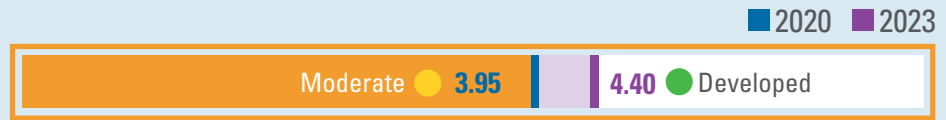




# ARAB BUSINESS LEGISLATIVE FRAMEWORKS



## COMPETITION

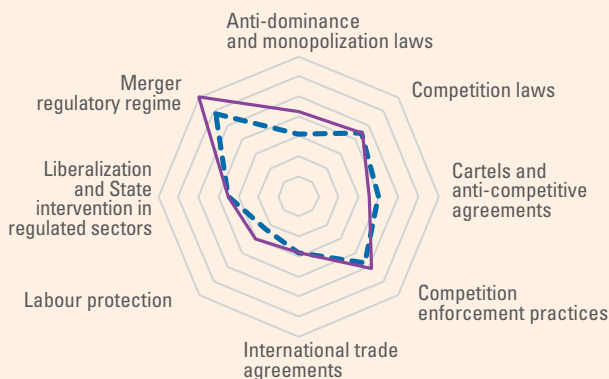


● Very strong ● Strong ● Developed ● Moderate ● Basic ● Weak ● Very weak

COMPONENTS	2020	2023
Anti-dominance and monopolization laws	3.11	4.20 ▲
Competition laws	4.45	4.45 ►
Cartels and anti-competitive agreements	4.00	3.50 ▼
Competition enforcement practices	4.67	5.09 ▲
International trade agreements	2.80	2.80 ►
Labour protection	2.33	3.00 ▲
Liberalization and State intervention in regulated sectors	3.50	3.50 ►
Merger regulatory regime	5.83	7.00 ▲

### COMPONENTS

2020 2023



### ELEMENTS

2020 2023



Jordan adopted its Competition Law in 2004 (No. 33/2004). In March 2023, the Parliament adopted several amendments to the law which aim to deter monopolistic practices as well as protect and promote fair competition in accordance with international best practices. While the Competition Committee at the Ministry of Industry, Trade and Supply had been re-established as an advisory committee, it has no executive functions, and the Competition Directorate is the administrative body responsible for enforcing the Competition Law and regulations.



## Competition laws

Article 2 of the Competition Law includes definitions for several competition concepts, such as market and dominant position. Amendments to the law define economic activity as any industrial, commercial, agricultural, tourism, service or professional activity, including information technology.

Article 5(a) of the law lists the prohibited anti-competitive practices (through agreements, practices and coalitions), and they include: fixing prices and conditions for sales, fixing the quantities of production of goods or services (including restricting the production, manufacturing, distribution or marketing, or placing conditions or restrictions on the delivery of these goods or services), dividing markets based on factors such as geography or customers or sale quantities, imposing market barriers on

new competitors and collusion in public procurement.

Article 5(b) of the amended Competition Law grants exceptions to agreements and coalitions between companies that have weak impacts on the market (a Ministerial decision will determine the shares of the companies in the market) and provided also that those companies do not fix prices or divide the market. Article 8(a) prohibits practices that breach the integrity of trade (such as fixing a minimum price, imposing resale conditions, etc.), but section (b) of the same article grants exceptions for justified cases in response to market changes, changing costs, cases of dealing with perishable products and authorized discounts for any sale made to liquidate the business or refill stocks.



## Anti-dominance and monopolization laws

Article 6(a) of the Competition Law prohibits the abuse of dominance. The same section lists abuse practices, which include fixing prices, imposing market barriers, suspension of buying a product, controlling the quantities of goods or services in a manner that leads to a distorted shortage or abundance in the supply of that product, and selling goods or services at less than their cost.

The newly amended article 6(b) of the Competition Law lists, among others, the following factors to determine whether a firm has a dominant position: its share of the market exceeds 40 per cent; the firm's ability to access supply chains, markets, or production inputs; market barriers, and the firm's links with subsidiaries.

Article 7 states that, under specific conditions and after consulting with the competition committee, the minister of industry, trade and supply has the power to grant exceptions from the provisions of the Competition Law for some practices if these practices have positive impacts and will benefit the market and the consumers. Also, article 7 stipulates that the minister (based on the recommendation of the committee) may determine the duration of the exception and has the power to retract it in case of non-compliance with the required conditions. Finally, it is worth noting that while some monopoly practices are mentioned in several provisions, there is no clear definition of these practices in article 2 of the law.



