

**FREE TRADE AGREEMENT
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ANNEX I

Schedule of the Republic of Nicaragua

Sector:	Musicians and Artists
Obligations Concerned:	National Treatment (Article 11.02) Most-Favored-Nation Treatment (Article 11.03)
Measures:	<i>Ley de Promoción a las Expresiones Artísticas Nacionales y de Protección a los Artistas Nicaragüenses</i> , Law No. 215, published in <i>La Gaceta</i> No. 134, July 17, 1996, Arts. 14, 23, 24, 25, and 31
Description:	<u>Cross-Border Services</u> Foreign artists or musical bands may perform in the Republic of Nicaragua solely by means of a prior contract. Foreign artists performing shows or reviews of a commercial nature shall include in their program a Nicaraguan artist or group that performs similar shows. Foreign artists or artistic groups not wishing to include a national artist in their program must pay one percent of the show's net receipts to the <i>Instituto Nicaragüense de Cultura</i> unless the foreign artists' or groups' country of origin does not levy such tax on Nicaraguan artists or artistic groups. Foreigners selected for the design and construction of public, pictorial, or sculptural monuments erected in the Republic of Nicaragua, shall do so in association with Nicaraguan artists.

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Sector: Tourism – Hotels, Restaurants, Tour Guides, Car Rental, and Other Tourism Related Activities.

Obligations Concerned: National Treatment (Article 11.02)
Local Presence (Article 11.06)

Measures: *Ley de Incentivos a la Industria Turística de la República de Nicaragua*, Law No. 306, published in *La Gaceta* No. 117, June 21, 1999, Arts. 16.1 and 16.2

Reglamento de Empresas y Actividades Turísticas de Nicaragua, published in *La Gaceta* No. 99, May 28, 2001, Arts. 16 and 17

Reglamento de los Operadores de Viajes de Nicaragua, published in *La Gaceta* No. 100, May 29, 2001, Art. 8

Reglamento que Regula las Actividades de las Empresas Arrendadoras de Vehículos Automotrices y Acuáticos (Rent a Car), published in *La Gaceta* No. 108, June 8, 2001, Art. 9

Reglamento de Guías de Turistas, published in *La Gaceta* No. 40, February 26, 2001, Art. 9

Reglamento de Agencias de Viajes de Nicaragua, published in *La Gaceta* No. 96, May 21, 2001, Art. 5

Description: Cross-Border Services

In order to supply tourism services in the Republic of Nicaragua an enterprise must be organized under Nicaraguan law; and a foreign national must reside in the Republic of Nicaragua or appoint a legal representative in the Republic of Nicaragua.

This paragraph does not apply to the supply of tourism services during a cruise.

Tour Guides must be Nicaraguan nationals.

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Sector:	Services Related to Construction
Obligations Concerned:	National Treatment (Article 11.02) Local Presence (Article 11.06)
Measures:	<i>Ley Reguladora de la Actividad de Diseño y Construcción</i> , Decree No. 237, December 1, 1986, Arts. 2, 4, and 6
Description:	<u>Cross-Border Services</u> In order to supply construction services in the Republic of Nicaragua an enterprise must be organized under Nicaraguan law; and a foreign national must reside in the Republic of Nicaragua or appoint a legal representative in the Republic of Nicaragua.

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Sector:	Distribution of Fireworks, Firearms, and Munitions
Obligation Concerned:	National Treatment (Article 11.02) Local Presence (Article 11.06)
Measures:	<i>Reglamento de la Ley de la Policía Nacional</i> , Decree No. 26-96, published in <i>La Gaceta</i> No. 32, February 14, 1996, Arts. 76 and 77
Description:	<u>Cross-Border Services</u> In order to engage in the distribution of fireworks, firearms, and munitions in the Republic of Nicaragua an enterprise must be organized under Nicaraguan law; and a foreign national must reside in the Republic of Nicaragua.

