

<b>Philippines</b> <b>[Please introduce here the name of your country]</b>		
<b>COMPETITION FRAMEWORK</b>		
Competition Law	<p>The Philippine Competition Act (PCA) (R.A. 10667) enacted July 21, 2015.</p> <p>The Implementing Rules and Regulations (IRR) of the Philippine Competition Act enacted June 18, 2016.</p> <p><i>[Please Introduce the name of the laws constituting the National Competition Law Regime. Include the year of enactment and the corresponding amendments as well]</i></p>	
Competition Authority	<p>Philippine Competition Commission (PCC). Authorized by the Philippine Competition Act of 2015 and established in February 2016. <a href="https://www.phcc.gov.ph/">https://www.phcc.gov.ph/</a></p> <p><i>[Please introduce here the name of the competition authorities that are part of the enforcement process of the laws mentioned in the previous question. In that regard, please specify the norms that established those agencies, the year in which they started operation, and their website. Include tribunals only if they have a role in the process of founding guilt and imposing sanctions. This point specifically excludes judicial authorities that only have judicial review powers]</i></p>	
<b>POLICY-MAKING AGENTS</b> <b>-DIVERSIFICATION-</b>		
How many agencies are responsible for competition enforcement?	<p>One, the PCC. The PCC is the sole competition authority and has the ability to impose administrative liability and initiate criminal or civil proceedings. For anticompetitive behavior, the PCC can unilaterally issue an injunction, require divestment, disgorge excess profits, and impose fines. In review of mergers, the PCC can block an agreement with anticompetitive effects. Philippine Competition Act § 12.</p> <p><i>[Please mention how many authorities have a general mandate to enforce competition in your jurisdiction. Include a brief reference on their duties e.g.: if they impose criminal, civil or administrative liability. The purpose is that readers can quickly understand, which are the agencies charged with competition enforcement in the jurisdiction, the difference between them, and if they have concurrent, overlapping, or exclusionary authority. Include the relevant provisions on which their powers are based. Exclude in this point sector regulators or enforcers]</i></p>	
Do sector regulators have a competition policy enforcement mandate?	<p>No</p> <p><i>[Please introduce the name agencies that have powers to enforce any aspect of competition law, including merger control, in specific sectors. Introduce the relevant provisions on which their powers are based]</i></p>	
Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators?	<p>Yes. The PCC has signed numerous MOUs with other regulators both domestically and internationally. For a list, <a href="#">see here</a>.</p> <p><i>[Please mention here any provision or interinstitutional agreement that allows the competition authorities to coordinate behavior to effectively enforce competition law]</i></p>	
<b>DISAGGREGATED FUNCTIONS—</b> <b>PROSECUTORIAL MODEL</b>		
Are there different authorities or agencies that make the decision to investigate and the final ruling in the cases?	No  <i>[Answer: Yes or No]</i>	<p>The PCC has the sole authority to make the decision to investigate a case. It unilaterally makes the decision to impose administrative remedies and pursue civil or criminal actions in court. The final ruling of civil and criminal actions are left to the judiciary.</p> <p><i>[If the answer is yes, please explain briefly the enforcement process, and include the relevant provisions. The purpose of this question is to understand the enforcement model of the jurisdiction and establish how many independent authorities are involved in the enforcement process and what are their functions]</i></p>
Are disputes presented for decision to judiciary	Yes  <i>[Answer: Yes or No]</i>	<p>Civil and criminal proceedings are adjudicated in the regional trial court where the conduct occurred. Administrative actions are</p>

authorities?		imposed unilaterally by the PCC. Philippine Competition Act, § 12.  <i>[If the answer to your question is "yes", please introduce the name of the judiciary authorities that are involved and their role until the final decision in the process is achieved; exclude from this question judiciary authorities whose role in the process is the judicial review of administrative decisions]</i>
Do private rights of action to challenge competition law infringements exist in your jurisdiction	Yes  <i>[Answer: Yes or No]</i>	“Any person who suffers direct injury by reason of any violation of this Act may institute a separate and independent civil action after the Commission has completed the preliminary inquiry.” The regional trial court where the conduct occurred serves as the original court of jurisdiction in such suits. Such actions are subject to a 5-year statute of limitations. Philippine Competition Act §§ 44-46.  <i>[If the answer is "yes", please explain briefly the process and who are the persons entitled to exercise those rights; mention the relevant provisions]</i>

