

Sunday, 6/4/2008

Law /7/ of 2008
Act of Competition Protection
and
Prevention of Monopoly

President of the Republic

Pursuant to the provisions of the Constitution;

And to the People's Assembly decisions in its session dated 31/3/2008, issues the following:

Chapter 1: Definitions and Scope of Law Enforcement

Article 3:

Scope of Enforcement:

First – This law shall be enforceable on the following:

1. All establishments, according to their above-mentioned definition, concerning all their agreements, procedures or commercial transactions related to commodities, services or intellectual property rights.
2. It shall be enforceable on every natural person who personally as an owner of the establishment, manager or employee thereof undertakes participating or assisting in law-prohibited practices that restrict competition.
3. Production, trading and service activities inside the Syrian Arab Republic taking intellectual property rights into consideration.
4. Any economic activities that take place outside the Syrian Arab Republic and are deemed to have harmful effects inside.

Second - Excluded of the enforcement of this law shall be the following:

1. The sovereignty works of the state itself.

2. Public utilities either owned or managed by the state for the purpose of providing citizens with products or services such as drinking water, gas, electricity, oil, public transportation and mail and communications and it shall be identified pursuant to a decision issued by the Prime Minister.

Chapter 2: Freedom of Prices and Competition

Article 4: prices of commodities and services

The prices of commodities and services shall be determined pursuant to market rules, and to the principles of free competition with exception of the following:

1. Prices of the basic materials and services, to be determined by virtue of a decree.
2. Prices of the materials and services that are related to the sectors or areas in which competition is limited according prices either because of the market monopoly, continuous difficulties of the supply process or to the legislative/ organizational provisions for they are organized by virtue of a decision issued by the Prime Ministry based on the minister suggestion subsequent to consultation with the Council of Competition. This decision will determine the specific materials and services related thereto and the conditions of cost and sale price determination.
3. Prices determined by virtue of the resolution of the Cabinet pursuant to provisional procedures, for the purpose of facing exceptional circumstances, emergency cases, or natural catastrophes, provided that such procedures would be reconsidered within no later than six months starting from their enforcement date.

Chapter 3: Practices in Breach of Competition

Practices and agreements that are in breach of competition:

Article 5:

- A) Agreements, practices and alignments between the competing establishments or between any establishment and its suppliers or clients shall absolutely be deemed null when they breach, limit or prevent competition, the subject /objectives of which would be specially as follows:

- 1) Obstruct the process of price fixing based on the natural progress of competition in the market through fixing, increasing or decreasing prices, or other conditions of sale and purchase including international trade.
- 2) Collude in awarding or bidding for tender/auction while joint offers in, which their parties proclaim that since the beginning, shall not be considered as collusion provided that their objective would not be anti-competition in any way whatsoever.
- 3) Share markets and sources of supply on the bases of geographic areas, quantities of sales/purchases, agents or on any other basis that might have a negative influence on competition.
- 4) Impose restrictions on production, sales, investment or technological advancement including what is based on shares.
- 5) Agree on refusing purchase from a certain party.
- 6) Agree on refusing to grant supply to a certain party.
- 7) Take the procedures necessary for obstructing any establishments' entry into the market, excluding them or limiting the free competition.
- 8) Collectively refuse to make joining an arrangement or league of significance to competition possible.

B – 1) Without violating any special text mentioned in any other Act and related to the Intellectual Property, each text/condition set forth in a licensing contract relating to any one of the rights of Intellectual Property, which abuse the rights of Intellectual Property, and might have negative influence on competition, preclude the transference and spread of technology shall be deemed null:

- A) Obliging the licensee not to transfer the improvements made thereby on the technology included in the licensing contract except to the licensor (reversible transfer of improved technology).
- B) Preventing licensee from administrative or judicial dispute in the right of Intellectual Property that had been licensed.
- C) Obliging the licensee to accept the license with a set of rights instead of one right.

