

The Peer Review Report on The Competition Advocacy Activities of the Malaysia Competition Commission

OCTOBER 2022

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ABBREVIATIONS AND ACRONYMS¹

ACAP	ASEAN Competition Action Plan
ACC	Advocacy and Communication Committee
ADFM	Association of Dairy Farmers Malaysia
AMS	ASEAN Member States
APHM	Association of Private Hospitals of Malaysia
ASEAN	Association of Southeast Asian Nations
ASEC	ASEAN Secretariat
BNM	Bank Negara Malaysia (Central Bank of Malaysia)
C&CA	Cement & Concrete Association of Malaysia
CA2010	Competition Act 2010
CASSA	Consumers Association of Subang and Shah Alam
CAP	Consumers' Association of Penang
CCA2010	Competition Commission Act 2010
CCCS	Competition and Consumer Commission of Singapore
CCP	Competition Compliance Programme
CIA	Competition Impact Assessment
EC	Energy Commission
EMGS	Education Malaysia Global Services
ETP	Economic Transformation Programme
FIFEC	Federation of Malaysian Manufacturer's Infant Formula Ethics Committee
FLFAM	Federation of Livestock Farmers' Association Malaysia
FOMCA	Federation of Malaysian Consumers Association
FMM	Federation of Malaysian Manufacturers
FTPP	Fair Trade Practices Policy
GLC	Government-Linked Company
GTP	Government Transformation Programme
HALMIM	Muslim Halal Meat Importers Association of Malaysia
ICC	Indonesia Competition Commission
ICN	International Competition Network
IUM	International Islamic University Malaysia
KPC	Korea Policy Centre
MACFEA	Malaysian Consumer and Family Economics Association
MAH	Malaysian Association of Hotels
MAICSA	Malaysia Institute of Chartered Secretaries and Administrators
MaPMA	Malaysia Paper Merchants Association
MASAAM	Motorcycle and Scooter Assemblers and Distribution Association of Malaysia
MAVCOM	Malaysian Aviation Commission
MBAC	Malaysia Australia Business Council
MCMC	Malaysia Communications and Multimedia Commission
MDTCA	Ministry of Domestic Trade and Consumer Affairs
MDTCC	Ministry of Domestic Trade, Co-operatives & Consumerism
MEF	Malaysia Employers Federation

¹ Unless otherwise stated, reference to laws, regulations and government agencies in this report are reference to laws, regulations and government agencies of Malaysia.

MNC	Multinational Corporations
MOE	Ministry of Education
MOH	Ministry of Health
MOTAC	Ministry of Tourism and Culture
MOU	Memorandum of Understanding
MPC	Malaysian Productivity Corporation
MPIC	Ministry of Plantation Industries and Commodities
MRA	Malaysia Retail Association
MRCA	Malaysian Retailer Chains Association
MyCC	Malaysia Competition Commission
MyIPC	Intellectual Property Corporation of Malaysia
NACCOL	National Cost of Living Council
NAFAS	National Farmers Organisation
NEAC	National Economy Action Council
NEKMAT	National Fishermen's Association
OECD	Organisation for Economic Co-operation and Development
PENENTU	State Fishermen's Association of Terengganu
PENESA	State Fishermen's Association of Sarawak
PEMANDU	Performance Management & Delivery Unit
PhAMA	Pharmaceutical Association of Malaysia
PR	Peer Review
PRA	Peer Reviewed ASEAN Member State
PRIMAS	Malaysians Indian Restaurant Owners Association
PRT	Peer Review Team
RIA	Regulatory Impact Analysis
RGPCCL	Research Grant Programme on Competition Law
SC	Securities Commission
SME	Small and Medium Enterprises
SOE	State-Owned Enterprise
SPAD	Land Public Transport Commission
SPAN	National Water Services Commission
SSM	Companies Commission of Malaysia
UiTM	Universiti Teknologi MARA
UKM	Universiti Kebangsaan Malaysia
UNCTAD	United Nations Conference on Trade and Development
WCAC	Working Committee on Advocacy and Communications

1 Executive Summary

Malaysia is the fourth largest economy in Southeast Asia and the 39th largest in the world, as of 2021. It is one of the most dynamic newly industrialised market economy that is relatively open.

The World Economic Forum's Global Competitiveness Report 2019 ranked Malaysia 9th out of 141 surveyed economies for market dominance, 55th for trade openness, and 12th for competition in services². The World Bank's Doing Business 2020 report ranked Malaysia 12th out of 190 surveyed economies for ease of doing business with an overall score of 81.5. This was an improvement from 2019, when Malaysia was ranked 15th and 2017, when it was ranked 17th³.

The adoption of the Competition Commission Act 713 2010 (CCA2010), and the establishment of the Malaysia Competition Commission (MyCC) as an autonomous agency in April 2010 coincided with the launch of Malaysia's Economic Transformation Programme (ETP), and its Government Transformation Programme (GTP). Both programmes called for a greater role for private sector and a phased disengagement of the State from some sectors of the economy. MyCC's role was to "safeguard the process of free and fair competition in commercial markets for the benefit of consumer welfare, efficiency of enterprises and the development of the economy."

International best practices suggest that in the early phases of young competition agencies, priority needs to be given to build institutional foundations and to engage in competition advocacy, to make the agencies more effective.⁴

The Competition 2010 Act 712 (CA2010) empowers MyCC to enforce the provisions of the CA2010 (Act 712); issue guidelines on the implementation and enforcement of competition laws; act as an advocate for competition matters; carry out general studies

² World Economic Forum, 2019, p.366(35)

³

<https://openknowledge.worldbank.org/bitstream/handle/10986/32436/9781464814402.pdf?sequence=24&isAllowed=y>.

⁴ See Competition Advocacy: Challenges for developing countries;

<http://www.oecd.org/daf/competition/prosecutionandlawenforcement/32033710.pdf>

on competition issues linked to Malaysia's economy or business sectors; inform and educate the public on how competition will benefit consumers as well as the economy.

Since CCA2010 (Act 713) and CA2010 (Act 712) came into force, competition advocacy was viewed as an integral part of MyCC's work plan. Extensive programmes were developed under the first two Five-Year Strategic Plans (2011-2015 and 2016-2020) and three Strategic Plans for Advocacy and Communication.

Purpose and Background of the Peer Review

Under the ASEAN Competition Action Plan (ACAP) 2016-2025, ASEAN Member States (AMS) agreed on several strategic measures to further strengthen competition policy initiatives of the ASEAN Economic Community Blueprint 2025. The strategic goals of ACAP 2025 include establishing effective competition regimes, strengthening capacities of competition authorities in AMS, and moving towards greater harmonisation of competition policy and law in ASEAN.

As part of the initiatives to strengthen competition law frameworks of AMS and establish effective national competition law regimes in all AMS, the member states agreed to conduct at least two peer reviews of their national competition law regimes by 2025 as stated in ACAP Strategic Goal 1. These peer reviews will take place as part of AMS' "process of reviewing their existing competition regimes, in light of their enforcement experiences, changing market dynamics and in accordance with international best practices".

To assist AMS and the ASEAN Secretariat (ASEC) conduct these peer review, ASEC had commissioned and developed the Peer Review Guidance Document, which sets out the steps and processes for an ASEAN Peer Review of their competition regime. The Malaysia Competition Commission peer review is the first of two scheduled peer reviews.

Methodology: A Formative Evaluation Approach

The analytical approach adopted in this peer review is that of a "formative evaluation". Formative evaluations focus on determining which aspects of the design worked well or otherwise, and why. These evaluations can be carried out throughout the life of a project and provide information to incrementally improve its performance.

This aim of a formative evaluation is 'to improve'. It focuses on uncovering the shortcomings of an object during its development process with the purpose of generating suggestions to improve it. It is not to seek evidence on the effectiveness of the intervention and to find arguments to either continue or terminate the project.⁵

Key Findings

- (i) **RESULTS.** MyCC achieved considerable progress throughout the years since its inception. The level of awareness on competition law in Malaysia among different stakeholder groups has increased, as evidenced by the results from the questionnaires and interviews conducted with government officials, businesses, legal counsels and universities' (including lecturers and students) stakeholders group.
- (ii) **IMPORTANCE.** Competition advocacy is needed in Malaysia to (a) advance government economic reforms; (b) strengthen the role of private sector and competitive markets; and (c) to raise awareness on competition issues and its impact on the well-being of citizens and efficient use of public resources, in pursuit of economic development.
- (iii) **BENEFIT.** The peer review found that stakeholder groups such as government agencies, universities/academicians, legal practitioners and businesses⁶ have benefited from the advocacy efforts by the MyCC where the activities have helped enhanced their awareness and understanding of Malaysia's competition law framework.

⁵ For a review and comparison of the definitions of various scholars in the field of formative evaluation see Brinkerhoff, R.O., Brethouwer, D.M., Hluchyj, T., & Nowakowski, J.R. (1983). Program evaluation: A practitioner's guide for trainers and educators. Boston: Kluwer-Nijho.; Flagg, B.N. (1990). Formative evaluation for educational technologies. Hillsdale, NJ: Lawrence Erlbaum Associates.; Tessmer, M. (1993). Planning and conducting formative evaluations: Improving the quality of education and training. London: Kogan Page. Handbook on Formative and Summative Evaluation of Student Learning. Bloom, Benjamin S.; And Others Formative Evaluation in Educational Design Research Nienke Nieveen & Elvira Folmer in Educational Design Research Editors: Tjeerd Plomp & Nienke Nieveen

⁶ Refer to Chapter 4.3 on the peer review findings from the survey.

- (iv) **BENEFITS.** The peer review found several markets and state bodies have benefited from MyCC's advocacy work. These included, amongst others, small businesses, academics, professional bodies, consumers, and ministries.
- (v) **ALIGNED.** MyCC aligns its advocacy and communication strategic plans with the wider priorities of the Government and these competition advocacy activities are also aligned with its mandated functions and priority setting.
- (vi) **MEDIA.** MyCC attracted much media attention and evidence revealed consumers and businesses responded well to MyCC's messages. However, incremental progress is key in measuring progress of competition advocacy and there is still work to be done in the years ahead.
- (vii) **TAILORED.** Advocacy and communications work needs to be tailored and targeted at specific stakeholder groups to ensure the best reach. Strategic outreach and collaborative work to improve understanding and consideration of competition issues could further strengthen advocacy performance.
- (viii) **LIMITATIONS.** Some evidence suggests resource limitations have, over the years, limited the impact of MyCC's advocacy work. This suggests:
 - a. MyCC Communications and Advocacy Division is operating beyond its capacity and leveraging resources through, inter alia, the Research Grant Programme and Competition Law (RGPCL) and international co-operation to maximise its efficiency.
 - b. More permanent staff and budgetary resources can help MyCC maximise its advocacy impact and enhance its advocacy capacity.
- (ix) **VALUE-ADD.** To evaluate the full impact of MyCC's advocacy activities would require an assessment of the value it generates beyond its direct impacts. For example, the RGPCL had identified and engaged with young researchers, guided and provided them with the opportunities and funds for research, as well as a platform to build a reputation through writing peer reviewed articles and reports on competition matters for a broad audience.

- (x) **DIFFUSED.** For some advocacy activities, the impact is diffused.
 - a. These include engagements with universities, think tanks and moot court on competition law cases. Hence, it would be difficult to try to trace specific impacts on policy outcomes or changes in attitudes toward competition policy.
 - b. As such, the peer review aims to judge the content of these activities and its quality, as an indirect indicator of the strategic capacity of MyCC.

- (xi) **SIMPLIFIED.** Overall, participants of advocacy events and readers of advocacy publications were able to grasp main messages conveyed through MyCC's advocacy activities. Participants felt these key activities had successfully raised their awareness on competition law to protect competition process in the market.
 - a. However, a number of participants also revealed that the content can be further simplified for the general audience who may not be well-versed with the technical and complex aspects of law and regulation.
 - b. Hence, MyCC should develop strategic approaches to effectively communicate with targeted stakeholder groups.

- (xii) **IMPACT.** When evaluating advocacy⁷, it is helpful to identify where effort expended are most effective, so that MyCC can make strategic course corrections. As such, it is important that MyCC evaluates the advocacy activities it has conducted.

- (xiii) **DATA.** Difficulties were encountered in obtaining feedbacks from the business community stakeholder group for the peer review study (minimal interviews were conducted with this stakeholder group). As such, there are limited data available on the efficacy of MyCC's advocacy efforts to this stakeholder group for the peer review study.

⁷ Steven Teles and Mark Schmitt "The Elusive Craft of Evaluating Advocacy"
https://hewlett.org/wpcontent/uploads/2016/08/Elusive_Craft.pdf

Key Recommendations

Based on insight gathered at the peer review, the following recommendations are made to improve MyCC's advocacy efforts: -

1. **STRATEGY TO EXPAND IMPACT.** To continue to expand the impact of MyCC's competition advocacy, consideration should be given to:
 - a. Identifying the capacity and skills required to implement advocacy work, and assessing whether the staff of MyCC are sufficiently trained and equipped;
 - b. Developing a unique communication and engagement strategy for each stakeholder group to further their understanding on economic reforms through competition lens.
2. **MONITOR AND EVALUATE.** Monitoring and evaluation of advocacy activities is important to improve their advocacy activities and targeted follow-up action can then be taken to address issues arising from each specific stakeholder group.
 - a. Direct qualitative feedback should be collected from participants immediately after each advocacy events for analysis to evaluate the success of such advocacy activities.
 - b. Awareness studies should be carried out on a more frequent basis (e.g., biennially or triennially) covering various stakeholder groups such as government agencies, competition practitioners, businesses, academics, consumers etc.
 - c. Budgets for MyCC's advocacy activities should include resources for post-evaluation exercises.
3. **ENHANCE RESOURCES.** The Government should consider ways to add more manpower, possibly through (i) increase in manpower headcount; and (ii) increase in salary remuneration for individual officers to attract and retain employees in the MyCC. A budget increase should be considered to ensure advocacy efforts are conducted effectively among all stakeholder groups.
4. **FOCUSED CONTENT.** More focused content for targeted stakeholders, who are already familiar with competition, such as (i) industrial or regulated area or (ii) narrower topics, including intellectual property and competition law, or digital platform and abuse of dominant position. Leave events topics on the outline of CA2010 (Act 712) for stakeholders, who are not familiar with the law.

5. **VISIBILITY & DETERRENCE.** Enhance the deterrent effects of MyCC's enforcement actions by communicating this more visibly to businesses to ensure compliance with competition law framework.
6. **SOCIAL MEDIA.** Develop social media engagement strategies that combine potentially "viral" content with its advocacy messaging. For example, include humorous content (such as comedy clips, memes and other attention-catching media) or share results of student contests which in turn can be circulated on their personal and the schools' social media circles.
7. **COMBINE PLATFORMS.** Integrate and consolidate its e-Booklet publication activities with its e-Learning initiatives, where material from the former, can be used as teaching materials for the latter. Using quiz component from the e-Learning platform, MyCC will be able to assess the comprehension level of its readers or e-Learners.
8. **IMPACT ASSESSMENT ON MARKET REVIEWS.** Assess the impact of MyCC's advocacy and enforcement activities by conducting follow-up studies after (i) market reviews have taken place to assess if the situation in these markets have changed and (ii) enforcement actions have been taken to assess if MyCC's interventions have had an impact on the market.

2 Introduction

2.1 ASEAN Peer Review

Under the ASEAN Competition Action Plan (ACAP) 2016-2025, the ASEAN Member States (AMS) have agreed on several strategic measures to further strengthen the competition policy initiatives of the ASEAN Economic Community Blueprint 2025. The strategic goals of ACAP 2025 include the establishment of effective competition regimes, strengthening the capacities of competition authorities in the AMS and moving towards greater harmonisation of competition policy and law in ASEAN.

As part of an initiative to strengthen the competition law frameworks of the AMS and establish effective national competition law regimes in all AMS the member states agreed to conduct at least two peer reviews of their national competition law regimes by 2025 as stated in ACAP Strategic Goal 1. These peer reviews will take place as part of the AMS “process of reviewing their existing competition regimes, in light of their enforcement experiences, changing market dynamics and in accordance with international best practices”.

To assist AMS and the ASEAN Secretariat (ASEC) conduct these peer reviews, ASEAN had commissioned and developed the Peer Review Guidance Document which sets out the approach and steps of the peer review process that ASEAN competition authorities will participate in when they volunteer to represent the Peer Reviewed ASEAN Member State (PRA) or a member of a Peer Review Team (PRT).

Apart from advancing ACAP Strategic Goal 1, participation in the peer review process will also help the AMS to strengthen the capacity of the respective national competition-related agencies to effectively implement competition policy and law, in line with the ACAP Strategic Goal 2. Competition authorities who take part in the ASEAN CPL Peer Review Process will have opportunities to learn from the experiences of the other competition law regimes in ASEAN, as well as share its perspectives on common competition law and policy issues it had encountered. Aligned with ACAP Strategic Goal 3, such interaction between competition authorities from the AMS will complement existing capacity building initiatives and deepen the regional co-operation arrangements in this area that would facilitate the movement towards greater harmonisation of competition law and policy at the regional level envisioned in ACAP Strategic Goal 5.

MyCC peer review is the first of the two scheduled peer reviews. The PRT consists of the external consultants, AMS peer reviewers and the ASEC. This pilot peer review report (PR) was prepared by the consultants. Contributions by other experts were made to the initial data collection, including interviews and discussions on approaches to the outline of the PR⁸. The other ASEAN member states have also contributed to the final peer review report. The approach taken to conduct this peer review was based on the ASEAN Peer Review Guidance Document⁹ which includes conducting surveys and interviews, analysing the effectiveness of the advocacy activities, and providing recommendations.

This report presents the analysis, findings, and recommendations of the pilot peer review of the MyCC advocacy activities which would help the AMS to improve implementation of their competition law and related regulations through competition advocacy and how they work across governments and other competition authorities.

2.2 Definition of Advocacy Activities

A widely accepted definition of competition advocacy advanced by the International Competition Network (ICN) is that competition advocacy refers to “those activities conducted by the competition authority related to the promotion of a competitive environment for economic activities by means of non-enforcement mechanisms, mainly through its relationships with other governmental entities and by increasing public awareness of the benefits of competition” (ICN 2002¹⁰). By explaining that there are two parts to the definition, the ICN refers to both the ends and the means of competition advocacy. However, this definition leaves many questions unanswered.

The first part of this definition defines competition advocacy in terms of what it is not and refers to almost all activities of the competition authority that do not fall under the enforcement category¹¹. The second part of the definition identifies the two main

⁸ Consultants and competition experts from the Indonesia Competition Commissions (ICC), and the Singapore Competition and Consumer Commission (CCCS), the ASEAN secretariat and a team from the MyCC

⁹ ASEAN Competition Law and Policy Peer Review: Guidance Document, ASEAN Secretariat, 2020

¹⁰ International Competition Network (2002) Advocacy and competition policy: report prepared by the Advocacy working group. ICN's conference Naples, Italy. Competition Advocacy: Simon, vol. 26, issue 3 Spring 2006 <http://www.internationalcompetitionnetwork.org/uploads/library/doc358.pdf>

¹¹ Simon, J Evenett (2006) Competition advocacy: time for a rethink. Northwest J Int Law Bus 26:495–514

branches of competition advocacy: (i) initiatives undertaken by the competition authority towards other public entities in order to influence the regulatory framework and its implementation; and (ii) activities by competition authorities aimed at raising the awareness of economic agents, public authorities and the general public about the benefits of competition to the society as a whole and about the role of competition policy can play to promote and protect competition (ICN 2002¹²).

The competition authority can therefore “use its formal powers to advocate with rule-making powers (Government, legislature, and other public authorities) to persuade them not to adopt unnecessarily anti-competitive measures or help them to delineate the boundaries of business regulation by adapting regulations and policies which unnecessarily restrict competition in the market. This means that competition authorities must act proactively to help the Government to eliminate barriers to competition and to bring about public policies that lower barriers to entry, promote deregulation and trade liberalisation, and otherwise minimise unnecessary government intervention in the marketplace”.¹³ However, it is to be noted that the focus of this peer review is mainly on the advocacy efforts on public education and awareness raising activities rather than relationships with other Government agencies.

2.3 Peer Review Methodology

The analytical approach adopted in this peer review is that of a “formative evaluation”. Formative evaluations focus on determining which aspects of the design works well and why. These evaluations can be carried out throughout the life of a project and provide information to incrementally improve its performance¹⁴. The aim of a formative evaluation

¹² op.cit

¹³ A framework for the design and implementation of competition law and policy. World Bank/OECD, Washington, DC/Paris, p.93–100

¹⁴ For a review and comparison of the definitions of various scholars in the field of formative evaluation see Brinkerhoff, R.O., Brethouwer, D.M., Hluchyj, T., & Nowakowski, J.R. (1983). Program evaluation: A practitioner’s guide for trainers and educators. Boston: Kluwer-Nijho.; Flagg, B.N. (1990). Formative evaluation for educational technologies. Hillsdale, NJ: Lawrence Erlbaum Associates.; Tessmer, M. (1993). Planning and conducting formative evaluations: Improving the quality of education and training. London: Kogan Page. Handbook on Formative and Summative Evaluation of Student Learning. Bloom, Benjamin S;

is 'to improve'. It focuses on uncovering the shortcomings of an object during its development process with the purpose of generating suggestions for improving it rather seeking evidence for the effectiveness of the intervention and to find information that support the decision to either continue or terminate the project.

This approach suggests a focus of the analysis on direct and indirect effects of MyCC's advocacy efforts. One advantage of this approach is that it points to conclusions and recommendations that favours long-term adaptability, durability, strategic capacity, and ultimately, the influence of MyCC in the transition to competitive markets.

As such, the peer review questionnaires were developed with the objective to assess the effectiveness of MyCC's competition law and policy advocacy efforts through; (i) its advocacy events held (to understand the effectiveness of the event in enhancing the participants' awareness and understanding of competition law framework); and (ii) its public outreach activities such as news report, video clips, and social media platforms (to assess the reach out rate and whether the main messages were conveyed to the readers).

