

ISSUE 2024-03

# PHILIPPINE COMPETITION BULLETIN

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**PHILIPPINE  
COMPETITION  
COMMISSION**

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*Ensuring businesses compete and consumers benefit*



PCC Executive Director Kenneth Tanate (center), Enforcement Director Christian Loren de los Santos (leftmost) and Assistant Director Genevieve Jusi (rightmost) address the media at a press conference on the onion case last September 5 at the PCC office.

# PCC Enforcement Office sues onion traders for cartel conduct

■■■ By Davinci Maru

The Enforcement Office of the Philippine Competition Commission (PCC) has charged a group of vegetable traders for entering into anti-competitive agreements involving the supply of imported onions in the Philippines.

In a Statement of Objections filed with the Commission on July 9, the Enforcement Office charged Philippine Vieva Group of Companies, Inc. (Phil. Vieva Group); Tian Long Corp. (Tian Long); La Reina Fresh Vegetables & Young Indoor Plants, Inc. (La Reina); Yom Trading Corporation (Yom Trading); Vegetable Importers, Exporters & Vendors Association of the Philippines (VIEVA Phils.); and Golden Shine International Freight Forwarders Corp. (Golden Shine) with:

- i. allocating the supply of imported onions by assigning among themselves Sanitary and Phytosanitary Import Clearances (SPSICs) issued by the Department of Agriculture-Bureau of Plant Industry (DA-BPI) and dividing among themselves the volume of onion allowed to be imported; and
- ii. colluding to lessen competition by exchanging sensitive business information such as price, suppliers, customers, volume, shipping, distribution, and storage.

These actions, according to the complaint, violate Section 14(b)(2) and Section 14(c) of Republic Act No. 10667, also known as the Philippine Competition Act (PCA).

Named in the complaint as individual respondents are: 1) Lilia Cruz, vice president of Phil. Vieva Group, chairperson and president of Golden Shine, and chairperson of VIEVA Phils.; 2) Eric Pabilona, board member of Phil. Vieva Group, corporate executive officer of Golden Shine, and corporate secretary of Tian Long; 3) Renato Francisco, Jr., board member of Phil. Vieva Group, president of La Reina, and chairman and president of Yom Trading; and 4) Letty Baculando, board member of Phil. Vieva Group and incorporator of Golden Shine. Likewise impleaded were: 1) Mark Castro Ocampo, sole proprietor of Vegefru Producing Store (Vegefru); and 2) Nancy Callanta Rosal, sole proprietor of Rosal Fruit and Vegetable Trading (Rosal).

As the PCC's investigative and prosecutorial arm, the Enforcement Office claimed that these vegetable traders, despite being competitors, conspired to manipulate the onion market in the Philippines from 2019 to 2023. The traders, who imported onions from China, the Netherlands, and India, allegedly worked together to control prices and limit competition. Tian Long, Yom Trading, La Reina, Phil. Vieva Group, Rosal and Vegefru are involved in onion trading, while VIEVA Phils. distributes vegetables. Golden Shine provides freight forwarding services.

The Enforcement Office alleged that these actions substantially reduced competition, leading to distorted supply and artificial price increases, thereby harming consumers.



To gather evidence for this case, the Enforcement Office conducted a dawn raid, also called an administrative search and inspection, of the involved entities in September 2023. This was the first dawn raid conducted under the Rules on Administrative Search and Inspection (RASI), which the Supreme Court issued in 2019. The RASI outlines the procedures for conducting such inspections to investigate potential violations of the PCA.

During the dawn raid, the PCC collected voluminous documents, records, and electronic data related to the companies' trading activities. Upon receipt of the Statement of Objections

filed by the Enforcement Office, the Commission will hear the case in the exercise of its power as a quasi-judicial agency.

Under the PCA, entities found to have engaged in anti-competitive agreements may be fined at least PhP 110 million. However, if the violation involves a basic necessity or prime commodity, such as onions, the fine may be tripled according to Section 41 of the PCA and Section 6.5 of the PCC's Rules of Procedure. In this case, given the duration of the collusive agreement and the involvement of a basic commodity, the Enforcement Office recommended approximately PhP 2.4 billion in total fine. ■

## Major mall operator backs PCC's fair competition push

■ ■ ■ By Davinci Maru

The country's largest mall operator, SM Prime Holdings, Inc. (SMPHI), has pledged to support the Philippine Competition Commission's (PCC) efforts in promoting fair market competition nationwide.

On September 17, the PCC and SMPHI signed a Memorandum of Cooperation (MoC) signifying the mall operator's commitment to protecting consumer welfare and ensuring a level playing field for its tenants.

