement in governance in Kenya as indicated by the East African Bribery Index 2011. According to the survey, the Country was ranked as the 2nd least corrupt country compared to the third position in 2010.

The result of various intervention measures undertaken by the Commission in the war against corruption are highlighted as follows.

5.4.1 National Corruption Perception Survey 2010

The National Corruption Perception Survey (NCPS) provides data and information on corruption (forms, causes, rate, extent, magnitude etc) and assesses changes in the quality of service delivery in the public service and improvement in governance in general. The 2010 Survey established that:

- i). The number of households who think that the rate of corruption is very high in Kenya declined from 66.7 percent in 2008 to 49.9 percent in 2010. This implies a reduced level of corruption in the country in 2010 when compared to 2008 as perceived by households.
- ii). Giving and taking of bribes continued to be cited as the leading form of corruption (90.0%) in the country followed by favoritism (21.9%), abuse of office (18.5%), extortion (15.2%), misuse and misappropriation of public resources such as CDF, LATF etc (11.2%) and fraud (8.3%).
- iii). The leading causes of corruption in Kenya were cited as Greed/Selfishness (59.7%), Poverty (35.4%), Poor Terms and Conditions of Work (14.8%), Unemployment (13.8%), Delay in Service Delivery (11.3%), Ignorance/Illiteracy (8.2%), Cultural Reasons (5.8%), Patronage (4.2%) and High Cost of Living (3.1%) as shown in Figure 7.



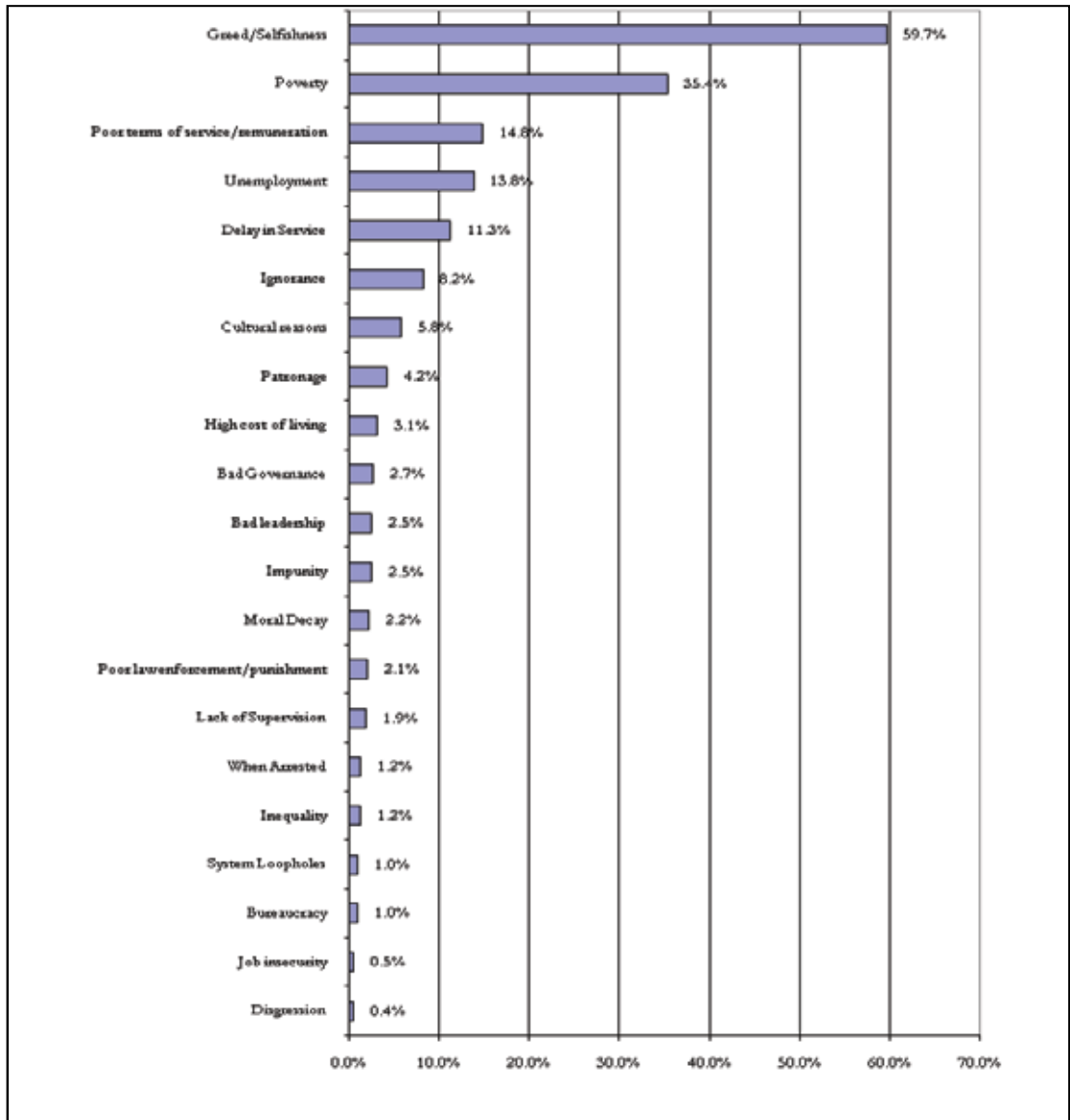


Figure 7: Perceived Causes of Corruption in Kenya (%)

- iv). Among the households who sought services from public offices, 42.8 percent of them were asked to pay a bribe in 2010 compared to 30.5 % in 2008. Trends on bribery payments are shown in Figure 8. The average bribe showed a marked increment for those who paid to be served in the public offices visited from 3,665 in 2008 to KShs 6,206 in 2010.



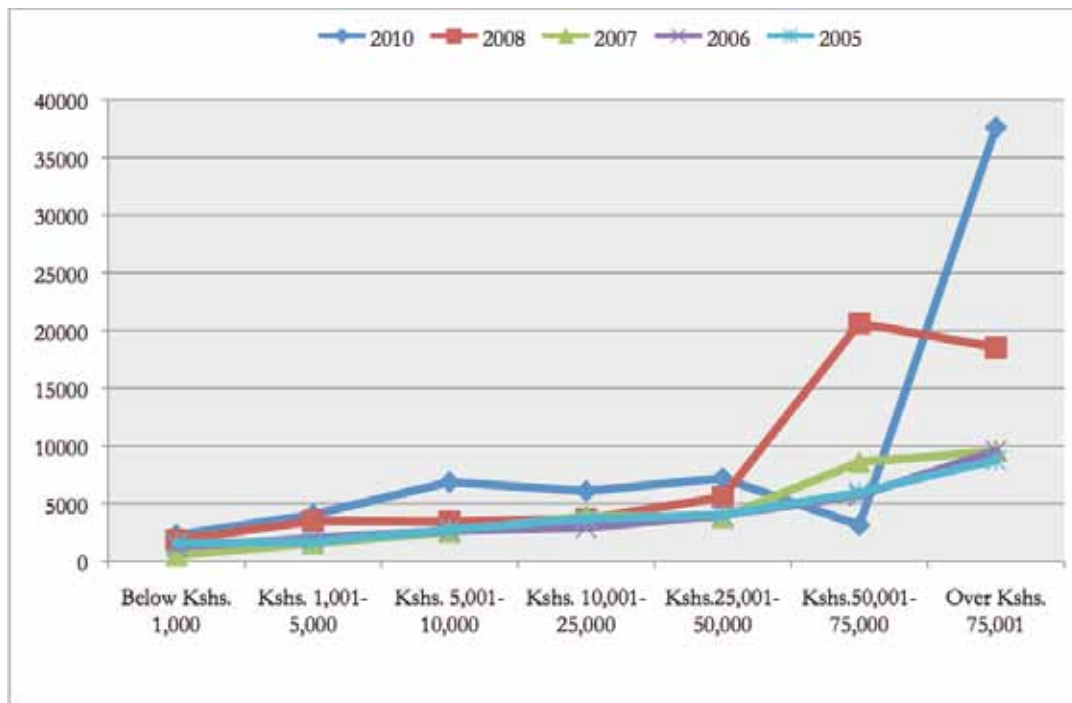


Figure 8: Size of Bribe by Household Income (KShs)

- v). The most corrupt government ministries as perceived by households are the Ministry of State for Provincial Administration and Internal Security (71%), the Ministry of Medical Services (27.9%), Ministry of Lands (14.2%), Ministry of Education (13.5%), Ministry of Local Government (11.4%) and Ministry of Immigration and Registration of Persons (11.4%) as shown in Figure 9.



