

9-1-2010

Competition Policy and Consumer Protection Policy in Jordan

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Competition Policy and Consumer Protection Policy in Jordan^{*1}

Hetham Hani Abu Karky²

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* The views expressed herein are the author's alone.

1. This article is based on a work paper presented by the author in the Seventh Global Forum on Competition, Paris, Fr., Feb. 21-22, 2008, entitled *Competition and Consumer Protection Policy in Jordan 2-5*, available at <http://www.oecd.org/dataoecd/21/41/39792264.pdf>.

2. Master of Arts in Law awarded by the University of Jordan for Culture Creative; Legal Researcher—Competition Policy Division/Competition Directorate/Ministry of Industry and Trade, Amman, Jordan.

I. INTRODUCTION

After Jordan acceded to the World Trade Organization (WTO) on April 11, 2000, Jordan's Government adopted a new economic policy, which Jordan's legal system has developed in the ten years since then. Jordan originally undertook the economic reforms to bring its economic policies and trade regime into compliance with the WTO agreements.³

Existing special legislation involving intellectual property rights was amended, new legislation was drafted, and new Laws of Standards and Metrology, Agriculture, National Production Protection, General Sales Tax, Customs, Import and Export as well as non-Jordanians' Investments Regulations were issued.⁴

On the other hand, and as a result of joining the WTO, Jordan liberalized its trade and services sectors, providing market access to foreign investors and service providers of WTO Members in accordance with Jordanian laws and regulations.

There is a strong demand for a well-organized marketplace that aims to offer a good business environment and well-informed consumer.

The impact of globalization is leading to increased marketplace activity in Jordan. This increase in activity has manifold sources, such as lowered trade barriers, cross-border investment in Jordan by multinational firms, privatization of state-owned entities, and government downsizing.⁵ Given this increase in market activities, governments should implement measures to avoid harm that could be caused by abuse of these marketplace developments.

The Competition Law⁶ was issued by Jordan's government on August 15, 2002, as provisional law.⁷ It was then approved by Jordan's

3. Ministry of Industry & Trade, The Hashemite Kingdom of Jordan: Jordan and the World Trade Organization, <http://www.mit.gov.jo/Default.aspx?tabid=810> (last visited Oct. 16, 2010).

4. *See id.* *See also* MINISTRY OF INDUSTRY AND TRADE, <http://www.mit.gov.jo/tabid/36/default.aspx> (last visited Oct. 16, 2010) (providing additional information about Jordanian economic issues).

5. Derek Ireland, *Competition Policy and Consumer Protection*, POLICY OPTIONS, Oct. 1997, at 27-28, available at <http://www.irpp.org/po/archive/oct97/ireland.pdf>.

6. Competition Law, No. 33, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (replacing Competition Temporary Law, No. 49 (2002)), available at http://www.mit.gov.jo/portals/0/competition_law.pdf.

7. Provisional law is issued by the government, not the Parliament. THE CONSTITUTION OF THE HASHEMITE KINGDOM OF JORDAN Jan. 1, 1952, ch. 5, pt. 3, art. 94 (Jordan), available at http://www.kinghussein.gov.jo/constitution_jo.html. *See* Competition Temporary Law, No. 49, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4560 at 3836 (Aug. 15, 2002) (Jordan); *see also* MINISTRY OF INDUSTRY AND TRADE, <http://www.mit.gov.jo/Default.aspx?tabid=715> (last visited Oct. 16, 2010).

Parliament as a permanent law on September 1, 2004. It is called the Competition Law No. 33 for the Year 2004.⁸

The Competition Law aims to establish mechanisms necessary to ensure the proper functioning of Jordan's markets, and to protect and promote competition in Jordan.⁹

The Law is geared to allow market mechanisms and principles of free competition to determine prices, except for prices of basic commodities such as bread and fuel, which are regulated by other laws, and temporary price controls set by the government to cope with exceptional circumstances.¹⁰

The scope of the Competition Law is expanding to cover all goods, services and commerce in Jordan, as well as any economic activities that occur outside of but having an effect in Jordan.¹¹ Economic activities will affect both the business sector and consumers; therefore, it is important to clarify the relation between the competition policy and consumer-protection policy and pinpoint any conflict between them.

In this article, I will elucidate the relation between the competition policy and consumer-protection policy by drawing out the common issues and differences between them. I will then discuss what kind of governmental body should be in charge of applying competition policy and consumer-protection policy.

8. Competition Law, No. 33, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (Jordan), *available at* http://www.mit.gov.jo/portals/0/competition_law.pdf.

9. RUBA QALYOUNI, COMPETITION LAW IN THE ARAB COUNTRIES—JORDAN AS A CASE STUDY 42 (Josef Drexel ed., Stämpfli 2008).

10. Competition Law, No. 33, art. 4, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (Jordan), *available at* http://www.mit.gov.jo/portals/0/competition_law.pdf. The government rarely sets prices under the exceptional-circumstances exception. There is no clear methodology for identifying what constitutes an exceptional circumstance. On August 21, 2010, the Minister of Industry and Trade, Amer Hadidi, stated that the government would set the price of basic goods if the prices rose to unusual limits. But the Minister did not clarify how the prices would be set, nor precisely what constitutes "unusual limits." The prices set by the government would remain effective until the Council of Ministers ended the price adjustment. Under Article 7 of the Industry and Trade Law, the Council of Ministers can set the prices of any basic goods. Article 1 of the Industry and Trade Law states that a basic good is any good that the Council deems to be a basic good. Thus, if the Council deems a product to be a basic good, the Council can set a price for it. See Ministry of Industry and Trade: *The Government Would Set the Price of Basic Goods if Prices Rise To Unusual Limits*, AL-RAI NEWSPAPER, Dec. 8, 2010, *available at* <http://www.manbaralrai.com/?q=node/79308>.

11. Competition Law, No. 33, art. 3, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (Jordan), *available at* http://www.mit.gov.jo/portals/0/competition_law.pdf.

II. THE ROLE OF MINISTRY OF INDUSTRY AND TRADE (MIT) IN JORDANIAN ECONOMIC POLICY

The Ministry of Industry and Trade (MIT) is the main authority that applies and organizes Jordan's economic policies by implementing several laws and regulations.¹²

Regarding the relationship between competition policy and consumer-protection policy, two directorates, the Competition Directorate and Markets Control Directorate, could be considered the interested governmental bodies that apply the competition and consumer-protection policies.

An analysis of the regulations that organize the two directorates' tasks will set forth major elements of the relationship between competition and consumer-protection policies.

A. *Competition Directorate*

The Competition Directorate was established in late 2002¹³ as a part of the MIT. The Competition Directorate was entrusted with authority to implement the Competition Law.

