PHILIPPINE COMPETITION COMMISSION

Ensuring businesses compete and consumers benefit

PHILIPPINE COMPETITION ACT

HANDBOOK FOR THE GENERAL PUBLIC

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About the PCC

The Philippine Competition Commission (PCC) is a newly constituted independent quasi-judicial body mandated to implement the national competition policy, and enforce Republic Act No. 10667 or the Philippine Competition Act (PCA), which serves as the primary competition law in the Philippines for promoting and protecting competitive markets.

Over the last few years, our country has made significant strides in economic growth. Amid this positive momentum, there remains a challenge in attaining sustained and inclusive development where no one is left behind.

The enactment of the PCA, and the creation of the PCC, aims to promote economic efficiency and ensure fair and healthy market competition where everyone across our country, from metro cities to far-flung communities, can contribute to and benefit from economic developments.

A stable and fair playing field is expected to result in greater interest among foreign investors which, in turn, would lead to further market growth and global opportunities for Filipino companies, big or small.

Your PCA HANDBOOK

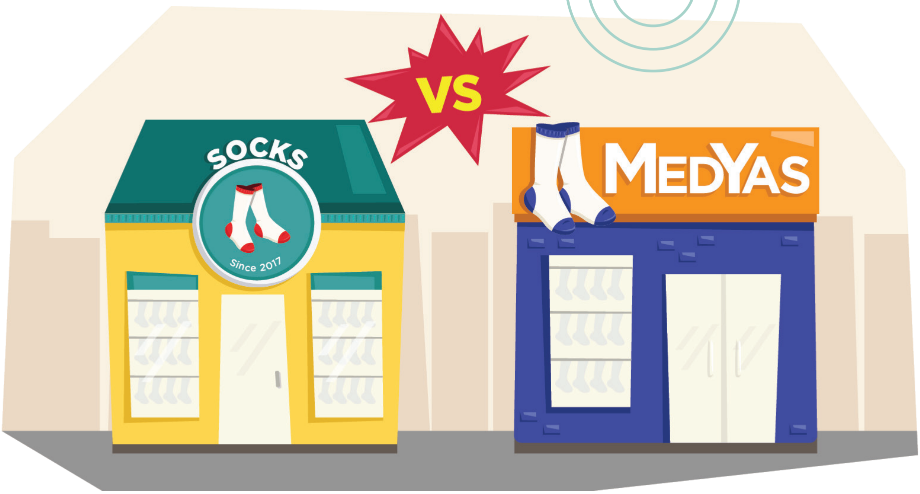
You play a big part in building strong, competitive markets in the country. This handbook explains the key priorities of the Philippine Competition Act (PCA), how it works in your best interest as a consumer, and how you can help the Philippine Competition Commission (PCC) enforce it.

Why is FAIR COMPETITION good for Filipinos?

When businesses compete, consumers benefit through lower prices, more product choices, and better-quality goods and services.

Without competition, there is no motivation to provide convenient and fast services to consumers, and no reason to innovate products.

Competition keeps the economy working well for everyone.



Consumers benefit from competition in markets. Thanks to competition, a wide variety of goods and services remain affordable and of good quality.

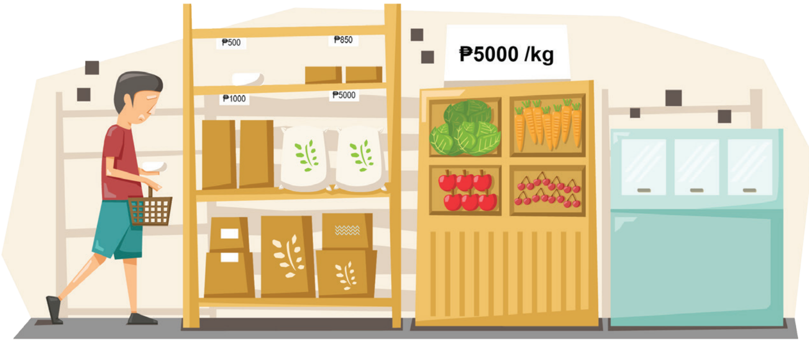
Competition benefits businesses, too. It ensures that they can access, at reasonable cost, supplies and inputs they need for their enterprise, such as raw materials, labor, and financing.

