

THIRTEENTH CONGRESS OF THE }
REPUBLIC OF THE PHILIPPINES }
First Regular Session

SENATE
OFFICE OF THE SECRETARY

'04 JUN 30 P6:15

SENATE
S. No. 511

RECEIVED BY: Odin

INTRODUCED BY HON. MANUEL B. VILLAR, JR.

EXPLANATORY NOTE

The 1987 Constitution provides for the regulation or prohibition of monopolies, combinations in restraint of trade and unfair competition.

However, despite the Constitution and other special laws with anti-trust provisions, enforcement is seldom heard of as authorities seem to have forgotten the existence of said laws, or worse, choose to ignore them.

While lackadaisical implementation of anti-trust laws can simply be charged to government indifference, the laws themselves do not contribute much to encourage enforcement. Most if not all of Philippine anti-trust legislation are too ambiguous and outdated to discourage a potential wrongdoer, let alone, have an actual one held liable.

Hence, this bill seeks to provide for more effective implementation of the constitutional mandate against monopolies, combinations in restraint of trade and unfair methods of competition by re-defining and strengthening the existing laws, processes and structures governing the same.

Thus, for the protection of the consumers as well as to promote a healthy business climate, approval of this bill is earnestly sought.


MANUEL B. VILLAR, JR.

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AN ACT
PROVIDING FOR A MORE EFFECTIVE IMPLEMENTATION OF THE
CONSTITUTIONAL MANDATE AGAINST MONOPOLIES, COMBINATIONS IN
RESTRAINT OF TRADE AND UNFAIR COMPETITION BY RE-DEFINING AND
STRENGTHENING EXISTING LAWS, PROCESSES AND STRUCTURES
REGULATING THE SAME AND FOR OTHER PURPOSE

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

I. TITLE, DECLARATION OF POLICY AND DEFINITION OF TERMS

SECTION 1. *Title.* - This Act shall be known and cited as "The Philippine Anti-Trust Act of 2004."

SECTION 2. *Declaration of Policy.* - It is a declared the policy of the State to prevent the concentration of economic power in a few persons who threaten to control production, trade, or industry, stifle competition, distort, manipulate or constrict the discipline of free markets, or tamper with the free play of the market forces and eventually destroy free and open markets. This policy is in pursuance of the Constitutional mandate that the state regulates or prohibits monopolies when the public interest so requires and that no combinations in restraint of trade or unfair competition shall be allowed.

SECTION 3. *Definition of Terms.* - As used in this Act, the following terms shall be taken to mean as follows:

- a. Anti-trust Laws – this Act, statutes for consumer protection and all other statutes hereafter enacted by Congress for the consumer protection and those relating to or governing monopolies, oligopolies, cartels, combinations, contracts and/or agreements or arrangements in restraint of trade, production, commerce and industry, or which make available to national or local governments, or any private person whose rights have been or in danger of being impaired, any civil and/or criminal remedies or administrative proceedings before the proper Regional Trial Court or administrative agency with respect to any act, contract, agreement, rule,

- course of conduct, or other activity by, between or among persons constituting a restraint upon or monopolization of domestic or foreign trade, commerce or industry or any unfair trade practices or methods of competition in or affecting such trade, commerce or industry
- b. Person - any natural person, firm, company, corporation, society, association, partnership, joint-stock company, or any other legal entity, including any person acting under color or authority of law
 - c. Anti-trust Investigator - an attorney or investigator employed or deputized by the Anti-trust Commission who is charged with the duty of enforcing or carrying into effect the provisions of this Act or any law for consumer protection
 - d. Cartel - a combination of producers of any product or services joined together to create a monopoly to control its production, sale, and price
 - e. Commerce - intercourse by way of trade and traffic between different regions, provinces, towns or cities in the Philippines and the citizens or inhabitants thereof, including not only the purchase, sale and exchange of commodities, goods, articles, services, productions or property of any kind, but also the instrumentalities and agencies by which it is promoted and the means and modes by which it is carried on
 - f. Commission - the Anti-trust Commission created and existing under this Act
 - g. Document Custodian - the anti-trust document custodian or any deputy custodian designated under this Act
 - h. Documentary Material - the original or copy of any book, record, report, paper, correspondence, tabulation, chart, book of accounts, financial and corporate records, or similar document
 - i. Export Trade - trade or commerce in goods, wares, merchandise or object of trade, commerce or industry exported, or in the course of being exported from the Philippines to any foreign country
 - j. Industry - any department or branch of art, occupation, or business conducted as a means of livelihood or for profit, especially, one which employs much labor and capital and is a distinct branch of trade
 - k. Market - economic extent and interplay of supply and demand
 - l. Relevant Market - Market in which competitors agree to respect the rights of others to sell a product or service, by limiting its manufacture or sales so as to prevent or limit competition among themselves.
 - m. Open Market- a market wherein supply and demand are expressed in terms of price
 - n. Monopoly - a privilege or peculiar advantage vested in one person, consisting of the exclusive right to carry on a particular business or trade, manufacture a particular product or make available a particular service, or

control the sale of the whole supply thereof. It is a form of market structure in which one person dominate the total sales of a product or service. As prohibited in this Act, it has two elements: (1) possession of monopoly power in relevant markets, and (2) willful acquisition or maintenance of that power to exclude competitors from any part of trade, commerce or industry, as distinguished from growth or development as a consequence of a supervisor product, business, acumen, or historic accident.

- o. Oligopoly - economic climate in which at least three (3) large sellers/provider of substantially identical products or services dominate the market
- p. Trade Secret - a formula, pattern, device or compilation of information, plan or process, tool, mechanism, or compound, known only to limited persons used in their business, giving them advantage over competitors who do not know or utilize the same.
- q. Trade - mercantile or commercial business in general, or the buying and selling, or exchanging, of commodities and services, either by wholesale or retail
- r. Trusts - an association or combination of persons or corporations having the intention and power, or the tendency, to create a monopoly, control production, interfere with the free course of trade, or to fix and regulate the supply and the price of commodities and services. It refers to almost any form of combination of a monopolistic character or tendency.
- s. Unfair Methods of Competition - methods of competition which hinders players in the market from having a fair opportunity for competition.

