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SENATE  
S. B. No. 1

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Introduced by Senator **JUAN PONCE ENRILE**

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EXPLANATORY NOTE

Our people have been victims to big business. It behooves the Senate to provide protection to our people against price manipulators.

In a volatile economic situation such as that which we are experiencing now, it is not very difficult to imagine how artificial prices in one or two commodities is able to directly or indirectly raise the prices of related goods and services.

In Article XII, Section 19, our Constitution provides:

“Section 19. The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed.”

As proof of the importance of this Constitutional mandate, Section 22 of the same article encourages the promulgation of legislation that would impose civil and criminal sanctions against those who circumvent or negate this principle. Hence, Section 22 of the Constitution provides:

“Section 22. Acts which circumvent or negate any of the provisions of this Article shall be considered inimical to the national interest and subject to criminal and civil sanctions, as may be provided by law.”

Although previous legislations have been passed pursuant to this Constitutional mandate, the increased deviousness and complexity of schemes in perpetuating monopolies in the free market landscape necessitates an equally sophisticated legislation that would effectively address this concern.

Generally, this bill penalizes combinations or conspiracies in restraint of trade and all forms of artificial machinations that will injure, destroy or prevent free market competition.

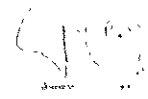
For these reasons, the passage of this bill is earnestly recommended.

  
JUAN PONCE ENRILE  
Senator

SENATE

S.B. NO. 1

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Introduced by Senator Juan Ponce Enrile

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AN ACT PENALIZING UNFAIR TRADE AND ANTI-COMPETITIVE PRACTICES IN RESTRAINT OF TRADE, UNFAIR COMPETITION, ABUSE OF DOMINANT POWER, STRENGTHENING THE POWERS OF REGULATORY AUTHORITIES AND APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

1 CHAPTER 1

2 TITLE AND DECLARATION OF POLICY

3 SECTION 1. *Title.* – This Act shall be known and cited as the “*Competition Act of 2010.*”

4  
5 SEC. 2. *Declaration of Policy.* – Pursuant to the constitutional mandate that the State shall  
6 regulate or prohibit monopolies when the public interest so requires and that no combinations in  
7 restraint of trade or unfair competition shall be allowed, the State shall:

8 (a) promote and enhance economic efficiency and free and full competition in trade, industry  
9 and all commercial economic activities;

10 (b) prevent the concentration of economic power in a few persons who threaten to control the  
11 production, trade, or industry in order to stifle competition, distort, manipulate or constrict the  
12 discipline of free markets, increase market prices in the Philippines; and

13 (c) penalize all forms of unfair trade, anti-competitive conduct and combinations in restraint of  
14 trade, with the objective of protecting and advancing consumer welfare.

15 CHAPTER 2

16 SCOPE AND APPLICATION, DEFINITION OF TERMS



1           SEC. 3. *Scope and Application.* – This Act shall be enforceable within the territory of the  
2 Republic of the Philippines and shall apply to all areas of trade, industry and commercial economic  
3 activity. It shall likewise be applicable to international trade having direct, substantial and reasonably  
4 foreseeable effects in trade, industry or commerce in the Republic of the Philippines including those that  
5 result from acts done outside the Republic of the Philippines.

6           The Act shall apply to: (a) all firms as defined hereunder and all their commercial agreements,  
7 actions or transactions involving goods, services or intellectual property; and, (b) all natural persons  
8 who, acting in their capacity as owner, manager or employee of a firm, shall authorize, engage or aid in  
9 the commission of restrictive practices prohibited under this Act.

10           SEC. 4. *Definition of Terms.* – As used in this Act, the following terms shall be defined as:

11           (a) Agreements shall refer to any type or form of arrangement, understanding, undertaking or  
12 concerted action, whether formal or informal, written or oral;

13           (b) Cartel shall mean a combination of firms, providing goods in relevant markets, acting or  
14 joined together to obtain a shared monopoly to control production, sale and price, or to obtain control  
15 in any particular industry or commodity, or a group of firms that agree to restrict trade to their mutual  
16 benefit, which may or may not be of an international scale. It shall also refer to firms or section of  
17 firms having common interest designed to promote the exchange of knowledge resulting from  
18 scientific and technical research, exchange of patent rights and standardization of products among  
19 themselves with the intent of preventing, restricting or distorting competition;

