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PHILIPPINE COMPETITION BULLETIN

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**PHILIPPINE
COMPETITION
COMMISSION**

Ensuring businesses compete and consumers benefit

PCC WELCOMES NEW CHAIRPERSON, COMMISSIONERS

Atty. Michael G. Aguinaldo took his oath as the new Chairperson of the Philippine Competition Commission on January 13, 2023. He is a lawyer with extensive legal, governance, and administrative expertise acquired from over 30 years of professional work as a private law practitioner, government official, and professor.

Prior to his appointment to the PCC, he was the Chairperson of the Commission on Audit (COA) where he led the agency on a seven-year plan that helped improve various facets of the organization. From 2011 to 2015, he was the Deputy Executive Secretary for Legal Affairs of the Office of the President and headed the Investigation and Adjudication Office (formerly the Presidential Anti-Graft Commission). As Deputy Executive Secretary, he oversaw the implementation of integrity initiatives consistent with the United Nations Convention Against Corruption (UNCAC).

He began his legal career with the De Borja Medialdea Ata Bello Guevara and Serapio Law Office, and spent 17 years with the Romulo Mabanta

Buenaventura Sayoc & de los Angeles law firm where he was a partner and member of the Executive Committee. During this time, he acquired extensive experience and expertise in handling special projects in the areas of infrastructure, telecommunications, and energy.

Chairperson Aguinaldo was a faculty member of the Ateneo de Manila University, De La Salle University, and Far Eastern University. He completed his juris doctor degree from the Ateneo de Manila University School of Law in 1992 and placed 7th during the Bar Examinations of the same year. He obtained a master's degree with special concentration in International Economic Law from the University of Michigan in Ann Arbor.

Chairperson Aguinaldo leads a new administration at the PCC, and is joined by Commissioners Marah Victoria S. Querol and Michael B. Peloton, both of whom took office in 2022, and newly appointed Commissioners Lolibeth Ramit-Medrano and Ferdinand M. Negre.

Commissioner Medrano's 22-year public service record spans different technical and leadership roles, most recently as Undersecretary of the Office of the President. Prior to that, she was the Director of the Bureau of Patents at the Intellectual Property Office of the Philippines (IPOPHL).

As Patent Director, she was bestowed the 2020 Presidential Gawad Career Executive Service Award for her exemplary performance in government service. She spearheaded the Philippines' designation as one of only 23 international search and preliminary examination authorities for patents in the world by the World Intellectual Property Organization (WIPO). During her stewardship of the Patents Bureau, the Philippines was cited by the WIPO as among the top three most efficient international authorities in 2019.

Commissioner Medrano was also instrumental in the amendment of copyright provisions of the Intellectual Property Code of the Philippines, and is a member of the Supreme Court Sub-Committee for the Revision of the Rules of Procedure for the



Commissioner Medrano (2nd from right) takes her oath.

Intellectual Property Rights Cases.

She served as the pioneer Chairperson of the ASEAN Industrial Design Task Force and represented the Philippines in the international IP circuit such as the WIPO, World Trade Organization (WTO), Asia-Pacific Economic Cooperation IP Experts Group, and the ASEAN Patent Examination Cooperation Task Force.

Commissioner Medrano graduated cum laude with a degree in Public Administration from the University of the Philippines Diliman and obtained her law degree from San Beda College of Law. She pursued her Master's Degree in Politics and Public Policy as an Australian Development Scholar in Macquarie University, and a Master of Laws specializing in Intellectual Property as an IPOPHL scholar at the Ateneo De Manila Law School. These were in addition to advanced IP and trade courses she took at the WIPO and the WTO.

Completing the list of new appointments to the PCC is Commissioner Negre, head of the Commercial Law and Intellectual Property Department of the Ateneo Law School and a member of the Supreme Court Sub-Committee on Special Rules in IP Cases. He is backed by expertise in law and business being a certified public accountant, IP law expert, and legal educator.

