

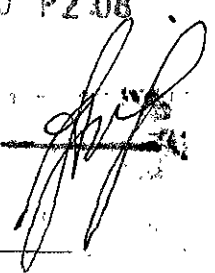
FOURTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

SENATE  
OFFICE OF THE SECRETARY

2013 02 20 P 2:08

SENATE

S. B. No. 123

RECEIVED BY: 

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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.

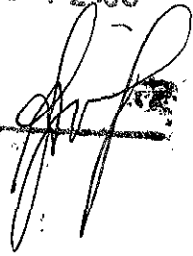
Generally, this bill penalizes combinations or conspiracies in restraint of trade and all forms of artificial machinations that will injure, destroy or prevent free market competition.

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

  
**JUAN PONCE ENRILE**  
Senator

FOURTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

7 JUN 30 P2:08

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SENATE

S. B. No. 123

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Introduced by Senator **JUAN PONCE ENRILE**

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**AN ACT**  
**PROHIBITING MONOPOLIES, ATTEMPT TO MONOPOLIZE AN INDUSTRY OR LINE OF COMMERCE, MANIPULATION OF PRICES OF COMMODITIES, ASSET ACQUISITION AND INTERLOCKING MEMBERSHIPS IN THE BOARD OF DIRECTORS OF COMPETING CORPORATE BODIES AND PRICE DISCRIMINATION AMONG CUSTOMERS, PROVIDING PENALTIES THEREFOR, AND FOR OTHER PURPOSES**

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

1           **SECTION 1. Title.** - This Act shall be known and cited as the "Philippine Anti-  
2 Trust Act."

3  
4           **SECTION 2. Definition of "Person" or "Persons".** - The word "person" or  
5 "persons", whenever used in this Act, shall be deemed to include not only individual or  
6 individuals but also corporations, partnerships, and associations existing under or  
7 authorized by the laws of the Philippines or by the laws of any foreign country.

8  
9           **SECTION 3. Agreements, Contracts, Combinations, or Conspiracies in**  
10 **Restraint of Trade and Price Manipulation.** - Every agreement or contract,  
11 combination in the form of trust or otherwise, or conspiracy, expressed or implied, in  
12 restraint of trade or commerce inside the country or with foreign nations or foreign  
13 territories, are hereby declared illegal and, therefore, it shall be unlawful for any person  
14 to enter in, or to make, or to be a party to any such contract or combination or

1 conspiracy, and any such person shall be deemed guilty of an offense: *Provided*, That  
2 nothing herein contained shall render illegal, any agreement or contract prescribing  
3 minimum prices for the resale of a commodity which bears or the label or container of  
4 which bears, the trademark, brand, or name of the producer or distributor of such  
5 commodity and which is in free and open competition with commodities of the same  
6 general class produced or distributed by others: *Provided, further*, That the preceding  
7 proviso shall not make lawful any agreement or contract, combination or conspiracy  
8 providing for the establishment or maintenance of minimum resale prices on any  
9 commodity herein involved, between manufacturers, or between producers, or between  
10 wholesalers, or between brokers, or between factors, or between retailer, or between  
11 persons, firms, or corporations in competition with each other.

12

13         **SECTION 4. *Monopoly or Attempt to Monopolize.*** - It shall be unlawful for  
14 any person to monopolize, or attempt to monopolize, or to combine or conspire, expressly  
15 or impliedly, with any other person or persons, to monopolize any part of the trade or  
16 commerce within the country, or with any foreign country or territory, and any such  
17 person shall be guilty of an offense. *Provided*, That nothing contained in this Act shall  
18 render unlawful the right of a patent holder or a copyright holder to enjoy the benefit of  
19 his or its patent or copyright duly registered in the Philippines or in any foreign country  
20 with which the Philippines is a co-signatory to any treaty or convention that protects  
21 rights to an invention patent or to a copyright, as the case may be.

