



The Philippine Competition Act
“Webinar on Competition Law Enforcement”

in cooperation with the

Cooperative Development Authority

16 December 2020

Outline

Mandate

Basic
Structure

Procedure

Non-
Adversarial
Remedies

Violations

Investigative
Tools

Fines and
Final
Remedies

Impact of
Bayanihan 2

Outline

Mandate

Mandate

Republic Act 10667

The Philippine

Competition Act



“... The State also recognizes that the provision of equal opportunities to all promotes entrepreneurial spirit, encourages private investments, facilitates technology development and transfer and enhances resource productivity. Unencumbered market competition also serves the **interest of consumers** by allowing them to exercise their right of choice over goods and services offered in the market.”

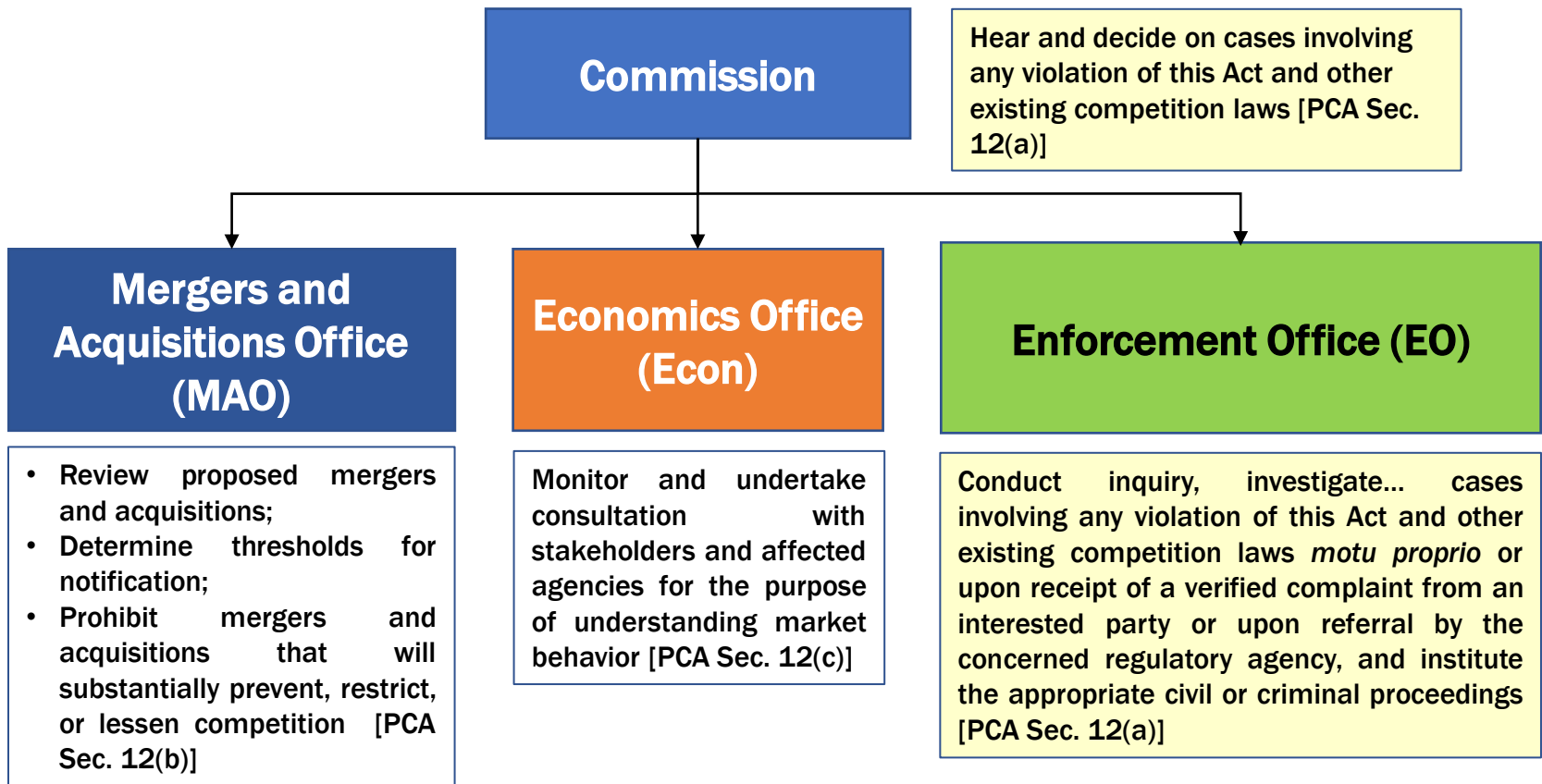
Mandate

- Independent quasi-judicial body
- Implement the national competition policy
