

Dear Esteemed Colleague,

April 6, 2022

As you know well, Holy Ramadan, which is both a source of joy and contemplation for Muslim community all around the world, has finally arrived. On this occasion, I would like to share some thoughts on the mission of competition law and policy, which I believe, is deeply rooted in the Islamic worldview in general and its economic policy in particular at a historical perspective.

Not only marketplace (or *bazaar*) was a central fixture of a typical Muslim town, it was also a boon that Ulama, the eminent guardians and interpreters of religious knowledge, were predominantly from amongst the ranks of tradesmen and shopkeepers themselves during the formative centuries of Islamic civilization. That is why, commercial issues used to be a substantial part of religious debates and Islam was considered the religion of merchants for long centuries.

Geography was also a factor in bolstering such image because of the Caliphate's central location in the Ancient World at the intersection of overland and maritime trade routes like that of Silk and Spice.

In fact, the whole story goes back even further to the birth of Islam.

That the holy message landed on Mecca, a bustling commerce and trade hub, is a blessing for us, namely competition law practitioners and authorities. Because, as far as fair business practices are concerned, there is much to learn and derive from the Sunnah of Prophet Muhammad (pbuh), once a long distance merchant himself. As he began preaching Islam, he not only fought polytheism, but also combatted the efforts of the rapacious commercial aristocracy to monopolize Meccan trade and the associated caravan routes to the detriment of the larger society.

In later years, when he migrated to Medina, he kept pursuing the same policy. Noticing that the marketplace was in the grips of certain groups, he immediately took action and set up an alternative bazaar where the entry to and exit from was free. Besides, he banned the practice of monopolizing certain corners at the marketplace and installed a watchdog to oversee it. He also organized the bazaar in a sector-specific manner to ensure that consumers should have easy access to goods and services and could compare the prices of different sellers.

The Messenger of Allah was an ardent advocate of fair competition and free markets. His guide was the Holy Quran itself in that endeavour.

In fact, in a verse, it is said:

“O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful.”¹

Here, the implication of **righteous and lawful business conduct** and **mutual consent** refer to some business deal in which parties engage in a transaction with their free will and full blessing. The transaction is transparent, free from any restrictive practices, information asymmetry and a sense of coercion or duress. Parties end up happy and content. The transaction takes place not because it is the only available option to settle for, but the best of many alternatives. This is the definition of free and fair trade indeed.

On the other hand, excessive pricing, deception, closing off other outlets and alternatives to the access of consumers through monopolizing practices, manipulating the supply and prices of goods through explicit and tacit collusions can be considered as blatant examples of illegitimate ways referred to in the verse above.²

As long as commercial transactions are conducted in ways free from such malice, it is considered legitimate and praised from an Islamic point of view. In fact, the entrepreneurial class serves the common good and public interest by supplying goods people need. They risk their capital and put in effort and time in return for profit. Therefore, they are honourable members of the society. Denouncing the practice of hoarding, the second Rashidun Caliph Umar ibn al-Khattāb points to this fact saying:

“ ... but, whoever, overcoming all trials and tribulations, in summer and winter, bears along with great toil goods to the market, he is the guest of Umar, he can keep or sell as he wishes.”³

¹ An-Nisa [4] : 29

² In the broader sense, although, theft, extortion, bribery, usury, etc. are more explicit examples of illegitimate ways in a transaction, naturally we highlight those practices within our subject matter

³ Al-Muwatta by Imam Malik “Buyû’ 56

However, as the above verse states, once the boundaries of lawful, consented and legitimate commercial transaction are overstepped, the mighty and the strong (*monopolists*) crush competition and exploit consumers relentlessly and thus, they appropriate all the money and assets to the detriment of general welfare. This is the core message of the verse.

Yet, Islamic economic policy should not be regarded as too interventionist. Numerous hadiths testify to this fact.

In a hadith, the Messenger of Allah, rejecting the demands of those who asked for price controls, said:

*“Allah either gives in abundance or puts you to test with scarcity....It is Allah who gives sustenance. Only He sets the prices....”*⁴

In another, He said:

*“It is Allah who pushes the prices up and then drives them down”*⁵

It is not hard to derive the key message here. These statements are a conspicuous indication of the Prophet Muhammad’s conviction that the operation of free market should not be interfered with and inhibited. The things should run its natural course. The market rate should form in a transparent way based on the principles of supply and demand.

