

Interview of Michael G. Aguinaldo, Chairperson of the Philippine Competition Commission

***Editor's Note:** Michael G. Aguinaldo was appointed as the second Chairperson of the Philippine Competition Commission in 2023. Prior to his appointment, he was Chairperson of the Commission on Audit, the supreme audit institution of the Philippines from 2015-2022, and was concurrently External Auditor for multiple international organizations. He was the Deputy Executive Secretary for Legal Affairs of the Office of the President of the Philippines from 2011-2015. Previously, he was in private practice from 1992-2011, including 17 years with the law firm Romulo Mabanta Buenaventura Sayoc & de los Angeles where he was a partner and member of the Executive Committee. He earned his law degree in 1992 from the Ateneo de Manila University School of Law, where he became a member of the faculty from 1994-2015, and holds a master of laws degree with special concentration in International Economic Law from the University of Michigan. He was interviewed for the Antitrust Source by Krisztian Katona on April 10, 2024.*



ANTITRUST SOURCE: Welcome, Chairperson Aguinaldo. We are delighted to have you with us today.

MICHAEL AGUINALDO: Thank you for having me.

ANTITRUST SOURCE: The first question I have is about the history of the Philippine Competition Commission (PCC). The agency was established back in 2016. Eight years after the founding of the PCC, what would you highlight as key achievements and developments for the agency?

MICHAEL AGUINALDO: Over the last eight years I think one of the areas where the PCC has really moved in leaps and bounds is with respect to merger control review.

I think we are in pretty good shape. In fact, we do have countries' competition authorities who have asked us to help them either in training their personnel or for them to be able to also benchmark against us.

There are a few countries within the region that do not have a merger control review regime but are planning to, so they are trying to prepare. I think what they did see in the PCC was that it actually did quite well for a young agency to be able to establish a very credible merger control review regime within a short span of time. Probably that is one of the bigger developments.

I would also put up there the workforce. It is composed of a lot of young professional people—I think there is only one person above sixty years of age—so you have a lot of people who are eager to work, who are eager to be trained, and they do have training.

I think the general atmosphere there is, when people walk into their office, it doesn't feel like a government office. They like that atmosphere.

So far the feedback from our personnel has been good. We have our own feedback review mechanism and we also rely on surveys done by the government. The personnel they dealt with have been described as very professional, meeting timelines, and do not have the typical problems that you see with a lot of other government offices.

ANTITRUST SOURCE: It has been over a year since you assumed chairmanship of the PCC. What have been your key enforcement and policy priorities since you joined the PCC? And what have been the main challenges since you have been heading up the agency?

MICHAEL AGUINALDO: I will start with the second part, the challenges.

The basic challenge, even right at the start, what I noticed right away, was that we are not known. People don't know about the PCC. To put it frankly, when you say Philippine Competition Commission, probably nine out of ten people will ask, "Is that about sports?"

ANTITRUST SOURCE: Interesting, because of the word "competition."

MICHAEL AGUINALDO: Yes. When they think of competition, they don't think of business competition or competition economics. They think about sports. So one of the challenges has been advocacy, trying to get the PCC's name out there, trying to build, as you mentioned earlier, the culture of competition.

The law was passed in 2015. Before that we had little pieces in different statutes that dealt with competition, but we didn't really have a culture of competition that was created. So trying to establish that now is one of the challenges.

Although our communications office has been very active in social media—LinkedIn, Instagram, Facebook—and they do a good job of coming up with material to simplify the concepts. They add graphics and illustrations so laymen can easily understand it. However, it hasn't had much traction. Based on household surveys, general awareness of competition law concepts and even the PCC itself is less than 10%. I guess, if you are on social media, one of the last things you want to look at is something serious like competition law, even though, if you look at the material they came up with, it is meant for public consumption. So the first challenge is advocacy.

