

Republican Decree of Law No. (19) of 1999, Concerning Competition Promotion, Monopoly, and Commercial Deception Prevention

The President of the Republic,

Having reviewed the Constitution of the Republic of Yemen, law No. (24) of 1999 on Supply, and its Amendments, and the Republican Decree of Law No. (72) of 1998, on Forming the Government and Naming its Members; According to the Prime Minister's presentation; and Pursuant to the Cabinet's approval;

Resolves

Article (1)

This law shall be referred to as "Competition Promotion, Monopoly, and Commercial Deception Prevention Law".

Article (2)

For the purposes of this law application, the following words and expressions mentioned below shall indicate the meanings against them unless the context otherwise given:

- The Republic: Republic of Yemen.
- The Ministry: Ministry of Supply and Trade
- The Regulation: The executing regulation of this law.
- The organization: The Competition Protection and Monopoly Prevention Organization.
- The Establishment: any natural or legal entity performing commercial activity.
- Monopoly: The circulation of goods in a way that prevents competition.
- Concentration: concentrating procurement from one source, agency or company.

Article (3)

The Circulation of different commodities and goods shall be in a free competitive trade framework, in accordance with this law provisions, so that no consumers' interests are harmed or commercial monopolies are created.

Article (4)

a) The following are excepted from the application of this Law's provisions :

- 1- Activity of commercial companies connected with the government through valid concessions agreements.
- 2- Temporary arrangements made by the council of Ministers in order to confront an exceptional necessity in a particular sector, emergency, or a natural calamity; however, a review of such measures has to take place within a period not exceeding six months and can be extended for another period based on the Minister's presentation.

b) The provisions of this law shall not apply to state monopolized establishments, which have agencies and foreign commodities franchised to be produced locally by the principal producer, and also shall not apply to the Agencies law.

c) The application of this law shall not lead to restrictions on the rights that are covered by protection of intellectual property rights, trade marks, inventions' patents rights, and publishing rights; however, its provisions shall apply whenever the use of such rights leads to harmful effects on competition and freedom of trade.

Article (5)

Goods and services' prices are determined, in its respective markets, on the basis of free competition which governed by market factors.

Article (6)

It is not permitted to enter into any contract, written agreement, or to establish a union to monopolize the importation, production, distribution, selling or purchase of any commodity or material that enters in its production or manufacturing so as to conceal, restrict its circulation, reduce its production, or fix its price in away that prevents freedom of trade.

Article (7)

Any agreement or arrangement between competing establishments shall be considered a violation if that agreement or arrangement led to prevention, reduction, or weaken competition; or it aimed at achieving any of the following results, whether the agreement or arrangement in question is in writing or through practice :

- 1- Fixing Prices or discounts.
- 2- Fixing Production Quantities.
- 3- Dividing the market either into geographical territories, into sales and procurement levels, according to the type of good, service, client, or by any other means.
- 4- Attempting to or preventing the entrance of other establishments as sellers or buyers to the markets.
- 5- Dealing or refusing to deal with particular buyers.
- 6- Conspiring in bidding or tendering, however, joint-offers are not considered as such.
- 7- Providing or including provisions in tenders' conditions that name the intended procured commodity's mark or brand name.

Article (8)

(a) It is prohibited to act in a way that might lead to the reduction or weakening of the competition, the creation of obstacles which prevent the accession of competitive establishments into the market, the expansion of exiting establishments, or the exit of competitive establishments from the market.

(b) The following actions are considered infringement if used by an establishment exploiting its predominance and monopoly and led to the results indicated in (a) of this article:

- 1- The offer of a good or a service at a price less than its cost.
- 2- The discrimination in prices, terms, or duration of procurement or sale contracts of similar goods or services.
- 3- The fix of the re-sale prices or goods and services.
- 4- The refusal to sell to a particular client or buyer.
- 5- The taking control of a particular client by an establishment in order to prevent another competing establishment from dealing with that client or deprive another client of dealing with such an establishment.
- 6- The monopoly of scarce potentials and resources required for another competitor's activity.

