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Ex-ante regulation and competition in digital markets: the case of food delivery in the Arab region

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Introduction

The digital transformation of the Arab region's economy has accelerated over the past decade, particularly in high- and middle-income Arab countries, as traditional product markets have increasingly incorporated digital elements alongside the emergence of new digital markets. Globally, this transformation has fundamentally shifted the strategic focus of many competition authorities from traditional industrial sectors towards complex, multi-sided digital ecosystems. Among these dynamic sectors, the online food delivery market has emerged as a critical digital infrastructure, connecting millions of consumers with thousands of small and medium enterprises (SMEs) in the food and beverage industry. However, the rapid expansion and subsequent consolidation of this sector have exposed profound structural vulnerabilities, provoking a necessary paradigm shift in regulatory philosophy across the world and the region.[1] Traditional antitrust enforcement, characterized by retrospective investigations and lengthy judicial processes, is increasingly viewed by policymakers and economists as fundamentally insufficient to address the fast-paced "winner-takes-most" dynamics of digital platform economies.[2]

The present background paper for session 1 of the seventh Arab Competition Forum (2026), dedicated to ex-ante regulation and competition in digital markets, examines the shift from reactive enforcement to proactive regulation. It analyses regional developments such as Kuwaiti ministerial decision No. 10 of 2026, the Dubai Corporation for Consumer Protection and Fair Trade (DCCPFT) 2025 Guidelines, and enforcement in Egypt, Morocco and Saudi Arabia. It also identifies key economic harm theories. Drawing on international precedents from the Directorate-General for Competition of the European Union and the Brazilian Administrative Council for Economic Defence (CADE), it offers design options for Arab policymakers. The goal is to help regulators balance the promotion of innovation and foreign direct investment with the protection of fair competition, marketability and SME sustainability.

Shift towards ex-ante regulation in digital markets

The question before Arab competition authorities mirrors a debate that has reshaped competition policy globally over the past decade: whether ex-post enforcement, applied

1. United Kingdom Competition and Markets Authority, Online Platforms and Digital Advertising: Market Study Final Report, 2020; Organisation for Economic Co-operation and Development (OECD), The Evolving Concept of Market Power in the Digital Economy, 2022.
2. Jacques Crémer, Yves-Alexandre de Montjoye and Heike Schweitzer, Competition Policy for the Digital Era: Final Report for the European Commission, 2019.

case by case after harm has occurred, can keep pace with the dynamics of digital markets. Network effects, data-driven economies of scale and scope, and the tendency of platform markets to tip towards a single dominant provider mean that, by the time a traditional abuse case concludes, the competitive structure of the market may already be beyond restoration. This concern has led a growing number of jurisdictions to complement enforcement with ex-ante regulation, namely obligations imposed in advance on designated platforms, before harm materializes.[3] The regimes adopted to date, in Europe and beyond, share a common architecture: a designation test identifying the largest platforms, conduct obligations that apply without proving dominance or anti-competitive effects, and strengthened information-gathering powers.[4] They diverge on much of the rest, including the scope of designation, the rigidity of the obligations and the degree of enforcement discretion, and each design choice carries trade-offs between speed, legal certainty and institutional capacity. The design of an ex-ante regime must therefore match the enforcement resources, judicial infrastructure and market conditions of the jurisdiction applying it.

Ex-ante regulation complements, rather than replaces, competition enforcement. Existing regimes operate alongside, and expressly without prejudice to, general competition law: regulation addresses recurring and structurally predictable conduct for which case-by-case litigation is too slow, while enforcement continues to address novel conduct, individual transactions and markets below the designation thresholds. The implementation questions that follow, concerning who designates, on what criteria, with what review mechanisms and with what coordination between competition authorities and sectoral regulators, arise in every jurisdiction that adopts an ex-ante regime. The Arab region has entered this debate through practice: food delivery is the first digital sector in which Arab Governments have moved from ex-post cases to binding ex-ante conduct rules, for example, through Kuwaiti ministerial decision No. 10 of 2026 and the DCCPFT guidelines in Dubai, with related enforcement in Egypt, Morocco and Saudi Arabia. The remainder of the present paper examines that experience as the regional test case for the questions of design, complementarity and institutional capacity raised by ex-ante regulation in digital markets.

3. OECD, Ex ante regulation and competition in digital markets, 2021.
4. See, for example, European Union, Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act), 2022; Germany, Act against Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen), section 19a, official English translation; United Kingdom, Digital Markets, Competition and Consumers Act 2024, c. 13.

