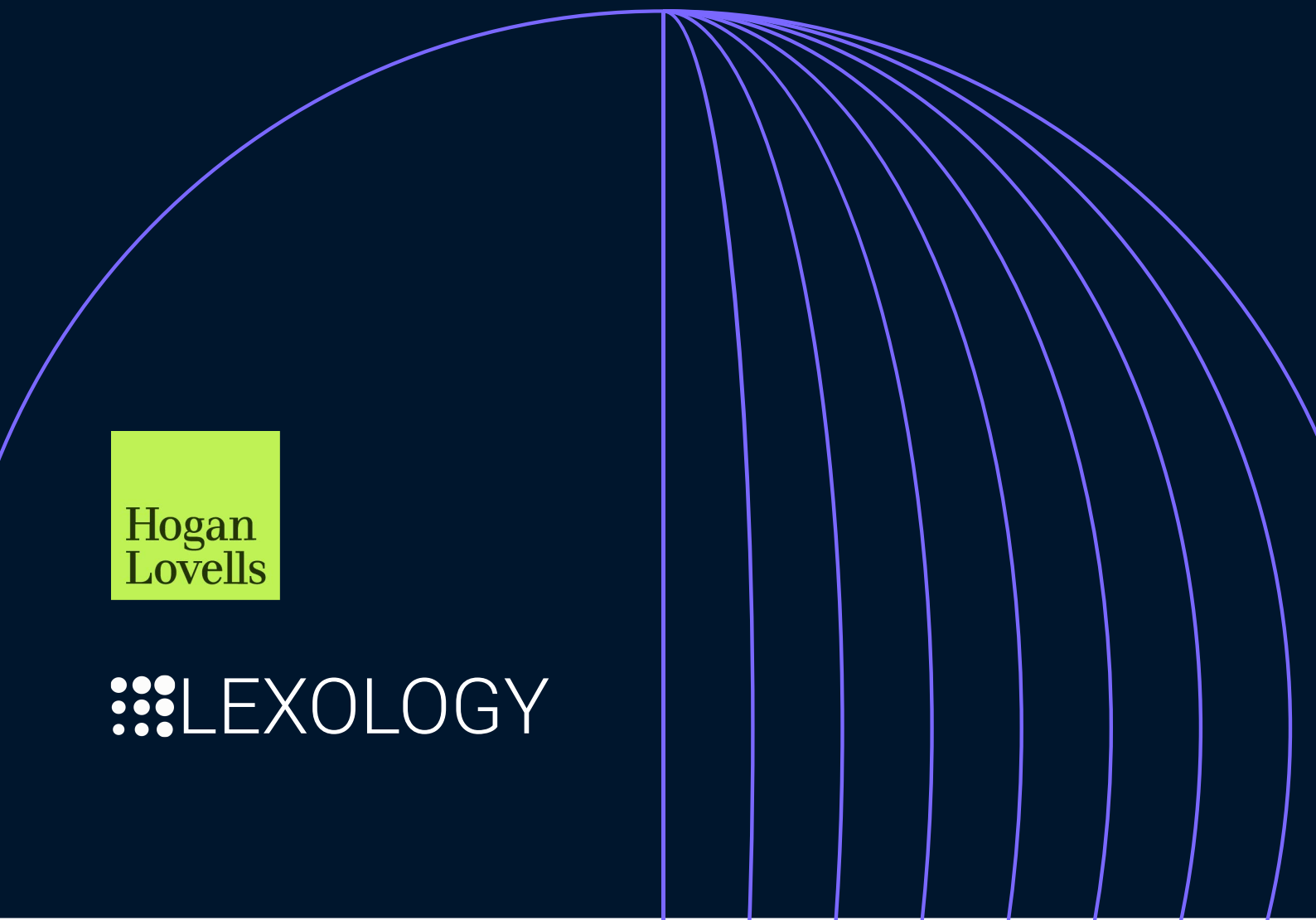
PANORAMIC

AUTOMOTIVE & MOBILITY 2025

Contributing Editors

Patrick Ayad and **Lance Bultena**

Hogan Lovells



Hogan Lovells

LEXOLOGY

Automotive & Mobility 2025

Contributing Editors

Patrick Ayad and Lance Bultena

Hogan Lovells

Panoramic guide (formerly Getting the Deal Through) enabling side-by-side comparison of local insights into automotive industry issues, including market overview; regulatory framework for manufacture, homologation, importation, and distribution; registration and insurance; mergers, acquisitions and joint ventures; incentives and barriers to entry; safety and environmental regulations; product recall and liability; competition enforcement; dispute resolution and distressed supplier issues; intellectual property; trade union and work council issues; technological and mobility advances; and recent trends.

Generated on: August 6, 2025

The information contained in this report is indicative only. Law Business Research is not responsible for any actions (or lack thereof) taken as a result of relying on or in any way using information contained in this report and in no event shall be liable for any damages resulting from reliance on or use of this information. Copyright 2006 - 2025 Law Business Research

Explore on **Lexology**

Contents

Global overview
Patrick Ayad, Lance Bultena
Hogan Lovells

China
Roy Zou, Lu Zhou, Mo Chen, Carol Shao
Hogan Lovells

France
Mikael Salmela, Christelle Coslin , Charlotte Le Roux, Sarah de Magalhaes
Hogan Lovells

Germany
Patrick Ayad, Carolin Marx, Detlef Hass, Moritz Langemann, Kerstin Neighbour, Sebastian Polly, Benjamin Schroeer, Birgit Reese, Heiko Tschauner, Christoph Wünschmann- , Jessica Goetsch, Sebastian Schnell, Melanie Schub, Susanne Schuster
Hogan Lovells

Hungary
László Partos, Zoltán Molnár, Christopher Noblet, András Multas
Hogan Lovells

India
Manjula Chawla, Chandni Chawla, Kripi Kathuria
Phoenix Legal

Indonesia
Mochamad Kasmali
Hogan Lovells

Italy
Marco Berliri, Francesca Rolla, Christian Di Mauro , Paola La Gumina
Hogan Lovells

Explore on **Lexology**

Japan

Jacky Scanlan-Dyas, Wataru Kamoto, Yasuyuki Shirabe

Hogan Lovells

Mexico

Juan Francisco Torres Landa, Adriana Lissette Pavón Mendoza

Hogan Lovells

Netherlands

Manon Cordewener, Joke Bodewits, Maria Benbrahim, Dirk-Jan Ridderinkhof, Hessel Roeleveld

Hogan Lovells

South Korea

Eui Seok KIM , Stephen T BANG, Jeung Jun Park, Ji Woong Jang

Kim & Chang

Spain

Alex Dolmans, Jon Aurrekoetxea, Casto Gonzalez-Paramo, Inmaculada Lorenzo, David Antón, Adrián Fernández de Pedro, Raquel Fernandez, Jesús Sánchez, Borja Fernández

Hogan Lovells

United Arab Emirates

Imtiaz Shah

Hogan Lovells

United Kingdom

Richard Welfare, Penny Powell, Oliver Wilson, Valerie Kenyon, Matthew Felwick, Angus Coulter, Tom Eyre-Brook, Aline Doussin, Alice Russen

Hogan Lovells

USA

Lance Bultena , Celine Jimenez Crowson, Lauren Deeb, Ryan L Ford, Michael L Kidney- , Kenneth Kirschner, William L Monts, Joanne Rotondi, David P Simonds, William W Yavinsky, Sean P Collins, Hannah M Graae, Susan R McAuliffe, Audrey Haroz Reed

Hogan Lovells

Vietnam

Gaston Fernandez, Hoang Ha Nguyen

Hogan Lovells

Explore on **Lexology**

Global overview

Patrick Ayad and Lance Bultena

Hogan Lovells

Geopolitics roils the automotive industry

In this space we regularly note the significant impact of government policy on the automotive industry. Laws and regulations are, after all, government policy. As technology and political contexts change, one expects the laws and regulations will also change either directly or through altered emphasis in interpretation.

The dynamic between governments, consumers, and companies is always challenging for the automotive industry because it operates at global scale, is economically and socially prominent, and the industry is extremely competitive and operates with tight profit margins.

In recent years, the shift toward EVs and software-defined vehicles – what we termed a 'once-in-a-century' change in technology – has been our core orientation. We outlined the role of government policy in that transition and explored the impact of geopolitical issues primarily through the impact on that change in technology.

We noted the automotive industry 'has always been highly regulated, but geopolitical factors are now increasingly important in government policy, impacting the industry's core operating parameters. In other words, massive technological shifts are challenging when only market principles are in play, but those challenges are exponentially more difficult when government policy is forcing the nature and pace of the changes, and policies within nations and among major markets are not aligned in critical aspects.'

This year, the focus must be reversed. We cannot start with technology and markets. Geopolitical issues are the dominate concern in the automotive industry. Those factors are not just changing tariffs and supply chains and thus product planning and consumer prices. Geopolitics are also changing the outlook on EVs and software-defined vehicles.

To understand what is happening in the automotive industry, we must initially zoom out and explore broad economic, political and geostrategic issues. Then we can return to the automotive industry.

Geopolitics, volatility and President Trump

Geopolitical concerns are not new. Tensions have been rising for several years between China and the 'Global West' as anchored by the United States. Any route to untangling those tensions and explaining them will have its weaknesses but the best angle is likely the evolution of what is referred to as the 'China shock' – the term often used to describe the rapid increase of goods entering world markets after China joined the World Trade Organization in 2001.

When China entered the global economic system, its massive, rapidly evolving, and inexpensive manufacturing capacity delivered an economic 'shock' to the rest of the world.

This had positive aspects and challenges for the rest of the world. Jobs were lost and industries altered, but new possibilities and lower prices came forward, too. The US and China seemed to thrive together to the point that some called the symbiotic commercial system 'Chimerica'. One deeply simplified view of that commercial system is the US tended to innovate products, China manufactured them, and Europe sought to regulate them.

Tensions began to emerge about 10 years ago and have grown consistently since then. On a bipartisan basis, in the US concerns arose that the US was losing control of critical supply chains, that jobs lost were not recovered, and that China's manufacturing success was not market driven only but to a significant degree built through non-market factors such as subsidies from the Chinese government and extensive limits on inbound trade and technology. China, in turn, felt the US and the Global West resented its success and did not recognise it as still a developing economy and a country with a different political structure and means of economic organisation.

China's national strategic plan 'Made in China 2025' succeeded very well. The complexity of Chinese production increased to higher valued output. Current analysis by a UN body indicates China accounts for 27 per cent of global industrial production. What is truly amazing is that China's share or global industrial output is projected to be 45 per cent by 2030. This expected growth is fuelled by continued investment in manufacturing capacity and a growing overcapacity, while domestic Chinese consumption is low. Many feel this productive capacity is not market based. The US and the EU, for example, have both made determinations of non-market subsides in 2024 when they imposed tariffs on EVs produced in China.

In US President Trump's first term, he imposed tariffs on China. President Biden kept those tariffs and added an extensive industrial policy of government-led investments in renewable energy, EVs, and semi-conductor manufacturing. President Trump won the election in 2024 with his Make America Great Again platform. A core element of that domestic policy is to grow the economy by reducing government regulation and green energy subsidies (including for EVs) and bring manufacturing back to the US. His foreign policy is built around using tariffs as a route advance US manufacturing capacity and protect it from what he sees as unfair actions. He announced various waves of tariffs aimed at several targets, not just China. He frequently takes a maximalist approach and then cuts back as needed. And he believes this approach encourages deal-making and advances his agenda faster than normal diplomatic and trade negotiations.

At this writing, despite recent tariff deals with the US, the tariff structure going forward is unknowable. No one knows whether a further trade war will take place and, if it does, who the players will be and the parameters of the economic battles. Nor can anyone know whether a broad array of deals will be struck or when that might happen and on what terms. What seems certain, however, is trade tensions will continue to expand.

Increased trade tensions mean tariffs will be higher on goods crossing certain borders. Non-tariff barriers such as limits on software, data exchanges and the sale of certain types of goods will almost certainly expand. De-risking supply chains, economic uncertainty, and new forms of competition will define the global economic landscape for the foreseeable future.

These tensions will continue to evolve. The US wants to manufacture more goods, not just innovate them. China wants to innovate more goods, not just manufacture them. With its

Competitiveness Compass, Europe seems to be starting to evaluate whether it has leaned too heavily on regulation in a way that inhibited the business climate and reduced economic growth, productivity and competitiveness.

The global automotive industry amid geopolitical competition

The automotive industry is significantly impacted by this geopolitical dynamic. Its supply chains are global and many of them originate in China. OEMs and major suppliers operate at a global scale, and production can cross national borders several times before a completed vehicle is brought to market. Tariffs, especially uncertainty regarding tariffs, challenge the operational planning and the fundamental economics of the industry. While non-tariff barriers – such as limits on types of technology or software or even data transfers -- have gotten less attention recently in the press, these issues also impose significant operational and economic challenges on a global industry.

The recent wave of trade issues did not start just recently, it has evolved over years. Auto companies came to rely increasingly on Chinese suppliers while also expanding sales operations in China – at the cost of the surrendering majority control and intellectual property and with limits on data use. As China grew economically, it became the world's largest auto market by volume and an important source of new revenue for foreign companies. As China's economy grew, it also leaned into motor vehicle production. Initially, its products were relatively unsophisticated, but its capacity advanced rapidly.

In recent years, foreign auto companies operating in China have faced increasing challenges. The rapid sophistication of Chinese manufacturers made them more challenging competitors. China's capacity with EVs, especially on battery production, exploded. So did capacity on advanced driving systems. Chinese OEMs are known for very rapid product development cycles that permit the integration of advances and quick iteration toward what is successful and away from what is not. As geopolitical tensions rose, the operating environment in China also became more challenging for foreign companies. This combination of better domestic competitors and operational challenges has left many foreign OEMs with economically challenged investments in China.

The transition toward EVs exploded these concerns.

EVs, batteries, geopolitics and climate change

EVs are still seen as the future of mobility, but the path there will be longer than that outlined by regulators in major markets. Nothing is more critical to an EV than the battery. Battery technology is therefore now seen as a strategically significant industry, essential to future economic success.

China is, by volume, the dominant producer of batteries for EVs. China also dominates the supply lines of critical minerals and metals essential to EV production. Many policymakers have begun to worry that dependence on China for battery supply and critical materials could be more strategically challenging than the world's reliance on OPEC for petroleum resources, particularly if tensions continue to build and commercial relationships are deeply fractured.

China has long recognised the strategic potential of EVs to ease their energy security concerns and allow the nation to capture a strategically significant industry. China's industrial policy has assiduously built this capacity through a particularly deep interconnection between government and industry.

Under President Biden, the United States responded with its own entry into industrial policy. The Inflation Reduction Act (IRA) and other legislation passed in the United States in 2022 led to the possibility of dramatic sums of public funds invested in critical infrastructure, the production of semiconductors and new energy technologies. Batteries for EVs and their supply lines of critical minerals and metals were a particular focus of the IRA.

That industrial policy initiative sought to bring production to the United States and North America. The considerable subsidies involved around EVs, and batteries concerned allies in Europe and Asia. Those concerns are eased as the United States has sought to accommodate some concerns while also encouraging those governments to enact their own policies to rapidly increase capacity beyond China.

In 2024, the Biden Administration also announced a set of aggressive tariffs on Chinese EVs and principle components such as batteries. The EU found China subsidised EV production and also imposed tariffs on EVs but at a rate that varied by manufacturer. The EU did not put tariffs on batteries and components as the United States did.

Batteries are not the only focus of this competition. Advanced vehicles are at the forefront of integrating sensors, artificial intelligence and software to offer rapidly advancing driver assistance and connectivity-related functions. The production of semiconductors and the development of artificial intelligence are also areas of growing geopolitical competition, and thus governmental engagement with the market.

President Trumptakes a different approach

President Trump is targeting for elimination many of the industrial policy actions undertaken by President Biden. President Trump sees the 'EV mandate' as a government rule that is misaligned with consumer demand and is thus a costly imposition on the industry given concerns about profitability or even the ability to sell sufficient EVs to meet various regulatory demands. His Administration has announced an intention to considerably roll back emission stringency rules. In the meantime, the Environmental Protection Agency (EPA) has taken certain action to reconsider previous rules in this regard, but the further timing and exact extent of the revisions remains to be seen.

President Trump also believes the huge federal subsidies needed to incentivise EV sales and create infrastructure are costly and unlikely to be efficacious.

Misalignment between EV rules and market acceptance

Industry challenges in meeting government targets for EV penetration are not unique to the United States. These challenges are evident in the EU, the UK and other nations.

The EU recently issued the Competitive Compass and the Automotive Action plan. Both seem acknowledge challenges with regulations and a desire to make modifications that are more market aligned while also making progress on climate change.

Advanced driving capacity but not robo-taxis

Some envisioned a rapid transition to (fully) autonomous vehicles (AVs), with mobility services provided by 'robo-taxis'. Technical issues were seen as soluble soon, and this capacity would pull along consumer acceptance and regulatory development.

This extreme optimism has, in many circles, shifted to extreme pessimism as many seem to have assumed that AV investments are a lost cause. Certain challenges in cities with full AV testing have only enhanced these pessimistic views. However, lately, there appears to be a new optimism towards the deployment of AVs in various parts of the world.

We have long argued that as to autonomous driving technology, the issue is not so much when as where. Robo-taxis will not in the near-to-medium term be a widely available mobility solution. Yet, this reality does not mean that autonomous driving technology is not developing and having a significant impact. In fact, in some regions or countries, at least the law is ready for AVs. AV technology is advancing in off-road application in agriculture and industry. This capacity will further transform as sensors and artificial intelligence increase capacity.

Driver assistance technology continues to advance, and its applications are increasingly both more robust and more widespread within new vehicles. This technological revolution is neither as rapid nor occurring where some had expected, but that does not mean it is not continuing to both develop and transform the on-road driving experience.

Governments continue to seek the development of AVs. Regulations have developed in the EU and the UK. China is particularly encouraging of AV development using Chinese technology. The Trump Administration indicates it seeks to ease the regulatory path for AV development and deployment.

Cybersecurity and privacy

As advanced driving features expand and connectivity becomes even more robust, vehicles generate ever more massive amounts of data that is economically valuable.

As the value of data expands, so does concern about privacy. Again, government policy is a critical factor. Europe's rules are more rigorous and are expected to remain so. China's rules optimise for national security with little real concern for individual privacy. Rules in the United States are less aggressive than in Europe but evolving.

With connectivity comes concern about cybersecurity, both to protect sensitive data and to ensure the safe operation of the vehicle. Recent theft cases have shown vulnerability of vehicles. In this area, government policy is again key.

The Biden Administration adopted rules mirroring those in China that limit Chinese hardware and software in vehicle connectivity. The Trump Administration suspended implementation but is expected to move forward with this rule.

This regulatory development indicates the origin of software will be yet another area of the supply chain the industry will have to monitor on a global basis.

ESG and activism: the 'new' political risk

Environmental, social and governance (ESG) concerns were of ever-increasing importance to every business. ESG disclosures initially were exclusively voluntary and largely seen as a branding function, but such disclosures were increasingly compelled by government action in the United States and Europe.

Sustainability, labour practices, governance rules, data protection, privacy and other issues have long been regulated by governments. ESG concerns add more force and depth to those regulatory efforts. Again, because the automotive and mobility industry is massive in scale and economic significance, it is greatly impacted by these efforts as the industry is a target for activism and governmental action.

Many have noted an ESG 'backlash' in several markets. This dynamic has not eased challenges. It has made them more complex. ESG-based regulations and disclosures have continued to increase while the image and publicity issues have diverged in a way that creates deeply challenging crosscurrents.

This new political risk is of increasing importance to the automotive and mobility industry. The challenges here will grow as geopolitical factors advance. For example, concerns about labour practices in China, and lately even in the United States, have received recent attention. This attention poses branding issues for the industry and raises concerns about compliance with current regulations and the development of more stringent rules in the future.

In China, activists have used social media on occasion to generate consumer action against companies that are perceived, either by themselves or by the governments where they are headquartered, to have inappropriately addressed China's concerns. These actions are often paired with governmental action by China to create a powerful dynamic designed to force corporate action.