The Competition Directorate's tasks are to:¹⁴

1. Spread competition culture in Jordan.
2. Apply Jordan's competition policy.
3. Conduct the necessary investigations of practices that may be anti-competitive.¹⁵
4. Receive complaints, economic-concentration requests,¹⁶ exemptions requests,¹⁷ and follow them up.

12. Industry & Trade Law, No. 18, art. 4, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4304 at 3782 (Jan. 10, 1998) (Jordan), available at <http://www.mit.gov.jo/portals/0/tabid/551/Industry%20and%20Trade%20Law.aspx>.

13. For additional information about the establishment of the Competition Directorate, see MINISTRY OF INDUSTRY AND TRADE, <http://www.mit.gov.jo/Default.aspx?tabid=1174> (last visited Oct. 16, 2010).

14. Competition Law, No. 33, art. 12, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (Jordan), available at http://www.mit.gov.jo/portals/0/competition_law.pdf.

15. Anti-competitive cartel operation, market allocation and dominant position abuse are examples of such practices. See Articles 5 and 6 of the competition law.

16. Article 9 of the Competition Law defines an economic-concentration operation as "any activity resulting in the full or partial transfer of ownership of or interest in property or rights or shares or obligations of an enterprise to another, and which may enable an enterprise or group of enterprises to control, directly or indirectly, another enterprise or group of enterprises." Competition Law, No. 33, art. 9, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (Jordan), available at http://www.mit.gov.jo/portals/0/competition_law.pdf; see also Firas Malhas, *Jordan: Economic Concentration—Jordanian Competition Law*, INTERNATIONAL LEGAL AND

5. Cooperate with similar entities outside the kingdom for exchanging information and data in relation to applying competition rules to the extent permitted by international treaties.
6. Issue opinions that aim to clarify competition matters.

The Competition Affairs Committee is the advisory body of the Competition Directorate. The Competition Affairs Committee chairperson is The Minister of Industry and Trade; other members of the Committee represent several public and private sectors.¹⁸

The roles of this Committee are¹⁹ to provide advice on the general competition strategy and to review matters related to the provisions of the law.

B. Markets Control Directorate

The task of the Markets Control Directorate is to implement Industry & Trade Law No. 18 for Year 1998, and to implement the Classification & Promotion regulations. The Markets Control Directorate is the body responsible for ensuring that the private sector complies with MIT policies. These policies aim to strengthen goods and services marketplaces, and to organize market procedures that discourage such marketplace abuses as holding fake sales and liquidations, offering nonexistent prizes to customers, and hiding or refusing to sell basic goods.²⁰

BUSINESS ASSOCIATES, Mar. 13, 2009, <http://www.mondaq.com/article.asp?articleid=75568> (last visited Oct. 14, 2010).

17. Article 7(B) of the Competition Law states that by a reasoned decision on the basis of a recommendation of the Director of the Competition Directorate, the Minister of Industry and Trade may grant exemptions to some anti-competitive practices and arrangements if they lead to positive results, with a common benefit that cannot be achieved without the exemption, including the improvement of the competitive ability, production or distribution systems of enterprises, or the provision of certain benefits to the consumer. Competition Law, No. 33, art. 7(B) Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (Jordan), *available at* http://www.mit.gov.jo/portals/0/competition_law.pdf.

18. Competition Law, No. 33, art. 14(A)(7) Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (Jordan), *available at* http://www.mit.gov.jo/portals/0/competition_law.pdf (providing that the president of any association named by the Minister is concerned with protecting the consumer should be a member in the Committee for Competition Matters).

19. Competition Law, No. 33, art. 14(C) Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (Jordan), *available at* http://www.mit.gov.jo/portals/0/competition_law.pdf.

20. For additional information about the Quality and Market Controls Directorate, *see generally* MINISTRY OF INDUSTRY AND TRADE, <http://www.mit.gov.jo/Default.aspx?tabid=432> (last visited Oct. 16, 2010).

The Markets Control Directorate has the following initiatives:²¹

1. Determining the prices for any basic goods upon a recommendation from the Prime Minister.
2. Ensuring the sale of goods as per publicized prices.
3. Checking available stock with wholesalers.
4. Monitoring the concealment of or denial of sale of basic goods.
5. Monitoring clearance sales, liquidation, and promotional prizes.

C. *Consumer Protection Policy*

So far, there is no governmental body responsible for consumer-protection issues in Jordan. Nevertheless, besides the important role that the Markets Control Directorate plays, there are two consumer-protection associations²² working as non-governmental organizations (NGOs) that strive to provide the general public with essential information about products and services available on the market. These NGOs use brochures, pamphlets, media advertising, and awareness meetings open to the public to educate people about products and services on the market. The NGOs also stand against some producers who foist low-quality or high-priced products upon consumers.²³

D. *Consumer Protection Law*

At present,²⁴ there is no legislation that covers consumer-protection issues²⁵ in Jordan. Two pieces of consumer-protection legislation were

21. Industry & Trade Law, No. 18, arts. 7, 8, 12 & 16, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4304 at 3782 (Jan. 10, 1998) (Jordan), available at <http://www.mit.gov.jo/portals/0/tabid/551/Industry%20and%20Trade%20Law.aspx>.

22. The National Society for Consumer Protection (NSCP) was established in 1989. For additional information about the NACP, see generally [http://www.beitalmoneh.org/?change=1.20Consumer%20Protection%20\(NSCP\)](http://www.beitalmoneh.org/?change=1.20Consumer%20Protection%20(NSCP)). The Consumer Rights Association was established in May 2009. *Consumer Rights Association Opens Membership to Citizens*, ALGHAD NEWSPAPER, May 25, 2009, <http://www.alghad.com/?news=420813>.

23. The NACP periodically publishes price increases of products and requests that the authorities investigate practices related thereto. For example, the NACP reviews food pricing in situations where despite decreases in shipping costs, prices remain high. *Price Review Requirement for Food Items Shipped at Low Wage*, AL-RAI NEWSPAPER, Jan. 22, 2006, http://www.alrai.com/pages.php?news_id=75558.

24. Oct. 2010.

25. Salient consumer-protection issues in Jordan include the lack of a governmental authority to oversee consumer protection, the marketing of commodities that are unfit for human consumption, false offers of sale, unclear price listings, the absence of warranty

drafted a few years ago and were discussed by several public authorities and ministries, but no draft has managed to reach the doors of the Parliament.²⁶

Currently, the Ministry of Industry and Trade (MIT)²⁷ is undertaking an expanded consultation with several interested governmental and non-governmental stakeholders.²⁸ The MIT and the stakeholders are trying to use the Regulatory Impact Assessment²⁹ method to set the main principles of consumer-protection policy in Jordan. However, up to this moment nothing has been issued officially.³⁰

The general objective of consumer-protection-policy consultation is to reach an efficient consumer-protection policy that matches Jordanian consumer interests. Laws or regulations could establish such a policy officially.

