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A Comparative Analysis of Merger Control Efficacy in China and Pakistan as Blueprint for Malaysia

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ABSTRACT

Merger control serves as the ex-ante guardian of market structures, designed to prevent harmful concentrations of economic power before they become irreversible. In the rapidly evolving Asian economic landscape, the implementation of effective merger regimes has shifted from a technical legal requirement to a strategic necessity for national economic sovereignty. This paper provides a critical, comparative evaluation of merger control efficacy across three jurisdictions at varying stages of regulatory maturity: China, Pakistan, and Malaysia. By analysing China's 2024 'threshold revolution' and its proactive stance on the digital economy, alongside Pakistan's institutional resilience in the face of severe budgetary and judicial constraints, this study identifies the essential 'regulatory DNA' required for a successful regime.

Keywords: Merger control; Competition law; Digital economy; Independence; Malaysia

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1. Introduction

In the market, mergers by companies are seen as the fastest way to increase or develop in the safest way. Other than profit, companies believed that the purpose of a merger is to achieve economic efficiency by merging the companies. Merger control is a preventive tool in competition law. The main purpose of it is to stop the harmful market concentration before it occurs, rather than trying to fix the damage after monopolies or cartels have already formed. The important foundation of merger control serves as the ex-ante guardian of

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market structures, providing the essential regulatory DNA required to prevent the irreversible of monopolistic power (Kokkoris, 2010).

In the view of the rapidly developing Asian economic aspect, with companies expanding quickly, the implementation of the merger control is not merely a technical requirement of the competition law, but it is one of the strategies to balance corporate expansion with the preservation of the competitiveness. Merger control here is not just a legal formality, but it is a policy to balance economic growth with fair competition. By comparing the current enforcement with previous enforcement, which attempts to remedy cartels or abuses of dominance after they have already distorted the market. However, merger control allows the competition authority to step in at the point of concentration, ensuring that the transition from the independent entities to a single economic unit does not result in a substantial lessening of competition (SLC) or a significant impediment to effective competition (SIEC) (Rahman et al., 2024; Zakaria et al., 2025).

For the three jurisdictions under review, China, Pakistan and Malaysia, this legal pillar represents a scale of maturity, ranging from China's multi-agency enforcement of the digital economy to Pakistan's institutional struggles against resource constraints and Malaysia's cautious, sector transition toward a comprehensive national system. These countries are at different stages of development and are trying to enforce this safeguard to improve the current competition law (Nowag, 2025).

In the context of a globalised market and rapid ascent of the digital company, the efficacy of this pillar is no longer merely a domestic concern but a critical factor in a nation's ability to participate in the global economy. Merger control is indispensable for protecting consumer welfare and fostering. The implementation of these laws is viewed as a benchmark for the nation's broader economic governance and international legitimacy. Developing countries often implement contemporary competition laws to show their commitment to fair and open markets, often as a condition for receiving financial aid from international bodies like the World Bank. Nonetheless, the mere existence of these laws is insufficient. Effective enforcement requires innovation and unconventionality. To ensure the legal framework is positively linked to the country's pre-existing legal systems and economic realities, such as the persistence of large informal sectors.

The main objective of this paper is to provide a critical, comparative analysis of how China, Pakistan and Malaysia are constructing their market equilibrium, analysing their legal framework and the challenges posed by entrenched monopolies. Also, how Malaysia can improve the current Act by approaching the method from Pakistan and China. With a descriptive analysis, the paper aims to understand the legal framework of all these countries and analyse the changes in the development and implementation of the new amendment by the countries to improve their competition law.

Through the analysis, this paper will explain the reason or need for Malaysia to make changes in the merger control regime to solve the issue of mergers and the current law that is implemented in certain industries, instead of in general. While existing articles have explored the general need for merger control in Malaysia, this study fills a critical gap by providing a comparative analysis of the MyCC 2022 proposed amendments (Malaysia Competition Commission, 2022) against the backdrop of China's 2024 'threshold revolution'. By evaluating the efficacy of Malaysia's proposed hybrid notification model and Phase 1/Phase 2 timelines in light of the institutional challenges faced in Pakistan and China, this article offers a unique, practical blueprint for the next phase of Malaysia's competition policy. Also, the paper will take a look into the proposed national merger control legislation, discuss the challenges, and state the recommendations for Malaysia to implement the merger control as a whole instead of in certain sectors only.

