

Monopolizing the Nation: Soft Censorship in Malaysia



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Table of Contents

- Key Findings 6
- Key Recommendations 7
- Brief Note on Methodology 8
- Executive Summary..... 9
- 1. The Malaysian Media Landscape: From Hard to Soft Censorship 10
 - 1.1 The Political Economy of the Malaysian Media: Corruption and Control 11
 - 1.2 The Printing Presses and Publications Act 11
 - 1.3 Malaysia’s Newspaper Ownership 12
 - 1.4 Chinese Language Newspapers: Space for Dissent? 14
 - 1.5 The Sedition Act 14
 - 1.6 Controlling Broadcasting and the Internet..... 14
- 2. Using and Abusing the PPPA 16
 - 2.1 Manipulating License Conditions 16
 - 2.2 The Right to Publish: Malaysiakini’s Fight for a Print License 17
 - 2.3 *The Heat*: Suspension of Licenses with Impunity 18
 - 2.4 Access Denied: No Sources, No Freedom, No Space 19

3. Taxpayer Funds and Advertising Expenditure	20
3.1 “The advertising dollar is still in print”	20
3.2 “1Malaysia”: Government Advertising Expenditure and the Conflation of Party and State	21
3.3 Government-Linked Companies: Bailing out Utusan?	23
Conclusion	25
Annex 1: Newspaper Ownership	26
Annex 2: Advertising Expenditure by Medium	29
Estimating Digital Advertising Expenditure	30
Endnotes.....	31

Key Findings

1. Government-linked and government-controlled media monopolize Malaysia’s print media landscape, with this political-economic structure legislatively facilitated by the Printing Presses and Publications Act (PPPA).
.....
2. The PPPA is not only used to lock out non-government-friendly interests from the print media sector, but to discipline those few alternative media granted licenses, through the imposition and enforcement of license conditions and license suspension with impunity.
.....
3. A climate of self-censorship and caution is inculcated into those media professionals working for licensed media outlets, particularly amongst the higher tiers of the newsroom; online media operating free of licensing face harassment and restrictions on access to sources, material, and even workspace.
.....
4. The vast majority of alternative media is blocked from entering the print media sector and thus denied access to the preponderance of advertising revenues, which are located in non-digital media markets.
.....
5. The government is consistently the highest single source of advertising expenditure in Malaysia, with available data indicating the vast majority of taxpayer funds for advertising go to government-owned media.
.....
6. There is little transparency or accountability regarding the government’s huge electoral and other advertising spending, and the use of taxpayer funds remains opaque.
.....

Key Recommendations

1. The Printing Presses and Publications Act, currently used to construct and maintain a media system dominated by the ruling coalition, should be abolished. Printing must be a right, not a privilege. The Sedition Act's provisions that criminalize media content should be abolished.
.....
2. Existing guidelines protecting the internet from censorship should be respected and strengthened.
.....
3. Much greater transparency is needed to control the use of taxpayer funds for party-political advertising, both during and outside of election campaigns.
.....
4. Attempts to restrict, prevent or distort competition in the media market should be rejected and rectified.
.....
5. The Malaysian public should be given access to data to make informed choices about their media consumption. Data concerning media ownership structures and the use of taxpayer funds is of particular importance.
.....

Brief Note on Methodology

“Soft censorship” is a term that covers a variety of actions intended to influence media output, short of legal or extra-legal bans, direct censorship of specific content, or physical attacks on media outlets or media practitioners. The concept of soft censorship as indirect government censorship was elaborated in a 2005 paper by the Open Society Justice Initiative, which described three main forms: abuse of public funds and monopolies; abuse of regulatory and inspection powers, and extra-legal pressures.¹ A 2009 report by the Center for International Media Assistance detailed soft censorship in several countries.²

This report focuses on the use of financial pressure via the abuse of regulatory and inspection powers, as well as the channeling of taxpayer-funded governmental advertising expenditure to governmental media monopolies. When considering the former mechanism (abuse of powers), the inherently problematic form of much of Malaysia’s media-legislative framework renders it difficult to disentangle soft censorship from hard.

Soft censorship can cause pervasive self-censorship that restricts reporting while maintaining the appearance of media freedom (although there is little appearance of that in Malaysia’s print media landscape). Beyond the scope of this report are myriad forms of unofficial indirect censorship that can also be posited, including those rising from cultural, religious or other social norms and traditions, or simple ad-

herence to the societal narratives that influence institutional and individual reporting, and which might be promoted or imposed by a variety of non-state actors.

This report on the existence and extent of soft censorship in Malaysia is part of the Soft Censorship Global Review, a report produced by the World Association of Newspapers and News Publishers (WAN-IFRA) in cooperation with the Center for International Media Assistance (CIMA), with the support from the Open Society Foundations. It was prepared by Dr. Tessa Houghton based on the methodology developed by WAN-IFRA. The findings are based on documentary research, as well as interviews where appropriate/possible.

In some cases, the identity of interviewees has been protected due concerns related to their present or previous employment and because their frank discussion of contentious issues could expose them to professional difficulties in Malaysia. Furthermore, the dearth of public information and opacity regarding various soft censorship mechanisms in Malaysia has led to the inclusion of highly credible anecdotal accounts of the operation of soft censorship. It is hoped that other researchers and media freedom advocates will use this report as a starting point to further explore and expose the ongoing threat soft censorship poses to Malaysia’s media and to its peoples’ fundamental freedoms.

Executive Summary

Malaysia's media landscape is deeply polarized—print vs. online, government-controlled vs. independent. The 56-year old Barisan Nasional (BN) government continues to dominate the media system by blending “hard censorship” with a range of “soft censorship” tactics. “Soft censorship” encompasses a variety of actions intended to influence the production and dissemination of media content, short of closures, imprisonments, direct censorship of specific content, or physical attacks on journalists or media facilities.

Monopolizing the Nation: Soft Censorship in Malaysia focuses on the inflicting of financial pressure via regulatory and inspection powers, as well as the channeling of taxpayer-funded governmental advertising expenditure into governmental media monopolies. It provides an

overview of how a complex of political and economic mechanisms and connections, and licensing powers, are used to block non-government-friendly actors from entering the print media sector, and to financially discipline those granted some limited access via license suspensions. It details the impact of this on the commercial viability of alternative media that are denied access to offline advertising revenues.

The report's key recommendations provide an overview of the reforms urgently needed to allow Malaysia's media to fulfill their democratic function and bring some much needed scrutiny and accountability. The report also demonstrates the need for further research and advocacy, particularly regarding freedom of information and transparency as potential drivers of reform.

Country profile



Malaysia Country Data	2013
Population	29 million
Adult literacy rate	93%
Gross national income (GNI) per capita	USD 10,436
Urban/rural population	72 / 28%
Mobile subscription penetration (SIM cards)	143%
Internet access (households)	66%
Corruption perceptions score	50/100

Source: Malaysian Communication and Multimedia Commission, Transparency International, UN and World Bank

1. The Malaysian Media Landscape: From Hard to Soft Censorship

Malaysia is a complex country, with its many tensions often hidden by a thriving economy and tourism. The more highly (although unevenly) developed peninsular hosts roughly four-fifths of the nation's 29 million citizens, who are comprised of three major ethnic groups—Malay and other indigenous groups (over 60 percent), Chinese Malaysians (roughly 25 percent) and Indian Malaysians (under ten percent).³ As part of the rapidly developing and economically booming Association of Southeast Asian Nations (ASEAN), Malaysia exists within a region that has experienced colonization and political instability, with several member nations only fledgling democracies, and others demonstratively undemocratic.

