



Bezeq Applies to Anti-Trust Tribunal

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Bezeq Applies to Anti-Trust Tribunal to Rescind the Commissioner's Decision Not to Revoke his Declaration of Bezeq as a Monopoly in Basic Telephone Service.

Bezeq filed an appeal in the Anti-Trust Tribunal yesterday, through Adv. Niv Zekler, in which it requests that the Tribunal rescind the decision of the Anti-Trust Authority to turn down the Company's request for revocation of its declaration as a monopoly in basic telephone service.

Bezeq contends that it is no longer possible today to separate the mobile telephone field from the fixed-line telephone field, and that both are included in basic telephone service. Thus, it has ceased to hold more than half of the field of basic telephone service. According to Ministry of Communications data, there are currently 2.8 million direct (fixed) telephone lines, and 4.8 million cellular telephone lines.

Moreover, in terms of revenues, Bezeq's part in the provision of basic telephone services is less than half of the revenues of the cellular companies for providing cellular services.

Nati Bialistok-Cohen, internal anti-trust officer at Bezeq, said that there is an inconsistency between the Anti-Trust Tribunal's determination in Appeal 7/95 - the appeal which Bezeq filed immediately after it was declared a monopoly in 1995, and the determination of the Anti-Trust Authority when it rejected Bezeq's recent application for revocation of its being declared a monopoly.

In the appeal, Bezeq quotes from the Anti-Trust Tribunal's decision in 1997: "... This is a dynamic field that changes from time to time, and should it transpire in the future that the part of the Petitioner (Bezeq) in this field... falls below the minimum required by law, then there will be no impediment to the Petitioner contesting the declaration again, on the basis of the new facts as may be at that time."

"In the years since 1995, when Bezeq was declared a monopoly, revolutionary changes have occurred in Israel's communications sector. The Anti-Trust Commissioner should have ascertained whether Bezeq's share in providing basic telephone service (which encompasses both mobile and fixed-line services), is less than half, and had he found that this is indeed the case, he should have revoked the monopoly declaration for basic telephone service," states Bezeq in its appeal.

"However," the appeal continues, "The Commissioner, in his decision, completely disregards the decision of the Anti-Trust Tribunal (in Appeal 7/95), and the definition of the field of basic telephone services set out there. The Commissioner has set himself up as an appellate level of the Honourable Tribunal, and at the stroke of a pen he has cancelled the definition of the market appearing in the decision in Appeal 7/95, and determined a new definition of the market instead - the fixed-line telephone market..."

"Whereas the Tribunal determined years ago that 'It seems that today, cellular telephone service does indeed fall within basic telephone service', the Authority seeks to construe this determination erroneously, and unilaterally determines that 'The cellular telephone service market is separate and differentiated from the fixed-line telephone market'", said Bialistok-Cohen. He added that over and above the fact that by making this determination, the Authority is actually undermining decisions of the Anti-Trust Tribunal, the decision is also tainted in that it is out of touch with reality, since it was not made on the basis of any financial investigation.

"Anyone these days will tell you, or just look around at the range of services advertised in the media to see the place and status of the cellular phone. It will be perfectly obvious that the Authority's observation that 'From the point of view of the consumer, the cellular telephone is not a sufficiently meaningful replacement for the fixed-line telephone, and is in fact complementary...' is not a serious one and disregards the facts on the ground.

The fact that more than 60% of communications expenses in Israel are directed toward cellular communication and less than that to the telephony provided by Bezeq - is evidence of the considerable growth in the popularity of cellular communication, which is taking over rapidly from fixed-line communication as a reasonable alternative," said Bialistok-Cohen.

"The facts indicate that not only private persons. but also many large institutions, companies and organizations, have switched in recent years to cellular communications as an alternative to fixed-line communications. We are simply unable to grasp how the Anti-Trust Authority can allow itself to ignore the facts and to make assumptions and determinations on the basis of a 'gut feeling', and that is why we have had to turn to the Tribunal," said Bialistok-Cohen.