

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, commerce and all
3 economic activities. It shall likewise be applicable to international trade having direct, substantial
4 and reasonably foreseeable anti-competitive effects in trade, industry or commerce in the
5 Republic of the Philippines including those that result from acts done outside the country.

6 The Act shall apply to: (a) all firms as defined hereunder and their conduct, agreements,
7 actions or transactions involving goods or services; and, (b) all agents, officers, employees,
8 partners, owners, directors, consultants, stockholders, representatives, managers, supervisors, and
9 all other natural persons who, acting on behalf of juridical persons shall authorize, engage or aid
10 in the commission of restrictive practices prohibited under this Act.

11 This Act shall apply neither to the combinations or activities of workers or employees nor
12 to agreements or arrangements with their employers when such conduct, activities, or
13 arrangements are designed solely to facilitate collective bargaining in respect of conditions of
14 employment.

15 This Act shall not apply to liner shipping agreements among vessel-operating ocean
16 carriers, which types of agreements have operated historically in the Philippines foreign trades or
17 are otherwise intended to promote efficiency, maintenance of service or import or export
18 shipments, or stability in ocean shipping rates or services, including agreements to cooperate in
19 the joint provision or sharing of liner shipping vessels and related activities, or agreements with
20 respect to operational, technical, commercial, or price matters for ocean, intermodal, or related
21 services: Provided, That any agreement covering rate or other price matters shall not restrict an
22 individual carrier from offering individual service contract terms.

23
24 SEC. 4. *Definition of Terms.* – As used in this Act, the following terms shall be defined

25 as:

26 a. “Competition” shall refer to the process by which economic agents, acting
27 independently in a market, limit each other’s ability to control the prevailing
28 conditions in the market;

- 1 **b.** “Conduct” shall refer to any agreement, contract, arrangement, understanding or
2 concerted action, whether formal or informal, written or oral;
- 3 **c.** “Control of a firm” shall refer to the ability to substantially influence or determine the
4 actions or decisions of a firm including but not limited to at least fifty one percent
5 (51 %) ownership of shares in a stock entity, or in the position to cast at least fifty one
6 percent (51 %) of the voting rights of a firm, or to designate a majority of a board of
7 directors or equivalent management entity, directly or indirectly, regardless of the
8 number of intermediary firms;
- 9 **d.** “Dominance” shall refer to having the power to act independently of competitors,
10 customers, and/or consumers;
- 11 **e.** “Firms” shall include any person, natural or juridical, partnership, combination or
12 association in any form, whether incorporated or not, domestic or foreign, including
13 those owned or controlled by the government, engaged directly or indirectly in any
14 economic activity: *Provided*, That, two firms, one of which is controlled by the other,
15 shall be treated as one firm: *Provided, further*, That two or more firms that are
16 controlled by a single firm shall be treated as one firm;
- 17 **f.** “Goods” include all types of tangible and intangible property that could be bought
18 and sold, and the possession of which could be transferred in whole or in part,
19 temporarily or permanently;
- 20 **g.** “Services” shall refer to the provision of things of value or articles or items that could
21 be used by one person, whether natural or juridical, to another through human
22 interaction or through the use, without transfer of ownership, of the facilities of the
23 provider by the client, or a combination of both. It is the non-material equivalent of a
24 good, consumed at the point of sale and does not result in ownership;
- 25 **h.** “Relevant Market” refers to the line of commerce in which competition has been
26 restrained and to the geographic area involved, including all reasonably substitutable
27 products or services, and all nearby competitors, to which consumers could turn in the
28 short term if the restraint or abuse increased prices by a not insignificant amount.

