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## **PCC: SC rules on dawn raids to bolster cartel investigations**

The Philippine Competition Commission (PCC) gets a boost from the Supreme Court through its issuance of rules governing the conduct of searches and inspections, strengthening PCC's ability to carry out dawn raids on entities suspected of violating the country's antitrust law.

Beginning November 16, the Rule on Administrative Search and Inspection under the Philippine Competition Act (PCA) shall take effect, enabling the implementation of Section 12(g) of the PCA which gives the PCC the power to conduct dawn raids upon order of the court.

The rules govern the application, issuance, and enforcement of inspection orders for administrative investigations of alleged violations of the PCA. Inspection orders will allow the PCC and its deputized agents to enter, search and inspect business premises, offices, land and vehicles to examine, copy, photograph, record or print information in order to prevent their removal, concealment, tampering with or destruction.

Dawn raids or unannounced on-site inspections are widely used by competition authorities around the world to uncover evidence in aid of investigation and prosecution of anticompetitive agreements and conduct such as cartels and abuses of dominance.

"Cartels operate on clandestine arrangements or so-called gentleman's agreements that ultimately affect prices and hurt consumer welfare. With the rules on dawn raids now in place, this will intensify PCC's case-building, uncover anticompetitive behavior, and pin down such white-collar crimes covered by the Philippine Competition Act," said PCC Chair Arsenio Balisacan.

Information subject to inspection include books, tax records, documents, papers, accounts, letters, photographs, as well as databases, means of accessing information contained in such databases, and electronically stored information.

Inspection orders applied at special commercial courts in Quezon City, Manila, Makati, Pasig, Cebu City, Iloilo City, Davao City, and Cagayan de Oro City shall be enforceable



nationwide. Other special commercial courts shall have concurrent jurisdiction within their respective territorial jurisdictions.

Any person or entity who fails or refuses to comply with an inspection order may be cited for contempt of court that may result in fine, imprisonment, or both.

“The PCC extends its profound thanks to the Supreme Court for strengthening our armory of investigative tools to detect, investigate and prosecute anticompetitive agreements and conduct. The rules strike a balance between due process and public interest in enforcing the competition law,” said Chair Balisacan.

The rules were drafted by a special committee with SC Justice, now Chief Justice, Diosdado Peralta as chair; Justice Alexander Gesmundo as vice chair; and Court Administrator Midas Marquez, PCC Commissioners Amabelle Asuncion, Johannes Bernabe, and Macario de Claro, Jr., as well as Attys. Rigor Pascual, Genevieve Jusi, and Gifany Tongohan as members.

Link to the full text of the Order: <http://bit.ly/sc-pcc-rule-inspection-order>

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