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Directorate for Financial and Enterprise Affairs  
**COMPETITION COMMITTEE**

## Annual Report on Competition Policy Developments in Egypt

-- 2020 --

This report is submitted by Egypt to the Competition Committee FOR INFORMATION.

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## *Egypt*

1. In the period of January 2020 to December 2020, the Egyptian Competition Authority (“ECA”) effectively carried out its role in ensuring the effective enforcement of the Egyptian Competition Law (“ECL”) despite the challenges resulting from the Covid-19 pandemic.

2. The ECL was enforced by taking action against anti-competitive practices, addressing a number of mergers and acquisitions, carrying out advocacy measures, strengthening international relations, and drafting reports regarding competition policy in general. In addition, ECA finalized its draft law introducing an ex-ante merger control regime.

### **1. Changes to competition laws and policies, proposed or adopted**

3. From January 2020 to December 2020, the ECA proposed an amendment to the current ECL to include an ex ante merger control regime. Additionally, ECA published guidelines in relation to their leniency policy.

#### **1.1. Summary of new legal provisions of competition law and related legislation**

##### ***1.1.1. Merger Control Regulation***

4. Merger law and policy are critical tools for limiting artificial barriers to competition and limiting oligopolistic coordination. Anti-competitive effects resulting from strengthening market power may outweigh the benefits merging parties reap in terms of productive efficiencies. Such effects may be materialized in price increases and reductions in consumer surplus. More detrimentally, capitalizing on post-merger market power, merging parties might engage in tacit or overt collusion, which is noticeably unfavorable to competition and to the economy as a whole.

5. Consequently, almost all the jurisdictions worldwide employ a mandatory ex ante merger control regime under their competition laws. Under mandatory merger control regimes, parties are temporarily prevented from consummating a merger until they have received clearance from the relevant competition authority. This would give entities legal certainty and save them a great deal of time and financial resources given that once anti-competitive mergers are detected, it could be quite cumbersome to rectify the damage that could have occurred to competition in that market.

6. However, Article 19 of the ECL only requires post-merger notification of transactions involving a combined turnover exceeding 100 million EGP. The absence of a full-fledged ex ante merger control regime has led to inefficiencies regarding the enforcement of competition policy.

7. Therefore, ECA submitted amendments to ECL consisting of the introduction of an ex ante merger control regime to the Egyptian Prime Minister. In pursuit of preserving Egypt’s appeal as a global investment hub and in line with international best practices, ECA’s proposal provided the following:

1. what constitutes a notifiable concentration;
2. the definitions of control and the exercise of material influence;

3. clearly defined global and domestic turnover thresholds for notification;
  4. in pursuit of safeguarding innovation, clearly outlined exceptions to the general rule of imposed turnover thresholds, namely in the event of a “Killer Acquisition”;
  5. an imposed standstill period during which the concentration shall not be implemented pending clearance from ECA;
  6. clearly prescribed sanctions for gun jumping (violating the standstill period mandated by law before clearance is given to a concentration);
  7. the powers of decision awarded to ECA (i.e. outcomes of assessment-unconditional clearance, conditional approval, or prohibition);
  8. the process of reviewing an undertaking’s claim of economic efficiencies and failing firm;
  9. the process of presenting a commitment’s offer to ECA;
  10. ECA’s commitments to maintaining transparency and procedural fairness.
8. In November 2020, the Egyptian Prime Ministry approved the proposed merger control regime and submitted it to the Egyptian Parliament, currently pending approval and promulgation.

## 1.2. Other relevant measures, including new guidelines

9. ECA published a set of guidelines in relation to leniency policy.

### *1.2.1. Leniency Policy Guidelines*

10. In June 2020, the ECA issued its Leniency Policy Guidelines as laid out in Article 26 of ECL, which exempts the first offender who informs ECA of a cartel from criminal pursuit and the sanctions laid out in ECL. The first offender should also cooperate with ECA by providing the documents and information necessary for establishing the violation.

