



سوروهنجاڤي قرساعيشن برونبي دارالسلام

COMPETITION COMMISSION

BRUNEI DARUSSALAM

**Guidelines**

**COMPLAINT PROCEDURES**

## **Guidelines' Notes**

These Guidelines are intended to be an introductory text and guidance document on how the Commission enforces and administers the provisions under the Competition Order (“Order”). These Guidelines, however, are not a substitute for the Order or any Regulations made pursuant to the Order. They are not exhaustive, and do not set a limit on the investigation and enforcement activities of the Competition Commission of Brunei Darussalam (“CCBD”). In applying these Guidelines, the facts and circumstances of each case will be considered in totality. These Guidelines may be revised should the need arises. In the event that any of the provisions in these Guidelines are inconsistent or incompatible with the provisions of the Order, the provisions of the latter relevant guidelines shall take precedence.

## Table of Contents

<b>GUIDELINES' NOTES .....</b>	<b>1</b>
<b>1. INTRODUCTION .....</b>	<b>1</b>
<b>2. FILING COMPLAINT .....</b>	<b>1</b>
<b>3. COMPLAINT CHANNEL.....</b>	<b>2</b>
<b>4. CONFIDENTIAL INFORMATION .....</b>	<b>2</b>
<b>5. PHASE 1 .....</b>	<b>3</b>
<b>5.1. ASSESSING COMPLAINT .....</b>	<b>3</b>
<b>5.2. PRELIMINARY ASSESSMENT .....</b>	<b>4</b>
<b>6. PHASE 2: FULL INVESTIGATION.....</b>	<b>4</b>
<b>7. FOLLOWING UP YOUR COMPLAINT.....</b>	<b>6</b>
<b>8. CLOSURE .....</b>	<b>6</b>

## 1. Introduction

- 1.1. Under Second Schedule of the Competition Order 2015 (“Order”), the Competition Commission Brunei Darussalam (“CCBD”) has the power to warrant investigation on business conducts that violate the Order as follow:
  - (a) Anti-Competitive Agreements (E.g. price fixing, bid rigging, market sharing and supply limitation);
  - (b) Abuse of Dominant Position (E.g. predatory pricing, discrimination and refusal to supply); or
  - (c) Mergers that substantially lessen competition.
- 1.2. Apart from own initiation and referral from Ministry / sector regulator, the CCBD relies on complaints from the public as one of the important means to identify potential violation of the Order.
- 1.3. This Guideline provides the manner and form in which complaint related to anti-competitive activities may be filed to the CCBD. It also incorporates the process and assessment that the CCBD will consider in dealing with the complaint.

## 2. Filing complaint

- 2.1. Any person (“Complainant”) may file a complaint concerning to anti-competitive activities to the CCBD by completing and submitting a Complaint Form.
- 2.2. In order to assist the CCBD in pursuing the complaint, the Complainant must explicitly state the concerns / grievances by providing as much information as possible, including the following:
  - (a) Brief description of the complaint;
  - (b) Information regarding the party or parties involved in the conduct, including their contact information where known; and
  - (c) Any relevant information and supporting documents.
- 2.3. The Complainant is encouraged to provide his/her details to allow the CCBD to acknowledge the receipt of complaint within three (3) working days.
- 2.4. The CCBD may still accept anonymous complaint. However, the CCBD may not be able to contact the Complainant for further information and clarification which may make it difficult for the CCBD to pursue the complaint.
- 2.5. A duly completed form should be signed by the Complainant.

### 3. Complaint channel

- 3.1. Online Complaint Form which may be accessed through the CCBD website [www.ccbd.gov.bn](http://www.ccbd.gov.bn).
- 3.2. The Complaint Form may also be downloaded and submitted to the CCBD via the following means:
  - (a) Email to [brunei.competition@jpke.gov.bn](mailto:brunei.competition@jpke.gov.bn).
  - (b) Post to the following address  
**Chairman of the Competition Commission Brunei Darussalam**  
*through*  
Executive Secretariat to the Competition Commission Brunei Darussalam  
Department of Competition and Consumer Affairs  
Department of Economic Planning and Development  
Level 3, West Wing, Block 2A  
Ong Sum Ping Road  
Bandar Seri Begawan, BA 1311
- 3.3. The Complainant may also walk in person to the Executive Secretariat's office to lodge the complaint.
- 3.4. For any assistance regarding submitting a complaint, please contact the Executive Secretariat of the CCBD at +6732 233 344 ext 230 or 343.

