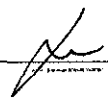


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SENATE
S. No. **3099**

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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article XII, Section 19 provides:

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.

Developed countries use anti-trust regulation to maintain competition that ensures an efficient *working market* economy and a modern democracy. A competition regulator is a government agency, usually a statutory authority, sometimes called an economic regulator, which oversees and enforces competition laws, and may sometimes also enforce consumer protection laws. Many nations implement competition laws, and there is general agreement on acceptable standards of behaviour. The degree to which countries enforce their competition policy does vary substantially, with the United States generally regarded as having the most strict competition laws and enforcement.

Competition regulators may also regulate certain aspects of mergers and acquisitions and business alliances and regulate or prohibit cartels and monopolies. Competition, through its *distributive, allocative and incentive functions*, can stop undue concentration of economic power and the consequent concentration of political power in the economic elite who use their economic and political powers to have their inefficiencies subsidized by the majority of the population. The current laws for fostering competition in the Philippines are inadequate to stop the detriments of anti-competitive structures and behavior in the market. *Despite the large number of laws and their varied*

nature, competition has not been fully established in all sectors of the economy, nor has existing competition in other sectors of the market been enhanced. These laws have been hardly used or implemented as may be seen in the lack of cases litigated in court.

Given the large number of enforcement agencies, responsibility is too diffused and accountability for implementation of the laws is hard to pinpoint. There is also a lack of expertise in the appreciation and implementation of competition laws that rely heavily on economic thought, techniques of analysis, and value preferences as tools of enforcement. Identifying a single specialized agency under a specific competition law, with the necessary expertise and authority to oversee the enforcement of competition laws is a crucial first step.

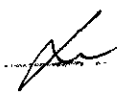
Competition law must focus on the actual and/or potential business conduct of firms in a given market, and not on the absolute or relative size of firms. It should look at the business conduct of firms and on the business environment in which the firms operate. The law must be effectively harmonized and linked with other government policies. *Promoting competition in the business environment* restrains the anti-competitive behavior of firms and also fosters sound business practices and ethics. Philippine competition law must be a law of general application, addressing all sectors of the economy. Exemptions from its application may be allowed if they do not limit competition, are based on sound economic principles, and are aimed at facilitating legitimate economic activity. Competition law should contain provisions explicitly prohibiting business practices that are clearly against economic efficiency and consumer welfare.


MIRIAM DEFENSOR SANTIAGO

9 FEB 24 P3:12

SENATE

S. No. **3099**

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 PROHIBITING ANTI-COMPETITIVE PRACTICES AND CREATING THE COMPETITION
3 REGULATORY COMMISSION

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

6 ARTICLE 1 – SCOPE AND DEFINITIONS

7 SECTION 1. *Short Title.* – This Act shall be known as the “Anti-Trust Act of the
8 Philippines.”

9 SECTION 2. *Declaration of policy.* – It is the policy of the State to maintain and enhance
10 free and full competition in trade, industry and all commercial economic activity and to penalize
11 all forms of unfair trade, anti-competitive conduct and combinations in restraint of trade in order
12 to improve consumer welfare.

13 SECTION 3. *Scope and limitations.* – This Act shall be enforceable in the whole
14 territory of the Republic of the Philippines and applies to all areas of trade, industry and
15 commercial economic activity. This Act does not derogate from the direct enjoyment of the
16 privileges and protections conferred by Republic Act No. 8293 (1997), otherwise known as the
17 Intellectual Property Code, and other laws protecting intellectual property, including inventions,
18 industrial models, trademarks and copyrights. It does, however, apply to the use of such property
19 in such a manner as to cause the anti-competitive effects prohibited herein. This Law shall apply
20 neither to the combinations or activities of workers or employees, nor to agreements or
21 arrangements between two or more employers, when such combinations, activities, agreements
22 or arrangements are designed solely to facilitate collective bargaining in respect of conditions of
23 employment.

