

DECREE LAW No. 211 NON OFFICIAL TRANSLATION

ESTABLISHES THE CONSOLIDATED, COORDINATED AND SYSTEMATIZED TEXT OF DECREE LAW No. 211, OF 1973.

D.L. Number 1.- Santiago, October 18, 2004.-

Whereas:

- 1) That provided in articles 32 number 3 and 61 of the Republic's Political Constitution;
- 2) The powers conferred in the Eighth interim provision of Law No. 19.911, published in the Official Gazette on November 14, 2003, which enabled the President of the Republic to establish, within the timeframe of one year, by decree of law of the Ministry of Economy, Development and Reconstruction, the revised, coordinated and systematized text of Decree Law No. 211, of 1973.

Considering:

- 1) That Supreme Decree No. 511, of 1980, of the Ministry of Economy, Development and Reconstruction, has been object of important modifications introduced by Laws No. 18.118, of May 22, 1982, No. 19.610, of May 19, 1999, No. 19.806, of May 31, 2002, No. 19.911, of November 14, 2003, No. 19.336, of September 29, 1994;
- 2) That it is recommendable, for purposes of order and practical use, to note in the margins the origin of the norms comprising the present legal text;
- 3) That, to facilitate the understanding and enforcement of the new legal norms in matters of such importance it is convenient to consolidate into one sole text the quoted provisions, I announce the following:

Decree by force of law:

Sole Article.- Hereby establish the following consolidated, coordinated and systematized text of decree law No. 211 of 1973:

DECREE LAW No. 211, OF 1973

TITLE I

General provisions

Article 1.- The purpose of the present law is to advocate and defend competition in the markets. Affronts to competition in economic activities will be corrected, prohibited or repressed in the manner and with the sanctions provided in this law.

Article 2.- It is the duty of the Tribunal de Defensa de la Libre Competencia [Tribunal for the Defense of Competition] and the Fiscalía Nacional Económica [National Economic Prosecution Office], within the scope of their respective powers, to enforce the present law to safeguard competition in the markets.

Article 3.- Any person that enters into or executes, individually or collectively, any action, act or convention that impedes, restricts or hinders competition, or sets out to produce said effects, will be sanctioned with the measures mentioned in article 26 of the present law, notwithstanding preventive, corrective or prohibitive measures that may be applied to said actions, acts or conventions in each case.

The following will be considered as, among others, actions, acts or conventions that impede, restrict or hinder competition or which set out to produce said effects:

a) Express or tacit agreements among competitors, or concerted practices between them, that confer them market power and consist of fixing sale or purchase prices or other marketing conditions, limit production, allow them to assign market zones or quotas, exclude competitors or affect the result of bidding processes.

b) The abusive exploitation on the part of an economic agent, or a group thereof, of a dominant position in the market, fixing sale or purchase prices, imposing on a sale another product, assigning market zones or quotas or imposing other similar abuses.

c) Predatory practices, or unfair competition, carried out with the purpose of reaching, maintaining or increasing a dominant position.

Article 4.- Concessions, authorizations, or acts that imply acceding to monopolies for the practice of economic activities will not be granted, save authorization by the law.

TITLE II

Concerning the Tribunal de Defensa de la Libre Competencia

1. Organization and functions

Article 5.- The Tribunal de Defensa de la Libre Competencia is a special and independent jurisdictional body, subject to the steering, correctional and economic oversight of the Supreme Court, whose function is to prevent, correct and sanction affronts to competition.

Article 6.- The Tribunal de Defensa de la Libre Competencia will be integrated by the persons indicated as follows:

a) An attorney, who will preside the tribunal, appointed by the President of the Republic from a roster of five candidates compiled by the Supreme Court via a public examination and selection process. Solely those persons who have a distinguished professional or academic background specialized in competition matters or in Commercial or Economic Law and have at least 10 years of professional practice may participate in the selection process.

b) Four professionals with university degrees, experts in competition matters, two of which must be attorneys and two must hold university studies or post graduate degrees in economics. Two members, one of each professional area, will be appointed by the Council of the Banco Central [Central Bank] subject to a prior public examination and selection process. The other two members, also one from each professional area, will be appointed by the President of the Republic, based on two nominations of three candidates, one for each appointment, compiled by the Council of the Banco Central, also via a public examination and selection process.

The Tribunal will have two alternate members, one an attorney and the other a university graduate or holder of a post graduate degree in economics. Anyone who has held the position of National Economic Prosecutor or any management position in the Fiscalía Nacional Económico in the year before the initiation of the public examination and selection process called for the respective tribunal member appointment can not be selected as a permanent or alternate member of the Tribunal.

The President of the Republic will appoint the alternate attorney and the Council of the Banco Central will appoint the university graduate or holder of a post graduate degree in economics, in accordance with the procedure set out in the foregoing letter b), for which the same nominations and selection processes provided for the appointment of the permanent members can be considered.

The examination and selection processes mentioned in foregoing letters a) and b) must be founded on objective, public, transparent and non-discriminatory conditions, established, respectively, through a ruling of the Supreme Court and an agreement by the Council of the Banco Central.

In the event of the absence or impediment of the President of the Tribunal, the tribunal will enter into session under the presidency of one of the remaining permanent members in accordance with the precedence order established by a ruling of the Tribunal.

The appointment of the members of the Tribunal de Defensa de la Libre Competencia will enter into effect by the President of the Republic through supreme decree of the Ministry of Economy, Development and Reconstruction and signed, additionally, by the Minister of Finance.

The position of member of the Tribunal is incompatible with that of:

- a) Public employee;
- b) Administrator, manager, employee dependent of corporations or companies subject to these entities' regulations, in addition to their headquarters, affiliates, associates or subsidiaries, and
- c) Advisor or provider of professional services in matters related to competition to natural or legal persons under the Tribunal's jurisdiction, also considering those who advise or provide professional services if he or she obtains any type of remuneration, income or payment from natural or legal persons that advise or provide professional services on said matters.

The alternate members will only be affected by the incompatibility mentioned in the foregoing letter c).

Those persons who, at the time of their appointment, or during their appointment, are subject to any of the foregoing conditions mentioned in subsection seven of this article, must resign thereto.

Notwithstanding that provided in the foregoing subsections, holding the position of member of the Tribunal will be compatible with academic and teaching positions.

Article 7.- Before undertaking their duties, the members of the Tribunal de Defensa de la Libre Competencia will take an oath or swear to observe the Constitution and the laws of the Republic, before the President of the Tribunal, and the Secretary of the Tribunal will act as authenticating officer. Likewise, the President will take oath before the most senior Member of the Tribunal, in accordance with the order of appointments, and the Secretary of the Tribunal will act as authenticating officer. Finally, the Secretary and the rapporteurs will take oath or swear before the President.

The permanent and alternate members of the Tribunal de Defensa de la Libre Competencia will remain in their positions for six years, and appointed for one successive period only, in accordance with the procedure mentioned in the preceding article.

Notwithstanding, the Tribunal will partially renew every two years. The Tribunal will bear the title of “Honorable” and each of its members, “Minister”.¹

Article 8.- The Tribunal de Defensa de la Libre Competencia will hold its official seat in Santiago.

Article 9.- The Tribunal will function permanently and determine the days and time of its sessions. In any event, it must hold session legally constituted for resolving cases at a minimum of three times a week. The quorum for holding session must be at least three members, and agreements will be adopted by simple majority, the vote of the member presiding will be the resolving vote in the event of a tie vote. In all other cases they will be subject to that provided in Paragraph 2 of Title V of the Organic Code of Tribunals, if applicable.

