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**COMPETITION LAW AND SHARING ECONOMY IN ASEAN:
MALAYSIA AND INDONESIA**

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Abstract

The digital based 'sharing economy' business pattern is causing a major shift in business trends in ASEAN nations. This shift has disrupted the conventional market business practices and competition on many aspects for goods or services. The current legal phenomenon has provoked the application of competition law and the regulating authority as to how to interact with this new frontier business platform in Malaysia and Indonesia which is still new to competition law. Therefore, the issue is how to promote creative technology and regulate the sharing economy in market competition? This paper studies the impacts of the sharing economy on conventional business and consumer market competition to critically assess its interaction within the scope of national competition law regime specifically in Malaysia and Indonesia. Comparative legal method will be the core research method adopted alongside socio-legal analysis to substantiate the validity of the hypothesis. This paper proposes that law and regulating authorities must introduce some regulatory measures to balance between aspects of anti-competitive protection rules and incentives for innovation in sharing economy business on issues such as standardization-related abuses, imposition of abusive terms in licensing, refusal to license or deal, disruptive innovations and mergers. The paper proposes recommendations with respect to public policy justification and/or exemptions to adapt and facilitate the changes brought about by the innovative new creative technologies in Malaysia and Indonesia in the interplay of competition policy and digital economy.

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1. Introduction

Competition Law (CL) has grown at a phenomenal rate in recent years in response to the enormous changes in political thinking and economic behaviour that have taken place around the world (Whish & Bailey, 2015). Competition Law has been rigorously developed and implemented in Malaysia and Indonesia in compliance with the ASEAN Economic Community (AEC) (2007) mandatory adoption (ASEAN 2010) of Regional Guidelines on Competition Policy (RGCP, 2010). The AEC introduces market liberalisation which requires competition law and policy in all ASEAN Member States (AMS). Hence, CL plays a critical role in ensuring efficiency in the nation's economic system (ASEAN 2025). CL consists of rules that are intended to protect the process of competition in order to maximise consumer welfare.

The term 'sharing economy' refers to an economic system in which assets or services are shared between private individuals, either free or for a fee, typically by means of the Internet (Oxford, 2016). This 'sharing economy' is a 'platform-based' business trend supported by innovative technology. The Internet-based sharing economy or 'sharing services' such as Uber, Grab car, Riding Pink, Dego, and Gojek ride have disrupted and caused a major shift in the functioning of conventional industries in Malaysia and Indonesia. This platform-based business phenomenon is a permanent shift in the global organization of economic activity. Although it is currently an issue in the transportation industry, soon will spread to other physical-world industries (Sundarajan, 2016). This serves as a notice for regulators to rethink and regulate, but in ways that do not hamper the spirit of innovation. Although disruptive innovative technology may benefit consumers, and stimulate innovation and price competition, it also poses unhealthy business competition among conventional businesses, as well as competition authority and traditional legal system regulating it. This paper critically discusses the impact and recommends regulatory instruments to facilitate sharing economy based services or goods in the interplay between fair competition law and policy, digital market, and conventional market.

2. Sharing Economy and Competition: Issues, Challenges and Resolutions

Companies like Uber, Grab, Moobi, Gojek, Menu Next Door, List Minut Airbnb, Gigster, and Etsy organize their economic activity on a platform which is a hybrid between a firm and a market. These online platforms put individuals into contact and allow them to provide services or to sell goods to each other (Delhaye & Bergarcin, 2017). They draw from distributed resources while offering a set of goods or services on a continuing basis, moving from an employee-centric economy towards a more freelance-centric economy, which creates new challenges for the incumbents in business. In this way, platforms like Uber enable the user to access economic activity more efficiently and with lower barriers to consumers (Dickey, 2016) creating new challenges for taxes and market competition.

