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**INTERACTIONS BETWEEN COMPETITION AUTHORITIES AND SECTOR REGULATORS –  
Contribution from Egypt**

**- Session III -**

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This contribution is submitted by Egypt under Session III of the Global Forum on Competition to be held on 1-2 December 2022.

More documentation related to this discussion can be found at: [oe.cd/icar](https://oe.cd/icar).

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## *Interactions between Competition Authorities and Sector Regulators*

### **- Contribution from Egypt -**

#### **1. Introduction**

1. Sector regulators and competition authorities have different mandates and responsibilities. Sectoral regulation primarily focuses on eliminating or limiting risks in a specific sector by putting in place a regulatory structure. A regulatory system often consists of a set of legal instruments and rules (laws, contracts, statutes, etc.), as well as procedures and processes for obtaining required approvals, licenses and permits, etc. On the other hand, competition authorities aim to protect competition by preventing anticompetitive practices throughout all sectors in order to fully achieve the standard, well known, benefits of competition; lower prices, wider choices and higher quality<sup>1</sup>.
2. The objectives of sector regulators and competition authorities differ, they often undertake different measures that may affect market structure; however, their mandate can overlap in many respects.
3. Interaction between competition authorities and sector regulators refers to the forms of cooperation and coordination that they implement. Interaction takes place when competition authorities enforce competition law, advocate in certain matters, or simply cooperate with sector regulators through formal or informal agreements. Ideally, cooperation should result in ensuring that competition authorities have the technical knowledge regarding different sectors and that sector regulators act through a pro-competitive lens.
4. The Egyptian Competition Authority (“ECA”) has the authority to enforce competition law and advocate on pro-competitive state measures in all sectors, including those with a sector regulator, except for the banking sector. Article 11/10 of the Egyptian Competition Law “ECL”, stipulates that the ECA shall “*coordinate with sectoral regulators on matters of common concern (...)*”.
- 5.
6. ECA has adopted a new strategy for 2021 – 2025, where its two main pillars are effective enforcement of ECL and promoting pro-competitive policies and regulations. In order to guarantee the effectiveness of competition law enforcement and advocacy in regulated sectors, ECA adopted different co-operation mechanisms including formal co-operation: enhancing existing protocols, signing new protocols, participating as board members in regulatory authorities and informal co-operation.

#### **2. Cooperation through Formal Agreements**

7. ECA has signed several protocols and MoUs with different sector regulators, in order to define their overlapping jurisdictions and to determine a productive framework of cooperation. The following section lists several MoUs and protocols.

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<sup>1</sup> OECD, Competition Policy Roundtable Background Note, “*Interactions Between Competition Authorities and Sector Regulators*”, (2022), p.7.

## 2.1. Telecommunication Sector

8. In the telecommunication sector, in 2011, ECA signed an MoU with the National Telecom Regulatory Authority (“NTRA”), who is responsible for regulating the telecommunication sector pursuant to Law No. 10 of 2003. According to the newly adopted strategy, ECA and NTRA signed an addendum to the MoU in 2021, in order to further the co-operation between both entities.

9. The purpose of this MoU and its addendum is to enhance free competition mechanisms in the telecommunication sector and to ensure the prevention of any anticompetitive practices that would have a negative effect on the telecommunication services provided, through the exchange of expertise between both authorities.

10. In line with the addendum, a joint executive committee is established between ECA and NTRA with the purpose of setting a framework for the execution of the protocol. The main role of the committee is to reinforce competition in the telecom sector by combatting anti-competitive practices, as well as preventing any legislations, policies or decisions that would restrict competition in this sector.

11. ECA and NTRA are currently drafting joint guidelines to address competition concerns in the telecom sector regarding service providers in gated communities.

## 2.2. Gas Sector

12. Since the adoption of Law No. 196 of 2017, that established the Gas Regulatory Authority (“GASREG”), ECA has been a board member to ensure the adoption of necessary rules in regulating the gas market in a manner that strengthens the freedom of competition. ECA has enhanced its collaboration with GASREG by signing a cooperation protocol, March 2020. The purpose of this protocol is to exchange and transfer expertise, as well as co-operate on enforcing competition provisions.

13. According to this protocol, the authorities are to establish mechanisms to issue their opinions on legislations, decisions and policies that would affect competition in the market. They are also to create a system to monitor market players and to take the necessary measures in case of any breach to the provisions of ECL. Finally, a joint executive committee was formed between ECA and GASREG to implement the objectives of the protocol.

14. ECA organized a workshop in August 2021, for the employees of GASREG, to enhance competition law and policy in the gas sector. The workshop involved discussions on the provisions of the ECL; such as horizontal and vertical agreements, abuse of dominance, and anti-competitive economic concentration.

## 2.3. Electricity Sector

15. The Egyptian Electric Utility and Consumer Protection Regulatory Agency (EgyptERA) was established in 1997 with the purpose of monitoring and regulating all aspects related to electricity production, transmission, distribution and consumption, in a way that ensures its availability and efficiency within the framework of free competition. The new electricity law no. 87 of 2015 has amended the institutional framework of EgyptERA to include ECA on its board of directors.

