

مجلس المنافسة

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CONSEIL DE LA CONCURRENCE

المملكة المغربية
ROYAUME DU MAROC



Annual Report

2020





**His Majesty King Mohammed VI
may God assist Him**

Annual Report 2020

submitted to

**His Majesty King Mohammed VI
may God assist Him**

by **Ahmed Rahhou**

President of the Competition Council

Your Majesty,

In accordance with the provisions of Article 23 of Law No. 20.13 relating to the Competition Council promulgated by Dahir No. 1.14.117 of 2 Ramadan 1435 (June 30, 2014), I have the great honor to present to Your Majesty the annual report of the Competition Council for the 2020 financial year, as adopted by the thirteenth session of its plenary session on Thursday 15 chaoual 1442 (May 27, 2021).

Your Majesty,

The year 2020 has undeniably been impacted, on all economic and social aspects, by the Covid-19 pandemic, which was unprecedented in the human history.

The consequences of such event will long affect the operating rules of economies around the world, as well as the management of public policies in almost all areas of human activity.

For the management of the health crisis, not all countries have made the same choices, even if, overall, the priorities have been defined more in relation to health imperatives than in relation to economic constraints.

Restrictions on the movement of people, border closures, distancing rules and bans on public gatherings have been widely enacted all over the world.

The economy suffered as a result, although support measures for people and businesses have been put in place around the world.

The economic crisis induced by the pandemic has generated both a shock on supply and demand, on the financing conditions of companies and on consumer confidence, causing disruption of factors of production as well as unprecedented loss of income and jobs. It has plunged the world economy into a deep recession, coupled with a substantial rise in unemployment.

Public actions to support the economy, massively deployed in 2020, were mainly financed by debt, the scale of which reached or exceeded 10% of the GDP of the major global economic blocks.

These measures have partially offset the drop in private domestic demand, but the outlook for recovery remains uncertain, despite positive forecasts from international bodies.

In addition, widely shared economic choices, considered to be a consensus forming part of the pillars of globalization, have been called into question all over the world.

This is the case with budgetary austerity, the limitation of public debt and the financing of public expenditure by central banks, essentially through monetary creation.

The interdependence of states and the difficulty of obtaining supplies for certain products during the pandemic will certainly lead to questioning the future of large globalized industrial production chains.

The rules for regulating competition have themselves been strongly impacted and competition regulators around the world have supported the movement.

States, as part of their policies to support the economy, have initiated or accepted business subsidy plans, facilitated the pooling of resources between competitors for the purchase or production of goods or services, or have acted on the prices and availability of raw materials or finished products.

Thus and in order to cope with the upheavals induced by this crisis, the competition authorities had indeed, during the year 2020, to adapt their analytical framework by including, on the one hand, aspects related to the dynamic efficiency and, on the other hand, ensuring that an acceptable level of competition is maintained in the markets.

Maintaining vital supply chains appeared to be imperative from the onset of the crisis. As such, from the end of March 2020, many competition authorities have provided general guidance or published directives, on what could constitute an admissible framework for cooperation during the pandemic.

The objective of the competition authorities was to clearly distinguish such conduct from cartelization which remains prohibited and some, among them, have even granted express authorizations to competitors to cooperate, in the form of letters of comfort in favor of individual companies or sector exemptions that apply to entire industries.

At the same time, in terms of price control and repression of the use of abusive prices, a major challenge arose: to distinguish between price variations caused by real supply and demand shocks from those resulting from abusive behavior. In the latter case, it has often been necessary to put in place price ceilings and coercive measures against operators in a situation of abuse.

In this general context of crisis, mergers and acquisitions at the international level fell sharply in 2020, in particular under the effect of the operational constraints imposed by the lockdown and the uncertainties in the face of economic developments that generated a form of wait-and-see attitude among private operators.

Simultaneously, the competition authorities and the public bodies have generally opted for a cautious approach in the face of possible rescue mergers based on the argument of the failing company, while the consequences would be prejudicial to market structures and / or initiated by operators wishing to take undue advantage of the crisis.

In the area of merger control, many competition authorities have reacted swiftly by moving towards the dematerialization of procedures. Nevertheless, despite these adjustments and facilitations, review timelines and processes have inevitably been affected.

Some competition authorities have gone so far as to modify their review schedules or suspend the filing of new applications as a precautionary measure.

Regarding rescue mergers, almost all competition authorities have declared themselves not in favor of facilitating so-called rescue mergers review procedures, like the approach adopted after the 2008 financial crisis.

However, the economic slowdown and the external growth outlook of the most robust operators will undoubtedly push up the number of cases requiring the defense of 'The failing firm'.

However, the year 2021 and the entire post-crisis period of Covid-19 should see an increase in mergers and acquisitions, as was the case following the 2008 financial crisis, explained in particular by the process of natural selection dooming the most vulnerable companies to disappearance.

This sustained dynamic of mergers and acquisitions, driven by the restructuring of markets and economic sectors, calls for the establishment of adequate and strict procedures to ensure the control of these transactions and prevent them from altering market structures.

Your Majesty,

Morocco, under the leadership and supervision of Your Majesty, has been exemplary in handling the crisis for more than one reason.

Social concern, the protection of people and support for businesses in difficulty due to closures and the restriction of the movement of people, were at the center of the policy followed from the start of the pandemic. The establishment of the Covid-19 Special Fund, launched at the initiative of Your Majesty, has seen strong national mobilization and has reached the equivalent of 3% of national GDP.

This Fund has ensured a very broad coverage of the population, allowing those who have lost their activity due to Covid-19, to have a replacement income.

Morocco's health management of the crisis was also exemplary, greatly limiting the impact of the pandemic on the population, by putting the health and safety of Moroccans above all other considerations.

Whole sections of the Moroccan economy have shown themselves to be resilient and have demonstrated remarkable capacity for adaptation and innovation. Many small and medium sized enterprises (SMEs) have been able to adapt their production tools to meet new needs, while others have been creative in meeting the needs for tests, respirators and other equipments.

However, the economic consequences of the pandemic have strongly impacted many sectors which have been durably affected, in particular the tourism sector, the transport sector and the catering, leisure, sport and culture sectors.

To cope with the economic upheavals caused by the spread of the Covid-19 pandemic, Morocco has undertaken, through its public bodies, several immediate and rigorous interventions affecting most markets for goods and services. The actions implemented aimed at mitigating the economic consequences of the pandemic on the productive fabric, establishing a sound basis for economic recovery in the short and medium term and maintaining in the long term the competitive conditions in the markets.

Thus, to alleviate the pressure of demand for essential products on their supply, the Government has taken care to anticipate any shortages or difficulties in supplying the markets. It has also adopted decisive measures to manage price instability by aiming either to stabilize them through their regulation, or to reduce the effects of instability through the control of prices recorded on the markets and the anticipation of speculative practices.

For the affected sectors, impacted as much by the inertia of internal and external demand as by the unavailability of inputs due to restrictions imposed on the flow of international trade in goods and services, public incentive mechanisms have been deployed. These include direct and indirect aid granted by the State to companies to mitigate the effects of lockdown and preserve jobs, but also to support the gradual resumption of their economic activity, aid made possible by the Special Covid-19 Fund, created under Your Majesty's High Instructions.

The allocation of this aid was confronted with the need to standardize rules of the game on the markets, through respect for competition principles. As such, it was found that the incentive systems were based overall on clear and transparent rules which comply with the principle of 'competitive neutrality'. However, the stringent eligibility conditions favored a selection effect keeping part of the productive fabric aside, considered to be little affected by the crisis. The attribution of these incentives thus provided for a 'burden of proof' to prevent opportunistic behavior.

As part of the efforts to guarantee the continuity of public service activities, essential for the functioning of the Moroccan economy in times of health crisis, the Competition Council has taken several temporary measures.

Indeed, the Council has undertaken an adaptation of the procedures relating to the examination of mergers and acquisitions, such as the notification procedure. It also encouraged the electronic transmission of a large number of documents and authorized the organization of hearings by videoconference, as well as the electronic exchange of mail or any other means of remote communication.

The objective sought by the Council is to allow the instruction services to perform the necessary diligence for processing the files entrusted to them, while respecting the health precautionary measures decreed by the public authorities.

In addition, the Competition Council observed that the scope of distortions to competition that can be tolerated and, therefore, can justify public support to companies, is not legally defined. This did not make it possible to clearly set a temporary framework to give guidelines on anti-competition practices to companies which cooperate in order to react to emergencies linked to the Covid-19 pandemic and which receive public aid for this purpose.

In this context, the Competition Council sent the Head of Government a letter recalling the legal obligation to seek the prior opinion of the Council concerning government arrangements relating to state aid.

Your Majesty,

Thanks to the Solidarity Vision and the Fraternal Solicitude of Your Majesty, Morocco will emerge enhanced from this period of pandemic, because it has been able to be alongside its African brothers and friends by bringing aid and assistance to many countries of the continent and giving thus a new concrete example of South-South solidarity and cooperation.

Under the Enlightened Leadership of Your Majesty, Morocco has also emerged grown by the exemplary way the crisis has been managed, and which has made our country often cited, and continues to be, as a model for its pandemic management.

During the Speech of the Throne on July 29, 2020, Your Majesty announced the mobilization of 120 billion dirhams, representing 11% of GDP, to support the recovery of the national economy. Morocco is thus at the level of 'the most daring countries in terms of post-crisis recovery', as underlined in Your Majesty's Speech.

The Mohammed VI Investment Fund, created for this purpose in accordance with Your Majesty's Directives and Guidelines, will support the policy of reviving the national economy, and should allow the economic fabric to find the support necessary for a rapid restart.

This action will be made possible thanks to the envisaged mechanisms of direct support to businesses, the financing of major investment projects and the facilitation of access to bank financing backed by the planned guarantee mechanisms, which the Fund will be able to support.

During the same Speech, Your Majesty announced your decision to provide the country with a universal social coverage system. The need to fight against precariousness, inequalities and poverty, which Your Majesty's Speeches have never ceased to recall, has been further illustrated by this pandemic, which has exacerbated the importance of support and solidarity.

This great social advance will undoubtedly place Morocco in the very closed club of countries with a generalized social security system.

Your Majesty,

During 2020, the Competition Council held four ordinary sessions of its plenary session and one held on an exceptional basis.

During these sessions, the plenary session examined the draft annual report for the year 2019. It also discussed and adopted draft opinions relating to the state of competition in the online payment by bank card market and in the drug market in Morocco.

The plenary session also studied the draft amendments to the Council's Rules of Procedure on the basis of the proposals made by its sections. It examined and adopted the report of the activities carried out in 2020, the draft budget of the Competition Council for 2021 and the draft action plan for the year 2021.

As for the standing committee, which held a total of 33 meetings in 2020, it deliberated on 59 merger and acquisition decisions and adopted the Council's opinion concerning the referral from the Minister of the Economy, Finance and Reform of the Administration, relating to the fixing of the prices of hydro-alcoholic gels and sanitary masks. The committee also deliberated on 19 decisions in contentious matters.

The sections, which are responsible for examining files sent to them by the President of the Council, the plenary session or the standing committee, met regularly and contributed to the revision of the Rules of Procedure of the Competition Council, to the parallel examination of the draft decisions, to the carrying out of preparatory work for the sector studies launched by the Council and to the analysis of new markets.

To effectively carry out its mission, the Council invested itself during 2020 in a policy of advocacy and spreading of the competition culture. In this sense, it has initiated actions aimed at legal, economic and competitive monitoring, analysis of the impact of anti-competition practices on the functioning of markets, tracking the state of competition in the markets at sector and national level, and the evaluation of public policies with direct or indirect effect on competition.

The Council continued its production of sector studies on competition, as well as the analysis of the state of competition in Morocco and internationally. Under the legal, economic and competitive watch, the achievements focused on the launch of an opinion poll relating to the perception of competition, the start of the preparatory work for the establishment of a National Barometer of Competition and the launch of the process of setting up the legal, economic and competitive monitoring observatory project.

During the year 2020, the Council also pursued the optimization of its administrative and financial governance.

To this end and as part of the development of the skills of its human capital, the Council was reinforced by new case handlers (rapporteurs), study managers and administrative executives, and provided a series of training cycles to its agents.

As for governance in times of crisis and during this period, the Competition Council implemented a work continuity plan aimed at preserving staff safety. This plan, carried out in two main phases, a phase of increased vigilance and a phase of maximum alert, was marked by teleworking for most of the staff and by a rotation system not exceeding 30% of the overall council's staff that move to the workplace.

On the financial level, the budget allocated to the Competition Council for the 2020 financial year amounted to 74,350,000 MAD. The total expenditure executed for the 2020 financial year amounts to 39,093,769.09 MAD.

Concerning the work of digital transformation and the strengthening of its information system, the Council completed during 2020 the launch of the intranet as the internal communication tool, and the design of an integrated management software package (ERP) to serve as a dashboard for the Directorate of investigations.

In terms of national and international partnership, the Council signed several cooperation agreements with large-scale institutions both nationally and internationally during the year 2020.

This is the case with the cooperation agreement with Bank Al-Maghrib, relating to the exchange of information and documents needed for the fulfilment of the missions of the two parties as well as the organization of awareness-raising and exchange actions of expertise.

Likewise, a cooperation agreement has been concluded with the Ministry of National Education, Vocational Training, Higher Education and Scientific Research, focused on raising awareness and popularizing the competition culture and conducting research in competition law and economics.

As part of the international partnership, the Council signed an agreement with the World Bank Group aimed at strengthening the Council's institutional capacities, through the sharing and exchange of expertise, with a view to developing its policy to combat anti-competition practices.

The first quarter of 2020 was especially marked by the joint organization with the National Commission for the Protection of Personal Data (CNDP) of a National Seminar on the theme: 'Law and economics of competition and protection of personal data'.

The Council also took part in i) the work of the 1st Competition Forum, jointly organized by ESCWA (Economic and Social Commission for Western Asia, UNCTAD and OECD in Beirut on January 22 and 23, 2020, in ii) the annual meeting of the International Competition Network, bringing together national competition authorities from around the world, as well as experts in economics and competition law and internationally renowned lawyers specializing in the field, which is held in September 2020 by videoconference, in iii) the proceedings of the 8th United Nations Conference

devoted to the review of all aspects of equitable principles and rules for the control of multilaterally agreed restrictive business practices, organized by UNCTAD on October 23, 2020, via videoconference, as well as the iv) Istanbul Competition Forum, organized annually by the National Competition Authority, also held by videoconference on December 15, 2020.

The Council also contributed to the study carried out, in April 2020, by the International Competition Network (ICN), concerning the measures taken by the national Competition Authorities in the context of the Covid-19 pandemic and this, in order to build a matrix of new measures and procedures adopted in response to this unprecedented situation.

In this same context, the Council contributed to the work of the African Competition Forum relating to the new priorities of the African competition authorities due to the pandemic situation, as well as to the work of the workshop organized on October 9, 2020 by the Egyptian Authority of competition, dedicated to the treatment of mergers and acquisitions in the countries of the MENA zone.

Communication around the principles of fair and loyal competition is an imperative for the Competition Council in order to promote a culture of competition.

In this context, communication actions aimed at promoting the Council's achievements for the 2020 financial year, through traditional channels, as well as through scientific meetings and public relations, for more visibility to the concerned parties.

Your Majesty,

The consequences of the current crisis will not only be financial or budgetary. They also touch the very foundations of what makes liberal economics, as we have practiced them until today.

State indebtedness, the bloating of central bank balance sheets through the massive buyback of private or public debt, the injection of purchasing power into economies in recession widening budget deficits and fiscal stimulus plans financed by debt, will certainly change some economic dogmas accepted until now. The persistence of low interest rates, sometimes negative, in an economic environment of low inflation creates a unique economic situation in the history of the world economy. Low-cost money has artificially helped inflate the value of financial assets while we are experiencing a period of global recession.

After this period of crisis, without precedence in history, excluding a period of war, the global value chains will most certainly be reshaped and rethought, and massive job displacements will not fail to result.

The dominant considerations, linked today to the protection of the environment and the fight against global warming, will be another factor accelerating this transformation.

Morocco remains integrated into the world economy and is part of some large value chains and the transformations that are coming will significantly affect the national economy.

They certainly represent risks for our economy, but also offer many opportunities, because of Morocco's choices for openness, modernization, environmental protection and because of its positioning as an efficient platform for services and industry. Our country may be even more attractive in the future for investors looking for production sites offering efficiency, respect for the environment and stability.

Morocco can easily claim a positioning as a Green Platform for regional production, also offering increasingly competitive production factor costs.

The Competition Council will remain alert and concerned about building an open, strong, competitive and welcoming economy for investors, national or international, and protective for those who respect the rules of the game.

A clear and demanding competitive environment is a factor of confidence and constitutes one of the guarantees given to market players and insurance for investors.

The Competition Council will continue to work with an approach oriented around two axes:

1. The first axis consists of ensuring compliance with the regulations and laws governing practices concerning prices and competition, in an approach strongly based on education and support. While ensuring the identification and sanctioning of practices prohibited by law, the Council will ensure permanent contact with the productive fabric, in order to encourage good practices and support measures that allow free competition;
2. The second axis aims to identify and analyze the old regulations and laws, which may prove to be unsuited to market rules in a modern economy, or which, because of their existence, create or perpetuate situations of rent or excessive merger harmful to the economy. The rise of the digital economy, the new environmental requirements induced by the policy of environmental protection and the fight against global warming, the development of renewable energies and the emergence of new energy chains based in particular on green hydrogen, as well as the appearance of new players with a disruptive logic in many sectors, all of which are changes that have a profound impact on national economies around the world. All these elements make a certain number of our texts obsolete, which we must revisit in order to open the game of healthy competition and allow a controlled adaptation of our economy. The Competition Council will mobilize to actively contribute to this transformation which seems necessary.

Your Majesty,

The Competition Council will remain guided, in its organization and in its functioning, through Your High Guidance, by ensuring the fairness and impartiality of its decisions and the safeguarding of its independence, to contribute to the strengthening of good governance, the rule of law in the economic world and consumer protection.

Ahmed Rahhou
Rabat, June 2021.

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PREAMBLE

In accordance with the provisions of Article 23 of Law No. 20.13 on the Competition Council, this annual report presents an assessment of the Council's activities for the year 2020.

The report is of a specific nature as it covers:

- the second fiscal year of the Competition Council since its reactivation by **His Majesty King Mohammed VI, may God assist Him**, on November 17, 2018, marked by the will and determination of all the Council's authorities and other units aiming to consolidate the many achievements made during the first year and continue the implementation of the major structuring projects launched in accordance with its strategic action plan for **the period 2019-2023**;
- an exceptional financial year, notable for an unprecedented national and international situation marked by the Covid-19 pandemic which generated a global health crisis with direct and indirect repercussions on our country on both economic and social levels.

The year 2020 was also marked by the press release from the Royal Cabinet, dated July 28, 2020, establishing an ad-hoc committee to conduct investigations needed to clarify the situation concerning the hydrocarbons file, following two notes received by **His Majesty King Mohammed VI, may God assist Him**, emanating respectively from the President and several members of the Competition Council.

The Honorable Commission has been instructed to submit to His Majesty's Closest Attention a detailed report on the subject. (see box on page 62).

Based on these considerations, the annual report for the year 2020, while building on the achievements of the 2019 report, is constructed around the following threads:

- Analysis of the state of competition in the world and in Morocco in 2020;
- Review of Competition Council's activities in 2020;
- Broad outlines of the Council's Action Plan for 2021.



PART

State of Competition
in the world
and in Morocco

I. The state of competition internationally

The year 2020 was marked by a global crisis of unprecedented nature and magnitude, the consequences of which have reconfigured the competition landscape at the international level.

In particular, this situation has forced competition authorities to adopt policies derogating from competition law and to follow a cautious approach in merger rescues.

A. The macroeconomic context

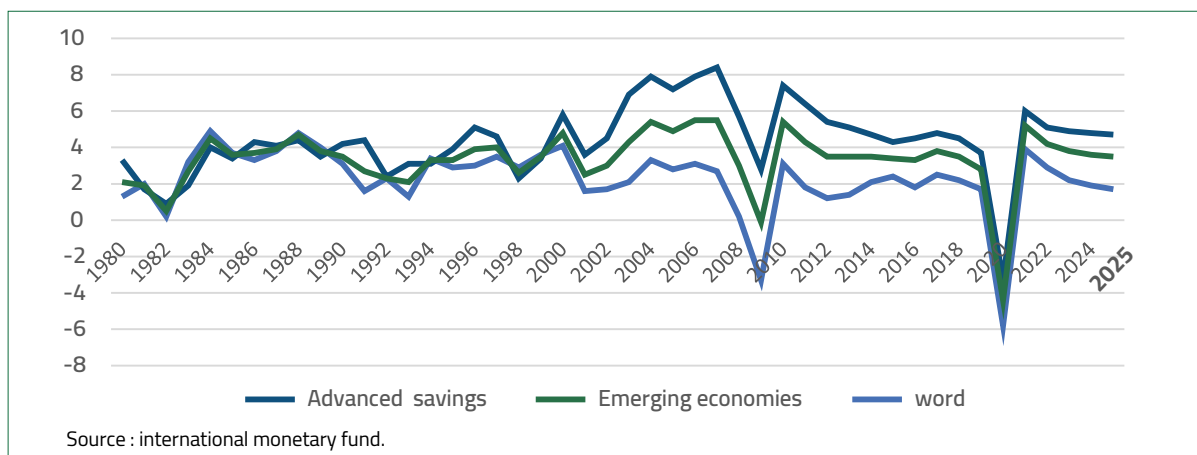
The pandemic triggered by the spread of Covid-19 across the world quickly generated major economic and social upheavals causing disruption of factors of production as well as unprecedented loss of income and jobs.

The crisis generated four types of shock:

- Shock in demand materialized with a negative impact on final consumption, export demand and business value chains, particularly in connection with payment failures of a large number of client companies due to total or partial cessation of activity;
- Shock in supply explained by a scarcity of certain inputs (mainly imported) and a change in their cost, reduced availability of labor and a decline in business productivity under the effect of adjustments to the constraints imposed by governments (lockdown, distancing, etc.) and the use of new combinations of substitute inputs, requiring changes in organizational or production processes;
- Financial shock, given the growing difficulty in financing private sector companies, especially small and medium-sized enterprises (SMEs) and very small enterprises (VSEs), despite the adoption of accommodating credit policies and financial support;
- Shock of confidence in the face of uncertainty over prospects for containing the crisis, which led to a substantial drop in investments due to aversion of risk and reduced interest in innovation.

As a result of the aforementioned shocks, the world economy was plunged into deep recession. According to the latest estimates from the International Monetary Fund (IMF), global gross domestic product (GDP) is likely to have contracted by 3.5% in 2020 (see graph n° 1).

Graph n° 1: Real GDP growth between 1980 and 2025 (in percentage)



In aggregate, emerging and developing economies seemed to have suffered less from the phenomenon with a decline of 2.4% against 4.9% for advanced economies.

However, the economic situation in emerging countries covers disparate realities, depending both on the epidemiological situation in each country but also on the characteristics of its economic fabric.

Indeed, emerging industrialized economies focused on new technologies, especially those of East Asia experienced a smaller decline in their GDP, or even a rebound in their production in the second half of the year, in favor of 'strong global demand for technological products.

Africa, for its part, has been particularly affected by the economic consequences of the pandemic (mainly sub-Saharan countries that export raw materials) and is facing its first recession in a quarter of a century, with an increase in poverty.

The World Bank predicts that 40 million people in Africa could sink into extreme poverty as a result of the Covid-19 crisis.

Along with the decline in GDP, a substantial rise in unemployment has been observed around the world.

In connection with the pandemic context and the containment measures that led to temporary stoppages of activity, the rise in unemployment was manifested more by a decline in working hours and an increase in inactivity than by net losses employment.

The International Labor Organization (ILO) thus reports an 8.8% drop in hours worked in 2020, equivalent to 255 million full-time jobs lost, and the entry into inactivity of 81 million people.

As for the prospects for recovery, they remain uncertain despite positive forecasts from international bodies.

The recovery is generally dependent on an increase in consumption which is struggling to resume under the effect of significant losses of income, especially at the level of the most vulnerable fringes of society, physical distancing and containment measures and erosion of consumer confidence.

However, the public actions to support the economy deployed massively in 2020 partially offset the decline in private domestic demand.

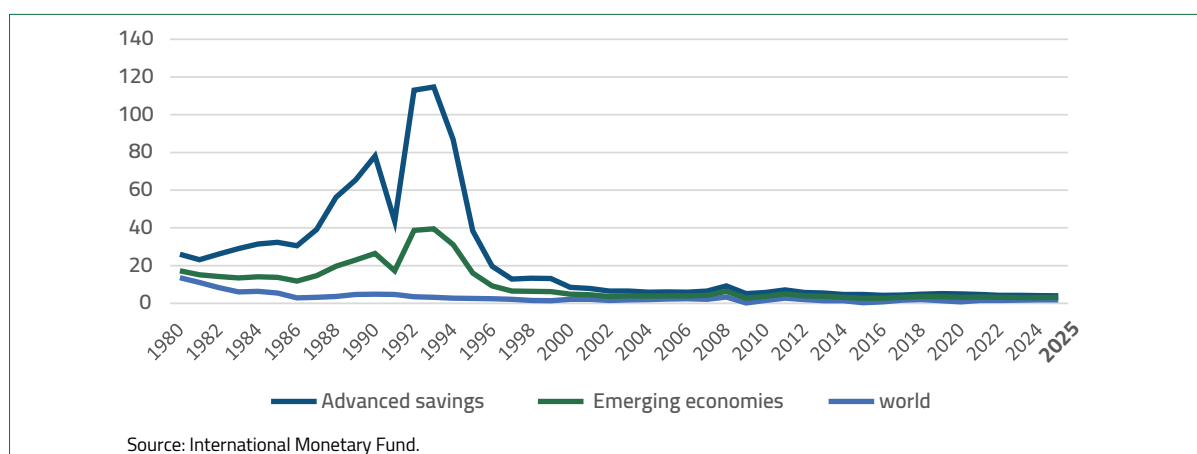
The strength of the expected recovery should also vary widely from one country to another depending on various factors, including access to vaccines, the effectiveness of public actions to support the economy, the degree of integration into the international trade and structural features of the pre-crisis period.

After a notable decline during the year, inflation stabilized around its pre-crisis level, according to the IMF, with a year-on-year rate reaching 0.7% in advanced economies, 5% in emerging economies and 3% globally.

This situation is mainly explained by deflationary pressures induced by the fall in demand and by the fall in oil prices which offset the significant rise in the costs of certain inputs and finished products, the price variations of which are explained by the disruption of the supply chains.

As illustrated by graph 2, the outlook for inflation over the next five years remains stable despite the risks borne by the massive injections of liquidity carried out by central banks and the stimulus policies adopted in most countries, in response to the Covid-19 crisis, as well as the risks of lower competition and upward pressure on prices due to the disappearance of companies.

Graph n°2: Evolution of the inflation rate between 1980 and 2025 (variation in consumer prices in percentage)



At the same time, several indicators experienced significant changes in 2020:

- The problem of widening budget deficits and a significant increase in public debt is acute in the medium and long term. Indeed, according to the World Economic Forum, the global public

debt would have reached an unprecedented level at the end of 2020, of the order of 277 trillion dollars, or 365% of world GDP. This increase could induce in the medium term a return to austerity policies;

- World trade suffered greatly from the economic crisis. The simultaneity of shocks all over the world has amplified the phenomenon. According to the United Nations Conference on Trade and Development (UNCTAD), trade in goods and services will thus fall by more than 10% in 2020, with a particular impact in terms of services, in particular travel services, which have experienced the strongest contraction over the year;
- Foreign direct investment fell sharply (almost half year-on-year at the end of the first half of 2020) in connection with the surrounding uncertainty and the loss of profits of multinationals;
- Sectors are under pressure in industry, with the exception of the pharmaceutical industry which is the only industrial sector growing in the second half of 2020 in advanced and emerging economies;
- And disaster-stricken sectors in services, with the virtual exception of e-commerce.

However, thanks to public support measures and the suspension of insolvency and bankruptcy proceedings in a number of countries, the number of insolvent companies fell drastically in the first half of the year, before registering a rebound (26%) at the end of the year.

Company failures and disappearances, coupled with the persistence of macroeconomic imbalances, are likely to disrupt the state of competition in the world, particularly in terms of the dynamics of mergers and acquisitions and the disappearance of several players in the market.

