



**Asia-Pacific
Economic Cooperation**

2014/SOM1/CPLG/030

Agenda Item: 8

Updates on Competition Act 2010 Malaysia

Purpose: Information
Submitted by: Malaysia



**Competition Policy and Law Group Meeting
Ningbo, China
21-22 February 2014**



Malaysia Competition Commission

**UPDATES ON COMPETITION ACT 2010
MALAYSIA**

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Malaysia Competition Commission

PRESENTATION OVERVIEW

Objective and Scope of Competition Act 2010

Role of the Commission (MyCC)

Competition Act 2010: Prohibitions

Role of the Commission (MyCC)

Enforcement Activities

 **MyCC** Malaysia Competition Commission

COMPETITION ACT 2010 [ACT 712]

PREAMBLE

An Act to promote **economic development** by promoting and **protecting the process of competition**, thereby **protecting the interests of consumers** and to provide for matters connected therewith

Came into force on 1 January 2012

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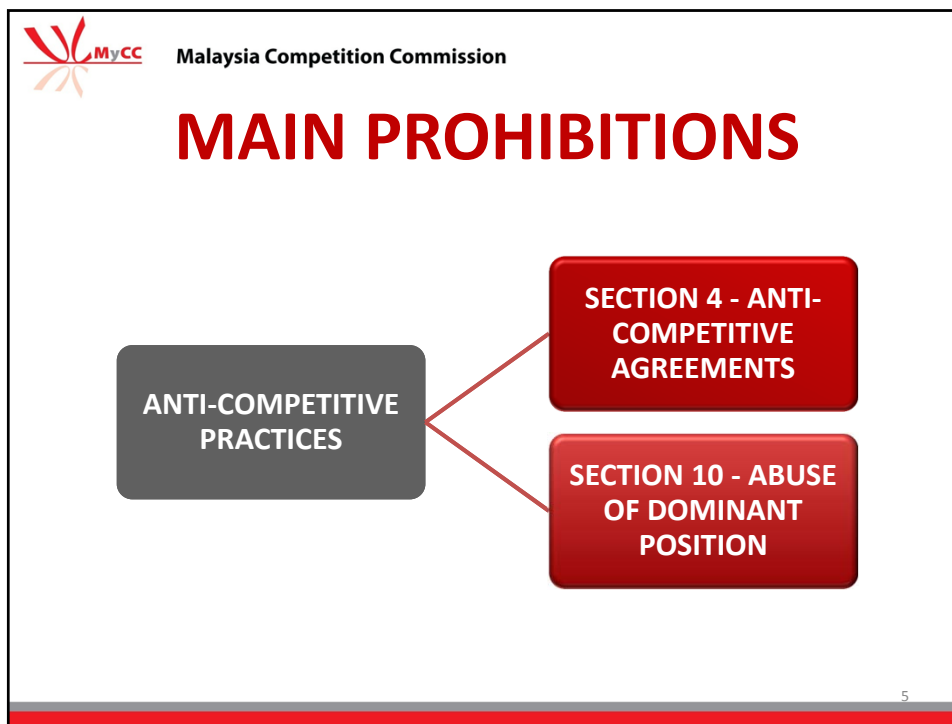
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SCOPE OF LAW

Applies to **all commercial activities, both within and outside Malaysia** which has an effect on competition in any market in Malaysia



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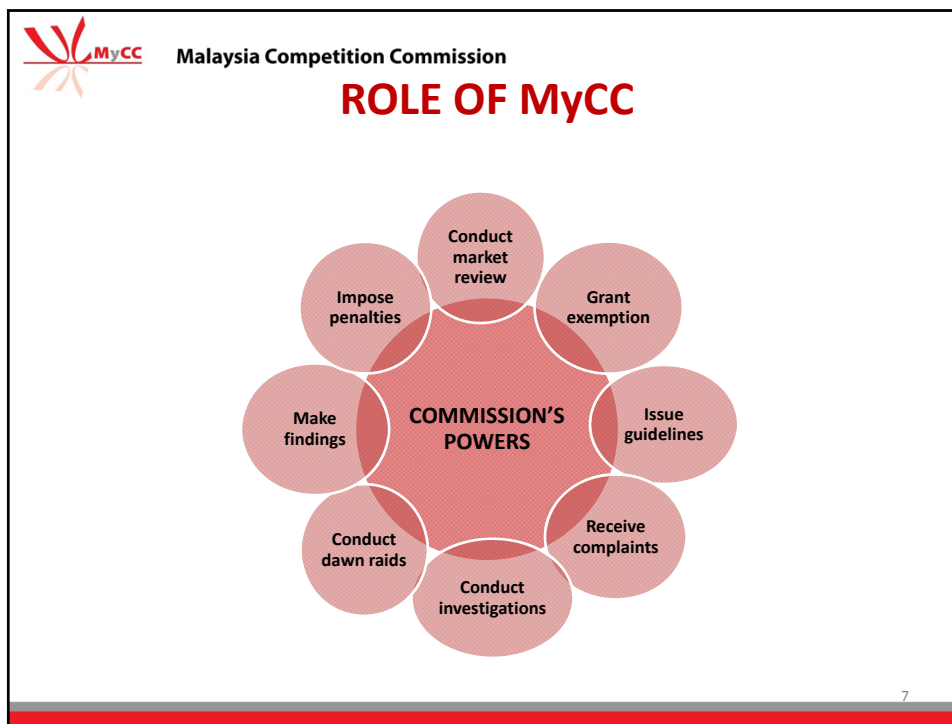
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PENALTIES

