



NEWS RELEASE

MyCC IMPOSES PROPOSED INTERIM MEASURES TO PAN-MALAYSIA LORRY OWNERS ASSOCIATION (PMLOA)

KUALA LUMPUR, 20 September 2013 – The Malaysia Competition Commission (‘MyCC’) today issued a proposed Interim Measures under Section 35(4) of the Competition Act 2010 against the Pan-Malaysia Lorry Owners Association (‘PMLOA’), its members and related lorry enterprises on a probable infringement of Section 4(2)(a) of the Competition Act 2010 (‘the Act’) by agreeing to fix an increase of transportation charges by 15 percent.

“This follows the warning given earlier by the MyCC to associations not to facilitate anti-competitive behavior, especially price fixing,” said MyCC CEO, Shila Dorai Raj. “It serves to further reinforce the fact that the MyCC is seriously looking at evidence of anti-competitive behavior in the rampant price hikes following the recent rationalization of fuel subsidy.”

The Commission considers that it is necessary for it to impose such measures under Section 35(4) of the Act to prevent serious and irreparable economic damage and to protect public interest.

The MyCC has issued the notices to PMLOA, and 40 other parties comprising members of the PMLOA and lorry enterprises. The proposed Interim Measures states the following:



- (a) PMLOA, members of PMLOA and the relevant lorry enterprises are hereby directed to suspend the effect of, and desist from acting in accordance with, the decision made by the PMLOA during its 3rd Central Committee Meeting dated 7th September 2013 whereby it was decided that transportation charges are to be adjusted by a maximum of 15% ('transportation charge'). MyCC has reasonable ground that the decision has infringed or is likely to infringe section 4(2)(a) of the Competition Act 2010; and
- (b) PMLOA is hereby directed to refrain from deciding on any further increment or fixation, whether directly or indirectly, the transportation charge. As for the 11 members of PMLOA, they are directed to refrain from implementing the PMLOA's decision on behalf of its members. As for the relevant lorry enterprises, they are directed to refrain from implementing the abovementioned decision by the PMLOA and its member enterprises as to any further increment or fixation, whether directly or indirectly, of the transportation charge.

The PMLOA, members of PMLOA and the relevant lorry enterprises were given 7 working days to submit written representations from the date the notices were served against them.

Earlier on, the PMLOA had issued a statement that was published in the local papers on 11th September 2013 stating that PMLOA was unanimous in its decision to raise transportation charges by 15 percent.

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EDITOR'S NOTES:

1. The details on **Section 4 (1) and (2) of the Competition Act 2010**: Prohibited *horizontal and vertical agreement is as follows:

4. (1) A horizontal or vertical agreement between enterprises is prohibited insofar as the agreement has the object or effect of significantly preventing, restricting or distorting competition in any market for goods or services.

(2) Without prejudice to the generality of subsection (1), a horizontal agreement between enterprises which has the object to—

- (a) fix, directly or indirectly, a purchase or selling price or any other trading conditions;
- (b) share market or sources of supply;
- (c) limit or control—
 - (i) production;
 - (ii) market outlets or market access;
 - (iii) technical or technological development; or
 - (iv) investment; or
- (d) perform an act of bid rigging, is deemed to have the object of significantly preventing, restricting, or distorting competition in any market for goods or services.

* “horizontal agreement” = agreement between enterprises each of which operates at the same level in the production or distribution chain;

“vertical agreement” = agreement between enterprises each of which operates at a different level in the production or distribution chain.

2. Details of **Section 35 of the Competition Act 2010**: Interim measures

35. (2) If the Commission has reasonable grounds to believe that any prohibition under this Act has been infringed or is likely to be infringed and the Commission considers that it is necessary for it to act under this section as a matter of urgency for the purpose of—

- (a) preventing serious and irreparable damage, economic or otherwise, to a particular person or category of persons; or
- (b) protecting the public interest, it may give such direction as it considers to be appropriate and proportionate for that purpose.



- (3) A direction given under subsection (2) may include requiring or causing any person—
- (a) to suspend the effect of, and desist from acting in accordance with, any agreement which is suspected of infringing any prohibition under Part II;
 - (b) to desist from any conduct which is suspected of infringing any prohibition under Part II; or
 - (c) to do, or refrain from doing, any act, but which shall not require the payment of money.
- (4) The Commission shall, before giving a direction under subsection (2)—
- (a) serve a written notice to the person to whom it proposes to give the direction; and
 - (b) give that person an opportunity to make written representations within a period of at least seven days from the date of the written notice.
- (5) A notice under subsection (4) shall indicate the nature of the direction which the Commission proposes to give and its reasons for giving the direction.
- (6) The Commission may at any time withdraw a direction given under subsection (2).
- (7) Without prejudice to subsection (6), any direction given under subsection (2) shall cease to have effect —
- (a) on the date of the decision by the Commission upon completion of the investigation under section 14; or
 - (b) twelve months from the date the direction was given, whichever is earlier.

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About Malaysia Competition Commission (MyCC)

Established in June 2011, MyCC is an independent body responsible for enforcing the Competition Act 2010, which was implemented to create healthy competition which would in turn stimulate productivity and innovation, thus creating wider choices of products for consumers with better quality and reasonable prices.

The Act applies to all commercial activities undertaken within and outside Malaysia that affects competition in the Malaysian market. It provides a regulatory framework including powers to investigate, adjudicate and impose penalties on the perpetrators of the competition laws.

For more information on the Act and MyCC activities, log on to www.mycc.gov.my.