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**Competition. The Revision Report of the General Bill on Competition Protection, prepared by the Committee of Industry and Commerce of the House of Representatives, has been approved. (T. Agramonte).**

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Last April 19 the Committee of Industry and Commerce of the House of Representatives of the Dominican Republic, presided by Mr. Bernardo Sánchez, Representative to the Congress for the province Espaillat, approved through the signature of the majority of its members, the Revision Report of the General Bill on Antitrust ("*Ley General de Defensa la Competencia*"). Through this approval, the mentioned legislative piece will now pass to the plenary of the House of Representatives for further approval. The Bill project was reintroduced by Representative Pelegrín Castillo, in light of the fact that in the course of the revision, two legislatures had elapsed, for which, the approved text should be sent to the Senate of the Republic, before becoming a law.

This regulation has the objective to promote and to protect the effective competition to increase the economic efficiency in the market of goods and services, in order to generate benefit and value in favor of consumers and users of these goods and services nationwide.

This legislative piece supports and safeguards the principle of free enterprise established in our Constitution in its Art. 8.12, compatible with economic efficiency, effective competition and commercial good faith. The project seeks to prevent and to sanction any practice, agreement or decision that injures or wounds free competition in the national market, establishing actions against those restrictive and disloyal conducts of competition.

The arranged practices and anticompetitive agreements which have as their objective to produce or that can produce the effect of limiting, distorting, restricting or falsifying free competition, are prohibited under this project.

At the same time the project establishes guidelines for the promotion of a culture of competition, establishing thus in its articles that the competent authorities will not be obstacles, neither will establish barriers so that the individuals can freely exercise the prerogatives and rights established by this law.

Within the content of the project the acts of abuse of dominant position and the *per se* agreements or those subject to the reasonable determination of culpability (rule of reason) are typified. Additionally, the project considers illegal unfair



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competition acts (such as acts of deceit, acts of confusion, acts of undue

comparison, acts of imitation, acts or thefts of trade secrets, breach of norms, acts of offense and induction to a breach of contract) and establishes the legal and administrative actions at the disposal of the people affected by said acts.

Another aspect of the project, not less important, is the creation of the National Commission of Competition Defense (Pro-Competition), as a decentralized agency of the State with full, legal personality, capacity to acquire rights and contract obligations, and own, unconfiscatable patrimony. This Commission will have as an objective to promote and guarantee effective competition, in order to increase economic efficiency in the products and services market, through the execution and application of the politics and legislation of competition and the exercise of its faculties of investigation, report, regulation, decision, resolution and sanction.

This Commission will maintain an adequate communication and coordination with other regulating entities that have an incidence or relation, by its operating capacity or by legal dispositions, with the defense of free competition.

**Pro-Competition** (*PRO-COMPETENCIA*) will be composed by the Executive Counsel of the National Commission of Competition Defense, which will be comprising five (5) members named by the Executive Power, from a proposal of ten (10) candidates on the whole, of which five (5) candidates will be presented by the Senate of the Dominican Republic and five (5) candidates will be presented by the House of Representatives of the Dominican Republic, which will last five (5) years in exercise of their charges, renewable for the same period.

At the same time, it will include an Executive Director that will be in charge of an Executive Direction named by the Executive Power from a proposal presented by the Executive Counsel, who will have as main function to instruct and to substantiate the cases; to administer and to coordinate the operating actions and to give faith of the official acts of the National Commission of Competition Defense.

With the implementation of this new legal disposition and the creation of this Commission, individuals will be able to enforce their rights before Pro-Competition when their right to compete in market is affected by an anticompetitive practice. Finally, a sanctioning, administrative



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procedure is organized, without excluding the eventual right to initiate penal and civil actions by-products of decisions taken regarding anticompetitive practices.

With respect to the sanctioning, administrative procedure, it is established that any person with legitimate interest can formulate a motivated instance before the Executive Direction of the National Commission of Competition Defense, which that will initiate a file when rational indications are observed, based on the principles and norms of the present Law, that substantiate the existence of the accusation.

In case of antitrust acts, it is permitted to elect the judicial way principally or once concluded the sanctioning, administrative procedure, with the purposes to start:

- 1) Declarative action of the disloyalty of the act; accessory to this action, the judge will be able to, as a requirement of a party or officially, order the cessation of the disloyal act if the disruption subsists;
- 2) Rectification action of deceitful, incorrect or false information;
- 3) Action in damage repair caused by the act.

To determine the value of the administrative fine, in cases in which unfair trade practices have been determined, the project approved report establishes certain parameters of consideration: The dimension of the market affected, premeditation and purpose, the time that the agreement has lasted, practice or conduct prohibited, recidivism and prior records of the offender. The administrative fine will oscillate among equivalent totals of up to 30 times minimum wage to 3,000 times minimum wage; in case of recidivism, an additional fine of up to double of the corresponding one will be able to imposed.

**Energy. The Renewable Energy Project is now a Law. (T. Agramonte)**

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The Senate converted, last April 24, into a law the incentives to the development of renewable sources of energy project; which offers up to 75 percent of the investment costs of the sector in equipments as an unique credit to the income tax, and that exonerates in a 100 percent the importing of machineries and accessories, among others facilities. The new law constitutes, according to article 2, the legal framework that will apply to encourage and to regulate the development



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**investment projects that take advantage of any source of renewable energy.**

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