Evolution of food delivery markets in the Arab region

Economic features and market dynamics of digital platforms

The food delivery sector in the Arab region has evolved dramatically from a niche logistical convenience into a foundational pillar of the modern digital economy. Between the catalytic digital migration prompted by the COVID-19 pandemic in 2020 and continued market maturation into 2026, the region has witnessed extraordinary adoption rates. Markets such as Egypt, Saudi Arabia and the United Arab Emirates currently represent the highest concentrations of digital platforms and technology investment on the African continent and the broader Middle East.[5] The underlying economics driving these digital food delivery platforms are characterized by profound multi-sided network effects. A digital platform's fundamental value proposition to consumers increases exponentially as more restaurants join the ecosystem, reflecting positive cross-side network effects. Concurrently, the platform's value to restaurant operators scales directly with the growth and active engagement of the consumer base.[6]

While these network dynamics generate significant logistical efficiencies, reduce transaction costs and expand market reach, they also propel digital markets towards rapid and aggressive consolidation. The technological landscape inherently favours the emergence of "gatekeepers", intermediary entities that successfully capture and control the primary access point between business users and their prospective customers. Once a platform reaches a critical mass of users, the market tends to tip in its favour, creating formidable barriers to entry for new competitors. These barriers are not necessarily rooted in traditional capital expenditure requirements, but rather in the insurmountable cost of acquiring a competitive user base and overcoming the entrenched data advantages held by incumbent platforms.[7] As a result, regional markets are increasingly consolidating into oligopolies or near-monopolies, primarily controlled by large international conglomerates with substantial capital and well-established regional leaders.

5. Measurable AI, Middle East online delivery report: Food + grocery 2020–2024, 2025.
6. Jiaer Gu, The business economics of online food delivery platforms: market characteristics, competitive behavior, and economic impact, 2025.
7. Gong Lee, Indirect network effect and spillover effect in food delivery platforms, 2022.

Structural dependencies and the vulnerability of SMEs

As regional food delivery markets mature and consolidate, the structural dependence of restaurant operators on dominant delivery applications has intensified to a critical degree. For the vast majority of food and beverage SMEs, participation on major delivery platforms is no longer viewed as a supplementary, incremental revenue stream; it has become an essential condition for survival in the modern retail environment.[8] This profound dependency fundamentally alters the balance of bargaining power within the vertical commercial relationship between the digital platform and the independent business user.[9]

Platforms routinely employ sophisticated subscription models, aggressive discounting strategies, and tiered loyalty programmes to encourage end-consumers to "single-home", meaning they habitually utilize only one application for all their purchasing needs. Conversely, to maximize their market reach and capture a fragmented consumer base, restaurants are compelled to "multi-home" by listing their menus across multiple competing applications. However, because platforms exclusively control the digital consumer interface, the underlying transaction data and the physical delivery logistics, restaurants operate at a severe structural disadvantage.

Without robust regulatory safeguards, dominant platforms can seamlessly leverage this asymmetric power to dictate unilateral contractual terms, impose aggressive commission fee increases, and mandate restrictive commercial conditions that extract disproportionate economic value from the SME ecosystem. In an industry where independent restaurant profit margins are notoriously thin, often hovering between 5 and 10 per cent, the imposition of platform commission fees that can range from 20 to 35 per cent represents a devastating compression of profitability.[10] This dynamic threatens to hollow out the local culinary landscape, replacing diverse independent operators with highly optimized platform-dependent entities, thereby stifling long-term culinary innovation and economic diversity.

Case for ex-ante intervention

Inadequacies of traditional ex-post enforcement

Historically, competition and antitrust authorities across the Arab region, much like their global counterparts, have relied predominantly on ex-post enforcement. This traditional

8. Jacques Crémer and others, Competition Policy for the Digital Era, 2019; Lina M. Khan, Amazon's Antitrust Paradox, 2017.
9. Zhuoxin Li and Gang Wang, The role of on-demand delivery platforms in restaurants, 2021.
10. Darryll Rose Dano and Ashok Chopra, Impact of delivery apps commission rates on U.A.E. restaurants, 2021.

regulatory paradigm involves applying antitrust statutes and initiating investigations only after an alleged anticompetitive act has occurred and caused demonstrable, quantifiable harm to the market.[11] However, a robust and growing consensus among competition economists and legal scholars suggests that ex-post enforcement in the context of digital platform markets is routinely inadequate.[12]

The inherent characteristics of digital markets, specifically their propensity for rapid tipping, strong network effects, and the central role of data hoarding, require timely intervention to prevent irreversible market monopolization.[13,14] Traditional antitrust investigations are notoriously slow; they often span several years, demanding exhaustive market definitions, highly complex econometric analyses to firmly establish market dominance, and prolonged judicial appeal processes. In the specific context of the food delivery sector, where SME cash reserves are limited and market dynamics shift from month to month, an independent restaurant may not be able to survive a multi-year legal battle over abusive commission structures or exclusionary algorithms. By the time a regulatory body successfully issues a formal cease-and-desist order or levies a financial penalty, the dominant platform may have already driven its primary competitors into insolvency and permanently entrenched its monopoly position, rendering the regulatory victory entirely pyrrhic.