2. Legal Frameworks

The efficacy of any competition regime is rooted in its statutory clarity and the toughness of its notification thresholds. While the overarching goal remains the protection of the competitive process, the legislative paths taken reveal diverging priorities regarding state intervention, industrial policy, and the regulation of global capital.

2.1. China: The Anti-Monopoly Law and the 2024 Threshold Revolution

Before 2008, China lacked a unified competition law. Instead, the different government ministries issued separate rules that often focused more on industrial policy than on fair competition. The most important regulation as in the Acquisition of Domestic Enterprises by foreign investors 2003, which mainly monitors foreign investment to protect national economic security. These rules are not wide enough to properly analyse horizontal or vertical market effects. However, they highlighted more on whether a merger would give foreign investors too much control over important domestic companies.

The adoption of the Anti-Monopoly Law (AML) in 2008 marked a significant turning point in China's development of market competition in China (Luke et al., 2025). An obligatory pre-merger notice procedure based on a twin test of turnover and control is established by the AML, which was substantially revised in 2022 and supported by secondary laws in 2024 (Liu & Li, 2025). A concentration of undertakings is defined broadly to include mergers, acquisitions of control through equity and the acquisition of decisive influence through contract (Rahman et al., 2024). Articles 27 and 28 of AML list the factors considered during review, such as market share, level of market concentration and the effect on the consumers and national economic development. Nonetheless, notification thresholds were also introduced. Under the State Council provisions, companies must notify the regulator if their turnover exceeds certain limits (Bai & Man, 2023).

During the first 10 years, enforcement powers were divided among three bodies, MOFCOM, NDRC and SAIC (Aziz et al., 2025). This caused overlap and confusion in the decision-making. In 2018, the State Administration for Market Regulation (SAMR) was created to combine all antitrust powers into one authority. These changes improved coordination and allowed faster inspection and data collection (Marco Colino, 2022). China's regime has evolved into centralized, proactive system under the SAMR. On 1 August 2022, as mentioned, China introduced the first major revision of the AML, making a crucial shift in merger control. The changes were mainly a response to the rapid growth of large platforms and concern about the uncontrolled expansion of capital.

The substantive evolution of the Chinese regime is most visible in the 2024 revision of notification thresholds, which aimed to streamline the review process for non-issue deals while intensifying scrutiny on strategic sectors (Wang & Mushtaq, 2022).

Threshold indicator	2024 revised requirement (RMB)	Previous Requirement (RMB)
Combined worldwide Turnover	>12 Billion	>10 Billion
China Turnover	>800 Million each	>400 Million each
Combined China turnover	>4 Billion	>2 Billion

The 2024 new rules of notification thresholds represent a calculated legislative shift from broad administrative oversight to highly targeted strategic surveillance. By increasing the domestic turnover requirements, effectively doubling the single undertaking threshold from RMB 400 million to RMB 800 million and the combined domestic baseline from RMB 2 billion to RMB 4 billion SAMR deliberately immunizes routine, non-problematic commercial transactions from regulatory friction. This changes drastically conserves administrative resources, facilitating the accelerated clearances necessary for standard corporate consolidations.

However, this deregulation is balanced by enhanced agility at the foundation level. The 2022 amendments further empowered SAMR with the call-in power, allowing the regulator to investigate mergers that fall below these thresholds if they threaten competition (Emch, 2024). This agility is a benchmark for Malaysia as it ensures that 'killer acquisitions' where large firms buy innovative startups with low revenue but high data value. Additionally, China has codified the stop-the-clock mechanism, which allows review times to be extended during complicated remedy negotiations (Emch, 2024). While previously, SAMR had strict time limits for merger review. The new rule allows the review period to be paused if companies fail to provide information. China has strengthened the penalties, which fines for completing a merger without notification increased from a maximum of RMB 500,000 to up to 10% of the company's previous year's turnover if the merger harms competition (Aziz et al., 2025).