**\* Please fill the next sections for each of the authorities mentioned in the prior sections excluding sector regulators**

<b>PHILIPPINE COMPETITION COMMISSION</b>				
<b>(PCC)</b>				
<b>STATUS OF THE COMPETITION AUTHORITY</b>				
<b>Accountability</b>	Please, answer “Yes” in the boxes of this line if any of the duties on the right column apply to the authority, and “No” if they do not.	Answer with X/√ as it applies		Please, in the boxes of this line mention the relevant provisions in which the obligations are based.
Does the Competition Authority have obligations before the executive?	No	X	Obligations to report to the executive on on-going investigations upon request.	<i>[Introduce the relevant provisions]</i>
		X	The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch.	<i>[Introduce the relevant provisions]</i>
		X	The executive has to report on an annual basis to the executive.	<i>[Introduce the relevant provisions]</i>
Does the Competition Authority have obligations before the legislature?	Yes	√	Obligation to publish an annual report on its activities.	Philippine Competition Act § 12(k).  <i>[Introduce the relevant provisions]</i>
		X	Obligation to stand before parliament and to respond to congressmen on an annual basis.	<i>[Introduce the relevant provisions]</i>
		√	Its activities are monitored by an independent auditor or by oversight committees.	Philippine Competition Act § 49.  <i>[Introduce the relevant provisions]</i>
Does the Competition Authority have obligations before the judiciary or independent agencies?	Yes	√	Decisions of the Competition Authority are subject to judicial review.	The Court of Appeals is charged with judicial review. Philippine Competition Act § 39.  <i>[Aside from the relevant provisions please mention the judicial authority charged with the review]</i>
		X	Decisions of the Competition Authority are subject to review or control of an independent authority different than the judiciary?	<i>[Aside from the relevant provisions, please mention the authority charged with the review]</i>

		<p><b>Other obligations/comments:</b> Please introduce any other obligation or comment that you consider relevant.</p> <p><i>[Introduce any comment that you consider relevant regarding the status of accountability of accountability of the competition authority]</i></p>
<b>Independence</b>	Please, answer “Yes” or “No”	
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	<p>Philippine Competition Act, §§ 6-7.</p> <p><i>[Please introduce the relevant provisions, and if the answer to this question is “no”, explain briefly why in your opinion the criteria are not clear or transparent]</i></p>
Does the executive have powers to decide on specific cases based on public interest?	No	<i>[Please introduce the relevant provisions, and if the answer to the question is “yes”, explain in which cases the executive can decide on public interest bases]</i>
Does the executive retain decision-making powers over the Competition Authority?	No	
Is the Competition Authority obliged to publish reasoned decisions to ensure transparency?	Yes	<p>Final decisions, orders and rulings of the Commission are required to be published on the PCC website. Philippine Competition Act, § 52.</p> <p><i>[Please introduce the relevant provisions]</i></p>
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes	<p>The PCC has a line-item appropriation in the Philippines’ annual appropriation process. (for example, see <a href="#">FY2023</a>).</p> <p>Please introduce the relevant provisions and the budget assigned to the authority for the current year and the next if it is already approved]</p>
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	No	<p>All fees, fines, penalties collected by the Commission shall not be retained by the Commission, but will be remitted to the National Treasury and shall accrue to the general funds. Philippine Competition Act, § 51.</p> <p><i>[Please introduce the relevant provisions and mention the means by which the authority can be financed on its own]</i></p>
<b>GOVERNANCE OF THE COMPETITION AUTHORITY</b>		
Is the Competition Authority governed by a single chairman or by a collegiate body?	<p>Collegiate Body. The Commission is composed of a chairperson and four commissioners. Philippine Competition Act § 6.</p> <p><i>[Answer “single chairman” if the directive organ of the authority is composed of one person. Answer “collegiate body” if the authority’s directive organ is composed of two or more members, regardless if this organ is directed or presided by a chairman or president. Also mention how many board members or directors are part of the Direction Body]</i></p>	
How are the members of the Authority’s directive organ chosen?	<p>Members of the Commission are appointed by the President. Philippine Competition Act § 6.</p> <p><i>[Please describe the electing process for choosing the members of the directive organ. Include relevant provisions; mention the branch government involved in this process]</i></p>	
Is there a fixed period during which removal is prohibited?	No	<i>[If your answer is “yes”, please introduce the duration of the tenure and the relevant provisions. If the answer is no, please refer if there are specific and restricted grounds under which the members of the Directive body can be removed; mention if they are elected for a term and introduce the relevant provisions]</i>
Is the tenure of the heads renewable?	No	<p>Philippine Competition Act § 7.</p> <p><i>[Please, introduce the relevant provisions]</i></p>
Are the heads required by law to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	<p>The Chairperson and members of the Commission must be citizens and residents of the Philippines, of good moral character, of recognized probity and independence, and distinguished professionally in public/civic/academic service in one of the following fields: economics, law, finance, commerce, or engineering. Appointees must have been active in practice for at least 10 years and must not have been candidates for any elective national or local office in the immediately preceding election. Philippine Competition Act § 6.</p> <p><i>[If your answer is “yes”, please make reference to the qualifications required by law and the relevant provisions]</i></p>
<b>ARCHITECTURE</b>		
Is the Competition Authority a stand-alone agency with an independent physical location or is it part of a bigger entity such as a ministry?	Independent	The PCC is an agency attached to the office of the President. However, the PCC is statutorily defined as an independent, quasi-judicial body and its decision making is independent of the executive. The only authority the executive retains is over appointments and for-cause removal.

