
**Challenges Faced by Small Agencies and those in Developing Economies
Advocacy within Government: The Philippine Case**

16TH Global Forum on Competition

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I would like to extend my gratitude to the organizers of the 16th Global Forum on Competition of the Organization of Economic Co-operation and Development, who have chosen to highlight the recent game-changing events in developing countries.

I have been asked to share about the PCC's success story with respect to our advocacy efforts within the Philippine government. While we have, indeed, made great progress on this front, we have only but laid the necessary groundwork on which our institution's enforcement activities rest. Allow me to share with you the story of how we have been mainstreaming competition policy within our government. By the end of my presentation, I hope that I will have been able to impart some insights that may perhaps be useful or applicable to your own jurisdictions.

First, providing a little context on the state of the Philippine economy may be helpful in order for us to situate ourselves in this presentation. You see, in recent years, the

Philippines has been performing remarkably well as a lower-middle income country. It attained an average of 6.3% for its gross domestic product (GDP) growth rate from 2010-2016, the highest seven-year average in the last forty years. The Philippines recorded the fastest growth for this period among other ASEAN economies such as Vietnam, Indonesia, Singapore, Malaysia and Thailand. Our country is also poised to be one of the fastest growing developing economies in the world today.

However, despite its strong performance with respect to economic growth, the Philippines faces the key policy challenge of sustaining it. Various indicators from reports on global competitiveness rankings have pointed to the economy's relatively weak competitiveness, and they, indeed, paint a sobering picture. With respect to the same set of ASEAN member states, the Philippines only ranked higher than Vietnam in the Global Competitiveness Report for the year 2016-2017¹ and placed last in the Doing Business Report 2017².

With these contrasting metrics of performance in mind, the economist in me is restless. As a policymaker, it is instructive for me to understand why this came to be and how we can intervene to create meaningful reforms. Indeed, the vigorous promotion of market competition may not be the most instinctive solution to this concern. However, I tell you, as I do tell our colleagues in the Philippine government, that it is an effective antidote to the problem of market inefficiencies.

¹ Published by the World Economic Forum

² Published by The World Bank Group

After all, factors causing weak competitiveness or overall investment climate include inefficiencies in the functioning of various markets, including anti-competitive practices. Particularly, this is illustrated by how the country ranks 99th out of 138 countries with respect to product market efficiency, which is one of the pillars in the Global Competitiveness Report 2016-2017. This indicator reflects the conditions of market competition and antitrust policies, aspects of trade, as well as taxes and subsidies, among others.

Various studies also point to existing government policies and regulations, including administrative issuances and practices which have shaped market incentives as the main roots or sources of market inefficiencies. The failure to identify and reconcile potential conflicts in policy objectives and to coordinate these policies have led to longstanding inefficiencies in the market which act as binding constraints to sustainable growth.

With the passage of the Philippine Competition Act of 2015 (PCA), the government recognized the need to reform current policies as sources of market inefficiencies and anticompetitive conduct. To address these constraints, the current administration has committed to a national game plan called the Philippine Development Plan, which includes the effective enforcement of competition policy as part and parcel of the development strategy to sustain growth and make it more inclusive.

Of course, while competition policy is not a panacea to all the ills of the market economy, it is a crucial part of the country’s development policy strategy. Indeed, effective competition enforcement and advocacy are expected to yield intermediate outcomes such as diminished anticompetitive practices, reduced barriers to entry and an improved business climate for entrepreneurs. In the process, market efficiency and consumer welfare are improved which then contribute to the reduction of inequality and the increase of the economy’s growth potential. These channels ultimately contribute to attaining the country’s long-term goal of creating a high-trust and resilient society, and a globally-competitive knowledge economy.

As a policymaker, we begin with the end in mind. The journey of the Philippines in creating a competition law and implementing competition policy on a national scale was long and arduous. In the absence of this comprehensive law, the Philippine government and its stakeholders made use of fragmented rules every time competition-related issues were considered. Previous issuances and laws focused on government regulation on price-setting mechanisms implemented for certain commodities. The first competition bill in the country was filed in the Philippine Congress in the early 1990s. It took almost 25 years to pass the PCA in 2015, and another year to establish the PCC.

Similar to the experiences of other young competition agencies, various challenges emerged in the early stages of the PCC’s existence. Since a comprehensive antitrust

law is relatively new in the Philippines, the problem of low awareness of competition law and policy and the role of the competition authority is very real, **even within government.**

As with our counterparts from different jurisdictions, the PCC has a broad policy mandate that covers the public and private sectors in all industries of the economy. Since the PCC is a relatively new government agency, we need the support of more established line-agencies to champion competition policy in their respective jurisdictions. Right from the beginning, and as the former Socioeconomic Planning Minister of the Philippines, I was very much aware that the PCC will accomplish very little unless it is able to mainstream competition policy into government decision-making. However, this is a particularly thorny endeavor if it is done in a haphazard manner. Mainstreaming will first require a fine assessment of the competition landscape to better understand the constraints that bind different markets.