Besides the competition law's revision under the AML, foreign mergers in China must pass a separate National Security Review.[1] This process is independent from SAMR's competition assessment and focuses on sensitive sectors such as military industries,

[1] China Foreign Investment Security Review Measures (2020).

agricultural products and critical infrastructure. Due to this dual system, a merger may be approved for competition purposes but still rejected on national security grounds.

2.2. Pakistan: The Competition Act 2010 and Institutional Efficacy

The origin of competition law in Pakistan dates back to the Monopolies and Restrictive Trade Practices Ordinance (MRTPO) 1970. Enforced by the Monopolies Control Authority (MCA), this framework was designed to curb the concentration of economic power but was ultimately seen as an incomplete legal structure with insufficient substantive provisions and a lack of technical capacity.

Pakistan's Competition Law underwent a huge shift with the enactment of the Competition Act 2010 which replaced the insufficient 1970 Monopolies Ordinance.[2] The Act established the Competition Commission of Pakistan (CCP) as an independent authority with broad legal powers modeled on EU and UNCTAD best practice (Khan et al., 2025). Under Section 11, Pakistan operates a mandatory notification regime requiring a 'No Objection Certificate' (NOC) if assets or turnover exceed PKR 300 million or a combined value of PKR 1 billion.[3]

However, the drive to attract foreign investment and the pressure of global trade led to the enactment of the Competition Act 2010. Pakistan's substantive test focuses on whether a merger would eliminate or substantially lessen competition by creating or strengthening a dominant position.[4] Unlike China's multi-agency system, the CCP is the sole enforcer, though it frequently collaborates with the Securities and Exchange Commission of Pakistan (SECP) on schemes of arrangement under Section 279 of the Companies Act 2017.[5] Nonetheless, the CCP suffers from a budgetary noose where extreme financial constraints or limitation with a budget stagnant at PKR 200 million since 2015, which, when adjusted for inflation, has demolished its technical capacity to hire the economists required for sophisticated quantitative modelling like the Herfindahl-Hirschman Index (HHI) (Farid et al., 2025).

The primary legal pillars governing mergers in Pakistan are Section 11 of the Competition Act 2010, the Competition (Merger Control) Regulations 2016, and the CCP Merger Guidelines 2008. Even in Section 11, against any merger that would substantially lessen the competition by strengthening a dominant position in the relevant market. Due to that, pre-merger notification is really important and compulsory for transactions fulfil specific threshold where the annual turnover or gross assets of an individual undertaking exceed PKR300 million. Other than that, the combined value of assets or turnover for the acquirer and target or the merging parties exceeds PKR 1 billion.

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[2] Competition Act 2010 (Pakistan).

[3] Competition (Merger Control) Regulations 2016 (Pakistan), reg. 4.

[4] Competition Act 2010 (Pakistan), s 11.

[5] Companies Act 2017 (Pakistan), s 279.

Due to that matter, the CCP conducts 2 phases for the review process. Where the first phase review, within 30 days, is conducted to determine if the merger meets the presumption of dominance, which is presumed if the market share exceeds 40%. If there is doubt that remains, a second phase is initiated where it lasting for 90 days to assess the substantial lessening of competition (Emch, 2024).

A different feature of the Pakistani regime's implementation is the Efficiency Defence. A merger that fails the substantive competition test can still be authorized if the parties demonstrate that the merger generates substantial economic efficiencies in production or distribution. Also, the benefits of these efficiencies significantly outweigh the adverse effects on the competition. Other than that, such efficiencies cannot reasonably be achieved by less restrictive means. Additionally, the CCP may clear a problematic merger under the Failing Undertaking Defence if it can be proved that the competitive structure of the market would deteriorate to the same extent even in the absence of the merger (Ehsan & Qaiser, 2025).

Nonetheless, the amendment or the new implementation phase of Pakistan's merger control is increasingly focused on the digital economy. Traditional tools based on the turnover and price have proven insufficient for the digital platforms that often offer services for zero price in exchange for user data.

