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Competition Law Enforcement in Informal Markets – Contribution from the Kingdom of Saudi Arabia

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Competition Law Enforcement in Informal Markets

- Contribution from the Kingdom of Saudi Arabia-

1. Introduction

1. Informality is a global phenomenon with implications for employment, productivity, fiscal policy, consumer protection, and competition. The International Labour Organization (ILO) and OECD both note that informal activity can account for more than half of global employment and a very large share of micro- enterprises.¹ While informality is often associated with lower productivity and reduced regulatory oversight, its interaction with competition policy is nuanced. The OECD similarly emphasizes that informality is structurally embedded in many economies and requires coordinated regulatory reforms, not isolated enforcement actions.²

2. In Saudi Arabia, the informal economy is smaller than in many economies in the Middle East and North Africa, but still non- negligible. Studies by the IMF estimate a long-run average of approximately 16–17% of GDP.³

3. Saudi Arabia’s Vision 2030 agenda- through the National Transformation Program and a wide range of regulatory reforms- has sought to reduce the administrative burdens associated with formalization, improve the ease of doing business, and promote competitive neutrality. These reforms include streamlining of licensing procedures, digitalization of government services, simplification of business registration, and improved coordination among regulatory authorities.⁴

4. The General Authority for Competition (GAC) plays an important complementary role within this transformation. Although GAC does not regulate licensing nor directly address illegal unlicensed activity (the remit of other authorities), it engages in regulatory advocacy, market monitoring, and enforcement when formal firms violate competition law.

2. Defining Informal Markets for Competition Policy Purposes

5. There is no universal legal definition of “informality” within competition law frameworks. For the purpose of this report, and aligned with OECD methodology, GAC adopts a functional, narrow definition:

6. An “informal market” is a market in which at least one supplier operates without formal registration or licensing, while others operate with full regulatory compliance.

¹ International Labour Office (ILO), Decent Work and the Informal Economy, Report VI (Geneva: ILO, 2002).

² OECD, Informality and Globalisation: In Search of a New Social Contract (Paris: OECD Publishing, 2023).

³ Medina & Schneider, Shadow Economies Around the World (IMF, 2018).

⁴ World Bank, The Long Shadow of Informality (Washington, DC: World Bank, 2021).

7. This definition is intended solely for analytical use and excludes:
1. Trade in illegal goods, which falls outside the scope of competition policy;⁵
 2. Sector- specific non- compliance unrelated to licensing or registration;
 3. Purely informal markets composed exclusively of unregistered operators, where traditional competition tools have limited relevance.
8. The purpose of this definition is to focus the analysis on mixed markets- where formal and informal suppliers coexist- and where asymmetric compliance costs may affect competitive dynamics.

2.1. Economic Relevance

9. International data indicate that high licensing costs and administrative burdens are correlated with higher informality.⁶ Simplified and predictable entry procedures, by contrast, are associated with higher firm creation and lower informal activity.⁷
10. Saudi Arabia’s reforms, particularly since 2016, have significantly reduced the burden of formalization, making informal- sector pressures less acute in several industries.

3. Competition Challenges Arising from Informal Markets

3.1. Cost Asymmetries Informal operators often avoid:

- Licensing fees
 - Taxes or municipal obligations
 - Product- quality or safety standards
 - Vehicle or equipment compliance requirements
 - Financial reporting obligations
11. Formal firms incur all these costs, creating structural cost asymmetries that distort competitive neutrality.⁸

3.2. Market Fragmentation and Entry Distortions

12. High or complex entry requirements can push new entrants to operate informally, fragmenting markets and preventing the growth of efficient formal businesses. International experience confirms that informality thrives where compliance is costly or slow.⁹

⁵ OECD, “Competition Policy and the Informal Economy,” DAF/COMP(2009)8 (Paris: OECD Publishing, 2009).

⁶ World Bank, Doing Business 2020 (Washington, DC: World Bank, 2020).

⁷ Ibid.

⁸ OECD, DAF/COMP(2009)8.

⁹ World Bank, The Long Shadow of Informality (2021).

3.3. Reduced Effectiveness of Traditional Enforcement Tools Informal operators typically:

- Are small or micro- scale
- Do not maintain documentation
- Have no stable or identifiable business premises
- Lack meaningful turnover levels
- Are outside merger- notification thresholds
- Are not capable of sustained dominance

13. Therefore, classic tools like cartel enforcement, abuse- of- dominance cases, and merger control are rarely applicable to informal actors.¹⁰

4. Enforcement Limitations and Practical Constraints

14. Competition law applies to informal operators in principle, but enforcement is constrained in practice due to:

1. Identification (Who is the undertaking?)
2. Evidentiary challenges
3. Limited deterrence due to lack of assets
4. Mobility and seasonality
5. Threshold failures (no dominance, no appreciable effect)

15. The OECD emphasizes that competition authorities should avoid viewing informality as an enforcement target in itself. Instead, they should focus on understanding how informality shapes market dynamics.¹¹

5. Policy Responses in Saudi Arabia

5.1. Vision 2030 Licensing and Regulatory Simplification

16. Saudi Arabia undertook major reforms that reduced:

- Time to register a business: from 64 days to about 15 days;¹²
- Registration costs: reduced by over 80%;¹³

¹⁰ OECD, Challenges and Opportunities in Competition Enforcement (Paris: OECD Publishing, 2022).

