



Malaysia Competition Commission



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STATE OWNED ENTERPRISES AND COMPETITIVE NEUTRALITY

**OECD GLOBAL FORUM ON
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INTRODUCTION

- **Malaysia Competition Commission established in April 2011 and fully functional June 2011**
- **Competition Commission Act 2010 came into force April 2011**
- **Competition Act 2010 came into force 1 January 2012 (18 months moratorium)**



COMPETITION ACT 2010

The Prohibitions

- **Section 4 - anti-competitive agreements horizontal and vertical**
- **Section 10 - abuse of dominant position**
- **No merger regulation**



SCOPE

- **All commercial activities**
 - **ownership and status irrelevant**
 - **includes those carried out by GLCs and SOEs**
- **Extra – territorial application**



NATURE AND SCOPE OF SOEs IN MALAYSIA

Government ownership can be:

- **Both direct and indirect**
- **At Federal or State level**
 - **If direct – through a Ministry or department**
 - **If indirect – through an investment holding company, statutory body or public sector agency**

TYPES OF SOEs

- MoF Inc Cos
- Government-linked corporations (GLCs)
- Government-linked investment companies (GLICs)
- State-level GLCs
- State-level GLICs
- Statutory Bodies

ROLE OF SOEs IN ECONOMY

Size in economy

- Total market capitalisation – 36%
- Domestic investment – 13%
- Employs 5% of national work force

Excludes

- State-level GLCs and GLICs
- Statutory Bodies

Industries

- Varied – financial , telecommunications, trading, infrastructure, social, medical, public facilities, housing



ROLE OF SOEs IN ECONOMY (cont)

SOE Regime in Malaysia - Government has multiple roles:

- **Developer and provider of public goods**
- **Investor, owner and operator of the production of goods and services**
- **Regulator to provide level playing field in the market**



COMPETITIVE NEUTRALITY PRINCIPLE – APPLICABLE TO MALAYSIA?

- **Partial privatisation with issuance of special or golden shares for government**
- **Establishment of sector regulators**
- **Implementation of GLC Transformation Programme**
- **Introduction of generic competition legislation**



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CONCLUSION

- **Many ways to regulate SOEs**
 - GLC Transformation programme (though not comprehensive)
 - Competition Law 2010
- **Challenge**
 - state SOEs
 - need for a compensation mechanism

MALAYSIA NOT READY FOR A COMPETITIVE NEUTRALITY PRINCIPLE – AT LEAST FOR NOW

THANK YOU



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