

Transparency for Credibility: American Procedural Fairness as Benchmark in Enhancing Philippine Competition Enforcement

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The Philippine Competition Act (PCA) of 2015 will be fully enforced by 7 August 2017. This date marks the expiration of the two-year period to cure anti-competitive conducts, agreements, and combinations which existed when this law was enacted. However, the previous delay in constituting the Philippine Competition Commission (PCC), coupled with the belated issuance of the PCA's implementing rules and regulations, has cast doubt on the capability and readiness of the PCC to enforce this law and impose penalties.

That being said, transparency — as an element of procedural fairness — plays a critical role in legitimizing competition enforcement. The Author, taking cues from the American experience through its antitrust laws, aims to provide a legal framework in benchmarking transparency as an element of procedural fairness. Thus, the Article takes into account the federal antitrust enforcement practices, experiences, and commitments in the United States, particularly those of the Department of Justice and the Federal Trade Commission, which have been enforcing antitrust and competition laws for decades. Consequently, the Author adopts their best practices and suggests some transparency measures the PCA may use in enhancing antitrust enforcement in the Philippines. Through this, the problems that have already arisen in other countries over the years may be avoided in the Philippines.