

Memorandum

from

Dr.Eng. Nader Riad

**The Advisor to the Committee on Industry and Energy of the
People Assembly**

Member of the High Commission of the Policies Secretariat

At

The National Democratic Party

To

His Excellency Dr.Hasan Khedr

Minister of Supply and Internal Trade

Concerning

**The pre-final draft of the Law on Competition Regulation and
Consumer Protection against Harmful Practices**

whose suggested modification is

**The Law on Competition Regulation and Prevention of Monopolistic
Practices**

This is in the session held at the headquarter of

The Ministry of Supply and Internal Trade

On

Thursday, December 26, 2002

Written by Dr.Eng.Nader Riad

It's an undeniable fact that issuing the Law of Competition Regulation is of great importance.

However, it should be formulated in a way that suits our international commitments without leaving behind any negative effects on our national interests, particularly those of the local producer against the foreign producer or exporter, as long as this doesn't contradict with the international principles to which Egypt has committed under international agreements.

The aim of this legislation in all the countries which have issued it is maximizing the competitive power in the same market in the field of goods and services, therefore the title and content of this legislation is supposed to relate to this objective so as not to result in backfire or disturbance.

In view of that, we suggest adjusting the term of this law from" the Law on Competition Regulation and Consumer Protection Against Harmful Practices" to" the Law on Competition Regulation and Prevention of Monopolistic Practices " so as to prevent any interference with consumer protection.

Indisputably, the draft law as a whole is regarded as a solid ground for applying a policy functioned as a regulator of competition and prevention of monopolistic practices.

However, there are some matters in the executive regulations which should be more carefully tackled. The most important these matters are the following:

1) Description of Goods an Substitutes:

Examples of these are packages and bottles of the fizzy drinks considering each one as independent goods.

2) The Extent of Control of the Relevant Market

We suggest adding another standard and applying the double-standard principle by adding a minimum extent, to enter the circle of control, of a transaction value between 200 to 250 million Egyptian pounds.

This is in addition to the standard mentioned in the law which is 35%. This point of view supports the American ETC where measuring value is easier.

3) Identifying the market size

This needs a more definite integral identification in a way showing the market size which is the subject matter of competition. Accordingly, each market is controlled by a local government system or geographic territory

4) Amending the Identification of the Competitors

In our view point we should amend the identification of the competitors so that the competitors are in the same field in order not to allow a connection between the concept of competition and individuals or companies without relating them to the field of competition which is the actual test of the concept of competition.

In article four I read this phrase: "banning any agreement or contract or activity unsettling the regulations of free competition.

Due to the fact that this law involves applying criminal penalties and fines there should be definition of the competition regulations whose violation is deemed a crime.

On account of this we suggest identifying these regulations in the same law or referring them to the regulation executive of the law, which we recommend.

We also suggest deleting "practice of any activity" since this ban refers to the single individual's activity, not limited to the collusive agreements between more than an individual, a matter not included in other legislations, particularly because refraining from dealing in products means hiding them.

This is in addition to other crimes contained in the law which can be attributed to a single person who is criminalized in article five with respect to the persons in control.

Finally

It is recommended that the financial source of the organization responsible for regulating competition is independent of the fines it collects so as not to be an opponent to the competitors and not to be suspected of having the intention to take procedures targeting fine collecting benefited of by the board of directors and employees.

In this way we can ensure the organization's impartiality. Moreover, the budget of this organization should appropriately cover the functions assigned to it to guarantee qualifying its cadres and covering their rewards so as to insure appropriate performance.

According to the notes attached to the file we received, we recommend including detailed texts that help guarantee the confidentiality of the information obtained about the competitors.

Besides, the obligation of confidentiality should extend to anyone whose job is related to the information of the competitors.

We hope we have made a contribution functioned as good procedures suitable for the "draft law of competition Regulation" and in a way that helps prevention of monopolistic practices against industry and trade.

Dr.Eng.Nader Riad.