

# STRATEGIC PLAN

## FOR COMPETITION ADVOCACY AND COMMUNICATION 2018-2020



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**SURUHANJAYA PERSAINGAN MALAYSIA**  
MALAYSIA COMPETITION COMMISSION

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# PREAMBLE 1

This **Strategic Plan for Competition Advocacy and Communication 2018-2020** sets out the rationale and framework for the work plan of the Malaysia Competition Commission (“Commission”) in promoting the Competition Act 2010 (“CA 2010”). It is seen as a continuity plan since competition advocacy is proven to be one of the most efficient platforms in pursuing the Commission’s vision and mission in its third phase of implementation of the CA 2010. Competition advocacy involves a broad spectrum of activities undertaken by the Commission in order to promote and advance competition law and policy with key stakeholders.

The CA 2010 which came into effect on 1 January 2012 is intended to promote economic development by promoting and protecting the process of competition and that the process of competition encourages efficiency, innovation and entrepreneurship. This in turn promotes competitive prices, improvement in the quality of products and services through innovations and wider choices for consumers. Established on 1 April 2011 under the Competition Commission Act 2010 (“CCA 2010”), the Commission is an independent body responsible for enforcing the CA 2010.

The Commission has established several Committees to facilitate the performance of its functions. One such committee is the **Advocacy and Communication Committee (ACC)** [formerly known as the Working Committee on Advocacy and Communication]. The Advocacy and Communication Committee (ACC) is responsible in overseeing the implementation of the Commission’s advocacy and communication work plan. The objective of the ACC is to undertake advocacy projects and to develop practical tools and guidance in order to improve the effectiveness of the Commission’s function in disseminating the competition principles and promoting the development of a competition culture within society. The ACC is made up of members from different backgrounds and areas of expertise, as follows:



The Commission promotes voluntary compliance with the CA 2010, develops and maintains relationships with international and domestic stakeholders in the public and private spheres, and communicates the decisions and activities of the Commission. The Commission aspires to implement effective advocacy and foster competition compliance by building a competition culture with positive perception towards Malaysia's competition regime locally and internationally. The Commission will continually improve competition compliance through persuasion rather than sanction, with persistent outreach to diverse sectors and markets.

Competition culture mainly involves being informed about the benefits introduced by competition, the formation and development of the necessary awareness in the society as to the role possessed by the implementation of competition law and policy in securing such benefits. Advancement of competition culture in consumers, business circles, public institutions and organisations will enable easier and quicker adoption as well as the implementation of competition principles amongst them.

**The Commission aspires to implement effective advocacy and foster competition compliance by building a competition culture with positive perception towards Malaysia's competition regime locally and internationally.**

Competition advocacy is a matter of educating members of society about competitive markets and the role of competition law. The International Competition Network (ICN) reports stated that the strongest support for advocacy action comes from the academic

community, consumer associations, the media and NGOs. Therefore, it is prudent for the Commission to prioritise its competition advocacy and communication activities in order to maximise resources and achieve successes in the shortest period of time by targeting these stakeholders.

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role of competition law. ”**

In undertaking competition advocacy activities, the Commission studied and adopted the best practices of the competition advocacy work of other international competition agencies and through its own experiences. The Commission adopted a collegial approach by working with the various key stakeholders as well as networking and maintaining international linkages in order to continuously learn from the successful advocacy activities carried out by these competition agencies. Competition culture is strong in certain jurisdictions due to:

- 01 engagement with key stakeholders;
- 02 interaction with institutions of higher learning;
- 03 resolution of cases with significant media coverage;
- 04 publication of decisions;
- 05 market reviews and case studies;
- 06 experience with competition policy;
- 07 participation of the competition authority in regulatory reform and privatisation processes;
- 08 existence of specialised competition tribunal; and
- 09 personal leadership of the head of the competition authority.





# MISSION 2

Competition advocacy is recognised as an important function of the Commission and is incorporated into the Commission's organisational strategy as one of its over-arching goals. The Commission is responsible for raising public awareness of competition law with regard to the benefits of competition, collaborating with other regulators on competition-related matters to ensure the consistent application of the law, reviewing public regulations and legislation with other governmental entities, and alerting the executive of any anti-competitive provisions. Competition advocacy is referring to those activities conducted by the Commission in promoting a competitive environment by means of non-enforcement mechanisms.

The implementation of the Commission's Strategic Plan for Competition Advocacy and Communication 2018-2020 is expected to substantiate the realisation of the Commission's 5-Year Strategic Plan to increase the overall competitiveness in the local business environment. The Commission's 5-year Strategic Plan spells out its vision that is to be a leading competition authority to promote and protect the process of competition in Malaysia whereas its mission is to execute its mandate efficiently and effectively, with a commitment to ensure a conducive competition culture to make markets work well for consumers, businesses and the economy.

