

NEWS RELEASE

MyCC PENALISES SEVEN ENTERPRISES FOR BID RIGGING CARTEL

KUALA LUMPUR, 5 SEPTEMBER – The Malaysia Competition Commission (MyCC), an agency under the Ministry of Domestic Trade and Cost of Living (KPDN), has issued an Infringement Decision against seven (7) enterprises for infringing section 4 of the Competition Act 2010 (Act 712) by participating in a bid-rigging cartel in relations to four (4) tenders awarded by the Ministry of Defence (MINDEF) worth around RM20 million in 2017 and 2020.

The infringing enterprises are as follows: -

- i. Agenda Eksklusif Sdn. Bhd. (AESB) – For its involvement in all four tenders.
- ii. Star Apex Enterprise (SAE) – For its involvement in all four tenders;
- iii. Nekad Waja Resources (NWR) - For its involvement in all four tenders;
- iv. Spectron Sdn. Bhd. (SSB) - For its involvement in two out of the four tenders;
- v. Teknokrat Makmur Enterprise (TME) - For its involvement in one out of the four tenders;
- vi. Prospectrum Sdn. Bhd. (PSB) - For its involvement in one out of the four tenders; and
- vii. NK Panorama Enterprise (NKPE) - For its involvement in one out of the four tenders.

Timeline of investigation, representation and decisions

MyCC initiated a formal investigation in response to a complaint concerning alleged bid rigging in two tenders. During the investigation, MyCC conducted dawn raids, collected statements, requested information, and performed an in-depth analysis of the relevant evidence. On 19 December 2023, MyCC issued a Proposed Decision to the 7 infringing enterprises and subsequently received their representations. After thoroughly reviewing these representations, MyCC issued an infringement decision against all 7 enterprises on 30 August 2024 and served the decision to the enterprises today.

Cartel behaviours by the Enterprises

MyCC, in its investigation, found that there are 2 cartel groups. The first group comprises AESB, SAE, NWR, TME and SSB. The second cartel group comprised NKPE and PSB and both of them were involved in only 1 of the 4 tenders.

The modus operandi employed by the first cartel group is where AESB played a central role in all four (4) tenders. AESB would set the base price in which SAE and NWR would submit a higher price than the base price on their bid submissions.

As for SSB, which involved in the 2 out of 4 tenders, would also use the base price set by AESB. TME, which was involved in one of the 4 tenders also uses the same method

in its bid submission. MyCC also discovered as soon as SSB was awarded with one of the tenders, it immediately subcontracted the tender to AESB in return for 5 percent of the tender value.

The majority of the evidence, including tender documents related to the first cartel group, was located at AESB's premises in Manjung, Perak. For the second cartel group, MyCC seized all relevant documentary evidence from PSB's premises, also situated in Manjung.

Financial Penalty and Fines

Act 712 allows MyCC to impose a financial penalty of not more than 10% of the worldwide turnover of the enterprises. Based on the calculation made by MyCC including consideration of the aggravating and mitigating factors, the infringing enterprises have been imposed the following financial penalties and fines: -

Table 1: Financial Penalty, Fine and Direction

ENTERPRISES	NUMBER OF TENDERS	PENALTY	DIRECTION
AESB	4	RM272,129.52	To enroll in a competition compliance program and training approved by the Commission.
SAE	4	RM109,701.11	
SSB	2	RM43,889.92	
PSB	1	RM14,992.50	
TME	1	RM3,379.90	
ENTERPRISES	NUMBER OF TENDERS	FINE	DIRECTION
NWR	4	RM1,000.00	(i) To deposit a Bond of Good Behavior in the amount of RM5,000.00 with the Commission for a period of 3 years; and (ii) To enroll in a competition compliance program and training approved by the Commission.
NKPE	1	RM1,000.00	

The total amount of penalty and fine is **RM446,092.95**.

“Bid-rigging cartels have long threatened the integrity of public procurement, draining valuable public resources meant for the benefit of the nation and *rakyat*. MyCC stands resolute in its mission to eliminate these unethical practices. This aligns with the Malaysian government’s commitment in eliminating bid-rigging cartels. As such, MyCC

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is now investigating suspected 13 bid-rigging cartels involving 561 enterprises in tenders worth RM2.37 billion and assessing complaints involving 463 enterprises in tenders worth RM9.27 billion,” stated Mr. Iskandar Ismail, Chief Executive Officer of MyCC.

“I want to emphasize that our investigation targeted the enterprises involved in this infringement, not MINDEF. MINDEF was manipulated by these cartels. We commend MINDEF for their cooperation in this investigation and for standing with us against these intolerable activities which we deem as the supreme evil of the competition law.

We urge other agencies to follow the example set by MINDEF and join us in this fight to protect the integrity of public procurement. If any ministries or agencies suspect bid rigging within their tendering processes, we encourage them to step forward and collaborate with MyCC,” added Mr Iskandar.

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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