



**ICN MENA Region Working Group
Report on Merger Control in Times of Crisis**

December 2020

EXECUTIVE SUMMARY

The project on Merger Control in Times of Crisis, organized by the Administrative Council for Economic Defense (Brazil) (“CADE”) as part of the International Competition Network (“ICN”) Merger Working Group (“MWG”), was led by different agencies in different regions of the world. The Egyptian Competition Authority (“ECA”) served as the lead for the Middle East and North African (“MENA”) Region.

Realizing the fact that several member states in the region have established competition agencies but are not members of the ICN, ECA took the initiative of reaching out to these agencies in order to encourage them to participate in the MWG. ECA invited authorities of the region to attend a pre-webinar session in September 2020, the authorities were asked to respond to a questionnaire in October 2020 about their state’s status quo on merger control, as well as attend a two-day webinar in November 2020. While a number of these agencies initially responded that they did not yet have a developed merger control regime and hence could not participate, they were encouraged to use these initiatives to describe and reflect on the challenges they are facing in terms of merger control. The webinar included capacity building sessions based on four set modules which encouraged a number of authorities to attend. States were asked to share their contributions of the questionnaire.

Accordingly, the President of the ICN expressed his support and encouraged more collaborations and participations of the MENA region.

This report is a result of all contributions; whether the questionnaire, the comments and questions of the pre webinar and webinar as well as the presentations of both the contributing member state authorities as well as the experts who gave the sessions. Along with their biographies. You will also find the media coverage and broadcasting reports of the event, the list of participants and organizers.

We are thankful for the ICN, the merger working group committee, the CADE who were very supportive throughout the project and all contributing agencies.

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INTRODUCTION

The Egyptian Competition Authority (“ECA”), as a member of the International Competition Network (“ICN”), was the regional lead for the MENA region of the ICN Merger Working Group (“MWG”) Project on Merger Control in Times of Crisis. This project covered various topics relating to merger control during the COVID-19 pandemic. More specifically, it covered four topics: 1) practical aspects of merger assessment, 2) substantive merger assessment, 3) the failing firm defense, and 4) remedies.

In order to address and thoroughly discuss each of these topics, ECA conducted two online webinars to which members of the MENA region were invited to discuss their experience in light of each of the topics. The second webinar consisted of presentations by global experts on each of the topics.¹ In turn, agencies were given the chance to discuss their experience or ask experts questions at the end of the webinar.

Further, competition agencies in the MENA region were sent a questionnaire that tackled each of these topics, providing them with a way to summarize their general merger control regime and to explain how it was affected by the pandemic.²

This report begins with a general background regarding the effects of the COVID-19 on competition policy and on merger control in particular, followed by four sections dedicated to each of the above-mentioned topics. Each section provides an overview of the topic, a summary of the questionnaire responses received in relation to the module, and a summary of the discussions carried out in the webinar.

¹ See Annex 3 for the slides from these webinars.

² See Annex 1 for the list of respondents; see Annex 2 for a blank copy of the questionnaire.

1. Practical Aspects of Merger Assessment

1.1. Overview

Past crises manifested that effective competition law and policy is one of the most important tools that governments have, in order to build well-functioning market-based economies that are well-governed, green, inclusive, resilient and integrated, which is critical to creating jobs, growth, and shared prosperity, and thus ensuring the speedy recovery of economies from a crisis.

The COVID-19 crisis has a disruptive impact on economies, which may lead to financial distress of many firms, forcing them to exit the market or to merge. Therefore, the competition authorities' role to preserve competitive market structures by using their merger control regimes become more relevant during the COVID-19 crisis than any other time. Without effective implementation of merger control regimes, the current crisis might result in higher market concentration, increase in prices, and decrease in productivity and innovation.

Therefore, during the COVID-19 crisis, competition authorities must adopt effective merger control and this is due to its paramount importance in mitigating the economic implications of the crisis. However, competition authorities must strike a balance between under and over-enforcement of merger control in times of crisis. Indeed, during the COVID-19 crisis, competition authorities shall strictly adopt their merger control powers in order to address the disruptive impact of the crisis on the economy and grant its speedy recovery while employing flexible procedural mechanisms in order to expedite the proceedings or to extend it when necessary.

The aim of the topic *“Practical Aspects of Merger Assessment in Times of Crisis”* is to identify the procedural challenges that may be faced by competition authorities during the times of crisis when exercising their merger control power and the mechanisms that may be employed for an effective implementation of merger control regimes in times of crisis. There was a particular focus on the countries' practical experiences and the procedural adjustments that were adopted. The following sections draw on the countries' contributions, analysis of data from the questionnaire that was addressed to the countries, and the discussions during the webinar and the pre-discussion session.

1.2. Agency Contributions

The following subsections will illustrate the countries' responses³ to the questionnaire⁴ sent to them by ECA.

1.2.1. Bahrain

According to the Consumer Protection Directorate, the competent agency must be notified of a merger before its consummation and a decision will be made determining whether or not the merger classifies as one that creates a dominant position within 90 days from the date of the application's submission. Additionally, Bahrain did not adopt any procedural adjustments with regards to merger control during the COVID-19 crisis, as the competent agency has not reviewed any mergers yet. However, the staff at the competent agency have been working remotely and the Bahraini government issued a bundle of subsidies as an initiative to maintain the economy.

1.2.2. Egypt

Although the majority of jurisdictions worldwide employ a mandatory *ex-ante* merger control regime under their competition laws, Article 19 of the Egyptian Competition Law ("ECL") only requires an *ex-post* merger notification of transactions involving a combined turnover exceeding 100 million EGP. Notifications shall be submitted to ECA according to the notification form available at the official website of the Authority and the notifying party shall provide all the data, information and documents required in order for the notification file to be considered complete. Egypt indicated that it may receive *ex ante* notifications or applications in relation to potentially anti-competitive contracts or agreements between parties in a horizontal relationship under Article 6(2) ECL. This is because, while Article 6(1) prohibits anti-competitive contracts or agreements between parties in a horizontal relationship, Egypt may exempt such contracts or agreements under Article 6(2) if the parties prove that they create economic efficiencies that outweigh the harm caused on competition. Egypt will intervene using Article 6(2) in the case of alerting transactions: ones that may lead to the creation or entrenchment of a dominant position on the market.

Egypt indicated in its submission that in times of crisis, it did not take any adjustment measures regarding the date on which the notification file shall be submitted. However, ECA granted extensions to the notifying party/parties in case of missing documents or data on a case-by-case basis.

Additionally, the Egyptian Prime Ministry approved the Prime Minister's draft law amending some provisions of the Law No. 3 of 2005 on the Protection of Competition and the Prohibition of Monopolistic Practices. The proposed reform consists of the introduction of the first *ex-ante* Egyptian Merger Control Regime ("EMCR"). Regarding the procedures that will be adopted in times of crisis, the future EMCR will encompass flexible procedural mechanisms that permit ECA to adjust the existent timeframe regarding the substantive assessment of mergers and acquisitions. This will be through either expediting procedures to grant fast approval for transactions that require

³ Annex 1.

⁴ Annex 2.

immediate implementation, or extending deadlines in cases that do not require a rapid intervention. It should be noted that these procedural adjustments would be applied in accordance with the due process principles. Therefore, the future EMCR will provide flexible procedural mechanisms that will allow ECA to expedite procedures or extend deadlines when necessary in order to ensure the effective implementation of the future EMCR in times of crisis.

1.2.3. Kuwait

According to the Competition Protection Authority, merger review takes place on two phases and a simplified procedure exists for mergers that are unlikely to cause significant impediment to competition in the market. Notification along with the required documents shall be submitted to the Competition Protection Authority at least 60 days prior to the date fixed for the start of control or for increasing such control. The Authority stated that no special procedural adjustments were implemented during the COVID-19 crisis regarding merger control.

1.2.4. Morocco

The Competition Council shall rule on transaction within 60 days of receipt of the complete notification file. In case of opening of an in-depth investigative phase, the Competition Council has 90 additional days to issue its decision. In case there is lack of available information, these time limits may be extended or suspended. As for the procedural adjustments that were adopted by the Council during the COVID-19 crisis, the council adopted preventive health measures in compliance with the World Health Organization (WHO) guidance as well as a remote working policy, however, no special adjustments regarding merger control were implemented. The Council is currently working on drafting a simplified procedure for certain type of mergers due to its crucial importance during these times.

1.2.5. Palestine

According to Palestine's contribution, the merger review process is split into two phases each of them consisting of 45 working days. These timeframes are suspended if the agency issues a formal decision requiring the submission of information or orders an inspection due to circumstances caused by the parties, for instance, if the parties failed to respond to a request for information within the specified timeframe. Palestine did not adopt any procedural adjustments specific to merger control during the COVID-19 crisis.

1.2.6. Saudi Arabia

Transactions resulting in a concentration must be notified to the General Authority for Competition ("GAC") at least 90 days prior to their completion. The Authority shall decide within 90 days from receipt and registration of the complete notification whether the transaction requires further review or will be blocked. GAC may suspend the period prescribed for reviewing concentrations from the date of requesting any information or documents from the applicant to the date of their receipt. In this case, the periods of suspension shall not be counted as part of the 90-day period prescribed for the review of concentrations. According to Article 15 of the Implementing Regulation of the Competition Law, reporting shall be deemed statutory only when the applicant provides the required information and documents within the specified period. The Authority indicated in its

contribution that no special procedural adjustments were implemented during the COVID-19 crisis regrading merger control.

1.2.7. Tunisia

According to the Tunisian Competition Council, the parties concerned shall inform the Minister of Trade within a period of 15 days, from the concluding date of the agreement, the merger, the publishing of the purchase offer or exchange of rights and duties, or the acquisition of a controlling interest. If the Minister of Trade does not issue any decision during three months, this is equivalent to a tacit approval of the concentration as well as the commitments laid down in the notification letter. During this timeframe, the undertakings concerned shall not take any measure that makes the concentration irreversible or modifying the situation of the market in a sustainable manner. After the Competition Council issues its opinion regarding the transaction, the Minister of Trade shall issue a justified decision approving or blocking the transaction. The Competition Council indicated that no special procedural adjustments were implemented during the COVID-19 crisis regrading merger control.

1.3. Webinar Discussions

The topic of Practical Aspects of Merger Assessment was discussed during the webinar, which took place on 16 November 2020. The expert speaker was Dr. Fatma El-Zahraa Adel,⁵ Legal Advisor to the Chairperson of ECA.⁶ In this webinar, Kuwait's representatives presented the Kuwaiti merger control framework and the amendments to be added to the Kuwaiti competition law regarding merger control.

