

We, Feisel Bin Al-Hussein, Viceroy to H.M. the King, by virtue of Article (31) of the Constitution, and based upon the resolution of the Councils of Representatives and Sentates, do hereby ratify the following law, and hereby order that it be issued and be added to the laws of the state:-

Law No. 33 of the Year 2004

The Competition Law

Article 1

This Law is called (The Competition Law of the year 2004) and shall take effect upon its publication in the Official Gazette.

Definitions

Article 2

The following terms and phrases appearing herein shall have the meanings assigned thereto hereunder unless the context denotes otherwise:

The Ministry:	The Ministry of Industry and Trade.
The Minister:	The Minister of Industry and Trade.
The Directorate:	The Competition Directorate at the Ministry.
The Director:	The director of the Competition Directorate.
The Court:	The court with competence to hear competition cases in accordance with the provisions of this Law.
The Enterprise:	Any person, natural or juristic, carrying out economic activities, or any grouping of such persons.
Market:	The product or service or all products or services which are, in view of their price, characteristics and uses, interchangeable and mutually replaceable to meet a particular need of the consumer in a particular geographical location

wherein exist compatible competition conditions.

Dominant Position: The condition in which an Enterprise is able to control and affect the activity of the market.

The Law's Scope of Application

Article 3

- B- The provisions of this Law shall apply to all production, commerce and service provision activities in the Kingdom, as well as to any economic activities occurring outside the Kingdom and having an effect inside the Kingdom.

Prices of Products and Services

Article 4

Prices of products and services shall be set in accordance with the conditions of market rules and the principles of free competition, with the exception of the following:

- A- The prices of basic materials specified in accordance with the Industry and Trade Law or any other Law.
- B- Prices set by a resolution of the Council of Ministers through temporary measures to deal with exceptional circumstances or an emergency or a natural disaster, provided that such measures be reviewed within a period not exceeding six months after the beginning of the application thereof.

Anti-Competitive Practices

Article 5

- A- Practices, alliances and agreements, explicit or implicit, that prejudice, contravene, limit or prevent competition, shall be prohibited, especially those whose subject or aim is to:
- 1- Fix the prices of products, services or conditions of sale, and the like.
 - 2- Fix quantities of production or service provision.
 - 3- Share the market on the basis of geographical regions or quantities of sales or purchases or customers or any other basis that negatively affects competition.
 - 4- Set barriers to entry of Enterprises into the market or eliminate them therefrom.
 - 5- Collusion in tenders or bids, whether in overbidding or underbidding, but it shall not be considered collusive to submit joint offers in which the parties announce such joint offer *ab initio*, and without the goal of such joint bidding being to prevent competition in any way.

- B- The provisions of paragraph (A) above shall not apply to agreements with weak effect wherein the total share of the Enterprises party thereto shall not exceed a rate to be set by instructions issued by the Minister, and which shall not exceed 10% of total transactions in the market, and provided that such agreements do not include procedures that fix price levels and market sharing.

Article 6

An Enterprise with a Dominant Position in the local market or a significant part thereof is prohibited from abusing this Dominant Position in order to prevent, limit or weaken competition including the following:

- A- Fixing or setting prices or conditions of resale of products or services.
- B- An activity or action which leads to setting barriers of entry of other Enterprises to the market, or their elimination therefrom, or their exposure to gross losses including loss selling.
- C- Discrimination between customers in similar contracts with regard to price of products or services or conditions of sale or purchase.
- D- Forcing any of its customers to refrain from dealing with a competing Enterprise.
- E- Attempting to monopolize certain resources necessary for a competing Enterprise to carry out its activities or to purchase a particular product or service to an extent that leads to increasing the price thereof on the market or preventing its decrease.
- F- Refusing, without objective grounds, to deal with a particular customer under the usual commercial conditions.
- G- Tying the sale of a product or the provision of a service to the purchase of another or others or the purchase of a limited amount or a request for the provision of another service.

Article 7

- A- Practices arising out of the application of a Law and practices falling within the ambit of temporary measures instituted by the Council of Ministers to deal with exceptional circumstances, emergency situations or natural disasters shall not be considered anti-competitive in the sense intended in Articles 5 and 6 of this Law, provided that such measures be reviewed within a period not exceeding six months after the beginning of the application thereof.
- B- Practices and arrangements exempted by the Minister from the application of Articles 5 and 6 of this Law by a reasoned decision

on the basis of a recommendation of the Director shall not be considered anti-competitive if they lead to positive results, with a common benefit that cannot be achieved without this exemption, including the improvement of the competitive ability of Enterprises, or production or distribution systems, or providing certain benefits to the consumer.

