

ANTITRUST

Agreements and prohibited practices. Dominant position. Concentration and mergers. Enforcement authority. Sub-Bureau for the Promotion of Competition. Budget for the National Competition Authority. Procedure. Sanctions. Leniency program. Damages. Appeals. Appellate Court in Antitrust Matters. Statutes of limitations. Promotion of competition system. Temporary and supplementary provisions.

ANTITRUST ACT

CHAPTER I

AGREEMENTS AND PROHIBITED PRACTICES

SECTION 1.— Agreements between competitors, economic concentrations, acts or conduct, expressed in any manner, related to the production or exchange of goods or services that may have as purpose or effect to limit, restrict, defraud, or distort competition or access to market, or to constitute an abuse of dominant position in a market in such a manner that it may be detrimental to the general economic interest are prohibited. The sanctions provided herein shall be imposed on those who perform such actions or engage in such conducts without prejudice to any other liability that may be imposed as their consequence.

This section includes, as long as the situations described in the preceding paragraph take place, any significant competitive advantage obtained through the violation of any rule.

SECTION 2.— It shall be regarded as absolute competition restrictive practice, with a presumption to cause harm to the general economic interest, any arrangement between two or more competitors such as contracts, agreements or arrangements having the following as purpose or effect:

- a. Fixing, directly or indirectly, the selling or purchase price of goods and services that are offered or requested in the market;
- b. Imposing obligations to (i) produce, process, distribute, purchase or market only a restricted or limited amount of goods, and/or (ii) supply a restricted or limited number, volume or frequency of services;
- c. Horizontally distributing, dividing, allocating or imposing zones, market shares or segments, supply clients or sources;
- d. Establishing, agreeing on or coordinating bids, or the non-participation in bid processes, tenders or auctions.

Such arrangements shall be void by operation of law and therefore shall have no legal effect.

SECTION 3.— To the extent that the situations of section 1 are present, the following, among others, constitute competition restrictive practices:

- a) Fix, directly or indirectly, the selling or purchase price of goods and services to be offered

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or requested in the market as well as exchanging information for such purpose;

b) Set, impose or practice, directly or indirectly, in any manner, conditions to (i) produce, process, distribute, purchase or market only a limited or restricted amount of goods, and/or (ii) supply a limited or restricted number, volume or frequency of services;

c) Arrange the limitation or control of the technical development or investments for the production or marketing of goods and services;

d) Prevent, hinder or obstruct third parties from entering into or staying in a market or exclude them from such market;

e) Affect markets of goods and services through agreements to limit or control the investigation and technological development, the production of goods or rendering of services, or to hinder investments for the production of goods and services or their distribution;

f) Subordinate the sale of goods to the purchase of another or to the use of a service, or subordinate the rendering of a service to the use of another or the purchase of goods;

g) Subordinate the purchase or sale to the condition of refraining from using, purchasing, selling or supplying goods or services produced, processed, distributed, or marketed by a third party;

h) Impose discriminatory conditions for the purchasing or disposition of goods and services without reasonable grounds in relation to the commercial use;

i) Unjustifiably refuse to fulfill orders for the purchase or sale of goods or services made under the current conditions in the corresponding market;

j) Suspend the rendering of a monopolistic service dominant in the market to a customer of public services or of public interest;

k) Dispose of goods and services below their cost without justification founded on commercial use with the purpose of removing competitors from the market or of causing harm to the reputation, financial position or trademark value of their suppliers of goods and services;

l) Any individual having relevant executive positions or as directors in two or more competitor companies.

SECTION 4.— The provisions hereof are applicable to any individual or corporation, public or private, for profit or non-for-profit, engaged in economic activities within all or part of the country and those engaged in activities abroad so long as their actions and agreements may have effects in the domestic market.

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For the purpose hereof, in order to determine the true nature of the actions or agreements, the economic relationships and situations actually made or pursued shall be taken into account.

CHAPTER II

DOMINANT POSITION

SECTION 5.— For the purpose hereof, dominant position means that for a certain product or service, one or more persons are the only supplier or demander within the domestic market, or in one or several parts of the world, or when, without being the only one, it is not exposed to substantial competition, or whenever according to its vertical or horizontal integration degree is able to determine the economic viability of a competitor in its detriment.

SECTION 6.— The following circumstances shall be taken into account to establish the existence of dominant position:

- a) The degree within which goods or services can be substituted with another whether domestic or foreign, the conditions of such substitution and the time it requires;
- b) The degree within which the legal restrictions limit the access of products, suppliers or demanders to a given market;
- c) The degree within which an alleged responsible may unilaterally influence the fixing of prices or restriction to supply or demand in the market and the degree within which their competitors may resist such power.

CHAPTER III

CONCENTRATIONS AND MERGERS

SECTION 7.— For the purpose hereof, economic concentration means the take over of one or more companies through the following actions:

- a) Mergers between companies;
- b) Goodwill transfer;
- c) The acquisition of shares or any interest in shares or capital holdings or debt securities granting any rights to be converted in shares or capital holdings or to have any type of influence on the decisions of the issuer when such acquisition grants the acquirer control or substantial influence over it;
- d) Any agreement or act transferring, whether legally or factually, to a person or economic group the assets of a company or granting major influence on the making of decisions regarding the ordinary and special administration of a company.

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e) Any of the situations mentioned in section c) herein, which may involve the acquisition of substantial influence in the competitive strategy of a company.

SECTION 8.— All economic concentrations are prohibited if their purpose or effect is or may be to restrict or distort competition in a way that may be detrimental to the general economic interest.

SECTION 9.— The acts set forth in section 7 hereof, when the total turnover of the group of companies affected exceeds in the country the amount equivalent to one hundred millions (100,000,000) adjustable units shall be notified for their examination to the National Competition Authority, before the date of execution or the effective takeover, whichever occurs first, . These acts will only have effects between parties or, in relation to third parties, once the provisions set forth in sections 14 and 15, as appropriate, have been properly fulfilled.

In order to determine the turnover set forth in the preceding paragraph, the Competition Tribunal shall annually inform the amount in legal tender that shall be applied during such year. For that purpose, the Competition Tribunal shall take into account the adjustable unit in force on the last business day of the previous year.

The acts of economic concentration carried out in violation of the provisions of this section, or without the prior approval of the Competition Tribunal, shall be sanctioned as an offense under section 55(d) without prejudice to the obligation to revert them and remove their effects where it is determined they are included in the prohibition of section 8 of this act.

For the purpose hereof, total turnover means the amounts resulting from the sale of products, the rendering of services, and the subsidies received by the affected companies during the last financial year related to their usual course of business after deduction of the sales discounts as well as the value added tax and any other taxes directly related to the turnover.