2.3. Malaysia Oversight and the Monopoly Problem

The Competition Act 2010 (Act 712) (CA 2010), which came into force in 2012, is the primary statute governing competition in Malaysia. Currently, the Act only addresses two limbs of anti- competitive conduct, which are the prohibition against anti-competitive agreements in section 4,[6] and also the prohibition against abuse of a dominant position as stated in section 10.[7] Malaysia currently lacks a national cross-sector merger control regime (Rahman et al., 2024). This has created a legacy monopoly problem where state-linked entities are regulated under sector-specific acts, effectively carving out the Malaysia Competition Commission's (MyCC) general oversight. The CA 2010 does not currently contain merger control provisions. This absence is often referred to by legal experts as the absolute absence of a cross-sector statutory merger control mechanism.

However, in the absence of the general legislation, some strategic industries are governed by their own regulatory bodies with the power to review mergers, such in the civil aviation law, where Malaysia Aviation Commission (MAVCOM) under the Malaysian Aviation Commission Act 2015 prohibits mergers that result in a substantial lessening of competition (SLC).[8] Following MAVCOM's dissolution in August 2025, responsibility for these reviews shifted to the Civil Aviation Authority of Malaysia (CAAM).

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[6] Competition Act 2010, s 4.

[7] Competition Act 2010, s 10.

[8] Malaysian Aviation Commission Act 2015 (Malaysia).

Other than that, communication and multimedia were governed by the Malaysia Communication and Multimedia Commission (MCMC) under the Communication and Multimedia Act 1998 (CMA). The MCMC treats mergers as conduct that can be prohibited if it leads to an SLC. In these two sectors, the notification process is currently voluntary, meaning parties may choose to self-assess and seek clearance or process at the risk of a post-merger investigation.

While the existing framework of the Competition Act 2010 is fundamentally constrained to the prohibition of anti-competitive agreements and the abuse of market dominance, Malaysia's antitrust landscape is on the precipice of a transformative evolution. The 'Sailent Points of the Proposed Amendments to the Competition Act 2010' unveiled by the MyCC in April 2022, signal a robust expansion of regulatory oversight (Malaysia Competition Commission, 2022).

Central to this reform is the introduction of a sophisticated hybrid notification system under a newly proposed Part III. This dual-track mechanism mandates notification for mergers that surpass a specific gazetted threshold, while maintaining a voluntary channel for transactions falling below it. By adopting this structure, MyCC seeks to finally rectify the long-standing 'tiger's missing tooth' dilemma equipping the regulator with the necessary 'legal arsenal' to intercept any transaction that threatens a SLC within the Malaysian market. However, the success of this model hinges on the clear definition of 'control', which currently risks friction with the Securities Commission's shareholding-based definitions.

MyCC has been working on a massive reform of the Competition Act 2010 to introduce a mandatory merger control regime. The new proposed amendment is expected to require mandatory notification before the merger is completed. In certain sectors, the MyCC will assess mergers based on whether they result in an SLC. As stated in the proposed amendments, the aim is to modernize the law for the digital era by addressing the complex issues that cannot be solved by the previous law due to changes in the era.

For instances include Tenaga Nasional Berhad (TNB), the legal monopoly for electricity in Peninsular Malaysia governed by the Energy Commission Act 2001, and Telekom Malaysia (TM), a near-monopoly in line services (66%–72% share) overseen by the MCMC.[9] The MyCC is currently working on the amendments to the CA 2010 to introduce a comprehensive, hybrid merger control regime. This reform is driven by internal regulatory gaps, such as the inability to step in on the Grab/Uber merger and external commitments under international treaties (Rahman et al., 2020; Zakaria et al., 2025). The proposed bill envisions mandatory thresholds combined with voluntary notification to provide legal certainty for SMEs.

[9] Energy Commission Act 2001 (Malaysia); Communications and Multimedia Act 1998 (Malaysia).

3. Enforcement and Implementation

China has evolved into one of the most proactive antitrust jurisdictions globally. A hallmark of Chinese enforcement is the heavy reliance on behavioural remedies. Between 2018 and 2024, approximately 92% of SAMR's conditional approvals involved behavioural commitments, such as supply guarantees and non-discrimination obligations. This allows global consolidations such as semiconductor deals to proceed while ensuring China's downstream players are not foreclosed from essential inputs.

