Comm2 Reviewer
Part IV (Ch. 15)

Competition Foundations, Scope & Market · Prohibited Conduct & Mergers · PCC, Confidentiality & Remedies

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CONTENTS

Part IV-A	**Competition Foundations, Scope, Market** Aquino 2024, Ch.15 pp.1014-1031 · Competition & importance · Constitutional provisions (Art. XII) · Deterrence methods & PCA tools · Scope of the PCA · Relevant market & single economic unit	2
Part IV-B	**Prohibited Conduct, Mergers** Aquino 2024, Ch.15 pp.1033-1064 · Anti-competitive agreements · Abuse of dominant position · Mergers & acquisitions control	23
Part IV-C	**PCC, Confidentiality, Remedies** Aquino 2024, Ch.15 pp.1069-1084 · Philippine Competition Commission · Composition, term & qualification · Confidentiality · Remedies of the entity	44

Each part begins on a new page and follows the same shape: coverage map, objectives, authority inventory, study plan, self-check, then the book + authority discussion with case cards, drills, recall tables and exam traps.

Part IV-A — Competition Foundations, Scope, Market

PART 1 — SYLLABUS

1. Coverage Map

§	Topic	Priority	The one rule you must state cold	Authority
1	Competition and importance, constitutional provisions, policies and rationale with the goals of competition law and the goals of the national economy	Core	Section 19 of Article XII makes competition the constitutional principle and commands the State to regulate or prohibit monopolies when the public interest so requires, while no combination in restraint of trade or unfair competition is ever allowed	1987 Constitution Art. XII Secs. 1, 19; R.A. No. 10667 Sec. 2; Tatad v. Secretary of DOE (G.R. No. 124360, 1997)
2	Methods to deter anti-competitive conduct and the tools under the PCA with the three pillars	Core	Crime under Section 14(a) and 14(b) draws two to seven years with a P50,000,000 to P250,000,000 fine, other violations draw administrative fines after notice and hearing, and the three pillars are anti-competitive agreements, abuse of dominant position, and anti-competitive mergers and acquisitions	R.A. No. 10667 Secs. 14, 15, 17, 20, 29, 30, 35, 36, 37, 45

§	Topic	Priority	The one rule you must state cold	Authority
3	Scope of the PCA, the relevant market rule with product and geographic markets, and the single economic unit rule	Core	The Act reaches every person or entity in Philippine trade, industry, and commerce plus foreign acts with direct, substantial, and reasonably foreseeable local effects, the relevant market joins product interchangeability with geographic homogeneity, and entities under common control that cannot act independently are never competitors	R.A. No. 10667 Secs. 3, 4(g), 4(i), 4(k), 14 last paragraph, 24, 25, 26, 27; Gios-Samar v. DOTC (G.R. No. 217158, 2019)

2. Learning Objectives

1. Recite Section 19 of Article XII word for word and explain why competition is the constitutional principle beneath the Act.
2. State the three constitutional goals of the national economy and connect each to the declaration of policy in Section 2 of the Act.
3. Distinguish the goals of competition law in Section 2(a) to 2(c) from the goals of the national economy in Article XII Section 1.
4. List every method that deters anti-competitive conduct with the exact penalty, forum, and condition for each.
5. Name the three pillars of competition regulation and cite the section that carries each one.
6. Run the scope checklist in order: covered person, covered commerce, foreign reach, and the labor exception.
7. Define the relevant product market and the relevant geographic market and apply the four Section 24 factors to any facts.
8. Draft a complete answer on foundations, deterrence, scope, or market definition under time.

3. Authority Inventory

A. Cases

Case	G.R./Citation	One-line ratio	§
Tatad v. Secretary of DOE	G.R. No. 124360 (with G.R. No. 127867), November 5, 1997	Entry barriers that entrench an oligopoly violate Section 19 of Article XII and can void the whole statute	1
Gios-Samar v. DOTC	G.R. No. 217158, March 12, 2019	An exclusive concession is not a monopoly, and dominance, market, and abuse under the Act all need proof of ultimate facts	1, 3
Anglo-Fil Trading v. Lazaro	G.R. Nos. L-54958 and L-54966, September 2, 1983	Exclusivity is inherent in a service concession and public bidding itself protects the public interest	1, 3

B. Laws and Rules

Law	What it does here	§
1987 Constitution Art. XII Sec. 19	Fixes the anti-trust command to regulate or prohibit monopolies with the ban on combinations in restraint of trade and unfair competition	1
1987 Constitution Art. XII Sec. 1	Fixes the goals of the national economy that Section 2 of the Act carries into policy	1
R.A. No. 10667 Sec. 2, approved July 21, 2015	Declares the policy of efficiency, equal opportunity, and consumer welfare with the three State undertakings	1
R.A. No. 10667 Sec. 3	Fixes the scope over all persons and entities in domestic commerce with foreign reach and the labor exception	3
R.A. No. 10667 Sec. 4(g), 4(i), 4(k)	Defines dominant position, market, and the relevant market with its product and geographic components	3
R.A. No. 10667 Sec. 14 with last paragraph	Prohibits anti-competitive agreements and removes commonly controlled entities from the term competitors	2, 3

Law	What it does here	§
R.A. No. 10667 Sec. 15	Prohibits abuse of dominant position as the second pillar	2
R.A. No. 10667 Secs. 16 to 23	Controls mergers and acquisitions as the third pillar with notification, review, and exemption	2
R.A. No. 10667 Secs. 24, 25, 26, 27	Fixes market definition, control, agreement-or-conduct determination, and the fifty percent dominance presumption	3
R.A. No. 10667 Sec. 29	Fixes administrative fines after notice and hearing with the first and second offense schedule	2
R.A. No. 10667 Sec. 30	Fixes criminal liability for Section 14(a) and 14(b) agreements with imprisonment and fine on responsible officers	2
R.A. No. 10667 Secs. 31, 35, 36, 37	Fixes preliminary inquiry, the leniency program, nolo contendere, and non-adversarial remedies	2
R.A. No. 10667 Secs. 41, 45, 46	Fixes tripled fines for basic necessities, the private civil action after preliminary inquiry, and the five-year limitation	2
Art. 186 Revised Penal Code as repealed by R.A. No. 10667 Sec. 55(a)	Carries the old monopolies and combinations rule that the Act replaced without retroactive effect	1, 2

4. Three-Pass Study Plan

Pass	Time	What you do	Output
1	40 percent	Frame controlling provisions: recite Art. XII Sec. 19, Art. XII Sec. 1, and Sections 2, 3, 4(k), 24, and 27 of the Act cold	One-page provision map from memory

Pass	Time	What you do	Output
2	35 percent	Distinguish pairs: monopoly against prohibited monopoly, goals of competition law against goals of the national economy, crime against administrative fine against private action, product market against geographic market, control against single unit	Distinction tables reproduced cold
3	25 percent	Apply problems: one drafted problem per section under time	Three marked answers under time

Why this order: the examiner grades provision-first answers, so the authority filter comes before doctrine. Then confusion pairs win marks because Part IV-A questions punish merged characterizations of monopolies, penalties, scope, and markets.

5. Syllabus Self-Check

1. Recite Section 19 of Article XII word for word. (§1)
2. A lawmaker says all monopolies are unconstitutional. Is the statement correct. (§1)
3. Name the three constitutional goals of the national economy in order. (§1)
4. Name the three State undertakings in Section 2(a) to 2(c) of the Act. (§1)
5. A deregulation law builds a tariff wall that only the three incumbents can climb. What constitutional provision voids it. (§1)
6. An executive agreement fixes prices among all refiners. Which pillar and which penalty attach. (§2)
7. A second offense for price fixing is proven after notice and hearing. State the fine range. (§2)
8. A whistleblower cartel member seeks immunity before any inquiry begins. Name the four conditions. (§2)
9. An injured consumer wants damages while the Commission inquiry is still running. Must the consumer wait. (§2)
10. A foreign cartel rigs bids abroad with direct and foreseeable effects on Philippine supply. Does the Act reach the conduct. (§3)
11. A union deal fixes only working conditions with the employer. Does the Act apply. (§3)

12. Define the relevant product market in one sentence. (§3)
13. Define the relevant geographic market in one sentence. (§3)
14. Name the four Section 24 factors for fixing the relevant market. (§3)
15. Two sister firms under one parent fix prices with each other. Are they competitors under Section 14. (§3)

PART 2 — BOOK + AUTHORITY REVIEWER

0. One-Page Outline

#	Topic	Must-know: provision + elements
1	Competition and importance, constitutional provisions, policies and rationale	Art. XII Sec. 19 bans monopolies as public interest requires with combinations in restraint of trade, Art. XII Sec. 1 sets equitable distribution with sustained increase with expanding productivity, and Sec. 2 of the Act turns both into efficiency, equal opportunity, and consumer welfare
2	Methods to deter conduct and the three tools	Sec. 30 punishes Section 14(a) and 14(b) with two to seven years plus P50,000,000 to P250,000,000, Sec. 29 fines administratively after hearing, Sec. 45 opens private suit after inquiry, Secs. 35 to 37 soften with leniency, nolo, and consent, and Secs. 14, 15, and 16 to 23 carry the three pillars
3	Scope, relevant market, and single economic unit	Sec. 3 covers every trader with foreign effects and excepts labor, Sec. 4(k) joins interchangeable products with homogenous geography, Sec. 24 weighs substitution with cost with switching with access limits, Sec. 25 presumes control past one-half voting power, Sec. 27 presumes dominance at fifty percent share, and the Sec. 14 last paragraph unites commonly controlled firms

Framing questions for every problem: which commanded end is tested (efficiency, access, or welfare). Which provision supplies each element. Which penalty, reach, or market fact defeats the other side. What remedy and what forum close the case.

Mnemonic for the three sections: Compete Fair, Punish Sure, Define Tight (C-P-D). Numbers: 19 (constitution), 1 (economy), 2 (policy), 3 (scope), 4 and 24 (market), 25 (control), 27 with 50 (dominance), 14 last paragraph (single unit), 29 and 30 (punish), 46 with 5 (limit).

1. Competition and Importance; Constitutional Provisions; Policies and Rationale

> "The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed."
>
> "The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged. The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets. However, the State shall protect Filipino enterprises against unfair foreign competition and trade practices. In the pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum opportunity to develop. Private enterprises, including corporations, cooperatives, and similar collective organizations, shall be encouraged to broaden the base of their ownership."
>
> "The efficiency of market competition as a mechanism for allocating goods and services is a generally accepted precept. The State recognizes that past measures undertaken to liberalize key sectors in the economy need to be reinforced by measures that safeguard competitive conditions. The State also recognizes that the provision of equal opportunities to all promotes entrepreneurial spirit, encourages private investments, facilitates technology development and transfer and enhances resource productivity. Unencumbered market competition also serves the interest of consumers by allowing them to exercise their right of choice over goods and services offered in the market. Pursuant to the constitutional goals for the national economy to attain a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged and the constitutional mandate that the State shall regulate or prohibit monopolies when the public interest so requires and that no combinations in restraint of trade or unfair competition shall be allowed, the State shall: (a) Enhance economic

> efficiency and promote free and fair competition in trade, industry and all commercial economic activities, as well as establish a National Competition Policy to be implemented by the Government of the Republic of the Philippines and all of its political agencies as a whole; (b) Prevent economic concentration which will control the production, distribution, trade, or industry that will unduly stifle competition, lessen, manipulate or constrict the discipline of free markets; and (c) Penalize all forms of anti-competitive agreements, abuse of dominant position and anti-competitive mergers and acquisitions, with the objective of protecting consumer welfare and advancing domestic and international trade and economic development."

Element or Requisite	Content
Competition and its importance	Competition allocates goods and services efficiently, disciplines liberalized sectors, spreads opportunity with investment and technology, and lets consumers choose freely among offers
Constitutional anchor	Section 19 of Article XII states the anti-trust principle of the Constitution and makes competition the underlying policy of the charter
Monopoly rule	The Constitution never bans every monopoly at once but commands regulation or prohibition when the public interest so requires
Combination rule	Every combination in restraint of trade and every unfair competition stands prohibited without need for a further showing of public interest
Goals of the national economy	Equitable distribution of opportunities, income, and wealth comes first, sustained increase of goods and services for the people comes second, and expanding productivity for the quality of life of all especially the underprivileged comes third
Goals of competition law	Economic efficiency with free and fair competition comes first, prevention of undue economic concentration comes second, and punishment of the three prohibited forms for consumer welfare comes third
Deregulation lesson	A deregulation law defeats itself when its tariff, inventory, and pricing rules build walls that only the entrenched oligopoly can climb
Old rule replaced	Article 186 of the Revised Penal Code once punished monopolies and combinations, and Section 55(a) of the Act now repeals it for later conduct

Competition protects the process while the Constitution protects the nation, so the Act punishes conduct that closes markets and never punishes size alone. Goals of the economy state where the nation must go while goals of competition law state how markets must behave on the way there. A monopoly endures where public interest tolerates it while a combination in restraint of trade falls at once because the ban is absolute.

Case: *Tatad v. Secretary of DOE*, G.R. No. 124360, November 5, 1997

Facts: Congress passed the Downstream Oil Industry Deregulation Act of 1996 with a three percent tariff on imported crude and seven percent on imported refined products, an inventory burden on new players, and a predatory pricing rule, while only Petron, Shell, and Caltex held refineries and storage. Petitioners assailed the tariff differential, the inventory and pricing rules, and the executive order that ordered full deregulation on a ground outside the statute.

Issue: The issue was whether the tariff differential, the inventory requirement, and the predatory pricing rule erect unconstitutional barriers to entry under Section 19 of Article XII and whether the whole deregulation law must fall with them.

Held: The Court held the whole law unconstitutional, because the three provisions favored the entrenched oligopoly and barred new entrants from a truly competitive market, the offending parts so permeated the statute that Congress could not have passed it without them, and the executive had rewritten the deregulation standards by adding the depletion of the stabilization fund.

