



NEWS RELEASE

MyCC ACKNOWLEDGES PAN-MALAYSIA LORRY OWNERS ASSOCIATION'S (PMLOA) POSITIVE MOVE

KUALA LUMPUR, 07 October 2013 – The Malaysia Competition Commission ('MyCC') lauds the Pan-Malaysia Lorry Owners Association's ('PMLOA') announcement to rescind its decision for members to increase transportation charges to 15 percent.

Based on the press statement released by the PMLOA on 04th October 2013, the association has directed its members to cease and desist from implementing the increase of their transportation charges to 15 percent. The MyCC is also pleased to note that the association had additionally stated that all lorry owners are to make their own independent decision as to what changes, if any, are to be made to their transportation charges.

"In addition to this case, the MyCC is investigating four other instances where there are allegations of price-fixing by associations and enterprises," said MyCC CEO, Shila Dorai Raj.

The MyCC is currently considering the responses provided by the PMLOA and its members and lorry enterprises to the MyCC's Interim Measures. Therefore at this stage, the MyCC has not made its Final Decision as to the penalty, if any, that may be imposed against the various enterprises involved in the price-fixing agreement. Such a decision is expected to be made in the coming weeks.



The MyCC had earlier issued proposed Interim Measures under Section 35(4) of the Competition Act 2010 against the PMLOA, its members and related lorry enterprises on a probable infringement of Section 4(2)(a) of the Competition Act 2010 ('the Act') by agreeing to fix an increase of transportation charges by 15 percent.

Notices were issued to PMLOA and 40 other parties comprising members of the PMLOA and lorry enterprises to cease and desist from implementing the association's decision to increase transportation charges to 15 percent.

Earlier on, the PMLOA had issued a statement that was published in the local papers on 11th September 2013 stating that PMLOA was unanimous in its decision to raise transportation charges by 15 percent.

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EDITOR'S NOTES:

1. The details on **Section 4 (1) and (2) of the Competition Act 2010**: Prohibited *horizontal and vertical agreement is as follows:

4. (1) A horizontal or vertical agreement between enterprises is prohibited insofar as the agreement has the object or effect of significantly preventing, restricting or distorting competition in any market for goods or services.

(2) Without prejudice to the generality of subsection (1), a horizontal agreement between enterprises which has the object to—

- (a) fix, directly or indirectly, a purchase or selling price or any other trading conditions;
- (b) share market or sources of supply;
- (c) limit or control—
 - (i) production;



- (ii) market outlets or market access;
- (iii) technical or technological development; or
- (iv) investment; or
- (d) perform an act of bid rigging, is deemed to have the object of significantly preventing, restricting, or distorting competition in any market for goods or services.

* “horizontal agreement” = agreement between enterprises each of which operates at the same level in the production or distribution chain;
“vertical agreement” = agreement between enterprises each of which operates at a different level in the production or distribution chain.

2. Details of **Section 35 of the Competition Act 2010**: Interim Measures

35. (2) If the Commission has reasonable grounds to believe that any prohibition under this Act has been infringed or is likely to be infringed and the Commission considers that it is necessary for it to act under this section as a matter of urgency for the purpose of—

- (a) preventing serious and irreparable damage, economic or otherwise, to a particular person or category of persons; or
- (b) protecting the public interest, it may give such direction as it considers to be appropriate and proportionate for that purpose.

(3) A direction given under subsection (2) may include requiring or causing any person—

- (a) to suspend the effect of, and desist from acting in accordance with, any agreement which is suspected of infringing any prohibition under Part II;
- (b) to desist from any conduct which is suspected of infringing any prohibition under Part II; or
- (c) to do, or refrain from doing, any act, but which shall not require the payment of money.

(4) The Commission shall, before giving a direction under subsection (2)—

- (a) serve a written notice to the person to whom it proposes to give the direction; and
- (b) give that person an opportunity to make written representations within a period of at least seven days from the date of the written notice.

(5) A notice under subsection (4) shall indicate the nature of the direction which the Commission proposes to give and its reasons for giving the direction.



(6) The Commission may at any time withdraw a direction given under subsection (2).

(7) Without prejudice to subsection (6), any direction given under subsection (2) shall cease to have effect —

(a) on the date of the decision by the Commission upon completion of the investigation under section 14; or

(b) twelve months from the date the direction was given, whichever is earlier.

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About 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 Malaysia that affects 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.

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