

Law of the Republic of Armenia on Protection of Economic Competition

Chapter 1: General Provisions

ARTICLE 1. OBJECTIVES OF THE LAW

This Law regulates the economic and personal non-economic relationships connected with the creation, legal protection and utilization of invention, utility model and industrial design.

ARTICLE 2. CONCEPTIONS USED IN LAW

The main conceptions used in this Law are:

Paris Convention – Paris Convention on industrial property protection, signed on March 20, 1883 with all further amendments and supplements.

WIPO – World Intellectual Property Organization

PCT – Patent Cooperation Treaty, signed on June 19, 1970, with PCT and Administrative instructions and further amendments and supplements.

Eurasian Convention – Eurasian Patent Convention, signed in Moscow on September 9, 1994.

TRIPS Agreement – Agreement on Trade-Related Aspects of Intellectual Property Rights, signed in Marrakech on April 15, 1994.

Locarno Agreement – Locarno Agreement on Industrial Design International Classification, signed in Locarno on October 8, 1968.

Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs – Hague Agreement on International Deposit of Industrial Designs, renamed as “Hague Agreement on International Registration of Industrial Design” on July 2, 1999.

Industrial Property Subject Matter – invention, utility model and industrial design.

State Authorized Body - State Body authorized by the Government of the Republic of Armenia to exercise functions concerning issuance of industrial property protection documents (patents and certificates) as well as other functions provided by this Law and its Statutes.

Applicant – natural or legal person, organization, in whose name the patent on invention or utility model or certificate on industrial design is requested.

Rightholder – a person, in whose name the patent on invention or utility model is granted, or industrial design is registered (exclusive right holder).

Application - Application seeking patent on invention, utility model or certificate on industrial design.

International application – application filed in compliance with PCT, according to which the applicant has met the requirements of the State Authorized Body provided by Article 22 of the above Treaty.

Eurasian application – application on Eurasian patent, filed in compliance with Article 15 (1) of the Eurasian Patent Convention.

Representative – a person authorized in the State Authorized Body to represent the applicant, rightholder or other interested person.

Date – day, month, and year.

Mutatis mutandis – for the purpose of respective amendments within the meaning of TRIPS agreement.

National Phase – international application examination according to National Legislation.

ARTICLE 3. THE LEGISLATION ON ECONOMIC COMPETITION PROTECTION

The legislation on economic competition protection comprises the Constitution of the Republic of Armenia, the Civil Code of the Republic of Armenia, this Law and other legal acts.

ARTICLE 4. BASIC CONCEPTS

1. Basic concepts used in this Law are as follows:

Economic competition or competition – economic activity aimed at ensuring the most favorable conditions for selling or acquiring products, as a result of which possibilities of each competitor to unilaterally influence on general conditions of the product circulation in the product market is objectively limited;

Product – any object of civil law, including property, work, service (including financial), which is envisaged for sale;

Mutually substitutable products – products which are comparable in terms of the significance of their use, application, qualitative, technical, price or other features, in a way that the acquirer substitutes or is ready to substitute them for one another;

Product market – the field of circulation of a product and its mutually substitutable products in a certain territory, the boundaries of which are defined by economic opportunities and expediency of the product acquisition by the buyer in the relevant territory. Product market is characterized by product type and geographic boundaries, the composition and volume of its subjects;

Product type boundary of a product market – completeness of a given product and its mutually substitutable products;

Geographic boundary of a product market – certain geographic territory (including road, air, water and overground route, etc), within which it is economically possible and expedient for the buyer to acquire the given product and its mutually substitutable products, and such possibility and

expedience is not available outside the given territory. The geographic boundary of a product market may cover the entire territory of the Republic of Armenia or a part thereof, or the territory of the Republic of Armenia (or a part thereof) and other state (a part thereof);

Subjects of a product market – seller (realizer, supplier, alienator, provider, executor) and acquirer (buyer, recipient, acceptor, consumer) of the product and its mutually substitutable products;

Product market volume – the total sale or acquisition volume of a product and its mutually substitutable products within the geographic boundary of a product market in terms of quantity and (or) value:

Realization – sale, supply, alienation, provision, execution;

Acquisition – purchase, receipt, acceptance;

Economic entity – natural person (including sole proprietor), legal entity, other organization, its representative, representation, branch, a group of persons;

A group of persons – a group of legal and (or) natural persons with respect to which at least one of the following conditions is met:

- a person or several persons are entitled to dispose of (including by trading, trust management, joint activity contracts, commission or other transactions), whether directly or indirectly, more than a half of the authorized capital or share of an organization as a result of a contract (concerted practices), according to the procedure defined by the legislation;
- a person or persons obtain, either on a contractual basis or otherwise, the possibility to predetermine the decisions (including conditions for conducting entrepreneurial activity) adopted by other person or persons, or to exercise the powers of executive body;
- a person is entitled to appoint a sole executive body and (or) more than a half of the composition of a collective executive body, and (or) more than a half of the composition of an organization's management body has been elected upon his/her proposal;
- a natural person exercises the powers of an organization's executive body;
- the same natural persons, their spouses, parents, children, brothers, sisters and (or) other persons, who are elected upon proposal of the same organization, constitute more than a half of the composition of two or more organizations' management bodies, or upon proposal of the same organizations are elected in the composition of more than a half of their management bodies;
- the same natural persons, their spouses, parents, children, brothers, sisters and (or) legal entities are entitled to dispose of more than a half of shares in the authorized capital of more than one organizations;
- natural persons and(or) organization(s) dispose of, either independently or through their representatives, more than a half of shares in the authorized capital of one organization, and simultaneously the same natural persons, their spouses, parents, children, brothers, sisters, or

persons proposed by the same organization constitute more than a half of the composition of an organization's management body;

- natural persons are spouses, parents, children, brothers or sisters.

