



## UNVEILING THE RISKS OF CORRUPTION IN THE MALAYSIAN TELECOMMUNICATION SECTOR

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### ABSTRACT:

As the world's telecommunications field accustoms itself to digital transformation spurring the global technological revolution, Malaysia is no exception in experiencing this significant change. The breakneck growth of the telecommunications services charts the substantial demand in the market and showing the rise of revenue in 2018. The mobile operators contributed a big chunk to it, equivalent to 64% of the total revenue. Hence, the telecommunications industry is set to fully embrace the inevitable changes, which come with an evolving communications sector. Nevertheless, with its high revenue generation, the telecommunication is vulnerable to the risks of corruption. Therefore, this research aims at investigating the factors leading to the risk of corruption in the telecommunication sector and the role of Malaysian existing integrity and transparency policies in reducing or eliminating the risk of corruption posed by the structural and digital transformation of the telecommunications sector in Malaysia. This research adopted the doctrinal research approach as systematic means of legal reasoning, analysing the legal propositions and instrumentalizations from both primary and secondary sources. The primary sources include statutes, regulations, bye-laws, cases, government circulars and directives, which will form the legal reasoning on the issue of integrity and transparency in the telecommunications industry. Furthermore, the secondary sources will also be scrutinised ranging from journal articles, books and cases commentaries to shape the critiques of the existing practice and the legal framework in Malaysia. Identifying the factors leading to the risks of corruptions assists in the development of improved mechanisms in strengthening integrity and transparency in the Malaysian telecommunications sector as underlined by the National Anti-Corruption Plan (NACP) 2019-2023. It is indeed a gold standard which aims to further improve the quality of life in paving the way towards a corrupt-free nation. In this setting, the research findings indicate that the telecommunication ecosystem is susceptible to layers of the network, intricate governance systems that imply regular engagement between corporations and government, scale effects and technological disruption, all of which impede the development of competitive markets, fair trade and prices establishment as well as the setting of public interest-driven regulations.

**KEYWORDS:** *Corruption in the Telecommunication Sector, Integrity and Transparency in Governance, Governance of the Telecommunication Sector*

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### 1.0 INTRODUCTION

The global telecommunication services sector is expected to register the compound annual growth rate (CAGR) of 5.0% from 2020 to 2027 and

generated a USD1.74 trillion worth of a market. The transition of customers' preference towards cloud-based technology and mobile devices, resulting with the increase of spending on wireless communication



infrastructures is believed to be one of the key drivers of this industry. The growing number of mobile subscribers, the increased demand for the speed and quality of internet connection, the ever-expanding interest over value-added services also contribute to the market growth [1]. In this direction, innovation is pivotal in sustaining the growth and survival of the telecommunication industry, consequently manoeuvring the extremely competitive and dynamic business environment of this sector. That being said, the labels of privatisation, liberalisation, digitisation and globalisation result in fierce competition, thereafter, fortify the telecommunication ecosystem's barrier to market share expansion, expanding customer base, sales volume and eventually profit [2]. To maintain competitive, telecommunication companies' performance and profit registry are elevated by the introduction of a concoction of innovative products and services. For instances, the integration of advanced telecommunication technologies like code division multiple access (CDMA) and Long-Term Evolution (LTE), efficient data transmission speed and bandwidth charts a new revenue channels like Value Added Services (VAS) [3]. Moreover, telecommunications companies are in the race of offering the 5<sup>th</sup> generation (5G) of mobile internet connection as the future of wireless communication technology, which certainly produces massive reinforcement of data infrastructure [4]. It is also posited that telecommunication companies are offering a wide range of innovative products in their attempt to avoid market saturation [5]. The lucrative of the telecommunication sector is also reflective in the Malaysian context with a registered RM130.25 billion market capitalisation in 2020. The Malaysian telecommunication sector remains

resilient despite global uncertainties driven by the expanding of urban population edges with increased mobile phones usage, collaborative new product launch and corporate finance arrangements [6]. This sector accounted for RM34.8 billion revenue with mobile service providers (Celcom, Maxis and Digi) dominating 64% of the total telecommunications revenue in 2019 and the fixed service providers (TM and TIME) generated the remaining 36% [7].