Malaysia is neo-authoritarian or electoralist as opposed to a fully democratic state.⁴ The electoral process is nominally conducted without wide-scale fraud and intimidation, but governance and institutions are skewed heavily towards maintaining the ruling party's dominance. 2013's general election (the country's thirteenth general election, known as "GE13"), saw the conservative Barisan Nasional [BN, National Front] ruling coalition retain its 58 year-old hold

on power for a further five years—an uninterrupted run since Malaysia's independence from British colonial rule in 1956. The Malaysian Institute for Democracy and Economic Affairs (IDEAS), accredited by the Election Commission of Malaysia (EC) to observe the election, found it was only partially free and not fair, recording numerous problems, including the dubious independence of the EC itself, the questionable apportionment of electorate boundaries, use of state machinery for campaigning, and heavy media bias in favor of BN, with state-funded media platforms abused to project partisan views to the public.

Malaysia thus possesses many institutions required of a democracy, but is democratic only by highly qualified and procedurally based definitions of the concept. Freedoms of expression and information as defined by the United Nation's Universal Declaration of Human Rights—as well as various other rights, including freedom of thought, religion and conscience; freedom of peaceful assembly and association; and freedom of participation in government—are today far from fully honored in Malaysia.

1.1 The Political Economy of the Malaysian Media: Corruption and Control

Many reports indicate that Malaysia is deeply affected by cronyism and corruption. KPMG's Fraud, Bribery and Corruption Survey 2013 found that 71 percent of respondents believed that "bribery and corruption is an inevitable cost of doing business" in Malaysia.⁵ The country was ranked most corrupt in Transparency International's 2012 Bribe Payer's Survey.⁶ Global Financial Integrity's research showed Malaysia having the highest per-capita illicit funds outflow in the world.⁷ And there is no shortage of

evidence in the local media and elsewhere of staggering levels of "crony capitalism",⁸ with the nation recently taking third place in the *Economist's* 2014 Crony-Capitalism Index.⁹

Malaysia is currently ranked 147th out of 180 in Reporters Sans Frontiers' (RSF) 2014 World Press Freedom Index ranking, perpetuating what RSF has previously described as a "sorry record", with "a campaign of repression by the government... [continuing] to undermine basic freedoms, in particular the right to information".¹⁰

1.2 The Printing Presses and Publications Act

The legislative nexus of this repression is the Printing Presses and Publications Act 1984 (PPPA).¹¹ Originally the 1948 Printing Ordinance used by the British colonial government to outlaw the oppositional Communist press, this Ordinance was revised in 1971, in reaction to the Malaysian Communist Insurgency War and the Malaysian race riots of 1969. These riots were sparked by the results of the 1969 General Election and ongoing tensions between Malay and Chinese Malaysians. Cars and homes were burnt and destroyed, and official figures record 196 deaths,¹² although other sources offered a far higher death toll.¹³ A State of Emergency was declared with the suspension of parliament until 1971, as well as the perpetuation of a system of legislative press control under the renamed PPPA. Additional powers, extended in 1984, were granted to the government to revoke newspaper licenses to if a publication was perceived to be "unlawful", defined as being a publication that is:

obscene or otherwise against public decency; or... contains an incitement to violence against persons or property, counsels disobedience to the law or to any lawful order or which is or is likely to lead to a breach of the peace or to promote feelings of ill-will, hostility, enmity, hatred, disharmony or disunity... or is in any manner prejudicial to or likely to be prejudicial to public order, morality, security, or which is likely to alarm public opinion, or which is or is likely to be contrary to any law or is otherwise prejudicial to or is likely to be prejudicial to public interest or national interest. (PPPA)

Until 2012, Section 3 of the PPPA gave the minister of internal security absolute discretion in terms of granting licences, refusing licence applications, revoking or suspending licenses at any time, and limiting the duration of licences—usually to one year. Decisions were not subject to judicial review. Amendments gazetted in

2012 established a process of appeal and judicial review and removed the expiry date from licenses, but these changes are deemed superficial by organisations such as the Centre for Independent Journalism, as well as many other critical voices,¹⁴ and have effected little change on the ground.

The government is granted wide powers to seize printing presses and publications that apply not only to newspapers, but also to books, pamphlets, and publications imported into Malaysia. The minister may also impose conditions upon the granting of a licence prescribing the language and frequency of publication, as well as demanding a deposit that is forfeited if these conditions are not met. On top of losing the deposit, violation of conditions is punishable by imprisonment of up to three years, or a fine of up to MYR

20,000 [approximately USD 6,200].^{15/16}

The PPPA is the major legislative tool used to entrench government's political and economic control of Malaysian media. It appears that, if an organisation is not favourable or connected with the government, the likelihood of receiving a printing licence is small. The overwhelming majority of newspapers in Malaysia is controlled or influenced either directly or indirectly by BN through its network of corporate connections and constituent parties, and oppositional voices continue to be largely locked out of the newspaper industry, particularly in English and Bahasa Melayu (the Malay and national language, BM). Malaysia has anti-monopoly legislation (the Malaysia Competition Act 2010), but the media industry does not fall under its remit.

1.3 Malaysia's Newspaper Ownership

Media Prima,¹⁷ the media investment wing¹⁸ of the United Malays National Organisation (UMNO)—the dominant party in the BN coalition—controls several of the nation's biggest newspapers and a large portion of the national broadcasting market. The conglomerate's website describes it as an "all-in-one media powerhouse". Its 2013 fourth quarter report boasts that it has the largest reach in terms of newspaper readership and circulation in Peninsular Malaysia, the largest reach in terms of TV viewership, and the second largest reach in terms of combined radio channel listeners. Media Prima controls the *New Straits Times* (English language) as well as *Harian Metro* and *Berita Harian* (BM). UMNO also holds controlling shares in the Utusan Group,¹⁹ which owns *Utusan*, a daily BM publication widely perceived as an UMNO mouthpiece, as well as *Kosmo!* (daily) and several weeklies.

The Malaysian Chinese Association (MCA)—the second most powerful constituent member of BN—owns two major newspapers, *The Star* and the *Sunday Star* (English) via Star Publications. *The Sun*, a free English language daily, is noted for relatively impartial reporting. However, it is published by the Berjaya Group, owned by Vincent Tan, who has received government funding for other ventures. For example, the government in 2013 allocated MYR 15 million [USD 4.6 million] in taxpayer funds to sponsor the English Cardiff City Football Club that Tan owns.²⁰

Recent circulation figures illustrate how dominant government-controlled newspapers are in Malaysia's two major languages. Average available circulation and readership figures for Malaysia's daily newspapers throughout 2013 and 2014 reveals an industry almost completely dominated by governmental control (see Figure

Daily Newspaper Circulation/Readership by Conglomerate (%Market Share)