I do say it is a double-edge sword because, if you are successful in advocating competition, you might actually have issues like absorptive capacity, in that if they think that they understand it and they think that you are effective, you might get more complaints, more and more issues, and now you have to manage how you handle all of this. So it is also partly managing expectations. I think that is one of the biggest challenges.

With respect to enforcement priorities, like I said, I think the merger review regime is pretty good. Of course, we strive to improve.

Enforcement-wise, we have not seen a lot of cases. There are cases, but we haven't had what you might call the big case that propels you into the limelight, that makes you known. For example, in some of the other countries, counterparts have told me that they also had a problem getting themselves known until they had this big case that brought them into the limelight because it was controversial or because it affected consumers. So we are looking for that. It is not something we can force. It is something that might happen. So strengthening our enforcement process is obviously one of those challenges.

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We continue with capacity building. We don't really have many experts in the Philippines on competition law. They are probably starting to emerge. There is not a lot of expertise, so we have to rely really on what we can get from the global competition network.

There is also a bit of a turnover every year. The numbers are not big. It's a normal attrition rate of about 10 percent. So you have new people who also have to be trained because we don't have new people coming in with knowledge of competition law. It is only recently that competition law might be included in the curriculum of JD or LLB degree courses.

We are still a bit far off. A lot of it has to do with capacity building and again the challenge of advocacy.

ANTITRUST SOURCE: Building a competition culture in the economy is a crucially important task, and we often see that competition advocacy is such a key focus for relatively young agencies. You mentioned the social media element and how the PCC has also been focusing on the communications aspect of advocacy. Could you elaborate on what else you are trying to do to make sure that the market in general, companies, but also Philippine consumers know more about the agency and its role?

MICHAEL AGUINALDO: When people think of antitrust, they think, Oh, highly technical, it is difficult, maybe highfaluting to some extent. What we are trying to do is bring it down to the level of an ordinary person.

The concept I think he can easily understand; it's just that he doesn't know that there is in fact a law. That is what the PCC is trying to stress. Our communications office has examples—sometimes it is a short animation video—trying to show basic things, like competition in the marketplace, the public market. They are trying to bring it to that level.

Unfortunately, although I think what they do is very good, it doesn't really have traction. In terms of awareness of PCC, the most recent survey showed still less than 10 percent of the general public are aware, not only that there is a PCC, but what it actually does.

In the business sector it is slightly better, about 15 percent. I think that is because a lot of big companies and multinational companies look at it as a compliance issue and it is part of their checklist—"Okay, we have to clear this with the competition authority or we have to get a letter of no objection from them" and so on. So there is a bit more traction there.

For SMEs, though, micro, small, and medium enterprises, not so much. That is something we are studying because, while we see SMEs as beneficiaries of competition, we are also trying to encourage them to compete. At the same time, we are trying to rein back some of the dominant players to allow them to compete, stop from doing abusive acts. But then there is also the fact that they need to understand what the effects of competition are, and if they do get big, what would be considered abusive behavior on their part.

It is something that we are still working on, but the awareness level of SMEs is also still quite low.

ANTITRUST SOURCE: Based on your experience heading up a relatively new agency, do you see any particular features or characteristics that make enforcing antitrust law different or more challenging in the Philippines than it might be in other countries?

MICHAEL AGUINALDO: It is interesting because last year, probably in my third month in office, we went to Korea for two weeks sponsored by KOICA through a foundation that supports other countries that have competition authorities that are quite young.

In one of the sessions I got to speak with a Korean professor who was talking about the perspective from Asia and how in general Asian culture should be factored in when you apply some of the competition principles. His idea is that Philippine competition law is really something that is more U.S. and EU and so on, but then there are certain characteristics that you typically see in Asian cultures that might not go directly with some of these competition principles.

One of the things he was saying, for example, is in Western culture they are more assertive of their rights, so if you see a violation, you are more likely to complain or to raise a fuss; whereas in Asian cultures there is a tendency that you might see it but you will not do anything. This is because to a certain extent—although I am generalizing here—there is the idea of non-confrontation and the concept of harmony: “Let’s just live in peace; this is not really a life-shattering thing.”

