



The Hashemite Kingdom of Jordan¹ became independent from British administration in 1946. Jordan was ruled by King Hussein (1935-1999), who introduced a strong political liberalisation programme in 1989. King Abdallah II, the eldest son of King Hussein and Princess Muna, assumed the throne after his father's death, and consolidated the legacy of his father's rule by undertaking an aggressive economic reform programme.

Jordan acceded to the WTO in 2000, and became a member of European Free Trade Association (EFTA) in 2001. Jordan is a small Arab country, situated northwest of Saudi Arabia, sharing borders with Iraq, Israel, Syria and the West Bank. The country is a constitutional monarchy, divided into 12 administrative Governates.

Jordan has limited natural resources, but for years it has played a pivotal role in the struggle for power in the Middle East.

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Economy

Unlike many of its regional neighbours, Jordan has no oil of its own. Its resources are limited to phosphates and agricultural products. The economy depends largely on services, tourism and foreign aid, for which the US is the main provider. Jordan prides itself on its health service, one of the most efficient in the region.

After Independence, Jordan followed a very flexible economic policy that required a mix of directed and liberalised policies. Since 1992, it has radically liberalised its economy and now is very active in promoting its philosophy of free economy and competition.

Competition Evolution and Environment □

Since 1996, the Government of Jordan has been trying to put a competition law in place. The successive Governments prepared several draft laws, however, none

PROFILE	
Population:	5.3 million ***
GDP (Current US\$):	9.9 billion ***
Per Capita Income: (Current US\$)	1,850 (Atlas method)*** 4,220 (at PPP)**
Surface Area:	89.21 thousand sq. km
Life Expectancy:	70.9 years **
Literacy (%):	90.9 (of ages 15 and above)**
HDI Rank:	90 ***
Sources: - World Development Indicators Database, World Bank, 2004 - Human Development Report Statistics, UNDP, 2004 (**) For the year 2002 (***) For the year 2003	

of these reached the final stage of adoption. Two earlier failed attempts were in 1996 and 1998.

The draft of 1998, which was submitted to Parliament, was a rather comprehensive piece of legislation seeking to prevent various forms of anticompetitive practices. But the same was rejected by the Parliament. Several reasons were quoted as to 'Why Jordan has been unable to adopt a Competition Law':

- Competition law is a very technical matter and Government/Parliament fail to understand its benefits to the economy;
- Jordan faces many important regulatory challenges (e.g. privatisation) and there are more pressing matters at hand, than adopting a competition law; and
- Jordan is too small an economy to require a competition law. This seems to be most contradictory as, in small countries where members of the business community know each other well, there is probably a greater risk of collusion. Restrictive business practices like price-fixing, market allocation or bid rigging, seem to be common

* Original paper submitted in October 2004. Revised in July 2005 & February 2006

1 <http://www.cia.gov/cia/publications/factbook/geos/jo.html>

practice in Jordan. These have a very negative impact for consumers, firms and the whole economy.

At the same time, with a view to implementing Jordan's commitments under the WTO reference paper on basic telecommunications, an obligation not to engage in anticompetitive practices has been inserted into the licence of telecommunications operators. This ensures that competition provisions are in place (without having to wait for a competition legislation to be passed), at least in the telecommunication sector.

However, compared with a proper competition regime implemented by a competition authority, inserting competition provisions in the licences has several drawbacks as well. Therefore, the adoption of a competition law, implemented by a competition authority, has remained an important objective for the Jordanian government

Thus, it was suggested that the Government of Jordan (GoJ) would, on one hand, ensure that the competition provisions, included in the licence of the telecommunications operators, are enforced effectively; and on the other hand, would put forward a new proposal, for the establishment of a competition law and a competition authority. Besides, putting forward a new proposal, the GoJ should take into consideration that the new proposal should (1) be free from loopholes (which were contained in the last draft), (2) clearly mention the respective competencies of the Sectoral regulators and the competition authority.

As such, in 2002, a working programme was agreed upon between the Jordanian authorities and Euro-Jordanian Action for the Development Enterprise (EJADA) to redraft the draft competition law in place in the Kingdom. This work commenced in February 2002, and the fourth and final draft was submitted to the Cabinet and the Legislative Bureau.

In August 2002, the provisional Competition Law No. 49 of the year 2002 was issued. Furthermore, an implementation plan was agreed upon between EJADA and the Government, and lastly the setting up of relevant competition institutions.

Effective since August 2002 as a provisional law before its enactment by the Parliament and endorsement in 2004, the law has made Jordan the first Arab country in the Middle East with antitrust and competition legislation in place.

The Law provides strong incentives for promoting private entrepreneurship and attracting FDI and is vital for improving economic efficiency, developing competitiveness, enhancing consumer welfare, and therefore, achieving sustained growth in Jordan.