II. PROHIBITION AGAINST SPECIFIC FORMS OF MONOPOLIES, OLIGOPOLIES, CARTELS, COMBINATIONS OR AGREEMENTS, OR COURSES OF CONDUCT IN RESTRAINT OF TRADE, COMMERCE, OR INDUSTRY

SECTION 4. *Prohibited and/or Unlawful Acts, And Course of Conduct in Trade, Commerce and Industry In General.*-

- a. It shall be unlawful for any person to monopolize, or attempt to monopolize any kind of merchandise, commodity, article or object of trade, commerce, or industry or combine or conspire with any other person or persons, to monopolize any part of the trade, commerce, or industry among the various provinces and cities in the Philippines, or with foreign countries.
- b. It shall be unlawful for any person engaged in trade, commerce, or industry, in the course of such trade, commerce, or industry, either directly or indirectly, to discriminate in price between purchasers of merchandise, commodities, articles or objects of trade, commerce, or industry of like grade and quality, where:

1. Either or any of the purchasers involved are in trade, commerce, or industry in the Philippines;
2. Where such merchandise, commodities, articles or objects of trade, commerce, or industry are sold for use, consumption, or resale within the Philippines; or
3. Where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of trade, commerce, or industry, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them.

Provided That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such merchandise, commodities, articles, or objects of trade, commerce, or industry are to such purchasers sold or delivered: Provided, however, that the Antitrust Commissioner may, after due notice and hearing where all interested parties have been accorded a chance to ventilate their views, fix and establish quantity limits, and revise the same as he finds necessary, as to particular merchandise, commodities, articles or objects of trade, commerce, or industry, or classes thereof, where he finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of trade, commerce, or industry; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: and Provided further That nothing herein contained shall prevent persons engaged in selling merchandise, commodities, articles or objects of trade, commerce, or industry from selecting their own customers in bona fide transactions and not in restraint of trade, commerce, or industry; and Provided, Furthermore That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the merchandise, commodities, articles or objects of trade, commerce, or industry concerned, such as, but not limited to, the actual or imminent deterioration of perishable merchandise, commodities, articles or objects, obsolescence of seasonal goods or merchandise, distress sales under court process, or sales in good faith in discontinuance of business in the merchandise, commodities, articles or objects concerned.

- c. It shall be unlawful for any person engaged in trade, commerce, or industry in the course of such trade, commerce, or industry to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other

compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sales or purchase of goods, wares merchandise, commodity, article or object of trade, commerce, or industry, either to the other party to such transaction or to an agent representative or other intermediary therein.

- d. It shall be unlawful for any person engaged in trade, commerce, or industry to pay or contract for the payment of anything of value to or for the benefit of a customer in the course of such trade, commerce, or industry as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of products, merchandise, commodities, articles, or objects of trade, commerce, or industry manufactured, sold or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products, merchandise, commodities, articles or objects of trade, commerce, or industry.
- e. It shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a product, commodity, merchandise, article, or object of trade, commerce or industry bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for the sale of such product, commodity, merchandise, article, or object of trade, commerce, or industry so purchased upon terms not accorded to all purchasers on proportionally equal terms.
- f. It shall be unlawful for any person engaged in trade, commerce, industry, in the course of such trade, commerce, or industry, knowingly to induce or receive a discrimination in price which is prohibited by this Act
- g. It shall be unlawful for any person to be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than One Million Pesos (P1,000,000.00), engaged in whole or in part in trade, commerce or industry, other than banks, banking associations, trust companies and common carriers, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement by them would constitute a violation of any provisions of this Act and other antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the

provisions of this Act, it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatever cause, whether specifically excepted by any of the provision hereof or not, until the expiration of one year from the date of his election or employment.

SECTION 5. *Prohibited and/or Unlawful Acts, And Course of Conduct in Telecommunication and Public Utility Sectors.-*

- a. It shall be unlawful for any person to monopolize, or attempt to monopolize radio or communication, directly or indirectly through the control of the manufacture or sale of radio apparatus, through exclusive traffic arrangements or deceptive acts or practices, or by any other means of unfair method of competition in trade, commerce or industry.
- b. It shall be unlawful for any person engaged directly or indirectly, through any person directly or indirectly controlling or controlled by or under direct or indirect common control with such person, or through an agent, or otherwise, in the business of transmitting and/or receiving for hire energy, telecommunications, or signals by radio, videotex, telefax, leased lines, electronic mail boxes, telemodem, telephone, wire, or telegraph line or system, including satellite transmissions, or any and all types of telecommunications services, such as messages, impressions, pictures, music, voices and data, throughout the Philippines and between the Philippines and other countries, ships at sea, airplanes and other conveyances, and stations for television in the Philippines, including cable and wireless operations, to acquire, own, or control any part of the stock or other capital share or any interest in the physical property and/or assets of any such cable, wire, telegraph, telephone, videotex, telefax, leased lines, electronic mail boxes, tele-modem, television or video phone line or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or restrain trade, commerce or industry between any place in the Philippines and any place in any foreign country, or unlawfully to create a monopoly, or to concentrate economic power in the hands of a few persons in any line in the business or trade or industry of transmitting and/or receiving for hire energy, telecommunications, or signals by radio, telephone, wire, or telegraph line or system, including satellite transmission, or any and all types of telecommunications services.

