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# PHILIPPINE COMPETITION BULLETIN

## WHAT'S INSIDE

- 2 14<sup>TH</sup> EAST ASIA CONFERENCE: INTERFACE OF COMPETITION POLICY, SUSTAINABILITY, PRIVACY LAWS
- 3 MULTISECTORAL FORUM ON PCA CONDUCTED IN CENTRAL VISAYAS
- 4 HKCC, PCC STRENGTHEN COOPERATION AGREEMENT
- 5 PCC LEVERAGES LGA'S TRAINING MANDATE TO ROLL OUT CLP AMONG LGUS
- 6 LEB TAKES UP PCC CHALLENGE TO PROMOTE COMPETITION LAW IN LAW SCHOOLS



**PHILIPPINE  
COMPETITION  
COMMISSION**

*Ensuring businesses compete and consumers benefit*



## 14<sup>TH</sup> EAST ASIA CONFERENCE: INTERFACE OF COMPETITION POLICY, SUSTAINABILITY, PRIVACY LAWS

The Philippine Competition Commission, the Asian Development Bank Institute (ADB), and the Japan Fair Trade Commission (JFTC) organized the 14th edition of the East Asia Conference (EAC) last September 29. Held at the New World Hotel in Makati City, the conference tackled the intersection between competition policy on one hand, and sustainable regulation and data privacy laws on the other.

During the hybrid conference, government officials, business leaders, competition professionals, and researchers gathered to exchange views and ideas on the implementation of competition law and policy (CLP) in East and Southeast Asia, and the role of CLP in economic growth.

Top officials of the three organizers, namely: Commissioner Emerson B. Aquende of the PCC, Dean, Chief Executive Officer Tetsushi Sonobe of the ADB, and Commissioner Takashi Yamamoto of the JFTC, welcomed the participants and opened the program.

The first of two conference sessions dealt with competition policy's limiting effects on sustainability regulations. The session, "The Effect of

Sustainability Regulations on Competition Policy," was moderated by Benjamin E. Radoc, Jr., Director of PCC's Economics Office. Ritchie Hutton of the New Zealand Commerce Commission, Deswin Nur of the Indonesia Competition Commission, and Yusuke Takamiya of Mori Hamada & Matsumoto (who joined via Zoom), served as speakers.

Hutton posed the question, "How does competition law deal with collaboration that reduces competition but also has sustainability benefits?" In New Zealand, parties can apply before the New Zealand Commerce Commission for authorization on ventures with public benefits that outweigh effects to market competition. According to Hutton, this balancing involves competition authorities and consumer agencies implementing targeted enforcement taking into account sustainability considerations, adding that engagement with other government agencies is key to effective regulation.

For Indonesia's Nur, it is urgent to act on sustainability as there may be conflicting objectives with competition law and unforeseen effects of market shifting. He pointed out two tasks of competition

authorities in view of attaining sustainability goals: (1) make sure that a conducive environment for competition exists and (2) ascertain a level playing field and equal opportunities, as larger companies may use their sustainability initiatives to gain incentive, and consequently, market power. Nur also called for providing exemptions or relaxations to certain sectors to encourage sustainability, removing potential conflicts with competition law, as well as clearer policy advice, regulations, and guidelines.

Lawyer Takamiya presented the issue of how competition law and policy can be applied to a situation wherein business activity has a negative impact on consumers in the short run but has a positive impact on society and the economy in the long run. He said businesses have a strong interest in activities that pursue sustainability goals, and that it is important not to hamper their efforts. While there are no specific provisions in Japanese law and regulation that require direct consideration of environmental concerns, what is done instead is a thorough assessment of whether the activity poses a problem for antimonopoly law.

*continued on page 7*



## MULTISECTORAL FORUM ON PCA CONDUCTED IN CENTRAL VISAYAS



As part of its advocacy to promote the Philippine Competition Act (PCA) and the National Competition Policy (NCP) among Cebuanos, the Philippine Competition Commission (PCC) conducted a multisectoral forum for stakeholders in Central Visayas at the Bai Hotel in Cebu City on October 13, 2022.

