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An Analysis to Section 10(2)(d) Competition Act 2010 in Malaysia

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ABSTRACT

In Malaysia, Competition Act 2010 is an important act to promote economic development. It is implemented by promoting and protecting the competition process, thereby protecting the interests of consumers. The Act 2010 also prohibits abusive conduct of enterprise that is dominant in both of the goods or service markets. Section 10(2)(d) is discussed extensively in this article to clear people's misconceptions that it only involves price discrimination. Therefore, this paper will identify the price discrimination and other conditions under the first limb; explain MyCC's approach when dealing with abuse of a dominant position under the second limb; and highlight harm theory under the third limb. Data collection is done by referring to primary and secondary data. The findings show that the enterprises will perform price discrimination towards the customers by segregating customers into different groups. They are able to stop arbitrage between them and to control the price. Price discrimination as mentioned is happening in primary and secondary line and it includes rebate. In Malaysia, MyE.G. Services Berhad v MyE.G. Commerce Sdn.Bhd. case is a landmark case which shows how it harms competition in the downstream market. Furthermore, the paper found out that the MyCC uses effects-based approach by looking at the effects of the conduct on competition in the market to ensure good economic outcome consistent with the Act under the second limb. This means that it is considered to be an abuse if it harms consumers and exclude the competitors who are as efficient as the dominant enterprise. Moreover, the third limb is to be used by the victim who is not in a competitive relationship with the dominant firm. The differences and similarities are identified and comapred between the Act of Malaysia and the Treaty on the Functioning of the European Union. The article ends with recommendations to insert the terms "except in circumstances where public interest and public health would be affected" and enable MyCC to be an independent body. The paper concludes that price discrimination and other discriminations is decided by MyCC on a case-by-case basis. Section 10(2)(d) is referred when determining whether it is discriminatory towards existing and potential competitors that is no less efficient, and harms the competition process.

Keywords: abusive consuct; section 10(2)(d); Competition Act 2010; price discrimination; three limbs.

INTRODUCTION

Cambridge Dictionary defines "competition" as a situation in which someone is trying to win something or be more successful than someone else. "Competition policy" refers to a governmental policy that promotes the competition level in the markets such as governmental policies that directly affect the enterprise's behavior and the structure of markets and industy.[1] Competition law and competition policy are always used interchangeably. However, the scope of competition policy is wider. It covers all government policies consisting of competition law enforcement. Hence, competition law can be said as a subset of competition policy.[2]

The Act came into force on 1 January 2012 with the aim to boost economic development by promoting and safeguarding the process of competition. Besides, the Act is enacted to safeguard the interests of consumers.

In order to maintain economic efficiency and protect the welfare of consumers, the Act prohibits two types of anti-competitive conduct including anti-competitive agreements and the abuse of dominant position in the market. The Act does not intend to prohibit the acquisition of a dominant position but it prohibits abuse of a dominant position.

Generally, Chapter 2 of the Competition Act 2010 embeds three parts, the first part is s.10(1) which disallows an enterprise to have any engagement in an abuse of dominant position in any market whereas the second part is s.10(2) which spells out a non-exhaustive list of abusive conduct. S.10(3) provides for an exception as a defense. S.2 defines a dominant position as a scenario in which one or more

enterprises have significant power in a market to adjust prices, outputs or trading terms, without effective constraint from competitors. Hence, as an authority established pursuant to Competition Commission Act, the Malaysia Competition Commission (MyCC) has power and duty to conduct investigations, issue guidelines, carry out general studies and educate the public regarding the benefits of competition law.

To prove the prohibition under Chapter 2, two elements must be proved which are: whether the enterprise is dominant in the relevant market in Malaysia, as well as whether the dominant enterprise is abusing its dominant position.[3] Meanwhile, s.10(1) prohibits an enterprise from engaging in any conduct by abusing its dominant position in any market for goods or services. Thereafter, s.10(2) provides a list of abusive conduct. The abusive conduct can be exploitative which mainly sets high prices; or exclusionary such as predatory conduct that stops competitors from competing. This will indirectly cause a higher price, lower quality products, less innovation, etc.[4] In this article, s.10(2)(d) will be focused.

The objective of the article is to analyse three limbs under s.10(2)(d) Competition Act, to study the concept of price discrimination under s.10(2)(d) and to analyze the infringement committed in the Malaysian cases.

