Interview with Amir Nabil, Chairman, Egyptian Competition Authority

Editor’s Note: Amir Nabil was named to a four-year term as Chairman of the Egyptian Competition Authority in May 2018. He worked as a Teaching and Research Assistant in the field of Competition Law and Economic Regulation at Queen Mary University of London Center for Commercial Studies, the same university from which he received his Ph.D. He acted as consultant for the Egyptian Competition Authority until he was appointed as the authority’s Chairman. He was interviewed for The Antitrust Source on March 28, 2019, by Joseph Krauss.

THE ANTITRUST SOURCE: On behalf of The Antitrust Source, we thank you for taking time during the Spring Meeting, to speak with us and answer some questions about your authority and yourself. For those readers of the Source who are not familiar with the Egyptian Competition Authority, or ECA, can you briefly explain the organizational structure of the ECA, and what parties and their advisors might expect if they have a matter before the ECA?

AMIR NABIL: The ECA was established 12 years ago. Our mandate is, basically, the same as any other competition authority. However, we don’t have any consumer protection mandate.

Our focus is on prohibition of cartels, abuse of dominance, and vertical restraints. From time to time we have some merger cases. We don’t have a well-developed merger law but we intervene in some mergers, as we will be discussing today. We did it, actually, since we were established in relation to some of the privatization of state-owned companies. The government would send those to us requesting our opinion on whether I would accept that the transaction may be pro-competitive or may create some competition restriction on the marketplace.

As to how is the Authority is constructed, basically, there is a Board of Directors. This is a decision-making body, and there also are, on the other side of the Authority, the technical teams, the case handlers, that do the actual cases.

Now the Authority is divided by sectoral division. Each division takes care of particular sectors of the market. We aim to grow in numbers. We have currently 30 case handlers. We aim to grow and, hopefully, by the middle of next year, we will reach 100.

As any other authority, we have many, many challenges in terms of funding, in terms of human resources, but we work closely with our partners from the government and also other stakeholders to improve the work process.

Usually, everybody has the right to submit a complaint. If the complaint is submitted, the Board of Directors considers different tools. For some of them the issue is just a cease and desist order. In other cases, it could be referring the matters to criminal courts in order for the court to set a fine.

Maybe as we discuss during the interview how the development of the legal framework of competition law is developing, I can also highlight the recent legal amendments that my administration put forward.

These focus on three main pillars. The first is enhancing the independence of the decision-making process. We also envision moving a little bit away from a criminal approach towards granting...
the ECA administrative fining powers, and so a few more administrative powers. That will ensure a more effective and swift enforcement, meanwhile, and also increase certainty for businesses because what we found the last 12 years is that criminal procedures are pretty uncertain. And also, we think in some judgments the criminal court did not properly address the issue of fines.

And we are also aware of the risk that overdeterrence may actually lead to lower enforcement of competition law because, as an agency, we would be intimidated to take an action against the company if the criminal judge would set unreasonable fine. We don't want business to go out of the market, we just want to them to behave their conduct within the marketplace, as any other competition authority would aim to do.

And the third main pillar is an enlargement in the scope of our substantive provisions, in particular, those related to horizontal agreements and vertical agreements. We think that the current draft of the law does not capture enough, and does not permit us to do more of information exchange-type of practices, which happen in cartels.

On the vertical restraints, I think we have a very broad provision that is ambiguous. The new version of Article 7 gives the authority the ability to issue block exemption regulations, which is not available under the current draft. Also, we propose to create a sort of gradual incrimination of the different types of vertical restraints based on their harmfulness. First, in our view, RPM would be regarded as a hardcore restriction. The second set of restraints are restraints by object, but they can benefit from exemption. And we also created a third category on vertical restraints that can be only prohibited according to their effect. And they still can also benefit from an exemption.

This will be followed by many guidelines. And we also think to develop some sectoral guidelines.

