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What is Competition Law?

Competition Law comprises legislation, judicial decisions, and regulations that help foster, protect and enhance market competition in the country. It consists of measures designed to protect competition. This includes enactments that promote a more competitive market, and prevent and punish

actions by market players that could result in a lessening of competition.

Specifically, competition laws are enacted to prevent anti-competitive business practices, abuse of market power and anti-competitive mergers and acquisitions.

secure because prices are low, stable, and predictable.

Second, small entrepreneurs such as farmers and retail store owners will be protected from unfair or predatory practices of bigger businesses. A farmer can buy inputs like fertilizer and equipment at fair prices, allowing them to sell their products on fair terms, as well.

Finally, many of the poor are also recipients of government-funded projects. Bid-rigging for government-provided infrastructure and services diminishes what governments are able to provide for the people. This could lead to the government building four (4) new schools instead of five (5), or substandard roads and bridges, to give some examples. With competition, this can be prevented.

2

Why is Competition Important?

Consumers win with competition

When a market is competitive, businesses will have greater incentives to lower prices, to improve the quality of their products and services, and to provide buyers with more options. That is, businesses will need to innovate to make their products different and better than the rest.

Consequently, lower prices of goods and services will mean more purchasing power for Filipinos, which would, in turn, boost the economy and improve quality of life.

Simply put, in a market with

healthy competition, consumers will ultimately win.

Competition helps the poor¹

Markets with enough competition benefit the poor directly. First, a competitive market can provide goods and services at the lowest possible price, with a wide array of choices, and in an environment where innovation can thrive.

This means that the poor can afford more with their income. Even if their incomes do not increase, their well-being can still improve. It can mean the difference between a family being hungry because food prices are too high, or being food

WHY COMPETITION MATTERS FOR ECONOMIC GROWTH²

“Competition plays a crucial role, which is also theoretically well-founded, in promoting productivity and innovation as drivers of economic growth. This means that competition policy, which intensifies competition, will stimulate growth.”

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**Disclaimer: This self-study module is meant only as an introduction, and for general information purposes. It is not a substitute for the Philippine Competition Act (PCA) or its Implementing Rules and Regulations. It should not be taken as legal advice.*

¹ See “Why Is Competition Important For Growth and Poverty Reduction?” by Nick Godfrey. *Global Forum VII on International Investment*, OECD (27-28 March 2008).

² Excerpts from “The Contribution of Competition Policy to Growth and the EU 2020 Strategy.” *Policy Department A: Economic and Scientific Policy*, European Parliament. (July 2013).

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- Competition drives firms to use their inputs in the most efficient way in order to supply goods and services at the lowest possible costs. Competition will drive inefficient companies out of business and allow efficient companies to enter markets and/or gain market share. Hence, competition replaces inefficient with efficient production...
- Competition drives companies to innovate and create new products and services to gain market share. Hence, competition leads to technological progress...

Protecting competition leads to enhanced economic competitiveness

Competition is related to, but is different from, competitiveness.

Competition in the marketplace means having a market where there are multiple businesses offering competing products and services. These companies seek to attract customers and to gain larger market shares by improving price, quality and service.

On the other hand, the economic competitiveness of the country is determined by the business environment. A country's competitiveness is greater if it has strong industries; has a fair,

transparent and effective legal system in place; ensures a level playing field, and makes it easy to start and do business. An economically competitive country and business environment attracts foreign investments, creates high quality jobs, and grows at a robust pace.

Competition makes the market more efficient, and will translate into competitive prices for goods and services. Competition spurs businesses to be more productive, innovative and responsive in order to compete for consumers.



3

What are the Key Features of a Competition Law?

Competition laws all over the world, including the Philippines through the Philippine Competition Act, typically prohibit three (3) types of anti-competitive conduct:

1. ANTI-COMPETITIVE AGREEMENTS are agreements between competitors (horizontal agreements) or between and among enterprises in a production or distribution chain (vertical agreements) that prevent, distort, or restrict competition in a territory.

Examples of anti-competitive agreements include:

- **Price-Fixing** – Competitors collude with one another to fix prices for goods or services, rather than allow prices to be determined by market forces.