III. 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. Proper competition helps ensure that all consumers who need a certain good or service will be able to obtain it at a price which reflects the real cost of the good or service.³¹

commitments, the making of vague contracts, and misrepresentations about the quality of commodities.

26. *Al-Rai New Draft Law to Establish Consumer Protection Council & Tough Sanctions*, AL-RAI NEWSPAPER, Mar. 20, 2006, Issue 12959, available at http://www.alrai.com/pages.php?news_id=89197; see also *Unfair Deal*, JORDAN BUSINESS MAGAZINE, May 4, 2007, http://www.jordan-business.net/magazine/index.php?option=com_content&task=view&id=145&Itemid=45. The text of two drafts is now available at the MIT website <http://www.mit.gov.jo/Default.aspx?tabid=489> (last visited Nov. 30, 2010).

27. The Economic Policy Directorate of the MIT, supported by SABEQ (The USAID Jordan Economic Development Program), organizes this activity. The MIT can propose a draft law to the government, which in turn can propose it to Parliament for approval.

28. The governmental bodies represent both governmental institutes that are interested in or that affect consumer issues, as well as non-governmental institutes.

29. A general working method could be summarized as follows: 1) A task-force brainstorms about ways to identify consumer problems; 2) upon identifying a problem, the team attempts to determine its cause(s); 3) the team consults stakeholders to search for and assess practical solutions to the problems.

30. The author represents the Competition Directorate in the MIT Consumer Protection Policy Task Force team.

31. See Fernando Gómez Pomar, *EC Consumer Protection Law and EC Competition Law: How related are they? A Law and Economics Perspective* 3 SECOLA Conferences, LSE, London, Working Paper No. 113, May 16-17 2002, available at www.raco.cat/index.php/InDret/article/viewFile/81192/105680 (last visited Nov. 14, 2010).

In 2002 the MIT promulgated the Document of the Legal Motives For Enacting the Competition Law,³² setting forth multiple economic and social objectives. The fundamental objectives, stated in the document, are to protect competition, achieve a competitive market structure, protect all market participants (including consumers),³³ foster the competitiveness of national enterprises and boost small enterprises.³⁴

The term “protection of competition” refers to the prevention of 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.³⁵

The main objectives of competition policy to some extent will intersect with consumer-protection policy. While competition policy pursues the efficient functioning of the market, consumer protection works to ensure that consumers can make well-informed decisions and that sellers will fulfill the promises they make about the products they offer.³⁶

“Economic performance in areas such as communications, public procurement, and transportation affect the lives of consumers in immediate and observable ways.”³⁷

In many economies, cartels³⁸ and bid-rigging arrangements in the construction sector have raised the cost of, for example, the building of roads and hospitals. As a result, the price that public agencies must pay

32. The Document clarifies the reasons why Jordan’s government as a whole believes the Competition Law is needed. See Ministry of Industry and Trade, Document of the Legal Motive for Enacting the Competition Law 1 (2002) (unpublished document obtained from the competition directorate, document date 2002, at 1).

33. 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. See Document of the Legal Motive for Enacting the Competition Law 1 (2002) (unpublished document obtained from the competition directorate); see also QALYOUNI, *supra* note 9, at 42.

34. See QALYOUNI, *supra* note 9, at 42.

35. See *id.* at 43.

36. See Daniel Agustino, *Competition, Consumer Protection, and Objective of Competition Law*, Commission for the Supervision of Business Competition (KPPU), 1, 3 (Aug. 2006), available at <http://www.apeccp.org.tw/doc/APEC-OECD/2006-11/03/Indonesia.pdf>.

37. William E. Kovacic, *Competition Policy, Consumer Protection, and Economic Disadvantage*, 25 J. L. & POL’Y 101, 105 (2007), available at <http://law.wustl.edu/Journal/25/Kovacic.pdf> (last visited Nov. 14, 2010).

38. A cartel is where competing firms agree to cooperatively engage in uncompetitive practices such as price fixing. Cartels are illegal in Jordan. See Competition Law, No. 33, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (Jordan), available at http://www.mit.gov.jo/portals/0/competition_law.pdf.

to provide services has increased. Cartel overcharges can account for a ten percent or more rise in the total value of a specific procurement.³⁹

One objective of the Competition Law is to create a climate conducive to businesses through the stimulation of business competition by preventing anti-competitive business practices. Ultimately, the prevention of anti-competitive business practices will safeguard the public interest, improve the efficiency of Jordan's economy, and increase the consumer welfare.⁴⁰

Another objective of the Competition Law is to preserve and promote competition as a means of ensuring the efficient allocation of resources, which in turn results in better quality products and services, more choices and lower prices for consumers.⁴¹

The removal of artificial barriers to new entrepreneurs entering the market and the proliferation of small enterprises can generate particularly strong benefits for consumers.⁴²

The lessening of anticompetitive practices will help to end the exploitation of consumers. Consumers benefit when monopolistic and collusive business practices are curtailed. Therefore, when competitive market structures are established, consumers are the big winners.⁴³

Several substantive provisions of the Competition Law embrace the promotion of consumer welfare. For example:

1. Article 7(B)⁴⁴ explicitly requires enterprises seeking to exempt an agreement or a practice from the requirements of Articles 5⁴⁵ and 6⁴⁶ to show that the agreement or the practice in question achieves certain benefits to consumers.⁴⁷

39. See Kovacic, *supra* note 37, at 106.

40. See International Co-operation Program on Competition Policy, *The Interface of Consumer Protection and Competition Laws and Policies* 9 (2006), available at <http://www.apeccp.org.tw/doc/APEC-OECD/2006-11/03-2Indonesia.pdf> (last visited Nov. 14, 2010).

41. See QALYUBI, *supra* note 9, at 57. See also Kovacic, *supra* note 37, at 105.

42. See Kovacic, *supra* note 37, at 105.

43. See Pomar, *supra* note 31, at 3.

44. This provision is similar to the second requirement of Art 81(3) EC Treaty which provides that anticompetitive agreements, concerted practices or decisions of associations of undertakings may be cleared if they contribute to (improving the production or distribution of goods or to promoting of technical or economic progress, while allowing consumers a fair share of the resulting benefits). See QALYUBI, *supra* note 9, at 57-58.

