

2. **Market:** A place where buyers and sellers offer or exchange goods and services.
3. **Goods:** Means movable and immovable commodities (processed commercial products, production goods, agriculture goods, natural resources, mineral materials) which are exchanged (transacted) and used.
4. **Services:** Intangible product (insurance, banking, transport, telecommunication, training etc.) the production outcome of which is not distinguishable and can be offered, exchanged and used.
5. **Entrepreneur:** Natural or legal person who processes, produces or sells commodities or offers services in the market.
6. **Merchant:** Any person, including individuals and companies holding business qualification engaged in one or more commercial transactions under

11. Dominant Economic Status:

illegal and prohibited and shall be prosecuted in following cases pursuant to provisions of this law:

1. Determining purchase and sale prices or manner of their determination directly or indirectly at the market.
2. Limiting or controlling supply and demand of goods and services (production, purchase and sale) in the market or their determination out of the market.
3. Demanding different conditions from persons who set up similar transactions and have equal rights, obligations and authorities.
4. Obligating party to the transaction to conclude the contract with third parties or imposing conditions of contract on them.
5. Postponing conclusion of contract to make other parties to accept supplementary commitments which does not have any relevancy with the subject of contract.
6. Dividing market of goods and services into two or more persons or groups.
7. Restricting access of outsiders from contract, understanding or agreement at the market.
8. Separating markets of goods and services, dividing or controlling all kinds of resources or factors of market.
9. Limiting competitive activities of traders or entrepreneurs or confining activities of firms, organizations and factories

4. Deceives people in terms of prices of goods or services that have been/are offered.
7. Associating sale of goods or providing services to the purchase of other goods or services.
8. Forcing the other party to a deal with a third party, in case it is related to supply and demand of other goods or services.
9. Dealing with the other party provided that the said party abstain from dealing with the competitor.
10. Storing and wasting goods or abstaining from their sale and also abstaining from providing services in a manner that storing, wasting or abstaining from sale of goods and services lead to artificial rise of prices in the market.
11. Offering goods or services which do not conform to compulsory standards advertised by competent authorities such as usage, composition, quality, contents, design, manufacture, completion or package.
12. Persuading, inciting or enforcing one or more stakeholders, capital owner, director or employees of a competing organization or company by exerting suffrage, transferring shares, disclosing secrets or similar methods to exercise an action which is harmful to his/her/its competitor.
13. Interfering in dealings of competing traders, organizations or companies by preventing conclusion of contracts, persuasion of breaching the contract or other similar methods.
14. Misusing of the economic dominant situation shall not be allowed in the following forms:
 1. Determining, protecting or changing price of goods or services with unusual manner.
 2. Imposing unfair contract conditions.
 3. Limiting amount of supply or demand to increase or decrease market price.
 4. Creating obstacles to complicate entry of new competitors or omit traders, organizations or competitor companies in a particular activity.

5. Subjecting contracts to acceptance of conditions which do not have any relation with subject of such contracts from viewpoint of protection and commercial tradition.
 6. Taking possession of capital and companies provided that such condition leads to disruption of competition.
15. Setting condition to supply of goods or services to purchaser shall not be allowed in the following instances:
1. Enforcing purchaser to accept the determined sale price or preventing his/her free intention in determining sale price.
 2. Bounding purchaser that traders, organizations or companies have to buy goods or services from him/her with sale price of certain goods or

1.

Response to applicants

Article 11:

The Board is bound to study each instance provided for in Article 10 maximally within a month from the date of application receipt and announce the result to the applicant in writing. In case the Board does not send response within the specified period of time, the

Article 14:

Misuse by one or more traders, entrepreneurs, companies or organizations of dominant circumstances and their influence in the market of goods or services across or part of the country where they operate or misuse through understandings, agreements and contracts with others or through collective acts shall be totally prohibited.

