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## **Examining Philippine Competition Policy (1992-2015) through Punctuated Equilibrium Theory**

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### **Abstract**

For many democracies, competition in the free market is an essential pillar to ensure the continuous improvement of the standard of living of their citizens. In the Philippines, an anti-trust law was only institutionalized in July 2015 after former President Benigno Aquino III signed into law the Philippine Competition Act (PCA). Despite this major legislative landmark, critics argue that it should have been passed two decades ago. The study finds that the role of political institutions has been instrumental in effecting policy stasis as oligarchs and economic elites maintain close links with the legislators and government officials. Furthermore, the Philippine government has opted to focus on issue-neutral, non-controversial, and public works-centered projects to prevent debate among colleagues and to satisfy demands of constituencies. Interestingly, there was no triggering event to effect policy change. Instead, the passage of the PCA is due to two major reasons: domestic rationale; and global developments.

**Keywords:** Competition policy, Philippine economy, Philippine politics, Philippine development, Punctuated equilibrium theory

### **Introduction**

Public policy plays a crucial role in stimulating economic growth and catalyzing development. Accordingly, the government and its representatives undertake various courses of action, laws, regulatory policies, and budget-related measures to address public development problems and issues brought to light by a diverse set of stakeholders with varying degrees of influence and relations with decision-makers. For many democracies, competition in the free market is an essential pillar to ensure the continuous improvement of the standard of living of their citizens. Accordingly, competition tends to maximize overall welfare by advancing efficient allocation of resources thereby producing the best quality of goods and services which are offered in a wider array of choices at the optimum market-determined prices. However,

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market failure, as manifested by monopolies, may dampen development in the process thus underlining the need for an effective and comprehensive competition policy.

In the Philippines, an anti-trust law was only institutionalized in July 2015 after former President Benigno Aquino III signed into law the Philippine Competition Act (PCA) or Republic Act 10667. The law safeguards a free, fair, and competitive market while penalizing unfair and anti-competitive behavior and practices. Notably, the enactment into law of PCA was one of the cornerstones of the Aquino III administration's centerpiece project which focused on realizing inclusive growth. Despite this major legislative landmark instituting competition policy at the national level, critics argue that the said law should have been passed two decades ago when the Ramos administration rolled out market-liberalizing reforms en route to an economically competitive Philippines.

Further, policies related to competition were diffused in around 30 different laws such as the Philippine Constitution, Revised Penal Code, Consumer and Price Acts, and sector-unique regulations, among others. Majority of which contain outdated provisions and weak penalties on anti-competitive conduct by businesses that were ineffectively implemented. Thus, it is worth examining the specific political actions and exchanges undertaken by various groups and institutions to effect stability and punctuation concerning the country's anti-trust law. Frank Baumgartner and Bryan Jones' (1993) Punctuated Equilibrium Theory (PET) would be an appropriate reference for this endeavor.

This research paper seeks to answer the inquiry, "Why was the Philippine Competition Act enacted into law only in July 2015 despite numerous attempts in Congress over the last twenty years?" The significance of this study is its attempt to highlight two aspects: (i) the main factors behind the passage of the country's first comprehensive competition law; and (ii) the nature of policy dynamics involving different stakeholders which caused a long period of policy stability and was ended by a prominent change/punctuation.

## **Objectives of the study**

This paper aims to examine the primary elements and political interactions leading up to the enactment into law of the Philippine Competition Act in July 2015. Along with the overarching objective, this study also seeks to attain five major purposes. Firstly, it briefly reviews the key concepts espoused by Punctuated Equilibrium Theory (PET). Secondly, this study describes the nature and structure of the Philippine political system. Thirdly, it outlines the history of competition-related laws and policies provided by the Philippine government from the Ramos administration until the Aquino III presidency. Next, the paper tackles the main factors that substantially contributed to the enactment of the Philippine Competition Act (PCA) in 2015. Lastly, it shares valuable insights and observations on the nature of Philippine politics and public policy from 1992 until 2015 focusing on competition policy vis-à-vis Baumgartner and Jones' PET.

### **Revisiting Baumgartner and Jones' Punctuated Equilibrium Theory (PET)**

The primary goal of PET is to explain political processes that produce long periods of policy stability (stasis) which is eventually punctuated by quick but intense series of radical changes (crisis) (Cairney, 2011). According to True et al. (2007) PET assumes that the policy process is grounded on two main elements, namely, political institutions and boundedly rational decision-making. Both factors interact to partake in the definition of issues and agenda-setting. The inclusion and visibility of policy issues in the public agenda is a central component to the reinforcement or questioning of policies which may bring either marginal or large-scale alterations in policy outcomes. Therefore, both incremental and major policy changes can be explained by the intersection of conservative, overlapping, multilevel political institutions and bounded rationality (or the cognitive limitations in decision-making) (True et al., 2007).