### 4. Confidential information

- 4.1. The Complainant is advised to keep the complaint confidential as publicised or otherwise widely known complaint may jeopardise the CCBD's ability to conduct an effective investigation. If a Complainant opts to disclose the complaint publicly, the CCBD requests that the Complainant to inform the CCBD in advance on such disclosure.
- 4.2. The CCBD will endeavor to respect the confidentiality of the Complainant and the information furnished as required under Section 70 of the Order.
- 4.3. If the Complainant is concerned about the disclosure of its identity or any documents submitted, kindly raise this to the CCBD at the same time as the complaint is lodged.

## Guidelines on Complaint Procedures

- 4.4. Complainant should:
- (a) Clearly identify any confidential information
  - (b) Provide this information in a separate annex clearly marked 'confidential information'
  - (c) Explain why this information should be treated as confidential
- 4.5. However, in some cases, the CCBD may need to disclose the information related to the identity of the complainant when there's a lawful order by any court or Tribunal, or when the CCBD deems it is necessary for the performance of its functions and duties such as when conducting investigation.

## 5. Phase 1

### 5.1. Assessing complaint

- 5.1.1. The CCBD will assess a complaint to determine if the complaint is valid and covered under the Order.
- 5.1.2. The CCBD accepts complaint pertaining to alleged infringement of the Order as follow:
- (a) Section 11: Anti-Competitive Agreements;
  - (b) Section 21: Abuse of Dominant Position; or
  - (c) Section 23: Mergers that substantially lessen competition.
- 5.1.3. As the prohibition under the Order is to be enforced in phases, the Complainant should note the CCBD may only be able to take action to conducts related to prohibition that has already been activated or came into force when the complaint is lodged.<sup>1</sup>
- 5.1.4. The CCBD will not pursue a complaint concerning to excluded activities specified in Third and Fourth Schedule of the Order.
- 5.1.5. The CCBD will approach all complaints received in a good faith. However, the CCBD has the right to withdraw the complaint, if the complaint received is:
- (a) malicious or false; or
  - (b) lacking in substance

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<sup>1</sup> As of the date of publication, only Section 11: Anti-Competitive Agreement has come into force. Please refer to *Notification of Commencement Part III (Chapters 1, 2 & 6), Part IV, Part VI (sections 64 to 74), Part V, Third Schedule.*

## Guidelines on Complaint Procedures

- 5.1.6. The CCBD will inform the Complainant in timely manner on whether his/her complaint is accepted or not by the CCBD.
- 5.1.7. It is important to note that accepting a complaint does not indicate that the CCBD had decided that the conduct concerned is in breach of the Order. Acceptance means that the allegation is covered under scope of the Order and a call for further assessment.