Article 9 bis.- The permanent and alternate members of the Tribunal de Defensa de la Libre Competencia must make a sworn affidavit of means, under the same terms as articles 60 B, 60 C and 60 D of law No. 18,575, Constitutional Organic Law of General Bases for the Administration of the State. The affidavit of means must be made before the Secretary of the Tribunal, who will retain it for public consultation. The untimely and non-submission of the affidavit of means will be penalized with a fine of ten to thirty monthly tributary units. After sixty days from when the affidavit is requirable, it will be considered as non-compliance on the part of the offender. Non-compliance of the obligation to update the affidavit of means will be penalized with a fine of five to fifteen monthly tributary units. The fines referred to in the previous paragraphs will be enforced by the Tribunal de Defensa de la Libre Competencia.

The procedure may be initiated by the Tribunal or by a report made by one of its Members. The charges brought against the affected Member of the Tribunal will give him the right to contest them within ten working days. If necessary, the period to submit evidence will be eight days.

All means of evidence may be submitted, which will be reviewed conscientiously. The Tribunal must issue a final decision within ten days from when the last requirement was vacated.

Notwithstanding the aforementioned in the previous paragraphs, the offender will have the non-extendable deadline of ten days, counting from the notification of the

¹ Note from the translator: The term “Minister” here is a literal translation from “Ministro”, however for practical literary purposes, the term “Member”, more often used in English-speaking countries when referring to the member of a tribunal, will be used most consistently throughout the translation of the present DL 211.

decision on the fine, to submit the omitted affidavit or to correct it. If this is carried out, the fine will be reduced by half.

NOTE: The Transitory Article 2 of Law 20,088, published on January 5, 2006, which modified the present norm, provides that modifications made thereof, will enter into force ninety days after the publication of the Regulation established by the requirements for affidavits of means, in accordance with that provided in Transitory article 1 of the cited Law. Said regulation can be found in the DTO 45, of the Secretariat General of the Presidency, published on March 22, 2006.

Article 10.- The monthly salary of the permanent members of the Tribunal will be equivalent to the permanent gross monthly salary pertaining to the National Economic Prosecutor. The alternate members, in their case, will receive per month the sum of thirty monthly tributary units and, additionally, the sum of ten monthly tributary units for each session attended where the corresponding permanent member does attend, with a maximum of sixty monthly tributary units, regardless of the amount of sessions attended.

In the case of an unjustified absence, qualified as such by the majority of the remaining members of the Tribunal, 50% of the amount the alternate member who served as replacement received will be subtracted from the absentee member's salary.

Article 11.- The members of the Tribunal can lose their competency to try cases of certain business by declared implication or by challenge, by virtue of the causes contemplated in articles 195 and 196 of the Organic Code of Tribunals.

In any event, by law it is considered that a permanent or alternate member, as corresponds, will also be disqualified when:

a) The interest in the case pertains to the member's spouse or relatives up to a third degree of blood relationship or second degree of kinship, or persons related to the member by adoptive ties, or companies or corporations where these same persons are their legal representatives, presidents, directors, managers or hold other managing positions, possess directly or through other natural or legal persons a percentage of capital of the company greater than 10%, or which allows them to choose one or more of its managers, or exercise a decisive influence in the administration or management of the company in accordance with that provided in article 99 of Law No. 18,045 on the Stock Market, and

b) Consult or render professional services to natural or legal persons that are party to the case, or have been in the two years preceding the initiation of the case or

during the investigation conducted by the Fiscalía Nacional Económica from which it originated.

Notwithstanding that provided in paragraphs eight, nine and ten of article 6, permanent or alternate members may be challenged if they have advised or rendered services to one or some of the parties during the year preceding the notice of the lawsuit or the publication of the decree ordering the initiation of the proceedings of article 31, if there is the existence of work or business relationships, partnerships or relationships established in communities of professional character, with attorneys or advisers of one or some of the parties, or the professional performance in the same locations, offices or property with the latter, even when he or she does not receive participation income or income from the development of common or coordinated functions.

Likewise, a member may be challenged if he or she advises or renders professional services to natural or legal persons that are or have been during the two years preceding the date of commencement of the proceedings in question, counterparty to the persons referred to in letter b) of the second paragraph of this article, in a judicial proceeding or business negotiation, that could affect the member's impartiality.

The referred to cause may be accepted by the affected member of the Tribunal. Otherwise, the Tribunal will fully rule on the matter, excluding the affected member, and a fine for fiscal benefit will be levied upon the challenging party of up to twenty *unidades tributarias mensuales* should the involvement or challenge be thrown out unanimously. In the absence or loss of competency of one of the permanent members, the latter will be replaced by an alternate member from the same professional area, unless this rule prevents the Tribunal from entering session with the minimum quorum established in article 9.

If, by any impediment, the Tribunal lacks permanent or alternate members to form the quorum, Ministers from the Court of Appeals of Santiago will subrogate for the same, in accordance with that provided in the Organic Code of the Tribunals.

The members of the Tribunal will be subject to articles 319 through 331 of the Organic Code of the Tribunals, with the exception of that provided in article 322.

Article 11 bis.- Notwithstanding the incompatibilities established in article 6, permanent and alternate members of the Tribunal cannot be administrators, managers or dependent employees, nor can they advise or render professional services to natural or legal persons that have been party to any case previously presided by the respective member, for one year counting from when said member of the Tribunal withdrew from his or her position, save in the case of the issuance

of a decision concerning proceedings that the member knew to be pending, in which case the end of one year will be counted from the date of notification of the decision.

Violation of this prohibition will be sanctioned with the absolute disqualification to hold public positions for a five-year period and with a fine for fiscal benefit equivalent to the salary received in the position held during the last year, sanctions to be applied by the Supreme Court on request of any interested party.

The request referred to in the preceding paragraph will clearly and precisely set forth the facts which configure the violation and will be accompanied by or offered with, if the case be, proof of evidence on which it is based. If the request does not fulfill these requirements, the plenary, summoned to that effect, will declare it inadmissible, without further proceedings.

If the request is accepted, the President of the Supreme Court will notify the accused party, who must respond within eight business days following the date on which the respective notification was received, which will be remitted jointly with the background via whichever means is deemed more expeditious.

Once the response is submitted or the period referred to in the preceding paragraph expires, the President of the Court will summon the parties to a hearing during which the proof of evidence previously submitted will be received and the Minister before whom it will be presented will be designated. Once the formalities are carried out or the period for responding expired, the President of the Court will order the case to be brought before the plenary of the Supreme Court, specially summoned to that effect. The Supreme Court can only order measures to best resolve once the review of the proceedings has ended.

Any of the parties may appear before the Supreme Court up to the hearing of the proceedings.

The decision which accepts the sanction referred to in this article, will grant the deemed affected party the right to file a recourse of review of the decision in which the sanctioned party has participated, when the affected party considers that its actions and decision were detrimental to their interests.

Article 12.- The members of the Tribunal de Defensa de la Libre Competencia will cease their duties for the following causes:

- a) Expiration of the legal term of their appointment;
- b) Voluntary resignation;
- c) Destitution due to noticeable abandonment of duties;

d) Supervening incapacity. This is understood as a cause that prevents the member of performing his or her duties for a period of three consecutive months or six months in one year.

e) Incurring in any of the cases contemplated in paragraph 8 and subsequent paragraphs included in article 6.