Following the global trend, the Malaysian telecommunication sector is poised to continuously grow, propelled by 4 determinants: 1) Digitisation (the mass adoption of connected digital services by consumers, establishments, and governments); 2) Technology-driven business model (the adoption of disruptive technologies such as the Internet of Things (IoT), Internet of Everything (IoE), Big Data, Cloud Computing and Artificial Intelligence); 3) Demographic change (Increased demand for diverse cost-effective product offerings and services available via electronic channels as the population is dominated by younger generations); 4) The need for connectivity (extensive government's initiatives to enable connectivity and comprehensive integration of services via broadband provision, sensor networks and applications) [8]. Admittedly, the sector is a thriving market thanks to the communication market services liberalisation in the 1990s which has occasioned the dynamic of the private sector, eventually impelling strong growth over the last decade [9]. This is attainable through the extensive development of infrastructures, and provision of high access for voice data and internet services. Taken at a broader view, the architecture of the telecommunication sector is better understood from its role as one of the Communications



Contents and Infrastructure (CCI) arms, incorporating a vast network of sub-industries involving content development, network applications, services, and devices. For the telecommunication sector alone, the CCI stakeholders include the network operators (Telekom Malaysia, Digi, Maxis, and Digi Communications), multimodal companies (Astro, Axiata, TIMEdotCom), emerging competitors (U Mobile, YTL Communication, XOX) as well as small and medium enterprises (SME) [10]. Convergence and mergers are opening gates to the execution of cross-companies business model of these respective establishments, obscuring the traditional barriers amongst them. Notwithstanding the revolutionary promises, the structural transformation and reform, complex public-private ecosystem, privatisation, liberalisation and high generation of profits have resulted with the telecommunications sector becoming vulnerable to the risks of corruptions. Therefore, this research aims at investigating the factors leading to the risk of corruption in the telecommunication sector and the role of and the role of Malaysian existing integrity and transparency policies in reducing or eliminating the risk of corruption posed by the structural and digital transformation of the telecommunications sector in Malaysia.

## **2.0 GOVERNANCE OF THE TELECOMMUNICATION SECTOR**

Information and communication technologies (ICT) have permeated the development of countries extensively that they play a significant role in determining people's quality of life. In today's world where economic model is centered on knowledge and information, society's access to ICT is pivotal and serves as a determinant for the enjoyment of technological

advances [11]. We are progressively enmeshed in a digital ecosystem endeavor towards developing an integrated information atmosphere as the fundamentals of economic, social, and familial achievements [12]. As such the digital ecosystem is characterised by the combination of the telecommunication infrastructure, the provision of applications, content and platforms which eventually give birth to a concoction of goods and services. This has therefore produced a fierce competition, dynamism and even convergence between multiple sectors and technologies, ultimately calling for a mechanism of control [13]. Telecommunications governance towards the digital ecosystem in this setting, pursues the establishment of institutions and regulations that advocate innovation and growth. The task is evidently intricate with the involvement of infrastructure development all whilst managing competition and innovation within the complex network of sectors and activities. Simultaneously, a joint effort between the public sector, the private sector, society and academia is essential in developing a comprehensive action plan.

It is posited therefore that the telecommunications governance relies on four fundamental pillars: (i) the legal and institutional framework of the digital economy, (ii) regulation of the development of and access to digital infrastructure, (iii) regulation of competition and consumer protection, and (iv) public policies for the development of ICT and the digital economy [14]. The telecommunications governance, therefore, seeks to realise certain strategic objectives that mirror the interests of the actors within the ecosystem. The objectives include fostering access to digital infrastructure, building an innovative market, and achieve the adoption and



use of ICT by the population [15]. In Malaysia, the telecommunication sector has witnessed the introduction and the evolution of a new form of network governance following technological advances and liberalisation that had formed the conditions for competition and collaboration among mobile service providers and the fixed line monopoly [16]. The establishment of the Malaysian Communications and Multimedia Commission (MCMC) is underpinned by a network governance structure offering a leeway for self-regulation among the mobile phone companies and the fixed line monopoly [17]. In this framework, the Communication and Multimedia Act 1998 mandated the MCMC as the regulatory authority, overseeing and coordinating activities of the various Industry Forum, the Access Forum, the Content Forum and the Consumer Forum all of which with designated roles. On this basis, the development of technical standards, integrated and competition policies and the regulation of consumer-oriented regulatory practices are significantly aided by this tiered control of networking.

