

PUBLIC NOTICE

DENIAL OF MARKET ACCESS TO INTERNET SERVICE PROVIDERS (ISPs) BY REAL ESTATE DEVELOPERS AND RESIDENTIAL ESTATE MANAGEMENT

The Competition Authority of Kenya is established under the Competition Act CAP 504 Laws of Kenya (the Act). The Authority's mandate is to promote and safeguard competition in the national economy and to protect consumers from unfair and misleading market conduct, including sanctioning against foreclosure of competitors.

It has come to the Authority's attention, through market surveillance and numerous consumer complaints, that property developers and estate managers are signing exclusive contracts with specific Internet Service Providers (ISPs) and restricting competing firms from offering alternative services.

The Authority wishes to notify parties engaging in such practices that;

- **Section 21(1) of the Act** prohibits undertakings from engaging in conduct that has the intention or effect of preventing, distorting or lessening competition in the trade of goods or services in Kenya. This includes parties in a vertical relationship like an undertaking and its suppliers and/or customers.
- **Section 21(3)(e) of the Act** makes it illegal for undertakings to limit or control market access, technical development or investments.
- **Section 21(3)(f) of the Act** prohibits undertakings from applying dissimilar conditions to equivalent transactions with trading parties, thereby placing them at a competitive disadvantage.

Parties are cautioned that exclusive dealings, including those entered into by certain ISPs and real estate developers/estate managers, deny Kenyan consumers choice of services that meet their specific needs, contrary to the Constitution of Kenya and the Act.

This conduct by ISPs denies consumers the benefits of competition which include fair pricing, enhanced service quality, and innovative solutions. Further, foreclosing competitor ISPs from accessing certain markets risks creating monopoly-like enterprises in the affected estates.

Undertakings that infringe the Act risk being penalized up to 10% of their preceding year's gross annual turnover in Kenya. For criminal prosecutions, they face fines of up to Ksh10 Million and imprisonment for a maximum of five (5) years, or both.

THEREFORE, property developers, real estate managers and ISPs engaging in exclusive internet service provision agreements that have anti-competitive effects are hereby directed to:

- Cease engaging in this exclusive conduct and prevent its recurrence; and
- Facilitate entry of competitor ISPs in their developments

Consumers are invited to report any cases of non-compliance to the Authority through complain@cak.go.ke or our E-Filing Portal which is accessible via <https://competition.cak.go.ke:444/>

David Kemei
Director-General
24th June, 2025