B. The dynamics of mergers and acquisitions

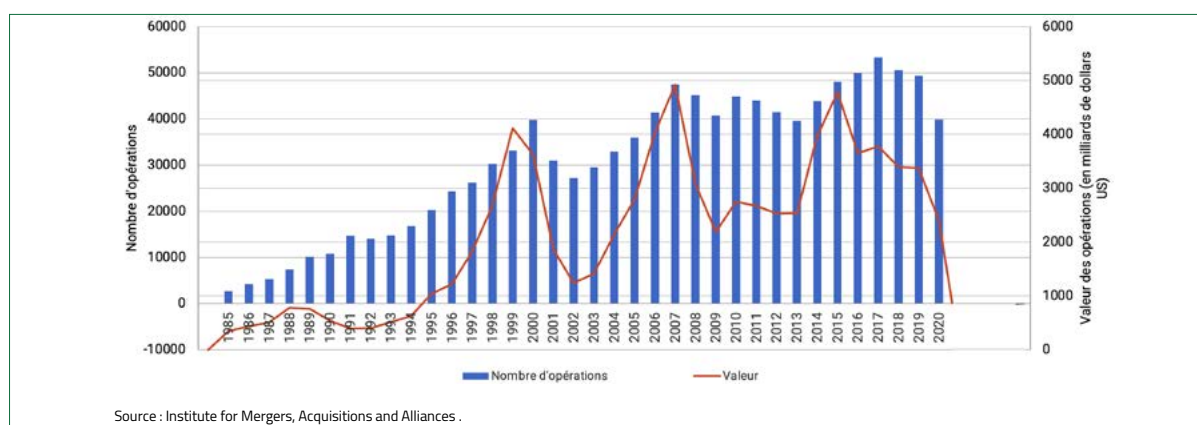
Overall and over the past two decades, a trend towards market merger has been observed throughout the world, with a preponderance of the phenomenon in the United States and in advanced economies, as evidenced in particular by growth, in number and in value, of the merger and acquisition carried out.

This trend, which cannot be interpreted as denoting an alteration in competitive conditions, is largely linked to the emergence of very large companies in a dominant position in their markets, in particular GAFA (Google, Apple, Facebook and Amazon) and other giants of the Internet and new technologies, against the backdrop of the 4th industrial revolution.

This development is also largely attributable to the phenomenon of natural selection that took place in the financial sector in the aftermath of the 2008 financial crisis.

However, in the context of the crisis linked to the Covid-19 pandemic, mergers and acquisitions at the international level fell sharply in 2020, reaching both in number, with 39,648 transactions, their lowest level since 2006, and in value, with 2391 billion dollars, corresponding to the minimum recorded during the decade (Graph n° 3).

Graph n° 3: Evolution of mergers and acquisitions between 1985 and 2020
(aggregated world data)



An analysis of the phenomenon by country and by geographic area also reveals the same observation, that is to say a sharp decline in mergers in 2020.

Several factors justify this decline. On the one hand, the operational constraints imposed by the lockdown and the uncertainties in the face of economic developments (deployment of state aid, potential rebound in the economy, etc.) have generated a form of wait-and-see attitude among private operators.

On the other hand, the competition authorities and the public bodies have generally opted for a cautious approach in the face of possible rescue mergers based on the argument of the failing company, the consequences of which would be detrimental to market structures and / or initiated by operators wishing to take undue advantage of the crisis.

In the United States for example, a bill was proposed by the Democratic Party to the United States Congress on May 22, 2020 (Reference: HR6989 - Pandemic Anti-Monopoly Act of 2020), in order to prevent an appeal abusive at rescue mergers in times of pandemic.

However, 2021 and the following years should see an upsurge in mergers and acquisitions.

In this regard, international bodies, in particular the International Monetary Fund and the World Bank, first of all explain this phenomenon by a process of natural selection because the bankruptcy and the disappearance of the most fragile companies can reconfigure market structures.

In addition, state aid may be such as to create a phenomenon of selection, by allowing certain companies to continue to exist while operators not benefiting from support mechanisms could not.

Finally, a capital selection should also occur insofar as the less resilient companies could be bought as part of an external growth movement by more robust competitors citing the argument of the failing company.

In this context, the major challenge for legislators and competition authorities would be to arbitrate between, on the one hand, potential significant infrastructure losses coupled with negative externalities at the macroeconomic level (decline in added value, probable increase unemployment, etc.) and, on the other hand, the preservation of the market structure.

C. Public authorities' interventions and competition policies in the context of the Covid-19 pandemic

As early as March 2020, following the World Health Organization (WHO) statement assessing the spread of Covid-19 as a pandemic, governments around the world imposed lockdowns and other restrictive measures to contain the spread of the virus.

In the face of this situation, governments and competition authorities have had to strike a balance between the need to maintain efficient supply chains in the face of an economic downturn and the maintenance of well-functioning markets and competition.

This has resulted in an unprecedented number of responses and swift initiatives from competition authorities and governments.

1. Deployment of public aid

Faced with the vehemence of the Covid-19 crisis, a massive intervention by the public authorities was made necessary in order to mitigate the economic and social impacts of the pandemic in a global manner and to support the main affected economic sectors, such as tourism and air transport.

This public aid has been deployed, in large part, thanks to the financing lines set up by international financial institutions, in particular the IMF, whose aid intended to deal with the pandemic, has covered 80 countries.

Despite the legitimacy of the aid mechanisms put in place around the world to alleviate the consequences of the crisis, certain rules govern their supervision in order to prevent them from giving rise to situations of economic rent and generate distortions liable to compromise competitive neutrality and alter the structure of the markets.

The objective behind these public interventions has been to ensure that companies can have sufficient liquidity and thus prevent likely disruptions in supply and demand in the face of the potential exit of efficient companies.

To do this, the public authorities have a variety of support mechanisms: budgetary allocations, bank guarantees, subsidies, equity investments, etc.

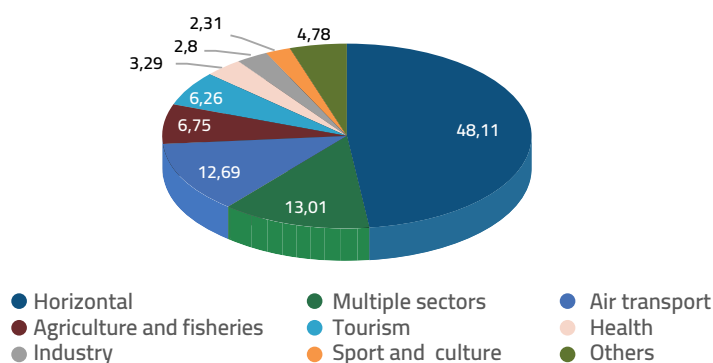
Managing the way out of the crisis and the strength of the expected economic rebound will be heavily dependent on the targeting and sequencing of government intervention.

a. Overview of the public aid mechanisms deployed

The following overview presents the subsidies and state aid implemented by public authorities around the world in 2020 in the context of the Covid-19 pandemic and with the aim of mitigating the economic impacts suffered by businesses.

The measures were aimed at a variety of sectors, in particular those particularly affected such as tourism, hotels, transport or culture and all types of beneficiaries, both large and small and medium-sized enterprises (Graph n°4).

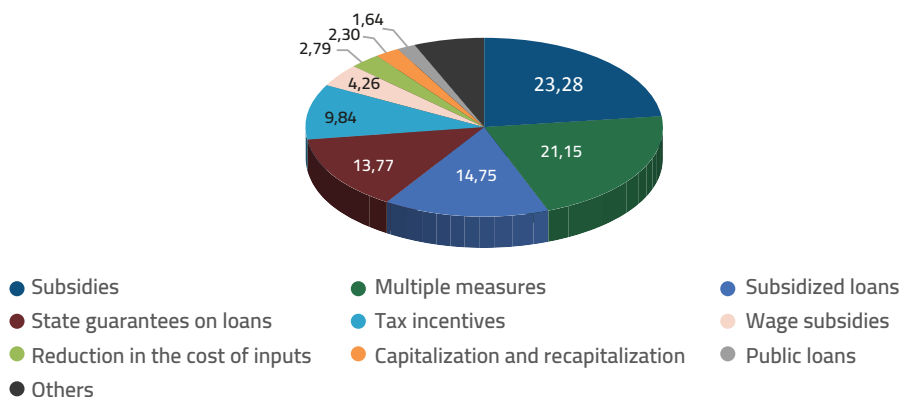
Graph n°4: Breakdown of State aid deployed worldwide in 2020 by approach / sector (as a percentage of the number of measures notified)



Source: World Bank.

The measures were based on different instruments, including state guarantees for loans, subsidized loans, direct grants, equity, tax exemptions, reduction or reimbursement of the costs of inputs such as electricity, rent or water (see graph n°5).

Graph n°5: Breakdown of State aid deployed worldwide in 2020 by type (as a percentage of the number of measures notified)

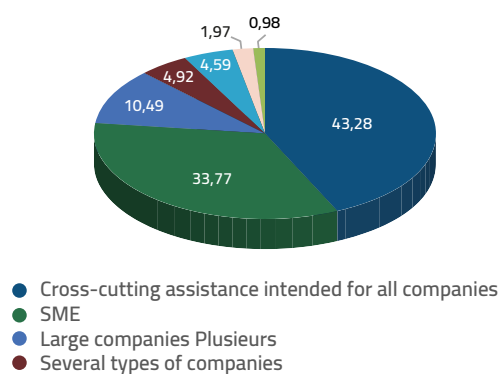


Source : world bank.

The indicators presented show:

- A clear preponderance of the horizontal approach in the distribution of State aid rather than a sector / vertical approach (up to 48.1% of the total number of measures) with, however, the granting of aid important to the most affected sectors, such as tourism or air transport;
- The use of grants and loan mechanisms more than the direct recapitalization of companies;
- The granting of aid regardless of the size of the companies with, however, an effort made to support SMEs / VSEs (Graph n°6).

Graph n°6: Breakdown of State aid deployed worldwide in 2020 by type of beneficiary (as a percentage of the number of measures notified)



Source : world bank.

Thus, the overall breakdown in terms of types of aid, approach and beneficiary companies suggests that the competitive mechanisms might not significantly be altered by support measures put in place, subject to the existence of adapted exit strategies.

b. Public aid policies conflicting with competition issues

Intervention by public authorities in the markets affected by the crisis is essential. However, to ensure a robust recovery, effective market competition shall be restored in the longer term.

Short-term policies are therefore needed to support the economy in order to stimulate and sustain economic recovery. However, cost-benefit analysis should be carried out to select options that minimize restrictions and distortions to competition.

This is mainly based on recommendations of the Organization for Economic Co-operation and Development (OECD) to ensure respect for competitive neutrality, limit the use of protectionist policies and provide an exit strategy.

i. Respect for competitive neutrality

Public interventions should be designed in such a way as to minimize the impact on competition by further prioritizing horizontal policies rather than so-called vertical or sector ones and avoid, as far

as possible, selective aid to companies which were bankrupt, or had important structural problems in the pre-crisis period.

Policies targeting specific companies in the context of the crisis should be temporary, adapted to resolution of the problems identified, and be subject to close monitoring ex-post in order to avoid the pitfall of moral hazard.

Aids that can be deployed vary in nature, but those involving capital investment (including nationalization of companies) are a last resort and should be organized to withdraw as soon as market conditions allow.

Finally, public authorities should ensure that there are no alternative solutions available which lead to less negative effects in terms of competition distortion.

ii. Limitation of the use of protectionist policies

When designing aid policies, public authorities should ensure that fair conditions of competition are maintained between countries and make efforts of international consultation and cooperation with regard to the approaches adopted in each jurisdiction.

iii. Medium and long term exit strategy

Exit strategies should aim to bring markets back to normal and promote competition. Support policies should be time-bound in a reasonable, transparent and predictable manner, and public authorities should gradually lift their support mechanisms as soon as market conditions allow.

2. Responses in competition policy in face of crisis

In order to cope with the upheavals induced by the crisis, competition authorities during 2020 had to adapt their analytical framework by including, on the one hand, aspects related to dynamic efficiency and on the other hand by ensuring to maintain an acceptable level of competition in markets, in a context where the policies recommended by the public authorities might possibly alter such competition.

Action of competition authorities has been structured around three main axes: cooperation agreements between competitors, price control and the fight against abusive prices and, finally, control of mergers and acquisitions.

In addition to these axes, there is also advocacy with public authorities within the framework of economic support measures so that long-term preservation of healthy competition governs the choice and implementation of State aid policies (see Appendix n° 1).

a. Cooperation between competitors

The need to allow a certain level of cooperation between competitors in order to keep vital supply chains intact (for food and medical supplies in particular) appeared imperative from the onset of the crisis.

So, from the end of March 2020, many competition authorities have provided general guidance, or even issued guidelines, on what would constitute qualifying cooperation during the pandemic, seeking to clearly distinguish such cartelizing conduct which remains prohibited.

In addition to the guidelines and directives, some competition authorities have given express authorisations to competitors to cooperate, either in the form of comfort letters addressing to individual companies or in the form of sector exemptions applying to whole industries (see Appendix n° 2).

b. Price control and suppression of price gouging

Economic conditions linked to the Covid-19 pandemic have created tensions on the balance of supply and demand for certain products and services, leading to temporary shortages. Some of these pressures are likely to generate extreme price volatility and risk of inflation.

Public entities, with consumer protection and price control as their prerogatives, have found themselves faced with the challenge of distinguishing between price changes caused by genuine supply and demand shocks and those arising from abusive conduct.

In the latter case, it has often been necessary to install price cap and coercive policies against operators in abusive situations.

Faced with the diversity of legal tools available, competition and consumer protection authorities have adopted different approaches to control profit exploitation practices.

Authorities are enforcing existing consumer protection laws to counter the use of price abuses or misleading advertising. Others rely on competition law prohibiting price abuses practices by dominant firms, while others rely on pricing abuses laws that apply in times of crisis (see Appendix n° 3).

In addition and in all cases the situation of extreme tension in some markets has led authorities to adapting their analytical grids to include concepts such as temporary domination.

c. Control of mergers and acquisitions

In the area of merger control, the problem turned out to be twofold in 2020: operational constraints, such as lockdown, having strongly impacted the process of examining merger and acquisition and new challenges which should arise more sharply in 2021 relating to a foreseeable increase in rescue mergers.

Operationally, many competition authorities reacted swiftly by allowing online filing and holding videoconferences. This was notably the case in the United States, Austria, India and Portugal.

Despite these adjustments, review timelines and processes were inevitably affected. Some competition authorities went so far as to change their review schedules or suspend the filing of new claims as a precaution.

With regard to rescue mergers¹, almost all competition authorities declared themselves against facilitating review procedures for so-called rescue mergers, like the approach adopted after the 2008 financial crisis.

However, the economic slowdown and attempts of external growth of the most robust operators will undoubtedly push up the number of cases invoking the defence of the 'failing company'.

The post-crisis period of Covid-19 should see a sustained dynamic of mergers, as was the case following the financial crisis of 2008.

These operations, driven by the restructuring of markets and economic sectors, both nationally and internationally, call for the establishment of adequate and strict procedures to ensure control of these operations and prevent them from turning into a monopoly situation in certain markets, while ensuring that these new procedures do not hinder establishment of strong and pioneering national business groups.

II. National state of competition

If the effective response to the immediate consequences of the Covid-19 pandemic was the first challenge for public authorities during the year 2020; maintaining the conditions for 'effective competition' was also a major priority, in the perspective of laying sound foundations for a fair and inclusive economic recovery.

However, these public efforts have come up against two main constraints which are, on the one hand, the resilience of the economy and its capacity to quickly overcome shocks and on the other hand, governance of the markets and the capacity of the public authorities to advocate reforms that are favorable to them.

¹ According to the benchmark established by the Competition Council, to date only few authorities have undertaken policies to facilitate rescue mergers or have accepted requests in this direction:

- Ecuador: The competition authority adopted an expedited notification procedure for mergers in response to the pandemic. The Superintendence of the Control of Market Power (SCPM) passed a resolution that allows expedited reviews for certain transactions requiring pre-merger notification. The expedited system is permitted in the following cases: for initiating companies that do not do business in Ecuador, for mergers of companies with less than 30% cumulative market share in all relevant markets, and when 'the argument of the failing company' is accepted. The SCPM will give priority to mergers and acquisitions that are carried out between economic operators of sectors deemed to have priority during the state of health emergency, namely: the food and related production chain, the production and distribution chain of medicines and medical supplies, the production and distribution chain of cleaning and hygiene products, tourism and related items.
- China: The French Competition Authority has put in place a simplified merger review procedure, suggesting that these operations would be approved more quickly to promote economic recovery.
- United Kingdom: The British authority CMA approved on April 17, 2020 on a provisional basis Amazon's investment in Deliveroo, concluding that in the absence of this transaction, Deliveroo would exit the market.

However, inclusion in this approach requires standardization of the rules of the game for all players, especially companies, at the same time as taking into account the transformations implied by the pandemic in terms of international production and Foreign Direct Investments (IDE), in addition to changes to products and production processes in connection with current technological developments.

In this context, the 4th industrial revolution combined with the rise of economic nationalism will determine, in the post-pandemic context according to the United Nations Conference on Trade and Development (UNCTAD), a new distribution of productive activities in the world, whose major vectors will be relocation, diversification, regionalization, reproduction and the narrowness of value chains. These vectors inevitably refer to a new issue of mergers and acquisitions.

A. Market dynamics in the context of Covid-19

Examination of the functioning of the markets makes it possible to put into perspective the factors explaining fluctuations of supply and demand, and then to identify repercussions on price volatility and on the conduct of individual agents, as well as on the form of their market interactions.

1. Analysis of global market dynamics

During the first quarter of 2020, the majority of business sectors posted a level of added value in volume up from the levels observed in the previous quarter. Differentiated declines were, however, observed in a few productive sectors, such as agriculture or mechanical, metal and electrical industry or other industries (in particular building materials), commerce, hotels and restaurants, transport, financial and insurance activities, real estate and business services.

This decline marks a notable departure from the upward trends that began several years ago. If for the agricultural sector this slowdown is part of a global 'sawtooth' movement revealing the dependence of this productive sector on climate hazards, for all other sectors combined this decline is due to the international context, already marked by the health crisis, the repercussions of which began to appear at the end of 2019.

Indeed, with regard to the mechanical, metal and electrical industry, where the automotive industry monopolizes most of added value, the slowdown is explained by a drop in production due to a decline in foreign demand to Morocco for private and utility vehicles.

In the hotel and restaurant sector, the slowdown is mainly attributable to the accommodation sector, which suffered a significant drop in bookings, in particular massive cancellations received from abroad.

The transport sector, for its part, faltered due to the restricting policies imposed on domestic and foreign travel decreed by public authorities at the beginning of March 2020 that negatively impacted segments of passenger transport.

Conversely, the transport of goods has been relatively capable of maintaining its momentum, both on the import and export side.

With the strict application of lockdown policies throughout the 2nd quarter of 2020, market dynamics suffered profound disruptions in supply and demand.

Indeed, Table n° 1 shows that several productive sectors recorded their lowest quarterly level in five years. These represent 31% of overall value added in volume and all relate to secondary and tertiary activities. These are the textile and leather industry, or mechanical, metal and electrical industry, other manufacturing industries (lumber, paper and cardboard, printing, coking and oil refining), the building and public works sector, the trading sector, the hotel and restaurants sector, the transport sector and the real estate sector, rentals and services provided to companies.

Only financial and insurance activities, the education, health and social action sectors have managed to maintain their previous dynamics.

This general decline in the main sectors of activity is not attributable to levels of overproduction not satisfied by insufficient demand, both intermediate and final. In this sense, companies continued to produce goods and services at a normal rate until lockdown, except for those sectors that suffered from the drop in production and/or demand internationally. Likewise, consumers have maintained consistent purchasing behavior.

In fact, this significant decline in value added in the 2nd quarter of 2020 was declared as a systematic reaction to the stringent restrictive policies imposed by the government, the application of which was manifested by the lockdown of workers, a temporary border closure and a ban on public and private gatherings. These policies had a dual effect on supply and demand by:

- Underutilization of productive capacities, through total or partial closure of production units due to unavailability of a workforce in sufficient numbers, insufficiency of inputs from abroad and suspension of orders sent by foreign companies and tourist bookings by resident and non-resident individuals;
- Contraction in domestic demand which disrupted the activity of the sectors dependent on it, and which is explained on the one hand, by a drop in household consumption (-6.7% year-on-year, according to the High Commission for Planning (HCP)) in connection with the decline in income (but also the total closure of businesses not related to basic products and essential goods, as well as the suspension of public transport and the closure of hotel facilities, restaurants and recreation centers); then, on the other hand, by the decline in components of gross investment.

Adoption by the government from June 11, 2020 of a plan to gradually lift lockdown policies was a prelude to the resumption of activity for many productive sectors.

Table n ° 1: Heat map of value added in volume by business sector in millions dirhams (2016-2020)

| | 2016 | | | | 2017 | | | | 2018 | | | | 2019 | | | | 2020 | | | | |
|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|--|
| | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | Q1 | Q2 | Q3 | Q4 | |
| Primary activities | | | | | | | | | | | | | | | | | | | | | |
| Agriculture, forestry and related services | 26 646,2 | 26 563,0 | 26 399,4 | 26 148,4 | 30 536,7 | 31 315,5 | 30 307,3 | 29 669,9 | 31 684,9 | 32 659,7 | 31 382,0 | 30 623,5 | 29 797,2 | 30 714,5 | 29 590,8 | 28 895,7 | 28 295,5 | 28 604,7 | 27 046,0 | 26 786,3 | |
| Fishing, aquaculture | 2 493,3 | 2 362,7 | 2 369,0 | 2 285,3 | 2 382,4 | 2 138,1 | 2 298,9 | 1 900,0 | 2 249,8 | 1 790,5 | 2 102,2 | 1 628,2 | 2 720,3 | 1 938,5 | 1 626,2 | 2 061,8 | 1 952,0 | 1 952,0 | 2 280,0 | 1 631,7 | |
| Extraction industry | 3 271,1 | 2 897,4 | 2 898,6 | 3 187,9 | 3 297,1 | 3 673,2 | 3 982,7 | 3 843,2 | 3 853,3 | 3 025,3 | 3 719,4 | 3 846,6 | 4 042,0 | 3 985,9 | 3 803,1 | 3 961,6 | 4 025,8 | 3 869,2 | 3 967,0 | 4 314,2 | |
| Processing industries | 31 953,0 | 31 378,7 | 30 864,1 | 32 538,6 | 32 334,2 | 32 256,3 | 31 417,2 | 33 088,0 | 33 451,7 | 33 203,3 | 32 417,2 | 35 106,2 | 34 420,5 | 34 164,9 | 33 173,8 | 30 165,8 | 34 039,0 | 26 653,9 | 32 315,0 | 35 600,8 | |
| Food and tobacco industries | 9 355,0 | 8 886,9 | 9 511,0 | 9 555,0 | 9 435,8 | 9 678,3 | 9 685,6 | 9 771,1 | 9 873,7 | 9 890,3 | 9 482,5 | 10 237,1 | 9 837,5 | 10 190,4 | 9 676,5 | 10 241,8 | 10 432,8 | 10 037,5 | 9 444,3 | 10 508,1 | |
| Textile and leather industries | 3 271,6 | 3 369,1 | 3 337,2 | 3 453,2 | 3 552,6 | 3 559,5 | 3 200,6 | 3 594,1 | 3 600,4 | 3 601,7 | 3 466,2 | 3 664,9 | 3 906,5 | 3 796,9 | 3 544,6 | 3 617,5 | 3 996,4 | 1 991,0 | 3 444,3 | 3 269,1 | |
| Chemical and paracetamol industry | 4 104,3 | 4 204,2 | 4 161,4 | 4 300,6 | 4 398,8 | 4 336,9 | 4 356,3 | 4 486,4 | 4 551,0 | 4 488,4 | 4 758,8 | 4 588,8 | 4 938,2 | 4 637,9 | 4 931,4 | 4 658,4 | 5 387,6 | 4 786,4 | 5 572,5 | 5 324,8 | |
| Mechanical, metal and electrical industry | 9 000,2 | 9 249,6 | 8 880,2 | 9 450,9 | 9 390,5 | 9 285,9 | 8 646,4 | 10 065,6 | 9 894,8 | 9 863,5 | 9 355,2 | 10 786,2 | 10 068,9 | 10 224,7 | 9 964,6 | 11 528,2 | 8 860,6 | 4 744,3 | 8 564,7 | 10 280,1 | |
| Other manufacturing (including petroleum refining) | 6 080,4 | 5 783,9 | 4 415,0 | 5 833,0 | 5 431,8 | 5 316,9 | 5 165,6 | 5 895,9 | 5 350,3 | 5 343,1 | 5 176,1 | 6 028,2 | 5 514,4 | 5 352,0 | 4 951,6 | 6 228,6 | 5 491,8 | 4 281,5 | 4 932,8 | 6 303,4 | |
| Water and electricity | 4 729,0 | 4 653,3 | 4 942,3 | 4 955,7 | 4 718,1 | 4 905,7 | 5 003,0 | 5 204,0 | 5 024,6 | 5 007,8 | 5 326,7 | 5 613,1 | 6 117,6 | 5 966,7 | 5 843,0 | 5 906,0 | 5 900,6 | 5 232,8 | 5 884,0 | 5 765,4 | |
| Building and public works | 11 580,0 | 11 640,3 | 11 689,1 | 11 625,6 | 11 709,5 | 11 710,0 | 12 001,4 | 11 953,5 | 11 779,5 | 11 775,0 | 11 922,5 | 11 856,0 | 11 984,9 | 11 940,0 | 12 172,1 | 12 098,7 | 12 104,7 | 9 898,2 | 10 651,0 | 11 268,1 | |
| Trade | 18 150,4 | 18 542,7 | 19 241,9 | 19 775,6 | 19 331,4 | 19 651,2 | 19 326,3 | 19 835,7 | 20 058,2 | 19 800,3 | 19 745,4 | 20 238,4 | 20 653,7 | 20 379,9 | 20 159,2 | 20 638,4 | 20 574,1 | 14 979,3 | 17 801,0 | 18 946,0 | |
| Hotels and restaurants | 4 290,3 | 4 264,2 | 4 501,8 | 4 900,2 | 4 717,1 | 4 840,5 | 5 045,4 | 5 149,4 | 5 028,1 | 5 132,9 | 5 333,3 | 5 446,5 | 5 177,2 | 5 351,3 | 5 027,2 | 4 814,8 | 5 55,1 | 1 935,0 | 2 414,1 | | |
| Transports | 8 223,5 | 8 286,8 | 8 611,4 | 8 703,2 | 8 486,2 | 8 509,9 | 8 963,0 | 9 130,9 | 8 827,8 | 8 992,7 | 9 262,0 | 9 294,1 | 9 394,2 | 9 611,9 | 9 932,2 | 9 656,6 | 9 150,0 | 4 262,5 | 6 672,0 | 8 021,9 | |
| Post and Telecommunications | 11 036,4 | 12 002,0 | 12 210,9 | 12 197,2 | 11 977,7 | 12 174,7 | 12 202,7 | 12 263,1 | 12 375,4 | 12 375,4 | 12 398,9 | 12 514,0 | 12 585,4 | 12 527,9 | 12 527,9 | 12 605,2 | 12 703,6 | 12 320,0 | 12 152,0 | 12 617,0 | |
| Other services | | | | | | | | | | | | | | | | | | | | | |
| Financial activities and insurance | 11 462,5 | 11 461,9 | 11 548,8 | 11 604,4 | 11 831,9 | 11 918,4 | 12 034,3 | 12 127,2 | 12 248,1 | 12 315,1 | 12 429,8 | 12 528,0 | 12 811,0 | 12 878,7 | 13 004,0 | 13 109,0 | 13 046,0 | 13 307,8 | 13 224,0 | 13 482,5 | |
| Real estate, rental and services provided to businesses | 26 763,8 | 27 066,2 | 27 432,7 | 27 582,9 | 27 591,1 | 27 994,9 | 28 297,1 | 28 633,4 | 29 018,4 | 29 302,2 | 29 650,1 | 30 001,8 | 30 322,4 | 30 473,1 | 30 784,7 | 31 083,1 | 30 474,0 | 26 085,0 | 28 230,0 | 28 874,4 | |
| Education, health and social action | 19 253,9 | 18 265,5 | 18 207,9 | 17 842,8 | 18 097,5 | 17 976,0 | 17 924,9 | 17 940,6 | 18 140,9 | 18 064,3 | 18 115,8 | 18 132,8 | 18 423,8 | 18 407,6 | 18 640,5 | 18 747,4 | 18 984,8 | 19 316,2 | 19 722,0 | 18 766,2 | |
| General public administration and social security | 18 665,6 | 19 194,0 | 18 962,4 | 19 194,2 | 19 202,8 | 19 586,6 | 19 393,0 | 19 646,1 | 19 617,6 | 20 015,4 | 19 773,0 | 20 014,7 | 20 469,0 | 20 927,0 | 20 932,5 | 21 223,6 | 21 656,2 | 21 988,0 | 21 791,0 | 20 969,9 | |
| Total | 198 149,0 | 198 794,5 | 199 542,1 | 202 384,2 | 206 065,9 | 208 574,1 | 207 485,1 | 211 190,3 | 213 169,0 | 214 333,9 | 213 771,8 | 217 065,6 | 218 744,2 | 218 836,0 | 219 127,3 | 218 751,2 | 218 772,1 | 188 182,3 | 203 329,6 | 209 543,0 | |

Source : National accounts data, High Commission for Planning (HCP).

