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Anti-Competitive Practices In The Electronic Communications Sector As Indirect Guarantees For Investment In It In Algerian Law

Dr. MAACHOU Noureddine*
University of Naama— Salhi Ahmed —Algeria
***Email**: maachou.nourelddin@cuniv-naama.dz*

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Abstract:

Under the influence of competition, the electronic communications institution, as an economic operator, often resorts to doubling its economic power in the market by using methods that are inconsistent with the rules of free competition. Some of them may attempt to reduce the number of their competitors or exclude them from the market through illegal means described as anti-competitive practices aimed at limiting or eliminating competition. It has become clear that it is necessary to provide adequate and proportionate systems to the sector in order to ensure free competition, which is one of the indirect guarantees granted to those dealing in the electronic communications sector. The study aimed to understand the content of competition in the field of electronic communications activity based on the law relating to mail and electronic communications, Order 03-03 relating to competition, and the investment law, and to address the forms of anti-competitive practices.

keywords : Electronic communications, investment, unfair competition, anti-competitive practices.

Introduction:

With the development of means of communication in all its forms, the economic dimension of electronic communications emerged, and the term economics of electronic communications was repeated. In light of the developments that the sector is witnessing from monopoly to openness and then liberalization and allowing private individuals to enter the electronic communications sector, the establishment of freedom of competition in the field of electronic communications depends primarily on the implementation of the principle of freedom of investment and trade, as it is the basic principle that gave competitive activity its legal and legitimate basis.

The problem of research arises in identifying unfair competition in the electronic communications sector (anti-competitive practices in the electronic communications sector), especially since Algeria is turning to a market economic system and the openness of the communications sector to competition and investment. It is necessary to have special legal rules regulating competition in the electronic communications law.

Based on the above, this topic raises three sub-problems:

First: What are the rules of unfair competition in the field of electronic communications?

Second: What are the forms of unfair competition in the field of electronic communications?

The importance of the subject of the study is due to:

-Its connection to a fundamental issue that combines legal and economic importance. There is no doubt that competition is a fundamental pillar of a free market economy, and the practice of any economic activity is linked to the extent of the effectiveness of competition in the market in question, with the benefits it reflects for all parties in the market, whether for consumers who obtain goods and services at lower prices and higher quality, or for producers (investors) through the incentive that competition provides for continued development, innovation and investment, which helps them expand in the market.

-02The study of anti-competitive practices in the telecommunications sector is characterized by some specificity, as it represents the backbone of many modern economic sectors that rely in their essence on modern technologies, especially information technology. On the other hand, these practices are mostly new practices, especially in the telecommunications sector.

To answer these problems, and given the nature and modernity of the topic, it was necessary to define the analytical approach through analyzing the legal texts related to competition in the telecommunications sector as an economic activity, especially Law 18-04 related to mail and electronic communications and Order 03-03 related to competition, and comparing them by adopting the comparative approach. The law that was chosen for comparison is Jordanian and Qatari in some places, and this is in order to identify some aspects related to competition in the sector. Electronic communications.

Accordingly, this research entitled “Unfair Competition in the Electronic Communications Sector” was divided into two sections. The first section was devoted to the first section: What is unfair competition in the electronic communications sector, while the second section is devoted to images of anti-competitive practices in the communications sector.

The first topic: The nature of unfair competition in the electronic communications sector

This research requires dividing it into two requirements. The first requirement addresses the concept of unfair competition in the electronic communications sector, while the second requirement addresses the concept of anti-competitive practices in the field of electronic communications.

The first requirement: The concept of unfair competition in the electronic communications sector

The requirement will be divided into two sections, which will address the definition of unfair competition. The second section will address the necessities of legislative regulation of competition in the telecommunications sector.

Section One: Definition of unfair competition

Freedom of competition is an economic idea that was introduced into the legal field through a basic principle, which is the principle of freedom of investment and trade. Accordingly, recognizing freedom of investment and trade means recognizing freedom of

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competition. Recognition of the freedom to engage in investment and commercial activity cannot be achieved unless it includes the latter's freedom of competition, which grants all persons without discrimination equal opportunities to benefit from economic resources. Existing to implement their commercial and investment projects.[1]

Competition is considered one of the important tools for the prosperity of trade in general, and for this reason countries have given great attention to the principle of freedom of trade and competition in it. However, competition turns against trade and merchants when illegal means are used, such as if these means used by the merchant are in violation of the law or commercial customs or are contrary to the honor and honesty required by practicing the profession .[2] ، Abstaining from unfair competition is considered one of the duties imposed by law on merchants when practicing commercial work. This is because trade is based on trust, integrity, honesty, trustworthiness, and respect for the accepted principles of commercial dealing. Therefore, the merchant must enjoy these qualities and stay away from every action that deviates from the principles of commercial dealing[3] ،Although the laws regulating competition and preventing monopoly in the market gave great importance to the issue of unfair competition in the field of commercial activity, especially in countries that adhere to the principle of free economics, most of these laws did not explicitly define the term unfair competition.