I. Evaluation Criteria

(a) Effectiveness

The effectiveness of the advocacy activities can be assessed by comparing the impact of its intended objective to the actual outcome. The impact is measured based on the outreach of the activities towards the targeted stakeholders.

(b) Capacities

Capacities can be assessed based on the resources available to support both its enforcement and advocacy activities.

II. Limitations

The following are some of the limitations of this peer review.

Assessing advocacy effectiveness is a challenge as the impact of advocacy efforts is not always immediately evident on any given issue. Advocacy can make incremental and

iterative progress over time with results only emerging following years of undertakings. Further, many factors play into the decisions made by legislators, regulators and policy makers that are beyond the scope of the MyCC competences.

Taking into consideration the young age of the MyCC and the ongoing economic reforms of the Malaysian economy, the peer review took a formative approach to the assessment of the advocacy activities as outlined above.

III. Data Collection Methods

The peer review includes a structured review of all significant advocacy documentation including strategic plans, reports of activities, policy documents, annual reports, internal evaluation reports, publicity and communication materials, notes, press releases, and frameworks. The peer review also includes a review of documentation related to the other competition advocacy activities conducted by other agencies in ASEAN and other comparable jurisdictions as well as recommended practices by the ASEAN, International Competition Network (ICN), The Organisation for Economic Co-operation and Development (OECD) and United Nations Conference on Trade and Development (UNCTAD).

In addition to reviewing the market reviews, and other related materials, the consultants interviewed MyCC staff and external stakeholders to obtain additional inputs. The COVID-19 pandemic prevented the consultants from conducting field visits. As such, online discussions and interviews with the stakeholders were held. In this context, the choice of a formative evaluation had an added advantage in that it relied more on interviews and qualitative data and less on quantitative information to complete this peer review.

A questionnaire was also developed and distributed to different stakeholder groups such as Government agencies, businesses, academicians, and legal practitioners to assess the effectiveness of MyCC's advocacy efforts.

Semi-structured interviews of about an hour each via ZOOM and Skype with 11 respondents covering the business sector, the Appeal Tribunal, academia, state-owned enterprises, and sector regulators who have filled in a questionnaire in advance of the interview, were facilitated by the MyCC staff and the ASEC. Semi-structured interviews of about two hours via ZOOM with the MyCC staff, the management handling advocacy activities were also facilitated. Interview with the MyCC's members of the Advocacy and

Communications Committee (ACC) were also conducted to understand the impact of the advocacy activities carried over the years and the overall strategy of advocacy events MyCC seeks to pursue.

Document review

Most of the materials reviewed were from the MyCC's website, including documents such as MyCC's three Five-Year Strategic Plans, the three Strategic Plans on Advocacy and Communication (2012-2014, 2015-2017, 2018-2020), annual reports and its operating principles. The MyCC has also provided various information, including the previous surveys conducted after educational events, detailed information on Moot Court and research grant, etc. Additional information was obtained from postings under the website's advocacy, such as newsletters, media releases and an article on competition advocacy.

Annual budgets and expenditures on advocacy activities, speeches by the MyCC chairs, CEOs, and Ministers contributed to informing relevant questions pertaining to MyCC and the Government's priorities and responsibilities. The document review also contributed to informing some of the performance questions.

MyCC staff and the ASEC facilitated the identification of key stakeholders for the distribution of questionnaires. This information, although limited, was used to inform the performance questions. Five market reviews covering, food, services, pharmaceutical, broilers, construction, and perceptions on competition policy in Malaysia were also reviewed.

3 Background

3.1 Legislative Framework for Competition Policy and Law in Malaysia

(1) Competition Act of 2010

The Competition Act 2010 (CA2010) is the main legal source currently being in force, which covers full set of substantive contents of standard competition law except for merger control.

Before the comprehensive competition law was introduced, only a few sectoral regulations governed competition matters within their respective sectors. The discussion for adopting comprehensive competition law officially started with the Eighth Malaysia Plan (2001-2005). The process continued in the period of the Ninth Malaysia Plan and the Fair Trade Practices Policy (FTPP) received approval from the Cabinet on 26 October 2005 for the purpose of achieving the objectives below:

- (i) Promote and protect competition in the market;
- (ii) Create a dynamic and competitive entrepreneur;
- (iii) Provide opportunities for a fair and competitive environment for businesses;
- (iv) Prohibit the practice of anti-competitive practices including those performed outside Malaysia which affects the domestic market;
- (v) Prohibit unfair trade practices in the economy;
- (vi) Encourage the participation of small and medium enterprises (SMEs) in the economy;
- (vii) Promoting consumer welfare; and
- (viii) Promote socio-economic growth, creating efficiency and equity.

To achieve these goals, FTPP covered areas of anti-competitive agreement such as cartels, abuse of dominant position, and unfair trade practices (e.g. misleading advertisements, unfair agreements between large companies and small and medium companies, etc).

Based on the mandate of FTPP, the first draft of the Malaysian competition law, the Fair Trade Practices Bill was formulated in 2008 and the draft bill covered all three areas of conducts that FTPP covered, including unfair trade practices. After the public consultation on the bill, the Ministry of Domestic Trade and Consumer Affairs submitted a proposal to the Government on 9 September 2009. The Ministry proposed, among others, that the comprehensive competition law does exclude unfair trade practices and

therefore the title of the new law be the Malaysian Competition Act. In addition, merger control provision was proposed to be in the Competition Act. In October 2009, the focus of the Competition Act was further discussed and decided to exclude merger control and to leave the power to regulate competition matters to the respective sector regulators in the field of communication and multimedia, and energy.

In July 2010, the comprehensive competition law, CA2010 was enacted. After two years of preparation, it came into force on 1 January 2012.

I. Main provisions of CA2010

CA2010 was introduced as applied to all the sectors including government-linked companies against anti-competitive practices as part of the 10th Malaysian Plan 2011-2015. The purpose of CA2010 is “to promote economic development by promoting and protecting the process of competition, thereby protecting the interests of consumers and to provide for matters connected therewith”. CA2010 prohibits anti-competitive agreements in Chapter 1 and abuse of dominant position in Chapter 2. While CA2010 (Act 712) does not contain provisions with respect to concentration of companies at this point, amendment of CA2010 (Act 712) is expected¹⁵. MyCC had launched an online public consultation on 26 May 2022 that invited the public as well as the relevant stakeholders to provide their views, input, and feedback on the proposed amendments to the Competition Act 2010. MyCC also held two physical public consultation sessions for Government agencies and the public in June 2022.

a) Chapter 1 Prohibition

Chapter 1 of CA2010 prescribes anti-competitive agreements between corporations. Section 4(1) of CA2010 prohibits an agreement between enterprises, whether horizontal or vertical, if the agreement has “the object or effect of significantly preventing, restricting, or distorting competition in any market for goods or services.” As a non-exclusive list of examples, Section 4(2) spells out the following:

- To fix, directly or indirectly, a purchase or selling price or any other trading condition;
- To share market or sources of supply;
- To limit or control of production, market outlets or market access, technical or

¹⁵ Speech by YB Datuk Seri Saifuddin Nasution Bin Ismail, Minister of Domestic Trade and Consumer Affairs, 14 January 2020

- technological development, or investment; or
- To perform an act of bid rigging.

According to Section 6(1), MyCC may grant an exemption to an agreement which otherwise infringes under Section 4(1) if the conditions set forth in Section 5 are met:

- (i) There are significant identifiable technological, efficiency or social benefits directly arising from the agreement;
- (ii) The benefits could not reasonably have been provided by the parties to the agreement without the agreement having the effect of preventing, restricting or distorting competition;
- (iii) The detrimental effect of the agreement on competition is proportionate to the benefits provided; and
- (iv) The agreement does not allow the enterprise concerned to eliminate competition completely in respect of a substantial part of the goods or services.

Section 8 of CA2010 provides another possible exemption route for an agreement between enterprises which were found to restrict competition in a market by their object or effect. MyCC may grant a block exemption to a particular category of agreements which satisfy conditions under Section 5. The advantage of the block exemption is that similar agreements can be examined at the same time, which will allow the MyCC to provide a better overall assessment of anti-competitive impact and an assessment of the claimed benefits and will also relieve enterprises of having to submit separate applications¹⁶. For a block exemption, the MyCC will publish details of the application to allow submissions to be made by members of the public.

For both exemptions, MyCC may put any conditions or obligations which it considers appropriate to impose, and limit duration of the exemption concerned.

b) Chapter 2 Prohibition

Chapter 2 of CA2010 prescribes the abuse of a dominant position. Section 10(1) prohibits an enterprise from engaging, whether independently or collectively, in any conduct which amounts to an abuse of dominant position in any market without any reasonable commercial justification or any reasonable commercial response to the

¹⁶ MyCC, Guidelines on Chapter 1 Prohibition, Anti-competitive Agreement, P19

market entry or market conduct of a competitor¹⁷. The conducts which may amount to the abuse of a dominant position includes¹⁸:

- To impose, whether directly or indirectly, unfair purchase or sell prices or other unfair trading condition on any supplier or customer;
- To limit or control production, market outlets or market access, technical or technological development, or investment, to the prejudice of consumers;
- To refuse to supply to a particular enterprise or group or category of enterprises;
- To apply different conditions to equivalent transactions with other trading parties to an extent that may:
 - (i) Discourage new market entry or expansion or investment by an existing competitor;
 - (ii) Force from the market or seriously damage an efficient competitor; or
 - (iii) Harm competition in the market which the enterprise dominates or any upstream or downstream market;
- To make the conclusion of the contract subject to the conditions having no connection with the subject matter of the contract;
- To behave predatory to competitors; or
- To buy up scarce input necessary for a competitor without a reasonable commercial justification.

c) MyCC action as a result of infringement

In the case of infringement of Part II of CA2010 (Chapter 1 and 2 Prohibition), MyCC requires that the infringement to be ceased immediately and may also:

- Specify steps which are required to be taken by the infringing enterprise, which appear to MyCC to be appropriate for bringing the infringement to an end;
- Impose a financial penalty of up to 10% of the worldwide turnover of an enterprise over the period during which an infringement occurred; or
- Give any other direction as it deems appropriate¹⁹.

There is no criminal sanction for violation of Chapter 1 and 2. Instead of taking actions mentioned above, MyCC may accept an undertaking from an enterprise to do or refrain from doing anything as MyCC considers appropriate and close the investigation without

¹⁷ Section 10(3) of CA2010

¹⁸ Section 10(2) of CA2010

¹⁹ Section 40(1) of CA2010

finding of the infringement. MyCC can impose conditions on the undertaking, and it is equally enforceable by MyCC as a decision set out in Section 40²⁰.

d) Activities not subject to Chapter 1 or 2

Pursuant to the Second Schedule to CA2010, Chapter 1 and 2 do not apply to the following activities:

- An agreement or conduct to the extent to which it is engaged in an order to comply with a legislative requirement;
- Collective bargaining activities or collective agreements in respect of employment terms and conditions and which are negotiated or concluded between parties which include both employers and employees or organisations established to represent the interests of employers or employees;
- An enterprise entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly in so far as the prohibition under Chapter 1 and Chapter 2 of Part II would obstruct the performance, in law or fact, of the particular tasks assigned to that enterprise.

II. Excluded area

Pursuant to the First Schedule to CA2010, commercial activities regulated under the following legislation are excluded from the application of CA2010:

- Communications and Multimedia Act 1998 (Act 588);
- Energy Commission Act 2001 (Act 610);
- Petroleum Development Act 1974 (Act 144) and the Petroleum Regulations 1974 in so far as the commercial activities regulated under these regulations are directly in connection with upstream operations comprising the activities of exploring, exploiting, winning, and obtaining petroleum whether onshore or offshore of Malaysia; and
- Malaysian Aviation Commission Act 2015 (Act 771).

(2) Competition Commission Act (CCA)

The Government started to discuss about the governing body of the comprehensive competition law with the deliberation of the focus and content of the competition law. In the first draft of the act, it was titled the Fair Trade Practices Commission. With the subsequent change in focus and title of the draft competition law, the proposed title of

²⁰ Section 43 of CA2010

the commission was renamed to the Competition Commission. On 2 June 2010, CCA2010 (Act 713) received royal assent and was officially enacted.

CCA consists of six parts:

- Part I (CCA Sec.1-2): Preliminary;
- Part II (CCA Sec. 3-15): Establishment of the Competition Commission;
- Part III (CCA Sec. 16-19): Functions and Powers of the Commission;
- Part IV (CCA Sec. 20-26): Provisions Relating to Employees of the Commission;
- Part V (CCA Sec. 27-37): Finance; and
- Part VI (CCA Sec. 38-47): General.

The members of the Competition Commission (MyCC) are appointed by the Prime Minister of Malaysia. The total number of the MyCC members is eight to ten, consisting of the Chairman, four members representing the Government, including the Ministry of the Domestic Trade and Consumer Affairs (MDTCA), and three to five members qualified in the field of business, industry, commerce, law, economics, public administration, competition, consumer protection or any other suitable area²¹.

The members of MyCC serve for a term not exceeding three years²² and can be reappointed for up to two consecutive terms²³.

MyCC is responsible to the Minister of Domestic Trade and Consumer Affairs. The Minister may give MyCC directions of a general character, consistent with the provisions of the competition laws, relating to the performance of the functions and powers of MyCC²⁴. The Minister may also require or direct MyCC to furnish returns, reports, accounts and information to the Minister and any authority specified by the Minister²⁵.

²¹ Section 5 (1) CCA

²² Section 9 (1) CCA

²³ Section 9 (2) CCA

²⁴ Section 18 CCA

²⁵ Section 19 CCA

3.2 Legal framework for Competition Advocacy in MyCC

Competition advocacy is a fundamental component of competition law and policy. It supplements competition enforcement by educating people in the business sector to encourage compliance. Thus, raising awareness of the merit of competition among the general public to nurture a competition friendly environment.

To understand the role of competition advocacy in the process of enforcing competition law and policy and promoting a competition culture, we need to define what kind of intervention process is implied by the term competition advocacy and how such a process might be assumed to bring about desired changes. There is no single or simple answer to this question.

Existing literature and reports on competition advocacy lend further support to giving priority to advocacy activities over enforcement of competition law in developing countries²⁶. An OECD report suggests, “It is important that competition agencies in all countries engage in competition advocacy, but the discussions above suggest that it is especially critical for those in developing countries to do so. There are certain events that occur in the formative stages of a market economy, including privatisation and regulatory reform, which will significantly impact how the new economy develops. It is better to accomplish these changes properly at the outset than to try to amend them later, and the participation of the competition agency as an advocate for competition has obvious value to that end. Further, most developing countries lack suitable competition cultures, and it is important for the agency to begin the process of building one. These circumstances suggest that competition agencies in developing countries should be relatively more active in competition advocacy than its counterparts in developed countries. At the same time, however, they may lack the foundation for doing so – they may not yet have acquired the independence, the resources and the credibility necessary for effective advocacy.”²⁷

Many studies based on the best practices of developing and transition countries show that young competition authorities should confine themselves to advocacy during the early implementation stages of competition policy and only gradually introduce

²⁶ op.cit 9

²⁷ See Competition Advocacy: Challenges for developing countries;

<http://www.oecd.org/daf/competition/prosecutionandlawenforcement/32033710.pdf>

enforcement of competition law²⁸. ²⁹Advocacy is most effective in the phase of the “consolidation” of competition culture, and it is more effective than legislation enforcement under these circumstances. A variety of arguments have been brought up in support of this viewpoint³⁰.

However, effective advocacy requires several essential conditions. First, the competition authority should have a significant degree of independence from political and business influence. Second, the competition authority should have sufficient resources to support both its enforcement and advocacy functions. It is also important to acquire credibility and extend it throughout the public and private sectors, to policymakers and their constituent as well as to businesses and consumers³¹.

MyCC has the functions specified by the CA2010 as well as the following functions under Section 16(2) of CCA (Act 713):

- (i) To advise the Minister or any other public or regulatory authority on all matters concerning competition;
- (ii) To alert the Minister to the actual or likely anti-competitive effects of current or proposed legislation and to make recommendations to the Minister, if appropriate, for the avoidance of these effects;
- (iii) To advise the Minister on international agreements relevant to competition matters and to the competition laws;
- (iv) To implement and enforce the provisions of the competition laws;
- (v) To issue guidelines in relation to the implementation and enforcement of the competition laws;
- (vi) To act as an advocate for competition matters;
- (vii) To carry out, as it considers appropriate, general studies in relation to issues connected with competition in the Malaysian economy or particular sectors of the Malaysian economy;

²⁸ ICN, 2002, op.cit

²⁹ Toolkit for Competition Advocacy in ASEAN,

https://aseancompetition.org/file/post_image/Toolkit%20on%20Competition%20Advocacy%20in%20ASEAN.pdf

³⁰ op.ci

³¹ Clark J (2005) Competition advocacy: challenges for developing countries. OECD J Competition Law Policy 6:69–80

- (viii) To collect information for the performance of MyCC's functions;
- (ix) 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 MyCC will carry out its functions under the competition laws;
- (x) To inform and educate the public regarding the ways in which competition may benefit consumers in, and the economy of, Malaysia;
- (xi) To consider and make recommendations to the Minister on reforms to the competition laws; and
- (xii) To carry on such activities and do such things as are necessary or advantageous and proper for the administration of MyCC.

MyCC has all the powers to perform the above functions, including the following³²:

- (i) To utilise all the movable and immovable property of the MyCC in such manner as MyCC may think expedient, including the raising of loans by mortgaging such property;
- (ii) To impose penalty for the infringement of the provisions of the competition laws;
- (iii) To impose fees or charges for services rendered by MyCC;
- (iv) To appoint such agents, experts or consultants as it deems fit to assist MyCC in the performance of its functions;
- (v) To grant loans, scholarships and advances to its employees for such purposes and on such terms as the MyCC may determine or as may be approved by the Minister;
- (vi) To pay remuneration, allowances and other expenses of the members of MyCC;
- (vii) To formulate and implement programmes for the proper and effective performance of MyCC's functions, including programmes for human resource development, funding and co-operation;
- (viii) To co-operate with any corporate or Government agency for the purpose of performing MyCC's functions;
- (ix) To require the furnishing of information by enterprises to assist MyCC in the performance of its functions; and
- (x) To do anything incidental to any of its functions and powers.

These competition advocacy functions are directed towards other public bodies that issue economic policies and rules that regulate the economy, some towards businesses and professional bodies and others towards society, which ultimately benefits from

³² Section 17 CCA

greater interfirm rivalry.

The rationale for competition advocacy, as defined in the ICN document, is that exceptions to the general rule of free market competition can be justified only by compelling evidence that competition is unworkable or that it prevents achieving another, overriding social objective.

Section 13 of the CA2010 implies that MyCC should seek to minimise distortions where regulations are necessary by advising the Minister on using the least anti-competitive regulatory methods, and to ensure that regulation is properly designed to meet legitimate objectives; to alert the Minister to an existing or new regulation that is unnecessary or too costly.

I. Relationship with other public authorities

One of the main factors of the advocacy activities is the relationship with other governmental bodies where a competition agency can assist them to evaluate impacts on the competition when choosing new policies, providing technical assistance, seeking to avoid conflicts with other agencies or regulations, and increase awareness of other agencies. It is therefore critical for competition agencies to develop a collaborative relationship with other governmental bodies, whether national or regional, to achieve a competition-friendly environment and strong enforcement of the competition law.

CCA (Act 713) specified the functions of the MyCC in terms of the relationship with other authorities:

- To advise the Minister of Domestic Trade and Consumer Affairs and other public authorities on competition matters (CCA Sec.16(a))
- To advise the Minister of Domestic Trade and Consumer Affairs on international agreements relevant to competition law and matters (CCA Sec.16(c)), and
- To alert the Minister of Domestic Trade and Consumer Affairs to the actual or likely anti-competitive effects of current or proposed legislation and to make recommendations to the Minister for the avoidance of these effects, if appropriate (CCA Sec.16(b)).

II. Awareness Raising Activities

In terms of general functions relating to awareness raising activities, CCA (Act 713) specifies:

- To act as an advocate for competition matters (CCA Sec.16(f)),

- 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 MyCC will carry out its functions under the competition laws (CCA Sec 16(i)), and
- To inform and educate the public regarding the ways in which competition may benefit consumers in, and the economy of, Malaysia (CCA Sec.16(j)).

III. Research and Information Gathering Activities

CCA (Act 713) specifies MyCC's research and information gathering functions as follows:

- To carry out, as it considers appropriate, general studies in relation to issues connected with competition in the Malaysian economy or particular sectors of the Malaysian economy (CCA Sec.16(g)),
- To collect information for the performance of MyCC's functions (CCA Sec.16(h)).

Market Review conducted by MyCC is prescribed in Section 11 and 12 of CA2010.

Section 11 - Power to conduct market review

- a) The MyCC may, on its own initiative or upon the request of the Minister, conduct a review into any market in order to determine whether any feature or combination of features of the market prevents, restricts or distorts competition in the market.
- b) The market review includes a study into:
 - (i) the structure of the market concerned;
 - (ii) the conduct of enterprises in the market;
 - (iii) the conduct of suppliers and consumers to the enterprises in the market; or
 - (iv) any other relevant matters.

Section 12 – Determination of market review

- a) Upon conclusion of the market review, MyCC shall publish a report of its findings and recommendations.

The report of the MyCC shall be made available to the public.

3.3 Advocacy Activities of MyCC

3.3.1 Goals for Advocacy Activities

The rationale for the MyCC advocacy programmes is “grounded on the presumption that awareness of the law and the benefits of competition will lead to greater compliance, the MyCC 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 of the MyCC is meant to be pro-active and to complement the work of the enforcement arm of the Commission.”³³

The MyCC competition advocacy aims to increase the understanding and awareness of competition and its benefits within the wider society, including consumers, civil society, academia and the business community. The objective of these advocacy activities is to increase support for competitive markets and compliance with competition law by educating members of society on the role of competition law.

