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STUDIES ON REGULATION

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Abstracts

Nir Kostin & David Levi-Faur, *“Excessive” Regulation in Israel? An Analysis of Primary and Secondary Legislation Outputs in Israel Between 1948–2017*

In recent years, the Israeli government has been promoting a program to reduce regulatory burdens and develop better regulation within government ministries' work programs. However, the adoption of these policies has not followed a systematic and research-based assessment which would allow one to understand in which policy areas there is greater or less regulation, the costs and benefits of regulation, who might benefit and who might be disadvantaged by the regulation, or the growth rate of the regulation. This study seeks, for the first time, to present an original dataset on regulatory output in Israel over seven decades, with the material drawn from two main sources - primary legislation (laws and amendments published by the Knesset in the Israeli statute books) and secondary legislation (regulations, orders, notices and other types of secondary legislation published in the Israeli collection of regulations). The study seeks to answer three main questions: First, what was the rate of growth of primary and secondary legislation in Israel between the years 1948 and 2017? Second, what policy issues underpinned the primary and secondary legislation in Israel over these years? Third, how may the differences between the use of primary and secondary legislation in various areas be explained? The findings show that in recent decades the volume of laws has increased, both in terms of the number of laws enacted by the Knesset and in terms of the number of pages per law. In contrast, the promulgation of secondary legislation declined between the years 1985 and 2004, although it has since grown. We argue that the ratio between primary legislation and secondary legislation has decreased over the years, and that there is currently a more pronounced use of primary legislation compared to secondary legislation. In addition, the study shows that utilization of primary or secondary legislation differs between policy areas and focuses on the fields of education and environment. Finally, the study presents data on primary and secondary legislation in Israel and in nine other countries, revealing that Israel reflects average figures and is not exceptional in the scope of its legislation and regulation.

Liat Franco, Shulamit Almog & Khalid Ghanayim *Lawless Childhood*

This paper interprets data gathered from sixty-six in-depth semi-structured interviews with eighth and ninth grade students from three different Israeli middle schools. The project derives from an assumption that detailed information regarding children's legal consciousness within the digital space is crucial for relevant policy shaping.

The primary findings delineated in this paper is that children experience the digital world as a precarious environment; most children interviewed were unaware or misunderstood relevant legal norms designed to protect web users in general and children in particular. Moreover, children experienced a lack of legal or other appropriate response to severe incidents of cyberbullying to which they themselves were exposed or witnessed as bystanders. As the findings reveal, even though children are considered by adults to be digitally savvy as they spend ever-increasing time online and on social media apps, they have almost no awareness of their digital rights. Such low-level legal consciousness may be associated with the high levels of anxiety and fear articulated by the children we interviewed.

We maintain that the manner in which children perceive law and its applicability to their online lives influences the way they report cyberbullying incidents. The fact that most of the interviewees had no knowledge or only partial knowledge of legal norms diminished their ability to deal effectively with aggressive behavior online. Thus, educating children regarding the relevance of legal norms empowers them and enables them to access the legal system when it is most needed.

Daphne Raban & Iris Soroker, *Monopolization in Camouflage*

The digital world provides sophisticated and camouflaged opportunities to establish powerful monopolies. The Big Data era is usually described with enthusiasm as an accelerant for economic growth. Yet the uniqueness of the digital data facilitates anti-competitive behavior and monopolization. In digital markets, data control strengthens monopolies in a way that hardens regulators' ability to monitor and supervise them. In this article we argue that in the digital environment, data control entrenches monopolization, contrary to the public welfare. In the physical market, we usually use measurable criteria to assess market power; In the digital world, monopolies may use camouflage to hide predatory behavior and exclude rivals. Practices such as the offer of free products and services, alongside the attractiveness of advanced technology, may cover monopolistic behavior and inhibit regulatory supervision. We discuss the relationship between data control and anti-competitive practices; examine factors that intensify market failures in the network, namely, the network effect and the asymmetric

data problem; and develop an argument regarding the linkage between data control, entry barriers to the digital markets and monopolization. Finally, we put forward suggestions for contending with the problem and mitigating its costs.

Moran Ofir & Yevgeny Mugerman, *The Impact of Protective Mortgage Regulations on Household Borrowing Decisions*

The home is the most important asset in the portfolio of most households. That is why rapid changes in the prices of residential real estate have severe repercussions for the household's wellbeing, the stability of the financial system, and decisions made by policymakers and regulators. Understanding the effectiveness of actions taken by regulators and policymakers in times of rapid price increases can shed light on their effectiveness in reducing the escalating aggregated financial risk for homeowners on the one hand and shaping household behavior on the other hand.