2) The Intellectual Property set forth in paragraph /a/ of this article includes in particular the following:

- Author's rights and the rights adjacent thereto.
- Trademarks
- Industrial drawings and modals
- Patents and benefit modals

- Designs of integrated circles
- Commercial confidentialities
- New plant brands

C) The provisions of paragraphs (a & b) of this article shall not be applicable to the agreements of poor effect specified in the executive list when the agreement/practice as a whole produces public benefit or it is proved to be necessary to ensure technological or economic progress. These agreements shall abide by the following:

- 1) Total share of its establishments does not exceed a percentage specified in instructions to be issued by the Minister for this purpose; provided that such percentage would not be over (10%) out of the total of market operations.
- 2) Exclusions of price level fixing and market sharing conditions.

Article 6: Abuse of a dominant market situation:

Any establishment which has a dominating situation in the market or in a significant part thereof shall be prohibited to abuse, by its own or in conjunction with other establishments, this situation in order to limit possible accessibility to the market, to breach competition, limit or prevent it, which has or might have harmful effects on the market or economic development including the following:

- A) Fixing or imposing the prices or resale conditions of commodities or services.
- B) The action/behavior that might obstruct other establishments entry into the market, excluding, or making them subject to great losses, such as selling less than the cost price.
- C) Discrimination between agents in similar contracts with respect to the prices of commodities and services fees or the conditions of their sale/purchase.
- D) Forcing its agents to refrain from dealing with one of its competitors.
- E) Seeking to monopolize certain resources that are necessary for a competitive establishment to practice its activities or purchase a certain commodity/service as to increase its price in the market or avoiding the possible decrease.
- F) Rejecting to deal, without an objective justification, with a certain agent under the usual trading conditions.

- G) Suspending the sale of a commodity or rendering of service by purchasing another commodity/other commodities, by purchasing a specific quantity or by demanding the rendering of other service.

Article 7: Exceptions

- A) Practices arising from enforcement of an applicable law and the practices arising within the provisional procedures decided by Cabinet for the purpose of facing exceptional circumstances, emergency cases or catastrophes shall not be considered as a breach of competition in the sense intended in both the above mentioned articles /5/ and /6/ provided that such procedures would be reconsidered within no later than six months of the date of putting the same into force including the extension right for an additional period.
- B) The practices and arrangements that the Council excludes from the application of the provisions of both article /5/ and /6/ by virtue of a justifiable resolution if they lead to results of public benefit, the accomplishment of which would not be possible without this exception, including their positive effects on the improvement of the competitive capability, production and distribution regulations or to achieve specific benefits for the consumer or prove to be necessary to ensure a certain desirable technological progress shall not be considered as a breach of competition.
- C) The Council may enforce the exceptions mentioned in paragraph /b/ of this article on a type of contractual practices, arrangements or conditions of certain establishments provided that these establishments would demand such exception in accordance with a form accredited by the Council for this purpose.
- D) The applicant of exception set forth in paragraph /c/ of this article shall be granted a slip note of the completion of the application and the Council should decide on this application within no later than ninety days as of the date of the slip note, provided that the exception resolution/part thereof would be published in the official Gazette.
- E) The Council may determine the duration of the exception of those practices or make them subject to periodic review and it may withdraw the exception in case the establishment violates the granting conditions.

Chapter four: Practices that are in breach of commercial impartiality

Article 8:

Practices that are in breach of commercial impartiality:

- A) Every producer, importer, distributor, wholesaler or service provider is prohibited from performing the following:
 - 1) Impose, directly or indirectly, a minimum resale price level for a commodity or service.
 - 2) To impose, or obtain special unjustifiable prices, sale/purchase conditions from another party in a way that would lead to supporting its competition or causing it damage.
 - 3) Stop market supply in a way that may harm the market or the consumers.

- B) 1) Any establishment is prohibited from reselling a commodity or service as it is, for a price less than its overall cost in order to breach competition or dominate the market.
 - 2) For this paragraph, the real purchase price is intended to be the price fixed in the invoice after deducting the discounts mentioned therein; this prohibition does not include the quickly-spoiled products and the licensed sales of any clearance, or stock renovation for lower prices.

Chapter five: Economic Concentration

Article 9:

Economic Concentration:

- A) Every action resulting in a complete/partial transfer of an establishment's ownership or usufruct of property, stocks, shares or commitment to another, which would enable an establishment/set of establishments to directly/indirectly control an establishment/set of establishments.
- B) As to complete the economic concentration process that would have influence on the level of market competition, as a realization or support of a dominating situation, the relevant establishment/establishments should have a written consent signed by the Council, in case their shares surpasses 30% of total market operations.
- C) Despite what has been mentioned in any other legislation, the agencies concerned with licensing economic concentration

processes in any sector must take into account, before taking their final decision, the written opinion of the Council about the extent of these operations influence on the level of competition in that sector.