## **2.1 Transparency and Integrity in the Governance of the Telecommunication Sector**

Despite the extensive dialogue on the governance architecture of the telecommunication sector, evidently, integrity and transparency receive relatively lesser interest from the research community. The literature on governance is replete with substantial academic research on integrity, transparency and conversely corruption, nevertheless the discourse on the significance of these public

accountability practises in the telecommunication sector is scarce. Over the last decade, the rise of corruption incidents is attributed to the structural weaknesses of many jurisdictions in regulating competition amongst the stakeholders and the inefficiency of the regulatory and integrity framework [18]. This research subscribes to the notion of corruption as the alliance between public officials and private actors for the purpose of personal gains at the expense of the public's interest with varying degree of conducts [19]. In a shared global effort to prevent and combat corruption, it is emphasized that reforming the corporate sector in strengthening integrity, transparency and accountability is crucial. This eventually elevates the government's role in securing public resources, reinforcing public sector performance in the provision of public services, conversely, empowering corporate sectors [20].

Within the frame of the telecommunications governance, the failure to incorporate integrity and accountability practises has resulted with severe repercussions to the penetration and affordability of telecommunications infrastructure, hence widening the digital divide [21]. The dimensions within the telecommunication sector that are vulnerable to the risks of corruption include licensing, price setting and market control, supply chain and third parties involvement as well as customer services [22], which aggravated by multilevel interactions with the government [23]. The significance of transparency and integrity system in the governance of a highly generating profit sector lies in the transformation of the role of corporations as social institution, thus entrusted with responsibilities in overseeing citizenship rights for



individuals [24]. Accountability is a virtue bestowing legitimacy of mandated powers, instrumental in realising good governance. The perspective of accountability is connoted to the presumption of responsibilities shouldered by the stakeholders which in turn, calls for the furnishing of information to the society [25]. Therefore, transparency becomes central within the public accountability practices, the core of ethical conduct and a prerequisite of integrity [26]. The telecommunication sector is set to grow exponentially and given its colossal capital investment, the stakes are high. Transparency thus, is perceived to be the answer for accountable performance of telecommunication actors and players, calling for this element to be emphasized within the governance design.

### **3.0 CORRUPTION IN THE MALAYSIAN TELECOMMUNICATION SECTOR**

Corruption is as old as time itself. Often associated with deviant behaviour and personal gain, combating corruption is pivotal in delivering social justice [24]. Transparency International defines corruption as obtaining personal gain at the expense of abusing the entrusted authority [27]. In order to instil public awareness of corruption by creating a climate for change, Transparency International introduced the Corruption Perception Index (CPI), a leading global yardstick of corruption pertaining public sector [28]. The index provides an annual overview of the perceived degree of corruption by ranking countries and territories in the world. In 2021, Malaysia is placed 57 out of 180 countries in the CPI, dropping from 57 last year [29]. As corruption affects all strata of society, Malaysia has embraced economic reforms for clean government and continuing

