Law No. 23 for 2010 concerning commercial activity
Book Eleven

Competition and protection of consumer

Section One: Competition
Chapter One
General provisions

Article (1282)
Objects
This section specifies the applicable provisions for free prices and limitation of monopoly, organizing, organizing commercial competition, limiting rules for its protection, in view of development of economic activity, guaranteeing transparency and integrity in dealings and respecting rules of business.

Article (1283)
Scope of application
Provisions of this section will be applied on all commercial activities which are exercised by ordinary persons or corporate bodies and its provisions will be also applied on any economic activities outside Libya with consequent effects inside it.

Article (1284)
Specifying prices
Prices of commodities and services are specified according principles of competition with the exception of the following:
- Prices of commodities and services which are specified by the concerned secretary
- Prices of commodities and services which are specified by GPC temporarily for facing an emergency case or natural disaster and these procedures will be reviewed during a period not exceeding 6 months from commencement of its effectiveness.

In the previous cases, the issued decisions for specifying the prices of these commodities and services should include the relative rules and the established penalties will be specified for violation.

Chapter Two
Illegal competition

Article (1285)
Deeds and exercises infringing competition
Considering the provision of the previous article, all explicit and implicit deeds and agreements which are designed to prejudice principles of competition, application of market's rules or to limit it or affect it are prohibited in accordance with the provisions of this law, particularly the following:

- The agreements or deeds that aim or lead to limitation of prices of commodities and services or affect the rules of supply and demand whether by increasing or reducing prices.
- Preventing or complicating practicing commercial activity in the market to limit entry of other practitioners or their exit.
- Division of markets or sources of commodities and services or clients on geographical basis or quantitative or seasonal.
- Refusal of sale and purchase or to restrict it with additional restrictions or to be pending conditions which are not related with the commodities and services.
- Collusion in submission of offers, tenders and public tenders and bids or to set conditions which its acceptance is not justifiable.
- Exclusiveness in concession contracts and commercial agency other than exceptional cases which are approved by the concerned secretary after taking the opinion of the competition board.
- Dumping by selling the imported commodities (similar to the locally produce commodities or with the same specifications) with price less than the sale price in the local market of the exporting state or price less than the actual cost to cause harm or threatens that or complicates significantly the production of such commodities in the local market.

The agreements which are signed in violation of the provisions of this section are considered null and void.

Article (1286)
Illegal competition in intellectual property
The following deeds are considered illegal competition:

1. Forgery and counterfeit of registered trade marks
2. Assault of the commercial name and logo which are recorded in the trade register
3. Exploitation of achievements of others and obtaining data that are not declared with illegal means such as spying, stealing and fraud
4. Not respecting the rules organizing fees and registered industrial forms
5. Attack of the author’s rights, neighboring rights, audio works and broadcasting programs as well as electronic data and piracy as well as attempts of penetration of an encryption scheme and attempts to cause damage to the electronic data.

Article (1287)
Control and domination of market
The commercial project is considered in the status of control and domination when it is affected by monopolizing a quota in the market with a relation exceeding the percentage established in the decision of the concerned secretary on condition that the percentage does not exceed 30% of that market in all cases.
Control will be evaluated through the following basis:

1. Market shares
2. Annual volume of business (volume of dealings)
3. Volume of assets
4. Number of employees

5. Capability of projects to raise prices over or under competency level for an important period of time

Article (1288)
Prohibition of control aspects
All practitioners of commercial activity who are in a status that allows them to affect or capable to affect the market's activity or its control are prohibited to misuse their status to distort competition or limit it or prevent it; in particular the following deeds:

- Limitation of sale and purchase prices of commodities and services in an incompatible form with the rules of the market and leads to distortion of principles of competition
- Preventing sale and purchase of commodities and services or concealing or monopolizing or suspending dealings for fabrication of abundance or deficit which are not actual for the purpose of speculating and affecting prices
- Refusing dealings with one of the practitioners of commercial activity or imposition of unequal discriminatory conditions to perform that
- Exploiting the situation of economic dependency to impose conditions for dealings to limit principles of competition
- Interference to limit the operations of production, manufacture, development and distribution of commodities and services or to limit its entry in the market

