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Roundtable on:  
**The Benefit of Competition Policy for  
Consumers**

**Contribution  
by  
Jordan**

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# **The benefit of competition policy for consumers \***

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## **Introduction**

The Competition policy is based on free determination of prices in accordance with market mechanisms and principles of free competition.<sup>2</sup>

Therefore, Competition legislations aims to setting the necessary mechanism in order to ensure the proper functioning of the market protect and promote competition.<sup>3</sup>

In some countries Competition Law scope expand to cover all production, commerce and service provision activities, as well as any economic activities occurring outside and having an effect inside country.<sup>4</sup>

All of these activities will affect business sector and consumers as well, therefore in order to understand the benefit of competition policy for consumers it is important to clarify the relation between the competition policy and consumer protection policy.

## **1- Competition Policy and Consumers**

Competition policy and Consumer Protection policy have a deep regulatory impact on the functioning of markets. The purpose of competition Law is to preserve and enhance the competitive structure of markets for goods and services. Perfect competition ensures that all consumers who need a certain good or service will obtain it at the price which reflects the real cost.<sup>5</sup>

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\* The views expressed here are the author's alone.

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<sup>2</sup> Article (4) Jordanian Competition law. No. 33 for the year 2004.

<sup>3</sup> Ruba Qalyoubi Competition Law in the Arab Country, Jordan as a case study. Stamp flit Publishers Ltd, Berne, 2008. P 43.

<sup>4</sup> Article (3) Jordanian Competition law. No. 33 for the year 2004.

<sup>5</sup> Fernando Gómez Pomar EC Consumer Protection Law and EC Competition Law: How related are they? A Law and Economics Perspective Working Paper No: 113 SECOLA Conferences, LSE, London, May 16-17 2002 P3.

For example, the document of the legal motives for enacting the competition law in Jordan<sup>6</sup> contains multiple objectives of an economic and social nature. The fundamental objectives, stated in the document, are to protect competition, achieve a competitive market structure, protect all market participants including consumers,<sup>7</sup> foster the competitiveness of national enterprises and boost small enterprises.<sup>8</sup>

The term (protection of competition), refer to striking and preventing private restrictive practices that might hinder or block competition, those in the form of anti-competitive cooperation between market participants as well as unilateral abuse of market power.<sup>9</sup>

The main objectives of competition policy for some extent will intersect with consumer protection policy. While competition policy try to pursue efficient functioning of the market, consumer protection works to ensure that consumers can make well-informed decisions about their choices and that seller will fulfill the promises about the products they offer.<sup>10</sup>

Economic performance in areas such as communications, public procurement, and transportation affect the lives of consumers in immediate and observable ways.<sup>11</sup>

In many economies, cartels and bid-rigging arrangements in the construction sector have raised the cost of building roads and hospitals. As a result, the price those public agencies must pay to provide services have increased. Cartel overcharges can account the rise for ten percent or more of the total value of a specific procurement.<sup>12</sup>

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<sup>6</sup> Unpublished document obtained from the Jordanian competition directorate, document date 2002, P1.

<sup>7</sup> The document juxtaposes these objectives without any particular ranking of priorities, and does not provide for a guidepost to the Competition Law enforcers as to how to address these goals. However, it should be mentioned, that the preparatory documents for drafting the Competition Law perceived economic efficiency and consumer welfare as the ultimate key objectives of the law.

<sup>8</sup> Ruba Qalyoubi Competition Law in the Arab Country, P 42.

<sup>9</sup> Ruba Qalyoubi Competition Law in the Arab Country, P 43.

<sup>10</sup> Daniel Agustino Competition, Consumer Protection, and Objective of Competition Law Commission for the Supervision of Business Competition (KPPU) Indonesia, August 2006, P 3.

<sup>11</sup> William E. Kovacic Competition Policy, Consumer Protection, and Economic Disadvantage Journal of Law & Policy (Vol. 25:10.12007.)P 105.

<sup>12</sup> William E. Kovacic Competition Protection and Economic Disadvantage. P 106.

