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OF CYPRUS

13(I) of 2008

41(I) of 2014

## THE PROTECTION OF COMPETITION LAWS OF 2008 AND 2014

*(English translation and Consolidation)*

**Office of the Law Commissioner**

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## **NOTE FOR THE READER**

This publication of the Office of the Law Commissioner is an English translation of the Consolidation of Laws of 2008 and 2014 [L. 13(I) of 2008 and 41(I) of 2014] enacted in Greek.

However useful the English translation of the Law is in practice, it does not replace the original text of the Law since only the Greek text of the Law published in the Official Gazette of the Republic of Cyprus is authentic.

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## **THE PROTECTION OF COMPETITION LAWS OF 2008 AND 2014**

Preamble . In order to regulate and protect free competition in the Republic and to apply the act of the European Union with title “Council Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty”, as last amended by Council Regulation (EC) No. 1419/2006 of 25 September 2006, and as further from time to time amended or substituted,

Official Journal of the EU:  
L 1, 4.1.2003,  
p. 1.  
L 269, 28.9.2006,  
p. 1.

The House of Representatives enacts as follows:

### **PART I PRELIMINARY PROVISIONS**

Short title. **1.** This Law may be cited as the Protection of Competition Laws of 2008 and 2014.

13(I) of 2008.  
14(I) of 2014.

Interpretation. **2.** In this Law, unless the context otherwise requires—

“Advisory Committee on Restrictive Practices and Dominant Positions” means the Advisory Committee established by virtue of Article 14 of Council Regulation (EC) No. 1/2003;

“agreement” means any arrangement between at least two undertakings or associations of undertakings, by virtue of which one of the parties has willingly undertaken the obligation to constrain its freedom to act in respect of the other party;

2(a) of  
41(I)/ 2014.

“Article 101 TFEU” means article 101 of the Treaty for the Functioning of the European Union;

“Article 102 TFEU” means article 102 of the Treaty for the Functioning of the European Union;

“association of undertakings” means any company, partnership, association, society, institution or body of persons having legal personality or not, which represents the trade interests of autonomous undertakings and takes decisions or enters into contracts for the promotion of those interests;

“Chairman” means–

- (a) the Chairman of the Commission and
- (b) for the purposes of sections other than 9, 10, 11, 12, 13, 16 and 53, the member of the Commission replacing the Chairman;

“collusion” means any formal or informal, written or oral, legally enforceable or not, agreement of two or more undertakings or associations of undertakings or concerted practice of two or more undertakings or the decision of an association of undertakings, but it does not include agreement or concerted practice–

- (a) of the holding and subsidiary company, if–
  - (i) they constitute a single economic entity within which the subsidiary has no real freedom to prescribe its own manner of acting, and
  - (ii) the agreement or concerted practice relates exclusively to the allocation of activities between the holding and subsidiary company;
- (b) of two or more subsidiary companies provided

they constitute a single economic entity with the holding company;

“Commission” means the Commission for the Protection of Competition established under section 8;

“Competition Authority” means the authority or authorities of the member states responsible for the protection of competition and designated as such by the member states pursuant to Article 35 of Council Regulation (EC) No. 1/2003;

“concerted practice” means the coordination between undertakings which, without having reached the stage of conclusion of an agreement, knowingly substituted the risks of competition by establishing practices of cooperation between them;

“Court” means a competent court;

2(c) of  
41(I)/ 2014.

“dominant position”, in relation to an undertaking, includes the position of economic strength enjoyed by the undertaking which enables it to prevent the preservation of effective competition in the relevant market and which affords it to behave to a substantial extent, independently from its competitors, customers and ultimately from the consumers;

2(e) of  
41(I)/ 2014.

“European Commission” means the Commission of the European Union”;

2(f) of  
41(I)/2014.

“European Union competition law” means Articles 101 to 109 of the TFEU and the secondary law enacted pursuant to them;

“good” means anything that can be evaluated in money and capable of constituting the subject of a commercial transaction;

“member state” means a member state of the European Union;

2(j) of  
41(I)/ 2014.

“Minister” means the Minister of Energy, Commerce, Industry and Tourism;

“product” means any good or service;

Official Journal  
of the European  
Union: L 1,  
4.1.2003, p.1,  
L269, 28.9.2006,  
p.1

“Regulation (EC) No. 1/2003” means the Council Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules of competition laid down in Articles 81 and 82 of the Treaty as last amended by Council Regulation (EC) No. 1419/2006 of 25 September 2006 and as further from time to time amended or substituted;

“Republic” means the Republic of Cyprus;

“Service” means the Service of the Commission provided for in section 19(1);

“services” means the undertaking and performance, for profit or remuneration, of obligations of any kind, except the production and supply of goods and includes professional services, however not including the services provided to an employer under an employment contract;

“State” means the state, the municipalities or the civil parishes;

“state monopoly” means an undertaking that occupies a monopoly position in the market due to the exclusive rights granted to it by the State in order to increase the profit of the State;

2(h) of  
41(I)/ 2014.

“supply” (deleted);

2(i) of  
41(I)/ 2014.

“TFEU” means the Treaty for the Functioning of the European Union;

“trade” means any kind of financial activity and includes

both the provision of goods and services;

2(g) of  
41(I)/ 2014.

“turnover” (*deleted*) ;

2(d) of  
41(I)/ 2014.

“undertaking” includes every entity engaged in economic activities regardless of its legal status and the way with which it is funded.

## PART II

### CONTROL AND SUPPRESSION OF COLLUSIONS AND PRACTICES WHICH RESTRICT COMPETITION

Prohibition of  
practices which  
restrict trade and  
voidness thereof.  
3 of  
41(I)/ 2014.

**3.–(1)** Subject to the provisions of sections 4 and 5, all agreements between undertakings, all decisions by associations of undertakings and any concerted practices which have as their object or effect the prevention, restriction or distortion of competition within the Republic, shall be prohibited, and in particular those which–

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
- (b) limit or control production, markets, technical development or investments;
- (c) Share markets, geographically or otherwise, or sources of supply;
- (d) apply dissimilar conditions to equivalent transactions thereby placing certain undertakings at a competitive disadvantage;
- (e) make the conclusion of contracts subject to acceptance by other parties of supplementary

obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

(2) Subject to the provisions of sections 4 and 5, agreements, decisions and concerted practices mentioned in the provisions of subsection (1) of this section, shall be void ab initio, with no prior relevant decision by the Commission being required.

Collusions which fall within the scope of section 3(1) and are permissible and valid.

**4.-(1)** Any agreement, decision and concerted practice falling within the scope of subsection (1) of section 3, shall be permissible and valid, with no prior relevant decision by the Commission being required, if the following requirements concur:

- (a) it contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit;
- (b) it does not impose on the undertakings concerned, restrictions which are not indispensable to the attainment of these objectives; and
- (c) it does not afford such undertakings the possibility of eliminating competition in respect of a substantial part of the product in question.

(2) The burden of proof that a collusion is permissible and valid by virtue of subsection (1), shall lie upon the undertaking or association of undertakings concerned, invoking the abovementioned subsection.



(3) The Commission may decide that any agreement, decision or concerted practice in respect of which subsection (1) is being invoked, does not meet the conditions provided for in the said subsection. As long as such a Commission decision remains in force, the relevant agreement, decision or concerted practice shall be subject to the prohibition and invalidity resulting from section 3.

Exemptions from the scope of section 3.

**5.**–(1) The Council of Ministers may, following a reasoned opinion of the Commission, issue Orders to be published in the Official Gazette of the Republic, which declare section 3 inapplicable to certain categories of collusions.

4 (a) of 41(I)/ 2014.

(2) In respect of collusions to which the provisions of this Law and not the provisions of the European Union competition law apply, the provisions of the European Union Regulations made pursuant to subsection 3 of Article 101 TFEU shall apply, mutatis mutandis, as long as there is no contradictory provision in an Order made pursuant to subsection (1) of this section; in such a case, the collusions are deemed to be permissible and valid pursuant to the European Union Regulation, regulating the same category of collusions in the context of the European Union competition law.

(3) (a) The burden of proof that a collusion does not fall within the scope of section 3 pursuant to an Order made pursuant to subsection (1) of this section, shall lie upon the undertaking or association of undertakings concerned and invoking the said Order.

(b) The burden of proof that a category of collusions is permissible and valid pursuant to the European Union Regulation referred to in subsection (2), shall lie upon the

4(b) of 41(I)/ 2014.

undertakings or association of undertakings invoking the relevant European Union Regulation.

(4) (a) The Commission may decide that a collusion in respect of which an Order made under subsection (1) of this section is being invoked, does not fall within a category of collusions where section 3 is rendered inapplicable pursuant to that Order. As long as such a decision of the Commission remains in force, the relevant collusion falls within the scope of section 3 and shall be subject to the prohibition and invalidity resulting from that section.

