



Technical Assistance to Armenia to Prepare for Accession to the World Trade Organisation and Implement Obligations Related to WTO Accession and Partnership and Co-operation Agreement

**Adopted on
November 6, 2000**

**Law of the Republic of Armenia
on
Protection of Economic Competition**

**CHAPTER 1
GENERAL PROVISIONS**

Article 1. The Purpose of the Law

The purpose of this Law is to protect and promote the economic competition, to ensure an appropriate environment for fair competition, the development of businesses and protection of consumer rights in the Republic of Armenia.

Article 2. The Subject Governed by the Law

1. The present Law shall apply to those activities and conduct of economic entities, government and local government administration bodies, which might result in the restriction, prevention and distortion of competition or in acts of unfair competition, except where otherwise stipulated by law.
2. The present law shall not govern the relations associated with the protection of intellectual property rights, except where these rights are enforced with a view of restricting the economic competition.
3. Where the norms of international treaties, to which the Republic of Armenia is a member differ from the ones provided for in the present Law, the norms of these treaties prevail.

Article 3. The Competition Legislation

The competition legislation of the RA comprises the RA Constitution, RA Civil Code, the present Law and other legal acts.

Article 4. Basic Definitions

The basic terms used in the law are as follows:

- *goods* – the outcome of business activities (including works and services) envisaged for consumption;
- *mutually substitutable goods* – the goods comparable in terms of the purpose of their usage, application, quality, technical features and other in a way that the substitution of one good by another shall not make a significant difference for the consumers.

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- *commodity market* – a field of circulation of goods, that can be viewed as mutually substitutable goods in the territory of the RA. The borders of a commodity market shall be established depending on the buyers' economic purchasing power in the relevant territory and the reasonableness;
 - *economic entity* – the sole proprietors, commercial organizations and groups of persons;
 - *competition* – economic activities toward ensuring conditions as favourable as possible for the sale or purchase of the goods, which objectively limit the possibility of each economic entity to have a unilateral effect on general conditions of the commodity circulation in the market ;
 - *shares* – stocks, equities, shares and deposits;
 - *group of persons* – a group of legal and (or) natural persons with respect to which at least one of the following stipulations applies :
 - a person or persons, on a contractual basis (concerted practices), enjoy the right to direct or indirect disposal (including by means of purchase and sale, licensed management, joint activity, recommendations or other arrangements) of more than 50% of the legal person's authorized or voting stock according to a procedure established by the legislation.
 - a person or persons, on a contractual basis or otherwise, have the possibility to pre-determine decisions of other person or persons (including the terms and conditions for carrying out business activities) or they may act as an executive body ;
 - a person has the right to set up a one-person Executive Body and /or assign more than half of the staff members of the Collective Executive Body of the legal person, and/or more than half of the Board members of the legal person has been elected by the person's proposal;
 - a natural person acts as executive body of a legal person;
 - the same natural persons elected by the same legal person, their spouses, parents, children, sisters, brothers and/or other persons constitute more than half of the Board members of two or more legal persons; or by the proposal of the same legal persons more than half of the Board members of two and more legal entities is elected ;
 - the same natural persons, their spouses, parents, children, brothers, sisters and/or legal persons have been entitled to dispose of more than half of the voting stock of the authorized stock of two and more legal persons ;
 - natural and (or) legal persons have the right to dispose by themselves or through their representatives of more than half of the voting stock of the authorized stock of one legal person, whereas at the same time the same natural persons, their spouses, parents, children, brothers, sisters and/or the persons nominated by the same legal person constitute more than half of the Board members of the legal person;
 - natural persons are spouses, parents, children, brothers and/or sisters;
- related (affiliated) persons* are those natural and legal persons which may influence the business activities of the natural and legal persons.

As persons related (affiliated) to legal persons shall be considered :

- a Board member, as well as a person acting as a sole executive body;
- a person belonging to the group of persons, to which the given sole proprietor belongs;
- persons entitled to dispose of more than 20 % of the voting or authorized stock of the given legal person ;
- the legal person, the voting or authorized stock of which can be disposed of by the given legal person;

Persons related (affiliated) to sole proprietors shall be considered:

- a person belonging to a group of persons to which the given sole proprietor belongs;
- a legal person, more than 20% of the authorized or voting stock of which can be disposed of by the given sole proprietor.

