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Philippines

Merger Control

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This country-specific Q&A provides an overview of merger control laws and regulations applicable in Philippines.

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Philippines: Merger Control

1. Overview

Republic Act No. 10667, or the Philippine Competition Act (PCA), is the principal legislation governing the Philippines' merger control regime. It is implemented and enforced by the Philippine Competition Commission (PCC), which reviews mergers and acquisitions to determine whether it would substantially lessen competition.

Transactions must be notified to the PCC if it exceeds both *the size of transaction (SOT)* and *size of party (SOP)* thresholds. SOT refers to the total value of the assets or revenues of the acquired party together with all its controlled entities, and SOP pertains to the aggregate value of assets or revenues of the ultimate parent entity of either party to the transaction. These tests are based on the country's gross domestic product growth and are adjusted annually.

The standard review period consists of 30 days for Phase I review, and if necessary, 60 days for Phase 2 review. Period for reviews initiated by the PCC is 75 days for Phase 1 and 120 days for Phase 2. To facilitate time-sensitive transactions, the PCC established an Expedited Merger Review mechanism, which cuts the standard review period by half.

Merger or acquisition agreements that substantially prevent, restrict, or lessen competition are prohibited. However, the PCA expressly allows such transactions to proceed if the parties can prove that the resulting efficiency gains will outweigh the adverse effects. This efficiency defense is broadly and explicitly codified in the Philippine regime, making it more pronounced than in many other jurisdictions.

2. Is notification compulsory or voluntary?

Notification is compulsory for transactions that exceed the Size of Party and Size of Transaction thresholds, as discussed in A6.

However, even if a transaction falls below these thresholds, the Philippine Competition Commission (PCC) may, on its own initiative or motu propio, review transactions if it believes that the transaction is likely to substantially prevent, restrict, or lessen competition in the relevant market or in the market for goods and services. Preliminary indications for such review include signs of high market concentration, significant market power by either of the parties, potential foreclosure effects, or if the merger takes place in a critical industry. For digital markets, the PCC have identified additional preliminary indicators, which include transactions involving gatekeepers, companies with datacentric operations, those that may reinforce network effects, those that are regarded as innovators, and conglomerate deals among digital players. Accordingly, it is recommended for parties to consult with antitrust practitioners early to assess competition issues and consider informal discussions with PCC even for non-notifiable deals.

3. Is there a prohibition on completion or closing prior to clearance by the relevant authority? Are there possibilities for derogation or carve out?

Parties are prohibited from consummating their agreement until thirty (30) days after providing notification to the Philippine Competition Commission (PCC), unless the parties are notified that the transaction will be subjected to a Phase 2 review.

There are no provisions allowing derogation or carve out from this prohibition to consummate notifiable transactions undergoing review. However, the PCC may expedite its review for qualifying transactions. This shortens the Phase 1 review to fifteen (15) working days.

4. What types of transaction are notifiable or reviewable and what is the test for control?

Transactions that qualify either as acquisition or merger are notifiable. An acquisition refers to the purchase or transfer of securities, interests, or assets for the purpose of obtaining control. A merger refers to the joining of two or more entities into an existing entity or to form a new entity, including joint ventures. Accordingly, notifiable transactions include mergers, share or interest transfers, asset or business transfers, and joint ventures.

Control is a key determinant of whether a transaction is notifiable. It refers to the ability to substantially influence or direct the actions or decisions of an entity, whether by contract, agency, or otherwise. Thus, merger or acquisition involving several entities controlled by the

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same natural person(s), such as internal group restructuring, and land acquisition not for the purpose of obtaining control, are exempt from compulsory notification.

5. In which circumstances is an acquisition of a minority interest notifiable or reviewable?

Acquisition of minority interest that exceed the Size of Party (SOP) and Size of Transaction (SOT) thresholds are notifiable if the transaction will result to acquisition of more than 35% of the outstanding voting shares, profits or assets of the acquired entity. If the acquiring party already owns 35% of the shares or interests, the transaction will be notifiable if it will result to acquisition of more than 50% of the outstanding voting shares, profits, or assets of the acquired entity.

However, regardless of the percentage of the acquisition, acquisition of minority interest or share that exceed the SOP and SOT thresholds is notifiable if the parties will exercise joint control.

