AN EVALUATION OF THE EFFECTIVENESS OF STATE REGULATION OF THE INSURANCE INDUSTRY IN KENYA

BY

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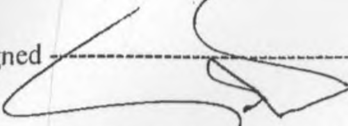
A Management Research Project submitted in partial fulfillment of the requirements for the Degree of Masters of Business Administration

September 2009

DECLARATION

I, undersigned, declare that this project is my original work and has not been submitted for a degree in any other university.



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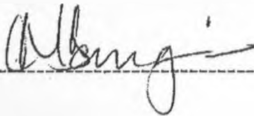

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DEDICATION

To my parents Mr & Mrs Okello Radiere for their commitment and strong belief that I can succeed in what I do.

ACKNOWLEDGEMENT

I appreciate the wisdom, invaluable input, guidance, tireless assistance and support from my supervisor Caren Angima throughout this project.

I appreciate all the respondents from the insurance industry who spared time from their busy schedule to participate in the study. Your contributions made this research a reality. Thank you all. Special thanks to Justus Mutiga, Naomi Munyi and Tom Juma for your contribution and support to this project.

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I also appreciate Management and staff of Nairobi Hospital for their attention and care at the lowest point in my life. Special appreciation is accorded to the staff of St. Luke's ward from where I commenced writing this project. To Dr. Kanyi, Dr. Moniz & Dr. Ruga, I am so grateful for a successful surgery and follow up during the recovery period. I am grateful that I lived to complete this project. Thanks to you all and to Edith too.

Voices United Choir, You are the *'very best'*.

Finally, My utmost gratitude and thanks to The Almighty God for bringing me this far. I would be nothing without Him for by His strength and provision I have made it through Christ. To Him who makes all things possible and from whom all blessings flow, be all Wisdom, Glory, Honor and Power, both now and Forever. Amen!

ABSTRACT

The insurance industry in Kenya has been neglected by successive governments in terms of reform and development. This stems from the colonial period when the colonial government established a solid banking foundation in Kenya to serve the settlers while it sourced all the insurance they needed from overseas. Over the years the industry has been on the news for reasons such as ethics, company collapse, insolvency, liquidation, court battles, fraud and mystery in its nature and operations. The regulatory regime seems to be invisible and yet there is an Insurance Act, offices and organizations set up by the Act to oversee the industry.

Regulating this industry is of immense importance and crucial for its survival. It is through regulation that the industry may deal with ethical issues, economic downturns, winding up, insolvency, liquidation, political interference and increased rivalry between players. An effective and sound regulatory and supervisory system is necessary to protect policy holders, to maintain an efficient, safe, fair and stable insurance market that promotes growth and competition in the sector. There has been a general perception that the state isn't doing enough about the state of the industry at the expense of innocent policy holders. This research therefore, sought to analyze the extent to which the state has succeeded in regulating the insurance industry in Kenya and to establish the factors that affect effective regulation of the insurance industry in Kenya.

This study was modeled on an exploratory survey. The sample size was 64 consisting of senior personnel that handle administrative and legal matters chosen on the basis of industry experience and actual or presumed knowledge on the subject. The study concentrated on the players located in within the city of Nairobi. Out of the 64 questionnaires 58 were filled and returned.

The findings revealed that the state had succeeded to address Autonomy to a great extent and supervisory intervention to a significant extent. It had succeeded to address Disciplinary Action, Market surveillance, Investor Confidence, Public Trust, Anticompetitive Behavior and Compliance Costs up to a moderate extent. It has

succeeded to address Business Ethics, Flexibility/Innovation and Conflict of interest and to a small extent. Therefore overall, it was concluded that the state has succeeded to regulate the insurance industry up to a moderate extent.

To facilitate comparison, the study found out that the industry had succeeded to address Investor confidence to a great extent. It had succeeded to address Flexibility/ Innovation, Business Ethics and Disciplinary Action to a significant extent. It has succeeded to address Market Surveillance and Public Trust to a moderate extent. While it had succeeded to address Conflict of interest, Compliance Cost and Anticompetitive Behavior to a small extent, it had not addressed Autonomy at all. Therefore overall, the industry had also succeeded to regulate itself up to a moderate extent.

It was also concluded that the market, the government in power, scope and coverage, suitability and acceptance, autonomy, foreseeability, costs and mutuality of benefit were the factors which affect the effectiveness of the insurance regulatory regime in Kenya.

The study recommended that the state should pay more attention to the insurance industry and partner with the industry so as to address the state of the market and its penetration rate as the industry can also become a great contributor to GDP. It needs to put right the basic conditions for effective functioning of the supervisory authority, the insurance sector and insurance supervision. In addition it needs to set, continually review and enforce requirements on finance, governance and market conduct. It needs to give autonomy and empower the regulators so as to ensure that supervisory assessment and intervention is effective.

TABLE OF CONTENTS **PAGE**

DECLARATION ii
DEDICATION iii
ACKNOWLEDGEMENT iv
ABSTRACT v
ABBREVIATIONS. xi
CHAPTER ONE: INTRODUCTION 13
1.1. Background 13
1.1.1. Definition of Regulation. 13
1.1.2. Types of Regulation. 13
1.1.3. Effective of Regulation. 14
1.1.4. The Insurance Industry in Kenya 15
1.1.5. The History of Insurance Regulation in Kenya 15
1.2. Statement of Research Problem 19
1.3. Research Objectives. 21
1.4. Significance/ Importance of the Study. 21
CHAPTER 2: LITERATURE REVIEW 22
2.1. Nature and Scope of Insurance Regulation. 22
2.1.1. Pricing and Competition 23
2.1.2. Terrorism and Catastrophes 24
2.1.3. Profitability 24
2.1.4. Investment Income 24
2.1.5. The Customer and Costs 25
2.1.6. Contract Certainty 25
2.1.7. Ethics 25
2.1.8. Fraud 25
2.1.9. Technology 26
2.1.10. Intermediaries 26
2.1.12. Image 26
2.1.13. Insurer Failure 26
2.1.14. Corporate Governance 27
2.1.15. Growth 27
2.1.16. Risks 27
2.2. Reasons For Insurance Regulation 28
2.2.1. Insolvency 28
2.2.2. Unfair and Deceptive Policies and Practices 28
2.2.3. Availability 28
2.2.4. Reverse competition 28
2.2.5. Information and protection for Consumers 29
2.2.6. To Deal with Systematic Risks 29
2.3. Factors Which Affect the Effectiveness of Insurance Regulation. 29
2.3.1. Suitability and Acceptance 29
2.3.2. Scope and Coverage 29
2.3.3. Consistency and Fairness 30
2.3.4. Foreseeability 30

2.3.5. Costs and Benefits 30
2.3.6. Autonomy 31
2.3.7. Mutuality of Benefit 31
2.3.8. The market 31
2.4. The Framework For Insurance Regulation. 32
2.5. State Regulation Of Insurance. 34
2.5.1. Market Power 35
2.5.2. Adverse selection 35
2.5.3. Asymmetric information 35
2.5.4. Long Term Issues 35
2.5.5. National Disaster Management Programs 36
2.5.6. To promote fair competition 36
2.5.7. To Acquire Public Confidence 36
2.6. The Insurance Regulatory Authority 36
2.6.1. Regulatory Issues in Insurance Supervision in Kenya 38
2.6.2. Criticisms of the Insurance Act 39
2.7. Self Regulation of Insurance. 40
2.8. State or Self Regulation of Insurance. 43
CHAPTER THREE 45
RESEARCH METHODOLOGY 45
3.1. Research Design 45
3.2. Population 45
3.3. Sampling 45
3.5. Data Analysis 46
CHAPTER 4 48
DATA ANALYSIS AND FINDINGS 48
4.1. Introduction 48
4.2. Response Rate 49
4.2.1. Classification of Industry Players by Strata 49
4.2.2. Length of Time the Firm has Been in the Industry 50
4.3. The State of the Insurance Market in Kenya 51
4.3.2. The Contribution of the State to the Status of the Insurance Market 51
4.3.3. The Insurance Industry Penetration Rate 52
4.3.4. Contribution of the State to the Industry Penetration Rate. 52
4.3.4 .1 Factors that affect the State Contribution to the Industry Penetration Rate 53
4.4. An Evaluation of the Extent to Which Factors are Critical in Insurance Industry Operations. 54
4.4.1. Price 54
4.4.2. Competition 54
4.4.3. Claims Management 55
4.4.5. Finance 56
4.4.6. Technology 57
4.4.7. Terrorism 58
4.4.9. Regulation 60
4.4.10. Human Resource 60
4.5. Ability of Intermediaries to influence Industry Standards, Prices/Rates 61

4.5 .1 Factors That Affect Intermediaries Ability to Influence Industry Standards, Prices /Rates........ 62
4.5.2. Significance of Factors which affect Intermediaries Purchase Decisions........ 63
4.5.3. The State's Contribution to the Factors that affect Intermediary Purchase Decisions and Ability to Influence Industry Standards........ 64
4.6. Ranking of the Milestones in Regulation of Insurance in Kenya over Time........ 65
4.6. An Evaluation of the Extent to which State has succeeded in Addressing Industry Issues........ 66
4.6.1. Business Ethics........ 66
4.6.2. Flexibility/Innovation........ 67
4.6.3. Conflict of interest........ 67
4.6.4. Market Surveillance........ 68
4.6.5. Disciplinary Action........ 69
4.6.6. Investor Confidence........ 70
4.6.7. Public Trust........ 71
4.6.10. Independence or Autonomy from the industry........ 73
4.6.11. Supervisory Intervention........ 74
4.7. An Evaluation of the Extent to which the Insurance Industry has succeeded in Addressing Various Issues........ 75
4.7.1. Business ethics........ 75
4.7.2. Flexibility/Innovation........ 76
4.7.3. Conflict of interest........ 76
4.7.5. Disciplinary Action........ 78
4.7.9. Compliance costs........ 81
4.7.10. Autonomy........ 81
4.7.11. Supervisory Intervention........ 82
4.8. The Form of Regulation Best Suited to Handle Industry Issues........ 83
4.9. The Office of the Commissioner of Insurance - A Step in the Right Direction?........ 87
4.9.1 Has the office succeeded in executing its mandate?........ 87
4.9.2. Factors that Affected the Performance of the Office of the Commissioner of Insurance........ 88
4.10. The Insurance Regulatory Authority - A Step In the Right Direction?........ 89
4.10.1. Feelings of Industry Players on the Insurance Regulatory Authority........ 89
4.10.2. Factors influencing Feelings of Industry Players on the Insurance Regulatory Authority........ 90
4.11. The Governments Level of Attention or Focus on the Insurance Industry........ 90
4.11.1. Factors Which Affect the Governments Level of Attention or Focus on the Insurance industry........ 91
CHAPTER FIVE........ 93
DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS........ 93
5.1. Introduction........ 93
5.2 Discussions........ 93
5.3. Conclusion........ 103
5.4. Recommendations........ 104
REFERENCES........ 106
Appendix 1 - Sampling Methodology........ 113

Appendix 2 QUESTIONAIRE.. 115
Appendix 3 Letter of Introduction 125
Appendix 4 List of Insurance and Reinsurance companies...............................126
Appendix 5 List of Tables...128

ABBREVIATIONS.

ABI	Association of British Insurers
AEAA	Automobile Engineer Assessors Association
Africa Re	African Reinsurance Corporation
AIDS	Acquired Immune Deficiency Syndrome
AIBK	Association of Insurance Brokers of Kenya
AKI	Association of Kenya Insurers
CEO	Chief Executive Officer
CII	Chartered Insurance Institute of London
COI	Commissioner of Insurance
GDP	Gross Domestic Product
GOK	Government of Kenya
HMO's	Health Management Organizations
HIV	Human Immune Deficiency Virus
ICPAK	Institute of Certified Public Accountants of Kenya
IAB	Insurance Advisory Board
IASB	International Accounting Standards Board
IAIS	International Association of Insurance Supervisors
IARS	Institute of Loss Adjusters and Risk Surveyors
IFRS	International Financial Reporting Standards
IFSR	Insurer Financial Strength Ratings
IIK	Insurance Institute of Kenya
IPO's	Initial Public Offers
IRA	Insurance Regulatory Authority
IT	Information Technology
KNAC	Kenya National Assurance Company Limited
Kenya Re	Kenya Reinsurance Corporation
LSE	London School of Economics and Political Science
MFI's	Microfinance Institutions
NHIF	National Hospital Insurance Fund
NSSF	National Social Security Fund

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PCF	Policyholders Compensation Fund
PSV	Public Service Vehicle
PTA Re	PTA Reinsurance Company
RBA	Retirement Benefits Authority
SACCO's	Savings and Credit Cooperatives
SRO	Self Regulatory Organizations

CHAPTER ONE: INTRODUCTION

1.1. Background

1.1.1. Definition of Regulation.

To regulate is to regularize, harmonize, order or govern an activity so as to bring into conformity with certain rules, ideas or principles. It's the application of standards of behavior on a market (Barnock et al, 2002). Regulation gives direction that determines, shapes, moulds or influences an activity. It is a legal prescription promulgated by a government or an administrative agency through rule making that's supported by a threat of sanction or a fine.

1.1.2. Types of Regulation.

There are two types of regulation. These are ex ante and ex post (Monson et al, 2007).
Ex ante regulation is anticipatory intervention that uses government specified controls to prevent socially undesirable actions or outcomes or to direct market activity towards socially desirable ends. It's concerned with market structure for example number of firms, concentration, entry conditions and product differentiation. In Kenya it is carried out through Acts of Parliament such as the Insurance Act, Retirement Benefits Act, Income Tax Act, Companies Act, Trustees Act and the Capital Markets Act.

Ex post regulation is designed to address specific allegations of anti-competitive behavior or market abuse. It aims to redress proven misconduct through various enforcement options such as fines, injunctions or bans. It's mainly concerned with market conduct. This is the behavior of a firm with respect to both its competitors and customers. In Kenya it's carried out by Self Regulatory Organizations such as the Association of Kenya Insurers, Association of Insurance Brokers of Kenya, Insurance Institute of Kenya, and the Institute of Loss Adjusters and Risk Surveyors.

Regulation is justified for reasons such as market failure, monopolies, information asymmetry, public good and unseen externalities. It can be used to promote collective

desires, enhance or eliminate opportunities arising from diverse experiences beliefs and desires. It's also used to eliminate or promote social subordination, endogenous preferences, interest group transfers and to deal with irreversibility of consequences of current actions in future (Wikipedia, 2007).

1.1.3. Effective of Regulation.

Effective Regulation is characterized by a holistic and strategic approach to policy and regulatory issues, long term planning, clear assignment and separation of policy and regulatory responsibility. Regulatory devices are calibrated to meet market conditions. Ineffective regulation is characterized by tactical short term transactional thinking and focus on technical and legal issues at the expense of longer term policy goals. It's also characterized by poorly timed imports of regulatory levers from other regions or markets without customizing these levers to local realities (El-Darwiche et al, 2007).

Effectiveness in insurance regulation is the degree to which set objectives are achieved and the extent to which targeted problems are resolved. Such objectives include licensing, approval of insurance products, a single regulator responsible for financial solvency and market conduct for each insurer and local systems for handling complaints, a national central database to log complaints by company, by type and by the nature of the resolutions. It involves a regulator achieving an intended or expected effect and producing a strong impression or response to matters affecting the industry (Mirel, 2005). In contrast to efficiency, effectiveness is determined without reference to costs. Whereas efficiency means "*doing things* right", effectiveness means "*doing the right thing*".

Effective insurance regulation is necessary since customers pay money today for a promise that may not be deliverable for years. Insurance is an essential public good and not a normal product that can be regulated through competition. It involves a complex legal document, difficulties in comparisons during shopping, determining service quality and assessing financial soundness of players, complex pricing, underwriting denial, mandated purchase for some products and incentives for adverse selection (Oxley, 2004).

1.1.4. The Insurance Industry in Kenya

The insurance industry consists of 6 regulators (COI, 2006), 44 Insurers (AKI, 2008), 3576 Intermediaries (IRA, 2007), and the College of Insurance (COI, 2006). The regulators consist of the Insurance Regulatory Authority and 5 Self Regulatory Organisations. The intermediaries consist of 190 brokers, 301 service providers and 3085 agents. The insurance service providers include 220 loss assessors, 27 surveyors, 23 loss adjustors and 7 risk managers (IRA, 2007). There are also two state sponsored insurance schemes. These are the National Hospital Insurance Fund and the National Social Security Fund.

The industry plays social and economic roles in Kenya. Its total penetration as a percentage of the country's Gross Domestic Product (GDP) in the year 2007 was 2.62% (AKI, 2007). It's a vital economic device to the survival and stability of business through bearing financial loss of insured persons and institutions. It accumulates and invests funds in both private and government projects. It enhances social progress through employment, teaching and motivating people to save, invest and own assets. It's a weapon against underdevelopment represented by poverty, disease, unemployment and adverse balance of trade in Africa (Swalehe, 2005).

The industry is an exporter as evidenced by foreigners who place business in the country and local insurers which have expanded regionally. Insurance policy conditions help to fight crime, improve road safety, safety at work and supporting the nation's health through eliminating moral hazards. As a responsible citizen it's a major tax generator, a campaigner of good governance and it meets the societies concerns through corporate social responsibility (ABI, 2007).

1.1.5. The History of Insurance Regulation in Kenya

The insurance industry in Kenya has been neglected by successive governments in terms of reform and development. This stems from the colonial period when the colonial government established a solid banking foundation in Kenya to serve the settlers while it

sourced all the insurance they needed from overseas. As a result there were only agencies and branch offices in Kenya at that time (Ikunda, 2005).

The milestones in insurance regulation in Kenya were triggered by experiences over time. Regulation started with the local incorporation directive in 1978 on foreign companies. The state of affairs of the industry during the late 70's and early 80's was poor management of companies which had a limited capital base. Ethical issues engulfed both intermediaries and the companies. There was need for an authority with technical know-how to monitor the activities of key players in the industry (Nanyama, 2004). This led to enactment of the Insurance Act Chapter 487 in 1984 which became operational in 1987.

These developments, coupled with the political, social and economic reforms of the 1990's brought threats and opportunities in market share, operation costs and entry barriers (Swalehe, 2005). Attempts at monopolization through establishment of KNAC and Kenya Re were witnessed. To regulate pensions, the RBA Act 1997 laid down pension scheme rules while the Finance Act 1999 laid down investment rules.

In the early 1990's HIV, a new phenomenon became a reality in Kenya. The disease spread enormously, brought a bad claims experience, deficiencies in premium collection, decreased profitability, reduced sales, increased underwriting costs and problems in costing of pension schemes. Companies reacted with specific pricing, additional reserving, exclusions, experience rating, identification of high risk groups and reduction of free cover limits, removal of premium rate guarantees (Olotch, 2006), tight underwriting and conversion options (Kinuthia, 2004). Thus, the HIV Prevention and Control Bill 2003 was drafted to counter adverse selection in Life Insurance where players would deny cover to those who need it most.

As a quick reaction to insurer collapse the Association of Kenya Insurers/ Ministry of Finance task force was formed in August 2005 to find a workable and sustainable solution to the crisis, analyze factors that contribute to slow growth of the industry, fast track the establishment of the Insurance Regulatory Authority, pursue enactment of the

accident compensation bill, pursue the legal recognition of Self Regulatory Organizations (SRO's) and to review the Insurance Act (Gichuhi, 2005). Amendment to the Act in 2006 created the Insurance Regulatory Authority, set admissibility of insurance claims at 90 days, provided for a treatment program and an insurer's right to impose additional premium or decline cover when handling HIV (AKI, 2007).

Recently the Act has had a number of changes. Insurance companies are required to have paid up capital of 150 million, 300 million and 450 million for general, life and composite insurers consecutively by 14th June 2010 (Musee, 2007). Solvency margins for long term business shall be admitted assets of not less than the aggregate value of liabilities and ten million shillings or 5% of admitted liabilities whichever is higher. Financial statements shall be prepared in accordance to International Financial Reporting Standards. The policyholder's compensation fund has been established and in line with converting it into a body corporate the Act was amended so that penalties for failure to submit returns to the IRA, involvement in malpractices shall be payable to this fund and income from the fund shall be exempted from taxation. Cash and carry was introduced to motor and fire business (AKI, 2007).

