

ISSUE 2023-03 | JULY-SEPTEMBER 2023

# PHILIPPINE COMPETITION BULLETIN

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*Ensuring businesses compete and consumers benefit*



Abram Andrew Lumbang, Haidee Amabel Uy, Darius Vien Darunday (fourth to sixth from left), and Chrysil Ariza Valencia (not in photo) of San Sebastian College-Recoletos triumphed in the first Philippine Moot Court Competition on Competition Law. PCC Chairperson Michael Aguinaldo (third from left) led the panel of judges composed of (left to right) former PCC Commissioner Emerson Aquende, Norton Rose Fulbright - Antitrust and Competition Head Marc Waha, LEB Chairperson Anna Marie Melanie Trinidad, former Ateneo Law School Dean Cesar Villanueva, and US Federal Trade Commission Senior Attorney Eric Edmondson.

## San Sebastian College-Recoletos wins inaugural PCC-LEB Moot Court on Competition Law

■ ■ ■ By Lea Marie F. Diño

A team of law students from the San Sebastian College-Recoletos bagged the top spot in the first Philippine Moot Court Competition on Competition Law.

Jointly organized by the Philippine Competition Commission (PCC) and the Legal Education Board (LEB), the inaugural Philippine Moot Court Competition on Competition Law concluded on July 21 at Hive Hotel & Convention Place in Quezon City.

Sixteen teams from some of the Philippines' top law schools participated in the competition. The winning team from San Sebastian College-Recoletos was composed of Haidee Amabel Uy, Darius Vien Darunday, Abram Andrew Lumpang, and Chrysil Ariza Valencia, with lawyer Gerlyn Fe Oyos as coach. Uy was awarded best speaker. San Beda College-Alabang finished first runner-up, while Aurora State College of Technology won second-runner up.

The competition centered around a hypothetical case in the renewable energy sector, which highlighted the competing teams' skills in defining abuse of market dominance, identifying whether profit- and patent-sharing agreements are considered anti-competitive, and assessing if a possible anti-competitive agreement may be exempted due to environmental benefits.

PCC Chairperson Michael Aguinaldo led the final round's panel of judges, along with LEB Chairperson Anna Marie Melanie Trinidad, former PCC Commissioner and former LEB Chairperson Emerson Aquende, former Governance Commission for GOCCs (GCG) Chairperson and former Ateneo Law School Dean Cesar Villanueva, and international competition law experts Eric Edmondson of the US Federal Trade Commission and Marc Waha of the Norton Rose Fulbright law firm.

Prior to the final round, the general rounds featured mooters from Ateneo de Zamboanga University, Bukidnon State University, University of the Cordilleras, University of Mindanao, Far Eastern University, Xavier University-Ateneo de Cagayan, De La Salle University, Universidad de Manila, University of Makati, Rizal Memorial Colleges, Saint Louis University, New Era University, and Central Philippine University.

The Moot Court Competition is one of the joint advocacy activities of the PCC and the LEB. Last year, the PCC and LEB organized a career day for law students interested in specializing in competition law. ■

# Competition compliance, good governance discussed in forum for corporate governance trainers

■ ■ ■ By Paul Jeffrey M. Ballentos

The Philippine Competition Commission (PCC) and Securities and Exchange Commission (SEC) jointly organized a virtual seminar to equip institutional training providers with insights into the regulatory framework that underpins a competitive business environment.

Entitled “Orientation on the Philippine Competition Act and its IRR for SEC-Accredited Institutional Training Providers on Corporate Governance,” the forum held last May 26 pushed for the inclusion of competition compliance as a criterion in corporate governance.

In his welcome message, PCC Chairperson Michael Aguinaldo highlighted the Commission’s role in implementing a competition policy that seeks to create systemic advantages contributing to the benefit of businesses, workers, and consumers.

“Market competition typically results in better prices for consumers: it increases options for buyers, improves the quality of goods and services, and spurs innovation that pushes industries to new heights,” Aguinaldo said.

SEC Commissioner McJill Bryant Fernandez emphasized the collective effort of the PCC and SEC in realizing an enabling corporate environment through effective and fair regulations. These aid in the organizations’ long-term success and create sustainable value for their shareholders.

Coordination between the PCC and SEC has been established since 2016, when the two agencies signed a memorandum of agreement that covers information sharing and collaboration in relation to mergers and consolidation of corporations.

This latest initiative is among the PCC’s efforts to lay the ground for the rollout of its Competition Compliance Toolkit and the implementation of Section 26 of the Revised Corporation Code.