The measures of preceding letters c), d) and e) will be made to enter into effect by the Supreme Court, at the request of the President of the Tribunal or two of its members, notwithstanding the disciplinary powers of the Supreme Court.

The resolution that makes the destitution effective must state the facts on which it is based and provide the background to accredit the same.

Once the position is renounced, if the time remaining to reach full term is greater than one hundred and eighty days, a replacement must be appointed in compliance with the rules established in article 6 of this law. In the case of preceding letters b), c) and d), the replacement will hold the position during the time remaining of the respective term.

Article 13.- The Staff of the Tribunal de Defensa de la Libre Competencia shall be as follows:

Positions	Degree	Number
Secretary	4 th	1
Reporting Secretary	5 th	1
Reporting Secretary	6 th	1
Professional University Graduate in the area of Economics	5 th	1
Professional University Graduate in the area of Economics	6 th	1
Head of Budgetary Office	14 th	1
First Officer	16 th	1
Officer of the Court	17 th	1
Assistant	20 th	1

Total staff

9

Additionally, the Tribunal may hire personnel on a temporary basis, when the needs of the Tribunal so require it, upon prior approval of the Office for Budgetary Management. The staff of the Tribunal will be subject to the common employment law. However, personnel will have the same income regime of dedication and incompatibilities as personnel pertaining to the staff of the Fiscalía Nacional Económica.

Notwithstanding that provided in the preceding paragraph, personnel that renders services to the Tribunal will bear the character of a public employee, for effects of administrative integrity and penal responsibility.

The Secretary will be the administrative head and the direct authority of personnel, notwithstanding his or her other duties and specific powers appointed or delegated by the Tribunal.

The Tribunal will dictate an internal norm based on which the Secretary will annually review personnel. An appeal may be filed before the Tribunal against the review within five business days counting from the date of the notification of the review.

Article 14.- The appointment of staff members will be made by the Tribunal, subsequent to a public selection process or opposition process.

The President of the Tribunal will process the appointments by resolution that will then be remitted to the Contraloría General de la República solely for the purposes of registration. All resolutions related to personnel will be processed in the same manner.

Article 15.- Notwithstanding that provided in the norms of common employment law, employees that incur in the non-compliance of their duties and obligations can be sanctioned by the Tribunal with the following disciplinary measures: warning, written reprimand, a fine of up to one month's salary, and suspension without pay for up to one month.

The sanctions must be approved by the majority of the Members in session.

Article 16.- In the case of absence or impediment, the Secretary will be subrogated by the Reporting Secretary of greater degree and, in the event of the latter's absence, by the Reporting Secretary that holds the position immediately

below the latter. The subrogate will take the same oath as the Secretary to fulfill the position's duties, before the President of the Tribunal.

Article 17.- The Public Sector Budget Law must annually consult, on a global level, the necessary resources for the operation of the Tribunal de Defensa de la Libre Competencia. For these purposes, the President of the Tribunal will inform the Minister of Finance the Tribunal's budgetary needs within the timeframes and in accordance with the methods established by the public sector.

The Tribunal will keep a banking checking account in its name from which the President and the Secretary of the Tribunal may withdraw jointly.

During the first two weeks of the month of January of each year, the President and the Secretary of the Tribunal de Defensa de la Libre Competencia will present an accounts submission and accountability of expenses before the Tribunal.

In matters relating to financial, budgetary and accounting information, the Tribunal will be governed by the provisions of the Law on State Financial Administration.

The fiscal contribution of the Tribunal will be sanctioned by resolution made by the Budgetary Office.

2. Powers and proceedings

Article 18.- The Tribunal de Defensa de la Libre Competencia will have the following powers and duties:

- 1) Oversee and try, at the request of a party or the National Economic Prosecutor, situations that could constitute violations of the present law;
- 2) Oversee and try, at the request of a party that has a legitimate interest, or the National Economic Prosecutor, those non-contentious matters that could infringe the provisions of the present law, of actions, acts, or existing or to be executed contracts, for which it can determine the conditions which must be met in said actions, acts or contracts;
- 3) Dictate instructions of general character in accordance with the law that must be fulfilled by the private parties in actions or contracts that the latter executed or enter into and that are related to competition or could hinder it;
- 4) Propose to the President of the Republic of Chile, through the corresponding State Minister, the modification or the abolition of legal and statutory precepts it deems contrary to competition, as well as the pronouncement of legal or statutory

precepts when necessary to promote competition or regulate the performance of determined economic activities carried out under non-competitive; and

5) Others set forth by laws.

Article 19.- Trying and issuing decisions of proceedings referred to in number 1) of the preceding article, will be subject to the proceedings regulated by the following articles.

Article 20.- The proceedings will be in writing, with the exception of the hearing, public and steered by the Tribunal's decision until its definitive resolution. The parties must be represented as provided in article 1 of Law No. 18.120, on appearance in court.

The proceedings may commence by a complaint or lawsuit filed by the National Economic Prosecutor or by lawsuit of a private party, which must be immediately notified to the Fiscalía. The complaint or lawsuit must contain the clear and determined explanation of the facts, actions or conventions that infringe the present law and indicate the market or markets in which the presumptive infringement takes place. In the event that the lawsuit or complaint do not contain the previously mentioned indications or any other required by article 254 of the Code of Civil Procedure and other applicable rules, the tribunal will grant a period of three business days so that the claimant or requesting party amend said omissions. Once the previous period has expired, and the omissions have not been amended, the tribunal by resolution may not accept for continued proceedings the lawsuit or complaint. If the complaint or lawsuit is accepted for continued proceedings, the affected parties have a period of fifteen business days or the greater time period determined by the Tribunal, that may not exceed thirty days, to respond.

The actions contemplated in this law, prescribe in a three-year period, counting from the performance of the anti-competitive conduct on which they are based. This statute of limitations is interrupted by a complaint submitted by the National Economic Prosecutor or lawsuit filed by a private party, presented before the Tribunal.

Notwithstanding the aforementioned, the actions to pursue the conducts provided in letter a) of article 3 will prescribe in a five-year period, and the calculation of the statute of limitations will not initiate while the effects attributable to the conduct object of the action continue in the marketplace.

Additionally, the measures determined to prevent, correct or sanction anti-competitive conducts, prescribe in two years, counting from the date when the definitive decision that enforces them is confirmed. This statute of limitations is

interrupted for precautionary or compulsive measures ordered by the Tribunal, the National Economic Prosecutor or the private party.

The statute of limitations of actions and of the measures that are established to prevent, correct or sanction anti-competitive actions, are not suspended in favor of any person.

Notwithstanding the general provisions, the civil actions derived from an anti-competitive action prescribe in a four-year period, counting from when the definitive sentence is enforced.

Article 21.- The notification of the complaint or lawsuit, with its respective resolution, can be personally practiced by a minister of faith, delivering an integral copy of the resolution and the background that motivated it. The Tribunal can order for only one extract of these documents to be delivered.

The resolution that received the evidence must be notified by writ. After 30 business days, counting from the issuance of the decision without the latter having been notified, the Tribunal will proceed to notify the same in accordance with preceding number four.

The definitive sentences must be personally notified or by writ.

