

**Cabinet Resolution No. (37) of 2014**  
**Concerning the Executive Regulation of Federal Law No. (4) of 2012**  
**Regulating Competition**

**The Cabinet,**

- After perusal of the Constitution,
- Federal Law No. (1) of 1972 concerning the scopes of Ministries and the powers of Ministers, and the amendments thereto;
- Federal Law No. (4) of 2012 Concerning the Regulation of Competition,
- Upon the proposal of the Minister of Economy, and the approval of the Cabinet,

**Hereby promulgates the following:**

**Article (1)**

**Definitions**

In the application of the provisions of this resolution, the following words and phrases shall have the meanings, respectively, set forth against the same unless the context otherwise requires:

- The State** : United Arab Emirates.
- The Law** : Federal Law No. (4) of 2012 Concerning the Regulation of Competition.
- The Minister** : The Minister of Economy.
- The Competent Authority** : Competition Authority at the Ministry.
- Establishment** : Any natural or legal person or consortium of such persons engaging in an economic activity, regardless of the legal status thereof.
- The Relevant Market** : The commodities or services or the total of the same that can be replaceable with other items, or selectable among other alternatives to meet a specific consumer need in a

particular geographic area; based on the price, specificities and aspects of use thereof.

**Agreements** : Any agreements, contracts, arrangements, joint ventures, joint practices or cooperation between two or more establishments, or any resolutions issued by the consortium thereof; whether written, oral, explicit, implicit, overt or covert.

**Dominant Position** : The position that enables any establishment, whether solely or in collaboration with other establishments, to exercise control or influence over the Relevant Market.

**The Economic Concentration** : Every act gives rise to a full or partial transfer (merger or acquisition) for the ownership or usufructs of an establishment's assets, rights, shares, stocks or obligations to another establishment that is likely to enable one establishment (or a consortium of establishments) to control, whether directly or indirectly, another establishment or consortium of establishments.

**The Committee** : Competition Regulation Committee, incorporated under the provisions of the Law.

## **Chapter One**

### **Regulatory Procedures for the Exclusions**

#### **Article (2)**

##### **Controls for Notifications**

1. Any establishment seeks to get an Exclusion for any restrictive agreements or dominant market practices, set forth in Articles 5 and 6 of the Law, shall priorly notify the Competent Authority of the same, using the form prepared by the Competent Authority for this purpose, along with the following documents:

- a. A duly certified copy of the Concerned Establishments' memorandum of association or articles of incorporation.
  - b. A list includes the names of the shareholders or partners in each of the Concerned Establishments and the rates of contribution or the shares thereof.
  - c. A report on the economic impact of the Exclusion application stating the positive effects thereof and the role of the same in promoting the economic development.
2. The notification and accompanying documents shall be submitted to the Competent Authority, signed by the legal representatives of the establishments seeking to get an Exclusion for any restrictive agreements or dominant market practices, under a duly certified power of attorney and upon a receipt of the same.
3. The notification shall be submitted in three copies in Arabic; however, a translation for the same may be submitted in English.
4. The notification shall be submitted in three copies in the original language thereof, as provided for in Clause (1) of this Article, along with a certified translation for the same into Arabic in the case of being written in a foreign language.
5. Any establishment seeks to maintain the confidentiality of the notification and the documents thereof shall write the word (confidential) thereon, further to providing non-confidential summaries for the same, on which the word (non-confidential) is written, provided that such summaries are sufficient to indicate the content of such confidential data.
6. The Competent Authority shall conduct a formal examination for the notification and the supporting documents thereof. The Competent Authority may require the Concerned Establishments to provide any additional documents. By the end of the formal examination, a notification regarding the completion of the formal requirements of the Exclusion shall be issued to the Concerned Establishments.
7. The Competent Authority shall maintain a special record in which the Exclusions of any restrictive agreements or dominant market practices are recorded.

