

The Fourth Arab Competition Forum, Kingdom of Saudi Arabia

23-24 May 2023

Crown Plaza Hotel RDC, KSA

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I. Background

On Tuesday 23 May 2023, the 4th Arab Competition Forum was launched in Riyadh, Kingdom of Saudi Arabia. The forum was Organized by the United Nations Economic and Social Commission for Western Asia (ESCWA) in collaboration with the General Authority for Competition (GAC) in Saudi Arabia, the United Nations on Conference and Trade (UNCTAD), and the Organization for Economic Cooperation and Development (OECD).

Under the distinguished presence of His Excellency Dr. Ahmed Bin Abdul Karim Al Kholifey, the Chairman of the Board of Directors of the General Authority for Competition of Saudi Arabia, the fourth Arab Competition Forum commenced at the Crown Plaza Hotel, RDC. The forum spanned over two days and featured esteemed participants including Her Excellency Dr. Rola Dashti, Under-Secretary-General of the United Nations and Executive Secretary of ESCWA, as well as His Excellency Dr. Abdulaziz Bin Abdullah AlZoom, the Chief Executive Officer of the General Authority for Competition of Saudi Arabia.

In addition, the forum's opening speeches witnessed the virtual participation of Dr. Rebecca Grynspan, the Secretary-General of the United Nations Conference on Trade and Development (UNCTAD), and Dr. Carmine di Noia, the Director of Financial and Enterprise Affairs at the Organization for Economic Cooperation and Development (OECD).

The 4th Arab Competition Forum aims to make a significant impact on economic growth and governance in the Arab region. It seeks to enhance cooperation and coordination among competition authorities in the Arab Region, influence the formulation and implementation of competition policies based on international best practices, and gather practical recommendations for future initiatives focused on advancing competition policy and enforcement in the Arab region.

The Forum witnessed the participation of representatives from Arab and international competition authorities, along with national and international experts, and academics, who joined the event both in person and virtually. The physical attendance at the forum amounted to 122 individuals, while an additional 664 participants joined online.

II. Topics of Discussions

*Note: 4th ACF material are available on the following link: [click here](#)

1) Opening Speeches and Remarks

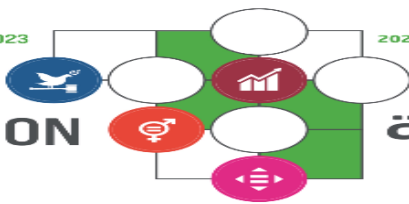
Dr. Ahmed Al Kholifey began his speech with words of welcome to the presidents of Arab competition authorities, experts, and guests participating in the forum. He expressed the Kingdom of Saudi Arabia's delight in hosting such a forum. He stated that the forum, will discuss the new trends, success opportunities, and challenges facing the implementation of competition laws and policies in the Arab region and around the world, due to the challenges posed by the COVID-19. Dr. Al-Kholifey emphasized the importance of the forum as an opportunity to exchange views on the best international standards, practices, and public policies adopted by countries to deal with the current situation and the challenges that followed the implementation of the competition system, combating monopolistic practices, and implementing the necessary policies to achieve consumer welfare and sustainable growth. He also mentioned that the Kingdom of Saudi Arabia, within its Vision 2030, has developed an ambitious national plan for economic reform and expanding private sector participation in economic development, creating an attractive environment for domestic and international investments. Dr. Ahmed Al-Kholifey highlighted the crucial role of competition policies in stimulating efficiency, productivity, economic growth, and sustainable development. He pointed out that since its establishment in 2018, the General Authority for Competition has worked on developing an ambitious strategy for implementing the competition system and its executive regulations, as well as adopting public policies aimed at supporting economic activities in the Kingdom, promoting competition, and preventing monopolistic practices. He emphasized that the authority's strategy includes four main pillars focused on supporting a competitive and stimulating environment, improving systems and policies, raising awareness of competition culture, achieving fair competition, and fostering effective cooperation with local and international partners, enhancing operational efficiency, and digital transformation to facilitate the journey of work, with the aim of positioning the Kingdom on the map of leadership among global competition authorities. Dr. Al-Kholifey concluded his speech by emphasizing the importance of experts' participation in discussing highly significant topics for the Arab region and exchanging international experiences to reach the best results and recommendations for enhancing competition levels in the region.

Then, a short visual video was presented summarizing the key milestones of the General Authority for Competition in the Kingdom of Saudi Arabia.

After, **Dr. Rola Dashti** began her speech by expressing gratitude and welcome. She noted that this forum, launched by ESCWA in collaboration with UNCTAD and the OECD in 2020, serves as a platform for knowledge exchange, cooperation, and coordination at national, regional, and international levels. She extended her special thanks to the General Authority for Competition in the Kingdom for their warm



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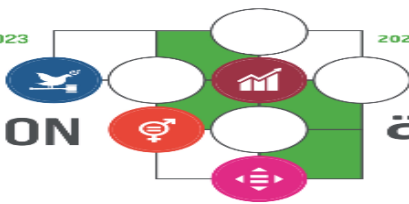
hospitality. Dr. Dashti pointed out that the Arab Business Legislative Framework Report for 2023 indicates progress and improvement in the region over the past three years. The overall competition score increased from 3.6/7 in 2020 to 4.3/7 in 2023 due to the amendment of competition laws in several Arab countries and their focus on implementation. However, she highlighted that the region still faces obstacles such as inefficient market structures, governance system corrections, law reforms, and improving implementation methods. She also emphasized that today's meeting is not just about discussing competition policies but an opportunity to launch a dialogue about the future and define the type of economic landscape that should be shaped for future generations. She highlighted the economic transformation witnessed in the Arab region, stating that economies have become more diversified and developed, and markets have become more integrated. However, competition policies in the Arab region have not always kept pace with this change. Dr. Dashti stressed the importance of implementing and enhancing competitive policies in the Arab region so that they are not merely documents on office shelves but dynamic tools that empower entrepreneurs, protect consumers, and promote economic growth. She then shed light on the approach that should be adopted to improve the competition system in the region, highlighting three levels: Updating legislative and regulatory frameworks. Strengthening executive mechanisms and empowering regulatory bodies in the Arab region, providing resources and independence to these bodies. Promoting a culture of competition in the Arab region.

Ending her speech, Dr. Rola Dashti expressed her great enthusiasm for the Arab Youth in Competition Session, emphasizing the importance of youth participation in such contests and forums. She also affirmed that competition policies aim to establish that success is achieved through merit, not domination and monopolization. She stressed that the path to success will not be easy and will be filled with challenges that must be confronted to move forward and enhance economic and social justice and prosperity. She further highlighted that the forum would serve towards generating ideas and recommendations that contribute to achieving these objectives.

Dr. Rebecca Grynspan delivered the third speech, she began by expressing gratitude to Dr. Ahmad Al Kholifey and acknowledging the contributions of UN ESCWA and OECD. She shed light on the significant work carried out by UNCTAD in addressing emerging challenges in critical policy areas, particularly the rapid growth of the digital economy and its impact on international trade, development, and competition policy. Dr. Grynspan highlighted UNCTAD's research findings, which revealed that global e-commerce sales reached a staggering \$26.7 billion in 2020, indicating a remarkable 40% increase since 2015. She emphasized the need to address concerns within digital markets that are heavily dominated by six major companies: Apple, Microsoft, Amazon, Google, Facebook, and Alibaba. This concentration poses significant difficulties for micro, small, and medium enterprises, especially considering the exacerbated challenges brought about by the COVID-19 pandemic. Given that SMEs represent over 90% of global businesses and employ nearly 70% of the global workforce, UNCTAD has collaborated with UNESCWA to launch initiatives aimed at supporting their recovery. Also, Dr Grynspan underscored the growing importance of sustainability in competition law and policy. She highlighted that competition authorities worldwide are increasingly integrating sustainability considerations into their policies, as reflected in a recent UNCTAD report. Also, Dr. Grynspan emphasized the crucial role that competition law and policy must play in realizing sustainable development goals. Furthermore, she addressed the specific



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challenges faced by SMEs in developing countries, such as limited technical know-how, institutional capacities, and lack of resources, where these obstacles hinder their ability to effectively compete in the global market. Concluding her speech, Dr. Rebecca Grynspan emphasized the importance of collaboration in enhancing competition policies and the intricate interlinkage between competition and collaboration.

Finally, **Dr. Carmine Di Noia** delivered the final speech, commencing with a welcoming remark. He emphasized the pivotal role of the OECD in promoting competition and supporting efforts to enhance the competition framework in the Arab region, in partnerships with ESCWA, UNCTAD, and bilateral projects. Dr. Di Noia proceeded to highlight the progress made in competition law development in Egypt, Kuwait, Morocco, Saudi Arabia, Lebanon, and Jordan.

He identified three key priorities for the competition community to drive economic growth and recovery. Firstly, there is a need to continue strengthening the competition framework, as evidence indicates that competition fosters innovation and productivity. Developing effective competition frameworks is crucial for promoting higher economic growth and living standards. Dr. Di Noia shared an example of the OECD's collaboration with the Greek competition authority in conducting three competition assessment projects in 2013, 2014, and 2016, resulting in over 700 recommendations. If implemented, these recommendations could yield economic benefits of around 5.2 billion Euros, equivalent to approximately 2.5% of GDP. Secondly, he emphasized the importance of striving for greater coherence and alignment among competition, investment, and trade reforms. Dr. Di Noia stressed that the combined impact of these coordinated reforms would be greater than the sum of their individual effects. Thirdly, he encouraged continued regional integration, citing the joint Arab Competition Forum and Arab Competition Network as important initiatives that facilitate knowledge sharing and the exchange of best practices.

In conclusion, Dr. Carmine Di Noia underscored the significance of regional cooperation and integration in promoting the convergence of competition standards. This, in turn, fosters a more competitive environment and reduces compliance costs for businesses. He encouraged building upon the discussions and agenda of the forum to further strengthen the competition framework and ensure policy coherence among competition, trade, and investment policies.

Then, a short visual video about the forum was presented.

The forum includes a series of panel discussions on enhancing the effectiveness of competition authorities in developing and least-developed countries, abuse of dominance in digital markets, cross-border merger control, and best practices in planning and conducting market studies. In addition to the special session about Arab youth in the competition.

2) Special Session: Arab Youth in Competition

This session was organized by ESCWA and the General Authority for competition in KSA.

This session aims to enhance students' research and analytical skills and promotes a culture of competition among youth. During this session, the winners of the annual student competition challenge were announced and presented their papers. A total of 30 students participated in the challenge, and 11 students (3 papers) were selected as winners based on an evaluation by a jury consisting of 5 experts.

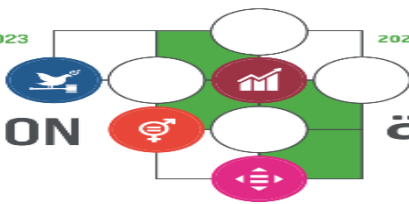
The first presentation was presented by **the student, Sabia Al Alewi**, representing her team from King Saud University, entitled Controlling the Acquisitions of emerging companies and their impact on Competition. The expansion of the authority of the General Authority for Competition makes acquisitions of companies more effective and prevents the creation of monopolistic practices. Then Sabia indicated that as a team they discussed the case of the acquisition of Hunger Station by Delivery Hero, and then she highlighted the effects resulting from this acquisition: First, increasing the acquired company's market share by 65%. Second, creating a dominant position for the delivery hero. Third, the commissions imposed on restaurants increased by 23%, which negatively affects the final consumer. Sabia concluded with the following recommendations: First, enacting rules that include special provisions in controlling acquisition deals made by startups. Second, qualifying technical cadres specialized in the digital field. Third, publishing studies related to economic concentration operations issued by the General Authority for Competition.

Then, **Raghad Al-Zahrani**, representing her team from Princess Noura University, presented the second presentation, which is about an analytical study of Saudi Aramco's acquisition of 70% of SABIC's shares. She began her presentation by defining mergers and acquisitions and their impact on the economic market. And then she discussed the reasons for choosing this case. Then, Raghad, presented some of the advantages of mergers and acquisitions, such as increasing competitiveness, and increasing and improving products, while the negatives are the emergence of major economic blocs and monopolistic companies that dominate and control the markets, which weakens competition. She also stressed the importance of competition in the markets and in regulating mergers and acquisitions. Also, she analyzed Saudi Aramco's acquisition of 70% of SABIC's shares, noting the implications of this process. Raghad concluded with some recommendations, including the need to work on a government platform affiliated with the General Authority for Competition website that collects research and studies related to mergers and acquisitions in the Saudi market.

