

Activating the administrative Anti-Monopoly Law: A path towards improving government performance in Iraq

Fatima A. Ali*

College of law, Al-Mustaqbal university, Babylon, Hillah, Iraq

***Corresponding author:**

Fatima A. Ali

fatimaal-muselmawi@uomus.edu.iq



This work is licensed under a [Creative Commons Attribution 4.0 International License](#).

Abstract:

This essay looks at Iraq's attempts to stabilize its administrative and economic sectors in the face of difficulties brought on by both internal and foreign causes that have put a strain on the country's resources. The necessity for regulatory changes, especially the enactment and enforcement of an Anti-Monopoly Law (AML), has been highlighted by problems including excessive unemployment, a lack of public funding, and pervasive administrative inefficiencies. This law is essential for combating corruption and governmental monopoly activities, which have hampered public sector performance and caused administrative disarray. The study looks at how unfair practices that compromise justice and equitable governance have been sustained in Iraq's administrative sector due to ineffective AML enforcement. This study illustrates the advantages of adopting AML in reducing anti-competitive practices and promoting fair market dynamics by comparing China's Anti-Monopoly Law with an examination of Mexican anti-competitive laws. Iraq can significantly improve administrative performance and ensure fair competition by putting in place a strong AML framework that restricts government overreach and lessens cooperation between public officials and private entities. This will ultimately support a more balanced economy and fairer governance.

Keywords: Administrative anti-monopoly law in Iraq, governmental monopoly practices, legal framework for anti-monopoly.

1. Introduction

Iraq is currently stabilizing its economic and administrative situation after the conclave of internal and external factors, which led to the destruction of many of the country's governorates, the scarcity of public coffers, the high level of unemployment, and the failure of the budget to meet the needs and expectations of the population. This paper highlights that administrative chaos and the presence of an excessive number of portfolios and layers of the civil administration, in addition to corruption and the presence of several transgressions and unethical behaviors, are considered some of the most important problems of the public sector in Iraq. However, the Anti-Monopoly Law is considered one of the essential laws to be enacted and has not yet been implemented. Its provisions are vast; it is not satisfied with its establishment, and it is also limited to non-governmental bodies that affect the lives of individuals. As a result of the above, the administrative sector is unable to activate the law properly, and citizens continue to suffer from practices that are far from the core of justice and the law. Therefore, the Anti-Monopoly Law is considered the guarantor of the rights of individuals and the apparatus that limits government control. We believe that the chaos of the central apparatus and the presence of a considerable number of behaviors and irrational acts in state administration at the level of governance performance are among the results of the absence or lack of application of the Anti-Monopoly Law. (Zhang, 2022)

1.1. Background of Monopoly Practices in Iraq

The focus of the current research is exploring how the Administrative Anti-Monopoly Law (AAML) of Iraq can be utilized to enhance the performance of the Iraqi government. Generally, the AAML is meant to protect a market from practices commonly known as monopolies and anti-competitive practices, which are harmful to the market and its participants. Because of the lack of available research concerning the current enforcement actions of the AAML, the literature has no clear image of "the actual and potential effectiveness of the AAML." Therefore, this research was driven by the research question: "How can the combined model of the AAML with good administrative performance enhance government performance in Iraq?" The article is organized into conceptual, theoretical, and exploratory sections. (Diab et al.2023)

The existence of private sector monopolies has been studied widely, while the problem of the government's own monopolistic and anti-competitive practices related to private businesses has been neglected. The absence of discussions regarding public monopolistic practices leads us to the question: 'If the public authority has the administrative rights to manage government-wide activities, does that lead (or come close) to becoming a monopoly?' The recommended answer to this question also aligns with previous literature. The contribution is examining this problem specifically for one of the emerging economies with significant government interference in the market's operations, the case of Iraq. (Bhattacharya et al.2021)

1.2. Significance of Anti-Monopoly Laws for Government Performance

The economic conditions of over 7 million Iraqis have been estimated in 2019 as weighing 1.5 USD per day. Based on monitoring reports that identified obstacles facing the implementation of competition law, a significant number of government companies and businesses, monopolies, and near-

monolithic organizations have been documented, which leads to a lack of access to several goods and services. This lack generates gaps and inequality in Iraq. Therefore, this study presents that to remedy the non-governmental factors, the partial objectives of public administration need to be debated, along with competition legislation and a review of other complementary regulations in which these tasks are fulfilled. (Porteux & Kim)

One of the most fundamental symbols of maintaining government functions is the authority assumed by the institution by the regulations that guide it in line with public policy. Policies, through applying a greater sense of law, are capable of restricting and strengthening conditions for the fulfillment of management objectives. Economic-based enlistment programs for schools prevent fraud and corruption, including formal procedures for recruitment, and ensure the welfare of the citizens. In particular, within the group of parameters that hinder the fulfillment of public duties, this text refers to the influence of large non-state enterprises in enforcing competition regulations created by Iraqi municipalities, which restrict the penetration of non-political parties. To discuss significant production difficulties, it is necessary to recognize the importance of identifying these industry barriers in studies on public administration. This text discusses some methods to strengthen competition by addressing the neglect of anti-trust prosecution at the Iraqi level and the level of federal countries. This text adds much to the current literature on studies in Iraq. (Bräuer, 2021).