- 1 d. Question any firm *director*, officer or employee in connection with *any* matter
2 relevant to the investigation;
- 3 e. Conduct administrative proceedings as provided for under this Act;
- 4 f. Obtain *interim* measures by way of court order in order to stop a firm or firms
5 from continuing to engage in certain conduct and *practices pending investigation*;
- 6 g. Issue a show cause order against any person conducting business, in whole or in
7 part, in a manner that may not be in accord with the provisions of this Act or
8 other competition laws;
- 9 h. Issue cease and desist orders *ex parte* or *de parte* depending on the gravity of the
10 injury and availability of immediate reliefs;
- 11 i. Conduct preliminary inquiry;
- 12 j. Approve, modify or disapprove proposals for consent order;
- 13 k. Institute civil or criminal proceedings;
- 14 l. Deputize any government agency to provide information and lend in the discharge
15 of its responsibilities under this Act and require submission or examine records
16 and documents in the possession or control of such government agency;
- 17 m. Monitor compliance by the person or firms concerned with the cease and desist
18 order or consent judgment;
- 19 n. Gather and compile information and investigate from time to time, the way a
20 given industry, domestic or foreign, is structured or organized; the way the firms
21 within that industry act, behave, or conduct themselves in such matters as setting
22 prices, determining output, and the resulting performance of the industry as a
23 whole; the organization, business, conduct, practices and management of any
24 person or firm, or engaged in trade, commerce, or industry and its relation to other
25 persons or firms;
- 26 o. Require, by general or special orders, firms engaged in commerce, trade,
27 commerce, or industry to file such form as may be prescribed, annual or special
28 reports, or answers in writing to specific questions, furnishing such information as

- 1 c. Any conduct to divide or share the market, whether by volume of sales or
2 purchases, territory, type of goods or services, buyers or sellers or any other
3 means;
- 4 d. Any conduct to fix price at an auction or in any form of bidding including cover
5 bidding, bid suppression, bid rotation and market allocation and other analogous
6 practices of bid manipulation;
- 7 e. Any conduct to apply dissimilar conditions to equivalent transactions with other
8 parties, thereby placing them at a competitive disadvantage.

9 Provided, that any such agreement which contributes to improving the production or
10 distribution of goods and services or to promoting technical or economic progress, while
11 allowing consumers a fair share of the resulting benefits, shall not be deemed a violation of this
12 Act.

13

14 **SEC. 9. Abuse of Dominance.**— It shall be unlawful for one or more firms to abuse their
15 dominance by engaging in unfair competition with the object or effect of preventing, restricting,
16 or lessening competition including but not limited to:

- 17 a. Selling goods or services below cost; Provided, the following shall be
18 permissible:
- 19 i. for clearance, inventory or sale purposes;
- 20 ii. as a reaction to a competitor lowering its price or as a reaction to
21 market forces;
- 22 iii. in such other instances determined by the Office for Competition in
23 consultation with the Department of Trade and Industry (DTI);
- 24 b. Imposing barriers to entry;
- 25 c. Setting prices or other terms or conditions that differ or discriminate between their
26 customers or sellers; *Provided*, that, the following shall be considered permissible
27 price differentials:
- 28 i. Socialized pricing for the less fortunate sector of the economy;

- 1 ii. Price differentials which reflect an allowance for differences in the cost
2 of manufacture, sale, or delivery resulting from differing methods or
3 quantities in which the goods or services are sold or delivered to the
4 buyers or sellers;
- 5 iii. Price differential or terms of sale in response to the competitive price of
6 payments, services or facilities furnished by a competitor;
- 7 iv. Price changes in response to changing market conditions or
8 marketability of goods or services.
- 9 d. Imposing restrictions on the lease or contract for sale or trade of goods or services
10 concerning where, to whom, or in what forms goods or services may be sold or
11 traded, such as, but not limited to, fixing prices, or giving preferential discounts,
12 or rebate upon such price, or imposing conditions not to deal with competing
13 firms, where the object or effect of such restrictions is to prevent, restrict or lessen
14 competition: *Provided*, That nothing contained herein shall prohibit or render
15 unlawful permissible franchising, licensing, exclusive distributorship or
16 merchandising agreements;
- 17 e. Making the supply of particular goods or services dependent upon the purchase of
18 other goods or services from the supplier;
- 19 f. Any unjustified refusal to sell or conspiracy not to sell or to stop doing business
20 on the part of the supplier of any goods or services.

