Recent Development on Competition Law in Malaysia

Purpose: Information
Submitted by: Malaysia
Recent Development on Competition Law in Malaysia

14 February 2020
Malaysia Competition Commission (MyCC) was established on 1 April 2011.

Competition Act 2010 (the Act) & Competition Commission Act 2010 was gazetted on 10 June 2010.

The Act was enforced effective from 1 January 2012.
MAIN PROHIBITIONS OF THE COMPETITION ACT 2010

ANTI-COMPETITIVE PRACTICES

ANTI-COMPETITIVE AGREEMENTS (Section 4)

ABUSE OF DOMINANT POSITION (Section 10)
# QUASI-JUDICIAL BODY

## ENFORCEMENT BY OTHER AUTHORITIES

- Investigation by Authority
- Prosecution in Court
- Adjudicated by Court

## ENFORCEMENT BY MYCC

- Investigation by MyCC
- Decision by MyCC
- Enforcement by MyCC
General Insurance Association of Malaysia (PIAM) and its 22 members formed a cartel.
- Proposed Decision was issued on 22 February 2017 with a penalty of RM213.45M.
- The Oral Representation was concluded on 18 June 2019.

- MyCC issued a Proposed Decision on 10 July 2018 against DagangNet for abusing its dominant position.
- A financial penalty of RM17.39M was imposed with a directive to cease and desist.
- The Oral Representation was concluded on 29 July 2019.

- The first bid rigging case by MyCC.
- Proposed Decision was issued against 8 target enterprise on 4 March 2019 for engaging in bid rigging in three Request For Quotations (RFQs) and one tender.
- A total penalty of RM1.94M is imposed and an Oral Representation was held in September 2019.

- Proposed Decision was issued against Grab on 3 October 2019 for abusive conduct by imposing clauses which restricts on advertising services that promotes Grab’s competitors
- A total penalty of RM86.7M is imposed and MyCC have yet to receive Grab’s written representation for this case.

- Proposed decision was issued against 7 warehouse operators in relation to the price fixing of surcharges on Long Length Handling and Heavy Lift Handling services, on 9th of January 2020. A total penalty of RM1.1M is imposed.
- The warehouse operators have 30 working days to make representations to MyCC before it reaches a final decision.

LATEST PROPOSED DECISION
MyCC Accepts Undertaking From The Sabah Tourist Guides Association (STGA)

Last update: 03/09/2019

KUALA LUMPUR, Sept 3 (Bernama) - The Malaysia Competition Commission (MyCC), has accepted an official undertaking from the Sabah Tourist Guides Association (STGA). This undertaking was made on behalf of all its 477 members regarding the competition concern in relation to the fixing of tourist guides' professional fees set by STGA.
9 months research period including engagement with more than 176 parties.

Completed with cooperation from government agencies in Malaysia.

The 5 food items contributed to a total of 48% of household expenditure.

Agriculture sector contributed 8.2% of GDP in 2017 and registered a slow growth of 1% to 2% annually.

Agricultural players consisted of 76% micro and small establishments. They generated 44% of total value added in agriculture industry.

Main challenge in agro-food sector are the land scarcity in which only 14% used for cultivating agro-food commodities. Other challenges: shortage of labor, inefficient logistics, poor quality of input supply and high production costs.
- 51 recommendations and policy advice towards public sectors. In 2019, MyCC have advised Ministry of Domestic Trade and Consumer Affairs, Ministry of Health, Ministry of Transport, Ministry of Works and other government agencies on various issues concerning consumers and public.
- Committee Member of Monopoly Review Committee – advised the Government on monopoly issues surrounding entities such as Pharmaniaga, BERNAS, Puspakom and MyEG Sdn Bhd

- 31 advocacy programs in 2019, involving audience both from public and private sectors. 12 advocacy programs were held for audience from public sectors, while 19 programs for public sectors.
- MyCC managed to sign MoU with new partners, totaling up to thirteen (13) MoU partners now.

- Latest publication is Intellectual Property Guidelines
No. 6266.

COMPETITION ACT 2010
THE MyCC GUIDELINES ON INTELLECTUAL PROPERTY RIGHTS AND COMPETITION LAW

In exercise of the powers conferred by subsection 66(1) of the Competition Act 2010 (Act 712), the Commission issue and publish the following guidelines:

1.0 Introduction

These Guidelines provide guidance on the approach of the Malaysia Competition Commission ("MyCC") with respect to any competition issues under the Competition Act 2010 ("the Act") relating to intellectual property ("IP"). These Guidelines should be read together with other Guidelines issued by the MyCC, for example, the Guidelines on Market Definition, the Guidelines on Chapter 1 Prohibition and the Guidelines on Chapter 2 Prohibitions. Because of the subject matter, these Guidelines are necessarily technical in nature and enterprises are strongly advised to consult with IP and competition law practitioners in cases of any uncertainty.

1.1. These Guidelines shall come into force on the date immediately following the date of its publication in the Gazette.

2.0 Overview of Intellectual Property Law

2.1. Intellectual property refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. It comprises of patent, copyright, integrated circuits, industrial design, trade marks, confidential information, plant variety and geographical indication.

AMENDMENTS TO COMPETITION ACT 2010 AND COMPETITION COMMISSION ACT 2010

MyCC is in the process of amending both of its Acts which will incorporate the merger control power, with the expectation to be tabled to Parliament by late 2020.
THANK YOU