

Law No. 287 of October 10th, 1990

Full Text

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COMPETITION AND FAIR TRADING ACT

TITLE I

AGREEMENTS, ABUSE OF DOMINANT POSITION AND CONCENTRATIONS

Section 1

Scope and relationship to Community law

1. The provisions of this Act implementing Article 41 of the Constitution protecting and guaranteeing the right of free enterprise, apply to agreements, abuse of a dominant position and concentrations outside the scope of Articles 65 and/or 66 of the Treaty establishing the European Coal and Steel Community, Articles 85 and/or 86 of the Treaty establishing the European Economic Community (EEC), EEC Regulations or Community acts having an equivalent statutory effect.
2. Where the Competition Authority, within the meaning of section 10, hereinafter referred to as 'the Authority', considers that a case does not fall within the scope of this Act, as defined in subsection (1), it shall inform the Commission of the European Communities and forward to it any relevant information at its disposal.
3. The Authority shall suspend any investigation into cases in respect of which the Commission of the European Communities has opened a formal procedure under the provisions referred to in subsection (1) above, save for any aspects entirely of domestic relevance.
4. The provisions of this Title shall be interpreted in accordance with the principles of the European Community competition law.

Section 2

Agreements restricting freedom of competition

1. The following shall be regarded as agreements: accords and/or concerted practices between undertakings, and any decisions, even if adopted pursuant to their Articles or Bylaws, taken by consortia, associations of undertakings and other similar entities.
2. Agreements are prohibited between undertakings which have as their object or effect appreciable prevention, restriction or distortion of competition within the national market or within a substantial part of it, including those that:
 - a) directly or indirectly fix purchase or selling prices or other contractual conditions;
 - b) limit or restrict production, market outlets or market access, investment, technical development

or technological progress;

c) share markets or sources of supply;

d) apply to other trading partners objectively dissimilar conditions for equivalent transactions, thereby placing them at an unjustifiable competitive disadvantage;

e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

3. Prohibited agreements are null and void.

Section 3 Abuse of a dominant position

1. The abuse by one or more undertakings of a dominant position within the domestic market or in a substantial part of it is prohibited. It is also prohibited:

a) directly or indirectly to impose unfair purchase or selling prices or other unfair contractual conditions;

b) to limit or restrict production, market outlets or market access, investment, technical development or technological progress;

c) to apply to other trading partners objectively dissimilar conditions for equivalent transactions, thereby placing them at an unjustifiable competitive disadvantage;

d) to make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Section 4 Exemption from the prohibition of agreements restricting competition

1. The Authority may authorize, for a limited period, agreements or categories of agreements prohibited under section 2 which have the effect of improving the conditions of supply in the market, leading to substantial benefits for consumers. Such improvements shall be identified taking also into account the need to guarantee the undertakings the necessary level of international competitiveness and shall be related, in particular, with increases of production, improvements in the quality of production or distribution, or with technical and technological progress. The exemption may not permit restrictions that are not strictly necessary for the purposes of this subsection, and may not permit competition to be eliminated in a substantial part of the market.

2. The Authority may subsequently, after giving notice, revoke the exemption referred to in subsection (1) in cases where the party concerned abuses it, or when any of the conditions on which the exemption was based no longer obtain.

3. Requests for exemption shall be submitted to the Authority, which shall avail itself of the powers of investigation referred to in section 14 and decide within a period from 120 days of the date on which the application is filed.

Section 5 Concentrations

1. A concentration shall be deemed to arise when:
 - a) two or more undertakings merge;
 - b) one or more persons controlling at least one undertaking or one or more undertakings, acquire the direct or indirect control of the whole or parts of one or more undertakings, whether through the acquisition of shares or assets, or by contract or by any other means;
 - c) two or more undertakings create a joint venture by setting up a new company.
2. Control of an undertaking shall not be deemed to have been acquired in the case of a bank or financial institution which acquires shares in an undertaking when constituted, or when its share capital is raised, with a view to re-selling them on the market, provided that it does not exercise any voting rights vested in those securities while it holds them; in no case the holding period shall exceed 24 months.
3. Operations which have as their main object or effect the coordination of the actions of independent undertakings shall not constitute concentrations.