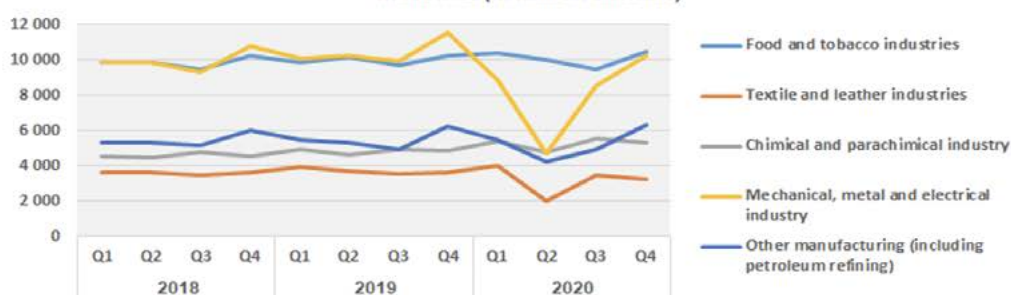
Grphe 7: Quarterly evolution of value added at constant prices for the whole economy (in million dirhams)



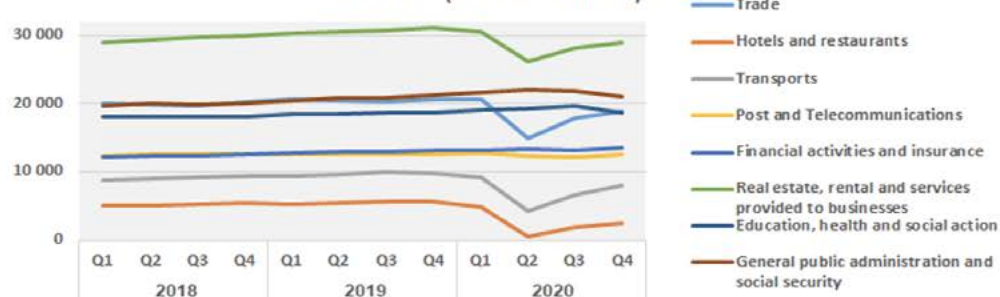
Grphe 8: Quarterly evolution of value added at constant prices for secondary activities (in million dirhams)



Grphe 9: Quarterly evolution of value added at constant prices for processing industries (in million dirhams)



Grphe 10: Quarterly evolution of value added at constant prices for tertiary activities (in million dirhams)



Source: National accounts data, High Commission for Planning (HCP).

Implementation of this plan was strengthened by adopting the 2020 amending finance law, where the provisions painted an overall picture of the government plan to revive the economy.

These policies, however, did not translate into the full use of production capacity due to the prolonged state of the health emergency.

As a result, the conditions for a return to normal economic activities were not met, and this generated differentiated effects on market dynamics.

The markets most affected during this recovery phase are those for which demand continued to decline despite stagnation or falling prices (particularly retail, hotel and catering, transport and mail and telecommunications), or markets exposed to supply shocks due to production difficulties (processing industries and Buildings and Public Works (BTP)).

2. Price level analysis

The exceptional context of the health crisis has made management of price instability one of the most important challenges for the government in order to preserve production and consumption.

To this end, HCP data relating to the evolution of monthly variations in the consumer price index between the beginning of 2019 and December 2020 show that changes by product group have remained minor since the beginning of 2020 (Table n° 2).

Indeed, inflationary or deflationary pressures have constantly eased, either through automatic price rebalancing or through policies taken by public authorities to counterbalance or at least reduce price volatility.

In this dynamic, food prices emerged as the most unstable. Not only were their oscillations more assertive, but the related transient bumps were more acute, indicating a greater rebalancing force (Graph n° 11).

Graph n° 11: Evolution of monthly changes in percentage of the consumer price index during the year 2020 (base 100: 2017)

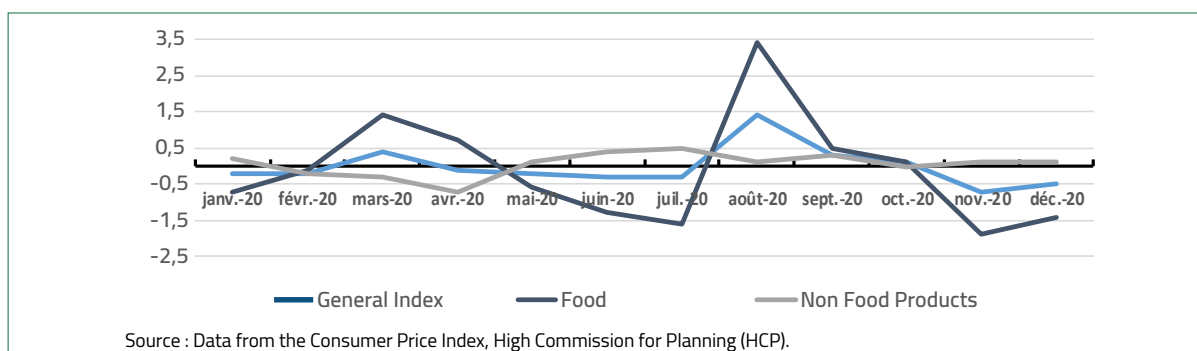


Table n ° 2: Monthly percentage changes in the consumer price index by product group, from January 2019 to December 2020 (base 100: 2017)

| | Jan-19 | Feb-19 | Mar-19 | Apr-19 | May-19 | Jun-19 | Jul-19 | Aug-19 | Sep-19 | Oct-19 | Nov-19 | Dec-19 | Jan-20 | Feb-20 | Mar-20 | Apr-20 | May-20 | Jun-20 | Jul-20 | Aug-20 | Sep-20 | Oct-20 | Nov-20 | Dec-20 |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| General index | -0,5 | 0 | 0 | 0,6 | 0,9 | 0,2 | -0,9 | 0,4 | -0,2 | 0,2 | 0,4 | 0 | -0,2 | -0,2 | 0,4 | -0,1 | -0,2 | -0,3 | -0,3 | 1,4 | 0,3 | 0,1 | -0,7 | -0,5 |
| Food | -0,9 | -0,3 | -0,4 | 1,2 | 2,1 | 0,4 | -2,2 | 0,9 | -1 | 0,3 | 0,8 | 0,1 | -0,7 | -0,1 | 1,4 | 0,7 | -0,6 | -1,3 | -1,6 | 3,4 | 0,5 | 0,1 | -1,9 | -1,4 |
| Non food products | -0,1 | 0,1 | 0,3 | 0,1 | 0,2 | 0 | 0 | 0,2 | 0,2 | 0,2 | 0 | -0,1 | 0,2 | -0,2 | -0,3 | -0,7 | 0,1 | 0,4 | 0,5 | 0,1 | 0,3 | 0 | 0,1 | 0,1 |
| Food and non-alcoholic beverages | -1,4 | -0,3 | -0,4 | 1,2 | 2,2 | 0,4 | -2,3 | 0,9 | -1 | 0,4 | 0,8 | 0,1 | -0,7 | -0,2 | 1,5 | 0,8 | -0,6 | -1,5 | -1,6 | 3,4 | 0,5 | 0,2 | -2 | -1,5 |
| Alcoholic beverages, tobacco and narcotics | 11,8 | 0 | 0,1 | -0,1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -0,1 | 0 | 0 | 0,1 | 0 | 0 | 0 | 0 | 2,4 | 0 | 0 | -0,4 | 0,4 |
| Clothing and footwear | 0 | -0,2 | -0,2 | -0,2 | 0,5 | -0,2 | 0 | 0,1 | 0,6 | 0,6 | 0,1 | -0,1 | 0 | -0,4 | -0,3 | 0 | 0,1 | 0,1 | -0,3 | -0,2 | 0,3 | 0,3 | 0,4 | 0,5 |
| Housing, water, gas, electricity and other fuels | 0 | 0,1 | 0 | 0,1 | 0 | 0 | 0,2 | 0,2 | 0 | 0 | 0,1 | -0,1 | 0 | 0,1 | 0 | 0 | 0,2 | 0,1 | 0,1 | 0 | 0 | 0,1 | 0 | 0 |
| Furnishings, household equipment and routine households maintenance | 0 | 0,1 | 0,1 | -0,1 | 0 | 0,1 | 0 | 0 | 0 | -0,2 | 0,1 | 0 | -0,1 | 0 | 0,2 | 0 | 0,1 | 0 | 0 | 0 | 0,1 | 0,1 | 0,1 | -0,1 |
| Health | 0 | 0 | 0 | 0,1 | 0 | 0,3 | -0,1 | 0,1 | 0,1 | 0 | 0,2 | 0,1 | -0,1 | 0,6 | 0,1 | -0,1 | 0 | -0,2 | 0,1 | 0,1 | -0,1 | 0 | 0,1 | 0 |
| Transports | -1,4 | 0,9 | 1,3 | 1 | 0,9 | -0,1 | -0,2 | 0,2 | -0,5 | 0,5 | -0,3 | -0,2 | 0,4 | -1,1 | -1,8 | -4,3 | -0,1 | 2,5 | 3 | 0,6 | 0,6 | -0,4 | 0,1 | 0,8 |
| Communications | 0 | -0,1 | 0 | 0 | -0,1 | 0 | 0 | 0 | -0,1 | -0,1 | -0,1 | 0 | -0,1 | 0 | 0 | 0 | 0 | 0 | 0 | 0,1 | 0 | 0 | -0,1 | 0 |
| Leisure and Culture | 0,2 | 0,3 | 0,1 | -0,1 | -0,1 | -0,1 | 0 | -0,1 | 0,1 | 0,1 | -0,2 | -0,2 | -0,1 | -0,2 | -0,1 | 0 | -0,3 | 0 | -0,1 | -0,1 | 0,1 | 0 | 0,1 | -0,2 |
| Education | 0 | 0 | -0,1 | 0 | 0 | 0 | 0 | 0 | 3,3 | 0 | 0 | 0,1 | 0 | 0 | 0 | 0 | 0 | -0,1 | 0 | 0 | 1,6 | 0,3 | 0 | 0 |
| restaurants and hotels | 0,1 | 0,1 | 0 | 0,2 | 0 | 0,3 | 0,5 | 0,2 | 0,1 | 0 | 0,2 | 0,1 | 0 | -0,1 | 0 | 0 | -0,1 | 0,1 | 0,2 | 0,1 | 0,1 | 0,2 | 0,2 | 0 |
| Miscellaneous goods and services | 0,1 | 0,1 | 0,2 | 0 | 0 | -0,1 | 0,1 | 0,2 | 0 | 0 | 0 | 0,1 | 0,9 | 0 | 0 | 0 | 0 | 0 | 0,2 | 0,2 | -0,1 | 0 | 0,2 | -0,1 |

Source : Data from the Consumer Price Index, High Commission for Planning (HCP).

For these products, the deceleration observed between March and July 2020 was mainly linked to the significant drop in meat prices, especially red meat, the fall of which is explained, on the one hand, by the increase in slaughter and, on the other hand, by the drop in demand, in particular that coming from hotels and restaurants, but also because of the fall in the prices of fresh products, in particular vegetables.

For its part, the upward movement in prices that began in July 2020 and continued until August 2020 appeared to be the result of an increase in the prices of fresh products, in particular citrus fruits, of which demand, in increase, could not be fully covered by the offer.

For non-food products, small declines were observed between February and April 2020, favored by the fall in the prices of manufactured products, in particular those of clothing and footwear and those of transport goods and services, impacted by strict measures prohibiting intra and interurban travel.

This downward movement subsequently stopped, due to the increase in transport prices with the lifting of lockdown restrictions that coincided with the summer period and religious holidays.

From September 2020, price instability began to subside, thanks to a rebalancing movement of supply and demand, but the months of November and December of the year 2020 revealed a tangible drop in the prices of several foodstuffs. This further fall in prices appeared to stem from overabundant production, which was difficult to absorb by continued sluggish demand, in a context of uncertainty over income.

While the 'spontaneous' rebalancing of supply and demand has helped to consolidate price levels, policy measures to manage price instability have produced some effects.

Indeed, the government has set among its major prerogatives the optimal management of the price instability, via the Economic Watch Committee (EWC) introduced on March 11, 2020 in parallel with the entry into force of the state of health emergency.

In addition, to strengthening the role of the interministerial commission responsible for monitoring supply, prices and quality and price control operations, the action of the EWC has focused on a dual field of intervention:

1. The stabilization of the prices of certain products subject to speculation or artificial price manipulation. It is within this framework that the temporary regulation of the prices of non-woven protective masks for non-medical use and of hydro-alcoholic gels was adopted and this, after opinion of the Competition Council, in the same way as the public prices of certain originator, generic and biosimilar medications used in the treatment of Covid-19 which have been revised;
2. Reducing the effects of price instability, by carrying out regular monitoring of the availability of products in sufficient quantity on the markets and control of distribution channels for widely consumed products, especially during Ramadan, as well as the stabilization of household

purchasing power, through the granting of a flat-rate indemnity to employees on temporary sick leave and the payment of exceptional assistance to support households operating in the informal sector.

In addition, the EWC ensured that unregulated and unapproved products were not subject to ceiling prices or floor prices, in order to let the market operate spontaneously by confronting supply and demand request.

The interministerial commission responsible for monitoring supply, prices, and quality and price control operations, for its part, hastened to initiate several measures aimed at reducing price instability and anticipating speculation, in particular through:

- Checking the availability, in sufficient quantity, of protective masks and hydro-alcoholic antiseptic products, according to regulated prices and prescribed health standards;
- Checking the price stability of widely consumed products across all the prefectures, ensuring that the markets are supplied in the normal way. As such, certain products whose demand has increased substantially during the lockdown period, in particular butane gas, have been the subject of measures which have made it possible to alleviate the pressure, via a regular supply to points of sale. With regard to cereals and pulses, the prices of which rose significantly at the beginning of March, there was talk of temporarily suspending import duties, in order to strengthen the supply and allow it to cover the estimated needs. The same applied to fruits and vegetables, ensuring the availability of sufficient local production despite containment measures;
- Taking adequate measures to prevent fraud, monopoly, speculation or artificial price manipulation, by stepping up controls on the wholesale and retail markets, as well as on the scale of bonded warehouses. As a result, and in accordance with the provisions of Law No. 104-12 on freedom of prices and competition, a large number of infringements of competition have been identified. These are linked in particular to incorrect price displays, non-issuance of invoices, illegal increases in regulated prices and clandestine storage.

3. Analysis of the behavior of market players

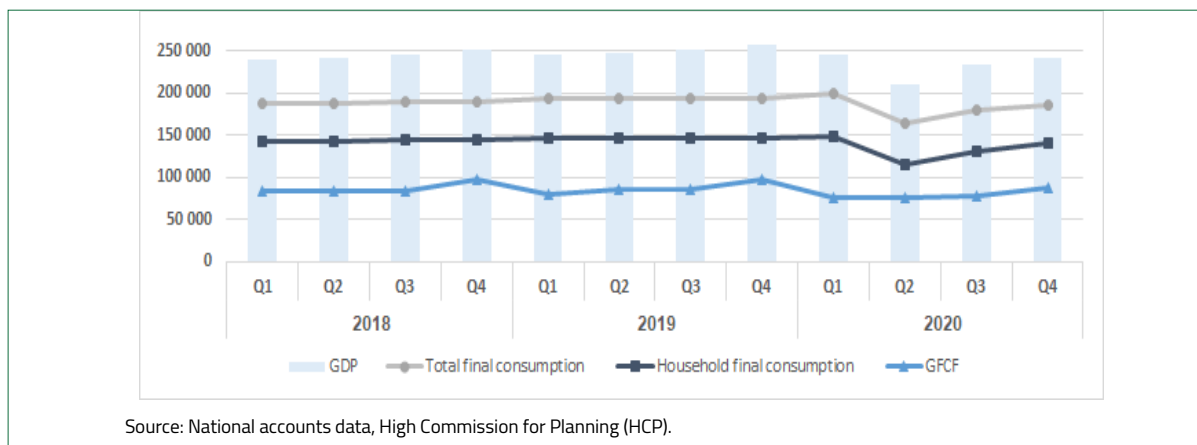
The Market dynamics have also been influenced by systemic factors related to the behavior of individual agents, as well as the form of their market interactions.

To this end, the change in behavior linked to final consumption and investment in fixed capital through the acquisition of production goods, measured by the GFCF, revealed for the lockdown period, coinciding with the 2nd quarter of the year 2020, a more pronounced fall in consumption compared to investment (Graph n° 12).

For the latter, the decline began in the 1st quarter of 2020 due to a decline in these components assigned to industrial products (semi-finished products and capital goods) and real estate, and which had the effect of triggering the decline in international trade.

In the third quarter of 2020, total consumption rebounded, unlike investment, which continued to decline.

Graph n° 12: Quarterly evolution of final household consumption and business investment between January 2018 and December 2020 (in million dirhams)



These developments can be interpreted as direct or indirect repercussions of the pandemic on resource allocation decisions by individual agents.

Not all producers and sellers weathered the underlying economic crisis seamlessly.

For some, the total or partial stoppage of activity directly affected their rating in the market, to the point of pushing several companies to downsize in the hope of staying alive.

For others, activity has been maintained, thanks to the solidity of structural position or predisposition to absorb demand more oriented towards consumer goods. In fact, the crisis reflected for many of them a windfall effect driven by an unanticipated demand.

In terms of investment, uncertainty over input prices has prompted a large number of companies to review their development prospects and prevented them from retracting from irreversible investments, thus generating significant adjustment costs.

Instead, companies have been concerned with cleaning up their current expenses, especially their urgent cash and working capital needs, as evidenced by the large influx towards financial products guaranteed by the State, namely DAMAN OXYGENE and DAMAN RELANCE.

However, significant capacity investment initiatives have emerged during a period of health crisis, such as the reconversion of several industrial textile units for the manufacture of protective masks or the reallocation of some manufacturers output to the production of hydro-alcoholic gels and alcohol used in their composition.

It should also be noted that the distribution channels for goods and services have had to adapt to the context of the health crisis.

On the one hand, the distribution of products on a national scale has been facilitated by public authorities, thanks to the travel authorizations granted exceptionally to companies allowing them to supply the usual distribution networks, in particular with consumer goods.

On the other hand, the producer/seller relationship has been rationalized for certain essential products such as fruits and vegetables, by allowing producers at the start of the lockdown to sell their production without going through wholesale markets.

On the other hand, consumers and buyers have been obliged to modify their habits in consequence of restrictions imposed by public authorities.

Thus, consumption habits for households have concentrated on what is essential for daily living, while noting the emergence of new purchasing habits such as e-commerce and home delivery.

That being said, retail markets, whether local or large-scale, have remained preferred by Moroccan consumers.

Although public authorities have ensured that the purchasing power of households is maintained by providing exceptional allowances and direct aid, their 'willingness to buy' has been curbed by the charges associated with expenditures being more or less obligatory and irreversible. Note that these charges such as water and electricity bills have been deferred for certain services by decisions of the public authorities.

B. Public aid granted to businesses and households in the context of the crisis

It is commonly accepted that in times of exceptional upheaval in demand and supply, public authorities are concerned with helping market players (consumers, workers and businesses) to get through the phase of disruption, and then implement the essential conditions for the resumption of activity once these disruptions have been overcome. However, this aid is not neutral in the functioning of the markets and by often affecting the behavior of actors is liable to change market structure and the form of competitive interactions.

1. Legal framework governing public aid granted to businesses in Morocco

The concept of state aid to companies is not defined in Moroccan law, and no legislative or regulatory text specifies the cases that justify their implementation, nor the conditions that they must be subjected to in order to ensure their compliance with competition law. However, Article 7 of law 20.13 imposes compulsory consultation with the Competition Council on any draft legislative or regulatory text establishing a new regime or modifying a regime in force that has the direct effect of 'granting aid from the State or local authorities in accordance with relevant legislation'.

It follows that the system of public aid to enterprises is not established through an unambiguous corpus. Its elements are identified in the various annual finance laws and technically detailed in the support strategies for the sectors of production (eg. Industrial acceleration plan 2014-2020, green generation 2020-2030, 'halieutis' plan for 2020, etc.) or in the action programs of public establishments responsible for managing State aid (eg. Morocco SME, Agricultural Development Agency, Caisse Centrale de Garantie, etc.).

This has the effect of bringing out methodological difficulties related to the quantifying of this aid. Therefore, public expenditure seems to be an adequate tool for measuring its different forms and can be traced by referring to budget accounts.

Expenses can be either according to whether they are paid directly to companies, drawn from the State's own funds without always corresponding to sums transferred to beneficiaries (guaranteed loans, equity investments), or granted via the tax system in the form of exceptional tax provisions.

Taking them into account therefore makes it possible to understand the differentiation of the effects of public intervention on the nature of the competition game and to assess the consequences.

Detailed explanations of the Moroccan public aid regime for enterprises, from the point of view of budgetary accounting, are presented in the appendices.

They thus make it possible to identify in the various policies provided those that may distort or threaten to distort competition by favoring certain companies or certain productions. Among the headings which arouse particular attention, we note the aid transferred without compensation to public commercial enterprises or to private enterprises, subsidies granted to some public enterprises to support specific prices on the markets, subsidies dedicated to the restructuring of some markets, public commercial enterprises, financial operations of the State (their financial investments, their advances and loans to public enterprises and guarantees granted to lenders), as well as tax exemptions for enterprises, in particular the nature of the external effects which 'they cause.

2. Analysis of the Moroccan public aid system for businesses

In addition to the interventions programmed and planned before the health crisis, immediate and vigorous interventions took place as soon as the first cases of contamination were confirmed. Their purpose was to support on the one hand the efficiency of the economy in times of crisis and, on the other hand, the resilience of the economy and the achievement of sustainable growth in the medium and long term, underpinned by re-establishment of competition in the markets.

a. Aid granted from non-budget funds

Off-budget funds in Morocco represent the most important budgetary processes for implementing strategic or operational variations of economic policies (Table n° 3).

Table n° 3: transfers out of budget provided to companies (in millions dirhams)

| | Beneficiaries | Contributions | | | |
|--|---|---------------|---------------|---------------|---------------|
| | | 2016 | 2017 | 2018 | 2019 |
| Special-Purpose Accounts (SPA) Revenue allocated to the financing of a specific category of expenditure | Youth Employment Promotion Fund, including: | 91,80 | 283,24 | 413,80 | 412,91 |
| | IDMAJ program (integration of young graduates) | 75,61 | 89,08 | 102,77 | 108,80 |
| | TAEHIL program (contractual training, qualifying or retraining training, support training for emerging sectors) | 14,17 | 15,43 | 18,37 | 27,17 |
| | Industrial Development and Investment Fund (IDIF) | 1 550,89 | 368,64 | 929,95 | 1 473,97 |
| | Agricultural Development Fund, including | 3 224,20 | 3 448,82 | 3 579,01 | 4 059,07 |
| | Payments to "Crédit Agricole" for grants and bonuses | 2 760,00 | 2 935,00 | 3 055,00 | 3 436,00 |
| | Fund for the promotion of the audiovisual industry and advertisements and public publishing, including: | 263,33 | 216,02 | 211,31 | 470,95 |
| | SNRT | 179,00 | 140,00 | 90,00 | 84,00 |
| | SOREAD – 2M | - | - | - | 40,00 |
| | MAP | 1,00 | 15,00 | 21,00 | 16,00 |
| Financing Accounts (FA) Payments in the form of loans or repayable advances made by the State from Treasury resources and granted for reasons of public interest | Moroccan Investment Fund JAIDA | 51,70 | 298,56 | 242,60 | 184,83 |
| | Crédit Agricole du Maroc | 54,67 | 49,30 | 43,76 | 38,05 |
| | Moroccan Export Insurance Company | 39,68 | 37,30 | 34,82 | 32,25 |
| | ONEE (Water branch) | 15,89 | 8,11 | 0,00 | 0,00 |
| | Water and Electricity Distribution Councils | 4,73 | 2,42 | 0,00 | 0,00 |
| | Total outstanding loans | 166,67 | 395,69 | 321,18 | 255,13 |

Source: MEFRA reports on the Special Treasury Accounts - Draft Finance Laws for the 2018, 2019, 2020 and 2021 budget years.

Off-budget transfers intended for public enterprises and private national or foreign enterprises are listed in the Special Purpose Accounts (SPA), which represent sector support funds, as well as in financing accounts for granting loans and repayable advances in the public interest.

Deployment of these transfers generates risks of harm to competition, as the specific case of the processing industries suggests.

These have historically experienced significant market imperfections, in particular an increase in returns, as well as slowness in adjustments due to a poorly qualified workforce and the high cost of raw materials.

Imperfections justified the implementation of several industrial strategies, including the Industrial Acceleration Plan (PAI) 2014-2020.

Public incentives backed by this strategy are financed by the Industrial Development and Investment Fund (IDIF) which provides funding grants with a view to attracting world leaders of industry able to establish a set of national suppliers, in particular SMEs and VSEs.

They will be able to integrate these 'industrial ecosystems' by extending their activities or as part of start-ups or subsidiaries, or even merger-acquisitions.

Built on the principle of 'industrial compensation', this strategy is based on public support for fixed start-up costs considered high in the context of new investments but leading to a drop in marginal reproduction costs, in return for a predefined integration rate of local suppliers and a commitment to employ local labor.

However, this incentive process raises some remarks about its competitive neutrality and the likelihood of creating moral hazard problems:

1. Public ownership of part of the investment program is based on 'Rules of preference' to determine the companies eligible for this aid or to fix its extent, which may affect their objectivity. Hence the advantage of taking into account competition law before setting eligibility conditions;
2. Offset contracts', which represent the apparent form of industrial compensation, are based on a dual concept:
 - Combining incentives granted and contractual commitments guarantees a certain legal identity while being akin to 'structured rules of reason'. This transparency, however, risks being hampered by a discriminatory choice of companies to be included in ecosystems through excluding competing companies although they are eligible;
 - In the context of the award of a public contract with an international principal, where competition rules are supposed to comply with Moroccan regulations on public contracts, as well as ad hoc regulations subject to international competition. Consequently, while being a lever to strengthen the presence of Moroccan companies in global value chains, these contracts should make the conditions of 'Effective competition' endogenous on both national and international levels.
3. Access to incentives should allow all local businesses, especially SMEs and VSEs, to claim the same opportunities to modernize their productive processes with a view to integrating ecosystems formed or in the process of being formed, which is the underpinning of an intrinsic harmonization of incentives.

b. State aid granted to public commercial enterprises

Public Establishments and Enterprises (PEE) represent an essential link in Morocco's economic and social development model, due to their strong contribution to the Kingdom's strategic investments,

development of its infrastructure, performing public service, as well as opening up of remote regions and their inclusion in regional economic and social development projects.

The national public portfolio is made up of many Public Establishments and Enterprises having the direct participation of the Public Treasury.

These PEEs are either of a commercial nature, selling goods and services on the market at a price covering production costs or selling financial services to customers, or of a non-commercial nature, with the focus on providing public goods and services for free or at prices below their production costs.

At the end of September 2020, the number of commercial PEEs stood at 71 entities, representing 26.5% of total PEEs (Table n°4).

This number remains significant from a market economy perspective where private property is the preferred mode in the market sector, seeing that a majority of PEEs operate in non-tradable goods sectors.

It should also be noted that all public enterprises with direct State participation are commercial in nature, which was not the case before 2020. This highlights the willingness of public authorities to establish a new paradigm, based on 'efficient' reconciliation between public property and private management, via a process of 'corporatization'.

Following the High Royal Directives issued during the Speech from the Throne of July 29, 2020 and the Royal Speech to Parliament on the occasion of the opening of the 1st session of the 5th legislative year of the 10th parliament, a new dynamic of reform of PEEs was proclaimed.