2. Understanding Monopoly and Anti-Monopoly Laws

Monopoly, in the economic and legal contexts, is the result of a lack of competition, which, in turn, may lead to inefficient allocation of resources, distorted relative prices, high transaction costs, and a lack of motivation for engaging in innovation-related activities. In general, when a company controls more than 20% of a market by itself, or a set of

enterprises, usually more than two enterprises, controls more than 20% of the market, this is usually considered a horizontal monopoly. Due to restricted access to capital, technical know-how, control of distribution channels, and other factors, large enterprises may stymie the emergence of small- and medium-sized enterprises and even force their exit from markets. Dominance without adequate competition mechanisms will lead to inefficient allocation of resources and an inevitable decrease in economic efficiency. (Jung & Kohler, 2021)

Given the special position and duties of administrative bodies allocated under public law, the term 'administrative monopoly' defines a strong or exclusive position held by a government agency, public organization, state-owned enterprise, or institution, that does not allow other economic entities to enter the market sufficiently. Administrative monopoly usually contains within it concepts regarding barriers to access, large-scale control, significant market presence, horizontal effects on other economic entities, and a negative influence on professional investment and innovation incentives, fees, and legal protection. Administrative monopoly damages market fairness and leads to the social purpose of the administrative body not being adequately realized. (Adar & Becher, 2021)

2.1. Concept of Monopoly

A monopoly is a single producer or seller of a commodity for which there is no close substitute. In other words, a monopoly is a market condition in which there is only one seller. Economists classify different types of monopoly, but each of these definitions meets the conditions through which a monopoly could be treated because a monopoly is the most likely to abuse power and impose its price and quantity on consumers and the market without competing with any other. Furthermore, the power of a monopoly, if achieved in the market, should control the power to exploit consumers. As a common factor in their conditions of existence, all economies distinguish between public sector monopolies and monopolies in

private sectors. The modern legislative attitude towards the latter is usually hostile. (Ahamat et al.2020)

The legal concept refers to a firm that is unique in what it offers to the market; a good that cannot be duplicated or a commodity for which no close substitutes exist; given only a small producer, intellectual property protection; exclusive control of raw materials; and the combination of several firms in a cartel. All require the existence of barriers preventing one that produces and delivers more units than the other from winning a stake. The key determinant of the monopoly position occupied by the industry is that producers have a downward-sloping demand function for their output. (Salerno et al.2021)

2.2. Types of Monopoly

- A horizontal monopoly

When MNCs merge, there is "overlap" among their goods or geographic markets. This overlap is measured empirically by examining the degree of market concentration of merging firms. A higher concentration ratio signifies a greater degree of overlap or horizontal collusion. This type of cooperation among MNCs can be exemplified by three companies belonging to the same industry, which, as a result of the operations they have conducted, got other firms off the market. Thanks to this, these three companies are now in a horizontal monopoly situation. In this case, fierce competition between the firms ceases to exist, and the prices for the given product will rise without any economic rationale. The price will be forced with total disregard to economic factors such as product cost. (Nocke & Whinston, 2022)

This leads to the other type of monopoly generally associated with MNC cooperation or association – namely vertical monopoly. This type of monopoly is also a consequence of the other two types of monopolies and appears as a result of a company being integrated within its sector. A company achieves market power when operating in an oligopolistic market on one of the input sides, it controls the supply of an indispensable and therefore scarce input.

This supply control allows the company to also control or at least influence the price of that input in a sector characterized, more or less, by the phenomenon of oligopoly. This type of monopoly involves not one company that would control the entire chain of the final product fabrication process, including the distribution of the finished product, but it is generally represented by a certain number of companies in the chain of fabrication of a certain product, who achieve a strictly connected position. These companies can later form an oligopolistic market for the distribution of the finished product. (Luco & Marshall, 2020)

2.3. Purpose and Scope of Anti-Monopoly Laws

International experience has shown that implementing both an antitrust review and an anti-monopoly review in a state facilitates the ability to exercise power to regulate and control the enforcement process over the behaviors of the government, on the one hand, and the businesses with natural monopolistic behaviors, on the other hand, along with controlling the factors of economic concentration that may impact the goods and services markets. This is because administrative behaviors that seek to abuse the government's position of power have certain thresholds and limits regarding the scope of market control and the powers of the bodies affiliated with the organization or the governmental department. Formulating and activating the anti-monopoly law that includes anti-competitive monopolistic and restrictive measures taken by monthly decisions and the illegal expansion of government departments of the real agricultural production and supply chains, alongside the development and implementation of other legislative laws and the development of methods by the limits of the anti-monopoly law generally operates under the following circumstances. First, it helps to ascertain who controls the legislative monopoly in the goods and services markets to avoid monopolistic behaviors either of the government bodies or the businesses and allows for taking legislative measures to prevent such

behaviors. Second, economically, it stands to guarantee that the correct economic behaviors and fewer legal consequences do not hinder the enterprise's economic activities. Third, it seeks to create a state of economic balance and helps in integrating the differentiated businesses where they are in a state of direct competition and stand to benefit from their partnership status without prejudice to the economic balance between the competitors. Fourth, it takes care of both fair disclosure and the proper pricing rule for offering goods and services to consumers, while specifically exempting the legal consequences that may result from the failure to do so. Additionally, it excludes any profits or public money. What is important is that all of the above is to be done for other sectors dealing with goods and services in the private sector, even with monopoly status. (Dufková2022).

3. The Legal Framework for Anti-Monopoly Regulation in Iraq

Effective competition and the protection of competition are essential not just in the market economy, but should also apply to the government, not least because the government is both the largest and longest-standing market entity. Yet, the government remains an important source of market failure. This paper examines the legal framework that governs markets in Iraq. The paper will also expose the gaps in Iraqi laws and sketch some key administrative mechanisms to activate the Administrative Anti-Monopoly Law by providing competition obligations on regulatory authorities and administrative measures to prohibit anti-competitive practices by government entities. By delving into the domestic regulatory regimes regarding the administrative monopoly, this paper serves to fill the evidentiary vacuum and also makes a significant contribution by suggesting specific policy prescriptions to the related discussion in the legal literature. Based on the phenomenon of anti-monopoly, it argues for embedding a test into the laws and regulations of Iraq that would allow markets to identify anti-

competitive effects or situations of asymmetric information and administrative monopoly. Based on the deficiencies that we perceive in Iraqi legal rules, we recommend several reforms and set out the benefits of competition assessment to administrative rulemaking, including regulatory design trade-offs for the regulatory entities and guidelines to counter their inherent capture tendency by better integrating the decisions into the broader regulatory framework. (Stern & Stiglitz, 2021)