- c. It shall be unlawful for any person engaged directly or indirectly through any person directly or indirectly controlling or controlled by or under direct or indirect common control with such person, or through an agent, or otherwise, in the business of transmitting and/or receiving for the messages by any cable, wire, telegraph, or telephone line or system, including satellite transmissions, for any and all types of telecommunications services, such as messages, impressions, pictures, music, voices and data, throughout the Philippines and between the Philippines and other countries, ships at sea, airplanes and other conveyances, and stations for television in the Philippines, including cable and wireless operations, to acquire, own, control, or operate directly or indirectly either by purchase, lease, construction or otherwise, any station or the apparatus therein, or any system for transmitting and/or receiving cable, telegraph, wire, telephone, telefax, tele-modem international and domestic telecommunications messages or signals, including satellite transmissions, for any and all types of telecommunications services, such as impressions, pictures, music, voices and data, between any place in the Philippines and between the Philippines and any place in other countries, or shall acquire, own or control any part of the stock or other capital share or any interest in the physical property and/or other assets of any such radio, television, telephone, telegraph, wire or cable station, apparatus, or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain trade, commerce, or industry between any place in the Philippines and any place in other countries, or unlawfully to create a monopoly in any line of trade, commerce, or industry.
- d. It shall be unlawful for any person or firm who is a holder of a franchise for the operation of a public utility to require or demand from any applicant, client or subscriber of its services, the investment of any sum of money in the company or firm as a condition for the grant or approval of the application and/or the installation of the facility or service being applied for. After two years from the approval of this Act, it shall be unlawful for any common carrier engaged in trade, commerce, or industry to have any dealings in securities, supplies, or other articles of trade, commerce, or industry or to make or have any contracts for the construction or maintenance of any kind, to the amount of more than P1,000,000.00, in the aggregate, in any one year, with another corporation, firm, partnership, or association when the said common carrier shall have upon its board of directors or as its president, manager, or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership, or

association, unless and except when such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise the agency required under this Act to promulgate such rules. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors, and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding, or shall do any act to prevent free and fair competition among the bidders or those desiring to bid, shall upon conviction by the court, suffer the penalties prescribed in this Act.

Every such common carrier having any such transactions or making any such purchases shall, within ten (10) days after making the same, file with the Antitrust Commissioner a full and detailed statement of the transaction showing the manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the Antitrust Commissioner shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions, he shall initiate the appropriate criminal and civil actions and other proceedings with the proper court and/or administrative agency, as the case may be.

SECTION 6. Prohibited and/or Unlawful Acts, And Course of Conduct in the Banking Sector.-

- a. It shall be unlawful for any private banker or director, officer, or employee of any bank or branch thereof to be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized or doing business in the Philippines: Provided, That the Monetary Board of the Bangko Sentral Ng Pilipinas may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof: Provided Further, That this prohibition shall not apply in the case of any one or more of the following or any branch thereof:
 1. A banking association, savings bank, or trust company, more than ninety per centum (90%) of the stock of which is owned directly or indirectly by the Republic of the Philippines or by any corporation of which the Republic of the Philippines directly or indirectly owns more than ninety per centum (90%) of the stock.

2. A bank, banking association, savings bank, or trust company which has been placed formally in liquidation or which is in the hands of a receiver, conservator, or other official exercising similar functions.
3. A corporation, principally engaged in international or foreign banking or banking in autonomous territory of the Philippines.
4. A bank, banking association, savings bank, or trust company not located and having no branch in the same city, town, or barangay as that in which such member bank or any branch thereof is located, or in any city, town, or barangay contiguous or adjacent thereto.
5. A bank, banking association, savings bank, or trust company not engaged in a class or classes of business in which such member bank is engaged.
6. A mutual savings bank having no capital stock.

Provided, However, That any director, officer, or employee of any member bank of the Philippine Banking System, or any branch thereof, who is lawfully serving at the same time as a private banker or as a director, officer, or employee of any other bank, banking association, savings bank, or trust company, or any branch thereof, may continue such service for not more than one (1) year after the effectivity of this Act.

The Monetary Board of the Bangko Sentral ng Pilipinas is tasked to enforce this section. After due notice and hearing where all interested parties were accorded a chance to be heard or ventilate their views, it shall prescribe such rules and regulations as it deems necessary for that purpose.

- b. It shall be unlawful for any banking and other financial or lending institution to impose as a condition for the consideration or grant of an application for a loan by any person or group of persons the hiring of the services of a particular person or group of persons for the conduct and preparation of the feasibility studies and the rendering of other services relative to the loan applied for.

SECTION 7. Prohibited and/or Unlawful Acts, And Course of Conduct of Corporations.-

- a. Except when otherwise allowed in this Art, it shall be unlawful for a corporation engaged in trade, commerce, or industry to acquire directly or indirectly, the whole or any part of the stock or other share capital, or the whole or any part of the assets of another corporation engaged also in trade, commerce or industry, where in any line of trade, commerce, or industry in any section of the Philippines, the effect of such acquisition may be substantially to lessen competition, or tend to create a monopoly of any line of trade, commerce, or industry.

- b. Except when otherwise allowed in this Act, it shall be unlawful for a corporation engaged in trade, commerce, or industry to acquire, directly or indirectly, the whole or any part of the stock or other share capital, or the whole or any part of the asset of one or more corporations engaged in trade, commerce, or industry where in any line of trade, commerce or industry in any part of the Philippines, the effect of such acquisition of stocks or assets, or of the use of such stock by the voting or granting of proxies or otherwise, may be a substantial to lessen competition, or tend to create a monopoly.

III. CRIMINAL PENALTIES

SECTION 8. *Penalties* .-

- a. Any person who shall commit an act which, under Sections 4,5,6, and 7 of this Act, is prohibited or declared to be unlawful and/or against, public policy, shall be guilty of felony and upon conviction by the court shall suffer the penalty of imprisonment of not less than five years but not more than twenty years and to pay a fine of not less than two hundred thousand pesos (P200,000.00) but not more than one million pesos (P1,000.00) if the offender is a natural person, or a fine of not less than five million pesos (P5,000,000.00) but not more than one hundred million pesos (P100,000,000.00) if the offender is a juridical person, at the discretion of the court. In case the offender is a corporation, partnership, joint stock company, association, firm or other legal entity, the court shall order its dissolution. Nothing herein contained shall be construed as limiting in anyway the application of any other provision of this Act which will enable the Government or any private person injured in his business or property by reason of the commission of any act or course of conduct prohibited or declared unlawful or, against public policy under this Act to obtain or secure final and complete relief against the offender.
- b. Any person who, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under Section 33 of this Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, alters or by any other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so shall, upon conviction by the court, suffer the penalty of a fine of not less than five thousand pesos (P5,000.00) but not more than twenty-five thousand pesos (P25,000.00) and imprisonment of not less than two years but not more than five years, at the discretion of the court. If the offender is a public officer, he shall, in addition, suffer the penalty of perpetual disqualification from holding a public office.