For the calculation of the turnover, the affected companies shall be the following: :

- a) The company subject to change of control;
- b) The companies in which the affected company has, directly or indirectly:
 1. More than the half of the capital or outstanding capital.
 2. Power to exercise more than half of the voting rights.
 3. Power to appoint more than half of the members of the oversight board or the administration or the bodies legally representing the company, or
 4. Power to direct the activities of the company.
- c) The companies taking control over the affected company subject to change of control and

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set forth in subsection (a).

d) Those companies in which the company takes control over the affected company subject to the preceding subsection (c) has the rights or powers set forth in subsection (b).

e) Those companies in which a company mentioned in the preceding subsection (d) has the rights or powers set forth in subsection (b).

f) The companies in which several companies mentioned in subsections (d) and (e) have jointly the rights or powers set forth in subsection (b).

SECTION 10.— The Competition Tribunal shall establish the proceedings whereby an advisory opinion is rendered upon a party's request determining the duty to give the notice set forth in this chapter. Such request shall be voluntary and the decision made by the Competition Tribunal shall not be subject to appeal.

The Competition Tribunal shall establish the proceedings whereby it shall be determined, per se or upon a complaint, whether an un-notified act is included in the duty to give notice set forth in this chapter.

The Competition Tribunal shall establish a summary proceeding for the economic concentrations that in its discretion be less likely to be reached by the prohibition of section 8 hereof.

SECTION 11.— The following transactions are exempt from the compulsory notice set in section 9 hereof:

a) Company acquisition where the purchaser already had more than fifty per cent (50%) of the shares as long as it does not involve a change in the nature of control;

b) The purchase of bonds, debentures, non-voting shares or debt securities of companies;

c) The acquisition of an only company by an only alien company not having previous assets (excluding those for dwelling purposes) or shares of another company in Argentina and the exports of which have not been significant, usual and frequent during the last thirty-six months.

d) Acquisition of companies that have had no activity in the country in the last year, unless the main activities of this company and the acquiring company are the same.

e) The transactions of economic concentration set forth in section 7 requiring notice in accordance with section 9 when the amount of the transaction and the value of the assets in Argentina to be merged, acquired, transferred or controlled do not exceed, each, respectively, an amount equivalent to twenty million (20,000,000) adjustable units unless, during the preceding twelve (12) months, there had been transactions that jointly exceed such amount,

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or an amount equivalent to sixty million (60,000,000) adjustable units in the last thirty-six (36) months as long as in both cases it is the same market. In order to determine the amounts previously set forth, the Competition Tribunal shall annually inform the amounts in legal tender that shall be applied during such year. For that purpose, the Competition Tribunal shall take into account the adjustable unit in force on the last business day of the previous year.

SECTION 12.— The Competition Tribunal shall in general set the information and background that the persons shall disclose to the National Competition Authority in order to give notice of a concentration act and the terms within which such information and background shall be disclosed.

SECTION 13.— The regulations shall set forth the form and additional content of the notice of economic concentration projects and company takeover transactions in order to ensure their confidentiality.

Such regulations shall provide for a proceeding in order for each economic concentration act notified to the National Competition Authority to be publicly disclosed for any interested party to submit statements or objections that may be proper. Should there be objections, they shall be notified to the notifying parties. The National Competition Authority shall not be under the duty to express an opinion on such submissions.

SECTION 14.— In every case subject to the notice set forth in this chapter and within forty-five (45) days of the submission of the information and background in a complete and correct fashion, the authority, through reasoned decision, may:

- a) Authorize the transaction;
- b) Subordinate the act to the compliance with the conditions imposed by the authority itself;
- c) Refuse the authorization.

Where the Competition Tribunal finds that a notified transaction is likely to restrict or distort competition in such a manner that may be detrimental for the general economic interest, before making a decision, it shall give the parties notice of its objections through a reasoned report and shall call them for a special hearing in order to consider any possible measure that may mitigate the adverse effect on competition. At the same time, such report shall be publicly disclosed.

In the cases mentioned in the precedent paragraph, the term the Competition Tribunal has for reaching a decision may be extended for up to one hundred twenty (120) additional days for the making of a decision, by means of a justified opinion. Such term may be suspended until the parties answer the objections made by the Competition Tribunal.

The Competition Tribunal may regard a concentration act at issue as unnotified if the court considers it does not have the information and background (general or additional) submitted

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in a complete and correct fashion. However, before lack of such information within the appropriate procedural time, the Competition Tribunal may make a decision with the information it may obtain exercising the rights granted hereby.

Excessive and unjustified delay in the request of information shall be considered a grave misconduct by the responsible officials.

SECTION 15.— Should the term set forth in section 14 expire without decision on the issue, the transaction shall be impliedly approved. Implied authorization has always the same legal effects as an express authorization. The regulations hereof shall set a manner in which the expiration of the term is certified giving rise to such implied authorization.

SECTION 16.— Notified and approved concentrations shall not be challenged thereafter before an administrative authority based on the information and documentation considered by the Competition Tribunal, unless such decision was made based on false or incomplete information. In such a case, the concentrations shall be considered unnotified notwithstanding any other sanction that may be appropriate.

SECTION 17.— Where the economic concentration involves utilities under economic regulation of the Federal Government through a regulatory agency, the National Competition Authority shall require such regulatory agency a reasoned opinion on the proposed economic concentration stating: (i) any possible impact on the concentration in the appropriate market or (ii) on the compliance with the appropriate regulatory framework. The opinion shall be required within three (3) days after notice of the concentration, even when such notice may be incomplete, but the essential elements of the transaction are known. The request shall not suspend the term set forth in section 14. The regulatory agency shall render an opinion no later than fifteen (15) days. Upon expiration, it is considered that the regulatory agency has no objections to the transaction. Such opinion shall not be binding on the National Competition Authority.

CHAPTER IV

ENFORCEMENT AUTHORITY

SECTION 18.— The National Competition Authority is hereby created as a decentralized and self-governed agency within the scope of the national Executive Branch for the purpose of enforcing and controlling the compliance herewith.

The National Competition Authority shall have full legal capacity to act within the scope of the public and private right. Its assets shall be constituted by any property that may be transferred to it and such acquired for any reason whatsoever.

Its location shall be in the city of Buenos Aires, but it may act, convene and meet everywhere in Argentina through delegates appointed by it. Delegates may be federal, provincial or municipal officers.

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The Competition Tribunal, the Bureau that Investigates Anti-competitive Practices and the Bureau of Economic Concentrations shall operate within the scope of the National Competition Authority.

For the purpose hereof, the following are members of the National Competition Authority (i) the chief and the judges of the Competition Tribunal, (ii) the Secretary that Investigates Anti-competitive Practices, who will be head of the Bureau that Investigates Anti-competitive Practices, and (iii) the Secretary of Economic Concentrations, who will be the head of the Bureau of Economic Concentrations.

The Chief of the Competition Tribunal shall be the chairman, the legal representative, and shall exercise the administrative capacity of the National Competition Authority with the power to hire staff for specific or special tasks that cannot be carried out by the permanent staff setting the working conditions and wages. The provisions of the Contract of Employment Act shall apply to the relationship with the permanent staff.

