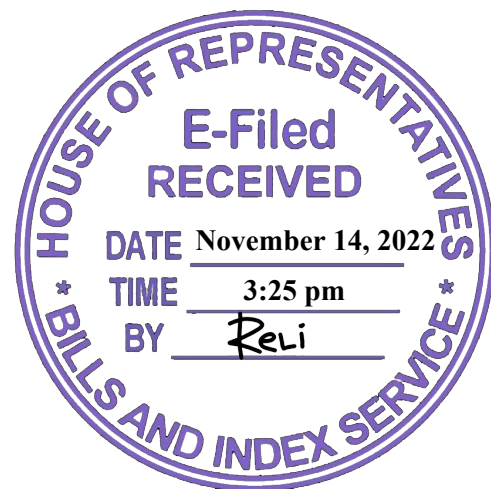


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 6124



Introduced by **REP. JOSE FRANCISCO “KIKO” B. BENITEZ, Ph.D.**

EXPLANATORY NOTE

Free and fair competition is a pillar of economic growth, where consumers benefit from diverse choices of goods and services from multiple producers and sellers innovating to lower production costs and prices.

Article XII, Section 19 of the 1987 Constitution enshrines this economic principle and mandates:

“The State shall regulate or prohibit monopolies when the public interest so requires. No combination in restraint of trade or unfair competition shall be allowed.”

However, for many years without an enabling law, the Revised Penal Code served as basis to prosecute anti-competitive conduct, with 30 different laws, including the Price Act, also containing antitrust provisions.¹

In 2015, after 24 years since a similar bill was first filed in Congress, a comprehensive anti-competition law was finally enacted. Indeed, Republic Act No. 10667 or the Philippine Competition Act is a landmark legislation that draws on US and EU competition regimes.²

The law created the Philippine Competition Commission, an independent, quasi-judicial body to challenge anti-competitive mergers and abuse of dominant position. The law requires parties to a merger to notify the Commission of their transaction. It empowers the Commission to determine the minimum value of transactions covered by compulsory notification and other criteria.

Prior to the pandemic, the Commission has set the threshold for compulsory notification at Php 2.4 billion (size of party test) and Php 6 billion (size of transaction test). Republic Act No. 11494 or the Bayanihan II law, however, exempted from compulsory notification mergers with transaction values below Php 50 billion entered within two years from the effectivity of said law, to “promote business continuity and capacity building”. The temporary threshold thus applies only to mergers initiated up to 15 September 2022.

This bill will institutionalize this threshold, as we shift from purely compulsory to hybrid notification regime. This bill introduces the voluntary merger notification regime, which is

¹ Medalla, Erlinda. “Understanding the New Philippine Competition Act.” PIDS Discussion Paper Series No. 2017-14. Philippine Institute for Development Studies (2017).

² Abrenica, Ma. Joy, and Bernabe, Johannes. “The Case for the Philippine Competition Act.” Public Policy, Vol. XVI and XVII (2017).

practiced in the United Kingdom, Australia, Singapore and New Zealand.

This change is necessary to ease the burden of the Commission of reviewing potentially hundreds of transactions, as we anticipate more foreign investments following the enactment of key amendments to the Public Service Act, for example. Under a compulsory notification regime, authorities are compelled to review merger deals that are unobjectionable,³ taking up time from assessing otherwise more consequential deals. The volume of transactions for review under a compulsory notification regime also prolongs the period of review with implications on stock prices and financing cost.⁴

The voluntary notification regime for transactions below Php 50 billion threshold does not, however, preclude the Commission from conducting a merger review. Indeed, this bill strengthens the power of the Commission of *motu proprio* review.

Lastly, in New Zealand's experience, parties to mergers voluntarily comply with notification requirements and seek clearance because of predictability and less arbitrariness in the process, where entities are guaranteed of impartial decisions of expert reviewers.⁵ This bill precisely aims for this, by raising the salaries and benefits of the officers and employees of the Commission at par with that of the Bangko Sentral ng Pilipinas. It is imperative that we incentivize the choice of expert economists and lawyers to work in the Commission and give up otherwise higher-paying careers in the private sector.

The Philippine Competition Act must evolve and adapt to changing times, it is necessary that we continually adopt new approaches, just as the framers of this law integrated best practices of US and EU competition law, to ensure an efficient review process.

In view of the foregoing, the approval of this measure is earnestly sought.


JOSE FRANCISCO "KIKO" B. BENITEZ

³ Fisse, Brent (ed.). "APEC Information Sharing Best Practices on Merger Control Regimes." APEC Economic Committee (2018).

⁴ Ibid.

⁵ Ibid.

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HOUSE BILL NO. 6124

Introduced by **REP. JOSE FRANCISCO “KIKO” B. BENITEZ, Ph.D.**

AN ACT
STRENGTHENING THE NATIONAL COMPETITION POLICY, AMENDING FOR
THE PURPOSE REPUBLIC ACT NO. 10667, OTHERWISE KNOWN AS “THE
PHILIPPINE COMPETITION ACT”

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. New sections denominated as Sections 2-A, 2-B, and 2-C, are hereby inserted after Section 2 of the same Act to read as follows:

“SEC. 2-A. KEY ELEMENTS OF THE NATIONAL COMPETITION POLICY.
– IN THE EXERCISE OF THEIR RESPECTIVE FUNCTIONS, ALL NATIONAL
GOVERNMENT AGENCIES, OFFICES, INSTRUMENTALITIES, LOCAL
GOVERNMENT UNITS, AND GOVERNMENT-OWNED OR CONTROLLED
CORPORATIONS SHALL ADOPT AND BE GUIDED BY THE FOLLOWING KEY
ELEMENTS:

“(A) ALL GOVERNMENT POLICIES, LAWS, RULES AND REGULATIONS,
ISSUANCES AND OTHER INTERVENTIONS SHALL PROMOTE MARKET
EFFICIENCY AND ENHANCE CONSUMER WELFARE, AND SHALL NOT
DISTORT COMPETITION BY CREATING BARRIERS TO ENTRY, PROMOTING
COLLUSIVE MARKET OUTCOMES, OR RESTRICTING TRADE, EXCEPT
WHEN THE RESTRICTIONS ARE PROVEN CONSISTENT WITH THE
PROMOTION OF CONSUMER WELFARE AND MAY NOT BE ACHIEVED BY
OTHER MEANS, OR WHEN THE BENEFITS TO THE COMMUNITY OUTWEIGH
THE COSTS; AND

“(B) GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND
PRIVATE SECTOR BUSINESSES SHALL COMPETE ON A LEVEL PLAYING
FIELD. GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS SHALL
BE HELD TO THE SAME STANDARDS AS PRIVATE SECTOR BUSINESSES
AND SHALL NOT ENJOY NET COMPETITIVE ADVANTAGES OR
DISADVANTAGES OVER PRIVATE SECTOR BUSINESSES SIMPLY BY VIRTUE
OF PUBLIC SECTOR OWNERSHIP, UNLESS IT IS CLEARLY DEMONSTRATED
THAT THE GREATER PUBLIC INTEREST WILL BE SERVED AND THERE IS
LACK OF COMMERCIAL VIABILITY.

