



Saudi Arabia's General Competition Authority releases its 2020-2021 Annual Report

Companies operating in Saudi Arabia may expect increased scrutiny going forward

17 October 2022

In September 2022, Saudi Arabia's General Authority for Competition (**GAC** or **Authority**), released its 2020-2021 Annual Report (**Report**), in which it highlighted the main competition challenges, recommendations and proposals for the years ahead.

Key points

- In 2021, the GAC focused on conducting sectoral studies and reviewing competition policies
- Abuse of dominance is an increasing focus
- The GAC has been facing a number of challenges in relation to effective enforcement of competition laws and proposes solutions to tackle this issue
- Market players should prepare for increased scrutiny and for the GAC's increasingly proactive role

The GAC's powers at a glance

The GAC supervises the enforcement of Saudi Arabia's competition law and implementing regulations with the aim of promoting and encouraging fair competition, preventing illegal monopolistic practices, guaranteeing diversification of goods and services of high quality, ensuring competitive prices, and encouraging innovation.

The GAC's increased proactivity

The Report outlines the achievements and challenges faced by the GAC in the previous year. According to the Report, the Authority directed its attention to:

- **Developing the National Competition Policy:** the GAC prepared a draft National Competition Policy, which aims to introduce and define principles, and develop legislation and general policies that harmonise the concept of competition. The Authority will submit the draft policy for royal consideration and approval.
- **Conducting sectoral studies:** in 2021, the GAC conducted two sectoral studies in the automotive and health insurance sectors. While it concluded that there is a high and healthy level of competition in the health insurance market, the report revealed possible antitrust concerns in the automotive sector.
- **Merger reviews:** in 2021, the GAC examined and approved 150 economic concentrations, prohibiting only one merger¹. The number of filings submitted to the GAC also considerably increased, with 295 notifications submitted in 2021, versus 137 in 2020 (+115%).
- **Effective enforcement of competition laws & investigations:**
 - *New initiatives:* the Authority launched several initiatives to promote effective enforcement of and compliance with the Competition Law and its Implementing Regulations. For example, the GAC issued various guidelines and guides, and expanded its scope of market monitoring with a view to better detect monopolistic practices.
 - *Investigations:* the GAC has also nearly doubled the number of investigations, with 162 investigations carried out by its law enforcement officers and investigators in 2021 (compared to 95 in 2020), and 1028 hours spent on investigations, inquiries and collection of evidence (compared to 593 hours in 2020). Based on the Report, the most common violations of competition laws in the Kingdom were (i) agreements between competitors (56.25% in 2021); (ii) abuse of dominant position (16.25% in 2021); and (iii) market sharing agreements (2.5%). The total amount of fines imposed by the GAC in 2021 reached SAR175 million, which is an increase of 1497% compared to 2020.
 - *Increased focus on abuse of dominance:* as part of its study of the automotive sector, the GAC found indicators of monopolistic practices and considered exclusive distribution agreements as the most important indicator of abuse of dominance by local distributors and OEMs, in particular with regard to post-sale or repair services. In total, three decisions have been issued relating to abuse of dominance cases, confirming the GAC's findings. Total fines amounted to SAR29m.
- **Raising awareness of the importance of competition:** during the year, the GAC put in place various awareness campaigns, lectures and workshops with the aim of familiarising market players with the rules and principles of fair competition, and raising their level of compliance.
- **International cooperation and partnerships:** the GAC concluded multiple cooperation and partnership agreements with regulatory government agencies in order to increase cooperation and integration, in an effort to promote competition in various sectors.

¹ The GAC has challenged two mergers to date, most recently in June 2022 in the gas industry.

Challenges and recommendations

In its Report, the GAC highlights a number of challenges it currently faces and proposes recommendations to tackle those issues identified. Areas of focus include:

- **Conflicting mandates:** according to the Report, the tasks of some government agencies and regulatory bodies conflict with the GAC's mandate, which has led to the GAC facing some obstacles to the performance of its supervisory role. The Authority recommends ensuring that it can exercise its inherent competence effectively.
- **Decisions restricting competition:** the GAC believes that some regulatory bodies and government agencies issue decisions, regulations or policies that result in a de facto restriction of competition or create barriers to entry in certain markets. The Authority recommends that regulatory bodies and government agencies coordinate their conduct with it prior to issuing any decisions.
- **Lack of competition knowledge and competition specialists, and difficulty in implementing competition-stimulating policies:** the GAC is concerned by the fact that the Kingdom's regulatory bodies have a poor or a total lack of specialised competition law knowledge, which prevents the GAC from exercising its mandate. Moreover, according to the Report, there is a general absence of awareness of competition laws and of the GAC's role, as well as a lack of competition law experts in the Kingdom. To address those issues, the Authority proposes to introduce competition workshops to improve partnerships with government agencies and regulatory bodies and urges the Ministries of Education and Finance to introduce competition law courses and scholarships at foreign universities.

Implications for companies operating in Saudi Arabia

The GAC is seeking to increase market players' and governmental understanding of competition laws, and to promote their importance in various sectors. The Authority wants to see its powers recognised and supported by regulatory bodies to exercise effective antitrust enforcement in the Kingdom.

More generally, the GAC is preparing to have a more proactive role, which may target various important economic sectors and industries of the Kingdom. The Authority is leaning towards further investigations and potential antitrust probes, scaling up its enforcement activities. As a result, companies operating in Saudi Arabia (and more broadly, in the Middle East region) may expect increased scrutiny.

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