The PCC and co-organizer, National Economic and Development Authority Regional Office 7 (NEDA RO 7), gathered over 100 competition law stakeholders in the Central Visayas region, including members of the business community and local government officials.

Maria Sostheleen C. Padilla, Officer-in-Charge (OIC) Assistant Regional Director of NEDA RO 7, opened the program, while PCC OIC Chairperson Johannes Benjamin R. Bernabe welcomed the participants.

In addressing the participants, Bernabe stressed the importance of hearing the side of the PCC as well as the side of

competition law stakeholders.

"This is not intended to be a one-way forum. It is intended to be a dialogue between... the Commission and yourselves, so that hopefully it is not simply a matter of imparting knowledge but also assessing the needs and requirements of those in the region so that we can better respond with what we have under the mandate in our law," said Bernabe.

Bernabe also provided an overview of the PCA, and outcomes envisioned from its enforcement and advocacy prerogatives.

Erika-Anne Therese D. de la Cerna of the PCC Competition Enforcement Office (CEO) discussed the prohibited acts under the PCA, while Maria Clarabel S. Busine of the PCC Mergers and Acquisitions Office (MAO) explained how mergers and acquisitions are reviewed.

PCC Executive Director Kenneth V. Tanate presented the benefits of competition, as well as an overview of the National

Competition Policy (NCP) and its key pillars, which he described as the main mechanism in establishing a whole-of-government approach in achieving the vision of the PCA.

Jestoni A. Olivo of the PCC Economics Office (EO) showed audiences how to accomplish the Competition Impact Assessment (CIA), as conducting it is now an eligibility requirement for the performance-based bonus (PBB).

Participants posed questions to PCC officials and staff regarding concerns from their respective communities. The PCC answered queries regarding the agency's Leniency Program, coverage of the PCA, government rules as possible barriers to entry/growth, agreements between non-competitors, notifications for mergers, and Buy Local policies and their anti-competitive tendencies, among others.

The PCC plans to establish an investigation station (i-Station) in Central Visayas soon. ■



## ADVOCACY ROUNDUP

### HKCC, PCC STRENGTHEN COOPERATION AGREEMENT



Strengthening its bilateral ties with the PCC is among the agenda during the courtesy call of Hong Kong Competition Commission's (HKCC) top officers last September 30.

PCC Officer-in-Charge Chairperson Johannes Benjamin R. Bernabe and Executive Director Kenneth V. Tanate

welcomed HKCC's Chief Executive Officer Rasul Butt and International Affairs Senior Adviser Matthew Wong at the PCC headquarters. During the meeting, both competition authorities intended to renew their agreement to collaborate on antitrust regulations, primarily on anti-cartel enforcement.

Last December 14, 2020, the PCC signed a memorandum of understanding (MoU) with HKCC. The MoU provided for areas of collaboration on staff exchanges, research studies, capacity-building exercises, and other forms of technical cooperation. ■

### REINFORCING AGENCY PARTNERSHIPS AGAINST BID-RIGGING

"Competition is at the heart of government procurement. The importance of instilling, enhancing, and upscaling pro-competitive policies and interventions in government is made more pronounced now that we are all in the midst of rebounding from the disruption brought by the pandemic," said Government Procurement Policy Board - Technical Support Office (GPPB-TSO) Executive Director Rowena Candice M. Ruiz .

On November 25, the PCC, through its Capacity Building and Advocacy Division (CBAD) and Legal Services Division (LSD), held the online event titled "Strengthening Partnerships with Other

Government Agencies (SPOGA) Seminar with the GPPB-TSO and Philippine Government Electronic Procurement System (PhilGEPS)." PhilGEPS Director Rosa Maria M. Clemente keyed the event, while PCC Competition Enforcement Office personnel Lenvic Elicer R. Lesigues and Mark Anthony S. Ciso walked participants through PCC's bid rigging tool.

"Ensuring the integrity of public procurement should be one of the priority goals of every government agency.... Procurement units should therefore always stay vigilant on different forms of bid-rigging whenever they undergo procurement process," said PCC

Executive Director Kenneth V. Tanate, who is also the agency's Head of Procuring Entity.

