

NEWS RELEASE

LANGKAWI RO-RO CARTEL FINED WITH RM2.2 MILLION

KUALA LUMPUR, 4 JANUARY 2022 – Three major Langkawi Ro-Ro operators have been fined by the Malaysia Competition Commission (“MyCC”) for forming a price fixing cartel in relation to the increase in fares for vehicle transportation via Ro-Ro vessels between Langkawi and Kuala Perlis and vice versa. Besides the three operators, two other related enterprises were held responsible for the same conduct.

In 2019, there were numerous complaints from the public as the prices of goods and services in Langkawi had increased. The Ministry of Domestic Trade and Consumer Affairs (“MDTCA”) then conducted a research on the matter and found that the reason for the price increase was mainly due to the increased fares for commercial vehicles using Ro-Ro vessels traveling between Langkawi and Kuala Perlis and vice versa. In addition, it was found that there were price similarities in the fares charged by the Ro-Ro operators. Consequently, the Minister of MDTCA had instructed MyCC to investigate the matter.

In its investigations, MyCC found that the three main Ro-Ro operators along with two other enterprises were involved in private discussions to increase and fix the fares, not only for commercial vehicles, but also for passenger cars using their Ro-Ro vessels. This led to the formation of the cartel via two Memorandums of Understanding (“MOU”) beginning from the year 2018 to 2019.

The investigation was completed in 2020 and thereafter MyCC issued its Proposed Decision against the five enterprises on 14 September 2020. The parties then made their representation to MyCC between December 2020 and April 2021. After considering all evidence, including their representations, MyCC found that the following five enterprises have infringed section 4 of the Competition Act 2010 (“the Act”):

LANGKAWI RO-RO OPERATORS	OTHER RELATED ENTERPRISES
Langkawi Auto Express Sdn. Bhd. ("LAE")	Dibuk Sdn. Bhd. ("Dibuk")
Langkawi Ro-Ro Ferry Services Sdn. Bhd. ("LRFS")	Langkawi Ferry Services Sdn. Bhd. ("LFS")
Dibuk Cargo Services Sdn. Bhd. ("DCS")	

For such infringement, LAE was fined for the amount of RM1,130,876.87. At the same time, Dibuk and LFS were equally responsible for the infringement and were fined as both enterprises own LAE through a joint venture. Similarly, DCS has been fined for the amount of RM250,172.25 and MyCC found that Dibuk was equally responsible for the infringement and were fined as both enterprises share common directors and shareholders. On the other hand, LRFS has been fined for the amount of RM810,531.29.

It was found that the cost of living in Langkawi had in some ways increased due to the cartel behaviour of all five enterprises well before the start of the pandemic. From the MDTCA report obtained by MyCC, the numbers clearly show that the increase in prices of goods coming from the mainland was apparent after the signing of the second MOU. The changes in the fares due to the cartel can be illustrated as follows:

	THE NEW FARES INTRODUCED VIA -	
	Cartel via MOU 2018	Cartel via MOU 2019
Commercial Vehicles	RM492 – RM1132	RM540 – RM1244
Private Vehicles	RM302 – RM492	RM332 – RM534

From this case, it is clearly demonstrated that the distortion caused by a cartel in a supply chain ecosystem can lead to price increase; thus, robbing the people's hard-earned money, in particular, the islanders and tourists of Langkawi.

"MyCC abhors cartels as it is the supreme evil of competition law. We will not spare any parties found to be involved in a cartel. This act of economic sabotage will surely worsen

the current plight of the rakyat if it goes on. We hope that these enterprises and others out there will take heed from the lesson of this case” said Iskandar Ismail, Chief Executive Officer of MyCC.

In the decision, MyCC also directed the enterprises to cease and refrain in the future from engaging in price fixing agreements that may disrupt competition in the market. The MyCC further directed the parties to independently determine their future charges for the carriage of vehicle transportation via Ro-Ro vessel. Given the economic difficulties arising as a result of the pandemic, MyCC has agreed to grant the parties a reduction from the initial amount of the financial penalty coupled with a moratorium for 6-months from the date of the decision. With this, the parties have the liberty to pay the amount in instalments for up to 6-months.

The decision has been served to the parties on 29 December 2021 and will be made available soon for public viewing via www.mycc.gov.my. Members of the public are advised to read the full decision for further information.

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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 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 anniversary on 1st 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

ANNEXURE A

Notes to the Editor: Information on Section 4 of the Competition Act 2010

Section 4: Prohibited horizontal and vertical agreement

Section 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.

Section 4 (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.

Section 4 (3) – Any enterprise which is a party to an agreement which is prohibited under this section shall be liable for infringement of the prohibition.

TRANSPORTATION OF VEHICLES INTO LANGKAWI

Kuala Perlis Jetty (via Ro-Ro vessel)

EFFECT

Complaints by the public on price increase of goods and services in Langkawi



Ministry of Domestic Trade and Consumer Affairs ("KPDNHEP") detected that the price increase was **mainly due to** the increase in prices for commercial vehicles using Ro-Ro vessels between Langkawi and Kuala Perlis



Minister directed MyCC to investigate the **similarities** of Ro-Ro fares



CAUSE

MyCC investigated the 3 big Ro-Ro operators in Langkawi



Found that 5 enterprises had formed a **CARTEL** which increased fare price for vehicles that includes commercial vehicles and passenger cars using their Ro-Ro vessels

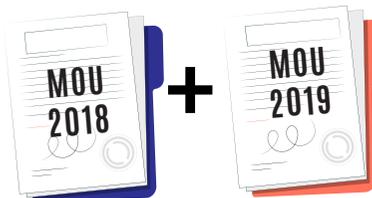


Owners and personnel of the company involved in **discussions** in forming the

CARTEL



They formalised the **CARTEL** through 2 Memorandums of Understanding (MOU)



ACTION TAKEN



Against:-

1. Langkawi Ro-Ro Ferry Services Sdn Bhd (Ro-Ro Operator)
2. Langkawi Auto Express Sdn Bhd (Ro-Ro Operator)
3. Dibuk Cargo Services Sdn Bhd (Ro-Ro Operator)
4. Dibuk Sdn Bhd (Related Enterprise)
5. Langkawi Ferry Services Sdn Bhd (Related Enterprise)



FINED RM 2.2 Million for infringing section 4 of The Competition Act 2010 by forming a price fixing cartel