This has ensured that ECA is able to provide its opinion on all matters related to competition in the electricity sector, through promoting pro-competitive legislations and decisions.

## 2.4. Media Sector

16. Supreme council for media regulation was established under law no. 180 of 2018, which is responsible for regulating and ensuring the protection of freedom of the press and media within the framework of free competition.

17. ECA has been a member of this Council since its establishment, with the purpose of ensuring that market players in the fields of press and media do not prevent, restrict or harm competition. In addition to ensuring competitive neutrality and eliminating barriers to entry.

## 2.5. Medium, Small and Micro Enterprise Development Agency (MSMEDA)

18. ECA and MSMEDA signed a cooperation protocol in 2021. This protocol primarily aims to improve the policies that enhance free competition and combat anti-competitive practices with regards to small, medium, and micro enterprises.

19. The protocol's primary goals include: (1) co-operation between the authorities on decisions related to competition regarding SME's, in order to ensure compliance with ECL, (2) Organizing joint workshops to promote competition law to SME's , and (3) raising awareness of SME's to report instances of potential anti-competitive practices.

20. ECA is currently organizing a workshop with MSMEDA for small and medium enterprises in the Egyptian market to raise competition law awareness and to motivate them to comply with ECL and report any anticompetitive practices when in doubt.

## 3. Informal Cooperation

21. ECA also cooperated with sector regulators without concluding a formal agreement. This has led to the effectiveness of ECA's role, specifically regarding merger control (in the health sector), and bid-rigging.

### 3.1. Healthcare Sector

22. ECA has co-operated with the Ministry of Health (MOHP) and the Egyptian Drug Authority (EDA), in accordance with its strategy given the importance of the healthcare sector for the economy and Egyptian citizens. Both authorities have the jurisdiction to review all transactions in the healthcare sector<sup>2</sup>.

23. Following this cooperation, the MOHP as well as EDA request ECA's opinion regarding economic concentrations prior to issuing their own decisions. As such, these entities currently notify ECA with all economic concentrations in the healthcare sector. This is to ensure competitiveness in the healthcare sector for the well-being of the Egyptian consumer.

### 3.2. Public Procurement Sector

24. As a result of ECA's fruitful cooperation with governmental entities, the new Public Procurement Law, which came into force in 2018, explicitly states that one of its objectives is free competition, fairness, and equal opportunity. According to Article 33 of the Public Procurement Law, it is prohibited for the bidder and its related parties (i.e. a single economic entity) to submit

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<sup>2</sup> MOHP has the jurisdiction under Article 2 of the MOHP decision no. 497 of 2014, and Article 2 of the EDA Decision No. 99 of 2021

more than one bid in the same process. In addition, the relevant public entities are obliged to notify ECA if any anti-competitive practices prohibited by ECL, including bid rigging, occur<sup>3</sup>.

25. ECA and the General Authority for Government Services (GAGS) have issued a joint circular regarding the application of competition related provisions stated by the Public Procurement law. The objective of this circular was to ensure the design of competitive bids. The aim is to protect startups and new investors that may be harmed by their inability to compete as a result of collusive practices by competitors. ECA also ensures that competitive neutrality principles are followed in all bidding processes, in order to guarantee the protection of SMEs.

#### 4. Conclusion

26. Competition authorities and sector regulators have distinct roles and responsibilities. Sector regulators primarily aim to establish a regulatory framework in a particular industry. The goal of competition authorities, on the other hand, is to safeguard competition by prohibiting anticompetitive practices across all industries.

27. There are several types of collaborations that competition authorities and sector regulators implement in order to ensure the well-functioning of the market. Competition authorities intervene to enforce the law, promote pro-competitive state measures through collaborating with industry regulators

28. In Egypt, according to ECA's strategy for 2021 – 2025, ECA has made a number of new protocols and MoUs and enhanced existing protocols with sector regulators, to determine their overlapping jurisdictions as well as to achieve a fruitful cooperation. The most important protocols were in the telecommunications sector and the gas sector.

29. Also, ECA is a representative in the board of several sector regulators, namely; Electricity sector, Media Sector and the Gas sector. This is to ensure that competition principles are taken into consideration in all decisions issued by these regulators.

30. ECA is also interacting with sector regulators in the health sector as of August 2021, MOHP and EDA has been requesting ECA to issue its opinion on economic concentrations.

31. In the public procurement sector, ECA has issued a joint circular with GAGS in order to promote a competitive bidding process and to ensure a non-collusive environment in the public sector.

32. In order for cooperation's to be effective, competition authorities and sector regulators must follow a constructive framework. The cooperation will have a considerable positive influence on competition enforcement and regulations, which will lead to enhancing the competitiveness of certain industries.

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<sup>3</sup> OECD, Criminalisation of cartels and bid rigging conspiracies (Contribution of Egypt), Policy roundtables, 9 June 2020, p. 6-7.