Delivery of an administrative (legal) act or other document (hereinafter referred to as "Correspondence") – sending a notification by registered mail to an addressee's location, place of residence or business, or postal or other address specified by the addressee, or delivering in person, or transmitting via other means of communication ensuring the proper execution of the message being delivered, or delivering in any other proper manner. Correspondence shall be deemed as properly sent (delivered) to the venue (address) or postal address specified in this paragraph, irrespective of the circumstance to whom it was provided. The organization providing postal communication service shall bear responsibility for damage caused to an addressee due to improper delivery of correspondence.

Asset value – computed value of an asset in accordance with the accounting standards;

Share - right to participate (share, stock, other security) in the authorized capital (capital stock) of a legal person.

2. The concepts defined in this Article shall be used only within the context of this Law and other legal acts adopted on the basis thereof.

3. Other concepts specified in this Law shall be applied in the meaning defined by the Constitution of the Republic of Armenia, Civil Code of the Republic of Armenia, other laws and other legal acts.

(Article 4 was amended by # HO-29-N Law adopted on 25.12.2003 and by # HO-107-N Law adopted on 22.02.2007)

Chapter 2: Anticompetitive Agreements

ARTICLE 5. ANTICOMPETITIVE AGREEMENTS AND THEIR PROHIBITION

1. Within the context of this Law, anticompetitive agreements shall be deemed such transactions signed between economic entities, their agreements, directly or indirectly concerted practices or conduct, and decisions adopted by unions of economic entities (hereinafter "agreements"), which lead or may lead to, directly or indirectly, restriction, prevention or prohibition of competition in any product market, except for the cases stipulated in Part 6 of this Article.

2. Anticompetitive agreements shall refer to:

- a) Establishment of discriminatory and/or differentiated sale and/or acquisition prices;
- b) Unjustified increase, decrease or maintenance of a product price;

Within the context of this Sub-Clause, unjustified increase of price shall be deemed the increase of a product's and/or its substitutable products' price by two or more economic entities during a certain

period of time.

Within the context of this Sub-Clause, unjustified decrease of price shall be deemed the decrease of a product's and/or its substitutable products' price by two or more economic entities during a certain period of time.

Within the context of this Sub-Clause, unjustified maintenance of a product price shall be deemed the maintenance of the price (including up to 5% change in the price) of a product and/or its substitutable products by two or more economic entities during a certain period of time, in case when the occurrence of certain conditions (factors) could lead or would have led to establishment of lower or higher price.

- c)** Division of the market according to territorial principle, sale or purchase volumes, product assortment, groups of sellers or acquirers, or otherwise;
- d)** Impediment to the market entry (restriction of the market entry) of other economic entities, or ousting them out from the market, as a result of which the economic entity did not enter the market or was ousted out from the market or made additional expenses not to be ousted out from the market;
- e)** Establishment, change or maintenance of discounts or privileges for sale or purchase prices, if they are targeted at ousting other economic entities out from the market;
- f)** Coming to an arrangement in regard to tender or auction conditions or falsification (distortion) of their results;
- g)** Offering or applying such conditions which lead or may lead to unequal competitive conditions;
- h)** Restriction of modernization or development or investments in trade or production of other economic entities;
- i)** Binding additional obligations to a contract party, including trading objects, which in their nature or implementation aspect are not related to the main subject of the contract;
- j)** Creation or maintenance of deficit in a product market to the prejudice of consumers' interests by means of product imports or unjustified contraction of production, or keeping, spoiling and destroying the products.

3. Anticompetitive agreements are signed between:

- a)** Economic entities (competitors) operating on the same product market (horizontal agreements);
- b)** Economic entities (non competitors – sellers and acquirers of the product and(or) its mutually substitutable products) with certain interrelation, operating on different product markets (vertical agreement);

4. Anticompetitive agreements shall be deemed proven when:

a) any factual details (including any written document or other written evidence, video or record), or any other evidence not prohibited by the Law, are available;

b) the actions or conduct of economic entities as specified in Part 2 of this Article testify it.

5. Conclusion (establishment) of anticompetitive agreements between economic entities shall be prohibited.

6. Agreements of economic entities aimed at ensuring or enhancing their competitiveness shall not be deemed as anticompetitive if the total share of participants of such agreements does not exceed 20% of the given product market.

7. Prior to signing (coming to) an agreement, the economic entities, in order to receive a conclusion, may apply to the state body for the protection of economic competition (The State Commission for the Protection of Economic Competition of the Republic of Armenia).

(Article 5 was amended by # HO-107-N Law adopted on 22.02.2007)

(Chapter 2 was amended by # HO-107-N Law adopted on 22.02.2007)

Chapter 3: Monopolistic Or Dominant Position

ARTICLE 6. MONOPOLISTIC OR DOMINANT POSITION

1. Within the meaning of this Law, an economic entity shall be deemed as having a monopolistic position on a product market if it has no competitor as a seller (acquirer).

2. An economic entity shall be deemed as having a dominant position on a product market if as a seller (acquirer) it captures at least one third of the given market in terms of sale volumes.

3. Each of two economic entities having the largest sale (purchase) volumes on a product market shall be deemed as having a dominant position on the given product market if as seller (acquirer) they jointly capture at least ½ of the given market in terms of sale volumes.

4. Each of three economic entities having the largest sale (purchase) volumes on a product market shall be deemed as having a dominant position on the given product market if as seller (acquirer) they jointly capture at least two third of the given market in terms of sale volumes.

