

**PROTECTION AGAINST UNFAIR
COMPETITION ACT**

CHAPTER 82:36

Act
27 of 1996
Amended by
18 of 2000

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Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

CHAPTER 82:36

**PROTECTION AGAINST UNFAIR
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ARRANGEMENT OF SECTIONS

SECTION

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4. (1) In addition to the acts and practices referred to in sections 5 to 9, any act or practice, in the course of industrial or commercial activities, that is contrary to honest practices shall constitute an act of unfair competition.

General principles.
[18 of 2000].

(2) Any person damaged or likely to be damaged by an act of unfair competition shall be entitled to the remedies obtainable under the civil law of Trinidad and Tobago.

(3) This section and sections 5 to 9 shall apply independently of, and in addition to, any legislative provisions protecting inventions, industrial designs, trade marks, literary and artistic works and other intellectual property subject matter.

5. (1) Any act or practice, in the course of industrial or commercial activities, that causes, or is likely to cause, confusion with respect to another's enterprise or its activities, in particular, the products or services offered by such enterprise, shall constitute an act of unfair competition.

Causing confusion with respect to another's enterprise or its activities.

(2) Confusion may, in particular, be caused with respect to any of the following:

- (a) a trade mark, whether registered or not;
- (b) a trade name;
- (c) a business identifier other than a trade mark or trade name;
- (d) the appearance of a product;
- (e) the presentation of products or services;
- (f) a celebrity or a well-known fictional character.

6. (1) Any act or practice, in the course of industrial or commercial activities, that damages, or is likely to damage, the goodwill or reputation of another's enterprise shall constitute an act of unfair competition, regardless of whether such act or practice causes confusion.

Damaging another's goodwill or reputation.

(2) Damaging another's goodwill or reputation may, in particular, result from the dilution of the goodwill or reputation attached to any of the following:

- (a) a trade mark, whether registered or not;
- (b) a trade name;

- (c) a business identifier other than a trade mark or trade name;
- (d) the appearance of a product;
- (e) the presentation of products or services;
- (f) a celebrity or a well-known fictional character.

Misleading the public.

7. (1) Any act or practice, in the course of industrial or commercial activities, that misleads, or is likely to mislead, the public with respect to an enterprise or its activities, in particular, the products or services offered by such enterprise, shall constitute an act of unfair competition.

(2) Misleading may arise out of advertising or promotion and may, in particular, occur with respect to any of the following:

- (a) the manufacturing process of a product;
- (b) the suitability of a product or service for a particular purpose;
- (c) the quality or quantity or other characteristics of products or services;
- (d) the geographical origin of products or services;
- (e) the conditions on which products or services are offered or provided;
- (f) the price of products or services or the manner in which it is calculated.

Discrediting another's enterprise or its activities.

8. (1) Any false or unjustifiable allegation, in the course of industrial or commercial activities, that discredits, or is likely to discredit, another's enterprise or its activities, in particular, the products or services offered by such enterprise, shall constitute an act of unfair competition.

(2) Discrediting may arise out of advertising or promotion and may, in particular, occur with respect to any of the following:

- (a) the manufacturing process of a product;
- (b) the suitability of a product or service for a particular purpose;
- (c) the quality or quantity or other characteristics of products or services;

- (d) the conditions on which products or services are offered or provided;
- (e) the price of products or services or the manner in which it is calculated.

9. (1) Any act or practice, in the course of industrial or commercial activities, that results in the disclosure, acquisition or use by others of secret information without the consent of the person lawfully in control of that information (hereinafter referred to as “the rightful holder”) and in a manner contrary to honest commercial practices shall constitute an act of unfair competition.

Unfair competition in respect of secret information. [18 of 2000].

(2) Disclosure, acquisition or use of secret information by others without the consent of the rightful holder may, in particular, result from—

- (a) industrial or commercial espionage;
- (b) breach of contract;
- (c) breach of confidence;
- (d) inducement to commit any of the acts referred to in paragraphs (a) to (c);
- (e) acquisition of secret information by a third party who knew, or was grossly negligent in failing to know, that an act referred to in paragraphs (a) to (d) was involved in the acquisition.

(3) For the purposes of this section, information shall be considered “secret information” if—

- (a) it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
- (b) it has commercial value because it is secret; and;
- (c) it has been subject to reasonable steps under the circumstances by the rightful holder to keep it secret.

(4) Any act or practice, in the course of industrial or commercial activities, shall be considered an act of unfair competition if it consists or results in—

- (a) an unfair commercial use of secret test or other data, the origination of which involves considerable effort and which have been submitted to a competent authority for the purposes of obtaining approval of the marketing of pharmaceutical or agricultural chemical products which utilise new chemical entities; or
- (b) the disclosure of such data, except—
 - (i) where necessary to protect the public; and
 - (ii) where steps are taken to ensure that the data are protected against unfair commercial use.

(5) Subsection (4) shall be construed as precluding, in particular, any person other than the person who submitted undisclosed tests or other data, the origination of which involves a considerable effort, from relying on such data in support of an application for product approval for a reasonable period of time after the submission of those tests or data and the period of time shall be determined by the Court, taking account of the nature of the data and the person's efforts and expenditure in producing them, and shall normally not be less than five years.