6. What are the jurisdictional thresholds (turnover, assets, market share and/or local presence)? Are there different thresholds that apply to particular sectors?

Merger and acquisition transactions in the Philippines are subject to compulsory notification to the Philippine Competition Commission (PCC) if they exceed both the Size of Party (SOP) and Size of Transaction (SOT) thresholds, which apply uniformly across all sectors.

The SOP Test is satisfied where the ultimate parent entity of at least one of the parties has either (i) aggregate gross revenues in, into, or from the Philippines, or (ii) assets located in the Philippines, exceeding Eight Billion Five Hundred Million Pesos (8,500,000,000.00).

The SOT Test measures the value of the transaction based on the assets or revenues of the acquired entity (and any entities it controls) in the Philippines. It is currently set at Three Billion Five Hundred Million Pesos (3,500,000,000.00).

For acquisitions of shares and interests, notification is required if both the SOP and SOT thresholds are exceeded and the transaction results in the acquirer's holdings exceeding 35% or 50% of the target's voting shares. In case of non-corporate entities, the same percentage thresholds apply to entitlements to profits or to assets upon dissolution.

The PCC adjusts the threshold values for gross revenues and assets annually through an official issuance, typically in the form of a Memorandum Circular.

7. How are turnover, assets and/or market shares valued or determined for the purposes of jurisdictional thresholds?

In the Philippines, the threshold is determined based on gross revenues and assets.

Gross revenues consist of all inflows of money arising in the ordinary activities of a company. It is based on the (1) most recent audited financial statement, or (ii) last prepared annual statement of income and expense, if the entity is not required to prepare audited financial statements. Only sales that have a Philippine nexus will be included in calculating the value of the gross revenues.

For sale of goods, gross revenues include sales "in", "into" or "from" the Philippines:

a. Sales "in" the Philippines – revenues from sales by a seller located in the Philippines to a purchaser located in the Philippines.
b. Sales "into" the Philippines – revenues generated by a seller located outside the Philippines from a purchaser located in the Philippines (e.g., import).
c. Sales "from" the Philippines – revenues generated by a seller located in the Philippines from a purchaser not located in the Philippines (e.g. export).

For sale of services, what is determinative is the location where the service is rendered. Services containing cross-border elements can be considered to fall into the following general categories:

a. the service provider (or the seller) travels to the Philippines;
b. the customer (or the purchaser) travels to the Philippines; or
c. neither the service provider (or the seller) or the customer (or the purchaser) travels.

Similar to the determination of revenues, the aggregate value of assets in the Philippines shall be based on the (i) most recent audited financial statements or, if the entity is not required to prepare audited financial statements, (ii) the last regularly prepared balance sheet in which those assets are accounted for. The location of assets shall be determined as follows:

a. Tangible assets – by their actual physical location.

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Accordingly, tangible assets situated in the Philippines shall be considered assets in the Philippines.; and

b. Intangible assets – by reference to the statute conferring the legal rights and privileges associated with it. Thus, intangible assets with rights and privileges conferred by Philippine law, such as assets and copyrights, shall be deemed assets in the Philippines.

8. Is there a particular exchange rate required to be used for to convert turnover thresholds and asset values?

Annual gross revenues from sales "in" "into", or "from" the Philippines shall be expressed in Philippine Peso. As such, should an entity's financial statements be expressed in a foreign currency, the annual gross revenues shall be converted to Philippine Peso according to the average, over the twelve (12) months of that financial year of the foreign exchange rate quoted by the Philippine Central Bank, formally known as the Bangko Sentral ng Pilipinas.

9. In which circumstances are joint ventures notifiable or reviewable (both new joint ventures and acquisitions of joint control over an existing business)?

There is no special rule or separate threshold applicable to joint ventures. As with mergers and acquisitions, a joint venture will be subject to compulsory notification if the Size of Party and Size of Transaction thresholds are exceeded.

An acquisition of shares may be regarded as formation of a joint venture where the parties acquire or exercise joint control over the enterprise post-transaction. Joint control arises where the parties have the ability to determine the strategic commercial decisions of the enterprise, or to veto such decisions. Equal shareholding is not necessary; joint control may exist even if one party holds a minority interest, provided it has veto or voting rights sufficient to confer parity in strategic decision-making.

10. Are there any circumstances in which different stages of the same, overall transaction are separately notifiable or reviewable?

