

Law of the Republic of Azerbaijan on Unfair Competition

The present law sets out organizational-legal basis to prevent and remove unfair competition, creates legal ground for entrepreneurship through honest methods, stipulate responsibility of market-oriented subjects for application of methods of unfair competition. This law shall apply to all market subjects operating in the Azerbaijan Republic.

Chapter 1. General provisions

Article 1. Definitions

The following concepts shall be applied for challenges of the present Law:

- **competition** - a form of struggle among market-oriented subjects for more favorable conditions of entrepreneurship, under which their independent activity restricts reasonably opportunity for each of them to affect general state of circulation of goods (products, works and services) in market and stimulates production of goods, requested for consumers;
- **unfair competition** - action of market-oriented subject aimed to achieve advantage in entrepreneurship through application of illegal and unscrupulous methods, which can cause prejudice to other market-oriented subjects (competitors) or lessen their business authority;
- **illegal payments** - payments of material or non-material character, envisaged to bribe officials of national bodies, persons, holding leading posts in political parties, employees of mass media, administration and employees of market-oriented subjects in order to achieve unreasonable (unjustified) advantages in competition;
- **competitor** - subject of market, capable to bring good to the market of definite good (inter-replaceable goods).

Other concepts, used in present Law, are applied in conformity with Law of Azerbaijan Republic "Anti-Monopoly Activity".

Article 2. Bodies, controlling commitment to legislation on unfair competition

The central body of executive authority, pursuing anti-monopoly policy in Azerbaijan Republic, and other bodies, stipulated by legislation, shall control commitment to legislation on unfair competition within their authorities.

Chapter 2. Unfair competition

Article 3. Forms of unfair competition

Forms of unfair competition in entrepreneurship shall be the following:

- § copying of economic activity of competitor;
- § discrediting of economic activity of competitor;
- § interference with economic activity of competitor;
- § unfair entrepreneurship;
- § unscrupulous business behavior;
- § delusion of consumers.

Article 4. Copying of economic activity of competitor

The following actions, copying economic activity of competitor, shall be prohibited:

- unauthorized copying of good of competitor and form of good, its package and out-side design, except those, out-side design of which is conditioned by their technical function;
- direct reconstruction of products of another economic subject through infringement of his patent-license right;
- illegal use of trade mark, geographic specifications, service mark, proprietary label, trade brand and name of another economic subject, except cases when subject of the same name uses proper name as proprietary label with addition of distinguishing indication.

Article 5. Discrediting of economic activity of competitor

The following actions, discrediting economic activity of competitor, shall be prohibited:

- spreading of false and distorted information about business authority and financial position of other market-oriented subjects;

- disclosure of data about scientific-technical and production capacities of competitor in distorted form.

Article 6. Interference with economic activity of the competitor

The following actions, aimed to interfere with economic activity of competitor, shall be prohibited:

- premeditated infringement, disruption and termination of business relations of competitor through illegal methods;
- pressure on employees of competitor to incline them to non-commitment to their service duties, through illegal methods.

Article 7. Unfair entrepreneurship

The following actions shall be prohibited in entrepreneurship:

- illegal reception, use and disclosure of information about scientific-technical, production or commercial activity of market-oriented subject, including his commercial secret;
- pressure on approval and execution of economic decisions of competitor with aim to gain unreasonable advantage over him, through illegal methods;
- sale of goods with compulsory additional assortment;
- stipulation of unreasonable unilateral advantages in the contracts;
- withdrawal of goods out of economic turnover or their intolerance turnover prior to date of planned increase of prices or with aim to cause increase of prices.

Article 8. Unscrupulous business behavior

The following actions shall be prohibited in business behavior:

- infringement of agreement, concluded with partner (contra-agent) and causing no significant restrictions for economic activity of market-oriented subjects, about refusal from competition or its any form under certain period;

- unreasonable call (address) to other subjects of market with aim to distort business ties of competitor or hampering of establishment of such ties.