SECTION 19.— The members of the National Competition Authority shall meet the following requirements:

- a) Have sufficient background and expertise in protection of competition and have high moral standards all of them with more than five (5) years of practice;
- b) Have full-time commitment during their term of office except for teaching and they shall be affected by the prohibitions and duties set forth by Act 25188 of Public Ethics;
- c) They shall not work or be associated in professional practice involved in the field of antitrust law during their term of office.
- d) Recuse themselves on the grounds of subsections (1), (2), (3), (4), (5), (7), (8), (9) and (10) of section 17 of the National Code of Civil and Commercial Procedure and in such cases where they have or had an economic interest or an employment dependency relation in any of the legal entity on which they have to make a decision in the last three (3) years.

SECTION 20.— After public examination of background and objections, the National Executive Branch shall appoint the members of the National Competition Authority who shall fulfill the requirements in relation to expertise in the field and other requirements set forth under section 19 hereof.

The national Executive Branch may make temporary appointments during the consideration and decision on any objection that may be received on any of the candidates having taken part in the public examination.

Such public examination shall be conducted before a jury composed of the Federal Government Attorney, the National Ministry of Production, a representative of the National Academy of Law and Social Sciences in Buenos Aires and the Argentine Association of Politic Economy. In case of a tie, the National Ministry of Production shall have double vote.

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The jury shall pre-select and make a short list of three candidates for each of the positions of the members of the National Competition Authority to be filled and shall send them to the national Executive Branch.

The candidates must submit a sworn statement containing a detail of their estate and that of their spouse and / or cohabitants, which integrates the assets of the conjugal partnership and other provisions set in section 6 of Law No. 25,188 on Ethics in the Exercise of a Public Function and its regulations. They must also attach another statement including the list of all the civil associations and commercial companies they integrate, or have integrated within the past five (5) years, the list of their clients or contractors for the last five (5) years, or advisory law or accounting firms they have been part of, and in general, any type of undertaking that may affect the impartiality of their criteria by their own professional activity, those of their spouse, of their ancestors and descendants in the first degree, all this within the boundaries set by professional ethics standards. All this, in order to enable an objective evaluation of any incompatibility or conflict of interest.

The Anti-Corruption Office will make a report prior to the designation of the candidates regarding current or potential conflicts of interest that may stem from the declaration mentioned in the previous paragraph

SECTION 21. — After the pre-selection, the national Executive Branch shall publish the name, last name and professional background of each of the selected persons in the Official Gazette and in two (2) nationwide newspaper for three (3) days, and shall communicate its decision to the Honorable Senate of the Nation.

SECTION 22. — The citizens, non-governmental organizations, professional associations, consumer and user associations, academic and human rights entities may, within fifteen (15) days of the publication of the public examination results, submit before the National Ministry of Production and the president of the Honorable Senate of the Nation, in a written, reasoned and documented form, the objections that they consider of interest in relation to the persons included in the pre-selection process.

SECTION 23.— The appointment of the members of the National Competition Authority, shall require the agreement of the Honorable Senate of the Nation. The national Executive Branch will be able to make interim appointments until the agreement is obtained.

SECTION 24.— Each member of the National Competition Authority shall hold office for five (5) years. According to the regulation, the renewal of the members shall be gradual and partial and such members may be reelected, for only one time, following the proceedings set forth in section 23.

Any member of the National Competition Authority may be removed from office by the national Executive Branch for the reasons set forth in this Act with a previous non-binding decision of an ad hoc commission integrated by the chairmen of the Consumer Defense, User and Competition Commissions of the Honorable Chamber of Deputies, Industry and

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Commerce of the Honorable Senate of the Nation, and by the Presidents of the National Chamber of Deputies and of the Senate of the Nation. In the event of a tie within this ad hoc commission, the vote of the president of the Chamber of Deputies will be determinant.

SECTION 25. Any of the members of the National Competition Authority shall lose their office by operation of law upon occurrence of one of the following:

- a) Resignation;
- b) Expiration of the term of office;
- c) Death;
- d) Removal under the provisions of section 26.

Upon a vacancy, the National Executive Branch shall start the proceeding set forth in section 20 hereof within thirty (30) days. As an exception of the provisions of subsection (b) of this section, the substitute shall hold office until completing the term of office of the substituted.

SECTION 26. — The following are causes for removal of any of the members of the National Competition Authority:

- a) Bad performance of their duties;
- b) Repeated negligence causing a delay in the determination of processes;
- c) Supervening incapacity;
- d) Conviction for an intentional crime;
- e) Violations to the rules on incompatibility;
- f) Failing to excuse him/herself in the cases foreseen in section 19 (d) herein.

SECTION 27. — Any member of the National Competition Authority having a formal investigation order for the commission of an intentional crime shall be preventively and immediately suspended as regards the performance of his/her duties. Said suspension shall remain until the judicial situation is solved.

SECTION 28. — The Competition Tribunal shall be composed of five (5) members, of which at least two (2) shall be lawyers and other two (2) must hold undergraduate or graduate degrees in economic sciences.

The duties and powers of the Competition Tribunal are to:

- a) Impose the sanctions stated in this act, as well as grant the benefit of exemption and/or

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- reduction of said sanctions, pursuant to chapter VIII hereof;
- b) Decide according to what it is provided in section 14 herein.
 - c) Decide on the accusations which may be pertinent as a consequence of the conclusion of proceedings; and the actions stated in section 41 of this act;
 - d) Admit or reject the evidence offered by the parties in due time;
 - e) Declare the trial period as closed pursuant to the terms of section 43 herein and issue the order for final arguments;
 - f) Perform the market research and investigations it may deem convenient. For that purpose it may request to individuals, national, provincial or municipal authorities and associations for the defense of consumers and users all the documentation and cooperation it may deem necessary;
 - g) Promote the study and investigation as regards competition;
 - h) When it may consider this pertinent, issue an opinion as regards free competition on laws, regulations, circular notes and administrative acts, without binding effect;
 - i) Issue pro-competitive recommendations of a general or specific nature as regards the modalities of competition in different markets;
 - j) Act with the pertinent agencies in the negotiation of international treaties, agreements or covenants on the subject of regulation of policies for competition and free competition;
 - k) Draft its internal rules;
 - l) Promote and foster actions before Justice, for that purpose it shall appoint a legal representative;
 - m) Suspend procedural terms of this act by grounded resolution;
 - n) Enter into agreements with provincial, municipal bodies or the city of Buenos Aires to install offices to receive complaints in said jurisdictions;
 - o) Promote solutions agreed on by the parties;
 - p) Enter into agreements with user's and consumer's associations for the promotion of the participation of said associations in the defense of competition and market transparency;
 - q) Annually elaborate the budget project for the National Competition Authority and send it to the national Executive Branch;
 - r) Develop any other act necessary for the continuation and preparation of the records and proceedings, including the call for public hearings pursuant to sections 47, 78, 49 y 50 of this act and allow for the participation of third parties as intervenors in the proceedings;
 - s) Create, manage and update the National Registry for the Defense of Competition, in which all merger and acquisition operations set forth in chapter III and their final decisions must be registered. The Registry will be public
 - t) Other duties and powers granted by this and other acts.