However for Cairney (2011), PET can be aptly characterized by its usage of policy communities and agenda setting to explain continuity and punctuation in public policy. Policy communities refer to the close institutional relationships between the government and interest groups seeking to maintain monopoly over a policy through images while agenda-setting focuses on the level of attention the public, media, and government to policy issues provide. (Jordan & Maloney, 1997; Cairney, 2011). Equally significant concepts integrated into the Punctuated Equilibrium Theory include Redford's (1969) subsystem politics and macropolitics, Schattschneider's (1960) socialization and privatization of conflict, and Downs' (1972) issue-attention cycle.

Accordingly, subsystem politics is viewed as the politics of stasis (or equilibrium) where policy monopoly is retained, incrementalism is prevalent, policy image is widely accepted, and stability is maintained due to negative feedback. Decision-making in such system is relegated to iron triangles and issue networks of technocrats in the bureaucracy, legislative subgroups, and interested parties. This means that policies are substantially shaped and made by interest groups, congressional subcommittee members, and bureaucrats, especially in the case of the United States (U.S.). In contrast, macropolitics is labeled as the politics of punctuation where radical departures from the past occur, policy images are hotly contested, and positive feedback advances the demand for change (True et al., 2007).

Baumgartner and Jones (1993) examined the applicability of the cited assumptions by analyzing several U.S. policymaking cases. This endeavor revealed three major findings: 1) policymaking undergoes both equilibrium and disequilibrium as issues enter and exit the public agenda; 2) American political institutions increase the possibility of punctuated equilibria; and 3) policy images play a vital role in bringing issues out of policy monopolies and onto new and wider spheres. The utilization of policy images, which simultaneously present empirical information and appeal to emotions of a target audience, to effect policy change is prominent in the case of postwar U.S. nuclear power policy (Baumgartner & Jones, 1993).

Jones and Baumgartner (2005) turned their focus towards selective attention observations drawn out from the Policy Agendas Project. According to them, policymakers choose to neglect certain issues for certain reasons and that information processing is disproportionate thus hampering public officials to respond sufficiently to the 'signals' sent by

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external agents. These lead to long periods of stability. In a minuscule amount of cases however, policy change happens when decision-makers allot adequate time and attention to a policy issues that has garnered a critical mass of scrutiny. These spurts of governmental attention and action lay path to the enactment of erratic, episodic, and major punctuations (Jones & Baumgartner, 2005).

Cairney (2011) notes that the direction of Baumgartner and Jones' work tends to shift from specific cases (i.e., U.S policymaking) to universal application (in other democracies as well). While their initial hypothesis was primarily influenced by the American political system, common concepts such as bounded rationality, agenda-setting, policy monopoly, and selective attention are likewise existent in other political systems around the world (Cairney, 2011). The overarching pattern of long periods of policy stability interrupted by sudden punctuations is also evident in numerous systems. It is in this vein that this study tries to analyze the Philippine competition policy through the lens of the Punctuated Equilibrium Theory. Hence, it is essential to first have a better understanding of the nature and structure of the Philippine political system.

### **Characterizing the Philippine political system**

The Philippines is a republic with a Presidential form of government wherein power is equally divided among its three branches: executive, legislative, and judicial. One basic corollary in a presidential system of government is the principle of separation of powers wherein legislation belongs to Congress, execution to the Executive, and settlement of legal controversies to the Judiciary. The President is elected by direct vote by the people for a term of six years and may only serve for one term. Furthermore, the country's legislature (Congress) is bicameral which is consisted of the Upper House (Senate) and the Lower House (House of Representatives; 20 percent of whom must be Party-list representatives) (CIA World Factbook, not dated). They are elected for fixed terms at national and local levels, respectively. Lastly, the judicial power rests with the Supreme Court and the lower courts which are mandated to settle actual controversies involving rights which are legally demandable and enforceable. Members of the Supreme Court are appointed by the President. The country has a multi-party system and hosts several sectoral interest groups (CIA World Factbook, not dated).

