

Implementing Regulations issued by the Board of Directors Resolution No. (337) dated 25/1/1441H of the Competition Law promulgated under Royal Decree No. (M/75) dated 29/06/1440H.

Implementing Regulations

**Issued by Resolution No. (337) dated 25/1/1441H of the Board of Directors of the
General Authority for Competition**

**Of the Competition Law, promulgated under Royal Decree No. (M/75) dated
29/06/1440H.**

Implementing Regulations issued by the Board of Directors Resolution No. (337) dated 25/1/1441H of the Competition Law promulgated under Royal Decree No. (M/75) dated 29/06/1440H.

Pursuant to Article (27) of the Competition Law promulgated by Royal Decree No. (M/75) dated 29/6/1440H, the Board of Directors of the General Authority for Competition issued its Resolution No. (337) dated 25/1/1441H approving the Implementing Regulations of the Competition Law, in the form attached herewith.

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Chapter 1: Definitions and Objectives

Definitions

Article 1:

The following terms, wherever they occur in these Regulations, shall have the meanings assigned to each of them, unless the context requires otherwise:

Kingdom: The Kingdom of Saudi Arabia.

Law: The Competition Law.

Regulations: The Implementing Regulations of the Law.

GAC: The General Authority for Competition.

Statute: GAC's Statute.

Board: GAC's Board of Directors.

Chairman: The Chairman of the Board.

Governor: GAC's Governor.

Committee: The Committee for Adjudication of Competition Law Violations.

Commodity: Any product or service or a combination thereof.

Firm: Any natural or corporate person engaged in an economic activity.

Economic Activity: An activity involving production, distribution, purchase, or sale of Commodities. It includes any commercial, agricultural, industrial, service, or professional activity.

Entity: A corporate person; whether it consists of one firm or a number of firms that report to one management or have one owner.

Market: A place or means wherein a group of current and prospective buyers and sellers meet within a specified period of time.

Relevant Market: A market that comprises the following two elements:

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- A. Relevant commodities that are interchangeable – for a particular purpose – with respect to the consumer; and
- B. A Geographic area where the conditions of competition are the same.

Dominant position: A situation where a firm - or a group of firms - controls a certain percentage of the relevant market in which it operates or on which it has influence, or both.

Practice: Any behavior by a firm(s), which entails imposing one or more of the penalties and measures prescribed in Articles 19, 20, & 21 of the Law.

Exemption: The power of the Board not to apply any of the provisions of Articles 5, 6, & 7 of the Law to a firm, in accordance with the Regulations and the procedures approved by the Board.

Economic Concentration: Any action that results in a total or partial transfer of ownership of assets, rights, equity, stocks, shares, or liabilities of a firm to another by way of merger, acquisition, takeover, or the joining of two or more managements in a joint management, or any other form that leads to the control of a firm(s) including influencing its decision, the organization of its administrative structure, or its voting system.

Economic Concentration Parties: Firms engaged - or seeking to engage - in an economic concentration transaction, whether or not they have applied for approval to complete the economic concentration.

Parties Related to an Economic Concentration: Parties affected by economic concentration, including competitors, customers, suppliers, distributors, and stakeholders.

Law Enforcement Officers: Employees with law enforcement capacity who may, jointly or severally, take the necessary procedures of inquiry, collection of evidence, recording of violations, and all related procedures to uncover anti-competitive practices, in accordance with the provisions of the Law and the Regulations.

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Leniency: An application whereby - If accepted by the Board - criminal proceedings shall not be initiated before the Committee, in a specified case, against the violating firm in the event that the firm hand over evidence that reveals, or could reveal, its partners in committing the violation, as prescribed by the Regulations and approved by the Board.

Settlement: An application whereby - if accepted by the Board - criminal proceedings shall not be initiated before the Committee, in a specified case, against the violating firm in return for an amount to be paid by such firm, along with implementing any required measures, conditions, or pledges or paying any compensations to affected persons, as prescribed by the Regulations and approved by the Board.

Objectives

Article 2:

The Regulations aim to improve the efficiency of the markets and create a competitive business environment within a framework of justice and transparency through:

1. protecting and encouraging fair competition;
2. combating and preventing monopolistic practices affecting lawful competition and consumers' interests;
3. promoting the availability of commodities with high quality and varied prices; and
4. stimulating innovation and investment to support economic growth.

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Chapter 2: Jurisdiction and Scope of Application

Article 3:

The provisions of the Law and the Regulations shall apply to:

1. all firms within the Kingdom, which include:
 - a. establishments and companies engaged in economic activities, whatever their legal forms, nationalities, and ownership; whether their license to practice the activity is still valid or otherwise; and whether they practice the licensed activity or a different one;
 - b. an individual engaged in economic activity whether or not he is licensed to practice his activity;
 - c. all forms of entities and groupings when engaged in economic activities; and
 - d. electronic platforms and application, whether or not they are licensed to practice its activity; and
2. behaviors and practices occurring outside the Kingdom when they have impact on domestic competition. In such cases, GAC may:
 - a. assess the impact on competition within the Kingdom, whether the impact is existent or potential;
 - b. take necessary measures and procedures or request the competent authorities to implement the same in order to stop or mitigate the impact of behaviors and practices occurring outside the Kingdom that have an adverse effect on competition within the Kingdom.

Article 4:

1. A wholly owned State establishment or company shall be exempted from the Law and the Regulations if it is solely authorized by the Government to provide a commodity in a

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particular field. Such exception shall be effective only by a royal order or decree, a Council of Ministers' resolution, or a high order exclusively authorizing such establishment or company thereto. The provisions of the Law and the Regulations shall apply in fields other than the one in which it is solely authorized to provide the commodity.

