



NEWS RELEASE

MyCC ACCEPTS UNDERTAKING FROM THE SABAH TOURIST GUIDES ASSOCIATION (STGA)

KUALA LUMPUR, 3 SEPTEMBER 2019 - The Malaysia Competition Commission (MyCC), has accepted an official undertaking from the Sabah Tourist Guides Association (STGA). This undertaking was made on behalf of all its 477 members regarding the competition concern in relation to the fixing of tourist guides' professional fees set by STGA.

To address MyCC's concerns, the members of STGA have undertaken to rescind the issued Minimum Tourist Guides Professional Fees dated 1 March 2009. They have also undertaken not to hold any form of discussion in relation to the tourist guides' fees applicable to STGA members. At the same time, the members have also undertaken on halting implementation of the proposed STGA Sabah Professional Guiding Fee Rates discussed at STGA's Extraordinary General Meeting held on 20 April 2017. The STGA also undertook to remind all members to fully comply with the Competition Act 2010 and will not hesitate to provide full cooperation to MyCC in the event of any future complaints made against their members in the future.

"MyCC has successfully resolved this case which would greatly benefit the consumers and tourism industry in Sabah. Any act of price fixing is prohibited under the Act as it hinders efficiency, innovation and entrepreneurship within the industry and consumers will not be able to enjoy the benefit of quality services, competitive pricing and choices. The MyCC will not hesitate to take stern action against any anti-competitive conducts to protect the interest of Malaysian consumer. We encourage the public to come forward with any information with regards to potential anti-competitive behaviour," said Encik Iskandar Ismail, Chief Executive Officer of the MyCC regarding the matter.

The undertaking is available for public viewing on the MyCC website, www.mycc.gov.my. The undertaking of STGA is attached herewith as Attachment A.

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NEWS / ECONOMY DESK



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Corporate Affairs Division

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, at reasonable prices. The Act applies to all commercial activities conducted 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 anti-competitive practices/conduct under the competition laws. For more information on the Act and the MyCC's activities, log on to www.mycc.gov.my.



EDITOR'S NOTES:

Details of Section 43 of the Act: Power to accept Undertaking

1. The Act allows an enterprise to make legally binding undertakings without the need for a finding of an infringement by the MyCC. The MyCC has discretion whether to accept such undertakings and will take a number of factors into consideration when determining whether to accept undertakings or not.
2. These factors include, but are not limited to, the gravity of the infringement; the level of genuine cooperation received from the enterprise in assisting the MyCC (also referred to as the Commission) with its investigation and whether accepting the undertakings will efficiently and effectively address the competition concerns.

The Commission's power to accept undertakings are stated in section 43 of the Act, as follows:

43. (1) The Commission may, subject to the conditions that the Commission may impose, accept from an enterprise an undertaking to do or refrain from doing anything as the Commission considers appropriate.

(2) If the Commission accepts an undertaking under subsection (1), the Commission shall, in relation to an infringement, close the investigation without making any finding of infringement and shall not impose a penalty on the enterprise.

(3) Any undertaking accepted by the Commission under this section shall be a document available for inspection by the public in a manner determined by the Commission.

(4) The provisions of any undertaking accepted by the Commission under this section shall be enforceable by the Commission as though those provisions had been set out in a decision given to the enterprise providing that undertaking pursuant to section 40.



Details of Section 4 of the Act are as follows:

3. 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*