



TERMS OF REFERENCE (TOR)

For Consultant to Undertake Market Review on Transportation Sector under the Competition Act 2010

1. BACKGROUND

Section 11(1) of the Competition Act 2010 lays the foundation for the Malaysia Competition Commission (Commission) to conduct a review into any market to determine whether any feature or combination of features of the market prevents, restricts or distorts competition. Following to the market review conducted on service sector, the Commission found on the need to extend and deepen the market review on the transportation sector which focusing on the after-port transportation services provider and supply of parts for servicing and repairing of car parts in response to the competition and consumerism issues as it is crucial to address on the issue of supply chain optimization and concern by the public on its impact to the cost of living.

On macro view, Economic Census 2018 reported by the Department of Statistics Malaysia, the transportation and storage services recorded gross output value of RM120.7 billion in 2017 compared to RM109.2 billion in 2015 with an annual growth rate value of 5.1 per cent per annum. In line with the growth in gross output, the value of intermediate input also increased by RM7.5 billion to record RM73.0 billion, which is equivalent to the annual growth rate of 5.6 per cent

and thus resulting in a value-added of RM47.7 billion for the year 2017.

Apart from that, the warehousing and support activities recorded the highest value added in 2017 which amounted to RM21.6 billion (2015: RM19.5 billion). Based on the above facts, it is important to highlight the importance to transportation and storage sector towards to the nation for the past few years.

Based on the assessment by the Commission on this sector, several issues have been identified namely; possible concerted practices, inefficiency of supply chain and intervention by the government to legalize the anti-competitive conduct that requires attention from the Commission in making these sectors competitive and efficient must be done in seamless manners as the sector is contributing well to the trade activities.

The overall automotive industry and related sectors employ around 710,000 people and contributes almost RM30 billion to Malaysia's GDP in 2017 . As of today, there are 27 manufacturing and assembly plants in Malaysia producing passenger and commercial vehicles, composite body sports cars, as well as motorcycles and scooters. This sector was supported and affirmed with more than 600 automotive component manufacturers, producing a wide range of components, such as body panels, trim parts, powertrain parts, rubber parts and electrical and electronic parts.

Based on the Commission preliminary finding, several competition concern on the warranty restriction, retail price maintenance for car dealers, and the ability of independent workshops to compete effectively with authorised workshops should be assess further by the Commission to promote conducive competition culture within the sectors which resulting in competitive prices and best services.

The proposed scope for the market review on transportation sector on after-port transportation services provider and supply of parts for servicing and repairing of car parts is found timely and crucial to explore possible immediate actions and long-term solutions in addressing the issues of market failures which could contributes to the cost of living. In light of this and the need to understand the sector, the Commission is encouraged to conduct a market review on the transportation sector in order to determine the level of competitiveness in the industry and if necessary, promote healthier competition in the industry.

2. RESEARCH OBJECTIVES

- 2.1 The general objective of the study is to understand the market structure and supply chain as well as identify any anti-competitive conduct in the after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia. It will also provide an opportunity to assess the prevailing industry practices and regulations that restrict competition and cause unnecessary regulatory burden.

2.2 The specific objectives of the study are:

- I. To determine the market structure, supply chain and profile of industry players that are involved in the up-stream and down-stream level in the after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia;
- II. To identify the prices or chargers of the after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia across the supply chain which will be treated with highly confidential;
- III. To assess competition in the up-stream and down-stream level in the after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia;
- IV. To identify anti-competitive practices among the industry players in the up-stream and down-stream level in the after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia;
- V. To determine the extent of market distortion and whether government intervention is necessary in curbing anti-competitive conduct in the after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia; and
- VI. To recommend improvements across government agencies and

regulators in the identified sector in order to minimise the actual or potential restrictive effect of regulations on competition.

3. SCOPE OF STUDY

3.1 The market review will cover on the following aspects for selected area in the after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia. However, Consultant is allowed to further proposed any other relevant transportation sub-sectors with detailed justifications.

3.2 The market review shall comprise of the following aspects in selected area in the transportation sector:

- I. Overview of the existing legislation and regulations across the supply chain of the after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia;
- II. Overview of the market structure and supply chain for the after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia;
- III. Profile of industry players that involve an up-stream and down-stream;
- IV. Competition in the up-stream and down-stream on the following aspects:
 - Market share and market concentration; and

- Market dominance and its economic impact on the sector;
- V. Competition concerns in the up-stream and down-stream in relation to:
- Possible anti-competitive conducts (e.g. cartel or abuse of dominant position) among the industry players;
 - Any existing policy, rules and regulation or law that impedes competition in the industry; and
 - Recommendations and conclusion based on the issues and challenges identified.

4. EXPECTED OUTCOME

4.1 The expected outcome of the market review are as follows:

4.2 The expected outcomes of the market review are as follows:

- I. Finding on the assessment of overall market structure, functioning of supply chain, conduct and performance of the transportation sector and competition at different stages of the supply chain in the specified area of transportation and automotive sector;
- II. To enhance the Commission's knowledge on the competition level in the transportation and automotive sector in order to strengthen the enforcement activities should the industry players practice any anti-competitive conduct;

III. To identify the possibility of existing legislations and policies that may impede competition; and

4.2.1 To recommend measures to promote competition in the market of selected area in transportation and automotive sector and the areas where the Commission can provide its advocacy to the key stakeholders particularly to the respective government agencies or ministries on the matter.

5. **DELIVERABLE**

The key deliverables that need to be achieved by consultant are as follow:

Target Achievement: To complete and deliver a final report of Market Review on Transportation Sector under the Competition Act 2010.

- i) To conduct research and information gathering on the after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia affects the cost of living;
- ii) To conduct survey and/or in-depth interview on relevant parties (e.g. key industry players, association, relevant ministry and authority, etc) for the study;
- iii) To evaluate and analyze data gathered;

- iv) To prepare economic analysis on the market share, margin assessment, market power and market concentration of the after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia;
- v) To prepare analysis on the competition concerns in relation to after-port transportation service provider and supply of parts for servicing and repairing of cars in Malaysia;
- vi) To prepare detailed proposal, inception, interim and draft final report of the transportation sector market review based on point (i), (ii), (iii), (iv) and (v) above;
- vii) To present all deliverables including the draft final report during the Expert Panel Group meeting and public consultation session(s);
- viii) To prepare final report by incorporating the input and feedback from Expert Panel Group and public consultation session(s);
- ix) To perform any other tasks relevant incidental or relevant to the achievement of the above target; and
- x) To prepare progress update report on every first day of the month during the contract period.

The Tenderer shall propose the table of content for the deliverable.

6. DEADLINE

NO	TITLE	DETAILS	DEADLINE
1	Detailed Proposal	Outline of the scope of study, research methodology, timeline and number of technical assistance and justifications	22 June 2020
2	Inception Report	Incorporate general overview of the selected area in the market review	6 July 2020
3	Interim Report	Incorporate detailed findings of interim report for selected area in the market review	6 September 2020
4	Draft Final Report	Incorporate detail findings of draft final report for selected area in the market review	10 November 2020
5	Prepare and present the draft final report during Public Consultation	Prepare and convey the gist and key findings of the market review	24 November 2020
6	Final Report	Additional amendments to incorporate all the valuable input or comments from public consultation	31 December 2020
7	Progress update report	Submission of work progress report (and meeting, if necessary.)	First day of every month for 9 consecutive months