21 There shall be a rebuttable presumption of dominance if a firm controls at least forty
22 percent (40%) of the market. If market shares are not available to the Office, the structure of the
23 market, degree of integration, technological and financial advantages and other relevant factors
24 shall be considered in determining control of the market.

25

26 SEC. 10. ***Anti-Competitive Mergers*** – No firm engaged in commerce, trade or industry
27 shall acquire, directly or indirectly, the whole or any part of the stock or other share capital,
28 assets or voting rights of one or more firms engaged in any commerce, trade or industry where
29 the object or effect of such conduct is to prevent, restrict or substantially lessen competition.

1 In the case of merger of banks or banking institutions, building and loan associations,
2 trust companies, insurance companies, public utilities, educational institutions and other special
3 corporations governed by special laws, the favorable recommendation of the appropriate
4 government agency shall first be obtained.

5

6 SEC. 11. **Criminal Offense.** – A person commits an offense when he or it engages in any
7 conduct with another person:

8 a. to fix, maintain, increase or control the price for the supply of goods or services;

9 b. to allocate sales, territories, customers or markets for the production or supply of
10 goods or services; or

11 c. to fix, maintain, control, prevent, lessen or eliminate the production or supply of
12 goods or services.

13 A person that shall be found to have violated this Section, shall, for each and every
14 violation, be punished by a fine up to ten percent (10%) of the person's gross revenue for the
15 immediately preceding fiscal year. *Provided*, That to be convicted, the anti-competitive conduct
16 must be proved beyond reasonable doubt.

17

18

CHAPTER IV

19

ENFORCEMENT

20 SEC. 12. **Preliminary Inquiry.** – The Office shall *motu proprio*, or upon the filing of a
21 verified complaint by an interested party or upon referral by the concerned regulatory agency,
22 initiate a preliminary inquiry for the enforcement of this Act.

23 No criminal or civil case for violation of this Act shall be filed or instituted by a private
24 party directly in court, unless there has been a preliminary inquiry conducted by the Office and
25 the same has been endorsed for filing by the Office.

26

27 SEC. 13. **Power to Investigate and Enforce Orders and Resolutions.** – The Office shall
28 conduct preliminary inquiries by administering oaths, issuing *subpoena duces tecum* and
29 summoning witnesses, and commissioning consultants or experts. It shall determine if any

1 provision of this Act has been violated, enforce its orders and carry out its resolutions by making
2 use of any available means, provisional or otherwise, under existing laws and procedures
3 including the power to punish for contempt and to impose fines.

4

5 SEC. 14. *Self-incrimination.* A person subject of any preliminary inquiry or investigation
6 by the Office shall produce the specified document or information when so required by written
7 notice subject only to the limitations provided for in Article III, Section 17 of the 1987 Philippine
8 Constitution.

9

10 SEC. 15. *Confidentiality of Information.* Any document or information submitted by
11 firms, as determined and marked confidential by the Office, relevant to any investigation being
12 conducted pursuant to this Act shall not, in any manner, be directly or indirectly disclosed,
13 published, transferred, copied, or disseminated. The identity of persons who provide information
14 to the Office and who need confidentiality to protect themselves against economic retaliation,
15 and any deliberations in regard to current or pending matters shall remain confidential.

16 Any person who violates this provision shall be punished by a fine of not less than One
17 hundred thousand pesos (Php100,000.00) but not more than Five hundred thousand pesos
18 (Php500,000.00).