While the nation seems to have concurred with the basic principles of democracy in a procedural manner, many scholars and authors have otherwise pointed out several customs and characteristics that have substantially eroded the fundamental democratic processes within the country. Terms associated with Philippine politics include *cacique* democracy (i.e., presence of land-owning elites as ruling class in rural areas, which eventually became national *caciques* and formed a national oligarchy), *booty* capitalism, anarchy of families, *ersatz* capitalism, and non-substantive democracy, among others (Magcamit, 2016). Quimpo (2005) disputed the accuracy of these terms and referred to Philippine politics as a 'contested democracy' wherein the struggle for hierarchical structures is undertaken by two main factions: a) oligarchs and bosses comprising the elite democracy; and b) people's organizations, non-governmental organizations, and opposition parties making up the democracy from below.

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For Hutchcroft and Rocamora (2003), the institutional deficiencies of the Philippine democracy are rooted from the innovations introduced during the American colonial era which have resulted in the exclusion of the masses and elite primacy over democratic institutions, an overreaching presidency, and the ascendancy of patronage politics as the foundation of political parties. Moreover, the installation of a national oligarchy – instead of a national government – has forced voters to elect into office their respective patrons in exchange for personal favors that were already provided and/or promised to be granted once put into power (Manacsa & Tan, 2012).

Magcamit (2016) discussed in detail the prominence of patrimonial administrations and patronage-backed presidencies from the Fidel Ramos administration until the Benigno Aquino III government. He writes that the Ramos presidency (1992-1998) sought to nurture a “Strong Republic” and hired revisionist political leaders to achieve a market that is free from oligarchic control and interests. However, the said administration eventually embodied traditional political practices and customs to further his own political agenda. The succeeding Joseph Estrada administration (1998-2001) banked on a pseudo-populist support from the masses but the president decided to foster a “padrino system” which is characterized by the involvement of Estrada’s closest allies and relatives as his official cabinet members and de facto advisers. This set-up consequently cultivated a culture of corruption which caused Estrada’s ouster from office.

Next, the Gloria Macapagal-Arroyo (2001-2010) government is considered as one of the most corrupt president, next to President Ferdinand Marcos, in Philippine history (Magcamit, 2016). Her pledge to convert the country’s personality-based politics towards one that is founded on genuine party programs and increased participation of ordinary citizens went to naught as she wisely utilized her position to strengthen the existing patron-client relationships. Traditional politicians were able to pursue their predatory objectives and this resulted in elevated repression of civil society organizations and media, weak rule of law, rigged elections, and greater military influence in politico-economic affairs. Lastly, the Benigno Aquino III (2010-2016) administration was able to deliver some surprises as the country’s economy expanded continuously and corrupt personalities were persecuted. Despite these achievements, Magcamit (2016) argues that oligarchs successfully practiced patronage politics over the Aquino III administration.

### **A brief history of competition policy in the Philippines (1992-2014)**

For many democracies, competition in the free market is an essential pillar in ensuring equitable opportunities for all players, especially for small and medium-sized enterprises (SMEs), and in safeguarding the continuous enhancement of the living standards of their citizens. Accordingly, competition tends to maximize overall welfare by advancing the efficient allocation of resources thereby producing the best quality of goods and services offered in a wider array of choices and at the optimum prices (Aldaba, 2008). A competitive market likewise fosters equity, higher productivity, adaptability, and innovation. Moreover, competitiveness is taken as an important element in sustaining economic growth and enabling

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higher levels of development, especially for the disadvantaged and marginalized groups, amid an interconnected, globalized world. Hence, institutionalizing comprehensive anti-trust law at the national level is necessary to underpin constant development.

In the Philippines, the presence of unfair trade practices (UTPs) illustrates the existence of anti-competitive behaviors which can be characterized into two categories: (1) exclusionary abuse; and (2) exploitative abuse (Abad et. al, 2012). The first type pertains to an act of the firm or a group of firms to prevent entry of potential firms and is achieved by predatory pricing, arrangement to divide the market, and unjustified refusal to deal with other firms. The second type refers to the actual abuse of market power and is carried out through cartel agreement to fix prices above competitive levels and/or limit output levels (Abad et. al, 2012). As a response to the cited issue, the Philippine government enacted several legislative measures to curb restrictive practices and promote competition. For instance, the 1987 Philippine Constitution prohibits anti-competitive behavior and practices when public interest so requires but provides no imposable sanctions for violations of these provisions. Instead, Article 186 of the 1950 Revised Penal Code or Republic Act (R.A.) 3815, identical to the United States' Section 2 of the Sherman Act of 1890, describes the penalties imposable on restrictive behaviors such as monopolies and other customs in restraints of trade.