A group of persons is viewed as a single economic entity if a control is established among them in accordance with a procedure under the present Law. If the joint activities of several economic entities lead to the establishment of a control over another economic entity, each one of such entities shall be deemed as a controlling economic entity.

2. The definitions set forth in this Article shall be used only within the meaning of the present Law.

CHAPTER 2

ANTI-COMPETITIVE AGREEMENTS

Article 5. Anti-competitive Agreements and Prohibition of Anti-competitive Agreements

1. In the context of the present Law, anti-competitive agreements are contracts and agreements concluded between economic entities or their concerted practices (hereinafter referred to as "agreements"), which might result in the restriction, prevention, prohibition of competition. These are the

- a) establishment of discriminatory prices;
- b) artificial increase, decrease or maintenance of prices on the commodity markets;
- c) division of the market according to a territorial principle, or according to the volume of purchase or sale, stock of goods or seller or buyer (contractor) terms, and others;
- d) hampering (restricting) other economic entities to enter the market or ousting them out from the market.

- 1. Conclusion of anti-competitive agreements between the economic entities shall be prohibited.
- 2. The agreements between the economic entities, which are aimed at ensuring or enhancing the competitiveness thereof shall not be regarded as anti-competitive if the total [market] share of the parties to such agreement does not exceed 20%.

4. Prior signing the agreement, the economic entities within a month after submitting the application may obtain a conclusion on it according to the established order.

CHAPTER 3.

DOMINANT POSITION

Article 6. Dominant position.

1. The economic entity shall be deemed as having a dominant position on the commodity market if, as a supplier or consumer:
 - a) it has no competitors or it is not exposed to any substantial competition, or;
 - b) its consumption volumes make one third of the overall consumption on the given market.

Article 7. Abuse of the Dominant Position

1. The abuse of the dominant position by economic entities shall be prohibited.
2. The actions constituting abuse of a dominant position shall mean:
 - a) direct or indirect imposition of unjustified purchase or selling prices or other unfair trading conditions contradicting the legislation of the Republic of Armenia or existing commercial usage which lead to the restriction of the competition;
 - b) restriction of the trade and production development, creation of an artificial shortage by means of unjustified reduction of the production, or by means of keeping, spoiling or destructing the goods to the prejudice of the consumers;
 - c) application of discriminatory terms to individual partners, thereby creating unfair competition conditions for them;
 - d) imposition of additional obligations on a party to a contract, which, by their nature or from the implementation aspect are not associated with the subject matter of the contract;
 - e) pressure to restructure the economic entities or break the economic relations.

CHAPTER 4

CONCENTRATION

Article 8. Concentration

The following shall be deemed as concentration on the same commodity market :

- a) merger of economic entities;
- b) acquisition by an economic entity of at least 35 % of the assets of another economic entity;

c) assumption of control by one or several economic entities of at least 35% of another economic entity.

Control over an economic entity shall mean:

- acquisition of ownership or user rights over at least 30% of the asset,
- the right to affect the decisions of the given economic entity;

d) acquisition of the shares of another economic entity if the shares, either separately or together with other shares already held by the economic entity, make:

- 50 % of the authorized stock,
- 20 % of the voting stock.

The shares held by the economic entity include also shares, which were acquired on account of the given economic entity and other shares belonging to other economic entities and, if the given economic entity is a sole proprietor, also other shares belonging to the given sole proprietor. If several economic entities simultaneously or successively acquire shares in another economic entity in the amounts mentioned above, this shall be deemed to also constitute a concentration on the commodity market where the given economic entity operates.

e) Any other unification of economic entities enabling one economic entity to directly or indirectly influence the competitiveness of another economic entity.

Any unification of the economic entities shall not be deemed as concentration unless it has resulted in the correlation between the economic entities (hereinafter referred to as "participants") which constitute parties to the concentration.

Article 9. Declaration of Concentration

1. The concentration shall be subject to declaration if the total gross income of the parties to the concentration has made more than USD 4 million's equivalent in AMD in the year preceding the creation of the concentration, or if at least one of the parties to the concentration is entered on the register of economic entities with dominant position on the given commodity market.