Section 6 Prohibition on concentrations restricting free competition

1. The Authority shall appraise concentrations subject to notification under section 16, to ascertain whether they create or strengthen a dominant position on the domestic market with the effect of eliminating or restricting competition appreciably and on a lasting basis. This situation shall be appraised taking into account the possibilities of substitution available to suppliers and users, the market position of the undertakings, the access conditions to supplies or markets, the structure of the relevant markets, the competitive position of the domestic industry, barriers to the entry of competing undertakings and the evolution of supply and demand for the relevant goods or services.
2. Whenever the investigation under section 16(4) shows that the operation entails the consequences referred to in subsection (1) the Authority shall either prohibit the concentration or authorize it laying down the necessary measures to prevent such consequences.

Section 7 Control

1. For the purposes of this title, control is acquired in the cases provided by Article 2359 of the Civil Code, and by the holding of rights, contracts or other legal relations which, separately or in combination, and having regard for the considerations of fact and law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:
 - a) the ownership or right of use over all or part of the assets of an undertaking;
 - b) rights, contracts or other legal relations which confer a decisive influence over the composition, resolutions or decisions of the board of an undertaking.
2. Control is acquired by persons or undertakings or groups of persons or undertakings which:

a) are holders of the rights or beneficiaries under the contracts or are parties to the other legal relations;

b) while not being holders of the rights or beneficiaries under the contracts or parties to such legal relations, have the power to exercise the rights deriving therefrom.

Section 8 **Public undertakings and statutory monopolies**

[As amended by Section 11(3) of [Law no 57 of 5 March 2001](#), enacting 'Provisions governing the opening and regulation of markets']

1. The provisions of the preceding sections apply to both private and public undertakings and to those in which the State is the majority shareholder.

2. The provisions of the preceding sections do not apply to undertakings which, by law, are entrusted with the operation of services of general economic interest or operate on the market in a monopoly situation, only in so far as this is indispensable to perform the specific tasks assigned to them.

2-bis. The undertakings referred to in sub-section (2) shall operate through separate companies if they intend to trade on markets other than those on which they trade within the meaning of the same sub-section (2).

2-ter. The incorporation of undertakings and the acquisition of controlling interests in undertakings trading on the different markets referred to in sub-section (2-bis) require prior notification to be submitted to the Authority.

2-quater. In order to guarantee equal business opportunities, when the undertakings referred to in sub-section (2) supply their subsidiaries or controlled companies on the different markets referred to in sub-section (2-bis) with goods or services, including information services, over which they have exclusive rights by virtue of the activities they perform within the meaning of sub-section 2, they shall make these same goods and services available to their direct competitors on equivalent terms and conditions.

2-quinquies. In the cases referred to in sub-sections (2-bis), (2-ter) and (2-quater), the Authority shall exercise its powers under section 14. When offences are committed under sections 2 and 3, the measures and the penalties provided by section 15 shall be applied.

2-sexies. In the event of failure to comply with the obligation of notification referred to in sub-section (2-ter), the Authority shall impose a fine of up to 100 million lire.

Section 9 **Internal production**

1. The statutory monopoly granted to the State or to a public entity or agency, as well as any statutory monopoly granted to an undertaking entrusted with the sale of goods and services to the public does not imply a prohibition on third parties from producing the same goods or services for their own internal use, or for their parent or subsidiary companies.

2. Internal production is not allowed in cases where public order, public safety and national defence are the grounds for the relevant statutory monopoly provisions, or for telecommunications services, unless a government franchise is granted.

TITLE II

ESTABLISHMENT AND FUNCTIONS OF THE COMPETITION AUTHORITY

Chapter I

THE ESTABLISHMENT OF THE AUTHORITY

Section 10 The Competition Authority

[As amended by section 1(69) of Law no 266 of 23 December 2005]

