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Grab files legal challenge against MYCC's proposed RM86m fine

Hidir Reduan Abdul Rashid

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Grab has gone to court to challenge the Malaysian Competition Commission's (MyCC) proposed fine of over RM86 million against the ride-hailing firm for contravening the country's competition law.

Grab Inc, alongside related corporate entities Grabcar Sdn Bhd and Myteksi Sdn Bhd, filed a leave application for judicial review, through Messrs Shanthi Kandiah Chambers, at the Kuala Lumpur High Court Registry on Dec 30 last year.

On Oct 3 last year, MyCC proposed a fine of more than RM86 million against Grab for violating the Competition Act 2010 through its alleged imposing of restrictive clauses on its drivers.

According to a copy of the leave application cause papers sighted by Malaysiakini today, Grab is seeking among others an order of certiorari to quash MyCC's proposed decision dated Sept 23, last year.

The ride-hailing firm seeks a declaration that the respondent is not empowered to publicise or communicate the proposed decision via the publication of a news release titled "MyCC proposes to fine Grab RM86 million for abusive practices" at its website as well as during a press conference on Oct 3 last year.

Grab is also seeking a declaration that the competition regulator's chief executive officer had violated the Competition Act and Competition Commission Act 2010 by giving an interview that led to the publication of the article "Grab has till Dec 31 to submit written representations to MyCC" in business newspaper The Edge, for the week of Nov 18 to 24 last year.

It claimed that in the course of MyCC's investigation which began on Dec 3, 2018, the regulator did not specify the basis of its belief on how Grabcar and Mytekxi, which are collectively also known as Grab Malaysia, had contravened Section 10 (1) of the Competition Act.

Section 10(1) states that an enterprise is prohibited from engaging, whether independently or collectively, in any conduct which amounts to an abuse of a dominant position in any market for goods or services.



Grab claimed that the regulator had not abided by the Competition Act by giving the ride-hailing firm adequate notice that it was under investigation and to inform the company about the nature of the alleged infringement to afford the firm a meaningful opportunity to be heard during the probe.

"The applicants contend that the investigation carried out by the respondent was in breach of natural justice and was thus flawed by procedural impropriety of a serious nature," Grab said.

The ride-hailing firm also claimed that the regulator exhibited apparent bias in the whole affair.

"The applicants contend that the conduct of the respondent throughout the purported investigation leading up to the publication of the proposed decision (RM86 million fine) leading up to the press conference and the interview with the Edge, had given rise to an appearance of bias to a fair-minded and informed observer, and was indicative of a pre-determined decision vis-a-vis the applicants.

"This was further compounded by the fact that the respondent was effectively the investigator, prosecutor and the judge in its own cause, which rendered it almost impossible for the respondent to conduct a

fair and impartial investigation and conclusion,” Grab claimed.

Checks at the online cause list at ecourtservices.kehakiman.gov.my showed that the judicial review leave application is set for hearing before Kuala Lumpur High Court judge Nordin Hassan at 9am today.