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Sector:	Private Security Services
Obligations Concerned:	National Treatment (Article 11.02) Local Presence (Article 11.06)
Measures:	<i>Manual de la Vigilancia Civil</i> , No. 001, July 6, 1998, Art. 6
Description:	<u>Cross-Border Services</u> An enterprise must be established in the Republic of Nicaragua to operate a private security guard company. Natural persons serving as armed guards must be Nicaraguan nationals.

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Sector:	Radio Broadcast, Free Television Reception
Obligation Concerned:	National Treatment (Articles 10.03 and 11.02)
Measures:	<i>Ley de Reforma a la Ley No. 200, "Ley General de Telecomunicaciones y Servicios Postales", Law No. 326, published in La Gaceta No. 244, December 22, 1999, Art. 1</i> <i>Reglamento del Servicio de Radiodifusión Televisiva, Administrative Agreement No. 07-97, published in La Gaceta No. 228, November 28, 1997, Art. 12</i>
Description:	<u>Cross-Border Services and Investment</u> A license for operating free over the air television and radio broadcast services (known under Nicaraguan law as " <i>medios de comunicación social</i> ") may only be granted to Nicaraguan persons. In the case of enterprises, Nicaraguan nationals must own 51 percent of the capital.

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Sector:	Communications – Professional Radio and Television Broadcast Services
Obligations Concerned:	National Treatment (Article 11.02) Most-Favored-Nation Treatment (Article 11.03)
Measures:	<i>En Radiodifusoras y Televisiones del País, Únicamente Locutores Nicaragüenses Podrán ser Utilizados para las Narraciones de Programas Deportivos</i> , Decree No. 66, published in <i>La Gaceta</i> No. 256, November 10, 1972, Arts. 1 and 3
Description:	<u>Cross-Border Services</u> Enterprises that supply radio and television broadcast services in the Republic of Nicaragua shall only use the professional services of announcers who are Nicaraguan nationals for narration, commentary, and live broadcast in sports or similar commercial programs. Notwithstanding the foregoing, foreign nationals will be allowed to serve as announcers if the laws of their own countries allow Nicaraguan nationals to supply such services. The provisions of this measure shall not apply to the broadcast of programs by foreign announcers when the transmission of such programs is aimed exclusively at other countries.

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Sector: Electricity Distribution

Obligations Concerned: Local Presence (Article 11.06)

Measures: *Ley de la Industria Eléctrica*, Law No. 272, published in *La Gaceta* No.74, April 23, 1998, Arts. 4 and 76

Description: Cross-Border Services

In order to engage in the distribution of electricity an enterprise must be organized under Nicaraguan law.

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Sector: Services Incidental to Mining – Hydrocarbons

Obligations Concerned: Local Presence (Article 11.06)

Measures: *Ley Especial de Exploración y Explotación de Hidrocarburos*, Law No. 286, published in *La Gaceta* No. 109, June 12, 1998, Art. 11

Reglamento a la Ley Especial de Exploración y Explotación de Hidrocarburos, Decree No. 43-98, published in *La Gaceta* No. 117, June 24, 1998, Arts. 5 and 6

Description: Cross-Border Services

An enterprise that supplies hydrocarbon exploration and testing services must be organized under Nicaraguan law.

To conduct studies of hydrocarbons such as geological or geophysical studies, drafting topographic maps, seismic, or geochemical studies, a foreign national must designate a legal representative permanently domiciled in the Republic of Nicaragua.

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Sector: Services Incidental to Mining – Metallic and Non-Metallic Minerals

Obligations Concerned: Local Presence (Article 11.06)

Measures: *Reglamento de la Ley No. 387, Ley Especial de Exploración y Explotación de Minas, Decree No. 119 – 2001, published in La Gaceta No. 4, January 7, 2002, Art. 31*

Description: Cross-Border Services

In order to obtain a concession for exploration for metallic and nonmetallic minerals in the Republic of Nicaragua an enterprise must be organized under Nicaraguan law. A foreign national not resident in the Republic of Nicaragua must appoint a legal representative domiciled in Managua, the Republic of Nicaragua.