2. The declaration on concentration shall contain information on the legal status of the concentration. Apart from this, for each participant to the concentration, the following data shall be included in the declaration:

- a) the annual gross income;
- b) the annual gross income in the given commodity market;
- c) name, business and registration address;
- d) main type of business;
- e) the list of the goods;

- f) information on the registered in Republic of Armenia representative of the non-resident participant.

Article 10. State Regulation of Concentrations

1. Any concentration leading to a dominant position shall be prohibited except when the concentration fosters the development of competition on the given commodity market.
2. The concentration shall be permitted on the basis of a decision made pursuant to a procedure laid down in the present law.
3. If no decision has been made within a period of two months starting from the date of declaration of the submission, the concentration shall be deemed as permitted.
4. The permission for concentration may contain terms and conditions, as well as other obligations.
5. The economic entities shall not be allowed to practice concentrations before a decision is made according to the procedure set out under this Article.
6. The prohibited concentration which has been put into effect, shall be subject to liquidation in due course of law.

CHAPTER 5

PREVENTION OF UNFAIR COMPETITION

Article 11. Unfair Competition

1. Any business activity or conduct, that contravenes the present Law or commercial usage and impairs the good-faith (honesty, fairness, verity, impartiality) principles in the relations amongst the competitors or in their relations with consumers shall constitute an act of unfair competition.
2. The unfair competition shall be prohibited.
3. Any interested person, including the consumers, who has incurred damages because of the unfair competition, shall have the right to go to court and prevent the unfair competition. Organizations that are empowered to defend the economic interests of the interested persons shall be entitled to make use of the mentioned right.

Article 12. Creating Confusion with Respect to the Economic Entity or the Activity of the Economic Entity

1. Any business activity or conduct, that causes, or is likely to cause confusion with respect to the activities of another competitor, the activity or products offered by him/her, shall be considered as an act of unfair competition.

2. In the context of the present Law, confusion might be caused with respect, but not limited to:
 - a) a trademark and service mark, whether registered or not;
 - b) a trade name;
 - c) appearance of the goods, for instance, industrial design, whether registered or not, packaging of the goods, colour or any other non-functional features;
 - d) participants in civic commerce, goods, any other means of individualization, for instance, business symbols, slogans substituting for words and letters, devices;
 - e) forms of goods presentation including advertising, the style of uniform, the way of supplying goods;
 - f) names of celebrities, including popularity and fame associated with well-known fictional art or literary characters, used for increasing consumer demand for goods.

Article 13. Damage to the Reputation of the Economic Entity and the Business Thereof

1. Any false or groundless statement in respect of business activities that damages or might damage the reputation of the economic entity, its business and goods offered by it, shall be considered as an act of unfair competition.
2. In the context of the present Article, the damage of reputation might be caused in the course of carrying out activities facilitating the advertisement and promotion of the goods and may, in particular, affect:
 - the production of the goods;
 - the suitability of the goods for certain purposes;
 - the quality, quantity of the goods or other features thereof;
 - the terms and conditions for the supply of the goods;
 - the price of goods, or the method of calculation thereof.

Article 14. Misleading

1. Any business activity or conduct that misleads or may mislead the public with respect to any economic entity or its activities or the goods offered by it shall be considered as an act of unfair competition.
2. In the context of the present Law, misleading may be caused in the course of carrying out activities facilitating advertisement or promotion of the goods. Particularly it may be caused with respect to the appellation of the origin of goods, as well as the features specified in Article 13 (2) of the present Law. Any groundless exaggeration of the quality of the goods, as well as the failure to provide relevant information on the quality, quantity or other features, which may bring forth a wrong impression (confusion) with respect to the goods and any false data on the advertiser shall be considered as misleading.

Article 15. Damage of Reputation or Non-tangible Assets of the Economic Entity

1. Any business activity or conduct which, irrespective of creating confusion, cause or may cause damage to any economic entity's reputation or non-tangible assets, shall be considered as an act of unfair competition.
2. In the context of the present Article, the damage caused to the economic entity's reputation or non-tangible assets, particularly with respect to the objects specified in Article 12 (2) of the present Law, may be result of weakening of reputation or non-tangible assets.