4 (c) of  
41(I)/ 2014.

(b) The Commission may decide that a collusion, in respect of which a European Union Regulation pursuant to subsection (2) is being invoked, does not fall within the category of collusions regulated by the European Union Regulation in the context of the European Union competition law. As long as such a decision of the Commission remains in force, the relevant collusion falls within the scope of section 3 and shall be subject to the prohibition and invalidity resulting from the said section.

(5) An Order made pursuant to subsection (1) shall come into force on the date of its publication in the Official Gazette of the Republic, unless otherwise therein provided.

Abuse of a  
dominant  
position or  
relationship of  
economic  
dependence.

**6.**-(1) Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it in respect of a product shall be prohibited, in particular, if this practice results or may result in-

- (a) direct or indirect fixing of unfair purchase or selling prices or any other unfair, under the circumstances, trading conditions;
- (b) limiting production, distribution or technical

development to the prejudice of consumers;

- (c) applying dissimilar conditions to equivalent transactions, thereby placing certain undertakings at a competitive disadvantage;
- (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

(2) Any abuse by one or more undertakings, of a relationship of economic dependence where an undertaking stands compared to that or those undertakings, which is either a customer, supplier, producer, representative, distributor or trading partner, shall be prohibited, even as far as a specific kind of products or services is concerned, and it does not have an equivalent alternative solution.

This abuse of a relationship of economic dependence may, in particular, be constituted of the imposition of unfair trading conditions, the application of discretionary treatment, or of sudden and inexcusable interruption of long-term trade relationships.

5 of  
41(I)/2014.

Exemptions from  
the scope of this  
Law.

**7.–(1)** The provisions of this Law shall not apply to–

- (a) agreements relating to wages and terms of employment and working conditions;
- (b) undertakings entrusted with the operation of services of general economic interest or having the character of revenue producing monopoly, in so far as the application of these provisions obstructs the performance in law or in fact, of the particular tasks assigned to them by the

State.

(2) For the purposes of paragraph (b) of subsection (1), it is presumed that the application of the provisions of this Law obstructs the performance in law or in fact of the particular tasks of the said undertakings when there is not financial or technical way in the disposal of these undertakings, which is compatible with the provisions of this Law and allows the implementation of the particular tasks assigned to these undertakings by the State.

(3) The burden of proof that agreements or undertakings do not fall within the scope of this Law pursuant to subsection (1) shall lie upon the undertakings or associations of undertakings concerned, invoking the said subsection.

(4) The Commission may decide that an agreement or undertaking, in respect of which subsection (1) is being invoked, does not fulfill the conditions provided for in the said subsection. As long as such a decision of the Commission remains in force, the relevant agreement or undertaking falls within the scope of this Law.

### **PART III**

## **COMMISSION FOR THE PROTECTION OF COMPETITION**

Commission for  
the Protection of  
Competition.

**8.** There is hereby established an independent Commission, to be known as the “Commission for the Protection of Competition”, which shall be constituted, operate, function, have the powers and duties determined by or under this Law.

Composition and operation of the Commission.

**9.**–(1) The Commission shall be composed of five members and shall consist of the Chairman and four other members appointed by a decision of the Council of Ministers, on a proposal of the Minister. The Council of Ministers shall appoint four substitute members of the Commission in accordance with the provisions of subsection (7).

(2)(a) The Council of Ministers shall, on a proposal of the Minister, appoint the Chairman of the Commission, who shall be a person of a high standing and probity possessing specialized knowledge and experience in law and being capable to contribute to the carrying into effect of the purposes of this Law.

(b) The Council of Ministers, shall appoint four other members of the Commission, nominated by the Minister, who shall be persons possessing specialized knowledge and experience in law, or economics, or competition, or accounting, or trade, or industry, capable to contribute to the carrying into effect of the purposes of this Law.

(c) The Chairman and the other four members of the Commission shall serve under full-time employment contract.

(3) The Chairman, the other four members of the Commission, or the substitute members, shall not be allowed to have any financial or other interest likely to affect the impartiality of their judgment in the exercise of the competences, powers and duties of the Commission in accordance with this Law.

(4) The term of office of the Chairman and the other four members of the Commission shall be of five years and may be

renewed once only, subject to the provisions of subsection (2).

(5)(a) Where the office of the Chairman or other member of the Commission becomes vacant before the expiry of his term of office, the Council of Ministers, shall on a proposal of the Minister, appoint a new Chairman or other member for the remainder of the term of office of the Chairman or other member, as the case may be, whose office has become vacant, subject to the provisions of subsection (2). The term of office of the Chairman or other member of the Commission who shall be appointed pursuant to this subsection, shall be renewable twice, provided that at his first appointment the Chairman or the other member shall be summoned to serve for a period less than two years and six months.

(b) Any vacancy in the office of the Chairman or other member of the Commission shall not affect the legal composition of the Commission and the fulfilment of its competences, powers and duties.

(c)(i) Where the office of a member of the Commission, besides the Chairman, becomes vacant before the expiry of his term of office, until the appointment of a new member in the application of paragraph (a), the substitute member appointed under section (7) shall participate in the Commission, in the place of the member whose office became vacant.

(ii) Where the office of the Chairman becomes vacant before the expiry of his term of office, until the appointment of a new Chairman in the application of paragraph (a), the Commission shall continue to operate with the rest of its members, subject to the provisions of subsection (7).

(6) Where–

- (a) the Chairman is temporarily hampered from exercising his duties for any reason, or
- (b) the office of the Chairman becomes vacant until the appointment of a new Chairman,

the Chairman shall be replaced by a member of the Commission elected amongst the members participating in the meeting. In case of an equality of votes, the older member shall serve as the Chairman.

(7)(a) The Council of Ministers shall, on a proposal of the Minister, appoint as a substitute member for every member of the Commission, besides the Chairman, persons possessing specialized knowledge and experience in law, or economics, or competition, or accounting, or trade, or industry, capable to contribute to the carrying into effect of the purposes of this Law. The substitute member shall replace, in the exercise of his duties, the member of the Commission–

- (i) when the member of the Commission is temporarily hampered for any reason, or
- (ii) in the case of paragraph (d).

(b) The term of office of the substitute members of the Commission shall be of five years and may be renewed.

(c) Where the Commission in a meeting thereof (hereinafter called the “current meeting”) is dealing with a matter that has dealt with it in a previous meeting (hereinafter called the “previous meeting”), and in the current meeting–

- (i) a substitute member of the Commission which had not participated in the previous meeting, is participating under paragraph (a) of this subsection or subparagraph (i) of paragraph (c) of subsection (5), or
- (ii) a member of the Commission which had not participated in the previous meeting, is participating, irrespective of whether the substitute member had participated on his behalf or not,

the procedure and the discussion that has already been made in the previous meeting, shall not be repeated, while the validity of any decision of the Commission on the matter shall not be affected, on condition that the member or, depending on the case, the substitute member is informed on the minutes and the rest of the data of the previous meeting and such information shall be noted in the minutes of the current meeting.

(d) Where, under subparagraph (i) or (ii) of paragraph (a), a substitute member of the Commission is participating in a meeting of the Commission during which a certain matter is discussed, the Commission may decide that the substitute member shall continue replacing the member of the Commission, that has been substituted for, in any or all of the subsequent meetings where the Commission shall deal with the same matter.

(8) A defect in the appointment of the Chairman, other member or substitute member of the Commission shall not affect the legal composition of the Commission and the fulfilment of its competences, powers and duties.



Remuneration, working conditions and other benefits of the Chairman, members and substitute members.

**10.–(1)** The Council of Ministers may, by its decision, determine the working conditions, remuneration and other benefits of the Chairman, the other members of the Commission and the substitute members thereof.

(2) The Council of Ministers shall not adversely modify the working conditions, the remuneration and the other benefits determined pursuant to subsection (1), during the term of office of a member or substitute member of the Commission, about whom the said working conditions, the remuneration and the other benefits had been so determined.

Nature of service of the Chairman and the other members of the Commission.

**11.** The Chairman and the four other members of the Commission shall apply the hours of work of public officers determined from time to time by the Council of Ministers.

Prohibition of private employment of the Chairman and the other members of the Commission.

**12.** The Chairman and the four other members of the Commission shall not be allowed to practice any profession or occupation or to employ themselves in a business of any nature or to accept payment for any kind of employment besides their duties, except only with the permission of the Council of Ministers.

Vacancy of office.

