

PCC COVID-19 RESOURCES

FREQUENTLY ASKED QUESTIONS

This page answers some of the questions both consumers and businesses may have about their rights and obligations in relation to enforcement of competition law amid the COVID-19 crisis.

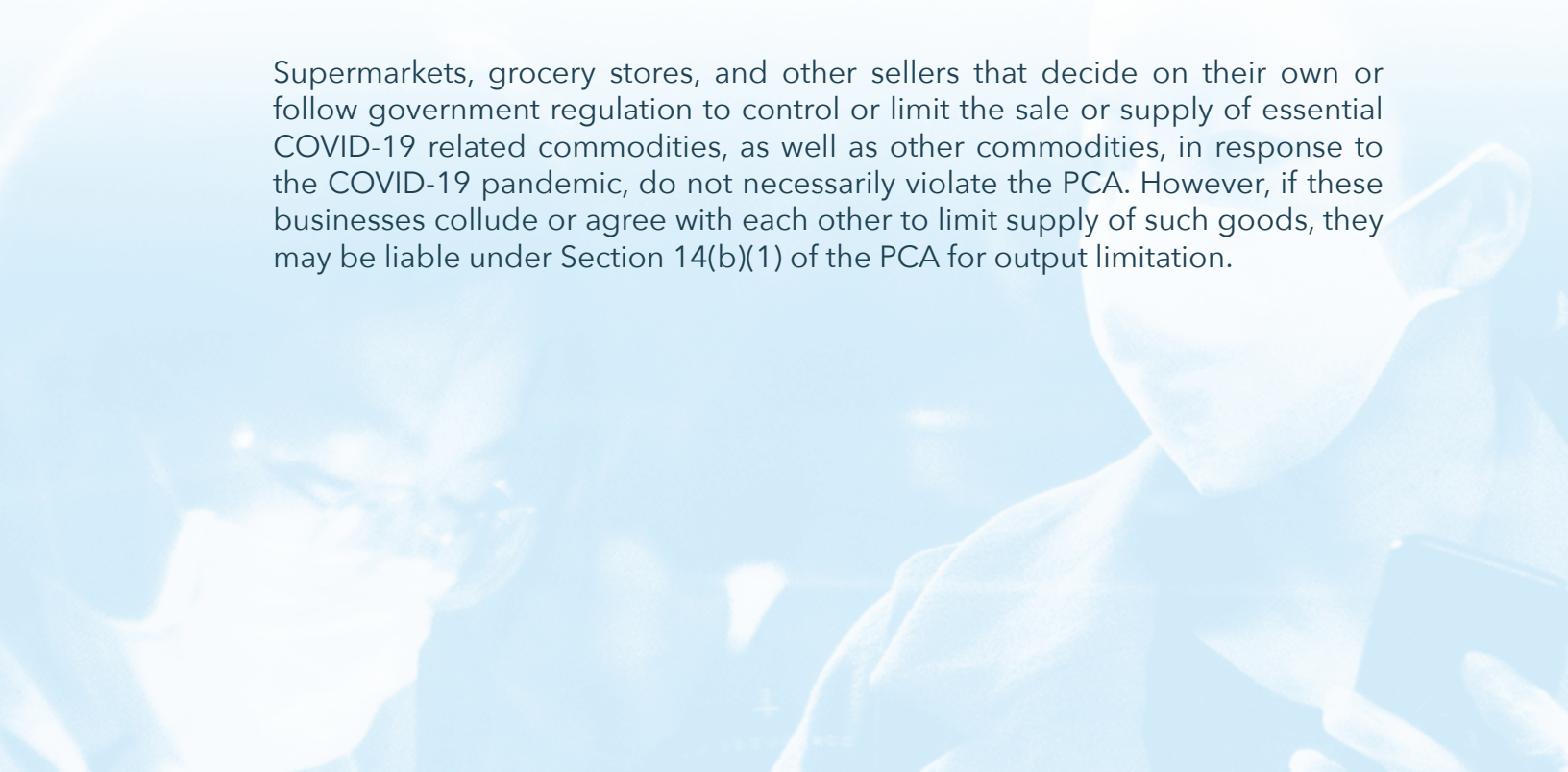
Visit our COVID-19 Resources Page available at <https://phcc.gov.ph/covid19/> for up-to-date information on competition law enforcement amid the COVID-19 crisis.

Are businesses or suppliers allowed to raise prices of essential COVID-19 related commodities such as masks, medicine, alcohol, personal protective equipment (PPE), and other basic necessities and prime commodities?

Prices should be dictated by supply and demand in the market. Businesses are free to determine their own prices, and increasing prices above previous levels is not necessarily prohibited by the Philippine Competition Act (PCA). However, if businesses collude or agree with each other to raise prices for essential COVID-19 related commodities and other commodities, they may be liable under Section 14(a)(1) of the PCA for price fixing.

Are supermarkets, grocery stores, and other sellers allowed to control or limit sale of their supply of essential COVID-19 related commodities such as masks, medicine, alcohol, PPE, as well as other basic necessities and prime commodities?

Supermarkets, grocery stores, and other sellers that decide on their own or follow government regulation to control or limit the sale or supply of essential COVID-19 related commodities, as well as other commodities, in response to the COVID-19 pandemic, do not necessarily violate the PCA. However, if these businesses collude or agree with each other to limit supply of such goods, they may be liable under Section 14(b)(1) of the PCA for output limitation.