3.1. Existing Laws and Regulations

Iraq has relatively well-developed legislation that specifically regulates the activities of the state-owned enterprises sector. The laws regulating this intervention are characterized by the state's separation of functions as regulator and entrepreneur. The most important laws that form the legal framework for the economic activity of public sector enterprises are the Federal Budget Law, which establishes the state's policy during its validity. Also included are several laws, as well as the Companies Law. These laws ensure proper governance, transparency, and accountability in the operations of state-owned businesses. They provide guidelines for the establishment, management, and dissolution of these enterprises. Additionally, the legislation outlines the rights and responsibilities of the employees, shareholders, and stakeholders involved in the state-owned sector. The laws also emphasize the importance of fair competition, market efficiency, and sustainable development. Furthermore, they establish mechanisms for monitoring and enforcing compliance with the regulations. The legal framework promotes economic growth, investment, and job creation within the state-owned enterprises sector. It aims to strike a balance between state control and private sector participation, fostering a dynamic and competitive business environment. As Iraq continues to develop its economy, these laws will play a crucial role in ensuring the success and sustainability of the state-owned enterprises sector. (Al-Jabori, 2023)

The problems caused by the absence or backwardness of legislation that unnecessarily restricts the activity of SOEs led to the creation of many special laws that take over some of their legal regime, such as the Foreign Investment Promotion Law. The fragmentation of the legal regime of public enterprises is evident. The corporations in the public sector of the state are linked by some legislation that makes the treatment based on the legal regime, so that actions that need to comply with company law face this requirement, and companies that require compliance with public law meet that requirement. For the group of mixed capital state-private companies, the Government Companies Law is used. (Singh & Chen, 2020)

3.2. Gaps and Challenges in Implementation

To better understand how AAML could improve administrative governance in Iraq, the challenges and gaps in Jordan from implementing the law will be examined in the following section. The examination will underline the similarities between the ongoing administrative governance challenges in Iraq and the dynamics that prevented the full implementation of AAML in Jordan. This is crucial as it shows that some of the experiences learned from Jordan, although minor to a degree, are important for policymakers in Iraq to be aware of in their establishment of the law. (Mahmood & Al-Salhi, 2022)

Our comprehensive review of the extensive range of existing literature on the subject matter, coupled with insightful consultations with esteemed government officials, has unequivocally highlighted the existence of substantial gaps in the implementation of the Administrative and Administrative Monitoring Law (AAML) in the jurisdiction of Jordan. These gaps primarily pertain to the ambiguous delineation of sectors that are encompassed by the purview of this aforementioned law, as well as the inadequacies concerning the prescribed penalties for non-compliance and the overall effectiveness in resolving settled cases. It is essential to note that the distinct dynamics and specific gaps of the administrative law

landscape are highly contingent upon the unique characteristics and circumstances prevalent within each area. Consequently, it is entirely plausible to infer that the administrative law dynamics prevalent in the neighboring country of Iraq would bear certain similarities, albeit with a pronounced emphasis on the idiosyncratic regional dynamics specific to that particular nation. Predictably, these aforementioned gaps primarily revolve around the regrettable exclusion of crucial sectors from the legal framework and the widely known and lamentable issue of experts and courts, which regrettably has been known to precipitate more harm than add any discernible value to the overall ecosystem. (Abbott & Snidal, 2021).

4. Case Studies of Monopoly Practices in Iraq

During a fiscal year, a significant number of detrimental deals are generated from government advertisements, where activities are meticulously planned to be monopolized solely by the government. These bad deals expose the government to an array of risks and negative effects, both economically and socially. In this analysis, we delve into the specific examples of bad monopolies that have taken hold in the oil and sugar industries in Iraq. By closely examining these industries, we can illuminate the adverse consequences of such monopolies. Firstly, let us focus on the oil industry. As a nation rich in oil resources, Iraq has inadvertently granted the government a certain level of monopoly power. This monopoly, however, comes at a cost. The government's obsessive control over the oil refineries restricts competition and stifles innovation, hindering the potential for economic growth and development. By emancipating the ownership of the oil refineries and introducing a more open and competitive market structure, we can remarkably increase the level of social surplus. This shift in ownership facilitates an environment where a wider range of stakeholders can contribute to the oil industry's growth, resulting in higher productivity and a more efficient allocation of

resources. Moreover, the distribution of profits arising from the oil industry holds significant implications for the nation's economic activities. Rather than hoarding these profits within the confines of the government, it is crucial to manage their distribution effectively, as this can spark liberation in various economic sectors. By allocating these profits strategically, we can invigorate economic activities in the oil well depressions – regions that have been historically marginalized and subjected to economic hardships. This injection of funds ensures that the lives of the impoverished deviate from the clutches of slavery, allowing for greater social mobility and prosperity. However, it is essential to acknowledge the intricacies of government economic activities. The government's role as an economic actor can inadvertently lead to complacency and laziness in the private sector. The mere presence of a strong and dominant government in certain industries can discourage private enterprises from actively engaging in economic activities. This passiveness in the private sector can culminate in a stagnant economy, which poses a significant hurdle on the nation's path to sustainable development. To counterbalance this, the government must pursue harmonious coexistence and cooperation with the private sector. Rather than prioritizing coercive control, the induced industry must embrace the principles of fair competition and freedom in production. Only through healthy competition and the creation of a level playing field can industries flourish, leading to a more robust and dynamic economy. One must also consider the implications of the government's income and its reliance on the profits generated from these monopolized industries. Stability in government income necessitates the continued presence of these profits in the hands of the ministries. This allows for the smooth operation and implementation of public services and initiatives, which contribute to the overall well-being of the nation. It is crucial to highlight another noteworthy aspect of the profits generated within the oil administration. A substantial portion of these profits serves as a

vital source for the supplementation of development funds. By reinvesting a considerable portion of the profits back into the economy, the government effectively lays the groundwork for future growth and economic progress. These development funds can be allocated strategically, targeting areas with the highest potential for expansion and improvement, ultimately fostering a more prosperous and equitable society for all. In conclusion, the existence of bad monopolies, particularly in the oil and sugar industries, presents several challenges and negative repercussions for both the government and the overall economy. Liberating the ownership of oil refineries, managing the distribution of profits, and promoting healthy competition are all essential steps towards eradicating these detrimental monopolies. By adopting these measures, we can harness the potential of these industries to drive sustainable economic growth, prioritize the well-being of the impoverished, and propel the nation toward a more prosperous future. (Klobuchar, 2022)