The third and final presentation was conducted by **Raghad Al-Harbi** from Imam Muhammad bin Saud Islamic University, and she began her presentation with a general introduction to the expansion of companies through mergers and acquisitions. Her research paper focused on the effects of the strongest historical merger deal and the role of competition authorities in increasing these operations, focusing on some of the objectives of the study, including analyzing the reasons that lead to the failure of merger and acquisition deals. Then she discussed the problems of the study, where she indicated that the AOL Time Warner merger deal ended in disaster for several reasons: First, the sector market was not well



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studied. Secondly, paying large sums. Third, the lack of a strategic outlook for the future. The AOL Time Warner merger affected both its industry competitors and consumers. Also, the high concentration in the Internet services market and the power of monopoly led to a lack of diversity in the quality of service and price for consumers. Raghad concluded with some recommendations to protect competition and ensure effective implementation of policies by competition authorities: First, setting strict conditions for these deals. Second, creating an educational platform for the Competition Authority. Third, modernizing competition policies in a manner commensurate with the market. Fourth, paying attention to building the capabilities of human workers. Finally, conducting counseling sessions states that the competition authorities motivate the targeted companies and prepare them to enter a legitimate business environment.

At the end of the session, His Excellency Dr. Ahmed bin Abdul Karim Al-Kholifey, His Excellency Dr. Abdulaziz bin Abdullah Al-Zoom, and Her Excellency Dr. Rola Dashti honored the winners of the student competition challenge. In the first place was the King Saud University team consisting of: the student Sabia Al Alewi, the student Abdullah Al-Kharraz, the student Maryam Al-Subaie, the student Noura Bakhitan, and the student Wijdan Al-Harbi. As for the second place, the team of Princess Noura bint Abdulrahman University, consisting of: the student Ilan Sanbaa, the student Bodour Al-Asiri, the student Raghad Al-Zahrani, the student Rima Bakri, the student Watin Al-Zahrani. And in the third place was the team of Imam Muhammad bin Saud Islamic University, composed of the student Raghad Al-Harbi.

Finally, a group photo was taken with the winning teams.

3) Session I: Enhancing the effectiveness of competition authorities in developing and least-developed countries.

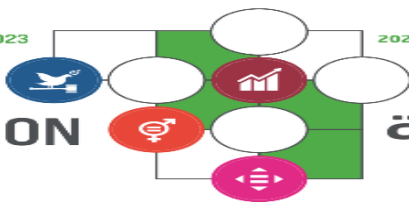
The first session was chaired by His Excellency Dr. Abdulaziz bin Abdullah Al-Zoom, the Chief Executive Officer of the General Authority for Competition, Kingdom of Saudi Arabia.

This session discussed the challenges facing competition authorities that are still in the early stages of their activities, particularly those in developing and least developed countries. Also, mechanisms to address these challenges were proposed. Moreover, experts highlight international, regional, and national perspectives and examples.

The first intervention was made by Mr Frederic Jenny, Chairman of the OECD Competition Committee, Emeritus Professor at ESSEC Paris Business School, started his intervention by stating that the effectiveness of competition authorities is not limited to developing countries but also applies to developed countries, where young competition authorities face challenges in establishing their reputation and promoting an understanding of the benefits of competition. Mr. Jenny mentioned a survey conducted in Finland, where the director general of the Finnish competition authority was highly respected, but the public did not recognize the importance of competition. This highlights the disconnect between personal reputation and institutional reputation, emphasizing the need for building trust and understanding of competition. He identified several challenges faced by competition authorities in



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developing countries as: The lack of understanding of the goals of competition, with confusion between contractual breaches, consumer protection, fair competition, and anti-competitive practices. The lack of experience and cultural bias against competition in both the business community and public servants. The small size of many jurisdictions poses challenges, as there is a limited business community and a close connection between the business community and the state apparatus. Also, state-owned enterprises, which may be exempted from competition law, and young competition authorities that face resource limitations, both in terms of financial resources and technical skills.

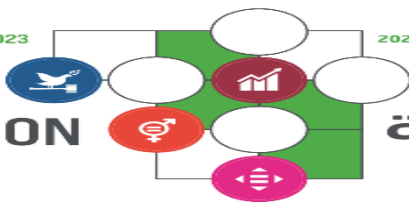
Mr Jenny suggested several "No Regret" moves to address these challenges as: The necessity for competition authorities to keep the objectives of competition law in mind and understand the different goals when the law was enacted. Also, setting clear priorities is crucial due to limited resources, and these priorities should be publicly communicated. Transparency is another key aspect, as publishing policy statements, opinions, decisions, guidelines, and annual reports helps in understanding and avoids suspicions of corruption or favoritism. Investing in an intelligence function enables competition authorities to gather information on anti-competitive practices, learn from other countries' experiences, and engage with the business community and professional journals. Developing the legal and economic skills of staff members through technical assistance programs is essential, as is retaining trained staff by building a reputation of being an important, relevant, and clean institution. Collaboration with other policy makers is necessary to ensure coherence with industrial policy, trade policy, public procurement policy, and consumer policy. Creating an ecosystem that supports competition and involves stakeholders such as academia, the press, judges, NGOs, helps disseminate understanding and provides useful information to the competition authority.

Mr Jenny concluded his intervention by stating the significance of market studies and independence of competition authorities as a crucial concept to apply the law impartially, address anti-competitive practices of state-owned enterprises, and promote international cooperation, particularly in the digital world.

The following intervention was delivered by Ms. Nathalie Khaled, Project Coordinator for Competition and Consumer Protection, Economic Affairs Officer at ESCWA, she discussed the importance of applying the principles of free and fair competition in Arab countries, particularly in developing and least developed countries. She emphasized that competition contributes to a 1.2% increase in real income, a 1.8% reduction in poverty rates, and a 3% increase in GDP growth rates, thus contributing to the economic development in those countries. Ms. Khaled also highlighted the importance of studying the legislative frameworks for the business environment in the Arab region and analyzing them. She referred to a study conducted by the Economic and Social Commission for Western Asia (ESCWA) in 2020, which covered several important laws, such as competition and consumer protection laws, foreign direct investment laws, and anti-corruption laws. The Arab region was divided into sub-regions, including the Arab Gulf states, least developed countries, countries with a medium-income level, and conflict-affected areas. She noted the development and progress of competition laws in the Gulf Cooperation Council (GCC) countries from 2020 to 2022, moving from an advanced ranking to a strong ranking, with the adoption and implementation of several competition laws. As for the medium-income or developing countries, the results showed an evolution from a moderate level to an advanced level due to the



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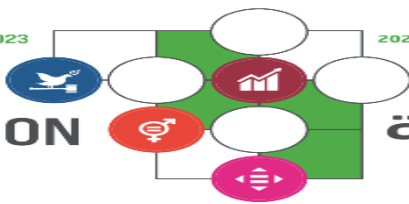


adoption of various competition laws. However, in least developed countries, no progress was observed in competition law, and the current classification is considered primitive, mainly due to the lack of any legislation or amendments in this regard. Ms. Nathalie provided examples such as Somalia, where there is no competition law, and Mauritania, which relies on commercial law. She concluded her intervention by presenting some recommendations to be implemented in developing and least developed countries, such as benefiting from the experiences of advanced countries in the Arab region, enacting legislation to ensure the financial and administrative independence of competition authorities, adopting principles of competitive neutrality, aligning competition legislation with trade agreements, providing competition authorities the opportunity to express their opinions and contribute to the development of competition legislation, signing memoranda of understanding, and establishing a network to enhance the limited resources of growth authorities through financial support, exchange of expertise, and training. Ms. Khaled highlighted the work carried out by ESCWA to assist these countries through regional platforms such as the forum, the Arab Legislation Portal, and the Arab Business legislative framework.

The next intervention was delivered by Mr Willard Mwemba, Director, and Chief Executive Officer of the COMESA Competition Commission, starting by discussing the state of competition law and policy in the member states of the Common Market for Eastern and Southern Africa (COMESA). He emphasized the need to focus on the Arab region and shared information about the implementation and enforcement of competition laws in specific countries. Regarding Djibouti, Mr. Mwemba clarified that although they have a competition law, they do not yet have a competition authority. However, the COMESA Competition Commission is currently assisting Djibouti in reviewing its competition and consumer policies. Regarding Sudan, Mr. Mwemba noted that they have a competition council, and the COMESA Competition Commission has been working closely with them to enhance their capacity. In the case of Comoros, Mr. Mwemba clarified that they have a functioning competition council, thanks to the assistance provided by the COMESA Competition Commission. Regarding Somalia, Mr. Mwemba mentioned that not much progress has been made in terms of competition law enforcement, but they expressed the desire to act in the country once the situation permits. Also, Mr. Mwemba highlighted the efforts to establish a functional competition authority in Libya, where previous attempts were made, and they plan to resume those efforts soon. Mr. Mwemba emphasized the importance of cooperation among competition authorities and highlighted the role of the COMESA Competition Commission as a regional authority that deals with matters affecting two or more member states. He explained that cooperation alone is not sufficient and that a binding framework is needed. Mr. Mwemba outlined four key areas where COMESA has made significant contributions: advocacy, cooperation, legislative changes, and capacity building. Furthermore, Mr. Mwemba highlighted the importance of staff exchanges and fellowship programs, where staff from established competition authorities are attached to newly established agencies to enhance capacity building and knowledge transfer. He provided an example of officials from the Egyptian Competition Authority being stationed at the COMESA Competition Commission, enabling them to gain practical experience and foster a common understanding of competition law implementation. In conclusion, Mr. Mwemba expressed his optimism about collaborating with ESCWA, the Arab Competition Forum and the Arab Network to strengthen competition law enforcement in the region, considering the shared membership and common interests between COMESA and ESCWA and the Arab Network.



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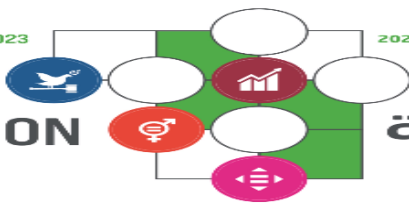
Then Mr. Mahmoud Momtaz, the head of the Egyptian Competition Authority and the Chairman of the Arab Competition Network, stated that the Egyptian Competition Authority has developed a key strategy for the period from 2021 to 2025, consisting of four objectives: Effective enforcement of competition laws. Limiting restrictive legislations and decisions issued by the state that hinder competition. Establishing a culture of competition. Enhancing the institutional capacity of the competition authority to align with the first three objectives.

He also emphasized the presence of five key partners that should be focused on establishing a culture of competition: the academic community, the judiciary, the media, the government, and its institutions. Mr. Momtaz stressed the principle of competitive neutrality in applying equality to all market participants. To enforce competitive neutrality, the Egyptian Competition Authority, based on Egypt's Vision 2030, established the High Committee for Competitive Neutrality, chaired by the Prime Minister and consisting of most of the ministers of the Economic Group. The authority plays a role in receiving complaints from investors if there is a government decision or legislation that restricts market entry for companies. In such cases, the authority conducts investigations into the complaints and submits them to the High Committee, which has the authority to take direct action. Mr. Momtaz also mentioned that the Egyptian Competition Authority has issued guidelines on competition that have been distributed to all agencies and ministries to increase their awareness and consideration when issuing decisions and circulars related to competition. Furthermore, Mr. Momtaz added that the authority is currently working on an index to measure competitive neutrality. All these steps taken by the authority will ensure the principles of equality and justice in the markets and open the door to new investments. Mr. Momtaz concluded his intervention by referring to the Arab Competition Network's simulation model, in which 40 representatives from Arab countries participated, and around 1400 students from across the Arab world have registered. This reflects the students' desire to learn and increase their awareness of competition issues. One of the key goals of the simulation model is to achieve a spillover effect on the entire society.

The final Intervention for this session was delivered by Mr Babatunde Irukera, Executive Vice Chairman, Federal Competition and Consumer Protection Commission, Nigeria, who stated that Nigeria has recently established a comprehensive competition law to regulate its various sectors. Prior to 2019, there was no specific competition legislation in the country. The enactment of the Federal Competition and Consumer Protection Act in late 2018 marked the creation of a composite competition regulator for Nigeria. Given the size and significance of the Nigerian economy, understanding the role of competition, and formulating an effective competition policy is crucial. Also, Mr Irukera emphasized on the role that Competition policy plays in facilitating the survival and growth of small and medium businesses, which are crucial for shared prosperity in Nigeria. He then highlighted the adopted strategy as stakeholder engagement, advocacy, and education are critical components of the strategy to foster competition in an economy dominated by informal businesses and nascent competition regulation. Capacity development has been essential, not only in understanding competition economics and principles but also in comprehending the intersection of competition with constitutional imperatives for shared prosperity. Collaboration with industry and other sector regulators has been crucial for effective enforcement. Moreover, leveraging technology, where Nigeria has implemented a fully digital M&A filing system and adopted soft laws and regulations from experienced institutions. Mr Irukera shed light on the



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enforcement actions taken by the competition authority in Nigeria including cartel investigations, and market operations. He then stated the priorities for the authority as preventing killer acquisitions, addressing competition issues in digital markets, and forging regional alliances to promote competition principles within West Africa. He then shared some of the key lessons learned in Nigeria from the experiences of other jurisdictions while recognizing the need for localized and nuanced approaches to competition policy, where cultural and market-specific factors must be considered, such as the existence of trade associations engaging in anti-competitive conduct. Mr Babatunde Irukera concluded his intervention by highlighting the vital role that collaboration plays in establishing an efficient and dynamic competition regulation.