11. The main objective of ECA’s leniency policy is to encourage undertakings to disclose their role in cartels and cooperate with ECA. The guidelines aim at outlining ECA’s policy in the implementation of Article 26 of ECL.

12. The guidelines states the substantive provisions of the leniency policy in terms of undertakings benefiting from the leniency, clarification of the conditions for accepting a request for leniency, cooperation obligations of the applicant for leniency, and the special obligations on ECA and the applicant regarding the confidentiality of information and data.

13. It also states the procedural provisions of the leniency policy, which includes the mechanism of submitting a formal request and submitting a request for marker, the inquiries prior to the submission of a formal request and request for marker. It also demonstrates ECA’s procedures regarding the acceptance of requests, as well as, the leniency policy regarding bid rigging.

## 2. Enforcement of competition laws and policies

### 2.1. Overview

14. During 2020, ECA rendered a total of 23 decisions, seven of which were decisions of infringements. Of these seven cases, three were cartel cases (addressed by Article 6) and

three were instances of abuse of dominance (addressed by Article 8), and one was related to failure to supply ECA with the requested data and documents (addressed by Article 11 para 3).

**Table 1. Number of infringement decisions issued by ECA from January 2020 to December 2020**

Type of infringement	Number
Cartel	3
Abuse of dominance	3
Failure to supply data	1
<b>Total</b>	<b>7</b>

## 2.2. Actions against anticompetitive practices, including agreements and abuse of dominant positions

### 2.2.1. Horizontal Agreements

15. Article 6 of ECL prohibits certain agreements or contracts between competing persons in the relevant market that may cause any of the following: (a) Increasing, decreasing or fixing prices of sale or purchase of products subject matter of dealings. (b) Dividing product markets or allocating them on ground of geographical areas, distribution centers, type of customers, goods, market shares, or seasons or periods of time. (c) Coordinating with regard to proceeding or refraining from participating in bids of public procurement. (d) Restricting processes of manufacturing, production, distribution, or marketing of goods or services, including the restriction of product type or volume or limiting the availability thereof.

#### *Chicken Brokers*

16. In August 2019, ECA received a complaint from several white chicken breeders in Egypt against five brokers. The chicken breeders claim to be affected by the existence of anticompetitive practices in the white chicken market. The brokers agreed to fix the selling price of live white chicken between breeders and wholesalers in Egypt. This has led to large financial losses for the breeders, which resulted in a few market players exiting the market of raising white chickens.

17. According to the complaints submitted by the breeders, chicken brokers allegedly agreed to fix the prices for selling a kilogram of live white chicken from the breeder to the wholesaler, during the period from January 2018 to September 2019, which constituted a potential infringement to Article 6(a) of ECL that prohibits cartels on price fixing.

18. The broker plays the role of an intermediate between the breeder and the trader, where the breeders depend on brokers to market the live chickens produced and traders rely on brokers to direct them to the farms that sell their production of live chickens. In return, the broker gets a commission from both the traders and the breeders. Moreover, the leading brokers are responsible for determining the price of live white chicken from the farm to the wholesalers, while the rest of the small brokers only follow the price set by the leading brokers.

19. The market investigations, testimonies of the different market players, and the qualitative and quantitative economic analysis confirmed the existence of collusion between the brokers, which has led to the market being negatively impacted. There has also been a negative impact on the economy as a whole, where there has been a decrease in the volume of national production of poultry due to the exit of breeders from the market. The

decrease in the volume of national production has led to the necessity of importing to bridge the gap between local production and domestic consumption. This will consequently put pressure on the state's foreign exchange reserves. In addition to the fact that imported live chicken are not considered a viable alternative to domestic live chickens from local farms, which are generally preferred by consumers.

20. On 8 March 2020, ECA concluded that this agreement has restricted competition in violation to Article 6(a) of ECL and has decided to refer the case to the Egyptian public prosecutor.