We finished drafting our main guidelines that consist of horizontal agreement guidelines and vertical agreement guidelines. We have done lots of work on the exemption guidelines—we have a draft that I think will be ready after the legal amendments that are currently being considered. There will be more enhancement to their scope.

We have also developed settlement and fining guidelines. Because, as I said, we were trying to move a little bit away from the criminal aspect of enforcement toward the administrative one.

**ANTITRUST SOURCE:** That's a fantastic list of achievements and goals for your authority moving forward. What's the status of the proposed changes? What do you think in terms of timeline of them being put into place?

**AMIR NABIL:** Thank you. We managed to get the approval of the government. This is a great achievement. Now they are in the Parliament. They will be reviewed by the Economic Committee, I think, soon. I don’t know exactly when. But I hope that by sometime this year, we’ll have some amendments to our competition law.

**ANTITRUST SOURCE:** One thing I think our readers would benefit from is understanding the structure of the organization and the authority. What is your background before you became Chairman of the Authority?

**AMIR NABIL:** I had my undergraduate degree in Law from Paris 1 Panthéon-Sorbonne and also I had my master's degree in International and European Business Law from the same university. This is where I got taught European competition law.

Later I joined the Egyptian Competition Authority when it was first established. I was sent to an internship with the U.S. Department of Justice Antitrust Division. It was a life-changing experience,
I would call it seeing how the giants operate in real life, and it opened my eyes on different issues and topics under competition law. So I decided to take it further, and this is when I went to Queen Mary, University of London, to pursue my Ph.D in Competition Law.

**ANTITRUST SOURCE:** What was your biggest takeaway from your experience at the internship at the Antitrust Division?

**AMIR NABIL:** The cartel work that the Antitrust Division is doing is world-class. And we learned a lot from it. And I really still look at this as a guiding model. And I do something for those who recently join our Authority. The first thing I ask them to do is to watch the movie “The Informant!” If they want to see how real-life investigations in the cartel world are taking place. So it's mandatory for them to watch “The Informant!”

So we look at how there is sort of integration between different law enforcement agencies in the U.S., the FBI, the Department of Justice.

**ANTITRUST SOURCE:** When you go through that list of objectives and goals in the legislation, I hear a lot of commonality with issues that have been discussed at the ICN and I know have been discussed at COMESA [Common Market for Eastern and Southern Africa] as well. Has your involvement with those two organizations contributed to these changes and have you felt that you’ve benefited from interactions with those two agencies in developing these changes?

**AMIR NABIL:** The work of the ICN is always inspiring for any competition authority. But I would say that, lately, ECA was not engaged enough with the international competition community, which is something that is on my agenda—that we get back to engaging with the international community, including the ICN.

So, while the ICN is still a greatly helpful venue, I think, and as you probably follow this debate, there needs to be more international work done in the area of competition. The economy of the world is no longer a local or a domestic economy—it’s an international one. And I think the current level of international cooperation between competition authorities is not up to a level that the world deserves.

**ANTITRUST SOURCE:** For an authority like the ECA, how can the ICN improve its process and recommendations to assist an agency like yours?

**AMIR NABIL:** Well, I think my suggestion would be actually going beyond the ICN. I think we need an international agreement on hardcore cartels.

We, at ECA, find many practices that took place abroad that have significant impact on our market, but we don’t have the legal tools to go after them. Also, the level of cooperation that we expect from relevant or other competition authorities is not up to the level that we hope.

So I would be joining those voices demanding to have a more coherent and stronger international approach toward, mainly, cartels. You hear similar voices about the merger issues because many mergers they have an international scope as I mentioned, like the Uber and Careem one, are going to affect the whole region, mainly Egypt.

So I think there is more to be done within the ICN regional cooperation, for example, as you mentioned with the COMESA, it is always helpful. We are very engaged with the COMESA Competition Commission work, whether on the merger side or the enforcement of anticompetitive practices.
And even with the Arab world, even though there is no governing, I would say, international or regional framework for competition, we still maintain one-to-one relations with the established competition authorities in neighboring countries, such as Saudi Arabia, Bahrain, Kuwait, Oman, and Morocco. It’s very important as we are opening our country for international trade and for regional trade.