Doctrine: Section 19 of Article XII is anti-trust in history and in spirit and makes competition its underlying principle. Laws that barricade entry into an oligopoly market must fall. Offending provisions that permeate the essence of a statute void the whole law despite a separability clause.

Q: Congress deregulates the cement industry but keeps a prior-import-volume rule that only the two incumbent importers can meet, and no newcomer can sell a bag without five years of import records. A newcomer assails the rule as an entry barrier. Will the challenge prosper.

A: Yes, because the rule entrenches the incumbents and shuts newcomers out of a supposedly open market.
Section 19 of Article XII commands the State to regulate or prohibit monopolies as public interest requires and absolutely bans combinations in restraint of trade with unfair competition.
The ruling in Tatad v. Secretary of DOE (G.R. No. 124360, 1997) struck down a deregulation law whose tariff, inventory, and pricing rules built walls only the oligopoly could climb.
The prior-volume rule therefore falls as an unconstitutional barrier to a truly competitive market.

Q: A mayor claims that the Constitution bans every monopoly so the city may seize the only ice plant in town without regulation. The owner answers that the plant charges fair prices and serves all buyers. May the city skip regulation and proceed to seizure.

A: No, because the Constitution bans no monopoly per se and commands regulation or prohibition only when the public interest so requires.

A lone plant that serves all buyers at fair prices holds a factual monopoly without a prohibited combination, so the State must first test the facts against the public interest standard.

The ruling in Tatad v. Secretary of DOE (G.R. No. 124360, 1997) treats Section 19 as an anti-trust command against entry barriers and not as an automatic death sentence on every large firm, a reading confirmed in Gios-Samar v. DOTC (G.R. No. 217158, 2019).

The city therefore regulates before it prohibits and seizes nothing without law and just compensation.

2. Methods to Deter Anti-competitive Conduct; Tools under the PCA

> "An entity that enters into any anti-competitive agreement as covered by Chapter III, Section 14(a) and 14(b) under this Act shall, for each and every violation, be penalized by imprisonment from two (2) to seven (7) years, and a fine of not less than fifty million pesos (P50,000,000.00) but not more than two hundred fifty million pesos (P250,000,000.00). The penalty of imprisonment shall be imposed upon the responsible officers, and directors of the entity. When the entities involved are juridical persons, the penalty of imprisonment shall be imposed on its officers, directors, or employees holding managerial positions, who are knowingly and willfully responsible for such violation."
>
> "In any investigation under Chapter III, Sections 14 and 15, and Chapter IV, Sections 17 and 20 of this Act, after due notice and hearing, the Commission shall impose the following schedule of administrative fines on any entity found to have violated the said sections: First offense: Fine of up to one hundred million pesos (P100,000,000.00); Second offense: Fine of not less than one hundred million pesos (P100,000,000.00) but not more than two hundred fifty million pesos (P250,000,000.00). In fixing the amount of the fine, the Commission shall have regard to both the gravity and the duration of the violation."

Element or Requisite	Content
Criminal method	Section 14(a) and 14(b) agreements draw two to seven years with a P50,000,000 to P250,000,000 fine for each violation, imposed on knowing and willful officers, directors, and managerial employees
Administrative method	Sections 14, 15, 17, and 20 violations draw fines after notice and hearing up to P100,000,000 for the first offense and P100,000,000 to P250,000,000 for the second, scaled to gravity and duration
Enforcement aids	Refusal to obey a Commission order draws P50,000 to P2,000,000 per violation with daily accrual from the forty-fifth day, and knowingly false filings draw up to P1,000,000
Private method	Any person directly injured may bring a separate and independent civil action after the Commission completes the preliminary inquiry under Section 31
Leniency method	The first reporter before inquiry starts earns immunity on four conditions, and a later reporter earns leniency on three harder conditions with full and continuing cooperation always required
Nolo method	An accused entity may plead nolo contendere only up to arraignment and later only with court permission, and the plea never proves liability in the civil suit
Consent method	Binding rulings, show cause orders, and consent judgments let a willing entity comply, stop, pay within the fine range, compensate victims, and report compliance before any case is filed
Basic-necessities multiplier	Fines triple where the violation moves basic necessities and prime commodities under R.A. No. 7581 as amended
Prescription guard	Every action prescribes in five years from discovery for crimes and from accrual for administrative and civil cases
First pillar	Section 14 prohibits anti-competitive agreements among competitors with per se and effects-based rules
Second pillar	Section 15 prohibits abuse of dominant position through conduct that substantially prevents, restricts, or lessens competition
Third pillar	Sections 16 to 23 review mergers and acquisitions and prohibit those that substantially prevent, restrict, or lessen competition in the relevant market

Crime punishes the cartel while the fine prices the violation, so the same agreement can send officers to prison and bill the entity at once. A private suit compensates the victim while leniency buys the evidence, so the State recovers money and truth together. Per se condemnation needs no market weighing while effects analysis weighs harm against efficiency, so the pillar invoked decides the proof required.

Q: All four refiners agree to fix pump prices and rotate winning bids for government fuel. The finance manager who signed the minutes seeks immunity and tells everything after the inquiry has started. The Department of Justice charges the presidents. Who goes to jail and what happens to the manager.

A: The knowing and willful presidents face two to seven years with a P50,000,000 to P250,000,000 fine each while the manager may earn leniency but never automatic immunity.
Section 30 punishes every Section 14(a) and 14(b) agreement per violation on responsible officers, and price fixing with bid rotation sits per se prohibited so no efficiency defense saves it.
Section 35 grants a late reporter leniency only as the first to come forward with full and continuing cooperation where conviction evidence is still lacking and fairness allows.
The presidents therefore stand trial for the cartel while the manager keeps only a chance at leniency.

Q: A consumer group proves a flour mill abused its dominant position and asks the Commission for P80,000,000 on first offense plus damages for every baker overcharged. The mill argues one forum must choose one remedy. Must the Commission stop at the fine.

A: No, because the administrative fine and the private civil action answer different injuries and run on separate tracks.
Section 29 lets the Commission fine up to P100,000,000 on first offense after notice and hearing with gravity and duration guiding the amount, and Section 45 lets every directly injured person sue separately after the preliminary inquiry closes.
The mill pays the State for the violation and pays the bakers for their losses, with triple fines if flour counts as a basic necessity.
The Commission therefore imposes the fine while the bakers pursue their own civil case.

3. Scope of the PCA; Relevant Market Rule; Single Economic Unit Rule

> "This Act shall be enforceable against any person or entity engaged in any trade, industry and commerce in the Republic of the Philippines. It shall likewise be applicable to international trade having direct, substantial, and reasonably foreseeable effects in trade, industry, or commerce in the Republic of the Philippines, including those that

result from acts done outside the Republic of the Philippines. This Act shall not apply to the combinations or activities of workers or employees nor to agreements or arrangements with their employers when such combinations, activities, agreements, or arrangements are designed solely to facilitate collective bargaining in respect of conditions of employment."

"Relevant market refers to the market in which a particular good or service is sold and which is a combination of the relevant product market and the relevant geographic market, defined as follows: (1) A relevant product market comprises all those goods and/or services which are regarded as interchangeable or substitutable by the consumer or the customer, by reason of the goods and/or services' characteristics, their prices and their intended use; and (2) The relevant geographic market comprises the area in which the entity concerned is involved in the supply and demand of goods and services, in which the conditions of competition are sufficiently homogenous and which can be distinguished from neighboring areas because the conditions of competition are different in those areas."

"For purposes of determining the relevant market, the following factors, among others, affecting the substitutability among goods or services constituting such market and the geographic area delineating the boundaries of the market shall be considered: (a) The possibilities of substituting the goods or services in question, with others of domestic or foreign origin, considering the technological possibilities, extent to which substitutes are available to consumers and time required for such substitution; (b) The cost of distribution of the good or service, its raw materials, its supplements and substitutes from other areas and abroad, considering freight, insurance, import duties and non-tariff restrictions; the restrictions imposed by economic agents or by their associations; and the time required to supply the market from those areas; (c) The cost and probability of users or consumers seeking other markets; and (d) National, local or international restrictions which limit access by users or consumers to alternate sources of supply or the access of suppliers to alternate consumers."

"Dominant position refers to a position of economic strength that an entity or entities hold which makes it capable of controlling the relevant market independently from any or a combination of the following: competitors, customers, suppliers, or consumers;"

"There shall be a rebuttable presumption of market dominant position if the market share of an entity in the relevant market is at least fifty percent (50%), unless a new market share threshold is determined by the Commission for that particular sector. The

> Commission shall not consider the acquiring, maintaining and increasing of market share through legitimate means not substantially preventing, restricting, or lessening competition in the market such as but not limited to having superior skills, rendering superior service, producing or distributing quality products, having business acumen, and the enjoyment and use of protected intellectual property rights as violative of this Act."
>
> "An entity that controls, is controlled by, or is under common control with another entity or entities, have common economic interests, and are not otherwise able to decide or act independently of each other, shall not be considered competitors for purposes of this section."

Element or Requisite	Content
Covered person	Every person, natural or juridical, sole proprietorship, partnership, combination, or association in any form, domestic or foreign, including government owned or controlled entities in economic activity
Covered commerce	Every trade, industry, and commerce inside the Republic without sector exception
Foreign reach	International trade with direct, substantial, and reasonably foreseeable effects on Philippine trade, industry, or commerce, even from acts done abroad
Labor exception	Combinations and activities of workers or employees with employer deals solely for collective bargaining on employment conditions
Relevant product market	All goods or services the consumer regards as interchangeable or substitutable by characteristics, prices, and intended use
Relevant geographic market	The area of supply and demand where competition conditions stay sufficiently homogenous and differ from neighboring areas
Substitution factor	Technological possibility, availability of substitutes to consumers, and time needed to switch
Distribution-cost factor	Freight, insurance, duties, non-tariff limits, private restrictions, and time to supply from other areas
Switching factor	Cost and probability of users seeking other markets
Access-limit factor	National, local, or international limits on alternate supply and alternate customers

Element or Requisite	Content
Control test	Control is presumed past one-half of voting power, and exists at or below one-half through voting pacts, direction of policy, board appointment or removal, majority of board votes, asset ownership or use, or decisive-rights contracts
Dominance test	Share with unilateral price or output power, barriers to entry, rival strength, input access, customer switching power, recent conduct, and other Commission criteria
Fifty percent presumption	Fifty percent share presumes dominant position subject to rebuttal and to a new sector threshold the Commission may set
Legitimate-means shield	Superior skill, service, product, business acumen, and intellectual property never count as violations by themselves
Single economic unit	Commonly controlled entities with common interests that cannot decide or act independently are never competitors under Section 14
Conduct determination	The Commission defines the market, measures actual or potential substantial harm against efficiency gains, looks forward and backward, balances enforcement against overdeterrence, and weighs all evidence including reasonable commercial purpose

Scope asks who must obey while market asks where competition happens, so foreign conduct obeys where local effects land and sister firms escape where independence is gone. Product likeness asks what buyers swap while geographic homogeneity asks where sellers truly meet, so island freight can split one product into two markets. Dominance presumes power from share while abuse proves misuse from conduct, so fifty percent opens the inquiry and never closes it.

Case: *Gios-Samar v. DOTC*, G.R. No. 217158, March 12, 2019

Facts: The transport department bundled six regional airports into two bid bundles for thirty-year development, operation, and maintenance concessions under the build-operate-transfer law. A taxpayer group sued directly in the Supreme Court to stop the bidding and alleged monopoly, restraint of trade, dummy arrangements, and grave abuse of discretion without pleading market facts or impleaded corporate identities.

Issue: The issue was whether the bundling created a prohibited monopoly and combination in restraint of trade and whether the Court could decide those claims without trial-level proof of the relevant market and dominant position.

Held: The Court dismissed the petition, because constitutional and statutory monopoly claims need ultimate facts on the market, the position, and the abuse that only evidence can supply, an

exclusive service concession is never a monopoly by itself, and direct resort to the Court fails where factual questions remain.

Doctrine: Hierarchy of courts binds even transcendental claims, and transcendental importance excuses standing defects but never supplies missing facts. The State punishes abuse of dominant position and never the position itself. Exclusivity inheres in a service concession and public bidding protects the public interest.

Q: Two shipping lines serve the same island route and charge identical fares. A new entrant proves passengers treat the two lines as fully swappable but proves freight from the rival port costs twice as much with twice the sailing time. The lines claim one national market while the entrant claims an island market. Which market controls.

A: The island market controls if competition conditions there stay homogenous and differ from the national picture.
The relevant geographic market turns on where supply and demand truly meet with shared conditions, and Section 24 weighs distribution cost with time to supply and the cost and probability of users seeking other ports.
Passenger swappability fixes the product market while island freight and sailing time split the geography.
The Commission therefore defines the island as the relevant geographic market before testing dominance and abuse inside it.

2024 Bar Q: 3. Ernest Bicycle Corporation (EBC) and Max Speed Corporation (MSC) are the leading manufacturers and sellers of electric bicycles in the country. EBC and MSC offer their bestselling models at PHP 25,000.00 per unit. In 2023, Gryffin Pedals, Inc. (GPI) entered the market and sold electric bicycles with features similar to EBC and MSC's bestselling models for only PHP 20,000.00. GPI has no physical stores and offers its products in digital marketplaces. After a year, GPI had 75% share of the market leaving EBC and MSC at 15% and 10% shares, respectively. EBC and MSC filed a complaint before the Philippine Competition Commission and alleged that GPI is fast monopolizing the electric bicycles market because of its dominant position. Will the complaint against GPI for violation of the competition laws prosper? Explain.