Both are strategies identified in the Philippine Development Plan (PDP) 2023-2028 for raising awareness of and facilitating compliance to competition law.

The development of the Competition Compliance Toolkit began in 2019 and involved the nationwide conduct of key informant interviews and focus group discussions with small to large enterprises representing the PCC’s sectors.

The toolkit is envisioned to help businesses come up with and implement their respective competition compliance programs. A competition compliance program is a non-enforcement mechanism that a business develops and implements internally to ensure that its operations comply with competition law.

Section 26 of the Revised Corporation Code bestows upon the PCC the authority to impose qualifications or disqualifications on prospective board members of publicly listed companies in its promotion of good corporate governance or as a sanction in the Commission’s administrative proceedings.

Attending the forum were SEC-accredited institutional training providers for corporate governance, which included the Center for Continuing Education of Ateneo de Manila University Graduate School of Business, the Center for Global Best Practices Foundation, Inc., the Center for Training and Development, Inc., Institute of Corporate Directors, Isla Lipana & Co., Philippine Chamber of Commerce and Industry, Inc., Punongbayan & Aurallo, Risk Opportunities and Management, Inc., Sycip, Gorres, Velayo & Co., and University of Asia and the Pacific Foundation, Inc.

Resource persons from the PCC discussed the interface between competition compliance and corporate governance, as well as the key provisions of the Philippine Competition Act. ■



*PCC Chairperson Michael Aguinaldo (left) and SEC Commissioner McJill Bryant Fernandez (right) welcomed participants during the online seminar on May 26.*

## PH antitrust chief joins Hong Kong Competition Summit

■ ■ ■ By Leanne Croisette N. Gorosin

Philippine Competition Commission (PCC) Chairperson Michael Aguinaldo joined the 2023 Competition Enforcers and Academics Summit hosted by the Hong Kong Competition Commission (HKCC) from August 10 to 11.

The Summit gathered at least 100 leading scholars and senior enforcement officials from 12 Asia-Pacific economies, discussing topics ranging from digital markets regulation to merger review and remedy design. Chairperson Aguinaldo joined the session on the use of digital tools to strengthen the enforcement work of competition authorities.

In his presentation, Chairperson Aguinaldo discussed the PCC's experiences in uncovering and pursuing bid-rigging cases. He highlighted that modern digital tools (e.g., algorithmic pricing) pose challenges, which make it more difficult for competition enforcers to identify

collusion among market players. He also shared the PCC's Bid Rigging Screening Tool (BiRST) that aims to aid efforts to detect bid-rigging in public procurement.

The PCC regularly collaborates with foreign partners and fellow competition authorities to learn best practices across the region. In 2021, the PCC and the HKCC entered into a memorandum of understanding aimed at bolstering technical cooperation, facilitating information-exchange on competition law enforcement, and strengthening bilateral relations.

The 2023 Competition Enforcers and Academics Summit is co-organized by the HKCC and the University of Hong Kong (HKU) Business School. This year's gathering builds on the inaugural summit held in 2019, where over 45 international experts participated. ■



(From left to right) Commerce Commission of New Zealand Principal Adviser on Cartels Nick Wilkins, SEAS-Yusof Ishak Institute of Singapore Senior Fellow Dr. Cassey Lee, Competition and Consumer Commission of Singapore Business and Economics Deputy Director Kong Weng Loong, PCC Chairperson Michael Aguinaldo, and HKU Business School Professor Fong Yuk-fai discuss modern challenges in enforcing competition law during the 2023 Competition Summit in Hong Kong. Photo courtesy of the Philippine Consulate General in Hong Kong.

# Localized competition lens underscored during League of Cities event

■ ■ ■ By Lea Marie F. Diño



*PCC Commissioner Ferdinand Negre delivering his talk on the National Competition Policy during the LCP's 3rd Convergence and 75th National Executive Board Meeting in Clark.*

Philippine Competition Commission (PCC) Commissioner Ferdinand Negre joined the League of Cities of the Philippines' (LCP) 3rd Convergence and 75th National Executive Board Meeting held last July 26, seeking to enlighten local chief executives about the implementation of the National Competition Policy (NCP).

During the program, Negre emphasized the potential effects of anti-competitive ordinances to businesses and consumers. Given gaps in policy implementation, Negre explained the significance of a whole-of-government approach in effectively enforcing the NCP.

The 2020 Joint Memorandum Circular of the PCC and the National Economic Development Authority (NEDA) is a crucial document guiding the implementation of the NCP. The said Circular covers all national government agencies (NGAs), including departments, bureaus, offices and instrumentalities, government-owned or -controlled corporations, and local government units in executing pro-competitive policies and government interventions, upholding competitive neutrality, and enforcing competition-related laws and issuances.

