BATTLING THE MONOPOLISTIC EMPIRE

Throughout various sectors of the Philippine economy today, a phenomenon is unfolding that many people notice but tend to ignore or dismiss as nothing but an inescapable fact of economic life.

One sees aspects of it happening in, for example, the retail sector, more specifically in the supermarket section of certain malls where products are routinely repacked, rebranded and resold at mall-set prices. The repacked items are marketed as more affordable alternatives but consumers cannot really be sure: the original supplier price is unknown and could be just as cheap or even cheaper, with the mall possibly marking up the retail price by a few more centavos or pesos.

It's an open secret that suppliers don't mind having their products repacked and rebranded for as long as they get guaranteed business and outlets for their products. The practice has a double negative effect: on consumers who are robbed of the right to choose products based on real prices and quality, and on small businesses who are boxed out of the mall supply chain on account of their not being able to abide by mall rules on supply exclusivity ("you can't supply us if you're also supplying our competitors) or not having enough "rope" to cope with mall-imposed payment terms on their deliveries.[1]

The phenomenon can also be observed in the bigger strategic sectors such as the airline and shipping industries where it has been long-established reality.

AIRLINE INDUSTRY

In the airline industry particularly during the time of Philippine Airlines' (PAL) lone rule of the Philippine skies, travelers used to contend (they still do!) with often delayed and/or cancelled flights and poor in-flight service quality. Despite these shortcomings, PAL was able to impose high fare rates that travelers had to pay because they had no other choice. Then came the 1997 Asian financial crisis, which hit PAL hard, forcing it to downsize its operations, cut virtually all domestic services excluding routes operated from Manila, reduce the size of its fleet and terminate the jobs of thousands of employees. The airline was placed under receivership in 1998, gradually restoring operations to many of the destinations it formerly serviced. PAL eventually exited receivership in 2007 with ambitious plans to re-operate in its previously serviced destinations and to diversify its fleet.[2]

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[1] From accounts of consumers attending SLAM public forums

[2] Philippine Airlines, Wikipedia, the Free Encyclopedia, retrieved 8 July 2011 from http://en.wikipedia.org/wiki/Philippine_Airlines

PAL's weakening provided an opening into the market for Cebu Pacific Airlines, a low-cost airline wholly owned by JG Summit Holdings, a subsidiary controlled by the Gokongwei family, one of the richest Filipino-Chinese families. Cebu Pacific entered the market in March 1996 with a promise to give "low fare, great value" to every Juan who wanted to fly. Cebu Pacific is considered to be the pioneer in creative pricing strategies as it manages to offer the lowest fare in every route it operates. The company has also partnered with various destination hotels, car rental service, travel insurance and entertainment ticketing service, to provide its guests a more convenient travel experience. [3]

Apparently to counter Cebu Pacific's entry, PAL established Air Philippines in 1995. Air Philippines officially took to the skies a year later and now flies to routes that are also being served by rival Cebu Pacific. In 2010, Air Philippines was relaunched as Air Philippines Express, positioned to give Cebu Pacific "serious competition" and to "capture the market being served by Cebu Pacific". To achieve this, both PAL and Air Philippines are looking to strengthen their operations with modest fleet and route-network buildups despite predictions by the International Air Transport Association of a dip in industry earnings due to higher fuel prices. The two airlines have had close complementation in their flight operations, feeding passengers into each other's networks and ensuring seamless connections via their joint hubs at NAIA Centennial Terminal 2 in Manila and Mactan International Airport in Cebu. Air Philippines is 99% owned by the Lucio Tan Group. PAL, meantime, is 95% owned by Tan, patriarch of yet another of the country's richest Filipino-Chinese families.[4]

SHIPPING INDUSTRY

In the shipping sector, the Visayas and Mindanao inter-island shipping routes remain among the country's busiest in terms of both passenger and cargo traffic. Up till the early 1990s, these routes were plied by ships belonging to basically three companies – Aboitiz, William Lines and Gothong. There were, and still are, smaller companies operating particularly the shorter island-to-island routes but these are basically large motorized banca operations that could not compete with the bigger tonnages that the Aboitiz, William Lines and Gothong have for the longer Manila-and-back routes.

In 1996, the three companies decided to strengthen their hold on the market by consolidating their resources and forming WG&A, which then became the largest and most profitable shipping company in the Philippines. In 2002, however, the three companies decided to dissolve their union, with William Lines and Gothong opting to sell back their shares to Aboitiz. The merger

[3] Cebu Pacific, Wikipedia, the Free Encyclopedia, retrieved 8 July 2011 from http://en.wikipedia.org/wiki/Cebu_Pacific

[4] ABS-CBN news.com, retrieved 8 July 2011 from http://www.abs-cbnnews.com/business/03/21/10/air-philippines-give-cebu-pacific-serious-competition

appeared to be not working for the group as indicated by studies that found WG&A was not performing well, financially and operationally.[5] Analysts point to the strong competition coming from the airline industry with its budget fare for faster travel alternative as a major factor behind WG&A's poor corporate performance as a group. William Lines and Gothong wanted to cut their losses and to focus on other businesses such as the logistics and warehousing for William Lines, and shipping for Gothong, which created a new company called the Carlos Gothong Shipping Lines after its exit from the merger. Aboitiz, apparently the most solvent of the group, implemented the buy-out that would make it, as new sole owner of WG&A, the biggest, most dominant player, in the domestic shipping industry. At the time of the buy-out, WG&A was operating 23 vessels nationwide and was the largest provider of domestic ferry transportation in both the passenger and cargo business. In the first half of that year (2002), its operating profit reached P649 million, up 11 percent from the previous year's level. Net income stood at P571 million on revenues of P6.7 billion.[6] WG&A, which has since been renamed SuperFerry, is now the country's largest shipping company,with its main hub located in Pier 15 in Manila South Harbor. It has one of the more modern shipping fleets in the Philippines and operates the largest fleet of inter-island vessels in the country. SuperFerry, together with its sister companies SuperCat and Cebu Ferries, which are subsidiaries of the Aboitiz Group, services routes in Luzon (Matnog, Sorsogon, Sorsogon; Manila), the Visayas (Bacolod City, Negros Occidental, Catarman, Northern Samar, Northern Samar, Cebu City, Cebu, Dumaguete City, Negros Oriental, Iloilo City, Iloilo, Tagbilaran City, Bohol) and Mindanao (Butuan City, Agusan del Norte, Cagayan de Oro City, Misamis Oriental, Cotabato City, Maguindanao, Davao City, Davao del Sur, General Santos City, South Cotabato, Dipolog City, Zamboanga del Norte, Iligan City, Lanao del Norte, Ozamis City, Misamis Occidental, Surigao City, Surigao del Norte, Zamboanga City, Zamboanga). Superferry operates in 16 routes in the Visayas and Mindanao, five more than the 11 routes serviced by its closest rival, Negros Navigation, considered one of the coldest shipping companies in the Philippines.[7]