He regularly conducts lectures and workshops on intellectual property topics in various universities, government agencies, and international organizations, such as at the WIPO, United States Patent and Trademark Office, Philippine Judicial Academy, and Mandatory Continuing Legal Education required by the Supreme Court. In 2014, Commissioner Negre also served as the Examiner for Mercantile Law in the annual Bar Examinations.

He is a member of the American Bar Association, Integrated Bar of the Philippines, Philippine Bar Association, and Intellectual Property Association of the Philippines. He was also President of the Licensing Executives Society of the

Philippines, Founding Trustee and officer of the Intellectual Property Professors and Researchers Organization of the Philippines, Inc., Corporate Secretary of the Philippine Franchise Association, and Corporate Counsel of the Philippine Retailers Association. He is also one of the founding partners of Bengzon Negre Untalan Intellectual Property Attorneys (BNU), which is the only law firm in the country focused on intellectual property law practice.

Commissioner Negre obtained his Juris Doctor degree from the Ateneo de Manila University School of Law in 1991 and Master of Intellectual Property from Pierce University in New Hampshire, USA in 1993. He attended a Post-Graduate Scholarship Program on Intellectual Property at the Munich Intellectual Property Law Center in Germany and went to the Queen Mary Intellectual Property Research Institute in London, UK.

The appointment of Chairperson Aguinaldo and Commissioners Medrano and Negre completes the new administration at the PCC. They will finish their seven-year terms in 2030, while Commissioners Querol and Peloton will hold office until 2028. ■



Executive Secretary Lucas P. Bersamin (left) swears in Chairperson Aguinaldo.



Commissioner Negre (left) takes his oath before Chairperson Aguinaldo.

CONSULTATION ON FARM SECTOR ISSUES HELD IN BAGUIO CITY



Recognizing the importance of the agriculture sector in the economy, the Philippine Competition Commission (PCC), through the Office of Commissioner Marah Victoria S. Querol and the Communications and Knowledge Management Office (CKMO), conducted a consultation on market competition in December last year in Baguio City, the agri-distribution hub of the Cordillera Administrative Region (CAR).

The consultation gathered over 200 participants representing various government agencies, cooperatives, trade associations, and other private stakeholders. The forum sought to raise awareness on competition law and policy, identify competition issues in the food and agriculture sector of the region, and develop mechanisms to be used by the PCC and other government agencies in addressing stakeholders' concerns.

Then PCC Commissioner Emerson B. Aquende* opened the program by discussing the market landscape of the Philippine food and agricultural industry and its contribution to the country's gross domestic product. The discussion was followed by an overview of the Philippine Competition Act (PCA) by then PCC Officer-in-Charge Chairperson Johannes Benjamin R. Bernabe**.

Regulatory measures and government policies were highlighted in a panel moderated by PCC Competition Enforcement Office (CEO) Director Christian Loren B. De Los Santos. During the session, Cooperative Development Authority (CDA) Chairperson Joseph Encabo shared his insights regarding CDA's objective of protecting free enterprise, which supports their goal of promoting competitiveness among agricultural cooperatives.

Department of Trade and Industry (DTI) Consumer Protection Group Assistant Secretary Ann Claire Cabochan championed the agency's commitment to protect Filipino consumers from businesses that manipulate prices of prime commodities, among other forms of abusive business conduct. In line with this, DTI-CAR Chief Trade-Industry Development Specialist Jeremias

Agpes highlighted the DTI's programs for capacitating micro, small, and medium enterprises (MSMEs) and ensuring a pro-competitive culture in the market.

Department of Agriculture (DA) Macro-economic Policy Division Assistant Chief Katrin Mares elaborated on the DA's goal of ensuring national food security. She described the distinction between the DA's monitoring activities of basic commodities such as rice, sugar, and meat, and the DTI's regulatory initiatives on processed goods. In terms of policy implementation, Mares also explained the impact of Republic Act No. 7607 or the Magna Carta for Small Farmers on the agriculture sector and the role of the DA in its implementation.

