

Philippine Competition Policy in Perspective

Erlinda M. Medalla



Philippine Institute for Development Studies
Tulay sa mga Pag-unlad Pangkalahatan ng Pilipinas

The author is a Senior Research Fellow at the Philippine Institute for Development Studies (PIDS). She obtained her Ph.D. in Economics from the University of the Philippines School of Economics in 1979 and was a post-doctoral Fellow at Yale University a year later.

This paper was prepared for the PIDS Perspective Paper Symposium Series and presented in September 2002 as part of the Institute's celebration of its silver founding anniversary.

Philippine Competition Policy in Perspective

Erlinda M. Medalla

PERSPECTIVE PAPER SERIES No. 4



PHILIPPINE INSTITUTE FOR DEVELOPMENT STUDIES

Surian sa mga Pag-aaral Pangkaunlaran ng Pilipinas

Copyright 2003
Philippine Institute for Development Studies

Printed in the Philippines. All rights reserved.

The views expressed in this paper are those of the author and do not necessarily reflect the views of any individual or organization. Please do not quote without permission from the author nor PIDS.

Please address all inquiries to:

Philippine Institute for Development Studies
NEDA sa Makati Building, 106 Amorsolo Street
Legaspi Village, 1229 Makati City, Philippines
Tel: (63-2) 893-5705 / 892-4059
Fax: (63-2) 893-9589 / 816-1091
E-mail: publications@pidsnet.pids.gov.ph
Website: <http://www.pids.gov.ph>

ISBN 971-564-067-2
RP 12-03-500

Table of Contents

List of tables, figures and appendices	<i>iv</i>
List of acronyms	<i>v</i>
Foreword	<i>vii</i>
Abstract	<i>viii</i>
I. Introduction	1
II. Suggested framework for competition policy	3
III. State of competition and competition policy in the Philippines	12
IV. Conclusions and recommendations	33
Appendices	38
References	45

List of Tables, Figures and Appendices

Tables

1	Overview of government policies and regulations	14
2	Share in GDP and number of firms in the sectors affected by reforms	20
3	Summary table: share in GDP affected by reforms (prereforms vs. postreforms)	23
4	The manufacturing sector	24
5	Manufacturing correlation matrix: concentration ratio and price cost margin	26
6	Share in production by efficiency classification (1983, 1988, 1992, 1994)	27
7	Summary of competition policy studies	30

Figures

1	Role of competition policy	8
2	Framework for competition policy	9
3	Areas of competition policy	10
4	Potential outputs of a national competition policy	34

Appendices

1	Trade policy reforms	38
2	Government regulations: mandate and regulatory functions	40

List of Acronyms

BAFPS	Bureau of Agriculture and Fisheries Product Standards
BAI	Bureau of Animal Industry
BFAR	Bureau of Fisheries and Aquatic Resources
BFD	Bureau of Forest Development
BOC	Board of Communications
BOE	Board of Energy
BOT	Board of Transportation
BPS	Bureau of Product Standards
BSP	Bangko Sentral ng Pilipinas
BTRCP	Bureau of Trade Regulation and Consumer Protection
CAB	Civil Aeronautics Board
CB	Central Bank
CHED	Commission on Higher Education
CIAP	Construction Industry Authority of the Philippines
DA	Department of Agriculture
DECS	Department of Education, Culture and Sports
DOH	Department of Health
DTI	Department of Trade and Industry
ERB	Energy Regulatory Board
ERC	Energy Regulatory Commission
FIA	Fertilizer Industry Authority
FMB	Forest Management Bureau
FPA	Fertilizer and Pesticide Authority
GTEB	Garments and Textile Export Board
HLURB	Housing and Land Use Regulatory Board
HSRC	Human Settlement Regulatory Commission
IC	Insurance Commission
ISA	Iron and Steel Industry
LTFRB	Land Transportation Franchising and Regulatory Board
LWUA	Local Water Utilities Administration
MARINA	Maritime Industry Authority
MGB	Mines and Geosciences Bureau
MWSS	Metropolitan Waterworks and Sewerage System
NGA	National Grains Authority
NEA	National Food Authority
NSC	National Steel Corporation

NTC	National Telecommunications Commission
NWRB	National Water Resources Board
NWRC	National Water Resources Council
OIC	Office of the Insurance Commissioner
PAL	Philippine Airlines
PCIA	Philippine Cement Industry Authority
PHILSUCOM	Philippine Sugar Commission
PICOP	Paper Industries Corporation of the Philippines
PPA	Philippine Ports Authority
RWDC	Rural Waterworks Development Council
SRA	Sugar Regulatory Commission
TCB	Telecommunications Control Bureau

Foreword

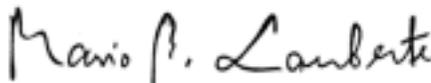
The Philippine Institute for Development Studies (PIDS) celebrated its silver founding anniversary in 2002. In this connection, various activities were held to highlight the contribution and significance of policy research in governance as well as to commemorate more than two decades of providing competent research.

One of these activities is the Perspective Paper Symposium Series where the PIDS research fellows presented a perspective of the development and evolution of issues and concerns over the past 25 years in their respective fields of specialization such as infrastructure, banking and finance, science and technology, human resources development and labor markets, competition policy, poverty analysis and housing development. The 11 papers covered most of the themes in the PIDS research agenda and presented reviews of specific policy issues from where policy debates can proceed with greater focus.

Such outputs, however, are best disseminated in book formats so as to widen the reach of the excellent observations, analyses and recommendations put forward by the Institute's inhouse pool of researchers. Thus, the Institute presents 11 commendable titles under the *Perspective Paper Series* as its contribution to Philippine policy research.

It is with confident expectation that this *Series* will provide the essential answers to the concerns and gaps in various policy issues which the Institute has been trying to address in the last 25 years.

The Philippines has undertaken major reforms in what could be considered the first layer of competition policy—trade reforms. It has also implemented steps in what could be considered the second layer of competition policy—deregulation. However, as shown in this title, a lot more needs to be done to move it a step further and develop more rational competition rules.



MARIO B. LAMBERTE, Ph.D.
President, PIDS

Abstract

Justification for competition policies is well founded in the economic literature. Yet there is a need to understand their implications more fully, brought about not just by what is happening in the global arena but even more importantly by various comprehensive policy reforms that have been implemented in recent years. And while there may be a general consensus that “competition is good,” there is vagueness in the minds of many about the need for competition policy and how competition should be enforced.

This paper aims to contribute to the growing discussion on how to proceed from here. Toward this end, it first outlines the framework for competition policy in the Philippine setting. It then attempts to assess the state of competition in the Philippines. What has the Philippines done along the framework of competition policy and what has been the impact on the state of competition in the different sectors of the Philippine economy? The paper makes a general assessment across the different sectors of the economy by looking at the existing major factors that could determine the state of competition in the different sectors. It also looks at policy reforms that have been implemented to improve the state of competition in these sectors. Finally, the paper addresses the issues that confront competition policy and suggests possible approaches to formulating and implementing a workable competition policy for the Philippines.

1

Introduction

Competition as an economic concept is as old as the history of economic thought itself, with its place in economic theory firmly entrenched early on. However, during the past decade, which ushered in the age of globalization, new and increasing attention has been focused on competition in policy discussions around the world. “Competition” then became coupled as a matter of course with “policy.” It is not that radically new concepts are being formulated. Instead, there is a growing need for new approaches to “competition policy” because of its linkages with international trade that have emerged with the reduction of trade barriers around the globe.

From the Philippine perspective, however, there is also a growing need to understand its implications more fully, brought about not just by what is happening in the global arena but even more importantly by various comprehensive policy reforms that have been implemented by the government during the past decade or so. The reforms starting in the mid-1980s have done much to move the economy toward a more market-friendly policy environment. Trade reforms, banking reforms, foreign investment policy reforms, deregulation, privatization, and the policy thrusts in general have explicitly and implicitly recognized the benefits of competition. It is time to take stock of where we are and examine the state of competition and competition policy in the Philippines to help sustain and maximize benefits from the relevant reforms.

The Philippine Institute for Development Studies (PIDS), mainly through the Philippine APEC Study Center Network (PASCN), has been undertaking a series of studies on competition policy in recognition of a need for a new perspective, a new way of understanding issues, and a better approach to reforming economic policies. The main objective of this paper is directly in line with this concern. The paper draws heavily from the findings of the PIDS-PASCN studies, particularly the integrative chapter by the author in the book *Toward a National Competition Policy in the Philippines* (Medalla 2002a).

This paper has four main sections. The first outlines the framework for competition policy to facilitate a better understanding of the fundamentals that guide it. Specifically, it defines the role, objectives, and tasks of competition policy, and identifies the elements needed to carry out these

tasks. The next section then attempts to assess the state of competition in the Philippines. What has the Philippines done along the framework of competition policy and what has been the impact on the state of competition in the different sectors of the Philippine economy? The paper makes a general assessment across the different sectors of the economy by looking at the existing major factors that could determine the state of competition in the different sectors. It also looks at policy reforms that have been implemented to improve the state of competition in these sectors. The paper also culls from the major findings and conclusions of the sector studies on competition in the PIDS-PASCN aforementioned volume to derive implications on what needs to be done. The last section addresses the issues that confront competition policy and suggests approaches to formulating and implementing a workable competition policy for the Philippines.

2

Suggested Framework for Competition Policy

Resources are scarce. This is true for rich as well as poor countries, developing as well as developed economies. In this regard, economics is mainly about maximizing benefits amid scarce resources, where the role of competition is necessarily central. With this in mind, this section reviews the major concepts involved and suggests a framework for competition policy for the Philippines.

Almost everyone has an idea of what is competition. When one thinks of competition, one envisions a number of sellers/producers competing among each other to sell the most products to the most number of consumers. In this context, firms actively outdo each other in terms of price and/or quality of product or service they offer.

Such a competitive situation may also be effected by market contestability. That is, competition comes not only from firms or sellers already in the market but also from other firms or sellers that could enter and “contest” the market. In other words, when the market is contestable,¹ the threat of entry is enough to provide competition. Monopolists and oligopolists would behave like perfect competitors when faced with threat of new entrants into the market (Baumol and Willig 1981).

In general, a competitive setting is expected to lead to optimum welfare, “orchestrating” resources to go where they would yield best results, like *Invisible Hands* as postulated by Adam Smith. If there is competition, whether coming from existing rival firms or the threat of new entrants into the market, the seller or firm must make sure that he produces the best quality of products at least cost and sells those products at the price dictated by the market. Otherwise, he loses his clientele and his market share to some other seller or firms who could do better. In other words, the producer/supplier has no “market power.”² That is, he cannot manipulate prices and extract excess

¹A necessary condition for market contestability to exist is the absence of barriers to entry.

²Market power is the ability of the firm to dictate prices and the quantity supplied. In the case of a monopoly, the firm’s market power, or how much it can increase prices, depends on how inelastic is the demand for the product. In a perfectly competitive situation, individual firms face perfectly elastic demand and prices it cannot manipulate. Limiting output would simply let other firms take over supply.

profits (rents). As former Tariff Commissioner Anthony Abad puts it, he “profits with honor.” The result is optimized welfare for all.

Thus, the benefits from competition are easy to comprehend. In sum, competition promotes efficiency and consumer welfare. It promotes efficiency not only in terms of constraining firms to produce more with less (technical efficiency) but also in terms of inducing better resource allocation (allocative efficiency). Allocative efficiency in a competitive setting is encouraged because producers and investors receive the correct market price signals, which help direct investments to where returns are highest. In other words, competition acts as an efficient market regulator that limits the market power of any individual or group of individuals, and induces production and consumption at optimal levels and at least costs. As such, the highest overall welfare is made possible, reflected in wider consumer choices, lower prices, and better-quality products.³ Perhaps even more important are the dynamic gains from innovation that competition fosters and the flexibility that it develops, overall enabling the economy to better cope with the ever-changing environment.

