



COMPETITION ACT 2010

Undertaking by the Executive Council (“EXCO”) of the Sabah Tourist Guides Association (*Persatuan Pemandu-Pemandu Pelancong*) (ROS No.: PPM-003-12-28061977) (hereinafter referred to as “STGA EXCO”) on behalf of the members of the STGA (hereinafter referred to as “Member Enterprises”) to the Malaysia Competition Commission.

PERSONS GIVING THIS UNDERTAKING

1. This Undertaking is given to the Malaysia Competition Commission (hereinafter referred to as “the Commission”) by the STGA EXCO listed in Schedule 1 below and having its registered office at 11-3, Lot 54, 3rd Floor, Block G, Lintas Square, 88300 Kota Kinabalu, Sabah, on behalf of the Member Enterprises listed in Schedule 2 below.

BACKGROUND

2. The Sabah Tourist Guides Association (hereinafter referred to as “STGA”) is an association registered under Section 7 of the Societies Act 1966 [Act 355] on 28.6.1977 with ROS Registration Number PPM-003-12-28061977 and having its registered address at 11-3, Lot 54, 3rd Floor, Block G, Lintas Square, 88300 Kota Kinabalu, Sabah.
3. STGA is an association representing its members comprising of tourist guides in the state of Sabah. STGA facilitates tour operators by providing qualified tourist guides for guiding assignments.



4. Following an official complaint by a member of the public that the STGA and Member Enterprises were adopting an agreed fee scale for tourist guide services in Sabah, the Commission conducted an investigation into the possible breach of Section 4 of the Competition Act 2010 (“the Act”).
5. Upon investigation, the Commission established that the STGA (through the STGA EXCO) and Member Enterprises had adopted the “2009 Minimum Tourist Guides Professional Fees” published on STGA’s website to fix the fee rates of tourist guide services.
6. The Commission further learned that on 14.3.2017, the STGA EXCO had proposed to review the “2009 Minimum Tourist Guides’ Professional Fees” at the Extraordinary General Meeting held on 20.4.2017 whereby, the “STGA Sabah Professional Guiding Fee Rates (effective 1.10.2017)” which contained a revised scale fee for tourist guide services in Sabah was duly circulated to Members Enterprises who had attended the Extraordinary General Meeting. A copy of the “2009 Minimum Tourist Guides’ Professional Fees” and “STGA Sabah Professional Guiding Fee Rates (effective 1.10.2017)” is attached as Appendix A and B respectively below.

COMMENCEMENT OF UNDERTAKING

7. This Undertaking comes into effect when:



(i) the Undertaking is duly executed by the President of STGA through the powers vested by the STGA EXCO for and on behalf of its Member Enterprises; and

(ii) the Commission accepts the Undertaking so executed.

8. Upon the commencement of this Undertaking, the STGA EXCO on behalf of its Member Enterprises undertake to assume the obligations set out in paragraph 9 below.

UNDERTAKING

9. The STGA EXCO on behalf of the Member Enterprises undertake that it shall:

(i) Conduct an Extraordinary General Meeting within a period of 21 days from the date of signing of this Undertaking, with an agenda to withdraw and repeal all prior decisions or proposals made in relation to the agreed or revised rates for tourist guide services including but not limited to the "Minimum Tourist Guides Professional Fees (effective 1.3.2009)";

(ii) Not hold any form of discussion, in relation to the issue of tourist guides' fees applicable to STGA members and/or to take any step towards the implementation of the proposed STGA Sabah Professional Guiding Fee Rates (effective 1.10.2017) discussed at STGA's Extraordinary General Meeting held on the 20.4.2017;



- (iii) Notify all members of STGA of the decision stipulated in paragraph (9) (i) and (ii) above by way of letters, emails and/or other forms of communication;
- (iv) Issue and publish this Undertaking by way of a Notice on STGA's official website and social media site. The contents of the Notice shall be in accordance with Appendix C;
- (v) Issue the following written Notice to all Member Enterprises and publish at STGA's official website and social media site, the following directive:

"We would like to bring to your attention that the Malaysia Competition Commission ("the Commission") is the regulatory authority empowered by the Competition Commission Act [Act 713] to enforce the provisions of the Competition Act [Act 712] ("the Act"). With reference to STGA's Undertaking to the Commission, we strongly advise all members of STGA to comply with the provisions of the Act. In the event of any complaint of infringement of the Act against any member, STGA will not hesitate to provide full cooperation with the Commission in its assessment and/or investigation."

and



(vi) The Notice described in paragraph (iv) and (v) above shall appear by way of a “slideshow gallery” for a period of 3 months from the date of publication and the said Notice is to be posted and “pinned” in STGA’s Facebook group.

10. The STGA EXCO and Member Enterprises acknowledge/s that in accordance with Section 14 and Section 15 read with Section 43 of the Act, if the STGA or Member Enterprises in Schedule 2 repeat any similar anti-competitive act/s, conduct and/or practice, the Commission has the power to take into account the findings and conduct described of paragraphs 2 to 6 above in the Commission’s investigation.

ACKNOWLEDGEMENTS

11. The STGA EXCO on behalf of the Member Enterprises acknowledge/s that:

- (i) the Commission has the power under Section 43(3) of the Act to make this Undertaking available for public inspection by publishing it on the Commission’s website at www.mycc.gov.my as well as any other means of broadcasting as the Commission deems fit in accordance with the relevant law;
- (ii) the Commission shall from time to time, make reference to this Undertaking in news media, press statements and in any of the Commission’s publications for the purpose of performing the functions and powers of the Commission; and



- (ii) the Undertaking in no way derogates the rights and remedies available to any other person arising from the alleged conduct.

Agreed and Executed by the President of the Sabah Tourist Guides Association (PPM-003-12-28061977) (STGA) by the powers vested in him/her by the STGA EXCO:

A handwritten signature in black ink, appearing to read 'Tan Yah Hee', written over a horizontal dashed line.

STGA President

Name: *Tan yah Hee @ Chui Seah Fong*

NRIC No.: [REDACTED]

This ...*30th*... day of... *August*.....2019

ACCEPTED BY THE COMPETITION COMMISSION

A handwritten signature in black ink, appearing to read 'Mohd Hishamudin Yunus', written over a horizontal dashed line.

**DATO' SERI MOHD HISHAMUDIN YUNUS
CHAIRMAN**

This ...*30th*... day of... *August*.....2019