2. The exclusion indicated in paragraph (1) of this Article shall not preclude the enforcement of the provisions of the Law and the Regulations against an unexempted firm in cases where it participates with an exempted firm in violating the provisions of Article 5 of the Law.
3. The provisions for reporting an economic concentration contained in the Law and the Regulations shall not apply to the parties intending to engage therein in cases where the acquiring party – or the like – is excluded under paragraph 1 of this Article.

Article 5:

1. Government agencies' supervision of any sector shall not prejudice GAC's power to enforce the provisions of the Law and the Regulations against firms operating in such sector.
2. Any conflict or overlap of jurisdiction with other governmental bodies arising from the implementation of the provisions of the Law shall not prejudice existing or future provisions of other laws. In such cases, GAC shall have the primary jurisdiction. Subject to confidentiality, GAC may, if interest so requires, refer documents and investigative minutes of cases under its review to competent agencies to complete the procedures according to their statutory tasks.

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Chapter 3: Key Provisions Relating to Anti-Competitive Behaviors and Practices

Article 6:

Firms shall have the freedom to price commodities in accordance with market rules, principles of free competition, and the factors of supply and demand, except for commodities whose prices are determined by a Council of Ministers resolution or under other laws.

Article 7:

Determination of the prices of commodities by a Council of Ministers resolution or pursuant to other laws shall not authorize firms to conclude agreements or abuse its dominant position in contravention of the provisions of the Law or the Regulations.

Practices Prohibited under Article 5 of the Law and Explicit Forms thereof

Article 8:

1. All forms of behaviors and practices contrary to Article 5 of the Law, including agreements, contracts, arrangements, and understandings between firms shall be prohibited; whether written or oral, explicit or implicit, if the purpose or effect of which is to undermine competition.
2. Practices among competing - or potentially competing - firms are deemed anti-competitive per se violations, if such practices involve:
 - a. increasing, decreasing, or fixing the prices of commodities or setting conditions for sale or purchase and the like;
 - b. blocking a certain firm(s) from commodities available in the market in whole or in part;

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- c. dividing markets for the sale or purchase of commodities, or designating markets according to any criteria, particularly:
- i. geographical areas;
 - ii. distribution centers;
 - iii. type of customers; or
 - iv. seasons and time periods; and
- d. colluding or coordinating in tenders or bids in governmental and non-governmental auctions and procurement in any form. Joint bidding (that are disclosed by the bidders and required by the nature of the project) shall not be deemed Collusive, provided that its purpose or impact is not prejudicial to competition. Joint bidding - disclosed from the outset and required by the nature of the project - shall not be deemed connivance, provided that its purpose or effect is not prejudicial to competition.

Practices Prohibited under Article 6 of the Law and Explicit Forms thereof

Article 9:

1. No firm - or group of firms - with a dominant position in a relevant market may abuse such dominance, whether the purpose thereof prejudices competition or leads to actual or potential restriction thereof and whether such purpose is explicit or implicit.
2. Abuse of the dominant position in the two following cases shall be deemed anti-competitive per se violations:
 - a. Requiring a firm to refrain from dealing with another firm.
 - b. Making the sale of the commodity, or dealing therein, conditional upon assuming an obligation or accepting a commodity, which by nature or according to

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commercial use is not related to the commodity subject of the contract or the original deal.

Bases for Dominant Position Assessment in a Relevant Market

Article 10:

Dominance in the relevant market is achieved by meeting one or both of the following criteria:

1. A market share of 40% or more of the relevant market; whether it is the share of a single firm or a group of firms - whenever that group acts with a common will in committing the violation or causing the effect.
2. Ability to influence a relevant market such as controlling prices, production, or demand; whether it is the ability of a single firm or a group of firms - whenever that group acts with a common will in committing the violation or causing the effect. GAC may, in case of adopting this criterion, examine one or more of the assessment factors, including:
 - a. market share of a firm - or group of firms - and the market shares of competitors;
 - b. the actual or potential competition;
 - c. the growth in the supply and demand for the commodity;
 - d. the obstacles that limit or prevent competitors from entry, continuity, or expansion in the market;
 - e. the bargaining power of the client, including its purchasing power;
 - f. the accessibility of production inputs;
 - g. the financial and non-financial resources of the firm and its competitors;
 - h. economies of size and capacity available to the firm; and/or
 - i. Level of product differentiation.

Assessment Criteria when Examining Anti-Competitive Practices

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Article 11:

GAC may, upon examining anti-competitive practices - whether the purpose thereof is explicit or implicit, and whether the resultant impact is immediate or potential -, consider one or more assessment criteria, including:

1. percentage and market shares of vendors and purchases affected by the practice;
2. the time period during which the practice occurred;
3. price or volume deviation in the commodity in comparison to the expected levels in the absence of such practice;
4. the impact on the prices, quantities, outputs, quality, diversity, or innovation of commodities compared to the expected levels in the absence of the practice;
5. impact on consumer interests;
6. impact on freedom of import and export; and
7. the extent to which the practice is consistent with the normal competitive behavior of firms in normal conditions of competition.

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Chapter 4: Economic Concentration

Reporting Conditions, Limits, and Procedures to be Followed

Article 12:

1. Firms intending to participate in an economic concentration transaction, or their legal representative, shall report the same to GAC and submit the required information thereto at least ninety (90) days before completion of the economic concentration if the total annual sales value of all firms intending to participate in the economic concentration exceeds SAR 100,000,000.
2. In cases where it is impossible to estimate the annual sales value in accordance with paragraph 1 of this Article, or where the firm's business activities do not extend for a full fiscal year, the annual sales value for the whole year shall be estimated based on the firms' activity, as the case may be.
3. Without prejudice to paragraph 1 of this Article, the Board may set criteria for reporting economic concentration transactions in cases where it is impossible to determine or verify the total annual sales value, provided that the decision be made available to the public at least 30 days before its entry into force.