Dr. Fatma El Zahraa provided an overview on the procedural framework of merger control, the challenges that may be faced by competition authorities during the COVID 19 crisis, and the procedural mechanisms that may be adopted in order to mitigate the implications of the crisis. Dr. Fatma El-Zahraa highlighted that the COVID-19 crisis had a huge impact on all areas of enforcement of competition law, whether on the substantive level or on the procedural level, and especially on the procedural aspects of merger control. However, there is an obligation on competition authorities to enforce continuously and effectively the law in times of crisis, as competition authorities have the duty to ensure the continuity of the public service. For this reason, competition authorities must adopt flexible procedural mechanisms in order to ensure effective enforcement of their merger control regimes during the COVID-19 crisis. These measures may include e-filing or dematerialization of filing, adjustment of timeframes for merger review process, suspension or extension of time limits until the health crisis ceases, fast track procedures for certain mergers especially when these involve a failing firm defense, and urging businesses to not proceed with mergers unless it is extremely urgent. The COVID-19 crisis shone a light on the importance of the

⁵ See Annex 4 - Dr. Fatma El-Zahraa Adel bio.

⁶Ms. Rana Khweiled, Legal Researcher at ECA, moderated the discussion.

adoption of an effective merger control framework as well as the importance of adopting flexible procedures and effective institutional frameworks.

Kuwait's representatives highlighted in the webinar that although the competent agency did not adopt any special procedural mechanisms in the framework of merger control in order to mitigate the effects of the COVID-19 crisis, amendments to the Kuwaiti competition law were recently added in order to enhance its effectiveness and ensure that merger control will be applied in a sufficiently flexible and effective procedural and institutional framework. The amendments include delimiting transactions that constitute a concentration within the meaning of the Law, as well as amending sanctions in case of non-notification or gun jumping.

1.4. Reflections and Recommendations

In times of crisis, competition authorities must adopt effective enforcement policies and this is due to the paramount importance of efficient competition law and policy in mitigating the economic implications of the crisis and granting a speedy recovery of the economy. In the framework of merger control enforcement in times of crisis, competition authorities must adopt flexible procedural mechanisms that allow them to adjust the existent timeframe regarding the substantive assessment of mergers. This is through both expediting procedures to grant fast approval for transactions that require immediate implementation, and extending deadlines in cases that do not require a rapid intervention.

2. Substantive Merger Assessment in Times of Crisis

2.1. Overview⁷

Generally, the MENA region is expected to face slower growth following the COVID-19 pandemic.⁸ Industries across the region have been affected by lockdowns, confinement measures, and job losses. This calls into question an over-arching issue: should competition authorities ease measures, specifically in relation to merger control? This section of the report discusses the effect of the pandemic on substantive merger assessment.

In order to decide on the question of whether or not mergers laws should be more lenient during the pandemic, one must recall the basic concept of competition law: to preserve competition in order to ensure that industries remain efficient, resulting in the best allocation of scarce resources. Naturally, lenient or under-enforced laws would result in less-efficient industries and hence harm to consumers – something that is, equally as naturally, not welcome during a pandemic.

As a general idea, most authorities around the world would concur that the substantive aspects of merger assessment should not be compromised during times of crisis.⁹ Ultimately, if a merger is being addressed, at any time, agencies must more or less address market definition, market power, theories of harm (whether unilateral or coordinated), efficiencies, failing firm defense, and possibly, issues of public interest.¹⁰

However, the effects of the pandemic should be factored in the substantive analysis. This can be seen by discussing the three general types of tools used during merger investigations: tools based on historical market data, tools based on assumptions and inferences, and consumer and competitor data. These three types of tools mainly utilize data and observations from past behavior. However, one finds it natural that observations based on historical data may not hold true in an unpredictable future. For example, a regression analysis based on statistics from past market behavior may not be as useful for telling future behavior in a changed context. Likewise, past market shares, and hence tests that use them, such as the HHI or the C4, may not be very indicative of future market power. The counterfactual, a common test agencies use to compare their identified theories of harm to what theoretically should have prevailed absent the transaction, is also based on historic data, as most agencies assume that the counterfactual is the status quo. In a world where the status quo is dynamically changing, counterfactuals may not be as useful during the pandemic. In other

⁷ Much of the following overview is provided based on the presentation of Dr. Spencer Webber Waller and Dr. Andre Fiebig on this topic during the first day of the Webinar (see Annex 3), discussed further in Section 2.3.

⁸ World Bank, MENA Economic Update: Trading Together — Reviving Middle East and North Africa Regional Integration in the Post-COVID Era, 19 October 2020. Available at: <https://www.worldbank.org/en/region/mena/publication/mena-economic-update-trading-together-reviving-middle-east-and-north-africa-regional-integration-in-the-post-covid-era>.

⁹ OECD, Merger Control in the Time of COVID-19, 25 May 2020. Available at: <http://www.oecd.org/competition/Merger-control-in-the-time-of-COVID-19.pdf>.

¹⁰ See Figure 1 for the substantive tests and factors different agencies in the MENA region do indeed take into consideration.

words, a challenge that authorities will face is that they must be careful, although not necessarily hesitant, when resorting to basic merger assessment tools in the post-pandemic economy.

In order to meet these new challenges, perhaps greater inter-agency coordination may be called for. While mergers are often global, merger review is carried out, especially in the MENA region, at the local level. The pandemic may increase the economic and social differences between countries in the same region, increasing the chances of conflicts among jurisdictions. However, agencies should still aim to coordinate with one another in order to upkeep high standards of analysis, as well as to share experiences in facing common challenges. This should take place in mergers that take place across borders, or in a broader capacity-building sense through webinars and regional conferences.

Overall, the pandemic has surely affected the factors that agencies may wish to take into consideration when assessing a merger or acquisition. However, agencies should not resort to lowering assessment standards or loosening substantive tests, as this would go against the main aims of any competition law system. Instead, agencies should be aware of changing economic circumstances and should hence be careful when applying old tests. In doing so, agencies should, as always, aim to work together and share their experience, in order to strengthen competition policy in the region as a whole. In this light, the rest of this section provides a summary of the contributions submitted by regional competition agencies, a summary of the discussions held at the regional webinar, and some concluding remarks.

2.2. Agency Contributions

The responses received¹¹ from the questionnaires¹² highlight that, in general, most agencies in the MENA region indeed take into consideration most of the substantive aspects described above. The following tables highlight the different substantive tests considered by agencies when assessing mergers (and the factors taken into consideration in the assessment of such tests), as well as whether or not agencies consider efficiencies when assessing mergers.

Figure 1: Substantive tests and factors considered by agencies when assessing mergers

Substantive test				
Country	Significant impediment of effective competition	Creation or strengthening of dominant position	Facilitation of the occurrence of anticompetitive practices	Factors taken into consideration in assessment of chosen tests
Bahrain	Yes	Yes	Yes	<ul style="list-style-type: none"> - Actual and potential competition - Barriers to entry and expansion - Consumer welfare - Impact on actual and potential investment - Freedom of competition
Tunisia		Yes	Yes	<ul style="list-style-type: none"> - Harmful effects on freedom of competition
Saudi Arabia	Yes	Yes	Yes	<ul style="list-style-type: none"> - Structures of relevant markets and the level of actual or potential competition between firms inside the Kingdom or abroad, in cases where it has an impact on local markets. - Financial positions of the parties to an economic concentration. - Commodity alternatives that are available to consumers, vendors, and

¹¹ See Annex 1.

¹² See Annex 2.

				<p>clients and how accessible such alternatives are.</p> <ul style="list-style-type: none"> - Level of product differentiation. - Consumer interests and welfare. - Potential impact of the economic concentration on prices, quality, diversification, innovation, or development in a relevant market. - Actual or potential harm or benefits to competition from the economic concentration transaction. - Supply and demand growth and trends in the relevant market and commodities. - Barriers to entry or exit of new firms into a relevant market, their continuation therein, or expansion, including regulatory barriers. - The extent to which an economic concentration may create or strengthen a significant market power or a dominant position of a firm - or group of firms - in any relevant market. - The level and historical trends of anti-competitive practices in a relevant market, either for the parties to an economic concentration or the firms influential in such market. - Views of the public, economic concentration-related parties, and sector regulators
Kuwait		Yes		<ul style="list-style-type: none"> - Market structure - Actual and potential competition - Barriers to entry and expansion, supply-side substitution - Consumer welfare - Impact on actual and potential investment - Impact on innovation - Harmful effects on freedom of competition

Morocco		Yes		<ul style="list-style-type: none"> - Market structure - Actual and potential competition - Barriers to entry and expansion, supply-side substitution - Consumer welfare - Impact on actual and potential investment - Impact on innovation - Harmful effects on freedom of competition
Palestine	Yes	Yes	Yes	<ul style="list-style-type: none"> - Market structure - Actual and potential competition - Barriers to entry and expansion, supply-side substitution - Consumer welfare - Impact on actual and potential investment - Impact on innovation - Harmful effects on freedom of competition
Egypt				<ul style="list-style-type: none"> - Market structure - Actual and potential competition - Barriers to entry and expansion - Harmful effects on freedom of competition

Figure 2: Agencies that account for efficiency considerations in substantive merger assessment

Country	Merger assessment accounts for efficiencies: yes/no	General methodology for assessing efficiencies	Onus on parties/agency to prove efficiencies
Bahrain	No		
Tunisia	Yes	<p>Factors to consider when assessing efficiencies include whether the concentration contributes to</p> <ul style="list-style-type: none"> - Technical and economic progress to the consolidation - The preserving the competitiveness of companies 	Parties
Saudi Arabia	Yes	<p>Economic efficiencies may be considered in two ways:</p> <ul style="list-style-type: none"> - As part of the overall competition assessment where they may have the effect that there is no reduction in competition. - The parties may request a specific exemption from the provisions of the substantive merger rule (or from the rules against anticompetitive agreements and abuse of dominance), and this may be granted upon a recommendation by a technical committee formed for the purpose of examining this request, if the exemption would lead to improved market performance, or improve the performance of undertakings in terms of the quality of the product or technological development or creative efficiency or both, as long as the benefit of such exemption to the consumer would outweigh the effects of restricting competition. 	Parties
Kuwait	No		

Morocco	Yes	Factors to consider include: - Increased competitiveness - Industrial development - Job creation	Parties
Palestine	Yes	The agency focuses on the potential effects of economic efficiencies.	Agency
Egypt	Yes	Economic efficiency is defined in Article 2(e) of ECL as: “decreasing the average of the variable cost of products or improving their quality, or increasing output or distribution, or producing or distributing new products, or accelerating their production or distribution”. This provision accounts for both static and dynamic efficiencies. ECA checks that static efficiencies are transaction-specific, passed down to consumers, and are verifiable. It must be shown to ECA that cost reductions arising from the merger will not be achieved absent the merger and that they will be realized without the lessening of effective competition. ECA examines if the reductions in cost will be passed on to consumers via lower prices. In case the merger will result in a decrease in price levels, ECA assesses if the price reductions will outweigh the reduction in competition resulting from the transaction. Conversely, if the merger will result in an increase in price levels, ECA examines if cost reductions outweigh the deadweight loss of the expected price increase and the reduction in competition resulting from the transaction.	Parties

Further, of the seven responses received, two agencies, those of Saudi Arabia and Morocco, reported that they carried out at least one merger investigation during the pandemic. Both agencies did not make any changes to their usual substantive analysis. Further, the Moroccan agency elaborated that they aimed to act rapidly to “save companies from bankruptcy”.