- C- The Minister may apply the exemptions referred to in paragraph (B) above to a class of practices or conditions of contract or to practices or arrangements or conditions of contract of particular Enterprises, provided that such Enterprises shall request to be granted this exemption in accordance with a form adopted by the Minister for that purpose.
- D- The applicant for the exemption referred to in paragraph (C) of this Article shall be provided with a notice evidencing the completion of the application, and the Minister shall review and dispose of the application within a period not exceeding ninety days after the date of the notice. The exemption decision or a summary thereof shall be published in the Official Gazette is appealable before the Supreme Court of Justice.
- E- The Minister may limit the authorization of such practices to a fixed period of time or subject them to a periodic review. He may also withdraw such authorization if the Enterprise contravenes the conditions for its granting.

Practices Detrimental to the Fairness of Commercial Transactions

Article 8

- A- A producer, importer, wholesaler or service provider may not:
 - 1- Set a minimum resale price for a product or service whether directly or indirectly.
 - 2- Subject another party to or receive therefrom preferential and unjustified prices or conditions of sale or purchase in such a manner as to impart upon such party a benefit as regards competition or cause harm thereto.
- B-
 - 1- The resale of a product as is at a price below its actual purchase price plus the taxes and charges and transport costs applicable thereto, if any, is prohibited if the purpose of such a sale is to limit competition.
 - 2- For the purpose of this paragraph, the actual purchase price shall mean the price set in the invoice after

deduction of the discounts specified in the same invoice. The aforementioned restriction shall not apply to perishable goods and allowed reductions on sales for the purpose of liquidation of a business, or to restock at lower prices.

Economic Concentration

Article 9

- A- For purposes of this Law, any activity resulting in the full or partial transfer of ownership of or interest in property or rights or shares or obligations of an Enterprise to another, and which may enable an Enterprise or a group of Enterprises to control, directly or indirectly, another Enterprise or group of Enterprises is considered an economic concentration operation.
- B- The accomplishment of economic concentration operations impacting the level of competition in the market by causing or enforcing a Dominant Position shall depend upon receiving the approval of the Minister in writing, if the total share of the Enterprise or Enterprises concerned in the economic concentration operation exceeds 40% of the total transactions in the market.
- C- Notwithstanding anything contained in any other legislation, authorities responsible for licensing economic concentration operations in any sector shall, prior to issuing their final decision, seek the opinion of the Minister in writing regarding the extent of the effect of such operations on the level of competition.
- D- A party or authority shall inform the Ministry of any information it obtains regarding economic concentration operations that are subject to the provisions of paragraph (B) of this Article.

Article 10

- A- Enterprises wishing to carry out economic concentration operations which fall within the ambit of paragraph (B) of Article 9 of this Law shall submit a petition in this regard to the Directorate, on the form adopted by the Ministry, within thirty days after having reached a draft agreement or an agreement on the economic concentration activity. Attached to the petition shall be:
 - 1- A copy of the articles and memoranda of the Enterprises concerned.

- 2- A copy of the draft contract or agreement on the concentration.
 - 3- A list of the most important products and services in which the concerned Enterprises are involved and their shares thereof.
 - 4- A report on the consequences of the operation, especially its positive effects on the market.
 - 5- Financial statements for the two most recent fiscal years of the Enterprises concerned with economic concentration operation and their branches.
 - 6- A list of the shareholders or partners of the concerned Enterprises and the share of each therein.
 - 7- A list of their officers, members of their management boards, or members of their boards of directors.
 - 8- A list of the branches of each Enterprise.
- B- The Enterprises may also include with the petition any matters they deem necessary relating to obligations or suggestions aiming to minimize the possible negative impact of the economic concentration operation on the market.
- C- 1. Subject to the provisions of paragraph (C) of Article 11 of this Law, the Directorate may request, in writing and for one time, additional information or documents relating to the economic concentration agreement and the parties thereto, and upon receiving the requested additional information and documents it shall issue a notice evidencing the completion of the information and documents, provided that the issuance of such a notice shall not affect the right of the Directorate to request further information or exercise regulatory powers.
2. The time frames, procedures, and all relevant matters for issuing the notice mentioned in clause (1) of this paragraph shall be set by instructions issued by the Minister for this purpose and shall be published in the Official Gazette.
- D- The Directorate shall publish, in two daily newspapers at the expense of the applicant, an announcement regarding the petition for economic concentration submitted in accordance with paragraph (A) hereof. The announcement shall include a summary of the subject of the petition and an invitation to any interested party to present its opinion in regard of the petition within fifteen days after the date of the announcement.

