



COMPETITION ACT 2010

Undertaking pursuant to section 43 of the Competition Act 2010 (“the Act”) by the Council Members (“CM”) of the Federation of Automobile Workshop Owners Association of Malaysia or the *Persekutuan Persatuan Pemilik Bengkel Kereta Malaysia* (“FAWOAM”) (ROS No.: PPM-014-14-12041990) (hereinafter referred to as “FAWOAM CM”), on behalf of the members of the FAWOAM (hereinafter referred to as “Member States Association”), to the Malaysia Competition Commission.

PERSONS GIVING THIS UNDERTAKING

1. This Undertaking is given to the Malaysia Competition Commission (hereinafter referred to as “the Commission”) by the FAWOAM CM below and having its registered office at B-01-03, Block B, Plaza Metro Prima, Jalan Metro 1, Kepong, 52100 Kuala Lumpur, on behalf of the Member States Association listed in Schedule 1 below.

BACKGROUND

2. FAWOAM is an association registered under Section 7 of the Societies Act 1966 [Act 355] with ROS Registration Number PPM-014-14-12041990 and having its registered address at B-01-03, Block B, Plaza Metro Prima, Jalan Metro 1, Kepong, 52100 Kuala Lumpur.



3. FAWOAM is an association registered with the Registrar of Societies of Malaysia. It was formed when its current Member State Associations (listed in **Schedule 1**) decided to form a single national body to represent and promote the interests of the automobile repairing industry in the country. Since then, FAWOAM has played a significant role in representing and enhancing the position of the automobile repair industry in the country.

4. Following an official complaint lodged by Messrs. Skrine & Co. (“Skrine”), on behalf of AIG Malaysia Insurance Berhad (“AIG”), alleging that FAWOAM had issued a letter to AIG dated 2.7.2019 entitled, Proposed Pricing Structure requesting AIG to revise its current pricing structure with its panel workshops for the collection and towing of vehicles insured under AIG, applicable when the damage to a vehicle is deemed ‘total loss’ or beyond economic repair (“BER”). The letter dated 2.7.2019 is attached herewith as **APPENDIX 1**.

5. The Commission investigated the potential breach of Section 4 of the Act. Upon investigation, the Commission established that FAWOAM members had colluded with each other to propose a new pricing structure. However, the Commission found that the implementation of the Proposed Pricing Structure had not taken place.



6. The Commission further learned that FAWOAM admitted that its conduct may be in contravention with the Act in which FAWOAM had subsequently, issued a recall letter to revoke the Proposed Pricing Structure with immediate effect from 17 September 2020.
7. However, the Commission did not accept the issuance of the recall letter since the Commission views that the Proposed Pricing Structure has been implemented for more than a year. Therefore, the Commission decided to commence an investigation.

COMMENCEMENT OF UNDERTAKING

8. This Undertaking comes into effect when:
 - (i) The President of FAWOAM duly executes the Undertaking through the powers vested by the FAWOAM CM for and on behalf of its Member States Association; and
 - (ii) The Commission accepts the Undertaking so executed.
9. Upon the commencement of this Undertaking, the FAWOAM CM on behalf of its Member States Association undertake to assume the obligations set out in paragraph 10 below.



UNDERTAKING

10. The FAWOAM CM, on behalf of its Member States Association, undertake that it shall:

- (i) Conduct an Extraordinary General Meeting within 21 days from the date of signing of this Undertaking, with an agenda to withdraw and repeal all prior decisions or proposals made in relation to the agreed or revised rates for the Proposed Pricing Structure;
- (ii) Not hold any form of discussion, concerning the issue of fees applicable to FAWOAM's members and not to take any step towards the implementation of the Proposed Pricing Structure;
- (iii) Notify all members of FAWOAM of the decision stipulated in paragraphs (10) (i) and (ii) above by way of letters, emails and/or other forms of communication;
- (iv) Issue and publish this Undertaking by way of a Notice on FAWOAM's official website and social media sites. The contents of the Notice shall be in accordance with **APPENDIX 2**; and
- (v) Issue the following written Notice to all Member States Association and publish at FAWOAM's official website and social media sites. the following directive:



