



ANNUAL REPORT AND ACCOUNTS

FINANCIAL YEAR 2004 – 2005



OUR CORE BUSINESS

To combat corruption and economic crime in Kenya through law enforcement, prevention and education as stipulated in the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

OUR VISION

To be a World Class Institution fostering zero-tolerance to corruption in Kenya.

OUR MISSION

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

OUR CORE VALUES

- * Integrity
- * Professionalism
- * Fidelity to the law
- * Courage
- * Excellence in service

OUR MANDATE

The Commission is mandated to combat and prevent corruption through enforcement of the law; educating the public and enlisting their support against corruption; providing preventive services through promotion & development of good practices to seal opportunities and loopholes that facilitate corruption.



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ABBREVIATIONS

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ACPU	-	Anti-Corruption Police Unit
BFID	-	Banking Fraud Investigation Department
CBOs	-	Community-Based Organizations
CID	-	Criminal Investigations Department
CPC	-	Corruption Prevention Committees
CRA	-	Corruption Risk Assessment
DANIDA	-	Danish International Development Agency
DPM	-	Directorate of Personnel Management
EDC	-	Ethics Development Center
ENI	-	Education for National Integrity
HOD	-	Head of Department
ICT	-	Information, Communications Technology
IAO's	-	Integrity Assurance Officers
IEC	-	Information, Education and Communication
KACA	-	Kenya Anti-Corruption Authority
KACC	-	Kenya Anti-Corruption Commission
KBC	-	Kenya Broadcasting Corporation
KEMSA	-	Kenya Medical Supplies Agency
KRA	-	Kenya Revenue Authority
KRB	-	Kenya Roads Board
MOU	-	Memorandum of Understanding
NSIS	-	National Security Intelligence Service
PAC	-	Public Accounts Committee
PCID	-	Prevention Coalitions and Interventions Department
PIC	-	Public Investment Committee
PSIP	-	Public Service Integrity Programme
REPPS	-	Research, Education, Policy and Preventive Services
RISC	-	Reduced Instruction Set Computer
SACCO	-	Savings and Credit Co-operative
TRAG	-	Training, Research, Advocacy & Governance

CHAIRMAN'S MESSAGE

Overview

Corruption is both an ancient and modern phenomenon. History is replete with cases of bribery and nepotism. Individual scoundrels and scandals have attracted attention and lent colour to otherwise mundane accounts of economic and political history. The study of corruption has illustrated that corruption not only varies from place to place but also from time to time. In every country's history, there are periods when corruption appears to be peculiarly high and others when incidences seem to decline.

Corruption is as old as mankind. Some of the earliest efforts to fight corruption in Kenya started in the colonial era in the 1920s. At the time, bribery was born of an inversion of the social values that governed our traditional lives. Virtues, such as reverence for elders, in-laws and people in authority and the traditional African hospitality of gift – or token exchange got abused and were transformed into demands to give a token before action was taken or a decision made. The vice was serious enough to warrant a specific law to deal with it. This led, eventually, to the enactment of *The Prevention of Corruption Act (Cap 65)* in 1956.

Today, corruption is increasingly seen as a serious crime with devastating consequences such as wasteful spending, bigger budgetary deficits, great economic inequalities, disinvestments as well as unorthodox trading practices. It continues to undermine good governance and to distort public policy, leading to misallocation of resources. It has continued to slowdown economic growth as well as to discourage and frustrate both local and international investors.

Kenyans have acknowledged the enormity of corruption as a problem and its many consequences militating against their national interests. From realizing that corruption negates holistic development, there has been a greater desire and political will to tackle the vice.

The *Anti-Corruption and Economic Crimes Act, No 3 of 2003* established the Kenya Anti-Corruption Commission (KACC) as a body corporate bestowed with powers to fight corruption in all its manifestations.

Members of the Advisory Board

The Act also establishes the Kenya Anti-Corruption Advisory Board, which is an unincorporated body consisting of thirteen members. Twelve of these are nominated by professional and business organisations, while the thirteenth is the Director of the Commission, who doubles as Secretary to the Board. The current Board was appointed in August 2003 and consists of:



- * Mr. Ahmednassir Abdullahi – (Chairman up to 13th September 2004)
- * Mr. Allan Njoroge Ngugi – (Chairman)
- * Mrs. Shehnaz N. Sumar – (Vice Chairman)
- * Prof. Alfred. V. Otieno
- * Mrs. Anna M. Muchungu
- * Mr. Charles Kariuki Wambugu
- * Mr. Francis Atwoli
- * Mr. Kipng'etich. K. Bett
- * Mrs. Mariamu El-Maawy
- * Prof. Miriam K. Were
- * Mr. Richard Boro Ndung'u
- * Justice Aaron Ringera – Member/Secretary

Two additional nominees are still awaited, consequent upon the resignations of the initial FIDA and LSK nominees.

The Role of the Advisory Board

The principal function of the Advisory Board is to advise the Commission generally on the exercise of its powers and the performance of its functions under the Act. To this end, the Board is authorized to establish committees with respect to the various functions of the Commission as it may deem necessary for the better performance of its functions.

Board Meetings

The Act under the Third Schedule (Section 21) stipulates that the Advisory Board is required to meet at least four times in every financial year. However, meetings may be held more frequently than the statutory requirement, as need arises. For the year under review, the Advisory Board met more frequently to recruit the top managers of the Commission.

Outlook

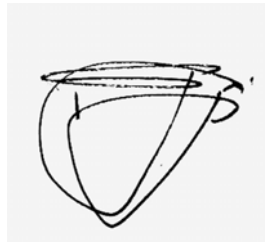
Reflecting back on the year under review, and bearing in mind that the first batch of staff only came on board in February 2005, we as a Board are very proud of what they have achieved under the able and focussed leadership of the Commission's Director, Hon. Justice Aaron G. Ringera. All the staff were recruited competitively and have brought to the Commission varied skills and abilities, reinforced by a commitment and dedication that makes their intention patently clear in the fight against corruption. Their contribution towards the attainment of a Kenyan society that will tolerate nothing less than zero corruption is encouraging.

Our Strategic Plan, in whose preparation both Commission staff and Board members have been involved, is nearing completion. The Strategy Plan is a well thought out and articulated document that we believe will serve us well in our particular circumstances and context. We could not just follow, or borrow, what others are doing, or may have done because we are aware that anti-corruption strategies are beset by problems of transferability, sustainability, cost effectiveness, sequencing and intent. Further-more, the choice of strategy has implications for different arms of the government. A focus on investigating corruption, for instance, has obvious implications for the criminal justice system, its resourcing and independence. If the focus is on prevention rather than retribution, or on attacking the causes rather than the consequences of corruption, different considerations apply. Where low-level “petty” corruption is concerned, anti-corruption strategies sometimes focus on empowering the public through information and access, in order to hold local officials accountable. If grand and petty corruption flourish best in secrecy, openness and transparency are often seen as key elements in anti-corruption strategies.

KACC has approached the fight against corruption in a systematic manner that is bearing good results. But more needs to be done. The ebb and flow of corruption is difficult to predict, but what is certain is that claims that various anti-corruption bodies set up by the Government are not achieving results, are at best misconceived per cent at least in so far as Kenya Anti-Corruption Commission is concerned. Granted that the level and extent of corruption in the country still gives us no cause for complacency, leave alone celebration, a look at our quarterly reports and the scope of our anti-corruption activities should demonstrate that those still engaging in corrupt practices should have no reason to sleep easy anymore. We are confident that the drive and strength illustrated by the management and staff will continue to bear fruit, leading to the realization of the Commission’s vision to be **A World Class Institution Fostering Zero Tolerance to Corruption.**

I wish to take this opportunity to extend a hand of gratitude to my colleagues on the Board for their tireless efforts towards the Commission’s work. I have no doubt that both the KACC management and staff appreciate the strong foundation laid by the Board members and the positive impact of their wise counsel on different aspects of the Commission’s work. I am very proud of the harmonious relationship that prevails between the Commission and the Advisory Board. We clearly taken to heart the advice of Tom Owuor, a former Advisory Board Chairman that “An effective manager is one who can work harmoniously with his Board and a good Board is one that formulates policies and maintains an oversight responsibility within the framework of the law and corporate strategic plan targets without micro-managing the implementation of its policy.”

We continue to appeal to all Kenyans to join hands with us in the fight against corruption, both in low and high places. I wish to assure Kenyans that they can take the Commission and the Board on our word – that vigorous action continues to be taken by Commission staff in waging the fight against corruption. We are aware that the public expectation is higher than what we have delivered so far, but that is not to say that we have not delivered. With your continued support, especially by providing information relating to corrupt conduct and practices by individuals and institutions, we cannot fail; no matter how onerous the challenge confronting us is.



Allan N. Ngugi, OGW

Chairman

KENYA ANTI-CORRUPTION ADVISORY BOARD

6th October 2005

DIRECTOR'S REPORT

The Kenya Anti-Corruption Commission as envisaged by *The Anti-Corruption and Economic Crimes Act No. 3 of 2003* was constituted on 10th September 2004, when I, the Director, and three Assistant Directors, formally took office.

The immediate challenge facing my management team, with the guidance of the Advisory Board, was to create a professional and, vibrant institution manned by men and women of integrity. I am pleased to report that the planning and recruitment phases of the Commission's first year in operation are virtually complete. The last batch of newly-recruited officers reported on 1st August 2005. Similarly, the Commission's strategic planning process will be completed well before the end of the calendar year.

