

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City, Metro Manila

**EIGHTEENTH CONGRESS**  
First Regular Session

HOUSE BILL NO. 5906



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Introduced by **Representative STELLA LUZ A. QUIMBO**

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**AN ACT AMENDING PROVISIONS OF REPUBLIC ACT 10667,  
OTHERWISE KNOWN AS "AN ACT PROVIDING FOR A NATIONAL  
COMPETITION POLICY PROHIBITING ANTI-COMPETITIVE  
AGREEMENTS, ABUSE OF DOMINANT POSITION AND ANTI-  
COMPETITIVE MERGERS AND ACQUISITIONS, ESTABLISHING THE  
PHILIPPINE COMPETITION COMMISSION AND APPROPRIATING FUNDS  
THEREFOR"**

**EXPLANATORY NOTE**

In July 2015, the state enacted Republic Act No. 10667, otherwise known as the Philippine Competition Act (PCA), in line with its policy to ensure free and fair competition for the protection of consumer welfare and advancement of economic development. The PCA serves as the country's first comprehensive competition law, which prohibits anti-competitive agreements, abuse of dominant position, and anti-competitive mergers and acquisitions. The PCA also established the Philippine Competition Commission (PCC) as the national competition authority.

It is internationally recognized that effective market competition benefits consumers through lower prices, higher quality, and more choices. A study of various cases worldwide found that prices can be raised by as much as 50 percent due to overcharges by cartels.<sup>1</sup> Successful enforcement against such anti-competitive conduct immediately improves consumer welfare. Competition also promotes a dynamic business environment by improving market access, lowering the cost of inputs, and spurring innovation.

In the three years since its establishment in 2016, the PCC has been recognized as one of the most productive young competition authorities in the region and a model to fellow authorities in developing countries, having reviewed hundreds of merger cases, participated actively in policy advice, and rolled out key programs such as its Leniency Program. However, the agency's enforcement efforts have been hamstrung by provisions in the PCA which require revision.

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<sup>1</sup> Ivaldi et. al. (2016)

This bill seeks to amend the PCA for purposes of enhancing the PCC's ability to enforce its mandate, particularly in investigating cartels, bid rigging, market foreclosure, and other anti-competitive conduct, as well as imposing various fines, penalties, and remedies. To allow the PCC to focus its resources towards competition enforcement, this bill also proposes a shift to a voluntary merger review regime.

The state recognizes that apart from businesses, there must also be a culture of competition among government agencies who shape the competitive landscape through regulation. The PCA provides for the establishment of a national competition policy (NCP), to be formulated by the National Economic and Development Authority with assistance from the PCC and implemented by all government agencies. This bill seeks to legislate principles of the NCP to ensure that competition considerations are included in the formulation and deliberation of government policies. It also proposes that the PCC be mandated to review fiscal incentives for anti-competitive effects. While incentives can be used to promote development goals, they can also give undue competitive advantage to certain entities and distort competition. The PCC's expertise in competition policy make it the most equipped to help the government avoid redundant incentives which are not only wasteful, but could stunt the growth of the economy.

Lastly, this bill also seeks to update the PCC's system and standards for remuneration, cognizant of the technical nature of competition policy and the need to hire and retain high-caliber personnel.

In view of the foregoing, the passage of this bill is earnestly sought.



**STELLA LUZ A. QUIMBO**  
Representative  
Second District, Marikina City



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**HOUSE OF REPRESENTATIVES**  
Quezon City

**EIGHTEENTH CONGRESS**  
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Introduced by **HONORABLE STELLA LUZ A. QUIMBO**

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1 **AN ACT AMENDING PROVISIONS OF REPUBLIC ACT 10667, OTHERWISE KNOWN AS**  
2 **“AN ACT PROVIDING FOR A NATIONAL COMPETITION POLICY PROHIBITING ANTI-**  
3 **COMPETITIVE AGREEMENTS, ABUSE OF DOMINANT POSITION AND ANTI-**  
4 **COMPETITIVE MERGERS AND ACQUISITIONS, ESTABLISHING THE PHILIPPINE**  
5 **COMPETITION COMMISSION AND APPROPRIATING FUNDS THEREFOR”**

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

8 **SECTION 1.** Section 4 of Republic Act 10667 shall be amended to read as follows:

9 “SEC. 4. *Definition of Terms.* – As used in this Act:

10 x x x

11 (g) *Dominant position* refers to a position of economic strength that an entity or entities  
12 hold which makes it capable of controlling the relevant market independently from  
13 any or a combination of the following: competitors, customers, suppliers, or  
14 consumers. **FOR PURPOSES OF THIS ACT, DOMINANT POSITION SHALL ALSO**  
15 **MEAN SIGNIFICANT MARKET POWER;**

16 x x x”

17 **SECTION 2.** A new Chapter II shall be added to Republic Act 10667 to read as follows, and  
18 all subsequent sections are to be renumbered accordingly:

19 **“CHAPTER II NATIONAL COMPETITION POLICY**

20 **SEC. 5. KEY ELEMENTS OF THE NATIONAL COMPETITION POLICY. – IN THE**  
21 **EXERCISE OF THEIR RESPECTIVE FUNCTIONS, ALL NATIONAL GOVERNMENT**  
22 **AGENCIES, OFFICES, INSTRUMENTALITIES, LOCAL GOVERNMENT UNITS,**