As a result, modern policymakers are increasingly adopting ex-ante regulations.[15] This proactive strategy sets clear, binding rules and specific operational duties for dominant platforms before any anti-competitive behaviour occurs. By defining a code of conduct related to transparency, data access and fairness, ex-ante frameworks help maintain market contestability, promote fair commercial practices, and prevent monopolistic abuse without the need for lengthy case-by-case legal processes.

Relevant theories of harm in the Arab context

The decisive transition toward ex-ante regulatory frameworks is driven by the identification of specific “theories of harm”. These theories articulate the precise mechanisms through which dominant digital platforms may distort competition and extract undue rents. Extensive market studies and regulatory investigations across the Arab region have repeatedly highlighted three primary anti-competitive practices that threaten the stability of the food delivery sector.

11. OECD, Ex ante regulation and competition in digital markets, 2021.
12. International Center for Law and Economics, Digital competition regulation: costs, tradeoffs, and consequences, 2025.
13. Digital Competition Expert Panel, Unlocking Digital Competition: Report of the Digital Competition Expert Panel (Furman Review), 2019.
14. OECD, Ex ante regulation and competition in digital markets, 2021.
15. OECD, The Evolving Concept of Market Power in the Digital Economy, 2022; Digital Competition Expert Panel, Unlocking Digital Competition, 2019.

Self-preferencing

Self-preferencing represents a critical concern in the vertical relationships between digital platforms and market participants. It is defined as the act of a vertically integrated platform granting preferential treatment to its own proprietary products or services over those of independent business users operating on the same platform.[16] In the regional food-delivery context, this phenomenon frequently manifests as the proliferation of platform-owned "dark kitchens" or "cloud kitchens".[17,18]

Because the dominant platform entirely controls the search algorithms, ranking parameters and user interface, it can artificially boost the visibility of its own virtual restaurant brands, effectively pushing independent SMEs further down in search results. This dual role, where the platform acts simultaneously as both a referee (the marketplace infrastructure) and a direct competitor (a restaurant vendor), creates a profound and inescapable conflict of interest. It distorts merit-based competition, ensuring that platform-owned entities succeed not because of superior culinary quality or pricing, but simply because of algorithmic manipulation.[19]

Price parity and most favoured nation clauses

Most favoured nation (MFN) clauses, commonly referred to in this sector as price parity agreements, are contractual stipulations imposed by platforms that explicitly prohibit a restaurant from offering its menu items at a lower price on competing delivery applications or through its own direct-to-consumer sales channels. While platforms have historically attempted to justify these clauses as a necessary mechanism to prevent "free-riding", where consumers use the platform to discover food but order directly from the restaurant to save money, the broader economic reality is that MFNs severely harm market-wide competition.[20,21]

If a restaurant is contractually bound to maintain uniform and identical pricing across all digital platforms, competing delivery applications have absolutely no economic incentive to lower their commission fees to attract that restaurant's business. Even if a rival platform offers a drastically reduced commission rate, the restaurant cannot pass those operational savings on to the end-consumer through lower menu prices. The ultimate result of

16. Malaysia Competition Commission, Market review on the digital economy ecosystem under the Competition Act 2010, 2026.
17. Dubai Department of Economy and Tourism, Guidelines for online food delivery platforms in the emirate of Dubai, 2025.
18. Fajar Bima Alfian and Rilda Murniati, Self-preferencing: practices and characteristics of abuse of dominant position in digital markets, 2024.
19. Hillary Quarles and Gregory L. Simon, Platforming space: how food delivery platforms optimize users through physical, digital, and virtual space, 2025.
20. Andrea Mantovani and others, Much ado about nothing? Online platform price parity clauses and the EU Booking.com case, 2019.
21. Okko Kivistö, The competitive effects of exclusivity and price parity clauses in the online food delivery market: a literature review, 2024.

widespread price parity clauses is the establishment of an artificial price floor across the entire digital economy, which universally inflates costs for consumers, suppresses innovation among delivery startups, and comfortably insulates dominant incumbent platforms from aggressive price competition.

Data asymmetry and information hoarding

Digital food delivery platforms process millions of transactions daily, generating vast, invaluable troves of hyper-local data on consumer flavour preferences, price elasticity, peak-demand cycles, and geographic delivery heatmaps. Independent restaurants, however, are routinely denied access to the granular data generated by their own customers. This engineered data asymmetry allows platforms to unilaterally identify the most lucrative geographical zones and the most popular menu items within specific neighbourhoods.