- 7- The procurement, storage, or destruction of goods so as to increase prices or prevent its reduction.
- 8- The supply of production specifications unsuitable for use with goods and services produced by a competing establishment.
- 9- The obligation or inducement of an establishment to sell a good or a service to particular clients, according to certain priorities, or prevent the sale to a competing establishment.
- 10- The refusal to deal with a client in accordance with customary commercial conditions and terms.
- 11- The link between the sale or delivery of a certain good or service and the purchase of another good or service from the same establishment.

Article (9)

Concentration is prohibited if it leads to restrain or weaken competition.

Article (10)

A " Competition protection and Monopoly Prevention Organization" shall be established within the Ministry, aiming at exposing monopoly cases, vertical integration, and horizontal concentration, or at concealing any commodity or material necessary for production or manufacturing another good in the local market, at the time of its sale, offer , pricing in any manner that would constrain free competition; furthermore, the Organization is to establish the necessary policies and procedures to protect and support competition.

Article (11)

The organization, mentioned in article (10) of this law, shall be chaired by the Minister, who will issue a decision regarding the nomination of its members.

Article (12)

The Internal Regulation, issued by the Minister shall determine the powers of the organization.

Article (13)

Any establishment or group of establishments, within a particular activity, should inform the organization of any data determined by the Regulation; and the organization must decide whether such an activity is in conformity with the provisions of this law.

Article (14)

All buyers who exclusively buy a particular good or goods must notify the organization of data determined by the Regulation.

Article (15)

All importers who exclusively import a particular good must notify the organization of data determined by the Regulation.

Article (16)

No establishment is allowed to decline the authorized organization's staff from having access to the data necessary for research purposes in accordance with the provisions of this law; in all cases, each establishment shall provide the organization with requested data as determined by the Regulation.

Article (17)

In his/her capacity as a researcher/finder of the monopoly and concentration cases stipulated in this law, anyone shall not disclose the business' secrets; it is also not allowed for any organization staff to provide any data or acquaint others with any data except in legally permitted cases.

Article (18)

Owners of factories and their management are prohibited from limiting their products distribution which would lead to monopoly, distribution shortages, or fabricated price increases.

Article (19)

Organization staff within the Ministry shall cooperate with the general authority for standardization's staff in determining counterfeit goods, commercial deception cases as well as taking the legal proceedings in accordance with the laws.

Article (20)

Importers and producers' union, societies, and their alike, are prohibited to exceed their by-law specified goals and come into agreement on prices' fixing or specifications manipulation; the said entities must notify the organization of requested data.

Article (21)

The Minister may take, based on the recommendation of the organization, one of the following measures against those who exclusively import or procure a particular good and exploit the same in prices' manipulation or in quantity reduction:

- 1- Agreement on amicable solution.
- 2- Considering the action totally or partially invalid or as such for a specific period of time.
- 3- Making the action totally void.
- 4- Instructing to correct the status within a specific period of time; otherwise, legal measures to be taken against the establishment.

Article (22)

Without prejudice to the laws in force, anyone who infringes the provisions of this law shall be punished with a fine not less than (Y.R. 10'000) (say: ten thousand Yemeni Rials) and not exceeding (YR 100'000) (say: one hundred thousand Yemeni Rials), the equivalent to what has been gained as result of monopoly, or with either penalty. However, in case of repeated infringement, imprisonment shall be compulsory as decided by the court; and in all cases, contracts and agreements in violation shall be judged as null and void; the judgment shall be published in two daily newspapers at the expense of the infringer. The court may cancel the name from the commercial registrar, importer's registration, agents registries, or commercial brokers as applicable.

Article (23)

Infringements provided for in this law shall be presented to the Attorney General's office as decided by the Minister, based on a recommendation by the organization. However, a subpoena has to be initiated by the Minister.

Article (24)

The executing Regulation of this law shall be issued by the decision of the prime Minister, based on the Minister's presentation.

Articled (25)

This Republican Decree Law shall enter into force with effect of the date of its issuance and publication in the official Gazette.

Issued at the Presidency Palace in Sana'a

Dated: 30 Ramadan 1419 H

Corresponding to: 17 January 1999

Dr. Abdulkareem Al-Aryni
Prime Minister

Ali Abdallah Saleh
The President