

REGULATORY

Turning the wheel, final automotive aftermarket guidelines issued!

17 October 20244 min read

The Competition Commission ("**Commission**") has recently issued final Guidelines for Competition in the South African Automotive Aftermarket ("**Guidelines**") first published in December 2020 and revised by some changes put forward by the Commission earlier this year. [1] The Guidelines are aimed at promoting competition in the automotive aftermarkets industry and specifically to promote economic access, inclusion and greater spread of ownership for historically disadvantaged persons ("**HDPs**").[2]

In a rapidly evolving regulatory environment, original equipment manufacturers ("**OEM**"), insurers, dealers and other stakeholders in the automotive aftermarket must take note of the Guidelines and rethink where applicable their roles and strategies in this new era and take note of challenges and opportunities that lie ahead. The task is now to navigate the road ahead while adjusting practices in line with the Guidelines, whilst maintaining market position and without sacrificing brand integrity and operational efficiency.

The Guidelines, although not binding,[3] present the approach that the Commission considers in maintaining and promoting competition in the automotive aftermarkets industry. The Guidelines contain various provisions that require industry players to adopt strategies and develop business models that–[4]

- allow for small, independent and HDP service providers to undertake service, maintenance and repair work whilst a vehicle is in-warranty;
- encourage more HDPs to own dealerships;
- ensure the fair allocation of repair work by insurers to service providers;
- promote the rights of consumers to use original or non-original spare parts during the lifespan of their vehicle;
- remove OEM restrictions in the sale and distribution of original parts;
- promote consumer choice in the purchase of maintenance and service plans; and
- enable access to OEM training and technical information by independent service providers.

As mentioned above, the Guidelines are a culmination of recent changes proposed by the Commission in April this year. Some of the key changes are that–

- OEMs "*should approve any*" motor body repairer applicant that meets their standards and specifications. This obligation stands even in situations where prevailing market conditions do not suggest that an additional repairer is sustainable or where there are low volumes of work in a designated geographic area;[5]
- insurers "*should approve any*" repairer that meets their standards and specifications to undertake work on out-of-warranty motor vehicles and not limit their decision whether or not to approve a repairer to market demand and volume of claims and work available in a designated geographic area;[6]
- OEMs and approved dealers "*shall*" implement internal training to ensure that its employees are aware of and understand the provisions of the Act that are relevant to the exchange of competitively sensitive information between competitors;[7] and
- OEMs "*shall*" recognise and not hinder a consumer's choice to purchase value-added products (such as maintenance plans, service plans and extended warranties) separately from a motor vehicle from approved dealers and that this must be done at the point of sale.[8]

For OEMs, insurers and dealers compliance is not just about ticking regulatory boxes, it is about implementing the right policies and procedures as well as training to ensure awareness about the Guidelines. Those who adapt quickly and strategically will be best positioned to thrive in this evolving environment.

"It is not the most intellectual of the species that survives; it is not the strongest that survives; but the species that survives is the one that is able best to adapt and adjust to the changing environment in which it finds itself." Charles Darwin

Should you require advice on navigating the Guidelines or implementing training, please contact us. We have experience in offering practice guidance and training in the automotive aftermarkets industry. We are well-equipped to assist.

Please refer to the Werksmans Competition Law e-Learning Tool **here** on competition law which provides a consistent and dependable means of training staff in order to protect both company and employee from possible penalties, damages and sanctions.

[1] Earlier this year, we [wrote](#) about the Commission's proposed changes to its Guidelines which sought to amend certain existing definitions and sections of the Guidelines and introduce new sections to the Guidelines. See <https://werksmans.com/legal-updates-and-opinions/shifting-gears-and-driving-competition-proposed-changes-to-the-guidelines-for-competition-in-the-south-african-automotive-aftermarkets/>, accessed on 14 October 2024.

[2] See clause 1.4 of the Guidelines.

[3] See section 79(4) of the Act.

[4] See clause 4 of the Guidelines.

[5] See clause 6.9.2 of the Guidelines.

[6] See clause 7.8.2 of the Guidelines.

[7] See clause 9.3.3(d) of the Guidelines.

[8] See clause 11.4 and 11.6.1.2 of the Guidelines.



Ahmore Burger-Smidt

Head of Regulatory

[View Profile](#)



Dale Adams