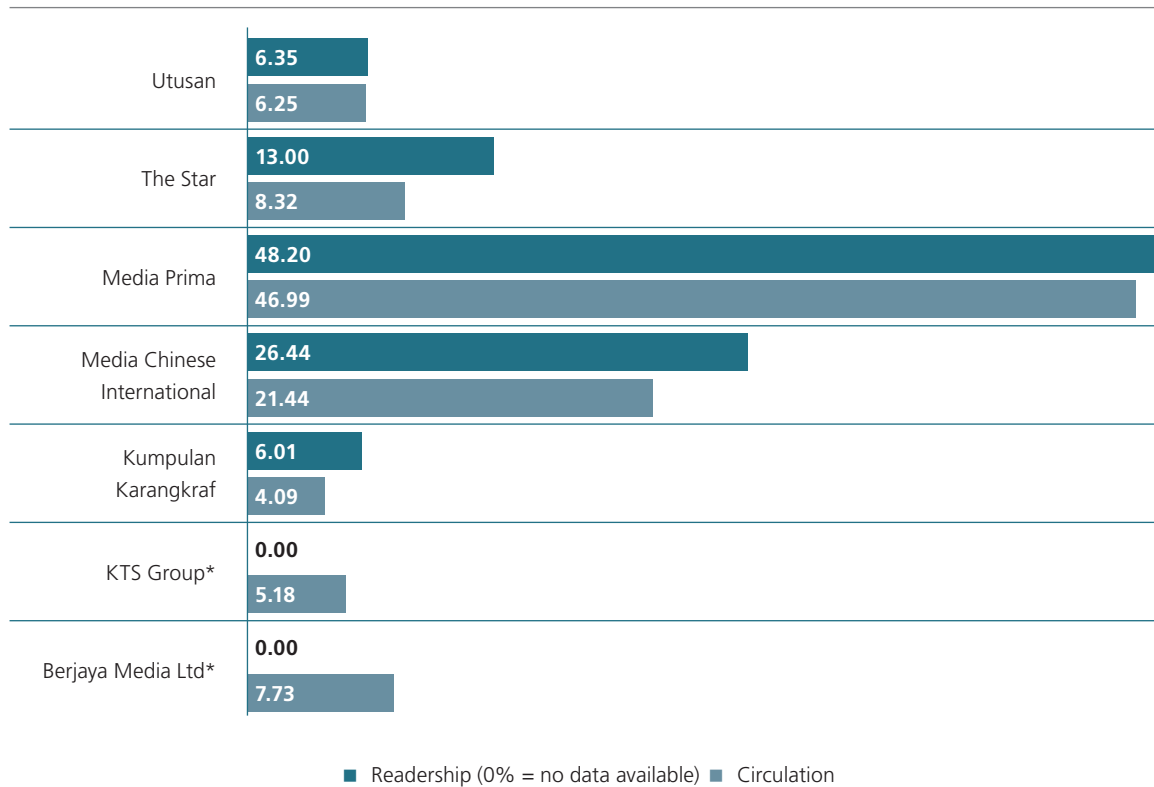


Figure 1: Daily Newspaper Industry Circulation/Readership Statistics by Conglomerate
See Annex 1 for details

1). Media Prima alone controls almost half of daily newspaper circulation and readership, with its *Harian Metro* the top BM paper, and if digital subscriptions are taken into account, *The Star* is the top daily English language publication²¹ (See Annex 1 for further details.)

Adding to this centralisation of control of individual outlets, *BERNAMA*, the nation's taxpayer funded state news agency, is under the direct control of the Ministry of Information, Communications and Culture. Research shows that it and most of these BN-controlled newspapers are used more as BN organs than

as news vehicles.^{22/23} The "Watching the Watchdog" study monitoring media coverage of GE13 found striking bias in the way both major political coalitions were covered, concluding that Malaysian citizens who relied on *BERNAMA* or the main English and BM newspapers for political coverage were not provided with fair and accurate information with which to construct informed voting preferences. Coverage of parties and politicians heavily favored the governing coalition.²⁴ More balanced coverage was found online and in Mandarin language newspapers.

1.4 Chinese Language Newspapers: Space for Dissent?

The Mandarin (and lesser-read Tamil language) newspapers in Malaysia seem to have relatively more freedom to operate, with some having wide circulation. Academic Cherian George has noted “the Chinese press has a long tradition of helping to safeguard the rights of the Chinese minority against Malay hegemony.”²⁵ This independence is notable despite the

sector being dominated by Media Chinese International Limited (MCI) (see Figure 1), which has close ties to the ruling BN. This is perhaps due to the complicated power-sharing arrangement between Peninsular and East Malaysia; or that Chinese language publications are considered less politically important; or perhaps because of the pure commercial-mindedness of their owners.

1.5 The Sedition Act

The other piece of legislation commonly applied to silence government critics is the Sedition Act 1948,²⁶ which continues to be used on a regular basis despite having been slated for repeal. It criminalizes questioning the nature of citizenship (Part III), national language (Article 152), the special position of the Malays and other *bumiputera*²⁷ (Article 153), and the ruler’s sovereignty (Article 181), as outlined within the Federal Constitution.²⁸ The proscriptions are defined extremely broadly, severely limiting freedom of expression, particularly political discussion.²⁹

Since GE13, the Sedition Act has been used to arrest numerous activists and opposition politicians, leading to “renewed questions over the government’s intention to rescind the controversial

law”³⁰ and further accusations that it has become “a convenient crutch for the government to suppress dissent” as it has been used extensively to arrest activists and opposition politicians, although journalists have been harassed with it rather than actually arrested.³¹ The use of the Sedition Act to silence journalists and bloggers is hard censorship that is not addressed directly in this report.

Proposed and actual legislative reform offers little hope of improvement. The National Harmony Act (NHA), slated in 2012 as a replacement to the Sedition Act, has been greeted with widespread cynicism from civil society;³² the government has dismantled or amended several existing laws (including the PPPA) only to replace them with barely improved or even worse versions.

1.6 Controlling Broadcasting and the Internet

The dynamic evolution of the media landscape has made information dominance more difficult for Malaysia’s ruling coalition, but far from an insurmountable challenge. Despite regular claims that the opposition “control the internet”, an examination of the page views for Malaysian news sites reveals a very divided picture. As Figure 2

shows, the website for *The Star* was actually the most popular news site in Malaysia in the month leading up to 13 April 2013. It was also the leading website in the six months prior, along with many other top websites of government-controlled print or television. As in many countries, existing media dominance has transitioned into the digital realm.

Monthly Page Views for Malaysian News Websites in 100 Most Popular Websites in Malaysia

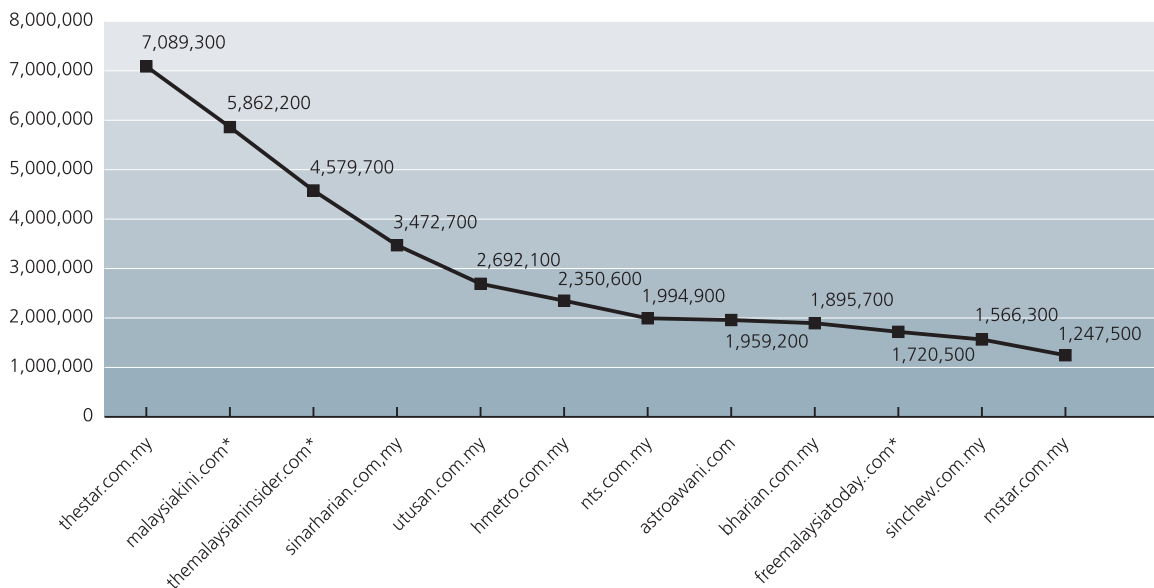


Figure 2: Monthly Page Views for Malaysian News Websites in 100 Most Popular Websites in Malaysia (Alexa.com, April 13th, 2013 / *websites independent from BN)

Yet the impact of the Internet on Malaysia's media landscape should not be underestimated, and some understanding of this and of the legislation used to control the online and broadcasting sectors is necessary to make sense of the wider discussion on censorship in Malaysia. The Multimedia Super Corridor Bill of Guarantees (BoG)³³ and the Communications & Multimedia Act (CMA)³⁴ are most significant. Despite the BoG being "subject to change" and remaining ungazetted, its guarantee of "no internet censorship" has been largely respected, with the Internet providing a dynamic site for political contention and independent journalism in Malaysia since the late 1990s.