The sharing economy has unfairly disrupted some conventional industries across the world by altering their business structure. For example 'Uber,' is the world's largest taxi company without vehicles, 'Facebook,' the world's most popular media owner without reporters, 'Alibaba', the most valuable retailer without inventory and 'Airbnb', the world's largest accommodation provider without real estate. These new companies disrupt, monopolize the supply systems and interface effecting huge

number of consumers. They master the software interfaces to connect all of those goods and services to the masses. This Internet age business “means building things is nothing other than code” (Goodwin, 2015). In this business trend the platform plays a crucial role in creating an indirect network effects for users which serves as a main interest to develop a critical mass of subscribers on both sides. Their disruptive nature becomes a matter of CL when it affects the market definition and market power. By adopting a two-sided business model to intermediate supply and demand, a platform can potentially turn a traditionally one-sided market into a two-sided one. It opens traditional markets to newcomers who become competitors to the incumbents with different strategy and market pressure on traditional players (Russo & Stasi, 2016). This new model has threatened the established traditional business pattern and market. The battle now is on who controls the digital customer interface rather than the services or goods industry. Goodwin (2015) described the conventional stores, warehouses, factories, pipelines, networks and all manner of goods are becoming dumb stuff at the cost of old-economy companies to build, maintain and produce for their new-economy overlords (Preston, 2015) under the new system.

The new system also can bypass the conventional legal pattern and regulatory requirements proceeded by the conventional market members. This issue was raised when French hoteliers complained against Airbnb in 2015 about unfair competition by private persons offering accommodation, without respect to the rules applicable to hotels (Agnew, 2017). Similar actions were found across Europe, putting pressure on regulators and lawmakers. Recently, many national competition authorities from the EU warned against over-regulating new online and sharing economy market or taking action against existing restrictions (Mleczo, 2017).

In 2015, the European Commission (EC) attempted to resolve the sharing economy issues by declaring a non-binding legal guidance and policy orientation to public authorities, market operators and interested citizens for the balanced and sustainable development of the collaborative economy (E.C., 2016). Belgium became one of the first European countries to pass legislation called the “De Croo Act”, on the collaborative (or sharing) economy to provide a favourable tax system for income generated by digital economy activities. The Act defined ‘collaborative economy’ as a rule, to economic transactions between individuals (peer to peer) with the assistance of an online platform. In other words, it was described as a model whereby two individuals interact with each other to buy or sell goods and services, often involving online transactions (CMS Legal, 2017). The De Croo Act introduces a flat-rate tax (10%) for income (not exceeding EUR 5,100 per year – amount for 2017 subject to indexation) deriving from activities carried out as part of the collaborative economy. This flat-rate tax is subjected to a number of conditions to be considered as “regular” income for purpose of taxable income.

In the United States, in a dispute on sharing economy versus traditional economy in Illinois Transportation Trade Association et al. v. City of Chicago (2016) declared “every new entrant into a market should be forced to comply with every regulation applicable to incumbents in the market with whom the new entrant will be competing”. Thus, the court held that “ridesharing services are different than taxicabs, and Uber is as different from taxis” as clients cannot physically hail down an Uber vehicle on the street, but must use a smart phone application; furthermore, the taxi’s fare structure in the US is determined by the city. The court dismissed plaintiff’s argument that Uber should be subjected to the same licensure as taxi owners (Mleczo, 2017).