#### *HealthCare Providers Chamber- Radiology Centers*

21. On 4 July 2018, ECA initiated a market study in the healthcare sector in Egypt. ECA detected the existence of an agreement between radiology centers to increase the minimum price list of their services by 20-25%. Such an agreement violates Article 6(a) of ECL, which states that: "*Agreements or contracts between competing Persons, in any relevant market, are prohibited, if they should cause any of the following: Increasing, decreasing or fixing prices of products subject matter of dealings.*"

22. Based on the investigation conducted, ECA detected an agreement between the Radiology Centers parties, which explicitly stated, "*It must be agreed to increase the minimum price list of centers by 20-25% after the significant cost increase in accordance with developments in the Egyptian market.*" This agreement has significantly restricted competition between radiology centers and undermined the right of the Egyptian consumer to have these services provided at competitive prices.

23. On 19 November 2020, ECA concluded that the radiology centers parties of the agreement have violated Article 6 of ECL by agreeing to raise the minimum price increase of the diagnostic radiology services by 20-25% and decided to give parties 60 days to settle or refer the case to the Egyptian public prosecution.

#### **2.2.2. Abuse of Dominance**

24. Article 8 of ECL prohibits abuse of dominance and identifies the conducts constituting impediments to effective competition. It seeks to deal with the threat to competition within the market posed by an undertaking occupying a dominant position in which it has the economic power to act independently of market forces.

25. Article 4 of ECL and Article 7 of the Executive Regulations outline three cumulative conditions that should be met by an undertaking in order to be considered in a dominant position, namely: (1) to hold a market share exceeding 25% of the relevant market; (2) to have the ability to effectively impact prices or quantities supplied; (3) the inability of competitors to limit this impact.

26. Accordingly, ECA assessed several abuse of dominance cases in multiple sectors such as the alcoholic beverages market, the electronics markets, and film distribution market.

#### *Al-Ahram Beverages Company*

27. ECA received three complaints against Al-Ahram Beverages Group on November 2017, October 2019, and March 2019 regarding Al-Ahram's alleged abuse of dominance in the alcoholic beverages market. The complainants alleged that Al-Ahram had engaged in various anti-competitive practices that have considerably impacted the complainant's prospects of remaining in the beer and wine production markets. The alleged anti-competitive practices include: (1) refusing to sell malt; (2) concluding exclusive supply

contracts with the majority of retail and distribution outlets for alcoholic beverages prohibiting dealings with Al-Ahram's competitors; (3) engaging in tying arrangements rendering the sale of Al-Ahram beer contingent upon the purchase of wine; (4) squeezing competing retailers' profit margins; and (5) offering discriminatory rebates.

28. A limited number of players characterizes the market of alcoholic beverages, on both the production and distribution levels, where only three companies operate in the production market, which has very high barriers to entry, meaning that the likelihood of foreclosure is higher than other markets where such conditions are absent.

29. Several relevant product markets were subject to this investigation, namely: malt production market, beer production and distribution markets, wine production and distribution markets, and spirits production and distribution markets. The geographical scope of the aforementioned relevant product markets is the Arab Republic of Egypt.

30. ECA's analysis provided evidence that Al-Ahram market shares in the relevant markets exceeded the 25% threshold outlined in Article 4 of ECL. Al-Ahram market shares was found to be significantly high in the relevant markets of alcoholic beverages. ECA has also provided evidence of Al-Ahram's ability to control the prices and the supply of malt in the malt production market, of beer and spirits in the markets for the production and distribution of beer and spirits, and of wine in the market for the distribution of wine in accordance with Article 4 of ECL. This market is characterized by high barriers to entry and expansion due to the temporarily suspension of the issuance of any new manufacturing or distribution licensing for alcoholic beverages.

31. Accordingly, ECA concluded that Al-Ahram has a dominant position in the above said relevant markets since it meets all three conditions laid out in Article 4 of ECL and Article 7 of the Executive Regulations of ECL.