Article (1289)
Economic blocs
All practitioners of commercial activities are prohibited to form blocs that affect the market's activity and control by exceeding the percentage established in the decision of the concerned secretary and that percentage should not exceed 30% in all cases and they are also prohibited to share the markets or clients or sources of raw materials or provisions on a basis which is incompatible with the principles of competition; the following business is excepted:

- Business that contributes in creating technological or economical progress that lead to reducing cost or improving the circumstances of production and distribution to achieve public benefit and to achieve for consumers a fair portion of benefit
- Business that allows improvement of competency status for some small units that practice economic activity.

In all cases for obtaining an exemption, it is necessary to submit application to the concerned secretary to consider it. The procedures for submission of application and the method for its consideration is stated in the executive rules.

Article (1290)
Operations of commercial concentration
The concerned secretary will present to the competition council every concentration project of the commercial projects in respect of competition especially for creating or strengthening the control and domination status of the market.

Article (1291)
Sale with price less than cost
All practitioners of commercial activities are prohibited to sell commodities and services with prices less that its cost; with the exception of the following:

- Commodities which are subject to destruction and are easily destructed.
- Seasonal commodities and services.
- Stagnant stocks and obsolete commodities or technically worn-time.

The rules will specify the basis and controls that organize that.

Chapter Three
Competition council

Article (1292)
Establishment of councils
A council will be established according this law and it enjoys a corporate body and independent financial status, it will be named (Competition Council) and it will work under the supervision of GPC.

Article (1293)
Formation of the council
The council is formed from:

1. The president to be a known personality with integrity and to be experienced in the legal or economical fields; his degree should not be less than thirteen.
2. The president will have a deputy, to be an expert if companies' field; his degree should not be less than administration manager in GPC for financial auditing.

The president and his deputy will work permanently for a period of 4 years subject to renewal one time.
The council will include 6 members who are experienced in legal or economical fields and at least one of them should be a consultant in the court of appeal and his appointment will be for 3 years not subject to renewal.
The council should include also 3 members who exercise the activity of production or distribution or rendering services to be nominated by the public union of chambers of trade, industry, agriculture and crafts and will be appointed for 5 years not subject to renewal.
A decision from GPC on presentation of a proposal from the concerned secretary will be issued nominating the president, his deputy and council's members; and it will specify their financial awards.

Article (1294)
Council's jurisdictions
Council's jurisdictions are as follows:

1. To review complaints and deeds distorting competition and to issue the necessary decisions in its respect including issuance of decisions terminating the exercises violating the rules of competition or closure of project temporarily for a period not exceeding 3 months

2. To perform investigations in accordance with the submitted complaints or an initiative on his own if it has evidence of the recommended practices that will affect the rules of competition or to limit it
3. To submit opinion and advice on issues concerning competency and formation of commercial blocs submitted by the concerned secretary
4. To take the necessary procedures to prevent or suspend deeds or to limit damages that face local production as a result of dumping the local market for the purpose of affecting the principles of competition
5. To state point of view and to set proposals and assistance in preparing regulations of the bills and organizational decisions concerning competition
6. To provide proposals to the concerned secretary to issue the necessary decisions for treatment of the case of blocs or control on the market including amendment or cancellation of agreements or contracts under which concentration or control is achieved. He also issues an order for taking the necessary procedures for division of companies to prevent the availability of cases to control the market.
7. The council will transfer the complaint issue to the public attorney if it forms one of the crimes stipulated in this law
8. Submission of annual report to GPC secretary and concerned secretary including council's activity, views and recommendations.

Article (1295)
Necessity of consultancy
The competition council is consulted by GPC in every bill or organizational text concerning occurrence of new system or amendment of an existing system aiming to:

1. The imposition of quantitative restrictions on the practice of an occupation or entry in the market
2. The imposition of monopolies or consultancy rights or other rights in Libya
3. Imposing standard practices concerning prices and conditions for sale
4. To grant subsidies from the state or groups of local practitioners of commercial activity

Article (1296)
Implementing council's decisions
The concerned secretary will take the necessary procedures to implement the decisions of the issued competition council against the offenders of the orders directed for termination of practices distorting competition and temporary closures of places concerning the committed violations.

