

LAW AGAINST UNFAIR COMPETITION

(Official Gazette 80/99)

Part one GENERAL PROVISIONS

Article 1 Basic Provision

Person acting or executing against the fair business custom and principles of consciousness and honesty for the purpose of competition while conducting a business venture may be ordered to cease such actions and may be found responsible for the damage caused by such actions, under conditions prescribed in this Law.

Article 2 Definition of product and service

Under this Law product also denotes agricultural product, while as trade services also denote agricultural services.

Part two PROHIBITIONS AND LIMITATIONS

Article 3 Fake statements

Person giving fake statements concerning a business venture, especially of: nature and origin of products, production means, prices or manner of establishing prices of certain trade products and services or of the thorough offer, as well as fake statements concerning price-lists, way of stocking or name of the supplier, achievement or possession of certain awards or appraisals, motive and reason of sales and quantity of available inventories for the purpose of competition

while conducting a business venture, may be ordered to cease giving such statements.

Article 4 Making public announcements

(1) A person that during the process of products sale indicates him/herself to the final consumers as the producer of the product, is entitled to do so only if:

1. The particular product is sold only to final consumers; or
2. The price of the product for the final consumers is equal to the price for the wholesale and retail dealers and users of the product, in case when renting the product serves as a trade deal; or
3. The sale price for the final consumers is higher than the price of the same product for the wholesale and retail dealers and product users, or if this fact is otherwise completely clear and unambiguous to the final consumers.

(2) Person that during regular sales of the products to the final consumers indicates the fact that he/she sells the products as a wholesale, is entitled to do so only if he/she supplies mainly the retail dealers or product users with the mentioned products and only if the conditions under Paragraph 1, items 2 and 3 of this Article are fulfilled.

Article 5 Purchase License

Person that, during regular practice and for the competition purposes, issues to final consumers purchase licenses, coupons, cards and other similar acquisition documents or sells products only to customers possessing such documents, is entitled to do so only if such documents can be used for just one occasion of purchasing (one visit) and only if such documents are issued for each separate visit of the customer to the business premises where the appropriate products are sold.

Article 6 Limited Quantity Offers

(1) Person that during regular practice with final consumers, through public announcement, advertisement or correspondence available for a wider circle of people:

1. limits the quantity, available to any individual buyer, of specially accented products within the total offer; or explicitly states that those products are not to be sold to the wholesale or retail dealers; or
2. creates an impression, by using some price indicators or other types of obvious indicators, that it is a question of particularly favorable offer of the specially accented products out of the total offer, and limits the quantity of their sale per customer or explicitly states that those products are not to be sold to the wholesale or retail dealers; may be forbidden to use such advertising manner.

(2) The provisions from the Paragraph 1 of this Article shall not apply to cases when the announcement, advertisement or correspondence are completely and exclusively aimed for the persons that use such products for performing their independent professional or trade practice or for performing the assigned public authorization.

Article 7 Comparison of Prices

(1) Person that during regular practice with final customers, through public announcement,

advertisement or correspondence available for a wider circle of people compares his/her current prices for certain products or trade services stipulated within the total offer to other higher prices; or announces price discounts for certain amount or certain percent, thus giving an impression that the current prices are lower than the ones of before, may be forbidden to do such announcements.

(2) The provision from the Paragraph 1 of this Article shall not apply to the cases of:

1. Not prominent price labeling;
2. Pointing to higher prices stated in the former catalogue or other similar sales prospect with regard to the products or services offered in a particular economy sector, while the differences in the prices are not highlighted in a notably prominent way;
3. When the announcement, advertisement or correspondence are completely and exclusively aimed for the persons that use such products and services for performing their independent professional or trade practice or for performing the assigned public authorization.

Article 8 Special Sales and Special Offers

(1) Person that advertises or sells products or trade services to the final customers out of the regular business premises in order to accelerate the sale of the products and to create an impression of providing special benefits or preferences to the buyers (special sales), may be forbidden to perform such advertising and sale.

(2) There is no special sale in the sense of the Paragraph 1 of this Article if particular products, inscribed by their class or price, are offered for a non-limited period of time and if such offers are integral part of the regular daily business practice of the enterprise (special offers).

(3) The provisions from the Paragraph 1 of this Article shall not be applied to cases of special sales with term of duration up to 12 (twelve) working days:

1. starting from the first Monday of January and the last Monday of July for sales of textile, clothes, shoes, leather products and sport equipment (winter and summer sales);
2. for the purpose of jubilation of the enterprise activity in a special business field after a period of twenty five years of existing or of producing and selling certain products or trade services (sales for celebration of anniversaries).

