

## MEMORANDUM

### COMPETITION LAW IN THE PHILIPPINES

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To date, the Philippines do not have a comprehensive and developed legislation relating to anti-trust and monopoly activities. However, there are several anti-trust bills pending before the Twelfth Philippine Congress. They are as follows:

1. Senate Bill (“S.B.”) No. 175 - An Act creating the Fair Trade Commission, prescribing its powers and functions in regulating trade competition, and monopolies and for other purposes;
2. S.B. No. 1361 - An Act providing for more effective implementation of the Constitutional mandate against monopolies, combination and restraint of trade and unfair competition by redefining and strengthening existing laws, processes and structure regulating the same, and for other purposes;
3. S.B. No. 1600 - An Act prohibiting monopolies, attempt to monopolize industry or line of commerce, manipulation of prices of commodities, asset acquisition and interlocking membership in the board of directors of competing corporate bodies and price discrimination among customers, providing penalties therefore, and for other purposes;
4. House Bill (“H.B.”) 1906 - An Act declaring unfair trade practices as acts of economic sabotage. HB 1906 declares the following acts as economic sabotage and provides criminal sanctions for the same: (i) smuggling; (ii) technical smuggling; (iii) misclassification of importation; (iv) dumping, and (v) other forms of unfair trade practices.
5. H.B. No. 198 - An Act creating a special body that shall regulate and exercise authority over monopolistic practices, combination in restraint of trade and unfair competition and appropriating funds therefore; and
6. H.B. No. 2439 - An Act penalizing unfair trade practices and combinations in restraint of trade, creating the Fair Trade Commission, appropriating funds therefore, and for other purposes.

The most significant of these bills is S.B. No. 175, proposing the passage of the “Fair Trade Act” or an Act Creating the Fair Trade Commission, Prescribing Its Powers and Functions in Regulating Trade Competition and Monopolies and For Other Purposes. This bill consolidates all anti-trust laws into one law and establishes a Fair Trade Commission (“Commission”), an executive body that will enforce the Fair Trade Act. Generally, the bill seeks to prohibit monopolies and cartels and other practices which diminish, impair or prevent competition and free trade. It defines absolute monopolies, relative monopolies and trusts which may constitute *prima facie* violations of the law. A

trust is defined as a merger, acquisition of control or any act whereby companies, partnerships, shares, equity, trusts or assets are concentrated among competitors, suppliers, customers or any other business entity. Under enumerated circumstances, the bill, if passed into law would require prior notification to the Commission before trusts are formed.

There are also laws of general application that are relevant to the regulation of anti-trust and monopoly activities.

The Philippine Constitution outlines the state policy of regulating or prohibiting monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition are to be allowed.

In relation to this policy, the Revised Penal Code of the Philippines penalizes parties entering into any contract or agreement or taking part in any conspiracy or combination in the form of a trust or otherwise, in restraint of trade or commerce, as well as penalizes those who prevent, by artificial means, free competition in the market. It also imposes penalties on parties who monopolize any merchandise or object of trade or commerce, or who combine with any other persons to monopolize said merchandise or object in order to alter the prices thereof or who spread false rumors or make use of any other artifice to restrain free competition in the market.

The Civil Code allows the recovery of damages in cases of unfair competition in agricultural, commercial or industrial enterprises. There are also other laws on unfair competition pertaining to the protection of intellectual property rights.