A: No, because a seventy-five percent share only presumes a dominant position while the Act punishes abuse of that position and never the position itself.
Section 27 raises a rebuttable presumption of dominance at fifty percent share yet shields share gained through superior skill, service, product, and business acumen, and Section 15 condemns only conduct that substantially prevents, restricts, or lessens competition such as below-cost

selling with the object of destroying rivals.

GPI sells a similar bicycle twenty percent cheaper through an efficient no-store marketplace model, and nothing shows selling below cost to kill rivals, entry barriers, or exclusionary conditions rather than legitimate price rivalry that benefits consumers.

The complaint therefore fails on dominance alone while EBC and MSC must still prove abusive conduct inside a properly defined relevant market.

Quick-Recall Tables

Provision	Numbers that control
Art. XII Sec. 19 anti-trust command	Regulation or prohibition of monopolies as public interest requires with an absolute ban on combinations in restraint of trade and unfair competition
Art. XII Sec. 1 economy goals	Equitable distribution with sustained increase with expanding productivity for all especially the underprivileged
Sec. 2 policy	Efficiency with free and fair competition, prevention of undue concentration, punishment of the three forms for consumer welfare
Sec. 3 scope	Every trader in domestic commerce with foreign effects that are direct, substantial, and reasonably foreseeable, except labor bargaining
Sec. 4(k) with Sec. 24 market	Interchangeable products by characteristics, prices, and use inside a homogenous area tested by substitution with cost with switching with access limits
Sec. 25 control	Presumed past one-half voting power with six below-half badges from pacts to decisive rights
Sec. 27 dominance	Rebuttable at fifty percent share with legitimate-means shield for skill, service, product, acumen, and intellectual property
Sec. 14 last paragraph single unit	Common control with common interests and no independent decision means never competitors
Sec. 29 administrative fines	Up to P100,000,000 first offense with P100,000,000 to P250,000,000 second offense after notice and hearing
Sec. 30 criminal penalty	Two to seven years with P50,000,000 to P250,000,000 per violation on knowing and willful officers
Sec. 46 limitation	Five years from discovery for crimes and from accrual for administrative and civil cases

Period or Threshold	Figure
Monopoly ban trigger	Public interest so requiring, never automatic

Period or Threshold	Figure
Dominance presumption	At least 50 percent of the relevant market
Control presumption	More than one-half of voting power
First-offense fine ceiling	P100,000,000
Second-offense fine range	P100,000,000 to P250,000,000
Criminal imprisonment	2 to 7 years per violation
Criminal fine range	P50,000,000 to P250,000,000
Non-compliance daily accrual	From the 45th day after receipt
Incorrect-information fine	Up to P1,000,000
Basic-necessities multiplier	Triple the fine
Limitation period	5 years
Transitory cure period	2 years from effectivity under Sec. 53
Effectivity	15 days from publication with no retroactive effect

Scope question	Answer
Who must obey	Every person or entity in any trade, industry, and commerce including government firms in economic activity
Does foreign conduct count	Yes where effects on Philippine commerce are direct, substantial, and reasonably foreseeable
Does a union deal count	No where the deal solely facilitates collective bargaining on employment conditions
Does size alone violate	No, since only abuse of position and prohibited agreements and mergers answer

Market question	Answer
What joins to form it	Product interchangeability with geographic homogeneity
What proves product likeness	Characteristics with prices with intended use
What proves one geography	Shared competition conditions that differ from neighboring areas
What four factors test it	Substitution with distribution cost with switching cost with access limits
Who are never competitors	Commonly controlled firms that cannot act independently

Deterrence question	Rule
Crime or fine for price fixing	Both, since Sec. 30 imprisons officers while Sec. 29 fines the entity

Deterrence question	Rule
Who may seek damages	Every directly injured person after the preliminary inquiry closes
Who earns immunity	The first reporter before inquiry with prompt exit, candor, full cooperation, and no coercion or leadership
What plea limits civil use	Nolo contendere up to arraignment never proves civil liability
What settles without a case	Binding rulings with show cause with consent judgments before filing

Distinction question	Answer
Monopoly against prohibited monopoly	Holding power needs public-interest regulation while restraining trade or competing unfairly is banned at once
Economy goals against competition goals	The first states national ends while the second states market means
Per se against effects-based	The first condemns price and bid rigs without weighing while the second balances harm against efficiency
Dominance against abuse	The first presumes from fifty percent while the second proves from exclusionary conduct
Control against single unit	The first maps power over one firm while the second merges firms that never compete

Exam Traps

1. Competition is the constitutional principle while monopoly is not banned per se, so public interest always mediates prohibition.
2. Combinations in restraint of trade fall at once while monopolies wait for the public-interest test.
3. Economy goals name three ends while competition goals name three market means, and examiners swap them to test recall.
4. Deregulation that builds entry walls defeats itself, so tariff, inventory, and pricing rules decide constitutionality.
5. A separability clause never saves a statute whose lifeblood provisions are void, since permeation beats severance.
6. Price fixing and bid rigging condemn per se while other agreements wait for effects weighing against efficiency gains.
7. Crime needs Section 14(a) or 14(b) only, so abuse and merger cases never send officers to prison.

8. Every fine needs prior notice and hearing, so ex parte punishment voids even a correct finding.

9. Gravity with duration prices every fine, so short and light violations never draw the ceiling.

10. Private suits wait for the preliminary inquiry to close, so a pending inquiry bars the independent action for now.

11. Leniency rewards the first and candid reporter, so second comers and silent leaders earn nothing.

12. Foreign acts answer locally only with direct, substantial, and reasonably foreseeable effects proved together.

13. Labor bargaining stands outside the Act only where employment conditions are its sole object.

14. Product likeness asks what buyers swap while geography asks where sellers meet, so freight can split one good into two markets.

15. Control looks past one-half votes to pacts, policy direction, board power, assets, and decisive rights.

16. Common control without independence ends rivalry, so sister firms never conspire with each other.

17. Fifty percent presumes dominance but never proves abuse, so share opens the case that conduct must close.

18. Skill, service, product, acumen, and intellectual property shield share, so efficiency never counts as abuse by itself.

19. Exclusive concessions never equal monopolies, since bidding itself guards the public interest.

20. Courts never find markets without evidence, so conclusions without ultimate facts state no cause of action.

Key Authorities Cited

Codes and Constitution: 1987 Constitution Art. XII Secs. 1, 19; R.A. No. 10667 Secs. 2, 3, 4(g), 4(i), 4(k), 14 with last paragraph, 15, 16 to 23, 24, 25, 26, 27, 29, 30, 31, 35, 36, 37, 41, 45, 46, 53, 55, approved July 21, 2015.

Cases: Tatad v. Secretary of DOE (G.R. No. 124360, 1997); Gios-Samar v. DOTC (G.R. No. 217158, 2019); Anglo-Fil Trading Corp. v. Lazaro (G.R. Nos. L-54958 and L-54966, 1983).

Source and Verification Note

This reviewer reads the Part IV-A syllabus slice with the Chapter 15 headings for pages 1014 to 1031 from the TOC file against the controlling primary texts. The scanned Aquino textbook carries no text layer, so no textbook sentence is quoted here and every blockquote comes from primary law checked in this run. Article XII Sections 1 and 19 were checked against the Official Gazette Article XII page with the Supreme Court E-Library Article XII page. Sections 2, 3, 4, 14, 15, 24, 25, 26, 27, 29, and 30 of R.A. No. 10667 were checked against the full LawPhil Republic Act page with the Official Gazette Act page for the declaration of policy and approval date. Case doctrine comes from the Batch 3 digests for Tatad v. Secretary of DOE and Gios-Samar v. DOTC, with the Anglo-Fil Trading ruling as quoted inside the Gios-Samar decision on the LawPhil PDF. Syllabus numbers 73 and 74 duplicate numbers 67 and 68, and the Topic Mapping places both decisions in Chapter 14 free-competition doctrine at book page 967, so they are not re-digested in this Part IV-A file. The compiled 2016 to 2025 commercial-law questionnaire carries exactly one competition question, the 2024 electric-bicycle dominance problem, which is quoted verbatim above with its official September 8, 2024 paper attribution. Every other drill in this reviewer is drafted from the doctrine and labeled accordingly with no year assigned. The amendatory law is R.A. No. 10667, the Philippine Competition Act, approved July 21, 2015, which repeals Article 186 of the Revised Penal Code for later conduct with no retroactive effect. LawPhil page artifacts were normalized without changing substance, including a misread verb in Section 14(b)(1) which is not quoted, and peso figures use standard notation.

Part IV-B — Prohibited Conduct, Mergers

PART 1 — SYLLABUS

1. Coverage Map

§	Topic	Priority	The one rule you must state cold	Authority
1	Anti-competitive agreements with horizontal per se rules, effects-based rules, vertical agreements, and Commission determination	Core	Price fixing and bid rigging among competitors are condemned per se with no weighing of harm against efficiency, every other agreement answers only after the Commission defines the relevant market and finds substantial harm that outweighs efficiency gains, and commonly controlled firms that cannot act independently are never competitors	R.A. No. 10667 Secs. 4(b), 4(c), 14, 26; Eastern Telecommunications v. ICC (G.R. No. 135992, 2004); Gios-Samar v. DOTC (G.R. No. 217158, 2019)
2	Abuse of dominant position with factors, statutory provisions, the rule, prohibited conducts, permissible price differentials, and non-abuse agreements	Core	Holding a dominant position is never punished by itself and only conduct that substantially prevents, restricts, or lessens competition answers, while socialized pricing, cost-based differentials, responses to rivals, market-driven changes, good-faith below-cost meeting of competition, efficiency gains shared with consumers, and superior product with business acumen never count as abuse	R.A. No. 10667 Secs. 15, 27; Tatad v. Secretary of DOE (G.R. No. 124360, 1997)

§	Topic	Priority	The one rule you must state cold	Authority
3	Mergers and acquisitions control with meanings, provisions, summary, anti-competitive mergers, creeping transactions, and the compulsory notification threshold	High	Parties that breach the notification thresholds shall not consummate for thirty days extendible to ninety days with deemed approval on expiry, jumping the gun voids the agreement and draws one to five percent of transaction value, only deals that substantially lessen competition in the relevant market are prohibited with efficiency and failing-firm exits, and successive transactions within one year between the same parties count as one	R.A. No. 10667 Secs. 4(a), 4(j), 16, 17, 18, 19, 20, 21, 22, 23; PCC threshold circulars with SOP P9,100,000,000 and SOT P3,800,000,000 effective March 1, 2026

2. Learning Objectives

1. Recite Section 14(a) word for word and explain why price fixing and bid rigging need no market weighing.

2. Sort any agreement into per se, effects-based horizontal, vertical, or exempt single-unit conduct with the controlling paragraph cited.

3. Run the five-step Commission determination in Section 26 in order on any agreement or conduct facts.

4. State the abuse rule cold: dominance is lawful, only abusive conduct that substantially lessens competition is prohibited, and efficiency shared with consumers saves conduct.

5. List every prohibited conduct in Section 15(a) to 15(i) with the exact saving clause that belongs to each one.

6. Distinguish predatory below-cost selling with destructive object from good-faith meeting of a rival price.

7. Run the merger clock in order: notification, thirty days, further-information request, sixty-day extension, ninety-day cap, deemed approval, and the voidness plus fine for closing

early.

8. Draft a complete answer on agreements, abuse, or merger review under time.

3. Authority Inventory

A. Cases

Case	G.R./Citation	One-line ratio	§
Eastern Telecommunications v. ICC	G.R. No. 135992, July 23, 2004	No franchise is exclusive and a prior operator holds no vested right to be shielded from competition, since healthy competition governs entry	1
Gios-Samar v. DOTC	G.R. No. 217158, March 12, 2019	Monopoly, restraint, dominance, market, and abuse all need pleaded and proved ultimate facts, and exclusivity in a concession is never a monopoly by itself	1
Tatad v. Secretary of DOE	G.R. No. 124360, November 5, 1997	Entry barriers that entrench an oligopoly violate Section 19 of Article XII and void the whole statute	2
Anglo-Fil Trading v. Lazaro	G.R. Nos. L-54958 and L-54966, September 2, 1983	Exclusivity inheres in a service concession and public bidding itself protects the public interest	1

B. Laws and Rules

Law	What it does here	§
R.A. No. 10667 Sec. 4(a), approved July 21, 2015	Defines acquisition as purchase of securities or assets to obtain control	3
R.A. No. 10667 Sec. 4(b)	Defines agreement in every formal, informal, explicit, tacit, written, or oral form	1
R.A. No. 10667 Sec. 4(c)	Defines conduct as any undertaking, recommendation, action, or practice in any form	1, 2

Law	What it does here	§
R.A. No. 10667 Sec. 4(j)	Defines merger as the joining of two or more entities into an existing or new entity	3
R.A. No. 10667 Sec. 14 with last paragraph	Prohibits per se and effects-based agreements and removes commonly controlled firms from the term competitors	1
R.A. No. 10667 Sec. 15	Prohibits abuse of dominant position through nine named conducts with provisos	2
R.A. No. 10667 Sec. 16	Gives the Commission power to review mergers and acquisitions on factors it deems relevant	3
R.A. No. 10667 Sec. 17	Fixes compulsory notification with the thirty-day wait, the sixty-day extension, the ninety-day cap, voidness, and the one to five percent fine	3
R.A. No. 10667 Sec. 18	Lets the Commission prohibit, conditionally clear, or consensually condition a notified deal	3
R.A. No. 10667 Sec. 19	Lets the Commission adopt and publish the operative transaction-value threshold and notification rules	3
R.A. No. 10667 Sec. 20	Prohibits mergers and acquisitions that substantially prevent, restrict, or lessen competition in the relevant market	3
R.A. No. 10667 Sec. 21	Exempts efficient concentrations and least-restrictive rescues of actually or imminently failing firms	3
R.A. No. 10667 Sec. 22	Puts the burden of proving the exemption on the parties seeking it	3
R.A. No. 10667 Sec. 23	Makes a favorable ruling final except when won by fraud or false material information	3
R.A. No. 10667 Sec. 26	Fixes the five-step determination of anti-competitive agreement or conduct	1
R.A. No. 10667 Sec. 27	Fixes dominance factors with the fifty percent rebuttable presumption and the legitimate-means shield	2

Law	What it does here	§
R.A. No. 10667 Sec. 30	Punishes Section 14(a) and 14(b) agreements with two to seven years plus P50,000,000 to P250,000,000 per violation	1
PCC IRR Rule 4 Sec. 3(e)	Treats successive transactions or part-acquisitions within one year between the same parties as one transaction	3
PCC threshold circulars	Set SOP P9,100,000,000 with SOT P3,800,000,000 effective March 1, 2026, replacing P8,500,000,000 with P3,500,000,000 effective March 2025	3

4. Three-Pass Study Plan

Pass	Time	What you do	Output
1	40 percent	Frame controlling provisions: recite Sec. 14(a) and 14(b), Sec. 15 opening with provisos, and Secs. 17, 20, and 21 cold	One-page provision map from memory
2	35 percent	Distinguish pairs: per se against effects-based, horizontal against vertical, dominance against abuse, predatory pricing against meeting competition, prohibited merger against exempt rescue, one deal against creeping slices	Distinction tables reproduced cold
3	25 percent	Apply problems: one drafted problem per section under time	Three marked answers under time

Why this order: the examiner grades provision-first answers, so the authority filter comes before doctrine. Then confusion pairs win marks because Part IV-B questions punish merged characterizations of condemnation rules, pricing defenses, and merger clocks.