32. ECA's investigation revealed that Al-Ahram alleged refusal to sell malt to its competitors did not violate Article 8(b) of ECL. However, the investigation exposed that Al-Ahram infringed Article 8 (a) - (b) - (c) - (d), through exercising the following practices: (1) Tying practices for its products, through obliging the clients to purchase wine in order to purchase beer; (2) Imposing exclusive dealings to exclude distribution of competing products from the market through direct clauses in its supply contracts; (3) Granting retroactive loyalty rebates to its clients to maintain the exclusivity and exclude competitors from the market; (4) Refusal to deal with competitors through exercising margin squeeze through imposing high prices on retail shops and increasing the cost of its competitors in the retail market as well as preventing distribution to retailers for a sufficient period of time that has adversely harmed competition.

33. ECA's Board of Directors issued an administrative decision on 30 December 2020 in accordance with Article 20 of ECL. The decision imposed on al-Ahram some necessary measures for ceasing the infringements and remedy the harm incurred in the market.

### *Toshiba Lifestyle*

34. In April 2020, ECA received a complaint from Al-Araby regarding Midea's refusal to renew the licenses and agreements concluded between the parties, this was concerning the production and supply of Toshiba home appliances (washing machines, refrigerators, vacuum cleaners, and fans).

35. Al-Araby Group is an Egyptian company that produces, exports, and distributes electric appliances. Al-Araby had established a long-term relationship with the Toshiba Group since 1972. During this period, Al-Araby was licensed to produce and distribute

some of Toshiba home electrical appliances through two types of licenses and contracts, namely technology collaboration agreements and trademark license agreements.

36. Toshiba Lifestyle Products and Services Corporation (“*Toshiba Lifestyle*”), a subsidiary of Toshiba Group, is a Japanese company specialized in the production and distribution of Toshiba home appliances. In June 2016, Midea Group Co., Ltd. (“*Midea*”) acquired 80.1% of Toshiba Lifestyle.

37. Midea Group Co., Ltd, is a Chinese listed company that operates in manufacturing and distributing electric appliances. Midea operates in Egypt through its subsidiary Midea Electric Egypt.

38. The complaint constituted a potential violation to the provisions of Article 8(b) of ECL that prohibits refusal to deal by a dominant undertaking. Consequently, ECA first defined the relevant market, assessed the extent to which Toshiba Lifestyle is in a dominant position, and further analyzed whether its practices constituted a refusal to deal according to Article 8(b) of ECL.

39. From the point of view of the licensees, ECA assessed the existence of practical and objective substitutes to Toshiba’s licensed technology. The investigation revealed that the characteristics of Toshiba production technology for each of the products in question requires specific techniques customized for the production of only Toshiba’s electrical devices and differ from the technologies used in producing similar products from other brands. Hence, the licensees cannot switch their existing production lines to manufacture technology other than that of Toshiba. Therefore, Al-Araby would incur huge losses in terms of switching costs, in addition to the duration of the switching process that would take a minimum of two years. Al-Araby did not have a substitute to Toshiba technology.

40. Hence, the relevant product markets are: the market for selling Toshiba technology used in manufacturing full automatic washing machines; the market for selling Toshiba technology used in manufacturing half automatic washing machines; the market for selling Toshiba technology used in manufacturing refrigerators; the market for selling Toshiba technology used in manufacturing vacuum cleaners; and the market for selling Toshiba technology used in manufacturing electric fans.

41. The geographical scope of the market for selling Toshiba technology used in manufacturing electrical home appliances is the Arab Republic of Egypt.

42. Based on the IPRs covering Toshiba technology, no person has the right to supply Toshiba technology without being licensed by Toshiba Lifestyle. Accordingly, Toshiba Lifestyle possessed 100% of the market of selling Toshiba Technology used in manufacturing electrical home appliances. Therefore, Midea through its related party Toshiba Lifestyle, is in a dominant position in the relevant markets.