THREE LIMBS UNDER S.10(2)(D) COMPETITION ACT 2010

Applying different conditions to equivalent transactions with other different trading parties is another category of exclusionary abusive conduct under discriminatory behavior. It disallows equally efficient competitors from competing. If the term "equivalent transaction" is fulfilled, it is necessary to look at the issue on "different conditions". It usually involves dissimilar trading conditions to different customers in the downstream market, where firms sell products or services to end-users such as retails. For instance, discrimination abuse happens where the enterprise applies discriminatory prices to other trading conditions to customers or suppliers and causing them to be at a competitive disadvantage.

According s.10(2)(d) Competition Law 2010, abuse of a dominant position consists of applying different conditions to equivalent transactions with other trading parties." Hence, discriminatory conduct is prohibited as shown in the three limbs as below:

1. First Limb - Conditions

(a) Price Discrimination

Exclusionary abusive conduct includes applying different conditions to equivalent transactions with other different trading parties which might prevent equally efficient competitors from competing.[5] If the term "equivalent transaction" is fulfilled, the issue on "different conditions" should be determined. It usually involves dissimilar trading conditions to different customers in the downstream market, where firms sell products or services to end-users such as retails. For instance, discrimination abuse happens where the enterprise applies discriminatory prices to other trading conditions to customers or suppliers and causing them to be at a competitive disadvantage.

It happens when the same product is sold at different prices and the difference in price (which is not related to the differences of the cost of supplying the products). Another example is selling the same product to different buyers or customers at a different price and the same buyers or customers but at different prices. The latter scenario can be illustrated from off-and on-peak electricity charges.[6]

An enterprise that price discriminates must have some control over price and market power. To do this, an enterprise has the ability to segregate

customers into different categories; able to stop arbitrage between them; and able to control the price.[7]

Prohibiting price discrimination can attract criticisms. This is because in some circumstances, it can be beneficial. For instance, by charging a higher price to higher-income customers, price discrimination can lead to higher output. On the other hand, charging a lower price to lower income customers is a form of price discrimination that can be welfare enhancing.[7] This can be seen from the situation where people complained that community pharmacists charged more for a certain drug than the pricing given to hospitals or clinics. The possible threat is that the customers might avoid to buy the products because of the higher price they are being charged for medicines due to higher procurement prices.[8] In this regard, the pharmacist will control the selling price of the medicine at a lower price.[9] Moreover, the result is obvious when the patented drugs were retailed at the same price. As a result, people from low-income countries cannot afford to buy those medicine.

Nonetheless, price discrimination may adversely affect customers when a dominant enterprise charges a low price in an area that is competitive. Such enterprise may charge more in other areas that are less competitive. As a result, competitors leave the areas where there is more competition. Charging one customer compared to another customer may affect competition in the downstream market which has a subsidiary downstream. It may charge a lower price for input to the subsidiary, consequently, other competitors downstream lost the ability to compete. In this regard, the MyCC will determine such price (and other forms of discrimination on terms and conditions of supply) depending on every cases.[10]

In a recent Malaysian case on price discrimination, which is the *Pharmaceutical Sector* case,[11] MyCC carried out an investigation to determine whether the pharmaceutical company is in favor of the general practitioners as compared to the pharmacists in terms of price of drugs and whether such act constituted to infringement under s. 10 of the Act. MyCC carried out the investigation by assessing the establishment of dominance for different types of drugs according to Anatomical Therapeutic Classification (ATC) and examined at factors such as the dosage form, different routes of administration and side effects of that particular drugs. In establishing the theory of harm for every complainant, MyCC is of the opinion that the discriminatory practice by pharmaceutical companies could induce the general practitioner to prescribe their own drugs compared to their competitor which may have a restrictive effect on other pharmaceutical company's competitive position. Therefore, MyCC has to assess whether such conduct may affect the competition process in the market. MyCC concluded that there is insufficient evidence for the MyCC to continue the investigation as it would not constitute the making of the best use of the Commission's resources.

Primary and Secondary Line

The Treaty on the Functioning of the European Union (TFEU) does not define price discrimination. However, it mentions that abuse includes "applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage" in Article 82, now Article 102. It aims to prevent "secondary line" injury, instead of "primary line" injury.[12] The primary line is discriminatory against the competitors when a dominant enterprise supplies to a competitor, a distributor to promote the raw materials, at the same time, the dominant enterprise is competing in the market. On the other hand, the secondary line is discriminatory against customers. The European Court of Justice (ECJ) has extended the abuse to similar conditions to unequal transactions.[13] The ECJ provides

that "dissimilar conditions" includes dissimilar prices."