These advocacy activities occur through the provision of information using a variety of communication tools such as booklets, posters, advertisements on television, radio, the internet, in magazine, newspapers, training seminars, or presentations which are tailored accordingly to the level of targeted stakeholders or groups in society.

The Strategic Plans state that “working towards a vision of a competitive market economy that is fair and efficient, the mission of the MyCC shall be the promotion of a robust competition-friendly environment through advocacy and non-enforcement initiatives, directed at targeted stakeholders in the Government, business and civil society sectors. Grounded on the presumption that awareness of the law and the benefits of competition will lead to greater compliance.”³⁴

³³ Strategic plan for advocacy and Communication, 2015

³⁴ op.cit

3.3.2 Institutional Framework

Advocacy functions are complex and require extensive knowledge and technical skills for effective implementation. They call for identifying the costs or disadvantages of competition in the setting at issue; determining whether regulation, if already in place, has fulfilled its purpose, and whether the conditions that were said to have justified it still obtain; and identifying the necessary elements of a transition from a regulated market to a competitive one. Ultimately, the question is the balance of costs and benefits, which is left to the policymakers. These complex issues, in turn, highlight the difficulty in formulating impartial and transparent advisory opinions by the MyCC as well as evaluating the impact of advocacy activities.

It is worth noting that Section 16 of CCA2010 (Act 713) does not provide a legal right for MyCC to be consulted on proposals by state bodies on proposed or outdated legislation nor on the way the economy is regulated. Moreover, the way other state bodies may respond to the advice given by the MyCC in the conduct of its competition advocacy function is not addressed in the Competition or the Competition Commission Acts (712 & 713). The advice is non-binding on the state bodies. However, the representatives of the MyCC maintain regular and informal dialogues with all relevant public bodies and are invited by government agencies and other decision-making governmental forums to participate in consultations and exchange of views.

Another important dimension of the competition advocacy function provided for in CCA2010 (Act 713), is the implicit objective of promoting trust in markets and the benefits arising from competitive markets. As in other developing countries, competition advocacy is a particularly important tool for mobilising support for economic reforms and transition to a market economy. In Malaysia, the adoption of CA2010 (Act 712) and CCA2010 (Act 713) coincided with the launch of Malaysia's Economic Transformation Programme (ETP), and the Government Transformation Programme (GTP). The two programmes called for a greater role for private sector and a phased disengagement of the State from some sectors of the economy. The formulation of the GTP and ETP was preceded by a society-wide consultation process to ensure that the transition to a modern and competitive economy was fully understood and had the widest support in all segments of society. Further, the GTP and ETP have heightened the activity of interest groups as they lobbied for lost privileges. The MyCC was therefore considered to be less prone to regulatory capture by interest groups than, for example, sector-specific regulators; and through its advocacy activities it could instil competitive values in business conduct,

consumer's trust in markets, and reduce the possibility of bid rigging in public tenders.

Advocacy activities became one of the soft tools in the portfolio of assets which MyCC uses to promote competition and liberalisation measures to improve the performance of the Malaysian economy. Keeping in mind the objective of the “promotion of a competitive environment for economic activities”³⁵, avoiding regulations with greater anti-competitive effects by Government measures with less adverse consequences appears to be the way MyCC interpreted the meaning and objectives of competition advocacy.

As indicated above, the MyCC competition advocacy is defined by CCA2010 (Act 713) and takes a bottom-up grassroots approach involving raising awareness, capacity building, mobilising consumers, and building networks and coalitions in support of competitive markets. Various types of intervention have been formulated and implemented in the two Five-Year Strategic Plans since the establishment of the MyCC, ranging from large international conference in Kuala Lumpur, regional small conversations with SMEs in remote areas, bicycle tours to promote competition, speeches to student moot courts.

Another aspect of MyCC competition advocacy is its social dimension. Several competition advocacy interventions target specific economic groups such as SMEs, rural farmers, and vulnerable consumer groups. The principles which underpin targeted group intervention recognise the specific needs of these special groups in terms of outcomes and capability to benefit from the opportunities offered by the competition. The concern here is about addressing inequalities of opportunities and the vulnerability of the targeted group to anti-competitive conducts.

Evaluation of these types of competition advocacy interventions requires flexible benchmarks because successful advocacy activities can be “measured” in a range of ways - from changed attitudes toward markets, improved public policies, enhanced communication between business and law makers, to helpful legislation passed or unhelpful laws averted; the impact is generally incremental and often diffused.

MyCC is a relatively new competition agency and faces many diverse challenges. Most, if not all competition agencies have its origin in a fundamental condition that exists in a country new to competition policy - the lack of competition culture. Beyond that, developing human resources is the second most important challenge. As in many

³⁵ Strategic Plan for Advocacy and Communication, 2012-2014

jurisdictions that are new to competition law and policy, it is hard to attract and retain qualified people. This is a function of several factors; among them are the MyCC's budget, the number of competition experts in Malaysia, experience, training and the perception of the private sector as a more financially rewarding place to work.

Technical assistance from more experienced countries and from international agencies played an important role in alleviating this constraint.

Over the decade, significant experience has been built and lessons have been drawn from each annual and two-yearly advocacy programme. There is a continuing interest in Malaysia and at the ASEAN level for a greater role of competition advocacy as reflected in the various national and regional programmes and capacity building activities in the past years for evaluating its impact and drawing relevant lessons and best practices. At the same time, there is a continuing need to strengthen advocacy functions and increase MyCC's effectiveness to create an open and well-functioning market.

3.3.2.1 MyCC's Advocacy Unit: Organisation, Personnel, Budget

Advocacy is recognised as an important function of the MyCC and is incorporated into MyCC's organisational strategy as one of its over-arching goals. Competition advocacy is implemented by the Advocacy Unit, which is headed by a senior staff that reports to the CEO. The Advocacy Unit's work is well-aligned with the overall MyCC priorities that are detailed in the Strategic Plan on Advocacy and Communications which the aim is to foster innovation and improve the competitiveness of Malaysia.

Since the establishment of the MyCC in June 2011, the agency viewed advocacy programmes as vital in ensuring that the Competition Act 2010 (Act 712) is gradually enforced and that the relevant parties conduct self-assessments of their respective business activities to facilitate voluntary compliance. MyCC was of the view that advocacy programmes would help provide a basic understanding of the new law and its implication as well as to convey the message that competition law not only imposes constraints but also provides enormous business opportunities.

Being the only agency that conducts competition advocacy in Malaysia, the MyCC plays a vital role. MyCC promotes competition-enhancing policies and practices by advocating other Government agencies in Malaysia, promoting compliance in the private sector, collaborating with domestic and international partners, and conducting outreach activities

with key stakeholders (e.g., consumer groups, academia, professional associations, the legal community, and the public).

MyCC has carried out a variety of competition advocacy activities since the enactment of CA2010. The Advocacy Unit's budget is shown in Table 1.

Table 1: Advocacy Unit Budget

Items (RM)	2011	2012	2013	2014	2015	2016	2017	2018	2019
Capacity building and training	56,400	543,300	1,409,500	36,500	326,700	642,000	448,200	370,000	1,127,000
Advocacy and communication	440,700	732,700	1,478,800	-	104,500	193,000	482,700	564,300	171,600
Research	455,100	557,700	1,066,500	157,000	-	-	22,900	46,600	145,500
ICT	24,700	231,850	187,300	-	22,200	-	158,000	237,500	273,700
Government budgetary allocation	10,579,000	25,000,000	24,000,000	7,070,000	4,519,000	4,600,000	2,756,000	6,928,000	16,360,000

Source: MyCC's annual reports; 1 US dollar = 3.8 Ringgit average.

3.3.2.2 Working Committee for Advocacy Related Activities

Section 14 of CCA2010 (Act 713) prescribes that MyCC may establish any committee as it deems necessary or expedient to assist it in the performance of its functions. As such, MyCC has set up several Working Committees to carry out its advocacy functions, among which are the Working Committee on External Guidelines, the Working Committee on Publicity and Communication, and the Working Committee on Advocacy were characterised as advocacy related³⁶.

The responsibility of the Working Committee on External Guidelines outlined in the Strategic Plan of 2012-2014, was to develop "guidelines in relation to the implementation and enforcement of the competition laws" (Section 16(e) of CCA2010 (Act 713)). The Working Committee on Publicity and Communication was responsible for publishing and raising awareness among persons engaging in commerce or trade and among the public

³⁶ MyCC, Strategic Plan for Competition Advocacy and Communication 2012-2014, p.8

on the information concerning the competition law and the manner in which MyCC will carry out its functions under the competition laws (CCA2010 (Act 713) Sec. 16(i)). The Working Committee on Advocacy was to perform the remaining non-enforcement function (CCA2010 (Act 713) Sec. 16(f)(g)(h)(j)).

Subsequently, in the Strategic Plan of 2015-2017, the above Working Committees were restructured, and the Working Committee on Advocacy and Communications (WCAC) is mentioned as the responsible body for overseeing the implementation of MyCC's advocacy and communication activities³⁷.

The objective of WCAC is to undertake advocacy projects and to develop practical tools and guidance to improve the effectiveness of MyCC's function in disseminating competition principles and promoting the development of a competition culture within society. The WCAC is made up of members from different backgrounds and areas of expertise. It includes:

- (i) Member of the Commission (Chairman of the MyCC);
- (ii) Representative from the Ministry of Domestic Trade, Co-operatives & Consumerism (MDTCC);
- (iii) Representative from the Performance Management & Delivery Unit (PEMANDU), Prime Minister's Office;
- (iv) Representative from the Attorney General Chambers;
- (v) Representatives from business associations and trade chambers;
- (vi) Representative from the media; and
- (vii) Representative from the Consumer Association.

WCAC was renamed as Advocacy and Communication Committee (ACC) for the Strategic Plan of 2018-2020. The ACC consists of almost the same groups of members, except for the addition of two other members of MyCC and removing a representative from the Performance Management & Delivery Unit (PEMANDU), Prime Minister's Office.

Initially, the mandate of the WCAC was much broader and included:

- Organising a hearing for representatives of the private sector, sector regulators, consumer representatives, government departments, local authorities, public procurement agencies, etc., to provide feedback on the perceived anti-competitive practices that exist in Malaysia;
- Evidence-based market studies;

³⁷ MyCC, Strategic Plan for Competition Advocacy and Communication 2015-2017, p.6

- Complaints from the public or business sectors;
- Information received from Commissioners, government agencies, members of the WCAC or whistle blowers;
- Intelligence gathering of existing inefficient and non-competitive sectors; and
- Conventional wisdom derived from the experiences of competition agencies from other countries.

Later, the mandate of the renamed ACC was narrowed to “the promotion of a robust competition-friendly environment through advisory and non-enforcement initiatives, directed at targeted stakeholders in the Government, business and civil society sectors.” Since 2020, MyCC has since placed more focus on educational events for the businesses rather than the general public (consumers) as there were more awareness among the public on the importance of competition from MyCC’s enforcement activities in the past.

However, the focus of the ACC remained the same, which is to guide the MyCC so that “it shall adopt a collegial approach by working with the various stakeholders and through their associations to deliver its messages. The aim of this approach is to win over stakeholder groups by building trust and encouraging self-compliance to achieve its objective of promoting a competition culture in Malaysia”³⁸. Furthermore “the strategy shall continue to engage stakeholders through its various advocacy and public consultation efforts, with special emphasis on competition issues related to Small and Medium Enterprises (SMEs) and trade associations and professional bodies, and to educate stakeholders on the negative implications of bid rigging”³⁹.

3.3.2.3 Strategic Plan for Competition Advocacy Activities

I. Five-Year Strategic Plans

The MyCC formulated and implemented successfully two Five-Year Strategic Plans over the first phase of its lifecycle throughout 2011-2020. These two Strategic Plans provided the overarching strategies and actions of the MyCC workplan that included building the foundations of the agency, communicating the enforcement strategies to the

³⁸ Annual Report 2012

³⁹ Annual Report 2012

stakeholders and engaging with the Government, businesses and the public.

The first Strategic Plan 2011-2015 focused on building the foundations for an effective agency by establishing processes, workflows and operational guidelines; recruiting staff and building skills and expertise; developing networks with other competition agencies and international organisations; and launching the first advocacy programmes about the new Competition Act, its own functions and the way it intends to implement the competition rules as well as how it sees its contribution to the overall economic reforms under ETP and GTP⁴⁰.

The second Five-Year Strategic Plan 2016-2020 then focused on strengthening MyCC's competition advocacy programmes. These advocacy programmes were successfully implemented despite the challenging times as the country experienced political uncertainty caused by changes in the Government and the COVID-19 pandemic.

The Strategic Plan 2011-2020 coincided with the first five years of the ten-year ASEAN Competition Action Plan 2025 (ACAP 2025), which contains inter alia, national initiatives to achieve the regional goals of achieving competitive national and regional ASEAN markets and promoting awareness about the benefits of competition to consumers, businesses, and public expenditures.

In the first two Strategic Plans, the MyCC had undertaken various efforts and initiatives to engage with and raise awareness among the relevant stakeholders on the importance and benefits of competition law, as well as MyCC's role in promoting and enforcing the law. From its establishment in 2011 until 2021, MyCC had conducted 293 advocacy engagements, of which 117 were conducted for business associations and professional bodies, and 112 for government agencies. These engagements included training and hosting talks, forums, conferences and seminars⁴¹.

Competition issues in industries undergoing reforms under the GTP and the ETP were the focus of MyCC's advocacy efforts. MyCC engaged with several statutory government bodies, such as the Ministry of Finance, the Malaysian Anti-Corruption Commission, the Ministry of Health, the Central Bank of Malaysia, the Public Land Transportation Commission, the Malaysian Communications and Multimedia Commission and the

⁴⁰ Economic Transformation Programme (ETP): A Roadmap for Malaysia; PEMANDU, Prime Minister's Department, October 2010

⁴¹ 2019 Annual report

National Audit Department to collaborate on promoting the Government's agenda to establish fair competition in the Malaysian economy for the benefit of its consumers.

Some of the advocacy efforts were in support of other agencies' attempt to apply competition principles under their own laws. Recent examples include advisory opinions to the departments related to transportation, health, education and finance sectors and have assessed the likely effects of exclusions and exemptions from the Competition Act.

Aside to the Five-Year Strategic Plan, every three years, the MyCC also published Strategic Plan for Competition Advocacy and Communication until 2018. It sets out the rationale and framework of the advocacy and communication work of MyCC. Three Strategic Plans had been published since 2012, and they commonly explain the scope of MyCC's advocacy activity, key stakeholders, priority sectors and work programmes.

The Strategic Plans for Advocacy and Communication (2012-2014, 2015-2017 and 2018-2020) were developed by the MyCC to achieve the goals set out in the two Five-Year Strategic Plans. The first Strategic Plan titled "MyCC Strategy Plan for Competition Advocacy 2012-2014" indicated that "the MyCC shall study and adopt the best practices of the competition advocacy work of competition agencies in other countries and that the MyCC will therefore ensure that it networks and maintains international linkages to continuously learn from the successful advocacy activities carried out by these competition agencies. The aim was that the pre-emptive nature of advocacy initiatives will result in better compliance thereby reducing the need for resource-heavy enforcement."⁴²

A review of the three MyCC Strategic Plans shows that these were based on careful need assessment and best practices of other relevant competition agencies.

The first Strategic Plan (2011-2015) recognised that given the ongoing economic reforms and the transition to a full market economy, some matters were best addressed through the use of advocacy, rather than enforcement. When assessing a potential advocacy project, MyCC should rely on four strategic factors for each advocacy intervention; competition advocacy must be:

- (i) Economically important;
- (ii) Multiple touch points oriented;
- (iii) Resource efficient; and

⁴² SAC Plan 2012-2014

- (iv) Enhance credibility, accountability, and transparency.

The MyCC Strategy Plan for Competition Advocacy 2012-2014 also developed several main priority sectors which became the focus of advocacy programmes and impact evaluation in the following years.

The second MyCC Strategic Plan for Competition Advocacy & Communication 2015-2017 sets out the rationale and framework for the work programme of MyCC in the CA2010's second phase of implementation and became one of the most efficient platforms pursuing the MyCC's competition advocacy.

The third MyCC Strategic Plan for Competition Advocacy & Communication 2018-2020 was a key pillar of MyCC's second Five-Year Strategic Plan (2016-2020), which sought "to increase the overall competitiveness in the local business environment and allow the MyCC to be a leading competition authority." It expanded the work of the advocacy and communication programmes. It identified seven goals without setting priorities among them. The seven goals were:

- (i) Build as well as deliver advocacy and communication programmes;
- (ii) Establish competition contact points within government bodies;
- (iii) Identify 'champions' among key stakeholders and build strong relationships with them;
- (iv) Engage with academia and institutions of higher learning,
- (v) Engage with consumer authorities;
- (vi) Training for MyCC staff and members; and
- (vii) Advocacy and Communication Instruments.

The Strategic Plan for Competition Advocacy & Communication also identified priority sectors:

- (i) Food production and distribution;
- (ii) Transport such as taxis, buses, mass rapid transit, railways, air travel, hauliers and shipping;
- (iii) Healthcare institutions, including the pharmaceutical industry;
- (iv) Professional services; and
- (v) Construction.

Although MyCC had stopped launching the Strategic Plan for Advocacy and Communication plan, MyCC had launched its latest 5-year plan (2021-2025) highlighting the advocacy efforts in the next 5 years. The strategy includes, delivering effective

outcomes for MyCC’s core activities, aligning the application of competition policy and law with current market environment and strengthening and expanding MyCC’s capacities and capabilities and resources.

3.3.2.4 Key Stakeholders of MyCC’s advocacy activities

The MyCC’s advocacy programmes target key stakeholders such as 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, and universities and think-tanks as specified in the Strategic Plan for Competition Advocacy and Communication 2018-2020.

All three Strategic Plan for Competition Advocacy and Communication included the same key stakeholders except for ‘general public’ which was added in Strategic Plan 2015-2017, and ‘media’ which was added in the Strategic Plan 2018-2020.

3.3.2.5 Targeted Sectors (Priority sectors)

The targeted sectors for MyCC’s advocacy activities are specified in the respective Strategic Plans for Competition Advocacy and Communication. A flexible approach is adopted by the MyCC to allow the list of sectors to be amended as and when information regarding competition matters comes to surface. Two sectors, food and healthcare & pharmaceutical have been on the targeted sectors list since 2012 as shown in Table 2.

Table 2: List of targeted sectors for the MyCC's advocacy activities

2012-2014	Food, Transport, Healthcare & Pharmaceutical, Professional Services; Housing Developers, and Financial Institutions
2015-2017	Food, Transport, Healthcare & Pharmaceutical, and Professional Services
2018-2020	Food, Healthcare & Pharmaceutical, Construction, E-Commerce, and Services

MyCC has provided advocacy programmes specifically for audiences, whether public or private, working in relation to these targeted sectors. Efforts were also taken to conduct market reviews in these sectors and MyCC recommends these areas to be the subject of the granted research.

3.3.3 MyCC's Advocacy Activities

3.3.3.1 Interactions with other Government agencies (including Special Committee on Competition)

The Government of Malaysia and the MyCC are institutionally connected through, inter-alia, the appointment of some of the commissioners also undertake policy intervention role. MyCC's advocacy activities are focused on assisting these commissioners to educate members from other Government agencies on competition matters⁴³. The public procurement staff was the focus group in these training programmes. MyCC also makes recommendations to other governmental bodies which are necessary to solve the problems of the current policies and market environment in market reviews.

I. Policy Advice

The MyCC has provided multiple policy advice to the Government bodies over the years:

Year	No. of Policy Advice Issued
2011	2
2012	13
2013	4
2014	9
2015	3
2016	4
2017	6
2018	3
2019	7
2020	6
2021	11

Since the establishment of MyCC in 2011, it has issued a total of 68 policy advice to various ministries, authorities, as well as regulators, with MOH and MOT among the ministries that regularly seek MyCC's advice on competition issues. In its first year, MyCC had provided two policy advice regarding (i) the usage of products and services of a certain class and status in Government procurement and (ii) the utilisation of national courier services by all government institutions. In its second year, MyCC had provided the most policy advice in a single year to date with 13 policy advice ranging from issues on fees for shipping agents, real estate management, access to medicines to gas supply

⁴³ Strategy Plan for Competition Advocacy 2012-2014, p.16

law. Since then (2013 to 2021), MyCC had issued policy advice on an abundance of issues such as Government procurement, Islamic pilgrimage packages, construction, pharmaceutical, aviation, financial system, commodity, healthcare as well as communications and multimedia.

II. Special Committee on Competition

The Special Committee on Competition comprises representatives from the Malaysian Communications and Multimedia Commission (MCMC), the Energy Commission (EC), the National Water Services Commission (SPAN), the Central Bank of Malaysia (BNM), the Securities Commission (SC), the Companies Commission of Malaysia (SSM), the Intellectual Property Corporation of Malaysia (MyIPO), the Malaysian Aviation Commission (MAVCOM) and the MyCC. This Committee meets regularly to discuss inter-alia:

- (i) Competition issues with sector regulators;
- (ii) Where possible, harmonisation of competition principles, interpretation and application of the law;
- (iii) Joint research and make recommendations on the development of competition policy and law including peer review;
- (iv) Joint educational activities and media campaigns on competition-related issues;
- (v) Support to MyCC and vice versa to the respective sector regulators at national and international forum on competition;
- (vi) Provide necessary technical support to MyCC and vice versa to the respective sector regulators;
- (vii) Joint advocacy programmes in the promotion of competition policy and law in Malaysia; and
- (viii) Any other functions necessary for the promotion of competition policy and law in Malaysia.

On 22 September 2022, the Special Committee had convened for the first special meeting on competition post-pandemic. The meeting was chaired by MyCC, discussed various competition matters including the progress of its law amendment exercise on merger and acquisition, issues in the aviation, telecommunication as well as energy. The Special Committee was also given key updates on the investigation results of the alleged chicken cartel case and MyCC's first bid rigging decision against eight enterprises for engaging in bid rigging conducts involving IT-related public procurement projects.