The remaining resolutions will be notified by any secure means that the parties agree upon and by benefit through the Official Gazette. In the case of opting for electronic media, notification must be conducted by advanced electronic signature.

THIRD PARAGRAPH ABROGATED.

In addition to the Secretary of the Tribunal, those persons appointed by the President will also have powers of a certifying officer, to perform the duties thereof.

Article 22.- Once the period established in article 20 has expired, whether the interested parties responded or otherwise, the Tribunal may call the parties to a conciliation. If it is not considered pertinent or if said procedure failed, the Tribunal will receive the evidence during a non-extendable and common period of twenty business days. Concerning the conciliation, the Tribunal will resolve and approve the same, provided that the agreement is not anti-competitive.

A complaint recourse referred to in article 27 may be filed against the resolution that approves a conciliation, by persons admitted to litigate that were not party thereto.

Proof, and all evidence and background indicated in article 341 of the Civil Procedure Code that, in the Tribunal's understanding, is apt to determine the pertinent acts, will be admissible. The Tribunal can decree, in any stage of the proceedings and even after the hearing, when it is indispensable to clarify those acts that still seem obscure and doubtful through evidentiary procedures it deems convenient.

The parties that wish to submit testimonial proof must present a list of witnesses within the fifth business day counting from when the resolution that accepts the submittal of evidence was executed. In any event, only three witness declarations per party will be admitted as evidence, unless the tribunal, by a well founded request on presenting the witness list, extends the amount allowed. With respect to the witnesses, that established in articles 358, 360, number 2, 373, 374, 376, 377 and 378 of the Civil Procedure Code, will not be enforced.

The procedures stemming from the Tribunal's personal inspection, the absolution of positions or receiving testimonial proof, will be conducted before the member the Tribunal designates in each case, who may ask the questions he or she deems convenient, prevent the declarations and questions from the parties from diverting towards irrelevant or inadmissible aspects, and resolving wholly objections raised.

Evidentiary procedures that must be conducted outside the Metropolitan Region of Santiago, can be conducted through the corresponding judge of jurisdiction, guaranteeing its accuracy and rapid expediency through any suitable means.

Other acts must be conducted through the staff employee of the Tribunal designated to that effect.

The Tribunal will provide a record of all hearings that integrally took place, through any means that ensures their accuracy.

Documentary exhibits may be presented up to ten days before the date scheduled for the hearing. On the party's request, the Tribunal can order a restriction with respect to third parties not involved in the proceedings or confidentiality including with respect to other parties, of those exhibits that contain formulas, strategies or trade secrets or any other element that if revealed could significantly affect the competitive development of their owner. Those exhibits that are of a restricted nature or confidential by virtue of that provided in the second paragraph of letter a) of article 39, must always be submitted as such by the Fiscalía Nacional Económica, and the Tribunal must always maintain their restriction and confidentiality.

Notwithstanding the aforementioned, by writ or by request of the party, the Tribunal can order the corresponding party, in any stage of the proceedings and even as a measure to best decide the case, to prepare a public version of the exhibit so that the other parties may exercise their right to object or observe it. If the referred to public version is insufficient as a valid grounds for resolving the case, the Tribunal may order by writ and by founded resolution, the end of the restriction or confidentiality, and order that the other parties be notified of the same.

The Tribunal will review evidence in accordance with the rules of sound judgment.

Article 23.- Once the evidentiary period has expired, the Tribunal will declare it as ended and order a summons, fixing the date and time for the hearing. The Tribunal must hear the presentations of the parties' attorneys when one of them has requested it.

Article 24.- Additional matters adjacent to the principal matter, except for that provided in the following article, will be wholly decided, allowing the Tribunal to definitely resolve on the same.

Article 25.- The Tribunal, by writ or by request of the party, may order at any stage of the proceedings or before their commencement, and for the timeframe it deems convenient, all precautionary measures necessary to impede negative effects of conducts submitted for its information and to safeguard the common interest. These measures will be ordered with a citation, and in the case of a resulting incident, the latter will be reviewed in accordance with the general rules and under a separate file.

The ordered measures will be essentially provisional and can be modified or left without effect during any stage of the proceedings. To order them, the requestor must accompany background that constitutes at least a serious presumption of the law claimed or the accused acts. The Tribunal, when it deems it necessary, can request the particular party to respond under oath to the harm originated.

The decision granting or denying a precautionary measure will be notified by certified mail, unless the Tribunal, for founded reasons, orders them to be notified by official writ. In the event the measure was prejudicially granted, the Prosecutor or the requestor must make official the complaint or lawsuit within twenty business days or within the longer period determined by the Tribunal, counting from the notification of the same. Otherwise, the measure will remain wholly without effect.

However, the measure can enter into effect before notifying the person against whom they were ordered as long as there are serious motives and the Tribunal orders it as such. In this case, after five days during which time the notification was not made, the procedure will remain without effect. The Tribunal may extend this period on founded grounds.

Notwithstanding that provided in the preceding paragraphs, that provided in Titles IV and V of Book II of the Civil Procedure Code, except that stated in articles 273, 274, 275, 276, 277, 278, 284, 285, 286, 294, 296 and 297 of said code, if applicable, will not govern the precautionary measures ordered by the Tribunal.

Article 26.- The definite sentence will be founded, formulating the factual grounds, law and economic grounds in accordance with the matters on which they are pronounced. The decision will expressly mention the grounds for the votes of the minority, if existent. This sentence must be given within forty-five days, counting from the date in which the proceedings entered the stage of pending sentence.

In the definite sentence, the Tribunal can adopt the following measures:

- a) Modify or terminate acts, contracts, covenants, systems or agreements contrary to the provisions of the present law;
- b) Order the modification or dissolution of partnerships, corporations and other legal persons of private law that could have intervened in the acts, contracts, covenants, systems or agreements referred to in the previous letter;
- c) Order fines for fiscal benefit up to an amount equivalent to twenty thousand *unidades tributarias anuales* and, in the case of sanctioning a conduct provided in letter a) of article 3, up to an amount equivalent to thirty thousand *unidades tributarias anuales*. The fines can be levied on the corresponding legal person, its directors, administrators and all persons that intervened in the performance of the respective act. The fines levied on natural persons cannot be paid by the legal entity in which he or she conducts duties or by the shareholders or partners thereof. Moreover, they cannot be paid by any other entity pertaining to the same business group under the terms stated in article 96 of the Market Value Law, nor by shareholders or partners thereof. In the case of fines levied on legal persons, payment thereof will be jointly made by its directors, administrators and those persons that benefited from the respective act, as long as they participated in the performance of the same.

To determine the fines, the following circumstances, among others, will be considered: the economic benefit obtained as a result of the violation, the severity

of the conduct, the reoffending nature of the offender, and, for the purposes of lowering the fine, the collaboration the latter provided to the Fiscalía before or during the investigation.

Article 27.- The resolutions pronounced by the Tribunal de Defensa de la Libre Competencia, except for the definite sentence, can be subject to appeal for reversal, which can be allowed to follow an incidental procedure or be wholly resolved.

Only the definite sentence imposed by one or some of the measures contemplated in article 26, as well as the sentence that absolves the enforcement of said measures can be subject to a complaint recourse filed before the Supreme Court. Said recourse must be founded and can be filed by the National Economic Prosecutor or any of the parties, in the Tribunal de Defensa de la Libre Competencia, within ten business days, counting from the date of the respective notification. This period will be extended with the extension corresponding to the place the affected party is domiciled, if said place were to be different from that of the Tribunal's seat, in accordance with the table referred to in article 259 of the Civil Procedure Code.