**13.–(1)** The office of the Chairman, other member or a substitute member of the Commission shall be vacated–

- (a) in case his term of office has expired; or
- (b) in case of his death; or
- (c) in case of his resignation according to subsection (2); or
- (d) in case of impediment to the exercise of his duties for more than six months; or
- (e) in case of removal from office declared by the

Council of Ministers according to subsection (3).

(2) The Chairman, other member or substitute member of the Commission may submit to the Council of Ministers his resignation from such office in writing; the aforementioned resignation shall not be subject to withdrawal, yet it shall become effective immediately no prior approval from the Council of Ministers being required.

(3) (a) The Council of Ministers may remove from office the Chairman, other member or substitute member of the Commission, if any of the following circumstances concur:

- (i) if he has been declared bankrupt under the current legislation of the Republic or if an order for the appointment of a syndic has been made against him or if he has entered into a composition with his creditors;
- (ii) if he has been declared insane or mentally incapable under the current legislation of the Republic;
- (iii) if he has been convicted for a criminal offence which entails dishonesty or moral turpitude;
- (iv) if he is incapable, by reason of physical incapacity or disease, to perform his duties;
- (v) if he has maintained or acquired a financial or other interest which may affect the impartiality of his judgment and he did not submit his resignation;
- (vi) if he has so abused his tenure of office as

to render the continuance of his term of office prejudicial to the public interest;

- (vii) upon recommendation of the Commission, in case of an unjustified abstention from the exercise of his duties and in particular in case of an unjustified absence from three consecutive meetings of the Commission.

(b) The Council of Ministers, before removing anyone from office by virtue of paragraph (a), shall give that person the opportunity to submit his views.

158(l) of 1999. In this case, subsections (3), (4) and (6) of section 43 of the General Principles of Administrative Law, Law of 1999 shall apply.

Powers of the Chairman.

**14.** The Chairman shall preside over the Commission, shall convene a meeting according to section 15, and shall sign the minutes and any other important document.

Convening a meeting.

**15.**—(1) The Chairman shall convene the Commission to a meeting whenever it deems necessary, however he shall be bound to convene a meeting as soon as possible and, in any case, within a period of seven days if requested so to do by notice in writing by at least three members of the Commission, who shall also, at the same time, specify the matters to be discussed.

(2) The summons of a meeting shall be in writing and shall be addressed to the members of the Commission at least twenty-four hours prior to the date appointed for the meeting; as an exemption, in extraordinary cases, a meeting of the Commission shall be convened by a summons circulated among the members immediately prior to the

meeting.

(3) The agenda shall be drawn up by the Chairman and shall be communicated along with the summons to a meeting. As an exemption, if the Commission so decides, in extraordinary and justified cases, a matter outside the agenda may be introduced for discussion, both by the Chairman and by another member of the Commission.

Quorum and decisions.

**16.**–(1) Subject to the provisions of subsections (5)(c), (6) and (7) of section 9, the Commission shall be lawfully in session only if at such meeting at least three members are present.

(2) The decisions of the Commission shall be taken by majority, and in case of an equality of votes, the presiding member shall have a casting vote.

Rules governing the proceedings before the Commission.

6(a) of 41(l)/2014.

**17.**–(1) The Commission shall decide to initiate the proceedings for the investigation of an infringement, as long as the Commission finds, following a proper preliminary investigation, that an infringement of the provisions of sections 3 and/or 6 and/or Articles 101 TFEU and/or 102 TFEU is possible.

(2) The Commission shall prepare a written statement in order to inform the undertakings or associations of undertakings on the objections raised to their detriment. The said statement of objections shall be served on them or on a person duly authorized by the said undertakings or associations of undertakings, in any manner they are summoned before the Commission in accordance with section 45.

(3) Where the existing information before the

Commission is changed or new information arises, the Commission may proceed to the modification of any objections raised against the undertakings or associations of undertakings concerned and the preparation and communication of a modified statement of objections to the undertakings or associations of undertakings concerned.

(4) During the proceedings before the Commission for the investigation of infringements, or for the investigation of complaints lodged pursuant to this Law, or for any other proceedings provided for by this Law and/or the regulations made thereunder, there shall be allowed to be present—

(a) upon invitation from the Commission—

- (i) the persons who lodged the complaint, personally, through an authorized lawyer or personally with an authorized lawyer,
- (ii) the persons involved in the proceedings or/and the complaint before the Commission,
- (iii) any person, who may, at the Commission's discretion, help in the investigation of the infringement or/and the complaint;

6(b) of  
41(I)/2014.

(b) any member of the staff who serves at the Service:

Provided that the aforementioned shall also apply in respect of the ex-officio investigations initiated by the Commission for infringements of sections 3 and/or 6 of this Law and of Articles 101 TFEU and/or 102 TFEU:

6(b) of  
41(I)/2014.

Provided further that the persons referred to in paragraph (a) shall withdraw before the opening of session of the Commission for the taking of decision.

(5) A reasonable, under the circumstances, time-limit shall be set to the persons summoned as hereinabove mentioned, which may be justifiably extended.

(6) The Commission shall grant every possible opportunity to the persons present before it, to submit written observations on the objections raised to their detriment and, to this effect, a reasonable time-limit shall be set, which may be justifiably extended. The Commission shall not be bound to take into account written observations, submitted after the expiration of the set time-limit:

6(c) of  
41(I)/2014.

Provided that the persons present before it, upon submission of written observations shall clearly indicate any confidential information and/ or business secrets.

(7) Where the undertaking or association of undertakings, on which the statement of objections was served, omits and/or refuses to submit any written observations in respect of the objections raised against it within the time-limit set, the Commission may proceed to the issue of a decision for the alleged infringements included in the statement of objections.

(8) The aforementioned persons summoned shall be entitled, within the context of their written observations submitted by them relating to their case, to request development of their arguments in the context of an oral proceeding before the Commission, whereas the Commission may approve or reject such a request. The Commission may, by its decision, set a time-limit for the development of arguments of the persons summoned in the context of an oral proceeding before it.

(9) As regards the Commission, the following rules shall apply:

- (a) the Commission shall not be bound to communicate to the undertaking or association of undertakings against which the complaint or the ex-officio investigation is turned to, the whole file formed by the Commission on the case; however, it shall, subject to the provisions of section 33, be bound to communicate to it all of those documents of the file on which it intends to base its decision, with the exception of those documents constituting business secrets; or, if those documents are already available to the undertaking or association of undertakings, it must indicate them to the undertaking in writing, so that this undertaking or association of undertakings be informed in due course of all the documents that shall be used by the Commission as evidence;
- (b) the Commission shall not be allowed to base its decision on a document that has not been communicated or indicated to the undertaking or association of undertakings against which the complaint or the ex-officio investigation is turned to, according to paragraph (a);
- (c) during the proceedings before the Commission, if the Commission intends to base its decision on a document that it has not communicated or indicated to the undertaking or association of undertakings against which the complaint or the ex-officio investigation is turned to, according to paragraph (a), the Commission shall be bound to communicate the said document to the said

undertaking or association of undertakings and shall grant to it reasonable time to examine the said document;

158(I) of 1999.

- (d) subject to the provisions of this Law and the provisions of the General Principles of Administrative Law, Law of 1999, the internal Rule governing the works of the Commission shall be determined by the Commission itself.

Decisions of the Commission.

**18.**–(1) Subject to the provisions of section 33, the decisions of the Commission, duly reasoned, shall be communicated to every undertaking or association of undertakings concerned and shall be published in the Official Gazette of the Republic.

(2) The decisions of the Commission shall take effect from the date of their communication. A defective communication or publication shall not affect the validity of the decision.

#### **PART IV**

### **SERVICE OF THE COMMISSION FOR THE PROTECTION OF COMPETITION**

Service of the Commission.

**19.**–(1) The Service of the Commission shall have the staff, operation and competences determined by or under this Law.

(2) The members of the staff of the Service shall be members of the Public Service and shall be appointed as provided for in the Public Service Law, including the Director of the Service. The Director of the Service shall designate a member of the staff of the Service to be the Secretary of the Commission.

1 of 1990  
71 of 1991  
211 of 1991  
27(I) of 1994  
83(I) of 1995  
60(I) of 1996  
109(I) of 1996  
69(I) of 2000  
156(I) of 2000



4(l) of 2001  
94(l) of 2003  
128(l) of 2003  
183(l) of 2003  
31(l) of 2004  
68(l) of 2005  
79(l) of 2005  
105(l) of 2005  
96(l) of 2006  
107(l) of 2008  
137(l) of 2009  
194(l) of 2011  
78(l) of 2013  
7(l) of 2014  
27(l) of 2014.

7(a) of  
41(l)/2014.