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Sector:	Fisheries and Services Incidental to Fishing
Obligations Concerned:	National Treatment (Articles 10.03 and 11.02) Performance Requirements (Article 10.09) Local presence (Article 11.06)
Measures:	<i>Ley de Licitación Pública de Licencias y Concesiones Pesqueras</i> , Law No.165, February 22, 1994, Art. 6 <i>Ley Especial sobre Explotación de la Pesca</i> , Decree No. 557, published in <i>La Gaceta</i> No. 32, February 7, 1961, Arts. 2 and 9 <i>Normativa para la Pesca y Acuicultura en Nicaragua</i> , Acuerdo Ministerial Agreement DGRN-PA. No. 359-2004, Arts. 11 and 78
Description:	<u>Cross-Border Services and Investment</u> Processing, packing, and other services related to fishing products must be carried out by enterprises organized under Nicaraguan law and licensed in the Republic of Nicaragua. Processing and packing for export of fishing products captured in Nicaraguan territorial waters shall be carried out in enterprises in the Republic of Nicaragua. Only Nicaraguan nationals may engage in artisanal fishing as a family enterprise for subsistence.

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Sector:	Land Transportation
Obligations Concerned:	National Treatment (Article 11.02) Most-Favored-Nation Treatment (Article 11.03) Local Presence (Article 11.06)
Measures:	<i>Ley General de Transporte</i> , Decree No. 164, published in <i>La Gaceta</i> No. 34, February 17, 1986, Art. 2 <i>Ley Reglamentaria para la Emisión y Obtención de las Licencias de Funcionamiento en el Transporte Terrestre</i> , Decree No. 1140, published in <i>La Gaceta</i> No. 280, November 30, 1982, Art. 7 <i>Resolución Ministerial No. 49-2004</i> <i>Comunicado del Ministerio de Construcción y Transporte</i> , November 12, 1990
Description:	<u>Cross-Border Services</u> To supply point-to-point land transportation of cargo or passengers within the Republic of Nicaragua, an enterprise must be established in the Republic of Nicaragua. To supply multimodal land transportation of cargo within the Republic of Nicaragua, an enterprise must be established in the Republic of Nicaragua. An enterprise organized under the laws of a foreign country may supply international land transportation of cargo or passengers to the extent that a specific agreement between such country and the Republic of Nicaragua provides for reciprocal treatment of enterprises organized under the laws of the Republic of Nicaragua. Notwithstanding the foregoing, only Nicaraguan persons may supply collective land transportation services in the interior of the Republic of Nicaragua.

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Sector: Maritime Transportation

Obligations Concerned: National Treatment (Article 11.02)

Measures: *Ley de Transporte Acuático*, Law No. 399, published in *La Gaceta* No. 166, September 3, 2001, Arts. 44, 45, and 48

Ley Reguladora para el Servicio de Practicaje, Decree No. 15-49, published in *La Gaceta* No. 4, January 5, 1985, Art. 64

Description: Cross-Border Services

In order to operate as a shipowner or shipping enterprise in the Republic of Nicaragua, a natural person must be a Nicaraguan national and an enterprise must be organized under Nicaraguan law.

To operate as a shipping agent, general shipping agent, or shipping consignment agent, a natural person must be a Nicaraguan national, and an enterprise must be organized under Nicaraguan law.

Only a Nicaraguan national or an enterprise established in the Republic of Nicaragua may obtain a route concession to engage in maritime transportation.

Cabotage is reserved exclusively for enterprises established in the Republic of Nicaragua.

Only Nicaraguan nationals may be named as official pilots for any port in the Republic of Nicaragua.

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Sector: Ports

Obligations Concerned: Market Access (Article 11.05)

Measures: *Creación de la Empresa Portuaria Nacional*, Decree No. 35-95, published in *La Gaceta* No. 119, June 27, 1995, Arts. 6 and 7

Description: Cross-Border Services

The administration and operation of the existing ports of national interest (Corinto, Sandino, San Juan del Sur, Cabezas, El Rama and El Bluff) is reserved to the *Empresa Portuaria Nacional* (EPN).