The Organisation for Economic Co-operation and Development (OECD), as an international organisation which promotes policies that will improve the economic and social well-being of people around the world, warned that disruptive firms can erode demand for the old model products/services even if the incumbents become more price-competitive. For example the brick-and-mortar movie rental outlets may not survive the entry of Netflix, which offers a far greater selection and more convenience, even if their outlets lower their prices to predatory levels (OECD, 2015). Therefore, what is the impact of the disruptive sharing economy pattern on the ASEAN competition market? The disruptive innovation will cause new markets, new networks and disrupt existing markets (Christensen, 1995). New entry causes radical changes in the existing industry by launching new products with new fixtures and very different from existing business (Han, 2016). It disrupts existing markets and replaces former technologies by creating new different consumers at lower price. The EU addressed this disruption issue by introducing EU Horizontal Guidelines with three indicators of limits to competition which comprised of lower price and competition, exemption for new technology innovation, and discrimination against certain firms through preventing effective access to certain standard. These guidelines covers the issue of disruptive innovation for licensing agreements, exclusive grant back provisions, incentives to innovate for licensee, as well as open and transfer information to licensor about improvement on the licensed product and cross licensing agreements. There is also a requirement to review market definition, market control for disrupted product and assessment of dominance for disrupted market which includes abuse of dominance in merger cases (Article 102 TFEU).

The price competition in relation to sharing economy also has legitimate public policy concerns (e.g. safety, privacy) and regulation compliance issues. Whereby, the new markets in the transition from 20th century managerial capitalism to 21st century crowd-based capitalism has no market-places, no organizations but somewhere in between (Alexandra, 2016) which many countries have yet to determine the appropriate policy or regulation to regulate its manner of competition (Competition Commission Singapore, 2016).

3. Sharing Economy and Competition Law: ASEAN Jurisdictional Issues and Challenges

CL was introduced in Indonesia before AEC in 1999 and in Malaysia in 2010. CL was initiated in this region to promote market competition and prevent practices that may have adverse effect on competition. It regulates prohibition of any anti-competitive agreement and abuse by dominant enterprises, while Indonesia also regulates prohibition of harmful mergers and acquisitions. The countries dealing with technology innovation respond in different ways. Innovation leads to creative economy which have their origin in individual creativity, skill and talent and which have potential for wealth and job creation through the generation and exploitation of intellectual property (UK's Department for Culture, Media and Sports, 2016). Although innovation drives economic growth or productivity but it also poses new regulatory regime with new legal challenges (International Competition Network, 2016). Although consumers agree that technology innovations made life convenient, while for others it may be disruptive. Disruptive innovation creates new market by applying a different set of values, which ultimately and unexpectedly overtakes an existing market, for example: mobile internet, knowledge

automation, cloud technology, advance robotics and renewable energy (Manyika, Michael, Jacques, Richard, & Peter, 2013). The inadequacy of the conventional taxis to meet the challenges posed by the new technology may gradually cause the extinction of the traditional business or secondly, will lead the sharing economy into a power that potentially abuses their dominant position.

3.1 Indonesia: Scope, Issues and Challenges on sharing economy

Indonesia enacted Law No.5/1999 on Prohibitions of Monopolistic Practise and Unfair Business Competition and the enforcement is provided by Competition Commission (KPPU). Law No.5/1999 was formulated based on criteria of economic efficiency and consumer welfare. Law No.5/1999's primary focus is on the prohibition of unfair business practices that may result in monopolistic practices or unfair business competition. The Commission has issued several guidelines and decided on various anti-competitive cases. The most recent is about online transportation which raised the need for the Competition Commission (KPPU) to provide an opinion to the government on competition between online and conventional transportation.

Since its entry in 2013, online transportation services have brought many changes. Indonesia with around 240 million populations is not supported with an efficient mass transportation system. Indonesian consumers have vastly switched to online transportation. Consumers are driven by mass online advertising and choose online transportation services because of cheaper tariff, availability, better vehicles and safety. Uber in 2013 entered the Indonesian market as a foreign transportation application system which also offers motorcycle services, while Grab provides fixed rates on deposit or cash basis.