Article 9 Sale of Bankrupt's Estate Objects

When a sale of objects and products originally belonging to the estate of the person under bankrupt proceedings (sale of objects originally belonging to the bankrupt's estate) is announced through a public announcement or through correspondence available to a wider circle of people, any implication to the fact that the objects come from a bankrupt's estate shall be forbidden, though the objects mentioned have ceased to be a part of the bankrupt's estate.

Article 10 Sales of the Stocks

(1) In the circumstances that force sales of the constant stocks (urgent necessity for sales):

1. due to damages caused by fire, flood, storm or similar events of force majeure; or

2. before commencing the realization of project for construction, reconstruction or similar activity of the business premises, provided that all the necessary construction and urban planning permissions required by law have previously been obtained;

(2) The sales of the constant stocks may be done to the necessary extent for outgrowing the urgent necessity for sales of stocks, in a period not exceeding twelve working days.

(3) Sales of constant stocks due to closing (liquidation) of the thorough business venture may be performed for a period not exceeding twenty four working days, providing that the organizer of such liquidation sales did not perform a liquidation sales of the same type of business venture for the last three years, except for the circumstances that justify the liquidation sales before the passing of three years. The provisions from the Paragraph 1 of this Article shall be applied accordingly.

(4) The provision from paragraph 3 shall not be applied to liquidation sales of stocks in bankrupt proceedings.

(5) The reasons for sales of constant stocks are to be stipulated in the announcement for the sales of stocks, according to the provisions of this Article.

6) The organizer is obliged to inform the competent chamber or association and the Ministry of trade of executing the sales stipulated in the first notion of Paragraph 1 of this Article, at least seven days prior to the sales announcement (public announcement or other public advertisement), while as in cases stipulated in the second notion of Paragraph 1 of this Article, such information is to be provided at least fourteen days prior to such announcement. The provided information must be enclosed with documented evidence of the reason for the sales. In case of sales as stipulated in the second notion of the Paragraph 1 of this Article, copies of the construction and urban planning permissions must be enclosed, as well. The information should contain the following figures:

1. reason for executing sales;
2. commencing and ending date of the sales, as well as the place of the sales execution;
3. type, quality and quantity of the sales products;
4. in case of type of sales as stipulated in the second notion of the Paragraph 1 of this Article, description of the sales field concerned with the construction works;
5. in case of type of sales as stipulated in the Paragraph 2 of this Article, stating of the period of activity of the business venture under liquidation.

(7) The competent chamber or association and the Ministry of trade, having received the information stipulated in the Paragraph 6 of this Article, may investigate the credibility of the figures stated in the information and for that matter may assign agents. The assigned agents are allowed to enter the business premises of the organizer of the liquidation sales during normal office hours, for the purpose of investigation of the business records and other documents, as well as making copies.

(8) The potential organizer may be forbidden to advertise or perform the liquidation sales, in case

he/she:

1. breaches the provisions of the Paragraphs 1 to 7 of this Article;
2. performs sales of products previously procured solely for the purposes of such sales;
3. in case of sales stipulated in the notion 2 of this Paragraph, continues with trading business in the appropriate sales area before completion of the construction project that has previously been announced.
4. has created reason for liquidation sales himself in some inadequate way or uses the opportunity of liquidation sales in other inadequate way;
5. directly or indirectly continues to manage the business the liquidation of which has already been announced and/or, in spite of being organizer of the liquidation sales, in a period of 2 years after the completion of the liquidation sales, starts trading business with the same type of products, unless there are special reasons that justify such continuation of beginning;

Article 11 Disdain

- (1) Person that, for the purposes of competition, aims to disdain other person and declares or interprets facts concerning the business, person that owns the business or managing persons, representatives or supervisors of the business, as well as concerning the products or trade services of some other person, which might damage the business or threaten the reputation of the person that owns the business, shall be claimed responsible for the damage done, if he/she can not prove the accuracy of declared or interpreted facts.
- (2) Damaged party may sue requesting from the court to ban the declaration or interpretation of the data.
- (3) In case of declaration or interpretation of confidential facts and information of some legal interest for the publishers or the public (spectators, listeners or readers), the complaint requesting banning of the declaration or interpretation is justifiable only if false data are interpreted.
- (4) The request for reimbursement of damage in case of paragraph 3 of this Article may be announced only if the person was or must have been aware of the falseness of the data he/she declared or interpreted.

Article 12 Protection of Trade Marks

- (1) Person that during regular practice uses the trademark of other company or any special sign that may mislead the public in regard of the company and the special sign legally used by other person may be forbidden to use such sign.
- (2) Person having created confusion as stipulated in Paragraph 1 of this Article shall be claimed responsible for the damage done to the damaged party, in case he/she was or must have been aware of the fact that such usage will mislead and confuse the public.