“SEC. 2-B. REVIEW OF RELEVANT POLICIES. – ALL NATIONAL

GOVERNMENT AGENCIES, OFFICES, INSTRUMENTALITIES, LOCAL GOVERNMENT UNITS, AND GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS ARE MANDATED TO REVIEW THEIR RESPECTIVE POLICIES, LAWS, RULES AND REGULATIONS, ISSUANCES AND INTERVENTIONS AND OTHER RELEVANT LAWS APPLICABLE TO THEIR RESPECTIVE OFFICES TO DETERMINE WHETHER THEY RESTRICT, PREVENT OR LESSEN COMPETITION, IN COMPLIANCE WITH THE PRINCIPLES ABOVE AND SUBJECT TO THE GUIDELINES FORMULATED BY THE NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY AND THE PHILIPPINE COMPETITION COMMISSION.

“SEC. 2-C. ENFORCEMENT OF COMPETITION – RELATED LAWS AND ISSUANCES. – TO ASSIST THE PHILIPPINE COMPETITION COMMISSION IN ENFORCING AND ATTAINING THE OBJECTIVES AND PURPOSES OF THIS ACT, ALL NATIONAL GOVERNMENT AGENCIES, OFFICES, INSTRUMENTALITIES, LOCAL GOVERNMENT UNITS, AND GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS SHALL:

“(A) COORDINATE WITH THE PHILIPPINE COMPETITION COMMISSION TO IDENTIFY SPECIFIC ACTIONS THAT THEY CAN UNDERTAKE IN THEIR AREAS OF RESPONSIBILITY TO PROMOTE COMPETITION, ELIMINATE ANTI-COMPETITIVE BEHAVIOR AND UNDUE REGULATORY BURDENS ON COMPETITION;

“(B) ESTABLISH CHANNELS OF COMMUNICATION AND COOPERATION WITH THE PHILIPPINE COMPETITION COMMISSION AND REQUEST ITS ASSISTANCE IN THE CRAFTING OF POLICY INITIATIVES RELATING TO COMPETITION;

“(C) COOPERATE WITH AND EXTEND ASSISTANCE TO THE PHILIPPINE COMPETITION COMMISSION IN THE ENFORCEMENT OF THIS ACT, AS WELL AS ITS ORDERS AND DECISIONS; AND

“(D) CONSULT THE PHILIPPINE COMPETITION COMMISSION IN ESTABLISHING A FAIR, PREDICTABLE AND TRANSPARENT PROCESS OF RESOLVING COMPETITION-RELATED DISPUTES THAT ARE WITHIN THEIR JURISDICTION.”

SEC. 2. Section 4 of Republic Act No. 10667 is hereby amended to read as follows:

“SEC. 4. Definition of Terms. – As used in this Act:

“(a) x x x;

“(b) x x x;

“(c) x x x;

“(d) x x x;

“(e) x x x;

“(f) x x x;

“(g) Dominant position refers to A SIGNIFICANT MARKET POWER OR a position of economic strength that an entity or entities hold which makes it capable of controlling the relevant market independently from any or a combination of the following: competitors, customers, suppliers, or consumers;

“x x x”

SEC. 3. Section 8 of the same Act is hereby amended to read as follows:

“SEC. 8. Prohibitions and Disqualifications. – The CHAIRPERSON AND Commissioners shall not, during their tenure, hold any other office or employment. They shall not, during their tenure, directly or indirectly practice any profession, except in a teaching capacity, participate in any business, or be financially interested in any contract with, or any franchise, or special privileges granted by the government or any subdivision, agency, or instrumentality thereof, including government-owned and-controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office. ~~[They shall not be qualified to run for any office in the election immediately succeeding their cessation from office. Provided, that the election mentioned hereof is not a Barangay election or a Sangguniang Kabataan election.]~~ THEY shall not be allowed to personally appear or practice as counsel or agent on any matter pending before the Commission for ~~[two-(2)]~~ ONE (1) year[s] following their cessation from office.

“No spouse or relative by consanguinity or affinity within the fourth civil degree of any of the Commissioners, the Chairperson and the Executive Director of the Commission may appear as counsel nor agent on any matter pending before the Commission or transact business directly or indirectly therein during incumbency and within ONE (1) YEAR from cessation of office.”

SEC. 4. Section 9 of the same Act is hereby amended to read as follows:

“SEC. 9. Compensation and Other Emoluments for Members and Personnel of the Commission. – ~~[The compensation and other emoluments for the members and personnel of the Commission shall be exempted from the coverage of Republic Act No. 6758, otherwise known as the “Salary Standardization Act”. For this purpose, the salaries and other emoluments of the Chairperson, the Commissioners, and personnel of the Commission shall be set based on an objective classification system, taking into consideration the importance and responsibilities attached to the respective positions, and shall be submitted to the President of the Philippines for his approval.]~~ ALL POSITIONS FOR THE MEMBERS AND PERSONNEL OF THE COMMISSION SHALL BE GOVERNED BY A COMPENSATION AND POSITION CLASSIFICATION SYSTEM AND QUALIFICATION STANDARDS APPROVED BY THE COMMISSION BASED ON A COMPREHENSIVE JOB ANALYSIS AND AUDIT OF ACTUAL DUTIES AND PERSONAL RESPONSIBILITIES. THE COMPENSATION PLAN SHALL BE COMPARABLE WITH THE PREVAILING SALARIES, BENEFITS AND EMOLUMENTS OF THAT OF THE BANGKO SENTRAL NG

PILIPINAS, AND SHALL BE SUBJECT TO PERIODIC REVIEW BY THE COMMISSION NO MORE THAN ONCE EVERY TWO (2) YEARS, WITHOUT PREJUDICE TO YEARLY MERIT REVIEW OR INCREASES BASED ON PRODUCTIVITY AND EFFICIENCY. THE COMMISSION SHALL, THEREFORE, BE EXEMPT FROM LAWS, RULES, AND REGULATIONS ON COMPENSATION, POSITION CLASSIFICATION, AND QUALIFICATIONS STANDARDS PROMULGATED BY THE CIVIL SERVICE COMMISSION.”

SEC. 5. Section 10 of the same Act is hereby amended to read as follows:

“SEC. 10. Quorum. – Three (3) members of the Commission shall constitute a quorum, provided however, that [the] an affirmative vote of AT LEAST three (3) members shall be necessary for the adoption of any rule, ruling, order, resolution, decision or other acts of the Commission.”

SEC. 6. Section 11 of the same Act is hereby amended to read as follows:

“SEC. 11. Staff. – The Commission shall appoint, fix the compensation, and determine the status, qualifications, and duties of an adequate staff, which shall include an Executive Director of the Commission.

“The Executive Director, WHO SHALL HAVE A TERM OF FIVE (5) YEARS, RENEWABLE FOR ANOTHER TERM OF FIVE YEARS, shall be appointed by the Commission and shall have relevant experience in any of the fields of law, economics, commerce, management, finance or engineering. The members of the technical staff, except those performing purely clerical functions, shall possess at least a Bachelor’s Degree in any of the following lines of specialization: economics, law, finance, commerce, engineering, accounting, or management.”

