



MARKET REVIEW ON THE DIGITAL ECONOMY ECOSYSTEM UNDER THE COMPETITION ACT 2010

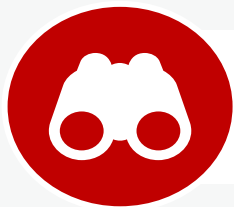
DRAFT FINAL REPORT:

*Summaries of key issues with targeted and general preliminary
recommendations*

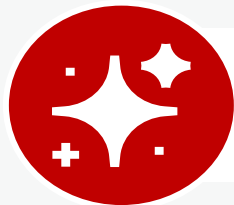
BY MALAYSIA COMPETITION COMMISSION (MyCC)



Re-cap on the context of the project and sub-sectors, followed by the identified key issues and proposed recommendations



Project context



Overview of the digital economy



Overview of the sub-sectors



Sub-sector key issues, targeted & general preliminary recommendations

Project context

MyCC is conducting a market review on selected sub-segments of the digital economy sector

Project statements & objectives

Project statements



- In Malaysia, the **digital economy sector is at a growing stage**;
- At present, it **lacks definitive regulations, policies, and specific data** pertaining to the degree of competition;
- There may be **inefficiency in the supply chain** is leading to competitive challenges among platform providers and users;
- **Intervention from the government is necessary** to address various challenges and issues in the digital economy that have been highlighted in numerous complaints.



Project objectives



Determine market structure, supply chain, and industry players' profiles.



Study market interactions and identify any possible anti-competitive behaviours.



Determine extent of market distortion by the authority's regulations and if government intervention is necessary.

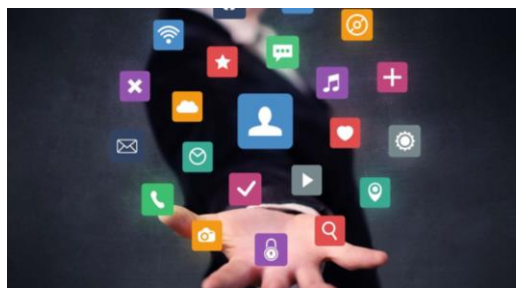


Recommend improvements across the government agencies and regulators.

Our focus of the study will be on 4 sub-sectors; data privacy & protection will also be studied across all sub-sectors

Key sub-sectors being studied

Mobile operating and payment system



- Software for mobile devices that connect apps with the device's hardware.
- This includes the mobile operating system, app stores, app distribution, and payment systems.

E-commerce (Retail marketplace)



- Platforms where users and businesses buy and sell goods online.
- This excludes service-based platforms like food delivery or ride-sharing.

Digital advertising services



- Online platforms that connect buyers and sellers of digital ad space.
- Ads appear on search engines, social media, and other websites.

Online travel agencies (OTAs)



- Websites and apps that let users book travel services.
- Focus is exclusively on platforms for booking accommodation.

- **Data privacy:** Internet users' rights to control which data is shared with whom and how their information is used in the digital marketplace.
- **Data protection:** Mechanisms and management practices employed by companies to prevent the misuse or unauthorised access of personal and sensitive information that they collect, store, and process.

The study is divided into 3 phases;

Overview of the approach

1 Sector overview

- **Overview of digital economy** in Malaysia:



Historical performance



Projected performance/
growth



Legislation and
regulations

2 Sub-sector deep-dive

- **Deep-dive on 4 sub-sectors:** (a) Mobile Operating & Payment System, (b) E-commerce (Retail marketplace), (c) Digital Advertising Services, (d) Online Travel Agencies; Data Privacy & Protection to be assessed across all sub-sectors.



Market structure and
supply chain



Market practices



Sub-segment regulation



Level of competition



Consumer behaviour &
innovation trends



Key recommendations

Key focus area

3 Public documents

- Prepare **public-related documents:**



Public summary
document



Video presentation

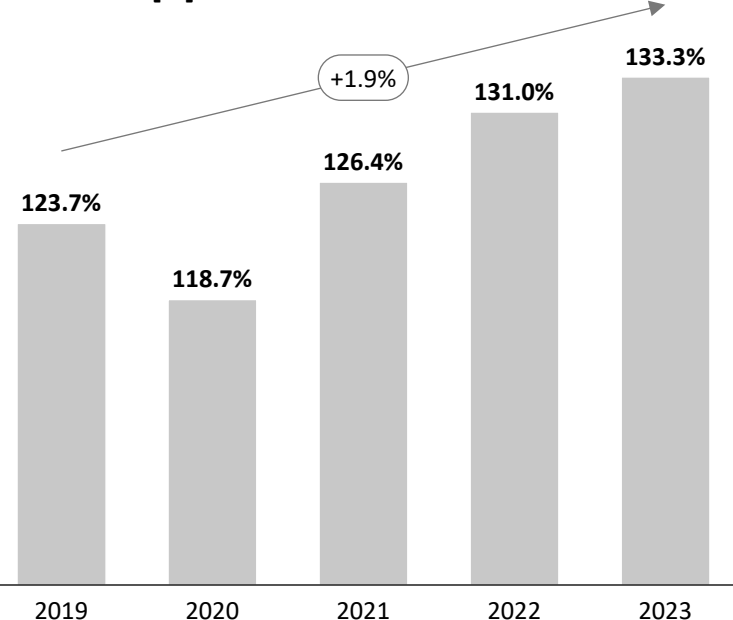
Overview of the digital economy sector in Malaysia

Digital economy is rapidly emerging as a key sector in MY, driven by increasing internet connectivity, access to ICT tools & popularity of social media usage

Key digital economy statistics in Malaysia (selection only)

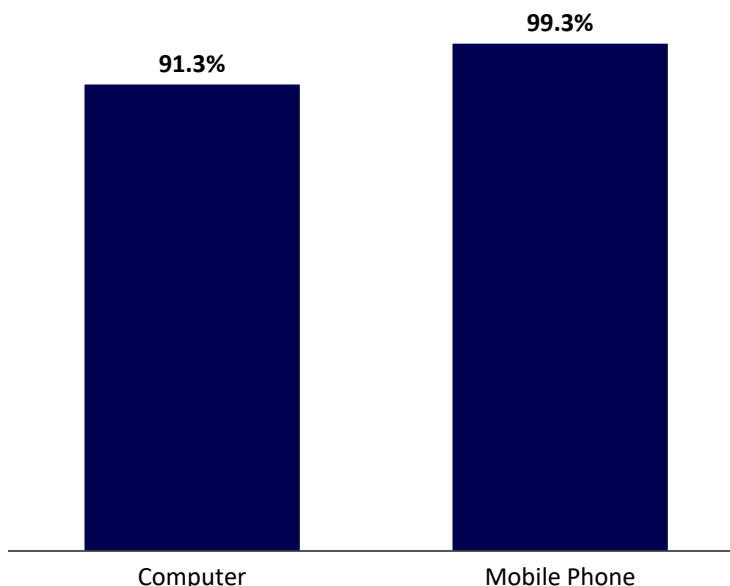
As internet access expands across the population, more people are able to connect to the digital world

Mobile broadband penetration rates in Malaysia, 2019-2023 [%]



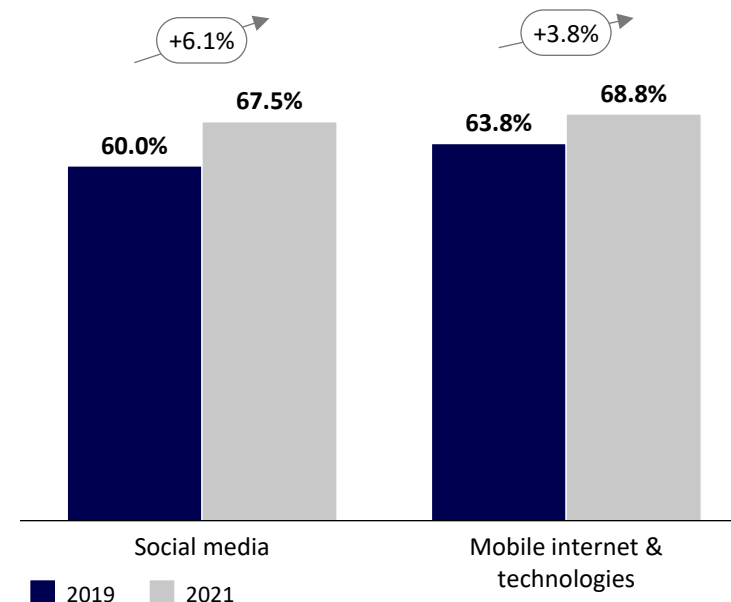
The increased internet penetration is further supported by the wider accessibility of ICT tools...