The weakening of reputation or non-tangible assets shall mean depreciation of distinguishing features or advertising values of the objects specified in Article 12 (2) of the present Law, particularly when applying the registered or well-known trade marks of certain goods or the one similar to it on completely different goods.

Article 16. Unfair Competition with respect to Undisclosed Information

1. In the context of the present Law, technical, organizational or commercial data, including production secrets (know-how), shall be considered as undisclosed, where:
 - a) it, as a whole or accurate inter-arrangement and integrity of its parts, is completely unknown or not available to the persons usually dealing with such information;
 - b) it, in default of third persons, is of actual or possible certain commercial value, and there is no legal possibility to obtain it freely;
 - c) natural or legal persons having legal possession of it, have carried out reasonable measures to prevent the disclosure of the given data under the existing circumstances, which may include entering into a relevant agreement and/or compliance with it, other preventive measures as well as keeping the data in identification registers in the form of documents, electronic files, video and audio records, items embodying the given data and others.

Undisclosed information may include production modes (methods), chemical formulas, drawings (designs), test samples, sale and distribution modes (methods) of goods, forms of contracts, business plans, details on negotiable prices, fields (profiles) of professional activities of consumers, advertising strategy, lists of suppliers or consumers, computer software, data bases and others.

The following shall not be considered as undisclosed information:

- data on legal persons, property rights and transactions subject to state registration;
 - materials and data contained in the state statistical reports;
2. Any type of business activities or conduct which may lead to disclosure, acquisition and use of undisclosed information without the consent of the lawful owner of the mentioned information and in violation of business practices [commercial usage] shall be considered as an act of unfair competition.

3. The rights set out in Article 11 (3) of the present Law shall arise irrespective of any formalities (registration, granting of a certificate and others) performed with respect to the undisclosed information and shall be in force as long as the terms and conditions specified in paragraph (1) of the present Article are valid.
 4. In the context of the present Law the following ways of acquisition, use and disclosure of undisclosed information shall be considered as violation of business practices [commercial usage], particularly:
 - a) industrial or business espionage or compulsion of such;
 - b) infringement, termination or compulsion of a contract dealing with undisclosed information;
 - c) infringement of confidentiality or compulsion of such;
 - d) acquisition of un-disclosed information by a third person who was aware or might have been aware that such acquisition should imply carrying out of activities set out in the above-mentioned paragraphs .
 5. Usage of undisclosed information shall mean the application of the undisclosed information in businesses and the commercial circulations of the goods obtained or processed by means of using such information.
 6. Publication of the undisclosed information, as well as its transfer to any other person who may gain material or other profit from keeping it in secret, shall be considered as disclosure of undisclosed information.
 7. Any type of business activities or conduct shall be considered as an act of unfair competition, where it occurs to be or is followed by:
 - a) the unfair commercial usage of research data and other undisclosed information which is a result of a large scale work and have been submitted to the authorized body for the approval of agricultural chemical produce or pharmaceuticals obtained by means of using new chemical blend, composition or combination;
 - b) the disclosure of data referred to in subparagraph (a) of this paragraph, except when the disclosure is required on the grounds of public interests, or where guarantees of protection of the data against the unfair commercial usage already exist.
- In the context of the present paragraph, sale of the information to other persons, its usage for the purpose of producing identical or similar goods and others shall be considered as an act of unfair competition.
8. A person that is illegally using the undisclosed information, which he/she has obtained from a person not authorized to promulgate (publish) it, about which he/she was unaware or was not obliged to be aware (fair obtainer), shall be obliged to pay damages to the legal owner of the mentioned undisclosed information upon the request of the legal owner thereof starting from the date when the fair obtainer has revealed illegality of usage.
 9. The court, taking into account the expenses of the fair obtainer connected to the use of the undisclosed data, may allow further use of it until the expenses incurred by the fair obtainer are covered.

10. Any person, who has legally and independently obtained data, which have similar content as the undisclosed data, shall be entitled to use the aforementioned data irrespective of the rights of owner of relevant undisclosed data and shall not bear any responsibility before the latter.
11. The legal owner of undisclosed information shall be entitled to deliver, in whole or in part, the data constituting the essence of information to any other person under a license agreement.
12. A person disposing of the disclosed data under an agreement shall be obliged to undertake appropriate measures to ensure the confidentiality of such data and, on equal terms with the legal owner of the undisclosed information, shall have the right to protect such from illegal use by a third party. Unless otherwise provided for by the agreement the person disposing of the undisclosed data shall have to respect the confidentiality of the mentioned data after the expiry of the license agreement provided that the relevant data is still deemed to be undisclosed.