It is interesting because one of the things that I wrote about recently is about price lists. For example, our Department of Trade and Industry comes out with what they call “suggested retail prices.” An example would be, usually right before school starts, they will publish in the newspaper suggested retail prices of things that a student would need—pens, pencils, notebooks, and so on. If you look at the website of the Department of Trade and Industry, the reason they do this is to advise the public on what would be a reasonable value for these items so that when they buy, if they pay more than the suggested retail price, they know that it is probably expensive.

When I was discussing this with some of our colleagues in the United States and in the European Union, they said, “That probably would be a violation, especially since it is the government that is actually saying it.”

But then, looking at it maybe from a third-world perspective, where there is a great chance that people can be—I don’t want to say fooled—taken for a ride maybe, it doesn’t sound so bad. I am not saying that there is nothing wrong with it. We are doing a study on it, and the Department of Trade and Industry actually asked us to do a study on this.

That has been one area of concern, and so I was thinking maybe it’s one of those things that could be a cultural thing—or not necessarily cultural, but it could be a socioeconomic thing. In countries where there is a great amount of poverty and the means aren’t sufficient for most of the people, then having an advisory of that nature might actually work, and it might not have the effect that it would have if it were done, say, in the United States or in the European Union.

It is one of those things that makes us think. Like I said, we don’t know if it is something that should be allowed, if it should be continued or it should be stopped, but it is something that again stirs your mind and makes you think about things.

ANTITRUST SOURCE: Turning to enforcement, you mentioned that merger control has been a very important enforcement area for the agency and that the PCC has been very active reviewing mergers.

For example, I understand that the PCC conditionally approved the *PLDT/Sky Cable* transaction, but then the parties subsequently withdrew the transaction.

In another merger transaction involving a shopping mall, after the PCC imposed remedies, the parties withdrew their notification but then restructured the transaction to avoid mandatory notification requirements.

Has this type of restructuring of transactions been a key concern from the agency’s perspective?

But more broadly, how do you see the PCC’s merger enforcement program functioning in recent years, and what are your priorities in this area?

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So the priority list we come up with are those that obviously affect the consumers directly—sectors like energy, telecommunications, food, retail, water—utilities basically.

MICHAEL AGUINALDO: We do come up with a list of priorities every year. When we talk about priorities, we are not at the stage where we have a surplus of work that we really have to prioritize. So the priority list we come up with are those that obviously affect the consumers directly—sectors like energy, telecommunications, food, retail, water—utilities basically.

If there is no activity in that particular area, though, then we don't do anything. Our economics group might do a study of certain aspects, but if there is no merger or acquisition there, then you don't actually go into that.

I think one of the things that we struggle with as well is on the issue of remedies. Obviously, we prefer structural remedies, but these are really difficult to design. I think mergers are one of the interesting parts of being in a competition authority because the review is *ex ante* and so you are predicting what is going to happen.

It is interesting because yesterday I was meeting with the head of another competition agency in North America, and I was asking how often he did post-merger or post-acquisition assessments. He said, "Hardly ever because we do not have the resources to do it." But I think that is probably something really important to do because you need to see whether your predictions actually work; and, if they didn't, were there other factors that came into play, so that you can't just pinpoint blame on the agency.

You know how the media and the public can say, "The competition authority was wrong or caused that." Maybe true sometimes, but a lot of times maybe not, because there are a lot of factors that go into it as well.

If you go to behavioral remedies, you have the problem of monitoring. I guess one lesson learned for us now—and we haven't really figured out how to deal with the legal enforcement of behavioral remedies. If they violate a behavioral commitment, you impose a fine on them; then they go to the court and they get an injunction, so you are helpless to do anything until the court case is resolved. Meanwhile they continue to violate their undertakings, so you were not actually successful in being able to prevent it from happening. And of course there is the difficulty of monitoring behavior.

