

Questionnaire on Competition Advocacy

Country : *Philippines*
Institution : *Bureau of Trade Regulation and Consumer Protection – Department of Trade & Industry (BTRCP-DTI)*

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I. THE COMPETITION AUTHORITY

- 1) When was the competition authority established in your country?
Dept. of Trade & Industry – Bureau of Trade Regulation & Consumer Protection.
- February 1987
- 2) What characteristics best describes the institutional status of your competition authority? (You may choose more than one)
 - a. Independent-administrative authority
 - b. Within a Ministry or Department**
 - c. A Ministry of its own
 - d. Investigatory body
 - e. Directorate within a Ministry
 - f. Judicial authority
 - g. Quasi-judicial authority
 - h. Within Congress or Parliament
 - i. Other (Describe)

Please feel free to elaborate on your answer.

The Philippines has no single, central entity tasked with overseeing its competition policies and regulations. However, there are various government agencies such as the Bureau of Trade of Regulation and Consumer Protection (BTRCP) within the Department of Trade and Industry (DTI) mandated to enforce anti-trust laws, especially on cartel and monopoly of basic necessities and prime commodities under the Price Act (Republic Act 7581). The Bureau is the policy making body. The DTI regional and provincial offices implement the Price Act.

- 3) Members (Commissioners, Chairman, Director) of the competition authority are appointed by:
 - a) **President or Prime Minister**

- b) President or Prime Minister with consent of Congress or Parliament
- c) Minister
- d) Congress or Parliament
- e) Representatives of the entrepreneurial associations, academics and consumer associations
- f) The judicial system
- g) Other (Describe)

Please feel free to elaborate on your answer.

Heads of the different government agencies mandated to enforce laws on competition are appointed by the President of the Philippines

- 4) How many members (Commissioners, Chairman, Director) does your Authority have?

The BTRCP has one (1) Director and one (1) Assistant Director

- 5) What was their background before appointment? Academia, politics, business, professions, consumer groups, public administration, etc.)

Not applicable

- 6) Do appointments of the members (Commissioners, Chairman, Director) of the competition authority last for a specified period?

Not applicable

- 7) How long is the period? Is the mandate renewable?

Not applicable

- 8) How is the budget for the competition authority assigned (as part the budget of a Secretary or Ministry, directly by the congress or parliament, etc.)?

The budget for the BTRCP is incorporated in the Department of Trade & Industry, with the following classification:

a) Personal Services (PS)

- for salaries and wages of bureau personnel, and

b) Miscellaneous & Other Operating Expenses (MOOE)

- intended to fund operational expenses of the bureau.

- 9) Does the mechanism for the appointment of the members (Commissioners, Chairman, Director) and the allocation of the budget contribute to or detract from the autonomy of the competition authority?

The mechanism for the appointment of the Director and budget allocation have not affected the autonomy of the Bureau.

- 10) Does the degree of autonomy of the competition authority contribute to or detract from its advocacy activities? Why?

The degree of autonomy of the Bureau contribute to its advocacy activities because it can undertake and initiate advocacy activities on its own

- 11) Are the advocacy efforts of your competition authority supervised, or otherwise subject to modification or review, by another authority or the courts? Please explain.

Yes, to a certain extent. The Bureau is being supervised by the Undersecretary of the Consumer Welfare & Trade Regulation Group of the DTI.

- 12) Has the political environment restricted the competition authority's advocacy efforts? (Reversal of decisions, firing of competition officials of authority, etc.)

Yes

II. GENERAL ADVOCACY

- 13) What is the level of awareness of the benefits of competitive markets and competition policy in your country? In your opinion, does your country have a "competition culture"?

The level of awareness is quite low but in our opinion, our Country has a "competition culture".

- 14) Are government entities and courts familiar with the competitive market mechanism and its benefits?

Some government agencies and the courts are maybe familiar but in a very limited degree.

- 15) What activities has the competition authority undertaken to raise awareness in the society of the benefits of competitive markets? Which activities do you consider more successful in terms of their positive effect on the competition process?