CHAPTER 6

COMPETITION BODY

Article 17. State Competition Body for the Protection of Economic Competition

1. The State Competition Commission for the Protection of Economic Competition of the Republic of Armenia (hereinafter referred to as Commission) shall be the competition body of the RA ensuring the implementation of the state policy in the field of the protection of economic competition.
2. The Commission shall be established in compliance with the procedure provided for by the present Law. It shall operate on the basis of the present Law, other legal acts of the RA and its regulations and shall be independent within the scope of its competence.

Article 18. Tasks and Functions of the Commission

1. The main tasks of the Commission shall be as follows:
 - a. Protection and promotion of economic competition in order to bring about the development of businesses and protection of consumer rights;
 - b. Provision of appropriate environment for fair competition;
 - c. Prevention, restriction and distortion of anti-competitive practices;
 - d. Control of the practices of protection of competition.
2. In order to meet the mentioned objectives the Commission shall:
 - exercise control over the adherence to the legislation on the protection of competition;
 - consider the cases of infringement of the competition legislation and make decisions on such cases;
 - keep a centralized register of economic entities with a dominant position;

- bring the cases of infringement of the competition legislation to court;
- participate in the drafting of legal acts concerning the development and state policy in the field of economic competition and present such in the due order;
- participate in the conclusion of interstate agreements falling within its competence;
- cooperate with the public bodies and non-government organizations of foreign states, as well as with international organizations;
- develop and implement measures preventing the infringements of the competition legislation;
- summarize the practice of application of the competition legislation and draw up proposals on improvement of this practice;
- ensure the publicity of its activity; publish a journal;
- carry out explanatory works among the public in order to let the public know about the sanctions provided for by present Law;
- carry out other activities falling within its competence.

Article 19. Competence of the Commission

1. Within the scope of its competence, the Commission shall be entitled:
 - a) to make decisions on
 - the vases of infringement of the present Law;
 - the borders separating the commodity markets and dominant position of the economic entities on these markets, as well as on the implementation of measures conditioned by this;
 - disaggregation of the economic entities abusing the dominant position on the market;
 - discontinuation of infringements of the present Law by the economic entities and/or elimination of the consequences thereof, as well as restoration of the original position, amendment or rescission of contracts contradicting the present Law, conclusion of contracts with other economic entities;
 - imposition of penalties in the event of infringement of the present Law on economic entities and the managers thereof, as well as the on officials of the government and local government administration bodies;
 - b) to follow that the contractual terms and conditions are observed by the economic entities;
 - c) draw conclusions on
 - the inconsistency of the legal acts adopted by the government and local government administration with the competition legislation, as well as on rescission or amendment of such legal acts, elimination of infringements;
 - agreements in the process of conclusion;

- concentrations to be introduced into life;
 - d) to bring cases of infringement of the present Law to the court and ask the court for complete or partial invalidation of the contracts concluded in violation of law, as well as amendment or termination of such contracts;
 - e) to impose penalties and apply other sanctions provided for by law;
 - f) to adopt legal acts;
 - g) to comment on the issues related to the legislation on the protection of economic protection;
 - h) exercise other competence provided for by the legislation.
2. The Commission shall be independent of other state bodies in performing the tasks and functions provided for by the present Law.

Article 20. Composition of the Commission and Term of Validity of its Competence

1. The Commission shall be composed of seven members: a chairman, deputy and five members.
2. The members of the Commission shall be appointed by the President of the Republic of Armenia for a five year period, except the members of the first Commission.
3. The tenure of the members of the first Commission shall be based on the following principle:
 - one member - one year;
 - one member - two years;
 - three members - three years;
 - one member (the deputy chairman of the Commission) - four years;
 - one member (the chairman of the Commission) - five years.
4. The members of the Commission cannot be engaged in business activities or be a member of any representative body, hold any other state posts, get paid for other employment except for scientific, creative and pedagogical activities.
5. The members of the Commission shall not have the right, whether directly or indirectly, to get gifts and presents from the economic operators on the commodity markets.
6. Those people that are:
 - a. lacking a diploma of higher education;
 - b. not citizens of the Republic of Armenia
 - c. recognized as incapable or partially disabled by a court decision in force;
 - d. convicted by a court adjudication in force for committing an intentional crime;

- e. deprived of the right to hold a certain state post according to law.