ANTITRUST SOURCE: Do you foresee a regional organization, perhaps, developing in the next few years to include Egypt and other Arab nations to facilitate this?

AMIR NABIL: There are some talks at the moment about creating a free trade area comprising Arab countries. We are definitely pushing for it and for the adoption of competition rules aiming at protecting trade in this area.

ANTITRUST SOURCE: Do you see receptiveness on the part of the other authorities in your region for such an organization?

AMIR NABIL: Some authorities are very receptive of the idea because they truly understand how important it is. I will give you an example. We have the E.U.-Egypt Association Agreement, which has a competition chapter closely modeled on Article 101 and 102, and we follow closely the European model. One thing we believe that’s a drawback in the agreement is that it’s not sufficiently applied. And this is something we actually keep pushing to correct. And there will be meetings, I think, very soon, in a matter of weeks, in order to address the aspects that hold back the enforcement of the competition provisions contained in the agreement.

So as I said, it’s at the top in my agenda to engage with the international community and to promote regional and international cooperation as an area of an enforcement, learning best practices from different competition agencies, etc.

We followed the development of the Uber/Grab merger in South Asia. We had one-to-one conversations and several meetings with the Singaporean Competition Authority to learn about their case and what were the main challenges they faced. We try to integrate the whole world experience into our national one.

ANTITRUST SOURCE: I wanted to ask you about a few cases of the ECA specifically, namely the Uber Careem transaction, your Apple investigation, and your investigation of FIFA for the television rights to the World Cup.

AMIR NABIL: When you look to the practice of FIFA, around the globe, in the licensing of media rights, you will find them arranging tendering procedures, allowing companies to contribute and compete for the market. And it is very clear in the mind of the Egyptian Competition Authority what is the difference between competition for a market and competition in the market.

Football for Egypt is passion. So we are not talking about a luxurious issue. We are talking about something that brings our people together, something important for them, something that should make them proud of their country.

What we found is unjustified, long exclusivity granted to one single entity that has been actually renewed for no objective justification whatsoever and in the absence of objective standards and tendering procedures. So I think this is the kind of practices that any competition authority would find very suspicious.
ANTITRUST SOURCE: Is it your philosophy to proactively reach out to other authorities in the region? Do you see the ECA as being a proactive agency to do that or a follower of other agencies?

AMIR NABIL: Well, actually, I think we are proactive to a great extent. Let me get back to the sports example to tell you about it.

We started our investigation of the grant of licensing rights in the sport sector in 2015. We had two decision by 2016 against beIN Sports for abusing its dominant position. And that's when we decided to focus our enforcement on what actually made beIN sports a dominant undertaking and very engaged in abusive behavior. When we looked at the market, we found that the dominant position of beIN Sports is protected by a network of exclusive rights granted by the regional Football Associations, such as the Confederation of African Football, and by the International Football Association, in that case, FIFA.

So, in January of 2017, we had our case—these are abuse of dominance cases against the Confederation of African Football for abusing its dominant position in the grant of sports licensing rights. And we also won the case in general courts, I think a few months ago.

It's now being reviewed by the appeal court. We think we have a good case before the appeal court as well. And that's when we decided to investigate the practices of FIFA which were similar to those of the CAF. So we actually had those cases long before the Swiss Attorney General intervened against FIFA on a related matter. So I think we were very, very proactive on this front.

ANTITRUST SOURCE: One last question on that matter. When, in your statement, the ECA cited to the urgency of the matter and its significant importance to the Egyptian viewers and market players, I guess, as an outsider, one would ask how much influence did the consumer groups or the Egyptian media authority drive the investigation?

AMIR NABIL: Yes.

ANTITRUST SOURCE: So what was that statement trying to say in terms of pointing to the consumers and the media authorities?

