

MEDIA RELEASE

COURT UPHELD MyCC DECISION AGAINST WAREHOUSE CARTEL

KUALA LUMPUR, 12 SEPTEMBER – The Shah Alam High Court on 11 September 2024 has dismissed the Judicial Review (JR) application filed against MyCC infringement decision in 2021 by five warehouse operators involved in a price-fixing cartel related to handling services of long-length and heavy-lift import and export cargo at Port Klang.

In 2017, MyCC launched an investigation into seven warehouse operators following reports of potential price-fixing cartel activities related to the provision of long-length and heavy-lift import and export cargo services at Port Klang. MyCC then determined that the actions of these operators clearly infringed Section 4 of the Competition Act 2010 and issued an Infringement Decision against the seven warehouse operators involved in the price-fixing cartel, covering the period from May 2017 to December 2019. Financial penalties totaling RM1.043 million were imposed. While two operators accepted the decision, the other five operators contested the ruling by MyCC, which led to this judicial review - now dismissed. This Judicial Review was the second attempt of the five operators to quash the decision. The first appeal was made to the Competition Appeal Tribunal (CAT) in 2021 in which CAT decided in favour of MyCC.

The applicants of the judicial review were;

- (i) SAL Agencies Sdn. Bhd;
- (ii) WCS Warehousing Sdn. Bhd;
- (iii) Regional Synergy (M) Sdn. Bhd;
- (iv) Intrexim Sdn. Bhd; and
- (v) Pioneerpac Sdn. Bhd.

In its judgment, the Court upheld the findings of the Competition Appeal Tribunal, affirming that these operators had engaged in illegal price-fixing and dismissed their Judicial Review application. The Judge; Yang Arif Puan Jamhirah binti Ali ruled that

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these five members of the cartel were not entitled to any form of relief and confirmed the legality of actions taken by MyCC in 2021. The same judgment emphasized that there was no illegality, irrationality, or procedural impropriety that would justify overturning the MyCC decision. Consequently, the 2021 decision by MyCC to impose a financial penalty against the warehouse cartels is reaffirmed and thus MyCC is vindicated.

“This verdict is a strong endorsement of enforcement efforts by MyCC and sends a clear message that any form of cartels will not be tolerated. The dismissal reinforces MyCC’s strong commitment to eliminating cartel behaviours and serves as a warning to all cartels out there. Cartel activities indeed are the supreme evil under competition law and MyCC will continue to fight and act decisively against any attempts to undermine healthy market competition,” said Mr. Iskandar Ismail, Chief Executive Officer of MyCC.

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About the 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 of 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.

MyCC celebrated its 13th anniversary on 1 April 2024 and to date, MyCC has taken decisive action against over 100 companies relating to cartels and abuse of dominant positions resulting in a cumulative penalty of more than RM570 million. MyCC's current priorities include amending the Act to introduce the merger control regime, actively targeting bid rigging cartels and cartels in the food and agriculture sectors as well as focusing on the challenges brought by the digital economy to competition law and policy.

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