5. The Commission shall define the monopolistic or dominant position of economic entities, as well as the procedure on maintaining the Centralized Log (Register) of Economic Entities having Dominant Position.

6. An economic entity shall be recorded in the Centralized Log (Register) of Economic Entities having

Dominant Position on product market, as well as shall be removed from the Log in case of losing that position.

(Article 6 was supplemented by # HO-398-N Law adopted on 28.06.2002 and amended by # HO-107-N Law adopted on 22.02.2007)

ARTICLE 7. ABUSE OF MONOPOLISTIC OR DOMINANT POSITION

1. Abuse of monopolistic or dominant position (hereinafter “Dominant Position”) by economic entities shall be prohibited.

2. Abuse of a dominant position shall be deemed:

- a)** Establishment or application of unjustified, discriminatory and (or) differentiated sale or acquisition prices or direct or indirect binding of other trading conditions conflicting the legislation;
- b)** Restriction of trade or modernization of production or investments of other economic entity;
- c)** Creation or maintenance of deficit in a product market to the prejudice of consumers’ interests by means of product imports, or unjustified contraction of production, or keeping, spoiling and destroying the products;
- d)** Application of discriminatory conditions towards consumers or other economic entities;
- e)** Binding additional obligations to a contract party, including trading objects, which in their nature or implementation aspect are not related to the subject of the contract;
- f)** Forcing economic entities to restructure or break economic relations;
- g)** Impediment to the market entry (restriction of the market entry) of other economic entities, or ousting them out from the market, as a result of which the economic entity did not enter the market or was ousted out from the market or made additional expenses not to be ousted out from the market
- h)** Offering or application of conditions that create or may create unequal competitive conditions, when similar conditions have not been offered to other economic entities operating on the product market;
- i)** Establishment, change or maintenance of discounts or privileges of sale or acquisition prices if they are targeted at the restriction of competition.

(Article 7 was supplemented by # HO-29-N Law adopted on 25.12.2003 and by # HO-91-N Law adopted on 04.05.2005, and was amended by # HO-107-N Law adopted on 22.02.2007)

(Chapter 3 was amended by #HO-107-N Law adopted on 22.02.2007)

Chapter 4: Concentration

ARTICLE 8. CONCEPT OF CONCENTRATION OF ECONOMIC ENTITIES

The following shall be deemed as concentration of economic entities:

- a)** Amalgamation or merger of economic entities;
- b)** Acquisition of assets or shares of one economic entity by another if the acquisition per se or together with the assets or share already possessed by the acquirer constitutes 20% of assets or shares of such economic entity;
- c)** Any amalgamation of economic entities due to which one economic entity may, directly or indirectly, influence on the decision making or competitiveness of another economic entity.

(Article 8 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 9. DECLARATION OF CONCENTRATION

1. Concentration of economic entities, before its practicing or participation therein, shall be subject to declaration if:

- a)** The joint value of assets of the participants was at least 3 billion AMD in the financial year preceding its establishment;
- b)** Participants operate on the same product market, and the joint value of their assets was at least 1 billion AMD in the financial year preceding its establishment;
- c)** The value of assets of one of the participants was at least 3 billion AMD in the financial year preceding its establishment;
- d)** Participants operate on the same product market, and the value of assets of one of them was at least 1 billion AMD in the financial year preceding its establishment.

2. The declaration of concentration shall specify the type of concentration and the following information referring each participant:

- a)** Name, residency (location) address and business address;
- b)** Financial statements of annual activity as of the end of the year preceding the declaration and auditing conclusion concerning them. If one of the concentration participants started its activity in that

year, the financial statements and auditing conclusion concerning them shall be presented as of the end of the month preceding the declaration.

c) Volumes of products sold during the preceding year according to their assortment, as well as the description of production capacities;

d) Other information referring the product market and activities of the market participants, if the declarer so wishes.

3. The procedure for declaration of concentration and the form of declaration shall be defined by the Commission.

(Article 9 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 10. STATE REGULATION OF CONCENTRATION

1. Any concentration leading to a dominant position shall be prohibited, except for cases when it promotes the interests of consumers and (or) development of competitive environment in the product market.

2. The concentration which is subject to declaration or leads to a dominant position shall be permitted on the basis of the Commission's decision.

3. It shall be prohibited to practice or participate in concentration subject to declaration or leading to a dominant position prior to the adoption of Commission's decision.

4. Enacted prohibited concentration shall be subject to liquidation (annulment, ceasing) according to the procedure defined by the legislation.

(Article 10 was amended by # HO-107-N Law adopted on 22.02.2007)

(Chapter 4 was amended by #HO-107-N Law adopted on 22.02.2007)

Chapter 5: Unfair Competition

ARTICLE 11. UNFAIR COMPETITION

1. Any entrepreneurial activity or conduct conflicting this Law or business circulation traditions, breaking the principles of fairness, i.e. honesty, equity, verity and impartiality among competitors or between the latter and consumers shall be deemed as unfair competition.

2. Unfair competition shall be prohibited.

3. Any interested person, including consumer, who has incurred damage due to unfair competition shall

be entitled to terminate unfair competition by applying to the Commission or court. This right shall also be reserved for organizations empowered to defend the interested persons' economic interests.

ARTICLE 12. CREATING CONFUSION WITH RESPECT TO ECONOMIC ENTITY OR ITS ACTIVITY

1. Any entrepreneurial activity or conduct, which causes or may cause confusion with respect to another economic entity, its activity or offered products, shall be deemed as an act of unfair competition.