Percentage of households with access to selected ICT tools in Malaysia, 2022 [%]



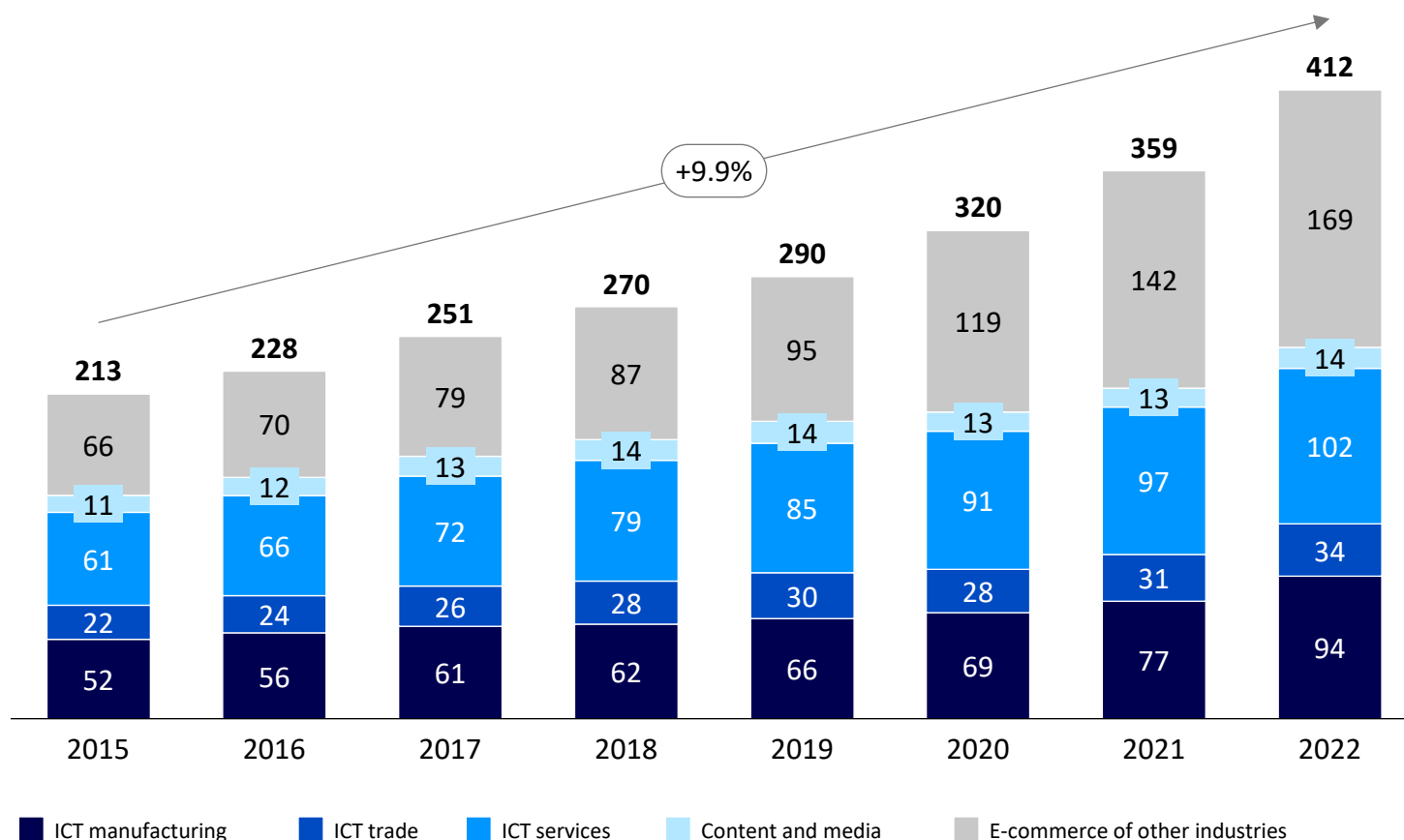
...which has led to greater engagement in various online activities, including social media

Social media and mobile internet & technologies usage, 2019 & 2021 [%]



As of 2022, the digital economy sector contributed MYR 412 bn, representing 23% of the GDP; Govt. aiming to increase to 25.5% by 2025

Overview of Malaysia's digital economy sector, 2015-2022 [MYR bn]



Insights

- Sector contributes an est. **23.0%** to the national GDP in 2022.
- **E-commerce of other industries sub-sector** holding largest share of 41% in 2022 and achieved a CAGR of 14.2% from 2015 to 2022.
- Overall **strong growth** throughout the years, contributed by factors such as:
 - **Increasing connectivity:** 99.1% in mobile penetration in 2022, broadband penetration of 133.3 subscriptions per 100 inhabitants.
 - **COVID-19:** Incentive by govt. to encourage digital adoption, e.g., PENJANA stimulus package.
 - **Growing adoption of new tech by businesses:** E.g., AI, IoT, cloud computing, machine learning, GenAI.
 - **Government's push for startups:** Initiatives such as KL Innovation Belt, Unicorn Golden Pass.

Anti-competition is a particular concern - various high-profile cases highlight need for stringent regulations & oversight

Selected anti-competition cases

App tracking practices in mobile ecosystem



- In 2022, Germany's competition authority launched an investigation into a mobile operating system provider's **app tracking framework**, citing concerns it may give the provider's own services an **unfair advantage by limiting third-party access** to user data while retaining access for itself.

Algorithmic bias in e-commerce logistics



- In 2024, Indonesia's competition authority raised **concerns about an e-commerce platform and its affiliated logistics provider**, alleging abuse of market dominance and violations of competition law.
- The core issue involves the platform's algorithms, which reportedly **prioritise its own delivery service over independent couriers**.

Monopolistic practices in digital advertising



- In early 2023, the Department of Justice, together with several state-level agencies, filed a lawsuit against a digital advertising technology provider, raising **concerns about potential monopolistic practices in the ad tech market**.
- The case centers on claims that the company's **auction pricing mechanisms may have favoured its own ad tools** and that past acquisitions could have contributed to its strengthened market position.

Parity clauses in OTA contracts



- In 2020, Hong Kong's competition authority investigated several major OTAs that dominate local accommodation bookings, focusing on **parity clauses in contracts that could restrict competition and hinder the growth of smaller or new entrants**.

Currently, there is a lack of sector-specific regulations governing the four digital economy sub-sectors (1/3)

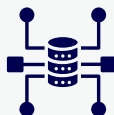
Key regulations related to the digital economy



Government's role	Coverage area	Mobile operating & payment system players	E-commerce marketplaces & logistics players	Digital advertising intermediaries	OTAs
Policy oversight	Sub-sector direction	-	<p>KPDN: The Electronic Commerce Act 2006 provides the legal framework governing electronic transactions and online business activities in Malaysia. Amendment to the act is currently underway.</p> <p>MDEC: The National E-Commerce Strategic Roadmap (NESR) aims to boost e-commerce adoption and drive digital trade growth.</p>	-	<p>MOTAC: The Tourism Industry Act 1992 covers the licensing and registration of tourism operators, travel agencies, tour guides, hotels, and other tourism-related businesses.</p> <p>Amendment to the act is currently underway to also cover registration of digital platforms.</p>
Operational oversight	Company licensing	SSM: Under the Companies Act 2016, SSM oversees company incorporation, registration, and statutory compliance.			

Currently, there is a lack of sector-specific regulations governing the four digital economy sub-sectors (2/3)

Key regulations related to the digital economy



Government's role	Coverage area	Mobile operating & payment system players	E-commerce marketplaces & logistics players	Digital advertising intermediaries	OTAs
Operational oversight	Sub-sector operating license	No regulatory supervision by any ministry/agency.	MCMC: Under the Postal Services Act 2012, all courier players providing postal and courier services must obtain a license.	No regulatory supervision by any ministry/agency.	MOTAC: Under the Tourism Industry Act 1992, OTA and digital travel service operators with a physical office in Malaysia must obtain a Travel Operating Business and Travel (TOBTAB) license. Amendment to the act is currently underway.
	Tax payment	LHDN: Under the Income Tax Act 1967, it oversees assessment, collection, and enforcement of income tax obligations for businesses (and individuals). RMCD: Under the Service Tax (Digital Services) Regulations 2019, it imposes a 6% (increased to 8% in 2024) service tax on digital services provided by foreign service providers to Malaysian consumers.			
					MOTAC: Under the Tourism Tax Act 2017, it imposes a MYR 10 per night rate on foreign tourists, which in 2021 included bookings from digital platform service providers.

Currently, there is a lack of sector-specific regulations governing the four digital economy sub-sectors (3/3)

Key regulations related to the digital economy



Government's role	Coverage area	Mobile operating & payment system players	E-commerce marketplaces & logistics players	Digital advertising intermediaries	OTAs
Operational oversight	Consumer protection	KPDN: Under the Consumer Protection Act 1999, it safeguards consumer rights, ensuring fair trade, product safety, and protection against misleading practices.			
	Data privacy and protection	JPDP: Under the PDPA 2010, data controllers must ensure responsible handling of personal data—including collection, processing, and lawful cross-border transfers under specified conditions.			
	Competition	MyCC: Under the Competition Act 2010, it prohibits anti-competitive agreements and abuse of dominant position in the market.			
	Dispute resolution (for businesses)	MCMC: Under the Postal Services Act 2012, courier activities related to e-commerce fulfilment are regulated, including oversight of competition practices.			
		No regulatory supervision by any ministry/agency.			