AMIR NABIL: Well, we are living in a moment of human history where you can actually interact directly with consumers. I mean, if you follow, ECA keeps a close eye on social media, and the comments written under each post we put on our Facebook and LinkedIn pages to see how consumers react to our intervention. So when we actually saw how consumers reacted to our beIN Sports cases and the Confederation of African Football case, we felt that we should do something about the FIFA case.

Egypt was participating in the Russia World Cup 2018. It's a sports event of major importance, and it's actually prohibited to be granted exclusively in the E.U. to a sole undertaking. And we all know what happened in the 2014 case that involved Great Britain versus FIFA, where the ECJ ruled in favor of England and Belgium. And that's how we tried to be very responsive to our consumers. Yes, we were driven by the needs of our consumers. And, by the way, we are among them. We are also football fans. We are the competition experts. And if we cannot see where the competition problem is, lots of questions would be raised about our expertise and competence.

ANTITRUST SOURCE: Let's turn back to the structure of the ECA. You mentioned 30 case handlers. Are those case handlers legal as well as economic?
AMIR NABIL: Yes.

ANTITRUST SOURCE: And how many economists do you have on the staff at the present time?

AMIR NABIL: The way we divide the work is based on sectoral experience. So we have the different divisions, focusing on different sectors.

Some of the heads of our divisions are actually economists. I believe competition lawyers are all amateur economists somehow. And economics plays a big role in our analysis even in cartels, although cartels are, per se, prohibited or are by object restriction. Through economic evidence, consumers, businesses, and the courts learn about the actual harms that cartels inflict on the economy and on consumers. Economics may not be the foundation of all of our case analysis, especially cartels analysis, but it’s important evidence indeed.

In some cases, the harm can safely be presumed. For example, the FIFA case when an entity grants a firm almost 20 years of exclusivity with no tendering procedure, I don’t think you need lots of economic analysis here.

As I said, we aim to grow further and we are developing a know-how in different areas, like ride-sharing. It’s a very important sector for our economy nowadays and, also, we are developing experience in vertical restraints. We believe that vertical restraints will play a big part of our future enforcement endeavors for several reasons.

We think there is not enough intrabrand competition. And we think also that intrabrand competition is important for small businesses to survive. Egypt is a very big country, socially different from the USA or Europe. So you need to encourage people to get into businesses and not to depend on government jobs.

It’s also part of our role to help design a competition policy that helps tackling unemployment.

ANTITRUST SOURCE: We’ve talked a lot about the FIFA case and about cartels. Let’s go to my favorite—the subject of mergers.

AMIR NABIL: I think our biggest priority is to have a proper merger law. We are currently dealing with mergers under the substantive provisions of the competition law. But they don’t offer adequate means to address all the procedural complications related to merger.

We drafted a merger law. We’re just waiting for these amendments to be approved by the government. And we will be doing the necessary advocacy for implementing and introducing a merger law. But that doesn’t hold us back from taking mergers that we seriously are concerned would be harmful to our economy and to our consumers until these amendments are adopted.

ANTITRUST SOURCE: What are your current notification requirements?

AMIR NABIL: At the time, we have an ex post notification regime for mergers, except for mergers that want to benefit from exemption under substantive provisions.

ANTITRUST SOURCE: So it only requires the notification after closing. But your draft does propose having a pre-closing notification period?

AMIR NABIL: Of course.
ANTITRUST SOURCE: What’s your thinking behind that, in terms of moving it from post-closing to pre-closing of deals?

AMIR NABIL: The benefit of pre-closing is that you can work with companies on remedies or you can block it altogether. The post-closing notification remains an ineffective notification process because it’s very burdensome to nullify a consummated merger. That’s why, when we heard about the expected transaction between Uber and Careem, we decided to be proactive and to impose on the parties pre-notification and standstill obligations.

ANTITRUST SOURCE: Seeing that dichotomy in your law and what you did with Uber/Careem—that was a very unique approach you took. Could you explain that a little bit for our readers in terms of approach?

AMIR NABIL: I think Egypt’s most valuable resource is its human resources. And we saw how start-ups in the ride-sharing economy drive out innovation and new ideas by different Egyptian entrepreneurs—actually emerging entrepreneurs.