		[If your answer is “part of a bigger entity”, please explain briefly how the bigger entity is organized]	
<b>POLICY DUTIES</b>			
Does the Competition Authority have an exclusive mandate on competition or multiple mandates?	Exclusive	X	Concurrent consumer protection mandate.
		X	Concurrent IP mandate.
		<b>Other mandates:</b> Include any other mandates entrusted to the Competition Authority	
<b>PORTFOLIO INSTRUMENTS</b>			
<b>Law Enforcement</b>			
Does the Competition Authority have powers to investigate cartels?	Yes	<p>The PCC has the authority to investigate anti-competitive agreements between or among competitors. Specifically, the PCC can investigate restricting competition on price and price fixing, bid rigging, market allocation, production limitation, and technical and investment limitation. Philippine Competition Act § 14.</p> <p>The PCC has the authority to issue administrative fines of up to P100 Million (~\$1.7 million USD) for a first offense, between P100-250 Million (~\$1.7-4.4 million USD) on subsequent offenses. The PCC may pursue criminal penalties against responsible officers including 2-7 years imprisonment and between P50-250 Million in criminal fines. (~\$884k-\$4.4m USD). Philippine Competition Act §§ 29-30.</p> <p><i>[If the answer is “yes”, please mention the type of liability that the actions of the agency seek: civil, criminal, administrative. Introduce the relevant provisions; briefly explain if the powers of the authority are limited to certain types of cartels and what kind of sanctions can be imposed]</i></p>	
Does the Competition Authority have powers to investigate unilateral Conduct?	Yes	<p>The PCC has the authority to investigate abuse of dominant position which is defined as price dumping, unfairly imposing barriers to market entry, including non-pertinent obligations in transactions, and price discrimination. Philippine Competition Act § 15.</p> <p>The PCC has the authority to issue administrative fines of up to P100 Million (~\$1.7 million USD) for a first offense, between P100-250 Million (~\$1.7-4.4 million USD) on subsequent offenses.</p> <p><i>[If the answer is “yes”, please mention briefly if the competition authority is invested with the power to pursue exploitative and exclusionary effects, also make reference to relevant provisions, the type of liability that the actions of the authority seek, and what kind of sanctions can be imposed]</i></p>	
Does the Competition Authority have the powers to conduct <i>ex-ante</i> merger review?	Yes	<p>The commission has the “power to review mergers and acquisitions based on factors deemed relevant by the commission.” Parties subject to notification cannot consummate the agreement until 30 days after providing notice to the PCC. During that 30 days, the PCC will conduct a Phase 1 review resulting in either an explicit approval, an approval by no action after 30 days, or an extension with a request of or additional information and/or statement of concern. The PCC then publishes an abstract of transaction before moving into a Phase 2 review. A phase 2 review results in either a disapproval, an approval, or an approval by no action within 30 days. If the Commission finds that the merger is likely to have an anticompetitive effect, it may block the merger, modify the merger, or enjoin the merger subject to a separate order. Philippine Competition Act §§ 16-18. See also. PCC <a href="#">Merger Review Guidelines</a>.</p> <p><i>[If the answer is “yes”, please explain briefly the process and which are the remedies that authority can seek or impose and mention the relevant provisions]</i></p>	
Is the notification of merger transactions mandatory?	Yes	<p>Parties must notify a merger when the value of the transaction exceeds P1 billion (~\$17.7 Million USD) and the aggregate annual gross revenues in, into or from the Philippines of the value of the assets in the Philippines of the ultimate parent entity of at least one of the acquiring or acquired entities exceeds P1 billion. For acquisitions of the voting shares of a corporation or interest in a</p>	