Table n°4: Public portfolio of PEEs by homogeneous group

| | | Legal classification | Number | | | |
|--------------------|-------------------------------|--|--------|------|------|------------------|
| | | | 2017 | 2018 | 2019 | As of 30/09/2020 |
| Commercial PEE | PEE with market nature | Public establishment | 19 | 19 | 26 | 26 |
| | | Ltd. with direct participation of the Treasury | 28 | 28 | 27 | 35 |
| | Public Financial Institutions | Public establishment | 3 | 3 | 3 | 2 |
| | | Ltd. with direct participation of the Treasury | 6 | 7 | 7 | 8 |
| Non-commercial PEE | | Public establishment | 185 | 184 | 196 | 197 |
| | | Ltd. with direct participation of the Treasury | 9 | 9 | 9 | - |
| Total PEE | | | 250 | 250 | 268 | 268 |

Source : MEFRA reports on Public Establishments and Enterprises - Draft Finance Laws for the 2020 and 2021 budget years

This reform requires the establishment of a new paradigm for their strategic management by establishing structural transformations and necessary changes in their management and governance.

Among major policies proposed is the creation of a dedicated National Agency and the elimination of several companies or their subsidiaries, since their existence no longer matches their purpose of creation, as well as large groupings of companies operating in similar sectors.

This major reform is however confronted with concerns in relation to competition, starting from the fact that the presence of PEEs in various market sectors constitutes a real obstacle to the development of a dynamic and diversified private sector.

Table n°5: Budget transfers by type of PEEs (In millions dirhams)

| | Commercial EEP | | | Total budget transfers (including non-commercial sector) | | |
|-------------------------|----------------|--------------|--------------|---|---------------|---------------|
| | 2017 | 2018 | 2019 | 2018 | 2017 | 2019 |
| Equipment | 762 | 1 031 | 2 430 | 11 486 | 12 394 | 12 663 |
| Functioning | 1 048 | 1 059 | 940 | 14 404 | 17 101 | 19 620 |
| Capital increase | 2 892 | 1 215 | 1 027 | 2 892 | 1 215 | 1 027 |
| Total | 4 702 | 3 305 | 4 397 | 28 782 | 30 710 | 33 310 |

Source : Data from MEFRA reports on Public Establishments and Enterprises - Draft Finance Laws for the 2019, 2020 and 2021 budget years.

Indeed, several PEEs are present in sectors unrelated to the development of national infrastructures and can be entirely controlled by private companies.

Consequently, they present themselves as potential competitors in open markets, as their objective is to achieve net surplus results. However, these companies receive direct or indirect state aid granting them 'competitive advantages' that may lead to distortions in the markets (Table n°5).

Public aids to commercial PEEs interfere with the game of competition since there is no legal distinction between commercial and non-commercial activities in these entities. Therefore, although it has a non-market vocation, this aid is inevitably intertwined with the production costs of goods and services sold on the market.

Moreover, by operating in monopolistic markets or markets with a high level of merger due to public interventions aimed at restricting entry, commercial PEEs gain positions of dominance. They gain strength under the effect of sector regulation and can thus spread to other segments of the value chain through the creation of subsidiaries in various sectors, unilaterally or through joint ventures with national or foreign partners.

Not only are these modes of regulation comparable to restrictions on market entry to reduce their degree of contestability, but they also generate the effects of crowding out private investment and constitute structural constraints on the attractiveness of FDI.

The use of Public/Private Partnerships (PPP), although representing an appropriate framework for improving the contestability of markets, occurs in a field of regulations that does not always comply with competition principles.

On the one hand, the legal instruments governing these collaborations overlap between Law No. 86-12 on PPP contracts and sector regulations, which favors an incompleteness of contracts, in the sense of the unpredictability of contingencies and the asymmetry of information between contractors.

On the other hand, investing by public enterprises in the capital of certain competing private operators is considered a discriminatory practice.

c. State aid granted through tax exemptions

In Morocco, by spending tax revenues it becomes possible to deploy the content of sector support policies, given the difficulty in making sufficient budgetary transfers for the benefit of all the players in the economy, or in operationalizing the state's vision of human development.

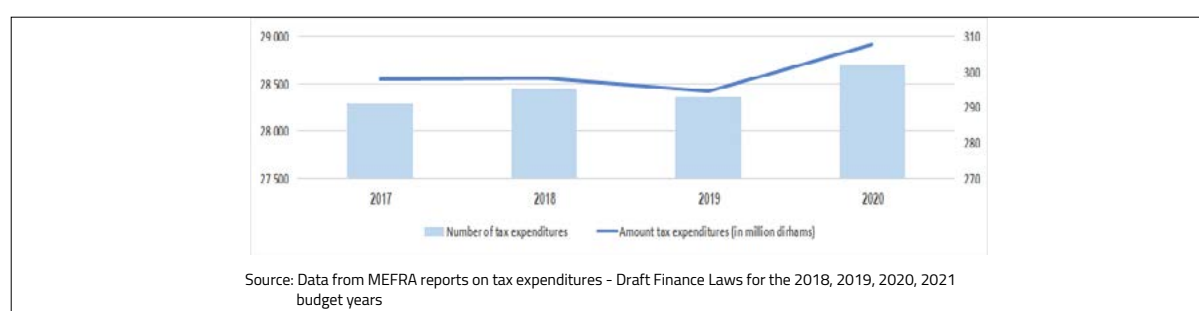
Table n°6: Number and amount of observed tax expenditures from 2017 to 2020

| | 2017 | 2018 | 2019 | 2020 |
|---|--------|--------|--------|--------|
| Number of tax expenditures | 291 | 295 | 293 | 302 |
| Amount of tax expenditure (in million dirhams) | 28 551 | 28 558 | 28 423 | 28 914 |

Source: Data from MEFRA reports on tax expenditure – draft finance laws for the 2018, 2019, 2020 and 2021 budget years.

In this view, table n°6 and graph n°13 indicate that the number of “observed” tax expenditure measures would have exceeded 300 in 2020, for an overall allocation of 28.9 billion dirhams.

Graph n°13: Evolution of the number and amount of tax expenditures noted with reference to the last four Finance Laws



Source: Data from MEFRA reports on tax expenditures - Draft Finance Laws for the 2018, 2019, 2020, 2021 budget years

However, it is noted that the average cost of a tax expenditure measure (i.e. overall amount / total of the measures noted) would have weakened from MAD 98.1 billion in 2017 to MAD 95.7 billion in 2020.

The most common type of exemption is the total exemption. On average, total exemptions would have represented 57.7% of the amount of tax expenditures between 2017 and 2020.

The cash flow facilities and the deductions which constitute derogations activated by stimulating the production function of the company (depreciation, costs of raw materials, current charges, etc.) would ultimately have represented on average only 1.5% and 2,2% respectively.

In addition, companies would have been the main beneficiaries of tax exemptions, up to 51% in number of measures planned between 2017 and 2020 and around 49% on average of amounts resulting from lost tax revenue. The latter share varies according to the activity sector, implying that the public incentive objectives oscillate between the dynamics of supply and that of demand.

It should be noted that the compatibility of tax expenditures with the principles of competition is satisfied by two important determinants of 'fiscal neutrality', namely (i) the homogenization of incentive objectives within the entire economy and within the fields of action of economic agents taken separately, and (ii) determining the criteria for exemptions on the basis of the performance of economic agents.

In view of these conditions, it would seem that by determining specific criteria for exemption measures and by providing for differentiated tax regimes at the intra and intergroup level, the Moroccan tax system is explicitly exposed to risks of harm to competition.

The following situations show that certain tax exemptions make it possible to modify the economic calculation of the entrepreneur and, thereby, to change his competitive position in the market:

1. Limiting the scope of beneficiaries of total or partial exemptions from Value Added Tax (VAT) on imports, to companies making an investment of at least MAD 100 million to the disadvantage of other companies operating in the same relevant market , but whose investment capacities are relatively narrow due to often cyclical difficulties;
2. Although the Moroccan tax system has instituted, within the framework of the provisions of the 2020 Finance Law, modalities of convergence towards single tax rates for corporation tax, the criteria for determining the new progressive scales still raise risks of harm to competition, insofar as they are fundamentally based on turnover linked to the activity. This calls into question the competitive neutrality of the exemptions, in particular on markets where companies with 'multiple activities' are in competition with companies in 'single activity';
3. VSEs and SMEs represent the category of companies enjoying the least tax expenditure, while being the most fragile structures of the productive fabric. In this regard, no reference is made to the General Tax Code (CGI) or the Customs and Indirect Tax Code (CDII) which constitute the repositories of tax standards from which the exemptions are established. As a result, the measures intended for them are dispersed between the various provisions applied to the nature of the economic activities or the destination of the products;
4. The free export zone regime, as instituted by Law No. 19.94, provides its beneficiaries with multiple incentives, the accumulation of which gives them competitive advantages that risk being illegitimate in national markets. Indeed, eligibility for this status is not limited only to

companies established abroad, but also to legal persons having their head office in Morocco and natural persons of Moroccan nationality resident in Morocco. Also, these companies are authorized to sell part of their production on the local market, within the limit of 30% of the export turnover for semi-finished products and capital goods and without limitation of threshold in the case of capital goods, materials and tools as well as their parts and spare parts intended for the realization of projects agreed with the State.

d. Aid schemes dedicated to mitigating the negative effects of the health crisis on the productive fabric

As soon as the first cases of contamination were detected, several measures were put in place by the government to support businesses that had shut down completely or partially. The first measures deployed covered the lockdown period from March 15 to June 30, 2020. These are:

- The allocation of a fixed monthly allowance for employees of companies affiliated to the National Social Security Fund (CNSS) and the payment of expenses for the compulsory health insurance (AMO) scheme and family allowances;
- The reduction of the costs of the private company, through the suspension of the payment of social charges, the establishment of a moratorium for the repayment of the maturities of bank loans and leasing and the possibility of postponement of maturities tax for companies whose turnover is less than 20 million dirhams;
- Support for the company's cash flow, by providing for a guarantee mechanism that covers current charges that cannot be deferred (called DAMAN OXYGENE);
- Support for access to bank credit, by lowering the central bank's key rate and extending the refinancing period based on the integration of operating loans with investment loans;
- Support for companies holding public contracts, by suspending penalties for delays in execution;
- Support for Public Establishments and Enterprises, by providing for flexibility in terms of budget management, support for enterprises whose decline or cessation of activity may jeopardize their financial results and by providing them with financing guaranteed by the state.

These transitional measures are intended for all companies, regardless of their size or sector of activity, with the exception of mechanisms specifically dedicated to PEEs or companies holding public contracts.

The adoption on July 20, 2020 of an amending Finance Law added to the arsenal of measures previously implemented by new measures assigned to revitalize economic activity and help the company to gradually resume its activities under suitable conditions of health security and job preservation. It is:

- Strengthen the mechanism for guaranteeing the financing of private companies by setting up two additional mechanisms addressed to very small businesses, SMEs and large companies, and making it possible to finance working capital needs over a period of 7 years with a deadline of grace of 2 years (baptized DAMAN TPE and DAMAN RELANCE);
- Reduce the costs of private companies, by authorizing the recognition of the contribution to the Covid-19 fund as a deductible charge from taxable income spread over 5 years;
- Operationalize the national preference mechanisms by providing administrative and fiscal support for products of Moroccan origin, prioritizing the national reference within the framework of public procurement (foreign offers being increased by 15% in the consultation regulations) and the substitution of certain imports by local production, by increasing their import duties from 30% to 40%;
- Provide specific support to sectors within a contractual framework, subject to the preservation of at least 80% of the employees declared to the CNSS and the regularization of undeclared employees.

This system of public aid to companies raises a few observations based on the principles of competition:

1. By taking care to prevent the upheavals of supply and demand resulting from the exit from the markets of companies deemed efficient before the crisis, this system seeks to establish clear and transparent rules to prevent companies from being unfairly disadvantaged. That said, the rigorous eligibility conditions established for this purpose have in practice favored a selection effect which keeps out of the way a part of the productive fabric considered to be little affected by the crisis. Indeed, several companies subjected to structural obstacles before the crisis were able to benefit from this aid. This form of inequity in the granting of public aid risks generating rent positions in a particular context where even the most productive enterprises are at a disadvantage;
2. While the incentive model put in place prioritizes companies negatively impacted by the health crisis, the 'burden of proof' to identify the companies concerned necessarily falls on the public authorities, either directly through their control bodies, or via intermediary actors, such as banks for financing guaranteed by the State. In this process, the prevention of moral hazard situations and opportunistic behavior has the same importance as the legitimate objectives of general interest of health security, the preservation of jobs and the revival of the economy;
3. Backing up public aid mechanisms dedicated to relaunching the economy on sector exit strategies implies the establishment of clear, objective, temporary and applicable rules for all companies in the same sector . In their absence, these strategies risk leading to disorderly exits and damage to competition. As such, the recovery of the economy after the lockdown

period was based on measures still in use, or even maintained until 2021 for some of them, which risks exacerbating the dependence of certain companies on aid and curb competitiveness and innovation.

C. The New Deal of mergers and acquisitions

The reestablishment of market mechanisms following the disruptions in supply and demand caused by the Covid-19 pandemic is one of the major challenges that governments around the world have set for the year 2020.

This necessarily implies the strengthening of 'effective competition', able to ensure a fair and inclusive recovery, which is based in particular on the identification of mergers and acquisitions likely to significantly hamper it.

To this end, several studies from international organizations such as the OECD, the World Bank and UNCTAD have warned against a probable increase in the level of merger in the markets, during and after the health crisis.

This consequence is fundamentally linked to the strategies of companies, in particular multinationals, giving rise either to 'rescue mergers' through the acquisition of companies in financial difficulty or at risk of going bankrupt, or to mergers and acquisitions, SMEs or start-ups with high growth potential.

The usual vectors of mergers and acquisitions will tend to be transmitted more quickly with the gradual lifting of restrictive measures on a global scale, particularly the movement of factors and the reorganization of production stages.

These will manifest themselves in relocations involving shorter and less fragmented value chains. They will promote diversification of economic activities, with the emergence of new market entrants. Finally, they will lead to a transition from global investments in search of efficiency to regional investments in search of new markets.

According to UNCTAD, the effects of these economic mergers on the competitive state of markets are threefold:

- Damage to competitive mechanisms, where mergers become sources of anti-competition practices, abuse of dominant positions and consumer exploitation strategies, in particular through a sharp and significant increase in prices;
- The modification of market structures, by the appearance of new dominant players for whom the crisis will have been a windfall to absorb companies weakened by the context, or companies tempted to reorganize the structure of sectors, by concluding 'agreements of crisis' that restrict production and / or capacity;

- The dissemination of efficiency gains for businesses and advantages for consumers, by generating 'legitimate' cooperation agreements, conducive to achieving the 'total surplus'.

Morocco is not immune to the changes taking place in the global economic environment following this health crisis. The resumption after the gradual lifting of restrictive measures on the movement of people and on working conditions was difficult in several sectors, in particular in the secondary and tertiary sectors.

Many companies have found themselves forced to reduce their production capacities in order to stay in the market, due to financial failures or low order books.

Such an environment constitutes fertile ground for economic mergers, both for national companies wishing to increase their power in the markets, and for foreign companies attracted by the prospects of growth or profit in certain markets in the medium and long term.

However, a fair and inclusive recovery of the Moroccan economy seems to be conditioned by a set of prerequisites necessary for market governance in the presence of this new generation of mergers and acquisitions:

- Strengthen 'ex ante' regulation making it possible to 'dictate' behavior to build markets and sectors, through the enrichment of existing merger control procedures by a procedure for examining the 'failing company' in the event of rescue mergers. These are generally of an urgent nature and can therefore obscure the real intentions of companies;
- Remain vigilant with regard to any permissive attitude towards mergers and acquisitions in times of crisis, which can result in an 'under-application' of competition law. Such a situation can lead to an increase in mergers that are not beneficial for the Moroccan economy. It therefore becomes important to exercise a continuum between ex ante regulation (control of mergers and acquisitions) and ex post regulation (sanction of anti-competition practices);
- Regularly observe the levels of market mergers and their variation in the light of cyclical fluctuations in the national economy;
- Promote agreements intended to stabilize prices and production levels, bearing in mind that these increased in Morocco during the health crisis, under the aegis of various ministerial departments, in order to guarantee the availability of sufficient quantities of foodstuffs, and protective equipment and without price abuse;
- Analyze the nature of the dominant capital within the authorized mergers (national, foreign or mixed), as part of a watch on the reorganization of the geographical and sector distribution of production activities allowed by the new relocations;
- Analyze the sector 'exit strategies' put in place by the government to support sectors in difficulty and judge whether they favor an extension of mergers and acquisitions and a change in their forms.

* * *

In a particular global context, the cyclical dynamics of the markets were marked by salient breaking points which upset the state of competition. These changes have taken place at two levels:

1. At the level of the dynamics of mergers and acquisitions, with a tendency towards a decrease in the number of mergers at the start of the pandemic. This is explained by the operational constraints imposed by the lockdown and the uncertainties about the global economic situation. It was also engendered by the 'cautious' approach adopted by the competition authorities with regard to cartel and merger movements. The economic recovery that began in several countries from the end of the 2nd quarter of 2020 has generated a tendency towards an upsurge in mergers, in particular due to a process of 'natural selection' giving rise to the disappearance of the most fragile companies and a propensity of the most resilient firms to carry out 'rescue mergers';
2. At the level of the behavior of the public authorities, forced to arbitrate between the need to maintain efficient supply chains in the context of the economic slowdown and the maintenance of the proper functioning of markets and competition. However, managing the way out of the crisis and the strength of the expected economic rebound turned out to be dependent on the targeting and sequencing of government intervention.

The interdependence of the Moroccan economy with the rest of the world has systematically spread the changes observed on a global scale on Moroccan markets, thus impacting their functioning and their competitive dynamics, but also on the behavior of economic agents and the levels of price.

The first market sectors to have undergone upheavals in supply and demand are those of essential goods and services. Indeed, the strict containment measures have favored

demand pressure on supply which has prompted the government to anticipate possible shortages or supply difficulties in the markets.

Nevertheless, the sectors that have suffered the most during the lockdown period are those whose production depends on direct physical contact with consumption, where supply has significantly weakened due to the inertia of demand (sectors of hotels and restaurants, transport sectors, trade in non-essential goods and services, etc.), then those whose production is based on intermediate consumption supplied mainly by the flow of international trade in goods and services (several branches of processing industries).

The resumption of economic activity in Morocco, following the gradual lifting of restrictive measures, has certainly mitigated the extent of the decline in the main productive sectors, but has not allowed the affected sectors to regain their dynamism before the crisis, due to insufficient demand.

Regarding the general price level, the 'spontaneous' rebalancing of supply and demand has made it possible to consolidate price levels for several categories of goods and services. However, the measures taken by public bodies to govern the price instability have been decisive for essential products. Indeed, several actions have been adopted either to stabilize them, in particular by curbing the availability of products, or to reduce the effects of their instability, by means of the rigorous control of the prices recorded on the markets and the anticipation of speculative practices .

In addition, direct and indirect public aid granted to businesses has been converted, with the onset of the health crisis, into mechanisms intended to support the gradual resumption of economic activity and the preservation of jobs.

However, their attribution was confronted with the requirement of a standardization of the rules of the game on the markets and the dissemination of the principles of 'competitive neutrality' and 'The horizontality of the measures'.

To this end, it emerges that the aid mechanisms mobilized by the government have endeavored to establish clear and transparent rules. However, the stringent eligibility conditions favored in practice a selection effect keeping part of the productive fabric aside, deemed to have been little impacted by the crisis.

In addition, the implementation of a 'burden of proof', in order to prevent situations of moral hazard and opportunistic behavior, did not seem to have, for the public authorities, the same importance as health security, the preservation of jobs and the revival of the economy, although together they constitute objectives of general interest.

Finally, while the timing of public aid measures has been largely respected for those dedicated to mitigating the effects of containment, the recovery of the economy is based on measures in use and planned for the year 2021.

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PART

Review of the activities
of the Competition
Council

I. Market regulation

A. Overview

Despite the unprecedented situation linked to the Covid-19 crisis, which affected the activity of competition authorities around the world, particularly in terms of the control of mergers and acquisitions, the Competition Council maintained sustained activity for the 2020 financial year. It thus issued 82 decisions and opinions.

The year 2020 was also marked by the press release from the Royal Cabinet, dated July 28, 2020, establishing an ad-hoc committee to conduct the necessary investigations to clarify the situation concerning the hydrocarbons file, following two notes received by His Majesty King Mohammed VI, may God assist Him, emanating respectively from the President of the Competition Council and several members of the said Council.

This honorable Commission has been instructed to submit to His Majesty's Very High Attention a detailed report on the subject.

Press release from the Royal Cabinet of July 28, 2020

'His Majesty the King, may God assist him, received on Thursday July 23, 2020 a note from the President of the Competition Council relating to 'the Council's decision' on 'possible agreements between oil companies and the Petroleum Group of Morocco'. In this note, the president brings to the Closest Attention of His Majesty the King the content of 'the decision adopted by the plenary session, on Wednesday July 22 by 12 votes for and 1 vote against', to impose a financial penalty of '9% of annual turnover in Morocco' on the 3 leading distributors and a lower amount on the other companies.

His Majesty the King received, this Tuesday July 28, 2020, a second note from the same President of the Competition Council on the same subject wherein the interested party informs His Majesty the King of the 'amount of sanctions imposed' on distributors during the plenary session on July 27. This time, the amount is set at 8% of annual turnover without distinction between companies and without any indication of the distribution of votes.

In addition, the Sovereign also received on July 28, 2020 a file from several members of the Council in which the latter noted that the 'handling of this file has been marked by procedural transgressions and actions on the part of the president that mar the quality and impartiality of the decision taken by the Council.' Wherein the signatories raise the following referrals:

- Communication damaging to the examination of the case and to the credibility of the Council;
- Forced passage to the vote before closure of debate;
- Truncated interpretation and violation of Article 39 of the law on the freedom of prices and competition;
- Opacity of the investigation procedure, marked by selective sharing of documents;
- Failure to satisfy members' requests for a balanced review of arguments put forward by the companies;
- Behavior of the president which suggests he is acting on instructions or according to a personal agenda.

In view of the foregoing and the confusion surrounding this file and the contradictory versions presented, His Majesty the King, may God assist Him, firmly attached to the independence and credibility of institutions and guarantor of their good functioning, decided to set up an ad-hoc commission responsible for carrying out the investigations needed to clarify the situation and to submit to His Highest Attention a detailed report on the subject as soon as possible.

The Sovereign was good enough to appoint as members of the said commission the following senior officials:

- The 2 presidents of the chambers of Parliament;
- The president of the Constitutional Court;
- The president of the Court of Auditors;
- The Wali of the Bank Al Maghrib;
- The president of the Authority for probity, prevention and the fight against corruption.

The task of coordination will be carried out by the Secretary General of the Government.

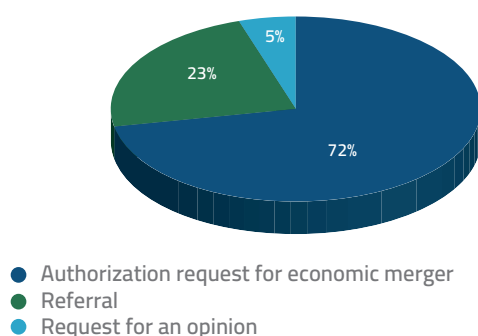
The report for 2020 covers all the fields of competence of the Council, as provided for by Art. 166 of the constitution, the provisions of Law No. 104.12 relating to the freedom of prices and competition and Law No. 20.13 relating to the Competition Council, as well as the texts adopted for their application. These are the control of mergers and acquisitions, contentious referrals and requests for opinions falling within the frame of its advisory duties. On this basis, the breakdown of the 82 decisions and opinions is as follows:

Table n°7 : Decisions rendered by the Competition Council in 2020

| TYPE OF FILES | NUMBER OF FILES | DELIBERANT BODY |
|---|-----------------|--------------------|
| Decisions on mergers and acquisitions | 59 | Standing committee |
| Decisions rendered in contentious matters | 19 | Standing committee |
| Avis | 4 | Plenary session |
| Total | 82 | |

Treatment of mergers and acquisitions ranks first of the Council's decision-making practices with a total of 59 decisions in 2020, i.e. 72% of total decisions and opinions rendered, with nearly 28% for litigation and advisory activities (19 decisions and 4 opinions).

Graph n° 14: Percentage of decisions rendered by the Competition Council in 2020



In addition, it should be noted that the decisions and opinions delivered in 2020 relate to cases received in 2020 as well as those from previous years: 21 cases from 2019 and two relating to the previous period to November 2018, date of reactivation of the Competition Council.

For the purposes of investigating these files, and in accordance with the provisions of Articles 16 of law 20.13 relating to the Competition Council and 18, 19 and 20 of the application decree of Law 104.12, several investigations were carried out (hearings, requests for information, market tests, etc.).

For the hearings, the Council's investigators held around 100 with entities concerned by the notified project in order to examine aspects related to the notified mergers and their impact on competition in the markets concerned (horizontal, vertical and conglomerate effects, etc.).

In the epidemiological context linked to Covid-19, and as a health precaution, all hearings organized by the management of the instructions since the declaration of the health emergency were held by videoconference.

Also, when certain transnational mergers and acquisitions which cover several jurisdictions in their spectrum were examined, the investigation services of the Competition Council consulted with other competition authorities at a comparative level. These are the French Competition Authority (Draka Filica Merger), the European Commission (Veolia-Suez) and the Egyptian Competition Authority (Careem - Uber).

B. Control of mergers and acquisitions

Controlling mergers and acquisitions plays an important part in the activity of the Competition Council, as they represent 72% of the overall volume of decisions of the Competition Council gathered under its different divisions. Analysis of the statistics shows that authorized mergers and acquisitions in 2020 involved financial commitments (transaction amounts) of MAD 431.769.376, with MAD 3.529.834 linked to investments involving Moroccan capital (i.e. 0.82% of total transactions).

In 2019, commitments of mergers and acquisitions authorized by the Competition Council amounted to MAD 897.969,9 millions, i.e. more than double the commitments posted in 2020 in the context of the health crisis.

Regarding the objectives of the mergers and acquisitions authorized in 2020, more than half of these projects were motivated by ambitions of market diversification and strengthening of positioning. Reasons relating to strengthening competitiveness were also put forward, in particular through the initiation of joint R&D projects or increasing specializations in the value chain (27% of projects). To a lesser extent, some projects were part of the refocusing of activity on strategic areas or even seeking benefits to be drawn from other synergies.

1. Nature of decisions rendered on mergers and acquisitions

Depending on the nature of decisions rendered by the Competition Council in 2020, and on a total of 59 authorized mergers and acquisitions:

- i. Fifty-five (55) operations were authorized in the first control phase within a period not exceeding 60 days from completion of the file;
- ii. One (1) transaction authorized after being referred for further consideration;
- iii. Two (2) mergers and acquisitions declared non-notifiable, within the meaning of Article 11 of Law No.104.12. This is a case 1) of internal reorganization within the frame of the project borne by the company Cooper Pharma and 2) of an intragroup investment (a purely internal operation) in the case of the creation of the company 'Parc Eolien de Ghrad Jrad';

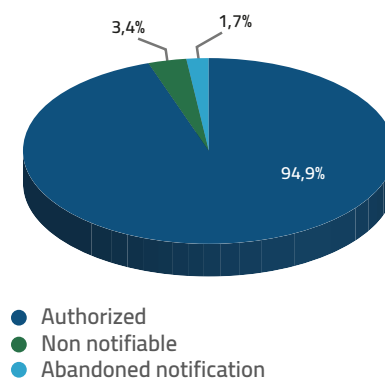
- iv. One (1) decision noting the abandonment of the in-depth examination initiated by the Council following withdrawal of notification by the parties for failure to fulfil suspension conditions agreed under the sales contract signed between the parties.

It should also be noted that the Council, for one of the authorized operations and after examination, had to grant a derogation from the suspension of control of mergers and acquisitions in accordance with the provisions of article 13 of the law 104.12².

Table n°8: Breakdown of mergers and acquisitions authorized in 2020 by type of decisions rendered (in number)

| NATURE OF DECISIONS | NUMBER OF FILES |
|---|-----------------|
| Authorization decisions | 56 |
| Non-notifiability decisions | 2 |
| Decision noting the abandonment of the review of an economic merger | 1 |
| Total | 59 |

Graph n° 15: Breakdown of mergers and acquisitions authorized in 2020 by type of decisions rendered (in percentage)



2. Typology of mergers and acquisitions examined

The breakdown of decisions rendered by the Competition Council in matters of mergers and acquisitions by type of operation shows that the form of merger and acquisition favored remains takeovers, which constitute 88% with 52 notified projects. Almost 73% of these transactions consist of acquisitions of exclusive control (43 notifications).