1. The Competition Authority, hereinafter referred to as 'the Authority' is hereby instituted, with its headquarters in Rome.
2. The Authority shall act with total autonomy and independence of judgment and assessment, and is a collegial body consisting of the President and four members *[Editor's note: Section 23(1) of Decree Law 201/2011, which was converted with modifications from Law no. 214 of 22 December 2011 on the "Conversion to law, with modifications, of Decree Law no. 201 of 6 December 2011 on urgent measures for the growth, equity and consolidation of public finances," reduces the number of members from five to three, including the president. Such provision does not apply to members already appointed as of the date the Decree enters into effect]* proposed and appointed jointly by the Presidents of the Italian Chamber of Deputies and Senate. The President shall be a person of well-known independence, and who has already held high office with broadly-based institutional responsibilities. The four members shall be persons of well-known independence, and chosen among judges serving on the Supreme Administrative Court ('Council of State'), the Court of Auditors, the Court of Cassation, full professors of Economics or Law or respected business executives of particularly high professional repute.
3. The members of the Authority shall be appointed for a non-renewable period of seven years. While holding office they may not exercise any professional or consultancy activities, or acquire directorships or be employees of public or private entities, or hold public office of any kind whatever. Civil servants shall be given temporary leave throughout their full term of office.
4. The Authority may correspond with any government department and with any other statutory bodies or agencies under public law, and may request information and co-operation in the performance of its duties. Being the national Competition Authority, it shall be responsible for relations with the institutions of the European Community provided by the relevant provisions of Community law.
5. Within 90 days of the entry into force of this Act, the President of the Republic shall issue a Decree, at the proposal of the Minister of Trade and Industry, in consultation with the Minister of the Treasury, following a decision by the Council of Ministers, establishing the investigation procedures for ensuring full disclosure of any documents used in the course of the Authority's investigations, and the right of reply, debate and the submission of defences *[Presidential Decree no. 217 of 30 April 1998 - Official Gazette no. 158 of July 1998]*.
6. The Authority shall draw up rules governing its own organization and operations, regulations for staff salary scales and conditions of employment and promotion, and rules for keeping expenditure within the limits laid down in this Act, even if they constitute exceptions to the general provisions governing public accounting.

7. The Authority is responsible for expenditure relating to its own operations, within the limits provided in the national budget and entered under a single heading in the budget of the Ministry of Trade and Industry. Its annual financial management shall be based on the budget approved by the Authority by 31st December of the previous year. The content and structure of the budget, in which expenditure shall be restricted within the limits of the forecast revenue, shall conform to the rules referred to in subsection (6), which also govern the procedures for introducing amendments. The financial statements, which shall be approved by 30th April of the following year, shall be audited by the Court of Auditors. The budget and the financial statements shall be published in the Official Gazette of the Italian Republic.

7bis. To cover the costs of merger review, each year the Competition Authority shall decide on the filing fee charged to companies under a statutory obligation to notify mergers and acquisitions pursuant to section 16(1) of the Competition Act. To this end, the Authority shall ensure that the fee is commensurate with the overall costs incurred in reviewing mergers and acquisitions, taking account of the economic magnitude of the operation based on the value of the transaction, and at all events in an amount that shall not exceed 1.2% of the value of the operation, setting minimum thresholds and maximum ceilings on the fees payable.

8. The emoluments of the Chairman and Members of the Authority shall be laid down by Prime Ministerial Decree, as proposed by the Minister of Trade and Industry, by agreement with the Minister of the Treasury.

Section 11 Staff of the Authority

1. By Prime Ministerial Decree a specific record shall be instituted for the staff of the Authority. The number of posts may not exceed 150 [*Legislative Decree no. 67 of 25 February 2000 provided for 20 more posts*]. Staff shall be recruited by public competitive examination, except for those grades for which recruitment is provided by section 16 of Law no. 56 of 28th February 1987.

2. The staff salaries and conditions of employment and promotion shall be in accordance with the criteria laid down in the collective labour contract for Bank of Italy staff, taking account of the Authority's specific functional and organizational requirements.

3. Staff members of the Authority are forbidden to take any other employment or duties, and to exercise any professional, commercial or industrial activities.

4. The Authority may recruit up to 50 members of staff under fixed-term contracts governed by private law provisions. The Authority may, if appropriate, also engage experts for consultation on specific matters and problems, whenever necessary.

5. The Secretary-General is responsible for overseeing the operations of the Authority's services and offices, and shall report to the Chairman. He is appointed by the Minister of Trade and Industry, acting on a proposal of the Chairman of the Authority.