Table 1. Main theories of harm in digital food delivery markets and their regional economic effects

Economic theory of harm	Mechanism of anti-competitive action	Regional economic impact
Self-preferencing	Algorithmic manipulation to boost platform-owned cloud kitchens over independent SMEs.	Crowding out local independent restaurants reduces consumer choice and distorts merit-based market success.
Price parity/MFNs	Contractual bans prevent restaurants from offering lower prices on rival platforms or direct channels.	Eliminates inter-platform price competition, creates artificial price floors and directly inflates consumer food prices.
Data asymmetry	Platforms hoard transaction and consumer data, restricting SME access to customer insights.	Prevents SMEs from building direct customer relationships, and enables platform cloning of successful independent menus.
Crisis-driven market power	Synchronized fee increases, reduced discounting and algorithmic re-ranking during supply-chain, cost or demand shocks.	Amplifies SME dependency and consolidation precisely when cash reserves are lowest, accelerating loss of multi-homing and erosion of the independent restaurant base.

Source: Compiled by ESCWA, based on sources cited in the text.

Armed with this proprietary market intelligence, platforms can launch competing dark kitchens with virtually zero market research risk by cloning successful concepts pioneered by SMEs. Simultaneously, a persistent lack of data access prevents independent restaurants from building direct customer loyalty, executing targeted marketing campaigns, or optimizing their own supply chain operations. This effectively traps SMEs within the platform's closed ecosystem, cementing their structural dependency and stifling their potential for independent growth.

Crisis-driven market power

A fourth theory of harm, distinct but closely interrelated with the three above, concerns the exercise of market power during periods of regional or global disruption. Crises, including supply-chain shocks, energy price spikes and currency pressure, sharply tighten the operating margins of restaurants and the purchasing power of consumers, while leaving dominant platforms' core technological and data assets comparatively insulated. Under such conditions, a platform's ability to unilaterally reshape the commercial environment is at its highest, and SMEs' ability to resist or to multi-home effectively is at its lowest.[22]

Crisis-driven market power can manifest in several ways, including synchronized commission or fee increases across competing platforms under the cover of generalized cost pressure; reductions in discounting, free-delivery thresholds, or promotional support that disproportionately affect smaller restaurants; algorithmic prioritization of higher-margin or platform-owned offerings during demand peaks; and accelerated dependence on subscription and advertising tools marketed as cost-management solutions for SMEs. Unlike the three classical theories, which describe steady-state conduct, this theory focuses on conduct whose competitive effects are most pronounced precisely when market participants are least able to seek alternatives or challenge terms. For regulators in the Arab region, it therefore underlines the need not only to characterize anti-competitive conduct, but also to monitor how such conduct evolves during shocks and to preserve SME access to competitive alternatives throughout the cycle.

Regional spotlight: regulatory innovations

Recognizing the severe inadequacies of traditional reactive antitrust tools, Arab Governments have launched unprecedented and highly targeted regulatory and enforcement initiatives, specifically aimed at digital food delivery platforms. These regional efforts demonstrate a clear spectrum of regulatory philosophy, ranging from strict ex-ante price controls to robust behavioural guidelines and aggressive merger scrutiny.

22. OECD, OECD Competition Policy Responses to COVID-19, 2020; Ioannis Lianos, Polycentric Competition Law, 2018.

These initiatives show that theories such as self-preferencing, price parity, MFN clauses, exclusivity, data asymmetry, and crisis-driven conduct are now materializing regionally and internationally. In Kuwait, measures address commission hikes and exclusivity contracts; in Dubai, guidelines target data asymmetries and self-preferencing; in Saudi Arabia, investigations tackle concentration and predatory pricing; and Egypt and Morocco act against MFNs and exclusivity. Recent enforcement is evidence, not just illustration, intensified by market pressures like cost increases, supply disruptions and demand shifts, which boost incentives for platforms and SMEs, emphasizing the need for proactive regulation.

Kuwait: pioneering ex-ante price stabilization

In early 2026, the Kuwaiti Ministry of Commerce and Industry, working with the Kuwait Competition Protection Agency, issued Ministerial Decision No. 10 of 2026. This established one of the most interventionists and strictly enforced regulatory frameworks for digital delivery platforms in the Gulf Cooperation Council.[23] Motivated by market studies, inspections and economic analyses revealing monopolistic practices, such as unjustified commission hikes, exclusivity contracts and discriminatory algorithms, the Kuwaiti Government chose pre-emptive structural measures.[24] The key regulatory elements are as follows. Firstly, a three-year fee and commission freeze to stabilize the market, protect SMEs and prevent arbitrary margin compression. Secondly, all service providers must adopt a single Ministry-approved annual tariff with clear details of fees, commissions, limits and calculations, while any hidden or unlisted fees are null and void. Platforms are prohibited from imposing exclusivity, ensuring that SMEs can operate across multiple apps. Finally, consumer protection measures include full price transparency, bans on hidden fees, price parity with in-store menus, and strict complaint and refund procedures.[25]