More than 70 registered attendees composed of procurement specialists, accountants, and lawyers from the Procurement Service - Department of Budget Management, GPPB-TSO, and PCC attended the SPOGA. The SPOGA is a seminar series aimed at reinforcing partnership agreements with other government agencies, as well as discussing possible collaborations, among others. Last July, the PCC held a SPOGA with the Commission on Audit. ■

### PCC LEVERAGES LGA'S TRAINING MANDATE TO ROLL OUT CLP AMONG LGUS

The Philippine Competition Commission (PCC) and the Local Government Academy (LGA) of the Department of Interior and Local Government (DILG) signed a Memorandum of Agreement (MOA) to institutionalize a partnership in promoting competition law and policy among local government units (LGUs).

In a virtual ceremony held last September 20, PCC Executive Director Kenneth V. Tanate and LGA Executive Director Thelma T. Vecina led the signing, wherein both agencies agreed to open avenues for learning, collaboration, and capacity-

building exercises for local executives.

In his message of support, PCC OIC-Chairperson Atty. Johannes Benjamin R. Bernabe explained how adverse effects of anti-competitive practices in the market can be felt at a local level. He emphasized the need for LGU involvement in formulating and adopting pro-competition principles as mandated in the National Competition Policy (NCP) of the Philippines to ensure a competitive playing field. Bernabe stated that the PCC-LGA partnership would help promote competition to even more stakeholders.

Tanate highlighted PCC's whole of government approach in forming a strategic partnership with LGA to capacitate LGUs, helping them strive for excellence and improving the quality of public service in the country with respect to pro-competitive practices.

The said partnership aims to help LGUs adhere to competition law, especially with the rollout of the NCP and compliance to Administrative Order No. 44, s. 2021, which is among the criteria for the conferment of the Seal of Good Local Governance (SGLG) on cities and municipalities. ■

### PCC BRINGS CAMPUS TOURS TO MORE SCHOOLS



The Philippine Competition Commission (PCC) covers more ground, as it brought its campus tour series on competition law and policy (CLP) to De La Salle University Tañada-Diokno College of Law (DLSU-TDCOL) on October 8, followed by the University of San Carlos - School of Law and Governance (USC-SOLG) on October 12.

The PCC discussed special topics on competition law and economics for law students from both universities, as part of this year's campus tour series. Besides an overview of the Philippine Competition Act (PCA), PCC officials and staff tackled the benefits of competition, anti-competitive agreements, abuse of

dominance, and mergers and acquisitions.

More than a hundred law students, alumni, and faculty members from the DLSU-TDCOL, led by Dean Gil De Los Reyes, joined the online discussion.

Meanwhile, the first onsite campus tour since the start of the pandemic, was held in USC-SOLG in Cebu City. More than 200 students and faculty, headed by Dean Jose Glenn C. Capanas, participated in the exchange of information on market competition and the PCA. PCC OIC-Chairperson Johannes Benjamin R. Bernabe announced that a PCC investigation hub will be established in Cebu soon, where consumers can file complaints or raise issues on anti-competitive acts.

The PCC started conducting campus tours in schools and universities across the country in 2017 to raise the academic community's awareness of the PCA and the PCC's role in enforcing the law, as part of its advocacy initiatives. ■



## LEB TAKES UP PCC CHALLENGE TO PROMOTE COMPETITION LAW IN LAW SCHOOLS

The Philippine Competition Commission (PCC) and the Legal Education Board (LEB) has formalized their partnership in advancing competition law and policy in legal education through a ceremonial signing of a Memorandum of Understanding (MOU) on November 4, at the PCC Board Room.

PCC Officer-in-Charge Chairperson Johannes Benjamin R. Bernabe and LEB Chairperson Anna Marie Melanie B. Trinidad led the MOU signing, marking both agencies' commitment to promote competition law.

The MOU highlights the joint organization of events and programs that promote competition law and policy for law school students, executives, and faculty, as well as other joint or coordinated advocacy activities on market competition.

PCC Commissioner Emerson B. Aquende welcomed the



guests while LEB Commissioner Lorenzo R. Reyes provided an overview of the partnership.

Also present during the signing ceremony were PCC Commissioner Marah Victoria S. Querol, PCC Executive Director Kenneth V. Tanate, and LEB Chief Operating Officer Aaron Marc M. Dimaano.

