

COMPETITION ACT 2010

Undertaking by the Executive Council (“EXCO”) of the Sabah Tourist Guides Association (*Persatuan Pemandu-Pemandu Pelancong*) (ROS No.: PPM-003-12-28061977) (hereinafter referred to as “STGA EXCO”) on behalf of the members of the STGA (hereinafter referred to as “Member Enterprises”) to the Malaysia Competition Commission.

PERSONS GIVING THIS UNDERTAKING

1. This Undertaking is given to the Malaysia Competition Commission (hereinafter referred to as “the Commission”) by the STGA EXCO listed in Schedule 1 below and having its registered office at 11-3, Lot 54, 3rd Floor, Block G, Lintas Square, 88300 Kota Kinabalu, Sabah, on behalf of the Member Enterprises listed in Schedule 2 below.

BACKGROUND

2. The Sabah Tourist Guides Association (hereinafter referred to as “STGA”) is an association registered under Section 7 of the Societies Act 1966 [Act 355] on 28.6.1977 with ROS Registration Number PPM-003-12-28061977 and having its registered address at 11-3, Lot 54, 3rd Floor, Block G, Lintas Square, 88300 Kota Kinabalu, Sabah.
3. STGA is an association representing its members comprising of tourist guides in the state of Sabah. STGA facilitates tour operators by providing qualified tourist guides for guiding assignments.



4. Following an official complaint by a member of the public that the STGA and Member Enterprises were adopting an agreed fee scale for tourist guide services in Sabah, the Commission conducted an investigation into the possible breach of Section 4 of the Competition Act 2010 (“the Act”).
5. Upon investigation, the Commission established that the STGA (through the STGA EXCO) and Member Enterprises had adopted the “2009 Minimum Tourist Guides Professional Fees” published on STGA’s website to fix the fee rates of tourist guide services.
6. The Commission further learned that on 14.3.2017, the STGA EXCO had proposed to review the “2009 Minimum Tourist Guides’ Professional Fees” at the Extraordinary General Meeting held on 20.4.2017 whereby, the “STGA Sabah Professional Guiding Fee Rates (effective 1.10.2017)” which contained a revised scale fee for tourist guide services in Sabah was duly circulated to Members Enterprises who had attended the Extraordinary General Meeting. A copy of the “2009 Minimum Tourist Guides’ Professional Fees” and “STGA Sabah Professional Guiding Fee Rates (effective 1.10.2017)” is attached as Appendix A and B respectively below.

COMMENCEMENT OF UNDERTAKING

7. This Undertaking comes into effect when:



(i) the Undertaking is duly executed by the President of STGA through the powers vested by the STGA EXCO for and on behalf of its Member Enterprises; and

(ii) the Commission accepts the Undertaking so executed.

8. Upon the commencement of this Undertaking, the STGA EXCO on behalf of its Member Enterprises undertake to assume the obligations set out in paragraph 9 below.

UNDERTAKING

9. The STGA EXCO on behalf of the Member Enterprises undertake that it shall:

- (i) Conduct an Extraordinary General Meeting within a period of 21 days from the date of signing of this Undertaking, with an agenda to withdraw and repeal all prior decisions or proposals made in relation to the agreed or revised rates for tourist guide services including but not limited to the "Minimum Tourist Guides Professional Fees (effective 1.3.2009)";
- (ii) Not hold any form of discussion, in relation to the issue of tourist guides' fees applicable to STGA members and/or to take any step towards the implementation of the proposed STGA Sabah Professional Guiding Fee Rates (effective 1.10.2017) discussed at STGA's Extraordinary General Meeting held on the 20.4.2017;

- (iii) Notify all members of STGA of the decision stipulated in paragraph (9) (i) and (ii) above by way of letters, emails and/or other forms of communication;
- (iv) Issue and publish this Undertaking by way of a Notice on STGA's official website and social media site. The contents of the Notice shall be in accordance with Appendix C;
- (v) Issue the following written Notice to all Member Enterprises and publish at STGA's official website and social media site, the following directive:

"We would like to bring to your attention that the Malaysia Competition Commission ("the Commission") is the regulatory authority empowered by the Competition Commission Act [Act 713] to enforce the provisions of the Competition Act [Act 712] ("the Act"). With reference to STGA's Undertaking to the Commission, we strongly advise all members of STGA to comply with the provisions of the Act. In the event of any complaint of infringement of the Act against any member, STGA will not hesitate to provide full cooperation with the Commission in its assessment and/or investigation."

and



(vi) The Notice described in paragraph (iv) and (v) above shall appear by way of a “slideshow gallery” for a period of 3 months from the date of publication and the said Notice is to be posted and “pinned” in STGA’s Facebook group.

