

TOPIC	Law No. 42-08	Preliminary draft of the Organic Antitrust and Economic Competition Law (ALOACE)
I. INSTITUTIONAL TRANSFORMATION		
Authority	National Commission for the Defense of Competition (ProCompetencia).	National Antitrust and Economic Competition Authority.
Administrative career	General administrative career system.	Special Competition Administrative Career. Competitive salaries with the private sector, indexed and never lower than the average of autonomous regulatory bodies.
Post-Employment Restrictions	1-year ban; Minimum penalty 2% gross income.	Compensation of 50% of the last salary for 1 year if not linked to the public or private sector during the ban.
Financing	General budget, processing of procedures, sanctions and cooperation.	Previous sources are maintained, including loans from financial institutions with prior authorization. The Executive Branch is obliged to allocate enough with annual increases for inflation.
II. CONCERTED PRACTICES		
Subjective extension	Only competing economic agents.	It expressly extends to natural / legal persons, whether or not they are competitors; it includes guilds, associations, intermediaries, consortiums and corporate vehicles.
Collusion in public procurement	Basic regulation.	It is expressly detailed including public-private partnerships.
Per se Rule	Not expressly mentioned.	It expressly mentions and presumes a rebuttable prohibition of concerted practices between competitors.
III. ABUSE OF DOMINANT POSITION		
New figures	Not contemplated.	Margin squeeze. Excessive pricing. Refusal/limitation to interoperability and access to essential facilities.
Rule of Reason	Not expressly mentioned.	Evaluation for non-competitors and abuse of dominant position; Built-in express definition.
Relevant market	Basic price/supply criteria.	New criteria: network effects, data control, economies of scale, multilateral markets, services without monetary price, time dimension (public procurement, concessions).
IV. UNFAIR COMPETITION		
Classification	Undifferentiated.	Classification of simple and aggravated.
New Conduct	Not contemplated.	Violation of secrets.
V. CONTROL OF ECONOMIC CONCENTRATIONS		
Notification threshold	Mandatory when joint or individual gross income exceeds RD\$200,000,000.00 in the previous fiscal year.	
Administrative fee	RD\$300,000.00 per notified operation.	
Pre-execution	Prohibited until express or tacit authorization is obtained (positive silence).	
Procedural deadlines	Phase 1: 30 business days from notification; Phase 2 (instruction/resolution): 90 additional business days; Abbreviated procedure: 25 working days.	

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Abbreviated procedure	It applies when: a) there is no horizontal/vertical overlap; b) exclusive control of the company over which joint control was already held.	
Substantive assessment	7 parameters: relevant market; competing agents; actual/potential competition; supply-demand conditions; barriers to entry; bargaining power; economic efficiencies that can be passed on to the consumer.	
Remedies	The Board of Directors may impose structural or behavioral remedies, as well as necessary commitments.	
VI. ADMINISTRATIVE SANCTIONING PROCEDURE		
Instructor Counselor	Not foreseen.	It hears procedural incidents in the investigation without participating in the decision-making phase.
Investigation Deadline	12 months.	18 months maximum for the investigation. Exceptional extension up to 12 additional months.
Suspension of deadlines	Provided for exhaustively.	New cases of extension/suspension. Cannot exceed 6 months
Prescription	1 year.	10 years from the cessation of the conduct.
Provisional measures	Not expressly contemplated.	ANACE may adopt precautionary measures at any time during the investigation to ensure the effectiveness of the final resolution.
VII. SANCTIONING REGIME		
Basis of the fine	Maximum fine: 3,000 minimum wages in the sector.	Fines on gross income from the previous year: Minor 1%; Serious 5%; Very serious 10%.
Recidivism	Increase up to double.	Fines are automatically doubled.
VIII. LENIENCY PROGRAMS		
Total exemption	First company to provide evidence to establish or prove a cartel, if it cooperates fully and continuously, ceases its participation and did not destroy evidence or force others to participate.	
Fine reduction	1st company: 40%–60%; 2nd company: 20%–30%; Other: up to 10%.	
Referral to the Public Prosecutor's Office	If ANACE detects indications of criminal offenses, it must send the file to the Public Prosecutor's Office.	
IX. COMPLIANCE PROGRAMS		
Mitigating circumstance in sanction	Effective, pre-existing program can reduce the penalty.	
Due diligence	Simple or reinforced, proportional to the exposure to anti-competitive risk of each interaction of the economic agent.	
X. COMPETITION ADVOCACY		
Reporting to regulators	Limited power.	Sectoral regulators must submit draft general regulations/resolutions related to competition to ANACE. ANACE responds by means of a public and binding official letter.
Sectoral studies	Superficially developed.	ANACE carries out in-depth studies with the power to request information from all actors. Non-binding recommendations, but public entities must justify their non-compliance.