Questions and Answers

Question 1: Jamil Zayed, Director of Competition Council in the Hashemite Kingdom of Jordan: There are exemptions in many Arab competition laws for state-owned companies and state-owned enterprises. How can we reconcile the concept of competitive neutrality with these exemptions? Should the competition authority work on fundamentally amending competition laws to remove these exemptions?

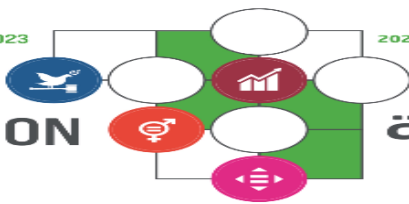
Mahmoud Momtaz: There is a significant distinction between the role of the state in what we call economic activities and the state's provision of non-profit services. If the state entity is engaging in economic activities and competing with private sector companies to gain market share, then competition laws should not include these exemptions. For example, in Egypt, Article 9, paragraph (1) of the Egyptian Competition Law states that the provisions of the law do not apply to public facilities directly managed by the state. However, our interpretation as an Egyptian competition authority is that the law should be applied when engaging in economic activities. For instance, the Egyptian Telecommunication Company, which is state-owned, has been subject to fines because the authority in this case interpreted the concept of economic activity. When we talk about competitive neutrality, we refer to four aspects: Tax neutrality. Neutrality in accessing capital. Legislative neutrality. Neutrality in public and government procurement.

Frederic Jenny: Granting exemptions to state-owned enterprises (SOEs) poses challenges as the extent of these exemptions varies across countries. Sometimes, the exemptions are limited to the core activities of the SOEs and not their diversification efforts. It is preferable for SOEs to be subject to competition rules, but the problem lies in the fact that they do not face the same constraints as private firms in terms of profitability, efficiency, and the risk of bankruptcy for poor performance. This differential treatment can distort markets. To address this, it is advisable to inform the government about the difficulty created by such exemptions. If exemptions must be granted, they should be as limited as possible and focused on the core activities of the SOEs. Additionally, it is crucial for competition law enforcement to treat public and private firms equally, without distinguishing between them. This ensures that both types of firms operate under the same competition constraints, if permitted by the law.

Question 2: Bashir Samari, Legal Expert at the Ministry of Economy, United Arab Emirates, you mentioned in the presentations that having competition legislation is better than its absence. Some countries lack competition laws, and there is an effort by several organizations and countries to find



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alternative ways to regulate competition in the absence of such laws. I believe that having competition laws merely for the sake of legal appearance can be negative in some cases, as most competition laws in Arab countries are filled with exemptions. We see that the legal texts regarding competition exist, and the regulatory bodies are present, but most of their provisions are not implemented or applied to government institutions. We argue that competition law should be applied to all parties. Don't you think that the abundance of exemptions in laws is the same as countries without competition laws?

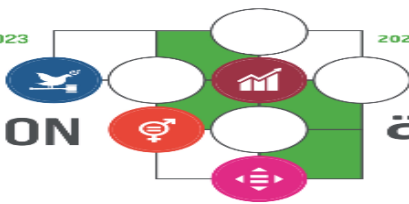
Frederic Jenny: Having competition laws in place indirectly helps by establishing a competition authority that can advocate for the principles of competition. This authority can engage with the government to highlight the importance of competition and address the issues mentioned. While it is crucial for this institution to have strong connections with other public policymakers, the mere existence of a competition law ensures that there is a voice advocating for a more open system. This applies not only to developing countries or the MENA region but also to Europe, where it has taken significant time to bring public firms under the purview of competition law. Overall, a competition authority plays a vital role in this process.

Willard Mwemba: Taking the first step towards establishing a competition authority, even in the presence of exemptions and exceptions, is a significant and positive move. It provides a platform for advocacy and awareness, as mentioned earlier. Through various initiatives, such as national-level meetings and forums, policymakers can be invited to understand the drawbacks and benefits associated with these exemptions. Demonstrating the positive outcomes achieved by other countries that have implemented similar measures serves as a compelling example. Additionally, an illustrative anecdote highlights the importance of having competition laws in place. For example, in COMESA, we investigated a big company, it was engaging in many minimum resale price maintenance and absolute territory restriction, we investigated them and struck out those provisions in those agreements and stated that they needed to remove all such clauses from all countries in which they operate within COMESA. We realized later that in countries where competition laws are very active, they indeed did comply and struck out clauses, but in countries where competition laws were not active, they did not do that. This discrepancy came to light during advocacy and awareness programs, providing an opportunity to address the negative consequences of such practices, regardless of whether they are implemented by private or government entities, as their impact on the market remains the same. Moreover, Dr Mwemba suggested an important approach is to use the platform of peer reviews conducted by UNCTAD and OECD, as it benchmarks the competition legal framework with others and then identifies the weaknesses and shortcomings arising from that law.

Nathalie Khaled: We must not forget that the topic of competition and competition laws in the Arab region is still in its early stages, so it is important to start somewhere. Having competition laws is important for market regulation. When we move to the principle of competitive neutrality, we are moving to a different level within competition law. The transition between these levels should be step by step. Also, sometimes exemptions are good as they support small and medium companies, which are usually the main bodies of our economies, especially in the Arab region.



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Mahmoud Momtaz: He referred to a study conducted in 2009 that looked at the difference between countries with competition laws and countries without competition laws. This study showed that countries with competition laws experienced an increase in their gross domestic product (GDP) by 1 to 2% simply by having a law in place. In Egypt, for a long time, we did not have control over merger and acquisition operations. We have established a written cooperation with the Ministry of Health regarding all mergers and acquisitions taking place in hospitals, as well as with the pharmaceutical Authority. After this cooperation, the Ministry of Health and the pharmaceutical Authority now consider the opinion of the competition authority in any merger or acquisition operations in the sector, and this is where we see the role of advocacy.

Babatunde Irukera: the absence of competition law poses challenges and raises concerns about business conduct. Without a legal framework, it is difficult to regulate and monitor the actions of various market players, including the government itself. The introduction of competition legislation provides a basis for compliance and reduces the need for regulatory intervention. It ensures that businesses, including the government, are bound by rules and guidelines, promoting fair competition and deterring violations. The presence of a competition law narrows down the focus of regulators to the remaining portion of businesses that may still seek to engage in unlawful practices, as opposed to a scenario where there is no framework, and everyone acts without restraint.

Dr. Abdulaziz Al-Zoom: Through the regional experience in the Gulf Cooperation Council countries, international pressures on local states to activate competition systems and enact competition legislation have played an effective role in developing many systems in the Gulf countries. In regional cooperation, particularly in relation to trade, there should be compelling provisions for many countries to activate competition systems so that they do not lose in their international trade in this aspect.

Question 3: Ashraf Abdel Aziz, Director General of Financial and Administrative Affairs, Egyptian Competition Authority, Arab Republic of Egypt, What is the impact of the institutional design of competition agencies on priority setting? And how can limited resources, whether financial or human, be efficiently utilized to serve the goal of competition agencies?

Frederic Jenny: To effectively handle competition cases, it is crucial to have a well-defined plan with clear priorities. This includes determining the specific cases, intelligence functions, and market investigations to focus on. Furthermore, it is important to integrate legal specialists and economic specialists from the beginning of the process, rather than involving them at a later stage. By working together, their combined expertise can contribute to more comprehensive and timely decision-making. It is important to cultivate individuals who possess a deep understanding of both the legal and economic dimensions of competition. This multidisciplinary approach ensures that the team consists of economists who comprehend the law and lawyers who grasp the economic aspects, enabling them to effectively address competition cases.

4) Session II: Abuse of Dominance in Digital Markets

The Second session was chaired by Ms Teresa Moreira, Head, Competition and Consumer Policies Branch, Division on International Trade and Commodities, UNCTAD.

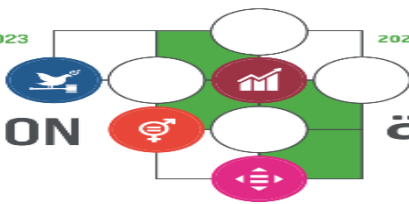
This session discussed the main types of abuse of dominance concerns that can emerge in digital markets, what makes these markets unique, and how have competition authorities around the world tackled the challenges.

The first intervention was delivered by Ms Teresa Moreira, Head of Competition and Consumer Policies Branch, Division on International Trade and Commodities, UNCTAD, started by focusing on the abuse of dominance in digital markets and the challenges it poses, particularly for micro and small businesses in developing countries, mentioning the growing market power of digital platforms and unfair terms and conditions hinder the access of these businesses to digital platforms. Competition authorities have been closely monitoring the digital economy, which has presented both opportunities and concerns. Ms Moreira presented the International Telecommunication Organization provided data, showing growth in internet access worldwide, but also highlighted remaining digital divides between and within countries, including gender disparities. She mentioned that several features of the digital economy raised competition policy concerns, including market concentration, multi-sided markets, data collection and monetization, zero price markets, network effects, high switching costs, economies of scale and scope, mergers and acquisitions, vertical integration, self-referencing practices, and the use of artificial intelligence algorithms. Also, Ms Moreira highlighted UNCTAD's possible policy options for member states and competition authorities. These included assessing the adequacy of existing competition law and policy to address anti-competitive behavior and market power in the digital economy, considering the need for regulation alongside competition law enforcement, exploring new digital tools for understanding and identifying anti-competitive practices, leveraging soft law guidance, and promoting collaboration and cooperation among stakeholders. Ms Teresa concluded her intervention by shedding light on the upcoming intergovernmental group of experts meeting in July and UNCTAD's annual e-commerce week in December, which will further delve into these issues and discuss competition and consumer-related topics.

The next intervention was delivered by Mr William Kovacic, George Washington University, during which he stated that working in the field of digital markets and abusive dominance presents several challenges for competition authorities. Firstly, the rapid pace of technological change creates difficulty for competition authorities to keep up with developments. The industry is highly dynamic, with relationships among participants in the supply chain constantly evolving. Secondly, the substantive complexity of the technology and business models adds to the challenges as it requires a multidisciplinary approach involving economists, lawyers, computer scientists, engineers, and analytics experts, as traditional analytical frameworks may no longer adequately capture the changing dynamics and relationships within the industry. The development of new vocabularies, such as ecosystem and ecology, reflects the recognition that traditional relationships no longer govern competition policy analysis effectively. The third challenge lies in the complexity of the regulatory landscape. Addressing issues in digital markets involves not only competition law but also consumer protection, data



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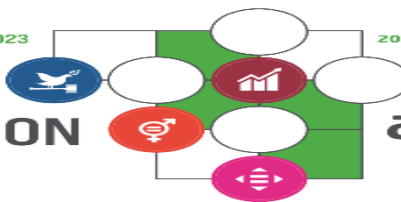


protection, security, cybercrime, and intellectual property considerations. The convergence of these disciplines creates a complex policy domain that requires comprehensive analysis. Mr Kovacic then highlighted the challenges faced by Competition authorities in this sector, as the need to enhance knowledge and understanding of the digital market landscape. He then showcased the example of the competition of markets authority which they Invested in specialized teams with expertise in computer science, engineering, analytics, and quantitative methods to support analytical work and enable authorities to engage effectively with tech companies. Secondly, the urgency for network policymaking highlights the importance of collaboration and learning across different organizations, as working groups, deep case examinations, and an open discussion of failures and successes can foster collective learning and improve policymaking outcomes. Mr William concluded his intervention by highlighting the fact that given the rapidly changing nature of the digital market, a process of continuous assessment is necessary, as conducting experiments, evaluating their outcomes, and adapting strategies accordingly can help authorities stay ahead and effectively address challenges. Learning from both historical perspectives and ongoing assessments is crucial for successful innovation in policymaking.

