

NEWS RELEASE

P-HAILING SERVICE ISSUES ATTRACT INQUIRY BY MyCC

KUALA LUMPUR, 26 JULY 2021 – Following the recent public outcry on issues relating to the services of food delivery platform companies, the imposition of exorbitant commission fees by such companies and the price of food and beverages on these platforms, the Malaysia Competition Commission (“MyCC”) has actively engaged with relevant stakeholders to obtain further information on the matter. MyCC is also closely monitoring and assessing the situation as to whether the conduct(s) of certain food delivery platform companies is in contravention of the Competition Act 2010 or not.

“The MyCC, along with the Ministry of Domestic Trade and Consumer Affairs (KPDNHEP) have met with relevant parties including the food and beverages (F&B) and retail industry players to understand the issues raised by them. Based on the series of meetings held, we have identified several concerns and challenges in the industry, in relation to not only competition, but also consumerism. The way forward for us is to actively engage with the food delivery platform providers.” said Iskandar Ismail, Chief Executive Officer of MyCC.

“In this regard, MyCC is seriously looking into every angle from the perspective of the Competition Act 2010, particularly on the conduct of these food delivery platform companies towards F&B industry players, riders and consumers and whether it raises any competition concern.”

Iskandar further said that all options are being considered in approaching these issues, including invoking the enforcement powers under the Competition Act 2010 and working closely with KPDNHEP to attain comprehensive solutions to all issues raised by the relevant industry players.

Section 4 and Section 10 of Competition Act 2010 clearly prohibits enterprises from entering into any anti-competitive agreement and abusing their dominant position in the market, respectively. Action can also be taken against a group of major players which abuse their dominant positions collectively. Consumers and businesses can channel their complaint(s) related to the misconduct of the p-hailing services by lodging the complaints via MyCC website or address its complaints to complaints@mycc.gov.my or via Whatsapp at **+6019 215 2273**. The complainant(s) is advised to give full account of their complaint together with the relevant evidence.

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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.

MyCC celebrated its 10th year anniversary on 1st April 2021 and announced the launch of its rebranding and redesigned logo to elevate its corporate identity. The Logo embodies the culture and colours of the organization as well as its strengths and work values. The symbol of the butterfly is globally known to represent endurance, change, hope and life. This new look also shows simplicity at its finest, signifying the changes and maturity of MyCC itself.

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

ANNEXURE A

Notes to the Editor: Information on Section 4 and Section 10 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 10: Abuse of dominant position is prohibited

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Section 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.

Section 10 (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.

Section 10 (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.

Section 10 (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.