The task at hand is the execution of the Commission's three-pronged mandate in the fight against corruption. These include: law enforcement through investigation, asset-tracing and recovery; prevention of corruption through identification and elimination of opportunities for corruption in systems and procedures of public bodies; and public education aimed at enlisting public support. These three elements must progress together in a coordinated way.

A lot of conceptual hard work and planning by the management team and the Advisory Board has led to the present situation, which is reflective of the period under review – fully manned and operational Kenya Anti-Corruption Commission that is efficiently and professionally executing its statutory mandate.

Law Enforcement

The Commission is in every sense, the institution of first recourse, with regard to the fight against corruption for many Kenyans. The number of complaints reported by citizens rises every month. Between 1st July 2004 and 30th June 2005, a total of 3,234 complaints of suspected and alleged corruption and economic crime were received at the Commission. Of this number, only 384 (11.9%) were found to merit further investigation by the Commission under its statutory mandate to address corruption and economic crime. The need for the office of Ombudsman is therefore very clear to the Commission.

On the nature and progress of investigations undertaken by the Commission, there now exists institutional capacity to undertake a bigger case load than was previously possible. In addition, the Commission is proceeding boldly, bucking established practices and setting precedents by investigating corruption in all areas of the public service, including hitherto 'no-go areas', such as security procurement.



In the period under review, the Commission forwarded 35 files to the Attorney General, of which 23 were recommended for prosecution and 12 for closure. The Commission continues to enjoy a close working relationship with the Attorney General and the State's investigative agencies, such as the Criminal Investigations Department [CID]. A total of 120 corruption prosecutions are pending before Court on the date of this Report. They include those of 7 Permanent Secretaries and 14 Chief Executives of State Corporations. As at 30th June 2005, the Commission had 167 cases under active investigation.

In keeping with the statutory mandate and requirement to trace and recover the proceeds of corruption, three lawsuits with a combined value of millions of shillings, were filed by the Commission. In the coming months, many more suits will be filed in keeping with the realisation that denying the perpetrators' "enjoyment" of the proceeds of corruption is a key element of a successful anti-corruption strategy.

All in all, through the robust implementation of our law enforcement mandate we are determined to make corruption and economic crime a high-risk, no-gain activity.

Research, Education and Preventive Services

We at the Commission realize that, it is critically important to address the root causes of corruption and the prevalent culture in the society. That is why research, public education, policy interventions and corruption prevention services are an integral part in the fight against this vice. Under my leadership, the Commission will continue to pay adequate attention to the prevention of corruption through systematic change in the policies, practices, procedures and regulations of public bodies. It will also promote attitude change and public identification with and participation in anti-corruption measures. Much as this is the surest way of winning the war against corruption in the long term, I hasten to add that this will be done without compromising to the vigorous enforcement of the anti-corruption laws.

Execution of the Commission's various programmes is underway. As is set out in detail in the body of this Report, much has already been done, including corruption-preventive examination of the systems, procedures and practices of key public bodies. Such bodies include the Kenya Medical Supplies Agency [KEMSA] and the Motor Vehicle Licensing and Registration Department. We have also undertaken corruption risk-assessment of the Municipal Council of Mombasa and participated in high-traffic agricultural shows all over Kenya. The Commission is collaborating with other stakeholders in the development of appropriate curriculum with the aim of inculcating ethics and anti-corruption content in their programmes.

Conclusion

The management team has overcome the challenge of establishing a strong, vibrant and professional institution that will stand the test of time. Our remaining challenge is to be bold in execution of our mandate and duty, and to lead the country along the path of zero tolerance to corruption, as is expected by the people of Kenya.

On this road, the Commission has received and continues to receive both adequate financial and policy support from Government, and significant encouragement and support from the citizens of Kenya, in whose name the Commission works and for whose benefit the Commission exists. I am pleased to report that KACC is the first public institution to have its financial statements audited this year. The financial statements have also received an unqualified audit opinion.

My management team, the staff and the Advisory Board are determined to deliver. I call upon all Kenyans to continue supporting the Commission in this noble and worthwhile endeavour. Together, we should obliterate corruption from the face of our beloved country.

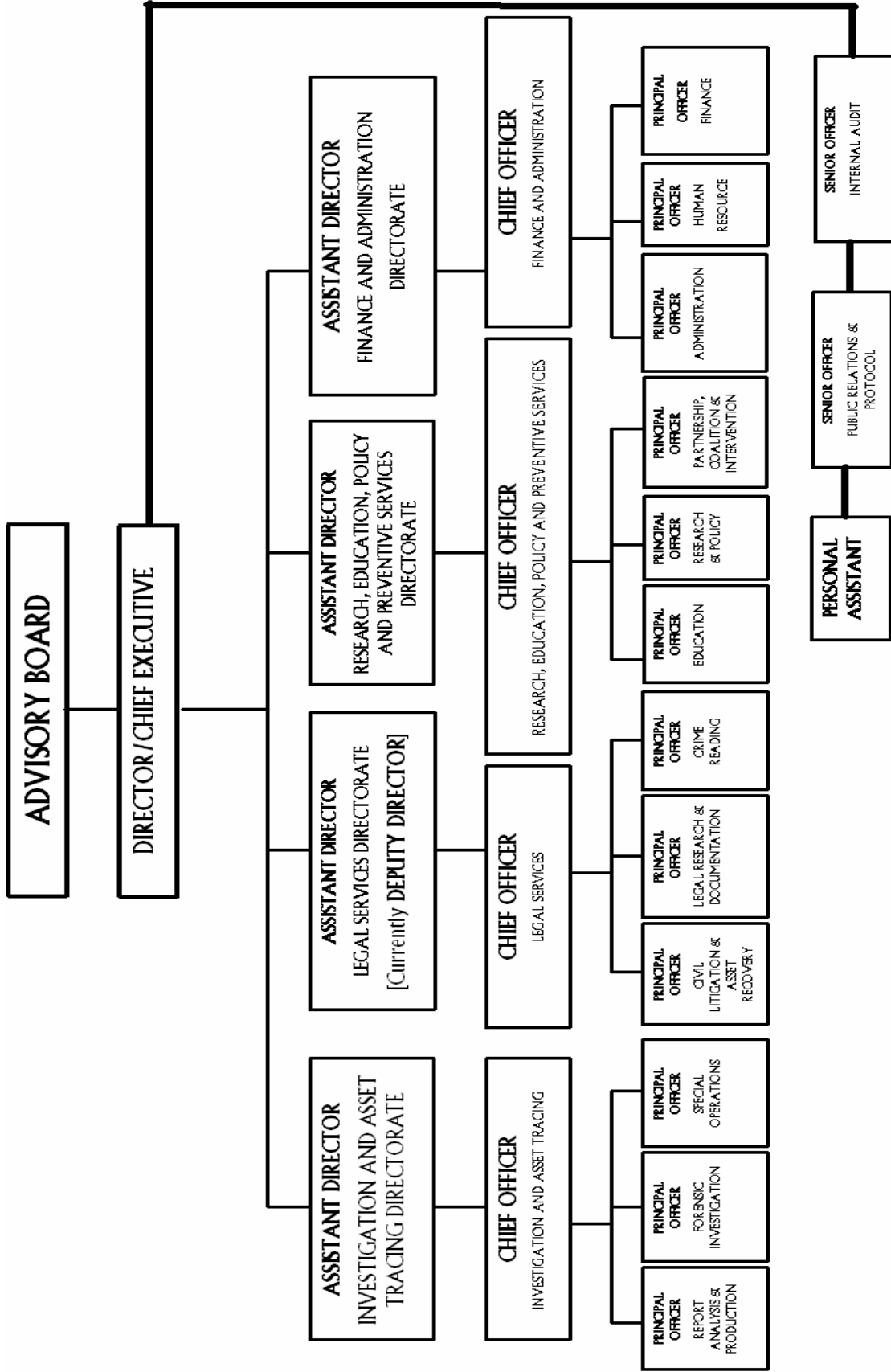


Justice Aaron G. Ringera
DIRECTOR / CHIEF EXECUTIVE
KENYA ANTI-CORRUPTION COMMISSION.

4th October 2005



ORGANIZATIONAL STRUCTURE

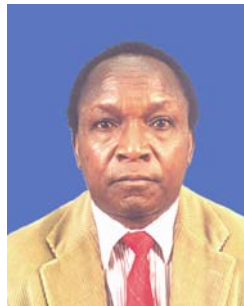




Mr. Allan Njoroge Ngugi - Chairman



Mrs. Shehnaz N. Sumar



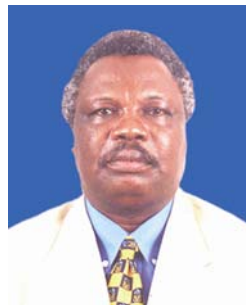
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Mr. Richard B. Ndung'u

DIRECTORATE



JUSTICE AARON G. RINGERA
DIRECTOR / CHIEF EXECUTIVE



FATUMA SICHALE (MRS)
**DEPUTY DIRECTOR/
ASSISTANT DIRECTOR**
LEGAL SERVICES &
ASSET RECOVERY



DR. SMOKIN C. WANJALA
ASSISTANT DIRECTOR
RESEARCH, EDUCATION, POLICY
& PREVENTIVE SERVICES



DR. JOHN P. MUTONYI
ASSISTANT DIRECTOR
INVESTIGATION & ASSET TRACING

IMPLEMENTATION REPORTS

DIRECTORATE OF INVESTIGATION AND ASSET TRACING

INTRODUCTION:

The Directorate of Investigation & Asset Tracing is divided into three departments, each headed by a Principal Officer. These Departments are:

1. Forensic Investigations
2. Special Operations
3. Report Analysis and Production

The functions of the Directorate are to:

- * receive, process and analyze reports.
- * investigate any matter that raises suspicion that conduct constituting corruption or economic crime has occurred or is about to occur.
- * investigate any matter that raises suspicion that conduct liable to allowing, encouraging or causing conduct constituting corruption or economic crimes has occurred or is about to occur.
- * investigate any person's conduct that is deemed to be conducive to corruption or economic crime.
- * assist any law enforcement agency of Kenya in the investigation of corruption or economic crime.
- * investigate the extent of liability for the loss of or damage to any public property for purposes of recovery or compensation.
- * recommend cases for prosecution or any other appropriate action upon completion of investigations.
- * arrest and arraign suspects of corruption or economic crimes in Court.
- * avail witnesses and generally liaise with the prosecutors to ensure effective prosecution of corruption or economic crimes.
- * provide security to the building and property of the Kenya Anti-Corruption Commission and to its staff, visitors and witnesses.