Chapter II

THE AUTHORITY'S POWERS OVER AGREEMENTS RESTRICTING COMPETITION AND ABUSE OF A DOMINANT POSITION

Section 12 Powers of investigation

1. After assessing the elements in its possession and those brought to its notice by the public authorities or by any other interested party, including bodies representing consumers, the Authority shall conduct an investigation to ascertain any infringements of the prohibitions provided by sections 2 and 3.

2. The Authority may also institute a general fact-finding investigation at its own initiative, or at the request of the Minister of Trade and Industry, or of the Minister of State Shareholdings, in areas of business in which the development of trade, the evolution of prices or other circumstances suggest that competition may be impeded, restricted or distorted.

Section 13 Notification of agreements

1. Undertakings may notify the Authority of any agreements they conclude. The Authority shall commence the investigations under section 14 within 120 days of notification, after which time no investigation may take place, except where the notification is found to be incomplete or untrue.

Section 14 Investigation

1. In the event of an alleged infringement of sections 2 or 3 the Authority shall notify the undertakings and entities concerned that an investigation is being opened. The owners or legal representatives of such undertakings or entities may submit representations in person or through a special attorney by the deadline set at the moment of notification, and may make submissions and opinions at any stage during the course of the investigation, as well as further representations before the investigations are completed.

2. The Authority may, at any stage in the investigation, request undertakings, entities and individuals to supply any information in their possession and exhibit any documents of relevance to the investigation; it may conduct inspections of the undertaking's books and records and make copies of them, availing itself of the cooperation of other government agencies where necessary; it may produce expert reports and economic and statistical analyses, and consult experts on any matter of relevance to the investigation.

3. Any information or data regarding the undertakings under investigation by the Authority are wholly confidential and may not be divulged even to other government departments.

4. In the exercise of their functions, officials of the Authority shall be considered 'public officials'. They are sworn to secrecy.

5. The Authority may fine anyone who refuses or fails to provide the information or exhibit the documents referred to in subsection (2) without justification, in an amount up to 50 million lire, which is increased up to 100 million lire in the event that they submit untruthful information or documents, in addition to any other penalties provided by current legislation.

Section 14-bis Interim Measures

[As introduced by Section 14(1) of Decree Law 223/2006 converted, with modifications, by Law no 248 of 4 August 2006]

1. In urgent cases where there is a risk of serious, irreparable damage to competition, the Authority may, where a cursory examination reveals the existence of a contravention, decide *ex officio* that interim measures must be adopted.
2. Decisions taken under Paragraph 1 may in no case be renewed or extended.
3. Should a company not abide by a decision imposing interim measures, the Authority may levy fines up to three percent of turnover.

Article 14-ter. Commitments

[As introduced by Section 14(1) of Decree Law 223/2006 converted, with modifications, by Law no 248 of 4 August 2006]

1. Within three months from notification of the launch of an investigation into the possible violation of Articles 2 or 3 of this law or Articles 81 or 82 of the EC Treaty, companies may offer commitments that would correct the anti-competitive conduct which is the subject of the investigation. The Authority may, after having assessed the suitability of such commitments and within the limits of EU law, make them binding on for those companies and terminate the proceeding without ascertaining the contravention.
2. If the commitments made binding under Paragraph 1 are not observed, the Authority may levy a fine of up to 10 percent of turnover.
3. The Authority, acting in its official capacity, may reopen the proceeding if:
 - a) there is a change in a factual element of the case on which the decision was based;
 - b) the companies concerned act contrary to their commitments;
 - c) the decision was based on information provided by the parties which is shown to be incomplete, inexact or misleading.

Section 15 Service of notice and penalties

[As amended by Section 11(4) of [Law no 57 of 5 March 2001](#), enacting 'Provisions governing the opening and regulation of markets' and by Section 14(2) of Decree Law 223/2006 converted, with modifications, by Law no 248 of 4 August 2006]

1. If the investigation provided in section 14 reveals infringements of sections 2 or 3, the Authority shall set a deadline within which the undertakings and entities concerned are to remedy the infringements. In the most serious cases it may decide, depending on the gravity and the duration of the infringement, to impose a fine up to ten per cent of the turnover of each undertaking or entity during the prior financial year; time limits shall be laid down within which the undertaking

shall pay the penalty.