Aside from these direct benefits, another important and positive implication of competition is on equity. Competition, by reducing, if not eliminating, the economic power of certain sectors and providing the best product for the best price, intrinsically advances equity objectives.

Role of competition policy

Increasing competition may not always be enough to ensure that the market would be able to allocate resources efficiently. Some instances of genuine market failures may pose limitations to competition—when more competition could cause inefficiencies. In addition, certain “rules” or regulations of the market (competition rules) may be needed to replace the competitive process that the market fails to bring about. The most notable of these cases of market failures is the so-called natural monopoly. This is a condition where the product or service is nontradable (i.e., cannot be imported or exported) and the market is too small to be optimally served by more than one firm. Allowing another firm to be established only implies duplication and waste of scarce resources. At the same time, such a monopoly may be an “essential facility” for the survival of rival firms using the facility. Hence, not only is it necessary to allow a monopoly to exist. It is also important to allow for “competition rules” on access to the essential facility to assist the market and substitute for the subsequent lack of a competitive process of allocation.

There are also cases when seemingly anticompetitive setups (high concentration, mergers, and acquisitions leading to few firms in the market) have procompetitive effects (efficiency gains), e.g., where there are economies

³Of course, there are cases where “unregulated” competition may not yield optimum welfare that in certain cases the market would, left to itself, result in loss in efficiency. Subsequent discussions address this issue further.

of scope, synergies, and transaction cost economies. This, too, requires some “deviation” from the general competition policy “rule” of discouraging market concentration.⁴

In short, competition is not the end in itself. Competition policy should promote competition as long as it encourages efficiency and growth. If possible, competition policy should be consistent with social objectives. These principles are, of course, easier said than done. Different objectives could lead to conflicts and the resulting trade-offs are often difficult to resolve.

These considerations show the primary role of competition policy. That is, to safeguard, protect, and promote competition and the competitive process and ensure that the market functions effectively and brings economic efficiency. In many instances, this would simply entail making the market contestable by easing entry of new firms. But there are also cases where the market completely fails and therefore more is required from competition policy. Specifically, this may mean a need for additional competition rules to assist the market in bringing about the highest welfare. Hence, competition policy is not necessarily a *laissez faire* policy. It is about ensuring that the market works properly.⁵

In reality, most industries may not completely possess the characteristics of a perfectly competitive model.⁶ Yet, in reality, there need not be perfect competition for the benefits to be realized, only “effective” competition that could threaten the firm, that is, the presence of a viable, actual or potential rival. The goal, therefore, is not to attain perfect competition but simply to ensure effective competition.

In sum, the primary task of competition policy is twofold: (1) to make sure that no entity would abuse its market power, and, where necessary, (2) to implement competition rules that would emulate the competitive process and make up for the market’s failure to perform its price-allocation function efficiently. As such, in most instances, competition policy may simply require making the market more contestable (e.g., by removing artificial barriers to entry of new firms). At the same time, it should disallow naked restraints of trade and discipline firms when such acts are committed. Where market power is inherent (in the structure), enforcement of competition policy should effectively strip the owner of such market power the ability to use (abuse) it. This may require punishing anticompetitive acts with appropriate sanctions and/or enforcing competition rules to guide the market.

There are several steps to carrying out this task. The first is determining whether or not there is any firm (or concerted group of firms) in the market that has market power. If yes, the next step is to find out how it has come to possess such market power.

⁴Market concentration is the case where value-added (or some other indicator of performance, e.g., sales) is concentrated in the top few firms (three or four).

⁵The central role of the market is price-allocation. A properly working market is thus one that performs this price-allocation function efficiently.

⁶The main characteristic is the existence of many firms and/or open entry and exit of firms.

Many factors could affect the state of competition and existence of market power in any industry. The first is the presence of trade barriers. There is no question that the kind of trade regime adopted by the country affects the state of competition. Simply allowing imports to come in break down some barriers to entry, making the market more contestable. Hence, with its widespread impact on the economy, trade policy could act as major competition policy tool. This is the first layer of competition policy to be implemented. If the good is tradable, and there are no significant barriers to trade, then there is reason to believe that the market is more or less contestable.

Although the impact of trade policy on competition should not be underestimated, there are other factors to consider in assessing how much competition actually results. Most importantly, if the local distribution channels are somehow tied up with local producers (e.g., through vertical integration or some vertical agreement like exclusive deals), then the impact of trade liberalization may be limited especially if substantial sunk costs are involved in putting up another distribution channel. Furthermore, not all goods are tradable,⁷ the geographic market for which (e.g., due to huge transport costs or remaining trade barriers) is confined to local borders. As such, the barriers to entry of new firms constitute the second major factor affecting competition.

Hence, the next step is to determine what kind of barriers to entry are there. Has the firm deliberately erected barriers to entry (behavioral barriers to entry)? If it has done so by becoming more efficient, which is intrinsically part of the competitive process, then it poses no problem. But if the firm deliberately set out to prevent other firms from entering the market other than by becoming more efficient, then it is committing exclusionary abuse, which competition policy (through an antitrust law) should disallow.

Could the market power be the result of structural factors? Inherent market failures and rigidities may lead to limitations on competition. These constitute the so-called structural barriers to entry. This kind of situation may not necessarily be bad for the economy if it results in efficiency gains. These include cases where there are economies of scope, synergies, and transactions cost economies. In a class of its own is the case of natural monopolies, where huge capital requirements make duplication unviable and socially wasteful. These are cases where the market fails completely and competition policy requires more than just trying to make the market contestable. It requires setting up competition rules to make up for the market's inability to allocate resources efficiently.

These different factors have different impacts, and hence varying implications on what kind of competition policy action is needed. Anticompetitive behavioral barriers require sanctions from competition policy. Others require allowing anticompetitive setups if there are efficiency gains

⁷Barriers to trade are in effect barriers to entry. However, this paper distinguishes between barriers to trade and barriers to entry to highlight the former's significance to a developing country like the Philippines.

involved. Still others require even more, e.g., the need to enforce competition rules to make up for the failure of the market to perform its price allocation function properly. Such cases of market failures are considered the justification for government regulation of an industry. This leads us to the last type of factors affecting the state of competition—those arising from government policy.

Is there a government policy or regulation intervening in the market? Is government policy or regulation justified? If not, then reforms are needed to let the market operate more efficiently. However, as implied above, this government policy or regulation may just be what the market needs, primarily because of the structural barriers involved. Government intervention in the form of competition “rules” is needed precisely to help the market mimic the competitive processes. The question should then be, are these rules appropriate? Or are reforms necessary?

Aside from direct government regulation of an industry, other government policies may have other social objectives but may nonetheless impact negatively on competition. Such could cover a wide array of government policies. Nonetheless, no matter how essential the stated objectives of the policy are, if they seriously conflict with competition policy, it is questionable if the policy indeed serves national welfare. This does not presume that competition policy objectives are superior. It only presupposes that is always wise to weigh the possible tradeoffs arising from any policy: the losses limit competition and the foreseen benefits from the policy.

In any case, what all this implies is a need to reexamine government policies and regulations in the light of their impact on competition. Among the government policies, perhaps the more crucial ones to examine are those that directly interfere in the market. This is perhaps where the needed competition policy reform (removing unwanted anticompetitive elements) is easier to isolate and where the impact of the reform on the state of competition is most direct.

Another major source of market failure that could impede the competitive process is inadequate information. Where there is information asymmetry between consumers and producers, producers could wield exercise some market power. Where consumers are not aware of the quality of available competition, the best decisions and best choices could not be made, leading to lower welfare. In this case, probably the best form of consumer protection is the provision of information.

Finally, whatever is the nature of the barrier to entry, whether the implied market power is abused or not, is what ultimately matters. The more important question is how competition policy deals with potential abuse of market power. Hence, wherever market power is coming from, the next step is to determine whether the firm “abuses” that market power and how (exploitative abuse). If there is abuse of market power, a working antitrust law should deal with it accordingly.

Two general types of anticompetitive behavior are distinguished here. The first is the act itself of the firm (or group of firms) to exclude potential

firms from entering the market by means other than becoming more efficient. This is called exclusionary abuse. Examples include predatory pricing, arrangement to divide the market, unjustly raising the rival's costs, and unjustified refusal to deal with other firms. The second is exploitative abuse. This refers to actual abuse of market power, manifested in setting prices above competitive levels, and limiting supply. A prime example of exploitative abuse is a cartel agreement to fix prices and/or to limit levels of outputs.

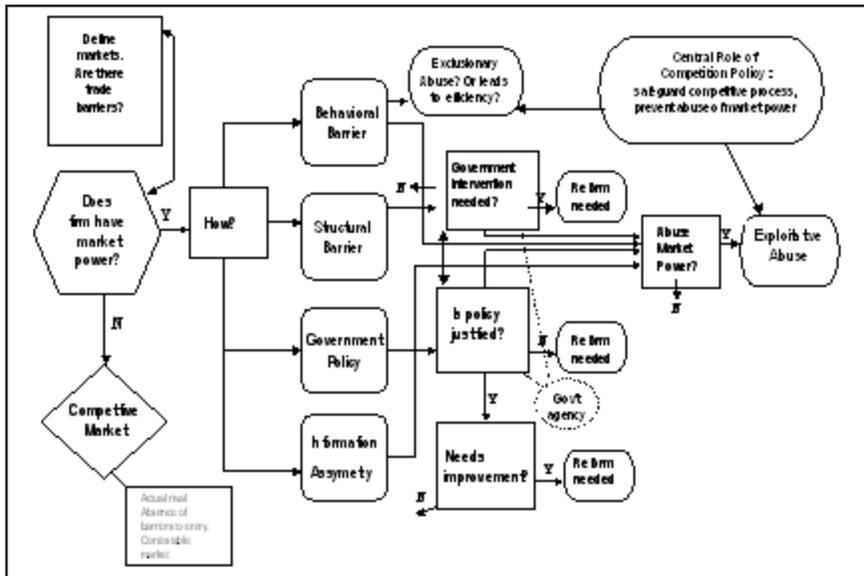
Figure 1 provides a diagram of the different steps discussed above and the primary role of competition policy.

Suggested elements of competition policy for the Philippines

The above discussion implies two major requirements for competition policy to carry out its primary tasks. The first is a need for an effective anti-trust law that will deal with anticompetitive behavior of firms. The second is a serious need to reexamine government policies themselves that impact on competition. These needs, however, would be difficult to fulfill without the necessary information and education campaign, and adequate advocacy work. Thus, four major elements must be present in an ideal competition policy framework.

1. Effective enforcement of an antitrust legislation aimed at preventing restrictive business practices that significantly lessen competition and result in abuse of dominant position, inefficiency and reduction in welfare.
2. Review of government regulations and policies with respect to their impact on competition and competition policy objectives.