Exemption and exceptional circumstances

Article 15:

Afghanistan National Competition Board may adopt decision, in case of existence of the following conditions, to exempt agreements of collective acts amongst traders, entrepreneurs or decisions and contracts of traders and entrepreneurs' unions as follows:

1. Ensuring new economic and technical growth and developments in terms of production or distribution of merchandise or provision of services.
2. Non-prevention of competition from major market sectors.
3. Securing consumer interests from these materials.
4. Non-limitation of competition more than what is required to achieve objectives stipulated in paragraph 1 and 3 of this article.

Chapter Three

National Competition Authority

Establishment of the Authority

Article 16:

Afghanistan National Competition Authority hereafter referred to as "Authority" shall be established within MoCI pursuant to provisions of this law the central office of which will be located in Kabul and its agencies will be established in the provinces.

Organizational structures

Article 17:

The Authority shall consist of the following sections:

1. Administrative Panel

2. Afghanistan National Competition Board
3. Revising Panel

Legal personality

Article 18:

1. The Authority which enjoys independent legal personality shall be the highest executive authority and its Chairmann who, at the same time, is Chairmann of Afghanistan National Competition Board and elected according to Article 21(2) of this law, undertakes responsibility to implement and abide by provisions stipulated in this law.
2. The Authority shall have two deputy chairmen as follow:
 - 1.

5. Overseeing and supervising implementation of Board decisions and ensuring their enforcement and implementation.
 6. Scrutinizing and adopting decisions with regard to proposals submitted to the Board for study and investigation.
 7. Controlling preparation and provision of annual budget, calculating revenues and costs, regulating annual working report of the Authority for Board and ensuring collection of revenues, record of costs and implementing the budget.
 8. Submitting specific proposals on decisions and verdicts to adopt competitive policy, draft relevant laws, regulations, bills and procedures.
 9. Regulating working relations and coordinating affairs with ministries, governmental organizations and private sector.
 10. Regulating and performing other issues which are, within the framework of this law, duties of the Chairmann and are not included in the abovementioned instances.
2. Duties of administrative and professional deputies of the Authority shall be regulated by a separate bill.

Chapter Four

Afghanistan National Competition Board

Establishment of the Board

Article 20:

1. Afghanistan National Competition Board hereinafter referred to as “Board” shall be established within National Competitio

Composition and selection of Board members

Article 21:

The Board shall have seven members one of whom performs duties as Chairmann and the other one as deputy Chairmann.

1. Composition of members:

- 1.

5. Shall not have been convicted for a penal offence.

Swearing ceremony

Article 22:

After having been selected, the Chairman and members of the Board shall take an oath in the presence of Chief Justice of IRA that they will perform, during their tenure, the assigned duties with honesty and protect highest interests of the country and will not allow themselves and others to act contrary to the provisions of this law.

Term of Service

Article 23:

(1) Based on the following conditions, term of service of Chairman, deputy Chairman

(2) If a member of the Board resigns with his/her own will or if there are reasons for resignation of members based on paragraph (1) of this article, the issue is referred to the appointing authority along with the description of related reasons and documents by the Chairman or deputy of the Board to introduce a new member. The relevant authority sh

Meetings and decisions of the National Board shall be confidential and none of the members present in the meeting may refrain from casting vote. Members who are present in hearing session shall participate in related meeting.

Procedure of Meetings

Article 26:

Chairman of National Board shall preside over the meetings and in his/her absence Professional Deputy shall specify issues of discussion and Chairman of the meeting shall collect votes and at the end adds his/her own vote to it.

Commencement of Meetings

Article 27:

Meetings of the Board shall convene from the date on which parties to the suit are notified in writing.

Issues Included in the Decision

Article 28:

Decision shall include the following points:

Names and last names of participants of the meeting.

Names and last names of reviewing and investigating panel.

Complete Identification of parties to the suit.

Summary of Issues.

Summary of reviewing and discussions of the meeting.

Assessing all evidences and documents presented.

Recording negative votes, if any.

Conclusion of adopting decisions and issuance of verdicts in accordance with the provisions of this law.

Decisions of the meeting shall be clearly and explicitly described to be understandable for parties to the suit.

Publishing decisions through mass media, if the Board decides so.