Given the increasing geopolitical tensions, it is not surprising that activist activities and public opinion are sometimes in tension. Appeasing one group can create further issues in another jurisdiction.

Tension between the demands of activists is far from limited to the geopolitical realm. Often enough, there is significant tension between the goals of competing activists even within a single economy. Addressing the concerns of activists is both of increasing importance and complexity.

Choices and trade-offs but marvellous transformation, too

Aggressive technological change in the context of increasingly challenging geopolitical and climate concerns, with increasing regulatory uncertainty and issues with market acceptance for EVs, all while activism becomes more aggressive, means a time of challenging choices and trade-offs for all in the automotive and mobility industry.

We do not want to minimise those challenges. So much of our work is directed at identifying those issues and trends so we can help those in the industry make informed choices to meet their goals.

Focusing on these challenges, however, obscures the marvellous evolution taking place in the automotive and mobility industry that is positively transforming the future, because transportation and movement more generally are critical to economic, social and personal

development. We have expressed this optimism in other forums by discussing what we have termed 'Living Mobility' – a mobility environment that is more inclusive, objective, unifying and sustainable.

Patrick Ayad — patrick.ayad@hoganlovells.com
Lance Bultena — lance.bultena@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

China

Roy Zou, **Lu Zhou**, **Mo Chen**, **Carol Shao**
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

China is one of the world's largest counties in both automotive market and vehicle manufacturing, boasting an impressive total vehicle output of 31.28 million units and sales volume of 31.44 million units in 2024. Involving over 100 sub-industry sectors, China's automotive industry is a cornerstone with economic and strategic significance given its contribution to the GDP growth.

Since its accession to the World Trade Organization in 2001, China has experienced unprecedented growth in the automotive industry and market. Despite challenges such as geo-political and trade tensions, fluctuating costs and availability of key components and materials, supply chain disruptions, and the post-covid resurgence, growth remained resilient. With steady improvements in product quality, Chinese automotive brands have continued to grow and have a strong presence in the global market. These brands have particularly gained an increasing edge in the segmented market of new energy vehicles (NEVs).

Reflecting this, in 2024, China recorded the sale of 7.720 million purely electric vehicles and 5.146 million plug-in hybrid vehicles, marking year-on-year growth of 15.5 per cent and 83.5 per cent, respectively. This places Chinese brands among the main players in the NEV sector, with China achieving a total of 12.888 million units in NEV production – an increase of 34.4 per cent year-on- year – with sales of NEVs climbing by 35.5 per cent to 12.866 million units. China's output and sales of NEVs ranked first in the world for ten consecutive years. The momentum continued from January to March 2025, with NEV output in China totalling 3.182 million units, an increase of 50.4 per cent year-on-year, and sales of NEVs increasing 47.1 per cent to 3.075 million units. There is little doubt that China's automotive market is vibrantly evolving, although it has not necessarily levelled out. Market demand will continue to outpace other consumer markets, especially for NEVs. This anticipated market growth is bolstered by the Chinese government's future-orientated policies, including having 40 per cent of vehicles powered by new energy by 2030, and taking petrol cars off the market gradually, potentially from 2030. It is also expected that NEVs will become mainstream in the automotive market by 2035, accounting for more than 50 per cent of total sales. These ambitions align with China's overarching environmental goals to peak national emissions by 2030 and achieve carbon neutrality by 2060.

The following trends have been observed based on consumer behaviour and are likely to indicate the future direction of the automotive industry in China:

- It is generally believed that China will sustain continuous economic growth in the medium term. For 2025, GDP growth in China is still forecast at around 5 per cent despite domestic and international economic challenges, according to the annual sessions of the National People's Congress and the National Committee of the Chinese People's Political Consultative Conference held in March 2025.
- Continued urbanisation, rising family incomes, demand for automotive travelling, consumption upgrading, and increased mileage capacity and accessibility of

recharging infrastructures for electric vehicles will all contribute to the industry's growth, as well as the preferences of new buyers. Chinese consumers will have a bigger appetite for luxury, roomier and greener models.

- Chinese consumers are paying more attention to vehicle safety, accessories and value- added functions, and fuel economy (in the case of fossil fuel cars) or mileage capacity (in the case of NEVs). Affordability at the cost of the above will be much lower than the norm for automotive manufacturers.
- Consumption of NEVs continues to grow quickly due to various causes. In an effort to reduce carbon emissions and dependence on fossil fuels, the Chinese government has put forward a series of stimuli to promote the consumption of NEVs, such as offering tax exemption to NEV consumers, specifically, each NEV purchased between 1 January 2024 and 31 December 2025 will be eligible for full exemption (up to 30,000 yuan for each NEV) on vehicle purchase tax, and each NEV purchased between 1 January 2026 and 31 December 2027 will be eligible for 50 per cent exemption on vehicle purchase tax, up to 15,000 yuan. Moreover, for all NEVs, there is a 'green channel' for application for licence plates in certain major cities where issuance of licence plates is managed under a rigid quota system.
- The intelligent networked vehicles (INV) sector in China has transformed from an era of exploratory testing and validation to a pivotal phase characterised by rapid technological advancements and the expansion of applications. China is making continuous efforts towards the scaled-up commercialisation of INVs, including the deployment of INVs in autonomous driving taxis, logistics transmissions and unmanned delivery systems.
- China's automotive market is transitioning from hardware-centric manufacturing to a software and AI-driven paradigm, and software-defined vehicles (SDV) are gaining popularity in Chinese NEV market. OEMs start to provide capacity for the vehicles to upgrade software-defined functions and algorithm via Over-the-Air technology (OTA), through collaborations with technology companies, or the OEM's in-house capacity.

Law stated - 30 April 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

China's automotive manufacturing sector is, in general, heavily regulated. Nevertheless, the Chinese government has in recent years put some efforts into streamlining its various administrative approval procedures for foreign investment in this sector. One example is that, since the promulgation by the National Development and Reform Commission (NDRC) of the new Provisions on Administration of Investment in Automotive Industry, which entered into force on 10 January 2019, building a new automotive manufacturing

plant no longer needs the approval of the NDRC or the State Council, but only requires record filing with the NDRC's local or provincial counterpart. Another example is that after the Foreign Investment Law came into effect on 1 January 2020, foreign direct investments in all industry sectors (except for prohibited sectors) no longer need to be either filed with or approved by the Ministry of Commerce (MOFCOM). Subsequently, foreign direct investment in the automotive manufacturing sector does not require approval by MOFCOM (but is still subject to all other applicable approvals and procedures), which could add several months to the overall timeline for establishing a foreign invested automotive manufacturing business.

Once an automotive manufacturing plant is established, the manufacturing process is subject to a special 'access permit for automotive manufacturers and their products' according to the Regulations on Automotive Vehicle Manufacturing Enterprises and Product Acc
ess Management, issued by the Ministry of Industry and Information Technology (MIIT) on 27 November 2018, effective from 1 June 2019. To qualify for a manufacturing permit, an automotive manufacturer must meet all the requirements set out by MIIT, including obtaining the site, capital and personnel necessary for carrying out manufacturing operations, as well as demonstrating capabilities on product design and development, facility, consistency and quality control, and product sale and post-sale services. MIIT periodically publishes a list of manufacturers and products for which permits have been granted.

Each vehicle model produced by manufacturers with the above-mentioned access permit must also:

- meet the relevant standards (as set out in Items and Underlying Standards for Compulsory Standards Inspection of Automotive Products promulgated by MIIT);
- obtain the China Compulsory Certification (CCC); and
- pass an inspection performed by a qualified inspection institution.

Automotive parts must be manufactured in accordance with the compulsory standards (known as Guobiao or GB), formulated by the Standardization Administration of China (affiliated to the State Administration for Market Regulation since 2018). In addition, certain automotive parts being subject to CCC must also undergo a specific accreditation process.

As to distribution, suppliers and distributors must register with the national automobile distribution information management system administered and maintained by MOFCOM within 90 days of the issuance of their business licence.

Furthermore, vehicles for sale must be registered in accordance with the National Environmental Protection Catalogue and, where applicable, the local environmental protection catalogue, which might set a higher standard for registration. The issuance of on- road permits (vehicle registration licence) and licence plates is administered by the vehicle administration office under the local Public Security Bureau (PSB) based on the automobile register and CCC. In addition, all vehicle owners must purchase mandatory liability insurance for transportation accidents before their vehicles can be registered with the PSB and legally allowed on the road. The base insurance premium rate and the insurance terms are uniformly set by the National Administration of Financial Regulation since 2023 (formerly China Banking and Insurance Regulatory Commission). Vehicle

owners are free to decide whether to purchase additional commercial property and liability insurance.

Law stated - 30 April 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

Foreign automotive companies must establish foreign-invested enterprises (for example, in the form of a limited liability company) in China to operate their businesses, and cannot operate without a permanently established business presence.

There used to be restrictions on the shareholding of foreign investors in a Chinese automotive manufacturing enterprise, such as a shareholding threshold of 50 per cent and the prohibition of investing in more than two automotive manufacturing enterprises of the same type. These restrictions have been progressively lifted since 2018 and, according to the Special Administrative Measures (Negative List) for Foreign Investment Access issued by MOFCOM in 2021, as of 1 January 2022 all such restrictions are lifted. There is now no restriction over foreign shareholding in automotive manufacturing companies. There is also no restriction on foreign investors holding equity interests in automotive part manufacturers.

Due to the aforesaid historical restrictions on shareholding, traditionally overseas automotive manufacturers have partnered with large state-owned or privately owned automotive groups to establish Chinese–foreign joint venture companies. Under this model, overseas automotive manufacturers – mainly from the United States, Europe, Japan and South Korea – localise their brands and share in the profits with their joint venture partners.

Foreign automotive companies also establish wholly owned subsidiaries without a Chinese partner. This model is traditionally possible only for automotive parts manufacturers and import and sales companies, but is now permitted for all types of automotive manufacturers. One of the advantages of setting up a wholly owned subsidiary is that the foreign automotive company has full autonomy in deciding on all strategic and operational matters in relation to the subsidiary. However, lacking a Chinese partner with an inside track can limit the wholly owned subsidiary's ability to tap into the local market and in many cases supply to the local government, which itself is a highly sought-after customer base.

There are two sources of supplies: imported and local. In the automotive parts market, foreign companies, as well as localised foreign-invested enterprises (including joint ventures), have been key players in certain technology-heavy areas such as power steering, electronic braking, suspension systems, engine management systems, IC chips and electric drive systems. Chinese automotive parts makers are gaining market share in certain sectors, and increasingly taking a leading role in some, such as the sub-sector of new energy vehicle batteries.

Branded automotive manufacturers may leverage their market position in framing their contractual arrangements with automotive parts suppliers. For example, many of them

used to require small- to mid-scale suppliers to sell parts exclusively to their branded vehicles under an exclusive OEM arrangement. However, according to the Administrative Measures for Automobile Sales enacted by MOFCOM on 1 July 2017 (the Automobile Sales Measures), this practice is no longer permitted, as the Automobile Sales Measures generally prohibit automotive manufacturers from restricting or preventing automotive parts makers and importers from supplying their products to others.

Law stated - 30 April 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

Prior to the enactment of the Automobile Sales Measures and with the exception of parallel imports, car sales in China were primarily made through a branded sales and service system under the Implementation Measures on Management of Automobile Brand Sale, issued in 2005. Under the branded sales and service system, an automotive manufacturer may establish a branded sales and service network, or authorise a sole distributor to do so, by using a unified shop name, logo or trademark. While a domestic automotive manufacturer may sell cars by itself, an overseas automotive manufacturer must establish a local presence or authorise a domestic entity to act as its sole distributor to sell cars in China. The sole distributor may further authorise several sub-dealers to engage in automobile sales and service activities. In other words, a dealer must be authorised by either the automotive manufacturer or the sole distributor to sell cars and car parts. Within this traditional regulatory framework, automotive manufacturers and their sole distributors gain more leverage in negotiating their contractual arrangements with dealers.

The introduction of the Automobile Sales Measures in July 2017 has reshaped the automobile sales and post-sales service market in China by granting distributors more freedom and leverage in the market. Under the Automobile Sales Measures, for the first time it is possible for dealers to distribute automobiles without pre-authorisation from automotive manufacturers in certain circumstances. It also allows dealers to purchase cars from other authorised dealers for resale and sell imported vehicles through a parallel import scheme. In addition, the Automobile Sales Measures permit the establishment of automobile post-sales service providers without in-house sales functions, which reportedly have a higher profit margin than those with an in-house automobile sales function. It was widely expected that, alongside the traditional dominant single-brand sales, spare parts, service and survey (4S) store networks, additional automobile distribution and post-sales service channels that are relatively independent from automotive manufacturers and their sole distributors would emerge, especially in rural areas where the profit margin is typically lower and too costly for 4S store networks to cover. Nevertheless, it seems that the traditional single brand 4S stores still play a dominant role in automobile sales. It may take longer to see the changes brought about by the Automobile Sales Measures.

It is also worth noting that with the continuous growth in the sales of NEVs, the direct-to-customer (DTC) model is on the rise. The DTC model has been widely adopted by NEV brands established in recent years, such as NIO, Xpeng, Li Auto, and Xiaomi.

These OEMs take and manage the orders through their offline direct sales store or online platforms. Under this model, vehicle prices are set uniformly nationwide. Under the impact of the DTC model, 'traditional' motor vehicle manufacturers have also begun to innovate their sales approach by replacing 4S stores (distributors) with, or transforming 4S stores to, sales agents. The sales agents are largely providing delivery and after-sales services, and they usually do not have any discretions on pricing (as opposed to 4S stores). These new sales models are expected to be more widely adopted due to their advantages in brand management, marketing and sales costs, and consumer experiences.

Law stated - 30 April 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

Mergers, acquisitions and consolidations in the automotive industry are generally encouraged by the Chinese government to the extent that they enhance overall competitiveness in the automotive industry. As the Special Administrative Measures (Negative List) for Foreign Investment Access (2021 version) removes the final restrictions on foreign shareholding in automotive manufacturing companies, more acquisitions and restructurings occur to allow foreign car manufacturers gain increased shareholding in Chinese companies.

Merger control (antitrust) filing could still be a major concern, since many of the players in the market are global automotive makers and might have significant market share in a specific segment. Another major issue is how to protect a foreign brand or trademark in China. Licensing of such brands requires careful consideration and strategy.

Law stated - 30 April 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

The Chinese government has been providing incentives to the new energy vehicle (NEV) sector for the past few years, ranging from manufacturing and purchasing subsidies and tax breaks to legislation and policy stimuli. Although (since the end of 2022) purchasing subsidies are no longer provided for NEVs, tax exemption still applies. According to the Circular on Continuing and Optimising the Tax Reductions and Exemptions Policies on Purchases of New Energy Vehicles jointly issued by the Ministry of Finance, State Taxation Administration and MIIT on 19 June 2023, each NEVs that is purchased in China from 1 January 2024 to 31 December 2025 is eligible for vehicle purchase tax up to 30,000

yuan for each NEV. Moreover, each NEV purchased from 1 January 2026 to 31 December 2027 is eligible for a partial exemption of vehicle purchase tax up to 15,000 yuan.

To promote automobile consumption, the Chinese government is also providing vehicle trade-in subsidies. In 2025, individual consumers who trade in NEVs or internal combustion engine vehicles with scrapped vehicles will be subsidised up to 20,000 yuan for each. For those who trade in new vehicles with used (but not scrapped) vehicles, a subsidy up to 15,000 yuan will be provided for each. These policies have effectively promoted automobile consumption. According to a report released by NDRC in February 2025, more than 6.8 million old vehicles were replaced with new ones in 2024, driving automobile sales of 920 billion yuan.

Other incentives include the preferential enterprise income tax rate – if an automotive manufacturer qualifies as a High and New Technology Enterprise in China, it will be granted a preferential enterprise income tax rate of 15 per cent (reduced from 25 per cent) and certain R&D expenditure may be deducted from its pre-tax revenue. Also, the Amendment to the Regulations on Management of New Energy Vehicle Production Enterprises and Product Access (which came into effect on 1 September 2020) has further lowered the entry barrier for the NEV market by, among others, no longer requiring an NEV manufacturer to possess design and development capacity on its own. Moreover, there is no longer any restriction on foreign capital investment in automotive manufacturing.

However, there are still barriers to entry into the market. On 4 June 2017, NDRC and MIIT jointly issued the Opinions on Accomplishing the Administration of Automotive Investment Project, which provided that, as a general principle, the Chinese government will not approve the new establishment of any traditional petrol and diesel vehicle manufacturer. Also, capital requirements do apply to both foreign and domestic investors, subject to the type of automotive product manufactured. For example, the total investment amount for establishing a new commercial vehicle manufacturer must be no less than 2 billion yuan, of which 800 million yuan must come from the investor's self-possessed funds. Nevertheless, high-quality, environmentally friendly and innovative products will still find their opportunities, especially in non-first-tier cities in China, as local governments may be more motivated to attract investment. It must be noted, however, that the Provisions on Administration of Investment in Automobile Industry, promulgated by NDRC and in effect since 10 January 2019, have set forth requirements and restrictions for the establishment of NEV manufacturers. The requirements pertain to design and R&D capacity, production and post-sales services, and a new NEV factory can only be set up in a province where all existing NEV factories in that province have commenced operations with the approved production capacity, and the overall automotive production capacity in that province must be at a utilisation rate higher than other local industries in the two years before the establishment of the new factory.

Law stated - 30 April 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

> What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

Automobiles and automotive-related products are among the most highly regulated in the product quality and liability regime of China. A China Compulsory Certification (CCC) must be secured before whole vehicles and applicable automotive parts (either domestically manufactured or imported) can be sold in the Chinese market. Under the current version of the CCC Catalogue, promulgated by the State Administration for Market Regulation (SAMR) on 10 August 2023, whole vehicles including passenger cars, trucks, trailers and motorcycles, and components including tyres, vehicle windows, rear-view mirrors, safety belts, seats and door locks, all require CCCs prior to sale in China. CCC-related regulations are actively enforced by the Certification and Accreditation Administration (CNCA). Manufacturers must apply CCC marks to their products (including applicable modifications) and are subject to routine CNCA inspections once a year.

For whole vehicles, however, CCC is only the first regulatory step before entering into the market. For consumers to be able to drive cars on the road, they must receive emissions type approvals according to the standards set by the Ministry of Ecology and Environment (MEE) as well as its local and regional counterparts. As vehicle emissions are regarded to have a major impact on air quality, China has recently taken action to strengthen its vehicle emissions standards. From 1 July 2021, all types of motor vehicles (including heavy-duty vehicles) imported into and distributed and registered in China must comply with the Stage VI emission standard, replacing the previous Stage V emission standard implemented in 2018.

Apart from the above, manufacturers, sellers and other parties in the distribution chain – such as those that provide transportation, warehouse services and repair and maintenance – are subject to various post-sale product quality and safety monitoring and reporting obligations pursuant to the Product Quality Law, the Consumers' Interests and Rights Protection Law and the Civil Code. If a product is found to contain a defect, the laws require primarily that manufacturers, or their domestic importers if the car is foreign made, conduct a public recall, pursuant to guidelines and procedures set up in the Regulation on the Administration of Recall of Defective Auto Products (the Recall Regulation) effective as of 1 January 2013 and the implementing rules of the Recall Regulation effective as of 1 January 2016. The Recall Regulation covers both motor vehicles and trailers and applies to automobiles produced or sold within China. The requirement to recall is triggered when automotive products are determined to pose unreasonable risks to personal and property safety, or when products fail to comply with mandatory national or industrial standards that safeguard personal and property safety. Under the Recall Regulation, manufacturers are also required to promptly evaluate and investigate potential defects when they become aware of them, and the SAMR will also notify the manufacturers about potential defects when they come to its notice through reports or its own investigation. Manufacturers and operators in the distribution chain who refuse to cooperate with SAMR during the defects investigation and recall process will be subject to penalties, and automotive manufacturing permits may be revoked in serious circumstances. Moreover, Provisions on the Administration of Motor Vehicle Emissions Recalls, promulgated by SAMR and MEE, effective as of 1 July 2021, have expanded the scope of product recalls to include emissions recalls. Hence, motor vehicles with substandard exhaust emissions must be

recalled. Moreover, on around 15 March each year (World Consumer Rights Day), SAMR publishes a report on product recall due to safety and environmental issues.