5. Syllabus Self-Check

1. Recite the two per se prohibitions in Section 14(a) word for word. (§1)

2. A baker group fixes flour prices while a mill group divides towns by seller. Which paragraph condemns each without weighing. (§1)

3. Two sister firms under one parent fix prices with each other. Are they competitors under Section 14. (§1)

4. Name the five steps of Commission determination under Section 26 in order. (§1)

5. A franchise holder blocks a qualified second entrant and claims a vested right to its territory. Does the claim hold. (§1)

6. State the abuse rule in one sentence: what is punished and what is never punished. (§2)

7. A dominant mill sells below cost to kill a rival while a second mill only matches the rival price in good faith. Which one abuses. (§2)

8. Name the four permissible price differentials in Section 15(d). (§2)

9. A franchisor lets each dealer terminate unilaterally while a supplier ties unrelated purchases to supply. Which arrangement is saved. (§2)

10. A dominant firm caps output to the prejudice of consumers through a superior process. Is the limitation a violation. (§2)

11. Define merger and acquisition in one sentence each. (§3)

12. Parties breach both thresholds and close on day ten without notice. What is the status of the agreement and the fine range. (§3)

13. The Commission asks for more information on day twenty-nine. How long is the new review cap and what happens on expiry with no decision. (§3)

14. A failing rural bank is bought by the least anti-competitive bidder among known options. May the Commission exempt the deal. (§3)

15. A buyer takes control in four slices within ten months, each below threshold but above it combined. How is notification reckoned. (§3)

PART 2 — BOOK + AUTHORITY REVIEWER

0. One-Page Outline

#	Topic	Must-know: provision + elements
1	Anti-competitive agreements	Sec. 14(a) condemns price and bid rigs per se, Sec. 14(b) condemns output limits and market sharing on object or effect, Sec. 14(c) condemns all other substantially harmful agreements with an efficiency saving clause, commonly controlled firms never count as competitors, and Sec. 26 runs define market with harm weighing with forward look with overdeterrence balance with totality of evidence
2	Abuse of dominant position	Sec. 15 punishes only conduct that substantially prevents, restricts, or lessens competition through nine named conducts, dominance itself with legitimate share growth with shared efficiency gains stays lawful, and the four price differentials with franchise and IP agreements are expressly saved
3	Mergers and acquisitions control	Sec. 4(a) with 4(j) define the deals, Sec. 17 bars closing for thirty days extendible to ninety with deemed approval and punishes gun-jumping with voidness plus one to five percent, Sec. 20 prohibits only substantially harmful deals, Sec. 21 saves efficient and failing-firm deals with the burden on the parties, and one-year successive slices count as one with thresholds set by the Commission

Framing questions for every problem: which condemnation track applies (per se, effects, or abuse). Which paragraph supplies each element. Which saving clause or exemption defeats the charge. What clock, remedy, or forum closes the case.

Mnemonic for the three sections: Fix, Bully, Buy (F-B-B). Numbers: 14 (agreements), 26 (determination), 15 (abuse), 27 with 50 (dominance), 17 with 30-60-90 (notification clock), 19 (threshold regulation), 20 (prohibited deals), 21 (exemptions), 22 (burden), 23 (finality).

1. Anti-competitive Agreements

"(a) The following agreements, between or among competitors, are per se prohibited: (1) Restricting competition as to price, or components thereof, or other terms of trade; (2) Fixing price at an auction or in any form of bidding including cover bidding, bid suppression, bid rotation and market allocation and other analogous practices of bid manipulation;"

"(b) The following agreements, between or among competitors which have the object or effect of substantially preventing, restricting or lessening competition shall be prohibited: (1) Setting, limiting, or controlling production, markets, technical development, or investment; (2) Dividing or sharing the market, whether by volume of sales or purchases, territory, type of goods or services, buyers or sellers or any other means;"

"(c) Agreements other than those specified in (a) and (b) of this section which have the object or effect of substantially preventing, restricting or lessening competition shall also be prohibited: Provided, Those which contribute to improving the production or distribution of goods and services or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefits, may not necessarily be deemed a violation of this Act."

"An entity that controls, is controlled by, or is under common control with another entity or entities, have common economic interests, and are not otherwise able to decide or act independently of each other, shall not be considered competitors for purposes of this section."

"Agreement refers to any type or form of contract, arrangement, understanding, collective recommendation, or concerted action, whether formal or informal, explicit or tacit, written or oral;"

"In determining whether anti-competitive agreement or conduct has been committed, the Commission shall: (a) Define the relevant market allegedly affected by the anti-competitive agreement or conduct, following the principles laid out in Section 24 of this Chapter; (b) Determine if there is actual or potential adverse impact on competition in the relevant market caused by the alleged agreement or conduct, and if such impact is substantial and outweighs the actual or potential efficiency gains that result from the agreement or conduct; (c) Adopt a broad and forward-looking perspective, recognizing future market developments, any overriding need to make the goods or services available to consumers, the requirements of large investments in infrastructure, the requirements of law, and the need of our economy to respond to international

> competition, but also taking account of past behavior of the parties involved and prevailing market conditions; (d) Balance the need to ensure that competition is not prevented or substantially restricted and the risk that competition efficiency, productivity, innovation, or development of priority areas or industries in the general interest of the country may be deterred by overzealous or undue intervention; and (e) Assess the totality of evidence on whether it is more likely than not that the entity has engaged in anti-competitive agreement or conduct including whether the entity's conduct was done with a reasonable commercial purpose such as but not limited to phasing out of a product or closure of a business, or as a reasonable commercial response to the market entry or conduct of a competitor."

Element or Requisite	Content
Concept of agreement	Every contract, arrangement, understanding, collective recommendation, or concerted action counts, whether formal or informal, explicit or tacit, written or oral, so a handshake and a chat message bind like a signed pact
Horizontal per se	Price restrictions with price or bid fixing among competitors are condemned without proof of market, harm, or intent to excuse, and cover bidding with suppression with rotation with allocation counts as bid manipulation
Effects-based horizontal	Output, market, technology, and investment controls with market division by volume, territory, goods, buyers, sellers, or any other means answer only where object or effect substantially lessens competition
Vertical agreements	Supplier-to-buyer restraints fall under Section 14(c) and answer on object or effect, with efficiency that shares benefits with consumers as the saving clause
Single economic unit	Commonly controlled entities with common interests that cannot decide or act independently are never competitors, so sister firms never conspire with each other
Commission determination	The Commission defines the market, weighs substantial harm against efficiency gains, looks forward and backward, balances enforcement against overdeterrence, and decides on the totality of evidence with reasonable commercial purpose in view
Criminal reach	Only Section 14(a) and 14(b) agreements draw two to seven years with P50,000,000 to P250,000,000 per violation on knowing and willful officers

Per se condemnation needs no market weighing while effects analysis weighs harm against efficiency, so the paragraph invoked decides the proof required. Horizontal agreements bind rivals at one level while vertical agreements bind sellers to buyers across levels, so the parties map fixes the track. Common control ends rivalry while separate control starts it, so sister firms never trigger Section 14 among themselves.

Case: *Eastern Telecommunications v. ICC,* G.R. No. 135992, July 23, 2004

Facts: The telecoms commission granted a provisional authority to a second carrier over Manila and Navotas although a prior carrier held a subsisting authority there. The first carrier claimed a vested right to its service areas and sought to block the entrant.

Issue: The issue was whether the prior carrier held an exclusive right that barred a second authority and whether healthy competition allowed the new entry.

Held: The Court sustained the second grant, because no franchise is exclusive under the Constitution, the old one-carrier service area scheme had given way to healthy competition, and a prior operator holds no right to be shielded from a qualified rival.

Doctrine: Entry of a qualified rival never takes property from the incumbent. Regulators decide technical and financial fitness with deference from courts. Competition among carriers serves the public through better service.

Case: *Gios-Samar v. DOTC,* G.R. No. 217158, March 12, 2019

Facts: A taxpayer group asked the Supreme Court to stop the bundling of six regional airports into two bid bundles and alleged monopoly, restraint of trade, and dummy arrangements. The petition pleaded legal conclusions without market facts, corporate identities, or stockholding details.

Issue: The issue was whether conclusions of monopoly and restraint suffice without ultimate facts on the relevant market, the dominant position, and the abuse.

Held: The Court dismissed the petition, because monopoly and restraint claims need ultimate facts on the market, the position, and the abuse that only evidence can supply, and exclusivity in a concession never equals monopoly by itself.

Doctrine: Conclusions never state a cause of action without ultimate facts. Dominance needs proof of market share with power over price or supply. Abuse needs proof of exclusionary conduct and not of size alone. (Full digest in Part IV-A §3.)

Q: All four refiners agree in a group chat to fix pump prices and rotate winning bids for municipal fuel. The finance manager who typed the minutes claims the deal was oral and

informal so no agreement exists. Is the cartel per se prohibited.

A: Yes, because price fixing with bid rotation among competitors is condemned per se with no weighing of harm against efficiency.
Section 14(a) punishes restricting competition as to price and fixing price in any bidding with cover bidding, suppression, rotation, allocation, and analogous manipulation, while agreement covers every tacit, oral, and informal concerted action.
The ruling in Gios-Samar v. DOTC (G.R. No. 217158, 2019) still requires the Commission to define the market and weigh effects for other agreements, but per se cartels need no such weighing.
The chat therefore proves the agreement and the managers face prosecution with the entity fined.

Q: Two cement makers divide towns by buyer with one taking north distributors and the other taking south distributors. A new entrant proves the division, and the makers answer that no price was ever fixed. Must the Commission still weigh effects before condemning the pact.

A: Yes, because market division by buyers answers under Section 14(b) only where object or effect substantially lessens competition.
Section 14(b)(2) prohibits dividing or sharing the market by volume, territory, goods, buyers, sellers, or any other means with that substantial-harm test, and Section 26 requires market definition with harm weighed against efficiency gains.
The ruling in Eastern Telecommunications v. ICC (G.R. No. 135992, 2004) favors open rivalry over carved-up territories, since no operator holds a vested right to a fenced market.
The Commission therefore defines the cement market, tests substantial harm against any proven efficiency, and condemns the pact where harm prevails.

2. Abuse of Dominant Position

> "It shall be prohibited for one or more entities to abuse their dominant position by engaging in conduct that would substantially prevent, restrict or lessen competition: (a) Selling goods or services below cost with the object of driving competition out of the relevant market: Provided, That in the Commission's evaluation of this fact, it shall consider whether the entity or entities have no such object and the price established was in good faith to meet or compete with the lower price of a competitor in the same market selling the same or comparable product or service of like quality; (b) Imposing barriers to entry or committing acts that prevent competitors from growing within the market in an anti-competitive manner except those that develop in the market as a result of or

Element or Requisite	Content
The rule	Dominance is lawful and only abusive conduct that substantially prevents, restricts, or lessens competition is prohibited, so size opens the inquiry that conduct must close
Dominance factors	Share with unilateral price or supply power, entry barriers with foreseeable change, rival strength, input access, customer switching power, recent conduct, and other Commission criteria fix the position
Fifty percent presumption	Fifty percent share raises a rebuttable presumption of dominance subject to a new sector threshold, while superior skill, service, product, acumen, and intellectual property never count as violations
Predatory pricing	Below-cost selling with the object of destroying rivals abuses, while good-faith matching of a rival price for the same or comparable product never abuses
Entry barriers	Blocking entry or stunting rivals anti-competitively abuses, while walls built by superior product, process, acumen, or law never abuse, following Tatad v. Secretary of DOE (G.R. No. 124360, 1997) on unconstitutional barriers
Tying and conditions	Forcing unrelated obligations, tying unrelated purchases to supply, and exclusivity conditions that substantially lessen competition all abuse
Discrimination	Unreasonable price or term gaps among contemporaneous traders on similar terms abuse where competition substantially lessens, while the four differentials in Section 15(d) stay permissible
Non-abuse agreements	Unilaterally terminable franchise, license, and exclusive distributorship pacts with intellectual property and trade-secret protections never violate by themselves
Exploitative pricing	Unfairly low buying prices on marginalized producers with unfair selling or buying prices on rivals, customers, suppliers, or consumers abuse, while prices earned by superiority, acumen, or law never count as unfair
Output limits	Capping production, markets, or technical development to consumer prejudice abuses, while limits earned by superiority, acumen, or law never violate
Efficiency saving	Conduct that improves production or distribution or promotes technical and economic progress with a fair consumer share may not count as abuse

Abuse punishes conduct while dominance describes power, so fifty percent presumes the position that exclusionary acts must still prove. Predation kills rivals while matching answers

them, so object separates the crime of pricing from the virtue of competing. Tying forces extras while franchising frees exits, so unilateral termination saves the distributorship that coercion condemns.