There are also several competition-related laws enacted well before the Ramos administration (1992-1998). These include RA 3247 (An Act to Prohibit Monopolies and Combinations in Restraint of Trade), RA 165 (Patent Law), RA 166 (Trademark Law), Presidential Decree 49 (Copyright Law), Batasan Pambansa 68 (Corporation Code of the Philippines), RA 7581 (Price Act), and RA 7394 (Consumer Act of the Philippines) (Aldaba, 2001). While it is evident that the Philippine state already had an appreciation of the significance of competition in a free market setting as early as the 1990s, it can be argued that the principle of competition and the notion of a competition law only started to gain significant traction during the Ramos presidency. Pledging to foster a "Strong republic" and bring the nation towards a newly-industrialized country status, President Ramos, along with his technocrats, ascribed to the tenets of the then-prominent 'Washington Consensus' which espouses trade and investment liberalization, privatization of state-owned assets, and deregulation of certain national industries (Tadem, 2014).

In addition, the country signed vital international trading agreements under the purview of the World Trade Organization (WTO), Asia-Pacific Economic Cooperation (APEC), and Association of Southeast Asian Nations (ASEAN). Notable competition-related and efficiency-oriented laws passed during the said administration include RA 7721 (Foreign Bank Liberalization Act), RA 7843 (Anti-Dumping Act), RA 7925 (Public Telecommunications Policy Act), RA 8180 (Downstream Oil Industry Deregulation Act), and RA 8293 (An Act prescribing the Intellectual Property Code). President Ramos likewise utilized his position to issue executive orders which were aimed at liberalizing ports and aviation industry, improving the local exchange carrier service, and encouraging privatization efforts through various modes.

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Initial attempts at establishing a comprehensive anti-trust law were also launched during the cited presidency. Specifically, Congressman Gerardo Espina authored House Bill (HB) 1373 or the Fair Trade Act of 1994 and was followed by HB 183 or the Fair Trade Act of 1998 by Congressman Rolando Briones (Aldaba, 2001). However, both proposals failed to garner enough support needed due to different reasons. First, the timing of HB was ill-fated due to the surfacing of the Flor Contemplacion case. Contemplacion, an overseas Filipino worker in Singapore, was accused in 1991 of killing both Delia Maga, another migrant worker in Singapore, and Nicholas Huang, Maga's ward. She was later convicted in April 1994 and was hanged in 1995 (Panganiban, 2015). The said case generated massive coverage from the media and became a national concern which prompted the Ramos government to focus efforts on carefully responding to the cited issue.

Strong public outcry as demonstrated by various protests by civil society organizations and other interest groups in different parts of the country led to the momentary dissolution of bilateral ties between the Philippines and Singapore and the enactment of RA 8025 or the Migrant Workers Act of 1995 (Shenon, 1995; The Washington Post, 1995; Talabong, 2019). The consequent attempt to legislate a comprehensive competition law was also neglected as the first quarter of the year 1998 marked the beginning of the campaign period for national positions. The attention of voters as well as legislators was mainly concentrated on the platforms of the aspiring candidates and their respective track records.

The succeeding presidency of Joseph Estrada (1998-2001) is claimed to have represented a severely divided polity (Batalla, 2016). Despite a strong following from the masses, especially from the lower classes, at the start of his tenure, President Estrada's public approval quickly plunged in December 1998 after the media exposed his work habits and relations with shady personalities exacerbated by rising fuel prices (Batalla, 2016). Analysts likewise note that Estrada's mismanagement of the nation's political and economic affairs resulted in the outflow of foreign investments from the Philippines, large budget deficits, and lost opportunities for the economy (Sicat & Abdullah, 2003). Yap (2001) highlighted that the presence of an anti-Estrada sentiment among most local firms led to lower growth projection for the country in 2000.

Public attention was again diverted to a corruption allegation against Estrada which was made by Luis Chavit Singson, a close friend and associate. Senate Blue Ribbon Committee hearings were prolonged and the populace watched closely as local channels broadcasted the hearings nationwide (Batalla, 2016). In addition, a move to impeach President Estrada was successful at the Lower House level but failed to gather the required number of votes from the Upper House, which was dominated by Estrada's allies. Ensuing actions by the pro-Estrada coalition proved to be the fuel to the fire as the masses spontaneously decided to hold demonstrations, which received additional support from military generals and the defense secretary of the Philippine government (Batalla, 2016). Estrada had no other choice but to step down from office and was replaced by then Vice-President Gloria Macapagal-Arroyo.