Moreover, Egypt clarified that the future EMCR does not provide any enforcement relaxation regarding the substantive assessment of mergers and acquisitions in times of crisis. In other words, the applied substantive test will remain unchanged during times of crisis. However, certainly, the impact of the crisis will be factored into the substantive assessment, where appropriate. This will be reflected particularly when designing remedies as traditional remedies may become less practicable or not be implemented due to the crisis' impact as well as when reviewing the failing firm claims raised by the parties. In fact, in the future EMCR, specific provisions will be devoted to the failing firms claims that the parties could raise. According to the future EMCR, in order for ECA to consider these claims, the concerned persons must prove that one of the persons involved in the concentration is in financial difficulty that is sufficiently severe to render the person unable to remain in the market, that there is no realistic less anti-competitive purchaser for the failing firm, and that the assets of the failing firm would inevitably exit the market should the concentration not be implemented.¹³ Therefore, even though the future EMCR do not ease or change the substantive assessment in times of crisis, certainly when appraising mergers and acquisitions, ECA will take the market conditions resulting from the crisis as a relevant factor

The following section further discusses the experience of MENA, as discussed during the webinar, as well as other discussions therein.

2.3. Webinar Discussions

This section tackles some of the discussions held during the Substantive Merger Assessment session (held on 16 November 2020) of the ICN MENA Region Merger Working Group Webinar.¹⁴ During this part of the webinar, competition law and policy experts Dr. Spencer Webber Waller¹⁵ and Dr. Andre Fiebig¹⁶ gave a presentation¹⁷ on the topic, covering their views, as an academic and practitioner/academic respectively, regarding the approaches agencies should use when assessing mergers in times of crisis. This was followed by input from participating competition agencies, which were given the chance to share their experience in regard to substantive merger assessment during the pandemic.

The experts began with a discussion of the effects of the pandemic on different industries, noting that some industries were positively affected by the pandemic (such as the healthcare, e-commerce, and communications platforms industries), while others (like the hospitality and live entertainment sectors) were negatively affected. Overall, however, they noted that most countries are expected to face recessions in 2020. They then moved on to the discussion of how competition law should react, noting that, as explained above, competition law aims to preserve competition, and that more lenient laws may result in less efficient industries and hence harm to consumers. In this light, they

¹³ See Section 3.2.4 for more information.

¹⁴ Ms. Marina Iskandar, Legal Researcher at ECA, moderated the discussion.

¹⁵ See Annex 4 - Dr. Spencer Weber Waller Bio.

¹⁶ See Annex 4 - Dr. Andre Fiebig Bio.

¹⁷ See Annex 3.

added that some effects of the pandemic are unavoidable, which led some agencies around the world to carry out the following: urging parties to delay notifications, requiring/encouraging electronic filings, extending deadlines and stopping the clock, banning early terminations, and “red carpet treatment” for the failing firms as well as for firms that increase production to prevent shortages or those who battle the pandemic. Nevertheless, agencies have generally maintained their standards of merger review, while perhaps adjusting some traditional tools.¹⁸ Further, they discussed how states may be more encouraged to intervene in different markets, such as by providing recovery aid to industries impacted by the pandemic or by entering markets through state-owned-enterprises. Some other types of intervention may be more indirect: such as Central Banks attempting to keep interest rates low. Such intervention, as well as other effects of the pandemic, like increased local-sourcing of resources, would need to be incorporated in merger assessment. Finally, they discussed the importance of cross-border coordination, despite greater challenges and discrepancies between states during the pandemic. Overall, a key point stood out: while challenges have arisen and will likely continue to prevail, competition agencies must not compromise their standards with regards to substantive merger assessment.

In regard to state contributions, the Moroccan authority added that while they faced procedural challenges, they aimed to upkeep their usual standards in regard to procedural and substantive aspects. However, in their substantive analysis, they took into consideration the impact of the pandemic on different businesses and on the economy as a whole.

Similarly, Palestine added that they similarly did not change any aspects of their substantive assessment during the pandemic. While they have not yet analyzed any mergers during this period (they usually review 5-6 mergers a year), they clarified during the webinar that their notification threshold of 35% market share, combined with other indicators such as ownership of valuable assets and turnover, did not change during the crisis. They also clarified that they envision that their stop-the-clock mechanism would be useful, as it usually is, when they investigate a merger in the current times.

The contributions of these agencies as well as the presentation by the experts, built upon the questionnaire findings discussed above, provided a holistic view of how competition agencies in the MENA region have dealt and should deal with the substantive aspects of merger control during times of crisis.

2.4. Reflections and Recommendations

In conclusion, different agencies, in general, take into account different substantive tests or factors when assessing mergers. During the pandemic crisis, however, such standards, with their minor variations, must be upheld in order to ensure the adequate and thorough assessment of mergers. Cross-border cooperation is especially important in times of crisis in order to share experiences in a time of dynamic and ever-evolving changes.

¹⁸ See Section 2.1 for more discussions on how these tools were impacted.

3. Failing Firm Defence

3.1. Overview

Amid the consequences of the COVID-19 pandemic, there has been significant tightening of credit conditions, slower demand, supply chain obstructions in priority sectors and mass layoffs on a global scale. Accordingly, firms are increasingly initiating insolvency proceedings and significantly downsizing to remain on the market, especially smaller firms with a lack of access to financial and equity markets who are less likely to receive bailouts. It has also become evident that many financially distressed firms are seeking to be acquired by healthier competitors when downsizing and restructuring are no longer possible. Many antitrust authorities are anticipating increased volumes of failing firm/ division claims during and in the aftermath of the COVID-19 pandemic.

The availability of buyers for financially distressed firms is important for a few reasons. The acquisition of a failing firm could safeguard potentially innovative products or services or result in recognizable efficiencies and synergies and ultimately it may be less anticompetitive for the failing firm's assets to be acquired than to exit the market altogether, thus saving productive assets from being dismantled or redeployed in a different market. The question arises as to whether current standards of proof and procedures are appropriate to address urgent mergers involving firms in financial distress. This section contributes to the growing body of work exploring the impact of COVID-19 on merger control and sheds light on the implementation of this defence in the MENA region.

It is worth noting that during the pre-webinar discussions, several participating agencies expressed concern regarding the standard of proof and evidentiary elements associated with the failing firm defence. Many technical staff were uncertain as to what would constitute sufficient evidence to merit clearing an otherwise problematic concentration.

The module titled “the Failing Firm Defence in times of Crisis” was discussed during the second day of the webinar, held on 17 November 2020.¹⁹ The webinar hosted the participating agencies and two experts, Professor Ioannis Kokkoris²⁰ and Mr. Alex Stratakis²¹ who discussed the economic underpinnings and practical aspects of the failing firm defence respectively.

¹⁹ Ms. Farahnaz Abdel Bary, Legal Researcher at ECA, moderated the discussion.

²⁰ See Annex 4 - Professor Ioannis Kokkoris bio.

²¹ See Annex 4 - Mr. Alex Stratakis bio.

3.2. Agency Contributions

Of the seven responses received, three agencies reported that they have a failing firm defence: those of Morocco, Saudi Arabia, and Tunisia. Egypt reported that, while it does not currently have a failing firm defence, it has introduced one into its draft law amendments which, as mentioned earlier, are now pending Parliament's approval.

3.2.1. Morocco

The Moroccan Competition Council noted that it has a failing firm defence, which necessitates immediate impairment of competition and is classified as urgent. The defence was raised twice in Morocco and on both occasions as a derogation from the suspensory requirement of the transaction. Despite the impact of the COVID-19 pandemic on procedural aspects of merger review, the standstill period in *ex ante* regimes must still be abided by. Under such rules, firms must still await clearance from the relevant agency to consummate a given transaction. Accordingly, violating the standstill period will still constitute gun jumping and warrant sanctions in several jurisdictions. The notifying party often tries to benefit from this derogation, however seldom do they provide a legal basis. It is a rather exceptional regime that requires rigorous assessment. Article 14 MCL states that parties must provide motivation of a special need to consummate transaction before the end of the standstill period, this can be shown through urgency of presenting a takeover offer or if there is a risk of imminent elimination of a firm. This decision must be taken without prejudice to the final decision on the merits by the competition council. To clarify, there is a general restriction on changing a firm's structure and a prohibition the acquirer from ceding the target's assets in a manner likely to hinder corrective measures upon issuing a final decision, the acquirer must also be prohibited from concluding agreements involving the target's assets until a final decision on the merits is issued.

3.2.2. Saudi Arabia

While the GAC has not handled any failing firm claims, yet it is still one of the few countries in the MENA region with a failing firm defence. Although not available under primary legislation, the GAC takes failing firm claims into account in their broader counterfactual analysis and is currently drafting merger control guidelines detailing all substantive and procedural aspects of the failing firm defence. The parties or the GAC raise an alternative counterfactual, including a counterfactual involving a failing or failed firm. The GAC assesses the evidence on a case by case basis to determine if there is sufficient evidence to

Generally, there are two counterfactual scenarios to be determined in this regard: (1) the situation in the absence of the merger, and (2) the situation with an alternative purchaser. For the first scenario, the status quo is usually the point of reference to determine market dynamics sans merger. However, with failing firm claims, the situation before the merger may no longer not be an accurate representation of market dynamics given that a firm's financial situation is likely to deteriorate quicker and may result in the firm exiting the market. In both scenarios, the burden of proof lies on the parties to prove that the situation without the merger or with an alternative purchaser is more restrictive to competition than consummating the transaction.

With regards to evidentiary elements, the GAC operates on a case by case basis and does not have prescribed benchmarks for tackling each limb of the defence, a common factor among the rest of the participating agencies. The GAC has not received any failing firm claims during the pandemic.