Hadiths also denounce black market and hoarding practices with an eye to manipulating the prices:

*“Whoever hoards foodstuff for 40 days distances himself from Allah”*⁶

Prophet Muhammad (pbuh) also gave particular importance to the honesty of merchants. Once at the marketplace in Madinah, he notices a man selling wheat in sacks. When Messenger of Allah dips into the sack, he sees that the produce at the bottom are all wet. The seller, in panic, excuses himself saying “*it is the rain*”. He rebukes the seller saying, “*You should have displayed*

⁴ *Abû Dâvud, Buyu', 49; Tirmizi, Buyu', 73; İbn, Mâce, Ticârat, 27*

⁵ *es-Shevkanî, Neylul-Evtâr, V, 219*

⁶ *Ahmed ibn Hanbel, Musned, II, 33*

also the wet ones at the top so that people could see them”. And he adds, “Deceivers are not one of us”⁷

In the above hadith, The Messenger of Allah condemns the practice of gaining a competitive advantage at the market place by selling an inferior product –*presumably at a lower price-* and cheating consumers at the same time.

And there was a practice called “*telakki'r-rukbân*” in which villagers head for the city market with their produce heaped on their animals. However, along the way, they are intercepted by tradesmen from the city, to whom they sell their produce before reaching their intended destination. That way, villagers are prevented from finding out the going rates in the city and such information asymmetry leads them into selling at a cheaper price. Tradesmen, on the other hand, keep controlling the amount and price in the city markets and retain bigger profit margins compared to the original producer. And in this scheme, the final consumer also is on the losing side since they have to buy from the middleman at an inflated price.

The Messenger of Allah forbade this practice and said:

“Tradesmen should stop acting as a middleman for the farmers and villagers. Let people free, Allah would provide for some through others as He wishes.”⁸

Again, in these words, we see the denunciation of any interference with free market forces. Any artificial barrier between supply and demand should be removed to ensure the fluidity of the market.

That said, it does not mean that in Islam market players have a free rein over the conduct of their businesses without any regulation or monitoring. Quite the contrary, they are not allowed to buy and sell at artificially low and high prices or to devise any other scheme curbing the overall welfare of the society.

Such conditions and practices, which repress and inhibit the operation of the markets in a free and fair manner, were the responsibility of the public authority to deal with. To that end, an office called “*ih̄tisab*”, improved on the earlier watchdog introduced by Prophet Muhammad, was institutionalized during the reign of the Caliph Umar ibn al-Khaṭṭāb. Since then a

⁷ Bukhārī, *Îmân*, 164; Tirmizī, “*Buyu'*”, 72; Abû Dâvûd, “*Buyu'*”, 50

⁸ Bukhari, *Buyu'*, 58, 64, 68-71, *Îcâre*, 14, *Shurut*, 8; Muslim, *Buyu'*, 11,16; Abû Dâvud, *Buyu'*, 45

“*muhtasib*” and his aides responsible for overseeing and inspecting the markets were appointed in almost all Islamic states all the way up to Ottoman Empire.

In addition, market behaviours bent on destroying the competitors are strictly forbidden in Islam. Accordingly, the Messenger of Allah said:

*“You should avoid pricing your merchandise to the detriment of other shopkeepers”*⁹

According to Imam Malik ibn Anas, a pious seller should follow the going rate, charge neither above nor below it. And he defines “*going rate*” as the price that emerges as a result of multiple transactions in a free competitive environment.

The eighth Umayyad Caliph, Umar ibn Abd al-Aziz, who reigned in 717-720, overruled the exclusionary practices of incumbent merchants in the form of discounted prices since he sensed that this practice aimed to keep the newcomer merchants at bay. The Caliph reasoned that “*Only Allah can set the prices*” referring to invisible and uninhibited free market forces.¹⁰

According to the eminent scholar Abū Ḥanīfa al-Nu‘mān ibn Thābit, if previously competing parties come together and enter into agreements with an aim to drive prices up, this is not permissible in sharia.¹¹ Great Imam was explicitly referring to today’s cartel formations.

Dear Colleague,

These above are some examples, by no means exhaustive, from Islamic history directly referring to our line of work.

At this backdrop, we can confidently say that, from the onset, fair and free markets have been among the basic tenets of Islamic economic policy.

We, as Muslims, should be proud that we are heir to such a legacy, and bear in mind that just doing our job right as competition authorities would mean not only a contribution to our economies, but also the quintessential practicing of Sunnah.

⁹ *Imam Muslim, Buyu'*, 6; *Nikâh*, 51, 54, 55; *Ahmed ibn Hanbel*, II, 411

¹⁰ *el-Bâci, el-Muntekâ*, V,17,18

¹¹ *İbn Teymiyye, el-Hisbe, y.y., 1967, s. 16-18*

As I finish, I invite you to ponder our responsibility as competition authorities regarding these issues and am looking forward to closer cooperation with you in the future to live up to that mission at the international level.

Yours faithfully and

Ramadan Mubarak!

Birol Kle

President

Turkish Competition Authority