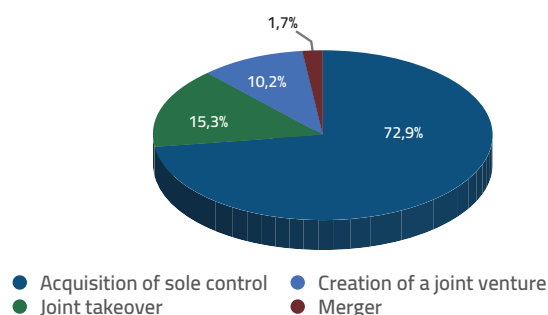
² Decision of the Competition Council n° 56 / D / 2020 dated August 31, 2020 relating to the request for exemption provided for by the 2nd paragraph of Article 14 of law n° 104.12 relating to freedom of prices and competition.

Creation of the joint venture concerned 6 authorized notifications, representing a share of 10.20% of the total authorized among mergers and acquisitions.

Table n°9: Breakdown of authorized mergers and acquisitions in 2020 according to typology (in number)

| TYOLOGY OF ECONOMIC MW | NUMBER OF FILES |
|-----------------------------|-----------------|
| Acquisition of sole control | 43 |
| Joint takeover | 9 |
| Joint venture creation | 6 |
| Merger | 1 |
| Total | 59 |

Graph n° 16: Breakdown of authorized mergers and acquisitions in 2020 according to typology (in percentage)



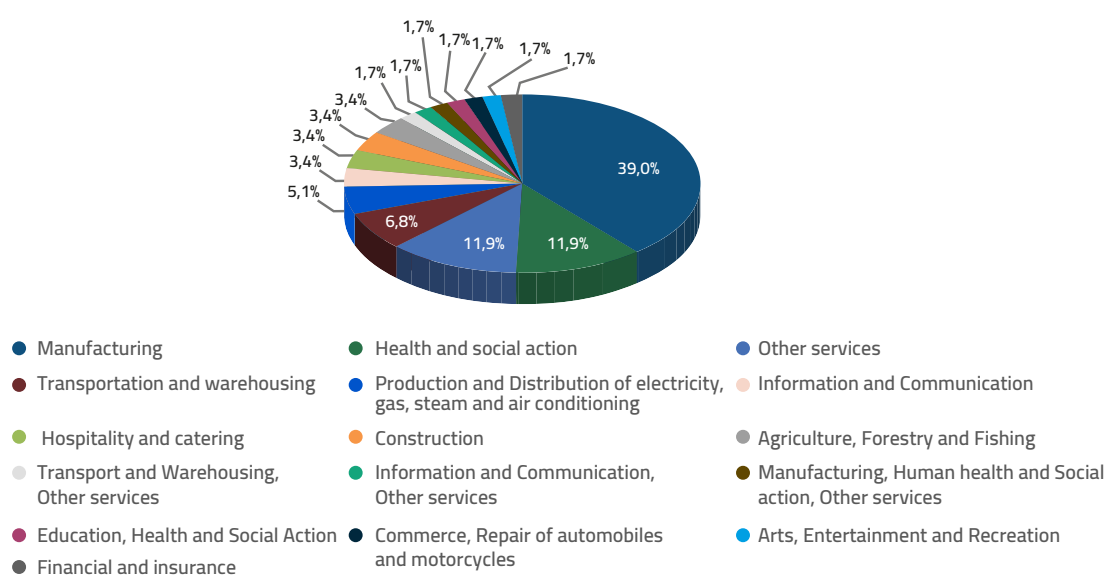
3. Sector distribution of mergers and acquisitions

Most mergers and acquisitions authorized by the Competition Council for the year 2020 come from manufacturing industries which alone account for nearly 38.9% of authorizations granted. The Health and Social Action sector is in second place, with 7 projects, or nearly 12% of authorized mergers.

Table n° 10: Sector distribution of authorized mergers and acquisitions in 2020 (in number)

| TPOLOGY OF MERGERS AND ACQUISITIONS | NUMBER OF FILES |
|--|-----------------|
| Manufacturing | 23 |
| Human health and social action | 7 |
| Other service activities | 7 |
| Transportation and warehousing | 4 |
| Production and Distribution of electricity, gas, steam and air conditioning | 3 |
| Information and communication | 2 |
| Hospitality and catering | 2 |
| Agriculture, Forestry and Fishing | 2 |
| Construction | 2 |
| Transport and Warehousing, Other services | 1 |
| Information and Communication, Other service activities | 1 |
| Manufacturing industry, Health and social action, Other activities of services | 1 |
| Education, Health and Social Action | 1 |
| Trade, Repair of automobiles and motorcycles | 1 |
| Arts, Entertainment and Recreation | 1 |
| Total | 59 |

Graph n° 17: Sector distribution of authorized mergers and acquisitions in 2020 (in percentage)



4. Breakdown of mergers and acquisitions according to volume of activity of the parties

In accordance with the provisions of Law No. 104.12 relating to freedom of prices and competition and Decree No. 2-14-652 adopted for its application, the obligation to notify mergers and acquisitions to the Competition Council applies when one of the following three conditions is met:

- Worldwide tax-free turnover of all companies concerned is greater than or equal to 750 million dirhams;
- Tax-free turnover in Morocco of at least two of the companies concerned is greater than or equal to 250 million dirhams;
- Market share is greater than 40% of volume of sales, purchases or other transactions on the national market for goods, products or services of the same or substitutable nature, or on a substantial part of it, during the previous year.

With regard to these thresholds, the listing of mergers and acquisitions examined in 2020 shows that more than half its total respect the condition of exceeding a national turnover threshold (250 million dirhams), whereas the proportion of authorized mergers and acquisitions meeting a worldwide turnover threshold of MAD 750 million is around 90%.

Table n° 11: Breakdown of authorized mergers and acquisitions in 2020 according to turnover thresholds

| Threshold Morocco | Number | % | World Threshold | Number | % |
|----------------------------|-----------|-------------|----------------------------|-----------|-------------|
| Turnover less than 250 MDH | 29 | 49,2% | Turnover less than 750 MDH | 6 | 10,2% |
| Turnover over 250 MDH | 30 | 50,8% | Turnover over 750 MDH | 53 | 89,8% |
| TOTAL | 59 | 100% | TOTAL | 59 | 100% |

Comparing notification thresholds applicable to both the Moroccan market and the rest of the world, makes it possible to note that out of 30 notifications whose parties achieved a turnover on the Moroccan market exceeding the threshold of MAD 250 million, a proportion of 26 operations were by parties whose world turnover exceeds MAD 750 million.

Table n° 12: Cross-distribution of mergers and acquisitions authorized in 2020 according to the turnover thresholds for Morocco and the rest of the world

| | | World Threshold | | | | Cumulative 2020 | |
|-------------------|----------------------------|---------------------|---------------|-----------------------|---------------|-----------------|-------------|
| | | A less than 750 MDH | | Turnover over 750 MDH | | TOTAL | |
| Threshold Morocco | Turnover less than 250 MDH | Number | % | Number | % | Number | % |
| | | | | 2 | 3,39% | 27 | 45,76% |
| | | 4 | 6,78% | 26 | 44,07% | 30 | 50,85% |
| TOTAL | | 6 | 10,17% | 53 | 89,83% | 59 | 100% |

The two mergers and acquisitions where the parties achieve a volume of activity on the national market and in the world less than the notification thresholds decreed were notifiable with regard to the third criterion of market share and authorized after examination.

5. Breakdown of mergers and acquisitions according to origin of capital of the parties concerned

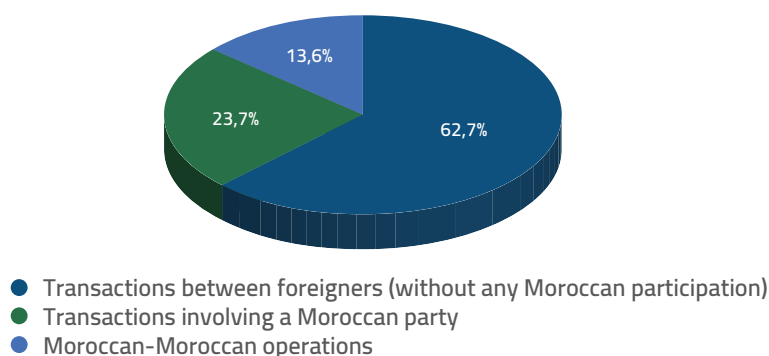
Authorized mergers and acquisitions during the year 2020 and distributed according to country of origin of the stakeholders' capital mainly include international operations without Moroccan participation (37 operations representing nearly 63% of the authorized total). For these operations, more than 428.407,402 million MAD were mobilized, particularly in manufacturing industries (half of the operations undertaken by foreign parties).

Transactions partnering companies incorporated under Moroccan law with foreign companies involved 14 decisions, or nearly 24% of total authorized mergers and acquisitions.

Table n° 13: Breakdown of mergers and acquisitions authorized in 2020 according to the origin of capital invested (in number)

| BREAKDOWN OF MERGERS AND ACQUISITIONS ACCORDING TO THE ORIGIN OF CAPITAL | NUMBER OF FILES |
|--|-----------------|
| Transactions between foreigners (without any Moroccan participation) | 37 |
| Transactions involving a Moroccan party | 14 |
| Moroccan-Moroccan operations | 8 |
| Total | 59 |

Graph n° 18: Breakdown of authorized mergers and acquisitions in 2020 according to origin of the capital invested (in percentage)



C. Contentious referrals

For the year 2020, the Competition Council issued 19 decisions on litigation files. It should be recalled that, in accordance with the provisions of Article 1 of Law No. 20.13, the Competition Council has decision-making power in matters of anti-competition practices and may be referred to in this context by the entities provided for in Article 2 of the above-mentioned law.

1. Nature of decisions issued

By nature of the decisions issued, all referrals closed during the year 2020 were declared inadmissible due to the lack of quality of action by the plaintiff party or the Council's lack of jurisdiction as to the subject of the referral.

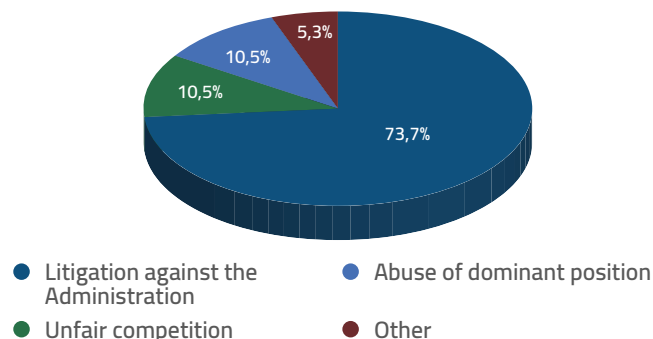
2. Typology of referrals

74% of the referrals that the Competition council received and reviewed in 2020 were concerned with litigation issues against the Government, whereas the remaining 26% focused on abuse of dominant position and unfair competition.

Table n° 14: Typology of referrals (in number)

| TYPOLOGY OF SEIZURES | NUMBER OF FILES |
|---------------------------------------|-----------------|
| Litigation against the Administration | 14 |
| Abuse of dominant position | 2 |
| Unfair competition | 2 |
| Others | 1 |
| Total | 19 |

Graph n° 19: Typology of referrals (in percentage)



Of the 14 referrals involving litigation against the Administration, 12 concerned public procurement.

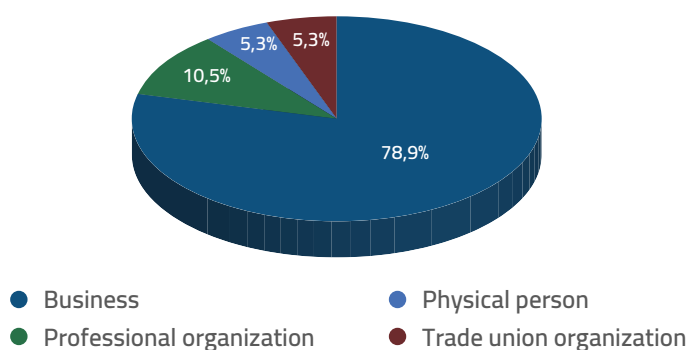
3. Profile of plaintiffs

The referrals examined by the Competition Council in 2020 mainly came from companies and professional organizations respectively, in the ratios of 78.9% and 10.5%.

Table n° 15: Profile of plaintiffs (in number)

| PROFILE OF SIGNIFICANT PARTIES | NUMBER OF FILES |
|--------------------------------|-----------------|
| Business | 15 |
| Professional organization | 2 |
| Physical person | 1 |
| Trade union organization | 1 |
| Total | 19 |

Graph n° 20: Breakdown of referrals issued in 2020 by user profile (in percentage)



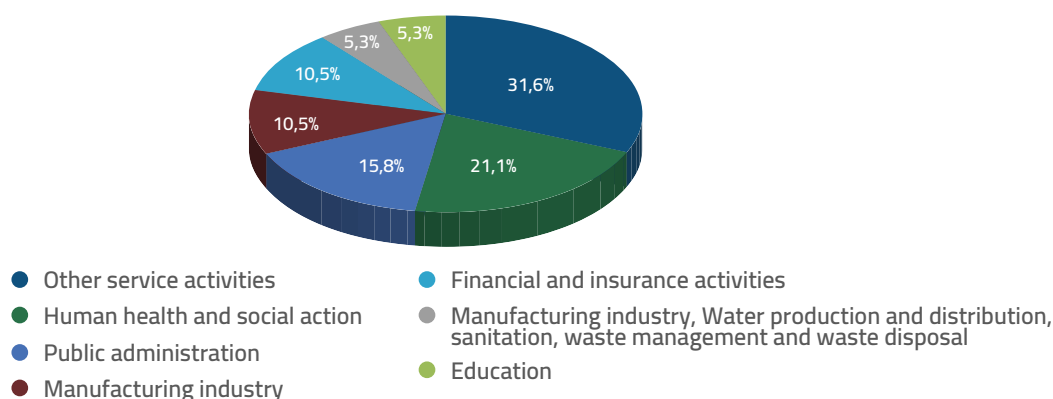
4. Sector distribution of referrals

Essentially, the referrals on which the Competition Council ruled in 2020 concerned, in order of importance, the services sector and health and social action, which represent, in aggregate, more than half of the referrals decided.

Table n° 16: Sector distribution of referrals decided in 2020 (in number)

| PROFILE OF SIGNIFICANT PARTIES | NUMBER OF FILES |
|---|-----------------|
| Human health and social action | 4 |
| Public administration | 3 |
| Manufacturing | 2 |
| Financial and insurance | 2 |
| Manufacturing industry, Water production and distribution, sanitation, waste management and pollution control | 1 |
| Education | 6 |
| Other service activities | 19 |

Graph n° 21: Sector distribution of referrals decided in 2020 (in percentage)



D. Requests for opinions

For the 2020 financial year, the Competition Council responded to 4 requests for opinions, including two dating from the period prior to the reactivation of the deliberative bodies of the Competition Council. These are the opinions on electronic payments and medications.

1. Nature of the opinions issued

Of the 4 requests for opinions received by the 2020 Competition Council, only 3 opinions were issued while one request was deemed inadmissible.

2. Typology of opinions issued

The opinions issued focused in particular on the examination of questions of principle on competition (three cases) and one opinion concerned a consultation relating to a legislative text.

3. Profile of plaintiff parties

The profile of requesting parties shows two requests for opinions were sent to the Competition Council by professional organizations, one by the Government and the fourth by a trade union organization.

Table n° 17: Breakdown of opinions issued in 2020 according to profile of the requesting parties (in number)

| BREAKDOWN OF OPINIONS ISSUED | NUMBER OF FILES |
|------------------------------|-----------------|
| Professional organization | 2 |
| Trade union organization | 1 |
| Government | 1 |
| Total | 4 |

4. Sector breakdown of opinions issued

Among the opinions issued by the Competition Council in 2020, two concerned the financial activities and insurance sector.

Table n° 18: Distribution by sector of opinions issued in 2020 (in number)

| BREAKDOWN OF NOTICES ISSUED | NUMBER OF FILES |
|------------------------------------|-----------------|
| Financial and insurance activities | 2 |
| Human health and social action | 1 |
| Other service activities | 1 |
| Total | 4 |

E. Opinions delivered by the Competition Council in 2020

- The opinion of the Competition Council No. A.1.2020 relating to the draft order of the Minister of the Economy, Finance and Reform of the Administration issued in application of certain provisions of the law n° 17.99 on the Insurance Code, relating to the guarantee against consequences of catastrophic events referred to in article 64-1 of the same law.

a. Presentation of the request for an opinion

The Competition Council was notified by the Head of Government on November 21, 2019 to deliver its opinion on the draft order of the Minister of the Economy, Finance and Reform of the Administration adopted in application of certain provisions of Law No. 17.99 relating to the Insurance Code, relating to the guarantee against the consequences of catastrophic events referred to in Article 64-1 of the same law, and its compliance with the provisions of Law No. 104.12 relating to freedom of prices and competition.

This ministerial decree constitutes the final step in the process of implementing the system for covering the consequences of catastrophic events instituted by Law No. 110.14, and which aims to cover risks related not only to natural disasters such as floods, earthquakes and tsunamis, but also to those linked to violent human action, such as terrorism and riots or popular movements.

The costs incurred by the funding of this universal coverage scheme were shared between two population groups:

- Insurer population: with a non-life insurance contract (mainly car and home insurance) to which additional premiums will be applied.
- Beneficiary population: it is made up of all individuals present in the national territory and not having an insurance contract.

b. Legal analysis of the admissibility of the request for an opinion

This draft decree comes into application of the provisions of decree n°2.19.599 amending and supplementing decree n°2.18.1009 taken in application of the Insurance Code, which has empowered the government authority in charge of finance to set certain provisions relating to the guarantee against the consequences of catastrophic events, introduced by law n° 110.14 instituting a plan to cover the consequences of catastrophic events and amending and supplementing law n° 17.99 on the Insurance Code.

Moreover, and to ensure that this request for an opinion from the Head of Government falls within the framework of the powers of the Competition Council, as defined by Law No.20.13 and its implementing decree, the Council carried out a legal analysis of this request for an opinion in terms of form and substance.

On the Form: With regard to a request for an opinion on the examination of the conformity of a draft regulatory text with the provisions of Law No.104.12 relating to freedom of prices and competition, the Competition Council analysed this request within the context of its advisory powers, as defined by the provisions of Article 7 of law n°20.13. Consequently, this request for an opinion was considered to be formally admissible.

On the Merits: It should first be noted that the insurance sector has been fully liberalized since July 6, 2006, the date from which insurance premiums are no longer part of the list of products and services for which prices are regulated, in accordance with the provisions of the 2nd and 3rd paragraph of Article 83 of the former Law No. 06.99 on freedom of prices and competition.

Consequently, premiums or contributions relating to the guarantee against the consequences of catastrophic events as well as commission rates for the presentation of insurance operations under said guarantee are free and subject to the rules of the free play of competition.

However, and without prior compulsory consultation of the Competition Council provided for in Article 7 of Law No.20.13 mentioned above, this freedom has been reduced since August 25, 2016 and legislators have introduced the setting of the related premiums or contributions to the guarantee against consequences of catastrophic events as well as commission rates for the presentation of insurance operations under the said guarantee, in accordance with Article 248-2 of law n° 17.99 on the Insurance Code, which stipulates that: 'Notwithstanding any legislative and

regulatory provisions to the contrary, premiums or contributions relating to the guarantee against consequences of catastrophic events provided for in Article 64-1 above, as well as commission rates for the presentation insurance operations under the said guarantee are set by regulation following the proposal of the Authority'.

It should be remembered that the draft decree submitted to the Competition Council falls within the context of the application of the provisions of the above Article.

It emerges from the content of the draft decree in question submitted to the Competition Council that its objective is to set the premiums, contributions and commission rates that will be applied with regard to the guarantee against the consequences of catastrophic events, knowing that the principle of setting these premiums by regulation has already been adopted under the aforementioned law. This means that this law constitutes the most recent exception to the principle of freedom of prices vis-à-vis premiums, contributions and commission rates applied in terms of guarantees against the consequences of catastrophic events.

It should also be remembered that even if this law was promulgated without a request for an opinion from the Competition Council, in the absence of its legal composition at the time, the draft decree, submitted to the Council and published in the Official Bulletin on 4 jomada 1441 (December 30, 2019), is sufficient for fixing the amounts mentioned.

The Competition Council thus considered that insertion of the guarantee against the consequences of catastrophic events and insurance operations relating to this guarantee in the list of goods, products and services whose prices are regulated has been regulated by Law n°110.14. Consequently, it was adjudged that the draft decree submitted to the Competition Council by the Government does not require its opinion.

2. **Opinion of the Competition Council No. A.2.2020 concerning the referral from the Minister of the Economy, Finance and Reform of the Administration, relating to the fixing of prices for hydro-alcoholic gels and sanitary masks**

a. Presentation of the request for an opinion

The Competition Council received a request for an opinion from the Minister of the Economy, Finance and Administrative Reform on 18 Rajab 1441 (13 March 2020) concerning fixing the prices for hydro-alcoholic gels and sanitary masks.

This request for an opinion is part of the application of the provisions of Article 4 of Law No. 104.12, which provides that 'the provisions of Articles 2 and 3 above do not prevent temporary measures being taken by the administration, after consultation with the Competition Council, against excessive price increases or decreases caused by exceptional circumstances, a public calamity or a manifestly abnormal market situation in a given sector. Application of these policies may not exceed six (6) months, extendable only once by the administration'.

b. Analysis of the request for an opinion

In application of the provisions of Article 4 of decree n° 2.14.652 of 8 safar 1436 (December 1, 2014) made for application of law n° 104.12 on the freedom of prices and competition, 'Consultations with the Competition council provided for by articles 3 and 4 of the aforementioned Law n° 104.12 are made by the head of government or the governmental authority delegated by him for this purpose. When it comes to price fixing under Article 3 of the aforementioned Law No. 104.12, the opinion of the Competition Council must be given within a maximum period of two months. This period is reduced to one month when it concerns the enactment of temporary measures taken under Article 4 of that law. However, when it comes to exceptional situations requiring urgent intervention, the head of government or the government authority delegated by him for this purpose may ask the Competition Council to give its opinion within a short period of time, the duration of which is fixed in the letter of referral to the said Council'.

Indeed, price regulation in all its forms (fixing minimum price, maximum price, cap on margins, etc.) falls within the competence of the Government, provided that the legal provisions in force are respected. Law No. 104.12 relating to freedom of prices and competition enshrines the principle of freedom of prices, while allowing the Government to derogate from this principle on an exceptional basis in certain cases established by law.

Consultation with the Competition Council by the Ministry of the Economy, Finance and Reform of the Administration aims to assess the conformity of the decision to fix prices of hydro-alcoholic gels and sanitary masks which will be adopted by the government, under the provisions of Article 4 of the law which provide two essential conditions for this purpose :

1. Excessive price increases or decreases;
2. Excessive increases or decreases caused by exceptional circumstances as provided for in the above Article.

It emerges from the content of the request for advice and from objective market data that there is speculation on the prices of these two products as a result of the increase in relative demand, nationally and internationally because of the spread of the Covid-19 pandemic. Consequently, the first condition provided for in Article 4 above is fulfilled.

Legislators have set, on an exclusive and non-indicative basis, the list of reasons which may justify recourse to the temporary policies provided for in the same article. These are: (a) exceptional circumstances, (b) a public calamity or (c) a manifestly abnormal market situation in a given sector.

'Exceptional circumstances' can be defined as abnormal or unforeseeable events which could adversely affect the market, and which necessitate immediate intervention by public authorities in order to stem an inflationary trend, such as a shortage of products or an excessive increase in their prices.

A 'public calamity' can be defined as an event of a natural or human nature of exceptionally great severity and unpredictable intensity, which can lead to heavy losses.

Given the international and national context linked to the spread of the Covid-19 disease, which has gone from an epidemic to a pandemic according to the description of the World Health Organization (WHO) on March 11, 2020, and resulting human and material losses, the second above-mentioned condition has also been fulfilled.

The policy to be taken by the Government, concerning the fixing of prices of hydro-alcoholic gels and sanitary masks, aims to put an end to speculation resulting from the increase in national and international demand for these two products, within the framework of preventive policies adopted by the public authorities to stem the spread of the Covid-19 pandemic.

In conclusion, the Competition Council declared admissible the request for an Opinion from the Minister of the Economy, Finance and Reform of the Administration, relating to the fixing of prices for hydro-alcoholic gels and sanitary masks, since it fulfils the legal conditions provided for by Article 4 of law n° 104.12 relating to freedom of prices and competition.

The Competition Council thus recommended the adoption of temporary policies relating to the fixing of prices of hydro-alcoholic gels and sanitary masks for a period not exceeding six (6) months, renewable once.

3. Opinion of the Competition Council No. A.3.2020 relating to the state of competition in e-payment via bankcard market

The Competition Council received a request for an opinion from the National Federation of E-Commerce in Morocco (FNEM) in September 2013 regarding the state of competition in e-commerce in Morocco.

a. The findings of the Competition Council

Examination of this request revealed that the online bank card payment market is marked by various barriers to entry and regulatory legal barriers (certification procedure in order to fight fraud and guarantee protection of personal data), as well as structural and technical barriers. From a competition policy perspective, behaviors relating to barriers to entry constitute the greatest concern, such as barriers to accessing payment systems that may result from the abuse of a dominant position, including a dominant network.

In the case of this request for an opinion, the elements examined by the Competition Council lead us to believe that the CMI (interbank cashless transactions center) currently has a highly dominant position in the e-payment market (market for acquisition and provision of payment services).

This dominant position is not condemnable per se. Only the abusive exercise of such market power could be penalized, such as possible eviction abuses intended to discourage, delay or eliminate competitors (in this case non-bank payment institutions) by procedures that do not fall within the

scope of competition on the basis of merit, and possible abuses of exploitation where exorbitant commissions would be exacted from e-merchants.

In the light of these elements, Bank Al-Maghrib has created conditions conducive to free competition, but effective competition can only result from the strategies and actions of the CMI in this normative and institutional context.

The original operator must therefore assume by its behavior particular responsibility not to undermine effective competition in e-payment via bank card market to the detriment of e-businesses and e-consumers, who must take advantage of competition through lower prices, better quality and a wider choice of new and/or better payment services.

b. Recommendations of the Competition Council

After an in-depth examination of all the issues, the Council was enhanced both by the innovations made and initiatives taken by Bank Al-Maghrib as well as by the lessons learned from the late development by Morocco of electronic commerce. These were highlighted too by the health emergency, and after listening to all stakeholders in this market, as well as the main operators directly or indirectly concerned with e-payment. The Competition Council then issued an opinion accompanied by recommendations aimed at improving free competition in in e-payment via bank card market to offer equal opportunities for this economic act between e-merchants and for the benefit of e-consumers. This will allow all to benefit from the entry and expansion of non-bank payment institutions.

These recommendations aim to overcome obstacles to the development of e-commerce in Morocco and make this sector more competitive, efficient and forward-looking. They focus on the following major areas:

1. Guaranteeing equal treatment between banking and non-banking payment institutions. The aim is to enable them to have non-discriminatory access to inputs and infrastructure, necessary to carry out their payment activities.
2. Removing the conflict of interest situation of the CMI in matters of approval, in order to overcome obstacles to the expansion of approved non-bank payment institutions.
3. Strengthening the negotiating power of the e-merchant. The Competition Council considers it essential to remove obstacles that currently exist for e-merchants in terms of free choice of operator. This would allow e-merchants to freely choose between the CMI which combines its acquirer/PSP activity (single contract) and new non-bank payment institutions approved by Bank Al-Maghrib.
4. Ensuring transparency in the pricing of e-payment services. This could be achieved by informing consumers about the cost to the merchant for using and/or processing e-payments. This would make the true cost of e-payment services less opaque, both for consumers and for merchants.