- D) Any normal / legal person must notify the Council of whatever economic concentration processes, it might get to know, which are subject to the provisions of paragraph /b/ of this article.

Article 10: Completion Applications of Economic Concentration:

- A) Establishments that would like to complete any of the economic concentration processes set forth in paragraph /b/ of Article /9/ hereof must submit an application to the Council, pursuant to the adopted form, within no later than thirty days from concluding the Draft/Final agreement of economic concentration process, to which the following should be attached:

- 1) The partnership deed and Articles of association of relevant establishments.
- 2) The draft of concentration contract or agreement.
- 3) Provide a description of the most important commodities and services with which the establishments concerned with economic concentration deal, along with their shares therein.
- 4) Provide a report about the economic dimensions of the process, particularly its positive effects on market.
- 5) Provide financial statements for the last three fiscal years for any of the establishments concerned with economic concentration process along with their branches properly endorsed and audited.
- 6) Provide a statement of the shareholders or partners of the concerned establishments and the share of every shareholder therein.
- 7) List of the names of its board of directors, managers/manager.
- 8) Statement of the branches of each establishment.

- B) Establishments may attach to the application a statement of what it may see as necessary commitments/proposals in order to limit the possible negative effects of the economic concentration process on market.

- C) a. Notwithstanding the provisions of paragraph /c/ of Article /14/ hereof, the Council might, only once and in writing, request any additional information or documents about the Economic Concentration Agreement and its parties. Thereafter, it should

issue a note announcing the completion of information and documents, provided that this would not lessen the right of asking for additional information or practice of the control powers.

- b. The durations and the procedures of notes issuance set forth in item /a/ of this paragraph as well as all issues related thereto in the list issued by the Council are defined in paragraph /e/ of Article/11/.
- D) The Council shall announce in two local newspapers the application for economic concentration submitted pursuant to the provisions of paragraph /a/ of this article, at the expense of the applicant, provided that the announcement would include a summary of the subject of application, and an invitation for whoever has an interest in providing his/her opinion within no later than /30/ days of announcement date.
- E) Following the consultation with the relevant parties, the Council may take any reservation procedures until a decision is made concerning the application submitted pursuant to paragraph /a/ of this Article.

Chapter 6: Commission and Council of Competition”

Article 11: Commission of the Protection of Competition and Monopoly Prevention

- A) Pursuant to a Decree issued by the Cabinet an independent body called "Commission for the Protection of Competition and Monopoly Prevention" shall be created with the main office being in Damascus; the commission shall undertake the tasks and powers defined in this Act. It shall act as artificial body and enjoy financial and administrative autonomy. The Commission personnel and the administrative and financial structures shall be determined pursuant to a decree, and it shall refer to the Prime Minister. The board of directors, or the Council of Competition, shall undertake management in addition to the Director General.
- B) The Council of Competition consists of 11 members appointed each for /4/ four years that can be renewed one time only pursuant to a decree decision by the Prime Minister according to the following:
 - 1) Three judges, two of ordinary courts and one of the State Council (appeal or equivalent), based on the Minister of Justice and head of the State Council suggestion.

- 2) Two members from the Central Authority of Financial Control of whom one should occupy the position of a manager in the economic field based on the suggestion of the head of the Central Authority of Financial Control.
 - 3) Three members experienced in economic affairs, competition and consumer protection issues based on the suggestion of the Minister of Economy and Trade.
 - 4) Three elected members representing commercial and industrial activities nominated by the unions of the chambers of trade, industry and handicraftsman, and two members representing the General Union of Peasants and the General Union of Workers.
 - 5) Members of the Council of Competition, except judges, shall take the following oath before starting their works:
(I swear to rule justly and respect laws). This oath shall be taken in front of the first civil court of appeals.
- C) The chairman of the Council of Competition shall be appointed out of the stipulated members in Paragraph /b-1/. The chairman degree shall not be less than a head of a court of appeal/equivalent. The deputy chairman shall be appointed out of the members of the State Council. The chairman and his deputy shall fulfill their duties on the basis of full time.
- D) The Director General shall be appointed pursuant to a decision issued by the Prime Minister. The Director General shall refer to the Cabinet, represent the Commission in front of other and the judiciary and attend the meetings of the Competition Council without enjoying the right to vote.
- E) The Council of Competition shall issue its by-laws and the list of rules of the followed procedures, provided that they would be subject to ratification by the Prime Minister, the chairman of the Council shall submit an annual report about its activities to the Prime Minister.