Can government impose a suggested retail price (SRP) or freeze prices of basic necessities?

While pricing should generally be dictated by supply and demand, the government may impose a suggested retail price (SRP) or freeze prices of basic necessities temporarily in response to extraordinary circumstances like the COVID-19 pandemic as a way to benefit consumers. However, if businesses collude or agree with each other to increase or decrease prices for essential COVID-19 goods and other commodities or to maintain a minimum or maximum selling price consistent with the SRP, they may still be liable under Section 14(a)(1) of the PCA for price fixing.

Are businesses engaged in logistics (e.g. delivery) allowed to impose a “COVID-19 surcharge” in delivering goods or commodities?

Businesses can set their own prices for products and services, including imposing a surcharge. However, like with any other circumstances, pricing should be fair and based on cost plus a reasonable profit. If these logistics or delivery companies collude or agree with each other on the imposition of a surcharge, they may be liable under the PCA for price fixing or other anti-competitive agreement. Further, if the business is a dominant entity, it may be liable for abuse of dominance under the PCA.

Can goods or products be sold online at the same price?

Businesses are free to determine their own prices for products and services, including those sold online. Having similar prices is not necessarily prohibited by the PCA. However, if businesses collude or agree with each other on maintaining similar prices, they may be liable under Section 14(a)(1) of the PCA for price fixing.

Is it legal for businesses to ‘mark’ or ‘assign’ territories within a barangay, city, province, region, or the country where they can exclusively conduct, supply, distribute, or sell their goods and services?

Businesses are free to decide, on their own, where to supply, distribute, or sell their goods and services. However, if businesses collude or agree to not compete with each other by dividing the market among themselves or to stay away from each other's territory, they may be liable under Section 14(b)(2) of the PCA for market allocation.

During the pandemic, are businesses allowed to coordinate their activities, like the delivery of COVID-19 related goods (e.g. masks, medicine, alcohol, PPE, and other basic necessities and prime commodities) and services? For example, can such businesses employ the services of the same group of truckers and logistics companies?

Since the country is in the midst of a pandemic, certain business practices may be allowed temporarily if they lead to efficiencies, economies of scale and scope, reduce costs, and redound to better service or lower price for consumers. However, the Philippine Competition Commission (PCC) remains vigilant in looking out for anti-competitive and abusive business practices that will harm consumers such as price fixing, limiting supply of goods and services, sharing the market to create local monopolies, and creating barriers to entry of new businesses, among others.

When businesses bid for the right to provide a good or service financed by either the government or private sector, are they allowed to coordinate or discuss the bids that they will enter?

Regardless of the circumstances, whether in normal circumstances or in a pandemic, the act described above is tantamount to bid rigging and is expressly prohibited by Section 14(a)(2) of the PCA.

For more information on bid rigging, you may visit the PCC's website at <https://phcc.gov.ph/bid-rigging-is-against-the-law/>.

Is it legal to have only one supplier of COVID-19 related goods (e.g. masks, medicine, alcohol, PPE, and other basic necessities and prime commodities) and services in a barangay, city, province, region, or in the country?

The PCA does not penalize a monopoly over goods and services in a market, provided that the supplier does not abuse its market dominance by engaging in business practices that will result in inferior quality of goods or services, or unnecessarily high prices for the consumers. Further, if the monopoly by one supplier over a barangay, city, province, region, or the country is due to businesses colluding or agreeing with each other on which territory to supply COVID-19 related goods and services and other commodities, they may be liable under Section 14(b)(2) of the PCA for market allocation.

Some businesses want to be creative in dealing with their inventory by offering bundles or selling items as tied to other products. Is this allowed by the PCA?

Businesses are free to offer promos, bundles, or tie-ins of products or services for as long as they benefit the consumers than if sold separately. However, if a dominant firm forecloses competition by using tying and bundling to force consumers to purchase products or services having no direct connection with the main goods or services sought, it may be liable under Section 15 of the PCA for abuse of dominance.

What is the penalty for businesses engaged in anti-competitive agreements or abuse of market dominance?

Businesses engaged in anti-competitive agreements or abuse of dominant position prohibited by Sections 14 and 15 of the PCA, respectively, may be held administratively liable. They may be fined up to one hundred million pesos (PHP 100,000,000) for the first offense. However, if the violation involves basic necessities and prime commodities as defined by Republic Act No. 7581 (RA 7581), as amended, the fine imposed shall be tripled.¹

Is there any corresponding criminal liability to businesses violating the PCA?

In addition to administrative liability, businesses engaged in anti-competitive agreements prohibited by Section 14 paragraphs (a) and (b) of the PCA (i.e. price fixing, bid rigging, output limitation and market allocation) may also be held criminally liable. They may be penalized with imprisonment of up to seven (7) years and fined not less than fifty million pesos (PHP 50,000,000). However, if the violation involves basic necessities and prime commodities as defined by RA 7581, as amended, the fine imposed shall be tripled.²

How can I report a business acting anti-competitively amid the COVID-19 crisis?

If you suspect that any business, company, trade association, or organization is behaving in an anti-competitive manner, the best course of action is to report it immediately to the PCC through our dedicated [COVID-19 Complaint Portal](#).

¹ See Section 41 of the PCA.

² See Section 41 of the PCA.