

---

**Call for Comments:  
PCC Draft Revised Rules of Procedure - Rule III, Articles III and IV**

**Rule III, Article III, Consent Orders**

**Section 3.17. Consent Order.** — At any time prior to the termination of an Investigation relating to Sections 14(c) and 15 of the PCA, any Entity subject thereof may, on its own or jointly with another Entity, submit to the Commission a verified application for a Consent Order without in any manner admitting a violation of the Act, its implementing rules, or other competition laws.

**Section 3.18. Contents of the verified application.** — In the verified application, the Entity shall specify the terms and conditions of the proposed Consent Order for addressing the anticompetitive conduct or agreement, and shall include, among others, the following:

- (a) The payment of an amount within the range of fines provided for under the Act, its implementing rules, or other competition laws;
- (b) The proposed mandatory compliance reports as well as the identity of the Entity that will submit such reports;
- (c) Payment of damages to any private party or parties who may have suffered injury; and
- (d) Other terms and conditions that may be considered appropriate and necessary for the effective enforcement of the Act, its implementing rules, or other competition laws.

**Section 3.19. Due course.** — Within thirty (30) days from receipt of the application, the Commission shall decide whether to give due course to the same.

**Section 3.20. Additional information.** — The Commission or the Enforcement Office, as the case may be, may request the submission of additional information or documents or call for a conference with the applicant in order to propound clarificatory questions and obtain more information relating to the application.

**Section 3.21. Action by the Commission.** — The Commission may perform such acts or issue orders to aid in the just and expeditious resolution of the application, such as: (1) require additional information and documents from the applicant; (2) require the submission of position papers; and (3) consult a sector regulator, relevant government agency, as well as agencies



from foreign jurisdictions. The Commission may also engage the applicant in discussions regarding any revisions to the terms of the consent order.

The running of the 150 day period shall stop when the Commission requests for additional information, and shall run again once the Commission determines that the entity has submitted all the requested information.

**Section 3.22. Public Comments.** —should the Commission provisionally find that the terms of the application, or any subsequent revisions thereto, are proper and reasonable, the Commission shall prepare a draft consent order and seek comments from the relevant members of the public.

**Section 3.23. Consent Order** —The Commission has full discretion to deny or grant the application, or any subsequent revisions thereto, taking into consideration the following:

- (1) whether the commitments address the competition concerns identified;
- (2) the commitments offered should be proportionate to the identified harm;
- (3) the commitments are unambiguous and self-executing and are not dependent on the will of a third party; and
- (4) whether the approval of the application for consent order is in keeping with public interest.

The Consent Order shall contain the following:

- (a) The payment of an amount within the range of fines provided for under the Act, its implementing rules, or other competition laws;
- (b) The mandatory compliance reports as well as the identity of the Entity that will submit such reports;
- (c) Payment of damages to any private party or parties who may have suffered injury; and
- (d) Other terms and conditions that may be considered appropriate and necessary for the effective enforcement of the Act, its implementing rules, or other competition laws.

Further, the Consent Order shall clearly indicate the commitments submitted by the entity and explain why the commitments resolve the identified competition concerns. The applicant must agree to the terms in the Consent Order; otherwise, the application shall be denied.

**Section 3.24. Period for Resolution; Effect of Termination** — The Commission shall resolve the application for Consent Order within one hundred and fifty (150) days from receipt of application, unless an additional period is warranted. Should the Commission deny the application, the Consent Order proceedings shall be terminated and the Enforcement Office may continue with the Investigation or issue an SO. The denial by the Commission of the application shall not be construed as a prejudgment on the matters subject thereof. Should the Commission approve the application by issuing a Consent Order, any inquiry or investigation for the same or similar conduct or agreement if continued or repeated shall not be barred.

**Section 3.25. Notice to complainant or government regulator** — If the case subject of the Consent Order application originated from a complaint or a referral from a government regulator, the Commission shall inform the complainant or government regulator should the application be granted.

**Section 3.26. Monitoring and breach** — The PCC shall monitor compliance by the applicant of the terms in a Consent Order. The cost of the monitoring will be for the account of the applicant.

If there is violation of any term or condition of the consent decree, the Commission may set aside the decision granting consent order and reopen investigation against the applicant.

#### **Article IV Common Provisions**

**Section 3.27. Effectivity of the approval of written proposals.** — The order by the Commission approving the written proposal or granting the application in the Show Cause and Consent Order proceedings, as the case may be, shall be final and immediately executory. (Renumbered, formerly Section 3.23)

**Section 3.28. Monitoring of compliance.** — The Commission shall monitor the compliance by the Entity or Entities concerned, their officers, directors, trustees, partners, and employees, with the Binding Ruling, order based on a Show Cause proceeding, or Consent Order. Upon motion of an interested party, the Commission shall issue a certification or resolution to the effect that the Entity or Entities concerned have, or have not, as the case may be, complied with the ruling or order. (Renumbered, formerly Section 3.24)

**Section 3.29. Inadmissibility of evidence in criminal proceedings.** — The request for a Binding Ruling, the Show Cause Order, or the application for Consent Order; the facts, data,

and information therein contained or subsequently supplied by the Entity or Entities concerned; admissions, oral or written, made by them against their interest; all other documents filed by them, including their evidence presented in the proceedings before the Commission; and the judgment or order rendered thereon; shall not be admissible as evidence in any criminal proceedings arising from the same act subject of the Binding Ruling, Show Cause Order, or Consent Order against such Entity or Entities, their officers, employees, and agents.

This Section shall not apply to requests for Binding Ruling, applications for Consent Order, facts, data and information, oral and written admissions, evidence, documents, judgments, or orders which: (a) do not relate to the matter under Investigation or the Subject Matter of the request for a Binding Ruling, Show Cause Order, or a Consent Order application; (b) are already in the possession of the PCC prior to the initiation of the non-adversarial proceedings; (c) are independently obtained; or (d) are false or fraudulent. (Renumbered, formerly Section 3.25)

**Section 3.30. Void ruling or order.** — Upon application by the Enforcement Office or upon motu proprio determination by the Commission, and subject to the requirements of due process, a Binding Ruling, order based on a Show Cause proceeding, or Consent Order found to be obtained on the basis of fraud, or incorrect or misleading or information as described in Section 6.11, shall be void. (Renumbered, formerly Section 3.26)

**Section 3.31. Investigation not suspended.** — The proceedings under this Rule shall not suspend the conduct of an ongoing Investigation. (Renumbered, formerly Section 3.27)

**Section 3.28. Powers of the Enforcement Office.** — The Enforcement Office may exercise the powers provided in Section 2.14 when appropriate. (Renumbered, formerly Section 3.28)

-----