The Jordanian Unfair Competition and Trade Secrets Law defines it as: "Any competition that conflicts with honest practices in industrial or commercial affairs is considered an act of unfair competition." It seems that the Jordanian legislator used the definition contained in the Paris Convention for the Protection of Industrial Property, which defined it as "any competition that conflicts with the honorable customs of industrial and commercial affairs ".

Accordingly, unfair competition in its general sense means competition for customers or customers by using means that are contrary to the law, religion, customs, customs, commercial integrity, or professional honor[4].

Section Two: Necessities for legislative regulation of competition in the telecommunications sector

The various types of services sector play a vital role in many countries' economies, especially in developed countries, in creating job opportunities, developing economic sectors, and achieving balance in the balance of payments. The communications sector is one of the vital sectors in the economic development of any country. The degree of a country's development and advancement is sometimes measured by the extent of the development of this sector and the services it can provide to society. Its importance lies as a standard for the level of economic and social recovery, because it is a measure for achieving social well-being and meeting and satisfying basic and necessary needs. For various segments of society, it is considered one of the most successful sectors, due to the rapid growth it is witnessing due to the accelerated degree of growth in it, in addition to its suitability for achieving the best returns, especially with its openness to competition. However, supporting this sector requires the attention of governments to provide the structure that stimulates its growth by providing a strong regulatory environment, a stimulating legislative environment and the necessary infrastructure, within the framework of effective participation between the government, the private sector and civil society organizations, and a system of mechanisms stimulating and supportive of local and foreign investments. For small and medium industries, in addition to following mechanisms to monitor and measure development and progress achieved. The growth of the telecommunications market throughout the year requires the presence of a legislative environment that ensures an appropriate climate for competition and investment, and from here the need for laws regulating communications emerged.

Information and communication technology has gained weight in advanced and emerging economies. This is due to its utmost importance in building a national economy based on the greatest return and the least cost and risk, because the latter is based primarily on human intelligence, which in turn creates, innovates and invents due to its added values to the economy. Likewise, we find that the countries of the world have become based on digitization, as the great importance of communications, especially in the areas of mobile phone services, made the Algerian state accelerate in opening competition in the communications market by allowing... For private individuals to enter this market in order to work and contribute to improving and upgrading telecommunications services, that is, the freedom of the investor to choose the field in which he wishes to invest without restricting it or limiting his freedom. With the emergence of this technology, the economy has become based on knowledge with an appropriate technological base, which has led to a joint strengthening between the flourishing of knowledge-intensive activities and the work to disseminate new technology with the aim of achieving a thriving economy with competitive advantage and increasing the efficiency of existing customers and the possibility of reducing prices. Comprehensive service commitment can encourage infrastructure sharing (interconnection and joint concentration) among customers. Current ones. When companies share resources, such as cell phone towers and fiber optic cables, initial construction costs can be significantly reduced. This enables them to focus their resources on innovation and expansion in other areas of their business. In addition, sharing infrastructure can lead to higher performance of economic operators, resulting in lower efforts and lower overall costs, which may enable lower service prices and make them more competitive in the market[5].

The second requirement: Principles of freedom of investment in the field of communications and anti-competitive practices therein

The principle of freedom of competition, in addition to equality between people in carrying out investment projects, guarantees the freedom of movement of production factors and does not impede the flow of capital or restrict the movement of goods and services...etc. Not to mention that, the principle prevents the establishment of barriers that prohibit the entry of investors into a specific market, as it confronts everything that would Opposing freedom of competition, such as monopolistic practices such as prohibited agreements, mergers, and mergers. Practices that contradict unfair competition[6] ‘The main and ultimate goal of anti-competitive practices is to control the market by excluding current or potential competitors in order to achieve the greatest possible profit. To learn about the concept of anti-competitive practices in the field of communications, the requirement will be divided into two sections. The first section addresses the principles of freedom of investment, which are considered legal guarantees for the investor in the field of electronic communications. The second section addresses the concept of anti-competitive practices in the field of communications.

