

COMMISSION RESOLUTION NO. 010-2019

APPROVING AND ADOPTING PCC MEMORANDUM CIRCULAR NO. 19-001 ON THE PROCESS FOR EXEMPTION FROM COMPULSORY NOTIFICATION IN SOLICITED PUBLIC-PRIVATE PARTNERSHIP (PPP) PROJECTS

WHEREAS, Republic Act ("R.A.") No. 10667 or the Philippine Competition Act ("PCA") mandates that the State, through the Philippine Competition Commission ("PCC"), shall enhance economic efficiency and promote free and fair competition in trade, industry, and all commercial economic activities, as well as establish a national competition policy to be implemented by the government and all of its political agencies as a whole;

WHEREAS, R.A. No. 6957, as amended by R.A. No. 7718 (Build-Operate-and-Transfer Law), mandates that the government shall provide the most appropriate incentives to mobilize private resources in the financing of infrastructure projects, and that such incentives shall include providing a climate of minimum government regulations and procedures. Executive Order No. 8, s. 2010, as amended, also identifies Public-Private Partnership ("PPP") projects as the cornerstone strategy to accelerate infrastructure development and recognizes the need to fast-track the implementation of PPP projects;

WHEREAS, the PCA is enforceable against any person or entity engaged in any trade, industry and commerce in the Philippines;

WHEREAS, joint ventures, as defined under Rule 2(i) of the PCA Implementing Rules and Regulations ("IRR"), between public or private entities are subject to the compulsory merger notification requirement under Section 17 of the PCA if the relevant thresholds under the IRR, as amended, are met;

WHEREAS, should winning bidder/s in PPP projects form a joint venture, a merger notification to the PCC is mandatory once notification thresholds are breached under Rule 4, Section 3 of the IRR, as amended by PCC Memorandum Circular No. 18-001;

WHEREAS, given that the delivery of PPP projects should be transparent, competitive, and timely, the PCC recognizes the necessity of a coordinated and streamlined approach in reviewing PPP projects falling under the PCA's mandatory merger notification and review requirements;

WHEREAS, on 20 July 2018, the PCC and the PPP Center executed a Memorandum of Agreement which provides that guidelines for the facilitation and review of PPP projects and in furtherance of the effective exercise of their respective mandates shall be formulated;



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WHEREAS, the PCC is mandated to advocate pro-competitive policies of the government, monitor and analyze the practice of competition in markets that affect the Philippine economy, implement and oversee measures to promote transparency and accountability, and ensure that prohibitions and requirements of competition laws are adhered to;

NOW, THEREFORE, the Commission has **RESOLVED**, as it hereby **RESOLVES**, to approve and adopt PCC Memorandum Circular No. 19-001 on the Process for Exemption from Compulsory Notification in Solicited Public-Private Partnership (PPP) Projects, as presented to the Commission during its regular meeting on 2 July 2019. The Memorandum Circular shall take effect fifteen (15) days following its publication in a newspaper of general circulation.

DONE this 2nd day of July 2019 in Quezon City, Philippines.


ARSENIO M. BALISACAN
Chairman


JOHANNES BENJAMIN R. BERNABE
Commissioner


AMABELLE C. ASUNCION
Commissioner

(On Official Business)
MACARIO R. DE CLARO, JR.
Commissioner