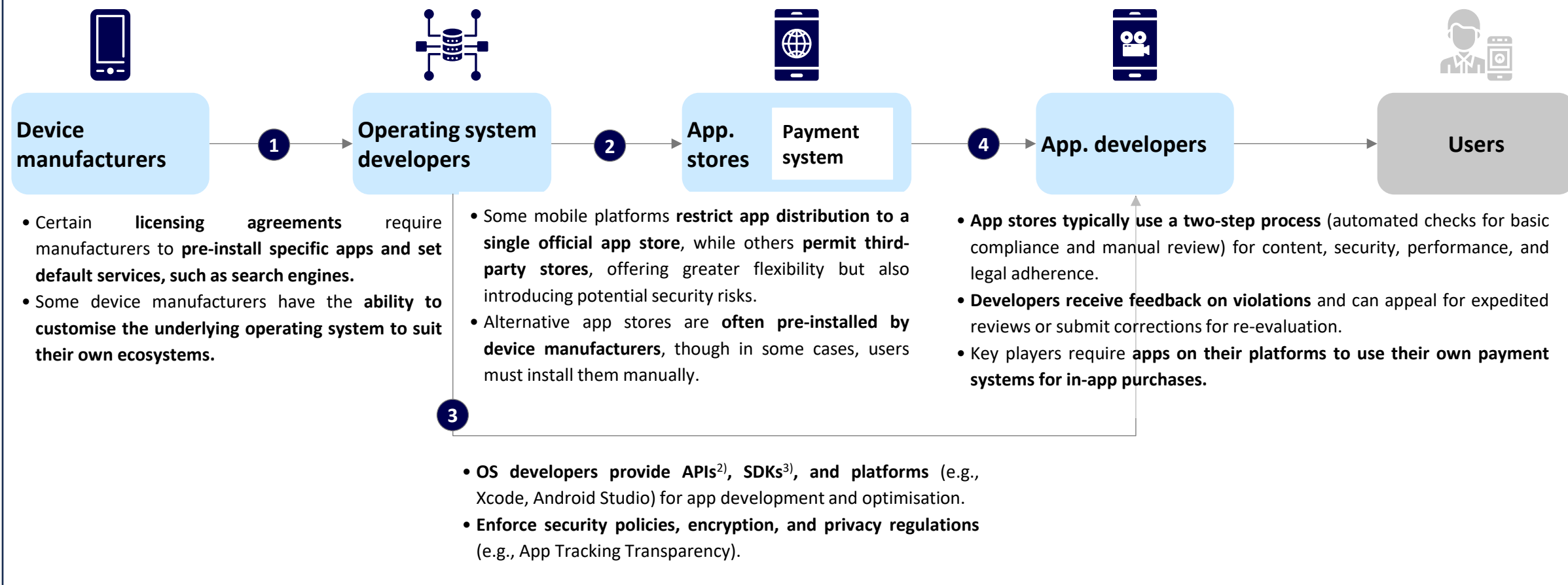
Key issues & preliminary recommendations

**For complete details, please refer to the Draft Final Report published on MyCC's official website*

Mobile operating and payment system

Sub-sector is primarily dominated by Android & Apple; although both have different ops. models, they maintain close control over the entire supply chain

Key market practices across the mobile operating and payment system supply chain

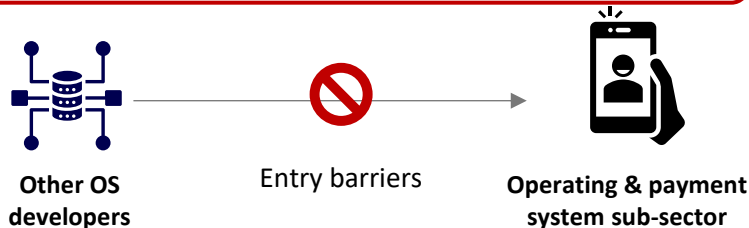


1) Mobile Application Distribution Agreement, 2) Application programming interface, 3) Software development kit

Market power held by the 2 key players allows them to control the development, distribution, payment and competitive environment for app developers (1/2)

Key competitive, regulatory and market issues in the mobile operating and payment system sub-sector

High entry barriers for OS dev. and app stores



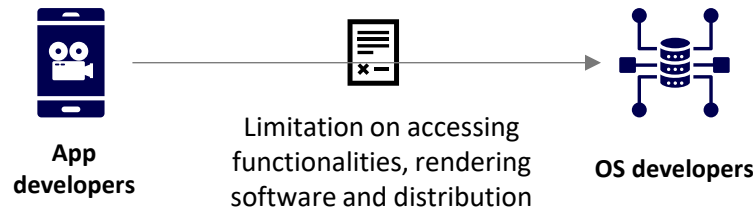
- In Malaysia, the leading mobile platform holds approximately 68% market share, while the second holds about 31%. In 2021, the primary app store of the second platform accounted for 80% of mobile app downloads, with the leading platform's app store making up 19%.
- Challenges such as indirect network effects, significant development costs, economies of scale enjoyed by established players, and customer loyalty can make market entry difficult for new players.

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Limitations on app developers during the development process and distribution



Limited access to device functionalities

- 3rd party developers has limited access to device features (e.g., NFC).

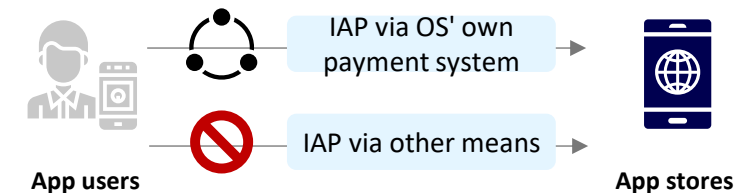
Restrictions/challenges in browser app development

- On one major mobile platform, all browsers are required to use a specific default rendering engine, which limits features and performance compared to other platforms.

Indirect control over app distribution

- The position of the 2 largest mobile OS providers gives them strong influence over app developers, encouraging them to maintain a presence on both platforms.

Restrictive app store payment option

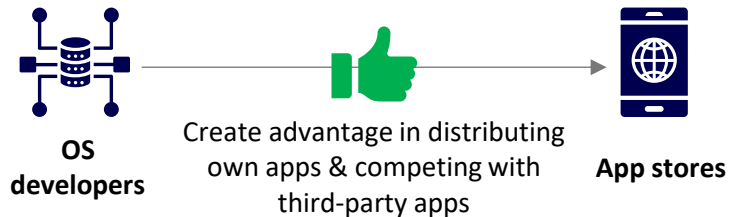


- Major app ecosystems require all in-app purchases to use their proprietary payment systems, charging transaction fees between 15% and 30%.
- Developers are unable to promote or link to alternative payment methods, limiting pricing and payment options.

Market power held by the 2 key players allows them to control the development, distribution, payment and competitive environment for app developers (2/2)

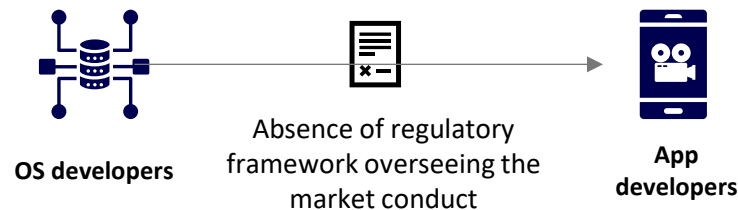
Key competitive, regulatory and market issues in the mobile operating and payment system sub-sector

Self-preferencing



- **App availability:** Some OS players develop and promote their own apps, which may compete directly with 3rd party alternatives.
- **Pre-installed app:** Default apps often come preloaded on devices, potentially giving them greater visibility and a competitive advantage.
- **Data advantage:** OS providers may collect user data to optimise their own apps over competing apps.

Imbalance regulatory framework



- No regulatory oversight of mobile operating systems.
- Platforms currently operate with limited regulatory oversight, despite their central role in app distribution, in-app payments, and access to device functionalities.

Operational challenges in app development and management



- App developers face several challenges within the app store ecosystem:
 - Lack of customisation in app store policies for local markets
 - High app development cost and resource demands
 - No direct line of contact during app review
 - Unclear review process
 - Inconsistent responses
 - Unclear approval/rejection process
 - Hidden dynamics of app store ranking algorithm

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3 recommendations to address the key issues in the mobile operating and payment systems sub-sector to promote fairer competition (1/2)

Recommendations	Description	Targeted issues	Case study
Develop mobile operating and payment system sub-sector guideline	<ul style="list-style-type: none"> Establish a clear and specific set of guideline for key digital platforms operating in the mobile operating and payment system space in Malaysia. Guideline to serve as a foundation to the unified digital economy legislation (see general recommendation 1), with key areas being: <ul style="list-style-type: none"> – Platform definition: Specific to mobile operating systems, app stores and IAP systems that are integrated into app stores. – Fair business conduct rules: Fair access to key functionalities, encourage responsible use of app developer data, allow flexible commercial terms in terms of optionality in payment system. – User rights: Provide users with freedom to choose to uninstall pre-installed apps, change default apps, support user data portability. – Access & transparency requirements: Maintain fair and open processes for app review, listing and ranking, provide clear guides on access to hardware functionalities, facilitate interoperability and data portability. 	<ul style="list-style-type: none"> • High entry barriers for OS developer and app stores • Limitations on app developers during the development process and distribution • Restrictive app store payment option • Self-preferencing • Imbalance regulatory framework 	<p>Japan (2018): In '18, JFTC issued the “Fundamental Principles for the Improvement of Rules Corresponding to the Rise of Digital Platform Businesses” to:</p> <ul style="list-style-type: none"> • Enhance transparency, fairness, and effective competition in digital platform operations. • Outline fair business conduct rules, transparency in algorithms and ranking, and responsible data use. <p>The guideline serves as a foundation for later sector-specific legislation, “Promotion of Competition for Specified Smartphone Software” in 2024.</p>