It is noteworthy that the safety of new energy vehicles has been a major focus for SAMR in recent years. SAMR has reiterated in March 2025 in an public announcement that, it aims to enhance automotive product qualify and safety through innovate regulatory approach, including to improve the management of automobile recalls. On 25 February 2025, the MIIT and SAMR released the Notice on Further Strengthening the Management of the Access, Recalls and S
oftware Over-the-Air Update of INVs. The notice further refines the regulatory provisions for the access and recall management of INVs equipped with combined driving assistance systems (ie, level 2 driving automation systems) and capable of software OTA upgrades. It also provides guidance for standardising the OTA upgrade activities of automobile manufacturers. MIIT requires automotive manufacturers to conduct comprehensive testing and verification of combined driving assistance systems, clearly define the boundaries of system and security response measures, make true representations, ensure comprehensive disclosure to the consumers, endure consistency of product qualify, undertake product liability, and effectively enhance the product safety of INVs.

On 23 August 2024, the MIIT released various compulsory national standards for INV, namely, GB 44495-2024 – Technical Requirements for Vehicle Cybersecurity, GB 44496 2024 – General Technical Requirements for Software Update of Vehicles, and GB 44497- 2024 – Intelligent and Connected Vehicle – Data Storage System for Automated Drivi ng. These standards are considered as the first batch of a series legislations on INV-related national standards, and are considered to be of great significance for improving the safety of INVs once coming into effect since 1 January 2026.

Note that China does not specifically regulate SDVs. Rather than that, SDVs are normally considered as a type of INVs, which are regulated through various aspects including safety. Normally, the regulations applicable to INVs apply to SDVs as well.

Law stated - 30 April 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

The Part III Contract and the Part VII Tort Liabilities of the Civil Law Code, Product Quality Law and Consumers' Interests and Rights Protection Law are the primary legislation setting out the bases for product liability in civil law cases, which generally are divided into contract actions and tort actions. A potential breach of contract claim exists between the customer and the party that directly sells the automotive product to the customer. In comparison, a cause of action under torts can be asserted by anyone who has allegedly been injured by a defective product against a party in the distribution chain that allegedly caused the damage. In extremely serious product liability cases, the government may also pursue criminal charges pursuant to the Criminal Law.

The civil procedures of China recognise joint or representative actions, but this is different from a class action under other common law jurisdictions, such as the United States. Joint actions are for claimants who share the same legal relationship against the defendant or defendants. The court's decisions in such cases apply only to parties acknowledging the proceedings. We are not aware of any large-scale joint or representative action ever being brought in consumer or product liability claims.

The Civil Procedure Law (most recently amended on 1 January 2024) also allows qualified parties, such as national or provincial-level consumer interests and rights protection organisations, to represent groups of consumers in public interest litigations against defendants of product defect claims. In practice, neither joint actions nor public interest actions are common in cases involving automotive product defects. Claims involving numerous consumers are primarily settled through public recall actions under the supervision of the Chinese government, or filed against manufacturers and sellers on a case-by-case basis.

Law stated - 30 April 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

The State Administration for Market Regulation (SAMR) is empowered to exercise the antitrust-related functions that were previously exercised by the competent divisions under the National Development and Reform Commission (NDRC), the State Administration of Industry and Commerce and the Ministry of Commerce.

The automotive industry has long been a major target of the competition enforcement. On 4 January 2019, SAMR promulgated Antitrust Guidelines for the automotive industry, which grabbed the attention of potential investors for various reasons. For instance, the Antitrust Guidelines offer some clarification about the demarcation of relevant markets. Compared to the 2016 draft published by NDRC, the Antitrust Guidelines provide more specific explanations on how to define a relevant market according to various components in sales and aftersales services. With respect to anticompetitive agreements, they establish a 'prohibition plus exemption' framework, meaning agreements that substantially hinder competition are prohibited, but exemptions are granted if they satisfy the conditions set forth in the Antitrust Law. Moreover, they stipulate a list of common types and thresholds applicable to presumed exemptions, which could have significant implications for vertical anticompetitive agreements that have been crucial but also tricky for major economic entities across the world. It is also worth noting that Antitrust Guidelines make it clear that suppliers can be considered dominant in aftersales markets even if they are not dominant in sales markets, and any conduct that falls within the three categories of abuse of a dominant position is prohibited. It is worth noting that according to the Annual Report on Antitrust Enforcement published by SAMR on 9 June 2023, in 2022 the SAMR unconditionally approved 37 cases in the new energy vehicle battery and raw material industry, with a total transaction amount of approximately 153 billion yuan. These cases

mainly involved lithium-ion power batteries for electric vehicles, graphite anode materials, ternary cathode materials, lithium iron phosphate cathode materials and lithium-ion battery electrolyte. According to the annual report published by SAMR on 19 June 2024, in 2023, the automotive industry-related cases also accounts for a significant portion of approved cases.

Effective as of 1 August 2022, China has amended its Antitrust Law, for the first time since the law first came into force in 2008. The amended Antitrust Law increased the maximum fines on the illegal concentration of undertakings from the previous 500,000 yuan to:

- 10 per cent of the sales amount of the preceding year on top of other corrective measures, where the concentration has the effect of eliminating or restricting competition; or
- 5 million yuan, where the concentration has no eliminating or restricting impacts.

Moreover, the amended Antitrust Law increased the maximum fines for monopoly agreements and failure to cooperate with antitrust investigations. Where the violation is extremely severe, its impact is extremely high and the consequence is especially serious, SAMR can multiply the fine amount by a factor between two and five. The greatly increased penalties are expected to make M&A dealmakers in the automotive industry more conscious of antitrust reviews. Other major changes in the Antitrust Law include prohibiting the use of certain technologies that lead to anticompetitive behaviour, enabling SAMR to review non-threshold transactions, introducing the stop-the-clock system and the safe harbours for vertical monopoly agreements, and abandoning per se treatment for resale price maintenance. With the updated Antitrust Law, we anticipate that enforcement actions will continue to reflect the antitrust authority's active initiative and hard stance against monopolistic practices. The automotive industry is likely to remain a major target under stringent scrutiny.

Law stated - 30 April 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

The majority of disputes in the automotive industry arise as a result of product liability and contractual issues, such as supply chain disruptions or commercial disputes. The parties involved usually include automotive manufacturers, suppliers, dealers, service providers, consumers and any other third party that suffers injuries or losses. Employment and IP issues are also commonplace.

These disputes will be resolved through litigation or arbitration. In some major cities in China, there are arbitration or mediation centres specifically chosen by state-run industry associations or quality inspection institutions to settle automotive-related disputes, such as automotive industry consumer arbitration centres in Shanghai, Hangzhou, Wuhan, Nanjing, Harbin and Changchun. The government also provides personnel, contract templates and expert opinions to those who need help in this area.

The Civil Procedure Law (most recently amended on 1 January 2024) introduced pretrial preliminary injunctions, allowing the party who claims damages to receive injunctive relief before a judgment is rendered.

Law stated - 30 April 2025

Distressed suppliers

11 | What is the process for dealing with distressed suppliers in the automotive industry?

There is no specific formula for dealing with distressed suppliers in the automotive industry in China. Steps that can be taken include negotiating and documenting a security agreement with the distressed supplier, and negotiating new supply agreements with prospective purchasers of the troubled supplier's business.

When suppliers are likely to become bankrupt, before the court officially accepts the bankruptcy application, the manufacturer (if unsecured) can initiate an action against the supplier for debt repayment and apply for preservation measures. In practice, the court often asks the applicant to provide security for its application for preservation measures.

Law stated - 30 April 2025

Intellectual property disputes

12 | Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

With the rapid expansion of China's automotive industry, the number of IP disputes has risen. Both domestic and international automotive companies have acted as claimants in IP disputes in past years.

China has a well-established IP protection legal framework and IP rights owners should familiarise themselves with how the system operates. IP rights owners need to identify and register IP rights whereby they can reinforce their IP portfolios in China and ensure the future enforceability of such rights. Indeed, the China aspect should form a part of any international filing strategy. Trade secrets are another asset in the automotive industry and both contractual and physical protective measures should be adopted. Periodical training of employees and suppliers plays a key role in pre-empting leakage of confidential information.

China has undergone a series of judicial reforms in the IP disputes area in the past few years. In particular, China has established specialist IP courts in Beijing, Shanghai and Guangzhou, and an IP court of the Supreme People's Court to hear technical cases, such as disputes over patent rights and trade secrets. Since 1 January 2019, appealing certain patent-related judgments made by Higher People's Courts, IP courts and intermediate courts nationwide have been subject to the jurisdiction of the Supreme People's Court's IP court. In addition, while specific performance and injunctions have generally been difficult to

ascertain as legal remedies, Chinese courts have become more willing to grant preliminary injunctions, exercise their discretionary powers and order defendants to substantiate their denials in some cases. The reform has resulted in greater consistency and increased predictability of case outcomes, as well as improved court efficiency.

Law stated - 30 April 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

Unlike some countries, China does not recognise independently run trade unions, but rather unions that are formed under the auspices of the All-China Federation of Trade Unions, a central quasi-governmental body. A union formed within an enterprise or company is, therefore, part of the All-China Federation of Trade Unions. Union formation is more on a top- down, as opposed to grassroots, basis. This has important implications for automotive companies operating in China and their relationships with the enterprise union. While the enterprise union's goal is to advance and protect the rights of employees, it can also serve as a mediator in employee disputes and act as a conduit between management and staff.

Chinese unions tend to be less confrontational than trade unions in the automotive industries of other jurisdictions.

It is not possible to terminate an employee at will. Employers in China may unilaterally terminate an employment contract only under certain statutory grounds. Some of these grounds allow the employer to terminate immediately without the need to pay severance. These grounds include, but are not limited to, where the employee is in serious breach of the labour rules and regulations of the employer, or the employee commits a serious dereliction in the performance of his or her duties or commits graft causing severe damages to the employer. Other grounds allow the employer to terminate upon 30 days' notice (or 30 days' pay in lieu of notice) with the obligation to pay severance. These include circumstances where the employee is unable to fulfil his or her job obligations even after receiving training or being transferred to another position or, due to non-work-related illness or injury, the employee is unable to perform his or her original work or other tasks assigned by the employer after the expiry of the statutory medical treatment period.

While the law enumerates the grounds under which an employer may terminate an employee, defending such terminations before a labour arbitration tribunal can be rather challenging. This is largely because of the pro-employee atmosphere in China.

Law stated - 30 April 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

INV and its Pilot Scheme

In the race towards innovation in automated driving, the Chinese government has invested heavily over the years in driverless car technology, and developing automated driving vehicles (legally classified as intelligent networked vehicles (INVs)) is a key focus in the Chinese government's automotive industrial development plan.

Under the Medium and Long-Term Development Plan for the Automotive Industry jointly issued by the Ministry of Industry and Information Technology (MIIT), the National Development and Reform Commission (NDRC) and the Ministry of Science and Technology on 6 April 2017, it is stipulated that by the end of 2025 at least 80 per cent of new automobiles in China will be equipped with a driver assistance system, partial driving automation system or conditional driving automation system; and vehicles equipped with high driving automation and full driving automation systems will be launched in the market. This plan is also echoed in the Smart Car Innovation and Development Strategy issued by NDRC, to join forces with other key Chinese government agencies on 10 February 2020, which sets specific goals in smart automobile development to be achieved by 2025.

On 27 July 2021, MIIT, the Ministry of Public Security (MPS) and the Ministry of Transport (MOT) jointly issued the Management Specifications for Road Testing and Demonstration Application of Intelligent Networked Vehicles (for Trial Implementation) (INV Road Test Specification), which came into effect on 1 September 2021, replacing an older version issued in 2018. In addition to providing the qualifications and rules for road tests and demonstration application of INVs, the INV Road Test Specification expands the testing and demonstration area to designated public roads, which can include highways and urban roads.

In November 2023, China took significant strides in advancing the regulatory framework for INVs, launching a pilot scheme through the joint efforts of multiple ministries, including MIIT, MPS, the Ministry of Housing and Urban-Rural Development and MOT, outlined in the Notice on Carrying out Pilot Work of Intelligent Networked Vehicle Entry Permit and Road Access, to permit qualified level 3 and level 4 autonomous vehicles on restricted roads of certain cities. Viewed as a milestone for the automotive industry, this scheme sets the scene for manufacturers and potential users to assess their participation against detailed guidelines provided. Shortly thereafter, the MOT issued the Notice on Service Guidance for Transport Safety on Autonomous Vehicles, effective as of 21 November 2023, which further details the regulations for the commercial operation of autonomous vehicles, marking the country's transition into a new phase of normalised development for such services. Adding to these advancements, a Notice on Launching the Pilot on the Application of 'Vehicle-Road-Cloud Integration' for Intelligent Networked Vehicles, released on 15 January 2024, introduced the Vehicle-Road-Cloud Integration pilot, shifting the focus to city-level application and targeting cities with road-testing experience and existing local rules for INV road tests, with the aim of fostering a safer, smarter urban environment suited for autonomous driving by enhancing road infrastructure and urban service management platforms.

On 25 February 2025, the MIIT and SAMR released the Notice on Further Strengthening the Management of the Access, Recalls and Software Over-the-Air Update of INVs. The notice further refines the regulatory provisions for the access and recall management of INVs equipped with combined driving assistance systems (ie, level 2 driving automation systems) and capable of software OTA upgrades. It also provides guidance for standardising the OTA upgrade activities of automobile manufacturers. MIIT requires automotive manufacturers to conduct comprehensive testing and verification of combined driving assistance systems, clearly define the system boundaries and security response measures, making true representations, ensure comprehensive disclosure to the consumers, effectively assume the subject responsibility for the conformity of production and quality safety, and effectively enhance the product safety of INVs.

On 23 August 2024, the MIIT released various compulsory national standards for INV, namely, GB 44495-2024 – Technical Requirements for Vehicle Cybersecurity, GB 44496 2024 – General Technical Requirements for Software Update of Vehicles, and GB 44497-2024 – Intelligent and Connected Vehicle – Data Storage System for Automated Driving. These standards are considered as the first batch of a series legislations on INV-related national standards, and are considered to be of great significance for improving the safety of INVs once coming into effect since 1 January 2026.

NEV, the Parallel Credit Measures, and Battery Safety

In addition to INVs, new energy vehicles (NEVs) remain at the top of the Chinese government's agenda, judging from the State Council's Circular on the New-Energy Vehicle Industry Development Plan for 2021–2035 (the Development Plan), promulgated on 20 October 2020 and the 14th Five-Year Plan of the Chinese government, promulgated on 11 March 2021. In recent years, the central government has established a comprehensive policy framework to support the NEV sector, ranging from policies on research, technology innovation, finance and tax incentives to infrastructure. For instance, the Development Plan encourages an integrated intelligent transport service, tapping into cloud computing and data collection and realising highly efficient coordination between 'people, cars, roads and clouds'. According to the Development Plan, the penetration rate of NEVs in China will increase from the current 4 per cent to 20 per cent by 2025.

On 27 September 2017, MIIT, the Ministry of Commerce (MOFCOM), the Ministry of Finance, the General Administration of Customs of China and the General Administration of Quality Supervision, Inspection and Quarantine of China (AQSIQ) (now merged with SAMR) jointly issued Measures for the Parallel Administration of the Average Fuel Consumption and New Energy Vehicle Credits of Passenger Vehicle Enterprises (the Parallel Credits Measures), which came into effect on 1 April 2018 and were amended on 15 June 2020 and 29 June 2023.

As a general policy under the Parallel Credit Measures, if a passenger vehicle enterprise manufactures or imports more than 30,000 (inclusive) traditional energy-powered (eg, gasoline-powered) passenger vehicles annually, it will be granted an annual NEV credit target. A passenger vehicle enterprise can meet this target through manufacturing NEVs

to obtain credits or through purchasing NEV credits generated by other enterprises under a quota trading scheme. In the meantime, traditional energy powered vehicle manufacturers and large-scale importers will be granted an annual average fuel consumption credit target. Automotive manufacturers and importers must meet that target in terms of the average volume of fuel consumption generated by the traditional energy powered vehicles they manufacture and import into China. With a view to incentivising auto makers and importers to shift their focus onto NEVs, the aforesaid NEV credits can be used to offset actual average fuel consumption credits, to help the relevant enterprises to achieve their average fuel consumption credit targets. The 2023 amendment aims to adapt to the changes in the market. Specifically, the relevant coefficients for NEVs credits have been lowered to rationalise the allocation of credits against the backdrop of the continued decline in the manufacturing cost of NEVs. Furthermore, a credit pool system has been established for the purposes of stabilising the market price of credits and balancing the market supply and demand. When the supply of credits in the market exceeds its demand (ie, when the NEV positive credits nationwide exceed 200 per cent of the sum of NEV negative credits nationwide and the average fuel consumption negative credits nationwide), the credit pool storage mechanism will be activated, enabling the enterprises to store their positive credits into the credit pool on a voluntary basis. When the above mentioned ratio is less than 150 per cent, the credit pool will be released to allow the enterprises to withdraw the stored positive credits. With the positive and negative incentives provided under the Parallel Credit Measures, it is expected that the NEV industry in China will continue to evolve.

The Chinese government has further enhanced the safety requirements for electronic vehicle batteries. The updated compulsory national standard – Electronic Vehicles Traction Battery Safety Requirements, formulated by MIIT, has been recently released. This updated standard will come into effect on 1 July 2026, replacing the previous 2020 version. The most significant update in this standard to be implemented in 2026 is that, the technical requirements for traction batteries of electric vehicles have been adjusted from providing thermal event alarm signals 5 minutes before fire or explosion to not catching fire or exploding (while still requiring an alarm) and ensuring that smoke does not cause harm to passengers and so on. This is currently the strictest requirement imposed by the Chinese government on electric vehicle batteries in history so far.

Car-Sharing

Car-sharing businesses experienced explosive growth in China from 2012 to 2017 and have enjoyed steady growth in recent years. To regulate these businesses, MOT, MIIT, MOFCOM, the former AQSIQ, MPS, SAMR and the Cyberspace Administration of China (CAC) jointly issued the interim Measures for the Administration of Online Taxi Booking Business Operations and Services (the Online Taxi Measures) on 27 July 2016 (amended on 28 December 2019 and 30 November 2022). The Online Taxi Measures set out the licensing requirements for online taxi-booking business platforms and vehicles and drivers engaging in car-sharing businesses. The Online Taxi Measures also provide that the local transport authority in each city may impose additional criteria when issuing licences to vehicles and drivers engaging in car-sharing businesses. For example, in Shenzhen, starting from 2021, the use of traditional petrol cars in car-sharing businesses is no longer allowed. Other cities such as Dalian, Zhengzhou and Hainan intend to follow this trend. Moreover, MIIT and seven

other governmental authorities issued the Notice on Organising and Carrying Out the Pilot Work of Pioneering Zones for Comprehensive Electrification of Public Sector Vehicles on 30 January 2023, which proposes to increase the proportion of NEVs used in public sectors to 80 per cent.

Data and Information Security

2022 saw a strong regulatory trend towards improved data protection in the automotive industry. Along with the Data Security Law (effective from 1 September 2021) and the Personal Information Protection Law (effective from 1 November 2021), NDRC, MIIT, MPS, MOT and CAC jointly promulgated the Several Provisions on the Management of Automotive Data Security (for Trial Implementation) (the Auto Data Provisions), the first data protection regulation targeted at the automotive industry, which came into effect on 1 October 2021. To implement the Auto Data Provisions, local counterparts of CAC require automotive manufacturers to submit annual reports to specify their automotive data security management.

