

A STRATEGY TO COMBAT MONOPOLISTIC COMPETITION IN THE KINGDOM OF SAUDI ARABIA IN THE FACE OF THE REPERCUSSIONS OF COVID-19

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ABSTRACT

Covid-19 has repercussions on legitimate competition in the markets by exaggerating in raising the prices of essential goods to take advantage of consumer needs, or controlling goods and services available in the market by creating an imaginary shortage to exclude competitors, The legal system for competition and monopoly has an effective role in protecting and encouraging fair competition and combating monopolistic practices that affect legitimate competition. The aim of the article is to learn about the legal system for competition and monopoly prevention and the strategy to combat it to face the repercussions of Covid-19 in the Kingdom of Saudi Arabia, The research article is concerned with the legal rules for combating monopolistic competition because the basic principle is that commercial competition is a legitimate act and a right protected by the law, And if the competition is outside this general framework, it is considered an illegal act and results in legal liability. The results of the study showed that there are legal challenges facing legitimate competition, the most important of which is monopoly for some goods, and the study presented a set of recommendations, the most important of which is the establishment of specialized courts for monopolistic competition cases.

Keywords: Covid -19, Monopolistic Competition, Kingdom of Saudi Arabia.

INTRODUCTION

The impact of the Covid-19 virus on the global economy as a result of the complete or partial closure of economic and commercial establishments, in addition to the partial closure of air and sea transport, which led to a decrease in the global growth rate, which caused a global decline and local losses. We find that the Arab markets have been affected by the decline in industrial production of consumer goods, which has led to a shortage of supply of these goods and an increase in transportation and insurance costs due to real and psychological concerns. The consequences include rising costs of living standards and declining purchasing power. However, the kingdom's economy did not collapse. This is due to its government's support for the Saudi economy by billions of dollars, but despite this, the Corona virus has affected sales of consumer goods in Saudi Arabia, by monopolizing some goods, which may be reflected on the consumer, which requires intervention. From the competent authorities.

The Corona pandemic affected the markets and its repercussions on legitimate competition were evident due to the complete closure that led to the layoff of a large number of workers and the closure of commercial and industrial establishments of great importance in supplying or manufacturing goods or services with the rise in the prices of basic commodities due to the high demand for them, Especially with the World Health Ministry warning that countries must put all precautions to confront the second wave of the epidemic. Which has

repercussions on the consumer, who may face a rise in the price of consumer goods due to monopolistic competition between commercial enterprises?

Among the forms of monopolistic competition that emerged due to the repercussions of the Corona virus: the monopoly of medical supplies such as sterilizers and masks, home medical services, food and consumer goods delivery services, in addition to communication services, the Internet and electronic phone applications related to the provision of these services.

Legitimate competition in the Saudi market is a matter protected by legal regulations and has bodies that ensure its oversight and controls, as the Royal Decree No. (M/75) was issued on 2019 AD approving the Commercial Competition Law. The system aims to protect and encourage fair competition, and to combat monopolistic practices that harm the consumer and the market, which are reflected. Its implications for economic and social stability, Competition rules have been organized according to an updated legal framework, in addition to the General Authority for Competition, which is an independent body concerned with protecting fair competition in the Kingdom of Saudi Arabia that works side by side with the Saudi Ministry of Trade in controlling markets, monitoring commercial establishments and controlling violations.

Within this framework, we review the concept of competition and monopoly in the Saudi system and the measures that have been taken to combat monopolistic competition to face the repercussions of Covid-19 (Al-Faris, 2011).

LITERATURE REVIEW

There are some international, Arab and Gulf studies that dealt with the issue of monopolistic competition and its effect on the economy or the consumer, with few studies that dealt with the effect of Covid-19 on fair competition or research related to anti-monopoly in the period of the health crisis of Covid-19. Here we list some studies that dealt with the topic Monopoly from various aspects, including the following:

A scientific study by researchers from the University of Sydney, Australia, 2020 concluded that the Coronavirus pandemic and the accompanying severe lockdown measures have cost the global economy about (\$3.8) trillion, a number that may rise.

In a study by Marwa (2020) entitled "*The impact of the Coronavirus Covid-19 on the Algerian economy as a model*", the researchers addressed the results of the Covid 19 virus crisis on the Algerian economy, and the study came up with several results, the most important of which is the effect of the virus on a group of channels, the most important of which is: the exchange channel Commercial and financial links. And the tourist channel. The study stressed the need for financial regulators to assess the risks of disruption of global supply chains and to manage inventory in a timely manner, And also a study Al-Qudsi (2018) entitled "*Abuse of the dominant position in the market*", as the study aimed to uncover the prohibited practices of monopoly and penalties by comparing the UAE system with the US and the Egyptian, and the study confirmed that legislation is consistent with prohibited monopolistic practices and recommended the necessity of following Arab legislator with American judicial precedents.