TELECOMMUNICATIONS INDUSTRY

In the telecommunications industry, most Filipinos have direct experience with the Philippine Long Distance Telephone Co. (PLDT), which, for decades, was the only company providing telephone services in the country. The fact that it had no rival and no incentive to improve its

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[5] "Merger In The Philippines: Evidence In The Corporate Performance Of William, Gothong, And Aboitiz (WG&A) Shipping Companies", Cabanda, Emilyn and Pajara-Pascual, Marianne, Journal of Business Case Studies, available at http://journals.cluteonline.com/index.php/JBCS/article/view/4869;
retrieved 10 July 2011

[6] Philippine Star, "Aboitiz buys out WG&A partners", Diaz, Conrado M. Diaz Jr., retrieved 11July 2011 from http://www.philstar.com/Article.aspx?articleId=170488

[7] http://medbib.com/List_of_companies_of_the_Philippines#Shipping

services made PLDT delinquent and deficient in serving the telecommunication needs of Filipinos. The standard consumer complaints then were: the unreasonably long period of time (which, for many, took years), that one could get a telephone line (and even with a line at hand, one had to pay off the PLDT lineman to make the actual connection!), no dial tone, frequent failure of calls expecially long-distance ones. Stung by criticisms that the Philippine telecommunications industry was "backward, inadequate, and a major constraint to the global competitiveness of our industries,"[8] the Ramos administration, beginning in 1993 and acting to ensure improved telecommunication services for Filipinos, made a number of legal moves aimed at opening up the industry to new players. The government's hope was for the new entrants to bring in new products and technologies that would make the Filipino's telephone woes a thing of the past. In response to government's call for the private sector to develop the telecommunications industry, new companies were born, chief among them, Smart Communications (Smart), Globe Telecom, and Digitel/Sun Cellular.

Smart, established in 1997, is a PLDT company acquired by the latter in 1998. PLDT's acquisition of Smart was seen as a strategy aimed at buffering the telecoms giant from the debilitating effects of declining revenues from the fixed line business. Today, Smart is the Philippines' leading wireless services provider with 45.6 million subscribers on its GSM network as of end-December 2010. Smart has built a reputation for innovation, having introduced world-first wireless data services, including mobile commerce services such as Smart Money, Smart Load and Smart Padala. Smart also offers 3G and HSPA services. Its Smart Link service provides communications to the global maritime industry. Smart Broadband, Inc., a wholly-owned subsidiary, offers a wireless broadband service, Smart BRO, with 1.35 million subscribers as of end-December 2010. [9]

Globe Telecom, Inc. traces its roots to a merger between American company Globe Mackay and Filipino company Clavecilla Radio Corp. The merger company was then called GMCR, Inc.; it was renamed Globe Telecom in 1998. On June 27, 2001, Globe completed the share swap transaction with Isla Communications Co., Inc. (Islacom), a company incorporated on June 15, 1990 and authorized through Republic Act 7372 to develop a full-service telecommunications network in the country. The share swap effectively made Islacom a 100%-owned subsidiary of Globe.

In September 2002, Globe announced the operational integration of Globe and Islacom's wireless networks. A key element of the integration involves the migration of existing wireless subscribers of Islacom to the improved Touch Mobile (TM) service. On August 7, 2003, the National Telecommunications Commission (NTC) approved the legal transfer of Globe's wireline business, authorizations, properties, assets and obligations to Islacom. On March 30,

[8] Osmena, John H., as quoted by Globe Telecom counsel Rodolfo A. Salalima in his letter to the National Telecommunications Commission dated 26 April 2011

[9] Smart/Know About Us, retrieved 11 July 2011 from http://smart.com.ph/corporate/about/company/

2007, Globe Telecom announced it was diversifying from its core business to take advantage of the booming broadband business. The company said it would increase its investments in cable systems and wire lines to build its broadband Internet infrastructure. Industry analysts have viewed Globe's plan to invest in cable systems as a strategy to compete more aggressively with Philippine Long Distance Telephone Company (PLDT), which took advantage of its wire line infrastructure to diversify into the broadband business. A provider of telecommunications services in the Philippines, supported by over 5,600 employees and over 750,000 retailers, distributors, suppliers, and business partners, the company operates one big and technologically-advanced mobile, fixed line and broadband networks in the country, providing communications services to individual customers, small and medium-sized businesses, and corporate and enterprise clients.[10] Globe, as of December 31, 2010, had over 26 million mobile subscribers, over 1,000,000 broadband customers, and over 600,000 landline subscribers. [11]

Established by the Digital Telecommunications Philippines, Inc. (DTPI or Digitel) in September 2001 to provide wireless public and private telecommunication services, wholly owned subsidiary Digitel Mobile Philippines, Inc. (DMPI), is one of the Philippines' leading mobile telecommunications companies known by its corporate brand name Sun Cellular. Sun Cellular commercially launched its wireless mobile services on March 29, 2003, offering the latest in GSM technology, provisioning voice services (local, national, and international calls), messaging services (short text and multi-media messaging), outbound and inbound International Roaming, and Value Added Services. Sun Cellular pioneered the intra-network unlimited wireless services in the Philippines through its 24/7 Call and Text Unlimited (CTU) and 24/7 Text Unlimited (TU). [12]These services provoked a dive in prices and a sizable shift in client bases towards the new player. Sun Cellular competitors strove to catch up with their own "unli" packages.

MONOPOLIES AND MONOPOLISTIC BUSINESS PRACTICES

The above-described are business practices that companies, especially the big players in an industry, engage in to corner a large share of the market. The basic objective of such practices is for companies to edge out their competitors, using whatever advantages they have in terms of resources and technology, access to markets and supplies. Such practices are the hallmarks of monopolies, which arise when a business, usually a large corporation, is the only provider of a good or service. Monopolies are usually bad for an economy because they restrict free trade, which allows the market itself to set prices. Since monopolies are the only provider, they can set pretty much any price they choose, regardless of demand, because they know the consumer has

[10]Globe Telecom, Wikipedia, the Free Encyclopedia, retrieved 11 July 2011 from http://en.wikipedia.org/wiki/Globe_Telecom

[11] Globe Telecom press release, "Globe mobile subscriber base surged to 26.5 million in 2010," retrieved 11 July 2011 from https://sites.google.com/site/globepressreleases/february-2011/globemobilesubscriberbasesurgedto265millionin2010

[12]Digitel company profile, retrieved 11 July 2011 from http://www.digitel.ph/about.htm

no choice. They can also supply inferior products. They are also bad for an economy because the manufacturer has no incentive to innovate, and provide "new and improved" products.