In terms of surveying and mapping, the Notice on Promoting the Development of INV and Maintaining the Security of Surveying, Mapping and Geoinformation was issued by the Ministry of Natural Resources (MNR) on 25 August 2022. According to this notice, if an INV is equipped with certain sensors to collect, store, transfer and process surveying, mapping and geoinformation and data, its usage falls into the scope of surveying and mapping activities and will be subject to a licence requirement. Foreign-invested automotive manufacturers must entrust qualified map partners to carry out such activities. On 26 July 2024, the MNR further issued the Notice on Strengthening the Administration of Surveying, Mapping and Geoinformation Security Relating to INV, regulated that the geoinformation data collected and gathered by INVs for navigation-related activities, as well as map production and updating, shall be directly transmitted to and managed by entities with qualification for surveying of electronic navigation maps and cannot be accessed by other entities or individuals. Meanwhile, geoinformation data must be stored within the territory of China, those who apply to provide geoinformation data abroad must strictly comply with the approval procedures for external provision or map review, and implement relevant provisions for data cross-border security assessment.

The national standard information security technology – Security Requirements for Processing of Motor Vehicle Data (published on 12 October 2022 and effective from 1 May 2023) – outlines more detailed requirements for processing automotive data and is an important reference for automotive manufacturers. We expect that these regulations and standards, together with the Data Security Law and the Personal Information Protection Law, will pose a compliance challenge for companies operating in automotive and transport industries in China, especially with regard to the data localisation and cross-border data transfer and sharing that foreign car manufacturers will usually encounter and need to deal with on their daily operations.

Law stated - 30 April 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

The promotion of intelligent networked vehicles (INVs) is an emerging trend in the automotive industry in China.

The INV sector in China has transformed from an era of exploratory testing and validation to a pivotal phase characterised by rapid technological advancements and the expansion of applications. China is making continuous efforts towards the scaled-up commercialisation of INVs. Vehicle manufacturers and transport operators are presented with opportunities for market entry and road access for INVs through a pilot scheme, accompanied by detailed guidance on the commercial operation of autonomous vehicles. Meanwhile, at the city level, a separate pilot programme encourages the creation of a more intelligent urban environment tailored to the autonomous driving industry through the integration of vehicle-road-cloud-systems.

The automotive industry in China is navigating a complex landscape shaped by recent geopolitical changes. The tariff tensions between the United States and China since the recent years has pushed the tariffs on Chinese-made electric vehicles (EVs) reaching up to a new level, which has strained the profitability and market access of Chinese automakers in the US market. Concurrently, the European Union (EU) has been negotiating with China to establish minimum prices for Chinese EVs, a shift from the high tariffs imposed in October 2024. These discussions offer an opportunity, potentially easing trade tensions and fostering a more favourable environment for Chinese EV exports to Europe. Also, the ongoing negotiations with the EU could pave the way for increased investment cooperation and market access, presenting a strategic opportunity for Chinese automakers to expand their footprint in Europe. Despite these challenges, China's automotive industry remains resilient and continues to innovate and seeks new avenues for growth, leveraging its manufacturing capabilities and competitive pricing to explore new markets and strengthen its global presence.

Law stated - 30 April 2025

Roy Zou roy.zou@hoganlovells.com
Lu Zhou lu.zhou@hoganlovells.com
Mo Chen mo.chen@hoganlovells.com
Carol Shao carol.shao@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

France

Mikael Salmela, **Christelle Coslin** , **Charlotte Le Roux**, **Sarah de Magalhaes**
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

France is a major automotive market. With a legacy steeped in innovation and quality, French automotive brands play a prominent role on the global stage, contributing significantly to the French economy and driving forward the entire industry. At the core of the sector are 149,000 industry-related firms, supporting more than 990,000 direct and indirect jobs across the value chain. This sector represents €155 billion in turnover and invests more than €6 billion annually in R&D. It is the leading sector for patent filings in France.

The broader automotive services sector is structured around five main areas of activity: vehicle and fuel distribution, automotive maintenance, services to motorists, road safety education, and vehicle recycling. It includes around 139,000 businesses and over 400,000 employees.

As of 1 January 2024, there are 39.3 million cars in circulation in France.

In particular, France is one of the leading European hubs for foreign industrial employment and investments in this sector.

Prior to the covid-19 pandemic, French automotive manufacturers achieved growth and a substantial increase in production volumes. Production levels in 2017 exceeded by nearly 30 per cent that of 2007, reflecting a robust industry poised for further expansion. In 2019, the number of registrations of passenger vehicles rose by 1.9 per cent, with approximately 2.2 million vehicles hitting the roads. Around 80 per cent of the vehicles produced by French manufacturers find eager buyers beyond national borders, highlighting the global appeal of the French automotive industry.

The covid-19 pandemic and geopolitical complexities in Europe cast a shadow over the automotive market, leading to a downturn in sales and registrations. However, the resilience of the French automotive sector shone brightly in 2023, defying expectations with a remarkable 16.1 per cent increase in overall sales. That said, new car sales in 2024 declined by 3.4 per cent compared to 2023, and were down 22.3 per cent compared to 2019, amid a major reshaping of the vehicle offering.

Amid these fluctuations, a significant shift in consumer preferences started, particularly in the area of fuel choices. Diesel now represents less than half of the used car market for the first time in over 15 years.

Petrol hybrid (non-rechargeable) engines became the dominant power train in 2024, ahead of petrol combustion, with a 33.4 per cent share.

Electric vehicle market share reached 16.8 per cent in 2024, a slight slowdown compared to previous years.

Used car sales increased slightly by 2.9 per cent, with an average vehicle age of 10.6 years. In April 2025, new passenger vehicle registrations rose by 4.7 per cent compared to March (140,800 vs 134,500 vehicles).

In total, 1.755 million new passenger cars were registered in 2024, and 5.485 million used passenger cars were sold.

This drive for innovation is fuelled by a commitment to competitiveness and technological progress. The transformation from thermal to electric vehicles has deep implications for jobs and skills across the sector. Over the next decade, this shift could lead to the creation and destruction of approximately 40,000 jobs.

As a response, the government has launched support mechanisms through 'France 2030' to fund projects related to electrification and decarbonisation, and to develop future workforce skills. Support for workers is also provided via the 'Transition collective' scheme and the Fund for Retraining and Reskilling. On the demand side, a reformed eco-bonus system helps steer consumers toward environmentally responsible vehicles.

The French automotive market, like many other EU markets, is undergoing three major disruptions: a technological disruption driven by environmental goals (notably the rise of electric power trains and energy mix transformation); a digital disruption (connected, intelligent, autonomous vehicles and data protection issues); and a societal disruption with new mobility habits and a changing relationship to car ownership.

This profound transformation — marked by technological innovation, regulatory shifts, and evolving consumer behaviour — is reshaping every aspect of the automotive value chain. It challenges traditional models while opening new avenues for growth and competitiveness. This relentless pursuit of excellence not only ensures the industry's resilience, but also positions French automotive brands as forerunners in the global quest for sustainable, cutting-edge mobility solutions.

Law stated - 30 May 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

France operates within a robust regulatory framework based on European legislation.

At the core of vehicle approval is Regulation (EU) 2018/858 of 30 May 2018, which replaced Directive 2007/46/EC of 5 September 2007, establishing a framework for the approval of motor vehicles, their trailers, and of systems, components and separate technical units intended for such vehicles. Entering into force in September 2020, this regulation sets up administrative procedures, notably on European market surveillance, and establishes general technical requirements for the approval of all new vehicles falling under its scope, and of the systems, components and separate technical units intended for those new vehicles, with a view to facilitating their registration, sale and entry into service within

the European Union. The car manufacturer is responsible for ensuring compliance with type approval processes and conformity of production of the vehicle, as provided in article 13 of the Regulation. This is the case whether or not the manufacturer has produced all the technical components of the vehicle, which implies extra vigilance on the part of the manufacturer. This Regulation is implemented under the French regulatory framework by Decree No. 2009-497 of 30 April 2009 as amended, and several ministerial orders, in particular the Ministerial Order of 18 February 2022 amending the Ministerial Order of 11 January 2021 on approval of motor vehicles and their trailers and systems and equipment for these vehicles within the scope of the Regulation.

This general regulatory framework does not apply to all vehicles. For agricultural or forestry tractors, Regulation (EU) No. 167/2013 is applicable. For quadricycles, Regulation (EU) No. 168/2013 is the relevant legal reference. Lastly, in the case of vehicles for which type approval is not mandatory or harmonised under any EU regulation and which do not fall into any of the internationally recognised categories, the manufacturer must comply with the French Ministerial Order dated 19 July 1954. In any case, the scope of the French approval framework does not specifically differentiate between testing and normal-use scenarios like commercialisation.

In terms of emissions compliance, European Regulation (EC) No. 715/2007 as amended by Regulation (EU) 2018/858 and Regulation (EU) 2017/1151 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) further establishes harmonised requirements for the type approval process in terms of emissions. The Regulation also establishes rules for in-service conformity, durability of emission control devices, onboard diagnostic systems and measurement of fuel consumption. The manufacturer has the obligation, pursuant to article 4 of this Regulation, to prove that all vehicles placed on the European market are type approved and that they meet all emission limits outlined in Annex I.

This emissions framework has been replaced by Regulation (EU) 2024/1257 (Euro 7), adopted in March 2024. This regulation modifies Regulation (EU) 2018/858 and repeals, as of 1 July 2030, Regulation (EC) No. 715/2007 and Regulation (EU) 2017/1151, and, as of 1 July 2031, Regulation (EU) 2017/2400, Regulation (EU) 2022/1362, and Regulation (EC) No. 595/2009. It lays down common technical prescriptions and administrative provisions for the type approval of motor vehicles, systems, components, and separate technical units regarding their CO2 and pollutant emissions, fuel and electrical energy consumption, and battery durability. The regulation also establishes rules for type approval with regard to emissions, production conformity, in-service conformity, market surveillance of on-board monitoring systems, and the durability of emission control systems and traction batteries, as well as safety provisions to limit tampering, cybersecurity measures, and rules for the precise determination of CO2 emissions, electric range, fuel and electrical energy consumption, and energy efficiency. The regulation came into force on 28 May 2024 and applies on a deferred basis depending on vehicle type, category, and tire type.

In parallel, Commission Regulation (EU) 2025/258 of 7 February 2025 amended Regulation (EU) 2017/2400 regarding the determination of CO2 emissions and fuel consumption of medium and heavy lorries and heavy buses. It also amended Regulation (EU) No. 582/2011 with respect to the rules for determining such emissions in the context of type approval extensions. The text updates the certification framework to accommodate emerging technologies, including hydrogen-powered vehicles, vehicles equipped with

multiple independent power trains, and those capable of charging while driving. It also introduces new simulation requirements integrating varied mission profiles, a certification procedure for efficient wheel ends, and tighter aerodynamic drag assessment protocols. Furthermore, it extends the applicability of on-road verification testing to heavy buses and adapts the rules for vehicles with a reference mass between 2,380kg and 2,610kg. The regulation entered into force on 12 March 2025, with phased application beginning on 1 March and full enforcement from 1 January 2026, subject to transitional provisions.

European Regulation (EU) 2019/2144 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor entered into force on 6 July 2022, with the aim of ensuring a high level of road safety throughout the EU. This Regulation introduces advanced safety systems offering new possibilities to reduce casualties, repealing Regulation (EC) No. 661/2009 on road safety. Pursuant to article 4 of this Regulation, car manufacturers must ensure that their vehicles are manufactured 'to minimise the risk of injury to vehicle occupants and other road users'. To ensure harmonisation in the implementation of obligations arising from17 April 2025 this Regulation, the European Commission has adopted Commission Implementing Regulation (EU) 2021/535 under the General Safety Regulation of 21 March 2021. This framework has since been updated by Commission Delegated Regulation (EU) 2023/2590, which amends the annexes to Regulation (EU) 2019/2144, including detailed technical requirements and test procedures for the advanced safety features mandated by the Regulation.

The above-mentioned Regulations further provide that the national authorities of EU member states can grant the EC type approval once the concerned vehicles comply with the applicable regulations. The responsible authority in France is the Ministry of Transport, pursuant to article R321-9 of the French Highway Code.

Following type approval, a vehicle must be registered before being put on the road. Registration is no longer the responsibility of the manufacturer, but of the vehicle owner pursuant to article R322-1 et seq of the French Highway Code. Only an approved vehicle can be registered.

In practice, a car dealership can apply for registration on behalf of the owner for new vehicles. However, all procedures can now be carried out online by the owner via a form available on the French government's dedicated website.

In response to the imperative challenges posed by climate change, France has enacted stringent regulations governing motor vehicle advertising, signalling its commitment to aligning car usage with greenhouse gas emission targets. Under article 75 of the Mobility Orientation Law passed in December 2019, motor vehicle advertisements are mandated to not only promote the vehicles themselves but also actively endorse alternative modes of transportation such as active mobility, carpooling and public transport. These requirements are meticulously outlined in a French Ministerial Order issued on 28 December 2021.

Furthermore, the Climate and Resilience Act of 22 August 2021 further bolsters these efforts by compelling vehicle advertisements to prominently display the carbon dioxide emission levels of the featured models. This information is presented through a standardised carbon dioxide label categorised into seven classes, ranging from A to G. To ensure compliance with these regulations, a penalty system was implemented, effective as of 1 June 2022, to address any infractions or breaches of these obligations.

Insurance requirements

European Directive 2009/103/EC of 16 September 2009 relating to insurance against civil liability in the use of motor vehicles, and the enforcement of the obligation to insure against such liability, repealed and consolidated the five previous Directives on this matter: Directive No. 72/166/EEC, Directive 84/5/EEC, Directive 90/232/EEC, Directive 2000/26/EC and Directive 2005/14/EC.

Order No. 2023-1138 of 6 December 2023 implements European Directive 2021/2118/EC amending Directive 2009/103/EC on motor third-party liability insurance. The Order amends certain provisions of Title 1 of Book II of the French Insurance Code relating to the insurance of motor land vehicles and their trailers and semi-trailers, Chapters 1 and 4 of Title 2 of Book IV relating to mandatory damage insurance guarantee funds and compensation bodies, and article L451-2 of the French Insurance Code. The provisions of the Order came into force on 23 December 2023, with the exception of certain provisions whose entry into force is subject to the conclusion of agreements between the compensation funds competent in the event of insolvency of an insurance undertaking, relating to their functions and obligations and the reimbursement procedures of said funds following compensation granted to an insured person. As these agreements have not, as at the time of writing, been concluded, Directive 2021/2118/EC provides that the Commission is empowered to adopt delegated acts to define the tasks and procedural obligations of these compensation funds.

The provisions of European Directive 2009/103/EC have been transposed into the French Insurance Code under articles L. 211-1 et seq and R. 211-2 et seq. Pursuant to these provisions, car owners have an obligation to insure their vehicles. Decree No. 2023-1152 of 8 December 2023 changed the methods of evidencing and checking mandatory motor insurance subscribed to by car owners as set out in article L211-1 of the French Insurance Code. Since 1 April 2024, in accordance with the Decree, drivers of registered vehicles are no longer required to produce a certificate of motor insurance when being controlled and to affix an insurance certificate to their vehicle.

Proof of insurance for registered vehicles is now fully digital and can be verified via the online database known as the *Fichier des Véhicules Assurés* (FVA). This database compiles all third-party motor insurance contracts in France and is accessible to both policyholders and law enforcement authorities.

Unregistered vehicles (ie, motorised personal mobility devices, electric scooters and monowheels) are still required to display a physical insurance certificate on the vehicle. The Order of 7 March 2024, which simplifies the procedures for evidencing and checking compulsory motor third-party liability insurance, describes the required format (ie-, white-coloured sticker affixed to a visible exterior surface of the vehicle), and the information it must contain (ie, the chassis number or serial number) for owners of unregistered motor vehicles.

Motor vehicle insurance is not an obligation devolved on manufacturers but on the owners of vehicles.

Law stated - 30 May 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

Design processes in the automotive industry primarily occur in-house, except for some specialised vehicles where manufacturers engage freelance designers. In very rare instances, the entire development process – including vehicle design, manufacture and supply – may be outsourced.

The emergence of collaboration agreements for connected and automated vehicles is reshaping the contractual framework within the market. These agreements extend beyond traditional licensing and joint development agreements, encompassing ownership of data, data-sharing agreements and value-added supervision and support agreements. Such complexities are amplified in sectors involving sensor manufacturing (eg, LiDAR), AI platform deployment and sophisticated communication systems.

As for manufacturing, 80 per cent of a vehicle's value is generated by the manufacturer's subcontractors through OEM partnerships. Adherence to internal manufacturer protocols requires issuing calls for tender among major partners to ensure compliance and optimise commercial agreements. Specific tooling is usually provided by the manufacturer to their OEM partners.

Collaborative arrangements between manufacturers may involve shared facilities or, in some rare cases, the use of local plants through cost-plus agreements.

Vehicle assembly predominantly occurs either internally by the manufacturer or through joint venture abroad.

Supply chain logistics for vehicle spare parts is often managed by the manufacturer using carrier services, while transportation of fully assembled vehicles is handled by the manufacturer's internal logistics services.

Law stated - 30 May 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

New vehicles are now distributed through a combination of commercial agents, dealer networks, and independent distributors, depending on the manufacturer's distribution strategy and the applicable contractual arrangements (eg, exclusive or non-exclusive mandates, wholly owned subsidiaries, or independent legal entities).

Following recent renegotiations across the EU, many traditional dealers have been reclassified as commercial agents acting on behalf of the manufacturer. Under this model, agents do not take ownership of the vehicles and act in the name and on behalf of the principal, significantly reducing their commercial autonomy while reinforcing

the manufacturer's control over pricing and customer relations. Under French law, however, such restructurings may raise legal risks. Where the reclassification of a former dealer into a commercial agent leads to a complete transfer of client relationships and operational control to the manufacturer, without fair compensation, courts may requalify the arrangement as a disguised sale or transfer of a business (fonds de commerce). In such cases, the distributor may be exposed to tax liabilities (eg, transfer duties) and may seek financial compensation from the manufacturer as part of the contractual renegotiation. The second-hand vehicle market has traditionally remained outside the direct control of vehicle manufacturers. However, in recent years, manufacturers have increasingly sought to structure and certify used vehicle sales through branded resale networks and certified pre-owned programmes. Importers are often referred to as independent dealers abroad in countries where manufacturers have no subsidiary.

Commercial policy is under the manufacturer's control: product, price, promotion and place.

Until 2010, vehicle distribution was excluded from the general regulation on vertical restraints and solely governed by specific exemption regulations (eg, Regulation (EC) No. 1400/2002). Therefore, some contracts concluded before this date still contain provisions complying with these specific regulations.

Considering that the Commission's consultation and analysis conducted in 2008 in the vehicle distribution sector did not reveal any major competition issues, the application of a distinct regime to this sector was deemed no longer justified; it was therefore decided to align, as of June 2013, the rules applicable to this sector with those applicable to vertical agreements in general, which are laid down in Regulation (EU) 2022/720 (formerly Regulation (EU) No. 330/2010) (the Vertical Block Exemption Regulation).

A specific regime was, however, maintained as regards vertical agreements related to the purchase, sale, resale of spare parts and repair and maintenance services for motor vehicles, which are governed by Regulation (EU) No. 461/2010 (the Motor Vehicle Block Exemption Regulation (MVBER)), applicable since 1 June 2010. Pursuant to the latter, agreements containing the following three hardcore restrictions cannot benefit from the exemption:

- restrictions on the sales of spare parts for motor vehicles by members of a selective distribution system to independent repairers;
- restrictions, agreed upon between a supplier of spare parts, repair tools or diagnostic tools or other equipment and a manufacturer of motor vehicles, on the supplier's ability to sell those goods to authorised or independent distributors or to authorised or independent repairers or end users; and
- restrictions agreed upon between a manufacturer of motor vehicles that uses components for the initial assembly of motor vehicles and the supplier of such components, on the supplier's ability to place its trademark or logo effectively and in an easily visible manner on the components supplied or on spare parts.

The MVBER is supplemented by the Guidelines on vertical restraints in agreements for the sale and repair of motor vehicles and for the distribution of spare parts for motor vehicles (2010/C 138/05).

The MVBER was set to expire on 31 May 2023. Following a review process initiated in December 2018 and a public consultation in 2022, the European Commission extended the

validity of the existing MVBER for five years, until 31 May 2028 (Regulation (EU) 2023/822) and updated the Guidelines(2023/C 133 I/01), in particular to clarify that data generated by the cars' sensors may be an essential input for repair and maintenance services, meaning that both authorised and independent repairers should have equal access to it.