20           (c) Competition shall mean the process by which economic agents, acting independently in a  
21 market, limit each other's ability to control the prevailing conditions in the market;

22           (d) Control shall refer to at least twenty percent (20%) ownership, directly or indirectly, of a  
23 firm or a group of firms by another firm;

24           (e) Firms shall include any person, natural or juridical, partnership, combination or association  
25 in any form, whether incorporated or not, domestic or foreign, including those owned or controlled by  
26 the government, engaged directly or indirectly in any economic activity: *Provided, That, two firms,*



1 one of which is controlled by the other, shall be treated as one firm: *Provided, further*, That two or  
2 more firms that are controlled by a single firm shall be treated as one firm;

3 (f) Goods shall include all types of goods and services;

4 (g) Market shall refer to a place or venue for commercial activity, which may extend beyond  
5 the borders of the Republic of the Philippines, where articles are bought or sold. It shall also refer to  
6 the geographical or economic extent of commercial demand;

7 (h) Monopoly shall mean a privilege or undue advantage of one or more firms, consisting in the  
8 exclusive right to carry on a particular business or trade, and/or manufacture a particular product,  
9 article or object of trade, commerce or industry. It is a form of market structure in which one or only a  
10 few firms dominate the total sales of a product or service;

11 (i) Monopoly Power or Dominant Position shall refer to a situation where a firm, either by  
12 itself or acting in collusion with other firms, is in a position to control a relevant market for the sale of  
13 a particular good or service by fixing its prices, excluding competitor firm, or controlling the market in  
14 a specific geographical area; and

15 (j) Relevant Market shall refer to the line of commerce in which competition has been  
16 restrained. It shall also refer to the geographic area involved, including all reasonably substitutable  
17 goods, and all nearby competitors, to which consumers could turn if the restraint or abuse results in the  
18 significant increase in prices.

### 19 CHAPTER 3

#### 20 PROHIBITED ACTS

21 SEC. 5. *Cartelization*. – It shall be unlawful for firms providing goods in relevant markets to  
22 join together to monopolize, or to control production in a particular industry or commodity, the sale  
23 and price of such good, and to agree to restrict trade for their mutual benefit, which may or may not be  
24 on an international scale. This shall also include an association by agreement of firms or sections of  
25 firms having common interests designed to promote the interchange of knowledge resulting from  
26 scientific and technical researches, exchange of patent rights and standardization of products among  
27 themselves with the intent of preventing, restricting or distorting competition.



1 Restrictive agreements resulting from cartel-like behavior of firms, in any form, are hereby *per*  
2 *se* deemed illegal. These shall include, but not limited to, the following:

3 (a) Agreements to fix selling price of goods or other terms of sale;

4 (b) Agreements to limit supply or output;

5 (c) Agreements to divide the market, whether by volume of sales or purchase or by territory, by  
6 type of goods sold, by customers or sellers, or by any other means;

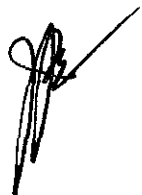
7 (d) Agreements to exclude or limit dealings with particular suppliers or sellers from supplying  
8 or selling goods, or customers from acquiring or buying goods;

9 (e) Agreements applying dissimilar conditions to equivalent transactions with other parties,  
10 thereby placing them at a competitive disadvantage; and

11 (f) Agreements making the transactions in particular goods dependent upon other conditions  
12 which have no connection with the subject of the transaction.

13 There shall be a *prima facie* case for the existence of a cartel if and when the Department of  
14 Trade and Industry (DTI) or concerned regulatory agency finds that two or more persons or firms that  
15 are ostensibly competing for the same relevant market and actually perform uniform or complementary  
16 acts among themselves which tend to bring about artificial and unreasonable increase, decrease or  
17 fixing in the price of any goods or when they simultaneously and unreasonably increase, decrease or  
18 fix the prices of their seemingly competing goods thereby lessening competition in the relevant market  
19 among themselves.