An effective competition policy, as with other government interventions, has to be evidence-based. The PCC's first order of business was to conduct a National Competition Policy Review in order to better-understand the state of market competition in different sectors. The PCC organized a high-level Experts Review Team composed of economist, lawyer and entrepreneur with the goal of assessing the Philippine competition landscape and identifying key competition issues and enforcement priorities, including extant government regulations which restricted

competition. To ensure rigor in this crucial exercise, peer reviewers were also tapped to validate the findings of the Experts Review Team.

The outputs of this initial assessment included: (1) identification of key industries with serious competition challenges; (2) an assessment of the form and probable magnitude of sectoral market inefficiencies; (3) an identification of areas for competition enforcement with a potentially large impact on consumer welfare; and (4) an identification of products and sectors with political-economy challenges for competition enforcement. These findings are critical in guiding the Commission in the prioritization of its enforcement and advocacy activities.

The paper that was developed from the National Competition Policy Review then served as the key document used by PCC in drafting the National Competition Policy Chapter of the Philippine Development Plan (PDP) 2017-2022.

Let me emphasize how significant this achievement is. The PDP 2017-2022 serves as the country's development blueprint and strategy which determines priorities for resource allocation and the policy direction of government agencies for the medium-term. It is a document created from the collaboration of different government agencies in providing inputs and comments on sectoral objectives and plans. It serves as a compass for different government agencies since it contains measurable outcome indicators by which government performance will be gauged. I am proud

to say that this is the first development plan in the country's socioeconomic planning history to have adopted a dedicated chapter on competition policy.

Through the National Competition Policy Review and the inputs of other government agencies, the PDP 2017-2022 identifies five priority sectors for competition analysis and enforcement: agriculture, manufacturing, power/electricity, telecommunications, and transportation/logistics.

This milestone was anchored on being able to secure the support and commitment from no less than the Philippine President and the leadership of government line-agencies. The inclusion of the competition policy in the national development plan is a testament to how the Philippine government recognizes the need for a competition lens in crafting laws, implementing regulations and administering issuances in the pursuit of inclusive socioeconomic development.

However, we all know that a plan is only as good as its execution. As a new law, awareness about the implications of the PCA and the role of the PCC remains limited, even within the different branches of government. This remains a hurdle for PCC whenever it engages with these entities during investigations conducted in aid of competition enforcement and merger reviews, activities which often require coordination with sector regulators. The PCC also faces risks caused by overlapping or conflicting mandates with other agencies, considering that the Commission is primarily tasked to promote market efficiency and safeguard competition.

To avoid jurisdictional and enforcement conflicts, and to harmonize its working relationships with other agencies, the PCC has prepared and executed several memoranda of agreement (MOA). The salient features include agreements for: (1) policy coherence, (2) streamlining of procedures, and (3) sharing of information and technical expertise. The parties in the agreement are also required to provide each other investigation and enforcement support, as their resources would allow, and to provide access to information and documents, subject to existing rules on confidentiality and privilege.

The PCA also gives the PCC the power to review economic and administrative regulations and examine whether they adversely affect relevant market competition. The PCC has been working with agencies in the executive branch by advising them on the implications of government actions, policies and programs on competition and market efficiency. Likewise, the Commission has also provided inputs to the country's legislative bodies in technical working groups and legislative hearings, as well as through position papers, in order to mainstream competition objectives into the key policy reform bills drafted by the Philippine Congress. The PCC's participation in these hearings allow the Commission to raise possible issues related to competition and to ensure that future implementation of these laws factors in the objective of market efficiency.

In building up enforcement capacity, the PCC taps into the assistance of international experts from development partners and other jurisdictions who serve as rich sources of experience and expertise in the field of competition law and policy. Partners, including the OECD, provide training not just for the staff members of PCC, but also for the staff of concerned government agencies, especially in the judiciary. This is in line with the PCC's vision of becoming a world-class authority in fair market competition and its mission of fostering business innovation, increasing the country's global competitiveness and expanding consumer choices to improve public welfare.

In conclusion, allow me summarize the key lessons we have learned in our developing story as a young agency which may resonate in your respective jurisdictions.

First, it is crucial to immediately realize and understand that in order to make a significant and sustainable impact in the country's socioeconomic development, competition policy must be mainstreamed into the government's development strategy and decision-making.

Empirical evidence, when it can be obtained, must be used to assess the competition landscape and identify enforcement priorities. This ensures that the PCC is aware of key areas that are problematic and which require immediate attention and action.

Furthermore, mobilizing champions of competition policy within the government, especially among the leadership, is key to delivering more results in the face of resource and information constraints. Competition advocacy must be seen as an equal to competition enforcement, especially since these efforts may prevent violations from occurring in the first place. These courses of action facilitate the efficient and effective use of limited government resources.

Lastly, law enforcement and policy implementation require coordination and collaboration with, not isolation from, other government agencies and development partners. Partnerships which facilitate the sharing of information and expertise can significantly bolster enforcement capacity.

From its experience as a young competition authority, the PCC has learned that competition policy advocacy within the government promises high payoffs. As the PCC's founding Chairman, I would like to believe that these efforts are long-term investments that will yield significant dividends that will allow us to effectively promote and enforce competition policy in the years ahead.

Once again, thank you for inviting me to share our country's experience, and I look forward to learning from the discussions we have ahead of us.