## Article (3)

### Deliberation of the Notification

1. The Competent Authority shall consider the application for Exclusion in order to ensure that the Concerned Establishments have fulfilled the following procedures:
  - a. to priorly notify the Ministry of any restrictive agreements or dominant market practices subject to Exclusion.
  - b. to prove that these agreements or practices would enhance the economic development, improve the performance of establishments and the competitive ability thereof, develop production or distribution systems, or result in certain consumer benefits.
2. Whilst deliberating such Exclusion, the Competent Authority may require the Concerned Establishments to provide any additional data or information it deems necessary to decide on the same.
3. The Competent Authority may require the parties, it deems susceptible to the Exclusion, to provide the standpoints and supporting data thereon, within a period not exceeding (15) "fifteen" days from the date of notification by the same.
4. The Competent Authority shall prepare a detailed report on the Exclusion, includes a statement of all procedures and actions taken on the same, the underlying data, and the assessment of the application in legal and economic terms; especially with regard to its impact on the level of competition in the Relevant Market, further to make a recommendation on the proposed resolution thereon.
5. The Competent Authority shall submit the report, referred to in Clause (4) of this Article, to the Committee. Accordingly, the Committee shall submit its recommendations on the Exclusion to the Minister, within a period not exceeding (14) "fourteen" days from the date of the receipt thereof.
6. The Competent Authority may ask the assistance of any party it deems appropriate, or make consultations with other authorities in the State so as to accomplish the report, referred to in Clause (4) of this Article.

## Article (4)

### The Minister's Resolutions on the Exclusion

1. Upon the recommendation of the Committee, the Minister shall decide on the Exclusion within (90) "ninety" days from the date of notifying the Concerned Establishments of receipt of the application thereof and fulfillment of all required conditions; however, the Minister may extend this period by a further 45 days "forty-five" days.
2. If no resolution is issued by the Minister within the period, referred to in Clause (1) of this Article, the Exclusion shall be deemed accepted.
3. The Minister may, temporarily, approve the Exclusion of any restrictive agreements or dominant market practices until issuing a final resolution thereon, provided that the period of such temporary Exclusion does not exceed (30) "thirty" days.
4. The Minister shall issue a reasoned resolution on the Exclusion of any restrictive agreements or dominant market practices, as follows:
  - a. to approve the Exclusion of any restrictive agreements or dominant market practices.
  - b. to reject the Exclusion of any restrictive agreements or dominant market practices.
  - c. to approve the Exclusion of any restrictive agreements or dominant market practices, provided that the Concerned Establishments undertake to comply with the conditions and obligations specified by the Minister for the purposes of implementing the same.
5. The Minister may revoke the approval, referred to in Clause (4) (a) of this Article, if it appears that:
  - a. The circumstances under which the approval has been granted no longer exist.
  - b. The Concerned Establishments have breached any conditions or obligations on which the approval has been granted.
  - c. The approval has been granted on the basis of misleading or incorrect information.
6. The Competent Authority shall maintain a special record in which the resolutions issued by the Minister on the applications for Exclusion are recorded.

## **Article (5)**

### **Approval of the Exclusion Amendments**

1. Any establishment obtains an Exclusion for any restrictive agreements or dominant market practices shall notify the Competent Authority of the draft of any amendments thereto within (30) "thirty" days of the same.
2. Whilst deliberating the proposed amendments to the Exclusion, the Competent Authority may require the Concerned Establishments or the parties, it deems susceptible to the Exclusion, to provide any additional data or information it deems necessary to decide on the same.
3. The Competent Authority shall prepare a detailed report includes an assessment of the proposed amendments to the Exclusion in legal and economic terms; especially with regard to the impact thereof on the level of competition in the Relevant Market, further to making a recommendation on the proposed resolution thereon.
4. The Competent Authority shall submit the report, referred to in Clause (3) of this Article, to the Committee within a period not exceeding (14) "fourteen" days from the date of preparing the same.
5. The Mister shall decide on the proposed amendments to the Exclusion within (90) "ninety" days from the date of notifying the Concerned Establishments of receipt of the application thereof and fulfillment of all required conditions; however, the Minister may extend this period by a further 45 days "forty-five" days.

## **Article (6)**

### **Assessment of Competition**

The competent authority shall consider the dominant market practices, referred to in articles (6) and (7) of the Law, pursuant to the following:

1. The Relevant Market.
2. The market share of the Concerned Establishments.
3. The revenues and assets of the Concerned Establishments.
4. The actual or potential level of competition for a number of competitors.
5. The price or quantitative variance in commodities or services from the expected levels in

- the absence of such practices.
6. The production volume and demand of the relevant commodities or services.
  7. The level of impact on supply or aggregate demand of the relevant commodities or services.
  8. The diversity of the relevant commodities or services.
  9. The impact of the practice on the market access, expansion or exit therefrom.
  10. The ease of access to financial facilities from the capital markets.
  11. The time during which such practices emerge.
  12. The date of competition among competitors in a certain market.
  13. The impact on consumers.