20 SEC. 6. *Monopolization.* – It shall be unlawful for any firm to willfully or knowingly acquire  
21 and maintain its market power by excluding competitors from any part of trade, industry or commerce  
22 as distinguished from natural growth or development of a firm as a consequence of a superior product,  
23 business acumen or historic accident: *Provided*, That, a firm that has at least fifty percent (50%) of the  
24 relevant market, or firms up to three (3) in number has at least seventy percent (70%) of the relevant  
25 market, as found and certified by the Department of Trade and Industry or the concerned regulatory  
26 agency shall be deemed a monopoly or in a dominant position.



1            *SEC. 7. Abuse of Monopoly Power or Dominant Position.* – It shall be unlawful for one or more  
2 firms with monopoly power or in dominant position within relevant markets to abuse their dominant  
3 position, by engaging in unfair methods of competition, or in unfair or deceptive trade practices, or  
4 entering into combinations in the form of trust or otherwise, or conspiracy, with the purpose and effect  
5 to prevent, restrict, or distort competition. Abusive agreements such as, but not limited to, any of the  
6 following, shall be deemed to fall under the crime of abuse of monopoly power or market power by  
7 one in dominant position:

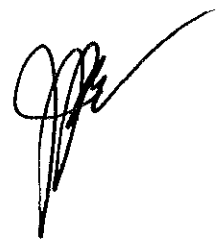
8            (a) *Predatory Behavior Towards Competitors* – Any agreement, including, but not limited to,  
9 selling goods at a very low price with the intent of driving competitors out of the market, or creating  
10 barriers to entry;

11            (b) *Price Fixing* – Any agreement among competitors to raise, suppress, fix or otherwise  
12 maintain the price at which their goods and services are sold such as, but not limited to, establishing or  
13 adhering to price discounts, holding prices firmly, eliminating or reducing discounts, adopting a  
14 standard or formula for computing prices, maintaining certain price differentials between different  
15 types, sizes or quantities of products, adhering to a minimum fee or schedule and other analogous  
16 schemes with the purpose and effect of creating a monopoly or cartel or lessening competition.

17            (c) *Bid Rigging* – Any agreement to fix price at auctions or in any other form of bidding, with  
18 the purpose and effect of creating a monopoly or cartel, or lessening competition such as, but not  
19 limited, to cover bidding, bid suppression, bid rotation and market allocation and other analogous  
20 practices of bid manipulation.

21            In determining whether there is price fixing or bid rigging, the following circumstances may be  
22 considered:

23            (1) generally, any considered evidence that two sellers of similar goods have agreed to set the  
24 price of their goods, to sell only a certain amount of their goods, or to sell only to a limited number of  
25 buyers or consumers;

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1 (2) a drastic change in prices of goods and services involving more than one seller of similar  
2 goods of different brands, particularly if the changes in prices take place in equal amount and about the  
3 same time;

4 (3) a seller refusing to sell based on an agreement with a competitor;

5 (4) the same firm has repeatedly been the low bidder who has been awarded contracts for a  
6 certain service or a particular bidder seems to win bids on a fixed-rotation;

7 (5) there is an unusual and unexplainable difference between the winning bid and all other  
8 bids; and

9 (6) the same bidder bids substantially higher on some bids than on others, and there is no  
10 logical cost reason to explain the difference.

11 (d) Limitation and Control of Markets – Any agreement to limit or control production, markets,  
12 technical development, or investment with the purpose and effect of creating a monopoly or cartel, or  
13 lessening competition.

14 (e) Market Allocation – Any agreement to divide the market, whether by volume of sales or  
15 purchase or by territory, by type of goods sold, by customers or sellers or by any other means, with the  
16 purpose and effect of creating a monopoly or cartel, or lessening competition.

17 (f) Arrangements to Share Markets or Sources of Supply – Any agreement to share markets or  
18 sources of supply of raw materials, with the purpose and effect of creating a monopoly or cartel, or  
19 lessening competition.