Article 21. Termination of Powers of a Member of the Commission

1. The President of the Republic of Armenia shall have the power to revoke, prior to the expiration of the term of office, the powers of a member of the Commission basing the request of the latter, or else taking into consideration clauses 6 (c), (d) and (e) of Article 20, as well as in the event of invalidation of their RA citizenship or transfer to another job, or if the member has neglected his/her official duties, or failed to comply with them due to a sick leave or other reasons for more than six months.
2. In the event of premature termination of the powers of a member of the Commission, the President of the Republic of Armenia, within ten days, shall appoint a new member of the Commission for a five year period.
3. The members of the Commission shall retain their right to be re-appointed in their posts after the end of the term of their office.

Article 22 The Staff of the Commission

The Commission's activities shall be carried out by its Staff. The composition and quantity of the members of the Commission shall be defined by the Commission.

Article 25. Chairman of the Commission

1. The Chairman of the Commission shall:
 - a. within his/her competence, represent on behalf of the Commission of the Republic of Armenia, in other countries and international organizations;
 - b. coordinate and ensure normal functioning of the Commission and its staff;
 - c. participate, with an advisory vote, in the government sessions and give written comments concerning the issues raised during the sessions, which shall be entered into the minutes of the sessions;
 - d. call and preside over the meetings of the Commission;
 - e. sign the decisions made by the Commission and the minutes of the meetings;
 - f. confirm the chart of employees of the Commission, hire or dismiss them, decide on encouraging or on imposing disciplinary penalties on them, as well as exercise other powers provided for by its Regulations and present Law.
2. In the event of absence of the Chairman of the Commission or his constraint to perform his/her official duties, the Deputy Chairman of the Commission shall substitute for him. If the Deputy Chairman of the Commission is also absent either has a constraint to fulfil his obligations, the eldest member shall perform the duties of the Chairman of the Commission.

Article 24. Conflict of Interests

1. Any member of the Commission holding a personal interest in any issue entered on the agenda of the Commission's meeting shall notify other members of the Commission of it and the

subject of his/her interest. His statement shall be recorded in the minutes of the meeting. After that, the member:

- a) shall renounce his/her participation in the meeting dedicated to the given issue;
 - b) shall not enter his name in the register in order to ensure the legitimacy of the given meeting.
2. A person whose application (declaration) is under consideration, may challenge the member of the Commission if the latter holds a personal interest in the case.

Article 25. Declaration of Incomes of the Members of the Commission

The members of the Commission shall prepare income statements, as provided for by law, within a month after assuming their duties in the Commission and separately for each calendar year and submit their statements to the President of the Republic of Armenia and the Commission. The declarations shall be published in the due course of law.

Article 26. Regulations of the Commission

1. The regulations of the Commission shall provide for a procedure for the Commission's operation, its structural division and operation of the divisions under the Commission and other internal procedures.
2. The regulations of the Commission shall be adopted by the Commission.

Article 27. Annual Program, Report and Resignation of the Commission

The Commission shall draw up its annual programme of activities, which the Chairman of the Commission shall submit to the National Assembly for consideration and approval by October 1 of each year. If the programme is not approved by the National Assembly, the members of the Commission shall hand over their resignations to the President of Armenia within ten days. The resignations shall be accepted on the day following the date of submission thereof.

The annual program shall comprise the following:

- a) a competition analysis and revelation of the existing problems;
 - b) competition protection measures and a schedule of implementation thereof;
 - c) mechanisms for the improvement of the economic competition;
 - d) other issues, that are related to the tasks and functions of the Commission provided for by the Law.
2. The Commission shall submit to the President and National Assembly of the Republic of Armenia and publish an annual report of its activities for the previous year no later than May 1 of the current year. The report shall comprise:
- a) brief information on the activities of the Commission;
 - b) an analysis of the commodity markets;
 - c) measures taken towards the regulation and supervision of the economic competition;

- d) a financial report of its activities.
- 3. If the National Assembly does not approve the report of the Commission, the members of the Commission shall hand over their resignations to the president of Armenia within ten days. The resignations shall be accepted on the day following the date of submission thereof.
- 4. Within 15 days after the President of the Republic of Armenia has accepted the resignations of the members of the Commission, he/she shall appoint new members to the Commission.