SECTION 29. — The Competition Tribunal, in accordance with the regulation and by means of an informal decision shall issue the permits for the performance of contracts,

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agreements or arrangements including the conducts stated in section 2 herein, that according to the opinion of the Court, are not detrimental to the general economic interest.

SECTION 30. —The **Bureau that Investigates Anti-competitive Practices** is the area of the National Competition Authority having jurisdiction and technical and administrative autonomy to receive and take the steps related to the files under the investigation stage as regards violations to this act.

Its head and representative shall be the Secretary that Investigates Anti-competitive Practices and it will have the organizational structure, the staff and the resources necessary for the compliance of its purpose.

The duties and powers of the Bureau that Investigates Anti-competitive Practices are to:

- a) Receive complaints and serve notice pursuant to section 38 herein and issue a resolution in relation to the admissibility of the preliminary investigation pursuant to section 39 herein. In the event of complaints filed per se by the Competition Tribunal, it shall assist the Competition Tribunal as requested to such end.
- b) Call and hold hearings and/or confrontations with the alleged responsible parties, complainants, injured parties, witnesses and experts, also receive their testimonies or statements and order confrontations; for such end it may request the assistance of the law enforcement forces;
- c) Produce technical reports on books, documents and other elements in furtherance of the investigation, control stock, check the origin and cost of raw material or other goods;
- d) Propose to the Competition Tribunal the accusations which may be pertinent as a consequence of the conclusion of preliminary investigation; and the actions stated in section 41 herein;
- e) Access the places under investigation with the consent of occupants or by judicial order, which shall be requested before a competent judge, who shall decide on a term of one (1) day;
- f) Request the competent judge the precautionary measures it shall deem convenient; the term to decide on such measures shall be of one (1) day;
- g) Produce the necessary evidence for the continuation of the records;
- h) Propose to the Competition Tribunal the sanctions stated in chapter VIII herein.
- i) Issue an opinion on objections and/or resources filed by the parties or third parties against orders issued by the Competition Tribunal as regards antitrust conducts;
- j) Develop any other act necessary for the continuation and preparation of the process as regards complaints or market research and other tasks entrusted by the Antritrust

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Administrative Court.

SECTION 31. —The **Bureau of Economic Concentrations** is the area of the National Competition Authority having jurisdiction and technical and administrative autonomy to receive and take the steps related to the files where the notifications of economic concentrations are served, the preliminary steps are taken and the advisory opinions are issued as stated by chapter III herein.

Its head and representative shall be the Secretary of Economic Concentrations and it will have the organizational structure, the staff and the resources necessary for the compliance of its purpose.

The duties and powers of the Bureau of Economic Concentrations are to:

- a) Receive, and take the pertinent steps for the requests of advisory opinions stated in the second paragraph of section 10 herein and issue an opinion of the eventual admissibility of the notices of transactions of economic concentrations, pursuant to the provisions of section 9 herein.
- b) Receive, and take the pertinent steps for the notices of economic concentrations stated in section 9 herein and authorize, if pertinent, the notifications that meet the requirements for the summary procedure pursuant to the fourth paragraph of section 10 herein.
- c) Initiate per se or receive complaints, take the pertinent steps and issue orders, pursuant to the third paragraph of section 10, as regards the complaints on the existence of transactions of economic concentrations which were not notified and must be notified pursuant to the applicable rules, and issue an opinion on the eventual admissibility of the notice stated in section 9 herein.
- d) Issue an opinion on the eventual approval, subordination or refusal of a notified transaction, pursuant to section 14 herein.
- e) Issue an opinion on objections and/or resources filed by the parties or third parties against orders issued by the Competition Tribunal as regards economic concentrations;
- f) Develop any other act necessary for the continuation and preparation of records and proceedings, whether within the frame of the notification process of transactions of economic concentration stated in section 9, of the advisory opinions stated in section 10 or of the investigation of preliminary proceedings stated in section 10 herein.

SECTION 32. - The Secretary that Investigates Anti-competitive Practices and the Secretary of Economic Concentrations may:

- a) Receive, add, order, answer and send court-ordered letters, writs, or any other documentation submitted by the parties or by third parties;
- b) Make requests for information and documentation to the parties or third parties, object to

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or request additional information, suspending the terms whenever pertinent;

c) Issue and notify all type of interlocutory orders;

d) Grant and deny access to the files with pending resolution, and decide per se or at the request of the party on the confidentiality of the documentation;

e) Order and make the necessary technical reports on books, documents and other elements in furtherance of the investigation, control stock, check the origin and cost of raw material or other goods;

f) Promote solutions agreed on by the parties.

g) Depending on the nature of the procedure, weather the Secretary that Investigates Anti-competitive Practices or the Secretary of Economic Concentrations, shall request the Court the legal reserve of the proceedings.

CHAPTER V

BUDGET

SECTION 33. — Every year, the Competition Tribunal shall create the draft budget for the National Competition Authority, which shall be submitted to the national Executive Branch. The national Executive Branch will incorporate this budget in the annual budget plan of the National Public Administration. The National Competition Authority will administer its budget autonomously, according to the autarky assigned by this Law.

Interested parties who initiate any proceedings before the National Competition Authority under Chapter III of this law, shall pay a fee which shall be inferior to five thousand (5,000) mobile units and could not exceed twenty thousand (20,000) mobile units, according to what is set in section 85 hereof.

The fee will be established by the Executive Power Branch at the proposal of the National Competition Authority. The proceeds shall be used to cover the ordinary expenses of the National Competition Authority.

CHAPTER VI

PROCEEDINGS

SECTION 34. — The proceeding may be initiated per se or following a complaint made by an individual or legal entity, either public or private.

The proceedings established herein shall be public for the parties and their attorneys, who are authorized to review the proceedings from the beginning. The proceedings shall be confidential for third parties.

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The authority will arrange the mechanisms so that all the procedures, presentations and stages of the proceedings are carried out by electronic means.

The Court, per se or at the request of the Secretary that Investigates Anti-competitive Practices, may order to protect the confidentiality of the proceedings through a justified resolution, if the disclosure of information may put the proceedings at risk. Such confidentiality may be dictated until the forwarding of the proceedings established in Section 38 herein. After that, under exceptional circumstances, the Court may order to protect the confidentiality of the proceedings, and such measure cannot exceed the period of thirty (30) days, unless the seriousness of the circumstances or the difficulty to investigate require the extension of such measure for the same period.

SECTION 35. — Once the complaint is submitted, the complainant will be summoned to ratify or rectify the complaint and adjust it to the provisions of this Act, under warning of staying the proceedings, in case of uncontested proceedings.

After receiving the complaint, or after initiating the proceedings per se, the enforcement authority may apply the precautionary measures deemed necessary to decide the admissibility of the forwarding established in Section 38 herein, and the proceedings must be kept confidential.

The legal representatives must submit a special power of attorney, or a general power of attorney for acts of administration, either the original document or a certified copy.

SECTION 36. — The terms established in this act shall be computed in administrative working days.