2. In the context of this Article, confusion may be caused in particular with respect to:

a) Trademark and service mark, whether registered or not;

b) Trade name;

c) Appearance of products, for instance, industrial design, whether registered or not, packaging, color or any other non-functional features;

d) Civil circulation participants, products, other means of identification, for instance, business symbols, signs or letters substituting words, slogans;

e) Types of product presentation, including advertisement, uniform, product delivery style;

f) Use of names of celebrities, as well as popularity or reputation of recognized characters from fiction or art to foster product consumption demand.

ARTICLE 13. DISCREDITING OF ECONOMIC ENTITY OR ITS ACTIVITY

1. Any false or unjustified statement concerning entrepreneurial activity, which discredits or may discredit an economic entity, its activity or offered products, shall be deemed as an act of unfair competition.

2. In the context of the present Article, discrediting may occur while implementing measures to facilitate the promotion or dissemination of products, in particular with respect to:

- Production process;
- Suitability of products for certain purpose;
- Quality, quantity or other features;
- Offer and delivery conditions;
- Price or its computation method.

ARTICLE 14. PUBLIC MISLEADING

1. Any entrepreneurial activity or conduct that misleads or may mislead the public with respect to an economic entity or its activities or its offered products shall be deemed as an act of unfair competition.
2. In the context of this Article, misleading may be caused while implementing measures to facilitate the promotion or advertisement of products, in particular it may be caused with respect to geographic origin of a product as well as the peculiarities specified in Part 2 of Article 13 hereof. Any unjustified exaggeration of the product quality, the failure to provide relevant information regarding the quality, quantity or other features, which may lead to a false impression (misinformation), forgery with regard to the personality of an advertiser, shall be deemed as misleading.

(Article 14 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 15. DAMAGE TO REPUTATION OR GOODWILL OF ECONOMIC ENTITY

1. Any entrepreneurial activity or conduct which, irrespective of creating confusion, causes or may cause damage to reputation or goodwill (non-tangible assets) of an economic entity, shall be deemed as an act of unfair competition.
2. In the context of this Article, the damage to reputation or goodwill of economic entity may result from impairment of reputation or goodwill connected with the objects listed in Part 2 of Article 12 hereof.

Impairment of reputation or goodwill shall mean the diminution of distinguishing features or advertising significances (meaning) specified in Part 2 of Article 12 hereof, particularly when applying a sign similar or identical to the registered or well-known trademark of a certain product on completely different products.

(Article 15 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 16. UNFAIR COMPETITION WITH RESPECT TO UNDISCLOSED INFORMATION

1. In the context of this Article, technical, organizational or commercial data, including production secrets (know-how), shall be deemed as undisclosed, if:
 - a) they, as a whole or by accurate inter-arrangement and integrity of their parts, are completely unknown or not easily accessible to persons usually dealing with such information;
 - b) they have certain actual or possible commercial value due to being unknown to third persons, but legitimate grounds for their easy accessibility are lacking;
 - c) their legitimate owner, whether a natural person or legal entity, has undertaken reasonable steps to retain the confidentiality of information under existing circumstances, such steps being expressed in the

form of signing a relevant contract and (or) ensuring its conditions, initiating other preventive steps, maintaining them on identification information-carriers in the form of documents, electronic files, video and audio records, items embodying such data, etc.

The subject matter of undisclosed information may be production methods, chemical formulas, drawings, test samples, product sale and distribution methods, contract types, business plans, details of contractual prices, professional activity fields (profiles) of consumers, advertising strategy, lists of suppliers or clients, computer software, databases, etc..

Materials and data collected through administrative observations enclosed in reports shall not be deemed as undisclosed information.

2. Any entrepreneurial activity or conduct which may lead to acquisition, use and disclosure of undisclosed information without the consent of its lawful owner or in violation of traditions of business circulation shall be deemed as an act of unfair competition.

3. The rights stated in Part 3 of Article 11 hereof shall arise irrespective of any formalities (registration, issuance of certificate, etc.) performed with respect to undisclosed information and shall be effective as long as conditions stipulated by Part 1 of this Article are met.

4. In the context of this Article, following methods of acquisition, use and disclosure of undisclosed information shall be deemed as violation of business circulation traditions:

a) Industrial or business espionage or compulsion of such;

b) Breach, dissolution of or compulsion to a contract related with undisclosed information;

c) Breach of or compulsion to confidentiality;

d) Acquisition of undisclosed information by a third person who was aware or could have been aware that such acquisition would assume conducting activities specified in aforementioned Clauses.

5. Use of undisclosed information shall mean its application in entrepreneurial activity, as well as the introduction into economic circulation of products received or processed due to its application.

6. Disclosure of undisclosed information shall mean its publication, as well as its transfer to any other person who, by keeping it in secret, may gain tangible or other profit.

7. Any entrepreneurial activity or conduct shall be deemed as an act of unfair competition, if it constitutes or is followed by:

a) Unfair commercial use of pharmaceutical or agricultural chemical products received by means of using new chemical mixture, composition or compound, which were submitted to the authorized body for approval and were originated as a result of unfair commercial use of data of tests involving considerable efforts or of other undisclosed data;

b) Disclosure of data stated in Part “a” of this Clause, other than cases when it is necessary for the protection of public interests or when guarantees of data protection against their unfair commercial use are already in place.

In the context of this Part, unfair commercial use of data shall mean their sale to other persons, their use to produce identical or similar product, etc.

8. If the person illegally using undisclosed information has acquired it from a person not entitled to disseminate (publish) it, of which fact the user was unaware or was not obliged to be aware (honest acquirer), the legal owner of undisclosed information shall be entitled to claim compensation for damage caused to him/her as a result of using undisclosed information starting from the moment when the honest acquirer has become aware that the use of such information is illegal.

9. Taking into consideration the expenses incurred by an honest acquirer in connection with the use of undisclosed information, the court may permit its further use until compensation of sustained expenses.