But sometimes there aren't any sufficient structural remedies unless you do something drastic, like you deny the merger or the acquisition, or you require them, as I think sometimes it is done in the United States, to break up. We haven't seen anything like that in the Philippines. I don't know if we will see that in the near future, but we haven't gotten to that type of action—I don't want to say that is radical, but something that is kind of earthshaking if you think about it.

ANTITRUST SOURCE: Continuing with mergers, I understand that last year the PCC first released its nonhorizontal merger guidelines—in May 2023—and then a few months later the agency also released its guidelines for the review of merger and acquisition transactions in digital markets.

MICHAEL AGUINALDO: Yes.

ANTITRUST SOURCE: Digital markets and the digital economy have been a key focus for a number of competition authorities in recent years. Could you tell us about your enforcement efforts in digital markets? Also, have these new guidelines been helpful and have they been applied in the review of transactions in the digital markets?

MICHAEL AGUINALDO: With respect to digital markets, not much really. I think one of the reasons is we are adopting a “wait and see” attitude. I know the European Union and the United States have been very active, so we are going to see how those things play out.

A country like the Philippines, although it is very active in the internet and digital data and the like, is still a small market compared to the European Union and the United States or even Japan and Korea. So we would like to see first how you are dealing with it.

In terms of consumer protection, I think one of the reasons there hasn't been a lot of focus on digital markets is that, if you are talking about, let's say, Facebook and Instagram, or even Amazon or Google, from the point of view of the Philippine consumer, except for Amazon, all these are free services.

In terms of consumer protection, I think one of the reasons there hasn't been a lot of focus on digital markets is that, if you are talking about, let's say, Facebook and Instagram, or even Amazon or Google, from the point of view of the Philippine consumer, except for Amazon, all these are free services.

There are complaints about, let's say, Facebook like “Why was my post taken down?” This is not really a competition thing, but there are other issues involved.

Hardly anyone uses Apple Pay in the Philippines. Amazon doesn't have a presence, although now they deliver certain items. So it hasn't been too much of an issue.

Digital platforms though are another thing. I think you are familiar with Grab, which was the main one. Several years ago Uber was basically chased out of Southeast Asia, so they did this deal with Grab where I think they transferred everything to Grab and they own a certain percentage of Grab. That is where the focus has been because it became a virtual monopoly in terms of the motor vehicle taxi service that they provide. There is still virtually a monopoly now, though there are some startups that are trying to get into the picture.

Those are things that we continue to monitor. We are still not finished with Grab. We are still undergoing a final-phase review of their initial undertakings, so we are still working with them.

It is interesting because it is sort of a love/hate relationship in the sense that I'm sure they are not happy with some of the things we have demanded of them, but at the same time they know that they are going to have to deal with us at some point down the line. So they don't want to burn bridges at the same time.

For example, there were rumors before that Food Panda, a food delivery service, was looking to get out of the Southeast Asian market and they were planning to sell a certain aspect of their business to Grab. Grab actually came to us and told us that they might be doing this transaction and they wanted to start to get the ball rolling. The transaction didn't push through, but that shows you that at least they recognize that they are going to have to deal with us. Again, in Asia you have to maintain some kind of harmony.

We are also looking at the other platforms to see how they work. When you talk about the digital market, it is very interesting. I have also read some material that challenges the way digital markets are looked at. What they are saying is the users are not actually the market; the market is actually those that sell services to the users through that platform.

So if you are talking about Facebook, as a user you are not really in the market for Facebook. Their market is really those people who want to sell to you through Facebook. Of course, getting numbers is good for Facebook, but they are also looking at “How can we best sell to these people?” That is where you have algorithms and AI coming in.

That's why, even when you Google something, suddenly there are certain things that come up. Why does this come up? Now they say it is sponsored, so you know this is targeted and it seems to be targeted to you. There are a lot of interesting issues there.