In a leading case on geographic price discrimination, *United Brands Company and United Brands Continental BV v Commission of the European Communities, Case 27/76 [1978] ECR 207*, the dominant firm, United Brands sold bananas to distributors in Europe to be unloaded in Germany. It charged a distributor in Germany different prices and different sales terms and conditions were also made with distributors in Ireland. The discriminatory trading conditions included an agreement that prohibited distributors from reselling bananas in Europe when still green. It also sold less than what was ordered, forcing the bananas to be only sold locally which is the country of the distributors. The European Court upheld the infringement finding. When it limits the distributor's choices, it may cause risks that were supposed to be gone through by a producer to distributors. Distributors should be the one who enjoys the benefit, not the producers. Further, for the different treatment of the Irish distributors, it was held that they had impeded the free movement of goods by portioning national markets through different price levels. Such act is placing the distributors in a less competitive position.

It was noted that *United Brands and Tetra Pak II* cases are mistakenly ruled based on Article 82(c). "The conditions of Article 82(c) and the condition that customers be placed at a competitive disadvantage was not fulfilled, because the customers operated on different geographic markets and thus were not competing with each other. Condemning outright geographic price discrimination runs contrary to the central goal of attaining a common market."[14] Sanctioning the act of setting different prices for different markets us not reasonable because geographic price discrimination actually promotes free trade and encourages market integration. This is due to the price of the bananas price is similar so there would be no trade-in bananas[15] in the national, regional or international scale.

Abuse can occur in a market different other than those in which an enterprise has a dominant position. The concept of leverage can be seen from the EU practice. It can also be used in the predatory pricing case and tying when such conducts affect on certain requirements when it must be "closely associated" to that in which it is not dominant and the conduct of the firm in the non-dominant market produces an impact on that market.[16]

A rebate is a form of price discrimination as the customer receives rebates pays a lower price than other customers purchasing similar goods or services.[17] In *Intel case, Case C-3 /37.990*, if advertising requirements and reputation among consumers make it difficult for new entrants, an incumbent can be dominant besides licensing requirements. Another type of rebates is quantity rebates which mean discounts granted based on the volume purchased which reflects cost efficiencies resulting from larger amounts of products sold are not discriminatory. Next, there are fidelity rebates, which are reductions granted in exchange for the purchaser's commitment to place all or most of its orders to the seller granting the rebate, be they large or small. It is generally seen as a horizontal exclusionary device aiming at preventing competitors from expanding."[18]

In *Irish Sugar plc v Commission of the European Communities Case T-228/97*, the Commission found out that that target rebates granted by Irish Sugar to major food wholesalers in Ireland were discriminatory. This was due to the fact that they were reliant on percentage increases in purchases, rather than absolute purchase quantities. The companies ordering small quantities. Although improved their sales compared to last year, they were regarded similarly to corporations ordering huge numbers but not increasing sales. Rebates in this area are making it difficult for competitors to get a foothold in the market

and are one part of a policy to restrain the growth of domestic sugar packer competition. Primary line effects were given attention, instead of secondary line effects.[19]

Price discrimination can be commercially justified. For instance, if suppliers buy in bulk, then he gets to enjoy volume discounts. This helps to save costs. Further, better prices may be offered for early payment.

Malaysian case on discriminatory behaviour

The different conditions that are imposed to equivalent transactions are shown when renewal services at MyEG's subsidiary are faster and easier if the mandatory insurances are purchased from the MyEG's subsidiary.

Infringement of Section 10 of the Competition Act 2010 by My E.G. Services Berhad MyCC (ED) 700-1/1/2/2015

The Commission decided that My E.G. Services Berhad infringed s.10(2)(d)(iii). My E.G. is a company whcich carried out the business of the development and implementation of electronic government services project; whereas My E.G.'s subsidiary, My E.G. Commerce Sdn. Bhd provides auto insurance intermediary services and other services. My E.G. is held dominant in the market and management of online PLKS renewals in Peninsular Malaysia has abused its dominant position.