20 (g) Price Discrimination – Any agreement prescribing or charging, directly or indirectly,  
21 discriminatory pricing terms or conditions in the supply or purchase of goods of like grade and quality  
22 with the purpose and effect of creating a monopoly or cartel, or substantially lessening competition:  
23 *Provided*, That nothing contained herein shall be construed to prohibit permissible price differentials  
24 unless the same shall have the effect of preventing, restricting or distorting competition: *Provided*,  
25 *further*, That for the purpose of this section, the following shall be considered permissible price  
26 differentials:

27 (1) Socialized Pricing – Socialized pricing for the less fortunate sector of the economy;



1 (2) Volume Discounts – Price differentials which reflect an allowance for differences in the  
2 cost of manufacture, sale, or delivery resulting from differing methods or quantities in which the goods  
3 are sold or delivered to the purchasers;

4 (3) Competitive Pricing – A price differential or other terms of sale in response to the  
5 competitive price of payments, services or facilities furnished by a competitor;

6 (4) *Bona fide* Selection of Customers – The selection of customers on *bona fide* transaction; and

7 (5) Price Differentials Due to Changing Market Conditions or Marketability of Goods – Price  
8 changes from time to time in response to changing conditions affecting the market or the marketability  
9 of the goods concerned such as, but not limited to, actual or imminent deterioration of perishable  
10 goods, obsolescence of seasonal goods, distress sales under court process, or sale on good faith in  
11 discontinuance of business.

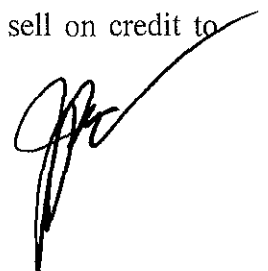
12 (h) Exclusivity Arrangement – Any agreement imposing restrictions on the lease or contract for  
13 sale or trade of goods concerning where, to whom, or in what forms goods may be sold or traded, such  
14 as, but not limited to, fixing prices, or giving preferential discounts, or rebate upon such price, or  
15 imposing conditions not to deal with competing firms, where the purpose of such agreement is to  
16 lessen competition: *Provided*, That nothing contained herein shall prohibit or render unlawful  
17 permissible franchising, licensing or exclusive distributorship agreements.

18 (i) Tie-In Arrangements – Any agreement making the supply of particular goods dependent  
19 upon the purchase or lease of other goods from the supplier or his consignee, where the purpose and  
20 effect of such sale or lease or such condition is to substantially lessen competition or to create a  
21 monopoly or cartel.

22 (j) Boycott – Any concerted refusal to sell or conspiracy not to sell or to stop doing business on  
23 the part of the suppliers of any goods, unless for a legitimate purpose, such as, but not limited to:

24 (1) Defaulting Borrowers – refusal by one or more credit institutions to extend loans to  
25 defaulting debtors;

26 (2) Defaulting Buyers – refusal by one or more manufacturers or sellers to sell on credit to  
27 defaulting customers; and





1 (3) Violators of Intellectual Property Rights – refusal by manufacturers or sellers to have any  
2 commercial dealings with one or more firms who violate the intellectual property rights of the owners  
3 of patents, copyrights, trademarks and other intellectual property.

4 SEC. 8. *Other Unfair Competition Practices.* – The following acts shall be unlawful acts of  
5 unfair competition and shall be punishable under this Act:

6 (a) Distribution of false or misleading information which is capable of harming the business  
7 interests of another firm;

8 (b) Distribution of false or misleading information to consumers, including the distribution of  
9 information lacking a reasonable basis related to price, character, method or place of production,  
10 properties, suitability for use, or of quality goods; and

11 (c) Unauthorized receipt, use, or dissemination of confidential scientific, technical,  
12 production, business or trade information.

#### 13 CHAPTER 4

#### 14 FINES AND PENALTIES

15 SEC. 9. *Penalties.* – Without prejudice to the violation of other laws, any firm that shall be  
16 found to have violated Sections 5, 6, 7 and 8 of this Act, or any combination thereof, shall, for each  
17 and every violation, be punished by a fine of not less than Ten million pesos (Php10,000,000.00) and  
18 not exceeding Fifty million pesos (Php50,000,000.00) if a natural person; by a fine of not less than  
19 Two hundred fifty million pesos (Php250,000,000.00) but not exceeding Seven hundred fifty million  
20 pesos (Php750,000,000.00) if a firm, and by imprisonment not exceeding ten (10) years, or both, at the  
21 discretion of the court. In the alternative, a fine shall be imposed in the amount double the gross  
22 proceeds gained by the violator or double the gross loss suffered by the plaintiffs.

