

**THE NEED FOR A COMPETITION POLICY  
IN MALAYSIA**

**BY  
COREEN MICHELE BATHMAN  
(EGA 98008)**

**SUBMITTED TO THE FACULTY OF ECONOMICS AND  
ADMINISTRATION (UNIVERSITY OF MALAYA)  
IN PARTIAL FULFILMENT OF THE REQUIREMENT  
FOR THE DEGREE OF MASTERS OF ECONOMICS**

**APRIL 2002**

Perpustakaan Universiti Malaya



A511375130

## **The Need For A Competition Policy In Malaysia**

**Coreen Michele Bathman**

### **Abstract**

The paper will address if there is a need for a competition policy in Malaysia. We will start by explaining the basic objectives of a competition policy and why it is important. We will describe the various actions and policies used to curb unfair competition as well as discuss different policy frameworks taken by countries like USA, EU, Korea and Japan. We will also very briefly look at the economic issues that arise from the interaction between competition policies and international trade policies.

Once we understand the fundamental concepts above, we will then discuss if there is a similar need for a competition policy in Malaysia. Although Malaysia has a number of laws, which indirectly regulates unfair trade practices and protects consumer interest, it does not yet have a specific 'act' on competition or a formal administrative authority that determines appropriate business ethics and trade practices as well as to act as an arm that take actions against unethical behaviour. The paper will discuss the benefits and challenges faced in determining the need for formal competition framework, focussing more on the domestic rationale and dynamics. We will conclude by discussing what the design of the competition framework and the implementation approach should be.

(The term 'policy' refers to the legal, regulatory and enforcement framework supporting competition). Note: In this paper, we will use the term competition policies and antitrust policies interchangeably.

## TABLE OF CONTENTS:

<b>CHAPTER 1: INTRODUCTION.....</b>	<b>4</b>
1.0 Introduction .....	4
1.1 Objective & Importance Of This Study .....	5
<b>CHAPTER 2: METHODOLOGY AND LITERATURE REVIEW .....</b>	<b>6</b>
2.0 Methodology .....	6
2.1 What Is Competition Policy?.....	6
2.2 Definition.....	7
2.3 The Role Of Competition Policies.....	9
2.4 Anticompetitive Business Practices.....	13
<b>CHAPTER 3: COMPETITION POLICY IN PRACTICE.....</b>	<b>20</b>
3.0 How Is Competition Policy Enforced? .....	20
3.1 Conduct, Structural and Performance Policies.....	21
3.2 The Legal Framework And Enforcement Capability.....	31
3.3 Overview Of Competition Framework In US, EEC and Korea .....	32
<b>CHAPTER 4: INTERNATIONAL TRADE AND COMPETITION POLICY .....</b>	<b>35</b>
4.0 International Trade And Competition Policies .....	35
4.1 Interaction Between Trade And Competition Policies .....	35
4.2 Can Trade Liberalisation Replace Competition Policies?.....	39
4.3 Interaction Between WTO, APEC And AFTA & Domestic Competition Policies.....	41
<b>CHAPTER 5: DOES MALAYSIA NEED A COMPETITION POLICY? .....</b>	<b>44</b>
5.0 Current Areas That Address Competition In Malaysia .....	44
5.1 Current Competition Statutes In Malaysia .....	44
5.2 Current Agencies That Govern Competitive Activities In Malaysia .....	45
5.3 Does Malaysia Need A Competition Policy? .....	45
5.4 Market Distortion Argument.....	46
5.5 Privatisation & Deregulation Creates Natural Monopolistic Industries .....	52
5.6 Globalisation Argument .....	53
5.7 Anecdotal Evidence Of Restrictive Business Practices.....	55
5.8 Social Ethnic Objectives & Its Challenges .....	56
5.9 Social Welfare Objectives & Its Challenges .....	58
5.10 Government Participation & Its Challenges.....	60
<b>CHAPTER 6: CONCLUSIONS .....</b>	<b>61</b>
6.0 What Should Malaysia's Competition Framework Be? .....	61
6.1 Proposed Competition Framework.....	61
6.2 Proposed Enforcement Authority.....	66
6.3 Conclusion.....	68

Word Count: 17057