International Academic Institute for Science and Technology

International Academic Journal of Social Sciences Vol. 4, No. 2, 2017, pp. 33-37.

ISSN 2454-3918

International Academic Journal of Social Sciences

www.iaiest.com

The Basics and Objectives of Competition Law in Iran's Legal System

Behzad Ghorbany Darabad

PhD of Public Law, Employee OF University of Mohaghegh Ardabili, Ardabili, Iran

Abstract

Competition law is one of the most important and influential areas of public economic rights; competition law is a set of rules and regulations aimed at maintaining and facilitating competition in the market and counteracting the emergence of anti-competitive practices. Due to its relationship with the economy, competition law regulates healthy competition between production and distribution sectors and increases economic efficiency and, ultimately, welfare. In this research, the foundations and objectives of the law of competition in the legal system of Iran are examined.

Keyword: Competition Law, Objectives, Prohibitions and Disadvantages of Competition Law, Iranian Law

Introduction:

Competition and words derived from this concept, such as competitiveness or competitive advantage,The subject of many discussions is about development and policy development. FromThe 80s later, the desire to promote private sector participation and shrinking the scope of activity the government's economy grew. In many developed countries, services such as water, electricity, gas,Public transport, telecommunications, railways, etc. from the public sector to the private sector (Cook, 2004)

Today, all governments are aware of the need for government intervention to maintain market competition and plan accordingly, although there are differences of opinion on how much and how much of this interference. More competition is being made in the economic debate. There are always a lot of buyers and sellers in the market for similar products, since merchants and service providers are more profitable, and non-competition leads to monopoly and virtually total value and service is more than real value.In recent years, governments provide a huge part of goods and services, in fact, sellers are seeking maximum profits in selling goods and services. Maintaining the rights of the public sector requires the establishment of laws and regulations. This research, while explaining the fundamentals of competition law, examines the objectives, prohibitions and restrictions of competition law in Iran's legal system.

Competition law:
Competition law is a branch of economic rights that regulates the government's economic behavior and is the most important means of social monitoring of the economy. (Ghamami,SeyyedMohammadMehdi,Esmaeili,Mohsen,2010) Competition law is a set of mandatory rules and regulations that have a general duty, aiming at maintaining a free competition in the market and preventing anti-competitive practices based on fair principles and reducing monopolies. One area in this regard is "Competition Law"Important and influential public rights Economic Whose rules have a supportive approach to free economics and not inIn front of it (Bagheri and Falahzadeh, 2009) In fact, the rights to compete asOne of the essential and effective factors in the success of free market economics systems is consideredEffectiveness exists between the actors in the field of production and distribution, healthy competitionEconomic welfare increases and general welfare increases. (Sadeghi Moghadam and Ghaffari Farsani,2011)
Competition law by explaining a set of principles and rules about behavior and communicationAgreements between firms have prevented the diversion of the structure of the market to monopoly and it has improvedIts function is, in fact, the most important tool of competitive policy, in orderCompensation for the defects of the form and the nature of the rules of private law as the most generalThe fairest means of overseeing the economy have come in this area to increase prosperityConsumers should increase the efficiency of resource allocation. (Mostafa Mansourian,2015)

Basis of Competition Law in Iran:
Thinking of curbing anti-competitive practices and reducing monopolies Although it has a long history, the idea of maintaining competition in the market and supporting it is institutionalized by the results of a new approach. Due to the relationship of competition with the economy, competition law is associated with economic theories. In the Rhine, three theories have been raised in relation to competition law (Bagheri, Mahmoud, Fallahzadeh, Ali Mohammad: 2009)
In current Iranian law, the issue of the competitiveness of economic activities has been raised.Competition rights are important to the integrity and rights of consumers, and they facilitate competition and prevent anti-competitive practices, monopoly prohibition, economic efficiency and eventually prosperity.