The PCC and LEB have collaborated in the past for

events centered on legal education and competition law, including the Online Lecturers Training Program on Competition Law and Policy in 2020, and the Competition Law and Policy Career Day special practice area for law students in September this year.

The LEB serves as the regulatory and supervisory body for legal education in the Philippines. ■

14th East Asia...continued from page 2

The second session, "The Interface Between Competition Policy and Privacy Laws," examined the intersection between competition policy and data privacy law. The discussion was led by Atty. Gwen Grecia-De Vera, Program Director of the Competition Law and Policy Program at the University of the Philippines-College of Law.

Scott Gregson, Chief Executive Officer of the Australia Competition and Consumer Commission, points to data as a kingmaker in digital markets, as large enterprises use datasets for monetization. From a competition lens, monopolization of data is seen as a potential source of market power; therefore, Gregson argues that regulators must continue to act under their mandate in cases of enterprises that take advantage of data. Moreover, he called for the use of advocacy efforts, such as market studies, as a tool for exposing related issues and to guide

policy-makers in taking action.

In his presentation, Nasarudin Abdul Rahman of the Malaysia Competition Commission — shed light on the interaction of his country's competition and data protection laws. He finds parallels and intersection points between the two laws and, like Gregson, agreed that data is important in gaining market power. Rahman sees the significance of finding the synergies of both laws. When prosecuting under competition laws, a data breach is considered not enough to secure a conviction, and the burden of proof of impact on competition lies in the hands of competition authorities.

Lawyer Ivy Grace T. Villasoto of the Philippines' National Privacy Commission (NPC) presented the shared interests and intersections of competition law and data privacy law. Data portability is beneficial for both laws as it reduces barriers to consumers switching between services. Villasoto points out that there is a growing need for

multi-disciplinary collaboration in order to create effective regulations, as data protection and competition authorities cannot achieve their objectives in isolation.

PCC Commissioner Marah Victoria S. Querol closed the program. "[I]t is clear that the harmony between competition law and sustainability regulation, competition policy and privacy law must be had. And from what I've heard today, I am optimistic that it can. All it takes is some effort, a little bit of flexibility, and an equal desire among the regulators to achieve this goal," she said.

The EAC is an open event for government officials, business leaders, competition professionals and academics to develop a common understanding of the importance of competition policy and law in the region. To watch a recording of the 14th EAC, visit <https://www.facebook.com/competitionph/videos/506972077463551>. ■

## PCC BAGS 2021 OUTSTANDING ACCOUNTING OFFICE AWARD

The Finance, Planning and Management Office (FPMO) of the Philippine Competition Commission (PCC) has been awarded as one of the Outstanding Accounting Offices among state agencies for fiscal year 2021 for demonstrating the highest standard of compliance with stringent government rules on financial reporting.

The awardees were chosen based on the recommendation of the Commission on Audit (COA), whose criteria for judging include unqualified COA findings and the accuracy and timeliness of submission of financial reports.

The said award was given by the Association of Government Accountants of the Philippines Inc. (AGAP). AGAP consists of over 10,000 accountants, budget officers, supply officers,

cashiers and all personnel belonging to the finance group from national government

agencies, local government units, and government-owned or controlled corporations. ■

## Congratulations, PCC!

Awarded as one of the **Outstanding Accounting Offices** for **FY2021** by the **Association of Government Accountants of the Philippines Inc. (AGAP)** and the **Commission on Audit (COA)**



# M&A DASHBOARD

Notifications received from October - December 2022:

# 5

Notifications received since 2016:

# 260

### IN THE NEWS

**Competition body: 4 enforcement cases concluded by yearend**

The Philippine Competition Commission (PCC) said four enforcement cases will be concluded before the year ends. These four cases involve sectors on trade associations, property development arrangements with Internet service providers (ISP), insurance, and cement. [\(Andrea San Juan, Business Mirror Online, 03 October 2022\)](#)





## OTHER PUBLICATIONS



Electronic publications are available at the PCC website:  
[www.phcc.gov.ph](http://www.phcc.gov.ph)