Generally, notification is required for each transaction that independently meets the jurisdictional thresholds. However, mergers and acquisitions consisting of successive transactions within one year between the same parties, or any entity they control or are controlled by or are under common control with another entity or entities, are treated as a single transaction. Where a binding preliminary agreement already sets out the successive steps, notification must be based on such preliminary agreement. Should there be none, notification shall be made when the parties execute the agreement relating to the last transaction which, when taken together with the preceding transactions, satisfies the notification thresholds.

11. How do the thresholds apply to "foreign-to-foreign" mergers and transactions involving a target / joint venture with no nexus to the jurisdiction?

Compulsory notification before the Philippine Competition Commission is required when both the Size of Party and Size of Transaction thresholds are exceeded. The thresholds are determined with reference to assets located in the Philippines or to gross revenues from sales in, into, or from the Philippines. Where neither party has Philippine assets, operations, or revenues, the transaction has no nexus to the jurisdiction and is not notifiable, even if the global deal value is significant.

The Philippine Competition Act makes clear that its scope extends to conduct outside the Philippines where this has a direct, substantial and reasonably foreseeable effect on Philippine commerce. Accordingly, foreign-to-foreign transactions are not automatically exempt from notification, but the PCC has emphasized in its merger rules and joint venture guidelines that the determinative factor is the presence of Philippine assets or revenues.

12. For voluntary filing regimes (only), are there any factors not related to competition that might influence the decision as to whether or not notify?

Not applicable.

13. What is the substantive test applied by the relevant authority to assess whether or not to clear the merger, or to clear it subject to remedies?

The Philippine Competition Commission will determine whether the transaction will substantially prevent, restrict, or lessen competition (SLC) in the relevant market.

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An SLC is present when a merger negatively affects firms' ability or incentive to adjust prices, enhance quality, improve efficiency, or innovate. Accordingly, in its merger analysis, the PCC assesses the transaction's impact on competition within the relevant market over time to determine whether it results in SLC.

14. Are factors unrelated to competition relevant?

No. The Philippine Competition Commission assesses mergers solely on competition grounds. The statutory test is whether the transaction will substantially prevent, restrict, or lessen competition in the relevant market.

The Philippine Competition Act recognizes limited exemptions, such as efficiencies that outweigh anti-competitive harm, and the failing-firm defence where the transaction is the least anti-competitive alternative. Both are firmly rooted in competition analysis and do not extend the review to factors unrelated to competition.

15. Are ancillary restraints covered by the authority's clearance decision?

The Philippine Competition Commission's (PCC) clearance is confined to the merger or acquisition as notified. Restrictions that are directly related to and necessary for implementing the transaction, such as non-compete clauses or transitional service agreements, are required to be disclosed to the PCC and will be assessed as part of the review.

16. For mandatory filing regimes, is there a statutory deadline for notification of the transaction?

Parties to a transaction that is subject to compulsory notification must notify the Philippine Competition Commission (PCC) within thirty (30) calendar days after the signing of definitive agreements relating to the merger but prior to any acts of consummation.

A definitive agreement sets out the complete and final terms and conditions of a merger or acquisition, including the rights and obligations between or among the transacting parties. Should any party be required to fulfill certain conditions to make the definitive agreement effective, such will not be a hurdle to making such agreement a definitive agreement.

An act of consummation is when parties have exercised any of their rights and obligations as transacting parties under the definitive agreement. The exercise of such rights and obligations by the parties are to be factually determined by the PCC.

17. What is the earliest time or stage in the transaction at which a notification can be made?

Parties to a transaction that is subject to compulsory notification may already notify the Philippine Competition Commission based on a binding preliminary agreement. A binding preliminary agreement refers to such terms and conditions on which parties to a planned merger or acquisition have reached a consensus and on the basis of which the parties intend to complete the transaction in good faith. The agreement may be in any form, such as a memorandum of agreement, term sheet or letter of intent.

The parties may also notify on the basis of the most recent draft of the definitive agreement or agreements. For global transactions requiring notification in multiple jurisdictions, the parties may notify on the basis of the terms and conditions of the global agreement or the most recent draft of the definitive agreement/s relating to the Philippine aspect of the transaction.

18. Is it usual practice to engage in pre-notification discussions with the authority? If so, how long do these typically take?