Part three PENALTY PROVISIONS

Article 13

Giving and Accepting Bribe for the Purposes of Competition

1) Person that, during regular practice and for the purposes of competition, promises and gives a present or other object of use to an employee or agent of a trade company, or other legal entity aiming to achieve in a dishonest manner privileges for him/herself or for a third person for obtaining certain products or trade services shall be penalized with a cash sentence of 200.000 to 1.000.000 denars or up to three year of imprisonment.

(2) The employee or agent of a trade company or other legal entity, who makes commitments or accepts the gift or other object of use as stipulated in the Paragraph 1 of this Article, shall be penalized from three mounts up to three years of imprisonment.

(3) The received gift or other object of use shall be deprived.

Article 14 Sale Under the System of Avalanche

Person that, during regular practice attempts him/herself or through other persons, to encourage persons not being merchants to purchase products, trade services or rights by promising special benefits and priorities to such customers if they themselves encourage other persons to purchase the products, services or rights, which persons gain the same benefits and priorities for further maintaining of the same method of finding customers, shall be penalized with a cash fine of 30.000 to 150.000 denars or up to two years of imprisonment.

Article 15 Fake announcements

(1) Person giving statements for a wider circle of people, through a public announcement or through other communication means, for the purpose of creating an opinion of giving especially favorable offer, particularly concerning: nature and origin of the products and services, production means, prices or manner of establishing prices of certain trade products and trade services, also way of stocking or name of the supplier, achievement or possession of certain

awards or appraisals, motive and reason of sales and quantity of the available inventories, and at the same time being aware of the fact that such statements contain fake information known to him/her, and the statements may fraud of mislead the public, will be penalized with a cash fine of 50.000 to 250.000 denars or sentenced to up to two years of imprisonment.

(2) If the fake statements, stipulated in the first paragraph of this Article, are announced by an employee, representative or authorized person, also the proprietors and members of the administrative or supervisory units will be penalized if they were aware or must have been aware of the acts and performances stipulated in the Paragraph 1 of this Article.

Article 16

Unauthorized Usage of Technical Documentation

Person that, for the purposes of competition or for personal favor, uses or transmits models or instructions of technical nature, particularly sketches, plans, prototypes, cross sections or other such documents, not being legally protected rights of the industrial ownership, without an authorization shall be penalized with a cash fine of 30.000 to 150.000 denars or sentenced up to two years of imprisonment.

Article 17

Disdain of the goals of competition

(1) Person that declares or interprets fake facts concerning the business, person that owns the business or managing persons, representatives or supervisors of the businesses, as well as concerning the products or trade services of some other person, in spite of being aware of the falseness of these facts that might damage the business concerned, will be penalized with a cash fine of 20.000 to 100.000 denars or sentenced up to six months imprisonment.

(2) If facts as stipulated in the Paragraph 1 of this Article are declared or interpreted within the very enterprise by an employee or agent, the owner of the business shall be claimed responsible, together with the employee or agent, in case he/she was aware of the declaration and interpretation of such facts.

COURT PROTECTION

Article 18

Court Prohibition and Compensation of Damage

- (1) On proposal, the court will pronounce a general prohibition of breach of provisions of the Articles 9,13, 14 and 15 of this Law.
- (2) In cases as stipulated in the Articles 1, 3, 4, 5, 6, 7, 8, 9, 10, and 15 of this Law, a proposal for pronouncing court prohibition may be declared by:
 1. merchant selling products or trade services of same or similar kind;
 2. associations established for improvement of trade interests, with an attribute of a legal entity;
 3. associations established for protection of consumers' interests, with an attribute of a legal entity.
 4. the chambers.
- (3) In cases as stipulated in the Article 1 of this Law, the associations stated in the third notion, paragraph 2 may declare a proposal for prohibition only if essential customers interests are concerned with the appropriate act;
- (4) In cases as stipulated in the Article 13 of this Law, entitled to declare proposal for prohibition are only merchants, associations and chambers as stipulated in the notions 1,2 and 4 of Paragraph 2 of this Article.
- (5) In case breach as stipulated in the Paragraphs 2 and 4 of this Article, is done by employee or agent, the court may pronounce the prohibition also for the owner of the business.
- (6) Court shall not accept the proposal for prohibition of certain act if, having into consideration all the circumstances, decides that such proposal is not appropriate, especially if an intention is discovered for establishing a claim for compensation of the court procedure expenses.
- (7) For damages done as a consequence of the breach shall be claimed responsible:
 1. in cases as stipulated in Article 3 of this Law, person that was or must have been aware of giving fake statements.
 2. person that, on purpose or out of negligence, breaches the provisions of the Articles: 4, 5, 6, 7, 8, 9, 10, 13, 14 and 16 of this Law.
- (8) Claim for compensation of damages may be established against editors, publishers, printers or distributors of periodicals only in case they were aware of the falseness of the statements.
- (9) The right for compensation of the damage can be achieved by legal suit in the trial procedure.