SECTION 9. *Violation By Corporation, Partnership, Association, and Other Entity.*- Whenever a juridical person shall commit any of the acts declared unlawful and punishable under this Act, the president and each one of the directors or managers, or its agents or representatives in the Philippines in the case of a foreign juridical person, who shall have authorized, ordered, or committed any of the acts constituting in whole or in part such violation, or who by reason of gross negligence failed to prevent the commission of such act shall be held liable as principals thereof.

SECTION 10. *Alien Violators.* - If the person found violating any provisions of this Act is an alien, he shall, in addition to the penalties imposed upon him under this act, be deported after the service of his sentence without need of any further proceedings.

IV. JURISDICTION OF REGIONAL TRIAL COURTS AND APPROPRIATE ADMINISTRATIVE AGENCIES

SECTION 11. *Jurisdiction.*- The various Regional Trial Courts in the Philippines shall have original and exclusive jurisdiction to try and decide all criminal and civil cases involving violations of this Act. Any administrative agency that is vested by law with jurisdiction to grant administrative relief in specific cases shall continue to exercise such jurisdiction.

V. ANTITRUST COMMISSION

SECTION 12. *Creation of an Antitrust Commission.* - To carry into effect the objectives of this Act, an independent Antitrust Commission is hereby established.

SECTION 13. *Composition.* - The Commission shall be composed of an Antitrust Commissioner, who shall be assisted by one overall Deputy Antitrust Commissioner to be known as Senior Deputy Antitrust Commissioner and one Deputy Antitrust Commissioner each for Luzon, Visayas and Mindanao.

SECTION 14. *Qualifications.* - The Antitrust Commissioner and his Deputies shall be natural-born citizens of the Philippines, at least forty (40) years old, of recognized probity and independence, members of the Philippine Bar, must have for ten (10) years or more engaged in the practice of law in the Philippines, and must not have been candidates for any elective national or local office in the immediately preceding election whether regular or special.

SECTION 15. *Appointment; Term of Office.* - The Antitrust Commissioner and his Deputies shall be appointed by the President of the Philippines for a term of seven (7) years without reappointment.

SECTION 16. *Rank and Salary.* - The Antitrust Commissioner and his Deputies shall have the same ranks, privileges and salaries as the Chairman and Members, respectively, of a Constitutional Commission. Their salaries shall not be decreased during their term of office.

SECTION 17. *Filling of Vacancies.* - In case of vacancy in the Office of the Antitrust Commissioner by reason of death, resignation, removal or permanent disability, the Senior Deputy Antitrust Commissioner shall serve as Acting Antitrust Commissioner in a concurrent capacity until a new Antitrust Commissioner shall have been appointed for a full term. In case the Senior Deputy cannot assume the office of Acting Antitrust Commissioner, the Deputy for Luzon shall assume the office as Acting Antitrust Commissioner until a new Antitrust Commissioner shall have been appointed.

In case of temporary absence or disability of the Antitrust Commissioner, the Senior Deputy Antitrust Commissioner shall perform the duties of the Antitrust Commissioner until the latter returns or is able to perform his duties.

In case of vacancy in the Office of the Senior Deputy Antitrust Commissioner, the Deputy for Luzon shall assume the office as the Senior Deputy Antitrust Commissioner until a new Senior Deputy shall have been appointed.

In case of permanent vacancy in the Office of a Deputy for Luzon, Visayas or Mindanao, the same shall be filled within one month from the occurrence of such vacancy.

In case a vacancy occurs before the expiration of the term of office of the Antitrust Commissioner or any of his Deputies, the appointment to such vacancy shall be only for the unexpired portion of the term of the predecessor.

SECTION 18. *Prohibitions and Disqualifications.* - The Antitrust Commissioner and his Deputies shall not, during their tenure, hold any other office or employment. They shall not, during their tenure, directly or indirectly practice any profession, participate in any business, or be financially interested in any contract with, or any franchise, or special privilege granted by the government or any subdivision, agency, or instrumentality thereof, including government-owned or 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. They shall not be allowed to appear or practice before the Antitrust Commission for two (2) years following their cessation from office.

No spouse or relative by consanguinity or affinity within the fourth civil degree and no law, business, or professional partner or associate of anyone of them may appear as counsel or agent on any matter pending before the Office of the Antitrust

Commission or transact business directly or indirectly therein within one year preceding his appointment.

This disqualification shall apply during the tenure of the official concerned and shall apply with equal force and effect to the law, business or professional firm for the same period.

SECTION 19. *Disclosure.* - The Antitrust Commissioner and his Deputies shall, upon assumption of office, individually make under oath a public disclosure of the identities of, and their relationship with, the persons covered by the prohibition and disqualification contained in the preceding section.

The disclosure shall be filed with the Office of the President and the Office of the Antitrust Commission before the appointee assumes office, and every year thereafter. The disclosures made pursuant to this section shall form part of the public records and shall be available to any person or entity upon written request.