Figure 1. Role of competition policy



3. Advocacy for competition policy to facilitate and implement the required reforms in government policy with welfare reducing anticompetitive effects.
4. Information and education campaign

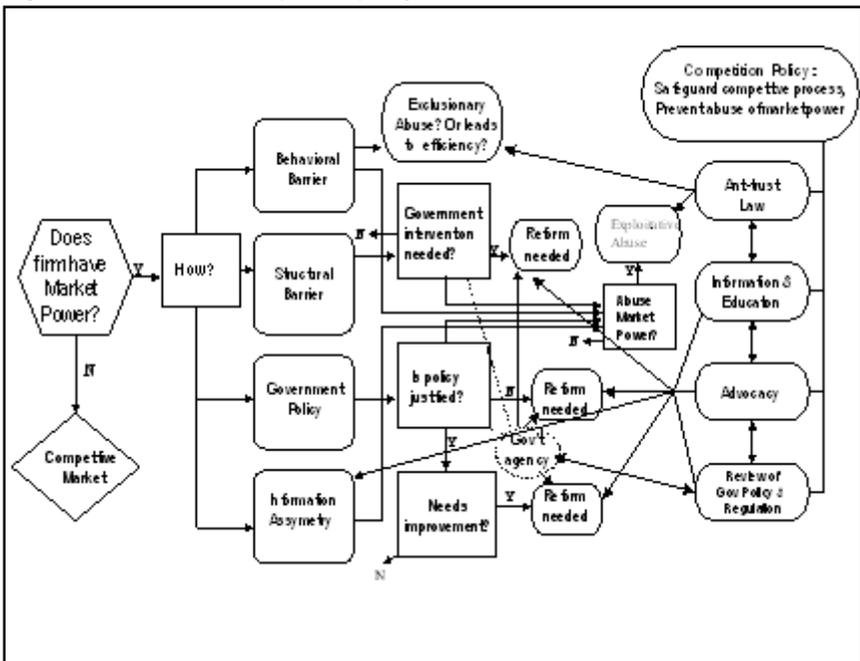
The diagram shown earlier is presented again below, this time with four elements presented above. Figure 2 addresses the major concerns and primary tasks of competition policy noted above.

The suggested framework is designed to be comprehensive, covering not just antitrust policy but also monopoly regulation and government policies and regulations that impinge on competition.

For a better understanding of this point, it is helpful to distinguish the major functions of competition policy from the perspective of key result areas (see Figure 3.) First, there is the core competition policy: the antitrust policy and law that deal directly with the anticompetitive behavior of firms. Second, there are cases where the market completely fails and more is required from competition policy. Such is the case of natural monopolies, where additional competition rules (e.g., access and pricing regulations may be needed). Hence, the second major function of competition policy relates to the regulation of natural monopolies in the utilities sector.

A third function, which is an inherent objective of competition policy, is consumer protection. This is implicitly what the discipline of firm behavior

Figure 2. Framework for competition policy

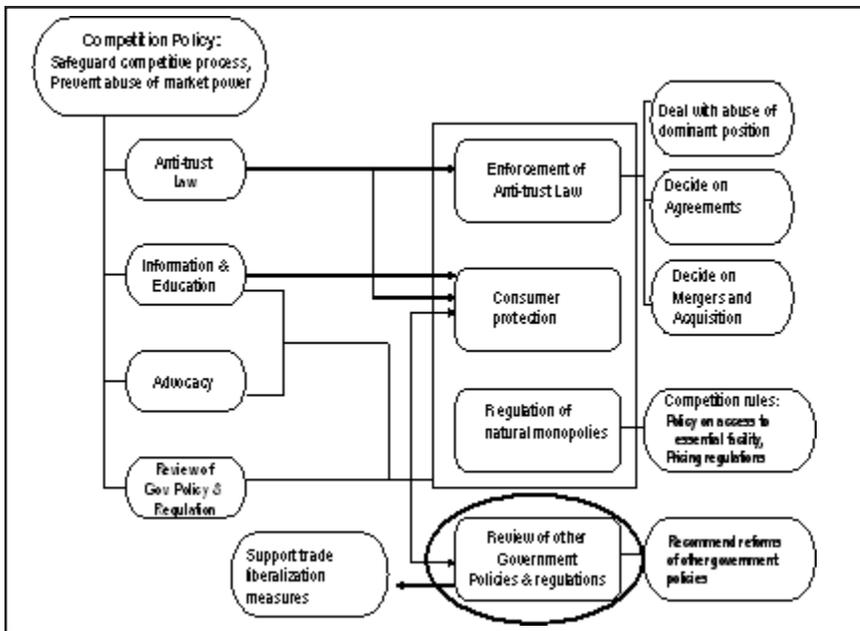


is aimed at. On top of this, there could be information asymmetry between consumers and producers, which could endow producers with some market power. As such, possibly the best form of consumer protection consist of information and education, and public advocacy. Finally, a major area of competition policy ideally includes a review of other government policies and regulations in terms of their impact on competition and the competitive process. This means that tradeoffs between foregoing competition policy and implementing the policy or regulation in pursuit of other social objectives are examined and weighed.⁸

As shown in Figure 3, the first three areas are generally considered integral parts of competition policy. There are questions, however, with regard to the fourth. This is primarily because of the more difficult issues and conflicting objectives involved. Nonetheless, it could be an important part of a national competition policy. It would surely bring in new perspectives that would make for a more efficient administration of policy and identification and implementation of needed reforms.

Finally, an important point to emphasize is that although the chart appears to indicate a central competition policy body, this need not be the case in practice. The linkages in the four elements could be as close as what

Figure 3. Areas of competition policy



⁸The suggested categorization is independent of the four elements suggested above. These elements, in varying forms and intensity, are present in the areas of competition policy described.

is feasible, or as loose as what they would actually be. For example, the task of reviewing government policies and regulations could be undertaken by the government agency involved, although this may not be as effective as an independent body initiating the same review.⁹ In sum, the final form the organizational setup takes should ultimately depend on what is most administratively feasible and efficient. This suits quite well the Philippine situation, as discussed in the next section.

⁹There would likely be less objectivity and probably even some resistance to reforms from within. On the other hand, an independent body would have less resources to investigate all government measures and regulations.

3

State of Competition and Competition Policy in the Philippines

Despite a considerable number of competition laws (Abad 2002) the Philippines has no explicit competition policy framework. This is because, for all intents and purposes, it does not have an antitrust law. The antitrust law has never been used or implemented, as may be gleaned from the lack of cases litigated in court. A major reason cited by Abad is the penal nature of the laws, which require a quantum of evidence for a case to prosper—proof beyond reasonable doubt, which is very difficult to obtain. In addition, the witnesses and/or aggrieved parties, owing to the long tedious legal processes involved, are more interested in obtaining an injunction or cease-and-desist orders rather than putting the perpetrators behind bars. Moreover, fines are inadequate to deter would-be criminals.

Despite the lack of explicit competition policy framework in the country, the promotion of competition has been implicit in the major reforms implemented since the 1980s. Indeed, before the reforms were enacted, the Philippine economy was characterized by a highly restrictive trade policy, pervasive industry regulations, and other government intervention in various forms that affected the state of competition in the different sectors (Table 1). Such a highly restrictive and regulated economy resulted in huge inefficiencies. (Bautista and Power et al. 1979; Lamberte et al.1992; and Medalla et al. 1996). Lamberte et al. (1992) note how government policy before the reforms were implemented and structural barriers to entry tended to reinforce each other to preserve concentration and lack of competition. This was aggravated by the lack of foreign competition from imports before the trade reforms.

Among the most comprehensive reforms implemented by the government is the series of trade liberalization measures, both in terms of lowering of tariff rates and removal of import controls, starting in the mid 1980s. The Philippine trade policy regime has changed substantially during the past two decades—from a highly restrictive and protectionist system to a relatively open-trade regime. Tariffs went down across sectors from highs of 100 percent (or even more) before 1980 (i.e., before the first Tariff Reform Program) to the present range of 3 to 10 percent for the majority of products.

Tariffs of more than 30 percent are found mainly in agricultural products (e.g., sugar, rice, corn, livestock not for breeding, etc.) and only in a few industrial products (e.g., completely built up cars). Nontariff import restrictions, mainly in the form of import licensing requirements or outright import prohibitions, have also been removed except for a few (less than 3 percent of commodities at the 6-digit level of classification). There are a few remaining import restrictions, again for some (basically the same) agricultural products and for reasons of health, sanitation and national security. Tariff rates are expected to fall to a range of 0 to 5 percent by 2004, except for a limited number of products (see Appendix Table 1).

There is no question that the kind of trade regime by the country affects the state of competition. Simply by allowing imports to come in, the Philippines eliminates some barriers to entry, making the market more contestable. Hence, with its pervasive impact on the whole economy, the series of trade policy reforms could be considered the first major layer of competition policy implemented.

The other major reforms that impact on the state of competition in various markets include:

1. abolition of a number of regulatory bodies
2. privatization
3. demonopolization of the telecommunications industry
4. deregulation in the shipping and airline industries
5. oil deregulation
6. easing of entry of foreign banks
7. easing the foreign equity limits and resorting to a much less restrictive negative list of activities where foreign equity is limited
8. retail trade law

Table 1 provides a more complete overview of government policies and regulations affecting major and selected sectors and the reforms that have been implemented. The list is presented to provide some indication about restrictions in the state of competition arising from these policies, and the main rationale (objective) of policy and reforms that may have improved the state of competition. The list, however, is not exhaustive. Nonetheless, it provides a cursory assessment of how much competitive forces are at work across sectors. The table fails to indicate the presence of behavioral barriers to entry, but some of the structural barriers could be readily recognized, mainly in the utilities sectors.

This cursory assessment yields some important observations:

1. It reiterates the findings of previous studies. The Philippine economy was characterized by a highly restrictive trade policy, pervasive industry regulations, and other government intervention in various forms that undermined competition in different sectors.
2. There is government intervention/regulation in many sectors for various reasons/objectives. These include industrial promotion,

Table 1. Overview of government policies and regulations

Sector	Prereform	Postreform	Remarks
Agriculture, fishery and forestry			
Agriculture	- protective policies - passage of AFMA	- trade liberalization	- agricultural policy, equity/access
Palay	- high tariffs, import restrictions measures on trading	- lifting of price controls and some deregulation	
Corn	- industry regulated by NGA	- industry still regulated: NFA	- agricultural policy, equity/access
Sugarcane	- high tariffs, quota allocation and administration by PHILSUCOM enterprise trading	- intervention in the supply and price by SRA; production is regulated but allowed free	- agricultural policy, equity/access
Livestock	- high tariffs and import restrictions competition	- reduction in tariff rates, increasing import and consumer welfare	- product standards, safety
Fishery	- high tariffs and import restrictions competition; passage of Fisheries Code	- reduction in tariff rates, increasing import and consumer welfare	- product standards, safety
Forestry	- protective policies	- lifting of QRs, lowering of tariffs	- environmental regulations
Industry			
Mining and quarrying	- protective policies	- lifting of QRs, lowering of tariffs	- environmental regulations
Manufacturing	- protective policies - regulatory controls	- trade liberalization - deregulation	- industrial policy, consumer welfare; product standards
Paper and paper products	- high tariffs; QRs privatization of PICOP	- reduction in tariff rates and lifting of QRs;	- industry development and promotion
Publishing and printing	- equity participation: PICOP		

Table 1 (cont'd.)