Originally, Indonesia has online motorcycle transportation known as 'Gojek' which is a genuine Indonesian application innovation based on an older system initially known as 'Ojek'. It was first found in central Java in 1976, operated by mostly unemployed people. Ojek fetch customers from street corner or consumers need to find Ojek parking location. Ojek was found to be convenient during peak hours or heavy traffic and had been an efficient substitute for public transportation. Gojek has successfully explored various service industries through sharing economy platform for food, house cleaning, saloon and massage. Gojek employs around 200,000 motorists and as a big unicorn start up in Asia recently acquired 4 Indian technology companies: C 42, CodeIgnition, Pianta, a health service start-up company and Left Shift for product development. On the other hand, Grab acquired Indonesian Platform Kudo to expand its business on ride-hailing and mobile payments platform in Southeast Asia. It is expected that GrabPay's will match Kudo's presence in smaller cities and rural areas in Indonesia's region targeting around 200 Million people (Masyitha Baziad, 2017).

Online transportation has crushed the taxi services and forced conventional taxis to face stringent competition. The economic impact is so immense that a dominant player, Blue Bird Group, claimed a loss of 50 percent revenue. Blue Bird owns approximately 500,000 vehicles spreading throughout Indonesian cities (Muhammad Faiz Aziz, 2016).

In response to the recurring street social conflict, the Minister of Transportation issued an instruction to prohibit online transportation such as Gojek, GrabBike, Uber and GrabCar to operate on the road designated to be served by public transportation (Minister of Transportation, 2015). Online taxis challenged that instruction arguing that there is no existing law to regulate such prohibition. The President

responded in support against the Decree stating that “regulation should not become a burden or an artificial barrier to doing business”. The Minister of Transportation Decree was questioned requiring government to also regulate traditional motorcycle transportation (Ojek) which did not apply any safety standard. The President invited Gojek drivers to his office and sent signal that Gojek is needed to support transportation in Indonesia. Certainly there is a need of government regulation to arrange a clear platform for online transportation (CNN Indonesia, 2015). During this period, the government seems to be hesitant to decide on the online transportation policy (Metronews, 2016). The tension reached its peak in March 2016 when conventional taxi drivers mounted a big protest ending with a physical clash between online transportation drivers and Gojek drivers (Newsliputan, 2016).

In Indonesia, conventional taxi companies have submitted complaints to the land transportation association (Organisasi Angkutan Darat or ORGANDA) and Minister of Transportation based on unfair business competition. They alleged that online transportation services were able to avoid government regulations which applied to conventional taxis such as: tax, retribution, tariff, surcharge, vehicle check, designated driving permit, insurance, etc. Online transportation is able to charge cheaper tariff to consumers because they do not comply with government regulations. ORGANDA expected that lower tariff by online taxi only applied for a short period of time and only for promotion purpose. However, the rate was in question since online taxi still maintained its low rate. ORGANDA claimed that almost 50 % of its association member vehicles were no longer in operation. The consequences affected other institution as well, like bank loan, job opportunities, state tax income etc. ORGANDA immediately put pressure on the Minister of Transportation to regulate online transportation.

Many issues revolve around these complaints, whether conventional taxi companies are complaining against online transportation (Uber, Grab or Gocar) or also towards the online motorcycle (Gojek) remains unclear. The situation became more indecisive when the foreign company, Grab, acquired the Indonesian start up business Kudo platform and similarly Gojek began to acquire foreign start up companies. Certainly competition policy and law matters are at stake in this circumstance.

Consumers and job seekers are getting desperate, but the problem continues since there is no clear policy or regulations on how to treat this kind of business (Detiknews, 2015). Basically, Law No. 22/2009 on Land Transportation does not regulate online or motorcycle transportation. The Minister of Transportation only advised that it should consult with the police for road safety and still did not provide any firm decision whether online transportation is legal or illegal. The tension reached its peak in March 2016 when conventional taxi drivers went on protest and ended with a clash between online transportation drivers and Gojek drivers. The clash spread to a few Indonesian cities where online transportation existed and turned to a social conflict.