SECTION 37. — The complaint must contain the following information:

- a) The name and address of the complainant;
- b) The purpose of the complaint, explained with precision;
- c) The facts under dispute, clearly explained;
- d) The legal basis of the report, explained briefly;
- e) The offer of evidence considered pertinent to analyze the complaint.

SECTION 38. — If the Secretary that Investigates Anti-competitive Practices considers, at his/her entire discretion, that the complaint is pertinent, such officer will serve notice to the alleged responsible party within fifteen (15) days requiring him/her to make the statements deemed appropriate. In case the proceedings are initiated per se, the Secretary that Investigates Anti-competitive Practices shall include an account of the facts and the legal basis for the report.

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Notice will be served for the same period of the evidence offered.

SECTION 39. — Upon receiving an answer to the notice served, or upon the expiration of the term established in the notice served, the Secretary that Investigates Anti-competitive Practices shall issue a resolution in relation to the admissibility of the preliminary investigation.

In this procedural stage, the Secretary that Investigates Anti-competitive Practices may conduct the procedural measures deemed appropriate, taking into account the following aspects:

a) In all requests for information, written requests and any other kind of information, the parties shall have a term of 10 days to answer the request;

b) in the case of hearings, the witnesses may attend the hearing accompanied by their attorney of record. Moreover, the complainants and the defendants may attend the hearings accompanied by their legal representatives, who must be duly authorized in the proceedings;

c) the audits or expert testimonies shall be conducted by qualified persons appointed by the Court.

SECTION 40. — If the Competition Tribunal, at the discretion of the Secretary that Investigates Anti-competitive Practices, considers that the arguments are satisfactory or, if after the pre-trial proceedings there are no merits to continue with the proceedings, the case will be dismissed.

SECTION 41. — After finishing with the pre-trial proceedings or upon the expiration of the term of one hundred and eighty (180) days, the Competition Tribunal, taking into account the opinion of the Secretary that Investigates Anti-competitive Practices, shall serve notice to the defendants who, within a term of twenty (20) days, must submit their answer and submit the evidence considered pertinent.

SECTION 42. — The Competition Tribunal shall issue a decision about the admissibility of the evidence, considering and accepting the evidence considered pertinent, according to the object under analysis, and rejecting the evidence that is excessive or irrelevant. The evidence offered must be produced within a certain period of time. The decisions of the Competition Tribunal related to evidence are not subject to appeal. However, the parties may file a motion for reconsideration of the evidence to decide over its pertinence, admissibility, suitability and relevance.

An appeal for reconsideration may be filed against resolutions issued without trial, in order for the same authority to revoke such a resolution by a ruling to the contrary. The appeal shall be brought within three days, through a writ explaining the legal basis; prior notice served to the interested party, and must be answered by a court order. The court resolution will be the final judgment, unless the appeal has been brought together with a supplementary

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appeal, and such supplementary appeal is admissible. Such appeal has suspensive effect only if the resolution appealed may be subject to appeals with suspensive effect.

SECTION 43. — Upon the end of the pre-trial proceedings of ninety (90) days, (which may be extended for another period of ninety days), the parties and the Secretary that Investigates Anti-competitive Practices may challenge, within the next six (6) days, the sufficiency of the evidence. The Competition Tribunal shall issue a resolution within sixty (60) days.

SECTION 44. — The Competition Tribunal may require the fulfillment of the conditions established by the Court or order any of the parties to stop or refrain from continuing with one of the wrongful conducts mentioned in chapters I and II, for the purpose of preventing harm from occurring, or decreasing its magnitude, its continuation or aggravation. In case such conduct may cause a severe damage to the competition regime, the Court may order the measures considered appropriate in order to prevent such damage and remove its effects, if applicable. An appeal may be filed against this resolution, with no stay of execution, under the terms established in sections 66 and 67 of the present Law.

Moreover, the Court may order, per se or at the request of any of the parties, the suspension, modification or revocation of the measures provided by virtue of supervening causes or circumstances that were not known at the moment of adoption.

SECTION 45. — Until the issuance of the resolution established in section 43, the defendant may undertake to cease the infringing activity immediately or gradually or to modify some aspects related to the infringing activity.

Such undertaking shall be approved by the Competition Tribunal and, after the Court's approval, will cause the suspension of the proceedings.

Upon the lapsing of three (3) years of the undertaking established in this section, if the defendant complies with the undertaking, the case will be closed.

SECTION 46. — The Competition Tribunal may, per se or at the request of the parties, within three (3) days of receiving notice and without trial, clarify unclear concepts or supply any omission in the resolutions.

SECTION 47. — The Competition Tribunal will decide to call a public hearing, if deemed appropriate, as part of the pre-trial investigation.

SECTION 48. — The decision of the Competition Tribunal in relation to the public hearing shall contain the following information, as applicable:

- a) Identification of the investigation in progress;
- b) Nature of the hearing;
- c) Purpose;

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- d) Date, time and place of the hearing;
- e) Attendance and participation requirements.

SECTION 49. — Notice of the hearings shall be served with twenty (20) days and the parties to the complaint shall receive notice within fifteen (15) days.

SECTION 50. — The summons to public hearing shall be published in the Official Gazette and in two nationwide newspapers within ten (10) days. Such publication shall contain, at a minimum, the information established in section 50.

SECTION 51. — The Competition Tribunal may serve notice, as intervenors in the proceedings pending before such Court, to the individuals and legal entities affected by the facts under investigation, to consumer protection agencies and business associations, public authorities, provinces and any other person who may have a legitimate interest over the facts under investigation.

SECTION 52. — The Competition Tribunal may request opinions in relation to the facts under investigation to individuals or legal entities, either public or private, with expertise in the matter.

SECTION 53. — The resolutions establishing sanctions issued by the Competition Tribunal, after serving notice to the interested parties and once the decision is unappealable, will be published in the Official Gazette and, if the Court deems it appropriate, in nationwide newspapers, at the expense of the sanctioned party.

SECTION 54. — Any person who presents a false complaint will be subject to the sanctions established in section 55 (b) herein. For the purposes of this act a false complaint is any complaint presented by the complainant knowingly with false data or documents, whose purpose is to cause damage to the competition, notwithstanding other civil and criminal sanctions that may apply.