Report Analysis and Production

The department comprises two divisions:

1. Analysis and Production
2. Report and Data Centre

The Department is charged with the responsibility of receiving and processing all reports received by the Commission; Interviewing complainants and informants who



report to the Commission and advising them appropriately. The department also analyses complaints and recommends appropriate action. It forwards reports which fall under the Commission's mandate to Forensic Investigations, Special Operations or to the Directorate of Research, Education, Policy and Preventive Services, as may be appropriate. Complaints that do not fall under KACC mandate are referred to other investigative agencies and government bodies, such as the Criminal Investigations Department (CID), Kenya Revenue Authority (KRA) and the Department of Immigration. The Data Centre maintains all the data on cases reported to the Commission and the action taken. It generates statistics and periodic reports on cases reported to the Commission.

Special Operations

The Department comprises three divisions:

- * Surveillance and Technical Services Division
- * Rapid Response Division
- * Protection Services Division

The Surveillance and Technical Services Division provides technical support for the department. It collects intelligence related to corruption and economic crimes, for use in investigations. It also provides backup support to the Commission's investigations' teams and other law enforcement agencies involved in the fight against corruption and economic crimes.

Rapid Response division is charged with the responsibility of carrying out sting operations on bribe demand cases that have been reported.

The Protection Services Division is charged with the responsibility of ensuring security for the personnel, processes and assets of the Commission. The Division also co-ordinate's disaster preparedness and recovery efforts within the Commission; to restore critical systems and provide facilities needed for the organization to function in case of adverse incidents or catastrophes.

Protection Services

Emergency fire systems at Integrity Centre were serviced. An access control system was installed at both entrances and is expected to be operational soon. Photo Identification badges for staff were introduced.

Forensic Investigation

The Forensic Investigation Department is made up of two divisions, namely:

- * Forensic Investigation Division
- * Asset Tracing Division

The department comprises a multi-disciplinary team of officers who are sufficiently qualified and experienced in their areas of specialization. The Forensic Investigation Division is charged with the function of carrying out investigation of cases reported and approved for investigations by the Commission. The Asset Tracing Division is engaged in tracing of assets suspected to have been irregularly obtained or those that are related to any matter under investigation by the Commission or other agencies. It is also charged with reviewing and analyzing Asset Declaration Forms submitted by public officers, in accordance with the requirements of the Public Officer Ethics Act No. 4 of 2003. It also analyses declarations made to KACC by suspects in the course of investigations. Lastly, the division deals with asset tracing and realization of value, or liquidation of corruptly acquired assets. The Forensic Investigation Department is charged with the responsibility of carrying out forensic audit in cases under investigation by the Commission and other agencies. It also undertakes the same exercise in areas of general public concern.

A total of 3,234 reports were received and processed in the report year as follows:

No.	Forwarded to:	No. of Reports
1	Forensic Investigations Department (KACC)	167
2	Special Operations Department (KACC)	213
3	REPPS Directorate (KACC)	4
4	Other investigative agencies	705
5	Other Government Departments (for administrative action)	1010
6	Civil in nature	537
7	Complainants advised on appropriate authorities to which to report	330
8	Complainants requested to provide more details	17
9	No further action required	251
	Total	3,234

Out of the 3,234 cases received by the Commission, KACC took up for investigation 384 reports, which represents 18.9 per cent of all the reports received. The bulk of the reports, about 80 per cent were not corruption related or covered under the Anti-Corruption and Economic Crimes Act No. 3 of 2003 and were therefore referred to other agencies, such as the CID, KRA and other Government departments for appropriate action.

Sting Operations

The following sting operations were carried out during the period under review:

Category	Case Status	No. Of Cases
Bribe demands	Cases Pending Before Court	25
	Cases Referred To Other Agencies	14
	Cases closed	80
Sting operations initiated by the division (Proactive)		3
TOTAL REPORTED CASES		122

During the year under review, the Special Operations Department carried out a total of 122 sting operations. The operations were reports of alluded bribe demands made by members of the public against officials in both the public and private sectors. Out of these, 25 were concluded and suspects arraigned in Court, 14 were found to fall outside KACC’s mandate and were hence referred to other agencies. Eighty cases were closed for lack of sufficient evidence.

Surveillance & Technical Services

Month	July 04	Aug 04	Sep 04	Oct 04	Nov 04	Dec 04	Jan 05	Feb 05	Mar 05	Apr 05	May 05	Jun 05	Total
Reports	0	2	5	1	2	4	14	15	8	14	18	8	91

The surveillance and Technical Service Division acted on a total of 91 cases during the year.

Forensic Investigation Cases

Inquiry Files Opened Between October 1999 and June 2004

INQUIRY FILES OPENED UNDER	YEAR	NO. OF FILES OPENED	Total	CUMULATIVE NO. OF FILES
KACA	1999	53	164	164
	2000	111		
ACPU	2001	13	182	346
	2002	129		
	2003	40		
KACC	2003	58	286	632
	2004	61		
	2005	167		

All the 164 inquiry files opened by the defunct KACA were taken over by ACPU. ACPU in turn opened 182 inquiry files, which, together with KACA files were taken over by KACC. As at 30th June 2005 KACC had opened 286 inquiry files. Together with files taken over from the defunct KACA and ACPU this brought a cumulative number of 632 inquiry files.

The status of the inquiry files is as follows:

- * 16 files were partially investigated and later referred to other investigative agencies
- * 38 cases were closed for lack of sufficient evidence
- * 37 cases were forwarded to respective organizations for administrative action
- * 4 cases were consolidated with others with similar particulars
- * 1 case was stopped by a prohibition order
- * 16 files were forwarded to the Attorney General, 6 of which were recommended for prosecution while 10 were recommended for closure
- * 61 cases are pending before Court
- * 67 cases were finalized before Court through convictions, acquittals or discharges
- * 392 cases are still under investigation – this includes 35 cases of unexplained assets

Highlight of Some of the Cases Investigated and Completed

- a) Exorbitant payments of up to Kshs. 91 million instead of Kshs.5.9 million for renovation of Kericho Vocational Rehabilitation Centre. Former Permanent Secretaries Joshua Terer and Sospeter Arasa, were charged with the offence of abuse of office. Other Senior Officers of the Ministry of Roads and Public Works charged with them were, Messrs Steve Muthui, Robert Rono, Peter Moturi and John Rinturiri.
- b) Irregular award of contract for supply and installation of a new passport issuing system for the Department of Immigration to Anglo Leasing and Finance Ltd. Upon commencement of investigations Kshs. 91 million was refunded to the Central Bank on 14th May 2005. Mr. Sylvester Mwadime Mwaliko former Permanent Secretary Office of the Vice President and Ministry of Home Affairs and Mr. Joseph Mbui Magari former Permanent Secretary Ministry of Finance, Mr. Wilson Sitonik former Director Government Information and Technical Services and the former Head of the Department of External Debt Management Mr. David Onyonka were charged in Court. Through these investigations the Government saved Kshs. 3 billion that would have been lost through the fraud.



- c) Irregular award of contract for the supply and installation of forensic science laboratories for CID to Anglo Leasing and Finance Ltd. Former Permanent Secretary in charge of Internal Security, Mr. Zakayo Cheruiyot and Mr. John Agili were charged in Court. Through this investigation, Kshs. 376 million was refunded to the Government. Had the fraud not been unearthed by the investigation, the Government would have lost Kshs.4 billion.
- d) The chief Executives of several state corporations who irregularly invested Public funds in the collapsed Euro Bank were arrested and arraigned before Court.
- e) The case of embezzlement of public funds belonging to the National Museums of Kenya (NMK). Former NMK Director Dr. Mohammed Isahakia was charged in Court and refunded Kshs. 2.5 Million to NMK.
- f) Cases on allegations of bribery to senior officials of the Judicial Commission of inquiry into Goldenberg Affair was completed.
- g) Cases on allegations regarding payments of honoraria to an inquiry team investigating Harambee SACCO was completed.

From the foregoing, the Government was able to save in excess of Kshs. 7 billion., of which Kshs. 467 million that had been irregularly paid out was refunded to the Government.

Challenges

- * **Misunderstanding of the role of KACC:** Statistics indicate that, KACC took up for investigations only about 11.9per cent of all the reports received. Most of the cases (80 per cent) reported were not corruption-related, or covered under the Anti-Corruption and Economic Crimes Act 2003 and were therefore referred to relevant agencies for appropriate action. This shows that members of the public do not clearly understand the mandate of KACC. Therefore, the need for more public education exists.
- * **Limited access to the public:** Currently all Reports are received in Nairobi thereby limiting access to the Commission by members of the public who live outside Nairobi



- * **Harassment and intimidation of whistle blowers at their places of work:** Section 65(1) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003 attempts to protect informers but does not penalize those who breach this section, hence the need for amendment to provide punishment for offenders.
- * The Official Secrets Act, (Cap. 187 Laws of Kenya) is an impediment to public servants who would wish to report corruption, since it bars public officers from disclosing information that they come across in the course of their duties. There is need to amend the Act to protect whistle blowers

Future plans

Plans are underway to merge the Analysis and Production Division with the Surveillance and Technical Services Division to form a fully fledged Intelligence Production Department (IPD). The Commission plans to decentralize services by opening regional offices to reach more Kenyans.