Over the period 1998-2001, a handful of market-liberalizing reforms were enacted which include RA 8752 (Anti-Dumping Act of 1999), RA 8756 (which provides incentives for

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regional headquarters of foreign multinationals), RA 8762 (Retail Trade Liberalization Act), RA 8791 (New General Banking Act), and RA 8792 (Electronic Commerce Act). Nevertheless, the popularity of competition policy among legislators plummeted as the 11th Congress of the Philippines opted to pass laws mostly related to building schools, public works, franchises, local government, and declaration of a holiday (Panao, 2016). Medalla (2000) stressed that the absence of a competition policy and law may be attributed to the private sector's lack of appreciation of the issue. Reasons cited for the said problem include the forward-looking appeal of a competitive market after thirty years of protectionism and the (in)ability of small and medium-sized firms to compete with larger foreign enterprises (Medalla, 2000).

President Arroyo took over the presidency in 2001 and continued to serve for another nine years after she won the controversial 2004 elections. She is considered as a member of the political elite but became more known through her experience in government service, especially in the field of economics (Batalla, 2016). The Arroyo administration rallied behind the rejuvenation of a strong state and underlined the need to alleviate poverty while catalyzing economic growth (Reid, 2006).

Reid (2006) recounted the political challenges faced by President Arroyo which included corruption allegations, political scandals (e.g., her involvement in vote-rigging during the 2004 Presidential elections), and impeachment and destabilization attempts. These have two significant implications to the dynamics of Philippine politics: 1) the Congress spent majority of their time on public hearings and became heavily engaged in personal and informal interactions with their co-legislators and external allies; and 2) interest groups such as the private sector and civil society organizations devoted a great deal of their manpower and resources to either distance themselves from the government or actualize the ouster from office of President Arroyo (Reid, 2006).

Economically, the said administration was able to achieve an average gross domestic product (GDP) growth of 5 percent from 2001-2010 (Batalla, 2016). The government enacted two critical legislatures to ease the fiscal burden which already accumulated since the previous administrations. The Electric Power Industry Regulation Act (EPIRA) or RA 9136 was passed 2001 to lessen the power-related debt service burden while the expanded value-added tax (VAT) law was adopted in 2005 to increase the government's revenues (Batalla, 2016). President Arroyo is likewise credited for launching the conditional cash transfer (CCT) program and for supporting the business process outsourcing (BPO) industry which has generated a massive number of jobs.

Regarding the implementation of competition policy, Cabalu et al. (2006) contended that any move to do such would be difficult to succeed in a politico-economic system which is characterized by rent-seeking behaviors, complex alliances of family and regional groupings, and close relations between government officials and political and economic elites. They believed that the foremost advocates of competition policy in the Philippines are the relatively powerless – consumer advocacy groups, academics, student activists, and marginalized communities – and not the big businesses. On the other hand, Aldaba (2008) claimed that the

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inexistence of a comprehensive law is due to the absence of appreciation and weak political will of previous administrations from the Aquino until the Arroyo government.

Panao (2016) notes that the top priority areas of legislation of the 12th, 13th, and 14th Congresses (2001-2010) are pretty much identical to the issues mainly tackled and enacted by the 11th Congress. He observes that local and national politicians tend to focus on issue-neutral, non-controversial, and public works-centered projects to prevent debate among colleagues and to satisfy demands of their constituencies. The political appeal and relevance of implementing a competition policy and enacting a comprehensive anti-trust law therefore becomes weaker and eventually lose their visibility in the national public agenda. To gauge the perceptions of Filipino citizens of the nation's politics and governance, Pulse Asia has been conducting a national survey entitled, "Ulat ng Bayan" since 2001. In particular, the top issues considered by Filipinos as urgent national concerns during the Arroyo administration range cover national economic recovery, peace, poverty, graft and corruption, controlling inflation/high prices, and low pay.

The presidency of Benigno Aquino III (2010-2016) ushered in a new hope for competition policy advocates as the President, during his inaugural speech in July 2010, cited anti-trust law to be one of his administration's priority legislations (Aldaba & Sy, 2014). However, it was rocked by various scandals such as the Manila hostage crisis (2010), the impeachment of Supreme Court Chief Justice Renato Corona, the Priority Development Assistance Fund (PDAF) scam, and the South China Sea dispute. These events diverted the attention of the public, legislators, and media away from the effective enforcement of competition policy and the adoption of a comprehensive anti-trust law.

