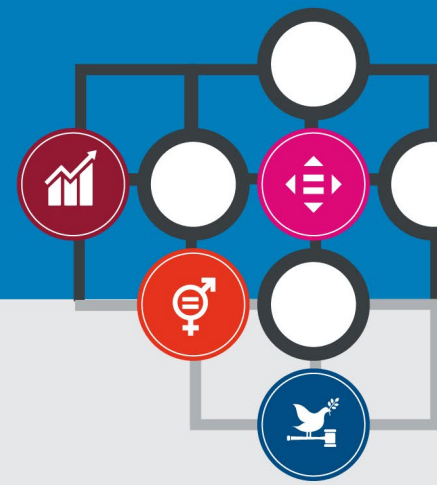


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Shared Prosperity Dignified Life



E/ESCWA/CL6.GCP/2025/ACF/Background paper.4

Session IV: Strengthen Competition Law Enforcement against Abuse of Dominance

Developing Legal Frameworks and Investigation Tools



United Nations
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Introduction

This background paper was prepared for the Sixth Arab Competition Forum (ACF) to support the session on the abuse of dominance and enforcement gaps in the Arab region. It draws on global best practices – particularly UNCTAD’s typology of abuse of dominance – and aligns them with ESCWA’s Arab Business Legislative Frameworks (ABLF) indicators to assess legal and institutional readiness across Arab jurisdictions. The aim is to provide a structured overview of how dominance-related conduct is regulated, identify persistent gaps, and suggest ways to strengthen institutional performance.

Globally, the abuse of dominance remains a core enforcement priority for competition authorities, especially amid rising market concentration in strategic and digital sectors. Countries have made notable progress in defining dominance, empowering regulators, and adopting investigative tools to tackle both exclusionary and exploitative practices. In contrast, Arab jurisdictions continue to experience uneven progress in legislative clarity, institutional independence, and enforcement capacity, despite growing political will and policy engagement.

This analysis puts forward two key messages:

- Clear and enforceable definitions of dominance and abusive conduct are critical for effective enforcement. However, many Arab jurisdictions still lack legal precision, particularly regarding exploitative practices.
- The alignment between ESCWA’s ABLF indicators and UNCTAD’s typology provides a practical framework for assessing national readiness, identifying legal and institutional gaps, and strengthening the capacity of Arab competition authorities to prevent and address abuse of dominance.

Regulatory and legal frameworks for addressing abuse of dominance

A. Forms of abuse of dominant position

Under competition law, abuse of dominance refers to conduct by a firm holding a dominant position in the market that prevents, restricts, or distorts competition. According to the UNCTAD, dominance is – defined as **a situation in which an enterprise – acting either independently or in coordination with a few others – is able to control a relevant market for**

a specific good, service, or group of goods or services.¹ The UNCTAD Model Law on Competition² further offers guidance on identifying “acts or behavior constituting an abuse of a dominant position”, including criteria for establishing dominance and identifying abusive practices.

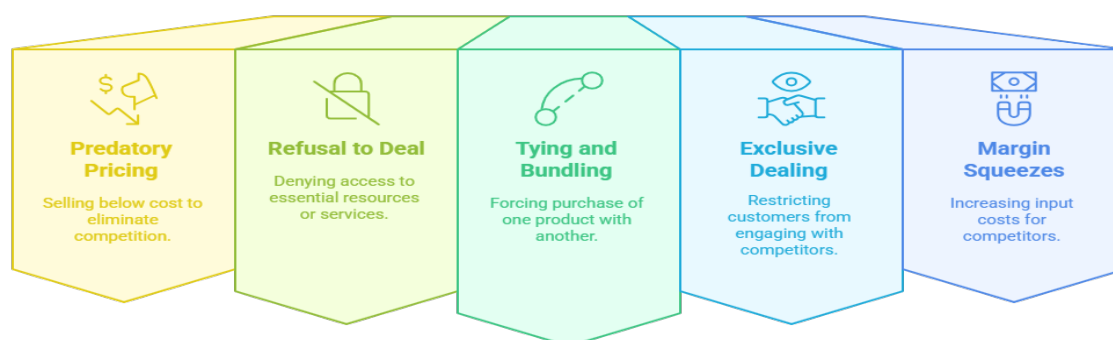
Once dominance is established, a legal concern arises when market power is exercised in a manner that undermines the competitive process. Generally, abusive conduct falls into two broad categories: exclusionary and exploitative practices.³

Exclusionary abuse occurs when a dominant firm engages in practices aimed at excluding actual or potential competitors from the market. These actions reinforce the firm’s dominant and harm the competitive environment. While dominance alone is not unlawful, such behavior becomes abusive when it distorts market conditions to the detriment of rival firms.