2. In the case of non-compliance with the notice referred to in subsection (1), the Authority shall impose a fine of up to ten per cent of the turnover or, in cases where the penalty provided by subsection (1) has already been imposed, a fine of no less than double the penalty already imposed with a ceiling of ten per cent of the turnover as defined in subsection (1). It shall also set a time limit for the payment of the fine. In cases of repeated non-compliance, the Authority may decide to order the undertaking to suspend activities for up to 30 days.

2-bis. The Authority, in conformity with EU law, will use a general provision of its own to define the cases in which, based on assistance by companies under investigation in ascertaining infringements of competition rules, the fine may either not be levied or may be reduced in cases foreseen by EU law.

Chapter III

THE AUTHORITY'S POWERS TO PROHIBIT CONCENTRATIONS

Section 16

Notification of concentrations

1. The concentrations referred to in section 5 shall be notified in advance to the Authority if the combined aggregate domestic turnover of all the undertakings concerned exceeds 500 billion lire or if the aggregate domestic turnover of the undertaking which is to be acquired exceeds 50 billion lire. These figures shall be increased each year by an amount equivalent to the increase in GDP price deflator index.

2. In the case of banks and financial institutions the turnover used shall be equal to the value of one-tenth of their total assets, with the exclusion of memorandum accounts and, in the case of insurance companies, to the value of premiums collected.

3. Within five days of receiving notification of a concentration, the Authority shall inform the Prime Minister and the Minister of Trade and Industry.

4. If the Authority considers that a concentration may be subject to prohibition under section 6, within 30 days of receiving the notification or of being informed thereof by any other means, it shall commence the investigations pursuant to the provisions of section 14. When formal notification is received of a concentration in respect of which the Authority deems the investigation unnecessary, it shall notify the undertakings and the Minister of Trade and Industry of its conclusions on this matter, within 30 days of receiving notification.

5. When notification is given to the 'Commissione Nazionale per le Società e la Borsa' of any public takeover bid which might result in a concentration subject to notification under subsection (1) the Authority shall be notified thereof at the same time.

6. With 15 days of receiving notification of a takeover bid pursuant to subsection (5), the Authority shall give notice that the investigation is being initiated and shall inform the Commissione Nazionale per le Società e la Borsa at the same time.

7. The Authority may commence the investigation beyond the time limits provided by this section when the information notified by the undertakings is seriously inaccurate, incomplete or untrue.

8. Within 45 days of the commencing of the investigation provided in this section, the Authority

shall notify the undertakings concerned, and the Minister of Trade and Industry of its conclusions. This period may be extended in the course of the investigation for a further period of not more than 30 days whenever the undertakings fail to supply the information and the data in their possession upon request.

Section 17 **Temporary suspension of a concentration**

1. When conducting the investigation provided in section 16, the Authority may order the undertakings concerned not to proceed with the concentration until the investigation is concluded.
2. The provisions of subsection (1) shall not suspend a takeover bid that has been notified to the Authority under section 16(5), provided that the acquirer does not exercise any voting rights conferred by the securities in question.

Section 18 **Conclusion of investigations of concentrations**

1. If, following the investigation provided by section 16, the Authority ascertains that a concentration falls within the scope of section 6 of this Act, it shall prohibit it.
2. When the investigation produces insufficient evidence to justify action to be taken in respect of a concentration, the Authority shall close the investigation and immediately inform the undertakings concerned and the Minister of Trade and Industry of its conclusions. This measure may also be taken at the request of the undertakings concerned, if they are able to demonstrate that any aspects of the concentration deemed likely to distort competition as originally planned have since been removed.
3. If the concentration has already taken place, the Authority may require measures to be taken in order to restore conditions of effective competition, and remove any effects that distort it.

Section 19 **Fines for failure to comply with the prohibition on concentrations or the notification requirement**

1. The Authority shall impose administrative fines on undertakings which implement a concentration in violation of the prohibition provided by section 18(1) or which fail to comply with the instructions issued pursuant to section 18(3), ranging from a minimum of one per cent to a maximum of ten per cent of the turnover of the business forming the object of the concentration.
2. The Authority may impose administrative fines on undertakings which fail to comply with the prior notification requirements provided by section 16(1) in the amount of one per cent of the turnover of the year prior to the year in which the undertaking is challenged, over and above any other penalties for which it may be liable under subsection (1), following the investigation provided by Chapter III, counted from the date on which the penalty referred provided by this subsection is notified.