Then Ms Natalie Harsdorf-Borsch, Acting Director General, Austria Competition Authority, started by describing the Austrian competition Authority as an advanced Competition Authority, despite being a smaller authority with limited resources, which is responsible for various tasks such as merger control, abuse cases, fair competition, advocacy, sector inquiries, media law, and the financial sector. The authority is comprised of approximately 50 people organized into three departments and four units, with a focus on forensics and IT. Ms Natalie highlighted an advantage as being part of the European Competition Network, allowing the authority to divide work and collaborate with other competition authorities in the network. This is particularly beneficial in abuse of dominance cases in digital markets, as they can share the workload or involve the European Commission if necessary. Then she emphasized that the authority has recently shifted its focus towards abuse of dominance cases, especially in digital markets. However, these cases often require assistance from other jurisdictions due to the nature of digital platforms. To strengthen enforcement in digital cases, legislative amendments have been made to provide better instruments and equip the authority to deal with abuse of dominance in digital markets. She then highlighted the amendments made to the definition of market power and dominance in digital markets, to consider factors such as the importance of intermediary services, access to relevant data, and the benefits derived from network effects. The concept of relative market dominance has also been broadened to include intermediaries on multi-sided digital markets. Moreover, a two-step procedure has been introduced, allowing the authority to obtain a declaration of dominance in a digital market before proceeding with abuse cases, relying on the prior declaration as evidence. Also, Ms Natalie showcased the new regulatory framework called the Digital Markets Act (DMA) established in Europe. She then highlighted Amazon case as an example of successful national/European cooperation, where the authority received numerous complaints regarding alleged unjustified blocking, closure of seller accounts, unequal treatment, and lack of transparency on the Amazon Marketplace. The authority collaborated with the German Bundeskartellamt and the European level to investigate the case. Ultimately, Amazon revised its terms and conditions, resulting in a positive outcome without the need for legal proceedings. Ms Natalie concluded her intervention by highlighting the fast-paced nature of digital markets and the importance of cooperation, and acknowledging of the significance of sector



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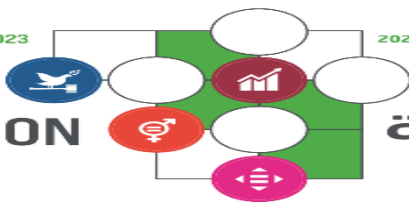
inquiries to gain knowledge about specific sectors before initiating abusive dominance cases in digital markets, showcasing the example of E-mobility, and Online food delivery platforms.

The fourth intervention was delivered by Mr Saurabh, Joint Director (Economics), Competition Commission of India, during which he started discussing the multi-pronged strategy adopted by the competition commission of India (CCI) in the digital sector, as focusing on the enforcement side, regulation of combinations, advocacy, rely on market studies, and capacity building, as strengthening institutional capacity. He then proceeded to outline the enforcement approach of the CCI as cautious and nuanced, rather than a uniform application of the law, the CCI adopts a case-by-case examination method, also the CCI employ novel theories of harms, guided by the economics of multi-sided markets, and strive to follow best practices from around the world with suitable modifications to account for local factors. Mr Saurabh discussed two significant cases concerning the digital market, for which final orders were issued last year. The first case pertains to MakeMyTrip, and the second case involves Google and its Android mobile device ecosystem. After he showcased the challenges faced in regulating mergers in digital markets as determining notification thresholds, particularly for asset-light digital companies that may fall below traditional thresholds, non-price competition complicates the definition of relevant markets in the digital sector, redefining theories of harm is another challenge, drafting suitable remedies, and acquisitions of nascent firms. Moreover, Mr Saurabh showcased the CCI approach in merger control, by focusing on safeguarding potential competition, selecting appropriate analytical frameworks, and factors such as data quality, choice, and innovation are considered when formulating theories of harm. To address regulatory gaps, the CCI has introduced a value of transactional approach in the amended act, considering the size of transactions rather than just asset turnover. Also, Mr Saurabh emphasized the crucial role that market studies play and presented various market studies conducted by the CCI such as e-commerce. He then outlined that capacity building is a priority for the CCI, and CCI is establishing a specialized interdisciplinary center called the Digital Market and Data Unit. This center will facilitate internal research, collaboration with other authorities, and knowledge development to effectively address concerns in the digital market, and advocacy programs and workshops involving stakeholders are being conducted as well. Mr Saurabh concluded his intervention by sharing that the Government of India has formed a committee to examine the need for ex-ante regulatory mechanisms in systematically important sectors and emphasized the focus on international cooperation, advocacy, and continued market studies alongside enforcement and merger regulation.

Then Mr Uğur Bilgehan Burhan, competition expert in the Supervision and Enforcement Department, Turkish Competition Authority, commenced his intervention by highlighting the fact of rapid pace of innovation in digital markets, with new products and services emerging regularly, which brings benefits to consumers, but pose challenges for competition authorities to effectively intervene and address anti-competitive behaviors. He then mentioned lessons learned from investigations into abuse of dominant positions in digital markets as the importance of staying updated with technological advancements and market dynamics, and the necessity to stay proactive identification and resolution of potential competition issues in the digital economy. He outlined that the Turkish Competition Authority's Digital Markets Department keeps abreast of global developments through extensive research and knowledge sharing, enabling timely interventions when necessary. Also, Mr Ugur presented the case of the Turkish



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Competition Authority's investigation into Facebook's acquisition of WhatsApp exemplifies the proactive approach taken. The Authority required Facebook to amend the conditions imposed on WhatsApp users in Turkey regarding their data usage. It was found that Facebook's dominance in consumer communication services, online display advertising services, and personal social networking services hindered competition and created barriers to entry for rivals. Also, He highlighted the crucial role of collaboration between competition authorities, industry players, academics, and consumer groups in addressing competition issues in digital markets. He then outlined the challenges faced by competition authorities as defining relevant markets, determining market power, identifying anti-competitive actions, and designing appropriate remedies. To tackle these challenges, global initiatives, such as the ex-ante regulation of digital markets, have been launched. Concluding his intervention Mr Ugur highlighted the initiatives taken by the Turkish Competition Authority as initiating a legislative study to harmonize its competition policy with that of the European Union, also exploring the use of commitments as a more flexible and expedient intervention tool in complex digital markets.

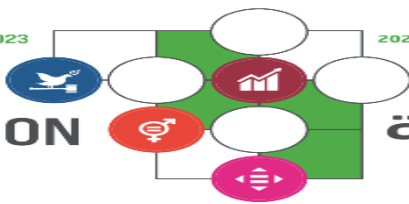
The final intervention for this session was delivered by Ms Cristina Caffarra, Expert Economist, Keystone Europe, and Visiting Professor UCL London, began her intervention by describing the European experience in antitrust enforcement, particularly in digital markets, as instructive. She mentioned that Europe has been considered a pioneer in this field, having initiated antitrust actions against Google since 2010, including cases related to Google Shopping, Google Android, and Google Ad. However, these investigations have often taken a long time to reach a conclusion, spanning from one to ten years, and the effectiveness of remedies has been questionable. Moreover, Ms Caffarra discussed that similar challenges have been observed in investigations involving other tech giants like Amazon and Facebook, where progress has been slow. Then, she argued that data protection regulations have also not yielded significant enforcement outcomes in the digital realm. Also, Ms Caffarra showcased the United Kingdom's role in digital markets and the German unique approach by merging antitrust and regulatory powers, where these different experiments and approaches highlight the ongoing search for effective digital regulation, considering the limitations and lack of expertise in addressing complex technological issues. Furthermore, Ms Caffarra emphasized the specific attention needed in emerging areas like artificial intelligence (AI), and the need to closely monitor developments in the United States as they have a global impact on digital markets, as these developments and decisions taken in the US will influence the direction of digital regulation worldwide. Ms Cristina Caffarra concluded her intervention by emphasizing the need to recognize the challenges posed by resource disparities and the complexities associated with altering business models in digital markets, as it remains crucial to make dedicated efforts to introduce fairness into the regulatory process and ensure effective regulation.

Questions and Answers

Question 1: Esteban Greco, Former President, Competition Council, Argentina, director, GAMES Economics, from a developing country perspective, can a regulatory approach, rather than competition policy or law, be used to create barriers for digital players, whether they are local, regional, or international, that have disruptive business models and can potentially challenge incumbent companies in our countries?



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Saurabh: In the past, there was a case against a digital market in 2015-16, where the relevant market was defined to include both offline and online retail. At that time, the digital market had a small market share of only 2%, so the case was closed. However, as technology and internet penetration progressed, the market evolved, and now we define the relevant market differently, considering online e-commerce as a separate entity. It is important to adapt to technological advancements and economic development. Excessive regulatory intervention can hinder competition, so it is not fair to be biased against big tech companies and assume they will always abuse their dominant positions. Instead, we should allow the economy to evolve and give opportunities for all players to thrive.

William Kovacic: A crucial starting point for any assessment is having a deep understanding of the local environment. It is not sufficient to rely on outsiders parachuting in and dictating how the market works. Therefore, it is important to build knowledge about the local market as part of any regulatory program. When considering specific regulatory interventions, it is essential to be aware of their potential unintended effects. One such effect to avoid is hindering competition in other areas due to intervention in one instance. To address this, a competition system should invest in understanding the economy and its dynamics. This investment in knowledge is encouraging and can be achieved through collaboration with academic institutions. An effective approach for an agency is to anticipate the ripple effects of interventions throughout the economy. Before initiating a case, it is valuable to clearly outline the desired outcomes of the intervention and identify potential challenges or negative consequences. This honest assessment at the beginning helps set realistic expectations and provides a framework for evaluating the impact of the intervention. Regularly assessing and comparing actual outcomes to predicted ones allows for an ongoing evaluation process. This approach emphasizes a balance between hopeful visions for positive outcomes and a realistic understanding of potential failures. It is not a prescription for inaction but rather a way to approach regulatory interventions with realism.

Natalie Harsdorf: in the transport sector, there was a proposed regulation that would have effectively eliminated platform-based business models and allowed only traditional taxi services to operate in the market. Although we are not advocating for Uber specifically, as a competition authority, we argued against the implementation of such a regulation. This is because it would not only have affected Uber but also hindered the emergence of any innovative business model based on platforms in the transport sector. The role of a competition authority can extend to preventing regulations that may have negative and anti-competitive effects in the future, even if they appear to protect a particular branch or strong market player at the present time.

William Kovacic: In many jurisdictions, the competition agency becomes a highly knowledgeable microeconomic policy think tank, sometimes even surpassing the Treasury or Ministry of Finance in jurisdiction. This is due to the agency's extensive activities and experience, which allows it to gain deep insights into how the economy functions. This positions the agency to play the role described by Natalie, which involves providing legislators with a clear understanding of the potential outcomes if they choose to implement certain restrictions. While it is the legislators' right to make such decisions, the agency can offer valuable insights into the possible side effects of those decisions. Drawing a parallel with pharmaceutical products, just as a label lists the potential side effects of medication, the competition

authority, in its advocacy role, can present policymakers with a sensible explanation of the potential consequences.

Cristina Caffarra: despite the differences in players, there are common conduct patterns driven by fundamental factors such as significant network effects and economies of scale or scope. These incumbents utilize similar strategies to exclude or limit competition. Therefore, it is not necessarily a campaign focused solely on the usual suspects or the well-known dominant players. If other incumbents in different jurisdictions employ similar tactics, the competition authority needs to scrutinize their behavior as well. While disruptive entrants may not always be present, the specifics of the market and the incumbent's business model are crucial factors to consider. Ultimately, it is the business model that determines the dynamics of competition.

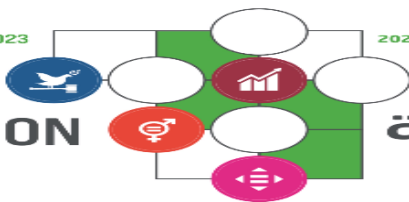
Question 2: Omar Shoran, Libyan Competition Council, we have seen companies like Careem, and others operating in the region and being acquired by larger companies. From your perspective, do you believe that competition laws in the Arab region are not sufficient to protect consumers and combat these acquisitions?

Teresa Moreira: merger control regimes have not always been adequately adjusted to address the unique characteristics of digital markets. Even within the EU, despite the introduction of the Digital Markets Act and Europe's pioneering efforts against anti-competitive practices by big tech players, many killer acquisitions can still occur under the existing merger control regime. It is not solely a concern for Arab countries or countries with less experience in competition law enforcement. India, for example, has adjusted its merger act to allow for a broader assessment of such acquisitions, which were not major concerns 15 years ago. Traditionally, merger control has been a non-adversarial process where companies notify the authorities when certain thresholds, typically based on combined turnover, are met. The expectation is that the merger will not have a significant impact on the market. If a merger is found to have potential anti-competitive effects, authorities can approve it with conditions or commitments, or even prohibit the merger altogether. However, prohibitions are rare. In the dynamics of digital marketplaces, killer acquisitions have become more prevalent. This poses a risk of big tech players acquiring startups, thereby depriving jurisdictions, especially developing countries, of benefiting from their own innovations on their own terms. It is therefore necessary to revise merger control to address the challenges posed by big tech. This concern is not limited to specific regions but should be considered by competition authorities worldwide.