Other legislative changes include increase in life and health insurance relief to Kshs.60, 000.00 effective 1st January 2007, changes in the RBA Act to allow access to retirement benefits upon permanent emigration, Insurance agents being allowed to transact for more than three companies, restriction of compensation for third party injury claims to a maximum of Kshs.3 million and increase of insurance brokers guarantee to Kshs.3 million (AKI, 2007).

Over time the industry has faced ethical issues, economic downturns, winding up, insolvency, liquidation, political interference and increased rivalry between players. Stiff competition has come from Banks, Savings and Credit Cooperative Societies, Microfinance institutions, Self insurance, Health Management Organizations, self administered pension schemes, the mortgage sector, culture, traditions and witchcraft where individuals believe that their destiny can be altered through supernatural means.

Claims experience has worsened due to insecurity, terrorism, acts of outlawed groups, porous borders, poverty, crime, moral hazards and bad risks such as the *'matatu'* that's an informal passenger transport system known for dangerous driving and accidents. The impact of cultural, traditional and religious beliefs in Kenya is manifested in the attitude of the general public towards risk and insurance (Angima, 1987).

Industry players strive to survive. Some fragrantly disregard industry rules without adequate punitive measures being preferred against them. The non life sub sector continues to be characterized by price undercutting, poor underwriting and a myriad of malpractices that are entrenched as corruption in the country (Muhindi, 2006). Most aggrieved and affected Kenyans cannot afford legal redress and expect government establishments to protect them. The reaction of successive governments is yet to be felt by citizens.

The NARC governments vision for a safe, secure, democratic, just, corruption free and prosperous Kenya was good for the insurance industry. However, it faced challenges such as bureaucratic inertia, the parliamentary calendar, the constitutional review process, sustaining a reform zeal and lack of capacity at technical and specialist level (Murungi, 2004). Government action in other sectors was also crucial. Challenges in security too could adversely affect the insurance industry if not addressed (Murungaru, 2004).

Many assume that regulation is an activity of the state. This isn't the case since self regulation is an option. A paradigm shift that's driven by modernization, technological advances, demanding consumers and a growing importance of services is required (K'obonyo, 2005). Although the worldwide trend is governments to focus on creating an enabling environment, the question remains to what extent governments should go and whether they will succeed.

1.2. Statement of Research Problem

Regulation is necessary in order to regularize, harmonize, order or govern an activity so as to bring into conformity with certain rules, ideas or principles as itapplies standards of behavior on a market (Barnock et al, 2002). Effective Regulation involves a holistic and strategic approach to policy and regulatory issues, long term planning, clear assignment and separation of policy and regulatory responsibility. In addition regulatory devices are calibrated to meet market conditions (El-Darwiche et al, 2007). Effectiveness in insurance regulation should mirror the degree to which set objectives are achieved and the extent to which targeted problems are resolved (Mirrel, 2005).

The Insurance industry in Kenya has been on the news for reasons such as ethics, company collapse, insolvency, liquidation, court battles, fraud and mystery in its nature and operations. The regulatory regime seems to be invisible and yet there is an Act, offices and organizations set up by the Act to oversee the industry. These organizations have set objectives but the question is whether these objectives are met and industry problems are resolved. There's a general perception that the state isn't doing enough about the state of the industry at the expense of innocent policy holders.

Previous studies on the insurance industry in Kenya have focused on issues, problems and challenges that necessitate regulation and supervision of the industry. None of them have focused on the extent to which either state or self regulation has been effective. A question therefore arises as to whether policy holders and the economy are better served through free markets or government regulations. Furthermore, the role of the state, the extent to which it should regulate the industry and its effectiveness has come under scrutiny.

Megbenu (1976) in his study on portfolio holding of insurance companies in Kenya identified the need to introduce legislation to control insurance companies in public interest. Guya (1976) in his study on the life expectancy of Kenyans proposed creation of an independent body to monitor insurance companies, audit financial statements and

continually effect policy changes in the industry. Miric (1987) in her study on marketing of insurance in Kenya noted that insurance companies set up, the insuring public, lack of legislation and lack of a representative body had an adverse effect on independent agents.

Koima (2004) in his study on the challenges in the regulation of the insurance industry in Kenya noted regulatory setbacks that caused unethical competition, low capitalization, poor professionalism and mismanagement. The commissioner's shortcomings were inadequate analysis, slow response to issues, lack of autonomy and political interference. He recommended amendment of the Act, an autonomous regulatory authority and recognition of self regulation in the industry. Kibaindi (2004) in his study on failure prediction of insurance companies in Kenya recommended the use of standardized financial statements in the industry to enhance comparison and to help to predict impending insurer failure.

Njenga (2003) in her study on factors that influence the purchase of life assurance noted the low penetration of the industry in Kenya, a position shared by Angima (1987) in her study on the adequacy of life assurance in Kenya. She noted under insurance in Kenya and recommended a campaign by insurance companies to reverse this. Swalehe (2005) in her study on strategic issues affecting insurance companies identified regulation as one of the critical items that contribute to strategic issue management in the Kenyan insurance industry.

Although some recommendations from past studies have been implemented, the industry is still on the news for reasons such as ethics, company collapse, insolvency, liquidation, court battles and fraud yet there are laws in place to deal with these situations. An effective and sound regulatory and supervisory system is necessary to protect policy holders, to maintain an efficient, safe, fair and stable insurance market that promotes growth and competition in the sector. This research therefore, attempted to find out if this holds in Kenya and therefore sought to evaluate the effectiveness of state regulation of insurance in Kenya.

1.3. Research Objectives.

i. To analyze the extent to which the state has succeeded in regulating the insurance industry in Kenya.

ii. To establish the factors which affect the effectiveness of the insurance regulatory regime in Kenya.

1.4. Significance/ Importance of the Study.

i. The study is for all stakeholders seeking information on the changing role of government in business. It's intended to arouse interest, debate and lobbying on both self and state regulation in the insurance industry.

ii. The study will enlighten stakeholders such as players in the insurance industry, their shareholders and customers on their limits within the law, consumer protection, creation of confidence in the financial sector, reduction of financial crime and public awareness on the insurance industry. It will result in better customer perception, treatment, service and new strategies that will guarantee a success formula in the market.

iii. It will offer a useful framework for assessing drivers and mechanisms for industry self regulation and state regulation that arouse questions which policy makers, business leaders, academics and activists cannot ignore.

iv. It will add to the significance of the newly formed Insurance Regulatory Authority and contribute to knowledge for researchers and scholars of strategic management on the role of government in business.

CHAPTER 2: LITERATURE REVIEW

2.1. Nature and Scope of Insurance Regulation.

Insurance regulation can be viewed from the private, economic and public interest. Private interests view regulation as a partisan process that favors the politically effective group that dominates the regulatory process. Economic interests view regulation as an economic good whose allocation is governed by the laws of demand and supply (Adams and Tower, 1994). From the public interest, regulation exists to ensure fair trading, promote fair access to markets, ensure price stability and satisfaction of social objectives (Meir, 1991). The effects of regulation action can be felt directly through laws and regulations or indirectly through government actions in other sectors that affect the industry.

There are two types of regulation. These are ex ante and ex post. (Monson et al, 2007). Ex ante regulation is anticipatory intervention that uses government specified controls to prevent socially undesirable actions or outcomes or to direct market activity towards socially desirable ends. It's concerned with market structure for example number of firms, concentration, entry conditions and product differentiation. It sets expectations for firm behavior and avoids damage by anticipating and preventing it. It creates certainty through good regulatory and institutional design, hence promoting transparency. Both regulators and affected parties know the information required for regulatory proceedings. In Kenya it's carried out through Acts of Parliament such as the Insurance Act, Retirement Benefits Act, Income Tax Act, Companies Act, Trustees Act and the Capital Markets Act.

Ex post regulation is designed to address specific allegations of anti-competitive behavior or market abuse. It aims to redress proven misconduct through various enforcement options such as fines, injunctions or bans. It's mainly concerned with market conduct. This is the behavior of a firm with respect to both its competitors and customers. Its benefits are that competition laws specify prohibited forms of conduct. It attempts to stop conduct that's proven to be harmful to society. These aren't punished without

investigation. Authorities limit information gathering to firms being investigated. It's the least disruptive form of regulation for emerging markets. In Kenya it's carried out by Self Regulatory Organizations such as the Association of Kenya Insurers, Association of Insurance Brokers of Kenya, Insurance Institute of Kenya, and the Institute of Loss Adjusters and Risk Surveyors.

The gap between effective and ineffective regulation is determined by how the government, the regulator and the service providers tackle or address challenges that face the industry. These challenges can be reduced if not eliminated if each of the parties understand, take on their roles and carry them out effectively. The role of the government is to create regulatory independence, reduce ownership of incumbents and identify appropriate financial obligation for the operators. The regulators role is to abide by values such as efficiency, transparency, independence and nondiscrimination. The regulator also needs to identify and sanction anti competitive practices, ensure access to resources and adopt neutral licensing and regulatory frameworks. The operator's role is to build up effective regulatory management capabilities and communicate proactively and intensively with the regulators (El-Darwiche et al, 2007).

The following are global challenges facing the Insurance Industry in Kenya which necessitate either state or self regulation:

2.1.1. Pricing and Competition

Pricing is under pressure and traditional insurers are starved for growth (Hartwig, 2007). In Kenya pricing is on the decline due to excess capacity, survival tactics and compromised underwriting standards. Some underwriters have gone bankrupt while others are going into mergers (Muhindi, 2006). Competition has arisen from alternative risk handling techniques, risk management, self insurance and other market mechanisms. In Kenya examples include Savings and Credit Cooperatives, bank loans, bancassurance, IPO's, mobile phone air time, '*merry-go-rounds*' and pyramid schemes (Jamwaka, 2007). In addition, business is given to insurers with a large capacity since they are perceived to have higher retention than smaller insurers. Although capacity is reflected in minimum

capitalization of each insurer, it is constrained by the reinsurance markets (Muhindi, 2006).

2.1.2. Terrorism and Catastrophes

Terrorism and its effects on insurance in Kenya have been felt in pricing, reinsurance, restricted cover, underwriting responsibilities, reduced capacity, withdrawal of (re) insurers, exclusions, increased self insurance, policy terms and conditions, limits of liability, Probable maximum loss underwriting (PML) and advance premium payment (AKI, 2005). Catastrophes such as earthquakes, storms and civil disorders cause massive direct insured losses and trails of large scale losses at the same time. They have no alternative risk handling techniques. For a developing country like Kenya, the worst is yet to come and the industry has found itself at crossroads (Makove, 2002).

2.1.3. Profitability

Profits are highly volatile and are affected by operation costs, underwriting surplus, claims experience, exchange rate losses, litigation costs, technology, duplication of roles, staff training, reinsurance (AKI, 2006), service providers, service levels agreements, fraud and poor regulation, mismanagement, conflicts of interest, government interference and mismatched investment policies (AKI, 2005).

2.1.4. Investment Income

Investment income is scarce and any improvements will give traditional insurers an edge (Hartwig, 2007). This is due to inflation, market volatility, regulatory provisions and lack of benchmarks to measure investment performance. Given the level of market development in Kenya, benchmark construction is challenging (AKI, 2005). Investment has an effect on future cash flows which the industry must project and asses so as to plan for adequate liquidity to pay claims in future (Gichuhi, 2005).

2.1.5. The Customer and Costs

Customers are no longer names on registers. Treating them fairly means delivering what was sold and nothing less. What constitutes fair is subjective since customer expectations play a part (Miller et al, 2004). Thus there's a need to tailor products to the needs of different people groups (Comet, 2007). In developing countries most customers have no defined criteria of what they should expect from insurers (Machel, 2005), while insurers don't appreciate that providing excellence in customer service is achievable long as they define it (Clark, 2005).

2.1.6. Contract Certainty

Contract complexity causes endless disputes that are mostly settled in court. Kenyan courts are characterized by backlogs, corruption, bribery, nepotism, tribalism and politics. Since the risk of wordings being subject to legal or interpretational challenges cannot be eliminated, the industry must endeavor to make litigation a process of the last resort (Makove, 2004) and support government efforts to decongest the courts (Were 2007).

2.1.7. Ethics

Ethical issues have been exacerbated by poor regulation, lack of government action, inadequate penalties and disciplinary action, high cost of legal redress, inefficient courts, legislative bottlenecks, lack of an ombudsman and lack of a central database. The cost to the industry includes loss of clients, poor reputation, litigation, defense costs, professional indemnity, hidden costs and low profitability (Durkin et al, 2005).

2.1.8. Fraud

Fraud has been promoted by physical, moral, morale and legal hazards. In Kenya it's manifested in frequent change in insurers, uncharacteristic levels of cover, unclear ownership of goods, excessive pressures to settle claims, inconsistent stories, prefabricating facts, claimants creating scenes when seeking compensation, faking of deaths and inadequate investigations before settling claims (AKI, 2005). Many governments don't tackle fraud seriously and this has sent a clear message to criminals

who believe that they can act with impunity (Jones, 2007). In Kenya insurers have limited remedies such as cancellation, avoidance of the policy *ab initio*, damages and criminal charges (Njatha, 2005).

2.1.9. Technology

Traditionally insurance has relied heavily on paper and now computers are revolutionizing the operations of the industry (Barret, 2007). The industry is benefiting in claims (Essen, 2005) and automated underwriting. Its advantages are cutting costs, faster processes and transactional safety. Adoption of industry wide standards in technology allows common trading platforms and greater data exchange (Barret, 2007).

2.1.10. Intermediaries

Intermediaries are vital in the industry since they break bulk for clients, promote insurer image and products, provide a competitive edge and influence the perception of the public towards insurers. Their role is to understand client needs, select insurers for clients, negotiate and place risks, negotiate payments and claims, risk management and act on delegated authority (Durkin et al, 2005). However, they are involved in ethical issues, fraud, withholding of premiums, poor insurer selection, misuse of delegated authority and conflicts of interest.

2.1.12. Image

Image is crucial for success and firms use international standards certification from accredited certification bodies to boost it. This should translate into benefits for the industry, its customers and regulators (Gathage, 2005). Whereas many insurers in Kenya pride themselves on fair treatment of customers, there are still plenty of customers who have a negative perception of the industry (Jamwaka, 2004).

2.1.13. Insurer Failure

Insurer failure is common and is caused by catastrophes, outsourcing, delegated authority, reinsurance and unforeseen claims, under reserving, fraud, mismanagement, under pricing, false reporting, incompetence, investment failure and rapid expansion into

new products or areas. Kenya has witnessed the collapse of insurance companies (AKI, 2005), brokers, agents and Health Management Organizations (Jetha, 2004) causing massive losses to the insuring public many of whom cannot afford legal redress.

2.1.14. Corporate Governance

Corporate governance is crucial in insurance since it's about management of companies at their highest levels. In Kenya, the sector is riddled with mis-management, corruption, conflict of interest and government interference which inhibit growth (AKI, 2005). The industry isn't practicing sustainable underwriting practices (Gichuhi, 2005).

2.1.15. Growth

Over time the industry in Kenya has experienced slow and stunted growth for reasons such as government policy, weak industry supervision, mandatory insurance, lack of leadership, low penetration, limited professionals and lack of continuous training in the industry (Ikunda, 2005). Insurance was, is and will always be a people business and so it pays to have the best people in the industry (Blanc, 2007).

2.1.16. Risks

Insurers are exposed to risks such as investment, litigation, accounting, regulatory and political risks (AKI, 2005). Their consequences are fines, prosecution, increased capital requirements, damaged reputation, low sales, regulatory intervention, increased management time and resources and an impact on operations.

The challenges mentioned above arise from issues that depict flaws or a failure in a regulatory regime. In Kenya, the Act has provisions that cover these challenges. Provisions on pricing and competition are in part 8. Investment income and insurer profits have been addressed in part 5 and part 7 while issues related to customers, contract certainty, ethics, corporate governance, industry growth are addressed in parts 6A, 16 and 18. Insurer failure and image are addressed in parts 4, 5 and 6. The problems associated with these challenges will persist for as long as regulation remains ineffective.

However other challenges such as terrorism and catastrophes are beyond the capabilities of a growing regime such as that in Kenya.

2.2. Reasons For Insurance Regulation.

Hunter (2005) identified reasons why insurance regulation is necessary. These are;

2.2.1. Insolvency

It's the primary focus of insurance regulation which prevents competition that causes insurers to go out of business, leaving customers unable to collect claims. It may lead to company collapse, winding up and endless court battles. At times it's caused by mismanagement and weak regulatory systems.

2.2.2. Unfair and Deceptive Policies and Practices

Insurance contracts carry a promise to make certain payments under certain conditions at a point in future. Consumers have limited ability in evaluating insurance due to its complex nature and rely on representations of the seller to a great extent. Regulation must exist to prevent the sale of unfair and deceptive policies, sales and claims practices.

2.2.3. Availability

Some insurance is mandatory or required in order to complete certain transactions. A good example is mortgage. Insurers seek the most profitable risks through selection, leading to availability problems. Regulation must exist to limit selection that harms the society.

2.2.4. Reverse competition

Some insurers market their policies to third parties who later sell to customers for commission or compensation. Questions arise as to whether they put their interests before that of the customers. Regulation is necessary to protect consumers and insurers from risks of third party activities.

2.2.5. Information and protection for Consumers

Due to the nature and pricing of insurance policies customers hardly get information about the quality and comparative cost of insurance policies. Regulation is necessary to ensure that customers access timely and meaningful information about the costs, terms, risks and benefits of insurance policies.

2.2.6. To Deal with Systematic Risks

These arise out of the nature, market conduct and territories or countries of parties to a contract. These include investment risks (Hartwig, 2002), litigation issues such as jurisdiction, double regulation and elimination of fraud, monopolies and bureaucracies from industry processes. A good example of this is the introduction of the two cheque system for settlement of motor claims in Kenya.

2.3. Factors Which Affect the Effectiveness of Insurance Regulation.

2.3.1. Suitability and Acceptance

A regulatory model can only be suitable if it's based on principles rather than specific rules. Its bedrock should be tough but fair enforcement and the rule making must be informed. The investing public will only benefit when an industry accepts the regulatory regime that governs it. Ensuring compliance depends on building a sense that regulations are fair, balanced and rooted in market reality (Porter, 2005). The extent to which a regulatory regime is suitable for a market and the extent to which the players accept it will largely determine how effective it will be.

2.3.2. Scope and Coverage

Insurance regulation should cover financial, management, technical, social and economic issues. Financial issues include minimum capital, reserves, deposits, investment of funds and solvency margins. Management issues include ensuring that principal officers, senior

management and staff are fit and proper persons both academically and professionally. It also includes training for technical know-how and statistics. Technical issues include premium rates, policy wording, reinsurance and an actuarial base to issues. Social and economic issues include fair and proper insurance premium, claims settlement, policyholder protection, shareholding, public awareness and intermediaries (IAIS, 2005). The more the number of issues addressed by a regulatory regime the more effective it is expected to be.

2.3.3. Consistency and Fairness

A regulatory regime shouldn't have interventions that favor larger or more influential participants at the expense of smaller participants. Its systems must be able to detect violations and enforce regulations without favoritism. Confusion may occur when similar products or services are regulated under different standards (CFA Institute, 2007). Consistency of results injects fairness into a regulatory regime and hence its effectiveness.

2.3.4. Foreseeability

There should be less difficulty in assessing the scope of a regulatory regime, a code of conduct, its validity in law, and cooperation due to the voluntary status of the participants (LSE, 2004). A regulatory regime should not only consider issues before hand but should also be triggered after an experience. The effectiveness of a regulatory regime relies on the extent to which it can foresee, detect, anticipate and prevent problems that may occur in the future.