23 SEC. 10. *Imposition of Fines by Regulatory Agency.* – Notwithstanding any provisions of law,  
24 regulatory agencies shall, in the conduct of their functions or duties, have the power to impose fines in  
25 the amount not less than One hundred thousand pesos (Php100,000.00) and not exceeding Five million  
26 pesos (Php5,000,000.00), if a natural person; and not less than Five million pesos (Php5,000,000.00)  
27 and not exceeding Fifty million pesos (Php50,000,000.00) if a firm for each violation of or non-



1 compliance with an order or notice of the regulatory agency. Ten percent (10%) of such fines shall  
2 accrue to the budget of the regulatory agency for the exclusive use in the enforcement of this Act.

3 CHAPTER 5

4 ENFORCEMENT

5 SEC. 11. *Preliminary Inquiry.* – The Department of Justice (DOJ), in coordination with the  
6 Department of Trade and Industry (DTI), other regulatory and/or appropriate government agency, shall  
7 *motu proprio*, upon the filing of a verified complaint by an interested party or upon referral by the  
8 concerned regulatory agency, initiate a preliminary inquiry for the enforcement of this Act based on  
9 reasonable grounds.

10 SEC. 12. *Powers of Concerned Regulatory Agencies.* – Notwithstanding the provisions of the  
11 preceding section, the exercise of regulatory powers by different government agencies over an industry  
12 or a sub-sector of an industry shall be cumulative and shall not be construed in any way as derogating  
13 from the power and authority of the concerned agency. The government agencies shall cooperate and  
14 coordinate with one another in the exercise of their powers in order to prevent overlap, to share  
15 confidential information, or for other effective measures.

16 SEC. 13. *Power to Investigate and to Enforce Orders and Resolutions.* – The DOJ shall  
17 conduct preliminary inquiries by administering oaths, issuing *subpoena duces tecum* and summoning  
18 witnesses, and commissioning consultants or experts. It shall determine if any provision of this Act  
19 has been violated, enforce its orders and carry out its resolutions by making use of any available  
20 means, provisional or otherwise, under existing laws and procedures including the power to punish for  
21 contempt and to impose fines.

22 SEC. 14. *Self-incrimination.* – Pursuant to the preceding section, a person subject of any  
23 preliminary inquiry or investigation by the DOJ shall produce the specified document or information  
24 when so required by written notice: *Provided*, That no person shall be excused from disclosing any  
25 document or information to the inquiring officer on the ground that the disclosure of the information or  
26 document may be incriminating: *Provided, further*, That such document or information produced by  
27 the person subject of investigation shall not be admissible as evidence against him in criminal



1 proceedings: *Provided, finally*, That such document or information shall be admissible in evidence in  
2 civil proceedings including those arising from or in connection to the implementation of this Act.

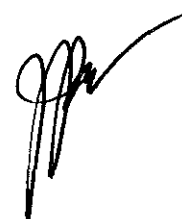
3 SEC. 15. *Privileged Communication Exclusion.* – Nothing in the preceding section shall compel  
4 the disclosure of privileged communication: *Provided*, That the person who refuses to disclose the  
5 information or produce the document or other material required by the inquiring officer in relation to  
6 the preliminary inquiry being conducted shall nevertheless be obliged to give the name and address of  
7 the firm to whom, or by whom, or on whose behalf, such privileged communication was made.

8 SEC. 16. *Confidentiality of Information.* – Any document or information submitted by firms, as  
9 determined and marked confidential by the DOJ, relevant to any investigation being conducted  
10 pursuant to this Act shall not, in any manner, be directly or indirectly disclosed, published, transferred,  
11 copied, or disseminated.

12 Any violation of this section shall be imposed the penalty of imprisonment ranging from three  
13 (3) to six (6) years and a fine of not less than One hundred thousand pesos (Php100,000.00) but not  
14 more than Five hundred thousand pesos (Php500,000.00).

15 SEC. 17. *Immunity from Suit.* – Any person or firm which cooperates or furnishes any  
16 information, document or data to the DOJ before or during the conduct of the preliminary inquiry that  
17 constitutes material evidence as determined by the DOJ under this Act shall be immune from any suit  
18 or charge including from affected parties and third parties: *Provided, further*, That any person or firm  
19 which cooperates or furnishes information, document or data to the DOJ in connection to an  
20 investigation being conducted shall not be subjected to any form of reprisal or discrimination:  
21 *Provided, furthermore*, That such reprisal or discrimination shall be considered a violation of this Act  
22 and subjected to the penalties provided for under Section 9: *Provided, finally*, That, notwithstanding  
23 the provisions of Section 21 hereof, the firm which cooperates with the DOJ in its investigation shall  
24 be entitled to a reward equivalent to twenty percent (20%) of any monies paid by the firm subject of  
25 the inquiry, or the monetary relief recovered from court action.

