
NEWS RELEASE

MyCC ISSUES PROPOSED DECISION AGAINST FIVE ENTERPRISES FOR PRICE FIXING

KUALA LUMPUR, 21st June 2015 – The Malaysia Competition Commission (“MyCC”) on 19 June 2015 issued a Proposed Decision against four Container Depot Operators, namely Ayza Industries Sdn. Bhd./Ayza Logistics Sdn. Bhd.; ICS Depot Services Sdn. Bhd.; E.A.E. Depot & Freight Forwarding Sdn. Bhd.; and Prompt Dynamics Sdn. Bhd. (“the Container Depot Operators”) and an Information Technology service provider to the shipping and logistics industry in the Penang area, namely Containerchain (M) Sdn. Bhd. (“Containerchain”) for engaging in price fixing.

Upon completion of its investigation, the MyCC provisionally finds that Containerchain has engaged in concerted practices with the Container Depot Operators which resulted in the Container Depot Operators increasing the Depot Gate Charges imposed on their customers from RM5 to RM25 and the Container Depot Operators offering a rebate of RM5 to hauliers on the agreed Depot Gate Charges.

The MyCC also provisionally finds that the Container Depot Operators entered into a price fixing agreement which is deemed to have the object of significantly preventing, restricting or distorting competition in the market for the provision of empty container storage maintenance and handling services within a 5-15km radius of the Penang Port.

The MyCC proposes to impose financial penalty and other remedies on each enterprise. The MyCC is allowed under the law to impose a financial penalty of up to 10% of the worldwide turnover of each enterprise.

The Proposed Decision is a written notice setting out the facts on which the MyCC makes its assessment and its reasons for arriving at the Proposed Decision. It is issued to the enterprises concerned to assist them to make representations and provide any other information to support their representations to the MyCC. In this regard, the enterprises concerned have thirty days from the date of receipt of the Proposed Decision to make their representations. The MyCC will then make its final decision after it would have considered the representations and all the available information and evidence.

The Competition Act 2010 prohibits businesses from entering into any agreement which has the object or effect of preventing, restricting or distorting competition in any market for goods and services in Malaysia. Businesses should independently determine their reactions to competition and refrain from participating in any discussion, coordination, or plan with their competitors which is anti-competitive in nature.

The Competition Act 2010 came into force on 1 January 2012 and as such, businesses ought to have complied with the provisions of the Competition Act 2010.

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Corporate Affairs Division

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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.

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.