2.3.5. Costs and Benefits

The analysis should be focused on flexibility and efficiencies, expertise, minimized resistance, higher level of standards, and competition. Its strengths and vulnerability

revolve around systemic risk, surveillance, funding mechanisms, separation of regulatory functions and business functions, market inefficiencies, investor confidence, advantages of the system and the effect of mergers, affiliations and market consolidations (CFA Institute, 2007). The effectiveness of a regulatory regime heavily relies on its costs and benefits both to the players and the regulator.

2.3.6. Autonomy

When a party assumes both roles of being both a player and a regulator, this will distort a level playing field. This is a common weakness of state regulation especially in countries where the state too provides the service being regulated. The system should be transparent and accountable and independent from the market being regulated (Lagace, 2007). An autonomous regulatory regime is perceived to be effective especially if it has adequate resources, a legal backing and its decisions are binding.

2.3.7. Mutuality of Benefit

The system should be anchored in attributes that create common goals, guidelines and incentives. These include commitment, industry representation, public participation, cost efficiency, transparency and accountability, independence from the market being regulated, independent board, adequate funding policy and rule making powers. It also depends on how the rules are designed, who adopts them, whether and how compliance is monitored and whether these rules actually achieve what they purport to achieve (Lagace, 2007). An effective regulatory regime should benefit the public, the market players and the regulator.

2.3.8. The market

There's a need to customize regulatory devices to a markets' characteristics and properly timing any imports from other regions and markets with due regard to local realities (El-

Darwiche et al, 2007). Developed markets tend to have more effective regulatory regimes especially due to the experiences and challenges that such markets have undergone.

2.4. The Framework For Insurance Regulation.

The International Association of Insurance Supervisors (IAIS) set up a framework of supervision that is globally acceptable and applicable. Its objective is to determine and assess the risk and solvency position of (re)insurers and financial groups, enhance transparency and compatibility of worldwide insurers, strengthening market stability, supporting a level playing field, giving opportunities for international cooperation, reducing unwanted regulatory arbitrage, increasing public confidence in the sector and ensuring an effective use of resources by the industry and supervisory community.

Figure 1: The Framework for Insurance supervision.

LEVELS	**ISSUES**		
Level 3 Supervisory Action	Supervisory assessment and intervention		
Level 2 Regulatory requirements	Financial	Governance	Market Conduct
Level 1 Preconditions	Basic conditions for the effective functioning of • The insurance supervisory authority • The insurance sector and insurance supervision		

Source: Sandstone A. (2005). Solvency: Models, Assessment and Regulation.

The framework consists of three levels of responsibilities and blocks of issues (Sandstone, 2005); the responsibilities are preconditions, regulatory requirements and supervisory action.

Level one covers basic conditions for effective functioning of the supervisory authority, the insurance sector and insurance supervision. These include accountability, transparency, adequate power, legal protection, financial resources and independence from politics, an environment with policy, institutional and legal framework, effective market structure and an efficient market with available information. These are beyond the control of both the insurer and the supervisor.

Level two covers requirements on finance, governance and market conduct. Financial requirements pertain to solvency, capital adequacy, valuation, technical provisions, capital, investments, financial reporting and disclosure. Governance requirements pertain to administrative processes and internal controls, risk management, compliance with legislative requirements, fit and proper testing of boards of directors, senior management, shareholder relationships and governance risks posed by group structures. Market conduct requirements include dealing with customers, selling and handling insurance policies, integrity, and disclosure of information to stakeholders.

The third level covers supervisory assessment and intervention. Adherence by insurers to all requirements must be subject to supervisory review. The supervisor will tailor its review and remedial action taken to the specific circumstances of each insurer with due regard to the principles of legal certainty and equal treatment. The common solvency structure and standards was developed by drawing from level two and three (IAIS, 2005).

In Kenya aspects of the framework have been addressed in the Insurance Act as follows; Level 1 issues are addressed in Part 2 (Appointment, powers and duties of Commissioner of Insurance), Part 3 (registration of insurers), Part 13 (The Kenya reinsurance corporation), Part 14 (Mandatory insurance cessions), Part 15 (Intermediaries, risk managers, loss assessors, loss adjustors, Insurance surveyors and claims settling agents), Part 19 (Ministers powers), Part 20 (General provisions relating to registration and certificates) and Part 21 (supplementary provisions) of the Act.

At Level two, finance requirements are addressed in Part 3 (Registration of Insurers), Part 4 (Deposits), Part 5 (Assets, Liabilities, Solvency Margins and Investments) and Part 6 (Accounts, Balance sheets, Audit and actuarial Investigations). Governance issues are addressed in Part 7 (Management and expenses) and Part 8 (Rates, policy terms and claims settlement). Market conduct requirements are addressed in Part 9 (Assignments, Mortgages and Nominations), Part 10 (Claims on small policies), and Part 17 (advertisements of Statements).

Level 3 issues i.e. supervisory assessment and intervention are addressed in Part 6A (Inspection and control of insurers), Part 11 (Insolvency and winding up), Part 16 (insurance advisory board) and Part 18 (legal proceedings and appeals).

2.5. State Regulation Of Insurance.

The historical role of the state in the insurance markets was to ensure the solvency of insurers, rate and form regulation, consumer protection and being the (re)insurer of the last (or only) resort (Hartwig, 2002). Over time, factors such as deficient loss reserves, inadequate pricing, fraud, rapid growth and catastrophe losses that contribute to insurer insolvency are beyond the states control. In Kenya, risks such as civil strife, riots, catastrophes, terrorism, war and insurrection are beyond the capacity of (re) insurers (Ngunjiri, 2002). Their frequency and severity is unknown and consequently no planning can be done. An example is the August 7th, 1998 terrorist attack in Nairobi, Kenya. State capacity and resources weren't sufficient to make it the (re) insurer of the last (only) resort and reduced its role to aid and relief.

Several concerns that have formed a rationale for greater government involvement in insurance include insurability, magnitude of loss, pricing and availability (Hartwig, 2002). Gron and Sykes (2005) identified other reasons for state regulation. These are;

2.5.1. Market Power

Some risks are so large and non diversifiable that only the most capitalized insurers can insure them. In the long run market power will affect market coverage because of the competitive entry by large insurers or insurance groups resulting in a monopoly.

2.5.2. Adverse selection

A government can make insurance coverage compulsory or mandatory. When adverse selection has been temporary following a shock on the market there's a danger of government policy being outdated.

2.5.3. Asymmetric information

Capacity limitations are associated with high cost of capital for insurers. The situation may be as a result of asymmetric information between insurers and the capital markets. Governments can intervene through policy instruments.

2.5.4. Long Term Issues

If in future insurers accumulate experience in covering large risks and related losses, they should be willing to supply modest cover. If government doesn't intervene prices will remain high and cover for certain risks will not be available. On the other hand governments can provide incentives such as tax relief to stimulate demand. On the contrary ex post government assistance provides a *de facto* "insurance" the price of which isn't connected to each insured risk resulting in morale hazards. A government can also create constructive policies that can boost insurability through regulation and reforms within the industry and in other sectors (Waiyaki, 2004). An example is the transport sector reforms in Kenya.

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2.5.5. National Disaster Management Programs

These include social protection mechanisms such as investment funds and safety nets that help in managing disaster crisis. An integrated national disaster management program that includes pre and post disaster phases should encompass issues such as preparedness, emergency response, reconstruction and rehabilitation (Ng'aru, 2004). Government arrangements have the ability to create a sizable fund which can be used to finance victims of loss, social security or catastrophes.

2.5.6. To promote fair competition

In Kenya the uniqueness of insurance restricts the presence of alternatives or substitutes. Adverse selection is common. Market segmentation is rare while niche marketing is common. Cartels were witnessed when PSV underwriters fixed the prices in 2001 (*The East African, Monday December 3, 2001*). Cut throat competition is evident in price wars and undercutting especially in the non life sub sector (Muhindi, 2006).

2.5.7. To Acquire Public Confidence

When services aren't available to the public due to the cost the state moves in to provide the service itself so as to gain the public. When the state is both a player and a regulator in an industry, state backed schemes come into existence (Hartwig, 2007). These aren't the solution because the state rarely analyses the weaknesses of the system it's replacing since its after public confidence (LSE, 2004) by making cover available and affordable.

2.6. The Insurance Regulatory Authority

In the recent past in Kenya the state regulated insurance through the Insurance Act via the office of the Commissioner of Insurance in the Department of Insurance under the Ministry of Finance whose vision was to make Kenya a world class insurance market. Its mission was to effectively and professionally regulate the insurance industry to protect

the insuring public and other stakeholders and creating awareness in order to contribute and sustain national economic growth (COI, 2006). Its functions included monitoring performance and financial viability of insurance companies, formulating and enforcing policies, standards and guidelines, licensing, tariffs, rates, fees, taxes, handling complaints from the policy holders and the public, preparing annual performance reports and monitoring claims settlement in the industry.

The office of Commissioner of Insurance was responsible for the administration of the Act. Its duties included formulation and enforcement of standards of conduct for members of the industry, directing insurers and reinsurers on standardization of contracts, approval of rates and tariffs, registration/authorization of players in the industry, to act as an ombudsman on small claims, monitoring performance of insurance companies and taking action where necessary (Nanyama, 2004). The office was subject to any directions of the minister.

The happenings in the insurance industry and the outcry from the public aroused a great need for an autonomous, independent and competent body to supervise and regulate the industry. The Insurance (Amendment) Act 2006 enacted on 30th December 2006 established the Insurance Regulatory Authority (IRA) to take up the role of regulating, supervising and developing the insurance industry. The Act became effective on 1st May 2007. In order to enhance its supervisory capacity as a regulator the government delinked it from the Ministry to give it some autonomy. Its mission is to effectively and professionally regulate, supervise and develop the insurance industry as provided for by the Insurance Act

Its mandate is to regulate, supervise and develop the insurance industry in Kenya. It's charged with administering the Insurance Act and advice the government on policy matters on insurance and protecting policy holders' interests. Its core functions are formulating insurance policies and guidelines, licensing of insurers and intermediaries, enforcing standards with regard to the compulsory insurance, approving tariffs and rates, complaints management, monitoring performance and financial viability of insurers,

collecting license fees and other related taxes, preparing annual performance reports of members of the industry and enforcement of claims settlement (IRA, 2008).

Critical to its operations are its policy analysis and research, technical, legal and corporate affairs departments. The technical department will implement and evaluate programs and policies aimed at ensuring compliance through surveillance, supervision and inspection of insurance players in line with regulatory requirements and the mode of supervision. The policy, research and development department will carry out research, studies, surveys and statistical analysis aimed at assessing, evaluating and establishing new policies systems and strategies that are in line with national, international and regional collaborators. Its consumer education division will develop, implement and evaluate comprehensive insurance education programs for all stake holders. The legal affairs department will provide legal interpretations to direct enforcement of insurance rules and regulations, preparing investigative reports and recommending disciplinary sanctions against offenders. These will be aimed at preserving and sustaining the integrity of the industry (IRA, 2008).

2.6.1. Regulatory Issues in Insurance Supervision in Kenya

The day to day regulatory issues in the practice of insurance supervision in Kenya are provided for in the Act. These are prior authorization for all persons transacting insurance in Kenya, minimum capital requirements for insurers and brokers, local participation which is one third (1/3) for insurers and sixty percent (60%) for brokers, approval of reinsurance arrangements, margins of solvency and admissibility of assets, ceilings on investment amounts per category, prescribed formats for financial statements, submission of audited accounts within set timeframes, onsite inspections by the regulator, maximum ceilings for management expenses, filing of rates, policy terms and conditions of insurance contracts with the regulator, management intervention and winding up of insurers where necessary, transfers, long term business portfolios, amalgamations and mergers of insurance companies.

The Act also regulates all intermediaries who are required to register and be subject to provisions that include the agency field being left to Kenyans, being a corporate body with minimum paid up capital and citizen shareholding, a definition of credit facilities, restraints on conflicts of interest, fit and proper persons in respect of principal officers and surveyors, maximum limits to be paid on commission and brokerage rates payable to intermediaries, submission of statements of business done, financial statements and financial soundness although the act is silent on solvency margins for brokers. This aspect is catered for through a pre-condition for registration with AIBK.

2.6.2. Criticisms of the Insurance Act

The Act has been criticized on various grounds. It is based on functions and actions rather than principles which would be the best guide to actions and functions. It was tailored on what a '*person*' being a holder of an office (Commissioner of Insurance) or an entity was required to do rather than principles that the industry ought to abide by. The Act allowed political appointment of the Commissioner of Insurance and doesn't specify his/her term of office. The boards created by the Act can be composed of individuals holding positions in the industry since there are no provisions barring this. These should comprise of independent and competent professionals. The minister's power over the appointees brings unnecessary bureaucracy that may usurp the autonomy of the new Insurance Regulatory Authority.

Critical aspects of the Act require continuous review while others need to be tailored to suit the Kenyan market. An example is the policyholder's compensation fund limit. The value of Kshs.100, 000.00 will reduce over time and will require constant review. In addition, its provisions on secrecy in Sections 18 and 138 may hinder accountability and responsibility and add to the mystery of nature and operations of the insurance industry. The Act targets providers of service but not customers who equally participate in fraud. It doesn't prevent moral hazards or compel customers to mitigate losses. The disciplinary action and penalties aren't sufficient to eliminate malpractices from the industry. For

example Section 66 provides a fine of Kshs.10, 000.00 or a prison term not exceeding 12 months as penalty for false statements.

The fate of the Act rests on members of parliament who aren't insurance professionals. There's lack of recognition for Self Regulatory Organizations in the Act (Ngugi, 2002). These should be recognized just like ICPAK (Gichuhi, 2005) and empowered both legally and financially. The Act isn't comprehensive and so the industry has to refer to other Acts such as the Finance, Income Tax, Trustees, Capital Markets and Retirement Benefits Acts and legal notices which may be costly.

Enforcement of the Act is invisible and can be questioned. Insurer collapse could be detected in advance if rules on finance, governance and market conduct provisions were strictly enforced. Kenya has witnessed the collapse of insurers, intermediaries and Health Management Organizations from the sector. Although the reasons cited were financial problems, inadequate premium, poor risk management, fraud and inadequate capitalization, insurance seems to be an unregulated business in Kenya (Jetha, 2004).

2.7. Self Regulation of Insurance.

Self Regulation arises when an industry designs rules that go beyond the current minimum regulatory requirements for itself or when an industry establishes new standards in areas where government rules are lacking (Hufler, 2001). It carries a practical understanding of how regulations operate and the ability to achieve regulatory objectives effectively and efficiently with minimal collateral damage (Porter, 2005). Although adopted voluntarily, the rules may be backed up with formal or informal enforcement mechanisms. The basic documents for such initiatives are codes of conduct, memoranda of understanding or written agreements between companies and groups. It's the best motivation for any industry to effectively police itself.

Self regulation is necessary to bring autonomy in new spheres, to curb the relative power of government or when there is a need for the public to influence policy. It's

characterized by a number of parties, a degree of specificity, a subject matter, a prescription of behavior, consensus building and an organization to oversee the agreement (Hufler, 2001). It covers environmental protection, labor standards, information privacy and global rules. It works best if there is an identifiable community of participants in a well defined market place and is very effective when dealing with '*a bad apple in the barrel*' (LSE, 2004).

Current trends of standard setting are driven by business or activism. The business perspective encompasses standards on technology, market conduct, industry reputation, costs, quality, exchange of goods and services. Activism encompasses social and political demands from outside the business community. These are driven by civil society groups. An example in Kenya is cover for HIV positive persons.

The long term success of a self regulatory system is anchored in attributes that create common goals, guidelines and incentives. These include commitment, mutual benefit, industry representation, public participation, cost efficiency, transparency and accountability, independence from the market being regulated, independent board, adequate funding policy and rule making powers. Others are government oversight, effective surveillance, supervision and enforcement powers. It also depends on how the rules are designed, who adopts them, whether and how compliance is monitored and whether these rules actually achieve what they purport to achieve (Lagace, 2007). It's important to note that self regulation may not apply to all areas of an organization for example financial reporting and accounting that's governed by the International Accounting Standards Board.

Self regulation may fail due to loss of public trust, unresolved conflicts of interest, loss of unity, anticompetitive behavior, lack of adequate funding and overreaching governmental authority. Its cost-benefit analysis is focused on flexibility and efficiencies, expertise, minimized resistance, higher level of standards, and competition. Its strengths and vulnerability revolve around systemic risk, surveillance, funding mechanisms, separation of regulatory and business functions, market inefficiencies, investor confidence,

advantages of the system and the effect of mergers, affiliations and market consolidations (CFA Institute, 2007).

Self regulation of insurance in Kenya has been through Self Regulatory Organizations. The Association of Kenya Insurers is the most prominent. It's composed of licensed insurers in the country. Its mission is the advancement of common interests, agreement on mutual interests, general advancement of insurance business, promoting knowledge, awareness and trust in insurance within the community, collating market wide statistics, cooperation with similar bodies outside Kenya and effective management of assets and investments of its members. It's composed of committees and councils.

The committees include the Committee for Liaison between Underwriters and Brokers (CLUB), ethics and self regulation, public relations and external liaison, secretariat affairs and investments and the statutory and legal affairs. The councils include the general and life councils which address growth and development, technical cooperation among members, underwriting standards, legislative and statutory impediments to profitable expansion and growth of insurance business. They create a harmonious atmosphere in the competitive environment, observe fair trade practices and act as a watchdog for the board. The general council comprises of technical sub committees on accident, motor, marine, aviation, motor pool winding up, property and engineering committees. The life council comprises of technical sub committees on individual life, pensions, group life and mortality investigation.

The Association of Insurance Brokers of Kenya addresses emerging issues affecting insurance brokerage and acts as one voice for its members. Its objectives are to uphold professionalism in the sector, fight for rights of brokers when impinged by any institution, and to strengthen the working relationship with Association of Kenya Insurers and the Insurance Regulatory Authority through improved communications and social interaction.

The Insurance Institute of Kenya's vision is being the premier insurance professional body in the region providing best standards, practices and overall guidance on all related matters. Its mission is to maintain high standards of professionalism and continuously propagate the place of insurance in the socioeconomic development of the nation. Its areas of strategic focus include knowledge and research, public awareness, legal recognition, project funding, a stronger secretariat, improved leadership, improved image, continuous professional development programs and increase of membership (IIK, 2003). Other Self Regulatory Organizations in the industry are the Institute of loss Adjusters and Risk Surveyors (IARS), Automobile Engineers Assessors Association (AEAA) and the college of Insurance that provides training in insurance and administers both local and international professional examinations in Kenya.

2.8. State or Self Regulation of Insurance.

When considering which form of regulation is suitable for insurance there is need to consider various issues. Effective regulation is hinged on the role of the parties which are interdependent. These are the government, the regulator and the market players. The government should set sector objectives, set legislative levers, and ensure that sector policies are in line with national aspirations and objectives. The regulator should be the guardian for the sector, implement policies, develop, monitor, and report on sector growth. The players should participate in the process and help shape the development of a well adapted market specific policy and regulatory environment (El-Darwiche et al, 2007).

State regulation sets forward looking expectations for firm behavior by avoiding damage from anti-competitive behavior by anticipating and preventing it. It provides certainty for market participants, by setting out clear rules in advance through regulatory and institutional design that prevents the government or regulator from changing the rules unpredictably hence promoting transparency. It eases dispute resolution, as the competition framework is already established. Both the Regulators and affected parties know in advance the types of information required for regulatory proceedings, and can collect it accordingly (Monson et al, 2007).

On the other hand it may prevent all conduct of a certain type, regardless of whether it would actually be harmful or potentially beneficial. It often uses the perfect competition model as a benchmark, which can lead to unnecessary or excessive intervention. It may introduce unforeseen distortions in the operation of the market. Asymmetric regulation can encourage service providers to focus on exploiting opportunities for *arbitrage*. It imposes high informational requirements on regulators which can be costly. Inevitably involves lengthy regulatory proceedings whose cost is borne by the tax payers (Hartwig, 2007). In the long run the regulatory processes can be *captured* by regulated entities.