10. Any person who has independently and legally acquired data constituting the content of undisclosed information, shall be entitled to use them irrespective of the rights of the relevant undisclosed data owner, and shall not bear any responsibility for its use before the latter.

11. Legal owner of undisclosed information may, based on a relevant contract, wholly or partially provide the data constituting its content to another person.

12. The person possessing undisclosed information under a relevant contract shall be obliged to undertake appropriate measures to keep its confidentiality, and as such, on equal terms with the legal owner of undisclosed information, shall have the right to protect it from illegal use by a third party. Unless otherwise provided by the contract, the obligation of the person possessing undisclosed information to keep the confidentiality thereof shall survive the validity term of the license agreement, should the information be still considered undisclosed.

(Article 16 was amended by #HO-398-N Law adopted on 28.06.2002, #HO-86-N Law adopted on 26.05.2004 and #HO-107-N Law adopted on 22.02.2007)

CHAPTER 5.1 STATE AID

ARTICLE 16-1. STATE AID AND ITS PROHIBITION

1. Within the context of this Law, the state aid shall be deemed any aid (including financial means, such as assistance, credit, borrowing, property, privileges or other conditions) provided by the government, state or local government body, state organization or organization with state participation to a concrete economic entity or a certain group of economic entities.
2. The state aid which directly or indirectly leads or may lead to the restriction, prevention or prohibition of competition in any product market, shall be prohibited, except for cases when the stated aid is envisaged by the Law.
3. This Article shall not cover the state aids which are directed at protection of the environment, solution of problems of social nature, compensation of damages caused by natural calamities or other exceptional cases, discharging of obligations stipulated by the Law or international contract.
4. The body (organization) having initiated the provision of the state aid, or the economic entity having applied for such aid, shall prior to provision of the state aid or applying for such aid be entitled to apply to the Commission to receive its conclusion.
5. The economic entity which has received prohibited state aid shall be obliged to return it within the timeframe defined by the Commission.

(Chapter 5.1 was supplemented by #HO-107-N Law adopted on 22.02.2007)

Chapter 6: The State Body For Protection Of Economic Competition

ARTICLE 17. THE STATE BODY FOR PROTECTION OF ECONOMIC COMPETITION OF THE REPUBLIC OF ARMENIA

1. To implement the state policy in the field of economic competition protection, a state body for economic competition protection-the Commission-shall be established.
2. The Commission shall be established according to the procedure defined in this Law, shall operate on the basis of this Law, other legal acts and its statute, and shall be independent within the scope of its authorities.

(Article 17 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 18. OBJECTIVES AND FUNCTIONS OF THE COMMISSION

1. The objectives of the Commission shall be as follows:
 - a) Protection and promotion of economic competition to protect the development of entrepreneurship and consumer rights;
 - b) Ensuring of favorable environment for fair and free competition;
 - c) Prevention, restriction and precaution against anticompetitive practices;

d) Control over the economic competition protection.

2. To accomplish its objectives, the Commission shall perform the following main functions:

- exercise control over the compliance of the economic competition protection legislation;
- examine breaches of the economic competition protection legislation and adopt decisions;
- maintain the Centralized Register (Log) of Economic Entities having a Dominant Position;
- apply to the court in connection with cases of infringement of the economic competition protection legislation;
- participate in drafting of legal acts regulating economic competition development and the state policy in this field, as well as in their presentation pursuant to the prescribed procedure ;
- participate in signing of interstate agreements pertaining to issues falling within its competence;
- cooperate with the state bodies and non-government organizations of foreign states as well as with international organizations;
- develop and implement measures preventing the infringements of the economic competition protection legislation;
- summarize the experience of implementation of the economic competition protection legislation and draft proposals on its improvement;
- ensure publicity of its activity; publish a bulletin;
- carry out public explanatory works to notify the public about the liability stipulated by provisions of this Law;
- implement other activities falling within its competence.

(Article 18 was supplemented and amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 19. POWERS OF THE COMMISSION

1. The Commission shall be entitled to:

a) Make decisions with respect to:

- Possible or factual violations of this Law;

- Studies of product markets;
- Research, inspection, study and (or) monitoring in connection with initiating or conducting administrative cases;
- Boundaries of product markets, existence of dominant position of economic entities on these markets, as well as on implementation of measures conditioned by that;
- Disaggregation (division, separation, alienation of shares or assets) of economic entities abusing their dominant position twice or more within a year;
- Discontinuation of infringements of this Law by economic entities or elimination of their consequences, restoration of the original position, amendment or dissolution of contracts contradicting this Law, signing of contracts with other economic entities;
- Incompliance of legal acts adopted by the state and local government bodies or their officials with the legislation on economic competition protection, providing conclusions on agreements to be signed, state aids as well as concentrations;
- Suspension, liquidation (annulment, ceasing), recognizing void of concentration or state aid;
- Imposition of penalties upon economic entities and their officials, officials of the state and local government bodies for infringement of this Law.

b) Control over implementation (maintenance) of the Commission decisions;

c) Conducting research, inspection, study and (or) monitoring according to the procedure defined by the law in order to disclose the reliability of information presented by economic entities, the actual activity of economic entities, or to exercise control over fulfillment of the Commission decisions;

d) Apply to the court in connection with violations of this Law, including legal acts adopted by the state and local government bodies, with the request to recognize void, fully or partially, the contracts signed by economic entities in violation of this Law, as well as to amend or dissolve such contracts;

e) Apply to the Government of the Republic of Armenia with petition to cease the actions of the state bodies or their officials which conflict this Law;

f) Impose fines, exercise other sanctions stipulated by this Law;

g) Adopt appropriate procedures connected with anticompetitive agreements, dominant positions, concentrations, unfair competition, state aid, as well as determination of product market;

h) Provide explanations with respect to issues relating to the enforcement of the economic competition protection legislation;

i) Exercise other powers envisaged by the legislation.