- E- The Minister may, after consultation with the parties concerned, take any provisional procedures until such time as the request submitted in accordance with paragraph (A) above is disposed of.

Article 11

- A- The Minister may, upon recommendation of the Director, issue a reasoned decision regarding petitions submitted by virtue of the provisions of Article 10 hereof as follows:
 - 1- Approve the economic concentration operation if it does not negatively impact competition, or has positive economic benefits that outweigh any negative impact on competition, such as leading to a lowering of the price of services or products, or providing employment opportunities, or encouraging exports or attracting investment, or supporting the ability of national Enterprises to compete internationally.
 - 2- Approve the economic concentration operation provided that the Enterprises concerned undertake to meet conditions specified by the Minister for that purpose.
 - 3- Deny the economic concentration operation and order the cancellation thereof and the return to the *status quo ante*.

- B- In all cases appearing in paragraph (A) of this Article, the decision of the Minister shall include a summary of the economic concentration operation and its effect on competition in the market, including its economic impact, and the conditions and obligations required from the Enterprises, if any. The decision or a summary thereof shall be published in at least two local daily newspapers.

- C- The Minister shall issue his reasoned decision regarding the economic concentration operation within a period not exceeding one hundred days starting on the date of issuing the notice evidencing the completion of the application. Enterprises involved in the economic concentration operation shall not commit any actions or practices that may lead to rendering the economic concentration operation irreversible, or may alter the market structure, otherwise these actions and practices shall be annulled through a court decision.

- D- The Minister may withdraw his previous approval in any of the following cases:

- 1- If the concerned Enterprises violate any of the obligations or conditions upon which the approval was granted.
 - 2- If it becomes apparent that the basic information upon which the approval was based was false.
- E- The Minister may take any action deemed reasonable to counter any economic concentration case which no application with its regards has been submitted, or if it was in violation of this Law.
- F- Decisions issued by the Minister by virtue of the provisions of this Article shall be notified to the concerned parties and they may appeal such a decision to the Supreme Court of Justice.

Article 12

- A- The Directorate shall, in coordination with the concerned authorities, have the following duties and powers:
- 1- Contributing to setting the general of competition plan and legislation and studies relating thereto.
 - 2- Working to promote, protect and encourage the culture of competition.
 - 3- Gathering information to uncover practices that violate the rules of competition, in cooperation with the concerned authorities within the provisions of the enacted Laws.
 - 4- Conducting investigations into those practices it uncovers or on the basis of complaints and claims that it receives, or those assigned to it by the competent courts, and preparing reports on its findings and presenting recommendations or reports to the Minister or the Court, as the case may be.
 - 5- Receiving and following up petitions relating to economic concentration operations referred to in Articles 10 of this Law and preparing reports, recommendations and draft decisions therefor.
 - 6- Issuing clarifying opinions on matters relating to its activities, either unilaterally or upon the request of the Enterprises.
 - 7- Utilizing experts or consultants from outside the Ministry to accomplish any activities within its authority.
 - 8- Cooperating with similar bodies outside the Kingdom for the purpose of exchanging general information and data and matters that relate to the execution of

competition rules to the extent allowed by international treaties and on the basis of reciprocity.

- B- The Minister shall present to the Council of Ministers an annual report on the state of competition.
- C- For the purpose of guaranteeing the freedom of competition by virtue of the provisions of this Law, government authorities and sectoral regulatory bodies vested with monitoring any economic concentration operations by virtue of legislation specific thereto shall obtain the opinion of the Ministry in writing within the limits of its jurisdiction stipulated in this Law.

Article 13

- A- An officer of the Directorate delegated in writing by the Minister shall be considered, when carrying out his duties, an officer of the court within the limit of his jurisdiction.
- B- Officers of the Directorate and any person looking into its activities shall be required to maintain professional secrecy.