Despite these initial challenges, the country enjoyed a thriving economy as real GDP expanded at an average of 6.1 percent from 2010 to 2016, which was buoyed by strong macroeconomic fundamentals, dynamic domestic consumption, and robust remittance flows (Batalla, 2016). Having inclusive growth as the centerpiece of his six-year leadership, President Aquino III scored notable success in stimulating economic growth and attracting foreign investments but sharing the gains remains a core challenge (Katigbak, 2016). Examples of enacted legislative measures underpinning a rules-based, market-based economy include RA 10641 (An Act Allowing the Full Entry of Foreign Banks in the Philippines) and RA 10668 (Foreign Ships Co-Loading Act).

Substantial progress has also been made in mitigating marginalization and promoting social inclusion through the widened coverage of the Pantawid Pamilyang Pilipino Program (4Ps), a conditional cash transfer (CCT) program, and intensified support for micro, small and medium-sized enterprises (MSMEs) (Katigbak, 2016). The Aquino III administration further demonstrated its commitment to implementing competition policy by conducting fact-finding investigations of alleged cartel and collusion in the garlic and onion industries in 2014 and 2015, respectively. The country's Department of Justice - Office for Competition (DOJ-OFC) headed the said undertaking and it resulted in criminal charges filed by the National Bureau Investigation (NBI) against government officials and importers allegedly involved in garlic cartel (Rappler, 2015).

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### **Punctuation in 2015: The passage of the Philippine competition act**

The culmination of numerous efforts to pass the nation's first comprehensive anti-trust law came in July 2015 after President Aquino III signed into law Senate Bill 2282 or the Fair Competition Act of 2014, which was authored by Senator Paolo Benigno "Bam" Aquino IV (Remo, 2015). The Philippine Competition Act (PCA) (RA 10667) seeks to regulate and penalize anti-competitive conduct, abuse of dominant position, and anti-competitive mergers and acquisitions (Schnabel, 2015). The Philippine Competition Commission, an independent quasi-judicial body, was created to handle cases related to restrictive and anti-competitive behaviors. Policy-makers identified two primary factors that contributed to the enactment of the cited law: 1) domestic rationale; and 2) global developments.

The first aspect pertains to the urgency in resolving the issue of glaring inequality amid the country's robust economic growth fueled by consumption, the services sector, and remittances from OFWs. According to Sen. Aquino, the PCA will level the playing field for both small and big businesses and that competition will be based on generating high-quality products sold at competitive prices, and not prices that are derived from under the table transactions or connections (Schnabel, 2015). In 2015, the country's Gini coefficient stood at 44.4, with the richest 10 percent income group (tenth decile) earning 9.1 times higher than the poorest 10 percent income group (first decile) (Amoguis & Ramos, 2019). Masigan (2020) contended that the current Philippine laws favor only oligopolies and big corporations as SMEs' growth is inadvertently suppressed. Despite the implementation of PCA, he still cited three reforms which may effectively promote competition in the market, namely: (i) address barriers faced by SMEs such as access to credit, cost of trade, and ease in government regulation; (ii) liberalize local industries to foreign competition through modifying the 1987 Philippine constitution; and (iii) sign into law the Anti-Political Dynasty Bill.

The last factor refers to the Aquino III government's decision to adopt a comprehensive competition policy due to the intensified cross-border trade and increasing call for regional economic integration as exemplified by the ASEAN Economic Community (AEC) and the Asia-Pacific Economic Cooperation (APEC) forum (Ditucalan, 2019). A competitive market at the domestic level is viewed to upgrade MSMEs' capacities and network, which are crucial enablers in their greater participation in regional and global value chains. Further, 2015 was a vital year for the nation as it marked the official launching of the AEC and the Philippine hosting of APEC. Hence, projecting a Philippine government that is committed to upholding a well-functioning, competitive market is a vital strategy in securing the recognition and trust of other economies.

### **Methodology**

This research can be classified as descriptive. It identifies the general policy dynamics within the Philippines' macropolitics and subsystems, especially on the issue of competition policy, by applying the concepts posited by Baumgartner and Jones in their Punctuated Equilibrium Theory. Further, the different factors contributing to the passage of the country's

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anti-trust law will also be outlined. This research mainly utilizes a qualitative approach to ascertain the extent of the problem, issue, or phenomenon by qualifying the indicators and supporting them with quantitative data. The main method for data gathering is secondary research which involves review of related literature and content analysis. It uses secondary sources such as summary proceedings, books, journals, news articles, data from research studies, and institutional reports.