In competitive markets, companies play fair and no one benefits from undue advantage. This makes it easier to start and operate a new business. Competition enables small businesses to compete with bigger businesses on fair terms.

What would happen if businesses decided **not to independently and fairly compete** with one another?

Businesses might band together and agree on practices that would benefit them most at the expense of consumers.

For example, they could agree to set a common high selling price for their products in order to maximize profit, to the detriment of consumers.



They could deprive consumers of the benefit of fair competition, where the dynamics of supply and demand ultimately determine fair market prices.

They might enter into Anti-Competitive Agreements.

Markets that are dominated by a monopoly or by a small number of companies are vulnerable to anti-competitive practices.

When only one company supplies a product or a service, it operates as a **monopoly**.

Abuse of Dominance

This refers to instances when businesses, together or alone, restrict or prevent competition in certain industries or segments through their market dominance.

Small enterprises can be forced out of a market when bigger firms abuse their dominant position in the market. This happens when dominant firms are able to create an environment where smaller firms are unable to compete.

For example, when inputs are withheld or sold under unfair conditions such as unreasonable prices or usurious payment terms, businesses lose profit and may find it difficult to continue altogether.

Fewer choices, higher prices, and lack of quality products and services mean consumers ultimately lose.

What is the PHILIPPINE COMPETITION ACT?

Republic Act No. 10667 or the Philippine Competition Act (PCA) is the primary policy of the Philippines for promoting and protecting fair market competition. It became effective on August 8, 2015.

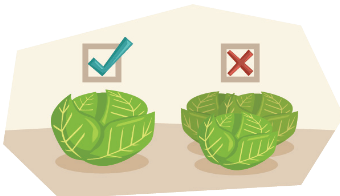
What does **fair competition** look like?

Promotes entrepreneurial spirit

Facilitates technology development and transfer

Encourages private investments

Enhances resource productivity



Allows consumers to exercise their right of choice over goods and services

Why is competition important?

In a competitive market, businesses are more attuned to consumer demand. Consumers win when businesses compete. Fair competition leads to more choices, lower prices, and higher quality of goods and services. Ultimately, competition fosters more rapid economic growth and poverty reduction.

Did you know?

The Philippines is one of more than 140 countries with a Competition Law. While it is one of the last member states of the Association of Southeast Asian Nations (ASEAN) to pass such a law, it only took six months to establish the Philippine Competition Commission (PCC) from the enactment of the PCA.

Country	Competition Authority	Competition Policy	Year
Indonesia	Komisi Pengawas Persaingan Usaha	Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition	1999
Thailand	Office of Trade Competition Commission	Trade Competition Act	1999
Singapore	Competition Commission of Singapore	Competition Act	2004
Vietnam	Vietnam Competition Authority	Competition Law	2004
Malaysia	Malaysia Competition Commission	Competition Act	2010
Brunei Darussalam	Economic Planning and Development - Prime Minister's Office	Competition Order	2015
Myanmar	Ministry of Commerce - Department of Trade	Competition Law	2015
Philippines	Philippine Competition Commission	Philippine Competition Act	2015
Lao PDR	Ministry of Industry and Commerce	Competition Law	2016
Cambodia[a]			

[a] Cambodia has not yet legislated its draft competition law.
Source: ASEAN Competition Policy and Law, 2017

