

## APPENDIX III

### Law 146 of 26th December 1913/27th January 1914 on Unfair Competition

#### *Article 1*

Any act made in commercial, industrial or agricultural transactions for purposes of competition which is contrary to moral principles shall be prohibited.\*

The offender may be sued to refrain [from committing such act] and to make good any damage caused.

#### *Article 2*

For the purposes of this law the term "goods" shall include industrial and agricultural products and the term "industrial activities" shall include the commercial, manufacturing and agricultural ones.

#### *Article 3*

Any inaccurate statement about relations concerning transactions under [Article 1](#) contained in public communications or announcements destined to a larger circle of persons shall be prohibited, and in particular statements concerning the quality, the initial origin, the manner of manufacturing or the pricing of goods or industrial activities, the manner or the source of supply, the possession of awards or other honorable distinctions, the cause or the purpose of the sale, or the size of the available stock, if such statements are capable of giving the impression of an especially favorable offer.

The offender may be sued to refrain from the inaccurate statements and to make good any damage caused.\*

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\* See also Article 1 para. 1 of law 4195/1929: "Any act made in the transports by passenger steam ships between the ports of the state or between such ports and foreign ports, for purposes of competition, which is contrary to moral principles, shall be prohibited".

\* See also Article 3 para. 1 of Legislative Decree of the 8/17 June 1926 (this L.D. was ratified and modified by the L.D. of 12/12 November 1927, and the latter by the Law 3462/1928): "The provisions of Article 3 of Law 146 on unfair competition shall also apply in cases where on goods or their covering or in the commercial or industrial trademarks, mention is made, directly or indirectly, isolated or in any other way, of a place name which is different from the name of the locality, where the producing firm [is established] or of another designation or word which is deceptively similar to such a designation of origin from a place (with the exception of the words which by reason of a long time use designate the type of the goods (appellation type) such as "Cognac", "Eau de Cologne", "Eau de Vie de Danzig" etc.), if the buyers can be thereby misled as to the origin of a similar good. The provisions of Articles 13-15 of the same law shall also apply whenever a trader or manufacturer of a good uses subsequently, isolated or combined with a firm name, his name which is identical or similar [to another name],

## *Article 4*

Any person who, with the purpose of giving an impression of an especially favorable offer and under the conditions of [Article 3](#), makes statements which he knows to be untrue and which are capable of misleading the public, shall be liable to imprisonment for a term not exceeding six months and to a fine not exceeding 3.000 drachmas or to either of these penalties.

If the inaccurate statements mentioned in the preceding paragraph are made by an employee or an agent, the owner or director of the business shall be liable to punishment together with the employee or the agent, if the act was made with his knowledge.

## *Article 5*

For the purposes of [Articles 3](#) and [4](#), pictorial representations and other devices which are aimed and suited to replace the statements referred to therein, shall be considered equivalent to such statements. The use of names, which in the course of business activity serve to denominate goods or industrial activities and which are not intended to indicate the origin thereof, does not fall within the provisions of [Articles 3](#) and [4](#).

## *Article 6*

If, in public communications or announcements destined to a larger circle of persons, the sale of goods originally belonging to the estate of a bankrupt is advertised, where the goods are no longer part of this estate, every reference to the fact that the goods originated in the estate of a bankrupt is forbidden. The offender shall be liable to a fine not exceeding 1.500 drachmas or to imprisonment for a term not exceeding two months or to both these penalties.

## *Article 7\**

1. Any announcement to the public about the fact that a sale of goods constitutes a liquidation of an establishment or a certain branch thereof shall be forbidden.

2. Exceptionally, an announcement about a sale referred to in the preceding paragraph shall be permitted, if the reason thereof is mentioned in the announcement and under the conditions of this Article, after a permit of the competent President of the First Instance Court or, in the province, where no First Instance Court sits, of the competent Judge of Peace.

3. The President or the Judge of Peace hearing the case in accordance with the procedure of [Articles 634](#) and ff, of the Civil Procedure\*\*, at the request of the party concerned, examines the occurrence of the conditions of this Article, grants the permit

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without it being made distinctively clear to the consumer designated in paragraph 2 of this Article, that the industrial or commercial origin of the good is different from the real name or the firm name of another who manufactures of markets the same good".

\* As amended by Article 1 of Legislative Decree 4181/1961.