In 2025, the SAMR has strengthened its enforcement after a post-pandemic break, issuing six adverse decisions in quick succession since June 2025. Notably, SAMR exercised its call-in power even though it fell below the revised thresholds, demonstrating that the authority remains a vigilant sentry which a comprehensive Homeland Security Task Force-Southeast (HSTF-SE) operational plan over sensitive sectors like semiconductors and agriculture.

The effectiveness of a merger control is not determined solely by the sophistication of its statutes but by the capacity and political will of its enforcement agencies. The SAMR has demonstrated a remarkable capacity for what has been expedited administrative inquiries. The 2021 investigation into Alibaba, which resulted in a record-breaking fine of nearly EUR2.4 billion. Illustrates the agency's ability to conduct rapid, high-intensity inquiries into the world's largest companies. This speed is a product of a highly centralised administrative structure and a government mandate to prevent the disorderly expansion of capital. However, this efficiency is often contrasted with a perceived lack of transparency and the influence of industrial policy on the antitrust outcomes, particularly when state-owned enterprises are involved.

Furthermore, Pakistan's CCP has historically struggled with a complex judicial environment where merging parties frequently secure 'stay-orders' from High Courts. However, 2025 represented a watershed year. The CCP resolved 70% of its court backlog, deciding 434 cases through more aggressive legal representation and early hearing applications (Competition Commission of Pakistan, 2026).

The most significant achievement was the Second Phase approval in October 2025. This transaction was one of the most distinctive globally, involving an assessment across five distinct sub-markets (Competition Commission of Pakistan, 2026). To address potential dominance, the CCP imposed tough conditions, including the appointment of an Independent Third-Party Reviewer (TPR) for five years to audit transactions and ensure that efficiency gains are passed on to consumers. This case signals a maturing capacity to handle high-stakes technical reviews despite prevailing institutional constraints (Fatima Fertilizer Company Limited (2026).

Pakistan's experience was a sailent institutional warning on how resource starvation can undermine a well-drafted law. The CCP faces immense institutional challenges that obstruct its efficacy. Since 2015, the CCP's budget has remained largely stagnant, failing to keep pace with inflation or the increasing complexity of the digital economy. This financial constraint has direct consequences for staffing. The CCP is significantly understaffed and many of its professionals lack the specialised technical training required to perform advanced economic analyses such as calculating the HHI for multi-sided digital markets. Cases involving powerful industrial cartels often languish in the court system for a decade or more, rendering the eventual enforcement actions almost moot. This environment creates a sense of regulatory uncertainty that can deter foreign direct investment and allow anti-competitive structures to become well established.

In Malaysia, MyCC has proposed the introduction of Section 10A which will explicitly prohibit mergers that result in a SLC.[10] Section 10F applies to mergers exceeding a specific financial threshold.[11] However this yet to be gazetted. This is for mergers below the threshold that may still pose competition risks. Which this creates a dual-speed market. This statutory disparity between mandatory and voluntary filing pathways creates a significant operational paradox for Malaysia's digital economy. While mandatory filings are subject to a predictable 120 working days 'shot clock' providing larger corporate mergers with strict transactional certainty, voluntary notifications are left without any statutory deadline. This administrative gap exposes SMes and high-growth tech startups to indefinite regulatory uncertainty.

Nonetheless, the amendment in Competition Act introduces strict penalties for gun jumping under section 10G.[12] MyCC can declare a merger void and impose a financial penalty of up to 10% of the transaction value. This constitutes a significantly more punitive sanction than in any other jurisdiction. This constitutes the drastic administrative remedy where declaring a deal void could lead to significant legal instability in the Malaysian capital markets, as unwinding a completed merger is often economically impossible.

The implementation of the new amendment in section 2 has designed to capture individuals and unincorporated associations as the government plans to broaden the definition of enterprise from entity to person.[13] This is direct responses to the digital economy where individuals or loose collectives might orchestrate market concentration without a traditional; corporate shell. It shifts the burden from corporate law to individual liability.