“We would like to bring to your attention that the Malaysia Competition Commission (“the Commission”) is the regulatory authority empowered by the Competition Commission Act [Act 713] to enforce the provisions of the Competition Act [Act 712]. With reference to FAWOAM Undertaking to the Commission, we strongly advise all members of FAWOAM to comply with the provisions of the Act. In the event of any complaint regarding a possible infringement of the Act is made against any member, FAWOAM will not hesitate to provide full cooperation to the Commission in its assessment and/or investigation.”

11. The FAWOAM CM and the Member States Association acknowledge/s that in accordance with Section 14 and Section 15 read with Section 43 of Act 712, if FAWOAM or the Member States Association in Schedule 1 repeat any similar anti-competitive act/s, conduct/s and/or practice/s, the Commission has the power to take into account the findings and conduct described in **paragraphs 2 to 6** above in the Commission’s assessment/investigation.



ACKNOWLEDGEMENTS

12. The FAWOAM CM on behalf of the Member States Association acknowledge/s that:

- (i) the Commission has the power under Section 43(3) of Act 712 to make this Undertaking available for public inspection by publishing it on the Commission's website at www.mycc.gov.my as well as any other means of broadcasting as the Commission deems fit in accordance with the relevant laws;
- (ii) the Commission may from time to time, make reference to this Undertaking in news media, press statements and in any of the Commission's publications for the purpose of performing the functions and powers of the Commission; and



- (iii) the Undertaking in no way derogates the rights and remedies available to any other person arising from the alleged conduct.

Agreed and Executed by the President of the Federation of Automobile Workshop Owners Association of Malaysia (PPM-014-14-12041990) (FAWOAM) by the powers vested in him/her by the FAWOAM CM:

FAWOAM President

Name: *KHOR KONG SIAH*

NRIC No.: *610519-07-5401*

This *2* day of *November* 2021

PERSEKUTUAN PERSATUAN PEMILIK BENGKEL KERETA MALAYSIA
馬來西亞汽車修理廠商總會
Federation Of Automobile Workshop Owners Association of Malaysia
B-01-03, BLOK B, PLAZA METRO PRIMA
JALAN METRO 1, KEPONG 52100 KUALA LUMPUR.
TEL: 03-62577688 FAX: 03-62504288
EMAIL: fawoam@gmail.com
Website: fawoam.org

ACCEPTED BY THE COMPETITION COMMISSION

**DATO' SERI MOHD HISHAMUDIN YUNUS
CHAIRMAN**

This *2nd* day of *November* 2021





SCHEDULE 1

- (a) Kedah and Perlis Automobile Workshop Owners Association;
- (b) Penang Motor Vehicles Workshop Owners Association;
- (c) Perak Automobile Workshop Owners Association;
- (d) Federal Territory and Selangor Automobile Repairers Association;
- (e) Negeri Sembilan and Malacca Automobile Repairers Association;
- (f) Johore Automobile Repairers Association;
- (g) East Coast Automobile Repair Association;
- (h) Sabah Automobile Repairers Association;
- (i) Bintulu Automobile Workshop Association;
- (j) Kuching Automobile Repairers Association; and
- (k) Sibul Automobile Repairers Association.



馬來西亞汽車修理廠商總會

PERSEKUTUAN PERSATUAN PEMILIK BENGKEL KERETA MALAYSIA
The Federation Of Automobile Workshop Owners' Association Of Malaysia

B-01-03, Blok B, Plaza Metro Prima, Jalan Metro 1, Kepong, 52100 Kuala Lumpur, Malaysia.
Tel: 603-6257 7688 Fax: 603-6250 4288 Email: fawoam@gmail.com Website: www.fawoam.org

Our Ref : FA020719-01
Date : 2nd JULY 2019

MR ANTONY LEE
Chief Executive Officer
AIG Malaysia Insurance Berhad
Level 18, Menara Worldwide
198 Jalan Bukit Bintang
55100 Kuala Lumpur.

