

Press Briefing on the Leniency Program

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Friends in media, ladies and gentlemen, good morning.

I would like to thank you all for giving PCC the opportunity to discuss about the launch of the Leniency Program.

The Leniency Program is similar to a whistle-blower program that is designed to offer incentives—such as immunity from suit and reduction of fines—to cartel members who will provide information, confess their participation, and aid the competition law enforcers towards successful investigation and prosecution of cartels. The PCC will only allow one (1) beneficiary of immunity from suit and one (1) beneficiary of reduction of fines.

That said, the PCC hereby announces that the Leniency Program is effective beginning January 19 after subject to other legal requirements of publication of notice. With your help, we want to spread the word that there is now a program for

past and current cartel participants to break ranks and get immunity or reduction of fines in exchange for evidence and information.

The Leniency Program is meant to undercut the most damaging forms of anticompetitive behavior such as price-fixing, bid-rigging, output restriction, and market allocation that hurt consumers and sabotage the economy's gains.

Any current or former director, officer, trustee, partner, employee, or agent of a juridical entity that participates or participated in a cartel may apply for leniency independently of their employer, or of the corporation or partnership that they are associated with.

We have set up a dedicated page on Leniency at our website phcc.gov.ph that includes the specific processes of application. Leniency applicants may contact us at leniency@phcc.gov.ph or our Leniency Hotline at (02) 7719-777 which will be treated with utmost confidentiality.

For context, the Leniency Program is a unique tool used by competition agencies around the world to boost the detection and prosecution of cartels. In other countries, Leniency Programs are reported to have reduced cartel formation by 59 percent and to have increased cartel detection by 62 percent. Among antitrust enforcement circles, it is known that majority of cartel cases in the US and EU are initiated because of leniency applicants.

After all, at the heart of a cartel lies 2 things—agreement and code of silence. Of course, cartel agreements do not happen in writing, and this prompted competition authorities around the world have adopted measures to get direct evidence such as

through the leniency program. The aim here is to drive a wedge among cartel members by creating a dilemma that someone can report them at any point to avoid suit or have reduced fines.

The PCC is bent on cracking down cartels. To be clear, the cartels as defined in the Philippine Competition Act refers to groups of competitors who agree to fix prices instead of competing independently, rig bids or take turns in winning projects, divide markets among themselves, or restrict output.

In the Philippines, cartels—such as price-fixers, bid-riggers, market dividers, and output restriction players—can be fined up to 100Million to 250Million, and be imprisoned of up to 7 years. The fines and jail terms alone speak volumes on how detrimental cartels can be for gaming the market and unabated profiteering.

With the Leniency Program, it sets an unsettling atmosphere to cartels knowing any member can report on their illegal activities and increases the risk of piercing their veil of secrecy. The aim here is to drive a wedge among cartelists by creating a dilemma among them by providing a strong incentive for a member of a cartel to step out, confess, and escape punishment while the other members suffer high sanctions.

As the country's antitrust authority, we at the PCC enforce prohibitions against anti-competitive agreements, abuses of dominance, and anti-competitive mergers and acquisitions. With the Leniency Program in place, it is one of the three pillars of the PCC's enforcement framework, along with Forbearance and Inspection Order.

The rules on forbearance allows the Commission to exempt an entity or group of entities from certain provisions of the competition law, provided they meet stringent and specific conditions.

Finally, inspection orders will allow the PCC, upon order of the court, to carry out dawn raids or inspections of business properties for investigations. The guidelines on this has been presented to the Supreme Court for its consideration and adoption.

By instituting these frameworks, our goal is to ensure that our enforcement cases are procedurally sound and substantively meritorious. With this, the PCC Enforcement Office remains committed to ensuring that cartels and unscrupulous firms are held accountable for conducting unfair business practices.

Thank you.

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