United Arab Emirates: transparency and fairness guidelines

The Emirate of Dubai adopted a slightly different, though equally impactful, regulatory trajectory. In September 2025, DCCPFT, functioning under the Department of Economy and Tourism, issued Circular No. 2 of 2025, which introduced highly comprehensive guidelines for online food delivery platforms operating within Dubai.[26]

23. Madhyamam, Kuwait issues binding rules for restaurant food delivery platforms, 2026.
24. Verdict Foodservice, Kuwait issues order to cap food delivery fees, 2026.
25. Gulf News, Kuwait tightens rules on food delivery apps, fixes fees, bans exclusivity, 2026.
26. Dubai Department of Economy and Tourism, Guidelines for online food delivery platforms in the Emirate of Dubai, 2025.

Rather than enforcing strict government-mandated price freezes, the Dubai framework focuses on establishing platform neutrality, guaranteeing fair contracting terms, and mandating data democratization to stimulate market competition organically.[27] Key progressive elements of the DCCPFT guidelines include a profound focus on data access and portability. Directly addressing the critical theory of data asymmetry, the guidelines grant partner restaurants the explicit legal right to access and utilize their own customer data in a usable and transparent format. This pivotal regulation enables independent operators to understand their guest demographics, track consumer behaviour, and build independent and direct marketing channels, thereby reducing their absolute reliance on the platform.

Additionally, the framework legally obligates platforms to uphold strict neutrality. Delivery applications must avoid providing any preferential treatment to selected outlets or platform-owned dark kitchens, effectively curbing the use of self-preferencing algorithms. The guidelines also explicitly target and demand the elimination of anti-competitive practices, specifically outlawing exclusivity arrangements that prevent multi-homing, and banning predatory pricing tactics designed to artificially drive smaller competitors out of the market. To address financial imbalances, platforms are compelled to provide restaurants with comprehensive, fully transparent monthly statements that explicitly break down all operational costs, including food costs, delivery fees, value-added tax and platform commissions. Crucially, platforms can no longer force restaurants to participate in deep-discount promotional campaigns; operators now possess the absolute right to opt out of such campaigns without facing algorithmic penalties or financial retribution.

Following the issuance of the guidelines, a federal task force comprising representatives from all emirates has been established to draft federal regulations for online food delivery platforms. The regulations will encompass various issues, including the relationship between platforms and third party logistics companies.

The significance of the Dubai framework is best appreciated against the structural features of the Emirati food delivery market. The United Arab Emirates exhibits some of the highest levels of platform penetration and digital order frequency in the region, with a small number of operators accounting for the large majority of on-demand orders, producing pronounced market concentration at the consumer-facing layer.[28] In this environment, partner restaurants, and particularly independent SMEs, rely on a limited set of applications not merely as a marketing channel but as their principal interface with customers. Platforms therefore perform the role of essential commercial infrastructure: the primary means through which many SMEs reach demand, manage logistics and sustain revenue.

27. Caterer Middle East, Dubai issues new guidelines for online food delivery platforms and partner restaurants, 2025.
28. Redseer Strategy Consultants, GCC food aggregator market: from $3 billion in 2019 to $14 billion in 2025, 2025. The report estimates that online food aggregators account for a growing share of meal purchases in the United Arab Emirates and broader GCC, with order frequency among the highest in emerging markets.

Read through this lens, the DCCPFT guidelines go beyond a conventional consumer-protection intervention. By combining data access and portability, contractual transparency, opt-out rights over deep-discount campaigns and anti-self-preferencing obligations, they set baseline conduct standards for an infrastructure on which a significant share of the local retail food sector now depends.[29] For other Arab markets exhibiting similar concentration profiles, the DCCPFT framework is therefore instructive as a model of how targeted ex-ante conduct rules can be applied to a structurally significant digital sector.

Saudi Arabia: merger scrutiny and market restructuring

The General Authority for Competition of Saudi Arabia has assumed a highly active interventionist role in the food delivery sector, reflecting both the market's explosive multi-billion-dollar growth and the strategic importance of the digital economy under Vision 2030. The Saudi market has historically been characterized by intense oligopolistic competition among deeply entrenched players such as Jahez and Hungerstation, a dynamic that was recently disrupted by the aggressive market entry of major international entities such as the Chinese platform Keeta.

The General Authority for Competition has effectively utilized robust merger control enforcement to prevent undue market concentration before it occurs. A major regional precedent was established when it formally blocked the acquisition of the prominent domestic food delivery application, The Chefz, by the international conglomerate Delivery Hero (which already holds significant stakes in Hungerstation).[30] It cited profound horizontal and vertical competition concerns, indicating that the merger would allow the acquirer to leverage its dominant position to raise fees, reduce service quality, and harm consumers.