Moreover, the primary challenge in the enforcement of the proposed national merger control regime is the potential for jurisdictional overlap and conflict. The introduction of MyCC's powers will inevitably create friction with existing bodies like the Securities Commission (SC). While the MyCC focuses on the competitive structure of the market, the SC is tasked with investor protection and the regulation of capital markets. These overlapping mandates can lead to conflicting decisions and duplicate review processes for merging entities. A critical area of contention is the definition of control. In the context of SC,

[10] Competition Act 2010, s 10A.

[11] Competition Act 2010, s 10F.

[12] Competition Act 2010, s 10G.

[13] Competition Act 2010, s 2.

control is often defined through specific shareholding percentages, whereas the MyCC may adopt a more nuanced, de facto definition of control based on the ability to influence a company's strategic commercial decisions. Harmonising these definitions and establishing clear lead agency protocols will be essential for the success of Malaysia's upcoming reforms.

4. Judicial Review on Precedent and Power

4.1. China: The *Beijing Tobishi Pharmaceuticals v State Administration for Market Regulation* (2024)

A defining moment in Asian merger control occurs in the case of *Beijing Tobishi Pharmaceuticals v. SAMR* (2024).[14] This marked the first time a company challenged a SAMR merger decision in court. The Beijing Intellectual Property Court dismissed all of Tobishi's claims, but in doing so, it established four groundbreaking benchmarks. First, it clarified that only prohibitions or conditional approvals not unconditional clearances, can be challenged as they are the only decisions that materially affect legal interests. Second, it confirmed SAMR's broad discretion to 'call in' below-threshold mergers if competitive harm is suspected. Third, it held that prohibition is an exceptional intervention and authorities should prioritise restrictive conditions. Finally, it ruled that prior antitrust penalties should not prejudice a merger review as the two are distinct administrative acts. The Tobishi case holds significant precedential value and practical legal implications for China's merger control practice.

4.2. Pakistan: Ensuring Constitutional Supremacy

In Pakistan, judicial review has often been a tool for delay but recent rulings have strengthened the CCP's hand. In the case of *Competition Commission of Pakistan & Others v. Dalda Foods Limited (2023)*,[15] the court of Pakistan upheld the Commission's statutory powers to conduct inquiries under Section 36 of the Act. The court ruled that companies are bound to comply with CCP directives and that the Commission is not required to provide detailed reasoning before launching an inquiry. Furthermore, in the high-profile Sugar Cartel case involving a PKR 44 billion fine, the Competition Appellate Tribunal (CAT recently ruled that the CCP Chairperson cannot exercise a casting vote in adjudicatory proceedings, a decision upheld by the Supreme Court as a safeguard for the constitutional right to a fair trial.[16]

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14 *Beijing Tobishi Pharmaceuticals v. State Administration for Market Regulation* (2024) Jing 73 Xing Chu No. 5180. (Beijing Intellectual Property Court).

15 *Competition Commission of Pakistan & Others v. Dalda Foods Limited* (2023) Supreme Court Monthly Review 1991 (Supreme Court of Pakistan).

16 *Pakistan Sugar Mills Association and Member Undertakings (*2022) Company Law Decisions 1068 (Competition Commission of Pakistan, 2021).

4.3. Malaysia: The Locus Standi Conflict

The Malaysian judiciary has played a crucial role in defining the limits of the MyCC's power, most notably in the MAS/AirAsia share swap case, *Malaysian Airline System Bhd v Competition Commission and another appeal (*2021).[17] The Court of Appeal in 2021 made a landmark ruling that the MyCC is functus officio after making a finding of infringement. The court held that the MyCC has no personal interest in the reversal of its orders and is therefore incompetent to file a judicial review application against the decision of the Competition Appeal Tribunal (CAT). This case, however, highlights the need for the upcoming merger reforms to clearly define the appellate rights and the status of the MyCC as a party to litigation.

