PHILIPPINE COMPETITION COMMISSION
Ensuring businesses compete and consumers benefit

25/F Vertis North Corporate Center I, North Avenue, Quezon City 1105
www.phcc.gov.ph
queries@phcc.gov.ph
(+632) 8771 9722
(+632) 8771 9713

PRESS RELEASE 2021-003
29 January 2021
For Immediate Release

OECD, PCC launch reviews to steer growth, competitive neutrality in logistics sector

The Organisation for Economic Co-operation and Development (OECD) and the Philippine Competition Commission (PCC) launched 2 reports today, culminating an in-depth competition assessment of the logistics sector in the Philippines.

The OECD reports, "Competition Assessment Reviews: Logistics Sector in the Philippines" and "Competitive Neutrality Reviews: Small-Package Delivery Services in the Philippines," studied 96 relevant laws and regulations and presented 99 specific pro-competition recommendations to support efforts in boosting the country's logistics sector and leveling the playing field between private and state-owned firms.

"The PCC supports the pro-competition initiatives of government to modernize and simplify its processes and eliminate red tape. A competitive logistics industry is vital to recovery and key to increasing consumer welfare in the new normal, especially with the rise of digital commerce in bridging supply and demand in our markets," said PCC Chairperson Arsenio M. Balisacan.

The first report reviewed regulatory constraints on competition in the logistics sector for road and maritime freight transports, freight forwarding, and value-added services. The second study focused on small-package delivery services to demonstrate how competitive neutrality is applied in the logistics sector, in this case between private firms and the state-owned Philippine Postal Corporation (PHLPost).

The review recognized the logistics sector's crucial role in the Philippine economic development with a market size of USD 11 billion, which accounts for approximately 4% of the country's gross domestic product (GDP).

OECD found that the cost of logistics to sales remains high in the Philippines, approximately 27% higher compared to other ASEAN countries. The study cited that the country ranks 60 in the World Bank's Logistics Performance Index (LPI) in 2018, with timeliness and customs considered as the two most challenging areas and low scores for infrastructure and logistics competence. The *Build! Build! Build!* (BBB) program, however, is expected to improve the country's infrastructure and logistics performance.

The reports flagged competition issues in the logistics sector as 1) *rules that may limit market entry*, 2) *exemptions from competition law*, and 3) *rules granting preferential treatment only to certain companies resulting in uneven competition in the market*.

Recommendations from the OECD review follow pro-competition views and international best practices to benefit the logistics sector and the country as a whole, including:

- Clear separation between the regulatory and operational functions within the Philippine regulatory environment. Regulatory bodies should avoid being operators themselves that compete with private firms in a sector they regulate.
- Concentrating in a single ministry the responsibilities for the regulation of freight forwarders, regardless of their mode of transport, to decrease business costs.
- Amending the Public Services Act to clarify that freight transportation and logistics are not public utilities to remove barriers to entry and encourage more firms in the market.
- Ensuring adequate compensation to PHLPost for the execution of its public service obligations, including delivering letters to all parts of the country.

(*See summary of main recommendations below*)

"Ultimately, the policy recommendations in the reviews are about investment, jobs and growth. There is a need to reduce unnecessary legal and regulatory restrictions to competition, thus bringing prices down, and improving the quality of goods and services and increasing innovation," said Antonio Gomes, OECD Deputy Director for Financial and Enterprise Affairs.

The reports are part of a region-wide project to foster competition under the ASEAN Competition Action Plan 2016-2025. The assessments were conducted in partnership with ASEAN and the UK Government.

"The UK government fully supports the goals and initiatives under the ASEAN Competition Action Plan 2016-2025 to help member countries build a fair and competitive environment where innovation, entrepreneurship, investments, and trade and industry could thrive," said Daniel Pruce, UK Ambassador to the Philippines.

###

The **OECD reviews** covered **96** pieces of legislation and cited **76** specific legal or regulatory pro-competition recommendations to improve the logistics sector in the Philippines. The study also offered **23** competitive neutrality action points to support efforts in leveling the playing field between private firms and government-owned enterprises in this sector.