Article 13:

The Board shall issue a decision specifying the financial charges to be paid for examining economic concentrations and shall publish it to the public; it may amend such charges when necessary.

Article 14:

Reporting of an economic concentration transaction shall not be deemed complete and legally effective unless it meets the following conditions:

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1. The reporting shall be made at least ninety (90) days prior to completion of the economic concentration, which starts from the date GAC notifies the applicant that the reporting is complete, upon satisfying the conditions and providing the information and documents required, without prejudice to its right to request information and documents necessary for the review of the economic concentration.
2. Filling in and attaching the relevant forms, including a full explanation of all the required documents and a statement of the accuracy of the data and attachments.
3. Payment of the prescribed fees for examining the economic concentration, in accordance with the procedure determined by GAC.
4. Submitting a report describing:
 - a. the basic information on the economic concentration transaction and parties thereto;
 - b. relevant sectors and markets;
 - c. potential impact of the economic concentration transaction on competition in general;
 - d. key clientele; and
 - e. key competitors.
5. Providing any other data, information, or documents required by GAC to review the economic concentration.

Article 15:

The time periods prescribed in respect of the reporting and procedures of an economic concentration shall be calculated pursuant to the following:

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1. If the ending date of the concentration review period coincides with an official holiday, the first working day thereafter shall be deemed the last day of that period.
2. GAC may suspend the period prescribed for reviewing economic concentrations from the date of requesting any information or documents from the applicant to the date of their receipt. In this case, the periods of suspension shall not be counted as part of the 90-day period prescribed for the review of economic concentrations. Reporting shall be deemed statutory only when the applicant provides the required information and documents within the specified period.

Article 16:

A person reporting the concentration may withdraw the same after submission thereof. In such case, the reporting shall be considered canceled. The fees collected for examining the economic concentration, in accordance with Article 14(3) of the Regulations, shall not be refundable.

Article 17:

Without prejudice to the Law, the failure of the parties to an economic concentration to duly report such concentration shall not preclude the right of GAC to initiate an examination and evaluation of the economic concentration, whether prior to or following completion thereof. If the firms have completed the economic concentration after reporting it but before the issuance of a decision thereon or the lapse of the statutory period for review, the Board may require said firms to restore their previous status and terminate the economic concentration within a specified period. Firms shall comply therewith and incur the damages arising from the completion of the economic concentration in this case.

Article 18:

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Firms may initiate discussions on the planned economic concentration transaction before reporting it to GAC. GAC may participate in such discussions based on a written proposal by a party to the economic concentration. These discussions, however, shall not have any legal effects on the required reporting of the transaction; nor shall they permit coordination and participation in contravention of the provisions of the Law or the Regulations.

Collection of Data, Information, and Documents Related to Economic Concentration

Article 19:

1. GAC may request the necessary data, information, and documents from the economic concentration parties and parties related to the economic concentration, whether or not such firms have reported such economic concentration. GAC may accept data, information, and documents submitted by any party, evaluate the extent to which they can be relied on, and analyze the same in reviewing the economic concentration.
2. No party to an economic concentration or parties related to the economic concentration may provide misleading information or refrain from supplying GAC with the required data, information, and documents; particularly within the 90-day period prescribed for reviewing and examining the economic concentration.
3. Without prejudice to the penalties set forth by the Law, the Board may reject an economic concentration in cases where the economic concentration parties or their representatives are found to have provided incorrect data or information, or in cases where any of economic concentration parties refrains from providing information or submitting documents required to enable GAC to examine and review the economic concentration transaction. Said party shall be deemed to have refrained after the lapse of 15 days from

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the date it is notified of GAC's requests without fulfilling those requests or providing justifications acceptable to the Board.

Visits to Concentration Parties and Firms Operating in the Market for Inquiry

Article 20:

GAC may assign specialized staff to carry out the necessary inquiry and visits for purposes of examining an economic concentration in accordance with the provisions of the Law and Regulations, including:

1. paying visits to the parties to the economic concentration in their work premises and during normal working hours, accessing their documents, files, and data, and obtaining copies thereof, and interviewing the employees of these firms and collecting their statements; and
2. paying visits to economic concentration-related parties and firms operating in the relevant market and recording statements in order to gather information, study the technical aspects of the market, and evaluate their activity and the competition level therein.

Public Consultations

Article 21:

GAC may ask the public to express opinion on an economic concentration transaction by publishing basic information thereof in any appropriate media. GAC shall determine at the time of publication the period for reception of such views on a case-by-case basis, and it may adopt and rely on whatever opinion it deems appropriate upon examination of the economic concentration.

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Assessment of Economic Concentration Transactions

Article 22:

When examining and reviewing economic concentration transactions, GAC seeks to maintain and encourage the effectiveness of fair competition in the Kingdom's markets. To that end, it may undertake assessment of one or more of the following factors:

1. Structures of relevant markets and the level of actual or potential competition between firms inside the Kingdom or abroad, in cases where it has an impact on local markets.
2. Financial positions of the parties to an economic concentration.
3. Commodity alternatives that are available to consumers, vendors, and clients and how accessible such alternatives are.
4. Level of product differentiation.
5. Consumer interests and welfare.
6. Potential impact of the economic concentration on prices, quality, diversification, innovation, or development in a relevant market.
7. Actual or potential harm or benefits to competition from the economic concentration transaction.
8. Supply and demand growth and trends in the relevant market and commodities.
9. Barriers to entry or exit of new firms into a relevant market, their continuation therein, or expansion, including regulatory barriers.