1 SECTION 4. *Definition of terms.* – As used in this Act, the term–

2 (A) "Competition" – refers to the process by which economic agents, acting
3 independently in a market, limit each other's ability to control the conditions prevailing in that
4 market;

5 (B) "Commission" – refers to the Competition Regulation Commission created in this
6 Act;

7 (C) "Firm" – means any natural or legal person, governmental body, partnership or
8 association in any form, engaged directly or indirectly in economic activity. Two firms, one of
9 which is controlled by the other, shall be treated as one firm. Two or more firms that are
10 controlled by a single firm shall be treated as one firm. The Commission shall, from time to time,
11 adopt a regular setting of what constitutes control;

12 (D) "Goods" – refer to all property, tangible and intangible, and services;

13 (E) "Market" – means a collection of goods that are capable of being substituted for each
14 other and that buyers are or would be willing to substitute, and a specific territory, which may
15 extend beyond the borders of the Republic of the Philippines, in which are located sellers among
16 whom buyers are or would be willing to substitute from whom they would buy.

17 ARTICLE 2 – ABUSE OF DOMINANT POSITION

18 SECTION 1. *Dominant Position* — A firm shall be deemed to have a dominant position
19 if, acting on its own, it can profitably and materially restrain or reduce competition in a market
20 for a significant period of time.

21 SECTION 2. *Safe Harbor* - A firm shall not be deemed to have a dominant position
22 unless its share of the relevant market exceeds the percentage set by the Commission in its
23 guidelines. A firm having a market share exceeding a percentage set by the Commission, may or
24 may not be found to be dominant, depending on the economic situation in that market.

25 SECTION 3. *Balancing Efficiencies* - An agreement prohibited under Section 2 of this
26 Article may nevertheless be permissible and allowed by the Commission if said agreement has

1 brought about, or is likely to bring about, gains in real, as opposed to merely pecuniary,
2 efficiencies that –

3 (A) are greater than or more than offset the effects of any limitation on competition that
4 result or are likely to result from the agreement; or

5 (B) consumer well being is expected to be enhanced as a result of the agreement

6 SECTION 4. *Burden of proof.* – The burden of proof to show that the agreement is not
7 prohibited lies with the parties seeking the exemption pursuant to Section 3. Such parties are
8 required to, among others; demonstrate that if the agreement were not implemented, it is not
9 likely that the relevant real efficiency gains would be realized by means that would limit
10 competition to a lesser degree than the agreement.

11

12 ARTICLE 3 – MERGERS AND ACQUISITIONS

13 SECTION 1. *Review of Concentrations.* – A concentration shall be deemed to arise
14 when:

15 (A) two or more previously independent firms merge, amalgamate or combine the whole
16 or a part of their business; or

17 (B) one or more natural or legal persons already controlling at least one firm, acquire,
18 whether by purchase of securities or assets, by contract or by other means, direct or indirect
19 control of the whole or parts of one or more oilier firms.

20 SECTION 2. *Control.* – For the purpose of this Article, control is defined as the ability to
21 materially influence a firm, in particular through:

22 (A) ownership or the right to use all or part of the assets of an undertaking; or

23 (B) rights or contracts which confer decisive influence on the composition, voting or
24 decisions of the organs of a firm.

25 SECTION 3. *Compulsory notification.* – Parties to an agreement that will produce a
26 concentration larger than the minimum size as may be provided in regulations issued pursuant to
27 Section 7 of this Article, are prohibited from consummating such concentration until thirty (30)

1 days after providing notification to the Commission, in the form and containing the information
2 specified in regulations issued pursuant to section 7, An agreement consummated in violation of
3 this requirement shall be considered void and subject the parties to the corresponding penalties
4 therefor.