Self regulation applies competition laws that specify in advance which forms of conduct are prohibited. It attempts to only stop conduct that is shown to be harmful to the social good. Temporary departures from competition benchmarks (for example due to innovation) are not punished without investigation. It has lower informational and monitoring requirements resulting in lower costs. Competition authorities can limit monitoring and information gathering to firms that are the subject of investigations. It applies the same competition laws across the sectors, and so should produce consistent outcomes across the sectors. It's the least disruptive form of regulation for emerging markets and is the best when dealing with specialized and technical issues that only professionals can decipher (Porter, 2005).

Self regulation is triggered after alleged anti-competitive conduct has already occurred. It doesn't prevent harm to competition, only ameliorates it. Securing the information needed to enforce *ex post* regulation, from the accused firm, can be difficult. The laws may be unsuitable for identifying and penalizing anti-competitive conduct specific to a certain market. When applied alongside industry-specific *ex ante* regulation, the laws can cause inconsistencies in regulatory outcomes. It can create uncertainty for firms, particularly firms with market power. It's not clear at what point the line between aggressively competitive behavior and anti-competitive use of market power is since it presents difficulties in assessing its scope, validity in law, and cooperation due to the voluntary status of the members (LSE, 2004).

CHAPTER THREE

RESEARCH METHODOLOGY

3.1. Research Design

This study was modeled on an exploratory survey whose purpose was to measure the effectiveness of the state in regulating the insurance in Kenya. In order to get a fair representation of all categories and to capture the populations' characteristics the exploratory survey was selected. It was carried out in a field setting and with an intention of capturing a snapshot and give a description on the topic of study. The study captured the population's characteristics by making inferences from samples characteristics. Generalization of findings was based on the representativeness of the sample and validity of the design. The insurance industry has got over three thousand players grouped into categories namely insurers, intermediaries and insurance service providers.

3.2. Population

The population of the study comprised of a total of 3, 626 players in the insurance industry. This consisted of 6 regulators, 2 state sponsored insurance schemes, 44 Insurers (AKI, 2007), 3576 intermediaries (IRA, 2007) and the College of Insurance. The regulators included the Insurance regulatory Authority and the Self Regulatory Organisation while the intermediaries included brokers, service providers and agents.

3.3. Sampling

All respondents were selected from the Insurance Regulatory Authority's lists for the year 2007 and the Association of Kenya Insurers directory for the year 2008. The sample size was 64 consisting of 32 insurance companies, 23 Intermediaries, 5 Self Regulatory Organizations, the College of insurance, two state sponsored insurance schemes and the Insurance Regulatory Authority. The target respondents were persons that handle administrative and legal matters chosen on the basis of industry experience and actual or presumed knowledge on the subject. The study was however concentrated on the players located in within the city of Nairobi on the basis of cost and time implications.

Sampling was a combination of both probabilistic and non probabilistic methods namely stratified, judgmental, snowballing and quota sampling. The industry players were grouped into strata comprising of each group i.e. insurers, intermediaries, regulators and state sponsored schemes. Systematic sampling was applied to each stratum except for the regulators who were all selected.

Judgmental sampling was necessary on intermediaries due to their number, geographical distribution across the country, knowledge and interest in the topic of study. Snowballing was to ensure that only intermediaries with the requisite knowledge, experience and interest in the study are selected. During pre testing, most intermediaries required personal discussions and a lot of explanation which impacted on the cost and time that was to be spent on the study. Quota sampling ensured that over 25% of the respondents are intermediaries and 50% of the respondents are insurance companies since all aspects of regulation in the industry and any changes affecting other players affect them.

The illustration of the sampling methodology that was used is on Appendix 1.

3.4. Data Collection

The researcher collected the responses from the subjects through a drop and pick method. Questionnaires that contained open ended, closed ended and matrix type of questions were administered to the respondents through hard copies. There was one questionnaire per respondent per organization. The respondents targeted were senior officials in legal and regulatory issues within their organizations.

3.5. Data Analysis

Data Analysis was carried out on both qualitative and quantitative data. Descriptive statistics such as measures of central tendency, variability and frequency were used to enhance a meaningful description on scores or measurements of indices or statistics.

Tables with rating scales were analyzed through measures of central tendency i.e. the mean, the standard deviation and also by use of percentages.

CHAPTER 4

DATA ANALYSIS AND FINDINGS

4.1. Introduction

This chapter outlines the analysis of the data obtained and the findings of the study. It analyses the data in line with the research questions and objectives of the study which are to analyze the extent to which the state has succeeded in regulating the insurance industry in Kenya and also to establish the factors that facilitate or hinders effective regulation in the insurance industry in Kenya. The findings have been presented in two parts; General information on the respondents and the factors that facilitate or hinders effective regulation in the insurance industry in Kenya.

In order to facilitate a clear understanding of the presentation of the findings the following key of definitions of key words used is necessary;

Frequency – The number of times a response or an answer was tallied or counted during the analysis of the data. In some tables it shall be abbreviated as ***'Freq'***.

Percentage – It's the ratio of the frequency of a given response to the total number of responses analyzed or tallied based on the number of questionnaires returned. In some tables it shall be abbreviated as ***'%'***.

Valid Percentage – It's the ratio of the frequency of a given response to the total number of responses analyzed or tallied based on the number of respondents who attempted or answered a particular question. In some tables it shall be abbreviated as ***'Valid %'***

Cumulative percentage – It's the summation of the percentage responses on the groups or sets of the responses already presented at a given time. In some tables it shall be abbreviated as ***'Cum %'***.

Mean - a measure of central tendency of the responses. For purposes of interpretation in this study a mean of above 2.5 shall mean that the response was significant.

Standard Deviation – It shall be abbreviated as ***'SD'*** For purposes of interpretation in this study a standard deviation of below 1 shall be strongly agree for the same reasons and above 1 shall be agreed but for varied reasons.

4.2. Response Rate

The study targeted 64 respondents from various strata in the insurance industry. This was aimed at eliminating duplicity of data obtained. 58 respondents returned the questionnaires. This is equivalent to 90.6% response rate which was considered adequate for the objectives of the study.

4.2.1. Classification of Industry Players by Strata

Table 1: Response Based on Classification of Industry Players by Strata

Sectors in the industry	Frequency	Percentage	Valid Percentage	Cumulative Percentage
College of Insurance	1	2.1	2.1	2.1
Loss Assessors	1	2.1	2.1	4.2
Risk Managers	1	2.1	2.1	6.3
Regulators	5	10.4	10.4	16.7
Reinsurers	2	4.2	4.2	20.8
Insurance Agents	2	8.3	8.3	29.2
General insurers	23	27.1	27.1	56.3
Composite Insurers	9	18.8	18.8	75.0
Insurance Brokers	7	14.6	14.6	89.6
Life Insurers	4	8.3	8.3	97.9
Loss Adjusters	1	2.1	2.1	100
Total	**58**	**100**	**100**	

From the table it is evident that 58 out of 64 respondents in the industry (90.6%) while 6 respondents (9.4%) did not return the questionnaires. From these figures it can be deduced that the response rate (90.6%) is adequate for generalization purposes. It is clear from the table above that most respondents came from the general insurance companies where a total of 23 (100%) were interviewed. This could be attributed to the fact that most of the changes that have been effected within the regulatory regime and within the

Insurance Act affects them and so they were more cooperative. Reaching agents proved quite difficult during the data collection exercise. The total number of agents that were supposed to be interviewed was seven but only two could be reached. The five slots were transferred to general insurers. Only one out of the five loss assessors could be reached. The four remaining slots were transferred to general insurers and hence they became 23. It can be concluded that majority of the players in the industry deal with general insurance products and nine out of the 10 amendments made to the Insurance Act affected general insurance. This is why there was a large response rate from general insurers.

4.2.2. Length of Time the Firm has been in the Industry

Table 2: Length of Time the Firm has been in the Industry

	Freq	**%**	**Cum %**
1-10 Years	0	0	0
11-20 Years	8	13.8	13.8
21-30 Years	24	41.4	86.4
Over 30 Years	26	44.8	100
Total	58	**100**	

From the table it's evident that between 11-20 years, there were 8 players representing 13.8% of the respondents. Between 21-30 years, there were 24 players representing 41.4% of the respondents. 26 players representing 44.8% of the respondents had been in the industry for over 30 years. The results also reveal that all the respondents have been in the industry for over 10 years and over 85% of them have been in the industry for over 20 years. They therefore qualify to comment on the extent to which the state has succeeded in regulating the insurance industry and also to comment on the factors that facilitate or hinder effective regulation in the industry.

4.3. The State of the Insurance Market in Kenya

4.3.1 Table 3: The State of the Insurance Market in Kenya

	Freq	%	Valid %	Cum %
Static	6	12.5	12.5	12.5
Dynamic	28	58.3	58.3	70.8
Turbulent	14	29.2	29.2	100.0
Total	**58**	**100**	**100**	

The findings on the state of the insurance market were as follows: Dynamic (58.3%), static (12.5%) and lastly turbulent (29.2%). It can therefore be concluded that the state of the insurance market is dynamic. The establishment of the Insurance Regulatory Authority and the 10 amendments to the Insurance Act were cited as the main reasons for majority of the respondent's indication that the industry is dynamic and turbulent. Most of the respondents had been affected by these changes since they deal with general insurance. The respondents who indicated that the industry was static either seemed not to be aware of the amendments in the Act or they were not affected by them. Hence, to them the industry was basically the same or rather static. This implies that the respondents answered the question based on what they know and what they have seen.

4.3.2. The Contribution of the State to the Status of the Insurance Market.

Table 4: States contribution to the Status of the Insurance Market

	Freq	%	Valid %	Cum %
Great Extent	17	29.3	29.3	29.3
Moderate Extent	41	70.7	70.7	100
No Extent	0	0	0	100
Total	**58**	**100**	**100**	

The table reveals that 70.7% of the respondents indicated moderate extent while 29.5% indicated great extent. Therefore it can be concluded that the state has contributed to the status of the market up to a moderate extent. This implies that the state has the key to unlock the potential of the Kenyan insurance market to a moderate extent.

4.3.3. The Insurance Industry Penetration Rate

Table 5: The Insurance Industry Penetration rate of 2.6% of GDP in 2005 (AKI, 2005)

	Freq	%	Valid %	Cum %
Very slow	36	75.0	75.0	75.0
Slow	22	25.0	25.5	100
Fair	0	0	0	100
Total	**58**	**100**	**100**	

The results show that 75% of the respondents indicated very slow while 25% indicated slowly. It can therefore be concluded that the industry penetration rate in terms of contribution to GDP is very slow. The respondents desired to see a faster penetration rate but were pessimistic citing reasons such as stunted growth, poor government policy, weak supervision, limited professionals, poor industry image and the presence of mandatory insurance which has not only boosted growth but stifled innovation within the industry. This implies that the state needs to focus more on the potential of the insurance industry being a valuable contributor to GDP and pay attention to its issues in terms of reforms both within the industry and outside the industry.

4.3.4. Contribution of the State to the Industry Penetration Rate.

Table 6: Contribution of the State to the Industry Penetration Rate.

	Freq	%	Valid %	Cum %	Mean	SD
Great Extent	17	29.3	29.3	29.3	3.96	0.25
Moderate Extent	41	70.7	70.7	100	3.29	0.52
No Extent	0	0	0	100		
Total	**58**	**100**	**100**			

The results show that 70.8% of the respondents indicated moderate extent while 29.3% indicated great extent. It can therefore be concluded that the state has contributed to the industry penetration rate to a moderate extent. The respondents strongly agree with no variation and the response was significant. This could be attributed to demographics, the industry growth rate, low state attention and government policy in other sectors. This

implies that the state needs to put more attention on the insurance industry and resolve the issues that affect it.

4.3.4 .1 Factors that affect the State Contribution to the Industry Penetration Rate

Table 7: Factors that affect the State's Contribution to the Industry Penetration Rate

	Count	**Responses**	**Percentage of cases**
Category Label			
Demographic Factors	39	21.0	81.3
Industry Growth rate	23	12.4	47.9
Technology	17	9.1	33.3
Government policies and reforms	16	8.6	66.7
Image and Reputation	32	17.2	70.8
Human Resource Development and Training	34	18.3	12.5
Compensation	6	3.2	39.6
Customer Expectations	19	10.2	35.4
	186	100	387.5

The results show that the main factors that affect the contribution of the state to the industry penetration rate are Demographic Factors (81.3%), Industry Image and Reputation (70.8%), Government Policies and Reforms (66.7%) and industry Growth Rate (47.9%). Human Resource Development and training is the least factor that has affected the contribution of the state to a very slow industry penetration rate. This implies that if the state doesn't address the main factors such as demographics, Industry image and reputation, government policy, reform agenda and minor factors such as human resources and professionalism through structures, legislation, justice and the courts system, then the industry penetration rate may not improve and could even become worse.

4.4. An Evaluation of the Extent to Which Factors are Critical in Insurance Industry Operations.

4.4.1. Price

Table 8: Extent to which price is critical in the operation of the insurance industry

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	0	0	0	0		
Moderate extent	3	5.2	5.2	5.2	0.93	1.85
Significant extent	9	16.2	16.2	21.4	1.35	1.71
Great extent	46	78.6	78.6	100	4.40	0.20
Total	**58**	**100**	**100**			

The results show that 78.6% of the respondents indicated great extent, 16.2% indicated significant extent while 5.2% indicated moderate extent. It can be concluded that price is critical in the operations of the insurance industry to a great extent. The respondents strongly agree with no variation and the response was significant. The reason was although scope of cover is the basis on which price should be computed, price determines a player's profitability and is used to attract and retain customers. The price is expected to cover both the operating expenses and to settle claims as and when they arise. This implies during tough economic times players in the industry may apply survival tactics, some of which may be unethical and this may lead to insolvency and insurer collapse.

4.4.2. Competition

Table 9: Extent to which Competition is Critical in Insurance Industry Operations

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	0	0	0	0		
Moderate extent	3	5.2	5.2	5.2	0.93	1.85
Significant extent	34	58.6	58.6	63.8	3.88	0.15
Great extent	21	36.2	36.2	100	3.39	1.21
Total	**58**	**100**	**100**			

The results show that 58.6% of the respondents indicated significant extent, 36.2% indicated great extent while 5.2% indicated moderate extent. Therefore it can be concluded that competition is a critical factor to the operations of the insurance industry to a significant extent. The respondents strongly agree with no variation and the response was significant. The respondents agree that competition is critical and it comes from alternative risk handling techniques, banks, savings and credit co-operatives and also internally from other players within the industry itself. This implies that competition shall be stiff and players in the industry will have to design strategies to make them relevant in the market so as to survive. Also unfair and deceptive practices may continue for as long as competition remains critical in the industry.

4.4.3. Claims Management

Table 10: Extent to which Claims Management is Critical in Insurance Industry Operations

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	0	0	0	0		
Moderate extent	3	5.2	5.2	5.2	0.93	1.85
Significant extent	15	25.9	25.9	31.1	2.25	1.04
Great extent	39	67.2	67.2	98.3	3.94	0.15
Missing	1	1.7	1.7	100		
Total	**58**	**100**	**100**			

The results show that 67.2% of the respondents indicated great extent, 25.9% indicated significant extent and 5.2% indicated moderate extent. Therefore it can be concluded that claims management is crucial in the operations of the insurance industry to a great extent. The respondents strongly agree with no variation and the response was significant. The reasons was that most clients come face to face with insurance companies at the claims stage since many transact through intermediaries. Although mismanagement of claims may result into fraud, physical, moral, morale and legal hazards it can also cause a strain on an insurer's resources and even result in insurer collapse. This implies that the image of the industry rests on how it settles claims.

4.4.4. Capital Requirements

Table 11: Extent to which Capital Requirements is critical in Insurance Industry Operations

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	3	6.3	6.3	6.3	1.57	1.49
Moderate extent	14	29.2	29.2	35.4	2.32	1.25
Significant extent	15	21.3	21.3	66.7	3.00	1.30
Great extent	26	46.2	42.2	100	3.70	0.56
Total	**58**	**100**	**100**			

The results show that 46.2% of the respondents indicated great extent, 29.2% indicated moderate extent, 21.3% indicated significant extent and 6.3% indicated small extent. It can be concluded that capital requirements are critical in the operations of the insurance industry to a great extent. The respondents strongly agree with no variation and the response was significant. The reasons were that capital requirements are targeted towards stability and sustainability of the industry, preventing insolvency and insurer collapse. Although the respondents agree that capital requirements are critical they were not pleased that it had been increased because it affected their capital structures substantially. This implies that in order to regulate the industry the state shouldn't loose grip on the area of capital requirements otherwise the majority of the players would go down taking the industry along with them.

4.4.5. Finance

Table 12: Extent to which Finance is critical in Insurance Industry Operations.

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	0	0	0	0		
Moderate extent	15	26.25	26.25	26.25	2.25	1.58
Significant extent	28	47.5	47.5	74.75	3.68	0.96
Great extent	15	26.25	26.25	100	2.25	1.58
Total	**58**	**100**	**100**			

The results show that 47.5% of the respondents indicated significant extent, 26.25% indicated great extent while 26.25% indicated moderate extent. Therefore it can be concluded that finance is critical in the operations of the insurance industry to a significant extent. The response was significant and the respondents strongly agreed with no variation. The respondents agreed that finance was critical because each player needs to meet both its short term and long term obligations without getting insolvent. This implies that the regulatory regime must not only demand for proper accounting and financial reporting from the players in the insurance industry, they should also act on the contents of these reports before it becomes too late.

4.4.6. Technology

Table 13: Extent to which Technology is critical in Insurance Industry Operations

	Freq	**%**	**Valid %**	**Cum %**	**Mean**	**SD**
No extent	0	0	0	0		
Small extent	2	3.4	3.4	3.4	1.64	1.30
Moderate extent	32	55.2	55.2	58.6	4.23	0.31
Significant extent	15	25.9	25.9	84.5	3.58	1.23
Great extent	9	15.5	15.5	100	2.77	0.48
Total	**58**	**100**	**100**			

The results show that 55.2% of the respondents indicated moderate extent, 25.9% indicated significant extent, 15.5% indicated great extent while 3.4% indicated small extent. Therefore it can be concluded that technology is critical to a moderate extent. The response was significant and the respondents strongly agreed with no variations. The reason is that technology is critical customer service, automated underwriting, point of sale transactions, insurance policy servicing and renewal, surveys, loss assessment and adjustment. On the other hand technology is very costly and is mostly used by Insurance companies which imply that the state should provide incentives to industry players on the acquisition and maintenance of both hardware and software.

4.4.7. Terrorism

Table 14: Extent to which Terrorism is critical in Insurance Industry Operations

	Freq	%	Valid %	Cum %	Mean	SD
No extent	3	5.1	5.1	5.1	1.94	0.85
Small extent	27	46.6	46.6	51.7	3.89	0.72
Moderate extent	7	12.1	12.1	63.8	1.31	1.75
Significant extent	12	20.7	20.7	84.5	2.59	0.53
Great extent	9	15.5	15.5	100	2.60	1.81
Total	58	**100**	**100**			

The results were as follows: Small extent (46.6%), significant extent (20.7%) and great extent (15.5%), Moderate Extent (12.1%), No Extent (5.1%). Therefore, it can be concluded that that terrorism is critical in the operations of the insurance industry to a small extent. The response was significant and the respondents strongly agreed with no variations.

The respondent's views on terrorism were varied mainly because majority of them have never felt its impact directly. Those who had felt the impact cited reasons such as changes in pricing policies, reinsurance, reduced cover, reduced capacity, withdrawal of reinsures from the market, increased exclusions, increased self insurance and tough policy terms and conditions. In Kenya, the effects of the August 7th bomb blast were mainly felt by insurers and the insuring public. This implies that there is a niche for insurers with capacity to cover risks related to terrorism and also implies that the state is the (re) insurer of the last resort due to lack of capacity on the part of industry players.

4.4.8. Intermediaries

Table 15: Extent to which Intermediaries are critical in Insurance Industry Operations.

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	0	0	0	0		
Moderate extent	12	20.7	20.7	20.7	2.89	0.45
Significant extent	32	55.2	55.2	75.9	4.03	0.68
Great extent	14	24.1	24.1	100	3.09	0.90
Total	**58**	**100**	**100**			

The results were as follows: Significant extent (55.2%), Great extent (24.1%). and Moderate extent (20.7%). It can therefore be concluded that intermediaries are critical to the operations of the industry up to a significant extent. The response was significant and the respondents strongly agreed with no variation.