Article (1297)
Immunity
In cases of no flagrant delicto**,** no proceedings will be pursued against the president, his deputy and the council's members or to investigate with them concerning their duties in the council without permission from GPC.

Article (1298)
Cases of dismissal
The council's president or deputy or members should not be dismissed during performance of duties except in the following cases:

1. Permanent disability for performance of duties
2. Repeated negligence in performing their functions
3. Misuse of their posts
4. Issuance of judgment against them in a felony or misdemeanor distorting honor or honesty or security
5. Issuance of judgment for bankruptcy

Article (1299)
The entities that may submit complaint to the council
All practitioners of commercial activities may resort to the council complaining on deeds concerning the principles of competition.
The following entities may report on prohibited practices in accordance with the provisions of this law and to submit complaints in its respect:

1. The concerned secretary according to report from the concerned administration after performing the primary investigations that prove commission of one of the deeds or practices distorting the principles of competition
2. Chambers of trade, industry and agriculture and its general union
3. Consumer's protection associations which exercise its activity according ther effective regulations
4. Occupational associations, unions, occupational and vocational unions
5. Any group of at least 25 consumers

Article (1300)
Council's internal system

- The council will form sufficient number of employees to perform its skills and the council's president will appoint them and he will have the authority of the administration manager
- GPC will issue decision to form the council's organization chart on presentation of the council
- The council will set the internal system and will organize work.

Chapter Four
Penalties

Article (1301)
Penalties consequent to deeds and practices distorting competition
A fine of at least LD. 1,000 and not more than LD. 5,000 will be imposed on any corporate body who commits one of the practices stipulated in article (1285) of this law.
The ordinary persons who took the prohibited decisions may be imprisoned for a period not less than 6 months.

Article (1302)
Penalties consequent to control restrictions
A fine of at least LD. 5,000 and not more than LD. 15,000 will be imposed on any corporate body who commits one of the practices stipulated in article (12825) of this law.
The ordinary persons who took the prohibited decisions may be imprisoned for a period not exceeding one year.

Article (1303)
Penalties consequent to economic blocs
A fine not exceeding 3% of the volume of the annual dealings of the specific projects will be imposed on whoever forms prohibited blocs or participated in it.
Imprisonment for a period not less than one year will be imposed on ordinary persons who took the prohibited decisions.

Article (1304)
Suspension or withdrawal of licenses
In addition to the penalties stipulated in the previous articles, the licenses for exercising the commercial activity may be suspended for a period not exceeding 6 months; and in case of repetition, the license is finally withdrawn.

Chapter Five
Final provisions

Article (1305)
The character of the judicial control officer
The employees who were nominated by GPC decision will have the character of judicial control officer to prove the commitments stipulated in this section.

Article (1306)
Confidentiality of documents
The paper, documents and testimonies which are reviewed during investigation in the violation is considered confidential and it is not permitted to disclose the contents to any entity or to be used for any other purpose by violating the effective regulations.

Article (1307)
Executive rules
The rules of the provisions organizing competition include the following:

- Procedures for submission of complaints and submission of reports about practices violating the provisions of this section
- Procedures for investigation and submission of recommendations concerning investigation in violations
- Procedures for appeals and grievance from council’s decisions

Section Two
Consumer's protection

Chapter One
General provisions

Article (1308)
Objects
The provisions stated in this section state the consumer's protection rights and guarantee of integrity of economic dealings, safety of products and investigation of its compliance with the approved standards and specifications.

