



**Implementing Regulations of the Competition Law**  
**Promulgated under the resolution of Competition Council No. 126**  
**Dated 4/9/1435 AH (1/7/2014 AD)**

## **Preamble**

Based on article (20) of Competition Law, promulgated under the Royal Decree No. (M/25) dated 4/5/1425, and based on the Royal Decree No. (24/M) dated 11/4/1435 amending articles (12) and (15) of Competition Law, the Competition Council issued the present Implementing Regulations under resolution No. (126) dated 4/9/1435 as follows:

## **Law objectives and Terms meanings**

### **Article (1):**

The Competition Law and the Implementing Regulations thereof aim at the following:

- 1) Protecting and promoting fair competition in addition to establishing market principles as well as the freedom and transparency of prices;
- 2) Combating monopolistic practices affecting fair competition by commission, emission or causing an act violating fair competition;
- 3) The availability and variety of high quality goods and services at competitive prices;
- 4) Encouraging innovation and enhancing the effectiveness of the economic activity;
- 5) Supporting the economic growth of society.

### **Article (2):**

Wherever they occur in these Regulations, the following terms shall have the meanings expressed next to them unless the context requires otherwise:

**Law:** Competition Law promulgated under Royal Decree No. (M/25) dated 4/5/1425 AH.

**Council:** Competition Council.

**Ministry:** Ministry of Commerce (Trade) and Industry.

**Minister/Chairman of the Council:** Minister of Commerce and Industry /Chairman of Competition Council.

**Regulations:** Provisions stipulated herein.

**Committee:** Committee for Settlement of Violations of Competition Law.

**Relevant Market:** The Market that consists of two elements: relevant products and geographical area.

**Commodity / Commodities:** any good or service or a combination thereof which may, in terms of price, characteristics and uses, substitute each other to meet a specific consumer need in a given geographical area of homogenous competition conditions.

**Economic Concentration:** any act resulting in full or partial transfer of ownership rights or usufruct of an entity's properties, rights, stocks, shares or obligations to another entity that puts an entity or a group of entities in a position of domination of an entity or a group of entities, by way of merger, takeover, acquisition, or combining two or more managements into one joint management or any other means which leads to having a market share of 40% of the total sales of a commodity in the market.

## **Application and Exemptions**

### **Article (3):**

The provisions of the Law and the Regulations shall apply to all entities operating in the Saudi markets and various activities thereof. They shall also apply to any activity taking place abroad that leads to consequences contrary to fair competition within the Kingdom. Any company or establishment fully owned by the state shall be exempted from the application of this law. The establishments that deal with the state owned establishments may submit an application to be exempted in case of meeting the required conditions.

## **Prohibitions**

### **Article (4):**

Any practices, agreements, or written or verbal contracts, explicit or implicit, between competing or potentially competing entities which aim at or lead to restriction, violation, or prevention of competition shall be prohibited, particularly those whose subject matter or purpose is as follows:

- 1) Increasing, decreasing or fixing prices, service charges or terms of sale, and the like.
- 2) Setting a limit for production of goods or the rendering of services.
- 3) Dividing markets based on geographical areas, sale or purchase quantities, customers or any other basis adversely affecting competition.
- 4) Discriminating among similar clients in prices, facilities and services.
- 5) Undertaking measures to hinder the entry of an entity into the market or forcing it out of the market.
- 6) Complicity in tenders (bid rigging). Submission of declared joint bids shall not be considered complicity (bid rigging), provided that the purpose thereof is not to violate competition in any way.
- 7) Setting different prices on a certain commodity according to where it is sold.
- 8) Selling at less than the cost price in order to force competitors out of the market.

#### **Article (5):**

Practices included in paragraphs 1, 5, 6, and 8 of the previous article shall be considered violations to competition once being committed.

