



سوروهنجاي قرسايعيثن بروني دارالسلام
COMPETITION COMMISSION
BRUNEI DARUSSALAM

PRESS RELEASE COMPETITION COMMISSION BRUNEI DARUSSALAM

Muara Maritime Services Sdn Bhd gains deeper understanding on the Competition Order

Date: 12 August 2020

1. With the enforcement of Competition Order's Anti-Competitive Agreements prohibition beginning 1 January 2020, the Competition Commission Brunei Darussalam (CCBD) recorded an increase in businesses' interests to learn about the Order. Recently, the CCBD commended the initiative made by the Muara Maritime Services Sdn Bhd (MMS) in organising an awareness session involving more than 55 members of the management team and staff, to learn and discuss competition law particularly, procurement practices, in an effort to ensure their business conducts are adhered to the Competition Order.
2. The Executive Secretariat of the CCBD began the dialogue session with an introduction on the concept and the importance of competition in economic growth and the key prohibitions of the Competition Order. The session elaborated on how competition benefits everyone – businesses, consumers and the economy as a whole. It encourages businesses to compete for customers. Buyers of goods and services – from individual shoppers to businesses – benefit from competitive prices and having more choice and better quality. Competition results in open, dynamic markets, featuring increased productivity, innovation and better value. When there is a lack of competition, for example, where there is a price fixing cartel or a company abusing a dominant position, both businesses and consumers suffer. The cost of doing business goes up. While all businesses must comply with competition law, it is also there to protect businesses from anti-competitive behaviour by others.

3. The session went on to explain the key anti-competitive conducts prohibited under the Order, including the four serious offences under the Anti-Competitive Agreements prohibition, namely (i) price fixing; (ii) market sharing; (iii) supply limitation; and (iv) bid rigging.
4. The dialogue session discussed in detail on bid rigging prohibition and the importance of procurers to always be wary of collusive behaviours by bidders or potential bidders that may distort competition in procurement process through pre-determination of a bid winner. Bid rigging harms procurement process as it has the impact of undermining the objective of achieving value for money in the procurement of goods and services.
5. The session shed light on the different forms of bid rigging including (i) bid suppression where potential bidders refrain from participating in a tender to ensure the pre-determined winner can win the tender; (ii) complementary bidding where bidders deliberately submit high tender prices to establish a notion that the pre-determined winner's price is competitive; and (iii) bid rotation where bidders take turns to win tender.
6. It was underscored that the prevention of bid rigging by procurement officials is crucial towards upholding competition in procurement process. Tenders should be carefully designed to minimise the risks of any unfair and anti-competitive bidding conducts through preventive measures such as setting clear criteria to allow for a fair competition process; and including a warning on sanction for infringement of the Competition Order in tender documents.
7. Concerns arisen from suspicious behaviour and statement of bidders are advised to be reported to the CCBd by completing a formal complaint form, with substantial evidence, either via email or through the CCBd website at www.ccbd.gov.bn.
8. The session saw an active dialogue discussing on matters pertaining to application of the law, including some of the business practices which are prevalent in the market such as sole distributorship arrangements, sub-contracting in projects and licensing issues. Based on the issues discussed, it was concluded that not all competition related issues can be resolved through applying the Competition Order. Many of the issues raised actually require policy and regulations reviews, to be coherent with the competition principles and to ensure a competitive process can be achieved with the desirable outcome.

9. The Executive Secretariat of CCBD can be reached through email at brunei.competition@jpes.gov.bn or call 2233344 extension 230, 341 or 343 for general inquiries and request for briefings on the Competition Order.

*Executive Secretariat of Competition Commission Brunei Darussalam
Department of Competition and Consumer Affairs
Department of Economic Planning and Statistics
Ministry of Finance and Economy*

Competition Commission Brunei Darussalam (CCBD)

By the consent of His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah ibni Al-Marhum Sultan Haji Omar 'Ali Saifuddien Sa'adul Khairi Waddien, Sultan and Yang Di-Pertuan of Brunei Darussalam, the Competition Commission of Brunei Darussalam (CCBD) was established on 1 August 2017 as an independent body that is mandated to promote business competition in Brunei's economic landscape through the enforcement of the Competition Order, 2015.

The Department of the Competition and Consumer Affairs in the Department of Economic Planning and Statistics, Ministry of Finance and Economy being the Executive Secretariat to the CCBD is responsible in carrying out Commission's functions such as advocacy, receiving complaints, reviewing markets and conducting investigations.



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SIARAN MEDIA SURUHANJAYA PERSAINGAN BRUNEI DARUSSALAM

Muara Maritime Services Sdn Bhd beroleh pemahaman mendalam mengenai Perintah Persaingan

Tarikh: 12 Ogos 2020

1. Dengan penguatkuasaan larangan Perjanjian Anti-Persaingan di bawah Perintah Persaingan bermula 1 Januari 2020, Suruhanjaya Persaingan Brunei Darussalam telah mencatatkan peningkatan pada minat para peniaga untuk mempelajari mengenai Perintah Persaingan. Baru-baru ini, Suruhanjaya Persaingan memuji inisiatif Muara Maritime Services Sdn Bhd dalam menganjurkan sesi dialog melibatkan lebih daripada 55 pihak pengurusan dan kakitangan, bagi mempelajari dan membincangkan mengenai undang-undang persaingan, khususnya amalan perolehan, dalam usaha untuk memastikan pengendalian perniagaan adalah mematuhi Perintah Persaingan.
2. Sekretariat Eksekutif kepada Suruhanjaya Persaingan memulakan sesi dialog dengan pengenalan konsep dan kepentingan persaingan di dalam pertumbuhan ekonomi dan larangan-larangan utama Perintah Persaingan. Sesi menghuraikan secara terperinci bagaimana persaingan memberi manfaat kepada semua – peniaga, pengguna dan ekonomi secara keseluruhan. Ia menggalakkan para peniaga untuk bersaing bagi memenangi pengguna. Pembeli barangan dan perkhidmatan – samada persendirian atau peniaga-peniaga – mendapat manfaat daripada harga yang kompetitif, pilihan yang lebih banyak dan kualiti yang lebih baik. Persaingan menyumbang kepada pasaran yang terbuka dan dinamik dengan peningkatan produktiviti, inovasi dan nilai yang lebih baik. Apabila terdapatnya kekurangan persaingan, sebagai contoh adanya kartel penetapan harga atau syarikat menyalahgunakan kedudukan dominan, kedua-dua peniaga dan pengguna akan terkesan. Dalam menghendaki peniaga untuk mematuhi undang-undang