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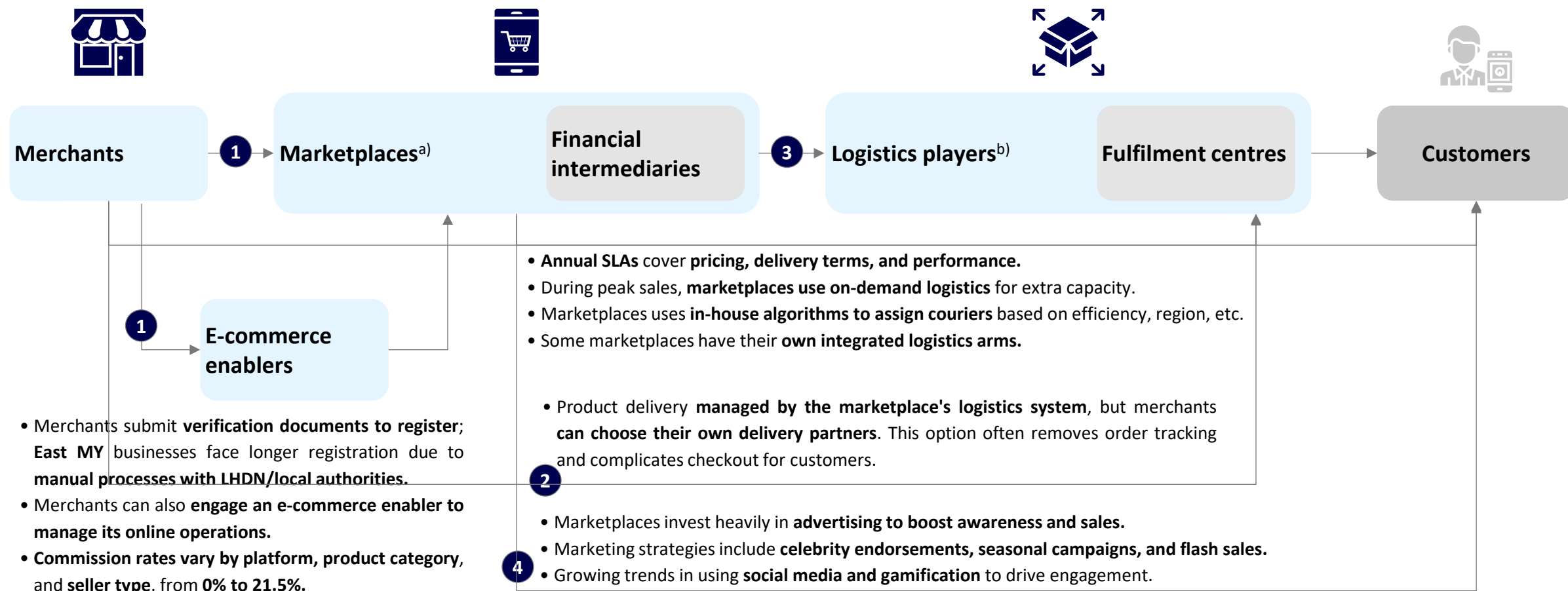
3 recommendations to address the key issues in the mobile operating and payment systems sub-sector to promote fairer competition (2/2)

Recommendations	Description	Targeted issues	Case study
Expand the regulatory scope of payment systems (to cover integrated app store payments)	<ul style="list-style-type: none"> • Key players with IAP currently operate without direct regulation by BNM concerning their commission fees to app developers. • Conduct market assessment on tokenisation platforms' expected growth, adoption and impact. Assessment to also evaluate implications for local app developers, consumers, and the broader digital economy. • Potential amendment of the Financial Services Act to cover "digital platforms with integrated payment functionalities". 	<ul style="list-style-type: none"> • Restrictive app store payment option 	Australia: Proposed changes to its Payment Systems (Regulation) Act 1998 to regulate new payment providers, specifically those using non-monetary digital assets, including digital currencies and "closed-loop" system.
Establish a local app developer consultative body	<ul style="list-style-type: none"> • Create an app developers' consultative body to: <ul style="list-style-type: none"> – Serve as an alternative point of contact between developers and global app platforms. – Collate recurring issues and escalate them as a unified voice to relevant platforms. – Raise/table key issues to relevant ministry for updates, support and next steps. – Provide localised guidance on platform policies and appeals. 	<ul style="list-style-type: none"> • Operational challenges in app development and management 	U.S.: The App Association represents over 5,000 small and medium-sized tech. companies in advocating on policy issues such as platform fairness, privacy standards and workforce development.

E-commerce (retail marketplace)

Sub-sector consists of 3 key parties – merchants, marketplaces and logistics players; Selected marketplaces have end-to-end supply chain control

Key market practices across the e-commerce (marketplace) supply chain

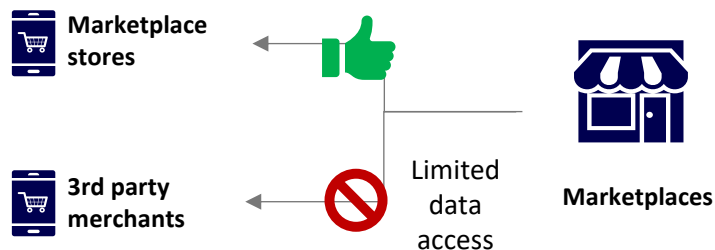


a) Financial intermediaries typically integrated with marketplaces to offer payment processing, b) Logistics players may own and operate fulfillment centers

Market power of key players has led to 11 key issues, with ops. pressure highlighted as the most prominent concern among merchants (1/4)

Key competitive, regulatory and market issues in the e-commerce (retail marketplace) sub-sector

Self-preference by using data to gain competitive advantage



- Marketplaces may have the ability to leverage their extensive demographic, sociographic, and psychographic data to favour their own partnered shops or brands or promote their private label products.
- Third-party merchants only receive standard performance metrics, leading to potential imbalance in visibility and opportunity.

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Masking of delivery options



- Marketplaces selectively display or may prioritise certain delivery options as part of its effort to improve efficiency and reduce delays
- Rise of integrated logistics services also raises self-preferencing concerns
- There are also regulatory challenges arising from overlapping jurisdictions. While MyCC oversees general competition matters, MCMC regulates competition within the courier sector under the Postal Services Act 2012. This is despite the marketplace and its integrated courier arm function as a single economic entity.

Lack of e-commerce-specific legal provisions



- Regulatory environment for e-commerce largely characterised by reliance on non-binding instruments (e.g., ASEAN Online Business Code of Conduct, the Malaysian Business Code of Ethics).
- These guidelines are not legally enforceable and leaves companies able to freely disregard them without facing legal repercussions.

Market power of key players has led to 11 key issues, with ops. pressure highlighted as the most prominent concern among merchants (2/4)

Key competitive, regulatory and market issues in the e-commerce (retail marketplace) sub-sector

Opaque product ranking processes



Merchants



Access to ranking algorithm.



Marketplaces

- Ranking algorithm can be challenging to understand, as it is proprietary to the platforms.
- Difficult for merchants to predict performance, impacting their strategies for inventory, marketing, and pricing.
- Merchants may also feel pressured to invest in paid ads to maintain visibility, which benefits financially stronger merchants.

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Differential treatment to smaller merchants



Large-sized merchants



Preferential treatment



Marketplaces

- Smaller or SMEs merchants may face differential treatment or receiving less attention, as marketplaces may prioritise larger merchants who drive greater financial returns for the platform.
- Potential preferential treatments given to large merchants include but not limited to:
 - Lower commission rates
 - Enhanced visibility in search results
 - Dedicated account management service

Operational pressure on smaller merchants



Merchants



Pressure on operational performance



Marketplaces

Short timeframe for implementing policy changes

- Marketplaces can enforce strict delivery requirements to enhance customer satisfaction, including faster shipping, same-day/next-day services, and rigid packaging standards.
- The short implementation timeframes (1-2 weeks) can leave merchants little time to adjust to e.g., manpower recruitment, training and packing fees.

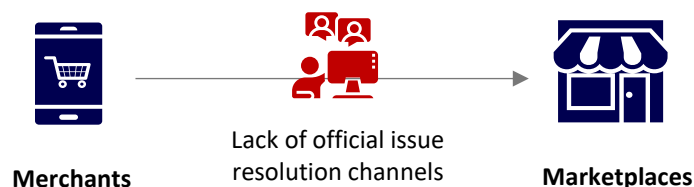
Auto-enrolment into programmes

- On marketplace promotional events, merchants must also constantly monitor platforms due to auto-enrolment in programmes.

Market power of key players has led to 11 key issues, with ops. pressure highlighted as the most prominent concern among merchants (3/4)

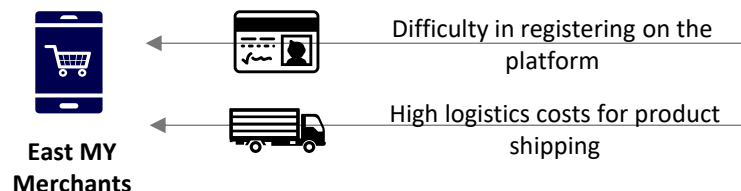
Key competitive, regulatory and market issues in the e-commerce (retail marketplace) sub-sector

Lack of formal online dispute channels



- Merchants face challenges in lodging complaints as there are no formal regulatory mechanisms outside of the marketplace platform.
- Issue resolution is limited to the marketplaces' internal mechanisms.