Issuing Written Award

Article 29:

- (4) The Board shall identify granting exemptions under this law, and adopt decisions about it.
- (5) To implement goals of this law, the Bboard shall draft and develop regulations and guidelines as following:
 - f* Facilitation of competition, prevention, control and removal of monopolies.
 - f* Preventing exert of influence in determining prices and quantity and regulating the conditions to have access to market of goods and services.
 - f* Regulating internal affairs of the Board.

Inspection and Investigation

Article 32:

- (1) In carrying out of its assigned duties, the Board shall have the authority, if required, to inspect traders, organizations, companies, associations and entrepreneurs and issue permit for entry into premises, reservoirs, warehouses, means of transportation and inspection of economic activities, goods and services, offices and documents.

Inspection of General Assemblies` Meetings, Board of Directors and Board of Executives of the above mentioned entrepreneurs and collection of required information shall be among the mentioned powers of the Board.
- (2) The Board shall have the authority, in accomplishing assigned duties, to carry out necessary assessments with regard to issues related to this law and address complaints by making use of the following measures:
 - 1- Summon and obligate any person whose presence is deemed necessary in the Board or its representative offices for carry out assessments.
 - 2- Summon witnesses to the Board and hearing their testification.
 - 3- Summon and obligate natural and legal persons from private (internal or domestic) to present reports, information, evidence, documents and records related to antimonopoly practices including written or electronic ones.
 - 4- Invite experts and connoisseurs and receive their opinions on necessary instances.
 - 5- Referring the inspection and inspection order to professional and experienced people.

- 6- Referring the inspection and issuing order under this law, in addition to the member of Supreme Court (judge member of the Board), to one of the three judges who are appointed and introduced by the Chief Justice based on the request of National Board.

Sanctions

Article 33:

- (1) Chairman or members of the Board shall not hold any other official or private assignment, engagement in business, share in firms or economic institutions until the end of their duties in the Board.
- (2) Chairman and members of the board, before their assignment to the board, shall return all documents which they have in their possession to their owners. In case of disclosure of the issue or a documented claim by a claimant, the member shall lose his/her membership.
- (3) Performing duties in associations whose purposes are social cooperation shall be excluded.
- (4) Chairman, members and staff of the Board shall not disclose or use the information and secrets regarding the ANCA and other authorities as well as secrets of entrepreneurs, traders, or their associations which they have received during implementation of this law, for their own interest or in the interest of others. Those who leave the Board will also fall in this category.

Decisions Nullifying Anti Competitive Practices

Article 34:

2- Prevent parties to the agreement or agreements re

(2) To address the subject of complaints, the Board shall fix the time of inspection

Primary Reviewing

Article 38:

- (1) The Board may at its own initiative or on the basis of requests, while keeping the order of dates, decides to start reviewing directly or start primary reviewing to adopt decision, regardless of the fact whether reviewing should be started or not.
- (2) Where it is decided to start primary reviewing, then Chairman of the Board shall assign one or more experts from amongst his/her professional staff as reporters.
- (3) The reporter who has been assigned to carry out primary reviewing shall in writing submit, within 30 days, report on information or evidences collected by him/her to the Board.
- (4) To assess the obtained information, the Board shall convene a session and make decision, within ten days from the receipt of report of primary reviewing, on whether to start addressing the issue or not.

Evidences, Documents, and their announcement to the parties

Article 39:

- (1) Reporters shall not exert influence when investigation is carried out to obtain information and accomplish assessment.
- (2) During the specified period, reporter may request provision of any kind of information from parties to the suit and related sites.
- (3) During investigation and adjudication by the Board, person or persons who claim that provisions of this law have been violated may, at any time, present information and evidence to the Board.
- (4) Parties to the suit who are informed that investigation and adjudication will be started against them, may request copy of the papers with related to them..
- (5) The Board may not take decision with regard to issues that parties to the suit have not been informed about and they have the right to defend.