Constitution: The constitution, as the image of the political, social and economic values of people, sets out the framework for the economic legal system. Article 44 establishes the fundamental foundations of the Islamic Republic's economic system for the state and cooperative sector, and considers the private sector a complementary field for state-owned and cooperative economic activities.From the point of view of the introduction of the constitution, the economy and the legal rules of the economy are the means and it can not be expected from the expected means, except for better performance in achieving the goal. On this basis, provision of equal and appropriate facilities and the satisfaction of the necessary needs is the responsibility of the state. In general, although the constitution does not explicitly refer to competition law, but there are provisions in relation to monopoly coping, in the third principle, the Government of the Islamic Republic of Iran is required to eliminate unfair discrimination and provide fair conditions for all. Also, the monopoly principle is prohibited in the sense that it implies political and economic arenas. The principle of disgrace is recognized as the most important argument of classical liberals in justifying the rights to compete in the constitution of the Islamic Republic. Even justification for the prohibition of monopoly and the necessity of fair competition is also based on Article 40: No one May exercise their right to cause harm to or against public interests.

Other laws and regulations:

The subject of the competitiveness of economic activities for the first time in the Law on the Third Economic, Social,Cultural and Development Program was adopted by the Parliament in 2000. after the expiration of the Third Plan Law, the Law of the Fourth Five-Year Plan was adopted in 2004. The third chapter of this law, titled Economic Competitiveness, addresses the subject of abolition of monopolies and the competitiveness of the national economy in six articles and obliges the government to formulate a bill to facilitate competition and control and prevent the formation of monopolies. Based on the rules of competition law in Iran.
The law on the reform of materials of the law of the Fourth Plan of Economic, Social and Cultural Development of the Islamic Republic of Iran and the implementation of the general policies of Article 44 of the Constitution, which was held at the public meeting in 2008 Islamic Consultative Assembly The ratification was approved by the Expediency Council on 25May, 2008, and it was submitted by the Islamic Consultative Assembly in a letter dated 2008.
The Governmental Law of Taurages,The Penal Code for Disrupters in the Economic System, E-commerce law. The Law on the Protection of Consumer Rights, Competition laws have been approved. Competition law is based on the acceptance of the necessity of government intervention in the market to prevent market failure due to antitrust enforcement as well as to increase production capacity and raise the level of product quality against other competitors and thus more economic efficiency. In addition to the law in the State Service Law, the Tender Law, the Code of Conduct for implementing the general policy of Article 44 also emphasizes competitiveness.

Objectives, prohibitions and restrictions of competition rights in Iran
The Objectives of competition law in Iran:
According to Chapter 9 of the Law on the Modification of Materials from the Law of the Fourth Scope of the Development and Implementation of Article 44 of the Constitution, the objectives of the competition law in Iran are:
1- Coping and removing barriers to effective competition in the production and exchange of goods services
2. Preventing the use of anti-competitive practices, including hoarding and bargaining, discriminatory and offensive pricing, discriminatory trading conditions, misleading statements, mandatory sale or purchase, supply of non-standard goods or services, intervention in internal affairs, and Or counterparty dealings, abuse of dominant position, unauthorized access and abuse of information and position of persons
3. Facilitate free and fair competition
4. Improving the business environment and moving the initiative of employers
5- Paving the way for the growth of national economy
6- Guaranteeing the interests of consumers

Prohibitions and restrictions on competition law in Iran
According to Chapter 9 of the Law on the Reform of Materials, the Law on the Fourth Scope of the Development and Implementation of Article 44 of the Constitution prohibits competition law:
1. Prohibition of merging and banning interconnected management
2. Prohibition of restrictions on the production, sale and sale.
3. Prohibition of misuse of dominant position
4. Prohibition of discrimination in the execution of a contract
5. Prohibition of agreements, contracts and decisions that have an adverse effect on competition.
6. Prohibition of the state to grant aid that is free of competition
7. Determining and fixing or changing prices

8. Determining the terms of sale of goods or services, or the principles and conditions of payment of the price or related fees
9. Limiting production, transportation, or sale of goods or services
10. Restrictions on the establishment of new institutions or the development of facilities and installation of equipment for the production of goods or services

Exemptions and Exceptions Competition Law in Iran

In accordance with the law on amending the law of the Fourth Plan and implementing the policies of Article 44 of the Constitution, the exemptions and exceptions to the competition law are:
1. In cases where it is not possible to prevent the cessation of the activities of firms and companies or their access to technical knowledge except through integration.
2. Ownership of shares or capital by a broker or broker who is engaged in the purchase and sale of securities, while the right to vote to distort competition is not abused.
3. Owning or studying mortgage rights in relation to the shares and capital of companies and firms active in the market of a commodity or a service provided that they do not lead to the exercise of voting rights in such companies or firms.
4. In the event that the stock or capital is acquired under an emergency, provided that within a month from the date of the acquisition, the subject is notifiable to the Contest Council and will not continue to be acquired beyond the time that the Council so decides.
5. Guild members who are subject to the rules of the guild system who provide minor supplies (retailing) of goods or services,