Careem offered consumer options that Uber was lagging much behind them, like, for example, the ability to pay in cash. Most people still deal with cash. Careem was the first to offer this in Egypt. Careem was the first to integrate new services in it, like financial one, such as Careem Pay, and it’s a platform for different rides, like scooters. They were also offering some other innovative services within the ride-sharing services, etc. So Careem for us was a very innovative firm.

Uber is an international company. Wherever you travel, you can use Uber in any country in which Uber is operating. So, when we heard that the big firm would be absorbing an innovator, I think this is the kind of transaction that would alert any competition authority.

Careem was doing well. So we cannot understand why it will be absorbed as they are offering identically the same services, they are providing equally good services as Uber. I heard stories about children who used to compare prices and surge rates at each company’s platform.

ANTITRUST SOURCE: That’s fantastic.

AMIR NABIL: Exactly.

All these benefits may very likely disappear as a result of the transaction. So if a child can benefit from competition, imagine what would be the reaction of a mature person. So I think it is a very alerting transaction. I think any competition authority would have gone after it.

In the U.S., before the HSR, there were cases or mergers that were dealt with under substantive provisions of the Sherman Act. The same happened in the EU, and I think both agencies have done this because the mergers were really harmful.

ANTITRUST SOURCE: I’d say it’s a very good parallel to both the U.S. history before Hart-Scott-Rodino. Now, it was a very innovative approach to have a pre-closing notification consent requirement there.

AMIR NABIL: Yes.

ANTITRUST SOURCE: What about the agreement there allowed you to do that versus other agreements of mergers? Was there something unique in the agreement that allowed you to do that?
AMIR NABIL: In the Competition Authority, we developed information resources, and we had strong grounds to step in and be proactive and intervene to protect competition. We just wanted to ensure that there will be an ecosystem that will not block innovation, which is very, very important in the sector. Also, it’s one of the new sectors heavily reliant on data. And as you probably follow from the sessions at the ABA over this week, everyone is considering how they may consider data essential facilities, how data equalization can be loyalty-enhancing, how that may block other undertakings from participating on the marketplace.

And whether or not data is an important asset in this merger, it’s something we’re going to have to check.

So it is again a transaction in which we try to be a proactive agency because we think it’s an important segment for our economy. It’s important market for our economy and consumers benefit from it greatly. It is a very innovative segment of the economy. Now you see start-ups trying to offer ride-sharing in relation to scooters. Others are focusing on buses. Uber and Careem could turn out to be the Amazon of transportation. But we don’t want the other smaller Amazons to be eaten by a bigger Amazon.

ANTITRUST SOURCE: Do you see your approach to the Uber/Careem transaction as indicative of approaches you’ll take in other transactions? Or was it unique to Uber and all of these circumstances that you mentioned? I understand the draft law would put that transaction clearly, within a pre-close notification requirement. But what do you see going forward until the law is passed? Do you see that as indicative of an aggressive approach by ECA?

AMIR NABIL: Until the law is passed, I think we will be taking on what I would call alerting mergers. If you consider the Uber and Careem merger versus other commercial operations that took place in Egypt recently, for the latter, they took place in markets in which many participants are active. Yes, they may raise competition concerns. And, for example, if they took place in Europe, they would be cleared under conditions, but until the law is passed we will only be focusing on alerting mergers, such as Uber/Careem. It’s a merger between the two main competitors. I think it’s something as I said, that any competition authority will look at.

So if the question is, are we considering further action against alerting mergers? The answer is yes. What is an alerting merger and a non-alerting merger? I think to a great extent it depends on whether the merger would create or strengthen a dominant position.

ANTITRUST SOURCE: You know it when you see it.

AMIR NABIL: Exactly. If the two main competitors are joining forces, this is definitely alerting.