Yes. Parties to a proposed merger or acquisition that are required to notify the Philippine Competition Commission (PCC) may request for pre-notification consultation with the staff of the PCC. During such pre-notification consultations, the parties may seek non-binding advice on the specific information that is required to be in the notification.

The PCC does not impose a specific timeframe for pre-notification discussions, as these are entirely initiated and driven by the parties themselves.

19. What is the basic timetable for the authority's review?

Upon submission of the prescribed Notification Form, the Philippine Competition Commission (PCC) has fifteen (15) days to assess the completeness of the submitted documents. Once confirmed, the PCC will conduct its merger review within thirty (30) days from the date of confirmation ("Phase I Review"). Should the PCC determine that a more comprehensive or detailed

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analysis of the merger or acquisition is necessary, an additional sixty (60) days may be added to the review period ("Phase II Review"). However, the total review period shall not exceed ninety (90) days.

20. Under what circumstances may the basic timetable be extended, reset or frozen?

The review period may be interrupted when the parties request for extension of time to submit information requested by the Philippine Competition Commission (PCC). In such case, the parties shall submit a request for extension and waiver of the 30 and 90-day periods of review.

The review period shall likewise be suspended for a period of sixty (60) days, which the PCC may shorten or extend for a maximum of thirty (30) days, when the parties submit proposed commitments that will remedy, mitigate, or prevent the competition concerns identified by the PCC as arising from the merger.

21. Are there any circumstances in which the review timetable can be shortened?

The Philippine Competition Commission (PCC) implements an expedited Phase 1 merger review, which shall be completed within fifteen (15) working days for the following transactions:

1. No overlaps: No actual or potential horizontal or vertical (including complementary) relationship in the Philippines between the parties or their controlled entities.
2. Global transaction with PH assemblers, export manufacturers: Where the foreign parents are the transacting parties and their Philippine subsidiaries act merely as manufacturers or assemblers of products with at least 95% of outputs are exported, and the remaining 5% domestic sales must be minimal relative to the market.
3. Global transaction with limited Philippine presence: Where the relevant geographic market is global and both parties have negligible or limited presence in the Philippines.
4. Real estate joint ventures: Joint ventures, incorporated or contractual, formed purely for residential and/or commercial real estate projects.

22. Which party is responsible for submitting the filing?

All parties of a merger subject to compulsory notification is responsible for submitting the Notification Forms before Philippine Competition Commission. In fact, all acquiring and acquired pre-acquisition ultimate parent entities, or any entity authorized by the ultimate parent entity to file the notification on its behalf must each submit a Notification Form.

In the formation of a joint venture, the contributing entities shall be deemed acquiring entities, and the joint venture shall be deemed the acquired entity.

23. What information is required in the filing form?

The Notification Form is available at https://www.phcc.gov.ph/mergers-and-acquisitions/merger-notification/compulsory-notification/notification-form.

Broadly, the form requires: (i) general and contact information on the ultimate parent entity, the notifying group, and authorized representatives; (ii) transaction details including type, value, structure, objectives, and post-transaction ownership and control; (iii) financial and operational information such as the parties' assets, revenues, and activities in the Philippines; (iv) market information identifying horizontal and vertical overlaps, candidate relevant markets, market shares, competitors, customers, and suppliers; and (v) supporting documentation, including definitive agreements (or latest drafts), corporate records, shareholder or board approvals, market and competition analyses, confidential information memoranda, financial statements, and sworn affidavits.

24. Which supporting documents, if any, must be filed with the authority?

The required supporting documents are outlined in the Notification Form, which includes:

1. A copy of the binding preliminary agreement or definitive agreement (or the latest draft, with an undertaking to submit the executed version once signed);
2. Copies of any non-compete agreements;
3. Corporate records of the notifying parties, such as Articles of Incorporation, By-Law and the Latest General Information Sheet, or its equivalent;
4. Shareholder or board approvals on the transaction, typically in the form of a secretary's certificate;
5. Market and competition analyses, including studies, surveys analyses and reports that were prepared or

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received by an officer or director of any of the entities in the Notifying Group for the purpose of evaluating or analyzing the proposed transaction with respect to market shares, competition, competitors, markets, potential for sales growth or expansion into new products/services or geographic regions;
6. The most recent annual reports or audited financial statements of the parties and relevant affiliates;
7. Confidential information memoranda, bankers' books and other third-party consultant materials and synergy documents related to the sale of the target company or assets;
8. Ordinary course documents relating to or discussing market position, competition, competitors, potential for sales or revenue growth or expansion;
9. Affidavit attesting the fact that a binding definitive agreement has been signed and that the filing ultimate parent entity and the acquiring or acquired Entity have a good faith intention of completing the proposed transaction; and
10. Authorization in favor of the person signing the Notification Form.