Chapter IV

SPECIAL PROVISIONS

Section 20 **Banks, insurance companies and the broadcasting and publishing undertakings**

[As amended by Section 1, subsection 6, letter c, no. 9) of Law no. 249 of 3 July 1997, on the "Institution of the Communications regulatory and guarantees Authority", by Section 19, subsection 11, of Law no. 262 of 28 December 2005, and by Section 2 of Legislative Decree no. 303 of 29 December 2006].

1. **[Repealed].**

2. **[Repealed].**

3. **[Repealed].**

04. In the event that the agreement, abuse of dominant position or acquisition/merger involves companies working in sectors subject to the oversight of several Authorities, each individual Authority may adopt the measures falling within their remit

4. In the case of operations involving insurance companies, the measures shall be adopted by the Authority within the meaning of section 10 after hearing the opinion of Istituto per la Vigilanza sulle Assicurazioni Private e d'Interesse Collettivo (ISVAP), which shall be issued within 30 days of receiving the documentation on which the measure is based. If the opinion is not issued within 30 days, the Authority within the meaning of section 10 may adopt the measures for which it is empowered. The deadline for the procedure for which the opinion is requested shall be suspended until the Competition Authority receives the opinion of ISVAP, or at all events until the expiry of the deadline by which this opinion is required to be submitted.

5. In relation to operations to acquire the control of banks which constitute a merger subject to prior notification pursuant to s. 16, the measures to be issued by the Bank of Italy pursuant to s. 19 of the Consolidation Act to which reference is made in Legislative Decree No 385 of 1 September 1993 for the assessments of sound and prudent management, and by the Authority referred to in s. 10 pursuant to s. 6 referring to assessment of the state of competition on the market, shall be adopted within 60 days of the date on which the request is submitted complete with the required documentation.

5-bis. The Competition Authority may, at the request of the Bank of Italy, authorise:

a) an agreement in derogation of the prohibition provided by s. 2, in the interests of the efficiency of the payments system, for a limited period of time and taking due account of the criteria provided by s. 4 (1);

b) a merger involving banks or banking groups which creates or strengthens a dominant position, in the interests of the stability of one or more parties involved.

5-ter. The authorisation provided by subsection 5-bis may not, however, permit any restrictions to be placed on competition which are not strictly necessary to achieve the purposes therein indicated.

6. **[Repealed].**

7. **[Repealed].**

8. **[Repealed].**

9. The provisions of this Act governing concentrations do not constitute a derogation from the statutory provisions in force governing banking, insurance, broadcasting and publishing.

TITLE III

THE AUTHORITY'S FACT-FINDING AND CONSULTATIVE POWERS

Section 21

Powers to notify Parliament and the Government

1. In order to contribute to more effective protection of competition and the market, the Authority shall identify cases of particular relevance in which the provisions of law or regulations or general administrative provisions are creating distortions to competition or to the sound operation of the market which are not justified by the requirements of general interest.
2. The Authority shall notify Parliament and the Prime Minister of any distortions arising as a result of legislative measures, and the Prime Minister, other relevant ministers, and the relevant local authorities of distortions arising in any other cases.
3. At its discretion, the Authority shall issue an opinion on any measures needed to remove or prevent distortions, and it may also publish the cases notified and the opinions as appropriate according to the nature and the importance of the distortions.

Section 21-bis

The Authority's powers over administrative provisions creating distortions to competition

[Introduced by Section 35 of Decree Law 201/2011, which was converted with modifications from Law no. 214 of 22 December 2011 on the "Conversion to law, with modifications, of Decree Law no. 201 of 6 December 2011 on urgent measures for the growth, equity and consolidation of public finances."]

1. It is admissible for the Authority to take legal action whenever the general administrative provisions, regulations or measures of any public administration infringe on the laws protecting competition and the market.
2. Should the Authority determine a provision issued by a public administration to infringe on the laws protecting competition and the market, a reasoned opinion indicating the specific nature of said infringement shall be issued within sixty days. Should the public administration fail to comply with the opinion within sixty days of notification, the Authority may lodge an appeal through the Avvocatura dello Stato within the following thirty days.
3. Rulings enacted pursuant to sub-paragraph 1 are subject to the rules and regulations in Chapter IV, Title V of Legislative Decree no. 104 of 2 July 2010.