22

23         **SECTION 5. *Price Discrimination.*** - (A) It shall be unlawful for any person  
24 engaged in commerce, in the course of such commerce, either directly or indirectly, to  
25 discriminate in price between different purchasers of commodities of like grade and  
26 quality, where either or any of the purchasers involved in such discrimination are in  
27 commerce, where such commodities are sold for use, consumption, or resale within the  
28 Philippines, and where the effect of such discrimination may be substantially to lessen  
29 competition or tend to create a monopoly in any line of commerce, or to injure, destroy,

1 or prevent competition with any person who either grants or knowingly receives the  
2 benefit of such discrimination, or with customers of either of them: *Provided*, That  
3 nothing herein contained shall prevent differentials which make only due allowance for  
4 differences in the cost of manufacture, sale, or delivery resulting from the differing  
5 method or quantities in which such commodities are to such purchasers sold or  
6 delivered: *Provided, however*, That the Secretary of the Department of Trade and  
7 Industry in the case of non-agricultural commodities and the Secretary of the Department  
8 of Agriculture in the case of agricultural commodities may, after due notice, investigation  
9 and hearing to all interested parties, fix and establish quantity limits, and revise the same  
10 as the Secretary concerned finds necessary, as to particular commodities or classes of  
11 commodities, where such Secretary finds that available purchasers in greater quantities  
12 are so few as to render differentials on account thereof unjustly discriminatory or  
13 promotive of monopoly in any line of commerce within the jurisdiction of his  
14 Department; and the foregoing shall not be construed to permit differentials based on  
15 differences in quantities greater than those so fixed and established: *Provided, further*,  
16 That nothing herein contained shall prevent persons engaged in selling goods, wares, or  
17 merchandise in commerce from selecting their own customers in bona fide transactions  
18 and not in restraint of trade: *And Provided, finally*, That nothing herein contained shall  
19 prevent price changes from time to time in response to changing conditions affecting the  
20 market for or the marketability of the goods concerned, such as but not limited to actual  
21 or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress  
22 sales under court process, or sales in good faith in discontinuance of business in the  
23 goods concerned.

24 (B) It shall be unlawful for any person engaged in commerce, in the course of  
25 such commerce, to pay or grant, or to receive or accept, anything of value as a  
26 commission, brokerage, or other compensation, or any allowance or discount in lieu  
27 thereof, except for services rendered in connection with the sale or purchase of goods ,  
28 wares, or merchandise, either to the other party to such transaction or to an agent,  
29 representative, or other intermediary therein where such intermediary is acting in fact for

1 or in behalf, or is subject to the direct or indirect control, of any party to such transaction  
2 other than the person by whom such compensation is so granted or paid.

3 (C) It shall be unlawful for any person engaged in commerce to pay or  
4 contract for the payment of anything of value to or for the benefit of a customer of such  
5 person in the course of such as compensation or in consideration for any services or  
6 facilities furnished by or through such customer in connection with the processing,  
7 handling, sale, or offering for sale of any products or commodities manufactured, sold, or  
8 offered for sale by such person, unless such payment or consideration is available on  
9 proportionally equal terms to all other customers competing in the distribution of such  
10 products or commodities.

11 (D) It shall be unlawful for any person to discriminate in favor of one  
12 purchaser against another purchaser or purchasers of a commodity bought for resale, with  
13 or without processing, by contracting to furnish or furnishing, or by contributing to the  
14 furnishing of, any services or facilities connected with the processing, handling, sale, or  
15 offering for sale of such commodity so purchased upon terms not accorded to all  
16 purchasers on proportionally equal terms.

17 (E) It shall be unlawful for any person engaged in commerce, in the course of  
18 such commerce, knowingly to induce or receive a discrimination in price which is  
19 prohibited by this Section.

20 (F) Upon proof being made, at any hearing on a complaint under this Section,  
21 that there has been discrimination in price or services or facilities furnished, the burden of  
22 rebutting the prima-facie case thus made by showing justification shall be upon the  
23 person charged with a violation of this Section, and unless justification shall be  
24 affirmatively shown, the Secretary concerned is authorized to issue an order terminating  
25 the discrimination: *Provided, however,* That nothing herein contained shall prevent a  
26 seller rebutting the prima-facie case thus made by showing that his lower price or the  
27 furnishing of services or facilities to any purchaser or purchasers was made in good faith  
28 to meet an equally low price of a competitor, or the services or facilities furnished by a  
29 competitor.

