



NEWS RELEASE

MyCC ISSUES PROPOSED DECISION ON MEGASTEEL

KUALA LUMPUR, 01 November 2013 – The Malaysia Competition Commission ('MyCC') today issued its Proposed Decision on Megasteel Steel Sdn Bhd ('Megasteel'), as the Commission found it infringing the Competition Act 2010 ('the Act') by abusing its dominant position. A financial penalty amounting RM4,500,000.00 is being proposed.

The MyCC finds that Megasteel's practice of charging or imposing a price for its Hot Rolled Coil ('HRC') that is disproportionate to the selling price of its Cold Rolled Coil ('CRC'), amounts to a margin squeeze that produces anti-competitive effects in the market, and is an infringement of section 10(1) of the Act.

"Margin squeeze is also regarded as abusive means by a dominant enterprise to leverage its market power in the upstream market so as to drive out the enterprise's rivals in the downstream market," said MyCC Chief Executive Officer, Shila Dorai Raj.

The MyCC takes into account the nature of the product, the structure of the market, the market share of the enterprise, entry barriers and the effects of Megasteel's margin squeeze on its downstream competitors as well as the seriousness of the infringement in determining the basic amount of financial penalty.

The MyCC views that Megasteel is dominant in the HRC market (upstream segment) and has found it is also involved in CRC production (downstream segment). HRC is an essential input for the downstream manufacturers of CRC and at present, Megasteel is



the only domestic manufacturer of HRC. The MyCC also notes that the barriers to entry into the HRC market are high.

These factors place Megasteel in a very special position in the market over all the other CRC producers. Although Megasteel's monthly prices for its CRC were all lower than those charged by its competitors in the downstream market, they cannot be considered competitive prices. The reason is the monthly margins (between CRC and HRC prices) earned by Megasteel were all insufficient for the recovery of its monthly costs of transforming HRC into CRC.

The artificial lower CRC prices that were charged by Megasteel have the effect of hindering, if not lessening, competition in the downstream market, making this type of pricing practice a serious breach of competition law.

Megasteel has thirty (30) working days from the date the Proposed Decision is served to submit a written representation or indicate whether it wishes to make an oral representation before the MyCC. The proposed ¹financial penalty on Megasteel is less than 10% of its worldwide turnover in 2012.

The MyCC first received a complaint from Melewar Industrial Group Berhad on 27 August 2012 alleging an abuse of a dominant position by Megasteel in the HRC market in Malaysia.

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¹ Any financial penalty imposed by the MyCC shall not exceed the statutory maximum established by subsection 40(4) which provides: "A financial penalty shall not exceed ten percent of the worldwide turnover of an enterprise over the period during which an infringement occurred."

EDITOR'S NOTES:

Section 2 of the Competition Act 2010 defines "dominant position" as follows:

"Dominant position means a situation in which one or more enterprises possess such significant power in a market to adjust prices or outputs or trading terms, without effective constraint from competitors or potential competitors."

Chapter 2: Abuse of dominant position

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.

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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 Malaysia that affects 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.