5 SECTION 4. *Further information.* – The Commission may, in writing, request the
6 parties to the agreement, for further information, before the expiration of the thirty (30) day
7 period referred to in section 3 of this Article. The issuance of such a request has the effect of
8 extending the period within which the concentration may not be consummated for an additional
9 thirty (30) days, beginning on the day after substantially all of the requested information is
10 supplied to the Commission.

11 SECTION 5. *Voluntary notification.* – Parties to an agreement who are not subject to the
12 notification requirement in Section 3 of this Article may voluntarily notify and, if they do so, be
13 subjected to the same procedures, restrictions and rights as are applied to cases of compulsory
14 notification.

15 SECTION 6. *Effect of notification.* – If, before consummation of a concentration, the
16 Commission determines that such concentration is prohibited under Section 8, and does not
17 qualify for exemption under Section 9, of this Article, the Commission may:

18 (A) prohibit consummation of the concentration;

19 (B) prohibit consummation of the concentration unless and until it is modified by changes
20 specified by the Commission; or

21 (C) prohibit consummation of the concentration unless and until the pertinent party or
22 parties enter into legally enforceable agreements specified by the Commission.

23 SECTION 7. *Regulations of the Commission.* – The Commission shall from time to time
24 adopt and publish regulations, stipulating:

25 (A) the minimum size or size of concentrations subject to the notification requirement of
26 Section 3 of this Article;

27 (B) the information that must be supplied for notified concentrations;

1 (C) exceptions or exemptions from the notification requirements of Section 3 for
2 specified types of concentrations; and

3 (D) other rules relating to the notification procedures in Sections 3, 4 and 5 of this
4 Article.

5 SECTION 8. *Prohibited concentrations.* – Concentrations that will significantly limit
6 competition as may be determined by the Commission are prohibited.

7 SECTION 9. *Permissible concentrations.* – Concentrations prohibited under Section 8 of
8 this Article shall, nonetheless, be free from prohibition by the Commission where the parties
9 establish that either:

10 (A) the concentration has brought about or is likely to bring about gains in real, as
11 opposed to merely pecuniary, efficiencies that are greater than or more than offset the effects of
12 any limitation on competition that result or are likely to result from the concentration; or

13 (B) a party to the concentration is faced with actual or imminent financial failure, and the
14 concentration represents the least anti-competitive arrangement among the known alternative
15 uses for the failing firm's assets.

16 SECTION 10. *Burden of proof.* – The burden of proof under Section 9 lies with the
17 parties seeking the exemption.

18 A party seeking to rely on the exemption specified in Section 9 (a) must demonstrate that
19 if the concentration were not consummated it is not likely that the relevant real efficiency gains
20 would be realized by means that would limit competition to a lesser degree than the
21 concentration.

22 A party seeking to rely on the exceptions specified in Section 9 (b) must:

23 (A) demonstrate that reasonable steps have been taken within the recent past to identify
24 alternative purchasers for the failing firm's assets; and

25 (B) fully describe the results of that search.

1 SECTION 11. *Determination by Commission.* The Commission may determine, within
2 three (3) years after consummation, that either:

3 (A) a non-notified concentration; or

4 (B) a notified concentration in which the provisions of Sections 3 to 5 of this Article are
5 not fully complied with or has led or will probably lead to a significant limitation of competition
6 and does not qualify for exemption set out in Section 9 of this Article. If it so determines, the
7 Commission may:

8 (a) undo the concentration by dissolving it into its constituent elements;

9 (b) require other modifications of the concentration, including sale of a portion of its
10 operations or assets; or

11 (c) require the surviving firm or firms to enter into legally enforceable agreements
12 specified by the Commission and designed to reduce or eliminate the competition limiting effects
13 of the concentration.

