

BOOKS (“SINGLE PRICE”), PRESIDENTIAL VETO AND FEDERAL LAW ON ECONOMIC COMPETITION.

1st. Part.

I. LAW ON BOOK DISTRIBUTION

1. LAST YEAR THE FEDERAL CONGRESS APPROVED A NEW LAW ON RETAIL SCHEMES FOR BOOK SELLING. (“Law to promote reading and books”)
2. THAT LAW CONSIDERED MANDATORY FOR A RETAILER TO SELL A BOOK TO CONSUMERS AT THE SAME CEILING PRICE REGARDLESS OF THE RETAILER’S LOCATION.
3. THE LAW DID NOT OBLIGE COMPETITORS AT ANY LEVEL OF THE PRODUCTIVE CHAIN TO FIX THE SAME PRICE FOR COMPETING BOOKS.
4. IN SEPTEMBER 2006 THE REPUBLIC’S PRESIDENT DECIDED TO VETO SUCH LAW BASED ON SEVERAL ELEMENTS.
5. A BASIC ELEMENT ADVANCED WAS THAT SUCH RESALE PRICE MAINTENANCE COULD YIELD A MONOPOLISTIC RELATIVE PRACTICE (i.e. a vertical restraint) OPPOSED TO THE FEDERAL LAW ON ECONOMIC COMPETITION (“FLEC”).

II. SOME ISSUES

6. FLEC’S ARTICLE 10 STATES THAT RESALE PRICE MAINTENANCE AS IMPOSED BY A PRODUCER OR DISTRIBUTOR TO THE RETAILER COULD BE UNLAWFUL.
7. THE CONDUCT MAY TURN ILLEGAL AS LONG AS IT IS SHOWN THAT THE PRODUCER OR DISTRIBUTOR (OR RETAILER?) HAS SUBSTANTIAL POWER IN THE RELEVANT MARKET. BESIDES SUCH CONDUCT SHOULD HAVE AS PURPOSE OR EFFECT TO UNDULY DISPLACE COMPETITORS (of the producer, distributor or retailer), OR TO THWART MARKET ACCES OR TO PROVIDE WITH EXCLUSIVE PRIVILEGES SOME ECONOMIC AGENTS.
8. THE VETO ELEMENTS DO NOT SPECIFY IF THERE IS ONE SINGLE RELEVANT MARKET OR THERE ARE SEVERAL RELEVANT MARKETS (for what type of books?, in what location?,...)
9. THE VETO ELEMENTS DO NOT DETERMINE WHO HAS MARKET POWER IN SUCH RELEVANT MARKET(S) (which producer?, o which distributor?, or which retailer?, what is the concentration level?, what entry or expansion barriers do prevail?,...)

III. CONCLUDING REMARKS

10. THERE ARE NO HARD CORE ELEMENTS TO SUSTAIN THAT THE SELLING SCHEME CONVEYED BY THE LAW APPROVED BY CONGRESS WOULD GIVE RISE TO A RELATIVE MONOPOLISTIC PRACTICE PURSUANT TO FLEC.

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