



Republic of the Philippines  
**House of Representatives**  
**CONGRESSIONAL PLANNING AND BUDGET DEPARTMENT**  
Quezon City, Metro Manila

*Rodolfo V. Vicerra*  
Director-General

FOR : **THE HONORABLE HOUSE MEMBERS**

SUBJECT : **Proposed Review of Oil Deregulation Law**

DATE : 11 March 2009

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1. This is to apprise your honors of our views with regard to the proposed review or repeal of the Oil Deregulation Law (RA 8479). We believe that repealing the oil deregulation law *en toto* is counter-productive as this would mean going back to price intervention in domestic oil markets. This would require reviving the oil price stabilization fund (OPSF) to be funded again by the taxpayers which the government, given its fiscal record and outstanding debts, simply cannot afford.
2. Oil industry deregulation was meant to foster competition and enhance private investments while freeing the government of costly subsidies on oil products. Prior to oil deregulation, the national government subsidy to the OPSF has ballooned to P8.3 billion in 1998 alone (NEDA) and was a major contributor to the government deficit and indebtedness. A review of the oil deregulation law would still be very important in order to help reduce oil smuggling, enhance the transparency of domestic oil pricing and discourage anti-competitive behavior.
3. ***Need to deter oil smuggling.*** According to the Department of Energy, in 2007 about 12 billion liters of oil were consumed in contrast with BIR reported that only 8 billion liters were subjected to tax (Manila Times, Jan. 24, 2008). It is estimated that the government has been incurring P31 billion in foregone revenues annually due to oil smuggling (Philippine Institute of Petroleum). Moreover, oil smuggling discourages new investors and stifles competition in the industry as low cost smuggled fuel products compete directly with legitimate industry players. Include a provision in the Oil deregulation Law that will effectively deter oil smuggling by imposing stiffer penalties such as cancellation of business permit, higher fines and increase number of years of imprisonment.
4. ***Improving price monitoring.*** To some sectors, oil deregulation seems to have failed expectations that it will foster price competition among industry players. Prices have remained volatile upwards and sticky downwards vis-a-vis movements in the world market. With the global economic downturn and depressed market demand, oil prices have gone down with Dubai crude plunging almost 68% from an average

monthly high of \$132.02 per barrel in July 2008 to just \$41.53 per barrel in January 2009. While oil companies have reduced the price of their fuel products through a series of roll backs amounting to almost P20, consumers and the transport sectors believe that the price roll backs are not enough and are slow in coming. Concerns have arisen on whether local oil industry players were accurately reflecting the softening international price movements.

- 4.1 To insure transparency in oil industry pricing a provision should be included under Section 12 to specifically require the submission of books of accounts and financial documents to ensure that oil companies are not involve in profiteering.
  - 4.2 Amend Section 14 (d) to strengthen the task force of the Department of Energy and Department of Justice in monitoring the oil industry by including the Commission on Audit (COA). The COA as an independent commission will lend credibility and will fortify the taskforce capability to scrutinize financial documents. The inclusion of COA need not pose any legal problem since it has already a precedent in a Supreme Court ruling. In a high court decision in Meralco vs. Genaro Lualhati, et. al dated December 6, 2006, the Supreme Court directed the ERC to seek the assistance of the COA in conducting a complete audit of Meralco's books, records, and accounts to see to it that the rate increases are reasonable and justified.
5. **Discourage anti-competitive behavior.** To strengthen the anti-trust provisions of the Law, Section 11 should be amended to redefine the concept of anti-competitive agreements and abusive behavior. Anti-competitive agreements are any agreement, combination or concerted action by refiners, importers and/or dealers, or their representatives, to fix prices, restrict outputs or divide markets, either by products or by areas, or allocate markets, in restraint of trade or free competition.

For your information.

A handwritten signature in black ink, appearing to read "R. Rivera", is located in the bottom right corner of the page.