Section One: Principles of freedom of investment in the field of electronic communications

Law 22-18 related to investment approved a set of principles that are considered legal guarantees for investment, such as the principle of equality and the principle of transparency[7].

First: The principle of equality (non-discrimination)

In order to provide legal protection for investments, including foreign ones, the Algerian legislator enshrined the principle of equality within the framework of the legislator's strengthening of Algeria's policy to protect and encourage investment in Order 01-03 relating to investment (repealed), provided that Algerian natural and legal persons are treated in the field of rights and duties related to investment, and all foreign natural and legal persons are treated the same while taking into account the provisions of the agreements concluded by the Algerian state with their state of origin, which is The principle that was confirmed in Law 16-09 relating to the promotion of investment by stipulating the guarantee of fair and equitable treatment of foreign investments[8] ،Which was confirmed in Law 22-18 related to investment. The goal of the law is to determine the rules governing investment, the rights and obligations of investors, and the economic systems for the production of goods and services performed by natural or legal persons, national or foreign, whether residents or non-residents[9] ،This law establishes the principle of freedom of investment, which means the investor has the freedom to choose his investment, as well as equality in dealing with investments[10].

Second: The principle of transparency

The principle of transparency has been emphasized in Executive Decree No. 22-298 relating to the Algerian Investment Promotion Agency[11] ،Which is to enable investors, regardless of their legal status, to have the right to obtain all information regarding the method of conducting their activity from the bodies supervising the accompaniment and follow-up of investment projects, by clarifying all legal procedures, whether legislative or regulatory, that must be followed for the purpose of facilitating and encouraging investors to invest[12].

Section Two: Definition of anti-competitive practices in the field of communications

Under the influence of competition, telecommunications service providers have resorted to doubling their economic power in the market by using methods that are inconsistent with the rules of free competition. They seek to meet the needs of customers and achieve profits, which imposes on them continuous efforts in the field of research, development and creativity. In order to achieve the maximum possible profits, some of them may try to reduce the number of their competitors or exclude them from the market, by illegal means described as anti-competitive or anti-competitive practices whose goal is to limit or eliminate competition[13]. It has different and renewed forms, especially in light of the ongoing information revolutions that create forms that did not exist previously, depending on the development of merchants' methods and systems that govern the market. With the multiplicity of forms, the laws of countries differ in the extent to which an act is considered a form of unfair competition. Firstly, despite this difference, many forms remain that opinion has settled on as being considered unlawful acts, because of the incidents of confusion, an attack on an organization, or the reputation of a trader, or practices that harm the market and hinder competition. These images constitute the basis of error in an unfair competition lawsuit, and most laws mention some images as examples but not limited to.

There is no doubt that protecting competition in the telecommunications sector is only possible by revealing practices and agreements that restrict competition, and then tightening the legal framework to prohibit these practices without prejudice to the freedom to practice the communication activity as an economic activity. The legal basis for anti-competitive practices in general, which apply to telecommunications activities in Algerian law, is found in the second chapter of the Competition Law Order 03-03 - amended and supplemented by Law 08-12 under the title of practices that restrict competition, especially Articles 6, 7, 8, 9, 10, 11, 12, 13 and 14 thereof, where the legislator deliberately prohibits practices, premeditated actions, agreements, and explicit and implicit agreements when they aim to obstruct, limit, or disrupt the freedom of competition in the same market or in an essential part of it, especially when they aim to: reduce or control production, marketing outlets, investments, or technical development, divide markets or sources of supply, obstruct the setting of prices according to market rules by encouraging Artificially high or low prices, applying unequal conditions for the same services towards trading partners, which deprives them of the benefits of competition, subjecting the conclusion of contracts with partners to their acceptance of additional services that are not related to the subject of these contracts, whether by their nature or according to commercial customs, allowing the granting of a general contract for the benefit of those with these restricted practices"[14] ‹It also prohibits all abuse resulting from a position of dominance or monopoly over the market or a part of it with the aim of: limiting entry into the market or the practice of commercial activities therein, reducing or controlling production, marketing outlets, investments or technical development, dividing markets or sources of supply, obstructing the setting of prices according to market rules by artificially encouraging the rise and fall of prices, applying unequal conditions for the same services towards commercial partners, which deprives them of the benefits of competition, subjecting the conclusion of contracts with partners to their acceptance of additional services that are not It is related to the subject matter of these contracts, whether by its nature or according to commercial customs[15] ‹ It also excluded agreements and practices resulting from the application of a legislative or regulatory text from being subject to the provisions of Articles 06 and 07 of the Competition Law. It also licensed agreements or practices whose owners can prove that they lead to economic or technical development or contribute to improving employment, or that would allow small or medium enterprises to enhance their competitive position in the market[16] ‹The Competition Law also considers any act or contract, regardless of its nature or subject, to obstruct, limit, or violate the freedom of competition that allows an institution to monopolize the exercise of an activity that falls within the scope of application of Order 03-03 related to competition, amended and supplemented[17] ‹In Article 11 of Order 03-03 relating to competition, the law also prohibits every institution from arbitrarily exploiting the position of dependence on another institution in its capacity as a customer or supplier if this violates the rules of competition. The legislator also mentioned in the text of the same article the forms of arbitrariness, which are: refusal to sell without a legitimate justification, concurrent or discriminatory selling, conditional sales on the acquisition of a minimum quantity, obligation