In the United States, monopolies were made illegal in 1890 by the Sherman Anti-Trust Act. It was called Anti-Trust because that was the form that monopolies held in those days. A trust was an arrangement by which stockholders in several companies transferred their shares to a single set of trustees. In exchange, the stockholders received a certificate entitling them to a specified share of the consolidated earnings of the jointly managed companies. The trusts came to dominate a number of major industries, destroying competition. A group of companies formed a trust to fix prices low enough to drive competitors out of business. Once they had a monopoly on the market, these trusts would raise prices to regain their profit.[13]

An example of a trust was the one formed in America on January 2, 1882, called the Standard Oil Trust. A board of trustees was set up, and all the Standard properties were placed in its hands. Every stockholder received 20 trust certificates for each share of Standard Oil stock. All the profits of the component companies were sent to the nine trustees, who determined the dividends. The nine trustees elected the directors and officers of all the component companies. This allowed the Standard Oil to function as a monopoly since the nine trustees ran all the component companies.[14]

The Sherman Anti-Trust Act was initially aimed at dismantling the Standard Oil, which had 70 companies and 23 refineries controlling 84% of the crude oil refined in the US in 1899. The American public saw this as an excessive concentration of economic power in a single entity and the Roosevelt administration, using the new law, went after Standard Oil, which it accused of discriminatory practices on the market, abuse of power and excessive control on the American oil industry. In 1911, the Supreme Court also found Standard Oil in violation of the 1890 Sherman Antitrust Act because of excessive restrictions to trade, and in particular its practice of buying out the small independent refiners or that of lowering the price in a given region to force bankruptcy of competitors. The court ordered Standard Oil Company (New Jersey) to dismantle 33 of its most important affiliates, giving the stocks to its own shareholders and not to a new trust. This gave rise to the formation of new companies such as Exxon, Mobil, Chevron, American, and Esso.[15]

The Sherman Anti-Trust Act, which has become the source of all anti-monopoly laws in the US, forbids every contract, scheme, deal, conspiracy to restrain trade. It also “forbids conspirations to secure monopoly of a given industry.” More specifically, the Sherman Act targets activities restricting marketplace competition. The Act’s sweeping prohibition of “[e]very contract, combination … or conspiracy” in restraint of interstate or foreign trade or commerce, set forth in its first section, addresses collusive or exclusionary group behavior. Section 2, prohibiting

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[13] http://useconomy.about.com/od/glossary/g/monopoly.htm
[14] http://www.ourdocuments.gov/doc.php?flash=true&doc=51
[15] http://www.micheloud.com/FXM/so/antitrust.htm

monopolization and attempted monopolization, primarily addresses single-firm conduct, although it also condemns conspiracies to monopolize. Violations of the act currently are punishable by fines of up to $350,000 for individuals and up to $10 million for corporations, as well as by imprisonment of up to three years. Both the United States and private parties can seek federal court injunctions against threatened breaches of the act and are entitled to collect three times the amount of any injury they have sustained because of its violation. In addition, individual states are authorized to sue for treble damages on behalf of injured natural persons residing in the state.[16]

MONOPOLIES AND MONOPOLISTIC BUSINESS PRACTICES IN THE PHILIPPINES

Monopolies and monopolistic practices are likewise considered illegal in Philippines. The 1987 Constitution provides the legal underpinning for the regulation and prohibition of anti-competitive practices. As articulated in Sec. 19, Art. XII of the 1987 Constitution, "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." Notably, while combinations in restraint of trade and unfair competition are explicitly proscribed, there is no presumption of illegality when it comes to monopolies. Government regulation or prohibition only comes into play when the public interest requires.

The organic law, however, does not explain what constitutes an illegal monopoly nor define what combinations in restraint of trade or unfair competition are. In Tatad v. Secretary of Energy and Secretary of Finance, the Supreme Court explained that, "A monopoly is a privilege or peculiar advantage vested in one or more persons or companies, consisting in the exclusive right or power to carry on a particular business or trade, manufacture a particular article, or control the sale or the whole supply of a particular commodity. It is a form of market structure in which one or only a few firms dominate the total sales of a product or service. On the other hand, a combination in restraint of trade is an agreement or understanding between two or more persons, in the form of a contract, trust, pool, holding company, or other form of association, for the purpose of unduly restricting competition, monopolizing trade and commerce in a certain commodity, controlling its, production, distribution and price, or otherwise interfering with freedom of trade without statutory authority. Combination in restraint of trade refers to the means while monopoly refers to the end."

The Supreme Court, in Agan v. PIATCO, held that, "monopolies are not per se prohibited by the Constitution but may be permitted to exist to aid the government in carrying on an enterprise or to aid in the performance of various services and functions in the interest of the public. Nonetheless, a determination must first be made as to whether public interest requires a

[16] http://www.answers.com/topic/sherman-antitrust-act

monopoly. As monopolies are subject to abuses that can inflict severe prejudice to the public, they are subject to a higher level of State regulation than an ordinary business undertaking."[17]

Republic Act (RA) No. 7925, otherwise known as the Public Telecommunications Policy Act of the Philippines, which was passed to substantiate Sec. 19, Article XII of the 1987 Constitution, only refers to monopolies and monopolistic practices in its enumeration of the responsibilities of the National Telecommunications Commission (NTC) under Section 5, to "foster fair and efficient market conduct through, but not limited to, the protection of telecommunications entities from unfair trade practices of other carriers; promote consumers welfare by facilitating access to telecommunications services whose infrastructure and network must be geared towards the needs of individual and business users; and, protect consumers against misuse of a telecommunications entity's monopoly or quasi-monopolistic powers by, but not limited to, the investigation of complaints and exacting compliance with service standards from such entity."

There are, however, proposals pending in the Senate that further deepens the definition of a monopoly. One such proposal refers to a monopoly as "a privilege or undue advantage of one or more firms, consisting in the exclusive right to carry on a particular business or trade, and/or manufacture a particular product, article of object of trade, commerce or industry. A monopoly, the Senate proposal further states, is "a form of market structure in which one or only a few firms dominate the total sales of a product or service."

