

NEWS RELEASE

WAREHOUSE CARTEL IN PORT KLANG BUSTED AND FINED

KUALA LUMPUR, 9 AUGUST 2021 – The Malaysia Competition Commission (MyCC) imposes financial penalties ranging from RM26,363.03 to as high as RM336,369.13 against seven (7) warehouse operators for engaging in a price-fixing cartel in relation to the handling services for long length and heavy lift of import and export cargoes at Port Klang. The said warehouse operators are-

- (i) SAL Agencies Sdn. Bhd.
- (ii) WCS Warehousing Sdn. Bhd.
- (iii) Regional Synergy (M) Sdn. Bhd.
- (iv) Intrexim Sdn. Bhd.
- (v) Pioneerpac Sdn. Bhd.
- (vi) Prima Warehousing Sdn. Bhd.
- (vii) Interocean Warehousing Services Sdn. Bhd.

Collectively, the grand total amount of penalty is RM1,043,012.52. The amount respectively imposed on the warehouse operators are not more than 10% of their worldwide turnover. In the process of determining the penalty, MyCC has considered the impact of the current economic situation together with the presence of mitigation and aggravating factors in the case.

MyCC found in its investigation that between May 2017 and December 2019, the seven operators had formed a cartel and thereafter colluded in fixing the surcharges for the handling service of long length and heavy lift cargoes between themselves. At the time of MyCC raids against the operators, it was uncovered that the operators had created a WhatsApp Group and began their discussion on fixing the surcharges despite acknowledging that they are all competitors in the warehouse services market. The same raid also unearthed the operators' cartel agreement in the form of a document called 'Surcharge Memorandum' dated 22 May 2017. In that memorandum, all

operators have come to an understanding that all of them would charge the agreed rates effective from 1 June 2017.

The parties had submitted their representation between December 2020 and March 2021 to MyCC. After careful deliberation, MyCC had concluded that, without doubt, the conducts of all the warehouse operators constitutes an infringement under Section 4 of the Competition Act 2010.

“In any rate, cartel is the supreme evil of competition law. All competition agencies in the world has the same view including MyCC. As such, MyCC has always given high priority to the investigation and punishment of anti-competitive agreements, especially price and quota cartels, customer or territorial allocation agreements and bid rigging too. The perpetrators of these cartels, quite literally, are stealing money from the pocket of businesses and consumers,” said Iskandar Ismail, the Chief Executive Officer of MyCC.

“This case should send a clear message to all industry players that, MyCC will leave no stones left unturned, in fighting the economy sabotage by the cartels against our open market economy. They should steer clear of such practices. As for those who are already involved in a cartel, should approach the MyCC via leniency regime application or any other appropriate scheme as provided under Competition Act 2010. MyCC’s door is always opened for parties who may want to seek for redemption” emphasises Iskandar.

In the decision, MyCC also directs the companies to cease and to refrain in the future from engaging in price-fixing agreements that may disrupt competition in the handling of long length and heavy lift of import and export cargoes. The MyCC further directs the parties to independently determine their future charges for long length and heavy lift of import and export cargoes.

The decision has been made available for public viewing on the MyCC’s website at www.mycc.gov.my.

-end-

FOR IMMEDIATE RELEASE
NEWS/ECONOMY DESK

For media enquiries, please contact:

Noor Azila Ahmad, Head of Communications and Advocacy

Mobile: +6019 268 7030

Email: azila@mycc.gov.my

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 year 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 and Section 10 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.