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LAW 192 OF 18 JUNE 1998

Legal provisions on subcontracting in production activities

Article 9 **Abuse of economic dependence**

- 1.** One or more undertakings are prohibited from abusing the economic dependence of a purchaser or supplier. Economic dependence arises when one undertaking can bring about an excessive imbalance of rights and obligations in its business dealings with another undertaking. Economic dependence is also assessed by considering whether the party that suffered the abuse had viable alternatives elsewhere on the market. Unless proven otherwise, economic dependence is presumed to exist where an undertaking relies on intermediation services provided by a digital platform that plays a pivotal role in reaching end users or suppliers – including through network effects or control over data availability.
- 2.** Abuse can also take the form of a refusal to sell or to purchase, the imposition of unjustifiably burdensome or discriminatory contractual conditions, or the arbitrary termination of ongoing business relationships. Abusive practices carried out by the digital platforms referred to in paragraph 1 may also include: providing insufficient information or data regarding the scope or quality of the service provided; requesting undue unilateral obligations not justified by the nature or content of the activity performed; or adopting practices that prohibit or hinder the use of an alternative provider for the same service – including through the imposition of unilateral conditions or additional fees not foreseen by the relevant contractual agreements or licenses.
- 3.** Any agreements bringing about economic dependence shall be null and void. Jurisdiction over cases involving abuse of economic dependence – including injunctions and damage claims – lies with the ordinary civil court. Civil actions under this provision shall be filed with the specialised commercial courts as defined in Article 1 of Legislative Decree 168 of 27 June 2003.

3-bis. Without prejudice to the possible application of Article 3 of Law 287 of 10 October 1990, where the Italian Competition Authority finds that an abuse of economic dependence has implications for the protection of competition and the market, it may – also on the basis of third-party complaints and upon exercising its investigative powers and conducting proceedings – issue cease and desist orders and impose fines pursuant to Article 15 of Law 287 of 10 October 1990, against the undertaking(s) responsible for the abuse. In case of widespread and repeated violations of the provisions set out in Legislative Decree 231 of 9 October 2002, committed to the detriment of undertakings – particularly small and medium-sized enterprises – such abuse shall be deemed to exist even in the absence of a formal finding of economic dependence.