THE DIRECTORATE OF LEGAL SERVICES

The Directorate is divided into three Departments, namely:

- 1) Civil Litigation and Asset Recovery
- 2) Crime Reading
- 3) Research and Documentation

The Directorate is tasked with the following responsibilities:

- i) to provide legal advice to the Commission
- ii) to coordinate the preparation of all statutory reports on behalf of the Commission
- iii) to enforce the Commission's mandate as spelt out under section 7(1)(h) of the Anti-Corruption and Economic Crimes Act No. 3 of 2003, namely to investigate the extent of liability for the loss of or damage to any public property and institute civil proceedings against any person for the recovery of such property or compensation
- iv) to undertake litigation on behalf of the Commission, either on its own behalf or on behalf of third parties
- v) to audit completed investigation files and to prepare reports to the Attorney General

The primary functions of Civil Litigation and Asset Recovery Department are:

- * to institute civil proceedings against any person responsible for loss of or damage to any public property for the recovery of such property or for compensation. The Department is required to recover such public property or enforce orders for compensation, even if the property is outside Kenya or the assets that could be used to satisfy the order are outside Kenya
- * to institute proceedings on behalf of public bodies in order to recover benefits improperly obtained by agents and other third parties
- * to institute proceedings for forfeiture of unexplained assets from public officers and former public officers and property misappropriated from public bodies
- * to obtain *ex-parte* Court order(s) for preservation of any suspect property by preventing any transfer or disposal thereof, or other dealings with the property on evidence that the property was acquired as a result of corrupt conduct
- * to obtain *ex-parte* Court order(s) for surrender of travel documents where a person suspected of corruption is being investigated
- * to institute suits on behalf of the Commission and defend suits filed against the Commission

Crime Reading Department is responsible for:

- * evaluating evidence gathered during investigations and advising on its efficacy and the legal issues arising there from
- * compiling comprehensive reports with appropriate recommendations to the Attorney General on all the completed investigation files pursuant to section 35 of the Anti-Corruption and Economic Crimes Act
- * preparation of quarterly reports and coordination of the publication of the said reports with the Government Printer
- * holding a watching brief on behalf of the Commission in the cases investigated by the Commission which are pending before Courts
- * coordinating the preparation of the monthly report for the Directorate and collating statistics on cases handled by the Commission

The Department of Research and Documentation is responsible for:

- * legal research and advice on anti-corruption legislation and related laws
- * carrying out comparative research into the laws and authorities from other jurisdictions
- * research on all legal matters touching on functions and operations of the Commission
- * giving advice on contracts of the Commission and those of other public bodies.

Civil Proceedings instituted by Kenya Anti-Corruption Commission

During the period under review, the Commission instituted a restitution case against Dr. Margaret Gachara, the former Director of National Aids Control Council. The case is ***Nairobi HCCC No. 550 of 2005 Kenya Anti- Corruption Commission Vs Dr. Margaret Wangui Gachara.*** The Commission is claiming, on behalf of National Aids Control Council a sum of Kshs. 27,861,180.00/- which was improperly paid to Dr. Gachara, based on a fraudulent misrepresentation of facts to the said Council. Dr. Gachara has filed a defence denying the claim and the parties have already agreed upon issues for determination by the Court. The case will be fixed for hearing as soon as all the preliminary procedures are finalized.

Two other cases that were filed in the year 2003/04 are still pending before Court. ***These are HCCC No. 1111 of 2003, Kenya Anti-Corruption Commission Vs Kamlesh M.D Pattni and 16 others and HC Misc. Application No. 599 of 2004, Kenya Anti-Corruption Commission Vs L.Z Engineering Construction Ltd and five others.***

The Commission recovered on behalf of National Museums of Kenya a sum of Kshs. 2,555,000.00 from Dr. Mohamed Isahakia the former Director General of National Museums of Kenya. He had been charged in Criminal Case No: 152/2002 for the offence of stealing.



The Commission has also prepared statements of claim against public officers who are responsible for losses and plunder of funds in various State Corporations, and intends to file them in Court shortly. By June 2005, the Commission had prepared ten (10) such statements of claim. The Commission has been engaged in extensive research with a view to laying a solid foundation with regard to institution and prosecution of restitution claims.

It is noteworthy that institution of cases for restitution under the Anti-Corruption and Economic Crimes Act presupposes a situation where investigations have been undertaken and the preceding criminal case has already been concluded. Thus the rate at which our criminal cases are concluded in Court has a direct bearing on the number of restitution cases that are filed in Court. The Commission in its investigative role filed and prosecuted seven applications for warrants to investigate Bank accounts and to search premises of persons suspected of having committed corruption or economic crimes.

Quarterly Reports

Legal Services Directorate prepared and published on behalf of the Commission four quarterly reports, covering the period July 2004 to June 2005. The quarterly reports are prepared pursuant to the provisions of Sections 35 and 36 of the Anti-Corruption and Economic Crimes Act.

Section 35 of the Anti- Corruption and Economic Crimes Act provides as follows:

- * Following an investigation, the Commission shall report to the Attorney General on the results of the investigation.
- * The Commission's report shall include any recommendation the Commission may have that a person be prosecuted for corruption or economic crime.

In addition, Section 36 provides as follows:

- * The Commission shall prepare quarterly reports setting out the number of reports made to the Attorney General under section 35 and such other statistical information relating to those reports as the Commission considers appropriate.
- * A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was not accepted.
- * The Commission shall give a copy of each quarterly report to the Attorney General.
- * The Attorney General shall lay a copy of each quarterly report before the National Assembly
- * The Commission shall cause each quarterly report to be published in the Gazette.

The following is a tabular presentation of the quarterly reports published during the financial year.

Investigations Concluded In The Period: July To September 2004

No. of files forwarded to the Attorney General	7
No. of files recommended for prosecution	5
No of files recommended for administrative or other action	0
No. of files recommended for closure	2
No. of files where recommendation for prosecution accepted	0
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	0
No. of files where recommendation for prosecution not accepted	1
No of files where recommendation for administrative or other action not accepted	0
No. of files where recommendation for closure not accepted	0
No. of files awaiting Attorney General's action	6

Investigations Concluded in the Period: October to December 2004

No. of files forwarded to the Attorney General	4
No. of files recommended for prosecution	3
No. of files recommended for administrative or other action	0
No. of files recommended for closure	1
No. of files where recommendation to prosecute accepted	0
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	0
No. of files where recommendation to prosecute not accepted	0
No. of files where recommendation for administrative or other action not accepted	0
No. of files where closure not accepted	0
No. of files awaiting Attorney General's action	4

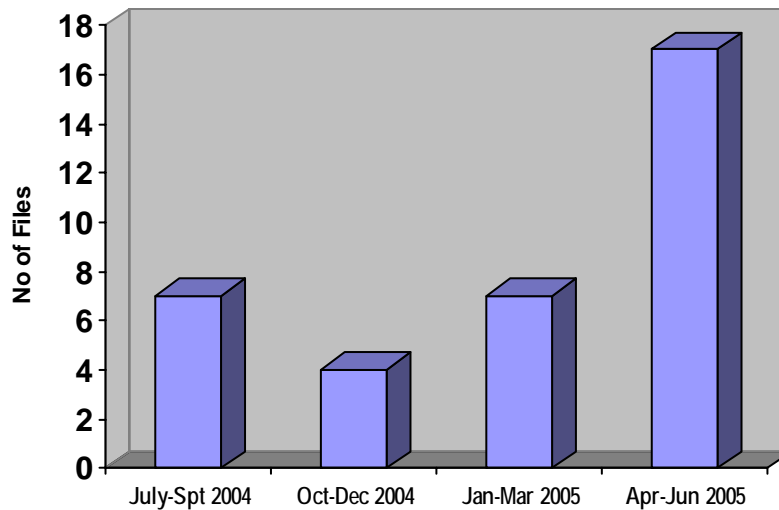
Investigations Concluded in the Period: January to March 2005

No. of files forwarded to the Attorney General	7
No. of files recommended for prosecution	4
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files where recommendation for prosecution accepted	4
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	2
No. of files where recommendation for prosecution not accepted	0
No. of files where recommendation for administrative or other action not accepted	0
No. of files where recommendation for closure not accepted	0
No. of files awaiting Attorney General's action	1

Investigations Concluded in the Period: April to June 2005

No. of files forwarded to the Attorney General	17
No. of files recommended for prosecution	11
No. of files recommended for administrative or other action	0
No. of files recommended for closure	6
No. of files where recommendation to prosecute accepted	3
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	2
No. of files where recommendation to prosecute not accepted	0
No. of files where recommendation for administrative or other action not accepted	0
No. of files where closure not accepted	0
No. of files awaiting Attorney General's action	12

Investigations Concluded



The table above shows the progressive increase of the number of investigation files concluded and forwarded to the Attorney General during the period under review.

Some significant cases where reports have been written to the Attorney General during the reporting period are:

- * Inquiry into allegations that procurement procedures were not followed in the award of the CID Forensic Science Laboratory project to Forensic Laboratory Ltd and Anglo Leasing Finance Ltd.