25. Is there a filing fee?

The filing fee for the notification filing and Phase I review is P250,000. The filing fee for the Phase 2 review is 1% of 1% of the value of the transaction which shall not be less than P1,000,000.00 nor exceed P5,000,000.

26. Is there a public announcement that a notification has been filed?

No. The Philippine Competition Commission does not issue public announcements upon the filing of a notification. However, it does make a public announcement once it has rendered a decision on the merger or acquisition, regardless of whether the transaction is approved, conditionally approved, or prohibited.

27. Does the authority seek or invite the views of third parties?

Yes. The Philippine Competition Commission may contact third parties, such as customers, suppliers or competitors, by means of market calls or inquiry letters in order to obtain relevant information regarding the market, their views on the merger, any competition issues it may raise and how they will be affected. Third parties may also include other governmental entities, sectoral regulators, industry associations, consumer bodies, think-tanks, market research firms or centers for information, among others.

28. What information may be published by the authority or made available to third parties?

The following classes of information may be published by the Philippine Competition Commission (PCC) or disclosed to third parties, as they are not generally regarded as confidential, unless the Notifying Party has properly designated them as confidential with sufficient justification:

1. The fact of the merger itself;
2. Information that relates to the business of any of the merger parties but is not commercially sensitive in the sense that disclosure would cause harm to the business;
3. Information that reflects the merger parties' views of how the competitive effects of the merger could be analyzed; and
4. Information that is general knowledge within the industry or is likely to be verified by any diligent market participant.

The PCC does not publish actual documents submitted by the Notifying Parties. It only publishes a non-confidential version of its decision on the merger or acquisition.

29. Does the authority cooperate with antitrust authorities in other jurisdictions?

Yes. The Philippine Competition Commission (PCC) cooperates with its counterparts abroad, particularly in cross-border transactions where coordination is necessary for consistent merger review. The PCC has entered into cooperation agreements and memoranda of understanding with several antitrust authorities, including those of Australia, Cambodia, Thailand, Hong Kong, China and Singapore. For instance, the memoranda of understanding between the Philippines and Hong Kong, China, as well as Singapore, provide for the notification of the other jurisdiction regarding anti-competitive activities that may have an effect within their respective territories.

30. What kind of remedies are acceptable to the authority?

The Philippine Competition Commission may impose structural remedies, behavioral remedies, and ancillary measures to address a substantial lessening of

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competition. Remedies must be directly linked to the harm identified, effective in addressing both the harm and its adverse effects, proportionate, and practical in terms of risk, monitoring, timing, and duration.

Structural remedies, such as divestitures, are generally preferred because they directly restore competition and are largely self-policing. Behavioral remedies, such as commitments on pricing, access, or supply, may be accepted where structural remedies are not feasible, provided they are easy to monitor, backed by clear sanctions, and capable of delivering meaningful competitive benefits. Ancillary measures may also be required to reinforce the effectiveness of either structural or behavioral commitments.

31. What procedure applies in the event that remedies are required in order to secure clearance?

The Philippine Competition Commission (PCC) may accept remedies proposed by the parties at any stage of the review process, whether in Phase I or Phase II. Remedies are submitted as voluntary commitments, which suspend the review timeline for up to sixty (60) days, which can be shortened or extended by thirty (30) days.

If remedies are proposed before the issuance of a Statement of Concerns (SOC), discussions are held with the Mergers and Acquisitions Office (MAO). If remedies are offered after an SOC has been issued, the PCC constitutes a Voluntary Commitment Review Team to evaluate the proposal. In both cases, the PCC may consult stakeholders through market testing to assess the viability and effectiveness of the proposed remedies.