Article 12: Departments of the Council of Competition

- A) The council shall met on the call of the chairman once every 30 days at a minimum and whenever needed. At least 9 members, including the chairman or the deputy chairman, shall attend the meetings to satisfy the legal quorum. Decisions shall be taken by majority of the attendees and in case votes were equal, the chairman side shall be considered predominant. No member shall have the right to participate in deliberations or voting concerning an issue brought before the council in which he/she bears any

personal interest or he/she has family relations with any party down to the fourth degree or in case he/she is representing any party.

- B) The council shall have the right to call any specialist it deems necessary to attend meetings without enjoying the right to vote.

Article 13: Powers of the Commission

- A. The Council undertakes, in coordination with the relevant parties, to perform the following tasks and powers:
1. Contribute in elaborating the general plan of competition, the legislations and any studies related thereto.
 2. Manage to spread, protect and encourage the culture of competition.
 3. Investigate the information to detect the practices that are in breach of the rules of competition in collaboration with the competent parties pursuant to the provisions of the laws in force.
 4. Investigate the detected practices according to the received complains, and raise the reports/proposals to the bodies concerned.
 5. Receive and follow up the applications related to economic concentration process provided for in Article /10/ of this Act.
 6. Issue explanatory comments related to its activities by its own or upon the application of establishments.
 7. Hire external experts/consultants to carry out any of the activities within its powers.
 8. Cooperate with similar parties outside the Syrian Arab Republic for the purposes of information and statements exchange, and the issues related to the implementation of competition rules, within what is allowed by international treaties taking the provisions of article /16/ of this law as regards information confidentiality into considerations.
- B. An annual report shall be raised to the Cabinet explaining the situation of competition.
- C. Governmental agencies and sectoral organizational bodies in which control of any economic concentration process is vested pursuant to the legislations related thereto must depend on the written opinion of the Council within the limits of its specialty provided for herein.

Article 14: the Council's decisions concerning Economic Concentration

A) The Council may take a decision with respect to the applications submitted pursuant to Article/10/ hereof as follows:

- 1) Approve the economic concentration process if it does not negatively affect competition, or if it has positive economic effects that would lead to the reduction of service, commodities prices, creation of job opportunities, encouragement of export, attraction of investment or support of the capability of national establishments on international competition or if they are necessary for a desirable technological progress, or to improve service and commodities quality or place new products on the market.
- 2) Approve the economic concentration process, provided that the concerned establishments would undertake the implementation of the conditions determined by the Council for this purpose.
- 3) Disapprove the economic concentration process and issue a resolution of their nullification and bring the situation back as it was.

B) In all the cases mentioned in paragraph /a/ of this article a brief statement of the economic concentration process and its effects on competition in the market including the economic effects therein, the conditions and the commitments of the establishments if any, must be attached to the resolution of the Council. The resolution/part thereof shall be published in at least two local daily newspapers.

C) The Council shall issue its resolution with regard to the economic concentration process within no later than one hundred days starting from the date of issue of the slip note of the completion of application. The establishments concerned with the economic concentration process must not do, during this period, any thing that would lead to consolidating the economic concentration process or changing the market structure, otherwise these acts or procedures would be null pursuant to a resolution by the Council, if no reply was made within the defined period this would be considered as a consent.

D) The Council may nullify its previous consent in one of the following two cases:

- 1) If the concerned establishments violate any of the conditions and commitments pursuant to which the approval is issued.
- 2) If the information pursuant to which the approval was issued prove to be illusive.

5. The Council may take procedures it sees appropriate to face any economic concentration process for which no application is submitted or which contradicts the provisions of this Act.