Cristina Caffarra: The importance of merger control in the digital space cannot be overstated. Antitrust measures alone have proven to be ineffective as they often come too late when the damage is already done. Merger control is a crucial tool that we have also failed to effectively utilize. Examples such as Facebook's acquisitions of Instagram and WhatsApp highlight our shortcomings in this regard. The increasing power of tech giants through acquisitions, including the possibility of reverse killer acquisitions, underscores the urgency of paying closer attention to this area. Relying solely on reactive measures and current behavior to address regulatory issues will not lead to a successful outcome. Regulators are now realizing the significance of merger control and are taking more decisive actions. For instance, the CMA (Competition and Markets Authority) has prohibited Microsoft Acquisitions.



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Preventing the consolidation and accumulation of power through proactive merger interventions is essential. Ex-post interventions, which occur after the power has been established, present significant challenges. Optimism regarding the effectiveness of such interventions is limited.

Question 3: Dr Abdulaziz Al Zoom, CEO of GAC, KSA, what is your opinion about the effectiveness of the ex-ante regulations in digital markets? Do you think there are enough lessons learned so far from the application in Europe that can help other countries to initiate such rules? Should we just be in full control of the ex-post regulations in digital markets and forget about the ex-ante regulations?

Online Question: how can competition authorities enforce ex-ante regulations in combination with competition law enforcement?

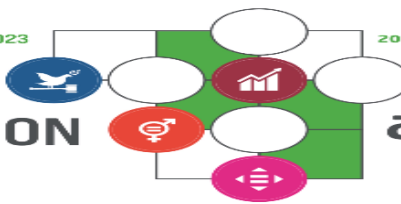
William Kovacic: Before the digital age, sectoral regulation with proactive features was already in place for many industries, particularly those considered natural monopolies or requiring rate regulation. However, bespoke sectoral systems often fell prey to capture by regulated firms, serving the interests of incumbents rather than promoting competition and entry by newer firms. To avoid this, it is important to establish regulatory authorities with broader economic interests, such as competition agencies, rather than sector-specific bodies. The effectiveness of such regulation depends on the quality and capability of the regulatory institution. If it is a high-quality institution with expertise, it is more likely to fulfill its role effectively. On the other hand, weaker institutions may be easily influenced. Given the novelty and uncertainty of digital markets, experimentation with different approaches is encouraged. However, it is crucial to have a solid regulatory framework and continuously assess the results and effectiveness of the implemented measures. While uncertainties exist, they should not lead to inaction. Instead, continuous experimentation and evaluation are needed to build a successful regulatory design and ensure that it aligns with expected outcomes.

Natalie Harsdorf: Merger control is primarily focused on preventing potential future harm, making it an important ex-ante regulatory tool. Strict merger control is necessary in digital markets, as seen in cases where authorities like the CMA and the Austrian Authority subjected Facebook mergers to phase two investigations, ultimately leading to their prevention. This approach is not exclusive to digital markets, as enforcement efforts are increasing globally, particularly in the United States. The Digital Markets Act is also being implemented, and while it's still in its early stages, it shows promise for effective regulation. Germany is introducing new tools, and discussions are underway in several jurisdictions about allowing competition authorities to impose remedies and potentially even break up companies after sector inquiries. These developments need further exploration.

Saurabh: There is a need to view this law from a broader perspective, considering the concerns from both sides. While there may be genuine apprehensions about regulating new technologies at an early stage, it is important to avoid undue intervention that could hinder growth and ultimately be detrimental to economies. Any regulatory measures should be implemented through a democratic process, involving wider consultations, and addressing concerns. While there is evidence suggesting the need for regulatory intervention, democratic considerations should also be considered.



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Ugur Bilgehan Burhan: Currently, we are in the process of drafting regulations for digital markets, but there is a lack of clear direction in this regard. I believe that competition law and regulation should complement each other and interact. Therefore, we should wait and see before reaching any conclusive decisions.

Cristina Caffarra: We are currently in the midst of a major experiment in regulating digital markets, and there is still a lack of clarity and understanding in this area. The precedents set by sectoral regulation, such as in the telecommunications industry, may not be directly applicable to the diverse and evolving business models in the digital area. Formulating effective rules for regulating these business models is challenging and requires a deep understanding of their specific contexts. Merely holding workshops and discussions without engaging with the technical capabilities and capacities of the companies involved will not lead to significant changes. It is crucial to have precise and informed discussions with the companies to define the desired outcomes. Without meaningful engagement and action, the regulatory process can become stagnant, leading to prolonged legal battles. Overall, regulating digital markets is a complex and ongoing process that requires global initiative and collaboration among regulatory agencies.

5) Session III: Cross Border Merger Control

The third session was chaired by Ms Nathalie Khaled, Coordinator of the competition and consumer protection project, Economic Affairs Officer, ESCWA.

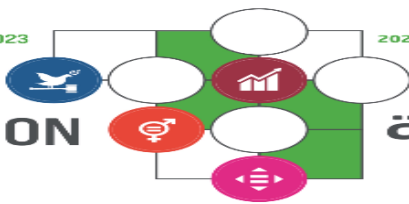
This session provided an overview of the significance of implementing an effective merger control regime as well as the many obstacles that competition authorities confront when dealing with cross-border merger transactions, and the significance of international and regional cooperation in cross-border merger transactions.

The first intervention was delivered by Mr Paul Lugard, Partner at Baker Botts LLP, discussing the crucial role that merger control requirements play in M&A transactions as companies cannot proceed without receiving merger approval. This has created significant interest from the business community. Then he highlighted four general comments for mergers: The objective of merger control rules is to allow agencies to review transactions before implementation. Most M&A transactions are neutral or beneficial for consumers, with less than 5% being anti-competitive around the world. Competition law and effective merger control laws are important, as countries with effective competition laws experience a higher GDP growth rate of 2% compared to those without effective competition and merger control laws. Competition and merger control laws have seen significant progress globally. Over the past 20 years, more than 130 countries have enforced competition laws, with 80-90 of them having effective merger control regimes, particularly 13 new competition law regimes in the Arab region. The business community generally aims to comply with competition rules, including merger control laws, as effective competition benefits them. While being investigated by agencies may be undesirable for a dominant company, businesses prefer clear and transparent competition and merger rules.

Then, Mr Lugard discussed the process that companies follow when entering M&A transactions, as: Gathering information on market share and revenue data per country to determine where merger filings



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need to be made. Assessing substantive problems by identifying overlaps where companies are competitors. Compiling all required information and filing notifications to relevant agencies.

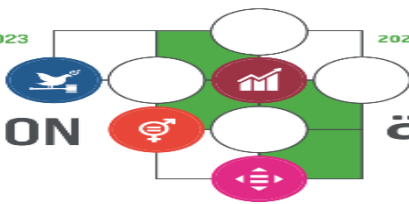
Mr Lugard concluded his intervention by pointing the fact that companies face a lot of difficulties with unclear rules, showcasing ways to improve the merger system through: Clearly defining which transactions are notifiable to provide precise guidelines for companies to file. Establishing a clear local nexus requirement, ensuring only transactions with a clear connection to the jurisdiction are subject to notification. Developing an analytical framework to guide the review process. Enhancing transparency by publishing decisions and notifications related to approved transactions. Providing procedural guarantees and establishing channels for companies to engage with agencies to address any issues or concerns.

Then Mr Willard Mwemba, Director, and Chief Executive Officer of the COMESA Competition Commission, discussed the proper regulation of mergers that hinder its destructive effects on markets. He argued that cross-border mergers, which involve multiple countries, require effective communication and decision-making optimization among the affected countries, showcasing an example of the negative impact of inadequate control is the case of Rwanda, where the reliance on cement from Zambia had detrimental effects on the Rwandan market during its rebuilding phase, highlighting the importance of cross-border merger control within regional organizations like COMESA. Mr. Mwemba highlighted the significance of cooperation mechanisms between countries in the absence of a supranational competition authority, addressing the vital role cooperation plays in achieving effective regional merger control, ensuring the collection of accurate information, addressing the issue of merging companies and providing varying information to different countries. Additionally, it enables interactions between less experienced and more advanced competition agencies, facilitating the transfer of knowledge and capacity building. Furthermore, it allows for discussions on making optimal decisions regarding remedies, theories of harm, and market definition, with consideration given to the regional implications of the merger. He then showcased the significance of Harmonizing merger control procedures in reducing uncertainty and costs for businesses. Also, Mr Mwemba discussed some challenges faced in cross-border merger control as determining public interest, and the exchange of confidential information, as each country has its own confidentiality rules. Mr Willard Mwemba concluded his intervention by recommending the establishment of a supranational competition authority that can help minimize confidentiality obstacles and facilitate the exchange of necessary information among national competition authorities.

The third intervention was delivered by Mr Mohamad Cheikhrouho, general rapporteur, Competition Council of Tunisia, began his intervention by introducing economic concentration operations in the Tunisian legislation and the legal framework for monitoring these operations, as stipulated in Chapter 7 of the law related to competition and prices reorganization. Mr. Cheikh Rouho also mentioned that the legislative text does not differentiate between national and foreign institutions in defining the concept of economic concentration. In his assessment, the duration of concentration operations subject to the Minister of Trade's control, he considered the impact of these operations on the overall balance of the domestic market. He also discussed the adoption of an expanded concept of economic concentration operations in the Council's work. Furthermore, Mr. Cheikh Rouho shed light on the conditions for notifying concentration operations, including the requirement that the combined market share of the



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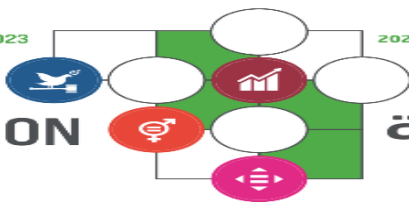


participating entities exceeds 30% of sales and purchases during the last three fiscal years or any other transactions in the domestic market involving goods, products, or a market segment. Additionally, the total value of completed transactions must exceed 100 million Tunisian dinars. Regarding the decision-making process, the Minister of Trade must be informed within 15 days from the date of completion of the agreement or merger, and the decision must be made within a maximum period of 3 months. The file is then examined by the relevant departments of the Ministry of Trade. The Competition Council has 60 days from the date of receiving the file to issue its opinion to the Minister of Trade. The Minister has the authority to approve concentration operations if it does not pose a threat to the public interest, or to approve with the imposition of conditions that contribute to restoring the balance between the economic progress achieved and the impact on competition, or to reject the concentration operation. Mr. Cheikh Rouho indicated that Article 12 defines the scope of intervention for the Competition Council, where it considers the extent to which economic concentration operations contribute to technological or economic progress. He also presented case studies of economic concentration operations, including Le Saffre company, Al Rayan for Food Industries company, Honoris Holding Limited, and Esprit SA. Mr. Mohamed Cheikh Rouho concluded his intervention with some statistical data and ways to develop the Council's work in monitoring concentration operations.

Then Ms Sabine Zigelski, Senior Case Manager, Bundeskartellamt, Germany, stated that merger-control cooperation among developed countries, even at the institutional level, is not as advanced as one might expect, where in most cases, parallel notifications are the norm, except for mergers with a community dimension within the European Union (EU), which are exclusively handled by the European Commission. Despite this, there are still major differences in merger control practices, particularly when considering the European approach, which differs significantly. Then she discussed cooperation framework, apart from informal exchanges of non-confidential information, the exchange of confidential information in merger cases relies on the provision of waivers by the merging companies to the competition authorities, presenting Eca (European Competition Agencies) notification system in Europe as a successful example of cooperation, where non-community mergers are handled in parallel by European competition authorities, where agencies notify each other about ongoing cases, affected markets, deadlines, and contact information, fostering information sharing and alignment in notifications. Ms Sabine emphasized the need for case handlers to recognize the usefulness of cooperation as it heavily relies on establishing relationships and effective communication from different jurisdictions. Also, she argued that facilitating such cooperation can be achieved through regional competition centers, where enforcers from various jurisdictions are invited to seminars, allowing them to work together, build relationships, and foster informal cooperation. Then she discussed the context of regional merger cooperation in the Arab region, stating that it may not be realistic to expect a fully aligned system in the medium term. Instead, case-by-case cooperation based on enabling domestic frameworks and conditions is a more feasible approach. To facilitate such cooperation, nascent regimes should focus on shaping their laws to include provisions for exchanging confidential information, investigational assistance, and recognizing decisions or remedies from other jurisdictions, under well-defined conditions. These provisions should be viewed as opportunities rather than obligations, and they can lead to effective cooperation, innovative solutions, harmonized proceedings, and resource sharing. Ms Sabine concluded her intervention by recommending the application of the 2014 OECD recommendation



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on international cooperation in competition investigations and proceedings by OECD and non-OECD countries, and establishing enabling domestic legal frameworks, and an assistant regime that can effectively enhance cooperation and collaboration in merger control enforcement.