In contrast, exploitative abuse involves the use of market power to impose unfair conditions on consumers or trading partners. Unlike exclusionary abuse, which targets competitors, exploitative practices directly harm consumers or exploit business partners. This form of abuse is particularly significant in digital markets, where the direct impact on end users is often more immediate and pronounced.⁴

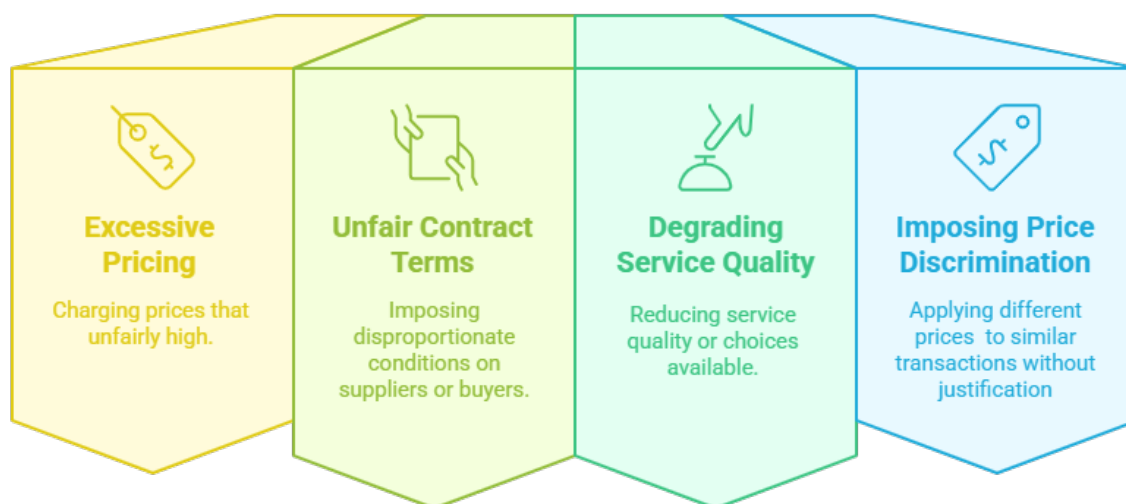
Below is a list of common examples of both categories of abuse frequently observed in enforcement practice.⁵

Figure 1. Common Exclusionary Acts



1. UNCTAD (2008). Abuse of Dominance, Report by the UNCTAD Secretariat, TD/B/COM.2/CLP/66. Available at https://unctad.org/system/files/official-document/c2clpd66_en.pdf.
2. Chapter IV. Available at <https://unctad.org/publication/model-law-competition>.
3. Ibid.
4. UNCTAD (2024). Enforcing competition law in digital markets and ecosystems: Policy challenges and options, Note by the UNCTAD Secretariat, TD/B/C.I/CLP/74. Available at https://unctad.org/system/files/official-document/ciclpd74_en.pdf.
5. Supra note 1.

Figure 2. Common Exploitative Acts



Source: Based on UNCTAD (2008).

The above practices can lead to reduced innovation, higher prices, and limited consumer choice over the long term. UNCTAD underscores the importance of competition authorities must assess whether the conduct is likely to foreclose competition and whether it is supported by any objective justifications or efficiency gains.

B. Regulatory and legal framework barriers

While most Arab countries have enacted competition laws that include anti-monopoly provisions, significant gaps remain in the definition and enforcement of abuse of dominance. Key terms such as “monopoly”, “dominance”, and “concentration” are often vaguely defined – or, in some cases, entirely absent – from national legislation.

