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**Kementerian Perdagangan Dalam Negeri,  
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**Asian Strategy & Leadership Institute**  
*Dedicated To Creating A Better Society*

## FINAL PROGRAMME

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# 1<sup>ST</sup> FORUM ON COMPETITION ACT 2010

*Embracing New Constitution for the Business Sector: Towards a Competitive & Conducive Business Environment & Inclusive Growth*

⊕ Monday: 28 March ⊕ PWTC Kuala Lumpur

**MONDAY**

**28 MARCH 2011**

*(All proceedings of the forum will be held at Johor / Kedah Room, Level 2)*

- 8:30 am Arrival and Registration of Delegates/  
Welcome Coffee & Tea
- 8:45 am Arrival of invited VIP guests

**SPECIAL KEYNOTE ADDRESS &  
OFFICIAL OPENING CEREMONY  
(9:00 am – 9:35 am)**

- 9:00 am - 9:10 am WELCOME REMARKS:
  - ➔ **Dato' Dr Michael Yeoh**  
*CEO & Director, Asian Strategy & Leadership Institute (ASLI)*
  - ➔ **Dato' Daud bin Tahir**  
*Deputy Secretary-General (Domestic Trade), Ministry of Domestic Trade, Cooperatives & Consumerism, Malaysia*

- 9:10 am - 9:35 am SPECIAL KEYNOTE ADDRESS &  
OFFICIAL OPENING:

**Y.B. Dato' Tan Lian Hoe**  
*Deputy Minister of Domestic Trade,  
Cooperatives & Consumerism, Malaysia*

- 9:35 am - 10:15 am Morning Refreshments / End of Official  
Opening Ceremony

**ROUNDTABLE 1:  
MALAYSIA'S COMPETITION ACT 2010 –  
RAMIFICATIONS FOR TRADE & INVESTMENT**

Competition (antitrust) policy is a crucial ingredient in national and international policy deliberation. It is increasingly viewed by countries and international organisations such as the International Bar Association, The World Bank, the OECD and UNCTAD as a process which required elaboration and convergence. Competition Act became global in the 20<sup>th</sup> century. The two largest and most influential systems of competition regulation are found in the US antitrust law and European Union competition law.

The Competition Act (Act 712) and the Competition Commission Act 2010 (Act 713) was recently passed in the Dewan Rakyat was gazetted in June 2010 and will come into effect on 1 January 2012 to benefit both consumers and businesses as there will be provisions to free them from being subjected to manipulative and cartel-like business practices such as manipulation and price rigging while providing consumers an avenue to complain against such practices. However, many businesses are still vague on the CA 2010 even though it is aimed at creating a competitive business environment

- ➔ Will the Act have a significant impact on how commercial practices are structured and implemented?
- ➔ Will the CA be able to create a level playing field for all businesses, consequently inspiring confidence in foreign investors and improving competitiveness of goods and services in Malaysia?
- ➔ Will this Act cover all the necessary points when compared with other nation's competition policies?
- ➔ Will it contain the prohibition of anti-competitive behaviour which deals with restrictive policies that distort, restrict or prevent competition in horizontal or vertical agreements in the business chain and prohibition of the abuse of a dominant market position i.e. monopolies and oligopolies?
- ➔ Will this Act be able to prevent monopolistic and cartel activities? Section 10 of the Act prohibits abuses by enterprises occupying 'dominant position' i.e. the ability of such business to adjust prices or dictate trading terms in the market without effective constraints for the competitors of consumers
- ➔ What are major sales that maybe closely watched by the soon-to-be formed Malaysian Competition Commission e.g. sales of Carrefour with some bidders e.g. TESCO, Dairy Farm (Giant) and AEON Co/., Ltd. (Jusco)? TESCO is said to have put in a bid for more than 60 Carrefour stores in Thailand, Malaysia and Singapore and it has been reported that TESCO sees this as part of its strategy to conquer Asia and cement its position as a global force in supermarket retailing. Malaysia's Competition Act 2010 is intended to prevent large companies from engaging in monopolistic and cartel activities
- ➔ What are other pertinent causes for concern?
- ➔ How much will GLCs and companies with close connection to the Government be able to be investigated under the Act? A sub-section under Application of the Act details that 'commercial activity' means any activity of a commercial nature but does not include any activity, directly or indirectly in the exercise of governmental authority'.
- ➔ Are there loopholes that allow the Commission to backtrack on investigations or close them down?
- ➔ Will the Act include investigations into anticipated and completed M&A which comes under the UK's Enterprise Act 2001, and is a key part of EU and USA Competition Law?