45. Article 5 prohibits practices, alliances or agreements, especially price-fixing schemes and collusive bidding practices, that limit, contravene or prevent competition. See *id.*

46. Article 6 forbids businesses that enjoy dominant market position from abusing that position. Article 2 defines "dominant position" as when a business can control and affect market activity.

47. From 2002 to 2010, the Competition Directorate received nine exemption requests and approved three of them. More information about Competition Directorate

2. Article 11(A)(l)⁴⁸ entrusts the Minister of Industry and Trade with clearing concentration transactions if their competitive effects outweigh their anticompetitive effects, for example, when they lead to lower prices.⁴⁹
3. Article 14(A)(7) provides that the Minister of Industry and Trade may appoint one president of a consumer-protection association to the Competition Affairs Committee.

The president of the Consumer Protection Society is a member of the Committee for Competition Matters,⁵⁰ so the consumer protection association, which represents a high percentage of Jordanian consumers, participates in the planning and implementing of the general competition strategy.⁵¹

4. Article 17(A) states that private-sector enterprises, licensed consumer-protection associations, and any group of at least five consumers who have suffered harm can directly complain to the public prosecutors regarding to any violation of the Competition Law.⁵²

Therefore, according to the Competition Law, consumers can start the judicial process directly by lodging a formal complaint with the public prosecutors.⁵³

activities is available at the MIT website. See Ministry of Industry & Trade, <http://www.mit.gov.jo/Default.aspx?tabid=805>. (last visited Nov. 14, 2010).

48. This is similar to the efficiency defense for clearing mergers under the EC competition rules. See Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings (2004/C 31/03) Official Journal of the European Union ¶¶ 79-84 (Feb. 5, 2004), available at <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2004:031:0005:0018:EN:P> DF (last visited Nov. 14, 2010). See also QALYOUBI, *supra* note 9, at 57-58.

49. From the years 2003 to 2009, the competition directorate received forty-five economic concentration requests in several sectors. See Ministry of Industry & Trade, <http://www.mit.gov.jo/Default.aspx?tabid=804> (last visited Nov. 14, 2010).

50. See Ministry of Industry and Trade, *Competition Directorate 2007 Annual Report*, 28, available at <http://www.mit.gov.jo/portals/0/Annual%20Report%20E%202007copy.pdf> (last visited Nov. 14, 2010).

51. The role of the Competition Affairs Committee had been mentioned before.

52. According to Competition Directorate annual reports the Jordanian courts received three complaints from enterprises between 2003 and 2007. See MINISTRY OF INDUSTRY AND TRADE, *Competition Directorate Annual Reports (2003-2007)*, <http://www.mit.gov.jo/Default.aspx?tabid=1176> (last visited Nov. 14, 2010).

53. Article 17(B) Industry & Trade Law No. 33 of the Year 2004, mentions that "[i]n all cases the Ministry of Industry and Trade shall be a party in all competition cases, and it may submit any studies or comments to the court and request to continue hearing such cases, even where the parties referred to in paragraph (A) of this Article have dropped their case or have settled their dispute, and it may contest any decisions issued in

A. *Consumer Protection and Competition*

Consumer-protection policy is an important complement to competition policy.⁵⁴

Competition policy alone will not fully safeguard consumer interests. It is useless to have low-priced products on the market, if these products are unsafe and may harm consumers. It is also useless to have wide choices for consumers if consumers cannot make a properly informed choice because, for example, shelves lack pricing information, products lack clear and adequate labeling, or salespersons misleadingly advertise or make misrepresentations about their products.⁵⁵

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 to being cheated in many or most ordinary transactions, they will be inclined to take costly precautions and will end up purchasing less.⁵⁶

Competition policy does not provide solutions to several important consumer problems. For example, protection against unfair terms in standard consumer contracts accepted unknowingly or reluctantly by the consumer or against contracts concluded by consumers at a distance from the supplier on the basis of incomplete information on the product and on the trustworthiness of the supplier is something outside of the Competition Law's scope.⁵⁷

By analyzing the two drafts of consumer-protection law,⁵⁸ it could be noted that the general objectives of Jordanian consumer protection include:⁵⁹

- Creating a consumer-protection system containing legal certainty and transparency, and access to information.

these cases." Competition Law, No. 33, art. 17(B) Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (Jordan), available at http://www.mit.gov.jo/portals/0/competition_law.pdf.

54. See Kovacic, *supra* note 37, at 114.

55. See Directorate for Financial and Enterprise Affairs, *The Interface Between Competition and Consumer Policies, Contribution from Malta 4*, available at <http://www.oecd.org/dataoecd/21/63/39792321.pdf>.

56. See Kovacic, *supra* note 37, at 114-115.

57. See Affairs, *supra* note 55.

58. The text of two drafts are available at the MIT website, <http://www.mit.gov.jo/Default.aspx?tabid=489>.

59. See MINISTRY OF INDUSTRY AND TRADE, *Competition Directorate: Introduction*, <http://www.mit.gov.jo/Default.aspx?tabid=1174> (last visited Nov. 14, 2010).

- Improving the awareness and independence of consumers to protect themselves.
- Empowering consumers to select, determine and claim their rights as consumers.
- Developing entrepreneurs' awareness of the importance of consumer protection and thus foster honest, responsible entrepreneurial conduct.

Jordan's Industry and Trade Law No. 18 for Year 1998⁶⁰ covers some consumer interests. For example, Article 4(B)(1) of the Industry and Trade Law mentions that the MIT shall be the body responsible for observing markets in order to protect national interests and verify adherence to the provisions of Industry and Trade Law.⁶¹ Also, according to the Document of Legal Motives for Enacting the Industry and Trade Law, consumer welfare is one of the national interests.⁶² Consumer welfare refers to the benefits and interests that consumers would attain from competitive markets in the form of increased output, lower prices, better products and wider selection of products or services.⁶³

Article 4 tasks the MIT with taking the necessary actions to organize competition and protect consumers in accordance with Jordan's laws.⁶⁴

Article 4(B)(3) says that the MIT is the body responsible for organizing the sale of basic materials,⁶⁵ setting prices for these materials, and exporting the surplus.⁶⁶

Article 7(B) mentions that the MIT markets observers' tasks are to:

60. See Industry & Trade Law, No. 18, art. 4, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4304 at 3782 (Jan. 10, 1998) (Jordan), available at <http://www.mit.gov.jo/portals/0/tabid/551/Industry%20and%20Trade%20Law.aspx>.

61. See *id.* at art. 4(B)(1),

62. Unpublished document obtained from Ministry of Industry and Trade, p. 1 (1998) (on file with author).

63. QALYOUNI, *supra* note 9, at 54.

64. Industry & Trade Law, No. 18, art. 4, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4304 at 3782 (Jan. 10, 1998) (Jordan), available at <http://www.mit.gov.jo/portals/0/tabid/551/Industry%20and%20Trade%20Law.aspx>.

