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2013

## The Competition Act of 2010: What effect will the Act Likely Have on the Supply and Prices of Goods and Services in Malaysia?

Bryane Michael



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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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Bryane Michael, University of Hong Kong

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, 2013

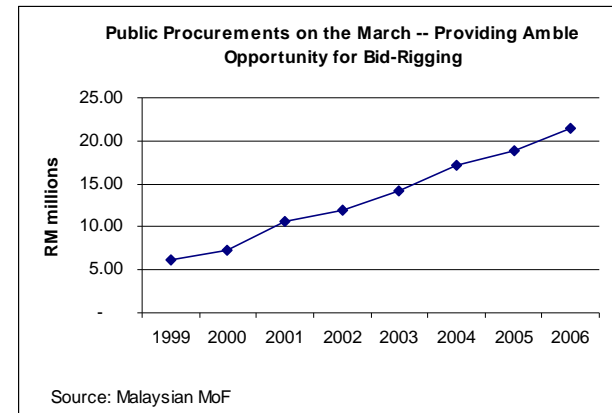
The Chairman of MyCC, Malaysia's competition authority, has announced that 2013 will be a year for the enforcement agency to focus on bid-rigging. Chairman Tan Sri Siti Norma Yaakob made the statement and noted that the focus is an emulation of competition law from other nations like Japan, the US and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

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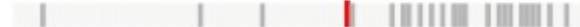
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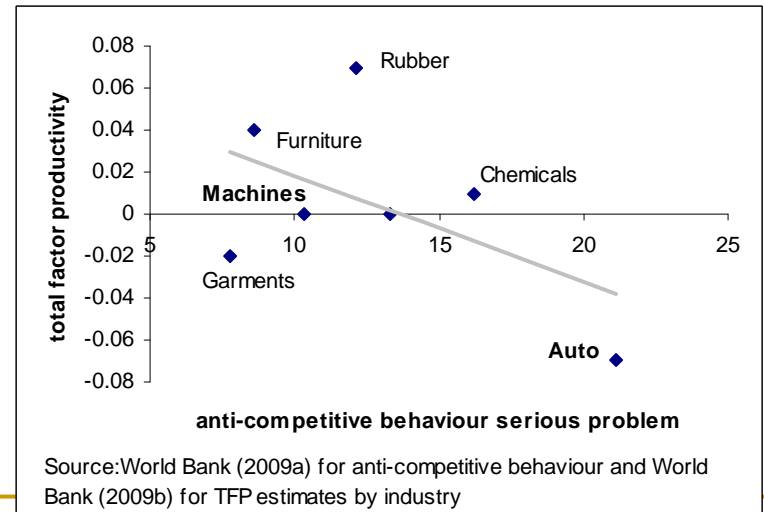
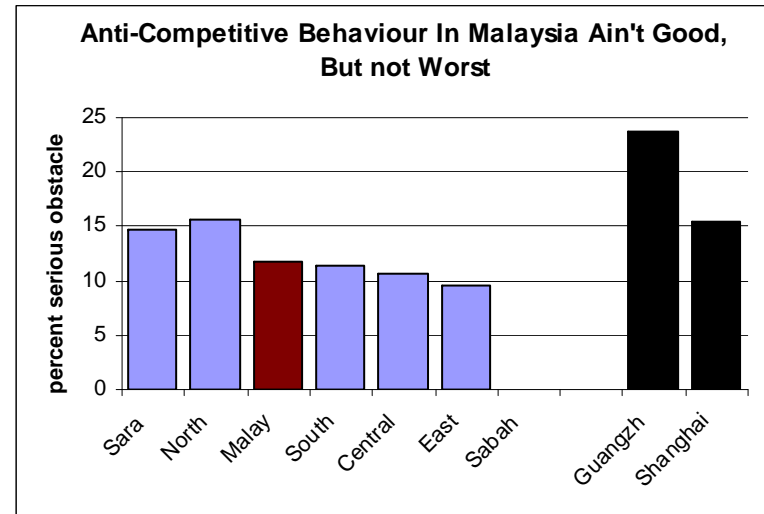
GLOBAL INTEGRITY REPORT: MALAYSIA - 2010

Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards



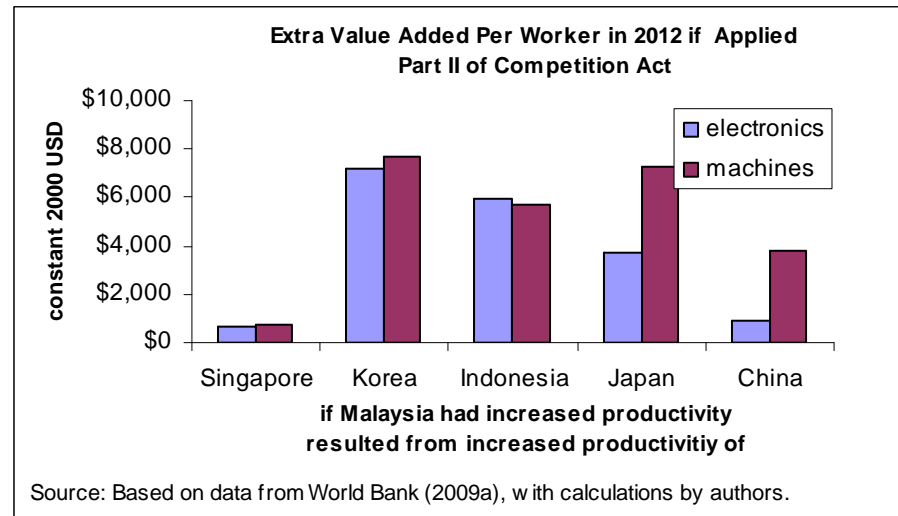
# Anti-Competitive Behaviour and Productivity

- 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



# 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

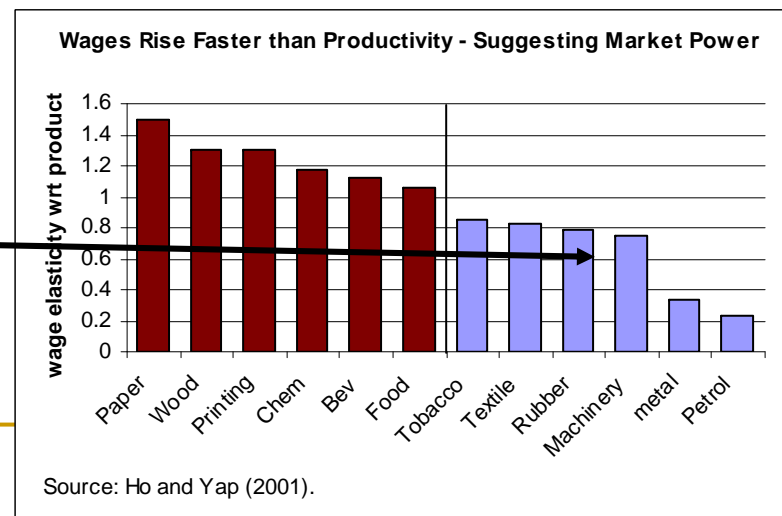
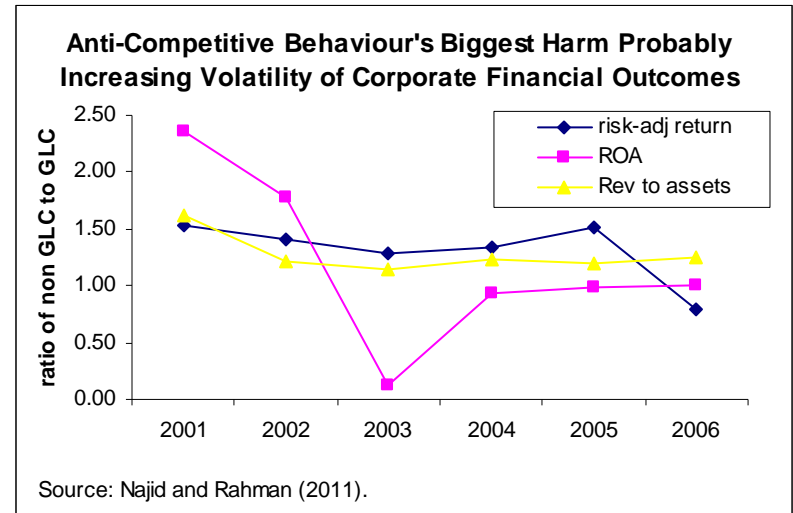


cases like Japan and Korea relied heavily on Art. 5 style industrial policy. The goal will be show quantitatively when welfare benefits of collusion exceed costs

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)



# We've seen these kinds of distortions before



ACCC HOME Welcome to the ACCC → Malaysia Airlines Cargo Sdn Bhd penalised \$6 million for price fixing cartel

## The ACCC

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### Malaysia Airlines Cargo Sdn Bhd penalised \$6 million for price fixing cartel

The Federal Court in Sydney has penalised Malaysia Airlines Cargo Sdn Bhd \$6 million for price fixing as part of a cartel following action by the Australian Competition and Consumer Commission.