Commitments may take the form of structural remedies (such as divestitures), behavioral remedies (such as access or non-discrimination obligations), or ancillary measures to ensure implementation. If accepted, the PCC issues a Commitment Decision, which is binding on the parties and allows the transaction to proceed subject to the agreed conditions.

The PCC also reserves the right to impose alternative remedies, and commitments may later be varied, substituted, or released upon application if market conditions materially change. To ensure compliance, the PCC may appoint a monitoring trustee at the expense of the parties.

32. What are the penalties for failure to notify, late notification and breaches of a prohibition on closing?

If parties to a merger and their ultimate parent entity do not notify the Philippine Competition Commission before completing their merger, or if they break the waiting period rule before the consummation of contracts, they will be fined 1% to 5% of the transaction's value.

If parties miss the notification deadline under A3 but have not yet completed the merger, they will be fined 5% of 1% of the value of transaction for the first thirty (30) days of delay or fraction thereof. The fine shall be increased by 1% of 1% of the value of the transaction for every additional thirty (30) days of delay or fraction thereof, provided that the total amount of fine to be imposed shall not exceed Two Million Two Hundred Thousand Pesos (2,200,000.00).

In short, the first rule covers mergers that failed to notify the PCC or breached the prohibition on closing, while the second rule covers mergers that notified the PCC late.

33. What are the penalties for incomplete or misleading information in the notification or in response to the authority's questions?

The penalty for supplying incorrect or misleading information is a fine of up to One Million One Hundred Thousand Pesos (1,100,000.00).

34. Can the authority's decision be appealed to a court?

Final orders or decisions of the Philippine Competition Commission (PCC) shall be appealable to the Court of Appeals in accordance with the Rules of Court. The appeal shall be made within fifteen (15) calendar days from receipt of the PCC's decision.

35. What are the recent trends in the approach of the relevant authority to enforcement, procedure and substantive assessment?

A key trend in the Philippines' merger control landscape is the Philippine Competition Commission's (PCC) continuing effort to refine its framework to enhance transparency, guidance, and predictability for parties navigating merger review. In 2024, the PCC issued the Guidelines on Merger Remedies to complement the Merger Review Guidelines by setting out its policies on

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the design and implementation of commitments, confirming its preference for structural solutions but also recognizing tailored behavioral remedies with ancillary measures. In 2023, it released both the Non-Horizontal Merger Guidelines and the Guidelines for the Motu Proprio Review of Mergers and Acquisitions in Digital Markets, which clarify the PCC's approach in reviewing vertical and conglomerate mergers as well as digital-market transactions that may fall below notification thresholds, taking into account factors such as network effects, data access, and innovation dynamics. The PCC is also in the process of codifying its Rules of Procedure, which will also cover evidence, motions, contempt, and forbearance, as part of its 2025 Annual Regulatory Plan. These initiatives are intended to provide clearer reference points and greater predictability in the conduct of its review.

36. Are there any future developments or planned reforms of the merger control regime in your jurisdiction?

Yes. The Philippine Competition Commission (PCC) has signaled a number of reforms aimed at enhancing clarity and predictability in merger review. Under its 2025 Annual Regulatory Plan, the PCC is pursuing the codification of its Rules of Procedure, which will consolidate rules on evidence, motions, contempt, and forbearance.

The PCC also continues to adjust notification thresholds annually in line with macroeconomic growth, with the latest increase taking effect on 1 March 2025. At the legislative level, amendments to the Philippine Competition Act (Republic Act No. 10667) are being studied in Congress to strengthen the PCC's enforcement powers and jurisdiction. The PCC is likewise engaged in capacity-building projects with the Organization for Economic Cooperation and Development and Asian Development Bank to align its merger control regime with international best practice.

The PCC has expressed the need for a separate competition law addressing digital markets, particularly in the areas of online advertising and digital transactions. It has also emphasized the need to refine investigation methods specific to competition cases in the digital economy, given the distinct structure and characteristics of digital services. These statements reflect the PCC's recognition that existing tools may need to be supplemented to deal effectively with fast-evolving sectors of the digital economy.

Taken together, these measures highlight the PCC's policy direction of making merger review more transparent and predictable while preparing for emerging competition issues in the digital space.

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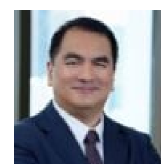

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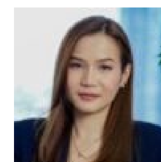

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