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to resell at a lower price, severing the commercial relationship simply because the customer refuses to submit to unjustified commercial conditions, Every other action would reduce or eliminate the benefits of competition within the market.

It is also prohibited to offer prices or practice arbitrarily low selling prices to consumers compared to the costs of production, transformation or marketing, if such offers or practices aim or could lead to excluding an enterprise or obstructing or limiting its products from entering the market[18] ‹It also made every obligation, agreement, or contractual condition related to one of the prohibited practices invalid, in the text of Article 13 of the same Order 03-03 related to competition.

The second section: Images of anti-competitive practices in the telecommunications sector

The practices that constitute the abuse of a dominant position in the market are considered anti-competitive practices, as these practices result in damage to the market and reflect negatively on the principle of free competition. Comparative communications laws have prohibited the abuse of a dominant position, and some forms of it have been mentioned. This is what will be discussed in two demands. The first requirement is the concept of arbitrariness in the position of dominance, while the second requirement refers to practices related to influencing prices.

The first requirement: the concept of arbitrariness in the position of hegemony

The law prohibits arbitrariness in this economic power, especially when its aim is to limit and disrupt the freedom of free competition by excluding other competitors from practicing economic activity in the market. In this context, Article 7 of the Competition Law stipulates that: “Any arbitrariness resulting from domination of a market or a monopoly of it or part of it is prohibited."...

The first section: arbitrariness in the position of dominance

Article 1 of the Qatari Telecommunications Law No. 34 of 2006 defines control as: “Control over the decisions of another person in any way, by having economic power that gives him the authority to act to a certain extent in an independent manner from competitors or customers, whether directly through ownership of shares or bonds, or indirectly through contracts or agreements”.

The same article also defines a strong position in the market as “the strong economic position in the market of the service provider that allows it to operate independently from customers or competitors or to control the market or markets related to specific communications services, by working alone, or in partnership with others.” This article also defines the dominant service provider as “the service provider who enjoys marketing power or control in the market or markets for communications services,” while Law 18-04 related to mail and electronic communications was devoid of reference to the strong position in the market, while the Competition Council defined The Algerian definition of abuse of the dominant position on the occasion of the issue related to the exploitation of the dominant position in the cement market is that: “Exploitation of the dominant position is the arbitrary exploitation of the power of a market that corresponds to the dominant position and which has a goal or for the purpose of preventing and restricting the game of competition"[19].

The Algerian legislator did not address the definition of prohibited arbitrariness resulting from a position of dominance in Ordinance 03-03 relating to competition, amended and supplemented, but rather was satisfied only with what is meant by arbitrary actions resulting from a position of dominance .

Order 95-06 relating to competition stated the cases that represent abuse in exploiting a position of dominance as follows: “Any abuse resulting from a position of dominance over the market or a monopoly on it or on part of it is prohibited, which is embodied in: - Refusal to sell without a legitimate justification, as well as withholding a stock of products in stores or in any other authorized or unauthorized place, concomitant or discriminatory sales, sales conditional on the acquisition of a minimum quantity, the obligation to resell at a lower price, or severing commercial relations simply for the sake of The client's refusal to submit to commercial terms is illegal, any other action that would limit or eliminate the benefits of competition in the market" [20] ،Whereas Order 03-03 relating to competition, repealing Order 95-06 relating to prices, did not specify the acts described as arbitrariness, but it enumerated the purposes for which the practice aims to give it the character of arbitrariness, and this is what is included in Article 07 of the Competition Law, which states: “All arbitrariness resulting from a position of dominance or monopoly over the market or over part of it is prohibited for the purpose of: limiting entry into the market or the practice of commercial activities in it, reducing or controlling production, marketing outlets, investments or development.” Technology, sharing markets or supply sources, obstructing the setting of prices according to market rules by artificially encouraging the rise or fall of prices, applying unequal conditions for the same services towards trading partners, which deprives them of the benefits of competition, subjecting the conclusion of contracts with partners to their acceptance of additional services that are not related to the subject of these contracts either by their nature or according to commercial customs[21].