## Cartels and anti-competitive agreements

Article 8(a) of the amended Competition Law lists and prohibits practices that undermine the integrity of commercial transactions. These practices include imposing, directly or indirectly, minimum prices for the resale of products or

services, and getting from another party prices and sell conditions that lead to privilege or negatively impact that party in the market. It is worth noting that the Competition Law doesn't stipulate, through any provision, a definition of a cartel.



## Competition enforcement practices

Article 3 of the amended law states that the Competition Law applies to all economic activities conducted inside Jordan or outside it if they impact the internal market. Article 12 lists the functions of the Competition Directorate, which include: developing strategies for competition, investigating practices, collecting information and data, receiving notification for concentration, receiving and monitoring applications for exceptions, cooperating with foreign/international competition bodies, conducting market studies in specific sectors and presenting recommendations.

Article 14 of the Competition Law stipulates the establishment of a competition committee that is to be presided over by the minister of trade. The functions of the committee include approving the general plan for competition, studying provisions related to the Competition Law and preparing draft laws and regulations related to competition. To ensure full compliance by private businesses and investigators, article 13 considers all competition officers members of the judiciary police,

requiring that all circulated information remain confidential. Article 19 of the Competition Law empowers the directorate to investigate on its own (ex officio).

Article 17 enables the following stakeholders to present complaints for anti-competitive agreements before the public prosecutor: the minister, private sector organizations, licensed consumer protection associations, professional associations and trade unions, the chambers of commerce and industry, and sectoral regulators. Article 16 of the amended Competition Law states that the court of first instance is competent to judge on infringements that constitute a violation of the Competition Law.

Articles 20 to 26 of the amended Competition Law provide a categorized sanction regime for violations of the Competition Law (including fines and/or imprisonment). For instance, a fine ranging between 2 and 10 per cent of the annual total sales of goods and revenues of services is set for violations of articles 5 and 6 (anti-competitive practices, monopoly and abuse of dominance).



## International trade agreements

Jordan has concluded several trade agreements with numerous countries (Arab and others). For instance, Jordan is part of the Greater Arab Free Trade Area (GAFTA) but this agreement doesn't have any provisions covering competition policies. Jordan is also a member of the Arab common market. According to part 2

(article 9) of the agreement (general principles), it is mentioned that monopolies in contracting countries must not obstruct the application of the provisions of this agreement. Also, this trade agreement has a special section on dispute management.



## Merger regulatory regime

Articles 9 to 12 cover the economic concentration. Article 9 clearly defines it as change in control but does not mention vertical and horizontal practices. Article 9(b), states that the Competition Directorate should examine the economic concentration transaction in the following cases: if the collective market share of one or more of the companies participating in the transaction surpasses 40 per cent, and if the annual revenue of the firms surpasses a fixed amount determined by the Council of Ministers.

According to article 10, parties aiming to accomplish an economic concentration transaction should notify the Competition Directorate within 30 days. The notification should include documents such as the economic concentration contract, list of the traded products and services, economic feasibility study of the transaction and its positive impacts on the market, financial statements of the firms for the previous two years, a list of the shareholders and their shares.

As for application assessment and decisions about them, article 11 stipulates that the assessment should take the following factors into consideration: the effects of the transaction on the economy/competition (positive effects must outweigh the negative ones), impact on prices (the transaction should lower them), and whether the transaction leads to job creation opportunities, enhancing export and attracting investments. The decision must be taken and published within 100 days, and during this period, firms are not allowed to take actions that

potentially may enforce economic concentration or change the market structure. If any such action is taken, the competent court should declare it null.

The minister has the power to annul the directorate's approval in the following cases: if firms do not respect the imposed conditions and commitments, or if the information provided by firms is misleading. In all cases, decisions by the minister may be subject to appeal before the administrative court.



## Labour protection

Article 16 of the Labour Law guarantees the protection of employee contracts merger and acquisition transactions. Despite this, labour protection still has

shortcomings as the Competition Law does not include any labour protection provisions, such as the non-compete clause.

## RECOMMENDATIONS

- The Competition Law should include definitions for several basic anti-competition practices, such as monopoly, cartel, transparency, horizontal and vertical agreements and veto power (in mergers and acquisitions).
- There is a need for the establishment of a competition authority that is independent of ministers and/or political figures.
- Further cooperation is needed, including the development of a memorandum of understanding with other competition authorities (regional and international).
- Labour protection provisions should be added, such as the non-compete clause.
- Markets should be liberalized for some vital sectors, (especially where State-owned enterprises operate), and State interventions should be based on specific conditions/circumstances.