## Discussion

The case of the Philippine competition policy (1992-2015) exhibits a high degree of concurrence as well as a low level of deviation with the general notions and concepts espoused by the punctuated equilibrium theory (PET). The existence of long periods of policy stability can be observed through the scattered adoption of around 30 competition-related laws from the Ramos administration until the Aquino III presidency. The role of political institutions along with the nature of Philippine politics has been instrumental in effecting policy stasis as oligarchs and economic elites maintain close links with the legislators and government officials. In terms of their decision-making and selective attention, Philippine presidents have been mainly concerned with the realization of their respective political legacies while also accommodating certain considerations in the context of ever-changing domestic, regional, and global environments. In particular, the Ramos administration focused on enacting market-liberalizing reforms but eventually had to succumb to the demands of elites in exchange for the latter's support on key initiatives launched by the government. The presidency of Estrada greatly appealed to the masses but proved to be a government that was administered by external advisors and close friends and allies of Estrada (Liden, 1998; Batalla, 2016).

Subsequently, the Arroyo administration called for the rejuvenation of a strong state and pledged to alleviate poverty and catalyze economic growth amid an increasingly interconnected, globalized world. However, the public, the government, and the media became consumed with various issues such as corruption allegations, political scandals, and impeachment and destabilization attempts. Finally, the Aquino III administration inherited an economy that was thriving and guided it towards greater heights. Its centerpiece project of attaining inclusive growth was pursued through the enactment of market-friendly reforms as well as socially-driven programs. The said administration is also responsible for the passage of the Philippines' first comprehensive anti-trust law. In sum, the diverse priorities of the four presidencies coupled with the overlapping nature of political institutions (i.e., the lack of check-and-balance principle among the executive, legislative, and judiciary) have resulted in the non-enactment of a competition law during a span of 20 years. Signals sent by external agents to public officials were either primarily political in nature or were neglected by public officials to attend to more relevant and significant issues.

Policy communities related to competition policy can then be characterized as antagonistic, non-functional, and underdeveloped. This is because interest groups such as the private sector, especially the big businesses, and non-governmental organizations (NGOs) have dedicated majority of their time and resources to different causes. The support of the private

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sector for competition policy and law has been perceived as minimal due to three major reasons: 1) a competition policy would be detrimental to industries that have been protected by the state for a long period of time; 2) small enterprises are unable to compete with big local and foreign firms that are more advanced and possess world-class technologies and technical know-how; and 3) large businesses have vested interests. On the other hand, NGOs have been engaged in popular issues such as corruption, foreign relations, human rights, and wages of workers. These predicaments, combined with patronage politics, have preserved the policy monopoly of the government and big businesses over the country's competition policy and law.

Agenda-setting is likewise essential to the promotion of an anti-trust policy and law. As recounted earlier, the media became engulfed with the airing of national concerns that would definitely stir the public's attention thereby generating a host of conversation topics, which the media can further exploit (e.g., Flor Contemplacion case, 'jueteng' scandal, vote-rigging during the 2004 presidential elections, and the PDAF scandal). The Philippine government, through the legislature, has opted to focus on issue-neutral, non-controversial, and public works-centered projects to prevent debate among colleagues and to satisfy demands of their constituencies. The 11<sup>th</sup>-14<sup>th</sup> Congresses (1992-2010) mostly passed laws related to building schools, public works, franchises, local government, and declaration of a holiday. It is in this sense that the political appeal and relevance of implementing a competition policy and enacting a comprehensive anti-trust law therefore becomes weaker and eventually lose their visibility in the national public agenda. In terms of the Filipinos' perceptions of the urgent national concerns, the Pulse Asia surveys reveal that top issues cover national economic recovery, peace, poverty, graft and corruption, controlling inflation/high prices, and low pay. While these problems can be linked with competition policy, the public did not directly express their desire to witness an improved implementation of the nation's competition policy and the passing of the comprehensive competition law.