Sector	Prereform	Postreform	Remarks
Industrial chemicals	- import controls	-some deregulation measures under FPA and product safety	- quality standards, environmental impact
Other chemical products	- industry regulation: FIA		
Petroleum refineries	- high tariffs	- significant reduction in tariffs	- industry development
Products of coal and petroleum	- industry regulation: BOE	- enactment of RA 8479 prescribed full deregulation	
Cement	- high tariffs and import controls - rehabilitation, modernization program	- gradual reduction in tariffs - removal of QRs - price deregulation	- industry promotion through rehabilitation/modernization programs
Iron and steel industries	- industry regulation: PCIA - protection and promotion	- regulatory body abolished - industry promotion	
Nonferrous metal industries	- (Progressive Manufacturing Program) - equity participation: NSC - industry regulation: ISA	- privatization of National Steel Corporation - regulatory body abolished	
Electrical machinery	- protection and promotion (local content program)	- reforms in compliance with WTO of exports	- industry promotion and promotion
Transport equipment	- protection and promotion: (PCMP) high tariffs; import ban on CBUs	- reforms in compliance with WTO	- industry promotion
Construction	- industry regulation	- industry regulation: CIAP	- standards and safety regulations

Table 1 (cont'd.)

Sector	Prereform	Postreform	Remarks
Electricity, gas and water			
Electricity	- protection and promotion: NAPOCOR in electric generation and transmission, MERALCO in MM electric distribution	- privatization of MERALCO - enactment of RA 9136 provides for the creation of the TRANSCO, PSALM, WESM, privatization of NAPOCOR	- essential facility/monopoly regulation, equity/access
Water	- industry regulation: BOE - equity participation: MWSS - creation of LWUA - industry regulation: NWRB	- regulatory body: ERB to ERC - privatization of MWSS - functions/assets of RWDC transferred to LWUA - industry regulation: NWRB	- essential facility/monopoly regulation, equity access, health and sanitary regulations
Services			
<i>Transportation, storage and communication</i>			
Transportation			
Land	- industry regulation: BOT	- industry regulation: LTFRB	- safety standards, equity/access
Water (shipping)	- promotion and development - industry regulation: MARINA/PPA	- MARINA/PPA still regulate with some deregulation measures	- essential facility, equity/access - standards/safety regulations
Air	- equity participation: PAL - promotion and development - industry regulation: CAB	- privatization of PAL - Progressive Liberalization (EO 219)	- essential facility/monopoly regulation; standards/safety regulations
Communication	- industry regulation: NTC - Public Telecommunications Act (RA 7925)	- NTC still regulate with deregulation measures equity/access	- essential facility/monopoly regulation,
Trade			
Wholesale	- limited restrictions		- standards/safety regulations
Retail	restrictions of foreign equity	- Retail Trade Liberalization Act 2000	- "nationalism," protection

Table 1 (cont'd.)

Sector	Prereform	Postreform	Remarks
Finance			
Banks	- highly regulated under CBP	- New Central Bank Act of 1993	- promote monetary stability
Nonbanks	- entry is restricted	- financial market liberalization - General Banking Law of 2000	
Insurance	- industry regulation: IC - restrictions of foreign equity	- IC still regulates but removed restrictions in foreign equity in the life insurance (RA 8179)	
Real estate, renting and business services			
Ownership of dwellings	- regulation: HSRC	- regulation: HLURB - equity/access	- standards/safety regulations
Real estate			
Business services	- limited restrictions	- limited restrictions	- standards/safety regulations
Private services			
Educational	- highly centralized - regulation by DECS, CHED	- some decentralization measures	- standards and equity/access
Medical and health	- highly centralized	- some decentralization measures - regulation by DOH	- standards and equity/access
Hotel and restaurants	- limited restrictions	- limited restrictions	- standards and equity/access

sector development, safety and standard regulations, monopoly/essential facility regulation, and equity and access.

In general, the government would have reason to intervene in cases of market failure. Among the most important and most recognized of these are (a) the case of public goods, (b) equity (including access) objectives, (c) imperfect information, and (d) presence of externalities. In such cases, the intent of regulations could be pro-competitive, since the market would not be able to function efficiently¹⁰ if left to itself. Thus, a regulatory framework may be justified. What needs to be examined is if the regulation is indeed intended and designed to perform its role of correcting market failures and how well it is able to do so. Or does the regulatory framework distort the market further?

3. The list includes a number of government regulations, which are primarily meant to serve other social objectives (housing, education, and health). This paper assumes that these social objectives are paramount, for now at least.

The presence of government regulation does not necessarily imply bad policy. Presumably, the government policy or regulation is there for some other social objectives. Nonetheless, the interface of this other government policy with competition policy should be reviewed (Medalla 2002b). What this only means is a need for a regulatory review, preferably an impact assessment to make sure that optimum competition regulations are being implemented.

A good example is education. Education is a merit good. It also entails externalities (i.e., better education induces better interaction and higher efficiency, not just for individuals but for society as a whole). What's more, its equity/access objectives are unquestioned. However, the question is how much are these objectives achieved by regulating tuition fees. In general, price intervention creates serious distortions that could only lead to further misallocation of resources. Looking at the sector, there appear to be a substantial number of institutions that could provide viable competition. The market failure is mainly in the lack of information. Tan (2002) argues that competition just needs to work properly. In this regard, the provision of readily available and adequate information about school performance, among others would be the better approach.

4. There is often a mixture of objectives in regulating the sector. There will be cases where multiple, conflicting objectives cannot be avoided, where both efficiency (i.e., maximum returns) and equity (i.e., access to affordable prices for the underprivileged sectors of the economy) are simultaneous objectives. Pricing regulation for monopoly regulation is complex enough. Mixing it with equity objectives

¹⁰That is, match supply and demand at optimal levels.

complicates it even more, such that it becomes unclear how the objectives are being met.

The problem is how to separate the issues. There may be ways to separate “competition concerns” from other social objectives. This deliberate policy to bring in competition policy concerns is particularly crucial in infrastructure projects that are usually characterized by large capital requirements and long gestation periods. Implementing such policy should be done from inception of the project to its completion and actual operation. This means, for example, proper bidding process (or the so-called Swiss Challenge for unsolicited projects), burden of proof on the part of the firm showing efficiency gains translated to better prices and products to consumers if limited competition is called for, clear access policies in its operating stage.

A more quantitative indicator of market structure and state of competition is included in the section for the manufacturing sector. Appendix Table 2 provides more details on the regulatory measures used. Table 2 gives further insights from the share in gross domestic product (GDP) of the sectors affected by the government policies and regulations and the number of firms in the sector.

This is again further summarized below in Table 3 to indicate the extent of the impact of policy in terms of coverage in GDP. In particular, the table singled out trade policy and government regulations of specific sectors, excluding those that are mainly for safety, standards and social objectives (e.g., in education and health sectors).

Table 3 shows that around half of value-added representing the proportion of tradables in GDP has been affected by trade reforms. This represents the share in value-added of sectors that face foreign competition. The table also shows that the regulatory bodies abolished affected sectors with a combined share of around 7 percent. This implies improvements in the state of competition on the whole. Furthermore, industry regulations covering services and utilities represent around 20 percent of value-added. This has implications on the magnitude of the impact of reforms in these sectors on the economy. The share is very significant, magnified by the fact that: (1) these sectors have strong forward linkages with other sectors, and (2) the industries affected by trade reforms would have the needed boost to compete better globally. The latter effects need to be highlighted. The reforms in these regulated sectors that would bring about more rational competition rules would complement well the trade reforms by lowering input costs. This could represent just what is needed to realize the potential benefits from a more open economy.

For a closer look into selected sectors, PIDS-PASCN conducted studies on a number of sectors. The choice of industries has been guided mainly by where competition policy appears to be most crucial. The list included four major utility sectors: telecommunications, air transport, power, and shipping.

Table 2. Share in GDP and number of firms in the sectors affected by reforms

Sectors	Government Reforms	Share in GDP 2000	No. of Firms (SME and Large) 2000
GDP/Total		100	890,960
Tradables	- Tariff Reform Program (TRP I-V) and Import Liberalization program	45.93	
Nontradables	- deregulation/privatization	54.07	
Agriculture, fishery, forestry		19.96	4,643
Agriculture and forestry			3,391
Agriculture	- trade liberalization; passage of AFMA	16.07	
Palay	- lifting of price controls and some deregulation measures on trading; industry still regulated: NFA	3.47	
Corn		1.13	
Sugarcane	- intervention in the supply and price by SRA; product is regulated but allowed free enterprise trading	0.51	
Livestock	- reduction in tariff rates, increasing import competition		
Fishery	- reduction in tariff rates, increasing import competition; passage of Fisheries Code of 1998	3.74	1,252
Forestry	- lifting of QRs, lowering of tariffs	0.14	
Industry		34.45	130,315
Mining and quarrying	- lifting of QRs, lowering of tariffs	1.12	376
Manufacturing	- trade liberalization; deregulation	24.85	125,467
Construction	- industry regulation: CIAP	5.07	3,154

Table 2 (cont'd.)

Sectors	Government Reforms	Share in GDP 2000	No. of Firms (SME and Large) 2000
Electricity, gas and water		3.41	1,318
Electricity and gas	- privatization of MERALCO; enactment of Power Reform Bill (RA 9136)	3.13	
Water	- privatization of MWSS; functions/assets of RWDC transferred to LWUA; industry regulation: NWRB	0.27	
Service		45.59	686,002
Transportation, storage and communication		7.14	15,267
Transportation and storage		4.28	
Land	- industry regulation: LTFRB	3.04	
Water (shipping)	- MARINA/PPA still regulate with some deregulation measures	0.47	
Air	- privatization of PAL; Progressive Liberalization (EO 219)	0.13	
Storage and services incidental to transport		0.63	
Communication	- NTC still regulates amid deregulation, Public Telecommunications Act (RA 7925)	2.86	
Trade		16.01	437,325
Wholesale		3.88	
Retail	- Retail Liberalization Act 2000	12.13	

Table 2 (cont'd.)

Sectors	Government Reforms	Share in GDP 2000	No. of Firms (SME and Large) 2000
Finance		4.89	24,118
Banks	- New Central Bank of 1993; financial market liberalization; General Banking Act 2000	3.45	
Nonbanks		0.47	
Insurance	- IC still regulates but removed restrictions in foreign equity in the life insurance (RA 8179)	0.97	
Real estate, renting and business services		5.95	40,477
Ownership of dwellings		4.08	
Real estate	- regulation: HLURB	0.98	
Business services	- limited restrictions	0.89	
Private services		6.53	
Educational	- some decentralization measures; regulation by DECS, CHED	0.84	9,675
Medical and health	- some decentralization measures; regulation by DOH	1.19	28,414
Hotel and restaurants	- limited restrictions	1.34	84,472
Others		3.15	41,254
Government services		5.06	

Table 3. Summary table: Share in GDP affected by reforms (prereforms vs. postreforms)

	1980	1996	2000	Share in GDP (in %)	
				1980	2000
Trade policy	<u>No. of Regulated Items</u>				
Import liberalization	1,820	175			
% share in total HS lines	32.3	3.1			
Tariff reductions	<u>Nominal Tariff Rates (in %)</u>			52.6	45.9
Overall	41.37	7.99			
Agriculture, fisheries and forestry	61.10	14.43		23.5	20.0
Mining and quarrying	18.36	3.25		1.5	1.1
Manufacturing	39.07	6.95		27.6	24.8
Government regulations				22.4	19.9
Agriculture (NFA and SRA)				5.3	5.1
Manufacturing (PCOP, FPA, ERB, PCIA, ISA, BOI)				7.1	
Electricity, gas and water				2.0	3.4
Services (LTFRB, MARINA, PPA, CAB, NTC, BSP, IC)				7.9	11.4

As of this writing, only the first two have been completed. However, these regulated sectors share common competition policy issues that are addressed and discussed in the other two studies. It is hoped the other industry studies will provide a better understanding of the other sectors of the economy, covering an overview of the manufacturing sector, the cement industry, and the downstream oil industry, in particular, and especially the financial sector.