The respondents agree that intermediaries are critical for reasons such as buyer volumes, repeat business, closeness to customers and they boost the insurer's image and reputation. This implies that they can choose to put their interests before those of the clients and still have their way and therefore the extent to which the regulatory regime succeeds to regulate the market shall be reflected in how these players shall operate. Currently some insurers have opted to source business directly or through partnerships or technological means which implies that in future the role of the intermediary will be justified on cost and benefits.

4.4.9. Regulation

Table 16: Extent to which Regulation is critical in Insurance Industry Operations.

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	8	13.8	13.8	13.8	2.32	1.25
Moderate extent	11	19	19	32.8	3.29	0.52
Significant extent	9	15.5	15.5	48.3	4.70	0.46
Great extent	30	51.7	51.7	100	3.50	0.98
Total	**58**	**100**	**100**			

The results were as follows: Great Extent (51.7), Moderate extent (19%), significant extent (15.5%) and Small Extent (13.8%). It can be concluded that regulation is critical in the operation of the insurance industry to a great extent. The response was significant and the respondents strongly agreed with no variation. Majority of the respondents agree that regulation is critical in the industry in areas such as competition, pricing, profitability, investment income; operation costs, ethics, fraud prevention, corporate governance, insurer failure, industry image and mitigation of industry risks for example investments, litigation, accounting and political risks. This implies that the industry would collapse without regulation since there would be no order.

4.4.10. Human Resource

Table 17: Extent to which Hûman Resource is Critical in Insurance Industry Operations

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	0	0	0	0		
Moderate extent	12	20.6	20.6	20.6	3.64	1.30
Significant extent	35	60.3	60.3	79.4	3.77	0.31
Great extent	11	19.1	19.1	100	3.58	1.23
Total	**58**	**100**	**100**			

The results were as follows: significant extent (60.3%), moderate extent (20.6%), and Great extent (19.1%). Therefore it can be concluded that human resource is critical in the

operation of the insurance industry to a significant extent. The response was significant and the respondents strongly agreed with no variation.

The respondents agree that human resource is critical because of the limited network of and trained or knowledgeable professionals who understand the details and dynamics of insurance. Along with education and professionalism the industry needs to review and match other sectors in remuneration packages. Lack of continuous training has led to both dealers and the customer's lack of product knowledge leading to disputes, loss of customers and skepticism which inhibits industry growth. This implies that the industry should develop of high caliber professionals who are well versed with its dynamics so as to repair its reputation and build trust with its customers.

4.5. Ability of Intermediaries to influence Industry Standards, Prices/Rates

Table 18: Ability of Intermediaries to influence Industry Standards, Prices/Rates

	Freq	**%**	**Valid %**	**Cum %**
Yes	54	93.1	93.1	93.1
No	4	6.9	6.9	100
Total	**58**	**100**	**100**	

Majority of the respondents (93.1%) of the respondents agree that intermediaries have the ability to influence industry standards, price and rates. It can therefore be concluded that intermediaries are able to influence the setting of industry standards, prices/rates.

This is because a few intermediaries control both corporate and individual business and so insurers have to please them for repeat business. Consequently, they put their interests before the customers due to lack of substitutes. Conflict of interest is common due to individuals holding offices in multiple players. Although the Insurance Act gives guidelines on industry standards and rates they aren't followed which implies that intermediaries have become very powerful and the regulatory regime shall only catch up with them based on the extent to which it succeeds in regulating the industry.

4.5.1. Factors That Affect Intermediaries Ability to Influence Industry Standards, Prices /Rates

Table 19: Factors That Affect Intermediaries Ability to Influence Industry Standards, Prices/Rates.

Category Label	Code	Count	% of Responses
Buyer volume	1	35	20.6
Buyer's concentration versus firm concentration	2	19	11.2
Buyer switching cost relative to firms switching costs	3	16	9.4
Repeat business	4	28	16.5
Substitute products	5	30	17.6
Price sensitivity	6	6	3.5
closeness to customers	7	19	11.2
Conflict of Interest	8	17	10.0
Regulatory Regime	0	0	0
Total		**170**	**100**

The results show that Buyer volume (20.6%), Substitute Products (17.6%) and Repeat business (16.5%) were the main factors while Buyer switching costs relative to the firms switching costs (9.4%), Price Sensitivity (3.5%) and Regulatory regime (0%) were the least factors in the respondent's decision making. Hence it can be concluded that buyer volume, substitute products and repeat business gives intermediaries leverage over other players and make them powerful.

It was interesting to note that as per the responses the regulatory regime doesn't influence the ability of intermediaries to influence setting of industry standards. This may explain why undercutting is so common in Kenya meaning that players know that market surveillance isn't effective and are exploiting it. Equally it was expected closeness to customers and conflict of interest would be among the main factors but it wasn't so. This implies that the intermediaries seem to have a free hand in what they do and the state has not succeeded in regulating them.

4.5.2. Significance of Factors which affect Intermediaries Purchase Decisions

Table 20: Significance of Factors which affect Intermediaries Purchase Decisions

Category label	**Freq**	**%**	**Valid %**	**Cum %**
Buyer volume	4	7.6	7.6	7.6
price	6	11.5	11.5	19.2
Quality service	5	9.6	9.6	28.8
Flexibility and innovation	3	5.8	5.8	34.6
Image, reputation and experience	9	17.3	17.3	51.9
Financial security	6	11.5	11.5	63.4
Specialist and technical advice	4	7.7	7.7	71.1
Geographical spread	6	11.5	11.5	82.7
Continuity	9	17.3	17.3	100
Total	**52**	**100**	**100**	

The results show that Continuity, Image and reputation (tie at 17.3%) and were most significant. Price and Financial Security (tie at 11.5%) were significant while Specialist and Technical advice (7.7%), Buyer volume (7.6%) and Flexibility and innovation (5.8%) were least significant.

Therefore it can be concluded that when evaluating insurers, intermediaries consider the image, reputation and continuity of the insurer in the industry before anything else such as price (which mainly determines their commission) and financial security. This confirms that they have become knowledgeable and the market is becoming mature and safe for customers benefit. However it was expected that specialist, technical advice, flexibility and innovation would have been among the high ranking factors. This implies that the industry is static that in terms of products due to a limited professionals, expertise and professionalism which also justifies the industry growth and penetration rate.

4.5.3. The State's Contribution to the Factors that affect Intermediary Purchase Decisions and Ability to Influence Industry Standards.

Table 21: The State's Contribution to Factors That Affect Intermediary Purchase Decisions and Ability to Influence Industry Standards.

	Freq	%	Valid %	Cum %	Mean	SD
No extent	6	10.3	10.3	10.3	1.12	0.25
Small Extent	0	0	0	10.3		
Moderate extent	45	77.6	77.6	87.9	4.39	0.52
Significant Extent	0	0	0	87.9		
Great extent	7	12.1	12.1	100	1.28	1.25
Total	**58**	**100**	**100**			

The results show that 77.6. % of the respondents indicated moderate extent, 12.1% indicated great extent and 10.3% indicated extent. Therefore, it can be concluded that the state's contribution to intermediary purchase decisions and ability to influence industry standards is moderate. The response was significant and the respondents strongly agreed with no variation.

The reason was that the Act has provisions on intermediaries such as registration, citizenship, paid up capital, citizen shareholding, credit facilities, conflict of interest, fit and proper persons to hold office, returns and financial statements and commissions. However lack of compliance implies that the state hasn't succeeded to regulate them and may require a joint effort with a self regulator whose resolutions should be given legal backing.

4.6. Ranking of the Milestones in Regulation of Insurance in Kenya over Time.

Table 22: Ranking of the Milestones in Regulation of Insurance in Kenya over Time.

Category label	Freq	%	Valid %	Cum %
Local incorporation	3	5.2	7.1	7.1
Enactment of the Insurance Act	1	1.7	2.4	9.5
HIV prevention and control bill	1	1.7	2.4	31.0
Establishment of the insurance regulatory authority	8	13.8	19.0	35.7
Fire and motor Insurance to transacted on cash and carry	2	3.4	4.8	35.7
Tax relief on life and health	10	17.2	23.8	59.5
Admissibility of insurance claims within 90 days	10	17.2	23.8	83.3
Capping of liability	4	6.9	9.5	92.9
Establishment of insurance commission	3	5.2	7.1	**100**
Missing	16	27.6		
Total	**58**	**100**		

From the results, the milestones may be ranked as follows: Admissibility of Insurance Claims within 90 days and Tax Relief on life and health (tie at 23.8%) were most Significant. Establishment of the Insurance Regulatory Authority (19%) and Capping of liability (9.5%) were as equally significant. The Establishment of Insurance Commission (7.1%) and Local incorporation (7.1%) were significant. The Enactment of the Insurance Act (2.4%), HIV Prevention and Control Bill (2.4%) and Fire and Motor Insurance to transact on cash and carry (4.8%) were least significant. These results were based on the factor ranked to be most significant by those who attempted the question. Therefore it can be concluded that Admissibility of Insurance Claims within 90 days and Tax Relief on life and health are the most significant milestones followed by the Establishment of the Insurance Regulatory Authority and Capping of liability which are significant.

The respondents didn't give reasons for ranking the milestones as they did. They were only aware of the milestones whose impact they felt directly and didn't know of the milestones in the industry over time including the most recent ones. The question received little attention and 27.6% of the respondents didn't attempt the question. This implies that while most players are ignorant of industry events, both the state and self regulatory bodies haven't done enough publicity. Also, very few individuals are involved in drafting and recommending the reform agenda which should overhaul the Act that has to be passed by the members of parliament who aren't insurance professionals. That's not good for the industry.

4.6. An Evaluation of the Extent to which State has succeeded in Addressing Industry Issues.

4.6.1. Business Ethics

Table 23: Extent to which the State has succeeded in addressing Business Ethics

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	38	65.5	65.5	65.5	4.27	0.52
Significant extent	7	12.1	12.1	77.6	2.00	0.53
Moderate extent	13	22.4	22.4	100	2.50	1.69
Great extent	0	0	0	0		
Total	**58**	**100**	**100**			

The results show that 65.5 % of the respondents indicated small extent, 22.4% indicated moderate extent while 12.1% indicated significant extent. It can be concluded that the state has succeeded to address business ethics to a small extent. The response was significant and the respondents strongly agreed with no variation. This is because of the state of the industry, poor regulation, lack of government action, low penalties, lack of disciplinary action on market players, high cost of legal redress, inefficient courts, legislative bottlenecks, lack of an ombudsman and lack of a central database. This implies that the industry shall continue to lose clients, lose reputation, incur litigation and defense costs and later feel the overall impact on profitability if appropriate measures are not taken.

4.6.2. Flexibility/Innovation

Table 24: Extent to which the State has succeeded in addressing flexibility/innovation

	Freq	%	Valid %	Cum %	Mean	SD
No extent	4	6.9	6.9	6.9	1.82	1.46
Small extent	44	75.9	75.9	82.8	4.00	0.40
Significant extent	10	17.2	17.2	100	2.73	0.60
Moderate extent	0	0	0	0		
Great extent	0	0	0	0		
Total	**58**	**100**	**100**			

The results show that 75.9 % of the respondents indicated small extent, 17.2% indicated significant extent and 6.9% indicated no extent. Therefore it can be concluded that the state has succeeded in addressing flexibility and innovation up to a small extent. The response was significant and the respondents strongly agreed with no variation.

This may be due to lack of substitutes, the excessive use of intermediaries, lack product diversification, exclusions beyond the standard exclusions within policies and risks which insurers cover in other countries but aren't covered locally. This also rests on an outdated Act processes procedures and bureaucracies involved in the design and registration of new products. This implies that the industry will remain static in terms of products and services until the situation is reversed.

4.6.3. Conflict of interest

Table 25: Extent to which the State has succeeded in addressing Conflict of Interest

	Freq	%	Valid %	Cum %	Mean	SD
No extent	1	1.7	1.7	1.7	2.30	0.90
Small extent	39	67.2	67.2	68.9	4.30	0.25
Moderate extent	11	18.9	18.9	87.8	3.29	1.52
Significant extent	0	0	0	0		
Great Extent	3	12.2	12.2	100	1.70	0.46
Total	**58**	**100**	**100**			

The results show that 67.2% of the respondents indicated small extent, 18.9% indicated moderate extent, 12.2% indicated great extent and 1.7% indicated no extent. Therefore it can be concluded that the state has succeeded in addressing this conflict of interest to a small extent. The response was significant and the respondents strongly agreed with no variation. This may be because the Insurance Act hasn't defined the nature and number of offices that an individual should hold in the industry. This implies that the market players have a free hand in what they do in the long run and may result in a situation where players only promote reforms that favor them.

4.6.4. Market Surveillance

Table 26: Extent to which the State has succeeded in addressing Market Surveillance

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	8	13.8	13.8	13.8	2.20	0.98
Moderate extent	27	46.6	46.6	60.4	3.00	1.30
Significant extent	14	24.1	24.1	80.5	2.97	0.31
Great Extent	5	8.5	8.5	100	1.98	1.23
Total	**58**	**100**	**100**			

The results show that 46.6% of the respondents indicated moderate extent, 24.1% indicated significant extent, 13.8% indicated small extent and 8.5% indicated great extent. From the scores it can be concluded that the state has succeeded to address Market Surveillance up to a moderate extent. The response was significant and the respondents strongly agreed with no variation.

The respondents feel that this market is too small for the machinery of the state to fail to regulate. It seems that the state doesn't have the technical and specialist expertise to carry out market surveillance although the parameters that form the framework of market surveillance have been defined in the Act. While some players comply and others don't there is no action from the state or it comes too late. This implies that the market will remain static until the state regulator gets a grip on market surveillance.

4.6.5. Disciplinary Action

Table 27: Extent to which the State has succeeded in addressing Disciplinary Action

	Freq	%	Valid %	Cum %	Mean	SD
No extent	6	10.3	10.3	10.3	2.23	1.20
Small extent	13	22.4	22.4	32.7	3.27	0.52
Moderate extent	25	43.1	43.1	75.8	3.50	1.69
Significant extent	8	13.8	13.8	89.7	3.00	0.53
Great Extent	6	10.3	10.3	100	2.45	1,46
Total	**58**	**100**	**100**			

The results show that 43.1% of the respondents indicated moderate extent, 22.4% indicated small extent, 13.8% indicated significant extent and 10.3% indicated great extent. Another 10.3% indicated no extent. Therefore it can be concluded that the state has succeeded in addressing disciplinary action to a moderate extent. The response was significant and the respondents strongly agreed with no variation.

Although the state has made provisions in the Act, the respondents felt that the state hasn't done enough to implement, enforce and follow up since the industry is still in the news because of ethical issues, corporate governance, insolvency and insurer collapse. The penalties are insufficient to eliminate malpractices and yet they have to come through inefficient courts and an expensive justice system. This implies that the challenges lies in implementation and follow through which the Insurance Regulatory Authority's legal affairs department is expected to take up so as to preserve and sustain the integrity of the industry

4.6.6. Investor Confidence

Table 28: Extent to which the State has succeeded in addressing Investor Confidence

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	3	5.2	5.6	5.6	0.93	0.94
Moderate extent	32	55.2	59.3	64.8	3.80	0.17
Significant extent	7	12 .1	13.0	77.8	1.28	0.06
Great Extent	12	20.7	22.2	100	1.89	1.94
Missing	4	6.9	0			
Total	**58**	**100**	**100**			

The results show that 59.3% of the respondents indicated moderate extent, 22.2% indicated great extent, 13.0% indicated significant extent and 5.6% indicated small extent. It can be concluded that the state has succeeded in addressing investor confidence up to a moderate extent. The response was significant and the respondents strongly agreed with no variation.

The state has addressed investor confidence through mandatory insurance, being the insurer of the last resort and through the Act it has made provisions on shareholding, local incorporation, liability cap, tax relief and the Insurance Regulatory Authority. Although the Act was rich in scope and coverage in the past it is not sufficient for the industry now. On the contrary the state is also a player in the industry which works as a disincentive to investors. This implies that the state is addressing the business environment although reforms in the industry are too slow.

4.6.7. Public Trust

Table 29: Extent to which the State has succeeded in addressing Public Trust

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	13	22.4	22.4	22.4	1.98	0.44
Moderate extent	32	55.2	55.2	77.6	3.80	0.55
Significant extent	6	10.3	10.3	87.9	1.12	1.47
Great Extent	7	12.1	12.1	100	1.28	0.73
Total	**58**	**100**	**100**			

The results show that 55.2% of the respondents indicated moderate extent, 22.4% indicated small extent, 10.3% indicated significant extent and 12.1% indicated great extent. It can be concluded that the state has succeeded to address public trust to a moderate extent. The response was significant and the respondents strongly agreed with no variation. The state has addressed public trust through the recent changes in the Act, establishment of an autonomous authority, the policyholder's compensation fund and provisions on matters such as licensing, solvency margins, winding up, and the policy holder complaints process. This implies that the state should always engage all stakeholders and professionals in the reform agenda and revise it over time.

4.6.8 Anticompetitive behavior

Table 30: Extent to which the State has addressed Anticompetitive Behavior

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	15	25.9	25.9	25.9	3.13	0.72
Moderate extent	22	37.9	37.9	63.8	3.58	0.79
Significant extent	8	13.8	13.8	77.6	1.59	0.53
Great extent	13	22.4	22.4	100	2.60	1.81
Total	58	**100**	**100**			

The results show that 37.9% of the respondents indicated moderate extent, 25.9% indicated small extent, 22.4% indicated great extent and 13.8% indicated significant extent. Therefore it can be concluded that the state has succeeded in addressing anticompetitive behavior to a moderate extent. The response was significant and the respondents strongly agreed with no variation.

The reasons were that the provisions on rates, policy terms and conditions, penalties for various offences in the Act haven't been effective as originally intended and the state of the industry has become worse. There is no definition of new malpractices that have evolved over time since they were not anticipated when the Act was written. Self regulatory organizations haven't been recognized in the Act and so their deliberations and decisions aren't binding in law. This implies that the state has to do more by partnering with self regulatory organizations so as to address this issue.

4.6.9. Compliance cost

Table 31: Extent to which the State has succeeded in addressing Compliance Costs

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	13	22.4	22.4	22.4	2.43	1.23
Moderate extent	32	55.2	55.2	77.6	3.89	0.89
Significant extent	6	10.3	10.3	87.9	1.03	1.45
Great Extent	7	12.1	12.1	100	1.90	0.90
Total	**58**	**100**	**100**			

The results show that 55.1% of the respondents indicated moderate extent, 22.4% indicated small extent, 10.3% indicated significant extent and 12.1% of the respondents indicated great extent. Therefore it can be concluded that the state has addressed compliance costs up to a moderate extent. The response was significant and the respondents strongly agreed with no variation.

The reason was that the Insurance Regulatory Authority will ensure standardization of preparation of accounting, financial, and actuarial returns across the industry and also

ensure that these reports comply with external requirements such as the International Financial Reporting Standards. Local players can use the same reports for both local and international purposes. The costs of state regulation are borne by tax payers and don't fall directly on the players. This implies that as per the responses majority of the players do not understand what exactly constitutes compliance costs in the context of the state regulation.

4.6.10. Independence or Autonomy from the industry

Table 32: Extent to which the State has addressed Independence or Autonomy.

	Freq	%	Valid %	Cum %	Mean	SD
No extent	2	3.4	3.4	3.4	0.87	1.46
Small extent	8	13.8	13.8	17.2	1.49	1.40
Moderate extent	11	19	19	36.2	1.93	1.89
Significant extent	7	12.1	12.1	48.3	1.28	1.80
Great Extent	30	51.7	51.7	100	3.80	0.60
Total	**58**	**100**	**100**			

The results show that 51.7% of the respondents indicated great extent, 19% indicated moderate extent, 13.8% indicated small extent. 12.1% of the respondents indicated significant extent and 3.4% of the respondents indicated that the state has not succeeded at all. It can therefore be concluded that the state has succeeded in addressing independence or autonomy from the industry to a great extent. The response was significant and the respondents strongly agreed with no variation.