Like I said, I think we are adopting more of a “wait and see” attitude and see how it goes in both the European Union and the United States.

I think the experience has been that most of the time when you go after cartels you have either someone who is a member availing themselves of the leniency program or a whistleblower. Without that it is very difficult.

ANTITRUST SOURCE: Now moving on to anti-cartel enforcement, I understand that the PCC has been looking into different industries and the market dynamics in particular sectors, trying to identify if there is any collusive behavior in particular markets.

An area that I understand has been a key focus is the pharmaceutical sector, which also came from a presidential directive from the State of the Nation address in 2022 for the PCC to look into this particular sector.

How has the PCC responded to the presidential directive focusing on the pharmaceutical sector? In addition, can you provide us with your views on the agency's broader anti-cartel enforcement agenda?

MICHAEL AGUINALDO: The cartel enforcement is very challenging because it is all a question of evidence. It is very rare that we can find documentary evidence that shows that there is a cartel. There might be a careless email here or there, but generally it is very difficult.

I think the experience has been that most of the time when you go after cartels you have either someone who is a member availing themselves of the leniency program or a whistleblower. Without that it is very difficult.

I think we have had difficulty in finding someone to spill the beans. We know some of what is going on, but we just don't have the evidence to back it up. That is one of the challenges.

The Philippines doesn't really have a strong record when it comes to taking care of whistleblowers. I am not suggesting that the government doesn't care for them, but we do not have a law on whistleblowers. The only thing is that in criminal prosecutions they can be granted immunity. Sometimes they are not guilty, they just know or have information; but a lot of the treatment of these type of whistleblowers is ad hoc. So there is no clear incentive for you to become a whistleblower for the most part. So it is quite difficult.

Our law does recognize some tacit collusion, but even taking that to a court of law is very difficult because there are a lot of possible alternative explanations. They can always say, "It is mere coincidence," or they could say, "If you do our costing this is what you come up with." So it is hard, but it is something that we are constantly studying.

In the pharmaceuticals area, one of the interesting things is there are price ceilings for certain types of medicines that have been imposed by law. The pharmaceutical industry is actually complaining to us about those. They are saying, "There shouldn't be any price ceilings."

But the reality is the prices of medicines in the Philippines are really high. They are very expensive. If you go to Thailand or Indonesia—I won't say India anymore because it is really much cheaper there—but if you go around the region, the medicines are cheaper than what you find in the Philippines.

I think that is one of the directives of the President. He has tasked one of his economic advisors to focus on that. We touched base with him and he said, "Whatever you need from us let us know. If you need some investigative work or you need some data analysis, we are ready to assist."

ANTITRUST SOURCE: Moving on to single-firm conduct, I think one of the PCC's earliest abuse-of-dominance investigations focused on condominium and housing developers imposing a particular internet service provider and water utility provider on their residents.

More broadly speaking, abuse of dominance is an area that, especially for relatively young agencies, often has been described as particularly challenging. Following the investigation of the condominium and housing developers, what has been the agency's experience in abuse-of-dominance investigations? And what do you see as key enforcement priorities in this area?

MICHAEL AGUINALDO: The case of condominiums is the first of many because we look at this as low-hanging fruit. This is somewhere where there is a degree of advocacy because this has been a problem from years back. It's just that, before, people didn't know where to complain.

A condominium is there, you buy a unit there, and they say, "Okay, your internet service provider is A company." You have no choice, you have to use A company, you can't use any other. They complain about it maybe because of the price, but most likely because maybe the service is not as good as other providers'. But that's all they could do. They didn't know that they could go to court with this. This suddenly tells them, "Hey, it's illegal. At least now we know it is illegal. It is abuse of dominance."