What business practices does the PCA **prohibit?**

Entering into anti-competitive agreements

Abusing a dominant market position

Entering into anti-competitive mergers and acquisitions

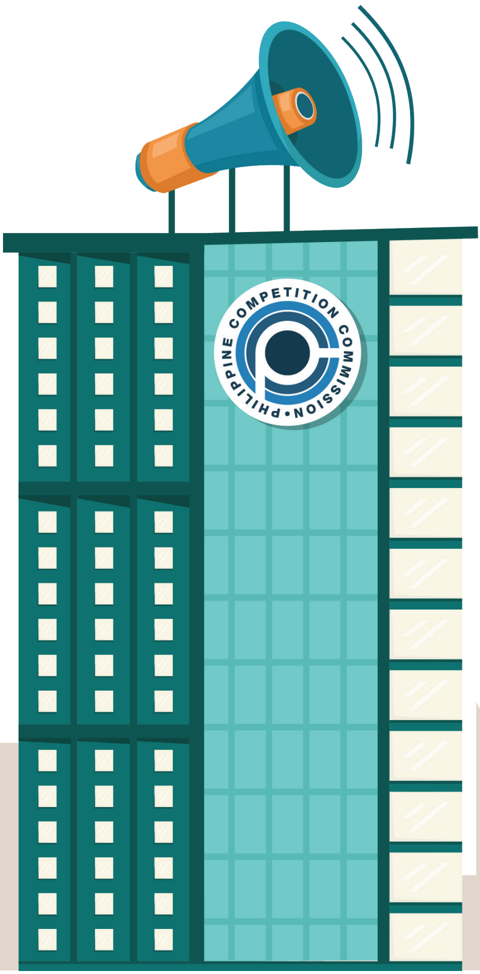
What businesses and business entities does the PCA **cover?**

- ✓ The PCA covers any person or entity engaged in trade, industry, and commerce in the Republic of the Philippines.
- ✓ It also applies to international trade that may impact trade, industry, and commerce in the Philippines.
- ✗ The PCA does not apply to collective bargaining agreements or arrangements between workers and employers, and other such activities affecting conditions of employment.

The PHILIPPINE COMPETITION COMMISSION

The PCA created the Philippine Competition Commission (PCC), which has been mandated to promote the well-being and efficiency of competition in the market for the benefit of consumers and businesses. The PCC's main objective is to enhance consumer welfare and promote economic growth and development.

The PCC has jurisdiction over all competition-related issues, and must be consulted by sector regulators on any activities that may impact competition.



PCC Decisions

The PCC is empowered to impose significant fines and penalties on businesses which have been found to violate the prohibited acts provided in the PCA, to be in contempt, or fail to comply with orders, or supply misleading or false information to the PCC. Only the Court of Appeals and the Supreme Court may issue a temporary restraining order or injunction against the PCC in the exercise of its duties and functions.

Report Anti-Competitive Practices to the PCC

The identity of the persons who provide information to the Commission under condition of anonymity is kept confidential. Further, the law protects confidential business information submitted to the Commission.

ANTI-COMPETITIVE AGREEMENTS

An anti-competitive agreement includes any type or form of contract, arrangement, or understanding between or among businesses to fix prices or manipulate bids. The agreement may be:

1. Formal or informal
2. Explicit (written or announced) or tacit
3. Written or oral (verbal agreement)

Some agreements are also considered anti-competitive if their object or effect would substantially prevent, restrict, or lessen market competition. Examples of such agreements are supply restriction and market sharing.

HORIZONTAL VS. VERTICAL AGREEMENTS

Horizontal agreements are made between businesses in the same level of the production chain, while vertical agreements are made between players in different levels of the production chain.

Horizontal AGREEMENTS

Three panaderias in the same town agree to sell their cupcakes for the same price.

Vertical AGREEMENTS

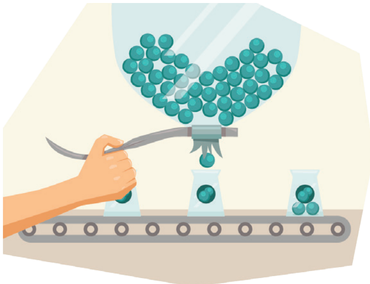
Flour miller colludes with other businesses in the production chain by agreeing on a selling price for each stage of production, from the miller to the retail store.