Article 15: The Judicial brigade and pursuits

- A) The chairman of the Council shall name and entrust any of the personnel of judicial brigade to perform the following:

- 1) To enter, during the working hours, the following places: Stores, show rooms, commercial shops and offices, plants, vehicles, trucks used for commerce, Warehouses, slaughterhouses and their subsidiaries, vegetable supplies' markets, exhibitions, stations and arrival and departure ports and free zones for inspection purposes and specification of criminal matters, their inventory, control and sample taking.
- 2) Perusing the documents, records and files including computer files and keeping and copying any one of them against a receipt; provided that whatever is kept would be confirmed in a minutes and returned after being audited.
- 3) Review of all records and files kept by the official departments related to companies Trade Register, Administration of Free Zones, exporters and importers records, General Administration of Customs, Taxes Department and any governmental agency authorized to issue licenses of any type that allow dealing with commodities and services. Those agencies may not interrupt the work of any of the Council employees in this connection for the reason of confidentiality or any other reason.
- 4) Conducting the necessary detections and hearing of the affidavit of any person suspected to be violating the provisions of this Act.
- 5) The personnel of judicial brigade shall take the following oath before starting their entrusted work in front of the court of first instance:

(I swear to perform my job with honesty and integrity).

- B) Employees must disclose their identities and provide the concerned party with a copy of the written authorization.
- C) By virtue of the entitling powers pursuant to the provisions hereof, the Council may call upon any person who has or is suspected to have or information related to the violation of the provisions hereof, either to hear his/her testimony or to provide whatever statements/documents that may be in his/her possession.

- D) The personnel of judicial brigade may have the authority to administratively close the shops, plants, warehouses and subsidiaries with red wax in case of resistance or obstruction for the implementation of tasks mentioned in the former paragraphs for three days, while the issue shall be raised to the Council which has the authority to cancel the closure or extend it to/30/ days maximum.
- E) The personnel of judicial brigade mentioned in article /a/ above shall have the authority to seek police assistance in performing their tasks.
- F) Set up investigation results in any violation of this Act's provisions into reports provided that such reports would include a precise analysis of the situation of competition and its effect on the market balance.

Article 16: Information confidentiality

1. The Council, its personnel, any person who becomes familiar with the Council work pursuant to his profession and law suite parties including experts and witnesses must maintain the confidentiality of information, records and documents it might obtain through the investigations conducted, or that might be provided by the establishments whose activities are being investigated, by complainers/witnesses who provide their testimony during investigation. They might not be disclosed or publicly handled or delivered to any party other than the aforesaid establishments even if they are parties in the same investigation. Neither might they be disclosed/ delivered to the Councils of Protection of Competition in other countries before the approval of the parties concerned and nor can information, records and documents be used for any other purpose other than the investigation conducted by the Council pursuant to the provisions hereof under the penal and vocational and accountability.
2. The chairman of the Council of Competition may deliver the documents that are in breach of the confidentiality of the issues in case the delivery/perusing of such documents is necessary for the parties to practice their rights in front of the judicial or official bodies based on their request. The provisions of paragraph /a/ of this article shall be considered before these bodies which became familiar with the confidential information.

Article 17: Considering violations

The council considers the violations automatically, or when they are set forth to it by the minister or according to a request by the government,

economic establishments, vocational associations, syndicates, consumer committees or chambers of commerce, industry or agriculture.

Article 18: The Council's Ministry Representative

The minister appoints his representative at the Council, who is in charge of defending public interest in the issues related to the set forth competition violating practices.

Article 19:

Issued decisions by the Council can be appealed in front of the higher administrative court in the State Council within 60 days of the decision notification date, and the court shall consider the appeal without delay.

10. Article 20: acceptance or rejection of the complaint

When the council decides the rejection of the complaint, the decision shall include if facts are not within its competency or if it is not supported by proving means.

In the event of acceptance of the complaint, the Council decision shall include the statement if the practices presented for consideration by the Council entail/do not entail penalty and sentence the infringers according to the penalties included in Article /23 / of this law.

