

NEWS RELEASE

EIGHT ENTERPRISES FINED RM1.5 MILLION FOR BID RIGGING CARTEL

KUALA LUMPUR, 5 JULY 2022 – Today, the Malaysia Competition Commission (MyCC) imposed a financial penalty amounting to **RM1,548,192.35** against eight (8) enterprises for engaging in bid rigging conducts involving four (4) different IT related projects worth RM1,925,365.90 that were procured by the National Academy of Arts, Culture and Heritage of Malaysia (“ASWARA”).

Individually, they have to pay:-

No.	Enterprise	Amount
1.	Tuah Packet Sdn. Bhd. (“Tuah Packet”)	RM224,589.13
2.	Caliber Interconnects Sdn. Bhd. (“Caliber”)	RM301,822.45
3.	Aliran Digital Sdn. Bhd. (“Aliran Digital”)	RM32,471.26
4.	ViaMED Sdn. Bhd. (“ViaMED”)	RM95,512.17
5.	Novatis Resources Sdn. Bhd. (“Novatis”)	RM414,829.38
6.	Silver Tech Synergy Sdn. Bhd. (“Silver Tech”)	RM14,836.26
7.	Venture Nucleus (M) Sdn. Bhd. (“Venture Nucleus”)	RM320,848.46
8.	Basenet Technology Sdn. Bhd. (“Basenet”)	RM143,283.24

In early 2017, upon receiving information on an alleged bid rigging arrangement involving an ASWARA project, MyCC commenced investigation under section 15 of the Competition Act 2010 to ascertain whether there is an infringement of section 4 of the same Act. During the course of the investigation, MyCC discovered that three (3) other projects contain similar elements of bid rigging.

(1) REQUEST FOR QUOTATION YEAR 2016 WORTH RM467,727.00

There are six enterprises that participated in this procurement project and they formed two (2) separate cartels. The first cartel is between Tuah Packet and Caliber; while the second cartel is between Novatis, Basenet, Venture Nucleus and Silver Tech. The winning enterprise in this project is Caliber.

a. Cartel Activities by Tuah Packet and Caliber

Tuah Packet and Caliber both participated in this Request for Quotation (RFQ). Caliber won the RFQ and was invited by ASWARA to attend a project kick off meeting. The same meeting was also attended by representatives from Tuah Packet despite the RFQ being awarded to Caliber. The representative from Tuah Packet subsequently made the technical presentation to ASWARA on behalf of Caliber; whilst Caliber sent a marketing representative to attend the meeting.

MyCC also discovered that the technical parts of Caliber's RFQ documents were actually prepared by Tuah Packet. Tuah Packet also submitted the said RFQ documents on behalf of both Caliber and Tuah Packet to ASWARA, at different timings so as to avoid suspicion. MyCC's findings show that the enterprises made an oral agreement; in which it was agreed that the losing enterprise will receive subcontracting work from the winning enterprise.

b. Cartel Activities by Novatis, Basenet, Venture Nucleus and Silver Tech

Novatis prepared and submitted the RFQs for four enterprises, including itself, to ASWARA.

Representatives from the said enterprises confirmed that there is an existing practice of name sharing amongst them. As part of the name sharing practice, the enterprises shared confidential company documents such as letterheads, financial documents, CIDB certificate, MOF certificate and company's stamps with each other. The sharing of those items enables the enterprises to prepare and submit the tender documents of another enterprise to the procuring agency.

Because of this name sharing practices, Novatis gained an upper hand against genuine bidders; as it now has three other offers submitted to ASWARA under the disguise of three separate enterprise.

Although the bid rigging arrangement between Novatis, Silver Tech, Venture Nucleus and Basenet did not result in any of them winning the tender, MyCC views such collusion seriously as it infringes section 4 of Competition Act 2010.

(2) TENDER YEAR 2015 WORTH RM939,852.00

Cartel Activities by Tuah Packet and Aliran Digital

Tuah Packet and Aliran Digital had agreed in writing for Tuah Packet to use the name of Aliran Digital to participate in the tender. However, Tuah Packet failed to complete the preparation of Aliran Digital's tender document before the dateline. Therefore, Tuah Packet only submitted its own tender document to ASWARA.

It must be highlighted that the non-submission of Aliran Digital's tender document by Tuah Packet was due to time constraint in preparing the tender documents; and not a decision by the enterprises to depart from the collusion.

MyCC views that although neither of the enterprises was awarded with the tender, a collusion was formed by these two (2) enterprises in breach of the provision provided by section 4 of Competition Act 2010.

(3) REQUEST FOR QUOTATION YEAR 2015 WORTH RM475,000.00

Cartel Activities by Tuah Packet, Aliran Digital and ViaMED

Tuah Packet, Aliran Digital and ViaMED participated in the RFQ by forming one cartel amongst themselves. Tuah Packet had requested for consent from Aliran Digital and ViaMED to use the names of Aliran Digital and ViaMED respectively, to participate in this RFQ. ViaMED consented to Tuah Packet's request via email and the latter proceeded to prepare the technical parts of the RFQ document for ViaMED.