Examples of ANTI-COMPETITIVE AGREEMENTS

PRICE FIXING

Businesses agree to directly or indirectly fix purchase or selling price.

Under fair market competition, the dynamics of supply and demand determine the prices of goods and services. When businesses act independently of the market by agreeing to fix prices, they are engaging in anti-competitive behavior.



OUTPUT LIMITATION

Businesses agree to limit production by restricting output or setting quotas. This creates an artificial shortage in the market, thereby driving prices up. Consumers end up paying more, and businesses earn larger profits without innovating or being efficient.

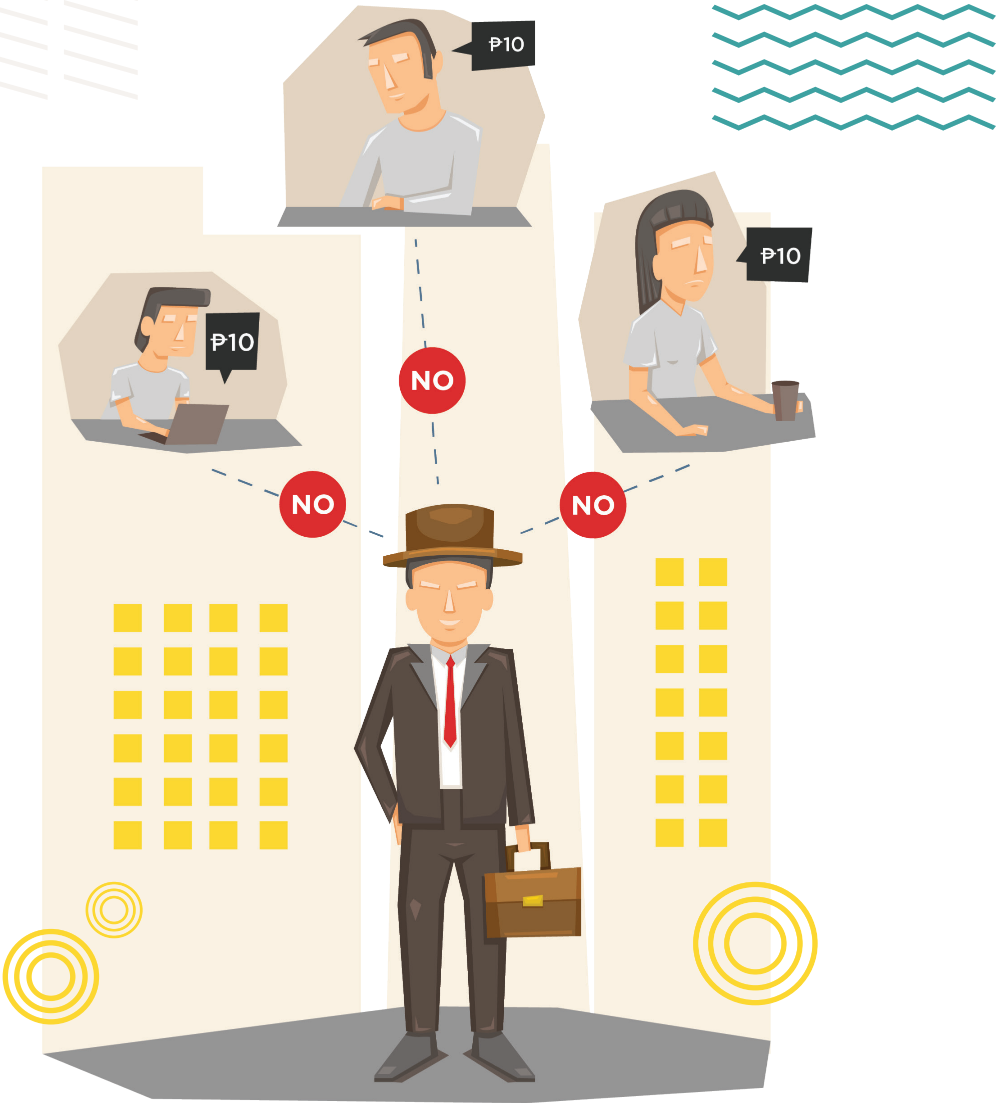
MARKET SHARING

Businesses divide the market and claim dominance according to territory, customer demographic, sales volume, or product type. This creates local monopolies, and deprives consumers of choices that would have been available under fair market competition.