In a press conference on 18 December 2015, Minister of Transportation revoked the Decree which prohibited online transportation (Tempo, 2015). With the purpose to reduce social tension, the government finally agreed to regulate online transportation by allowing Grab and Uber to operate with few requirements. The Minister of Transportation revised the Ministerial Regulation No: 32/2016 which applied on 1 April 2017 with 3 months’ probation to be implemented in 3 big cities: Yogyakarta, Denpasar, and Makassar (Detiknews, 2017). Subsequent to the try out, the Minister of Transportation was determined to discuss the matter in further details and warned that sanctions will be given to the violators.

The 11 points of Revised Minister of Transportation Regulation covers the aspect of: type of transportation, designation of special stickers, vehicle minimum capacity of 1.000 cc., highest and lowest tariff to be determined by Governor of the domicile vehicles together with local officials, quota for special online transportation, obligation to establish a company, vehicle routine check, mandatory to provide pool for car park and workshop, tax, provide dashboard access to digital display. Non-compliance will be given a sanction by Minister of Information by blocking the online access.

At least in the revised regulation online transportation is defined as “special mode of transportation”. It determines that online transportation must meet the criteria: door to door service, city regional operation, using car rental vehicle, and the consumer must book through online application. The only point left unresolved to be discussed is on setting lower and upper tariff. The Indonesian government based its regulation of online transportation merely by considering and made reference to Law No. 25 on Investment, Presidential Decree No 90/2000 on the Foreign Company Representative Office and Government Regulation No.82/2012 on the Electronic Transaction System. The Indonesian government in fact made an offer to Grab and Uber to choose whether to be a provider for online system or to be a provider for public transportation services. No one knows the future legality of the online business with the probation of Minister of Transportation Decree. By now, the government is on the right track to affirm the policy and the regulation.

In response to the online transportation problems in Indonesia, the Competition Commission provides three recommendations. Firstly, Minister of Transportation should discard policy on determining lower tariff for conventional taxi with consideration that it will cause inefficiency, raise price for consumers and not providing incentives for innovation. The government is advised only to stipulate upper tariff. Secondly, the government should regulate quota for numbers of conventional and online transportation for designated region. Thirdly, government should abandon obligation to form a company for online transportation (Kompas Daily Newspaper, 2017). The advice must also look at the incentives for innovation in creative economy. There is no doubt that the growth of the creative economy may help provide job opportunities in Indonesia and reduce unemployment. In 2014, 7.1% of Indonesia’s GDP came from the creative economy, absorbing up to 7.12 million workers. FDI from Australia or the US have in fact have expressed interest in investing in the growing digital creative industry in Indonesia. Therefore, the business needs certainty, clear policy and regulation to administer the rapid growing business before it could turn out to be disruptive. In response to the rapid growth of creativity and innovation, the Indonesian government has established a new agency called Creative Economy Agency or Badan Ekonomi Kreatif (BAKREF). The agency deals with technology innovation by providing support for small medium business local entrepreneurs. BAKREF’s objectives among others are to advice on the policymaking, program planning, co-ordination, and synchronization with other government agencies which stimulate economic growth.

3.2 Malaysia: Scope, Issues and Challenges on sharing economy

Malaysia enacted its Competition Act in 2010 (CA2010) which prohibits anti-competitive conducts or agreements under Section 4(1) and under Section 4(2) prohibits horizontal agreements between enterprises which have the objective to fix, directly or indirectly, a purchase or selling price or

any other trading conditions such as share market or sources of supply, limit or control the production, market outlets or market access, technical or technological development, investment or perform an act of bid rigging. Section 10 (1) of the CA prohibits the abuse of dominant position by an enterprise, whether independently or collectively, in any conduct which amounts to an abuse of a dominant position in any market for goods or services.