Majority of the respondents appreciated the state has constituted an autonomous authority to attend to their affairs although it's still subject to Minister of Finance just like the Commissioner of Insurance. It can be concluded that the overwhelming positive response from the respondents was based on the fact that this is happening in Kenya for the first time. There is still more ground to cover although the state seems to have done much implying that this question will have a different answer after the system has run over time.

4.6.11. Supervisory Intervention

Table 33: Extent to which the State has addressed supervisory intervention

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	6	10.3	10.3	10.3	2.23	1.93
Moderate extent	12	20.7	20.7	31.0	3.23	0.89
Significant extent	34	58.6	58.6	89.7	3.99	0.45
Great Extent	6	10.3	10.3	100	2.23	1.90
Total	58	**100**	**100**			

The results show that 58.6% of the respondents indicated significant extent, 20% indicated moderate extent 10.3% great extent and another 10.3% indicated small extent. It can be concluded that the state has succeeded to address supervisory intervention to a significant extent. The response was significant and the respondents strongly agreed with no variation.

Most of the respondents appreciate that the state established organs to handle industry affairs both in the past and the present. The Commissioner of Insurance had powers to carry out supervisory intervention but wasn't effective hence the industry has witnessed the collapse of key players, ethical issues, and malpractices in the industry. This implies that either the state regulator didn't have enough powers to carry supervisory intervention, didn't get support from other state organs such as the judiciary and parliament or there was excess bureaucracy, political interference, inadequate processes and procedures within it.

4.7. An Evaluation of the Extent to which the Insurance Industry has succeeded in Addressing Various Issues

4.7.1. Business ethics

Table 34: Extent to which the Industry has succeeded in addressing Business Ethics

	Freq	**%**	**Valid %**	**Cum %**	**Mean**	**SD**
No extent	0	0	0	0		
Small extent	7	12.1	12.1	12.1	1.73	0.50
Moderate extent	13	22.4	22.4	34.5	2.89	0.89
Significant extent	38	65.5	65.5	100	4.31	0.20
Great extent	0	0	0			
Total	**58**	**100**	**100**			

The results show that 65.5% of the respondents indicated significant extent, 22.4% indicated moderate extent and 12.1% indicated small extent. Therefore it can be concluded that the industry has succeeded to address business ethics to a significant extent. The response was significant and the respondents strongly agreed with no variation.

The respondents were pleased that ethics is being pursued by the industry but were concerned that the voluntary nature of the agreements among the members although positive, accommodates every member along with their shortcomings to the advantage of bigger and influential players. This means that for as long as self regulatory bodies aren't recognized in the Act, the members of the industry shall prefer a status quo. This implies that the industry won't succeed to tackle business ethics until documents such as memoranda of understanding and codes of ethics are actionable in law. The industry needs to do more to address this.

Results from the table show that 67.2% of the respondents indicated small extent, 18.9% of the respondents indicated moderate extent, 12.2% of the respondents indicated great extent and 1.7% of the respondents indicated no extent. Therefore, it can be concluded that the industry has succeeded to address conflict of interest up to a small extent. The response was significant and the respondents strongly agreed with no variation.

The reason was that self regulatory bodies aren't autonomous from the industry since the office bearers hold offices in the industry. Conflict of interest can only be tackled through memoranda of understanding and codes of conduct. We can conclude that the respondents who said great extent may be the most influential and the majority who mentioned small extent are the smaller players. This implies that the industry is committed to resolving some issues and holding back on others.

4.7.4. Market Surveillance

Table 37: Extent to which the Industry has succeeded in addressing Market Surveillance

	Freq	**%**	**Valid %**	**Cum %**	**Mean**	**SD**
No extent	0	0	0	0		
Small extent	8	13.8	13.8	13.8	1.64	0.30
Moderate extent	27	46.6	46.6	60.4	3.79	0.50
Significant extent	14	24.1	24.1	80.5	3.20	0.63
Great Extent	5	8.5	8.5	100	1.20	0.78
Total	**58**	**100**	**100**			

The results show that 46.6% of the respondents indicated moderate extent, 24.1% indicated significant extent, 13.8% indicated small extent and 8.5% of the respondents indicated great extent. Therefore it can be concluded that the industry has addressed market surveillance to a moderate extent. The response was significant and the respondents strongly agreed with no variation. The reason was that the surveillance function for self regulatory organizations is easier since they have fewer and homogeneous players to supervise. Standard setting is easier for them since their members are in the same classes of business. However, the challenges come in areas such as autonomy, costs versus benefits to the players, scope and coverage, and consistency

and fairness to all members. Dominance by the bigger players and the voluntary nature of the agreements are also factors that hinder success in addressing market surveillance.

4.7.5. Disciplinary Action

Table 38: Extent to which the Industry has succeeded in addressing Disciplinary Action

	Freq	%	Valid %	Cum %	Mean	SD
No extent	6	10.3	10.3	10.3	1.14	0.45
Small extent	13	22.4	22.4	32.8	1.98	0.96
Moderate extent	8	13.8	13.8	46.6	1.49	0.80
Significant extent	25	43.1	43.1	89.7	3.60	0.23
Great Extent	6	10.3	10.3	100	1.14	0.45
Total	**58**	**100**	**100**			

The results show that 43.1% of the respondents indicated significant extent, 22.4% indicated small extent, 13.8% indicated moderate extent, 10.3% indicated great extent while another 10.3% indicated no extent. Therefore it can be concluded that the industry has succeeded up to a significant extent. The response was significant and the respondents strongly agreed with no variation. The respondents felt that self regulatory organizations bring players together for a common purpose and identify those that have drifted away from it. The impact of this will ultimately be fairness in trade policies and a harmonious atmosphere with regards to competition. This implies that the industry has got capacity to deal with disciplinary action for as long as it doesn't favor some players.

4.7.6. Investor Confidence

Table 39: Extent to which the Industry has succeeded in addressing Investor Confidence

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	3	5.2	5.2	5.2	1.06	1.50
Moderate extent	12	20.6	20.6	25.8	1.95	1.94
Significant extent	7	12 .1	12.1	37.9	1.28	0.73
Great extent	36	62.1	62.1	**100**	3.90	0.64
Total	58	**100**	**100**			

The results show that 62.1% of the respondents indicated great extent, 20.6% indicated moderate extent, 12.1% indicated significant extent and 5.2% indicated small extent. Therefore it can be concluded that the industry has succeeded in addressing investor confidence to a great extent. The response was significant and the respondents strongly agreed with no variation. The reasons were that the industry has lobbied and pushed for changes in the Act, made deliberations that reflect market realities and partnered the government in bringing in change. Evidence of investor satisfaction has been seen in Kenyan insurance players opening branches in other countries which implies that their confidence will be a direct reflection of the extent to which the industry has succeeded in regulating itself and also the extent to which the state has succeeded in regulating the industry.

4.7.7. Public Trust

Table 40: Extent to which the Industry has succeeded in addressing Public Trust

	Freq	**%**	**Valid %**	**Cum %**	**Mean**	**SD**
No extent	0	0	0	0		
Small extent	13	22.4	22.4	22.4	1.98	0.44
Moderate extent	32	55.2	55.2	77.6	3.85	0.65
Significant extent	6	10.3	10.3	87.9	1.14	1.47
Great Extent	7	12.1	12.1	100	1.28	0.73
Total	**58**	**100**	**100**			

The results show that 55.2% of the respondents indicated moderate extent, 22.4% indicated small extent, 12.1% indicated great extent and 10.3% indicated significant extent. It can be concluded that the industry has succeeded in addressing Public Trust to a moderate extent. The response was significant and the respondents strongly agreed with no variation.

The reasons were that the industry has designed rules that go beyond the minimum regulatory requirements and established new standards where government rules were

lacking. It has taken initiatives to meet the public and create awareness among its members so long as the benefits outweigh costs and so it has done actions that are more beneficial to its members since they finance it. However, the public is more interested in issues such as policy terms and conditions, surrender values, claims settlement and anti selection. This implies that for as long as the focus of the industry players and the public are different, the industry will never address this issue to a great extent.

4.7.8. Anticompetitive Behavior

Table 41: Extent to which the Industry has addressed anticompetitive behavior

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	15	25.9	25.9	25.9	2.25	0.90
Moderate extent	33	56.9	56.9	82.9	3. 93	0.60
Significant extent	8	13.8	13.8	96.6	1.89	0.90
Great extent	2	3.4	3.4	100	0.59	1.20
Total	**58**	**100**	**100**			

The results show that 56.9% of the respondents indicated moderate extent, 25.9% indicated small extent, 13.8% indicated significant extent and 3.4% indicated great extent. Therefore it can be concluded that the industry has succeeded to address anticompetitive behavior to a moderate extent. The response was significant and the respondents strongly agreed with no variation.

Self regulatory organizations set standards, supervise their members, handling complains on members up to a certain extent, writing and updating standards, creating codes of conduct, formulating disciplinary action and dealing with the root causes of anticompetitive behavior. The hindrances to this are inconsistency and that their actions and resolutions aren't binding in law. It implies that adequate structures need to be put in place since the market is growing and self regulatory bodies should be recognized in the Act.

4.7.9. Compliance costs

Table 42: Extent to which the Industry has succeeded in addressing Compliance Costs

	Freq	%	Valid %	Cum %	Mean	SD
No extent	0	0	0	0		
Small extent	32	55.2	55.2	55.2	3.90	0.55
Moderate extent	13	22.4	22.4	77.6	1.98	0.96
Significant extent	6	10.3	10.3	87.9	1.14	0.50
Great Extent	7	12.1	12.1	100	1.28	1.24
Total	58	**100**	**100**			

The results show that 55.2% of the respondents indicated small extent, 22.4% indicated moderate extent, 10.3% indicated significant extent and 12.1% indicated great extent. Therefore it can be concluded that the industry has succeeded to address compliance costs to a small extent.

This is because industry players incur an extra cost of funding the operations of the self regulatory bodies and to comply with their requirements. The cost - benefit factor and mutuality of benefit comes in unlike the state regulation which relies on taxpayers. This implies that the more the self regulators streamline the industry, the more costly it will be to the players. It also implies that the players may start exiting one by one from the moment the self regulatory regime becomes burdensome.

4.7.10. Autonomy

Table 43: Extent to which the Industry establishments have addressed Autonomy.

	Freq	%	Valid %	Cum %	Mean	SD
No extent	30	51.7	51.7	51.7	3.83	0.35
Small extent	8	13.8	13.8	65.5	1.89	0.81
Moderate extent	11	19	19	84.5	1.93	0.90
Significant extent	7	12.1	12.1	96.6	1.28	1.24
Great Extent	2	3.4	3.4	100	0.59	0.20
Total	58	**100**	**100**			

The results show that 51.7% of the respondents indicated no extent, 19% indicated moderate extent, 13.8% indicated small extent, 12.1% indicated significant extent and 3.4% indicated great extent. Therefore it can be concluded that the industry has not succeeded in addressing autonomy at all. The response was significant and the respondents strongly agreed with no variation. Majority of the respondents feel that autonomy hasn't been addressed at all because majority of the office bearers of the self regulatory organizations are holding office among the industry players. The most dominant players carry the day or are favored in most of the issues. This implies that the industry will never be autonomous from itself.

4.7.11. Supervisory Intervention

Table 44: Extent to which the Industry has addressed supervisory intervention

	Freq	**%**	**Valid %**	**Cum %**	**Mean**	**SD**
No extent	0	0	0	0		
Small extent	3	5.2	5.2	5.2	2.45	0.90
Moderate extent	10	17.3	17.3	25.5	3.40	0.78
Significant extent	30	51.8	51.8	74.2	4.00	0.68
Great Extent	15	25.7	25.7	100	3.78	0.80
Total	**58**	**100**	**100**			

The results show that 51.8% of the respondents indicated significant extent, 25.7% indicated great extent. 17.3% indicated moderate extent and 5.2% indicated small extent. Therefore it can be concluded that the industry has succeeded in addressing supervisory intervention to a significant extent. The response was significant and the respondents strongly agreed with no variation.

The respondents agree that self regulatory bodies are best placed to handle supervisory intervention since each handles a homogeneous set of players. Although self regulation is based on agreements it's important to ensure that the standards are set high enough, the rules made to be binding and actionable in law. This implies that the rules should be suitable, acceptable, be wide in scope and coverage, fair and consistent, have mutuality of benefit and be cost effective.

4.8. The Form of Regulation Best Suited to Handle Industry Issues.

Table 45: The Form of Regulation Best Suited to Handle Industry Issues

LICENSING	Frequency	Percentage	Valid Percentage	Cumulative Percentage
State regulation	47	81.0	81.0	81.0
Joint effort	11	19.0	19.0	**100**
TOTAL	**58**	**100**	**100**	
FINANCE/ACCOUNTING				
Self regulation	4	6.8	6.8	6.8
Joint Effort	14	24.1	24.1	30.9
State regulation	40	69.1	69.1	**100**
TOTAL	**58**	**100**	**100**	
MARKET CONDUCT				
Self regulation	4	6.9	6.9	6.7
State regulation	2	3.4	3.4	10.3
Joint effort	52	89.7	89.7	**100**
TOTAL	**58**	**100**	**100**	
CAPITAL REQUIREMENTS				
State regulation	50	86.2	86.2	86.2
Joint effort	8	13.8	13.8	**100**
TOTAL	**58**	**100**	**100**	
PRODUCTS RATES, TERMS AND CONDITIONS				
Self regulation	8	13.8	13.8	13.8
State regulation	14	24.1	24.1	39.9
Joint effort	36	62.1	62.1	**100**
TOTAL	**58**	**100**	**100**	
CORPORATE GOVERNANCE				
Self regulation	34	58.6	58.6	58.6
State regulation	7	12.1	12.1	70.7
Joint effort	17	29.3	29.3	100
TOTAL	**58**	**100**	**100**	
OMBUDSMAN				
Self regulation	7	12.1	12.1	12.1
State regulation	16	27.6	27.6	39.7
Joint effort	35	60.3	60.3	**100**
	58	**100**	**100**	

Table 45 continued.

HR- QUALIFICATION	Frequency	Percentage	Valid Percentage	Cumulative Percentage
Self regulation	39	65.5	65.5	65.5
Joint effort	9	15.5	15.5	81
State regulation	10	19	19	**100**
TOTAL	**58**	**100**	**100**	
COMPETITION				
Self regulation	8	14	14	14
Joint Effort	15	25.7	25.7	39.7
State regulation	35	60.3	60.3	**100**
TOTAL	**58**	**100**	**100**	
PROMOTING INDUSTRY GROWTH				
Joint effort	58	100		**100**
TOTAL	**58**	**100**	**100**	

The Results on Licensing were follows: state regulation (81%) and joint effort (19%). Therefore it can be concluded that state regulation is preferred in licensing because it falls under the basic conditions for effective functioning of the supervisory authority, the insurance sector and the structure of the market that should be handled within an environment with policy, institutional and legal framework. This implies that the state should license players since it's held accountable by the public.

Results on Finance and Accounting were as follows: state regulation (69.1%), joint regulation (24.1%) and self regulation (6.8%). It can be concluded that state regulation is preferred to handle finance and accounting because it pertains to solvency, capital adequacy, valuation, technical provisions, capital, investments, reporting and disclosure which exposes the well being or the performance of industry players. This implies that standardization and entrenchment in the law is necessary so as to facilitate quick interpretation and easy comparison.

Results on Market Conduct were as follows: Joint regulation (89.7%), self regulation (6.9%) and state regulation (3.4%). It can be concluded that Joint Regulation is preferred because Market Conduct pertains to dealing with customers, selling and handling insurance policies, integrity, and disclosure of information. The industry deals with the customers directly and this implies that the state should provide the overall institutional and legal framework on which the innovation, technical and specialist strengths of the industry should ride on.

Results on Capital Requirements were as follows: state regulation (86.2%) and joint effort at (13.8%). It can be concluded that state regulation is preferred determination and setting of Capital Requirements because it affects solvency, capital adequacy, valuation, technical provisions, capital, investments, financial reporting and disclosure which exposes the well being or the performance of industry players in the market. This implies that periodic review, standardization and entrenched in the law shall facilitate quick interpretation and easy comparison.

Results on Products rates, terms and conditions were as follows: Joint Regulation (62.1%), State Regulation (24.1%) and Self Regulation (13.8%). It can be concluded that Joint regulation is preferred because the state can induce growth by setting minimum standards on the nature and type of coverage on which the innovativeness of the market can tailor to the demographics of the country. The state should set the framework and ground rules then, the industry through its mechanisms can then police the players and issue disciplinary action that is actionable in law.

Results on Corporate Governance were: self regulation (58.6%), joint regulation at (29.3%) and state regulation (12.1%). It can be concluded that self regulation is preferred because a states involvement in business will be felt when its interests are affected. Governments change after every election and there is a need for continuity in all sectors including insurance. This implies that since corporate governance is about management of the individual players at their highest levels then the government should work on the

environment while the industry should ensure that each of the players fit within the environment regardless of changes in government.

Results on the Ombudsman were as follows: joint regulation (60.3%), state regulation (27.6%) and self regulation (12.1%). It can be concluded that a Joint effort was preferred because it's all about ensuring that there is an autonomous office with the legal, technical and specialist capacity that exists to listen to and resolve disputes between the state and the industry, the insuring public and the industry players or between industry players. This implies that the state needs to empower the office while both the state and the self regulators provide the necessary information for the office to carry out its duties.

Results on Human Resource Qualifications and Professionalism were as follows: Self regulation (65.5%), State regulation (19.0%) and Joint Effort (15.5%). It can be concluded that self regulation is preferred because the prize for professionalism is repairing reputation and building trust with customers. The industry knows its resource requirements and has the methods of recruiting the best. The state needs to that the highest offices within the industry are held by are fit and proper persons. This implies that industry success shall depend on competence, professionalism and qualifications.

Results on Competition were as follows: state regulation (60.3%), joint effort (25.7%) and self regulation (14%). It can be concluded that State regulation is preferred to handle competition because the state can create a level playing field through structures, institutions and the legal framework. This implies that equity which can only be provided by the law can be handled well by the state.

All respondents preferred a joint effort in promoting industry growth. This implies that the state needs the industry and the industry needs the state. Although the insurance industry plays social and economic roles in Kenya it needs the state which will keep law and order in the country and also defend it though its policies, agenda and programs.

4.9. The Office of the Commissioner of Insurance - A Step in the Right Direction?

Table 46: The Office of the Commissioner of Insurance - A Step in the Right Direction?

	Freq	**%**	**Valid %**	**Cumm %**
Yes	50	86.2	86.2	86.2
No	8	13.8	13.8	100
Total	**58**	**100**	**100**	

The findings reveal that 86.2% of the respondents agreed (indicated 'Yes') while 13.8% disagreed (indicated 'No'). Therefore it can be concluded that the establishment of the office of the commissioner of insurance was a step in the right direction. The respondents agreed because the Commissioner of Insurance was to administer the Act although he was subject to the Minister of Finance. The respondents who didn't agree may have been those who preferred the status quo then or were unaware of the mandate of this office. This implies that there was need for either an office or a body with technical and specialist experience to monitor and regulate the activities of the players in the insurance industry.

4.9.1 Has the office succeeded in executing its mandate?

Table 47: Has the office succeeded in executing its mandate?

	Freq	**%**	**Valid %**	**Cumm %**
Yes	18	31.0	31.0	31.0
No	40	69.0	69.0	100
Total	58	**100**	**100**	

The results were as follows: Yes (31%) and No (69%). Therefore it can be concluded that the office of the Commissioner of Insurance didn't succeeded in executing its mandate. This is because of the office was ineffective in surveillance and supervision, it wasn't autonomous, it had low public confidence and participation and there was no, player/regulator commitment and mutual benefit. This ended up in the current state of the insurance industry, poor penetration, low contribution to GDP, slow and stunted growth, ethics, corporate governance, insurer collapse, insolvency and stiff competition from

other industries. This implies that there would be a vibrant industry if the office had fulfilled the government's vision of a world class insurance market.

