
NEWS RELEASE

INFORMATION SHARING UNDER COMPETITION LAW

KUALA LUMPUR, 11 July 2012 – Under competition law, information sharing between businesses is not wrong. It is wrong, however, when the type of information shared has an adverse effect on competition where it serves to reduce or remove uncertainties inherent in the process of competition.

“Section 4 of the Competition Act 2010 (CA 2010) prohibits any enterprise from forming any horizontal or vertical agreements that may significantly prevent or distort competition in the market,” says Puan Shila Dorai Raj, Chief Executive Officer of Malaysia Competition Commission (MyCC). “In this instance, exchange of disaggregated data between members of an association may be considered as a form of horizontal agreement between competitors, which could lead to an infringement of the CA 2010.”

The Malaysian Automotive Association (MAA) has in fact already been advised by the MyCC on why and how the dissemination of disaggregated information to the association’s members infringes the Act, adds Puan Shila, in response to the uncertainties that the MAA had raised in a recent article.

The detailed information exchanged and shared by the MAA’s members may facilitate them to coordinate their prices. Furthermore such information could facilitate members to plan their marketing strategy by allocating territories or adjusting their production. This indirectly has the consequence of discouraging members from competing fairly and more effectively against each other. Eventually this results in depriving consumers of better and more products in the market.

Earlier on the MAA was advised by the MyCC to take reasonable measures to reduce the risk of infringing the Act by collecting only historical information and disseminating information in aggregated form. The CA 2010 does not in any way prevent individual companies from publishing their data or information in disaggregated form in an independent manner.

“All we are saying is that an association should not be the black box for collecting and disseminating information to members who are also competitors. This is in the spirit of the law,” she adds. To date, the MyCC has also not received any formal application for exemption from the MAA on the matter.

The CA 2010 is not out to victimize any parties but to set guidelines to ensure fair competition processes, stresses Puan Shila. To compete effectively in the global arena, it is advisable for Malaysian enterprises to equip themselves by adopting best practices in competition. She also advises that the Guidelines on Chapter 1 Prohibition be read and understood.

**FOR IMMEDIATE RELEASE
TO THE NEWS EDITOR**



The move by global car manufacturers Mercedes-Benz Malaysia, BMW Malaysia and UMW Toyota Motor to discontinue providing disaggregated figures is in line with global competition compliance processes. It is seen as a positive move that can be adopted by others in the industry in complying with international competition laws.

“Businesses unsure of how competition law affects them are recommended to attend seminars held by the MyCC and additionally to engage legal counsel in interpreting the Act,” adds Puan Shila.

The MyCC is also inviting stakeholders for a public consultation on a review of the domestic broiler market, which will be made available starting 16th July 2012, via its website, www.mycc.gov.my.

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Note: Vertical agreements are agreements entered into by enterprises that are at different levels of the production chain. Horizontal agreements are agreements entered into by enterprises that are in the same level of the production chain.

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About Malaysia Competition Commission (MyCC)

Established in June 2011, the MyCC is an independent body responsible for enforcing the Competition Act 2010. The Act 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 Malaysia that affects competition in the Malaysian market. It provides a regulatory framework including powers to investigate, adjudicate and impose penalties.

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