65. Article 2 of the Industry and Trade law defines "basic materials" as materials that the Cabinet deems, in accordance with the law, to be basic. Industry & Trade Law, No. 18, art. 2, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4304 at 3782 (Jan. 10, 1998) (Jordan), available at <http://www.mit.gov.jo/portals/0/tabid/551/Industry%20and%20Trade%20Law.aspx>.

66. *Id.* at art. 4(B)(3).

- verify the sale of basic materials and commodities transacted in the market according to the prices determined by the Cabinet, and
- ensure that the materials are suitable for human consumption.⁶⁷

Article 11(A) requires each trader to put a clear price list in a visible place that specifies the price of each item the trader is offering for sale, even if the prices are set by official regulations; moreover, according to the same article, traders shall not be allowed to charge more than the listed price.⁶⁸

Article 11(B) requires wholesalers to provide the customer with a receipt after the purchase; the receipt must show the type of the purchased item, the quantity, and price.⁶⁹ Article 11(B) also requires retailers to give customers a copy of the receipt upon request.⁷⁰

Article 16(A) sets punishments to be imposed on any of the following activities:

1. Selling or storing any expired commodity or a commodity unsuitable for human consumption.
2. Hiding or refusing to sell any basic commodities or selling any commodity at a price higher than the prices set in accordance with Article (11)(A).⁷¹

Article 12(A)(1) prohibits any person from announcing clearance-sale offers without following the legal measures required by the MIT.⁷² Article 12(A)(2) prohibits any person from announcing sale offers on

67. *Id.* at art. 7(B).

68. Article 13 of the Industry and Trade Law sets payment fine of at least 30 JD and not exceeding 300 JD to be imposed for any violation to any of the provisions of Article 11. *See id.* at art. 11(A).

69. *Id.* at art. 11(B). The wholesaler must keep a copy of this receipt for a period not less than two years. *Id.*

70. Industry & Trade Law, No. 18, art. 11(B), Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4304 at 3782 (Jan. 10, 1998) (Jordan), available at <http://www.mit.gov.jo/portals/0/tabid/551/Industry%20and%20Trade%20Law.aspx>.

71. *See id.* at art. 16(A). Between January 1, 2009, and June 30, 2009, Jordan's Markets Control Directorate issued 6,760 violation reports, including 5,726 violations for not declaring the prices, 864 for increasing prices, 89 for illusive sales and offers, 74 for refusing to sell basic commodities, six for non-cooperation with the official employees and one for refusing to provide receipt to buyer. *Ministry of Industry issued 6760 offenses during the first half*, Al Ghad daily newspaper, iss. 1780 Sept. 7, 2009, available at <http://www.alghad.com/index.php/rss/rss.php?news=432194>.

72. Industry & Trade Law, No. 18, art. 12(A)(1), Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4304 at 3782 (Jan. 10, 1998) (Jordan), available at <http://www.mit.gov.jo/portals/0/tabid/551/Industry%20and%20Trade%20Law.aspx>.

commodities where the prices are not actually less than the prices before the sale.⁷³

Moreover, Article 12(A)(4) prohibits anyone from offering free rewards according to specified conditions and then denying that these conditions were met.⁷⁴ The same provision prevents any person from honoring fewer rewards than were advertised or otherwise cheating in the granting of these awards.⁷⁵ In addition, according to Article 12(A)(5), no person may organize or promote a program membership which is based on payment of an up-front fee that does not impart a direct or indirect financial benefit upon the payer.⁷⁶

In this regard, Article 8(B)(2) of the Competition Law permits the resale of commodities below their actual purchase price only when the seller is liquidating his or her business, or is moving inventory in order to free up shelf space for new, lower-priced inventory.⁷⁷

Article 18(A) of the Industry and Trade Law provides that the owner and manager of any store where violations of the Industry and Trade Law occur will be liable, depending on the facts of the particular situation.⁷⁸

If we consider that 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 breaches of

73. *Id.* at art. 12(A)(2).

74. *Id.* at art. 12(A)(4).

75. *Id.*

76. *Id.* at art. 12(A)(5). Article 14 of the Industry and Trade Law sets a fine of at least 500 JD and not exceeding 3,000 JD for any violation of any of the provisions of items (1), (2), or (3) of paragraph (A) of Article 12. Article 15(A) mandates a fine of not less than 1,000 JD and not exceeding 10,000 JD and imprisonment for a period of not less than three months and not exceeding one year for any violation of the provisions of item (4) and (5) of paragraph (A) of Article 12. Moreover, the person violating the law must repay all returns acquired from these activities.

77. Competition Law, No. 33, art. 8(B)(2), Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4673 at 4157 (Sept. 1, 2004) (Jordan), available at http://www.mit.gov.jo/portals/0/competition_law.pdf. Article 22 of the Competition Law sets a fine of at least 200 JD but not exceeding 20,000 JD to be imposed for any violation of Article 8 of the Competition Law. *Id.* at art. 22.

78. Industry & Trade Law, No. 18, art. 18(A), Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4304 at 3782 (Jan. 10, 1998) (Jordan), available at <http://www.mit.gov.jo/portals/0/tabid/551/Industry%20and%20Trade%20Law.aspx>. Article 17 of the Industry and Trade Law mentions that the punishment shall be maximized if the violation was repeated for one time, and if repeated within three years for more than once, the punishment would be the maximum fine and imprisonment for a period not less than the minimum imprisonment period as defined in the punishment and not exceeding its maximum as indicated in articles 14, 15 and 16 of Industry and Trade Law. Industry & Trade Law, No. 18, art. 17, Al-Jarida Al-Rasmiya [OFFICIAL GAZETTE], No. 4304 at 3782 (Jan. 10, 1998) (Jordan), available at <http://www.mit.gov.jo/portals/0/tabid/551/Industry%20and%20Trade%20Law.aspx>.

contract or unauthorized billings,⁷⁹ then it is obvious that the above articles do not protect all consumer interests. Several issues, including warranty observance and other after-sale services, must be covered by regulations and official procedures.

Furthermore, the right of access to information should be expanded to other issues besides the price lists mandated by Article 11(A).⁸⁰ For example, this right should be expanded to include access to information about the origin of a product and its contents. Another area that the Ministry of Industry and Trade should seek to regulate is trade contracts: presently, traders have no legal obligation to write consumer contracts in clear and understandable language. Small font size or unclear phrases or sentences will make the contracts' conditions less comprehensible.

In addition, the Industry and Trade Law does not cover credibility about the quality of commodities. Traders may use frills to make their goods seem much better than they actually are in the eyes of consumers.

