

COMMISSION RESOLUTION NO. 20 - 2018

APPROVING AND ADOPTING THE ENFORCEMENT STRATEGY AND PRIORITIZATION GUIDELINES

WHEREAS, the Philippine Competition Commission (“PCC” or the “Commission”) is mandated to implement the national competition policy and attain the objectives of the Philippine Competition Act (“PCA”);

WHEREAS, among the principal objectives of the PCA are to enhance efficiency and promote free and fair competition in trade, industry and all economic activities; prevent economic concentration that will unduly stifle competition; and penalize all forms of anti-competitive agreements and abuses of dominant position with the objective of protecting consumer welfare and advancing trade and economic development;

WHEREAS, to enable the PCC to attain the PCA’s objectives, Section 12 thereof grants the PCC the power to investigate any violation of the PCA, its implementing rules, and other competition laws, issue advisory opinions and guidelines on competition matters, as well as, advocate pro-competitive policies of the government;

WHEREAS, in initiating and conducting an investigation or enforcement action on any violation of the PCA or other competition laws, the PCC shall be guided by the enforcement priorities set by the Commission;

WHEREAS, setting enforcement priorities will enable the PCC to manage its resources, maximize the impact of its enforcement actions, and provide efficient public service;

WHEREAS, potential anti-competitive practices that are not prioritized for enforcement action may be addressed through advocacy measures or initiatives directed towards government agencies and regulators, businesses, consumers, and other stakeholders;

WHEREAS, both enforcement action and advocacy initiatives are crucial to deter anti-competitive practices and foster a competition culture in the Philippines;

NOW, THEREFORE, the Commission has **RESOLVED**, as it hereby **RESOLVES**, to approve and adopt the Enforcement Strategy and Prioritization Guidelines (attached hereto as **Annex “A”**), which may be revised and supplemented, as determined by the Commission.

DONE, this 29th day of August 2018, in Quezon City, Philippines.

(on official business)
ARSENIO M. BALISACAN
Chairman


JOHANNES BENJAMIN R. BERNABE
Commissioner


STELLA LUZ A. QUIMBO
Commissioner


AMABELLE C. ASUNCION
Commissioner

Enforcement Strategy and Prioritization Guidelines

I. Introduction

1. The Philippine Competition Commission (PCC) is an independent and quasi-judicial body mandated to implement the national competition policy and enforce the Philippine Competition Act (PCA), which serves as the country's primary competition law for promoting and protecting competitive markets.
2. One of the objectives of the PCA is to penalize anti-competitive agreements and abuses of dominant position for the purpose of protecting consumer welfare and advancing domestic and international trade and economic development. In order to achieve this, the PCC is empowered to investigate violations of the PCA, its implementing rules, and other competition laws.
3. In initiating and conducting an investigation ("enforcement action"), the PCC shall be guided by the enforcement priorities set by the Commission in the exercise of its discretion. Setting priority guidelines enables the PCC to manage its resources, maximize the impact of its enforcement actions and advocacy measures or initiatives, and provide efficient public service.
4. The principles and strategies outlined herein are not intended to be exhaustive and the PCC may take into account other factors it may consider appropriate and necessary for the effective implementation of the PCA, its implementing rules, or other competition laws.

II. Prioritization Strategies

5. *Jurisdiction of the PCC.* Prior to the conduct of an enforcement action, the PCC shall determine whether it has jurisdiction over the conduct or agreement complained of. In particular, the PCC shall determine whether such conduct or agreement may constitute a violation of Sections 14 or 15 of the PCA, or of other competition laws ("potential anti-competitive practice").
6. *Considerations for enforcement action.* The PCC shall prioritize potential anti-competitive practices for enforcement action based on the following considerations:
 - a. Public interest;
 - b. Resource allocation;
 - c. Likelihood of a successful outcome; and
 - d. Other reasonable grounds to conduct enforcement action.
7. *Determination of Public Interest.* In determining whether a potential anti-competitive practice is of public interest, the PCC may consider any of the following factors:
 - a. Whether it involves any of the priority sectors identified by the PCC;
 - b. Whether it results or may result in widespread consumer detriment;
 - c. Whether it involves misuse of public funds;
 - d. Whether action of the PCC thereon will have precedential value; or
 - e. Whether action of the PCC thereon will have significant deterrent effect.

8. *Priority Sectors.* The priority sectors identified by the PCC are:
- a. For 2018
 - (i) Manufacturing;
 - (ii) Rice;
 - (iii) Poultry and livestock;
 - (iv) Pharmaceuticals;
 - (v) Land transportation;
 - (vi) Air transportation;
 - (vii) Rural finance;
 - (viii) E-commerce;
 - (ix) Retail;
 - (x) Telecommunications;
 - (xi) Bakery products;
 - (xii) Milk products; and
 - (xiii) Fertilizers.
 - b. For 2019
 - (i) Logistics supply chain;
 - (ii) Corn milling and trading;
 - (iii) Refined petroleum manufacturing and trading;
 - (iv) Sugar; and
 - (v) Pesticides.
9. The priority sectors may change based on PCC's market scoping and assessment of enduring, existing, and emerging issues and associated risks.
10. After the PCC has determined that the potential anti-competitive practice is of public interest, it shall assess the likelihood of a successful outcome of an enforcement action thereon and the allocation of its resources; or, whether there are other reasonable and compelling grounds to conduct an enforcement action.
11. The conduct of enforcement action, comprising of preliminary inquiry and full administrative investigation, remains the primary tool in addressing anti-competitive practices and penalizing erring entities.
12. Where a potential anti-competitive practice is not a priority for enforcement action, the PCC may address the same through an advocacy measure or initiative that will promote competition and a culture of compliance.