SECTION 20. *Structural Organization.* -

- a. The authority and responsibility for the exercise of the mandate of the Office of the Antitrust Commissioner and for the discharge of its powers and functions shall be vested in the Antitrust Commissioner, who shall have supervision and control of the said Office.
- b. The Office of the Antitrust Commissioner shall consist of the Office of the Antitrust Commissioner, the Office of the Senior Deputy, the Office of the Deputy for Luzon, the Office of the Deputy for Visayas, and the Office of the Deputy for Mindanao. The President may appoint other deputies as the necessity for it arises, as recommended by the Antitrust Commissioner.
- c. The Office of the Antitrust Commissioner shall organize in the Commission such directorates and other allied services for the efficient discharge of the powers and proper performance by the Commission of its functions under this Act.
- d. The Office of the Senior Deputy shall oversee and administer the operations of the different offices under the Office of the Antitrust Commissioner. It shall likewise perform such other functions and duties assigned to it by the Antitrust Commissioner.
- e. Each of the Offices of the Deputies for Luzon, Visayas and Mindanao shall have an Investigation Staff and a Litigation Staff. The Investigation Staff shall have a Criminal Process Branch and a Criminal Trial Branch. The Criminal Process Branch shall conduct preliminary investigation of all criminal cases involving acts constituting a crime punishable under this Act or other related laws and, upon a finding of a prima facie case, shall file with the proper Regional Trial Court the corresponding information. The Criminal

Trial Branch shall prosecute before the court all cases filed by the Criminal Process Branch.

- f. The Litigation Staff shall have a Civil Process Branch and a Civil Trial Branch. The Civil The Civil Process Branch shall process all civil actions and proceedings arising out of the provisions of this Act and file the corresponding complaint or petition or answer, as the case may be, as may be required in the premises. The Civil Trial Branch shall handle the actual trial of such cases before the courts or administrative agency where they may be pending. The members of the investigation and litigation staffs shall receive salaries which shall not be less than those of the members of the prosecution staff of the Department of Justice.
- g. The position structure and staffing pattern of the Office of the Antitrust Commissioner, including those of the Deputies, shall be approved and prescribed by the Antitrust Commissioner. The Antitrust Commissioner shall appoint all officers and employees of the Office of the Antitrust Commissioner, including those of the Offices of the Deputies, in accordance with the civil service law, rules and regulations.

SECTION 21 *Headquarters.* - The Antitrust Commissioner, the Senior Deputy, and the Deputy for Luzon shall hold office in Metropolitan Manila; the Deputy for the Visayas, in Cebu City or Lapulapu City; and the Deputy for Mindanao, in Cagayan de Oro City or Davao City as the Antitrust Commissioner may determine. The Antitrust Deputies shall visit the various regions within their respective geographical areas as public interest may require.

SECTION 22. *Mandate.* - The Antitrust Commissioner and his Deputies, as protectors of the consumers, shall act promptly and expeditiously on all complaints for violations of the provision of this Act and other consumers protection laws, and file the corresponding civil complaint or petition and/or the corresponding criminal action with the appropriate judicial or administrative forum as the facts and the law may warrant: Provided, That nothing herein contained shall be construed to deny the Antitrust Commissioner and his Deputies the right to act motu proprio on what they perceive a violation of this Act or any other consumer protection law.

SECTION 23. *Powers and Functions.* - Subject to the power vested in the courts and administrative agencies under this Act, the Commission shall enforce and administer laws and regulations governing monopolies, combinations in restraint of trade and unfair competition, including laws on consumer protection.

The Commission shall perform and exercise the following investigative and prosecutory powers.

- a. Investigate on its own initiative, or upon the complaint of any person, any and all violations of this Act and other antitrust laws and, upon prima facie showing that the violations complained of has or have been committed, institute or file before the proper Regional Trial Court the appropriate information and prosecute the same to its final conclusion;
- b. Initiate and prosecute the proper action or proceeding before the proper court to prevent or dismantle any and all combinations of capital, organized in trust or otherwise, which are designed to control arbitrarily the condition of production, trade, commerce, or industry in any part of the Philippines, stifle competition, distort, manipulate or constrict the discipline of the market, or tamper with the free play of market forces.
- c. Initiate and prosecute the proper criminal and civil actions or proceeding before the proper court to prevent or penalize any unfair method of competition in trade, commerce, or industry and unfair or deceptive act or practice in trade, commerce, or industry.
- d. Initiate and prosecute such criminal, civil and administrative action or proceeding as may be authorized by all other consumer protection laws.

SECTION 24. *Ancillary/Supplementary Powers.*- The Commission shall perform and exercise the following Ancillary/supplementary powers:

- a. Subject to the relevant limitations imposed by the Bill of Rights enshrined in the Constitution and the procedure pointed out by Section 33 of this Act, initiate a civil investigative demand to obtain information relative to any activity that constitutes violation of this Act, consumer protection laws, and other antitrust laws: Provided that the Commission shall have the authority to initiate a civil investigative demand to obtain information as to any activity that will constitute a future violation of this Act, consumer protection laws, and other antitrust laws, to enable it to abort its commission or happening.
- b. Subject to the relevant limitations imposed by the Bill of Rights enshrined in the Constitution and the requirement embodied in Section 33 of this Act, the Commission shall have power to compel a prospective civil defendant to produce documents at the investigative process of a proceeding before a complaint is filed: Provided, That the demand cannot be used to obtain personal documents from a natural person.
- c. Gather and compile information on, and investigate the organization, business, conduct, practices, and management of any natural or juridical person or entity engaged in trade, commerce, or industry and its relation to individuals, partnerships, associations, corporations, firms, and other business enterprises.
- d. Require, by general or special orders, persons engaged in trade, commerce, or industry to file with the Commission in such form as the Commission

shall prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the Commission such information as it may require as to the organization, business, conduct, practices, management and relation to other persons of the respective natural or juridical persons or entities filing such reports or answers in writing. Such reports shall be made under oath, or otherwise, as the Commission shall prescribe and shall be filed with the Commission at such reasonable time as it shall prescribe, unless additional time is granted in any case by the Commission.

