

قانون المنافسة ومنع الاحتكار

Competition and Antitrust Law

No (14) of 2010

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Laws

In the name of the people Presidency council

In accordance with what the parliament had decided according to provisions of Item (First) of Article (61) of constitution and in view of passing the legal period stipulated in the Para (a) of the item (fifth) of article (138) of constitution .

The following law was issued In the name of people:

Law

No (14) of 2010

Competition and Antitrust Law

Chapter one

Definitions, objectives and scope of validity

Article 1:

The following terms for the purpose of this law shall mean the phrases opposite to them:

First: The competition: The efforts to achieve the economic excellence.

Second: The monopoly: every action, agreement or understanding issued by one or more natural or legal person or someone mediates between them to control the price or type of commodities and services in a way that leads to harm the society.

Third: The market: The region in which the producers and consumers contact with each other to make the trade deals for a specific commodity the market is not necessarily limited to specific



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geographical boundaries. For the purpose of this law, the concept of the market shall be limited to Iraqi economy.

Fourth: The council: The competition and antitrust affairs council.

Fifth: The merger: Merger of two companies or more in order to expand its share in the market.

Sixth: Real purchase price: The price included in the purchase list after deduction of discounts stipulated in it.

Article 2:

This law aims to regulate the competition and prevent the harmful monopolistic practices in the society by investors, producers, marketers or others in all economic activities.

Article 3:

First: The provisions of this law shall be applied to the production and trade activities and services provided by natural and juristic persons inside Iraq, as its provisions apply to any economic activities outside Iraq and shall have effects inside it.

Second: The resolutions issued by ministry of industry and minerals and ministry of trade shall be excluded from provision of the Item (First) of this article in accordance with authorization of the council of ministries in determining prices of goods and main services in accordance with exceptional emergency circumstance and for period that required by the mentioned circumstance.

(Chapter Two)

Competition and Antitrust Affairs Council

Article 4:

First: It shall be established council called (Competition and antitrust Affairs Council) shall enjoy the juristic personality and financial and administrative independence connected to prime ministry.



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Second: The council shall be chaired by full-time person holds ministry undersecretary level who has sufficient experience in market affairs and matters related to competition and antitrust and its legal applications, and holds initial university degree, and the prime Minister may choose a deputy prime Minister.

The council shall be consisted of:

- a. members have general director rank represent the following authorities :
 1. Ministry of industry and minerals
 2. Ministry of commerce
 3. Ministry of communications
- b. Members have expert rank or its equivalent represents the central organization for standardization and quality control ministry of planning and development cooperation.
- c. Members represent the following authorities:
 1. Commercial and industrial chambers federation
 2. Iraqi industries federation
 3. Protection of consumer council
 4. Iraqi syndicate of accountants and auditors
 5. An employee with experience and specialization appointed by the chairman of council as its rapporteur.

Third: The prime Minister shall determine the representatives of authorities mentioned in the Para (c) above and financial reward that granted to each of them.

Fourth: the ministry of finance shall allocate a budget to the council within the annual general budget to cover its expenses.

Fifth: The council shall put the bylaw for its function.

Article 5:

The council may form technical, administrative and accounting units run by number of employees and it may authorize some of its powers to these units if necessary to carry out its work.



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Article 6:

The council may form committees related to the implementation of its plans of antitrust and defining their functions and it may set their powers and membership through its bylaw.

Article: 7

The council's functions and committees: The competition and antitrust affairs council shall undertake the following:

First: Preparing the general plan for competition and antitrust and draft legislations related to competition and antitrust with related authorities.

Second: Working on publishing the culture of competition and antitrust, protecting and encouraging it.

Third: Investigation the information and practices breaching rules of competition and antitrust in cooperation with related authorities in accordance with provisions of legislations.

Fourth: Conducting investigations of practices that reveals or in accordance with what it receive from complaints and news or those assigned to it by the court and preparing reports on its results.

Fifth: Issuing directions for matters related to its work and that by its own or according to a request from relevant authorities.

Sixth: issuing a guide related to issues of monopoly and integration and trade restricted practices.

Seventh: Asking for the aid of experts or consultants to perform any of the tasks that fall within its competence.

Eighth : Coordination and cooperation with similar authorities outside Iraq in the field of exchange information and data and the issues related to implement rules of competition and antitrust within limits permitted by the international treaties in condition of reciprocity .

Ninth: submitting an annual report to the council of ministers on status of competition and antitrust.