Notwithstanding the provisions of the Public Service Law, in case of abolition of the Service, the members of its staff shall be placed among the personnel of the Ministry of Energy, Commerce, Industry and Tourism or any other Ministry or independent authority, without any change in their conditions of service, being understood that their duties may be differentiated.

207 of 1989\*  
111(l) of 1999  
87(l) of 2000  
155(l) of 2000.

(3) Persons who, on the date of the entry into force of this Law, are members of the Service provided for in section 15A(1) of the Protection of Competition Laws, 1989 to (No. 2) 2000, shall serve in the Service provided for in subsection (1) of this section, as from the aforementioned date, without their conditions of service, seniority, appointment or promotion or their retirement benefits being affected.

7(b) of  
41(l)/2014.

(4) The members of the staff of the Service shall, be allowed to be present in the meetings and/or the proceedings before the Commission, including the consultations of the Commission, for the taking of decision, and to inform and/or express their opinion to the Commission on issues entrusted to them, while their presence shall not affect the validity of the decisions of the

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\* The Protection of Competition Law , 1989 (L. 207/1989, as amended) was repealed and replaced by The Protection of Competition Law, 2008 ( L.13(l)/2008)

Commission.

(5) Subject to subsection (6), the Director of the Service shall be the head of the administration and shall be responsible for the Service.

(6) The Chairman shall be the competent authority for the purposes of the Public Service Law, who shall usually act through the Director of the Service.

7(c)of  
41(l)/2014.

(7) The Secretary of the Commission shall be present in the meetings and/or the proceedings before the Commission and keep the minutes.

Competences  
of the Service.

**20.**–(1) The competences of the Service shall be–

- (a) to carry out the secretarial work of the Commission;
- (b) to keep the Registers referred to in section 22;
- (c) to collect and examine the information necessary for the exercise of the competences, powers and duties of the Commission in accordance with this Law;
- (d) to introduce complaints and submit recommendations to the Commission;
- (e) to make the necessary communications and publications in accordance with this Law;
- (f) to grant to the Commission every possible facilitation in order to fulfil its competences, powers and duties.

Provision of  
information to the  
Minister on  
consumers  
protection.  
8(a)of

**21.** If during or as a result of the investigation by the Commission of a case concerning possible infringement of sections 3 and/or 6, and/or Articles 101 TFEU and/or 102

41(I)/2014.  
8(a) of  
41(I)/2014.

TFEU either on a complaint or ex officio, and/or investigation in sectors of the economy or types of agreements pursuant to section 32A, it is ascertained or there is a reasonable suspicion for possible infringement of the law relating to consumers protection, the Commission shall inform the Minister, through the Service, in writing, as it may deem expedient.

Keeping of  
Registers.

**22.**–(1) The Service shall be responsible for the keeping of a Register of Complaints and Ex-Officio Investigations of the Commission, in which all the complaints submitted according to section 35 and all the ex-officio investigations of the Commission shall be recorded.

(2) The Service shall be responsible for the keeping of a Register of Decisions on collusions or practices, in which there shall be registered–

9(a) of  
41(I)/2014.

(a) the decisions of the Commission on matters pertaining to the provisions of sections 3 and/or 6 of this Law and/or Articles 101 TFEU and/or 102 TFEU.

(b) the decisions of the Supreme Court on the same matters.

9(b) of  
41(I)/2014.  
9(c) of  
41(I)/2014.

(3) The Registers kept under this section shall be public, subject to the obligation of safeguarding business secrets and/or confidential information of the undertakings and/or of the persons who submitted a complaint pursuant to section 35.

## PART V

### COMPETENCES OF THE COMMISSION AND APPLICATION OF THE COMPETITION LAW

Competences of  
the Commission.

10(a) of  
41(I)/2014.

**23.**–(1) The Commission shall constitute the Competition Authority of the Republic for the implementation of Articles 101 TFEU and/or 102 TFEU, according to Article 5 of Regulation (EC) No. 1/2003.

(2) Subject to the provisions of Regulation (EC) No. 1/2003, the Commission shall have the following competences:

- (a) to investigate and decide regarding infringements of sections 3 and/or 6, either on its own initiative or on a complaint;
- (b) to decide whether the illegal collusions of subsection (1) of section 3 fulfil the conditions provided for in subsection (1) of section 4;
- (c) to decide whether a collusion, in respect of which an Order made by virtue of subsection (1) of section 5 is being invoked, falls within a category of collusions for which the said Order declares section 3 inapplicable;
- (d) to decide whether a collusion, in respect of which a European Union Regulation by virtue of subsection (2) of section 5 is being invoked, falls within the category of collusions regulated by the European Union Regulation in the context of European Union competition law;
- (e) to decide whether a collusion or undertaking does not fulfil the conditions provided for in subsection (1) of section 7;

10(b) of  
41(I)/2014.

10(c) of  
41(I)/2014.

(f) to investigate and decide regarding infringements of Articles 101 TFEU and/or 102 TFEU, either on a complaint or on its own initiative or as otherwise determined by Regulation (EC) No. 1/2003;

10(d) of  
41(I)/2014.

(g) to decide whether the collusions falling within the provisions of paragraph 1 of Article 101 TFEU may be allowed and considered valid, as defined in paragraph 3 of Article 101 TFEU or pursuant to European Union secondary legislation for the application of paragraph 3 of Article 101 TFEU in a category of collusions;

10(e) of  
41(I)/ 2014.

(h) to impose administrative fines and administrative sanctions, as defined in the provisions of this Law and/or the regulations made thereunder;

(i) to decide upon the taking of interim measures in cases provided for in section 28;

(j) applying Article 29 of Regulation (EC) No. 1/2003, to withdraw the benefit of the application of an exemption Regulation issued by the European Commission in respect of a specific collusion, when the distinct geographic market is the Cyprus market;

(k) to publish announcements for the information of any party interested in the issues within its competence;

(l) to submit an opinion on issues within its competence to any public entity:

Provided that the opinion submitted shall not bind the Commission as to the context of a subsequent decision, nor does it affect the

10(f) of  
41(I)/2014.

validity of such a decision;

- (m) To decide on undertaking of commitments pursuant to section 25;
- (n) to take statements pursuant to section 30A of this Law;
- (o) to conduct investigation in a specific sector of the economy or in specific types of agreements pursuant to section 32A of this Law;
- (p) to set, by a decision, the criteria for examination of cases in priority, for infringements of sections 3 and/or 6 and/or Articles 101 TFEU and/or Article 102 TFEU pursuant to article 23A of this Law and to examine cases based on these priority criteria;
- (q) any other competences granted to it by this Law or the regulations made thereunder.

10(g) of  
41(I)/2014.

(3) Notwithstanding the provisions of any other law or secondary legislation, but without prejudice to the European Union law or any law or secondary legislation aiming at the harmonization with the European Union law, the Commission may–

- (a) obtain services directly on issues relating to the exercise of its competences and powers pursuant to this Law and the execution of its duties or the training of the staff of the Service to this effect, and
- (b) enter into contracts of services, for the aforementioned reasons, according to a

procedure determined by the same.

Setting  
criteria for the  
examination  
of complaints  
in priority.  
11 of  
41(I)/2014.

**23A.**-(1) The Commission, by a decision published in the Official Gazette of the Republic, notifies of the criteria to be taken into consideration in order to determine the priority for examination of cases concerning infringements of sections 3 and/or 6 of the Law and/or Articles 101 TFEU and/or 102 TFEU.

(2) The decision of the Commission pursuant to subsection (1), shall be issued, following public consultation, taking into account the public interest, the possible effect on competition and/or consumers and the limitation periods as defined in section 41.

(3) The Commission may amend its decision issued pursuant to subsection (1), whenever it deems necessary, and, in any case, within three (3) years from publication of the decision.

Cooperation with  
other Authorities.  
11 of  
41(I)/2014.

**23B.**-(1) The Commission may cooperate with regulatory or other Authorities that exercise control in specific sectors of the economy of the Republic and offers its assistance, upon their request.

(2) The Commission may request the assistance of the above regulatory or other authorities, when exercising its powers under section 23 of this Law.

(3) The Commission may conclude Memoranda of Cooperation with other National Competition Authorities.

Competences of  
the Commission  
upon finding  
infringements of  
sections 3 and/or

**24.** For every infringement of sections 3 and/or 6 and or Article 101 TFEU and/or 102 TFEU committed by

6.  
12(a)of  
41(I)/2014.

undertakings or associations of undertakings, the Commission may, by its decision, take the following measures:

12(b)of  
41(I)/2014.