		<p>non-corporate entity, the result of the acquisition must also constitute over 35% of the voting power or profit entitlement of the acquired corporation or 50% if the entity already owned or received more than 35% before the proposed acquisition. Rules and Regulations to Implement the Philippines Competition Act, § 3.</p> <p><i>[If the answer is "yes", please explain whether all the transactions shall be notified or if there is a threshold; mention relevant provisions]</i></p>
Can the parties close the transaction before the final decision of the Authority (suspensory effect of merger notification)?	No	<p>Philippine Competition Act § 17.</p> <p><i>[Please mention the relevant provisions and add any explanation that you deem necessary]</i></p>
Does the Competition Authority have the power to carry out <i>ex-post</i> merger investigations?	No	<p><i>[Please mention relevant provisions]</i></p>
Does the Competition Authority have the power to impose remedies on <i>ex-post</i> merger investigations?	No	<p><i>[If the answer is yes, please mention the remedies that the Authority can impose; mention relevant provisions]</i></p>
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	<p>Yes, however the PCC must receive a court order to search premises. Raids may be "at any time during the day as may be determined for compelling reasons stated in the application [to the court.]" See Administrative Matter No. 19-08-06-SC (Supreme Court Enactment of PCC Inspection Order Rules).</p> <p><i>[If the answer is "yes", please mention whether the dawn raids shall be authorized by a judge, and mention the relevant provisions]</i></p>
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	<p>The Commission has the ability to initiate an investigation <i>motu proprio</i>. Philippine Competition Act § 31.</p> <p><i>[Please, mention the relevant provisions]</i></p>
Does the Competition Authority have powers to accept leniency applications?	Yes	<p>The PCC offers leniency to first-in-time applicants which provides immunity from administrative and criminal liability as well as immunity from civil actions initiated by the PCC. To be eligible, the applicant must be first in time, prompt in his/her/its termination of its participation, candid and cooperative in working with the PCC, and did not coerce other actors to join. The applicant must first request a marker from the Commission after which it has 30 days to gather and submit evidence which must include the entities involved in the illicit activity, the affected products/services, the affected geographic areas, duration of the behavior, affirmative proof of eligibility for leniency, the nature of the agreement, and information on any other leniency applications outside of the Philippines. The PCC will grant a conditional leniency which is finalized so long as the applicant does not violate any obligations. See <a href="#">Rules of the Leniency Program</a>.</p> <p><i>[If the answer is "yes", please mention if there is any limitation for the applicants, what are the benefits, and mention the relevant provisions. Include any commentary that you consider relevant about the leniency program]</i></p>
Does the Competition Authority have powers to accept seek criminal punishment?	Yes	<p>The PCC makes the decision to pursue criminal punishments and prosecutes criminal charges in the regional district court in which the illicit activity occurred. Philippine Competition Act, §§ 12, 44.</p> <p><i>[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]</i></p>
<b>Advocacy</b>		
Can the Competition Authority issue opinions on draft legislation?	Yes	<p>Philippine Competition Act, § 12(k).</p> <p><i>[if the answer is yes, please specify if there is any kind of limitation to the agency's authority to issue opinions, include relevant provisions]</i></p>
Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition?	No	<p><i>[if the answer is yes, include relevant provisions]</i></p>
<b>Rulemaking</b>		