43. In principle, any private individual may freely enter or terminate agreements with other individuals in order to pursue its interests and needs, but within the limits set up by law. In this respect Article 8(b) of ECL exceptionally restricts this freedom by stating three conditions to assess if refusal to deal is an infringement to ECL. The first of which being the existence of a direct or indirect refusal to deal. ECA found direct refusal, as Midea and its related parties refused to renew the contracts and the licenses related to the production of refrigerators, washing machines, and vacuum cleaners. ECA also uncovered indirect refusal, as Midea and its related parties renewed the contract and the license of the fans for only one year, which did not match the nature of this industry.

44. The second condition is that the refusal has to lead to limiting the entry or expansion of a person in a market or their exit from the market. ECA based its assessment on the state of economic dependency of Al-Araby vis-à-vis Midea and its related parties in the markets

of production and supply of Toshiba refrigerators and washing machines in Egypt. The infringement of Article 8(b) of ECL was established by proving that Midea and its related parties abused this state of economic dependency by terminating relationships without giving Al-Araby sufficient time to reestablish its business plans. This abuse of Al-Araby's economic dependency would result in raising rivals' costs, as it would lead to a massive increase in Al-Araby's costs of producing and supplying the washing machines and refrigerators in Egypt. Accordingly, Midea and its related parties have committed a sudden termination of its relationship with el Araby abusively without giving prior notification to reestablish its business plans, such a termination would eventually limit Al-Araby's freedom to remain or expand in the aforementioned markets, which fulfil the requirements of the second condition of the application of Article 8(b) of ECL.

45. The third condition is the absence of an objective justification for the refusal that is related to non-fulfillment of a contractual obligation. ECA's investigation revealed that Al-Araby had always fulfilled its contractual obligations towards Midea and its related parties.

46. In addition, ECA applied economic indicators to illustrate Al-Araby's efficiency with regards to the production and supply of Toshiba home appliances. These indicators, collectively, proved that there is no economic objective justification for Midea and its related parties to terminate its contractual agreements with Al-Araby.

47. ECA concluded that Midea and its related parties abused Al-Araby's state of economic dependency by suddenly terminating the contracts and licenses concluded regarding the production and supply of certain Toshiba home appliances with no prior notice. Additionally, the termination of the agreements was not objectively justified. Therefore, Midea and its related parties breached Article 8(b) of ECL.

48. On 3 December 2020, ECA issued a decision against Midea, giving the company 15 days to comply. However, ECA did not receive any reply from Midea and its related parties that is deemed satisfactory; thus, it pressed criminal charges against Midea and its related parties in December 2020.

#### *Al Arabia for Cinema Production & Distribution*

49. On 7 March 2016, ECA received a complaint from several owners and tenants of movie theatres based in Egypt against Al Arabia for Cinema Production & Distribution ("ACPD"); a film production and distribution company. The complaint stated that ACPD imposed a fixed fee of up to EGP 80,000 in exchange of screening the claimant's films in movie theaters. In addition, they implemented a no refund policy even in cases when the screened movie did not generate any accountable revenues.

50. When ECA studied the nature of the relevant product market, it was found that the market does not operate based on a fixed fee scheme; it is based on a variable fee dependent on the films' generated revenues while taking into account possible variations among a film's number of views. In other words, the scheme prevalent on the market for film distribution is based on a certain percentage of the generated revenues of a film.

51. It was also found that movie theaters do not have an alternative route to purchase Egyptian films except through ACPD. In addition, Egyptian films have no substitute, where, for instance, foreign movies have a different taxation system and customers do not perceive foreign and Egyptian films as substitutes. As for the geographical market, it includes all Egyptian governorates, where all movie theater owners and tenants within Egypt have to deal with the company under investigation in order to obtain a film. Moreover, by studying the infringing companies' market share as a percentage of aggregate revenues from production and distribution across Egypt within the time interval (2012-2017), it was shown that it accounted for 40-50% of the total revenues over this time period.