The proposal also defines "monopoly power or dominant position" as referring to "a situation where a firm, either by itself or acting in collusion with other firms, is in a position to control a relevant market for the sale of a particular good or service by fixing its prices, excluding competitor firms, or controlling the market in a specific geographic area." [18]

In the examples of monopolistic practices described at the beginning of this paper, two cases are, at a glance, already violative of the aforementioned tenets, that is, if the Senate bill proposing them is adopted and effected into law. Such cases are that of the mall-run supermarkets whose practice of repacking, rebranding and repricing products and whose policy of supply exclusivity are clearly against the grain of the proposed prohibitions against control of a relevant market for the sale of a particular good or service by fixing prices." Such practice and policy are also violative of the proposed prohibition against abuse of monopoly power or dominant position, whereby "it shall be unlawful for one or more firms with monopoly power or in dominant

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[17] "Competition Laws in the Face of the Merger Wave," Agra, Alberto C. and Miguel- Rañola and Faye Josephine R.,/Forensic Solutions position paper, available at http://forensicsolutions.info/page17.html, retrieved 11 July 2011

[18] Senate Bill No. 123, filed by Sen. Juan Ponce Enrile during the 14th Congress, entitled 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."

position within relevant markets to abuse their dominant position by engaging in unfair methods of competition, or in unfair or deceptive trade practices …with the purpose and effect to prevent , restrict or distort competition.” The merger among Aboitiz Shipping, William Lines and Gothong Lines into WG&A may be construed as an attempt to control the market in a specific geographic area, i.e., the Visayan interisland shipping route.

As pointed out, monopolies are bad for the economy. But this is not always the case. Sometimes a monopoly is necessary to ensure consistent delivery of a product or service that has a very high up-front cost. This is true, for example, with electric and water utilities. Since it is so expensive to build new electric plants or dams, it made economic sense to allow a monopoly for a particular area. To protect the consumer, in the US, these industries were regulated by the federal and local government. The companies were allowed to set prices to recoup their costs and a reasonable profit. [19]

This, essentially, was the argument that the Philippine government used when it operated the Manila Electric Company or Meralco and the Metropolitan Waterworks and Sewerage System (MWSS) as monopolies during the martial law era. The advent of democratization in the late 80s broke the hold of Marcos cronies, to which the martial law government had awarded control and even ownership of public utilities, on Meralco and MWSS. Further deregulation and liberalization in the 1990s gave way to the entry of independent power producers as alternative generators and distributors of electric supply. The privatization of MWSS took the operation of the water utility away from government and into what was considered to be the more efficient hands of private companies, i.e., the Lopez-owned Maynilad and the Ayala-owned Manila Water Co.

BENEFITS OF DEMONOPOLIZATION

In other sectors such as the airline, shipping and telecommunication industries, deregulation and liberalization has led to the dismantling of monopolies such as PAL in the airline industry and PLDT in the telecommunications industry. The beneficial effects of deregulation and liberalization, particularly for consumers, has come mainly in the form of lower plane fares in the airline industry and diversified services in the shipping industry. In the telecommunications industry, the entry of new players has been such that within a decade since the government started the liberalization process, the Philippines was already being tagged worldwide as a cellphone and texting capital with mass access to the technology reaching unprecedented levels.

According to the National Statistical Coordination Board (NSCB), in 2007, the total number of cellular mobile telephone (CMT) subscribers was estimated at 57.3 million, almost 15 times more than the number of fixed line telephone subscribers estimated at 3.9 million. Data from the National Telecommunications Commission (NTC) also show that CMT subscription started to outnumber fixed line subscription in 2000 when it registered a ratio of 2 to 1.

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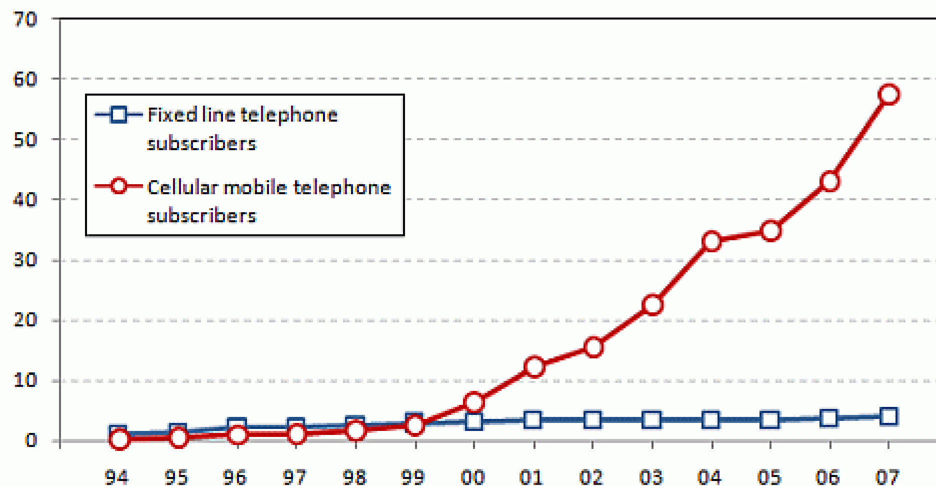
[19] http://useconomy.about.com/od/glossary/g/monopoly.htm

The 2007 level of CMT subscribers is 33.6% higher compared to its 2006 level of 42.9 million while the number of fixed line telephone subscribers only grew by 8.4% from 3.6 million in 2006. For the period 2000 to 2007, the number of CMT subscribers continuously increased at an annual average growth rate of 31.4% while that of fixed telephones only increased at 3.2%.

NTC data further reveal that in 2007, CMT density was estimated at 65.93 per 100 population and fixed line telephone density in the country was estimated at 8.24 per 100 population.

The figure below shows that number of fixed line telephone and mobile cellular telephone subscribers during the period 1994 – 2007.[20]



Source: National Telecommunication Commission as cited by NSCB

REVERSING DEMONOPOLIZATION

Demonopolization indeed has brought benefits for consumers in many industries. But it is on the retreat, its gains threatened by processes and practices of business expansion and market consolidation that can only be described as monopolistic in nature. The irony is that this process of re-monopolization is being triggered by the very government policies that started it in the first place: deregulation and liberalization.

True, liberalization has improved the quality of and access to products and services by consumers and prevented the establishment of monopolies in such sectors as the airline and shipping industries. But this has happened only largely through the operation of market forces. Deregulation has not only robbed the country of the chance to steer its private sector towards the development direction that it needs. It has also allowed the biggest companies in the biggest industries to engage in and get away with monopolistic business practices.