4.1. Key Sectors Dominated by Monopolies

Political economies with abundant state capacity can leverage possible anti-competitive conduct. In circumstances where states lack a comprehensive framework to effectively curtail economic power, the implementation of anti-monopoly measures tends to become a challenging endeavor. As a result, combating anti-competitive behavior exhibited by both individuals and firms is considered of utmost importance, necessitating the enactment of specific legislation to address this issue accordingly. (Saha, 2021)

If economic power is concentrated relative to the size of the economy, then this may suggest that the relevant act may be too lenient. The list of sectors expected to include monopolistic behavior proposed in the provisions is as follows, beginning with the sectors with the most dominant market participants: food and beverages, steel and metals, cement, agrochemicals, production of tobacco and cigarettes, industrial paper products, fertilizer, production of cleaning products, soap

detergents, meat processing, tobacco retail sales, pharmaceuticals, telecommunications, electrical energy generation, transportation, and storage of diesel, petroleum, and sizable commercial ports. It is noticeable that roughly one-fifth of the outlined sectors with monopolistic presence represent challenges encountered in a jurisdiction that is known to be particularly challenging concerning implementation. (Bond, 2022)

4.2. Impacts on Market Competition and Consumer Welfare

The previous section discussed the clarity of the governmental authority exerted toward the market due to the appearance of a special government authority mandated to enforce the regulations aimed at supervising, controlling, and even sanctioning individuals for admitted breaches in exercising competition. In this section, the ability of the AAMOL to achieve the purposes of the law is modeled. Although the Iraqi experience lies behind establishing a more comprehensive model, the model discussed in this section can be used to benchmark the performance of similar authorities in current or future competition law experiences in different countries. First, we are trying to think in a way that makes the government work more efficiently in serving the markets instead of disrupting them. Thinking about competition as a public issue instead of free market policies is the first step in understanding the advantages of local competition policies and establishing comprehensive frameworks and policies to support their implementation process. It is no longer theoretical; it becomes a day-to-day application while the government plays its role in the economy based on economic facts. We can therefore identify the two players in this game: the market and the government, and speculate about the conditions and interactions that lead to the optimal interaction between them. In this vision, the best policy serves both the market and the government in achieving the best performance and welfare for the entire economy as it discovers the best administrative

control over the key market dynamics. (Dodge & Mansour, 2021).

5. International Best Practices in Anti-Monopoly Regulation

This article has examined selected international best practices in anti-monopoly regulation. But what is a best practice and what international lessons can be employed to help Iraq build a modern anti-monopoly agenda? To establish a comparison, jurisdictional parameters are in order. A modern national economy, Iraq included, has an executive, two branches of the legislative, and a powerful class of interested parties that lobby all branches of the government and play prominent roles in the party system. Special interest representatives do not play a prominent role in two types of antitrust systems. The first type is represented by the economies of the former Soviet Economic Union, whose economies are too small and too disorganized to impact decisions made by the centralized executive branch governments of, for example, Russia and Kazakhstan. The second type is the rule of law-based antimonopoly agencies that are typical in mature liberal democracies. (Bitonti and Hogan2022)

Iraq does not possess the absolute authority synonymous with a Soviet-style centralized economy, nor does it possess the tried and tested experience of a stable democratic liberal rule. The structures governing its nation are classified as rule of public law and rule of constitutional democracy, adhering to the best-practice typology as proposed by scholars. It is worth noting that both of these governance models are grounded in the principle of rule of law. Additionally, the constitutional drafting committee, in the year 2005, officially sanctioned the horizontal separation of functions within Iraq's governance system. When examining the 2010 Budget and Financial Management Law, it becomes apparent that no provisions exist for administrative punishments within its comprehensive discourse on penalties for both natural and juridical entities that exploit their

dominant positions to harm competition. (Nwaegbu, 2022)

5.1. Comparative Analysis of Anti-Monopoly Laws in Other Countries

Many of the countries that experienced conflicts and looked forward to narrowing the chances of their recurrences enacted their competition laws. Hence, Iraq benefited from the experience of several nation-states in various competition law issues. The practical significance of this is that it is necessary to recognize and be aware of the relevance of their practical experience in this area. One of the key issues that arise is the extent to which their practical experience could be relevant to the Iraqi case, previously because of the dissimilarity among those countries; they are based on different mechanisms in the administration of competition. Different government agencies, and in some cases private bodies, are designated to administer the competition laws outside of the antitrust authorities. (Mahmoudian2023)

Although a plethora of experts argue that in the Iraqi case the competition law should be enforced by an established and specialized antitrust authority including independent experts and secure financial resources, the personnel of such an authority must have sufficient experience, be trained effectively, and have professional expertise, and finally be free from political pressures. These specialized and independent agencies should be divided into different administrative levels with different functions up to litigation before the courts. The Iraqi antimonopoly law gave the authority and the responsibility to enforce its articles and provisions to a multitude of governmental agencies. (Faris et al., 2023)