(10) The damaged merchants, the chambers and associations described in the second notion of this article and other interested bodies or organizations are allowed to submit a legal suit described in notion 9 of this article.

Article 19 Obsolescence

(1) Compensation request for damage done becomes obsolete in a period of three years from the moment the damaged party discovered the damage and the person responsible for it.

(2) This obsolescence deadline defined in the first notion is applied also in case of court prohibition of certain action.

(3) The compensation request as stipulated in the Paragraph 1 of this Article becomes obsolete in a period of five years in any case.

Part five

OTHER PROVISIONS

Article 20

Advisable provision

(1) The provisions of the Articles 3 and 4 of this Law shall not regulate the use of names or titles that are used in the regular trade business for identifying certain products or trade services, but do not indicate the origin of the product.

(2) Under the Articles 3 and 15 of this Law statement also denotes sketches, pictures, marks and other similar means with the same objective and suitable to serve as the statements stipulated in the mentioned Articles of this Law.

Article 21

Customer's Right to Cancel a Contract

(1) Customer may cancel the contract in case he/she bought the product or trade service under impact of statements as stipulated in Article 17 of this Law, providing these statements were false and created to mislead or deceive the public, as well as containing data of certain importance for the persons it has been aimed to, which data was substantial for concluding the contract.

(2) In case the announcement was based on a statement given by a third person, the customer has a right to cancel the contract only if the other contractual party was or must have been aware of the statement falseness or possibility to mislead, and if the other party has accepted the announcement containing such statement, through own acts or practice.

(3) Customer must inform the other contractual party of cancellation of contract without delay, as soon as the conditions are discovered to entitle the customer to cancel the contract.

(4) Such based right to cancellation of the contract expires in a period of six months from the date of signing of the contract.

(5) Customer is not entitled to revoke the right to cancellation prior to signing of the contract.

(6) Cancellation of the contract due to reasons as stipulated in this Article does not prevent the customer from requesting a compensation for the damage.

(7) In case the statements as stipulated in this Article are given by a third person, such person is to be claimed responsible to the other contractual party for the damage done by the cancellation

of the contract, not inclusive of the case when the other party was aware of the breach.

Article 22

Application of the Criminal Statute

The provisions of the Criminal Statute of the Republic of Macedonia shall be appropriately applied to the criminal acts regulated with penalties according to this Law.

Article 23

Bringing Criminal Charges. Private Charges

(1) With exception to the cases as stipulated in the Articles 14 and 15 of this Law, prosecution of the acts as stipulated in this Law is done by bringing criminal charges.

(2) The provision from the first paragraph of this Article shall not be applied to cases as stipulated in the Articles 16 and 22 of this Law if the Public Prosecutor considers that the criminal charges are to be brought up by official responsibility for necessary protection of certain public interest.

(3) In cases as stipulated in the Articles 13, 14 and 15 of this Law, besides the damaged person, charges might be brought up also by the persons and associations as stipulated in the paragraph 1 of Article 18 of this Law.

Article 24

Protection of Foreigners

Person without a registered head office within the territory of the Republic of Macedonia and person that has achieved the status of merchant abroad are entitled to protection according to the provisions of this Law only if the Macedonian merchants and persons with registered head office

within the territory of the Republic of Macedonia use appropriate protection in the country of the registered head office of the foreigner or the country where he/she has achieved the status of merchant. This is validated with the certificate from the Ministry of Foreign Affairs or the Ministry of Justice.

Part six

TRANSITIONAL AND FINAL PROVISIONS

Article 25

Cessation of validity of certain provisions

Upon the entrance into force of this law, the articles 32 and 33, and item 8 of article 46 paragraph 1 from the Law on trade (Official Gazette of Republic of Macedonia no. 23/95, 30/95, 43/95, 23/99 and 43/99) and article 2 paragraph 2 notion 2 from the Law on market inspection (Official Gazette of Republic of Macedonia no. 35/97 and 23/99) shall not be valid anymore only the part concerning the unfair competition.

Article 26 Enacting

This Law shall come into force on the 8 (eight) day of its publication in Official Gazette of Republic of Macedonia .