19

20 SEC. 16. *Immunity from Suit; Leniency program.* Any person or firm which cooperates
21 or furnishes any information, document or data to the Office before or during the conduct of the
22 preliminary inquiry that constitutes material evidence under this Act shall be immune from any
23 suit or charge including from affected parties and third parties: Provided, That the person or firm
24 is not the most guilty; Provided, further, That any person or firm which cooperates or furnishes
25 information, document or data to the Office in connection with an investigation being conducted
26 shall not be subjected to any form of reprisal or discrimination: Provided, furthermore, That such
27 reprisal or discrimination shall be considered a violation of this Act and subjected to the penalties
28 provided for under Section 16. Provided, finally, That the Office shall promulgate a leniency
29 program in accordance with this section.

1 Nothing in this section shall preclude prosecution for persons and firms who report to the
2 Office false, misleading or malicious information, data or documents damaging to the business or
3 integrity of the persons or firms under inquiry. Such act shall be considered as a violation of this
4 Act and subject to the penalties provided in relevant sections.

5
6 **SEC. 17. *Consent Order.*** – Any firm under inquiry may submit a proposal for a consent
7 order at any time before the termination of the preliminary inquiry with: a) the payment of an
8 amount within the range of fines provided for under Section 19; b) by entering into an
9 undertaking to effectively stop and rectify the acts complained of, make restitution to the
10 affected parties, whether or not the parties are plaintiffs or witnesses; and, c) Submitting
11 regular compliance reports as may be directed.

12 Nothing in this section shall preclude prosecution for persons and firms who reported to
13 the Office with malicious information, data and falsified documents which are damaging to the
14 business and integrity of the persons and firms under inquiry. Such act shall likewise be
15 considered as an unfair trade practice punishable under this Act.

16
17 **SEC. 18. *Termination and Action on Preliminary Inquiry.*** – The Office, after
18 considering the statements made, or documents or articles produced, in the course of an inquiry
19 conducted by it, shall terminate the preliminary inquiry by issuing a resolution ordering its
20 closure if no violation or infringement of this Act is found; or by issuing a consent order
21 resolution; or issuing a resolution to, singly or cumulatively: (a) impose penalties in the range
22 provided under this Act; (b) order the rectification of certain acts or omissions; or (c) order the
23 restitution of the affected parties.

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

28 If the evidence so warrants, the Office shall file criminal cases for violation of this Act or
29 relevant laws before the Department of Justice.

1 SEC. 19. *Non-Adversarial Administrative Remedies.* – The Office shall, under such rules
2 and regulations it may prescribe, encourage voluntary compliance with this Act and other
3 competition laws by making available to the parties concerned the following and other analogous
4 non-adversarial and non-adjudicatory administrative remedies, before the institution of
5 administrative, civil or criminal action:

6 a. Request for Binding Ruling. – Any person who is in doubt as to whether the
7 contemplated or existing act, course of conduct, agreement, decision or practice is
8 in compliance with, is exempt from, or in violation of any of the provisions of this
9 Act, other competition laws, or implementing rules and regulations thereof, may
10 request the Office, in writing, to render a binding ruling thereon;

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

23 c. Proposal for Consent Judgment. – At any time prior to the issuance of a binding
24 ruling, the promulgation of a cease and desist judgment under a show cause order or
25 the promulgation of a decision of judgment in any administrative, civil, or criminal
26 case, the person or persons, whose business conduct is under inquiry in the
27 particular proceedings may, without in any manner admitting a violation of this Act
28 or any other competition laws, submit to the Office a written proposal for the entry

1 of a consent judgment, specifying therein the terms and conditions of the proposed
2 consent judgment;

3 d. Consultations. – Prior to the fitting of a request for a binding ruling or the
4 submission of a proposal for consent judgment, the person or persons concerned
5 may communicate, in writing, with the Office on matters that should be included or
6 excluded in such request or proposal, which the Office may consider necessary for
7 the effective enforcement of this Act or other competition laws;

