



Telephone: 254-20-2628233  
Telephone Direct : 254-20-2628233  
Website: [www.cak.go.ke](http://www.cak.go.ke)  
Email: [info@cak.go.ke](mailto:info@cak.go.ke)  
When replying please quote

Competition Authority of Kenya  
Kenya Railways HQs  
Block 'D' Drop – Point; Ground Floor  
P. O. Box 36265-00200  
Haile Selassie Avenue  
**NAIROBI**

**Ref: CAK/1A/02/07**

**Date: 14<sup>th</sup> February, 2013**

**Mr. George Lipimile**  
Chief Executive Officer/Director  
COMESA Competition Commission  
Kang'ombe House, 5th Floor - West Wing,  
P.O. Box 30742 Lilongwe 3, Malawi

Dear *George,*

**THE COMESA COMPETITION REGULATIONS**

We write in regard to the above matter.

*Ab initio*, we wish to highlight that the Competition Authority of Kenya (the Authority) takes cognizance of the COMESA Competition Regulations [CCRS] since they were formulated pursuant to Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa (COMESA); which Kenya is a signatory. Although there are indications, through your email communications, that the CCRs became operational on January 14<sup>th</sup>, 2013, after consultations, regarding the commencement of the CCRs, with the Honourable Attorney - General of the Republic of Kenya, it is our position that: -

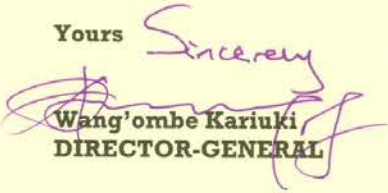
1. The commencement of CCRs should be preceded with their publication in the Official Gazette of the Common Market;
2. From your communications, referred to earlier, there is no indication of the CCRs publication in the Official Gazette;
3. The CCRs do not provide for the commencement date and therefore a Notice regarding Commencement date should have been published in the Official Gazette also;
4. The said Notice should grant reasonable time period, before the appointed commencement day, as a rule of natural justice and which also is a Constitutional requirement in Kenya [Article 47 of the Constitution of the Republic of Kenya – [www.kenyalaw.org](http://www.kenyalaw.org)];

5. Pursuant to Regulation 7(2) (d-e) and Rules 40, 41, 43, 44 (6), among others, the Authority is expected to play a major role in facilitating the COMESA Competition Commission achieve its mandate. Therefore, we posit that to actualize the interface, it is a legal requirement to develop and operationalize *inter alia*, a cooperation framework between the Authority and the Commission.

With the foregoing, and without prejudice, we are justifiably inclined to advise that the competition regulation regime has not changed. Nonetheless, we wish to assure you that the Authority is willing to continue to engage the Commission in order to ensure that the CCRs are operationalized; within the set thresholds and their spirit.

Yours

*Sincerely*

  
**Wang'ombe Kariuki**  
**DIRECTOR-GENERAL**

Copy to: **Prof. Githu Muigai, SC**  
Attorney – General  
NAIROBI

**Mr. Joseph K. Kinyua, CBS**  
Permanent Secretary/Treasury  
NAIROBI

**Eng. Abdulrazaq Ali, CBS**  
Permanent Secretary  
Ministry of Trade  
NAIROBI