BID RIGGING

Businesses agree to fix prices at an auction or to manipulate bids. At a fair bidding or auction, the business offering the best price or terms wins. Businesses commit bid rigging when they set who among the bidders will win the bid. They do this by submitting higher-priced bids or withdrawing their bids in order for the "pre-selected" winner to get the contract. This is an anti-competitive practice that forces buyers to select the higher-priced bid and pass the additional cost to consumers.

What are CARTELS?



A **CARTEL** is a formal or informal organization of enterprises that agree to engage in anti-competitive conduct such as fixing of prices or market sharing.

If you or anybody you know has knowledge of cartels in the Philippines, you can inform the PCC through landline (+632 515 4536) or e-mail (ceo@phcc.gov.ph).

Understanding ABUSE OF DOMINANT POSITION

A business may become dominant in a certain industry by gaining a significant share in the market and becoming the industry leader by virtue of years in operation and first-mover advantage. Being a market leader is not prohibited, but abusing one's dominant market position to limit or reduce competition may be violative of the PCA.

Examples of ABUSE OF DOMINANCE

PREDATORY PRICING

Selling goods or services below cost in order to drive competitors out of a market.

PRICE DISCRIMINATION

Setting prices or terms that unreasonably exclude some sellers or customers of the same goods or services.

RESTRICTING OR REFUSING TO SUPPLY

When the dominant business damages competitor operations by refusing to provide them goods or services.

EXPLOITATIVE BEHAVIOR TOWARD CUSTOMERS OR COMPETITORS

Dominant companies use this position to exploit consumers and competitors by charging excessive or unfair purchase or sales prices, or by setting unfair trading conditions.

BLOCKING COMPETITORS' ACCESS TO GOODS AND RESOURCES

A dominant business may purchase goods and resources which it does not need, but their competitor does. By removing this access to much-needed materials, a dominant business can force its competitors out of the market.

Dominant businesses found guilty of abusive conduct may be penalized with fines worth up to PhP100 million in the first instance, and higher penalties later on.

Understanding MERGERS AND ACQUISITIONS

Mergers are the joining of two or more entities into an existing entity or to form a new entity. Acquisitions are the purchase or transfer of a company's assets or securities which results in the change of control over the acquired company or a part of it.

Mergers can be beneficial for consumers, particularly when these allow businesses to operate at a larger scale, which results in lower prices due to lower cost of producing goods or supplying services.

However, there are mergers and acquisitions that could substantially prevent, restrict, or lessen competition in a market, thereby leaving consumers vulnerable to higher prices and fewer choices. These mergers are prohibited under the Philippine Competition Act.

To ensure that markets are protected against anti-competitive mergers and acquisitions, the law requires that when businesses enter into mergers and acquisitions that are worth more than PhP1 billion, they should formally notify the PCC before closing the deal.

The PCC conducts a merger review to determine if the merger will substantially lessen competition. If the PCC finds that a deal between companies will result in consumer harm, it can block the merger and impose penalties.

Even mergers and acquisitions worth less than PhP1 billion may harm consumers, particularly when the market is small. For example, when the only two grocery stores in a town, each worth PhP1 million, decide to merge, the merger will result in a monopoly within the locality.

In this example, the merging businesses are not required to notify the PCC because the merger would be worth less than PhP1 billion. However, the PCC may, of its own volition, review the proposed merger. Moreover, consumer groups, potential competitors, or any other entity can ask the PCC to review the transaction.

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Contact Us

The Philippine Competition Commission is open Mondays through Fridays, from 9:00 a.m. to 5:00 p.m. Submissions of notifications and complaints are accepted during these hours.

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