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As part of the Philippine Competition Commission’s (PCC) effort to raise awareness on competition policy and law, Commissioner El Cid R. Butuyan* delivered a lecture on Republic Act No. 10667 or the Philippine Competition Act of 2015 at the Silliman University College of Law in Dumaguete City on July 19, 2017.

Butuyan shared with the audience, composed of law students and recent bar passers, the context of competition policy in the country and discussed the importance of ensuring a competitive playing field for market players. He noted that the oligopolistic structure of the economy is paralleled in the political sphere. The Commissioner, who sits as co-chair of the American Bar Association (ABA) International Committee-Criminal Justice Section, also addressed recent attacks against the PCC in the media, noting that these may be the effect of the agency’s efforts to assert its mandate.

Butuyan served as the head of Investigations and Litigation for the World Bank Integrity Vice-Presidency, where he conducted audits, fact-finding investigations, and litigation on cases relating to anticompetitive practices, corruption, collusion, cartel behavior, coercion, and fraud by multinational and local firms. He was a Faculty Member at Harvard Law School where he taught a course on Transnational Corruption.

Micro, small, and medium enterprises (MSMEs) took center stage at the capacity building workshop organized by the Philippine Competition Commission (PCC) and sponsored by the Asia-Pacific Economic Cooperation (APEC) Secretariat. Held on July 27-28, 2017, in Ortigas Center, the main objective of the workshop was to craft an action plan that will facilitate the entry and growth of MSMEs.

“We recognize that the growth potential of MSMEs can be maximized if they have a fair chance of succeeding alongside larger and more established foreign and domestic players,” said PCC Chairman Arsenio M. Balisacan during his opening remarks. “Competition policy aims to make the entry of new players and the expansion of existing businesses easier.”

The two-day workshop is the culmination of the APEC SMEs project, which conducted baseline studies to benchmark MSME issues in similar countries, and focus group discussions with key stakeholders to identify challenges faced by Filipino MSMEs in doing business. Aside from MSMEs and MSME associations, the event was attended by international participants from APEC-member countries like Indonesia, Japan, Malaysia, Mexico, Papua New Guinea, Peru, Russia, Thailand, and Vietnam.

Here are the main discussion points of foreign experts:

- Dr. Mark Williams, professor of law at University of Melbourne and consultant from Sustineo Pty Ltd., presented key issues confronting MSMEs, such as government regulations and competition restrictions, advocacy activities, enforcement priorities, and access to infrastructure and credit.

- Former United Nations Conference on Trade and Development (UNCTAD) Competition and Consumer Policies head and Melbourne Law School senior fellow Dr. Hassan Qaqaya presented the preliminary findings of the survey on MSME owners, senior managers, and representatives from 17 countries. He highlighted the need for competition authorities to work side-by-side with growth-oriented trade associations and MSMEs that support the role of competition agencies in maintaining competitive markets.

- Australian Competition and Consumer Commission (ACCC) Deputy Chair Dr. Michael Schaper presented the expectations of MSMEs from regulators and competition agencies. Among those Dr. Schaper underscored were the following: (a) dealing reasonably with minor breaches, (b) implementing laws that are easily understood, (c) minimizing the role of the judiciary, (d) resolving business disputes simply, (e) investigating complaints promptly, (f) providing concise and easy-to-read guidance, (g) emphasizing MSMEs’ rights, (h) recognizing MSMEs’ size difference with respect to bigger players, and (i) providing practical advice and assistance to help MSMEs comply.

- Malaysia Competition Commission’s (MyCC) former Chief Executive Officer Ms. Shila Dorai Raj narrated MyCC’s experiences in implementing competition policy and law for MSMEs during their initial years. She recounted the failures of their advocacy activities (e.g., too technical briefings, many programs not welcomed by MSMEs) and enforcement (e.g., negative news reported by media). She suggested that advocacy activities should be comprehensive and practical that feature real case studies and illustrations, and should focus on their rights. Raj explained that this is because competition issues are not a priority for MSMEs. She encouraged regulators to frequently engage the MSME community and form a core group that will advocate and support the agency’s work.

The event was facilitated by Sustineo Pty Ltd., an Australian-based firm specializing in technical and management services to create positive and sustainable social economic change in Australia and across the Asia Pacific region.
In a media forum held on July 14, 2017, PCC Commissioners Stella Luz A. Quimbo and Johannes Benjamin R. Bernabe reminded the business community, government-owned and -controlled corporations (GOCCs), and other entities involved in trade and commerce about the expiration of the two-year transitory period specified in the Philippine Competition Act (PCA) that falls on August 8, 2017.

Quimbo said the transitory period allowed businesses to restructure their arrangements or agreements, including contracts, to comply with the law. “In terms of enforcement, the end of transitory period activates the full imposition of fines and penalties of the law towards the violators. This, however, did not prevent the PCC from looking into cases prior to August 8,” she said.

Section 53 of the PCA states that “an existing business structure, conduct, practice or any act that may be in violation of this Act shall be subject to the administrative, civil and criminal penalties prescribed... only if it is not cured or is continuing upon the expiration of two years after the effectivity of this Act.”