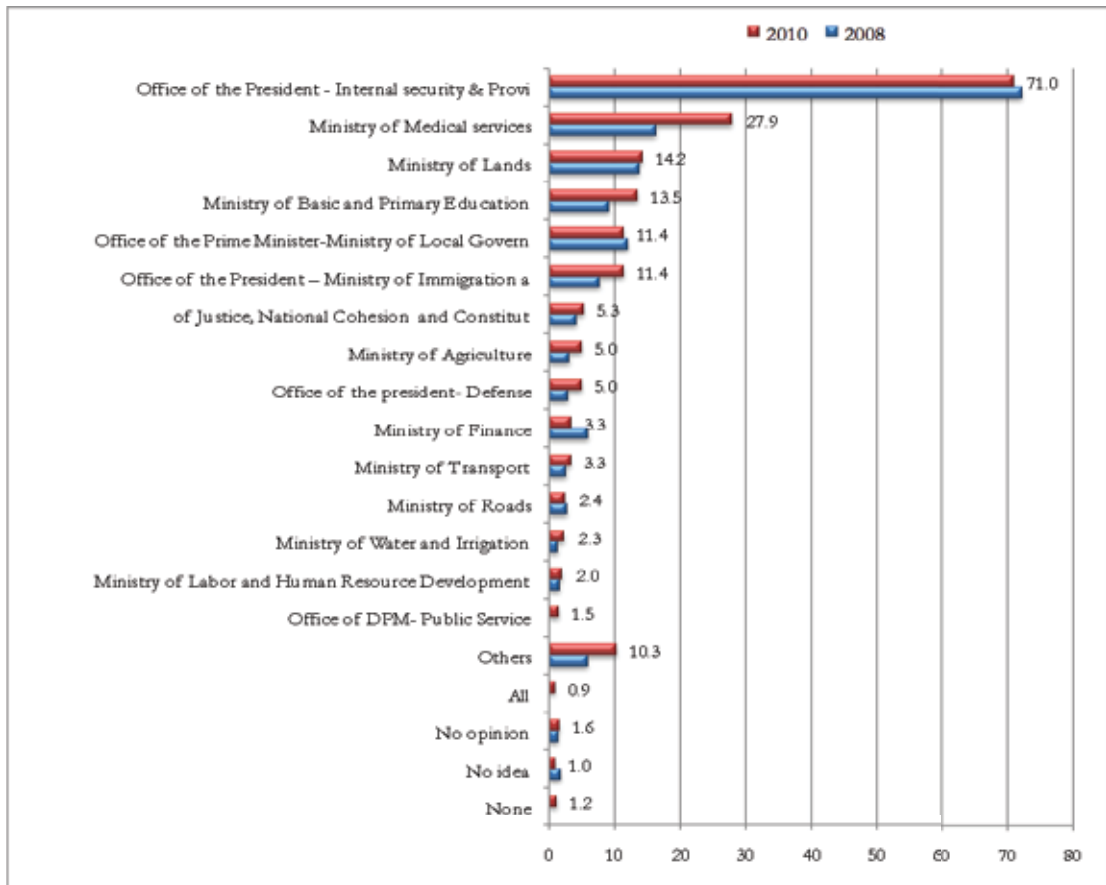


Figure 9: Perceived Level of Corruption in Government Ministries (%)

- vi). The most corrupt officials as perceived by households were Civic Leaders (37.5%), Members of Parliament (37.2%), Ministers/Assistants Ministers (32.4%) and Senior Government Officials/Heads of Departments (32.3%). Conversely, 39.8 and 20 percent of households perceived Leaders of Religious Organizations and Leaders of NGOs, respectively to be least corrupt.
- vii). In terms of effectiveness of Government efforts to fight corruption, 63.2 percent of the respondents think that the Government is currently handling the fight against corruption well, while 29 percent think that the Government is not doing well.
- viii). Households ranked the Media (37.7%), Religious Organizations (24%) and KACC (23.4%) as very effective in the fight against corruption. On the contrary, institutions that were ranked as not effective in the fight against corruption were the Kenya Police (40.9%), Administration Police (35%), Office of the Attorney General (25.2%) and the Courts (24.7%).
- ix). Over half of the households (53.65%) do not know where to report corruption as opposed to 46 percent who know.

5.4.2 Diagnostic Study on Corruption in the Municipal Council of Mombasa

The Study sought to establish nature, forms, magnitude and impacts of corruption at the Council. It also evaluated the effectiveness of various anti-corruption reforms implemented at the Council. The Study involved interviewing customers and staff of the Council. It revealed that:

- i). Corruption is a common phenomenon (62.1%) at the Municipal Council of Mombasa (MCM).
- ii). The leading causes of corruption at the Council are; Poor Remuneration of Staff (23.2%), Poor Supervision of Staff (20.5%), and Greed (20.5%). Other causes cited included lack of clear policies to guide Council operations and intense interference from Councillors.
- iii). Bribery is the most common form of corruption at the Council (33.6%). Other forms of corruption cited included Nepotism, Abuse of Office and Implementation of Unplanned Projects. . The average amount of bribe paid to Council Officers was KShs 9,279. According to the Study, 39.7 percent of Clients who paid a bribe indicated that they paid because it was demanded by Council Officers to render services, whereas 41.3 percent of Clients said they usually pay bribes to obtain services. Further, 7.9 percent of Clients paid due to long delays in accessing services.
- iv). The most corruption prone departments at the Council included the Inspectorate Department (49.2%) followed by the Town Treasurer's Department (22.3%).
- v). The council officers interviewed indicated that the adverse impacts of corruption at the Council included poor service delivery, loss of revenue, high costs of operations, recruitment and deployment of incompetent personnel to key positions leading to ineffectiveness.
- vi). Departments that render poorest services are the Town Engineer's Department (47.1%), and the Inspectorate Department (25.0%).
- vii). The reform efforts that were bearing fruit in the fight against corruption at the Council included centralization of revenue collection points which led to reduced revenue leakages; development and implementation of Anti-corruption policy; and mainstreaming of departmental customer service charters throughout the Council.

The key recommendations arising from the study include:

- i). There is need for a comprehensive review of Council bylaws to address the obsolete bylaws and to make them consistent with other laws governing local authorities. Further, the Council by-laws and operating procedures should be widely disseminated within the Council and among service seekers and the public in general since they are crucial to combating corruption.
- ii). The Commission should enhance its engagement with the Council in ensuring implementation of corruption prevention measures and where corrupt activity is identified appropriate measures taken to deal with culprits
- iii). Measures should be taken in a targeted and in-depth manner to undertake systems and operations audit of the Inspectorate and the Town Treasurer's Departments,



which were found to be most prone to corruption. This should include identification and sanctioning of perpetrators of corruption.