THE PLDT-DIGITEL MERGER CASE

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[20] http://www.nscb.gov.ph/factsheet/pdf08/FS-200801-NS1-01.asp

On March 28, 2011, dominant telecommunications industry player PLDT announced it was acquiring 51.5% majority ownership of Gokongwei-owned operator Digitel, which owns the Sun Cellular brand, for a total value of P74.1 billion.

With the merger, the combined market share in the cellular space of PLDT and Digitel would now stand at 67%. Digitel will add approximately 450,000 subscribers to PLDT's current base of 1.8 million subscribers.

PLDT said its investment in Digitel will allow for the creation of "a more capable telecommunications company which will be better-positioned to provide higher quality and even more affordable services to fixed line, wireless, and broadband subscribers addressing a wide range of consumer demand — from voice to SMS to data and Internet and video services."

PLDT also said that it "intends to keep the mobile operations of Digitel separate and intact, and to maintain and capitalize on Sun Cellular's operations and significant brand equity to continue serving specific segments of the market, especially those who prefer 'unlimited' type of services."

"Though this initiative alters the country's telecom landscape, we expect competition within the industry to remain very robust given that other operators, including new entrants, are formidable and well-funded," said PLDT Chair Manuel V. Pangilinan. "And as I have alluded to in previous statements, we face growing competition not just from other telcos but also from the so-called 'over the top' or OTT service providers that offer social networking, instant messaging and VoIP services," he added.[21]

Rival telcos, particularly Globe, which many observers view as the real object of PLDT's acquisition play with No. 3 player Digitel, have denounced the PLDT-Digitel merger "as a throwback to the dark ages when one dominant player was free to dictate pricing without having to deliver better services to consumers. Globe has asked the government to intervene and stop the merger.

According to Globe, the recent acquisition by PLDT of majority control of Digitel "undermines and strikes at the heart of RA 7925, which was enacted to "liberalize and demonopolize telecommunications services in the country."

"With so much clout, significant market power and influence now consolidated and vested in the PLDT group, free competition is threatened and ultimately the public good is gravely placed at risk," Globe further aid.[22]

PLDT has denied the monopolization charges, saying Globe was just "sour-graping", having lost an earlier bid to buy Digitel.[23] Be that as it may, the following facts remain:

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[21] SLAM newsfiles

[22] Globe Telecom's April 26, 2011 letter to the government to "level the playing field" and "prevent a return to the dark age" of monopoly in the telecommunications industry

[23] SLAM news files

1. The PLDT-Digitel deal, which will affect 9 out of 10 Filipinos (given a total of 82 million subscribers against a population of 92 million), will, as Globe and other telcos claim, allow the PLDT group to corner 70% of the market. The combination of Smart's 45 million subscribers and Sun's 15 million subscribers will definitely serve as a clear advantage against Globe, which currently has a subscriber base of only 25 million. Such control of the market by itself already indicates the existence of a monopoly based on internationally recognized anti-monopoly rules that considers a company to be a monopoly when it controls more than 50% of the market even if does not yet engage in overtly monopolistic practices. More specifically, according to such rules, "to be punishable, a dominant carrier or monopoly need not necessarily engage in acts 'in restraint of trade or free competition', nor is proof thereof required by law. It is enough that the monopoly or dominant carrier violates the structural limitation that one carrier or group must never control 50% or more of the total market in any service sector, otherwise it shall be branded as a monopoly or dominant carrier sanctionable and subject to stricter regulation for the protection of market rivals."

2. The deal will also allow the PLDT group to further control the market with its acquisition of more radio frequencies for the operation of mobile services. PLDT itself has admitted it has 77% more frequencies than Globe but that it has 126% more subscribers. Globe has claimed that the ratio of the spectrum holdings of Globe and PLDT on the 3G 2100 Mhz spectrum stands at 1:3.5 in favor the latter. With more frequencies in its possession, PLDT is placed in a position to further diversify its product and service offerings to the public and with this, to further attract more customers to its side. For Globe, PLDT's control of more than thrice as many 3G frequencies will prevent it (Globe) from improving its services due to limited resources. Globe has called on the NTC to reallocate the frequencies "more equitably" among all industry players so that all will have the tools to better compete with one another. PLDT has refused to surrender its excess frequencies, saying they are already in use. [24]

SLAM's POSITION

We, the Samahan Laban sa Monopolyo (SLAM), are Filipino citizens dedicated to the prevention of the establishment of monopolies in the country, to let Filipino consumers exercise their right to freedom of choice in a market where products and services abound and quality is assured as a result of free and fair competition among companies and industry players. We are also an active advocate of an empowered government that knows the laws and the powers such laws have invested in it. We want a government that is able to just say no and throw the book on monopolistic companies whichever they are and wherever they may be operating in the country.

We register our opposition to the above-mentioned developments in the telecommunications industry not on the basis of what one party in the controversy is saying about the other. For all we know, the accusations that PLDT and Globe are throwing against each other are just a case of "the pot calling the kettle black." If the tables were turned and Globe, as PLDT has claimed, had won its own bid to buy Digitel/Sun Cellular, would it not be doing the same thing that PLDT is doing to dislodge the market leader and become the dominant player itself? We are for the Filipino consumers who, for a long time now, have been under the mercy of telecommunications companies who engage in monopolistic practices that diminish the quality of products and

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[24] Ibid., Globe Telecom's 26 April 2011 letter to the government

services consumers spend much of their hard-earned money on. We resonate with the complaints of consumers about the following:

- "Stolen" loads
- Single text messages that become 2 or 3 messages when received
- False advertising, such as post-paid promos and loyalty programs that fail to deliver on their promises (where, for instance, lower-end hand-phones are issued to loyal subscribers instead of the high-end ones promised on grounds that these have already gone out of stock). Many promos that promise free products or services are not actually free.
- Payment of SMS or text messages. There was a time early on in the advent of cellular and mobile telephony services in the country, when texting was free. This, until the telcos realized consumers were using the SMS feature of cellphones, which was free, more than the call feature, which is paid for. An opportunity to earn mega-profits arose that the telcos exploited by levying a P1 charge for each SMS. This was later reduced to P0.50, which remains a non-consolation because telcos do not really spend on the installation of the SMS feature in their infrastructure, and therefore do no have a cost to recover from the same.
- 2 to 3 years locked-in contracts that cannot be discontinued in spite of poor, even non-service
- One company offers 120 hours free upon purchase of a wireless services but these free hours must be used within 5 days or 120 hours straight. A consumer has to pay again for a reload on the 6th day.
- Time limits in the use of loads, which should not be the case. The service is paid for and should not be time-bound.[25]

THE ARROGANCE OF A DOMINANT MARKET PLAYER

We are, however, particularly irked by PLDT's actuations in its merger deal with Digitel. Firstly, PLDT has not responded directly to accusations that the merger has the hallmarks of a monopoly in the making, belittling such accusations as just "sour-graping" on the part of its competitors. PLDT has also dismissed its main rival's claim that the former wields monopolistic control of radio frequencies, saying that this was just a smokescreen for the latter's failure to "efficiently" use its own frequency allocation. While this may be true, PLDT, with its assertion, appears to be drawing attention away from the larger possibility: that its hold on more frequencies will allow it to make more investments on new products and services to entice the market with. Conversely, its rivals, with less access to frequencies, will not be able to do the same.