Here is the summary of the main recommendations:

Competition Assessment Reviews: Logistics Sector in the Philippines (pp. 9-11)

Road freight transport

1. Clear guidelines should be issued on application requirements for road freight transport licenses. Certain evidentiary requirements should be revised, such as the provision of a haulage contract and proof of garage.
2. Implement the online database or system established so the Land Transport Office (LTO) can undertake the CPC confirmation process directly without having to consult other authorities.
3. Make all licenses and permits required for trucks for hire available through a single application to a single agency. Port-related activity permits should be removed.
4. Introduce roadworthiness standards for trucks with a transition period for current market operators, rather than implementing the ban on vehicles, which are more than 15 years old.
5. A national authority, such as the Department of Transportation (DOTr) should supervise fees charged by local government units (LGU) and publish an annual report detailing all authorized fees. Alternatively, national legislation that explicitly prohibits LGUs from raising additional pass-through fees should be introduced.

Maritime freight transport

1. Structural separation between the regulatory, operational and commercial functions of the Philippines Port Authority (PPA) and of regional port authorities such as the Cebu Ports Authority (CPA), should be ensured.
2. Maritime authorities should work together to remove any overlapping requirements, for example, safety-certificate requirements.
3. The framework for the regulation of port charges by the port authorities, notably PPA, should be revised in order to separate its revenue gathering functions from its regulatory activities.
4. Maritime Industry Authority's (MARINA) power to intervene in domestic shipping rates should be removed.
5. Authorities should make it easier for pilots to obtain multiple licenses and so work across pilotage districts. Foreign equity limits should be relaxed for the provision of port services and the awarding of contracts.
6. MARINA's ability to establish and proscribe domestic shipping routes or to require the provision of shipping services should be based only on safety considerations or apply in times of national emergency.
7. Visa requirements for foreign crews should be clarified and the duration of the required visa extended. Nationality requirements for crew should also be revised.
8. Operators should be allowed to carry out repairs, alterations and fulfil any dry-docking requirements in overseas shipyards that impose equivalent standards to those required in the Philippines. There should be no compulsory association requirement for shipyards.

Freight forwarding

1. Responsibilities should be concentrated so that a single ministry regulates all freight forwarders regardless of their mode of transport.
2. Shipping lines should be explicitly allowed to establish freight-forwarding businesses.
3. Memorandum Circular (MC) No.01 Series of 2005, which prescribes indicative rates and charges for freight-forwarding services, should be repealed.
4. The requirement for minimum share capital specific to each type of freight forwarding activity should be removed and the general regime for commercial companies applied.
5. Annual reporting for freight forwarders should be considered, instead of quarterly or bi-annual reporting.
6. Accreditation of freight forwarding on a national level should be allowed and removal of the requirement for branch offices should be considered. The authorization procedure for individual branches of freight forwarders should be removed or all physical offices should be permitted to be accredited in one application.

Small-package delivery services

1. Foreign participation in the market for express-delivery services should be allowed.
2. Minimum prices for postal services including small packages and letters should be removed. If not, DICT should at least increase transparency around the mechanism used to calculate minimum rates.
3. Every applicant for courier services that fulfils stated conditions should be granted a new license.