The Bureau is undertaking a regular information and advocacy program and we believe that this has been effective.

- 16) The most common attitude towards the advocacy role of the competition authority:

Group	Ally	Dissenter
Academics	✓	
Congressman	✓	
Consumer Associations		✓
Entrepreneurial associations		✓
Labor Unions	✓	
Local governments	✓	
Non-governmental organizations		✓
Political parties		

Media	✓	
Professional associations (lawyers, economist or others)	✓	
Others		

- 17) What is the interaction between the enforcement and advocacy programs of the competition authority?

The Bureau is coordinating both the enforcement and advocacy programs, thus, there is high degree of interaction of both programs.

- 18) Does the competition authority advocate the elimination or restriction of exemptions to the enforcement of the competition law?

To a certain extent, yes. The Bureau recognizes that natural monopolies in certain critical sectors can not be eliminated.

III. ADVOCACY IN THE REGULATORY AND LEGAL FRAMEWORK

- 19) Does the competition authority participate in any council of Ministers, Cabinet or a similar high-level official group? If the answer is affirmative, what role does it have? Please explain.

National Price Coordinating Council (NPCC)

- 20) Does the competition authority advise policymakers about the competitive impact of public policies? Are these recommendations effective in modifying public policies?

Yes

- 21) Is the competition authority informed by the executive or by the legislative body about reform proposals? How is this done? At what stage of the procedure? Please explain.

Yes, BTRCP submits "position papers" or comments on House/Senate Bills before these bills are enacted into law.

- 22) Does the law enable the competition authority to influence the design of the regulatory framework in the legislative process? If the answer is affirmative, explain briefly at what stage and through which mechanisms the authority can participate?

Yes, during the deliberations on the bill where comments are submitted for the consideration of the House of Representatives and the Senate.

- 23) Is the general public informed about the advocacy reports or opinions issued by the competition authority? Through which means?

Yes, through multi-media. Advisories are likewise disseminated through our DTI Regional/Provincial offices.

24) Are the recommendations or opinions issued by the competition authority available for public review? Please explain.

Yes, all opinions/recommendations issued by the Bureau are disseminated to the public through the DTI Regional/Provincial offices.

25) If the advocacy reports have been published, or if they are unpublished but not statutorily protected, would the competition authority of your country be willing to share them for inclusion in an ICN electronic database?

Yes

26) Choose from the following list the most frequent ways in which your competition authority becomes involved in advocacy:

- a. Competition law empowers competition authority to analyze and offer opinion about the competitive impact of sector regulation, privatization process or franchising.
- b. Sector specific law establishes intervention of the competition authority in the regulation, privatization or franchising.
- c. Competition authority was invited by the sector regulator to provide its opinion
- d. Competition authority participated in regulation, privatization or franchising at the request of Congress or Parliament.***
- e. Other (please explain)

Conduct lectures on Price Act e.g. Cartel; Price monitoring of basic necessities and prime commodities; regular meeting with industry sector.

Which are the most successful? Why?

Conferences, dialogues, and seminars are most successful because these provide a venue for an open discussion to clarify and advocate policies.

IV. SECTOR SPECIFIC ADVOCACY

27. Indicate in which sectors the competition authority has been recently engaged in competition advocacy. (Describe the most outstanding activities)

Retail Trade

28. For each sector, what have been the three most successful participations by the competition authority, and why?

Liberalization of Retail Trade

29. Which of the following reasons, if any, best account for failures to have the advocacy position of the competition authorities endorsed in specific sectors. Provide your answers filling in the following table.