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10. The extent to which an economic concentration may create or strengthen a significant market power or a dominant position of a firm - or group of firms - in any relevant market.
11. The level and historical trends of anti-competitive practices in a relevant market, either for the parties to an economic concentration or the firms influential in such market.
12. Views of the public, economic concentration-related parties, and sector regulators.

Issuing Decisions on Economic Concentration

Article 23:

1. The Board shall issue its decisions concerning an economic concentration, indicating:
 - a. approval;
 - b. conditional approval; and/or
 - c. rejection;

within a period not exceeding 90 days from the date of notifying the applicant of the completion of the reporting, in accordance with the provisions of the Law and the Regulations. The decision of conditional approval or of rejection, with respect to economic concentration, must be reasoned.

2. If the statutory period referred to in this Article expires without GAC notifying the applicant of the Board's decision or announcing the same to the public, the application shall be deemed approved.
3. In case of conditional approval, the parties to an economic concentration must comply with the conditions, commitments, and obligations specified in the decision.
4. When necessary, the Board may determine the validity period of the decision and its geographical scope.

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Communication of Decisions Issued with Respect to Economic Concentrations

Article 24:

Upon issuance, GAC shall notify the applicant of the decision issued with regard to the economic concentration prior to the expiry of the 90-day period prescribed for examining the economic concentration in accordance with the provisions of the Law and the Regulations. GAC may announce it to the public.

Monitoring Firms' Compliance with Conditional Approval Decisions

Article 25:

In cases where the Board issues a decision of conditional approval of an economic concentration, GAC shall monitor the firm's compliance with and commitment to the conditions set forth in the decision. The Board may withdraw the decision if a party to the concentration violates any terms, obligations, or undertakings set forth in the decision, provided that the firm is given a written warning at least (30) days prior to withdrawal of the decision. The firm shall correct its status or present justifications acceptable to the Board during such period. GAC shall notify the relevant firm or publicly announce any updates of the original decision in the same manner in which the original decision was communicated or announced.

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Chapter 5: Exemption

Article 26:

The Board may, upon a recommendation of a technical committee, approve the request of a firm to be exempted from any of the provisions of Articles 5, 6, & 7 of the Law if the exemption:

1. leads to improving the market or firms' performance in terms of quality, diversification, technological development, or innovative efficiency;
2. benefits the consumer beyond the effects of restricting the freedom of competition; and
3. does not grant the exempted firms effective conditions to force competitors out of the market in one commodity or more.

The Board shall consider the other factors affecting competition in comparison to the positive results expected from the exemption.

Request for Exemption

Article 27:

A request for exemption shall be complete only if it satisfies the following conditions:

1. Submitting the request pursuant to the forms designated for this purpose, including:
 - a. name, capacity, and contact details of the applicant;
 - b. particulars of the commercial register of the firm, if any, its national address, and the activity subject of the request;
 - c. a description of the commodities subject of the request; and
 - d. a description of the practices subject of the request and documents related thereto.
2. Providing justifications for the request, the positive results envisaged, and related documents.
3. Submitting any other information that GAC requires to review the request.

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Article 28:

GAC shall, on a case-by-case basis, determine the time period required to review the request for exemption. Such period shall start upon completing the request and notifying the applicant thereof.

Article 29:

The Board shall form a technical committee to review the request for exemption. To this end, the committee may:

1. conduct studies, collect information and data necessary for reviewing the exemption request, and interview parties and firms that may be affected by the exemption or those with potential interest therein, enable them to express their views, and review the documents submitted thereby; and
2. announce the request for exemption and its basic information for public consultation, which shall be received in writing within a specified period.

Any governmental agency may express an opinion to GAC with regard to exemption requests at any stage during examination of the application and attach the necessary documents therefor.

Exemption Decision and Duration

Article 30:

1. The Board shall issue its decisions concerning exemption requests indicating:
 - a. approval;
 - b. conditional approval; and/or
 - c. rejection;

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within the period determined by GAC upon notifying the applicant of the completion of his request. In this case, the decision on conditional approval or approval must be reasoned.

2. If the last day of the exemption request examination period coincides with an official holiday, the first working day following the holiday shall be considered the last day of that period.
3. The Board shall, in the exemption decision, determine the exemption duration, conditions (if any), date of commencement and expiry thereof, geographical scope, if need be. The Board may announce it to the public.

Revocation or Extension of Exemption

Article 31:

1. The Board may revoke the exemption by reasoned decision in some cases, including:
 - a. a firm's breach of its obligations or undertakings provided for in the exemption decision;
 - b. fulfillment of the purpose of exemption;
 - c. change of market conditions and the level of competition therein; or
 - d. the presence of negative impact on competition, resulting from the practices of the exempted firms, that exceeds the positive effects expected therefrom.
2. The Board may extend the exemption prior to expiry thereof pursuant to a reasoned written request by the exemption applicant or by interested parties, or at the Board's own initiative, provided it has justifications to be set out in its decision.
3. The procedures set out in Article 30 of the Regulations shall apply to the exemption extension decision, with the exception of the provisions related to the request examination period.

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Chapter 6: Procedures for Monitoring and Detecting and Investigating Violations

Article 32:

1. Any natural or corporate person may file a complaint or report anti-competitive practices to GAC even if he is not an aggrieved party, according to the forms specified for these purposes. The complainant does not have to reveal his identity.
2. GAC may, on its own initiative, take procedures of inquiry, gathering of evidence, and investigation in accordance with the provisions of the Law and the Regulations.
3. GAC may conduct periodic inspections of the markets and request necessary data and information from firms. All firms shall submit the data, information, or documents requested for conducting market studies or inquiry and investigation work.
4. GAC shall review referrals received from supervisory authorities and regarding anti-competitive behaviors and practices.