Furthermore, throughout 2025 and 2026, the General Authority for Competition investigated predatory pricing claims. Following Keeta's market entry on the Chinese platform, which launched aggressive discount campaigns, domestic competitor Jahez submitted detailed data to the Authority in November 2025, alleging predatory pricing practices.[31] In response, the authority launched a formal investigation, requesting detailed data covering the past five years from all food-delivery market players. The authority's broader enforcement capacity has significantly matured, as evidenced by a record 406 merger control applications reviewed in 2025, including its first-ever structural remedy mandating divestitures.[32] Concurrently, the authority released comprehensive draft guidelines for the food delivery platform sector, pivoting towards an ex-ante model. These guidelines explicitly target

29. Dubai Department of Economy and Tourism, Guidelines for Online Food Delivery Platforms in the Emirate of Dubai, Circular No. 2 of 2025.
30. Bremer Legal & Financial, The Saudi General Authority for Competition (GAC) sheds light on their blocking Delivery Hero's acquisition of The Chefz, 2025.
31. Argaam, Jahez reports alleged predatory pricing to GAC: Blominvest, 2026.
32. Baker McKenzie, Saudi Arabia: Merger control activity in 2025, 2026.

predatory pricing (selling below cost), prohibit discrimination between different sellers, formally ban exclusive contracts between platforms and restaurants, and target self-preferencing practices that exclude competitors.[33]

Egypt and Morocco: clampdowns on MFNs and exclusivity

In North Africa, national competition authorities have fiercely and successfully combated restrictive contractual practices designed to lock in restaurants and illegally allocate markets.

The Egyptian Competition Authority imposed a historic blanket prohibition on MFN clauses, noting unequivocally that requiring restaurants to unify their prices across all sales channels constitutes an illegal restraint of trade that directly harms Egyptian consumers.[34] Moreover, it struck down exclusivity clauses and illegal tying arrangements that required restaurants to pay an additional fee for supplementary platform services to maintain their basic delivery listings. Beyond contractual terms, the authority has demonstrated a willingness to intervene to protect broader socioeconomic interests. For instance, it previously intervened in an anti-competitive market allocation and exit agreement between Delivery Hero and Glovo in 2019, successfully forcing the reinstatement of delivery services to protect the labour rights and livelihoods of over 3,000 independent delivery workers in Egypt.[35]

Similarly, the Moroccan Competition Council (Conseil de la Concurrence) has taken decisive action to regulate digital intermediaries. Following a formal complaint in October 2024 from ORA Technologies, the local startup behind the Kooul application, the Council launched a comprehensive investigation into Glovo's national operations, culminating in dawn raids at the company's Casablanca headquarters on 22 October 2024.[36] The investigation focused heavily on allegations that Glovo had forced partner restaurants into strict exclusive arrangements, thereby foreclosing the market to new entrants. In 2025, the council confirmed that the investigation would continue.

33. Redseer Strategy Consultants, Saudi Q-com regulations: ending the subsidy era?, 2025.
34. Global Compliance News, Egypt: the Competition Authority issues its first retail price maintenance and Most Favoured Nation clauses infringement decisions under the Egyptian Competition Law, 2022.
35. International Competition Network, Cooperation between competition authorities and sector regulators, 2025.
36. Bremer Legal and Financial, Morocco investigates alleged anti-competitive conduct in the food delivery sector, 2025.

International lessons and comparative law

To optimize Arab regulatory frameworks, it is crucial to contextualize regional efforts within the global evolution of competition law. Adapting to recent precedents from advanced jurisdictions like the European Union and BRICS offers valuable strategic foresight for Arab policymakers.

European Commission: Case AT.40795

In a highly instructive development in July 2025, the European Commission's Directorate-General for Competition concluded a landmark multi-year investigation against Delivery Hero and Glovo (Case AT.40795), levying a massive fine of €329 million under the European Union streamlined cartel settlement procedure.[37] Both companies formally admitted to systematically eliminating competitive pressures and replacing genuine merit-based market competition with coordinated anti-competitive behaviour between 2018 and 2022.[38]

This decision is of paramount importance for Arab policymakers for the following three distinct precedent-setting reasons:

1. The decision marks the European Commission's first formal sanction of a "no-poach" agreement as a cartel violation. The platforms engaged in illicit agreements not to actively recruit or hire each other's employees. This officially acknowledges that in the modern digital economy, human capital, specialized engineering talent, and operational delivery fleets are critical competitive vectors. Colluding to suppress labour mobility is now treated with the same severity as traditional price-fixing.
2. The investigation revealed extensive geographic market allocation. The companies illegally agreed to divide national markets within the European Economic Area, purposefully avoiding entry into each other's established territories and closely coordinating their respective market entry and exit strategies to minimize competition.
3. Perhaps most critically for the Arab region, the case established a definitive precedent regarding the extreme collusive risks associated with minority shareholdings. The Commission found that Delivery Hero utilized its minority shareholder position in Glovo to access competitively sensitive operational information.[39] Delivery Hero subsequently used this access to directly influence Glovo's strategic decisions, either by threatening to veto critical capital increases or by exerting undue influence over other minority

