

**You shall love HaShem
with all your possessions**
by Dr. Meir Tamari

COMPETITION 2

Nevertheless, the problem persists as whether one may open a similar business near another Jew's operation. This is distinct from the ecological limitation of noise and overcrowding caused by customers which is a cost that neighbors do not have to bear; and to which they can object.

In favor of business restriction there is the argument of *hasagat gvul*. Originally this biblical restriction was expressed relevant to the borders of agricultural ground but was later applied also to any source of undertaking. It seems that in the main the halacha considered the size of the market in its decisions. Where the market was seen as large enough to support newcomers, entry was free since there was no moral reason why the veterans should benefit solely because they had been first. This freedom was always conditional on the newcomers sharing in the tax burden. However, where the market was restricted or small, free entry was usually denied even if the newcomers were willing to pay their share of taxation. Halacha did not recognize the reality of the economists argument that markets are really unlimited because newcomers would always be attracted by the abnormal profits

made by the veterans. Therefore there would always remain this halakhic problem of free entry.

Since the halachic treatment of this issue is very varied only a selection of some decisions are given here but it is important that this should be a major area of our Torah study. Hashem considered it so fundamental that He devoted over 100 of His mitzvot to our use and possession of wealth.

The dwellers in a courtyard [regarded as a communal entity with specific rights and obligations] can prevent each other from operating as a tailor, or a tanner, or any other artisan. However, if a similar craftsman already operates and they did not protest, or if there was a bathhouse, or store, or mill, and another comes and wishes to open a bathhouse, then one of them cannot protest and say to him, "You deprive me of my livelihood."

If, however, a non-citizen comes, in order to open a store alongside the [existing] store or a bathhouse alongside the bathhouse, they can prevent him. However, if he participates in the king's taxes, then they cannot prevent him. Using this as a yardstick, exporters from cheap labor economies may be required to pay the local taxes of the importing country. It is a basic concept in the halachic treatment of competition that the reduction in prices be one which can be emulated. Non-payment of taxes gives the competitor an advantage

which cannot be duplicated by the local merchants, no matter how efficient or cost-conscious they are.

The tradesmen who wander between the villages cannot be prevented from doing so, even though they constitute competition for the town merchants. This is an enactment of Ezra who returned with the Jewish Exiles from Babylon at the rebuilding of the Second Temple. The enactment permits them to travel and sell their wares so that the daughters of Israel may be able to buy perfumes. However, they may not settle in the town without permission from the people of the city.

The merchants who bring goods to sell in the villages can be prevented by the people of the village from selling directly in the fashion of the [town] merchants. However, if they come to sell only on the market days, [they cannot be prevented]. This only applies if they sell in the marketplace, but they may not go from house to house [which increases the competition]

A talmid chacham may settle wherever he wishes since that increases Torah knowledge. In Judaism, Torah scholars are regarded as a public asset and therefore steps were taken to encourage the growth in their number and their settlement in Jewish communities. In effect, the increased competition which flows from such settlement is a cost which the townspeople have to bear as part of their obligation to study Torah. To the scholar, such rights constitute a

subsidy. Shulchan Aruch, Choshen Mishpat 156:5-7

If there is a contract stipulating the order of dismissal, or if there is a local custom [an important halakhic principle that offers the protection in the absence of a specific contract], these have to be followed. Lacking such arrangements, the workers are in a situation similar to that of two partners who wish to divide up their common property; in our case, the work. The workers can each do half a day's work, thus dividing the wages between them [a practice often followed by workers when they decide to accept a cut in wages in exchange for the retention of every worker's job.] Alternatively, one can say to the other, "Buy my share or sell me yours." [In effect, this recognizes the veteran workers property rights in the place of employment.] Igrot Moshe, CM 1:81 🌸