- * inquiry into allegations of irregular award of contract for supply and installation of new passport issuing system for the Department of Immigration to Anglo Leasing & Finance Limited. Investigations revealed that Anglo Leasing & Finance Ltd is neither registered in the UK nor in Kenya. A contract was entered into without verifying the legal status of the company and in total breach of procurement procedures. The investigation also established that the money paid to Anglo Leasing & Finance Limited amounting to Euros 956,700.00 was paid back to the Government by 13th May 2004.
- * inquiry into allegations of corruption in the Ministry of Water and Natural Resources, Management and Development, Tender No. MWRM & D/6/2003-2004, wherein the investigation disclosed no evidence of corruption, but one of the bidders was found to have uttered a false document to the Permanent Secretary in the Ministry.

In other cases, reports have been made to the Attorney General and action on the Commission's recommendations is awaited. Such cases include:

- * Inquiry into alleged abuse of office in the recruitment of rangers by the Kenya Wildlife Service (KWS).
- * Inquiry into an allegation that an Engineer of Kenya Ports Authority corruptly and in abuse of his office awarded tenders to M/s Hayer Bishan Singh & Sons Ltd for the repair of the access road and drainage system at the Kisumu Inland Container Depot without regard to tendering procedures.

Other Activities

Officers of Legal Services Directorate have made presentations in various fora, mainly to sensitise participants on the anti-corruption legislation. Some of these include a media workshop, workshops organised for Magistrates and a workshop for the Department of Registrar General. Other papers that have been presented are on defences of justification and fair comment with regard to reporting corruption cases, procedures of compensation and recovery of assets in the Anti-Corruption and Economic Crimes Act and the legal regime on alcohol, tobacco and other drugs.

Challenges that are being faced by the Directorate in the discharge of its duties:

- i) derailment of proceedings caused by numerous Constitutional and Judicial Review applications by the accused persons and other delays occasioned by numerous adjournments.
- ii) The Anti-Corruption and Economic Crimes Act does not provide an effective mechanism of encouraging and protecting informers and witnesses and this affects the quality of evidence given by witnesses. Though Section 65 of the Act attempts to protect informers, it fails to pronounce penalties for breach of the provision.



- iii) Inadmissibility of confession as brought about by Section 99 of the Criminal Law (Amendment) Act No. 5 of 2003 that introduced Section 25A of the Evidence Act which renders confessions generally inadmissible.
- iv) The procedure of reporting investigations pursuant to Section 35 to the Attorney General for further action is time consuming and repetitive. The Commission has its own legal officers who do crime reading, the file once sent to the Attorney General is reread and it takes an inordinately long time to finalise with files.
- v) Suspects and witnesses leaving the jurisdiction in the course of investigations. At times, some evidence is outside the jurisdiction. The law in place on mutual legal assistance is not sufficient to enable timely investigations and prosecutions.
- vi) Interpretation on the effect of the repeal of the Prevention of Corruption Act (Cap. 65) in respect to offences committed before the Anti Corruption and Economic Crimes Act No. 3 of 2003 came into force is still varied and the law has not been settled on the matter.

Proposed solutions to the fore stated Challenges:

- i) giving the Commission prosecutorial powers to ensure that prosecutions are instituted promptly after the completion of the investigations
- ii) setting up mutual legal assistance mechanisms, extradition treaties and more funding for witness expenses
- iii) lobbying for amendments and/or harmonization of the legislation highlighted above to enable smooth investigation and prosecution of corruption and economic crime.

DIRECTORATE OF RESEARCH, EDUCATION POLICY AND PREVENTIVE SERVICES

Introduction

The Directorate of Research, Education, Policy and Preventive Services combines the functions of Education, Research, Policy and Preventive Services. The programmes and activities under this directorate are aimed at preventing corruption in the short, medium and long term. The Programmers of the directorate are deliberately carried out in a multi-dimensional but holistic manner with each programme and activity directly feeding into the other and vice versa. The directorate implements some of its activities in partnership with other stakeholders in Public and Private sectors and the Civil Society.

As a preventive strategy, the directorate identifies weaknesses, loopholes, avenues and opportunities for corruption in public and private bodies and makes recommendations on how to seal them. Through education, it creates public awareness on the causes and dangers of corruption and economic crime and solicits public support in the prevention of corruption. At the same time, the Directorate seeks to partner with local, regional and international organizations in the development and implementation of collective strategies in the fight against corruption. Information provided by the Research Department forms the basis of the directorate's programmes.

During this period the Directorate implemented a number of programmes. These include:

- * examination of systems, policies, procedures and practices of various bodies and government departments.
- * revision of the National Anti-Corruption Plan.
- * delivery of sector based sensitization lectures.
- * implementation of Public Service Integrity Programme.
- * participation in the Agricultural Society of Kenya (ASK) Shows
- * development of Behaviour Change Communication (BCC) materials.

To achieve its mandate, the directorate consists of three departments implementing specific programmes. These are:

- * The Education Department
- * The Partnerships, Coalitions and Interventions (Prevention) Department
- * The Research and Policy Department

The Education Department is charged with the responsibility of designing, developing and implementing ethics and integrity educational materials for both the public and private sector. Its activities are implemented by three divisions namely;

- * Sectoral Integrity Education Division



- * Formal Integrity Education Division
- * Public Integrity Education Division.

The Partnerships, Coalitions and Interventions Department is divided into three divisions for effective implementation of its programmes. The Divisions are:

- * The Partnerships and Coalitions
- * The Liaison and Quality Assurance
- * The Advisory and Consultancy

The Department is charged with the following responsibilities:

- * handling critical areas of interface with other Government Agencies.
- * forging Partnerships and Coalitions and creating linkages with other organizations and institutions involved in the fight against corruption.
- * organizing forums for informed debate and discussion on critical .
- * examining systems, policies, procedures and practices in public and private sector agencies and recommending change to enhance service integrity and prevent corruption in these sectors.
- * training integrity and quality assurance officers in the public and private sectors.
- * monitoring and Evaluation of Performance Standards in the public and private sectors.
- * offering advisory and “Consultancy” Services to organizations, agencies, departments and other institutions on anti-corruption and good governance, upon request.
- * at the request of any person, to advise and assist the person on ways in which the person may eliminate corrupt practices.

The Research and Policy Department also has three Divisions, which are:

- * the Research and Analysis
- * the Policy
- * the Information and Planning

It is responsible for the following programmes:

- * designing and developing research programmes into corruption, economic crime and related activities.
- * carrying out research in accordance with the designs and methodologies so developed.

- * analysing relevant data.
- * making policy and reform proposals in the legal, institutional and administrative frameworks aimed at preventing corruption in all sectors of society.
- * production, processing and dissemination of information about trends of corruption in Kenya.

Planning

Planning is a critical component of programme success. The directorate took time to prepare detailed work plans at all levels – directorate, departmental and divisional. The purpose of this planning was to identify performance indicators, inputs and implementation schedule, to clarify various mandates with a view to forging synergies across divisions, departments and directorates. The work plan informed the activities implemented by the directorate during the period ending June 2005. The directorate's work plan was revised in February 2005 to take cognizance of the new directorate's structure and additional responsibilities. A separate work plan was developed for funding under the Governance, Justice and Legal Organizations Sector (GJLOS) basket fund. The directorate participated in various related meetings and workshops.

National Anti-Corruption Plan

The Directorate steered the process of finalizing the National Anti-Corruption Plan which brings together key players in the fight against corruption. The plan provides a multi-sectoral approach to the war on corruption with its main objective being to marshal the efforts and resources of various stakeholders to progressively and systematically reduce – to the extent possible- the causes and the destructive effects of corruption in Kenya. During the year under review, Sectoral consultations were conducted and comments from key stakeholders incorporated in the plan. The co-ordinating committee held meetings for consensus building and planning its implementation. It is envisaged that the Plan will be launched during the World Anti-Corruption day in December 2005 when implementation will commence with every player developing and implementing their own work plan. A secretariat will be set up to monitor implementation of the various work plans.

Education for National Integrity

Under this programme, workshops were conducted targeting educational institutions. The main objective of the workshops were to:

- * inculcate ethics, integrity and anti-corruption content in the curriculum of learning institutions.
- * empower education stakeholders in the fight against corruption.
- * build teachers' capacity to integrate and infuse anti-corruption messages

in their teaching programmes.

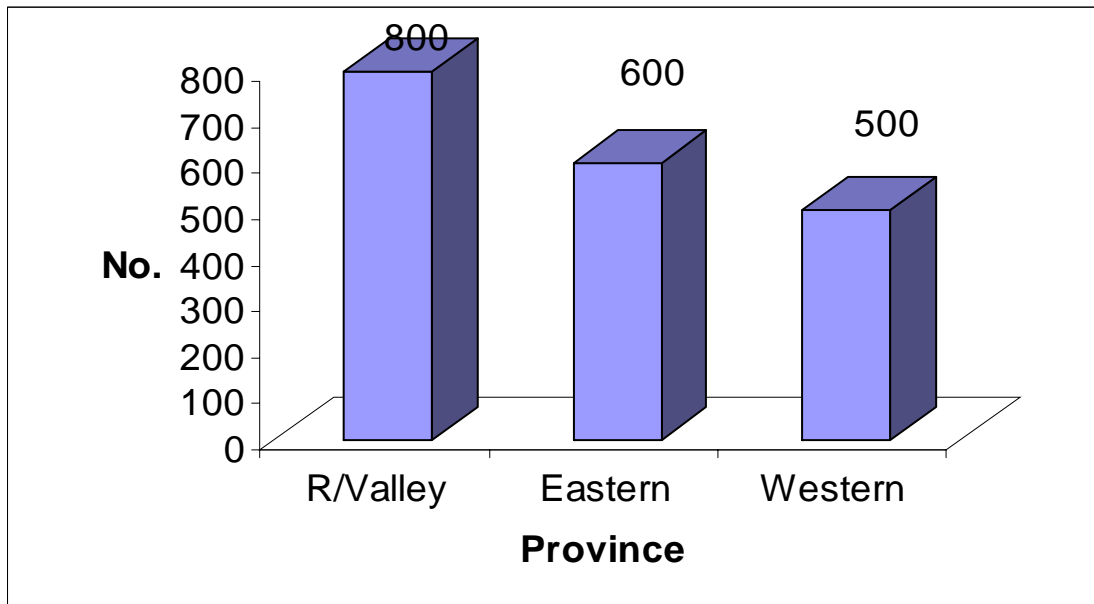
Secondary School Head Teachers Conferences

To inculcate good management principles in the school system, the directorate delivered lectures during this year's Secondary School Head Teachers Conferences. The purpose of participating in the conferences was twofold:

- * to forge a partnership with secondary school administrators in an effort to inculcate ethics and integrity in the management of schools, and in the learning process
- * to sensitize the participants on the mandate of KACC, the concept of corruption, ethics and integrity.

