
NEWS RELEASE

RM 1.94 MILLION PENALTY TO EIGHT ENTERPRISES FOR BID RIGGING

KUALA LUMPUR, 4 MARCH 2019 – The Malaysia Competition Commission (MyCC) had issued a Proposed Decision against eight (8) enterprises for their involvement in bid rigging of Request for Quotations (RFQs) and tenders valued at RM 1.92 million submitted to *Akademi Seni Budaya dan Warisan Kebangsaan* (ASWARA). Bid rigging is an infringement under Section 4 of Competition Act 2010. ASWARA is a public higher learning institution in the field of performance arts in Malaysia.

MyCC had initiated an investigation on the eight (8) enterprises found colluding with each other by sharing each other's RFQs and tender proposal information, manipulating prices and preparing documents for one another. The winner of the RFQs and tender also shared their profits with the losing bidders.

“MyCC would like to thank ASWARA for giving full cooperation and support to us in breaking up this bid rigging cartel. We will remain steadfast in deterring bid rigging activities in the future. MyCC will not compromise and will take stern action against infringing enterprises in order to ensure transparent procurement process in Malaysia” said Iskandar Ismail, Chief Executive Officer of MyCC.

“I would like to encourage other organisations to follow the same step by tipping off any suspected irregularities in any tender to MyCC. Enterprises involved in bid rigging activities may come forward to seek reduction of financial penalty from MyCC under its Leniency Regime Programme” added Iskandar.

Bid rigging is one of the most harmful type of anti-competitive conduct under the Competition Act 2010 that occurs when two or more bidders in a tender collude with aim to distort the normal conditions of competition. For more information about MyCC and its Leniency Regime, please log on to www.mycc.gov.my.

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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:

Extract from Section 4 of Competition Act 2010:

Anti-competitive agreement

Prohibited horizontal and vertical agreement

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.

- (3) Any enterprise which is a party to an agreement which is prohibited under this section shall be liable for infringement of the prohibition.

Extract from Section 41 of Competition Act 2010:

Leniency Regime

41. (1) There shall be a leniency regime, with a reduction of up to a maximum of one hundred percent of any penalties which would otherwise have been imposed, which may be available in the cases of any enterprise which has
- (a) admitted its involvement in an infringement of any prohibition under subsection 4(2); and
 - (b) provided information or other form of co-operation to the Commission which significantly assisted, or is likely to significantly assist, in the identification or investigation of any finding of an infringement of any prohibition by any other enterprises.
- (2) A leniency regime may permit different percentages of reductions to be available to an enterprise depending on
- (a) whether the enterprise was the first person to bring the suspected infringement to the attention of the Commission;
 - (b) the stage in the investigation at which
 - (i) an involvement in the infringement was admitted; or
 - (ii) any information or other co-operation was provided; or
 - (c) any other circumstances which the Commission considers appropriate to have regard to.