- e. Upon the direction of the President or either House of Congress, investigate and report the facts and take appropriate actions by filing with the proper court the criminal and/or civil action relating to any alleged violation of this Act, any consumers protection laws, and other antitrust laws by any natural or juridical person or entity.
- f. Investigate from time to time trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the Philippines.
- g. Upon the request of any government office or complaint of any person, investigate and make recommendations for the readjustment of the business of any natural or juridical person or entity whose act or course of conduct appears to be in violation of this Act or consumer protection laws, to enable such person to maintain his organization, management, and conduct of business in accordance with the requirements of this Act or other consumer protection laws.
- h. For the purpose of this Act, the Commission, or its duly authorized agents, shall at all times have access to, for the purpose of examination, and exercise the right to copy, any documentary evidence of any person being investigated or proceeded against; and the Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. The Antitrust Commissioner and his Deputies, investigators, prosecutors, or special counsel shall have the authority to administer oaths, to issue subpoena daces tecum, to summon and compel witnesses to appear and testify under oath before them and or to bring books, documents and other papers under their control, and to secure the attendance or presence of any absent or recalcitrant witness.
- i. Request any government agency for assistance and information necessary in the discharge of its responsibilities under this Act, and examine, if necessary, pertinent records and documents in the possession of such government agency. The Government agency concerned shall, when

requested, furnish the Commission all records, papers and information in its possession relating to the matter requested.

SECTION 25. *Research, Monitoring and Reporting Functions.*- The Commission shall perform and exercise the following powers:

- a. Conduct regular economic studies and analysis on the market structure of the different industries of the Philippine economy in order to determine if markets are too concentrated or if there are barriers and determine if the firms enjoying the greater share of the concentrated market are in any way responsible for the placement of these barriers.
- b. Make public from time to time such portions of the information obtained by it under this Act, except trade secrets and names of costumers, as it shall deem expedient in the public interest.
- c. Submit to the Congress recommendations for additional legislations for the regulation of trade, commerce, or industry, and provide for the publication of its reports and resolutions in such form and manner as may be best adopted for public information and use.
- d. Monitor periodically and conduct a methodical survey of prices of basic commodities, and whenever it shall determine that the price of an article or essential commodity has risen by twenty percent (20%) or more over its price on a determination date fixed by the appropriate administrative agency of the government, or when such agency deems that the prevailing prices should be reduced because the increase is due to monopoly, hoarding, injurious speculation, manipulation and profiteering, initiate and prosecute before the proper Regional Trial Court and/or administrative agency such criminal, civil and/or administrative actions or proceedings against any person who may have committed a violation of this Act or any consumer protection law.

SECTION 26. *Fiscal Autonomy.* - The Antitrust Commission shall enjoy fiscal autonomy. Appropriations for the operation of the Commission shall, after approval, be automatically released in full at the beginning of every quarter.

SECTION 27. *Employment of Attorneys, Investigators, Accountants, Special Experts* - The Commission shall employ in its staff and set the compensation of such attorneys, investigators, experts in the field of economics, finance, management, marketing and other allied fields, as well as clerks and other employees as it may find necessary for the proper performance of its functions.

SECTION 28. *Transparency Proceedings* - In all hearings before an antitrust investigator designated to take testimony therein, the proceedings shall be open to the

public as freely as are trials in open court, and no order excluding the public from attendance on any such proceedings shall be valid or enforceable.

SECTION 29. *Detail of Certain Government Personnel* - In the investigation, prosecution or defense of cases involving antitrust and related matters under this Act, the Commission shall, as much as possible, utilize its office personnel: Provided, that whenever practicable and convenient, the Antitrust Commissioner may, with the consent of the department head concerned, designate or deputize any fiscal, state prosecutor or lawyer in the government service to act as special investigator, prosecutor or counsel, in the investigation, prosecution or defense of an antitrust case or proceedings: Provided, Further, That the fiscal, state prosecutor or lawyer so deputized shall, for the purpose of such case or proceeding, be under the direct supervision and control of the Antitrust Commissioner or the Deputy concerned.

SECTION 30. *Investigation in Cities*.- Subject to the availability of funds, the Antitrust Commissioner may establish field offices or units in highly urbanized cities and capitals of province outside Metropolitan Manila and other sensitive areas of the country which shall be under the direct supervision of the Deputy under whose jurisdiction such field office or unit is established. The Deputy concerned shall take charge of the investigation of a complaint for violation of this Act or any consumer protection laws, or the institution of a proceeding to prevent or restrain the Commission of a violation thereof. He shall issue such orders, directives or instructions that are in accord with the requirements of due process. A copy of the order, instruction, or directive of the Deputy concerned shall be furnished to the Antitrust Commissioner who may, as the interest of justice requires, revoke, set aside, or modify the same.

SECTION 31. *Duty to Render Assistance*. - Any officer or employee of any office, agency or instrumentality of the Government, including government-owned or controlled corporations and local governments, whose technical or specialized expertise or service is urgently needed by the Antitrust Commission in connection with an investigation being conducted by it, or a case or proceeding being prosecuted or defended by it before a court or administrative agency shall, with the approval of the head of such office, agency or instrumentality, render the assistance requested.

SECTION 32. *Immunity from Prosecution*.-

- a. In all hearings, inquiries, and proceedings being conducted by the Antitrust Commissioner or his Deputies, including preliminary investigations of complaints involving violations of this Act and other laws over which the Commission is vested with jurisdiction, no person subpoenaed to testify as a witness shall be excused from attending and testifying or from producing

books, papers, correspondence, memoranda and other records on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to prosecution of an offense: Provided, That no natural person shall be prosecuted criminally for or on account of any matter, thing, or transaction concerning which he is compelled, after having claimed the privilege against self-incrimination, to testify and produce evidence, documentary or otherwise, before the officer conducting the investigation in obedience to a subpoena issued by him: Provided, Further, That no natural person so testifying shall be exempt from prosecution and punishment for perjury or false testimony committed by him in so testifying.

- b. Under such terms and conditions as he may deem just and equitable after taking into account the guidelines contained in the pertinent provisions of the rules of Court, the Antitrust Commissioner may grant immunity from criminal prosecution to any natural person whose testimony or whose possession and production of documents or other evidence may be necessary to determine or, establish the truth in any hearing, inquiry or proceeding being conducted Under this Act: Provided, that the immunity granted herein shall not exempt the witness from criminal prosecution for perjury or false testimony: Provided, Further, That any person who has been granted immunity from prosecution under this Act but who later fails or refuses to appear or testify, or who turns hostile at the hearing, inquiry or proceeding, shall be stripped of the immunity granted him.