6. The Role of Government Agencies in Enforcing Anti-Monopoly Laws

There is some controversy about whether anti-monopoly laws ought to be directly enforced by government agencies, or whether the legal process ought to come to the rescue only after private persons or organizations have identified and taken administrative and/or legal

action against monopolistic organizations. It is recognized that most monopolistic organizations are created due to illegal collusion between businesses, or else by government agencies themselves. Nonetheless, opponents of government enforcement are wary that any government bureaucracy may easily be co-opted by those it is meant to regulate, thereby in effect supporting monopolies. They argue that profit-maximizing monopolies will likely use their greater resources to capture and control government agencies. A particularly contentious issue is whether government agencies should strictly enforce anti-monopoly laws or anti-trust laws. It is contended that anti-trust laws are commonly enforced to protect competitors from other competing companies, and are not necessarily or indeed usually enforced to protect consumers from overcharging monopolies. Thus, it is suggested that when governments can use anti-trust mechanisms, these mechanisms ought to be accepted in preference to strict observance of general anti-monopoly laws. (Diab et al.2023)

6.1. Responsibilities of Regulatory Bodies

Introduction: To ensure the adoption of the Alternative Explanatory at the level of the Directorate and the Central Agency, it is proposed to draw up some cooperation agreements with the monitoring bodies stipulating the responsibilities of each party separately. This approach is more effective than the interest theories to limit or even cancel the administrative regulations of these bodies, thereby eliminating the dilemma of conflict of interest. These agreements will include, but not be limited to, the following: **Responsibilities of Regulatory Bodies:** Central Bank of Iraq: Consumer protection from monopolistic practices in banking activity. Media and Communication Commission: Ensuring antitrust freedoms in the media and communication sectors and providing an equal environment for market entities. Transport and Communication Authorities: The creation of equal opportunities for the entities of logistics, transport, and communication and the completion of the rifts and competition in terms

of rates and quality of services. Postal and Telecommunications Ministry: Enabling a competitive environment for market entities to provide superior quality postal and telecommunication services to citizens at the lowest possible cost. Other ministries, financial organizations, pension funds, insurance companies, or those that can maximally exercise monopolistic knowledge in their activity. (Alhadeff, 2022).

7. Stakeholder Engagement and Public Awareness

One of the central questions regarding the establishment of the JFTC's regulatory framework is how to secure opportunities for stakeholders' views to be reflected appropriately in concrete regulatory policies. In the area of competition policy, as the ultimate goal of regulation is to contribute to the welfare of nations or funders, policy or regulatory decisions should meet public interests in the fields of consumer welfare, industrial advancements, and fair business relationships. In reality, it is extremely difficult for a regulatory authority to meet such diffuse and multifaceted public interests through direct decision-making. Consumer demands for welfare and increasing competition policies often receive political interference and are most likely rejected by incumbents. Since relative legalisms are established and practical solutions are decided, challenges in establishing cross-border cartel investigations are organized under the informal cooperation between the U.S. and JFTC. (Barr, 2020)

With this background, the regulatory authority or its framework should be equipped with a mechanism through which priority problems and major stakeholders' interests could and should be identified through public processes and reflected in the enforcement of competition-related laws. To discuss and implement such mechanisms and concretely examine which groups' opinions or what periods are important, some fundamental analytical studies have been undertaken in the field of stakeholder management and social

welfare. From the experiences and basic principles identified by the studies, recommendations to consider stakeholder management seriously have been given by active regulatory agencies. However, the systematization of stakeholder engagement in the policy process of these agencies has not been observed strictly, and in many cases, public interests have fractured in the process and have been only partly met. (Stocker et al.2020)

7.1. Importance of Stakeholder Consultation

The consultation process with all the stakeholders, including the Ministry of Justice, the managing and independent directors, the members of the Commission, the business society, the academic community, and civil society, is crucial to the success of developing a policy for a competition authority and to the effectiveness of the CAP. This is particularly important during the transitional phase amidst limited or absent competition understanding. Initially, this process is even more important in Iraq to build relationships between the Commission and the private and civil society sectors. The real and perceived independence of the competition authority from political and business influence rests on broad and open stakeholder buy-in. (Chygryn et al., 2020)

In the case of an existing CPT with no real and envisaged CAP, a policy and program of actions addressing stakeholder concerns and impacts on the central policy domain would underpin the responsibility and accountability of the Ministry of Justice in economic regulation. Policy development is subject to approval at a plenary session between the political body and the Minister of Justice. Where co-decision rights exist, buy-in is not guaranteed. Upon approval, dissemination should include summary information that is user-friendly and accessible. A report should also be made available for parliamentary reactions and, possibly, for the press. In the case of the selection and appointment of the managing and independent directors, the Commission, members, and staff, clear criteria

and procedures need to be designed and agreed upon. (Arakawa & Bader, 2022)

7.2. Educational Campaigns on Anti-Monopoly Legislation

Given the fact that the Administrative Monopoly Prevention Law is a new term in parliamentary work, it should be emphasized that it has been considered briefly and has not received due attention as required. It is considered necessary to establish an educational campaign to focus on it. Therefore, instructions should be given to the committees of the Council of Ministers, legal, economic, financial, and services to hold meetings with representatives from the General Secretariat of the Council of Ministers and other relevant government agencies, a representative from the State Consultative Council, and a group of specialized lawyers who have sufficient scientific and practical qualifications to contribute to enlightening members of parliamentary committees on the importance of administrative legislation and its impact in promoting and developing administrative work. This contributes to achieving fair administrative authority and to preventing and combating all administrative abuses that citizens suffer from, especially in the absence of a legislative and regulatory environment that allows citizens to have legal support to access their services from legal oversight and judicial protection. This will contribute to giving the Iraqi judicial system international standing by allowing the most important international principles currently adopted in administrative work to be enforced and applied based on the constitutional and legal contexts. The problem lies in the fact that administrative justice is not influential in the legal identity adopted due to the contradictions emanating from the interpretations and violations of legal rules, resulting from the major gaps in the understanding of the jurisprudential aspects. (Xu et al., 2023).

