



Malaysia Competition Commission



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7th ASEAN COMPETITION CONFERENCE

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“ASEAN’s Young Competition Agencies – The Tough Get Going”

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Outline of Topics

- **Challenges In Setting Up The Agency**
- **Incomplete Legislation**
- **Lack of Judicial Expertise**
- **Immature Competition Culture**
- **Support From Government Ministries, Other Regulatory Bodies and Business Sector**
- **Challenges In Obtaining Funding, Building Capacity and Retaining Qualified Staff**

Challenges In Setting Up The Agency

- Human Resource challenge is in the selection and recruitment process – difficulties in selecting and hiring the right candidate to take up the roles in the organisation
- Capacity Building – training the employees with the right skill set unique for a Competition Agency.
- Capacity Building – effective practical knowledge for the employees via technical assistance through international cooperation.
- High expectation at the agency:
 - a) Adapting to the nature of work in a short period of time;
 - b) Workload is very demanding; and
 - c) Risk of losing talented employees.

Challenges In Setting Up The Agency

- Remuneration Package:
 - a. Government scale; and
 - b. The need to restructure the remuneration package to attract talented employees

- Moving Forward:
 - a. To find self sustaining ways;
 - b. Establish strong workforce; and
 - c. Effective knowledge transfer among employees.

Incomplete Legislation

- The Competition Act 2010 was enforced on 1 January 2012.
 - The economy is ever growing and business practices are becoming more complex and advanced.
- The need to further expand the scope of the Competition Act 2010:
 - To aligned with best practices of other developed countries;
 - To improve the constraints and weaknesses in the existing law; and
 - To incorporate processes and procedures that would ensure the objectives of the Competition Act 2010 is achieved.
- Adoption of the law from best practices must be done in reference to the local circumstances.

Lack of Judicial Expertise

- The awareness level among judicial experts are still very low
 - Competition law is still new in the country;
 - Higher learning institutions are just beginning to introduce Competition Law; and
 - Many legal experts still find difficulties in understanding the essence of Competition Policy and law.
- The structure of the Commission is somehow peculiar to some:
 - The Commission is given the power under the law to conduct investigations as well as make decisions on the investigations.
- Appeals can be made to the Competition Appeal Tribunal (CAT)
CAT usually adopts procedures and precedents applied by the courts in civil cases.

Immature Competition Culture

- Since the time of establishment, numerous advocacy initiatives have been executed to educate the public, in the form of:
 - Briefings;
 - Workshops, seminars and conferences;
 - Competition Compliance Training Programmes; and
 - Consultations with the professional bodies.
- Level of awareness on the existence of competition law among business practitioners, professionals, government agencies and the general public is still low.
- The challenge is producing different advocacy tools to capture the attention of the public without affecting the usage of resources i.e. financial and human resource

Immature Competition Culture

- Businesses are still following the old ways of doing business, some of which are anti-competitive in nature - Competition Law is seen as a hindrance to doing business
- The challenge for a young agency is:
 - Educate the business practitioners on the need to compete healthily; and
 - Adherence can be achieved through effective enforcement of the law.

Support from Government Ministries, Other Regulatory Bodies and Business Sector

- The MyCC being a Commission under the umbrella of the Ministry of Domestic Trade, Co-operatives and Consumerism in Malaysia and has good support from other ministries, agencies, regulatory bodies and business sectors.
- Collaborative advocacy programmes and training with other ministries and regulatory bodies are conducted on frequent basis:
 - Bid rigging in public procurement – MyCC, Ministry of Finance, Anti-Corruption Commission and the National Audit Department.
- Four (4) Members of the Commission are representatives of the Government.

Support from Government Ministries, Other Regulatory Bodies and Business Sector

- The MyCC works very closely with the Malaysian Productivity Corporation (MPC):
 - Promoting Regulatory Impact Assessment on Competition;
 - Amendment of the Competition law; and
 - Studies that would impact the landscape of competition in a particular industry
- The Special Committee on Competition was also formed in 2011 with 7 sector regulators to share common issues on competition law and policies within the respective sectors.

Support from Government Ministries, Other Regulatory Bodies and Business Sector

- A more delicate concern is with regard to the jurisdiction over competition matters i.e. the 'Grey Area' that falls under the purview of other regulators which are not excluded under the Competition Act 2010.
- The challenge is knowing the boundaries and yet emphasizing on the need to protect the process of competition.

THANK YOU



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