Competition Legislation and Institutions

The Competition Law No. 33 for the year 2004 was issued on September 01, 2004, although it has been in effect as the provisional competition law, since August 15, 2002. It consists of four main segments:

- prohibition of anticompetitive collusions;
- prohibition of abuse of dominant positions;
- regulating M&As; and
- ensuring fairness of economic transactions.

The provisions of the competition law applies to all production, commerce and service activities in the Kingdom, as well as any economic activities occurring outside the Kingdom and have an effect inside the Kingdom. The law applies to both the public and private sectors.

The competition law is based on prices operating, according to the market mechanism and free competition principles. It exempts the prices of basic materials specified in accordance with any other law, in addition to the prices set by the Council of Ministers through temporary measures to deal with exceptional circumstances or an emergency or a natural disaster.

The Law also exempts the anticompetitive agreements with weak effects, and the practices and arrangements leading to positive results with a common benefit that cannot be achieved without the exemption.

Punishments stated in the Law consider the situation of the violator in the market and the level of violation to the provisions of the Law.

An implementation strategy has been drafted, and is under implementation since November 2002. Below is an overview of the plan's focal points:

Setting up the Relevant Competition Institutions in Jordan

The Competition Directorate at the Ministry of Industry and Trade (MIT): The Competition Directorate at MIT was established on December 18, 2002. As dictated by the Law, the Directorate is responsible for enforcing and executing the competition policy throughout the Kingdom.

In coordination with the concerned authorities, the Competition Directorate is responsible for the following duties:

- contributing to setting the general competition plan and legislation and studies;
- promoting, protecting and encouraging the competition culture;
- gathering information to uncover practices that restrict/distort competition;
- conducting investigations into such practices, and preparing reports on the findings and presenting recommendations or reports to the Minister or the Court;

- receiving and following up with petitions related to economic concentration operations;
- issuing clarification opinions on matters related to its activities;
- utilising experts or consultants from outside the Ministry to accomplish any activities within its authority; and
- cooperating with similar bodies outside the Kingdom to exchange information and data and matters.

The Competition Affairs Committee:

This advisory committee was officially formed, and its members named, in May 2003. The members represented all stakeholders, which include businesses and consumer groups. The committee held two meetings, an introductory one on May 22, 2003, and a second meeting on July 07, 2004 to discuss and approve the overall competition strategy.

The Judicial Institutions:

The Ministry of Justice has named a public prosecutor from the Amman Court of First Instance, who will specialise in the competition law as mandated by the Law. Other judges from the Amman Court of First Instance to adjudicate competition cases have also been nominated.

Training Programmes

A comprehensive training programme has been planned to reinforce the capacities of the professionals who will implement the competition law. The initial, targeted audience includes: the staff of the Directorate, judges and public prosecutors. The training sessions that were held focused on general discussions of the Law, and benchmarking it against comparable laws; legal and economic in-depth analyses; cases studies; and a study tour to Tunisia, to benefit from their experience in this field.

In addition, four documents have been published to supplement the training sessions:

1. A compilation of comparative competition laws;
2. The annual reports of the Tunisian competition authorities for the years 2000 and 2001;
3. Research papers and studies on the competition law, and its impact; and
4. An introduction to economic theory and analysis.

Awareness Programmes

A comprehensive awareness campaign is underway to spread awareness about the competition law, and establish a competition culture in Jordan. Several awareness seminars were held throughout Jordan at various academic institutions, judicial authorities, sectoral regulatory commissions, and Chambers of Commerce.

In addition, a user-friendly brochure about the competition law has been published in Arabic and English, a website and an informational leaflet about the directorate were also

published, the Directorate Website is www.competition.gov.jo.

Furthermore, the Directorate published and distributed the 2003 annual report of its activities, and is now in the process of finalising the 2004 annual report. The Directorate has launched an advertisement campaign, in the main newspapers, to familiarise consumers/customers with the objectives and provisions of the competition law.

Reference Library and Databases

A reference library of Arabic and English books and publications, of relevance to competition issues, has been established. Work has commenced on establishing vital databases, for the operation of the Directorate, and linking it to key information sources, such as the Department of Statistics, Customs, and Sales Tax Department.

Anticompetitive Business Practices

According to Article 5 of the Jordan Competition Law No.33 of the year 2004²:

- A. Practices, alliances and agreements, explicit or implicit, that prejudice, contravene, limit or prevent competition, shall be prohibited, especially those, whose subject or aim is to:
 1. Fix the prices of products, services or conditions of sale, and the like;
 2. Fix quantities of production or service provision;
 3. Share the market on the basis of geographical regions or quantities of sales or purchases or customers or any other basis that negatively affects competition;
 4. Set barriers to entry of Enterprises into the market or eliminate them therefrom; and
 5. Collusion in tenders or bids, whether in overbidding or underbidding, but it shall not be considered collusive to submit joint efforts in which the parties announce such joint offer *ab initio*, and without the goal of such bidding being to prevent competition in any way.
- B. The provisions of Paragraph (A) above shall not apply to agreements with weak effect wherein the total share of the Enterprises party thereto shall not exceed a rate to be set by instructions issued by the Minister, and which shall not exceed 10 percent of total transactions in the market, and provided that such agreements do not include procedures that fix price levels and market sharing.”