14 ARTICLE 4 – UNFAIR COMPETITION

15 SECTION 1. *Unfair competition.* – Unfair competition is prohibited, including:

16 (a) the distribution of false or misleading information which is capable of harming the
17 business interests of another firm;

18 (b) the distribution of false or misleading information to consumers, including the
19 distribution of information lacking a reasonable basis, related to the price, character, method or
20 place of production, properties, suitability for use or quality of goods;

21 (c) false or misleading comparison of goods in the process of advertising;

22 (d) fraudulent use of another's trademark, firm name, or product labeling or packaging;

23 (e) unauthorized receipt, use, or dissemination of confidential scientific, technical,
24 production, business or trade information; or

25 (f) collusion in business practices that are clearly against economic efficiency and
26 consumer welfare, such as price fixing, bid rigging, restriction of output and market shares and
27 allocation of geographic markets and customers.

1 ARTICLE 5 – THE COMMISSION

2 SECTION 1. *The Competition Regulatory Commission.* – There is hereby created an
3 independent collegial body to be known as the Competition Regulatory Commission. The
4 Commission shall be composed of a Chairman and four (4) Associate Commissioners, all of
5 whom shall be appointed by the President for a term of seven (7) years without reappointment.
6 The Chairman and two (2) of the Associate Commissioners first appointed shall serve for a
7 period of seven (7) years, while the other two (2) Associate Commissioners shall serve for five
8 (5) years as shall be indicated in their respective appointments.

9 Appointment to any vacancy shall only be for the unexpired term of the predecessor. In
10 no case shall a member of the Commission be designated or appointed in a temporary' or acting
11 capacity. The Chairman of the Commission can only be removed for patent disability to
12 discharge his/her functions.

13 SECTION 2. *Qualifications.* – The Chairman and the Associate Commissioners shall be
14 citizens of the Philippines, at least forty (40) years of age, of recognized probity, integrity, and
15 competence in the field of law, economics, finance banking, commerce, industry and/or
16 consumer welfare, and must not have been a candidate for an elective national or local office in
17 the immediately preceding election, whether regular or special.

18 SECTION 3. *Rank and salary.* – The members of the Commission shall have the same
19 rank, privileges, and salaries as the Chairman and members of a Constitutional Commission.
20 Their salaries shall be set, and from time to time be adjusted by the President. In no case shall
21 their salaries be decreased during their term of office.

22 SECTION 4. *Prohibitions and disqualifications.* – The members of the Commission shall
23 not, during their tenure, hold any other office or employment. They shall not during their tenure,
24 directly or indirectly, practice any profession, participate in any business or financially interested
25 in any contract or any franchise, or special privilege granted by the government of any
26 subdivision, agency or instrumentality thereof, including government-owned and controlled

1 corporations or their subsidiaries: Provided, however, that they may, with the prior permission of
2 the President teach part time in any institution of learning. They shall, at all times, strictly avoid
3 conflict of interest situations in the conduct of their office. They shall not be qualified to run for
4 any office in any public election, regular or special, immediately preceding their cessation from
5 office. They shall not be allowed to appear or practice before the Commission for a period of one
6 (1) year following their cessation from office.

7 SECTION 5. *Meetings, notice and quorum.* – The Commission shall meet as often as
8 may be necessary on such days as the Chairman, or in his/her absence, as a majority of the
9 Commissioners may fix. The notice of meeting shall be given to all members at least one (1) day
10 before the scheduled date of the meeting.

11 The presence of at least three (3) Commissioners shall constitute a quorum. In the
12 absence of the Chairman, one of the Associate Commissioners chosen by those present shall act
13 as the presiding officer of the meeting.

14 SECTION 6. *Secretariat.* – The Commission shall have a Secretariat with a staff
15 complement as may be determined by the Chairman in consultation with the Department of
16 Budget and Management.

17 The Secretariat shall be headed by an Executive Director who shall be appointed by the
18 President, He/she shall act as the secretary of the Commission and shall be responsible for the
19 effective implementation of the policies, rules and standards set by the Commission and oversee
20 and coordinate the day-to-day activities of the different operating units of the Commission.