Mapping ESCWA indicators to UNCTAD’s typology of abuse of dominance

As noted earlier, UNCTAD classifies abuse of dominance into two main categories: exclusionary practices (e.g., predatory pricing, refusal to deal) and exploitative practices (e.g., excessive pricing, unfair contractual conditions). To assess the extent to which Arab legal and institutional frameworks align with these categories, this analysis draws on ESCWA’s Arab Business Legislative Frameworks indicators under the component titled “Anti-Dominance and Monopolization Laws” component.^a

ABLF competition component indicators on anti-dominance and monopolization laws

Indicators for anti-dominance and monopolization laws

- (1) Are there national legislations that prohibit and/or regulate monopolies?
- (2) Are there regional and international legislation or trade agreements that prohibit and/or regulate monopolies?
- (3) Are “monopolies” clearly defined in the existing legislation?
- (4) Are “dominance” practices clearly defined in the existent legislation?
- (5) Are there clear national, regional, or international regulatory bodies/authorities to monitor/assess incidents of monopolization and incidents of dominance?
- (6) Are there articles that emphasize the autonomy and independence of regulatory bodies/authorities enforcing accountability?
- (7) Is the judiciary involved when violations related to anti-dominance and/or monopolization practices occur?
- (8) Are there clear articles outlining punitive measures when monopolies or dominance practices occur?
- (9) Are there exemptions within existing legislations related to anti-dominance and monopolization laws?
- (10) Are “concentration” practices clearly defined in the existent legislation?

Source: ABLF Methodology, ESCWA (2025).

These ten indicators address critical dimensions including legal definitions, institutional mandates, enforcement mechanisms, judicial oversight, and exemptions. For instance, effectively addressing exclusionary abuse requires clear definitions (Indicators 3 and 4), competent monitoring authorities (5), enforcement and judicial remedies (7 and 8), and robust legislative frameworks (1 and 2). Meanwhile, tackling exploitative abuse hinges on well-defined concepts of dominance (4), institutional oversight (5), appropriate exemptions (9), and access to judicial recourse (7). Cross-cutting factors – such as the independence of regulatory bodies (6) and the legal treatment of market concentration (10) – also play a vital role in shaping enforcement capacity.

This mapping provides the analytical foundation for evaluating how Arab countries perform within the ABLF framework, as presented in the following section.

^a ESCWA (2023). Arab Business Legislative Frameworks 2023: Competition Policy Module. United Nations Economic and Social Commission for Western Asia. Available at <https://www.unescwa.org/publications/arab-business-legislative-frameworks-2023>.

To effectively address these challenges and enhance the enforcement of competition laws against abuse of dominance, several foundational elements must be established. These include clear legal definitions of “monopolies” and “dominance” (Indicators 3 and 4); the existence of competent, independent regulatory authorities (Indicators 5 and 6), active judicial engagement in enforcement (Indicator 7), and well-defined punitive measures for abusive conduct (Indicator 8).

Table 1 presents ESCWA’s ABLF assessment for the years 2020 and 2023, focusing on these selected indicators. It highlights both areas of progress and ongoing legal and institutional gaps across the Arab region.⁶

Table 1. Regulatory assessment of anti-dominance and monopolization laws – definitions and enforcement indicators in Arab countries, 2023

| | Are “monopolies” clearly defined in the existing legislation? | Are “dominance” practices clearly defined in the existing legislation? | Are there clear authorities to monitor incidents of monopolization and dominance? | Are there articles that emphasize autonomy and independence of regulatory bodies/ authorities enforcing accountability? | Is the judiciary involved when violations related to anti-dominance and/or monopolization practices occur? | Are there clear articles outlining punitive measures when monopolizes or dominance practices occur? |
|----------|---|--|---|---|--|---|
| Algeria | X | ✓ | ✓ | ✓ | ✓ | ✓ |
| Bahrain | ✓ | ✓ | ✓ | ✓ | - | ✓ |
| Comoros | - | - | - | - | - | |
| Djibouti | - | ✓ | ✓ | X | X | ✓ |
| Egypt | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Iraq | ✓ | ✓ | ✓ | X | ✓ | ✓ |
| Jordan | X | ✓ | ✓ | X | ✓ | ✓ |
| Kuwait | X | ✓ | ✓ | ✓ | ✓ | ✓ |

6. Ibid.

| | Are “monopolies” clearly defined in the existing legislation? | Are “dominance” practices clearly defined in the existing legislation? | Are there clear authorities to monitor incidents of monopolization and dominance? | Are there articles that emphasize autonomy and independence of regulatory bodies/ authorities enforcing accountability? | Is the judiciary involved when violations related to anti-dominance and/or monopolization practices occur? | Are there clear articles outlining punitive measures when monopolizes or dominance practices occur? |
|----------------------|---|--|---|---|--|---|
| Lebanon | ✓ | ✓ | ✓ | X | ✓ | ✓ |
| Libya | X | ✓ | ✓ | ✓ | ✓ | ✓ |
| Mauritania | X | ✓ | ✓ | ✓ | ✓ | ✓ |
| Morocco | X | ✓ | ✓ | ✓ | ✓ | ✓ |
| Oman | ✓ | ✓ | ✓ | X | ✓ | ✓ |
| State of Palestine | - | - | - | - | - | - |
| Qatar | ✓ | ✓ | ✓ | X | ✓ | ✓ |
| Saudi Arabia | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Somalia | - | - | - | - | - | - |
| Sudan | ✓ | ✓ | ✓ | X | X | ✓ |
| Syrian Arab Republic | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Tunisia | X | ✓ | ✓ | X | ✓ | ✓ |
| United Arab Emirates | X | ✓ | ✓ | X | ✓ | ✓ |
| Yemen | ✓ | ✓ | ✓ | X | ✓ | ✓ |

