

The Legal Framework for Reform of the Philippine Law on Unfair Methods of Business Competition

Lourdes C. Eschavez-de Leon

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Amidst the prevailing Philippine trend towards free enterprise, marked by deregulation, liberalization, and privatization, a corresponding danger also exists: the unification and concentration of economic power and propagation of acts in restraint and obstruction of trade, adopted by commercial interests in their battle for business survival and pursuit of profit. These acts undermine competition and destroy the primordial economic objects of free enterprise.

To forestall these effects, the Constitution in Section 19, Article XII prohibits and regulates monopolies, combinations in restraint of trade, and unfair competition when the public interest so requires. In the Philippine legal system, the Supreme Court has singled out Article 186 of the Revised Penal Code and Article 28 of the New Civil Code as the statutory embodiment of the constitutional competition policy. These provisions are denominated “antitrust” in history and spirit. This Note has focused on these laws with the primary objective of determining and evaluating their status and performance during the decades of their existence, within the context of the American antitrust legal discipline. Their analysis found a necessity for reform when made within the context of the American anti-trust legal discipline and the work endeavored to formulate and extract accurate conclusions. The present statutes form the framework for legal reform on unfair methods of competition specially suited to Philippine jurisdiction as an autonomous and unified legal discipline for general application.

The conclusions and recommendations are within the parameters of four major areas: to clarify the underlying philosophy of the regulation of competition; to identify the characteristics of a general law serving as deterrence against unfair methods of business competition; to specify the acts that constitute a violation; and to strengthen enforcement measures, including the prescription of appropriate penalties and remedies and other remedial considerations. A draft of the Philippine Business Competition Code, composed of seven titles, is proposed, crystallizing the insights acquired and giving statutory form to the recommendations discussed in the Note.

It is hoped that the Note will in small measure provide to the interested reader knowledge of the fundamental principles and doctrines of antitrust laws and the commercial tort related thereto, a relatively obscure legal field in Philippines.