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**NEWS RELEASE**

## **MyCC IMPOSES FINANCIAL PENALTY ON CONFECTION AND BAKERY PRODUCTS PRODUCERS FOR PRICE FIXING**

**KUALA LUMPUR, 30 September 2014** - The Malaysia Competition Commission (the 'MyCC') today issued a Proposed Decision in relation to a price fixing agreement between 24 enterprises who are members of the Sibu Confectionery and Bakery Association (the 'SCBA'). The 24 enterprises were found infringing Section 4(2) of the Competition Act ('the Act') after they were discovered agreeing to increase the prices of confectionery and bakery products by 10 to 15 percent in the Sibu area effective 1 December 2013.

To remedy this infringement, the MyCC proposes to impose a total financial penalty of RM 439,000.00 on the enterprises. The MyCC has also directed the enterprises to take steps to ensure that they stop the infringement and comply with the Act.

"Price fixing is a major concern of the MyCC as the restriction of competition is obvious in any price fixing cases," said MyCC Chief Executive Officer, Shila Dorai Raj. "Such an agreement, conducted by these enterprises of different sizes, provides the parties the opportunity to impose higher prices to maximise profitability without any competition."

"This Proposed Decision should serve as a deterrent to other associations of enterprises and groups of enterprises who engage in price fixing agreements. This practice should be stopped in order to ensure that the Malaysian economy works well for the Malaysian taxpayers," she added. The MyCC will continue to monitor and investigate such practices and take enforcement actions. Enterprises are free to set their own prices independently without discussing with their competitors.

The MyCC first became aware of the infringement through media reports late last year and had issued notices since to obtain information. Upon investigation, the MyCC have found that the 24 enterprises who are members of the SCBA have infringed and continued to infringe Section 4(2) of the Act despite being informed that their conduct is anti-competitive.



The 24 enterprises have thirty (30) days from the date of the Proposed Decision is served to submit written representations or indicate whether any of them wishes to make oral representations before the MyCC.

Previously, the MyCC has found that the Pan-Malaysia Lorry Owners Association, Malaysia Indian Hairdressing Saloon Owners Association, Cameron Highlands Floriculturist Association and a group of ice manufacturers had engaged in price fixing.

The MyCC has observed that this type of anti-competitive practice is rampant during occasions such as festive seasons and at the start of a new school term. “The MyCC additionally warns enterprises, association of enterprises and group of enterprises to not use the introduction of GST as a means to get together to fix the prices of goods or services. The MyCC will investigate and take appropriate enforcement action against enterprises or association of enterprises or group of enterprises found to be using the introduction of GST to fix prices,” added MyCC CEO, Shila Dorai Raj.

For more information regarding the SCBA case including the list of the 24 enterprises, please refer to **Appendix A**.

For more information on the Act and the MyCC, please log on to [www.mycc.gov.my](http://www.mycc.gov.my).

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**EDITOR’S NOTES:**

***What is a Proposed Decision?***

A Proposed Decision is a notice issued to an enterprise informing it that it has infringed or is infringing a prohibition under the Competition Act 2010, following the completion of an investigation.

***What does Section 4 (2) of the Competition Act 2010 constitutes?***

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” means agreement between enterprises each of which operates at the same level in the production or distribution chain;

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

“agreement” means any form of contract, arrangement or understanding, whether or not legally enforceable, between enterprises, and includes a decision by an association and concerted practices.

## **APPENDIX A**

### ***Case Background***

1. Members of the Sibü Confectionery and Bakery Association (the ‘SCBA’) had agreed to fix the increase in the prices of confectionery and bakery products during the second SCBA’s Annual General Meeting (‘AGM’) held on 17 November 2013.
2. The agreed increase in prices was publicised through a press statement issued by Mr. Houg Sien Meu, the Chairman of the SCBA. The press statement was then published in several major newspapers, namely, Sin Chew Jit Poh (18 November 2013), New Sarawak Tribune (19 November 2013), The Star (19 November 2013), Borneo Post Online (20 November 2013) and Utusan Sarawak (21 November 2013).
3. The MyCC has served the Proposed Decision notices to the members of the SCBA on 30<sup>th</sup> September 2014, and has given them up to 30 October 2014 to indicate to MyCC whether they wish to exercise their rights to provide written submission or avail for an oral representation.

4. The 24 enterprises who are members of the SCBA and issued with the Proposed Decision by the MyCC are as follows:

<b>No.</b>	<b>Enterprise(s)</b>
1	Aroma Bakery
2	Carnation Cake House
3	Chieng Muk Hin
4	Chung's Bakery
5	Daily Bread
6	Daily Fresh and Sweet Bakery
7	Famous Bakery
8	Farley Bakery
9	Happiness Bakery
10	Lian Yu Bakery Cake Store
11	Ling Kui Ping
12	Mei Hao Bakery
13	Nam Mei Bakery
14	New Chuo An Bakery
15	Pau Kiu Mee
16	Qun Fang Meat Bun Food Industries
17	Seng Kee Bakery
18	Sibu Central Market
19	Sweetie Bakery
20	To Eat Bakery Sdn Bhd
21	Wong Kieng Seng
22	Wong Ting Tiong
23	Yat Bakery
24	Yong Kong Chuo



5. The MyCC further directs the twenty-four (24) enterprises who are members of the SCBA to:-
- (i) Cease and desist the act of fixing the price of confectionery and bakery products;
  - (ii) Seek to amend the constitution of the SCBA to include a clause that any activity undertaken by SCBA shall ensure compliance with the Act;
  - (iii) Undertake training on compliance with the Competition Act 2010 at their own cost; and,
  - (iv) Issue a statement in five (5) mainstream newspapers that they will not engage in any conduct that infringes the Act.

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Malaysia Competition Commission

**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](http://www.mycc.gov.my).