SEC. 7. Section 12 of the same Act is hereby amended to read as follows:

“SEC. 12. Powers and Functions. – The Commission shall have original and primary jurisdiction over the enforcement and implementation of the provisions of this Act, and its implementing rules and regulations. The Commission shall exercise the following powers and functions:

“(a) x x x;

“(b) Review proposed mergers and acquisitions UPON REQUEST OR MOTU PROPRIO, determine thresholds for notification, determine the requirements and procedures for notification, AND REVIEW, and upon exercise of its powers to review, prohibit mergers and acquisitions that, [will] IN ITS REASONABLE DETERMINATION, HAVE SUBSTANTIALLY PREVENTED, RESTRICTED, OR LESSENED, OR WILL substantially prevent, restrict, or lessen, competition in the relevant market;

“(c) x x x;

“(d) Upon finding, based on substantial evidence, that an entity has entered into an anti-competitive agreement or has abused its dominant position after due notice and

hearing, stop or redress the same, by applying remedies, such as, but not limited to, issuance of injunctions, requirement of divestment, REQUIREMENT OF MODIFICATION OR TERMINATION OF CONTRACTS, OPENING ACCESS TO COMPETITORS, PROHIBITIONS ON RESTRICTIVE CONTRACTING PRACTICES, SETTING UP OF INFORMATION FIREWALLS, MAKING INFORMATION AVAILABLE TO THIRD PARTIES, and disgorgement of excess profits under such reasonable parameters that shall be prescribed by the rules and regulations implementing this Act;

“(e) x x x;

“(f) Issue subpoena *duces tecum* and subpoena *ad testificandum* to require the production of books, records, or other documents or data which relate to any matter relevant to the investigation and personal appearance before the Commission, summon witnesses, administer oaths, and issue [interim orders such as] show cause orders in accordance with the rules and regulations implementing this Act;

“(g) Upon order of the court, UNDERTAKE BY ITSELF OR THROUGH ITS DEPUTIZED LAW ENFORCEMENT AGENCY, TO SEARCH AND INSPECT [~~inspections of~~] business premises and other offices, STRUCTURES, SPACES, land and vehicles, as used by the entity, where it reasonably suspects that relevant [~~books, tax records, or other documents~~] DATA AND INFORMATION which relate to any matter relevant to the investigation are kept, [~~in order to prevent the removal, concealment, tampering with, or destruction of the books, records, or other documents~~] AND EXAMINE, COPY, PHOTOGRAPH, RECORD OR PRINT THE SUCH INFORMATION;

“x x x

“(o) PREPARE AND FORMULATE, IN COORDINATION WITH THE NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY, THE NATIONAL COMPETITION POLICY;

“(p) x x x;

“(q) x x x;

“(r) Advocate pro-competitive policies of the government by:

“(1) Reviewing economic and administrative regulations, motu proprio or upon request, as to whether or not they adversely affect relevant market competition, and [~~advising the concerned agencies against such regulations~~] ISSUING GUIDANCE TO THE RELEVANT AGENCY, INCLUDING BUT NOT LIMITED TO ISSUING ADVISORY OPINIONS TO REMEDY COMPETITION CONCERNS, AND NO OBJECTION CERTIFICATES IN THE CASE WHERE NO COMPETITION CONCERN IS RAISED; [~~and~~]

“(2) Advising the Executive Branch on the competitive implications of government actions, policies and programs; AND

“(3) PROVIDING AN ADVISORY OPINION ON PROPOSED

LEGISLATION, UPON REQUEST, AS TO WHETHER OR NOT IT MAY ADVERSELY AFFECT RELEVANT MARKET COMPETITION, AND RECOMMENDING TO CONGRESS REMEDIES TO COMPETITION CONCERNS;

“(s) Charging reasonable fees to defray the administrative cost of the services rendered. FOR THIS PURPOSE, AN ANTITRUST FUND IS HEREBY CONSTITUTED, WHICH SHALL BE USED TO DEVELOP AND UTILIZE AN INVESTIGATION AND RESEARCH FUND. THE USE OF SUCH FUND SHALL BE SUBJECT TO THE AUDITING REQUIREMENTS, STANDARDS, AND PROCEDURES UNDER EXISTING LAWS;

“(T) PROVIDE ADVISORY OPINION TO THE RELEVANT AGENCY ON FISCAL AND OTHER INDUSTRY-SPECIFIC INCENTIVES OF THE GOVERNMENT THAT MAY ADVERSELY AFFECT COMPETITION IN THE RELEVANT MARKET, AND RECOMMEND REMEDIES THERETO;

“(U) ISSUE NOTICES OF POTENTIAL VIOLATIONS OF THIS ACT;

“(V) ISSUE AND IMPOSE INTERIM MEASURES TO ENSURE CONTINUITY OF OPERATIONS AND PROVISION OF SERVICES AND GOODS PENDING THE REVIEW OF THE COMMISSION;

“(W) ISSUE, AFTER DUE NOTICE AND HEARING, CEASE AND DESIST ORDERS; AND

“(X) DEVELOP AND UTILIZE A RESEARCH AND INVESTIGATION FUND FOR PURPOSES OF ENFORCEMENT OPERATIONS, INFORMANT’S BENEFITS OR PROTECTION.”

SEC. 8. A new section denominated as Section 12-A is hereby inserted after Section 12 of the same Act, to read as follows:

“SEC. 12–A. POWERS AND FUNCTIONS OF THE CHAIRPERSON. – THE CHAIRPERSON OF THE COMMISSION SHALL ACT AS THE CHIEF EXECUTIVE OFFICER OF THE COMMISSION. THE CHAIRPERSON SHALL EXECUTE AND ADMINISTER THE POLICIES, DECISIONS, ORDERS AND RESOLUTIONS APPROVED BY THE COMMISSION AND SHALL HAVE THE GENERAL EXECUTIVE DIRECTION AND SUPERVISION OF THE WORK AND OPERATION OF THE COMMISSION AND ITS MEMBERS, BODIES, BOARDS, OFFICES, PERSONNEL AND ALL ITS ADMINISTRATIVE BUSINESS.”

SEC. 9. Section 13 of the same Act is hereby amended to read as follows:

“SEC. 13. Office for Competition (OFC), Powers and Functions. – The OFC under the Department of Justice (DOJ-OFC) shall only conduct preliminary investigation and undertake prosecution of all criminal offenses arising under this Act and other competition-related laws in accordance with Section 31 of Chapter VI of this Act, UPON THE FILING OF A CRIMINAL COMPLAINT BY THE PCC WITH THE DOJ. The OFC shall be reorganized and allocated resources as may be required therefor to

effectively pursue such mandate.”

SEC. 10. Section 14 of the same Act is hereby amended to read as follows:

“SEC. 14. Anti-Competitive Agreements. –

“(a) The following agreements, between or among competitors, are per se prohibited:

“(1) DIRECTLY OR INDIRECTLY FIXING PURCHASE OR SELLING PRICES, [~~Restricting competition as to price~~], or components thereof, or other terms of trade;

“(2) [~~Fixing price at an auction or in~~] RIGGING any form of bidding including THROUGH cover bidding, bid suppression, bid rotation and market allocation and other analogous practices of bid manipulation;

~~“(b) The following agreements, between or among competitors which have the object or effect of substantially preventing, restricting or lessening competition shall be prohibited:]~~

“~~[(1)]~~(3) Setting, limiting, or controlling production, markets, technical development, or investment; AND

“~~[(2)]~~(4) Dividing or sharing the market, whether by volume of sales or purchases, territory, type of goods or services, buyers or sellers or any other means[;].