- iv). There is need to enhance publicity of anti-corruption strategies and reforms measures being implemented at the Council so as to generate necessary interest, commitment and ownership among staff and stakeholders towards enhancing performance and service delivery. This will enhance support and sustainability of the reform measures, especially those already bearing fruit
- v). The Council ought to embrace a policy of decentralization in service delivery so as to enhance reach to services and meet public expectations. In addition, guidelines and service delivery benchmarks should be developed and made public for use by the service seekers. Access points for various services should be made public.
- vi). Service delivery improvements should mainly target the Town Engineer's and the Inspectorate Departments which were found to provide poorest services at the Council.
- vii). The council should adopt open, transparent and accountable systems of human resource management and development, particularly relating to recruitment, promotion and disciplinary matters. In addition, the Council should recruit and deploy competent and qualified personnel in all functional and operational areas. Further, a policy of periodic transfers of Officers to curb corrupt conduct to should be adopted.

5.4.3 On-going Research Activities

- i). Sectoral Perspectives on Corruption in Kenya: The Case of Service Delivery in the Lands Sector;
- ii). Development of the Monitoring and Evaluation Framework for the Commission to guide the process of monitoring and evaluating the Commission's programmes and activities so as to continuously determine progress made (outputs, outcomes and impact) and to draw lessons for organizational learning and improvement;
- iii). Evaluation of the Integrity Assurance Officers Programme; and
- iv). Evaluation of National Penetration of IEC Materials.

5.4.4 Implementation of the National Anti-Corruption Plan (NACP)

KACC undertook corruption prevention activities, conducted public education and awareness, enhanced its institutional capacity and made proposals towards strengthening the legal framework in the fight against corruption as outlined in the National Anti-Corruption Plan. It also continued to support the operations of the Kenya Integrity Forum Secretariat, planning and review meetings.

KACC sponsored the 5th Annual Integrity Review Conference which was held at the Kenya Institute of Administration on 7th and 8th December 2010. In addition, KACC supported an external assessment of the sectors' performance in the implementation of NACP. The assessment revealed that 72 percent of the planned activities had been implemented in the last 5 years. The performance of sectors in the implementation of the Plan is presented in Figure 10 using a scale of 0 to 4 where 0 represents minimum and 4 maximum performance.



As shown in the Figure, KACC recorded an impressive performance on the implementation of the Plan.

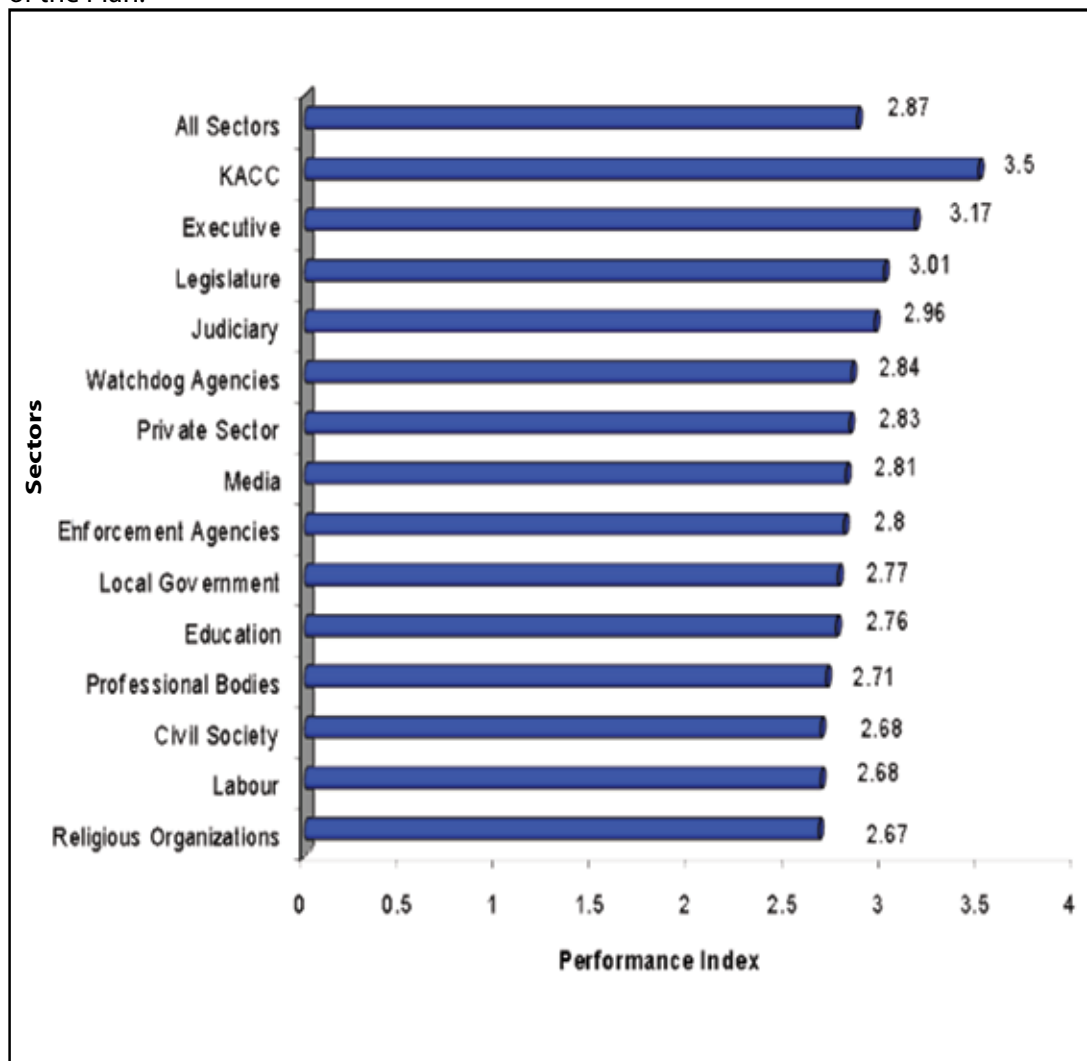


Figure 10: Sectors' Performance in the Implementation of NACP



6. INSTITUTIONAL CAPACITY BUILDING

6.1 INTRODUCTION

This section outlines progress made in the mobilization and utilization of resources, human resource management, office accommodation and corporate communication.

6.2 MOBILIZATION AND UTILIZATION OF FINANCIAL RESOURCES

KACC was allocated KShs 1.421 billion in its Recurrent Vote and KShs 150million in the Development Vote as reflected in the Printed Estimates for the Financial Year 2010/11. The Recurrent Vote received additional funding in the Supplementary Estimates bringing the Revised Recurrent Estimates to KShs 1.490 billion. The additional funds were earmarked for recruitment of additional staff and support for regional expansion. The Development Vote allocation was however revised downwards to KShs 100million due to interruption of procurement of construction works for KACC headquarter project arising from an appeal lodged by the Karen Langata Development Association (KLDA) challenging the NEMA approval of the project.

In addition KACC received support from African Development Bank (ADB) under the Kenya Institutional Support for Good Governance (KISGG) project. This project supported anti-corruption outreach awareness campaigns, Community-based Corruption Monitors training and staff training. The project ended in December 2010.

To enhance efficiency and prudence in the utilization of the available budget resources, KACC maintained proper Books of Accounts, enforced appropriate financial controls and ensured timely reporting on the budget execution. It also complied with the Public Procurement and Disposal Act 2005 and Regulations 2006, in procuring goods and services.

6.3 HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

KACC continued to enhance its human resource capacity through retention, recruitment, training and staff development.

6.3.1 Staff Compliment

The staff establishment was reviewed from 273 in the previous year to 366. The process of recruiting additional staff is ongoing.

