



THE REPUBLIC OF LEBANON
Ministry of Economy and Trade

Competition Policy in Lebanon

Dr. Ignacio DE LEON, EU Expert

Mr. Jacques DELIMOGES, EU Expert

Dr. Joey GHALEB, Ministry of Economy and Trade

The Strategic Background

- Economic policy lies on two main pillars: economic reforms and integration into the global economy
- Economic reforms require an extensive legislative agenda
- Modern competition law is an essential part of this legislative reform agenda which includes, among others, laws addressing consumer protection, anti-dumping, exclusive agencies, E-commerce, IPR, and the like

Why Lebanon needs a modern Competition Law

- Competition is universal
- The law is to the benefit of the Lebanese economy
- Competition needs to be protected
- Over 100 economies introduced such a law

The Economic Background

- The Lebanese economy is largely oligopolistic
- Abuses of dominant position are widely suspected
- Barriers to entry are high, particularly legal and administrative measures

Hence, the overall economic performance and welfare is undermined and distorted

The objectives of the law?

■ Direct:

- Enhance consumer welfare
- Offer even playing field to all economic agents

■ Indirect:

- Encourage local initiative and SME development
- Boost exports and attract FDI
- Creates pro-competitive disciplines for the Government's rule-making activities

Main principles

- Partnership: major stakeholders will continue to be associated to the elaboration of the law
- Universality: the law will apply to all economic agents
- Modularity and flexibility: wherever justified specifics will be recognized
- Transparency : administrative and judicial processes will be visible, transparent, and public
- Guarantees for defendants:
 - Proceedings will be inter partes; Appeals will be possible; Confidentiality will be preserved

The Competition Law

Structure and introductory concepts

Key points

- The law applies to both the private business sector and state owned enterprises
- Law will be dynamic and will change as markets and economic developments change
- Competition advocacy to promote a pro-competitive legal environment
- Policy focus on legal and market barriers of entry
- Thresholds (concentrations) and *de minimis* rule (restrictive practices) enable the authority to disregard negligible anticompetitive practices

More key points

- Prohibited conducts are forbidden insofar they have an anticompetitive impact on the market
- Effective remedies and procedures to ensure compliance
- Decision making separate from investigation and prosecution
- Confidentiality of sensible business information
- An umbrella law requires strong implementing institutions: Financial independence & operative autonomy (appeals are to judiciary)

Scope of the Law

- Applies to all economic sectors, including regulated ones and all commercial activities undertaken by the public or the private sector.
- Law covers profit non profit making activities as well as trade/business associations and liberal professions
- MOUs will be signed to define relationship between each regulator and the competition authority.

Prohibited anticompetitive conducts

Legal business behavior

The diagram consists of a large white oval on a dark blue background. Inside this oval, at the top, is the text 'Legal business behavior'. Below this text are two smaller circles. The left circle is yellow and contains the text 'Automatically illegal (the law regards them as lacking beneficial effects)'. The right circle is purple and contains the text 'Illegal subject to evidence of competition damage'.

**Automatically illegal
(the law regards them as
lacking beneficial effects)**

**Illegal subject to evidence
of competition damage**

Examples of prohibited conducts

■ Automatic illegal

- Price fixing
- Market division
- Output limitation
- Boycotts
- ADP

Horizontal agreements

Unilateral conduct + dominant position

■ Subject to evidence of market damage (i.e. lack of efficiencies)

- Resale Price Maintenance
- Exclusive distributorship
- Franchises
- Exclusive supply
- Research agreements
- Standards
- Economic concentrations

Vertical agreements

Horizontal agreements

Abuse of dominant position

- Dominant position
 - Position to act independently from competitors
 - The law does not prohibit dominant position; only its abusive exercise
- Conduct is abusive if exclusionary or exploitative. Examples:
 - Price discrimination
 - Tie in arrangements
 - Market foreclosure

Concentrations

- Concentrations will be regulated
- Pre-merger notification requirement is introduced
- There is distinction between « good » and « bad » concentrations
- Penalties and statutes of limitations are defined

Competition disciplines on the Government

- Rules on public aid: regional aid, sectoral aid, (R&D, SMEs, environmental protection, etc.)
- Promoting pro-market rule making design
- Advocating elimination of rules creating legal barriers to trade and investments
- Rules on public undertakings subject to the law «insofar as the application of such rules will not obstruct the performance of the particular tasks assigned to them »

Law enforcement institutions

- A National Competition Authority
- Creation and status of the Competition Council
- Powers and responsibilities of the Council
- Powers and responsibilities of the “Rapporteur”
- Right for appeals before the Court of Appeals

Powers of the Competition Authority

- Launching investigations
- Ruling on cases
- Issuing by-laws, regulations and guidelines
- Advising Government and playing a strong competition advocacy role
- Conducting studies and promoting competition culture

Procedures: due process of law and guarantees

- Filing a petition
- Investigation, proceedings, powers of inquiry, privacy & Court orders
- Fines and remedies
- Right to defend yourself before the Council
- Two-stage process: Decision by the Council and right for appeal before the Court of Appeals
- Transparency and confidentiality

GENERAL SUMMARY

- A Competition law is necessary to give all economic agents an even playfield
- The Competition law is part of the Government's strategy for economic integration and modernization
- The specificities of regulated sectors and of Lebanese economy will be acknowledged
- Transparency and pro-business approach in implementing competition rules