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Grounded on the presumption that awareness of the law and the benefits of competition will lead to greater compliance, the Commission shall direct its advocacy efforts towards encouraging stakeholders to choose self-compliance over being caught for non-compliance of the law. It is believed that the pre-emptive nature of advocacy and communication initiatives will result in better compliance thereby reducing the need for resource-heavy enforcement. The advocacy and communication work is meant to be pro-active and to complement the work of the enforcement arm of the Commission.





# STRATEGIES 3

## Strategic Goals:

In order to fulfill its mission, the Commission will continue to:

## 1. Advocate, inform and educate the public on competition matters

The Commission have specific functions on promoting competition awareness as specified under Section 16 of the CCA 2010 as follows:

1

To advise the Minister or any other public or regulatory authority on all matters concerning competition.

To alert the Minister to the actual or likely anti-competition effects of the current or proposed legislation and to make recommendations to the Minister, if appropriate, for the avoidance of these effects.

2

3

To advise the Minister on international agreements relevant to competition matters and to the competition laws.

To implement and enforce the provisions of the competition laws.

4

5

To issue guidelines in relation to the implementation and enforcement of the competition laws.

6

To act as an advocate for competition matters.

To carry out, as it considers appropriate, general studies in relation to issues connected with the competition in the Malaysian economy or particular sectors of the Malaysian economy.

7

8

To collect information for the performance of the Commission's functions.

To publish, and otherwise raise awareness among persons engaged in commerce or trade and among the public of, information concerning the competition laws and the manner in which the Commission will carry out its functions under the competition laws.

9

10

To inform and educate the public regarding the ways in which competition may benefit consumers in, and the economy of Malaysia.

To consider and make recommendations to the Minister on reforms to the competition laws.

11

12

To carry on such activities and do such things as are necessary or advantageous and proper for the administration of the Commission.

In order to advocate, inform and educate the public on competition matters, the Commission shall disseminate the right key messages and produce effective education materials on competition law for its advocacy and communication activities based on different types of key stakeholders. The main key message is the objective of the CA 2010 that promotes economic development as well as protects consumers' interests and is applicable to all Malaysian businesses.

A key part of the learning objectives from the Commission's advocacy programmes is the provision of the CA 2010 relating to the lodging of complaints and the leniency regime, as well as to address on the rights of enterprises to file private actions under Section 64 of the CA 2010.

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## 2. Conduct studies on competition issues

Conducting a market study can potentially assist competition authorities with both their competition advocacy and competition law enforcement functions. The output of a market study is, typically, a report outlining the competitive structure of the sector concerned, highlighting any potential or existing competition problems and making recommendations as to how these barriers to free competition can be remedied.

The Commission shall continue to carry on specific market surveys and studies relating to the priority sectors, so that a body of evidence on anti-competitive and pro-competitive practices can be developed and used as case studies for advocacy activities. The market studies also evaluated whether the advocacy and enforcement activities of the Commission have been successful and resulted in tangible benefits for the various stakeholders and the economy.



**“ Conducting a market study can potentially assist competition authorities with both their competition advocacy and competition law enforcement functions. ”**

The Commission shall continue with its Research Grants Programme on Competition Law (RGPCl) [formerly known as the Research Grants Programme (RGP)] for local academics from public and private universities. The Commission shall recommend a list of priority areas for the market studies and the research project proposals that are the best fit for the award of the research grants. The Commission shall make an annual budget allocation to fund the RGPCl and the application for grants will be open throughout the year.



### 3. Create more 'Competition Champions' among key stakeholders

The Commission shall continue to engage mass media organisations as partners to disseminate the information contained in these advocacy and communication materials, as well as to publicise news of the advocacy activities carried out with all stakeholder groups and priority sectors. The Commission shall continue to enhance the image and visibility of the Commission as an active proponent of competition culture.

Associations of enterprises can play a key role in educating their members on the benefits of competition compliance with the CA 2010 for business profitability and betterment. In order to enable the associations to play their role effectively, the Commission shall continue to organise training programmes for staff of such associations so they may in turn conduct education programmes for their members. A major portion of these programmes shall focus on compliance with the CA 2010.

**The Commission shall continue to enhance the image and visibility of the Commission as an active proponent of competition culture.**

Working with consumer associations will help build the capacity of the demand side of the market. A vigilant corps of consumers will keep businesses on their toes. The Commission shall continue to engage with these consumer organisations to build their capacity to play a co-enforcement role by becoming informers of anticompetitive business practices, investigating and acting on consumer complaints, filling section 64 private action civil suits, and organising consumer campaigns against anti-competitive enterprises.