## **Chapter Two**

### **Regulatory Procedures for Economic Concentration**

#### **Article (7)**

#### **Submission of an Application for Approval of an Economic Concentration**

1. The Concerned Establishments shall submit a written application for the approval of the Minister on completion of an Economic Concentration in which the total share of the establishments or the parties thereof exceeds the ratio specified by the Cabinet for the total transactions in the Relevant Market. This Economic Concentration is likely to affect the level of competition in the Relevant Market, or create or promote a dominant position therein.
2. The application for approval of an Economic Concentration shall be submitted within (30) "thirty" days at least from the date of concluding the draft contract or agreement thereof, on the form prepared by the Competent Authority for this purpose, along with the following documents:
  - a. A duly certified copy of the Concerned Establishments' memorandum of association or articles of incorporation.
  - b. The draft contract or agreement of the Economic Concentration.
  - c. A duly certified copy of the financial statements, for the last two fiscal years, of the establishments engaged in the Economic Concentration and the subsidiaries

- thereof.
- d. A list includes the names of the shareholders or partners in each of the Concerned Establishments and the rates of contribution or the shares thereof.
  - e. A report on the economic impact of the Economic Concentration stating the positive effects thereof along with the proposed commitments and actions taken by the Concerned Establishments to reduce the potential negative effects of the same.
3. The application and the documents, referred to in Clause (2) of this Article, shall be submitted to the Competent Authority, signed by the legal representative of the establishments engaged in the Economic Concentration, under a duly certified power of attorney and upon a receipt of the same.
  4. The application shall be submitted in three copies in Arabic; however, a translation for the same may be submitted in English.
  5. The documents, referred to in Clause (2) of this Article, shall be submitted in three copies in the original language thereof, along with a certified translation for the same into Arabic in the case of being written in a foreign language.
  6. Any establishment seeks to maintain the confidentiality of the application thereof shall write the word (confidential) thereon, further to providing non-confidential summaries for the same, on which the word (non-confidential) is written, provided that such summaries are sufficient to indicate the content of such confidential data.
  7. The Competent Authority shall conduct a formal examination for the Application for approval of the Economic Concentration and the supporting documents thereof. For accomplishing such procedure, the Competent Authority may require the Concerned Establishments to provide any additional documents. By the end of the formal examination, a notification regarding the completion of the formal requirements of the application for approval of the Economic Concentration shall be issued to the Concerned Establishments.
  8. The Competent Authority shall maintain a special record in which the approvals of the Economic Concentration are recorded.

## Article (8)

### Deliberation of the Application for Approval of the Economic Concentration

1. The Competent Authority shall consider the application of the Economic Concentration pursuant to the following indicators:
  - a. Actual and potential level of competition in the Relevant Market.
  - b. New establishments' ease of access to the Relevant Market.
  - c. The extent of the potential impact on the prices of the relevant commodities or services.
  - d. Whether there is a systemic barriers affecting the entry of new competitors.
  - e. How likely is the emergence of a dominant position in the Relevant Market.
  - f. The extent of the potential impact on innovation, creativity and technical competence.
  - g. The extent of contribution to the promotion of investment or export, or support of the national establishments' ability to compete in the international marketplace.
  - h. The extent of the impact on the interests of consumers.
2. Whilst deliberating the application for approval of the Economic Concentration, the Competent Authority may require the Concerned Establishments to provide any additional data or information it deems necessary to decide on the same.
3. The Competent Authority may require the parties, it deems susceptible to the Economic Concentration, to provide the standpoints and supporting data thereon, within a period not exceeding (15) "fifteen" days from the date of notification by the same.
4. The Competent Authority may hold meetings with the Concerned Establishments or relevant parties so as to consider the viewpoints and statements of the same on the Economic Concentration.
5. The Competent Authority shall prepare a detailed report on the Economic Concentration, includes a statement of all procedures and actions taken on the same, the underlying data, and the assessment of the application in legal and economic terms; especially with regard to the positive and negative effects of the Economic Concentration on the level of

competition in the Relevant Market, further to making a recommendation on the proposed resolution thereon.

6. The Competent Authority may ask the assistance of any party it deems appropriate, or make consultations with other authorities in the State so as to accomplish the report, referred to in Clause (5) of this Article.
7. The Competent Authority shall submit the report of the application for approval of the Economic Concentration to the Minister so as to decide on the same.

