
MyCC PROPOSES TO FINE 7 WAREHOUSE OPERATORS FOR PRICE FIXING CARTEL

MyCC has provisionally found that 7 of the warehouse operators infringed competition law in relation to the Long Length Handling surcharge and Heavy Lifting surcharge

KUALA LUMPUR, 09 January 2020 – The Malaysia Competition Commission (MyCC) has issued a Proposed Decision against seven warehouse operators for infringing Section 4 of the Competition Act (Act 712) in relation to the price fixing of surcharges on Long Length Handling and Heavy Lift Handling services.

Based on the investigation, MyCC has provisionally found that, the following operators: -

- 1) Regional Synergy (M) Sdn. Bhd.
- 2) WCS Warehousing Sdn. Bhd.
- 3) Pioneerpac Sdn. Bhd.
- 4) Interocean Warehousing Service Sdn. Bhd.
- 5) Intrexim Sdn. Bhd.
- 6) SAL Agencies Sdn. Bhd.
- 7) Prima Warehousing Sdn. Bhd.

were engaging in a price fixing conduct in relation to the rates for Long Length Handling Surcharge and Heavy Lift Handling Surcharge for all import and export cargoes in Northport and Westport areas in Port Klang. In addition, MyCC also found, through an online platform conversation, that most of the warehouse operators had implemented the price fixing rates upon their respective customers.

According to Iskandar Ismail, Chief Executive Officer of MyCC; “Price fixing cartel is the supreme evil of competition law, which must be stopped in order to protect the consumers. Warehousing is a crucial element in any logistic ecosystem. If there is an increase of price in any element in the ecosystem, usually the extra cost will be passed on to the consumers. MyCC will continue its effort to combat price fixing cartels, for the benefits of the consumer, who are now grappling with cost of living issue”.

“This is MyCC’s provisional finding and the companies have the chance to make representations to MyCC before it reaches a final decision”, he further said.

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About MyCC

Established in April 2011, the Malaysia Competition Commission (MyCC) is an independent body responsible for enforcing the Competition Act 2010 (Act 712), 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 MyCC, log on to www.mycc.gov.my.

Notes to the Editor: Information on Section 4 and Section 36 of the Competition Act 2010

Section 4: Prohibited horizontal and vertical agreement

Section 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.

Section 4 (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.

Section 4 (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 36: Proposed decision by the Commission

Section 36 (1) – If, after the completion of the investigation, the Commission proposes to make a decision to the effect that one of the prohibitions under Part II has been or is being infringed, the Commission shall give written notice of its proposed decision to each enterprise that may be directly affected by the decision.

Section 36 (2) – The notice shall; -

- (a) set out the reasons for the Commission’s proposed decision in sufficient detail to enable the enterprise to whom the notice is given to have a genuine and sufficient prospect of being able to comment on the proposed decision on an informed basis;
- (b) set out any penalties or remedial action that the Commission proposes to apply; and
- (c) inform each enterprise to whom the notice is given that the enterprise may, within such reasonable period as may be specified in the notice—
 - (i) submit written representations to the Commission; and
 - (ii) indicate whether the enterprise wishes to make an oral representation before the Commission.