“~~[(e)]~~(B) Agreements other than those specified in PARAGRAPH (a) of this section which have the object or effect of substantially preventing, restricting or lessening competition shall also be prohibited: Provided, Those which contribute to improving the production or distribution of goods and services or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefits, may not necessarily be deemed a violation of this Act.

“x x x.”

SEC. 11. Section 15 of the same Act is hereby amended to read as follows:

“SEC. 15. Abuse of Dominant Position. – It shall be prohibited for one or more entities to abuse their dominant position by engaging in conduct that would substantially prevent, restrict or lessen competition:

“(a) x x x;

“(b) x x x;

“(c) x x x;

“(d) x x x;

“(e) Imposing restrictions on the lease or contract for sale or trade of goods or services concerning where, to whom, or in what forms goods or services may be sold or traded, such as fixing prices, giving preferential discounts or rebate upon such price, or imposing conditions not to deal with competing entities, where the object or effect of the restrictions is to prevent, restrict or lessen competition substantially: Provided, That nothing contained in this Act shall NECESSARILY [~~prohibit or~~] render unlawful:

“(1) [~~Permissible franchising, licensing, exclusive merchandising or exclusive distributorship agreements such as those which give each party the right to unilaterally terminate the agreement~~] AGREEMENTS OR PRACTICES WHICH CONTRIBUTE TO IMPROVING THE PRODUCTION OR DISTRIBUTION OF GOODS OR TO PROMOTING TECHNICAL OR ECONOMIC PROGRESS, WHILE ALLOWING CONSUMERS A FAIR SHARE OF THE RESULTING BENEFIT, AND WHICH DOES NOT:

“(A) IMPOSE ON THE ENTITIES CONCERNED RESTRICTIONS WHICH ARE NOT INDISPENSABLE TO THE ATTAINMENT OF THESE OBJECTIVES; AND

“(B) AFFORD SUCH ENTITIES THE POSSIBILITY OF ELIMINATING COMPETITION IN RESPECT OF A SUBSTANTIAL PART OF THE PRODUCTS IN QUESTION; or

“(2) Agreements protecting intellectual property rights, confidential information, or trade secrets;

“(f) x x x

“(g) x x x

“(h) x x x

“(i) x x x

“(J) COMMITTING ANY ACT SIMILAR OR ANALOGOUS TO ANY OF THE FOREGOING THAT WOULD SUBSTANTIALLY PREVENT, RESTRICT OR LESSEN COMPETITION;

Provided, That nothing in this Act shall be construed or interpreted as a prohibition on having a dominant position in a relevant market or on acquiring, maintaining and increasing market share through legitimate means that do not substantially prevent, restrict or lessen competition:

Provided, further, That any conduct which contributes to improving production or distribution of goods or services within the relevant market, or promoting technical and economic progress while allowing consumers a fair share of the resulting benefit may not necessarily be considered an abuse of dominant position;

Provided, finally, That the foregoing shall not constrain the Commission or the

relevant regulator from pursuing measures that would promote fair competition or more competition as provided in this Act, INCLUDING THE IMPOSITION OF SIGNIFICANT MARKET POWER OBLIGATIONS.”

SEC. 12. New sections denominated as Sections 17-A, 17-B and 17-C are hereby inserted after Section 16 of the same Act to read as follows:

“SEC. 17-A. COMPULSORY NOTIFICATION. – A PARTY TO ANY MERGER OR ACQUISITION TRANSACTION THAT MEETS THE THRESHOLD PROVIDED IN SEC. 17-B MUST SUBMIT A NOTIFICATION OF THEIR TRANSACTION TO THE COMMISSION CONTAINING THE FOLLOWING INFORMATION:

“(A) NAMES OF THE PARTIES TO THE TRANSACTION AND THE NATURE OF THEIR BUSINESSES

“(B) LATEST FINANCIAL STATEMENT

“(C) SUMMARY OF THE TRANSACTION AND COPY OF DEFINITIVE AGREEMENTS

“(D) ANY OTHER PERTINENT INFORMATION AS DETERMINED BY THE COMMISSION.

“PARTIES MUST SUBMIT THEIR NOTIFICATIONS TO THE COMMISSION WITHIN THIRTY (30) DAYS AFTER SIGNING OF DEFINITIVE AGREEMENTS RELATING TO THE TRANSACTION BUT PRIOR TO ANY ACTS OF CONSUMMATING THE SAME.

“SEC. 17-B. COMPULSORY REVIEW. – A MERGER OR ACQUISITION SHALL BE SUBJECT TO COMPULSORY NOTIFICATION AND REVIEW BY THE COMMISSION IF THE VALUE OF THE TRANSACTION EXCEEDS FIFTY BILLION PESOS (Php50,000,000,000.00);

“AN AGREEMENT CONSUMMATED IN VIOLATION OF THIS COMPULSORY REVIEW REQUIREMENT SHALL BE CONSIDERED VOID AND SUBJECT THE PARTIES TO AN ADMINISTRATIVE FINE OF ONE PERCENT (1%) TO FIVE PERCENT (5%) OF THE VALUE OF THE TRANSACTION.

“SEC. 17-C. VOLUNTARY REVIEW. – A PARTY TO A MERGER OR ACQUISITION TRANSACTION WHICH DOES NOT MEET THE CRITERIA FOR COMPULSORY REVIEW UNDER THE PREVIOUS SECTION MAY, UPON NOTIFICATION, REQUEST THE COMMISSION TO REVIEW THEIR PROPOSED MERGER OR ACQUISITION TO DETERMINE IF THE PROPOSED MERGER OR ACQUISITION AGREEMENT OR CERTAIN TERMS THEREUNDER WILL SUBSTANTIALLY PREVENT, RESTRICT OR LESSEN COMPETITION IN THE RELEVANT MARKET.”

SEC. 13. Section 17 of the same Act is hereby amended and denominated as 17-D to read as follows:

“SEC. 17-D. ~~[Compulsory]~~ Notification AND REVIEW PROCEDURE.
– Parties to ~~[the]~~ a merger or acquisition ~~[agreement referred to in the preceding section wherein the value of the transaction exceeds one billion pesos (Php1,000,000,000.00)]~~
THAT IS SUBJECT TO REVIEW BY THE COMMISSION BY VIRTUE OF SECTIONS 17-B OR 17-C OF THIS ACT SHALL SUBMIT THE FOLLOWING INFORMATION TO THE COMMISSION ALONG WITH THEIR MERGER NOTIFICATION:

“(1) REQUIRED DOCUMENTS AND INFORMATION FOR REVIEW AS DETERMINED BY THE COMMISSION; AND

“(2) AN APPLICATION TO THE COMMISSION FOR A DECISION.