That case has been succeeded by several others. A lot of these cases do not go to the full extent because they end up settling. A lot of them say, "We didn't know it was illegal before we did that." So they say, "Okay," they pay a fine, they make all these commitments that they won't do it again, and so on.

In fact, we have been working with the Department of Human Settlements and Urban Development so that they could come out with a circular, including as one of the items on the checklist whenever there is an application to build a condominium that you will not limit the choice of the buyers or the occupants as to what internet service provider they can use. When you talk about water and electricity, it is a geographical monopoly, so it is no problem; but if you are talking about an internet service provider or a cable TV provider, then we are saying you should give them the choice. So they are compliant.

But one thing we also notice is that, when it comes to enforcement, there is another issue because they might build the infrastructure specific to one provider. Then they will say, "Oh, it is going to cost so much if we are going to allow another one" and you get into technical arguments. But so far all of them have been offering to settle the cases. There are a lot of those.

In terms of other abuse-of-dominance cases there are some challenges also. One of the problems we are dealing with now is on confidentiality. Sometimes the complainant does not want to be known because there might be repercussions.

What happens is we have to redact some of the data in the copy of the complaint that is sent to the respondent. You know, any lawyer worth his salt knows that when you see things that are redacted you will say, "Aha, due process. He cannot comment. You are hiding things from us." That is one of the challenges. We have actually asked for help from the FTC on how to deal with this. It is a challenge as well.

In one case what we said was, "Their identity is immaterial," because we were talking about the bundling provision in a distribution agreement. They say, "Do you need to know who this is?" And we say, "You have distributors all over the country and apparently this is a standard contract, so the identity of the complainant is immaterial because the issue is this provision for bundling or tying in your contract." Then you can proceed from that.

In one case it was difficult because the complainant was a farmer in an area where the major buyer was really trying to depress prices so that they could sell it more cheaply. He said, "How can you redact this? How can the buyer, the rice miller, comment if he doesn't know who is saying this? Who of the farmers that we deal with is actually saying this?"

We looked at and said, "Yes, this is really going to be a problem because if you are lawyering for the rice miller you really raise a fuss—you know, "How can we properly comment? We don't know who is saying this."

But then, because the complainant came forward with a complaint, apparently he was able to get other farmers similarly situated to complain as well. Now it is an issue of a pattern of behavior, and so we say, “Okay, now we can do this because now we are going to ask him, ‘Have you been doing these types of activities with the farmers that you deal with there?’” So it doesn’t have to depend on each individual one. Although when it comes to evidence you might have to go there, because how can the court look at something like that? Those are some of the things that are challenges and we are looking forward.

Recently there was a case from a higher court, the court of appeals, that questioned our ability to issue a subpoena to a nonparty for data in a merger review. Of course, the justification for issuing the subpoena, or even before that in the request for information, is, when you are looking at the relevant market, you need data that is not available to the public. You are looking primarily for revenue data that is disaggregated for a region and so on so that you can come up with a complete picture.

Unfortunately, one of the big companies that was asked resisted and a subpoena was issued. They contested it and they did not comply. Our Mergers Office petitioned to have them declared in contempt. They brought it up to the court of appeals, and the court of appeals issued a ruling saying that we do not have authority to issue a subpoena to a third party or a nonparty to a merger transaction, which of course we disagree with.

Our Solicitor General said, “No, no, that can’t be the case,” so we are still contesting it and we are seeking reconsideration. We know that this issue is going to reach the Supreme Court at some point. We welcome that because at least it will settle the issue.

At the same time, it gives us reason to look toward possibly amending the law—not to give us that authority because we think we do have it—but to remove any doubt that we have the authority, make it crystal clear that they cannot question it anymore.

The difficult part with that is, while the case is pending, it kind of clips our wings. Some nonparties to whom we do send requests for information will say, “You don’t have this authority according to the Court of Appeals.” Of course it is not yet the final decision, but then they will say, “Shouldn’t you wait?”