Article 21: decisions of the council of competition

The Council of Competition may, if necessary:

- Address written orders to the concerned dealers to stop the breaching practices for a certain term or impose special conditions on them while practicing their activities.
- Announce the nullification of the practices that are in breach or the prohibited activity and the invalidity of any of their effects.
- Announce temporary closure of the condemned establishment/s for no longer than three months while it is to be understood that such said establishments can be reopened only after an end is put to the practices subject of their condemnation.
- Refer the file to the Attorney General office in order to follow up the penal course after identifying the violation.

If it finds out a case of over exploitation of a dominating center as a result of a concentration case, the Council of Competition may oblige the

concerned establishment/s to modify, complete or cancel all agreements/contracts on the basis of which concentration took place and out of which violations were committed.

Article 22: Budget

The Commission shall have an independent budget included in the state budget, and the financial resources shall consist of the following:

- A) Designated appropriations in the state budget.
- B) Donations, grants and domestic and foreign loans pursuant to the laws and regulations in force.
- C) Service fees charged by the Commission pursuant to the provisions of this law and its regulations.
- D) Fund returns.

Chapter seven: penalties and compensation

Article 23:

In addition to the stipulated penalties in the effective laws, the Council of Competition shall penalize whoever:

- Practices the activities prohibited herein.
- Violates the resolutions of the Council stipulating the ceasing of activities.
- Undertook or participated in an economic concentration process with which the Council must have been notified, but he/she has not done so and continued the procedures of economic concentration subsequent to notification, before the resolution was issued by the Council, or continued the procedures after the Council's resolution of concentration prevention was issued.
- Undertook or participated in an economic concentration process which violates the conditions stipulated in the resolution of the Council issued for approval on concentration.
- Provided false information to the Council, refused to provide information thereto or deliberately obstructed the work of the Council:

A) With a fine at the rate of no less than /1%/ and not more than /10%/ of the total annual sales of the commodities /revenues of services for the breaching party, which shall be calculated as follows:

- 1) On the basis of his/her total annual sales of commodities/total revenues of services in the market as included in the financial statements for the previous fiscal year due to commitment of breach.
- 2) On the basis of his/her total annual sales related to the products subject of breach if the activity of the infringer covers many products and the breach is restricted to some of them.
- 3) On a basis to be determined by the Council if the activity of the infringer covers many products and the breach is restricted to some of them, and if it is not possible to determine the total sales related to the products subject of breach.

- B) With a fine of no less than 100.000 Syrian pounds and not more than 1000.000 Syrian pounds if sales or revenues are undetermined.

Article 24: penalty for disclosure of confidential information

without violating any more strict penalty set forth in any other law, whoever discloses any confidential information which he/she had obtained as a result of the enforcement of the provisions of this Act, from any source whatsoever, including ordinary persons or the employees of the establishment and its subsidiary, shall be subject to imprisonment from three months to three years and fined no less than 100,000 and no more than 1,000,000 Syrian pounds, and sentenced to three month to three year imprisonment or to one of those penalties.

Article 25:

In addition to the before-mentioned penalties, The council might sentence the establishments breaking articles /5/ and /6/ of this Act, by preventing them from one to three years from starting commercial relations what so ever with the public bodies.

Article 26: Compensation:

Those who were subject to the damage caused by the activities, deemed forbidden by this Act, shall have the right to appeal to the civil court of first instance as to get a compensation from the infringing company. The damaged parties' right to raise compensation law suits shall lose effect after three years of the date of the forbidden activities occurrence.

Article 27: Guarantees

The assets of the fined company are the guarantees for paying the fees imposed on it.

Chapter eight: transitional provisions

Article 28:

This Act shall be applied for the activities conducted before the coming into force of this Act, if these activities continued to be conducted after that date, then each establishment shall have to reorganize its activities in accordance with the provisions of this act within six months as of the

validity date, including the elimination of each practice, deal or arrangement that had been started before the Act was enforced, or else they should ask for the exception mentioned in Article /7/. Regardless to all this, in these cases, the council can't impose fines for the activities conducted before such period.

Article 29:

After establishing the Commission of Protection of Competition and Monopoly, the Prime Minister shall issue the executive panel of this Act.

Article 30:

The Act shall be published in the gazette, and shall be put into effect within six months of publishing date.

Damascus

27 March 2008

President of the Republic

Bashar Al Assad