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Law No. 3 For The Year 2005
Promulgating The Law On Protection Of Competition And Prohibition Of Monopolistic Practices

In the name of the People,

The President of the Republic,

The People's Assembly passed the following bill and we hereby promulgate it into Law:

Article : 1

The provisions of the attached Law on protection of competition and prohibition of monopolistic practices shall be enforced.

Article : 2

The Prime Minister shall be the minister concerned with applying the provisions of the attached Law.

Article : 3

The executive regulations of the attached Law shall be issued by decree of the Prime Minister within one month from the date of enforcing the present Law.

Article : 4

The present Law shall be published in the official journal and shall come into force after three months from the day following the date of its publication.

The present Law shall be stamped with the seal of the state and be enforced as one of its Laws.

Issued at the Presidency of the Republic on 6 Moharram 1426 (Islamic Calendar), corresponding to 15 February 2005 (Gregorian Calendar).

Hosni Mubarak

Law On Protection Of Competition And Prohibition Of Monopolistic Practices

Article - 1

Exercising economic activity shall be in a way that does not lead to preventing, restricting, or prejudicing competition freedom, according to the provisions of the present Law.

Article - 2

In applying the provisions of the present Law, the following expressions shall denote the meaning mentioned next to each of them:

a) **Persons** : meaning natural and juridical persons, economic entities, federations, financial leagues and groups and groupings of people with their different modes of foundation, and other connected parties as determined by the executive regulations commensurately with the targets and provisions of the present Law;

b) ***Products :*** commodities and services;

c) ***Agency :*** Agency for protection of competition and prohibition of monopolistic practices as founded according to the provisions of the present Law;

d) ***Board :*** the board of directors of the Agency for protection of competition and prohibition of monopolistic practices.

Article - 3

The concerned market, in applying the provisions of the present Law, shall be the market based on two elements, namely the concerned products and geographical zone. The concerned products shall be those that each one of them is considered a practical and objective alternative for the other. The geographical zone shall mean a certain geographical area in which the conditions of competition are harmonious while taking potential competition opportunities into consideration, according to the criteria indicated in the executive regulations commensurately with the targets and provisions of the present Law.

Article - 4

Controlling a concerned market, in applying the provisions of the present Law, shall be the ability of the person, whose share exceeds 25% of that market, to create an effective impact on the prices or the volume of supply in it, without his/her competitors having the ability to limit that effect.

The Agency shall determine the cases of control according to the procedures indicated in the executive regulations of the present Law.

Article - 5

The provisions of the present Law shall apply to the acts committed abroad if they result in preventing or restricting the freedom of competition or prejudicing it in Egypt, and constituting crimes according to the present Law.

Article - 6

Concluding Agreement or contract between competitive persons in any concerned market shall be prohibited if it tends to cause any of the following:

a) Raising, decreasing or stabilizing the sale or purchase prices of products subject of dealing.

b) Dividing or specializing products markets on basis of the geographical zones, distribution centers, type of customers or commodities, seasons or periods of time;

c) Coordinating with regard to participating or refraining from entering in adjudications, bids, negotiations, and all supply offers;

d) Restricting the manufacturing, distribution or marketing processes or limiting the distribution, types or size of services, or setting conditions or restrictions for their availability.

Article - 7

Concluding agreement or contract between the person and any of his/her suppliers or customers shall be prohibited if it is apt to limit competition.

Article - 8

Whoever having control on a concerned market shall be prohibited from carrying out any of the following:

a) An act liable to lead to non-manufacturing, non-producing or non-distributing a product for a certain period(s);

b) Refraining from concluding contracts with any person for selling or buying a product, or discontinuing dealing with him/her in a way that leads to limiting his/her freedom of entering in or exiting from the market at any time;

c) An act that is liable to lead to restricting the distribution of one product exclusively on basis of geographical zones, distribution centers, customers, seasons or periods of time between persons with vertical relationship;

d) Suspending the conclusion of a contract or agreement for the sale or purchase of a product on condition of accepting obligations or products that are by nature or by virtue of commercial use of the product, non-connected with it, or with the object of the original deal or the agreement;

e) Differentiating between sellers or buyers with similar commercial standings, in the sale or purchase prices or in the conditions of dealings;

f) Refraining from producing or making available a short product when its production or availability is economically possible;

g) Stipulating for those dealing with him not to enable a competitor to use whatever he needs from their facilities or services, despite the fact that making such use available is economically possible.

h) Selling products with prices lower than their marginal cost or their average variable cost;

i) Obliging a supplier not to deal with a competitor.