Past studies on the manufacturing sector have consistently characterized the manufacturing sector as highly concentrated. Most notably, Lamberte et al. (1992) observed the presence of high concentration and incontestable markets in Philippine industries. Aldaba (2002) looks at what has happened to the level of concentration in the manufacturing sector during the more recent years, where substantial trade reforms have been implemented. At first glance, the results look alarming. The estimates show that the manufacturing sector remains highly concentrated, with roughly two-thirds of the manufacturing sector having concentration ratios ranging from 70 to 100 percent. On the average, 73.6 percent of value-added were from the top four firms in each manufacturing subsector (Table 4).

Subsectors with high concentration are mostly intermediate and capital goods such as petroleum refineries, glass and glass products, industrial chemicals, pottery, china and earthenware, petroleum and coal products, rubber products, other nonmetallic mineral, paper and paper products, professional and scientific equipment, nonferrous metal products, transport equipment, iron and steel, machinery except electrical, textiles, other

Table 4. The manufacturing sector

	Concentration Ratios (%)			Number of Establishments			Price Cost Margins		
	1988	1994	1995	1988	1994	1995	1988	1994	1995
Manufacturing	70.9	73.6	73.6	11,208	10,726	10,373	0.30	0.34	0.36
Food processing	79.5	81.4	81.7	915	751	717	0.30	0.30	0.32
Food manufacturing	63.5	69.7	77.9	2,003	1,879	1,798	0.32	0.33	0.41
Beverage industries	48.2	70.1	63.4	91	86	88	0.31	0.56	0.57
Tobacco manufactures	96.6	99.6	99.4	25	21	22	0.48	0.56	0.57
Textile manufactures	64.1	64.1	72.4	549	537	508	0.28	0.24	0.30
Apparel except footwear	34.7	31.7	26.5	1,556	1,512	1,521	0.25	0.13	0.32
Footwear except rubber	30.3	41.7	55.0	425	384	373	0.19	0.14	0.20
Wood and cork products	40.5	55.5	65.4	683	401	354	0.22	0.24	0.23
Furniture and fixtures (nonmetal)	19.5	40.9	41.6	678	497	439	0.22	0.24	0.25
Furniture and fixtures (metal)	80.9	79.5	62.7	36	34	35	0.30	0.10	0.21
Paper and paper products	79.0	71.2	70.4	167	215	206	0.32	0.30	0.29
Publishing and printing	42.1	47.3	51.1	636	637	636	0.25	0.28	0.32
Leather and leather products	57.7	63.9	64.0	120	84	85	0.17	0.16	0.23
Rubber products	79.2	73.5	73.7	137	187	181	0.24	0.28	0.37
Plastic products, nec	49.4	40.8	50.9	300	377	365	0.27	0.29	0.29
Industrial chemicals	90.1	87.5	84.7	112	171	197	0.37	0.34	0.31
Other chemical products	66.4	75.6	69.1	300	288	295	0.40	0.46	0.46
Petroleum refineries	100.0	100.0	100.0	4	4	4	0.18	0.22	0.32
Products of coal and petroleum	81.1	77.0	87.4	16	14	16	0.24	0.14	0.26

Table 4 (cont'd.)

	Concentration Ratios (%)			Number of Establishments			Price Cost Margins		
	1988	1994	1995	1988	1994	1995	1988	1994	1995
Pottery and china	92.8	86.1	93.7	59	68	61	0.34	0.34	0.35
Glass and glass products	96.3	90.6	92.1	35	53	46	0.46	0.50	0.52
Cement	45.3	48.3	45.4	17	18	18	0.28	0.37	0.42
Other nonmetallic products	68.9	71.3	74.5	353	304	253	0.34	0.37	0.40
Iron and steel industries	84.2	80.6	70.6	128	191	201	0.23	0.43	0.24
Nonferrous metal industries	99.3	99.3	98.6	35	34	40	0.24	0.18	0.24
Fabricated metal industries	73.5	74.5	74.3	469	555	550	0.28	0.32	0.28
Machinery except electrical	63.6	77.5	79.4	556	464	460	0.28	0.32	0.28
Electrical machinery	64.8	69.4	63.7	217	271	310	0.21	0.22	0.28
Transport equipment	81.0	86.2	84.4	230	264	265	0.28	0.23	0.23
Professional, scientific, measuring and controlling equipment	100.0	100.0	100.0	14	13	20	0.32	0.23	0.24
Miscellaneous manufacturers	70.9	70.6	76.8	342	312	309	0.27	0.23	0.31

Source: Aldaba (2002)

chemicals (a borderline case), and fabricated metal products. Consumer goods like tobacco, food manufacturing, and food processing belong to the high-concentration group.

Price cost margins were estimated as a rough measure of profitability. On the average, the manufacturing industry posted a price cost margin of 30 percent in 1988. This increased to 34 percent in 1994 and to 36 percent in 1995. A combination of high price cost margins and high concentration ratios tends to suggest that some monopoly rents are being incurred. Aldaba notes a positive correlation between concentration and profitability in Philippine manufacturing. Table 5 presents a correlation matrix between concentration ratio and price cost margin for 1988, 1994, and 1995. The more relevant estimate is for pairs for the same year.

Aldaba finds two different possible interpretations of the results. First, industrial concentration would foster collusion and hence, monopoly pricing (structuralist view). It could also very well be the case, following the efficiency market hypothesis, that superior firms in an industry that makes a product or cost breakthrough will gain market share, thus increasing industry concentration. Broadly interpreted, the efficient market hypothesis states that markets are workably competitive and that the market structure reflects differential efficiency, not strategic behavior. Dominant firms owe their position to superior performance, not to strategic behavior or the history of entry into the industry, and profits are simply the rents that accrue to superior technology (Gilbert 1990, as cited in Stigler 1968).

In view of the ongoing structural reforms, arising mainly from trade liberalization at the time, the efficiency market hypothesis appears the more plausible explanation in many cases. Indeed, the findings (as shown in Table 4) about the correlation matrix between PCM and CR support this view. Correlation coefficient went down 0.42 to 0.14. The lower coefficients over time, inclusive of the trade reform period, show weakening relationships between concentration ratio and the price cost margin. This is also supported

Table 5. Manufacturing correlation matrix: Concentration ratio and price cost margin

	CR88	CR94	CR95	PCM88	PCM94	PCM95
CR88	1.000000	0.940575	0.890371	0.422307	0.185395	0.120011
CR94	0.940575	1.000000	0.937373	0.420904	0.272047	0.175886
CR95	0.890371	0.937373	1.000000	0.382337	0.221090	0.142337
PCM88	0.422307	0.420904	0.382337	1.000000	0.706128	0.704884
PCM94	0.185395	0.272047	0.221090	0.706128	1.000000	0.833786
PCM95	0.120011	0.175886	0.142337	0.704884	0.833786	1.000000

by the findings of the various PIDS studies on the impact of trade reforms (e.g., Medalla et al. 1996; Pineda 1997). These studies noted not only the improved competitiveness of the manufacturing sector as indicated by the reduction in the domestic resource cost ratio, but also the generally increasing share in value-added of those firms which had improved competitiveness (Table 6).

Not that the structuralist view would not apply in some cases. There are sectors where high concentration allow and even encourage collusion, exploitative and exclusionary abuses. What this means, however, is that the high concentration ratios, in the presence of trade liberalization, is not as alarming as it appears. Indeed, this could be the logical result of restructuring arising from trade reforms, where inefficient firms contract and efficient firms expand. What is more important is that markets become more contestable under a more liberal trade regime. Nonetheless, the results highlight the need for a working competition policy, especially if we wish to maximize the benefits from structural reforms already undertaken.

While the discussion provides an overview of the state of competition in manufacturing, a lot of variation, which must be examined, is obscured by simply looking at manufacturing at such an aggregated level. Thus, more specific cases need to be studied. Two such manufacturing studies look separately at the cement industry and the downstream oil industry.

Cement and oil industries are aptly suitable for comparison. Producing homogeneous products, they are both relatively more capital-intensive, dominated by a few large firms and are popular suspects for cartel behavior. Despite these strong similarities, the findings differ. There is evidence of collusion, whether tacit or not, in the case of cement, and none for the oil industry. The former is based on the finding indicating widely differing manufacturing costs in the presence of harmonious movements in prices and very low capacity utilization. Aldaba concludes that such observed behavior is inconsistent with competitive behavior, and could only be explained within a framework of some coordination, tacit or otherwise. Lee U (2002), on the

Table 6. Share in production by efficiency classification (1983, 1988, 1992, 1994)

DRC/SER Range	Efficiency Classification	Share in Production Value (%)			
		1983	1988	1992	1994
0 to 1	Highly efficient	18.84	39.51	43.95	41.63
1.0 to 1.5	Efficient – mildly inefficient	28.75	22.76	29.48	37.86
1.5 to 2.0	Inefficient	12.30	14.68	8.36	7.56
DRC/SER > 2.0	Highly inefficient	39.58	21.77	18.07	12.94
Average DRC/SER		1.72	1.54	1.21	1.18

other hand, offers explanation for the apparently synchronized pricing behavior of oil companies that does not imply collusion but the effort to maximize profits in the short run as a result of changes in crude oil prices.

Whether or not collusion could be proven in any of these cases, nothing can really be done under the existing antitrust law whose penal provision requires substantial proof, which is almost impossible to obtain given the present administrative constraints. In the meanwhile, there is a great of lobbying from different sides, making the issues more political than they should be. If there were an effective competition law, the issues would have been more objectively analyzed and resolved. There would be no need to even think about a national oil exchange.

The studies on utilities, telecommunications and the airline industry Serafica and Austria (2002), on the other hand, further show the complexities of industry regulation. The sectors covered involve essential (i.e., bottleneck) facilities, which justify industry regulation. In general, the studies show that significant reforms have been implemented in terms of liberalization and deregulation, which have led to the introduction of greater competition and resulted in substantial benefits. At the same time, a number of questions remain and new challenges and issues are created, requiring new approaches to sustaining these benefits. Unbundling the services to separate segments that should be subject to greater competition is one of the important components of the reforms that should be sustained. Global trends in the industrial organization of these utilities suggest that they are not as “natural” a monopoly as they or were thought to be. Possibly the only segment comprising real natural monopolies lies in the provision of the “local loop” in the fixed line telecommunications, international ports in the transport industry, and transmission in the power sector. Thus, another key area for improvement is the formulation of a clear policy on access to these “essential” facilities.

Another important issue that should be addressed is the use of price/rate fixing itself as part of the regulatory framework. A general rule applicable to utilities is the rate of return to base regulation, which is limited to 12 percent. In addition, some product (or service) price setting is enforced. For example, in telecommunications, enduser rates are set by the National Telecommunications Commission (NTC) as with power and transportation.

At the outset, price fixing appears to be a logical policy handle of the regulator, especially since there is presumption of market failure in the industry being regulated. Where competition as market regulator fails, the ultimate impact is on prices, where it seems reasonable for the regulator to take over. Price fixing is also very politically appealing. However, as many countries often experience, government price fixing often creates more problems than what it solves. A major reason is information problem. It is difficult to predict demand and supply. Data on costs are hard to come by.

Sometimes, the problem is the point of price of intervention. Take the case of telecommunications for example. Enduser price (i.e., price paid by consumers) is set by NTC, but interconnecting carriers are allowed to negotiate access charges between them (intermediate price). A firm (the

one enjoying network externalities) can effect a price squeeze in its effort to gain market power before the regulator can step in. One can thus question if it would be better for the regulator to intervene at the intermediate level and deregulate enduser price where enough competition exists. This task would also lower the cost of negotiation. Just imagine the costs involved with N carriers negotiating bilaterally per product (service) for M types of products.