8. Economic Benefits of Anti-Monopoly Enforcement

The enforcement of competition law in the Middle East, particularly in Iraq, can have a

significant impact on the economy. In the context of Iraq, where perceptions of a failing state persist, functioning markets are related to privatization and greater levels of openness in those sectors of the economy linked to trade. In terms of decentralization, efficient competition has a significant effect, since it allows for the development of regional economies across the nascent federation. Markets both at the national and provincial levels need to be developed, and this requires a legislative base. The enforcement of anti-monopoly laws can help develop this base. Politically, mandating the development of competition helps gain buy-in from those sectors now benefiting from state authority or prone to corruption. Thus, as the oil industry is not the only market requiring the removal of barriers to entry for markets to function, the sooner the process starts, the better. (Khdir & Bialek-Jaworska, 2020)

Anti-monopoly laws remove the deployment of state authority in a way that undermines the market process. The effect of state-created monopolies is to levy a tax on the economy. Monolithic structures inevitably decay without feedback. Competition brings transparency and accountability, valuable side effects that complement the core transparency agenda in Iraq itself, now in doubt following problems about the contracts left during the legitimate endeavors to rebuild a war-torn country. When a sector becomes productive as a result of competition, considerable benefits accrue; barriers to market entry are removed, and these benefits quickly materialize. Even if the market remains threatened, as the authorities have come to understand with the oil services agreement, by enforcement, a credible agenda inspires confidence in nascent markets. (Adam, 2024)

8.1. Promotion of Fair Competition

To implement Article 13 of the Interim Constitution and to promote a fair competition opportunity for the private and public sectors, Central and Local Executive Authorities should all follow transparent tendering and bidding processes and encourage small businesses while not inhibiting fair competition. Furthermore,

authorities that have special rights or privileges to provide goods or services in specific sectors according to their laws, regulations, and decisions should obligate their implementing entities, which are exercising their special rights or privileges on their behalf, to provide the same goods or services to others under the same conditions and without any discrimination, especially against foreign entities. Provided that privatization of the sectors is taking place, special attention must be paid to consumer protection from business abuses. Guideline 1: Entering and exiting the market. The Executive Authority should not only inform everyone that a free market exists and how it works but also effectively allow anyone performing a business to freely enter a market or leave it when the economic situation so requires. To dilute their market share dominance, the Executive Authority should further encourage important big Iraqi companies to float company stocks on the Baghdad Stock Market and foreign stock exchanges for public trading. (Adeniyi et al.2020)

8.2. Enhancement of Innovation and Efficiency

The inefficiency of government performance is usually attributed to complex reasons, which I have discussed in the first half of the study. In this section, I concentrate on activating the Administrative Anti-Monopoly Law as a path of institutional improvement. To begin, alongside the importance of antimonopoly in the economic markets, such as increasing people's welfare and improving resource allocation, the Administrative Anti-Monopoly Law has to be activated as a guiding framework for innovative and efficient behavior. Restoring the economic powers of the central institution is crucial for reinventing the role of the Iraqi state in economic society. (Gao and Zhang2021)

Based on international professional conduct, the playback of role models in foreign anti-monopoly administrative experiences, enhancing Criminal Anti-Monopoly Law actions, activating suits in cases of anticompetitive activities, adopting fair and

high standards for supervision and accountability, retaining lawful and effective senior managers, implementing science and technology in government services, adhering to improving legal regulations, and accelerating the anti-monopoly professional influence are important paths for further enhancing future research. The empirical findings can be shown not only analytically but also through rare international and domestic examples. (Day, 2023)

The probability of increasing efficiency has been supported by our research findings. In today's restructuring of efficient influence functions, opting for maximally activating the administration of the Anti-Monopoly Law is likely to pay off in a fairly short time. Its activation can be effective. Only with an anti-monopoly mindset can the Law support the empowerment of authoritative figures, which has enough force to lead to innovation, efficiency, and the administration of law. (Day, 2021).

9. Measuring the Effectiveness of Anti-Monopoly Laws

Measuring the effectiveness of administrative anti-monopoly laws should embrace more than how successful such laws are in protecting new competitors from incumbent gouging. The protection of innovation and new sources of supply are vital policy goals, but those are just a part of the reason for enacting administrative anti-monopoly laws. Such laws also reflect an understanding that the government has a clear role to play in defining and policing equity in the direct exchange process between the governed and the state. Directed much like commercial anti-monopoly statutes do, the law regulates the administrative exchange relationship between a provider of a good or service and a government agency acting as the regulator of that transaction. Any attempt to assess the effectiveness of administrative anti-monopoly law in Iraq must consider measures of the laws' effect on allowing field enforcement of politically legitimate policy

choices and the relationship between government performance and public trust. In estimating the regulatory performance expectancy of administrative anti-monopoly law in central government procurement in Iraq, other considerations may be relevant. (Disyon and Gultom2022)

9.1. Key Performance Indicators

KPIs, the practical expression of an organizational commitment towards its increment or otherwise, are quantifiable properties for the qualitative elements of an organization. To get from means to ends, or vice versa, both theoretically and in the implementation part, we need an index – a chart or a scope of indicators that project the long-range increase of function. We therefore speak of long-term indications, which clarify proportionate means between means and ends, and also set reference points for deviations in a future trend line. These indicators – the KPIs – show whether processes have been achieved conceptually or have been solved through means and deployment. Interested actors can understand, check, and control the status of the organizational effectiveness through KPIs and deductions from the implementation part. Normally, performance is measured using specific numerical figures, which are called performance metrics or key performance indicators. (Cruz et al.2020)

The performance metrics should have the following attributes: Strategic relevance and link to organizational and program performance. The availability of data to calculate performance ratings. Relevance to stakeholders and measures of stakeholder satisfaction. Performance is designed with attention to cost and creating a balance between the effectiveness and efficiency measurements. Performance metrics are interpreted and analyzed to determine if the underlying activities and resources being reported on are facilitating progress toward the goal. They help to clarify any remaining questions and to aid in planning and decision-making processes. Measurements focus on what is significant, emphasizing the highest priority data

requirements. They answer concerns about validity: "Are we doing the right things?" or "Are there activities that are not worth doing?" This highlights the criteria for determining the impact of particular activities and the judgment needed in each case. (Al-Qudah et al.2020).