The second requirement: practices related to influencing prices

Prices are considered the most important factor to attract customers in many commercial fields, given that competitors sell the same products or provide the same services, and with equal product quality, the best option that merchants resort to is to deal with prices in a way that attracts customers towards them, which leads some of them to resort to illegal methods that affect the fair price of the product, which is called a price war or what is called aggressive pricing, which is one of the most prominent anti-competitive practices associated with monopoly.

The first section: predatory pricing

One of the most prominent principles upon which competition is based is freedom of prices. Therefore, this freedom must be within its legal framework of respecting the rules of competition. Determining the prices of goods and services, even if it is free, must respect the rules of competition because monopoly is a single economic aid to a specific market that makes it control the prices of these goods or services.

Selling at a price lower than its cost with the intention of expelling competitors from the market is called predatory pricing or predatory pricing, and is defined as selling the product (goods and services) at less than its cost for the purpose of forcing other competitors to exit the product market and then return to selling it at monopoly prices. It is the practice of supplying goods and services at prices low enough to expel competitors from the market with the aim of monopolizing the market. It is a type of practice that is difficult to prove, especially in the telecommunications sector, as this sector is characterized by large common and general costs that are difficult to allocate to a specific service. It is difficult to apply economic cost tests used to determine predatory pricing, such as average variable costs over the long term on many telecommunications prices .

Telecommunications laws prohibit predatory pricing. The Qatari Telecommunications Law prohibits a major service provider from providing competitive telecommunications services at prices below costs. It also prohibits Article 11 of the Instructions for the Protection of Competition in the Jordanian Telecommunications Sector and defines it as: “The practice that occurs when a dominant licensee prices a product or service below cost by an appropriate standard, with the aim or effect of eliminating competitors in the short term or reducing competition in the long term, with the expectation that these losses will be compensated for through higher prices at a later time ”.

Order 03-03 related to competition prohibits these practices, as Article 06 of Order 03/03 related to competition affirms the prohibition of practices, premeditated actions, and explicit and implicit agreements when they aim or could aim to obstruct or limit the freedom of competition when they aim at a group of practices, the most important of which is obstructing the setting of prices according to market rules by artificially encouraging their increase or decrease. Article 07 of the Competition Law also prohibits any arbitrariness resulting from a position of dominance over the market or Monopolizing all or part of it with the aim of achieving a set of goals, including obstructing the setting of prices according to market rules by artificially encouraging them to rise or fall[22] ،Article 11 of the same law also prohibits any institution from abusing its position of subordination to another institution in its capacity as a customer or supplier, if this violates the rules of competition, and among the forms of arbitrariness is the obligation to return sales at a lower price .

Article 12 stipulates the prohibition of displaying prices and practicing arbitrarily low selling prices to consumers compared to the costs of production, transformation and marketing, if these offers or practices aim or may aim to exclude an institution or obstruct one of its products from entering the market. If an institution that has economic power in the market displays prices or practices low prices in a deliberate manner with the aim of flooding the market with its products, it is considered to be committing a practice that restricts competition. If this reduction does not affect it due to its economic strength, it will be paid. Weak and less powerful institutions may withdraw from the market[23] ،We specifically mention, as a comparison, the Post and Telecommunications Regulatory Authority, which intervened on more than one occasion to settle disputes between mobile phone customers and established its jurisdiction in the dispute that brought together the mobile phone customer Jeezy (0TA) against the other customer (AT). This was explained by the fact that the approved pricing between the customer networks could be subject to determination by the regulatory authority and that the goal of this determination is the development of competition in the market. In another dispute that brought together the same dealers on the issue of adopting a subsidized price for a competitive service or selling at a loss, the authority ruled in favor of the first dealer against the second, and even issued an order to him to withdraw the offer in addition to compensation paid to the affected dealer[24].