5. Adjusting the level of the interchange commission with the service offered by the bank. To this end, the Competition Council recommends that:
 - methods adopted for defining the interchange fee must be based on objective criteria and be related to the services offered by the bank, in particular payment security;
 - inter-exchange commission must be calculated so as to reflect the advantages gained by e-merchants by adopting this mode;
 - rules for setting inter-exchange commission must be transparent and justified, in order to allow e-consumers to eliminate any risk of overbilling during card payments, since these commissions are passed on by e-merchants to e-consumers.
6. Guaranteeing a balance between the requirements of payment security and those of maintaining competition public order. The requirement of security should cover an objective of general interest and respect the condition of necessity and proportionality.
7. Restoring free competition between all players in the delivery sector. To this end, the review of Barid Al Maghrib's monopoly and the establishment of a transparent universal postal service financing system appear necessary.
8. Guaranteeing fair competition between formal and informal e-merchants. This requires i) coordination between the actors concerned by this issue to limit the extent of the informal before it predominates in this market and consequently harms free and fair competition in e-commerce, and ii) extension of regular control over formal e-merchants to include informal e-merchants.
9. Rebalancing the national e-advertising market in the face of the economic power of GAFA (Google, Apple, Facebook, Amazon), to preserve the national e-advertising ecosystem from the multiple pressures exerted on them by these digital giant platforms and particularly Facebook and Google. The latter enjoy advertisers' preference because of their knowledge of consumers and their targeting abilities and power.
10. Speeding up publication in the Official Gazette of decisions approving payment institution. While recognizing the real efforts made by the General Secretariat of the Government, the Competition Council recommends permanent monitoring of the speed-up of the process of publication of approval decisions of payment institutions in the Official Gazette of the Kingdom.

Indeed, given the nature of the activity of non-bank payment institutions, and given the scope and speed of transactions in the digital age, rapid publication of approval decisions will not only generate gains for the actors, but it will also improve online banking card services by making them fairer and more efficient, and at the same time promote Morocco's ranking among countries with comparable economies.

4. Opinion of the Competition Council No. A.4.2020 relating to the competition situation in the medications market in Morocco

a. General presentation of the request for an opinion

On March 19, 2013, the Competition Council received a request for an opinion from the Democratic Labor Organization. This request came in a general context where health and, more particularly, medications, have become a decisive socio-economic issue for the future of our country, a finding confirmed by the impacts and requirements of the pandemic of Covid-19.

b. Economic analysis of the medication market

Economic analysis of the national medication market will be structured around the following points: presentation of supply, demand and distribution of medications.

i. The national medication market

The national health sector is marked by low public funding and strong domestic participation.

Total expenditure devoted to the health sector in Morocco has recorded significant development, growing from 15 billion dirhams in 1997/98 to 60 billion dirhams in 2017.

It represents around 5.7% of the national GDP. The share of expenditure allocated to consumption of medications represents nearly 88% of total health expenditure, or the equivalent of 1 498 MAD per capita.

Despite the efforts that have been made to improve health funding in Morocco, its level remains average compared to the guidelines of the World Health Organization, which recommends allocating at least 10% of GDP to the health sector. (the lowest rate being 1.0% and the highest 20.8% of GDP).

Distribution of national health expenditure by source of funding is as follows:

- Households: 29 billion dirhams;
- State: 15.5 billion dirhams;
- AMO: 14 billion dirhams;
- Others (international cooperation, employers, etc.): 1.3 billion dirhams.

Analysis of the data shows that the share of expenditure borne by households is nearly 48.36%, far above the international average which stands at 25% according to the WHO; this constitutes a heavy burden, especially for vulnerable members of the population and largely affects the level of medication consumption.

ii. Analysis of supply and demand

Analysis of supply in the national medication market based on the elements of production and importation in order to cover national demand, shows that the medication sector represents a

considerable saving not only by the turnover generated or direct and indirect jobs created, but above all by the strategic importance of this product for maintaining the good health and well-being of the population.

The national pharmaceutical industry is also notable by the presence of national companies and representatives of multinationals based in Morocco. It has 51 establishments and generates the employment of 50,000 people including 12,000 direct jobs with a management rate of 30%. The sector achieves a turnover of 16 billion dirhams (2019), thus contributing 1.5% of national GDP and 5.2% of industrial GDP and creating annual added value of around 4.6 billion dirhams.

The sector pays the public treasury the equivalent of 0.5 billion dirhams in taxes, contributes 1.2 billion dirhams to exports and annually invests between 700 and 800 million dirhams (over the last five years). According to the Moroccan Association of Pharmaceutical Industry (AMIP) and the Ministry of Health, it meets the national need for medications by manufacturing locally nearly 60% of its needs and importing 40%.

The Moroccan industrial sector is aligned to the best quality standards and is classed as a European zone (EU / WHO, BPF, GMP, ICH, ISO). As a result, Morocco is considered one of the leading countries in Africa.

The private market, which remains the most important, has recorded an average annual growth rate of 8% over the past five years, reaching in 2019 nearly 12.8 billion dirhams in turnover.

Morocco's imports of medications remain much larger than its exports, since they represent nearly 40% of national demand. This situation affects the national trade balance with a deficit of around 5.3 billion dirhams in 2019.

Analysis of demand indicates that the national medication market is small (nearly 36.2 million people), with low purchasing power and limited public funding. The Moroccan medication market amounts to 16 billion dirhams and is made up of two demand segments: 80% comes from demand from the private sector, mainly private pharmacies and clinics, and 20% of demand is generated by public healthcare structures (public, university and military hospitals).

The pharmaceutical sector in Morocco exports about 11% of national production. However, despite the potential of the national pharmaceutical industry in terms of production capacity and high level in terms of quality, exports have changed little and fail to compensate for the continued increase in imports.

As for distribution of medications in the national market, it is based on two circuits, the first is dominant with nearly 84% of medications marketed to wholesale distributors, who themselves rely on pharmacies to bring them to the market available to consumers. The second circuit is secondary and involves the industrial pharmaceutical establishment, allocating 10% of medications directly to clinics and hospitals, while the rest (6% of the market) goes from the laboratory direct to the pharmacy.

c. Competitive analysis of the medication market

The pharmaceutical sector is not a normal market subject to the rules of supply and demand and free competition. It is marked by the intervention of the State through very strict regulations, in order to preserve the health of citizens as a public service, and to guarantee access to medications at a fair price. However, this does not exclude application of the rules of competition law.

At the same time, the Government has put in place several public policies concerning the medications market, with a view to developing accessibility and the industry. Analysis of the current policy shows that it is fragmented and lacks a coherent global vision.

All these specificities mean that demand in this market does not play its natural role as a major lever of competition, since it is not elastic in price, because it is largely taken up by medical coverage.

Therefore, this is a derivative request, since the patient does not directly request medication, but rather responds to a prescription made by a doctor. This is a prescription market.

These prescribed medications, whether they are manufactured locally, imported or intended for export, should obtain a Marketing Authorization (AMM), issued by the Ministry of Health before being marketed or distributed, free of charge or against payment wholesale or retail.

Compared to the old system, reform of the AMM system in 2015 made it possible to record a marked improvement by standardizing the documents required and setting a timetable for examination and granting the AMM which, according to professionals, should guarantee better transparency in the processing of AMM files.

However, this reform has not made it possible to record any change in the granting of marketing authorizations. Conversely, data provided by the Ministry of Health for the years 2016, 2017 and 2018 show significant drops of nearly 51% between 2016 and 2018.

Analysis of these data shows that reform of the AMM grant system has not produced the expected results, although it constitutes an essential and unavoidable lever for boosting competition between laboratories.

Also, delays in obtaining AMMs are too long, according to professionals (24 to 36 months in practice). Despite the reforms introduced, the current system continues to stress accessibility of medications to the market, which affects price levels charged and considerably reduces competition between manufacturers.

In addition, to operate in the medication market healthcare professionals responsible for wholesale and retail production and distribution need to obtain licensing and operating licences. This authorization system is scattered among different organizations and thus constitutes a barrier to entry into the medication market.

Likewise, patent protection is binding on the medication market, thus constituting a barrier to citizens' accessibility to medications. Morocco is required to exploit the exceptions provided for in this system, especially when it comes to harm to public health and to the fight against certain practices that exploit this system of patent protection.

Indeed, the national pharmaceutical industry has significant production potential. It invests more than 800 million dirhams per year, manufacturing a wide range of products (nearly 7394 medications).

This industry is noteworthy for the existence of national and international laboratories that have helped develop local manufacture of medications, both innovative products and generics, to improve access to healthcare. It contributes to meeting nearly 60% of the national demand for medications.

Indicators of the industrial fabric denote a decline in the apparatus of production in several respects, despite the State's proactive policies. Thus, local manufacture of medications hardly exceeds 60% of the market's needs, whereas it occupied 80% in the years before. In addition, trends are against local manufacturing, which is showing an average annual growth of 6% while imports of medications are recording an increase of 11%.

Also the share of exports stagnated at 5% of turnover achieved with an almost absolute dependence on raw materials from China and India.

This situation shows that the national pharmaceutical industry suffers from several bottlenecks which hamper its development, reduce the level of competition between laboratories and deprive Morocco of fully exploiting its potential of becoming a leader in the field of medications ('pharming' country) in Africa.

At the same time, low medication consumption reflects a lack of access. Several factors contribute to the decrease in the consumption of medications by Moroccan citizens. First, Moroccans have weak purchasing power. Secondly, the medical coverage scheme which remains incomplete despite its contribution to the increase in medication consumption since its entry into force in 2006, as it only covers nearly 68.8% of the national population.

Furthermore, State ordering of medications does not make for an optimal contribution to the development of competition between laboratories, and does not sufficiently participate in improving citizens' access to medications.

The medication market appears overall as not being concentrated, given that it is distributed among all laboratories and just the biggest one alone has almost 11% of the market share in value.

Nevertheless, this observation should be put into perspective and take into account the segmentation of the market in therapeutic classes in order to assess the position of each Industrial Pharmaceutical Establishment according to the medications it manufactures and the illnesses treated.

d. Strategic and operational recommendations

The Competition Council has issued proposals for reform policies, the objective of which is to help change the conditions of competition in the national medication market. These proposals revolve around four essential strategic levers:

1. Build an effective national medication ecosystem, supported by a strong pharmaceutical industry and an appropriate national innovation and training system. The objective is to provide an endogenous response to the problem of securing the supply of the internal market with medications and medical devices, appropriate in terms of price and quality and in accordance with the realities and epidemiological priorities of the population. To do this, the Council recommends setting up an ambitious pharmaceutical industry policy, geared towards meeting the needs of the local market and towards exports, in particular to the African continent. This policy should be structured around (i) a stable and predictable legal environment to attract investment, and (ii) a clear production policy, defined in close collaboration between the ministry departments responsible for health and industry to guide manufacturers towards the molecules and technologies to be manufactured on Moroccan territory.
2. Redefine methods of regulating the medication market. It is recommended to :
 - Accelerate the creation and establishment of an independent National Agency for Medications and Medical Devices, which will be responsible for setting up a National Watchdog for Medications and Medical Devices;
 - Reassess current status of the National Health Insurance Agency by giving it real management autonomy and effective independence vis-à-vis monitoring. This also requires an in-depth overhaul of its legal framework and governance.
3. Undertaking an in-depth reform of the legal structure of the medications market, To this end, it is recommended to change the legislative framework, and this concerns mainly the following texts:
 - Revision of Law No. 17.04 relating to the Medications and Pharmacy Code, in particular sections concerning the system of market access authorizations for players, simplification of procedures for entering generic medication into the market;
 - Revision of the implementing decrees of Law No. 17.04: Marketing Authorization, price, advertising, etc. ;
 - Drafting implementing texts for Law No. 17.04: Vigilance, inspection, etc. ;
 - Drafting implementing texts for Law No. 28-13 relating to the protection of persons participating in biomedical research;

- Revision of Law No. 65.00 relating to the code of basic medical coverage so as to strengthen the independence of ANAM (National Health Insurance Agency) and give it new tasks and powers.
4. Develop new levers to improve the competitive situation in the medication market. In this sense, the Council recommends:
- i. Guarantee the citizens' right to medication (physical, geographic and financial accessibility). To do this, it is imperative to spread basic medical coverage to the entire Moroccan population and to review the decree on medication prices;
 - ii. Ensure quality of the medications dispensed. For this, it is imperative to apply the regulations in force and require bioequivalence for all medications subject to clinical trials and strengthen the powers of medication quality control bodies, in particular the National Laboratory for Medication Control (LNCM);
 - iii. Make Marketing Authorization a tool for competition between laboratories, by digitizing and improving the process for registering and granting AMMs and reducing regulatory deadlines for processing applications by guaranteeing more transparency in the processing of related files;
 - iv. Rethinking the issue of reimbursement of medications. In this sense, the Council recommends granting ANAM the right to self-refer files for medications representing a significant contribution in therapeutic terms for admission to the list of reimbursable medications. This will allow the Agency to negotiate directly with laboratories regarding reimbursement of medications, especially the most expensive or those in a monopoly situation. The Council also recommends reviewing operating methods of the Transparency Commissions (TC) and CEFHP (Commission for the Economic and Financial assessment of Health Products) responsible for extending the list of reimbursable medications, and carrying out an overall reassessment of this list to ensure correct SMR and ASMR; and study their therapeutic values and contributions in terms of improving the quality of life or the care provided. It is also recommended to adopt the TFR 'Fixed Liability Tariff';
 - v. Adopt a proactive and efficient policy with a view to strengthening the status of generic medications. This mainly involves acceleration of registration of generic medications and biosimilars of reference medications under monopoly, as well as acceleration of processing of PPE files who put on the market the first generic or the first biosimilar with the possibility of carrying out post-marketing authorization checks. Similarly, public authorities should proceed with automatic introduction of generics into the list of medications eligible for reimbursement and strengthen control of these medications;

- vi. Review the method of setting medication prices by establishing an appropriate negotiated fixing system based on an approach focused on assessing medico-economic efficiency and developing competition between industrial pharmaceutical establishments. It is therefore recommended to review the list of benchmark countries defined by the decree on medication pricing procedures, shorten price review deadlines, standardize and harmonize the three procedures for Marketing Authorizations (AMM), pricing and reimbursement, and set up a dedicated monitoring committee.
- vii. Review the business model of dispensing pharmacists, so that they no longer remain essentially dependent on medications sold. Thus, it is recommended to thoroughly review the duties of community pharmacists by allowing new sources of remuneration and reduce their dependence on the sale of medications, while granting the right to create forms of cooperation between peers to take commercial advantage of group purchasing.
- viii. Generalize, systematize and make effective 'third party payment' agreements to facilitate citizens' access to medications. The purpose of these agreements is to prevent the insured from paying up-front costs and paying only the part not covered by the managing body;
- ix. Supervise and control the relationship between doctor and laboratory in order to put an end to the conflict of interest between doctors and Industrial Pharmaceutical Establishments (EPI), by creating an obligation for doctors and laboratories to declare all benefits received and activities supported by the manufacturer, while limiting approved expenditure ceilings;
- x. Rethink the tax regime applied to the medication market, aimed at promoting lower public selling prices and access to medications for citizens, especially the most vulnerable.

II. Activities carried out by deliberative bodies

A. Plenary session

In accordance with the provisions of Articles 9 and 13 of Law No. 20.13 relating to the Competition Council, plenary session consists of the President, 4 Vice-Presidents, 8 Councillor members and a Government Commissioner who attends the meetings of the Council in an advisory capacity.

Pursuant to Article 19 of the Council's Rules and Procedures, the Secretary General attends the meetings of the plenary session, but without the right to vote.

Article 20 of these Rules stipulates that in application of the provisions of Article 14 of these Rules, 'The Council meets in plenary session at least four times a year, on the last Thursday of February, June, October and December of the calendar year.'

During the 2020 financial year, the Competition Council held four ordinary meetings in its plenary session, and one held on an exceptional basis.

1. The fifth ordinary session

The Competition Council held the fifth ordinary session on Thursday, February 27, 2020. This session was devoted to examining and adopting guidelines for the annual report for the 2019 financial year prepared each year before June 30, that the President of the Council 'submits to His Majesty the King, addresses to the Head of Government and presents to the Chambers of Parliament', in accordance with Articles 23 and 24 of Law No. 20.13 relating to the Competition Council.

This session was also marked by a review of the progress of referrals relating to the competitive situation in the liquid fuels and building paint sectors, as well as the study of the draft economic merger relating to internet applications for relations between drivers and users concerning the companies 'Uber' and 'Careem'.

2. The sixth session held on an exceptional basis

The sixth exceptional session was held on 20 Ramadan 1441 (May 14, 2020) by videoconference, in accordance with the provisions of Article 14 of Law No.20.13 relating to the Competition Council and Articles 19 to 27 of the Council's Rules and Procedures, in particular the last paragraph of Article 20.

This session was devoted to the presentation, discussion and adoption of the draft annual report for the year 2019, prepared in accordance with the provisions of Article 23 of Law No. 20.13 on the Competition Council. This report presents the state of competition in Morocco for the year 2019 as well as the results of the Council's activities during the same year.

This session was also devoted to the presentation, discussion and adoption of the Council's draft opinion on the competition situation in the e-payment by bank card market.

This opinion, following a request from the National Federation of E-commerce in Morocco, relating to the competitive situation in the e-payment by bank card market, raised two questions with regard to competition law:

- Conditions of access for payment service providers to the e-payment by credit card market;
- And pricing of payment services on this market, which would make it possible to regulate the level of commissions levied during online payment by bank card supported by 'e-merchants'.

3. The seventh ordinary session

The Competition Council held its seventh ordinary session by videoconference on Thursday, June 25, 2020. This was devoted to the presentation, discussion and adoption of the Council's draft opinion on the competition situation in the medications market in Morocco, and the study and adoption of the draft amendment to the Council's Rules and Procedures.

The draft opinion adopted unanimously presents an inventory of the medications market in Morocco based on three major themes, namely (i) role of the actors, (ii) analysis of supply and demand and (iii) competitive analysis of this market. It also presents a set of recommendations capable of helping to change conditions of competition in the national medications market.

During this session, the sections were mandated to study the work on the Rules of Procedure of the Council, in order to draw up proposals for modifications to be presented and adopted during the session in July. This session was also marked by the presentation of the first edition of the Council's newsletter, as well as a report of the progress of the investigation relating to the hydrocarbons file and progress on the opinion poll study.

4. The eighth ordinary session

The eighth session was also held by videoconference on Wednesday 11 rabii I 1442 (October 28, 2020). It was devoted to the presentation and examination of the draft budget of the Competition Council for 2021, in application of the provisions of Article 14 of Law No. 20.13 on the Competition Council and of Articles 19 to 27 of the Council's Rules of Procedure.

Examination of the said project forms part of the implementation of projects included in the Council's strategic action plan for the period 2019-2023. The draft budget was drawn up using a participatory approach, taking into account current and prospective needs of all Council departments, and following up on recommendations from meetings of the strategic action plan monitoring committee.

This project aims to improve the functioning of the Council's bodies in matters of regulation of the competition market and to upgrade the Council as a constitutional institution which ensures application of the principles of responsible governance, transparency, accountability and efficiency.

5. The ninth ordinary session

The ninth ordinary session was held on December 30, 2020. It had on its agenda the presentation and adoption of the new version of the Draft Budget of the Competition Council for the year 2021, comprising the report on activities carried out in 2020 and the draft action plan for the year 2021.

The work of this session also focused on the proposal to amend the Rules of Procedure of the Competition Council.

B. The standing committee

In accordance with the provisions of Article 28 of the Rules of Procedure of the Competition Council, made in application of the provisions of Article 14 of Law No. 20.13, the standing committee consists of the President and four (4) Vice-Presidents. It is responsible for the preparatory work of the plenary sessions, and deliberates on mergers and acquisitions, dismissals of proceedings, decisions confirming withdrawal and admissibility of referrals and requests for opinions.

It also examined the files submitted to it by the President and the plenary session. For this reason, it held a total of 33 meetings during the year 2020.

The work of the standing committee is mainly focused on review and approval of decisions on mergers and acquisitions. In this regard, the standing committee deliberated on 59 decisions on the matter and adopted the Council's opinion No. A/2/20 concerning the referral from the Minister of

the Economy, Finance and Administrative Reform relating to fixing prices of hydro-alcoholic gels and sanitary masks. The committee also deliberated on 19 decisions on contentious matters.

In addition, the members of the standing committee actively contributed to the workshops, national seminars and international conferences organized by the Council.

C. Sections

Article 34 of the Council's Rules and Procedures stipulates that, in application of article 14 of law n° 20.13 and Articles 4 and 5 of decree n° 2.15.109 of 16 chaabane 1436 (June 4, 2014), sections are set up within the Council, each of which is chaired by one of the Vice-Presidents.

Sections are competent to examine files which are sent to them by the President of the Council, the plenary session or the standing committee.

1. The section in charge of agreements

During 2020, the section responsible for cartels held 37 meetings. During this fiscal year, it reviewed the Council's Rules of Procedure with a view to proposing modifications aimed at improving the performance of the Council's deliberative bodies. It also reviewed and gave its opinion on the drafting of the 2019 annual report.

Regarding sector analyses, the section selected for study several sectors with strong impacts on i) the purchasing power of citizens, ii) the competitiveness of businesses and iii) securing the supply for the internal market of capital goods, consumables and strategic raw materials for the national economy.

The section also contributed to the animation of international events, in this case its participation in the 1st Joint ESCWA-UNCTAD-OECD Forum on Competition in the Arab Region, organized on 23 and 24 January 2020, through a speech on the theme 'Contribution of the Competition Council of the Kingdom of Morocco to the establishment of legal texts relating to the freedom of prices and competition'.

The section also reviewed anti-cartel doctrine and jurisprudence in certain foreign countries.

2. The section in charge of abuse of a dominant position or economic dependence

This section is responsible for examining matters relating to the abuse of a dominant position or economic dependence through referrals submitted to the Competition Council, as well as questions raised by public opinion.

The section adopted the videoconference mode for the majority of its meetings, from March 23, 2020 and until the end of the same year, due to pandemic circumstances. The number of meetings held by the section reached a total of 34, including 10 face-to-face held at the headquarters of the Competition Council and 24 meetings held remotely by videoconference.

During 2020, the section continued to study the work of the standing committee, including decisions relating to mergers and acquisitions and those relating to referrals declared inadmissible. This work also covered the decision rendered by the Competition Council on the request for an opinion on the regulation of prices of hydro-alcoholic gels and sanitary masks emanating from the Minister of the Economy, Finance and Reform of the Administration.

Also, section members represented the Competition Council at national and international events. These were:

- The proceedings of the 1st Competition Forum, jointly organized by UNCTAD, OECD and ESCWA (Economic and Social Commission for Western Asia) in Beirut on January 23-24, 2020;
- The workshop organized by the Competition Council on February 18, 2020 on the project of the National Competition Barometer in Morocco;
- The national seminar organized on March 4, 2020 by the Competition Council jointly with the National Commission for the control of personal data protection (CNDP) on the theme: 'Competition law and economics and protection of personal data' ;
- Two internal workshops on the National Competition Barometer, held by videoconference. The first took place on November 12, 2020, in coordination with the Department of instructions and the Department of analyses, sector studies and the legal, economic and competition monitoring of the Council. The second workshop was held on November 19, 2020 with the members of the Council who constitute the working group in charge of the National Competition Barometer.

In addition, while taking into account consumer concerns, public opinion and issues falling within the competence of the Competition Council, the section examined practices detected in some liberal professions across cities in the Kingdom which would likely constitute anti-competition practices. The section sent a reasoned letter to the Council Presidency on this subject.

The section also contributed to the study of proposals for revising the Rules of Procedure of the Competition Council and submitted a report to the Presidency of the Council on these proposals.

3. The section in charge of mergers and acquisitions

During 2020, the section held 41 meetings concerning 42 mergers, which represents around 66% of the files submitted to the Council, all activities combined. As part of this activity, members noted the existence in the investigation reports of a certain number of key concepts necessary for the study of competition such as 'relevant markets', 'merger' and 'takeover control'.

This section in accordance with its prerogatives studied several strategic sectors of the national economy, some of which have been impacted by the pandemic crisis.

In addition, members of the section took part in the following events:

- National seminar on 'Competition law and economics and personal data protection' organized jointly by the Competition Council and the CNDP;
- Two workshops on the National Competition Barometer;
- Working meeting with the research office responsible for the opinion poll project on the perception of competition;
- Seminar organized jointly by the public ministry and the US Department of Justice on the regulation of competition in markets.

The section also made proposals to amend the Council's Rules of Procedures, in the light of the problems and ambiguities encountered during the first two years of its application.

4. The section in charge of state aid, public procurement and consultancy attributions

During the year 2020, the section responsible for State aid, procurement and consultancy attributions held 42 meetings, both at the headquarters of the Council (16 meetings) and by videoconference (26 meetings) due to constraints imposed by the health crisis.

The section actively contributed to the work of the Council in 2020. It prepared two framework outlines, the first concerning State aid in an exceptional context marked by the Covid-19 crisis and the second related to public procurement and competition issues in Morocco. With regard to the latter, the section carried out an analysis of the quality of 'public authority' in matters of public procurement, because the law on competition does not apply to production, distribution and service activities which are carried out by legal entities governed by public law in the exercise of public authority prerogatives or public service duties.

The section also contributed to the production of the 2019 annual report and the study of two draft opinions relating to the competition situation in the online payment by bank card markets and that prevailing in the medications market in Morocco.

The section also contributed to the study of (i) the projected opinion relating to the referral of the Head of Government concerning Draft law n°94.17 relating to the natural gas sector; (ii) the referral by the Association of Insurance Intermediaries and Entrepreneurs in Morocco (IAEA) concerning the competition situation in the insurance market; (iii) the referral to the National Tourist Transport Union in Morocco concerning possible anti-competition practices in the insurance market in the Tourist Transport sector which could be attributed to the two insurance companies Compagnie d'Assurance de Transport (CAT) and the Mutuelle des Assurances des Transporteurs Unis (MATU) ; and (iv) the work of framing the opinion poll on the perception of competition by the actors who refer the matter to the Council by law.

The section provided an analysis of the draft amendment to the Rules of Procedure of the Competition Council as part of the review of texts governing the functioning of the Council.

Regarding activities organized by the Council during the 2020 financial year, the section participated in organizing a workshop on the National Competition Barometer project, including meetings of the ad hoc committee responsible for this file. It also contributed to the work of the national seminar on the theme: 'Competition law and economics and personal data protection', jointly organized with the National Commission for the control of personal data protection (CNDP).

III. Sector studies and legal, economic and competition monitoring

To effectively carry out its mission of advocacy in favor of the culture of competition, the Council invested in the year 2020 in a process of adapting its organizational structures to the establishment of an integrated computerized system of competition, together with the tools necessary for popularizing the culture of competition. In this sense, it is about:

- Carrying out sector studies on competition;
- Observation and legal, economic and competition monitoring;
- Analysis of the impact of anti-competition practices on the functioning of markets;
- Monitoring the state of competition in the markets at sector and national level;
- Evaluation of public policies having a direct or indirect effect on competition;
- And popularizing the culture of competition;

Completion of this adaptation process has enabled the Competition Council to make significant progress, particularly at the level of structuring projects, despite constraints imposed by the health crisis.

Achievements in terms of analyses, sector studies and legal, economic and competitive monitoring, focused during 2020 on:

- Completion of the sector studies program on competition;
- Launch of the opinion poll on the perception of competition;
- Start of preparatory work on establishment of a National Competition Barometer;
- Launch of the process of setting up the Watchdog for legal, economic and competition monitoring;
- Analysis of the state of competition in Morocco and internationally.

A. Sector studies on competition

The sector studies carried out aim to i) draw up an inventory of competition in the sectors studied, ii) analyse the competitive systems of the sector (amount of market mergers and horizontal and vertical aspects of competition), iii) understand the perception of market challenges concerned by operators, and iv) draw lessons from the results of these studies in terms of public policy in the sectors examined.

During the year 2020, the Competition Council completed two sector studies, one on the situation of competition in the market for medications in Morocco, and the other on the competition situation of e-payment by credit card markets, where the results have helped the examination of both related opinions.

The Council is also continuing to carry out two other sector studies on the situation of competition in the sector of private clinics and similar establishments, and on the state of competition in the wholesale markets for fruits, vegetables, red meat and fish.

These four studies were launched by the Council with a view to supplying its IT system in matters of competition with key elements needed for the preparation of opinions in response to referrals, as well as the anticipation of practices capable of distorting the free play of competition in strategic sectors of the national economy.

B. Opinion poll on the perception of competition

As part of the operationalization of its computer system, the Competition Council launched, for the year 2020, the first edition of the Survey of competition perception, to allow feedback of opinions on anti- or pro-competitive practices affecting their activities from operators and institutions eligible to refer to the Council, and on this basis measurement of the perception of competition. Ultimately, this tool should lead to the production of indicators allowing the profiling of:

- The state of knowledge of operators and institutions eligible to refer the matter to the Council concerning regulations and the principles of competition;
- Their satisfaction with the regulation of competition, the action of the Council and the practices adopted by operators in their sectors of activity;
- Their perception of healthy and fair competition, as well as their expectations in terms of improving the competitive situation.