The executive regulations of the present Law demonstrate the conditions and procedures of applying the provisions of this article.

Article - 9

The provisions of the present Law shall not apply in connection with the public utilities managed by the state.

The Agency, upon the request of the concerned parties, may exclude from the field of prohibition all or some of the acts prescribed in articles Nos. (6, 7, 8) the public utilities managed by companies that are subject to the private Law if doing that is liable to realize the public interest or benefits to the consumer exceeding the effects of limiting the freedom of competition, according to the controls and procedures to be determined by the executive regulations of the present Law.

Article - 10

A decree of the Cabinet of Ministers may be issued determining the sale price of one basic product or more for a limited period after consulting the view of the agency.

Any agreement to be concluded by the government for the purpose of applying the determined prices shall not considered an activity harmful to competition.

Article - 11

An Agency to be named "Agency for Protection of Competition and Prohibition of Monopolistic Practices" shall be established with its seat located in Greater Cairo. It shall have a public juridical personality, and be attached to the concerned minister. It shall assume the following responsibilities in particular:

1) Receiving the requests for taking procedures of thorough examination, search, and gathering evidentiary facts, and ordering these procedures to be taken with regard to cases of agreements and practices that are harmful to competition, according to the procedures to be determined by the executive regulations of the present Law.

2) Receiving notifications from persons upon their acquisition of any assets, property or usufruct rights or stocks, establishing federations or mergers, merging or combining the administration of two or more persons.

The executive regulations of the present Law shall determine the date and data of the notification and of the documents to be attached to it, as well as the procedures of its submission;

3) Preparing an integral database on the economic activity, updating and developing it continuously to serve the work of the agency in all the fields connected with competition protection, establishing a database and performing the studies and researches necessary for discovering the cases harmful to competition;

4) Taking arrangements as prescribed in article-20 of the present Law;

5) Expressing the view in the draft Laws and statutes connected with regulating the competition;

6) Coordinating with the agencies counterpart in the other countries with regard to matters of common interest;

7) Organizing training and cultural programs aimed at acquainting with the provisions of the present Law and the principles of the free market in general;

8) Issuing a periodical bulletin comprising the decrees, recommendations, procedures and arrangements to be taken by the agency, and other matters connected with its affairs;

9) Preparing an annual report on the agency's activities, and its future plans and recommendations for submission to the concerned minister after its approval by the board. A copy of it shall be sent to the People's Assembly and the Shura Council.

The executive regulations of the present Law shall determine the procedures to be followed by the agency for investigating and recording the acts that comprise or form a violation of the provisions of the present Law.

Article - 12

A board of directors to be formed by decree of the concerned minister shall assume the management of the agency as follows:

1) Full-time chairman with distinguished expertise;

2) A consultant from the State Council with the grade of deputy president to be elected by the head of the State Council;

3) Four persons representing the concerned ministries to be nominated by the concerned minister;

4) Three specialists with expertise;

5) Six persons representing the General Federation of Chambers of Commerce, the Federation of Egyptian Industries, the Banks Federation, the General Federation of Non-governmental Organizations, the General Federation of Consumers Protection, and the General Federation of Egyptian workers, providing each federation shall choose its own representative.

The term of the board shall be four years renewable for one term only.

The formation decree shall determine the financial treatment of the chairman and the board members.

Article - 13

The Council shall meet by invitation from its chairman at least once a month and whenever needs be. Its meetings shall be valid with the attendance of ten of its members. Its decisions shall be issued with the majority of its members.

No member of the board shall participate in the deliberations or in the voting of a case submitted to the board where that member has an interest, or a relationship link between him and one of its parties up to the fourth degree, or he has represented or is representing one of its parties.

The board may invite to attend its meetings the specialist it decides to resort to his/her assistance, providing he/she shall not have a counted vote in the deliberations.

The executive regulations shall determine the competencies of the board, in agreement with the provisions of the present Law, the procedures of invitation to its meetings, and the system of work in it.