To proceed with the filed recourse, the appearance of the parties in court is unnecessary. The recourse will be prosecuted with preference to other causes, and the suspension of the hearing shall not be implemented due to that set forth in No. 5 of article 165 of the Civil Procedure Code.

The filing of the recourse will not suspend the enforcement of the decision, save that referring to the payment of fines, in accordance with that provided in the following paragraph. However, at the party's request and through a well-founded resolution, the Court overseeing the recourse can suspend the effects of the decision, totally or partially.

FINAL PARAGRAPH DELETED.

Article 28.- The execution of resolutions made by virtue of this proceeding, will be of the direct responsibility of the Tribunal de Defensa de la Libre Competencia who will have, for such effects, all powers inherent to a Court of Justice.

The fines levied by the Tribunal de Defensa de la Libre Competencia must be paid within ten business days following the date in which the respective resolution is executed.

If, once the period ends, the affected party has not proved payment of the fine, the Tribunal will, by writ or by request of the party, and without form of trial, press the affected party for payment in the manner established in article 543 of the Civil Procedure Code.

Article 29.- The norms contained in Books I and II of the Civil Procedure Code will be enforced in addition to the procedures mentioned in the preceding articles, in all matters not incompatible to the same.

Article 30.- The act of remedying infringements for legal effects, resulting from a definite executed sentence issued by the Tribunal de Defensa de la Libre Competencia, will be submitted before the competent civil court in accordance with the general rules, and will undergo procedure in accordance with the disciplinary procedure, established in Book III of Title XI of the Civil Procedure Code.

The competent civil court, on deciding on damages, will base its decision on the conduct, facts and legal nature of the same, established in the sentence of the Tribunal de Defensa de la Libre Competencia, issued with the purpose of enforcing the present law.

Article 31.- The exercise of powers referred to in numbers 2) and 3) of article 18, as well as the issuance of reports entrusted by the Tribunal by virtue of special legal provisions, will be subject to the following procedure:

1) The decree ordering the initiation of the proceedings will be published in the Official Gazette and on the Tribunal's website, and the Fiscalía Nacional Económica, the authorities directly concerned and the economic agents that, in the Tribunal's exclusive judgment, are related to the matter, will be notified of the initiation by writ so that, in a period of no less than fifteen business days, all parties involved and who have a legitimate interest can submit background.

In matters relating to specially determined zones, the Tribunal can also order for the notification to be carried out through the publication of a notice in the respective local newspapers.

The Tribunal will always adjudicate the necessary conditions to be met so that all parties can partake in the case.

2) Once the previously mentioned deadline expires, those that have executed or entered into, or intend to execute or enter into acts, actions or consulted contracts,

may evaluate the recommendations made by the Fiscalía Nacional Económica in the stage pertaining to the submission of factual background and communicate to the Tribunal in writing their agreement therewith.

3) Once the deadline mentioned in number 1 has expired, the Tribunal must summon a public hearing, which will take place within a period of no less than fifteen days and no more than thirty days counting from the notification, which will be carried out through a publication in the Official Gazette and on the Tribunal's website, so that those that submitted background can present their opinion. In the case of presenting a communication as indicated in number 2, the Tribunal will have a period of fifteen days to summon the parties to a public hearing, counting from when said communication was received, which must take place in accordance with that mentioned in the preceding paragraph.

4) If the authorities, bodies or persons referred to in the previous numbers do not report within the timeframes established by the Tribunal, the latter can disregard the report.

5) By writ or by request of the party, the Tribunal can procure and receive the background deemed pertinent.

The resolutions or reports issued or produced by the Tribunal in matters referred to in this article, can be subject to an appeal for reversal. Time limited resolutions, whether they determine conditions or not, can only be object of a complaint recourse as referred to in article 27. Said recourse must be well-founded and can be filed by the consultant or consultants, the National Economic Prosecutor and any of the third parties that have submitted background in accordance with that provided in number 1.

Article 32.- Acts or contracts executed or entered into in accordance with the decisions of the Tribunal de Defensa will not bear responsibility whatsoever in this matter, save in the case that, subsequently, on the grounds of new evidence, these were deemed as contrary to fair competition by the same Tribunal, from when, in its case, the resolution that determines as such is notified or published.

In any event, the Members that partook in the decision will not be considered disqualified for the new pronouncement.

TITLE III

The Fiscalía Nacional Económica

Article 33.- The Fiscalía Nacional Económica will be a decentralized public service, with legal personality and assets of its own, independent from any other entity or service, and subject to the surveillance of the President of the Republic, through the Ministry of Economy, Development and Tourism.

The head office of the Fiscalía Nacional Económica will be located in Santiago. The head of the organization will be the National Economic Prosecutor, who will be appointed by the President of the Republic through a selection process of senior public officials provided in paragraph 3 of Title IV of Law No. 19.882. The Prosecutor will hold the position for a four-year term, which may be renewed only once.

The National Economic Prosecutor can be removed from his or her duties for the following causes:

- a) End of the legal period of the appointment.
- b) Voluntary resignation accepted by the President of the Republic.
- c) Destitution by manifest negligence in the performance of his or her duties.
- d) Incapacity.

Removal due to the causes set forth in letters c) and d) will be determined by the President of the Republic, with a favorable report from the Supreme Court, at the request of the Minister of Economy, Development and Tourism. The favorable report will be issued by the Court's plenary, specially convened to that effect, and must garner the satisfactory vote of the majority of its presiding members.

The National Economic Prosecutor is both the executive director of the Fiscalía Nacional Económica and its legal and extrajudicial representative.

Notwithstanding the general requirements to enter Public Administration, the Prosecutor must prove he or she holds a law degree and ten years of professional experience or three years in the service.

Article 34.- The National Economic Prosecutor may designate Deputy Prosecutors to act in any territorial area when the specialty and complexity or urgency of an investigation thus requires it.

The Deputy Prosecutors will have the powers the National Prosecutor delegates to them.

Article 35.- Hereby establish counting from the first day of the month following the publication of this law the following staff for the Fiscalía Nacional Económica:

	Degree	Numbers in Position
Directors of exclusive trust of the National Economic Prosecutor		
	1	1
Deputy Prosecutor		
	3	1
Head of Department		
	3	4
Head of Department		
	4	4
Career positions		
Head of Section		
	10	1
Head of Section		
	11	2
		Subtotal 13
Professionals		
Professional		
	4	4
Professional		
	5	4
Professional		
	6	4
Professional		
	7	3
Professional		
	8	2
		Subtotal 17
Auditors		
Auditor		
	9	1
Auditor		
	10	2
Auditor		
	11	1
Auditor		
	12	1
Auditor		
	13	2
		Subtotal 7

Technicians		
Technician	14	1
Technician	15	1
		Subtotal 2
Administrative		
Administrative	16	1
Administrative	17	1
Administrative	18	2
Administrative	19	2
		Subtotal 6
Assistants		
Assistant	19	1
Assistant	20	2
Assistant	21	2
		Subtotal 5
		Total Staff 50

In addition to the general requirements demanded by law No. 18.834, to enter State Administration, hereby establish the following requirements for the positions of staff members indicated for each case:

Directors: National Deputy Prosecutor:

Must hold a law degree and professional experience of a minimum of 5 years or 3 years of experience or specialization in the areas related to the performance of the Fiscalía.