Q: A dominant flour mill sells below cost for six months with internal memos targeting the death of a new rival mill. A second dominant mill only matches the first mill price in good faith for comparable flour. Which mill abuses its position.

A: The first mill abuses while the second stays lawful, because object separates predation from competition.
Section 15(a) condemns below-cost selling with the object of driving competition out of the relevant market yet expressly saves prices set in good faith to meet a rival price for the same or comparable product of like quality.
The memos prove destructive object for the first mill while good-faith matching shields the second, and dominance alone condemns neither without abusive conduct.
The Commission therefore pursues the predator and clears the matcher.

Q: A dominant bottler charges provincial dealers a higher price than Manila dealers for identical drinks on identical terms, and the gap tracks no cost, volume, or rival-price difference. The bottler answers that price gaps are normal business. Is the differential permissible.

A: No, because unreasonable discrimination among contemporaneous traders on similar terms abuses where competition substantially lessens.
Section 15(d) condemns such gaps while saving only four differentials, namely socialized pricing for the less fortunate, cost-reflecting differences, responses to rival prices or facilities, and changes driven by market conditions, marketability, or volume.
No saving clause fits a gap that tracks no cost, volume, or rivalry, and the effect on provincial dealers is exclusion from fair rivalry.
The differential therefore falls outside every permissible class and answers as abuse.

3. Mergers and Acquisitions Control

> "Acquisition refers to the purchase of securities or assets, through contract or other means, for the purpose of obtaining control by: (1) One (1) entity of the whole or part of another; (2) Two (2) or more entities over another; or (3) One (1) or more entities over one (1) or more entities;"
> "Merger refers to the joining of two (2) or more entities into an existing entity or to form a new entity;"

"Parties to the merger or acquisition agreement referred to in the preceding section wherein the value of the transaction exceeds one billion pesos (P1,000,000,000.00) are prohibited from consummating their agreement until thirty (30) days after providing notification to the Commission in the form and containing the information specified in the regulations issued by the Commission: Provided, That the Commission shall promulgate other criteria, such as increased market share in the relevant market in excess of minimum thresholds, that may be applied specifically to a sector, or across some or all sectors, in determining whether parties to a merger or acquisition shall notify the Commission under this Chapter."

"An agreement consummated in violation of this requirement to notify the Commission shall be considered void and subject the parties to an administrative fine of one percent (1%) to five percent (5%) of the value of the transaction."

"Should the Commission deem it necessary, it may request further information that are reasonably necessary and directly relevant to the prohibition under Section 20 hereof from the parties to the agreement before the expiration of the thirty (30)-day period referred. The issuance of such a request has the effect of extending the period within which the agreement may not be consummated for an additional sixty (60) days, beginning on the day after the request for information is received by the parties: Provided, That, in no case shall the total period for review by the Commission of the subject agreement exceed ninety (90) days from initial notification by the parties."

"When the above periods have expired and no decision has been promulgated for whatever reason, the merger or acquisition shall be deemed approved and the parties may proceed to implement or consummate it."

"Merger or acquisition agreements that substantially prevent, restrict or lessen competition in the relevant market or in the market for goods or services as may be determined by the Commission shall be prohibited."

"Merger or acquisition agreement prohibited under Section 20 of this Chapter may, nonetheless, be exempt from prohibition by the Commission when the parties establish either of the following: (a) The concentration has brought about or is likely to bring about gains in efficiencies that are greater than the effects of any limitation on competition that result or likely to result from the merger or acquisition agreement; or (b) A party to the merger or acquisition agreement is faced with actual or imminent financial failure, and the agreement represents the least anti-competitive arrangement among the known alternative uses for the failing entity's assets:"

> "The burden of proof under Section 21 lies with the parties seeking the exemption. A party seeking to rely on the exemption specified in Section 21(a) must demonstrate that if the agreement were not implemented, significant efficiency gains would not be realized."

Element or Requisite	Content
Meaning of merger	The joining of two or more entities into an existing entity or into a new entity, covering statutory mergers and consolidations with joint ventures that combine or change control
Meaning of acquisition	The purchase of securities or assets by contract or other means to obtain control by one over another, by two or more over another, or by one or more over one or more, covering share and asset deals
Review power	The Commission reviews mergers and acquisitions on factors it deems relevant and may prohibit, conditionally clear, or consensually condition any deal that fails Section 20 and earns no Section 21 exemption
Notification trigger	Breach of the operative thresholds compels notification in the form the regulations require, starting from the statutory P1,000,000,000.00 base as adjusted by the Commission under Section 19
Current thresholds	Size of Party P9,100,000,000 with Size of Transaction P3,800,000,000 effective March 1, 2026, replacing P8,500,000,000 with P3,500,000,000 effective March 2025, with both tests adjusted periodically
Waiting clock	Thirty days from notification with no closing, plus sixty more days from the day after a further-information request arrives, capped at ninety days from initial notification, with deemed approval where no decision issues
Gun-jumping	Closing without the required notice voids the agreement and draws an administrative fine of one percent to five percent of transaction value
Anti-competitive merger	Any deal that substantially prevents, restricts, or lessens competition in the relevant market stands prohibited as the Commission determines it
Efficiency exemption	Concentrations whose proven efficiency gains beat their competitive harm earn exemption, with the parties proving that the gains would not happen without the deal

Element or Requisite	Content
Failing-firm exemption	Deals rescuing an actually or imminently failing party earn exemption only as the least anti-competitive arrangement among known alternative uses of its assets
Burden and finality	The parties carry the burden on every exemption claim, while a favorable ruling stands final unless won by fraud or false material information
Creeping transactions	Successive transactions or part-acquisitions within one year between the same parties or their controlled or commonly controlled entities count as one transaction for notification

Review clears deals while prohibition kills them, so notification buys the Commission time that closing early forfeits. Efficiency saves mergers while failure excuses them, so gains must beat harm and rescue must be the gentlest option. Slices dodge notice while aggregation catches them, so the one-year rule treats creeping steps as a single deal.

Q: Two beverage giants breach both operative thresholds and sign on June 1 with notice filed the same day. They close on June 11 before any decision. The giants claim the ten-day sprint harmed no one. What is the status of the closing.

A: The closing is void and both giants face an administrative fine of one percent to five percent of the transaction value.

Section 17 bars consummation until thirty days after notification and voids any agreement closed in breach, with the fine keyed to transaction value rather than to proven harm.

The ten-day sprint therefore jumps the gun even if the market felt nothing yet, and the Commission may still review the deal on the merits.

The parties must re-notify and wait out the clock with penalties paid.

Q: A buyer takes control of a rival in four monthly slices within one year, with each slice below threshold but all four combined above it. The buyer files nothing and claims each slice stands alone. Must the buyer have notified.

A: Yes, because successive acquisitions within one year between the same parties count as one transaction for notification.

The creeping-transaction rule treats slices and part-acquisitions inside the one-year window as a single deal, reckoned from the binding preliminary agreement where one exists and otherwise from the last step that pushes the total past the thresholds.

The buyer therefore owed notice once the combined slices breached both tests, and closing the last slice without notice voids it with a one to five percent fine.

Splitting one takeover into small steps never defeats compulsory notification.

Quick-Recall Tables

Provision	Numbers that control
Sec. 14(a) per se	Price restrictions with price and bid fixing among competitors condemned without weighing
Sec. 14(b) effects-based	Output, market, technology, and investment controls with market division condemned on object or effect
Sec. 14(c) catch-all	All other substantially harmful agreements condemned with efficiency shared with consumers as the saving clause
Sec. 14 last paragraph single unit	Common control with common interests and no independence means never competitors
Sec. 26 determination	Define market with weigh harm against efficiency with forward look with overdeterrence balance with totality of evidence
Sec. 15 abuse	Only conduct that substantially prevents, restricts, or lessens competition answers through nine named conducts
Sec. 27 dominance	Rebuttable presumption at fifty percent with legitimate-means shield for skill, service, product, acumen, and intellectual property
Sec. 17 notification clock	Thirty days with sixty more on information request capped at ninety with deemed approval on expiry
Sec. 17 gun-jumping	Void agreement with one to five percent of transaction value as fine
Secs. 20 to 23 merger merits	Prohibition on substantial harm with efficiency and failing-firm exemptions with burden on parties with finality short of fraud

Period or Threshold	Figure
Statutory notification base	P1,000,000,000.00 under Sec. 17 as adjusted by the Commission under Sec. 19
Current Size of Party	P9,100,000,000 effective March 1, 2026
Current Size of Transaction	P3,800,000,000 effective March 1, 2026
Prior thresholds	P8,500,000,000 with P3,500,000,000 effective March 2025
Initial waiting period	30 days from notification
Extension on information request	60 more days from the day after receipt
Maximum total review	90 days from initial notification
Criminal imprisonment for Sec. 14(a) and 14(b)	2 to 7 years per violation
Criminal fine for Sec. 14(a) and 14(b)	P50,000,000 to P250,000,000

Period or Threshold	Figure
Gun-jumping fine	1 percent to 5 percent of transaction value
Dominance presumption	At least 50 percent of the relevant market
Creeping-transaction window	Successive deals within 1 year count as one

Agreement question	Answer
Which agreements need no weighing	Price restrictions with price and bid fixing among competitors under Sec. 14(a)
Which agreements need object-or-effect proof	Output controls with market division under Sec. 14(b) with all others under Sec. 14(c)
Do sister firms conspire	No, since common control without independence ends rivalry
Do vertical restraints answer	Yes under Sec. 14(c) on object or effect with the efficiency saving clause
Who decides and how	The Commission under the five Sec. 26 steps from market definition to totality of evidence
Which agreements send officers to prison	Only Sec. 14(a) and 14(b) agreements under Sec. 30

Abuse question	Rule
Is dominance itself illegal	No, since only abusive conduct that substantially lessens competition answers
Is below-cost selling always abuse	No, since good-faith matching of a rival price is expressly saved
Are entry barriers always abuse	No, since walls built by superior product, acumen, or law are expressly saved
Which price gaps survive	Socialized pricing with cost-based gaps with rival responses with market-driven changes
Which pacts never violate alone	Unilaterally terminable franchise and distributorship pacts with IP and trade-secret protections
Does shared efficiency save conduct	Yes, where gains reach production or distribution with a fair consumer share

Merger question	Answer
What counts as acquisition	Purchase of securities or assets to obtain control in the three Sec. 4(a) patterns
What counts as merger	Joining of two or more entities into an existing or new entity
When must parties notify	On breaching both operative thresholds in the form the regulations require

Merger question	Answer
How long must they wait	Thirty days extendible to ninety with deemed approval on expiry
What punishes early closing	Voidness with one to five percent of transaction value
Which deals are prohibited	Only those substantially lessening competition in the relevant market under Sec. 20
Which deals are exempt	Efficient concentrations with failing-firm rescues as the least restrictive option
Who proves the exemption	The parties seeking it under Sec. 22
How are creeping slices treated	Successive deals within one year count as one transaction

Distinction question	Answer
Per se against effects-based	The first condemns price and bid rigs without weighing while the second weighs harm against efficiency
Horizontal against vertical	The first binds rivals at one level while the second binds sellers to buyers across levels
Dominance against abuse	The first presumes from fifty percent while the second proves from exclusionary conduct
Predation against matching	The first carries destructive object while the second answers a rival price in good faith
Prohibited merger against exempt rescue	The first substantially lessens competition while the second beats harm with efficiency or saves a failing firm gently
One deal against creeping slices	The first notifies once while the second aggregates every slice inside one year

Exam Traps

1. Per se agreements need no market definition while effects agreements always start with it, so skipping Section 26 fails even a proven cartel of the second kind.
2. Oral, tacit, and informal concerted action counts as agreement, so no signed document is ever required.
3. Bid rotation and cover bidding sit per se prohibited while output limits and market sharing wait for effects weighing.
4. Sister firms under common control never conspire with each other, so intra-group coordination is not a Section 14 case.
5. Crime needs Section 14(a) or 14(b) only, so abuse and merger cases never send officers to prison.

6. Dominance alone never violates, so fifty percent share opens the case that conduct must still close.

7. Below-cost selling abuses only with destructive object, while good-faith matching of a rival price is saved in the same paragraph.

8. Superior product, business acumen, and legal rights never count as barriers, unfair prices, or output limits by themselves.

9. Socialized pricing for the less fortunate stays permissible even by a dominant firm.

10. Cost-based, rival-response, and market-driven price gaps survive while naked discrimination among similar traders falls.

11. Unilateral termination rights save franchise and distributorship pacts while forced tying of unrelated goods condemns them.

12. Intellectual property and trade-secret protections never violate by themselves.

13. Unfairly low buying prices aimed at marginalized producers abuse on their own terms.

14. Efficiency shared with consumers may save conduct that otherwise looks abusive.

15. Closing during the thirty-day wait voids the deal even where the merger proves harmless, since gun-jumping punishes the act of closing.

16. Deemed approval on ninety days of silence lets parties proceed, but fraud or false information reopens even a favorable ruling.

17. Successive slices within one year count as one, so structuring below threshold deal by deal never works.

18. The burden of the efficiency and failing-firm exemptions lies on the parties and never shifts to the Commission.

19. A failing-firm rescue must be the least anti-competitive among known options and not merely better than liquidation.

20. No franchise is exclusive and no incumbent holds a vested right against qualified entry, so blocking a rival never counts as legitimate competition.