"This penalty sees the total penalties ordered against this international cartel increase to a record \$58 million. These penalties are the highest generated by a single ACCC Investigation," ACCC Chairman Rod Sims said.

The ACCC has been pursuing a number of international airlines for cartel conduct relating to the carriage of air freight. Malaysia Airlines Cargo Sdn Bhd is the ninth airline to settle proceedings against it.

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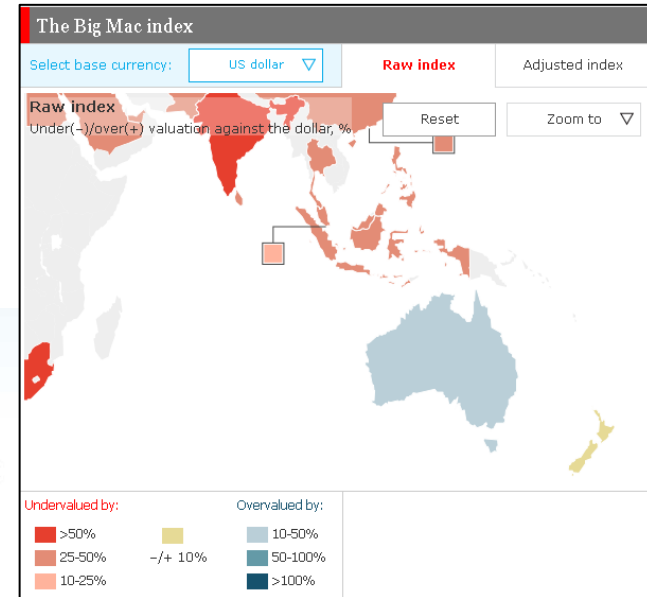
### Newsflash

#### Dr M denies Malaysia involved in tin cartel

Politics & Government 2012  
Written by Stephanie Sta Maria of theedgemalaysia.com  
Monday, 23 July 2012 12:36

PETALING JAYA (July 23): Former prime minister Tun Dr Mahathir Mohamad has again sought to dispel the notion that Malaysia had indulged in "tin cartel operations" after being asked about the matter in a recent interview.

Expressing surprise over the question by a "friendly Malaysian interviewer", Dr Mahathir said he had already explained Malaysia's tin trading in his memoirs but noted that many Malaysians still believed Western media reports that Malaysia had cornered the tin market soon after he became the prime minister in 1981.



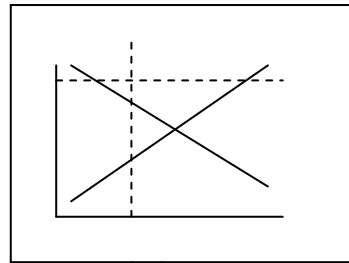
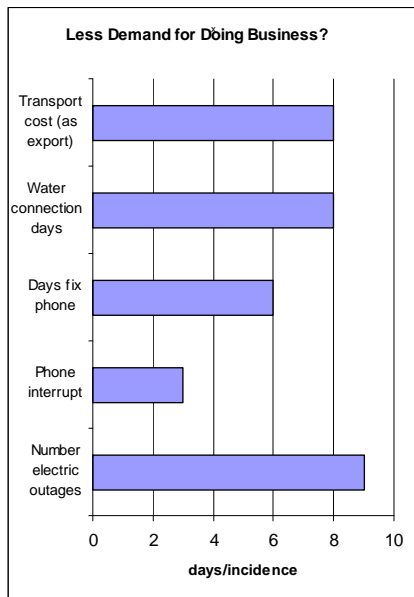
Anti-competition leads to lower Q and higher P. But prices in MY down. The combination of anti-competitive behaviour plus price control (subsidies) leads to distortions we only see in Soviet (and post-Soviet) economies.