“PARTIES TO A MERGER OR ACQUISITION THAT IS SUBJECT TO REVIEW BY THE COMMISSION are prohibited from consummating their agreement until thirty (30) days after providing notification to the Commission in the form and containing the information specified in the regulations issued by the Commission: Provided, That the Commission ~~[shall]~~ MAY promulgate other criteria, such as increased market share in the relevant market in excess of minimum thresholds, that may be applied specifically to a sector, or across some or all sectors, in determining whether parties to a merger or acquisition shall notify the Commission under this Chapter.

“PARTIES MUST GIVE PRIOR NOTICE TO THE COMMISSION OF ANY MODIFICATIONS TO THE TRANSACTION THAT ARE MADE AFTER THE COMMENCEMENT OF THE COMMISSION’S REVIEW.

“An agreement consummated in violation of this ~~[requirement to notify the Commission]~~ SECTION shall be considered void and subject the parties to an administrative fine of one percent (1%) to five percent (5%) of the value of the transaction.

“Should the Commission deem it necessary, it may request further information that are reasonably necessary and directly relevant to the prohibition under Section 20 hereof from the parties to the agreement before the expiration of the thirty (30)-day period referred. The issuance of such a request has the effect of extending the period within which the agreement may not be consummated for an additional sixty (60) days, beginning on the day after the request for information is ~~[received]~~ COMPLIED WITH by the parties: Provided, That, in no case shall the total period for review by the Commission of the subject agreement exceed ninety (90) days from initial notification by the parties.

“When the above periods have expired and no decision has been promulgated for whatever reason, the merger or acquisition shall be deemed approved and the parties may proceed to implement or consummate it. All notices, documents and information provided to or emanating from the Commission under this section shall be subject to confidentiality rule under Section 34 of this Act except when the release of information contained therein is with the consent of the notifying entity or is mandatorily required to be disclosed by law or by a valid order of a court of competent jurisdiction, or of a government or regulatory agency, including an exchange.

“In the case of the merger or acquisition of banks, banking institutions, building and loan associations, trust companies, insurance companies, public utilities, educational institutions and other special corporations governed by special laws, a favorable or no-objection ruling by the Commission shall not be construed as dispensing of the requirement for a favorable recommendation by the appropriate government agency under Section 7[9]8 of the REVISED Corporation Code of the Philippines.

“A favorable recommendation by a governmental agency with a competition mandate shall give rise to a disputable presumption that the proposed merger or acquisition is not violative of this Act.”

SEC. 14. A new section denominated as Section 17-E is hereby inserted after Section 17 of the same Act to read as:

“SEC. 17-E. MOTU PROPRIO REVIEW. — THE COMMISSION MAY INITIATE A MOTU PROPRIO REVIEW OF A MERGER OR ACQUISITION WHICH IT REASONABLY SUSPECTS WILL SUBSTANTIALLY PREVENT, RESTRICT, OR LESSEN COMPETITION.

“THE COMMISSION SHALL ISSUE A NOTICE TO THE PARTIES TO THE AGREEMENT UPON INITIATION OF REVIEW, INCLUDING INTERIM ORDERS AND A REQUEST FOR INFORMATION IT DEEMS REASONABLY NECESSARY TO THE CONDUCT OF ITS REVIEW. THE COMMISSION MAY REQUEST RELEVANT INFORMATION FROM GOVERNMENT AGENCIES, IF NECESSARY.

“IF PARTIES RECEIVE NOTICE OF REVIEW FROM THE COMMISSION PRIOR TO CONSUMMATION OF THEIR AGREEMENT, THEY ARE PROHIBITED FROM CONSUMMATING THEIR AGREEMENT UNTIL THE SAME HAS BEEN CLEARED BY THE COMMISSION.

“IF PARTIES RECEIVE THE NOTICE OF REVIEW AFTER THE AGREEMENT SHALL HAVE BEEN CONSUMMATED, THEN THE COMMISSION SHALL CONDUCT THE REVIEW IN A MANNER THAT WILL RESULT IN THE LEAST DISRUPTION IN THE BUSINESS OPERATIONS OF, AND LEAST BURDENSOME ON, THE PARTIES.”

SEC. 15. Section 18 of the same Act is hereby amended to read as follows:

“SEC. 18. ~~[Effect of Notification.]~~ ISSUANCE OF A DECISION BY THE COMMISSION. – IF [If within the relevant periods stipulated in the preceding section,] AFTER THE COMPULSORY OR VOLUNTARY REVIEW CONDUCTED BY THE COMMISSION PURSUANT TO SECTION 17, the Commission REASONABLY determines that [such] A PROPOSED TRANSACTION OR agreement WILL SUBSTANTIALLY PREVENT, RESTRICT, OR LESSEN COMPETITION, and does not qualify for exemption under Section 21 of this Chapter, the Commission may:

“(a) prohibit the implementation of the agreement;

“(b) prohibit the implementation of the agreement unless and until it is modified by changes specified by the Commission;

“(c) prohibit the implementation of the agreement unless and until the pertinent party or parties enter into legally enforceable agreements specified by the commission; OR

“(D) APPROVE THE IMPLEMENTATION, SUBJECT TO COMPLIANCE WITH SPECIFIC CONDITIONS.”

SEC. 16. Section 19 of the same Act is hereby amended to read as follows:

“SEC. 19. Notification [~~Threshold~~] AND REVIEW REQUIREMENTS. – The Commission shall, from time to time, adopt and publish regulations stipulating:

“(a) AN INCREASE IN the transaction value threshold and such other criteria subject to the notification requirement of Section 17 of this Act;

“(b) The information that must be supplied for notified mergerS or acquisitionS AND MERGERS OR ACQUISITIONS UNDERGOING REVIEW;

“(c) Exceptions or exemptions from the [notification] REVIEW requirement; and

“(d) Other rules relating to the notification procedures.”

Sec. 17. Section 20 of the same Act is hereby amended to read as follows:

“SEC. 20. Prohibited Mergers and Acquisitions. – Merger or acquisition agreements that substantially prevent, restrict or lessen competition in the relevant market or in the market for goods or services as may be determined by the Commission shall be prohibited.

“A MERGER OR ACQUISITION THAT IS DEEMED PROHIBITED EX-POST SHALL BE SUBJECT TO THE NECESSARY REMEDIES AS MAY BE DETERMINED BY THE COMMISSION.”

SEC. 18. Section 26 of the same Act is hereby amended to read as follows:

“SEC. 26. Determination of Anti-Competitive Agreement or Conduct. – In determining whether an anti-competitive agreement or conduct [~~has been committed~~] SUBSTANTIALLY PREVENTS, RESTRICTS, OR LESSENS COMPETITION, the Commission, IN APPROPRIATE CASES, shall, INTER ALIA:

“(a) x x x”

SEC. 19. Section 28 of the same Act is hereby amended to read as follows:

“SEC. 28. Forbearance. – The Commission may forbear from applying the provisions of this Act, for a limited time, in whole or in part, in all or specific cases, on [~~an entity or~~] A group of entities, if in its determination:

“X X X.”

“The Commission’s order exempting the relevant [entity or] group of entities under this section shall be made public. Conditions may be attached to the forbearance if the Commission deems it appropriate to ensure the long-term interest of consumers.”

“X X X.”