37. Greenberg Traurig LLP, European Commission fines Delivery Hero and Glovo €329 million in first labor market cartel case, 2025.
38. Debevoise & Plimpton LLP, First ever European Commission fine for no-poach cartel, 2025.
39. Covington and Burling LLP, European Commission issues first no-poach decision in labour markets, warning against the collusive risks of minority shareholdings, 2025.

shareholders, so as to align Glovo's strategy with its own market-sharing objectives. In the Arab region, where complex corporate cross-ownership structures, joint ventures and minority tech investments are commonplace, the decision of the European Union underscores the urgent need for competition authorities to closely monitor non-controlling investments, as they can easily serve as covert conduits for market allocation and anti-competitive coordination.

Brazil: the shift to asymmetric ex-ante rules

The Brazilian competition authority, CADE, offers a highly compelling and adaptable regulatory model for emerging and rapidly developing markets. Demonstrating significant institutional agility, CADE has utilized negotiated settlements (known as cease-and-desist agreements, or TCCs in Brazil) to impose "proportionate obligations" on dominant platforms. This was demonstrated in the iFood settlement (2023). Following this precedent, CADE applied the same competitive logic in a 2025 cease-and-desist agreement with Wellhub (formerly Gympass), which went further by reducing the percentage of exclusive partners allowed and directly targeting "exclusivity by other means".[40]

More profoundly, the Brazilian Government submitted the Fair Competition Act for Digital Markets (bill No. 4675/2025) to Congress.[41] This transformative legislation explicitly seeks to amend the country's fundamental competition law to introduce a parallel dedicated ex-ante framework specifically for digital ecosystems.

Key strategic takeaways for Arab regulators studying the Brazilian model include the concept of a "systemic relevance threshold". The bill empowers a newly created Superintendence of Digital Markets to formally designate specific platforms as "economic agents of systemic relevance". This designation process combines objective quantitative metrics (such as global annual revenue exceeding 50 billion Brazilian reals or around $9 billion) with broader qualitative criteria regarding market indispensability. Once designated, these platforms become subject to specific regulatory oversight, while smaller emerging startups remain unburdened, thus preserving entrepreneurial innovation.

Furthermore, rather than deploying a rigid and globally uniform approach similar to the European Union Digital Markets Act, the Brazilian model mandates the implementation of tailor-made and asymmetric obligations. The legislation requires that ex-ante obligations be tailored and economically justified by the authority, based on the unique competitive risks identified in each platform's ecosystem. This calibrated and pragmatic approach aims to proactively correct market failures and curb gatekeeper abuses without suffocating technological innovation or deterring foreign investment.

40. Wolters Kluwer Competition Blog, Main developments in competition law and policy 2025 – Brazil, 2025.
41. ProMarket, Brazil's calibrated revolution in digital competition, 2025.

Table 2. Selected international regulatory approaches and lessons for the Arab region

Jurisdiction	Primary regulatory mechanism	Key legal precedents and focus areas	Strategic applicability for the Arab region
European Union	Ex-post cartel enforcement and settlements (Case AT.40795).	Prohibition of no-poach agreements, geographic market allocation, and weaponization of minority shareholdings.	Highlights the severe hidden risks of minority stakes and the necessity to police labour-market collusion in the regional tech sector.
Brazil	Ex-ante asymmetric regulation (bill No. 4675/2025 and TCC settlements).	Creation of systemic relevance designations, application of tailor-made obligations, and dismantling of exclusivity.	Provides a highly pragmatic legislative blueprint for targeting only true "gatekeepers" while preserving broader startup innovation and investment.

Source: Compiled by ESCWA, based on sources cited in the text.

Recommended regulatory "design options"

In the light of structural market concentration, the limitations of purely ex-post enforcement and evolving international practice, Arab competition authorities should adopt a calibrated hybrid framework. This approach should combine targeted ex-post enforcement with proportionate ex-ante rules applied only to structurally significant platforms, thereby avoiding unnecessary burdens on emerging startups.

The following design options provide an actionable blueprint for transparency, fairness and contestability in regional food delivery markets.

Algorithmic transparency and auditability

Given that ranking algorithms determine restaurants' commercial visibility, authorities must address the risk of self-preferencing.

Design option

Require designated gatekeeper platforms to disclose the main parameters of their ranking systems in clear language to business users. Competition authorities should also be empowered to mandate independent algorithmic audits to verify that platform-owned entities are not systematically favoured. This prevents platforms from simultaneously acting as marketplace operators and advantaged competitors.