In the subsequent session moderated by University of the Philippines (UP) Baguio Professor Gladys Cruz, PCC

Economics Office Director Benjamin E. Radoc, Jr. focused on the industry value chain and identified the weak points that are susceptible to anti-competitive conduct, while Enforcement Director De Los Santos discussed the legal remedies provided in the PCA, as well as shared the scope of the PCC's jurisdiction and its expertise and perspective on policies concerning trade, importation, and smuggling.

The panel discussions were followed by focus group discussions, during which farmers, producers, and members of cooperatives and trade associations raised concerns about market issues affecting the sector.

Three main challenges were identified during the consultation: a) traders offering lower prices to farmers; b)

difficulties with credit, financing, and licensing; and c) operational issues concerning the machines and logistics provided to farmers. Many farmers expressed concern over the prices at which their products are bought, describing them as unfairly low, and appealed for more mechanisms for their protection from unreasonable market prices. The resource persons responded by discussing the programs of their respective agencies, even as they highlighted the significance of the whole-of-government approach in providing solutions to those issues.

In closing, PCC Commissioner Querol thanked the speakers and participants and said the insights gathered shall be considered in the agency's programs for promoting market competition in the Cordillera region. ■

NEW PCC MERGER NOTIFICATION THRESHOLDS SET AT P7B FOR SOP AND P2.9B FOR SOT

The Philippine Competition Commission (PCC) has recalibrated the thresholds for compulsory notifications of mergers and acquisitions, marking an increase to reflect changes in the economy facing high inflation and reeling from the effects induced by the pandemic.

Beginning March 1, 2023, mergers and acquisitions that breach a Size of Party (SoP) of P7 billion and a Size of Transaction (SoT) of P2.9 billion will have to be notified to the PCC for mandatory merger review. The Commission's merger review thresholds are adjusted to keep pace with the changes in the markets and to reflect the businesses' real value over time and relative to the size of the economy.

Both thresholds must be satisfied to trigger compulsory notification to PCC of a merger or acquisition. SoP refers to the value of assets or revenues of the Ultimate Parent Entity of either transacting entity, while

SoT refers to the value of assets or revenues of the acquired party and the entities it controls.

The revised thresholds do not apply to M&As pending review by the Commission, notifiable transactions consummated before March 1, and transactions already subject of a decision by the Commission.

PCC annually adjusts its thresholds following Memorandum Circular No. 18-001. The adjustment is based on the previous year's official estimate of the nominal Gross Domestic Product (GDP) growth rate from the Philippine Statistics Authority.

With the lapse of the period from September 2020 to September 2022 during which the thresholds were set at P50 Billion by the Bayanihan to Recover as One Act, PCC resumed its annual thresholds adjustment since it started with a baseline threshold of P1 Billion under the Philippine Competition Act. ■

IN THE NEWS

Generic brands seen lowering prices of other prescription drugs, says study

This is according to a policy paper issued by the Philippine Competition Commission (PCC), which focused on a local market study that looked at the effect of the entry of generic drugs on the local prices of drugs. *(Alden M. Monzon, Inquirer.net, 07 January 2023)*

DOJ teams up with UP's research, extension services on concerns on PH's competition law

The Department of Justice (DOJ) has tapped the University of the Philippines Public Administration Research and Extension Services Foundation, Inc. (UPPAF) in coming up with plans for reforms and intensified enforcement of the Philippine Competition Act under Republic Act No. 10667. *(Jeffrey Damicog, Manila Bulletin, 24 February 2023)*

PCC to set timeline for resolution of cases

The Philippine Competition Commission (PCC) said it will set a realistic timeline to hasten completion of their investigations and in resolving cases, probably in less than two years, to be in step with current developments. *(Bernie Cahiles-Magkilat, Manila Bulletin, 27 February 2023)*

*Aquende left the PCC upon the end of his term on January 7, 2023.
**Bernabe left the PCC upon the end of his term on January 7, 2023.