CHAPTER VII

SANCTIONS

SECTION 55. — Any individual or legal entity that violates the provisions of this act is subject to the following sanctions:

- a) The cessation of the activities or conducts described in Chapters I and II and, if applicable, the removal of its effects;
- b) Any individual or legal entity conducting activities prohibited in Chapters I and II and in section 8 of Chapter III will be sanctioned with a fine of (i) up to thirty percent (30%) of the turnover associated to the products or services involved in the wrongful act, during the last fiscal year, multiplied by the number of years during which the activity took place, which shall

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not exceed the thirty percent (30%) of the consolidated turnover at national level registered by the economic group to which the infringers belong, during the last fiscal year, or (ii) until two times the economic benefit reported by the wrongful act. In case the fine cannot be calculated according to the two criteria established in subsections (i, and iii), the fine of greater value will be imposed. In case the fine cannot be determined according to the criteria established in subsections (i and ii), the fine may not exceed the amount of two hundred million (200,000,000) adjustable units. For the purpose of subsection (i), any period exceeding six (6) months will be considered as one (1) year in order to multiply the number of years during which the activity took place. If the infringers have received a previous sanction during the last ten (10) years for anticompetitive practices, the amounts of the fines will be doubled.

c) Notwithstanding any other sanction that may be applicable, in case of activities that constitute abuse of a dominant position or in case it is verified that the infringer has obtained or consolidated a monopoly or oligopoly position in violation of the provisions of this law, the Authority may enforce compliance of certain conditions in order to neutralize the distortive effects on competition or request the judge having jurisdiction to dissolve, liquidate, unbundle or split the infringing companies;

d) In case of violation of the provisions of sections 9, 44, 45 and 55 subsection a), the infringers will be subject to a daily fine for an amount of up to point zero one percent (0.1%) of the consolidated turnover at national level registered by the economic group to which the infringers belong, during the last fiscal year. In case the aforementioned criteria cannot be applied, the fine may not exceed the amount of seven hundred and fifty thousand (750,000) adjustable units. The days may be counted from the expiration of the obligation to notify the economic concentration projects, from the takeover without the previous approval of the National Competition Authority or from the moment in which the undertaking or the order to stop or refrain from continuing with a wrongful conduct is violated, as appropriate;

e) The Competition Tribunal may also include the suspension from the National Register of State Suppliers for a maximum period of five (5) years. In the cases established in section 2, subsection d), of this act, the exclusion may be ordered for up to eight (8) years.

All the foregoing notwithstanding any other sanction that may be applicable.

SECTION 56. — The Competition Tribunal will calculate the fines based on the damage caused to all the affected persons as a consequence of the wrongful conduct; the benefit obtained by all the persons involved in the wrongful conduct; the deterrent effect; the value of the assets involved at the moment of the violation; the purpose, the duration, the infringer's market share; the size of the affected market; the duration of the practice or concentration and the infringer's background and economic capacity. If the infringer cooperates with the Competition Tribunal and/or the Secretary that Investigates Anti-competitive Practices in the notification or investigation of the conduct, such cooperation may be considered a mitigating circumstance in the calculation of the fine.

SECTION 57. — Legal entities are liable for conducts performed by individuals who acted

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on behalf of such legal entity, with the assistance or for the benefit of the legal entity, even if the act that was the basis for the representation was ineffective.

SECTION 58. — If the infringements established in this act are committed by a legal entity, the fine will also be applied jointly and severally to the directors, managers, administrators, trustees or members of the Supervisory Board, agents or legal representatives of such legal entity who, through action or conscious omission of their duties of control, supervision or vigilance may have encouraged, enabled or contributed to the infringement.

In that case, the Court may order a disqualification from doing business for a term of one (1) to ten (10) years against the legal entity and the persons listed in the previous paragraph.

The joint and several liability may also be applicable to the persons under control of the legal entity who, through action or conscious omission of their duties of control, supervision or vigilance may have encouraged, enabled or contributed to the infringement.

SECTION 59. — Any person who obstructs or hinders an investigation or does not comply with the requirements of the Competition Tribunal, the Secretary that Investigates Anti-competitive Practices and/or the Secretary of Economic Concentrations, within the deadlines and required manner, either if it is a third party or any of the parties who committed the facts under investigation, may be subject to a fine equivalent to five hundred (500) adjustable units per day.

Noncompliance of the requirements established by any of the members of the National Competition Authority, and the obstruction or creation of difficulties in the investigation include, among others, the following actions:

- a) Denial to provide the requested information or the fact of providing incomplete, incorrect, misleading or false information;
- b) Refusal to allow an inspection ordered in accordance with the provisions of this Act;
- c) Non appearance without due cause and previously justified to the hearings and/or any other summons made through sufficient notice;
- d) Lack of submission of the requested books or documents or incomplete, incorrect or misleading submission, during the inspection.

CHAPTER VIII

LENIENCY PROGRAM

SECTION 60. — Any individual or legal entity that has incurred in a coordinated antitrust activity mentioned in section 2 of the present Law, and that discloses and recognizes such an activity before the Competition Tribunal to avail of the benefit of exemption or reduction of the fines established in subsection b) of Section 55 of this Law, as applicable.

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In order to avail to the benefit, such individual or legal entity must request the benefit to the Competition Tribunal before receiving the notice established in section 41 herein.

The Competition Tribunal will establish a system to determine the order of priority of the applications to benefit from the program mentioned in this article.

For the benefit to be applicable, the individual or legal entity requesting the benefit must comply with all the requirements established below, as appropriate:

a) Exemption

1°.- In case the Competition Tribunal has no information or has not begun a previous investigation and the individual or legal entity is the first one involved in the wrongful conduct that provides and submits evidence that, at the Court's discretion, helps to determine the existence of the practice. If the Competition Tribunal has initiated a previous investigation but, until the date of submission of the request, does not have sufficient evidence and the individual or legal entity is the first one involved in the wrongful conduct in providing information and submitting evidence that, at the Court's discretion, helps to determine the existence of the practice.

2°.- The individual or legal entity must cease the wrongful conduct immediately, and perform the necessary actions in order to stop the wrongful conduct. If necessary, the Competition Tribunal can request the solicitant to continue with the practice or wrongful conduct disclosed in order to preserve the investigation.

3°.- From the moment the request is submitted and until the end of the proceedings, the individual or legal entity must fully, continuously and diligently cooperate with the Competition Tribunal.

4°.- The individual or legal entity must not destroy, falsify or hide evidence of the antitrust activity, and should have never destroyed, falsified or hid evidence in the past.

5°.- The individual or legal entity must have not disclosed or made public its intention to avail itself to this benefit, except if such disclosure was made to other competent authorities.

b) Reduction

1°.- If the individual or legal entity does not comply with the provisions of subsection a.1), such individual or legal entity may obtain a reduction of between fifty percent (50%) and twenty percent (20%) of the maximum amount of the fine applicable in accordance with section 55 subsection b), in case of providing additional evidence to the Competition Tribunal already has and if the individual or legal entity complies with the other requirements established in this section.

2°.- In order to determine the amount of the reduction, the Competition Tribunal shall take into account the chronological order of submission of requests.

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c) Supplementary Benefit

The individual or legal entity that does not comply with the requirements established in subsection a) for antitrust activities under investigation but that, during the trial, discloses or recognizes another different coordinated antitrust activity and that complies with the requirements established in the aforementioned subsection a) for this last activity will be granted an exemption from the sanctions established in this present Law in relation to the second conduct, a reduction in one third (1/3) of the sanction or fine that would otherwise be applicable for being part of the first activity.

d) Confidentiality And Limits To The Disclosure Of Evidence

The Competition Tribunal shall keep confidential the identity of the individual or legal entity that intends to avail to the benefits of this section. The judges having jurisdiction in the judicial processes that may be initiated in accordance with the provisions herein cannot order the disclosure of the representations, acknowledgments, information or any other evidence submitted to the Competition Tribunal by the individuals or legal entities that availed of the benefits of this section. The regulation of this law shall establish the proceedings through which the application of the benefit established in this section must be analyzed and resolved.