My E.G. Services Berhad and My E.G. Commerce Sdn.Bhd. v Competition Commission Appeal No: TRP 3-2016

The tribunal has affirmed the decision made by MyCC that the applicants had infringed s.10 of CA 2010. The commission states that the purchase of Mandatory Insurances by employers through insurance companies or agents would already amount to "equivalent transactions". Since it is constituted, "applying different conditions" will be further considered. It was noted that the additional step imposed by MyEG constituted different conditions. Their server's small capacity delays the renewal of PLKS and causes harm to companies in the downstream market, pressuring end users to purchase Mandatory Insurance from MyEG using its dominant position in the downstream market.

My E.G. Services Berhad and My E.G. Commerce Sdn.Bhd. v Competition Commission and Competition Appeal Tribunal Application for Judicial Review No: WA-25-81-03/2018.

Azizah Nawawi J in the High Court case dismissed the appellant's appeal.

Discussion

MyEG had imposed different conditions to equivalent transactions with its competitors until the sale of Mandatory Insurances harms competition in the downstream market. Longer verification times and artificial technical issues during the verification process are other conditions in this case. This case shows that this section is not limited to price discrimination only.

However, MyCC may have mischaracterized MyEG's behavior which was considered "applying different conditions to equivalent transactions" when it may be an illegal tying case. In *Microsoft v Commission of the European Communities (T-201/04) EU: T: 2007: 289* which regards to the imposition on Windows users on the media player, EC explains the test for tying. It was found out that the regulator must find an anti-competitive effect when buyers were not automatically barred from buying the tied products but can find alternative substitutable products.[21]

2. Second Limb

s.10(2)(d)(ii): "…force form the market or otherwise seriously damage an existing competitor which is no less efficient than the enterprise in a dominant position."

MyCC will not consider the exclusion of less efficient competitors. However, it uses an effects-based approach by looking at the effects of the conduct on competition in the market to ensure a good economic outcome consistent with the Act.[22]

The aim of the Act is to promote the process of competition. In this regard, it is an abuse if it harms consumers and excludes the competitors who are as efficient as the dominant enterprise. For instance, Enterprise A is in a dominant position offers or gives a rebate to cause damage to an existing competitor that wishes to expand. This will be prohibited under s.10(2)(ii).

This first limb and second limbs show two discriminatory situations and that it does not protect competitors to some extent but prohibits a situation wherein a competitive relationship between the dominant firm or the firm that provides differential treatment and the rest of the market players.[23]

3. Third Limb

s.10(2)(D)(iii): "…harm competition in any market the dominant enterprise is participating or in any upstream or downstream market."

If the victim is not in a competitive relationship with the dominant firm, he or she can refer the third limb which is s.10(2)(d)(iii).[24]

In determining whether the exclusionary conduct is abuse, two main tests will be adopted by the MyCC to assess anti-competitive effects. The first question is, does the conduct adversely affect consumers? The second question is, does the conduct exclude a competitor that is just as efficient as the dominant enterprise? Thus, the 'harm to competition' in terms of exclusionary conduct is harmful to a competitive process, namely, the impairment of the ability of efficient firms to compete and also harm to consumers. Focus on consumer does not mean that the competition authority should ignore the harm to efficient competitors, the impairment of rivals' ability to constraint the dominant firm from exercising its market power might cause harm to the consumers, but the impairment of the ability of the rivals to compete does not necessarily reduce consumer welfare.[25]

MyCC needs to show the potential of anti-competitive conduct on consumers. There could be consumer harm when the exclusion of equally efficient competitors may lessen competition, which further strengthens firm's dominant position in the market, causing a harmful effect on the competition process and consumers in long run when the price is high and output is reducted.[26]

Megasteel Case

A margin squeeze occurs when (a) an upstream firm generates an input for which there are no good economic substitutes; (b) the upstream firm sells that input to one or more downstream firms; and (c) the upstream firm also directly competes in that downstream market against those firms.[27] Three elements must be fulfilled. The first element is that an upstream firm must generate an essential or bottleneck input with no substitutes. The second element is that such firm must sell that essential input to one or more downstream firms. The third element is that the upstream firm must itself utilise its own input to compete against the downstream firms in the market for that downstream product or service.[28] In Malaysia, Megasteel is the sole producer of Hot Rolled Coil (HRC) and it sold Cold Rolled Coil (CRC) which is a downstream product competing with other enterprises.

Whether Magasteel's downstream competitors were equally efficient and would be excluded from the market? We can examine the difference between the HRC price charged for CRC. If there is a difference, means the CRC price does not allow competitors to cover the costs and will thus, amount to abuse.