3.2.3. Tunisia

Tunisia is yet another jurisdiction with a failing firm defence. Subject to the provisions of the legislation on collective procedures, Courts ruling on the affairs specific to firms facing financial distress may request the technical opinion of the Minister of Trade if the concentration is likely to create or strengthen a dominant position on the market. The Courts may take this opinion into consideration as long as it does not “*lead to the failure of the operation of transfer or rescue*”.²² The Tunisian Competition Council has not received any merger notifications during the COVID-19 pandemic.

3.2.4. Egypt

ECA has recently introduced the failing firm defence into its draft law amendments on merger control, as explained above. Indeed, ECA does not currently have a failing firm defence however, it is still a relevant factor the authority considers when appraising mergers. Once Parliament approves the draft law amendments, the evidentiary burden and standard of proof on parties claiming financial distress will most likely be quite high to avoid unnecessarily concentrating the market. Again, where downsizing, corporate restructuring and less anticompetitive purchasers are still viable options to restore a firm’s efficiency, it is unlikely the limbs of the defence will be satisfied. As for the criteria the parties must satisfy, ECA maintains the view that the EU criteria for failing firm claims are sufficient in tackling the associated concerns (see below). The procedural and substantive elements of this defence, once the draft amendments are approved shall be available under the law’s executive regulations.

ECA has not received any *ex ante* merger notifications during the COVID-19 pandemic nor does it have jurisdiction as of yet to review such notifications.²³

3.3. Webinar Discussions

During the webinar, Professor Ioannis Kokkoris and Mr. Alex Stratakis highlighted the EU perspective on the economic and practical applications of the failing firm defence. In times of crisis, the likelihood of rescue mergers increases as oftentimes they are the only viable means of keeping a failing firm’s assets in the market. A failing firm is generally defined as “*a firm that has been consistently earning negative profits and losing market share to such an extent that it is likely to go out of business*”.²⁴ While the EU Merger Regulation does not explicitly cite a failing firm defence, the European Commission assesses the impact of a concentration on the market by

²² The Tunisian Competition Council’s Response to the ICN MENA MWG Questionnaire.

²³ ECA’s response to the ICN MENA MWG Questionnaire.

²⁴ OECD Glossary of Industrial Organization Economics and Competition Law.

weighing the procompetitive effects of keeping a failing firm in the market. The three criteria for a successful defence are: (1) one of the firms in a concentration is in financial difficulty sufficiently severe to exit the market (2) there is no realistic less anticompetitive alternative, and (3) sans merger, the assets of the failing firm would inevitably exit the market. The burden of proof lies on the parties to prove that the failing firm can remain an effective competitive force in the market if acquired. The standard of proof in this regard is ‘on the balance of probabilities’ however in reality it is much higher than the normal burden of proof test given that there must be sufficient evidence to survive a judicial review challenge. Empirically, failing firm defenses are often limited to the second phase of the merger review process.

Ultimately, agencies must differentiate between a series of scenarios during crisis when scrutinizing failing firm claims and determine whether less anticompetitive alternatives have been exhausted. Firstly, agencies must accord more weight to crises resulting in long lasting changes in market conditions as opposed to merely transitory distress. Agencies must also determine whether the distressed firm is experiencing interim financial difficulties or a lack of competitiveness altogether. This distinction between short and long-term impacts of crises is imperative in addressing failing firm defenses so as to avoid unduly creating or strengthening market concentration. The outcome of this analysis should target the short-medium term rather than the short term or the long term.

First condition: One of the firms in a concentration is in financial difficulty sufficiently severe to exit the market

A particular question arises when tackling the first condition of the defence, particularly: what constitutes sufficient evidence that a firm is failing?

Usually initiating insolvency proceedings or imminent insolvency proceedings are sufficient in satisfying the first limb of the defence in most jurisdictions. The deterioration of a firm’s financial situation may also be evident in the rate of depletion of its assets, projections of cash flow problems, accumulation of debt and demanding trading conditions.

Second condition: No realistic less anticompetitive alternative

As for the second condition, the parties must prove that other alternatives have been exhausted such as state measures or if state aid is available for particular sectors. The following questions were raised in the pre-webinar discussions: How much evidence should be required to distinguish whether or not the anticompetitive merger is the best-known alternative? What is the nature of the evidence requested to show that the anticompetitive merger is the least harmful alternative?

Understandably, in most jurisdictions, this defence is rarely invoked, and when invoked seldom successful, due to its high evidentiary burden and the availability of less anticompetitive alternatives such as restructuring and downsizing. Parties would need to prove that restructuring is no longer possible, which can be very difficult to establish even if maybe demonstrated through a lack of refinancing options.

It may be useful to note that the treatment of failing divisions does not significantly differ from the treatment of failing firms. The extent to which the healthy parent company has made a decision to exit the market may be relevant; however not much else has any bearing on the application of the defence to both scenarios.

As for demonstrating whether the target has undertaken efforts to find a less anticompetitive alternative in good faith, there is no straightforward example. Evidence must be considered in its totality. Efforts that a firm has tried to make to sell the company and noted market players that have shown interest might be sufficient for some antitrust authorities. Oftentimes, there may not be time to hold an open bid and a ‘white knight’ may emerge spontaneously to rescue the failing firm. Evidence presented before a board or investment bankers reports showing potential sellers may also be sufficient in practice. Occasionally, following the consummation of the transaction involving a failing firm, competitors may approach antitrust authorities claiming to have not been considered as a potential buyer despite being able to purchase the once failing entity. What must be determined in this scenario is the status of competitors at the time of the target firm’s failure.

Third condition: Absent the merger, the assets of the failing firm would inevitably exit the market

Antitrust authorities must determine whether keeping the firm’s assets in the market is indeed the most pro-competitive option. Exit may often be desirable so as not to create or entrench a dominant position. Econometric models can be very useful in this context (e.g. Z score analysis). Moreover, if the industry within which the failing firm operates is declining, the question is whether the impact of the decline is proportionate or not on the firm. If the market size decreases altogether and market players suffer equally, this would not make a difference whether or not antitrust authorities accept the failing firm defence. If the decline impacts just small firms for instance and the business model is specific in a way that makes a firm suffer more than its competitors, then it would make a difference. The general context of the firm’s operations is taken into account to prove each criterion.

3.4. Reflections and Recommendations

Navigating the commercial pressures of the crisis is undoubtedly demanding for most market players. The COVID-19 pandemic has strengthened some market players and constrained many others. The pandemic may impact a firm's competitive landscape and market definition as some industries are changing to become digital while others are declining entirely. Failing firm analysis forms part of the broader analysis. As mentioned, there are growing concerns regarding the influx of failing firm claims during the pandemic and in its immediate aftermath. Some commentators have addressed the possibility of reducing the standard of proof during the pandemic and introducing truncated administrative procedures for failing firm claims. However, most agencies have refused reducing such standards, claiming that the impacts of the economic downturn are merely transitory and should not merit clearing anticompetitive mergers to remedy short term distress. Indeed, the duration and intensity of the pandemic's associated demand shocks remain unknown and such circumstances may incentivize business cooperation in the meantime. Nonetheless, in light of previous (erroneous) antitrust responses during crises and given that a mass influx of failing firm claims has not yet materialized in most jurisdictions, maintaining current standards of assessment and proof is the most appropriate course of action at the moment. Agencies must not forget that failing firm claims are essentially recognitions that the merger in question is anticompetitive in nature.

4. Remedies

4.1. Overview

Remedies are an important tool to correct the anti-competitive effects that may arise from a merger. Hence, competition agencies can clear mergers that otherwise could have been prohibited, conditional on the imposition of commitments on the merging parties. Consequently, remedies should address competition concerns raised by NCAs during the merger review process. In this context, merger remedies are classified as either structural or behavioral remedies. Structural remedies may include both the sale of a physical part of a business or the transfer or licensing of intellectual property rights. On the other hand, behavioral remedies impose limits on future business behavior or an obligation to perform a specific prescribed conduct for a given period of time after completing the transaction.

In times of crisis, firms often find themselves in times of financial distress and exit of less efficient competitors is highly likely. Hence, mergers act as the only viable option for firms to stay in the market.²⁵ This induces agencies to impose remedies that account for the rapid and uncertain changes taking place on the market.

Effective remedies in times of crisis should be characterized with flexibility to account for the rapid changes happening on the market. Therefore, structural remedies may not be a viable option to resort to, as their implementation in times of crisis is usually associated with several challenges.²⁶ Behavioral remedies, on the other hand, offer greater flexibility to competition agencies to waive, modify, and amend commitments.

This section will first discuss the responses of countries to the questionnaire, and then it will outline the highlights of the discussions that took place during the webinar.

²⁵ Organization for Economic Co-operation and Development: Merger Control in the Time of COVID-19. 25 May 2020. Available at: <https://www.oecd.org/daf/competition/Merger-control-in-the-time-of-COVID-19.pdf>

²⁶ Ibid.

4.2. Agency Contributions

Only few jurisdictions appear to have had practical experience in imposing remedies in the time of COVID-19. Thus, the portion of the questionnaire²⁷ discussing the remedies topic was designed to address the procedural aspect and the type of imposed remedies in general. This section will only address one experience worth reporting shared by one of the responding jurisdictions.

4.2.1. Procedural Aspects

All respondent jurisdictions identified that their regime allows mergers to be cleared subject to remedies.²⁸ Remedies submitted should address the expected theories of harm or create efficiency gains.²⁹ Regarding the procedure of submitting remedies, 6 out of 7 respondents indicated that the merging parties could suggest remedies and that NCAs may suggest remedies. Kuwait, on the other hand, indicated that the agency suggests remedies.³⁰

In this regard, the submission by Tunisia indicated that remedies should be enclosed with the notification and that, in case they fail to address the anticompetitive harms, the agency may suggest alternative set of remedies that address anticompetitive harms. Egypt, Morocco, Palestine indicated that remedies could be submitted to the agency at any time during the review period. Bahrain pointed out that remedies could be submitted during merger review period and after the approval or rejection of the transaction.

4.2.2. Types of Remedies Imposed

Regarding the types of remedies imposed, all respondent jurisdictions noted that their agencies could impose structural and behavioral remedies. However, only two respondents indicated that they have issued decisions regarding the imposition of remedies on the merging parties; namely, Saudi Arabia and Egypt, where both respondents have previously imposed behavioral remedies on merging parties. None of the responding jurisdictions indicated the imposition of a structural remedy in a previous case.

