



## Malaysia Competition Commission

Kazan, Russia  
**13 – 15 October 2015**

# Presentation Overview

Part 1 – Statistics of Enforcement Works by MyCC

Part 2 – Cases Development & Decisions

Part 3 – Challenges to MyCC

## **TYPES OF INVESTIGATION**

- **Complaint (Section 15 of CA 2010)**
- **Ex-Officio/Own Initiative (Section 14(1) of CA 2010)**
- **Direction of the Minister (Section 14(2) of CA 2010)**

## STATISTICS OF ENFORCEMENT WORKS

### Current Numbers of Investigation and Inquiries/Assessment

	Investigation	Inquiries/Assessment
<b>Numbers</b>	<b>21</b>	<b>34</b>

	2012	2013	2014	2015#
<b>Complaints</b>	<b>8</b>	<b>69</b>	<b>80</b>	<b>60</b>
<b>Ex-officio</b>	<b>2</b>	<b>10</b>	<b>13</b>	<b>7</b>
<b>Ministerial Direction</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>1</b>

# as at 30 September 2015

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## RECENT CASES

Completed Investigation				
Proposed Decision/Direction	Final Decision	Appeal	Undertaking	Finding of non-infringement
<p><b>Proposed Decision:</b></p> <p>1) Megasteel</p> <p>2) CDO Penang</p> <p>3) <b>One in progress</b></p> <p><b>Direction:</b></p> <p>1) Professional Bodies :</p> <p>(a) Malaysian Dental Association</p> <p>(b) The Malaysian Institute of Arbitrators</p> <p>(c) Institute of Landscape Architects of Malaysia</p> <p>(d) Pertubuhan Arkitek Malaysia (only on the scale of fess for arbitrators)</p>	<p>1) Cameron Highland Floriculturist Association</p> <p>2) MAS &amp; AirAsia</p> <p>3) 26 Ice Manufacturers</p> <p>4) Sibü Confectionary and Bakery Association (SCBA)</p>	<p>1) MAS &amp; AirAsia</p> <p>2) SCBA - 2</p>	<p>1) Barbers Association</p> <p>2) Pan Malaysia Lorry Owners Association</p> <p>3) Giga Shipping Sdn Bhd &amp; Nexus Mega Carriers Sdn Bhd</p> <p>4) <b>One in progress</b></p>	<p>S39:</p> <p>1) Pangsapuri Perdana</p> <p>2) Sarawak Restaurant Association</p> <p>3) My Egg Sdn Bhd</p> <p>4) SCBA - 9</p> <p>5) Ice Manufacturers – 1</p> <p>6) <b>One in progress</b></p>

## ANTI COMPETITIVE AGREEMENT: CASE 1

### Final Decision Against 26 Tube Ice Manufacturers

- ❑ 26 December 2013: 26 Ice Manufacturers in Selangor, Kuala Lumpur and Putrajaya published an advertisement announcing price hikes of tube ice and block ice.
- ❑ 21 January 2014: The Commission has issued its proposed interim measures against the 26 tube ice manufacturers on a possible infringement of Sec 4(2)(a) of the Competition Act 2010.
- ❑ 20 February 2014: The Commission has issued a proposed decision to 26 tube ice manufacturers.
- ❑ An Oral Representation was held on 17 October 2014.
- ❑ On 30 January 2015, the Commission found all except one ice manufacturer operating in Selangor, Kuala Lumpur and Putrajaya liable for infringing section 4(2)(a) of the Competition Act 2010.

**STATUS:** They paid the penalty. The total of the penalty is RM252,250.

## ANTI COMPETITIVE AGREEMENT: CASE 2

### Pan Malaysia Lorry Owners Association (PMLOA) Case

- ❑ 11 September 2013: Press statement by PMLOA President was released in the Star Newspaper titled “Lorry owners increase fees by 15%”. The Commission initiated investigation on the same day.
- ❑ 20 September 2013: The Commission took proactive measures by issuing proposed interim measures to PMLOA, its members and related enterprises to cease and desist from implementing the decision.
- ❑ 23 October 2013: The Commission issued final directions to the interim measures against the same parties to carry out certain measures
- ❑ On 7 May 2014, the Commission accepted an Undertaking from the Central Committee Members of the PMLOA concerning its pricing practices on transportation charges.



## ANTI COMPETITIVE AGREEMENT: CASE 3

### CDO Penang Case

- ❑ On 19 June 2015, the Commission issued a Proposed Decision against four Container Depot Operators, namely Ayza Industries Sdn. Bhd./Ayza Logistics Sdn. Bhd.; ICS Depot Services Sdn. Bhd.; E.A.E. Depot & Freight Forwarding Sdn. Bhd.; and Prompt Dynamics Sdn. Bhd. and an Information Technology service provider to the shipping and logistics industry in the Penang area, namely Containerchain (M) Sdn. Bhd. for engaging in price fixing.
- ❑ The Commission finds that Containerchain has engaged in concerted practices with the Container Depot Operators which resulted in the Container Depot Operators increasing the Depot Gate Charges imposed on their customers from RM5 to RM25 and the Container Depot Operators offering a rebate of RM5 to hauliers on the agreed Depot Gate Charges.
- ❑ The Commission also finds that the Container Depot Operators entered into a price fixing agreement which is deemed to have the object of significantly preventing, restricting or distorting competition in the market for the provision of empty container storage maintenance and handling services within a 5-15km radius of the Penang Port.

## ABUSE OF DOMINANT POSITION: CASE 1

### Proposed Decision on Megasteel Sdn. Bhd. Case

- ❑ Allegation of the Complaint: Megasteel abused its dominant position by selling its Hot Rolled Coil ('HRC') product to its subsidiary at lower prices.
- ❑ 1 November 2013: The Commission has issued its Proposed Decision against Megasteel Steel Sdn. Bhd. It is found that Megasteel's practice of charging or imposing a price for its HRC that is disproportionate to the selling price of its Cold Rolled Coil ('CRC'), amounts to a margin squeeze that produces anti-competitive effects in the market, and is an infringement of section 10(1) of the Act.
- ❑ A financial penalty amounting RM4,500,000.00 is being proposed.

**STATUS:** MyCC decided that the Complainant (Melewar) to submit its written representations if any. They did on 9 September 2015

## ABUSE OF DOMINANT POSITION: CASE 2

### Giga Shipping Sdn. Bhd. & Nexus Mega Carriers

- ❑ 7 October 2013: A complaint against Giga and Nexus filed by their competitor, Arca Transline Sdn. Bhd. Giga and Nexus are major providers of logistic and shipment services (the 'services') by sea for motor vehicles from ports in Peninsular Malaysia to ports in Sabah, Sarawak and Labuan.
- ❑ The Commission investigated suspected infringements of Sections 4(1) and 10(1) of CA 2010. The Commission was concerned that the exclusive agreements between Giga/Nexus and its customers may have had the effects of foreclosing customers to competitors .
- ❑ 1 October 2014: The Commission has accepted Undertakings in accordance with Section 43 of the Competition Act 2010 (the 'Act') from Giga Shipping Sdn Bhd and Nexus Mega Carriers Sdn Bhd. The Undertakings are in relation to exclusive agreements between the two enterprises with vehicle manufacturers, distributors and retailers.

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# Challenges to MyCC

- Different and specialized investigation system; unfamiliar Procedures to the public, witnesses, lawyers, media and target enterprises
- Untested laws and procedures
- Complex economics issues
- Government policies and overlapping jurisdictions
- Scarcity of experienced and specialized investigators and economists

**THANK YOU**



**[www.mycc.gov.my](http://www.mycc.gov.my)**