#### **Article (6):**

When studying and determining the impacts of the anticompetitive practices, the Council may take into consideration any or some of the following points or deciding the appropriate approach of research and study:

- 1) The percentage of affected suppliers and purchases due to the practice;
- 2) The period of time during which the practice is taken place;
- 3) Price or volume deviation of goods or services comparing to the expected levels in case that the practice is not committed;
- 4) The impact on the suppliers or on the potential purchasers who are expected to enter the market;
- 5) The impact on consumers;
- 6) The impact on the freedom of exportation and importation.

#### **Article (7):**

Any entity of a dominant position in the market is prohibited from exploiting/abusing such a position to violate, limit or prevent competition, including the following:

- 1) Fixing or imposing directly or indirectly prices of goods and services or a minimum price or terms on resale of goods and services.
- 2) Committing any act that leads to hindering the entry of another entity into the market, forcing it out or exposing it to losses, including selling at a loss.
- 3) Imposing unrealistic price for a good or service through the dominant entity's hindering, limiting or refusing the sale or purchase of a good or service in any other manner.
- 4) Contriving a false shortage or abundance of a good or service.
- 5) Importing add-ons at prices that force other competitors out of the market.
- 6) Discriminating among clients in similar contracts with respect to commodity prices, service charges or terms of sale and purchase thereof or in any other manner.
- 7) Compelling a client or agreeing therewith to refrain from dealing with a competing entity.
- 8) Seeking to monopolize certain materials necessary for another competing entity to practice its activity.
- 9) Refusing to deal, without valid reason, with a specific client under normal commercial terms.
- 10) Making the sale of a good or the offer of a service contingent on the purchase of another good or service or a specific quantity thereof or the request of another service.

### **Article (8):**

Dominant position or domination is realized where an entity or a group of entities has a market share of at least 40% of total sales of a good or service for a period of 12 months or the entity or group of entities is in a position to influence the prevailing price in the market.

### **Article (9):**

The Council may, upon studying the position of any dominant entity in the market, take into consideration the availability of any or some of the following items or decide the appropriate study approach:

- 1) The relevant market of a specific commodity in a specific geographical area;
- 2) The market share of the relevant entity;
- 3) The level of actual or potential competition with regard to the number of competing persons, the volume of production and the demand on the commodity;
- 4) The obstacles that hinder, limit, or prevent the entry of new competing entities.

### **Article (10):**

When studying the impact of a practice of a violating dominant entity on the fair competition, the Council may take into consideration any or some of the following items or decide the appropriate study approach:

- 1) The impact on competition;
- 2) Whether a practice is or not consistent with the normal competitive behavior when it is possible to construe that fact based on the normal commercial concerns and interests in the situations in which the person who commits such practice is not in a position that enables it to influence the total demand or supply of the relevant goods or services or influence the prevailing price in the market;
- 3) Whether a practice is or not complying with the direct protection of intellectual property rights while the usage of intellectual property rights by market players to commit the practices stipulated herein constitutes violation to the Law.

## **Exemptions**

### **Article (11):**

The Council, upon the request of the relevant entities, may exempt from the application of article (4) of the Competition Law and article (4) of the Implementing Regulations thereof any anticompetitive practice and agreement that will lead to the improvement in the performance of entities and realize benefits to the consumer exceeding the impacts of restriction of free competition.

### **Article (12):**

Any entity that applies for exemption according to article (11) shall:

- 1) Fill in an application including the following:
  - A) The name, the register number, the nationality, the address, the licensed activity of the entity and the capacity of the applicant;
  - B) The description of the goods or services subject to exemption application;
  - C) The description of the practice subject to the application;
  - D) Defining accurately the relevant market;
  - E) The restrictions imposed on the relevant good or service.
- 2) Provide the justifications, pros, and cons of the application supported by documents;
- 3) The information that the Council or the applicant deems necessary.

### **Article (13):**

Upon completing the required documents, the application shall be submitted and the delivery date shall be deemed the starting date of the application submission.

