

28 July 2017

Regulating Disruptive Technology: The Case of Uber and Grab

In April, Amendment Bills to the Commercial Vehicle Licensing Board Act 1987 (“CVLB Act”) (applicable to Sabah, Sarawak and the Federal Territory of Labuan) and the Land Public Transport Act 2010 (“LPTA”) (applicable to Peninsular Malaysia) (“Amendment Bills”) were tabled in Parliament for first reading.

Much hype has surrounded the progress of both Amendment Bills since the government’s announcement of its intention to regulate disruptive technology companies that provide a platform for the facilitation of land public transport, such as Uber and Grab.

Under the LPTA and the CVLB Act, conventional taxi operators fall within the licensing regime of a public service vehicle (“PSV”) service. Taxi cabs in general are deemed to be a class of PSV. The existing provisions on PSV licensing do not cater for technologies that facilitate the provision of PSV services and, as such, Uber and Grab and the associated services provided were largely unregulated.

Yesterday (27 July), the Dewan Rakyat, after much deliberation, passed both Amendment Bills. They will now have to be passed by the Dewan Negara, receive Royal Assent and be gazetted before coming into force.

The implication of the Amendment Bills is that both the LPTA and the CVLB Act will recognise the business of facilitating arrangements, bookings or transactions for the provision of land public transport services. Such businesses are referred to in the Amendment Bills as an “*intermediation business*” (“IB”). This is clearly intended to cover businesses such as Grab and Uber. Nonetheless, the wide manner in which the definition of IB was drafted suggests that future advancement in the area of “*facilitating*” provision of PSV services would likely be governed by the IB licensing provisions.

A new class of PSV is also introduced to capture the motor vehicles driven by Grab or Uber drivers, namely “*e-hailing vehicles*”. “*E-hailing vehicles*” refers to motor vehicles that are used to carry passengers in which the arrangement or booking for such a journey is facilitated through an electronic mobile application of an IB.

With the introduction of IBs via the Amendment Bills, Grab, Uber and similar services would be required to obtain an IB licence for their business, failing which they would be committing an offence. For now, however, the Amendment Bills have not stipulated the process or conditions for the application of IB licences. It is likely that further rules and regulations to govern an IB will be required under the respective Acts to support the new licensing regime.

Adlin Abdul Majid and Kelly Yeo Chei Jun

This Legal Update is brought to you by the Regulatory & Compliance Practice Group. If you have any queries, please do not hesitate to contact the team:

Rosli Dahlan
Partner
DID: +603 6208 5804
Fax: +603 6201 0122
Email: rd@lh-aq.com

Adlin Abdul Majid

Partner

DID: +603 6208 5816

Fax: +603 6201 0122

Email: aam@lh-ag.com



Published by the Regulatory & Compliance Practice Group

© Lee Hishammuddin Allen & Gledhill. All rights reserved. The views and opinions attributable to the authors or editor of this publication are not to be imputed to the firm, Lee Hishammuddin Allen & Gledhill. The contents of this publication are intended for purposes of general information and academic discussion only. It should not be construed as legal advice or legal opinion on any fact or circumstance.

www.lh-ag.com