(a) to impose administrative fines, according to the gravity and duration of the infringement–

(i) not exceeding ten per cent of the total turnover of the undertaking, or

(ii) not exceeding ten per cent of the sum of the total turnover of every undertaking which is a member of the infringing association of undertakings,

12(c)of  
41(I)/2014.

where the turnover corresponds to the preceding financial year:

Provided that the Commission may exempt and/or reduce the amount of the administrative fine which would have been imposed on an undertaking or association of undertakings, according to the criteria and conditions of section 46, if the said undertaking or association of undertakings co-operates and/or gives such assistance or proof which will assist the Commission to prove the infringement;

(b) to force the undertakings or associations of undertakings concerned, to bring to an end within a fixed time-limit the infringement ascertained and avoid any repetition of it in the future; in case the infringement is brought to an end before the issuing of the decision of the Commission, the Commission may condemn the infringement by a declaratory decision;

(c) to impose any terms and measures whether



12(d)of  
41(l)/2014.

behavioural and/or structural, depending on the infringement ascertained, which are necessary for the bringing to an end of the said infringement;

12(e)of  
41(l)/2014.

(d) in case that the undertakings or associations of undertakings concerned do not comply with the Commission's decision issued pursuant to paragraphs (b) and (c) above, the Commission may impose an administrative fine up to five per cent (5%) of the average daily turnover during the preceding financial year for each day during which the infringement continues;

12(f)of  
41(l)/2014.

(e) *(deleted)*;

12(f)of  
41(l)/2014.

(f) *(deleted)*.

Undertaking of  
commitments.  
13 of  
41(l)/2014.

**25(1)-** In case the Commission intends to issue a decision demanding that an infringement of the provisions in sections 3 and/or 6 of the Law and/or Articles 101TFEU and/or 102 TFEU be brought to an end, and the undertakings or associations of undertakings concerned offer to undertake commitments to meet with the Commission's concerns in its preliminary assessment, the Commission may, by a decision, make these commitments binding on the undertakings or associations of undertakings concerned. The Commission's decision may be issued for a specified period and has to conclude that there are no longer grounds for further action.

(2) In case where the undertakings or associations of undertakings concerned, do not comply with the commitments they undertook to comply with, and which have been deemed binding according to the Commission's

decision pursuant to subsection (1), the Commission may impose an administrative fine of up to ten per cent (10%) on the turnover of the preceding financial year.

Nature of proceedings.

**26.** The proceedings before the Commission, in the exercise of its competences and powers, as defined in sections 23 to 25, shall be of an examining and/or exploratory nature and the Commission may submit questions, request clarifications and explanations from the parties concerned, order the adducing of evidence, call witnesses and determine matters in contestation for the better carrying out of the provisions of this Law.

Revocation or amendment of a decision of the Commission.  
14(a) of 41(I)/2014.

**27.** The Commission may, upon request or on its own initiative, revoke or amend its decision issued pursuant to sections 24 or 25 or 28–

- (a) if a substantial real event on which its decision was based, has changed;
- (b) if the terms imposed by the decision of the Commission were not observed;
- (c) if the decision is due to the Commission being misled by the provision of inaccurate, false, incomplete or misleading information or the concealing of accurate;
- (d) if the undertakings or associations of undertakings concerned, omit and/or refuse to comply with the measures imposed by the Commission in its decision taken.

14(b) of 41(I)/2014.

Interim measures.

**28.–(1)** The Commission may order the taking of interim measures and impose such terms which under the circumstances deems necessary. Such measures, whether

mandatory or prohibitory, must be of temporary and conservative nature and their extent must not exceed what is absolutely necessary under the circumstances.

(2) The Commission shall, according to this section, either act on its own initiative or on the application of the interested parties, which application may be submitted either *ex parte* or by service of a summons on all the undertakings or associations of undertakings concerned, as long as the following circumstances concur:

- 15(a) of 41(I)/2014 (a) a reasonably strong *prima facie* case of infringement of section 3 and/or 6 of this Law and/or Articles 101 TFEU and/or 102 TFEU, is made out;
- 15(b) of 41(I)/2014. (b) it is a case of urgency due to the serious risk of irreparable damage on competition.
- 15(c) of 41(I)/2014. (c) (*deleted*)

(3) Any interested party may, by an *ex parte* application, apply for the taking of interim measures. The application shall be accepted only as long as it is accompanied by a complaint made as defined in section 35 or follows the complaint or as long as it is lodged during the proceedings before the Commission for infringement of section 3 and/or 6 of this Law and/or Articles 101 TFEU and/or 102 TFEU. The application shall be accepted as long as in the application the required interim measures are prescribed and the applicant pays, upon request of the Commission, a guarantee for damages that may be caused to the undertaking or association of undertakings against which the interim measures are ordered in case no infringement is found.

15(d) of 41(I)/2014.

15(e) of  
41(I)/2014.

(4) The Commission may impose on the undertaking or association of undertakings concerned, an administrative fine up to five per cent (5%) on the average daily turnover of the preceding financial year for each day during which it omits to fully comply with a decision of the Commission on the taking of interim measures as defined in this section.

15(f) of  
41(I)/2014.

(5) In case where the interested undertakings or associations of undertakings act in a way which is contrary to the decision issued pursuant to subsection (1), the Commission may impose an administrative fine of up to five per cent (5%) of the turnover of the preceding financial year.

Advisory  
Committee on  
Restrictive  
Practices and  
Dominant  
Positions.

**29.** The Commission shall participate in the meetings of the Advisory Committee on Restrictive Practices and Dominant Positions, as defined in Regulation (EC) No. 1/2003, with a member of the Commission or of the staff of the Service, designated by the Commission.

## PART VI

16 of  
41(I)/2014.

### COMMISSION'S POWERS FOR INVESTIGATION

Commission's  
powers to collect  
information.

**30.**—(1) The Commission may collect information that is necessary for the exercise of its competences, powers and duties under this Law, both on its behalf as well as on behalf of other Competition Authorities, by addressing to that effect a written request to undertakings, associations of undertakings or other natural person or public or private entity.

17(a) of  
41(I)/2014.

(2) When sending a request, the Commission shall specify the required information, the provisions of this Law or of the Regulation (EC) No. 1/2003 on which the request is based, the reasoning of the request, a reasonable time-limit

fixed for the provision of information which may not be less than twenty days and the possible sanctions in the event of non compliance with the above obligation for the provision of information.

17(b) of  
41(l)/2014.

(3) The person, the undertaking or the association of undertakings, the public or private entity to whom the request by the Commission is addressed to, shall be bound to provide, in due course, in full and accurately, the required information within the time-limit fixed:

Provided that public entities may deny to provide the information requested in case where it is contrary to a provision of the European Union or law or secondary legislation, which aims at the harmonization with European Union Law.

17(c) of  
41(l)/2014

(4) Where the reply and/or the information provided by the person, the undertaking, the association of undertakings, the public or private entity, to whom the request is addressed, are incomplete, ambiguous or need further clarifications and/or investigation, the Commission may submit a new request addressed to the said person, undertaking, association or undertakings, the public or private entity in order to obtain all the information required and/or clarifications and/or explanations necessary. In the said request, there shall be specified a time-limit for the provision of this information and/or clarifications which may not be less than seven (7) days, as well as the possible sanctions in the event of non compliance with the above obligation.

(5) In case of submission of a request pursuant to subsection (2) or (4)–

- (a) all the members of the managerial or administrative board or committee arranging the affairs of the legal person,
- (b) the general manager or director or managing director of the legal person, and
- (c) the persons who, according to the law or articles of association, are authorized to represent companies or associations having no legal personality,

shall be bound to provide, in full and accurately, all the information required on behalf of the person, the undertaking or association of undertakings concerned, within the fixed time-limit.

(6) Lawyers duly authorized, may supply on behalf of their clients all the information required:

Provided that the natural and legal persons who are obliged to provide information by virtue of subsections (1) to (5) shall remain fully responsible for the full and in a timely manner provision of the said information.

(7) In case—

17(d) of  
41(I)/2014.

- (a) of omission to provide the required information within the time limit fixed; or/and
- (b) of intentional or negligent provision of false, incomplete, inaccurate or misleading information,

17(e) of  
41(I)/2014.

the Commission may impose on an undertaking, association of undertakings, natural or legal persons or private entities, an administrative fine of up to 1 per cent (1%) of their

turnover in the preceding financial year.

17(f) of  
41(I)/2014.  
17(g) of  
41(I)/2014.

(8) In case of omission to provide the required information within the time-limit fixed, the Commission may additionally impose on an undertaking, association of undertakings, natural or legal persons or private entities an administrative fine up to five per cent (5%) of the average daily turnover during the preceding financial year for each day during which the infringement continues.

17(h) of  
41(I)/2014.

(9) The information provided to the Commission in the exercise of its functions under this section may be used only for the purpose for which the information was required, with the exemption of those cases where this proves necessary for the application of the European Union competition law.