There is another study by the researcher El-Sherbiny (2017) entitled the global financial crisis and policies to confront it, which is a doctoral thesis for Mansoura University in Egypt. The study aimed to monitor and analyze the effects of the global financial crisis by clarifying the disparity in these effects between economic sectors in developing countries. Its results showed that the crisis had a negative impact on the rates of GDP, And also the study Dhu Al-Noon (2016) entitled "*The Role of Competition Protection Policy and Preventing Monopoly in Light of Free Economy*", as it aimed to show international efforts to protect competition, and among its

recommendations is to punish companies that violate competition laws and prevent monopoly also the study Al-Oran (2012) entitled "*The Contemporary Global Economic Crisis*", which is a research paper presented at a conference targeting the impact of crises on the economy globally and regionally within the Arab countries. The study concluded that crises have different financial and economic impacts from one country to another. The study recommended that countries take urgent measures to confront the negative effects of the crisis, and one of its most important recommendations is to create a legislative and regulatory environment.

Among the Saudi studies: the study, which reviewed global economic developments and their effects on markets and on non-monopolistic competition in Saudi Arabia, and the study recommended the necessity of fighting monopoly by modernizing legal systems, And what the researcher Al-Otaibi (2007) presented to the Naif University for Security Sciences in the Kingdom of Saudi Arabia, a research entitled: Criminalization of monopoly in the Saudi competition system, where the research aims to explain methods of criminalization of monopoly cases, and one of his most important recommendations is the necessity of media awareness of the danger of monopoly.

By reviewing previous studies, we find that most of these studies targeted legitimate competition and monopolistic practices and their impact on the economy, and this study complements those studies in addition to being more specific, because it dealt with monopolistic competition strategies in the Kingdom during the health crisis of Covid-19.

METHODOLOGY

The study followed the descriptive, analytical, and investigative approach by tracking and analyzing the legal system for monopolistic competition in the Kingdom of Saudi Arabia and reviewing the Kingdom's strategy in combating monopolistic competition in the face of the repercussions of Covid-19 on the Saudi economy.

Study Concepts

The concept of competition in Saudi law

Commercial competition is defined as the actions carried out by a person with the intention of harming a competing person in order to achieve material gains at the expense of others by using methods contrary to laws, customs and honor (Al-Ghuwairi, 2018), And that: it is a company or group of companies that compete in the market, that have the same nature of work and try to win customers.

Consequently, competition laws are the ones that regulate and control prices and markets, prohibiting bidders from bidding in prices, in addition to protecting consumers from unreal price speculation or monopolizing specific goods. The Saudi legislature has set standards for legitimate competition in accordance with Article 4 of the Saudi Competition Law. Prices of goods and services must be in accordance with market rules and principles of free competition, with the exception of prices for goods and services that are determined based on a decision from the Council of Ministers, or according to a regulation. If the merchant bypasses the legitimate competition in the field of trade, industry, services, or other areas to control and control prices, products or services, and to achieve financial gains by following means prohibited by law, then he is a monopolist.

Monopoly is defined as every act, agreement or understanding made by one or more natural or moral persons, or by those who mediated between them, to control the price or the quality of goods and services in a way that harms society (Al-Zandi, 2018).

The types of monopoly prevailing in the markets during the Corona pandemic are as follows: Perfect competition characterized by the presence of a large number of sellers and buyers of the commodity, and the price is determined according to the forces of supply and demand in the market. Selling medical drugs, sterilizers and basic commodities. Monopolistic competition: It is the case of the lack of institutions that offer different products in the market, for example: Internet and water services acquired by certain companies.

Consequently, monopolistic competition is defined as every act of controlling the sale or production of a good or service that conflicts with the methods of commercial dealings, whether those methods are established by virtue of legal rules or by virtue of customary rules recognized in the commercial environment (Sami, 1999), Model Commercial Law for Arab Countries, in Article 33 of it, declares that they are illegal acts that are inconsistent with customs in commercial and commercial transactions, Monopolistic competition in monopolistic competition, where the producer (competitor) However, it faces at the same time great competition due to the multiplicity of competitors and the diversity of products (Amer, 2016) and it is mostly between companies that produce a similar product or services.