III. Other Collaboration

MyCC has collaborated with other ministries and governmental agencies to tackle competition issues. One of the examples is MyCC's collaboration with the Malaysian Anti-Corruption Commission, the Ministry of Finance and the Accountant General Office for discussion on competition issues concerning public procurement in 2018⁴⁴.

3.3.3.2 Awareness Raising and Education

3.3.3.2.1 Advocacy Programme Events

From 2012, the MyCC had conducted more than 27 programmes annually, except in 2020 and 2021, due to the restrictions arising from the COVID-19 pandemic. The programmes were designed for different types of stakeholders such as:

- (i) Businesses (Associations, SMEs, Chamber of Commerce);
- (ii) Government officials;
- (iii) Legal community;
- (iv) Academics;
- (v) Students;
- (vi) Consumers; and
Media.

⁴⁴ MyCC, Annual Report 2018, p.41

Table 4 below show the total number of advocacy programmes conducted by MyCC and its targeted audience from 2012-2021.

Table 3: Total number of advocacy events

Year	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total
Number of events	37	30	31	48	28	27	31	31	14	16	293

Table 4: Targeted stakeholders for advocacy events

Year	Non-Specific	Government Officials	Legal Community	Business	Students	Academics	Consumers	Media
2012	2	11	3	21	0	0	1	0
2013	2	7	0	17	3	1	0	0
2014	1	20	1	8	2	0	0	0
2015	4	24	1	13	4	0	1	1
2016	2	10	2	12	3	0	0	0
2017	4	8	4	6	5	0	0	0
2018	0	18	4	4	12	2	1	1
2019	1	10	8	16	5	1	1	1
2020	0	3	4	9	4	0	3	0
2021	1	1	2	11	4	0	1	0
Total	17	112	29	117	42	4	8	3

*Some of the events had multiple targets

Table 5: Advocacy event topics

Year	Outline of CA2010	Ch.1 (General)	Ch.1 (Bid Rigging)	Ch.2	Enforcement	Compliance	Others
2012	36	0	1	0	0	0	0
2013	27	0	2	0	0	2	0
2014	17	0	10	0	1	5	1
2015	43	0	2	0	2	1	0
2016	22	1	4	2	0	1	1
2017	19	1	2	0	1	4	0
2018	27	5	3	5	8	0	8
2019	29	1	9	1	10	9	1
2020	14	1	1	0	1	3	0
2021	16	1	1	0	2	2	0
Total	250	10	35	8	25	27	11

*Some of the events had multiple topics

The advocacy activities held by MyCC were planned based on targeted focused area of the programmes for specific targeted stakeholders. Most of the advocacy activities were geared towards focusing on the outline of CA2010 to all stakeholder groups as shown in Table 5. Bid rigging, enforcement and compliance of competition law were the next highly sorted focused area for MyCC's advocacy activities. For example, the MyCC focused on two different areas for the advocacy activities, the Benefits and Consequences for SMEs and Bid Rigging for advocacy events in Annual Report 2013⁴⁵.

⁴⁵ MyCC, Annual Report 2013, p.39

The first area of focus is the outline of CA2010 (Act 712) and SMEs. Although more than 97.3% of businesses in Malaysia are SMEs⁴⁶, a survey in 2012 showed that their awareness of CA2010 (Act 712) were low. The result showed that 81% of the 2,307 respondents were unaware of CA2010 (Act 712), although it was the year that CA2010 (Act 712) came into force and there were many media coverage about it. In addition, MyCC noticed there were several misunderstandings on CA2010 (Act 712) from the SMEs that it felt was necessary to address, such as that CA2010 (Act 712) covers all activities of the companies regardless of their size with some exemptions; the aim of CA2010 (Act 712) is to protect competition not competitors; and that SMEs are more likely to suffer negative effects due to anti-competitive practices by companies in the supply chain.

The second area of focus is bid rigging advocacy event for government officials, which is characterised as “particularly harmful anti-competitive practice that can be costly to the nation’s economy”. The MyCC organised two programmes on bid rigging for government officers and public officials in 2013. The first event was an INTAN Executive Talk on Bid Rigging Aimed at Public Officials, while the second event was a Workshop on Bid Rigging for Government Officers that were organised in co-operation with the Organisation for Economic Co-operation and Development (OECD) and the Korea Policy Centre (KPC).

⁴⁶ In July 2013, the National SME Development Council changed the definition of SMEs. Under the definition, which set out the qualifying threshold for sales turnover and employment, SMEs are defined as having sales turnover not exceeding RM50 million or employment not exceeding 200 workers in manufacturing; and RM20 million in sales turnover or 75 workers in services and other sectors. (MyCC, Annual Report 2013, P39.) Following this the definition, SMEs counts for 98.5% of businesses in 2013.

At the end of the educational events, a survey will be conducted to obtain feedback on the events from the participants. Some examples of the question of the survey are as follow:

- (i) Where did you first learn about MyCC?
- (ii) Where did you first learn about the Competition Act 2010?
- (iii) What would you say your level of knowledge was about MyCC and the Competition Act 2010 before and after the programme?
- (iv) In your opinion, is this programme useful in disseminating information about the Competition Act 2010?
- (v) Are you satisfied with the approach taken in this programme?
- (vi) Overall, do you think that this programme is successful in educating you on what the MyCC and the Competition Act 2010 is?
- (vii) For future advocacy programmes conducted by MyCC, what would you like to be included as part of the programme?
- (viii) Was the speaker knowledgeable and experience in the subject matter
- (ix) Was the presentation style effective?
- (x) Was the programme material well organized and adequate?
- (xi) Was the speaker able to effectively respond to all questions and issues?
- (xii) Did the programme achieve training objectives and meet your expectation?

a) Businesses

Businesses are one of the main stakeholder targets for the advocacy and educational programmes, evident through the number of advocacy programmes held by the MyCC targeting businesses (117 out of 293).

Industrial Associations

MyCC has placed emphasis on the advocacy to the business/industrial association⁴⁷ and effort has especially been placed in advocating to industries through those associations and groups since CA2010 came into force as shown in Table 6.

Table 6: List of business associations and groups that attended advocacy programmes in recent years

Year	Business associations and groups
2019 - 2021	Association of Dairy Farmers Malaysia (ADFM), Cement & Concrete Association Malaysia (C&CA), Chefs Association Malaysia, Consumers' Association of Penang (CAP), Consumers Association of Subang & Shah Alam (CASSA), Federation of Livestock Farmers' Association Malaysia (FLFAM), Federation of Malaysian Consumers Association (FOMCA), Federation of Malaysian Manufacturers (FMM), Federation of Malaysian Manufacturer's Infant Formula Ethics Committee (FIFEC), Federation of Vegetable Sellers Associations, <i>Gabungan Persatuan Penjaja dan Peniaga Kecil Malaysia</i> , KL Hoi Seong Association, KL Vegetables Wholesaler Association, Kuala Selangor Fishermen's Association, Malaysia Australia Business Council (MBAC), Malaysia Retail Association (MRA), Malaysian Association of Hotels (MAH), Malaysian Consumer & Family Economics Association (MACFEA), Malaysian Indian Restaurant Owners Association (PRIMAS), Malaysian Retailer Chains Associations (MRCA), Muslim Halal Meat Importers Association of Malaysia (HALMIM), National Farmers Organisation (NAFAS), National Fishermen's Association (NEKMAT), Penang Chef Association Malaysia, Pharmaceutical Association Malaysia (PhAMA), Selangor Ruminant Livestock Breeders Association, State Fishermen's Association of Sarawak (PENESA), State Fishermen's Association of Terengganu (PENENTU), The Malaysian Muslim Restaurant Owners Association (PRESMA)

Professional Associations

Professional associations set standards for entry and professional norms to be complied with a possible sanction in the case of breach, including exclusion from the market. It can also be a facilitating body of cartels which would lessen competition in a market. Therefore, the MyCC is of the view that it is important to educate them to maintain an effective competition in their market⁴⁸.

⁴⁷ Strategy Plan 2012-2014, p.18

⁴⁸ Strategy Plan for Competition Advocacy 2012-2014, p.20

MyCC has hosted educational programmes to the following professional associations:

- (i) Association of Chartered Certified Accountants (KL, Sabah, Sarawak)
- (ii) Institute of Approved Company Secretaries (2012)
- (iii) Chartered Secretaries Malaysia (MAICSA) (2014, 2015)
- (iv) Royal Institute of Surveyors Malaysia (2016)

SMEs

The majority of entrepreneurs in Malaysia are SMEs and therefore, they have been given due weight in MyCC's advocacy activities. Advocacy programmes aimed at SMEs were held a few times each year from 2013 to 2017 except in 2014. Since the launch of the e-Learning system by the MyCC for SMEs in 2017, the focus of advocacy activities has shifted from the educational event to e-Learning⁴⁹.

b) Government officials

Government agencies could exert an influence on competition depending on what policy they choose to regulate the industry they are responsible for. In addition, they could also influence markets as participants when they purchase goods and services through the exercise of public procurement. As both policy makers and purchaser, it is necessary for them to have full understanding of the competition law and policy to attain competitive environment in the country.

As such, MyCC has provided 112 programmes out of 293 in total for government officials. It was noted that 24 programmes, including 19 for the Ministry of Domestic Trade, Co-operative and Consumerism (MDTCC) in different regions were hosted in 2015, and 10 programmes, including five for MDTCC in 2016 respectively. In addition, a special forum for government officials specifically focused on bid rigging took place in 2018 titled "Forum on Facing the Challenges of Bid Rigging and Monopoly in the Public Sector" (*Forum Menghadapi Cabaran Tipuan Bida dan Monopoli dalam Sektor Awam*).

⁴⁹ Strategic Plan for Competition Advocacy and Communication 2018-2020, p.20.

Example of Communication Initiatives: Press Release on The 3rd Malaysia Competition Law Conference 2022: “Digital Economy, Merger and Bid Rigging”

MyCC had organised the 3rd Malaysia Competition Law Conference 2022 with the theme “Digital Economy, Merger and Bid Rigging” on 23 June 2022 in Kuala Lumpur. The two-day intensive conference brought together over 300 local and international participants comprising of among others, government officers, legal practitioners, economists, members of professional bodies, members of financial institutions, academicians, and students. The conference served as a platform for an intellectual discourse and exchange of ideas on important and current competition topics such as “The Economic Impact of the Disruption by Digital Economy” “The Intersection Between Bid Rigging and Corruption” and “Formulating Effective Merger and Acquisition Policies for Economic Development”. Recognising the increasing importance of MyCC, the YAB Prime Minister in his keynote address stated the Government’s intention to further empower MyCC by increasing its human capital and budget.

Source: MyCC press release

c) Legal community

MyCC has continuously been engaged in the programmes for legal communities. It is critical to inform members of the legal communities to ensure judgements are made based on technically sound reasoning and businesses are advised properly in a way will not hamper competition in a market. The MyCC has held advocacy programme meetings for judges and practitioners each year except in 2013 and the number of the meetings have been increasing slightly year on year, aside from the COVID-19 pandemic years, 2020 and 2021. The examples of the individual programmes for judges and lawyers are in Table 7.

Table 7: List of advocacy programmes for the legal community

Legal community	Advocacy programmes held by the MyCC
Judges	<ul style="list-style-type: none"> - Judges Conference, January 2019 - Briefing for Judges, November 2018 - Engagement Session with Chief Registrar and other Judges, March 2017, Putrajaya - <i>Majlis Hakim-Hakim</i>, January 2012, Putrajaya
Practitioners	<ul style="list-style-type: none"> - LEXiCON 2018/2019, January 2019 - Roundtable Session with Academics, Regulators, Media and Practitioners, November 2018 - International Malaysia Law Conference, August 2018 - <i>Sesi Taklimat "Competition Law in Malaysia: An Emerging Practice Area" bersama badan Peguam Malaysia</i>, September 2017, KL
ILKAP (The Judicial and Legal Training Institute)	<ul style="list-style-type: none"> - Briefing to ILKAP on CA2010, April 2019 - <i>Sesi Taklimat Pelaksanaan dan Penguatkuasaan Akta Persaingan 2010 di ILKAP</i>, August 2017, Bandar Baru Bangi - <i>Sesi Taklimat Akta Persaingan kepada peguam-peguam Negara di ILKAP</i>, October 2016 Bandar Baru Bangi - Workshop on Malaysian Competition Law with ILKAP/AGC, May 2015 - <i>Taklimat Mengenai Pengenalan dan Pematuhan kepada Akta Persaingan 2010 bersama Institut Latihan Kehakiman dan Perundangan (ILKAP)</i>, October 2014, Bandar Baru Bangi

d) Academics

MyCC has offered the following events specifically targeting academics.

- (i) Roundtable Session with Academics, Regulators, Media and Practitioners, November 2018, KL
- (ii) Forums on "Disruptive Innovations and Competition Law", Nov. 2017, Taylor's University
- (iii) "Instituting The Competition Act 2010 - Role of Universities and Academics", Sep. 2013, KL

Although there has been relatively small number of events specifically for academics, they have attended as both speakers and part of the audience in larger conference catered for a wider range of audience, such as 1st MyCC Competition Law Conference - New Standard for Business in Malaysia (2013).

Example of Communication Initiatives: Roundtable Session with Academics, Regulators, Chambers, Association, and Practitioners

MyCC organised a “Roundtable Session with Academics, Regulators, Chambers, Association and Practitioners” on 7 November 2018. The objective of the roundtable session was to obtain feedback on the roles, functions, and effects from the enforcement of the Competition Law in Malaysia since its inception. Participants were comprised of sector regulators, law practitioners, academics, students, associations, and enterprises.

Example of Communication Initiatives: Conference on The Challenges In Enforcing Competition Law In Malaysia

The MyCC co-organised with the Malaysian Bar a “Conference on the Challenges in Enforcing Competition Law in Malaysia” November 2018. The aim was to raise awareness among the legal practitioners, lawyers, academics, and students about the role of MyCC and implementation of CA2010 (Act 712). This conference provided a forum for greater exposure on competition policies and law where knowledge and experience were exchanged by speakers from Malaysia and abroad.

Source: Annual reports and press release

e) Students

MyCC Classroom Programme / Talk on CA2010 with Institution of Higher Learning (IHL) / CA2010@University

The MyCC conducted advocacy programmes specifically intended for university students in addition to seminars and conferences on competition law held at universities. Although MyCC has visited universities for those programmes once or twice a year since 2012, it started a series of programmes named “MyCC Classroom Programme” and visited seven universities in 2018. In 2019, MyCC provided four programmes named “Talk on CA2010 with Institution of Higher Learning”. It is deemed effective to educate the younger generation about the advantage of having robust competition in a market and the function and outline of CA2010 (Act 712) since students are consumers and will be engaged in the business or legal or governmental field. Both the “MyCC Classroom

Programme” and “Talk on CA2010 with Institution of Higher Learning” continued in 2020 and 2021. MyCC had also organised CA2010@University, a programme that was initiated to engage with the IHL before MyCC proceed with Memorandum of Understanding. There has been no programme provided to students in schools below university level.

Moot Court Competition

MyCC hosted Moot Court Competition in collaboration with Institutes of Higher Education yearly from 2016 and 2017. Up to eight teams of institutions from public and private universities were invited to the competition each year. There is no other agency that host moot court competition for university students in ASEAN countries⁵⁰.

Year	Date	Topic of the Proposition
2016	17 - 18 October	Abuse of Dominant Position
2017	28 - 29 October	Cartel (price fixing, no poach)

f) Consumers

Educated consumers could be an external pressure source forcing companies to comply with CA2010 (Act 712). The understanding of the advantage of healthy competition in the market from the consumers’ perspective would contribute to more profound understandings of CA2010 (Act 712) and encourage entrepreneurs to observe the competition law. Hence, it is critical to raise consumer awareness of competition law and MyCC’s advocacy activities to nurture competitive environment in the markets in Malaysia.

In addition to educating individual consumers, MyCC also collaborated with consumer associations and civil society organisations to help them build capacity on the demand side of the market through a co-enforcement role by becoming informers of anti-competitive business activities⁵¹, investigating and acting on consumer complaints, filing

⁵⁰ The Philippine Competition Commission (PCC) conducted a moot court workshop for PCC lawyers, economists, and other staff, in partnership with the World Bank Group in 2017.

⁵¹ Section 15(1) provides, “The Commission may, upon a complaint by a person, conduct an investigation on any enterprise, agreement or conduct that has infringed or is infringing any prohibition under this Act or against any person who has committed or is committing any offence under this Act.”

Section 64 private action civil suits⁵², and organising consumer campaigns against anti-competitive enterprises⁵³.

It was noted that the MyCC provided education and awareness programmes specifically for consumer associations twice, through chat sessions with consumer associations (*Sesi Sembang-Sembang bersama Persatuan-Persatuan Pengguna* in March 2015 and Briefing to Consumers Association of Penang in July 2018).

Educational programmes for general consumers were provided by the MyCC through the “Talk on CA2010 in Kota Kinabalu” (for public and industry) programme in August 2019. It also held awareness events for consumers, such as the “Choral Speaking Contest on #Bebaskartel” and “Kayuh Kaw Kaw #Bebaskartel”, both in March 2018. The programmes were organised in conjunction with MyCC’s 7th Anniversary in 2018.

g) Media

The media plays an important role in competition advocacy to create competitive environment throughout the country. The media was first mentioned as a key stakeholder in the Strategic Plan for Advocacy and Communication 2018-2020. MyCC has hosted advocacy programmes designed specifically for media at least three times since 2012.

- (i) *Kursus Media Mengenai Akta Persaingan 2010*, August 2015, KL
- (ii) Roundtable Session with Academics, Regulators, Media and Practitioners, November 2018, KL
- (iii) *Bengkel Kewartawanan mengenai Undang-Undang Persaingan 2010*, December 2019, KL

⁵² Section 64(1) provides, “Any person who suffers loss or damage directly as a result of an infringement of any prohibition under Part II shall have a right of action for relief in civil proceedings in a court under this section against any enterprise which is or which has at the material time been a party to such infringement.” This civil action may be brought by any person “regardless of whether such person dealt directly or indirectly with the enterprise” according to the Section 64(2).

⁵³ MyCC, Strategic Plan 2012-2014, p.21.

3.3.3.2.2 Public Outreach

a) MyCC Website and Social Media Platform

MyCC launched its website on September 2011⁵⁴ to act as a platform for source of information and a reference point regarding national competition matters for the public. Table 8 shows the number of recent visitors of the website.

Table 8: Number of visitors of MyCC's website

Year	2016	2017	2018	2019	2020	2021
Visitors	30,967	52,121	61,919	54,022	66,876	69,567

The most viewed content on the MyCC's website is Handbook and Brochure (BM & EN) with 8,194 viewers in 2017, followed by the annual report and market review.

The MyCC has also created accounts on social media platforms such as Facebook⁵⁵, Twitter⁵⁶, Instagram⁵⁷, and LinkedIn⁵⁸. These services are characterised as supporting channels of communication, advocacy, and brand exposure in addition to the MyCC website⁵⁹. Among social media platforms, Facebook is where MyCC has the largest number of followers at 9,500 as of 3 October 2022. MyCC had started to use Twitter since August 2015 and the number of followers is 1,111, which is the second largest among agencies in ASEAN, next to Indonesia. Meanwhile, MyCC's Instagram account has 861 posts and 794 followers and LinkedIn account has accumulated 2,729 followers.

In addition to the above social media platforms, MyCC also has a YouTube channel⁶⁰ with 144 subscribers. The platform currently has 31 videos accessible to the public, and the contents vary from news clip featuring MyCC, recordings of advocacy lecture programmes, to short dramas featuring competition law.

Contents of MyCC's social media accounts are almost the same except some clips that were not posted on Twitter. The content of its posting were greetings from MyCC on

⁵⁴ MyCC Annual Report 2016, p.108.

⁵⁵ <https://www.facebook.com/theMyCC/>

⁵⁶ <https://www.twitter.com/theMyCC>

⁵⁷ <https://www.instagram.com/themycc/>

⁵⁸ <https://www.linkedin.com/company/themycc>

⁵⁹ MyCC Annual Report 2014, p.20.

⁶⁰ <https://www.youtube.com/user/MyCompetitionNews>

holidays, pictures of the advocacy programmes, invitation to attend public consultation on market review, telephone number of its leniency hotline, etc. The most prominent activity related to the internet and social media platform is #Bebaskartel in 2018.

b) Press Release

The MyCC uploads press releases of its competition advocacy in both *Bahasa Melayu* and English on its website.

Table 9: Number of press releases by MyCC

Year	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Number of media release	14	14	22	18	11	14	13	16	6	10

c) Media Report

Although the total number of the news concerning activities of MyCC is not clear, the number of news clipping uploaded on MyCC's website are as follows⁶¹:

Table 10: Number of news clipping released by MyCC

Year	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Number of news clipping	461	50	140	8	55	92	7	33	35	16

Compared to the earlier years, the number of uploaded news is smaller in recent years. This could be due to a change of MyCC's strategy in public relations, such as shifting its focus to social media platforms. The particularly large number in 2012 is due to the large public attention which MyCC's activity drew after CA2010 (Act 712) went into forth.

d) Publication of other advocacy/awareness raising programmes

(i) Annual Report

The annual reports of the MyCC contain the outline of its enforcement and advocacy activities along with the financial statements. It also shows advocacy activities that MyCC has achieved such as policy advice on numerous issues ranging from procurement, price controls, barriers to market entry, information sharing to ministries, and government agencies. The ministries and government agencies that benefited from MyCC's advisory

⁶¹ <https://www.mycc.gov.my/news-clipping>

opinions included among others; Central Bank of Malaysia (BNM), the Energy Commission (EC), the Ministry of International Trade and Industry (MITI), the Petroleum National Bhd (PETRONAS), the Ministry of Domestic Trade and Consumer Affairs (MDTCA), the Ministry of Tourism Arts and Culture (MOTAC), the Malaysia Productivity Corporation (MPC), the Malaysian Automotive Association (MAA), the Ministry of Health (MOH), the Land Public Transport Agency (APAD), the Inland Revenue Board (LHDN), and the Ministry of Finance (MOF).