One of the Competition Law objectives is to create conducive business climate through the stipulation of business competition by preventing anticompetitive practices that could be committed by business sector, at the end this will lead to safeguard the public interest and to improve national economic efficiency as one of the efforts to increase the consumer welfare.<sup>13</sup>

Another objective of the Competition Law is to preserve and promote competition to ensure efficient allocation of resources, which results in providing the consumers with adequate supplies, better quality of products and services, and wider choice and lower price.<sup>14</sup>

Increased competition and the removal of artificial barriers to the entry of new entrepreneurs and the expansion of small enterprises can generate particularly strong benefits for consumers.<sup>15</sup>

Lessening anticompetitive practices will lead to end the consumer exploitation. For example, consumers are the beneficiaries of curtailing monopoly and collusive behavior of firms. Therefore, it could be shown that the big winners from competitive market structures are precisely the consumers of the goods and services.<sup>16</sup>

## **2- Consumer Protection and Competition**

On the other hand consumer protection policy is an important complements to competition policy.<sup>17</sup>

Competition policy alone will not fully safeguard consumer interests. It is useless having the lowest prices and quality products in the market, if these products are unsafe and may harm consumers. It is also useless to have a wide choice for consumers if the consumer cannot make a properly informed choice because of lack of price information on the shelves or lack of clear and adequate labeling on the products or because misleading advertising or claims by salesmen that lead consumers to make the wrong choices.<sup>18</sup>

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<sup>13</sup> International Co-operation Program on Competition Policy the Interface of Consumer Protection and Competition Laws and Policies September 11-12, 2006 Inter-Continental Bali, Indonesia P 9.

<sup>14</sup> Ruba Qalyoubi Competition Law in the Arab Country, P 57. And William E. Kovacic Competition Policy, Consumer Protection, and Economic Disadvantage, P 105.

<sup>15</sup> William E. Kovacic Competition Policy, Consumer Protection, and Economic Disadvantage, P 105.

<sup>16</sup> Fernando Gómez Pomar. EC Consumer Protection Law and EC Competition Law: How related are they ?, P 3.

<sup>17</sup> William E. Kovacic Competition Policy, Consumer Protection, and Economic Disadvantage, P 114.

<sup>18</sup> Seventh Global Forum of Competition, 21-22/2/2008, OECD Paris, France, contribution from Malta P 4.

The most valuable contribution of a consumer protection program is giving consumers confidence in the marketplace by preventing serious fraud. False advertising and deceptive marketing practices can damage the capacity of honest merchants to attract consumers. If individuals fear they are prone for being cheated in many or most ordinary transactions, they will be inclined to take costly precautions and will end up purchasing less.<sup>19</sup>

The core objective of consumer protection policy consists of preventing sellers from increasing sales by lying about their products or by engaging in unfair practices such as unilateral breach of contract or unauthorized billing.<sup>20</sup>

Therefore, several issues must be covered by regulations and official procedures, for example, warranty abidance and other after sale services.

Furthermore, the right of access to information should be expanded to other issues beside prices.<sup>21</sup> Other issues should be including in this right, for example, origin information and item contents, moreover there is no legal obligation ordered the traders to edit contracts with consumers in clear and understandable language, small font size, or unclear phrases or sentences will affect negatively the understanding of the contracts' conditions.

Considering these issues, the consumer policy will lead to improve the quality of goods and services and may guarantee the sustainability of the production of goods and services, comfort, security and safety for consumers.<sup>22</sup>

However, it is important to take into consideration that what constitutes the benefit of consumers is not something that everyone would agree on, and that it can be understood in different forms.<sup>23</sup> Some consumer protection actions may improve consumer outcomes but may have detrimental effects on competition.<sup>24</sup>

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<sup>19</sup> William E. Kovacic Competition Policy, Consumer Protection, and Economic Disadvantage, PP 114-115.

<sup>20</sup> Daniel Agustino Competition, Consumer Protection, and Objective of Competition Law, P 3.

<sup>21</sup> Article (11/A) of the Industry and Trade Law No.18 for Year 1998.

<sup>22</sup> Fernando Gómez Pomar EC Consumer Protection Law and EC Competition Law: How related are they? P 4.

<sup>23</sup> Fernando Gómez Pomar EC Consumer Protection Law and EC Competition Law: How related are they? PP 3-4.

<sup>24</sup> Sam Di Scerni, The Complementary Role of Competition and Consumer protection policy The Australian Experience Australian Competition and Consumer Commission, 12-11 / September 2006. P 2.

For example, price fixing and organization supply for the basic goods will affect competition even if the price set by government, but in this regard some legislation prefer to consider consumer interest more than competition aiming to prevent any possible effect could be caused by abusing the importance of the basic goods for consumers. Moreover, providers' requirements, to provide goods and services in a particular type of a certain standard to satisfy health and safety requirements will raise the cost, such as requirements may constrain competition.

On the other hand, some could say that this action will lead to raise the quality of products and services and will insure advantages for consumers, but it is important to consider that the consumer looking for both elements; quality and price.