Article 9. Delusion of consumers

The following actions of market-oriented subjects, aimed to delude consumers, shall be prohibited:

- spreading of any information, which can delude about origin, method of production, usefulness, quality and other properties of good, personality of producer or characteristic of his activity;
- use of illegal methods to advert goods, affecting freedom for choice of consumer under acquisition or conclusion of deal;
- incorrect comparison of good, which can delude consumer and make public as advertisement or information material;
- procurement of good with incongruous distinguishing indication or marking with aim to delude consumer about consumer and other import properties of good;
- concealment of non-accordance of good to its set or requests.

Article 10. Prohibition of illegal payments in entrepreneurship

The illegal payments aimed at gaining unilateral advantages in competition shall be prohibited, particularly:

- for artificial establishment of favorable climate for any economic subject, including awarding of beneficial contracts, credits, subsidies, establishment of beneficial customs duties and tax regime;
- for provision of individual benefits under reception of orders or artificial improvement of general terms of their reception;
- artificial forestalling of competitor in conclusion of contract.

Chapter 3. Responsibility for offense against law

Article 11. Authorities of central body of executive authority, pursuing antimonopoly policy and goals of market subjects to observe present law

1. The central body of executive authority, pursuing anti-monopoly policy in Azerbaijan, shall have a right for the following measures under offense against Law:

- to give compulsory orders for corresponding bodies of executive authority, market-oriented subjects and their officials to terminate offenses and remove their consequences;
- to apply fiscal sanctions and fines in order and upon basis, stipulated by legislation;
- to address to court or arbitration court with lawsuit, concerning transfer of profit, raised under unfair competition, to the budget, and remuneration on losses;
- to submit materials to Prosecutor Office, under signs of crime, concerning offense against Law, in order to institute criminal proceeding.

2. For offense against Law, corresponding bodies of executive authority, subjects of market and their officials shall have the following duties:

- to execute compulsory orders of central body of executive authority, pursuing anti-monopoly policy in Azerbaijan Republic, about termination of offenses and removal of their consequences;
- to transfer profit, raised through legal methods, to the budget in order, stipulated by legislation;
- to remunerate losses;
- to pay the applied fiscal sanctions and fines.

Article 12. Fiscal sanctions

1. The following fiscal sanctions shall be applied to subjects of market for offense against requests of present Law:

- fiscal sanctions applied to subjects of market are equal to one sum of illegal profit or two sums, if case repeats, under activity, prohibited by article 4 of present Law;

- up to 10 per cents or 20 per cent, if action repeats the next year, of total profit of market-oriented subject, raised under unfair competition, is fined under activity, prohibited by articles 5, 6, 7, 8, 9 of present Law;
- up to 10 per cent of profit, raised by subjects of market for the last three months, is fined for non-execution or inopportune execution of compulsory orders, given by central body of executive authority, pursuing antimonopoly policy in Azerbaijan Republic;
- up to 5 per cent of profit, raised for the last three months, is fined under conscious submission of apocryphal information or non-submission of requested data to central body of executive authority, pursuing antimonopoly policy in Azerbaijan Republic.

2. The fiscal sanctions, within 30 days, should be transferred by subjects of market and officials to the budget, in accordance with legislation.

Article 13. Withdrawal of illegal profit and remuneration of losses

The profit, illegally raised by economic subjects under unfair competition, shall be withdrawn to the public budget in accordance with resolution of court or arbitration court.

The remuneration of losses, caused under unfair competition, shall be regulated in accordance with civil legislation, applied by Azerbaijan Republic.

Article 14. Liability for unfair competition

Persons, charged with offense against present Law, shall bear administrative and criminal liability in accordance with the applicable legislation of the Azerbaijan Republic.

Article 15. Appeal against orders and resolutions of central body of executive power, pursuing antimonopoly policy in the Azerbaijan Republic

The orders and resolutions of central body of executive power pursuing antimonopoly policy may be appealed in accordance with the applicable legislation of the Azerbaijan Republic.

Heydar Aliyev

President of the Azerbaijan Republic

Baku city, 2 June 1995

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