The limitations of regulating dominant players in Malaysia are best illustrated by the 2021 infringement finding against Dagang Net Technologies Sdn Bhd.,[18] as the sole provider for the National Single Window, Dagang Net's attempt to enforce exclusivity clauses highlights a systemic friction which the tension between government-sanctioned monopolies and the principles of free competition. Although MyCC successfully imposed a RM10.3 million fine. The decision recently upheld by the High Court in 2025 where the case exposes a vital vulnerability in the upcoming merger regime. Without a narrower, statutory definition of what constitutes an 'entrusted task' under section 3(4), future mergers could be structured as concession extensions, allowing dominant GLCs to bypass the SLC test entirely.

5. Comparative Insights

The differences in these three regimes reveal a fundamental tension between Industrial Policy and the Consumer Welfare Standard. China's regime is the most advanced expression of strategic sovereignty. By integrating merger control with national industrial strategies, China uses behavioural remedies to protect its high-tech supply chains. Between 2018 and 2024 by referring above, this allows China to align merger control with national industrial strategies, protecting high-tech supply chain from foreclosure. This approach is actually to prevent technology dependency rather than just price increases (Luke et al., 2025).

Meanwhile, Pakistan represents a 'Regulatory Resilience' model. Despite being underfunded and politically pressured, its recent resolution of the PTCL/Telenor merger shows that a developing nation can implement word class condition by studying international precedents from the US and UK. However, the CCP remains vulnerable to acute financial constraints and stagnant structural funding, which directly compromise its technical capacity to execute quantitative market modelling, alongside the complications of a sprawling informal sector that skews concentration analyses. (Farid et al., 2025).

[17] *Malaysian Airline System Bhd v Competition Commission and another appeal* [2021] Malayan Law Journal Unreported 2089 (Court of Appeal, Malaysia).

[18] *Malaysia Competition Commission v Dagang Net Technologies Sdn Bhd* (2021) (High Court, Malaysia).

Moreover, in Malaysia, the government offers a reformative caution model. Its delay in adopting merger control allowed for the entrenchment of legacy monopolies like TNB and TM. However, this delay has given Malaysia the second-mover advantage. The proposed 2026 hybrid regime can avoid the threshold overreach seen in Pakistan and the procedural issues once criticized in China by implementing Singapore's Community of Practice for Competition and Economic Regulations coordination to manage the overlap between the MyCC and the Securities Commission (Zakaria et al., 2025).

6. Recommendations

Malaysia stands at a critical juncture as it transitions from a fragmented, sector-based system toward a comprehensive national merger control framework under the impending Competition (Amendment) Bill 2026. Drawing lessons from the institutional tribulations of Pakistan, it is evident that a modern legal framework is ineffective without sufficient resources. Despite having international-standard laws, Pakistan's regulator (the CCP) has struggled due to stagnant budgets (Farid et al., 2025).

To avoid this, Malaysia must move beyond the vision of the 2022 Consultation Paper and legislate an independent funding levy. By directing merger filing fees into a dedicated enforcement fund rather than the general treasury, MyCC can secure the financial autonomy needed to hire the high-level economists and data scientists required to litigate against multi-billion ringgit entities. This self-sustaining model is the cornerstone of a mature regulatory regime.

For the nascent regime to achieve efficacy, the implementation must embrace the procedural sophistication of a bifurcated review trajectory. This system delineating a 40-day Phase 1 assessment and an 80-day Phase 2 inquiry strikes a balance between administrative expediency and empirical depth. However, to provide the legal certainty required by SMEs and tech startups, this structure must include a statutory 'deemed approval' mechanism.

By mandating that a merger is legally cleared if MyCC fails to issue a Phase 2 notice within the initial forty working days, the law prevents administrative backlogs from stifling Malaysia's innovation economy. This ensures that the regulation of competition does not become a bottleneck for growth, but rather a predictable 'filter mechanism' for benign transactions.

The evolution of China's Anti-Monopoly Law (AML) demonstrates the necessity of a centralized, mandatory pre-closing notification system (Luke et al., 2025). Currently, Malaysia's reliance on voluntary notifications within sectors like MAVCOM creates a regulatory gap where harmful mergers are only discovered after completion. The 2026 amendments should strictly codify standstill obligations under Section 10G, prohibiting 'gun-jumping' the completion of a merger without formal clearance. This proactive posture, reminiscent of the stringent oversight exercised by China's SAMR, ensures that the status quo is maintained during review, protecting the market from irreversible anti-competitive damage.