VI. ANTITRUST CIVIL PROCESS

SECTION 33. *Civil Investigative Demands.*- Whenever the Antitrust Commissioner, his Senior Deputy Commissioner, or his Deputy in particular geographical area, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to answer in writing written interrogatories, to give oral testimony concerning documentary material or information or to furnish any combination of such material, answers, or testimony.

SECTION 34. *Judicial Proceeding.*-

- a. Whenever any person fails to comply with any civil investigative demand duly served upon him under Section 33 of this Act or whenever a satisfactory copy or reproduction of any such material cannot be done and such person refuses to surrender such material, the Antitrust

Commissioner or his Deputy in the geographical area concerned may file with the proper Regional Trial Court a petition to compel compliance with the provisions of this Act.

Within ten (10) days after the service of any such civil investigative demand upon any person, or at any time before the return date specified in the demand, whichever comes first such person may file with the proper Regional Trial Court a petition praying for a modification or annulment of such demand, except that such person shall comply with any portions of the demand not sought to be modified or set aside. The time allowed for compliance with the demand shall not run during the pendency of such petition before the court. The petition shall specify each ground upon which the petitioner relies in seeking such relief.

- b. Except as otherwise provided in this Act and the Constitution, any evidence adduced pursuant to any civil investigative demand issued under this Act shall be considered privileged communication.

SECTION 35. Document Custodian..-

- a. The Antitrust Commissioner shall designate an antitrust investigator to serve as custodian of documentary material received under this Act, and such investigators, as he shall determine to be necessary to serve as deputies to such officer.
- b. Any person, upon whom any demand for the production of documentary material has been duly served under Section 33 of this Act, shall make such materials available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such persons, or at such other place as agreed by the parties in writing or as the court may direct. Upon written agreement between parties, non-original copies may be submitted in lieu of originals.
- c. The custodian to whom any documentary materials are delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the preservation and return of the documentary material, pursuant to this Act.
- d. The custodian may cause the preparation of such copies of such documentary materials as may be required for official use by any duly authorized official or employee of the Antitrust Commission under regulations which shall be promulgated by the Antitrust Commissioner. Notwithstanding paragraph (e) of this subsection, such materials may be used by any such official or employee in connection with the taking of oral testimony pursuant to this Act.
- e. Except as otherwise provided in this section, while in the possession of the custodian, no documentary materials, shall be available for examination,

without the consent in writing of the person who produced such materials, by any individual other than a duly authorized official or employee of the Antitrust Commission. Nothing in this section is intended to prevent disclosure to either body of the Congress or to any authorized committee or subcommittee thereof.

SECTION 36. *Action to Prevent Violation.* - Whenever the Commission shall have reason to believe that a person is about to commit a violation of this Act and any other consumer protection laws, falling under its jurisdiction, and in its opinion a proceeding by it in respect thereof would be in the interest of the public, it shall file with the proper Regional Trial Court a complaint stating in particular its charges in that respect. The respondent shall show cause why an order should not be entered by the Court requiring such person to cease and desist from the violation so charged. Any person may make an application, and upon good cause shown, be allowed by the court to intervene and appear in said proceeding. If upon such hearing the court shall be of the opinion that the matter complained of is true, it shall issue an order or resolution stating its findings as to the facts, and shall issue and cause to be served upon the respondent a cease and desist order. Any party to the proceeding adversely affected by the order or ruling of the court may file an appeal to such order or ruling.

SECTION 37. *False Entry or Statement of Fact in Report.* - Any person who shall commit the following act shall, upon conviction by the court, suffer the penalty of imprisonment of not less than two years but not more than ten years and a fine of not less than ten thousand pesos (P10,000.00) but not more than fifty thousand pesos (P50,000.00), at the discretion of the court:

- a. Willfully make or cause to be made, any false entry or statement of fact in any report required to be made under this Act;
- b. Willfully make or cause to be made any false entry in any account, record, or memorandum kept by any person subject to this Act;
- c. Willfully neglect or fail to make, or cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such person, or willfully remove the same out of the jurisdiction of the Philippines, or willfully alter, or by any other means falsify any documentary evidence;
- d. Willfully refuse to submit to the Commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence in his possession or within his control

SECTION 38. *Summons.* - Whenever the Antitrust Commissioner shall have reason to believe that an individual or juridical person or entity or any agreement or contract or arrangement made or act done by such individual or juridical person or

entity in restraint of trade, commerce, or industry within the Philippines or in restraint of the export trade of any domestic competitor of such individual or juridical person or entity or that an individual or juridical person or entity either in the Philippines or elsewhere has entered into any agreement, arrangement, contract, understanding or conspiracy, or done an act which artificially or intentionally enhances or depresses prices in any part of the Philippines of articles, commodities or objects of trade, commerce, or industry of the class exported by such individual or juridical person or entity, or which substantially lessens competition within the Philippines or otherwise restrains trade, commerce, or industry therein, he shall summon such individual or juridical person or entity, its officers, and agents to appear before him or his deputy or investigator designated by him, and thereafter conduct an investigation into the alleged violation of this Act. If upon the close of the investigation the Antitrust Commissioner or his deputy or the investigator shall conclude that the law has been violated, he shall recommend to such individual or juridical entity the adjustment of its business, in order that it may thereafter maintain its organization and management and conduct its business in accordance with this Act. If such individual or entity fails to comply with the recommendation of the Antitrust Commissioner, deputy or investigator, the Antitrust Commissioner shall initiate or cause to be initiated such appropriate criminal and civil actions as he may deem proper in the premises.

SECTION 39. *Unfair Methods of Competition.* - The prohibition against unfair methods of competition and the remedies provided for in this Act shall be construed as extending to unfair methods of competition used in export trade, even though the acts constituting such unfair methods are done outside the territorial jurisdiction of the Philippines.