Prohibition of discriminatory contracting (MFNs and exclusivity)

Inter-platform competition requires restaurants to freely multi-home and adjust prices based on commission structures.

Design option

Introduce statutory bans on broad and narrow MFN clauses, and prohibit both explicit and indirect exclusivity arrangements. Dominant platforms should not condition lower commissions or premium placement on exclusivity. These restrictions are essential to reduce entry barriers and enable startup platforms to compete.

Data access and interoperability

In digital markets, control over data entrenches dependency and raises switching costs.

Design option

Guarantee restaurants full access to real-time transaction data generated through their operations. Regulators should also mandate data portability, allowing restaurants to transfer reviews, transaction histories and performance metrics when switching platforms or launching direct channels. Lowering switching costs is critical to sustaining contestability.

Transparent and tiered financial structures

While fee caps may provide short-term protection, long-term sustainability requires structured transparency.

Design option

Require platforms to publish standardized annual tariff structures outlining commissions, delivery fees and optional premium services. Mid-contract unilateral fee changes should be prohibited. This ensures financial predictability for SMEs while preserving incentives for platform innovation.

Minority shareholdings and labour-market safeguards

Digital competition risks extend beyond pricing into ownership structures and labour mobility.

Design option

Mandate notification and review of minority shareholdings between competing platforms, recognizing that non-controlling stakes may facilitate coordination. Moreover, classify no-poach agreements concerning key personnel or delivery fleets as per se violations subject to strict penalties.

Adaptive regulatory tools for periods of market stress

Steady-state obligations alone do not fully address crisis-driven market power. Arab competition authorities should therefore complement structural rules with calibrated tools that can be activated during shocks.

Design option

Introduce a limited set of adaptive instruments that can be activated during periods of market disruption. These should include real-time monitoring of commission levels, take-rates, promotional contributions and restaurant churn on designated platforms, drawing on reporting templates already used in the Dubai and Kuwait frameworks; early-warning indicators triggering enhanced scrutiny where synchronized fee increases, abrupt reductions in discounting or unusual algorithmic re-ranking coincide with supply-chain or cost shocks; time-bound, proportionate interim measures, such as temporary freezes on unilateral mid-contract fee increases or on new exclusivity-like clauses, reserved for designated systemically important platforms and subject to sunset clauses; and formal coordination protocols between competition authorities, consumer protection agencies and sectoral regulators to ensure a coherent and rapid response. These tools should operate alongside, not in place of, the general ex-ante framework, and their activation criteria should be transparent, evidence-based and reviewable.[42]

42. OECD, OECD Competition Policy Responses to COVID-19, 2020; Digital Competition Expert Panel, Unlocking Digital Competition, 2019.

Conclusion and way forward

The expansion of digital food delivery platforms across the Arab region has created a complex regulatory environment. As these platforms increasingly serve as essential market intermediaries, SME dependence on them has intensified. Evidence from regional enforcement and international experience indicates that reliance on traditional ex-post enforcement alone is insufficient in fast-moving digital markets. Practices such as self-preferencing, price-parity clauses, exclusivity arrangements, data asymmetries and crisis-driven conduct can significantly affect market contestability before legal proceedings conclude.

Recent regulatory developments between 2024 and 2026 reflect a shift towards more proactive intervention. Kuwait introduced structural fee measures, Dubai (United Arab Emirates) adopted transparency and data-access guidelines, Saudi Arabia strengthened merger scrutiny and pricing investigations, and Egypt enforced prohibitions on MFNs. These actions suggest growing regional recognition that targeted ex-ante tools may be necessary alongside ex-post enforcement, particularly for structurally significant platforms.

Moving forwards, policymakers in the Arab region face the task of designing proportionate regulatory frameworks that preserve incentives for innovation while safeguarding competition. Lessons from international practice, particularly regarding systemic platform designation, minority shareholdings and labour-market restrictions, can inform region-specific approaches. The objective is not to constrain digital growth, but to ensure that platform markets remain contestable, transparent and structurally fair for independent businesses, including under conditions of market stress.

Recent regional experience makes the case for a more proactive and adaptive regulatory posture. The combination of concentrated platform markets, heightened SME dependency and recurring supply-chain and cost shocks means that static, purely ex-post enforcement cannot reliably protect competition. A calibrated framework, combining ex-ante obligations on structurally significant platforms, targeted ex-post enforcement, and adaptive instruments such as real-time monitoring, early-warning indicators, proportionate interim measures and inter-agency coordination, offers Arab competition authorities a more durable basis on which to balance fairness and contestability. Building that framework requires sustained regional dialogue, investment in analytical capacity and closer collaboration between competition, consumer protection and sectoral regulators, in line with the objectives of the Arab Competition Forum.[43]

43. Lina M. Khan, Amazon's Antitrust Paradox, 2017; Digital Competition Expert Panel, Unlocking Digital Competition, 2019.