### **Article (14):**

The Council may investigate, study, and gather the information it deems necessary for studying the exemption application by the Secretariat staff or others and may as well notify the relevant parties with the application and hear their relevant opinions.

### **Article (15):**

The Council, upon studying an exemption application, shall consider the following indicators:

- 1) The impact of the exemption on competition;
- 2) Studying and analyzing documents submitted by all parties;
- 3) Holding public and private hearing secessions and notifying any party that may be affected by the suggested exemptions and enable it to provide its opinion.

### **Article (16):**

Any governmental or non-governmental entity may provide its opinion to the Council concerning the exemption applications and may submit the necessary documents.

### **Article (17):**

The Council shall issue a decision of approval or refusal, giving the reasons thereof, within 90 days as of the date of receiving the application. In case of the approval, the Council shall specify the exemption duration and conditions. If the 90 days elapsed without issuing a decision, the application shall be deemed refused.

### **Article (18):**

The Council may cancel the exemption upon its initiation or upon a request from any entity negatively affected by the exemption and the Council shall mention the justifications that elaborate the negative impacts of the exemption. The Council shall take into consideration the following:

- 1) Verify the information submitted by the applicant or by any other relevant entity and based on which the Council issued its decision.
- 2) The change of the relevant market conditions.
- 3) The changes in the relevant market as of the approval on the exemption.
- 4) The negative or positive impacts resulted by the practices of the exemption applicant on the lawful competition.

## **Procedures of economic concentration applications**

### **Article (19):**

Any entity intending to realize the economic concentration shall submit a written application to the Council 60 days prior to the accomplishment of the concentration transaction and shall fill in a form including the following:

- 1) Names of parties related to the concentration transaction;
- 2) The description of the requested concentration and the effectiveness date;
- 3) Relevant goods and services in addition to its sale volume and percentage;
- 4) The relevant market and the volume thereof;
- 5) The main commodities dealt in by the applicant entity;
- 6) The positive impacts of the concentration;
- 7) The negative impacts of the concentration and the proposed procedures to limit such impacts;
- 8) The markets that will be affected by the concentration transaction;
- 9) The name, capacity, and official domicile of the applicant.

### **Article (20):**

The applicant shall provide, with the application, information about each entity involved in the concentration transaction, particularly the following information:

- 1) The name, nationality, address, number of branches, commercial register number, and the licensed activity of the entity;
- 2) List of the main commodities dealt in by the entity;
- 3) List of the names of the board of directors;
- 4) The main clients and their percentage in the market;
- 5) The volume, value, and percentage of the sales in the market;
- 6) List of the competitors and their market shares;

- 7) The existing concluded agreements;
- 8) The factors that affect market entry;
- 9) The nature of distribution channels;
- 10) The factors that affect price fixing during the last five years;
- 11) The volume of the available production capacity and the percentage of its utilization;
- 12) The volume of demand on the commodity and the structure thereof;
- 13) The alternative/substitute commodity;
- 14) Types of clients.

#### **Article (21):**

The following documents shall be attached to the concentration application:

- 1) The Articles of Association or the bylaw of the related entities;
- 2) Financial statements for the last two fiscal years of the entities involved in the transaction of Economic Concentration as well as their branches;
- 3) A draft contract or agreement of Economic Concentration in addition to any public or private subscription documents and the number and type of shares or assets that will be acquired;
- 4) A report on the economic dimensions of the transaction, particularly the positive or negative impacts on the market;
- 5) If a representative submits the application, he shall provide his full particulars. A copy of his power-of-attorney shall be enclosed and verified against the original then signed accordingly by the competent employee.

#### **Article (22):**

The applicant shall pay one thousand Riyals for the review of the application

#### **Article (23):**

The General Secretariat shall receive the application after ensuring the completion of the required documents. The date of receiving the application shall be the starting date of application submission.