Bernabe said the transitory period pertains to enforcement rather than merger control since the PCC has been accepting and reviewing notifications since it started.

A firm or person found violating the law would incur criminal, civil, and administrative liabilities. Penalties include fines ranging from 100 million pesos to 250 million pesos, and imprisonment.

Senator Cynthia Villar, the head of the Senate Committee on Agriculture and Food, also joined the media forum to report to the PCC the alleged existence of a cartel in the garlic industry. Villar asked the PCC to look into a 2014 report of the Department of Justice-Office for Competition (DOJ-OFC) on the operation of the alleged garlic cartel in the country, saying the 2014 incident similarly was accompanied by price spikes that happened in May to June this year.

Quimbo said the agency could investigate the case right away upon receiving the request, adding that the Commission would look into the DOJ-OFC study on garlic cartels. “We have rules and procedures to follow. If the Commission decides to open the case, this report will be taken into consideration,” she said.

The event was held at the Kamuning Bakery Café and was part of the establishment’s Pandesal Forum, which has been running since 2015. PCC’s participation at the forum was part of the Commission’s fresh round of press briefings to remind businesses and consumers of the lapse of the transitory period.
In a string of speaking engagements, Philippine Competition Commission (PCC) Chairman Arsenio M. Balisacan called on all stakeholders to help in promoting a culture of competition in the country to ensure a level playing field for big and small businesses.

The Philippine Institute of Certified Public Accountants (PICPA) invited Balisacan to speak during the Regulators’ Day Forum of 2017 Accountancy Week: SHINE (Service, Honesty, Innovation, and Nation-building through Education). The event was held on July 21, 2017 in Mandaluyong City.

“As accountants, your main task is to help businesses and their owners guard their existing assets and ensure that their operations continuously yield sustainable profits. Making businesses aware of the Philippine Competition Act (PCA) and the risks of engaging in anti-competitive acts can help you in this task,” said Balisacan.

The PCC Chairman also sought the help of accountants in ensuring that their clients’ businesses are in accord with the PCA: “Your value to your client goes beyond your accounting skills. As custodians of the book, you are in a primary position of knowing if your client is in danger of breaking the law. If they are, encourage them to seek appropriate legal advice.”

“Our doors are also open and our hands remain extended in partnership to all, especially erring businesses that want to rectify their anti-competitive behavior,” he said.

Balisacan was also invited to participate in a breakfast roundtable discussion organized by the Institute of Corporate Directors (ICD), a non-stock, not-for-profit organization dedicated to raising the corporate governance standards if the Philippines.

“It is understandable that the business community may not be used to the idea of being regulated for competition and antitrust concerns, and will have different paces of adopting until it becomes the norm in business ethics and every business deal,” said Balisacan.

The two high-profile speaking engagements were part of the second pillar of PCC’s powers, namely its role as a competition policy and advocacy champion.
MARKETS, CORPORATE FINANCE, COMPETITION

PCC LAWYERS COMPLETE COURSES ON FINANCIAL OPERATIONS, ANALYSES, SIMULATIONS, AND ACTUAL STOCK TRADING. MODULE DISCUSSED REAL SITUATIONS THROUGH CASE SUPPLEMENT THE CLASSROOM LECTURES. THE PARTICIPANTS ALSO TOOK A PRACTICAL LOOK AT MANAGEMENT, PEER COMPARISONS, AND PORTFOLIO CREATION AND PERFORMANCE OF EQUITY RESEARCH, RECOMMENDATIONS, OF EQUITY VALUATION, WHICH IS ESSENTIAL IN THE FINANCIAL MARKETS AS POTENTIAL SOURCES OF FUNDING. THE THREE-SESSION SEMINAR-WORKSHOP, HELD EVERY SATURDAY FROM JULY 22 TO AUG 5, 2017, PROVIDED THE PARTICIPANTS BACKGROUND ON THE FINANCIAL MARKETS AS POTENTIAL SOURCES OF CAPITAL AND THE VARIOUS FINANCIAL INSTRUMENTS OR SECURITIES THAT FIRMS USE TO RAISE FUNDS. THE MODULE ALSO COVERED THE BASIC PRINCIPLES OF EQUITY VALUATION, WHICH IS ESSENTIAL IN PERFORMING EQUITY RESEARCH, RECOMMENDATIONS, PEER COMPARISONS, AND PORTFOLIO CREATION AND MANAGEMENT.

The Philippine Competition Commission (PCC) joined competition authorities from the Association of Southeast Asian Nation (ASEAN) member states to develop the Competition Business Perception Index in a brainstorming session last July 19-20 2017 in Bali, Indonesia.

Hosted by the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) and the Commission for the Supervision of Business Competition (KPPU) of Indonesia, the brainstorming session aimed at sharing conceptual considerations, approaches and experiences from within and outside of ASEAN with respect to capturing the degree of business awareness, as the basis for planning advocacy or enforcement actions.