52. By analyzing the practices of the infringing firm as per Article (8), it was shown that it has applied primary-line discrimination among the cinema owners and tenants, which tends to exclude some market players and impede fair competition among them.

53. On 3 March 2020, ECA issued a decision against the company for infringing Article 8(e), where it discriminated between sellers or buyers having similar contractual positions in terms of sale or purchase prices or in the terms of the transaction.

## 2.3. Mergers and acquisitions

### 2.3.1. Overview

54. ECL and its Executive Regulations dictate that the ECA must be notified ex post of any acquisition of assets, proprietary rights, usufruct, shares or establishment of unions, mergers, acquisitions, or joint management of two or more persons. Article 19 ECL clarifies that parties undergoing such transactions must notify ECA if their combined turnover in Egypt in the most recent financial year exceeds 100 million EGP. Article 44 of the Executive Regulations further clarifies that this notification must be submitted within 30 days of the transaction in question. Article 44 bis also points out that if a merger or union results in a legal entity, the new legal entity must submit a notification. Failure to notify may lead to a fine ranging between EGP 20,000 and EGP 500,000 (Article 22 bis). ECA received 65 notifications under Article 19 during the period of January 2020 to December 2020.

55. While the ECA has not reviewed ex ante notification in the past year, it can receive ex ante notifications or applications in relation to mergers considered as potentially anti-competitive contracts or agreements between parties in a horizontal relationship under Article 6(2) ECL.<sup>1</sup>

56. ECA also cooperates with the COMESA Competition Commission regarding Merger Notifications; Article 25(6) of the 2004 COMESA Competition Regulations states that the Commission may notify Member States subject to a merger and request their written opinions.

### 2.3.2. Statistics on number of mergers notified

57. In the period from January 2020 to December 2020, ECA received 65 ex post notifications according to Article 19 of ECL.

58. Regarding the requests from the COMESA Competition Commission, ECA reviewed 21 notifications and examined the potential impact of the mergers on the Egyptian market

## 3. The role of competition authorities in the formulation and implementation of other policies

59. ECA has carried out a number of advocacy measures relating to disseminating competition culture, and specifically working with government entities and providing insight and opinions regarding various state measures.

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<sup>1</sup> For more detail, see: [https://one.oecd.org/document/DAF/COMP/GF/WD\(2019\)22/en/pdf](https://one.oecd.org/document/DAF/COMP/GF/WD(2019)22/en/pdf)

### 3.1. Advocacy: Competition Culture

60. ECA has continued to place efforts in disseminating and spreading competition culture among different levels of the community.

#### *3.1.1. Workshop for members of the Medical Supplies Division in the Federation of Egyptian Industries*

61. The ECA conducted a workshop on September 2020 at the premises of the Federation of Egyptian Industries for the members of the Medical Supplies Division to enhance their understanding of ECL and ECA's policies. The workshop aimed to promote compliance with ECL and highlight the consequences of infringing ECL. In particular, ECA focused on the negative implications of collusion and exchange of sensitive information between competitors.

#### *3.1.2. Competition Authority Simulation*

62. The Competition Authority Simulation ("CAS") is an annual awareness simulation program organized by ECA since 2009, with the aim of developing an educational program to graduate students of the faculties of Economics and Law, and promoting competition culture in the Egyptian society.

63. In 2020, the CAS program was held from 26 January to 4 February. The first five days were designed to cover the main aspects of ECL and the methodologies of competition case analysis. During the last three days, students were divided into five teams to simulate a hypothetical case investigation. Each team included economics and law students. The teams competed to address the infringements in the hypothetical case.

64. On the final day, the teams presented their investigation outcomes to a judgement panel, which selected one winning team. The winning team was granted a one-month internship.

### 3.2. Advocacy: Government Entities

65. ECA has also continued in its advocacy efforts, primarily with government entities. This included being involved in several workshops and projects related to public procurement, small and medium enterprises, and the regulation of gas market activities.