6.3.2 Skills and Competency Development

Various trainings were undertaken through GOK funding covering governance, corruption prevention and investigation, asset recovery and continuous professional development in various areas. Some of these trainings were carried out through in-house programmes where large groups of officers were trained. The courses undertaken and participants are as shown in Table 30.



Table 30: Summary of Staff Training

NO.	Broad areas of Training	No. of officers trained
1.	Anti Money Laundering	1
2.	Asset Recovery	4
3.	Compliance	7
4.	Contracts	1
5.	Corporate Culture Change	1
6.	Corruption Prevention	1
7.	Continuous Professional Development (CPD)	85
8.	Driving	1
9.	Public Sector Corruption	21
10.	Financial Investigations	3
11.	Gender Mainstreaming	1
12.	Anti-Corruption and Good Governance	7
13.	Information, Communication Technology	5
14.	Intelligence	21
15.	Management & Leadership	8
16.	Monitoring & Evaluation	15
17.	Procurement	53
18.	Project Planning	1
19.	Research and Surveys	1
20.	Study Visit to Hong Kong	1
21.	Valuation of Properties	2
Total		240

Other training programmes were funded by the African Development Bank under the KISGG project as shown in Table 31.

Table 31: Training under African Development Bank

No.	Broad areas of Training	No. of officers trained
1.	Forensic Investigations & Asset Tracing	68
2.	On the Job Training	10
3.	Exchange Visits	26
4.	Study Tours	29
5.	Policy & Operational Reviews Techniques	150
Total		283

The Exchange visits and Study tours were made to anti-corruption agencies in the following countries:

- i). China - the National Bureau of Corruption Prevention
- ii). United Kingdom - The Metropolitan Police
- iii). Ghana – Commission of Human Rights and Administrative Justice (CHRAJ).
- iv). Australia - Independent Commission Against Corruption (ICAC) – New South Wales
- v). Nigeria - Independent Commission for Prevention of Corruption & Related Practices (ICPC)



- vi). Tanzania - Prevention and Combating of Corruption Bureau (PCCB)
- vii). Botswana - Directorate on Corruption and Economic Crime (DCEC)
- viii). Uganda - Inspectorate of Government (IG)

These visits enabled KACC to forge networks, benchmark and share best practices in the fight against corruption.

6.4 OFFICE ACCOMMODATION

6.4.1 Proposed KACC Headquarters Building

The Environmental Impact Assessment (EIA) Study report for the KACC headquarters project was approved by National Environmental Management Authority (NEMA) and an EIA license issued. Thereafter, the tender for construction works was advertised, opened and evaluated. However, the award of tender could not be made due to the appeal by the Karen Langata Development Association (KLDA) vide NEMA Tribunal Appeal No. 65/2011 challenging the approval.

6.4.2 Regional Offices

To enhance access to KACC services, additional regional offices were opened in Kisumu, Nyeri, Garissa and Eldoret in addition to the Mombasa Office.

6.5 CORPORATE COMMUNICATION

6.5.1 Media Relations

KACC worked closely with the local and international media to inform and update the public on the progress made in the fight against corruption. The media also played a key role in educating and enlisting public support in the fight against corruption. The media engagements were mainly through briefs and meetings with media owners, Chief Executives of Media houses, editors and investigative reporters.



Newspaper articles on KACC activities



Prof. PLO Lumumba in an interview on NTV



6.5.2 Website

KACC used its website to provide information on its activities and programmes as well as a platform for anonymous online corruption reporting. The average monthly visits to the website increased from 11,000 in the previous year to 11,823. The majority of people who visited the website were from the United States (44%) and Kenya (35%).

6.5.3 Public Relations Society of Kenya Award

KACC was awarded the Public Sector Campaign of the Year Award during the Annual Awards for Excellence Competition by the Public Relations Society of Kenya (PRSK).



Principal Public Relations Officer of KACC Mr. N. Simani SS receives the winning award on Public Sector Campaign from S. Karanja, member PRSK Committee (left) and with L. Gitaru, CEO, Apex Communication looking on

7. NATIONAL AND INTERNATIONAL ENGAGEMENTS

7.1 NATIONAL ENGAGEMENTS

7.1.1 Annual Integrity Review Conference (AIRC)

KACC hosted the 5th Annual Integrity Review Conference, which was held on 7th and 8th December 2010 at the Kenya Institute of Administration and attended by over 300 delegates. All the 14 sectors presented their progress reports in the implementation of the National Anti-Corruption Plan. The resolutions passed covered:

- Transparency and consultations in the implementation of the New Constitution
- Establishment of Inter-Faith Commission of Kenya
- Addressing wrangles in the Non-Governmental Organizations
- The plight of Kenyans in the Diaspora
- Development of a National Ethics and Anti-Corruption Policy
- Control of Electoral Expenditure
- Financing of the Judiciary
- Ethics and Integrity in all levels of Education



The Vice President of the Republic of Kenya, Hon. Stephen Kalonzo Musyoka, E.G.H, M.P.; Prof. PLO. Lumumba, PhD Director/Chief Executive, KACC and Hon. Mutula Kilonzo, EGH Minister for Justice, National Cohesion & Constitutional Affairs proceeding to the Plenary Hall during the 5th Annual Integrity Review Conference

7.1.2 National Values System (NVS) for Kenya

KACC was represented in the Task Force on the Policy, Legislative and Institutional Framework for National Values System for Kenya. The Task Force is charged with the responsibility of developing a policy of national values as envisaged under Article 10(c) of the Constitution of Kenya 2010.



7.2 INTERNATIONAL ENGAGEMENTS

7.2.1 International Anti-Corruption Day

The International Anti-Corruption Day was commemorated on 9th December 2010 at Tononoka grounds, Mombasa, under the theme 'Corruption: Your No Counts.' The purpose of the event was to take stock of gains achieved and for stakeholders to re-affirm their commitment in the fight against corruption. During the event, the Kenya: UN Convention against Corruption Gap Analysis Report and Implementation Plan was officially launched by the Minister for Lands, Hon. James Orengo, EGH, MP. The Report highlights the extent to which Kenya had complied with the United Nations Convention against Corruption. KACC conducted anti-corruption awareness campaigns and received corruption reports during the commemoration.



Minister for Lands, Hon. James Orengo, EGH, MP launching the UNCAC Gap Analysis Report in the presence of Hon. Amos Wako, Hon. Musikari Kombo, Mr. Okong'o Omogeni and Prof. PLO. Lumumba, among others at Tononoka Grounds, Mombasa

7.2.2 South-South Anti-Corruption Conference

The South-South Anti-Corruption Conference was held in Mombasa from 3rd to 7th May 2011, bringing together anti-corruption actors from 16 developing countries. The forum brought together respective anti-corruption agencies across the Southern hemisphere to promote the implementation of UNCAC; share best practices and experiences in combating corruption; encourage development of common approaches to legislative drafting and development of anti-corruption jurisprudence. The overall goal was to develop and adopt effective approaches to fighting corruption in the Southern hemisphere.



Delegates to the South – South Conference

7.2.3 Conference of African Ministers for Public Service

KACC participated in the 7th Conference of African Ministers of Public Service (CAMPS) initiatives at KICC, Nairobi in May 2011 and presented a paper on how to develop leaders for the African public service through learning and training institutions. The paper forms part of the CAMPS Guide on Leadership and Management Development in Public Service.

7.2.4 African Public Service Day

The African Public Service Day (APSD) was held at Mnazi Moja Grounds, Dar es Salaam, Tanzania in June, 2011. This is an event in the African Union calendar, which is held biennially. The celebrations provide a forum for Public Service Ministries and stakeholders to share best practices in Public Service management and service delivery. KACC exhibited in the Kenyan Stand, which won the 1st Prize in the Best Pavilion Category for the high standards of display of service delivery.