In line with Initiative 4.5 of the ASEAN Competition Action Plan (ACAP) 2025, the Competition Business Perception Index serves as a tool to gauge business perception and knowledge of competition issues every five years. This supports the notion that effectiveness of competition regimes does not merely rely on a sound legal framework or institutional capacities, but also requires extensive business compliance and public understanding about the principles and benefits of competition. In line with this, competition agencies around the world are holding regular dialogues with the business community and have developed specific tools to inform the private sector about the importance of fair competition.

PCC was represented by Atty. Jolina Pauline Tuazon and Shanti Aubren Prado. Its participation in the event is part of the PCC's commitment in helping build a culture of competition in the ASEAN region.

To build the capacity of its employees, the Philippine Competition Commission (PCC) sent its lawyers from the Mergers and Acquisitions Office (MAO) to various training courses and seminars on financial markets, corporate finance, and competition.

Lawyers Michael Kris Ben T. Herrera and Akemi B. Aida completed the course on Financial Markets and Corporate Finance organized by the Ateneo de Manila University Graduate School of Business - Center for Continuing Education.

The three-session seminar-workshop, held every Saturday from July 22 to Aug 5, 2017, provided the participants background on the financial markets as potential sources of capital and the various financial instruments or securities that firms use to raise funds. The module also covered the basic principles of equity valuation, which is essential in performing equity research, recommendations, peer comparisons, and portfolio creation and management.

The participants also took a practical look at stock market trading and operations to supplement the classroom lectures. The module discussed real situations through case analyses, simulations, and actual stock trading operations.

Separately, Atty. Ma. Lourdes C. Polido was sent to the 7th Diploma Program in Corporate Finance of the Ateneo Center for Continuing Education (ACCE).

The course aimed at enhancing the participant’s understanding of the basic objectives, the critical role, and the strategic importance of finance in business, as well as the behavior of financial markets from the global and domestic fronts and the factors that affect them.

Finally, lawyers Juan Anton Arcilla and Joemyl Baloro participated in competition courses organized by the College of Europe’s Bruges campus in Belgium in July 2017.

Atty. Arcilla attended the EU Competition Law course, which provided participants a professional guide to European Union competition law, as well as important tools for mastering legal complexities. The program covered the constituent provisions of the EU competition law and merger regulation. Atty. Baloro completed the IT Markets and Competition Matters course, which discussed how competition law can be an effective tool to attain a digital single market in the European Union, promote competition, eliminate anti-competitive trade barriers and, enhance market efficiency. Both courses involved practical simulations, case studies, and active discussions for each topic in focus.

The preliminary results of the “Household Survey on the Perception and Awareness on Market Competition” were also presented during the seminar, which provided insights in the general public’s perception and understanding of market competition.

The training session focused on statistical procedures in identifying products within the relevant market, as well as empirical techniques in determining the impact of firm mergers in the same relevant market. He also discussed econometric methods in recognizing relationships between price and level of concentration in a certain market using simple linear and fixed-effect regressions, and in pinpointing possible horizontal conspiracies and potential signs of collusion in an industry.

The two-part training session aimed at boosting the skills of PCC’s economists and other specialists.

The Nigerian Competition Commission (NCC) held the Seminar on Competition Matters for PCC employees on July 24, 2017. Spearheaded by the Human Resource Development Division, the event ensures PCC employees’ awareness of the developments in the agency’s operations as the national competition watchdog.

The seminar focused on the agency’s learnings and way forward in mergers and acquisitions procedures and regulation, the analysis of key prohibitions under the Philippine Competition Act (PCA) using a “constraint framework” and PCC’s role in lobbying competition provisions in free trade agreement negotiations with the Asia Pacific Economic Cooperation (APEC), Association of Southeast Asian Nations (ASEAN), European Union (EU), and other countries.

The seminar was attended by the PCC staff and the Atty. Ma. Lourdes C. Polido was part of the event.

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Officials and technical specialists from the Philippine Competition Commission (PCC) participated in the 2017 Competition and Regulation European Summer School and Conference (CRESSE) organized by the Athens University of Economics and Business (AUEB) in Crete, Greece.

Commissioner Amabelle C. Asuncion, along with Director Krystal Lyn T. Uy, and lawyers Ma. Leonila P. Papa, Katherine Ann C. Baldos, Melbourne Ziro D. Pana, and Jenicka Elizabeth E. Hosaka, participated in the 4th CRESSE Lawyers' Course on the Role of Economics in Competition Law and Practice.

The course, which ran from June 30 to July 3, 2017, provided legal practitioners a comprehensive understanding of economic concepts and theories, and its application to competition. The course also enabled participants to collaborate with economists on cases.

Separately, economists Isabela Rosario G. Villamil, Janine P. De Vera, and Cara Gabrielle T. Latinazo, and accountant Harvey R. Callueng attended the 12th CRESSE Summer School and Conference on Competition Policy and Regulation.

The program, held from June 24 to July 6, 2017, provided a comprehensive and updated account of the developments in economic theory, empirical analysis, legislation, and policy in the areas of competition and regulation. The course focused on industry economics and game theory for the analysis of market power, market definition and the assessment of market power, dominance and its abuse, collusive practices, economics of mergers, competition and regulation in network industries, quantitative analysis for competition policy, and competition policy and intellectual property rights.