1.1. The Commission decision referring disaggregation as stipulated in Clause “a” of Part 1 of this Article shall be subject to execution by economic entities no later than within 6 months;

1.2. If any economic entity fails to submit within the defined timeframe the documents and other information necessary for examination, proceedings, research, inspection, study and (or) monitoring, or otherwise hampers their process, or necessary documents and other information are lacking, the

Commission shall be entitled to make decisions based on the documents and other information at its disposal. Adoption of decisions as stipulated by this part shall not dispense economic entities from obligation of submitting such documents and other information or from the liability for the failure to submit them.

2. The Commission shall be independent of other state bodies in performing the objectives and functions defined by this Law.

(Article 19 was amended and supplemented by #HO-398-N Law adopted on 28.06.2007, #HO-91-N Law adopted on 04.05.2005 and #HO-107-N Law adopted on 22.02.2007)

ARTICLE 20. COMPOSITION OF THE COMMISSION AND VALIDITY TERM OF ITS POWERS

- 1.** The Commission shall be composed of seven members: the chair, deputy and five members.
- 2.** The President of the Republic of Armenia shall appoint the Commissioners. The Commissioners, except the first composition, shall be appointed for a 5-year period.
- 3.** Terms of powers of the first Commissioners shall be defined as follows:

one member - one year;

one member - two years;

three members - three years;

Commission Deputy Chair - four years;

Commission Chair - five years.

- 4.** Commissioners may not be engaged in entrepreneurial activity, be a member of any representative body, hold any other state post nor do a paid job, except for scientific, creative and pedagogical activities.
- 5.** Commissioners shall not be entitled, whether directly or indirectly, to receive gifts or other tangible profits from the product market participants.
- 6.** Persons may not be appointed as Commissioners if they:
 - a)** do not have higher education;
 - b)** are not citizens of the Republic of Armenia;
 - c)** are recognized incompetent or partially competent by a valid court decision;
 - d)** have been convicted for committing an intentional crime by a valid court decision;
 - e)** have been deprived of the right to hold a certain state post according to the procedure defined by the Law.

ARTICLE 21. TERMINATION OF POWERS OF COMMISSIONERS

1. Powers of a Commissioner may be terminated by the President of the Republic of Armenia on the basis of the Commissioner's application in cases specified in Clauses "c", "d" and "e" of Part 6 of Article 20, as well as upon suspension of his/her citizenship of the Republic of Armenia, taking another job, neglecting the official duties, or failure to perform the official duties for more than 6 months due to disease or for any other reason.
2. In case of termination of a Commissioner's powers, the President of the Republic of Armenia shall within ten days appoint a Commissioner for a 5-year period.
3. A Commissioner may be reappointed to the same position after expiry of the term of his/her powers.

(Article 21 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 22. THE COMMISSION STAFF

The Commission shall organize its activities through its Staff, the statute of which shall be approved by the Commission.

(Article 22 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 23. THE COMMISSION CHAIR

1. The Commission Chair shall:

- a) Represent the Commission in the Republic of Armenia, other states and international organizations within his/her authority;
 - b) Manage and coordinate the normal functioning of the Commission, distribute official duties among the Commissioners;
 - c) Participate in the government sessions with an advisory vote and provide written comments on issues discussed during the sessions, which shall be enclosed with the session minute;
 - d) Call and preside at the Commission meetings, approve agendas of sessions;
 - e) Organize implementation of decisions adopted by the Commission;
 - f) Sign the Commission decisions and the session minutes;
 - g) Approve the list of the Commission staff, act as employer's representative for Commissioners and employees appointed by him/her, recruit and dismiss the Commission staff employees within the frame of his/her competence, act in the court on behalf of the Commission and issue powers of attorney to act in the court on behalf of the Commission, exercise other powers reserved by this Law, other legal acts and the Commission Statute.
2. In case of absence of the Chair or impossibility to perform his/her official duties the Commission Chair shall be replaced by the Deputy Chair, and in case of absence of the latter or impossibility to perform the official duties, by the eldest Commissioner.

(Article 23 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 24. CONFLICT OF INTERESTS

1. Any Commissioner holding personal interest in any issue subject to discussion at the Commission session shall be obliged to disclose to other members the fact and nature of his/her interest, which should be recorded in the session minutes. After this notification, the stated Commissioner shall:
 - a) Renounce his/her participation in the session for discussion of the issue in question;
 - b) Not be regarded for ensuring the eligibility of the given session.
2. The person whose issue is the subject matter of discussion may challenge the Commissioner if the latter holds personal interest in the discussed issue.

ARTICLE 25. DECLARATION OF COMMISSIONERS' INCOMES

Commissioners shall submit their income declarations according to the procedure defined in the Law.

(Article 25 was amended by #HO-91-N Law adopted on 04.05.2005)

ARTICLE 26. THE COMMISSION STATUTE

1. The Commission Statute shall define the procedure of the Commission activity.
2. The Commission shall approve the Commission Statute.

(Article 26 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 27. ANNUAL PROGRAM AND REPORT

The Commission shall:

1. Each year, by October 1, publish in the National Assembly its annual program for the coming year, which shall contain brief information on
 - a) Analysis of economic competition environment and detection of existing key issues;
 - b) Measures and the schedule of implementation of economic competition protection;
 - c) Economic competition regulatory mechanisms;
 - d) Other necessary provisions defined by the Commission for the implementation of the objectives and

functions set forth in this Law.