4.2.3. Relevant Experience

Egypt indicated in its submission that it has previously imposed behavioral remedies on merging parties. The set of commitments included a force majeure clause and a review clause. The force majeure clause account for external exceptional market imbalances that occur on the market and once it is activated; some of the imposed commitments are automatically suspended. The review clause enables the agency to waive, substitute or amend commitments.

During COVID-19, Egypt utilized both clauses as a means to adapt to the new situation and correct for market imperfections that resulted from governmental policies that has restricted the movement of people. After government containment measures, the force majeure clause was automatically

²⁷ Annex 2.

²⁸ Egypt, Bahrain, Kuwait, Morocco, Palestine, Saudi Arabia, Tunisia.

²⁹ Egypt, Tunisia.

³⁰ Egypt, Bahrain, Morocco, Palestine, Saudi Arabia, Tunisia.

activated and accordingly some of the commitments were suspended. Following the activation of the force majeure clause, the merging parties submitted a request to the agency to suspend some of the commitments that were not under the force majeure clause. After careful consideration, the agency indicated that compliance with these commitments is not necessary during the time of COVID-19. Hence, the agency issued a decision to suspend these commitments until the end of the period of exceptional market imbalance. The monitoring trustee and the agency determine the end of such period.

The inclusion of force majeure and review clauses in the set of behavioral remedies imposed by Egypt offered greater flexibility for the agency and the merging parties to correct for external disruptions on the market. This enabled the agency to assess the counterfactual as a result of COVID-19 and take the necessary steps to account for the new changes happening on the market.

4.3. Webinar Discussions

This topic was discussed during the second day of the webinar, on 17 November 2020, and began with a presentation³¹ by Mr. Kyriakos Fountoukakos and Mr. Ali MacGregor³² on merger remedies in times of COVID-19.³³ The presenters indicated that the purpose of remedies is to address competition concerns and have emphasized the interdependence of remedies and competition concerns by stating that competition analysis shape remedies. In times of crisis, competition analysis is often impacted and hence competition concerns in such circumstances may be different. Therefore, competition agencies should first identify competition concerns and then assess how remedies will resolve such problems. The presenters outlined that during times of crisis, competition assessment should take into account market developments and changes in consumer behavior. After competition analysis, it is important to assess whether remedies are required in such circumstances.

Following the brief introduction, the presentation tackled the impact of COVID-19 on structural and behavioral remedies. The presenters shed the light on the importance of having flexible commitments in times of crisis. They indicated that, although competition agencies usually prefer structural remedies as they eliminate competition concerns in a single step and they do not require monitoring, structural remedies are not often feasible, especially in times of crisis. With rapid market changes, it may be the case where there is no suitable purchaser, or even if there is one, the value of divested asset could deteriorate and it becomes difficult to value the asset. Hence, in situations where agencies find a difficult market situation and that the divestiture will not easily implemented, they could impose an upfront buyer commitment. The presenters highlighted that behavioral remedies are more appropriate in the current climate, as they are more tailored that address the competition problems and offer flexibility to suspend, modify or substitute commitments. However, it becomes paramount for agencies to determine if changes in market

³¹ Annex 3.

³² See Annex 4 – bios of (Mr. Kyriakos Fountoukakos & Mr. Ali MacGregor)

³³ Ms. Perihan Sharaf, Legal Researcher at ECA, moderated the discussion.

conditions are of a permanent or temporary nature. If the market will not revert to pre-existing condition, competition agencies should review remedies accordingly.

The presenters concluded that the context, in which some transactions that were negotiated, changed significantly due to changes in market conditions. In addition, competition agencies and merging parties should be aware of the current circumstances and should tailor solutions to market changes. Consequently, it is paramount to have the ability in the commitments to modify or suspend the remedies in light of changing market conditions.

The presentation was followed by a contribution by Tunisia in which they highlighted the challenges associated with remedies in times of crisis. Tunisia shed light on the difficulties of imposing structural remedies, in particular, in relation to the deteriorating performance of the assets, the difficulties in identifying suitable buyers and the inability to respond to a rapid evolution of market circumstances. Hence, Tunisia concluded that structural remedies might not be a viable option especially in times of crisis. Tunisia highlighted that behavioral remedies may become more frequent during the current crisis context despite the challenges associated with them. Tunisia stated that behavioral remedies are difficult to design, and that they require burdensome monitoring. In order to mitigate such challenges, behavioral remedies should be limited in time.

4.4. Reflections and Recommendations

From country contributions and the discussions during the webinar, it has become evident that agencies should take into account changes in market circumstances when assessing competition concerns. This may increase the burden on competition agencies to implement effective remedies that account for rapid variations in the market. A good example of accounting for market changes is the inclusion of a review clause in the commitments that allows for the amendment or suspension of the commitment. Force majeure clauses may also complement review clauses, however it is important to identify trigger events that automatically activate this clause. In this regard, competition authorities should be creative in the design of remedies, as traditional approaches may not be effective amid the rapid market developments.

CONCLUSION

Given the role that effective competition law and policy play in times of crisis and its importance in mitigating the economic implications of the crisis, competition authorities must strike a balance between under and over-enforcement. Indeed, during times of crisis, competition authorities must adopt strict enforcement policies in order to address the disruptive impact of the crisis on the economy while employing flexible procedural mechanisms in order to expedite the proceedings or extend them when necessary.

Therefore, competition authorities shall adopt an effective merger control regime. Regarding the applied substantive test, it may remain unchanged during times of crisis. However, the impact of the crisis should be, where appropriate, factored into the substantive assessments. This will be reflected particularly when designing remedies, as traditional remedies may become less practicable or may not be implemented due to the crisis' impact. Distinctions must also be made between long-term market change and transitory distress in the context of merger review given projections of an influx of failing firm claims. Regarding the procedural framework of merger control, flexible procedural mechanisms shall be adopted in order to allow competition authorities to adjust the existent timeframe of the merger substantive assessment. This can be achieved through either expediting procedure to grant fast approval for transactions that require immediate implementation, or extending deadlines in cases that do not require a rapid intervention.

Annex 1 – Agencies that have responded to the survey

The Egyptian Competition Authority - The Arab Republic of Egypt

The Consumer Protection Directorate at the Ministry of Industry, Commerce and Tourism - The Kingdom of Bahrain

The Competition Council – The Republic of Tunisia

The General Authority for Competition – The Kingdom of Saudi Arabia

Kuwait Competition Protection Authority – The State of Kuwait

Competition Council – The Kingdom of Morocco

General Director for Competition – The State of Palestine

Annex 2 – Survey sent to agencies

Webinar Questionnaire

SECTION I. GENERAL INFORMATION ABOUT YOUR AGENCY AND CONTACT DETAILS

- 1) Member state:
- 2) Agency name:
- 3) Year of establishment:
- 4) Governing law:
- 5) Contact person (Name and title):
- 6) E-mail address:

SECTION II. MERGER CONTROL: GENERAL CHARACTERISTICS

- 7) Does your jurisdiction have a merger control regime?
 - Yes (Please specify the laws and regulations that govern merger control)
 - No (only answer questions 19 and 20 in the questionnaire)
- 8) If your answer to question 7 is yes, is merger control in your jurisdiction *ex ante* or *ex post*?
- 9) Is notification mandatory or voluntary?
- 10) What type of transactions does your merger control regime cover? (check all that apply)
 - Mergers
 - Acquisitions of control
 - Acquisitions of material influence
 - Joint ventures
- 11) Which threshold indicator do you apply? (check all that apply)
 - Turnover
 - Value of assets
 - Market shares
 - Other (please clarify)
- 12) When assessing whether a transaction meets the threshold, do you consider the threshold indicator of each party individually, or do you assess them combined? Please clarify
- 13) What is the scope of the threshold indicator?

- International
 - Domestic
 - Both
- 14) What is the value of the thresholds? What methodology did your agency use to set this value?
 - 15) Are there any exceptions to these thresholds (e.g. in cases of killer acquisitions or foreign takeovers)?
 - 16) Does your agency have sector-specific thresholds? Please clarify.
 - 17) Does your agency have a public interest exception to the prescribed thresholds?
 - 18) If so, what is the legal basis for this exception?
 - 19) If your jurisdiction does not have a merger control regime, would your agency consider adopting one? If so, what are the general considerations that your agency must take into account and what hurdles may inhibit the adoption of a merger control regime in your jurisdiction?
 - 20) If your jurisdiction does not have a merger control regime, what is the general procedural and substantive framework that would be compatible with your jurisdiction should a merger control regime be introduced? Please clarify

SECTION III. ASSESSMENT OF CONCENTRATIONS

- 21) What substantive test does your agency apply in assessing concentrations?
 - Significant impediment of effective competition
 - Creation or strengthening of dominant position
 - Facilitation of the occurrence of anti-competitive practices
 - Other (please clarify)
- 22) What factors are considered when applying the chosen test? (Examples include market structure, actual and potential competition, barriers to entry and expansion, supply-side substitution, consumer welfare, impact on actual and potential investment, impact on innovation, harmful effects on freedom of competition)
- 23) Does this assessment take into consideration economic efficiencies?
 - Yes
 - No (skip to question 26)
- 24) If you answered yes to 23, explain the general methodology of assessing economic efficiencies.

- 25) If you answered yes to 23, is the burden of proof of such efficiencies/defenses on the parties or on your agency?
- 26) Has your agency studied any new mergers during the COVID-19 pandemic?
- Yes
 - No (skip to question 29)
- 27) If you answered yes to 26, what are some of the challenges you faced in implementing your substantive test to the merger in question? How did you solve these challenges?
- 28) If you answered yes to 23 and 26, did your agency adapt new considerations when studying efficiencies in light of COVID-19?

SECTION IV. PROCEDURES

- 29) What is the time frame of the merger review process?
- 30) Is the merger review process split into phases?
- Yes (please clarify)
 - No
- 31) In what scenarios can your agency “stop the clock”?
- 32) How does your agency handle cases that might raise public order, public health and safety or national security concerns?
- 33) How many cases has your agency reviewed in the context of merger review that have raised public order, public health and safety or national security concerns?
- 34) What type of procedural adjustments has your competition agency adopted, in regard to merger control, during the COVID-19 pandemic?

SECTION V. DECISIONS

- 35) What types of decisions can your agency issue? (If the merger review process is split into phases, please specify which decisions are issued after which phase).
- 36) Can your agency revoke these decisions? If yes, what is the time frame in which you can revoke decisions?
- 37) Does your agency have the power to dissolve a concentration that has already been implemented?
- 38) On yearly average, how many mergers does your agency allow and how many does it prohibit?
- 39) On yearly average, how many mergers does your agency assess and conclude (whether by clearance or prohibition) in Phase I review?