(ii) Guidelines

Guidelines present an enforcement policy of the competition authority. It helps enterprises to understand and observe the law in conducting their business as well as public officials and legal professionals by providing analytical framework the authority uses or procedural clarity it takes. The MyCC has issued seven guidelines on two major categories of anti-competitive conducts and procedures as well as the compliance by the enterprises. The list of the guidelines is shown in Table 11.

Table 11: List of guidelines issued by the MyCC

Title	Date of Publication
Guidelines on Chapter 1 Prohibition, Anti-competitive Agreement	02/05/2012
Guidelines on Complaint Procedures	02/05/2012
Guidelines on Market Definition	02/05/2012
Guidelines on Chapter 2 Prohibition, Abuse of Dominant Position	26/06/2012
Guidelines on Financial Penalties	14/12/2014
Guidelines on Leniency Regime	14/12/2014
The MyCC Guideline on Intellectual Property Right and Competition Law	05/05/2019

All the guidelines include a disclaimer where the MyCC recommends enterprises to conduct a self-assessment exercise of their businesses in respect of their conduct, procedures, management, and control. It also asserts that they should have compliance procedures for their employees, including the Board of Directors.

(iii) e-Booklet

Several e-Booklets are provided by the MyCC to educate a wide range of learners such as businesses, government officials, students, and consumers. e-Booklets that are currently available online are as follows:

- (i) Handbook for General Public, Competition Act 2010
- (ii) Competition Act 2010, A Guide for Business
- (iii) Competition Act 2010, Compliance Guidelines
- (iv) FAQs for SMEs
- (v) Frequently Asked Questions (10 FAQ)
- (vi) Bid Rigging
- (vii) Help Us Detect Bid Rigging
- (viii) Leniency Regime
- (ix) *Garis Panduan Menentang Tipuan Bida Dalam Perolehan Awam*
- (x) Strategic Plan 2012-2014
- (xi) Strategic Plan 2015-2017
- (xii) Strategic Plan 2018-2020
- (xiii) Strategic Plan 2021-2025

e) Co-operation with other institutions

To promote its competition advocacy, MyCC has signed Memorandum of Understanding (MoU) with other institutions for co-operation and collaboration on the matter of competition law.

MyCC and the Central Bank of Malaysia (BNM) had signed a Memorandum of Understanding on 5 June 2014 to facilitate the efficient implementation of CA2010 (Act 712) and to promote and protect the process of competition while ensuring that overall stability of the financial sector is preserved. It sets out the framework for consultation and resolution of the issues on the development of and proposed amendments to laws, guidelines, regulations, and other instruments issued by the MyCC and BNM in common regulatory areas in Financial Services Act 2013, the Islamic Financial Services Act 2013, etc. as well as CA2010 (Act 712). In regard to the enforcement and investigation area, the memorandum sets out that both parties will notify each other when any infringement

is detected and will make effort to reach a prompt mutual agreement in the course of action that follows.

MyCC had also signed six MoU with six academic institutions on 27 November 2015 for competition advocacy purpose. The signing academic institutions are Co-operative College of Malaysia (MKM) and five Institutions for Higher Learning (IHL) including the *Universiti Malaya* (UM), the *Universiti Kebangsaan Malaysia* (UKM), the *Universiti Teknologi Mara* (UiTM), the International Islamic University Malaysia (IIUM), and Taylor's University. The objective of the memorandums is to create collaborations between the parties in introducing and improving subjects and modules on competition law in existing university courses to develop a pool of research experts on the area in Malaysia. The memorandums clarify the areas of collaboration and co-operation between the parties to participate in advocacy programmes, to conduct research projects, publish journals and articles related to Competition Law as well as other activities in relation to CA2010 (Act 712).

f) e-Learning

MyCC has developed an “e-Learning System on Competition Compliance Programme (CCP) for Small and Medium-Sized Enterprise (SME)” which is accessible from the MyCC website⁶². The e-Learning programme is designed to help SMEs to learn and better understand the CA2010 (Act 712)⁶³. This web-based system was launched in March 2017 and made available to the public in June 2017 with the aim of increasing competition compliance as well as awareness amongst SMEs. Participants are expected to learn CA2010 (Act 712) through answering small quizzes.

As part of its initiative to promote this e-Learning system to all SMEs nationwide, the MyCC, in collaboration with SME Corporation Malaysia and MDTCC had organised various seminars in the last quarter of 2017. The “Better Business with Competition Compliance For SMEs” seminar is a continuation of the seminars for SMEs.

⁶² <http://elearning.mycc.gov.my>

⁶³ MyCC, Strategic Plan for Competition Advocacy and Communication 2018-2020, p.20

There is no e-Learning specifically targeted for groups other than the SMEs. As such, MyCC encourages the use of the programmes by members of the public, professionals, students, industries, as well as government agencies⁶⁴.

The programme is intended to be an introductory course designed specifically to introduce the CA2010 (Act 712) to those owning and/or working in SMEs and help them comply with the requirements of CA2010 (Act 712). The contents cover basic features of CA2010 which relates to the SMEs. The e-Learning programme consists of five modules covering practical competition law compliance issues for businesses as shown in Table 12 which covers all the bases of the CA2010 (Act 712).

Table 12: Modules of the MyCC's e-Learning programme

Module 1	Is my business an SME?
Module 2	What are the main features of the Competition Act 2010?
Module 3	What are anti-competitive agreements?
Module 4	What is abuse of dominance?
Module 5	What SMEs can do to ensure compliance with the Competition Act 2010?

Table 13: Number of users for the MyCC's e-Learning programme from January to March 2018

Module	1	2	3	4	5
Total	267	254	167	104	72
Grand Total	944				

3.3.3.3 Market Review

Market review can potentially assist competition authorities with both their competition law enforcement functions as well as competition advocacy⁶⁵. MyCC has conducted market investigation and market review in several industrial areas.

a) Market Review

Market review is prescribed in Section 11 of CA2010. It provides MyCC with the power to conduct a review into any market on its own initiative or upon the request of the Minister. The market review is conducted to determine whether any feature or combination of features of the market prevents, restricts, or distorts competition in the

⁶⁴ MyCC, Annual Report 2017, p.109

⁶⁵ MyCC, Strategic Plan for Competition Advocacy and Communication 2018-2020, p.16

market⁶⁶ and includes a study into⁶⁷:

- (i) The structure of the market concerned;
- (ii) The conduct of enterprises in the market;
- (iii) The conduct of suppliers and consumers to the enterprises in the market; or
- (iv) Any other relevant matters.

Market review contributes to competition advocacy as well as to enforcement function, making clear of the situation and problems in the studied market, encouraging other government organisation to change the situation and making the public realise the situation through the process of public hearing and by dissemination of the result of the review. The MyCC has conducted seven market reviews listed in Table 14.

Table 14: Market reviews conducted by MyCC

Title of the market review	Year
Research on the Fixing of Prices / Fees by Professional Bodies under the Competition Act 2010	2013
Review of Domestic Broiler Market	2014
Market Review on Pharmaceutical Sector under Competition Act 2010	2016
Market Review of Building Materials in The Construction Industry under Competition Act 2010	2017
Market Review on Food Sector under Competition Act 2010	2019
Market Review under the Competition Act 2010 for Service Sector in Malaysia (Wholesale and Retail for Selected Products)	2020
Market Review under the Competition Act 2010 for Selected Transportation Sectors in Malaysia	2021

The sectors of the above-mentioned market review are advocacy targeted areas designated in the MyCC Strategy Plan and the 11th Malaysia Plan. These market reviews addressed policy, market and anti-competitive issues and made recommendations which might need legal and policy change in respect to the sector concerned.

The final report of the market review is available for the public on MyCC's website through an application process. They are required to apply to MyCC and provide their personal details such as name, email address, phone number, organisation which the applicant belongs to, address, and the purpose of the application.

⁶⁶ Section 11(1) CA2010 (Act 712)

⁶⁷ Section 11(2) CA2010 (Act 712)

Example of Policy Impact From the Market Review in the Food Sector

The market review has been recognised by the respective stakeholder primarily the Ministry of Agriculture and Food Industries (MAFI). The key highlight of the achievement for the market review are as follows:

- a. The market review managed to highlight the misuse of Approved Permit (AP) holders for cabbage importers resulting in higher prices that will be borne by consumers. Therefore, MAFI has initiated the *Langkah Pemutih* Programme to address this issue.
- b. MyCC presented the findings of the market review to high-level meetings such as the National Cost of Living Council (NACCOL) chaired by the Deputy Prime Minister of Malaysia and the National Economy Action Council (NEAC) chaired by the Prime Minister, and *Mesyuarat Menteri Besar dan Ketua Menteri ke-136*. The meetings agreed to adopt several recommendations of the market review for the greater benefit of Malaysia.
- c. MyCC also has submitted a *Nota Jemaah Menteri and Memorandum Jemaah Menteri* on the findings of the market review. The Cabinet of Malaysia agreed to endorse and implement several strategies to mitigate the price hike of several food items.
- d. The recommendations to revitalise the domestic beef production in Malaysia in a few states were included as one of the main strategies in the National Agriculture Policy 2.0 (DAN 2.0) by MAFI. Additionally, MyCC's recommendation to develop an inclusive e-commerce policy as has been adopted under the DAN 2.0
- e. The market review also suggested for a new distribution hub with e-commerce facilities replacing the KL Wholesale Market to be built to reduce cost for consumers while improving the market bargaining power of the fishermen. This recommendation has been adopted by the Ministry of Federal Territory where the new wholesale market is expected to be completed in 2023.

b) Other studies and investigations

Apart from market review under Section 11 of CA2010 (Act 712), MyCC also has the general power to conduct a study or investigation under Section 16 of CCA2010 (Act 713), in relation to issues connected with competition in the Malaysian economy or

particular sectors of the Malaysian economy. This market study or investigation under the general power of MyCC is perceived to contribute more to the advocacy than the enforcement of CA2010 (Act 712).

In July 2013, MyCC carried out a baseline study on awareness of CA2010 (Act 712) across businesses. According to the result of the study, an average of 7% of businesses across the country including Sabah and Sarawak were aware of CA2010 (Act 712) and MyCC, but in some states the awareness was 0%. From the result, MyCC concluded that more effective outreach and advocacy was needed⁶⁸.

According to the Strategic Plan for Competition Advocacy and Communication 2012-2014, “the working committee shall recommend MyCC to conduct market study on specific priority areas so that body of evidence on anti-competitive and pro-competitive act can be developed and used as case studies for the advocacy activities”. These case studies were expected to be used by the Working Committee on External Guidelines for best practices of the priority area⁶⁹.

In addition to market study under Section 16 of CCA2010 (Act 713), MyCC supports academics to conduct research on competition law and policy in priority areas. Studies from the research grant programme are able to make meaningful recommendations on the law and policy regarding competition.

c) Research Grant Programme on Competition Law

The Research Grant Programme on Competition Law (RGPCL) is an initiative undertaken by MyCC to foster institutional knowledge and advancing expertise related to competition economics and laws. It also supplements MyCC’s power to carry out market study and survey. The purpose of the RGPCL is to fund research on market studies, surveys and case studies with findings that are likely to be published in academic journals or for use by policymakers and consumer representatives.

Priority areas identified in the Strategic Plan for Competition Advocacy and Communication are recommended for as a subject of the research.

⁶⁸ MyCC, Annual Report 2013.

⁶⁹ MyCC, Strategic Plan 2012-2014, p.25.

The objectives of RGPCL are as follows:

- (i) Fund research studies, market surveys and case studies in the area of competition policy and law;
- (ii) Use the findings of the research to develop informed and evidence-based competition policies, laws, guidelines, codes of practice, strategies and to design competition advocacy activities;
- (iii) Enable the dissemination (nationally and internationally), of academic as well as popular articles and publications on competition issues and practices of specific relevance to the Malaysian economy; and
- (iv) Provide an opportunity for academics and civil society to participate and contribute ideas and knowledge to the promotion and development of competition policy making.

Annually, MyCC makes an allocation to fund the RGPCL and it generally allocates the sum of RM50,000 for each grant and two research grants are available throughout a calendar year⁷⁰.

- In 2013, 23 applications were received and seven succeeded in receiving the grant. Each successful applicant received up to RM 25,000⁷¹.
- In 2014, two applications were made and no information is available about successful applicants.
- In 2015, four groups applied for the grant and two of them successfully received grants worth RM25,000 each⁷².

According to the terms of reference of RGPCL 2019, grant research is required to include:

- Market definition for the study which covers both on the relevant product and relevant geographical market;
- Overview of existing legislation and regulations in relation to the scope of study;
- Overview of the market structure and its supply chain;
- Profile of the industry players, market share and concentration;
- Competition issues/concerns in the market; and
- Recommendations and conclusion.

⁷⁰ MyCC, RGPL Standard Operating Procedures 2(2)

⁷¹ MyCC, Annual Report 2015, p.35

⁷² MyCC, Annual Report 2015, p.81

4 Findings

4.1 MyCC's Institutional framework

All divisions of the MyCC play an advocacy role as it relates to its enforcement activities and other functions and duties. The Strategic Plan for Competition Advocacy and Communication has evolved since the establishment of MyCC in 2012. Initially, the first strategic plan from 2012 to 2014 was more focused on introducing the relevance of competition laws and its importance on market review and enforcement activities.

The subsequent strategic plan on Competition Advocacy and Communication from 2015 to 2017 and 2018 to 2020 were more focused on advocacy activities such as training, identifying champions among stakeholders, and engaging with consumers and academia.

An interview with the ACC members indicated that MyCC's advocacy plan is moving towards enforcement and advocacy to strike a balance between them. However, it was stated that due to limited resources available in MyCC, it is hard to expand its advocacy efforts. Hence, most of the advocacy activities are planned along with reference to the goals identified in MyCC's strategic plans.

Most of the activities on the advocacy and communication strategy were included in the first version of the Strategic Plan (2012-2014) and many of these have been continued in the second and third versions of the Strategic Plans (2015-2017 and 2018-2020) respectively. However, it was noted that there were no clear monitoring or follow-up assessment exercises after each of the Strategic Plans were executed to evaluate how successful each plan has been implemented.

Further, the strategies could benefit from having a greater focus on priority issues. Prioritisation should be a flexible process to simplify the strategies to overcome the constraints and resource limitation faced by the MyCC.

The peer review found that, overall, the implementation of the Strategies on Advocacy and Communication adhered to its goals (to a lesser extent in engaging with consumer groups) and except for engaging systematically on the follow up on its interventions, due in part to resource constraints. The strategies were found useful and proved to be more so for planning and organising the competition advocacy process than for providing a basis for assessment of its impact. The peer review further found that the strategies could be clearer about the specific outcomes and deliverables that can be identified.

The Strategic Plan for Competition Advocacy & Communication could be formulated so that it better reflects the role of competition advocacy as part of an overall Malaysian competition policy and engaging, among others, with policy makers and regulators in this advocacy process. The Strategic Plan for Competition Advocacy & Communication should clearly define the goals of the competition advocacy so that it reflects an appropriate balance between raising awareness about the benefits of competition (including through education, advisory opinions and enforcing the provisions of the Competition Act) and influencing policy decisions. As indicated above, assessment criteria could be more explicit and monitored for coherence and consistency.

It should be recognised, that there is little reference in the Guidance Document on ASEAN Peer Review on specific criteria to assess impact, and consistency. The criteria for the goals set in the Strategic Plan for Competition Advocacy & Communication should be formulated based on the overall development and objectives set by the Government and the MyCC Strategic Plan.

Several respondents indicated that advocacy outreach activities did not necessarily or always “reach” the appropriate decision-makers in the relevant agency, Ministry or an SOE. The peer review was not able to assess the extent to which there was systematic communication between the MyCC and the relevant agencies and ministries. However, there appears to be some gaps in the process.

The peer review also did not find clear monitoring and evaluation of the various advocacy initiatives and the follow-ups. Hence, it is suggested that these be developed or strengthened to improve MyCC’s advocacy initiatives.

4.2 MyCC’s Advocacy Activities: Interactions with Other Government Sectoral Regulators

The Special Committee on Competition which represents the co-operation between the MyCC and the sector regulators has led to several outcomes such as the establishment of a technical working committee to address competition-related issues in the financial services market including the issuance of Competition Guidelines for the financial services market; MyCC’s involvement on draft regulation and opinion on proposed regulatory reforms and projects (Gas Supply Act); and for those sectors which do not have any competition regulation, the CA2010 (Act 712) will be enforced by the MyCC.

Some of the government agency respondents interviewed stated that in addition to improving the understanding and awareness of competition law, the advocacy advice provided had also influenced senior officials, Ministries and policy-makers positively. Resulting in important changes in the policy approach and objectives, especially when these advices were provided early in the policy development process.

However, it should be noted that the peer review study faced limitations in assessing the competition advocacy activities of MyCC targeted at other government agencies and statutory boards. Difficulties were faced in engaging the government officials who were engaged with MyCC on competition policy to learn about their views on the interactions they had with MyCC on competition related matters. Due to the confidentiality of the matters relating to policy, regulation or laws, it is difficult to assess MyCC's communication efforts with other Government agencies. As such, the peer review study was confined to MyCC's advocacy activities that were targeted at the legal profession, the business community, academics and students, as well as the general public. However, it was noted that since its establishment in 2011, MyCC had issued 68 policy advice to various ministries, authorities as well as regulators in the country which implies that MyCC have been interacting closely with the other Government agencies.

4.3 MyCC's Advocacy Activities: Advocacy/Educational Events

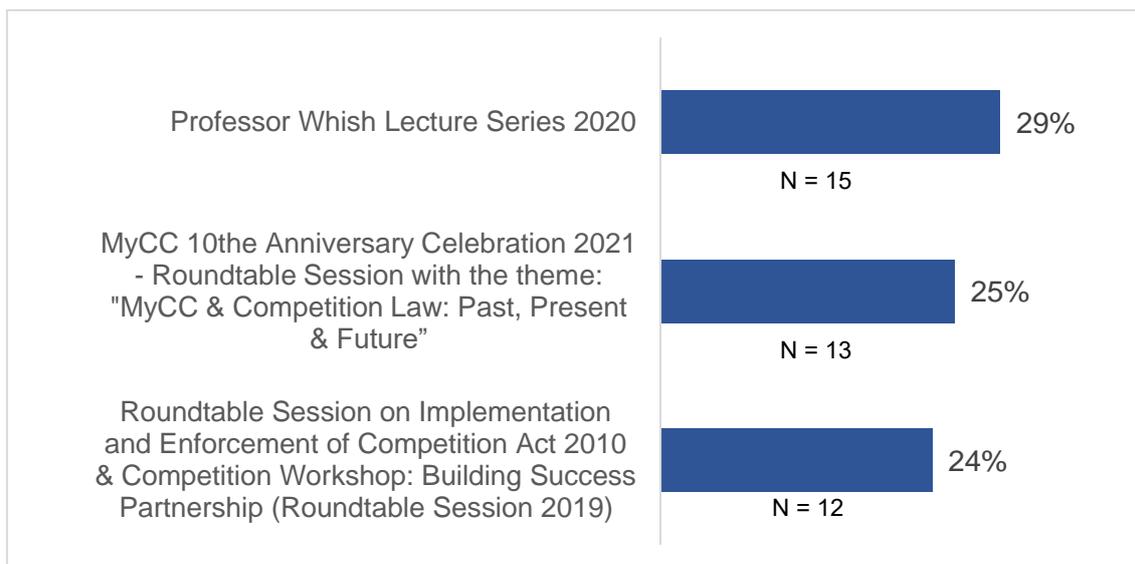
It could be highly regarded that MyCC has conducted advocacy events constantly throughout the years with a charged fee (except for MOU partners), at an average of 30 events per year. Thus, the advocacy programmes planned with focus areas to targeted stakeholders is an effective way to allocate the limited budget. It was also noted that MyCC had conducted surveys after each educational events to obtain feedback from the participants. However, the feedbacks were not evaluated to gather insights on ways to improve the advocacy activities.

A survey was conducted for the peer review study to evaluate the effectiveness of advocacy events conducted by MyCC. 51 responses of the questionnaire were received from the government officials, academia, business and legal regulators in which 33 participants have participated in the advocacy events held from 2019 to 2021. The following summarises the key points raised by the respondents from both questionnaire and interview conducted.

Figure 1 shows the top advocacy events attended by the survey respondents. The topic

dealt with the most in MyCC’s advocacy events is the outline of CA2010 (Act 712) or the competition law in general which is essential to effectively advocate competition law. However, there seems to be a split among the participants on the understanding and awareness level of competition law. Many stakeholders (especially businesses, government officials and legal community) seem to have ample knowledge on the Competition Act given that it has been more than a decade since its enactment.

Figure 1: Top advocacy events in 2019-2021 attended by the respondents of the survey



Note: Some respondents participated in more than one advocacy events

Through the surveys conducted for the participants of MyCC’s advocacy events, it was noted that the stakeholders group from the legal industry had the highest familiarity and knowledge of competition law in Malaysia followed by the businesses and government officials as shown in Figure 3.