#### **Article (24):**

The Council shall, at the expense of the applicant, announce the economic concentration application through one or more media channels and may publish an abstract thereof on its electronic website and invite all persons with interest to give their opinions thereon.

#### **Article (25):**

The Council has the right to require any additional information or documents that it deems important for studying the concentration application. In return, the applicant or any of concerned parties shall respond within fifteen days as of the date of the Council request.



#### **Article (26):**

The Council shall receive the opinions of entities related to the economic concentration application. The council will not take into consideration any opinions that are not supported by reasons, not clarifying the anticompetitive impacts of the concentration, or not including full data about the entity which provide such opinions.

#### **Article (27):**

The Council shall study the concentration application to ensure that it will not affect the competition. Such study shall be through evaluating one or more of the following factors:

- 1) The level of competition in the market;
- 2) The entry possibility of new entities to the market;
- 3) The effect of demand on the price of the commodity;
- 4) The existence of any regulatory or realistic barriers to enter the market;
- 5) The level and historical trends of the anticompetitive practices in the market;
- 6) The possibility of acquiring power in the market by the concentrating parties due to the economic concentration;
- 7) The variable characteristics of the market including the growth, innovation and creativity.
- 8) The opinions of the related entities in accordance to article 26 hereof.

#### **Article (28):**

The Council shall take into consideration the following upon evaluating the impacts of the economic concentration:

- 1) Maintaining and promoting the effective competition among the producers and distributors of goods and services in the market;
- 2) Enhancing the interests of the consumers with regard to quality and price;
- 3) Encouraging, through competition, for decreasing costs, improving new commodities, and facilitating the entry of new competitors in the market.

#### **Article (29):**

In case that the Council concludes through studying the economic concentration application that it will negatively affect the competition, the Council shall, before refusing the application, study the positive impacts that may be resulted from such concentration and may exceed the impacts of refusal or achieve the public interest.

#### **Article (30):**

The Council may extend the review period of the economic concentration application if it finds out that the review requires more than 60 days, provided that the Council shall notify the applicant.

### **Article (31):**

The applicant shall be informed in writing with the decision of the Council, which shall be any of the following:

- 1) The approval on the economic concentration application, supported by reasons;
- 2) The refusal of the economic concentration application, supported by reasons;
- 3) The conditional approval on the economic concentration.

### **Article (32):**

If the Council concludes that the economic concentration will restrict the freedom of competition, it shall decide the following:

- 1) Illegality of the economic concentration;
- 2) Preventing any of the related parties from acquiring all or some of the entity or assets thereof;
- 3) Requesting any person to undertake procedures for resolving any entity or terminating any partnership if the Council deems that such person has a share in or is a party to the acquisition process;
- 4) Requesting any person mentioned in the decision, in case of joint concentration, to abide by the controls and restriction set by the Council in relation to the manner which will be followed for work flow;
- 5) Take the necessary precautions to terminate, prevent or mitigate the economic concentration, at the discretion of the Council.

### **Article (33):**

Subject to the provisions of article 30 hereof, the entities, which apply for the economic concentration may complete the concentration transaction after the elapse of 90 days from the application date if not notified in writing by the Council with the approval or refusal. The entity applying for the concentration may decline the application by notifying the Council in writing with such desire whether during the review period or after the issuance of approval decision by the Council.

## **Complaint procedures and initiatives of the Council**

### **Article (34):**

The Council shall issue a decision indicating the names of the employees who have the capacity of the judicial investigation officers (law-enforcement officers)

### **Article (35):**

Any natural or legal entity may file a complaint against any violation to the provisions of Competition law.

**Article (36):**

The judicial investigation officers shall accept all complaints submitted to them against violations to the provisions of Competition law. The complaints shall be submitted to the Council to undertake the necessary resolutions thereof.

**Article (37):**

In case that there is a complaint or a violation to the provisions of this Law, the Council has the right to undertake the necessary procedures for investigation, research, collection of information, and inquires.