\*\* The competence is vested today with the one-judge first instance court hearing the case in accordance with the provisions of Articles 686 ff. of the new Code of Civil Procedure.

and determines the reason as well as the time of commencement and conclusion of the sale. A copy of the request is served on the President of the competent Chamber of Commerce who may intervene in the hearing of the case. The following are attached to the request of granting the above permit:

- a) A solemn declaration of the applicant containing the reason of the liquidation, the time of commencement thereof and the address of the establishment in which it will be effected, and
- b) a detailed inventory in two copies of the goods for sale, indicating in details the special characteristics thereof according to the type, the origin and the quality, as well as the quantity of each one of the goods.

At the expense of the applicant the President checks the sincerity of the declaration and the inventory through two experts appointed by him and chosen from a list drawn in December of each year by the Chamber of Commerce and being in force during the subsequent year, or, in the absence of such list, through two experts of his own choice.

In case of sales within the area of the ex-Administration of the Capital one of the above experts is obligatorily taken by the President of the First Instance Court from the Association of Chartered Accountants. A decision of the Minister of Commerce may extend this provision also to other areas of Greece.

4. The sale is permitted only a) in case of actual and definite termination of the activities of the whole business; b) in cases where a branch thereof is essentially closed and only for the goods of such branch; c) in case of bankruptcy of the trader by virtue of a final decision. The sale of goods under the provisions of this Article shall be prohibited, if such goods have been acquired with the sole purpose to be sold at the liquidation or acquired within three months before the request was submitted.

5. The duration of the sale may not exceed 4 months. However the President, taking into account the special circumstances, if any, may extend the above duration, but in no case more than 4 further months. The sale can be effected only in the establishment of the applicant.

6. During the whole time of the sale and within the first five days of each month, the person who obtained the permit is obliged to submit to the competent Chamber of Commerce in two copies a new inventory containing the remaining stock as of the last day of the previous month, as shown in the preceding inventory; the sincerity thereof is checked by the experts. The experts are entitled, upon a complaint or at their own initiative, to make an extraordinary control, in which case, if the provisions of this law are infringed, they submit a report to the Chamber of Commerce.

7. If two prices are posted on the goods for sale, one of which represents the normal selling price of the goods and the other the discounted price by reason of the liquidation, the first of the above two prices must not differ from the real market price of the goods. Offenders are liable to the penalties provided for in [Article 8](#).

8. The President of the First Instance Court at the request of the Chamber of Commerce or any third party may, in cases of infringement committed by the seller, revoke, in whole or in part, or amend the permit granted. Also, in case it appears

equitable, the permit can be revoked, in whole or in part, or amended accordingly, at the request of the party concerned.

9. [Transitional provision]

10. The above provisions shall not apply to sales at discounted prices occurring at the close of a season, announced as such and used in the ordinary course of the commerce. However, royal decrees issued at the instance of the Minister of Commerce may fix the number per year, the commencement date and the duration of such sales for the whole country. Until such a royal decree is issued the royal decree of 24.1.1959 “re: discount sales of traders at the close of seasons” shall remain in force\*.

11. In no case, other than the cases of sales of goods under this Article, will be permitted under any form, name, justification or excuse to announce sales at a discount.

12. A sale shall be against moral principles and the business ethics especially when it is made at special discounted prices applied on one or a limited number of goods with the scope to attract the public and to exploit it through the prices of the other goods in the establishment, unless in cases occurring at the close of a season.

*Article 8\**

Anyone who infringes the provisions of [Article 7](#) or the royal decrees or ministerial decisions issued in application thereof, and especially who announces a sale without permit, or without mentioning the reason thereof, or who knowingly makes an inaccurate declaration and uses knowingly an inaccurate inventory or fails to bring it up to date, or who sells in a place or at a time not permitted, or who displays for sale goods acquired with the sole purpose to be sold at the liquidation or acquired within three months before the request was submitted or not included in the inventory, is punished in accordance with the provision of [Article 458](#) of the penal Code. In accordance with the same provision is punished anyone who transfers to a third party goods for sale in violation of the provisions of [Article 7](#).

The above offenses are judged under the procedure of [Articles 417–425](#) of the Code of Penal Procedure.

*Article 9*

By royal decrees issued at the instance of the minister of national economy and after the council of ministers has decided so, it may be determined that the professional retail sale of certain goods may be only made in prescribed units of number, measure or weight or only with a notice to be affixed to the goods, to their packaging or to their receptacle stating the number, the measure, the weight, the place of production or the place of origin of the goods.