17(i) of  
41(I)/2014.

(10) The person, the undertaking or the association of undertakings, the public or private entity to whom the request is addressed, with the provision of the information requested, indicates documents, statements and any material it considers to contain confidential information and/or business secrets justifying its opinion, and provides a separate, non-confidential version within the time limit set by the Commission for notification of his/her opinion:

Provided that the person, the undertaking or the association of undertakings, or the private entity does not exercise its right conferred to it by this subsection, the Commission may consider that the relevant documents, statements and the rest of the material do not contain confidential data and/or confidential information.

Power to take  
Statements.  
18 of  
41(I)/2014 .

**30A.**-(1) The Commission may, in the exercise of its competences, powers and duties under this Law, conduct interviews with every natural or legal person that consents to

it, in order to take statements regarding the subject of the investigation that is conducting.

(2) The relevant interview may be conducted with all available means; the Commission may register, in any form, the statements it takes from the interviewees, provided it informs them accordingly.

(3) Before the interview starts, the Commission notifies the intended interviewee, of the legal basis and the purpose of the interview, reminds him of its consensual nature and informs that that the interview is recorded.

(4) A copy of the recorded interview is available to the interviewee, who signs it after approving it.

Commission's powers of inspection.

**31.**–(1) The Commission may, in the exercise of its competences, powers and duties under this Law, conduct all necessary inspections of undertakings or associations of undertakings and for this purpose –

19(a) of 41(l) /2014.

(a) enter any office, premises, land and means of transport of undertakings and associations of undertakings, as well as in any other business premise with the exemption of residences;

(b) examine the records, books, accounts, and other records related to the business, irrespective of the medium on which they are stored;

19(b) of 41(l) /2014.

(c) take or acquire, in any form, a copy or an extract form the records, books, accounts and any other document of business activity, irrespective of the medium in which they are stored, and wherever these are kept.



- (d) seal any business premises and records, books, accounts and other business records, for the period and to the extent necessary for the inspection;
- (e) ask any representative or member of staff of the undertaking or association of undertakings, for explanations on facts or documents relating to the subject-matter and purpose of the inspection and record the answers.

(2) Inspections under subsection (1) shall be conducted and the relevant powers shall be exercised by competent officers of the Service at the request of the Commission. If deemed necessary by the Commission, the said officers shall be accompanied by other officers, namely public officers and/or officers of the wider public sector, and/or persons with special knowledge who may be employed by the Commission.

(3) The Commission's request shall be in writing and shall accurately specify the subject - matter and purpose of the inspection, fix the date on which it is to begin, the provision on which this power of the Commission is based and the possible sanctions where the undertaking or association of undertakings refuses to comply with the Commission's request.

(4) Inspections shall be conducted without prior notification of the undertaking or association of undertakings concerned, unless the Commission deems that notification will assist the inquiry.

(5) The undertaking or association of undertakings in which the inspection is conducted may consult its lawyer

during the inspection, but his presence is not legally required for the validity of the inspection and/or defence for non and/or defective compliance with the Commission's request.

(6) The Commission, where appropriate, shall request the assistance of the Police so as to become capable to exercise its powers according to the provisions of this section.

19(c) of  
41(l) /2014.

(7) The Commission may impose on an undertaking or association of undertakings an administrative fine up to one per cent (1%) of the turnover of the preceding financial year, where, either intentionally or negligently it produces the required records, books, accounts or other business records in incomplete or falsified manner or where the undertaking or association of undertakings refuses to comply with the Commission's request for inspection.

19(d) of  
41(l) /2014.

(8) The Commission may additionally impose on the undertaking or association of undertakings concerned, an administrative fine up to five per cent (5%) of the average daily turnover during the preceding financial year for each day it omits to comply with an order of the Commission to conduct an inspection according to this section.

19(e) of  
41(l) /2014.

(9) The information received by the Commission in the exercise of its competences under this section may be used only for the purpose for which the inspection is allowed, with the exemption of those cases where this proves necessary for the application of the European Union competition law.

(10) Every undertaking or association of undertakings which is subject to an inspection pursuant to this section and every person to whom questions are submitted or from

whom explanations are requested pursuant to paragraph (e) of subsection (1), shall have the obligation to provide the investigating officer, as long as the latter reasonably demands, with–

- (a) any facilitation,
- (b) any information, and
- (c) any declaration on whether the information he provides to the investigating officer is true,

whereas the investigating officer may demand and receive such facilitation, information and declaration.

(11) Any person commits a criminal offence, who–

- (a) refuses or omits to comply with an obligation imposed on him by subsection (10); or
- (b) conceals, destroys or falsifies an information, record, book, account or other record related to the business, which is the subject of an inspection pursuant to this Law, or provides the Commission or its investigating officer, false, incomplete, inaccurate or misleading information, declaration, record, book, account or other record related to the business, or refuses or omits to provide the Commission or its investigating officer information, declaration, record, book, account or other record related to the business required in the exercise of the powers granted by this Law,

and shall be subject to a sentence of imprisonment not exceeding one year or to a fine not exceeding eighty-five thousand euros or to both such penalties.

(12) In case of prosecution for an offence pursuant to

subsection (11)–

- (a) in relation to refusal or omission to comply with an obligation imposed by virtue of subsection (10), it shall be a defence for the accused if he proves that he had reasonable cause for the said refusal or omission;
- (b) in relation to the provision of false, incomplete, inaccurate or misleading information, declaration, book, account or other business record, it shall be a defence for the accused if he proves that he provided the information, declaration, record, book, account or other business record in good faith and without knowing that it was false, incomplete, inaccurate or misleading.

On the spot inspections of other premises.

**32.–(1)** The conduct of an inspection in any premises, land and means of transport other than the one provided for in section 31 or in residences shall not be allowed except upon the issue of a duly reasoned judicial warrant.

20(a) of 41(I)/2014

(2) The Commission may apply to the Court to issue a warrant, ordering the conduct of an inspection, as long as there are reasonable suspicions that in that place there are records, accounts, books, other records related to the business or other particulars relating to the investigation of the case.

20(b) of 41(I)/2014

(3) The Court shall issue a warrant, allowing the Commission to exercise, mutatis mutandis, the powers referred to in paragraphs (a), (b), (c), (d) and (e) of subsection 1 section 31, when conducting inspections in

residences or any other premises, land and means of transport. The above warrant above, is issued if the Court is satisfied that the application submitted according to subsection (2) is justified by the facts.

(4) The procedure of submission and hearing of the application shall be governed by a rule of court made by the Supreme Court, but until the making of such rule, the application should be supported by an affidavit of an authorized officer.

(5) Every search warrant shall be under the hand of a Judge issuing the same, shall bear the date and time of issue, as well as a declaration of the Judge that he has been justifiably satisfied on the need for the issue of the said warrant.

20 (c) of  
41(I)/2014

(6) Subsections (2), (4), (5), (6), (9) and (10) of section 31 are also applied, mutatis mutandis, in case of inspections pursuant to this section.

Power to  
conduct  
investigations in  
sectors of the  
economy or  
types of  
agreement.  
21 of  
41(I)/2014.

**32.A.-** (1) Subject to the provisions of sections 30, 30A and 31, the Commission may, when the trend of trade, the rigidity of prices or other circumstances create suspicion that competition may be restricted or distorted in the Republic, conduct inquiry in a particular sector of the economy or in particular types of agreements in several sectors.

(2) The Commission may request the information necessary for the application of sections 3 and/or 6 and/or Articles 101 TFEU and/or 102 TFEU, as well as conduct any inspection to this effect. The Commission may, in particular, request the undertakings or associations of undertakings to communicate to it any agreements, decision or concerted

practice.

(3) The Commission may publish a report on the results of its inquiry into particular sectors of the economy or particular types of agreement in several sectors.

(4) The Commission may use the evidence, resulting from the inquiry, in cases of investigation of possible infringements of sections 3 and/or 6 and/or Articles 101 TFEU and/or 102 TFEU.

Duty to secrecy for the protection of business secrets and confidential information.

**33.**—(1) The Chairman, the other members and the substitute members of the Commission, the persons working under the supervision of the Commission, the staff of the Service and other public officers who by reason of their post or in the performance of their official duties obtain information on business secrets and information of a confidential nature, shall have a duty to secrecy and shall be bound not to communicate and/or publicize such information, except in so far as this proves necessary—

(a) to prove an infringement of sections 3 and/or 6 of this Law and/or Articles 101 TFEU and/or 102 TFEU;

(b) to implement the provisions of this Law.

(2) The same duty to secrecy shall be also owed by any other natural or legal person who obtains such information in the application of this Law according to the proceedings provided for in this Law.

