
NEWS RELEASE

**MALAYSIA COMPETITION COMMISSION TO KEEP CLOSE EYE ON
CEMENT INDUSTRY**

KUALA LUMPUR, 19 JUNE 2019 – In light of the recent issue on the cement price hike announcements, the Malaysia Competition Commission (“the Commission”) will focus its efforts to consistently monitor the cement industry in order to complement the Government’s initiative in protecting the welfare of the consumers.

“The Ministry of Domestic Trade and Consumer Affairs (“MDTCA”) has called for a meeting with the cement industry players yesterday. We are currently working closely with the Ministry to provide our input and will further assess the matter under the provisions of the Competition Act 2010 if necessary,” said Iskandar Ismail, Chief Executive Officer of the Commission.

While the Commission has taken note of the price increase notices that have been issued by the cement and ready mixed concrete players, the Commission also took cognizance of the effect of the recent merger between YTL and Lafarge which has led to the market being more concentrated at the upstream and downstream level.

Section 4 and Section 10 of CA 2010 clearly prohibits enterprises from entering into any anti-competitive agreement and abusing their dominant position in the market, respectively. The Commission strongly believes in promoting and protecting the process of competition and urge members of the public to lodge their complaints with the Malaysia Competition Commission at complaints@mycc.gov.my should they encounter any suspicious conduct in the cement industry.

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For media enquiries, please contact:

Noorliza Abdul Latiff, Tel +603 2273 2277 (ext 111),

Email: noorliza@mycc.gov.my

Communication and Advocacy 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 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.

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

ANNEXE A

Notes to Editor:

Information on Section 4 and 10 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.

(3) Any enterprise which is a party to an agreement which is prohibited under this section shall be liable for infringement of the prohibition.

Section 10: Abuse of dominant position is prohibited

10. (1) An enterprise is prohibited from engaging, whether independently or collectively, in any conduct which amounts to an abuse of a dominant position in any market for goods or services.

(2) Without prejudice to the generality of subsection (1), an abuse of a dominant position may include—

- (a) directly or indirectly imposing unfair purchase or selling price or other unfair trading condition on any supplier or customer;
- (b) limiting or controlling—
 - (i) production;
 - (ii) market outlets or market access;
 - (iii) technical or technological development; or
 - (iv) investment, to the prejudice of consumers;
- (c) refusing to supply to a particular enterprise or group or category of enterprises;
- (d) applying different conditions to equivalent transactions with other trading parties to an extent that may—
 - (i) discourage new market entry or expansion or investment by an existing competitor;
 - (ii) force from the market or otherwise seriously damage an existing competitor which is no less efficient than the enterprise in a dominant position; or
 - (iii) harm competition in any market in which the dominant enterprise is participating or in any upstream or downstream market;

- (e) making the conclusion of contract subject to acceptance by other parties of supplementary conditions which by their nature or according to commercial usage have no connection with the subject matter of the contract;
- (f) any predatory behaviour towards competitors; or
- (g) buying up a scarce supply of intermediate goods or resources required by a competitor, in circumstances where the enterprise in a dominant position does not have a reasonable commercial justification for buying up the intermediate goods or resources to meet its own needs.

(3) This section does not prohibit an enterprise in a dominant position from taking any step which has reasonable commercial justification or represents a reasonable commercial response to the market entry or market conduct of a competitor.

(4) The fact that the market share of any enterprise is above or below any particular level shall not in itself be regarded as conclusive as to whether that enterprise occupies, or does not occupy, a dominant position in that market.