Figure 2: Level of familiarity with the competition law regime in Malaysia

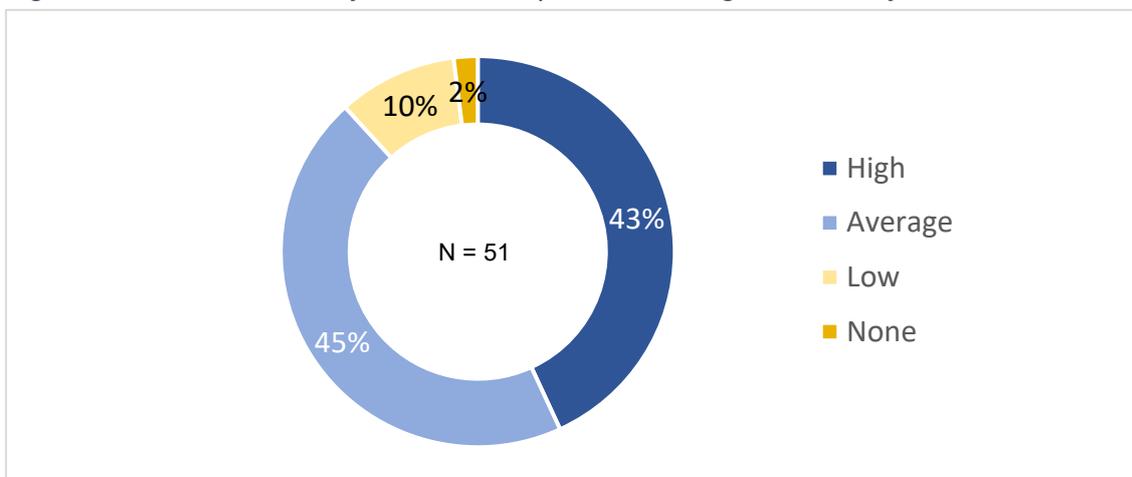
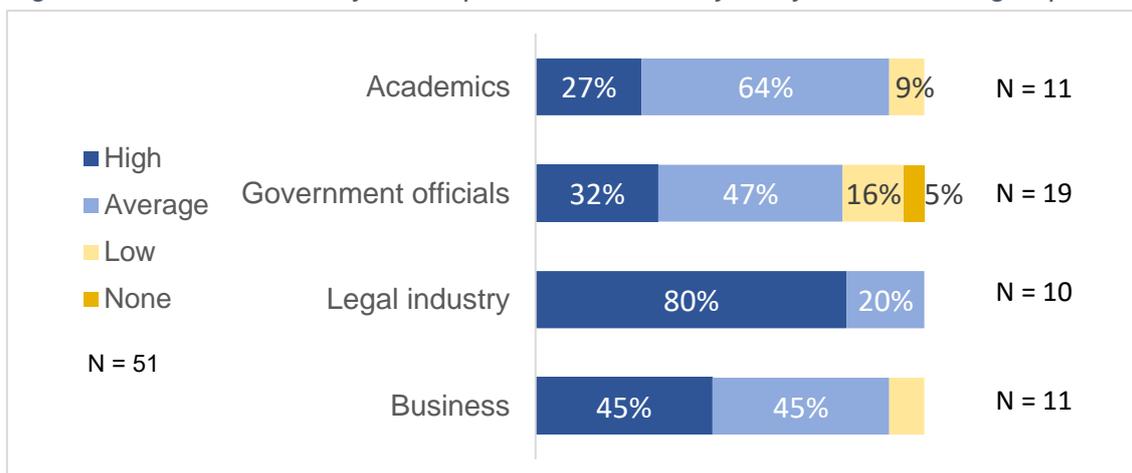


Figure 3: Level of familiarity of competition law in Malaysia by stakeholders group



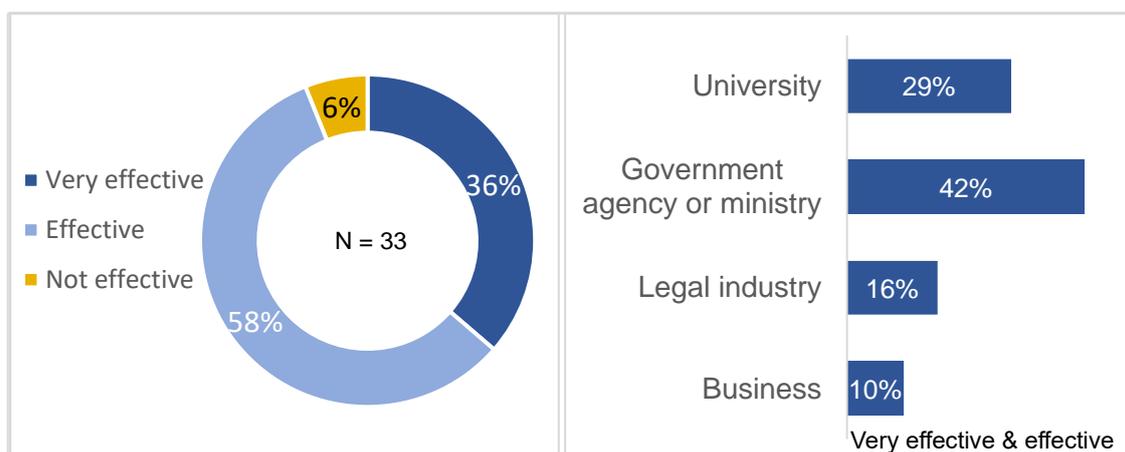
Those who have attended events organised by MyCC from 2019-2021 overwhelmingly agreed that the competition law issues covered are relevant to their professional work as indicated in Table 15. A closer look into the respondents' familiarity with competition law in Malaysia shows that most have at least an average or higher level of understanding of competition law. This can be attributed to the respondents' occupations as most the respondents specialise or deal with competition law regularly in their professional careers.

Table 15: Level of familiarity and relevance of competition law by stakeholder group

Stakeholder groups (N=33)	Level of familiarity				Relevance of competition law to work	
	High	Average	Low	None	Yes	No
Government agency or ministry (N=15)	33%	47%	13%	7%	93%	7%
Legal industry (N=6)	67%	33%	0%	0%	100%	0%
Academics (N=9)	33%	56%	11%	0%	78%	22%
Business (N=3)	0%	100%	0%	0%	100%	0%

Feedbacks from attendees of the events by MyCC from 2019-2021 are mostly positive where 94% of the respondents of the survey felt that the events have been effective in increasing awareness and understanding of competition law. The stakeholder groups that had benefited the most were the government agency, followed by university, legal industry and lastly the businesses. Real case studies and court decisions were especially highlighted to be useful in providing an overview on how competition laws work. However, some felt that while the events may have increased awareness, a complete understanding of the law is still lacking. This could be attributed to the complex and highly technical nature of the law.

Figure 4: Effectiveness of advocacy events in enhancing understanding or awareness of Malaysia's competition law framework

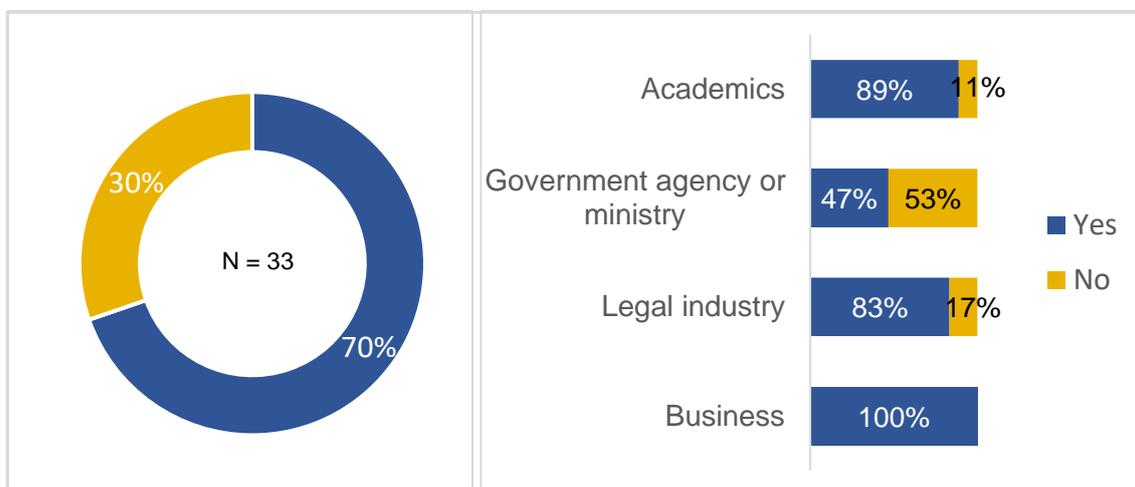


Most of the participants are able to recall what they learned from the events they attended, which could be attributed to the relevance of the information to their professional career. Advocacy events by MyCC incorporated latest development and activities undertaken by them in enforcing competition policy and law, especially in the digital and energy industries. Participants are able to share challenges and recommendations in improving

policies during some of the events, as in the case for attendees of two specific events – Roundtable Session on Implementation and Enforcement of Competition Act 2010 & Competition Workshop: Building Success Partnership (Roundtable Session 2019) and MyCC 10th Anniversary Celebration 2021 - Roundtable Session with the theme "MyCC & Competition Law: Past, Present & Future". On an overall level, the participants felt that the events organised provided an understanding on the importance of competition law in ensuring fair trade and practices, and that the information should be disseminated to relevant stakeholders and the public.

Many of those who have participated in the events indicated that they have applied the knowledge gained from the events in their professional lives. This shows that advocacy programmes organised by MyCC have been beneficial to the attendees. For example, those from the university group predominantly utilised the information in their lectures, research activities and publication. Meanwhile, government agencies or ministry officials have found the knowledge to be useful in their research to develop new policy, enabling them to identify gaps in the enforcement of competition law and enact regulatory reforms.

Figure 5: Application of knowledge gained from event participation in professional capacity



Some of the interviewed respondents shared that roundtable workshop and discussion groups organised by MyCC involving a smaller, but diverse group of practitioners, academics and public officers were useful in promoting the exchange of ideas, but it was suggested that there should be some form of follow-up from these sessions to concretise the experience. This could take the form of a summarised report of the discussions that took place as well as the presentations that were made by the different groups. Given

the good response and encouraging engagement session by the participants, MyCC should consider facilitating smaller breakout groups at large scale events to facilitate discussion amongst participants. It was also suggested that sufficient time should be allocated for Question & Answer (Q&A) session at larger-scale public events or talks.

It was notable that simple multiple-choice surveys were conducted at the end of each advocacy event. However, these quantitative feedbacks on the satisfaction or quality of the event are not sufficient to obtain in-depth qualitative feedbacks to improve MyCC's events.

Overall, the respondents are satisfied with MyCC's performance. The result from the questionnaire shows that the provision of competition advice by MyCC is perceived to be an important activity and valued by the respondents. The competition advice provided by MyCC is judged to be of high quality by the majority of respondents. Some had also agreed that the advice provided had changed their awareness of competition issues more generally.

The respondents were of the view that the MyCC competition advocacy activities had a positive impact on markets in Malaysia by stimulating a national debate on the role and responsibilities of businesses, consumers and Government. Respondents were unanimous in stating that these advocacy programmes had increased the profile, credibility, and value of the MyCC.

Nevertheless, there are some suggestions that MyCC can take up to further improve the quality of its advocacy activities. One of the more prominent suggestions is to engage and include academician (especially those who teach the law) and industry players in MyCC's events. This would help keep relevant stakeholders up to date on latest development about competition law in Malaysia and ensure better compliance (from the industry's perspective).

Additionally, MyCC can collaborate with other agencies and continue to organise capacity building events. These events should be designed in formats that are accessible to the public, such as in the form of short-term courses or workshops. MyCC can consider organising them free of charge to encourage participation.

a) **Businesses**

The business community is one of the main targets of MyCC's advocacy programmes, especially the SMEs as the majority of entrepreneurs in Malaysia. As advocacy efforts have been emphasised on these businesses since the enactment of CA2010 (Act 712), it is therefore perceived that there are two groups within the business community which MyCC's advocacy efforts need to focus on. Firstly, continued advocacy effort needs to be extended to businesses that lack knowledge or awareness of competition law issues. The second group of businesses is perceived to be those who are aware but are not particularly concerned about committing infringements. It is therefore important that MyCC continues to enhance its enforcement policy targeting these groups.

Some of the respondents to the questionnaire interviewed for the peer review also shared the same view. They were of the view that competition advocacy itself is not an adequate tool to provide deterrence to anti-competitive conducts. They were doubtful that the advocacy and awareness activities conducted by MyCC succeeded in influencing businesses not to engage in anti-competitive conducts such that they would voluntarily comply with the Competition Act. Different possible explanations were put forward:

- Most of those attending the advocacy activities are not necessarily those associated with decision making and are not the ones who participate in cartel/bid rigging meetings.
- Although competition advocacy might be regarded in a positive light by the MyCC, consumer association and the Government, there is still a view that the approach is "preaching to the converted" which may diminish the perceived credibility of the exercise and the degree of its effectiveness in promoting a competition culture.
- Businesses have their own agenda that is relevant to their shareholders and political parties. As such, they, together with their political allies, lobby for protection and exemption from the CA2010 (Act 712).

Respondents have suggested that MyCC work with the Malaysia Digital Economy Corporation (MDEC) and SME organisations to raise awareness of competition issues to these segments of the public. It was also suggested that MyCC should pay attention to the language medium used to communicate its advocacy messaging, especially when trying to target segments of the business community which are unlikely to read materials in *Bahasa Melayu* or English.

b) Government Officials

There were many advocacy events targeting government officials that were held by MyCC since 2012. One of the notable areas targeting government officials was on bid rigging as MyCC had previously received a lot of complaints on bid rigging cases. In 2014, MyCC hosted educational event on bid rigging for government officials extensively and the exercise was considered to be effective. Subsequently, a special forum focused on bid rigging was also conducted in 2018. It is essential to host follow-up events since there may be a change of people at the ministries and agencies and the way bid rigging is organised changes as more people realise the illegality of the conduct.

It was noted that one of the complaints received on bid rigging had been successfully enforced by MyCC where it involved eight enterprises, who were found to have participated in a series of anti-competition bid rigging agreements and/or concerted practices concerning several projects at the National Academy of Arts, Culture and Heritage of Malaysia (ASWARA)⁷³ – infringement under Section 40 of the Competition Act 2010 involving Procurement of IT Services. This is a good example where MyCC's advocacy efforts is now bearing fruit.

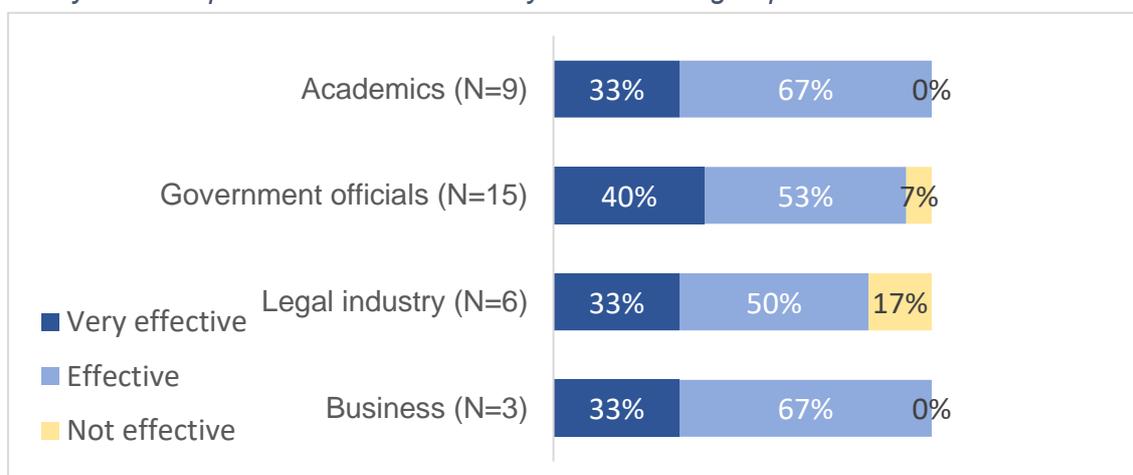
c) Legal community

From the survey, it is notable that some participants of MyCC's advocacy events held in 2019-2021, particularly the practitioners (17%) found that the events in enhancing understanding of competition law is not effective. This can be attributed to the high understanding of competition law by the practitioners due to the relevance of the law to their occupations.

Through the interviews conducted with the practitioners, many have also voiced that the seminars and talks organised by MyCC addressing the competition law issues were rather generic in nature. Many suggested that MyCC should host advocacy events catered to professional audience such as the legal community and those with some background knowledge on competition law, where the content of these events should cover topics in greater depth and detail (e.g. merger control) and more practice-oriented topics.

⁷³ https://www.mycc.gov.my/sites/default/files/pdf/decision/Public_5.7.2022_Aswara%20FD.pdf

Figure 6: Effectiveness of advocacy events in enhancing understanding or awareness of Malaysia's competition law framework by stakeholder groups



d) Academics

Advocacy events or talks held by MyCC targeting university students were mainly focused on a specific group of students - those who had studied competition law before and were in their third year of their law degree (law students), and economics as well as business students. The academicians that were interviewed shared that first and second year students were less likely to follow the content of these talks given their basic knowledge on law. It was suggested that the examples given and terminology used could be simplified further.

e) Students

Following the outcome from the MoUs, MyCC had organised more events for university students such as the MyCC Classroom Programme. It is a very effective way as a competition advocacy since those students are already consumers and will likely be working in government/business/legal sector. It might be a good idea to consider providing advocacy events tailored for students below university level, such as high school students, in future.

Moot Court Competition is also an effective method for the same reason as the MyCC Classroom Programme. It is also unique for a competition agency to hold a moot court competition. As far as peer review's findings, no other agency in ASEAN host moot court competitions.

f) Consumers

MyCC has conducted unique events to raise awareness on competition law. The most prominent example is the events related to MyCC's #Bebaskartel campaign. Under the #Bebaskartel slogan, they provided cycling competition and choral speaking contest and it was deemed to be successful as there were many participants who might have learned the term "kartel" and that it is a prohibited conduct. It is suggested for MyCC to conduct follow-up events for those people who had been aware of CA2010 (Act 712) to learn more about the merit to have competition in Malaysian markets.

However, it should be noted that although the #Bebaskartel series of events may have been very successful in terms of the number of people who took part in them, it is unclear whether these participants actually understood problems with the "kartel" that made it desirable for Malaysia to be "free" ("*bebas*") from such collusive activities. MyCC could have reached out to a small cross-section of participants to obtain feedbacks to verify if its messaging goals had been achieved or investigate if their participation was driven by other motivations.

Respondents have also stated that advocacy programmes should be designed specifically for the "B40" class of undertakings, which is the bottom 40% of household income (apart from general national campaigns, carried out via the internet) by having smaller community-hall based events which do not attract the high admission fee of events held in hotel function rooms. It was noted that MyCC have conducted Corporate Social Responsibility Programme, targeting the B40 class to improve the awareness of competition law among this group.

g) Media

Since identifying the media as a key stakeholder in MyCC's Strategic Plan, the advocacy events conducted by MyCC for the media were received positively.

It was noted that many urban Malaysians had shifted from traditional newspapers to websites (online edition of news report), online channels and social media as a source to obtain information, whereas local television appears to be the main source of information for the rural audience in contrast to their urban counterparts.

While publication of MyCC's activities through MyCC's website and social media platforms is important to appeal to the younger and urban audiences, it is still crucial to

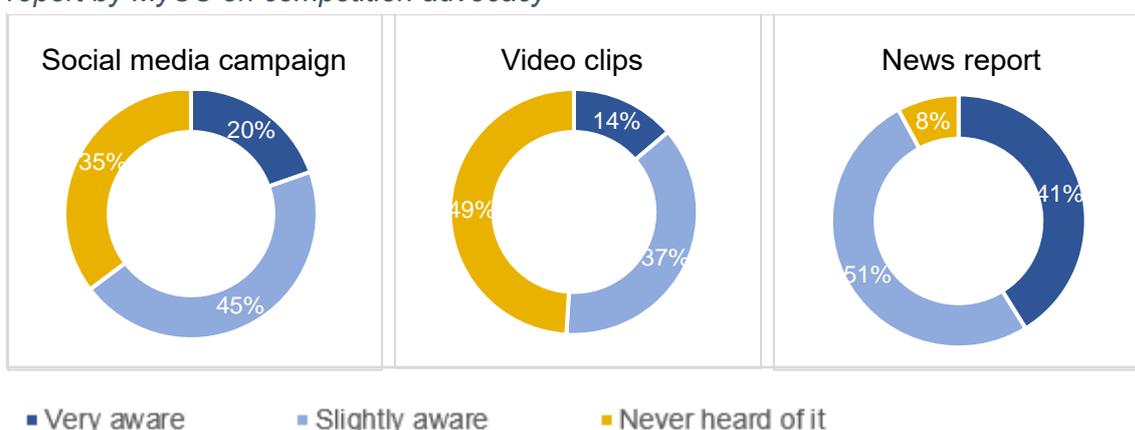
have coverage in the mainstream media such as TV and newspapers as there are still people relying on those form of media. Hence, it is essential that the stakeholders in media have deep understanding of the importance of competition and the role of MyCC.

4.4 MyCC’s Advocacy Activities: Public Outreach Activities

A survey was conducted to evaluate the effectiveness of non-advocacy events conducted by MyCC. 51 responses of the questionnaire were received from government officials, academia, business and legal regulators over the effectiveness of MyCC’s advocacy through public communication platforms such as Facebook, video clips and news report. The following summarises the key points that emerged from the respondents’ replies from both questionnaire and interview conducted.

Overall, respondents felt that they were able to grasp the main messages that were conveyed through the publicity activities. Predominantly, they felt that the key message was to create awareness on competition law and to educate businesses on operating in a fair manner. This is in line with MyCC’s goal of raising awareness on competition law, in addition to other crucial topics such as bid rigging and merger control, to protect competitiveness in the market in Malaysia. However, respondents felt that the content could be better simplified to provide a better understanding to the general audience, who may not be well-versed with such technical and complex area of law and regulation.