Similar to the Indonesian situation, Uber and Grab are embroiled consistently in clashes with authorities and conventional taxi drivers. The Malaysian taxi drivers have protested and organized street demonstrations against Grab and Uber services. Malaysian Taxi driver associations repeatedly warned the government against legalizing these competitors. Big Blue Taxi Services had even warned the government with statements that the 800 taxis under their group will abandon the ruling coalition government and support the opposition if ride-hailing cars are legalized (The Straits Times, 2016). This reflects the level of tension among the traditional taxis in Malaysia. Currently, there are about 77,000 registered taxi drivers in Malaysia, while there are no official statistics on the number of Uber and Grab car drivers (Today, 2016).

Uber, a car pooling application, based on Android or IOS platform which a rider can ride a car with driver argued that they are only a private carpooling system and not a public transportation system. Therefore, they need not comply with the rules applying to the conventional taxi service. In respond to the outcry, the government affirmed they cannot disallow the modern business platforms or formulate policy to forbid digital economy to enter the market, especially when these systems are accepted universally. However, they also observed that since drivers are paying 25% of every fare to these platform-based companies, a compulsory ruling to register as companies would be introduced (The Strait Times, 2016). Further, to mollify the local taxi drivers, the government also promised to liberalize taxi rules which are dominated by few companies in Malaysia. Uber and Grab Car freedom in Malaysia is curtailed under the proposed regulations from Land Public Transport Commission or known as SPAD which will be presented in the Cabinet for approval in the Parliament.

Malaysia attempted to resolve the sharing economy issues and challenges in public transportation industry by recognizing that ride-hailing applications, as part of a larger transportation reform program under Malaysia's National Public Transportation Commission (SPAD). The ministry noted it is unwise to forbid a digital economy to enter the economic market, since these systems were accepted around the world. However the detailed regulation applicable to ride-sharing is expected to be concluded by the first quarter of 2017. Once the amendments are passed, SPAD is expected to enforce the required regulatory rules on ride-sharing business. The new policy among others would require ride-sharing drivers to be registered, examine the roadworthiness of their car and obtain a public service vehicle license with accident coverage insurance. These would legalize Uber and Grab online application and also would liberalize Malaysia's transport policy. The Inland Revenue Board (IRB) also confirmed that individuals operating the Uber and Grab car ride services not exempted from paying tax. Drivers will be required to include earnings information in their income tax forms and are liable to pay tax. IRB warned that the board could check on their income by obtaining information on the Uber's drivers list. The ministry doesn't intend to impose tax on taxi drivers, but will see how it can implement taxation on these services. This means that Uber and Grab Car drivers will get a card registered under the Road Transport Act which

is to regulate all public transportation drivers (The Star Online, 2016). Around 30,000 Uber and Grab drivers will have to obtain a Drivers' Card issued by SPAD, with the e-hailing companies to be incorporated in Malaysia. It will become a regulated service with vehicles which required to pass mandatory road worthiness inspections (The Star Online, 2016).

However, this resolution did not resolve the problem with the conventional providers who insist that the existing regulations for public transport should be fully applied to new providers to lessen their competitive advantage. The Malaysian taxi drivers went on strike to show their unhappiness with the government's decision and claimed to be suffering because of the unfair playing field. The taxi industry pointed out that they were unable to compete with e-hailing services such as UBER because taxis are bound by rules set by the SPAD (Today, 2016). Thus mere recognition and legalisation of the UBER and Grab services in Malaysia at this point of time is still an unresolved issue. In comparison to Indonesia and Singapore, the start-up may find itself having to jump through numerous additional hoops like road safety tests, medical tests, and driver's background screening. In countries with slow and inefficient certification and licensing, these steps may take even longer time, especially for foreign-owned entities.

4. Resolutions and Recommendations

Although competition promotes better services and products to consumers and create incentives for emerging economies to promote creative economy but the CL must be utilised as the tool to provide the same level playing field for all competitors and force incumbent companies to increase efficiency through technology innovations. In this respect appropriate government policy and regulation plays key roles to determine and regulate online transportation to ensure fair competition and consumer welfare. Competition authority must advocate and promote regulations that achieve public policy objectives in a way that reduces impact on competition (International Competition Network, 2016).