Key Authorities Cited

Codes and Constitution: 1987 Constitution Art. XII Sec. 19 with R.A. No. 10667 Secs. 4(a), 4(b), 4(c), 4(j), 14 with last paragraph, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, and 30, approved July 21, 2015. Also cited are PCC IRR Rule 4 Sec. 3(e) with PCC threshold circulars fixing SOP P9,100,000,000 with SOT P3,800,000,000 effective March 1, 2026.

Cases: Eastern Telecommunications v. ICC (G.R. No. 135992, 2004). Gios-Samar v. DOTC (G.R. No. 217158, 2019). Tatad v. Secretary of DOE (G.R. No. 124360, 1997). Anglo-Fil Trading Corp. v. Lazaro (G.R. Nos. L-54958 and L-54966, 1983).

Source and Verification Note

This reviewer reads the Part IV-B syllabus slice with the Chapter 15 headings for pages 1033 to 1064 from the TOC file against the controlling primary texts. The scanned Aquino textbook carries no text layer, so no textbook sentence is quoted here and every blockquote comes from primary law checked in this run. Sections 4, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, and 27 of R.A. No. 10667 were checked against the full LawPhil Republic Act page, with the Official Gazette Act page confirming the July 21, 2015 approval. One LawPhil page artifact was normalized without changing substance, namely the misread verb in Section 14(b)(1) which is quoted here in its correct statutory form. Case doctrine comes from the Batch 3 digests for Tatad v. Secretary of DOE, Gios-Samar v. DOTC, and Eastern Telecommunications v. ICC, with dockets from the Batch 3 Case List. Syllabus numbers 73 and 74 duplicate numbers 68 and 67, and the Topic Mapping places both decisions in Chapter 14 free-competition doctrine at book page 967, so they carry no separate card here and Eastern Telecommunications appears once on its competition holding. The compiled 2016 to 2025 commercial-law questionnaire carries exactly one competition question, the 2024 electric-bicycle dominance problem, which is quoted verbatim in Part IV-A and not repeated here. Every drill in this Part IV-B file is therefore drafted from the doctrine with no year assigned. Current notification thresholds come from the PCC website and March 2026 advisories, namely SOP P9,100,000,000 with SOT P3,800,000,000 effective March 1, 2026, replacing P8,500,000,000 with P3,500,000,000 effective March 2025, and the creeping-transaction rule comes from the PCC merger FAQs restating IRR Rule 4 Section 3(e). The amendatory law is R.A. No. 10667, the Philippine Competition Act, approved July 21, 2015, which repeals Article 186 of the Revised Penal Code for later conduct with no retroactive effect. Peso figures use standard notation.

Part IV-C — PCC, Confidentiality, Remedies

PART 1 — SYLLABUS

1. Coverage Map

§	Topic	Priority	The one rule you must state cold	Authority
1	Philippine Competition Commission with independence, powers, and additional administrative sanctions	Core	The Commission is an independent quasi-judicial body with original and primary jurisdiction over competition enforcement, and after due notice and hearing it may stop or redress violations with injunctions, divestment, disgorgement, and fines up to P100,000,000.00 on first offense and P100,000,000.00 to P250,000,000.00 on second offense	R.A. No. 10667 Secs. 5, 12, 29; Tatad v. Secretary of DOE (G.R. No. 124360, 1997)
2	Composition, term, and qualification with confidentiality and remedies of the entity	Core	The Commission has a Chairperson and four Commissioners who serve seven years without reappointment, confidential business information given in any inquiry shall never be disclosed on pain of a P1,000,000.00 to P5,000,000.00 fine, and an entity in doubt may seek a binding ruling with ninety days to comply free of any action	R.A. No. 10667 Secs. 6, 7, 34, 37; Gios-Samar v. DOTC (G.R. No. 217158, 2019)

2. Learning Objectives

1. Recite the creation clause in Section 5 and explain why attachment to the Office of the President never destroys the independence of the Commission.
2. State the composition, qualification, term, quorum, and disqualification rules in Sections 6, 7, 8, and 10 cold with every number exact.
3. List the enforcement powers in Section 12 in order and distinguish inquiry, prosecution referral, structural remedy, and advocacy functions.
4. Run the administrative fine schedule in Section 29 cold, including first and second offense, defiance of orders, false information, the forty-five-day accrual rule, and the five-year escalation clause.
5. State the confidentiality rule in Section 34 with its three exceptions and its exact fine range.
6. Distinguish binding ruling, show cause order, and consent order under Section 37, including the ninety-day compliance window and the inadmissibility shield in criminal proceedings.
7. Run the remedy ladder for an aggrieved entity in order, namely binding ruling or consent before action, appeal to the Court of Appeals without automatic stay, private action only after preliminary inquiry, and the five-year limitations clock.
8. Draft a complete answer on Commission powers, sanctions, confidentiality, or entity remedies under time.

3. Authority Inventory

A. Cases

Case	G.R./Citation	One-line ratio	§
Tatad v. Secretary of DOE	G.R. No. 124360, November 5, 1997	Entry barriers that entrench an oligopoly violate Section 19 of Article XII, so competition needs an independent enforcer and not a captured regulator	1

Case	G.R./Citation	One-line ratio	§
Gios-Samar v. DOTC	G.R. No. 217158, March 12, 2019	Monopoly and restraint claims need pleaded ultimate facts on market, dominance, and abuse, and exclusivity in a concession is never monopoly by itself	2

B. Laws & Rules

Law	What it does here	§
1987 Constitution Art. XII Sec. 19	Commands the State to regulate or prohibit monopolies in the public interest and bans all combinations in restraint of trade and unfair competition	1
R.A. No. 10667 Sec. 5, approved July 21, 2015	Creates the Commission as an independent quasi-judicial body attached to the Office of the President and amends E.O. No. 45	1
R.A. No. 10667 Sec. 6	Fixes composition at a Chairperson and four Commissioners with citizenship, probity, profession, ten-year practice, and non-candidacy qualifications	2
R.A. No. 10667 Sec. 7	Fixes a seven-year term without reappointment with security of tenure removable only for just cause	2
R.A. No. 10667 Sec. 8	Bars outside office, practice, business, and financial interest during tenure with a two-year post-service practice ban before the Commission	2
R.A. No. 10667 Sec. 10	Fixes quorum at three members with three affirmative votes for any act of the Commission	2
R.A. No. 10667 Sec. 11	Provides staff with an Executive Director of at least ten years relevant experience	2
R.A. No. 10667 Sec. 12	Grants original and primary jurisdiction with nineteen powers from inquiry and merger review to contempt, intervention, and advocacy	1

Law	What it does here	§
R.A. No. 10667 Sec. 13	Leaves the DOJ Office for Competition with preliminary investigation and prosecution of criminal offenses	1
R.A. No. 10667 Sec. 29	Fixes administrative fines for Chapter III and Chapter IV violations with defiance, false-information, and residual penalties	1
R.A. No. 10667 Sec. 31	Gives the Commission sole and exclusive authority to open fact-finding or preliminary inquiry with a ninety-day completion rule	1, 2
R.A. No. 10667 Sec. 32	Keeps original and primary jurisdiction in the Commission where competition and noncompetition issues mix, with the sector regulator consulted	1
R.A. No. 10667 Sec. 34	Shields confidential business information and anonymous informants with a P1,000,000.00 to P5,000,000.00 fine for breach	2
R.A. No. 10667 Sec. 35	Builds a leniency program of immunity or fine reduction for voluntary disclosure of Section 14(a) and 14(b) agreements	2
R.A. No. 10667 Sec. 37	Offers binding ruling, show cause order, and consent order as non-adversarial remedies with criminal inadmissibility	2
R.A. No. 10667 Sec. 38	Punishes contempt with up to thirty days imprisonment or up to P100,000.00 fine or both	1
R.A. No. 10667 Sec. 39	Sends Commission decisions to the Court of Appeals with no automatic stay	2
R.A. No. 10667 Sec. 40	Lets the Commission issue a writ of execution on finality	2
R.A. No. 10667 Sec. 41	Triples the fine where basic necessities and prime commodities are involved	1
R.A. No. 10667 Sec. 44	Gives the Regional Trial Court original and exclusive jurisdiction over criminal and civil competition cases	2

Law	What it does here	§
R.A. No. 10667 Sec. 45	Opens a separate civil action to any directly injured person only after the Commission completes preliminary inquiry	2
R.A. No. 10667 Sec. 46	Bars criminal actions after five years from discovery and administrative and civil actions after five years from accrual	2
R.A. No. 10667 Sec. 47	Bars all courts except the Court of Appeals and the Supreme Court from enjoining the Commission, save for extreme constitutional urgency with bond	2

4. Three-Pass Study Plan

Pass	Time	What you do	Output
1	40 percent	Frame controlling provisions: recite Sec. 5 creation, Sec. 6 composition, Sec. 7 term, Sec. 12 investigation and redress powers, and Sec. 29 fine figures cold	One-page Commission map from memory
2	35 percent	Distinguish pairs: independence against attachment, behavioral against structural remedy, binding ruling against consent order, confidentiality against mandatory disclosure, Commission action against private action	Distinction tables reproduced cold
3	25 percent	Apply problems: one drafted problem per section under time	Two marked answers under time

Why this order: the examiner grades institution-first answers, so the authority filter comes before doctrine. Then confusion pairs win marks because Part IV-C questions punish merged characterizations of powers, fines, secrecy duties, and remedy sequencing.

5. Syllabus Self-Check

1. Recite the creation sentence in Section 5 word for word. (§1)

2. A Secretary orders the Commission to clear a politically favored merger. Must the Commission obey. (§1)

3. Name the Section 12 powers that let the Commission stop ongoing conduct before final decision. (§1)

4. An entity fixes prices once and repeats the cartel a year later. What is the maximum fine on each offense. (§1)

5. A respondent ignores a cease and desist order for sixty days. From which day do daily fines accrue and in what range. (§1)

6. The Commission orders divestiture although a conduct commitment would work as well. Is the order valid. (§1)

7. State the five qualifications for Chairperson and Commissioners with every number exact. (§2)

8. A Commissioner runs for Senator the year after leaving office. Is the candidacy allowed. (§2)

9. Two members vote to approve a consent order while one dissents. Is the order adopted. (§2)

10. A newspaper demands the cost data a rival filed in an inquiry. Must the Commission release it. (§2)

11. An informant gives documents on condition of anonymity and later testifies openly. Does the shield survive the waiver. (§2)

12. An entity seeks a binding ruling, gets an adverse answer, and cures within eighty days. May the Commission still punish the cured act. (§2)

13. A consent proposal admits nothing and offers damages to injured buyers. May the Commission accept it. (§2)

14. A manufacturer uses its show cause evidence to defend a later criminal charge for the same cartel. Is the evidence admissible against it. (§2)

15. A losing respondent appeals to the Court of Appeals. Is the Commission order automatically stayed. (§2)

16. A retailer sues for cartel damages before the Commission finishes preliminary inquiry. Is the suit timely. (§2)

17. A consumer discovers a bid rig five years and one month after it happened. May a criminal case still be filed. (§2)

18. A trial court enjoins a Commission investigation on urgency grounds without bond. Is the injunction valid. (§2)

PART 2 — BOOK + AUTHORITY REVIEWER

0. One-Page Outline

#	Topic	Must-know: provision + elements
1	Philippine Competition Commission	Sec. 5 creates an independent quasi-judicial body attached to the Office of the President, Sec. 12 gives original and primary jurisdiction with inquiry, merger review, redress, subpoena, inspection, structural remedy, deputization, and advocacy powers, and Sec. 29 punishes violations with up to P100,000,000.00 first offense and P100,000,000.00 to P250,000,000.00 second offense with daily defiance fines from day forty-five
2	Composition, term, qualification with confidentiality and entity remedies	Sec. 6 seats a Chairperson and four Commissioners with ten-year practice and non-candidacy bars, Sec. 7 gives seven years without reappointment, Sec. 34 seals confidential business information and anonymous identities with a P1,000,000.00 to P5,000,000.00 fine, and Sec. 37 offers binding ruling with ninety-day cure plus show cause and consent orders, with Sec. 39 appeal, Sec. 45 private action after inquiry, and Sec. 46 five-year limits closing the ladder

Framing questions for every problem: which Commission power is exercised and with what vote. Which sanction fits the violation and the offense count. Which secrecy duty binds the holder of the information. Which remedy comes first and which forum takes the appeal.

Mnemonic for the two sections: Watchdog, then Shield (W-S). Numbers: 5 (one chair with four commissioners), 7 (years without reappointment), 10 (years of practice), 3 (quorum and votes), 100M with 250M (fines), 50K to 2M (defiance), 1M to 5M (secrecy breach), 90 (days to obey a binding ruling), 45 (days before daily fines accrue), 5 (years to sue or prosecute).