Heads of the Departments: Must hold a law, civil engineering or Business administration, accounting or public administration degree, granted by a university or professional institution of the State or recognized by the same, and a minimum professional experience of 3 years.

Heads of Sections: Degree in a career of at least 8 semesters of duration granted by a university or professional institute of the State or recognized by the latter and at least 3 years of experience in State Administration.

Professionals: Must hold a law degree, or a degree in engineering, accounting, or public administration, granted by a university or professional institute of the State or recognized by the latter, or other university graduates with a graduate degree in economics, of at least two semesters of duration, granted by universities of the

State or recognized by the latter, including foreign universities. In any event, there will always be a requirement of a minimum of 3 years professional experience.

Auditors: Must hold a degree in public administration, accounting or another career of at least 8 semesters of duration granted by a university or a professional institute of the State or recognized by the latter.

Technicians: Technical Degree or equivalent in a specialty of the area of economics, finance, computer science or statistics, granted by a higher education institution of the State or recognized by the latter, or a degree in Accounting granted by one of the aforementioned institutions or by an establishment of Professional Technical Higher Education of the State or recognized by the latter.

Administrative: High School Degree or equivalent.

Assistants: Must have approved Junior School or Primary School.

NOTE

Letter f) of No. 2 of Decree Law No. 33, Finance, published on December 30, 2004, determined that the positions of Heads of Department of 3rd degree were to be from then on called "Heads of Division", maintaining the name for those of 4th degree.

Article 36.- The staff of the Fiscalía Nacional Económica and those designated to render services under contract, will be governed by the provisions in the present law and, in compensation, by the pertinent provisions of Title I of decree law no. 3.551, of 1981, and those of the Administrative Statute approved by law No. 18.834 and its modifications.

The Review Board for staff of the Fiscalía Nacional Económica will be comprised by the Deputy Prosecutor, who will preside it, by the two most senior Heads of Department and a representative of the staff chosen by the same.

NOTE

Letter f) of No. 2 of Decree by Force of Law No. 33, Finance, published on December 30, 2004, determined that the positions of Heads of Department of 3rd degree would from then on called "Heads of Division", maintaining the name for those of 4th degree.

Article 37.- The regime for compensation of staff of the Fiscalía Nacional Económica will fall under the responsibility of the Fiscal Auditing Institutions.

The assignment established in article 17 of law No. 18.091, substituted by article 10 of law No. 19.301, will also apply to the staff and hired personnel of the Fiscalía and will be determined in the manner set forth in said provision. For this effect, the National Economic Prosecutor must annually inform the Minister of Finance on this matter.

From this assignment, the staff and personnel under contract of the Fiscalía Nacional Económica, can receive a merit bonus which will be regulated by the norms detailed as follows:

- a) The bonus will be paid to the 25% of the employees belonging to or pertaining to the staff of the Directors, Professionals and Auditors that rendered the best achievement in the previous year. .;
- b) For these purposes, the results of the review obtained by the staff members will be taken into consideration, in accordance with the rules governing this matter;
- c) The amounts to be paid for this bonus, cannot exceed a fourth part of the annually fixed percentages in compliance with that established in the second paragraph of article 17 of law No. 18.091, and will be determined in said administrative act. In the same supreme decree, the percentage to be obtained by the employees that have not been subject of a review given their participation in the review process, who will not be considered for those effects of the limit established in letter a) of the present number; will be determined.
- d) The amounts determined in accordance with the preceding letter, in addition to those which must be paid for purposes of assignment of article 17 of law No. 18.091, cannot exceed, in any case, the maximum percentage or proportion established in the second paragraph of said provision;
- e) The employees benefiting from the bonus will only have the right to receive it during the twelve months following the end of the respective review process;
- f) The bonus will be paid to employees in services to the date of payment, in four trimester quotas. The amount to be paid in each quota will be the value accumulated in the respective trimester, and
- g) For tax purposes, it is understood that the amount paid in each quota, accrued in equal parts each month of the respective calendar trimester.

Article 38.- The staff and personnel under contract of the Fiscalía Nacional Económica will provide exclusive dedication to performing their positions held in the Service, which will be incompatible with all other duties in the Administration of the State, excluding that referred to in letter a) of article 81 of law No. 18.834. They cannot render services as a dependent employee or perform activities pertaining to the title or professional nature they possess for natural or legal persons that could be the object of an action on the part of the Service.

Article 39.- The National Economic Prosecutor, on performing his or her duties, will be independent of all authorities and tribunals before which he or she acts. He or she may, consequently, defend the interests entrusted to him or her in the manner deemed lawful, according to his or her own assessment.

The National Economic Prosecutor will have the following powers and duties:

a) Conduct investigations deemed appropriate to prove infringement of this law, providing notice of its initiation to the affected party. With the knowledge of the Tribunal de Defensa de la Libre Competencia, the General Directorate of Police Investigations of Chile must place at the disposition of the National Economic Prosecutor personnel the latter would require to conduct the action indicated in this letter or perform the specific tasks requested for the same purpose.

The National Economic Prosecutor, with the knowledge of the President of the Tribunal de Defensa de la Libre Competencia, could determine that the investigations conducted ex officio or by virtue of complaints are restricted or confidential.

Additionally, the National Economic Prosecutor could determine ex officio or at the request of the interested party, that certain aspects of the file be maintained restricted or confidential, as long as the purpose is to protect the identity of those that have made declarations or provided background in accordance with article 39 bis, or that contain formulas, strategies or trade secrets or any other element if revealed could significantly affect the competitive development of their owner, or safeguard the efficiency of the Fiscalía's investigations.

The aforementioned is notwithstanding that in an ongoing process and prior admittance to prosecution, that provided in paragraph eight of article 22 is applied, or order via the tribunal copies of parts of the file that have not been added to the proceedings, suppressing therein all references that could reveal the identities or object of the previously alluded to protection.

The National Economic Prosecutor can determine to not inform the affected party of the initiation of the investigation, with authorization from the Tribunal de Defensa de la Libre Competencia;

b) Act as a party, representing the general interest of the collective economic order, before the Tribunal de Defensa de la Libre Competencia and the courts of justice, with all duties and powers vested in that role. Criminal investigations and causes of that nature are excluded.

The National Economic Prosecutor, before the Supreme Court, alone or through a delegate, can defend or challenge the decisions of the Tribunal de Defensa de la Libre Competencia.

With respect to investigations practiced by the Deputy Prosecutors and charges formulated by the same, the National Economic Prosecutor can appropriate these, exercising his or her accusatory duties before the Tribunal de Defensa de la Libre Competencia or disallow them, with a founded report on the same;

c) Request of the Tribunal de Defensa de la Libre Competencia the exercise of any of its powers and the adoption of precautionary measures regarding the investigations the Fiscalía is undertaking;

d) Safeguard the enforcement of resolutions, decisions, sentences and instructions issued by the Tribunal de Defensa de la Libre Competencia or the courts of justice in matters referred to by this law;

e) Issue the reports requested by the Tribunal de Defensa de la Libre Competencia, in those cases where the National Economic Prosecutor is not a party;

f) Request the collaboration of any employee of public bodies and services, of the municipalities or companies, entities or partnerships where the State or its companies, entities or partnerships, or the municipalities, have a contribution, representation or participation, who is obligated to provide the same in addition to background located in their records and that the National Economic Prosecutor requests, even when said background is considered as secret or reserved, in accordance with current legislation, the latter case in which prior authorization from the Tribunal is required.

g) Request from any office, service or entity referred to in the previous letter, to provide access to background deemed necessary for the investigations, complaints or lawsuits under prosecution or where the Prosecutor must intervene.