(3) Without prejudice to section 38, violation of the duty to secrecy under this section shall constitute, in the case of public officers, a serious disciplinary offence punishable in

accordance with the relevant disciplinary provisions.

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41(I)/2014

(4) Nothing in this Law shall prevent the communication and/or publication of information for the purposes of applying the European Union competition law.

## PART VII COMMUNICATION OF INFORMATION AND COMPLAINT OF INFRINGEMENTS

Duty of public officers to communicate information.

**34.**–(1) It shall be the duty of the officers of the Competition and Consumers’ Protection Service of the Ministry of Commerce, Industry and Tourism to communicate forthwith to the Commission any possible infringements of this Law which come to their knowledge by reason of their post or in the performance of their official duties.

(2) The communication under subsection (1) shall be deemed to be proper performance of official duty within the meaning of the Public Service Law, whereas an omission thereof shall constitute a disciplinary offence punishable in accordance with the relevant disciplinary provisions.

Complaint of infringements of sections 3 and/or 6 of this Law and/or Articles 101 TFEU and/or 102 TFEU. 23 (a) of 41(I)/2014. 23 (b) of 41(I)/2014.

**35.**–(1) Any natural or legal person who has a legitimate interest to this effect, shall be entitled to lodge a complaint of infringement of the provisions of section 3 and/or 6 of this Law and/or Articles 101 TFEU and/or 102 TFEU.

(2) A person has a legitimate interest if he can prove that he has suffered or there is a serious or possible risk that he will suffer a substantial financial injury or that he will or there is a serious or possible risk that he will be placed at a disadvantage regarding competition, as a direct result of the

infringement.

Annex.

(3) The complaint shall be lodged in writing to the Commission and shall be signed by the complainant or the legal adviser or an authorized representative of the complainant. The said complaint shall include all the information referred to in the Annex to this Law, so as the Commission to be in a position to investigate the complaint lodged. Where the complaint does not include all the information of the Annex, the Commission may nevertheless accept it, if it deems that the information submitted is satisfactory for the investigation of the complaint lodged:

23 (c) of  
41(I)/2014

Provided that, where a complaint concerns an act, omission or behavior which is provident that it does not fall within the Commission's competence pursuant to the provisions of this Law, the Commission informs the person who submitted the complaint accordingly:

Provided further that, where a complaint concerns an act, omission or behavior which does not fall within the Commission's priorities, pursuant to the provisions of section 23A, the Commission informs the person who submitted the complaint accordingly.

(4) Upon the lodging of the complaint, the Commission shall instruct the Service on the conduct of a preliminary investigation of the suspected infringement referred to in the complaint.

(5) If, following the preliminary investigation of the Service, the Commission ascertains that the complaint lodged does not fall within the scope of application of this Law and/or that there is not a reasonable ground for suspected infringement of sections 3 and/or 6 of this Law



23 (d) of  
41(l)/2014

and/or Articles 101 TFEU and/or 102 TFEU, based on the information before it, then the Commission shall issue a relevant decision.

(6) Where the Commission, after a proper preliminary investigation conducted by the Service, ascertains that a *prima facie* case for the infringement mentioned in the complaint is made out, section 17 shall apply.

## PART VIII CRIMINAL PROVISIONS

Omission to  
comply with a  
decision of the  
Commission.

**36.** Any person who omits to comply with or acts in contravention of a decision of the Commission issued pursuant to any of sections 23 to 25, shall commit a criminal offence punishable with a sentence of imprisonment not exceeding two years or with a fine not exceeding three hundred forty thousand euros or with both such penalties.

Omission to  
comply with a  
decision of the  
Commission for  
the taking of  
interim  
measures.

**37.** Any person who omits to comply with or acts in contravention of a decision of the Commission issued pursuant to section 28, ordering the taking of interim measures, shall commit a criminal offence punishable with a sentence of imprisonment not exceeding two years or with a fine not exceeding three hundred forty thousand euros or with both such penalties.

Criminal offence  
for contravening  
the duty to  
secrecy.

**38.** Any person who contravenes the duty to secrecy imposed on him by section 33, shall commit a criminal offence punishable with imprisonment not exceeding one year or with a fine not exceeding three thousand five hundred euros or with both such penalties.

Liability of legal  
persons.

**39.-(1)** Where, pursuant to the provisions of this Law

and/or the regulations made thereunder, a legal person commits a criminal offence, for the offence, there shall be liable besides the legal person itself–

- (a) all the members of the managerial or administrative board or committee arranging the affairs of the legal person, and
- (b) the general manager or director or managing director of the legal person,

and the prosecution for the offence may be turned against the legal person and against all or any of the above persons.

(2) Where an act or omission of a legal person causes, pursuant to the provisions of this Law and/or the regulations made thereunder, the imposition of an administrative fine by the Commission, for this act or omission and for the payment of the said administrative fine, there shall be liable besides the legal persons themselves, the persons referred to in paragraphs (a) and (b) of subsection (1).

## **PART IX**

### **ACTION FOR DAMAGES, ADMINISTRATIVE FINES**

Action for damages.

24(a) of  
41(I)/ 2014  
24(b) of  
41(I)/ 2014

**40.**–(1) In case of an action for damages brought by any person who has suffered loss and/or financial injury from any acts or omissions of an undertaking or associations of undertakings done in contravention of sections 3 and/or 6 of this Law and/or Articles 101 TFEU and/or 102 TFEU, an irrevocable decision of the Commission or of other Competition Authority or of the European Commission, ascertaining the said infringement shall constitute a rebuttable presumption about the truth of its context.

(2) The person who has suffered any damage under

24(c) of  
41(l)/ 2014

subsection (1) shall have the right to apply to the Court for making an injunction in order to obstruct the continuance of the infringement of sections 3 and/or 6 of this Law and or Articles 101 TFEU and/or 102 TFEU.

Limitation period  
for the imposition  
of administrative  
fines by the  
Commission.  
25 of  
41(l)/ 2014

**41.**—(1) The Commission shall be deprived of its power to impose administrative fines for infringements of the provisions of this Law and/or of the European Union competition law, unless it exercises its power within the following limitation periods:

- (a) within three (3) years in the case of infringements of provisions concerning requests for information or the conduct of inspections, according to the provisions of sections 30, 31 and 32 A.
- (b) within five (5) years, in the case of all other infringements.

(2) Time shall begin to run on the day on which the infringement is committed, whereas in the case of continuing or repeated infringement time shall begin to run on the day on which the infringement ceases.

(3) The limitation period shall be interrupted by any act of the Commission, aiming at the conduct of preliminary investigation or at the examination of a possible infringement of this Law. These acts mainly include-

- (a) initiation of examination procedure on behalf of the Commission, pursuant to subsection (1) section 17;
- (b) written request by the Commission to provide

information, pursuant to subsection (1), section 30;

(c) written order by the Commission for inspection, pursuant to section 31;

(d) written order by the Commission for inspection pursuant to subsection (2) section 32A.

(4) The limitation period shall re-commence, from the beginning, after every interruption.

(5) The limitation period for the imposition of administrative fines shall be suspended for as long as the Commission's decision is the subject of an ongoing procedure before the Supreme Court.

Procedure for the imposition of administrative fines by the Commission. 26(a) of 41(I)/2014

**42.**–(1) The administrative fines for infringements of the provisions of this Law and/or articles 101 TFEU and/or 102 TFEU are imposed by the Commission, in a fully reasoned decision, following the conduct of a proper investigation and taking into consideration the gravity and the duration of the infringement in each case.

(2) Before the imposition of an administrative fine, the Commission shall inform the undertaking or association of undertakings or person affected, on its intention to impose the administrative fine, informing the said undertaking or association of undertakings or person, on the reasons for which it intends to act in this way, and granting the said undertaking or association of undertakings or person the right to submit objections, within a strictly limited period of thirty days.

Taking of judicial measures for collecting the administrative fines imposed by the Commission In accordance with this Law.

**43.** In case of an omission to pay the administrative fines imposed by the Commission in accordance with this Law, the Commission shall take judicial measures and shall collect the amount due as a civil debt owed to the Republic.

Imposition of an administrative fine on an association of undertakings.

**44.**—(1) When an administrative fine is imposed on an association of undertakings taking account of the turnover of its members and the association is not solvent, the association shall be obliged to call for contributions from its members to cover the amount of the administrative fine.

(2) Where such contributions have not been made to the association within a time-limit fixed by the Commission, the Commission may require payment of the administrative fine directly by any of the undertakings whose representatives were members of the decision-making bodies involved of the association of undertakings.

(3) After the Commission has required payment under subsection (2), where necessary to ensure full payment of the administrative fine, it may require payment of the balance from any of the members of the association of undertakings which were active on the market on which the infringement occurred.