SECTION 40. *Right of Injured Person to Sue.* - Any person who shall be injured in his business or property by any person by reason of anything prohibited or declared to be unlawful by this Act, may sue therefor in any proper Regional Trial Court in the region in which the defendant resides or has committed the act complained of which cause injury to the person or property of the plaintiff, and shall recover threefold the damages sustained by him and the cost of suit, including a reasonable amount for attorney's fees: Provided, That this section shall be without prejudice to the right of the injured person to file with the Antitrust Commission the a complaint for violation of this Act.

SECTION 41. *Precedence in Disposition.* - In all cases of violation of this Act or any consumer protection law wherein the Republic of the Philippines is the complainant or plaintiff, the Antitrust Commissioner may file with the clerk of the court trying the case a certificate that, in his opinion the case is of general public

importance. Thereafter, the case shall be given precedence over others and in every way expedited, and be assigned for hearing at the earliest practicable day.

SECTION 42. *Non-Waiver of Other Remedies.*- Nothing in this Act shall be held to prevent or impair the right of the Antitrust Commissioner to avail himself of such other remedies available under this Act or any law on consumer protection notwithstanding his having availed of a particular remedy which turns out to be not adequate in the circumstances: Provided, That a judgment of conviction or acquittal on the merits for violation of any of the provisions of this Act shall be a bar to any subsequent prosecution for the same act or acts.

SECTION 43. *Rules of Procedure.* - The Office of the Antitrust Commissioner shall promulgate the rules of procedure for the effective exercise or performance of the powers, functions, and duties of the Commission under this Act.

SECTION 44. *Franking Privilege.* - All official mail matters and telegrams of the Commission addressed for delivery within the Philippines, shall be received, transmitted and delivered free of charge: Provided, That such mail matter when addressed to private persons or non-government offices shall not exceed one hundred and twenty (120) grams.

SECTION 45. *Disclosure of Information* - Any Deputy, officer, or employee of the Commission who shall make public any information obtained by the Commission without the prior written authority from the Antitrust Commissioner, unless directed by the court or other competent authority, shall, upon conviction, suffer the penalty of imprisonment of not less than two (2) years but not more than five (5) years, at the and pay a fine of Ten Thousand Pesos (P10,000.00) at the discretion of the court.

VIII. FINAL PROVISIONS

SECTION 46. *Funding.* - The sum of One Hundred Fifty Million Pesos (P150,000,000.00) is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated, to finance the establishment and organization of the Antitrust Commission; thereafter, such amount as shall be necessary for the efficient operation of the Commission shall be included in the General Appropriations Act.

SECTION 47. *Organization of the Commission.* - Within three (3) months from the effectivity of this Act, the President shall appoint the Antitrust Commissioner and his Deputies. Immediately upon their assumption to office, the Antitrust Commissioner, assisted by his Deputies, shall proceed to organize the Commission and make it function as soon as possible.

SECTION 48. *Existing Monopolies, Oligopolies, and Combinations.*- Immediately upon their assumption to office, the Antitrust Commission shall investigate and make an accurate record of all existing monopolies, oligopolies, cartels, combinations, agreements and/or arrangements that are violative of the provisions or objectives of this Act. Within ninety (90) days, thereafter, they shall initiate such appropriate criminal and civil actions for the dissolution and/or dismantling of such monopolies, oligopolies, cartels, combinations, or the revocation of the agreements or arrangements which are violative of this Act: Provided, That if an existing monopoly, oligopoly, cartel or combination, of persons with existing agreements or arrangements that are violative of this Act shall signify in writing to the Antitrust Commissioner their willingness to voluntarily comply with the provisions of this Act, they shall be given a period of not exceeding two (2) years within which to dismantle, dissolve or discontinue, such monopoly, cartel, oligopoly, combination, arrangement or agreement, as the case may be: Provided, However, That during this grace period of two (2) years, it shall cease and desist from committing acts which will constitute a violation of this Act; Provided Further, That the Antitrust Commissioner shall monitor strict compliance by the person or persons concerned with his or their undertaking; Provided, Finally: that the Antitrust Commissioner shall initiate such criminal and civil actions if it turns out that the person or persons concerned who made such undertaking were not acting in good faith or have continued violating this Act.

SECTION 49. *Transfer of Powers and Functions.* - The powers and functions of all existing units in the different departments and offices of the National Government, including records and applicable appropriations of such units performing the functions and discharging the powers expressly assigned to the Antitrust Commission under this Act shall be transferred to the Antitrust Commission. The personnel of the units affected shall be realigned or reassigned to other units within the departments or offices concerned, if they qualify. Those personnel who shall not qualify shall be entitled to appropriate separation pay and to retirement and other benefits accruing to them under the laws. Provided, That the appropriations of units whose powers and functions and applicable appropriations are transferred to the Antitrust Commission shall be used in paying the separation pay and other benefits.

SECTION 50. *Construction/Interpretation.* - The provisions of this Act shall be liberally construed in favor of the power of the Antitrust Commission, to the end that it may have all the necessary powers for the efficient conduct and discharge of its powers and functions under this Act and the laws mandating the protection for consumers. In case of doubt, the same shall be resolved in favor of the authority of the Antitrust Commissioner and his Deputies to act for the protection of consumers and to enforce the provisions of this Act. The specific mention of particular powers in any section or provision of this Act shall not be construed as a limitation on the powers of

the Antitrust Commissioner and his Deputies to act in the premises under any other provision of this Act.

SECTION 51. *Separability Clause.* - If for any reason a clause, sentence, paragraph, or part of this Act shall be adjudged by final judgment of a court to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof.

SECTION 52. *Repealing Clause.*-The provisions of the Revised Penal Code, as amended, on antitrust, particularly Article 186 thereof; the provisions of the Omnibus Investments Code (Executive Order No. 226, as amended) particularly that portion of Section 12, Article 11, thereof; and all other laws, presidential decrees, letters of instructions, executive orders, rules and regulations and other issuances or parts thereof which are inconsistent with any of the provisions of this Act are hereby expressly repealed, modified or superseded, as the case may be.

SECTION 53. *Effectivity.* - This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in two (2) daily newspapers of general circulation.

Approved,