The National Economic Prosecutor can also procure and perform through the corresponding employees, the examination of all documentation, accounting elements and other deemed necessary;

h) Request from parties information and background deemed necessary for the purposes of the undergoing investigations. Natural persons and representatives of legal persons from whom the National Economic Prosecutor requested background or information whose remittance could allegedly cause harm to their interests or

those of third parties, could request the Tribunal de Defensa de la Libre Competencia to leave without total or partial effect the request.

This request must be well founded and must be submitted before the Fiscalía Nacional Económica within five days following the communication of the investigation, whose effects will be suspended from the moment in which the respective submittal is made.

The Tribunal de Defensa de la Libre Competencia will try and resolve said request in its closest session, with a verbal or written report of the National Economic Prosecutor, and its pronouncement will not be subject to any recourse whatsoever;

i) Execute and enter into all types of acts and contracts regarding personal and real property and regarding corporal and incorporeal matters that integrate the property of the Service, including those that allow to broker and transfer the property and settle with respect to rights, shares and obligations, either contractual or non-contractual;

The transactions referred to in the previous paragraph must be approved by resolution of the Ministry of Finance, in the case of amounts greater than two thousand *unidades de fomento*;

j) Summon to declare, or request a written declaration from, the representatives, administrators, consultants and dependents of the entities or people that could have knowledge of facts, acts or conventions object of the investigations and any other person that may have executed or entered with them into acts and conventions of any nature, with respect to any act the knowledge of which is deemed necessary to fulfill the Prosecutor's duties;

k) Request from technical bodies of the State the reports deemed necessary and hire the services of experts or technicians;

l) Enter into agreements or memoranda of understanding with other public services and universities, in matters of reciprocal cooperation. Likewise, enter into agreements with other foreign bodies that advocate or defend competition in economic activities;

m) Enter into the agreement with other public services and bodies of the State for the electronic transfer of information, not of a secret or reserved nature in accordance with the law, to ease the fulfillment of the Prosecutor's duties. Additionally, and with prior, founded resolution by the National Economic Prosecutor, he or she may agree on the electronic interconnectivity with private

bodies or institutions. In the same manner, the Prosecutor may enter into the agreement of this interconnectivity with foreign public bodies or international organizations, with whom the Fiscalía has entered into an agreement or a memorandum of understanding;

n) In serious and qualified cases of investigations destined to prove conducts described in letter a) of article 3, request, through a well-founded petition and with prior approval from the Tribunal de Defensa de la Libre Competencia, authorization of the corresponding Minister of the Court of Appeals on duty, so that Carabineros or Police Investigations may, under the direction of the employee of the Fiscalía Nacional Económica indicated in the request, proceed to:

n.1) Enter public or private premises and, if necessary, raid and break and enter;

n.2) Register and seize all types of objects and documents that may prove the existence of an infringement;

n.3) Authorize the wiretapping of all types of communications, and

n.4) Order any company that offers communications services to provide copies and records of transmitted or received communications made thereby.

The circumstance of partaking in the previously referred to approval, will not be cause for the dismissal of the members of the Tribunal de Defensa de la Libre Competencia to oversee the proceedings.

To grant the authorization referred to in the first paragraph, the Minister of the Court of Appeals must verify the existence of precise and serious grounds regarding the existence of collusive acts, gathered by the Fiscalía prior to the request for authorization to use the powers in this letter. The authorization must precisely specify the singularization of the measures, the duration for which they will be enforced and the persons who will be affected by said measures.

The exercise of powers vested in paragraph one, must be subject to the requirements and formalities established in articles 205; 207; 208; 209, first, second and third paragraphs, the remittal of background to the regional prosecutor for the effects provided in this last paragraph is inapplicable; 210; 212 a 214, y 216 and 225, save the third paragraph of article 222, of the Penal Process Code. Notwithstanding the aforementioned, the Fiscalía cannot wiretap communications between the investigated subject and those persons who, given their condition, profession or legal function, such as an attorney, doctor or confessor, must keep the secret confided to them.

The references “prosecutor” or “Public Ministry [Ministerio Público]” referred to in the provisions of the Penal Process Code, will be understood as made, for the purposes of the present law, for the “National Economic Prosecutor”. The references to “judge” or “investigative judge”, are interpreted as referring to the Ministry of the Court of Appeals stated in the first paragraph of this literal; the references to the “oral trial” will be understood as “proceedings”, and those made to the “accused” will be interpreted as the “affected party”.”

In the event the Fiscalía does not comply with any of the requirements or formalities indicated in the fourth paragraph, the affected parties may file a complaint before the Ministry of the Court of Appeals referred to in the first paragraph, who will immediately decide on the matter, in one hearing, without the form of a trial and hearing the parties.

The results of the actions established in the first paragraph cannot be used as a means of proof in the proceedings before the Tribunal, when their performance or realization took place beyond the situation established in the law or when the provided requirements were not complied with and it was declared as such, in the manner stated in the preceding paragraph by the Minister of the Court of Appeals referred to therein.

The background obtained by virtue of the exercise of powers contained in this letter, cannot be used by the Fiscalía in any other investigation, with the exception of the mediation of a new judicial authorization;

ñ) Enter into extrajudicial agreements with economic agents involved in its investigations, for the purpose of safeguarding fair competition in the markets.

The Tribunal will be informed of the agreement in one sole hearing, without the form of a trial, specially summoned to that effect, within the fifth business day from the receipt of the background, during which it may hear the declarations of the parties to the agreement. The Tribunal must approve or reject the agreement in a maximum period of five business days counting from the date of the hearing. These decisions, once executed, are binding upon the parties to the agreement and may only be reversed by means of an appeal, and

o) All others stated by the laws.

Article 39 bis.- The person that performs a conduct provided in letter a) of article 3 may obtain a reduction in or exemption of payment of the fine when the latter provides the Fiscalía Nacional Económica with information that conduces to proving said conduct and in determining the responsible parties.

To obtain these benefits, the actor of the conduct must fulfill the following requirements:

- 1.- Provide precise, truthful and verifiable information that represents an effective contribution to constituting the elements of sufficient proof on which to base the complaint before the Tribunal;
- 2.- Abstain from disclosing the request of these benefits until the Fiscalía has formulated the complaint or has ordered the information of the request to be filed, and
- 3.- Place an end to their participation in the conduct immediately after submitting the request .

To obtain a fine exemption, in addition to fulfilling the requirements detailed in the previous paragraph, the actor of the conduct must be the first in providing the information to the Fiscalía, within the group of parties responsible for the infringing conduct.

To obtain a reduction in the fine, in addition to fulfilling the requirements detailed in the second paragraph, the actor of the conduct must provide additional information to that submitted by whomever first accompanied the information to the Fiscalía by virtue of this article. In any event, the reduction of the fine the Prosecutor requests in the complaint cannot be greater than 50% of the largest fine requested for the other actors of the conduct who cannot avail of the benefits of this article.