1           **SECTION 6. *Prohibited Stipulations in Lease or Sales Contracts.*** – It shall be  
2 unlawful for any person engaged in commerce, in the course of such commerce, to lease  
3 or make a sale or contract for the sale of goods, wares, merchandise, machinery, supplies,  
4 or other commodities, whether patented or unpatented, for use, consumption, or resale  
5 within the Philippines, or fix a price charged therefore, or discount from, or rebate upon,  
6 such price, on the condition, agreement, or understanding that the lessee or purchaser  
7 thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or  
8 other commodities of a competitor or competitors of the lessor or seller, where the effect  
9 of such lease, sale, or contract for sale or such condition, agreement, or understanding  
10 may be to lessen competition or tend to create a monopoly in any line of commerce.

11  
12           **SECTION 7. *Prohibited Stock or Asset Acquisition.*** - No person engaged in  
13 commerce or in any activity affecting commerce shall acquire, directly or indirectly, the  
14 whole or any part of the stock or other share-capital or the whole or any part of the assets  
15 of another person engaged also in commerce or in any activity affecting commerce,  
16 where in any line of commerce in any activity affecting commerce in the country or in  
17 any part of the country, the effect of such acquisition may be substantially to lessen  
18 competition or tend to create a monopoly.

19  
20           **SECTION 8. *Prohibited Grant of Proxies or Voting Rights.*** - No person shall  
21 acquire, directly or indirectly, the whole or any part of the stock or other share capital,  
22 nor shall any person acquire the whole or any part of the assets of one or more persons  
23 engaged in commerce or in any activity affecting commerce, where in any line of  
24 commerce in any activity affecting commerce in the country or in any part of the  
25 country, the effect of acquisition of such stock or assets, or of the use of such stock by  
26 the voting or granting of proxies or otherwise, may be substantially to lessen competition,  
27 or tend to create a monopoly. This Section shall not apply to persons purchasing such  
28 stock solely for investment and not using the same by voting or otherwise to bring about,  
29 or in attempting to bring about, the substantial lessening of competition. Nor shall

1 anything contained in this Section prevent a corporation engaged in commerce or in any  
2 activity affecting commerce from causing the formation of subsidiary corporations for the  
3 actual carrying on of their immediate lawful business, or the natural and legitimate  
4 branches or extension thereof, or from owning and holding all or part of the stock of  
5 such subsidiary corporations, when the effect of such formation is not to substantially  
6 lessen competition.

7

8 Nothing contained in this Section shall be held to affect impair any right  
9 heretofore legally acquired: *Provided*, That nothing this Section 8 shall be held or  
10 construed to authorize or make anything heretofore prohibited or made illegal by any  
11 anti-trust law of the Philippines, particularly Article 186 of the Revised Penal Code of the  
12 Philippines, nor exempt any person from the penal provisions thereof or the civil  
13 remedies provided therefore, if any.

14

15 **Section 9. *Prohibited Board Memberships in Two or More Corporations.*** - No  
16 person shall be a director in any two or more corporations engaged in whole or in part in  
17 commerce in the Philippines at the same time, other than banks, banking associations,  
18 investment companies, and trust companies, if such corporations are or shall have been  
19 theretofore, by virtue of their business and location of operation, competitors, so that the  
20 elimination of competition by agreement between them would constitute a violation of  
21 any provisions of this Act or any anti-trust law of the Philippines, particularly Article 186  
22 of the Revised Penal Code of the Philippines.

23

24 **SECTION 10. *Exemption of Labor, Agricultural, or Horticultural***  
25 ***Organizations.*** - The labor of a human being is not a commodity or article of commerce.  
26 Nothing contained in this Act, therefore, shall be construed to forbid the existence and  
27 operation of any, labor, agricultural or horticultural organizations, instituted for purposes  
28 of mutual help, and not having capital stock or conducted for profit, or to forbid or  
29 restrain individual members of such organizations from lawfully carrying out the

1 legitimate objects thereof; nor shall such organizations, or the members thereof, be held  
2 or construed to be illegal combinations or conspiracies in restraint of trade, under this  
3 Act.