ANTITRUST SOURCE: Well, to put it another way, if there’s a transaction that raises significant possibility of significant harm, then that’s in your duty to take some action against that to protect Egyptian consumers or, at least, allow time to investigate it to determine whether that harm is really going to take place.

AMIR NABIL: Of course. I also want to be very clear about this: we never reached the conclusion yet that the impact of this transaction will be harmful. We are still, as I said, studying the ride-sharing economy—it could be different from other sectors in which a similar merger takes place, but we still need to study it.
ANTITRUST SOURCE: Well, it was a fascinating case to watch. And, again, a very innovative approach. So you should be applauded for that.

We mentioned, and it was covered heavily by the press, was the ECA's action against Apple and its exclusive distribution agreement. Exclusive distribution agreements are typical in many industries in many regions of the world. What was particularly troublesome about Apple's agreement that caused the ECA to look at that and take an action?

AMIR NABIL: Well, let me just begin by saying our Apple case was the easiest case we worked on as it was straightforward.

Let me first explain the market for electronic devices, specifically smartphones. There are no tariffs whatsoever for importing smartphones. And this was a deliberate state policy to encourage people to have access to more advanced technologies in order to promote competition on other marketplaces, such as the applications that are used over this iPhone, including ride-sharing applications that we just discussed. So adequate access to reliable and advanced technology is a driver for economic growth. And that's why our government choose not to impose any sort of tariffs on the imports of smartphones.

What we found is, naturally, the objective of this policy is to benefit from the lowest available price on the international market. Many people will say there is a strong inter-brand competition between Korean and Chinese manufacturers of smartphone devices, and I agree. But there are other factors you also should take into consideration, which is that our consumers regard Apple products as reliable products. They appreciate the privacy benefits that an Apple device affords them. And also, switching from an iOS-based device to an Android-based device is cumbersome for our consumers, specifically, non-sophisticated consumers.

We found a price difference between an Apple device in Egypt and the same Apple device in UAE of 40 percent in some instances. The first thing that you will ask is whether there is a business justification for this—if there are duties? And the answer is no.

We factor in the taxes and we still find a 40 percent difference, even after factoring taxes. We factor in transportation, and we still find a difference. So we couldn't find any economic justification that would justify a geoblock and an isolation of the Egyptian market from international competition within the brand of Apple, except trying to protect the local or a domestic distributor from competition.

Statistics showed that 70 percent of Apple products available on the Egyptian market are actually coming from abroad, and we saw that this is proving exactly the same point we are trying to make, that people are not interested in buying, highly priced products if they can get cheaper products from abroad. Consumers used to ask their relatives traveling abroad to buy them Apple devices for much less money. So I guess it was a very straightforward case.

And as I said yesterday in one of the discussions I had, there is a divergence between the European approach and the American approach, in relation to vertical restraints. Yet in this case we believe that under both regimes there is no efficiency justification whatsoever that you can find for many vertical restraints. It just an unjustified price difference for exactly the same product.

Apple and its distributors were very cooperative, and they offered commitments, and we accepted them. And we hope in the next few months there will be more intense competition between those who are willing to import Apple products from wherever, as long as they comply with the other health and safety regulations of the government.

ANTITRUST SOURCE: Do you see your action against Apple as indicating a priority on behalf of the ECA to look at distribution agreements for other industries as well, given that experience?
AMIR NABIL: Yes. We are currently looking into distribution agreements in the automotive industry. Even in the automotive sector, vertical restraints can even harm small workshops that also try to develop their know-how and bring new customers or those that are selling spare parts. We want more firms to contribute to the market. And we think some forms of vertical restraints actually inhibit them doing that.

ANTITRUST SOURCE: What are the interactions between COMESA the ECA on merger cases?

AMIR NABIL: What happens is when the COMESA receives a merger notification, if the Egyptian market is involved, they will request our cooperation to investigate what could be the impact of the merger on the Egyptian market. And so it's like the ECN, the European Competition Network, without having a name for it. But it's the Competition Commission of the COMESA Member States Network.