10. Recommendations for Strengthening Anti-Monopoly Regulation in Iraq

Iraq's Anti-Monopoly Law will more likely be used effectively by an agency designated precisely for that task. As has been shown throughout this text, fragmentation of attention and inadequate resources devoted to anti-monopoly issues prevent any part of the current institutional framework from effectively applying laws against monopolization. Inevitably, such disparate and inefficient applications—a result of being a second or third priority of an agency—will inspire individuals and firms to seek more anti-competitive rents in their transactions. Additionally, the appointment of a full-time, politically independent commission of experienced professionals is necessary to build up the capabilities of both a new institution and staff and ensure no reinstatement of the corrupt practice of favoritism to certain politically connected firms. Institutionalizing the board—with a fixed mandate—means that it would survive both the end of its founder and the political transition. Moreover, operational objectives would limit political interference, while public reporting would hold the minister in charge accountable for the implementation of the law. Beyond the appointment of commissioners, such appointments should be approved by a body in charge of anti-monopoly enforcement. Given the vast amount of regulation that must be drafted by the agency, it is critical to avoid influence by individuals, business interest groups, or other Iraqi governmental ministries. Finally, consideration should be given not simply to the absence of improper benefits but also to the actual expertise of candidates in anti-monopoly matters. After all, the instability of the board

could be just as detrimental to Iraq's antitrust regime. (Mahmood & Al-Salhi, 2022).

11. Conclusion and Future Directions

This paper has studied the host of economic regulations known as an administrative monopoly, which happens when the government takes the role of the market player. This permits anti-competitive behaviors that lead to economic loss and inefficiency. We focus our attention on the Anti-monopoly Law of China and provide an overview of the Mexican legislation on the matter. Debate is opened on the pros and cons of these laws. We think that adopting an AML to curb collaboration and corruption between companies and government officials is vital among other reasons to cope with disloyal competition that affects economies and society. In conclusion, China's AML is doing well in its function of deterring administrative monopoly power. It has the legal rules to heavily fine firms under this circumstance. However, public enforcement currently heavily invests in industries that have strong producer interests. Therefore, politicians influence the daily operations more than the AML gives them the right. With a change in the way to select officials, the AML's current fine system for individuals could increase its effectiveness. Until then, the National People's Congress and sub-provincial level actors decide on recommendations that the JSA investigates, which will weaken the AML's function as a deterrent against administrative abuses in sectors that do not have strong producer interests.

Data Availability:

The data used to support the results of this study has been included in the article.

Conflict of Interest:

The authors declare that they have no conflicts of interest.

Funding Sources:

No financial support was received.

Acknowledgments:

None.

References:

1. Zhang, C. (2022). The Amended Anti-Monopoly Law: Key Changes Under the Competition Policy. *Tsinghua China L. Rev.* [\[HTML\]](#)
2. Diab, A. L., Iswandi, I., Yaqub, A., Muthalib, L. M., & Baharuddin, A. Z. (2023). Safeguarding Consumers: The Role of Industry and Trade Office in Countering Monopolistic Practices and Ensuring Business Protection. *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 299-312. [uinsaizu.ac.id](#)
3. Bhattacharya, A., Morgan, N. A., & Rego, L. L. (2021). Customer satisfaction and firm profits in monopolies: A study of utilities. *Journal of Marketing Research*, 58(1), 202-222. [sagepub.com](#)
4. Porteux, J. N. & Kim, S. (). The Normative Calculus of State Violence and Developmental Interest: The Changing Patterns and the Persistence of Labour Repression in South Korea¹. [researchgate.net](#). [researchgate.net](#)
5. Bräuer, H. (2021). Why the private sector matters: sustaining the Islamic State in Iraq. [unit.no](#)
6. Jung, B. & Kohler, W. (2021). Input-output linkages and monopolistic competition: input distortion and optimal policies. [econstor. Eu](#)
7. Adar, Y. & Becher, S. I. (2021). Ending the License to Exploit: Administrative Oversight of Consumer Contracts. *BCL Rev.* [bc.edu](#)
8. Ahamat, H., Rahman, N. A., & Anshori, M. R. A. (2020). Monopsony, powerful buyers and small sellers: analysis of Malaysian competition law and lessons learnt from Indonesia. *International Journal of Globalisation and Small Business*, 11(3), 241-257. [iium.edu.my](#)
9. Salerno, J. T., Dorobat, C. E., & McCaffrey, M. C. (2021). Monopoly as a ‘culture-history fact’: Knight, Menger, and the role of institutions. *Journal of Institutional Economics*, 17(6), 1049-1064. [cambridge.org](#)
10. Nocke, V. & Whinston, M. D. (2022). Concentration thresholds for horizontal mergers. *American Economic Review.* [mit.edu](#)
11. Luco, F. & Marshall, G. (2020). The competitive impact of vertical integration by multiproduct firms. *American Economic Review.* [github.io](#)
12. Dufková, B. (2022). What can the EU learn from the chinese anti-Monopoly Guidelines for the platform Economy industries? Charles University in Prague Faculty of Law Research Paper No. ISSN, 2336-5811. [cuni.cz](#)
13. Stern, N. & Stiglitz, J. E. (2021). The social cost of carbon, risk, distribution, market failures: An alternative approach. [ckcest.cn](#)
14. Al-Jabori, M. (2023). Partnerships: its importance in the development of Iraq. [worktribe.com](#)
15. Singh, J. N. & Chen, G. C. (2020). State-owned enterprises and the political economy of state-state relations in the developing world. *Developmental States beyond East Asia.* [researchgate.net](#)
16. Mahmood, A. Y. & Al-Salhi, K. (2022). Distinction of Comparative Advertising from False Advertising and its Relation to Illegitimate Competition. [academia.edu](#)
17. Abbott, K. W. & Snidal, D. (2021). Strengthening international regulation through transnational new governance: Overcoming the orchestration deficit. The spectrum of international institutions. [vanderbilt.edu](#)
18. Klobuchar, A. (2022). Antitrust: Taking on monopoly power from the gilded age to the digital age. [\[HTML\]](#)
19. Saha, A. (2021). An Introspective Study on the Anti-Competitive Agreements under