The result of our inability to get that data from the second-biggest player in the market is that the Mergers Office could not reach a conclusion. They couldn’t conclude whether there was a substantial lessening of competition or not in the transaction, so they just had to drop it because they didn’t have any evidence to show that there is a substantial lessening of competition because there is a lack of market data.

ANTITRUST SOURCE: I would now like to ask you about the PCC’s collaborative relationships with other government agencies and how cooperation works in practice when there might be shared responsibility in some aspects of competition enforcement or policy. You have mentioned the PCC’s cooperation with the Department of Human Settlements and Urban Development. During the review of the *Grab/Uber* transaction, the Land Transportation and Franchising Bureau also played a role. And I believe the Philippine Supreme Court recently ruled that the Energy Regulatory Commission has jurisdiction to hear cases related to anticompetitive behavior in the energy sector.

I understand that there are some Memoranda of Understanding or Agreement between the PCC and other regulators. How does the PCC cooperate and coordinate with other agencies?

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MICHAEL AGUINALDO: Yes, we do have a lot of MoUs or MoAs with other government agencies. A lot of them were actually entered into before I came in, under former Chairman Arsenio Balisacan.

A lot of it is on data sharing and so on, subject of course to confidentiality rules, cooperation, and the like. We have been able to work with some of those agencies.

Interestingly, because you mentioned the Energy Regulatory Commission (ERC), the Supreme Court case—well, it depends on whose interpretation you look at. The Supreme Court said that once the competition law was enacted jurisdiction passed to the PCC. The ERC said, “No, jurisdiction can still be joint.” We do have an MoU with the ERC and I’ve met with the chairperson several times and we have agreed to just work together.

They have expertise on the technical aspects, and it is going to take us God-knows-how-long to be able to understand that. So they said, “Bring us that.” We have more expertise on the competition aspects. We have formed already a joint task force and already they are doing a lot of these reviews.

We also have MoUs with the other agencies where data is really important—for example, the Philippine Statistics Authority, the Department of Agriculture for food concerns, and the Department of Trade and Industry. We have been trying to work with them.

For example, when you talk about dawn raids, we are allowed to do them, but we have to get an order from the court and we are limited only to copying data. If we see contraband, we can’t seize it; we don’t have that power. When we were doing the onion investigation, if we went to a cold storage facility and we saw that the onions are there, we could not do anything other than get data, get the records, copies of files, and the like.

So we said, “Let’s start talking with those agencies that can actually do something so maybe, when we do a dawn raid, we can make them tag along so, if they see something there, they can actually do something.”

So we are looking at trying to be a bit more proactive in that. That is one of the weaknesses in government. I have been in the government for almost fifteen years, and one thing I have noticed is sometimes there is a lack of cooperation between government agencies.

One problem is sometimes they don’t communicate with each other, which I guess is kind of normal. But sometimes they do not cooperate. You mentioned the turf war, things like that, but we are trying to change that. We are trying to be more proactive.

People like to talk about a “whole of government” approach, but it is easier to talk about than to actually do it. It requires a lot of political will, but if the heads of the agencies are closed minded, it’s difficult to actually get done.

ANTITRUST SOURCE: Reviewing key recent developments, you mentioned the importance of looking beyond just national rules and enforcement, and cooperating internationally with counterpart agencies.

Recently the PCC hosted the tenth Association of Southeast Asian Nations (ASEAN) conference that called for stronger collaboration to address emerging issues among competition authorities in the region.

In addition, there are a number of transactions reviewed by the PCC that might have an international impact. Could you tell us about the PCC’s international cooperation efforts and how that works in practice?

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MICHAEL AGUINALDO: We also have a number of MoUs with a lot of countries—the most recent is with the Australian Competition and Consumer Commission—and we are looking to enter into some of these other agreements.

But of course we recognize how much help we need. The U.S. FTC has been a very big supporter of what we do. They actually have someone now who is in PCC, Joe Neeley, who is going to be there for two more months maybe, working with our Mergers Office. And Eric Edmondson last year was there for about four months, working with our Enforcement Office.