ANTITRUST SOURCE: Could you foresee a situation where there is a matter which COMESA thinks it should handle but you believe it's going to have a strong impact in Egypt and therefore the ECA would step in instead of COMESA?

AMIR NABIL: There is a referral mechanism under the COMESA competition regulation, but we haven’t used it yet. Definitely, if we found that for a merger, COMESA will be more equipped to, and actually has jurisdiction to investigate, we will definitely work together to see it.

ANTITRUST SOURCE: Do you feel you have an adequate toolbox of investigative tools and powers to fully investigate both mergers and non-merger conduct abuse of dominance cases? Or are there additional tools that you are seeking that, perhaps, COMESA has that you do not? That might affect the referral decision?

AMIR NABIL: Well, we do have important enforcement tools such as dawn raids, seizure of documents if necessary, and requesting information. And we use them very frequently. I think we increased the level of dawn raids against some associations of undertakings, in which we found that some of the members tried to use the umbrella of the association to engage in anticompetitive practices, mainly cartels. We did this a lot in 2018. Dawn raids are still available for abuse of dominance.

For mergers, we cooperate with the COMESA regarding mergers that affect trade between Member States in the common market.

ANTITRUST SOURCE: One other thing which we’ve discovered in this country and many other countries as well, is that sometimes some of the more significant barriers to competition come from government itself. Is this an area where the ECA has been active?

AMIR NABIL: Actually, it’s a very important question. We are quite active on this front. Maybe it doesn’t make it to our press releases because we’ve managed to resolve these aspects through discussions and meetings with relevant government agencies. We think it’s more productive to do it this way to earn trust.

Many of these decisions can be justified by objective concerns, but you are just trying to find a less restrictive means to achieve the goals through it.
And one achievement that we are very proud of is that we managed to introduce a new provision in the newly promulgated public procurement law that imposed on every government entity a requirement to inform ECA in case of suspicious, sufficient bid rigging. But also, we gave them direct power to eliminate from the bid any entity that the public entity finds has sort of interlocking ties with another competitor in the same bid.

So we give them actual power to fix the bidding process. We are now drafting a guideline on how to unravel interlocking ties between competitors, to make it easier for those agencies to discover these issues. So, on one hand, there is post-notification when it comes to bid rigging to allow for investigation, but on the other, administrative agencies can use the ECA's expertise ex ante in order to make sure that the bid process is genuinely competitive.

**ANTITRUST SOURCE:** So they can have real time information on the current bidding processes.

**AMIR NABIL:** Of course. We are now developing some technological solutions to make it real time when it comes to bid rigging, to detect what's happening—to detect the history of the bidders and find patterns of collusion and maybe, in that sense, we may be able to better advise government agencies who to exclude and who to include in the process. So we are trying also to make bid rigging a more real-time thing.

**ANTITRUST SOURCE:** Are there any other achievements during the 12 years of ECA that you are particularly proud of?

**AMIR NABIL:** Many specifically in the areas of cartel enforcement, we had a successful intervention through advocacy in the civil aviation sector ten years ago, when ECA successfully managed to amend a regulation that tended to give the incumbent some advantage over new entrants. And we advocated for a change of this situation, and the harmful provisions were ultimately eliminated.

With advocacy our teams have developed experiences in different sectors.

**ANTITRUST SOURCE:** One last question. Since we are here at the ABA Antitrust Section Spring Meeting, what do you find to be most beneficial to you as a head of an authority, in terms of the programs and other things offered?

**AMIR NABIL:** If we talk about the sessions, there are definitely very, very interesting and rich discussions on both sides of the Atlantic on different topics.

We are currently interested in the area of big data and tech giants. We’re all following the developments in the European Commission. We feel that we start getting into this debate. We also need to be proactive and engage in this debate, which we find very, very important.

It’s also a venue where you get to meet practitioners and public officials on both sides and to further your international agenda. So it’s a very rich, I think, venue for an exchange of contacts and also of experience.

**ANTITRUST SOURCE:** Well, we’ll let you get back to the sessions then. Thank you.