8 e. Binding Ruling, Cease and Desist Order, and Consent Judgment. – Based upon the
9 facts, data, and information disclosed or supplied by the persons concerned, or
10 established by substantial evidence during the hearing, the Office shall issue a
11 binding ruling, a cease and desist order or an approval of the proposal for a consent
12 judgment, as the case may be, with or without conditions, to the effect that the
13 particular act, course of conduct, agreement, decision or practice is in accord with
14 this Act or other competition laws, or is exempt therefrom, or constitutes a violation
15 thereof. If the Office finds that there is substantial evidence tending to show that the
16 act, course of conduct, agreement, decision or practice of the person or persons
17 concerned is prohibited, it shall include in its decision the appropriate order
18 requiring the person or persons concerned to perform certain acts:

19 i. Cease and Desist Order. – To cease and desist from continuing with the
20 identified act, course of conduct, agreement, decision, or practice found to
21 be in violation of the provisions of this Act;

22 ii. Administrative Penalty or Fine. – To pay the fine therein fixed;

23 f. Monitoring of Compliance. – The Office shall monitor the compliance by the person
24 or persons concerned, their officers and employees, with the final and executory binding ruling,
25 cease and desist order, or approval of a consent judgment. Upon motion of an interested party,
26 the Office shall issue a certification to the effect that the person or persons concerned have, or
27 have not, as the case may be, complied with a final and executory ruling, order or approval;

28 g. Inadmissibility in Evidence. – The request for a binding ruling, the show cause order,
29 or the proposal for consent judgment; the facts, data, and information therein contained or

1 subsequently supplied by the person or persons concerned; the admissions, oral or written, made
2 by them against their interest; all other documents filed by them including their evidence
3 presented in the proceedings before the Office; and the judgment rendered thereon, shall not be
4 admissible as evidence in any administrative, civil or criminal proceedings against such person
5 or persons, their officers, employees, and agents nor constitute a basis for the introduction of the
6 binding ruling, the cease and desist order, or the consent judgment as *prima facie* evidence
7 against such persons in any such action or proceeding;

8 h. Modification or Reversal of Ruling, Order or Approval. – The Office may *motu*
9 *proprio* or upon petition of an interested party, after notice and hearing, reopen and alter, modify,
10 or set aside, in whole or in part, a binding ruling, a cease and desist order, or an approved
11 consent judgment:

12 i. Whenever conditions of material fact or law have so changed as to require
13 such action;

14 ii. When the concerned person or persons fail or refuse, without justifiable
15 cause therefore, to comply with any condition attached to such ruling, order
16 or approval, including an order to readjust their method of doing business;
17 or

18 iii. When the ruling, order or approval was based on deliberately falsified
19 material fact, data or information supplied by an interested party benefited
20 by such ruling, order or approval.

21 The modification or reversal of a binding ruling, a cease and desist order, or an approved
22 consent judgment shall have no retroactive effect and shall not affect or impair any right legally
23 acquired prior to the modification or reversal thereof, except, that the party who is guilty of
24 unjustified failure or refusal to comply as specified in paragraph (2) hereof, or have deliberately
25 supplied such falsified material fact, data or information as specified in paragraph (3) above, is
26 barred from claiming any vested right therein.

27
28 SEC. 20. **Standards.** – In the exercise of its powers or in the discharge of its duties under
29 this Act, the Office shall consider the following:

- 1 a. The way a given industry is structured or organized whether monopolistic,
2 oligopolistic, or competitive;
- 3 b. The ways the persons engaged in business within a given industry act, behave or
4 conduct themselves in such matters as setting prices, determining output, and
5 other relevant factors and the resulting performance of the industry as a whole;
- 6 c. The supply and demand situation for the relevant goods or services;
- 7 d. The appreciable impact of the particular market conduct on market conditions, if
8 any;
- 9 e. The need to bring together complimentary skills to avoid duplication and promote
10 efficiency in the industry;
- 11 f. The need to determine whether or not the anticompetitive effect of a particular
12 market conduct may be offset by increased efficiency and reduction of excessive
13 or unnecessary expenses;
- 14 g. The cost and profit levels of the industry;
- 15 h. The need to increase productivity in the particular industry involved;
- 16 i. The state of the industry, including the need to develop it or to save it from its
17 distressed state;
- 18 j. The need of the industry to work more rationally and increase their productivity
19 and competitiveness on a larger market;
- 20 k. The need to respond to international competition and other developments in the
21 international market;
- 22 l. The need to encourage or develop small and medium-sized industries;
- 23 m. The impact of the market conduct on the economy and on the consuming public,
24 particularly low-income groups;
- 25 n. The need to pool capital resources;
- 26 o. The extent to which the consumers have a possibility of choice of the product or
27 service involved;
- 28 p. The economic and financial power of the parties concerned;