A total of 4000 head teachers were reached during the National Conference held in Mombasa, in June 2005.

Number of Head teachers attending the Conference:



Kenya National Music Festival

The Kenya Anti-Corruption Commission sponsored a category during the Kenya National Music Festival under the theme: 'A Corruption Free Nation, is a Free Nation'. Tokens of recognition and appreciation were given to the composers; participants and winning schools - (primary and secondary), in choral verse speaking, public speaking and choir as a way of encouraging future participation and dissemination of anti-corruption messages. The tokens were in form of book vouchers, certificates and T-shirts.

Kenya National Examinations Council

The Directorate held meetings with senior officers of the Kenya National Examinations Council (KNEC) and concrete areas of cooperation were identified, focusing on:

- * strategies through which anti-corruption content could be included and evaluated in the current examination system
- * how the Commission and the Council could work together to eliminate cheating in the national examinations process.

Training, Research, Advocacy and Governance Programme (TRAG)

The main objective of this programme is to build the capacity of public and private sector organizations to effectively reduce corrupt practices.

A workshop held between 13th and 18th September 2004 in Njoro focused on:

- * review of the Certificate Course Curriculum
- * development of a Diploma Curriculum
- * finalizing arrangements for the Certificate Course.

The Public Service Integrity Programme (PSIP)

The Public Service Integrity Programme (PSIP) was part of the Public sector-wide reform programme. It was coordinated and implemented by KACC in liaison with the directorate of Personnel Management (DPM), Office of the President. The programme seeks to restore and sustain transparency, accountability and integrity in the public service and has three aspects namely:

- * PSIP sensitization programme
- * integrity Assurance Officers training
- * corruption Prevention Committees.

During the period under review, the directorate conducted PSIP implementation survey, sensitization and training in all the eight provinces across the country.

The PSIP implementation survey was carried out in three phases. The first phase was in the months of May and June 2004, while the second and third phases were between 29th August and 13th September 2004 and 25th October and 15th November 2004. The study covered 62 districts out of 72 districts in Kenya. The study targeted 4546 respondents comprised of Chief Executives, Heads of Departments, Integrity Assurance Officers and Staff. About 2201 were interviewed during the survey.



The study sought to establish:

- * the number of Corruption Prevention Committees formed
- * the anti-corruption activities carried out within the organizations
- * the constraints and challenges encountered in the implementation of integrity and anti-corruption initiatives.

The purpose of the sensitization and training exercise was to provide update training for Integrity Assurance Officers, to sensitize Law Enforcement Officers and District Heads of Department on the current anti-corruption efforts, and to enlist their commitment and participation in achieving zero tolerance to corruption. The programme reached a total of 725 people as shown in the table below by province.

Number of participants during provincial PSIP workshops by province

PROVINCE	HOD's	IAOs	Law Enforcement Officers	Total No. of officers Attended
Nairobi	35	35	35	105
Central	41	29	33	103
Eastern	35	22	35	92
Western	35	18	41	94
Rift Valley	37	24	30	91
Nyanza	37	16	31	84
Coast	35	20	30	85
North Eastern	34	18	19	71
Total	252	166	223	725

Information Education and Communication Materials

The Directorate developed and distributed Information, Education & Communication (IEC) materials such as badges, stickers, source books, pamphlets, brochures and copies of the Anti-Corruption and Economic Crimes Act No. 3 of 2003 and the Public Officer Ethics Act of 2003 to requesting organizations and in the process of delivering lectures and presentations.

Training of Integrity Assurance Officers (IAOs)

As part of the on-going activities under the PSIP, the directorate organized and conducted training programme for 116 additional IAOs. The training targeted public officers and was on a wide range of modules to assist them prevent corruption and improve service delivery in their work place.

Media

The Commission appreciates the role of the media in the fight against corruption. In this regard, the directorate held meetings with different media houses, including Kenya Broadcasting Corporation (KBC), Citizen Radio, Kiss FM, Classic and Klarity Creative Media in preparation for radio and television programmes. During these meetings, the discussions centered on:

- * programmes to be developed – such as radio & television spots, television documentaries and theatre.
- * production costs
- * broadcast costs

Following the meetings, the directorate initiated the sponsorship of the 'clock' with a KACC Logo and short anti-corruption message on KBC prime news. There were further discussions touching on the development of radio programmes targeting the youth in school and out of school. The Commission is working with media consultants to put in place anti-corruption programmes/information.

The draft terms of reference for media consultants were also completed in the course of the year. This will enable the Commission to have a structured engagement with the media houses and consultants in as far as the production of anti-corruption messages is concerned.

Sensitization Programme for Kenya Police and Community Based Groups

Anti-corruption sensitisation seminars and training workshops remain an important tool for the directorate in its education functions. In this regard, officers from the directorate delivered lectures to several institutions and groups. These include the Kenya Police, Church Groups, and Community-Based Organisations (CBOs). In particular, the sensitisation workshops and seminars had the Police force as the main beneficiary. These involved the following activities:

- * training of Trainers: The purpose was for capacity building for police trainers
- * district sensitization seminars: The district sensitisation lectures involved law enforcement agents in the districts, including Police Officers, Administration Police, Prisons' Officers, KWS personnel and GSU personnel.



- * One Day Opportunity Lectures in different institutions.

Agricultural Society of Kenya (ASK) Show

During the Eldoret ASK Show, members of the public were sensitized on causes and effects of corruption, benefits of fighting corruption, the role of the Commission and their role as citizens in the fight against corruption. Information on how to report corruption was also given.

Examination Assignments

An examination is an important corruption prevention mechanism. It involves in-depth study of systems, policies, procedures and practices in an organization in order to identify corruption loopholes. Recommendations are made to seal the loopholes. The following examinations were carried out during the year under review:

- 1) **Ministry of Health and the Kenya Medical Supplies Agency (KEMSA):** The examination carried out between 25th October and 31st November 2004 was presented to the Permanent Secretary, Ministry of Health in May 2005. The purpose of the examination was to identify areas that are prone to corrupt practices. The target areas were procurement; storage and distribution of drugs to public health facilities; utilization of cost sharing funds for procurement of drugs; donor funded programmes and other essential service departments. Findings arising from the examination indicated the existence of loopholes for corrupt practices in the whole process of procurement, storage and distribution of drugs; and medical supplies. Recommendations were made to assist the Ministry and KEMSA to revise procedures and methods of work in order to reduce the likelihood of the occurrence of corrupt practices. An Implementation Plan arising from the report has been finalized and is to be presented to the Permanent Secretary.
- 2) **Registration and Licensing of Motor Vehicles and Enforcement of Traffic Laws:** The examination was carried out between 1st April and 6th May, 2005 and targeted the Department of the Registrar of Motor Vehicles, Transport Licensing Board, Motor Vehicle Inspection unit, Traffic Police, Ministries of Transport and Finance and Local Authorities. The examination focused on key functional areas of clearance of imported vehicles, registration and licensing, inspection, enforcement of traffic rules in general and regulation and management of bus parks. Findings arising from the exercise indicate the existence of

thriving parallel market for fake registration and licensing documents leading to massive loss of government revenue. The report is to be presented to the Permanent Secretary at a public function

Corruption Risk Assessment (CRA)

A Corruption Risk Assessment is an urgent and quick assessment of corruption risks in an organization and aims at profiling corruption prone areas for immediate action. It can assist in determining the need for an in-depth examination of practices and procedures in an organization. The directorate carried out a CRA at the Municipal council of Mombasa between 20th and 28th June 2005. The purpose was to identify and profile corruption risk areas of the Council and to advice on methods of sealing the loopholes. The exercise covered all functional areas of the Council, which include general administration, financial, and assets management, quality control and assurance and records management. Findings arising from the CRA indicate gross financial mismanagement of council revenue and poor record keeping for accountable documents. Recommendations emphasize the need to enforce existing systems and design new guidelines and strategies to reduce the occurrence of corrupt practices. The report has been presented to the Municipal Council of Mombasa Mayor and Town Clerk.

Forging Partnerships and Coalitions

Partnerships and Coalitions are among of the strategic objectives of the Commission. The Commission plans to work with various stakeholders to evolve an appropriate partnership strategy. To effectively operationalise the partnership strategy, the Directorate developed a discussion paper which addresses issues of partnerships from a holistic point of view. The paper further seeks to provide a basis for discussions on the way forward in the determination of a partnership criteria and hence a framework for formulating a policy on partnership and coalitions. During the period under review, the directorate held consultative sessions with selected umbrella organizations representing:

- * the Private sector
- * civil society and Non-governmental organizations
- * religious organizations

- * educational institutions
- * key Government departments involved in the fight against corruption.