## **Article (9)**

### **The Minister's Resolutions on the Applications for Approval of the Economic Concentration**

1. The Minister shall decide on the application for approval of the Economic Concentration within (90) "ninety" days from the date of notifying the Concerned Establishments of receipt of the application thereof and fulfillment of all required conditions; however, the Minister may extend this period by a further 45 days "forty-five" days.
2. If no resolution is issued by the Minister within the period, referred to in Clause (1) of this Article, the application of the Economic Concentration shall be deemed accepted.
3. The Minister shall issue a reasoned resolution on the application for approval of the Economic Concentration, as follows:
  - a. To approve the Economic Concentration if does not negatively affect competition or if it has positive economic impacts on competition outweigh the negative impacts thereof.
  - b. To approve the Economic Concentration, provided that the Concerned Establishments undertake to comply with the conditions and obligations specified by the Minister for the purposes of implementing the same.
  - c. To reject the Economic Concentration.
4. The Minister may revoke the approval, referred to in Clause (3) of this Article, if it appears that:
  - a. The circumstances under which the approval has been granted no longer exist.
  - b. The Concerned Establishments have breached any conditions or obligations on

which the approval has been granted.

- c. The approval has been granted on the basis of misleading or incorrect information. In that case, the Competent Authority shall take appropriate legal actions so as to sue and prosecute the Concerned Establishments in breach, in pursuance of the regulations applicable in this regard.
- d. The Competent Authority shall maintain a special record in which the resolutions issued by the Minister on the applications for approval of the Economic Concentration are recorded, in accordance with the form prepared by the Competent Authority for the same.
- e. During the period referred to in Clause (1) of this Article, the Concerned Establishments shall not carry out any actions or proceedings relating to the completion of the Economic Concentration.

## **Chapter Three**

### **Regulatory Procedures for Complaints Investigation**

#### **Article (10)**

#### **Complaints Submittal**

1. Any concerned person shall has the right to file a Complaint to the Competent Authority on any violation of the provisions of the Law, using the form prepared by the Competent Authority for this purpose.
2. The Competent Authority shall maintain a record of Complaints; to be serialized according to the order of receipt thereof, stating the Complaint, the record date, the name of the Complainant and the subject of the same.
3. The Complaint shall include the following data and information:
  - a. The Complainant (s).
  - b. The Defendant (s).
  - c. The provisions of the Law underlying the Complaint.
  - d. The facts relevant to the violation of the provisions of the Law.
  - e. The practices claimed to be in contradiction with the provisions of the Law.
  - f. The proofs and supporting documents of the Complaint.

4. The Complaint shall be submitted along with the data and information, referred to in Clause (3) of this Article, to the Competent Authority upon a receipt for the Complaint. The receipt of the Complaint shall not be deemed as an acceptance for the same.
5. The Complaint shall be submitted in writing or electronically, in accordance with the regulations specified by the Competent Authority for the same.
6. The Complaint shall be submitted after being duly signed by the Complainant (s), or the legal representatives thereof under a duly certified power of attorney.
7. The Complaint shall be submitted together with the data and information, referred to in Clause (3) (f) of this Article, in three copies in Arabic; however, a translation for the same may be submitted in English.
8. The Complaint shall be submitted together with the data and information, referred to in Clause (3) (f) of this Article, in three copies in the original language thereof along with a certified translation for the same into Arabic in the case of being written in a foreign language.
9. Any establishment seeks to maintain the confidentiality of the Complaints shall write the word (confidential) thereon, further to providing non-confidential summaries for the same, on which the word (non-confidential) is written, provided that such summaries are sufficient to indicate the content of such confidential data.
10. The Competent Authority shall consider the Complaint and the supporting documents thereof. Furthermore, the Competent Authority may require the Complainant to provide any data it considers necessary to deliberate the Complaint within a period not exceeding (15) "fifteen" days from the date of the same.
11. Upon completion of the deliberation of Complaint, the Competent Authority shall issue notice to the Complainant as follows:
  - a. To accept the Complaint on the ground that there is enough data allow for conducting an investigation into the same.
  - b. To reject the Complaint for the lack of sufficient data necessary to open an investigation into the same.

## **Article (11)**

### **Automatic Investigation**

1. The Competent Authority shall automatically open an investigation into any violation of the provisions of the Law and this resolution in case it has reasonable grounds and sufficient data concerning the existence of practices that are likely to breach, restrict or prevent competition.
2. The Competent Authority shall take all necessary actions in respect of the offense, referred to in Clause (1) of this Article, in accordance with the procedures set forth on the investigation of the complaint.