Source: ESCWA (2023).

Note: ✓ refers to “Yes”, X refers to “No”, and – refers to “N/A”.

The results of ESCWA's 2023 ABLF assessment present a mixed picture across Arab countries. While most jurisdictions have introduced definitions of "dominance" in their legislation, several – namely Algeria, Iraq, Jordan, Kuwait, Libya, and Morocco – still lack a clear definition of "monopoly". The absence of such foundational definitions undermines enforcement efforts and creates legal uncertainty, particularly when evaluating market structures or pursuing abuse of dominance cases. Although definitions alone are not sufficient, they form the legal basis for action and are essential to ensuring consistency in judicial decisions.

Institutional challenges are even more pronounced. A significant number of countries – including Djibouti, Iraq, Jordan, Lebanon, Libya, Oman, Qatar, Somalia, the United Arab Emirates, and Yemen – lack adequate safeguards to ensure the autonomy and independence of their competition authorities. This raises serious concerns about the potential for undue interference in enforcement processes and undermines the credibility of competition oversight. Moreover, in jurisdictions such as Djibouti, Somalia, Sudan, Yemen, Oman, Qatar, and the United Arab Emirates, the absence of meaningful judicial engagement in anti-dominance cases limits the deterrent effect of competition laws, reducing their effectiveness and enforceability. This absence not only weakens accountability but also restricts the ability of victims of anti-competitive conduct to seek legal redress.

At the enforcement level, although several countries have adopted punitive measures to address abuse of dominance, the application of these measures remains inconsistent. Many authorities operate with limited investigative powers or face overlapping mandates and resource constraints, reducing their ability to detect and effectively prosecute violations. In contrast, countries such as Bahrain, Egypt, Mauritania, Morocco, Qatar, Saudi Arabia, Somalia, Sudan, Tunisia, and the United Arab Emirates have developed more coherent legal frameworks and empowered institutions with stronger enforcement capabilities. These jurisdictions offer valuable benchmarks for regional best practices and peer learning.

These findings point to a fragmented regulatory landscape in the Arab region, where progress in certain areas is offset by persistent gaps in others. The interdependence between legal clarity, institutional strength, and judicial engagement underscores the need for holistic reform. Without integrated improvements, dominant firms may continue to engage in exclusionary or exploitative conduct with minimal risk of sanction. As Arab markets become increasingly dynamic, the urgency of reinforcing legal and institutional capacity to address abuse of dominance becomes more critical. The region would greatly benefit from greater harmonization, clearer legal drafting, and sustained investment in capacity building.

In addition, abuse of dominance has become increasingly complex in the digital economy, where market power is often concentrated in platforms that operate across borders, leverage data-driven business models, and benefit from network effects. These characteristics can obscure traditional indicators of dominance and challenge conventional methods for assessing anti-competitive behavior. Recognizing these emerging challenges,

UNCTAD has been actively exploring the implications of digitalization through a series of ongoing publications that address key issues and offer practical policy options.⁷ These resources aim to support developing countries in strengthening their competition frameworks and adapting enforcement strategies to better address potential abuses in digital markets.

Regulatory enforcement practices

While clear legal definitions and sound institutional design are critical to addressing abuse of dominance, they must be supported by effective enforcement practices and genuine operational independence. Even the most well-drafted laws will have limited impact without empowered agencies that are adequately resourced and insulated from external influence.

This section begins by examining the institutional independence of competition authorities in the Arab region, recognizing it as a key enabler of effective enforcement – particularly in cases involving abuse of dominance. It then presents selected case studies that illustrate how these authorities respond to actual instances of dominance-related violations.