In the complaint, the Prosecutor will individualize each actor of the conduct that fulfilled the requirements to obtain the benefit of fine exemption or reduction. If the Tribunal considered the conduct as proven, it cannot levy a fine to the person that was individualized as the receiver of an exemption, nor a fine larger to the one requested by the Prosecutor for whomever is individualized as the receiver of an exemption with the exception that during the proceedings, it can be proved that said actor was the organizer of the illicit conduct, coercing the others to participate therein.

Whomever claims the existence of the conduct provided in a) of article 3, knowingly basing it on false or fraudulent information for the purpose of harming other economic agents by obtaining the benefits of this article, will be sanctioned in accordance with that established in article 210 of the Penal Code.

Article 40.- The National Economic Prosecutor may, when deemed necessary, assume, solely or through a delegate, the representation of the Fiscalía in any proceedings and intervene, likewise, in any instance, procedure or determined action before the courts of justice or the administrative authorities or the municipalities.

In its writs and actions before the Tribunal de Defensa de la Libre Competencia and the courts of justice, the Fiscalía will be exempt from taxes established by the laws and the attorneys that represent it may personally appear before the Superior Courts.

Article 41.- The Fiscalía must receive and investigate, according to its duties, the complaints made by private parties with respect to actions that could infringe the norms of the present law, notwithstanding from remitting to the competent authorities those that must be overseen by other bodies in light of their nature. To determine if an investigation must be made or the complaints formulated dismissed, the Fiscalía may request, within a 60 day period counting from the date on which the complaint was received, background from private parties, as well as summoning to declare any person that may have knowledge of the accused action. The submittal of background information and providing the previously stated declaration will always be voluntary, and the National Economic Prosecutor cannot perform the proceedings provided in paragraph one of article 42 while the formal initiation of the investigation has not begun.

Article 42.- The persons that obstruct the investigations conducted by the Fiscalía Nacional Económica in the scope of its duties, can be arrested for up to 15 days.

The arrest warrant is issued by the judge with jurisdiction in criminal law and competent according to the general rules, at the request of the National Economic Prosecutor, with prior authorization from the Tribunal de Defensa de la Libre Competencia.

Employees and other persons that render services to the the Fiscalía Nacional Económica, are forced to maintain confidentiality concerning all information, data or background they have access to through the performance of their duties and, especially, those obtained by virtue of the powers indicated in letters a), g), h) and n) of article 39, and in article 41. Notwithstanding the aforementioned, said background may be used for the fulfillment of the National Economic Prosecutor's duties and the performance of the actions before the Tribunal de Defensa de la Libre Competencia or the courts of justice.

The violation of this ban will be punished with the punishments indicated in articles 246, 247 and 247 bis of the Penal Code, and with the disciplinary sanctions that may be administratively applied for the same fault. Likewise, the norms of employee and State responsibility contemplated in law No. 19.880, in the decree by force of law No. 29, of 2005, of the Ministry of Finance, established by the revised, coordinated and systemized text of law No. 18.834, on Administrative Statute, and in law No. 18.575, on the General Bases for State Administration, will be enforced.

Article 43.- The advisers and consultants that render services on a wages basis for the Fiscalía Nacional Económica or the Tribunal de Defensa de la Libre Competencia, will be considered as subject to the provision of article 260 of the Penal Code.

Article 44.- The Fiscalía Nacional Económica will be financed with the following resources, which will be incorporated into its assets and administered in accordance with the Law on Financial Administration of the State, approved by decree law No. 1.263, of 1975, and its modifications:

- a) The contribution annually consulted in the Law on the Budget of the Nation;
- b) The costs and other amounts it may receive in the processes in which it participates;
- c) The income stipulated in the agreements of consulting, investigation or of another nature that may be entered into with universities and other academic entities or from public or private, national or foreign, investigations;
- d) The rights from certificates and copies offered; and
- e) The goods and income of another nature it receives by any entitlement.

Article 45.- The submissions of parties directed towards the Fiscalía Nacional Económica can be submitted through the respective *Intendencias Regionales* or *Gobernaciones Provinciales* when the address of the petitioner is located outside of the city of the seat of this body. If they are submissions that must be presented within a determined deadline, they will be considered as submitted from the date of their filing in the respective *Intendencia* o *Gobernación*.

The Intendent or Governor, whichever the case, must designate a Regional Minister Secretary, head of service or attorney from its dependencies, whichever appropriate, for the receipt and issuance of said communications, within the twenty-four hours in which they were received, to the Fiscalía Nacional Económica.

Transitory Provisions

Article 1.- The causes that on the date decree law No. 211, of 1973 entered into force, were overseen by the Commission established in article 175 of law No. 13.305, will continue to be overseen by the Resolution Commission with the modifications to the norms of said decree law.

Article 2.- The Regional Preventive Commissions, the Central Preventive and Resolution Commission, must be constituted within a maximum period of fifteen days, counting from the date of the publication of decree law No. 211, of 1973, in the Official Gazette, as requested by their respective Presidents.

Article 3.- For all legal purposes, it is understood that the position of Prosecutor is the successor of the position aluded to in article 175 bis of law No. 13.305 and will continue to be served by the appointee who held the position on the date decree law No. 211, of 1973, entered into force.

Article 4.- While the President of the Republic does not use the power referred to in article 21 of this law, the Prosecutor for the Defense of Competition that held the position on the date decree law No. 2.760, of 1979 entered into force, he or she will perform the duties of the National Economic Prosecutor.

Article 5.- Abolish the provisions in Title V of law No. 13.305.

Declare the conducts comprised in the constitutive acts of delict with arrangement to that established in articles 1, 2 and 3 of this law, according to the original text of law No. 211, of 1973, made before the cited legal body entered into force, will not be susceptible to sanction in accordance with that expresses in the referred to precepts, nor, additionally, in accordance with that stated in Title V of law No. 13.305, abolished by the previous paragraph of this article, notwithstanding that provided in transitory article 1.

Article 6.- The Regional Preventive Commissions will succeed, for all legal purposes, the Provincial Preventive Commissions of the respective region and will continue to oversee, without interruption, the matters currently undergoing procedure.

The current Provincial Preventive Commissions will continue to perform its duties until the respective Regional Preventive Commissions are established, which must be carried out within sixty days from the date the decree law No. 2.760, of 1979, entered into force.

Article 7.- The designations of the members of the Resolution Commission and the Central Preventive Commission must take place within thirty days from the date in which decree law No. 2.760, of 1979, entered into force.

The causes in agreement that are currently pending before the Resolution Commission at the time of constituting its new members, will be decided by the member that will participate in the hearing.

Article 8.- The National Economic Prosecutor may discretionally incorporate all or part of the personnel which, on the date the decree law No. 2760, of 1979, entered into force, rendered services to the Fiscalía to the staff established by article 23 of this law.

The difference in salaries that could stem from the application of this article will be paid to the employee by supplementary taxable payroll in the same proportion as the salary it compensates, and will be absorbed by the promotion or appointments that benefit the employee.

The personnel that have not been placed on the payroll, will have the right to continue receiving during six months what he or she was entitled to in the month preceding the payroll, as indemnity, as long as the employee does not have the right to retirement.

Take note, acknowledge and publish.- RICARDO LAGOS ESCOBAR, President of the Republic.- Jorge Rodríguez Grossi, Minister of Economy, Development and Tourism.

Transcribed for your perusal.- Sincerely,
Carlos Alvarez Voullieme, Deputy Minister of Economy, Development and Tourism.