10. The STGA EXCO and Member Enterprises acknowledge/s that in accordance with Section 14 and Section 15 read with Section 43 of the Act, if the STGA or Member Enterprises in Schedule 2 repeat any similar anti-competitive act/s, conduct and/or practice, the Commission has the power to take into account the findings and conduct described of paragraphs 2 to 6 above in the Commission’s investigation.

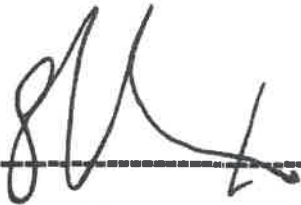
ACKNOWLEDGEMENTS

11. The STGA EXCO on behalf of the Member Enterprises acknowledge/s that:

- (i) the Commission has the power under Section 43(3) of the Act to make this Undertaking available for public inspection by publishing it on the Commission's website at www.mycc.gov.my as well as any other means of broadcasting as the Commission deems fit in accordance with the relevant law;
- (ii) the Commission shall from time to time, make reference to this Undertaking in news media, press statements and in any of the Commission's publications for the purpose of performing the functions and powers of the Commission; and

- (ii) the Undertaking in no way derogates the rights and remedies available to any other person arising from the alleged conduct.

Agreed and Executed by the President of the Sabah Tourist Guides Association (PPM-003-12-28061977) (STGA) by the powers vested in him/her by the STGA EXCO:



STGA President

Name: *Tan Yah Hee @ Chui Seah Fong*

NRIC No.: [X]

This *30th* day of *August*2019

ACCEPTED BY THE COMPETITION COMMISSION



**DATO' SERI MOHD HISHAMUDIN YUNUS
CHAIRMAN**

This *30th* day of *August*2019

APPENDIX A

MINIMUM TOURIST GUIDES PROFESSIONAL FEES (effective 1st. March, 2009)

Sabah	City Hotel		Outskirt Hotel	
	Local Languages	Foreign Languages	Local Languages	Foreign Languages
Airport Transfer (per way)	RM 80	RM 130	RM 100	RM 150
Any delay exceeding 3 hours an additional charge of RM20 is applicable with meals allowance chargeable if delay stretch beyond lunch (1200hrs – 1400hrs) or dinner (1800hrs – 2000hrs) hour.				
Half Day Tour (max 4 hrs)	RM 100	RM 150	RM 120	RM 170
Full Day Tour (max 10 hrs)	RM 150	RM 200	RM 180	RM 230
Full Day Tour with Dinner (max 12 hrs)	RM 200	RM 250	RM 220	RM 270
Lunch/Dinner Transfer (Return)	RM 80 (Maximum 3 hrs)	RM 130 (Maximum 3 hrs)	RM 100 (Maximum 4 hrs)	RM 150 (Maximum 4 hrs)
Full Day Special Interest (including filming, climbing, camping, inspection, birdwatching, 4WD Off-roading, fishing etc.)	RM 280	RM 330	RM 300	RM 350
Empty Run (one way) From Kudat, Lahad Datu, Tawau, Kota Kinabalu (or viceversa) or Sarawak	RM150			
Additional hour charges (per hour)	RM20			

APPENDIX B



SABAH TOURIST GUIDES ASSOCIATION
SABAH PROFESSIONAL GUIDING FEE RATES (Effective 01st October 2017)

