

## Client Alert

May 2016

# One Year in Review: Price Control and Anti-Profiteering Enforcement in Malaysia

For further information, please contact:

Adeline Wong  
+603 2298 7880  
[adeline.wong@wongpartners.com](mailto:adeline.wong@wongpartners.com)

Krystal Ng  
+603 2298 7937  
[krystal.ng@wongpartners.com](mailto:krystal.ng@wongpartners.com)

The Price Control Anti-Profiteering Act 2011 ("PCAP") was passed to protect consumers in Malaysia against unreasonable increase in prices of goods and services following the introduction of the Goods and Services Tax ("GST") regime in Malaysia. Under the PCAP, profiteering is an offence. The PCAP is administered by the Ministry of Domestic Trade, Cooperatives and Consumerism ("MDTCC").

Following a year of enforcement of the PCAP laws in Malaysia, we review the application of the PCAP and the enforcement actions taken by the MDTCC.

### Determination of Unreasonably High

The Price Control and Anti Profiteering (Mechanism To Determine Unreasonably High Profit) (Net Profit Margin) Regulations 2014 ("Regulations 2014") specify that the period for the determination of unreasonably high profits is from 2 January 2015 up to 31 March 2015 as well as from 1 April 2015 up to 30 June 2016. During these periods, in applying a prescribed formula there must be no increment in the net profit margin of any goods or services.

### Continuing Enforcement Actions

In spite of the timeline of 30 June 2016 fast approaching, the MDTCC continues to be aggressive in the enforcement of the PCAP and Regulations 2014. A highlight of recent enforcement actions taken in 2016 is set out below:

- January 2016: a company selling mobile phones was fined RM10,000 by the Sessions Court for failure to produce documents to substantiate the increase in price of mobile sim cards from RM10 to RM12;
- March 2016: a supermarket operator is charged for a second offence and imposed a fine of RM30,000 for making unreasonable profits by raising the price of honey from RM28.90 to RM43.99 - the same operator has been charged in court before for making unreasonable profits by raising the price of a vegetable from RM3.10 a kilogramme to RM9.70 a kilogramme;
- April 2016: a mini market owner was fined RM5,000 by the Sessions Court for failing to provide information relating to the price of instant noodles;
- May 2016: a restaurant was charged and fined RM4,000 by the Sessions Court for raising the price of nasi lemak from RM2.50 to RM3.50 without justification.

### Formulation of Pricing Policies

In view of the current economic climate, many local businesses have suffered challenges which include the depreciation of the Ringgit and the increase in cost of acquiring goods and operating costs and have sought to pass on some of these costs in the form of a price increase. Following the implementation of GST laws as well as the implementation of the PCAP and its Regulations 2014, there has been an increase in consumer awareness resulting in increased consumer activism and initiatives in making price enquiries and complaints made to the MDTCC. As such, it is important for businesses and traders to continue being vigilant in their review of pricing policies.

At this juncture, it remains to be seen if the rules and formula prescribed under the Regulations 2014 will lapse on 30 June 2016 or be extended for a further period by the MDTCC. Arguably, the 18 month transitional period (i.e. from 1 April 2015 to 30 June 2016) is quite short in comparison to the transitional period adopted by other jurisdictions, such as Australia for example, where the Australian Competition and Consumer Commission established the price oversight regime and enforced it for three years to ensure that there is no price exploitation following GST implementation.

**[www.wongpartners.com](http://www.wongpartners.com)**

Wong & Partners  
Level 21, Suite 21.01  
The Gardens South Tower  
Mid Valley City  
Lingkaran Syed Putra  
59200 Kuala Lumpur