Both China and Pakistan have faced challenges applying traditional competition rules to digital markets. To avoid a 'one-size-fits-all' approach that ignores the importance of data, Malaysia should look toward global trends by implementing transaction-value thresholds (Asian Journal of Law and Policy, n.d.).

Traditional merger control relies on turnover (revenue), which often fails to catch killer acquisitions where a dominant player buys a nascent rival with high potential but zero current revenue. By adding a threshold based on the acquisition price. For instance, deals exceeding RM500 million, MyCC can scrutinize high-stakes takeovers in the pharmaceutical and tech sectors. This protects innovation from being eliminated in its infancy.

Finally, Malaysia must address the potential for regulatory overlap between MyCC and agencies like the Securities Commission. While China addressed this by merging agencies into the SAMR, Malaysia could instead legislate a Joint Regulatory Secretariat. This would harmonize legal definitions like control and create a single window effect for investors, reducing the compliance burden on the private sector (Zakaria et al., 2025).

Furthermore, the rigid application of competition theory should be tempered by a formalized Public Interest Test, similar to the approach taken in Pakistan. This allows for the approval of mergers that offer overwhelming public benefits, such as national security or job creation even if they technically lessen competition. To prevent this from becoming a loophole for protectionism, Malaysia must mandate the publication of a Statement of Reasons for every exemption, ensuring transparency remains paramount in the pursuit of national strategic priorities.

7. Conclusion

In summary, the journey of merger control in China and Pakistan offers a compelling roadmap for Malaysia as it prepares to finalise its own national framework. The comparison shows that while a law might look perfect on paper, its real-world success depends on how it is funded, how it handles the digital economy, and how different government agencies work together. Malaysia is currently in a unique 'second-mover' position; it has the advantage of watching its neighbours struggle with specific hurdles and can now design a system that avoids those same traps.

The China experience highlights that merger control is no longer just about preventing high prices for consumers; it is a strategic tool for national economic security. The 2024 threshold updates and the 'call-in' powers used by SAMR demonstrate that a regulator must be agile enough to catch deals that might seem small in value but are huge in terms of data control or technological impact. For Malaysia, this means the MyCC needs a mandate that goes beyond traditional turnover numbers, especially as the country pushes for a more advanced digital economy.

On the other hand, Pakistan's situation serves as a vital warning about resource starvation. The CCP has the legal teeth to act, but without the financial fuel to hire top-tier economists or fight long legal battles in court, those teeth remain blunt. If Malaysia introduces a mandatory merger regime without significantly increasing the MyCC's budget and technical staff, the new law might become a toothless statutory instrument that creates more bureaucracy without actually protecting competition. The recent success of the CCP in the PTCL/Telenor case shows that even in tough environments, rigorous phase-two reviews are possible if there is institutional will, but this should be the standard rather than an exception.

Ultimately, the 'Evolution of Market Guardianship' for Malaysia should focus on three pillars: mandatory pre-notification to prevent gun-jumping, clear coordination protocols to stop jurisdictional turf wars with bodies like the Securities Commission, and a flexible substantive test that balances economic efficiency with market fairness. By adopting a hybrid model that incorporates China's proactive surveillance and Pakistan's resilience in the face of dominance, Malaysia can ensure that its transition into a comprehensive merger regime is not just a legal formality but a robust safeguard for its future economic growth. The goal is to create a market where innovation isn't swallowed up by monopolies, ensuring a level playing field for the next generation of Malaysian businesses.

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Ethical approval was not required for this study as it is based on doctrinal legal research involving the analysis of legislation, case law, and secondary sources, and does not involve human participants, personal data, or sensitive materials.

AI Usage Declaration

The author used artificial intelligence (AI) tools to improve language clarity. All content reviewed and approved by the author. The following artificial intelligence tools have been used to assist in the research or editing of this article, but not to write, partly or wholly, the article: Gemini, Grammarly and NotebookLM.

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