21 ARTICLE 6 – POWERS AND FUNCTIONS OF THE COMMISSION

22 SECTION 1. *Powers and functions.* – To carry out the objectives of this Act, the
23 Commission shall have and exercise the following powers and functions:

24 (A) To enforce and effectively administer the provisions of this Act and other fair trade
25 laws, subject to the powers vested in the courts and other administrative agencies under this Act;

1 (B) undertake and prepare industry studies to determine industry structures, and the state
2 of competition and competitiveness of Philippine industries, and collate, compile, distribute and
3 disseminate resource materials on competition policy, with the end in view of creating a national
4 database on competition;

5 (C) conduct workshops and seminars, information campaigns for the public, and train or
6 develop a pool of experts on competition;

7 (D) extend technical assistance to the Philippine delegations to international bodies and
8 meetings in regard to trade and competition law and policy;

9 (E) draft and recommend proposed administrative and legislative measures for respective
10 consideration and adoption/enactment by the Executive or Legislative Branch of government;

11 (F) make submissions to the government authorities engaged in designing or
12 administering legislation or regulations which could affect competition in any market in the
13 Philippines, *intervene in hearings and proceedings held with regard to the adoption or*
14 *administration of such laws or regulations, and publish the submissions and interventions above*
15 *referred to. provided that confidential information is not divulged;*

16 (G) administratively adjudicate violations of this Act and rules and regulations issued
17 pursuant thereto, by conducting a formal investigation, independent of the corresponding
18 criminal and civil action for said violation(s). *The imposition of administrative penalties in the*
19 *formal investigation is without prejudice to the imposition of penalties in the criminal action*
20 *and/or judgment in the civil action and vice versa.*

21 As soon as a formal charge is filed with the Commission and even prior to the
22 commencement of the formal investigation, the Commission may *motu proprio* or upon verified
23 application of any person, issue preliminary orders prohibiting firms from carrying on the
24 anticompetitive or unfair practices referred to in this Act and, if necessary, requiring such firms
25 to take other specified actions to eliminate the harmful effects of such practices and to ensure
26 against recurrence of such practices. Before issuing any orders, the Commission shall be satisfied
27 that the proposed measures are urgently required to avoid serious, imminent and irreparable harm
28 to the economic interests of the Philippines, as expressed in this Act. Where the effectiveness of
29 the order would not thereby be prejudiced, the Commission may permit the firms that would be

1 subject to the order to present their views regarding the proposed order. The Commission shall
2 provide by rules and regulations the order procedures and restrictions for the issuance of such
3 preliminary orders.

4 All orders may, under this Section, lose effect twenty one (21) days after they are issued,
5 unless renewed by express decision of the Commission.

6 Upon its decision becoming final and executory, the Commission on its own initiative or
7 upon motion of the winning party shall issue a writ of execution. The Commission shall deputize
8 the Philippine National Police, National Bureau of Investigation or Armed Forces of the
9 Philippines in the enforcement of any of its decisions and orders. Orders and decisions issued
10 under this Section may be appealed to the pertinent appeal court, but do not lose their effect
11 pending the outcome of the appeal;

12 (H) conduct its own administrative investigations for the purpose of:

13 (1) obtaining information relative to any activity that constitutes any past or present
14 violation of this Act and Other fair trade laws; and

15 (2) gathering and compiling trade information relative to:

16 (i) the nature, organization and resources of any person, firm, entity or association doing
17 business in and/or with the Philippines or a Philippine firm;

18 (ii) determining and evaluating the practices, acts methods, schemes, arrangements and
19 other trade conditions prevailing in an industry.