We assert that with PLDT effectively controlling 70% of the telecom market (that is, if government gives the go-signal on the telco giant's merger with Digitel) and almost 90% of telecom frequencies in the country, it will enjoy such dominance to a level that it will be able to eventually force out all competition (especially with Globe Telecom as the only remaining major player), thereby becoming sole owner of the entire telecoms industry. Eventually, too, PLDT will be able to price its products and services with no heed of price controls. A free market will then

[25] From accounts of consumers attending SLAM public forums

cease to exist and Filipino telecom product and service consumers will no longer enjoy the freedom of choice.

PLDT's actuations in the merger deal are manifestations of the arrogance of the dominant market power particularly in its apparent cavalier attitude that it can go ahead with the deal without government having any say on it. As one commentator, respected newspaper columnist Amando Doronilla, has put it: PLDT has been "pushing the monopolistic merger, brushing aside norms of fair competition, and apparently believing that the Philippine state is non-existent."[26]

"PLDT makes it appear that the P74.1 billion deal was a market transaction in which the telcom giant agreed to acquire 51.55% stake in Digitel and undertake a mandatory tender offer to minority investors. According to PLDT, the deal does not require intervention by the NTC, the government's regulatory agency," Doronilla has said.[27]

The problem with PLDT's position is that it seems to be forgetful of the fact that its business involves a public utility and therefore government must have a say in all dealings relating to such public utility particularly when consumer interests are at stake. This is the same dismissive posturing that one can detect in PLDT's insistence that it needs to get more radio frequencies because it needs to be able service more consumers. With this, PLDT seems to be saying that it alone can deliver the public service despite the fact that there are other companies that are also capable of doing the same, give the chance in a level-playing field. PLDT seems to be also saying that it alone, being the market leader, has the right to possess more radio frequencies and that it can enjoy such a right for as long as it remains the market leader. This goes against the spirit of the law (RA 7925), which stipulates that "the radio frequency spectrum is a scarce public resource that shall be administered in the public interest." Its allocation and assignment "shall be subject to periodic review" and "where demand for specific frequencies exceed availability, the (government) shall hold open tenders for the same and ensure wider access to this limited resource." What the law is saying, for us, is clear: no entity can enjoy access to more radio frequencies simply by reason of market dominance.

PLDT's insistence that it has the right to own more radio frequencies because it has more customers to service smacks of the same arrogance that it has shown in refusal to abide by a Supreme Court ruling promulgated on October 18, 1990, ordering PLDT to allow Express Telecom , Inc. to interconnect with the facilities of the former on the reasoning that:

> …(T)he interconnection which has been required of PLDT is a form of intervention with property rights dictated by the objectives of the government to promote the rapid expansion of telecommunications facilities in all areas of the Philippines … to maximize the use of telecommunications facilities available … in nation-building … and to insure that all users of public telecommunications servie have access to all other users of the service wherever they may be in the Philippines at an acceptable standard of service and at reasonable cost.

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[26] "Monopolistic rampage," Doronilla, Amando, Philippine Daily Inquirer, 1 June 2011
[27] Ibid.

In failing or refusing to abide by this Supreme Court ruling for the last 20 years now, PLDT falls true to the form warned against by the authors of RA 7925, the law demonopolizing the telecommunications industry. According to these authors:

> Interconnection among carriers is made mandatory in order to provide a full range of connection possibilities to customers. Where there are a number of operators of comparable size, interconnection is unlikely to pose a major problem because it is in everybody's interest to resolve a problem as quickly as possible. However, when a new competitor is entering a market dominated by an established carrier, the dominant carrier has every incentive to delay the establishment of connections and to impose ridiculous access charges.

The failure of interconnection, more specifically, the refusal of PLDT/Smart to interconnect with other providers and the resulting lack of incentive on the part of the latter to do the same has resulted in one of Filipino telecom users' principal complaints: their failure to establish contact with users in other networks due to loss of signal between and among such networks particularly during peak times of cellular phone use.

BEYOND TELECOMS AND THE PLDT-DIGITEL MERGER DEAL

There are larger issues than has already been discussed about the PLDT-Digitel merger deal. One is government's, in this case, the National Telecomunications Commission's (NTC) failure to enforce the law, in particular, RA 7925, which had been passed precisely to break PLDT's monopoly hold on the industry. As Doronilla has also stated: "The NTC (has) appeared inert and reluctant to assert its regulatory powers under the law , as if waiting for a cue from President (Aquino) on whether to preempt initiatives taken by PLDT to push the merger, with the least intervention from the government."[28]

We have been witness to this apparent lack of initiative, nay, activism, on the part of the NTC during the series of public meetings that the agency has conducted on the PLDT-Digitel merger issue. During the first meeting held on May 23, we noticed how the NTC officer in charge of the proceedings was surprised that there were many parties interested in scrutinizing the merger deal and that many were opposed to it. The officer then ordered all opposing parties to submit their position papers within two days of the first meeting. This, opposing parties protested, saying the time given was too short for them. The NTC gave in to the extent of extending not only the deadline for the submission of position papers but also the deadline for decision-making on the merger deal, from June 30 originally proposed by PLDT to July 30. At that time, however, we were of the impression that the NTC was just fast-tracking things so that PLDT's June 30 deadline could be followed. The NTC seemed to be of a mind then that the PLDT-Digitel merger transaction was a done deal and that all that needed to be done was but procedural and ministerial on its part. The NTC then declared that henceforth all hearings on the matter would be done in Congress, a move that also gave us the impression that NTC was shirking on its responsibility to exercise its inquisitorial powers in aid of regulatory decision-making under the law, and passing the heat on to Congress where only inquiries in aid of legislation and no

[28] Ibid., Doronilla, PDI 1 June 2011

decision-making can be made on the merger deal. Such an actuation and attitude on the part of a regulatory agency such as the NTC smacks of an institutional wimp that shakes in fear of the juggernaut moves of a dominant market player, that would do anything, even nothing, to let such market player get away with its schemes. How else can one explain NTC's allowing PLDT to flaunt the Supreme Court's ruling on interconnection for 20 long years now? How else can one also explain NTC's failure to exercise its mandate to manage the scarce radio frequency resource by allocating it equitably to all players in the telecommunications industry?