This limited five-year extension enables the European Commission to adapt the regime, if applicable, in response to market changes arising out of, inter alia, vehicle digitalisation, electrification and new mobility patterns. In that respect, on 18 January 2024, the European Commission launched an evaluation of the functioning of MVBER since its extension and of the Guidelines. The evaluation, which comprises a call for evidence and a public consultation (open until 23 May 2025), will be followed by an impact assessment of the contemplated options, to be held in 2026. In parallel, the European Commission is working on a study with its Joint Research Centre, with specific focus on the digital transformation of the automotive markets. These regulatory developments also fall within the Strategic Dialogue on the Future of the Automotive Industry launched by the European Commission on 30 January 2025, and associated Action Plan (unveiled on 4 March 2025), to 'support the entire automotive industry's transition to clean, connected and increasingly automated vehicles, to guarantee its international competitiveness'.

The automotive market is also governed by non-mandatory rules set out in the good practice codes of manufacturer associations (the European Automobile Manufacturers' Association at the EU level and French Automobile Platform at national level).

Agreements with distributors are usually terminated at the end of the fixed term or freely in a non-fixed-term relationship. Regulation (EC) No. 1400/2002, applicable to contracts concluded between 1 June 2010 and 31 May 2013, sets out a notice period of one to two years depending on the definite or indefinite term of the contract. Codes of good practice provide for a notice period of two years.

Compliance with legal or contractual notice periods may not be deemed sufficient to end a relationship, especially in the case of a long-lasting established relationship. To estimate the length of the notice period, several criteria must be taken into account (eg, length of the relationship, percentage of turnover, retail revenue and economic dependency).

However, most of the main automakers are changing their distribution process by using commercial agents instead of distributors. In this respect, many distributors have signed commercial agency contracts with automakers, notably to regain pricing control and align with direct-to-consumer (D2C) strategies, particularly for electric vehicles (EVs). Under Regulation (EU) 2022/720, the treatment of agency agreements is clarified: genuine agents (who bear no commercial or financial risk) are excluded from Article 101(1) TFEU, while non-genuine agents are still subject to competition law rules.

Law stated - 30 May 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

There are no particularities over concentrations, other than the control of the European Commission and the EU Competition Authority, and the foreign direct investment (FDI) screening regime of the French Ministry of the Economy and Finance. The French FDI screening regime applies to investment in 'sensitive sectors' as listed in article R151-3 of the French Monetary and Financial Code.

The French government adopted, on 28 December 2023, additional FDI measures that:

- extend the list of sensitive sectors subject to FDI screenings to cover raw materials mining activities, R&D activities related to photonics and low-carbon energy, and prison security services;
- clarify the inclusion of the acquisition of French branches of foreign entities within the scope of covered transactions; and
- permanently lower the voting rights threshold in relation to certain investments by non-EU/EEA investors to 10 per cent.

An update of the French Ministry of the Economy's General Treasury Department guidelines' on FDI control is expected in the coming months. These are intended to provide further clarification with respect to French FDI rules, key concepts and review procedures.

Order No. 2023-393 of 24 May 2023 has transposed Directive (EU) 2019/2121 of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions. This transposition has been supplemented by Decree no. 2023-430 dated 2 June 2023 for the regulatory section of the commercial code. Both texts have gone beyond the required transposition, as they also amended the rules applicable to internal mergers, division and partial contributions of assets in Chapter VI of Title III of Book II of the French Commercial Code. Finally, the Implementing order has been ratified by Article 4-I of Law No. 2024-364 of 22 April 2024 with some modifications to the initial order to correct some 'drafting inconsistencies'.

On 12 July 2023, the Foreign Subsidies Regulation started to apply. This new set of rules enables the Commission to address distortions caused by subsidies granted by extra-EU countries and ensure a level playing field for all companies operating in the EU. It notably provides a mandatory pre-closing filing and standstill obligation in M&A transactions where:

- the transaction relates to an acquisition of control or co-control or the creation of a joint venture (JV);
- the turnover of the target (or of the merging parties, or assets transferred to the JV) in the EU is at least €500 million; and
- the parties have received combined financial contributions of more than €50 million from extra-EU countries over the preceding three years.

Attention should be paid to the range of products sold by the target. Indeed, should some of these products have a dual use (including military vehicles) that would trigger the need for prior authorisation by the French Ministry of the Economy and Finance (quite similar to the US Committee on Foreign Investment in the United States); this approval, if required, will become a condition to closing. It generally takes between two and three months, bearing in mind that the legislation in this area was significantly strengthened in France as of 1 April 2020 pursuant to the Decree of 31 December 2019, and further enhanced controls applied until 31 December 2022 (in particular with respect to listed companies).

National legislation indeed supplements the European regulation on the French organisational structure (competent ministries, role of the interministerial commission), the creation of general national licences, and lists of goods and technologies subject to export authorisation from France.

In addition, should the seller want to go through a locked-box transaction, possible variation of inventories and cash between the date of the binding offer and the date of the contemplated closing should be carefully examined by the buyer, particularly in light of major variations in valuations in the context of the covid-19 pandemic and subsequent semiconductor shortages, the Ukraine crisis and more recently the energy crisis. The war has caused major disruption for both carmakers and suppliers who have been forced to adjust their activities in both Ukraine and Russia due to component shortages and adapt to the increase in energy demand on a global scale.

Car makers have also been preparing for the transition to electrification by securing access to critical materials for electric vehicles.

If the seller or the target has benefitted from French government support to get through the covid-19 crisis, there could be important restrictions imposed on the seller or the target of the assets concerned. Close attention should be drawn to any impact on the right of the seller to transfer the target or the assets or on the way the purchaser may operate the business post-closing as a result.

Additionally, recent US trade and tariffs developments are likely to add complexity as well as uncertainty in M&A transactions involving manufacturing and global supply chains. As a consequence due diligence processes in the automotive sector will notably need to take into account the possible impacts on the cost and availability of supplies as well as the impacts on demand for the target business's products.

Law stated - 30 May 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

There are no specific tax incentives for investment in the automotive market. General tax incentives for investors include the following:

- R&D tax credit (CIR), which applies to French companies incurring R&D expenses, regardless of their activity or size. This tax credit is assessed on eligible R&D expenses (including notably salaries, social security contributions, operating costs and so on). The CIR is equal to (1) 30 per cent for the portion of R&D expenses up to €100 million; and (2) 5 per cent of R&D expenses over that threshold. It can be offset against French corporate income tax due for the year during which the R&D expenses are incurred (or refunded, subject to certain requirements).
- A tax credit mechanism for collaborative research (CICo), which allows companies to benefit from a tax credit on outsourced R&D expenses, equal to 40–50 per cent

(depending on the size of the enterprise). The CICo is subject to the following conditions in particular: (1) the service provider must be a specific research organisation; and (2) R&D expenses must be incurred under a collaboration agreement concluded between 1 January 2022 and 31 December 2025.

- The innovation tax credit (CII), which applies to French small and medium-sized innovative enterprises. Since 1 January 2025, the CII is equal to 20 per cent of eligible innovation expenditure (it being specified that such expenditure may not exceed €400,000 per year).
- The young innovative company status (JEI), which applies to R&D small and medium-sized enterprises that meet certain criteria (eg, less than 8 or 11 years old). JEI can notably benefit from an exemption on (1) certain social security charges on remunerations paid to R&D staff; and (2) French corporate income tax (full exemption on the first profitable fiscal year and 50 per cent exemption on the second profitable fiscal year).
- For companies located in certain areas and eligible for regional aid (usually companies carrying out new industrial, commercial activities), full exemption from French corporate income tax for their first two fiscal years, and then partial exemption from French corporate income tax for the next three fiscal years may be granted.

Specific green automotive incentives are available to French customers (individuals or companies), as follows:

- An environmental bonus for individuals purchasing a new passenger vehicle that meets certain criteria, including a minimal environmental score. The maximum bonus ranges from €2,000 to €4,000, depending on the purchaser's household reference taxable income (provided that the vehicle's purchase price does not exceed €47,000). Since 2 December 2024, companies are no longer eligible for the environmental bonus. Furthermore, customers may no longer combine the environmental bonus with a conversion bonus when purchasing an electric vehicle (as the latter was repealed as of 2 December 2024);
- A retrofit bonus for the conversion of a vehicle's combustion engine into an electric or hybrid engine. The retrofit bonus is available to (1) companies (only for conversions into electric engines) as well as (2) individuals whose reference taxable income per tax share falls below €26,200. Its amount may vary depending on several factors (eg, type of vehicle involved, applicant's income, nature of the retrofit work, etc); and
- A financial incentive under the Energy Savings Certificates (CEEs) scheme for the purchase or long-term lease of new electric vehicles, and for retrofit conversions. The CEE bonus is available to both individuals and companies, and ranges from approximately €300 to €4,500, depending on several criteria.

Certain automotive taxes and fees that are applicable to customers (individuals or companies) may be viewed as barriers to entry into the market. These include:

- A registration tax, which is levied at the time the car registration certificate is issued and can be broken down as follows:

- a local regional tax;
- an environmental penalty if the carbon dioxide emissions exceed a certain threshold (the maximum penalty amount in 2025 being set at €70,000 for vehicles emitting over 192g of carbon dioxide per kilometre (certain exemptions may be available)); and
- an additional weight tax on vehicles over 1.6 tons from which electric vehicles are exempt, with a progressive rate ranging from €10 to €30 (over 2.1 tons), depending on the weight, per excess kilo. However, the sum of the environmental and weight penalties is capped at the maximum amount of the environmental penalty (€70,000 as of 1 March 2025).

Starting 1 January 2026, the environmental penalty and weight tax will also target second-hand vehicles, under the same conditions as for new vehicles. These taxes will retroactively apply to second-hand vehicles registered after 2015 that had not been initially subject to them when first registered:

- Four annual taxes on vehicles used for the purpose of carrying out an economic activity:
  - for passenger vehicles, two annual taxes on carbon dioxide emissions and atmospheric pollutant emissions;
  - for heavy vehicles, an annual axle tax; and
  - an annual tax on fleet greening, which applies as of 1 March 2025 to companies with a fleet of at least 100 vehicles used for economic purposes and which aims to encourage the purchase of low-emission vehicles.

Law stated - 30 May 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

The most relevant regulations regarding product safety and environmental issues are European Regulation (EU) 2018/858, Regulation (EU) 2019/2144, Regulation (EC) No. 715/2007 and Regulation (EU) 2017/1151.

Former Directive 2007/46/EC (repealed by Regulation (EU) 2018/858) had been implemented in the French Highway Code, which still provides that:

- if the French Ministry of Transport considers that, even if compliant with the type approval Regulation, a vehicle presents a serious risk to road safety or seriously harms the environment or public health, the EC type approval may be refused (article R321-9 of the French Highway Code);
-

if, after the French Ministry of Transport granted EC type approval, new tests show non-compliant results, the ministry may take all necessary actions, including withdrawal of the type approval (article R321-10 of the French Highway Code); and

- more generally, manufacturers must recall all vehicles already sold, registered or put into service if the model in question presents a serious risk to road safety, public health or the environment. In addition, they have to immediately inform the authority that issued the type approval thereof (article R321-14-1 of the French Highway Code). On 13 December 2024, the General Product Safety Directive 2001/95/EC was repealed and replaced by Regulation (EU) 2023/988 on general product safety (GPSR).

In June 2020, an entity named the Vehicles and Engines Market Surveillance Department (SSMVM) was created. Its mission is to check that vehicles and engines placed on the French market comply with the technical requirements laid down by European and national regulations on safety, health and environment.

Governmental Ordinance No. 2020-701 dated 10 June 2020, Decree No. 2020-703 dated 10 June 2020 and an Order of the same day detail the powers and missions entrusted to this new entity. The SSMVM carries out documentary checks, tests and trials on its own initiative or following complaints. The Order of 7 February 2022 requires economic operators to immediately notify the SSMVM where a vehicle, system, component, part or equipment placed on the French market presents a risk to safety, health or the environment, or a non-conformity, and must explain the subsequent recall process conducted. The specific form of the notification to be sent to the SSMVM is available online on the website of the French Ministry of Ecological Transition. The SSMVM will transmit the information received to the European Commission through an online platform called the Rapid Exchange of Information System (RAPEX).

The SSMVM is expected to publish annual reports summarising its activities. The last report was issued for the 2023 year summarising notably the inspections carried out on economic operators. In a nutshell, most of the non-compliance cases addressed by the SSMVM related to emissions, and all the SSMVM corrective orders related to the exceeding of emission limit values. The SSMVM financial sanctions were mostly the reimbursement of investigation costs and the publication of its decisions in case of a general recall of vehicles in order to bring them into compliance. The SSMVM also imposed an administrative fine on a manufacturer and its French distributor for a fraud related to the placing on the market of non-road mobile machinery equipped with engines that were prohibited within the EU. The 2024 report has not been published.

In the event of a finding of non-conformities, the SSMVM may order administrative fines of up to €1 million per product and can decide to make public the sanctions ordered against the manufacturer. The SSMVM can also take other administrative measures such as ordering recall, suspension of marketing or destruction of the products.

To date, the SSMVM has made two decisions public (as reported on its 2023 report). These two decisions, handed down on 20 December 2023, found that two distributors did not ensure that engines manufactured outside of the EU were compliant with EU standards, in particular under Regulation (EU) 2016/1628. The SSMVM imposed administrative fines of, respectively, €1,000 and €2,000 per non-compliant engine. It also ordered both distributors to take corrective measures to ensure compliance of said engines. The SSMVM did not

order the recall of the non-compliant engines given the high economic and environmental impacts related to the transport and reshipment of the engines concerned.

Criminal penalties may also be ordered in the case of non-compliance. Article L329-49 of the French Highway Code notably provides that if the products have created a danger to health, safety or the environment, a criminal fine of up to 10 per cent of the average annual turnover of the manufacturer may be imposed.

Law stated - 30 May 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

Product laws are very significant for the automotive sector: defective cars (or parts) are a source of particularly serious risk, and can potentially lead to road accidents, severe bodily injuries and significant material losses, as well as reputational loss for car manufacturers and their brands.

Under French product liability law, claimants bear the burden of proof to assess the product defectiveness and causation with the damage. There is, however, a trend in French (and EU) case law making the burden of proof easier to meet for claimants by making use of presumptions.

Product recalls and maintenance campaigns are very frequent in the automotive industry. In its 2023 report, SSMVM noted that it received a total of 578 notifications related to vehicle recalls. Of these, 278 recalls were officially registered on RAPEX in 2023, with the remaining notifications being actively monitored. Among the recalls reported on RAPEX, 30 were reclassified to a 'serious risk' by the SSMVM.

Many questions are currently being debated concerning potential reforms of product laws. At European level, the Product Liability Directive 85/374/EEC has been reviewed following an initiative entitled ‘Adapting liability rules to the digital age and circular economy’, which started with the issuance of an Inception Impact Assessment, and the launching of a large and public consultation process with key stakeholders concluded in January 2022. The Commission’s two main objectives were to modernise and adapt strict liability rules to the digital age and circular economy and reduce obstacles to getting compensation in general and with respect to innovative products.

On 28 September 2022, the European Commission adopted two new proposals that aim at adapting liability rules to the digital age with a focus on AI. The first proposal, a revised Product Liability Directive, builds on known rules such as the strict liability of manufacturers for unsafe products, while modernising their scope to encompass digital products, circular economy business models and global supply chains.

The new Product Liability Directive 2024/2853 entered into force on 8 December 2024, but EU Member States will have until 9 December 2026 to transpose it into national law. It will apply to products placed on the market as of 9 December 2026, and the Product

Liability Directive 85/374/EEC remains applicable for products placed on the market before that date. Key measures include a broader definition of 'product' (that now encompasses software, digital services, and integrated technologies, and of compensable damage to include psychological damages and data destruction), and new evidence disclosure procedure, which reduces the burden of proof in favour of the plaintiffs in complex cases by notably imposing a presumption of product defect when defendants fail to provide relevant technical documentation of their product.

The second proposal, a first of its kind, is the draft AI Liability Directive, which targets harmonisation of non-contractual liability rules for AI-enabled products and services by introducing a presumption of causality applicable under cumulative conditions and a right of access to evidence in cases where high-risk AI is involved. Such proposal would have impacted the automotive sector, particularly with regard to autonomous vehicles and their software. Yet, in February 2025, the European Commission decided to withdraw this second proposal from its final work programme for 2025, due to the lack of foreseeable agreement on a final text. The European Commission will assess whether another proposal should be tabled or another type of approach should be chosen.

Class actions are a growing risk for automotive manufacturers in France. This procedural option was introduced into French law by the Hamon Law of 17 March 2014, which came into force on 1 October 2014 and is available to consumers who are placed in a similar situation and have suffered a financial loss resulting from material damage caused by a professional. Only a limited number of registered associations can bring class actions, where consumers can opt to join after a general judgment on the defendant's liability has been made. This system cannot be used to obtain compensation for bodily injuries. Since October 2014, a limited number of class actions have been launched in France. According to publicly available information, only a few of these class actions relate to the automotive sector. Various French consumer associations have launched class actions (at least three) against major car manufacturers as a consequence of emission issues. No information on the status of these proceedings has been made publicly available.

On 15 December 2022, a new bill was submitted to the French National Assembly to introduce a single and unified legal regime for all class actions in civil matters, which was adopted on 8 March 2023. On 6 February 2024, the French Senate rejected the main measures suggested by the French National Assembly. However, the further review of this proposal was suspended following the dissolution of the National Assembly in June 2024. The government decided to abandon this proposal and transpose the European Directive through a less ambitious bill, submitted to the National Assembly on 31 October 2024. This text was adopted by the Joint Committee on 1 April 2025.

In a nutshell, the Joint Committee notably confirmed the measures intended transpose the EU Directive, such as (1) the introduction of provisions for EU cross-border class actions; and (2) the prior notification requirement before introducing a class action. Significant changes were also reintroduced by the Joint Committee, such as (1) the introduction of a civil fine if the person causing the damage deliberately commits a wrongdoing with the intention of obtaining an unfair gain or saving, the penalty being up to five times the profit gained for legal entities, (2) the power of non-approved associations to introduce class action but only to request the cease of a breach providing proof of twenty-four months of effective and public activity, and (3) the monitoring of conflicts of interest of the plaintiff.

The final version of the bill was voted on by both chambers on 2 and 3 April 2025, promulgated on 30 April 2025 and entered into force on 3 May 2025.

Law stated - 30 May 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

The automotive industry has been the focus of numerous competition investigations over the last decade, ranging from 'traditional' price-fixing cartels to 'greener' topics in the last few years.

The European Commission has fined 14 price-fixing cartels in the automotive industry for a total amount exceeding €5 billion over the past 10 years. All these cases were initiated by leniency applications filed by suppliers (which were not fined as a result), revealing the existence of the cartel and providing supporting evidence.

In 2016 and 2017, the European Commission imposed record fines of €3.7 billion on six European truck manufacturers, including a €1 billion fine, which is the highest fine ever imposed on a single company in a cartel case. Over a period of 14 years, truck manufacturers colluded on prices and on passing on the costs of compliance with stricter emission rules imposed by an EU regulation. The Court of Justice of the European Union confirmed the €880 million fine imposed on Scania in February 2024.

The European Commission punished 13 other cartels that involved car parts manufacturers for coordinating price increases to be passed on to car manufacturers, bid rigging, allocating customers and exchanging sensitive commercial information. These practices concerned 13 categories of products: wire harnesses; alternators and starters; parking heaters; automotive bearings; thermal systems; refrigerants; braking systems; spark plugs; lighting systems; occupant safety systems; flexible foam used in vehicle seats; door modules and window regulators; and latches and strikers.

In July 2021, the European Commission imposed fines totalling €875 million on BMW and the Volkswagen Group after Daimler revealed that the companies had been colluding to limit their ambitions in reducing pollution from diesel cars.