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\* By virtue of Law 504/1976 (Article 13) the Minister of Commerce was empowered to issue decisions regulating these matters. See decision no AI-6465 of 31st August/22 September 1979 regulating the conditions for announcing and selling goods at reduced prices (Appendix VI).

\* As amended by Article 1 of Legislative Decree 4181/1961

Persons infringing the provisions of the decrees of the preceding paragraph shall be liable to a fine not exceeding three hundred drachmas and to imprisonment for a term not exceeding two months or to either of these penalties.

### *Article 10*

The discontinuance of acts described in [Articles 1](#) and [3](#) can be claimed by any businessman, who produces or markets similar or connected kinds of goods as well as by any Chamber of Commerce or Industry, any commercial, industrial or, in general, professional association. Similarly, the above businessmen, Chambers or associations are entitled to claim discontinuance of the acts committed in violation of [Articles 6, 8](#) and [9](#) as well as of an announcement to the public made under [Article 7](#) without a declaration to the competent President of the first instance court or the judge of Peace.

The following shall be liable to make good the damages caused in case of violation of the provisions of this law:

- a) Anyone who, in the case of [Article 3](#) knew or should have known of the untrue character of the advertising made by him. A claim for damages against editors, publishers, printers, or distributors of newspapers or periodicals is only allowed, when these knew the untrue character of the announcements.
- b) Anyone who intentionally or negligently violated the provisions of [Articles 6, 7, 8](#) and [9](#). A claim for discontinuance of acts committed in violation of [Articles 1, 3, 6, 8](#) and [9](#) and of an announcement to the public made under [Article 7](#) by an employee or representative of a firm or establishment, can be brought also against the owner or the director.

### *Article 11*

Any person who, for purposes of competition, alleges or circulates facts concerning the activities or the business of another, concerning the person of the proprietor or the director of the business, concerning the goods or industrial activities of another, which are capable of damaging the operation of his business or his commercial credit, shall be liable to the injured party for the damage caused, provided that the truth of the circulated facts cannot be easily proved. The injured party may also sue the offender to refrain from repeating or further circulating the inaccurate facts.

Where a confidential information is involved, in which the person who gives or receives the information has a legitimate interest, the offender can be sued to refrain if the facts alleged are untrue.

If the person who gives the information knew or should have known that the facts alleged are untrue he is also liable to make good any damages caused.

The provision of the [last sub-paragraph of Article 10](#) is applicable by way of analogy.

### *Article 12*

Anyone who alleges or circulates facts concerning the business or the activities of another, concerning the person of the proprietor or the director of the business, concerning the goods or industrial services of another, while knowing that these facts are untrue, shall, if such facts are capable of damaging the operation of the business, be liable to imprisonment for a term not exceeding six months and to a fine not exceeding three thousand drachmas, or to either of these penalties.

The proprietor or the director of the business shall be also liable to the same penalties, if the relevant facts are alleged or circulated with his knowledge by an employee or agent of his.

### *Article 13*

Anyone who, in the course of business, makes use of a name, a firm name, or the special designation of a business establishment or of an industrial enterprise, or of a printed work, in a manner capable of causing confusion with the name, firm name, or special designation legitimately used by another, may be enjoined from such use by the latter. He shall be also liable to the injured party for damages, if he knew or should have known that the misuse was capable of causing confusion.

Business symbols of a business establishment or an enterprise which are considered within the trade concerned as the distinctive signs of such establishment or enterprise shall be equivalent to the special designation.

The special presentation or the special decoration of the goods and the packaging or the covering thereof are assimilated to the special designation, if they are considered within the trade concerned as the distinctive signs of the similar goods of another.

The provision of the [last sub-paragraph of Article 10](#) is applicable by way of analogy.\*

### *Article 14*

Anyone who in the course of business knowingly and intentionally makes use of a name, a firm name, or the special designation of a business establishment or of an industrial enterprise or of a printed work, with the purpose to cause confusion with the name, the firm name or the special designation legitimately used by another, shall be liable to imprisonment for a term not exceeding six months and to a fine not exceeding three thousand drachmas or to either of these penalties.

The provisions of this and the preceding Articles shall not apply for the protection of commercial and industrial trademarks, in respect to which the special legal provisions relating to them shall be maintained and applied.

The application of this and the preceding Articles shall not be excluded in cases where the use of another's name, or another's firm name or special designation is made with small alterations, if the latter do not exclude the danger of confusion.

### *Article 15*

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\* See also note under Article 3.

