

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

EIGHTEENTH CONGRESS
Third Regular Session

HOUSE RESOLUTION NO. 2079



Introduced by Honorable Representative
ARLENE D. BROSAS (Gabriela Women's Party)

RESOLUTION URGING THE HOUSE COMMITTEE ON ECONOMIC AFFAIRS TO INVESTIGATE, IN AID OF LEGISLATION, THE IMPLICATIONS OF THE SUSPENSION OF THE PHILIPPINE COMPETITION COMMISSION'S (PCC) POWER TO REQUIRE COMPULSORY NOTIFICATION AND REVIEW MOTU PROPRIO MERGERS AND ACQUISITIONS (M&As) BELOW THE FIFTY BILLION THRESHOLD UNDER BAYANIHAN TO RECOVER AS ONE ACT

WHEREAS, Section 19 Article XII of the 1987 Constitution stipulates that the State "shall regulate or prohibit monopolies when the public interest so requires";

WHEREAS, the Philippine Competition Commission (PCC) was established in 2014 by virtue of Republic Act 10667 to implement the national competition policy;

WHEREAS, RA 10667 grants PCC the powers to review of mergers and acquisitions, and to conduct inquiries and investigations on cases related to violations of the national competition policy motu proprio or upon receipt of a verified complaint from an interested party or upon referral by the concerned regulatory agency;

WHEREAS, Section 4 (eee) of Republic Act 11494 or the Bayanihan to Recover As One (BARO) modifies such power of the PCC to review mergers and acquisitions with the following stipulation:

"...Provided, finally, That the Philippine Competition Commission (PCC) shall promote business continuity and capacity building, as such, all mergers and acquisitions with transaction values below Fifty billion pesos (P50,000,000,000.00) shall be exempt from compulsory notification under Section 17 of Republic Act No. 10667 or the Philippine Competition Act if entered into within a period of two years from the effectivity of this Act, and further, shall exempt from the PCC's power to review mergers and acquisitions *motu proprio* provided in Section 12 of Republic Act No. 10667 for a period of one year from the effectivity of this Act."

WHEREAS, prior to the enactment of Bayanihan to Recover As One (BARO), the PCC has a threshold of only P2.4 billion transaction worth for review and notification of mergers and acquisitions;

WHEREAS, the new threshold of P50 billion is unusually high, considering that M&A transactions which raised competition concerns involved an average of only P3.5 billion, with the highest transaction at P24 billion according to the PCC;

WHEREAS, PCC Commissioner Atty. Johannes Bernabe said the peg of P50 billion set by Bayanihan 2 “does not appear to have a basis, whether in terms of ostensibly shielding MSMEs from the costs of regulatory compliance or genuinely protecting consumers from anti-competitive mergers”;

WHEREAS, Udenna Corporation’s energy unit, Malampaya Energy, had acquired Shell’s 45 percent stake in the Malampaya gas field, bringing its operating interest to 90 percent controlling stake in the gas field;

WHEREAS, such acquisition, which is pegged at \$460 million or P23.15 billion, has not been subjected to PCC’s review as it is below the P50-billion threshold under Bayanihan 2;

WHEREAS, there is a need to thoroughly assess the basis of the P50-billion threshold under Bayanihan 2 and review its implications on the country’s national competition policy and possible breach of constitutional prohibition against monopolies;

WHEREAS, such provision creates the enabling conditions for mega-mergers led by favored oligarchs by the Duterte administration -- at the expense of ordinary Filipinos who would be at the receiving end of monopolistic pricing of basic goods and services amid the pandemic;

NOW THEREFORE BE IT RESOLVED, that the House Committee on Economic Affairs investigate, in aid of legislation, the implications of the suspension of the PCC’s power to require compulsory notification and review *motu proprio* mergers and acquisitions below the P50-billion threshold under Bayanihan to Recover As One Act.

Adopted,



ARLENE D. BROSAS
Gabriela Women’s Party