commitment to fight corruption since 2018, reflected in the establishment of the National Anti-Corruption Plan (NACP) instigated by the previous government. The NACP envisioned a corrupt-free nation through three specific goals which are Accountability and Credibility of Judiciary, Prosecution and Law Enforcement Agencies; Efficiency and Responsiveness in Public Service Delivery, and Integrity in Business [30]. Further to identifying 6 Priority Areas, the NACP delineates 6 Strategies which include Strengthening Political Integrity and Accountability, Strengthening the Effectiveness of Public Service Delivery, Increasing the Efficiency and Transparency in Public Procurement, Enhancing the Credibility of Legal and Judicial System, Institutionalising Credibility of Law Enforcement Agencies, and Inculcating Good Governance in Corporate Entity [30]. These strategies result with 17 Strategic Objectives which then established 115 Initiatives to be implemented during the next five years. In the context of this research, recent years have seen an intense and sustained call for greater transparency in the Malaysian telecommunication sector. Malaysian Anti-Corruption Commission (MACC) as the main authority in curbing corruption and bribery in Malaysia advocates integrity as a vital prerequisite for a better telecommunication industry [31]. The news of corruption involving telecommunication companies has drawn the attention of the mainstream media in 2020, when the technical staffs of several telco companies were arrested and currently under investigation under Section 16 of Malaysian Anti-Corruption Commission Act 2009 for accepting bribes, exposing and revealing the personal data of the customers to an unknown third party [32]. It is reported in [33] that proper measures need to be implemented in order to curtail corruption as the



corruption does not only involve the technical staffs but the involvement of high ranking officer such as the head of customer service and chief technology officer (CTO) can be traced [34].

The newspaper report reveals that the director of a company that founded an SMS fraud syndicate has been offering a huge amount of monetary compensation to the industry players in exchange of the contact number of customers [35]. The involvement of corporate actor in facilitating, soliciting, or accepting bribery will certainly lead to a corporate crime offense which is apparent in the telecommunication industry. Prior to the above incident, a report in 2017 reveals the largest data breaches involving 42.6 million mobile number subscribers connoting that the corruption issues have been deemed to be worsening [36]. More recently, the stand was taken by the government with regards to the allocation of 5G spectrum through a special purpose vehicle (SPV) instead of directly tendering the spectrum to a consortium encompassing telecommunications operators has raised a concern with regards to the lack of transparency and tendency of corruption [37]. Arguably, transparency and corruption might be at stake following the lack of participation of the private sector in the SPV. Concerning the abovementioned issues, corruption in the telecommunication sector in Malaysia is highly associated with breach of data which is regarded as a violation of privacy [38]. This specific event has led to critical criticism on the inadequacy of corruption laws and policy surrounding the telecommunication landscape. The national conundrum surrounding corruption in the telecommunication sector is arguably due to the scarcity of anti-corruption regulations and policies being implemented by telco companies.

## 4.0 RISKS OF CORRUPTION IN THE TELECOMMUNICATION SECTOR

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Ideally, reasons for corruption differs from country to country. However, it is possible to identify some of the key common driving forces that contribute to corruption. This research attempts to identify the most common causes of corruption.

### 4.1 Complex Nature of Privatisation, Transaction and Governance Structure

In-depth reading into the literature review revealed that corruption in the telecommunications industry is a common worldwide challenge [39]. Historically, the telecommunication sector is monopolised by public authorities but currently and greatly evolving towards liberalization and privatisation as comprehensively addressed in World Trade Organisation's Fourth Protocol to the General Agreement on Trade in Services [40]. In other words, the complexity of privatizations results in the temptation for corruption particularly to demand and to give bribes in order to eradicate the intricacy. This view is supported by the Organisation for Economic Cooperation and Development (OECD) which clearly identifies telecommunication as one of the sectors that are "particularly prone to corruption" [41]. Vulnerability of the telecommunications sector to corruption is highly caused by the diversity of actors involved and the complex governance structure [38]. The complexity of the governance structure called for continuous interaction and engagement between



the telco companies and public sectors.[42] Consequently, it opens the opportunity to offer, solicit or offer bribery, to provide for facilitation fee in various areas of telecommunications such as licensing, monitoring and regulations, equipment supply contracts as well as import and export activities [22].