#### *3.2.1. Campaign on Public Procurement*

66. In continuation of ECA's role in assuring the effectiveness of the criminal enforcement of bid rigging in 2019, that has encompassed cooperation with governmental bodies to modify the laws regulating public procurement. ECA launched a training program, titled "No Collusion in public procurement", that aims at educating public procurement officials in various administrative bodies on how to detect and tackle bid rigging in accordance with Public Procurement Law and Competition Law. This training program has reached administrative bodies all over the country, including governorates. For instance, ECA held a three-day workshop in February 2020 and in December 2020 in the governorates of Luxor and Qena. All employees working in public procurement departments in these governorates attended the workshop. This workshop has given public officials a better understanding of ECL and its objectives, as well as the tools to detect and prevent bid rigging.

### ***3.2.2. Joint Cooperation Protocol with the Micro, Small, and Medium Enterprise Development Agency***

67. In December 2020, ECA and the Micro, Small, and Medium Enterprise Development Agency agreed to establish a committee to draft a cooperation protocol. The primary objective of the cooperation protocol is to enhance the understanding of ECL and its objectives for public officials working in the agency and owners of small and medium enterprises. The cooperation protocol will encourage and promote the exchange of experience and information by organizing training programs for stakeholders.

### ***3.2.3. Joint Cooperation Protocol with Gas Regulatory Authority***

68. On March 2020, ECA and the Gas Regulatory Authority (“GazReg”) signed a cooperation protocol that encourages knowledge sharing and promotes the transfer of experience between the two entities. The cooperation protocol aims to strengthen the enforcement of ECL and the law for the Regulation of Gas Market Activities and the development of an integrated database regarding gas market activities and ensuring free market competition and an effective enforcement against anticompetitive practices in the sector.

69. The protocol provisions encompass organizing seminars and training programs to enhance the understanding of ECL, the law for the Regulation of Gas Market Activities, market principles and regulatory procedures. The protocol also calls for the development of mechanisms and systems that ensure effective communication of ECA and the GazReg with other stakeholders. In addition, it outlines the role of the ECA and GazReg in expressing their opinions on legislations, policies and decisions that may be harmful to competition and negatively influence the interests of market participants.

70. Accordingly, ECA and the GazReg agreed to formulate an executive committee to administer the provisions of the protocol under the joint leadership of both entities.

## **3.3. Advocacy with other stakeholders: International Relations**

71. ECA derives much of its experience and expertise from working with international bodies and other competition authorities around the world. The following section lays out ECA’s international relation efforts.

### ***3.3.1. ICN Merger Working Group: MENA Region***

72. The webinars 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. ECA served as the lead for the Middle East and North African (“MENA”) Region.

73. These webinars covered various topics relating to merger control during the COVID-19 pandemic. More specifically, it covered four modules: 1) practical aspects of merger assessment, 2) substantive merger assessment, 3) the failing firm defense, and 4) remedies.

74. ECA conducted two online webinars (in September and November, respectively), to which members of the MENA region were invited to discuss their experience in light of each of the topics. The second webinar, namely, was enhanced by presentations on each of the topics by global experts. In turn, agencies were given the chance to discuss their experience. Further, competition agencies in the MENA region were sent a survey that

tackled each of these topics, providing them with a way to summarize their general merger control regime, as well as explain how the regime was affected by the pandemic.

75. It is worth noting that as several countries 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.

76. Accordingly, the President of the ICN sent a letter to ECA expressing his appreciation for the efforts and noting that ECA and the ICN must carry on such collaborations.

### ***3.3.2. Joint Declaration of Intent with the Federal Ministry for Economic Affairs and Energy of Germany***

77. In 2019, ECA signed a bilateral institutional partnership with the German Federal Ministry for Economic Affairs and Energy, and the Federal German Competition Authority, which has contributed to strengthening the institutional and enforcement capacity of ECA through knowledge sharing and internal capacity building. The valuable and successful cooperation has incentivized both sides to renew the Joint Declaration of Intent in 2020 to establish a more extensive level of cooperation with hands-on case handling experience sharing, policy review and guidelines development, as well as a more practical on-the-job work coordination and knowledge sharing.

