
NEWS RELEASE

NO RESALE PRICE MAINTENANCE ON ITS PRODUCTS BY COCA-COLA

KUALA LUMPUR, 7 OCTOBER 2019 – The Malaysia Competition Commission (“MyCC”) has found no evidence of infringement in relation to a price increase notice of Coca-Cola beverages issued to supermarkets and hypermarkets in Peninsular Malaysia prior to the implementation of Sales and Services Tax (SST) on 1 September 2018.

This investigation follows a ministerial directive (in accordance to Section 14(1) of CA 2010) to investigate the notice issued by Coca-Cola Bottlers (Malaysia) Sdn Bhd and Coca-Cola Refreshments Malaysia Sdn Bhd (hereinafter referred as Coca-Cola) in July 2018 in which contained recommended resale price at which various Coca-Cola beverages were to be sold to retailers and recommended consumer price to the consumer.

MyCC examined whether the notice has the ability to restrict supermarkets and hypermarkets including their customers from determining their resale prices independently. After a thorough investigation, MyCC concludes that Coca-Cola and supermarket or hypermarkets were not involved in any vertical agreement that would likely to cause a negative effect on the market.

Investigation further reveals that there was no evidence to indicate that Coca-Cola had induced the supermarkets and hypermarkets by way of incentives or promotional measures to encourage them to strictly adhere to the recommended resale or consumer price.

“MyCC found that the prices charged by supermarkets and hypermarkets in the Klang Valley area varied and it could be lower or higher than the recommended resale or consumer price. MyCC found that Coca Cola did not infringe Section 4 of the Competition Act 2010 and therefore issued a decision of non-infringement under Section 39 of the Act,” said Iskandar Ismail, Chief Executive Officer of MyCC.

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About Malaysia Competition Commission (MyCC)

Established in April 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 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 the MyCC's activities, you can log on to www.mycc.gov.my.

EDITOR'S NOTES:

Details of Section 4, Anti-Competitive Agreement of the Competition Act 2010:

4. Prohibited horizontal and vertical agreement

(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; 12 Laws of Malaysia ACT 712
- (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.

Details of Section 14, Investigation by the Commission of the Competition Act 2010:

Investigation by the Commission

14. (1) The Commission may conduct any investigation as the Commission thinks expedient where the Commission has reason to suspect that any enterprise has infringed or is infringing any prohibition under this Act or any person has committed or is committing any offence under this Act.

(2) The Commission shall, on the direction of the Minister, investigate any suspected infringement of any of the prohibition or commission of an offence under this Act.

Details of the Section 39, decision by the Commission

Finding of non-infringement

39. Where the Commission has made a decision that there is no infringement of a prohibition under Part II, the Commission shall, without delay, give notice of the decision to any person who is affected by the decision stating the facts on which the Commission bases the decision and the Commission's reason for making the decision.