#### **4.2 The Race for Consumer Trust**

Rapid growth and emerging market of digital services show that there is a dire need for good connectivity provided to the consumers [43]. Industry players particularly telecom companies focus on generating growth and profit by developing an innovative business models and service innovation [44]. In relation to that matter, companies are prone to compete for market share and connection with suppliers to serve their customers [45]. However, the transparency in offering such services might be questioned as the telecom companies might engage in corruption to keep on par with the other competitors as most of the companies were using similar technology [46]. It is undeniable that telecom companies across the globe are moving towards a new wave of network investment, ranging from 5G and low-power wide-area networks to gigabit fibre which gives an opportunity to corrupt practices among industry players as the return from such investment remains uncertain [44]. The risk of investment is high following the large capital investment to break into the new market [41]. To relate with the national telecommunication landscape, there is a massive competition between Maxis, Digi and Celcom as the major industry players in telecommunication with regard to the quality of networking, strong signal coverage and number of subscribers. The competitive environment has been strengthened by

the emergence of new telecom companies such as Redtones and Umobiles [47].

#### **4.3 One Size Fits All Regulations and Policies**

Apart from the abovementioned factors, structural failing of current policies and regulatory framework in addressing the issue of corruption in the telecommunications sector needs to be highlighted [23]. Corruption in telecommunication requires a high level of public scrutiny and policy attention [48]. The root of the problem stemmed from the introduction and implementation of a 'one-size-fits-all' regulatory framework and policies which fail to significantly address corruption issues [21]. In addition, failure to bring in anti-corruption expertise in the implementation of policies gives a leeway for the industry players to involve in corruption. This is apparent when the telecom operators, suppliers, financial institutions and other industry players are willing to offer and solicit bribery in return for future progress and benefit [23]. As such, there is an urgent need for all stakeholders particularly telecom operators to develop and incorporate a good policy framework in relation to anti-corruption and transparency. Different policy and regulatory control may be required in order to address the diversity of the corruption as it is submitted that corruption in the telecommunication sector occur in various form and involved different actors such as between service provider and politicians, telecom companies and the regulator, and between service providers and service users. Hence, different regulatory control needs to be implemented to address different form of corruption



[49]. Despite the existence of the anti-corruption policy in the companies, the actual implementation of such policy is hardly taken place in the telecom company due to the absence of regular monitoring [41]. A report from European Council reveals that there is a significant “implementation gap” between anti-corruption policies and actual practice [48]. In summary, lack of monitoring will increase the temptations to involve in corrupt practices such as accepting illegal payments or benefits [46].

## **5.0 THE ROLE OF THE MALAYSIAN COMMUNICATIONS AND MULTIMEDIA COMMISSIONS**

Envisioning the digital transformation in the telecommunications sector, the establishment of the Malaysian Communications and Multimedia Commission (MCMC) as the main regulator of the telecommunication industry in Malaysia is imperative in addressing the issue of corruption and integrity. MCMC derived its power to make regulations pertaining to the communication and multimedia industry including telecommunication from the Malaysian Communications and Multimedia Commission Act (1998) and the Communications and Multimedia Act (1998). The policy introduced by MCMC is in line with the goal of establishing a corrupt-free industry as it can be seen that one of the key roles of MCMC is to promote and maintain the integrity of all persons licensed or authorized person under the telecommunication industry [50] MCMC affirms that corruption must be fully eradicated by monitoring the regulatory framework for the converging telecommunications and broadcasting industries. The role of MCMC is not only limited to overseeing the regulatory framework but also includes

the development and enforcement of access codes and standards which is vital in minimizing the risk of corruption in the telecommunication industry. The anti-corruption initiative by MCMC is also echoed by the enforcement of codes and standards relating to licensing conditions for network and application providers whereby the service providers need to adhere to strict compliance of performance and service quality [51]

Contextualizing the Role of MCMC in the telecommunication industry, the Commission’s commitment to eradicating corruption can be seen in the Draft of National Fiberisation and Connectivity Plan (NFCCP), Industry Consultation. One of the primary features of NFCCP is to furnish clarity concerning strategic direction for the implementation of policies to improve internet quality, enable internet access throughout Malaysia and expand fibre networks. NFCCP emphasizes transparency as one of the main challenges in the submission of a permit application by the service provider due to distinct requirements for different local authorities, different costs of permit approvals, and bureaucracy. [2] NFCCP acknowledges that there is a need for a transparency process and as such proposed for the elimination of middlemen and to reduce bureaucracy which has been identified as one contributing factor to corruption in the telecommunication sector [52] Overall, the MCMC framework facilitates anti-corruption strategies and initiatives in the telecommunications sector.