**Article (38):**

The related entity or entities shall be notified with the decision of the Council to undertake the procedures of investigation, research, collection of information, and inquires upon the visit of the judicial investigation officer or by an official letter.

**Article (39):**

The judicial investigation officers shall carry identification documents, and present them to the person in charge of the entity under investigation, prior to initiating their assigned investigation duties.

**Article (40):**

The duties of the judicial investigation officers may be undertaken after the coordination with the entity or directly without coordination as needed.

**Article (41):**

All entities shall allow the judicial investigation officers to enter their premises during the official working hours and shall enable them to review and take photocopies of all hard and electronic documents and files whether confidential or normal. All entities shall facilitate the duty of the judicial investigation officers and satisfy their needs including the opening of lockers, the provision of passwords, and the usage of photocopiers, computers, and electricity services.

**Article (42):**

The judicial investigation officers has the right to access any entity and its affiliated warehouses, stores, employee housing buildings, and otherwise.

**Article (43):**

The judicial investigation officers shall issue an official minutes of meeting stating in which any violation to the provisions of Competition Law in addition to any seized, reviewed or impounded documents or photocopies thereof, and the place of seizure.

**Article (44):**

The judicial investigation officers have the right to investigate the manager of the entity and other employees thereof in the premises of the Council or in the premises of the entity. An official minute of meeting shall be issued and shall state all says supported by signatures of the investigated persons.

**Article (45):**

The judicial investigation officers have the right to undertake jointly or severally the necessary procedures of investigation, research, collection of information, and inquiry in relation to any violation to the provisions of the Competition Law.

**Article (46):**

The entities shall provide the Council with any information or documents upon request.

**Article (47):**

Any entity may express their notes in writing to the Council within one week as of the date of being informed by the decision of the Council.

**Article (48):**

The judicial investigation officers have the right to hold an immediate investigation with any violator if the Officers deem that appropriate.

**Article (49):**

Any entity shall not withhold any information or documents on grounds of confidentiality or any other reason.

**Article (50):**

Unless a special provision is provided herein, the judicial investigation officers shall apply the provisions of Law of Criminal Procedures.

**The Council**

**Article (51):**

The Council shall periodically convene at least once every three months or when necessary. An invitation shall be directed in writing or via the electronic mail least three days before the set day of the meeting. The invitation shall include the agenda of the meeting.

**Article (52):**

Any member of the Council may not participate in a resolution in which he has a direct or indirect interest or has a relative to any of the parties up to the fourth degree. The Board member is committed to disclose any of the previously mentioned reasons before voting on the resolution.

#### **Article (53):**

A violator shall rectify its status and end the violation within fifteen days as of the date of notification thereof. Doing so shall not exempt the violator from the punishments for such violation under the provisions of the Law and the Regulations thereof.

#### **Article (54):**

The Council may publish in its annual report and on its official website the complaints, cases, its resolutions, the resolutions of the Settlement Committee, and judgments of the Board of Grievances.

#### **Article (55):**

A Secretary General shall prepare the agenda of the Council and notify the members of the Council with meeting dates. The Council shall determine the responsibilities and powers of the Secretary General.

#### **Article (56):**

The Secretariat shall include legislative, regulative, economic and technical advisors in addition to assistants performing the duties assigned to them.

### **The Committee for Settlement of Violations and procedures thereof**

#### **Article (57):**

The Council shall form a committee called the Committee for Settlement of Violations of Competition Law. The said Committee shall consist of five members including a legal advisor and the Minister shall issue a decree to form the committee and naming the chairperson who will be a caretaker. The Chairperson shall assign a deputy in case of his absence. The Chairperson or his deputy shall administrate the work of the Committee and set times and dates of the meetings in addition to referring the decisions of the Committee to the Council Chairperson. The Committee is to be resolved and reformed in accordance with the same procedures followed in the formation thereof.