1 AND GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS SHALL ADOPT  
2 AND BE GUIDED BY THE FOLLOWING KEY ELEMENTS:

3 (A) ALL GOVERNMENT POLICIES, LAWS, RULES AND REGULATIONS,  
4 ISSUANCES AND OTHER INTERVENTIONS SHALL PROMOTE MARKET  
5 EFFICIENCY AND ENHANCE CONSUMER WELFARE, AND SHALL NOT DISTORT  
6 COMPETITION BY CREATING BARRIERS TO ENTRY, PROMOTING COLLUSIVE  
7 MARKET OUTCOMES, OR RESTRICTING TRADE, EXCEPT WHEN THE  
8 RESTRICTIONS ARE PROVEN CONSISTENT WITH THE PROMOTION OF  
9 CONSUMER WELFARE AND CANNOT BE ACHIEVED BY OTHER MEANS, OR  
10 WHEN THE BENEFITS TO THE COMMUNITY OUTWEIGH THE COSTS; AND

11 (B) GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND PRIVATE  
12 SECTOR BUSINESSES SHALL COMPETE ON A LEVEL PLAYING FIELD.  
13 GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS SHALL BE HELD TO  
14 THE SAME STANDARDS AS PRIVATE SECTOR BUSINESSES AND SHALL NOT  
15 ENJOY NET COMPETITIVE ADVANTAGES OR DISADVANTAGES OVER PRIVATE  
16 SECTOR BUSINESSES SIMPLY BY VIRTUE OF PUBLIC SECTOR OWNERSHIP,  
17 UNLESS IT CAN BE CLEARLY DEMONSTRATED THAT THE GREATER PUBLIC  
18 INTEREST WILL BE SERVED AND THERE IS LACK OF COMMERCIAL  
19 VIABILITY.

20 SEC. 6. REVIEW OF RELEVANT POLICIES. - ALL NATIONAL GOVERNMENT  
21 AGENCIES, OFFICES, INSTRUMENTALITIES, LOCAL GOVERNMENT UNITS,  
22 AND GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS ARE  
23 MANDATED TO REVIEW THEIR RESPECTIVE POLICIES, LAWS, RULES AND  
24 REGULATIONS, ISSUANCES AND INTERVENTIONS AND OTHER RELEVANT  
25 LAWS APPLICABLE TO THEIR RESPECTIVE OFFICES TO DETERMINE  
26 WHETHER THEY RESTRICT, PREVENT OR LESSEN COMPETITION, IN  
27 COMPLIANCE WITH THE PRINCIPLES ABOVE AND SUBJECT TO THE  
28 GUIDELINES FORMULATED BY THE NATIONAL ECONOMIC AND



1        **DEVELOPMENT AUTHORITY AND THE PHILIPPINE COMPETITION**  
2        **COMMISSION.**

3        **SEC. 7. ENFORCEMENT OF COMPETITION-RELATED LAWS AND ISSUANCES. –**  
4        **TO ASSIST THE PHILIPPINE COMPETITION COMMISSION IN ENFORCING AND**  
5        **ATTAINING THE OBJECTIVES AND PURPOSES OF THIS ACT, ALL NATIONAL**  
6        **GOVERNMENT AGENCIES, OFFICES, INSTRUMENTALITIES, LOCAL**  
7        **GOVERNMENT UNITS, AND GOVERNMENT-OWNED OR CONTROLLED**  
8        **CORPORATIONS SHALL:**

9        **(A) COORDINATE WITH THE PHILIPPINE COMPETITION COMMISSION TO**  
10       **IDENTIFY SPECIFIC ACTIONS THAT THEY CAN UNDERTAKE IN THEIR AREAS**  
11       **OF RESPONSIBILITY TO PROMOTE COMPETITION, ELIMINATE ANTI-**  
12       **COMPETITIVE BEHAVIOR AND UNDUE REGULATORY BURDENS ON**  
13       **COMPETITION;**

14       **(B) ESTABLISH CHANNELS OF COMMUNICATION AND COOPERATION WITH**  
15       **THE PHILIPPINE COMPETITION COMMISSION AND REQUEST ITS ASSISTANCE**  
16       **IN THE CRAFTING OF POLICY INITIATIVES RELATING TO COMPETITION;**

17       **(C) COOPERATE WITH AND EXTEND ASSISTANCE TO THE PHILIPPINE**  
18       **COMPETITION COMMISSION IN THE ENFORCEMENT OF THIS ACT, AS WELL**  
19       **AS ITS ORDERS AND DECISIONS; AND**

20       **(D) CONSULT THE PHILIPPINE COMPETITION COMMISSION IN ESTABLISHING**  
21       **A FAIR, PREDICTABLE AND TRANSPARENT PROCESS OF RESOLVING**  
22       **COMPETITION-RELATED DISPUTES THAT ARE WITHIN THEIR**  
23       **JURISDICTION.”**

24       **SECTION 3.** Section 8 of Republic Act 10667 is hereby amended to read as follows:

25       “SEC. 8. Prohibitions and Disqualifications. – The **CHAIRPERSON AND**  
26       **Commissioners** shall not, during their tenure, hold any other office or employment.  
27       They shall not, during their tenure, directly or indirectly practice any profession,  
28       except in a teaching capacity, participate in any business, or be financially interested  
29       in any contract with, or any franchise, or special privileges granted by the government

1 or any subdivision, agency, or instrumentality thereof, including government-owned  
2 and-controlled corporations or their subsidiaries. They shall strictly avoid conflict of  
3 interest in the conduct of their office. [They shall not be qualified to run for any office  
4 in the election immediately succeeding their cessation from office. *Provided*, that the  
5 election mentioned hereof is not a Barangay election or a Sangguniang Kabataan  
6 election.] x x x”

7 **SECTION 4.** Section 9 of Republic Act 10667 is hereby amended to read as follows:

8 “SEC. 9. Compensation and Other Emoluments for Members [and Personnel] of the  
9 Commission. – [The compensation and other emoluments for the members and  
10 personnel of the Commission shall be exempted from the coverage of Republic Act No.  
11 6758, otherwise known as the “Salary Standardization Act”. For this purpose,] [t]The  
12 salaries and other emoluments of the Chairperson[,] **AND** the Commissioners[,] [and  
13 personnel of the Commission] shall be set based on an objective classification system,  
14 **AT A SUM COMPARABLE TO THE MEMBERS OF THE MONETARY BOARD AND**  
15 taking into consideration the importance and responsibilities attached to the respective  
16 positions, and shall be submitted to the President of the Philippines for his approval.”

17 **SECTION 5.** Section 11 of Republic Act 10667 is hereby amended to read as follows:

18 “SEC. 11. Staff. – The Commission shall appoint, fix the compensation, and determine  
19 the status, qualifications, and duties of an adequate staff, which shall include an  
20 Executive Director of the Commission.

21 The Executive Director shall be appointed by the Commission and shall have relevant  
22 experience in any of the fields of law, economics, commerce, management, finance or  
23 engineering for at least ten (10) years.

24 The members of the technical staff, except those performing purely clerical functions,  
25 shall possess at least a Bachelor’s Degree in any of the following lines of specialization:  
26 economics, law, finance, commerce, engineering, accounting, or management. **ALL**  
27 **STAFF POSITIONS SHALL BE GOVERNED BY A COMPENSATION AND POSITION**



1 CLASSIFICATION SYSTEM AND QUALIFICATION STANDARDS APPROVED BY THE  
2 COMMISSION, BASED ON COMPREHENSIVE JOB ANALYSIS AND AUDIT OF  
3 ACTUAL DUTIES AND PERSONAL RESPONSIBILITIES. THE COMPENSATION  
4 PLAN SHALL BE COMPARABLE WITH THE PREVAILING COMPENSATION PLAN IN  
5 THE BANGKO SENTRAL NG PILIPINAS AND OTHER SIMILAR INSTITUTIONS AND  
6 SHALL BE SUBJECT TO PERIODIC REVIEW BY THE COMMISSION NO MORE  
7 THAN ONCE EVERY TWO (2) YEARS WITHOUT PREJUDICE TO YEARLY MERIT  
8 REVIEW OR INCREASES BASED ON PRODUCTIVITY AND EFFICIENCY. THE  
9 COMMISSION SHALL, THEREFORE, BE EXEMPT FROM LAWS, RULES, AND  
10 REGULATIONS ON COMPENSATION, POSITION CLASSIFICATION AND  
11 QUALIFICATIONS STANDARDS. THE COMMISSION SHALL, HOWEVER,  
12 ENDEAVOR TO MAKE ITS SYSTEM CONFORM AS CLOSELY AS POSSIBLE WITH  
13 THE PRINCIPLES UNDER THE COMPENSATION AND POSITION CLASSIFICATION  
14 ACT OF 1989 (REPUBLIC ACT 6758, AS AMENDED)."

15 **SECTION 6.** Section 12 of Republic Act 10667 is hereby amended to read as follows:

16 "SEC. 12. Powers and Functions. – The Commission shall have original and primary  
17 jurisdiction over the enforcement and implementation of the provisions of this Act, and  
18 its implementing rules and regulations. The Commission shall exercise the following  
19 powers and functions:

20 (a) x x x

21 (b) Review [proposed] mergers and acquisitions **UPON REQUEST OR MOTU**  
22 **PROPRIO**, [determine thresholds for notification,] determine the requirements and  
23 procedures for notification **AND REVIEW**, and upon exercise of its powers to review,  
24 prohibit mergers and acquisitions that [will] **HAVE OR ARE LIKELY TO** substantially  
25 prevent, restrict, or lessen competition in the relevant market;

26 (c) x x x

27 (d) Upon finding, based on substantial evidence, that an entity has entered into an  
28 anti-competitive agreement or has abused its dominant position after due notice and