Horizontal and others

1. Freight transportation and logistics should no longer be classified as public utilities. As a consequence, this will remove the 40% foreign equity limitation on these sectors.
2. Freight transportation and logistics should be removed from those sectors included in the definition of “public services” in the Public Service Act and the requirement to obtain a certificate of public convenience (CPC) should be removed. If freight transport and logistics were to continue to be classified as public services, remove the economic-needs test from the requirements to obtain a CPC.
3. Each logistics authority should publish the complete list of legislation it administers on its website. Authorities should revise legislation to include new amendments or alternatively, list the main legislation and then provide links to any amendments. Every piece of legislation should include subsequent amendments so that all legislation has a consolidated, updated version. Ensure that regulations are published on the Philippine Business Regulations Information System (PBRIS), which will soon be launched by the Anti Red Tape Authority (ARTA).
4. The digitalization of all application procedures for logistics-related authorizations should continue and online applications should be allowed.
5. The requirement for 100% Filipino executive and managing officers in public utilities should be eased to allow a higher percentage of foreigners in high managerial positions, in order to attract foreign investment. Restrictions based upon citizenship should be replaced by residency requirements.
6. Where foreigners are allowed to participate in procurement processes, national preferences should be eliminated to ensure that the most competitive bid is chosen. If necessary, a transition period could be implemented.

7. All minimum capital requirements should be removed. Alternatively, the minimum capital requirements for foreign investors should be amended to align them with domestic requirements

International agreements

1. TradeNet, the Philippines' National Single Window, should be activated and made operational as soon as possible.**Competitive Neutrality Reviews: Small-Package Delivery Services in the Philippines (pp. 11-12)**
1. Adequately compensate Philippine Postal Corporation (PHLPOST) for the fulfilment of its PSO; based on other countries' experience, the PSO can be funded in various forms including: a) direct or indirect transfer payments from the government; b) granting access to PSO through public procurement; or c) contributions of other service providers or their users into a universal PSO fund.
2. Adequately compensate franking privilege services; this can take various forms (such as foregone dividends by the state), as long as they are identified and properly accounted. Compensation should be detailed in legal provisions or through contractual mechanisms, rather than ex post negotiations. The contractual mechanism should take into account, for instance, the quality of franking privilege services using objective criteria. Moreover, compensation may be periodically adjusted taking into account any quality improvements in PHLPOST's franking privilege services.
3. Ensure that PHLPOST keeps separate accounts for the provision of franking privilege services.
4. Limit the cases where PHLPOST's ownership entity needs to obtain the Philippine president's ex ante approval for significant transactions, such as high-risk transactions or transactions exceeding a certain value.
5. Subject PHLPOST's financial statements to independent external audit.
6. Amend the Postal Service Act to clarify that PHLPOST does not exercise any regulatory powers on the industry.
7. Ensure that the DICT Act and the Implementing Rules and Regulations of the DICT Act explicitly state that Department of Information and Communications Technology (DICT) executes the regulatory role in the relevant sector.
8. Ensure that the DICT Act and the Implementing Rules and Regulations of the DICT Act explicitly state that Postal Regulation Division of DICT (DICT-PRD) regulation applies equally to PHLPOST and its SPDS competitors.
9. Amend Section 12 of the Postal Service Act to reflect that the state will not grant any preferential (financial) treatment to PHLPOST.
10. Consider mechanisms (such as guarantee fees) that impose compensatory payments to the Bureau of the Treasury from GOCCs that benefit from lower borrowing costs thanks to state guarantees, compared to private companies in comparable circumstances.
11. Ensure that PHLPOST's relations with state-owned financial institutions are on commercial terms and minimize the risk of conflicts of interests, such as PHLPOST's directors also sitting on the boards of state-owned banks.

No. of screened pieces of legislation, restrictions and recommendations

Sector		Legislation analyzed	Restrictions found	Recommendations
Freight transport	Road	21	18	16
	Railway	0	0	0
	Maritime	56	47	38
Freight forwarding		6	11	7
Warehouses		2	4	0
Small-package delivery		3	6	4
Horizontal/others		7	11	11
International agreements		1	1	1
Total		**96**	**98**	**76**

Notes: No freight transportation by rail currently occurs in the Philippines. There is no legal framework for the warehouse sector. Relevant legislation includes those classed as "Horizontal/others". Source: OECD assessment-project team.

###

REFERENCE:
PENELOPE P. ENDOZO
PUBLICAFFAIRS@PHCC.GOV.PH
PUBLIC AFFAIRS DIVISION
PHILIPPINE COMPETITION COMMISSION