- 1 q. The attainment of the objectives which are given priority interest in the general
2 interest of the country, including the need for accelerated industrialization; and
3 r. The extent to which less restrictive practices are available.
4

5 CHAPTER V

6 FINES, PENALTIES AND DECISIONS

7 SEC. 21. *Administrative Penalties.* –

- 8 a. Without prejudice to the violation of other laws, any firm that shall be found to
9 have violated Sections 8, 9, 10 and 11 of this Act, or any combination thereof, shall,
10 for each and every violation, be punished by a fine of not less than Ten million
11 pesos (P10,000,000.00) and not exceeding Fifty million pesos (P50,000,000.00) if a
12 natural person; by a fine of not less than Two hundred fifty million pesos
13 (P250,000,000.00) but not exceeding Seven hundred fifty million pesos
14 (P750,000,000.00) if a firm, at the discretion of the Office.
- 15 b. In addition, a fine shall be imposed in an amount double the gross proceeds gained
16 by the violator/s or double the gross loss suffered by the plaintiffs.
- 17 c. Failure to Comply With an Order of the Office. – Any person who fails or neglects
18 to comply with any term or condition of a binding ruling, a cease and desist order or
19 an order for readjustment issued by the Office, shall pay a fine of not less than Fifty
20 thousand pesos (P50,000.00) for each violation. Each violation shall be deemed a
21 separate offense.
- 22 d. Supply of Incorrect or Misleading Information. – The Office may likewise impose
23 upon persons or entities fines of not less than Five thousand pesos (P5,000.00) to
24 not more than One hundred thousand pesos (P100,000.00) where, intentionally or
25 negligently, they supply incorrect or misleading information in any document,
26 application or other paper filed with or submitted to the Office or supply incorrect
27 or misleading information in an application or other paper filed with or submitted to
28 the Office or supply incorrect or misleading information in an application for a
29 binding ruling, a proposal for a consent judgment, proceedings relating to a show

1 cause order, or application for modification of the Office's ruling, order or
2 approval, as the case may be.

3 For purposes of determining the persons who will suffer the punishment of imprisonment
4 as provided under the preceding paragraph, provisions of the Revised Penal Code, Title II,
5 Articles 16, 17, 18 and 19 on criminal liability of principals, accomplices, and accessories shall
6 apply.

7
8 **SEC. 22. Contempt.** To effectively implement the provisions of this Act, the Office may
9 summarily punish for contempt by a fine not exceeding One hundred thousand pesos
10 (Php100,000.00), any person guilty of such misconduct in its presence or in its vicinity as to
11 seriously interrupt any hearing, session or any proceedings before it, including cases in which a
12 person willfully fails or refuses, without just cause; to comply with a summons, *subpoena* or
13 *subpoena duces tecum*; being present at a hearing, proceeding, session or investigation, refused
14 to be sworn as a witness or to answer questions or to furnish information when lawfully required
15 to do so.

16
17 **SEC. 23. Violation by Corporation, Partnership, Association, or Other Entity.** –
18 Whenever a corporation, partnership, association, firm or other entity, whether domestic or
19 foreign, shall commit any of the violations under this Act, the chairman of the board of directors,
20 executive officers of the firm, the general partners of a partnership and employees directly
21 responsible, shall be jointly and severally liable with the firm for any sanction or fines imposed
22 under this Act.