1 hearing, stop or redress the same, by applying remedies, such as, but not limited to,  
2 issuance of injunctions, requirement of divestment, **REQUIREMENT OF**  
3 **MODIFICATION OR TERMINATION OF CONTRACTS, OPENING ACCESS TO**  
4 **COMPETITORS, PROHIBITIONS ON RESTRICTIVE CONTRACTING PRACTICES,**  
5 **SETTING UP OF INFORMATION FIREWALLS, MAKING INFORMATION AVAILABLE**  
6 **TO THIRD PARTIES,** and disgorgement of excess profits under such reasonable  
7 parameters that shall be prescribed by the rules and regulations implementing this  
8 Act;

9 (e) x x x

10 (f) Issue subpoena *duces tecum* and subpoena *ad testificandum* to require the  
11 production of books, records, or other documents or data which relate to any matter  
12 relevant to the investigation and personal appearance before the Commission,  
13 summon witnesses, administer oaths, and issue [interim orders such as] show cause  
14 orders and cease and desist orders [after due notice and hearing] in accordance with  
15 the rules and regulations implementing this Act;

16 (g) [Upon order of the court,] [u]ndertake **BY ITSELF OR THROUGH ITS DEPUTIZED**  
17 **LAW ENFORCEMENT AGENCY, TO SEARCH AND INSPECT** [inspections of] business  
18 premises and other offices, **STRUCTURES, SPACES,** land and vehicles, as used by  
19 the entity, where it reasonably suspects that relevant [books, tax records, or other  
20 documents] **DATA AND INFORMATION** which relate to any matter relevant to the  
21 investigation are kept, [in order to prevent the removal, concealment, tampering with,  
22 or destruction of the books, records, or other documents] **AND EXAMINE, COPY,**  
23 **PHOTOGRAPH, RECORD OR PRINT THE SUCH INFORMATION;**

24 (h) Issue adjustment or divestiture orders including orders for corporate reorganization  
25 or divestment in the manner and under such terms and conditions as may be  
26 prescribed in the rules and regulations implementing this Act[.]; [Adjustment or  
27 divestiture orders, which are structural remedies, should only be imposed:

28 (1) Where there is no equally effective behavioral remedy; or



1 (2) Where any equally effective behavioral remedy would be more burdensome for the  
2 enterprise concerned than the structural remedy. Changes to the structure of an  
3 enterprise as it existed before the infringement was committed would only be  
4 proportionate to the substantial risk of a lasting or repeated infringement that derives  
5 from the very structure of the enterprise;]

6 x x x

7 (o) Assist the National Economic and Development Authority, in consultation with  
8 relevant agencies and sectors, in [the preparation and formulation of a] **CRAFTING**  
9 **GUIDELINES FOR THE** national competition policy **AND PROVIDE TECHNICAL**  
10 **ASSISTANCE TO NATIONAL GOVERNMENT AGENCIES, OFFICES,**  
11 **INSTRUMENTALITIES, LOCAL GOVERNMENT UNITS, AND GOVERNMENT-**  
12 **OWNED OR CONTROLLED CORPORATIONS IN ITS IMPLEMENTATION;**

13 (p) x x x

14 (q) x x x

15 (r) Advocate pro-competitive policies of the government by:

16 (1) Reviewing economic and administrative regulations, *motu proprio* or upon request,  
17 as to whether or not they adversely affect relevant market competition, and [advising  
18 the concerned agencies against such regulations] **ISSUING GUIDANCE TO THE**  
19 **RELEVANT AGENCY, INCLUDING BUT NOT LIMITED TO ISSUING ADVISORY**  
20 **OPINIONS TO REMEDY COMPETITION CONCERNS, AS WELL AS NO OBJECTION**  
21 **CERTIFICATES IN THE CASE WHERE NO COMPETITION CONCERN IS RAISED;**  
22 [and]

23 (2) Advising the Executive Branch on the competitive implications of government  
24 actions, policies and programs; and

25 **(3) REVIEWING PROPOSED LEGISLATION, MOTU PROPRIO OR UPON REQUEST,**  
26 **AS TO WHETHER OR NOT IT MAY ADVERSELY AFFECT RELEVANT MARKET**  
27 **COMPETITION, AND ISSUING GUIDANCE TO CONGRESS INCLUDING BUT NOT**  
28 **LIMITED TO ISSUING ADVISORY OPINIONS TO REMEDY COMPETITION**

1        **CONCERNS, AS WELL AS NO OBJECTION CERTIFICATES IN THE CASE WHERE**  
2        **NO COMPETITION CONCERN IS RAISED;**

3        (s) Charging reasonable fees to defray the administrative cost of the services rendered.  
4        **FOR THIS PURPOSE, AN ANTITRUST FUND IS HEREBY CONSTITUTED, WHICH**  
5        **SHALL BE EXEMPT FROM SECTION 51 OF THIS ACT. THE USE OF SUCH FUND**  
6        **SHALL BE SUBJECT TO THE AUDITING REQUIREMENTS, STANDARDS, AND**  
7        **PROCEDURES UNDER EXISTING LAWS;**

8        **(T) ISSUE ADVISORY OPINIONS TO THE RELEVANT AGENCY ON FISCAL AND**  
9        **OTHER INDUSTRY-SPECIFIC INCENTIVES OF THE GOVERNMENT THAT MAY**  
10       **ADVERSELY AFFECT COMPETITION IN THE RELEVANT MARKET;**