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Sector:	Air Transportation – Repair and Maintenance Services, Specialty Air Services
Obligations Concerned:	National Treatment (Article 11.02) Most-Favored-Nation Treatment (Article 11.03) Local Presence (Article 11.06)
Measures:	<i>Código de Aviación Civil</i> , Decree No. 176, published November 22, 1956, with corrections on September 3, 1957, Arts. 32, 120, and 121 <i>Reglamento para la Aviación Agrícola</i> , Decree No. 36-A, published in <i>La Gaceta</i> No. 136, June 19, 1962, Arts. 11 and 13
Description:	<p><u>Cross-Border Services</u></p> <p>The authorization of the <i>Dirección General de Aeronáutica Civil</i> is required to supply specialty air services and aircraft repair services in the territory of the Republic of Nicaragua.</p> <p>Only Nicaraguan nationals or enterprises organized under Nicaraguan law may supply private, for profit air services. For greater certainty, private air services include:</p> <ul style="list-style-type: none">(a) air-related tasks such as aero-topography, aerophotography, commercial advertising, and other similar tasks;(b) agricultural fumigation services;(c) industrial activities other than public transportation; and(d) scientific civil aviation applications, such as educational flights, the determination of hurricane trajectories and migratory birds, and other similar applications. <p>Flight personnel who participate in aviation activities for agricultural purposes within the national territory must be Nicaraguan nationals. Similarly, aircraft used for such purposes must be licensed in the Republic of Nicaragua.</p>

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Only Nicaraguan technical personnel may engage in remunerated repair and maintenance services or specialty air services in the Republic of Nicaragua. In the absence of such personnel, the *Dirección General de Aeronáutica Civil* may allow foreign pilots or other technical personnel to engage in such activities, in which case the *Dirección General de Aeronáutica Civil* must give preference to nationals of other Central American Parties.

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Sector: Air Transportation

Obligations Concerned: National Treatment (Article 10.03)
Senior Management and Boards of Directors (Article 10.10)

Measures: *Código de Aviación Civil*, Decree No. 176, published November 22, 1956, with corrections on September 3, 1957, Arts. 75, 120, and 121

Investment

Only an enterprise organized under Nicaraguan law may be granted a license to engage in public air transportation services. Nicaraguan nationals must own at least 51 percent of the capital, have effective control, and be in the senior management positions of such enterprises.

Only Nicaraguan nationals and enterprises organized under Nicaraguan law may engage in remunerated private air transportation services.

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Sector: Professional Services

Obligations Concerned: National Treatment (Article 11.02)
Most-Favored-Nation Treatment (Article 11.03)
Local Presence (Article 11.06)

Measures: *Ley de Incorporación de Profesionales en Nicaragua*,
Decree No. 132, published in *La Gaceta* No. 47,
November 2, 1979, Art. 5

Description: Cross-Border Services

A foreign professional may practice in the Republic of Nicaragua in a form and subject to the same conditions that are permitted for Nicaraguans in the country of origin of such professional.

The Republic of Nicaragua agrees that if a jurisdiction in a foreign country allows Nicaraguan nationals to apply for and receive the licenses or certificates necessary to practice a profession in such jurisdiction, a foreign national with a license or certificate to practice the profession in such jurisdiction shall also be allowed to apply for and receive any license or certificate necessary to practice in the Republic of Nicaragua.

In addition, the relevant professional association in the Republic of Nicaragua will recognize a license granted by a foreign jurisdiction, and allow the holder of that license to register with the association and practice the profession in the Republic of Nicaragua based on the foreign license, in the following cases:

- (a) no academic institution in the Republic of Nicaragua offers a course of study that would allow the practice of the profession in the Republic of Nicaragua;
- (b) the holder of the license is a recognized expert in the profession; or
- (c) allowing the professional to practice in the Republic of Nicaragua will, through training, demonstration, or other such opportunity, further the development of the profession in the Republic of Nicaragua.