26 Nothing in this section shall preclude prosecution for persons and firms who reported to the  
27 Department of Justice with malicious information, data and falsified documents which is damaging to



1 the business and integrity of the persons and firms under inquiry. Such act shall likewise be considered  
2 as an unfair trade practice punishable under this Act.

3       SEC. 18. *Termination and Action on Preliminary Inquiry.* – The Department of Justice, after  
4 considering the statements made, or documents or articles produced, in the course of an inquiry  
5 conducted by it, shall terminate the preliminary inquiry by issuing a resolution ordering its closure if  
6 no violation or infringement of this Act is found; or by issuing a *nolo contendere* resolution; or issuing  
7 a resolution to, singly or cumulatively, (a) impose penalties in the range provided under Section 9  
8 hereof; (b) order sanctions which may be imposed by the regulatory and/or appropriate government  
9 agency; (c) order the rectification of certain acts or omissions; or (d) order the restitution to the  
10 affected parties.

11       When determined by the facts and circumstances, the DOJ shall institute a civil action by class  
12 suit in the name of the Republic of the Philippines, as *parens patriae*, on behalf of persons residing in  
13 the Philippines, to secure treble damages for any injury sustained by such persons by reason of any  
14 violation of this Act, plus the cost of suit and reasonable attorney's fee.

15       If the evidence so warrants, the DOJ shall institute criminal cases for violation of this Act or  
16 relevant laws: *Provided*, That, for criminal prosecution of violations of this Act, no preliminary  
17 investigation shall be required, neither shall a petition for review be made: *Provided, further*, That any  
18 appeal shall be instituted to a division of the Court of Appeals exclusively handling competition and  
19 consumer protection laws.

20       SEC. 19. *Nolo Contendere Resolution.* – Any firm under inquiry under the provisions of this Act  
21 may submit to a *nolo contendere* resolution at any time before the termination of the preliminary  
22 inquiry by: a) the payment of an amount within the range of penalties provided for under Section 9; b)  
23 by entering into an undertaking to effectively stop and rectify the acts complained against, make  
24 restitution to the affected parties, whether or not the parties are plaintiffs or witnesses; and, c) by  
25 submitting regular compliance reports as may be directed: *Provided*, That, ten percent (10%) of the  
26 amounts paid under this section shall equitably accrue to the DOJ and/or regulatory government

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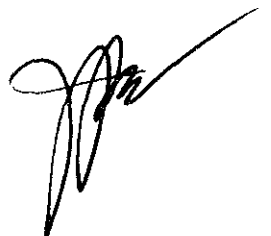
1 agencies involved in the inquiry: *Provided, further*, That a *nolo contendere* resolution shall not bar any  
2 inquiry for the same or similar acts if continued or repeated.

3 SEC. 20. *Private Action.* – Regardless of the status or pendency of any proceedings, any firm  
4 that suffers injury by reason of any violation of this Act may institute a separate and independent civil  
5 action, irrespective of the amount involved in the controversy against the defendant or defendants and  
6 shall recover treble damages sustained, the costs of suit and reasonable attorney’s fees: *Provided*,  
7 *however*, That no filing fees shall be collected: *Provided, further*, That filing fees shall constitute a first  
8 lien in the award of damages.

9 SEC. 21. *Effect of Final Judgment.* – Any final judgment in a civil or criminal action brought  
10 by the DOJ on behalf of the people of the Philippines under this Act to the effect that a defendant has  
11 violated any or all of the provisions of this Act shall be *res judicata* as to any claim by any person on  
12 whose behalf such action was brought: *Provided*, That such person notifies the court having  
13 jurisdiction of the case within the period given by the court: *Provided, further*, That such period shall  
14 not be less than ninety (90) days.

15 It shall be *prima facie* evidence against such defendant in any civil action brought by any other  
16 party against such defendant under this Act as to all matters respecting which said judgment would be  
17 an estoppel as between the parties concerned.