Issuance of Board's Preliminary Decisions on Complaints and Reports

Article 33:

1. Complaints and reports shall be submitted, after preliminary examination, to the Board, including recommendation supported by evidence and indicators, wherever possible, for issuing a decision or providing guidance thereon indicating approval to take procedures of inquiry, gathering of evidence, and investigation or any of them, or closing the matter, provided that the closing any matter shall be reasoned.
2. GAC may prioritize complaints and reports entailing serious harm or greater impact on competition, in accordance with criteria approved by the Board.

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Taking Procedures for Inquiry, Gathering of Evidence, and Investigation in Cases of Urgency

Article 34:

In cases of urgency, the Chairman or the Governor may issue a decision to take procedures for inquiry, gathering of evidence, and/or investigation, provided that the decision be presented to the Board at the first meeting following the issuance thereof. A case shall be deemed urgent in certain circumstances, including the following:

1. Occurrence or potential occurrence of serious and irreparable damage to competition or to the consumer.
2. The violator is suspected to be caught in the act or the evidence is feared to disappear or be lost.

Competencies of Law Enforcement Officers and Investigators

Article 35:

1. Law enforcement officers and investigators shall apply the Law and the Regulations, as well as the rules and instructions issued by the Board. They shall apply the Law of Criminal Procedures and its Implementing Regulations in cases not provided for in the Law or the Regulations.
2. Law enforcement officers and investigators shall have the jurisdiction to enforce the Law and the Regulations to all firms within the Kingdom and to practices outside the Kingdom that have an impact on competition within the Kingdom, in accordance with the relevant laws and conventions.
3. Subject to paragraph 2 of this Article, law enforcement officers and investigators shall have a special jurisdiction to enforce the Law and the Regulations to the firms and related parties based on the decision authorizing them to take investigation and similar

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procedures; to uncover anti-competitive practices, establish evidence and effects thereof,
and prepare market studies and collect data.

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Powers of Law Enforcement Officers

Article 36:

For the purpose of applying the provisions of the Law and the Regulations, law enforcement officers shall, jointly or severally, undertake tasks assigned to them within the limits of their competence and functions, including:

1. examining and reviewing complaints, reports, referrals, and initiatives as well as submitted and collected documents and evidence thereof;
2. communicating with the complainant for clarification as needed and requesting further evidence and information; and
3. taking procedures of inquiry, gathering of evidence, and investigation as well as violation-recording and other related measures.

Article 37:

For the purpose of applying the provisions of the Law and the Regulations, law enforcement officers may, jointly or severally, enforce the powers conferred upon them, including:

1. entering and searching the premises, offices and branches of firms as well as their affiliated warehouses and storerooms etc., during normal working hours;
2. accessing books, records, papers, and documents of the firm as well as any hardware, equipment, tools, databases, software, or electronic applications, and taking copies thereof, whether confidential or not;
3. documenting the recorded, confiscated, or seized items in minutes to be signed by the law enforcement officer and an affiliate of the firm present at the time of recording the violation. If he refuses to sign, his refusal shall be noted in the minutes; and

Implementing Regulations issued by the Board of Directors Resolution No. (337) dated 25/1/1441H of the Competition Law promulgated under Royal Decree No. (M/75) dated 29/06/1440H.

4. seeking the assistance of competent agencies, when needed and subject to the procedures of the competent authorities, including security agencies, to support them in carrying out the tasks assigned to them.

Powers of Investigators

Article 38:

For the purpose of applying the provisions of the Law and the Regulations, investigators shall, jointly or severally, undertake - in addition to the powers law enforcement officers - tasks assigned to them within the limits of their competence and functions, including:

1. summoning the relevant firms or their representatives and other related parties by virtue of official notice to take their statements, conduct necessary interviews, and confront them with alleged violations;
2. conducting investigations and interviews with the current or former owner, manager, or other employees or affiliates thereof at GAC headquarters or at the firm's premises, or in any other place in cases so requiring, and recording the facts of the investigations and interviews in official minutes wherein the statements and signatures of the interviewed parties shall be recorded. If a party refuses to sign, this shall be recorded in the minutes. Without prejudice to recording the facts of the investigation and the interview in written minutes; the investigations and interviews may be documented in audio and video recordings;
3. relying on, documenting, and verifying evidence and information pertaining to actual or potential violations provided by firms that preemptively apply for leniency or settlement, in accordance with the provisions of the Law and the Regulations; and

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4. providing evidence by all means of proof in competition cases, including electronic and computer-generated data, telephone recordings, fax machine correspondence and e-mail.

Procedures to be Followed When Interviewing and/or Investigating a Firm's Representative

Article 39:

Investigators shall produce proof of their identities and enable the firm representative to obtain or see the assignment notice while conducting investigations and interviews.

Prohibition of Withholding Information or Impeding Law Enforcement Officers and Investigators from Performing their Duties

Article 40:

1. No firm or any affiliate thereof may prevent or obstruct a law enforcement officer or investigator from performing a task assigned to him by GAC in accordance with the powers conferred upon him by the Law or the Regulations.
2. No firm or any affiliate thereof may withhold information from a law enforcement officer or investigator while performing a task assigned to him, nor provide misleading information or conceal or destroy documents that are useful to the investigation on grounds of confidentiality or for any other reason. This provision shall apply to all paper and electronic documents and their equivalents.
3. Firms must supply law enforcement officers and investigators with any information or documents upon request - they shall facilitate the performance of their assigned tasks and provide them with the necessary support, including: the opening of safes, provision of passwords for photocopiers and computers, and electricity services.