Monopolistic practice in the Saudi system is defined as: any behavior issued by one or more establishments that would entail one or more of the penalties and measures prescribed in the system, In the first article of the Saudi Competition Law, the market is intended as any place or medium in which a group of current and potential buyers and sellers meet within a specific period of time. Among the most important characteristics of monopolistic competition:

1. Existence of barriers to entering the market, whether legal or healthy, such as complete closure due to the pandemic.
2. The presence of one seller for a specific product or service.

RESULTS AND DISCUSSION

First: Monopoly Prohibited in Saudi law

Once the pandemic has spread in the Kingdom of Saudi Arabia, the bodies concerned with controlling monopolistic competitions (the Competition Authority, the Ministry of Commerce, the Ministry of Health and the Ministry of Finance) have taken several measures to protect the consumer and commercial establishments present in the market from monopolistic practices, in accordance with the rules stipulated in Article (5) From the Saudi Competition Law 2019, Where practices-including agreements or contracts between firms, whether written or verbal, explicit or implicit-are prohibited if their aim or effect is to prejudice competition, especially the following:

1. Determine or suggest prices of goods, service allowances, terms of sale or purchase, and the like.
2. Determine the sizes, weights, or quantities of producing goods or performing services.
3. Limiting the free flow of goods and services to the market, or taking them out entirely or partially, by concealing them, storing them unlawfully, or refraining from dealing in them.
4. Any behavior that obstructs or excludes a firm from entering the market. Withholding of goods and services available in the market, in whole or in part, from a certain facility or establishments.

5. Dividing markets to sell or buy goods and services, or allocate them according to any standard, especially the following criteria: A-Geographical areas. B-Distribution centers. C-The quality of clients. D-The seasons and periods of time.

Freezing or limiting manufacturing, development, distribution, marketing and all other aspects of investment (Muwaizah, 2019).

Collusion or coordination in bids or offers in government auctions and competitions or other things in a way that prejudices competition, Interactive 6 is prohibited from the Saudi discussion system 2019. The facility or the half that it acquires; exploiting this situation to prejudice or limit the occasion, including the following:

Return to take facilities out of the market or expose them to voucher losses, or hinder the entry of establishments. Interactive (6) is prohibited from the Saudi discussion system 2019. The facility or the half that it acquires; exploiting this situation to prejudice or limit the occasion, including the following:

Return to take facilities out of the market or expose them to voucher losses, or hinder the entry of establishments. Determine or impose prices or conditions for reselling goods or services.

Reducing or increasing the availability of products; For the sake of controlling prices and creating an unreal abundance or deficit. Discrimination in dealing between firms in similar contracts with regard to the prices of goods and services, or the terms of their sale and purchase.

Second: Strategies to Combat Monopolistic Competition in the Kingdom of Saudi Arabia

Food campaigns to combat monopolistic practices, and attempts to manipulate prices for essential consumer goods.

Activating a coordination and cooperation mechanism between the Ministry of Commerce, the Ministry of Health, and the General Authority for Food and Drug, to ensure the abundance of medical products and masks, and to control any negative or monopolistic practices to raise prices by monitoring the markets and intensifying campaigns on stores and public stores to prevent monopolizing or concealing goods, and to ensure that Quality of goods for sale.

Activating a mechanism for controlling prices according to electronic panels for commodity price indicators, comparing them in all regions of the Kingdom, and investigating price increases.

The issuance of a decision banning commercial establishments from offering promotional offers on basic materials (flour and its derivatives: Rice, sugar, edible oils, tea, coffee).

Activating the communications program through reporting centers in the Ministry of Trade in various regions of the Kingdom of Saudi Arabia. According to Article 32, any natural or legal person, consumer, non-consumer, resident, or citizen has the right to submit a complaint or report to the authority about anti-competitive practices even if he is not an aggrieved party, according to the forms designated for those purposes, and the author of the communication is not required to disclose his identity.

Activating the supervisory inspection program on all the various commercial establishments to ensure their commitment to the prices of the Ministry of Commerce in accordance with the Saudi Competition Law 2019(32/2) the Authority may initiate on its own initiative to conduct investigation, research, collect evidence and investigate in accordance with the provisions of the system and the regulations. As the Ministry of Commerce and the General Authority for Competition in Saudi Arabia conducted investigations into a number of violations

related to the Corona crisis, among them monopolistic practices aimed at fabricating a shortage of goods in the health sector.