40) On yearly average, how many mergers reach Phase II (whether cleared or prohibited thereafter)?

SECTION VI. REMEDIES

41) Does your regime allow for mergers to be cleared subject to remedies?

- Yes
- No (skip to Section VII)

42) If your answer to 41 is yes, do parties submit remedies to your agency or does your agency suggest remedies?

43) If parties submit remedies, at what stage can they submit them to your agency?

44) What types of remedies can your authority decide to apply?

- Structural
- Behavioural
- Both

45) How many decisions has your agency cleared subject to the following types of remedies?

- Structural:
- Behavioural:
- Both:

Please describe or provide links to public reports to any of these cases that you would like to elaborate on.

46) In regard to the cases mentioned in 45, did your agency reconsider the scope of existing remedies during the COVID-19 pandemic (i.e. were any of them suspended, amended, or removed)?

- Yes (please elaborate)
- No

47) If you answered yes to 26, were any of these mergers studied during the COVID-19 period cleared with remedies?

- Yes
- No

48) If you answered yes to 47, what are the challenges your agency faced when deciding on new remedies during the COVID-19 pandemic?

SECTION VII. FAILING FIRMS

- 49) Does your regime have a failing firm defense?
- Yes
 - No (skip to question 65)
- 50) What must be satisfied during the substantive assessment of this defense for it be admissible?
- 51) What are the relevant procedures for the appraisal of this defense?
- 52) Is the defense available under primary legislation (e.g. law, government decree...etc.) or secondary legislation such as guidelines or simply by protocol? If your agency takes failing firm claims despite not being available by law, what is your rationale for doing so?
- 53) Who does the burden of proof fall upon and what is the standard of proof for each criterion?
- 54) What is the economic rationale behind your agency's treatment of failing firms in the context of merger review?
- 55) What constitutes sufficient evidence that a firm is failing?
- 56) Are insolvency proceedings or imminent insolvency proceedings usually considered sufficient?
- 57) What is the nature of the evidence demanded to show that the anticompetitive merger is the least harmful alternative?
- 58) How does your agency determine whether there is a less anticompetitive purchaser?
- 59) If applicable, how is the treatment of 'failing divisions' different from the treatment of 'failing firms' in your jurisdiction?
- 60) What differs in the handling of failing firm claims if the entire industry within which the firm operates is declining?
- 61) What sort of hurdles has your agency faced in handling failing firm claims?
- 62) What is the number of times the failing firm defense has been invoked in your jurisdiction? And how many times it was accepted?
- 63) Has your appraisal of failing firm claims changed following the outbreak of COVID-19? Please clarify.
- 64) Due to the outbreak of COVID-19, has your agency received any failing firm claims? If so, how many?

If you do not have a failing firm defense or do not take failing firm claims into account in the context of merger review, would your agency consider introducing one? Please elaborate.

SECTION VIII. SANCTIONS

- 65) Does your agency have fining powers or are fines imposed by another entity?
- 66) What is the nature of the procedures imposing the fines? (Administrative, criminal, civil, ...)
- 67) What offences, if any, are incriminated in the context of merger review?
- 68) What are the statutory fines (including, if applicable, periodic penalties) applicable to each offence?
- 69) Please specify if there are guidelines on how to determine such fines (whether adopted by your agency or another relevant entity) and if they differ from the method stipulated under statutes.
- 70) What is the economic and legal rationale for the fines within the context of merger review? Do certain offences entail different thresholds of fines? Please clarify.
- 71) How many decisions have been adopted that imposed fines on parties in the context of merger review (Please specify for each offence)?
- 72) Has any party been incriminated during the COVID-19 pandemic in the context of merger review? If so, how many? If not, was it because of a COVID-19 related policy?

Thank you for taking the time to compete this questionnaire.

Annex 3 – Slides of presentations used by experts and contributors during the ICN MENA Region Merger Working Group Webinar

Please refer to the Egyptian Competition Authority's official website:

➤ <http://eca.org.eg/ECA/Default.aspx>

Annex 4 – Expert Biographies

Practical Aspects of Merger Assessment Module

Fatma El-Zahraa Adel

*Egyptian Competition Authority
Legal advisor of the Chairperson*

Dr. Fatma El-Zahraa Adel is the legal advisor to the Chairman of the Egyptian Competition Authority since 2018.

She works and provides guidance on the most important cases of the ECA and acts as a strong advocate for competition. Prior to assuming this position.

Dr. Fatma acted as a legal researcher at the ECA for more than six years.

Dr. Fatma has a PhD in competition law from Paris I – Panthéon-Sorbonne University (2019), she holds also a Master’s degree in International Business Law from the University of Burgundy (2008) and law degrees from both Paris I Panthéon-Sorbonne University and Cairo University.



Substantive Merger Assessment Module

Andre Fiebig

Andre Fiebig is a partner in the law firm of Quarles & Brady LLP in Chicago with a particular focus on mergers, antitrust and competition law.

*He has over 30 years of experience in the field. In addition to advising clients in complex transactions, Andre teaches at Loyola University, Northwestern University, Bucerius Law School in Germany and the Max Planck Institute in Munich. Andre has also published many articles and books on mergers and antitrust law. He is the co-author with Prof. Spencer Waller of the treatise *American Business Abroad* which is in its 5th edition.*

After receiving his doctorate from the University of Tübingen in Germany, Andre started his antitrust career with the German Bundeskartellamt and then with the German law firm Deringer Tessin Herrmann & Sedemund in Germany and Belgium.

He was a partner at Baker & McKenzie in Chicago for many years prior to taking his current position with Quarles & Brady.

Andre is a dual citizen of Germany and the United States and holds legal degrees in both the United States & Germany.

Andre lives in Chicago and serves on the Boards of several not-for-profit institutions such as the Elgin Symphony Orchestra, the Loyola Institute for Consumer and Antitrust Studies, Northwestern Journal of International Law & Business and the German International School Chicago.

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Professional and Civic Activities; *German International School of Chicago (Chairman of the Board of Directors); Institute for Consumer Antitrust Studies, Loyola University School of Law (Advisory Board member), American Bar Association (Member, Antitrust Law), American Economics Association (Member), Northwestern Journal of International Law & Business (Member of the Board of Advisors).*



Substantive Merger Assessment Module

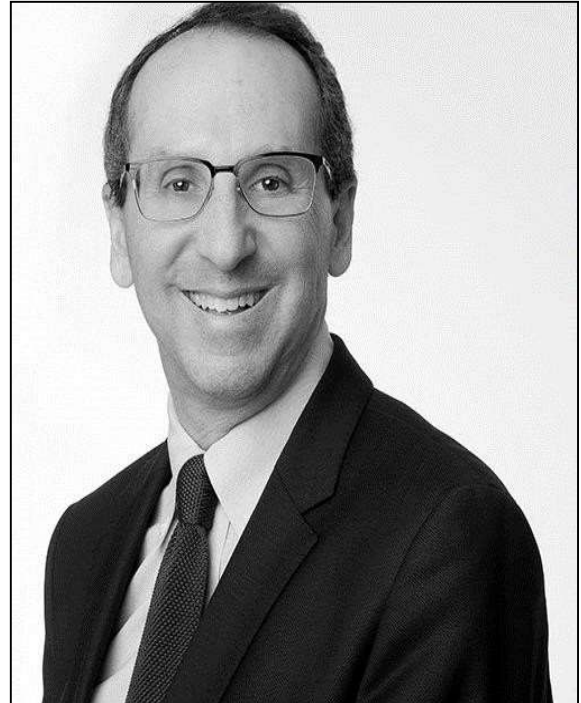
Spencer Weber Waller

Is the John Paul Stevens Chair in Competition Law, Director of the Institute for Consumer Antitrust Studies, and Professor at Loyola University Chicago School of Law where he teaches antitrust, intellectual property, civil procedure, and international litigation courses.

He is a member of the Advisory Board of the American Antitrust Institute and the editorial boards of the Antitrust Law Journal and the World Competition Law and Economics Review.

Professor Waller is the author, co-author, or editor of 8 books and over one hundred articles on United States and international antitrust, including Antitrust and American Business Abroad, the leading treatise in the field, and the first full-length biography of Thurman Arnold, the founder of modern antitrust enforcement in the United States.

He is the co-editor and contributor to Brands, Competition Law and IP (Cambridge University Press 2015). His recent scholarship focuses on antitrust, brands, class actions, high-tech industries, innovation, and intellectual property. He is the recipient of the 2014 Concurrence Antitrust Writing Award. Professor Waller previously taught and served as associate dean at Brooklyn Law School.



Failing Firm Defense Module

Ioannis Kokkoris

Holds a Chair in Competition Law and Economics at the Centre for Commercial Law Studies, Queen Mary University of London, UK.

Mr. Kokkoris is also the Dean for International for the Faculty of Humanities and Social Sciences.

Professor Kokkoris is an expert on competition law and economics. His main research interests span all areas of competition law and policy including comparative competition law/economics and policy focusing on EU, US, BRICS and ASEAN. Professor Kokkoris has formerly served at the UK Competition and Markets Authority, DG Competition, European Commission and US Federal Trade Commission.



Professor Kokkoris has led and worked on funded projects by the European Commission, the European Bank for Reconstruction and Development, the World Bank, the OECD, the Organization for Security and Cooperation in Europe and other international institutions. He is a special advisor to a number of competition authorities globally and frequently advises companies on competition enforcement issues in a number of jurisdictions. Professor Kokkoris also delivers training programs for companies, competition authorities and courts.

Professor Kokkoris has more than 100 publications including more than 15 authored/co-authored books, more than 65 articles and 20 chapters in edited volumes. Professor Kokkoris is on the editorial board of various international journals, he frequently speaks at conferences globally and is frequently interviewed by international media. Professor Kokkoris holds a BSc Economics (Essex), MPhil Economics (Cantab), LLM (Warwick) and PhD in Competition Law (Kings College London) and has conducted research at Harvard Law School.

Failing Firm Defense Module

Alexandros Stratakis

Partner and Head of UK competition, Van Bael & Bellis. Based in London, and with almost 15 years of experience in all aspects of competition law, Alex's practice covers predominantly UK but also EU, Greek and Cypriot competition law, focusing on complex merger control, distribution, dominance and State aid. Alex has been listed in Who's Who Legal's "Future Leaders in Competition Law" since 2017, a peer review listing the best competition lawyers worldwide under the age of 45.

Alex has successfully represented a number of clients before the UK Competition and Markets Authority, the European Commission and various (non-UK) national competition authorities across the globe, as well as before the European and national courts.