SEC. 20. New sections denominated as Section 28-A and Section 28-B are hereby inserted after Section 28 of the same Act to read as follows:

“SEC. 28-A. ASSISTANCE TO RELEVANT AGENCIES ON INCENTIVES. – THE COMMISSION SHALL ASSIST THE RELEVANT GOVERNMENT AGENCY ON FISCAL AND OTHER INDUSTRY-SPECIFIC INCENTIVES IN ASSESSING POSSIBLE ANTI-COMPETITIVE EFFECTS OF INCENTIVE SCHEMES OF THE GOVERNMENT BASED ON THE FOLLOWING FACTORS:

“(1) WHETHER THE INCENTIVE SCHEME GRANTS UNDUE COMPETITIVE ADVANTAGE TO AN ENTITY OR ENTITIES;

“(2) WHETHER THE INCENTIVE SCHEME IS PROPORTIONATE AND NECESSARY TO ACHIEVE A GIVEN EFFICIENCY OR EQUITY OBJECTIVE;

“(3) WHETHER THE ACTUAL BENEFIT ACHIEVED THROUGH THE INCENTIVE SCHEME OUTWEIGHS THE COST OF DISTORTING COMPETITION; AND

“(4) OTHER FACTORS THAT MAY BE DETERMINED BY THE COMMISSION.

“SEC. 28-B. RECOMMENDATION ON GOVERNMENT INCENTIVES. – FOR INCENTIVES WHICH THE COMMISSION DEEMS TO HAVE ADVERSELY AFFECTED COMPETITION IN THE RELEVANT MARKET OR IN THE MARKET FOR GOODS AND SERVICES ACCORDING TO SECTION 24, THE COMMISSION SHALL ISSUE AN EXPERT OPINION OR NO OBJECTION CERTIFICATE RULING TO THE RELEVANT GOVERNMENT AGENCY ON FISCAL AND OTHER INDUSTRY-SPECIFIC INCENTIVES, AND RECOMMEND REMEDIES SUCH AS THE REVISION OR REVOCATION OF SUCH INCENTIVE SCHEME AND THE RECOVERY OF INCENTIVES WITH INTEREST.”

SEC. 21. Section 29 of the same Act is hereby amended to read as follows:

“SEC. 29. Administrative Penalties. –

“(a) Administrative Fines. – In any investigation under Chapter III, Sections 14 and 15, and Chapter IV, Sections 17 and 20 of this Act, after due notice and hearing, the Commission may impose [the following schedule of] administrative fines NOT EXCEEDING TEN PERCENT (10%) OF THE TOTAL GLOBAL TURN-OVER OF THE ULTIMATE PARENT ENTITY ~~[on any]~~ OF THE entity found to have violated

the said sections[.].

~~[First offense: Fine of up to one hundred million pesos (P100,000,000.00);~~

~~[Second offense: Fine of not less than one hundred million pesos (P100,000,000.00) but not more than two hundred fifty million pesos (P250,000,000.00).]~~

“In fixing the amount of the fine, the Commission shall have regard to both the gravity and the duration of the violation.

“(b) Failure to Comply With An Order of the Commission. – An entity which fails or refuses to comply with a ruling, order, CONDITION or decision issued by the commission shall pay a penalty of not less than ~~[Fifty]~~ ONE HUNDRED Thousand Pesos ~~[(P50,000.00)]~~ (Php100,000.00) up to ~~[Two]~~ FIVE Million Pesos ~~[(P2,000,000.00)]~~ (Php5,000,000.00), OR ONE PERCENT (1%) OF THE TURNOVER, WHICHEVER IS GREATER, for each violation and a similar amount of penalty for each day thereafter until the said entity fully complies. Provided that these fines shall only accrue daily beginning forty-five (45) days from the time that the said decision, order or ruling was received.

“(c) Supply of Incorrect or Misleading Information. – The Commission may likewise impose upon any entity fines of up to ~~[One]~~ TWO million pesos ~~[(P1,000,000.00)]~~ (Php2,000,000.00) where, intentionally or negligently, they supply incorrect or misleading information in any document, application or other paper filed with or submitted to the Commission or supply incorrect or misleading information in an application for a binding ruling, a proposal for a consent judgment, proceedings relating to a show cause order, or application for modification of the Commission’s ruling, order or approval, as the case may be.

“(d) Any other violations not specifically penalized under the relevant provisions of this Act shall be penalized by a fine of not less than ~~[fifty]~~ ONE HUNDRED thousand pesos ~~[(P50,000.00)]~~ (Php100,000.00) up to ~~[two]~~ FIVE million pesos ~~[(P2,000,000.00)]~~ (Php5,000,000.00).

“(E) OBSTRUCTION. – THE COMMISSION MAY IMPOSE A FINE OF NOT LESS THAN ONE HUNDRED THOUSAND PESOS (P100,000.00) UP TO FIVE MILLION PESOS (P5,000,000.00) ON ANYONE WHO COMMITS ANY OBSTRUCTION OF ANY INVESTIGATION OR PROCEEDINGS OF THE COMMISSION, THE IMPLEMENTATION OF THE ORDERS, RULINGS, OR DECISIONS OF THE COMMISSION, OR THE ENFORCEMENT OF THE ACT, ITS IMPLEMENTING RULES, OR OTHER COMPETITION LAWS.

“(F) REPRISAL OR DISCRIMINATION. — ANY PERSON THAT COMMITS ANY FORM OF REPRISAL OR DISCRIMINATION AGAINST ANYONE COOPERATING OR FURNISHING INFORMATION, DOCUMENT, OR DATA TO THE COMMISSION IN CONNECTION WITH AN INVESTIGATION OR PROCEEDING BEING CONDUCTED, SHALL BE PENALIZED WITH A FINE OF NOT LESS THAN ONE HUNDRED THOUSAND PESOS (Php100,000.00) UP TO FIVE MILLION PESOS (Php5,000,000.00).

“REPRISAL OR DISCRIMINATION SHALL INCLUDE REMOVAL, DISCHARGE, DEMOTION, SUSPENSION, THREATS, HARASSMENT, OR ANY FORM OF RETALIATION IN THE TERMS AND CONDITIONS OF EMPLOYMENT, AGENCY, OR ENGAGEMENT, AS THE CASE MAY BE.

“(G) FAILURE TO NOTIFY THE COMMISSION OF SALE, DISPOSITION, OR ANY OTHER TRANSFER DURING ADJUDICATION. – A RESPONDENT THAT FAILS TO NOTIFY THE COMMISSION OF ANY SALE, DONATION, DISPOSITION, OR ANY OTHER TRANSFER, WHETHER ABSOLUTE OR OTHERWISE, MADE DURING ADJUDICATION, OF ITS INTEREST IN BUSINESSES, SHAREHOLDINGS, BUSINESS UNITS, ASSETS, OR ANY OTHER INTEREST RELATED TO MATTERS UNDER ADJUDICATION SHALL BE PENALIZED WITH A FINE OF NOT LESS THAN ONE HUNDRED THOUSAND PESOS (Php100,000.00) UP TO FIVE MILLION PESOS (Php5,000,000.00):

“Provided that the schedule of fines indicated in this Section shall be ~~increased~~ REVIEWED AND MAY BE ADJUSTED by the Commission every five (5) years to maintain their real value from the time it was set.”