4  
5 **SECTION 11. *Penalties for Violations of Section 3 and Section 4.*** - Any  
6 person that shall be found to have violated Section 3 or Section 4 of this Act shall, for  
7 each and every such violation, be punished by a fine not exceeding ten million pesos  
8 (P10,000,000.00) if a corporation or association, or, one million pesos (P1,000,000.00) if  
9 a natural person or by imprisonment not exceeding five (5) years, or both fine and  
10 imprisonment, in the discretion of the court.

11  
12 **SECTION 12. *Penalties for Violations of Sections 5, 6, 7, 8, and/or 9.*** - Any  
13 person that shall be found to have violated Sections 5, 6, 7, or 9 or any combination of  
14 such sections of this Act shall, for each and every violation, be punished by a fine not  
15 exceeding five million pesos (P5,000,000.00), or by imprisonment not exceeding two and  
16 one-half (2 ½) years, or both fine and imprisonment in the discretion of the court.

17  
18 **SECTION 13. *Imposition of a Higher Penalty.*** - If the same Act or Acts are  
19 chargeable and punishable under Article 186 the Revised Penal Code and under the  
20 provisions of this Act, the penalties imposed under the provisions of the Revised Penal  
21 Code or under the provisions of this Act, whichever is the heavier, shall imposed.

22  
23 **SECTION 14. *Exclusion of Civil Action from Criminal Action.*** - The  
24 institution of a criminal action under this Act against a defendant shall not be deemed to  
25 include any claim for damages in favor of any person that may have suffered any  
26 monetary injury because of any violation of this Act.

27  
28 **SECTION 15. *Civil Action of Private Parties for Monetary Injury.*** - In addition  
29 to the penalties provided in Sections 11 and 12 of this Act, any person that shall be



1 injured in his or its business or property and thereby suffers monetary injury by reason of  
2 anything forbidden under Sections 3, 4, 5, 6, 7, 8, or 9 of this Act may institute a  
3 separate and independent civil action, irrespective of the amount involved in the  
4 controversy, against the defendant or defendants and shall recover threefold of the  
5 monetary injury by him or by it sustained, and the cost of suit, including a reasonable  
6 attorney's fee.

7  
8 The complaint for the civil action may be filed or instituted in the Regional Trial  
9 Court where the defendant or any of the defendants, if more than one, resides or is found  
10 or has an agent, or in the Regional Trial Court where the plaintiff resides. Any complaint  
11 for civil action that may be filed or instituted against a defendant to recover monetary  
12 injury suffered as a consequence of a violation of this Act shall be exempted from the  
13 payment of any filing fee.

14  
15 **SECTION 16. *Civil Action of the Republic of the Philippines.*** - In addition to  
16 any criminal action he may have instituted against any defendant or defendants for any  
17 violation of this Act, the Secretary of Justice may bring a civil action in the name of the  
18 Republic of the Philippines, as *parens patriae*, on behalf of natural persons residing in the  
19 Philippines, in any Regional Trial Court having jurisdiction over the defendant, to secure  
20 treble damages for any monetary injury sustained by such natural persons by reason of  
21 any violation of this Act, plus the cost of suit and a reasonable attorney's fee.

22  
23 Any civil action brought by the Secretary of Justice under this Act in the name of  
24 the Republic of the Philippines, as *parens patriae*, shall likewise be exempted from the  
25 payment of any filing fee.

26  
27 **SECTION 17. *Determination of Monetary Relief to be Awarded in a Suit of***  
28 ***the Republic of the Philippines.*** - In the event of such a civil action brought by the  
29 Secretary of Justice becoming successful, the Regional Trial Court having jurisdiction

1 over the case shall exclude from the amount of the monetary relief awarded in such  
2 action, the amount: (1) which duplicates amounts of monetary relief that have been  
3 awarded for the same injury, or (2) which is properly allocable (A) to natural persons  
4 who have excluded their claims from the civil action instituted by the Secretary of Justice  
5 in the name of the Republic of the Philippines, and (B) to any business entity.

6

7 **SECTION 18. *Requirement of Notice by Publication in a Suit of the Republic***

8 ***of the Philippines.*** - In any civil action brought by the Secretary of Justice under this Act

9 in the name of the Republic of the Philippines, as *parens patriae*, the Secretary of Justice

10 shall, at such times and in such manner, and with such content as the Regional Trial

11 Court having jurisdiction may direct, *cause notice thereof to be given by publication.*

12 However, if such Regional Trial Court finds that notice given solely by publication would

13 deny due process of law to any person or persons, that court may direct further notice to

14 such persons according to the circumstances of the case.