As part of the MoC, SMPHI will launch a nationwide information campaign across its SM Supermalls to educate the public about the PCC's mandate and the benefits of fair market competition. The campaign will be featured on

several SM digital platforms, including cinema ads, LED poster boxes, cinema directories, digital mall directories, LFD screens, and in-mall LED screens.

"We are proud to join forces with PCC in promoting fair trade practices," said SM Supermalls President Steven Tan. "By working together, we can empower consumers in making informed choices and contributing to a robust and competitive market," he added.

PCC Chairperson Michael Aguinaldo said the nationwide information campaign will significantly help the PCC in advocating for fair business practices considering the nascency of the PCC and the Philippine Competition Act. ■



(Seated, from left): PCC Chairperson Michael Aguinaldo and SMPHI Assistant Vice President for Operations Christian Mathay. (Standing, from left): PCC Executive Director Kenneth Tanate, Commissioners Ferdinand Negre, Michael Peloton, Lolibeth Ramit-Medrano and Marah Victoria Querol, SMPHI Vice President for Legal Operations Josefina Remollo, and Competition Protocol Officer Kevin Charles Balderama.



## ADVOCACY ROUNDUP

# Businesses urged to adopt competition compliance programs

■ ■ ■ By Davinci Maru

The Philippine Competition Commission (PCC) held its first-ever “Fair Business Forum: Competition Compliance in Focus” last July 10 to encourage businesses to adopt compliance programs and prevent anti-competitive practices.

PCC Chairperson Michael Aguinaldo described this initiative as part of the PCC’s commitment to cultivating a culture of competition within the business community. Under the Philippine Development Plan 2023-2028, the PCC is tasked with raising awareness about the Philippine Competition Act (PCA) through the promotion of competition compliance programs among business chambers and trade associations.

Antitrust lawyers Stephen Crosswell of Baker McKenzie and Hee-Eun Kim of Meta joined the discussion to share their insights on developing

and implementing competition compliance programs, highlighting the impact these programs can have on businesses.

During the forum, PCC Executive Director Kenneth Tanate presented an overview of the Philippine Competition Act and provided context on the importance of competition compliance. Paul Andrew Lucena, Officer-in-charge of PCC’s Communications and Knowledge Management Office-Knowledge Management Division, shared the agency’s initiative of developing a toolkit that will help businesses build their own compliance programs.

Representatives from 17 trade associations and businesses in Metro Manila attended the forum. ■



(From left) PCC Knowledge Management Division Officer-in-charge Paul Andrew Lucena, Executive Director Kenneth Tanate, Chairperson Michael Aguinaldo, lawyer Stephen Crosswell of Baker McKenzie, and lawyer Hee-Eun Kim of Meta.





PCC Economics Office Acting Director IV Kirsten Dela Cruz (4th from left) and other PCC staff with BFAR representatives Atty. Maria Glenie Gumban (5th from left) and Sonia Luisa Sanchez (6th from left) during the strategic policy dialogue held on July 10.

## Fish importation regulations discussed in PCC, DA-BFAR dialogue

■ ■ ■ By Amylyn Castro

The Philippine Competition Commission (PCC) and the Department of Agriculture-Bureau of Fisheries and Aquatic Resources (BFAR) convened for a strategic policy dialogue (SPD) to discuss the findings of a recent competition impact assessment (CIA) study on fish importation regulations.

Held on July 10 at the PCC office, the SPD focused on the following regulations: Fisheries Administrative Order (FAO) No. 195, Series of 1999, and FAO No. 259, Series of 2018, governing fish importation for processing and sale purposes, including provisions for wet market sales during closed seasons or emergencies.

PCC Economics Office Acting Director IV Kirsten Dela Cruz emphasized the collaboration's focus on promoting fair competition and economic

efficiency in the fisheries industry, aiming to inform policy decisions that enhance market competition and benefit consumers.

BFAR representatives, led by Fisheries Inspection and Quarantine Division Officer-in-charge Sonia Luisa Sanchez and Attorney IV Maria Glenie Gumban, highlighted the regulations' role in fostering self-sufficiency and sector development through stakeholder consultations.

The PCC, through its recommendations for policy enhancements and ongoing collaboration with BFAR, underscores its commitment to advancing competition policy in the fisheries sector, with a focus on innovation, sustainability, and fair market practices. ■







PCC Economics Office Acting Director IV Kirsten dela Cruz (8th from left), Acting Director III Carlos Juan Paolo Vega (2nd from left), and other PCC staff with IC representatives Dr. Ronald Paguirigan (6th from left) and Lucky Ace Villanueva (center) during the strategic policy dialogue held on August 13 in Quezon City.

## HMOs discussed during PCC's dialogue with IC

■ ■ ■ By Paul Jeffrey Ballentos

The Philippine Competition Commission (PCC) held a strategic policy dialogue with the Insurance Commission (IC) to discuss potential anti-competitive practices in the Philippine health maintenance organization (HMO) industry last August 13.

