

FAQs

Frequently Asked Questions (FAQs)

1. What is Competition Order 2015?

The Competition Order 2015 is a law that seeks to promote and maintain healthy market competition by prohibiting business practices which restrain or restrict a fair competition process. It prohibits three key anti-competitive conducts as follows:

- Anti-competitive agreements;
- Abuse of dominant position; and
- Anti-competitive mergers.

2. Who does the Order apply to?

The Order applies to all commercial activities across sectors regardless of ownership of the entity.

The Order does not apply to the Government and Statutory Bodies as well as any entities that carry out activities on behalf of them.

The Order does not apply to the activities listed in the Third Schedule of Competition Order 2015. The exclusions include services of general economic interest, compliance with legal requirements, avoidance of conflict with international commitments and public policy.

3. What are the types of conduct prohibited by the Order?

The three key prohibitions under the Order are:

i. Anti-Competitive Agreements

Agreements which prevent, distort or restrict competition in the market are prohibited under the Order, regardless of whether the agreements are reached formally or informally. Anti-competitive agreements between competitors are also known as cartels. Businesses should not engage in any of the following hard-core cartel conducts:

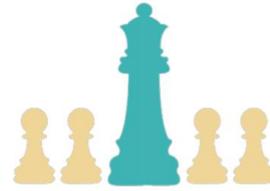
- Price fixing
- Market sharing
- Supply control
- Bid rigging (tender collusion)



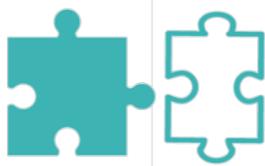
ii. Abuse of Dominant Position

The Order prohibits a business with significant power in a market from abusing its dominant position by engaging in an anti-competitive conduct that can harm competition in the market. For instance:

- Deliberately selling below cost (Predatory pricing)
- Refusal to supply
- Apply dissimilar conditions for the same transaction



iii. Anti-Competitive Mergers



A merger that decreases competition in the market and negatively impacts consumers is prohibited. For instance, merger that creates or reinforces a dominant position, resulting in reduced consumers' choice of goods and services as well as higher prices.

4. Why do we need the Competition Order 2015?

Anti-competitive conduct can exist in any market and may cause harm to the economy. Thus, having a law which deters such conduct is crucial. The Competition Order 2015 prohibits anti-competitive conduct in order to promote market efficiency and consumer welfare in Brunei Darussalam. The Order aims to:

- Provide incentives and create a competitive environment for businesses to offer better quality, value for money and more innovative products and services for consumers;
- Promote equal business opportunities and new market entrance;
- Enhance productivity of key sectors;
- Ensure efficient distribution of economic resources; and
- Create a pro-business and pro-investment climate for better Foreign Direct Investment (FDI) outlook.

These are aimed towards achieving a sustainable economic growth in line with the Brunei Government's efforts to achieve the goals of *Wawasan Brunei 2035*.

5. What are the penalties for infringements against the Order?

Any business that is found to have infringed the Order is subject to a financial penalty of up to 10% of their business annual turnover for each year of infringement, up to a maximum period of 3 years.

A business which contravened the Order may also face civil proceedings in court by any person who suffers loss or damage directly as a result of such contravention.

The Competition Commission may also issue an order to prevent the recurrence of the infringement such as requiring businesses to modify or terminate the anti-competitive agreement or conduct.

6. What are the investigative powers of the Order?

The Order provides the following powers to investigate anti-competitive conduct:

- Requests to produce specified documents or information from any person or business by giving a written notice;
- Entry of premises to retrieve copies of relevant documents without court warrant after giving advance written notice to the occupants; and
- Enter and search premises with a court warrant and to seize relevant documents and remove any article from the premises for investigation.

7. How does the Order help protect consumers?

Consumer welfare is safeguarded as the Order provides incentives for businesses to:



8. How can the Order help Micro, Small, and Medium Enterprises (MSMEs)?

The Order covers all commercial activities relating to the provision of goods or services in the country regardless of business size. Through the prohibition of anti-competitive conduct, MSMEs are protected in a number of ways, including:

- *Equal opportunities for business participation*
The Order provides equal opportunities for businesses to participate in the market.
- *Reducing cost of inputs*

The Order protects MSMEs from being overcharged by suppliers who may be involved in anti-competitive conduct.

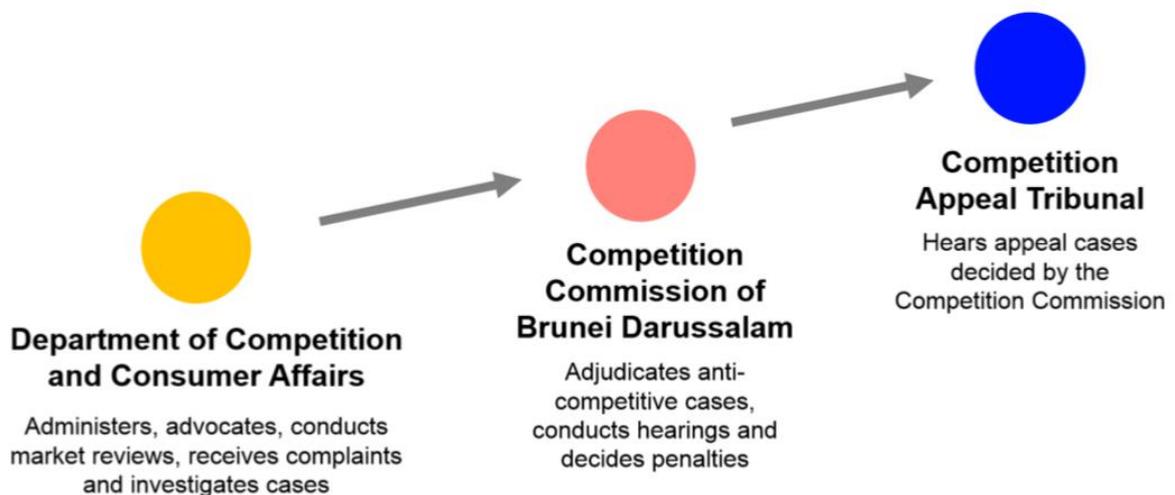
- *Reducing barriers to entry*
The Order helps deter businesses with a dominant position from imposing artificial barriers for MSMEs to enter or expand in the market.
- *Business efficiency*
- The Order encourages business to be more efficient and innovative to win customers.

9. Can the Competition Order 2015 address the issue of price increase in goods and services?

It is crucial to note that an increase in prices is not necessarily evidence of competition concerns or cartels. The Competition Order 2015 aims to promote a competitive market and it does not regulate prices of goods and services. Businesses are allowed to set prices of goods and services as they may deem fit, as long as the pricing decision is made independently of any agreement with others.

In the event that an increase in price is a result of an anti-competitive conduct or collusion by businesses, the Competition Commission will take necessary actions to address the issue.

10. Who are the authorities responsible in enforcing the Order?



11. How does the competition authority detect anti-competitive conduct?

Competition authority can detect anti-competitive conduct through various means and methods. For example, through information and complaints received as well as from businesses which are themselves involved in the anti-competitive conduct.

Businesses involved and come forward to report such conduct can be entitled for a reduction of penalties up to a maximum of 100% under the leniency program provided in the Order.

Any complaints on anti-competitive conduct can be reported by consumers or businesses to the:

Department of Competition and Consumer Affairs
Department of Economic Planning and Development
Ministry of Finance and Economy
Block 2A, Level 3, West Wing, Room 3.04
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