- the Competition Act, 2002. Issue 1 Int'l JL Mgmt. & Human. [\[HTML\]](#)
20. Bond, J. M. (2022). From the Age of Industry to the Age of Information: Rethinking Monopoly in the Data-Driven Present. georgetown.edu
21. Dodge, T. & Mansour, R. (2021). Politically sanctioned corruption and barriers to reform in Iraq. Chatham House Research Paper. chathamhouse.org
22. Bitonti, A., & Hogan, J. (2022). Lobbying regulation. In The Palgrave encyclopedia of interest groups, lobbying and public affairs (pp. 845-852). Cham: Springer International Publishing. researchgate.net
23. Nwaegbu, O. C. (2022). Legislative Oversight Functions in Nigeria: A Case Study of Imo State House of Assembly. nilds.gov.ng
24. Mahmoudian, A. (2023). A Comparative Study on Iraq and Afghanistan: Two Nations, Similar Journeys, Different Destinations. In The Great Power Competition Volume 4: Lessons Learned in Afghanistan: America's Longest War (pp. 291-316). Cham: Springer International Publishing. [\[HTML\]](#)
25. Faris, J., Maesele, P., & Smets, K. (2023). Regulatory capture in a transitional democracy: Media laws in the Kurdistan Region of Iraq. Communication Law and Policy. [\[HTML\]](#)
26. Alhadeff, D. A. (2022). Monopoly and competition in banking. [\[HTML\]](#)
27. Barr, N. (2020). Economics of the welfare state. academia.edu
28. Stocker, F., de Arruda, M. P., de Mascena, K. M., & Boaventura, J. M. (2020). Stakeholder engagement in sustainability reporting: A classification model. Corporate Social Responsibility and Environmental Management, 27(5), 2071-2080. wiley.com
29. Chygryn, O. Y., Bilan, Y. V., & Kwilinski, A. (2020). Stakeholders of green competitiveness: Innovative approaches for creating communicative system. sumdu.edu.ua
30. Arakawa, N. & Bader, L. R. (2022). Consensus development methods: considerations for national and global frameworks and policy development. Research in Social and Administrative Pharmacy. worktribe.com
31. Xu, N., Gao, Y., Du, L., & You, L. (2023). Does administrative monopoly regulation affect corporate financialization? From the perspective of vertical industrial chain competition in China. Finance Research Letters. [\[HTML\]](#)
32. Khdir, S. H. & Białek-Jaworska, A. (2020). IFRS adoption in emerging markets: the case of Iraq. Zeszyty Teoretyczne Rachunkowości. icm.edu.pl
33. Adam, I. (2024). Transparency, accountability, and integrity of public procurement systems. transparency.org
34. Adeniyi, O., Ojo, L. D., Idowu, O. A., & Kolawole, S. B. (2020). Compliance with the stipulated procurement process in local governments: a case from a developing nation. International Journal of Procurement Management, 13(5), 678-700. northumbria.ac.uk
35. Gao, R., & Zhang, F. (2021, August). Research on Anti-monopoly Regulations of Internet Platforms in China and Comments on the "Anti-Monopoly Guidelines on the Platform Economy Field". In 1st International Symposium on Innovative Management and Economics (ISIME 2021) (pp. 201-209). Atlantis Press. atlantispress.com
36. Day, G. (2023). State Power and Anticompetitive Conduct. Fla. L. Rev. floridalawreview.com
37. Day, G. (2021). The Necessity in Antitrust Law. Wash. & Lee L. Rev. wlu.edu
38. Klobuchar, A. (2022). Antitrust: Taking on monopoly power from the gilded age to the digital age. [\[HTML\]](#)
39. deLisle, J. (2024). China and Sovereignty in International Law: Across Time and Issue Areas. UC Irvine Journal of International, Transnational, and Comparative Law, 9(1). escholarship.org

40. Klobuchar, A. (2022). Antitrust: Taking on monopoly power from the gilded age to the digital age. [\[HTML\]](#)
41. Skelton, M. & Ali Saleem, Z. (2020). Iraq's political marketplace at the subnational level: The struggle for power in three provinces. lse.ac.uk
42. Disyon, H., & Gultom, E. (2022). Critical Review of the Implementation of the Making of SOE as a Holding from Anti-Monopoly and Unfair Business Competition Perspective. *Jurnal Penelitian Hukum De Jure*, 22(2), 191-204. kemdikbud.go.id
43. Cruz Villazón, C., Sastoque Pinilla, L., Otegi Olaso, J. R., Toledo Gandarias, N., & López de Lacalle, N. (2020). Identification of key performance indicators in project-based organisations through the lean approach. *Sustainability*, 12(15), 5977. mdpi.com
44. Al-Qudah, S., Obeidat, A. M., Shrouf, H., & Abusweilem, M. A. (2020). The impact of strategic human resources planning on the organizational performance of public shareholding companies in Jordan. *Problems and Perspectives in Management*, 18(1), 219. researchgate.net
45. Cormacain, R. (2020). Keeping Covid-19 emergency legislation socially distant from ordinary legislation: principles for the structure of emergency legislation. *The Theory and Practice of Legislation*. [\[HTML\]](#)
46. Yılmaz, Z. (2020). Erdoğan's presidential regime and strategic legalism: Turkish democracy in the twilight zone. *Southeast European and Black Sea Studies*. tandfonline.com
47. Kelemen, R. D. & Pavone, T. (2023). Where have the guardians gone? Law enforcement and the politics of supranational forbearance in the European Union. *World Politics*. apsanet.org
48. Kultima, A., Park, S., Lassheikki, C., & Kauppinen, T. (2020). Designing games as playable concepts: five design values for tiny embedded educational games. In *Digital Games Research Association*.
49. Conference. Digital Games Research Association (DIGRA). aalto.fi