- 2 - One skillful and experienced economist who is proposed by Minister of Economy and approved by the president, as member.
- 3 – One connoisseur and clear-sighted person in commercial and industrial activities who is proposed by the Minister of Commerce and industries and approved by the President, as member.
- (2) Panel members shall be selected in accordance with the provisions of Article 21 (3) of this law.

Appeal for Revision

Article 44:

Appeal by any parties to the suit for revising final decision of the Board shall be valid within the period specified in this law.

Revising the Decisions of the Board

Article 45:

- (1) Revising the decisions of the Board by the assigned panel shall be done within 20 days from the date of notification to the beneficiary in accordance with provision of Article 47 of this law. This period shall be 2 months for those residing outside the country.
- (2) Where revision could not be accomplished within anticipated time according to the provision of paragraph (1) of this article, or decisions of the Board was approved by the panel, the decision shall be final.

Decisions of the Panel

Article 46:

- (1)

2- Members of the Board, the Penal, staff of the Authority as well as offices of its

- 2- Refraining from expression of realities effective in decisions made by the Board and the Panel.
- 3- Submitting forged or unreal evidences and documents to the Authority, the Panel or its agencies.
- 4- Changing, distorting or annihilating information, evidences and documents related to anti-competitive practices.
- 5- Where false documents, evidences or statements lead to receipt of licence from the Board under provisions of this law, the competent court, in addition to penalty provided for in this article, shall issue the order of amendment and annulment of decision of the Board or the Panel on the request of beneficiary.

False witness

Article 52:

(1) Where a witness, expert, connoisseur or a clear-sighted person is requested under provisions of this law to witness or express his/her opinion but he/she deliberately witnesses contrary to the reality in a manner that is effective in the decisions of the Board or the Penal, he/ she shall be convicted to enforceable imprisonment not less than 1 year and not more than 3 years or a fine not less than 200,000 AFN and not more than 1,000,000 AFN or both punishments.

(2) Where a person submits a formal complaint to the Board or a competent court with the intention to harm commercial and professional credibility of traders, organizations, firms or their directors and owners, however his/her claim is proved incorrect after investigation, the claimant in addition to conviction to compensate for intellectual loss shall be sentenced to imprisonment not less than 6 months and not more than 2 years or a fine not less than 100,000 AFN and not more than 600,000 AFN or both punishments.

Disclosure of information

Article 53:

Any person or persons, who are bound according to provisions of this law to maintain the internal information of traders, firms, organizations and other persons,

- (3) Directors or staff of the legal entity shall be excused of punishment provided they prove that crime has been occurred without their intention and they all have made their efforts to prevent occurrence of the crime or have notified the competent authorities immediately after having been informed of the occurrence of crime.

Severe punishment

Article 57:

Should there be severer punishments provided for in other laws with respect to crimes under provisions of this law, the provisions of those laws shall prevail.

Adjudicating the Crimes

Article 58:

Crimes provided for under articles 50 through 55 of this law shall be adjudicated out of turn in the relevant courts according to standing regulations and context of this law.

Chapter Ten

Miscellaneous Provisions

Compensation for losses

Article 59:

- (1) Persons who incurred losses as a result of prevention, distortion or competition limitation shall be entitled to be compensated for losses or its equivalent amount as well as differences of paid costs they used to pay during the non-existence of competition limitation in the market of goods.
- (2) If the amount of loss may not be determined on the basis of documents, it shall be calculated and determined according to its balance of previous year.
- (3) In case the loss arises from the agreements or decisions made by the parties which includes intentional action of one of the parties, the competent court, taking into account the request of the harmed person, shall issue a verdict that perpetrator/s

shall pay threefold equivalent compensation for the loss of the harmed person from the interests they gained or likely to be gained.

Hoarded commodities

Article 60:

Where the Authority finds that situations have arisen in the market of goods and services due to hoarding of goods, it shall refer the issue to Anti-Hoarding Commission.

Enforcement of the Law

Article 61:

This law shall enter into force from the date of its endorsement and shall be published in the Official Gazette. Upon its enforcement, all provisions contrary to this law shall be abrogated.