Article (1309)
Consumer's rights
Consumer's rights include all that concerns total of his interest and desires while seeking satisfaction of personal needs from commodities and services, particularly the following:

1. Health and safety when using usually the commodities and services
2. Obtaining complete and accurate information and data about products and services
3. Free voting for commodities and services in which it is provided the conditions of quality and compliance with the approved specifications
4. Obtaining any documents that proves purchase of any commodity or receiving any service in which it is stated the amount and date of purchase, commodity's specifications, number and quantity or kind and amount for the service rendered
5. Pursuing direct proceedings or through the consumer' protection associations for protecting his rights and compensation for damages due utilization of products and services
6. Formation of consumer's protection associations and to join them
7. Substitution of repairing the commodities or refund of its price when violating the approved specifications
8. Refund of charges for services in case of non compliance with specifications when utilization
9. His right for announcement of the prices of commodities in a clear place and with transparency
10. Advice for cost of repairing and maintenance of the goods before commencing repairs
11. Information about prices of goods and charges for services
12. Distribution of goods and delivery without complications

Chapter Two
Products' safety

Article (1310)
Compliance with specifications and standards
Each ordinary person or corporate body manufacturing or producing or distributing or importing or exporting product or interfering in its production or manufacture or sale or

exhibiting or distributing for his account or for account of others should comply with production, import, transport and exhibiting according the approved national and international specification and standards and should comply with the necessary analysis of commodities and services with the specialized control authorities and to approve it before marketing.

Article (1311)
Prohibition of circulation of some products
Without prejudice to conditions of safety and health stipulated in article (1310 and 1316) of this section, circulation of some product may be prohibited or to be subject to special conditions for distribution or marketing for consideration concerning the public system or due to danger when utilization.
The concerned secretary will issue decision stating the prohibited commodities and the justification provided that it does not contradict the conditions of commercial competition.

Article (1312)
Serious or imminent danger
In case of occurrence of serious or imminent danger, the concerned secretary should suspend temporarily import or export or offering commodities in the market without or with charges or its withdrawal or destruction if destruction is the only mean to avert the danger and he should issue warnings or notices or precautions concerning the commodities; and in case of doubt of existence of danger from consuming or using the offered goods in the market, he should oblige the concerned to subject the commodity for detection with the specialized authority.

Article (1313)
Commitment of awareness
In the cases in which utilization of commodity will lead to harm the health and safety of consumer, the producer should state the appropriate method for using the product and method of protection from the expected harms as well as method of treatment in case it occurs.

Article (1314)
Defects of commodity or service
If it is revealed that the commodity or service set for circulation include a defect or more that harms the safety or health of the consumer or causes danger, the distributor should immediately take the following procedures:

- To report the competent authorities and inform the public with different media means about these defects and to warn them about risks of the product
- To withdraw the commodity from the markets.
- To return the commodity that was sold or hired and refund the paid price.
- To dispose of the commodity safely and in a way that it will not harm environment.

Article (1315)
Professional's final responsibility
Distributor of commodities and services is responsible towards the harm that occurs to the consumer as a result of using it even if proved the identity of the supplier of goods.
In all cases, it should not be agreed to exempt or limit the responsibility of the distributor in this respect.

Chapter Three
In integrity of economic dealings and prevention of fraud

Article (1316)
Identification of fraud
The demonstration or attempt to demonstrate a commodity or service in different appearance from its reality is considered fraud whether introduction of fraud was on the product itself or the goods or possession or using tools or machinery or means that assist fraudulence to achieve income or profit.
Fraudulence deeds are as follows:

1. Manufacturing or producing or offering or circulation or transport or import or possession of commodity for trading with his knowledge that it is fraudulent or corrupt or toxic or expired or violating the approved standard specifications
2. Using scales or weights or measures which are not approved or tools or machinery that cause fraud to the commodities and services
3. Delivery or utilization of quality certificate for the purpose of fraudulence
4. Description of commodities and services or misleading in its description or announcement or demonstration in a method based on false or fraudulent data
5. Consumer fraud in providing the commodities and services in the contracted terms, methods of sale and payment
6. Fraudulence in the quantity of commodities whether in weight or measurement or number or capacity or standard or using methods or means that make that incorrect
7. Fraud in the source of commodities or in the method of manufacturing or preparation
8. Fraud in the commodities and services itself or its nature or sex or type or elements or fundamental characteristics

Article (1317)
False advertising
To prevent the operation of publication of commodity or services that includes any form of allegations or incorrect indications or leads to error particularly when it concerns one of the following elements:

- Presence of commodity or its nature or formation or fundamental features or quantity of the effective elements or type or source or its quantity or method of manufacture and its date.
- Description, price and conditions for selling the commodity and services which are the subject of publication.