TOURS / TRANSFERS	Hours	7 pax & below	8 pax & above
City Tour	4	RM 180	RM 250
Island (TARP), MMCV, BCV, Lokkawi Wildlife Park	Per Tour	RM 200	RM 250
Island (Mantanani, Mengalum, Pulau Tiga)		RM 280	RM 350
Kinabalu Park, Kudat, Tenom, Rafting, Klias, Kawa-Kawa, Weston, Sepilok/RDC/Sunbear, Sukau, Bilit, Kinabatangan	Maximum 10 hrs Per Tour	RM 300	RM 350
Dinner + City Sightseeing	Maximum 4 hrs Per Tour	RM 200	RM 250
Empty Run	Considered as full day	RM 300	RM 300
Combo Tour : BCV + Klias/Weston , Kellybay + Kawa2 All transfers (city)		RM400 RM 120	RM400 RM 120
Midnight (12am – 6am)		(30% surcharge)	(30% surcharge)
Outskirt Hotels : Nexus, Rasa Ria, Beringgis onwards Sepilok, RDC areas		RM 180	RM 180
Midnight (12am – 6am) Special Interest Tour eg. Bird Watching, Filming, etc.	Maximum 10 hrs Per tour	(30% surcharge) RM 800 RM 1000 (Foreign Language)	(30% surcharge) RM 800 RM 1000 (Foreign Language)

Other Terms & Conditions:

1. All Foreign Languages : Additional RM 100 per tour
2. Additional hour charge : RM 40 per hour
3. National Public Holiday : Additional RM 100 per day
4. Overnight Allowance : RM100 per day
5. All Cruise Ship tours : Additional RM 100
6. All M.I.C.E tours : Additional RM100
7. Any other tours not listed above, will be accorded same guiding rates as per day tour (maximum 10 hours)

APPENDIX C

NOTICE ON SABAH TOURIST GUIDES ASSOCIATION'S OFFICIAL WEBSITE AND SOCIAL MEDIA SITE

NOTICE

We, the Sabah Tourist Guides Association ("STGA"), would like to inform that our action to adopt the "2009 Minimum Tourist Guides Professional Fees" published on STGA's website to fix the fee rates of tourist guide services had raised a serious competition issue under the Competition Act 2010 [Act 712].

Furthermore, on 14.3.2017, the STGA EXCO had proposed to review the "2009 Minimum Tourist Guides' Professional Fees" at the following Extraordinary General Meeting. At the Extraordinary General Meeting held on 20.4.2017, the "STGA Sabah Professional Guiding Fee Rates (effective 1.10.2017)" containing a revised scale fee for tourist guide services in Sabah was duly circulated to all members of STGA who attended the Extraordinary General Meeting.

Following a complaint raised with regards to the conduct of STGA and Member Enterprises described above, an investigation was carried out by the Malaysia Competition Commission ("the Commission"). Based on the outcome of the Commission's investigation, we are agreeable to submit an official undertaking to the Commission ("the said Undertaking").

In brief, we undertake that we shall:

- (i) Conduct an Extraordinary General Meeting within a period of 21 days from the date of signing of this Undertaking with the agenda to withdraw and repeal all prior decisions or proposals made in relation to the agreed or revised rates for tourist guide services including but not limited to the “2009 Minimum Tourist Guides Professional Fees (effective 1.3.2009)”;
- (ii) Not hold any form of discussion in relation to the issue of tourist guides’ fees applicable to STGA members and/or to take any step towards the implementation of the proposed STGA Sabah Professional Guiding Fee Rates (effective 1.10.2017) discussed at STGA’s Extraordinary General Meeting held on the 20.4.2017;
- (iii) Issue the following written Notice to all Member Enterprises (tourist guides) and to publish at STGA’s official website and social media site:

“We would like to bring to your attention that the Malaysia Competition Commission (“the Commission”) is the regulatory authority empowered by the Competition Commission Act [Act 713] to enforce the provisions of the Competition Act [Act 712] (“the Act”). With reference to STGA’s Undertaking to the Commission, we strongly advise all members of STGA to comply with the provisions of the Act. In the event of any complaint of infringement of the Act against any member, STGA will not

hesitate to provide full cooperation with the Commission in its assessment and/or investigation.”

Enclosed herewith a copy of the said Undertaking for further information.

We undertake not to be involved in any other anti-competitive behavior and to comply with the Competition Act 2010 for the benefit of consumer welfare and economic growth.