11       **(U) REVIEW FISCAL AND OTHER INDUSTRY-SPECIFIC INCENTIVES OF THE**  
12       **GOVERNMENT, MOTU PROPRIO OR UPON REQUEST, AS TO WHETHER THEY**  
13       **HAVE ADVERSELY AFFECTED RELEVANT MARKET COMPETITION, AND**  
14       **RECOMMEND REMEDIES TO THE FISCAL INCENTIVES REVIEW BOARD;**

15       **(V) ISSUE WARNINGS FOR ANY POTENTIAL VIOLATIONS OF THIS ACT; AND**

16       **(W) ISSUE AND IMPOSE INTERIM MEASURES”**

17       **SECTION 7.** Section 15 of Republic Act 10667 is hereby amended to read as follows:

18       “SEC. 15. *Abuse of Dominant Position.* – It shall be prohibited for one or more entities  
19       to abuse their dominant position by engaging in conduct that would substantially  
20       prevent, restrict or lessen competition:

21       x x x

22       *Provided,* That nothing in this Act shall be construed or interpreted as a prohibition  
23       on having a dominant position in a relevant market or on acquiring, maintaining and  
24       increasing market share through legitimate means that do not substantially prevent,  
25       restrict or lessen competition:

26       *Provided, further,* That any conduct which contributes to improving production or  
27       distribution of goods or services within the relevant market, or promoting technical



1 and economic progress while allowing consumers a fair share of the resulting benefit  
2 may not necessarily be considered an abuse of dominant position:

3 *Provided, finally,* That the foregoing shall not constrain the Commission or the  
4 relevant regulator from pursuing measures that would promote fair competition or  
5 more competition as provided in this Act, **INCLUDING THE IMPOSITION OF**  
6 **SIGNIFICANT MARKET POWER OBLIGATIONS.”**

7 **SECTION 8.** Section 17 of Republic Act 10667 is hereby amended to read as follows:

8 **“SEC. 17. REQUESTS TO REVIEW ANTICIPATED MERGERS AND ACQUISITIONS.**  
9 **– A PARTY TO THE AGREEMENT MAY REQUEST THE COMMISSION TO REVIEW**  
10 **AN ANTICIPATED MERGER OR ACQUISITION WHICH, IF CONSUMMATED, MAY**  
11 **SUBSTANTIALLY PREVENT, RESTRICT, OR LESSEN COMPETITION.**

12 **A PARTY INVOLVED IN A MERGER OR ACQUISITION WHICH REQUESTS FOR THE**  
13 **SAME TO BE REVIEWED BY THE COMMISSION SHALL:**

14 **(1) NOTIFY THE COMMISSION OF THE ANTICIPATED MERGER OR ACQUISITION**  
15 **PRIOR TO ITS CONSUMMATION;**

16 **(2) PROVIDE REQUIRED DOCUMENTS AND INFORMATION FOR REVIEW AS**  
17 **DETERMINED BY THE COMMISSION; AND**

18 **(3) APPLY TO THE COMMISSION FOR A DECISION.**

19 [Compulsory Notification. –] Parties to the merger or acquisition agreement [referred to  
20 in the preceding section wherein the value of the transaction exceeds one billion pesos  
21 (P1,000,000,000.00)] are prohibited from consummating their agreement until thirty  
22 (30) days after providing notification to the Commission in the form and containing the  
23 information specified in the regulations issued by the Commission[: *Provided, That the*  
24 *Commission shall promulgate other criteria, such as increased market share in the*  
25 *relevant market in excess of minimum thresholds, that may be applied specifically to*

1 a sector, or across some or all sectors, in determining whether parties to a merger or  
2 acquisition shall notify the Commission under this Chapter].

3 [An agreement consummated in violation of this requirement to notify the Commission  
4 shall be considered void and subject the parties to an administrative fine of one percent  
5 (1%) to five percent (5%) of the value of the transaction.]

6 Should the Commission deem it necessary, it may request further information that are  
7 reasonably necessary and directly relevant to the prohibition under Section 20 hereof  
8 from the parties to the agreement before the expiration of the thirty (30)-day period  
9 referred. The issuance of such a request has the effect of extending the period within  
10 which the agreement may not be consummated for an additional sixty (60) days,  
11 beginning on the day after the request for information is [received] **COMPLIED WITH**  
12 by the parties: Provided, That, in no case shall the total period for review by the  
13 Commission of the subject agreement exceed ninety (90) days from initial notification  
14 by the parties.

15 When the above periods have expired and no decision has been promulgated for  
16 whatever reason, the merger or acquisition shall be deemed approved and the parties  
17 may proceed to implement or consummate it. All notices, documents and information  
18 provided to or emanating from the Commission under this section shall be subject to  
19 confidentiality rule under Section 34 of this Act except when the release of information  
20 contained therein is with the consent of the notifying entity or is mandatorily required  
21 to be disclosed by law or by a valid order of a court of competent jurisdiction, or of a  
22 government or regulatory agency, including an exchange.