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Inquiry, Gathering of Evidence, and Investigation Findings

Article 41:

The findings of the inquiry, gathering of evidence, and investigation shall be submitted to the Board, containing recommendations that are supported by legal opinion. The Board shall issue its decision – pursuant to its assessment of such findings in accordance with the provisions of the Law and the Regulations – to either initiate criminal proceedings or take measures, or conduct both or other procedures, or close the case, provided that the closing of the case shall be reasoned.

Power to Take Procedures for Inquiry, Gathering of Evidence, and Investigation in Closed Cases

Article 42:

The Board may decide to undertake inquiry and investigation of a case – that has already been closed – in the event of the emergence of a new justification so requiring, in situations such as:

1. the emergence of material evidence or the occurrence of a substantial change in any of the justifications that led to closure of the case;
2. if the firm provides written pledges and is found to have violated the same; or
3. if it appears that the closure decision was issued on the basis of incomplete or misleading information provided by the firm or related parties, without prejudice to penalties provided for in the Law for such cases.

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Confidentiality of Data and Information Obtained through Investigation

Article 43:

Law enforcement officers and investigators shall maintain the confidentiality of information, records, data, files, and documents obtained from firms during the investigation procedures and shall not pass the same to other parties except with the written approval of GAC.

GAC's Right to Request Reports on the Market and Firms Operating therein

Article 44:

1. GAC's request for reports, data, and information from firms and relevant agencies shall not prejudice the principle of confidentiality that such firms and agencies are bound by towards third parties.
2. GAC may ask the court, at any stage of the proceedings to which it is party, to request original or certified copies of the reports, data, and information kept by relevant agencies and firms.
3. GAC may examine reports and documents obtained from firms and relevant agencies to uncover anti-competitive practices and develop market studies. It may also ask the firms concerned with such reports and data to respond to questions and inquiries.

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Chapter 7: Penalties and Measures

Estimation of Fines

Article 45:

In case of overlap of the firm's activities, the activity subject of the violation shall, as stated in Article 19(1) of the Law, be treated in the same way as the total sales of the firm, and the fine shall be estimated accordingly. If the firm has various and multiple activities, the fine shall be estimated according to the nature of the activity subject of the violation, unless the Committee finds out activities targeted by the violation. In such case, the fine shall be estimated based on the total sales of the firm in the activity subject of the violation and the activities targeted thereby.

Article 46:

The Committee may request the firm to audit its financial statements by one or more legal accountants licensed to operate in the Kingdom.

Article 47:

A firm's delay in providing its financial statements and documents that show its budget or sales shall not constitute an impossibility to estimate the annual sales value. In such a case, the Committee may estimate the annual sales value based on the information it has access thereto.

Article 48:

Any aggravating circumstance stipulated by the Law, the Regulations, or other laws shall be deemed as a reason to replace the estimation of the original fine by recovering not more than three times the gains made, in cases where said gains exceed the upper limit of the original fine. The Committee may estimate the same on a case-by-case basis.

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The Penalty of Withholding Information shall not Prejudice the Original Penalty

Article 49:

The Committee's imposition of the penalty stipulated in Article 19(1) of the Law shall not preclude its right to impose the penalty provided for Article 19(2) of the Law against the same firm with regard to the violation where it prevents or impedes a law enforcement officer or investigator from performing his duties, withholds or provides misleading information, or conceals or destroys documents that are useful to the investigation.

Criteria for Issuing a Decision of Permissive Publication of Penalties Provided in Article 19 of the Law

Article 50:

The Board's decision referred to in Article 19(5) of the Law shall observe the following controls:

1. Publication shall not be permissive in cases of violation of Articles 5 or 6 of the Law.
2. Market conditions and the extent to which firms in general comply with the provisions of the Law shall be taken into account.
3. The decision shall be published after issuance thereof in any suitable mass media.
4. The decision shall have a definite term and shall be renewed as the case may be.

Penalty for Undermining Fairness of Proceedings

Article 51:

Without prejudice to any severer penalty stipulated by the Law or any other law, and without prejudice to the provisions of Articles 19 & 21 of the Law, a firm that presents to GAC or any of its personnel during the performance of their assigned duties any gifts, donations, endowments, wills, grants, or financial aid, which would prejudice the fairness and integrity of the violation

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recording or investigation, shall be punished by a fine not exceeding two million riyals, in accordance with the provisions of Article 20 of the Law. This shall not preclude the completion of proceedings regarding violations of the other provisions of the Law.

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Measures

Article 52:

Without prejudice to the Board's right to initiate criminal proceedings before the Committee, the Board may - if it has evidence or sufficient presumptions for the firm's violation of the provisions of the Law or the Regulations - require the firm to correct its status and remove the violation within a period of time to be specified in the decision.

Article 53:

Without prejudice to the procedures of implementing the Committee's decision or the court's ruling issued with regard thereto, the Board shall - following the issuance of the Committee's decision to impose the penalty - take one or more of the measures set out in Article 21 of the Law.

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Implementing Regulations issued by the Board of Directors Resolution No. (337) dated 25/1/1441H of the Competition Law promulgated under Royal Decree No. (M/75) dated 29/06/1440H.

Chapter 8: Rules of Leniency and Settlement

Article 54:

1. GAC shall receive a request for leniency from the firm that proactively provides evidence revealing - or is able to reveal - its partners in the violations of the provisions of the Law.
2. GAC shall receive the request for settlement from the firm that is found to be in violation of the Law.

