

Anti-trust Law



Anti-trust Decree-Law N° 1415 was published in Extraordinary Official Gazette N° 6151 of November 18, 2014.

1. Effective Date

Effective from November 18, 2014.

2. Objective

The Anti-trust Law is aimed at promoting, protecting and regulating the exercise of fair economic competition by prohibiting and sanctioning monopolistic and oligopolistic practices, abuse of dominant position, concerted demands, economic concentrations and any other anticompetitive or fraudulent economic practice.

The Anti-trust Superintendence was created to guarantee the compliance with provisions set forth in this law. The Superintendence shall oversight and control practices that will hinder free competition.

3. Applicability

This law is applicable to any individual and to any local or foreign public or private for profit or not-for-profit company engaged in economic activities within the national territory or grouping persons engaged in such activities.

Companies linked to the Government, such as: public service companies, public or mixed strategic companies and communal companies are excluded.

4. General and specific prohibitions

- a. Actions of individuals avoiding or hindering the entry and permanence of companies, services or products in the market.
- b. Actions by those subjected to this Law restricting economic competition among them.
- c. Actions to manipulate any aspect with an impact on economic competition.
- d. Agreements referred-to in this Law between those subject to its application, to the extent that those agreements will restrict or hinder the economic competition among them.
- e. Collective agreements entered into in order to establish provisions that will damage economic competition.
- f. Economic concentrations reinforcing a dominant position. Small and medium-sized entities are excluded.
- g. Contracts between those subject to application of this Law setting prices and conditions that will damage economic competition.
- h. Abuse of dominant position of any party subject to application of this law.
- i. Unfair practices in any phase (production, distribution or commercialization).

5. Unfair practices

- a. Misleading advertising.
- b. Simulation or Imitation.
- c. Commercial bribery.
- d. Breach of rules.

6. Exception

Exceptions may only be applied by the President of the Republic in the following cases:

- a. Pricing, both for purchase and for sale of services or products.
- b. Application of different conditions in commercial relationships that will result in inequality in competition.
- c. Territorial representatives and franchises not allowed to trade other product.

7. Sanctions

Sanctions shall be applied to those incurring in any of the prohibitions referred-to above as follows:

i. Fine of up to 10% of the value of annual gross revenue (in case of mitigating circumstances). The gross revenue calculation shall be that corresponding to the period prior to the fine resolution.

ii. The fine may reach up to 20% (in case of aggravating circumstances) based on the following criteria:

- Size and characteristics of the affected market.
- Market share of the fined party
- Scope of the restriction of economic competition.
- Duration of restriction of economic competition.
- Effect of the economic restriction on other competitors.
- Benefits obtained.
- Aggravating and mitigating circumstances in each particular case.

iii. In case of recurrence, the fine will increase to 40%.

iv. For failure to comply with resolutions imposed by the Superintendence, fines ranging between 1% and 20% of the infringer's equity may be applied. The fine may reach up to 50% if the infringer fails to pay on a timely basis.

8. Appeals

Only one appeal for judicial review may be filed against a resolution of the Superintendence within a period of 45 continuous days.

9. Compensation for damages

Those affected by prohibited practices may claim for a compensation for damages with the relevant courts. The statute of limitation is fixed as follows:

- 3 years from the effective date of the Superintendence's resolution.
- 3 years for infringements resulting from prohibitions referred-to above.

Contacts

Alejandro Gómez
algomez@deloitte.com

Aníbal Veroes
averoes@deloitte.com

Marketing Department
vmercadeo@deloitte.com

Offices

Caracas
Avda. Blandín, Torre B.O.D,
Piso 18. La Castellana.
Phone +58 (212) 206 8502
Fax +58 (212) 206 8740

Pto. La Cruz
Avda. Principal de Lechería,
Centro Comercial Anna,
Piso 02, Ofic. 41, Lechería.
Phone +58 (281) 286 7175
Fax +58 (281) 286 9122

Pto. Ordaz
Avda. Guayana, Torre Colón,
Piso 2, Ofic. 1, Urb. Alta Vista.
Phone +58 (286) 961 1383
Fax +58 (286) 962 7234

Valencia
Torre Venezuela, Piso 3,
Oficinas A y D, Av. Bolívar
Norte, Urb. La Alegría.
Phone +58 (241) 824 2790
Fax +58 (241) 823 4119

For further information, please visit our web site www.deloitte.com/ve



Deloitte refers to one or more member firms of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

This publication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this publication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

© 2014 Lara Marambio & Asociados RIF J-00327665-0

© 2014 Gómez Rutmann y Asociados Despacho de Abogados RIF J-30947327-1