4.9.2. Factors that Affected the Performance of the Office of the Commissioner of Insurance.

Table 48: Factors that Affected the Performance of the Office of the Commissioner of Insurance.

Category label	Freq	%	Valid %
Player/ regulator commitment and mutual benefit	32	15.7	15.7
Industry representation	10	4.9	4.9
Cost of compliance	11	5.4	5.4
Public confidence and participation	29	14.2	14.2
Transparency and accountability	10	4.9	4.9
Autonomy and Independence	36	17.6	17.6
Funding	13	6.4	6.4
Effective surveillance, supervision	39	19.1	19.1
Flexibility and expertise	16	7.8	7.8
Systematic risks	8	3.9	3.9
Total	**204**	**100**	**100**

From the results, the factors may be ranked as follows in order of importance/ significance: Effective surveillance and supervision (19.1%), autonomy and independence (17.6%), Player/regulator commitment and mutual benefit (15.7%), Public confidence and participation (14.2%), Transparency and Accountability (6.4%), Funding (6.4%), Cost of Compliance (5.4%), Industry Representation (4.9%) and Systematic Risks (3.9%).

This means that the office failed most on the basic conditions for effective functioning of the supervisory authority and the insurance sector, autonomy, environment policy, institutional and legal framework, effective market structure, an efficient market and

availability of information. This implies that the regulatory system in the country doesn't match world standards and the situation needs to be rectified.

4.10. The Insurance Regulatory Authority - A Step In the Right Direction?

Table 49: The Insurance Regulatory Authority - A Step in the Right Direction?

	Freq	**%**	**Valid %**	**Cumm %**
Yes	54	93.1	93.1	93.1
No	4	6.9	6.9	100
Total	**58**	**100**	**100**	

The results show that 93.1% of the respondents agree (indicated 'Yes') while 6.9% disagreed (indicated 'No'). It can be concluded that the establishment of the Insurance Regulatory Authority was a step in the right direction due to the state of industry and the public outcry that aroused a great need for an autonomous, independent and competent body to supervise, develop and regulate the industry as provided for in the Act. Its core functions are the same as those of the commissioner of insurance. This implies that the authority is expected to take up and fulfill the vision which the government had on the insurance industry when it established the office of the Commissioner of Insurance.

4.10.1. Feelings of Industry Players on the Insurance Regulatory Authority

Table 50: Feelings of Industry Players on the Insurance Regulatory Authority

	Freq	**%**	**Valid %**	**Cumm %**
Optimistic	45	77.5	77.5	77.5
Indifferent	11	18.9	18.9	96.4
Pessimistic	2	3.6	3.6	100
Total	**58**	**100**	**100**	

Results were as follows: optimistic (77.5%), indifferent (18.9%), and pessimistic (3.6%). Therefore it can be concluded that the industry players are optimistic on the future of the Insurance Regulatory Authority, its supervisory capacity and that it will fulfill its mandate. This implies that the stakeholders should expect that the integrity of the industry shall be established, preserved and maintained.

4.10.2. Factors influencing Feelings of Industry Players on the Insurance Regulatory Authority

Table 51: Factors influencing Feelings of Industry Players on the Insurance Regulatory Authority

Category label	Freq	%	Valid %	Mean	SD
Player/ regulator commitment and mutual benefit	27	13.7	13.7	4.04	0.88
Industry representation	18	9.1	9.1	3.77	1.10
Cost of compliance	8	4.1	4.1	3.79	1.03
Public confidence and participation	26	13.2	13.2	3.92	0.96
Transparency and accountability	18	9.1	9.1	**3.95**	**1.02**
Autonomy and Independence	31	15.7	15.7	3.44	1.20
Funding	12	6.1	6.1	3.34	1.34
Effective surveillance, supervision	36	18.3	18.3	3.65	1.08
Flexibility and expertise	19	9.6	9.6	3.47	0.78
Systematic risks	2	1.0	1.00	4.04	0.88
Total	**197**	**100**	**100**		

From the results, Effective Surveillance and Supervision (18.3%), Autonomy and Independence (15.7%), Public Confidence and Participation (14.2%) and Player/Regulator commitment and Mutual benefit (13.2%) were significant in the optimism of industry players. Transparency and Accountability (9.1%), Funding (6.1%), Compliance costs (5.4%), Industry Representation (4.9%) and Systematic risks (1.0%) were least significant. This implies that Kenya can comply with the International Association of Insurance supervisors frame work of insurance regulation.

4.11. The Governments Level of Attention or Focus on the Insurance Industry

Table 52: The Governments Level of Attention or Focus on the Insurance Industry

	Freq	%	Valid %	Cumm %
Good	14	24.2	24.2	24.2
Indifferent	6	10.3	10.3	34.5
Poor	38	65.5	65.5	100
Total	**58**	**100**	**100**	

Results were as follows: Good (24.2%), indifferent (10.3%), and poor (65.5 %). It can be concluded that the government's level of attention or focus on the insurance industry was poor. This may be due to a mix of bureaucratic inertia, conflict of interest, lack of technical and specialist capacities and political pressures that have resulted in neglect of the industry by successive governments in terms of reform and development. This implies that the state has neglected the issues within the sector issues that affect the insurance sector in the overall business environment.

4.11.1. Factors Which Affect the Governments Level of Attention or Focus on the Insurance industry.

Table 53: Factors Which Affect the Governments Level of Attention or Focus on the Insurance industry.

Category label	Freq	%	Valid %	Mean	SD
Conflict of interest	12	6.9	6.9	3.85	0.95
Politics	25	14.4	14.4	4.27	1.01
Bureaucracy	22	12.6	12.6	**3.77**	**0.93**
Politicians not being professionals	10	5.7	5.7	3.78	0.87
Government operating on Ideals and not Realities	12	6.9	6.9	3.92	0.94
Lack of Reforms in other Sectors	33	19.0	19.0	3.67	0.90
Lack of capacity at technical and Specialist levels	22	12.6	12.6	3.50	1.20
Effective Surveillance, Supervision and Enforcement Powers	20	11.5	11.5	3.81	0.89
Lack of action	18	10.3	10.3	3.46	1.11
Total		**100**	**100**		

From the results it may be concluded that Lack of Reforms in Other Sectors (19%), Politics (14.4%), Bureaucracy (12.6%), Lack of Capacity at Technical and Specialist Levels (12.6%) and Effective Surveillance (12.6%), Supervision and Enforcement Powers (11.5%) were significant in the respondent's decisions. Lack of Action (10.3%), Conflict of Interest (6.9%), Government Operating on Ideals and not Realities (6.9%) and Politicians not being Professionals (5.7%) were least significant in the respondent's decisions. All the responses were significant with no variations except for politics, lack of capacity at technical and specialist Levels and lack of action where the respondents agree but for varied reasons.

This is because these factors have existed for too long and that the milestones in insurance regulation in Kenya were triggered by experiences over time. Ethics, economic downturns, winding up, insolvency, liquidation and increased competition had become the order of the day. Issues such as demographics, justice, insecurity, terrorism and corruption are within the control of the state. This implies that a safe, secure, democratic, just, corruption free and prosperous Kenya can be achieved if the state deals with hindrances such as bureaucratic inertia, the parliamentary calendar, the constitutional review process, sustaining a reform zeal and lack of capacity at technical and specialist level. This will have a positive impact on the insurance industry.

CHAPTER FIVE

DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

5.1. Introduction

The insurance industry in Kenya has been neglected by successive governments in terms of reform and development stemming from the colonial period when the government established a solid banking foundation in Kenya to serve the settlers while it sourced all the insurance they needed from overseas. Regulating this industry is of immense importance and crucial for its survival. It is through regulation that the industry issues such as ethics, economic downturns, winding up, insolvency, liquidation, political interference and increased rivalry between players may be dealt with.

The objectives of this study were to analyze the extent to which the state has succeeded in regulating the insurance industry in Kenya and to establish the factors which affect the effectiveness of the insurance regulatory regime in Kenya. This chapter gives a summary of the discussions, conclusions and recommendations drawn after analyzing data.

5.2 Discussions

From the findings of the study summarized as follows: The state of the insurance market in Kenya is dynamic and the state has contributed to this state to a Moderate extent. The establishment of the Insurance Regulatory Authority and the 10 amendments to the Insurance Act were the main reasons. Most of the changes affect players who deal with general insurance. Life business has been fairly static. This implies that the reform agenda needs to be widened and include more stakeholders for the benefit of the industry.

Although the state has contributed to the dynamic state of the industry to a moderate extent it hasn't done much in tackling issues such as ethics, conflict of interest, market surveillance, disciplinary action, investor confidence, public trust, anticompetitive behavior, compliance costs, autonomy from the industry and supervisory intervention. This is further complicated by poor regulation, lack of government action, low penalties

an outdated Act, high cost of legal redress, inefficient courts, legislative bottlenecks, lack of an ombudsman and lack of a central database. Consequently, the industry has lost its clients, image and reputation, incurred litigation and defense costs and has felt the overall impact on profitability. This implies that the state has the key to unlock the potential of the insurance industry to a moderate extent.

The industry penetration level is very slow and the state has contributed to this rate to a moderate extent. This is due to factors such as Demographics, Industry image and reputation, Government polices and reforms and the Industry growth rate. This implies that if the state doesn't address this through structures, legislation, justice and courts system then the industry penetration rate will not improve. Therefore the state needs to attend to the industry, empower the insurance regulatory authority, and recognize self regulators in the Act and partner with them so as to address the penetration rate.

On evaluating the extent to which various factors are critical in the operations of the insurance industry there were varied responses. It was concluded that Price, Claims Management, Capital requirements and Regulation were critical in the operations of the insurance industry to a great extent Price determines profitability, covers operating expenses, settles claims, attracts and retains customers. Fraud, physical, moral, morale and legal hazards are a challenge in claims management which can strain insurer's resources, erode capital and cause collapse if not properly managed. Capital requirements are aimed at preventing insolvency and insurer collapse as they determine who should and who shouldn't be licensed to operate in the industry. Regulation is critical so as to handle competition, pricing, profitability, investment income; operation costs, ethics, fraud prevention, corporate governance, insurer failure and industry image.

This implies that tough economic times may cause industry players to apply survival tactics which may be unethical, unfair or deceptive. They have to design strategies to make them relevant in the market. The image of the industry shall rest on its ability to settle claims. The cost of capital may increase as players seek to comply with the new

requirement. Regulation shall be the key otherwise majority of the players shall go down taking the industry with them.

It was concluded that Human Resource, Competition, Intermediaries and Finance were critical to the operations of the insurance industry to a significant extent. There is a limited network of insurance professionals and knowledgeable personnel who understand the industry's details and dynamics. This implies that the industry will only change if it has the best people. Competition from alternative risk handling techniques, banks, savings and credit co-operatives and other players within the industry shall continue to be stiff. This implies that players in the industry will have to design strategies to make them relevant so as to survive. It also implies that unfair and deceptive practices may continue.

The relevance and power of intermediaries was evident as they are able to influence industry standards, prices and rates. Their strengths lie in buyer volume, availability of substitutes and repeat business. They are mainly driven by insurer continuity, image and reputation, price, geographical spread and financial security. The state has contributed to this state of affairs to a moderate extent. This implies that if the state should ensure that their powers are checked or else they will become more dominant in the industry.

Technology and Terrorism were rated as critical in operations of the insurance industry to a moderate and small extent respectively. This was because most of the players in the market are too small to acquire and maintain advanced technological solutions to issues due to its state. Their scale of operations was too small to feel the impact of terrorist activities that have happened in the country.

There have been several milestones in insurance regulation in Kenya. The greatest milestones are admissibility of insurance claims within 90 days and tax relief on life and health insurance, capping of liability and the establishment of the Insurance Regulatory Authority. The respondents only knew the milestones that affected them directly meaning that most players are ignorant of what's going on in their industry as a whole. Both the state and self regulatory bodies haven't done enough to publicize the milestones.

This implies that many players cannot carry out an effective SWOT or Industry analyses. This also means that very few individuals are involved in drafting and recommending the reform agenda which should overhaul the Act that will have to be passed by the parliament which isn't composed of insurance professionals. That's not good for the industry. The reform agenda should be all inclusive.

The study evaluated the extent to which the state has succeeded to address various industry issues. It was concluded that the state has succeeded to address Independence or Autonomy to a great extent through the Insurance Regulatory Authority. The respondents saw it as the key to addressing other issues such as supervisory intervention; Finance, Governance and market conduct because the state lacks technical and specialist abilities to pursue this. This implies that the answer to this question despite the responses given shall only be tested over time.

Although the state had succeeded to address supervisory intervention to a significant extent the respondents felt that the establishment of the office of the commissioner of insurance was a step in the right direction. However it didn't deliver on its mandate. In the past supervisory intervention has come too late and the country witnessed the collapse of various industry players. This implies that the state should empower its establishments to carry out their mandates and minimize interference from other state organs such as the judiciary and parliament, excess bureaucracy and political interference.

It was concluded that the state has succeeded to address Disciplinary Action, Market surveillance, Investor Confidence, Public Trust, Anticompetitive Behavior and Compliance Costs up to a moderate extent. Disciplinary Action has been a challenge despite provisions for penalties in the Act which have to be obtained through inefficient courts and expensive justice system. This implies that it's not enough to define offences and disciplinary actions, the challenge lies in implementation. The respondents felt this market is too small compared to other countries and the state has the capacity to carry out surveillance. However, it seems that the state lacks technical and specialist expertise to

carry it out though the parameters in the Act. This implies that the market will remain static until the state regulator gets a grip on market surveillance.

The state has attended to investor confidence and public trust through being the insurer of the last resort and the recent changes to the Act such as provisions on shareholding, local incorporation, capping of liability, tax relief, policyholder's compensation fund, claims admissibility, HIV prevention and control bill, mandatory insurance, the Insurance Regulatory Authority and the policyholder complaints process. This implies that although the changes have presented opportunities for investors and won public trust, the Act will need constant review through engagement of all stakeholders to tailor it to suit this market and revise them as the market grows.

The Act contains provisions on rates, policy terms and conditions and yet undercutting is very common in the market and penalties for offences and yet the industry has been engulfed in anticompetitive behavior for years. Self regulatory organizations aren't recognized in the Act and their decisions aren't binding in law. This implies that the state should work with these bodies so as to root out this vice.

The formation of the Insurance Regulatory Authority to oversee the Act and the adoption of the International Financial Reporting Standards has brought standardization and use the same reports both locally and internationally. This has gone a long way in addressing compliance costs. On the other hand these costs don't fall on the industry players directly since the state instituted mechanisms are funded by the tax payers. This implies that industry players need to be enlightened on what exactly constitutes compliance costs in the context of the state.

The state has succeeded to address Business Ethics, Flexibility/Innovation and Conflict of interest and to a small extent. Lack of business ethics and conflict of interest exist due to poor regulation, low penalties, lack of disciplinary action on industry players, high cost of legal redress, inefficient courts, legislative bottlenecks, lack of an ombudsman and lack of a central database. In addition to this some office bearers in the industry hold multiple

offices across players in the industry. This implies that the industry shall continue to lose clients, lose reputation, incur litigation and defense costs and later feel the overall impact on profitability. Also the market players shall continue to have a free hand in what they do to the detriment of the industry in the long run.

Flexibility and innovation will depend on the state of the market, professionalism, structures, governance, market conduct and reforms. If positive, players will come up with new products and the best ways of distributing them within the law. If adverse then players will come up with new practices that will go unnoticed and unpunished. This implies that the industry will remain static in terms of products and services since an industry shall always be as good as the people who work in it.

On the other hand the industry the industry has succeeded to address Investor confidence to a great extent. It has lobbied for changes in the Act, made deliberations that reflect market realities and partnered the government in bringing in change. Issues such as growth, development, technical cooperation, underwriting standards, legislative and statutory issues, profitable expansion and fair trade practices are being pursued within the industry itself. This implies that investor confidence will be a direct reflection of the extent to which the industry succeeds in regulating itself.

The industry has succeeded to address Flexibility/ Innovation, Business Ethics and Disciplinary Action to a significant extent. The respondents were pleased the industry is composed of professionals with technical and specialist expertise who can easily agree on the structures and limits to which flexibility and innovation can be taken. There is an incentive for the members to observe codes of ethics, memoranda of understanding and be disciplined since they voluntarily join self regulatory organizations. However, the voluntary nature of the agreements although positive, accommodates members along with their shortcomings which may be unlawful. This implies that bigger and influential players may end up controlling the industry in terms of self regulation.

The industry has also succeeded to address Market Surveillance and Public Trust to a moderate extent. Market Surveillance for self regulating organizations is easier since they have fewer members with homogeneous characteristics and activities to supervise. The challenge comes in autonomy, costs versus benefits, scope and coverage, consistency and fairness to all members. This implies that dominance by the bigger players and the voluntary nature of the agreements will hinder success in market surveillance.

To win public trust, the industry has designing rules that go beyond the minimum regulatory requirements for itself and has established new standards in areas where government rules have been lacking. It has taken initiatives to meet the public and create awareness among its members. At the moment the industry has done actions that accrue more benefits to its players than for the public which is interested in policy terms and conditions, surrender values, claims settlement and anti selection which affect them directly. This implies that the industry needs to do more to regain public trust.

The industry has succeeded to address Conflict of interest, Compliance Cost and Anticompetitive Behavior to a small extent. In addition, it has not addressed Autonomy at all. These issues touch on accountability, transparency, adequate power, legal protection, financial resources, autonomy, policy, institutional and legal framework, market structure and efficient markets with available information. Such factors seem to be beyond both the player and the self regulator hence the need for an autonomous body. This implies that state regulation is preferred since its decision is binding in law. Self regulation cannot regulate autonomy since players will hide information that is valuable to their competitors.

The findings on the form of regulation best suited to handle industry issues were varied too. State regulation was preferred in Licensing, Finance and Accounting, Capital Requirements and Competition. Licensing falls under the basic conditions for effective functioning of the supervisory authority and the insurance sector. Therefore should be based on market structure, policy, institutional and legal framework. Finance and accounting pertain to solvency, capital adequacy, valuation, technical provisions, capital,

investments, financial reporting and disclosure which expose the well being and performance of industry players. Therefore standardization and entrenchment of the formats in law is necessary to facilitate quick interpretation and easy comparison. This implies that the state should be the one to determine who operates in the market and what they need to disclose since it's held accountable by the public.

Capital requirements affect solvency, capital adequacy, valuation, technical provisions and investments which also have to do with the well being and performance of industry players. This implies that standardization and entrenchment in the law is necessary. Competition can only be fair on a level playing field which only the state can provide though structures, institutions and the legal framework in which the industry should operate. This implies that there is an element of equity which can only be provided by the law should be applied and this can be handled well by the state.

Self regulation was preferred on Corporate Governance and Human Resource Qualifications. Corporate governance is about management of the individual players at their highest levels. Governments change and there is a need for continuity in every sector including insurance. This implies that the industry is at a better position to regulate itself. As for human resource qualifications, the prize on professionalism is repairing its reputation and building trust with customers. This implies that to succeed competence, professionalism and qualifications should be upheld.

A joint effort between state and self regulation was preferred on Industry Growth, Market Conduct, Product Rates, Terms and Conditions and the Ombudsman. The state can induce industry growth in the sector by setting minimum standards on the nature and type of coverage which the innovativeness of the market can tailor to the demographics of the country. It can also set standards in other sectors that will translate into benefits for the industry. This implies that growth and development in other sectors can also translate to benefits in the sector.

Market conduct pertains to dealing with customers, selling and handling insurance policies, integrity, and disclosure of information to stakeholders. This implies that the state should provide the overall institutional and legal framework on which the innovation, technical and specialist strengths of the industry players shall ride on. As for Product Rates, Terms and Conditions, the state needs to set the framework and ground rules in the law on determination of rates and how the players should behave towards each other in the law. This implies that the industry through its mechanisms can then police the players and issue disciplinary action that is actionable in law.

