

Abstracts

The Dearth of Competition Law Remedies

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Sanctions imposed on violations of legal prohibitions must be sufficiently high in order to deter infringements. At first glance, the Israeli Competition Law meets this goal: its sanctions are diverse and exceptionally strong, in comparison to most other countries. However, as we attempt to show in this article, the Law creates both over-deterrence and under-deterrence. On the one hand, especially with regard to hardcore cartels, sanctions create insufficient deterrence and do not achieve other goals, such as compensation of the victim and depriving the violator of the fruits of the violation. On the other hand, and especially where the harm caused by the violation is small or the boundaries of the prohibition are unclear, existing sanctions create over-deterrence. In light of this inefficiency, we suggest changes in the sanctions imposed to better serve the goals of the Law. For example, some violations should be decriminalized and the option of administrative fines be added to the Law instead. We also suggest ways of using the existing sanctions more efficiently, as well as several institutional changes that are expected to further the goal of more efficient and effective enforcement.