persaingan, ianya juga bertujuan untuk melindungi para peniaga dari perlakuan anti-persaingan peniaga lain.

3. Sesi diteruskan dengan menerangkan mengenai amalan utama anti-persaingan yang dilarang di bawah Perintah Persaingan, termasuk empat kesalahan serius di bawah larangan Perjanjian Anti-Persaingan, iaitu (i) penetapan harga; (ii) pembahagian pasaran; (iii) pengawalan bekalan dan (iv) tipuan bidaan.
4. Sesi dialog membincangkan secara mendalam mengenai larangan tipuan bidaan dan kepentingan bagi pegawai-pegawai perolehan untuk sentiasa berwaspada terhadap tingkah laku kolusif penender atau calon penender yang boleh mengganggu persaingan di dalam proses perolehan melalui penentuan pemenang secara awal. Tipuan bidaan memudaratkan proses perolehan mengambilkira kesannya yang menjejaskan matlamat bagi mencapai objektif *value-for-money* dalam perolehan barangan dan perkhidmatan.
5. Peserta diterangkan mengenai pelbagai bentuk tipuan bidaan termasuk (i) bidaan yang menindas (*bid suppression*) iaitu calon penender menahan daripada menyertai tawaran bagi membolehkan penender yang ditentukan untuk memenangi tawaran berkenaan; (ii) bidaan melengkap (*complementary bidding*) iaitu penender sengaja menghantar harga bidaan yang tinggi untuk memberi gambaran bahawa harga penender yang ditentukan untuk menang adalah kompetitif; (iii) bidaan bergilir (*bid rotation*) iaitu penender-penender mengambil urutan untuk menangi tawaran.
6. Penekanan telah diberikan terhadap kepentingan pencegahan tipuan bidaan oleh pegawai perolehan bagi mendukung persaingan di dalam proses perolehan. Tawaran perlu direka secara teliti untuk meminimalkan risiko amalan tidak adil dan anti-persaingan di dalam bidaan melalui langkah-langkah pencegahan seperti menetapkan kriteria dengan jelas bagi membolehkan proses persaingan yang adil; dan memasukkan amaran mengenai hukuman pelanggaran Perintah Persaingan di dalam dokumen tawaran.
7. Sebarang kebimbangan yang berbangkit daripada tingkah laku atau kenyataan penender yang mencurigakan adalah dinasihatkan untuk dilaporkan kepada Suruhanjaya Persaingan dengan melengkapkan borang aduan rasmi, bersama bukti yang kukuh, melalui emel atau laman sesawang Suruhanjaya Persaingan di www.ccbd.gov.bn.

8. Sesi menyaksikan dialog aktif membincangkan perkara-perkara yang berkaitan dengan aplikasi undang-undang, termasuk beberapa amalan perniagaan yang lazim berlaku di pasaran seperti amalan pengedar tunggal, sub-kontrak projek dan isu perlesenan. Berdasarkan isu yang dibincangkan, adalah disimpulkan bahawa tidak semua isu berkaitan persaingan dapat diselesaikan oleh Perintah Persaingan. Kebanyakan isu yang dibangkitkan memerlukan penelitian dasar dan peraturan untuk disejajarkan dengan prinsip persaingan dan bagi memastikan proses persaingan dapat dicapai dengan hasil yang diharapkan.

9. Sekretariat Eksekutif kepada Suruhanjaya Persaingan boleh dihubungi melalui emel di brunei.competition@jpes.gov.bn atau talian 2233344 sambungan 230, 341 atau 343 bagi pertanyaan umum dan permohonan pemberigaan Perintah Persaingan.

Sekretariat Eksekutif Suruhanjaya Persaingan Brunei Darussalam
Jabatan Persaingan dan Hal Ehwal Pengguna
Jabatan Perancangan Ekonomi dan Statistik
Kementerian Kewangan dan Ekonomi

Suruhanjaya Persaingan Brunei Darussalam

Kebawah Duli Yang Maha Mulia Paduka Seri Baginda Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah ibni Al-Marhum Sultan Haji Omar 'Ali Saifuddien Sa'adul Khairi Waddien, Sultan dan Yang Di-Pertuan Negara Brunei Darussalam telah memperkenan penubuhan Suruhanjaya Persaingan Brunei Drussalam pada 1 Ogos 2017 sebagai sebuah badan bebas yang dimandatkan untuk mempromosi persaingan perniagaan di pasaran ekonomi Brunei Darussalam melalui penguatkuasaan Perintah Persaingan 2015.

Jabatan Persaingan dan Hal Ehwal Pengguna di Jabatan Perancangan Ekonomi dan Statistik, Kementerian Kewangan dan Ekonomi selaku Sekretariat Eksekutif kepada Suruhanjaya Persaingan adalah bertanggungjawab dalam melaksanakan fungsi Suruhanjaya Persaingan seperti pemberigaan, menerima aduan, mengkaji pasaran dan menjalankan siasatan.