

MyCC's Market Review on Selected Areas of the Transportation Sector (Port Logistics Ecosystem & Motor Vehicle Warranty Claims)

On 10 and 14 September 2020, the Malaysia Competition Commission (“MyCC”) and its consultant Ipsos Strategy3 (“Ipsos”) commenced a two-part Focus Group Discussion (“FGD”) with Stakeholders for a market review into the transportation sector in regard to the supply of parts for servicing and repairing of cars and after port transportation services (“the Market Review”).

The first FGD session was organised in relation to after port transportation services and was held at Maya Hotel, Kuala Lumpur on 10 September 2020.

The second FGD session for the Supply of Parts for Servicing and Repairing of Cars was held on 14 September 2020 at the Aloft Hotel, Kuala Lumpur. Participants included representatives of car manufacturers, insurers, workshop owners, Bank Negara Malaysia and others.

Over the last few months, MyCC and Ipsos have reached out to many stakeholders to engage them in virtual discussions as part of this Market Review exercise.

A public consultation webinar on the Market Review will be held on 24 June 2021 at 8.30 am. The session is open to all interested parties who can participate by registering [here](#). Participation is free of charge but limited slots are available so early registration for the webinar is recommended.

The [draft final report](#) of the Market Review (“the **Draft Report**”) is available on MyCC’s website and the public have the opportunity to provide feedback and comments from **18**

Legal Update

JUNE 2021

Shearn Delamore & Co
7th Floor

Wisma Hamzah Kwong-Hing,
No 1, Leboh Ampang
50100, Kuala Lumpur, Malaysia

T: 603 2027 2727

F: 603 2078 5625

info@shearndelamore.com

www.shearndelamore.com

www.linkedin.com/company/shearn-delamore-&-co

June 2021 until 2 July 2021. The Market Review is indicatively expected to be concluded in July 2021.

The Draft Report encompasses two main areas namely:

- i. The port logistics ecosystem, which includes:
 - freight transport by road;
 - storage and warehousing;
 - port operations;
 - cargo handling/stevedoring;
 - other cargo handling activities;
 - shipping and forwarding agencies; and
 - other support activities for transportation (e.g. towing, roadside assistance, and crane services);
- ii. Motor vehicle warranty claims

Ipsos has made, amongst others, the following key recommendations/observations in the Draft Report:

A. Port Logistics Ecosystem

- i. the length of concession agreements should be reasonable and not excessively long (e.g. 30 years);
- ii. the role of the port operators in the downstream market should be limited by way of clear stipulation in the concession agreements;
- iii. port operators should obtain approval from the relevant ministry prior to their ventures or expansion in downstream activities; and
- iv. there had been an increased number of M&A activities within the port logistics sector during the covid-19 pandemic.

B. Motor Vehicle Warranty Claims

- i. MyCC should initiate further inquiry/investigation into competition concerns relating to the *“vertical agreement between insurance companies and vehicle manufacturers”* that contain *“throughput requirement clauses”* that encourage insurance companies to drive business to authorised workshops over independent workshops; and

- ii. MyCC should issue a warning letter to the concerned parties and *“enforcement action will be taken if the situation is not remedied within a reasonable timeframe”*.

MyCC appear to have made some potentially significant and far-reaching assumptions and findings in the Draft Report, which may be of interest to relevant stakeholders.

If you or your enterprise have any concerns in any of the areas mentioned above, you may wish to put in a submission to MyCC before 2 July 2021.

Should you have any enquiries, you may direct them to Mr. Anand Raj at anand@shearndelamore.com and Ms. Jeevitha Thurai Rathnam at jeevitha@shearndelamore.com.

*Copyright © 2021 Shearn Delamore & Co. All rights reserved.
This Update is issued for the information of the clients of the Firm and covers legal issues in a general way. The contents are not intended to constitute any advice on any specific matter and should not be relied upon as a substitute for detailed legal advice on specific matters or transactions.*