FIRST PACIFIC GROUP: AN EMPIRE IN THE MAKING

Beyond NTC's weaknesses, there is also the larger issue of government's failure to check the monopolistic practices of the First Pacific group, majority owner of PLDT. The telco giant is chaired by Manuel V. Pangilinan, who founded First Pacific 20 years ago and remains leader of the Hong Kong-based holding company. Aside from PLDT, First Pacific also holds stakes in Maynilad Water Services, Inc., Metro Pacific Tollways Corp., Medical Doctors, Inc., and Metro Rail Transit. These are strategic utilities which Mr. Pangilinan chairs and therefore controls through First Pacific.

With these network of enterprises, First Pacific's interests now range from telecommunications, water, infrastructure, roads, hospitals, health services, power distribution (Meralco), mining (Philex Mining) public transport, and media industry. It also plans to expand into railways and airport operations by bidding for several government projects.

We share the concern of other sectors about the extent of power that First Pacific and Mr. Pangilinan now wields over major sectors of the Philippine economy. The manner by which First Pacific has expanded in scale and extent brings to mind the American trusts of the late 19th century, whose power and scope of influence had so instilled a fear in the American public about the concentration of power in a few that they caused the passage of such an anti-monopoly law as the Sherman Anti-Trust Act. Mr. Pangilinan and his First Pacific group have become the most powerful economic entities in the country. Unless they are checked, Mr. Pangilinan and his First Pacific group will become politically powerful enough to dictate not only the shots in the telecommunications industry but in all other s strategic sectors as well.[29]

President Aquino, in his first State of the Nation address, has said: *Bawal ang monopoly, bawal ang mga cartel na sasakal sa kumpetisyon. Kailangan po natin ng isang Anti-Trust Law na magbibigay buhay sa prinsipyong ito.* Mindful of this message, we urge the President to expand his order to probe monopolistic business practices to include not only the PLDT-Digitel deal but also other transactions of a similar nature that the First Pacific group has forged or is planning to enter into in other sectors of the economy. We also urge the President to expand this probe to also include other companies such those in the retail sector that are engaged in monopolistic and exclusionary business practices that harm not only consumers but also small businesses. We further urge the President to make these companies, PLDT foremost among them, the first targets of Executive Order (EO) No. 45, which he issued on 9 June 2011. Under this EO, the DOJ is designated as the Competition Authority with the following duties and responsibilities:

[29] "Will P-Noy allow PLDT to call the shots," Doronilla, Amando, Philippine Daily Inquirer, 30 May 2011

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.

As we have mentioned earlier, we want a government that is able to say no to monopolies and that is strong enough to stand up to the maneuverings of big corporate powers, particularly those that are controlled by substantial foreign interests. We are heartened and inspired by the recent Supreme Court ruling directing the Securities and Exchange Commission (SEC) to look into a possible breach of foreign ownership limits in Philippine Long Distance Telephone Co (PLDT) , and to impose sanctions if there was violation. According to the ruling, only voting or common shares could be used in calculating the capital stock of the country's second-biggest firm by market value, excluding preferred or non-voting shares which are currently included in the calculation. [30]

We view this ruling to be a strong statement that big corporate powers, especially those with substantial foreign capital backing, cannot just throw their weights around, snapping up every local business operation that they find would help strengthen their dominance over the Philippine markets. PLDT has warned that the ruling would lead to greater foreign ownership of Philippine companies. In the case of PLDT, it has said, if the court definition of capital were to be applied, PLDT would be 64% owned by foreigners, which is well above the 40 percent cap set for public utilities under the constitution.[31] But if preferred shares were included in determining PLDT's ownership structure, 87 percent of PLDT would be owned by Filipinos and 13 percent by foreigners, PLDT has said. Our question, however, is how sure are we that the 87% will actually be held by Filipinos and not by proxies acting in trust or in behalf of foreigners?

SLAM'S CALLS AND PROPOSITIONS

In view of this possible hamstring on the Supreme Court ruling, we urge the President and the Philippine Congress to heed calls and proposals for the passage of anti-trust legislations that

[30] "PLDT ownership: Rule of Law," Manila Times editorial available at http://www.manilatimes.net/index.php/dear-pao/1196-pldt-ownership-rule-of-law; retrieved 12 July 2011

[31] SLAM news files

would particularly regulate mergers and acquisitions such as the PLDT-Digitel merger deal. Specifically, Forensic Solutions, a think tank offering services in the fields of policy, law reform, advocacy and governance, has posited that:

> In the ever-integrating global economy, developing countries such as the Philippines have increasingly moved away from state-controlled enterprises to market-driven affairs where competition is the key element. However, mergers and acquisitions, tools for expansion and restructuring, have resulted in even greater market power being concentrated in fewer corporations. This environment is fertile ground for restrictive business practices which prevent true and fair competition.[32]

"The absence of legislation particularly addressing the effects of mergers and consolidations on market competition leaves the Philippines ill-equipped to police abuses and anti-competitive practices," proponents have said.

Proponents have cited a study done in 1999 by Ajit Singh and Rahul Dhumale of the University of Cambridge, which highlighted the importance of a competition policy in developing countries in the face of the global merger wave. According to the study, "the large incidence of cross-border takeovers and mergers has a competition-reducing effect which developing countries will find difficult to stop. Subsidiaries of multi-nationals that may behave competitively in industrialized countries where strong anti-trust regulations are in place may be more inclined to indulge in anti-competitive practices in developing countries where there are few such regulations."

> In the emerging Philippine economic environment where the direct role of the state in economic activity has considerably diminished as a result of continued efforts at deregulation and privatization, and in the face of increased trade integration within the region and around the world, anti-trust legislation is essential," Forensic Soulations pointed out. " It is particularly important in the face of the mergers and business consolidations that are expected to persist as companies struggle to survive the financial meltdowns occurring in different parts of the globe.[33]

Another group, Ideals, an NGO lobbying for fair trade legislation, is asserting that "mergers and acquisitions of extremely popular corporations this year and last year, the alleged price-fixing of basic commodities especially in times of calamity, the unusual unavailability of popular products in retail outlets, the supposed unfair exclusive dealing in medicines, and the allegations of bid rigging all point towards the need to enact a comprehensive competition law."