Article 28. Responsibilities of Economic Entities, Government Administration and Local Government Administration Bodies to Provide Data to the Commission

- 1. With the view of carrying out the functions provided by the present Law, the economic entities, government administration and local government administration bodies, as well as the officials thereof shall be obliged to provide documents and other data to the Commission.
- 2. The economic entities shall provide the Commission with necessary data if the Commission considers a case which is related to the activities thereof.

Article 29. The Annual Costs of the Commission

- 1. The Commission shall submit the estimate (application) of its annual costs to the Government. The Government shall include it in the Budget Bill of the Republic of Armenia under a separate clause and without making any changes to it and shall pass it to the National Assembly for consideration and approval.
- 2. The estimate of the Commission's costs shall ensure the correct implementation of the tasks and functions set out in this Law, including the financing of representations in international organizations, as well as the reimbursement of salaries to the staff of the Commission.

Article 30. The Order for the Organization of Activities

- 1. The Commission shall perform its activities through sessions.
- 2. The sessions of the Commission shall be competent, if at least 5 members to the Commission take part in it.
- 3. The considerations shall be heard at open-door sessions, except for the cases when holding of an open-door session may cause damage to interested parties.
- 4. The sessions of the Commissions shall be recorded in the minutes drawn up for each session.
- 5. The sessions shall be convened at regular intervals or, if necessary, at the request of one of the members of the Commission.
- 6. The right of the interested parties to take part in the considerations shall be guaranteed. The Commission shall notify the interested parties of the place, date and time of the considerations at least 5 days prior to the date when these considerations are planned. The

notification shall contain all the features of the case and its brief description. The materials related to the case shall be attached to the notification.

The absence of the notified interested parties shall not hold back the Commission from holding sessions and taking decisions afterwards.

7. The interested parties shall have the right to give evidence, explanations and argumentations, appeal against the approved sanctions and file other petitions.
8. At the conclusion, the Commission shall make a decision /recommendation/, stating in it the facts underlying the given decision. The decisions shall be passed at the sessions of the Commission by majority of votes of the members participating in the session. If the votes are equally distributed, the vote of the chairman or the person substituting the chairman shall be decisive.

It shall not be allowed to abstain from voting or to transfer the right of vote to other member of the Commission.

9. The copy of the decision /recommendation/ shall be handed over or sent as a registered letter to the person to whom the given decision /recommendation/ concerns within five days after it was made.
10. The decision of the Commission shall be valid from the date of its promulgation and may be appealed in a due course of law within a 30 day period.

Article 31. Procedure for Implementation of Penetrative Measures by the Commission

1. Where so provided for by the Law, the Commission shall impose sanctions set forth in the Law, including a preliminary warning and an order to discontinue and/or prevent in future the breaches, an imposition of penalties in the amount provided for by the Law, termination or invalidation of concentrations.
2. The sanctions shall be enforced by the Commission. Before enforcing the sanctions, the Commission shall notify the interested party of it and give him/her an opportunity to appeal against the sanction.

Article 32. The Order (Preliminary Warning)

1. If any persons infringes the present Law, the Commission shall issue an order containing a warning and an instruction how to correct and/or prevent the infringement in future (hereinafter referred to as order), which shall come into force from the date of notifying the person against whom the sanctions are envisaged.
2. The order shall come into force from the date of issue (promulgation of a decision) and shall be mandatory for the persons that were notified of it.
3. The order shall be substantiated by a statement of those facts that served as a basis for the decision made by the Commission.

Article 33. Responsibility of the Commission to Respect Commercial Secrets

1. According to the present Law, data deemed as a commercial secret and obtained by the Commission at the time of exercising its powers shall remain under the protection of the law and shall not be subject to publication.
2. The staff of the Commission shall not be entitled to publish or disseminate, or use for personal interests the confidential information and commercial secrets obtained during the performance of their official duties.
3. In case of publication of the data deemed as a commercial secret, the damages caused to an economic entity shall be covered from the funds of the state budget in compliance with a procedure establishes by the RA legislation.