Whilst Aliran Digital did not respond to Tuah Packet's email, it was later exposed that there is an existing practice of name sharing between Tuah Packet and Aliran Digital. In that regard, the email sent by Tuah Packet to Aliran Digital was sent merely for formality reasons.

In fact, before obtaining Aliran Digital's consent, Tuah Packet initiated and proceeded to purchase the RFQ document from ASWARA. Subsequently, Tuah Packet only submitted the RFQ document of ViaMED to ASWARA.

MyCC views that despite none of the enterprises was awarded the RFQ, they have infringed the law by forming a cartel in breach of the prohibition under section 4 of Competition Act 2010.

(4) REQUEST FOR QUOTATION YEAR 2015 WORTH RM42,786.90

Cartel Activities by Tuah Packet and ViaMED

Tuah Packet and ViaMED formed a cartel to participate in the RFQ by using the same name sharing modus operandi. Based on ViaMED's RFQ documents that was prepared and submitted by Tuah Packet to ASWARA, ViaMED was selected as the winner. Tuah Packet commenced works and awarded 5% of the contract value to ViaMED as a monetary reward for allowing Tuah Packet to use ViaMED's name for this RFQ.

Upon thorough review of evidence and careful deliberation of the written and/or oral representations by the eight enterprises, MyCC concludes that, based on strong and compelling evidences, the conduct of the enterprises constitutes an infringement under section 4(1) read together with section 4(2) of the Competition Act 2010.

Therefore, the eight (8) enterprises have been found to infringe the Competition Act 2010 by engaging in a series of anti-competitive bid-rigging agreements and/or concerted practice involving ASWARA procurement projects.

"Public procurement procedures are set in place to ensure competitive bidding among bidders. Therefore, enterprises have a duty to act responsibly; interested bidders ought to prepare and submit their bids independent of each other. In that regard, tenders or quotations submitted as a result of collusion or cooperation between bidders for the same tender restrict competition and creates a false impression that the procurement process was fair. Therefore, the conduct of the said enterprises is severely harmful to

the process of competition and cause losses to the government, thus resulting in leakages to public coffers,” said Iskandar Ismail, Chief Executive Officer of MyCC.

Following the implementation of the newly released circular on Integrity in Public Procurement (PK 1.6) to be read together with circular on Non-Compliance in Public Procurement (PK 8) by the Ministry of Finance, individuals or enterprises that was found to have engaged in bid rigging conduct in public procurement may be subjected to suspension of registration for a maximum period of up to five (5) years, blacklisted and prohibited from participating in or accepting any procurement offer issued by a Government agency while the suspension period is in effect.

“This decision is a reflection of MyCC’s commitment to continue cracking down on enterprises that colludes to drain public funds through bid rigging activities. We would like to thank ASWARA for the cooperation rendered throughout the investigation of this case. At this juncture, we are also investigating 500 companies suspected of being involved in rigging the bidding process of contracts worth RM2 billion across industries. We will leave no stone unturned and be resolute in this stern action. Expect more decisions to follow suit,” he added.

The decision will be made available soon for public viewing via www.mycc.gov.my.

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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 10th year anniversary on 1 April 2021 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

BID RIGGING CARTEL BY 8 ENTERPRISES

Involving ASWARA Procurement Project

EFFECT



Received information on suspicious behaviours of Tuah Packet & Caliber involving the RFQ issued by ASWARA



MyCC investigated; found evidences of Tuah Packet, Caliber & 6 others involved in bid rigging activities with regard to:

3 RFQs & 1 Tender



CAUSE

MyCC found in the investigation:

1) RFQ YEAR 2016 WORTH RM467,272.00

(a) Cover bid & sub-contract agreement



(b) Prepare documents on behalf of other enterprises, practice of name sharing (Cover bid)



2) TENDER YEAR 2015 WORTH RM939,852.00

Practice of name sharing (Cover bid)



3) RFQ YEAR 2015 WORTH RM475,000.00

Practice of name sharing (Cover bid)



4) RFQ YEAR 2015 WORTH RM42,786.90

Practice of name sharing (Cover bid) & sub-contract agreement



ACTION TAKEN



Against:

1. Tuah Packet Sdn. Bhd. ("Tuah Packet")
2. Caliber Interconnects Sdn. Bhd. ("Caliber")
3. Aliran Digital Sdn. Bhd. ("Aliran Digital")
4. ViaMed Sdn. Bhd. ("ViaMed")
5. Novatis Resources Sdn. Bhd. ("Novatis")
6. Silver Tech Synergy Sdn. Bhd. ("SilverTech")
7. Venture Nucleus (M) Sdn. Bhd. ("Venture Nucleus")
8. Basenet Technology Sdn. Bhd. ("Basenet")

**COLLECTIVELY, FINED
RM1,548,192.35**

for infringing Section 4 of the Competition Act 2010 by engaging in a series of anti-competitive bid rigging agreements



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