

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 45

DESIGNATING THE DEPARTMENT OF JUSTICE AS THE COMPETITION
AUTHORITY

WHEREAS, Section 20, Article II of the 1987 Constitution provides that the State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments;

WHEREAS, Sections 13 and 19, Article XII of the 1987 Constitution provide that the State shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity and shall regulate or prohibit monopolies when the public interest so requires;

WHEREAS, recent developments from the World Trade Organization (WTO), the ASEAN Free Trade Area (AFTA), and the trade liberalization initiatives under the Asia Pacific Economic Cooperation (APEC) forum advocate competition in domestic and international trade;

WHEREAS, there is a need to promote competition and level the playing field in the market;

WHEREAS, Republic Act No. 4152 approved on 20 June 1964 vests upon the Secretary of Justice the duty *"to study all laws relating to trusts, monopolies and combinations, to draft such legislation as may be necessary to update or revise existing laws to enable the Government to deal more effectively with monopolistic practices and all forms of trusts and combination in restraint of trade or free competition and/or tending to bring about non-competitive prices of articles of prime necessity, to investigate all cases involving violations of such laws, and to initiate and take such preventive or remedial measures, including appropriate judicial proceedings to prevent or restrain monopolization and allied practices or activities of trust, monopolies and combinations"*;

WHEREAS, Act No. 3247 enacted on 1 December 1925 and Article 186 of the Revised Penal Code, as amended, both penalize monopolies and combinations in restraint of trade;

WHEREAS, the Department of Justice (DOJ) is the principal legal counsel and prosecution arm of the government under Section 3, Chapter 1, Title III, Book IV of Executive Order No. 292 (Administrative Code of 1987) and also the central authority for matters requiring international legal cooperation;



Office of the President of the Philippines



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WHEREAS, the DOJ likewise serves as the principal agency mandated to enforce the rule of law and investigate and prosecute offenders; and,

WHEREAS, the President, under Article VII, Section 17 of the Constitution, has the power and control over executive departments, bureaus and offices, as well as the continuing authority under existing laws to reorganize such executive departments, bureaus and agencies.

NOW, THEREFORE, I, BENIGNO S. AQUINO III, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. Designation of Competition Authority. The DOJ is hereby designated as the Competition Authority with the following duties and responsibilities:

- a. Investigate all cases involving violations of competition laws and prosecute violators to prevent, restrain and punish monopolization, cartels and combinations in restraint of trade;
- b. Enforce competition policies and laws to protect consumers from abusive, fraudulent, or harmful corrupt business practices;
- c. Supervise competition in markets by ensuring that prohibitions and requirements of competition laws are adhered to, and to this end, call on other government agencies and/or entities for submission of reports and provision for assistance;
- d. Monitor and implement measures to promote transparency and accountability in markets;
- e. Prepare, publish and disseminate studies and reports on competition to inform and guide the industry and consumers; and
- f. Promote international cooperation and strengthen Philippine trade relations with other countries, economies, and institutions in trade agreements.

SECTION 2. Office for Competition. There is hereby created the Office for Competition under the Office of the Secretary of Justice to carry out the duties and responsibilities set forth in Section 1. The Office shall be manned by such number of staff including legal and technical experts, consultants and resource persons to effectively and efficiently pursue its mandate. The Secretary of Justice shall designate the Chief/Head and members of the said Office.



SECTION 3. Funding. To carry out the provisions of this Order, initial funds for the operations of the Office for Competition shall be taken from the available funds of the DOJ. Thereafter, such amount as may be deemed necessary for the annual operations of said Office, shall be incorporated and included in the annual budgetary appropriations of the DOJ.

SECTION 4. Separability Clause. If any provision of this Executive Order is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SECTION 5. Repealing Clause. All orders, rules, regulations, and issuances, or part thereof, which are inconsistent with this Executive Order, are hereby repealed, amended, or modified accordingly.

SECTION 6. Effectivity. This Executive Order shall take effect immediately upon publication in a newspaper of general circulation.

DONE, in the City of Manila, this 9th day of June, in the year of our Lord, Two Thousand Eleven.



By the President:



PAQUITO N. OCHOA, JR.
Executive Secretary