Section 22

Consultation activities

1. The Authority may express opinions on draft legislation or regulations and on problems relating to competition and the market whenever it deems this appropriate or whenever requested to do so by the government departments and agencies concerned. The Prime Minister may also request the opinion of the Authority in relation to legislation or regulations whose direct effect is:

- to place quantitative restrictions on the exercise of an activity or access to a market:

- to lay down exclusive rights in certain business areas;
- to impose general pricing practices or conditions of sale.

Section 23 **Annual report**

[As amended by Section 47(5) of Law no 99 of 23 July 2009]

1. By 31st March of each year the Authority shall submit a report to the Prime Minister on its activities during the preceding year. The Prime Minister shall submit the report to Parliament within thirty days thereafter.

Section 24 **Report to the Government on certain sectors**

1. After consulting the relevant government departments, within 18 months of its constitution the Authority shall submit a report to the Prime Minister on the steps that must be taken in order to adapt the legislation relating to public tenders, public franchise-holders and commercial distribution to the principles of competition.

TITLE IV

PROVISIONS ON GOVERNMENT POWERS OVER CONCENTRATIONS

Section 25 **Government powers over concentrations**

1. The Council of Ministers shall, at the proposal of the Minister for Trade and Industry, lay down the general criteria to be used by the Authority when issuing authorization as a waiver to the prohibitions provided by section 6 of the law, when major general interests of the national economy are involved in the process of European integration, provided that competition is not eliminated from the market or restricted to an extent that is not strictly justified by the aforementioned general interests. In all these cases the Authority shall also prescribe the measures to be adopted in order to restore full competition by a specific deadline.

2. In the case of the concentrations referred to in section 16 involving entities or undertakings of countries which do not protect the independence of bodies or undertakings under provisions having an equivalent effect to those given in the Titles above, or apply discriminatory provisions or impose clauses having similar effects in relation to acquisitions by Italian undertakings or entities, the Prime Minister may, within 30 days of the notification referred to in section 16(3) and acting on a resolution of the Council of Ministers, proposed by the Minister of Trade and Industry, prohibit the concentration on the grounds that it is against the essential national economic interests.

Section 26 **Publication of decisions**

1. The decisions referred to in sections 15, 16, 18, 19 and 25 shall be published within 20 days in a special bulletin issued by the Prime Minister's Office. The findings of the investigations provided for in section 12(2) shall also be published in this bulletin, if the Authority deems this appropriate.

() Pursuant to Section 1, subsection , of Law No. 296 of 27 December 2006, (Financial Act 2007), the formalities and the costs relating to the publication of official documents are the responsibility of the Authority*

[...]

TITLE VI

FINAL PROVISIONS

Section 31 Penalties

1. The administrative fines for infringements of this Act are provided, where applicable, by Chapter I, Parts I and II of Law no. 689 of 24 November 1981.

Section 32 Financial cover

1. The cost of enforcing this Act, assessed at 20 billion lire for 1990, 32 billion lire for 1991, and 35 billion lire for 1992, shall be covered by a matching reduction in the allocation to heading 6856 of Ministry of the Treasury 1990 budget under the three-year budget for 1990-1992, using the specific provision "For the protection of competition and the market".

Section 33

[As modified by Legislative Decree no. 104 of 02 July 2010. Implementation of article 44, law no. 69 of 18 June 2009, governing the government proxy for the reorganization of administrative proceedings. (Attachment 4, article 3)]

Jurisdiction

1. Jurisdictional protection before the administrative courts is disciplined by the code on administrative proceedings.

2. Annulment proceedings and claims for damages, and petitions for emergency measures to be adopted in respect of infringements of the provisions of Titles I to IV, must be filed before the Court of Appeal having jurisdiction over the place.

Section 34 Entry into force

1. This Act shall come into force on the day following the date of publication in the Official Gazette of the Italian Republic.

It shall be entered into the Statute Book, bearing the Seal of State, and is binding on all and shall be enforced as the law of the land.