Universities are recognised as suppliers of the future workforce for the country. As such, universities need to ensure that their graduates enter the job market with a better understanding of market structure and how competition policy and law functions. The Commission shall continue to collaborate and cooperate with public and private universities to ensure the students acquiring skills and knowledge on competition law. The universities are encouraged to publish the findings of their market studies through articles and journals as well as to engage in discourse on competition issues in Malaysia by co-organising seminars and conferences with the Commission.

#### 4. Engage and build strong relationships with key stakeholders

Educating public officials about basic competition concepts, as well as the benefits of competition, can lay the foundations for more targeted advocacy efforts to follow. More advanced training for policy-makers focusing on how effective competition in the market can be introduced or reviewed. This includes working with policy-makers to assess the impact on competition of legislations, regulations and public policies can possibly give rise to. To this end, the Commission shall develop and promote the Competition Impact Assessment checklist, which would be an important tool to assist government agencies in identifying potential restrictions on competition by screening the policies or regulations.

The Commission shall continue to collaborate with government agencies as well as public training institutions in promoting competition law in the country. The Commission shall conduct education programmes and organise sharing information sessions for Parliamentarians and public officials in the Parliament, State Assemblies and Local Councils in order to better equip them with competition-related knowledge.

**Educating public officials about basic competition concepts, as well as the benefits of competition, can lay the foundations for more targeted advocacy efforts to follow.**

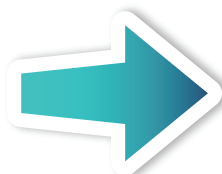
Another area in which the Commission shall focus its education efforts is providing competition related trainings to the legal and economic fraternities. Competition cases could involve complex issues of law, policy and economics. It is necessary for the regulators to have an understanding of basic competition law and economics, in order to ensure the coherent development of legal precedent in this area, as well as sound results in individual cases.

In addition, the continuity of competition advocacy in sector-specific regulation is very important. The dialogue between the Commission and the regulators for specific sectors play an important part. A real challenge would be to acquire a sufficient base of expertise in the sectors at stake. These sectors sometimes pose complex and often unique competition problems. A useful tool to achieve this is by organising exchanges of staff between regulators and the competition authority, which enhance not only sector-specific knowledge, but also help to develop a mutual understanding of the concerns among the agencies.

Considering the needs and importance of compliance to the CA 2010 especially to the Small and Medium Enterprises (SMEs), the Commission has taken the initiative to design and develop the 'e-Learning System on Competition Compliance Programme for SMEs' in 2017. This system serves as a learning tool for all SMEs to better understand the CA 2010. It is designed in a way that the businesses will have to answer some quizzes related to the CA 2010 to lead to a better understanding and thus compliance to the CA 2010 amongst the SMEs. The Commission shall continue its advocacy efforts to promote this system to the SMEs.

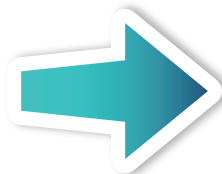
## 5. Utilise the best communication instruments

In order to advance its communication instruments, the Commission shall employ two approaches:



①

Produce information and education materials through online and offline tailored for the key stakeholder groups and priority sectors; and



②

Organise talks, workshops, seminars, and road shows aimed at all the different stakeholder groups and priority sectors.

The Commission shall continue to organise conferences and seminars and invite international experts to discuss, share and exchange information on practices and case studies. The Commission shall improve, monitor and utilise its website and other social media platforms as the internet is identified as the most preferable source of information about the CA 2010 and the Commission amongst stakeholders.

## Priority Sectors:

The Commission prioritises sectors based on its own and other government agencies' experiences as well as its general knowledge of existing market conditions in Malaysia, particularly sectors in which hard core cartels appear to be operating or where collusion is believed to be taking place that affecting essential goods or services, and matters that are fundamentally critical to consumer's quality of life.

Some of the priority sectors identified below are a continuation from the last two plans as work on these areas are ongoing and complaints on the inefficiency of the sectors are still forthcoming. The priority sectors identified can or will be modified depending on the circumstances and needs. The **priority sectors for 2018 – 2020** are as follows:



## Key Stakeholders:

The Commission will continue to work with key stakeholders, which include the general public, government agencies, sector regulators, legislature and judiciary at federal and state government level, enterprises and associations, professionals, media, consumer associations and civil society organisations, universities and think-tanks, in order to promote a competition friendly climate in the aforementioned priority sectors.