Article 14

- A- A committee named the Committee for Competition Matters shall be formed, chaired by the Minister and with the membership of:
 - 1- The Undersecretary of the Ministry as vice-chairman.
 - 2- The Director General of the Insurance Commission.
 - 3- The Chief Executive Officer of the Telecommunications Regulatory Commission.
 - 4- The Director General of the Transportation Regulatory Board.
 - 5- The President of the Union of Chambers of Commerce.
 - 6- The President of one of the chambers of industry named by the Minister.
 - 7- The President of any of the association that concerned with protecting the consumer named by the Minister.
 - 8- Three persons with expertise and specialization named by the Minister.
- B- The tenure of those members named by the Minister in accordance with items (6), (7) and (8) of paragraph (A) hereof shall be two years renewable once, and any member may be changed by appointing a replacement thereto for the remaining period of his tenure.
- C- The Committee shall have the following responsibilities:

- 1- Sanctioning the general competition policy.
- 2- Review matters related to the provisions of this Law and drafting laws and regulations relating to competition or those that grant new privileges or exceptional rights.

Article 15

- A- The Committee shall meet by invitation of its chairman or vice-chairman, in the absence of the former, at least once every six months. Quorum shall be met in the presence of not less than two-thirds of its members provided that the chairman or the vice-chairman are in attendance. Its decisions shall pass by at least a majority vote.
- B- The Minister may invite any person he shall deem appropriate to attend the meetings of the Committee without that person having the right to vote on its decisions.
- C- The Director shall be the rapporteur of the Committee and shall prepare its agenda and keep the minutes of its meetings and summarize its recommendations in the annual report.

Article 16

- A- The court shall have jurisdiction to hear cases related to the following:
 - 1- Any violation of the provisions of Articles (5), (6), (8), (9), and (10) of this Law.
 - 2- The non-compliance with decisions issued by the Minister by virtue of Article 11 of this Law.
- B- The Amman Court of First Instance shall have jurisdiction to hear those cases referred to in paragraph (A) of this Article for two years starting from the date of the coming into effect of this Law. After the end of this period, any competent court of first instance shall have jurisdiction to hear such cases.
- C- The Court's jurisdiction under this Article shall include claims for damages arising out of these violations. Other violations of the provisions of this Law shall be subject to the general rules of court jurisdiction.
- D- For the purpose of hearing cases related to practices that are inconsistent with competition within the competent court of first instance, one or more specialized judges who have received special training shall be appointed, and their appointment shall be by decision of the Judicial Board.

- E- The office of the Attorney General shall be represented, in competition cases which fall within the jurisdiction of the competent court of first instance, by a specialized prosecutor general.

Article 17

- A- Cases relating to violations of provisions of articles (5), (6), (8), (9), and (10) of this Law shall be instituted according to a complaint presented to the public prosecutors by the following parties, provided that the statements be appended to preliminary articles of proof:
 - 1- The Minister upon recommendation of the Director or upon the request of any other official party.
 - 2- Any Enterprises from the private sector.
 - 3- Licensed consumer protection associations.
 - 4- Any group of at least five consumers having suffered a harm.
 - 5- Chambers of commerce and industry.
 - 6- Professional and syndicate organizations.
 - 7- Sectoral regulatory authorities.
- B- In all cases the Ministry shall be a party in all competition cases and it may submit any studies or comments to the court and request to continue hearing such cases even where the parties referred to in paragraph (A) of this Article have dropped their case or have settled their dispute, and it may also contest any decisions issued in these cases.
- C- The Court may assign the Directorate to carry out the necessary investigations of the statements it has received from the parties referred to in paragraph (A) above, and the Directorate shall submit to it a report thereon within a set period of time.
- D- Competition cases shall be granted summary status, and the Court may, if it finds appropriate, issue decisions to halt or prevent any action until issuing the final decision.

Article 18

- A- As a result of the trial, the Court shall deliver a verdict which includes especially the following:
 - 1- A showing of the extent of the violation of the practices before it of the provisions of the Law.
 - 2- Ordering the removal of the violation within a period set by the Court, or issuing special conditions applicable to

the violator in the conduct of activities, as the circumstances require.

- 3- Setting the proper penalty against the violators.
- B- The Court may order its verdict or a summary thereof to be published at the expense of the violator in two local newspapers at least.
 - C- The text of the verdict must contain a statement of the facts and an analysis of the practices and their effect on the flow and balance of market mechanisms, and the extent of the risk thereof.
 - D- The Minister shall take all measures necessary to guarantee the execution of the decisions of the Court relating to orders and special conditions for the carrying out of activities that the Court may impose in accordance with item 2 of paragraph (A) of this Article.
 - E- Decisions of the Court in cases relating to competition shall be appealable before the Court of Appeal and the Court of Cassation.