2. Each year, by May 1, the Commission shall publish a report on the previous year's activity which shall include:

- 1) brief information on the Commission activities;
- 2) product markets analysis;
- 3) measures undertaken towards regulation and supervision of economic competition;
- 4) financial report of its activity.

(Article 27 was amended by #HO-436-N Law adopted on 23.10.2002)

ARTICLE 28. DUTIES OF ECONOMIC ENTITIES, STATE ADMINISTRATION AND LOCAL GOVERNMENT BODIES IN PROVIDING DATA TO THE COMMISSION

1. To perform the functions stipulated in this Law, the state administration and local government bodies, as well as their officials shall upon the Commission's request provide documents and other data.

2. In connection with conducting proceeding, research, inspection, study (including a study of a product market) and (or) monitoring, or with other issues related to economic entities, based on the decision adopted by the Commission the economic entities shall be obliged to submit documents and other information defined by the decision.

3. Economic entities registered in the Centralized Register of Economic Entities having Dominant Position shall be obliged to submit to the Commission, according to the procedure defined by the latter and at 6-month intervals, information regarding the volumes of products sold (acquired) by them on the given product market, cost structure and price flows (in case of price changes – with appropriate justifications) as of July 1st and January 1st of the coming year - by August 15th of the current year and February 15th of the coming year, respectively.

(Article 28 was amended and supplemented by #HO-29-N Law adopted on 25.12.2003, #HO-91-N Law adopted on 04.05.2005 and #HO-107-N Law adopted on 22.02.2007)

ARTICLE 29. ANNUAL EXPENSES OF THE COMMISSION

1. Financing of the Commission shall be carried out on the account of the state budget. The Commission Chair, following the Law on Budget System, shall submit the Commission's budget of expenses within the defined timeframe to the Government of the Republic of Armenia for inclusion in the draft state budget.

The budget request shall be included in the draft state budget without any changes if accepted by the Government of the Republic of Armenia, or with respective changes in case of objections by the latter,

and shall be presented to the National Assembly together with the state budget.

2. The Commission's budget of expenses shall provide the possibility for proper implementation of objectives and functions as defined by this Law, including ensuring the representation in international organizations, as well as paying salaries to the Commission staff.

(Article 29 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 30. PROCEDURE FOR ORGANIZATION OF ACTIVITIES

1. The Commission implements its activities through sessions.

2. The Commission session shall be eligible, if at least five Commissioners participate in it.

3. The Commission shall hear issues at open-door sessions, except for cases when such discussion may cause damage to interested parties.

4. The Commission sessions shall be recorded. The session minutes shall contain brief information about the venue, time, participants, agenda, speeches and voting results.

5. Sessions shall be called at a certain periodicity or upon the request of any of Commissioners, as appropriate.

6. The Commission shall adopt a decision as a result of discussion.

In case of discussing procedural issues or failure to adopt a decision to the point (including convocation of a closed-door session, withdrawal of an issue from discussion, adjournment of discussion, inclusion of additional issue in the agenda, giving instruction to the staff, etc.), the Commission shall adopt a verbal decision (for record) through voting, of which a record shall be made in the minutes.

Commission decisions shall be adopted at the Commission sessions based on the majority votes of the Commissioners participating in the session. In case of equal votes, the vote of the Commission Chair or the person replacing him/her shall be decisive.

Abstention from voting or transfer of a vote to other Commissioner is prohibited.

7. Following the adoption of an administrative act, a copy thereof shall be delivered to the addressee within 5 days' period.

8. The administrative act adopted by the Commission shall take effect on the day following the date of its delivery to the addressee, unless a later date is specified in the act. In case the administrative act has more than one addressee, the relevant part of the administrative act shall become effective on the day following the date of delivering its copy to the respective addressee, unless a later date is specified in

the act.

Other individual legal acts adopted by the Commission shall take effect since the moment of their adoption, unless a later date is specified therein

9. The Commission decision may be appealed in administrative order within 10 days' period following its effective date. The Commission decision may be appealed in the court: in case of disagreement with the results of discussion of administrative appeal - within one month period from the moment of adoption of a decision on appeal, and in case of not filing administrative appeal - within one month following the effective date of the Commission decision.

10. Maximum timeframe for the Commission to conduct an administrative proceeding is 90 days.

(Article 30 was amended and supplemented by # HO-91-N Law adopted on 04.05.2005 and #HO-107-N Law adopted on 22.02.2007)

ARTICLE 31. PROCEDURE FOR IMPOSITION OF SANCTIONS BY THE COMMISSION

The Commission is entitled to impose sanctions stipulated by the Law for violation of this Law, including a warning and an instruction to correct and (or) exclude violations in future, and (or) to impose fine at the size stipulated in the Law and (or) to cancel or annul concentration.

(Article 31 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 32. THE ORDER

(Article 32 was recognized void by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 33. THE COMMISSION DUTIES IN KEEPING COMMERCIAL, BANKING OR OFFICIAL SECRETS

1. Data constituting commercial, banking or official secret, which have been received in the course of exercising the powers defined by this Law, shall be protected by the Commission according to the procedure stipulated by the Law.

2. The Commission staff and employees shall not be entitled to publish or otherwise disseminate, as well as to use for their personal interests the confidential and official information received during the performance of their official duties.

3. In case of publication of data containing commercial, banking or official secret, the damage caused to an economic entity shall be subject to compensation out of the state budget according to the procedure defined by the legislation.

ARTICLE 34. GROUNDS FOR DISCUSSION OF VIOLATIONS OF THIS LAW BY THE COMMISSION

The Commission is entitled to make decisions based on researches conducted by it, applications and information of the state administration and local government bodies, economic entities and consumers, announcements in the mass media and other documents under its disposal, which prove the violation of this Law.