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[32] "Competition Laws in the Face of the Merger Wave," Agra, Alberto C. and Miguel- Rañola, Faye Josephine R.,/Forensic Solutions position paper, available at http://forensicsolutions.info/page17.html, retrieved 11 July 2011

[33] Ibid.

In deliberating on the need for new anti-trust, anti-monopoly laws, we agree and echo calls specifically for support to the following pending legislative proposals:

1. Senate Bill No. 123, filed by Sen. Juan Ponce Enrile duringthe 14th Congress, entitled 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." This proposed bill penalizes combinations or conspiracies in restraint of trade and all forms of artificial machinations that will injure, destroy or prevent free market competition. It prohibits stock or asset acquisitions, grant of proxies or voting rights, and board membership in two or more corporations that have the effect of substantially lessening competition or tending to create a monopoly.

2. Senate Bill No. 1835, entitled An Act Amending Republic Act No. 8315, filed by Sen. Miriam Santiago in the current Congress and also Known as the Revised Penal Code, as Amended, Article 186 on Monopolies and Combinations in Restraint of Trade, prescribing the penalty of prision mayor, or a fine not exceeding One Million Pesos (P1,000,000.00) if a corporation, or, if any person, Five Hundred Thousand Pesos (P500,000.00), or both, to be imposed upon any person who shall take part in any monopoly or combination in restraint of trade.[34]

3. Draft House bill to be filed in the current 15th Philippine Congress by Rep. Erin Tanada et al penalizing anti-competitive agreements, abuse of dominant power,, and anti-competitive mergers, establishing the Philippine Fair Competition Commission and appropriating funds therefor. Specifically, the House bill calls for the creation of an independent Philippine Fair Competition Commission that "shall have original and exclusive jurisdiction to enforce and implement the administrative provisions of this Act, its implementing rules and regulations, and all other competition laws."

We also echo and support recommendations for the adoption of the following measures applicable to mergers and consolidations to be added to the current body of laws governing anti-trust concerns put forward by the Forensic Solutions group:

a. Review of proposed mergers and consolidations to ensure prevention of abuse of dominant market position. A threshold should be set to determine when and under what conditions an enterprise is said to be enjoying a "dominant market position." A comprehensive review of proposed mergers and consolidations should be undertaken before they are approved. Arrangements that do not comply with fair competition guidelines and those that significantly limit competition should not be allowed. However, careful balancing must be done in order not to discourage or unduly burden legitimate corporate expansion or restructuring measures.

On the other hand, the SEC should be allowed to take remedial action, and impose penalties and sanctions against existing merged corporations that are engaging in anti-competitive practices.

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[34] Ibid.

b. To avoid protracted litigation. there should be a simplified mechanism by which interested parties can obtain relief by way of prohibition or injunction against mergers and consolidations that can potentially result in anti-competitive practices. Guidelines on the availment of provisional remedies in criminal cases (provided for under Rule 127 of the Revised Rules on Criminal Procedure) may be drafted addressing anti-trust violations.[35]

We also support the recommendations of the IDEALS (Initiatives for Dialogue and Empowerment Through Alternative Legal Services) group for the creation of a single Competition Commission tasked to implement all competition laws. Such Commission will have:

a) Primary jurisdiction over all competition issues, even in industries and public utilities governed by regulatory bodies, including even the holders of legislative franchises;

b) The mandate to first approve proposed mergers and certain acquisitions (of shares of stock or of all or substantially all assets, or of a separate going concern);

c) The power to examine mergers and acquisitions, proposed and consummated, when such could potentially turn a market player into a monopoly or an entity that is in a position to abuse its dominant position (except that penal clauses cannot be applied retroactively for being a violation of the constitutional proscription against ex post facto laws);

d) The power to order the break-up of a merger or the reversal of an acquisition, including those consummated prior to the passage of the competition act or prior to the creation of the Commission; and

e) The authority to order the divestment of a significant portion of the business of a monopoly or a firm that has dominant position.

f) The new competition law, according to Ideal, should also have clear attribution rules: if a company is prohibited by the competition law from performing a certain act, such prohibition must likewise extend to its sister company, subsidiary, parent corporation or majority owner, and other related entities. The law must provide that the Commission and the Courts shall have the power to declare that the anti-competitive act was performed by a firm through related entities, even as the law on piercing the veil of corporate entity shall also apply to competition cases. [36]

These recommendations are similar to those made by oppositors of the PLDT-Digitel deal, calling specifically for the NTC to enact anti-trust policies and regulations in the form of memo-circulars whose provisions, remedial or curative in nature, can and may be given retroactive effect, also to level the now mismatched playing field between PLDT group and Globe Telecom in the market of competition. Specifically, there is a need for the NTC to issue a memo-circular

[35] Ibid.

[36] "Anti-Competitive Mergers and Acquisitions,
Consumer Welfare, and Philippine Competition Policy," position paper of the Initiatives for Dialogue and Empowerment Through Alternative Legal Services (IDEALS)

defining a monopoly or a dominant position carrier (or a significant market power), such that when any one telecommunications carrier or group controls a minimum 50% of the market in a single service sector of telecommunications, that single entity or group shall be branded as a dominant or monopoly carrier and thus will be subject to sanctions or restrictions by the government to protect market rivals and allow the latter to fairly and freely compete with the dominant carrier. [37]

This, we also support in same manner that we also support calls for the strict and aggressive enforcement by the NTC of the 20-year old Supreme Court ruling on the interconnection of telecommunications service providers. Indeed, without direct interconnection between such providers, the public suffers as they are made to pay the expensive long-distance call charges instead of the free local landline calls.

To all the above, we finally add our own proposal for stronger consumer representation, first, in the crafting of new anti-monopoly legislations, and second, in monitoring and implementing the law against monopolies and monopolistic business practices. We believe that strong consumer representation, particularly in the Office of Competition that the President wants established by virtue of EO 45, will be an effective foil against the strong business lobby that has enable big corporate powers to get away with anti-competitive business practices. Section 2 of EO 45 stipulates the creation of the Office for Competition under the Office of the Secretary of Justice to carry out the duties and responsibilities set forth in Section 1 of said EO. 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.

Only through government's effective partnership with consumers and the general citizenry, through the latter's representation in regulatory agencies, will we be able to ensure that such agencies will remain true to their mandate in fighting and finally bringing to an end the rule of monopolies in our country.

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