Moreover, because there is no governmental body directly in charge of consumer issues in Jordan, if traders trick consumers, the only way for consumers to seek a remedy is to complain to the jurisdiction authority in the hopes of obtaining adequate compensation according to the Jordanian civil law. This will take a lot of time and will cost a lot of money.⁸¹

Considering these issues, the consumer policy will lead to the improvement of the quality of goods and services and may guarantee the sustainability of both the production of goods and services and the comfort, security and safety of consumers.⁸²

However, it is important to consider that what constitutes the benefit of consumers is not something that everyone will agree upon, and that it can be understood in different forms.⁸³ Some consumer-protection actions may improve consumer outcomes but may have detrimental

79. Daniel Agustino, *Competition, Consumer Protection, and Objective of Competition Law*, Commission for the Supervision of Business Competition (KPPU), 1, 3 (Aug. 2006), available at <http://www.apeccp.org.tw/doc/APEC-OECD/2006-11/03Indonesia.pdf>.

80. Industry & Trade Law, No. 18, art. 11(A), *Al-Jarida Al-Rasmiya* [OFFICIAL GAZETTE], No. 4304 at 3782 (Jan. 10, 1998) (Jordan), available at <http://www.mit.gov.jo/portals/0/tabid/551/Industry%20and%20Trade%20Law.aspx>.

81. According to the Jordanian Ministry of Justices, the duration of the proceedings in the Jordanian courts is 277 days for civil cases. See *Ministry of Justice: Significant Reduction in the Resolution and Judgmental Duration Indicators*, *Alghad* newspaper, No. 1649, Feb. 28, 2009, available at <http://www.alghad.com/index.php/rss/frame.php?news=399588>.

82. See Fernando Gómez Pomar, *EC Consumer Protection Law and EC Competition Law: How related are they?* 4 (Law and Economics Perspective Working Paper No. 113, 2002), available at <http://www.raco.cat/index.php/InDret/article/viewFile/81192/105680>.

83. See *id.* at 3, 4.

effects on competition.⁸⁴ For example, price fixing and organization supply for basic goods will affect competition even if the government sets the price of these goods. But in this regard the Jordanian government prefers to consider consumer interest as more important than competition, aiming to prevent any possible negative effect that could be caused by a vendor's abusing the importance of basic goods to consumers. Moreover, requirements that providers of particular types of goods and services satisfy health and safety standards will raise the cost of the goods and services they provide, and such requirements may constrain competition.

On the other hand, some might say that requirements on providers of particular types of goods and services to satisfy health and safety standards will raise the quality of products and services and will ensure advantages for consumers, but it is important to consider that consumers look for two elements: quality and price.

B. Differences between Consumer-Protection and Competition Policies

There are important differences between consumer-protection and competition policies. They are different in their objectives, enforcement approaches and institutions, violations and correction, and development.⁸⁵

1. Core Objectives

The core objectives of the competition policy are to ensure that markets work according to market forces and to provide consumers with a competitive range of product or service options. In contrast, the core objective of the consumer-protection policy is 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.⁸⁶

84. See Sam Di Scerni, Speech to The International Cooperation Program on Competition Policy (The Interface Between Competition and Consumer Policies) (Sept. 11, 2006), *transcript available at* www.apeccp.org.tw/doc/APEC-OECD/2006-11/04_Australia.pdf.

85. Derek Ireland, *Competition Policy and Consumer Protection*, POLICY OPTIONS, Oct. 1997, at 27-28, *available at* <http://www.irpp.org/po/archive/oct97/ireland.pdf>.

86. See Gesner de Oliveira & Sérgio Goldbaum, *Relations Between Regulation, Competition Policy & Consumer Protection in Telecommunications, Electricity and Water Supply*, 2 (2001), <http://virtualbib.fgv.br/dspace/bitstream/handle/10438/1867/TD107.pdf?sequence=1>.

2. Enforcement Approaches and Institutions

The Competition Directorate enforces competition policy in a highly selective and reactive manner in response to complaints and investigations. In contrast, the enforcement of consumer-protection policy involves direct intervention by several consumer-protection associations and the Markets Control Directorate.

3. Violations and Corrections

Competition-policy violations stem from market failures such as the 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 consumers' ability to choose freely among the options, stem from other market failures,⁸⁷ which can be corrected within the sphere of consumer protection.⁸⁸

4. Development

Competition policy is usually developed and modernized based on long-term processes that include detailed analysis⁸⁹ of market forces and stakeholder⁹⁰ consultations,⁹¹ as well as benchmarking with major trading partners. In contrast, consumer-protection policies tend to be developed more quickly in response to a perceived market failure or economic crisis.

87. See Haitham Abu Karaki, *The Interface Between Competition and Consumer Policies: Contribution from Jordan*, Submitted to the Organization for Economic Co-operation and Development [OECD], *Seventh Global Forum on Competition, Contribution from Jordan*, at 3 (Dec. 17, 2007), available at www.oecd.org/dataoecd/21/41/39792264.pdf. Other market failures include situations where market transactions and outcomes fail to serve the consumer interest, economic efficiency and a nation state's productivity and competitiveness. *See id.*

88. *See* Ireland, *supra* note 85, at 28; de Oliveira & Goldbaum, *supra* note 86, at 2.

89. Competition policy could be developed through an analysis of the forces existing in the market and their commitment to competition law. A program called Statistical Package for the Social Sciences (SPSS) helps the decision-maker in the Competition Agency identify weaknesses in the Agency's work to develop better laws.

90. Stakeholders include all relevant agencies that serve the work of the Competition Directorate. For example in Jordan, the Customs Department, Tax Department, and Companies Control Department are among the various ministries that can provide information that helps the Directorate work.

91. Stakeholder consultations are a kind of coordination between official departments and are held on an as-needed basis. For example, a stakeholder consultation may occur when there is an issue that requires the cooperation of the Tax Department and the Directorate. Consultations affect and develop the Directorate's work through stakeholder suggestions.

Moreover, competition policy can develop and become formalized through bilateral and multilateral agreements between the competition authorities and through bilateral cooperation and the exchange of information between them.⁹²

C. The Harmony Factors Between Competition Policy and Consumer-Protection Policy

Despite the differences between the competition policy and consumer-protection policy, there are also some harmony factors between them. These factors are summarized below.