23 Should the offense be committed by a foreign corporation licensed to do business in the
24 Philippines, the person or persons directly responsible in the Philippines for its management and
25 operation shall be liable. In addition, the Office may apply before the court for its license to do
26 business in the Philippines to be cancelled.

27 It shall not be a defense for the persons directly responsible for the violation to claim lack
28 of knowledge or being unaware of the violation unless it can be established that even with the

1 exercise of due diligence and proper supervision, the violation could not have been avoided or
2 prevented.

3 Any agreement between the officer or employee with the firm for the latter to directly or
4 indirectly assume, satisfy or indemnify, in whole or in part, the fine or penalty imposed under
5 this Act against such officer or employee shall be void.

6
7 **SEC. 24. *Alien Violators.*** – A foreigner who violates any provision of this Act shall, in
8 addition to the other imposable penalties, be deported after service of sentence without need of
9 further proceedings.

10
11 **SEC. 25. *Effect of Final Judgment.*** – Any final judgment in a civil or criminal action
12 brought by or on behalf of the People of the Philippines under this Act to the effect that a
13 defendant has violated any or all of the provisions of this Act shall be *res judicata* as to any
14 claim by any person on whose behalf such action was brought: *Provided*, That such person
15 notifies the court having jurisdiction of the case within the period given by the court: *Provided*,
16 *further*, That such period shall not be less than ninety (90) days.

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

20
21 **SEC. 26. *Decisions of the Office for Competition.*** - Decisions, awards, resolutions and
22 orders of the Office shall become final after the lapse of fifteen (15) days from receipt of a copy
23 thereof by the parties, unless a motion for reconsideration is filed within such period. Only one
24 (1) motion for reconsideration by any one party shall be allowed and entertained except in highly
25 meritorious cases. Decisions or final orders of the Office shall be appealable to the Court of
26 Appeals.

27
28 **SEC. 27. *Private Action.*** – Regardless of the status or pendency of any proceedings, any
29 person or firm that suffers injury by reason of any violation of this Act may institute a separate

1 and independent civil action, irrespective of the amount involved in the controversy against the
2 defendants and shall recover treble damages sustained, the costs of suit and attorney's fees
3 equivalent to Twenty percent (20%) of the award; *Provided, however,* That no filing fees shall be
4 collected: *Provided, further,* That filing fees shall constitute a first lien in the award of damages.
5

6 SEC. 28. ***Measurement of Damages.*** – Damages may be proved and assessed in the
7 aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by
8 such other reasonable system of estimating total damages without the necessity of separately
9 proving the individual claim of, or amount of damage to, persons on whose behalf the suit was
10 brought.
11

12 CHAPTER VI

13 OTHER PROVISIONS

14 SEC. 29. ***Statute of Limitations.*** – Any civil or criminal action to enforce any cause of
15 action arising from a violation of any provision of this Act shall be forever barred unless
16 commenced within five (5) years after the cause of action accrues. The running of the statute of
17 limitation shall be suspended during the pendency of any proceeding.

18 The cause of action begins to run when the plaintiff suffers injury to its business or
19 property: *Provided,* That when the damage suffered by the plaintiff is too speculative to prove,
20 the cause of action does not accrue until the damage becomes probable: *Provided, however,* That
21 if the plaintiff's injury is the result of the continuing violations of this Act, each independent
22 anti-competitive act may restart the limitation period or when a plaintiff reasonably fails to
23 uncover a cause or action that was fraudulently concealed by a defendant.
24

25 SEC. 30. ***Prohibition on the Issuance of Temporary Restraining Orders, Preliminary***
26 ***Injunctions and Preliminary Mandatory Injunctions.*** – Except for the Supreme Court, no other
27 court shall issue any temporary restraining order, preliminary injunction or preliminary
28 mandatory injunction against the regulatory agency in the exercise of its duties or functions:
29 *Provided,* That, this prohibition shall apply in all cases, disputes or controversies instituted by a

1 private party, including, but not limited to, cases filed by regulated firms or those claiming to
2 have rights through such firms: *Provided, however,* That, this prohibition shall not apply when
3 the matter is of extreme urgency involving a constitutional issue, such that the non-issuance of a
4 temporary restraining order will result in grave injustice and irreparable injury to the public:
5 *Provided, further,* That, the applicant shall file a bond, in an amount to be fixed by the Court, but
6 in no case shall it be less than half of the imposable fines provided for under this Act: *Provided,*
7 *finally,* That in the event that the court finally decides that the applicant was not entitled to the
8 relief applied for, the bond shall accrue in favor of the regulatory agency.