In the event that the Competition Tribunal rejects the request to avail to the benefit mentioned in this section, such request could not be considered a recognition or confession by the applicant of the unlawfulness of the conduct or the facts disclosed.

The information and evidence obtained within the framework of the rejected request, cannot be used by the Competition Tribunal. Rejected requests cannot be disclosed.

SECTION 61. — The availing of the exemption benefit or the reduction of the sanctions or fines, as appropriate, cannot be performed jointly by two (2) or more parties that took part in the coordinated antitrust activity. Notwithstanding the above, the legal entity, its directors, managers, administrators, trustees or members of the Supervisory Board, agents or legal representatives of such legal entity who, through action or conscious omission of their duties of control, supervision or vigilance may have encouraged, enabled or contributed to the infringement may avail of the benefit, as long as each of them comply with the requirements established in section 60 herein. The compliance of such requirements shall be analyzed for each of them in order to receive the benefit.

The individuals that decide to avail of the benefits of the forgiveness program established in this present Law, prior resolution of the Competition Tribunal establishing that the individual complies with all the requirements set forth in the provisions of this Chapter, will not be liable and shall have immunity to the sanctions established in sections 300 and 309 of the Criminal Code and the imprisonment sanctions that may be applicable as a consequence of the antitrust practices.

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CHAPTER IX

DAMAGES

SECTION 62. — The individuals or legal entities injured as a consequence of activities sanctioned by this Act may file a claim for damages in accordance with the Argentine legislation, before the judge having subject matter jurisdiction.

SECTION 63. — The resolution of the Antitrust Court in relation to a violation of this law, once it becomes final, shall have the force of *res judicata*. The claims for damages that may arise as a consequence of the final resolution issued by the Competition Tribunal shall be filed through the expedited summary proceedings established in Chapter II of Title III of the Second Book of the Code of Civil and Commercial Procedure of Argentina. The judge having jurisdiction, in order to determine the award of damages, shall base its judicial decision in the conducts, the facts and their legal description, established in the resolution of the Competition Tribunal, issued in accordance with the provisions hereof.

SECTION 64. — The individuals who violate the provisions of this Act, at the request of the damaged party, will be subject to a civil fine to be paid to the damaged party; the amount of the fine will be determined by the judge having jurisdiction and will be based on the seriousness of the event and other circumstances of the case, notwithstanding any other compensation that may apply.

SECTION 65. — In case the violation was perpetrated by more than one person, all the persons will be jointly and severally liable to the damaged party, notwithstanding the recovery actions that may be applicable.

If applicable, the individuals or legal entities mentioned in this Chapter may be entitled to an exemption or reduction of the sanction and be exempt for liability for damages if they avail of the forgiveness program established in chapter VIII of this Law, prior resolution of the Competition Tribunal establishing that the individuals or legal entities comply with all the requirements set forth in the provisions of chapter VIII.

As an exception to this rule, the individual or legal entity that availed of the leniency program by virtue of chapter VIII will be jointly and severally liable before (i) its direct or indirect purchasers or suppliers; and (ii) other damages parties, if it is impossible to obtain a full redress for the damages caused by the other companies that were involved in the same violation of the provisions stated herein.

CHAPTER X

APPEALS

SECTION 66. — The resolutions issued by the Competition Tribunal may be subject to appeal in case they order:

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- a) The implementation of sanctions;
- b) The cessation or abstention from a certain practice according to section 55 of this Law;
- c) The opposition or imposition of conditions in relation to the activities established in chapter III;
- d) The dismissal of the complaint by the enforcement authority.
- e) The rejection of a request to avail of the Leniency Program established in chapter VIII of this Act.
- f) The resolutions issued according to section 44 of this Law.

SECTION 67. — The appeal shall be filed and evidence must be submitted before the Competition Tribunal within fifteen (15) working days of receiving notice of the resolution. The Competition Tribunal shall transfer the appeal and the answer to the appeal to the competent authority within ten (10) days of the filing of the appeal, together with the file on which the appealed administrative resolution was taken.

The appeal shall be carried out before the specialized Appellate Court in Antitrust Matters, created in Chapter XI of this Law, or before the Federal Court outside the City of Buenos Aires.

The appeals established in section 66 (a), will have suspensive effect, after submitting a surety bond over the corresponding sanction, and the appeals established in subsections b), c), d) and e) of section 66 will have the effect of no stay of execution. The appeal with daily fines established in sections 44, 55 (d), and the precautionary measures established in section 44 will be granted with the effect of no stay of execution.

In case the Secretary that Investigates Anti-competitive Practices considers that the effective implementation of the sanction may be at risk as a consequence of the possible insolvency of the sanctioned party, the Secretary may request the payment of the fine under the terms of section 16 of Act 26854 of Precautionary measures.

CHAPTER XI

APPELLATE COURT IN ANTITRUST MATTERS

SECTION 68. — An Appellate Court in Antitrust Matters, based in the City of Buenos Aires shall be created, which will act as one (1) specialized court in the framework of the Federal Courts of Appeals in Civil and Commercial Matters.

SECTION 69. — The Specialized Appellate Court shall be composed of one (1) President, two (2) Judges and one (1) Court Clerk. The President and the Judges shall each have one (1) Court Clerk.

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SECTION 70. — The Specialized Appellate Court in Antitrust Matters will act:

- a) As Court having jurisdiction in the cases of direct appeal established in section 66 herein;
- b) As a reviewing court, to review the sanctions and administrative resolutions issued by the Competition Tribunal in accordance with this law, and its respective amendments, or any other regulation on competition enacted thereafter.

SECTION 71. — The positions of judges, officers and staff described in Exhibit I herein shall be created.

CHAPTER XII

STATUTE OF LIMITATIONS

SECTION 72. — The judicial actions derived from the violations established in this Act expire after five (5) years from the moment of the infraction took place. In the cases of permanent actions, the term shall run from the moment the evaluated anticompetitive practice ceased to occur.

In the case of the claim for damages established in section 62 herein, the statute of limitations will be the following, as appropriate:

- a) Three (3) years as of (i) the time when the infringement was committed or ceased or (ii) the damaged party becomes aware or should have become aware of the activity or practice that constitutes an infringement of this act and that caused damage to such party; or
- b) Two (2) years since the sanction decision issued by the National Competition Authority becomes final.

SECTION 73. — The statute of limitations may be interrupted: a) with the complaint; b) by the commission of another infringement sanctioned herein; c) with the submission of a request to avail of the forgiveness benefit or a request of exemption or reduction of the fine established in section 60; d) with the serving of the notice established in section 38 and e) with the notice established in section 41. The punishment is extinguished due to the running of the statute of limitations after five (5) years as of the date on which the sanction becomes final.

In the case of the claims for damages established in section 62 herein, the statute of limitations will be suspended if the National Competition Authority initiates the investigation or proceeding for an infringement that may be related to the claim for damages. The suspension of the statute of limitations will end if the resolution of the Competition Tribunal becomes final or if the proceedings are terminated for any other reason.