Another example is the rate of return cap, the rationale for which is more difficult to comprehend. Presumably, the rate of return regulation is an alternative to user price fixing and is much easier to manage and determine. However, if government wants investments to come in, it should not limit how much the firm can earn, certainly not an unreasonably low nominal rate of return of 12 percent, which is not even enough to cover interest costs. It creates, for prospective investors, "regulatory risks" on top of the commercial risks they already have to face. (If the firm makes money, it runs the risk of losing it because of regulation.) Moreover, to a large extent, the regulation only encourages cheating and effectively forces out of the market honest new players.

A related issue to price regulation that needs to be reviewed is the policy of cross-subsidization, which complicates the process even more. There is a need to reevaluate the costs and benefits of cross-subsidization, which has been used as a reason for limiting entry (or preventing new entrants from skimming off the top). For one thing, it is very difficult to set the right prices, and the cost of making a mistake could be high. For another, are there other alternatives to attaining the objective?

Another issue that should be addressed is privatization. Most of the natural monopolies are, or used to be, public monopolies. Privatization has been part of the reforms undertaken during the past decade. This arises from the perception that publicly owned and run corporations are less efficient than private enterprises. This is due to a number of factors. The first is the hiring and firing scheme, which is constrained by the civil service regulations, making it extremely difficult to fire and hire employees. The second factor is the generally low incentive and compensation structure. The third is lack of accountability. These factors, among others, deprive the public enterprise of the usual motivation for profit maximization, which is present in private firms.

However, transfer of ownership alone would not ensure increased efficiency if the necessary conditions for a competitive market are not in place at the outset. Indeed, the problem may not be whether to transfer ownership or not but how competition and discipline could be introduced. If there would be transfer of ownership, all unnecessary advantages previously enjoyed by the firm should be removed and competitive neutrality should be ensured. These issues need to be examined further in the reforms of public enterprises.

We come to the banking and insurance sectors (Milo 2002). The case of financial regulation is perhaps of utmost significance because of the nature of the financial sector and its vital link to the rest of the economy. The financial sector regulation can be justified on two grounds, both of which are market

Table 7. Summary of competition policy studies

Sectors	Government Policies		Deregulation/ Liberalization Laws	Regulatory Body	Remarks
	Prereform (1980s)	Postreform (1990s)			
Manufacturing	<ul style="list-style-type: none"> - protection (high tariffs) - promotion (investment incentives programs) - regulation (regulatory controls) 	<ul style="list-style-type: none"> - liberalization through removal of tariff and nontariff barriers - reducing antiexport bias - increasing import competition 	<ul style="list-style-type: none"> - Tariff Reform Program I to IV EO 470, EO 189, EO 334 - Import Liberalization Program 		<ul style="list-style-type: none"> - remain highly concentrated but reforms resulted in more contestable markets
Cement	<ul style="list-style-type: none"> - regulatory controls: PCIA - protective policies (high tariffs, import controls) - investment incentives (rehabilitation, modernization program) 	<ul style="list-style-type: none"> - deregulation of cement prices - removal of import restrictions - substantial tariff reduction 	<ul style="list-style-type: none"> - DTI Adm. Order No. 10 - CB Circular 1195 	<ul style="list-style-type: none"> - used to be regulated by PCIA and DTI but was lifted 	<ul style="list-style-type: none"> - remained highly concentrated and entry barriers is not easy due to large capital requirements. - some evidence of collusion.
Oil	<ul style="list-style-type: none"> - industry regulation: OIC - dominated by three big players 	<ul style="list-style-type: none"> - full deregulation (opening up the market and allow firms to set their own prices) - attracting more investments - significant reduction of tariffs 	<ul style="list-style-type: none"> - deregulating the Downstream Oil Industry (RA 8479, 1998) 	<ul style="list-style-type: none"> - ERB used to set oil prices 	<ul style="list-style-type: none"> - still dominated by three big players but new entrants were gaining market share specifically in bulk sales
Telecommunications	<ul style="list-style-type: none"> - industry regulation: NTC - presence of monopoly 	<ul style="list-style-type: none"> - demonopolization and liberalization 	<ul style="list-style-type: none"> - Public Telecommunications Act (RA 7925) 	<ul style="list-style-type: none"> NTC 	<ul style="list-style-type: none"> Better and more service - PLDT operates LE service nationwide while the rest are restricted by their PAs - emerging problems

Table 7 (cont'd.)

Sectors	Government Policies		Deregulation/ Liberalization Laws	Regulatory Body	Remarks
	Prereform (1980s)	Postreform (1990s)			
Air transport	<ul style="list-style-type: none"> - industry regulation: CAB - one airline policy 	<ul style="list-style-type: none"> - deregulation and liberalization - allowing new entrants in domestic routes - allowing two designated flag carriers in international routes 	<ul style="list-style-type: none"> - Domestic and International Civil Aviation Liberalization Policy (EO 219, 1995) 	CAB	<ul style="list-style-type: none"> - lower fares and more domestic flights - PAL still uncontested flag carrier both in domestic and international routes
Finance					
Banks	<ul style="list-style-type: none"> - supervision and regulation by CBP - entry is highly restricted 	<ul style="list-style-type: none"> - removal of certain regulations - relaxation in restrictions on entry - strengthening of prudential regulation - development of equity markets 	<ul style="list-style-type: none"> - partial liberalization of entry of foreign banks (RA 7721, 1994) - General Banking Act (RA 8791, 2000) - Securities Regulation Code (RA 8979, 2000) 	BSP	<ul style="list-style-type: none"> - Prudential regulation - lower interest rate spread and lower profit margin after liberalization - trends in mergers and acquisitions of KBs
Nonbanks	<ul style="list-style-type: none"> - supervision and regulation by CBP 	<ul style="list-style-type: none"> - same applies 	<ul style="list-style-type: none"> - Investment Houses Law (RA 8366, 1997) - Financing ACT (RA 8556, 1998) 	BSP	
Insurance	<ul style="list-style-type: none"> - regulation and supervision by IC - restrictions of foreign equity 	<ul style="list-style-type: none"> - opening up to new entrants - removal of restrictions in foreign equity in the life insurance 	<ul style="list-style-type: none"> - full liberalization of entry of foreign insurance (RA 8179, 1996) - Insurance Code 1978 	IC	<ul style="list-style-type: none"> - increase in both domestic and foreign private companies

failures: (1) the presence of asymmetric information, and (2) the presence of systemic risks. Perhaps the more compelling of the two is the second. The risk to one bank is a risk to all. The failure of one bank can be the failure of others, if not the whole system. Thus, regulation of the financial regulation is well founded.

Ideally, regulation should address only the particular market failure it is trying to correct. In the case of the financial sector, this means ensuring the stability and soundness of the banks and the payment system. This also means prudential regulations. It does not mean limiting the number of firms per se. It means disallowing entry only if the entrant could not prove its soundness and stability. Some strides in this area have been made in the financial sector, which appear to have resulted in benefits, as manifested by a better and wider array of services available (and in lower average profit margins after liberalization (Milo 2002).

Finally, an emerging problem common to all is the recent trend towards mergers and acquisition. This could very quickly worsen the state of competition in these markets. Again, this highlights the need for competition policy, especially an effective anti-trust law dealing with mergers and acquisitions. More importantly, the distortions in some of the regulations are increasingly recognized (e.g., access charge for universal application which has created asymmetry between firms, especially between, old and newer firms). This again points to the need for a closer review and re-examination of government policies and regulations, especially their impact on competition and the ideal “competition rules” that will compensate for market failure.

Table 7 gives a summary of findings from the sector studies on competition under PIDS-PASCN.

4

Conclusions and Recommendations

A full-blown national competition policy would require, at the very least, a lot of technical expertise. The competition authority should have very competent and knowledgeable manpower to define markets, identify anticompetitive actions, and judiciously construct and administer competition tests on issues of concentration, agreements, mergers, and acquisitions. As such, a very legitimate question is how ready we are to implement the necessary reforms. Being new in the area of implementing competition policy, the nation requires expertise as well as institution and capability building. The question then is, what is the best way of developing such expertise and institutions? This is on top of addressing the problem of generating public support for reforms and overcoming political constraints.¹¹

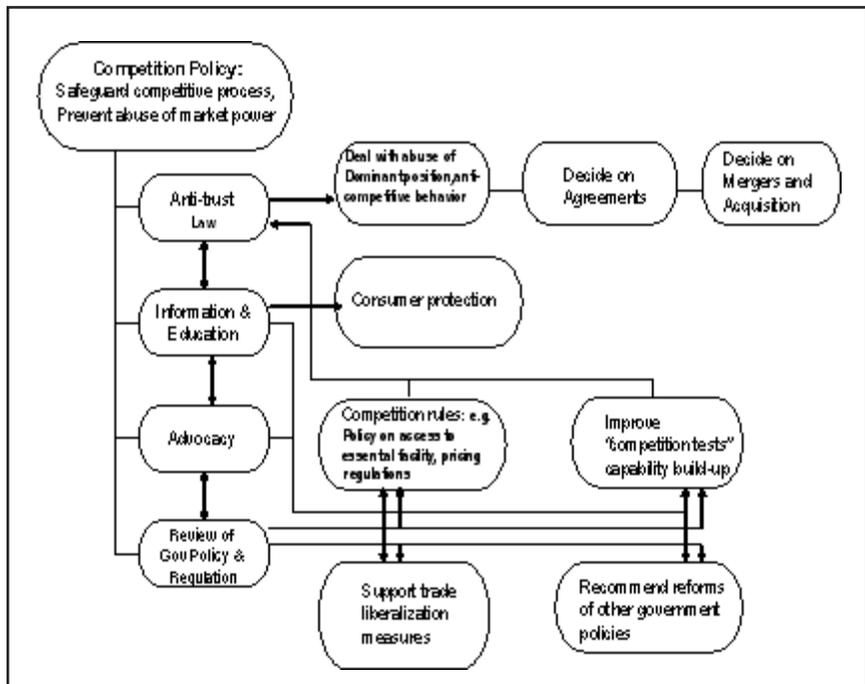
One approach is to do this gradually, or on a piecemeal basis. The government can begin with the creation of a coordinating body, and an austere law, which can be augmented over time and emphasize the establishment of implementing institutions and promotion of competition advocacy. Another approach is to transform an existing body that is performing some of the functions of competition policy. A third approach is to create a new central body that could be designed to develop and evolve into what it should ideally become.

Whatever the approach, a working competition policy should yield the potential outputs represented in Figure 4.

An essential element to implementing a workable competition policy is an effective antitrust law. Such law will be aimed primarily at preventing restrictive business practices and abuse of dominant position. Considering the encompassing nature of competition and the interrelationships and linkages between sectors, it should also be general in application—that is, applicable to all sectors, regardless of ownership. Thus, even firms under

¹¹Indeed there are valid fears about possible regulatory failures—about the “competition authority” making serious errors in judgment (both Type I and Type II), punishing those who should not be punished, and vice versa.

Figure 4. Potential outputs of a national competition policy



certain regulatory boards should be subject to the discipline of the antitrust law. The objectives of the regulatory board would not be violated, as the law would have enough allowances for efficiency and public interest justification. Indeed, it should benefit from the discipline it enforces.