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

13
14 **SEC. 31. *Intellectual Property Rights.*** – The implementation of the provisions of this Act
15 shall be without prejudice to the rights, liabilities and remedies under Republic Act No. 8293,
16 otherwise known as the Intellectual Property Code of the Philippines: *Provided,* That, the
17 exercise of intellectual property rights shall not in any way be used to justify violations of this
18 Act.

19
20 **SEC. 32. *Trade Associations.*** – Trade associations are expressly covered by this Act,
21 *Provided,* That trade associations can be organized to promote quality standards and safety issues
22 and advocate positions on issues that are mutually relevant to its members.

23
24 **SEC. 33. *Implementing Rules and Regulations.*** – Implementing rules and regulations
25 shall be issued within one hundred eighty (180) days from the effectivity of the Act in
26 consultation with the Department of Trade and Industry and concerned regulatory agencies and
27 stakeholders: *Provided,* That the Office shall promulgate guidelines to give further effect to this
28 Act; *Provided, further,* That the implementing rules and regulations may be revised as necessary:
29 *Provided, however,* That such guidelines and revised rules and regulations shall only take effect

1 following its publication in two (2) newspapers of general circulation or posting on the official
2 website.

3
4 **SEC. 34. Appropriations.** – The amount necessary to implement the provisions of this Act
5 shall be included in the annual General Appropriations Act. However, for its initial budgetary
6 requirements, the amount of One Hundred Million Pesos (P100,000,000.00) is hereby
7 appropriated from whatever savings or sources available.

8
9 **SEC. 35. Separability Clause.** – If any clause, sentence, section or part of this Act shall
10 be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect,
11 impair or invalidate the remainder of this Act, but shall be confined in its operation to the clause,
12 sentence, paragraph, section, or part thereof directly involved in the controversy.

13
14 **SEC. 36. Suppletory Application.** – For purposes of this Act, the Revised Penal Code, as
15 amended, and other applicable laws shall be applied in a suppletory character.

16
17 **SEC. 37. Repealing Clause.** – The following laws, insofar as they are inconsistent with
18 any of the provisions of this Act are hereby repealed, amended or otherwise modified
19 accordingly:

- 20 a. Sec. 5 (3) of Republic Act No. 7581 or The Price Act;
- 21 b. Sec. 5 (f) of Republic Act No. 7925 or The Public Telecommunications Policy Act;
- 22 c. Sec. 11 (a) and (b) of Republic Act No. 8479 or The Downstream Oil Industry
23 Deregulation Act;
- 24 d. Sec. 45 of Republic Act No. 9136 or The Electric Power Industry Reform Act;
- 25 e. Sec. 13 of Republic Act No. 9295 or The Domestic Shipping Development Act;
- 26 f. Sec. 24 and 25 of Republic Act No. 9502 or The Universally-Accessible Cheaper and
27 Quality Medicines Act.

28 *Provided,* That in case of conflict between this Act and provisions of existing
29 competition laws and regulations, the provisions of this Act shall prevail.

1 SEC. 38. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following its
2 complete publication in the *Official Gazette* or in at least two (2) national newspapers of general
3 circulation; *Provided*, however, to allow affected parties to renegotiate agreements or restructure
4 their business to comply with the provisions of the Act, its full implementation will begin six (6)
5 months from issuance of the Implementing Rules and Regulations.

6

7 Approved,