However, "no censorship" does not actually describe the Malaysian state of affairs. In 2013, it was reported that the Malaysian Communications and Multimedia Commission (MCMC) had since 2008 used the CMA or the Sedition Act to block 6,640 websites for containing pornography or "malicious" content or materials that infringed copyrights.³⁵ The MCMC also controls licensing of Malaysia's television and radio sector, with these licenses wielded in a biased manner similarly to print licenses. According to its 2013 fourth quarter report, Media Prima controls over 40 percent of Malaysia's broadcasting sector.

2. Using and Abusing the PPPA

Many regulations governing Malaysia's media are inherently oppressive or censorious, and how they are used—or abused—is also extremely problematical. Numerous prospective publications have been refused printing licenses, and existing ones disciplined via the suspension or threatened revocation of their licenses. It is difficult to say precisely how many license applications the government has refused over the years, particularly as there is a tendency for unfavored applications for printing permits or to registration as societies or political parties to be simply ignored. Some NGOs have applied to register via the Registrar of Societies annually for over a decade, and each year received no response. Most NGOs no longer bother to apply, and instead register as companies, with added initial and ongoing costs.³⁶

High profile printing application rejections (as well as license revocations and restrictions) send a clear message that media critical of government may as well not bother applying for a license—and if the very rare one is granted, critical content may lead to its revocation. Many news organizations exist only online, with the Multimedia Super Corridor Bill of Guarantees providing partial protection. However, advertising revenue is far more difficult to generate in the digital realm. Some of these media outlets have relied upon grants to kick-start their operations. Others are subsidized by unclear financial interests, potentially imperiling their independence. Most are running at a loss, and their long-term sustainability is problematic.

2.1 Manipulating License Conditions

Three opposition parties are licensed to publish their party organs—*Harakah* [weekly], *Keadilan* [bi-weekly] and *The Rocket* [monthly]—but under conditions that they are sold only in certain locations, and bought by registered party members only. During times of heightened political pressure, license conditions are strictly monitored. In 2013, thousands of copies of the three parties' respective papers were seized in nation-wide sweeps.^{37/38} Vendors face up to three years in jail or fines of up to MYR 20,000 [USD 4,500] for breaching permit restrictions, and even episodic enforcement has a

strong chilling effect upon “unlawful” extended sales of party organs. Similarly, Selangor radio station BFM typically broadcasts news beyond its licensed financial focus, but was banned from broadcasting anything authorities deemed political in the run-up to GE13 (BFM then delivered political content online via podcasts), and was recently barred from airing an interview with controversial opposition leader Anwar Ibrahim. These restrictions are enforced via a system requiring the six-year old station to submit weekly reports of its proposed programming for prior review by the MCMC.³⁹

2.2 The Right to Publish: *Malaysiakini's* Fight for a Print License

The lengthy court contest over its print license application undertaken by the best-known Malaysian news website, *Malaysiakini*, provides a stark reminder that the Malaysian judiciary (while in many matters relatively autonomous) appears within reach of government pressure. Most news organizations simply cannot afford to undertake such a battle, especially when the outcome is likely a continuation of the status quo. However, *Malaysiakini* is in the fortunate position of having succeeded in its online business model. It is one of the earliest online news publications in Malaysia, launched in November 1999 with help from the Media Development Investment Fund.⁴⁰ Through a combination of this early advantage, hard work, strong support from civil society, subscription-based English language content access, and savvy advertising strategy,⁴¹ it has managed to turn a profit.

Malaysiakini is seen as a social enterprise rather than a dividend-earner—“a business which puts its mission to promote independent media first”—and its financial strategy aims to “create profits to grow the organization, instead of creating a return on investment for its shareholders”.⁴² It is co-owned by its founders, as well as current and past staff. During the period 2008-2012, its gross revenue was MYR 20.7 million [USD 4.62 million], while outlays were MYR 19.8 million [USD 4.42 million]—leaving an average annual profit of roughly MYR 172,000 [USD 38,400] (ibid.) These profits have been used to expand operations and construct new premises (co-funded by donations from civil society), as well as open business portal *KiniBiz* and Internet TV news site *KiniTV*. It regularly waives subscription fees to provide free access to news about events of national significance, such as GE13 and the recent MH270 tragedy.

Malaysiakini is thus in an ideal position to challenge the PPPA. It has a solid financial foundation and is well known and supported both nationally and internationally. Challenging refusal of a print license both advocates for media freedom and builds on its brand as the leading independent news source in Malaysia. *Malaysiakini* applied and was rejected for a printing license in 2002, and again in 2010 when it sought permission to print 40,000 copies in the Klang valley area surrounding Kuala Lumpur at MYR 1 [USD 0.22] per copy. It appealed that this rejection was unconstitutional, citing the principle of “equality before the law” protected by Article 8(1) of the Federal Constitution. The appeals court ruled in *Malaysiakini's* favor in October 2012, endorsing their previous ruling that “publishing a newspaper is a right, not a privilege.”⁴³

The government had one month to appeal this decision, and failed to do so,⁴⁴ meaning that they were required to provide different reasons for rejection or grant the publishing permit. These reasons had to successfully argue that the granting of the permit would be a threat to public order or national security, or would be immoral.⁴⁵ That is precisely what was done in March 2014, when Home Minister Zahid Hamidi stated that the number of newspapers in circulation in Malaysia is “sufficient” for the number of readers in the country, and detailed the ministry’s reasons to deny permits to *Malaysiakini* and a more recent entrant to the online news publication scene, *FZ Daily*:

The rejection of applications for newspapers entitled FZ Daily and Malaysia Kini is an early step towards controlling the flood of daily publications that may confuse the people if there are too many news being run by all sorts of

newspapers... They are seen as inclining towards publishing sensational and controversial news to attract readers' interest...⁴⁶

FZ Daily initially had its license approved in August 2013, but the Home Ministry then de-

ferred the permission a week later, and failed to respond to requests for reasons for this action. FZ was granted permission to challenge the deferral on February 5, 2014, but within hours of the decision, the ministry delivered a letter (dated January 21) stating that FZ's permit had been revoked.

2.3 The Heat: Suspension of Licenses with Impunity

The arbitrary rejection of print license applications drew protests from *Gerakan Media Marah* (Movement of Angry Media, GERAMM), a group comprised of online editors, journalists, photographers and media activists formed on 19 December 2013 in the wake of another instance of abusive license manipulation. This involved *The Heat*, a new weekly newspaper established by the HCK Capital Group, owned by Clement Hii, former executive deputy chairman of *The Star*. The HCK Group also owns a 15-outlet cafe chain, and Hii is the founder of SEGi University, one of Malaysia's biggest private colleges.⁴⁷ Hii states that he perceives too

great an emphasis on breaking news and not enough attention paid to debate and analysis in Malaysia—a gap he intended *The Heat* to fill. *The Heat* is part of a three-tiered HCK Media strategy, including business weekly *Focus* and online news site *The Ant Daily*.