This opinion poll is based on surveys of a sample of Moroccan companies according to sector and regional representativeness, and on in-depth interviews with all categories of stake-holders eligible to refer to the Council.

Thus, the actions undertaken for the year 2020 made it possible to:

- Develop a methodological repository including in particular the themes and indicators to be considered within the framework of this study as well as its attached sampling plan;
- Formalize the data collection plan and the development of questionnaires as well as interview guides relating to these surveys;
- Design processing methods for data to be collected using advanced statistical approaches based on multiple factor analyses for calculation of a synthetic index of the perception of competition.

C. The National Competition Barometer

As part of the implementation of the integrated competition information system, included in its Action Plan for 2020, the Competition Council continued the preparatory work for the establishment of the National Barometer Competition (BNC) in order to analyse and monitor the state and development of competition in the markets and sectors of the national economy.

This major tool will make it possible to implement the 4th paragraph of Article 4 of Law No. 20.13 relating to the Competition Council which specifies that 'the Council may recommend the Administration to implement the policies necessary for improving competitive functioning of markets.'

As a result, BNC will help assess changes and identify major variations in order to allow the Competition Council to propose public policies, decisions and/or actions capable of advancing the operation of markets in an increasingly competitive environment.

Because of its complexity and its pioneering nature, given that there is no equivalent in the world, the Council is envisaging an innovative, pragmatic and progressive approach for developing BNC based on a relevant and in-depth diagnosis. This would make it possible to identify avenues for answers to questions of contestability in all strategic sectors of the national economy and improve operation of the market through competition.

During the framing stage, the Council posed eight key questions:

1. What are the objectives of the BNC and what are the expectations of its recipients/users?
2. What are the sectors targeted by the BNC and what are the priorities?
3. What are the sources of information and the methods of collection?
4. What will be the analysis grids for the information collected?
5. What are the most relevant types of indicators to remember with their macro, meso and micro variations?
6. What would be the frequency of publication of the BNC?
7. What IT system (IS) to install in the Council for sustainability, management and monitoring of the BNC?
8. What is the phasing of construction of the BNC and its future development?

In order to try to provide answers to these questions, the Council organized a national workshop on Tuesday, February 18, 2020, in order to identify i) fundamental aspects of the design and implementation of general and economic barometers in particular, as well as ii) methods of developing instruments for measuring competition.

In this same perspective, the Council organized two internal workshops on the BNC by videoconference, because of the measures taken by the Council to limit the spread of the Covid-19 pandemic. The first workshop took place on November 12, 2020, held with the Directorate of Investigations and Directorate of Analysis, Sector Studies and Legal, Economic and Competition Monitoring of the Council. It mobilized the collective intelligence of the rapporteurs and study managers to gather their observations on this site. As for the second workshop held with members of the Council who constitute the working group responsible for the BNC, it was held on Thursday, November 19, 2020 and focused on i) presentation of the results of the report on the 'Global Wealth of Morocco' drawn up by the Economic, Social and Environmental Council and Bank Al-Maghrib, and ii) a state-of-the-art report for a competition repository.

The work of these workshops made it possible to identify the criteria which the indicators to be put in place must fulfil. These are mainly the following criteria:

- Choice of statistical data most used in economic, political and academic spheres which are authoritative in this field, as well as those used by foreign national regulators and dedicated international organizations;
- Diversity of sectors covered: Moroccan Nomenclature of Activities;
- Selection according to standards, benchmarks and principles guiding the measurement of competition;
- Consideration of the territorial dimension;
- Respect for the principle of the value of official statistics: confidentiality, transparency, universality, relevance, independence, professionalism, ethics and responsibility.

According to these criteria and in response to international standards, the BNC is called upon to be structured mainly around objective indicators meeting scientifically valid standards for quantitative measurement of the realities of competition in the markets examined. These indicators should meet the following assumptions:

1. Atomicity of production and consumption;
2. Free entry and exit from the market;
3. Perfect information and the rule of transparency;
4. Degree of intervention or non-intervention by public authorities;
5. Tax fairness;
6. Negative economic or non-economic externalities;
7. Existence or not of anti-competition practices in the market;
8. Existence or not of law or laws regulating competition;

9. The share of the informal;
10. Trust;
11. Existence of citizen resistance power in the market;
12. Existence or not of indications on the economic responsibility of companies;
13. The share of expenditure allocated to training, including the share allocated to innovation;
14. The state of justice;
15. Administrative governance;
16. The state of digital land use planning.

For the sake of objectivity and independent analysis, examination of sectors will be based on logic of balance between sectors that experience competition dysfunctions and those which respect the rules of fair and loyal competition from an equilibrium between this sector and the national average.

In this perspective, two categories of criteria are proposed:

1. Criteria taking into account the Council's strategic objectives, namely: sectors with strong impact on i) the purchasing power of citizens, ii) the competitiveness of businesses, and iii) securing supply of the internal market in capital goods, consumer goods and strategic raw materials for the national economy;
2. The criteria falling within the framework of the national economic roadmap. The Watchdog for legal, economic and competition monitoring

D. The Observatory of legal, economic and competitive monitoring

Monitoring is part of the action plan of the Competition Council for the period 2019-2023. Implementation of this structuring project is part of this proactive approach initiated by the Competition Council and aimed at developing internal instruments and methodologies to control information emanating from its legal, economic, competition and societal environment, etc. as well as its own chain of production and dissemination of knowledge.

The 'knowledge' dimension is present in the future projects of the Competition Council. The monitoring aspect is being developed within the framework of the Watchdog of legal, economic and competition monitoring. Its purpose is to ensure systematic and continuous monitoring of the themes corresponding to the concerns of the Competition Council and thus integrate knowledge into upstream support for projects carried out internally and in the capacity to provide appropriate responses that take into account opportunities and threats emanating from the environment.

At this level, the Watchdog of legal, economic and competition monitoring as an information tool will meet a dual purpose: on the one hand, to enable the Competition Council to rely on innovative practices that can contribute to orient positively the implementation of public competition policies,

and on the other hand, allow national operators to have information on the markets in order to develop responsiveness, guide decision-making and improve the quality of their investments.

The scoping phase of the project made it possible to identify three major issues linked to the management of information flows; these will be areas to be dealt with operationally by the Watchdog for legal, economic and competitive monitoring:

- The abundance and wide distribution of information sources available on a subject imply the control of several parameters during the process of capturing useful information: the availability of reliable networks indicating where this information is found, its validity and the cost/benefits in relation to the expressed need;
- The rise of collaborations and self-publication of content requires vigilance with regard to the concepts of validity and reliability of information and available sources because in the absence of bodies validating the content to be published, the web offers the ability to create, research, reproduce or manipulate information and data;
- The progression of knowledge and the evolution of information over time require, on the part of the Council, responsiveness and systematic monitoring of developments impacting the competition environment.

In this context of abundance and speed, the ability to identify, collect, process, disseminate and use information would constitute, for the Competition Council, an element of differentiation in the service of performance and visibility of its actions in the field of competition regulation. Moreover, given the complexity and fragmentation of information as well as the diversity of formats that make it accessible, these are not frozen in time. They therefore require work so as to be put into perspective according to a holistic vision in order to better understand the events emanating from the national and international environment, and the concept of relevant actions/reactions taking into account their context of action and local/global competition issues.

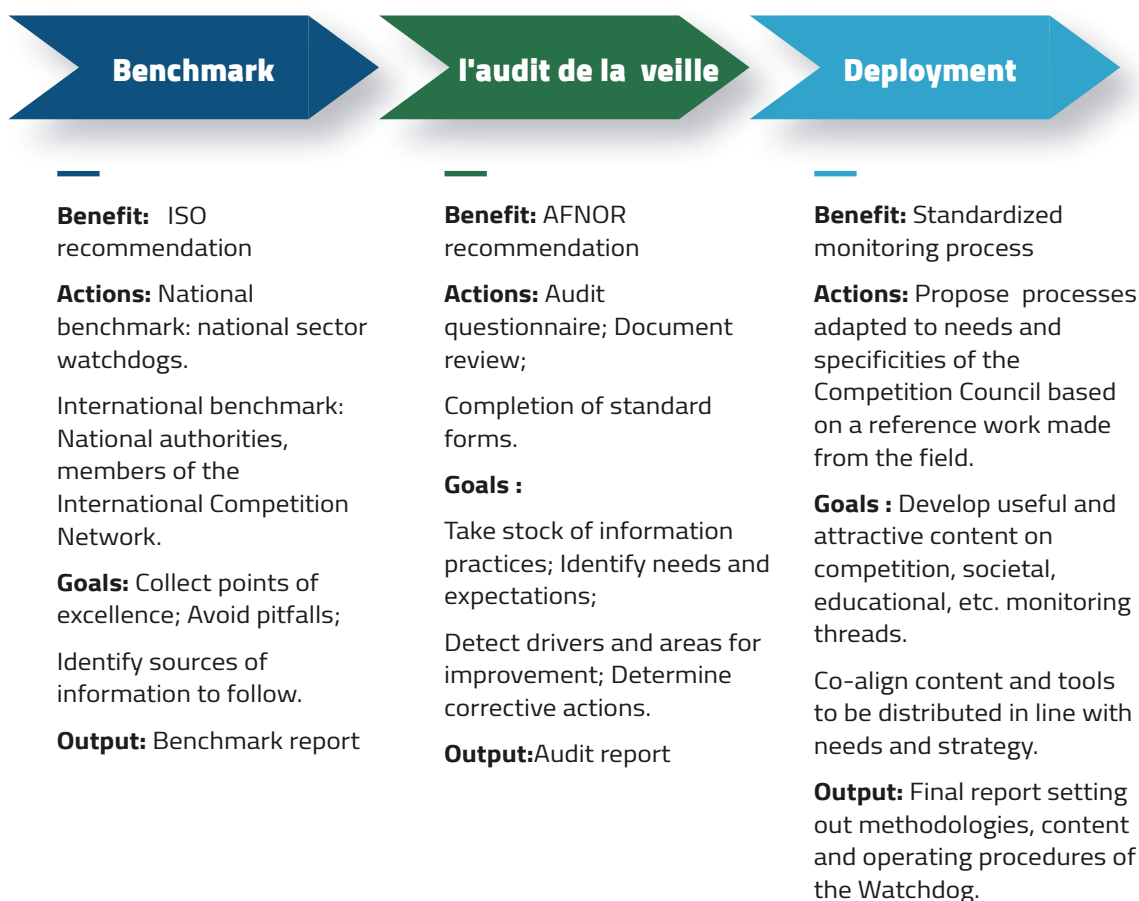
To achieve these objectives, the action of the Watchdog for legal, economic and competition monitoring will be at several levels:

- Identify links between information by cross-checking information to create meaning in order to go beyond the question of the observed explosion of knowledge and the plurality of knowledge;
- Formalize and secure the organizational knowledge that forms the memory of the Council in order to preserve any loss of knowledge that may be caused by staff turnover or by ignorance of the existence of internal information;
- Avoid duplication of data collection and analysis activities between different sectors of the Council and set up research plans and procedures for validating information;
- Pool activities within the framework of collaborative schemes to promote organizational and cognitive proximity useful for the transfer of information and knowledge in order to optimize access to information.

This strategy will allow the Competition Council to develop the dynamic commonly called 'collective intelligence' in order to create meaning from the valuation of the corpus of data in order to inform decision-making.

So to gain organizational efficiency and thus guarantee the traceability of actions, the establishment of the Watchdog for legal, economic and competition monitoring will be carried out in accordance with the guidelines of two international standards: ISO standard, entitled 'ISO/FDIS 9001: Quality management systems - Requirements' and AFNOR Standard XP X 50-053 entitled 'Monitoring services and services for setting up a monitoring system'. The process of setting up the Watchdog includes three major sequential stages: benchmark, audit of the day before and deployment which will develop the conclusions of the first two operations.

Main stages in establishing the Watchdog



The Benchmark operation has made it possible to determine the points of excellence concerning the sources of information to be followed systematically and continuously and to identify innovative practices in terms of organization and development of content specific to the Watchdog. This analysis has also raised the crucial question of added value and originality of content published online. Indeed, observed redundancy of content broadcast online is a consequence of the

proliferation of platforms and websites that reprocess information instead of creating original content. This observation was confirmed by the results of the national benchmark. This is contrary to the information missions for decision-making purposes and for monitoring the environment displayed by the observatories studied.

Internationally, the structures dedicated to the observation and monitoring of the environment have a sector vocation. The competition authorities of many member countries of the International Competition Network display active monitoring activity of their environment, and visible on their institutional websites. In terms of form, this activity is structured for the most part in a dedicated section or in the form of a booklet containing strategic indicators to a lesser extent under the name 'Watchdog'. The strong point is regularity of monitoring of competition practices at the level of the sectors identified as being socially important for the countries concerned. Systematic monitoring guarantees access to up-to-date information that is therefore useful for decision-making. The benchmark was also an opportunity to identify trends concerning themes of sector studies as well as methodologies determining their selection as national priorities for the countries concerned.

International and regional organizations working in the field of competition were also analysed for their promotional, educational activities, and for their reporting and research. For the Competition Council this is a source of information whose regular follow-up will make it possible to learn of opportunities, risk areas and international case law for topics having a national slant.

E. Legal monitoring in 2020

The legal monitoring initiated by the Competition Council in 2020 consisted of identifying any new thinking, legal provisions or legal texts, as well as any organizational changes in connection with competition law.

This legal monitoring process concerned the 2011 Constitution, legislative texts, regulatory texts, draft laws, administrative acts, case law relating to competition law, as well as texts providing for references to laws on competition, or exceptions to them. Monthly notes are drawn up to present the results of this legal monitoring.

The Council relied for the realization of the legal monitoring on relevant sources encompassing databases and legal intelligence tools. At the national level, this mainly concerns portals and websites of the General Secretariat of the Government (SGG), ministries, sector regulators, specialized national databases, and a dedicated press and document monitoring. Internationally, the Council has relied, in addition to specialized databases, on the sites of similar authorities at the international level, publications of international organizations (OECD, UNCTAD, European Commission, ICN, etc.) and actions published following major international events dedicated to competition law and policy.

In order for the data to be effective and relevant, the Council made use of systematic alerts on specialized search engines, accounts of sector regulators, the journal of the SGG and other

specialized publications, as well as on RSS feed aggregators, or on content which makes it possible to identify in real time new articles related to competition law or to memorize published legal information.

Legal monitoring during 2020 has primarily targeted the most sensitive sectors of the Moroccan economy, as well as sectors subject to studies at the Council's level.

At the same time, the Council started a benchmark of competition laws around the world. This exercise concerned the UNCTAD model law, as well as laws and new legislation relating to competition law of certain countries of the MENA region (Egypt and Tunisia) and of the European Union (France and Belgium), in addition to the United States of America.

Choice of these countries meets two important criteria, firstly all countries i) presenting economic similarity and rapprochement with Morocco, then countries ii) having an important background in competition law.

First results led to the conclusion that there is not better legislation, but laws adapted to the economic specificities of each country which adopts them. Indeed, the law evolves in parallel with many societal aspects, which can be economic, social, political, demographic, etc.

Regarding legal developments, the UNCTAD amended the Model Law on Competition. This modification concerns the heading relating to acts or behavior constituting an abuse of a dominant position on the market.

The year 2020 was marked by the spread of the Covid-19 pandemic. Legal monitoring was particularly interested in the application of competition law in this special context of a health crisis in order to examine evolving and exceptional situations and other emergencies, and to study them at the same time with regard to competition law, in order to adapt the regulatory framework in force to these developments that are difficult to predict.

In view of the circumstances of the declared health emergency, governments have allowed themselves to override certain rules or at least adapt them in order to better manage the crisis. They can intervene vigorously and immediately in several markets, from those most directly affected by the crisis to those likely to be affected at a later stage.

In this sense, in Morocco, Law No. 104.12 relating to freedom of prices and competition provides in Article 4 for exceptions to the application of its provisions when it comes to crisis or public calamities. These measures cannot be taken without obligatory consultation with the Competition Council. Consequently, the Government, acting within the framework of the state of emergency and after consultation with the Competition Council, decreed the fixing of the prices of hydro-alcoholic gels and protective masks.

Furthermore, Article 9 of Law No. 104.12 mentioned above derogates from the principles of competition when it comes to encouraging research and development relating to technical or

economic progress. Thus, to face this health crisis situation, some operators have cooperated with each other and shared information for the manufacture of respirators, resuscitation equipment and health products.

Faced with this unprecedented situation, not only Morocco but several other countries have adapted and relaxed the policies concerning application of competition laws, with the objective of assisting economic operators and reducing the impact on the economy and market supply, especially of necessary food and health products.

The European Union competition authorities urgently ordered a set of exceptional legal and regulatory measures, thereby not opposing government decisions aimed at stemming the effects of this unprecedented crisis and trying to avoid a shortage of supplies of basic necessities.

These authorities, united within the European competition network, responded to questions from companies on how they can deal with this health crisis without compromising the application of competition law.

The OECD also issued a series of competition policy responses to address the effects of Covid-19. These responses involve government intervention to keep markets and the economy functioning, since short-term effects on businesses' behavior and medium-term effects on market structures are expected to be revealed by an increase in market mergers.

F. A device dedicated to the consumer

As part of the execution of these prerogatives, the Competition Council of the Kingdom of Morocco has initiated discussions for implementing tools to help market surveillance and detecting anti-competition practices, particularly in key sectors of our economy. As such, particular attention is paid to the preservation of consumer interests and the establishment of a system specifically dedicated to the consumer. The ambition is to relegate to this tool the role of observation, analysis and reporting of anticompetition practices alienating the interests of the consumer and, thence to direct the action of the Council towards regulation of market competition. Ultimately, this device should allow:

- The rise of anti-competition practices affecting consumers;
- Characterizing the behavior of the Moroccan consumer vis-à-vis these practices including in particular his perception and the possible remedies he resorts to, etc.;
- Measuring the state of well-being of the Moroccan consumer and the effects of such practices on his purchasing power.

To allow this Tool to fully play its role, three tasks have been assigned to it:

1. Observing and exploring whereby information with relevant and up-to-date content will be collected concerning consumers and anti-competition and unfair commercial practices affecting them;

2. A two-stage analysis, the first to increase reliability through cross-checking and comparison of sources, and the second to provide added value for possible interpretation and explanation;
3. Guiding and prioritizing the action of the Council in order to correct dysfunctions or anti-competition practices through:
 - Feeding the instruction process;
 - Conducting self-referrals;
 - Designing and targeting awareness, and programs of advocacy and those promoting competition culture.

Thus, for the 2020 financial year, the Council began the process of drawing up an inventory and delimiting the needs allowing :

- Study of the existing legal arsenal concerning the consumer, and analysis of its interaction with competition law;
- An inventory of what is available in terms of information produced or collected by national bodies mandated to protect consumer interests and any other body producing or holding data related to consumption;
- Collection of the needs of internal users in terms of indicators and analyses as well as the tools to be installed;
- And analysis of the position of the system of consumption and its various interactions with tools put in place at Council level.

The Council also carried out a benchmark, allowing a cross-referencing of the various experiments carried out by other international competition authorities, in particular those having among their prerogatives the protection of consumer rights. This work enabled identification of good practices that can nourish internal thinking and help improve implementation of the consumption system. The threads of the analysis retained for this benchmark include:

- Legislative framework governing competition and the law for the protection of consumer rights;
- Tools installed for feedback of indications of anticompetition practices by consumers;
- Aspects related to consumer awareness and education.

Thus, on the basis of findings that will be drawn from the inventory and the lessons to be learnt from the benchmark, the roadmap of the Consumption Tool will be defined, covering tools and partnerships to be installed, the means to be implemented and the results of the Consumption Tool.

IV. Administrative and financial governance

A. The human dimension at the heart of the Competition Council's strategic framework

During 2020 the Council continued optimizing its administrative and financial governance.

Thus, and based on its strategic lines of intervention translated into the duties devolved on it by law, the Council continued to strengthen its institutional capability and consolidated the modernization of its governance.

1. The Council's human capital

The Council's workforce rose from 36 in 2019 to 50 in 2020. The Council's human resources supervision rate is 93% and the average age of Council employees is 41 years, with a fairly balanced distribution of the workforce between men and women 52% and 48% respectively.

2. Strengthening of structures with new recruits

Depending on allocations of budget items, the Council continued its recruitment strategy based on skill and experience, and to this end the human capital of the Council was reinforced by new rapporteurs, study officers and administrative executives.

Likewise and in accordance with the law, the Council proceeded to the swearing-in of all these new rapporteurs.

3. Knowledge and skills development

As part of the development of the skills of its human capital, the Council provided a training cycle for the newly recruited rapporteurs over 8 modules carried out during February and March by internal skills and experts of the Council.

In addition and within the framework of cooperation with the World Bank, the Council organized for its rapporteurs training in investigation techniques with experts from the Federal Bureau of Investigation of the United States of America (FBI).

Regarding the strengthening of the skills of the Administrative and Financial Affairs Department, two training cycles were organized in collaboration with the General Treasury of the Kingdom.

The first concerned the INDIMAJ Human Resources Management System, which enables managing the payroll of Council staff and the digitization of approvals of HR management acts.

The second relates to Integrated Expenditure Management (IDM), which is a budgetary and accounting information system that offers expenditure management and performance functions.

4. Strengthening the capabilities of the Council administration

In order to equip the administrative and financial services with the necessary management means and tools enabling results-based management and development of a quality approach guaranteeing excellence and work in project mode, the Council launched consultations relating to the Manual of

Administrative and Financial Procedures, and the physical and digital archiving of documents planned for completion in July 2021.

B. Governance in times of crisis

During this period of unprecedented health crisis, the Competition Council implemented a work continuity plan safeguarding staff to be carried out in two broad phases:

Phase 1 called 'Increased Vigilance Phase', was marked by teleworking for most personnel not requiring access to Council headquarters and health awareness sessions.

Phase 2 called 'Maximum alert phase' has brought about teleworking by adopting a rotation system that does not exceed 30% of the Council's total staff.

This phase, which lasted several months, required the deployment of measures to support operations while ensuring a high level of safety.

These are the following tools:

- A teleworking guide to help all Council staff stay alert, vigilant and effective in this unprecedented situation;
- Creation of a monitoring committee;
- A progressive and speedy lift of lockdown plan ensuring the safety of Council members and staff;
- A procedure to be applied in the event of detection of a case of Covid-19 in the Council;
- A hygiene plan in accordance with the recommendations of the Ministry of Health.

C. Public procurement program

During 2020 and in order to meet its operating needs, the Council continued to renew its logistical and technical equipment.

Also and within the framework of the planned construction of its new headquarters, the Council completed during the year 2020 the phase of selecting service providers responsible for technical studies related to this project, following the calls for tenders launched within the framework of the delegated project management entrusted to the CGI.

D. Budget expenditure for the year 2020

On the financial level, the budget allocated to the Competition Council for the 2020 financial year amounted to 74.350.000 MAD. However, as a result of the health situation in the Kingdom, the state subsidy to be paid to the Council has been reduced by the amount of 1.350.000 MAD.

Total expenditure for the 2020 financial year amounts to 39.093.769,09 MAD.

These payments are broken down into two parts and presented below, in accordance with the provisions of Article 18 of the Financial and Accounting Regulations of the Competition Council:

- Expenses of the first part, which constitute the operating budget, include:
- Expenditure relating to salaries and permanent allowances for permanent and similar staff: 20.537.853,81 MAD;
- Expenditure relating to compensation allocated to members of the Competition Council: 5.136.586,78 MAD;
- Operating expenses, namely goods and services: 8.097.043,60 MAD.
- Expenses of the second part, constituting the investment budget: 5.322.284,90 MAD. These expenses are mainly related to deferrals relating to development work and the completion of studies related to the construction of the new Council headquarters.

E. The digital transformation project and strengthening of IT systems

Regarding the digital transformation and strengthening of its IT system, the Council during 2020 completed the implementation of the intranet as the Council's internal communication tool.

This tool, constituting the key to the digitization, includes in its functionalities the management of human resources and stocks. The Council also designed an integrated enterprise resource planning (ERP) to serve as a dashboard for the Directorate of Investigations. This tool makes it possible to follow in real time movements of all files submitted to this department, particularly their completion times. Located at the heart of the Council's IT system, this ERP facilitates internal workflows within the Instructions Department by streamlining and securing the transmission of information.

As for the implementation of the English version of its portal, the Council has taken all the necessary steps to ensure that the technical platform is ready to host this version of its website.

Also in the finalization phase are the IT Ethics Charter which defines the rules for the use of IT resources within the Council and the establishment of procedures for defining the IT system's security policy, the personal data protection policy, the Protection Policy, Antiviral Policy and Mobile Device Use Policy.

V. National and international partnerships

The Council has signed cooperation agreements with several national and international large-scale institutions during 2020.

A. National partnerships

As for national partnerships, in application of the provisions of Article 8 of Law No. 20.13 governing relations between the Competition Council and sector regulators, the Council concluded a cooperation agreement with Bank Al Maghrib, signed in January 2020. This mainly concerns the exchange of information and documents necessary in order to accomplish the duties of both parties as well as the organization of awareness-raising actions and the exchange of expertise.

In view of the actions decided for its strategic activity plan 2020-2023, the Council has also concluded a cooperation agreement with the Ministry of National Education, Vocational Training, Higher Education and Research Scientific (MENFPESRS), signed in July 2020. The main objectives of this agreement are (i) to inform and popularize the culture of competition and (ii) to carry out research work on competition law and economics.

B. International partnerships

Regarding international partnerships, the Council was requested by the World Bank Group to develop cooperation aimed mainly at (i) strengthening the institutional capabilities of the Council through sharing and exchange of expertise between parties and (ii) creating a policy capable of combating anti-competition practices. The two parties signed a partnership agreement in January 2020.

As part of this partnership, three training sessions were organized. The first focused on search and interrogation techniques for rapporteurs in March 2020. Moderated by experts from the World Bank Group, as well as an expert from the Department of Justice of the United States of America and a senior rapporteur from the Competition Authority of the Kingdom of Spain (CNMC), this training took place over 2 days by combining theoretical presentations, practical exercises and scenarios, which made it possible to simulate an almost realistic company search, and ultimately reinforce the skills of the rapporteurs and better equip them in their investigations enabling the discovery of clues, or even necessary evidence in some referrals.

The second session, organized by videoconference in April 2020 over one day, brought together the rapporteurs of the Council, a team of experts from the World Bank Group and the rapporteurs of the Mexican Competition Authority. The latter has an international reputation in the search for digital evidence in investigations. This training, which came to consolidate the first, was exclusively devoted to searches aimed at discovering digital evidence.

The third course, also organized by videoconference in June 2020, focused on the question of current procedure in the Competition Council relating to the treatment of mergers and acquisitions and a benchmark of simplified procedures already in existence, in particular in France and in Canada.

Indeed, the partnership agreement signed with the World Bank Group calls for a joint revision and development of guides by rapporteurs and experts of the WBG. One of these guides concerns a simplified procedure for dealing with mergers and acquisitions. In the current economic context generated by the Covid-19 pandemic, this procedure is more and more requested. Indeed, national competition authorities around the world are preparing to face a considerable number of mergers and acquisitions - obligatory alternatives - in the context of the post-pandemic economic crisis.

C. Workshops, national seminars and international conferences

1. Workshop

On February 18, 2020, the Competition Council organized a workshop on the National Competition Barometer project in Morocco.

The Council, through a participatory approach, joined specialized national institutions and organizations as well as its institutional partners in debating this structuring project, in order to compare their views on the possible tools and instruments of common competition measurement that they use.

2. National seminar

The first quarter of 2020 was marked by the joint organization with the National Commission for the Control of the Protection of Personal Data (CNDP) of a National Seminar on the theme: 'Competition law and economics and protection of personal data.'

This seminar, held on March 4, 2020, received contributions from 13 high-level speakers including 3 from abroad and brought together nearly 200 participants. Its objective was to study the relationship between competition law and the protection of personal data with a view to ensuring economic governance of markets reconciling fair competition and the protection of individuals against anti-competitive practices. It also highlighted the challenges facing both bodies in the areas of consumer and business protection in markets.

Indeed, in an increasingly digitized world, competition authorities should not only verify anti-competitive practices but also non-violation of the privacy of individuals. States should follow this new technological development in order to achieve an optimal calibration between regulation and this new kind of economic development.

