

FOREWORD

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Fifty years have passed since I was a member of the Student Editorial Board of the PHILIPPINE LAW JOURNAL. Then until now, the JOURNAL remains to be the bastion of legal scholarship in the Philippines. It is known to deliver in-depth and well-researched published works involving legislation passed by Congress, decisions made by the Supreme Court, and issuances of the President and different government agencies. These pieces are written by various legal scholars in different fields of law including members of the court, legislators, law practitioners, law professors, and even law students. I am delighted to see that the articles published in the JOURNAL have continued to provide discourse in the legal profession especially in existing legislation. As a legislator, it is important for legislation to have an abundance of legal research in order for existing laws to be improved and for new laws to be well-crafted. Such will benefit our nation and our countrymen.

The theme of the last issue of Volume 92—“Emerging Developments in Philippine Law”—is evident in that regard. This issue showcases legal research in different aspects of law which focus on legislation passed and implementing rules regulations issued within the past few years. The written pieces in this issue would discuss various laws such as the Tax Reform for Acceleration and Inclusion Law or TRAIN Law, Revised Corporation Code, and even the Safe Spaces Act.

In *Too Close for Comfort: The Role of Closeness of Competition in Philippine Merger Analysis*, Atty. Isabel L. Guidote discusses Republic Act No. 10667 or the Philippine Competition Law, as well as the recently enacted Republic Act No. 11232 or the Revised Corporation Code with regard to Competition in Philippine Mergers. This Article demonstrates that closeness of competition between the merging parties plays a central role in assessing the likely

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unilateral effects of a horizontal merger involving differentiated goods. The author states that the concept of closeness of competition fails to consider dynamic responses of rivals and customers and is inadequate to determine coordinated effects. The author also provides that competition authorities must examine all competitive restraints in order to arrive at a comprehensive assessment.

In Of Microgrids and Men: Deconstructing the Solar Para Sa Bayan Franchise from a Consumer Welfare Lens, Dr. Joseph Emmanuel L. Angeles discusses the recently enacted Republic Act No. 11357 or the bill granting a non-exclusive franchise to Solar Para Sa Bayan Corporation (“SPSB”) to “construct, install, establish, operate, and maintain Distributed Energy Resources and microgrids utilizing renewable energy technology, or a hybrid thereof to provide electric power to customers and end-users in remote and unviable, unserved, or underserved areas.” This Article shows how the law introduces inefficient competition through SPSB’s loosely defined area of operation which may disincentivize investment or increase electricity rates for consumers. The author also provides solutions to this law which may improve consumer welfare.

In Interesting Penalty: Proposed Guidelines on the Imposition of Penalty Interest in Tax Cases, Jonas Miguelito Cruz sheds light on the current state of the National Internal Revenue Code as amended by Republic Act No. 10963 or the Tax Reform for Acceleration and Inclusion Law with regard to penalty interests. The Note discusses how the penalty interests are applied by law and offers guidelines on how these penalty interests may be imposed. The author uses the legislative history of our Tax Code, various jurisprudence, Court of Tax Appeals cases, as well as Revenue Regulations and Issuances by the Bureau of Internal Revenue to harmonize the application and imposition of penalty interests in the Philippine tax system.

Lastly, in *Defending “Safe Spaces”: Hate Speech and the Constitutional Mandate to Uphold the Dignity of Communities*, Amer M. Madcasim, Jr. and Czar Matthew Gerard T. Dayday tackle the recently enacted Republic Act. No. 11313 or the Safe Spaces Act which prohibits gender-based harassment in streets, public places, and online spaces. The Note presents two arguments on how hate speech may be treated under Philippine law and jurisprudence. First, it compares hate speech with existing categories of unprotected speech. Second, even assuming that hate speech remains protected, it may still be regulated. The authors provide that the Safe Spaces Act illustrates a tension

between the constitutional guarantee of free speech and the State's duty to reduce or eliminate sector-specific barriers to dignity. The authors find that the duty to uphold dignity is located in a preferred position in the Constitution, thus capable of outweighing the absolute protection of low-value speech, such as hate speech.

With that, I commend the PHILIPPINE LAW JOURNAL for continuing to be the bastion of legal scholarship in the country especially in furthering the discourse of Philippine legislation. Best of luck to the PHILIPPINE LAW JOURNAL, and the Student Editorial Board of Volume 92.