

NEWS RELEASE

MISPLACED ALLEGATIONS BY FOMCA

KUALA LUMPUR, 28 JANUARY 2023 – The Malaysia Competition Commission (“MyCC”) has been called to respond to the grave allegations made against MyCC by Dato’ Dr. Paul Selva Raj on behalf of the Federation of Malaysian Consumers Association (“FOMCA”) as reported in several media outlets yesterday, accusing MyCC for failing to put an end to the monopolistic behaviour of Touch ‘n Go Sdn. Bhd. and TnG Digital (hereinafter referred as “TnG”).

In response to the aforesaid allegations, MyCC wishes to clarify that it is cognizant of the issues raised by the public including FOMCA and other stakeholders on this matter and has been continuously monitoring the market in which TnG operates. For this purpose, it is crucial that MyCC carefully articulates the issues arising from the conducts of TnG to ensure that members of the public are well-informed and assured of MyCC’s commitment to promoting healthy competition in the relevant market.

It has come to MyCC’s attention that there is a clear misconception imposed by FOMCA on the issues of monopolies. The Competition Act 2010 (“Act 712”) clearly sets out that being a dominant or monopoly in a particular market is not an infringement. However, a monopolistic or dominant enterprise infringes the Act 712 only when it abuses its position in the market. In this instance, MyCC recognises that TnG monopolises the toll payment system only. They became a monopoly naturally as soon as the Government decided, via a gazette, to abolish cash payment for tolls nationwide with the intention of reducing the congestion at the toll booths for the convenience of highway users.

That said, MyCC does not have the jurisdiction in consumer issues between TnG and its users. TnG being an electronic money service provider is governed by Bank Negara Malaysia (“BNM”) through its relevant laws and guidelines. As for the association between TnG and toll concessionaires with regards to toll payment system, it is governed by Lembaga Lebuhraya Malaysia (“LLM”).

However, MyCC stands firm that the issues with TnG that came to the attention of MyCC only relates to consumerism including the issues brought up to us by FOMCA in 2018 as our thorough assessment showed that despite being a monopoly for toll payment system, the conducts of TnG did not raise any competition concerns under the Act 712.

Amongst the earliest issues that cropped up often involved parking surcharge of 10%, difficulty to top up due to the scarcity of reload channels, reload charge of RM0.50 at certain places, delayed refund for dormant or lost cards, and other customer services related matters. All these issues have also been raised by FOMCA.

MyCC had subsequently intimated to FOMCA that these are not competition related issues. However, it seems that FOMCA could not accept a legitimate conclusion of a regulator up until today and insisted that MyCC should address consumer issues despite our laws clearly focusing on competition matters. Nonetheless, MyCC carried out some limited intervention on all these issues and since then have resulted into changes being implemented by TnG. Now, we observe that:

- (i) parking surcharge had been abolished by TnG at 94% of its sites in 2021;
- (ii) more TnG reload channels, offering free-of-charge reload services, have been made available;
- (iii) TnG NFC cards have been introduced to enable reloads via mobile phone on TnG eWallet apps; and
- (iv) refunds for dormant or lost cards are done within 30 days as per the requirement imposed by BNM provided that sufficient information has been provided to TnG.

Additionally, some of the issues above were raised and answered in Parliament sessions as early as 2019 by the Government.

MyCC will continue its efforts in assisting the Government as and when required on issues pertaining to TnG. The recent statement by FOMCA is highly appreciated and MyCC strives to embrace constructive comments that can help MyCC to re-evaluate its role in promoting competition in the Malaysian economy, with reservations to misplaced allegations and perceptions.

On 17 January 2022, MyCC, on its own initiative, once again stepped in and conducted a discussion with PLUS Expressways Berhad and TnG to address another issue relating to the implementation of the radio-frequency identification (“RFID”) system by TnG. As stated by MyCC via its press statement dated 19 January 2022 (<https://www.mycc.gov.my/media-release/mycc-to-keep-monitoring-plus-and-touch-n-go-on-the-implementation-of-rfid>), MyCC shared its assessment and concerns on the implementation of RFID, including the need to consider not only the payment of tolls via debit or credit cards but also other e-wallet systems.

A week after MyCC’s press statement, the then Works Minister, Datuk Seri Fadhillah Yusof, issued a call to all highway concessionaires to be ready for the implementation of a multi-lane free flow system (“MLFF”) which is a barrier-free tolling system. Upon implementation of the MLFF, highway users will be able to use any digital mode of payment, hence eliminating the monopoly of the toll payment system by TnG.

Recently in January 2023, the public’s frustration with the products and services of TnG including RFID, TnG NFC card and TnG Visa card has reached its peak. As part of the recently formed task force by the current Minister of Domestic Trade and Cost of Living (“KPDN”), MyCC together with KPDN highlighted to TnG on the confusion caused by TnG’s branding on the Visa card when in fact the TnG Visa card cannot be used for payment of toll and public transportation. In addition to that, TnG should practise a more effective communication method to ensure that consumers are well informed of this matter and all other matters associated with TnG, of which the public seems to be unaware of, including the fact on the incompatibility issue of the chip of a normal TnG card with the chip in its Visa card.

In addition to the issue on the TnG Visa card, MyCC is aware that TnG has been unable to effectively address the public’s concern on the issue of scalpers selling TnG NFC cards at exorbitant prices. While MyCC appreciates that TnG has tried to fulfil the demand for the NFC card in the face of global shortage of the relevant chip, TnG should have taken more stern actions against these scalpers that have caused losses to users who have had to pay higher prices to obtain and enjoy the features of the NFC cards. MyCC has also advised TnG to be more transparent on the RM25 special edition TnG NFC card in terms of its actual cost and amount of donation that will be forwarded to the

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targeted organisations knowing that the normal TnG NFC card is being sold at RM10 and the shortage of NFC in the market via TnG channel.

With regards to the issues of RFID, MyCC fully supports the stance of KPDN that TnG should be more proactive in addressing the issues surrounding the implementation of RFID. TnG is advised to increase the number of its customer service locations to enable easy access to users to address any problems they encounter with TnG products and services as well as allowing TnG to carry out its advocacy in order to ensure a more effective implementation and seamless transition to RFID for toll payment.

MyCC has been working tirelessly since 2019 to further enhance its powers under Act 712 and the Competition Commission Act 2010 via the amendments of both Acts, which are expected to be tabled in Parliament by this year. The amendments focus on the powers of MyCC to investigate and enforce the law including the introduction of the merger control regime to prevent the formation of cartels and new monopolies. The challenges posed by the untimely Covid-19 between the year of 2020 to 2022 did not deter MyCC from continuing its ambition to achieve these amendments.

MyCC will continue to strive to execute the Government's mandate efficiently and effectively with commitment to ensure competition culture remains conducive and markets work well for consumers, businesses, and the economy. The responsibilities to combat cartels, address abusive monopoly and problematic mergers are uphill tasks. The public and members of the media are urged to let the law takes its course and lay all speculations to rest. While we continue to welcome the willingness of any party to come forward to discuss with MyCC, we do hope that incorrect speculations by all parties will cease in order to avoid unintended disruption, confusion and unnecessary frustration amongst the public.

Dato' Seri Mohd Hishamudin Yunus

Chairman

Malaysia Competition Commission

28 January 2023

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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 10th year anniversary on 1 April 2021 and announced the launch of its rebranding and redesigned logo to elevate its corporate identity. The Logo embodies the culture and colours of the organization as well as its strengths and work values. The symbol of the butterfly is globally known to represent endurance, change, hope and life. This new look also shows simplicity at its finest, signifying the changes and maturity of MyCC itself.

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