



COMMISSION RESOLUTION NO. 23-2018

**EXEMPTING THE NEW MAJOR PLAYER IN THE TELECOMMUNICATIONS
MARKET FROM THE MANDATORY MERGER NOTIFICATION AND REVIEW
REQUIREMENT UNDER SECTION 17 OF REPUBLIC ACT NO. 10667,
OTHERWISE KNOWN AS THE PHILIPPINE COMPETITION ACT**

WHEREAS, in furtherance of the government's commitment to foster genuine and effective competition in the country's telecommunications market, the President directed the National Telecommunications Commission ("NTC") and the Department of Information and Communications Technology ("DICT") to ensure the entry of a New Major Player ("NMP"), and issued Administrative Order No. 11 dated 06 April 2018 creating an Oversight Committee for the entry of the NMP;

WHEREAS, in accordance with Administrative Order No. 11, the Oversight Committee led the formulation of the parameters for the selection process for the NMP, as well as the drafting of the Terms of Reference ("TOR"), which will serve as the principal framework for guiding the government's selection of the NMP;

WHEREAS, the Philippine Competition Commission ("PCC" or the "Commission"), pursuant to its mandate to advocate pro-competitive policies of the government in accordance with Section 12(r) of Republic Act No. 10667, otherwise known as the Philippine Competition Act ("PCA"), served as one of the Oversight Committee's resource agencies, and submitted its inputs and comments on the draft TOR issued by the NTC, which seek to address, *ex ante*, the competition-related concerns that may arise from the selection of the NMP;

WHEREAS, on 21 September 2018, the NTC published its Memorandum Circular No. 09-09-2018 entitled "Rules and Regulations on the Selection Process for a New Major Player in the Philippine Telecommunications Market" ("NTC MC No. 09-09-2018"), which prescribes the final TOR for the entry and selection of the NMP, incorporating therein terms and conditions to address competition-related concerns, as recommended by the PCC;

WHEREAS, a Participant that is a merger, acquisition, or a joint venture, as defined under Rule II (k), (a), and (i) of the PCC Implementing Rules and Regulations, respectively, and meets the thresholds for compulsory notification under Section 17 of the PCA is required to notify the PCC of the transaction;

WHEREAS, under Section 19 of the PCA, the PCC has the power to stipulate exemptions from the merger notification requirement;

WHEREAS, pursuant to its aforesaid power, at its meeting on 02 October 2018, the Commission approved the form of Undertaking (hereto attached as Annex A) that may be executed which would qualify the NMP for exemption from the mandatory notification and



review requirement under the PCA Merger Review provisions and its relevant rules and regulations;

WHEREAS, Section 6.2(i) of NTC MC No. 09-09-2018 requires every Participant of the NMP selection process to execute a Sworn Undertaking in favor of the PCC, wherein the Participant undertakes its compliance with the terms and conditions prescribed therein addressing the competition-related concerns raised by the PCC;

NOW, THEREFORE, in recognition of (a) the Philippine government's policy to foster effective competition in the telecommunications industry; (b) the pressing need to facilitate the entry of a new player in the market and to integrate the PCC's implementation of its merger review mandate into the NMP Selection Process; and (c) the adoption of the PCC's inputs relating to competition concerns in NTC MC No. 09-09-2018, the Commission has **RESOLVED**, as it hereby **RESOLVES**, to exempt the New Major Player in the Philippine Telecommunications Market from the mandatory notification, review, and approval requirements under the PCA, subject to its execution of, and compliance with, the Undertaking in favor of the Commission.

DONE this 2nd day of October 2018, in Quezon City, Philippines.


ARSENIO M. BALISACAN
Chairman


STELLA LUZ A. QUIMBO
Commissioner


JOHANNES BENJAMIN R. BERNABE
Commissioner


AMABELLE C. ASUNCION
Commissioner


MACARIO R. DE CLARO, JR.
Commissioner