15

16 **SECTION 19. *Exclusion from the Suit of the Republic of the Philippines.-***

17 Any person on whose behalf a civil action has been brought by the Secretary of Justice

18 under this Act in the name of the Republic of the Philippines, as *parens patriae*, may

19 elect to exclude from adjudication the portion of the claim of the Republic of the

20 Philippines for monetary relief attributable to him by filing notice of such election with

21 the Regional Trial Court having jurisdiction over the civil action within such time as

22 specified in the notice given pursuant to the immediately preceding Section 16 hereof.

23

24 **SECTION 20. *Effect of Final Judgment in a Suit of the Republic of the***

25 ***Philippines.*** - The final judgment in an action brought by the Secretary of Justice under

26 this Act in the name of the Republic of the Philippines, as *parens patriae*, shall be *res*

27 *judicata* as to any claim by any person on behalf of whom such action was brought and

28 who fails to give the notice of election under Section 17 hereof within the period directed

1 and specified by the Regional Trial Court having jurisdiction of the case in accordance  
2 with Section 16 of this Act.

3  
4 **SECTION 21. *Suit of the Republic of the Philippines to Recover its Own***  
5 ***Damages.*** - Whenever the Republic of the Philippines is hereafter injured in its business  
6 or property by reason of anything forbidden or rendered unlawful in this Act, it may sue  
7 thereon in the Regional Trial Court in which the defendant or any of the defendants, if  
8 there are more than one defendant, resides or is found or has an agent, without respect to  
9 the amount in controversy and shall recover actual damages by it sustained and the cost  
10 of suit.

11  
12 **SECTION 22. *Approval of the Court Required to Dismiss or Compromise a***  
13 ***Civil Action.*** - Any civil action filed under this Act shall not be dismissed or  
14 compromised without the approval of the court having jurisdiction of the case, and notice  
15 of any proposed dismissal or compromise shall be given to the public and to the parties in  
16 such manner as the court directs.

17  
18 **SECTION 23. *Attorney's Fee for the Prevailing Defendants.*** - In any civil  
19 action filed against a defendant under this Act, the court having jurisdiction of the case  
20 may award a reasonable attorney's fee in favor of a prevailing defendant upon a finding  
21 that the Secretary of Justice or the plaintiff has acted in bad faith, vexatiously, wantonly,  
22 or for oppressive reasons.

23  
24 **SECTION 24. *Use of Statistical or Sampling Methods to Prove and Assess***  
25 ***Damages.*** - In any civil action under this Act in which there has been a determination  
26 that a defendant agreed to fix prices in violation of the provisions of this Act, damages  
27 may be proved and assessed in the aggregate by statistical or sampling methods, by the  
28 computation of illegal overcharges, or by such other reasonable system of estimating  
29 aggregate damages as the court having jurisdiction of the case in its discretion may

1 permit without necessarily proving the individual claim of, or the amount of damage to,  
2 persons on whose behalf the suit was brought.

3  
4         **SECTION 25. *Distribution of Monetary Relief Recovered in a Suit of the***  
5 ***Republic of the Philippines.*** - The monetary relief recovered in a civil action filed by  
6 the Secretary of Justice in the name of the Republic of the Philippines, as parens patriae,  
7 in accordance with the provisions of Section 16 hereof shall (1) be distributed in such  
8 manner as the Regional Trial Court having jurisdiction of the case in its discretion may  
9 authorize; or (2) be deemed a civil penalty by the Regional Trial Court and deposited with  
10 the National Treasury as a part of the general fund of the government, subject in either  
11 case to the requirement that any distribution procedure adopted by the Regional Trial  
12 Court shall afford each person having an interest in the monetary relief a reasonable  
13 opportunity to secure his appropriate portion of the net monetary relief obtained.