23 In the case of the merger or acquisition of banks, banking institutions, building and  
24 loan associations, trust companies, insurance companies, public utilities, educational  
25 institutions and other special corporations governed by special laws, a favorable or no-  
26 objection ruling by the Commission shall not be construed as dispensing of the  
27 requirement for a favorable recommendation by the appropriate government agency  
28 under Section 7[9]8 of the **REVISED** Corporation Code of the Philippines.



1 A favorable recommendation by a governmental agency with a competition mandate  
2 shall give rise to a disputable presumption that the proposed merger or acquisition is  
3 not violative of this Act.”

4 **SECTION 9.** A new Section 18 is added to Republic Act 10667 as follows:

5 “**SEC. 18. MOTU PROPRIO REVIEW. — THE COMMISSION MAY INITIATE A MOTU**  
6 **PROPRIO REVIEW OF A MERGER OR ACQUISITION WHICH IT REASONABLY**  
7 **SUSPECTS MAY SUBSTANTIALLY PREVENT, RESTRICT, OR LESSEN**  
8 **COMPETITION.**

9 **THE COMMISSION SHALL ISSUE A NOTICE TO THE PARTIES TO THE**  
10 **AGREEMENT UPON INITIATION OF REVIEW, INCLUDING INTERIM ORDERS AND**  
11 **A REQUEST FOR INFORMATION IT DEEMS REASONABLY NECESSARY TO THE**  
12 **CONDUCT OF ITS REVIEW.**

13 **FOR PURPOSES OF EFFECTIVELY MONITORING ANTICIPATED MERGERS AND**  
14 **ACQUISITIONS, THE COMMISSION SHALL BE AUTHORIZED TO GAIN TIMELY**  
15 **AND IMMEDIATE ACCESS TO PERTINENT INFORMATION AND**  
16 **DOCUMENTATION OF THE PARTIES TO THE AGREEMENT THAT WERE OR WILL**  
17 **BE SUBMITTED BY THE PARTIES TO THE SECURITIES AND EXCHANGE**  
18 **COMMISSION (SEC) FOR PURPOSES OF INCORPORATION AND OPERATIONS IN**  
19 **THE PHILIPPINES. THE SEC SHALL BE REQUIRED TO COOPERATE WITH THE**  
20 **COMMISSION IN THE PROVISION OF INFORMATION AND DOCUMENTATION,**  
21 **SUBJECT TO THE APPLICABLE LAWS, AS WELL AS PERTINENT SEC ISSUANCES**  
22 **AND RULES.**

23 **IF PARTIES RECEIVE NOTICE FROM THE COMMISSION PRIOR TO**  
24 **CONSUMMATION OF THEIR AGREEMENT, THEY ARE THEREBY PROHIBITED**  
25 **FROM CONSUMMATING THEIR AGREEMENT UNTIL THE SAME HAS BEEN**  
26 **CLEARED BY THE COMMISSION.”**

27 **SECTION 10.** Section 18 of Republic Act 10667 is hereby renumbered and amended to read  
28 as follows:

1       “SEC. 1[8]9 [Effect of Notification.] **ISSUANCE OF A DECISION BY THE**  
2       **COMMISSION.** – If [within the relevant periods stipulated in the preceding Section],

3       the Commission determines that such agreement is prohibited under Section 20 and  
4       does not qualify for exemption under Section 21 of this Chapter, the Commission may:

5       (a) Prohibit the implementation of the agreement;

6       (b) Prohibit the implementation of the agreement unless and until it is modified by  
7       changes specified by the Commission;

8       (c) Prohibit the implementation of the agreement unless and until the pertinent party  
9       or parties enter into legally enforceable agreements specified by the Commission.”

10      **SECTION 11.** Section 19 of Republic Act 10667 is hereby repealed.

11      **SECTION 12.** Section 20 of Republic Act 10667 is hereby amended to read as follows:

12       “SEC. 20. *Prohibited Mergers and Acquisitions.* – Merger or acquisition agreements  
13       that substantially prevent, restrict or lessen competition in the relevant market or in  
14       the market for goods or services as may be determined by the Commission shall be  
15       prohibited.

16       **A MERGER OR ACQUISITION THAT IS DEEMED PROHIBITED EX-POST SHALL**  
17       **BE SUBJECT TO THE NECESSARY REMEDIES AS MAY BE DETERMINED BY THE**  
18       **COMMISSION.”**

19      **SECTION 13.** A new Chapter VI is added to Republic Act 10667 to read as follows, and all  
20      subsequent provisions are to be renumbered accordingly:

21       **“CHAPTER VI GOVERNMENT INCENTIVES**

22       **SEC. 24. REVIEW OF GOVERNMENT INCENTIVES.** – **THE COMMISSION SHALL**  
23       **HAVE THE POWER TO REVIEW POSSIBLE ANTI-COMPETITIVE EFFECTS OF**  
24       **INCENTIVE SCHEMES OF THE GOVERNMENT BASED ON THE FOLLOWING**  
25       **FACTORS:**



- 1 (1) WHETHER THE INCENTIVE SCHEME GRANTS UNDUE COMPETITIVE  
2 ADVANTAGE TO AN ENTITY OR ENTITIES;  
3 (2) WHETHER THE INCENTIVE SCHEME IS PROPORTIONATE AND NECESSARY  
4 TO ACHIEVE A GIVEN EFFICIENCY OR EQUITY OBJECTIVE;  
5 (3) WHETHER THE ACTUAL BENEFIT ACHIEVED THROUGH THE INCENTIVE  
6 SCHEME OUTWEIGHS THE COST OF DISTORTING COMPETITION; AND  
7 (4) OTHER FACTORS THAT MAY BE DETERMINED BY THE COMMISSION.