The European Commission's decisions gave rise to numerous follow-on damages claims, in particular, in the truck manufacturers' case. The implementation in March 2017 of Directive 2014/104/EU on actions for damages under antitrust issues into French law can only encourage the development of such actions in France. In the trucks cartel case, the Court of Justice of the European Union ruled in October 2021 that victims of an antitrust violation may seek compensation from the subsidiary of the infringing parent company.

Another price-fixing cartel investigation is underway in the tyre industry, with the European Commission having conducted unannounced inspections in January 2024 at the premises of several tyre manufacturers.

Most recently, the European Commission fined 15 car manufacturers and the European Automobiles Manufacturers' Association €458 million for participation in a 15-year long end-of-life vehicles (ELVs) recycling cartel. Participants were found to have colluded notably (1) not to pay car dismantlers for processing ELVs and, in parallel, exchanging commercially sensitive information and (2) to limit information on ELV recycling, limiting competitive pressure to go beyond legal requirements.

The French Competition Authority also showed interest in automotive spare parts. It issued a detailed opinion in 2012, pointing out that spare part prices were higher in France than in Germany or in the UK and making recommendations to stimulate price competition between manufacturers and suppliers for the supply of car parts. In this respect, France adopted in August 2021 Law No. 2021-1104, opening competition to the manufacture and distribution of visible spare parts (bumpers, lights, mirrors, etc) in the automotive sector.

In May 2019, the French Competition Authority dismissed a claim by three repair companies against a car manufacturer after the latter refused to approve them. The repair companies claimed that this denial was discriminatory and would favour the manufacturer's authorised resellers. The French Competition Authority held that the manufacturer's decisions to refuse approval have been made on objective criteria and that the repair companies had not proven that the refusal was part of a general anticompetitive scheme implemented by the manufacturer.

In May 2024, the French Competition Authority issued an opinion on the competitive functioning of electric vehicles charging infrastructure (EVCI). The authority also examined two complementary sectors that are essential to the mass deployment of light electric vehicles: (1) publicly accessible EVCI and related activities (installation and operation of EVCI and provision of mobility and interoperability services); and (2) EVCI for private use, in apartment buildings.

With sustainability agreements on the rise, the French Competition Authority has also adopted an 'open-door' principle, allowing industry players to request informal guidance from the authority in relation to sustainability cooperation initiatives (eg, co-investment for the development of EVCI in low-density areas).

Law stated - 30 May 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

Apart from competition or antitrust and intellectual property issues, most disputes in the automotive industry relate to consumer matters, supply chain issues and criminal liability allegations.

There are several grounds in French consumer law enabling a consumer to sue an automotive manufacturer, such as defective product rules (article 1245 et seq of the French Civil Code), hidden defects (article 1641 et seq of the French Civil Code), non-conformity (article L217-3 et seq and L411-1 of the French Consumer Code) and general safety obligations (article L421-1 et seq of the French Consumer Code).

In the past, commercial disputes along the supply chain remained limited. This has changed in recent years. Indeed, over the last years, shortage of components and raw materials have become a frequent issue, as well as over certain periods substantial inflation rates and rise in energy prices aggravated by the ongoing Ukraine war. These economic factors have had a strong impact on commercial relations and have led to increased tensions on the market. This has resulted in forced renegotiations of contractual terms and prices, often in a contentious context, as well as commercial disputes related to injunction to supply or abrupt termination of business relationships.

In the context of inflation, shrinking margins, fiercer competition, increased likelihood of defective technology and growing remediation costs, pressure is strong on all actors, resulting in more frequent litigation to share the costs or recover them from another party. The causes of such issues may also lie in insolvency or bankruptcy cases.

As a result, tensions between suppliers and OEMs or Tier 1 companies have become more frequent and even contentious, leading to threats to stop supplying or to terminate the business relationship. In certain circumstances, the dependency of an OEM in a single-source situation enables suppliers to exert higher prices for the remainder of the supply cooperation.

While French courts seem reluctant to apply the ground of hardship to modify or terminate a contract between parties, they tend to be more inclined to acknowledge this approach in light of the current circumstances. In this respect, the Paris Court of Appeal notably acknowledged by its decision of 25 November 2022 (Docket No. 22/00326) that the increase in a raw material price, linked to the increase in gas prices, constituted an unforeseeable circumstance affecting the initial agreed sales price, which could have grounded the request for the anticipated termination of the contract on the basis of hardship under article 1195 of the French Civil Code. However, the court considered that the excessive cost incurred in the performance of the contract was not proven in the case at hand and that the evidence could not be deduced from the mere price increase itself or from the variations in prices recorded on the wholesale gas markets. Failing to provide accounting and financial elements, the court dismissed the plaintiff's claim.

By its decision of 15 November 2023, the Paris Commercial Court acknowledged that the succession of the covid crisis and the war in Ukraine had created the conditions for a significant increase in the price of energy and the price of paper making the overall price excessively onerous for the plaintiff. However the Court dismissed the claim grounded on the hardship under Article 1195, considering that it was not clearly established in the contract that the claimant had not chosen to assume the risk of such an increase (Docket No. 2022026376).

In contrast, a first-instance judgment handed down by the Paris Commercial Court ordered the anticipated termination of a contract on the basis of hardship in light of the rise in electricity and packaging costs amplified by Russia's invasion of Ukraine, the impact of which on the plaintiff's financial situation was proven by the loss in its operating result (Docket No. 2022033136).

Two new French bills to reform commercial relations between car manufacturers and dealers were filed with the National Assembly on 17 January 2023 and 14 February 2023.

The first one aims at:

- specifying that the investments required of vehicle distributors must be reasonable in the light of economic prospects;
- giving vehicle distributors the freedom to sell their businesses by granting manufacturers or importers a preferential right, with the option of substitution if necessary, enabling them to retain control of their network; and
- providing for compensation in the event of termination of the contract, taking into account the investments made by the distributors and the customers they have attached to the brand locally.

The second bill aims to guarantee compensation for car distributors for unamortised investments in the event of contract termination.

However, both bills are not yet final and were referred to the Committee on Economic Affairs of the National Assembly. They will be discussed by the MPs during public sessions.

In the meantime, the Paris Court of Appeal has, in a decision of 17 May 2023, reasserted that car manufacturers are entitled to freely terminate any open-ended contract unless the distributor can prove an abuse was committed in the context of the termination, which will be assessed in concreto and on a case-by-case analysis (Docket No. 21/09870).

In a decision of 23 January 2025, the Paris Court of Appeal ruling on the abrupt termination of established business relationship between a supplier of automotive parts and a manufacturer, considered that a 18-month notice period should have been complied with before the effective termination, and not nine-month notice period that was considered insufficient considering 43 years of business relationship (Docket No. 21/19629).

In contrast, in a decision of 24 April 2024, the Paris Court of Appeal considered that a one-month notice period is sufficient to terminate a seven-month business relationship between a vehicle maintenance/repair entity and a vehicle maintenance/rental group, thus dismissing any liability based on an alleged abrupt termination of the business relationship (Docket No. 22/04742).

Summary proceedings are available in obtaining court injunctions either in cases of urgency or when the claim cannot be seriously challenged. Interim payments can also be sought through this type of proceedings.

Both automotive companies and their individual legal representatives have potential criminal liability exposure in the case of bodily injuries caused by their products (on grounds of involuntary bodily harm, manslaughter or placing someone under an immediate risk of injury or death). Corporations and legal persons may be prosecuted where the company financially benefited from the offence committed by one of its employees or representatives. Individual legal representatives can be prosecuted when there is either a manifest and deliberate violation of a specific safety rule, or in the case of gross negligence causing serious danger.

Law stated - 30 May 2025

Distressed suppliers

11 | What is the process for dealing with distressed suppliers in the automotive industry?

Typically, distressed suppliers do their best to avoid pre-insolvency and insolvency proceedings, and may seek to obtain price increases, sometimes exerting pressure by threatening to stop or actually stopping deliveries. The customer can seek court orders in summary proceedings to force the supplier to resume the supply and comply with orders regularly placed. Courts can also acknowledge settlement agreements, where some commercial provisions may be included regarding timing and organisation of the deliveries. Such acknowledgment increases the chances of the agreement being enforced by the distressed supplier, as well as facilitating the enforcement of the agreement in the case of failure to comply.

If the supplier is cash flow insolvent, it must file for insolvency proceedings with the local commercial court. An administrator is appointed by the court and typically assists the management (but does not replace them save in specific circumstances). The administrator often asks customers to provide support by funding the insolvency period until an investor can be found or at least to give the supplier a chance of finding an investor. The administrator cannot force this manner of support, but customers do not have much choice if they do not have other supply options. This financial support often takes the form of price increases, limited in time, or in raw materials pre-payment, tooling financing and so on. All customers are usually asked to participate in the effort in proportion to their share in the volumes.

Distressed suppliers can also seek preventive proceedings. These are not public insolvency proceedings, but are confidential proceedings led by a court-appointed mediator who will assist the company in its discussions with its main stakeholders. In the automotive sector, it is often OEMs, shareholders and creditors (all bound by confidentiality) who try to reach a solution to avoid formal insolvency. This tool is commonly used for financial or industrial restructurings in the automotive sector. In practice, preventive proceedings are often used before insolvency proceedings (eg, in view of preparing the insolvency proceeding beforehand), but can also be conducted on a stand-alone basis.

Public authorities are often involved in distressed supplier issues through various channels. In significant cases that involve more than 400 employees, the department of the Ministry of the Economy and Finance dedicated to industrial restructurings will oversee the negotiations and request customers to participate in the discussions. In smaller situations, which are still important locally, local representatives of the state can be involved. Dedicated funds to support distressed suppliers in the automotive sector have been created since 2008 by French public authorities, together with French OEMs and major Tier 1 suppliers. The state-owned bank Bpifrance is also regularly called in to support major suppliers in the automotive sector.

The process, therefore, depends on how distressed the supplier is and how politically sensitive the issue is (ie, how many jobs are at stake).

The current pressures on the automotive sector— originating in the technological shift to electrification and digitalisation, and further exacerbated by the covid-19 pandemic, the war in Ukraine, inflationary pressures and global supply chain fragility — have resulted in a sharp increase in both preventive and formal insolvency proceedings across the supply chain. Despite the substantial automotive recovery plans launched by the French government since 2020, including the Pacte de Résilience pour la filière automobile,

many suppliers remain under severe financial strain, particularly SMEs and those heavily exposed to combustion engine technologies.

Law stated - 30 May 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

There are a fair number of intellectual property disputes in France. These usually do not involve car manufacturers but rather OEMs and suppliers. The intellectual property rights most commonly relied upon in the automotive industry are patents, designs and trademarks.

Intellectual property rights in France are effectively protected. French law on intellectual property rights is the result of national statutory and regulatory provisions, statutory provisions implementing international and multilateral agreements and European regulations having direct effect in France as a member state of the European Union. The implementation of these international rules is codified by the national substantive law in the French Intellectual Property Code.

Among other things, French law includes provisions regarding patents, trademarks, designs, trade secrets, authors' rights and database producer rights. Since 1 January 2023, the scope of protection of registered designs over spare parts has significantly reduced. Pursuant to article L513-6-4 of the French intellectual property Code, 'acts intended to restore a motor vehicle or trailer to its original appearance […] and which: a) concern parts relating to glazing; b) or are carried out by the equipment manufacturer who produced the original part' will no longer be considered as design infringement. This means that design rights over glazing parts can no longer be enforced. The duration of the protection for other spare parts designated in article L513-6-4 is reduced to 10 years (instead of a maximum period of 25 years). The upcoming EU design Directive and Regulation notably aim to harmonise rules regarding spare parts, and their impact on French law will be monitored.

Also from 1 January 2023, copyright is no longer enforceable against the sale, use and reproduction of spare parts intended to restore a motor vehicle or trailer to its original appearance, pursuant to article L122-5(12) of the French Intellectual Property Code.

Car manufacturers and OEMs have traditionally been among the top filers of patents in France. Stellantis, Valeo, Renault, and Forvia ranked among the top 50 patent filers in 2024. Stellantis led the rankings with 1,289 patent applications filed that year. These companies, along with the Nissan group, also featured prominently among the top 25 patent holders in France in 2024. For instance, the Valeo group held over 10,000 active patents, while Stellantis had nearly 18,000 patents in force. Thanks to such figures, one in every ten patents in force in France at the end of 2024 was related to the mobility sector.

Car manufacturers and OEMs also extensively use registered design rights to protect vehicle body parts. As for trademark, in the 2024 Interbrand ranking, 15 trademarks

designating car manufacturers were ranked among the top 100 brands worldwide (all sectors combined).

Intellectual property enforcement in France is for courts to ascertain. As regards patents and EU trademarks and designs, the Paris Civil Court (where decisions are issued within 18 to 24 months depending on the complexity of the matter) has exclusive jurisdiction. This allows for harmonisation of case law beginning at first-instance level. Decisions can be appealed before the Paris Court of Appeal, and a further appeal on legal issues is possible before the Court of Cassation.

Intellectual property law in France provides for a specific means of obtaining evidence: the infringement seizure. The infringement seizure is a highly effective evidence-gathering procedure whereby an intellectual property rights holder, suspecting an infringement of its rights, applies ex parte for an order of the presiding judge of the Civil Court authorising a bailiff and possibly an independent person knowledgeable in the art to enter any premises (including those of competitors or suppliers) where evidence of the infringement may be found, to seize samples of the allegedly infringing product or to describe it. Following the infringement seizure, the claimant must follow a strict timeline (ie, 20 working days or 31 calendar days) to serve the defendant with a writ of summons.

On the merits, intellectual property rights holders mainly seek a permanent injunction and compensatory damages. Intellectual property rights holders may choose to apply for a preliminary injunction in summary prima facie cases before or while an infringement case is pending on the merits.

Similar evidence gathering means and remedies have been available for trade secrets since July 2018, when Directive (EU) 2016/943 on the protection of undisclosed know-how and business information against their unlawful acquisition, use and disclosure was implemented in France. Alternative dispute resolution is also available in intellectual property rights infringement issues. Ad hoc mediation enables the parties to reach a settlement. Additionally, French intellectual property law now clearly states that the exclusive jurisdiction of the Paris Civil Court ‘does not preclude the use of arbitration’.

Law stated - 30 May 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

There are some specific employment issues or trends that the automotive industry (OEMs and car manufacturers) must be aware of.

Owing to the tense and complicated employment law climate in France, cost pressures, the reduction in production and the switch to electric vehicles, many automotive companies in the country have had to negotiate forced or voluntary mass redundancy plans.

This happened to most of the OEMs' French sites, which faced a significant decrease in importance in the European market over the past 10 years. Recently, major suppliers have announced workforce reduction or plant closures in France through redundancy plans.

Instead of negotiating strict mass redundancy plans, the cost of which is extremely high in France and could give rise to important disputes with terminated employees, major French OEMs have negotiated various voluntary departure plans with unions to cut job positions and to reach agreements with unions to restore competitiveness.

In parallel, competitiveness agreements (accords de performance collective) have been signed to renegotiate core aspects of employment conditions. These agreements, negotiated with unions and works councils (comités sociaux et économiques or CSE), often include:

- voluntary departures;
- salary freezes;
- increases in working time; and
- increases in working time flexibility.

Since 2020, the automotive sector has faced repeated disruptions due to the covid-19 pandemic, component shortages, geopolitical instability (including the war in Ukraine), and rising costs of raw materials and energy. These factors have led to more frequent production stoppages, requiring agile workforce management. To mitigate the impact of such stoppages, companies have used long-term furlough schemes (*activité partielle de longue durée* – APLD), negotiated either at the industry or company level. These schemes allow for reduced working time while maintaining partial wage compensation, co-financed by the state.

Successive French governments have broadly supported these restructuring efforts, viewing the automotive sector as a pillar of industrial sovereignty and innovation. Public authorities have actively promoted tripartite strategies involving regional governments, manufacturers, unions, suppliers, and research institutions, aiming to preserve industrial jobs and maintain R&D and engineering capabilities in France, especially in the context of electrification, digitalisation, and green technologies.

Law stated - 30 May 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

The development of autonomous vehicles and Mobility as a Service (MaaS) is certainly the biggest source of legal questioning.

Automated and autonomous driving

At the international level, during its 81st session in Geneva from 21 to 25 September 2020, a significant step was taken towards promoting the development of automated vehicles. The Global Forum for Road Traffic Safety (WP.1) voted on a pivotal amendment to the Vienna Convention on Road Traffic to promote the development of automated vehicles and accommodate the advancements in autonomous driving technologies. Subsequently, on 14 January 2022, 53 United Nations member states, including France, adopted an amendment to article 34, governing autonomous vehicles, as well as a new article 34-bis to the Vienna Convention, paving the way for the emergence of Level 3 autonomous vehicles. Integration of this amendment into French legislation occurred through Decree No. 2022-1034 of 21 July 2022.

Meanwhile, on 22 January 2021, the United Nations Economic Commission for Europe's (UNECE) Regulation No. 157 entered into force. This regulation provides for the technical requirements to be complied with by Level 3 automated vehicles. In particular, the Regulation prescribes that automated vehicles may not exceed a speed of 60km per hour and should only operate on roads where pedestrians and cyclists are prohibited and which, by design, are equipped with a physical separation that divides the traffic moving in opposite directions. An amendment to this Regulation was adopted on 22 June 2022 and has increased the maximum authorised speed of Level 3 automated vehicles from 60km per hour to 130km per hour. In February 2024, the UNECE's Working Party on Automated/Autonomous and Connected Vehicles took a significant step forward by adopting a draft regulation that outlines provisions for approving vehicles featuring driver control assistance systems and establishes minimum safety standards for vehicles equipped with advanced driver assistance systems, including functionalities like lane keep assist. This Regulation No. 171 was adopted by the UNECE World Forum for the Harmonization of Vehicle Regulations (WP.29) at its session in March 2024 and entered into force on 30 September 2024. Regulation No. 171 defines Driver Control Assistance Systems (DCAS) as systems that assist the driver in controlling the longitudinal and lateral motion of the vehicle on a sustained basis, without taking over the entire driving task. These systems are categorised as Automated Driving Systems corresponding to SAE Level 2, meaning that while using DCAS, the driver retains responsibility for the vehicle's control and must continuously monitor both the surroundings and the system's performance to intervene if necessary. Regulation No. 171 specifies the safety and performance requirements for DCAS, including mandatory warning strategies to ensure driver engagement. If a lack of driver engagement is detected, the system must alert the driver. The regulation also requires vehicle manufacturers to proactively communicate the limitations of DCAS to users, through various channels such as online platforms, advertising, and at dealerships, ensuring that drivers understand their ongoing responsibility when using these systems.

At the EU level, regulatory frameworks have been adapted to align with the evolving landscape of automated vehicles. Regulation (EU) 2018/858 and European Regulation (EU) 2019/2144 were modified by Commission Delegated Regulation (EU) 2022/1398 of 8 June 2022, Commission Delegated Regulation (EU) 2022/2236 of 20 June 2022 and Commission Implementing Regulation (EU) 2022/1426 of 5 August 2022. These three Regulations outline the technical type approval requirements to be complied with by Level 3 and Level 4 automated vehicles. From July 2024, Regulation (EU) 2019/2144 requires new vehicle types to integrate event data loggers, accurate tire pressure monitoring systems, reverse detection systems, emergency stop signals, driver distraction early warning

systems, interface to enable the mounting of an alcohol ignition interlock and intelligent speed adaptation system. This system was already applicable throughout Europe since 6 July 2022 for new approvals of cars, vans, trucks and buses.

Nationally, France embarked on pioneering initiatives to facilitate the integration of automated vehicles into its road infrastructure. On 3 August 2016, an Ordinance was issued authorising manufacturers to conduct tests involving automated vehicles on French roads, materialising the first steps towards introducing autonomous vehicles onto the French market. Subsequent to this, a Decree was issued in March 2018 to set out the authorisation regime for conducting tests with automated driving vehicles on public roads.

The authorisation regime is made up of two levels: a test that can cover one or several vehicles involved, and a specific registration for each vehicle. Testing must relate to either:

- technical and development assessments;
- evaluation of the performance in a situation where the automated vehicle is intended to be used; or
- public demonstration, notably during events.