The final intervention was delivered by Mr Esteban Greco, Former President of the Competition Council in Argentina, and Director of Games Economics, commenced by highlighting the various levels that can be considered in cooperation based on different experiences in Argentina and Latin America, in which agencies can take steps towards better cooperation even without a perfect regional or international regime or harmonized laws as: Sharing public information, such as reports, regulations, guidelines, and public decisions about mergers and cases. This facilitates the exchange of information and ideas, leading to a convergence of views on analyzing and reviewing international or cross-border mergers. The next level of cooperation relates to non-public but non-confidential information, where agencies can share valuable data and knowledge between case handlers and authorities. The highest level of cooperation mentioned involves the exchange of confidential information, which requires companies to provide waivers. Building trust is essential for this level of cooperation.

Mr Greco then presented three case examples to illustrate different levels and forms of cooperation in the region as: The Bayer-Monsanto merger showcased international cooperation, where firms provided waivers to multiple agencies worldwide. Cooperation was crucial in dealing with remedies, including the divestiture of research and development activities, which alleviated concerns about innovation-related theories of harm. The Disney-Fox merger represented a more regional cooperation case, particularly in Latin America. The focus was on sports channels and content, which varied in importance across different countries. Cooperation between agencies facilitated discussions on remedies, addressing market-specific considerations. The Walmart-Cornershop case highlighted the challenges in digital markets. The analysis of this case in Chile and Mexico revealed divergent approaches, including differences in market definition and theories of harm. Mexico blocked the transaction, while Chile cleared it without remedies.

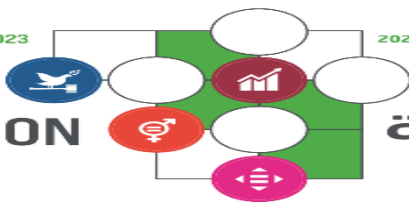
Mr Esteban Greco concluded his intervention by presenting crucial steps for improving cooperation as participating in events, bilateral conversations, and cultivating personal and institutional links with agencies and individuals.

Notes and Comments by Experts

Paul Lugard: Effective collaboration among agencies in merger control requires a certain level of procedural and analytical alignment, which is crucial for achieving mutual benefits. I fully agree that establishing practical relationships and acquainting oneself with officials from other agencies involved in the same case is essential. There is one concern for the business community, namely confidential information. When companies submit their transactions, they disclose their proprietary knowledge, and business strategies. They are willing to do so on the condition that this information remains confidential. However, if this information is freely shared with other agencies or parties, it creates a disincentive for companies to provide such sensitive information. It is imperative for your system to be regarded as credible, legitimate, and trustworthy by the business community.



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Sabine Zigelski: It is crucial to prioritize the protection of confidential information and business secrets, as it strengthens the need to establish trust and understanding regarding how enforcers will handle and utilize such information. The ability to personally exchange this information fosters the essence of trust, which I have strived to promote worldwide during capacity-building efforts. I firmly believe that maintaining the trust of the business community is important, as violating that trust would result in damage and the loss of valuable information. Furthermore, it is important to recognize that divergent outcomes in merger control, where harmonized decisions are not reached. Many markets are still national or even smaller in scope. As a result, a merger that is notified in multiple jurisdictions may have varying impacts in each of those jurisdictions. In such cases, diverging decisions are legitimate and acceptable. However, efforts should be made to harmonize outcomes as much as possible by imposing remedies and reaching a resolution that is satisfactory to the involved parties. Nonetheless, the primary objective of merger control remains to address any harmful impacts that a merger may have within individual jurisdictions. By learning about the market conditions in other notified jurisdictions, including any differences and the reasons behind them, one can gain insights into defining their own markets more effectively. This process can assist in identifying barriers to entry and improving decision-making within the domestic jurisdiction.

Willard Mwemba: Informal cooperation can yield significant benefits alongside formal cooperation in the context of collaboration. An example from COMESA illustrates this point. Through informal conversations with colleagues from national competition authorities, an important transaction involving Heineken and distell was discussed. Initially, the Zambian and Swaziland authorities indicated no issues with the transaction, as AB InBev as the dominant player in the respective beer markets. However, after a meeting involving Zambia, Zimbabwe, Eswatini, and COMESA, a more comprehensive examination of the transaction took place. It became evident that the Zambian and Swazi perspectives were not entirely accurate. Although AB InBev held a dominant position in the beer sector, the overlooked fact was that Heineken and distell were the only two dominant players in the Beer sector market within those countries. Consequently, the transaction would have resulted in a single company controlling the entire sector. Through the informal arrangement, the agencies collaborated, identified the issue, and ultimately approved the transaction. It is important for ESCWA, UNCTAD, OECD, and other jurisdictions, to develop capacity to uplift younger agencies to a level where we want them to be to enhance the cooperation between younger agencies and advanced agencies to overcome the concerns regarding confidentiality safeguards when formal cooperation is pursued.

Esteban Greco: Cooperation and coordination among agencies play a crucial role in two significant aspects. Firstly, there are instances where companies choose to notify their transactions in certain jurisdictions, typically larger or more experienced jurisdictions, and then put pressure on developing countries' agencies to approve the operation based on the approvals received in advanced jurisdictions. However, market conditions can be different, and thus, exchanging information and staying updated on the actions of other jurisdictions becomes essential. Secondly, in the absence of informational coordination or cooperation, agencies may be vulnerable to criticism suggesting that they are lenient with companies. This can occur when a different jurisdiction imposes remedies or rejects an operation

that another country has approved. It is crucial to consider the contextual differences and potential for coordinated efforts to arrive at more effective and appropriate solutions.

Questions and Answers

Question 1: Somalia: How can mergers and acquisitions be the optimal way to achieve numerous benefits in the field of competition?

Willard Mwemba: When companies merge, the primary motivation is to enhance efficiencies, leverage synergies, and combine their technologies. This ultimately benefits consumers. In fact, most transactions, even at the global level, are approved by competition authorities, as they recognize the positive impact such mergers have on economies and directly to consumers, and the greatest advantage lies in efficiency and technological progress.

Paul Lugard: it is important for each jurisdiction to tailor the competition rules and merger control rules to the local need. It is true that different standards may complicate collaboration, making it difficult for companies that are filing transactions. He highlighted that there's a lot of consensus among agencies around the world as the ICN and the OECD which have done great work and have been very successful in preparing materials and best practices that help agencies to be slightly more aligned. Over time the difference between jurisdictions becomes smaller, however, even with differences, agencies can still work together.

Esteban Greco: The economic effects of mergers are mainly positive, as Paul mentioned, less than five percent of mergers have competition-related issues or negative impacts. It is noteworthy that economic considerations tend to align more than legal aspects. The economic analysis of mergers has fostered convergence in approaches and methodologies to assess mergers. This convergence enables jurisdictions with different legal systems to adopt similar methodologies in identifying potential competition problems.

Question 2: Jalal Ben Khelifa, Rapporteur, Algerian Competition Council, we discussed the cooperation between competition authorities to address cross-border mergers. Can this type of cooperation be defined, and do Arab Competition Authorities need a unified agreement or protocol to follow, or are there other forms that experts may propose?

Willard Mwemba: As mentioned, achieving quick wins in cooperation can sometimes take a long time. For example, in the case of COMESA, the supranational merger control regime was established in 1994, but it took until 2004 for the regulations to be developed and until 2015 for the authority to be established. The process of discussions among member states to create such legislation can take a long time. The quickest cooperation can be bilateral operations through Memoranda of Understanding (MOUs) can be effective, although they may still encounter delays. The easiest and quickest form of cooperation is through informal arrangements, where personal relationships between colleagues at different competition authorities facilitate communication through phone calls or emails. Additionally, efforts have been made to foster personal relationships among regional case handlers. For example,

workshops aim to ensure that case handlers in the region get to know each other. This helps facilitate communication and exchange of information. An example of the benefits of such informal relationships occurred when one case handler from another country alerted their colleagues about a major case involving SABIC, a Saudi Arabian company, even before SABIC had officially notified the transaction. This informal exchange of information led to timely action and a subsequent fine of 315,000 USD imposed on SABIC for late notification.

6) Session IV: Best Practices in Planning and Conducting Market Studies

The fourth session was chaired by Ms Lynn Robertson, Competition Expert, OECD.

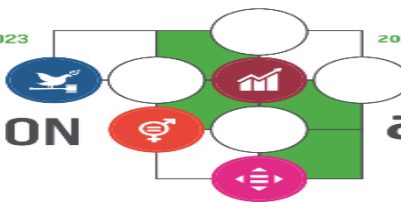
This session will provide an overview of the entire process of conducting market studies, highlighting the different approaches that competition authorities may take in this regard, and the strategic considerations at the outset of planning a market study.

The first intervention was delivered by Mr Antonio Capobianco, Deputy Head of the OECD Competition Division, began by highlighting market studies as a tool used by competition authorities to gain insights into market dynamics, understand the impact of emerging trends (e.g., digitalization), and address general concerns from governments and society regarding competition issues, since these studies can help link competition policy with other policy areas such as consumer protection, trade, and investment. He then discussed the challenges faced by competition authorities when conducting market studies, focusing on the lack of resources as a main challenge, but Mr Capobianco highlighted international cooperation and collaboration with other enforcement agencies to aid in scoping the study's action. He then discussed the vital role that stakeholder's cooperation and trust can play in the success of market studies, enabling competition authorities to gain support and validate their analysis. After, Mr Capobianco shed light on various methodologies in market studies and the key elements of analysis as assessing market structure, identifying market failures, examining product characteristics, understanding demand side and supply side factors, and exploring the barriers to entry, emphasizing the significant role that the regulatory framework plays in market studies. Then, he showcased the outcomes of market studies such as enforcement actions, regulatory and policy recommendations, consumer protection actions, and in some cases no problem detection. Mr Capobianco concluded by highlighting the clear distinction between market studies, which are non-binding and do not impose commitments on governments or recipients of recommendations, and market investigations, which provide competition authorities the power to enforce remedies, as demonstrated in the case of Mexico and UK.

Then Ms Anaid González Hernández, General Coordinator of economic analysis in the General Directorate of Economic Studies, of the Federal Economic Competition Commission, Mexico, shared the Mexican experience in market studies demonstrating the process and criteria used by COFECE. She stated that under the Federal Economic Competition Law, COFECE is authorized to conduct market studies to identify obstacles, understand market structures, analyze vertical effects, and uncover market failures, where these studies result in recommendations for regulatory reforms and public policies. Also, she presented the studies conducted by COFECE such as the financial and agri-food sectors, as well as



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specific market studies on medicines, and the retail market for groceries. Ms Gonzalez highlighted the strategic plan used to identify priority sectors and markets for study based on qualitative and quantitative elements, as a contribution to economic growth, consumption by lower-income households, market characteristics that facilitate anti-competitive structures, the need for government intervention, identification of anti-competitive practices, and previous studies conducted by other authorities, and then the selection of sectors or markets is proposed by the Economic Studies Department and voted on by the Commissioners, or it may be requested directly by another authority or regulator. Ms Anaid also highlighted some market studies conducted by COFECI including the modern retail market for food and beverages, which revealed the impact of e-commerce on supermarket sales and the entry of new players such as marketplaces and big tech companies and shed light on other ongoing study focusing on the fintech sector, analyzing its structure, performance, regulatory obstacles, and impact on financial economic competition and inclusion. Ms Gonzalez concluded her intervention by shedding light on the growing number of fintech firms in Mexico, highlighting the potential benefits of enhanced competition, including reduced interest rates margins, increased access to credit for individuals and small businesses, and improved financial inclusion.

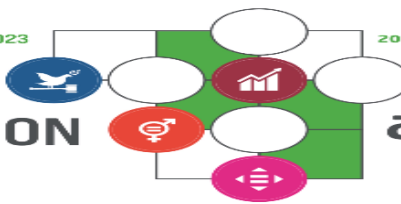
Question 1: Jamil Zayed, are the methodologies adopted in OECD different than the World Bank methodologies for conducting market studies?

Antonio Capobianco: The OECD follows a traditional approach of collecting experiences from competition authorities to understand how they have analyzed various aspects of market studies. These studies involve examining demand-side and supply-side issues, price trends, concentration levels, and other relevant factors. The OECD provides a range of tools that competition authorities can use, although it is not an exhaustive list and allows for flexibility and creativity depending on the specific issues being investigated. There is a shared understanding and exchange of information among competition authorities regarding methodologies, strengths, weaknesses, and the use of different tools. This informal cooperation contributes to the development of the OECD guide, which offers suggestions and recommendations for conducting market studies.