ARTICLE 35. ORDER OF IMPLEMENTATION OF THE COMMISSION DECISION

1. The Commission decision shall be subject to execution by economic entities, the state administration and local government bodies and their officials within the timeframe indicated therein.
2. The Commission shall be entitled to file a claim to the court in case of failure to execute its decision.
3. Filing of a claim shall not terminate the enforcement (enactment) of the Commission decision.

(Article 35 was amended by #HO-107-N Law adopted on 22.02.2007)

Chapter 7: Liability For Violation Of This Law

ARTICLE 36. LIABILITY FOR INFRINGEMENTS IN THE FIELD OF ECONOMIC COMPETITION

1. Economic entities, the state administration and local government bodies and their officials shall incur liability for the violation of this Law according to the procedure defined by this Law and the legislation.
2. Entering into (establishing, participating in) anticompetitive agreement shall lead to imposition of a fine upon the economic entity-anticompetitive agreement participant at the rate of 2% of proceeds of the year preceding the entry into (establishment, participation in) the agreement, but not exceeding three hundred million AMD. In case the conducted activity lasted less than 12 months during the previous year, the infringements stipulated in this part shall lead to imposition of a fine at the rate of 2% of proceeds (however not exceeding three hundred million AMD) from the activity conducted prior to the entry into (establishment, participation in) that agreement but not exceeding 12 months' period.
3. Abuse of dominant position shall lead to imposition of a fine upon economic entity at the rate of 1% of proceeds of the previous year, but not exceeding three hundred million AMD. In case the conducted activity lasted less than 12 months during the previous year, the infringements stipulated in this part

shall lead to imposition of a fine at the rate of 1% of proceeds (however not exceeding three hundred million AMD) from activity conducted in the period preceding the infringement but not exceeding 12 months' period.

4. Failure to declare the concentration as stipulated by this Law, or enactment of (participation in) prohibited concentration shall lead to imposition of a fine upon the economic entity-concentration participant at the rate of 4% of proceeds of the year preceding the participation in the concentration, but not exceeding five hundred million AMD. In case the activity conducted in the previous year lasted less than 12 month, the infringement stipulated in this part shall lead to imposition of a fine upon the economic entity-concentration participant at the rate of 4% of proceeds (however not exceeding five hundred million AMD) of the year preceding the concentration but not exceeding 12 months' period.

5. Action of unfair competition shall lead to imposition of a fine at the size of five hundred thousands AMD.

Repetition of an infringement stipulated in this part during 1 year shall lead to imposition of a fine at the size of one million AMD.

6. Receipt of prohibited state aid shall lead to imposition of a fine upon economic entity at the rate of 2% of proceeds of the year preceding the infringement, but not exceeding three hundred million AMD. In case the activity conducted in the previous year lasted less than 12 months, the infringement stipulated in this part shall lead to imposition of a fine at the rate of 2% of proceeds (however not exceeding three hundred million AMD) from activity conducted in the period preceding the infringement but not exceeding 12 months' period.

7. Failure to submit documents or other information as defined by the Commission decision, or submission of unreliable or false data shall lead to imposition of a fine at the size of five hundred thousand AMD. Repetition of the violation stipulated in this Part during one year shall lead to imposition of a fine at the size of two million AMD.

8. Preventing the Commissioners or Commission staff from performing the rights or duties reserved to them by this Law, the Statute or other legal acts shall lead to imposition of a fine at the size of five hundred thousands AMD.

(Article 36 was supplemented and amended by # HO-398-N Law adopted on 28.06.2002, # HO-29-N Law adopted on 25.12.2003, #HO-91-N Law adopted on 04.05.2005 and #HO-107-N Law adopted on 22.02.2007)

ARTICLE 37. FAILURE TO EXECUTE THE COMMISSION DECISION

Failure by economic entities to execute the Commission Decision (except for decisions on submission of documents and other information) within the timeframe specified therein shall lead to imposition of a fine at the size of one million AMD.

(Article 37 was amended by #HO-91-N Law adopted on 04.05.2005 and #HO-107-N Law adopted on 22.02.2007)

ARTICLE 38. COMPENSATION OF DAMAGES

Damages caused to other economic entities or persons due to activities (inaction) of an economic entity in violation of this Law shall be subject to compensation by the violating economic entity according to the procedure defined by the legislation.

Damages caused to economic entities or other persons due to unlawful decisions, activities (inaction) of the state and local government bodies shall be subject to compensation according to the procedure defined by the legislation.

(Article 38 was amended by #HO-107-N Law adopted on 22.02.2007)

ARTICLE 39. RESPONSIBILITY OF THE COMMISSION OFFICIALS

The Commission officials shall bear responsibility for the violation of this Law according to the procedure defined by the legislation.

ARTICLE 40. RESPONSIBILITY OF OFFICIALS FOR VIOLATION OF THIS LAW

Officials shall bear responsibility for violation of this Law according to the procedure defined by the administrative legislation of the Republic of Armenia.

(Article 40 was amended by #HO-107-N Law adopted on 22.02.2007)

Chapter 8: Final Provisions

ARTICLE 41. ESTABLISHMENT OF THE COMMISSION

The President of the Republic of Armenia shall appoint the Chair, Deputy Chair and members of the Commission within 30 days following the enforcement of this Law.

ARTICLE 42. ENFORCEMENT OF THE LAW

This Law shall take effect since the date of its publication.

ROBERT KOCHARYAN

PRESIDENT OF THE REPUBLIC OF ARMENIA

c. Yerevan

December 5, 2000

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