#### **Article (58):**

The legal quorum of a Committee meeting is four members including the chairperson or his deputy (A Committee meeting shall not be valid unless attended by four members including the Chairperson or his deputy). The Committee decisions shall be issued by majority votes of present members. In case of a tie, the Chairperson shall have the casting vote.

#### **Article (59):**

One or more prosecutors shall be appointed, pursuant to a decision by the Council, to plead before the Committee, and litigate before the Board of Grievances.

#### **Article (60):**

The Public Prosecutor shall submit a memorandum of charges to the secretariat of the Committee. The prosecutor shall submit the original of the memorandum and photocopies thereof equaling the number of defendants. The memorandum shall include at least the following data:

- 1) The full name of the defendant (s) and their address (es);
- 2) The subject and the claims of the memorandum accompanied with the documents;
- 3) The submission date of the memorandum.

#### **Article (61):**

The Committee shall notify the concerned parties with the date of the first session at least fifteen days in advance. The notification shall include a copy of the memorandum and a summon to the defendant to attend and deliver his says and defense.

#### **Article (62):**

The Sessions of the Committee shall be in public unless the Committee decides to make it confidential.

#### **Article (63):**

The Sectary of the Committee shall issue minutes of sessions under the supervision of the Chairperson of the session. The minutes shall include the names and capacities of attendees, and all facts and procedures taken place in the session. All the attendees shall sign the minutes and if any of them refuses to sign, this shall be stated in the minutes.

#### **Article (64):**

The defendants or their representatives shall attend the session of the Committee.

#### **Article (65):**

There shall be deemed absent any one who does not attend within 30 minutes as of the scheduled time of the session, unless the Committee decides to extend deadline.

#### **Article (66):**

If a defendant does not attend, the Committee shall postpone reviewing the case to another session. If a defendant does not attend again, the Committee shall settle the case and the decision shall be deemed in presence.

#### **Article (67):**

Providing evidences before the Committee may be through all meanings of proofs including the electronic data, computerized data, phone records, faxes, and electronic mails.

**Article (68):**

The Committee is entitled to review all the confidential information and documents to settle the case. The Committee in return shall maintain confidentiality of such information and documents.

**Article (69):**

The procedures of reviewing the case and pleading shall be in writing. The hearings and defenses may be verbally then the Committee shall state what it deems considerable in the minutes of the session.

**Article (70):**

The Committee shall expeditiously settle any referred violation. If more than one session is required to review the violation, the Committee shall notify any absent party with the time and date of the next session.

**Article (71):**

The Committee may, during the pleading, undertake the examination or investigation, have the guidance of experienced persons, or hear the witnesses.

**Article (72):**

If the pleading is fulfilled, the Committee may decide the closure of the pleadings and postpone the issuance of its decision to another session. The date of the next session shall be set and notified to the concerned parties. The deliberation shall be confidential.

**Article (73):**

The decisions of the Committee shall be issued by the majority votes of the present members. The Minister shall approve such decisions, which shall be executed immediately.

**Article (74):**

Without prejudice to article (73) herein, a grievance against the decisions of the Committee may be submitted before the Board of Grievances within fifteen days as of the date of receiving a copy of the decision or as of the date set for reception in case of not attending.

**Article (75):**

If a sentenced person files a grievance against a decision of the Committee before the Board of Grievances, He shall notify the Council within two working days as of the grievance date. The notification shall include the number and the date of Committee's decision in addition to the submission number and date of the grievance and a copy thereof.

## General Provisions

### Article (76):

The Council may construe and amend the provisions of this Implementing Regulations.

### Article (77):

This Implementing Regulations shall supersede the Implementing Regulations of Competition Law promulgated under Competition Council Resolution No. (13/2006) dated on 25/11/1427 AH and any precedent regulations and the amendments and rules thereof.

### Article (78):

The present Implementing Regulation shall enter into effect as of the publication date thereof.

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