ADVOCACY ROUNDUP

2023 APEC SENIOR OFFICIALS MEETING TACKLES ENFORCEMENT, POLICY REFORMS

The Philippine Competition Commission (PCC) joined other Asia-Pacific Economic Cooperation (APEC) member-economies in this year's Senior Officials Meeting series in the United States, during which participants exchanged enforcement best practices and policy reform experiences with fellow competition authorities.

PCC Commissioner Lolibeth Ramit-Medrano, Executive Director Kenneth V. Tanate, and Economics Office Director Benjamin E. Radoc, Jr. shared the agency's experience in competition litigation and regulatory advocacy across various key meetings led by the APEC Competition Policy and Law Group.

As the economic convention wrapped up in early March, PCC remains active in engaging in cross-fora collaboration with other APEC member-economies on matters concerning competition policies, enforcement, and technical cooperation. ■



PCC, GCG INK PARTNERSHIP TO PROMOTE COMPETITIVE NEUTRALITY

The Philippine Competition Commission (PCC) and Governance Commission for GOCCs (GCG) signed a Memorandum of Agreement (MOA) on December 16, 2022, formalizing the two agencies' coordination in upholding competition laws and principles among GOCCs.

The MOA facilitates consultations between the PCC and GCG in implementing policies of mutual interest. It also provides for coordination on merger review involving government owned or controlled corporations (GOCCs), as well as access to information and documents such as reports, data sets, analyses, assessments, notices, and guidelines.

Both agencies agreed to conduct capacity-building activities and support the rollout of the National Competition Policy (NCP). Among others, the MOA provides for the review

of existing regulations and guidelines issued by the GCG and GOCCs. This will ensure consistency in adhering to the principle of competitive neutrality as guided by the NCP. The MOA also calls for the formation of a Joint Task Force in the implementation of coordination and cooperation efforts of both parties.

The PCC is the primary enforcer of the Philippine Competition Act, while the GCG is the central advisory, oversight, and monitoring body tasked to institutionalize transparency, accountability, financial viability, and responsiveness in corporate performance among GOCCs. ■



UNCTAD SHARES INSIGHTS ON HOW PANDEMIC RECOVERY IMPACTS MSMEs

With micro, small, and medium enterprises (MSMEs) making up a majority of all businesses in the Philippines, creating a level playing field becomes a priority for post-pandemic recovery.

In partnership with the Department of Trade and Industry (DTI) and the United Nations Conference on Trade and Development (UNCTAD), the Philippine Competition Commission (PCC) held a workshop in November last year to share trends and challenges among MSMEs as the economy emerges from the pandemic.

During the session, PCC Economics Office Director Benjamin E. Radoc, Jr. shared an overview of the key prohibitions under the Philippine Competition Act (PCA) and the PCC's role in ensuring that fair competition benefits both businesses and consumers. This was followed by a brief orientation on the rollout of the National Competition Policy, which seeks to ensure that government interventions are aligned to assist the economic recovery of MSMEs.



Director Emma Asusano of the DTI Bureau of Small and Medium Enterprise Development, and of the agency's Negosyo Center, provided a status report on MSMEs' operations in the country, highlighting the DTI's flagship programs to support them, such as the provision of capacity-building opportunities.

Providing the main lecture was UNCTAD Economist and Legal Affairs Officer Elizabeth Gachuiri, who presented several MSME frameworks used in various jurisdictions and provided several recommendations for MSMEs when using available tools for their businesses.

To wrap up the discussion, PCC Knowledge Management Division Assistant Chief Paul Andrew F. Lucena shared the agency's upcoming release of a Competition Compliance Toolkit to guide MSMEs so they behave in accordance with the PCA.

During the open forum, participants asked about a possible review of potentially anti-competitive provisions in Philippine laws, the effect of foreign investments on MSMEs, filing of complaints before the PCC, and the implementation of competition compliance programs, among others. ■

KOICA ASSISTANCE TAPPED FOR CASE MANAGEMENT SYSTEM

The Philippine Competition Commission (PCC) has kicked off its case processing project with the Korea International Cooperation Agency (KOICA), seeking to develop a custom-built case management system for the PCC. In a meeting held at the PCC office on December 9, 2022, KOICA Assistant Country Director Kim Sanggeun, Program Manager Lee Yoonyoung, and the project management consultants led by Project Manager Kyeongung Boo discussed the details of the project's implementation with then PCC Officer-in-Charge Chairperson Johannes Benjamin R. Bernabe*.