7.2.5 The East African Association of Anti-Corruption Authorities

KACC hosted the 4th Annual General Meeting of the East African Association of Anti-Corruption Authorities (EAAACA) in November 2010 whose theme was *'To Promote Zero Tolerance to Corruption in the East African Region.'* It was officially opened by H.E. the Vice President Hon. Kalonzo Musyoka, and attended by all Heads of anti-corruption agencies from the East African Community. The official EAAACA logo was unveiled alongside the

Manual titled “Regulations on Investigations and Prevention of Corruption” which was jointly prepared by the five EAC countries. The Southern Sudan’s Anti-Corruption Commission, Zambia’s Anti-Corruption Commission and Nigeria’s Economic and Financial Crimes Commission attended as observers.



Minister for National Heritage and Culture Hon. William Ole Ntimama unveiling the EAAACA logo

7.2.6 African Association of Anti-Corruption Authorities

KACC participated in the African Association of Anti-Corruption Authorities Conference in Burundi, in June 2011. The Conference was attended by thirty one (31) anti-corruption agencies across the continent, which resolved to start an African Association of Anti-Corruption Authorities to make the African Union Convention on Preventing and Combating Corruption more effective and strengthen cooperation among anti-corruption authorities in the fight against corruption in the continent. The next conference will be held in Nigeria in November 2011 to formally launch the Association.

7.3 COURTESY CALLS

KACC received guests from various local and international organizations including development partners and other stakeholders. KACC also hosted a meeting in June 2011 with all Ambassadors of African countries with Missions in Nairobi. During these engagements, KACC explored ways and means of cooperation in the fight against corruption. The Commission also made various courtesy calls to stakeholders.



US Deputy Secretary of State Mr. James Steinberg addresses the Press with US Assistant Secretary Johnny Carson, Eric O'mogeni and Prof. PLO Lumumba look on



Advisory Board and Management paid a courtesy call to the Provincial Commissioner, Coast Province

7.4 CORPORATE SOCIAL RESPONSIBILITY

7.4.1 The Mater Heart Run

As part of its corporate social responsibility, KACC contributed KShs 500,000 towards the heart operation for Princess Wamuyu during the 10 km Mater Heart Run to raise funds for heart operations for children from underprivileged backgrounds.



Princess Wamuyu (held by her mother Teresia) holds the KACC sponsorship cheque Dr. John Muriithi CEO Mater Hospital (left), Prof. PLO Lumumba (second right) and Susan Gachathi of Mater Hospital look on

7.4.2 Sporting Activities

In recognition of the power of sports to enhance bonding, the Integrity Stars, KACC's football team, participated in the International Commission of Jurists Uwazi Football Tournament. Other teams were drawn from law firms, judiciary, media and human rights bodies.



KACC players in yellow uniform in action at the annual Uwazi football tournament

8. CHALLENGES AND WAY FORWARD

8.1 CHALLENGES

The achievements made during the reporting year were not without challenges. The major challenges encountered are highlighted below.

8.1.1 Policy and Legal Framework

Kenya still lacks a national anti-corruption policy to guide the fight against corruption which has led to uncoordinated efforts in the fight against corruption. This, coupled with a weak legal framework in investigation and asset recovery, affected KACC's capacity to deliver on its mandate.

8.1.2 Slow Judicial Process and Adverse Court Decisions

The slow judicial process remained one of the major challenges to expeditious disposal of cases in Court. This is characterized by frequent transfer of presiding judges and magistrates and case backlogs in court. The slow judicial process was further exacerbated by the revocation of irregularly acquired titles to public land by the Registrar of Titles which affected recovery suits and led to numerous Constitutional Reference and Judicial Review Applications. Furthermore, some Courts issued adverse judicial decisions which stopped investigations or prosecution of cases.

8.1.3 Enforcement of Corruption Prevention Recommendations

Lack of a statutory enforcement mechanism continued to undermine the implementation of KACC's corruption prevention recommendations to public institutions.

8.1.4 Inadequate Capacity

KACC continued to face the challenge of human resource capacity to enable it expand its services countrywide. In the devolved system of governance, there will be need for the Commission to have countrywide presence and bring services closer to the people.

8.2 WAY FORWARD

The Ethics and Anti-Corruption Commission, being the successor of KACC, ought to use the lessons learnt by KACC in enhancing the fight against corruption and promoting sound ethical standards and practices in the public sector. It is anticipated that the EACC will align its Strategic Plan to the EACC Act and the Constitution.

The new constitutional dispensation offers various legislative and institutional reform measures to enhance investigative, prosecutorial and judicial processes which will address some of the above challenges. It is expected that EACC will be properly resourced to effectively implement its mandate including providing access of its services to all parts of the Republic in accordance with the Constitution.



9. FINANCIAL STATEMENT

9.1 CORPORATE INFORMATION FOR THE YEAR ENDED 30TH JUNE 2011

The members of the Advisory Board who served during the year and to the date of this report are shown below:-

Mr. Eric Okong'o Omogeni	Chairman from 23rd June 2009
Ms. Irene Keino	Vice-Chairman from 23rd June 2009
Mr. Charles Kariuki Wambugu	Member from 8th September 2004
Ms Naomi N. Wagereka	Member from 27th April 2007
Mr. John Khameme Wanyela	Member from 27th May 2009
Mrs. Jacqueline A. Mugo	Member from 27th May 2009
Eng. Reuben K. Kosgei	Member from 27th May 2009
Dr. Abdallah A. Kibwana	Member from 27 May 2009
Mr. Suru Tanna (Deceased)	Member from 27th May 2009
Mrs. Grace Kaome Injene	Member from 27th May 2009
Mr. Francis Wangara	Member from 27th May 2009
Mr. Billow Adan Kerrow	Member from 23rd June 2009

List of Senior Management

Prof. P.L.O. Lumumba, Ph.D
Dr. John Permenas Mutonyi
Mr. Wilson K.C. Shollei
Mr. Pravin Kumar Bowry
Prof. Jane Kerubo Onsongo

Secretary

Prof. P.L.O. Lumumba, Ph.D
P.O. Box 61130-00200
Nairobi

Principal Place of Business

Integrity Centre
Vally Road/Milimani Junction
P.O. Box 61130-00200
Nairobi, Kenya

Auditors

Auditor General
Kenya National Audit Office
P.O. Box 30084-00100
Nairobi

Principal Bankers

Kenya Commercial Bank
Milimani Branch
P.O. Box 69695-00400
Nairobi

Advocates

Various
A list is available at the Commission



9.2 REPORT OF THE DIRECTOR For the year ended 30th June 2011

The Director presents the report together with the audited financial statements for the year ended 30 June 2011.

Activities

The principal activities of the Commission are to investigate corruption and economic crimes, recover lost public property and obtain compensation for damaged public property, prevent corruption and conduct public education on the dangers of corruption.

Results

The results for the year are set out on page 65.


Members of the Advisory Board

The members of the KACC Advisory Board who served during the year are listed on page 60.

Auditor

The auditor of the Commission for the year ended was the Auditor General in line with the Public Audit Act, 2003 and Anti-Corruption and Economic Crimes Act, 2003. The auditor for the Commission continues to be the Controller and Auditor General.