## **4. Resources of the ECA**

78. ECA increased its annual budget. This has aided in attracting qualified employees, and improving its infrastructure and increasing its resources that facilitate enforcement actions and administrative processes.

**Table 2. ECA's Budget in EGP and USD in the Fiscal Year of 2019/2020 and 2020/2021<sup>2</sup>**

<b>Fiscal year</b>	<b>Budget expenditure (EGP Million)</b>	<b>Budget expenditure in USD</b>
2019/2020	24,648,000	1,535,797
2020/2021	36,120,000	2,295,253

**Table 3. Number of ECA Employees in 2020**

<b>Number of employees/years</b>	<b>2020</b>
Technical staff (lawyers & economists)	38
Support staff	42
<b>Total staff combined</b>	<b>80</b>

<sup>2</sup> Please note that ECA's budget is determined according to the Egyptian fiscal year, which starts 1 July of each year and ends 30 June of the next year. Hence, the table indicates the annual budget for the year 2019/2020 (exchange rate at 31 December 2019) and the annual budget for 2020/2021, (exchange rate at 31 December 2020).

## 5. Summaries of or references to new reports and studies on competition policy issues

79. ECA submitted four contributions to several OECD events, namely three to the OECD Competition Commission held in June 2020 and December 2020 and one to the OECD Working Party meeting in June 2020.

80. ECA submitted two contributions to the 133<sup>rd</sup> OECD Competition Committee Meeting held from 10-16 June 2020. One contribution titled “Start-Ups, Killer Acquisitions and Merger Control” summarized the vision of ECA regarding the policy that would be implemented when dealing with startup acquisitions by dominant incumbents, in the context of the future Egyptian Merger Control Regime that is currently debated in the Parliament.<sup>3</sup> The other contribution titled “Consumer Data Rights and Competition” discussed the policy of ECA regarding the issues of consumer data protection and commodification in the context of competition law, in light of ECA’s recent cases in the digital economy sector. The contribution addressed consumer data as a source of market power, discussed the exploitation of consumer data rights, and suggested possible remedies.<sup>4</sup>

81. ECA also made a contribution titled “Criminalization of Cartels and Bid Rigging Conspiracies” to the 131<sup>st</sup> OECD Working Party Meeting on 9 June 2020. The contribution addressed how ECA is able to ensure effective criminal enforcement against cartels, specifically bid rigging. The contribution outlined the enforcement tools of the ECL, the substantive rules of bid rigging under ECL, and the additional Egyptian legislations that ensure enforcement against bid rigging and the promotion of competition policy in public procurement.<sup>5</sup>

82. Additionally, ECA submitted a contribution to the 134<sup>th</sup> OECD Competition Committee meeting on 1-3 December 2020 titled “The Role of Competition Policy in Promoting Economic Recovery”. The contribution summarized the policy and the measures that were undertaken by ECA to mitigate the implications of the COVID-19 pandemic on the Egyptian economy and to ensure the speedy recovery of the economy. It also focused on the institutional changes ECA implemented in order to ensure it could play its role effectively. The contribution outlined the enforcement related measures that were carried out by ECA.<sup>6</sup>

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<sup>3</sup> OECD, Start-Ups, Killer Acquisitions and Merger Control, Contribution from Egypt, 10-16 June 2020. Available at: [https://one.oecd.org/document/DAF/COMP/WD\(2020\)26/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2020)26/en/pdf)

<sup>4</sup> OECD, Consumer Data Rights and Competition, Contribution from Egypt, 10-16 June 2020. Available at: [https://one.oecd.org/document/DAF/COMP/WD\(2020\)43/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2020)43/en/pdf)

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