Administrative Order No. 44, ratified in 2021, reinforces the public sector's commitment to the NCP by integrating it among the good governance conditions for the conferment of the Seal of Good Local Governance to LGUs. As such, LGUs should be capacitated to carry out assessments of the compliance of their policies and regulations to the country's competition law. The PCC also rolled out its Competition Impact Assessment tool, which can aid LGUs in screening their existing and proposed local policies for potential anti-competition concerns.

Negre shared the PCC's recommended strategies for enhancing collaboration with LGUs in implementing the NCP. These strategies encompass the creation of future mechanisms for NCP implementation through involvement of compliance officers from LGUs, active cooperation in ongoing investigations, and knowledge-sharing.

Representing 149 member-cities, the LCP was created through the passage of the Local Government Code in 1991 to tackle issues affecting city administration and governance. ■

# Virtual Regional Roadshow on Competition Law goes to Western and Central Visayas, Northern Mindanao

■ ■ ■ By Lea C. Gomez



To spread awareness of the Philippine Competition Act (PCA) outside the National Capital Region, the Philippine Competition Commission (PCC) sustained its series of regional roadshows last June and July.

Kicking off this year's campaign was the roadshow in Western Visayas, in partnership with the National Economic and Development Authority (NEDA) Regional Office VI - Western Visayas, the Department of Trade and Industry (DTI) Region VI Office, and the Regional Development Council (RDC) VI.

During the program, NEDA RO VI OIC-Assistant Regional Director Yvette G. Batacandolo shared an overview of potential competition issues and challenges in Western Visayas, highlighting issues involving the region's energy sector. The

forum also featured a discussion on the benefits of ensuring a level-playing field for businesses and consumers alike, and the impact of the PCA in the implementation of regional development strategies.

The second leg of this year's roadshows was held in Central Visayas. In his welcoming address, RDC VII Chairperson Governor Erico Aris Aumentado emphasized that competition is a platform for consumers and businesses to identify approaches and strategies in addressing several economic issues within the region. "Competition is a vital aspect of any thriving economy," he said. Likewise, the discussions during this segment revolved around the PCC's pivotal role in enforcing the PCA, safeguarding the market against prohibited business practices.



Culminating this year's annual roadshow activities was the roadshow in Northern Mindanao. During the program, Northern Mindanao RDC Chairperson Imelda Quibranza-Dimaporo expressed the area's unwavering commitment to promote a fair and competitive business environment.

Over 300 stakeholders from the government, private sector, and academe participated in the roadshows. Previously, regional roadshows

had been held in Northern and Central Luzon, Cagayan Valley, CALABARZON, Eastern Visayas, Zamboanga Peninsula, Cebu, and Davao.

The regional roadshow series is an annual advocacy program of the PCC aimed at raising public awareness and understanding of the PCA and the role of the Commission. The roadshows also serve as occasions to forge collaborations between the PCC and stakeholder groups in the localities hosting the events. ■

## Bid-rigging workshop held for procurement officers

■ ■ ■ *By Leanne Croisette N. Gorosin*

The Philippine Competition Commission (PCC) hosted a seminar on Detecting and Prosecuting Bid Rigging last July 26-27 in Quezon City as part of efforts to ensure transparency and competition in public procurement.

During the forum, representatives from the PCC Enforcement Office, the Competition and Consumer Commission of Singapore, the Hong Kong Competition Commission, and the World Bank tackled various bid-rigging techniques and how to detect them as experienced across different jurisdictions.

The event also introduced PCC's Bid Rigging Screening Tool (BiRST), giving workshop

participants the opportunity to learn how to use it. BiRST equips the user with capabilities to combat bid-rigging, ensuring that procurement remains fair and competitive.

The seminar gathered participants from government agencies such as the Commission on Audit (COA), the National Bureau of Investigation (NBI), the Department of Justice (DOJ), Office of the Ombudsman (OB), the Department of Budget and Management – Procurement Service (DBM-PS), and Philippine Government Electronic Procurement System (PhilGEPS). ■

### Seminar-Workshop on Detecting and Prosecuting Bid Rigging

26-27 July 2023 | 8:30 AM-4:15 PM | Crowne Plaza Manila Galleria



# National Competition Policy in focus during Davao Multi-Sectoral Forum

■ ■ ■ By Paul Jeffrey M. Ballentos

The Philippine Competition Commission (PCC), in collaboration with the National Economic and Development Authority (NEDA) Regional Office XI, held the “Online Multisectoral Forum on the Philippine Competition Act (PCA) and National Competition Policy” on August 14 with the goal of fostering a deeper understanding of competition-related regulations in the Davao Region.