High logistics costs and store registration barriers in East Malaysia



- For businesses in East Malaysia, store registration may be challenging due to the absence of an SSM-issued business registration certificate. Instead, business registration certificates or trading licenses are issued by the LHDN or PBT where overall processing time is typically longer.
- Additionally, East Malaysian merchants face logistical challenges, particularly when competing with West Malaysian sellers who benefit from more established logistics networks and lower shipping costs.

Non-compliance from delivery partners



- Merchants required to ship certain products the next day under the next-day delivery policy.
- However, in some cases, delivery partners might delay the scanning or receipt of parcels to avoid being held accountable for late shipments.

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Market power of key players has led to 11 key issues, with ops. pressure highlighted as the most prominent concern among merchants (4/4)

Key competitive, regulatory and market issues in the e-commerce (retail marketplace) sub-sector

Challenging logistics related KPIs



Logistics players



Sets challenging KPIs



Marketplaces

- While marketplaces impose KPIs on logistics partners, their control over parcel volume and allocation can undermine fair performance assessment.

Logistics players offering below floor rate



Market rate



Below market & floor rate



Market rate



Merchants

- Several logistics players, particularly new entrants aiming to capture market share, have been offering services at rates below market average and MCMC's recommended floor rate.

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4 e-commerce recommendations are proposed, with a key focus on the ongoing amendment of the E-Commerce Act (1/2)

Recommendations	Description	Targeted issues ¹⁾	Case study
Enhance operational transparency in marketplaces	<ul style="list-style-type: none"> Amend existing E-Commerce Act 2006 (already ongoing) to introduce new requirements for online marketplaces, with focus on: <ul style="list-style-type: none"> Platform responsibilities and governance Fairness and transparency Consumer protection and inclusion Buyer and user responsibilities Online dispute resolution 	<ul style="list-style-type: none"> Lack of e-commerce-specific legal provisions Opaque product ranking processes Differential treatment to smaller merchants Operational pressure on smaller merchants Lack of formal online dispute channels 	Indonesia: In 2023, Indonesia's Ministry of Trade amended existing e-commerce regulatory framework through Minister of Trade Regulation No. 31 of 2023, replacing Regulation No. 50 of 2020 to explicitly define and regulate online marketplace and social commerce platforms, introducing clearer governance obligations, transparency requirements, and protections for small businesses.
Improve data access to merchants	<ul style="list-style-type: none"> Encourage marketplaces to provide merchants with greater access to relevant data, enhancing transparency and enabling informed decision-making. Key activities that platforms can undertake include: <ul style="list-style-type: none"> Publication of segment-specific trends, highlighting insights such as sales patterns, consumer behaviour Commercialisation of data by allowing merchants to purchase more detailed, granular data sets tailored to their products or market segments. 	<ul style="list-style-type: none"> Self-preference by using data to gain competitive advantage 	• -

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1) Remaining four issues are addressed by the general recommendations. See section below for more details.

Source: MyCC

4 e-commerce recommendations are proposed, with a key focus on the ongoing amendment of the E-Commerce Act (2/2)

Recommendations	Description	Targeted issues ¹⁾	Case study
Transfer postal and courier-related competition oversight to MyCC	<ul style="list-style-type: none"> • Transfer competition regulatory powers to the MyCC, including those currently held by MCMC over the postal and courier services industry under the Postal Services Act 2012. • These reforms will form part of a broader effort to consolidate competition oversight under a single authority, as outlined in the general recommendations. 	<ul style="list-style-type: none"> • Masking of delivery options • - 	
Streamline registration process for Sabah & Sarawak-based merchants	<ul style="list-style-type: none"> • Streamline SSM registration process for e-commerce merchants in Sabah and Sarawak through the introduction of a simplified licensing pathway tailored for rural and informal sellers. • To be done in collaboration with SSM, local PBTs and marketplaces; Integrate platform-based onboarding mechanisms and deploy joint mobile outreach initiatives with relevant government agencies/ministries. • To also broaden the term of "enterprise" to include all merchant types, including individual merchants who currently do not need to register. 	<ul style="list-style-type: none"> • High logistics costs and store registration barriers in East Malaysia • - 	

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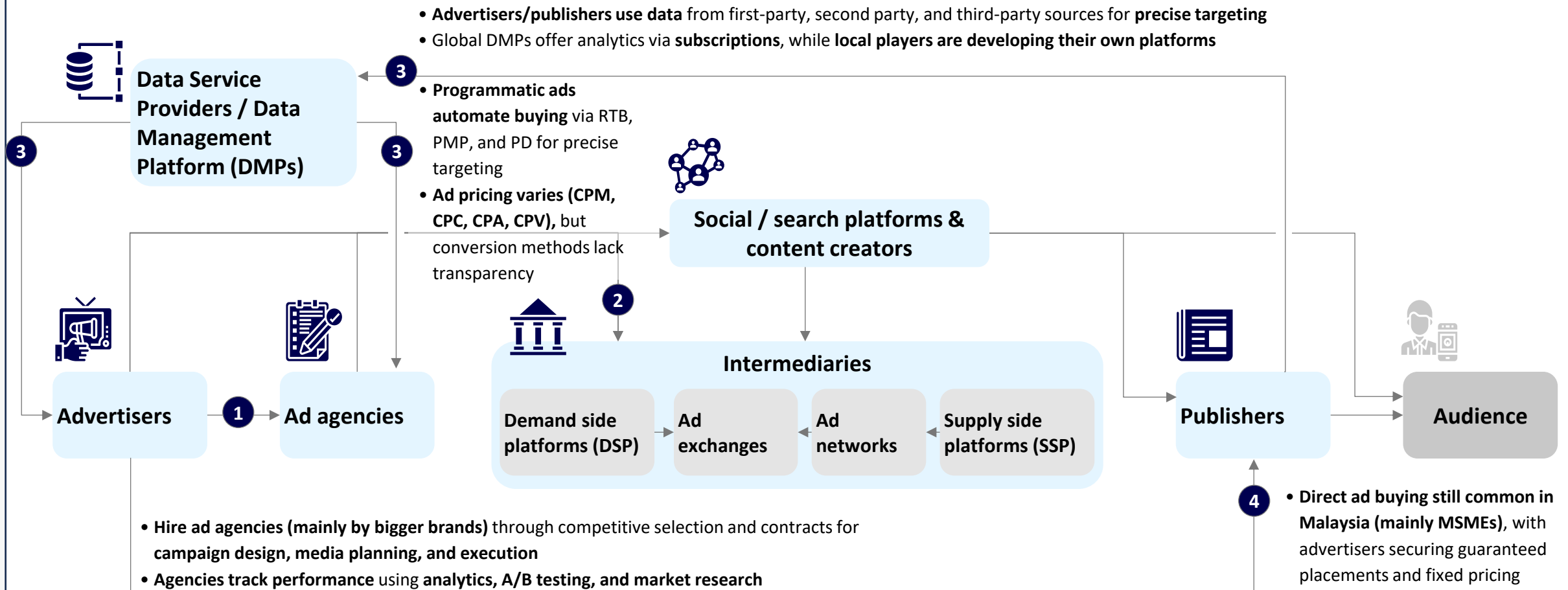
1) Remaining four issues are addressed by the general recommendations. See section below for more details.

Source: MyCC

Digital advertising services

Complex, multifaceted relationships exist between key parties along the digital advertising supply chain; Direct ad buying remains as most common in Malaysia

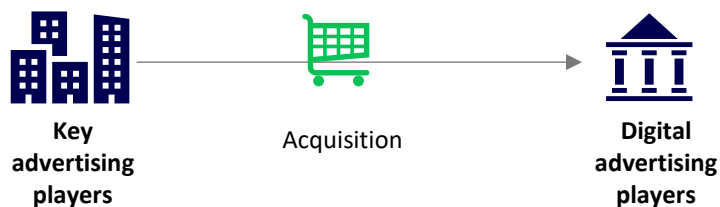
Key market practices across the digital advertising supply chain



Key players' market dominance allows them to control publishers' choice and gain greater influence (1/2)

Key competitive, regulatory and market issues in the digital advertising sub-sector

Vertical integration of incumbent players



- Some large digital platforms operate with deep vertical integration, managing multiple layers of the digital advertising supply chain.
- Search platforms with strong market positions have been able to build extensive indexes and collect valuable query and interaction data, potentially giving them an advantage in delivering more relevant results.
- Social media platforms with high user engagement are able to collect extensive data and offer targeted ads that are hard to replicate by others.

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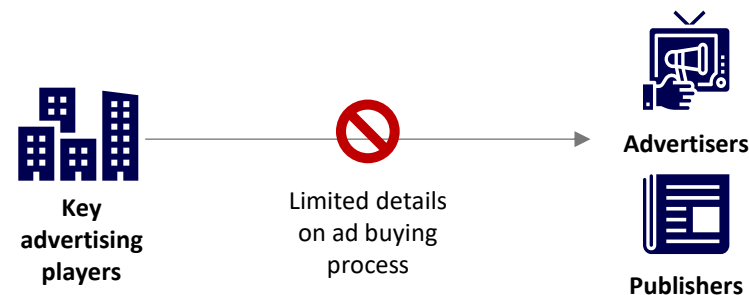
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Horizontal collusion between players



- Potential collusion among major digital advertising companies may arise through agreements that limit competition, control pricing, or restrict access to critical technologies.
- For example, a public report in 2023 highlighted a past agreement between two major platforms that allegedly involved preferential treatment in ad auctions, raising questions around competitive neutrality in ad tech markets.