On policy images, it can be stated that competition policy has been presented to the stakeholders in a similar fashion since the Ramos administration. What changed over time however, is not the packaging of an anti-trust policy and law but the level of reception by the lawmakers. Ditucalan (2019) writes: "*the lawmakers realized the need to consolidate the "numerous, fragmented and scattered" competition law statutes which have remained unenforced and "largely ineffective because they do not provide clear-cut guidelines to determine whether an act constitutes unfair competition, monopolistic behavior, or restraint of trade." They realized the need to have a specific "central body" that shall determine violations of Philippine competition laws (p. 122).*"

Further, the deepening of cross-border flows as well as heightened competition domestically and globally can be taken as crucial determinants of the stakeholders' perception and degree of reception toward a stronger competition policy and a comprehensive anti-trust law. The policy image of a Philippine competition policy enabling a level playing field for all players while promoting efficiency, adaptability, and innovation was widely accepted but underappreciated.

It was in July 2015 that the one-time, large-scale punctuation occurred after President Aquino III signed into law the Philippine Competition Act (PCA). This is considered as a milestone legislation and served as a testament to the administration's commitment to advancing competition in the domestic sphere and underpinning the country's competitiveness at the global stage. Interestingly, what was noteworthy in the Philippine case was the absence of a triggering event (crisis) that would have resulted in policy change. Instead, a confluence of factors enabled the said punctuation. Specifically, the passage of the PCA is due to two major reasons: 1) domestic rationale - the need to resolve the glaring inequality despite the nation's robust economic growth; and 2) global developments – implications brought by cross-border trade and increasing call for regional economic integration as exemplified by the ASEAN Economic Community (AEC) and the Asia-Pacific Economic Cooperation (APEC) forum (Ditucalan, 2019). 2015 was a meaningful year for the country as it marked the official launching of the AEC and the Philippine hosting of APEC. Both events presented massive opportunities for the nation as foreign audiences got a closer look at the political, economic, and socio-cultural aspects of the Philippines.

## Conclusion

Competition policy is widely perceived as an enabler of development due to its main objective of providing a more level playing field for all economic actors and players. It is further credited as a catalyst of efficiency, adaptability, and innovation which are significant tenets of a highly-developed economy. It is thus warranted that the government and its representatives pursue various courses of action, laws, regulatory policies, and budget-related measures to promote the effective implementation of competition policy and the adoption a comprehensive anti-trust law. However, the Philippine case illustrates that an elite-dominated politico-economic system which is manifested by overlapping, multi-level political institutions and patronage-based politics can decisively hinder the enforcement of an anti-trust policy and the passage of a comprehensive competition law. Gridlock in the Congress, especially on the anti-trust law, happened for over two decades as the oligarchs and economic elites used their position and power to maintain the policy monopoly and repress actions aimed at destroying the policy monopoly.

Indeed, the one-time, large scale policy change that took place in July 2015 is a welcome development for all stakeholders and policy-makers. Nevertheless, the subject of public policy teaches us that the policy process does not end at the policy formulation stage. Thus, the Philippine government, through the Philippine Competition Commission (PCC), has its hands full as the equally important phases of policy implementation and monitoring and evaluation are already the next points on the list of a competition-, equity-oriented public agenda.

More recently, the PCC oversaw in 2018 the full implementation of a new Philippine competition law and policy regime (Philippine Competition Commission, 2019). It has similarly been active in undertaking several tasks such as reviewing merger and acquisition proposals, enforcing a revamped leniency program, and raising awareness among policymakers

and decision-makers and the public. In particular, a highly-publicized case initiated by the Commission is the voluntary review of Grab's acquisition of Uber and its potential effects on market competition. Consequently, the PCC released a Commitment Decision which obliged Grab to comply with quality and pricing standards to ensure the welfare and protection of consumers (PCC, 2018). President Rodrigo Duterte then signed Administrative Order No. 44 in 2021 which mandates all national government agencies, government-owned or -controlled corporations, and local government units to adopt pro-competitive policies, promote equal opportunities to both public and private sector enterprises, and support the PCC in implementing the country's competition law (PCC, 2021).

Notwithstanding the Philippine government's strides in cultivating a well-functioning market, it must still undertake several painstaking structural reforms to effectively realize a level playing field for all players and entities. The emergence of electronic commerce may be a viable equalizer but Philippine MSMEs are plagued by several issues such as barriers to entry and data privacy. Moreover, the advent of Fourth Industrial Revolution presents novel competition-related challenges to both firms and concerned authorities. Hence, it is imperative for the government, led by the PCC, to enforce proactive, innovation-friendly regulations that ultimately accomplish two objectives, namely: (1) cultivating an inclusive market for all players; and (2) safeguarding the safety and welfare of consumers.

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