14  
15         **SECTION 26. *Evidential Effect of a Final Judgment Rendered in a Criminal***  
16 ***Action Against a Defendant.*** - Any final judgment or decree heretofore or hereafter  
17 rendered in any criminal action brought by or on behalf of the People of the Philippines  
18 as well as any final judgment or decree heretofore or hereafter rendered in any civil  
19 action brought by or on behalf of the Republic of the Philippines under this Act to the  
20 effect that a defendant has violated any or all of the provisions of this Act shall be prima  
21 facie evidence against such defendant in any civil action brought by any other party  
22 against such defendant under this Act as to all matters respecting which said judgment or  
23 decree would be an estoppel as between the parties thereto: *Provided*, That this Section  
24 shall not apply to consent judgment or decree, as hereinafter provided in Section 27  
25 hereof, entered before any testimony has been taken.

26  
27         **SECTION 27. *Proposal for a Consent Judgment.*** - At any time in the course  
28 of a civil action brought by or on behalf of the Republic of the Philippines under this Act,  
29 the Republic of the Philippines through the Secretary of Justice, may propose in a proper

1 pleading to the defendant or defendants a consent judgment by the latter based on the  
2 facts alleged by the parties in their respective pleadings.

3

4 Any such proposal for a consent judgment for entry in such civil action shall be  
5 filed with the Regional Trial Court having jurisdiction of the case. A summary of the  
6 terms of the proposal for the consent judgment with a competitive impact statement  
7 which shall recite (1) the nature and purpose of the proceeding; (2) a description of the  
8 practices or events giving rise to the alleged violation of this Act; (3) an explanation of  
9 the proposal for a consent judgment, including an explanation of any unusual  
10 circumstances giving rise to such proposal or any provision contained therein, relief to be  
11 obtained thereby, and the anticipated effects on competition of such relief; (4) the  
12 remedies available to potential private plaintiffs damaged by the alleged violation in the  
13 event that such proposal for the consent judgment entered in such proceeding; (5) a  
14 description of the procedure available for modification of such proposal; (6) a description  
15 and evaluation of alternatives to such proposal actually considered by the Republic of the  
16 Philippines; and (7) a list of the materials and documents which the Republic of the  
17 Philippines shall make available for purposes of meaningful public comment, and the  
18 place where such materials and documents are available for public inspection, shall be  
19 published at least sixty (60) days prior to the effective date of such consent judgment for  
20 seven (7) days over a period of three (3) weeks in at least two (2) newspapers of general  
21 circulation.

22

23 Copies of the proposal for a consent judgment or any other materials and  
24 documents which the Republic of the Philippines considered determinative in formulating  
25 its proposal for a consent judgment shall be made available to the public at the Regional  
26 Trial Court having jurisdiction of the case.

27

28 **SECTION 28. Public Comments Relating to the Proposal for a Consent**  
29 **Judgment.** - During the sixty (60) day period mentioned in Section 27 hereof, and such

1 additional time as the Republic of the Philippines may request and the Regional Trial  
2 Court may grant, the Republic of the Philippines shall receive and consider any written  
3 comments relating to the proposal for the consent judgment filed with the Regional Trial  
4 Court having jurisdiction of the case in accordance with Section 27 of this Act. At the  
5 close of the period during which such comments may be received, the Republic of the  
6 Philippines shall file with the Regional Trial Court having jurisdiction of the case, not  
7 later than thirty (30) days from the date the last comment was filed with the Regional  
8 Trial Court, a response to such comments.

9  
10 **SECTION 29. *Duty of the Regional Trial Court Before Entering Any***  
11 ***Consent Judgment.*** - Before entering any consent judgment proposed by the Republic of  
12 the Philippines under Section 27 of this Act, the Regional Trial Court having jurisdiction  
13 of the case shall determine that the entry of such judgment is in the public interest.

14  
15 For purposes of determining that the entry of such judgment is in the public  
16 interest, the Regional Trial Court may consider: (1) the competitive impact of such  
17 judgment, including termination of alleged violations, provisions for enforcement and  
18 modification, duration or relief sought, anticipated effects of alternative remedies actually  
19 considered, and any other considerations bearing upon the adequacy of such judgment;  
20 and (2) the impact of entry of such judgment upon the public generally and individuals  
21 alleging specific injury from the violations set forth in the complaint, including  
22 consideration of the public benefit, if any, to be derived from the determination of the  
23 issues at the trial.

