IFLR
INTERNATIONAL FINANCIAL LAW REVIEW
INTERNATIONAL BRIEFINGS 2015

Philippines
SyCip Salazar Hernandez & Gatmaitan

Competition law enacted

The Philippines recently enacted Republic Act 10667 or the Philippine Competition Act (Act), which defines, prohibits and penalises anti-competitive agreements, abuse of dominant position, and anti-competitive mergers and acquisitions. It also creates the Philippine Competition Commission (PCC), which has primary and original jurisdiction to deal with cases involving violations of the Act. Published on July 24 2015, the Act took effect on August 8 2015.

Anti-competitive agreements cover both horizontal and vertical agreements and include those that are per se illegal (such as those that restrict competition as in terms of price or components or other terms of trade and those relating to bid-rigging or auction manipulation) and those that have the object or effect of substantially preventing, restricting or lessening competition (for example setting, limiting or controlling production, markets, technical development, or investment, dividing or sharing the market).

Abuse of dominant position refers to conduct that would substantially prevent, restrict or lessen competition and includes predatory pricing, imposing barriers to entry, discrimination in price or other terms, tying and bundling. There is a rebuttal presumption of dominance if an entity's market share in the relevant market is at least 50%, unless the PCC determines a new threshold.

Anti-competitive M&As refer to those that substantially prevent, restrict or lessen competition. Parties to M&As with transaction values exceeding Php1 billion are prohibited from consummating the same until 30 days after the PCC has been notified. Failure to comply renders the M&A void and the parties will be fined between one and five percent of the transaction value.

To enable parties to renegotiate agreements or restructure their business to comply with the Act, administrative, civil and criminal penalties will only be imposed two years from the effective date of the Act.

Arlene M Maneja

Arlene M Maneja
Tel: +63 2 982-3500

SyCipLaw Center
105 Paseo de Roxas, Makati City, Metro Manila, Philippines 1226
Email: ammaneja@syciplaw.com
Web: www.syciplaw.com

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