The next speaker was Mr. Jalal BenKhelifa, Rapporteur, Algeria Competition Council, who shared the experience of the Algerian Competition Council in conducting market studies. He began his intervention by presenting an example of a market study on the pharmaceuticals sector in Algeria and a sector-specific study on the competitiveness of the containerized maritime cargo transport market. He then discussed the legislative and functional framework, explaining that the legislator grants the Competition Council the power to conduct all beneficial activities, including studies within its jurisdiction as specified in Article 2 of the law. Regarding the functional framework of market studies, a specialized directorate within the Competition Council has been established to conduct and analyze market studies. Mr. Ben Khelifa mentioned that the Council can seek assistance from external bodies and entities for market studies, such as tax authorities, trade investigation units, and national or international experts. He then highlighted the benefits of market studies for the Algerian Competition Council, as they enable the Council to understand the state and structure of competition in the market, uncover dominance positions, diagnose competition issues in the relevant market, provide recommendations to the authorities on legislative and regulatory provisions, and encourage economic operators to respect



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competition law. Then, he shed light on how markets are targeted for study, emphasizing the importance of sectors in the national economy. As an example, he mentioned the pharmaceutical market, which has a value of 360 billion dinars and has witnessed a growth rate of 10%. Mr. BenKhelifa concluded his intervention by sharing the methodologies and techniques employed in conducting market studies in Algeria.

Question 2: how do you identify and define stakeholders? Market studies in the emerging markets and potential harm?

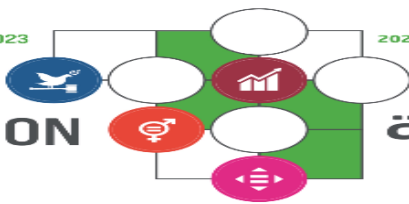
Jalal BenKhelifa: The relevant market stakeholders are identified through collaboration with relevant departments. If we have specialized databases on commerce, we can extract all the traders, and we can also refer to all the known associations active in the market.

Anaid González Hernández: We have conducted market studies to understand how the market may restructure when new players enter, although we haven't made any judgments regarding violations of competition law. While working on a market study concerning big tech companies, I'm unable to provide complete details as it is still a work in progress. However, we have observed that the fintech sector in Mexico is not yet well-established. We recognize that big tech companies could potentially create significant market power, but since we don't have an existing sector to assess the harm, we believe it's important to allow the sector to develop while taking necessary precautions. We acknowledge the potential risks but also emphasize the need to remain open to these new companies and disruptive sectors.

The fourth intervention was delivered by Ms Ana Sofia Rodrigues, Board Member/Commissioner at the Portuguese Competition Authority, during which she highlighted that the powers granted to the Portuguese Competition Authority to undertake market studies were envisaged in the initial version of the Portuguese Competition Act, as conducting market studies and inquiries focused on specific economic sectors or types of agreements. She emphasized the power granted to the authority to request information from stakeholders and firms for market studies purposes, with requirements of publishing market studies conclusions on the authority website. Then Ms Rodrigues discussed the triggers that have been significant factors in the authority's decision to undertake market studies as competition bottlenecks (as vertical integration hindering access to products or essential infrastructures), barriers to entry, potential competition law infringements, and emerging markets (new markets with innovative elements). Then Ms Rodrigues shared several examples of market studies conducted by the Portuguese Competition Authority. These include studies on fintech sector, hemodialysis sector, digital sector, road fuels, natural gas, road passenger transport, and bottled LPG markets, where each study was driven by specific triggers, such as concerns over slow market development, high concentration, lack of competition, outdated regulatory frameworks, or stable market dynamics. Also, she presented the case of the road fuel sector as an example of an ongoing market study, after which she emphasized the continuous nature of market studies and the need for complementary interventions and advocacy initiatives. Moreover, another example provided was the market study on fintech and competition, in which the authority's concerns focused on identifying barriers hindering the entry of new providers and digital platforms in the fintech sector. Ms Rodrigues concluded her intervention by mentioning that



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market studies are not isolated events but ongoing processes that require continuous follow-up, advocacy for recommendation implementation, and integration with other competition policy tools, as it can assist detecting anti-competitive behaviors, emphasizing the need for stakeholder engagement, public consultations, as it contributes to better conclusions and recommendations.

The final intervention was delivered by Mr Hesham Fahad Alogeel, Deputy CEO– Economic Affairs, General Authority for Competition, KSA, during which he shared the experience of the Kingdom, represented by the General Authority for Competition, involved in conducting economic studies. He began by presenting the legal framework, specifically referring to Article 3 of the Authority's regulations, which grants the Authority the responsibility of monitoring markets and conducting necessary research and studies. In recent years, the General Authority for Competition has conducted numerous studies, including the automotive sector, pharmaceuticals, healthcare insurance, and the real estate sector (land market and competition level), and is currently working on studying the construction and agricultural sectors. Then Mr. Hesham shed light on the stages of the study conducted by the General Authority for Competition, which consists of three stages: Conducting a study of the current situation in the relevant sector to understand the market structure, levels of competition, market shares, and identify the regulatory systems and executive regulations governing the sector. Learning about international best practices by studying the procedures followed by other countries. Based on the assessment, the Authority formulates specific recommendations for structural, regulatory, and behavioral reforms that enhance competition.

Mr. Hesham then highlighted some of the challenges facing the Authority when conducting market studies and the ways to overcome these challenges: **Prioritizing Sector Studies:** The Authority has established quantitative and qualitative criteria to prioritize sector studies. They have developed tools such as comparative analysis, where the Authority compares levels of competition and profitability in sectors with a group of countries, such as the G20 countries. **Data Abundance and Aggregation:** The Authority has developed an initiative to leverage available technologies for obtaining real-time data. **Stakeholder Engagement,** recognizing the importance of stakeholder involvement, especially regulatory bodies, the Authority has established a dedicated policy support department. Additionally, the Authority has signed multiple memorandums of understanding with regulatory entities to facilitate collaboration and implementation of the recommendations derived from these studies.

Mr. Hesham concluded his intervention by emphasizing that the Authority is committed to engaging stakeholders from the outset of the study process. The Authority has formed advisory committees comprised of stakeholders.

Question 3: Lynn Robertson, how can you promote the effectiveness of your interventions through market studies when you don't have the power to impose remedies?

Ana Sofia Rodrigues: In countries where the authority does not possess the power to impose remedies, such as in Mexico or the UK, they can only recommend these remedies. These recommendations may involve changes to laws or legislation, eliminating barriers, or granting access to competitors for essential infrastructure. As these recommendations are not binding, it requires persistent advocacy efforts to

promote their implementation. The authority should try to complement its advocacy initiatives by actively engaging in opportunities such as providing opinions on draft laws in Parliament. The authority should organize meetings with stakeholders to raise awareness about the importance of these recommendations and the potential benefits, to advocate for their implementation. The authority should try to quantify or illustrate the benefits of implementing these measures to gain stakeholder support in favor of promoting competitive markets and benefiting consumers.

Question 4: Tunisia, market studies face a very important challenge, which is expressing an accurate and objective opinion on the market situation. What mechanisms are followed to address this reality and these challenges?

Hesham Fahad Alogeel: I believe that market studies do not necessarily require a rigid structure, as even non-structured markets can be studied by engaging stakeholders and having conversations with them to understand the details.

Jalal BenKhelifa: For informal markets, resorting to enforcement mechanisms can be used to address non-compliance issues. Regarding the issue of non-invoicing, other methods can be employed, such as conducting investigations and relying on actual inventory for statistics. Relying solely on reported figures may not provide accurate numbers.

Antonio Capobianco: In the context of market studies, where there is no external judicial review like in enforcement cases, ensuring the quality of analysis and recommendations is important. One way to achieve this is through an open and inclusive process that involves consultation with stakeholders throughout the study. This can include sharing preliminary recommendations, organizing hearings, and engaging with the relevant counterparts and stakeholders. While market studies may not have the same external checks as court reviews, the emphasis on openness and engagement can help ensure the credibility and reliability of the analysis.

Question 5: Tell us more about the acquisition of Microsoft, it has been objected in UK, but approved in the EU.

Ana Sofia Rodrigues: Different countries have different notification thresholds for mergers, such as the UK's focus on the share of supply rather than market share. Market studies have highlighted the issue of potential mergers and acquisitions in digital markets that may go unnoticed due to the acquiring firms not yet having a significant turnover or market footprint. Despite this, they can still be relevant potential competitors. Market studies have played a significant role in understanding what different instruments might be used to tackle these mergers. The examples of Facebook's acquisitions of Instagram and WhatsApp have been assessed ex-post by authorities like the FTC and DOJ, revealing that these mergers were aimed at eliminating potential competition. Such cases have provided valuable insights and lessons for the field.

Recommendations from experts

Hesham Fahad Alogeel: market studies have high costs, but high benefits.

Jalal BenKhelifa: Market studies enable the competition authority to effectively assess its activities. Without such studies, the competition council would be unaware of the market's situation and, therefore, unable to carry out its tasks or achieve the required effectiveness.

Anaid González Hernández: the law should mandate sectoral authorities to implement the recommendations of market studies.

Antonio Capobianco: Transparency is important to make known to the public the reasons of market studies, and openness to discuss the issues throughout the process of market studies.

Ana Sofia Rodrigues: Market studies are not a sprint, they are marathons. Market studies should be articulated in the long run.

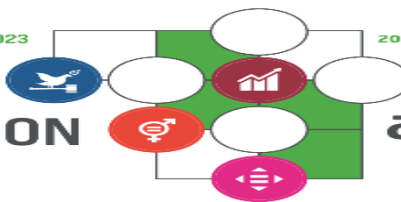
7) Closing Session. Way forward on enhancing competition in the Arab Region.

The 4th Arab Competition Forum took place in Riyadh, Kingdom of Saudi Arabia, over the course of two days. The event saw the active participation of Arab competition authorities, international competition authorities, experts from various fields, academics, and private sector professionals. More than 20 experts shared their valuable experiences in four sessions, presenting case studies and discussing best practices with the goal of improving competition regimes in the Arab region.

Concluding the forum, **Arab competition authorities reached a consensus on specific recommendations to be implemented in the coming years. Some of these recommendations include conducting capacity-building activities on market studies and enhancing merger regulations, empowering the participation of Arab women in competition, building partnerships with youth to enhance their knowledge of competition law and policies, enhancing coordination with the Arab Competition Network, harmonizing competition laws in the Arab region, proposing collaborative projects with advanced, developing, and least-developed competition authorities, and promoting regional cooperation to enhance competition policies in the Arab region, establishing a database or a common platform for various decisions and publications of Arab competition authorities, holding workshops at the regional level that contribute to achieving economic integration in the Arab region, and developing a composite index of competition in the Arab region.**



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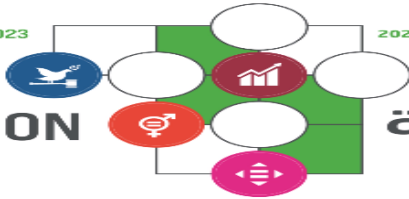


III. Agenda

Day 1: 23 May 2023	
8.30–9 a.m.	Registration
9–9.45 a.m. <i>Format: Open session /Broadcasted live</i>	Opening remarks and introductory comments <ul style="list-style-type: none"> • Ahmed bin Abdul Kareem Al-Kholifeh, Chairman of The Board of Directors, The General Authority for Competition, Kingdom of Saudi Arabia • Rola Dashti, Under-Secretary-General of the United Nations and Executive Secretary of the Economic and Social Commission for Western Asia (ESCWA) • Rebeca Grynspan, Secretary-General of the United Nations Conference on Trade and Development (UNCTAD) • Carmine Di Noia, Director for Financial and Enterprise Affairs, Organisation for Economic Cooperation and Development (OECD)
9.45–10.15 a.m. <i>Format: Open session /Broadcasted live</i>	Special session. Arab Youth in Competition (Local Universities) Participating universities in Saudi Arabia have been invited to prepare an original case study on a subject related to mergers and acquisitions. During this special ceremonial session, awards will be granted to the winners of the competition challenge.
10.15–10.30 a.m.	Coffee break and group photo
10.30 a.m.– 12 p.m. <i>Format: Open session/Hybrid</i>	Session I. Enhancing the effectiveness of competition authorities in developing and least developed countries. Every competition agency must overcome obstacles to enforce its competition law. But for jurisdictions within developing countries these obstacles are often more acute, numerous and reinforced by challenges specific to these jurisdictions. A lack of a competition culture, or even a hostile environment can hinder the work of a competition agency with few resources. Relations with regulators as well as other parts of government can take on a particular complexity when competition authorities are young and lacking in resources and influence.