The Heat was originally licensed on July 8, 2013, as a weekly publication under the "Economy/Social" category, with permission on Sept 18, 2013 to change its category to "Current Affairs". However, the Home Ministry suspended its license on December 19, 2013. The reason given three days later was that the newspaper had violated printing regulations linked to this



Figure 3: The Heat's article on PM Najib and his wife Rosmah

categorization, but many believe the suspension was related to the weekly's front-page report about lavish spending by Prime Minister Najib Razak and his wife (see Figure 3).⁴⁸

The indefinite suspension continued into 2014, finally being lifted on January 27. No clear reason was provided, causing the publication to endure uncertainty and revenue loss. As stated in *The Heat's* letter to the Home Ministry, "indefinite suspension places prolonged stress on the company, especially staff members and their families."⁴⁹ It is difficult to estimate *The Heat's* fi-

nancial losses, but being blocked from publishing for over six weeks is a heavy blow to any news organization, let alone one just starting out, and especially once lawyers' fees are added. Ironically, publicity related to the incident may boost *The Heat's* ability to recover. The episode is a clear example of soft censorship: imposition of financial costs through use of legal statutes in apparent retaliation for a media outlet's reporting.

These cases illustrate how the PPPA's powers are used to discipline and subdue publications seen as problematic to the authorities.

2.4 Access Denied: No Sources, No Freedom, No Space

Online media are not only refused permission to print the news; they are sometimes denied access to news events. During GE13, journalists from online news publications were barred from UMNO press conferences, requiring many of them to borrow recordings from colleagues working for other publications. This state of affairs has spread; opposition party Parti Keadilan Rakyat recently barred *Utusan* journalists from their press conferences. These actions are examples of the increasingly and dangerously polarized political media environment. Online media journalists also report difficulties in accessing politicians on the campaign trail—once their identity is known they are often ignored and sometimes harassed.

There are also numerous anecdotal reports of unethical practices. Interviews conducted by Masjaliza Hamzah, former executive director for the Centre for Independent Journalism, found that it was common for journalists to be offered bribes and kickbacks from politicians while on the election campaign trail. The journalists also disclosed the practice of "*wahyu*" (divine revela-

tions), where they are directed "from above" to cover a particular story. Self-censorship is also extremely common, with journalists censoring their own work even before their editors do. "You worry your stories will get butchered, therefore you sanitize," Masjaliza quoted a reporter as saying.⁵⁰ Numerous other journalists and columnists confirmed the pervasiveness of self-censorship or internal censorship. As journalist and commentator Kee Thuan Chye observes, those in the higher echelons of the newsroom have much to lose. "[They] are unwilling to rock the boat, not even for the sake of editorial integrity, professional ethics and the freedom to do their work like journalists should."⁵¹

There are other forms of harassment, as well. In the aftermath of a 2003 raid on *Malaysiakini* (one of many, this time prompted by a police report lodged by UMNO Youth over the site's publication of an allegedly seditious letter), its landlord—a government-linked company—sought but failed to secure its eviction on the basis that it had been involved in unlawful activities, despite the fact that no charges had been filed.

3. Taxpayer Funds and Advertising Expenditure

The previous sections have discussed the creation and maintenance of media dominance through legislation and regulations. This is arguably abusive in and of itself, particularly because

it bars government-critical media organizations from lucrative print and television markets, where, as discussed below, the majority of advertising revenue flows.

3.1 “The advertising dollar is still in print”

The difficulty of generating revenue in the online news market is shaking the foundation of the newspaper industry in many nations and regions where print readership is declining. Malaysia also has sharp divides between online and print, but, like much of the rest of the Asian market, it has not felt the pinch of declining newspaper sales, as noted by WAN-IFRA’s 2012 World Press Trends report.⁵² Newspaper readership in Malaysia is in gradual decline,⁵³ but at nowhere near the rates seen in much of the West. The vast bulk of advertising revenue remains in the print market, as confirmed by Clement Hii of *The Heat*, when asked about HCK’s diversified media portfolio:

Mr Hii said he had to launch the print titles, rather than going straight into online media, to

chase the advertising dollar. “The advertising dollar is still in print, so if you want to make it a commercial enterprise, what choice do you have... and when the big shift towards online and digital begins, you are there to go with the flow...”⁵⁴

In the same article, Wong Chun Wai, executive director of *The Star*, stated that “[a]fter pay TV, print garners most of the advertising expenditure.” Nielsen Media statistics for Malaysia confirm this trend. The first two quarters of 2013 saw television advertising bring in 58 percent of a total of MYR 4.84 billion [USD 1.5 billion] in Malaysian advertising expenditure, with newspapers taking 35 percent or MYR 1.69 billion [USD 500 million].⁵⁵

Online advertising revenues were not mentioned, but by contrast, *Malaysiakini’s* adver-

Estimated 2013 Advertising Expenditure by Medium (MYR billion)

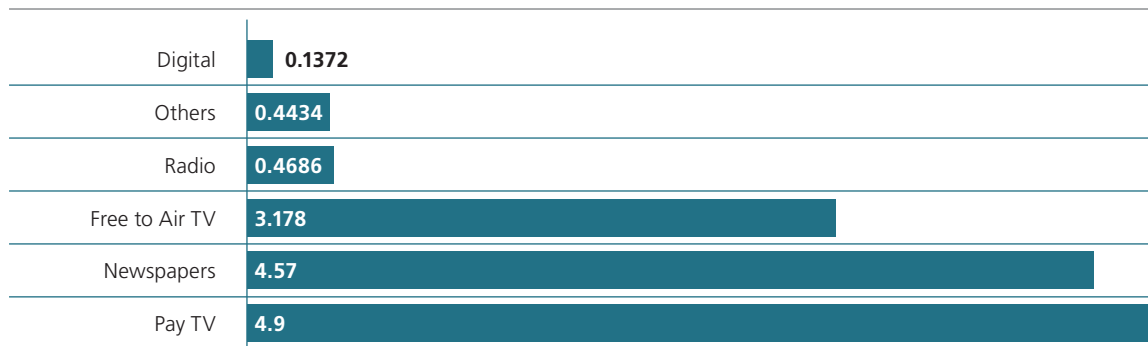


Figure 4: Estimated 2013 Malaysia advertising expenditure by medium in MYR Billion
See Annex 2 for details

tising revenue for the period 2008-2012 was MYR 6.94 million [USD 2.1 million]—roughly MYR 690,000 [USD 212,000] per half-year. This means that the advertising revenue from Malaysia’s newspaper sector is over 2350 times greater than the advertising revenue of Malaysiakini, one of the top news websites.

Figure 4 shows just how strongly tilted advertising expenditure is towards traditional media. These estimates use available data based on 2010 Nielsen data (no current figures are available), which is criticized due to tracking selected websites only⁵⁶ as well as estimated growth rates of digital advertising expenditure (see Annex 2 for details). Global media agency GroupM’s executive director Girish Menon of-

fered a higher estimate of digital advertising as six-to-seven percent of the total, but still lagging far behind that of traditional media.⁵⁷

Television, newspaper, and radio sectors are dominated by government-linked media conglomerates, and these conglomerates are also strongly represented in the digital realm, which means most of the billions of ringgit in Malaysian annual advertising expenditure is going to government-controlled conglomerates. The fact that digital advertising is predicted to continue to grow at an exponential rate⁵⁸ will likely do little to change this, as the traditional (government-controlled) print media seem to be managing a smooth transition into the digital realm.

3.2 “1Malaysia”: Government Advertising Expenditure and the Conflation of Party and State

The dominance of government-controlled media in advertising receipts is more problematic when it is seen who pays for it. Nielsen advertising spending information for the three years from 2011 to 2013 states that the product/service categories with the highest ad spend each year were domestic (i.e. Malaysian) government institutions.^{59/60/61} The government itself, not businesses, is the largest source of advertising revenue in Malaysia, creating a cyclical flow of money where taxpayers funds are used to purchase advertising in BN-owned or aligned media. It is worth noting that some of this spending is for public service advertising, such as anti-smoking campaigns. However, there could be ambiguity between what is state advertising versus that which promotes a particular party.