Lack of transparency in ad mechanisms

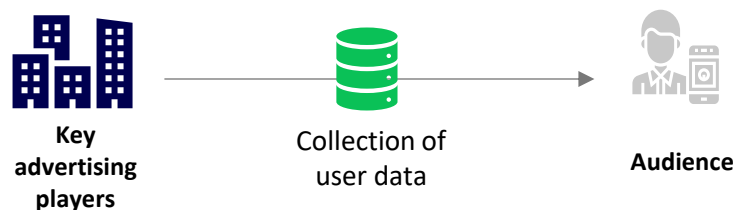


- Many platforms rely on proprietary algorithms to deliver targeted ads; however, the complexity and opacity of these systems can make it challenging for advertisers and publishers to fully understand auction outcomes.
- Market distortion (and manipulation) could happen as it allows platforms to control auction participation and bid management.

Key players' market dominance allows them to control publishers' choice and gain greater influence (2/2)

Key competitive, regulatory and market issues in the digital advertising sub-sector

Potential violation of data privacy



- Large, vertically integrated platforms are able to collect extensive user data, enabling them to gain competitive advantages in digital advertising.
- This data collection is often facilitated through complex terms and conditions that may discourage users from adjusting privacy settings.
- Creates uneven playing field, with high entry barriers seen for smaller players (lack access to the same data resources).

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Removal of 3rd party tracking



- 3rd party cookies shifting to “block by default” or “opt-in”, giving users more control over tracking.
- Higher costs & competition challenges for smaller players due to new targeting methods required.
- Larger publishers may gain an edge with first-party data, pushing out smaller players.

Limited access to selected ad inventory

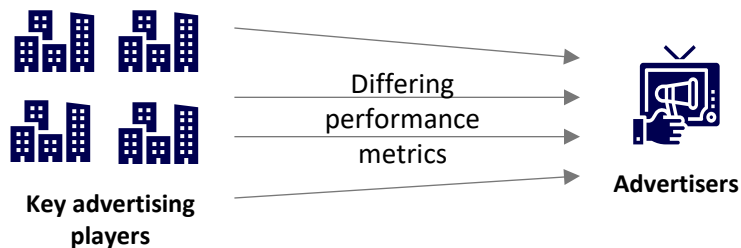


- Access to premium ad inventory is often restricted through platform exclusivity. For example, some key ad placements are only available via the platform’s proprietary ad network.
- This results in advertisers' growing reliance on platform-owned networks.
- Additionally, effective participation in these ecosystems also demands higher skill levels, particularly in navigating and managing platform-specific advertising tools.

The sub-sector also lacks a comprehensive regulatory framework to govern market practices

Key competitive, regulatory and market issues in the digital advertising sub-sector

Discrepancy in ad performance metrics



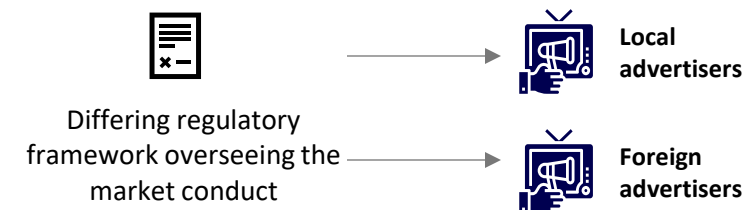
- Varying performance metrics across digital ad platforms and publishers.
- Inconsistent report and evaluation, creating discrepancies in ad performance measurement.
- Difficult for advertisers to compare ROI and determine the most effective platforms.

Lack of regulatory framework



- Existing regulatory instruments (e.g., Malaysian Code of Advertising Practice and the Communications and Multimedia Content Code) not designed to govern the complexities introduced by automated bidding systems, platform-driven ad allocation, or data-driven targeting practices.

Regulatory disparities between local and foreign players



- Disparities in regulatory treatment create an uneven playing field, with local advertisers subject to more stringent compliance and operational requirements than their foreign counterparts.
- Variations exist in licensing obligations, responsibilities such as withholding tax by local advertisers, and data protection standards impact competition, market access, and the sustainability of Malaysian businesses.

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3 recommendations are proposed, with a key focus on operational guidelines that will support the development of unified digital economy legislation (1/2)

Recommendations	Description	Targeted issues	Case study
Develop digital advertising sub-sector guideline	<ul style="list-style-type: none"> Establish a clear and specific set of guideline for digital advertising players operating in Malaysia. Guideline to serve as a foundation to the unified digital economy legislation (see general recommendation 1), with key areas being: <ul style="list-style-type: none"> Platform definition: Specific to digital advertising intermediaries (e.g., DSP, SSP, ad exchanges) and platforms & publishers (e.g., social media platforms, search engines, news sites). Fair business conduct rules: Ensure transparent and non-discriminatory access to ad inventory and bidding processes, responsible use of advertiser and publisher data, with limits on self-preferencing and unfair targeting practices. User rights: Enable users to opt out of personalised advertising easily, ensure transparent ad labelling. Access & transparency requirements: Provide transparent processes for ad inventory allocation, bidding, and auction dynamics, enable fair and non-exclusive access to all relevant ad inventory, including premium placements. 	<ul style="list-style-type: none"> Vertical integration of incumbent players Horizontal collusion between players Lack of transparency in ad mechanisms Potential violation of data privacy Limited access to selected ad inventory Lack of regulatory framework Regulatory disparities between local and foreign players 	<p>EU: The Digital Services Act (DSA) introduces binding transparency obligations for online platforms, requiring real-time disclosure of advertisement labelling, advertiser identity, and key targeting criteria (Art. 24), alongside a publicly accessible, searchable repository of all ads served on Very Large Online Platforms (Art. 39). These measures aim to empower consumer choice, enhance auditability across the ad supply chain, and address information asymmetries between platforms, advertisers, and users.</p>

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3 recommendations are proposed, with a key focus on operational guidelines that will support the development of unified digital economy legislation (2/2)

Recommendations	Description	Targeted issues	Case study
Provide support programmes to local players in the cookieless transition	<ul style="list-style-type: none"> • Provide support to help local advertisers adopt cookieless technologies, including but not limited to: targeted grants to subsidise the adoption of cookieless technologies, tax incentives for companies investing in privacy-respecting ad tech and capacity-building initiatives. • Also to encourage platforms to continuously provide advertisers with greater access to relevant data, enhancing transparency and enabling informed decision-making. • Key activities that platforms can undertake include the periodic publication of segment-specific trends, highlighting insights such as consumer behaviour shift, key interests and emerging keywords. 	<ul style="list-style-type: none"> • Removal of 3rd party tracking 	<ul style="list-style-type: none"> • -
Establish industry standards for ad performance metrics and market pricing transparency	<ul style="list-style-type: none"> • Supplement platform-specific metrics with industry-standard definitions for common performance metrics like CPM, CPA, and CPV to ensure consistency and transparency. • Standard metrics would provide advertisers with a common basis for comparison • To be done through a public-private partnership, with collaboration with the Advertising Standards Association (ASA). • To also collect and publish anonymised pricing data on ad inventories across platforms, allowing advertisers to make better-informed decisions. 	<ul style="list-style-type: none"> • Discrepancy in ad performance metrics 	<p>U.S.: The Media Rating Council (MRC) establishes and accredits baseline definitions for key advertising performance metrics such as CPM, CPA, and CPV. This ensures consistency in measurement and allows advertisers to make cross-platform comparisons based on standardised criteria.</p>

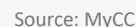
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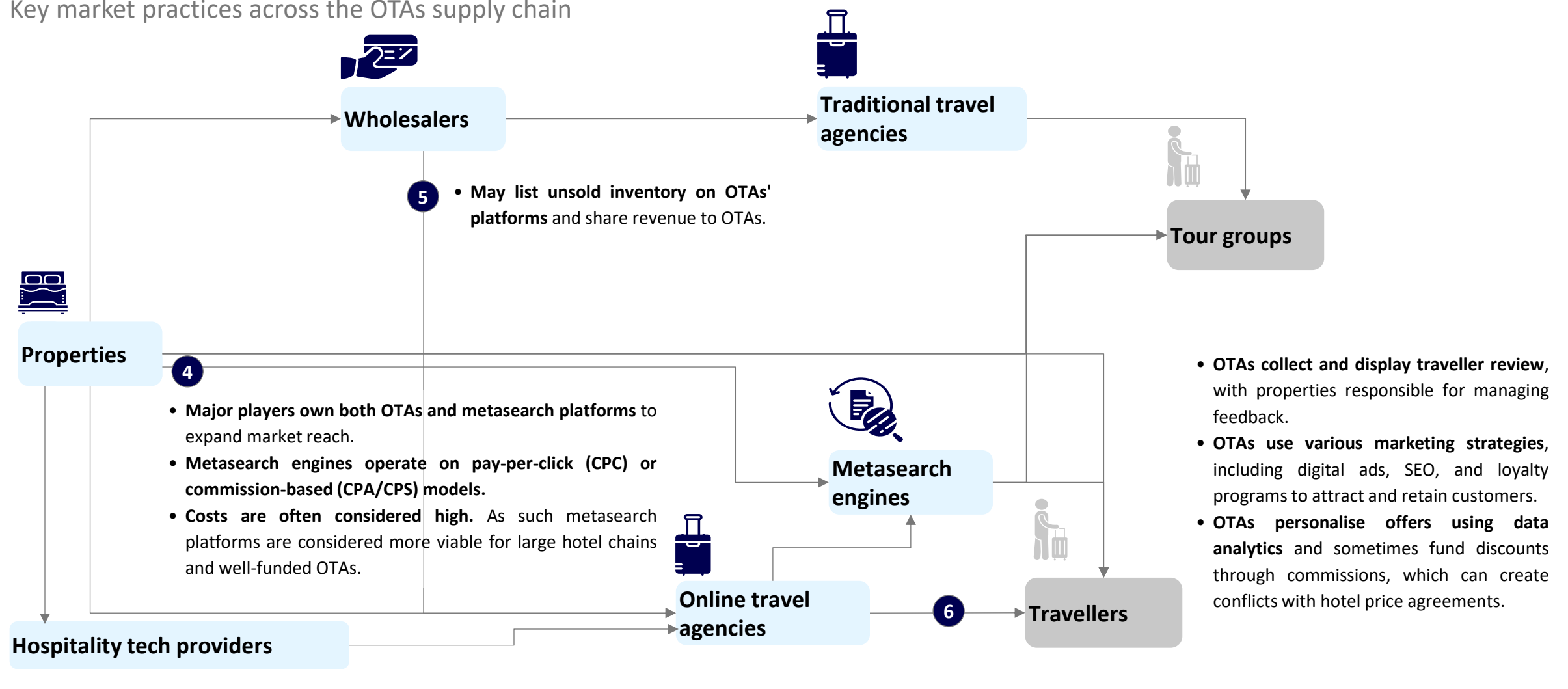
Online travel agencies (OTAs)