TOPIC	OCCASION
Preventing Corruption in the Work Place	Induction of the Kenya Tea Development Agency Board of Directors
Legislative Framework and the Role of Stakeholders in Fighting Corruption	International Women's Day celebrations symposium
Good Corporate Governance and Personal Responsibility	Sensitization Seminar for Management staff
Integrity in the Public Service	Workshop for Heads of Departments of the Kenya Meteorological Department
The Definition of Corruption and Strategies for Preventing Corruption	Catholic Church Parishioners

Resource Centre

Information is central to the anti-corruption crusade. To ensure that Commission staff and other researchers in governance and ethics access relevant information, the directorate started the process of modernizing and automating the library into a resource centre. The Commission intends to develop this into a source of information for its staff to anchor its programmes on information as well as provide information to other researchers. Once the process is complete information will be available on the Commission website.

To develop partnerships for information sharing, exploratory meetings were held with potential partners including The World Bank, GJLOs, UN agencies - United Nations, Educational, Scientific and Cultural Organization (UNESCO), United Nations Environment Programme (UNEP) and United Nations Drug and Crime Prevention Organization (UNDCP).

Challenges

- * Victimization and stigmatisation of IAOs by their seniors and colleagues has been a challenge in the sustenance of the Public Service Integrity Programme.
- * Development of specific indicators to measure acceptance and internalisation of integrity values is difficult.

Spear of Integrity

- * The mode of selection of IAO's is not foolproof as the Commission has no mechanism of ensuring they meet the laid-down selection criteria. Thus some of those being trained might not have capacity to influence the decision-making process required to enhance integrity in their organisations.
- * The expectation of direct financial benefits may at times derail the process of forging partnerships with various organisations and interest groups, when the same is not given. Potential partners may expect financial support from KACC and could give up when this is not provided.
- * The process of examination of systems and Corruption Risk Assessments (CRA) are sometimes confused with investigation creating fear, suspicion and lack of trust. Consequently, some interviewees become uncooperative and may fail to provide critical information.
- * The tendency to defend the organisation, once exposed by the examination or CRA report, may affect implementation of the recommendations.
- * Some recommendations may not be implemented due to factors like budgetary constraints in the examined institutions.
- * In some organisations, the management might not be keen to carry out further investigations or take disciplinary action against errant officers, as recommended.
- * Some recommendations for improvement of systems require reviewing of existing laws and policies. This may take a long time.
- * The process of behaviour change is a long-term phenomenon, and there is reluctance by some members of the public to embrace this change.

The Future

- * The Public Sector Integrity Programme will be reviewed and redesigned to make it more robust and reflective of the new changes in the areas of good governance, ethics and integrity. This will include the development and implementation of an effective monitoring and evaluation system.
- * The Commission plans to review the current criteria for selection of IAOs with involvement of all stakeholders to ensure support and ownership of the programme. KACC will provide technical assistance to the public departments and monitor implementation of the PSIP activities to ensure adherence to the principles and ideals of the programme.
- * A baseline survey will be undertaken for purposes of developing a database that will enable us develop appropriate anti-corruption programmes.
- * The Directorate will enhance monitoring of the implementation of recommendations from reports of the examination of systems, procedures and practices of public institutions to enhance compliance.



Spear of Integrity

Pictc



Chief Justice Hon. Evans Gicheru, KACC Advisory Board Chairman Mr. Allan Ngugi and KACC Management during the Senior Officers Induction Course.



KACC Advisory Board Members, Management and Senior Officers during Strategic Planning Meeting at Naivasha.



KACC Director/Chief Executive Justice Aaron Ringera and staff follow proceedings of the Senior Officers Induction Course



Assistant Director REPPS, Dr. Smokin Wanjala poses for a photo with KACC Staff after being awarded 3rd Best Government stand at the Eldoret ASK show.



Dr. Smokin Wanjala [AD REPPS] explains the Commission's mandate to the Minister for Local Government Hon. Musikari Kombo and other dignitaries at the Nakuru ASK Show



A member of staff utilizing the Commission's broadband internet gateway to conduct legal research.



KACC staff members sensitizing law enforcement officers at the Nakuru A.S.K. show.



Students of Mukumu Girls High School present a song on anti-corruption at the Kenya National Music Festival.



The Minister for Environment & Natural Resources, Hon. Kalonzo Musyoka, being shown around the KACC stand at the Nakuru A.S.K. show.



Members of staff exchange notes at the Legal Research Documentation Centre.



The Director, Justice Aaron Ringera accompanied by Assistant Directors addresses a press Conference.

**DIRECTORATE OF FINANCE AND ADMINISTRATION**

The Finance and Administration Directorate is a service directorate which is comprised of the following departments and Divisions:

<u>Department</u>	<u>Division</u>
1. Administration	(i) General Administration (ii) Information Communication Technology (ICT) (iii) Transport
2. Finance and Accounts	(i) Accounts (ii) Planning and Budget (ii) Procurement
3. Human Resources	(i) Personnel Administration (ii) Human Resources Training and Development
4. Auxiliary Divisions	(i) Internal Audit (ii) Public Relations and Protocol

FUNCTIONS OF FINANCE AND ADMINISTRATION DIRECTORATE

- a. to provide efficient and effective Human Resources Management which includes, staff training and development, staff remuneration and personnel administration
- b. to ensure efficient management of financial resources including budgeting, sourcing of funds and maintaining proper books of accounts
- c. to procure all goods and services for the Commission in accordance with the procurement and supplies regulations
- d. to provide general office management which includes, office accommodation, telephone and transport services
- e. to ensure that ICT capacities enable the Commission's business to operate efficiently and safely
- f. to carry out systems audit by way of independent appraisal of all financial activities of the Commission
- g. to provide liaison between the Commission and other stakeholders.

ACHIEVEMENTS

- i) Recruitment

- * Phase I – In September, 2004 the Director/Chief Executive and three (3) Assistant Directors were appointed by His Excellency the President of the Republic of Kenya
- * Phase II – In February, 2005 forty four (44) Senior Officers were appointed on the basis of meritocracy and competitive selection
- * Phase III – In May 2005, a further seventy six (76) officers were recruited
- * Phase IV – In April 2005 the Commission advertised seventy three (73) positions in the media, which were to be subsequently filled by August 2005. Only thirteen (13) positions are yet to be filled in order to attain the authorized staff establishment
- * All the officers recruited were inducted on the operations of the Commission

ii) HIV/AIDS sensitization

In light of the Government's Policy on the HIV/AIDS pandemic, the Commission initiated HIV/AIDS sensitization programme among its staff.

ii) Training

Training undertaken included:

- * Performance Contracting in the Public Sector – Senior Management (21st – 23rd March 2005)
- * Government Financial Management Statistics – Senior Officers (19th April 2005)
- * Performance Management using the Balance Score Card (BSC) approach– Senior Officers (27th– 28th April 2005).

iv) ICT

Modernization of ICT infrastructure by acquiring a Reduced Instruction Set

Computer (RISC) server, 50 desktop and 10 laptop computers

Installed a broad band internet gateway and protection device for research and communication.

Modernization of the Resource Centre to the appropriate standards

CHALLENGES

- i) acquiring adequate premises for the Commission to ease the existing congestion
- ii) establishment of provincial offices in order to reach a wider public
- iii) securing sufficient funding for acquisition of premises and establishment of provincial offices.



REPORT OF THE DIRECTOR

REPORT OF THE DIRECTOR

The Director presents the report together with the audited financial statements for the year ended 30th June 2005.

Activities

The principal activities of the Commission are to investigate corruption and economic crimes, prevent corruption and conduct public education on the dangers of corruption.

Results

The results for the year are set out on page 44.

Directors/Members of Advisory Board

The members of the KACC advisory Board who served in the year and up-to the date of this report are listed on page 2.

Auditors

The auditors of the Commission for the year ended were the Controller and Auditor General, Kenya National Audit Office, in line with the Public Audit Act, 2003, and Anti-Corruption and Economic Crimes. Act, 2003. The auditors for the Commission continue to be the Controller and Auditor General.

On behalf of the Commission

Justice Aaron Ringera

Director/Chief Executive

4th October 2005

Statement of Director's Responsibilities

The Anti-Corruption and Economic Crimes Act requires the Director 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 the operating results for the year.

The Director 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 of the Commission are safeguarded.

The Director accepts responsibility for 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 Exchequer and Audit Act. The Director is of the opinion that 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 Director 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 the internal financial control.

Nothing has come to the attention of the Director 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:



Director/Chief Executive



Deputy Director

REPUBLIC OF KENYA

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P.O. Box 30084-00100
NAIROBI

KENYA NATIONAL AUDIT OFFICE

REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF KENYA ANTI-CORRUPTION COMMISSION FOR THE YEAR ENDED 30 JUNE 2005

I have audited the financial statements of Kenya Anti-Corruption Commission for the year ended 30 June, 2005 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. The financial statements are in agreement with the books of account.

Respective Responsibilities of the Directors and the Controller and Auditor General

As set out in the statement of director's responsibilities, the directors are responsible for the preparation of financial statements which give a true and fair view of the Commission's state of affairs and its operating results. My responsibility is to express an independent opinion on the financial statements based on my audit.

