
You are receiving this email because of your relationship with Lee Hishammuddin Allen & Gledhill.
If you do not wish to receive any more emails, you can [unsubscribe here](#)

Lee Hishammuddin Allen & Gledhill

advocates and solicitors

Competition e-Law Alert

Issue: 11B/11, June 2011

8 June 2011

Malaysia's Competition Act 2010 [Act 712] ("the Act") comes into force less than a year from now. What do you need to know about the Act, and how should you prepare for it?

This is the final part of a series aimed at providing you with a working knowledge of the Act and tips on how Malaysian businesses, industry associations and MNCs can prepare for the new law.

(Past articles in this series are available [here](#).)

Competition law in Malaysia – scope and exclusions (Part 2)

The Competition Act has extra-territorial scope. It applies to any commercial activity, including "any commercial activity transacted outside Malaysia which has an effect on competition in any market in Malaysia".

In practice, it may be difficult for the Competition Commission to take enforcement action against a foreign enterprise that has no presence in Malaysia. However, it is likely that the Commission will in due course enter into mutual-assistance protocols with its counterparts overseas and be involved in investigating any international cartels that affect markets in Malaysia. This would enhance the Commission's capacity to take action against foreign enterprises without a local presence.

Tip 1: The Competition Act 2010 has extra-territorial application.

Tip 2: The Competition Act 2010 does not apply to collective bargaining or collective agreements with respect to employment terms.

The Competition Act applies only to "commercial activity". This is defined to mean any activity of a commercial nature, excluding:

- an exercise of governmental authority;
- an activity based on the principle of solidarity; and
- any purchase of goods or services not for purposes of offering goods or services as part of an economic activity.

The provisions of the Act regulating cartel behaviour and abuses of dominance do not apply to:

- compliance with a legislative requirement;
- collective bargaining or collective agreements with respect to employment terms; and
- the performance of tasks assigned to an enterprise entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly.

This Alert concludes our present series on the Competition Act 2010. The Competition Act 2010 is a significant development in Malaysia and is likely to have far-reaching implications for enterprises in Malaysia, including enterprises that are related to the government.

This e-Law Alert is brought to you by the IP & ICT Practice Group. The practice group consists of experienced lawyers who are a single source of reference for any intellectual property dispute, intellectual property protection, intellectual property management, franchising, data protection, cyberlaw including domain disputes, telecommunications & competition law.

If you have any queries, please do not hesitate to contact:

Bahari Yeow Tien Hong
DID : + 603 2165 8450
Fax : + 603 2161 3933/1661
E-mail: yth@lh-ag.com

Article Written By: Choong Kien

Choong Kien has more than a decade's experience in competition law and practice at one of the largest law firms in Australia and with the Australian competition regulatory body.

Email: ck@lh-ag.com

Published by the IP & ICT Practice Group

© Lee Hishammuddin Allen & Gledhill. All rights reserved. The views and opinions attributable to the authors or editor of this publication are not to be imputed to the firm, Lee Hishammuddin Allen & Gledhill. The contents of this publication are intended for purposes of general information and academic discussion only. It should not be construed as legal advice or legal opinion on any fact or circumstance.