



**ITU Regional Workshop on
“Competition in Telecommunications Market”
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**Market power,
Anticompetitive practices and
Types of regulatory intervention**

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Two main actors are involved in Competition in Telecom

1. Competition Authority (CA): enforcing competition law

2. sector specific regulator (NRA):
Guarantee a level playing field and ensure non-discriminatory treatment of all players in the liberalized market



Ex-ante/ex-post Regulations

	Ex post regulation	Ex ante regulation
Enforcement Authority	may be enforced by either the NRA or the CA,	NRA
Scope	competition law-based regulation)	sector specific regulation
Assessment	Retroactive: Regulators reactively intervene in the market only after harm has occurred	Forward-looking: Regulators proactively intervene in the market before harm occurs
Intervention	Sanction and rules to stop anticompetitive practices	limit firms designated as having SMP from using their market power to restrict or distort competition in the relevant market



Market Review Process

- 1. Data collection**
- 2. Defining the Relevant Market**
 - product market, and
 - Geographic market
- 3. Determining Market Share**
- 4. Analysis of the effectiveness of competition and the identification of operators with dominance /SMP**
 - Significant Market Power (SMP), and
 - Dominance
- 5. Selecting remedies**



Competition Framework in Zain Countries

General competition law	Sector-specific competition regulations
Jordan - 2004	Jordan/Competition Guidelines 2006
Saudi Arabia - 2004	Bahrain/Competition Guidelines 2010
Kuwait - 2007	- KSA/Guidelines for Addressing Abuse of Dominance 2010 - Regulatory Framework for Telecommunications Market Definition and Dominance 2008
Sudan - 2009	
Iraq - 2010	



Competition Environment 1/5

Country	Dominance/SMP designation
Saudi Arabia	<ul style="list-style-type: none">- Every service provider that earns (40%) or more of the gross revenues in a specific Telecom market shall be designated a dominant service provider in that market, until and unless the CITC specifies otherwise in a decision- Operators are prohibited to enter into agreements with each other to undertake practices that would create a dominant operator for a certain telecommunications market or prevent, restrict or distort competition
Iraq	The CMC shall draft and promulgate rules and regulations on competition



Competition Environment 2/5

Country	Dominance/SMP designation
Jordan	<p>A Licensee shall be deemed dominant in a relevant market when it has such a sufficient impact on the market that it can control and affect the activity of the relevant market.</p> <ol style="list-style-type: none">1. A Licensee with a market share of 50% or more of a relevant market shall be presumed to be dominant in that market. The presumption of dominance can be overcome by consideration of evidence establishing that the Licensee does not have the ability to control and affect the activity of the market, based on the Impact Factors.2. A Licensee with a market share of at least 25% in a relevant market but less than 50% of that market shall be subject to classification as dominant in that market if consideration of evidence establishes that the Licensee has the ability to control and affect the activity of the market, based on the Impact Factors.3. A Licensee with a market share of less than 25% in a relevant market shall be presumed to be non-dominant in that market.



Competition Environment 3/5

Country	Dominance/SMP designation
Sudan	<ul style="list-style-type: none">- Dominant Operator “means the operator who owns largest part of the communication equipment through so as to dominate the largest part of the communication market.- Effective marketing power: means the position enjoyed by one or more operators so as to have an effect on the service prices of such operators.- The Law covers a List of anti- competitive conduct of the dominant operator (e.g. offer the services to the competitors at high and discriminatory prices, using predatory pricing, using cross-subsidy)- Also, it covers a list of procedures and measures, the NTC shall take to check the non-competitive conduct by the dominate operator



Competition Environment 4/5

Country	Dominance/SMP designation
Kuwait	<ul style="list-style-type: none">• <i>Dominant Operator:</i> (Any Licensee that has market share or market power to prevent the existence and continuation of effective competition in the relevant market through its capability to act independently from competitors, subscribers and users, or as a result of his control of public telecommunications infrastructure operated exclusively or mainly by the Licensee,)• <i>the Authority shall set on annual basis, T&C that determine dominant operator on services</i>• <i>the dominant operator has to publish a RIO</i>



Competition Environment 5/5

Country	Dominance/SMP designation
Bahrain	<ul style="list-style-type: none">• <i>Dominant position: The Licensee's position of economic power that enables it to prevent the existence and continuation of effective competition in the relevant market through the ability of the Licensee to act independently – to a material extent – of competitors, subscribers and users.</i>- <i>Operator with Significant Market Power: a Licensed Operator which holds 25% or more of the market share of the relevant market as determined from time to time by the Authority;”</i>• <i>A Public Telecom Operator determined by TRA to have a Dominant Position in a particular market shall, within 3 months of such determination and every 6 months thereafter, publish a RIO</i>



Market Review in Zain Countries 1/3

Country	Market Review completed	Decision issued	Public consultation
Jordan	Yes and TRC is planning to conduct new review	Yes	Yes
Saudi Arabia	Yes, CITC is conducting new Market review, but not yet finished	Yes	Yes



Market Review in Zain Countries 2/3

Country	Market Review completed	Decision issued	Public consultation
Bahrain	Yes Every two years	yes	Yes
Kuwait	No	No	Draft Report Competition Assessment prepared by CPA to be finalized



Market Review in Zain Countries 3/3

Country	Market Review completed	Decision issued	Public consultation
Sudan	No	?	Yes
Iraq	Consultation on market review issued in Nov 2015.	No regulation issued yet	Yes



Dispute and Appeal process 1/2

Country	Text as per Telecom law/Bylaw
Kuwait	<ul style="list-style-type: none">- <i>the President forms one or more committee from outside the Authority for resolving disputes between the Authority and any Licensee or between the Licensees themselves or to handle complaints submitted by the operators or others on Authority decisions or proceedings.</i>- <i>the committee(s) decisions are binding, but may be challenged before the court. In all cases, it is not permissible to approach the court before resorting to the said committee(s)</i>
Bahrain	<ul style="list-style-type: none">- <i>The Arbitration Panel shall have the power to determine the disputes arising between the TRA and any Licensed Operator</i>- <i>Decisions issued by Arbitration Panel are considered final and binding</i>
Saudi Arabia	<p><i>The CITC decisions can be appealed to the Minister. If the CITC decision is upheld by the Minister, the concerned party has the right to appeal to the Grievance Dewan</i></p>



Dispute and Appeal process 2/2

Country	Text as per Telecom law/Bylaw
Iraq	<i>Decisions rendered by the Director General or by the Hearings Panel may be appealed to the Appeals Board (AB) within 30 days of the decision. AB decisions are final</i>
Jordan	<i>with re to complaints/disputes against Licensees, with the exception of disputes having to do with financial obligations resulting from the implementation of valid agreements, TRC decision is final and binding on the Licensee</i>
Sudan	<i>The operators, parties to dispute, shall approach the board for settlement of any dispute between them. Board decision, may be appealed to the Competent Minister whose decision shall be final</i>



Thank you

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