Figure 7: Awareness level of social media campaign (Facebook), video clip and news report by MyCC on competition advocacy



A general digital nation-wide campaign with video and animation clips (under 1 minute) should be used more frequently across all digital platforms, rather than just at MyCC’s

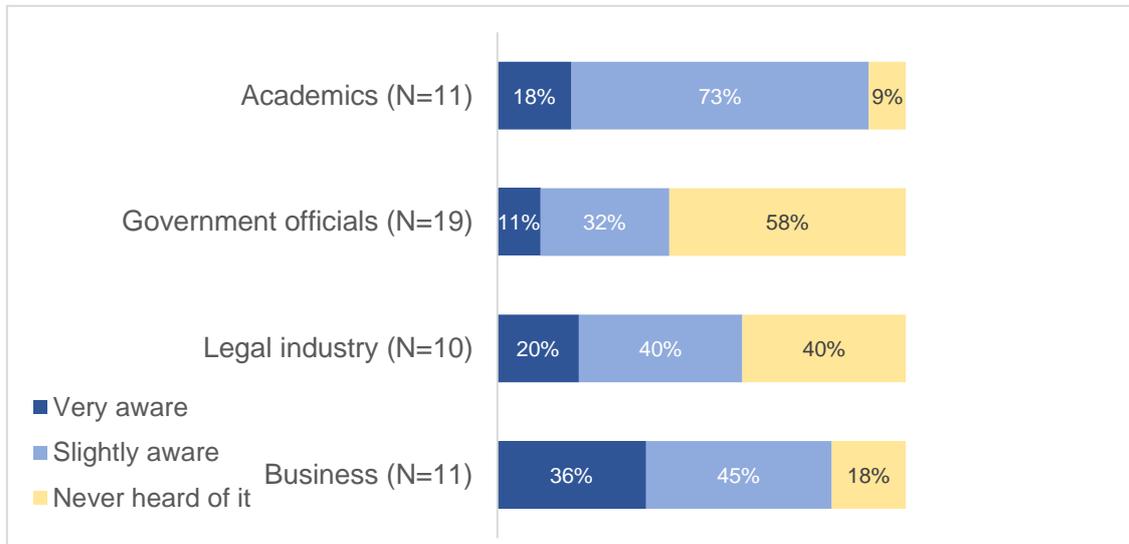
physical events. Some of the respondents interviewed have suggested for MyCC to pair its officers with university lecturers to produce short write-ups or other written pieces on local competition law that can be published on social media platforms and specialist trade publications. It was also suggested that MyCC team up with social media influencers to advance MyCC's agenda as this could appeal more to the younger audience.

a) MyCC Website and Social Media Platform

Social media engagement accounts across multiple digital platforms, including YouTube, Facebook, Twitter, Instagram, and LinkedIn have been set up by the MyCC. The number of followers, views and likes given to the MyCC's posts varies from platform to platform, but the data indicates that they tend to be in four digits or less. When contrasted with Malaysia's population of over 30 million people, these numbers indicate the content published on these social media platforms, including festive greetings and administrative announcements, do not seem to appeal to the social media users, hence limiting circulation and its impact to the wider public. The social media content may need to be more carefully curated to appeal to their intended audience.

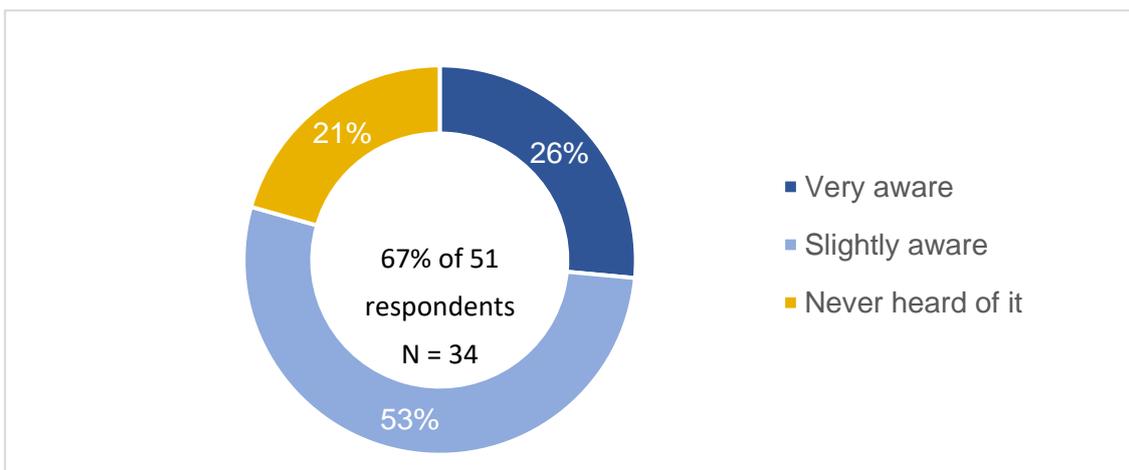
This is supported by findings from the questionnaire conducted that assessed MyCC's social media campaigns. While on an overall level most of the respondents indicated that they had some awareness of social media campaigns by MyCC, there is a mix of responses from different stakeholder groups. An analysis by stakeholder group in Figure 8 shows that the academics (which includes lecturers, undergraduate/graduate students) had the highest level of awareness. This could be attributed to the fact that the group likely consists of younger individuals, who are prone to be more digital savvy.

Figure 8: Awareness level of social media campaigns by stakeholder groups



Approximately 64% of the respondents indicated that they felt that the publicity activities were effective in raising awareness of MyCC’s role. However, it is worth noting that slightly more than 20% of the respondents who agreed on the effectiveness of the publicity activities indicated that they have never heard of the particular social media campaign by MyCC. It can be inferred that despite having a favourable impression on the effectiveness of MyCC’s publicity activities, there are still gaps in terms of the reachability of those activities.

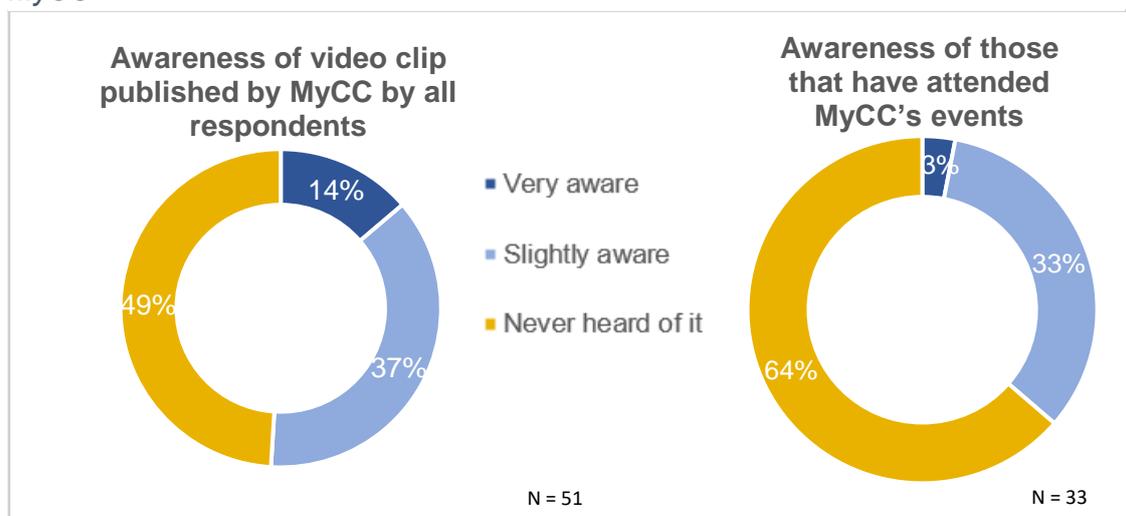
Figure 9: Awareness of social media campaign by MyCC for those who feel publicity and communication materials are effective in raising awareness of MyCC’s role



Competition law framework can be a highly technical and complex area to grasp. Some respondents were of the view that MyCC should organise more engagement sessions to provide better exposure and to educate the public about competition law. These sessions should extend beyond social media presence and press releases to include co-operation with multiple stakeholders, such as universities. It was noted that MyCC had extended its advocacy efforts specially intended for university students such as, (a) MoU collaboration with some of the universities where competition law courses were offered as part of the syllabus; (b) moot court competitions on competition law; (c) organised talks to IHLs through MyCC Classroom programme. Respondents were of the view that an increase in engagement with students can instil a solid foundation on competition law at an earlier age, which will be beneficial once they enter the workforce. These initiatives should also be organised in languages suited for the audience to maximise the effectiveness and reachability of these programmes.

As for advocacy efforts through video clips, about half of the respondents (51%) indicated some awareness of the video clip published by MyCC. It is an encouraging development as it indicates some success in MyCC's effort in educating the public. Nevertheless, further examination shows that a significant percentage (64%) of those who have attended events organised by MyCC have never seen the video clip stated in Figure 10. While overall level of awareness suggests that the video has managed to reach audience who may have had limited exposure to MyCC, it also highlights a gap in MyCC's effort in keeping people who have had interactions with them updated with MyCC's activities.

Figure 10: Awareness of video clip (why price-fixing cartels are illegal) published by MyCC



Overall, respondents are able to understand the main messages conveyed through the above-mentioned video released by MyCC. The video focused on price-fixing cartels, primarily to communicate its harmful impact to the market and to discourage such practices as they are illegal. It is one of the major concerns of MyCC as it seeks to protect the competitive process for the benefit of consumers. In addition to price-fixing cartels, merger control is one of the competition law areas that has generated great interest from the stakeholders that can be highlighted by MyCC in future video campaigns, along with bid rigging and sharing of confidential information between competitors.

b) Press Releases

MyCC has issued a total of 138 press releases since 2012, or an average of 14 press releases per year. Many of these press releases provided details of the enforcement action taken by the MyCC against various undertakings, while others announced MyCC's reactions to public complaints about suspected anti-competitive activity. The press releases described the nature of the suspected misconduct as well as the relevant statutory prohibitions that may have been contravened. Key contact details of MyCC officers are included in every press release for the public who wish to obtain further information related to its contents.

The MyCC's work is widely publicised through its press releases and through local media channels in multiple languages which includes the details of the outcomes (infringement or non-infringement) and explanations for these outcomes. MyCC also publishes the public version of the decision on its website for the public to read in greater details.

c) Media Reports

The activities of the MyCC were widely reported in the mainstream mass media, with many news reports appearing in English, *Bahasa Melayu* and Chinese language newspapers, as well as on online news websites. Apart from news stories related to competition law investigations and complaints, there were several opinion-editorial pieces and letters to the press discussing the role MyCC plays (or should play) in advancing competition policy in Malaysia (for example, with calls to regulated medicine prices in 2019). Many of the opinion-editorial pieces reveal a strong desire for the MyCC to take a more active role in tackling socio-economic issues that affect a wide section of the Malaysian public, such as the price of goods, healthcare costs and the costs of doing business in Malaysia.

Most respondents of the questionnaire indicated that they generally keep themselves informed of local news reports as show in Figure 11. However, further analysis on the frequency of respondents encountering news reports on competition law in relation to activities by MyCC shows that more than half of respondents indicated that they rarely or never come across such reports, as shown in Figure 12. This therefore indicates that there is a lack of visibility of enforcement actions taken by MyCC, with the exception of high-profile cases such as enforcement against Grab (Figure 13); it also suggests that enforcement activities were reported on channels which the respondents do not regularly use.

Figure 11: Frequency respondents keep updated in local news report through various channels

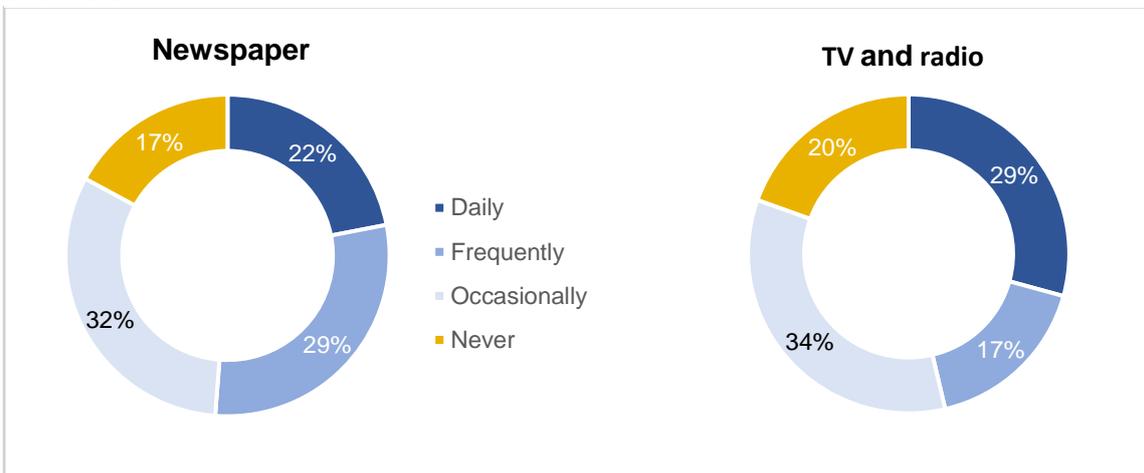
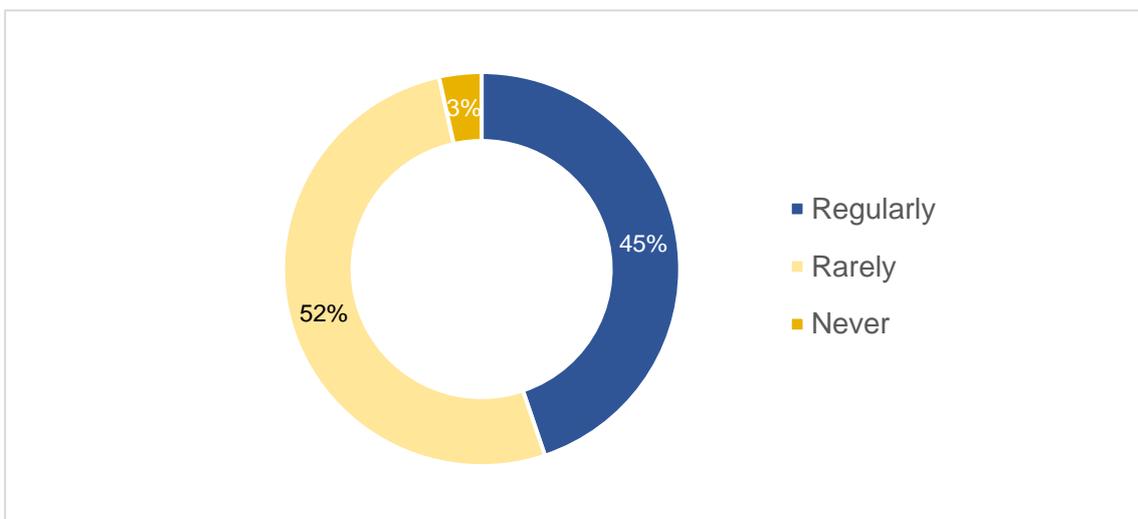
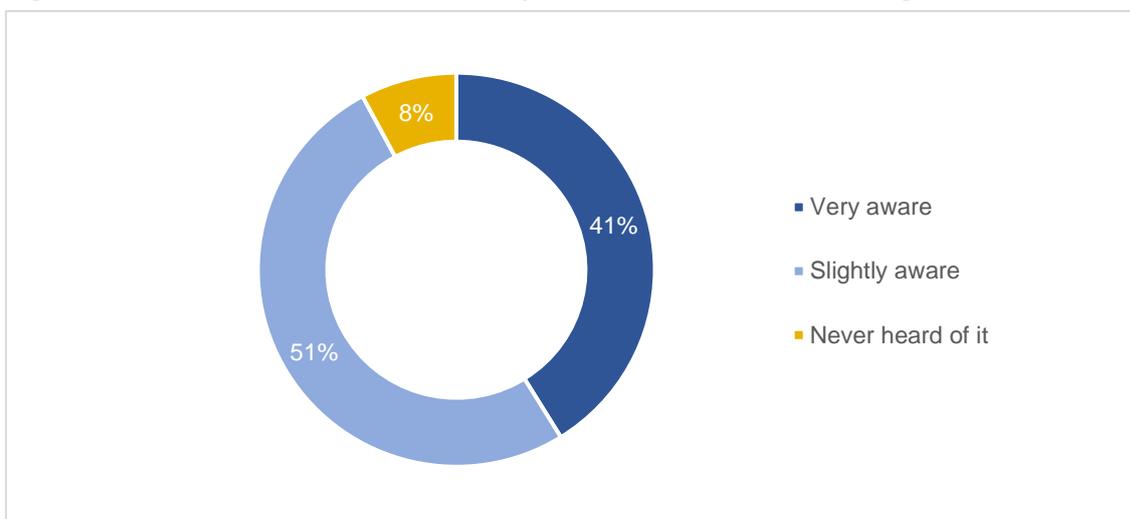


Figure 12: Frequency respondents came across news report on competition law in relation to activities by MyCC



However, some of MyCC's enforcement actions have made considerable impression on the public. When asked about the news report regarding MyCC's enforcement actions against Grab, an overwhelming majority of respondents (92%) indicated an awareness on the news as shown in Figure 13. As Grab is a well-known brand and a commonly used service in Malaysia, this finding suggests that familiarity with the brand and its relevancy in people's daily lives may have had an impact in the awareness and visibility of the news report below.

Figure 13: Awareness on news about MyCC's enforcement actions against Grab



The respondents recognised that MyCC's enforcement actions were targeted against businesses (in this case, Grab) which abused their dominant position to reduce competition. This had distorted competition in the e-hailing market, creating barriers to entry and expansion for Grab's existing and future competitors. Publicising MyCC's activities through such reports gives MyCC the avenue to educate the public on its role and it has been proven to be a useful way to spread awareness on its enforcement actions.

Overall, the impression towards MyCC on its role and efforts in ensuring fair competition were good and positive. Respondents value and praise MyCC for its proper investigation of any alleged anti-competitive conduct in the market. However, it was suggested that MyCC should ensure that its media reports are publicised across all the different major language newspapers to reach out to the widest possible audience.

d) Publication of Other Advocacy/Awareness Raising Programmes: Annual Reports, Guidelines, e-Booklets

Some of these publications are produced by MyCC as part of their statutory duty, as such, these materials may not be considered as “advocacy materials”. The Guidelines published by the MyCC, for example, are quasi-legislative in nature even if they are non-binding because they assist the public in interpreting the Competition Act 2010 (Act 712). However, they may also be regarded as having an advocacy function to the extent that they have an explanatory purpose in helping laypersons understand the scope of the legal prohibitions against anti-competitive behaviour.

Similarly, annual reports primarily provide summaries of the operations and achievements of the MyCC, though they also include brief accounts of the advocacy work that had been accomplished in each financial year.

The e-Booklets produced by MyCC are the clearest examples of MyCC’s advocacy publications as they are intended to be instructive, and written with the business community in mind. The topics of these e-Booklets include a “Handbook for General Public”, “A Guide for Business”, “Compliance Guidelines”, “FAQs for SMEs” and the “Leniency Regime”.

Although MyCC’s published general guidance materials on the competition law framework was targeted at the local business community and the public, it is difficult to assess the actual size of the readership or if the messaging communicated by MyCC has gotten across to its intended audience.

e) Co-operation with other institutions

Memorandum of Understanding (MoU)

MyCC has inked Memorandum of Understanding with the Central Bank of Malaysia (BNM) in 2014 and with five local universities in 2015 (separate MoUs with respective local universities) to provide platform for co-operation and consultation between these institutions.

The BNM MoU gives MyCC a formal role in the development of laws relating to the regulation of the financial sector, which BNM oversees, as well setting up a notification channel between the agencies to facilitate mutual agreement between them on the course of action that should be taken when infringing conduct is detected by one agency that is also of the interest of the other. This co-operative approach between agencies in

managing areas of regulatory overlap in the financial sector ensures that competition policies can be systematically accommodated within the financial regulatory framework developed by BNM. However, we have not found any evidence of the effects of this MoU on the laws enacted or amended by BNM since 2014.

The Universities' MoU gives MyCC the ability to formally collaborate with academics to strengthen the teaching of competition law modules and develop research expertise in this area amongst local academics. The MoU with the local universities appears to have yielded positive results, with various student-targeted and research-oriented advocacy activities emerging in the years after 2015. For example, the increase in the number of advocacy programmes directed to the university students in 2018 (Competition Law Classroom Programme).

Some of the respondents interviewed has praised MyCC on its advocacy efforts through the MoU with universities, particularly its pro-active stance in following up with its university partners after signing the MoU. However, instead of just labelling this group as the "MoUs Signing Partners", it was suggested that MyCC formally acknowledge this "academic network" and plan activities for them collectively.

Competition Law modules for universities

MyCC has collaborated with a broad range of institutes of higher learning through MoU to develop university-level curricula related to competition law and policy, with the subject taught either as a standalone specialist subject or as part of a broader course relating to law and economics in both English and *Bahasa Melayu*. These modules are taught in the following institutions: International Islamic University Malaysia (IIUM), *Universiti Kebangsaan Malaysia* (UKM), Taylor's University, *Universiti Malaya* (UM) and *Universiti Teknologi MARA* (UiTM).

f) Student Contests

It was noted that the MyCC has adopted a laudably inclusive approach towards its advocacy and outreach programmes, particularly in engaging younger audiences such as secondary school students and undergraduates through student contests.

MyCC has sponsored student-level contests to increase awareness of its competition law enforcement activities. The choral speaking contest it organised in 2018 which attracted participants from 15 secondary schools was motivated by MyCC's realisation of "the importance of nurturing young millennials on the idea of healthy competition and

to inculcate the ideas of efficiency, innovation and entrepreneurship in them”.

The MyCC has also organised two university-level moot court competitions on competition law to “strengthen the relationship between the university and the MyCC in order to promote knowledge on competition”, as part of its efforts to “attract other students and institutions of higher learning to contribute to the areas of education, research and sharing on Competition Law”.

A photography contest open to students and all Malaysians was organised in 2018 under the #Bebaskartel campaign to promote awareness of Section 4(2) of the Competition Act 2010. Participants had to pay an admission fee of RM50 to submit two photographic entries and stood to win cash prizes of between RM200-RM1,500. The winning photographs were intended to be used on MyCC’s social media accounts. The objectives of this contest included “making the MyCC’s presence known among the public by introducing them to our social medias” and to “expose the youths and young adults to the existence and importance of Competition Law in Malaysia”.

An essay-writing contest was organised by MyCC for full-time undergraduate students enrolled in specific faculties such as Law, Business or Economics in any universities, polytechnic, or colleges in Malaysia as part of the #Bebaskartel campaign in 2018 celebrating the 7th anniversary of MyCC. Participants were expected to pay a RM20 entry fee and stood a chance to win cash prizes of between RM200 to RM1,000. The essays had to be under 3,000 words in length, written either in English or *Bahasa Melayu*, and written in response to a list of 10 questions. Topics of the essay included the benefits of Competition Law to SMEs, the applicability of Competition Law to government-linked companies and whether Competition Law should tolerate the imposition of scale fees by professional bodies in Malaysia.