Immediate priority: review of government regulations and policies

Perhaps even more crucial to undertake is the review of government policies and regulations. If the objective is to improve the competitive environment, what is probably most worthwhile to tackle is to reform government policies and regulations which directly interfere in the market. This is mainly for three reasons: (1) their impact on the state of competition is most direct and more visible; (2) much has already been done with respect to trade reforms and it would complement well these reforms; and (3) there is still a long way to go before the antitrust law would be passed and implemented successfully.

In particular, the major tasks involved in the review of government regulations and policies would include the following:

1. The regulatory framework covering natural monopolies and access to essential facilities
2. Possibility of deregulating further certain segments of the industry, where more competition may be introduced

These review activities would result in more definite competition rules, particularly on access to essential (bottleneck) facilities and price regulations. Furthermore, the review would cover ways to improve the administration of the antitrust legislation and build up the administrative capability for its enforcement.

In addition, but possibly with less priority in many cases, competition policy should also be able to review and re-examine major government policies, including education, infrastructure, industrial and agricultural ones, in the light of competition policy objectives. It would not be surprising to find how much incorporating competition policy in these other policy areas could lead to unprecedented benefits. Indeed, analysts already recognize these potential benefits. Often, the stumbling block is the political constraint, which more effective advocacy and information and education campaign could address. A competition authority with unassailable reputation and credibility would be able to achieve what fragmented and disconcerted efforts in the past could not.

Suggested provisions for the Antitrust Law

The Philippines has yet to craft a truly effective legal and regulatory framework for enforcing competition in the economy. How such a framework is to shape up will depend on the design of a simple and enforceable model and a careful consideration of the political realities of the country.

As previously noted, the antitrust law should be general in application. In view of the factors affecting the state of competition and the ideal objectives of competition policy as earlier discussed, there should be rules governing monopolies and cartels, restrictive agreements, mergers and acquisitions, and provisions identifying outright prohibitions of clearly unfair competition practices, all of which are aimed at preventing exploitative and exclusionary abuses. These rules, where possible, should identify prohibitions to simplifying some of the tasks. For other cases, rule of reason, (e.g., by applying judiciously crafted competition tests) should allow for limitation in competition where found to be so justified. The antitrust law should endow investigative powers to whichever agency is tasked to implement it. There should, however, be transparency in the procedures, ideally with some guidelines published. Finally, there should be clear possible course of actions, in terms of remedies and/or penalties for those found to violate the antitrust law. As suggested in the World Bank/OECD Framework for the Design and Implementation of Competition Law and Policy, the rules should cover the following provisions:

1. Rules governing monopolies and cartels and abuse of dominant position
 - a. Determine if the firm has dominant position.
 - b. Examine entry barrier conditions.
 - c. Identify the prohibitions involving anticompetitive actions (creating obstacles to entry, e.g., predatory pricing).

- d. Set guidelines on allowable what anticompetitive, exclusionary actions could be allowed. There should be a competition test to determine if the obstacle to entry is solely created by increasing the efficiency of the firm. This competition test allows for limiting competition on efficiency grounds
 - e. Burden of proof – firm
 - f. Provide for possible remedies (e.g., reorganize, divest, etc.)
2. Rules governing restrictive agreements. The premise is that not all agreements are cartel agreements. Similar considerations apply as in the case for rules governing concentrations such as the following:
 - a. Identify certain prohibitions, including clear cartel agreements (naked restraints of trade) such as:
 - i. Price fixing or setting
 - ii. Output fixing or setting
 - iii. Bid rigging
 - iv. Division of markets
 - b. Examine entry barrier conditions.
 - c. Identify other forms of anticompetitive (exclusionary) conduct where rule of reason could apply.
 - d. Set competition test guidelines.
 - e. Burden of proof – firm
 3. Rules governing mergers and acquisitions
 - a. Examine entry barrier conditions.
 - b. Set and define threshold for small mergers, where prior notification is not required.
 - c. Set rule-of-reason guidelines for allowable mergers and acquisitions even for those above the threshold. In this regard, a competition test should show efficiency gains.
 - d. Burden of proof – firm.
 4. Provisions for prohibited unfair competition practices. List specific unfair competition practices that should be prohibited. Examples are as follows:
 - a. Distribution of false or misleading information, which could harm competing firm.
 - b. Distribution of false or misleading information (including information lacking basis) to consumers (e.g., related to price, quality, characteristics, etc.).
 - c. Unauthorized use, receipt, or dissemination of confidential scientific, technical, production, business, or trade information.

Thus far, the recommendation is silent on whether there should be additional mandate to incorporate the other elements of competition policy in the legislation and if a central competition authority should be created. This is because of the huge implications of creating such a body. This is the biggest issue that would need to be resolved. It is still too early to tell the most feasible and effective way to implement competition policy. For sure, a “good”

central authority is best able to accomplish the task. Whether it is feasible to create one, however, is another question. The challenge is how to craft a competition law authorizing the creation of a national competition authority that would one day evolve into what it should become.

Whatever the approach, initial efforts should already focus on the development of physical and human capital, training of judges, education of consumers, business community, and government officials on the rationale for and content of antitrust statute. The government should allow the institutional foundations for the competition policy system to be established first and the enforcement of comprehensive set of commands to be introduced, and this could take some time. The drafting of the law and creation of such a competition authority should follow a study of the major sources of market failure and to identify distinctive institutional conditions that affect the choice of strategies for correcting such failures.

In the long run, the government should work toward creating such a competition authority. Ideally, this authority would be responsible not just for the prevention of anticompetitive behavior of firms, or simply antitrust legislation, but also for the broader area of competition policy and law, including a review of existing government policies and regulations from the point of view of competition policy, supported by competition advocacy and information and education campaign.

Bottomline

In sum, the Philippines has undertaken major reforms in what could be considered the first layer of competition policy—trade reforms. It has also implemented steps in what could be considered the second layer of competition policy—deregulation. However, a lot more needs to be done to move it a step further and develop more rational competition rules. The paper thus suggests that this should get the priority and focus of reforms in improving the state of competition in the Philippines. Nonetheless, the government sooner or later must decide to what extent it wishes to implement what could be considered the third layer of competition policy—the core competition policy, which deals directly with the anticompetitive behavior of firms—a working antitrust law.

Appendix Table 1. Trade policy reforms

Sector	Major Reforms	Description	Nominal Tariffs (in %)		No. of Regulated Items	
			1980	2001	1980	1996
Overall	<ul style="list-style-type: none"> - TRP I (1981-1985) - Import Liberalization Program - TRP II - EO 470, 1991 (1991-1995) - TRP III - EO 264, 1995 - TRP IV - EO 465, 1998 - TRP IV - EO-334, 2001 	<ul style="list-style-type: none"> - tariff band was narrowed from 10%-100% to 10%-50% - elimination of quantitative restrictions (import quotas, prohibitions, licensing requirements) - narrowed down tariff range within a 3%-30%; HS lines was reduced by 10% from 6,193 tariff lines to 5,561 lines - uniform tariff rate of 5% by the year 2004 - tariff recalibration from 3%-10-20-30% to more flexible 0%-5-7-10-15-20 25-30% - tariff schedule from 2001 to 2004 for all products (excluding certain meat products under HS Chapter 2, rice, corn & sugar) with tariff band of 0% -5% in 2004 	41.37	7.72	1,820	175
Agriculture, Fishery and Forestry	<ul style="list-style-type: none"> - TRP III - EO 288, 1996 - TRP III - EO 313, 1996 - Agricultural Tariffication Act (RA 8178, 1996) - Agriculture and Fisheries Modernization Act (RA 8435, 1997) 	<ul style="list-style-type: none"> - tariff reductions on nonsensitive agricultural products (not covered by QRs) - interim tariff protection to sensitive agricultural products; 170 lines subject to tariff quotas - an Act Replacing Quantitative Restrictions on Agricultural Products except Rice with Tariffs, to implement tariffication of agricultural products as part of Philippine commitment to WTO Agreement on Agriculture - trade and fiscal incentives to agricultural enterprises: exempting from payment of tariff duties on all types of imported agricultural and fishery inputs, equipment and machineries for five years 	61.1	14.25	253	10

Appendix Table 1 (cont'd.)

Sector	Major Reforms	Description	Nominal Tariffs (in %)		No. of Regulated Items	
			1980	2001	1980	1996
	- Philippine Fisheries Code (RA 8550, 1998)	- for the availment of incentives for commercial fishers to encourage fishing vessel operators to fish farther in the Exclusive Economic Zone (EEZ) and beyond				
	- TRP IV - EO 334, 2001	- only a limited range of sensitive agricultural products with a 2004 tariff of 30 percent				
Mining and Quarrying	- TRP I - IV	- significant tariff reductions and removal of import restrictions	18.36	3.25		
Manufacturing	- TRP III - EO 264, 1995	- tariff modifications for industrial products, 3 percent (raw materials and intermediate goods) and 10 percent (finished products) in 2003	39.07	6.68	1,567	165
	- TRP III - EO 461, 1998	- tariff of 3 percent on imported crude oil and refined petroleum products				
	- TRP IV - EO 465, 1998	- recalibration of tariff rates for 22 industries identified as "Philippine winners" on the basis of global competitiveness, employment and interindustry linkages (motor vehicle parts, processed foods, electronics, garments, etc.)				
	- TRP IV - EO 486, 1998	- recalibrated tariff schedules for the residual items; reduced to 144 tariff lines subject to tariff quotas				

Appendix Table 2. Government regulations: Mandate and regulatory functions

Sector	Regulating Agency	Mandate	Regulatory Functions	Major Reforms Implemented
Agriculture, fishery and forestry				
Agriculture	DA	- promotion of agricultural development	- certification; licensing (import/chemicals); quarantine regulations	- various reorganization and implementation of different programs
Palay Corn	NGA (PD 4, 1972) NFA (EO 1028, 1985)	- regulatory powers over grains industry; implementation of food security program	- monitoring and enforcement of rules and regulations; licensing and registration of all grains business; first right to import rice in accordance with food security program	- deregulation of trading food products; termination of nongrains trading activities; lifting of price controls (EO 1028, 1985)
Sugarcane	PHILSUCOM (PD 388, 1977) SRA (EO 18, 1987)	- regulation and development of the sugar industry including the allocation of sugar production and export quota	- licensing of traders; que-danning and withdrawals of sugar; sugar and molasses importations; shipping permit	- production is still regulated but allowed free enterprise; promote greater and significant participation of the private sector
Livestock	BAI	- development and expansion of livestock, poultry and dairy industries	- prescribe standards for the quality of manufacture, importation, distribution and sale of livestock, poultry and allied industries	
Fishery	BFAR and BAFPS	- set and implement standards for fresh, processed agricultural and fishery products	- formulate and enforce standards of quality in processing, importation, exportation, distribution of agricultural and fisheries products	
Forestry	BFD (PD 705, 1975) FMB (EO 192, 1987)	- to increase production and ensure the efficiency and effectiveness of forest management	- set and implement charges for illegal logging, large-scale log smuggling	- Revised Forestry Code of 1991 - National Integrated Protected Areas System (NIPAS) Act of 1992 - Adopting Community-based Forest Management

Appendix Table 2 (cont'd.)

