

## The Bill on Anti Monopoly

In line with the Third Five Year Economic Plan's policies for removing monopolies from governmental and non governmental sectors, the Council of Ministers has drafted and presented to the Parliament the "Anti Monopoly Bill." This is the first time that such a law is being considered in Iran.

The bill provides a comprehensive list of those covered including all natural and legal entities, non governmental public organizations and institutes as well as existing governmental and non governmental monopolies.

Any provisions in agreements or contracts that are inconsistent with the requirements set forth by the law will be deemed void as a matter of law.

The following provides a general overview of the proposed law.

### 1. Anti Competitive Behavior

Based on the draft law, "Anti Competitive Behavior" is defined as "any act and behavior by which the contracts or agreements between two or more natural and legal persons impedes, interrupts or limits the competition in the market". Based on this, the following acts shall be considered anti competitive behavior:

- a. The division and/or (in)direct distribution of market(s) between two or more persons.
- b. Controlling or limiting the production or distribution of goods or services.
- c. Applying all sorts of pressures on the consumers in order to carry out the business.
- d. Dumping or importing any goods or services with a rate lower than common rate as the ones in the country of origin.
- e. Any merger without advance

permission from the competition board.

### 2. Misuse of Position, Influence and Information

The law prohibits the misuse of one's position for gaining undue advantage. In this regard, the following is deemed illegal:

- a. Misusing employees of governmental, cooperative and private sectors or having influence on them in order to obtain a special privilege or advantage.
- b. Misusing privileged information which is not publicly accessible.
- c. Misuse of customer's economic dependency (such as making a sale conditional on another unrelated transaction).

### 3. Predatory Pricing

Predatory pricing is forbidden by the law and subject to fines. If a person, knowingly or voluntarily, intends to sell or exchange goods or present services with a rate lower than the real rate of purchase or production, for the purpose of excluding or curtailing other competitors, they shall be fined.

### 4. Discrimination in Pricing

Direct or indirect price discrimination between the buyers of the same goods or services is also forbidden by the draft law. The only exceptions to this prohibition include:

- a. Discrimination in pricing out of the territory of Islamic Republic of Iran.
- b. Discrimination due to the difference in transportation expense of the goods.
- c. Discrimination of price by the institution which has a small share in the market.

### 5. Government obligations and Prohibition on use of Governmental Properties

The law also imposes certain obligations on the government. The government must distribute economic information, legal facilities, financial assistance and foreign currency in a manner that would not hinder free competition.

Also, generally speaking, government property shall be excluded from the production or distribution of goods or services unless it is specifically allocated to such persons or organizations.

### 6. Exemptions

Not every "non competitive" behavior is deemed illegal. For example, the following is exempted from the prohibitions mentioned in the law:

- a. Natural monopolies
- b. Rights driven from creating artistic pieces such as poetry book, film, painting, music, etc.
- c. Merging production units for promoting and developing production standards and technology.
- d. Acts and agreements which improve the management of small or medium size firms and increase the efficiency of economic units.
- e. Contracts among workers union and employers for pre-

servicing workers rights.

### 7. The Competition Board

In order to enforce the provisions of this bill, a board would be established under the supervision of the President. The head of Management and Planning Organization, Minister of Industries and Mines and Ministry of Judiciary select the members of the board. The secretariat of this board will be placed in the Management and Planning Organization.

The board consists of two lawyers, two economists, and one expert in the field of industry and trade as the main members.

### 8. Board's Authorities

The board has the authority to cancel the decrees and by-laws by which free competition is limited or has caused a monopoly. The board shall research and review the decisions made in regards to the complaints received in connection to this law.

Also, security measures, distributing board's decisions, commenting on remaining or

dissolving the existing monopolized structures are in the framework of the board.

## 9. Investigation

The board can directly or due to the complaint received from third parties commence investigations on the infringements of the law. In this regard, the board can ask for any information from the authorities and ministries. The board should make decisions and submit the results of its finding within one week.

## 10. Judicial Sources for Enforcement

The Judiciary shall allocate special courts for enforcing and issuing orders relating to anti-competitive practices. For this purpose there shall be two courts, namely a primary court and a state review court.

The primary court shall be a public court for anti competitive behavior and consists of a judge and two members. The judge shall be selected among judges with a minimum of 15 years experience. The decisions and votes given shall be valid with the agreement of

the judge and one of the members.

The duties of this organization are to review the decisions and votes given by the competitive board; to review the crimes stated in this Bill and review the issues sent by the competitive board.

The state review court shall consist of a judge with more than 20 years experience and four advisors, two of which shall be the experts in the primary court. The decisions made by this court are final.

The duties of the state review court are to review the decisions and votes given by the primary court, and publish the decisions for the public.

## Parliament Approved Budget Bill 1382

The Iranian government prepared and submitted the country's next fiscal budget to the Parliament. The Budget Bill covers the period of March 2003 – March 2004.

The Parliament approved next

year budget set for 968,261,119,337,000 Rials (US \$121,032,639,917) which reflects a 21% growth to the current budget.

Similar to the current bill, next year's budget provides financial facilities, promotion of foreign and domestic investment, and provisions for government spending.

There are some highlights to the provisions already approved by the Parliament in regards to Budget Bill 1382:

- Parliament permits the National Iranian Oil Company to explore oil and gas sources in the country through the buyback method.
- With the purpose of accelerating and completing the projects in the year 1382, the Council of Ministers is allowed to distribute bonds up to the amount of 540 billion.
- The Council of Ministers is allowed to act through different methods such as civil partnership in order to attract foreign investment in constructing power plants, sewage, roads, developing international airports and ports.

The Guardian Council has

reviewed the budget bill finding 18 objections in the proposed draft. As of the writing of this newsletter, the Expediency Council has been reviewing the objections also.

## **Iran To Draft Electricity Law**

To implement the Budget Law concerning the transferring of power plants to the private sector and involvement of foreigners in BOT projects in regards to electricity production and power plant ownerships, the necessity of having an electricity law applicable to private producers of electricity has been determined.

TAVANIR (Iran's Power Generation & Transmission Management Organization) has undertaken to review Iran's current electricity laws dating back to 1967 and the necessary changes will be made to it due to the recent requirements in this field.

For this purpose, the Ministry of Energy has set a committee for reviewing the current regulations and drafting new laws and regulations that will be needed.

## **Recent International Agreements and Treaties**

The following international agreements have been ratified and officially announced:

- 1) Bilateral Investment Treaty Between Iran and Syria.
- 2) Iran's Accession to Protocol of International Railway Convention (COTIF)

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