## **6.0 LAWS ON CORRUPTION IN MALAYSIA**

Since corruption is considered as a crime without boundaries, legislations are perceived as one of the most significant mechanism in combating





corruption. In Malaysia, there is a list of related legislations pertaining corruption and the description of the legislations is provided in the following subsections.

### **6.1 The Malaysian Anti-Corruption Commission Act 2009 (MACCA)**

The primary anti-corruption legislation in Malaysia is the Malaysian Anti-Corruption Commission Act 2009 (MACCA), which came into force on 1 January 2009. The Malaysian Anti-Corruption Commission (MACC) is mandated by the Parliament to oversee the implementation of the Act. The MACCA is applicable to both the private sector and to public bodies / officers of a public body. The MACCA provides that it is an offense when “any person who by himself, or by or in conjunction with any other person corruptly solicits or receives or agrees to receive for himself or for any other person; or corruptly gives, promises or offers to any person whether for the benefit of that person or of another person, any gratification as an inducement to or a reward for, or otherwise on account of any person doing or forbearing to do anything in respect of any matter or transaction, actual or proposed or likely to take place; or any officer of a public body doing or forbearing to do anything in respect of any matter or transaction, actual or proposed or likely to take place, in which the public body is concerned.” [53] The Act addresses a comprehensive form or offences of corrupt practices together with the associated penalties such as intending to deceive principal by agent, corruptly procuring withdrawal of tender, bribery of officer of public body, bribery of foreign public officials, offence of using office or position for gratification, making false statement and others. Recently, MACCA has introduced

corporate liability provision for bribery and corruption outlined in Section 17 of the Act which came into force on 1st June 2020 [54]. Previously, MACCA had only principally concentrated on the prosecution of natural persons who were involved in corruption. However, with the introduction of Section 17, the MACC is now authorised to impose corporate liability on commercial organisations including public and private limited companies whose employees or associated persons are involved in dishonest conducts [55].

### **6.2 The Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act (AMLATFPUAA) 2001**

The Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act (AMLATFPUAA) 2001 is the law that combats money laundering and terrorism financing. Section 4(1) AMLATFPUAA states that any person who is engaged in a transaction that involves proceeds of an unlawful activity commits a money laundering offence. “Proceeds of unlawful activity” is defined under section 3 of the same Act as “...any property, or any economic advantage or economic gain from such property, within or outside Malaysia...” [56] The section further defines unlawful activity as any activity which constitutes any serious offence or any foreign serious offence or activity of such a nature that results in the commission of any serious offence or any foreign serious offence [56]. Meanwhile “serious offence” under section 3 means any offences specified in the Second Schedule of the Act, which includes offences of gratification and bribery under the Malaysian Anti-Corruption Commission Act 2009 [Act 694]. The



AMLATFPUAA provides a strong provision on conviction of the offence under section 4(4). Based on this provision a person can be convicted for money laundering “irrespective of whether there is a conviction in respect of a serious offence or foreign serious offence or that a prosecution has been initiated for the commission of a serious offence or foreign serious offence.” [57].

## **6.2 Cases on Corruption within the Telecommunication Sector**

Evidently, there are cases with regards to dishonest misconduct in the telecommunication sector which are discussed below.

### **Alcatel-Lucent SA Case (FCPA Case): Foreign Corrupt Practices Act, DOJ, USA.**

The US Department of Justice (DOJ) and the U.S. Securities and Exchange Commission, charged Alcatel-Lucent SA, a Paris based telecommunications company with violating the internal controls and books and records provisions of the FCPA, and three subsidiaries with conspiring to violate those provisions and the FCPA’s anti-bribery provisions [58]. The SEC brought civil charges against Alcatel-Lucent for bribery, books and records, and internal control violations. It took six-years of international investigation before the DOJ and SEC announced that Alcatel-Lucent S.A. will pay one of the largest settlements in Foreign Corrupt Practices Act history. The company and three of its subsidiaries will pay \$92 million to resolve criminal charges with the DOJ and \$45 million in disgorgement to the SEC for using consultants to bribe government officials in Costa Rica, Honduras, Malaysia, and Taiwan. The \$137 million settlement is the seventh largest FCPA