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Sector: Public Accounting and Auditing

Obligations Concerned: National Treatment (Article 11.02)

Local Presence (Article 11.06)

Measures: *Ley para el Ejercicio de Contador Público*, Law No. 6
published in *La Gaceta*, April 30, 1959, Art. 19

Description: Cross-Border Services

Foreign public accounting firms, auditors, and accountants, either as individuals or enterprises, may exercise their profession in the Republic of Nicaragua, or other related activity, through an authorized Nicaraguan public accounting firm or association.

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Sector: Professional Services – Notary Publics

Obligations Concerned: National Treatment (Article 11.02)

Most-Favored-Nation Treatment (Article 11.03)

Measures: *Ley del 19 de noviembre de 1938*, published in *La Gaceta* No. 267, December 10, 1938, Art.1

Ley del Notariado, Annex to *Código de Procedimiento Civil de Nicaragua*, Art. 10

Description: Cross-Border Services

Public notaries must be Nicaraguan nationals by birth authorized by the Supreme Court of Justice in order to practice their profession.

Central American nationals by birth authorized to act as attorneys in the Republic may also obtain this authorization after residing in the Republic of Nicaragua at least five years, provided they are allowed to exercise their profession as public notaries in their own countries, and that Nicaraguans are authorized to act as public notaries in their respective countries.

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Sector:	Customs Brokers
Obligations Concerned:	National Treatment (Article 11.02) Most-Favored-Nation Treatment (Article 11.03) Local Presence (Article 11.06)
Measure:	<i>Ley que Establece el Autodespacho para la Importación, Exportación y otros Regímenes</i> , Law No. 265, published in <i>La Gaceta</i> No. 219, November 17, 1997, Arts. 49, 50, and 52
Description:	<u>Cross Border Services</u> A customs broker must be a Nicaraguan national or a national of a country that permits Nicaraguan nationals to serve as customs brokers. An enterprise operating as a customs broker in the Republic of Nicaragua must be organized under Nicaraguan law and at least one official of the customs enterprise must have a valid license.

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Sector:	Scientific Research Services
Obligations Concerned:	Local Presence (Article 11.06)
Measures:	<i>Ley General sobre Explotación de Nuestras Riquezas</i> , Decree No. 316, published in <i>La Gaceta</i> , April 17, 1958, Art. 83
Description:	<u>Cross-Border Services</u> To engage in scientific research activities related to natural resources a foreign national must have a legal representative in the Republic of Nicaragua during the entire time the research is being conducted.

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Sector:	Regime on Free Zones and Regime on Active Improvement
Obligations Concerned:	Performance Requirements (Article 10.09)
Measures:	<i>Reglamento del Decreto de Zonas Francas Industriales de Exportación</i> , Decree No. 31-92, published in <i>La Gaceta</i> No.112, June 12, 1992, Arts. 22 and 67
Description:	<u>Investment</u> An enterprise authorized to operate in a free zone may introduce up to 40 percent of its production by volume into the territory of the Republic of Nicaragua after payment of duties and taxes, depending on whether it falls under category A (or “primera categoría”), B (or “segunda categoría”), or C (or “tercera categoría”). The Republic of Nicaragua will apply this measure consistent with its obligations under the WTO Agreement on Subsidies and Countervailing Measures.

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Sector:	Telecommunications
Obligations Concerned:	Market Access (Article 11.05) National Treatment (Article 11.02)
Measures:	<i>Contrato de Concesión del Instituto Nicaragüense de Telecomunicaciones y Correos</i> published in <i>La Gaceta</i> No. 67, April 12, 2002, clause 8.1
Description:	<u>Cross-Border Services</u> The <i>Empresa Nicaragüense de Telecomunicaciones</i> (ENITEL) has an exclusive regime for providing basic telephone services, including local telephone service, national and international long distance, and supply of television and telegraph links, pursuant to its concession contract. ENITEL exclusivity will end according to Nicaraguan law.