Article 8:

Tasks of committees: the committees affiliated with the council shall do the following:



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First: Empowering their employees:

1. Entering during work hours in the trade shops and relevant offices and companies for reviewing or inspection.
- 2- Accessing to documents , records and files including computer files and keeping any of them or copies thereof in return for a notice of delivery provided that to be written down what is preserved in the record and returned upon completion of its audit within (30) days of receipt date.

Second: Requiring its employees to disclose their identities and inform the concerned person of a copy of the written authorization.

Chapter Three

Prohibitions

Article 9:

Any merger of two companies or more and any restricted trade shall be prohibited if the company or group of companies integrated or linked with each other control 50% or more of the total production of certain commodity or service, or control 50% or more of the total sales of certain commodity or service.

Article 10:

Any practices or written or oral agreement breach or limit competition and antitrust shall be prohibited, especially those whose subjects or objectives are the following:

First: Determining prices of commodities, services or conditions of sell and the like.

Second: Determining quantity of commodities or performance of services.

Third: Sharing markets on basis of geographical areas, quantities of sales, purchases, clients or on any other basis affect negatively on competition and antitrust.



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- Fourth: Behavior or conduct that leads to obstruction of institution's entry, excluding them from the market or exposing them to heavy losses, including selling at a loss.
- Fifth: Colluding in bids or offers in tender or bidding, and it shall not be considered collusion to submit joint offers in which their parties know about them from beginning, provided that the purpose of them is not illegal competition and monopoly in any way.
- Sixth: Distinguishing between the clients in the similar contracts with regard to prices of commodities and services or conditions of sale and purchase.
- Seventh: Forcing a client to refrain from dealing with competitive authority.
- Eighth: Refusing to deal with a specific customer by the usual commercial terms without legal justification terms.
- Ninth: Striving to monopolize certain materials necessary to competitive authority for practicing its activity or buying a commodity or certain service to the extent that leads to raising its price in the market or preventing its decline.
- Tenth: Suspecting a sale or providing a service by buying a commodity, other commodities, buying a specified quantity from it or by requesting another service.
- Eleventh: Forcing authority or a party, or either of them gets special unjustified prices or terms in a way that leads to giving it an advantage in the competition or prejudicing it.

Article 11:

First: It shall be prohibited for any authority to resell a product that is less than its actual purchase price, added to it taxes and fees imposed on the product and transportation costs if the aim is breaching of the legal competition. The real purchase price means: The price fixed in list of purchase after deducting the discounts stipulated in it.

Second: The prohibition prescribed in the Item (First) of this article shall not include the perishable products and the deductions authorized for any sale to liquidate the business or renew the inventory at lower prices.

Article 12:



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First: Registering the commercial agreements with the council or with any unit formed by the council shall authorize it to supervise agreements between companies that include:

1. The agreements in which the parties agree on restrictions in respect for prices and terms of sale.
2. The agreements in which the parties agree on restrictions in respect for quantities and types of commodities that they produced and persons and areas that are equipped.
3. The agreements related to the information that the parties exchange on prices and costs.

Second: The council shall decide on the request within a period not exceeding 30 days.

Third: The council shall give initial provisional approval until the final decision is issued.

Fourth: The council may exclude some agreements it deems necessary for the public interest or that lead to lower price.

Fifth: The council may propose appropriate penalties for not registering the agreements.

Sixth: The council shall refer the agreements to the court with its recommendations.

Seventh: This article shall be applied to companies providing the services.

Eighth: The council or its authorized members can discuss the recommendations with relevant companies and obtain written guarantees before issuing the order of referring it to the court.

Chapter Four Penalties

Article 13:

First : A penalty of imprisonment for a period not less than (1) one year and not exceeding than (3) three years or a fine not less than (1000000) million dinners and not exceeding than (3000000) three million dinners shall be imposed for anyone who violates provisions of this law.



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Second: The aggrieved person shall seek compensation at the competent court if he/ she require this.

Third : Informers and persons who disclose acts that violate provisions of this law shall be given a financial reward determined by the chairman by a decision and in accordance with magnitude of the committed act and the council s act pursuant to each case in accordance with the law .

Chapter Five Final provisions

Article 14:

The council may issue instructions to facilitate implementation of provisions of this law.

Article 15:

The supreme judicial council must establish courts to consider disputes arising from protection of consumer and antitrust and other commercial practices and the judges of these courts must have experience and knowledge in these fields.

Article 16:

This law shall be executed from the date of its publishing in the Gazette.