SEC. 22. Section 30 of the same Act is hereby amended to read as follows:

“SEC. 30. Criminal Penalties. – An entity that enters into any anti-competitive agreement as covered by Chapter III, Section 14(a) and 14(b) under this Act shall, for each and every violation, be penalized by imprisonment from two (2) to seven (7) years, and a fine of not less than fifty million pesos (Php50,000,000.00) but not more than two hundred fifty million pesos (Php250,000,000.00) OR A FINE EQUIVALENT TO TEN PERCENT (10%) OF RELEVANT TURNOVER FOR THE YEAR(S) OF INFRINGEMENT, WHICHEVER IS GREATER. The penalty of imprisonment shall be imposed upon the responsible officers, and directors of the entity.

“X X X.”

SEC. 23. A new section to be denominated as Section 30-A of the same Act is hereby amended to read as follows:

“SEC. 30-A. LIABILITY OF FACILITATORS. – ANY PERSON WHO AIDED, ABETTED, OR INDUCED A PERSON, WHETHER BY THREATS OR PROMISES TO COMMIT ANY OF THE PROHIBITED ACTS OR VIOLATIONS UNDER SECTIONS 14 AND 15 OF THIS ACT, OR IN ANY WAY DIRECTLY OR INDIRECTLY, PARTICIPATED OR CONSPIRED WITH OTHERS TO THE COMMISSION OF THE PROHIBITED ACTS OR VIOLATIONS SHALL BE LIABLE UNDER THIS ACT.”

SEC. 24. Section 32 of the same Act is hereby amended to read as follows:

“SEC. 32. Relationship with Sector Regulators. – The Commission shall have original and primary jurisdiction in the enforcement OF THIS ACT and THE regulation of all competition-related issues.

“THE COMMISSION SHALL EXERCISE ORIGINAL AND EXCLUSIVE JURISDICTION OVER THE ADJUDICATION OF ALL COMPETITION-RELATED CASES UNDER THIS ACT.

“The Commission shall still have jurisdiction if the issue involves both competition and noncompetition issues, but the concerned sector regulator shall be consulted and afforded reasonable opportunity to submit its own opinion and recommendation on the matter before the Commission makes a decision on any case.

“X X X.”

SEC. 23. Section 35 of the same Act is hereby amended to read as follows:

“SEC. 35. Leniency Program. –

“X X X.”

“(b) Upon the entity’s discovery of illegal activity, it took prompt and effective action to terminate its participation therein; UNDERTAKEN IN CONSULTATION AND WITH THE APPROVAL OF THE COMMISSION;

“X X X.”

“(d) The entity did not coerce another party to participate in the activity [~~and clearly was not the leader in, or the originator of, the activity~~].

“Even after the Commission has received information about the illegal activity after a fact finding or preliminary inquiry has commenced, the reporting entity [~~will~~] MAY be granted leniency, provided preceding conditions (b) and (c) and the following additional requirements are complied with:

“~~[(1) The entity is the first to come forward and qualify for leniency;]~~

“~~[(2)]~~ (1) At the time the entity comes forward, the Commission does not have evidence against the entity that is likely to result in a sustainable conviction; and

“~~[(3)]~~ (2) The Commission determines that granting leniency would not be unfair to others.

“THE COMMISSION SHALL DEVELOP SPECIFIC CRITERIA FOR QUALIFICATION FOR THE LENIENCY PROGRAM AS IT DEEMS APPROPRIATE.

“Such program shall include the immunity from any suit or charge of affected parties and third parties, exemption, waiver, or gradation of fines and/or penalties giving precedence to the entity submitting such evidence. [~~An entity cooperating or furnishing information, document or data to the Commission in connection to an investigation being conducted shall not be subjected to any form of reprisal or discrimination. Such reprisal or discrimination shall be considered a violation of this Act subject to the sanctions~~

~~provided in this Act.]~~

“X X X.”

SEC. 24. Section 37 of the same Act is hereby amended to read as follows:

“SEC. 37. Non-Adversarial Remedies. – As an implementing and enforcement policy, the Commission shall, under such rules and regulations it may prescribe, encourage voluntary compliance with this Act and other competition laws by making available to the parties concerned the following and other analogous non-adversarial administrative remedies, before the institution of administrative, civil or criminal action:

“(a) X X X

“(b) Show Cause Order. – Upon preliminary findings motu proprio or on written complaint under oath by an interested party that any entity is conducting its business, in whole or in part in a manner that may not be in accord with the provisions of this Act or other competition laws, and it finds that the issuance of a show cause order would be in the interest of the public, the Commission shall issue and serve upon such entity or entities a written description of its business conduct complained of, a statement of the facts, data, and information together with a summary of the evidence thereof, with an order requiring the said entity or entities to show cause, within the period therein fixed, why no order shall issue requiring such person or persons to cease and desist from continuing with its identified business conduct, or pay the administrative fine therein specified, or readjust its business conduct or practices;

“(c) Consent Order. – At any time prior to the conclusion by the Commission of its inquiry RELATING TO SECTIONS 14(B) AND 15 OF THIS ACT, any entity under inquiry may, without in any manner admitting a violation of this Act or any other competition laws, submit to the Commission a written proposal for the entry of a consent order, specifying therein the terms and conditions of the proposed consent order which shall include among others the following:

“(1) ~~[The payment of an amount within the range of fines provided for under this Act]~~ PAYMENT OF DAMAGES TO ANY PRIVATE PARTY/PARTIES WHO MAY HAVE SUFFERED INJURY;

“(2) The required compliance report as well as an entity to submit regular compliance reports;

“(3) AN UNDERTAKING TO PAY AN AMOUNT WITHIN THE RANGE OF FINES PROVIDED FOR UNDER THIS ACT ~~[Payment of damages to any private party/parties who may have suffered injury];~~ and

“(4) Other terms and conditions that the Commission deems appropriate and necessary for the effective enforcement of this Act or other Competition Laws:

“Provided, That a consent order shall not bar any inquiry for the same or similar acts if continued or repeated;

“PROVIDED, FURTHER, THAT THIS REMEDY IS NOT AVAILABLE TO ANY ENTITY UNDER INQUIRY FOR VIOLATIONS OF SECTION 14 (A) AND (B) OF THIS ACT.

“(d) x x x;

“(e) Inadmissibility of Evidence in Criminal Proceedings. – The request for a binding ruling[;] OR the show cause order [~~or the proposal for consent order~~]; the facts, data, and information therein contained or subsequently supplied by the entity or entities concerned; admissions, oral or written, made by them against their interest; all other documents filed by them, including their evidence presented in the proceedings before the Commission; and the judgment or order rendered thereon; shall not be admissible as evidence in any criminal proceedings arising from the same act subject of the binding ruling[;] OR show cause order [~~or consent order~~] against such entity or entities, their officers, employees, and agents.”