Alex has also represented companies in navigating the requirements of the UK's Foreign Direct Investment screening regime.

His practice covers a wide range of sectors, including life sciences (originators and medical device manufacturers), aviation, automotive, energy & mining, industrials, chemicals, luxury goods, telecoms, media, transport and infrastructure.

Prior to joining Van Bael & Bellis, Alex was Of Counsel in the London office of Baker & McKenzie, and previously an associate at Van Bael & Bellis.



Remedies Module

Kyriakos Fountoukakos

Kyriakos Fountoukakos is the managing partner of Herbert Smith Freehills' Brussels office and EMEA Regional Head of Practice of the Competition, Regulation and Trade group. He is widely recognised as a leading competition lawyer – ranked in the Who's Who Legal Competition: Thought Leaders and other major directories – and has over 20 years of experience in competition law.

Kyriakos specialises in all aspects of EU and UK competition law, including merger control, cartels, antitrust investigations and advice, distribution agreements, dominance, and competition litigation before the EU courts.



He has advised clients across a broad range of industries including TMT, pharmaceuticals, energy and mining, financial services, transport and consumer goods.

Kyriakos works closely with the Herbert Smith Freehills network to provide advice on multi-jurisdictional transactions and investigations. He also brings particular expertise through his former positions as a European Commission official at DG Competition's Merger Task Force (2001-2004) and as a Référéndaire (legal assistant) in the cabinet of the President of the General Court of the EU (2004-2006).

Remedies Module

Ali Macgregor

Ali MacGregor is a Senior Associate in the Herbert Smith Freehills Competition, Regulation and Trade team in London, with experience in all aspects of EU and UK competition law including merger control, abuse of dominance, antitrust, distribution and other commercial agreements.

Ali has a particular focus on merger control as well as antitrust and abuse of dominance investigations – he has been involved in antitrust and merger control cases before the EU Commission, the UK Competition and Markets Authority the UK Financial Conduct Authority, as well as competition authorities in the Middle East and around the world.



Ali has advised companies in a broad range of sectors including technology, pharmaceuticals, financial services, retail, agriculture, transport and diversified industries.

Annex 5 – Media Coverage

Webinar Recording and Live Streaming:

- Live feed of the webinar was on ECA’s official social media channels (LinkedIn, Facebook, Twitter, YouTube channel).
- Newspaper reporters were sent a live link of the webinar to attend.

Social Media Reach:

- Several competition agencies subscribed to check our website.
- Tunisian Competition Council have shared and broadcasted the webinar on their Facebook official page.
- Facebook posts total reach has increased up to 13,589 people.
- Several media coverages were done; more than 80 news and press reports in all news sites and newspapers, including the most prominent and high readerships in the Middle East.

Media Interviews:

- 5 VDU interviews with experts and One Country contributor (please refer to ECA YouTube Channel <https://www.youtube.com/user/EgCompAuthority/>).

Press Releases:

Five press releases were published on ECA official page, social media channels, and sent to different Newspapers reporters as well.

Press Release Titles:

- Egypt launches the activities of the Regional Forum on “Merger control in Times of Crisis”.
- The words of the Chairman of the Egyptian Competition Authority during the regional forum on "**Merger Control in Times of Crisis**".
- For the second day ... the launch of the activities of the regional forum on "Merger Control in Times of Crisis"
- The most prominent results and recommendations of the regional forum for "Merger Control in Times of Crisis".
- The head of the International Competition Network thanks Elseginy for his role in supporting competition authorities in the Middle East and North Africa.

1- Press release titled (Egypt launches the activities of the Regional Forum on “Merger control in times of crisis”)

جهاز حماية المنافسة ومنع الممارسات الاحتكارية
16 November

لريادتها في مجال "حماية المنافسة".. مصر تُطلق فعاليات المنتدى الإقليمي حول "الاندماج في أوقات الأزمات"

في إطار توجهات الحكومة برئاسة الدكتور مصطفى مدبولي، رئيس مجلس الوزراء، وبإشارة من وزير التجارة والصناعة السيدة/ بيقين جامع، انطلقت اليوم الاثنين، فعاليات المنتدى الإقليمي حول "مراقبة عمليات الاندماج والاستحواذ في أوقات الأزمات" الذي ينظمه جهاز حماية المنافسة ومنع الممارسات الاحتكارية المصري برئاسة السيد الأستاذ/ إبراهيم السجيني، ويقود خلاله أجهزة المنافسة بدول منطلق...

See Translation

2,749 People Reached

96 Reactions, comments & shares

73 Like	37 On post	36 On shares
7 Love	1 On post	6 On shares
6 Comments	2 On Post	4 On Shares
10 Shares	10 On Post	0 On Shares

267 Post Clicks:

52 Photo views	0 Link clicks	215 Other Clicks
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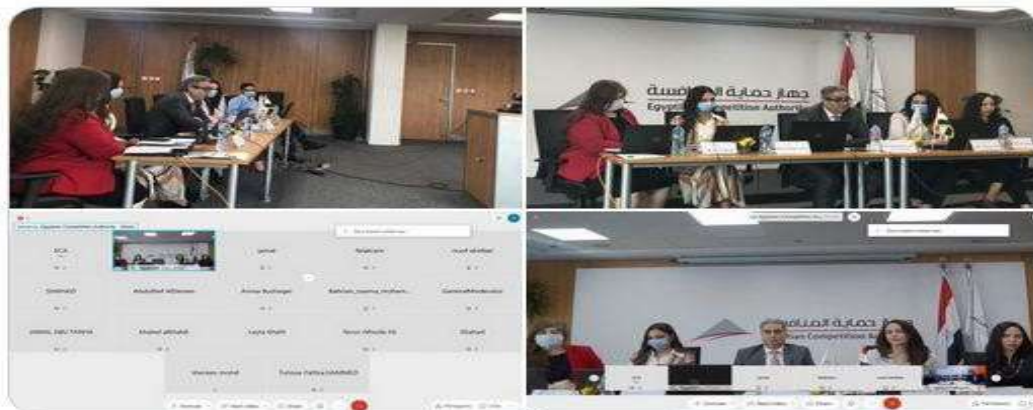
2,749 People reached 363 Engagements Boost post

جهاز حماية المنافسة @EgyCompetition · Nov 16

لريادتها في مجال "حماية المنافسة".. مصر تُطلق فعاليات المنتدى الإقليمي حول "الاندماج في أوقات الأزمات" لمزيد من التفاصيل...

facebook.com/EgyptianCompet...

#جهاز_حماية_المنافسة_المصري





Egyptian Competition Authority

2,518 followers

2w • Edited •

لريادتها في مجال "حماية المنافسة".. مصر تُطلق فعاليات المنتدى الإقليمي حول "الاندماج في أوقات الأزمات"
...see more

[See translation](#)



5 • 2 Comments



Like



Comment

2-Live streaming of the First day of the Regional Webinar Titled (Launch of the Regional Forum on “Merger Control in Times of Crisis” with the participation of Representatives from the Middle East and North Africa)

 جهاز حماية المنافسة ومنع الممارسات الاحتكارية was live...
+ 16 November at 14:53 +

بحضور ممثلين من دول الشرق الأوسط وشمال افريقيا وخبراء دوليين.. انطلاق فعاليات المنتدى الإقليمي حول "مراقبة الاندماج والاستحواذ في أوقات الأزمات"

#جهاز_حماية_المنافسة_المصري

See translation



0:05 / 10:03

925 People reached 386 Engagements

[Boost post](#)

 @EgyCompetition · Nov 16

بحضور ممثلين من دول الشرق الأوسط وشمال افريقيا وخبراء دوليين.. انطلاق فعاليات المنتدى الإقليمي حول "مراقبة الاندماج والاستحواذ في أوقات الأزمات"

#جهاز_حماية_المنافسة_المصري via fb.watch/1OloztbINt/

on Face...
جهاز حماية المنافسة ومنع الممارسات الاحتكارية
بحضور ممثلين من دول الشرق الأوسط وشمال افريقيا
وخبراء دوليين.. انطلاق فعاليات المنتدى الإقليمي حول ...
facebook.com




3- Press release titled (The words of the Chairman of the Egyptian Competition Authority during the regional forum on "Merger Control in Times of Crisis")

Post Details

جهاز حماية المنافسة ومنع الممارسات الاحتكارية
6 November

نص كلمة رئيس جهاز حماية المنافسة خلال منتدى "مراقبة الاندماج في أوقات الأزمات"
*تؤكد على جهودنا المخلصة والمستمرة للمساهمة في تعزيز التبادل المنصف للخبرات في مجال المنافسة
*تسعى لتطبيق أحكام قانون حماية المنافسة بصورة أفضل في أوقاتنا لتعزيز الاقتصاد منطقتنا
*تهدف إلى تعزيز التبادل المنصف للخبرات حول المبادرات والتحديات في مراقبة عمليات الاندماج
والاستحواد... See more



Performance for your post

2,279 People Reached

125 Reactions, comments & shares

86 Like	33 On post	53 On shares
11 Love	3 On post	8 On shares
19 Comments	8 On Post	11 On Shares
9 Shares	8 On Post	1 On Shares

266 Post Clicks

15 Photo views	0 Link clicks	251 Other Clicks
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2,279 People reached 391 Engagements [Boost post](#)

Mahmoud Aboelnaga and 34 others 8 Comments 8 shares

Like Comment Share

 @EgyCompetition · Nov 16
نص كلمة رئيس جهاز حماية المنافسة خلال منتدى "مراقبة الاندماج في أوقات الأزمات"
ولمزيد من التفاصيل...
facebook.com/EgyptianCompet...
[#جهاز_حماية_المنافسة_المصري](#)



4- Press release titled (For the second day ... the launch of the activities of the regional forum on "Merger Control in Times of Crisis")

Post Details

جهاز حماية المنافسة ومنع الممارسات الاحتكارية
17 November

لليوم الثاني.. انطلاق فعاليات المنتدى الإقليمي حول "الاندماج في أوقات الأزمات" بقيادة مهنر
لليوم الثاني على التوالي، انطلقت فعاليات المنتدى الإقليمي حول "مراقبة عمليات الاندماج والاستحواذ في
أوقات الأزمات" الذي ينظمه جهاز حماية المنافسة ومنع الممارسات الاحتكارية لمصري برئاسة السيد
الأستاذ/ إبراهيم السجيني. ويعد خاتمة أجهزة المنافسة بول منطقت الشرق الأوسط وشمال إفريقيا، وذلك في
إطار سلسلة الندوات التي تعقدتها شبكة المنافسة الدولية (ICN)، بالتنسيق مع المجلس الإداري لحماية الأي

See more ...