The request in any of the two cases specified in this Article shall not be deemed complete unless it is submitted according to the forms specified by GAC for such purposes.

Article 55:

The Board may accept requests for leniency or settlement, whether prior to or following the issuance of a decision for inquiry, collection of evidence, and investigation, and whether the evidence provided by the firm - in the leniency request - has contributed or could lead to revealing its partners or proving the facts of the practice or part thereof. In all cases, the request for leniency or settlement may not be accepted following the issuance of a decision to initiate criminal proceedings against the firm before the Committee.

Article 56:

The Board may establish one or more standing or ad hoc committees to review the requests for leniency or settlement and the compensation of aggrieved persons. Such committee may hold discussions with the firms and request necessary reports and data. It may, upon examining the request for leniency, assess the evidence - and similar material - and its viability to uncover the violation. It shall submit its reasoned recommendations to the Board.

Article 57:

Implementing Regulations issued by the Board of Directors Resolution No. (337) dated 25/1/1441H of the Competition Law promulgated under Royal Decree No. (M/75) dated 29/06/1440H.

Within a period not exceeding one 120 days from the date of submitting the application, GAC shall notify the firm applying for leniency or settlement of the Board's decision regarding the application or inform it that the application is still under consideration.

Implementing Regulations issued by the Board of Directors Resolution No. (337) dated 25/1/1441H of the Competition Law promulgated under Royal Decree No. (M/75) dated 29/06/1440H.

Article 58:

GAC may use the evidence proactively submitted by a firm revealing their partners in the violation and consider such evidence as legally effective against firms – except the applicant firm, whether or not the Board accepts the leniency request.

Article 59:

The firm applying for leniency shall particularly maintain the confidentiality of its application and any evidence, data, and information related thereto.

Article 60:

A firm applying for leniency or settlement shall cooperate with GAC during the examination of the request. It shall fulfill the conditions, obligations, and undertakings stipulated in the Board's decision, including rectifying the situation and removing the violation within the period specified in the decision.

Article 61:

The Board, for the purpose of accepting the request for leniency or settlement, and the Committee, when imposing penalties, may take into account extenuating circumstances of the case, including the firm's taking of preventive measures and procedures necessary to comply with the Law and the Regulations and raising the awareness of its staff. The firm may submit proof of its exercise of due diligence before the violation occurred. The Board may issue and publish a compliance guide.

Most Important Provisions Arising from the Decision of Acceptance of Leniency or Settlement

Article 62:

Implementing Regulations issued by the Board of Directors Resolution No. (337) dated 25/1/1441H of the Competition Law promulgated under Royal Decree No. (M/75) dated 29/06/1440H.

1. A Board's decision to accept leniency or settlement shall entail non-initiation of criminal proceedings before the Committee against the firm benefiting from the leniency or settlement in the case with regard to which the decision was issued, without prejudice to the right of the Board to take measures in accordance with the required provisions of the Law and the Regulations.
2. Acceptance of the settlement shall entail that the firm benefiting from the settlement pay an amount to be determined by the Board, without prejudice to the right of the Board to require the firm to compensate aggrieved parties.

Article 63:

The Board may withdraw the settlement decision if the firm fails to provide proof of its commitment to indemnify the aggrieved parties or to implement the conditions, pledges, obligations, etc., as required by the settlement decision.

Rules for Compensating Aggrieved Parties

Article 64:

The compensation mentioned in Article 23 of the Law shall apply only to complainants who file a specific complaint against a firm with which the Board accepts settlement. This shall include all persons who file a complaint relating to the case under review against the firm prior to the issuance of a decision accepting settlement therewith. GAC may request the aggrieved parties to provide proof of their harm to estimate the compensations within a period to be determined on a case-by-case basis, provided such period shall not in any way be less than 30 days.

Article 65:

Implementing Regulations issued by the Board of Directors Resolution No. (337) dated 25/1/1441H of the Competition Law promulgated under Royal Decree No. (M/75) dated 29/06/1440H.

Subject to the provisions of Article 64 of the Regulations, leniency or settlement with a violating firm shall not prejudice the right of third parties to claim damages from such firm, and the competent court shall decide thereon. The court may seek GAC's opinion in assessing the effects of the practice.

Article 66:

GAC shall have no jurisdiction to review the impact of contractual disputes between the parties to a contract that may arise from the decision of settlement or the imposition of penalties. It may propose that parties to the contractual dispute in settlements accepted by the Board resort to centers authorized to supervise arbitration and mediation activities.

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Implementing Regulations issued by the Board of Directors Resolution No. (337) dated 25/1/1441H of the Competition Law promulgated under Royal Decree No. (M/75) dated 29/06/1440H.

Chapter 9: Impartiality of Board Decision and Conflict of Interest Rules

Article 67:

1. The Chairman and members of the Board shall avoid the influence of personal interests in any decision or matter in which they participate.
2. The Chairman and members of the Board shall disclose any direct or indirect interest in a matter listed on the agenda of the Board or any of its committees where they participate prior to discussion thereof. This shall be recorded in the meeting minutes. They may not in such case take part in discussing the matter or voting thereon.
3. The Chairman or a member of the Board may not sell, lease, or trade any of his funds to GAC, whether directly or indirectly, even through a public tender.
4. The Chairman or a member of the Board may not engage in his personal capacity as a party to any contract implemented or supervised by GAC.
5. The Board shall approve the "Rules of Disclosure and Transparency" for its members and GAC staff, and shall publish it to the public.

Article 68:

The Chairman and members of the Board shall maintain the confidentiality of the matters and deliberations presented therein, and may not disclose the same to third parties except for a significant interest with the approval of the Board, provided that this shall be recorded in the meeting minutes.