SEC. 25. Section 38 of the same Act is hereby amended to read as follows:

“SEC. 38. Contempt. – The Commission may [summarily] punish for contempt [~~by imprisonment not exceeding thirty (30) days or by a fine not exceeding one hundred thousand pesos (P 100,000.00), or both, any entity guilty of such~~] ANY OF THE FOLLOWING ACTS COMMITTED AGAINST OR BEFORE THE COMMISSION OR AGENCY, OFFICER, OR PERSON VESTED WITH AUTHORITY OR DEPUTIZED BY THE COMMISSION: [~~misconduct in the presence of the Commission in its vicinity as to seriously interrupt any hearing, session or any proceeding before it, including cases in which an entity willfully fails or refuses, without just cause, to comply with a summons, subpoena or subpoena *duces tecum* legally issued by the Commission being present at a hearing, proceeding, session or investigation, refused to be sworn as a witness or to answer questions or to furnish information when lawfully required to do so.~~]

“(A) MISCONDUCT THAT SERIOUSLY INTERRUPTS ANY HEARING, SESSION, OR PROCEEDING.

“(B) REFUSAL TO BE SWORN AS A WITNESS OR TO ANSWER QUESTIONS OR TO FURNISH INFORMATION WHEN LAWFULLY REQUIRED TO DO SO, AT A HEARING, PROCEEDING, SESSION, OR INVESTIGATION, WITHOUT ANY VALID OR JUST CAUSE;

“(C) WILLFUL FAILURE OR REFUSAL, WITHOUT JUST CAUSE, TO COMPLY WITH A SUMMONS OR SUBPOENA; AND

“(D) FAILURE OR REFUSAL TO COMPLY WITH ANY ORDER, RULING OR DECISION OF THE COMMISSION.

“CONTEMPT SHALL, AFTER DUE NOTICE AND HEARING, BE PUNISHED BY IMPRISONMENT OF NOT MORE THAN THIRTY (30) DAYS OR BY A FINE OF NOT MORE THAN ONE HUNDRED THOUSAND PESOS (Php100,000.00), OR BOTH, AS MAY BE DETERMINED UNDER THE PROVISIONS OF THE RULES OF COURT OF THE PHILIPPINES: PROVIDED,

THAT WHEN THE PERSON COMMITS ANY OF THE ACTS UNDER (A) AND (B) IN THE PRESENCE OF THE COMMISSION, THE PERSON SHALL BE PUNISHED SUMMARILY.

SEC. 26. Section 39 of the same Act is hereby amended to read as follows:

“SEC. 39. Appeals of the Decisions of the Commission. – Decisions of the Commission shall be appealable to the Court of Appeals in accordance with ~~[the]~~ RULE 65 OF THE Rules of Court. The appeal shall not stay the order, ruling or decision sought to be reviewed, unless the Court of Appeals shall direct otherwise upon such terms and conditions it may deem just. In the appeal, the Commission shall be included as a party respondent to the case.”

SEC. 27. Section 46 of the same Act is hereby amended to read as follows:

“SEC. 46. Statute of Limitations. – Any action arising from a violation of any provision of this Act shall be forever barred unless commenced within five (5) years from:

“(a) For criminal actions, the time the violation is discovered by the offended party, the authorities, or their agents;

“(b) For ~~[administrative and]~~ civil actions, the time the cause of action accrues;
AND

“(c) For administrative actions, ~~[the time the cause of action accrues]~~ THE TIME THE VIOLATION IS DISCOVERED BY THE COMMISSION.”

SEC. 28. Section 51 of the same Act is hereby amended to read as follows:

“SEC. 51. Appropriations and Use of Fees, Charges and Penalties. – The initial budgetary requirements of the Commission of three hundred million pesos (Php300,000,000.00) is hereby appropriated.

~~“[All fees, fines, penalties collected by the Commission shall not be retained by the Commission, but will be remitted to the National Treasury and shall accrue to the general funds.]~~ THE COMMISSION SHALL BE AUTHORIZED TO RETAIN 50% OF ALL FEES, FINES, AND PENALTIES COLLECTED BY THE COMMISSION FOR THE PURPOSE OF CREATING THE ANTITRUST FUND, WHICH SHALL BE USED TO DEVELOP AND UTILIZE A RESEARCH AND INVESTIGATION FUND, AS PROVIDED IN SECTIONS 12(S) AND 12(Y) OF THIS ACT, FOR PURPOSES OF ENFORCEMENT OPERATIONS, INFORMANT’S BENEFITS OR PROTECTION, FUND STAFF DEVELOPMENT AND SCHOLARSHIPS, REWARDS FOR REPORTING VIOLATIONS OF THE PCA, THE ESTABLISHMENT OF A COMPLIANCE PROGRAM, RESEARCH AND DEVELOPMENT, EDUCATION AND ADVOCACY, AND OTHER NECESSARY EXPENDITURES TO PROMOTE FAIR MARKET COMPETITION AND THE OBJECTIVES OF THIS ACT. THE USE OF SUCH ADDITIONAL AMOUNT SHALL BE SUBJECT TO THE AUDITING REQUIREMENTS, STANDARDS, AND PROCEDURES UNDER EXISTING LAWS.

“Such funds necessary for the continuous and effective operation of the Commission shall be included in the annual General Appropriations Act.”

SEC. 29. Section 52 of the same Act is hereby amended to read as follows:

“SEC. 52. Transparency Clause. – Final decisions, orders and rulings of the Commission AND THE INITIATION OF A MOTU PROPRIO REVIEW OF A MERGER OR ACQUISITION shall be published on the official website OF THE COMMISSION, subject to Section 34 of this Act.”

SEC. 30. Separability Clause. – Should any provision of this Act or any part hereof be declared unconstitutional, the other provisions or parts not affected thereby shall remain valid and effective.

SEC. 31. Repealing Clause. – The following laws, and all other laws, decrees, executive orders and regulations, or part or parts thereof inconsistent with any provision of this act, are hereby repealed, amended or otherwise modified accordingly:

(a) Articles 185 and 186 of Act No. 3815, otherwise known as the “Revised Penal Code”: Provided, That violations of Articles 185 and 186 of the Revised Penal Code committed before the effectivity of this Act may continue to be prosecuted unless the same have been barred by prescription, and subject to the procedure under Section 31 of this Act;

(b) Section 4 of Commonwealth Act No. 138;

(c) Section 43 (k), (r), (s), (u) on functions of the ERC and Section 45 of Republic Act No. 9136, entitled “An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes, otherwise known as the ‘Electric Power Industry Reform Act of 2001;”

(d) Section 24 on illegal acts of price manipulation and Section 25 on penalty for illegal acts of price manipulation of Republic Act No. 9502, entitled “An Act Providing for Cheaper and Quality Medicines, Amending for the Purpose Republic Act No. 8293 or the Intellectual Property Code, Republic Act No. 6675 or the Generics Act of 1988, and Republic Act No. 5921 or the Pharmacy Law, and for Other Purposes,” otherwise known as the “Universally Accessible Cheaper And Quality Medicines Act Of 2008;”

(e) Executive Order No. 45, Series of 2011, designating the Department of Justice as the competition authority, Department of Justice Circular 005, Series of 2015 and other related issuances;

(f) SECTION 5(3) OF REPUBLIC ACT NO. 7581, OTHERWISE KNOWN AS THE “PRICE ACT,” AS AMENDED; AND

(g) SECTIONS 87 AND 91 OF REPUBLIC ACT NO. 8293, OTHERWISE KNOWN AS THE “INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES.”

SEC. 32. Effectivity Clause. – This Act shall take effect after fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,