The paper examines the ramifications of several protective mortgage regulations on household choices in the mortgage market. In recent years, the Israeli central bank has imposed protective regulation on mortgage loans in order to protect the banking system from systemic risk associated with highly leveraged homeowners. Using a unique and detailed dataset on mortgage loans from 2011–2016, we empirically estimate the impact of these regulatory restrictions on household choices and the housing market. We examine borrowers' responses to three regulatory restrictions: a payment-to-income (PTI) limit of 50%, a 2/3 limit on the adjustable rate component, and a 30-year maturity limit. Our findings show that overall, the regulatory provisions tested served as an anchor to the borrowers. The most unexpected result obtained was an increase in mortgage loans maturity following the imposed maturity limit.

We suggest that the anchoring and adjustment heuristic may have influenced households' decisions in such manner that they perceived the maximum maturity limit as a relevant *average* maturity anchor and consequentially increased mortgage maturity.

Hilit Katz, *Israel Regulatory Reform in Air Transportation – The “Open Sky” Regulatory Reform*

The aviation industry serves as a central component in the efficient and modern management of the economy in terms of foreign trade, incoming and outgoing tourism, the strategic needs of the state, and the provision of services to various sectors. Due to Israel's geopolitical characteristics, its aviation industry's importance exceeds its contribution to the gross national product.

The Israeli government has adopted measures to liberalize its aviation industry by reducing regulation. On April 21, 2013, the “Approval of the Euro-Mediterranean Aviation Agreement between the State of Israel and the EU and its Member States”, also known as “The Open Sky Agreement”, came into force under Government Resolution no. 59. The agreement’s purpose is to benefit Israeli citizens by abolishing regulatory restrictions, encouraging competition between airlines, reducing ticket prices, and developing tourism.

This agreement was intended to replace a series of bilateral aviation agreements between Israel and the EU countries to reduce regulation (the number of companies that may land at Israel's airports, the number of flight paths allocated, aircraft capacity, etc.). This research examines the initial objectives of the reform and its ramifications for the Israeli aviation market in terms of competition, air flight supply, airport passenger traffic, and ticket prices. In addition, the article thoroughly examines the impact this reform has had in various fields such as Israeli passenger traffic at airports versus international travelers, incoming tourism revenue versus Israeli spending abroad, the effect of taxation on state revenue and finally the reform’s impact on domestic airlines, with an emphasis on the analysis of El Al, Israel’s national airline company.

The research demonstrates that the reform has allowed the Israel market to open up to the global market and align with global trends in this industry. The liberalization policy has led to an increase in air travel, flight supply, and a more significant number of airlines operating regular flights and has promoted competition between the airlines. The significant impact of the reform is evident from an examination of its effect on local companies, and in particular, on El-Al.

El-Al is obliged to operate under highly demanding conditions and restrictions, and finds it difficult to compete fairly with foreign companies.

In times of crises, El-Al is used to fly stranded Israelis and critical equipment to Israel. Therefore the question of whether this airline company is vital to the State of Israel sharpens the importance of discussing the results of the reform. This issue has recently gained added significance in light of the Corona pandemic outbreak and the ensuing global aviation crisis.

***Note**

Contemporaneously with the publication of the study, the State of Israel has decided to support and nationalize El Al. This gives greater credence to the conclusions of the study, which, on the one hand, notes the success of the reform in opening the aviation market to competition and lowering prices, and, on the other hand, highlights its

failures, looking at the long-term effects on both the local market in general and local commercial companies in particular.

Itay Attar, Import Barriers in the Israeli Food Market

In September 2016, the Public Health (Food) Protection Law, 2015, commonly known as the “Cornflake Reform” (hereinafter: the Food Law), came into effect. Various reforms were introduced in the food import process as part of a broad government effort at de-regulation in light of recommendations produced by the Trachtenberg (2011) and Lang (2014) Committees. In this article, we review and analyze the import barriers in the Israeli food market following the adoption of the Food Law and focus on three particularly significant elements: (1) Israel’s customs policy; (2) the custom procedure for food types that are tax-free or subject to reduced custom fees; and (3) the food import procedure established by the National Food Service at the Israeli Ministry of Health. As part of the analysis, we emphasize the significant bottlenecks that may widely impact the economy or a particular market, and also engage in an international comparison of relevant indices and regulations in the field. We suggest that these can be individually or partially improved as part of an overall reform to encourage imports in the Israeli food market.