- **Bid-Rigging** – Parties participating in a tender process coordinate their bids, rather than submit independent bid prices.

- **Output-Limitations** – Involves limiting or controlling production or investment through the following: agreements which limit output or control production by fixing production levels or setting quotas; agreements which deal with structural overcapacity; and coordinating future investment plans.

- **Market-Sharing** – A number of producers agree to restrict their sales to certain geographic areas.

2. ABUSE OF DOMINANT POSITION – refers to actions of a dominant player to exploit its dominant position in the relevant market, or to exclude competitors in a manner that harms the competition process.

Abuse of dominant position harms competitors through means such as:

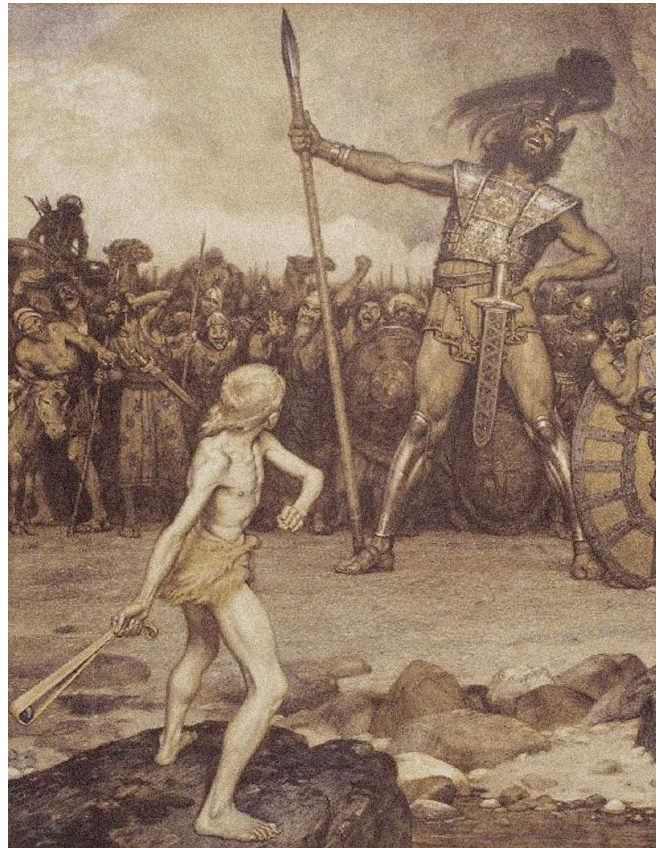
- **Exploitative behavior towards consumers, customers and/or competitors** – excessive or unfair purchase/sales prices, or other unfair trading conditions such as tying sales of unrelated products;
- **Predatory Pricing** – the dominant player deliberately incurs losses in the short run by setting prices so low that it forces one or more undertakings out of the market, so as to be able to charge higher prices in the long run;
- **Discriminatory behavior** – applying dissimilar pricing or conditions to equivalent transactions; and
- **Limiting production, markets or technical development to the prejudice of consumers** – restricting output or illegitimate refusal to supply, or restricting access to/use of/development of a new technology.

3. ANTI-COMPETITIVE MERGERS AND ACQUISITIONS – refers to merger or acquisition transactions that lead to a substantial lessening of competition, or significantly impede effective competition in the relevant market.

Mergers occur when two or more firms come together to form a single firm. Acquisitions are the purchase of one firm by another.

Where one or both of the parties are major players in a market, any move towards increasing market concentration will be expected to negatively affect competition.

That in itself is not necessarily illegal or proscribed. The competition authority would have to determine if the anti-competitive effects of the transaction are offset by large potential economic gains as a result of the same.



It cannot be over-emphasized that neither dominance, nor mergers and acquisitions are bad or illegal. There is nothing wrong with companies seeking to become dominant, or with companies entering into mergers and acquisitions.

Dominant companies, as well as mergers and acquisitions, in fact, can be good for consumers because these may result in businesses that operate more efficiently, resulting in a reduction of product prices. They can result in economies of scale and scope, enable the transfer of technologies, broaden access to capital, and increase productivity.

What is illegal under the Philippine Competition Act is the abuse of dominance, or transactions that prevent, or unfairly restrict competition in the market.