On behalf of the Commission



Prof. P.L.O. Lumumba, Ph.D
Director/Chief Executive

August 2011



9.3 STATEMENT OF THE COMMISSION'S RESPONSIBILITIES

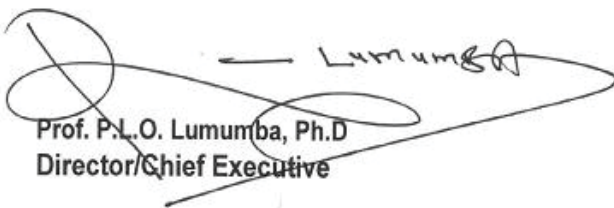
The Anti-Corruption and Economics Crimes Act, 2003 requires the Commission to cause to be prepared financial statements for each financial year which give a true and fair view of the financial affairs of the Commission as at the end of the financial year and of the operating results for the year.

The Commission is also responsible for keeping proper accounting records which disclose with reasonable accuracy the financial position of the Commission in addition to ensuring that the assets are safeguarded.

The Commission accepts responsibility for the annual report together with the financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgments and estimates, in conformity with the International Financial Reporting Standards and with the requirements of the Public Audit Act, 2003. The Commission is of the opinion that the annual report together with the financial statements give a true and fair view of the state of the financial affairs of the Commission and of its operating results. The Commission further accepts responsibility for the maintenance of accounting records which may be relied upon in the preparation of financial statements, as well as adequate systems of internal financial control.

Nothing has come to the attention of the Commission to indicate that the Commission will not remain a going concern for at least twelve months from the date of this statement.

Signed on behalf of the Commission by:


Prof. P.L.O. Lumumba, Ph.D
Director/Chief Executive

August 2011




9.4 REPORT OF THE AUDITOR GENERAL

REPUBLIC OF KENYA

Telephone: +254-20-342330
 Fax: +254-20-311482
 E-Mail: cag@kenao.go.ke
 Website: www.kenao.go.ke

P.O. Box 30084-00100
 NAIROBI



KENYA NATIONAL AUDIT OFFICE

REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF KENYA ANTI-CORRUPTION COMMISSION FOR THE YEAR ENDED 30 JUNE 2011

I have audited the accompanying financial statements of Kenya Anti-Corruption Commission as set out at pages 6 to 17 which comprise the Statement of Financial Position as at 30 June 2011, the Statement of Comprehensive Income, the Statement of Changes in Equity and the Statement of Cash Flows for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Section 14 of the Public Audit Act, 2003. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

Management's Responsibility for the Financial Statements

The Management is responsible for the preparation and fair presentation of the financial statements in accordance with the International Financial Reporting Standards and for such internal controls as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Responsibility of the Auditor-General

My responsibility is to express an independent opinion on the financial statements based on the audit. The audit was conducted in accordance with the International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed with a view to obtaining reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessments of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the

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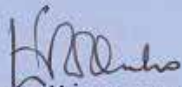


circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Management, as well as evaluating the overall presentation of the financial statements.

I believe the audit evidence obtained is sufficient and appropriate to provide a basis for my opinion.

Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Commission as at 30 June 2011, and its financial performance and its cash flows for the year then ended in accordance with the International Financial Reporting Standards and comply with the Anti-Corruption and Economic Crimes Act, 2003.



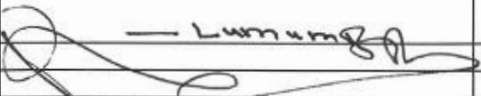
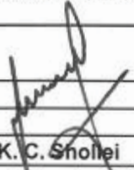
Edward R.O. Ouko
AUDITOR-GENERAL

Nairobi

26 October 2011

9.5 STATEMENT OF FINANCIAL POSITION

As at 30th June 2011

		2011	2010
ASSETS	Note	Kshs	Kshs
Non-Current Assets			
Property, Plant and Equipment	2	290,319,140	235,500,935
Intangible Assets	3	20,596,831	26,290,649
Gratuity Fund Account	4	164,068,629	161,755,762
Asset Recovery Account	5	75,390,687	19,101,119
		550,375,287	442,648,465
Current Assets			
Inventories	6	15,420,875	15,882,358
Trade and Other Receivables	7	8,122,162	5,075,467
Cash and Cash Equivalents	8	170,370,317	210,918,788
		193,913,353	231,876,613
Total Assets		744,288,641	674,525,078
EQUITY AND LIABILITIES			
Accumulated Fund	14	192,330,372	192,330,372
Revenue Reserves	15	309,924,779	300,266,688
		502,255,152	492,597,060
Non Current Liabilities			
Gratuity Fund Account	4	164,068,629	161,755,762
Asset Recovery Account	5	75,390,687	19,101,119
		239,459,316	180,856,881
Current Liabilities			
Trade and Other Payables	9	1,874,173	371,137
Accrued Liabilities and Charges	10	700,000	700,000
		2,574,173	1,071,137
Total Equity and Liabilities		744,288,641	674,525,078
The financial statements on pages 6 to 16 were approved on ^{26th} August 2011 and signed on behalf of the Commission by:			
			
Prof. P.L.O. Lumumba, PhD Director/ Chief Executive		Wilson K. C. Sholei Assistant Director: Finance & Administration	



9.6 STATEMENT OF COMPREHENSIVE INCOME

For the year ended 30th June 2011

		2011	2010
REVENUE	Note	Kshs	Kshs
Government Grants (GoK)	11	1,370,000,000	1,248,071,000
Development Partners/ Donor Support	12	191,430,363	70,942,979
Other Income	13	913,005	766,010
Total Revenue		1,562,343,368	1,319,779,989
EXPENDITURE			
Administration Expenses	18	947,110,854	882,580,253
Operating and Maintenance	23	501,834,984	328,141,691
Total Expenditure		1,448,945,838	1,210,721,944
Operation Surplus for the Year		113,397,530	109,058,045
Profit/(Loss) on disposal of assets		-	2,512,504
Surplus for the Year		113,397,530	111,570,549



9.7 CASH FLOW STATEMENT**Cash Flow Statement for the year ended 30th June 2011**

	2011	2010
	Kshs	Kshs
From Operating Activities		
Surplus from operations	113,397,530	111,570,549
Add back non cash payment (Depreciation)	49,995,783	31,356,480
Add back non cash payment (Amortization)	10,296,871	13,145,305
Profit/(Loss) on disposal of property, plant and equipment	-	(2,512,504)
Operating Surplus before working capital changes	173,690,184	153,559,830
(Increase)/Decrease in inventories	461,484	(4,419,543)
(Increase)/Decrease in trade and other receivables	(3,046,695)	822,853
Increase/(Decrease) in trade and other payables	1,503,036	480,917
Net cash utilized from operating activities	172,608,010	150,444,057
From Investing Activities		
Purchase of property, plant and equipment	(109,417,041)	(89,700,042)
Proceeds from disposal of property, plant and equipment	-	4,024,326
Net cash utilized in investing activities	(109,417,041)	(85,675,716)
From Financing Activities		
Refund of Surplus to the Treasury	(103,739,439)	-
Net cash used in financing activities	(103,739,439)	-
Net increase in cash and cash equivalents	(40,548,470)	64,768,341
Bank and cash equivalents at beginning of the year	210,918,789	146,150,448
Bank and cash equivalent at end of the year	170,370,319	210,918,789



9.8 STATEMENT OF CHANGES IN EQUITY**Statement of Changes in Equity For the year ended 30th June 2011**

Particulars	Accumulated Fund Kshs	Revenue Reserves Kshs	TOTAL Kshs
As at 1 July 2009	192,330,372	188,696,139	381,026,511
Surplus for the Year	-	111,570,549	111,570,549
Balance as at 30 June 2010	192,330,372	300,266,688	492,597,060
As at 1 July 2010	192,330,372	300,266,688	492,597,060
Refund of surplus funds to Treasury	-	(103,739,439)	(103,739,439)
Surplus for the Year	-	113,397,530	113,397,530
Balance as at 30 June 2011	192,330,372	309,924,779	502,255,152

The Accumulated Fund represents the surplus for the year and capital transfer of inventory, plant and equipment inherited from the defunct Anti-Corruption Police Unit (ACPU); Investigation Software and Motor Vehicles received as grants.