1. Philippine Competition Commission

> "The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed."
>
> "To implement the national competition policy and attain the objectives and purposes of this Act, an independent quasi-judicial body is hereby created, which shall be known as the Philippine Competition Commission (PCC), hereinafter referred to as the Commission, and which shall be organized within sixty (60) days after the effectivity of this Act. Upon establishment of the Commission, Executive Order No. 45 designating the Department of Justice as the Competition Authority is hereby amended. The Office for Competition (OFC) under the Office of the Secretary of Justice shall however be retained, with its powers and functions modified pursuant to Section 13 of this Chapter."
>
> "The Commission shall be an attached agency to the Office of the President."
>
> "The Commission shall have original and primary jurisdiction over the enforcement and implementation of the provisions of this Act, and its implementing rules and regulations. The Commission shall exercise the following powers and functions: (a) Conduct inquiry, investigate, and hear and decide on cases involving any violation of this Act and other existing competition laws motu proprio or upon receipt of a verified complaint from an interested party or upon referral by the concerned regulatory agency, and institute the appropriate civil or criminal proceedings; (b) Review proposed mergers and acquisitions, determine thresholds for notification, determine the requirements and procedures for notification, and upon exercise of its powers to review, prohibit mergers and acquisitions that will substantially prevent, restrict, or lessen competition in the relevant market;"
>
> "(d) Upon finding, based on substantial evidence, that an entity has entered into an anti-competitive agreement or has abused its dominant position after due notice and hearing, stop or redress the same, by applying remedies, such as, but not limited to, issuance of injunctions, requirement of divestment, and disgorgement of excess profits under such reasonable parameters that shall be prescribed by the rules and regulations implementing this Act; (e) Conduct administrative proceedings, impose sanctions, fines or penalties for any noncompliance with or breach of this Act and its implementing rules and regulations (IRR) and punish for contempt; (f) Issue subpoena duces tecum and subpoena ad testificandum to require the production of books, records, or other documents or data which relate to any matter relevant to the investigation and personal

appearance before the Commission, summon witnesses, administer oaths, and issue interim orders such as show cause orders and cease and desist orders after due notice and hearing in accordance with the rules and regulations implementing this Act;"

"(h) Issue adjustment or divestiture orders including orders for corporate reorganization or divestment in the manner and under such terms and conditions as may be prescribed in the rules and regulations implementing this Act. Adjustment or divestiture orders, which are structural remedies, should only be imposed: (1) Where there is no equally effective behavioral remedy; or (2) Where any equally effective behavioral remedy would be more burdensome for the enterprise concerned than the structural remedy. Changes to the structure of an enterprise as it existed before the infringement was committed would only be proportionate to the substantial risk of a lasting or repeated infringement that derives from the very structure of the enterprise;"

"(a) Administrative Fines. – In any investigation under Chapter III, Sections 14 and 15, and Chapter IV, Sections 17 and 20 of this Act, after due notice and hearing, the Commission may impose the following schedule of administrative fines on any entity found to have violated the said sections: First offense: Fine of up to one hundred million pesos (P100,000,000.00); Second offense: Fine of not less than one hundred million pesos (P100,000,000.00) but not more than two hundred fifty million pesos (P250,000,000.00)."

"In fixing the amount of the fine, the Commission shall have regard to both the gravity and the duration of the violation."

"(b) Failure to Comply With an Order of the Commission. – An entity which fails or refuses to comply with a ruling, order or decision issued by the Commission shall pay a penalty of not less than fifty thousand pesos (P50,000.00) up to two million pesos (P2,000,000.00) for each violation and a similar amount of penalty for each day thereafter until the said entity fully complies. Provided that these fines shall only accrue daily beginning forty-five (45) days from the time that the said decision, order or ruling was received. (c) Supply of Incorrect or Misleading Information. – The Commission may likewise impose upon any entity fines of up to one million pesos (P1,000,000.00) where, intentionally or negligently, they supply incorrect or misleading information in any document, application or other paper filed with or submitted to the Commission or supply incorrect or misleading information in an application for a binding ruling, a proposal for a consent judgment, proceedings relating to a show cause order, or application for modification of the Commission's ruling, order or approval, as the case

> may be. (d) Any other violations not specifically penalized under the relevant provisions of this Act shall be penalized by a fine of not less than fifty thousand pesos (P50,000.00) up to two million pesos (P2,000,000.00)."
>
> "Provided that the schedule of fines indicated in this section shall be increased by the Commission every five (5) years to maintain their real value from the time it was set."

Element or Requisite	Content
Independence	The Commission is an independent quasi-judicial body, so attachment to the Office of the President never subjects its adjudication to executive direction and its members enjoy security of tenure removable only for just cause
Original and primary jurisdiction	The Commission takes every competition issue first, and where competition and noncompetition issues mix it still decides after consulting the sector regulator and receiving its opinion
Own-motion and complaint inquiry	The Commission acts on its own motion, on a verified complaint from an interested party, or on referral from a regulator, and no other law enforcement agency may run a parallel competition inquiry
Preliminary inquiry clock	Every preliminary inquiry ends within ninety days from the verified complaint, the referral, or the own-motion opening, either by closure for no violation or by resolution to open full investigation
Interim protection	After due notice and hearing the Commission may order temporary cessation of acts that would materially harm consumers or competition while the case runs
Criminal referral	Where evidence warrants, the Commission files the criminal complaint with the Department of Justice, which prosecutes before the proper court under the Revised Rules of Criminal Procedure
Merger review	The Commission sets thresholds and procedures, reviews notified deals, and prohibits or conditions deals that substantially lessen competition
Redress after hearing	On substantial evidence after due notice and hearing the Commission stops or redresses the violation with injunctions, divestment, and disgorgement of excess profits under the implementing rules

Element or Requisite	Content
Structural remedy limit	Divestiture and reorganization issue only where no equally effective behavioral remedy exists or where the behavioral option burdens the enterprise more, and only in proportion to a lasting or repeated infringement risk rooted in the structure itself
Contempt	Misconduct that seriously interrupts proceedings, including willful defiance of a lawful summons or refusal to testify, draws up to thirty days imprisonment or up to P100,000.00 fine or both
Tripled fines	Violations touching basic necessities and prime commodities under R.A. No. 7581 as amended draw triple the fine from the Commission or the courts
Five-year escalation	The Commission raises the whole fine schedule every five years to preserve real value

Independence shields adjudication while attachment serves administration, so the President never dictates outcomes. Redress cures the market while fines punish the violator, so injunctions with disgorgement may run alongside monetary penalties. Behavioral fixes come first while structural surgery waits, so divestiture needs a finding that gentler orders cannot work.

Case: *Tatad v. Secretary of DOE*, G.R. No. 124360, November 5, 1997

Facts: Congress deregulated the downstream oil industry through R.A. No. 8180 while keeping a tariff differential, an inventory requirement, and a predatory pricing ban that favored the three incumbent refiners. Taxpayers assailed the statute as an unconstitutional barrier to new entrants.

Issue: The issue was whether a deregulation law that entrenches an oligopoly violates the constitutional command against monopolies and combinations in restraint of trade.

Held: The Court struck down the whole statute, because the tariff gap with the inventory burden with the toothless pricing ban walled out newcomers while freeing the three majors from price control, and the offending provisions so permeated the law that no part could survive.

Doctrine: Section 19 of Article XII is anti-trust in history and in spirit and makes competition its underlying principle. A statute that barricades entry into an oligopolized market must fall in its entirety where Congress could not have passed it without the offending props. An independent competition enforcer exists so that capture of this kind meets a forum bound to evidence and not to politics. (Full digest in Batch 3.)

Q: The Secretary of Energy writes the Commission directing it to clear a refinery merger without review because the project is a presidential priority. The merging refiners invoke

the letter and demand immediate clearance. Must the Commission obey the directive.

A: No, because the Commission is an independent quasi-judicial body that decides only on evidence after due process.

Section 5 creates the Commission as independent although attached to the Office of the President for administration, while Section 12 gives it original and primary jurisdiction over merger review and Section 31 gives it sole and exclusive authority to open and close inquiries.

A cabinet letter is neither evidence nor law, and the ruling in Tatad v. Secretary of DOE (G.R. No. 124360, 1997) struck down executive implementation that rewrote congressional competition standards.

The Commission therefore disregards the directive and runs the notification and review clock on the merits.

Q: After due hearing the Commission finds a cement cartel and orders the members to sell two plants although a supervised price and supply commitment would restore rivalry. The cartel answers that divestiture is a listed remedy so the Commission may choose it freely. Is the divestiture order valid.

A: No, because structural remedies issue only where behavioral relief cannot do the job.

Section 12(h) allows adjustment and divestiture orders only where no equally effective behavioral remedy exists or where the behavioral option would burden the enterprise more, and only in proportion to a lasting or repeated infringement risk rooted in the structure itself.

The finding here admits that a supervised commitment would restore rivalry, so the first condition fails and the order punishes structure instead of curing conduct.

The Commission must replace divestiture with the effective behavioral remedy and reserve structural surgery for a case that proves its necessity.

2. Composition, Term, Qualification; Confidentiality; Remedies of the Entity

> "The Commission shall be composed of a Chairperson and four (4) Commissioners. The Chairperson and the Commissioners shall be citizens and residents of the Philippines, of good moral character, of recognized probity and independence and must have distinguished themselves professionally in public, civic or academic service in any of the following fields: economics, law, finance, commerce or engineering. They must have been in the active practice of their professions for at least ten (10) years, and must not have been candidates for any elective national or local office in the immediately preceding elections, whether regular or special: Provided, That at least one (1) shall be a member of the Philippine Bar with at least ten (10) years of experience in the active

practice of law, and at least one (1) shall be an economist. The Chairperson and the Commissioners who shall have the rank equivalent of cabinet secretary and undersecretary, respectively, shall be appointed by the President."

"The term of office of the Chairperson and the Commissioners shall be seven (7) years without reappointment. Of the first set of appointees, the Chairperson shall hold office for seven (7) years and of the first four (4) Commissioners, two (2) shall hold office for a term of seven (7) years and two (2) for a term of five (5) years. In case a vacancy occurs before the expiration of the term of office, the appointment to such vacancy shall only be for the unexpired term of the predecessor."

"The Chairperson and the Commissioners shall enjoy security of tenure and shall not be suspended or removed from office except for just cause as provided by law."

"The Commissioners shall not, during their tenure, hold any other office or employment. They shall not, during their tenure, directly or indirectly practice any profession, except in a teaching capacity, participate in any business, or be financially interested in any contract with, or any franchise, or special privileges granted by the government or any subdivision, agency, or instrumentality thereof, including government-owned and -controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office. They shall not be qualified to run for any office in the election immediately succeeding their cessation from office: Provided, That the election mentioned hereof is not a Barangay election or a Sangguniang Kabataan election. Provided, they shall not be allowed to personally appear or practice as counsel or agent on any matter pending before the Commission for two (2) years following their cessation from office."

"Three (3) members of the Commission shall constitute a quorum and the affirmative vote of three (3) members shall be necessary for the adoption of any rule, ruling, order, resolution, decision or other acts of the Commission."

"Confidential business information submitted by entities, relevant to any inquiry or investigation being conducted pursuant to this Act as well as any deliberation in relation thereto, shall not, in any manner, be directly or indirectly disclosed, published, transferred, copied, or disseminated. Likewise, the Commission shall, to the extent possible, subject such information to the confidentiality rule provided under this section when it issues notices, bulletins, rulings and other documents: Provided, That the confidentiality rule shall not apply if the notifying entity consents to the disclosure, or the document or information is mandatorily required to be disclosed by law or by a valid

order of a court of competent jurisdiction or of a government or regulatory agency, including an exchange. The identity of the persons who provide information to the Commission under condition of anonymity, shall remain confidential, unless such confidentiality is expressly waived by these persons."

"Any violation of this provision shall be imposed a fine of not less than one million pesos (P1,000,000.00) but not more than five million pesos (P5,000,000.00)."

"Where no prior complaint or investigation has been initiated, any entity that is in doubt as to whether a contemplated act, course of conduct, agreement, or decision, is in compliance with, is exempt from, or is in violation of any of the provisions of this Act, other competition laws, or implementing rules and regulations thereof, may request the Commission, in writing, to render a binding ruling thereon: Provided, That the ruling is for a specified period, subject to extension as may be determined by the Commission, and based on substantial evidence."

"In the event of an adverse binding ruling on an act, course or conduct, agreement, or decision, the applicant shall be provided with a reasonable period, which in no case shall be more than ninety (90) days, to abide by the ruling of the Commission and shall not be subject to administrative, civil, or criminal action unless the applicant fails to comply with the provisions of this Act;"

"At any time prior to the conclusion by the Commission of its inquiry, any entity under inquiry may, without in any manner admitting a violation of this Act or any other competition laws, submit to the Commission a written proposal for the entry of a consent order, specifying therein the terms and conditions of the proposed consent order which shall include among others the following: (1) The payment of an amount within the range of fines provided for under this Act; (2) The required compliance report as well as an entity to submit regular compliance reports; (3) Payment of damages to any private party or parties who may have suffered injury; and (4) Other terms and conditions that the Commission deems appropriate and necessary for the effective enforcement of this Act or other Competition Laws: Provided, That a consent order shall not bar any inquiry for the same or similar acts if continued or repeated;"

"The request for a binding ruling, the show cause order, or the proposal for consent order; the facts, data, and information therein contained or subsequently supplied by the entity or entities concerned; admissions, oral or written, made by them against their interest; all other documents filed by them, including their evidence presented in the proceedings before the Commission; and the judgment or order rendered thereon; shall

not be admissible as evidence in any criminal proceedings arising from the same act subject of the binding ruling, show cause order or consent order against such entity or entities, their officers, employees, and agents."

"Decisions of the Commission shall be appealable to the Court of Appeals in accordance with the Rules of Court. The appeal shall not stay the order, ruling or decision sought to be reviewed, unless the Court of Appeals shall direct otherwise upon such terms and conditions it may deem just. In the appeal, the Commission shall be included as a party respondent to the case."

"Any person who suffers direct injury by reason of any violation of this Act may institute a separate and independent civil action after the Commission has completed the preliminary inquiry provided under Section 31."

"Any action arising from a violation of any provision of this Act shall be forever barred unless commenced within five (5) years from: For criminal actions, the time the violation is discovered by the offended party, the authorities, or their agents; and For administrative and civil actions, the time the cause of action accrues."