As documented by Bridget Welsh, associate professor in Political Science at Singapore Management University, BN has spent vast sums of taxpayer funds on its 1Malaysia campaign.^{62/63} This is

a government-funded campaign that the ruling BN has sought to identify with itself, evoking a ban on the 1Malaysia campaign in opposition-governed Selangor State.⁶⁴ The concept and its associated marketing permeates diverse locations, from healthcare (1Care) to grocery stores (Kedai Rakyat 1Malaysia) to cash handouts (BR1M) to the PM’s own blog (1malaysia.com.my),⁶⁵ as well as Malay-



Figure 5: An example of a GE13 billboard conflating BN and 1Malaysia

sia Day celebrations.⁶⁶ There was even discussion of the party changing its name to Parti 1Malaysia or 1Barisan Malaysia.⁶⁷ Figure 5 shows a GE13 billboard on which the 1Malaysia and BN party logos exist side-by-side, a common occurrence.

There is no regulation of these activities in non-election periods, and the Election Offences Act and Election Commission (EC) are highly flawed accountability and enforcement mechanisms. As State University of New York Professor and Malaysia expert Meredith Weiss has argued, limits set by the EC of MYR 200,000 [USD 61,500] per parliamentary seat and MYR 100,000 [USD 30,800] per state seat are neither followed nor enforced, due to lack of will and vague definitions governing whether funding from the candidate's party or supporters should be included.⁶⁹ The 1954 Act also states that it is an offence to "provide food, drinks or refreshments with a view to induce voters to either vote for a particular candidate or not vote at all", but campaign dinners and other handouts are commonplace.

Advertising data from GE13 provides a case in point. A Maybank media sector research presentation on March 19, 2013 stated that during February 2013, Jabatan Perdana Menteri (JPM)—the Prime Minister's Department—spent MYR 36 million [USD 8.06 million] on advertising, comprising a full seven percent of the total advertising expenditure for the month. During the same period, BN itself spent MYR 4.9 million [USD 1.09 million] on advertising, putting it in the top 20 for advertising spending. The report correctly predicted that "we expect ad spend by both JPM and BN to sustain ahead of the 13th GE, which is now widely expected to be called in April 2013."⁷⁰

JPM is a massive department that encompasses the Prime Minister's Office, the Deputy Prime Minister's Office, and 50 other government agencies and entities, among them the Electoral Commission (EC) and the Malaysian Anti-Corruption Commission (MACC). Power in Malaysia "is actually centralised under the Prime Minister's Department."⁷¹ It is unsurprising that the EC and MACC are seen by many as toothless tigers when it comes to scrutinizing the ruling party.⁷²

Total governmental spending on advertising in the first half of 2013 was MYR 531 million [USD 118.5 million] more than the next four leading advertisers combined.⁷³ The government has led advertising expenditure tables for the last three years. The Prime Minister's Department alone spent MYR 264 million [USD 59.9 million] for the first six months of 2013, five times more than it did in 2012, with MYR 68 million [USD 15.2 million] of that in March alone. Yet the full year total (MYR 531 million, USD 118.5 million) was only 1.6 times greater than the MYR 332 million [USD 74.1 million] spent in 2012. While governmental advertising outlays did spike due to GE13, this massive expenditure is an ongoing, year-to-year habit.

These figures do not include spending on outdoor and digital advertising.⁷⁴ BN was entitled to spend MYR 94 million [USD 29 million] for party publicity during GE13. Raja Petra Kamaruddin, an opposition-linked journalist, argues that it was closer to MYR 1.5 billion [USD 460 million], once all forms of advertising and marketing were taken into account.⁷⁵ In her analysis of spending undertaken by BN in the lead-up to GE13, Prof. Bridget Welsh described the levels of advertising as "well beyond the saturation point."⁷⁶

3.3 Government-Linked Companies: Bailing out Utusan?

There is also cause for concern over the government's cycling of taxpayers' funds in the public-private ecosystem of Malaysia's Government-Linked Corporations (GLCs) and Government-Linked Investment Companies (GLICs), all of which advertise. GLCs and GLICs are companies that have a primarily commercial objective and in which the Malaysian Government has a direct controlling stake, via board members, management and reporting structures, as well as funding.

Examples of GLCs include Maybank (Malaysia's largest bank) and CIMB (the fifth largest bank in Southeast Asia), multinational conglomerate Sime Darby, Petronas (Malaysia's oil and gas company, ranked as 12th most profitable company in the world in 2013) Tenaga Nasional (Malaysia's power and utility company), and Telekom Malaysia (Malaysia's telecommunications company). Many GLCs are managed by people close to the ruling party, dominating their respective industries (see Figure 6). Accounting for 36 percent of the total market capitalization of the Malaysian stock market, they wield huge economic power.⁷⁷

Considering this, their ad spend is relatively small. Of the approximately MYR 4.57 billion [USD 1.02 billion] in newspaper advertising expenditure in 2013, GLCs contributed only MYR 96 million [USD 21.43 million] (0.02%), down from MYR 164 million [USD 36.6 million] in 2012⁷⁸—presumably due to a redistribution of advertising budgets into different mediums, all of which are dominated by government control. Given their dominant positions, it is unsurprising that many GLC's spend relatively little on advertising.

In September 2013, however, PM Najib Razak urged government agencies, GLCs and *bumiputera*-owned companies to offer more advertising specifically to daily newspaper *Utusan*,

saying that it could not depend on its circulation alone. BN was accused of trying to bail out the newspaper at the taxpayer's expense, with an opposition member of parliament revealing that since 2011, the prime minister's department has spent MYR 1.55 million [USD 3.46 million] on advertisements in *Utusan*.⁷⁹ During an enquiry into *Utusan* journalist Hata Wahari's sacking, *Utusan* editor-in-chief Aziz Ishak stated on record that it was the newspaper's duty to defend the interests of UMNO and the ruling BN coalition.⁸⁰ This open bias is blamed by many for *Utusan*'s declining circulation figures, which currently hover between 180,000 and 200,000, a sharp drop from its 1990s peak of 350,000.⁸¹ It last ran a profit in 2011 (MYR 17.5 million, USD 3.9 million),⁸² with total losses of MYR 17 million [USD 3.8 million] in 2012 and MYR 14 million [USD 3.12 million] in 2013, according to its official fourth quarter 2013 results.

Data on where GLCs advertise is extremely limited. It is not publicly available, and information requests are regularly denied under the Official Secrets Act. Only opposition-ruled Selangor State has enacted a Freedom of Information Act. When opposition members of parliament receive responses to data requests, statements by BN regularly fail to tally with industry figures.⁸³ Malaysian media academic Zaharom Nain stated in an interview that official data is "highly suspect". When consulted on the same issue, executive director for the Southeast Asian Press Alliance, Gayathry Venkiteswaran, ex-executive director for the Centre for Independent Journalism, Sonia Randhawa, and several other Malaysian media and advertising academics consulted, all confirmed this lack of transparency as a major and ongoing problem in the Malaysian context.