Conclusion:

Of course, in economics theory, competition is not the goal, but rather a mechanism for the purpose Organizing economic activities to achieve specific goals and requires regulations.In the legal system of Iran, the facilitation of competition and the prohibition of monopoly is the title of Chapter IX of the Law on the Implementation of General Principles of Principle (44) of the Constitution, which, within the meaning of Articles 43 to 84 of that law, exceeds (42) In fact, an essential element of the law of implementing the general principles of constitution (44) is to explain the acts and procedures of antitrust, to restrict and regulate monopolies in competition, and this rule in this regard All economic actors including natural and legal persons in the private, cooperative, governmental and non-governmental sectors are subject to its provisions and decrees, and these persons are required to comply with the duties of this chapter of the law.
Abusive trading practices, discriminatory pricing, discriminatory trading conditions, aggressive pricing, misleading statements, mandatory sale or purchase, supply of non-standard goods or services, intervention in internal affairs, or corporate or rival company transactions, abuse From the dominant economic situation, limiting the resale price and, ultimately, obtaining unauthorized access and abuse of information and position of the individuals, all of which are in some forms a disruptive of the competition. In the law, various types of proprietary practices whose effects and outcomes are Disruptions to competition are counted in a comprehensive manner, and lists and examples The above mentioned is precisely and extensively explained.

References:

Bagheri Mahmood, Fallahzadeh Ali Mohammad, (2009) Basic Principles of Public Law Competition Law, A View of the Constitution of the Islamic Republic of Iran, Journal of Law and Political Science, Vol. 39, No. 3, Autumn

Bagheri, Mahmoud, Rashvand Bookani, Mehdi(2008), Competition Law and Defending Market Integrity in Imamieh Jurisprudence, Journal of Private Law, Volume 9, Issue 28

Bagheri, Mahmoud, (2006) "Distribution and Correctional Justice in Distribution of Risks Between the Parties to an Illegal Contract" Comparative Law Journal, New Year, No. 2

Bagheri, Mohammad, (2006)"A market-based economy and the shortcomings of private law", Journal of Law and Policy, No. 19.

Cook, P. (2007), "Competetive Advantage and Competition Policy In Developing Countries", Edward Elgar

Farhang, Manouchehr (1992), The Great Culture of Economic Sciences, Tehran, Alborz Publishing, Volume I,

Ghamami, Seyyed Mohammad Mehdi, Ismaili, Mohsen, (2010) Comparative Study of the Competition Law System in Iran and France, Islamic Law Research, Vol. 11, No. 2,

Law on the Implementation of General Policy Principles (44)

Laws of the Five-Year Plan of Social, Economic, Cultural and Political Development

Masoominia, Ali;(2004) Perfect Competitive Markets, Journal of Islamic Economics, Tehran, Islamic Culture and Thought Research Center

Mostafa Mansourian (2015) Familiarity with the concepts of public law Investigating the concept of "competition law" Scientific observerAli Bahadori JahromiIslamic Studies System Studies Office

Rahbari, Ibrahim, Qasiasi, Mohammad Hosein, Goodarz Farahani, Yazdan, (2013)Competition Law Performance in Developing Economies, Journal of Economics Knowledge, New Year, Vol. 20, No. 3

Renani, Mohsen;(1997) Market or Innovation, Tehran, Planning and Budget Organization, First Edition

Sadeghi Moghadam, Mohammad Hassan, Ghaffari Farsani, Behnam, (2011) The Spirit of Competition Law (Comparative Study on the Purposes of Competition Law), Journal of Law of the Justice, Year 75, No. 73

The Constitution of Iran

General Principles of Article 44 of the Constitution of the Supreme Leader

The law of government sanctions approved by the Expediency Council

Law on the punishment of abusers in the economic system of the country,

Five-Year Law of the Third Plan of Economic, Social and Cultural Development of the Islamic Republic of Iran

E-Commerce Law

The Law of the Guild of the Republic

Five Years Law The Fourth Economic, Social and Cultural Development Plan approved by the Assembly Exceptional discretion of the system on

The Law for the Protection of Consumer Rights