The academicians that were interviewed praised MyCC’s efforts in increasing awareness of competition law within the student community. However, it was suggested that MyCC should support the academic essay-writing activities of students by, for example, compiling and publishing excellent essays in newsletters.

g) e-Learning

The e-Learning platform was developed for MyCC to disseminate knowledge of Malaysia's competition rules to members of the business community, particularly the SMEs. More than 250 students completed each of the five modules covering practical competition law. Participants were given certificates for completing all modules after taking a quiz to test their knowledge and understanding of the subject matter covered.

4.5 MyCC's Advocacy Activities: Research Grant Programme and Competition Law

The MyCC invited academics from the Malaysian universities to submit topics for research projects which addresses pressing socio-economic issues related to competition law and policy in Malaysia which the MyCC would financially support through the Research Grant Programme and Competition Law (RGPCL). More than 40 applications were received, but only a handful proposals were successful as listed in Table 16. Each successful research grant came with a funding of RM50,000. The executive summary of the research grant programmes was published on the MyCC's website.

Table 16: List of completed research projects through RGPCL

Title of completed research project	Submission date
Anti-Competitive Behaviour in the Financial Sector – A Toolkit for Internal Auditors ⁷⁴	30 December 2014
Study on Awareness and Perception of CA2010 and Role of MYCC in Malaysia ⁷⁵	December 2016
Approved Permits (APs) in Malaysia: Potential Issues and Challenges under Competition Act 2010 with Focus on the Food Sector ⁷⁶	24 April 2017
Medicine Prices Comparison among Different Private Healthcare Settings ⁷⁷	30 November 2017

⁷⁴ Conducted by Susila Munisamy, Bryane Michael, Evelyn Devadason, and V.G.R. Chandran

⁷⁵ Conducted by Prof. Dato' Hasnah Haji Haron (Principal Researcher) Universiti Malaysia Pahang (UMP), Prof. Dato' Ishak Ismail (Co-researcher) Universiti Malaysia Pahang (UMP), Dr. Yuvaraj Ganesan (Co-researcher) Universiti Sains Malaysia (USM), Ms. Sasikala Sankaran Pillai (Research Assistant) Universiti Sains Malaysia (USM)

⁷⁶ Conducted by Assoc. Prof. Dr. Haniff Ahamat (Head)(UKM), Asst. Prof. Dr. Nasarudin Abdul Rahman (IIUM), Assoc.Prof. Dr. Safinaz Mohd Hussein (UKM), and Prof. Dr. Nazura Abdul Manap (UKM)

⁷⁷ Conducted by Dr Neoh Chin Fen, Associate Prof Dr Long Chiau Ming, Mr. Lee Kah Seng, Mr. Lim Yen Wei, Mr. Tan Ching Siang, Dr Tahir Khan

5 Recommendations

MyCC has made considerable advocacy efforts despite its young age and the limited resources at its disposal. To the extent that general public awareness of competition law in Malaysia has increased, these advocacy efforts have borne fruit. It is therefore imperative that MyCC continues to pursue its competition law enforcement and advocacy. The following recommendations are directed at strengthening MyCC's future advocacy efforts in promoting competition in Malaysia, focusing on the issues identified in this peer review.

5.1 Institutional Framework

1. To continue to expand the impact of MyCC's competition advocacy, consideration should be given to:
 - (a) Identifying the capacity and skills required to implement advocacy work, and assessing whether these skills are currently present within the MyCC.
 - (b) Developing a unique communication and engagement strategy for each stakeholder to further their understanding of economic reforms through the competition lens.
2. Monitoring and evaluation of advocacy activities is important to improve their advocacy activities and targeted follow-up action can then be taken to address issues arising from each specific stakeholder group.
 - (a) Direct qualitative feedback should be collected from participants immediately after each advocacy events for analysis to evaluate the successfulness of such advocacy activities.
 - (b) Awareness studies should be carried out on a more frequent basis (e.g., biennially or triennially) covering various stakeholder groups such as government agencies, competition practitioners, businesses, academics, consumers etc.
 - (c) Budgets for MyCC's advocacy activities should include resources for post-evaluation exercises.
3. The Government should consider ways to add more manpower, possibly through (i) increase in manpower headcount; and (ii) increase in salary remuneration for individual officers to attract and retain employees in the MyCC. A budget increase should be considered to ensure advocacy efforts are conducted effectively among all stakeholder groups.

5.2 Advocacy Activities: Advocacy/Educational Events

It is recommended for MyCC consider the following improvements on the gaps identified on its advocacy events identified in this peer review:

1. Lower the participation fee charges for its advocacy programmes, particularly for students and consumers, to ensure that it does not prevent participation from these stakeholder groups. Organising advocacy events virtually could also lower the participation fees and possibly entice stronger attendance.
2. More focused content to targeted stakeholders who are already familiar with competition. For example, focus topic areas such as industrial or regulated area or narrower topics such as intellectual property and competition law, or digital platform and abuse of dominant position while leaving the events topics on the outline of CA2010 (Act 712) for stakeholders who are not familiar with the law.
3. Extend its communications and educational events in other Malaysian languages such as Chinese or Tamil in addition to English and *Bahasa Melayu*. The aim is to ensure the advocacy efforts reach out to majority of the stakeholders. This will be effective when MyCC holds events for more significant community such as SMEs and consumers who primarily read in other local languages.
4. A different approach should also be applied to obtain more detailed feedback from the participants of the advocacy events, such as calling selected participants to obtain the qualitative feedback or organising a focus group discussion. The aim is to identify the areas of improvement that are needed for the events.
5. Enhance the deterrent effects of MyCC's enforcement actions and communicate this more visibly to the businesses to ensure compliance with the competition law.

5.3 Advocacy Activities: Public Outreach

It is recommended that MyCC should consider the following recommendations to enhance its public outreach activities:

1. Develop social media engagement strategies that combine potentially "viral" content with MyCC's advocacy messaging. For example, by including humorous content (e.g., comedy clips, memes and other attention-catching media) or perhaps sharing the

results of the student contests (which might then be circulated amongst the social circles of the participating students and schools).

2. Increase the awareness of the advocacy activities through MyCC's current social media platform channels targeting members of the public. Various contents should be included to publicise the advocacy activities including press releases.
3. Issue press releases explaining the public interest of the research projects it has funded under the RGPCL; summarising the findings of each project and the follow-on steps, if any, that are being pursued by MyCC.
4. Diversify its publications to cater to different segments of the public. Almost all of its current advocacy publications are directed at laypersons and businesspersons with no background knowledge on competition law. The content shared with this targeted group should be simplified in layman terms so that it is easier for the stakeholders to understand and engage in the topics. It should also try to cater to audience who have some understanding of the subject matter such as legal practitioners, in-house counsel, academics etc., by issuing publications that provide a deeper level of explanation of MyCC's decisions and policies, specifically targeted at a more sophisticated audience.
5. Integrate and consolidate its e-Booklet publication activities with its e-Learning initiatives, to enable materials from the former can also be used as teaching materials for the latter. Using the quiz component from the e-Learning platform, the MyCC will then be able to assess the extent to which the information communicated in its e-Booklets has been understood by its readers/e-Learners.
6. Expand its e-Learning projects beyond the business community to include students at institutions of higher learning, where such e-modules might be taken as part of the curriculum for law and business students. This could also provide an additional revenue stream for MyCC.
7. Continue to expand its engagement with educational institutions beyond the initial group of five local universities, perhaps devising a framework of mutual benefits and obligations that any academic institution or researcher can join if they are interested.
8. Develop a "model curriculum" or compile a package of teaching materials for educators at institutions of higher learning to facilitate the teaching and learning of competition law. MyCC could also deploy staff resources to work with educators in a

more systematic way to enhance the quality of the educational programmes relating to Malaysia's competition law and policy.

9. Nurture the interest in competition law issues that is generated by its student contests and deepening MyCC's engagement with the participants by working with schools and students who participate in such activities to develop social media content that is targeted at younger audiences.
10. Assess the impact of MyCC's advocacy and enforcement activities by conducting follow-up studies after (i) market studies have taken place to assess if the situation in these markets have changed and (ii) enforcement actions have been taken to assess if MyCC's interventions have had an impact on the market.

6 Conclusion

The peer review was undertaken to strengthen the competition law frameworks of the AMS and improve the implementation of competition law and related regulations through the enforcement of competition advocacy. The peer review examined the overall efforts and strategy of MyCC towards its competitive advocacy activities. It found that stakeholder groups such as government officers, legal practitioners/counselors, universities (including lecturers and students) and businesses benefit from advocacy work.

The peer review also concludes that competition advocacy activities have had a positive effect on stakeholder perceptions of the value of competition as a process and the credibility of the MyCC, as well as its accountability and effectiveness in monitoring and sanctioning anti-competitive conducts. The peer review concludes that competition advocacy activities are an important contributing element towards building a competition culture in Malaysia.

Findings from the survey conducted for the peer review shows that overall, the participants of MyCC's advocacy events are satisfied and have benefited from the activities in enhancing their understanding of competition law. Many appreciated the sharings provided during the events, in particular, the latest development and activities undertaken by MyCC in enforcing competition policy. The respondents have also voiced their positive impression towards MyCC on its role and efforts in ensuring a fair competition.

Competition advocacy activities pursue long-term goals which is relatively far into the future; therefore, advocacy interventions need interim measures of success. These serve as milestones to show work is on track, keeping track of the progress made and helping the MyCC share success stories on the way to the "big win."

The strategy pursued by MyCC towards its advocacy efforts over the last decade has been a multi-pronged approach that has targeted a wide range of audience, with public campaigns and attention-grabbing activities (including engaging with a local celebrity spokesperson) to promote awareness of MyCC's role as Malaysia's national competition authority. Going forward, MyCC should consider focusing more on quality, rather than quantity, and try to establish the actual substantive impact of the advocacy on its audience beyond the number of participants or attendees at its events. The substantive impact of the advocacy includes (i) measuring the actual effects of its advocacy activities

by conducting post-event surveys or follow-up studies to monitor the actual impact of its activities; and (ii) improving the quality of the advocacy activities by assessing whether the intended objective of the advocacy activities have been achieved. In particular, the following steps should be explored further:

I. Developing differentiated advocacy strategies for different audience segments

MyCC should distinguish between two audience segments for their competition law advocacy events. The first segment is a smaller group of participants with more than a basic understanding of the subject matter. The second segment is a larger group comprising laypersons in the general public and includes members of the local business community who do not have a sophisticated understanding of the competition law framework.

Advocacy efforts targeted at the smaller group should seek to deepen their understanding of the legal and economic analysis carried out by the MyCC, enabling this group – which is already familiar with the basics of competition law – to better understand the thinking behind MyCC’s decisions and its attitude towards competition law matters.

Advocacy efforts targeted at the larger group should focus more on the basics – communicating why anti-competitive conduct is harmful to consumers and why it is necessary to change ingrained business attitudes or practices that are harmful to competition.

Differentiated strategies should also be pursued by MyCC in each media channel, based on the target audience for each channel; for example, some interviewees we spoke to the focus group discussions who were not regular social media users emphasised the need to increase the level of public awareness of MyCC’s enforcement activities in news television programmes and in the mainstream press; those who were active social media also indicated that they were unaware of the social media campaigns launched by MyCC, suggesting that greater targeted advertising tools might need to be employed.

II. Focus more on whether the advocacy message communicated has been effectively understood by the audience

Large-scale events may attract attention and drive-up participant numbers, but equal amounts of effort should be put into ensuring that the right message has been communicated. Every advocacy activity that is carried out should have a pre-defined

“advocacy message” based on the underlying objectives identified by MyCC. It is important that post-event feedback collection exercises should try to go beyond measuring audience satisfaction levels and try to determine what participants have actually taken away with them after attending MyCC’s events by reaching out to a small cross-section of participants to determine if the messaging goals have been achieved.

III. Working within budgetary constraints

As a small government agency with limited resources, including a limited revenue sources unlike other regulatory agencies which collect licensing fees from market players, MyCC may have spread itself a little too thinly by pursuing advocacy activities on multiple fronts without long-term sustainability plans in place. For example, maintaining multiple social media platform accounts requires dedicated manpower to keep them active and relevant because the audience that engage through these platforms expect a certain level of interactivity and immediacy.

Until and unless the resources available for MyCC’s advocacy activities increases, either through a restructuring of the agency or significant changes to its financing model, it may be prudent for MyCC to focus on fewer channels of communication and ensure that its contents are always up to date and delivered in a manner that appeals to its audience members.

MyCC can consider using its actively-managed social media accounts for multiple purposes, including (a) the dissemination of news and updates about its competition enforcement activities; (b) publicising its advocacy events to a wider audience; (c) encouraging whistleblowing on potentially anti-competitive conduct and (d) attracting interest in competition law issues through humorous or entertaining content.

Appendixes

I. Changes in awareness and perceptions of the Competition Act 2010 (Act 712) & Competition Commission Act 2010 (Act 713)

In 2012, the MyCC conducted a “Baseline Study to Gauge the Level of Awareness of the Competition Act 2010 Among Businesses” and in 2016, a similar study on “Awareness and Perception of the CA2010 and Role of the Commission in Malaysia” was conducted again to look at the level of improvements that have been achieved since the 2013 study.

The “Baseline Study on Awareness of CA2010 in Malaysia” conducted in 2013 indicated that the level of awareness on the existence of the CA2010 (Act 712) was at 11%. The 2016 study revealed an overall improvement in the quality of MyCC’s advocacy and outreach programmes in relation to awareness of the CA2010 (Act 712) which has increased to 52% among the same group of SMEs. This showed that the hard work put forth by MyCC over the past few years have not gone unnoticed by the public at large⁷⁸. These successes underscore MyCC’s visibility and credibility as an authority that is committed to enforcing the CA2010 (Act 712)⁷⁹.

In the 2016 study by Dr Hasnah Haron et al., a total of 463 respondents participated in the study. It comprised of 27 respondents from GLCs, 44 respondents from multinational corporations (MNCs), 154 respondents from SMEs, 144 respondents from government agencies, 31 respondents from practitioners (lawyers & economists) and 63 from consumers (students and consumers/trade associations).

Table 17 shows the level of awareness and knowledge of the CA2010 (Act 712) by stakeholders in more detail. Practitioners (lawyers and economists) had the highest awareness about the CA2010 (Act 712) among the respondent groups with 87.1% of them said they know about the CA2010 (Act 712). The lowest awareness group of respondents are the GLCs with only 25.9% and where only 27 respondents have heard about the CA2010 (Act 712) before. The survey also showed awareness amongst the

⁷⁸ Dr Hasnah Haron et al “Six Years Of Championing Competition”

<https://www.mycc.gov.my/sites/default/files/pdf/newsroom/DOC%207%20-%20Prof.%20Hasnah%27s%20Article%20BI.pdf>

Noor Khalijah Binti Mazlan “Contributing factors of consumer awareness on the roles of Mycc in enhancing consumer welfare: a study among consumer in Putrajaya” <https://ir.uitm.edu.my/id/eprint/28460/1/28460.pdf>

⁷⁹ Op.cit Strategy Plan 2015

SMEs, which had improved from 6% in 2011 to 56%⁸⁰.

The survey showed that SMEs were the highest stakeholder group in acknowledging on the quality of advocacy and outreach programmes of the MyCC. Practitioners (lawyers & economists), are the least among the respondents to acknowledge the quality of MyCC's advocacy and outreach programmes.

The survey also showed that about 80% of respondents referred to the internet as their main source of reference for awareness and existence of MyCC and the CA2010 (Act 712). The internet was the most preferred source of information by respondents. This was followed by the MyCC's website, Facebook, Twitter, and YouTube. Newspaper comes in sixth as a source of reference⁸¹.

Table 17: Level of awareness and knowledge of the CA2010 by stakeholders

N = 463	Level of awareness		Level of knowledge (N = 217)			
	Yes	No	A lot	A fair amount	Not very much	Have heard but know nothing
	N = 217	N = 246	N = 11	N = 34	N = 86	N=86
Government Linked Company (GLCs) (27)	25.9%	74.1%	14.3%	14.3%	57.1%	14.3%
Multinational Corporations (MNCs) (44)	38.6%	61.4%	5.9%	11.8%	29.4%	52.9%
Small and Medium Enterprises (SMEs) (154)	56.5%	43.5%	10.3%	14.9%	40.2%	34.5%
Government Agencies (144)	41.0%	59.0%	0.0%	15.3%	44.1%	40.7%
Practitioners (Lawyers & Economists) (31)	87.1%	12.9%	0.0%	22.2%	33.3%	44.4%

⁸⁰ Dr Hasnah Haron et al "Six Years Of Championing Competition"

<https://www.mycc.gov.my/sites/default/files/pdf/newsroom/DOC%207%20-%20Prof.%20Hasnah%27s%20Article%20BI.pdf>

⁸¹ H. Haron et al. op, cit

Students (57)	26.3%	73.7%	0.0%	20.0%	40.0%	40.0 %
Consumers / Trade Associations (6)	83.3%	16.7%	0.0%	0.0%	20.0%	80.0%

Source: Dr Hasnah Haron et al "SIX YEARS OF CHAMPIONING COMPETITION". Op.cit⁸²

According to recent research, most of Malaysia's largest corporations are controlled by seven government-linked investment companies (GLIC). The extent of the GLICs' involvement in the economy can be seen from their ownership of 35 public-listed companies that constituted an estimated 42% of the total market capitalisation of all listed companies in 2018.

Through these 35 government-linked companies, the seven GLICs are ultimately linked, accounting for about 68,300 companies⁸³. This structure of public corporations constraints the ability of the MyCC to advocate effectively for more pro-competitive environment.

Limits to advocacy

"It must be noted that the MyCC is the first statutory enforcement body in Malaysia with quasi-judicial powers to impose its own findings on its own investigations. As such, cases involving complex issues take a longer time to complete because of the various legal and economic aspects that must be taken into account when conducting an investigation on competition issues as compared with the usual enforcement procedures of other statutory enforcement bodies in Malaysia. This, in turn, effectively hampers the MyCC's ability as a competition regulator to carry out its duties as both the enforcer and the advocate of competition law in Malaysia."

Tan Sri Dato Seri Siti Norma Yaakob, Chair, Malaysia: Competition Commission; Global Competition Forum, 5th April 2017

⁸² Noor Khalijah Binti Mazlan "Contributing factors of consumer awareness on the roles of MyCC in enhancing consumer welfare: a study among consumer in Putrajaya" <https://ir.uitm.edu.my/id/eprint/28460/1/28460.pdf>

⁸³ Gomez, ET "Minister of Finance Incorporated: Ownership and Control of Corporate Malaysia", IDEAS, August 2017

However, since the 2018 elections, the business environment has improved markedly as transparency and structural reforms have been introduced to prevent corrupt practices and improve efficiency and management. The Government announced that focus will be given to reviewing and streamlining the role of state-owned enterprises and monopoly entities in the remaining 11th Malaysia Plan period from 2018-2020 to enhance market efficiency and fair competition.

Furthermore, the Mid-Term Review of the 11th Malaysia Plan –PTR-11MP, (2016-2020) released by the Ministry of Economic Affairs states that “market inefficiency and unhealthy competition are threats to economic growth and sustainable development; in this regard, market distortion and unfair practices will be addressed to promote market efficiency and healthy competition in the economy”.

The report also announced that, “a special ministerial committee will review policies and concessions with regard to monopolistic arrangements of these entities to ensure greater market efficiency. “Meanwhile, a national policy and governance framework will be formulated to align SOEs and other monopoly entities with the broader national development agenda”. This implies that MyCC competition advocacy is reaching high level policy makers which in turn puts pressure on the MyCC to rise to the challenge and further align its competition advocacy with the newly announced government policy, especially towards GLICs.

II. Questionnaire

The following questions were included in the questionnaire targeting the participants of MyCC's advocacy activities to assess the effectiveness of its advocacy efforts.

A. Assessing the effectiveness of advocacy activities by MyCC

1. Are competition law issues relevant to your area of work? If yes, please specify how they are relevant.
2. What do you recall from participating in the advocacy activities and what are the key takeaways? Please specify the events attended.
3. Did you contribute to the roundtable discussion with MyCC? If yes, please elaborate what issues relating to Competition Policy and Law (CPL) in Malaysia did you raise, or what feedback/opinions did you share?
4. On a scale of 1 to 3, please indicate whether the event you attended has been effective in enhancing your understanding or awareness of Malaysia's competition law framework?
5. Have you subsequently made use of what you've learnt from participating in this event in your professional life? For example, in your teaching, research or other professional activities, adjusting public procurement processes to combat bid rigging, reporting suspected cases of bid rigging to MyCC, etc.
6. What are your recommendations for MyCC to improve the quality of its advocacy activities moving forward?

B. Assessing MyCC's advocacy public communications (1. Facebook post - general information about bid rigging and other competition law issues in Malaysia; 2. Video clip - why price-fixing cartels are illegal)

1. Were you aware of these social media campaign / video clips / news report published by MyCC?
2. What do you think is the main message conveyed by MyCC through these publicity and professional communication items?
3. Do you think these publicity and professional communication materials have significantly raised public awareness of MyCC's role as a competition authority?
4. What else do you think MyCC can do to raise the profile of competition law issues in Malaysia?
5. What kind of Competition Policy and Law (CPL) issues do you think MyCC should raise awareness of through similar videos in the future?

C. Assessing MyCC's advocacy public communications (News Report by Berita Harian on MyCC's proposed decision against Grab)

1. How often do you read local newspaper?
2. How often do you watch/listen to local news reports on television or over the radio?
3. How often do you come across news reports relating to the competition law related to activities of MyCC?
4. Were you aware of the news article about MyCC's enforcement actions against Grab?
5. From reading the report, what do you understand to be the unlawful conduct that MyCC's enforcement actions are targeted against?
6. What is your impression of MyCC's role as a competition authority after reading the report?

