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The Competition Act of 2010: What effect will the Act Likely Have on the Supply and Prices of Goods and Services in Malaysia?
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Disclaimer: The analysis and estimates in this study reflect back-of-the-envelope calculations rather than rigorous model-based estimates. The opinions expressed in this presentation reflect only those of the author(s) and do not reflect any institution to which the author might be affiliated. Estimates and data may be before the financial crisis (to avoid the distorting effects of the broader crisis).
Headline Results

- A $1.2b jump in annual GDP after enforcement (assuming art 4. with reasonable application art. 6-9 and relax of PCAP Act)
- Changes in production and trade
  - produce more goods for domestic consumption
  - trade less electronics and more primary products
- Political distortions of Commission potentially significant, though ameliorated by private right of action
- Effects profile likely
  - short-term losses and longer-term gain of competitiveness
  - significant transfer surplus from producers to consumers
  - loss of market power

Malaysia: 2013 the year to focus on bid-rigging
Jan 18, 2012

The Chairman of MyCC, Malaysia’s competition authority, has announced that 2013 will be a year for the enforcement agency to focus on bid-rigging. Chairman Tun Sri Dato' Nazim Yaakob made the statement and noted that the focus is an emulation of competition law from other nations like Japan, the US and the UK. MyCC recently opened its new headquarters, where the Chairman made the statement soon after.

Public Procurements on the March -- Providing Ample Opportunity for Bid-Rigging
Source: Malaysian MoF

GLOBAL INTEGRITY REPORT: MALAYSIA - 2010

Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards
Anti-Competitive Behaviour and Productivity

- More than 10% of businesses say anti-competitive behaviour a serious problem
- About 20% for services
- What are the economic effects of this 10% disappears?
- Use econometric analysis to simulate gains of various provisions in new Competition Act

Source: World Bank (2009a) for anti-competitive behaviour and World Bank (2009b) for TFP estimates by industry
Example from Machinery Sectors

- MY machine productivity lower than other countries
- Extra value added will increase incomes
- Uncertain effects of anti-trust enforcement
  - destroys infant industry
  - know that 10% few AC as serious problem
- We can deduce increased competition helps more than hurts

*Extra Value Added Per Worker in 2012 if Applied Part II of Competition Act*

If Malaysia had increased productivity resulted from increased productivity of cases like Japan and Korea relied heavily on Art. 5 style industrial policy. The goal will be show quantitatively when welfare benefitsof collusion exceed costs

With about 20% of exports in this sector, more competition will scale back sector, and increase TFP.
Anti-Competitive Measures Probably Hurt Business More than Helped

- Most econometric studies show that govt performs worse than private sector.
- Anti-competitive measures helped individuals, temporarily.
- Probably led to increased volatility of $r$ and $\sigma$.
- AC measures could be distorting wages (for losers in comp battle).


Wages Rise Faster than Productivity - Suggesting Market Power

Source: Ho and Yap (2001).
We’ve seen these kinds of distortions before

Anti-competition leads to lower Q and higher P. But prices in MY down. The combination of anti-competitive behaviour plus price control (subsidies) leads to distortions we only see in Soviet (and post-Soviet) economies.

General equilibrium thinking – its worse than you think. One distorted sector draws capital and labour out of others – distorting those markets, even if there are no AC or PF policies in those markets. But can’t bring private rights of action in collateral markets.
How Badly Are Malaysia’s Markets Distorted?

Comparators include MY, TH, KR, CN, ID, SG, PH, JP, and TW

Demand
Lower demand for better policies because industrial policy palliative

Supply
Technology – 4th best
Labour – 3rd best
Capital -2nd best
Innovation- 4th best
Bus. Soph- 4th best

Goods markets

Why spend on R&D when you can manipulate prices and quantities?

Competition will be tough medicine in the short term

- If competition-led competition can restore key exports, nothing can
- Lower prices = lower wages and lower returns to capital
- Increase in unemployment and less lending (but better portfolios)
- MY service sectors uncompetitive – requiring adjustment
- Service-led wages fall in short-run but increase in longer-run

![Industrial Policy Probably Exhibits Negative Returns](image)

Source: World Bank (2009b), based on UN Comtrade data.

![Composition of Service Exports from Malaysia, 1995–2007](image)

Source: International Monetary Fund balance of payments statistics.
Handling art. 5 exemptions

- Few likely art. 5 exemptions left (if they could have worked, they would have already),
- Unit prices of many exports still high
- Most of exports still low tech – if industrial policy was going to work, it would have already
- Commission will come under pressure to continue support – should use “divide and conquer strategy”

Source: World Bank (2009b)

Little economic rationale to exemptions
What do shipbuilders, insurance companies, and a food producer have in common. Not much. Many companies will try to exercise political power via Commission. Commission has role to play in seeking allies against high-powered companies.
Removal of anti-competitive distortions likely to skew MY’s economy back to primary products and agro-foods. But solution isn’t industrial policy (it’s had its chance). Competition-induced innovation seems like MY’s best bet now....
The Commission and Foreign Jurisdictions

- Extra-territorial effect will likely involve China, Thailand, and Indonesia.
- Require close co-operation on law enforcement in upper-income
- Detection likely involve statistics for low RoL countries.
- Right of Private Action opens MY courts to foreign litigants
- No Eurojust – question if TPP or other mechanism allows for cross-border co-ordination?

Art. 3(1 and 2) requires an effects test on domestic markets
Commission – Strategy Differs from Triage

The Malaysia Competition Commission is taking a ‘soft approach’ to tackle price-fixing.

By Anuya Ravandran

PETALING JAYA: The Malaysia Competition Commission (MyCC) has begun checking anti-competitive behaviour in the market via a "soft approach" with the issuance of what it termed as a "proposed decision" against the Cameron Highlands Tofos for contravening a section of the Competition Act 2010 due to price-fixing activities.

MyCC is currently probing the steel industry and has indicated that it will also monitor the cement-making industry for possible anti-competitive practices.

Like Russia now, MyCC has ability to go after big fish as part of “honeymoon period.” Will need to identify winners of MyCC’s work and ask for support.

political economy dealing with “tracing” incentives from executive agencies back to the politicians (and their constituencies). By seeing how the MyCC market scrutiny hurts (or helps) these constituencies, economists can predict which types of enforcement actions the Commission will take. Chambers will particularly back Commission.
Price Controls Exacerbate rather than Solve Problem

- Harms of price controls and subsidies well known
- Elimination will lead to lower incomes (on Y and w sides in short-term)
- Decrease in economic crime
- Yet, mere existence of the Act serves as large drag on economy.

The PCAP Act distorts trade because rationale investors know that their products COULD fall under regulatory authority – thus deterring investment in the past.
What Does Malaysian Economy Teach Us about Effects of Competition Act?

- Short-term losses (allocative efficiency) but longer-term gains (dynamic efficiency)
- Commission probably unable to pursue most egregious sectors
- TPP likely to help – as gives “treaty status” to Competition Act
- The Price Control and Anti-Profititeering Act will some of gains from Competition Act