Performance for your post

1,290 People Reached

44 Reactions, comments & shares

35 Like	29 On post	6 On shares
2 Love	2 On post	0 On shares
3 Comments	3 On Post	0 On Shares
4 Shares	4 On Post	0 On Shares

70 Post Clicks

0 Photo views	0 Link clicks	70 Other Clicks
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NEGATIVE FEEDBACK

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1,290 People reached 114 Engagements [Boost post](#)

أحمد درجب, Mahmoud Aboelnaga and 29 others 3 Comments 4 Shares

Like Comment Share

Egyptian Competition Authority
2,518 followers
2w

لليوم الثاني.. انطلاق فعاليات المنتدى الإقليمي حول "الاندماج في أوقات الأزمات" بقيادة
مهنر
...see more

See translation



7 - 1 Comment

Like Comment

Add a comment...

Most relevant

5- Live streaming of the Second day of the Regional webinar titled (Launching of the Regional Forum on “Merger control in times of crisis” with the participation of International experts and Representatives from the Middle East and North Africa)

Total video performance Showing all

- Peak live viewers: 8
- Minutes viewed: 270
- 1-minute video views: 32
- 10-second video views: 134
- 3-second video views: 276
- Average video watch time: 0:28
- Audience retention
- Audience and engagement

This video is used in 1 post

Posts	Posted date	Estimated reach	3-sec video views	10-sec video views	Unique 3-sec video views	Post engagement	Average video watch time
جهاز حماية المنافسة ومنع الممارسات الاحتكارية... ...ل الشرق الأوسط وشمال أفريقيا وخبراء دوليين	17/11/2020 15:08	573	276 100%	134 100%	218	22	0:28 / 35:52

Total 3-second video views on Facebook: 276

Insights are recorded in the Pacific Time Zone and may not reflect the most recent data.

Create Watch Party with Video Create Post with Video



جهاز حماية المنافسة @EgyCompetition · Nov 17

لمتابعة فعاليات اليوم الثاني للمنتدى الإقليمي حول "الاندماج في أوقات الأزمات" بقيادة مصر وبحضور ممثلين عن دول الشرق الأوسط وشمال أفريقيا وخبراء دوليين

fb.watch/1Px-ft2cU7/

#جهاز_حماية_المنافسة_المصري



on Face...
جهاز حماية المنافسة ومنع الممارسات الاحتكارية
فعاليات اليوم الثاني للمنتدى الإقليمي حول "الاندماج في
أوقات الأزمات" بقيادة مصر وبحضور ممثلين عن دول ...
facebook.com

6- Live streaming of the Second day of the Regional webinar – Continued – Titled (The start of the Regional Forum on “Merger control in times of crisis” lead by Egypt, with the participation of International experts and Representatives from the Middle East and North Africa)



جهاز حماية المنافسة @EgyCompetition · Nov 17

استئناف فعاليات اليوم الثاني للمنتدى الإقليمي حول "الاندماج في أوقات الأزمات" بقيادة مصر وبحضور ممثلين عن دول الشرق الأوسط وشمال أفريقيا وخبراء دوليين

fb.watch/1PASgFhcXV/
#جهاز_حماية_المنافسة_المصري



on Face... جهاز حماية المنافسة ومنع الممارسات الاحتكارية
استئناف فعاليات اليوم الثاني للمنتدى الإقليمي حول
"الاندماج في أوقات الأزمات" بقيادة مصر وبحضور ممثلين...
facebook.com

Video details

Total video performance Showing all

- Peak live viewers: 7
- Minutes viewed: 173
- 1-minute video views: 26
- 10-second video views: 92
- 3-second video views: 215
- Average video watch time: 0:21
- Audience retention
- Audience and engagement

This video is used in 1 post

Posts	Posted date	Estimated reach	3-sec video views	10-sec video views	Unique 3-sec video views	Post engagement	Average video watch time
جهاز حماية المنافسة ومنع الممارسات الاحتكارية... الشرق الأوسط وشمال أفريقيا وخبراء دوليين	17/11/2020 16:00	473	215 100%	92 100%	173	13	0:21 / 01:08:06

Total 3-second video views on Facebook: 215

Insights are recorded in the Pacific Time Zone and may not reflect the most recent data.

Create Watch Party with Video Create Post with Video

7- Press release titled (The most prominent results and recommendations of the regional forum for "Merger Control in Times of Crisis")



8- Press release titled (The head of the International Competition Network thanks Elseginy for his role in supporting competition authorities In the Middle East and North Africa)

Post Details
✕

جهات حماية المنافسة وتمتع الممارسات الاحتكارية

19 November · 🌐

⋮

رئيس شبكة المنافسة الدولية يشكر "السجيني" على دوره في دعم أجهزة المنافسة بالشرق الأوسط وشمال أفريقيا

تلقي السيد الأستاذ/ إبراهيم السجيني -القائم بأعمال رئيس جهاز حماية المنافسة وتمتع الممارسات الاحتكارية- خطاباً من السيد الدكتور/ اندرياس مونت -رئيس شبكة المنافسة الدولية (ICN)- ورئيس جهاز حماية المنافسة الألماني Bundeskartellamt - أشاد فيه بدوره في دعم وتشجيع أجهزة المنافسة بدول الشرق الأوسط وشمال أفريقيا.

جاء خطاب رئيس شبكة المنافسة الدولية عقب النجاح الكبير للمنتدى الإفريقي ... See more

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3,122
People reached

698
Engagements

[Boost post](#)

Techno Marble, حاتم مصطفى, and 57 others
14 Comments · 12 shares

👍 Like
💬 Comment
➦ Share

Performance for your post

3,122 People Reached

222 Reactions, comments & shares

137 Like	50 On post	87 On shares
28 Love	10 On post	18 On shares
47 Comments	17 On Post	30 On Shares
12 Shares	12 On Post	0 On Shares

476 Post Clicks

3 Photo views	0 Link clicks	473 Other Clicks
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NEGATIVE FEEDBACK

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Egyptian Competition Authority
2,518 followers
2w · 🌐

رئيس شبكة المنافسة الدولية يشكر "السجيني" على دوره في دعم أجهزة المنافسة بالشرق الأوسط وشمال أفريقيا
...see more ... تفاصيل...

[See translation](#)

👍 9

👍 Like
💬 Comment

Be the first to comment on this

Annex 6 – Participants and Organizers

MENA ICN MWG Webinar on "Merger Control in Times of Crisis"		
Country	Representative Name	Job Title
Bahrain	Ms. Fadheela Ebrahim Al Akram	CEO - Competition Promotion & Protection Authority
	Ms. Noor ALHuda Hameed Ali	Economist - Competition Promotion & Protection Authority
	Ms. Layla Khalil Qasim	SR. Consumer Protection Specialist - Competition Promotion & Protection Authority
	Mr. Jamal Ali Naser	Legal Researcher - Competition Promotion & Protection Authority
	Mr. Abbas Hasan Ahmed	Senior Legal Researcher - Competition Promotion & Protection Authority
	Ms. Amna Fouad Bushager	Consumer Protection Specialist - Competition Promotion & Protection Authority
	Mr. Osama Mohamed Almusli	Head, Consumption Planning - Competition Promotion & Protection Authority
	Ms. Shereen Mohammed Abdulla	Head, Consumption Planning - Competition Promotion & Protection Authority
	Mr. Noof Ahmed Al Refaei	Inspection Specialist - Competition Promotion & Protection Authority
	Ms. Jenan Al A`Ali	chief of agencies and companies registration - Competition Promotion & Protection Authority
Egypt	Mr. Sherif Abou Alam	Division Head - Egyptian Competition Authority
	Ms. Radwa Saleh	Division Head - Egyptian Competition Authority
Kuwait	Ms. Shahad Alsaqabi	Head of the Mergers and Acquisitions Control Sector - Kuwait Competition Protection Agency
	Mr. Khaled Binjumaah	Case Handler - Kuwait Competition Protection Agency
	Mr. Khaled Alkhalidi	Case Handler - Kuwait Competition Protection Agency
	Ms. Haifaa Aldakheil	Case Handler - Kuwait Competition Protection Agency
	Ms. Mais Alkharafi	Case Handler - Kuwait Competition Protection Agency
	Mr. Abdultef Alderees	Case Handler - Kuwait Competition Protection Agency
Morocco	Mr. Hicham BOUAYAD	Deputy Director of Investigation -Competition Council of Morocco
	Ms. Maria Sbai Idrissi	International Affairs - Competition Council of Morocco
Palestine	Mr. Jamal Abou Farha	D.G. of Competition - Ministry of National Economy
	Mr. Omer Kabaha	Director of information and communication - D.G. of Competition - Ministry of National Economy
Saudi Arabia	Ms. Dana Talaat Alqahtani	Economics Specialist - The General Authority for Competition – The Kingdom of Saudi Arabia
	Mr. Fawaz Ahmed Alshahwan	Legal Specialist - The General Authority for Competition – The Kingdom of Saudi Arabia
Tunisia	Ms. Fathia Hammad	Vice president - Tunisian Competition Council
	Mr. Habib Essid	Case Handler - Tunisian Competition Council

Country Contributors:

- Ms. Shahad Alsaqabi - Head of the Mergers and Acquisitions Control Sector - Kuwait Competition Protection Agency
- Mr. Hicham BOUAYAD - Deputy Director of Investigation - Competition Council of Morocco
- Mr. Jamal Abou Farha - D.G. of Competition - General Administration of Competition in Palestine
- Ms. Fadheela Ebrahim Al Akram - CEO – Bahrain Competition Promotion & Protection Authority
- Ms. Noor AlHuda Hameed Ali - Economist – Bahrain Competition Promotion & Protection Authority
- Ms. Fathia Hammad - Vice President - Tunisian Competition Council
- Mr. Habib Essid - Case Handler - Tunisian Competition Council

MENA Report Supervisor:

- Ms. Radwa Saleh – Egyptian Competition Authority

Module Moderators:

- Ms. Farahnaz Abdelbary – Egyptian Competition Authority
- Ms. Marina Iskander – Egyptian Competition Authority
- Ms. Perrihan Sharaf – Egyptian Competition Authority
- Ms. Rana Khoweiled – Egyptian Competition Authority

General Moderators and Organizers:

- Ms. Marwa Magdy – Egyptian Competition Authority
- Ms. Toka Hesham – Egyptian Competition Authority

IT Support:

- Mr. Ahmed Mattar – Egyptian Competition Authority
- Mr. Mohamed Essam – Egyptian Competition Authority