In case of conviction under [Articles 13](#) and [14](#) hereof the court orders, at the request of the injured party, the removal of the designation. If it is not possible to remove it, the Court may order the destruction thereof, but only in cases where the convicted knew or should have known that he had made use of another's designation.

The Court may judge at its discretion whether such removal or destruction are to be ordered even in case of acquittal.

### *Article 16*

A punishment of imprisonment for a term not exceeding six months and a fine not exceeding three thousand drachmas, or either of these penalties, shall be imposed upon any employee, workman or apprentice of a commercial or industrial establishment or enterprise, who during the term of his employment, without authorization, communicates to a third party secrets of the establishment or the enterprise that have been confided to him by virtue of his employment relationship or have otherwise come to his knowledge, if he does so for purposes of competition or with the intention of damaging the proprietor of the establishment or the enterprise.

The same punishment shall be imposed also upon anyone who makes unauthorized use of or communicates to a third party, for purposes of competition, such secrets, if his knowledge of them has been gained through one of the communications designated in the preceding paragraph or through his own acts in violation of the law or the moral principles.

### *Article 17*

The punishment of the preceding Article shall be imposed upon anyone who makes unauthorized use of or communicates to third parties the models or technical standards that have been confided to him in the course of business, and in particular drawings, prototypes, patterns, samples or instructions.

### *Article 18*

Infringements of the provisions of [Articles 16](#) and [17](#) shall also result in liability for damage caused thereby.

The punishments of [Article 16](#) reduced by half, shall apply to anyone who, for purposes of competition, attempts to induce another to commit an act in violation of the provisions of [Article 16 paragraph 1](#) and of [Article 17](#).

### *Article 19*

The claims for discontinuance or damages, arising from the provisions of this law, shall be introduced as commercial cases before the competent first instance court and shall be barred after six months from the time when the person entitled to a claim obtained knowledge of the act and the identity of the party liable and, in any case, after three years from the time when the act was committed.

In the case of claims for relief by way of damages, the limitation period shall not begin to run until the time when the damage accrued.

## *Article 20*

The person claiming discontinuance of an act infringing the provisions of this law may also ask the competent President of the first instance court or, in the case of the [last paragraph of Article 7](#) the competent judge of peace to issue a preliminary injunction; all provisions of law 3797 “re: interim measures on possession disputes” shall correspondingly apply\*.

Decisions of the President of the first instance court or the judge of peace can be appealed before the President of the Court of Appeal or the President of the first instance court, as the case may be, within 10 days as from the day the decision was notified; such time period cannot be extended by reason of distance\*\*.

## *Article 21*

With the exception of cases arising under [Articles 6, 8, and 9](#), criminal prosecution shall be instituted only upon complaint.

In the case of [Article 4](#) any of the businessmen, Chambers or associations designated in the [first paragraph of Article 10](#) may lodge a complaint.

## *Article 22*

In cases of conviction under [Articles 4, 6, 8 and 9](#), the Court may order the publication of the judgment in the press within a certain period of time, at the expense of the convicted party. If the convicted party does not proceed with the publication in accordance with the terms of the judgment, such publication is made by the public prosecutor and the expense, assessed by the competent tax authority is collected in accordance with the provisions concerning the collection of public revenues. If the conviction is based on [Articles 12](#) and the [first paragraph of Article 14](#), the Court allows always the injured party to cause the publication of the judgment within a certain period of time at the expense of the convicted party. At the request of the acquitted party the Court may order the communication of the judgment; the expenses thereof are incurred by the State, if they have not been assessed against the person who lodged the complaint or brought a civil action before the Court. The successful party in a suit for discontinuance, based on one of the provisions of this law, may be allowed by the Court in the judgment to publish the operative part of the judgment within a certain period of time at the expense of the losing party.

## *Article 23*

Anyone lacking a principal establishment in Greece may claim protection pursuant to this law only if Greek firms enjoy, in the country where his principal establishment is located, the same protection as local firms. A declaration of the Ministers of Foreign

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\* See, today, Articles 731 and ff. of the new Code of Civil Procedure

\*\* This second paragraph of Article 20 was added by Article 2 of law 4181/1961. Today, it is virtually abolished, since Article 699 of the new Code of Civil Procedure does not allow any legal remedies against preliminary injunctions

Affairs and of the National Economy published in the Government Gazette, can serve as evidence of such protection in the foreign country.

*Article 24*

[Abrogation of pre-existing legislation]