Dear sir,

PROPOSAL ON THE PRICING STRUCTURE FOR REMOVAL OF TOTAL LOSS OR BEYOND ECONOMIC REPAIR VEHICLES IN PANEL WORKSHOPS

We write in relation to AIG Malaysia Insurance Berhad (AIG) authorisation of Pickles Sdn Bhd (Pickles) to collect and tow vehicles insured under AIG from panel workshops once the vehicles are deemed total loss or beyond economic repair (BER).

The pricing structure as determined unilaterally by AIG is as follow:

Current Pricing Structure

Storage fee : First 2 months free-of-charge (FOC)
After 2 months : RM10 per day
Towing fees : RM200

Subsequent to our federation's Insurance Sub-committee meeting with members from across the nation, we wish to propose the following pricing structure:

Proposed Pricing Structure

Storage fee : RM10 per day (no FOC as workshops need to cover for rental of their premises)
Towing fee : RM200 (normal circumstances), RM400 for special cases
Puspakom fee : RM200
Processing fee : RM300 – RM500 (checking of parts prices, removing of parts for inspection, etc.)

After taking into account all our members' suggestions and opinions, we believe the above proposed pricing structure is much fairer and will ensure the interests of all stakeholders are protected.

Should you have any enquiries, please do not hesitate to contact myself on 016-5563300.

Yours sincerely,



KONG WAI KWONG
President
FAWOAM

NOTICE ON FEDERATION OF AUTOMOBILE WORKSHOP OWNERS ASSOCIATION OF MALAYSIA (“FAWOAM”) OFFICIAL WEBSITE AND SOCIAL MEDIA SITES

NOTICE

We, the Federation of Automobile Workshop Owners Association of Malaysia (“FAWOAM”), would like to inform that our conduct in issuing a Proposed Pricing Structure to AIG Malaysia Insurance Berhad has raised serious competition concerns under the Competition Act 2010 [Act 712] (“the Act”).

FAWOAM had issued a letter dated 2.7.2019 to AIG entitled, “Proposed Pricing Structure”, requesting AIG to revise its current pricing structure with its panel workshops for the collection and towing of vehicles insured under AIG, applicable when the damage to a vehicle is deemed ‘total loss’ or beyond economic repair (“BER”).

Following a complaint raised with regards to the conduct of FAWOAM described above, an investigation was carried out by the Malaysia Competition Commission (“the Commission”). Based on the outcome of the Commission’s investigation, we are agreeable to execute an official undertaking pursuant to section 43 of Act 712 to the Commission (“the said Undertaking”).

In brief, we undertake that we shall:

- (i) Conduct an Extraordinary General Meeting within 21 days from the date of signing of this Undertaking, with an agenda to withdraw and repeal all prior decisions or proposals made in relation to the agreed or revised rates for Proposed Pricing Structure;
- (ii) Not hold any form of discussion, concerning the issue of fees applicable to FAWOAM members and not to take any step towards the implementation of the Proposed Pricing Structure;
- (iii) Notify all members of FAWOAM of the decision stipulated in paragraphs (10) (i) and (ii) above by way of letters, emails and/or other forms of communication;
- (iv) Issue the following written Notice to all Member States Association and publish on FAWOAM's official website and social media sites, the following directive:

“We would like to bring to your attention that the Malaysia Competition Commission (“the Commission”) is the regulatory authority empowered by the Competition Commission Act [Act 713] to enforce the provisions of the Competition Act [Act 712]. With reference to FAWOAM Undertaking to the Commission, we strongly advise all members of FAWOAM to comply with the provisions of the Act. In the event of any complaint regarding a possible infringement of the Act is made against any member,

FAWOAM will not hesitate to provide full cooperation to the Commission in its assessment and/or investigation.”

Enclosed herewith is a copy of the said Undertaking for further information.

We undertake not to be involved in any other anti-competitive behaviour and to comply with the Competition Act 2010 [Act 712] to protect the interest of consumer welfare and economic growth.