Among the applications of competition in the field of prices, which falls within the scope of the obligation to fulfill comprehensive service requirements for electronic communications dealers who hold licenses to establish and exploit electronic communications networks for mobile phones[25] ،This regulation includes requirements for providing quality service at reasonable prices to users, and the text also includes defining the responsibilities of customers. The Post and Electronic Communications Regulatory Authority is empowered with the responsibility of applying and implementing the text correctly according to the book of conditions according to the conditions specified in it, so that it sends the book of conditions to all dealers in the electronic communications sector in order to submit their offers, and the authority evaluates the offers, publishes the results, and studies the appeals. Licenses are granted to whoever wins the auction after the competition is announced.

The Postal and Electronic Communications Control Authority deals with the comprehensive service by providing a competitive and stimulating environment for the customer to provide that service, in accordance with the standards listed in the book of conditions, which leads to the provision of quality services at acceptable prices[26].

Section Two: Discriminatory Pricing

Legitimate competition requires that the merchant not discriminate in prices between customers, as discrimination in prices is considered a violation of the principle of equality and equality of opportunity. However, it may be in the interest of the monopolist not to sell all of the goods he produces or the services he provides at a unified price. Rather, because of the absence of competition, he can distinguish between different markets and offer a different price in each market .

The service provider (service provider) discriminating in prices between different beneficiaries of the same service is not considered legitimate, as it leads to harming competition, and the service provider must treat all competing customers in a relatively fair manner, and he must prohibit his customers from providing any services or discounts and be prepared to grant them to them on an equal footing .

Regarding the position of the telecommunications laws, the competition regulations in the Jordanian telecommunications sector, in Article 13, prohibited anti-competitive pricing discrimination and considered it an abuse of the dominant position and defined it as: “It is the practice that occurs when a dominant licensee charges different prices from customers in similar circumstances for the same product in a way that significantly reduces competition or harms wholesale or retail customers"[27] ،While Algerian law lacks any mention of price discrimination in Law 18-04 relating to mail and electronic communications, while it was referred to in Order 03-03 relating to competition in Article 11 of Order 03-03 relating to competition. Every institution must arbitrarily exploit the position of subordination to another institution in its capacity as a customer or supplier if this violates the rules of competition, so that the legislator in the text of the same article mentioned forms of arbitrariness, including collateral or discriminatory selling.".....[28] ،Whereas prohibiting the practice of discriminatory pricing expresses the legislator’s approval of the principles of competition, which are represented in: “freedom of prices"[29].

Section Three: Refusal to deal

The general rule in commercial transactions is the freedom of every commercial establishment to deal with whomever it wants to deal with. It has the right to refuse to deal with any other commercial establishment. However, this right, like other rights, is not absolute, but rather restricted by the necessity that it should not be for the purpose of creating or maintaining a monopoly.

Commercial companies usually have the right to decide for themselves who they wish to deal with, and no person has an absolute right to have supplies made to him. There may be sound commercial reasons to refuse to supply products or services to a customer, but there are circumstances under which refusal to deal is illegal, according to telecommunications laws and licenses. For example, a telecommunications service provider may not request approval from another service provider to cut off supplies to a customer, and a telecommunications service provider may not force another company or threaten it not to deal with a customer from another service provider. Any service provider with influential market power or an influential position in the market may use this power in order to harm its competitors by refusing to supply its products to distributors or specific customers for the purpose of harming the business capabilities of its competitors, or by offering to enter into business on unrealistic terms, or else refuse to deal.

Telecommunications laws prohibit refusal to deal that constitutes an abuse of a dominant position whenever its purpose is to disrupt competition in the market and the business capabilities of its competitors. The Qatari telecommunications law prohibits dominant service providers from monopolizing the use of rare or exclusive facilities or resources, which may result in preventing a competing service provider from using those facilities or resources or enjoying its rights of access, as well as carrying out any actions that would fundamentally result in a decline in competition in any telecommunications market, including an agreement with a supplier not to sell to a service provider. Competitor'.

The legislator prohibited refusal to deal in Article 101 of Law 18-04 relating to mail and electronic communications, stipulating that “dealers of electronic communications networks open to the public are required to respond, in accordance with objective, transparent and non-discriminatory terms, to interconnection requests submitted by other dealers”.