9.9 NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30th June 2011

1. Summary of Significant Accounting Policies

The principal accounting policies adopted in the preparation of these financial statements are set out below. These policies have been consistently applied to all the years presented.

(i) Basis of preparation and form of presentation

The financial statements are prepared in compliance with International Financial Reporting Standards (IFRSs). The financial statements are presented in functional currency, Kenya shillings (Kshs), which is the prevailing currency within the primary economic environment, and prepared in accordance with the measurement bases prescribed by IFRSs.

The preparation of financial statements in conformity with IFRS requires the use of estimates and assumptions. It also requires management to exercise its judgment in the process of applying the Commission's policies.

The financial statements are prepared in accordance with and comply with International Financial Reporting Standards (IFRS).

(ii) Revenue Recognition

Income is recognized in the period in which it is received. Government and donor funding is only recognized on receipt. Income is not accrued if its recoverability is considered doubtful.

Interest income is recognized on a time proportion basis using the effective interest rate method.

(iii) Revenue

The revenue consists of all funds accruing to the Commission in form of exchequer allocations, funds from development partners and other income arising from investment, sale of tenders documents and proceeds from disposal of assets

(iv) Grants

Grants related to assets, including non monetary grants at fair value, are recognized when there is reasonable assurance that the grant will be received and the Commission will comply with the conditions attaching to them.



(v) Property, Plant and Equipment

All categories of property, plant and equipment are initially recorded at cost.

Subsequent costs are included in the asset's carrying amount or recognized as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the Commission and the cost can be measured reliably. All other repairs and maintenance costs are charged to the Statement of Comprehensive Income during the financial period in which they are incurred.

Increases in the carrying amount arising from revaluation are credited to a revaluation surplus in accumulated funds. Decreases that offset previous increases of the same asset are charged against the revaluation surplus; all other decreases are charged to the Statement of Comprehensive Income. Each year the difference between depreciation charged based on the revalued carrying amount of the asset (the depreciation charged to the Statement of Comprehensive Income) and depreciation based on the asset's original cost is transferred from the revaluation surplus to retained earnings. Leasehold land is not depreciated.

Depreciation is calculated on a reducing balance basis at rates designed to write down the assets to their estimated residual values over their estimated useful lives using the following annual rates:-

	Rate per annum (%)
Computers & Software	33.33
Motor Vehicles	25.00
Plant & Equipment	12.50
Surveillance Equipment	12.50
Furniture, Fixtures & Fittings	12.50

Property, plant and equipment are periodically reviewed for impairment. Where the carrying amount of an asset is greater than its estimated recoverable amount, it is written down immediately to its recoverable amount. An impairment loss is recognized in the Statement of Comprehensive Income whenever the carrying amount of an asset exceeds its recoverable amount. Gains and losses on disposal of property, plant and equipment are determined by comparing the proceeds with the carrying amount and taken into account when determining the surplus for the year.

(vi) Inventories

Inventories are valued at the lower of cost and net realizable value. Cost is determined on a first-in first-out basis.

(vii) Trade and other receivables

Trade and other receivables are recognized and carried at original invoice amount less an allowance for any irrecoverable amounts. An estimate for doubtful debts is made when collection for the full amount is no longer probable. Bad debts are written off as incurred.



viii) Cash and cash equivalents

Cash and cash equivalents comprise cash on hand; bank balances; demand deposits and short term, highly liquid investments readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash and cash equivalents that are not readily accessible are classified under deferred assets. For the purposes of the statement of cash flow, cash and cash equivalents consist of cash in hand and deposits in bank, and short term highly liquid investments.

(ix) Trade and other payables

Liabilities for trade and other amounts payable are carried at cost which is the fair value of the consideration to be paid in the future for goods and services received, whether or not billed to the Commission.

(x) Provisions and accruals

Provisions are recognized when the Commission has a present obligation (legal or constructive) as a result of a past event, and it is probable that there will be an outflow of resources embodying economic benefits.

(xi) Employee benefits

The Commission sets aside on a monthly basis the gratuity for its employees. This is managed separately as a sinking fund in accordance with Section 13(4) of the Anti-Corruption and Economics Crimes Act, 2003.

The Commission also contributes to a statutory defined contribution pension scheme, the National Social Security Fund (NSSF). Contributions are determined by local statute. Any contributions made to the NSSF in respect of current service are charged against income in the year of contribution.

(xii) Income taxes

The Commission being a non- trading entity is not subject to taxation. No tax is therefore provided for in these accounts.



2. Property, plant and equipment

Cost/Valuation	Land and Buildings Kshs	Plant and Equipment Kshs	Security Equipment Kshs	Furniture, Fixtures & Fittings Kshs	Motor Vehicles Kshs	Computer Equipment Kshs	TOTAL Kshs
Year ended 30 June 2010							
Opening net book value	54,358,370	19,815,206	21,799,598	9,429,149	55,520,814	19,467,673	180,390,810
Additions	49,231,713	5,384,720	2,368,750	1,952,525	26,379,520	2,661,200	87,978,427
Disposals	-	-	-	-	(1,511,822)	-	(1,511,822)
Change for the year	-	(3,149,991)	(3,021,044)	(1,422,709)	(16,387,184)	(7,375,553)	(31,356,480)
Closing net book value	103,590,083	22,049,935	21,147,304	9,958,965	64,001,328	14,753,320	235,500,935
At 30 June 2010	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs
Cost/Valuation	103,590,083	33,588,480	33,626,117	15,675,538	142,882,272	52,127,410	381,489,899
Accumulated Depreciation	-	(11,538,545)	(12,478,813)	(5,716,573)	(78,880,943)	(37,374,090)	(145,988,964)
Net book value	103,590,083	22,049,935	21,147,304	9,958,965	64,001,329	14,753,320	235,500,935
Year ended 30 June 2011	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs
Opening Net Book Value	103,590,083	22,049,935	21,147,305	9,958,965	64,001,328	14,753,320	235,500,936
Additions	16,405,263	3,011,876	8,998,618	1,817,445	49,851,439	24,729,348	104,813,988
Charge for the year	-	(3,132,726)	(3,768,241)	(1,472,051)	(28,463,192)	(13,159,573)	(49,995,783)
Closing net book value	119,995,346	21,929,084	26,377,682	10,304,359	85,389,575	26,323,094	290,319,140
At 30 June 2011	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs
Cost/Valuation	119,995,346	36,600,355	42,624,734.00	17,492,983	192,733,711	76,856,757	486,303,886
Accumulated Depreciation	-	(14,671,271)	(16,247,052.00)	(7,188,625)	(107,344,135)	(50,533,663)	(195,984,746)
Net book value	119,995,346	21,929,084	26,377,682.00	10,304,358	85,389,576	26,323,094	290,319,140

During the year Kenya Anti-Corruption Commission received a donation in kind comprising of office furniture, fixtures & fittings from the Energy Regulatory Commission (ERC), which were valued at Kshs. 5,554,300/=



3. Intangible Assets	2011	2010
Cost	Kshs	Kshs
At start of the year	92,548,594	90,826,979
Additions for the year	4,603,053	1,721,615
Total	97,151,647	92,548,594
Amortization		
At start of the year	66,257,944	53,112,640
Charge for the year	10,296,871	13,145,305
At end of year	76,554,815	66,257,944
Net Book Value	20,596,831	26,290,649

Intangible assets consist of computer software development costs and licenses. These are amortized on reducing balance basis to write them down to their estimated residual value over their estimated useful lives at the rate of 33.33% per annum.