MyCC held that such conduct caused hindering the competition process at the downstream market. This is because an equally efficient firm cannot operate its business without incurring losses. The harm to the competition here is harm to the competition process of any market, especially the market it is taking part in.

Comparison of abuse of dominant position between Malaysia and the EU

There are some similarities between abuse of dominant position between Malaysia and the EU. Despite the price discrimination was not defined by the TFEU, Article 102 is similar as s. 10(d) which is applicable in different conditions to equivalent transactions with other trading parties. In other words, under Malaysian law[29] and EU law, price discrimination occurs when the same product is sold at different prices. For instance, when fidelity rebates are used to apply dissimilar conditions to equivalent transactions with other trading parties where two buyers pay a different price for the same quantity of the same product.[30]

In applying Article 102 TFEU, the European Union has adopted a form-based rather than effects-based approach. According to the *British Airway* case, that it was sufficient to indicate that the conduct in question was only liable to affect competition.[32] On the other hand, Malaysia law adopted an effects-based approach by ensuring that conduct that benefits consumers will not be prohibited, which means that actions that are potentially abusive must cause anticompetitive effects. This is to ensure good economic outcomes consistent with the purpose of the Act.[33] However, under EU law, the burden of proof of the Commission is to show that the conduct of the companies has or is capable of having anti-competitive effects. In Malaysia, the Commission has to prove 2 elements pursuant to Para 1.2 Guidelines on Chapter 2.

S.10 Competition Act 2010 consists of three limbs. The first limb shows that it only involves competitors and only prevents new entry into the market or expansion of an existing competitor Article 102 TFEU. The first limb also shows primary line discriminationas it affects a competitor of the discriminating dominant enterprises by not encouraging new market entry of existing competitor or forcing no less efficient competitor out of the market. Under EU law, which is the Irish Sugar case, it shows that primary line effects were given attention, instead of secondary line effects when the rebates given "making it difficult for competitors to gain a foothold in the market" and "part of a policy of restricting the growth of competition from domestic sugar packers." Primary line discrimination is also provided in s.10(2)(d)(iii) which mentions "harm competition in any market in which the dominant enterprise is participating or in any upstream or downstream market." As shown in the MyEG case, dominant enterprises like MyEG may discriminate against competitors of its subsidiary in the downstream market. Nasarudin Abdul Rahman & Haniff Ahamat (2021) supports that it is still subject to the possibility that the dominant enterprise ad its subsidiaries being a single unit can bring us back to the invocation of the grounds in s.10(2)(d)(i) and (ii) as well.

SUGGESTIONS

MyCC has proactively worked to amend the Competition Act 2010 with the aim to widen the power of the officers to deal with competition issues, make clarification on the policy requirements and issued Merger Control powers for the MyCC, improve the

investigative processes and procedures to empower MyCC in their mission to protect competition processes. MyCC also expresses its commitment by monitoring tech companies that abuse their dominant position which consequently harms the benefit of consumers and other market players. This is followed by the decision made by MyCC when carried out an investigation against MyEG which imposed different conditions in the same conditions.[34]

According to s.2 Competition Act 2010, the dominant position is interpreted as a scenario in which one or more enterprises has power to adjust prices, outputs or trading terms. Furthermore, s.10(3) provides that the dominant enterprise is not prohibited to make reasonable commercial justification or represent a reasonable commercial response to the market entry or market conduct of a competitor. However, it is observed that the price level and price range of the emergency items and necessity items were increased to expensive and high prices during Covid-19 pandemic and post-pandemic. The insertion of the terms "except in circumstances where public interest and public health would be affected" should be added to ensure that the public can afford to buy those items needed even during and after an unexpected natural disaster.

The author of this article proposes to enable MyCC as an independent body to assess and monitor the enterprises and market. Hence, s.14(2) Competition Act 2010 which granted the Minister the direction to investigate any suspended infringement of any prohibition or commission of an offense under the Act should be amended by giving MyCC the sole power and discretion in such matter. This is to strengthen the legal capacity of the Commission to act independently.

CONCLUSION

In short, it is shown that MyCC has been actively and increasingly investigating and enforcing the provisions of the Competition Act 2010, besides educating the public regarding Competition law from its recent proposed decision. Furthermore, from Malaysia case law, it is concluded that MyCC will examine price discrimination depending on every case and whether it is discriminatory towards existing and potential competitors that are no less efficient, and harm the competition process.

NOTES

[1] ASEAN Regional Guidelines on Competition Policy, p 3.