It is not permissible to reject an interconnection request if it is justified in view of the requester’s needs on the one hand, and the customer’s ability to meet them on the other hand.......” It is also prohibited to refuse to deal in Article 11 of Order 03-03 related to competition, which stipulates that every institution arbitrarily exploits the position of subordination to another institution in its capacity as a customer or supplier if that violates the rules of competition, so that the legislator, in the text of the same article, mentioned forms of arbitrariness by using the phrase “every other action that would reduce or It eliminates the benefits of competition within the market.

Conclusion :

In conclusion, and based on the above, anti-competitive practices are considered unlawful, targeting the entire market and affecting it, leading to attracting the largest number of customers from all merchants practicing the same activity and reducing the number of competitors or excluding them. They are practices that cause disruption and restriction of competition.

The telecommunications laws in question differ in their use of terms indicating practices that hinder competition in the market. The Jordanian law calls them anti-competitive practices, while the Qatari law calls them anti-competitive practices and sometimes anti-competitive actions, while if we look at the Algerian law, we find that it used the term anti-competitive or anti-competitive practices, and if it refers to something, it indicates that it is a difference in name only and not a difference in content.

The scope of application of competition laws and their coverage of the electronic communications sector varies from one country to another

We suggest that the Algerian legislator follow the example of comparative legislation in regulating competition in the electronic communications sector, that is, including a special chapter for it in the communications law to address competition.

-Granting the Postal and Electronic Communications Control Authority the authority to regulate competition in the electronic communications sector.

We suggest that the legislator exclude from the scope of the ban practices that lead to economic development, achieving or improving the interests of subscribers, and improving competitiveness in the electronic communications sector.

-The legislator must follow the path of communications laws and comparative legislation in identifying the most important practices that are considered an abuse of the dominant position in the electronic communications sector and specify them, for example.

-Prohibition of all types of discrimination and refusal to deal with harmful effects on competition (discrimination that is exploitative, anti-competitive, or harmful to the interests of consumers).

List of sources and references:

First / List of sources:

A- Laws :

- *Order 03-03 of July 19, 2003, relating to competition, C, No. 43, issued on July 20, 2003, amended and supplemented by Law 08-12 of June 5, 2008, C, No. 36, issued on July 2, 2008 .*
- *Law No. 18-04 of May 10, 2018 specifying the general rules related to mail and electronic communications, Part No. 27, issued on May 13, 2018.*
- *Law No. 04-02 of June 23, 2004, determining the rules applicable to commercial practices, C, R, No. 41 of June 27, 2004 .*
- *Order No. 95-06 of January 25, 1995 relating to competition, Official Gazette No. 09, issued on February 22, 1995.*

Second / List of References:

A- Books:

- *Joseph Nakhla Samaha, Unlawful Competition - A Comparative Legal Study - First Edition, Ezzedine Foundation for Printing and Publishing, Beirut, 1991.*
- *Sarbast Qader Hussein, anti-competitive practices in the telecommunications sector - a comparative legal study - Zain Legal Publications Lebanon, 2018 edition.*
- *Tiorsi Muhammad, Legal Controls for Competitive Freedom in Algeria, Houma Printing, Publishing and Distribution House, Algeria, 2015 edition.*

B- University theses :

- *Boukmijja Najiba, Unfair Competition in the Field of Intellectual Property, PhD thesis at Ben Aknoun University, 2013-2014.*
- *Maasho Noureddine, Competition Law and Media Institutions, PhD thesis, Faculty of Law and Political Science, Sidi Abbas University, 2022-2023.*

C- Articles in magazines:

- *Ahmed Sadiq, Naima Allouache, The Legal Nature of the Unfair Competition Lawsuit in Light of Commercial Practices, an article published in the Journal of Jurisprudence, Faculty of Law, University of Biskra, Mohamed Khidir, Volume 13, Special Issue, January 2021.*
- *Ben Abdelkader Zahra, protecting the principle of competition from abuse in exploiting the position of market dominance - an analytical study in Algerian legislation in light of its French counterpart - an article published in the Journal of Legal Studies, Issue 01, Volume 05, year 2019.*
- *Reda Boualdjari, Balancing the requirements of the comprehensive electronic communication service and the rules of competition, an article published in the Tabna Journal for Academic Scientific Studies, year 2024, Volume 07, Issue 02.*

The official competition bulletin:

- *The Official Competition Bulletin - Issue 02, 2013, pp. 10-17. WWW.CONSEIL-CONCURRENCE*

Bibliography

[1] Shuaib Zouache, The principle of freedom of investment and trade is a legal basis for freedom of investment, an article published in the Journal of Human Sciences, Faculty of Law, Mentouri University of Constantine, Volume 32 - Issue 3 - December 2021, p. 73.

