



REPUBLIC OF THE PHILIPPINES
PHILIPPINE COMPETITION COMMISSION

6/F DAP Building, San Miguel Avenue, Ortigas Center, Pasig City 1600

MEMORANDUM CIRCULAR No. 16-001

Series of 2016.

TO : **ALL CONCERNED**

SUBJECT : **MERGERS AND ACQUISITIONS EXECUTED AND IMPLEMENTED AFTER THE EFFECTIVITY OF R.A. 10667 AND BEFORE THE EFFECTIVITY OF ITS IMPLEMENTING RULES AND REGULATIONS**

WHEREAS, Republic Act No. 10667, "An Act Providing for a National Competition Policy, Prohibiting Anti-Competitive Agreements, Abuse of Dominant Position and Anti-Competitive Mergers and Acquisitions, Establishing the Philippine Competition Commission and appropriating funds therefor," otherwise known as the "Philippine Competition Act" became effective on 8 August 2015;

WHEREAS, R.A. 10667 vests in the Philippine Competition Commission (hereinafter, the "Commission") the power to review proposed mergers and acquisitions, determine thresholds for notification, determine the requirements and procedures for notification, and upon exercise of its powers to review, prohibit mergers and acquisitions that will substantially prevent, restrict or lessen competition in the relevant market;

WHEREAS, the Commission was organized on 1 February 2016 and, pursuant to R.A. 10667, is in the process of preparing the implementing rules and regulations necessary for the full implementation of the law;

WHEREAS, the implementing rules and regulations will necessarily include the requirements and procedures for notifications, alternative or additional thresholds, if any, for notification and such other details necessary to enable the Commission to effectively and efficiently exercise its power to review proposed mergers and acquisitions;

A.

WHEREAS, pending completion and promulgation of the implementing rules and regulations, the Commission lacks basis to conduct an adequate review of such mergers and acquisitions;

WHEREFORE, in consideration of the foregoing premises and by virtue of the powers vested by R.A. 10667, the Commission resolved to adopt the following transitory rules and guidelines anent mergers and acquisitions that were, or are to be, executed or otherwise implemented after the effectivity of the law but before the effectivity of the implementing rules and regulations:

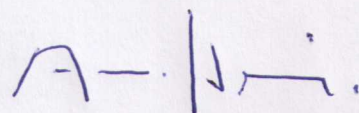
1. Pursuant to paragraph (c) of Section 19 of R.A. 10667, the Commission exempts from the requirement to notify the Commission parties to merger or acquisition agreements wherein the value of the transaction exceeds One Billion Pesos (P1,000,000,000.00) and which were executed or otherwise implemented after the effectivity of the law but before the effectivity of this Memorandum Circular.
2. Parties to a merger or acquisition agreement wherein the value of the transaction exceeds One Billion Pesos (P1,000,000,000.00) and which are to be executed or otherwise implemented after the effectivity of this Memorandum Circular but before the effectivity of the implementing rules and regulations shall notify the Commission through a letter addressed to the Commission containing the following information:
 - a. the parties to the merger or acquisition;
 - b. the name and contact details of the authorized representatives of each of the parties to the merger or acquisition to whom the Commission may address any correspondence;
 - c. a brief description of the businesses of the parties to the transaction;
 - d. the type of transaction (whether a merger or an acquisition);
 - e. the consideration;
 - f. the key terms of the transaction; and
 - g. the timing for the execution or implementation of the transaction.
3. Mergers and acquisitions covered by the two preceding paragraphs shall be deemed approved. The parties which notify the Commission in accordance with the immediately preceding paragraph may proceed to execute or implement their agreement.

4. Mergers and acquisitions that are deemed approved under this Memorandum Circular shall benefit from Section 23 of R.A. 10667 and may not be challenged under this law, except when the notification required under paragraph 2 above contains false material information.
5. Mergers or acquisitions wherein the value of the transaction exceeds One Billion Pesos (P1,000,000,000.00) and are not notified to the Commission in accordance with this Memorandum Circular are subject to the provisions of Section 17 of R.A. 10667.
6. Given the special nature of transactions effected through the Philippine Stock Exchange, transitory rules and guidelines pertaining to the notification of relevant transactions therein after the effectivity of this Memorandum Circular but before the effectivity of the implementing rules and regulations shall be promulgated by the Commission in a separate memorandum circular.
7. The transitory rules and guidelines contained in this Memorandum Circular shall remain valid until superseded upon effectivity of the implementing rules and regulations to be promulgated by the Commission.

This Circular shall take effect fifteen (15) days after its publication in the Official Gazette and one (1) newspaper of general circulation.

Pasig City, Philippines.

12 February 2016.



ARSENIO M. BALISACAN

Chairperson