These authorisations will be granted for a maximum of two years, but can be renewed. However, because the presence of a driver who can operate the vehicle and take control of the vehicle at any time is required, this testing framework is not adapted to SAE Level 5 yet. If the presence of a driver that can take control of the vehicle is required, this person can be outside of the vehicle. In that specific case, the authorisation holder must provide all necessary information to prove that this driver will be ready to take control of the vehicle at all times and be able to do so.

Finally, a Decree modifying this testing framework of delegated driving vehicles was adopted in December 2020. This modification allows, as part of a testing framework, delegated vehicles platooning and the circulation of rolling machines on certain pavements and sidewalks for the purpose of goods delivery.

In December 2020, the French government issued an updated 'Strategy for the development of automated road mobility 2020–2022'. This strategic roadmap aimed to finalise the legislative and regulatory frameworks by Q1 2022, focusing in particular on article 31 of the Mobility Orientation Law (LOM) dated December 2019. This legislation delineated the operational guidelines for both manned and unmanned vehicles employed for organised passenger transport on predefined routes or zones.

In this respect, the French government adopted on 14 April 2021, an Ordinance setting forth the rules regarding the criminal liability in case of circulation of delegated driving vehicles and automated road transport systems. Regarding the conditions of use of automated driving systems, the Ordinance provides that such conditions of use are defined by the vehicle manufacturer and must be disclosed to the consumer before the vehicle acquisition or leasing. It mandates that the decision to activate the automated driving system remains with the driver. When the automated driving system's conditions of use are no longer met, the automated driving system must alert the driver and request the driver to take back control and engage and perform a minimal risk manoeuvre in the case of lack of response from the driver or serious failure.

An implementing Decree of the Ordinance was adopted on 1 July 2021. This Decree provides for the definition of a delegated driving vehicle and sets out the specific features that automated driving systems may be equipped with. It also defines the interaction between the human driver and the automated driving system, as well as the manoeuvres that the system may perform automatically. It specifies the level of attention expected from the driver on his or her driving environment when an automated driving system is activated. The government adopted an Order on 8 December 2022 setting forth the content and means of provision of mandatory information to consumers regarding the conditions of use of the automated driving system. The implementing decree also prescribes the conditions of use of automated road transport systems, which can only operate on pre-defined routes or areas.

Furthermore, on 25 November 2024, France adopted Decree No. 2024-1063, which specifies the terms of application of Article 6 of Ordinance No. 2021-443 of 14 April 2021 relating to the criminal liability regime applicable to delegated driving vehicles. It lays down the safety rules and demonstration procedures for automated road freight transport systems, defines the respective roles of the service organiser, system designer, and operator, and clarifies the responsibilities of the technical service for cableways and guided transport.

In conclusion, since 1 September 2022, the French legal framework has granted authorisation for the operation of Level 3 automated vehicles for passenger cars and Level 4 automated vehicles for road transport systems. These regulatory advancements mark a significant stride towards fostering the integration of connected vehicles into France's mobility landscape.

Focus on automated vehicle liability aspects

On 28 September 2022, the European Commission published a proposed Directive No. 2022/0303 (the AI Liability Directive), adapting non-contractual civil liability rules to artificial intelligence. The AI Liability Directive aimed at improving the functioning of the internal market by laying down uniform rules for certain aspects of non-contractual civil liability for damage caused with the involvement of AI systems:

- In this respect, article 4 notably provided for a rebuttable presumption of a causal link in the case of fault, when specific conditions are met.
- Article 3 provided that a court may order the disclosure of relevant evidence about specific high-risk AI systems that are suspected of having caused damage, and introduces a presumption of non-compliance with a duty of care.

However, this proposed directive was withdrawn from the European Commission work agenda due to the lack of foreseeable agreement on a final text. The European Commission will assess whether another proposal should be tabled or another type of approach should be chosen.

France has not yet implemented a specific civil liability regime that would be applicable to a series deployment of automated vehicles. As a matter of principle, civil liability is incurred under French law if there is wrongdoing or negligence (including putting on the market or selling a product deemed defective or unsafe), or damage, and if causation between the two is established.

The LOM enabled the government to adopt rules to amend French legislation (notably the French Highway Code) to take into account the circulation of automated vehicles and to define the liability regime applicable to automated driving. The LOM enabled the government to regulate both 'partially or fully' automatic vehicles. This regulation was adopted by an Ordinance No. 2021-443 of 14 April 2021, which sets new criminal liability rules for both manufacturers and drivers within the French Traffic Code.

As a general principle, these regulations provide that the driver of 'a vehicle whose driving functions are delegated to an automated driving system' should not be held criminally liable for the offences committed when the automated driving system holds the dynamic control of the vehicle at the time of the incident. This general principle suffers a few exceptions, notably when the driver does not regain control of the vehicle after being requested to do so by the system, or when the driver does not comply with injunctions given by law enforcement authorities. It is also provided that the driver must constantly be in a position to respond to a request to take control of the automated driving system.

Outside these exceptions, the regulations provide for the liability of the car manufacturers in the case of manslaughter or bodily injuries when the vehicle operates according to conditions of use, if it is established that the manufacturer committed a criminal fault. The manufacturer will also be financially liable for petty offences resulting from breaches of driving rules.

A series of rules is set to ensure that the law enforcement authorities and the holder of the registration certificate of the vehicle access to the relevant data of the driving system in the case of traffic accidents, roadside checks and petty offences to driving rules. The manufacturer must guarantee the integrity of the data.

In addition, the provisions of the French Traffic Code and the French Transport Code were amended by a Decree of 29 June 2021 to allow for the circulation on French roads of autonomous vehicles and automated road transport systems on predefined routes or zones as of September 2022.

Specific criminal liability rules are also provided for the deployment of automated road transport systems. These rules notably state that persons authorised to carry out remote intervention on a vehicle operated as part of an automated road transport system will be liable for the offences resulting from their intervention or lack of intervention on the vehicle. Decree No. 2024-1063 of 25 November 2024 on automated road freight transport systems provides for the criminal liability of authorised persons if they intervene under the influence of alcohol on vehicles with driving delegation operating on automated road freight transport systems. These rules are a crucial step towards the implementation of a special liability regime applicable to autonomous driving in France, even though several questions (notably with regard adjustments of civil liability and product liability regimes to autonomous driving) remain open, and will do so even after the enactment of the above rules.

One of the outstanding questions will be whether Law No. 85-677 of 5 July 1985 improving the situation of victims of traffic accidents will need to be amended, because this law imposes a specific regime of liability for drivers and vehicle custodians that is designed to ensure the compensation of victims of traffic accidents. Indeed, even if this law does not directly impact product liability, it could impact the liability of car manufacturers or software developers if they were to be considered drivers or custodians of automated vehicles in an accident. The 1985 law notably does not precisely define who must be considered the

driver of the vehicle. Also, this law imposes that any person that can be held liable for damages suffered resulting from a traffic accident must be insured accordingly. It is yet to be determined how this obligation could transpose to Level 4 automated vehicles.

With regard to product liability stricto sensu and putting aside the recent rules applicable to criminal liability, the main question will be to assess, in the case of an accident, from which equipment or service it originated and which operator or person should be held liable (ie, car manufacturer, software developer, other components suppliers, custodians or authorities who must put in place infrastructures for the automated vehicle to operate safely).

Article 11 of the new Product Liability Directive 2024/2853 notably provides that economic operators are not exempted from liability if the defect in the product is caused by software under the control of the manufacturer. This also applies to the absence of software updates or upgrades necessary to maintain safety.

Data recorders will have a significant impact on determining the origins of the accident involving automated vehicles. This question impacts all potential defendants and their cross-claims against each other depending on the nature of the issue.

In this respect, France has passed an Ordinance No. 2021-442 of 14 April 2021 on access to vehicle data providing detail on the data to be collected and the conditions of access to such data in the event of a road accident.

Connected vehicle data

One of the key principles of European and French data protection laws is transparency. In line with this, data subjects (ie, drivers) must be informed by the data controller (ie, car manufacturers) of how their personal data will be used. Therefore, the French Data Protection Authority (CNIL) published in October 2017 guidelines offering directives on the usage of personal data collected by connected vehicles through vehicles' sensors, telematics devices or mobile applications. Such guidelines provide guidance to OEMs on how to integrate data protection by design and by default requirements into the production pipeline. The European Data Protection Board has also adopted guidelines on processing personal data in the context of connected vehicles and mobility-related applications on 9 March 2021. The main changes between the draft guidelines (released in February 2020) and this final version are the increased requirement of consent as legal basis to process personal data from connected vehicles, the classification of speed data combined with geolocation data as potential offence-related data and further clarifications on the obligation that vehicles provide clear and easy privacy settings to allow the user to control the data collected and transmitted from the vehicle. At the beginning of March 2023, CNIL announced the set-up of a compliance club dedicated to connected vehicles and mobility players. The creation of this club is carried out in line with its 2017 compliance pack and aims to establish a dialogue between the sector's players in order to update the recommendations on personal data protection and integrate new use cases. This initiative will result in new standards for data protection in connected vehicles. In April 2025, CNIL launched a public consultation on a draft recommendation concerning geolocation data in vehicles, which remains open until 20 May 2025. This work will shape future regulations regarding the use of location data and its impact on industry standards, insurance coverage and operational realities. This open consultation puts drivers' consent for the processing

of location data at the centre stage of CNIL's reflection, above fraud and contractual considerations.

The Ordinance resulting from article 32 of the LOM was adopted on 14 April 2021 and outlines the legal framework for accessing data from connected or autonomous vehicles. It authorises various entities, such as law enforcement authorities, infrastructure managers, emergency services, transport organising authorities and insurers, to access vehicle data for various purposes such as accident prevention, knowledge of the road infrastructure and traffic conditions, or, in the case of accidents, for insurance compensation or analysis of accidents. This access is crucial in enabling vehicle manufacturers to correct by telematic means flaws and defects of vehicle systems or components affecting a series of vehicles and threatening the vital interests of individuals in a serious and imminent manner. Moreover, the Ordinance includes new cybersecurity obligations upon vehicle manufacturers or vehicle equipment manufacturers in the case of electronic attacks. Decree No. 2023-644 of 20 July 2023 implemented this ordinance by specifying the categories of vehicle data that may be accessed for purposes such as accident prevention, enhanced emergency response, road infrastructure mapping and equipment knowledge, and traffic monitoring. It sets out the relevant data types, access procedures, update and retention conditions, and the information to be provided to data subjects. For accident prevention and emergency response, it also defines the procedures for assessing compliance with applicable requirements, as well as the duration for which vehicle manufacturers or their representatives must retain the data.

On 13 December 2023, the European Commission adopted a Regulation on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (also called the Data Act) including by connected vehicles. The objective of the Data Act is to establish a clear and pro-competitive set of rules for services based on access to connected vehicles data. This regulation will have a direct impact on automotive suppliers with regards to access to in-vehicle data and resources, where vehicle manufacturers currently have complete control over the data flow to and from connected vehicles. The European Commission's approach is to put users at the centre of the system, by giving them the power to decide if and how vehicle generated data is shared. However, when sharing the data with third parties, the data holder and the user may agree on measures to preserve the confidentiality of the data and trade secrets. The shared data provided may not be used to develop products that would compete with the product the data originates from, but allows third parties to use the data to provide competing services. The Data Act entered into force in January 2024 and will apply from 12 September 2025.

From 29 March 2022 to 21 June 2022, DG GROW published a call for evidence, accompanied by an open public consultation, on a proposal on 'Access to vehicle, functions and resources' to set the conditions for access to and use of generated data. The proposal will help clarify EU regulations and enable favourable competition in the automotive and mobility industry (ie, competition for services based on access to vehicle data). The Commission lists several of these services:

- repairs and maintenance;
- vehicle sharing;
- mobility as a service; and
- insurance.

This consultation could put the entire industry on an equal footing by promoting competition and innovation. However, the legislation, which has been awaited for several years, was not published as planned on February 2023.

In its industrial transition plan for the automotive ecosystem, published on 5 March 2025, the European Commission confirmed that complementary measures would be considered to maximise the economic potential of data generated by connected vehicles. In particular, the Commission plans to publish guidance on in-vehicle data in conjunction with the application of the Data Act and may, following its assessment, propose a dedicated regulation on access to in-vehicle data. This initiative could also include the creation of a European Automotive Data Platform and will address cybersecurity and competition concerns.

At a national level, Roland Lescure, Minister Delegate for Industry, Jean-Noël Barrot, Minister Delegate for Digital Transition and Telecommunications and Clément Beaune, Minister Delegate for Transport, announced on 10 February 2023 that four priority actions will be intended, from 2023 to 2025, to support the deployment of automated and connected road mobility services in the territories. The first such action consists of prioritising and coordinating the implementation of connectivity and data exchange systems.

In line with these priorities, several pilot initiatives are currently underway in France, including the Mach2 project in Châteauroux, which aims to deploy Level 4 autonomous electric minibuses by 2026, and the SAM (Safety and Acceptability of Autonomous Driving and Mobility) programme, which has tested autonomous mobility services and contributed to developing the national regulatory framework. These initiatives are part of the broader national strategy to support the deployment of connected and automated mobility services.

Connectivity systems allow supervision and remote interventions that help improve the safety and quality of automated vehicles' services. The development of connectivity systems is a factor in accelerating the emergence of autonomous vehicle. Prioritising data exchanges unlocks the potential for valuable innovations in mobility services, while upholding stringent standards for personal data protection and cybersecurity.

Shared transportation services

The LOM and EU Regulation 2017/1926 impose obligations relating to data sharing on 'on-demand transport service providers' and 'sharing service providers'. The establishment of a National Access Point for transport open data by the LOM aims to centralise mobility-related data on a national scale, fostering collaboration and innovation in the sector. The Data Governance Act, effective from 24 September 2023, reinforces data sharing across various domains, including automotive. This regulation is part of the European strategy on data. It provides the reuse and sharing of personal and non-personal data via data pools. As stated by the European Commission, this sharing is useful in different areas such as health and agriculture, but also in the automotive sector. Sharing data should facilitate and encourage research and development in automotive, especially with regard to connected and autonomous vehicles, and smart road systems (eg, for real-time navigation), which will be crucial in future smart cities.

Law stated - 30 May 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

The French and European automotive sectors are undergoing a profound transformation, driven by environmental regulation, digital innovation, supply chain realignment and geopolitical tensions.

While the covid-19 pandemic and the war in Ukraine initially exposed vulnerabilities in global automotive supply chains, the current focus has shifted to long-term adaptation: securing strategic raw materials, accelerating electrification, and restoring industrial sovereignty in critical technologies (eg, batteries, power electronics, AI systems). In May 2020, France launched an €8 billion automotive recovery plan to support the transition, including grants for low-emission vehicles, industrial modernisation and digitalisation. Since then, policy action has intensified at both national and EU level.

Environmental issues have taken on a significant role in the automotive policy pursued by both the European Union and France. The Climate and Resilience Act, adopted on 21 August 2021, provides for new measures to support the ecological transition in the transport industry. The text amends article 73 of the Mobility Orientation Law, which introduced the objective of ending the sale of new passenger vehicles and light commercial vehicles using fossil fuels by 2040, by adding two additional objectives. It first sets an end date of 1 January 2030 for sales of new passenger vehicles emitting more than 95g of carbon dioxide per kilometre, except for certain special purpose vehicles (eg, off-road vehicles for professional use or in mountain areas) without these derogations being allowed to exceed 5 per cent of total annual sales of new passenger vehicles. The second objective is the end of the sale of new heavy-duty vehicles used to transport people or goods and using mostly fossil fuels by 2040.

These developments come with support for the acquisition of greener vehicles and funding for the conversion of thermal-engine vehicles into electric motors or the installation of technical equipment to improve safety. For example, Implementing Decree of 29 December 2021 strengthened the green bonus and conversion premium to support the development of very low-emission light commercial vehicles.

Lastly, the Decree amending the French Environmental Code regarding the greening of vehicles used by delivery platforms was published on 5 April 2022. Introduced by article 114 of the Climate and Resilience Law, the decree requires delivery platforms with more than 50 workers to respect a minimum share, increasing over time, of very low-emission vehicles and bicycles.

At EU level, the Green Deal, Fit for 55 package, and the forthcoming Euro 7 regulation are shaping vehicle emissions targets and technological choices. France has also aligned its national policy with EU strategies through:

- the 2030 'France Nation Verte' roadmap;
- support for gigafactories and battery supply chains under the European Battery Alliance; and

- funding for smart charging infrastructure and vehicle-to-grid solutions.

Digital transformation is another central pillar. The General Safety Regulation (EU) 2019/2144, as amended in 2023, mandates the integration of advanced safety systems (eg, intelligent speed assistance, emergency braking, driver drowsiness detection) in new vehicle types. France has also positioned itself as a testing ground for autonomous and connected vehicles, notably through the Paris2Connect initiative launched in preparation for the 2024 Olympic Games.

As of May 2024, many automotive players and the French government have signed a contract for the automotive industry spanning 2024 to 2027. It outlines key objectives and initiatives to enhance the competitiveness, innovation and sustainability of both light and heavy vehicle segments. Goals include bolstering supply chain resilience, advancing electric and hydrogen vehicle technologies, fostering digitalisation and promoting workforce training.

Beyond legislative and industrial policy developments, contractual tensions have intensified in the automotive supply chain due to soaring costs of raw materials, energy and logistics, increased localisation requirements and persistent uncertainty regarding customs duties and cross-border trade conditions.

Under French contract law, parties may seek renegotiation under the doctrine of *imprévision* (hardship) (Article 1195 of the French Civil Code) where an unforeseeable change of circumstances renders performance excessively onerous for one party. This legal mechanism applies unless it has been expressly excluded in the contract, and may allow a party to request an adjustment or judicial termination of the contract if no agreement is reached.

In parallel, parties may also invoke force majeure (Article 1218 of the Civil Code) where an external, unforeseeable, and irresistible event prevents performance. This is particularly relevant in cases of geopolitical instability, major supply disruptions, or exceptional surges in sourcing costs, provided all legal criteria are met. If accepted, force majeure may suspend or terminate the contractual obligations concerned.

These mechanisms have gained renewed relevance in the context of post-pandemic economic volatility and may be used strategically to reopen discussions on price, volumes, or delivery terms where contractual flexibility is lacking.

Law stated - 30 May 2025

Mikael Salmela mikael.salmela@hoganlovells.com
Christelle Coslin christelle.coslin@hoganlovells.com
Charlotte Le Roux charlotte.leroux@hoganlovells.com
Sarah de Magalhaes sarah.demagalhaes@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

Germany

Patrick Ayad, **Carolin Marx**, **Detlef Hass**, **Moritz Langemann**, **Kerstin Neighbour**, **Sebastian Polly**, **Benjamin Schroeer**, **Birgit Reese**, **Heiko Tschauner**, **Christoph Wünschmann**, **Jessica Goetsch**, **Sebastian Schnell**, **Melanie Schub**, **Susanne Schuster**
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

Despite recent challenges, the German automotive industry remains one of the most critical pillars of the national economy — both in terms of value creation and as a driver of innovation, employment, and exports. It is the largest industrial sector in Germany, home to global vehicle manufacturers (OEMs) like Volkswagen, BMW, Mercedes-Benz, Audi, and Porsche, as well as leading suppliers such as Bosch, Continental, Schaeffler and ZF. Also numerous international OEMs — including Ford, Hyundai, Kia and Stellantis brands — operate major hubs in Germany. Despite its strong foundation, the industry is undergoing a profound transformation amid intensifying global competition, especially in key growth markets, and the shift away from traditional combustion engine technologies towards electric, connected and autonomous mobility.

Recent geopolitical and economic developments have further impacted the industry. Heightened global trade tensions — particularly driven by rising protectionism and tariff measures — are challenging established export models and supply chains. Elevated energy costs and a more fragmented geopolitical environment have added to the complexity.

Yet there are also strong tailwinds. EV sales in Germany and the EU are picking up, supported by improved infrastructure, maturing technology, and rising consumer acceptance. At the policy level, the new European Commission is signalling a more business-friendly regulatory approach, including cutting red tape and launching the EU Automotive Action Plan.

OEMs are responding by investing heavily in electrification, autonomous driving, and digital platforms. Germany remains a leading R&D hub for mobility technology. Despite the challenges, the automotive industry in Germany continues to set global benchmarks in engineering, innovation, and sustainability — positioning Germany to remain a key player in the future of mobility.