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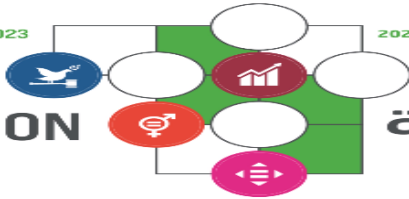
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	<p>The session will also discuss the challenges of young authorities, particularly those in developing countries and suggest mechanisms to address these challenges.</p> <p>The panellists will bring international, regional, and national perspectives and examples to the discussion.</p> <p>Session coordinator: ESCWA</p> <p>Moderator: Abdulaziz bin Abdullah Al-Zoom, Chief Executive Officer of The General Authority for Competition, KSA</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Frederic Jenny, Chairman of the OECD Competition Committee, Emeritus Professor at ESSEC Paris Business School, France • Nathalie Khaled, Coordinator of the competition and consumer protection project, Economic Affairs Officer, ESCWA • Willard Mwemba, Director, and Chief Executive Officer of the COMESA Competition Commission • Mahmoud Momtaz, Chairman of the Egyptian Competition Authority (ECA), and the President of the Arab Competition Network (ACN) • BabaTunde Irukera, Executive Vice Chairman, Federal Competition and Consumer Protection Commission, Nigeria <p>Open Discussion</p>
<p>12–1.30 p.m.</p>	<p>Lunch</p>
<p>1.30–3 p.m.</p> <p><i>Format: Open session/Hybrid</i></p>	<p>Session II. Abuse of dominance in digital markets</p> <p>Many digital markets exhibit characteristics such as low variable costs, high fixed costs, and strong network effects. These characteristics often result in high market shares for a small number of firms. In some cases, these lead to “competition for the market” dynamics, in which a single firm captures most sales.</p> <p>This session will discuss the main types of abuse of dominance concerns that can emerge in digital markets, what makes these markets unique, and how have competition authorities around the world tackled the challenges described above.</p> <p>Session coordinator: UNCTAD</p>



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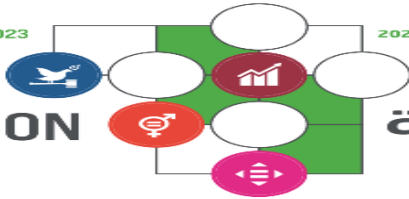
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	<p>Moderator: Teresa Moreira, Head, Competition and Consumer Policies Branch, Division on International Trade and Commodities, UNCTAD</p> <p>Speakers:</p> <ul style="list-style-type: none"> • William Kovacic, Professor George Washington University • Natalie Harsdorf-Borsch, Acting Director General, Austria Competition Authority • Uğur Bilgehan Burhan, competition expert in the Supervision and Enforcement Department, Turkish Competition Authority • Saurabh, Joint Director (Economics), Competition Commission of India • Cristina Caffarra, Expert Economist, Keystone Europe, and Visiting Professor UCL London. <p>Open Discussion</p>
Day 2: 24 May 2023	
8.30–9 a.m.	Registration
<p>9–10.30 a.m. <i>Format: Open session/Hybrid</i></p>	<p>Session III. Cross-border merger control</p> <p>Cross-border merger control is complex. It often involves jurisdictional, procedural, and substantive issues. These types of mergers raise specific challenges for competition authorities reviewing the transaction in multiple jurisdictions. Most importantly, the countries involved must have effective merger control regimes. The review of cross-border transactions to ensure consistent decisions requires close coordination and cooperation between the competition authorities.</p> <p>This session will discuss cross-border merger control and provide examples of regional efforts.</p> <p>Session coordinator: ESCWA</p> <p>Moderator: Nathalie Khaled, Coordinator of the competition and consumer protection project, Economic Affairs Officer, ESCWA</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Paul Lugard, Partner at Baker Botts LLP • Willard Mwemba, Director, and Chief Executive Officer of the COMESA Competition Commission • Mohamad cheikhrouho, general rapporteur, Competition Council of Tunisia



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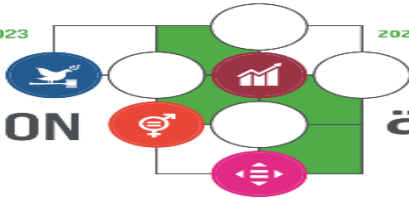
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المنافسة
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	<ul style="list-style-type: none"> • Sabine Zigelski, Senior Case Manager, Bundeskartellamt, Germany • Esteban Greco, Former President, Comisión Nacional de Defensa de la Competencia (CNDC), Argentina, director, GAMES Economics <p>Open Discussion</p>
<p>10.30–11 a.m.</p>	<p>Coffee break</p>
<p>11 a.m.–12.30 p.m. <i>Format: Open session/Hybrid</i></p>	<p>Session IV. Best practices in planning and conducting market studies.</p> <p>Markets do not always work efficiently and thus negatively impact consumers and society. When this happens, competition authorities may seek to better understand the dynamics of competition in each market or sector, to identify the reasons for poor performance and recommend policy options for dealing with them.</p> <p>Market studies usually involve an in-depth assessment of market structures or competitive conditions in each sector; and aim to detect inefficiencies arising from weak competition, even if they do not identify behaviour violating competition laws. There are conceptual and procedural differences regarding market studies among competition authorities. This session will examine different approaches in identifying target markets, planning, and conducting market studies.</p> <p>Session coordinator: OECD</p> <p>Moderator: Lynn Robertson, Competition Expert, OECD</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Antonio Capobianco, Deputy Head of the OECD Competition Division, OECD • Hesham Fahad Alogeel, Deputy CEO– Economic Affairs, General Authority for Competition, KSA • Anaid González Hernández, General coordinator of economic analysis in the General Directorate of Economic Studies, of the Federal Economic Competition Commission, Mexico. • BenKhelifa Jallal, Rapporteur, Competition Council of Algeria • Ana Sofia Rodrigues, Board Member/Commissioner at the Portuguese Competition Authority



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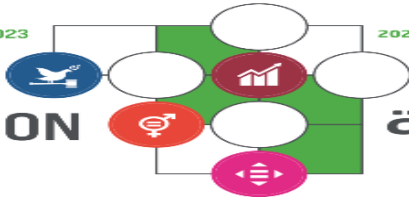
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	Open Discussion
12.30–1.30 p.m.	Lunch break
1.30–2.30 p.m. <i>Format: Closed Session /Hybrid</i>	<p>Session V. Roundtable Discussion: Competition developments in the Arab region</p> <p>Moderator: ESCWA and GAC</p> <p>In this session, competition authorities from member States will present national case studies and/or competition developments since the 3rd Arab Competition Forum, held in May 2022.</p>
2.30–3.30 p.m. <i>Format: Open session /Hybrid</i>	<p>Closing Session. Way forward on enhancing competition in the Arab region.</p> <p>Session coordinators: ESCWA and partners</p> <p>During this session, participants will point out the lessons learned, and main intervention areas needed to advance competition in the Arab region. The session strives to bring about an agreement on concrete recommendations for enhancing competition policies and enforcement in member States. ESCWA and its partners will present their plans moving forward, highlighting the important role of international cooperation in improving competition.</p>



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IV. Annex

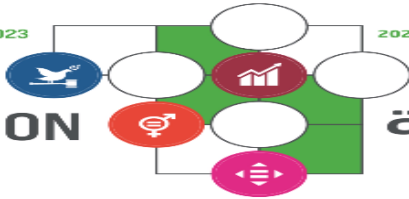
Media Coverage

The forum received wide media coverage by the Saudi and regional media, and many local and regional newspapers wrote about the forum, its importance, and objectives. This coverage is very important due to its great role in promoting the importance of the Forum as a regional and international platform for the exchange of experiences, information, and best practices in relation to competition policies and its promotion in the Arab region.

Facebook Posts
<u>Save the date</u>
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<u>Opening session</u>
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<u>General video</u>
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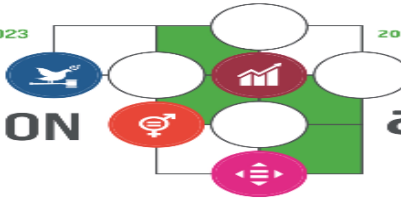


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Happening now
ES quote
Day 1 wrap up video
PR Post
ACF 2nd day
Day 2 wrap up video

Twitter
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Opening session
Opening session
General video
Session 1 speakers
Session 1 speakers
Session 2 speakers
Session 2 speakers
Session 3 speakers
Session 3 speakers
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Session 4 speakers



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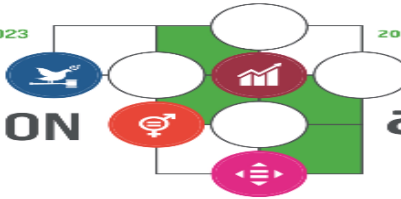


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Day 2 wrap up video

LinkedIn Posts
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Opening session
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General video
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Session 1 speakers
Session 1 speakers
Session 2 speakers
Session 2 speakers



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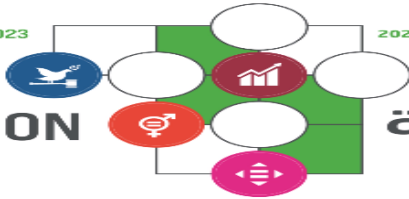


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Session 4 speakers
Session 4 speakers
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ES quote
Day 1 wrap up video
PR post
ACF 2nd day
Day 2 wrap up video

Instagram Posts
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Opening session
General video
General video
2 days left
Session 1 speakers
Session 2 speakers
Session 3 speakers



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Session 4 speakers
Day 1 wrap up video
PR post
Day 2 wrap up video

Local and regional media campaigns have a major role in raising Arab society's awareness of competition and its economic impacts, and in creating a culture of competition, which is one of the most important elements of advocacy and one of the Forum's objectives.

You can view part of the media coverage at the following links:

spa.gov.sa / المملكة تستضيف منتدى المنافسة العربي الرابع في العاصمة الرياض وكالة الأنباء السعودية

evectorplogo.net الإسكوا وشركاؤها تستضيف المنتدى العربي الرابع للمنافسة في الرياض

argaam.com المملكة تستضيف منتدى المنافسة العربي الرابع في العاصمة الرياض

sabq.org المملكة تستضيف منتدى المنافسة العربي الرابع في العاصمة الرياض

hasatoday.com - المملكة تستضيف منتدى المنافسة العربي الرابع في العاصمة الرياض

nabdn.com نبض السعودية | المملكة تستضيف منتدى المنافسة العربي الرابع في العاصمة الرياض

khalijiun24.com المملكة تستضيف منتدى المنافسة العربي الرابع في العاصمة الرياض - خليجيون 24

shababeks.com مجلة شبابيك العالمية | المملكة تستضيف منتدى المنافسة العربي الرابع في عاصمتها الرياض

sawahegy.com المملكة تستضيف منتدى المنافسة العربي الرابع في عاصمتها الرياض | سواح ايجي

almnatiq.net المملكة تستضيف منتدى المنافسة العربي الرابع في الرياض - صحيفة المناطق السعودية

trend-alealam.com المملكة تستضيف منتدى المنافسة العربي الرابع في الرياض

al-jazirah.com المملكة تستضيف منتدى المنافسة العربي الرابع

[Lebanon News \(lbcgroup.tv\)](http://lbcgroup.tv) - ...السعودية تنجح مرة جديدة في خلق مساحة للنمو الإقتصادي

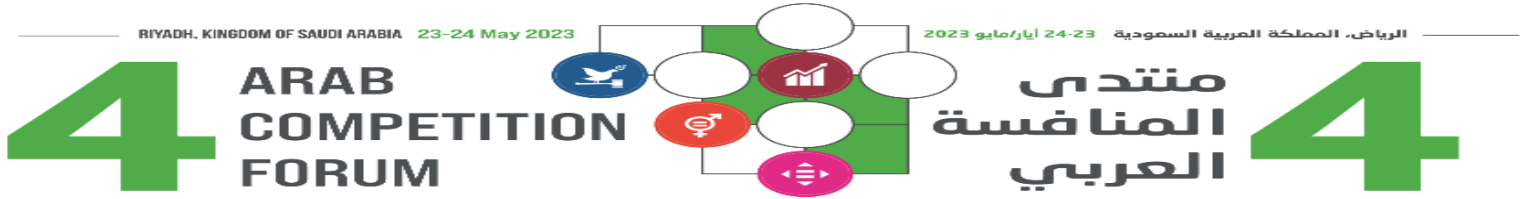
spa.gov.sa / منتدى المنافسة العربي الرابع يتناول تعزيز فعالية سلطات المنافسة في البلدان النامية وكالة الأنباء السعودية

makkahnewspaper.com منتدى المنافسة العربي يناقش تعزيز فعالية السلطات في البلدان النامية | صحيفة مكة

emaratayoum.website منتدى المنافسة العربي الرابع ينطلق في الرياض

bna.bh إدارة حماية المستهلك تشارك في انطلاق أعمال منتدى المنافسة الرابع للمنطقة العربية بمدينة الرياض

[ESCWA & Partners Host 4th Arab Competition Forum in Riyadh | Mirage News](#)



[Saudi Arabia to Host Fourth Arab Competition Forum in Riyadh The official Saudi Press Agency \(spa.gov.sa\)](http://spa.gov.sa)

[Saudi Arabia to host Arab Competition Forum in Riyadh \(arabnews.com\)](http://arabnews.com)

[Saudi Arabia to Host 4th Arab Competition Forum in Riyadh \(aawsat.com\)](http://aawsat.com)