

## Competition

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### Pulling the Brakes on Grab in Malaysia

The merger between e-hailing company Grab and Uber in March 2018 resulted in Grab becoming a dominant player in the e-hailing market in Malaysia following the removal of its closest rival. Although the merger was promoted as a means to increase efficiency and enhance driver and user experience, it has since been heavily criticised by the public and is being closely scrutinised by the Malaysia Competition Commission (**MyCC**).

Last Thursday, MyCC took its first formal action against Grab by issuing a Proposed Decision to penalise Grab for breaching s 10 of the Competition Act 2010 (**the Act**). Pursuant to s 10 of the Act, enterprises are prohibited from engaging independently or collectively in any conduct which amounts to abuse of a dominant position in any market for goods and services.

According to MyCC, Grab had abused its dominant position by introducing a number of “restrictive clauses” on its drivers, which prevented them from promoting or advertising the services of Grab’s competitors in the e-hailing and transit media advertising market. As a result, this could increase barriers to entry in the e-hailing market to the detriment of new players and could restrict the ability for existing players to grow and compete on merits.

MyCC has proposed to impose a financial penalty of RM86,772,943.76 as well as a daily penalty of RM15,000 per day on Grab, from the date of service of the Proposed Decision, should Grab fail to take remedial actions as directed by MyCC in addressing competition concerns. Grab has 30 days from the date of receipt of the Proposed Decision to make representations, following which MyCC will evaluate all submissions, information and evidence before making a final decision.

Malaysia currently does not have a merger control regime, unlike in Singapore, where the Competition and Consumer Commission of Singapore (**CCCS**) issued an Infringement Decision against Grab and Uber in relation to the sale of Uber’s Southeast Asian business to Grab, almost immediately upon the completion of the merger in 2018. The merger was found by CCCS to have led to the “substantial lessening of competition” in the provision of ride-hailing platform services in Singapore, which is prohibited under s 54 of Singapore’s Competition Act (Chapter 50B).

While there is no merger control regime in Malaysia or any prohibition against monopolies *per se*, MyCC has always been consistent in its view that upon the merger, if Grab as a dominant enterprise conducts itself in a manner that would amount to an abuse of its position, MyCC would not hesitate to take action for such conduct.

Players that are dominant in the market should be aware that apart from the above, MyCC has taken action against abusive dominant enterprises, such as in the case of MyE.G. Services Bhd, which we had previously discussed [here](#). As such, it is advisable for enterprises with significant market power in their relevant market to be mindful of their conduct to ensure that they do not fall foul of the Act.

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