Sector	Regulating Agency	Mandate	Regulatory Functions	Major Reforms Implemented
Industry				
Mining and Quarrying	MGB	- offers various technical, administrative and laboratory services	- issuance of mining rights; geological/ mining investigation and verification	
Manufacturing	BTRCP	- formulation and implementation of Trade Regulation and Fair Trade Laws, protection to the consuming public	- licensing and accreditation of establishments; compliance of business name registration; regular price monitoring	
	BPS	- develop, implement and coordinate standardization	- strict enforcement of the Price Act (RA 7581)	
Industrial chemicals	FIA (PD 135, 1973)	- assure adequate supply of fertilizers and pesticide at reasonable prices; rationalize the manufacture and marketing	- standard development, standards implementation/promotion	- removal of procurement control; scrapping of price-setting function; discontinuance of the issuance of FPA Import permit
Other chemical products	FPA (PD 1144, 1977)		- quality assurance and strict monitoring system for product safety	
Petroleum refineries	BOE (PD 1206, 1977)	- regulate and ensure adequate supply of petroleum products	- regulates and fixes prices on petroleum products	- enactment of RA 8479: Downstream Oil Industry Deregulation Act of 1998
Products of coal and petroleum	ERB (EO 172, 1987)			
Cement	PCIA (PD 94, 1973)	- development of the cement industry	- allocate supply, control prices, regulate entry; setting production quotas through the industry association (Philcemcor)	- abolition of PCIA (EO 133, 1987)
				- price deregulation (DTI Adm No. 10, 1991)
Construction	CIAP	- promote, accelerate, and regulate the growth and development of the construction industry	- issues licenses to contractors; suspends/ revokes licenses through Philippine Contractor's Accreditation Board (PCAB)	

Appendix Table 2 (cont'd.)

Sector	Regulating Agency	Mandate	Regulatory Functions	Major Reforms Implemented
Electricity, Gas and Water				
Electricity	ERB (EO 172, 1987) ERC (RA 9136, 2001)	- independent regulatory body performing the combined quasi-judicial, quasi-legislative and administrative functions in the electric sector	- determine, fix and approve transmission and distribution charges and retail rates imposed by distribution utilities; grant, revoke, review and modify certificates, permits, licenses to generation companies	- enactment of Electric Power Industry Reform Act 2001 (RA 9136) provides for the creation of the following: 1) National Transmission Company, 2) Power Sector Asset and Liabilities Management Corp., 3) New Energy Regulatory Commission, 4) Wholesale Electricity Spot Market, and 5) privatization of NAPOCOR
Water	NWRC (PD 424, 1974) NWRB (EO 1124-A, 1987)	- development of all water resources (utilization, conservation and protection)	- grant water permits and Certificate of Public Convenience (CPC); supervise and control all water utilities and their franchises; levy reasonable fees and charges on users and distribution of raw water	- National Water Crisis Act 1997 (RA 8041) mandated by MWSS to enter into an agreement with Maynilad Water Services, Inc. and Manila Water Company to provide water, sewerage and sanitation services EO 124 (1987) abolished RWDC and transferred its function asset to LWUA
Services				
<i>Transportation, Storage and Communication</i>				
Transportation				
Land	BOT (1979) LTFRB (1987)	- rationalize, regulate and supervise all motorized land-based transportation services	- process, approve or deny franchise applications; issuance of CPC; fare rates determination and special permits	- simplifying the franchising system, more strict in issuance of franchises to operate
Water (Shipping)	MARINA (PD 474, 1974) PPA (PD 505, 1974) (EO 857, 1987)	- tasked with the overall development of the shipping industry - development, management of all port system; regulation of port operators	- accreditation of shipping enterprises; issuance of Certificate of Public Convenience - selection of port operators; determination and collection of fees for port-related services	- some deregulation measures in domestic shipping; lowering of rates; improvement of quality service, upgrading of facilities

Appendix Table 2 (cont'd.)

Sector	Regulating Agency	Mandate	Regulatory Functions	Major Reforms Implemented
Air	CAB (PD 1462, 1947) (RA 776)	- regulates the economic aspect of civil aviation; exercise general supervision and regulation over air carriers	- determines rates of fares charged by air carriers; prescribes and regulates their routes or areas of operations; establishes standards and specifications concerning CPC	- Domestic and International Civil Aviation Liberalization (EO 219, 1995) means the incremental removal of regulatory restraints with corresponding adoption of safety nets
Communication	BOC (1972) TCB (1974) NTC (EO 546, 1979)	- promotion and development of telecommunications industry - supervision, regulation and control of all telecommunications services	- issuance of CPC; regulates operations of public service communications; grants permits for the use of radio frequencies	- enactment of Public Telecommunications Act (RA 7925)
Trade Wholesale Retail	 BTRCP	 - BTRCP mandate	 - BTRCP regulatory function	 - Retail Trade Act which allowed entry of foreign retail establishment
Finance Banks	CBP (1949) BSP (RA 853)	- regulates and supervises the banking system; exercises regulatory powers over the operations of NFIs	- impose minimum capital requirements for banks; provides monetary and credit regulations aimed at ensuring the liquidity and solvency of banks	- establishment of the Bangko Sentral ng Pilipinas, New Central Bank Act of 1993 (RA 7653); partial entry of foreign banks (RA 7721); enactment of General Banking Law of 2000 (RA 8791)
Nonbanks				- Investment Houses Law (RA 8366); Financing Act (RA 8556); Securities Regulation Code (RA 8979)

Appendix Table 2 (cont'd.)

Sector	Regulating Agency	Mandate	Regulatory Functions	Major Reforms Implemented
Insurance	OIC (RA 275, 1949) IC (PD 63, 1972)	- regulation, supervision and adjudication of the insurance industry	- promulgate rules and regulations; license insurance firms, brokers, agents and rehabilitate delinquent insurance companies	- Full liberalization of entry of foreign insurance (RA 8179, 1996)
Real Estate, Renting and Business Services				
Ownership of dwelling	HSRC (PD 1369, 1978)	- planning, regulatory and quasi-judicial body of land use development, real estate and housing regulation	- enforce laws, rules, standards and guidelines on housing and real estate development	
Real estate	HLURB (EO 90, 1986)		- issuance of license to sell	
Business services	BTRCP	- BTRCP mandate	- BTRCP regulatory function	
Private Services				
Educational	DECS	- supervises basic and secondary education of both public and private institutions	- regulation of public and private schools	
	CHED (RA 7722, 1994)	- supervises tertiary and graduate education of both public and private institutions	- issuance of Authority to Operate, granting of University status, endorsement of tax exemptions	
Medical and health	DOH	- ensure access to basic public health services through provision of quality health services	- licensing and accreditation of health facilities and services; health devices and technology; ensure safety, quality of products for the protection of public health	- Magna Carta of Health Workers

References

- Abad, A.R. 2002. Recommendations for Philippine antitrust policy and regulation. In *Toward a national competition policy for the Philippines*, edited by E. Medalla. Makati City: Philippine Institute for Development Studies.
- Aldaba, R.M. 2002. The state of competition in the manufacturing sector. In *Toward a national competition policy for the Philippines*, edited by E. Medalla. Makati City: Philippine Institute for Development Studies.
- Austria, M.S. 2002. The state of competition and market structure of the Philippine air transport industry. In *Toward a national competition policy for the Philippines*, edited by E. Medalla. Makati City: Philippine Institute for Development Studies.
- Baumol, W. and R. Willig. 1981. Fixed cost, sunk cost, entry barriers and sustainability of monopoly. *Quarterly Journal of Economics* 96 (3): 405-31.
- Bautista, R.M., J.H. Power and Associates. 1979. *Industrial promotion policies in the Philippines*. Makati City: Philippine Institute for Development Studies.
- Gilbert, R.J. 1990. The role of potential competition in industrial organization. *Journal of Economic Perspectives* 4 (2): 215.
- Lamberte, M., D. de Dios, D. Flores, J. Tabbada and E. Ramiro. 1992. Barriers to entry study. Final Report (volume 1). Manila: United States Agency for International Development.
- Medalla, E.M. 2002a. Overview and integrative report. In *Toward a national competition policy for the Philippines*, edited by E. Medalla. Makati City: Philippine Institute for Development Studies.
- _____. 2002b. Government policies and regulations: interrelationship with competition policy objectives. In *Toward a national competition policy for the Philippines*, edited by E. Medalla. Makati City: Philippine Institute for Development Studies.
- _____. 2002. Trade and industrial policy beyond 2000: an assessment of the Philippine economy. In *The Philippines beyond 2000: an economic assessment*, edited by J. Yap. Makati City: Philippine Institute for Development Studies.
- _____, G. Tecson, R. Bautista and J. Power and Associates. 1996. *Catching up with Asia's tigers* Volume 2. Makati City: Philippine Institute for Development Studies.
- Milo, M. 2002. Analysis of the state of competition and market structure of the banking and insurance sectors. In *Toward a national competition policy for the Philippines*, edited by E. Medalla. Makati City: Philippine Institute for Development Studies.
- Pineda, V.S. 1997. Effects of the uniform five percent tariff on manufacturing. PIDS Discussion Paper Series No. 97-16. Makati City: Philippine Institute for Development Studies.
- Serafica, R.B. 2002. Competition in Philippine telecommunications: a survey of the critical issues. In *Toward a national competition policy for the Philippines*,

edited by E. Medalla. Makati City: Philippine Institute for Development Studies.

- Stigler, G.J. 1968. *The organization of industry*. Homewood, Illinois: Richard D. Irwin, Inc.
- Tan, E.A. 2002. The structure and inflation of tuition fees in Philippine colleges and universities. Paper presented during the PIDS-Philippine Economic Society Distinguished Speakers' Lecture Series, September 5, Carlos P. Romulo Hall, NEDA Bldg., Makati City.
- U, P.L. 2002. Competition policy in the Philippine downstream petroleum industry. In *Toward a national competition policy for the Philippines*, edited by E. Medalla. Makati City: Philippine Institute for Development Studies.
- World Bank (WB) and Organization for Economic Cooperation and Development (OECD). 1999. *A framework for the design and implementation of competition law and policy*. Washington, D.C.: World Bank.

List of Titles

under the *Perspective Paper Series*

- 1 A Perspective on Macroeconomic and Economy-wide Quantitative Models of the Philippines: 1990-2002 (Josef T. Yap)
- 2 The Poverty Fight: Has It Made an Impact? (Celia M. Reyes)
- 3 The Philippines in the Global Trading Environment (Myrna S. Austria)
- 4 Philippine Competition Policy in Perspective (Erlinda M. Medalla)
- 5 Central Banking in the Philippines: Then, Now and the Future (Mario B. Lamberte)
- 6 Financial Services Integration and Consolidated Supervision: Some Issues to Consider for the Philippines (Melanie R.S. Milo)
- 7 Infrastructure Development: Experience and Policy Options for the Future (Gilberto M. Llanto)
- 8 The Quest for a Better Environment: Past Experiences and Future Challenges (Danilo C. Israel)
- 9 Education, Labor Market and Development: A Review of the Trends and Issues in the Philippines for the Past 25 Years (Aniceto C. Orbeta Jr.)
- 10 Research and Development and Technology in the Philippines (Caesar B. Cororaton)
- 11 Rethinking Institutional Reforms in the Philippine Housing Sector (Marife M. Ballesteros)

The Philippines has undertaken major reforms in what could be considered the first layer of competition policy—trade reforms. It has also implemented steps in what could be considered the second layer of competition policy—deregulation. However, a lot more needs to be done to move it a step further and develop more rational competition rules.

Philippine Institute for Development Studies

Surian sa mga Pag-aaral Pangkaunlaran ng Pilipinas

NEDA sa Makati Building

106 Amorsolo Street, Legaspi Village

1229 Makati City, Philippines

Tel.: (63-2) 892-4059 / 893-5705 / 892-5812

Fax: (63-2) 893-9589 / 816-1091

E-mail: publications@pidsnet.pids.gov.ph

Website: <http://www.pids.gov.ph>