



**PHILIPPINE
COMPETITION
COMMISSION**

COMPETITION LAW IN THE PHILIPPINES



Commissioner JOHANNES BERNABE
OIC CHAIRMAN



IN THIS PRESENTATION

- Competition law concepts**
- Salient features of Republic Act No. 10667**
- Adjudicated cases**

An aerial photograph of a city skyline, likely New York City, featuring numerous skyscrapers and a central park area. The image is overlaid with a semi-transparent white rectangle containing the text "COMPETITION LAW CONCEPTS".

COMPETITION LAW CONCEPTS

COMPETITION OUTCOMES



Prices



Choices



Quality



Innovation

Anti-competitive anything that **substantially prevents, restricts, lessens competition** in terms of price, quality, innovation and choices



THE PHILIPPINE COMPETITION ACT PROHIBITS:



**Anti-competitive
Agreements**



**Abuse of
Dominant Position**

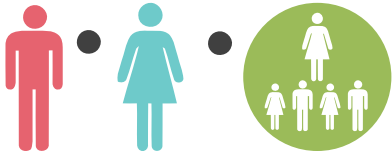


**Anti-competitive
Mergers & Acquisitions**

Economic analysis of what substantially prevents, restricts, lessens competition

SCOPE

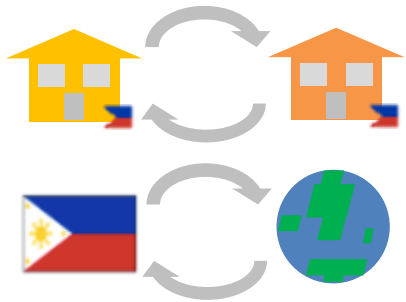
Who?



“... any **person** or **entity** engaged in **any trade, industry and commerce in the Republic of the Philippines.**”

An **ENTITY** refers to “any person, natural or juridical, sole proprietorship, partnership, combination or association in any form, whether incorporated or not, domestic or foreign, including those owned or controlled by the government, engaged directly or indirectly in any economic activity.”

Which transactions?



“It shall likewise be applicable to **international trade having direct, substantial, and reasonably foreseeable effects in trade, industry, or commerce in the Republic of the Philippines**, including those that result from acts done outside the Republic of the Philippines.”

RELEVANT MARKET

MARKET refers to the group of goods or services that are sufficiently interchangeable or substitutable and the object of competition.

RELEVANT MARKET refers to the market in which a particular good or service is sold and which is a combination of:



Relevant **PRODUCT** Market

A relevant product market comprises all those products and services which are regarded as interchangeable or substitutable by the consumer by reason of the products' characteristics, their prices, and their intended use



Relevant **GEOGRAPHIC** Market

A relevant geographic market comprises the area in which the firms concerned are involved in the supply of products or services and in which the conditions of competition are sufficiently homogenous





SALIENT FEATURES OF PCA



ANTI-COMPETITIVE AGREEMENTS

Agreement among 'competitors'

Per se prohibited

- Price-fixing
- Bid-rigging

With object or effect of substantially lessening competition

- Output limitation
- Market allocation

Agreement not necessarily among 'competitors'

With object or effect of substantially lessening competition

... subject to efficiency and consumer welfare defense





ABUSE OF DOMINANT POSITION

What is the market / relevant market?

What is the product involved? Where is the economic activity happening?

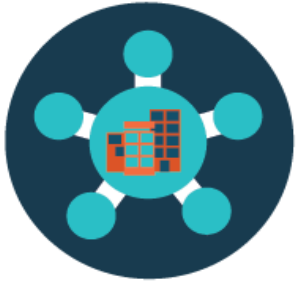
Is the entity dominant in the relevant market?

Dominance is a **position of economic strength** which makes an entity **capable of controlling the relevant market independently** of its competitors, customers, suppliers or consumers

What is conduct that may constitute abuse?

NOT dominance per se, but ABUSE of such dominance





ANTI-COMPETITIVE MERGERS & ACQUISITIONS

- **Power to review mergers and acquisitions -**
 - determine thresholds for notification, requirements and procedures for notification
 - review notified mergers and acquisitions
 - conduct *motu proprio* review
 - Prohibit or subject to conditions transactions that will substantially lessen competition in the relevant market
- **Compulsory notification** - Transactions that meet the notification thresholds are required to be notified before consummation
 - **Failure to notify a merger:** transaction is considered void and subject to a fine of 1-5% of the value of the transaction





ANTI-COMPETITIVE MERGERS & ACQUISITIONS

- **Thresholds for notification**

- **Based on assets and/or revenues**

- **Size of Party:** P6.1 billion for either party

- **Size of Transaction:** P2.5 billion

- **Purchase of shares control test:** 35% (50% if previously already owning 35%)

- ***Motu proprio merger review.*** The Commission may review *motu proprio* smaller transactions if there is reasonable prospect of an SLC



REMEDIES

Behavioral Remedies



a measure that obliges concerned Entity to act in a specific way, or to cease/refrain from engaging in specific conduct.

- Issue of injunctions,
- Require divestment, and
- Order disgorgement of excess profits
- Impose fines

Structural Remedies

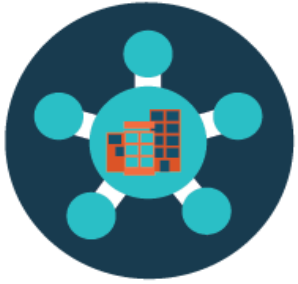


a measure that effectively changes market structure to maintain, enhance, or restore competitiveness.





EFFECT ON THE PH MARKET



URC-DON PEDRO/RHI MERGER

- Merger between the two sugar millers in Southern Luzon—Universal Robina Corporation (URC), and Central Azucarera Don Pedro Inc. of Roxas Holdings Inc. (RHI)
- **What was the competition concern?** URC's buyout of its only competitor in the sugarcane milling services market leads to a monopoly in Southern Luzon
- **Why did the transaction/resulting monopoly need to be prohibited?**
 - Eliminate competition
 - Allow unilateral reduction of planters' share in the planter-miller sharing agreement
 - Barriers to entry are high and the possibility of a new entrant seems remote





URBAN DECA & 8990 HOLDINGS

- UDH required unit owners and tenants to sign up with a single ISP ("Fiber to Deca Homes"), disallowing other ISPs
- **What was the competition concern and why did the conduct need to be stopped?** Exclusivity arrangement limited choice of service, limited the production of service relied upon by residents, compelled reliance on high cost and poor quality of internet services

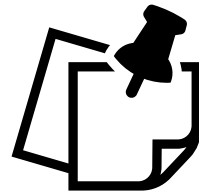


LOOKING FORWARD...

Revised Corporation Code

SEC. 26. Disqualification of Directors, Trustees or Officers. – x x x

The foregoing is without prejudice to **qualifications or other disqualifications**, which the Commission, the primary regulatory agency, or the **Philippine Competition Commission may impose in its promotion of good corporate governance or as a sanction in its administrative proceedings.**



In line with Sec. 26, the PCC is in discussions on the issuance of a circular requiring training in or familiarity with Competition Law for corporate directors





PHILIPPINE COMPETITION COMMISSION

Ensuring businesses compete and consumers benefit

www.phcc.gov.ph