Article 19

- A- The Director may commission in writing any of the Directorates' officers who have been delegated by the Minister to conduct the following:
 - 1- Enter, during working hours, into commercial establishments and offices and stores, to conduct the necessary inspections and searches.
 - 2- View documents, records, and files, including computer files, and seize all that is necessary thereof or copies of them in return for a notice of receipt, provided that all such seized materials be referred to in the transcript, and be returned after the end of the review thereof.
 - 3- Conduct the necessary investigations and listen to the testimony of any person suspected of violating the provisions of this Law.
- B- The officers must identify themselves and show the concerned party a copy of their written authorization.
- C- The Director may, by virtue of the powers granted to him by this Law, request any person who has or may have knowledge of information relating to a violation of the provisions of this Law either to offer testimony or present whatever information,

documents or records in his possession that are demanded from him.

- D- The results of investigations into any violation of the provisions of this Law shall be recorded in detailed reports, and appended to inspection transcripts and information and probative tools. Such report shall include a detailed analysis of the state of competition therein and its effect on market balance.
- E- In the event that it has become evident to the Minister upon the recommendation of the Director that a violation to the provisions of this Law has been committed, he shall refer the violation to the public prosecutor, otherwise he shall decide to withhold the investigation temporarily or permanently, and inform the parties concerned.

Article 20

A violator of the provisions of Articles 5 and 6 of this Law shall be punishable:

- A- By a fine of not less than 1% and not exceeding 5% of the total annual value of sales or revenue from services of the violator calculated as follows:
 - 1- On the basis of total annual sales or total revenue from services in the market as appearing in the financial statements of the fiscal year prior to the occurrence of violation.
 - 2- On the basis of the violator's total annual sales relating to the products subject of the violation if the activities of the violator include various products and the violation was limited to some of them.
 - 3- On a basis established by the Court if the activities of the violator include various products and the violation was limited to some of them, and it was not possible to establish the total value of sales related to those products subject of the violation.
- B- By a fine of not less than one thousand (1000) Dinars and not exceeding fifty thousand (50000) Dinars if the value of sales or revenues is not specified.

Article 21

A violator of the provisions of Articles 9 and 10 of this Law, or a person who does not comply with those decisions taken by virtue of Article 11 of this Law shall be fined in an amount not less than one thousand (1000) Dinars and not exceeding fifty thousand (50000) Dinars.

Article 22

A violator of the provisions of Article 8 of this Law shall be punishable by a fine of not less than two hundred (200) Dinars and not exceeding twenty thousand (20000) Dinars.

Article 23

Any person who discloses any confidential information that he received from any source except if that was according to a court order shall be punishable by a fine of not less than one thousand (1000) Dinars and not exceeding ten thousand (10000) Dinars.

Article 24

Any person who prohibits an officer from carrying out the duties delegated to him by virtue of Article 19 of this Law, or who conceals or destroys documents, instruments, records or files presumed to be helpful in an investigation shall be punishable by a fine of not less than five hundred (500) Dinars and not exceeding five thousand (5000) Dinars.

Article 25

- A- When setting the amounts of the fines under this Law, the amount of the benefit that the violator received and the value of the harm suffered by others shall be considered.
- B- The Court may mitigate the punishment of a violator of the provisions of Articles (5), (6), (8), (9) and (10) of this Law if such a violator provides to the Directorate information leading to the uncovering of such practices.

Article 26

The issuance of a verdict setting a fine under this Law shall not preclude an order of imprisonment in accordance with the Penal Code or any other law.

Closing Provisions

Article 27

Every Enterprise shall, within a period not exceeding four months after the coming into force of this Law, realign itself with the provisions of this Law, including the removal of every practice or agreement or arrangement in existence prior to the date of the coming into force of this Law, or request the exemption referred to in Article 7 of this Law.

Article 28

The Council of Ministers shall issue the regulations necessary for the execution of the provisions of this Law.

Article 29

The Prime Minister and Ministers shall execute the provisions of this Law.

10 July 2002

[ss]

Hamza Bin Al-Hussein

[The Ministers]