

NEWS RELEASE

MOVE TO INCREASE CONVEYANCING FEES RAISES CONCERN

KUALA LUMPUR, 17 JULY 2023 - The Malaysia Competition Commission (MyCC) views the recent increase of conveyancing legal fees by the Solicitors' Costs Committee under the newly enacted Solicitors' Remuneration (Amendment) Order 2023 [P.U. (A) 207/2023] with deep concern. From MyCC's standpoint this amendment Order, which comes into force on Saturday, 15 July 2023, is untimely especially when the citizens are struggling with the rising of cost of living.

Whilst MyCC acknowledges that, strictly in law, section 13 of the Competition Act 2010 excludes the amendment Order from the ambit of the Act, nevertheless, with respect, MyCC is of the opinion that the action taken by the Bar Council goes against the spirit of competition. This increase is not the first as the Bar Council had previously increased its conveyancing fees in 2017 via the Solicitors' Remuneration (Amendment) Order 2017 [P.U. (A) 67/2017].

MyCC has proactively taken positive actions to address the issues of fixed scale fees by professional bodies since 2013. Through the Market Review on Fixing Prices/Fees by Professional Bodies carried out under section 11 of the Competition Act 2010 back in 2013, MyCC successfully directed or influenced more than 5 professional bodies to dismantle their fixed professional fees when it was found that they were not empowered by law to do so. However, the same market review also recognises that there are professional bodies that are allowed to fix their scale fees in line with the powers conferred on them by their governing legislations.

Notwithstanding the above, MyCC, since 2015, has consistently been engaging with professional bodies and has decided to focus on the Bar Council with the aim of establishing a precedent, whereby if the Bar Council agrees to dismantle its fixed conveyancing fees, other professional bodies would also adopt a similar approach. The approach adopted by MyCC aligns with the practices of developed nations like the United Kingdom, Singapore and Australia, where professional bodies, including their Bar Councils, have moved away from fixing fees. MyCC was further encouraged by the

fact that fixed conveyancing fees were discussed at length by the Special Task Force to Facilitate Business (PEMUDAH) in their previous meetings.

The imposition of fixed conveyancing fees appears inconsistent, especially when considering that litigation fees in Malaysia, are not subject to fixed rates. Furthermore, MyCC is of the opinion that the action taken by the Bar Council seem to contradict the government's efforts to enhance housing affordability of the citizens. Initiatives like the Memorandum of Transfer (MOT) and stamp duty exemptions or discounts, Real Property Gains Tax (RPGT) exemption, and the Housing Credit Guarantee Scheme (HCGS), whilst they are implemented to specifically spur the housing industry, are also intended to alleviate the impact of rising living costs on the targeted groups.

MyCC aspires to create a more flexible fee structure that is in line with international best practices. Additionally, MyCC believes that the consumers are better protected when an industrial policy variation takes into account competition principles.

“We acknowledge that our earlier efforts to persuade the Bar Council was unsuccessful. Be that as it may, we respectfully urge the Bar Council to reconsider, or at the very least, delay the implementation and continue the discussion with us. The Bar Council has the irrefutable potential to set a positive example by promoting competition within the market. MyCC has received visits from various professional bodies and traders' associations that have sought our support for their proposals to fix fees or prices for their products and services. However, such an approach does not bode well with MyCC's vision. These bodies should strive for creativity and innovation to promote market efficiency, rather than relying on fixed scale fees. We should stay away from such an approach if we aim to become a developed nation with a strong and robust economy that rests on a dynamic marketplace that encourages innovation, efficiency, and competitive pricing practices,” said Dato' Seri Mohd Hishamudin Yunus, Chairman of MyCC.

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About the Malaysia Competition Commission (MyCC)

Established in June 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 of 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.

MyCC celebrated its 12th year anniversary on 1 April 2023 and announced the launch of its rebranding and redesigned logo to elevate its corporate identity. The Logo embodies the culture and colours of the organization as well as its strengths and work values. The symbol of the butterfly is globally known to represent endurance, change, hope and life. This new look also shows simplicity at its finest, signifying the changes and maturity of MyCC itself.

For more information on the Act and MyCC activities, log on to www.mycc.gov.my