## 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 cant bring private rights of action in collateral markets.

# How Badly Are Malaysia's Markets Distorted?



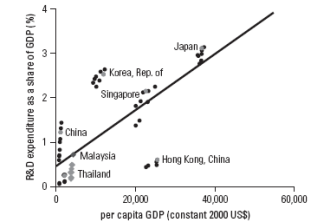
**Goods markets**

**Demand**  
 Lower demand for better policies because industrial policy palliative

**Supply**  
 Technology – 4<sup>th</sup> best  
 Labour – 3<sup>rd</sup> best  
 Capital -2<sup>nd</sup> best  
 Innovation- 4<sup>th</sup> best  
 Bus. Soph- 4<sup>th</sup> best

source: World Bank (2009).

Figure 7.1 R&D Expenditure as a Share of GDP, 1996–2004



Source: World Bank World Development Indicators database; ASEAN STI/TCI (<http://asean.kisti.re.kr/>).  
 Note: The trend line was calculated as the predicted values from regressing R&D expenditure as a share of GDP on per capita GDP. The sample of economies includes Organisation for Economic Co-operation and Development countries plus Argentina, Brazil, Chile, China, Hong Kong, China, Indonesia, Malaysia, Mexico, the Philippines, Singapore, South Africa, Taiwan, China, and Thailand.

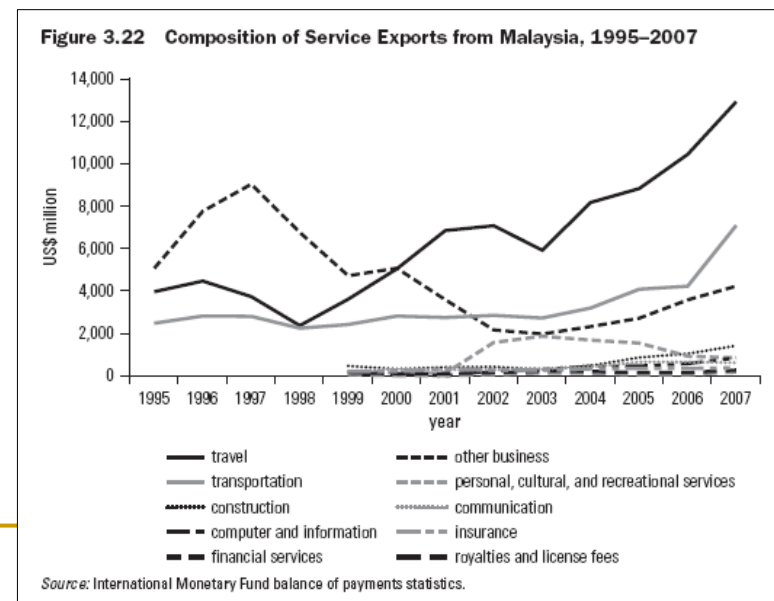
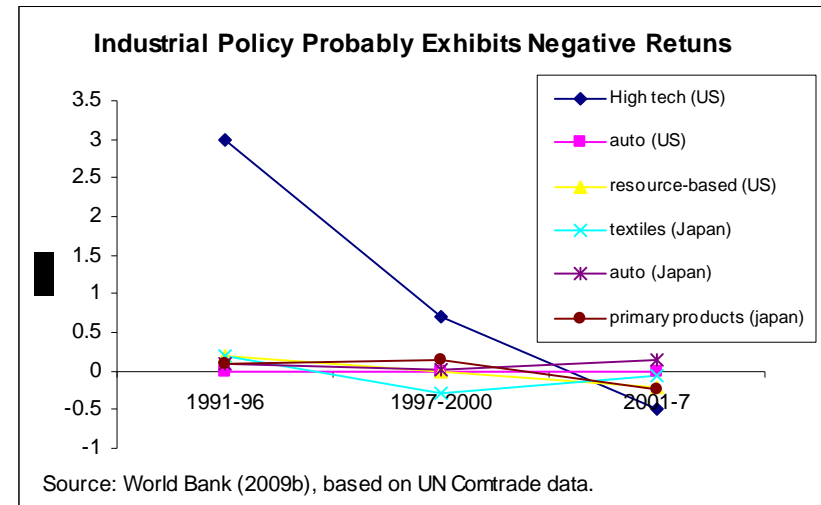
Why spend on R&D when you can manipulate prices and quantities?