8 SEC. 25. RECOMMENDATION ON GOVERNMENT INCENTIVES. - FOR  
9 INCENTIVES WHICH THE COMMISSION DEEMS TO HAVE ADVERSELY  
10 AFFECTED COMPETITION IN THE RELEVANT MARKET OR IN THE MARKET  
11 FOR GOODS AND SERVICES ACCORDING TO SECTION 24, THE COMMISSION  
12 SHALL ISSUE A RULING TO THE FISCAL INCENTIVES REVIEW BOARD,  
13 INCLUDING A RECOMMENDATION FOR REMEDIES SUCH AS THE REVISION OR  
14 REVOCATION OF SUCH INCENTIVE SCHEME AND THE RECOVERY OF  
15 INCENTIVES WITH INTEREST."

16 **SECTION 14.** Section 29 of Republic Act 10667 is hereby amended to read as follows:

17 "SEC. 29. Administrative Penalties. -

18 (a) Administrative Fines. - In any investigation under Chapter III, Sections 14 and 15,  
19 and Chapter IV, Sections 17 and 20 of this Act, after due notice and hearing, the  
20 Commission may impose the following schedule of administrative fines on any entity  
21 found to have violated the said Sections:

22 First offense: Fine of up to One Hundred Million Pesos (P100,000,000.00) **OR A FINE**  
23 **EQUIVALENT TO 10 PERCENT OF RELEVANT TURNOVER OF THE BUSINESS,**  
24 **FOR THE YEAR(S) OF INFRINGEMENT, WHICHEVER IS GREATER;**

25 Second offense: Fine of not less than One Hundred Million Pesos (P100,000,000.00)  
26 but not more than Two Hundred Fifty Million Pesos (P250,000,000.00) **OR**

1       **EQUIVALENT TO 15 PERCENT OF RELEVANT TURNOVER FOR THE YEAR(S) OF**  
2       **INFRINGEMENT, WHICHEVER IS GREATER.**

3       In fixing the amount of the fine, the Commission shall have regard to both the gravity  
4       and the duration of the violation.

5       (b) Failure to Comply With An Order of the Commission. – An entity which fails or  
6       refuses to comply with a ruling, order, **CONDITION** or decision issued by the  
7       commission shall pay a penalty of not less than [Fifty] **ONE HUNDRED** Thousand  
8       Pesos [(P50,000.00)] **(P100,000.00)** up to [Two] **FIVE** Million Pesos [(P2,000,000.00)]  
9       **(P5,000,000.00) OR 1 PERCENT OF RELEVANT TURNOVER, WHICHEVER IS**  
10       **GREATER**, for each violation and a similar amount of penalty for each day thereafter  
11       until the said entity fully complies. Provided that these fines shall only accrue daily  
12       beginning forty five (45) days from the time that the said decision, order or ruling was  
13       received.

14       (c) Supply of Incorrect or Misleading Information. – The Commission may likewise  
15       impose upon any entity fines of up to One million pesos (P1,000,000.00) where,  
16       intentionally or negligently, they supply incorrect or misleading information in any  
17       document, application or other paper filed with or submitted to the Commission or  
18       supply incorrect or misleading information in an application for a binding ruling, a  
19       proposal for a consent judgment, proceedings relating to a show cause order,  
20       or application for modification of the Commission's ruling, order or approval, as the  
21       case may be.

22       (d) Any other violations not specifically penalized under the relevant provisions of this  
23       Act shall be penalized by a fine of not less than Fifty Thousand Pesos (P50,000.00) up  
24       to Two Million Pesos (P2,000,000.00).

25       Provided that the schedule of fines indicated in this Section shall be [increased]  
26       **REVIEWED AND MAY BE ADJUSTED** by the Commission every five (5) years [to  
27       maintain their real value from the time it was set]."

28       **SECTION 15.** Section 30 of Republic Act 10667 is hereby amended to read as follows:



1 "SEC. 30. Criminal Penalties. – An entity that enters into any anti-competitive  
2 agreement as covered by Chapter III, Section 14(a) and 14(b) under this Act shall, for  
3 each and every violation, be penalized by imprisonment from two (2) to seven (7) years,  
4 and a fine of not less than fifty million pesos (P50,000,000.00) but not more than two  
5 hundred fifty million pesos (P250,000,000.00) **OR A FINE EQUIVALENT TO 10% OF**  
6 **RELEVANT TURNOVER FOR THE YEAR(S) OF INFRINGEMENT, WHICHEVER IS**  
7 **GREATER.** The penalty of imprisonment shall be imposed upon the responsible  
8 officers, and directors of the entity. When the entities involved are juridical persons,  
9 the penalty of imprisonment shall be imposed on its officers, directors, or employees  
10 holding managerial positions, who are knowingly and willfully responsible for such  
11 violation."