Whereas, according to Article 6 of the law:

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

² <http://www.internationalcompetitionnetwork.org/mergerjordanlaw.pdf>

1. Fixing or setting prices or conditions of resale of products or services;
2. An activity or action which leads to setting barriers of entry of other Enterprises to the market, or their elimination there from, or their exposure to gross losses including loss selling;
3. Discrimination between customers in similar contracts with regard to price of products or services or conditions of sale or purchase;
4. Forcing any of its customers to refrain from dealing with a competing Enterprise;
5. Attempting to monopolise certain resources necessary for a competing Enterprise to carry out its activities or to purchase a particular product or service to an extent that leads to increasing the price thereof on the market or preventing its decrease;
6. Refusing, without objective grounds, to deal with a particular customer under the usual commercial conditions; and
7. Tying the sale of a product or the provision of a service to the purchase of another or others or the purchase of a limited amount or a request for the provision of another service”.

In spite of the short time since the introduction of the Competition Law, a number of important cases have been brought forward before the Competition Directorate.

Box 15.1: A Case of Infringement

The Jordanian Magistrate Court of Amman issued an unprecedented judgment in a case relating to unfair competition.

The appellant, a foreign company filed a lawsuit against a local company, which was engaged in the manufacturing of products, identical to those of the Appellant’s, thereby indulging in unfair competition.

The Appellant requested the seizure of the products and paying compensation as per the provisions of the Unfair Competition Law and Trade Secrets No. 15 of the year 2000.

After necessary examination, it was proved that the local company sold products bearing trademarks imitating the appellant’s trademarks and illegally used the appellant’s registered trademark to mislead consumers and sold the imitated products to the public with a substantial difference in price and quality in addition to the different origin of the products.

As such, the court decided to charge the infringing company to pay JD1,100 along with the official fees, expenses and JD70 as the lawyer’s fees.

Source: Website of Abu-Ghazaleh Intellectual Property (AGIP) <http://www.agip.com>

Exemption Petitions

Steel Industry

The steel cartel petitioned to be exempt from Articles 5 & 6 of the Competition Law, and accordingly an extension for realignment. Both applications were rejected by the Directorate.

Specialised Tourism Transport

A ticketing alliance of three companies, who operate in tourism transport, petitioned to be exempt from Articles 5 & 6 of the Competition Law. The Directorate issued an economic analysis of the impact of this alliance, and established contact with the tourism and transport ministries to incorporate their views into the study. A decision has been issued, where the joint venture would not have a positive impact with a common benefit that cannot be achieved without granting the joint venture, therefore, the request was rejected.

Energy Sector

The Ministry of Energy petitioned to exempt an energy company resulting from the joint venture between Jordan, Egypt, Syria, and Lebanon, from Articles five & six of the Competition Law. The formed company would enjoy exclusivity rights in gas transport. The Directorate has approved the petition after establishing that its public benefits outweigh any potential harm to the competition landscape in this sector.

Economic Concentration Applications

Agricultural Seeds

The Directorate received a petition to approve an economic concentration operation. The operation involves a take-over of an agricultural seeds producer, by a private equity firm. Both firms are located in the US. After assessing the impact of this acquisition on the relevant Jordanian market, the Directorate approved the acquisition.

Complaints

Aluminium Profiles Industry

a. One of the colluding companies in the aluminium profile cartel filed a complaint with the Directorate, to dismantle the cartel in accordance with Article 5 of the Competition Law. The Directorate undertook an elaborate economic study, and has thus found that there is no misconduct in the form of an anticompetitive collusion in this industry. Hence, the complaint has been rejected.

b. A company filed a complaint, claiming that a competitor is selling below cost to disrupt competition. The Directorate conducted an economic analysis, and issued its ruling, rejecting the complaint since the accused party was not found guilty of selling below cost.

Machinery and Vehicles Spare Parts

A company filed a complaint claiming that a competitor is selling at a price below its cost in order to disrupt

competition. The Directorate initiated an investigation into the case and issued its findings that the accused party is not selling below cost to disrupt competition. The complaint has been thus rejected.

Dairy Products

The union for cow herders complained orally to the Directorate, regarding the abuse of dominant position practised on them by the informal cartel of dairy product producers. The complaint came at a time when the dairy producers were threatening to raise prices. Such a collective increase sheds suspicion on potential, implicit collusion between the dairy producers.