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



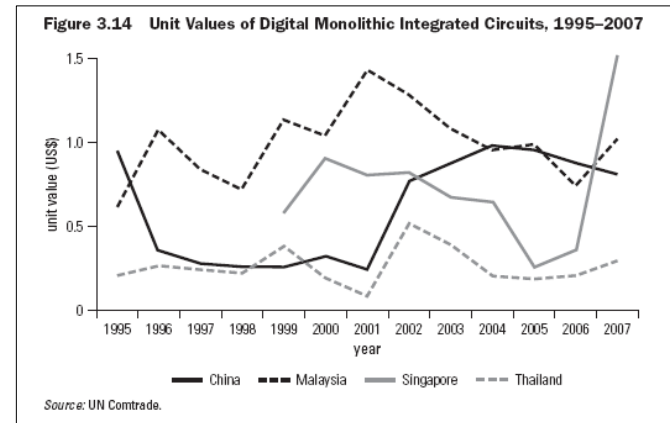
# Competition will be tough medicine in the short term

- 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



# 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)



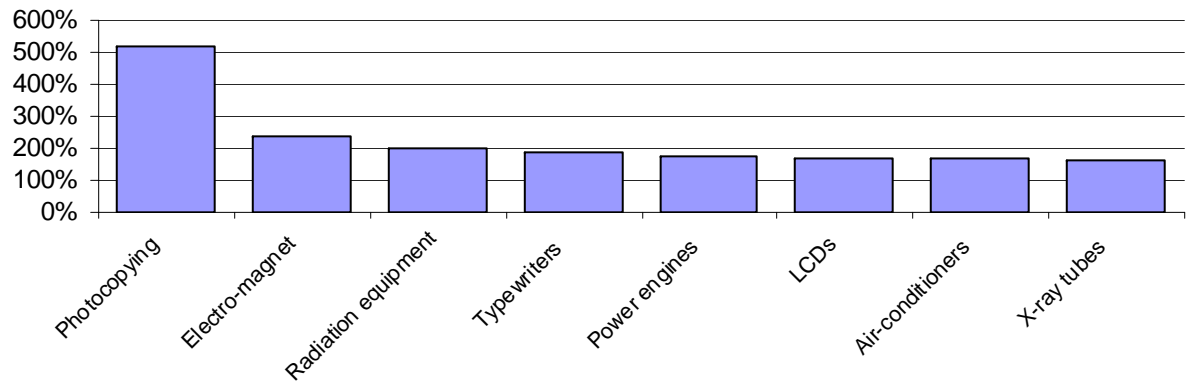
## Little economic rationale to exemptions

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.

# Have Anti-Competitive Measures Distorted MY's Trade?

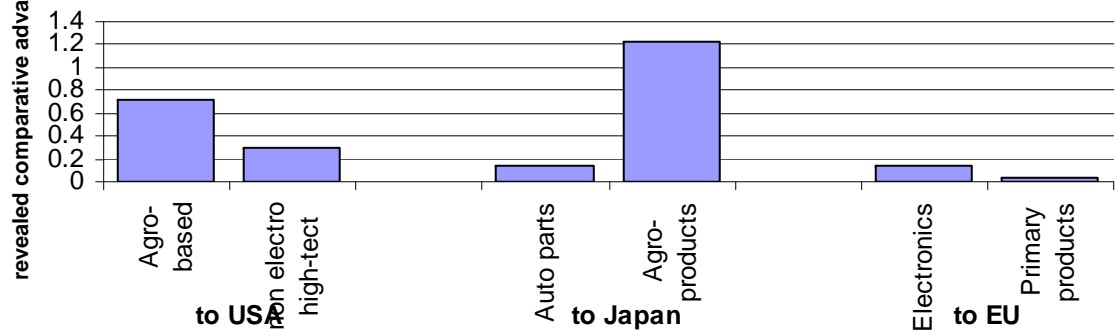
Removal of anti-competitive distortions likely to skew MY's economy back to primary products and agro-foods. But solution isn't industrial policy (its had its chance). Competition-induced innovation seems like MY's best bet now....

Why is Malaysia Exporting Goods In which Has Little Apparent Comparative Advantage?



Source: World Bank (2009b).

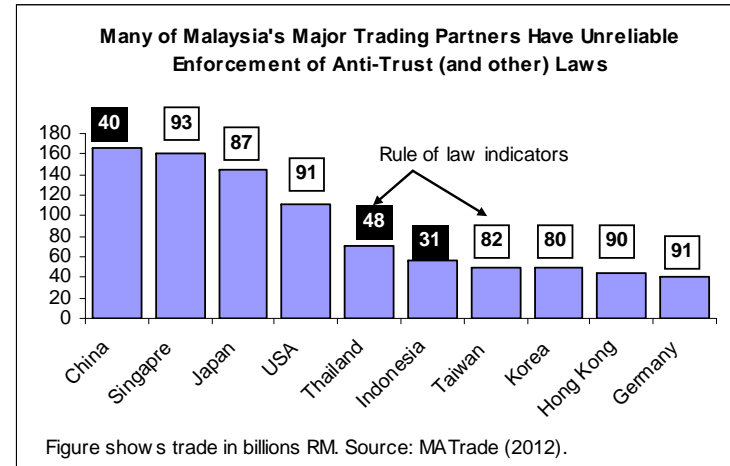
Malaysia Likely to Produce What Has Comparative Advantage In



Source: World Bank (2009b).