12 **SECTION 16.** Section 35 of Republic Act 10667 is hereby amended to read as follows:

13 **"SEC. 35. Leniency Program.** – The Commission shall develop a Leniency Program  
14 to be granted to any entity in the form of immunity from suit or reduction of any fine  
15 which would otherwise be imposed on a participant in an anti-competitive agreement  
16 as provided in Section 14(a) and 14(b) of this Act in exchange for the voluntary  
17 disclosure of information regarding such an agreement which satisfies specific criteria  
18 prior to or during the fact finding or preliminary inquiry stage of the case.

19 Immunity from suit will be granted to an entity reporting illegal anti- competitive  
20 activity before a fact finding or preliminary inquiry has begun if the following  
21 conditions are met:

22 (a) At the time the entity comes forward, the Commission has not received information  
23 about the activity from any other source;

24 (b) Upon the entity's discovery of illegal activity, it took prompt and effective action to  
25 terminate its participation therein;

26 (c) The entity reports the wrongdoing with candor and completeness and provides full,  
27 continuing, and complete cooperation throughout the investigation; and

1 (d) The entity did not coerce another party to participate in the activity and clearly  
2 was not the leader in, or the originator of, the activity.

3 Even after the Commission has received information about the illegal activity after a  
4 fact finding or preliminary inquiry has commenced, the reporting entity [will] **MAY** be  
5 granted leniency, provided preceding conditions (b) and (c) and the following  
6 additional requirements are complied with:

7 [(1) The entity is the first to come forward and qualify for leniency;]

8 [(2)] **(1)** At the time the entity comes forward, the Commission does not have evidence  
9 against the entity that is likely to result in a sustainable conviction; and

10 [(3)] **(2)** The Commission determines that granting leniency would not be unfair to  
11 others.

12 **THE COMMISSION SHALL DEVELOP SPECIFIC CRITERIA FOR QUALIFICATION**  
13 **FOR THE LENIENCY PROGRAM AS IT DEEMS APPROPRIATE.**

14 x x x"

15 **SECTION 17.** Section 37 of Republic Act 10667 is hereby amended to read as follows:

16 "SEC. 37. Non-Adversarial Remedies. – As an implementing and enforcement policy,  
17 the Commission shall, under such rules and regulations it may prescribe, encourage  
18 voluntary compliance with this Act and other competition laws by making available to  
19 the parties concerned the following and other analogous non-adversarial  
20 administrative remedies, before the institution of administrative, civil or criminal  
21 action:

22 x x x

23 (c) Consent Order. – At any time prior to the conclusion by the Commission of its  
24 inquiry **RELATING TO SECTIONS 14(c) AND 15 OF THIS ACT**, any entity under  
25 inquiry may, without in any manner admitting a violation of this Act or any other  
26 competition laws, submit to the commission a written proposal for the entry of a



1 consent order, specifying therein the terms and conditions of the proposed consent  
2 order which shall include among others the following:

3 (1) The payment of an amount within the range of fines provided for under this Act;

4 (2) The required compliance report as well as an entity to submit regular compliance  
5 reports;

6 (3) [Payment of] **AN UNDERTAKING TO PAY** damages to any private party/parties who  
7 may have suffered injury; and

8 (4) Other terms and conditions that the Commission deems appropriate and  
9 necessary for the effective enforcement of this Act or other Competition Laws.

10 x x x

11 (e) Inadmissibility of Evidence in Criminal Proceedings. – The request for a binding  
12 ruling[,] **OR** the show cause order[, or the proposal for consent order]; the facts, data,  
13 and information therein contained or subsequently supplied by the entity or entities  
14 concerned; admissions, oral or written, made by them against their interest; all other  
15 documents filed by them, including their evidence presented in the proceedings before  
16 the Commission; and the judgment or order rendered thereon; shall not be admissible  
17 as evidence in any criminal proceedings arising from the same act subject of the  
18 binding ruling[,] **OR** show cause order [or consent order] against such entity or  
19 entities, their officers, employees, and agents.”

20 **SECTION 18.** Section 52 of Republic Act 10667 is hereby amended to read as follows:

21 “SEC. 52. Transparency Clause. — Final decisions, orders and rulings of the  
22 Commission **AND THE INITIATION OF A MOTU PROPRIO REVIEW OF A MERGER**  
23 **OR ACQUISITION** shall be published on the official website **OF THE COMMISSION**,  
24 subject to Section 34 of this Act.”

25 **SECTION 19.** *Separability Clause.* – Should any provision of this Act or any part hereof be  
26 declared unconstitutional, the other provisions or parts not affected thereby shall remain  
27 valid and effective.

1   **SECTION 20.** *Repealing Clause.* – All laws, presidential decrees, executive orders,  
2   resolutions, rules and regulations or parts thereof which are inconsistent with the provisions  
3   of this Act are hereby repealed, amended or modified accordingly.

4   **SECTION 21.** *Effectivity Clause.* – This Act shall take effect after fifteen (15) days following  
5   its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

6   Approved.