20 (I) the officials authorized to conduct the preliminary or administrative investigations,
21 including formal investigations for purposes of administrative adjudication referred to in the
22 Section 1 (g) of this Article, shall have the power to administer oaths, issue subpoena *duces*
23 *tecum* to compel the attendance of witnesses and the production of necessary papers and
24 documents, and to punish direct and indirect contempt as granted to superior courts under the
25 Rules of Court;

26 (J) initiate or institute the appropriate civil action or proceeding before the proper court or
27 administrative agency in the implementation of the provisions of this Act and other fair trade
28 laws or restrain any threatened violations thereof;

1 (K) institute the appropriate information and prosecute criminal cases for any and all
2 violations of this Act and other fair trade laws after conducting a preliminary investigation *motu*
3 *proprio* or upon complaint of any person, when there is sufficient ground to engender a well
4 founded belief that the violation(s) complained of is/are being or has/have been committed, and
5 in addition, and subject to the rules on prosecution of civil action under the Rules of Court,
6 institute the appropriate action for the recovery of civil liability;

7 (L) To recommend the amendment of existing franchises when, based on its own
8 evaluation, the same has adversely affected the growth of the relevant market or industry;

9 (M) To periodically conduct an inspection of any pertinent:

10 (1) factory, shop, laboratory, establishment, store, warehouse, any means of
11 transportation, and the like;

12 (2) papers, documents, and records found in such factory, shop, laboratory,
13 establishment, store, warehouse, means of transportation, and the like;

14 (3) equipment, finished or unfinished products, raw materials, containers, labeling and
15 other pertinent properties found in such factory, shop, laboratory, establishment, store,
16 warehouse, means of transportation, and the like;

17 (4) activity being undertaken in such factory, shop, laboratory, establishment, store,
18 warehouse, means of transportation and the like, which may be necessary to determine violations
19 or which may aid in the enforcement of this Act, other fair trade laws, or rules and regulations
20 issued pursuant thereto.

21 The officials authorized to conduct said inspection may obtain a reasonable quantity of
22 samples of the properties (except equipment) mentioned in Section 1 (m) (3) of this Article, to
23 take pictures or video tapes of the places things mentioned in Section 1 (m) (1) and 3 of this
24 Article, and secure copies of the papers mentioned in Section 1 (m) (2) of this Article.

25 All acts authorized under this subsection shall be conducted at reasonable promptness, in
26 a professional manner and without undue disturbance to any legitimate work or activity being
27 undertaken inside the premises of such places. Receipts shall be issued for samples which may
28 thereafter be so obtained;

1 (N) require any person, firm, entity or association to submit to it periodically or whenever
2 necessary, such report, data, information, paper or document in such form as may Ube prescribed
3 by the Commission;

4 (O) request the different government agencies for assistance in obtaining information
5 necessary for the proper discharge of its responsibilities under this Act, and examine, if
6 necessary, the pertinent records and documents in the possession of such government agency;

7 (P) promulgate such rules and regulations as may be necessary to implement the
8 provisions and intent of this Act. Such rules shall be take effect fifteen (15) days following their
9 publication in at least two (2) newspaper of general circulation or in the Official Gazette; and

10 (Q) To perform such other functions as it may deem appropriate for the proper
11 enforcement of this Act.

12 SECTION 2. *Advance rulings.* – Parties may apply to the competition office for advance
13 rulings, binding on that office, regarding eligibility for exemptions. If it chooses to grant an
14 advance ruling, the competition office may include in it specified conditions and requirements.
15 The advance ruling shall by its terms exists for a specified period of time.

16 Advance rulings may be renewed upon application by the parties. An advance ruling may
17 be revoked or modified if:

18 (a) a significant change in circumstances has occurred since the ruling;

19 (b) the applicant infringed a condition or a requirement specified in the ruling;

20 (c) the decision to grant the ruling was materially influenced by inaccurate, fraudulent or
21 misleading data; or

22 (d) the applicant abused the exemption granted to it.

23 The competition office shall arrange for publication of its advance rulings, omitting any
24 confidential information. It may arrange similar publication of all other decisions taken under
25 this Act, again omitting any confidential information.