PCC Commissioner Michael Peloton and Regional Development Council (RDC) XI Vice-Chairperson and NEDA Region XI Director Maria Lourdes Lim opened the activity by emphasizing the role of competition in economic development.

PCC resource persons led the discussions by sharing their valuable expertise with the attendees. Communications and Knowledge Management Office (CKMO) OIC-Director Arnold Roy Tenorio provided a comprehensive overview of the Philippine Competition Act (PCA), which served as a jumping point for the succeeding discussions on the National Competition Policy (NCP) and the use of PCC’s Competition Impact Assessment (CIA) tool.

PCC economists Shereena Salas and Samantha Louise Nepomuceno delved into the principles and processes of the NCP. They explained that the PCA granted the PCC power to advocate for

pro-competitive policies, which is an essential element of the NCP. In line with this, the PCC introduced its CIA tool, which evaluates the potential implications of existing and proposed policies on market competition.

By using the CIA checklist, policymakers and regulators can evaluate the impact on competition of their existing and proposed laws, regulations, and other policies. The CIA looks into several factors, such as barriers to entry for new companies, restrictions on companies’ ability to compete, the environment for potentially anti-competitive coordination by companies, and limitations on consumers’ right to information and choice. These insights shed light on the broader context of competition policy, considering other equally important development policies.

The forum drew participants from various sectors, including RDC XI member agencies, regional line agencies, local government units, and the private sector. This diverse representation underscored the importance of a whole-of-government approach in the effective implementation of the NCP. It also highlighted the collaborative efforts necessary to ensure that competition policies are seamlessly integrated into the region’s governance and economic strategies. ■

*(From left topmost)  
NEDA Region XI Regional  
Director Maria Lourdes  
Lim, PCC Commissioner  
Michael Peloton, PCC  
CKMO Director Arnold  
Roy Tenorio, and junior  
economists Shereena Salas  
and Samantha Louise  
Nepomuceno during the  
NCP multisectoral forum  
on August 14.*





# PCC Levels Up Human Resource Programs

■ ■ ■ By Miguel Simon L. Mendoza

The Philippine Competition Commission (PCC) received recognition from the Civil Service Commission (CSC) for achieving 'Maturity Level 2' in its Program to Institutionalize Meritocracy and Excellence in Human Resource Management (PRIME-HRM).

PRIME-HRM is an assessment of an agency's HRM competencies based on global standards, set on a scale of four maturity levels. Achieving 'Maturity Level 2' indicates that the management of human resources is considered process-defined through a set of documented standard operating procedures and is characterized by goal-oriented decision making.

In 2022, the PCC's Recruitment Selection and Placement process, as well as its Performance Management, were honored with the prestigious Maturity Level 2 distinction. This allowed for faster processing of employee appointments and positions vacated due to promotion.

Following this remarkable achievement, the PCC's Learning and Development and Rewards and Recognition programs were also recognized as having reached Maturity Level 2 in May this year. Reaching Maturity Level 2 for four core HRM systems and competencies for HRM officers allows an agency to be qualified for Level II or Accredited Status.

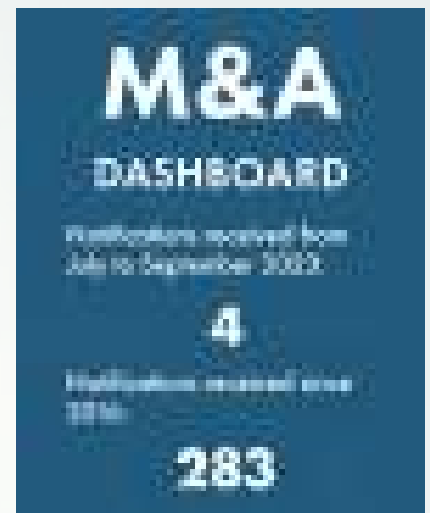
The PCC Administrative Office-Human Capital Management Division serves as the process owner for PRIME-HRM. ■

## IN THE NEWS

### [DTI to tap PCC in fight vs hoarders](#)

The Department of Trade and Industry (DTI) is joining forces with the Philippine Competition Commission (PCC) in the fight to stem anti-competitive behavior of businesses such as hoarding and cartelization that tend to raise the prices of goods.

*(Irma Isip, Malaya Business Insight, 17 August 2023)*





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