Can the Competition Authority issue guidelines?	Binding Regulations	√	Guidelines on the calculation of fines.
		√	Guidelines on merger control.
		√	Guidelines on the economic analysis of abuse of dominance cases.
Can the Competition Authority issue binding regulation on competition?	Yes		<p>The PCC has full regulatory authority over enforcement of the Philippine Competition Act. Philippine Competition Act, §12.</p> <p>This includes the authority to revise the implementing rules. Rules and Regulations to Implement the Philippine Competition Act, preamble.</p> <p><i>[Please, explain which kind of regulation and mention the relevant provision on which the powers are based]</i></p>
<b>Research &amp; Reporting</b>			
Can the Competition Authority carry out market studies?	Yes		<p>Philippine Competition Act § 12(m).</p> <p><i>[If the answer is "yes", include relevant provisions]</i></p>
Can the Competition Authority report to the legislature on the results of market studies?	Yes		<p>Philippine Competition Act §§ 12(k)-(m).</p> <p><i>[If the answer is "yes", include relevant provisions]</i></p>
<b>DECISION-MAKING FUNCTIONS</b>			
<b>Aggregated Functions</b>			
Does the Competition Authority make the decision to investigate and make guilty findings?	Yes		<p>The PCC has the sole authority to initiate an investigation. Additionally, the PCC makes guilty findings regarding administrative actions. Criminal and civil liability is found by a court. Philippine Competition Act §§ 12, 31.</p> <p><i>[If the answer is "yes", include relevant provisions]</i></p>
Does the Competition Authority impose punishments?	Yes		<p>The PCC has the ability to impose administrative liability and initiate criminal or civil proceedings. For anticompetitive behavior, the PCC can unilaterally issue an injunction, require divestment, disgorge excess profits, and impose fines. In review of mergers, the PCC can block an agreement with anticompetitive effects. Philippine Competition Act § 12.</p> <p><i>[If the answer is "yes", please mention the different kinds of sanctions that the agency can impose]</i></p>
Is there a single body that carries out the investigation and the guilty findings within the Competition Authority?	No		<p>The Commission has a Secretariat which is split into 6 divisions: Administrative, Communication &amp; Knowledge Management, Enforcement, Economics, Finance, and M&amp;A. The enforcement division is charged with investigation of anticompetitive conduct and can start an investigation either in response to a complaint, in response to a referral from another agency, or on its own accord. The office conducts a preliminary inquiry which is to be completed within 90 days of commencement. Notice is given to the complainant (if one exists), both within 10 days of a decision to investigate/not investigate and within 15 days of termination of the preliminary inquiry. After 90 days, the division determines to either conduct a full administrative investigation or to not proceed. If the PCC proceeds, it notifies the entity under investigation and begins an analysis of the alleged infraction. The PCC has subpoena authority and can obtain warrants for inspection via court order. Following this period, the PCC then issues a decision.</p> <p>See <a href="#">Rules of Procedure of the PCC</a>.</p> <p><i>[Regardless of the answer please explain briefly the enforcement process until the final decision is issued, include relevant provisions, and if the answer is "No" mention how the head of the body that carries out the investigation is elected and removed. The main idea of this last point is to establish whether the investigation authority is, in fact, independent from the decision-making body]</i></p>
Can the Competition Authority's decisions be appealed to a court?	Yes		<p>Decisions of the Commission are appealable to the Court of Appeals of the Philippines. Appeals do not stay the orders, rulings, or decisions of the PCC. Philippine Competition Act § 39.</p> <p><i>[Please, mention the judicial authority who is charged with the review, make</i></p>

		<i>reference to the relevant provisions, and if there is any requirement to exercise the right of the judicial review]</i>
Please add commentaries or information that you consider relevant and were not covered in any of the previous sections and questions.		