If there is an infringement, the Commission

- Shall issue cease and desist order
- May specify steps to bring an end to the infringement
- May impose financial penalty:

maximum 10 % of the worldwide turnover



 **Malaysia Competition Commission**

ENFORCEMENT ACTIVITIES

1 **2012: Non-financial penalty decision on Cameron Highlands Floriculturist Association's case for price fixing**

Facts of the case:

- 4 March 2012, The Star, had reported CHFA President announced that its members have agreed to increase the prices of flowers by 10%
- Agreement to increase the prices of flowers by 10%
- Final Decision: 6 December 2012

*Being the first year of enforcement, MyCC adopted a 'soft approach' in this case by not imposing any financial penalty on the CHFA.

Proposed decision:

1. CHFA is instructed to cease and desist the infringing act of fixing prices of flowers;
2. CHFA shall provide an undertaking that its members shall refrain from any anti-competitive practices in the relevant market;
3. CHFA shall issue a statement on the above mentioned remedial actions in the mainstream newspapers; and
4. In the event that CHFA fails to comply with the above mentioned remedial actions, a financial penalty amounting to RM20,000.00 shall be imposed on CHFA. An additional RM1,000 will be imposed for each or part of each following day that CHFA fails to comply.

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2013: MAS - Air Asia for market sharing

2 Facts of the case:

- 9 August 2011, MAS, AirAsia and AirAsia X (AAX) entered into a Comprehensive Collaboration Framework ('the Collaboration Agreement') with the declared aim to sharpen the focus of core competencies, deliver better product and choice for customers and ultimately create greater value for all stakeholders.
- Based on ex-officio, public outcry and a complaint
- Proposed decision: Both airlines have infringed section 4(2)(b) of the Competition Act 2010 by entering into an agreement that has as its object i.e. the sharing of markets in the air transport services sector within Malaysia provided by both airlines.
- Removed reference to the routes and focus stated in supplemental agreement dated 2 May 2012
- Proposed decision: A financial penalty of RM10,000,000.00 on MAS and AirAsia respectively (6 September 2013).

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2013 : Interim Measures issued to Pan- Malaysia Lorry Owners Association and members for price fixing

3 Facts of the case:

- News announcement – its **decision for members** to increase transportation rate by 15%
- **Agreement** to fix and increase the price of transportation rate by 15% across Malaysia on 7 September 2013
- MyCC initiated investigation on 10 September 2013
- Interim Measure: The parties to carry out certain measures (to cease and desist from implementing the decision) and noted that the association had additionally stated that all lorry owners are to make their own independent decisions to their transportation charges (24 October 2013).

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Megasteel Sdn Bhd – Abuse of Dominant Position for margin squeeze conduct

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Facts of the case:

- Based on a complaint from Melewar Industrial Group Bhd
- Proposed decision: Megasteel's practice of charging or imposing a price for its Hot Rolled Coil ('HRC') in upstream market that is disproportionate to the selling price of its Cold Rolled Coil ('CRC') in the downstream market, amounts to a margin squeeze that produces anti-competitive effects in the market
- The only HRC domestic manufacturer, restriction in import
- HRC is an essential input for CRC
- Proposed decision: A financial penalty amounting RM4,500,000.00 (1 November 2013)

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2014 : Proposed decision to Ice Manufacturers for price fixing

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Facts of the case:

- News announcement on 24 December 2013 – all the **26 manufacturers agreed** to increase edible ice tube by RM0.50 and block ice by RM2.50 from 1 January 2014.
- MyCC initiated investigation on 26 December 2013
- Proposed decision: Infringement section 4(2)(a) – price fixing
- Final Interim Measure: The parties to cease and desist from implementing the decision beginning 20 January 2014.
- Proposed decision on 20 February 2014 with financial penalties from RM1,200 to RM106,000.


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MyCC'S GUIDELINES



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THANK YOU



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