4. Gratuity Fund Investment

The gratuity fund comprises of a proportion of basic salary set aside on a monthly basis as a sinking fund to cater for benefits payable to employees when due.

	Kshs	Kshs
Balance brought forward	161,755,762	129,037,889
Additions for the year	155,626,896	150,401,449
Payments during the year	(153,314,029)	(117,683,576)
Total	164,068,629	161,755,762

5. Asset Recovery Account

The asset recovery account comprises of funds received from recovery of corruptly acquired assets on behalf of public organizations.

	Kshs	Kshs
Balance brought forward	19,101,119	8,865,798
Funds recovered in the year	69,944,118	10,235,321
Less: Disbursements during the year	(13,654,550)	-
Total	75,390,687	19,101,119

6. Inventories

	Kshs	Kshs
Consumables	9,589,505	10,624,112
Less: Provision for Loss of Inventories	(2,914,931)	-
Library books	8,746,301	5,258,246
Total	15,420,875	15,882,358

A sum of Kshs.2,914,931/= has been provided for in the accounts being consumables stores yet to be accounted for, and a subject of an on going investigation by the Commission.



	2011	2010
	Kshs	Kshs
7. Trade and other receivables		
Imprest Debtors	3,849,373	1,004,750
Staff Advances	243,989	223,161
Deposits	4,026,700	3,847,556
Other Receivables	2,100	-
Total	8,122,162	5,075,467
8. Cash and cash equivalents		
Recurrent Main Account	118,719,977	149,749,297
Development Account	49,761,540	58,617,999
Kenya Commercial Bank - MSA Office	1,000,000	500,000
Kenya Commercial Bank- Kisumu Office	500,000	-
Cash on hand	388,800	2,051,492
Total	170,370,317	210,918,788
9. Trade and other payables		
Trade payables	-	45,330
Other payables	1,874,173	325,807
Total	1,874,173	371,137
10. Accrued liabilities and charges		
Audit fees	700,000	700,000
Total	700,000	700,000
11. Government Grants (GoK)		
Government grants represent exchequer issues from the Consolidated Fund under Recurrent Vote R34		
12. Development Partners/Donor Support		
ADB/GJLOS Grants	126,430,363	20,942,979
Government Grants (GoK)	65,000,000	50,000,000
Total	191,430,363	70,942,979
13. Other Income		
Sale of tender documents & boarded items	913,005	766,010
Total	913,005	766,010
14. Accumulated Fund		
Balance brought forward	192,330,372	192,330,372
Total	192,330,372	192,330,372



	2011	2010
	Kshs	Kshs
15. Revenue Reserves		
Balance brought forward	300,266,688	188,696,139
Refund of surplus funds	(103,739,439)	-
Surplus for the year	113,397,530	111,570,549
Total	309,924,779	300,266,688

16. Contingent Liabilities

The Commission has given no guarantees to third parties. In the ordinary course of business, the Commission has been sued in various cases with the potential exposure estimated at Kshs.277 million.

The Commission is a defendant or co-defendant in various litigations and claims. The outcomes of these litigations and claims are yet to be determined, hence the Commission has not made any provisions in these accounts towards contingent liabilities.

17. Operating and maintenance

Included in the operating and maintenance expenditure is an amount of Kshs.27,549,000/= described as security expenses.

	Kshs	Kshs
18. Administration Expenses		
Basic salaries	494,751,702	464,157,027
Basic wages paid - Temporary employees	765,113	-
Personal allowances	198,996,102	176,062,656
Employer contribution: Health Insurance Schemes	623,600	598,800
Government pension & retirement benefits	152,850,017	164,029,242
Insurance costs	45,619,750	37,504,153
Hospitality supplies and services (Board, committees & conferences)	53,504,571	40,228,375
Total	947,110,854	882,580,253

19. Key management personnel costs

Included in the administration expenses of Kshs.947.1 million is an amount of Kshs.69.4 million being the monthly salaries and allowances paid to key management personnel comprising the Director, Deputy Director and Assistant Directors.

	Kshs	Kshs
Key management personnel costs	69,434,677	69,295,937
Total	69,434,677	69,295,937

20. Capital commitments

The Commission had no capital commitment at the end of year for which provision has been made in the financial statements.

21. Comparatives

Where necessary, comparative figures have been adjusted to conform with changes in presentation in the current year.

22. Reporting Currency

These financial statements are reported in Kenya Shillings.



	2011	2010
	Kshs	Kshs
23. Operating and maintenance		
Utilities, supplies & services	7,250,380	8,431,700
Communication supplies and services	19,476,488	17,915,227
Domestic travel, subsistence & other transport costs	48,141,029	31,334,015
Foreign travel ,subsistence & other transport costs	14,198,854	10,446,663
Printing, advertising, information supplies and services	128,030,086	48,007,524
Rentals of produced assets	54,111,617	43,228,722
Training expenses (including capacity building)	69,223,395	33,785,899
Specialised materials and supplies	766,170	625,909
Office and general supplies & services	8,501,019	7,691,782
Fuel oil and lubricants	18,504,753	13,822,667
Other operating expenses (Note 24)	40,077,106	46,532,722
Routine maintenance - Vehicle and other transport equipment	13,003,744	9,142,365
Routine maintenance -other assets	3,817,240	4,646,180
Other miscellaneous, current transfers, grants & subsidies	1,332,913	485,611
Refurbishment of buildings	2,000,197	-
Research, feasibility studies, project preparation and design	10,192,409	7,542,920
Loss on Inventories	2,914,931	-
Depreciation expenses	49,995,783	31,356,480
Amortization expenses	10,296,871	13,145,305
Total	501,834,984	328,141,691

	Kshs	Kshs
24. Other operating expenses		
Bank charges	510,082	408,137
Contracted guards and cleaning materials	3,001,972	1,361,773
Membership fees, dues and subscriptions	1,350,408	1,201,328
Legal dues, arbitration and compensation	835,912	5,901,641
Contracted professional services	4,789,877	6,453,216
Security expenses	27,549,000	29,693,250
Witness Allowances	20,300	-
Witness expenses	1,319,556	813,377
Audit fees	700,000	700,000
Total	40,077,106	46,532,722



10. ACKNOWLEDGEMENT

The Commission takes this opportunity to thank all those who contributed to the preparation of this Annual Report. Foremost, the Commission wishes to acknowledge the financial support from the Government, which enabled the Commission to undertake various anti-corruption activities as presented in this Report. Appreciation for financial support is also extended to the various Development Partners notably African Development Bank for sponsoring capacity building programmes. The Commission wishes to extend its gratitude to the numerous partners for their support and joint programmes undertaken together without whom our successes would not have been achieved.

The Commission also acknowledges with gratitude the timely auditing of its annual accounts by the Kenya National Audit Office (KENAO) and issuance of the Report of the Auditor General on the Financial Statements of KACC for the period under review.

Further, the Commission appreciates the work of the Annual Report Preparation Committee members comprising:

Mr. Vincent O. Okong'o	-	Chairman
Mrs. Beatrice Kamau	-	Vice Chairperson
Mr. Nicholas M. Simani, S.S	-	Member
Mr. Jackson Mue	-	Member
Mr. Francis Gikonyo	-	Member
Mr. Jorum N. Abuodha	-	Member
Mrs. Anastasia W. Ngarama	-	Member
Mr. Ronald W. Wanyama	-	Member
Mr. Vincent K. Kiptoo	-	Member
Mr. Mohamed D. Said	-	Member
Mr. Paul Kimalu	-	Secretary
Ms. Lena Muye	-	Member





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