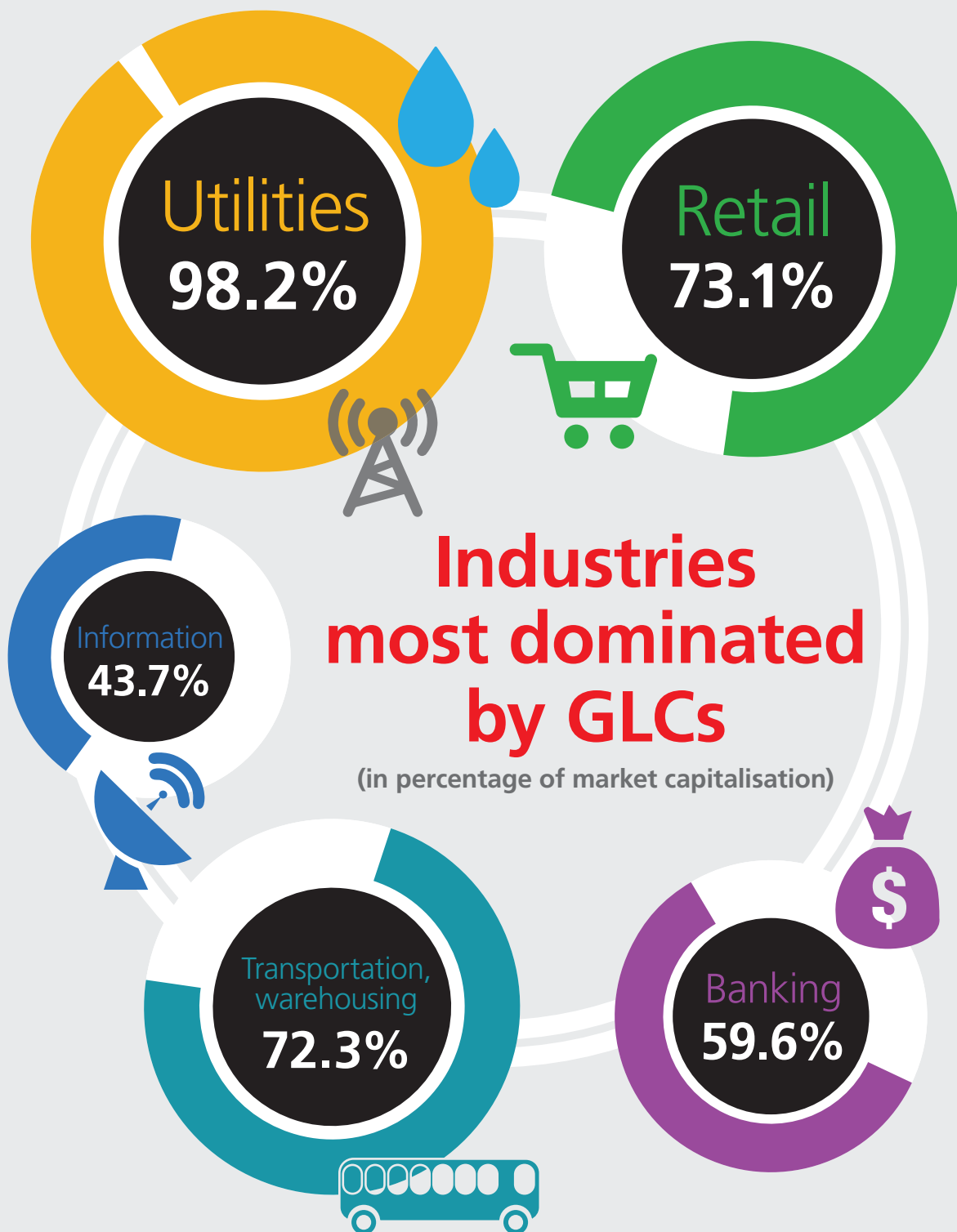


Figure 6: Malaysian Industries Most Dominated by GLCs
Sources: Oriana and Bankscope database

Conclusion

Much work is required to eradicate the influence of both soft and hard censorship in Malaysia. Despite nominal legislative reform, Malaysia's media landscape is fettered by oppressive regulation and remains dominated by governmental ownership and control. Unknown quantities of taxpayer funds are funneled into media conglomerates owned by parties and supporters of the ruling coalition. Media critical of the government are harassed by various means of hard and soft censorship. Nearly all are denied print and broadcast licenses, and permitted only a financially tenuous online presence, where they must fight for limited digital advertising revenue.

These practices deprive Malaysian citizens of an active open media intrinsic to a vibrant democracy. Malaysian media today cannot properly serve the country's citizenry as impartial watchdogs over the exercise of power by political, economic, and societal actors. Nor can they provide a public space for dialogue crucial to help Malaysia break free from destructive and divisive paradigms based on race and religion.

Reform of oppressive media laws, enactment of robust freedom of information mechanisms at the national level, and the unbiased and transparent allocation of governmental advertising are essential components to Malaysia's transition towards a free media and full democracy. Convincing the ruling Barisan Nasional to agree to reforms that will diminish its privilege and its hold on power, however, is surely a daunting task.

Annex 1: Newspaper Ownership

Publication Name	ABC ⁸⁴	adqrate.com ⁸⁵		theedgemalaysia.com ⁸⁶	
	C1 (Averaged)	C2	R1	R2	R3
	Jan-Jun 13	Apr-14	Apr-14	Q2-13	Q2-12
Berita Harian	157901.5	138,805	1,048,000	1,168,000	1,099,000
Daily Star	289,282	298,821	1,839,000	1,032,000	1,286,000
Daily Star Digital	n/a	n/a	n/a	n/a	n/a
Guang Ming Daily	89724.67	110,516	391,000	392,000	368,000
Guang Ming Night	22737.33	n/a	n/a	n/a	n/a
Harian Metro	385173.67	407,786	3,351,000	3,447,000	3,695,000
Kosmo!	202906.5	204,422	1,170,000	864,000	1,383,000
Nanyang Siang Pau	n/a	n/a	n/a	89,000	155,000
New Straits Times	114,919	95,860	236,000	288,000	277,000
Oriental Daily News	89645.33	97,854	317,160	n/a	n/a
See Hua Daily News	67601.5	94,843	328,220	n/a	n/a
See Hua Daily News (Sabah)	27733.67	n/a	n/a	n/a	n/a
Sin Chew Daily	385240.33	463,735	1,300,000	1,225,000	1,345,000
Sin Chew Night	17361.83	n/a	n/a	n/a	n/a
Sinar Harian	n/a	160,000	509,000	710,000	701,000
The China Press - Morning	176635	237,499	1,011,000	1,028,000	1,026,000
The China Press - Night	67162.33	n/a	n/a	n/a	n/a
The Sun	304,733	300,512	650,000	n/a	n/a
Utusan Borneo	36329	50,314	173,957	n/a	n/a
Utusan Borneo (Sabah)	14481.67	n/a	n/a	n/a	n/a
Utusan Malaysia	190,958.17	182,748	698,000	636,000	696,000

Publication Name	ABC ⁸⁷		
	C1	C3	C4
Daily Star Digital	Jan-Jun 13	Jul-Dec 12	Jan-Jun 12
	46,922	40,231	7,326

Ownership	Publication (Grouped)	Averages (C1:C5)*		% Share
		Circulation	Circulation	Circulation
Berjaya Media Ltd	The Sun	302,622.50	302,622.5	7.73
KTS Group	Oriental Daily News	93,749.67	202,705.5833	5.18
	See Hua Daily News	108,955.92		
Kumpulan Karangraf	Sinar Harian	160,000	160,000	4.09
Media Chinese International	Guang Ming	122,857.67	838,936.5	21.44
	Nanyang Siang Pau	n/a		
	Sin Chew	441,849.5		
	The China Press	274,229.33		
Media Prima	Berita Harian	1,133,500	1,839,033.583	46.99
	Harian Metro	396,479.83		
	Kosmo!	203,664.25		
	New Straits Times	105,389.5		
The Star Group	Daily Star	325,544.5	325,544.5	8.32
Kumpulan Utusan	Utusan	244,656.25	244,656.25	6.25

*using available data

Monopolizing the Nation:

Ownership	Publication (Grouped)	Averages (R1:R2)		% Share
		Readership	Readership	Readership
Berjaya Media Ltd	The Sun	n/a	n/a	0
KTS Group	Oriental Daily News	n/a	n/a	0
	See Hua Daily News	n/a		
Kumpulan Karangraf	Sinar Harian	640,000	640,000	6.01
Media Chinese International	Guang Ming	383,666.67	2,817,333.3	26.44
	Nanyang Siang Pau	122,000		
	Sin Chew	1,290,000		
	The China Press	1,021,667		
Media Prima	Berita Harian	1,105,000	5,136,666.67	48.20
	Harian Metro	3,497,666.67		
	Kosmo!	267,000		
	New Straits Times	267,000		
The Star Group	Daily Star	1,385,666.67	1,385,666.67	13.00
Kumpulan Utusan	Utusan	676,666.67	676,666.67	6.35

Annex 2: Advertising Expenditure by Medium

Media	Nielsen data from thestar.com.my ⁸⁸				
	%				
	Jan-14	Jan-13	Feb-14	Feb-13	AVERAGE
Free to Air TV	22.6	24.2	24	25.2	24
Pay TV	38	32.1	36.5	32.5	34.7
Newspapers	33.8	37.1	33.8	35.7	35.1
Magazines	0.8	0.9	0.8	1	0.8
Radio	3.2	3.9	3.2	3.7	3.5
Cinema	0.4	0.3	0.4	0.3	0.35
In-store media	1.2	1.6	1.2	1.5	1.3
TOTAL (MYR)	1,080,000,000	909,410,000	1,960,000,000	1,700,000,000	n/a

Media	Nielsen data from my.news.yahoo.com ⁸⁹			
	MYR	%		
	2013	2013	2012	AVERAGE
Free to Air TV	3,178,000,000	23.44	27.89	25.66
Pay TV	4,900,000,000	36.14	n/a	36.14
Newspapers	4,570,000,000	33.7	37.82	35.76
Magazines	n/a	n/a	n/a	n/a
Radio	468,600,000	3.46	3.95	3.70
Cinema	n/a	n/a	n/a	n/a
In-store media	n/a	n/a	n/a	n/a
TOTAL	13,560,000,000	96.73	n/a	n/a

Estimating Digital Advertising Expenditure

There have been no digital advertising expenditure figures available since 2010; however:

"[B]ased on GroupM's estimates, Internet advertising had been growing at about 38% to 40% in both 2010 and 2011... Prior to that, it was growing at above 50%, but the base was smaller then, of course. For 2012, we are once again predicting about 40% y-o-y increase."⁹⁰

Digital Advertising Expenditure	Nielsen data from thestar.com.my ^{91*}	bursacommunity.com ⁹²		
	2010	2011	2012	2013
Average Growth (%)	40%	40%	40%	40%
Digital Advertising Expenditure (MYR)	50,000,000	n/a	n/a	n/a
Estimated Digital Advertising Expenditure (MYR)	n/a	70,000,000	98,000,000	137,200,000

*Only selected websites

Media	Estimated Advertising Expenditure in 2013 (based on figures from previous two tables)	
	MYR	Average %
Free to Air TV	3,178,000,000	23.2
Pay TV	4,900,000,000	35.
Newspapers	4,570,000,000	33.4
Radio	468,600,000	3.4
Others	443,400,000	3.24
Digital	137,200,000	1
TOTAL	13,697,200,000	100

Endnotes

1. *The Growing Threat of Soft Censorship Worldwide*. Open Society Justice Initiative, December 2005. <http://www.opensocietyfoundations.org/reports/growing-threat-soft-censorship>
2. A 2009 report by the Center for International Media Assistance, on which this report builds, defined soft censorship very similarly: "Soft, or indirect, censorship can be defined as the practice of influencing news coverage by applying financial pressure on media companies that are deemed critical of a government or its policies and rewarding media outlets and individual journalists who are seen as friendly to the government." *Soft Censorship: How Governments Around the Globe Use Money to Manipulate the Media*. Center for International Media Assistance, January 2009.
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11. <http://www.agc.gov.my/Akta/Vol.7/Act301.pdf>
12. Hwang, I.-W., 2003. *Personalized Politics: The Malaysian State under Mahathir*. Institute of Southeast Asian Studies.

13. <http://web.archive.org/web/20070518061525/http://www.time.com/time/magazine/article/0,9171,900859,00.html>
14. <http://cijmalaysia.org/2012/04/18/press-still-shackled-despite-pppa-amendments/>
15. The monthly average income of a Malaysian family is approximately RM5000, but this varies widely from state to state, with three of the 11 states averaging under RM3000 per month on average: http://www.statistics.gov.my/portal/download_household/files/household/2009/Summary%20Findings.pdf
16. Using the exchange rate as per April 21, 2014: USD 1 = MYR 3.25.
17. <http://www.mediaprima.com.my/>
18. <http://www.asiasentinel.com/politics/umno-corporate-cornucopia/>
19. <http://www.themalaysianinsider.com/malaysia/article/umno-owns-49.77pc-stake-in-utusan-court-told>
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23. Abbott, J. P. (2011). "Electoral Authoritarianism and the Print Media in Malaysia: Measuring Political Bias and Analyzing Its Cause." *Asian Affairs: An American Review*, 38(1): 1-38.
24. <http://www.nottingham.edu.my/Modern-Languages/CentrefortheStudyofCommunicationsandCulture/CSCCResearch/Watching-the-Watchdog.aspx>
25. George, C. (2007). "Media in Malaysia: Zone of contention." *Democratization* 14, 897.
26. <http://www.agc.gov.my/Akta/Vol. 1/Act 15.pdf>
27. Translates literally as 'Princes/Sons of the Soil', used to describe those from the Malay race and other indigenous Malaysian ethnic groups. *Bumiputra* were granted a "special position" under Article 153 of the Federal Constitution of Malaysia, with this position consolidated in the 1970s

with the institution of the New Economic Policy (NEP), intended to generate economic equality between the different ethnic groups in Malaysia following colonial rule that had left a majority of economic power with Chinese Malaysians. The NEP (which was intended to have an expiration date but which persists) is hugely controversial, and too complex to be detailed here. Criticisms hinge on it having fostered cronyism and corruption; having had a limited impact on rural Malay poverty; on it being race-based rather than needs-based; and on it having reduced non-Malay Malaysians to second-class citizens by consolidating an ideology of *ketuanan Melayu* [Malay supremacy]. These issues are at the heart of ongoing Malaysian political and economic conflicts.

28. <http://www.agc.gov.my/images/Personalisation/Buss/pdf/Federal Consti %28BI text%29.pdf>
29. "Seditious tendencies" include: (1) bringing into hatred or contempt or exciting disaffection against any Ruler or government; (2) seeking alteration other than by lawful means of any matter by law established; (3) bringing hatred or contempt to the administration of justice in the country; (4) raising discontent or disaffection amongst the subjects; and (5) promoting ill-will and hostility between races or classes, in order to question the Parts and Articles of the Constitution outlined in the previous paragraph. Offenders face up to three years imprisonment and up to MYR 5000 [USD 1540] in fines, with a second offence carrying a maximum penalty of up to five years imprisonment.
30. <http://www.themalaymailonline.com/malaysia/article/pm-only-suggested-sedition-act-repeal-says-subra>
31. <http://www.themalaysianinsider.com/malaysia/article/enough-laws-to-regulate-if-sedition-act-repealed-say-lawyers>
32. <http://globalvoicesonline.org/2012/07/18/malaysia-national-harmony-act-greeted-with-cynicism/>
33. <http://www.mscomalaysia.my/news/introducing-msc-malaysia-certified-solutions>
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35. <http://www.themalaysianinsider.com/malaysia/article/over-6000-websites-blocked-for-violations-since-2008>
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45. http://www.nytimes.com/2012/10/03/world/asia/malaysian-court-rules-that-publishing-a-newspaper-is-a-basic-right.html?_r=0
46. <http://www.themalaysianinsider.com/malaysia/article/malaysiakini-fz-daily-denied-newspaper-permits-because-they-run-sensational>
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