UAE Competition Law: New Rules on Exemptions and Dominance

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The UAE's competition regime has undergone a significant transformation with the adoption of Cabinet Resolution No. 59 of 2026, which introduces the Executive Regulations to Federal Decree-Law No. 36 of 2023 on the Regulation of Competition. While much attention has focused on the new merger control framework, the Executive Regulations also introduce important developments in the behavioural rules governing restrictive agreements and abuse of dominance. In particular, they (i) establish a detailed procedural framework for obtaining individual exemptions and implementing block exemptions, and (ii) move the assessment of dominance beyond a purely market share-based approach by requiring a broader economic analysis of market power.

Individual Exemptions

An individual exemption enables undertakings to seek approval for a specific agreement that would otherwise fall within the scope of the prohibition on anti-competitive agreements. The Executive Regulations establish the procedural framework governing such applications by specifying the information and supporting documentation that must accompany a request, including details of the parties, the agreement, the relevant markets and the economic justification for the exemption. They also regulate the Ministry's review of applications, requests for additional information and the amendment of exemption decisions, thereby providing businesses with greater procedural certainty when assessing cooperation agreements that may qualify for an exemption.

The substantive rationale underlying the UAE regime is broadly aligned with Article 101(3) TFEU, as both systems recognise that efficiency-enhancing agreements may be exempted from the prohibition on restrictive agreements. The procedural approach, however, differs significantly. Unlike the EU, where undertakings self-assess whether the conditions for exemption are met, the UAE requires undertakings to apply to the Ministry for an individual exemption. The Ministry must issue its decision within 90 days of receiving a complete application, extendable by up to 45 days.

Block Exemptions

The Executive Regulations also implement the Competition Law's block exemption mechanism. Unlike individual exemptions, which require a case-by-case assessment, block exemptions apply to predefined categories of agreements designated by the Ministry, allowing qualifying agreements to benefit from an exemption without the need for an individual application.

This mechanism is similar to the EU framework, where predefined categories of agreements may benefit from an exemption without requiring an individual assessment. While the UAE has now established the legal basis for such exemptions, their practical scope will depend on the categories of agreements designated by the Ministry.

Assessing Dominance Below the 40% Threshold

The Executive Regulations introduce an important clarification to the assessment of dominance. While Cabinet Resolution No. 3 of 2025 establishes a rebuttable presumption of dominance where an undertaking holds a 40% market share, the Regulations make clear that market share is not determinative. An undertaking may therefore be found dominant even below the 40% threshold where other indicators demonstrate that it possesses substantial market power.

To that end, the Regulations require the Ministry to consider a broader range of indicators than market share alone. These include, *inter alia,* the undertaking's technological superiority, business model, financial resources and other characteristics capable of demonstrating its ability to influence the relevant market. These criteria recognise that an undertaking's competitive strength may stem not only from its market share, but also from structural or strategic advantages that enable it to influence market conditions.

In practice, this means that an undertaking with a market share below 40% may nevertheless be considered dominant where, for example, it benefits from significant technological advantages, controls key infrastructure or intellectual property, enjoys substantial financial resources that competitors cannot match, or operates in a market characterised by high barriers to entry and limited competitive constraints. The revised framework therefore enables the Ministry to capture situations in which market share alone would not accurately reflect an undertaking's ability to exercise market power.

This approach brings the UAE closer to the EU framework, where market share is an important indicator but is not, in itself, determinative of dominance. Instead, competition authorities assess an undertaking's overall market power by considering the economic and competitive characteristics of the relevant market, including whether it can act independently of its competitors, customers and, ultimately, consumers.

Conclusion

The Executive Regulations represent an important step in the development of the UAE's behavioural competition regime. By introducing a structured framework for individual exemption applications, supported by a dedicated online application process through the Ministry's website, the Regulations provide businesses with greater clarity on how exemption requests should be submitted and reviewed. At the same time, the revised approach to dominance confirms that market share is no longer the sole determinant of market power, requiring undertakings to assess a broader range of competitive factors when evaluating their position in the market. Together, these developments enhance legal certainty while aligning the UAE competition framework more closely with established international practice.

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