Key market practices across the OTAs supply chain



OTAs serve as a key distribution channel for hotel room inventory, with metasearch engines and wholesalers also relied upon (2/2)

Key market practices across the OTAs supply chain



Price parity remains a key anti-competitive issue for hotels when dealing with OTAs, as the clause prevents them from competing freely

Key competitive, regulatory and market issues in the OTA sub-sector

Enforcement of price parity in agreements between OTAs and hotels



- OTAs require hotels to maintain price parity across their platforms, hotel websites, and other channels.
- For OTAs, this prevents free-riding, where consumers use OTAs for price comparison but book elsewhere.
- For hotels, such clauses are often seen as restrictive, as they limit pricing flexibility and the ability to offer direct booking incentives or lower prices on their own channels.

Impact of commission rates on platform visibility



- Hotel rankings on OTAs are based on popularity, quality, and price, but can be boosted by higher commission payments.
- The ranking algorithm lacks transparency, leading to potential biases.

Dominance of metasearch engines



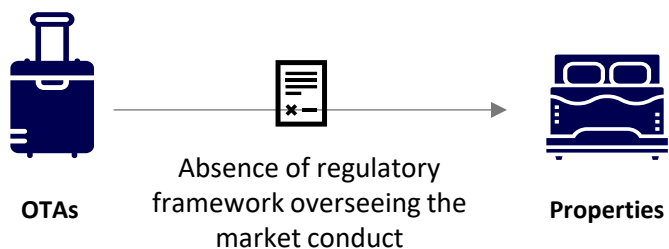
- Some metasearch engines are linked to parent companies that own major OTAs, creating potential self-preferencing.
- Search result placement can often be driven by financial arrangements rather than consumer preference or competition

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The sub-sector also lacks a comprehensive regulatory framework to govern market practices

Key competitive, regulatory and market issues in the OTA sub-sector

Regulatory framework gaps



- OTAs primarily governed by the Tourism Industry Act 1992 (Act 482), which predates digital platforms and focuses on traditional travel agencies.
- Digital-first and foreign OTAs without a physical presence in Malaysia currently fall outside this framework, creating regulatory gaps and an uneven playing field.

No centralised regulation for STRAs



- With the growing popularity of STRAs, there is a need for regulation to better protect both hosts and guests.
- Selected local municipal councils have developed their own guidelines at the state level. This has resulted in a fragmented approach with inconsistent rules and enforcement across different jurisdictions.

Operational challenges from OTA practices



High commission rates

- OTAs typically charge fixed commissions that may change without hotel input.

Overbooking practices

- OTAs may accept more bookings than the available number of rooms.

OTA competition with hotels

- OTAs may bid on hotel brand names, placing their ads above official websites in search results.

Misleading reviews

- Selected OTAs are alleged to not assess the authenticity of user reviews for hotels.

Challenges in communication

- Support is usually ticket-based, with response times varying by platform and availability.

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Drip pricing is a market issue observed in the market

Key competitive, regulatory and market issues in the OTA sub-sector

Drip-pricing



OTAs

Practice of drip pricing on
OTA platform



Travellers

- Practice of incremental disclosure of mandatory charges during an online transaction process, by showing consumers an initial price for a product and introducing (or 'dripping') additional fees as consumers proceed with a purchase or transaction.

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3 recommendations proposed for the OTA sub-sector, focusing primarily on price parity and operational transparency (1/3)

Recommendations	Description	Targeted issues	Case study
Investigation action on price parity clause by MyCC	<ul style="list-style-type: none"> Given that the price parity clause has become a common practice within the OTAs market, MyCC explicitly reserve the right to take action if the clauses trigger its investigation powers under the Competition Act 2010. 	<ul style="list-style-type: none"> Enforcement of price parity in agreements between OTAs and hotels 	<ul style="list-style-type: none"> EU (France): The French Law for Growth, Activity and Equal Economic Opportunities (2015) formally prohibits all Most Favoured Nation (MFN) clauses in hotel and OTA contracts (both wide and narrow). EU (Italy): Amended Competition Law (2017) Article 1 (166) to ban price parity clauses imposed on hotels by travel agents. Japan: OTAs (Rakuten, Expedia and Booking.com) adhere to commitment plans to the JFTC which excluded narrow parity clauses, after initial investigation for alleged anti-competitive parity clauses.

3 recommendations proposed for the OTA sub-sector, focusing primarily on price parity and operational transparency (2/3)

Recommendations	Description	Targeted issues	Case study
Enhance operational transparency in OTAs	<ul style="list-style-type: none"> Amend existing Tourism Industry Act 1992 (already ongoing) to introduce new requirements for OTAs, with focus on: <ul style="list-style-type: none"> Platform responsibilities and governance Fairness and transparency Quality assurance Consumer protection Dispute mechanism 	<ul style="list-style-type: none"> Enforcement of price parity in agreements between OTAs and hotels Impact of commission rates on platform visibility Dominance of metasearch engines Regulatory framework gaps Operational challenges from OTA practices Drip-pricing 	<ul style="list-style-type: none"> Indonesia: The Ministry of Trade Regulation No. 31/2023 redefines e-commerce models to explicitly include marketplace operators (incl. OTAs) and imposes operational standards for mandatory platform registration/licensing, merchant (hotel/tour provider) verification, transparent listing requirements and obligation to monitor and remove non-compliant listing. Philippines: The Internet Transactions Act 2023 & 2024 IRR establishes comprehensive operational transparency mandates for OTAs as platforms must register and appear in a public online business registry, disclose listing details, participate in mandated internal dispute resolution processes, and are subject to DTI enforcement actions.

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3 recommendations proposed for the OTA sub-sector, focusing primarily on price parity and operational transparency (3/3)

Recommendations	Description	Targeted issues	Case study
Strengthen legal framework for mandatory registration and operation of STRAs	<ul style="list-style-type: none"> Establish a common legal and protection framework for the mandatory registration and regulation of STRA providers. This aims to safeguard local STRA operators, primarily Malaysians, who often rely on this activity as a key source of income. Leverages the existing infrastructure of SSM for registration, capitalising on its established processes and integration with tax authorities such as LHDN. Information to be collected include owner/operator details, business details, type of goods/services sold, tax registration details. Registered entities will be governed under the provisions of the Tourism Industry Act 1992, ensuring adherence to existing legal obligations related to e-commerce operations and tourism services. 	<ul style="list-style-type: none"> No centralised regulation for STRAs 	<ul style="list-style-type: none"> EU: Regulation (EU) 2024/1028 introduces an EU-wide framework for data collection and sharing relating to short-term accommodation rentals, including mandatory host registration, issuance of unique registration numbers, platform verification obligations, standardised data-sharing with authorities, and enforcement mechanisms for delisting non-compliant properties. EU-member countries such as Spain, France, Portugal, Germany, and the Netherlands have committed to this EU framework. France: Royal Decree 1312/2024, establishes a Single Rental Registry and one-stop digital portal, mandating hosts to obtain unique ID and OTA platforms must verify IDs before approving listings.

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General preliminary recommendations

General recommendations are also proposed to tackle structural issues, prevent policy fragmentation & build capacity

Rationale for general recommendations

1

Common structural issues across markets

- Many competition-related concerns such as opaque platform operations, data access asymmetries and market concentration are prevalent across the 4 sub-sectors.
- Cross-cutting recommendations are essential to address these underlying challenges in a consistent and coordinated manner.

2

Preventing policy fragmentation

- While sector-specific recommendations are important for addressing targeted issues, general recommendations provide an overarching framework to ensure regulatory coherence.
- They help align interventions across the sub-sectors so that actions in one area complement rather than conflict with those in another.