# The Commission and Foreign Jurisidctions

- 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?



## Collusion, manipulation in S'pore offshore forex rates?

Written by :

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SINGAPORE- Internal reviews by banks in Singapore have found evidence that traders colluded to manipulate rates in the offshore foreign exchange market, according to a source with knowledge of the inquiries.

The discovery widens a global lending rate scandal into new markets, as fallout from the Libor case puts banks under added scrutiny and spurs both regulators and institutions to reconsider how certain key interest and currency rates are set.

The probes found evidence showing that traders from several banks communicated with each other over electronic messaging about what rates they were going to submit for the local banking association's fixings for non-deliverable foreign exchange forwards (NDFs), aiming to benefit their trading books.

"Traders were talking to traders, saying: 'I need you to help me today, I need to fix low,'" said the bank source, who asked not to be identified due to the confidential nature of the reviews.

*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.

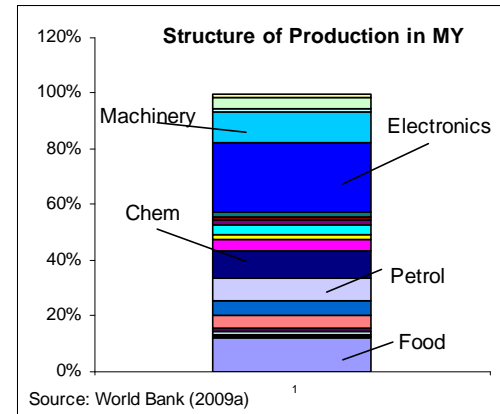


By Anuja Ravendran

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 florists for contravening a section of the Competition Act 2010 due to price-fixing activities.

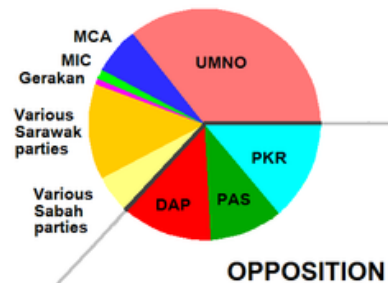
MyCC is currently probing the steel industry and has indicated that it will also monitor the cement-making industry for possible

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.

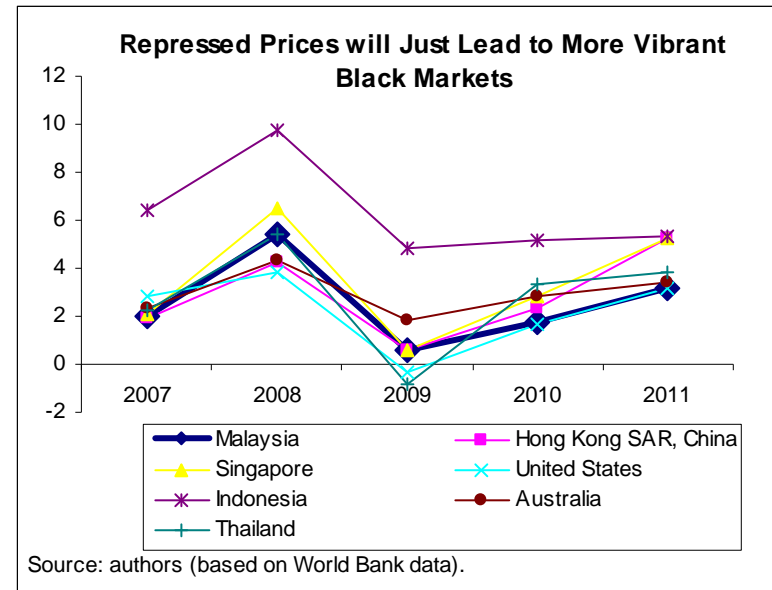
## BARISAN NASIONAL



**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.

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# 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-Profiteering Act will some of gains from Competition Act
-