Similar to antitrust authorities in other countries, the PCC maintains a firewall between the operating units and the Commission, which acts as

a quasi-judicial body. The system modernization program will ensure the continued independence of operations between units, while allowing for a more streamlined, secure, and efficient way of processing and adjudicating cases.

Prior to the December meeting, PCC staff had been holding discussions with the project management consultants to

familiarize them with the PCC's current system and processes and identify requirements for the case management system.

KOICA is a leading development cooperation agency of Korea supporting the implementation of the Sustainable Development Goals (SDGs) and the realization of global social values. The organization was established in 1991. ■

**Bernabe left the PCC upon the end of his term on January 7, 2023.*



KOREA CONSUMER AGENCY VISITS PCC

Top officials of the Korea Consumer Agency (KCA) visited the Philippine Competition Commission (PCC) last December for a courtesy call with then PCC Officer-in-Charge Chairperson Johannes Benjamin R. Bernabe* to discuss matters of mutual interest relating to competition and consumer welfare.

KCA President Jang Duck Jin, Department of Consumer Redress Director General Lee Jeong Ku, Department of Public Affairs International Cooperation Team Head Min Young Huh, and Assistant Manager Kim Soosan exchanged notes with Bernabe on best practices relating to consumer issues in the

e-commerce and the platform economy.

While the Philippine Competition Act recognizes that competition policy should benefit consumer welfare, the Department of Trade and Industry takes the lead in addressing consumer concerns in the country. ■

*Bernabe left the PCC upon the end of his term on January 7, 2023.



PCC ROLLS OUT TRAINING MODULES ON MERGERS

New videos explaining the Philippine Competition Commission's (PCC) merger review procedures were rolled out early this year.

The Mergers and Acquisitions Office (MAO) took on the production of video modules as one of its strategic initiatives last year. The first phase of the project covered pre-notification consultation (PNC), accomplishment and submission of notification forms, and conduct of sufficiency determination of filed transactions.

The second phase, scheduled to commence this year, will focus on video modules that explain

the concepts defined under PCC's merger review guidelines, as well as MAO's processes under Phases 1 and 2 reviews.

The video modules released last year are available for public streaming on PCC's website and on its social media pages. ■



UNIVERSITY OF ST. LA SALLE-BACOLOD STUDENTS VISIT PCC



A delegation from the University of St. La Salle (USLS) Department of Business Economics, Bacolod City visited the Philippine Competition Commission (PCC) office on January 9, 2023 as part of its study tour of government agencies in the economics sector. The visit to the PCC was an occasion to orient students about the benefits of competition and the provisions of the Philippine Competition Act (PCA).

The briefing was requested by USLS through the PCC's Competition Orientation Outreach Program (COOP).

An external service of the Communications and Knowledge Management Office-Capacity Building and Advocacy Division, the COOP seeks to introduce to the PCC's stakeholders, such as the academe, business community, government instrumentalities, legal community, media organizations, and the general public, the provisions of the PCA and the role of the PCC in government. ■

IN THE NEWS

Anti-trust body monitors 6 sectors

The Philippine Competition Commission (PCC) is focused on monitoring industries seen as having a huge impact on the economy but which have the tendency to engage in anti-competitive behavior. *(Irma Isip, Malaya Business Insight, 28 February 2023)*

PCC drafts guidelines on nonhorizontal mergers

The Philippine Competition Commission (PCC) is currently in the process of developing guidelines for the evaluation of non-horizontal mergers to prevent potential competitive issues. *(Eileen Mencias, Bilyonaryo.com, 02 March 2023)*

M&A DASHBOARD

Notifications received from January to March 2023:

9

Notifications received since 2016:

269



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