Regulators must address the anti-competitive concerns such as pricing system, market transparency, and possibility of collusion and competitive compatibility of the conventional method. The application of the Uber pricing system using 'surge pricing' mechanism with the aid of Uber's data on travel habits are considered as unfair pricing system by charging a premium for the taxi rides that are most in demand. Certain use of algorithmic pricing may also influence market transparency (which can allow reaching supra-competitive price equilibrium to be agreed by competitors) and even collusion (Mleczko, 2017).

Competition enforcers must be equipped with adequate tools for dealing with possible harms of the new system. The digital economy is dynamic, but not operating in a legal vacuum. Many existing rules can be applied to digital business models but require reinterpretations or adaptations of laws. Alternatively, such as Singapore which took a friendly approach to transportation innovators by promising a 'light touch' regulation. The Philippine government came out with rules for 'transportation network companies' back in May 2015 which reluctantly Indonesia followed earlier this year.

As for Indonesia, under the Article 35 (f) of Law No.5/1999, Competition Commission (KPPU) may act as resourceful adviser to the government on the existing situation as to whether the competition between online transportation services with conventional taxis are in the same relevant market. Competition Commission also can utilise its capability and knowledge to wisely examine and assess a

balance between the objectives of the law, regulatory impact, consumer welfare or choices, social impact, job opportunities, and economic growth. This application may be also applied similarly in Malaysia by the Malaysian Competition Commission (MyCC).

The draft law on the creative economy in Indonesia must be given priority and enacted as soon as possible by the Indonesian parliament. As without a legally binding regulation on the creative economy, industries are being subjected to rigid sector-based regulation which does not provide enough incentive incentives for business players who are looking forward to create innovative ways to provide goods and services.

Creative economy is needed by the government to spur economic growth. Technology innovation provides incentives for inventors to enjoy the result of their hard labour, research, and investment (Manyika, Michael, Jacques, Richard, & Peter, 2013). Therefore, the competition authorities must assess competition impact, by balancing the protection and incentives for innovators. Indonesia's Ministry of Trade strategic planning on policy blueprints called "Creative Economy Development Plan 2009-2015" and "Creative Industry Development towards Creative Economy 2025" must be put to work to harmonize all related agencies and support the movement of innovation.

Finally, in Indonesia specifically the key to resolve this issue is first to fine-tune law and policy between all related agencies such as Minister of Transportation, Competition Commission, Chamber of Commerce, BAKREF, business associations including transportation and technology companies. The next step is to amend the existing law which should incorporate the premise of technology innovation. Synchronization of all aspects should be able to achieve the goals of competition law and policy which is to provide consumer welfare. At least, Indonesia and Malaysia could provide lessons to other AMS when dealing with the issues of online transportation in ASEAN.

5. Conclusion

Sharing economy, technology innovation, and disruptive technologies are all terms concerned with online transportation and has become a major concern in many ASEAN member countries. Member countries have responded differently according to their own economic priority, as well as legal system. It will depend on the various stakeholders to maintain the opportunities and at the same time, respond to the challenges which fit the country's economic policy. Competition and consumer welfare, no doubt are two aspects embedded in the CL and competition policy goals. Therefore, CL needs to ensure a level playing field and provide consumer choice or preference as the sign of consumer welfare. Technology innovation has introduced sharing economy and undoubtedly changed the consumer's life style, as well as market competition. Therefore, growing concern and threat of the disruptive innovation on the efficiency of the conventional players in the market, requires specific provisions of law and/or guidelines to address issues relating to technology innovation interference on the conventional settings. This specifically requires provisions or legal instruments as to whether to allow, exclude or exempt with special conditions, which must be specifically incorporated within CL and competition policy. Once the policy and implementing law are established, the next challenge is to develop efficient coordination between institutions involved in science, technology, and innovation in the respective jurisdictions as discussed above.

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