



SURUHANJAYA PERSAINGAN MALAYSIA
MALAYSIA COMPETITION COMMISSION

LENIENCY REGIME

MALAYSIA COMPETITION COMMISSION



About Cartel Activities

Identifying and breaking up cartel activities are an important goal pursued by most competition authorities around the world as cartel practices are very damaging to consumers. Sharing the ideas of competition authorities around the world, the Commission has made “Pursuing and Fighting Cartels” its highest priority. Cartel activities are prohibited under Section 4 of the Competition Act 2010 (“the Act”).



Pursuing and Fighting Cartels



What is a cartel and how does it affect the consumers?

A cartel is where two or more parties operating at a horizontal level enter into an agreement with the object of significantly preventing, restricting or distorting competition in any market for goods or services infringing the prohibition in Subsection 4(2).

How does the leniency regime work?

The leniency regime established under Section 41 is available only to enterprise(s) which admits to an infringement in relation to horizontal agreement as outlined in Section 4(2) of the Act.

Section 41 requires the applicant not only to admit but also extend significant cooperation and assistance to the Commission. Once the two requirements are completed to the satisfaction of the Commission, the enterprise(s) will be granted up to 100 percent reduction of the financial penalties. Usually the first enterprise to apply will be given the highest reduction in fine.



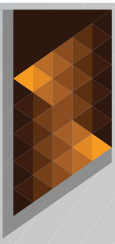
What are the processes required for a successful leniency application?

1 Submit the application to the Commission with the required admission together with the relevant supporting documentation. The applicant will be given a marker.

2 Thereafter, the application will be assessed and upon satisfaction by the Commission, the applicant is required to sign the conditional leniency agreement.

3 Once signed, the Commission will proceed with the investigation of the cartel with the objective to prove the involvement of other cartel members. During the investigation, as part of the conditions, the applicant is required at all times to give its co-operation and

4 Once the investigation is completed and the cartel has been established, the Commission will issue a decision against the cartel members including the applicant. However, as part of the



Is Confidentiality Afforded to the Leniency Applicant?

Yes. Confidentiality including the identity of the applicant will be maintained subject to Section 21 of the Act. At the same time, the Commission requires the leniency applicant not to disclose to anyone that it has made an application for leniency.

What Is the Benefit of Obtaining Priority (a “Marker”)?

The potential applicant may ask for a “marker” in order to preserve its priority in receiving leniency while an application is being prepared. The marker essentially records the priority, the date and time and matter for which an enterprise intends to submit an application for leniency and contains a stipulation of the date by which the enterprise must complete its application.

A marker is valid for 30 days from the date it is granted. If the recipient of a marker fails to complete its application by the end of the specified period, the enterprise will lose its priority position. It may wish to obtain a new marker if it wishes to make a leniency application. All subsequent leniency applicants will receive a marker upon request. An extension of time shall be subject to valid grounds and it is up to the discretion of the Commission.



What is not covered by a grant of leniency?

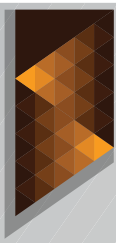
Any leniency granted under Section 41 of the Act would not, in and of itself, protect the successful applicant from other legal consequences, eg: civil proceedings commenced under Section 64 by an aggrieved person who has suffered loss or damage directly caused by an infringement.

Under what circumstances will the Leniency Grant be revoked?

The Commission may revoke a conditional grant of leniency if it concludes that the applicant has not fulfilled any condition such as by providing false or misleading information to the Commission.

What is needed to make an application?

An applicant for leniency is required to provide information and offer other forms of co-operation with respect to an alleged infringement of a prohibition under the Act. The applicant is required to fill in PDF version of the application form which can be found at the Commission website (www.mycc.gov.my > *Online Services* > *Others Services* > *Applying for Leniency*) and submit it by email to lu@mycc.gov.my.



How to initiate contact with the Commission?

Applicants may request to speak to the Leniency Officer appointed by the Commission by calling the telephone number 03-2273 2277 during office hours (8:30am to 5:30pm, Mondays to Fridays).

Potential leniency applicants should approach the Commission as soon as possible. Applications may be submitted to the Commission in any of the following ways:

● Email

Submit the completed Leniency Form by email to lu@mycc.gov.my

● Post

The completed Leniency Form may also be sent by post addressed to:

Chief Executive Officer
Malaysia Competition Commission (Commission)
Level 15, Menara SSM @Sentral,
No.7 Jalan Stesen Sentral 5,
Kuala Lumpur Sentral,
50623 Kuala Lumpur.

● In Person

Applicants may also come in person at the Commission office to fill in and submit the Leniency Form.

For assistance, please contact the Commission at 03-22732277. The Commission has appointed an official to serve as the Leniency Officer to facilitate the handling of inquiries about the availability of leniency in specific circumstances.



Malaysia Competition Commission (MyCC), Level 15, Menara SSM@Sentral,
No. 7, Jalan Stesen Sentral 5, Kuala Lumpur Sentral, 50623, Kuala Lumpur.



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