The Commission's Board may take investigation, search and collect evidence measures regarding complaints and initiatives related to violating the provisions of the law, investigate them, and initiate a criminal case, in accordance with Article 20 of the Law, whoever violates any other provision of the Law or the Regulations shall be punished with a fine not exceeding two million riyals, In addition, the Competition Authority may, in accordance with Article 21 of the Law, impose the following penalties on the monopolist in the Saudi market:

1. Assign the violator to amend his situation and remove the monopolistic violation within a specified period, these measures prevent the domination of the markets and the exclusion of competitors from owning the markets and raising prices above the normal price. The person affected by monopolistic competition may demand compensation, and the following conditions are required to accept this lawsuit.
2. The existence of monopolistic competition.
3. And that the competition is illegal according to what is specified by the Saudi system. There are no specialized courts in Saudi Arabia to hear the competition lawsuit. Therefore, compensation claims are raised from monopolistic competition in the commercial circles of the Board of Grievances.

The scope of the competition authority in controlling according to Article (3) of the Saudi Competition Law 2019. The authority of the Competition Authority in monitoring and controlling monopoly violations extends to the following: All establishments within the Kingdom, including:

1. Institutions and companies practicing economic activities, regardless of their statutory forms, nationalities and ownership, whether the license for them to practice the activity is valid or otherwise, and whether their practice occurs in the activity they are licensed to practice or in another activity.
2. Electronic platforms and applications, whether or not they are licensed to carry out their activities.

Actions and practices that occur outside the Kingdom; when it has implications for competition within the Kingdom, and in this case, the Authority may:

1. Taking into account the assessment of the impact - on competition - within the Kingdom, whether the impact is immediate or potential.
2. Take the necessary measures and procedures or request them from the competent authorities; to stop the behaviors and practices - which take place outside the Kingdom with an anti-competitive effect inside the Kingdom - or to limit their effects.

Discuss the Implications of the Study

The study discussed the anti-monopoly mechanism in the period of health measures for Covid 19:

1. As monopoly have socio-economic damages to fair competition in markets and the consumer and the most important effects of the study.
2. The study identified the strategy of combating monopolistic competition in the Kingdom of Saudi Arabia in the face of the effects of Covid 19 on the markets.
3. The study opened the door for jurists, economists and sociologists to address the issue of monopoly and its effects on markets, society and the state. According to accurate statistical studies.

The following are the most important results that we have reached:

1. The Saudi Competition Law defines the concept of illegal monopolistic competition, its images, and the mechanism for controlling it.
2. The existence of specialized bodies to confront cases of illegal competition during the pandemic period, represented by the Competition Authority concerned with monitoring, inspection, controlling violations, providing information and experts to confront the damages of violating competition on the Saudi market, in accordance with the provisions of international and regional agreements to which the Kingdom of Saudi Arabia is a party.
3. The existence of a unified reporting center at the Saudi Ministry of Commerce to report the monopolists of commodities and products. This led to fewer instances of monopolistic competition in the Saudi market and stabilization of prices and availability of medical products and consumer goods during the pandemic period.

Limitations

The study examined the strategy to combat monopolistic competition in the Kingdom of Saudi Arabia during the period of the Covid-19 pandemic, from February 2019 to November 2020. It indicated the legal framework to combat monopolistic competition in the Kingdom of Saudi Arabia and the strategies that were followed to protect fair competition and the established penalties, nevertheless, the researcher faced several limitations, which are:

1. Lack of reliable statistics for monopolistic companies and institutions in the Kingdom, along with the lack of judicial precedents for prosecutions of violations of the system
2. The absence of previous Arab studies on the subject of the current study.
3. The difficulty of conducting personal interviews with the competent authorities in combating monopoly, due to the health measures to confront the second wave of the pandemic in the Kingdom.

For all these limitations, the study requires more future research based on case law to identify antitrust strategies in the Arab and Middle Eastern countries.

CONCLUSION AND RECOMMENDATION

Through this study, we touched upon an important topic represented in anti-monopolistic competition measures to confront the repercussions of covid19 in the Kingdom of Saudi Arabia, through the legal and technical determination of monopolistic competition and the most important measures taken by the Kingdom of Saudi Arabia to protect legitimate competition. The most important recommendations are:

1. Issuing international model laws to fight monopolistic competition in the Covid-19 period, to ensure fair competition.
2. Establishing specialized Saudi offices and court to control monopolistic competitions.
3. Establishing a specialized educational website to combat monopolistic competition during the pandemic period.
4. Holding regional and national conferences within the Kingdom and workshops to combat monopolistic competition as one of the effects of Covid-19.

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