Consultations

Cement Industry

The Directorate was consulted regarding the applicability of the Competition Law on a cement company's decision to raise prices. The Directorate concluded that this practice was not in conflict with Jordan's competition law and issued recommendations on how to address this issue, in the concerned sector, in the short and long run.

Meat Industry

A couple of months prior to the onset of the holy month of Ramadhan in the Hijri year 1424, the Directorate received a consultation request regarding the increase in meat prices, which could have potentially resulted from anticompetitive activities in that sector. This issue was addressed with a sense of urgency, anticipating any serious problems arising out of an increased demand during the holy month of Ramadhan.

The Directorate conducted field investigations, which pointed out the barriers that prevent competitors from entering the market. Talks were held between the various bodies that regulate this industry, such as the Ministry of Agriculture and Ministry of Health, to discuss the potential for opening up new import markets, and removing barriers of entry to this industry. The adopted policies succeeded in bringing the prices down and maintaining them at reasonable levels during Ramadhan.

Potash Industry

A consultation was requested from the Directorate, regarding an amendment to a law, which grants exclusivity rights to the privatised Potash mining company. The Directorate issued a communication regarding this issue.

Steel Industry

A consultation was requested regarding an application, to establish a union for the oligopolistic steel producers industry, for fears of using the union as an umbrella to engage in anticompetitive activities. The Directorate issued a communication regarding this issue.

Consumer Protection

When the provisional Competition Law No. 49 of the year 2002 was issued, everybody welcomed the idea of enacting a competition legislation. However, on closer study of potential legislation, one of the issues that arose was the need for a separate consumer protection law.

In a regional conference on consumer protection held in the Middle East, participants voiced their recommendations on the creation of a consumer protection law, to be prepared in conjunction with the Arab league and applied in the Arab World. They also called for the creation of a National Council, representing consumers and producers; and for the Government to quickly establish judicial bodies to deal with consumer-related disputes.

Furthermore, they appealed to the Government to provide consumers with the required information and data on products; to involve the media in spreading information and awareness on matters, related to the quality and prices of commodities; and to establish laboratories to test the quality of consumer products.

Though Jordan had started a consumer protection initiative in the mid-1980s, not all Arab societies have managed to organise similar associations. Therefore, one of the main tasks of the Arab Consumers Federation is to encourage activities in this area.

Box 15.2: Jordan Chosen as Headquarters of Arab Consumer Federation

In one of the conferences hosted by the Jordan Consumer Protection Society, participants voted on the decision to choose Jordan as the home of the Arab Consumer Federation, because of the "Kingdom's record in consumer protection". Recommendations were also put forth for adopting international consumer protection measures in all Arab countries.

Jordan's Consumer Protection Society was established in 1989, as a voluntary body, to raise public awareness on consumer problems, by conducting field and scientific studies and by fighting monopolies and price manipulation.

The society was the only organisation to file a case against the Government over the recent water contamination crisis, and the first to alert the public to the Government's intention to lift bread subsidies in 1996.

Source: Jordan Times, October 05, 1998

Concluding Observations and Future Scenario

The competition law is one of the most recent laws; it's still new. The law covers all economic activities affect the Kingdom of Jordan (production, commerce, and service) and is applied on both the public and private sectors. It is a very comprehensive law, which applies not only for activities inside Jordan, but also international activities that affect competition inside the Kingdom.

The spread of the competition culture and the awareness of the provisions of the competition law are essential factors that have vital effects on the implementation of the Law and its future.

The Directorate of Competition at the Ministry of Industry and Trade believes that the Law will be a reference for many sectors, it will ensure fair competition in different economic activities, it will also enable parties to report for and uncover anticompetitive practices.

Future cooperation among Ministries, Regulators, Private Sector, and other parties is necessary for the proper implementation of the law. Capacity strengthening of the staff working in the Competition Directorate at the Ministry of Industry and Trade and educating producers and traders about the benefits of the proper application of competition law is also essential to ensure the law's success.

Suggested Reading

“Jordan’s Experience in Developing a Competition Law and Authority” by Nesreen Barakat

* **Luna Abbadi** currently holds the position of Director of the Competition Directorate at the Ministry of Industry and Trade in Jordan. She has been one of the pioneers who helped establish the directorate. Upon taking on this position, she recruited the human resources who become responsible later on of the implementation of the Competition Law in Jordan since 2003.

Abbadi has organised many workshops and campaigns for the purpose of promoting and spreading competition culture awareness at government level and in the private sector. Moreover, she has participated in the special hearings and discussions that were held at the Parliament before the Competition Law was issued and became effective in 2004.

Prior to her engagement in this position, Abbadi worked as a legal consultant at the Cairo Bank for 10 years during which she acquired much of her significant experience in that field. She received her higher education in Amman-Jordan. In addition to attending workshops and seminars on competition, Abbadi has participated in many training workshops on economical and legal issues.