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Sector: Development of Maps

Obligations Concerned: Market Access (Article 11.05)

Measures: *Ley Orgánica del Instituto Nicaragüense de Estudios Territoriales (INETER)*, Law No. 311, published in *La Gaceta* No. 103, July 28, 1999, Art. 4

Description: Cross-Border Services

The developing, drafting, editing, and publishing of official regional, property, urban, and rural maps, as well as thematic maps and hydrographical, nautical, and aeronautical charts of the Republic of Nicaragua in different scales is reserved to the *Instituto Nicaragüense de Estudios Territoriales*.

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Sector: Potable Water, Sanitary Sewer Systems, and Sewage Collection and Disposal.

Obligation Concerned: Market Access (Article 11.05)

Measures: *Ley de Creación de la Empresa Nicaragüense de Acueductos y Alcantarillados Sanitarios (ENACAL)*, Law No. 276, published in *La Gaceta* No. 12, January 20, 1998, Art. 3

Ley de Suspensión de Concesiones de Uso de Aguas, Law No. 440, Arts. 2 and 3

Description: Cross-Border Services

The establishment, construction, and development of public works for the supply and distribution of drinking water, and collecting and disposing of wastewater, may only be performed by the *Empresa Nicaragüense de Acueductos y Alcantarillados Sanitarios* (ENACAL).

ENACAL is the State entity responsible for providing potable water and collecting and disposing of wastewater, and has the following functions:

- (a) to capture, treat, conduct, store, distribute, and sell potable water; and to gather, treat and finally dispose of wastewater;
- (b) to purchase natural water, purchase and sell potable water, as well as to commercialize the services of collection, treatment and final disposal of wastewater;
- (c) take all necessary measures so that the release of treated wastewater minimizes the environmental impact;
- (d) develop the Company's Expansion Plan for the short, medium and long terms;
- (e) investigate, explore, develop, and exploit the water resources; and
- (f) any other activity required for its development.

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Sector: Airports

Obligation Concerned: Market Access (Article 11.05)

Measures: *Ley de la Empresa Administradora de Aeropuertos Internacionales*, Decree No. 1292, published in *La Gaceta* No. 186, August 16, 1983, Art. 3

Description: Cross-Border Services

The *Empresa Administradora de Aeropuertos Internacionales* (EAAI) is responsible for establishing, operating, administering, carrying out works, and providing services in international airports.

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Sector:	Energy Services
Obligations Concerned:	Market Access (Article 11.05)
Measures:	<i>Ley de la Industria Eléctrica</i> , Law No. 272, published in <i>La Gaceta</i> No. 74, April 23, 1998, Arts. 27 and 58
Description:	<u>Cross-Border Services</u> Electricity transmission services may only be provided by the <i>Centro Nacional de Despacho de Carga</i> .

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Sector: Administration of Lotteries

Obligations Concerned: Market Access (Article 11.05)

Measures: *Reglamento Interno de la Lotería Nacional*, published in *La Gaceta* No. 229, December 3, 1996, Arts. 4 and 5

Description: Cross-Border Services

Only the *Lotería Nacional*, a State-owned enterprise, may administer lotteries, drawings, raffles, promotions, and games of chance for money or prizes. Notwithstanding the preceding sentence, commercial promotions are allowed through the prior authorization of the *Lotería Nacional*, which shall be freely granted.

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Sector: Public Communications Services

Obligations Concerned: Market Access (Article 11.05)

Measures: *Ley General de Telecomunicaciones y Servicios Postales*, Law No. 200, published in *La Gaceta* No. 154, August 18, 1995, Art. 118

Description: Cross-Border Services

The issuance, finance, and marketing of postal stamps, as well as the usage of franking machines and other analogous systems, is reserved to the *Correos de Nicaragua*.