- Conditions for use and expected results.
- Means and method for selling the commodity and services.
- Identity or character or efficiency of the announcer.

Chapter Four
Consumer's notification

Article (1318)
Extent of commitment with media
The distributor is obliged to insert on the commodities and services the information that specifies its nature, type, fundamental features, components and precautions when used, source, origin, date of production, maximum date for consumption or use, method of utilization, name and address of producer and its price to be announced during demonstration.
The information to be written in Arabic language and may be written in more than one language and the Arabic language to be one of them and in a way that cannot be removed.

Article (1319)
Notification right of recourse
The distributor should inform the consumer of his right of recourse during 10 days from date of signing the contract in the contracts to be signed electronically or through sale which is concluded by demonstration in housing location or work location.

Article (1320)
Proof of dealing
Each distributor of commodity or service is obliged to submit to the consumer on request statement of account that proves dealing or contracting on product including name, commercial name, date of dealing, place, price, type of product, features, condition, quantity, date of delivery and to be signed and stamped.

Article (1321)
Consumer's right to benefit from reductions
In case the state established reductions in taxes and fees in the cost of the commodity or service, these reductions should be reflected at the level of sale prices.
In case prices are reduced by producer or wholesaler exceptionally or seasonally during occasions, the final consumer should benefit from this reduction whatever is the price of the product.

Chapter Five
Guarantee for commodities and services

Article (1322)
Quality guarantee
The distributor is considered guarantor according the public rules for commodities and services; in case of presence of defect in the goods, he should guarantee its repair or

substitution or refund of price according consumer's choice. The right of guarantee will remain even if the ownership of goods is transferred to others.
Any agreement that withdraws or reduces this guarantee is null and void.

Article (1323)
Guarantee certificate
The concerned secretary may subject some goods and services to conditions for submission of guarantee certificate to the buyer and will specify the data which are included in this certificate.

Article (1324)
Distributor's responsibility
Any condition that exempts the distributor from the civil responsibility or reduces it towards the consumer is considered null and void.

Article (1325)
Concealment of commodities and imposition of restrictions
Any distributor should not conceal any commodity or service or preventing its sale or imposition of purchase of another commodity or receiving higher price than the announced price.

Article (1326)
Penalties
Without prejudice to any other more severe penalty stipulated in penalties law or any other law, the penalty of imprisonment for a period not less than one year and a fine not less than LD. 500 and not more than LD. 10,000 or one of these penalties will be imposed for violation of the provisions of article (1310 TO 1317) and the penalty will be doubled in case of repetition or in case fraudulent deeds in dangerous products are related to public health or medical materials.
Judgment may be issued for closure of the place and prevention of practicing the activity temporarily or finally according the cases.
Judgment will be issued for confiscation of destructed or corrupted materials or fraudulent materials or its validity has expired as well as the equipment and machinery for fraudulence of these products and the fraudulent scales, measures and weights and to be destructed on the expense of the convicted.
In case of commission of any of the crimes stipulated in this section in favor of a corporate body, his place may be closed and he will be prevented from practicing activity temporarily or finally; and the corporate body will bear the responsibility of payment of fines by solidarity with the perpetrator of the crime.

Article (1327)
Judicial control officers

GPC will issue decision nominating judicial control officers to implement the provisions of this section. Judicial control officers have the right to enter the shops, factories, workshops, warehouses and the places for demonstration of different products or offered for sale or produced in it and they have the right to review the documents,

papers, records and statements of account as well as all documents concerning production, manufacturing, circulation and distribution of different products; and they may take samples for analysis and take precautionary procedures for the public interest, environment protection and general safety of consumers.