24  
25 **SECTION 30. *Powers of the Regional Trial Court in Making the***  
26 ***Determination under Section 29.*** - In making its determination under Section 29 of this  
27 Act, the Regional Trial Court may: (1) take the testimony of government officials or  
28 experts or such expert witnesses, as the Regional Trial Court may deem appropriate; (2)  
29 appoint such outside consultants or experts witnesses as the Regional Trial Court may

1 deem appropriate; (3) request and obtain the views, evaluations, or advice of any  
2 individual, group, or agency of the government with respect to any aspects of the  
3 proposed consent judgment or the effect of such consent judgment, in such manner as the  
4 Regional Trial Court having jurisdiction of the case deems appropriate; (4) authorize full  
5 or limited participation in the civil proceedings before the Regional Trial Court having  
6 jurisdiction of the case by interested persons or agencies of the government, including  
7 appearance amicus curiae, intervention as a party pursuant to the provisions of the Rules  
8 of Court, examination of witnesses or documentary materials, or participation in any  
9 other manner and extent which serves the public interest as the Regional Trial Court  
10 having jurisdiction of the case may deem appropriate; (5) review any comments  
11 including any objections filed with the Republic of the Philippines concerning the  
12 proposed consent judgment and the responses of the Republic of the Philippines to such  
13 comments and objections, in accordance with the provisions of Section 28 of this Act;  
14 and (6) take such other action in the public interest as the Regional Trial Court may  
15 deem appropriate

16

17       **SECTION 31. *Certifications of the Defendants.*** - Not later than fifteen (15)  
18 days following the date of the filing of any proposal for a consent judgment under  
19 Section 27 of this Act, each defendant shall file with the Regional Trial Court having  
20 jurisdiction of the case a description of any and all written or oral communications by or  
21 on behalf of such defendants, including any and all written or oral communications on  
22 behalf of such defendants, or other person, with any officer or employee of the Republic  
23 of the Philippines or relevant to such proposal, except that any such communications  
24 made by counsel of record with the Secretary of Justice or the employees of the  
25 Department of Justice shall be excluded from the requirements of this Section. Prior to  
26 the entry of any consent judgment pursuant to this Act, each defendant shall certify under  
27 oath to the Regional Trial Court having jurisdiction of the case that the requirements of  
28 this Section have been complied with and that such filing is a true and complete

1 description of such communications known to the defendant or which the defendant  
2 reasonable should have known.

3

4 **SECTION 32. *Evidential Value of Proceedings in a Proposal for a Consent***

5 ***Judgment.*** - Proceedings before the Regional Trial Court having jurisdiction of the case  
6 under Section 29 and Section 30 of this Act, shall not be admissible against any  
7 defendants in any action or proceeding brought by any other party against such  
8 defendant nor constitute a basis for the introduction of the consent judgment as a prima  
9 facie evidence against such defendants in any such action or proceeding.

10

11 **SECTION 33. *Statute of Limitations.*** - Any civil or criminal action to enforce

12 any cause of action arising from a violation of any provision of this Act shall be forever  
13 barred unless commenced within five (5) years after the cause of action accrued.  
14 Whenever any civil or criminal proceeding is instituted by the Republic of the Philippines  
15 in case of a civil action or by the People of the Philippines in case of a criminal action to  
16 prevent, restrain, or punish any violation of any provision of this Act, the running of the  
17 statute of limitation provided in the immediately preceding sentence in respect of every  
18 private or sovereign right of action arising under this Act and based in whole or in part on  
19 any matter complained of in said proceeding shall be suspended during the pendency  
20 thereof and for one year thereafter.

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22 **SECTION 34. *Separability Clause.*** - If any clause, sentence, section or part of

23 this Act shall be adjudged by a court of competent jurisdiction to be invalid, such  
24 judgment shall not affect, impair or invalidate the remainder of this Act, but shall be  
25 confined in its operation to the clause, sentence paragraph, section, or part thereof  
26 directly involved in the controversy.

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**SECTION 35. *Repealing Clause.*** - All provisions of law, orders, decrees, executive orders, including rules and regulations or parts thereof which are contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**SECTION 36. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days following its publication in the Official Gazette or at least two (2) national newspapers of general circulation.

*Approved,*

*JGR/tere/JPEphilantitrus/disk1pink*