CHAPTER XIII

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PROMOTION OF COMPETITION SYSTEM

SECTION 74. — — Both the Competition Tribunal and the National Secretary of Commerce will design the development of project financing programs, training programs, improvement of Government bureaucratic systems and public works for the improvement of infrastructure resulting in an improvement in competition conditions.

SECTION 75. — — The National Secretary of Commerce shall make together with the Attorney General's Office collaboration agreements for the training of prosecutors that shall take part in antitrust judicial proceedings.

SECTION 76. — — The National Secretary of Commerce shall make with the National Institute of Statistics and Census (INDEC) an agreement for the development of indicators of consumer behavior and the influence of competition in the Argentine markets.

SECTION 77. — — The National Secretary of Commerce shall prepare draft bills for the updating and improvement of competition conditions. It may issue reports and suggestions per se or upon request of the provinces, City of Buenos Aires, municipalities or agencies of the National Executive Branch.

Upon administrative decisions that may affect the competition system in their markets, the regulatory agencies for utilities shall inform the Secretary of Commerce before making a decision. In the final decisions of the agencies, the opinion of the Sub-bureau shall be taken into account.

Should the administrative act seriously affect the competition system, the Secretary of Commerce may convene a public hearing.

SECTION 78. — — The Secretary of Commerce shall prepare an annual report on the situation of competition in the country.

The report shall be submitted to the National Congress and published on the website of the Authority for public access every November.

CHAPTER XIV

TEMPORARY AND SUPPLEMENTARY PROVISIONS

SECTION 79.— For the cases not provided for herein, the National Criminal Code and the National Code of Criminal Procedure shall be alternatively applied as long as they are compatible with the provisions hereof. The provisions of Act 19549 shall not be applicable to the issues regulated hereby. The provisions of Act 19549 shall not be applicable to the issues regulated hereby.

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SECTION 80.— Acts 22,262, and 25,156, and sections 65 to 69 of chapter IV of Act 26,993 are hereby repealed. The references to Act 25,156 under sections 45 and 51 of Act 26,993 shall be removed. Notwithstanding the foregoing, the enforcement authority of such statutes shall survive with all the powers, even with its enforcing faculties, granted hereby to the National Competition Authority, and shall continue to handle the cases and proceedings that may be pending on the date of commencement hereof until the constitution and operation of the National Competition Authority. Once this authority is properly enforced, the cases shall be handled by it for their disposition.

SECTION 81.— The regulation will set the manner and procedure in which the cases initiated according to Chapter III of the Act No. 25,156 will be continued.

SECTION 82.— Any conferral of competence related to the object of this law granted to any other state body or entity is hereby abolished, with the exception of the provisions set in section 80 hereby.

SECTION 83.— The national Executive Branch shall regulate this Act within sixty (60) of its publication. In the regulation of this Act, the National Executive Branch shall set the date for the public examination for the appointment of the Authority members set forth in section 20 within thirty (30) days of such regulation.

The shortlist of three candidates having been made, upon the appointment of the first Competition Tribunal, the Executive Branch shall establish that two (2) of its members shall hold office only three (3) years for the purpose of allowing the future partial renewal.

SECTION 84.— The first paragraph of section 9 hereof shall be in force one (1) year after the National Competition Authority is in operation. Whilst, the first paragraph of section 9 hereof shall be ruled by the following text: *“The acts set forth in section 7 hereof, when the total turnover of the group of companies affected exceeds in the country the amount equivalent to one hundred million (100,000,000) adjustable units shall be notified for their previous examination or within a week after the execution of the agreement, the publication of the offer to purchase or exchange, or the acquisition of a share in control, before the National Competition Authority, being calculated from the moment the events previously mentioned take place under the penalties provided by section 57(d) if not complied with.”*

SECTION 85.— For the purpose hereof, adjustable unit as a measure unit means: The initial value of the adjustable unit shall be twenty (20) Argentine pesos and shall be updated every one (1) year using the variation of the consumer price index (CPI) published by the National Institute of Statistics and Census (INDEC) or the official inflation indicator replacing it in the future. Updating shall take place the last business day of each year entering into force upon publication. The National Competition Authority shall publish the updated value of the Adjustable Unit on its website.

SECTION 86. — The following text shall be included as section 13 bis of Act 24,284: *“Section 13 bis. Upon proposal of the Ombudsman, the Joint Committee set forth in section 2(a) hereof shall appoint one of the deputies as Deputy Ombudsman for Competition and*

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Consumers. The exclusive task of the Deputy Ombudsman for Competition and Consumers shall be the defense of the interests of consumers and companies against anti-competitive conducts or administrative decisions that may adversely affect their rights and welfare. The Deputy Ombudsman shall demonstrate extensive knowledge and expertise in the defense of interests of consumers and competition.”

TRANSITORY CLAUSES

- a) **SECTION 87** — Create the Commission for the Drafting of the National Law for the or Promotion of Retail Competition, within the scope of the national Ministry of Production, which will be formed by: The National Ministry of Production, or whoever he designates to replace him;
- b) The National Secretary of Commerce, or whoever he designates to replace him;
- c) The President of the Competition Tribunal, or whoever he designates to replace him;
- d) The President and Vice President of the Consumer and User Defense Commission of the National Chamber of Deputies.
- e) The President, Vice President and Clerk of the Commerce and Industry Commission of the Honorable Senate of the Nation.

SECTION 88 — The Commission for the Drafting of the National Law for the Promotion of Retail Competition`s main purpose will be the drafting of a preliminary draft Bill for the Promotion of Retail Competition in order to guarantee the conditions of free competition between wholesale markets and their suppliers. This draft bill shall evaluate, as a minimum, and in accordance with the highest international standards, the following issues:

- a) Related parties, including supermarkets or wholesale markets, according to Act 18,425;
- b) Categories of products;
- c) Maximum shelf limits space;
- d) Maximum suppliers payment deadlines, when they are small, medium or large companies (MiPyMEs);
- e) Limits to the advances of money requirements, unilateral debits or economic retentions that are not previously agreed with suppliers, when they are small, medium or large companies (MiPyMEs);

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f) Limits to the setting of mechanisms with unfavorable conditions imposed on suppliers when they are small, medium or large companies (MiPyMEs);

f) Limits to the retaliations sanctions;

g) Time limits for the adjustment to the new conditions for the parties included in the new National Act of Promotion of Retail Competition.

SECTION 89 — For fulfilling its purpose, the Committee will have the technical and administrative support of the national Ministry of Production.

SECTION 90 — The national Ministry of Production is empowered to designate the Secretary of the commission created by this Law, to process the communications and perform the proceedings necessary for complying with this act.

SECTION 91 — Within a maximum period of one hundred and eighty (180) days after the enactment of this law, the Drafting Committee of the National Act of Promotion of Retail Competition, shall submit the preliminary draft to the national Executive Branch for it to be sent to the Honorable National Congress.

SECTION 91— Be it informed to the National Executive Branch.

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