A. Institutional independence in abuse of dominance enforcement

A robust institutional framework – particularly one that guarantees operational and decision-making autonomy – is essential for the effective enforcement of abuse of dominance cases. To maintain impartiality and credibility, competition authorities must operate independently and be shielded from undue influence. The OECD highlights the importance of professional independence, stressing that competition agencies must be insulated from external pressure in order to make sound, objective enforcement decisions.⁸

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7. E.g. UNCTAD (2024). Global competition law and policy approaches to digital markets. Available at <https://unctad.org/publication/global-competition-law-and-policy-approaches-digital-markets>.
 8. OECD (2022). Due Process in Competition Law Enforcement, The New OECD Recommendation on Transparency and Procedural Fairness in Competition Law Enforcement, Competition Policy International. Available at <https://www.competitionpolicyinternational.com/wp-content/uploads/2022/02/OECD-Column-February-2022-2-Full.pdf>.

Table 2. Level of autonomy of competition authorities across the Arab region

| Country | Competition Authority | Autonomous |
|----------------------|--|----------------|
| Algeria | Competition Council | Yes |
| Bahrain | Consumer Protection Directorate of the Ministry of Industry & Commerce | No |
| Comoros | Competition Authority | No |
| Djibouti | No standalone competition Authority | N/A |
| Egypt | Egyptian Competition Authority | Yes |
| Iraq | Council for Competition and Antimonopoly Affairs (not established) | N/A |
| Jordan | Competition Directorate | No |
| Kuwait | Competition Protection Agency | Partially |
| Lebanon | National Competition Authority (not operational) | Intended to be |
| Libya | Competition Council | Yes |
| Mauritania | Competition Council (not operational) | Intended to be |
| Morocco | Competition Council | Yes |
| Oman | Competition Protection and Monopoly Prevention Centre | Partially |
| State of Palestine | No specific competition authority | N/A |
| Qatar | Competition Protection and Antimonopoly Committee | No |
| Saudi Arabia | General Authority for Competition | Yes |
| Somalia | No competition authority | N/A |
| Sudan | Competition and Monopoly Prevention Council | No |
| Syrian Arab Republic | Competition Protection and Anti-Monopoly Commission | No |
| Tunisia | Competition Council | Yes |
| United Arab Emirates | Competition Regulation Committee and Competition Department | No |
| Yemen | Public Authority to Promote Competition and Prevent Monopolies | No |

Source: ESCWA (2023).

In Arab countries, independence and structure of competition authorities vary significantly. As shown in table 2, both Egypt and Tunisia have autonomous competition agencies; further steps are recommended to enhance their operational independence.⁹ In contrast, Saudi Arabia's competition authority reports directly to higher levels of government, which can offer a greater degree of institutional autonomy.¹⁰

While these authorities are generally responsible for both investigation and decision-making, other government bodies may also hold prosecutorial powers. It is essential that enforcement processes remain shielded from external interference to ensure that legal and economic expertise drives enforcement actions.¹¹ In several Arab countries, competition councils or committees are responsible for ruling complaints. However, their effectiveness may be compromised by political influence, as illustrated in Yemen, where ministerial approval is required before actions are taken.¹²

Globally, there is a shift toward more independent and empowered competition agencies with broader mandates. ESCWA's ABLF underscores the importance of capacity building, especially in developing countries, calling for investments in training on investigative techniques and economic analysis.¹³ The mandates and resources of competition authorities must be continuously reinforced to ensure effective law enforcement.

The OECD also highlights the importance of proportionality in enforcement, recommending that competition authorities establish clear guidelines outlining available remedies – ranging from structural or behavioral changes to fines or cease-and-desist orders.¹⁴ The International Competition Network further emphasizes the need for transparency in enforcement processes, urging authorities to publish guidance on investigative methods, the definition of abusive conduct, and procedural safeguards.¹⁵

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9. UNCTAD (2024). Voluntary peer review on competition law and policy: Egypt. Available at https://unctad.org/system/files/official-document/ditccplp2024d1_en.pdf.
 10. New York University School of Law (2022). Comparative Competition Law Regimes in the United Arab of Emirates, Saudi Arabia, Philippines, India, and the United Kingdom, Globalex. Available at https://www.nyulawglobal.org/globalex/comparative_competition_law.html.
 11. OECD (2016). Independence of competition authorities: From design to practice. Available at https://www.oecd.org/en/publications/independence-of-competition-authorities-from-design-to-practice_ea9749e1-en.html.
 12. Al Qaysi (2025). The independence of the competition authority: Its composition and their impact on carrying out its role in light of Arab laws, Kuwait International Law School Journal. Available at <https://journal.kilaw.edu.kw/the-independence-of-the-competition-authority-its-composition-and-their-impact-on-carrying-out-its-role-in-light-of-arab-laws/?lang=en>.
 13. Supra note 7.
 14. OECD (2021). OECD Competition Assessment Toolkit. Available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0465>.
 15. OECD (n.d.). Transparency and procedural fairness in competition law enforcement. Available at <https://www.oecd.org/en/topics/sub-issues/competition-enforcement/transparency-and-procedural-fairness-in-competition-law-enforcement.html>.