settlement ever reported. It was alleged that Alcatel-Lucent had paid bribes to employees of Telekom Malaysia Berhad (TM), a GLC (government-linked corporation) to obtain confidential information relating to a public tender for a contract worth US\$85 million that Alcatel-Lucent won. Alcatel-Lucent had paid US\$200,000 and US\$500,000 to two consultants but they “did not appear to render any legitimate services to Alcatel Malaysia in connection with these payments.” If these consultants did not provide legitimate services of value to Alcatel-Lucent the question would be, what type of “services” did they actually provide? The use of “consultants” or middlemen/ facilitators, especially in closed or negotiated tenders raises strong suspicion of corrupt practices [58]. Many of them are RM2 companies with no relevant expertise or experience or even the resources to offer the services which they are supposed to provide. Although regulations and governance measures may not completely eliminate fraud and corruption, it is believed that the measures mentioned, together with top management setting the tone of integrity and zero tolerance of corruption, may mitigate the risk significantly. Recently, multi-billion losses suffered by PLCs and government enterprises such as Sime Darby Berhad and Port Klang Free Zone (PKFZ) highlight the urgent need for a much stringent and diligent corporate governance.

### **Maxis Communications**

In July 2018, billionaire tycoon T. Ananda Krishnan and his right hand man Ralph Marshall were among several people charged in the Aircel-Maxis scandal in India. The scandal had erupted following allegations of power abuse in March 2006 by the Finance Ministry in India. Among the



allegations was the Foreign Investment Promotion Board (FIPB) clearance given to Maxis Communications (a Malaysian corporation), which was used to bring in 3,200 crore rupees, far in excess of the ceiling of 600 crore rupees it was authorised to clear on its own. In 2006, Maxis had taken over Aircel by acquiring a 74% stake [59]. The Aircel-Maxis deal had come under scrutiny in 2011 when Aircel owner C Sivasankaran lodged a complaint with the Central Bureau of Investigation (CBI) alleging he had been pressured to sell his stake to Maxis. Sivasankaran also alleged that former Union minister Dayanidhi and his industrialist brother Kalanithi received kickbacks in the form of Maxis group's investments (through the Astro network) in Sun TV Network, which is owned by the Maran family. On October 10, the CBI registered a case. The following year, the Enforcement Directorate registered a money-laundering case against the Maran brothers for allegedly receiving illegal compensation of about Rs 5.5 billion in the Aircel-Maxis deal. BJP leader and advocate Subramanian Swamy had alleged that a company controlled by Karti Chidambaram, the son of former finance minister P Chidambaram, had in 2006 received a 5 per cent stake in Aircel in return for getting Maxis to pay Rs 40 billion for 74 per cent shares of Aircel. According to Swamy, Chidambaram withheld Foreign Investment Promotion Board (FIPB) clearance of the deal until his son received the five-per cent share in Sivasankaran's company. This case clearly indicates that interference from persons of influence, whether politically or with government authority provides a fertile breeding ground for corruption. It highlights the importance of establishing and maintaining robust internal controls and compliance programs. It is not enough, just to put a compliance program in place but policies and procedures must be

followed, monitored, and updated regularly [60]. More importantly, that includes keeping tabs on the consultants and other agents that the company and its subsidiaries employ.

## 7.0 CONCLUSION

Although the economic value and transformation technological advances have drawn remarkable interest on the telecommunication sector, the question of transparency and integrity of the actors involved remains untapped. Even though this research has shed light on the risks of corruption in the Malaysian telecommunication sector, more empirical research on the implementation of transparency and integrity framework within organisational structures of both the public and private entities are called for. The outcome of the research is therefore hoped to offer a major impact on the development of improved mechanisms in strengthening integrity and transparency in the telecommunications sector in Malaysia as underlined by the National Anti-Corruption Plan (NACP) 2019-2023.

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