- ➔ In order for the law to succeed, is there a need for both the regulators and the regulated to be educated and to subscribe to the values that underpin competition policy i.e. the preservation of economic freedom and the free enterprise system?
- ➔ Key Success Stories & Challenges
- ➔ Will the Act provide a direction for change and reduce the friction between different national legal systems?
- ➔ Key Issues Impacting Competition Policy
- ➔ Review of Companies' Practices & Agreements
- ➔ Is the enactment of the Bills is consistent with the goal of establishment of **competition** policies by all 10 members of the ASEAN by 2015, as set forth in the ASEAN Economic Community Blueprint?
- ➔ Will we be able to formulate a durable competition policy framework for development

10:15 am - *Moderator & Discussant:*  
 12:30 pm **Datuk Nicholas S. Zefferys**  
*President, American-Malaysian Chamber of Commerce (AMCHAM Malaysia) & Task Force Member, PEMUDAH / Member, National Economic Advisory Council (NEAC)*

- Panellists:*
- ⊕ **Datuk N. Marimuthu**  
*President, Federation of Malaysian Consumers Association (FOMCA) & Member, Consultation on Corruption & Prevention Panel, Malaysian Anti-Corruption Commission (MACC)*
  - ⊕ **Ms Faizah Jamaludin**  
*Partner & Head – Competition Law Practice Group, Skrine*
  - ⊕ **Madam Shila Dorai Raj**  
*Head, Interim Competition Unit, Ministry of Domestic Trade, Cooperatives & Consumerism, Malaysia*
  - ⊕ **Mr Stewart J. Forbes**  
*Executive Director, Malaysian International Chamber of Commerce & Industry (MICCI)*

12:30 pm - Luncheon / Business Networking /  
 2:00 pm (Venue: Riverside Cafe, Level 2)

2:00 pm - **TEH-TARIK SESSION / TOWN HALL**  
 3:00 pm **DISCUSSION – OPEN DISCUSSION WITH ALL AVAILABLE ROLE-PLAYERS & DELEGATES**

**ROUNDTABLE 2:  
MALAYSIA'S COMPETITION ACT 2010  
WHAT IT MEANS FOR YOUR BUSINESS**

The Act is focussing on two key prohibitions, the first dealing with anti-competitive agreements, and the second with the abuse or market power. This session will provide a dynamic dialogue to build consensus and convergence towards sound and effective competition policy principles as well as across the regional antitrust community.

- ➔ Will the Competition Law be able to encourage entrepreneurship and innovation, job creation, offer of innovative products and services in the market and better choices and competitive prices for the consumers?
- ➔ Does the Competition Law have a regulatory role which is essentially to preserve a social economy and social fairness?
- ➔ Competition Law as the guardian of the internal market against online commerce
- ➔ Will the Act able to preserve level playing field across the world without giving up the protectionist temptation?
- ➔ Implementation of Leniency Regime – will those companies that provide valuable information receive full immunity for bringing the cartel to the Commission's attention?
- ➔ Updates on Advocacy & Implementation
- ➔ Review of Companies' practices and agreements to ensure compliance on regular basis
- ➔ Key Issues
- ➔ Objectives & General Mechanism
- ➔ Merger Control – will the Act address any merger control regimes?
- ➔ Implementation of Leniency Regime
- ➔ Implications for the Enforcement
- ➔ Addressing Practical Competition Concerns

3:00 pm - *Moderator:*  
5:00 pm **Madam Shila Dorai Raj**  
*Head, Interim Competition Unit, Ministry of Domestic Trade, Cooperatives & Consumerism, Malaysia*

*Panellists:*

- ⊕ **Mr Chew Seng Kok**  
*Managing Partner, Zaid Ibrahim & Co.*
- ⊕ **Dr Wafi Nazrin Abd. Hamid**  
*Senior Vice President, Corporate Services, Malaysia Airlines & Committee Member, Interim Competition Commission Unit*
- ⊕ **Puan Wan Khatina Nawawi**  
*Director, Research & Investment Strategy, Khazanah Nasional Berhad*

- ⊕ **Dr Cheah Chee-Wah**  
*Director & Principal (Competition Economics), JayCee Asia-Pacific Consulting Pty. Ltd.*
- ⊕ **Ms Kala Anandarajah**  
*Partner & Head – Competition & Antitrust Practice & Trade, Rajah & Tann LLP, Singapore*
- ⊕ **Mr Andre Gan**  
*Partner, Wong & Partners*

5:00 pm End of Forum / Afternoon Refreshments & Contact Break

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