26 SECTION 3. *Rules on confidentiality and conflict of interest.* – Officials of the
27 Commission, as well as their agents and consultants, shall maintain the confidentiality of all
28 business, commercial or official information of which they become aware during the course of

1 their official activities, except that which is otherwise public. Disclosure of such confidential
2 information may occur in the course of administrative or judicial proceedings arising under this
3 Act. or otherwise as permitted by a court of competent jurisdiction. All members of the
4 Commission shall inform the Office of the Chairman of the Commission of any position held or
5 activity carried out in an economic field by the member, including all agents thereof The
6 Chairman shall take all necessary steps to ensure there is no conflict of interest arising from such
7 positions or activities, including requiring that such positions be resigned or activities cease.

8 ARTICLE 7 – PENALTIES

9 SECTION 1. *Administrative penalties.* – After formal investigation, the Commission may
10 impose one or more of the following administrative penalties:

11 (a) censure of the erring firm(s); and/or

12 (b) issuance of a Cease and Desist order which must specify the acts that the respondent
13 shall cease and desist from and shall require him to submit a report of compliance therewith a
14 reasonable time which shall be fixed in the order, and/or

15 (c) condemnation or Seizure of Products or Property, in such manner as may be deemed
16 appropriate by the Commission and in coordination with the proper authorities and remain in the
17 custody of the Commission subject to the finality of the decision: Provided, That perishable
18 goods shall be disposed of and the proceeds of such disposition shall be subject to the final order
19 or decision of the Commission in the case; and/or

20 (d) other analogous penalties as may be deemed proper by the Commission.

21 SECTION 2. *Imposition of administrative fines.* – Administrative fines may be imposed
22 in such an amount deemed reasonable by the Commission, which, in the case of an individual,
23 shall not be less than Three Hundred Thousand Pesos (P300,000.00) nor more than One Million
24 Pesos (P1,000,000.00), and in the case of a corporation or other juridical entity, not less than
25 Three Million Pesos (P3,000,000.00) nor more than One Hundred Million Pesos (P
26 100,000,000.00), and in both instances, an additional fine of Ten Thousand Pesos (P10,000.00)
27 for each day of continuing violation; Provided, that in case of violations by corporations,

1 associations, partnership or other juridical entities, individual fines may still be imposed on the
2 officers directly or indirectly responsible for the implementation of the prohibited act. The fine
3 imposed herein shall be regardless of the limit on the criminal fine in this Act and other fair trade
4 laws violated.

5 SECTION 3. *Criminal penalties.* – Any person who shall violate any provision of this
6 Act shall be guilty of a felony and, upon conviction thereof shall suffer the penalty of
7 imprisonment of not less than five (5) years but not more than twenty (20) years and a fine of not
8 less than Three Hundred Thousand Pesos (P300,000.00) in the case of an individual, and not less
9 than Three Million Pesos (P3,000,000.00) in the case of a corporation or other juridical entity;
10 Provided, That in case of violation by corporations, associations, partnerships or other juridical
11 entities, the penalty of imprisonment shall be imposed on the officers directly or indirectly
12 responsible for the implementation of the prohibited act.

13 In addition to the foregoing penalties, the court may order the closure or dissolution of
14 the establishment or firm where circumstances warrant and any property owned under any
15 contract or by any combination, or pursuant to any conspiracy, and subject thereof as mentioned
16 in the preceding sections, shall be forfeited in favor of the government.

17 SECTION 4. *Award of damages.* – Any person who shall be injured in his business or
18 property by any other person or corporation shall recover the amount of damages sustained by
19 reasoned of the act declared to be unlawful by this Act, including the costs of suit and reasonable
20 attorney's fees; Provided that this Section shall be without prejudice to the filing of the
21 appropriate criminal action against the offending party.

22 SECTION 5. *Alien violation.* – If the person committing the violation of this Act be an
23 alien or a foreign firm, its foreign officers/representatives shall, in addition to the above
24 penalties, be deported after paying the fine and/or serving his sentence without need of any
25 further proceedings.

