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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Working Party No. 2 on Competition and Regulation

**Assessing and Communicating the Benefits of Competition Interventions – Note by
Israel**

12 June 2023

This document reproduces a written contribution from Israel submitted for Item 6 of the 75th meeting of Working Party 2 on 12 June 2023.

More documents related to this discussion can be found at
<https://www.oecd.org/competition/assessing-and-communicating-the-benefits-of-competition-interventions.htm>

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Israel

1. Foreword

1. The Israel Competition Authority (ICA) receives wide attention not only from professionals who directly engage with it, but also from decision makers and the general public. The following is a brief description of the ICA's media strategy and of the challenges it faces in communicating with different target audiences, and of two media campaigns aimed at promoting compliance with competition law.

2. General Overview: Target Audiences, Challenges and Tools

2. Explaining the work of the ICA is a challenge in several regards: firstly, in defining the target audience; secondly in simplifying the message; and finally, in terms of achieving concrete results, whether increasing compliance with the law or encouraging competition in the various sectors of the economy.

3. When defining the target audience, we distinguish between decision makers (government, parliament); regulated bodies (business owners), advisors and legal counsel (lawyers and economists); and finally, the general public, each of which usually takes interest in different aspects of our work.

4. Decision makers: The ICA is engaged in an ongoing dialogue with decisions makers, such as government ministries, sector regulators and the Knesset (parliament). This includes formal and informal consultations on competition issues, collaborating on promoting procompetitive legislation and more.

5. Regulated bodies and their advisors and legal counsel: This target audience is primarily interested in the ICA's position on the interpretation of competition law, its enforcement priorities and their own legal obligations.

6. The general public: This target audience has a general interest in competition and its effect on consumers. Members of the public are often familiar with news items that are reported in the media, such as important mergers or major enforcement cases, but in general are less acquainted with our day-to-day activity.

7. When we try to explain what competition law is, what we focus on when conducting competitive analysis, what type of conduct we target through enforcement action, etc., we often find it complicated to accurately elucidate the concepts we routinely use without getting bogged down in details. Despite our efforts, we are not always successful in accurately passing our message through the filter of the press. For example, it is hard to convince the public that competition law cannot provide "magic bullet" solutions to the issues of price inflation and the rising cost of living, which are naturally in the focus in Israel and around the world.

8. In order to make information on the ICA's activities clearer and more accessible to the public, the ICA uses various media, such as press releases and official publications, lectures at professional and academic conferences, interviews with media outlets, public appearances in various fora, and roundtables with the business sector, the third sector, the public and the press. In addition, the ICA is active on social media through posts and videos, where we use the simplest and most accessible language possible, and present complex issues with graphs and infographics.

9. In recent years another tool that has become available is the podcast, with the ICA's employees and executives appearing as guests on leading podcasts in order to explain the ICA's work.

3. Examples of Media Awareness Campaigns

10. From time to time, the ICA launches media campaigns to raise awareness of a certain issue. The following examples are aimed at promoting compliance.

3.1. Trade Associations' Price Lists

11. One campaign was aimed at members of trade associations, and was designed to promote compliance with the rules governing their activities.

12. Concerns that trade associations and their members lacked clear understanding of said rules arose on the background of a criminal case the ICA brought against the chairman of the Taxi Drivers' Association.

13. Very briefly, in May 2017, the Ministry of Transportation issued a tender for taxi services from Ben Gurion Airport (Israel's main airport located near Tel Aviv). The chairman of the Taxi Drivers' Association demanded taxi drivers refuse to contract with the winners of the tender who had committed to offer significant fare discounts to passengers. He did this in every possible way, from direct conversations and correspondence with taxi drivers and taxi stations, to public statements and television and radio interviews in which he called on union members to boycott the tender. And his efforts were successful –the Ministry of Transportation's tender failed.

14. This call by the chairman of the association violates Israeli competition law, which, among other things, stipulates that a business association is forbidden from recommending a "course of action" to its members, where such an act may prevent or reduce competition. A criminal charge was filed against the chairman of the union and he was ultimately sentenced to community service and a substantial fine.

15. Similar complaints lodged with the ICA indicated that other associations were trying to set price lists for their members' services. The ICA therefore decided to launch an extensive campaign published on social networks and leading websites to explain the unequivocal prohibition against business associations recommending price lists for their members.



Source: <https://fb.watch/kFTToB5kJ5n/>

3.2. Gun Jumping and Illegally Consummated Mergers

16. In the past year, the ICA dealt with several cases of "gun-jumping" and illegally consummated mergers.

17. When a merger meets notification thresholds, the parties must "stand-still", and refrain from implementing the transaction until the Director General approves the merger, or the Competition Tribunal reverses the decision to oppose it.

18. The rationale underlying the stand-still obligation is twofold: firstly, to prevent the harm to competition that may be caused by the merger going through in the period before the final decision; and secondly, the difficulty in separating companies after the merger has taken place or begun to take place ("unscrambling the eggs"). Absent the stand-still obligation, the *ex-ante* merger control could become meaningless and we would be left only with the inadequate *post facto* attempts to fix structural problems and administrative or criminal enforcement measures.

19. There is a wide variety of practices that may violate the stand-still obligation: executing a merger without reporting it at all (for example if the parties are mistaken about the duty to report or if they wish to avoid an objection decision); transferring shares without consolidating the actual activity; transferring the consideration to the seller; involvement of the buyer in the seller's daily operations; and more.

20. In the past year, the ICA has dealt with various types of suspicious conduct merging firms engaged in, sometimes after having reported the merger (but before a final decision was issued). The ICA has taken enforcement action against several firms engaged in such conduct, and is considering doing so against others. Among the types of conduct the ICA looked into are an acquiring party's involvement in choosing the CEO of the acquired company; the creation of a WhatsApp group for managers of the acquirer and the acquired company; a representative of the acquirer participation in the acquired company's board meetings; an acquired company having shared sensitive commercial information with the acquirer, who is a competitor; an acquirer imposing contractual limitations on the acquired business's conduct; an acquirer's involvement in an acquired company's contracts with

suppliers, and more. In parallel to its enforcement activity, and in light of the disturbing trend of apparent violations of the stand-still obligation, the ICA realized that it was necessary to raise awareness to the rules. We therefore created a video (<https://fb.watch/kFTBknAc09/>) that was distributed both through social networks and through the ICA website. The issue was recently discussed in an academic conference, and we intend to encourage discussion of this topic in additional fora.



4. Conclusion

21. As noted, the ICA strives to tailor its messaging to its target audience, and employs a variety of media to increase its overall reach. Both campaigns discussed above illustrate the role the ICA's media strategy plays in its endeavor to ensure compliance with competition law.