### **3- Differences between Consumer and Competition policies**

There are important differences between Consumer and the Competition policies. They are different in their objectives, enforcement approaches and institutions, violations and correction, and development.<sup>25</sup>

- Core objectives:

Competition policy is intended to ensure that markets work according to the market forces, provide consumers with a competitive range of product or service options. In contrast, consumer protection policy are intended to ensure that consumers have the information they need to choose effectively from among those options, with their purchasing decisions unimpaired by, for example, coercion, deception or the withholding of important information.<sup>26</sup>

- Enforcement approaches and institutions:

The competition policy enforces in a highly selective and reactive manner in response to complaints and investigation. In contrast, the enforcement of consumer protection policy involves direct intervention by several Consumer Organisations and governmental authorities.

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<sup>25</sup> Derek Ireland competition policy and consumer protection. PP 28-29.

<sup>26</sup> Gesner de Oliveira and Sérgio Goldbaum Relation between regulation, competition policy & consumer protection in telecommunications, electricity and water supply. P 2.

- Violations and correction:

Competition policy violations stem from market failures such as abuse of economic power, entry barriers and natural monopolies. These elements are external to consumers and can be corrected within the sphere of competition policy, whereas consumer protection violations, which negatively affect consumer's ability to choose freely among the options, are founded by other market failures, which can be corrected within the sphere of consumer protection.<sup>27</sup>

- Development:

Competition policy is usually developed and modernized based on long-term processes that include detailed analysis and stakeholder consultations, as well as benchmarking with major trading partners. In contrast, consumer protection policies tend to be developed more quickly manner in response to a perceived market failure or economic crisis.

Moreover, competition policy has much better developed and more formalized bilateral and multilateral agreements and instruments to promote information sharing and cooperation across jurisdictions.<sup>28</sup>

#### **4- The Harmony Factors between Competition Policy and Consumer Protection Policy**

There are some harmony factors between competition policy and consumer protection policy, . These factors could be summarized as follows:

By analyzing their long-term objectives, it could be found that both policies are designed to enhance consumer sovereignty, welfare and effective consumer choice. Both policies address - in different ways - market failures situations, where market transactions and outcomes fail to serve the consumer interest and economic efficiency.<sup>29</sup>

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<sup>27</sup> Derek Ireland competition policy and consumer protection .P 28.and Gesner de Oliveira and Sérgio Goldbaum Relation between regulation, competition policy & consumer protection in telecommunications, electricity and water supply. P 2.

<sup>28</sup> Derek Ireland competition policy and consumer protection, P 28.

<sup>29</sup> Derek Ireland. Competition policy and consumer protection, PP 28-29.

The long-term objectives seem to be convergence, it may not fully fit to each other but they could be considered as an indication for the harmony factors between the two policies.<sup>30</sup>

Enforcement competition in the marketplace will lead to better consumer information and choices, a better-informed and more demanding consumer, who is prepared to make his or her preferences clearly known to suppliers can stimulate greater competition and more product choice. Therefore, it could be noticed that in circumstances where there is little or no competition in the market, there may be greater justification for intervention to ensure consumer welfare maintained. Alternatively, overly burdensome regulation of consumer protection can impede market entry and thus will reduce market competition and product choice.<sup>31</sup>

It's true that consumer protection policy is more often associated with social objectives, but Competition Law can also have objectives that are not founded on economic efficiency criteria.<sup>32</sup>

It could be noticed that the two policies interact to promote and protect consumer's economic interests. Moreover, the thread that connects competition policy and consumer protection is the attainment of consumer welfare, in addition to promoting competitive markets, competitiveness and, ultimately, growth and development.<sup>33</sup> Therefore, both competition and consumer protection policies should be based on rigorous marketplace analysis and a sound understanding of competitive dynamics and corporate strategy between the two policies to ensure that unacceptable company behavior is not confused with legitimate corporate strategy to increase profits and market share.<sup>34</sup>

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<sup>30</sup> Ruba Qalyoubi Competition Law in the Arab Country, P 57.

<sup>31</sup> Sam Di Scerni The Complementary Role of Competition and Consumer protection policy, 2006 P 2.

<sup>32</sup> Derek Ireland. Competition policy and consumer protection, P 29.

<sup>33</sup> Ruba Qalyoubi Competition Law in the Arab Country, P 57. and Daniel Agustino Competition, Consumer Protection, and Objective of Competition Law, P 3.

<sup>34</sup> Derek Ireland. Competition policy and consumer protection, PP 28-29.