The long-term objectives of both competition policy and consumer-protection policy could be understood as the enhancement of consumer sovereignty welfare, as well as effective consumer choice. Both policies address—albeit in different ways—market-failure scenarios where market transactions and outcomes fail to serve consumer interests and promote economic efficiency.⁹³ While these long-term objectives seem to converge, they are not identical. But, importantly, they could be considered as an indication for the harmony factors between the two policies.⁹⁴

Enforcement of the Competition Law in the marketplace will lead to better consumer information and choices, and a better-informed and more demanding consumer who is prepared to make his or her preferences clearly known to suppliers, and thereby stimulate greater competition and more product choice. Therefore, one might note that in circumstances where there is little or no competition in the market, there may be greater justification for intervention to maintain consumer welfare. Alternatively, overly burdensome consumer-protection regulations can impede market entry and thus reduce market competition and product choice.⁹⁵

It is true that consumer-protection policy, more often than the Competition Law, is associated with social objectives, but the Competition Law can also have objectives that are not founded on economic-efficiency criteria.⁹⁶

It could be noticed that consumer-protection and competition policies interact to promote and protect consumers' economic interests. Moreover, the thread that connects competition policy and consumer protection is the attainment of consumer welfare, in addition to

92. See Ireland, *supra* note 5, at 28.

93. *Id.* at 28-29.

94. QALYOUNI, *supra* note 9, at 57.

95. Scerni, *supra* note 84, at 2.

96. Ireland, *supra* note 5, at 28.

promoting competitive markets, competitiveness and, ultimately, growth and development.⁹⁷ Therefore, both competition and consumer-protection policies should be based on rigorous marketplace analysis⁹⁸ 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 aimed at increasing profits and market share.⁹⁹

Many tools can be used to ensure that competition policy and consumer-protection policy can work in harmony. For example:¹⁰⁰

- Public education programs aimed at assisting producers and consumers understand their rights and responsibilities can be implemented. Markets can perform better if both consumers and producers are well informed.
- Strengthening the enforcement of both competition and consumer-protection policies by launching investigations into any possible breaches of the competition and consumer-protection regulations, and implementing the necessary procedures to resolve competition and consumer-protection issues, including legal action, where appropriate.
- Applying a strict mergers policy that prohibits anti-competitive mergers.
- Promoting competition-policy exemptions when certain conduct could lead to real public benefits. This action will achieve balance between the competition policy and consumer interests.

D. Governmental Organizations: Competition & Consumer Protection Agency

As mentioned previously, the MIT plays a key role in applying the Jordanian economic policy. This includes the competition policy and consumer-protection policy, which the Competition and Market Control directorates apply. In addition, I mentioned above that there is no clear consumer policy that protects all consumer interests in Jordan. Therefore, I believe that the MIT could enhance competition and consumer-protection functions of Jordan's economic policy by

97. QALYOUNI, *supra* note 9, at 57. See also Agustino, *supra* note 36, at 3.

98. "Marketplace analysis" refers to an analysis of whether market forces are in compliance with the Competition Law. The Statistical Package for the Social Sciences (SPSS) Competition Agency would conduct such a market analysis.

99. See Ireland, *supra* note 5, at 28-29.

100. Scemi, *supra* note 84, at 4.

combining the Competition and Market Control directorates within one agency.

According to this idea, Competition and Market Control directorates should be combined in one independent governmental agency which should be the body responsible for implementing competition and consumer-protection functions.

Several advantages could be reached if an independent agency was established to apply the competition and consumer-protection policies. One of the advantages would be the avoidance of political influence on the agency's work.¹⁰¹ The extent of political interference in the competition and consumer-protection policy could be decreased by making the agency more independent and improving its structure, functions, decision-making power and financial independence.¹⁰²

Other benefits could be achieved by combining both functions in a single public institution:¹⁰³

1. Consumers in Jordan would have a governmental body directly concerned with their interests.
2. Performing the consumer-protection function will provide the Competition and Consumer Protection Agency with useful insights into how the Agency should execute competition policy in the best possible way for consumers.¹⁰⁴
3. In several important instances, enforcing the policy concerning advertising and marketing practices has improved our understanding of how markets operate.¹⁰⁵
4. Having a single entity handle consumer-protection and competition functions will lead to harmonious decisions

101. QALYOUBI, *supra* note 9, at 41.

102. It should be noted that separating competition policy from political influence could not be fully envisaged in Jordan because priorities that are set for implementing competition and consumer policy rules will compare with other social or economic considerations. See QALYOUBI, *supra* note 9, at 41.

103. *Seventh Global Forum on Competition, Contribution from Jordan*, *supra* note 87, at 3.

104. The idea here is that competition and consumer-protection policies are related together, so if a single government body applies both policies, the body can locate points of integration between these policies and use them to avoid conflict and contradiction.

105. Combining the consumer-protection and competition functions in a single government agency would create increased insight into what products and services are being offered to consumers and about how the markets are working. Bringing both functions under one government agency would allow Jordan's Government more effectively to monitor advertising activities and thereby protect against false offers or anticompetitive practices.

whose effects on markets, competition and consumers are properly and comprehensively accounted for.

5. Appropriately applying the competition and consumer-protection policies together can reinforce¹⁰⁶ the competitive pressures that force sellers to respond attentively to consumer preferences.¹⁰⁷
6. The consumer-protection policy can borrow heavily from competition enforcement experience in designing strategies for working against uncompetitive practices.¹⁰⁸
7. Market observers will track marketplace violations during their fieldwork;¹⁰⁹ this will provide the agency fieldwork team with valuable experience in Jordanian markets.¹¹⁰
8. The consumer-protection and competition policies could be applied by one agency without conflict. This application would save time, effort and costs.

Several successful examples around the world show that enforcing competition policy and consumer protection through one independent agency can work. Examples include the Federal Trade Commission in the United States,¹¹¹ the Office of Fair Trading in the United Kingdom,¹¹²

106. Competition policy will address pricing issues, while the consumer-protection policy will address product-quality issues and other consumer interests. Implementing both policies through one body would spur competition, which would cause traders to improve the quality of their wares and to pay increased attention to consumers' interests in order to attract customers. Thus, implementing both policies under one government body would be in consumers' best interests.

107. Timothy J. Muris, Chairman, Fed. Trade Comm'n, Prepared Remarks at the Fordham Corporate Law Institutes Twenty-Ninth Annual Conference on International Antitrust Law and Policy: The Interface of Competition and Consumer Protection, at 24 (Oct. 31, 2002), *available at* www.ftc.gov/speeches/muris/021031fordham.pdf.

108. *Id.*

109. Fieldwork refers to field visits to check for market irregularities.

110. Ideally, the Agency would have field teams to investigate allegations of market abuses. The Competition Directorate is suffering from a limited number of staff. At the end of 2009, the Directorate had only 14 employees—only 10 of whom are entitled to deal with competition issues. Combining both directorates would help address this staffing shortage.