¹¹ OECD. Informality and Globalisation: In Search of a New Social Contract. Paris: OECD Publishing, 2023.

¹² OECD, SME and Entrepreneurship Policy Review: Saudi Arabia 2023 (Paris: OECD Publishing, 2023).

¹³ World Bank, Doing Business 2020.

- Administrative burdens: through digital one- stop platforms like the Saudi Business Center.
17. In 2023 alone, more than 326,000 commercial registrations were issued, bringing the total number of active registrations close to 1.4 million.¹⁴
18. These reforms significantly improve competitive neutrality by narrowing the cost gap between formal and informal operators.

5.2. Competition Advocacy

19. GAC engages in advocacy work to ensure that:
- Licensing requirements are proportionate
 - Regulations do not unnecessarily restrict entry
 - Policy design supports competitive neutrality
 - Proposed rules undergo competition- impact assessment (where relevant)
20. This is consistent with OECD recommendations that competition authorities support structural reforms rather than punitive campaigns against informal actors.¹⁵

5.3. Institutional Cooperation

21. GAC cooperates with:
- Ministry of Commerce
 - Sector regulators
 - Municipal authorities
 - Anti- concealment initiatives
 - Market- inspection bodies
22. The objective is not to enforce licensing regimes, but to ensure that regulatory frameworks do not unintentionally distort competition.

5.4. Digital Monitoring Tools

23. Saudi Arabia is expanding the use of:
- E- invoicing
 - Price- monitoring algorithms
 - Digital reporting systems for fuel, food, and water markets
 - Online consumer- protection portals
 - Data- sharing with sectoral regulators

¹⁴ Ministry of Commerce (Saudi Arabia), Commercial Registrations Statistical Bulletin 2024.

¹⁵ OECD, Competition Policy in the Middle East and North Africa (2022).

24. Such tools increase the visibility of informal activity and support proportionate enforcement.

5.5. Targeted Exemptions (Article 8 of the Competition Law)

25. Article 8 allows exemptions for cooperation agreements that enhance efficiency and do not substantially restrict competition or harm consumers.

26. In markets where formal suppliers face persistent cost asymmetries due to informality, carefully designed exemptions can:

- Enable shared logistics
- Reduce compliance costs for small formal firms
- Support joint quality- improvement programs
- Strengthen supply continuity
- Increase incentives for formalization
- Enhance overall market efficiency¹⁶

27. This approach complements rather than replaces enforcement and aligns with OECD guidance on limited, efficiency- enhancing cooperation.

6. Case Example: Water- Supply Market in a Southern Region

6.1. Illustrative Case Example: Price Coordination in a Market Affected by Informal Operators

28. In a southern region of Saudi Arabia, the competition authority investigated concerns related to price coordination among licensed water suppliers. Initial evidence suggested a traditional horizontal infringement. However, market analysis revealed the presence of a substantial informal segment consisting of unlicensed water- delivery operators.

29. Because informal operators did not bear compliance or licensing costs, they were able to offer significantly lower prices. This persistent cost asymmetry generated market pressure that contributed to the incentive among some licensed suppliers to align prices.

30. The authority applied a proportionate enforcement response but recognized that the underlying issue was structural. The case highlighted the need for:

- Licensing simplification
- Better monitoring of market entry
- Digital tools for market transparency
- Policies supporting formalization
- Clear guidance to prevent recurrence

¹⁶ OECD, Horizontal Co-operation Agreements (Paris: OECD Publishing, 2023).

31. This illustrates how informal- sector dynamics can influence competition outcomes and why structural and regulatory responses are often essential alongside enforcement actions.

7. Key Findings and Lessons

6. Informality can indirectly shape incentives for anti- competitive behaviour.
7. Classical enforcement tools have limited applicability to informal actors.
8. Structural reforms- licensing simplification, digitalization, clear regulatory design- are essential.
9. Targeted exemptions can mitigate cost asymmetries among formal firms.
10. Institutional cooperation strengthens the effectiveness of competition policy.

8. Conclusion

32. Informal markets are a structural reality that shape competition dynamics in nuanced ways. Saudi Arabia's experience shows that while direct enforcement against informal actors is limited, competition authorities can contribute meaningfully through regulatory advocacy, market analysis, targeted exemptions, and cooperation with other agencies.

33. Vision 2030 reforms play a central role in reducing the incentives for informality, strengthening competitive neutrality, and ensuring that markets function more efficiently and transparently.

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