18 SEC. 22. *Distribution of Damages Recovered.* – The damages recovered in a civil action under  
19 Section 19 of this Act shall be distributed in the following manner: (1) as determined and to be  
20 authorized by the Court having jurisdiction of the case; (2) ten percent (10%) of the total amount of  
21 damages shall accrue to the DOJ and/or regulatory agency to be used exclusively in the enforcement of  
22 this Act; and, (3) the remainder of which total amount of damages shall be deemed a civil penalty by  
23 the Court and shall be deposited to the National Treasury as part of the general fund of the  
24 government: *Provided*, That any distribution procedure adopted by the Court shall give preference to  
25 individual consumers and afford each person having an interest a reasonable opportunity to secure his  
26 appropriate portion of the net damages obtained.





1 provided for under Section 10 of this Act: *Provided, finally*, That in the event that the court finally  
2 decides that the applicant was not entitled to the relief applied for, the bond shall accrue in favour of  
3 the regulatory agency.

4 Any temporary restraining order, preliminary injunction or preliminary mandatory injunction  
5 issued in violation of this section is void and of no force and effect. Any judge who violates this  
6 section shall be penalized by suspension of at least one (1) year without pay in addition to other  
7 criminal, civil or administrative penalties.

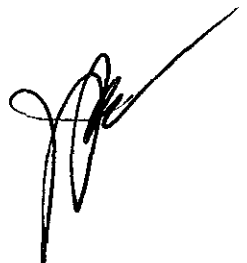
8 The Supreme Court may designate regional trial courts to act as commissioners with the sole  
9 function of receiving facts of the case involving the acts of the regulatory agency. The designated  
10 Regional Trial Court shall, within thirty (30) days from the date of receipt of the referral, forward its  
11 findings of facts to the Supreme Court for appropriate action.

12 *SEC. 26. Intellectual Property Rights.* – The implementation of the provisions of this Act shall  
13 be without prejudice to the rights, liabilities and remedies under Republic Act No. 8293, otherwise  
14 known as the Intellectual Property Code of the Philippines: *Provided*, That, the exercise of intellectual  
15 property rights shall not in any way be used to justify violations of this Act.

16 *SEC. 27. Trade Associations.* – Nothing contained in this Act shall be construed to prohibit the  
17 existence and operation of trade associations organized to promote quality standards and safety issues:  
18 *Provided*, That, these associations shall not in any way be used to justify any violation of this Act.

19 *SEC. 28. Guidelines.* – The DOJ, in consultation with the DTI, shall prepare the necessary  
20 guidelines for the implementation of this Act: *Provided*, That, where the guidelines would apply to an  
21 industry or a sub-sector of industry that is subject to the jurisdiction of a regulatory agency, the DOJ  
22 shall, in preparing the guidelines, consult with the concerned regulatory agency: *Provided, further*,  
23 That the DOJ may revise such guidelines it deems necessary: *Provided, however*, That such revised  
24 guidelines shall only take effect following its publication in two newspapers of general circulation.

25 *SEC. 29. Appropriations.* – The sum of One hundred million pesos (Php 100,000,000.00) for the  
26 initial year of implementation of this Act is hereby appropriated. Thereafter such amounts as may be

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1 necessary for the continuous implementation of this Act shall be included in the Annual General  
2 Appropriations Act (GAA).

3 SEC. 30. *Separability Clause.* – If any clause, sentence, section or part of this Act shall be  
4 adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or  
5 invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence,  
6 paragraph, section, or part thereof directly involved in the controversy.

7 SEC. 31. *Suppletory Application.* – For purposes of this Act, the Revised Penal Code, as  
8 amended, and other applicable laws shall be applied in a suppletory character.

9 SEC. 32. *Repealing Clause.* – All provisions of law, orders, decrees, executive orders,  
10 including rules and regulations or parts thereof, which are contrary to or inconsistent with the  
11 provisions of this Act are hereby repealed or modified accordingly: *Provided, however,* That all  
12 existing competition laws and regulations shall remain in full force and in effect: *Provided, further,*  
13 That in case of conflict between this Act and such provisions of existing competition laws and  
14 regulations, the provisions of this Act shall prevail.

15 SEC. 33. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following its  
16 publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,

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