### **5.2. Preliminary Assessment**

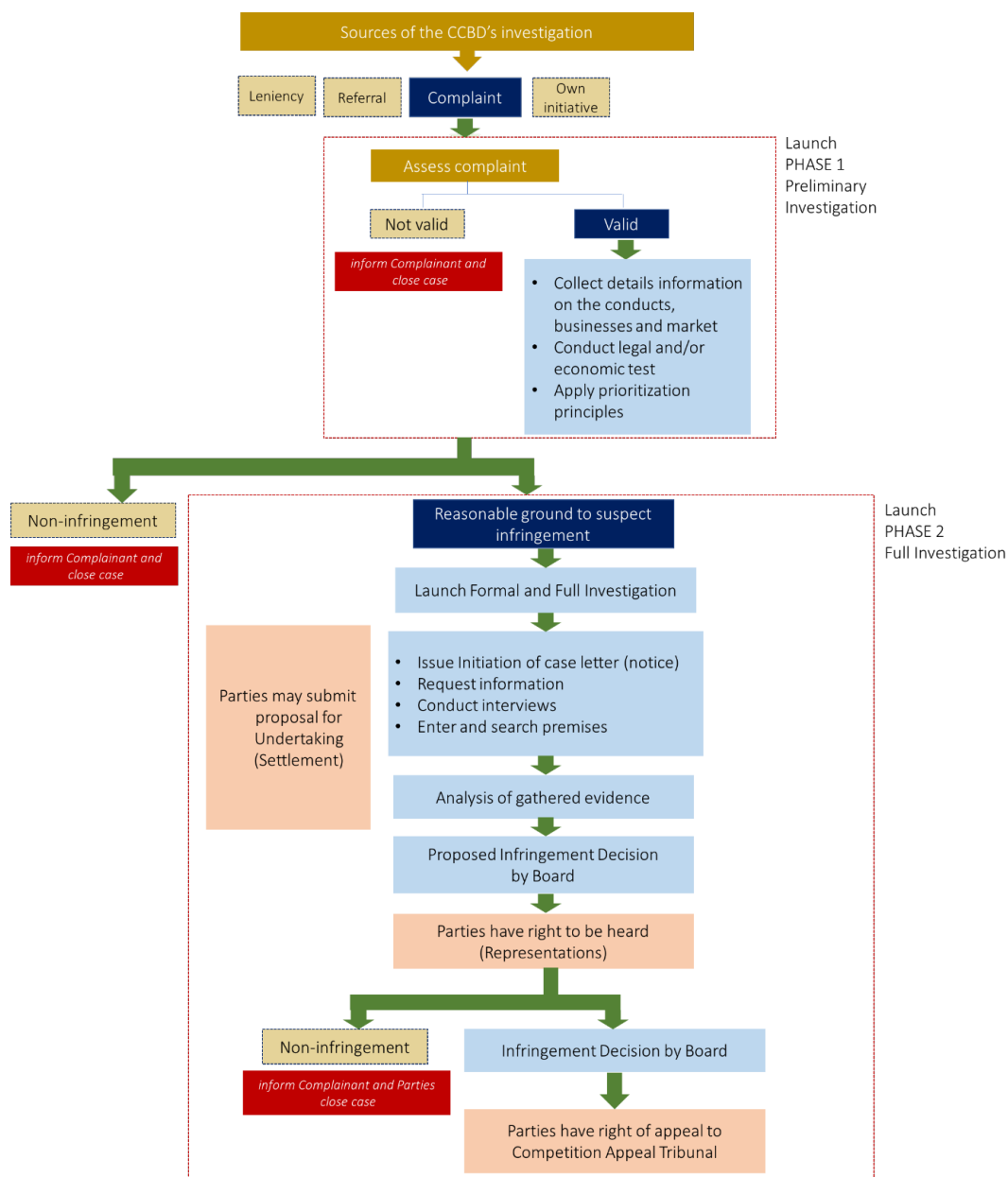
- 5.2.1. During preliminary assessment, the Complainant will be contacted to give detailed information to the CCBD with regards to the businesses, agreements, or markets in question through informal enquiries which may be done in a meeting, through written correspondence, or during telephone conversations. Full cooperation from the Complainant in giving a full, accurate and truthful information is expected.
- 5.2.2. To assess the complaint further, the CCBD may also review the market and collect information from the market players and sector regulators.
- 5.2.3. The assessment will look for example for *prima facie* indications of the alleged infringement and try to determine a possible theory of harm.
- 5.2.4. As a result of the initial assessment, a clear direction should be found on whether the complaint:
  - (a) is a potential case to launch full investigation by the CCBD – phase 2; or
  - (b) contains insufficient grounds for acting – no evidence to establish the existence of an infringement.
- 5.2.5. The Complainant will be informed accordingly on the direction of the CCBD.

### **6. Phase 2: Full Investigation**

- 6.1. In deciding whether to launch investigation, the CCBD will take into account its strategic priorities. It is important to note that the CCBD does not act on behalf of the Complainant and will consider what matters to pursue an investigation having regard the impact to the competitive marketplace and public interest, the risk involved in taking on the complaint and the resource required to proceed the investigation.
- 6.2. The CCBD will notify the parties under investigation with a case initiation letter setting out brief details of conducts and the prohibition it infringed. However, in some cases, it may not be appropriate to issue a case initiation letter at the early stage, as to do so may prejudice the investigation.

## Guidelines on Complaint Procedures

- 6.3. By the virtue of Chapter 6 of the Order (“Investigation and Enforcement”), the CCBD will gather information from concerned parties either through written requests, conduct interviews, or enter and search premises.
- 6.4. The following illustrates the indicative steps when a complaint is accepted for investigation<sup>2</sup>:



<sup>2</sup> Indicative steps which may vary depending on the alleged infringement and relevant section of the Order.



## Guidelines on Complaint Procedures

- 6.5. A timeframe for full investigation will vary depending on the nature and complexity of each matter, as well as the resources available to the CCBD at time.

### **7. Following up your complaint**

- 7.1. The CCBD will attempt to keep the Complainant generally informed as the case progress, where necessary or possible without jeopardizing effective investigation and confidentiality.

### **8. Closure**

- 8.1. The CCBD will issue a statement with regards to the closure or decision to its investigation.



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