- Original and primary jurisdiction on all competition-related issues

Outline

Structure

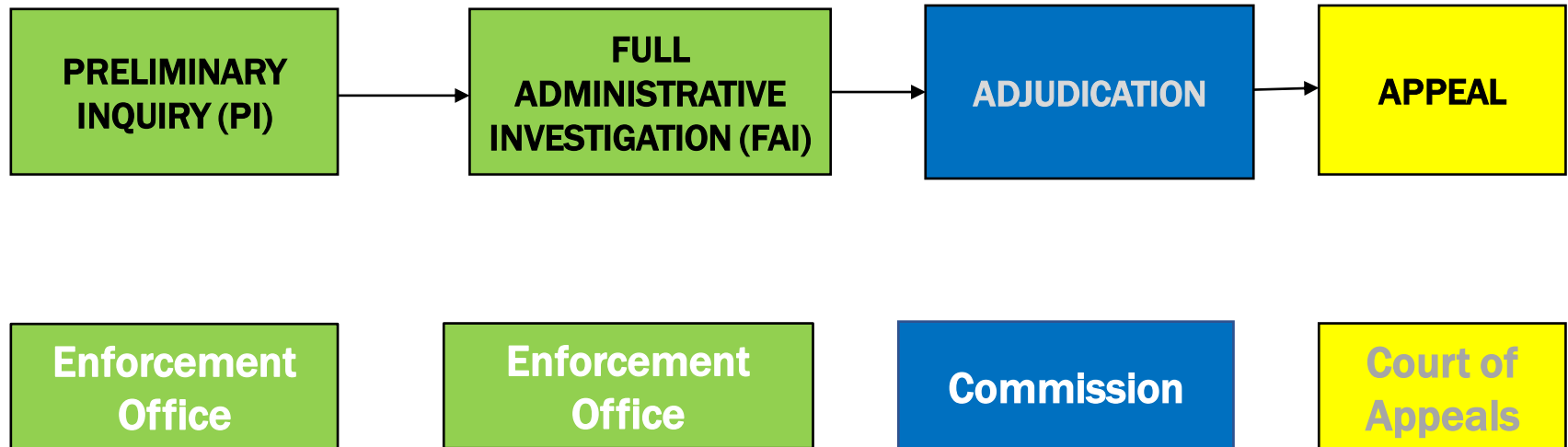
Structure of the PCC



Outline

Procedure

Basic Investigation and Adjudication Process



Triggers

- Verified Complaint**
- Referral from a Regulatory Agency**
- Commission's Directive to Initiate *Motu Proprio* Inquiry***

*May be based on other forms of complaints, referrals, or reports

Outline

Violations

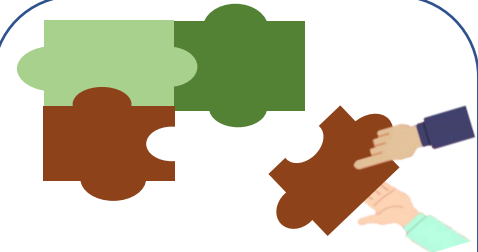
Violations



**Anti-Competitive
Agreements
(Sec. 14, PCA)**



**Abuse of
Dominant Position
(Sec. 15, PCA)**



**Anti-Competitive
Mergers
(Sec. 17, PCA)**

Violations



Anti-Competitive Agreements



Violations

Abuse of Dominance



Violations

Abuse of Dominant Position

Dominant position - a **position of economic strength** that an entity or entities hold which makes said entity **capable of controlling the relevant market independently** from competitors, customers, suppliers, or consumers