3

Building internal capacity

- Effective oversight of the issues requires strong regulatory capabilities and coordination mechanisms.
- General recommendations support capacity building, inter-ministry/agency/regional counterpart collaboration and knowledge sharing to strengthen enforcement across the digital ecosystem.

In addition to the targeted recommendations, 6 general cross-cutting recommendations are also proposed (1/5)

Recommendations	Description	Case study
Appoint a central digital economy taskforce	<ul style="list-style-type: none"> • Creation of permanent portfolio within an existing government agency or establish a specialised taskforce. • Taskforce to be made up of different Ministries and agencies, including but not limited to MCMC, JPDP, MyCC, MOTAC, BNM, MOF, KPDN. • Key responsibilities include: <ul style="list-style-type: none"> – Oversee legislative coherence and managing inter-agency regulatory alignment. – Regularly assess regulatory gaps across areas such as competition, data protection, platform governance in the context of digital economy. – Coordinate overlapping jurisdictions between agencies (e.g., MyCC, MCMC). – Conduct periodic legal reviews (e.g., every 3 to 5 years), enabling timely updates to legislation and policies in response to evolving technologies and market dynamics. – Establish a digital platform ombudsman to support users and businesses by providing an independent point of contact. Ombudsman will serve as an alternative channel for redress, allowing businesses and consumers to seek assistance after all internal (within platforms) or ministry-level complaint mechanisms have been exhausted. – Develop a one-stop central platform that consolidates key digital economy sub-sectors information (from relevant ministries and agencies), including but not limited to regulations, guidelines, market statistics, consumer protection resources, access to official complaint channels. – Develop an overall comprehensive guideline on the do's and don'ts for digital platform; violation of guideline, especially on competition-related matters, can lead to potential investigation from MyCC. 	<p>U.K.: The Digital Regulation Cooperation Forum (DRCF) is a collaborative body comprising the Information Commissioner's Office (ICO), Competition and Markets Authority (CMA), Office of Communications (Ofcom), and Financial Conduct Authority (FCA), established to:</p> <ul style="list-style-type: none"> • Align regulatory approaches, manage overlaps, and ensure consistent oversight of digital platforms and services. • Collaborate on joint projects and initiatives addressing emerging digital issues. • Identify regulatory gaps and conduct horizon scanning for new technologies and risks.

In addition to the targeted recommendations, 6 general cross-cutting recommendations are also proposed (2/5)

Recommendations	Description	Case study
Appoint a central digital economy taskforce (<i>continued</i>)	<ul style="list-style-type: none"> Develop and implement a regional-level digital economy legislative framework. Framework to cover the key areas of: <ul style="list-style-type: none"> – Market definition: Focuses on markets that are both multi-sided and digital-driven: <ul style="list-style-type: none"> – Multi-sided market: Markets where two or more distinct but interdependent user groups interact through an intermediary (typically a digital platform). The value of the market increases as more users participate, creating network effects. – Digital market: Markets where economic activities are facilitated through digital technologies or platforms. – Scope and coverage: Operators within the ASEAN market. – Platform definition: Criteria to determine whether an entity falls within the scope of the regulatory framework, considering its overall reach and influence, and whether it constitutes a single economic entity with its parent or affiliated companies, based on factors such as: <ul style="list-style-type: none"> – Functional integration across related services (e.g., payments and logistics); – Economic control and ownership structure; – Level of control over key infrastructure, user data, and platform access – Fair business conduct rules: Defined obligations and prohibited practices for regulated platforms, including self-preferencing, data access restrictions, user lock-in, limited user choice, lack of interoperability with third-party services,, restrictions on third-party competition and other anti-competitive behaviours. – User rights: Consumers’ freedom of choice and information, including access to platform advertising processes, data portability, and the freedom to uninstall apps or change default settings. – Access and transparency requirements: Mandate that platforms provide clear and accessible information and hardware, such as ranking systems, fees, recommendation algorithms, infrastructure and data usage practices. – Compliance and enforcement mechanisms: Define the regulator’s responsibilities, including powers to conduct audits, monitor potential violations, and enforce compliance through appropriate legal measures. 	<p>Japan: Its Improving Transparency and Fairness of Digital Platforms Act takes a co-regulatory approach:</p> <ul style="list-style-type: none"> • Requires disclosure of terms • Establishment of fair procedures • Annual reporting on operational status <p>EU: Digital Markets Act (DMA), which</p> <ul style="list-style-type: none"> • Bans key players in practices of self-preferencing • Mandates interoperability and data-sharing • Prohibits unfair terms and tying

In addition to the targeted recommendations, 6 general cross-cutting recommendations are also proposed (3/5)

Recommendations	Description	Case study
Consolidate competition oversight under a single authority	<ul style="list-style-type: none"> Clarify and delineate the regulatory boundaries between MyCC (competition regulation) and other sectoral regulators with competition mandates, in line with the anticipated consolidation of competition oversight under RMK-13 as outlined in Strategy A6.2: Strengthening the Competitive Ecosystem. This includes coordination between MyCC, Malaysian Communications and Multimedia Commission (MCMC), Malaysian Aviation Commission (MAVCOM), and the Energy Commission (EC). The effort will require amendments to the Competition Act 2010 to incorporate existing competition-related provisions currently found in: <ul style="list-style-type: none"> - the Communications and Multimedia Act 1998 and Postal Services Act 2012 (under MCMC), - the Malaysian Aviation Commission Act 2015 (under MAVCOM), and - the Energy Commission Act 2001 (under the EC). These reforms will help eliminate jurisdictional overlaps and provide clearer regulatory authority, improving enforcement and addressing competition issues more effectively. In the short-term, potential establishment of a structured coordination framework among relevant commissions (i.e., MyCC, MCMC, MAVCOM and EC) to facilitate information sharing and joint market intelligence. 	• -
Strengthen government's revenue-generation mechanisms	<ul style="list-style-type: none"> Enhance existing RMCD efforts in requiring foreign digital service providers to report Malaysia-sourced revenue (under the Service Tax on Digital Services – SToDS regime), verified using geo-location tools such as IP addresses, billing information, and user registration data. This can be complemented with the potential introduction of new legal/enforcement powers to block non-compliant digital platforms that fail to register or remit tax. Strengthen Malaysia's participation in the OECD BEPS Pillar One regime by introducing a new nexus rule that allows for the taxation of foreign digital businesses that operate outside Malaysia but serve Malaysian customers. Rule could apply only to large firms, with the threshold to be benchmarked against (as a reference point) existing Application Service Provider (ASP) licensing criteria set by MCMC. 	• -

In addition to the targeted recommendations, 6 general cross-cutting recommendations are also proposed (4/5)

Recommendations	Description	Case study
Strengthen businesses and consumers' awareness on data privacy and protection	<ul style="list-style-type: none"> Enhance awareness and education to empower businesses and consumers in better protecting their personal data and making informed choices in the digital economy. This can be done in collaboration with key players and civil societies to promote greater data protection practices and strengthen accountability among platforms. Potential programmes include digital literacy campaigns, development of educational materials, interactive online modules. 	<p>Singapore: In 2023, the Infocomm Media Development Authority (IMDA) and Google launched a joint initiative named PET x Privacy, enables businesses to trial Google's Privacy Sandbox solutions within IMDA's Privacy-Enhancing Technologies (PET) Sandbox, a secure environment created to facilitate data use and sharing</p>
Capacity building across entire public sector delivery	<ul style="list-style-type: none"> Enhancement of public service's in-house capabilities and understanding of the sub-sectors, as well as developing topics such as AI, data science, analytics and algorithmic auditing. Assignment of specific sub-sector portfolio to relevant Ministries. Key ministries/agencies relevant to the four sub-sectors should also: <ul style="list-style-type: none"> Proactively track emerging trends, technological shifts, and issues affecting businesses and users, including market access barriers, algorithmic bias, and platform constraints. Conduct frequent engagement with relevant key players to understand practices and build connections. Platform regulation and policy enforcement. Digital monitoring to detect changes in platform practices and identify potentially unfair or discriminatory behaviours. Serve as a central liaison for coordinating with other ministries and agencies in addressing identified issues. Act as mediator in fostering greater dialogue between businesses and key platforms. Proactively publish public reports on the status, challenges, and developments within the sub-sectors. Leverage regional collaboration, particularly through engagement with other ASEAN countries, to address challenges involving foreign digital platforms and facilitate knowledge sharing and capacity building. 	<ul style="list-style-type: none"> -

In addition to the targeted recommendations, 6 general cross-cutting recommendations are also proposed (5/5)

Recommendations	Description	Case study
Create local digital economy champions	<ul style="list-style-type: none">• Continuous development and promotion of more local digital economy champions (existing MDEC programmes, e.g., Malaysia Digital Acceleration Grant (MDAG), Digital Content Grant (DCG), 4IR Catalyst Grant – (4ICG)).• Support through provision of financial incentives such as grants, subsidies, or low-interest loans.• Provide capacity-building programmes, technical assistance, and marketing support to enhance digital capabilities and market reach, alongside encouraging mergers, consolidations, or joint ventures among Malaysia-founded platforms to compete more effectively with large foreign digital players.	<ul style="list-style-type: none">• -

Next steps: public consultation, update on recommendations and final report publication



Public consultation: Open from late August for a period of one month



Review and update recommendations: Based on feedback received, if necessary



Final report publication: By the end of 2025

THANK YOU

Malaysia Competition Commission

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