

NESTLE WITHDRAWS EXEMPTION APPLICATION

KUALA LUMPUR, 25th February 2013 – Following a series of discussions with the Malaysia Competition Commission (MyCC), Nestle Sdn Bhd (hereby referred to as Nestle) has withdrawn its application for individual exemption. Nestle had previously filed an individual exemption application to exclude its pricing policy called the “Brand Equity Protection Policy (BEPP)” from the Competition Act 2010 (CA2010).

Nestle’s pricing policy was a major concern for the MyCC as it has elements of Resale Price Maintenance (RPM), an anti-competitive conduct that prevents resellers from setting their prices independently, potentially leading to increased prices for consumers.

“While the MyCC recognizes the rights of Nestle to promote and enhance its brand equity under the BEPP, the pricing policy as contained in the BEPP was likely to infringe section 4 (1) of the CA2010 as it essentially constitutes a Resale Price Maintenance (RPM),” said MyCC’s Chairman, Tan Sri Dato’ Seri Siti Norma Yaakob. “In this regard, we have requested Nestle to dismantle its pricing policy contained in the BEPP.”

Nestle has agreed to comply in dismantling the said pricing policy and issued notices to the trade on the same.

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Corporate Communication Unit

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 affect 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.

Notes to Editor:

Information on Section 4 of the Competition Act 2010

Section 4: Prohibited horizontal and vertical agreement

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.

(3) Any enterprise which is a party to an agreement which is prohibited under this section shall be liable for infringement of the prohibition.