Basis of opinion

The audit was conducted in accordance with the International Standards on Auditing. Those standards require that the audit be planned and performed with a view to obtaining reasonable assurance that the financial statements are free from material misstatements. An audit includes an examination, on a test basis, of evidence supporting the amount and disclosures in financial statements. It also includes an assessment of the accounting policies used and significant estimates made by the directors, as well as an evaluation of the overall presentation of the financial statements. I believe my audit provides reasonable basis for my opinion.

Opinion

In my opinion, proper books of account have been kept and the financial statements give a true and fair view of the state of the financial affairs of the Commission as at 30 June 2005 and of its surplus and cash flows for the year then ended in accordance with International Financial Reporting Standards and comply with the Kenya Anti-Corruption and Economic Crimes Act, 2003.



E.N. MWAI
CONTROLLER AND AUDITOR GENERAL

Nairobi

12 October 2005

Financial Statements

KENYA ANTI-CORRUPTION COMMISSION

BALANCE SHEET		
AS AT 30 JUNE 2005		
	Note	2005 Ksh'000
ASSETS		
Non current assets		
Property, plant and Equipment	2	109,343
Gratuity Fund Investment	3	35,898
		145,241
Current assets		
Inventories	4	14,203
Receivables and Prepayments	5	751
Cash and Cash Equivalents	6	179,538
		194,492
Total Assets		339,733
EQUITY AND LIABILITIES		
Accumulated fund		
Accumulated Fund	7	127,067
Revenue Reserve		176,164
		303,231
Non current liabilities		
Gratuity fund	3	35,899
Current liabilities		
Trade and other payables	8	10
Accrued liabilities and charges	9	593
		603
Total equity and liabilities		339,733

FINANCIAL STATEMENTS

The financial statements on pages 43 to 52 were approved on 4th October 2005 and signed on behalf of the Commission by;



**Director/Chief Executive
Justice Aaron Ringera.**



**Deputy Director
Fatuma Sichale (Mrs.)**



KENYA ANTI-CORRUPTION COMMISSION

Revenue and Expenditure Statement

for the Year ended 30 June 2005

REVENUE	Note	2005 Ksh'000
Government Grants (GOK)		591,000
Development Partner / Donor Support	10	5,202
Other Income	11	1,063
Total Revenue		597,265
EXPENDITURE		
Administrative Expenses	12	258,843
Operating and Maintenance	12	162,258
Total Expenditure		421,101
Surplus for the year		176,164

KENYA ANTI-CORRUPTION COMMISSION

Cash Flow Statement			
for the year ended 30 June 2005			
	Note	2005	Ksh'000
Cash Flow from operating activities			
Net income from operations			176,164
Add back non-cash expense (Depreciation)			32,564
Net Cash from operations			208,728
Decrease in receivables			(751)
Increase in payables			603
Net cash utilized from operating activities			208,580
Cash Flow from Investing Activities			
Purchase of property, plant and equipment			(29,042)
Net cash utilized in investing activities			(29,042)
Net increase in cash and cash equivalents			179,538
Bank and cash equivalents at beginning of year			0
Bank and cash equivalents at end of year			179,538



Statement of Changes in Equity
for the Year Ended 30 June 2005

	Accumulated Fund
	(Ksh'000)
Surplus for the year	176,164
<u>Accumulated Fund</u>	<u>127,067</u>
<u>At 30 June 2005</u>	<u>303,231</u>

The Accumulated fund represents the surplus for the year and capital transfer of inventory, plant and equipment inherited from the now defunct Anti-Corruption Police Unit (ACPU)

NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2005

1. Summary of Significant Accounting Policies

(i) Basis of preparation and form of presentation

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

These financial statements have been prepared on a historical cost basis as modified by the inclusion of certain assets at valuation. The financial statements are presented in thousands of Kenya Shillings (Kshs. '000).

(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.

(iii) Motor Vehicles and equipment

Motor Vehicles and equipment are stated at cost or valuation, less accumulated depreciation. The Commission's motor vehicles were re-valued in 2005 by the Mechanical Department of the Ministry of Roads and Public Works. The equipment inherited from the now defunct Kenya Anti-Corruption Authority and Anti-Corruption Police Unit under the Office of the President have been carried at book values and where appropriate certain valuation by the Directors have been incorporated. The values derived have been transferred to the Accumulated fund.

(iv) Depreciation

Depreciation is provided on the cost/valuation of assets on a reducing balance basis at rates designed to write down the assets to their estimated residual values over their estimated useful lives as follows:

Fixed Assets	Rate per annum (%)
Computers and Software	33.33
Motor vehicles	25.00
Office equipment	12.50
Plant and Machinery	12.50
Communication/Surveillance Equipment	12.50
Furniture, Fixtures & Fittings	12.50

(v) Inventories

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

(vi) Trade and other receivables

Trade receivables are recognized and carried at original invoice amount less an allowance for any uncollectable 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.

(vii) Cash and cash equivalents

Cash and cash equivalents are defined as 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 cash flow statement, cash and cash equivalents consist of cash on hand and deposits in banks, and short term highly liquid investments.

(viii) 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.

(ix) 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 an outflow of resources embodying economic benefits require to settle the obligation and a reliable estimate of the amount of obligation can be made.

(x) Employee benefits

The Commission has established a sinking fund in accordance with Section 13(4) of the Anti-Corruption and Economic Crimes Act, 2003 for the employee's gratuity, which is computed on the basis of 31% of basic salary. This fund is managed separately as a sinking fund in accordance with section 13(4) of the Anti-Corruption and Economic Crime 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.

(xi) Income taxes

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

2. Property, Plant and Equipment

Property, Plant and Equipment						
Cost/Valuation	Plant & Equipment (Ksh'000)	Surveillance Equipment (Ksh'000)	Furniture, Fixtures & Fittings	Motor Vehicles (Ksh'000)	Computers (Ksh'000)	Total (Ksh'000)
Cost at 30.6.2005	18,770	1,787	17,957	80,574	22,819	141,907
Depreciation at 30.6.2005	2,346	223	2,245	20,144	7,606	32,564
Net book value 30.6.2005	16,424	1,564	15,712	60,430	15,213	109,343

3. Gratuity Fund Investment

The Gratuity Fund constitutes 31% of basic salary set aside on monthly basis as a sinking fund to cater for the benefits payable to employees upon expiry of their contract. This is currently banked in Kenya Commercial Bank, Milimani Branch.

4. Inventories

	(Ksh'000)
Consumables	13,993
Library Books	210
Total	14,203

5. Receivables and Prepayments

	(Ksh'000)
Imprest	425
Deposits	326
Total	751

6. Cash and Cash Equivalents

	(Ksh'000)
Bank balance	178,364
Cash on hand	1,174
Total	179,538

7. Accumulated Fund

The Accumulated fund comprises of the transfer of motor vehicles and inventories from ACPU as below:

	Amount (Ksh'000)
Motor Vehicles	112,441
Inventories	14,626
Total	127,067

8. Trade and other Payables

	(Ksh'000)
Other Payables	10
Total	10

9. Accrued Liabilities and Charges

	(Ksh'000)
Retention fee on contracts	293
Audit Fees	300
Total	593

10. Development Partner/ Donor Support

	(Ksh'000)
Reimbursement from Directorate of Personnel Management – (PSIP)	4,020
Swiss Embassy (KACC Website)	1,182
Total	5,202

11. Other Income

	(Ksh'000)
Sale of Tenders	936
Interest earned	127
Total	1,063

12. EXPENDITURE

ADMINISTRATIVE EXPENSES	(Ksh'000)
Personal Emoluments	119,904
Gratuity & Pension Contribution	38,258
House Allowance	19,237
Other Personal Allowances	32,461
Medical Expenses/Cover	1,957
Training	5,606
Passage & Leave	69
Board, Committees and Conference expenses	41,279
NSSF-Employers Contribution	72
	258,843

OPERATING AND MAINTENANCE

Transport Operating Expenses	7,571
Traveling and Accommodation Expenses	6,573
External Traveling & Accommodation	3,298
Postal & Telegrams	216
Telephone Expenses	3,755
Official Entertainment	1,643
Workshops and Seminars	3,786
Electricity Expenses	3,665
Water & Conservancy	914
Gas/ Fuel Expenses	32
Purchase of Consumable Stores	1,001
Publishing & Printing	4,279
Uniforms & Clothes	13
Library Expenses	434
Purchase of Stationery	2,589
Advertising & Publicity	9,659
Periodicals	729
Rent & Rates	28,663
Contracted Professional Services	4,274
Computer Expenses	2,551
Insurance Premiums	1,784
Miscellaneous & Other Charges	328
Court Fees and Professional Legal Charges	10,206
Security Operating Expenses	14,410
Annual Subscriptions	145
Maintenance of Plant and Equipment, buildings	2,323
Audit Fees	300
Bank Charges	160
PSIP Programme	14,393
Depreciation	32,564
	162,258

FINANCIAL STATEMENTS



13. Contingencies

The Commission has given no guarantees to third parties. In the ordinary course of business the Commission has been sued in a case CMC 6469/04. The potential exposure is estimated at **Ksh 469,000**.

In the ordinary course of business, the Commission's is also a defendant or-co-defendant in various litigations and claims. Although there can be no assurance, the Commission believes, based on information currently available, that the ultimate resolution of these legal proceedings would not likely have a material effect on the results of its operations, financial position or liquidity. These Court cases take a considerable period to be determined.

14. Employees

The total approved establishment for the Commission is **212** and by the end of the year **124** employees were in post.

15. Comparatives

Since this is the first year of operation by the Commission's comparatives are not reported.

16. Presentation Currency

Kenya Shillings (Ksh) is the presentation currency for these accounts.



Notes....

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FINANCIAL STATEMENTS