[2] Nasarudin Abdul Rahman & Haniff Ahamat, Competition Law in Malaysia, Sweet & Maxwell, Subang Jaya, 2016, p 147.

[3] Para 1.2 Guidelines on Chapter 2.

[4] Para 3.1 Guidelines on Chapter 2 Prohibition (Abuse of Dominant Position).

[5] Para 3.5 Guidelines on Chapter 2 Prohibition (Abuse of Dominant Position).

[6] Para 3.17 Guidelines on Chapter 2 Prohibition (Abuse of Dominant Position).

[7] Para 3.18 Guidelines on Chapter 2 Prohibition (Abuse of Dominant Position).

[8] Para 3.19 Guidelines on Chapter 2 Prohibition (Abuse of Dominant Position).

[9] Malaysia Competition Commission, Market Review on Priority Sector Under Competition Act 2010, Pharmaceutical Sector, 2017, p 172.

[10] Para 3.20 Guidelines on Chapter 2.

[11] Decision to Close an iNvestigation into suspected Infringement of Competition Act 2010 in the Pharmaceutical Sector on the Grounds of Section 16 (3) (b).

[12] Damien Geradin & Nicolas Petit, "Price discrimination under EC Competition Law: another anti-trust theory in search of limiting principles", (2006) *SSRN Electronic Journal ISSN* 1572-4042 p 8.

13 Italian Republic v Commission, 13-63, ECR-165.

[14] Damien Geradin & Nicolas Petit, "Price discrimination under EC Competition Law: another anti-trust theory in search of limiting principles", p 40.

[15] Damien Geradin & Nicolas Petit, "Price discrimination under EC Competition Law: another anti-trust theory in search of limiting principles", p 45.

[16] Tetra Pak International SA v. Commission, 6 October 1994, T-83/91 ECR [1994] II-755.

[17] Suiker Unie and others v. Commission, 40/73, ECR [1975].

[18] Damien Geradin & Nicolas Petit, "Price discrimination under EC Competition Law: another anti-trust theory in search of limiting principles", p 12.

[19] Damien Geradin & Nicolas Petit, "Price discrimination under EC Competition Law: another anti-trust theory in search of limiting principles", p 16.

[20] Damien Geradin & Nicolas Petit, "Price discrimination under EC Competition Law: another anti-trust theory in search of limiting principles", p 17-18.

[21] Knut Fournier, 'The MyEG case: the first Malaysian finding of abuse of dominance reveals issues with the regulator's methodology, and an opportunity to play an advocacy role' (2018) 39 (8) *European Competition Law Review* p 371.

[22] Para 3.8 Guidelines on Chapter 2 Prohibition (Abuse of Dominant Position).

[23] Nasarudin Abdul Rahman & Haniff Ahamat, *Competition Law in Malaysia*, Sweet & Maxwell, Subang Jaya, 2016, p 147.

[24] Nasarudin Abdul Rahman & Haniff Ahamat, *Competition Law in Malaysia*, Sweet & Maxwell, Subang Jaya, 2016, p 147.

[25] Jacobson, J. M. Exclusive dealing, "Foreclosure" and consumer harm (2006) *Antitrust Law Journal* p 311–369.

[26] Rahman N.A., Ahmad, H & Ghadas Z.A, 'The theory of harm under the Malaysian Competition Act 2010' (2017) 25 (S) *Social Sciences & Humanities* p 166.

[27] Organisation for Economic Co-operation and Development, Competition Law and Policy OECD, DAF/COMP (2009) 36 p 7.

[28] Organisation for Economic Co-operation and Development, Competition Law and Policy OECD, DAF/COMP (2009) 36 p 7.

[29] Para 3.17 Guidelines on Chapter 2.

[30] Hoffmann-La Roche & Co. AG v Commission of the European Communities Case 85/76.

[31] Nasarudin Abdul Rahman & Haniff Ahamat, Competition Law in Malaysia, Second Edition, Sweet & Maxwell, Subang Jaya, 2021, p 287.

[32] Maurits Dolmans, 'The dominance and monopolies review', Law Business Research Ltd, London, England, p vii.

[33] Para 3.17 and Para 3.18 Guidelines on Chapter 2.

[34] Opening Speech by YB Datuk Seri Saifuddin Nasution Bin Ismail Minister of Domestic Trade And Consumer Affairs for Prof. Richard Whish Lecture Series, 14 January 2020.

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