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Chapter 10: Committee Rules of Operation

Article 69:

1. The Board shall form the committee of five independent members, in accordance with the provisions of Article 18 of the Law. The decision to form the Committee shall determine its chair from among its members. The Committee shall be dissolved or restructured in the same manner used in the formation thereof.
2. The members of the Committee shall choose from among themselves a deputy who shall act as the chair of the Committee in his absence. The Committee chair, or his deputy in case of absence, shall manage the work of the Committee and set the dates of the meetings.

Article 70:

The Committee shall have jurisdiction to decide cases arising from the application of the Law and the Regulations, except for the violations referred to in Articles 12(1) and 24 of the Law.

Article 71:

The Committee shall convene if attended by the majority of its members, including the Chairman or his deputy. The Committee shall convene at GAC's headquarters and may, when necessary, convene elsewhere in the Kingdom.

Article 72:

The Committee shall have a secretariat comprising specialized advisers and administrative staff and a secretary who is not a Committee member, provided that he does not participate in reviewing any matter related to cases that are under review or may be reviewed before the Committee pursuant to its remit. The Board may approve a guide to organize the work of the

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Committee and its secretariat, and monitor its work progress, without prejudice to its independence in reviewing and adjudicating the cases filed therewith.

Article 73:

The Board shall appoint specialized officers from among GAC's personnel for public prosecution and judicial representation before the Committee and courts in the Kingdom.

Article 74:

The Public Prosecutor, who is authorized by GAC, shall submit to the Committee a statement of claim to be filed with the secretariat of the Committee, provided that it include at least:

1. full name of the defendant firm and its address according to the commercial register, if any;
2. subject of the claim and the Prosecutor's requests; and
3. date of submitting the statement of claim.

Article 75:

The parties to the proceedings shall be notified of the first hearing's date by the Committee's secretary at least (15) days beforehand, provided that the notice sent to the defendant be accompanied by a copy of the statement of claim. The defendant may have his statements heard and respond to the claim in person. The Committee may use electronic means, such as personal phone messages and e-mails to notify the defendant.

Article 76:

Committee meetings shall be public unless the Committee decides to hold the same in private if it deems fit.

Article 77:

Implementing Regulations issued by the Board of Directors Resolution No. (337) dated 25/1/1441H of the Competition Law promulgated under Royal Decree No. (M/75) dated 29/06/1440H.

The proceedings of the case and the pleading shall be in writing. The Committee may hear the statements and the arguments verbally and record the same in the hearing minutes.

Article 78:

The Committee's secretary shall prepare the hearing minutes under supervision of the Committee Chairman or his deputy, and shall record therein the names of attendees, their capacities, and all facts of the hearing. The minutes shall be signed by the parties to the proceedings - refusal to do so shall be noted in the hearing minutes.

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Article 79:

The Committee shall adjudicate the claims referred thereto expeditiously. A person not appearing within 30 minutes of the scheduled hearing time shall be deemed absent, unless the Committee decides to extend such period if it deems fit. If the defendant fails to show up, the Committee shall postpone the hearing of the case to another session of which the defendant shall be notified. If he still does not appear, the case shall be adjudicated and the decision shall not in this case be deemed in absentia.

Article 80:

Establishing evidence before the Committee may be carried out in all means of proof, including electronic and computer-generated data, telephone recordings, fax machine, and e-mail correspondence. The Committee may access all confidential information and documents for adjudicating the case.

Article 81:

1. The Committee may summon any witnesses it deems fit, and request governmental and other bodies to provide documents and information needed to review and adjudicate the case, whether on its own initiative or upon a recorded request from one of the parties to the proceedings.
2. The Committee may seek the assistance of specialists or experts with cases under consideration, either on its own initiative or upon a recorded request from one of the parties to the proceedings.

Article 82:

When the pleadings in a case come to an end, the Committee may close pleadings and issue its decision at the hearing in which the pleading was closed or on another date after deliberating the

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case. The deliberations shall be limited to the Committee without the attendance of the parties to the proceedings.

Article 83:

The Committee may decide to permit pleading by means of audio or video communication to facilitate the procedures for the parties to the case when necessary.

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Article 84:

Committee decisions become final after the lapse of 30 days with no appeal by the defendant before the competent court as of the date of notification thereof or from the date specified for delivering the decision to the parties to the case.

Article 85:

If a party to the proceedings appeals the Committee's decision before the competent court, he shall inform GAC within 3 working days from the date of appeal, by means of a letter containing the Committee's decision number and date and the number and date of the appeal filed with the competent court and a copy thereof.

Article 86:

Committee's decisions relating to imposing fines, and the Board's resolutions regarding taking measures shall take effect immediately upon their issuance and shall be enforceable from the date of notification or from the set date of delivery to the parties, unless a decision is issued by the competent court to stay their execution. A judgment to annul those decisions shall not preclude their effectiveness and immediate enforcement, unless such a judgment becomes final.

Article 87:

As for cases not provided for in the Law or the Regulations or in the rules and instructions issued by the Board, the Committee shall apply the Law of Civil Procedures and its Implementing Regulations.

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Implementing Regulations issued by the Board of Directors Resolution No. (337) dated 25/1/1441H of the Competition Law promulgated under Royal Decree No. (M/75) dated 29/06/1440H.

Chapter 11: General Provisions

Article 88:

Whenever any written notice or procedure is required, it may be made by electronic means approved by GAC.

Article 89:

The Board may amend, repeal, or interpret the Regulations and may issue guides and rules supplementary thereto.

Article 90:

The Regulations shall be published on GAC's website and shall be effective as of the entry into force of the Law.

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