111. *See* Federal Trade Commission, Bureau of Consumer Protection, <http://www.ftc.gov/bcp/about.shtm> (last visited Dec. 1, 2010).

112. *See* Office of Fair Trading, Consumer Protection, <http://www.oft.gov.uk/OFTwork/consumer-protection/?jsessionid=6C564399D86E52752E4879106A9E60ED> (last visited Dec. 1, 2010).

the Australian Competition & Consumer Commission,¹¹³ the Japan Fair Trade Commission,¹¹⁴ and the Korean Fair Trade Commission.¹¹⁵

Any singular competition and consumer-protection agency would have to establish more balanced policies for consumers. A central agency with regional offices would be required. A consultative body consisting of local experts on consumer issues, including local governorates,¹¹⁶ local councils and consumer groups, would also need to be formed so as to promote consumer policies and to protect the rights of those who lack the capacity to resolve consumer problems by offering counseling services and educational programs and by preparing measures to ensure consumer safety. Above all, a competition and consumer-protection agency would establish effective legal criteria by which fast and effective damage redress could be granted in response to consumer harm.¹¹⁷

Moreover, the agency would have to lay the ground for a practical and comprehensive consumer education. The agency would need to develop an index to objectively measure consumers' capacity for reasonable consumption,¹¹⁸ which would be utilized to design consumer-education programs focused on the weaknesses and problems of consumers.¹¹⁹

A strong competition and consumer-protection agency with adequate penalties and remedies in its armory and the willingness to use them would ensure a high degree of competition and consumer welfare in the marketplace.¹²⁰

The agency would need to develop an improved methodology for market investigations aimed at applying remedial measures to solve competition and consumer-protection problems. This methodology

113. See Australian Competition & Consumer Commission, For Consumers, <http://www.accc.gov.au/content/index.phtml/itemId/815215> (last visited Dec. 1, 2010).

114. See Organization for Economic Co-operation and Development [OECD], *Seventh Global Forum on Competition, Contribution from Japan*, at 3 (Dec. 19, 2007), available at www.oecd.org/dataoecd/6/43/39808695.pdf.

115. See Fair Trade Commission, Republic of Korea, Organization, <http://eng.ftc.go.kr/about/organization.jsp?pageId=0103> (last visited Dec. 1, 2010).

116. Jordan is divided into 12 administrative parts called governorates.

117. See Korea Fair Trade Commission [KFTC], *Consumer Policy Development Measures of the KFTC*, at 2-3 (April 16, 2007), available at ftc.go.kr/data/hwp/20070607_102444.pdf. See also OECD, *Seventh Global Forum on Competition, Contribution from Japan*, at 2-3 (Dec. 19, 2007), available at www.oecd.org/dataoecd/6/43/39808695.pdf.

118. Reasonable consumption is non-excessive consumption founded on a scientific, logical basis.

119. Korea Fair Trade Commission [KFTC], *Consumer Policy Development Measures of the KFTC*, at 6 (April 16, 2007), available at ftc.go.kr/data/hwp/20070607_102444.pdf.

120. Scerni, *supra* note 84, at 6.

would do well to focus on identifying and assessing consumer detriment,¹²¹ and to draw on all available analytical tools in order to detect uncompetitive practices and consumer-protection violations.¹²²

On the other hand, the involvement of consumer organizations is very important to increase the effectiveness of competition and consumer-protection market investigations. Such involvement could be achieved by permitting consumer organizations to file formal complaints about competition and consumer problems.¹²³

CONCLUSION

The MIT plays a key role in applying Jordanian economic policies. The MIT implements several regulations, and it is the body responsible for applying competition and consumer-protection policies. The MIT implements the competition policy through the Competition Directorate and works to ensure that consumer interests will be protected through the directorate of Markets Control.

To date, there is no consumer-protection law in Jordan. Nor is there is a governmental body directly in charge of consumer issues. However, the MIT is trying to set the main principles of consumer-protection policy.

Competition policy and consumer-protection policy have a deep regulatory impact on the functioning of markets. Perfect competition ensures that all consumers who need a certain good or service will obtain it at the price which reflects its real cost. Lessening anticompetitive practices will lead to the end of consumer exploitation.

Consumer welfare is enshrined indirectly in the substantive provisions of the Competition Law. Nevertheless, competition policy alone will not fully safeguard consumer interests.

The Industry and Trade Law covers some consumer interests but not all of them. Several issues need to be covered in order to improve the quality of goods and services for consumers, and this may guarantee the sustainability of the production of goods and services, as well as the comfort, security and safety of consumers.

121. Consumer detriment refers to a method for calculating the financial costs to consumers and to the economy as a whole when problems occur. See Peter Lunt, *The Psychology of Consumer Detriment*, Office of Fair Trading, at 1 (Jan. 2006), available at http://eprints.soton.ac.uk/148227/1/The_Psychology_of_Consumer_Detriment.pdf.

122. Organization for Economic Co-operation and Development [OECD], *Seventh Global Forum on Competition, Contribution from United Kingdom*, at 7 (Jan. 10, 2008), available at www.oecd.org/dataoecd/40/11/39875978.pdf. See Alasdair Murray, *Consumers and EU Competition Policy*, Center for European Reform, 1, 1 (Sept. 2005), available at www.cer.org.uk/pdf/policybrief_consumers.pdf.

123. See Murray, *supra* note 122, at 1-4.

There are important differences between consumer-protection policy and the competition policy. The two policies are different in their objectives, enforcement approaches and in the institutions applying them. Moreover, they investigate different types violations and strive to correct violations differently. Thus, the two policies develop differently.

There are some harmony factors between the competition policy and consumer-protection policy. Their long-term objectives seem to converge. Although these objectives are not identical, they are properly understood as sharing important characteristics. The two policies interact to promote and protect consumers' economic interests by attaining consumer welfare and promoting competitive markets. Many tools are used to ensure that competition and consumer protection can work in harmony.

I believe that that the Competition and Market Control directorates should be combined in one independent governmental agency. This governmental agency would be the body responsible for implementing competition and consumer-protection functions. This agency would be required to cooperate with consumer organizations, support these organizations, develop balanced competition and consumer policies, and fill the gaps in competition and consumer-protection policies.

The agency could fulfill these requirements by applying competition and consumer-protection policies through counseling services and education programs, preparing measures to ensure consumer safety and damage redress and developing an improved methodology for market investigations, aiming to use remedial measures to solve competition and consumer-protection problems.

The Jordanian government should satisfy consumers' needs by establishing a well-organized marketplace and eliciting advantages from the positive synergies between the competition and consumer-protection policies. Bringing the competition and consumer-protection policies under a single government agency would have a positive social impact and improve the business environment in Jordan, as well.