The PCC discussed the findings of its rapid market study, which highlighted competition concerns, namely: (i) higher paid-up capital requirements as potential barrier to new HMO entrants; (ii) tax and regulatory requirements imposed on HMOs are greater than those on insurance companies offering HMO-like products; and (iii) pricing strategies employed by HMOs through memoranda of agreement with doctors' trade associations.

Representatives from the IC's HMO Division explained that doctor rates are typically influenced by factors such as prevailing prices, locality, and specialization. They also mentioned that the IC actively monitors the HMO industry's market structure by calculating measures of concentration, such as the Herfindahl-Hirschman Index, and analyzing company performance indicators like assets, distribution, revenue, net income, and membership fees.

The dialogue concluded with discussions on the best approach to analyzing the HMO industry using a competition lens. ■

## KFTC shares antitrust know-how with PCC

■ ■ ■ By Davinci Maru

The Korea Fair Trade Commission (KFTC) dispatched competition experts to the Philippine Competition Commission (PCC) to help build up its capacity in competition enforcement and merger review.

Through the KFTC Expert Dispatch Program, Dongbin Shin of KFTC's Director for Deliberation Management supported the PCC Enforcement Office, while Jihoon Park of KFTC's International M&A Division assisted the PCC Mergers and Acquisitions Office. Their deployment from July 18 to August 22 was aimed at helping the PCC units in developing operational guidelines. ■



KFTC experts Dongbin Shin (left photo) and Jihoon Park (right photo) conduct consultations with PCC staff as part of the KFTC Expert Dispatch Program from July 18 to August 22.



# Dialogue on competition issues in professional sector held between PCC, PRC

■ ■ ■ By Amylyn Castro

The Philippine Competition Commission (PCC) and the Professional Regulation Commission (PRC) are exploring ways to jointly address possible competition issues in the professional services sector.

On August 6, a roundtable discussion between PCC and PRC was organized to promote awareness of competition law and policy in the professional services sector and discuss competition-related issues arising from sector regulations.

The PCC proposed a partnership with the PRC through a memorandum of agreement (MoA), which would formalize collaborative efforts between the two agencies, establish a clear framework for ongoing cooperation, and enhance their joint capacity to address competition-related matters within the professional services sector.

Leading the roundtable discussion from the PCC were Chairperson Michael Aguinaldo, Commissioners Lolibeth Ramit-Medrano and Ferdinand Negre, Executive Director Kenneth Tanate, Enforcement Office Director Christian Loren delos Santos and Assistant Director Genevieve Jusi, Communications and Knowledge Management Office OIC-Director III Ferdinand Pagua, and Legal Services Division Chief Michelle Diana Maniwang-Basa. PRC was represented by its Chairperson Charito Zamora, Commissioners Jose Cueto, Jr. and Erwin Enad, Assistant Commissioner Lord Louis Valera, Legal Service Director Giselle Durana, Regulations Office Director Liza Hernandez, and Administrative Service Director Angiereen Medina. ■



Representatives from the PCC and the PRC at the roundtable discussion on August 6 in Quezon City.

## IN THE NEWS

### AI for gender equality: Closing the digital divide in PH

The Philippine Competition Commission (PCC) and the National Economic and Development Authority (NEDA) hosted an event on Thursday discussing how AI can close the digital gender divide. The roundtable discussion on “Inclusive Innovation: Navigating the Intersection of Technology, Gender, and Responsibility” tackled how women can use artificial intelligence to access expanded livelihood opportunities.

*(Dale Arasa, Inquirer, 1 August 2024)*

### PCC partners with SM Supermalls to promote fair competition after bottled water episode

The Philippine Competition Commission (PCC) signed a partnership with SM Prime Holdings Inc. (SMPHI) on Tuesday in a bid to raise awareness of the importance of competition among the public and business establishments. As part of the Memorandum of Cooperation, SMPHI will launch a nationwide information campaign about the PCC's mandate and the benefits of fair competition which will be featured across its 86 malls

*(Andrea Taguines, ABC-CBN News, 17 September 2024)*



# Merger control insights shared at East Asia forums

■ ■ ■ By Davinci Maru

The Philippines shared its best practices in merger control at the 19th East Asia Top Level Officials' Meeting on Competition Policy (EATOP) and the 16th East Asia Conference on Competition Law and Policy (EAC) held in Kuala Lumpur, Malaysia on July 23-24.

Philippine Competition Commission (PCC) Chairperson Michael Aguinaldo presented the Philippines' compulsory merger control regime, which uses thresholds for the size of a party and the size of a transaction.