Competition laws should adapt to these markets through a new legislative framework, new tools and above all new dedicated competition policies (use of personal data, agreements by algorithms, etc.).

3. Participation in international conferences

The Council took part in the work of the 1st Forum on Competition, organized jointly by UNCTAD, the OECD and ESCWA (Economic and Social Commission for Western Asia) in Beirut on January 23 and 24, 2020. This Forum' was based around three themes at the heart of the priorities of the new National Competition Authorities of the MENA region, namely: (i) placing themselves between competition, economic development and private sector development, (ii) developing an efficient competition policy as well as (iii) building cooperation platforms between national competition authorities. The contributions of the Competition Council were strongly requested because of its progress in this area.

In addition, and for health reasons, the annual meeting of the International Competition Network was held in September 2020 by videoconference and brought together national competition authorities from around the world, as well as experts in economics and competition law and internationally renowned lawyers specializing in the subject. The participation of the Competition Council was marked by a contribution by its President to the opening session, through a presentation of the experience of the Kingdom of Morocco in terms of the challenges posed on the one hand by application of the antitrust law to the era of the digital economy, and on the other hand by the essential elements to be taken into account by competition authorities and policy makers in the digital economy.

The Council also took part in the work of the 8th United Nations Conference on the Review of All Aspects of Fair Principles and Rules for the Control of Multilaterally Agreed Restrictive Business Practices, organized by videoconference by UNCTAD on 23 October 2020. The participation of the Moroccan Competition Council, through the intervention of its President during the session devoted to competitive neutrality, focused on two threads, the first relating to the problem of lack of competitive neutrality which remains in many countries, the second dealing with new measures taken by governments for economic recovery following the crisis caused by the Covid-19 pandemic.

As for the Istanbul Competition Forum, organized annually by the National Competition Authority, it was also held by videoconference. This meeting, which took place on December 15, 2020, received during its inaugural session a contribution by the President of the Competition Council devoted to the digital economy and related challenges. It focused on (i) the progress of our country in this field, namely the development albeit tentative, but nonetheless noticeable, of digital commercial platforms, regulations relating to this business (infrastructure, electronic payment networks and data protection), (ii) the challenges to be encountered by the Competition Council in this area and (iii) the measures taken in this regard, in particular in terms of procedures (new definition of the relevant market, taking into account data as actors of these platforms, etc.) and the advances in the skills of its rapporteurs.

D. International collaboration to carry out competition studies

The Council contributed to the study made in April 2020 by the International Competition Network (ICN), concerning measures taken by national competition authorities in the context of the Covid-19 pandemic, in order to construct a matrix of new policies and procedures adopted in response to this unprecedented situation. It emerged that the simplified procedure for mergers and acquisitions is in order, that certain anti-competitive practices should be authorized, such as cartels in the pharmaceutical or agrifood industries, and that the follow-up of litigation referrals should also be tempered because of the financial difficulties faced by companies.

In this same context, the Council contributed to the work of the African Competition Forum relating to the African Competition Authorities' new priorities due to the pandemic situation. Like the ICN

study, the same recommendations were highlighted. In addition, the issue of including state aid in post-Covid-19 economic and competition law policies was raised and seen as a necessity to support struggling sectors, especially air transportation.

The Council also contributed to the workshop organized on October 9, 2020 by the Egyptian Competition Authority dedicated to the treatment of mergers and acquisitions in the countries of the MENA zone.

This workshop focused on a previously conducted study, including all legislation, procedures implemented and systems adopted by competition authorities of this region in terms of mergers and acquisitions before and after the Covid-19 pandemic. It emerged that the Competition Council is one of the best equipped and most responsive authorities in the face of this unprecedented situation.

VI. The Competition Council's communication

Communication on the principles of fair and loyal competition is an imperative for the Competition Council in order to promote a culture of competition.

The strategy pursued by the Council in this direction was based, during the year 2020, on a pragmatic approach in order to reduce the knowledge gap around competition law and the place that the Council occupies within the economic and social environment of the country.

Thus, and in accordance with the Action Plan adopted in 2019, the Council ensured that its institutional communication policy and that of the institution as such, were complementary.

A. Classic and digital communication policy

During the year 2020, the Council invested in the development of a strong communication campaign to disseminate its annual report, the first to be produced after its reactivation in 2018 by His Majesty King Mohammed VI, may God assist him. This campaign was carried out in the national and international press accredited in Morocco based on a specific action plan intended for publication of this report, in order to allow each editorial outlet to highlight a particular chapter of this report.

In order to communicate about its activities and achievements during the year 2020, the Competition Council published 82 press releases on its website, 46 of which relate to notifications of mergers and acquisitions and 36 refer to the activities of its deliberative bodies.

In addition to these statements, the President of the Council granted a large number of interviews to the national and international press, mainly by videoconference due to pandemic measures.

These communication actions have had a direct impact on the image of the institution as a whole. They aimed to promote the Council's achievements for the 2020 financial year through traditional channels, namely audiovisual and written media for wider sharing, as well as through scientific meetings, public relations and communication via the institutional portal, for more visibility to the parties concerned.

Indeed, the Council by this approach wanted to ensure a contemporary a communication policy that answered the requirements of speed, simplicity and personalization. This is how the Council was able to highlight the achievements of the institution and their impact on the effectiveness of competition regulation.

Furthermore, the effectiveness of the Council's communication strategy lies in its ability to adapt to technological changes that are taking place at high speed. Digital communication undertaken by the Council has created a strategic lever, especially in a pandemic situation.

B. Simplified communication on competition issues

In order to better communicate on competition issues and succeed in its mass and local strategy in this area, the Competition Council during 2020 chose the path of simplification despite the fact that this is difficult to reconcile with the complexity of the institutional process of market regulation and the technical nature of the message related to competition law. The effect of this simplification has resulted in a massive and diverse presence of Council news in the media.

The effect of this simplification was a massive and diversified presence of the Council's news in the media.

It is important to point out that the 2020 communication plan dedicated to the media has proved to be effective, thus making it possible to achieve the objectives set out by the overall communication strategy.

In this sense, in addition to the mobilization of national and international media on coverage of its activities, the Council has strengthened its relations with the national press by establishing a professional climate and a spirit of trust, listening and fruitful exchange, for which bilateral talks were held with journalists and media correspondents.

The result has been that in 2020 the national press was more interested in competition issues, especially with the pandemic situation having a significant impact on the economy and the purchasing power of the Moroccan consumer.

Because of the actions undertaken, the Competition Council has gained visibility with public opinion and economic operators, and editorial outlets now form a good communication link.

C. Tools of communication

To succeed in its communication strategy, the Competition Council relied on various tools including:

1. Effecting regular media monitoring

Regular media monitoring means national and international news relating to the Competition Council and issues of the law on the one hand, and the economy of competition on the other.

2. The newsletter

Entitled 'Mounafassa', this newsletter is written and broadcast in Arabic and French, in paper and electronic format and is directed at all the Council's targets.

It is a broadband quarterly enabling the Council to reach a large part of the communication objectives set by its strategy, to the extent that its content is the update of the work carried out by the Council.

This letter also discusses topics related to competition law, competition practices and news of decisions and jurisprudence at the national and international levels.

Technically, this medium has several headings that can present in each issue simplified and succinct news relating to the law, the economy and competition regulations in Morocco and in the world, in which readers and actors of competition are interested.

It can also through this medium popularize the jargon of competition to allow the general public to become familiar with the rights of competition and make it easily understandable.

3. Launch of projects over awareness-raising and promotion of the culture of competition

A draft of a book 'Awareness and promotion of competition culture via Moroccan proverbs and artistic work' has been launched. Artistic illustrations will be created by students at the schools of Fine Arts of Tetouan and Casablanca where framing workshops were organized.

A competition guide has been given in parallel to young artists in order to help them understand the basics of competition law and economics in a simplified way, thus facilitating their understanding of the competition system and imbuing them with the spirit of the project, so that these students are able to express via their artistic work illustrations of the benefits of competition.

This project, once completed, should enable the Council to instil in Moroccan school students respect for competition as a value of social activity and citizenship, insofar as free and loyal competition is a central component of economic democracy.

It is also a question of inviting consumers everywhere to know the competition system and the benefits that free and fair competition provides them, and to encourage the company or the economic operator, whatever its position in the market, to respect the right of competition and thereby the rules of free market game.

To this must be added the creation of pages on social networks and the launch of the project of making capsules of awareness.

4. Promotion of actions and events organized by the Council

This promotion covers the organization of press briefings and with press releases and media dedicated to each action or event concerning the Council and each category of targeted audience.

In addition, in order to ensure broad coverage of its activities, the Competition Council signed an agreement in February 2020 with the Moroccan Press Agency (MAP) with an interview by the President of the Council on the role of regulation of the economy at the time of the crisis in May 2020.

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PART
THE COMPETITION
COUNCIL ACTION PLAN
FOR THE YEAR 2021

The Action Plan for the year 2021 is part of a spirit of continuity and a dynamic of development.

I. Deliberative tasks

Given its important role and as part of the tasks assigned to it, the standing committee intends in 2021 to contribute effectively to the analysis of the state and evolution of competition in Morocco and in the world, and strengthen the dynamic of competition market regulations.

In its sections the 2021 Action Plan provides for coordinated action to support the standing committee in its deliberative tasks and help to defend the principles of free, healthy and fair competition. For this purpose:

1. In terms of agreements

The cartel section in 2021 plans to examine potential anti-competitive practices in strategic sectors of the national economy.

To this end, the section will work in close collaboration with the other sections, mainly on common issues. It also intends to contribute to the hosting of national and international events that the Council will organize in 2021 and to continue its benchmark work by opening up to doctrine and case law in the fight against cartels in foreign countries.

2. In matters of abuse of dominant positions or economic dependence

The section responsible for abuse of dominant positions or economic dependence intends to continue studying and analysing cases falling within its competence.

In addition, with a view to building a database that will serve as a tool for controlling and monitoring the behavior of market players, the section plans to deeply analyse the decisions and opinions issued by the Council, in order to establish the interconnection that may arise at the level of mergers and acquisitions or referrals notified to the Council.

3. In matters of mergers and acquisitions

The section responsible for mergers and acquisitions plans for the year 2021 to analyse competition in three important sectors. As follows:

- Buildings and public works;
- Private higher education;
- Sugar.

4. In matters of State aid, public procurement and advisory assignments

The section responsible for state aid, public procurement and advisory assignments intends during 2021 to continue its critical reading of the texts governing competition in Morocco.

The section also undertakes to present the main lines of three draft notes concerning:

- Areas of intervention of the section and relations with other national bodies having the same prerogatives, namely the National Commission for Procurement and the Insurance and Social Welfare Control Authority;
- State aid in the field of real estate;
- The role of public procurement in preserving competition.

The section also plans to develop the debate around the projects of the National Competition Barometer, the Opinion Poll on the perception of competition and the Watchdog for legal, economic and competitive monitoring.

II. Regulation of competition

Strengthening the skills and expertise of investigation services is one of the priorities of the Competition Council's Action Plan for 2021.

The aim is to take advantage of and supplement the know-how accumulated by these departments over the past two years, in terms of investigating contentious referrals, requests for opinions and mergers and acquisitions, through the deployment of practical training relating to competition law and economics, by optimizing and enhancing in this context all the opportunities afforded by national and international partnerships.

At the same time, the Council intends to continue the work of upgrading the instruction procedures with a view to improve speed, performance and efficiency.

III. Analyses, studies and legal, economic and competition monitoring

During 2021, the Competition Council and in accordance with its allotted tasks, will analyse the state of competition in Morocco and in the world.

The Council also intends to finalize studies on the state of competition in the sector of private clinics and similar establishments, and in the wholesale markets of fruit and vegetables, red meats and fish halls.

In order to systematize the perception of competition, the Competition Council in 2021 plans to finalize the structuring projects relating to the opinion poll on the perception of competition, the National Competition Barometer and the Legal, Economic and Competition Monitoring Watchdog. The Council also provides for the operationalization of the device dedicated to the consumer.

IV. Administrative and financial governance

In terms of its administrative and financial governance, the Council in its Action Plan for 2021 expects to carry out the following actions:

- Adoption of a complex budgetary mass inspired by the general state budget and the establishment of three-year budget programming;
- Operationalization of the processing of Council expenses on the GID and INDIMAJ platforms;
- Launch of an internal debate on the human resources master plan (GPEEC and training plan);
- Launch of an internal debate on the Computer Systems master plan;
- Organization of an internal training cycle in financial management, budget, purchasing and accounting for new recruits affiliated to the Directorate of Administration and Financial Affairs;
- Digitization of asset inventory operations and valuation of the Council's stocks;
- Start of construction work on the new Council headquarters;
- Completion of the physical and digital archiving of Council documents;
- Completion of preparations for the Manual of administrative and financial procedures and systematization of external audit.

V. Communication strategy and national and international partnerships

During the 2021 financial year, the Competition Council plans to continue its efforts in raising awareness of the strengthening the culture of healthy and fair competition, in particular with actors and stakeholders in the field of competition law and competition policy.

At the same time, the Council will continue to diversify its national and international partnerships as part of its strategy to strengthen its cooperative relations.

APPENDICES

Appendix n° 1: Cases of competition authorities having authorized cooperation between competitors

| Country | Approach | Sectors | Description of measures |
|--------------------|------------|-------------------------------|--|
| South Africa | Sector | Finance and Banking | Exemption of agreements to ensure continued operation of essential payment systems during the state of emergency: business continuity plans to ensure continued availability of banknotes for ATMs, supply some essential banking services and systems, etc. |
| | | Hospitals and health services | Exemption to allow cooperation in the health sector (pooling of health personnel, distribution of patients according to reception capacity of health units, etc.). The exemption only applies to practices for the "sole purpose of responding to the Covid-19 pandemic. |
| | | Tourism and Hospitality | Exemption allowing hotel facilities that cannot be conventionally operated during the lockdown period to be used to provide required quarantine accommodation on account of the pandemic. |
| | | Commercial properties | Exemption in the commercial property sector allowing the establishment of a price agreement between professional tenants and owners of commercial premises during a pandemic period |
| Brazil | Sector | Foodstuffs | The Administrative Council for Economic Defence (CADE) has enabled a group of global food and beverage manufacturers, including Ambev, Coca-Cola, Nestlé, Mondelez and PepsiCo, to pool their efforts in response to the pandemic of Covid-19 until October 31, 2020. Collaboration covers financing, discounted distribution terms and extended payment terms to help retailers replenish their stocks. |
| Hong Kong | Horizontal | Essential goods and services | The Competition Commission recognizes the need to temporarily strengthen cooperation between companies in certain sectors, in particular to maintain the supply of essential goods and services to consumers. Here, the Commission has adopted a pragmatic approach, leaving it to companies to propose temporary measures and to contact the Commission to discuss them. |
| Dominican Republic | Horizontal | All sectors | The Competition Authority has announced that it will not act against cooperation or coordination between companies to the extent necessary to protect consumers and ensure supply, but that it will not tolerate unfair terms or collusion conditions. |
| Mexico | Horizontal | All sectors | The Competition Authority has announced that it will not investigate cooperative actions between economic agents which, in the current context, are necessary to maintain or increase supply, meet demand, protect supply chains, avoid shortages or accumulation of excessive stocks of goods. |
| Nigeria | Horizontal | All sectors | Publication of a directive for cooperation between competitors during the crisis explaining the nature of exemptions and their implementation. |
| Norway | Sector | Air Transport | The Norwegian government has granted the transport sector a temporary exemption allowing hard-hit airlines among others to cooperate during the pandemic. Rivals like SAS and Norwegian, who are struggling to survive, will now be able to coordinate routes for a minimum period of three months. |
| Netherlands | Horizontal | All sectors | The Dutch competition authority allows competitors in certain critical sectors (supermarkets, logistics services, medication wholesalers) to exchange information (e.g. quantities in stock) so that supplies to consumers and the health system is guaranteed. |

| Pays | Approche | Secteurs concernés | Description des mesures |
|----------------|---------------------------------------|---|---|
| United Kingdom | Horizontal | All sectors | The UK CMA has pledged to refrain from taking enforcement action against temporary coordination arrangements between competitors which: (a) are appropriate and necessary to avoid a shortage or to ensure security of supply; (b) are clearly in the public interest; (c) contribute to the benefit or welfare of consumers; (d) address critical issues that arise as a result of the Covid-19 pandemic; and (e) do not last longer than necessary to cope with these problems. |
| | Sector | Foodstuffs | Competition rules in the UK will be temporarily relaxed to allow the dairy industry to meet current market challenges posed by the Covid-19 pandemic. The legislation aims to enable the sector to avoid waste and maintain its production capacity to meet future demand. |
| | | Hospitals and health services | Authorization of cooperation between health service providers. The UK government introduced the Health Services for Patients in England: A Public Policy Exclusion Order, which allows NHS bodies and independent health care providers to: <ul style="list-style-type: none"> - exchange information on capacity (including personnel and facilities); - coordinate deployment of personnel; - share facilities; - initiate joint purchases; and - coordinate on treatments offered by different providers. |
| | Supermarkets groceries and pharmacies | Temporary suspension of certain provisions relating to sharing of information between suppliers of grocery products that would temporarily allow collaboration. This allows grocery suppliers to: <ul style="list-style-type: none"> -Coordinate as needed on (i) limiting purchases of particular groceries, (ii) defining the range of groceries to be provided, (iii) assisting particular groups of customers (for example, critical workers and vulnerable groups), (iv) closing and opening hours of stores, and (v) supplying areas of the country vulnerable to shortages; - share the workforce and/or facilities. | |
| Romania | Sector | Hygiene products, medical equipment, medications and other Medical supplies | The Competition Council has declared that it complies with the European Commission's policy of relaxing competition rules for pharmaceutical companies by allowing agreements and exchanges of information between pharmaceutical companies so as not to create discontinuities in the provision of essential medications for the treatment of patients with Covid 19. |

Source: Data reconstituted by the Competition Council from an international benchmark.

Appendix n°2: Summary of OECD recommendations to competition authorities during the Covid-19 pandemic

| Recommendations for State intervention |
|--|
| <ul style="list-style-type: none"> • Help public authorities to implement public support measures by providing them with necessary resources and advice or, where appropriate, having the powers to set priorities; • Provide advice/guidance to public authorities on how to ensure a level playing field and avoid market distortions by defining clear, general and objective rules applicable to all companies in a country, sector or region; • Intensify advocacy actions with public authorities by explaining the principles of competition that must be respected for markets to remain competitive after the crisis, which is decisive for promoting economic recovery; • Promote industrial policies that provide pro-competition alternatives to any planned state intervention that risks lasting damage to the markets; • Cooperate with other jurisdictions in order to achieve some harmonization of a monitored international approach, to ensure a level playing field between countries and continue campaigning against protectionist measures. |
| Recommendations relating to control and enforcement |
| <ul style="list-style-type: none"> • Be very vigilant in the event of sudden and rapid price increases. In the short term, they may be called upon to act to identify where and when prices have risen in the supply chain, and to take interim measures or issue warnings in order to quickly end offending conduct; • Coordinate actions with consumer protection authorities, or exercise their (possible) consumer protection powers to protect consumers from unfair pricing practices; • Use their advocacy power to warn about risks incurred by price control measures applied by public authorities, including distortion of price signals that can encourage production and slow the entry of new players who can remedy shortage situations; • Inform companies in a clear and timely manner how they will treat efficiency gains in agreements between competitors (open and accelerated communication channels allowing information on specific agreements), especially those relating to priority sectors in times of crisis, such as medical products and the food supply chain. These agreements must ensure legitimate cooperation between competitors, limited in time and to what is necessary. They must refrain from any hardcore restriction of competition, such as price fixing; • Carefully analyse reasons given in support of crisis agreements. Any exempted agreement must be permitted for a limited period, subject to review against predefined criteria. |
| Recommendations relating to managing consequences of the crisis on the structure of markets |
| <ul style="list-style-type: none"> • Carefully consider requests for bailout mergers and accept the failing firm's argument only after reviewing evidence, in order to avoid providing short-term benefits at the cost of higher long-term costs; • Allow anti-competitive mergers based on other public policy considerations only in exceptional circumstances and in a transparent manner. |

Source: Organization for Economic Cooperation and Development

Appendix n°3: Examples of intervention in terms of control, price regulation and repression of abusive prices

| Country | Approach | Sectors | Description of measures |
|-----------|------------|---|---|
| Argentina | Sector | Foodstuffs | Fixing maximum prices on food products, hygiene products, medications and medical supplies for 30 days renewable. |
| Botswana | Sector | Several sectors | The Competition and Consumption Authority of Botswana monitors the prices of basic and essential products (food products, hygiene and medical equipment). |
| Brazil | Sector | Hygiene products, medical equipment, medications and other medical supplies | The Administrative Council for Economic Defence (CADE) has allowed a group of global manufacturers of food and beverages, including AMBEV, Coca-Cola, Nestlé, Mondelez and Pepsico, to share their efforts in response to the pandemic of COVID-19 Until October 31, 2020. The collaboration focuses on the offer of special financing plans, reduced price distribution conditions and extension payment deadlines to help retailers rebuild their stocks. A suspension of price readjustments of all medications for 60 days has also been decided. |
| Bulgaria | Sector | Fuels | The Office of the Prosecutor alerted the Competition Authority in March on a possible pricing system in the fuel sector. An investigation was conducted on 11 members of the Bulgarian Association of Oil and Gas due to this suspicion. The Authority considered that companies have probably agreed to keep fuel prices at a high level, despite lower oil prices caused by the coronavirus pandemic. |
| China | Sector | Hygiene products, medical equipment, medications and other medical supplies | Voluntary monitoring by electronic product price platforms such as protective equipment and hand disinfectant. |
| Colombia | Horizontal | All sectors | The competition authority has urged municipal authorities in Colombia to ensure that a build-up of speculative stocks with a view to raising prices does not occur. At the same time, the authority monitors the prices of certain basic necessities, such as food and medications |
| Croatia | Horizontal | All sectors | The government has frozen the prices of flour, milk, eggs, rice, pasta, meat, fish, fruit and vegetables, baby food and diapers, soap and disinfectants as well as some medical supplies. |
| France | Sector | Hygiene products, medical equipment, medications and other medical supplies Foodstuffs | Fixing of maximum prices for hydro-alcoholic gels for a limited period. |
| Gambia | Sector | Foodstuffs | Price cap on basic products: rice, corn, millet and bread. |
| India | Sector | Hygiene products, medical equipment, medications and other Medical supplies | Price cap for PCR tests. |
| Kenya | Sector | Hygiene products, medical equipment, medications and other medical supplies | Kenya Competition Authority sanctioned supermarket chain (Cleanshelf) for raising the prices of hand sanitizers excessively. |

| Pays | Approche | Secteurs concernés | Description des mesures |
|----------------|----------|---|---|
| Nigeria | Sector | Hygiene products, medical equipment, medications and other medical supplies | JUMIA (e-commerce platform) de-registered 390 products belonging to 168 sellers of hand sanitizers and face masks from its platform, following a warning issued by the Federal Competition and Consumer Protection Commission. The Commission also brought proceedings against 4 supermarket chains for abusive prices on hygiene products. |
| Paraguay | Sector | Hygiene products, medical equipment, medications and other medical supplies | Price caps for face masks, disinfectants and medical gloves. |
| Poland | Sector | Several sectors | The Polish Office for Competition and Consumer Protection has created a dedicated team to monitor online prices in order to combat potential anti-competition behavior in the sectors of food and personal hygiene |
| Portugal | Sector | Hygiene products, medical equipment, medications and other Medical supplies | Capping of the margin at 15% for protective products and hydro-alcoholic gels |
| United Kingdom | Sector | Hygiene products, medical equipment, medications and other medical supplies | The Competition and Markets Authority has set up monitoring of price trends in this sector and has proposed to the government 'Temporary emergency legislation' to prosecute retailers who raise prices of products such as hand sanitizers and face masks during a pandemic |

Source: Data reconstituted by the Competition Council from an international benchmark.

Appendix n°4: Moroccan regime for public aid granted to enterprises re. budget accounting

| Aid from direct expenditure | | Aid from indirect expenditure |
|--|---|--|
| State budget expenditure | Non-budget expenditure | Tax expenditures |
| <ul style="list-style-type: none"> ▪ Aid transferred to public commercial or private enterprises without compensation: <ul style="list-style-type: none"> – Operating grants allocated to public commercial enterprises and public financial institutions – Transfers on investment grants allowing public commercial enterprises or public financial institutions to acquire fixed assets ▪ Aid included in common charges, i.e. which cannot be charged to the budgets of ministerial departments or institutions: <ul style="list-style-type: none"> – Operating expenses (subsidies granted to commercial businesses to support certain prices (e.g. electricity market for example). – Investment expenditure, dedicated to restructuring of certain public commercial enterprises (e.g. settlement of debts of ONEE and ONCF). ▪ Financial operations of the budget <ul style="list-style-type: none"> – State financial investment: financial holdings, equity investments, recapitalizations, equity allocations (e.g. capital allocations paid during the creation of a public commercial enterprise). – Advances and loans to private or public companies. – State guarantees: in particular, guarantees granted by the State to lenders in the event of default by debtors. | <ul style="list-style-type: none"> ▪ Current transfers from Special Treasury Accounts (CST) to public commercial or private companies: <ul style="list-style-type: none"> – Aid granted through Special Assignment Accounts (CAS), as for example: <ul style="list-style-type: none"> – Industrial development and investment fund, – Fund for promotion of youth employment, – Agricultural development fund – Special fund for coronavirus pandemic management – Fund for promotion of audiovisual sector, advertising and publishing. ▪ Aid granted by Financing Accounts (CF) for reasons of public interest: <ul style="list-style-type: none"> – Loans for more than 2 years. – Repayable advances for under 2 years, ▪ Taxes instituted for commercial public enterprises (e.g. parafiscal tax for SNRT) ▪ CST financial operations: <ul style="list-style-type: none"> – State financial investment: financial holdings, equity investments, recapitalizations, equity allocations (e.g. capital allocations paid during creation of a public commercial enterprise). – State guarantees. | <ul style="list-style-type: none"> ▪ Total exemption: Exemption from paying a tax ▪ Reduction: Application of a rate lower than the tax norm; Reduction in the amount of tax due. ▪ Temporary exemption, i.e. a total exemption or reduction applied for a fixed or partial period, i.e. the application for total exemption or a reduction on part of the net taxable amount. ▪ Abatement: Reduction on the gross taxable amount (amount defined by the tax administration). ▪ Cash flow facility: e.g. Decreasing depreciation of capital goods, suspension of duties and taxes on raw materials, and goods necessary for production, and on capital goods. ▪ Deduction: Amount subtracted (deductible charge) from the gross taxable amount before the tax is calculated. ▪ Flat rate taxation: Use of a single tax rate when the reference system provides for progressive taxation. |

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| Liste des acronymes et abréviations | |
|-------------------------------------|---|
| ACAPS | Insurance and Social Welfare Control Authority |
| AMM | Marketing Authorization |
| ANAM | National Health Insurance Agency |
| ANRT | National Telecommunications Regulatory Authority |
| BCP | People's Central Bank |
| CASE | Special Assignment Account |
| CDII | Customs and Indirect Tax Code |
| CEFHP | Commission for the Economic and Financial assessment of Health Products |
| CGI | General Tax Code |
| CMA | Competition and Markets Authority - UK |
| CNSS | National Social Security Fund |
| ESCWA | Economic and Social Commission for Western Asia |
| EMC | Economic Monitoring Committee |
| GAFA | Google, Apple, Facebook and Amazon |
| GDP | Gross domestic product |
| GFCF | Gross Fixed Capital Formation |
| GMS | Large and Medium Stores |
| IDIF | Industrial Development and Investment Fund |
| ILO | International Labor Organization |
| FDSUT | Universal Telecommunications Service Development Fund |
| HCP | High Commission for Planning |
| ICN | International Competition Network |
| IDE | Foreign direct investment |
| IHH | Herfindahl-Hirschmann index |
| IMF | International Monetary Fund |
| MAD | Moroccan dirham |
| MAP | Moroccan Press Agency |
| MEFRA | Ministry of Economy, Finance and Administrative Reform |
| NOG | General guidance note |
| OECD | Organization for Economic Cooperation and Development |
| PEE | Establishment and Public Enterprises |
| SME | Small and medium-sized enterprise |
| SCPM | Superintendencia de Control del Poder de Mercado – Ecuador |
| TPE | Very Small Business |
| VAT | Value added tax |
| UNCTAD | United Nations Conference on Trade and Development |
| WHO | World Health Organization |

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