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## Targeting cartels

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Proposed changes to the law will enable MyCC to act more effectively

**T**HERE are two kinds consumer-related monopolies in Malaysia: government-backed dominant or near-dominant corporations, and illegal cartels and bid-riggers. Monopolies such as Petronas, **Tenaga Nasional Berhad**, Malaysia Airports Holdings Berhad, Bernas and Prasarana enjoy government concessions, monopolies or historical protection. As the national oil company, Petronas controls upstream resources and holds primacy over foreign agreements. **Tenaga Nasional Berhad has exclusive right on national power distribution.** Malaysia Airports operates most airports nationwide. Bernas (Padiberas Nasional Bhd) has a historic monopoly on rice imports. These are long-accepted monopolies, but mindfully, it is the cabinet, not these corporations, that determines pricing, access and market power. It's another story with cartels and bid-riggers: criminal investigations and court indictments have finally triggered the proposed amendments to the Competition Act 2010. Significantly, enforcement arm Malaysia Competition Commission (MyCC) can soon act

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against price-fixing, market collusion and, most of all, bid-rigging by cartels. MyCC can also review and regulate mergers and acquisitions, preempting harmful market concentration. An area of special interest is cartels and bid-riggers’ collusion in public procurement tenders — a classic modus operandi.

Last year, seven companies were penalised for colluding and rigging bids; they coordinated bids and shared informa-

tion to influence the outcome of tender awards in four Defence Ministry contracts worth RM20 million. MyCC also snared three contractors who colluded by sharing information and jointly preparing submissions in tenders by Perbadanan Putrajaya worth RM45 million. Also last year, MyCC fined 26 companies an accumulative RM97.3 million for involvement in bid-rigging cartels linked to government tenders worth RM540 million.

Now, MyCC has eyes on 500 businesses that were probably unheard of, so uncovering them takes some doing as these cartels quietly organise themselves around trust. They do have some discernible traits: the same companies will repeatedly bid for contracts from the same agencies, using the same directors, shareholders and former employees, and are usually family or proxy-owned. They foster consistent relationships, informal agreements, digital coordination and bogus competition — sharing the spoils of a successful “bid”. But there are weaknesses too, leaving behind digital trails, statistical detection and whistleblowers — fodder for MyCC. These cartels are not industry titans but “repeat” winners whose names appear suspiciously in many bids alongside the same competitors. To prove it's a win-win outcome, bid “winners” subcontract work to “losing” bidders, in what is regarded as “economic sabotage”. Overall, monopolies under strong supervision can help as part of a broader cost-of-living strategy and enhance consumer protection.