To overcome challenges in merger control review, Aguinaldo stressed the value of learning from experience and from other jurisdictions. He highlighted pre-notification consultations, letters of non-coverage, expedited merger reviews, and the Commission's *motu proprio* review power as key PCC strategies. ■



PCC Chairperson Michael Aguinaldo (left) presents the Philippines' best practices in merger control at the 19th East Asia Top Level Officials' Meeting on Competition Policy (EATOP) in Kuala Lumpur, Malaysia on July 23. Photo courtesy of MyCC.

# Philippines joins UNCTAD Intergovernmental Group of Experts on Competition Law and Policy meet

■ ■ ■ By Amylyn Castro

Commissioner Lolibeth Ramit-Medrano led the Philippine Competition Commission (PCC) delegation to the United Nations Conference on Trade and Development's (UNCTAD) 22nd Session of the Intergovernmental Group of Experts on Competition Law and Policy, held on July 3-5 in Geneva, Switzerland.

The meeting discussed ways of improving global cooperation on competition policy implementation and enhancing convergence through dialogue. It covered various topics, including the implementation of policies under section F of the Multilaterally Agreed Equitable Principles and Rules for Restrictive Business

Practices, cross-border cartels, competition law enforcement in digital markets, competition policy and poverty reduction, voluntary peer review of Egypt's competition law and policy, and capacity-building and technical assistance in competition law and policy.

Medrano presented developments in the Philippine merger control standards. She emphasized the integration of competition policy in national development plans, particularly recent updates and initiatives aimed at enhancing regulatory efficiency and fostering a conducive business environment. ■



PCC Commissioner Lolibeth Ramit-Medrano presents developments in Philippine merger control standards at the UNCTAD's 22nd Session of the Intergovernmental Group of Experts on Competition Law and Policy held on July 3-5, in Geneva, Switzerland. Photo courtesy of Philippine Mission UN Geneva.



# Experts discuss digital competition in Thailand

■ ■ ■ By Davinci Maru

Philippine Competition Commission (PCC) Executive Director Kenneth V. Tanate joined a policy panel on regulating competition in digital markets at the Trade Competition Commission of Thailand (TCCT) Competition Policy Symposium 2024 held on July 16 in Bangkok.

In his presentation, Tanate focused on the government's inclusion of competition principles in the country's medium-term economic plan, the Philippine Development Plan (PDP) 2023-2028. He emphasized how competition fosters investment, enables market entry, and ensures consumer welfare.

He then elaborated on the tools the PCC uses to investigate cases in digital markets, along with the mergers and acquisitions it has reviewed, and the market studies it has conducted.

Joining Tanate on the panel were Thai Development Research Institute (TDRI) researcher Gunn Jiravuttipong, European Commission's Directorate General for Competition (DG Comp) senior economist Gábor Koltay, and Electronic Transactions Development Agency's Legal Office Assistant Director Supachitra Laohawattanapinyo. ■



PCC Executive Director Kenneth Tanate speaks at a panel on regulating competition in digital markets at the TCCT Competition Policy Symposium 2024 held on July 16. Photo courtesy of TCCT.

## New PCC office to rise in UP Diliman

■ ■ ■ By Davinci Maru

A memorandum of understanding (MoU) between the Philippine Competition Commission (PCC) and the University of the Philippines (UP) was signed for the PCC to establish its new office at the premier state university's Diliman campus. PCC Chairperson Michael Aguinaldo and UP President Angelo Jimenez led the signing ceremony on July 30 at UP Diliman.

Under the MoU, UP will lease to PCC a 1,620-square meter piece of land within the UP Diliman Campus located along Commonwealth Avenue. The lease will run for 25 years and may be extended thereafter, subject to the terms and conditions that will be discussed in a separate memorandum of agreement between the two parties. ■

## IN THE NEWS

### PCC shares success in promoting competition in Bangkok confab

The Philippine Competition Commission (PCC) showcased its success in integrating competition principles into the national economic strategy at the Competition Policy Symposium 2024 held in Bangkok, Thailand. The integration is a key feature of both the 2017-2022 and 2023-2028 Philippine Development Plans (PDP) that underscore the crucial role of competition in advancing digitalization, attracting investments, and protecting consumer welfare.

*(Othel Campos, Manila Standard, 5 August 2024)*

### Anti-trust body signs lease to establish office at UP Diliman

The Philippine Competition Commission (PCC) and the University of the Philippines (UP) signed a memorandum of understanding (MoU) to establish the anti-trust body's new office at UP Diliman campus in Quezon City. The agreement, signed on July 30, 2024, will see the PCC lease a 1,620-square-meter plot for 25 years, with an option for extension.

*(Othel Campos, Manila Standard, 2 August 2024)*

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