Article - 14

The Agency shall have an independent budget to be prepared in the same manner as the service authorities budgets are prepared, and the surplus shall be carried forward from one fiscal year to another. The resources of the agency shall be formed of the following:

1) The appropriations earmarked for the agency in the general budget of the state;

2) The grants, gifts and any other resources to be accepted by the board of the agency where they do not contradict its objectives;

3) Proceeds of the fees prescribed in the present Law.

Article - 15

The agency shall have a full-time executive manager for whom a decree of the concerned minister shall be issued appointing him and determining his financial treatment and powers, upon his nomination by the head of the agency.

The executive manager shall represent the agency with third parties and before the court.

The executive manager shall attend the board meetings without having a counted vote.

The board of the agency shall set the statutes connected with regulating work in it and with the financial and administrative affairs of its workers without being restricted by the rules and systems prescribed for the civil servants of the State. These statutes shall be issued by decree of the concerned minister.

Article - 16

Workers at the agency shall be prohibited to divulge the information or data connected with the cases concerning the application of the provisions of the present Law or reveal their sources, and which are submitted or discussed and negotiated during examination of these cases, taking the relevant procedures and issuing decisions concerning them.

These information and data as well as their sources shall not be used for other than the purposes they were given for.

Workers of the agency shall be prohibited to perform any work for a period of two years from the date of quitting the service, with the persons that were subject to examination or are subject to it on that date.

Article - 17

Workers of the agency as determined by a decree of the Minister of Justice to be issued in agreement with the concerned minister upon the proposition of the board shall have the quality of Law officers in applying the provisions of the present Law.

These workers shall have the right of access to the books and documents with any governmental or non-governmental quarter and obtain the information and data necessary for examining the cases submitted to the agency.

Article - 18

The executive regulations of the present Law shall determine the rates of fees payable to the agency in return for the services it performs, which shall not exceed ten thousand Egyptian pounds for each case.

Article - 19

Any person may notify the agency of any occurring violation of the provisions of the present Law.

Article - 20

The agency, on establishing the violation of one of the provisions prescribed in articles nos. (6,7,8) of the present Law, shall charge the violator to modify his/her situations and remove the violation forthwith or

within a time limit to be determined by the board of the agency, otherwise the agreement or contract violating the articles nos. (6,7) of the present Law shall be invalid.

The board may issue a decision for ceasing the prohibited practices immediately or after the lapse of the said time limit without modifying the situations or removing the violation.

This shall be without derogation to the liability provisions resulting from these violations.

Article : 21

The criminal action shall not be filed, nor procedures shall be taken in it with regard to the acts perpetrated in violation of the provisions of the present Law except by a written request from the concerned minister or whoever he delegates.

The concerned minister or whoever he delegates may arrange a conciliation in any of these acts before a final judgment is passed in it against paying an amount of not less than twice the minimum of the fine and not exceeding twice its maximum.

The conciliation shall be considered relinquishing the request for filing the criminal action and shall result in terminating the criminal action for the very fact in respect of which a request for bringing the action was issued.

Article : 22

Subject to any stricter penalty prescribed in any other Law, any violation of the provisions of articles nos. (6,7,8) of the present Law shall be liable to a fine of not less than thirty thousand Egyptian pounds and not exceeding ten million Egyptian pounds.

The court, instead of ruling for confiscation, may rule for paying an alternative fine equivalent to the value of the product subject of the violating activity.

Article : 23

Subject to any stricter penalty prescribed in any other Law, violating any provision of article-16 of the present Law shall be liable to a fine of not

less than ten thousand Egyptian pounds and not exceeding fifty thousand Egyptian pounds.

Article : 24

A ruling shall be awarded for publishing the final judgments passed in condemnation of the acts referred to in article-22 of the present Law in the official journal and in two daily widespread newspapers at the expense of the condemned person.

Article : 25

The person in charge of actual management of the violating juridical person shall be liable to the same penalties prescribed for the acts perpetrated in violation of the provisions of the present Law, if it is established that he/she learns of these acts and his default on the duties imposed thereon by that management has contributed to the occurrence of the crime.

The juridical person shall be jointly responsible for settling the financial penalties and compensations ruled by the court if the violation was committed by one of its workers in the name or in favor of the juridical person.