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NEWS RELEASE

## MyCC ISSUES FINAL DECISION AGAINST 24 CONFECTION AND BAKERY PRODUCT PRODUCERS FOR PRICE FIXING

**KUALA LUMPUR, 3<sup>rd</sup> March 2015** – The Malaysia Competition Commission (MyCC) has issued a Decision in relation to a price fixing agreement between 24 enterprises who are members of the Sibu Confectionery and Bakery Association (the ‘SCBA’).

This follows the Proposed Decision issued to the SCBA on the 30<sup>th</sup> September 2014. The SCBA was found to have engaged in anti-competitive conduct by agreeing to increase the prices of confectionery and bakery products by 10 to 15 percent in Sibu area effective on 1<sup>st</sup> December 2013. In response to the Proposed Decision, all 24 enterprises submitted their written representations to the MyCC and only 11 enterprises stated that they wished to make oral representation before the MyCC.

“Agreements such as these, allows for enterprises of different sizes to increase prices across the board by a standard amount thus narrowing or eliminating competition” says Dr. Mohd Khalid Bin Abdul Samad, CEO of the MyCC. “The agreement to fix price leaves no room for individual enterprises to assess their own operating costs, to determine for themselves the cost-pass-through effects and the acceptable price increase, enterprises should also ascertain whether the price increase be borne by themselves or by the consumers,” he added.

In determining the level of financial penalty, the MyCC took into account (amongst others) the seriousness of the infringement, the duration of the infringement, relevant turnover of the enterprises for period of infringement; aggravating factors and mitigating



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factors.

After much deliberation on the written and oral representation, the MyCC has made a finding that fifteen (15) enterprises have infringed section 4(2)(a) of the Competition Act. These enterprises are namely; Huong Hiong(Sibu)Confectionary, Wong Kieng Seng, New Chuo An Bakery, Chung's Bakery, Sweetie Bakery, Seng Kee Bakery, To Eat Bakery Sdn. Bhd., Nam Mee Bakery, Lian Yu Bakery Cake Store, ABC Cake House, Farley Bakery, Wonderful Bakery, Kung Fung Food Industries as well as Yong Lin Yin and were imposed financial penalties accordingly. Although found to have infringed section 4(2)(a) of the Act, the MyCC has decided not to impose any financial penalty on Yong Kong Chuo who generated an insignificant amount of total turnover during the infringement period. The MyCC have imposed a total financial penalty of RM247,730 on the infringing enterprises.

MyCC found the remaining nine enterprises namely, Chieng Muk Hin, Daily Bread, Famous Bakery, Happiness Bakery, Ling Kui Ping, Pau Kiu Mee, Sibu Central Market, Wong Ting Tiong and Yat Bakery to not have infringed Section 4(2) (a) of the Competition Act 2010, thus, they were not imposed with financial penalties.

The notice of the Decision has been uploaded to the MyCC website. For more information on the case or on the MyCC, kindly log on to [www.mycc.gov.my](http://www.mycc.gov.my).

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**Corporate Communication Unit**

**Malaysia Competition Commission**



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**EDITOR'S NOTES:**

1. The details on **Section 4 (2)(a) of the Competition Act 2010**: Prohibited \*\*horizontal and vertical agreement is as follows:

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.

(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.

\*\* “horizontal agreement” = agreement between enterprises each of which operates at the same level in the production or distribution chain;

“vertical agreement” = agreement between enterprises each of which operates at a different level in the production or distribution chain.

**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 anti-competitive practices/ conduct under the competition laws. For more information on the Act and MyCC activities, log on to [www.mycc.gov.my](http://www.mycc.gov.my).