Limitations	Sector(s)
A court prevented or restricted the participation of the competition authority	

A ministry or regulatory agency prevented or restricted competition authority participation. Competition authority lack expertise.	
Congress or parliament prevented or restricted participation of competition authority	
Environmental concerns were an obstacle to introduce or preserve competition.	
"National Champion" considerations prevented the introduction of a more competitive environment.	✓
Universal service or general interest considerations prevented the introduction of competition	✓
Not enough time to analyze the sector	✓
Possibility of layoffs and/or bankruptcy in this sector hindered the introduction or preservation of competition,	✓
Scarce financial resources	✓
Other (specify) <i>Lack of appreciation and awareness of sectors</i>	✓

Please feel free to elaborate on the restrictions faced by the competition authority in its advocacy role.

30. Does the competition authority perform advocacy activities in certain sectors even though immunities or waivers deprive it of jurisdiction to enforce the competition law in those sectors? Please explain.

Yes, in the advocacy activities to enforce the Price Act which is also being implemented by other agencies from DTI, DTI is the chairman of the National Price Coordinating Council (NPCC)

V. COMPETITION ADVOCACY IN THE PRIVATIZATION PROCESS, DEREGULATION, FRANCHISING, CONCESSIONS, RATE, REGULATION, LICENSES AND PERMITS

31. What types of advocacy have been performed recently by the competition authority in privatization processes? Please explain.

The involvement of the Bureau has been limited to legislative hearings and public consultation.

32. Are privatization operations subject to merger control or other competition law review?

Yes, by another government agency, the Securities and Exchange Commission. (SEC)

33. What have been the three most successful participation of the competition authority regarding privatization processes, franchising, concessions, rate regulation, licenses and permits?

Submission of position papers and opinions, participation in hearings and dialogues.

34. What obstacles restricted the advocacy efforts undertaken by the competition authority regarding privatization processes, franchising, concessions, licenses and permits?

Limited resources

VI. INTERNATIONAL DIMENSIONS OF ADVOCACY

35. Does any international organization support the advocacy role of the competition authority in your company/ how important is this support? Please explain.

The support is by way of training program provided by OECD in cooperation with Japan Fair Trade Commission.

36. Are there any advocacy provisions in bilateral or multilateral agreements, treaties or fora in which your country participates?

Yes, through the Bureau of International Trade Relations (BITR) of the DTI.

VII. ADVOCACY TEAM WITHIN THE COMPETITION AUTHORITY

37. Which units, branches or departments of the competition authority are engaged in advocacy activities? (you may choose more than one)

- a) Advisor
- b) Economics division
- c) Enforcement division***
- d) Press office
- e) International Affairs
- f) Public Relations
- g) Joint attorney/economist with expertise in the economic sector in issue
- h) Other (Specify)

38. How many people work in advocacy activities?

Unities, branches or departments	People	Hours per year
Advisor		
Economics division		
<i>Enforcement division</i>	<i>4</i>	<i>528 hrs/yr.</i>
Press office		
International Affairs		

Public Relations		
Other (Specify)		
Total		

39. Percentage of staff engaged in competition advocacy activities:

Unities, branches or departments	Percentage
Advisor	
Economics division	
<i>Enforcement division</i>	<i>11%</i>
Press office	
International Affairs	
Public Relations	
Other (Specify)	
Total	

40. What percentage of the annual budget of the competition authority is devoted to advocacy activities?

IX. IMPROVING THE ADVOCACY ROLE OF THE COMPETITION AUTHORITY

41. How do you evaluate the advocacy role of the competition authority in your country?
- Excellent
 - Good
 - Regular
 - d) Unsatisfactory in some degree***
 - Very unsatisfactory

Why?

There is no comprehensive and fully coordinated advocacy program among government agencies tasked to do the advocacy program

42. How could the advocacy role of the competition authority be improved?

In the short term, a more effective and consolidated coordination efforts among government agencies should be done. In the long term, by way of legislation, a single competition authority may be more effective for the advocacy program.

43. What future plans do you have for your competition advocacy program?

The Bureau is now conducting its legal research on competition policy to come up with a more strategic programs for implementation. It is also undertaking an advocacy program through a possible foreign funding support program.

44. How can the International Competition Network support the authority of your country in advocating an enhanced role for competition?

Support may be in the form of technical assistance, training programs and advocacy.