## **Article (12)**

### **Investigation of the Complaint**

1. Upon acceptance of the Complaint, the Competent Authority shall, within (10) "ten" days, notify the Defendants and all Concerned Parties of the subject of the Complaint.
2. The notification, referred to in Clause (1) of this Article, shall include a brief statement of the most important aspects of the Complaint; in particular the following:
  - a. The practices claimed to be in breach, restrict or prevent competition, further to the provisions of the Law found in contradiction therewith.
  - b. The right of the Defendant to defend the same and to respond to the allegations contained in the Complaint.
  - c. The term granted to the Defendant so as to respond, in written, to the practice, subject of the Complaint.
3. The Competent Authority shall investigate the Complaint relying on the data, information and documents submitted by the Concerned Parties of the Complaint.
4. Whilst investigating the Complaint, the Competent Authority shall take into account to provide equal opportunities for all Concerned Parties to defend the interests thereof, and to enable the same to submit the defense, standpoints and comments thereof on the allegations, subject of the Complaint.
5. Whilst investigating the Complaint, the Competent Authority may request any data, documents or statements from the Concerned Parties, or other parties as deemed

essential for the same.

6. The Competent Authority shall request any further data within a period not exceeding (30) "thirty" of sending a request for the same. The Competent Authority may extend the preceding period for a similar term provided that such extension does not affect the investigation proceedings.
7. The Competent Authority shall has the right to take any action it deems necessary for the investigation, including the convention of meetings for the Concerned Parties.

### **Article (13)**

#### **The Minister's Resolutions on the Complaint**

1. The Competent Authority shall prepare a detailed report on the Complaint includes a statement of all the procedures and actions taken thereby a legal assessment of all data, information and aspects of defense submitted by the Concerned Parties, further to making a recommendation on the proposed resolution thereon.
2. The Competent Authority shall submit the report, referred to in Clause (1) of this Article, to the Minister within a period not exceeding (10) "ten" days from the date of preparing the same.
3. The Minister shall issue a reasoned resolution on the Complaint within (30) "thirty" days from the date of submission thereto.
4. The Ministry shall notify all Concerned Parties of the Minister's resolution within a period not exceeding (10) "ten" days from the date of issuance thereof.

### **Article (14)**

#### **Reconsideration Applications**

1. Any concerned party shall has the right to submit an application, in written, to the Minister for reconsideration of the resolutions issued thereby, under the provisions of the Law, within a period not exceeding (14) "fourteen" days from the notification thereof, provided that such application includes the grounds of submission and all supporting documents thereof.
2. The Committee shall deliberate the application and submit the recommendation thereof

to the Minister within a period not exceeding (10) "ten" days from the date of the application's referral thereto.

3. The Minister shall decide on the application, whether to reject or accept the same, within (30) "thirty" days from the date of submission. If no resolution is issued by the Minister within the foregoing period, the application shall be deemed rejected.

## **Article (15)**

### **Reconciliation**

1. Except for the acts contrary to the provisions of Article (15) of the Law, the Minister or the authorized representative thereof may accept reconciliation in respect of any of the acts in breach of the provisions of the Law. Such reconciliation shall be made prior to filing a penal claim and payment of the parties, in breach of the provisions of the Law, for an amount not less than twice the minimum fine.
2. The reconciliation shall be performed in written and shall be signed by the parties, proven to be in breach of the provisions of the Law, along with the commitment of the same to pay the amount referred to in Clause (1) of this Article.
3. Each party shall take a copy of the reconciliation, taking into account to keep a copy of the same with the Competent Authority.
4. The reconciliation shall be binding upon all signatory parties; to enter into force only after the submission of the parties, proven to be in breach of the provisions of the Law, for a proof of payment for the amount referred to in Clause (1) of this Article.
5. In case any of the parties refrained from implementing the points of reconciliation, the Competent Authority shall refer the breaches to the Competent Court.

**Chapter Four**  
**Final Provisions**  
**Article (16)**  
**Issuing Resolutions**

The Minister shall issue the executive resolutions necessary to implement the provisions hereof.

**Article (17)**  
**Repeals**

Any provision in any other resolution shall, to the extent it contradicts the provisions hereof, be repealed.

**Article (18)**  
**Publication and Entry into Force**

This resolution shall come into effect as of the date of issuance and shall be published in the Official Gazette.

**Mohammed Bin Rashid Al Maktoum**

**Prime Minister**

**Issued by us on:**

**3rd Muharram 1436 AH;**

**Corresponding to: 27th October 2014 AD.**