The establishment of the office of the commissioner of insurance was a step in the right direction. This is because the office was to administer the Act, formulate and enforce of standards of conduct, standardize contracts, approve rates and tariffs, register/authorize of players, ombudsmanship on small claims, monitor player performance and take action where necessary. This implies that there was need for either an office or a body with technical and specialist knowledge to regulate the industry. However, office of the commissioner of insurance didn't succeed in executing its mandate due to lack of player /regulator commitment, industry representation, public confidence and participation, ineffective surveillance and supervision lack of autonomy, transparency and accountability which was complicated by clauses and sections on secrecy within the Act.

The establishment of the Insurance Regulatory Authority was perceived to be the greatest response to the happenings in the insurance industry, a public outcry and a great need for an autonomous, independent and competent body to supervise, develop and regulate the industry as provided for in the Act. The authority has taken over the duties of the Commissioner of Insurance and this implies that it's expected to fulfill the vision and the mission of the government on the insurance industry. The industry players are optimistic on its future and that it will fulfill its mandate based on the assurance that the authority will address effective surveillance and supervision, autonomy, public confidence and participation, player/regulator commitment and mutual benefit. This implies that the stakeholders should expect that the integrity of the industry shall be established, preserved and maintained.

The study concluded that the government's level of attention or focus on the insurance industry was as poor mainly due to lack of reform, politics, bureaucracy, lack of capacity at technical and specialist levels, ineffective surveillance, supervision and enforcement powers. This is because the milestones in insurance regulation in Kenya have been triggered by experiences over time and there has been total neglect of issues that affect the industry and issues in other industries that affect the insurance sector. Issues such as demographics, the cost of justice, insecurity, corruption, terrorism, acts of outlawed groups, porous borders, poverty, crime, moral hazards and bad risks such as the *'matatu'* menace are within the mandate of the state. This implies that a safe, secure, democratic, just, corruption free and prosperous Kenya can be achieved if the state deals with bureaucratic inertia, the parliamentary calendar, the constitutional review process, sustaining a reform zeal and lack of capacity at technical and specialist level.

From the study it was concluded that the factors which affect the effectiveness of the insurance regulatory regime in Kenya are the market, the state and government in power, scope and coverage, suitability and acceptance, autonomy, foreseeability, costs and Mutuality of benefit. The state of a market determines the ease in which the basic conditions for effective functioning of a supervisory authority and the industry players. In Kenya the insurance market penetration is too slow for the industry to be noticed or be given attention by the state. The government's vision and mission for the sector, its legal structures and its commitment to reform is critical and the industry shall only go as far as the structures and the environment it creates. The state has the key to creating a level playing field in the business environment

Scope and coverage is critical since it determines the strength and depth of the regulatory regime. It also shows the extent to which the provisions of a regime are outdated. In Kenya the insurance act requires an overhaul so as to capture evolving issues such as fraud and seal the loopholes that are being exploited such as small penalties. Autonomy from the industry was identified as one of the factors that heavily contributed to the office of the commissioner of insurance not succeeding in its mandate. Suitability and acceptance applied to both state and self regulation. It isn't a challenge to the state since

it can enforce what it wants through legislation or statute. The issue would only be that it works on ideals and not market realities. However since one of the major conclusions in the study was state working with the industry to achieve industry advancement and growth the actions of the state must also incorporate market realities.

Foreseability is critical in that it will enable the players to internalize the consequences of both their actions and omissions. It works well in an environment with set standards and enforcement powers. Mutuality of benefit is sought by the industry players, the state and the self regulators. It can be concluded that for the regulatory puzzle to be resolved all parties must benefit from it.

5.3. Conclusion

The study investigated the extent to which the state had succeeded to address various industry issues. The findings revealed that it has succeeded to address Autonomy from the industry up to a great extent. It has succeeded to address Supervisory Intervention to a significant extent. The state has succeeded to address Disciplinary Action, Market surveillance, Investor Confidence, Public Trust, Anticompetitive Behavior and Compliance Costs up to a moderate extent. It has succeeded to address Business Ethics, Flexibility/Innovation and Conflict of interest and to a small extent. Therefore overall, it can be concluded that the state has succeeded to regulate the insurance industry up to a moderate extent.

To facilitate a comparison, the study also sought to find out the extent to which the industry has succeeded in addressing the same issues as the state. The industry has succeeded to address Investor confidence to a great extent. It has succeeded to address Flexibility/ Innovation, Business Ethics and Disciplinary Action to a significant extent. It has succeeded to address Market Surveillance and Public Trust to a moderate extent. While it has succeeded to address Conflict of interest, Compliance Cost and Anticompetitive Behavior to a small extent, it has not addressed Autonomy at all. Therefore overall, the industry has also succeeded to regulate itself up to a moderate extent.

From the study it can also be concluded that the factors which affect the effectiveness of the insurance regulatory regime in Kenya are the market, the state and government in power, scope and coverage, suitability and acceptance, autonomy, foreseeability, costs and mutuality of benefit.

5.4. Recommendations

The state should pay more attention to the insurance industry and partner the industry so as to address the state of the market and its penetration rate as the industry has a great potential to become a great contributor to GDP. It needs to put right the basic conditions for effective functioning of the supervisory authority, the insurance sector and insurance supervision. In addition it needs to set, continually review and enforce requirements on finance, governance and market conduct. It needs to give autonomy and empower the regulators so as to ensure that supervisory assessment and intervention is effective. Also it will need to embrace flexibility, technical and specialist expertise that would mainly come from industry players to enable it to overhaul the Insurance Act and enable its establishments to carry out effective surveillance and supervision.

The state needs to trigger reforms in other sectors and be committed to fulfilling them so that they can also translate into benefits for the insurance sector. Finally it needs to involve all stakeholders in the industry during the reform agenda so as to ensure that the final product is wide in scope and coverage, suitable and acceptable to all stakeholders, is cost beneficial to the stakeholders and that all players and parties shall mutually benefit out of it.

Limitations Of the study.

The study was restricted to insurance industry players based in Nairobi and their responses were generalized to reflect the feelings of the whole industry.

Suggestions for further research

The study to be expanded to cover all industry players in the country

A similar study should be carried to facilitate a comparative analysis of Kenya's situation and experience with other developing countries.

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Appendix 1 Sampling Methodology

The Industry was divided into strata namely insurers, intermediaries, regulators, state schemes and the college of insurance. The sample size was 64 and a quota was applied to ensure that 50% of the sample consists of insurers while over 25% of the sample consists of intermediaries. All players included had to be located within Nairobi. The strata, their members and sampling methods are as follows

All the players in the regulators (6) and state schemes (2) strata were involved in the study. In addition the college of insurance was included. These were as follows

1. Regulators
- Association of Kenya Insurers
- Association of the Insurers Brokers of Kenya
- Insurance Institute of Kenya
- Institute of Loss Adjusters and Risk Surveyors
- Insurance Regulatory Authority
- Automobile Engineer Assessors Association
2. State Schemes
- National Social Security Fund
- National hospital Insurance Fund
3. College of Insurance

Insurers

They were 48 in number (see appendix 4) while only 32 were required (50% of 64). All of them are located in Nairobi. A proportionate approach of stratified sampling was applied.

• Reinsurers	4	=32 * 4/48	= 3
• General Insurers	21	=32 * 21/48	= 14
• Life insurers	8	=32 * 8/48	= 5
• Composite insurers	15	=32* 15/48	= 10
Total	48		32

The respondents from the insurer's stratum were selected as follows

- Reinsurers The first 3 on the list

- General Insurers — The first 14 on the AKI register
- Life Insurers — The first 5 on the AKI register
- Composite Insurers — The first 10 on the AKI register

Intermediaries

These were stratified into brokers (190), agents (3085) and other service providers (301) further stratified into assessors (220), surveyors (27), risk managers (7), adjustors (23) and medical insurance providers (24). The over 25% quota ensured that their number had to be over 16. All players be selected were located in Nairobi.

The total number of intermediaries required was to be 23. A further quota was applied to ensure that each stratum contributed a third of the players to be selected and therefore the brokers, agents and the service providers were to provide seven players each. Systematic sampling was applied on each stratum of the intermediaries as follows.

Brokers

K = N/n = 165/7 = 23 therefore select the 23rd Broker on the Register.

NB: there are 165 registered brokers in Nairobi

Agents

K = N/n = 1745/7 = 249 therefore select the 249th Agent on the Register

NB: There are 1745 registered agents in Nairobi as per

Service Providers

These were stratified into assessors (220), surveyors (27), risk managers (7), adjustors (23) and medical insurance providers (24). Only players located in Nairobi were selected as follows

Service Providers	Number	Located In Nairobi
Assessors	220	195
Surveyors	27	19
Risk Managers	7	7
Adjustors	23	21
MIP's	24	23

Player	Strata	Number	Located in Nairobi	Number Selected
Brokers		190	165	7
Agents		3085	1745	7
Service Providers	Assessors	220	195	5
	Surveyors	27	19	1
	Risk Managers	7	7	1
	Adjustors	23	21	1
	MIP's	24	23	1
Total		**3, 576**	**2, 175**	**23**

Assessors

K = N/n = 195/5 = 39 therefore select the 39th Assessor on the register.

NB: There are 195 registered assessors in Nairobi as per

Note.

If the selected players were not to co-operate or they are uninterested in the study then snowballing would be applied.

Conclusion

The sample was constituted as follows from the above data

Player	Number
Regulators	6
State Insurance Schemes	2
Insurers	32
Intermediaries	23
College of Insurance	1
Total	64

Appendix 2 QUESTIONAIRE

An Evaluation of the Effectiveness of State Regulation of the Insurance Industry in Kenya.

1. How long has your firm been in the industry?

- ☐ Less than 10 years
- ☐ 11 – 20 years
- ☐ 21 - 30 years
- ☐ Over 30 years

2. (A) In what state do you consider the insurance market to be?

☐ Static	☐ Dynamic	☐ Turbulent

(B) To what extent has the state contributed to the status in part (A)

Where 1= Great Extent, 2= Moderate Extent, 3= No Extent

☐ 1	☐ 2	☐ 3

(C) The industry penetration rate was 2.6% of GDP in 2005 (AKI, 2005). Comment on this statistic.

☐ Very Slow	☐ Slow	☐ Fair

(D) To what extent has the state contributed to the status in part (C)

Where 1= Great Extent, 2= Moderate Extent, 3= No Extent

☐ 1	☐ 2	☐ 3

Which of the following factors contribute to your answer above?

- ☐ Demographic Factors e.g. literacy levels, poverty, rural urban disparity, religion etc.
- ☐ Industry Growth rate
- ☐ Technology

☐ Government policies and reforms

☐ Image and reputation of Insurance companies

☐ Human resource development, training and Professionalism

☐ Compensation

☐ Customer expectations and experiences

☐ Others____

____

____

3. Evaluate the extent to which following factors are critical in the operations of the insurance industry

	No Extent	Small Extent	Moderate Extent	Significant Extent	Great Extent
Price					
Competition					
Claims					
Capital Requirements					
Finance					
Technology					
Terrorism					
Intermediaries					
Image					
Regulation					
Human Resources					

4. (A) Are intermediaries able to influence the setting of industry standards, prices / rates?

☐ Yes

- No

If yes, which of the following factors affected your decision above?

- Buyer volume
- Buyer concentration versus firm concentration
- Buyer switching costs relative to firm's switching costs
- Repeat business
- Substitute products
- Price sensitivity
- Closeness to customers
- Conflict of interest
- Regulatory regime

(B) In which order of significance do the following factors affect the intermediaries purchase decisions?

1, 2, 3, up to 9 etc. Where 1= Most significant and 9 = Least significant

- ☐ Buyer volume
- ☐ Price
- ☐ Quality of service
- ☐ Flexibility and innovation
- ☐ Image, reputation and experience
- ☐ Financial security
- ☐ Specialist and technical advise
- ☐ Geographical spread
- ☐ continuity

(C) To what extent has the state contributed to the status in part (A & B)

Where 1= Great Extent, 2= Moderate Extent, 3= No Extent

☐ 1	☐ 2	☐ 3

5. How would you rank the following milestones in the regulation of insurance in Kenya over time? 1, 2, 3, up to 8 etc.

Where 1= Most significant and 8 = Least significant

☐ Local incorporation and participation in shareholding

☐ Enactment of the Insurance Act

☐ HIV Prevention and Control Bill 2003

☐ Establishment of The Insurance Regulatory Authority

☐ Fire and Motor Insurance To be transacted on Cash and Carry

☐ Insurance agents to transact for many principals

☐ Tax relief on Life and Health Insurance

☐ Admissibility of insurance claims within 90 days

☐ Capping of liability at 3 million per claim

☐ Establishment of the insurance commission

What was your criterion in choosing the most significant milestone?

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____

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____

6. Please evaluate the extent to which state has succeeded in addressing each of the following issues.

	No Extent	Small Extent	Moderate Extent	Significant Extent	Great Extent
Business Ethics					
Flexibility/Innovation					
Conflict of Interest					
Market Surveillance					
Disciplinary action					
Investor Confidence					
Public Trust					
Anticompetitive behavior					
Compliance costs					
Independence from industry					
Supervisory Intervention					

Kindly give your reasons for the answers above

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7. Please evaluate the extent to which the industry itself has succeeded in addressing each of the following issues.

	No Extent	Small Extent	Moderate Extent	Significant Extent	Great Extent
Business Ethics					
Flexibility/Innovation					
Conflict of Interest					
Market Surveillance					
Disciplinary action					
Investor Confidence					
Public Trust					
Anticompetitive behavior					
Compliance costs					
Independence from industry					
Supervisory Intervention	.				

Kindly give your reasons for your answers above

____

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8. What form of regulation is best suited to handle each of the following issues in the insurance industry? (Tick where appropriate)

	Self Regulation	State Regulation	Joint effort
Licensing			
Finance/ Accounting			
Market conduct			
Capital requirements			
Product Rates, Terms and Conditions			
Corporate governance			
Ombudsman			
HR Qualifications and Professionalism			
Competition			
Promoting industry Growth			

9. (A) Was the establishment of the Commission of Insurances' office a step in the right direction?

- ☐ Yes
- ☐ No

Why

____

____

____

(B) Has the office succeeded in executing its mandate?

Where 1= Yes, 2= No, 3= Don't Know

☐ 1	☐ 2	☐ 3

Which of the following factors influenced your decision?

- ☐ Player/ Regulator Commitment and Mutual benefit
- ☐ Industry representation
- ☐ Costs of compliance
- ☐ Public Confidence and Participation
- ☐ Transparency and accountability
- ☐ Autonomy and Independence
- ☐ Funding
- ☐ Effective surveillance, Supervision and Enforcement Powers
- ☐ Flexibility and Expertise
- ☐ Systemic risks
- ☐ Others____

____

____

10. (A) The Insurance Regulatory Authority, an autonomous body has been established to take over from the commissioner of insurance in regulating the industry. Is this a step in the right direction?

- ☐ Yes
- ☐ No

Why

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(B) Is it bound to succeed? What's your feeling on its future?

Where 1= Optimistic, 2= Indifferent, 3= Pessimistic

☐ 1	☐ 2	☐ 3

Which of the following factors influenced your decision?

- ☐ Player/ Regulator Commitment and Mutual benefit
- ☐ Industry representation
- ☐ Costs of compliance
- ☐ Public Confidence and Participation
- ☐ Transparency and accountability
- ☐ Autonomy and Independence
- ☐ Funding
- ☐ Effective surveillance, Supervision and Enforcement Powers
- ☐ Flexibility and Expertise
- ☐ Systemic risks
- ☐ Others____

____

____

11. Comment on the government's level of attention or focus on the Insurance Industry.

Where 1= Good, 2= Indifferent, 3= Poor

☐ 1	☐ 2	☐ 3

Which of the following factors influenced your decision?

☐ Conflict of interest

☐ Politics

☐ Bureaucracy

☐ Politicians not being professionals

☐ Government operating on ideals but not realities

☐ Lack of reforms in other sectors e.g. traffic, security, employment and labor laws etc.

☐ Lack of capacity at technical and specialist levels

☐ Effective surveillance, Supervision and Enforcement Powers

☐ Lack of action.

Appendix 3 Letter of Introduction

August 17th 2008

Dear Respondent,

RE: RESEARCH DATA COLLECTION

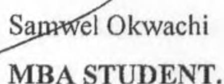
This questionnaire is designed to gather information on **an Evaluation of the Effectiveness of State Regulation of the Insurance Industry in Kenya**. The study is being carried for a management project paper as a requirement in partial fulfillment for the degree of Masters of Business Administration, School of Business, University of Nairobi.

The information in this questionnaire will be treated with confidentiality and in no instance will your name be mentioned in this research. Also, the information will not be used for any other purpose other than for this research.

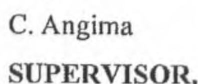
Your assistance in facilitating the same will highly be appreciated. A copy of this research paper will be made available to you upon request.

Thanking you in advance.

Yours Sincerely,



Samwel Okwachi
MBA STUDENT.



C. Angima
SUPERVISOR.

Appendix 4 List of Insurance and Re-Insurance Companies

1. Apollo Life Assurance company
2. CFC Life Assurance Company
3. Metropolitan Life Insurance Company
4. Old Mutual Life assurance Company
5. Pan African Life Assurance Company
6. Pioneer Life Assurance Company
7. Trinity Life Assurance Company
8. African Merchant Assurance Company
9. AIG Insurance Company
10. APA Insurance Company
11. Concord Insurance Company
12. Direct line Insurance Company
13. Fidelity Shield Insurance Company
14. First Assurance Company
15. Gateway Insurance Company
16. General Accident Insurance Company
17. Intra Africa Assurance Company
18. Invesco Insurance Company
19. Kenya Orient Insurance Companies
20. Lion Of Kenya Insurance Company
21. Mayfair Insurance Company
22. Occidental Insurance Company
23. Pacis Insurance Company
24. Phoenix of East Africa Assurance Company
25. Real Insurance Company
26. Standard Assurance Company
27. Tausi Assurance Company
28. Trident Insurance Company
29. Blue Shield Insurance Company
30. British American Insurance Company
31. Cannon Assurance Company
32. Co-operative Insurance Company
33. Corporate Insurance Company

34. Geminia Insurance Company
35. Heritage AII Insurance Company
36. Insurance Company Of East Africa
37. Jubilee Insurance Company
38. Kenindia Assurance Company
39. Madison Insurance Company
40. Mercantile Life & General Insurance Company
41. Monarch Insurance Company
42. UAP Provincial Insurance Company

List of Reinsurance Companies

1. Kenya Re
2. Africa Re
3. East Africa Re
4. Zep Re

Table 32: Extent to which the State has addressed Independence or Autonomy
Table 33: Extent to which the State has addressed supervisory intervention
Table 34: Extent to which the Industry has succeeded in addressing Business Ethics
Table 35: Extent to which the Industry has succeeded in addressing Flexibility/ Innovation
Table 36: Extent to which the Industry has succeeded in addressing Conflict of interest
Table 37: Extent to which the Industry has succeeded in addressing Market Surveillance
Table 38: Extent to which the Industry has succeeded in addressing Disciplinary Action
Table 39: Extent to which the Industry has succeeded in addressing Investor Confidence
Table 40: Extent to which the Industry has succeeded in addressing Public Trust
Table 41: Extent to which the Industry has addressed anticompetitive behavior
Table 42: Extent to which the Industry has succeeded in addressing Compliance Costs
Table 43: Extent to which Industry establishments have addressed Autonomy
Table 44: Extent to which the Industry has addressed Supervisory Intervention
Table 45: The Form of Regulation Best Suited to Handle Industry Issues
Table 46: The Office of the Commissioner of Insurance – A Step in the right direction?
Table 47: Has the office succeeded in executing its mandate?
Table 48: Factors that Affected the Performance of the Office of the Commissioner of Insurance

Table 49: The Insurance Regulatory Authority - A Step in the Right Direction?

Table 50: Feelings of Industry Players on the Insurance Regulatory Authority
Table 51: Factors influencing Feelings of Industry Players on the Insurance Regulatory Authority

Table 52: The Governments Level of Attention or Focus on the Insurance Industry

Table 53: Factors Which Affect the government's level of attention or focus on the Insurance industry