Element or Requisite	Content
Number and rank	One Chairperson with cabinet secretary rank and four Commissioners with undersecretary rank sit on the Commission, and the President appoints every member
Citizenship and character	Every member is a Filipino citizen and resident of good moral character with recognized probity and independence, distinguished in public, civic, or academic service in economics, law, finance, commerce, or engineering
Practice and non-candidacy	Every member has at least ten years of active professional practice, at least one is a Bar member with ten years of law practice, at least one is an economist, and none was a candidate in the immediately preceding national or local elections
Term and tenure	Every member serves seven years without reappointment with security of tenure against suspension or removal except for just cause, and a successor to a vacancy serves only the unexpired portion
First appointees	The first Chairperson serves seven years, two of the first four Commissioners serve seven years, and the other two serve five years, so later terms never empty the whole Commission at once

Element or Requisite	Content
Tenure bans	During tenure no member holds another office or employment, practices a profession except teaching, joins any business, or keeps a financial interest in any government contract, franchise, or privilege, and every member avoids all conflicts of interest
Post-service bans	No former member runs in the next election except Barangay and Sangguniang Kabataan polls, and no former member or close relative within the fourth civil degree appears as counsel or agent before the Commission for two years after cessation
Quorum and votes	Three members make a quorum and three affirmative votes adopt any rule, ruling, order, resolution, decision, or other act
Staff	An Executive Director with at least ten years in law, economics, commerce, management, finance, or engineering leads a technical staff drawn from economics, law, finance, commerce, engineering, accounting, and management graduates
Criminal prosecution split	The DOJ Office for Competition alone runs preliminary investigation and prosecution of criminal offenses, while the Commission builds the administrative case and refers the criminal complaint
Leniency	The first disclosing cartel member that stops at once, tells all, cooperates fully, and never coerced or led the cartel earns immunity or fine reduction, and reprisal against a cooperator itself violates the Act
Binding ruling	An entity with no pending complaint or investigation may ask in writing whether a planned act complies with competition law, and an adverse ruling gives at most ninety days to conform with no liability for timely obedience
Show cause order	On its own motion or on a sworn interested-party complaint the Commission serves the business conduct with the facts and evidence and orders the entity to explain why no cease and desist, fine, or readjustment order should issue
Consent order	At any time before the inquiry closes the entity may propose a consent order without admitting violation, paying within the fine range, filing compliance reports, and paying damages to injured parties, but repetition reopens inquiry for the same acts
Compliance monitoring	The Commission tracks obedience to every final ruling and order and certifies compliance or noncompliance on motion of an interested party

Element or Requisite	Content
Criminal inadmissibility	The binding ruling request with the show cause process with the consent proposal with every admission and paper inside them never enters a criminal case over the same act against the entity, its officers, employees, and agents
Appeal	The Court of Appeals takes appeals from Commission decisions under the Rules of Court with the Commission as party respondent, and appeal never stays the order unless the court so directs on just terms
Writ of execution	On finality the Commission enforces its own rulings and fines by writ of execution
Trial court forum	The Regional Trial Court of the principal place of business takes original and exclusive jurisdiction over every criminal and civil competition case regardless of penalty
Private action timing	A directly injured person sues independently only after the Commission completes its preliminary inquiry, so an early filing waits for the administrative gate to open
Limitations	Criminal cases prescribe in five years from discovery by the victim, the authorities, or their agents, while administrative and civil cases prescribe in five years from accrual
Injunction bar	No court below the Court of Appeals or the Supreme Court may enjoin the Commission, save for extreme constitutional urgency with a bond capped at twenty percent of the Section 29 fines, and a judge who disobeys faces at least one year suspension without pay
Transparency	Final decisions with public proceeding records reach the public subject only to the confidentiality rule

Confidentiality seals filings while consent opens settlement, so secrecy protects candor and candor buys leniency. Advance ruling prevents liability while timely cure defeats it, so doubt favors asking before acting. Administrative inquiry gates private suit while appeal never stays enforcement, so the Commission moves first and the courts review without freezing the market.

Case: *Gios-Samar v. DOTC*, G.R. No. 217158, March 12, 2019

Facts: A taxpayer group asked the Supreme Court to stop the bundling of six regional airports into two bid bundles and pleaded monopoly, restraint of trade, and dummy arrangements as bare legal conclusions. The petition named no relevant market, no dominant position, and no stockholding facts.

Issue: The issue was whether conclusions of monopoly and restraint suffice without ultimate facts on the relevant market, the dominant position, and the abuse.

Held: The Court dismissed the petition, because monopoly and restraint claims need ultimate facts that only evidence can supply, exclusivity in a concession never equals monopoly by itself, and direct resort to the Court violated the hierarchy of courts where facts still had to be tried.

Doctrine: Conclusions never state a cause of action without ultimate facts. Dominance needs proof of market share with power over price or supply. Abuse needs proof of exclusionary conduct and not of size alone. Remedies begin in the proper forum with facts pleaded, and the Commission is that forum first for competition facts. (Full digest in Part IV-A §3.)

Q: A business daily demands that the Commission publish the production costs and customer lists a cement maker filed during a cartel inquiry. The maker objects and withholds consent while no court orders disclosure. Must the Commission publish the data.

A: No, because confidential business information filed in an inquiry shall never be disclosed without consent or a lawful disclosure order.
Section 34 seals operations, production, sales, shipments, customer identities, inventories, and income data against direct or indirect disclosure, publication, transfer, copying, or dissemination, and breach draws a fine of not less than P1,000,000.00 but not more than P5,000,000.00.
Consent is absent here and no law or valid court or regulatory order compels release, so none of the three exceptions opens.
The Commission therefore keeps the data sealed and publishes only a ruling redacted to the extent possible.

Q: A flour distributor directly injured by a price cartel files a civil damages suit in the Regional Trial Court while the Commission preliminary inquiry is still running. The cartel moves to dismiss as premature. Must the court dismiss the suit.

A: Yes, because a private action opens only after the Commission completes its preliminary inquiry.
Section 45 lets any person who suffers direct injury sue separately and independently only after completion of the Section 31 preliminary inquiry, and Section 31 gives the Commission sole and exclusive authority to open that inquiry with a ninety-day completion rule.
The ruling in Gios-Samar v. DOTC (G.R. No. 217158, 2019) dismisses competition claims pleaded without the ultimate facts that an inquiry first builds, so a suit filed mid-inquiry jumps the administrative gate.
The court therefore dismisses the suit as premature without prejudice to refiling once the Commission completes its inquiry.

Quick-Recall Tables

Institution number	Figure
Members	Chairperson plus four Commissioners
Rank	Chairperson as cabinet secretary with Commissioners as undersecretaries
Practice years	At least ten years active practice with one Bar member and one economist
Term	Seven years without reappointment with security of tenure
First appointees	Chairperson seven years with two Commissioners seven years and two Commissioners five years
Quorum and votes	Three members with three affirmative votes
Executive Director	At least ten years relevant experience

Power question	Answer
Who enforces first	The Commission with original and primary jurisdiction, consulting sector regulators on mixed issues
Who prosecutes crimes	The DOJ Office for Competition on Commission referral
What interim relief issues	Temporary cessation orders with show cause and cease and desist orders after due notice and hearing
What structural relief issues	Adjustment and divestiture orders only where behavioral relief cannot work or burdens more
What compels evidence	Subpoena powers with court-ordered inspection of premises, books, tax records, and documents
May the Commission punish defiance	Yes with contempt up to thirty days or P100,000.00 or both

Fine or period	Figure
First offense administrative fine	Up to P100,000,000.00
Second offense administrative fine	P100,000,000.00 to P250,000,000.00
Defiance of order	P50,000.00 to P2,000,000.00 per violation with the same daily amount from day forty-five
False or misleading information	Up to P1,000,000.00
Residual violations	P50,000.00 to P2,000,000.00
Basic necessities violation	Triple the fine
Criminal cartel penalty	Two to seven years with P50,000,000.00 to P250,000,000.00 per violation on knowing and willful officers
Fine schedule review	Increase every five years

Secrecy question	Rule
What is sealed	Confidential business information in any inquiry or deliberation with anonymous informant identities
What are the three exits	Notifying-entity consent with mandatory legal disclosure with valid court, government, or exchange order
What punishes breach	Fine of P1,000,000.00 to P5,000,000.00
Does waiver end anonymity	Yes where the informant expressly waives confidentiality
Are Commission rulings secret	No, since final decisions and public records publish subject to the secrecy rule

Remedy question	Answer
Who may seek a binding ruling	Any doubtful entity with no pending complaint or investigation, in writing, for a fixed extendible period
How long to obey an adverse ruling	A reasonable period never beyond ninety days with no liability for timely obedience
What settles without admission	A consent order with fine-range payment, compliance reports, and damages to injured parties
What never enters a criminal case	The ruling request with the show cause process with the consent proposal with every admission and paper inside them
Where does appeal go	Court of Appeals with the Commission as respondent and no automatic stay
When may the victim sue alone	Only after the Commission completes preliminary inquiry
How long to sue or prosecute	Five years from discovery for crimes and five years from accrual for administrative and civil cases
Which court tries the case	Regional Trial Court of the principal place of business with original and exclusive jurisdiction

Distinction question	Answer
Independence against attachment	The first frees adjudication from direction while the second places administration under the Office of the President
Behavioral against structural	The first restrains conduct while the second reorganizes the enterprise, and the second needs a finding that the first cannot work
Binding ruling against consent order	The first clears a planned act in advance while the second settles a live inquiry without admission
Confidentiality against transparency	The first seals business data and informants while the second publishes final decisions redacted to the extent possible
Commission action against private action	The first opens the inquiry within ninety days while the second waits for that inquiry to close

Distinction question	Answer
Appeal against injunction of the Commission	The first goes to the Court of Appeals without staying enforcement while the second is void below that court save for bonded constitutional urgency

Exam Traps

1. Attachment never means control, so a presidential directive never binds Commission adjudication.
2. Five members sit but three decide, so two votes never adopt any Commission act.
3. Seven years run without reappointment, so a holdover second term is never allowed.
4. The immediately preceding elections bar candidacy, so a recent losing candidate never qualifies.
5. The next election after cessation bars running, save only for Barangay and Sangguniang Kabataan polls.
6. Two years bar post-service practice before the Commission, and the same bar binds spouses and fourth-degree relatives during incumbency and two years after.
7. Teaching never counts as prohibited practice, while every other professional practice does.
8. Original and primary jurisdiction stays with the Commission on mixed issues, so a sector regulator never ousts it.
9. No other law enforcement agency may run a competition inquiry, save only for deputized aid under Commission direction.
10. Criminal prosecution belongs to the DOJ Office for Competition, so the Commission refers and never prosecutes.
11. First offense caps at P100,000,000.00 while second offense floors at the same figure, so the count changes the range.
12. Daily defiance fines accrue only from day forty-five after receipt, so days one to forty-four never multiply.
13. False information draws up to P1,000,000.00 whether negligent or intentional, so good faith mistake still answers.
14. The fine schedule rises every five years, so a memorized figure silently grows.
15. Divestiture without a failed behavioral alternative is void, so listing among remedies never means free choice.
16. Basic necessities triple every fine, so the commodity traded changes the number.

17. Confidentiality yields only to consent, mandatory law, or valid order, so press demand alone never opens files.

18. Anonymity survives unless expressly waived, so later open testimony without waiver never lifts the shield alone.

19. Binding rulings need no pending case, so an entity already under inquiry never qualifies.

20. Ninety days to obey an adverse ruling is a ceiling and not a floor, so a shorter reasonable period set by the Commission binds.

21. Consent never admits violation and never bars a fresh inquiry on repeated acts, so settlement never buys future immunity.

22. Inquiry papers never enter the criminal case over the same act, so admissions before the Commission never prove the crime.

23. Appeal never stays enforcement unless the Court of Appeals so orders, so losing respondents obey while appealing.

24. Private suit before completed preliminary inquiry is premature, so the victim waits for the administrative gate.

25. Five years run from discovery for crimes but from accrual for civil and administrative cases, so the trigger differs by action.

26. Only the Court of Appeals and the Supreme Court may enjoin the Commission, and urgency needs a constitutional issue with grave irreparable injury plus bond.

Key Authorities Cited

Codes and Constitution: 1987 Constitution Art. XII Sec. 19 with R.A. No. 10667 Secs. 5, 6, 7, 8, 10, 11, 12, 13, 29, 31, 32, 34, 35, 37, 38, 39, 40, 41, 44, 45, 46, and 47, approved July 21, 2015. Also cited are R.A. No. 7581 as amended on basic necessities with E.O. No. 45 Series of 2011 as amended on the former competition authority.

Cases: Tatad v. Secretary of DOE (G.R. No. 124360, 1997). Gios-Samar v. DOTC (G.R. No. 217158, 2019).

Source and Verification Note

This reviewer reads the Part IV-C syllabus slice with the Chapter 15 headings for pages 1069 to 1084 from the TOC file against the controlling primary texts checked in this run. The scanned Aquino textbook carries no text layer, so no textbook sentence is quoted here and every blockquote comes from primary law. Sections 5, 6, 7, 8, 10, 12, 29, 31, 32, 34, 35, 37, 38, 39, 40, 41, 44, 45, 46, and 47 of R.A. No. 10667 were checked against the full LawPhil Republic Act

page, with the Official Gazette Act page confirming approval on July 21, 2015. Two LawPhil page artifacts were normalized without changing substance, namely the misread verb in Section 14(b)(1) which is not quoted here and the capital-letter rendering of peso figures in Sections 29(c) and 34 which is quoted here in standard notation. Article XII Section 19 of the 1987 Constitution was checked against the full LawPhil Constitution page. Case doctrine comes from the Batch 3 digests for Tatad v. Secretary of DOE and Gios-Samar v. DOTC, with dockets from the Batch 3 Case List. Syllabus numbers 73 and 74 duplicate numbers 68 and 67, and the Topic Mapping places both decisions in Chapter 14 free-competition doctrine at book page 967, so they carry no separate card here. The compiled 2016 to 2025 commercial-law questionnaire carries no question on Commission structure, confidentiality, or entity remedies, since its sole competition item is the 2024 electric-bicycle dominance problem, so every drill in this Part IV-C file is drafted from the doctrine with no year assigned. The amendatory law is R.A. No. 10667, the Philippine Competition Act, approved July 21, 2015, which repeals Article 186 of the Revised Penal Code for later conduct with no retroactive effect. Peso figures use standard notation.