



NEWS RELEASE

MyCC GIVES FURTHER DIRECTIONS TO PAN-MALAYSIA LORRY OWNERS ASSOCIATION (PMLOA)

KUALA LUMPUR, 23 October 2013 – The Malaysia Competition Commission ('MyCC') today issued final directions further to the proposed Interim Measures it dealt under Section 35(4) of the Competition Act 2010 against the Pan-Malaysia Lorry Owners Association ('PMLOA'), its members and related lorry enterprises.

Before this, the PMLOA, its members and related lorry enterprises were issued proposed Interim Measures on a infringement of Section 4(2)(a) of the Competition Act 2010 ('the Act') as they agreed to fix an increase of transportation charges by 15 percent. Following the proposed Interim Measures, the PMLOA had agreed to:

- (a) rescind with immediate effect the previous decision made during its 3rd Central Committee Meeting dated 7th September 2013 (whereby it was decided that transportation charges were to be adjusted by a maximum of 15%);
- (b) inform its members of the decision to rescind with immediate effect;
- (c) call for an Extraordinary General Meeting (EGM) to table a resolution to amend the rules of the PMLOA to include "...Neither the Association or its members shall engage in any activity in such a manner which will or is likely to infringe the prohibition as contained the Competition Act 2010"; and
- (d) issue a press statement outlining the above.



Therefore the final directions given to the PMLOA, its members and related lorry enterprises are as follows:

- (a) to refrain from entering into any form of communications or to facilitate any communications concerning pricing for services provided by lorry enterprises;
- (b) to amend and remove from PMLOA's and its members' Constitutions any provision concerning any discussion and determination of any chargeable prices; and
- (c) to submit the amended Constitution within sixty (60) days from the date of the notices issued today.

“Investigation on enterprises that were involved in these anti-competitive practices will continue and a penalty will be imposed if found infringing the Act,” said Shila Dorai Raj, CEO of the MyCC.

The MyCC first issued notices containing its proposed Interim Measures to the PMLOA, and 40 other parties comprising members of the PMLOA and lorry enterprises on 20th September. In essence, the proposed Interim Measures directed that the PMLOA, members of the PMLOA and the relevant lorry enterprises were to suspend the effect of, and desist from acting in accordance with, the decision made by the PMLOA during its 3rd Central Committee Meeting.

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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.