B. Selected enforcement cases from the Arab region

Case 1: Abuse of dominance through forced tying – Egypt’s telecommunications sector¹⁶

On March 9, 2024, the Egyptian Competition Authority (ECA) found a major telecommunication firm in violation of the Egyptian Competition Law for abusing its dominant position by conditioning the sale of landline phone services on the purchase of fixed internet services. Following numerous verified complaints, the ECA ruled that this constituted unlawful tying under Law No. 3 of 2005 and ordered the firm to discontinue the practice. The law prohibits dominant firms – defined as those with over 25 per cent market share and pricing influence – from imposing unrelated contractual obligations. Violations are subject to corrective measures and financial penalties.

Case 2: Abuse of dominance in Egypt’s food delivery market¹⁷

The ECA investigated how a food ordering delivery platform for enforcing exclusive agreements with restaurants that prevented them from working with rival platforms. These restrictions reduced consumer choices and created barriers to entry. The platform also imposed tying arrangements, obligating restaurants to use its delivery service exclusively for all orders, and implemented price maintenance clauses that limited pricing flexibility across sales channels. The ECA imposed measures to curb these anti-competitive effects, reflecting its commitment to upholding competition law in the digital economy.

Case 3: Anti-competitive conduct by Saudi Telecom Company (STC)¹⁸

Saudi Arabia’s General Authority for Competition (GAC) found that STC had abused its dominant position in the telecommunications market by refusing to provide essential network access to a competitor. This conduct violated Article 5 of the Competition Law, which prohibits dominant firms from denying access to critical infrastructure. The case underscored the importance of infrastructure in fostering fair competition and preventing market foreclosure in network-based industries.

16. Rezk, F. (2024). Egyptian Competition Authority reports violation against Egyptian telecommunication company for abuse of dominant position. Soliman, Hashish & Partners. Available at <https://shandpartners.com/>.

17. Supra note 4.

18. ESCWA (2023). Arab Business Legislative Frameworks Series 2023. United Nations Economic and Social Commission for Western Asia (ESCWA), Beirut. Available at <https://www.unescwa.org/publications/arab-business-legislative-frameworks-2023>.

Case 4: Uber-Careem merger case – Saudi Arabia¹⁹

The merger between Uber and Careem raised substantial competition concerns due to the dominant positions both companies held in the ride-hailing market. GAC's review revealed that the merged entity could engage in exclusionary practices, such as raising entry barriers or imposing unfavourable terms on drivers and users. Although the merger was approved, it was conditional on the implementation of behavioural commitments designed to mitigate anti-competitive risks. This case illustrates how dominant firms can potentially abuse their market power post-merger without effective regulatory oversight.

Case 5: Etihad Etisalat (Mobily) settlement²⁰

Etihad Etisalat (Mobily) was investigated for suspected abuse of dominance under Article 5 of the Competition Law. While specific details of the allegations were not publicly disclosed, the case was resolved through a settlement proposed by Mobily and accepted by the GAC, thereby avoiding litigation. This case highlights the role of settlement mechanisms in Saudi Arabia's enforcement framework, particularly in addressing suspected exclusionary or exploitative behaviour by dominant firms.

Concluding remarks

While Arab countries have made progress in addressing abuse of dominance, persistent legal ambiguities, weak institutional safeguards, and limited investigative capacity continue to hinder effective enforcement. To close these gaps, it is essential to strengthen legal definitions – particularly those related to “dominance” and “abusive conduct” – enhance the autonomy and resources of competition authorities and adopt modern investigative tools and methodologies.

The trends highlighted throughout this paper – such as the integration of abuse typologies, alignment with regional and international frameworks, and peer-driven institutional development – offer Arab regulators a practical roadmap for reform. By building on these strategies, competition authorities can significantly enhance their operational performance and institutional effectiveness in identifying, addressing, and deterring abusive market practices.

19. Ibid.

20. Ibid.