50% market share: rebuttable presumption of market dominance

Examples:

- Predatory pricing
- Barriers to entry
- Tying and bundling
- Refusal to deal
- Price discrimination
- Excessive pricing

Violations

Abuse of Dominant Position

Not Dominance, But Abuse

“Nothing in this Act shall be construed or interpreted as a prohibition on having a dominant position in a relevant market or on acquiring, maintaining and increasing market share through legitimate means that do not substantially prevent, restrict or lessen competition.”

Efficiency Justification

improves production or distribution of goods or services within the relevant market

+

promotes technical and economic progress

+

allows consumers a fair share of the resulting benefit

Outline

Investigative Tools

Investigative Tools

- Subpoena

- Dawn Raids

- Leniency

Investigative Tools

Dawn Raids

Section 12(g) of the PCA expressly grants the PCC the power to, “[u]pon order of the court, undertake inspections of business premises and other offices, land and vehicles, as used by the entity, where it reasonably suspects that relevant books, tax records, or other documents which relate to any matter relevant to the investigation are kept, in order to prevent the removal, concealment, tampering with, or destruction of the books, records, or other documents.”

Investigative Tools

Search Warrant

Court Order

Search and seize evidence

Probable cause in connection with one specific offense

Evidence gathered to be used in criminal proceedings

Inspection Order

Court Order

Search and reproduce information, data, etc.

Reasonable suspicion that relevant books, tax records, or other documents which relate to any matter relevant to the investigation are kept in business premises to be inspected.

Evidence gathered can only be used in administrative proceedings.

Investigative Tools

Leniency

Most important element of a cartel is the existence of the agreement, but getting direct evidence of a cartel agreement is difficult due to cartels' ***code of silence***

Leniency is a system of partial or total exoneration from the penalties that would otherwise be applicable to a cartel participant in return for reporting its cartel membership and supplying information or evidence related to the cartel.

- ✓ Aims to drive a wedge through the trust and mutual benefit at the heart of a cartel.
- ✓ It is designed to give incentives to cartel members to take the initiative to approach the competition authority, confess their participation in a cartel and aid the competition law enforcers.

Investigative Tools

Leniency



Outline

Fines

Fines

Anti-Competitive Agreements	Administrative Penalty	Criminal Penalty
Section 14 - (a 1): Price Fixing (a 2): Bid-rigging	1st offense: Fine of up to P100,000,000.00 2nd offense: Fine of not less than P100,000,000.00 but not more than P250,000,000.00	Imprisonment from 2-7 years, and a fine of not less P50,000,000.00 but not more than P250,000,000.00
Section 14 - (b 1): Output Restriction/ Quantity Fixing (b 2) : Market Allocation / Market Division	1st offense: Fine of up to P100,000,000.00 2nd offense: Fine of not less than P100,000,000.00 but not more than P250,000,000.00	Imprisonment from 2-7 years, and a fine of not less P50,000,000.00 but not more than P250,000,000.00
Section 14 (c): Other agreements Section 15 (Abuse of Dominance)	1st offense: Fine of up to P100,000,000.00 2nd offense: Fine of not less than P100,000,000.00 but not more than P250,000,000.00	

Fines

“If the violation involves the trade or movement of basic necessities and prime commodities as defined by Republic Act No. 7581, as amended, the fine imposed by the Commission or the courts, as the case may be, shall be tripled.”

Provide information on PCA violations



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PHILIPPINE COMPETITION COMMISSION

Ensuring businesses compete and consumers benefit

Thank you!