[2] Ahmed Sadiq, Naima Allouache, The Legal Nature of the Unfair Competition Lawsuit in Light of Commercial Practices, an article published in the Journal of Jurisprudence, Faculty of Law, University of Biskra, Mohamed Khidir, Volume 13, Special Issue, January 2021, p. 827.

[3] Sarbast Qadir Hussein, op. cit., p. 74 .

[4] Tiorsi Muhammad, Legal Controls for Competitive Freedom in Algeria, Houma Printing, Publishing and Distribution House, Algeria, 2015 edition, p. 154.

[5] Reda Boualdjari, Balancing the requirements of the comprehensive electronic communication service and the rules of competition, an article published in the Tabna Journal of Academic Scientific Studies, year 2024, Volume 07, Issue 02, p. 928.

[6] Shuaib Zouach, previous reference, p. 73.

[7] Article 03 of Law No. 22-18 of July 24, 2022 relating to investment, Issue No. 50, issued on July 28, 2022.

[8] Article 21 of Law No. 16-09 of August 3, 2016, Section No. 46, issued on August 3, 2016.

[9] Article 01 of Law No. 22-18 of July 24, 2022 relating to investment, op. cit.

[10] Article 03 of Law No. 22-18 of July 24, 2022 relating to investment, ibid.

[11] Article 04 of Executive Decree No. 22-298, of September 8, 2022 relating to the Algerian Investment Promotion Agency and its functioning, No. 60 of September 18, 202.

[12] El-Kahina Arzel, on the regionalization of the business environment in Algeria, Critical Journal of Law and Political Sciences, Faculty of Law and Political Sciences, Mouloud Mammeri University - Tizi Ouzou, Issue 01, 2013, p. 52.

[13] Sarbast Qader Hussein, Anticompetitive Practices in the Telecommunications Sector - A Comparative Legal Study - Zain Legal Publications Lebanon, 2018 Edition, p. 86.

[14] Article 06 of Ordinance No. 03-03 of July 19, 2003, relating to competition, C, No. 43, issued on July 20, 2003, amended and supplemented by Law No. 08-12 of June 5, 2008, C, No. 36, issued on July 2, 2008 .

[15] Article 7 of Order 03-03 on Competition amended and supplemented, ibid.

[16] Article 9 of Order 03-03 on Competition amended and supplemented, ibid.

[17] Article 10 of Order 03-03 on Competition amended and supplemented, ibid.

[18] Article 12 of Order 03-03 on Competition amended and supplemented, ibid .

[19] Announcement No. 01 of July 25, 2013 to the Algerian Competition Council on the occasion of the request of the Minister of Commerce regarding the presumption of exploitation of the dominant position in the cement market, in implementation of Article 35 of Order No. 03-03 of July 19, 2003, amended and supplemented, relating to competition, Official Competition Bulletin - Issue 02, 2013, pp. 10-17 .WWW.CONSEIL-CONCURRENCE.DZ .

[20] Article 07 of Order No. 95-06 of January 25, 1995 relating to competition, Official Gazette No. 09, issued on February 22, 1995 (repealed).

[21] Ben Abdelkader Zahra, protecting the principle of competition from abuse in exploiting the position of market dominance - an analytical study in Algerian legislation in the light of its French counterpart - an article published in the Journal of Legal Studies, Issue 01, Volume 05, year 2019, p. 45.

[22] Article 07 of Order 03-03 on Competition, amended and supplemented, op. cit .

[23] Article 12 of Order 03-03 on Competition, amended and supplemented, op. cit.

[24] Quoted from Maasho Noureddine, Competition Law and Media Institutions, PhD thesis, Faculty of Law and Political Science, 2023, p. 94.

[25] Article 03 of the decision dated 02/03/2019, including approval of the book of conditions related to providing the comprehensive electronic communications service to cover 750 low-density areas, Issue No. 34, issued on May 22, 2019.

[26] Reda Boualdjari, op. cit., p. 928.

[27] Sarbast Qadir Hussein, previous reference, p. 195.

28 Article 11 of Order 03-03 on Competition, amended and supplemented, op. cit.

29 Boukmijja Najiba, Unfair Competition in the Field of Intellectual Property, PhD thesis at Ben Aknoun University, 2013-2014, p. 352 .