

COMPETITION

Newsflash: The Competition Authority of Kenya clarifies the position on Administrative Remedies and Settlement.

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On 21 March 2024, the Competition Authority of Kenya (“**the CAK**”) announced that it had published the Consolidated Administrative Remedies and Settlement Guideline (“**the Guidelines**”), which outline the methodology and analysis to be applied when determining remedies, including fines and settlements. The Guidelines provide the framework to be applied by the CAK when imposing administrative remedies in respect of various contraventions, which include restrictive practices, abuse of dominance, abuse of buyer power and consumer welfare.

Prior to the publication of the Guidelines, varying sets of guidelines were applicable in respect of the determination of remedies. This, it would seem, made the CAK’s remedy determination model very inefficient and accordingly necessitated the formulation of a consolidated model, which would detail the methodology to be applied by the CAK in determining administrative remedies and settlements.

The Guidelines consist of various objectives, some of which include: providing clarity with respect to the determination of administrative remedies; categorising the various types of contraventions and consequently the applicable remedies to each; ensuring that each remedy applied is proportional to the gravity of the contravention to which it is applied; providing for effective consumer dispute resolution mechanisms and establishing efficient alternative dispute resolution mechanisms for micro, small and medium enterprises.

For more details on the penalisation criteria adopted by the Guidelines, please refer to: https://cak.go.ke/sites/default/files/Consolidated_Administrative_Remedies_and_Settlement_Guidelines_2023.pdf.



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