Article 34. The Grounds for Consideration of the Infringements of the Present Law by the Commission

The Commission shall have the right to make its decisions based on the applications and data provided by economic entities, bodies of central and local government administration and consumers, as well as publications in the mass media and other documents at its disposal, if these may serve as a prove of infringement of the present Law.

Article 35. Procedure for Implementing the Decision Made by the Commission

1. The decision of the Commission shall be implemented by the economic entity, bodies of central and local government administration and the officials thereof in the timeframe indicated by them in the decision.
2. The Commission shall initiate court proceedings if its decision is not implemented.
3. The Commission shall be relieved from the court charges payable in the event of filing a claim.

CHAPTER 7

LIABILITY FOR THE INFRINGEMENT OF THE PRESENT LAW

Article 36. Liability for the Infringement of this Law

1. Economic entities, bodies of central and local government administration shall incur liability for the infringement of the present Law according to a procedure set out in this and other laws of the RA.
2. Infringements leading to the restriction, prevention or distortion of the competition and aimed at:
 - establishing discriminatory prices;
 - increasing, decreasing the prices on the market;
 - dividing the market according to a territorial principle, or the volume of purchase or sales, choice of selling goods or seller or buyers (contractors) terms;
 - restricting other economic entities' activities to enter onto the market or ousting them out of the market,

shall be subject to imposition of penalties in the amount of up to 5000 times the baseline duty.

3. The abuse of the dominant position in order to prevent the competition by means of:

-direct or indirect imposition of unjustified purchase or selling prices or other unfair trading conditions contradicting the legislation of the RA or existing commercial usage;

-restriction of the trade and production development by creating an artificial shortage by unjustified reduction of the production or by keeping, spoiling and destructing the goods to the prejudice of consumers;

-application of discriminatory terms to certain partners;

-imposition of those additional obligations on a party to a contract, which by their nature or from the implementation aspect are not associated with the subject matter of the main contract;

-pressure to restructure the economic entities or binding of economic relations by using economic levers ;

shall be subject to an imposition of penalties in the amount of up to 5000 times of the baseline duty.

4. Concentrations of economic entities leading to a dominant position which may be reflected in:

- a merger of economic entities;

- acquisition by an economic entity of at least 35% of the assets of another economic entity;

- assumption of control by one or several economic entities of at least 35% of the assets of another economic entity;

- acquisition of shares in another economic entity if the shares, either separately or together with other shares already held by the economic entity, make 50 % of the authorized stock or 20% of the voting stock

shall be subject to an imposition of a penalty in the amount of up to 40000 times the baseline duty.

5. The failure to submit necessary materials to the Commission or the submission of false documents to the Commission shall lead to an imposition of a penalty in the amount of up to 100 times of the baseline duty.

Article 37. The Profits obtained as a Result of Infringement of this Law

The profits obtained by the economic entities as a result of infringement of the present Law shall be transferred to the state budget.

Article 38. Compensation for Damages

Damages that are caused to an economic entity or other persons due to the activities (inaction) of other economic entities constituting an infringement of the provisions of the present Law shall be compensated by the infringer in compliance with a procedure provided for by the RA legislation.

Damages that are caused to an economic entity or other persons due to unlawful decisions, activities (inaction) of executive authorities, including the Commission and local government administration bodies shall be subject to compensation in compliance with a procedure provided for by the RA legislation.

Article 39 . Liability of Officials of the Commission

Any official of the Commission infringing the present Law shall incur a liability in accordance with a procedure provided for by the RA legislation.

Article 40. Liability of Natural Persons and Officials

In case of infringement of the present Law, the natural persons or officials shall incur a liability in accordance with a procedure provided for by the RA administrative code.

CHAPTER 8

FINAL PROVISIONS

Article 41. Creation of the Commission

Within 30 days after coming into force of the present Law, the President of the Republic of Armenia shall appoint the Head, Deputy Head and members of the Commission.

Article 42. Coming into Force of the Law

The present Law shall come into force from the date of its promulgation.

**PRESIDENT OF
THE REPUBLIC OF ARMENIA**

R. KOCHARYAN