(4) The Commission shall not require payment under subsections (2) and (3) from undertakings which show that they have not implemented the infringing decision of the association of undertakings and either were not aware of its existence or have actively distanced themselves from it before the Commission started investigating the case.

(5) The financial liability of each undertaking, in respect of the payment of the administrative fine imposed on the

27 of  
41(1)/2014.

association of undertakings of which the undertaking is a member, shall not exceed ten per cent of the total turnover of this undertaking according to paragraph (a) of section 24 for every infringement of sections 3 and/or 6 and/or Articles 101 TFEU and/or 102 TFEU.

Summons before  
the Commission.

**45.** The summons of undertakings or associations of undertakings or any other person before the Commission, provided for in this Law, shall be made—

- (a) by the dispatch of a double-registered letter to the principal place of business of the undertaking, the association of undertakings or the person summoned,
- (b) through fax or any other electronic way to the principal place of business of the undertaking, the association of undertakings or the person summoned, or
- (c) by hand delivery to a director, or official or authorized person of the undertaking, the association of undertakings or the person summoned, irrespective of the place he was found.

## **PART X**

### **MISCELLANEOUS PROVISIONS**

Regulations.

**46.**—(1) The Council of Ministers may make regulations, to be published in the Official Gazette of the Republic, for prescribing any matter which under this Law requires to be or may be prescribed.

(2) Without prejudice to the generality of subsection (1),

regulations referred to therein may regulate–

- (a) matters relating to the applications for the issue of a certified extract of the Registers kept under section 22;
- (b) the procedure followed before the Commission during the investigation of infringements according to this Law;
- (c) the determination of the way to impose administrative fines, to be released from and/or to reduce administrative fines for infringements according to this Law.

(3) Regulations made pursuant to this section may provide for criminal offences punishable with a fine up to eighty-five thousand euros and the imposition of administrative fines not exceeding eighty-five thousand euros.

(4) Regulations made pursuant to this Law shall come into force from the date of their publication in the Official Gazette of the Republic, unless otherwise therein provided.

(5) The making of regulations pursuant to this section shall not constitute a prerequisite for the application of this Law, whereas until the making of regulations for the determination of a specific matter, the Commission may regulate the said matter by its decision, except for the matters concerning the provision of criminal offences.

Rules of Court.

**47.** The Supreme Court may make rules of court to be published in the Official Gazette of the Republic for the application of the provisions of–

- (a) sections 32 and 40 of this Law and
- (b) Regulation (EC) No. 1/2003 and in particular Articles 15 and 16 thereof.

Report of the activities of the Commission.

**48.** The Commission shall prepare and submit to the Minister and the House of Representatives an annual report of its activities.

Liability of the Chairman, members and substitute members of the Commission, members of the Service and others.

**49.** Subject to the provisions of this Law and the regulations made thereunder, the Chairman, the other four members and the substitute members of the Commission, the members of the staff of the Service and the persons working under the supervision of the Commission, shall have no liability for anything done or omitted to be done or said, or for any opinion stated, or any report or other document prepared in the bona fide exercise of their duties, competences or powers pursuant to this Law and/or the regulations made thereunder.

Application of European Union competition Law, mutatis mutandis. 28(a) of 41(I)/2014. 28(b) of 41(I)/2014.

**50.** When in this Law or regulations or orders made thereunder a matter is not specially regulated, the Court or the Commission, as the case may be, shall apply, mutatis mutandis, the relevant provisions of the European Union competition law.

Minister's Orders. 29(a) of 41(I)/2014

**51.**—(1) The Minister may, following a reasoned opinion of the Commission, by an order published in the Official Gazette of the Republic, amend or replace the Annex of this Law and any Annex of regulations made thereunder.

Annex.

29(b) of 41(I)/2014

(2) The Minister may, by an order published in the Official Gazette of the Republic, prescribe the fees imposed by the Commission for the services rendered by the Commission or its Service.



29(b) of  
41(I)/2014

(b) (*deleted*).

(3) An Order made pursuant to this section shall come into force on the date of its publication in the Official Gazette of the Republic, unless otherwise therein provided.

Repeal.  
207 of 1989  
111 of 1999  
87(I) of 2000  
155(I) of 2000.

**52.**—(1) The Protection of Competition Laws, 1989 to (No.2) 2000 and the Commission for the Protection of Competition formed by them are hereby repealed.

67(I) of 2001.

(2) The Remuneration of the Chairman of the Commission for the Protection of Competition Law, 2001 is hereby repealed.

Transitional  
provisions.

**53.**—(1) Orders and Regulations made by virtue of the Protection of Competition Laws, 1989 to (No.2) 2000 shall, unless incompatible with the provisions of this Law, continue to be in force as if they had been made by virtue of this Law, until amended or repealed.

30(a) of  
41(I)/2014.

(2) (*deleted*)

(2) Where a law other than this Law or a regulatory administrative act or an individual administrative act refers to the Protection of Competition Laws, 1989 to (No.2) 2000, the said reference shall be deemed, mutatis mutandis, to be a reference to this Law.

(3) The procedure for the dispatching of cases, investigation of complaints and ex-officio conduct of investigations, including the procedure for the taking of interim measures, which on the date of the entry into force of this Law are pending before the Commission for the Protection of Competition established by virtue of section 8 of the Protection of Competition Laws, 1989 to (No.2) 2000,

shall be deemed to be pending before the Commission established by virtue of the provisions of this Law.

30(b)of  
41(I)/2014

41(I) of 2014

(4) In cases of infringement of the provisions of the principal law and/or non compliance with a Commission's decision, which were committed before the date of coming into force of the Protection of Competition (Amendment) Law of 2014, regarding the imposition of fines, the provisions of the principal law shall apply.

**ANNEX**  
**(sections 35 and 51)**  
**INFORMATION THAT HAS TO BE INCLUDED WHEN**  
**LODGING A COMPLAINT PURSUANT TO SECTION 35**  
**OF THE PROTECTION OF COMPETITION LAW**

(1) Particulars of the person lodging the complaint

(i) Full name and surname, address (postal and electronic), number of telephone and fax of the person lodging the complaint. In the case of a legal person, full business name must be stated.

(ii) Where the person lodging the complaint is a legal person, the group of companies where it belongs, the holding and/or subsidiary companies thereof must be stated.

(iii) Short description of the nature, scope and professional activities of the person lodging the complaint.

(iv) The relationship between the person lodging the complaint and the undertaking or association of undertakings against which the complaint is lodged must be stated (ie, competitor, client).

(v) Full name and surname, address (postal and electronic), number of telephone and fax of the person who shall be responsible for the provision of additional information or/and clarifications on behalf of the person lodging the complaint.

(2) Particulars of the person against whom the complaint is lodged

(i) Full business name and address of the undertaking or association of undertakings, including information in

relation to the group of companies where it belongs, the holding and/or subsidiary companies thereof.

(ii) Short description of the nature, scope and professional activities of the undertaking or association of undertakings against which the complaint is lodged.

(3) Nature of the relevant product market

(i) Determination of the nature of the products affected by the alleged infringements.

(ii) Number of suppliers of the said products.

(iii) The total (in value) of sales of the said products.

(iv) The dimensions of the competition existing in the relevant market.

(v) The possibilities for new competitors to enter the said market.

(vi) Whether there are other substitutes for the relevant products.

(vii) Determination, in the best possible way, of the relevant market and the shares in the market of the undertaking and/or undertakings against which the complaint is lodged.

(viii) Determination, in the best possible way, of the geographic extension of the alleged infringement and explanation of the degree to which trade among member states is being affected due to the alleged infringements.

(4) Details of the alleged infringement and proof

(i) Detailed indication of all the facts which show and/or prove infringement of sections 3 and/or 6 of the Protection of

Competition Law and/or Articles 10 TFEU and/or 102 TFEU.

(ii) Granting of every information available on the agreements, decisions or practices or concerted practices of the undertakings or associations of undertakings against whom the complaint is being lodged (i.e., text of the agreement, minutes of the meetings or negotiations, terms of transactions, business documents, circulars, correspondence etc.).

(iii) Submission of statistical or other data which are in the possession of the person lodging the complaint and which are relevant to the facts under dispute (i.e., changes in prices, quantities, reductions, technical development, entrance bars etc.).

(iv) Submission of names and addresses of the persons who intend to be summoned as witnesses in order to testify in relation to the facts under dispute, as well as of the persons who have been affected by the alleged infringements.

(5) Legitimate interest

The person lodging the complaint must state in detail the way he has been affected and/or may be affected by the alleged infringements and whether he is justified to lodge the complaint.

A solemn statement that all the information stated in the complaint are true.

Date and signature.