A lot of it is capacity building, but a lot of it also is looking at cooperation, probably more in the Southeast Asian region. In fact, before she moved to the judiciary, we had been in discussions already with the head of the Competition and Consumer Commission of Singapore, Sia Aik Kor, on some of these digital market transactions that affect both countries. She said, “Okay, let’s go. We are trying to figure out already how we can work on this.”

We are looking forward to this because Singapore is advanced when it comes to having rules on certain things and so on. Of course, Ms. Aik Kor is already in the judiciary so there is a new head, and I am looking forward to being able to meet with him and discuss how we can cooperate moving forward.

We have also done some work with the Hong Kong Competition Commission. In fact, we have something ongoing that will require their assistance as well because it is a cross-border type of thing.

So far cooperation has been good.

One thing I have been telling some of my colleagues in government is that, when we meet in these international competition fora, people get along very easily. Personally, I think it is because we have a lot of similar problems and issues. In fact, Sia Aik Kor was telling me the last time I saw her, “Meetings like this seem like group therapy sessions because we are talking about the same things.”

I think one of the things is you get to feel comfortable with a lot of people quickly because misery loves company—you commiserate and you understand each other more. I have been in other organizations and they are just different, but here they speak exactly the same language. So it is very interesting and we really look forward to it.

We are hoping to bring back something that the PCC started several years ago, called the Manila Forum, where we invite people from different jurisdictions and we have conferences on specific issues. We haven’t done it for the last two years, but we are hoping to bring it back, if not at the end of the year, maybe sometime next year.

It is challenging because you also have to look at what other activities are going on around the world. The OECD has something usually in June and December, and then you will have World Competition Day in December, so you have to steer clear of that. And then within the region you also have all these events that are ongoing, so you have to figure that out. You have the ABA Spring Meeting. It is something we look forward to and, as much as we can, as much as our resources can allow it, we try to send people.

ANTITRUST SOURCE: Finally, I would like to see if you have any final thoughts or suggestions for competition agencies and policymakers from emerging economies, in particular in the Asia-Pacific (APAC)/ASEAN region that you mentioned?

MICHAEL AGUINALDO: The message from my own experience is you have to learn all these things. I came to the PCC with—I won’t say zero—basically no background in competition law.

*Especially if you are
a young agency, you*

In fact, I was explaining in an interview with MLex that, when I took my masters here in the United States, I purposely did not take antitrust law because the Philippines did not have any. People were telling me, "Oh, it's very technical," so I thought, "Why would I make it difficult for myself? I will not be able to use it anyway in the Philippines." I think that was the attitude of most people.

know that you don't

And if there were people who did take it, they probably lost it along the way because they never were able to use it, so you have to learn or relearn everything from the beginning.

really have the experts

I think the most important thing is don't pretend to be an expert on something you are not an expert on. Usually when you are talking about a management position, it is really management more than expertise, but you have to understand and you have to learn.

and you don't have the

culture of competition.

I did thirty-six hours of the OECD-CRESSE Competition Agency Leaders Executive Programme instead of going to Greece. I did it online in the office because I couldn't go because I had a schedule conflict. Instead, two of my commissioners were able to attend, which was good, so I said, "I have to keep up with them so I understand." It was probably one of the more difficult things I have had to do, attending all those lectures, but you have to do it.

It is something that

you want to build

And then you learn a lot from conferences like this. Even more than from the sessions you learn from conversations that you have with people. It is a constant learning experience.

and something that

you recognize is

I think that is the humility part. Especially if you are a young agency, you know that you don't really have the experts and you don't have the culture of competition. It is something that you want to build and something that you recognize is important. So I would say humble yourself and learn.

important.

ANTITRUST SOURCE: Thank you so much for this interview.

MICHAEL AGUINALDO: Thank you. ●