Law stated - 30 July 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

Type approval

Type approval is a prerequisite for the registration, sale and entry into service of vehicles and vehicle parts in Germany. Type approval is granted and monitored by the German Federal Motor Transport Authority (KBA) and can be generally obtained under three different regulatory frameworks: the United Nations Economic Commission for Europe (UNECE), the EU and the German type approval framework.

The UNECE framework is based on an international agreement dated 20 March 1958 (the 1958 Agreement) concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts that can be fitted or used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted based on these prescriptions. As of 12 May 2025, the 1958 Agreement comprises 177 technical regulations on safety and environmental subjects (the UN Regulations here (p. 19–20) and here (p. 38 ff.)). Not all signatory states apply all UN Regulations. Thus, the applicability of the UN Regulations must be determined on a case-by-case basis. The objective is to harmonise the UNECE type approval framework and the EU type approval framework. This process is still ongoing and not yet completed.

Within the EU, type approval regulations are harmonised and mutually recognised under the EU type approval framework. The German type approval framework is therefore only applicable if no EU harmonisation is in place. Thus, in practice, the most relevant regulatory framework in Germany is the EU type approval framework.

Under the EU type approval framework, Regulation (EU) 2018/858 establishes a framework for the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles. Regulation (EU) 2018/858 provides for administrative provisions and general technical requirements for the type approval of vehicles and their parts, with a view to facilitating their registration, sale and entry into service within the EU.

Several separate EU Directives and Regulations lay down more specific technical requirements concerning the construction and functioning of vehicles and their parts. Annex II to Regulation (EU) 2018/858 provides for an exhaustive list of all regulatory acts currently applicable to type approval.

Examples of these regulatory acts are Regulation (EC) No. 715/2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and Regulation (EU) 2019/2144 on type approval requirements for motor vehicles and their trailers, and systems, components and separate technical units intended for such vehicles, as regards their general safety and the protection of vehicle occupants and vulnerable road users (the new General Safety Regulation).

Manufacturers are generally responsible for ensuring compliance with the type approval process and conformity of production of vehicles and their parts, regardless of whether the manufacturer is directly involved in all stages of construction. In addition, manufacturer's representatives, importers, and distributors also have certain responsibilities under Regulation (EU) 2018/858.

Regulation (EU) 2018/858 also contains provisions on market surveillance of vehicles and their parts already placed on the market and specifies, among other things, the rights and obligations of the national market surveillance authorities or the European Commission as well as the responsibilities of the economic operators in the supply chain.

Law stated - 30 July 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

The automotive companies' supply is usually organised in the form of a purchase order business with a contract structure that is typically implemented by automotive original equipment manufacturers (OEMs) and similarly flows down the supply chain (ie, by Tier 1 suppliers to Tier 2 suppliers and so on). This contract structure is characterised by a stepwise increase and concretisation of supply obligations. There are generally only limited purchase obligations as the automotive business is traditionally very much a customer demand-driven business, though this eventually depends on the contractual arrangements. For example, obligations to purchase a certain share of demand, which is typically forecast, are quite common. However, recent developments resulting in increasing pressure on supply chains have significantly strengthened the negotiation power of suppliers of critical raw materials and components. In certain areas, automotive customers have thus been more and more forced to commit to mid- or long-term purchase obligations (eg, 'take or pay') and other supplier-dictated terms that would not have been accepted in past times.

The traditional stepwise structure may typically begin with a non-binding tender or offer, followed by a formal or informal supplier validation and nomination of certain components for specified vehicle platforms or ranges. The nomination or admission letter may include an initial development phase for the supplier to adapt to the customer's requirements and specifications, and ultimately aims to establish a supply relationship that lasts until the end of the series production of the relevant vehicle range. Within the framework of the nomination more specific purchase agreements are then concluded, which set out prices as well as volumes linked to demand – the latter usually being specified as the supplier's expected percentage share in the customer's overall demand within a given production period (eg, annually). Finally, the actual delivery of definite volumes is based on forecasts and short-range purchase orders that often provide for just-in-time delivery.

Usually, no comprehensive written framework agreements with negotiated legal terms are in place, but rather supply relationships are largely based on the application of the OEM's or higher-tier supplier's general purchasing terms. These terms, especially those of German OEMs, are to a large extent (ie, with only minor deviations) based on the general purchasing terms of the German Association of the Automotive Industry (VDA). That said, some OEMs recently revised their general purchasing terms, thereby moving further away from the VDA terms, in an attempt to optimise their legal purchasing positions in response to increased pressure on supply chains. OEMs usually have rather extensive additional standardised contractual documents in place, such as a warranty, quality assurance, logistics, ESG and other side agreements. More detailed individual agreements are concluded, though, where the supply relationship includes joint development efforts or otherwise is of particular strategic importance (eg, joint ventures and cooperations, in particular regarding strategically important technologies such as autonomous, connected, electric and shared vehicles).

With new entrants such as technology companies coming into the automotive market, concluding strategic cooperations has become a trend in the automotive industry. Also, traditional automotive rules are currently being challenged and redefined. For example, an obligation to supply spare parts for 15 years is something that technology companies can hardly accept.

Past developments such as the covid-19 pandemic and evolving geopolitical instabilities have significantly increased the pressure on global supply chains and raised sensitivities about security of supply regarding critical raw materials and components, most notably in the automotive industry relating to semiconductors and scarce raw materials required for high-voltage batteries for electric vehicles. Related shortage crisis and trade barriers resulted in automotive production downtimes and major disruptions of supply chains also in Germany. Most recently, additional uncertainties for supply chains derived from a changing global trade order, including uncertainties regarding future applicable tariffs. All of this raises contractual issues for OEMs and suppliers regarding the extent of binding purchase and supply obligations under existing contracts as well as questions of force majeure and hardship. The experience of recent disruptions is driving OEMs to strategically adjust their supply chain arrangements, with a tendency to increase their direct arrangements with suppliers further down the supply chain (Tier 2, Tier 3 and so on) to be able to better control and manage security of supply issues. As such, new structures may interfere with the traditional concept of flowing down rights and obligations along the supply chain, the implementation regularly triggers new contractual and commercial aspects.

Law stated - 30 July 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

The marketing of new vehicles usually takes place through a two-level distribution system. On the first level, the OEM (or its national importer) establishes a network of authorised dealers that – on the second level – market and sell the vehicles in their own name and for their own account to end customers. While for many years the two-level dealership model was the most common setup, there has lately been a trend towards a (genuine or non-genuine) agency concept, with agents engaging in customer-facing marketing activities and brokering sales on behalf of the OEM. Several major OEMs in Germany have already moved or are preparing to move to an agency model, although recently some OEMs have opted to delay the switch to the agency model or even return to the traditional dealer model. Some OEMs have set up a three-level structure with an additional intermediary acting on the third level towards end customers, usually in the form of an agency model. The contractual arrangements within the distribution chain vary (eg, regarding exclusivity, non-compete obligations, marketing obligations and branding requirements) and to that effect the degree of integration of the intermediaries in the OEM's distribution system also vary.

Alternatively, or in addition to the above, some OEMs maintain a network of own-retail branches that sell directly to end customers without involving any third-party distribution

intermediary. In other cases, it is common for OEMs to reserve the right to make direct sales to high-volume or special customers, such as fleet customers. As a general trend, direct end-customer relationships are becoming increasingly important for OEMs, particularly in the provision of connectivity and mobility services to end customers, and offering vehicles via direct online sales. Emerging options to purchase vehicles also via pure online channels directly from OEMs are changing customer expectations and interactions, and mean that OEMs need to deal with new legal domains, such as sales-related consumer protection and e-commerce laws (which mainly derive from EU law). Alongside focusing on direct online sales, some OEMs are developing new showroom concepts to offer point-of-sale customer experience (with showrooms either operated by the OEMs themselves or by third-party operators). Several OEMs have increasingly also started trialling or rolling out new innovative subscription models that aim to respond to evolving customer demands in terms of flexible and hassle-free full-service mobility offers. As a basic concept of such models, the customer pays a flat rate subscription fee and is provided with a car, similar to a longer-term rental contract, but in addition is offered a range of car-related services as well as the option to change car models at frequent intervals or on demand.

Under German contract and distribution law, some special rules and principles may apply to distribution relationships, with certain particularities in the automotive industry. Some of these rules are mandatory (ie, they cannot be deviated from by contractual arrangement). The rules and principles are largely based on case law, and there are many court decisions that deal with and specifically take into account the customary distribution structures and other particularities in the automotive industry. The most important examples of special rules under German contract and distribution law are as follows:

- Mandatory minimum notice periods usually apply where the principal intends to terminate a distributorship. The length of the notice period depends on the circumstances of the specific case, considering, among other things, the distributor's economic dependency on the terminated business, the duration of the distribution agreement, the extent of exclusivity, the extent of investments made by the distributor and the existence of non-competition obligations. Minimum notice periods in the range of six to 12 months are not uncommon – for automotive distribution relationships the courts have even applied minimum notice periods of up to two years.
- The distributor can usually claim an indemnity 'for loss of clientele' upon termination of the distribution relationship. The exact calculation of the indemnity is rather complex and requires a detailed analysis of various criteria. As a matter of principle, the indemnity amounts to the value of the benefits that the principal after the termination continues to derive from the business developed by the distributor. The maximum indemnity is the amount calculated from the distributor's average annual net margin with the relevant products over the past five years.
- Standard contract terms (such as model distribution agreements of OEMs) that are not individually negotiated by the parties are subject to judicial control according to the German law rules on standard terms. Under these rules, standard contract terms are unenforceable if they are considered to result in an unreasonable disadvantage to the other party. The requirements to meet this reasonableness test have been specified by case law for different types of contract clauses. Strict requirements apply, for example, for limitation of liability and warranty clauses.

Law stated - 30 July 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

Overall, there are no major differences between automotive M&A transactions in Germany and elsewhere in Europe.

There are, however, key features that warrant attention during the due diligence process and the negotiation of the transaction documents. Depending on the relevant business, areas that should be carefully reviewed include environmental issues, sanctions, product liability (including insurance coverage), intellectual property rights, regulatory (including compliance with emission standards) and, in light of global supply bottlenecks, alternative sourcing and the reliability of customer and supplier relations. Purchasers will regularly seek protection against risks in these sensitive areas through adequate representations as well as warranties and indemnities. Warranty and indemnity insurance is regularly used in Germany and is often taken out when the sellers are private equity firms or private individuals.

Furthermore, under German foreign direct investment law, the competent ministry may object – even after closing – to an acquisition of 25 per cent or – depending on the business of the target – 10 per cent or more of a German entity by a non-EU/EFTA acquirer if the public order or security of Germany or another member state of the European Union is likely to be impaired by the transaction. Even stricter rules may apply where the products sold by the target company are also used in more sensitive industries such as defence.

While there used to be an assumption that this only applies to key industries (eg, infrastructure, energy, defence, and certain IT security functions) and this objection right was rarely exercised, the German government takes a broader view these days – especially in the case of Chinese acquirers. It is possible to apply for a non-objection certificate, which is deemed to be granted if no official investigation is initiated within two months of receipt of the application. The receipt of the certificate is regularly included as a closing condition in the sale and purchase agreement in critical transactions.

Since 2023, the EU Foreign Subsidies Regulation (FSR) has supplemented the German investment protection law. The FSR grants the ability to the European Commission to intervene to avoid the distortion of competition in the EU internal market by way of subsidies. Under the FSR, a notification must be filed with the EU Commission if the acquired company, one of the merging parties or the joint venture generates an EU turnover of at least €500 million and the parties were granted foreign financial contributions of more than €50 million in the last three years. Similar to merger control filings in most jurisdictions, the transaction may not be consummated before clearance is obtained.

Furthermore, the competitive environment for OEMs and suppliers has changed substantially. Nowadays, technology companies increasingly qualify as competitors. This

is particularly relevant in the context of non-compete clauses or permissible purchasers when a joint venture partner intends to exit the venture.

Since the suspension of the obligation to file for insolvency proceedings that applied during the covid-19 pandemic legislation is no longer applicable, we are recording an increase in the number of insolvencies of automotive suppliers. Increased energy costs and rising inflation have reinforced this trend. Thus, distressed M&A is currently gaining in importance.

Law stated - 30 July 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

There are no special incentives for investment in the automotive market in Germany. Rather, there are indirect general incentives for investment, in particular in the e-mobility sector. Incentives include individual tax benefits under the German Motor Vehicle Tax Act and the offer of free parking and special parking zones in many municipalities. In addition, specific measures have been adopted to promote the expansion of charging infrastructure in Germany. There are various funding programmes for the procurement and installation of publicly accessible charge points. In addition, a revision of the 38th Ordinance on the implementation of the Federal Emission Control Act has opened up a new revenue stream for operators of public charge points to make the operation of public charge points more lucrative. Since 1 January 2022, charge point operators can sell the greenhouse gas reduction quota (GHG quota) – namely, the carbon dioxide savings associated with the supply of electricity from their charge points – to fuel suppliers, who in turn can fulfil their stringent greenhouse gas emission reduction obligations with the GHG quota. However, the carry-over of these so-called surplus reductions was now suspended for two years. Surpluses from 2024 can be credited again from 2027.

Likewise, except for trade control measures or sanctions particularly on the EU level, there are no special barriers to entry into the automotive market in Germany. Instead, there are established rules such as special terms and conditions and certain common practices developed by traditional automotive players, which generally apply to the automotive market when new companies enter the automotive market and deal with automotive companies in Germany.

At the same time, new entrants into the automotive market challenge established rules and common practices by applying new or at least redefined rules and practices in an environment where mostly technology-driven disruptions take place in a rapidly changing automotive world.

Law stated - 30 July 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

Product compliance safety

Under German law, general product safety aspects are primarily governed by the new EU General Product Safety Regulation (EU) 2023/988 (GPSR) that applied since 13 December 2024, the recently revised German Product Safety Act (ProdSG) and the newly passed German Systems Subject to Monitoring Act. As a regulation, the GPSR is directly applicable in Germany (in contrast to the former/old EU General Product Safety Directive 2001/95/EC (GPSD) that was implemented by the ProdSG). However, while the GPSR only applies to consumer products (eg, passenger cars but generally not B2B supply parts exclusively intended for the production of passenger cars by professional car manufacturers), the ProdSG applies to both consumer and non-consumer products.

Both the GPSR's harmonised framework and the ProdSG are particularly vital to the automotive and mobility sector, providing new rules for product safety authorities, companies, their decision makers and their products alike.

Environmental aspects are primarily in the line with EU type approval requirements. As of 1 September 2020, the (previous) Type-Approval Framework Directive 2007/46/EC was replaced by the (new) Type-Approval Framework Regulation (EU) 2018/858. There are several special type approval exhaust emissions provisions such as Regulation (EC) No. 715/2007 and Regulation (EC) 661/2009. In Germany, type approval requirements are codified in the EG-FGV.

There are additional market surveillance provisions codified in the (new) Market Surveillance Regulation (EU) 2019/1020.

Regarding enforcement in Germany, the competent market surveillance and product safety authority for motor vehicles and motor vehicle parts (including B2B supply parts) is the German Federal Motor Transport Authority (KBA). In addition, the KBA is the competent type approval authority. The KBA's headquarters is based in Flensburg. It is a federal authority that is generally controlled by the German Federal Ministry for Digital and Transport. The KBA is structured into several departments with individual subject groups. Regarding product safety, subject group number 514 ('Product Safety and Recalls') in department number 5 ('Market Surveillance') is generally in charge. As the competent enforcement authority in Germany, the KBA has issued an official codex on the implementation and interpretation of the ProdSG as well as certain corrective actions aspects (the KBA codex). With its codex, the KBA's intention is to provide car manufacturers and suppliers with additional guidance on certain product safety aspects, particularly on the KBA's expectations towards automotive companies. Moreover, the KBA codex outlines the KBA's approach towards certain product safety issues, including best practices and internal procedures. The original KBA codex of November 2011 is under constant revision, and was replaced and updated in September 2019, June 2020, August 2021 and April 2025.

Regarding the enforcement of the European Union's Rapid Exchange of Information System (RAPEX) for unsafe products, the competent German RAPEX contact point

authority is the German Federal Institute for Occupational Safety and Health (BAuA). The BAuA's headquarters is in Dortmund, with branches in Berlin, Dresden and Chemnitz. It is a federal governmental research institution controlled by the German Federal Ministry of Labour and Social Affairs.

One of the most important features is the implementation and enforcement of the notification obligation. In Germany, product safety notification aspects are generally in line with EU requirements, particularly with the new GPSR (that directly applies in all EU Member States including Germany since 13 December 2024). Accordingly, the producer of a consumer product 'shall immediately inform' the KBA if it 'knows or ought to know' that the consumer product 'poses risks to the consumer that are incompatible with the general safety requirement'.

In particular, Article 9 (8) GPSR states the following:

> Where a manufacturer considers or has reason to believe, on the basis of the information in that manufacturer's possession, that a product which it has placed on the market is a dangerous product, the manufacturer shall immediately: (a) take the corrective measures necessary to bring in an effective manner the product into conformity, including a withdrawal or recall, as appropriate; (b) inform consumers thereof, in accordance with Article 35 or 36, or both; and (c) inform, through the Safety Business Gateway, the market surveillance authorities of the Member States in which the product has been made available on the market thereof. For the purposes of points (b) and (c) of the first subparagraph, the manufacturer shall give details, in particular, of the risk to the health and safety of consumers and of any corrective measure already taken, and, if available, of the quantity, by Member State, of products still circulating on the market.

Additionally, article 20 GPSR states the following:

> The manufacturer shall ensure that, through the Safety Business Gateway, an accident caused by a product placed or made available on the market is notified, without undue delay from the moment it knows about the accident, to the competent authorities of the Member State where the accident has occurred. The notification shall include the type and identification number of the product as well as the circumstances of the accident, if known. The manufacturer shall notify, upon request, to the competent authorities any other relevant information.

Both of these authority notification obligations apply to consumer products. This is because, pursuant to article 3 (1) GPSR, the term 'product' means 'any item, whether or not it is interconnected to other items, supplied or made available, whether for consideration or not, including in the context of providing a service, which is intended for consumers or is likely, under reasonably foreseeable conditions, to be used by consumers even if not intended for them'.

Besides, article 14 of the (new) Type-Approval Framework Regulation (EU) 2018/858 (TAFR) also requires certain product safety or product conformity/compliance authority

notification obligation. In particular, pursuant to article 14 (1), a manufacturer 'shall immediately inform the approval authority that granted the type-approval in detail of the non-conformity and of any measures taken'. Pursuant to article 14 (2), where 'the vehicle, system, component, separate technical unit, part or equipment presents a serious risk, the manufacturer shall immediately provide to the approval authorities and market surveillance authorities detailed information on the risk and on any measures taken in relation thereto'.

The KBA decides on a case-by-case basis whether and what kinds of notifications or corrective actions are necessary and reasonable. It generally drafts a product safety risk assessment, often pursuant to the RAPEX risk assessment guidelines in Commission Implementing Decision (EU) 2019/417 (repealing Commission Decision 2010/15/EU), to assess potential product safety risks.

If deemed necessary due to the result of the risk assessment, the KBA has the power to order a corrective action (eg, a withdrawal or recall as well as certain publications). However, depending on the respective case, the KBA often trusts the car manufacturer or supplier to voluntarily carry out a suitable corrective action. In doing so, the KBA often refrains from issuing a formal order but closely monitors the case, particularly by asking for update reports. However, there is a recent trend that indicates that the KBA is now taking a stricter view (ie, that the KBA is increasingly relying on formal recall orders instead of a company's voluntary actions). This trend significantly increases a company's legal risks in the event of a product crisis.

As a general rule, companies should consider a proactive and cooperative approach when it comes to the German authorities. Proactively approaching and properly cooperating with the authorities is often crucial in solving a product crisis and reducing potential legal risks.

Environmental regulations

Many environmental regulations are harmonised at EU level, but enforcement of such EU environmental regulations is generally done on a national level. As a general rule, non-conformity with environmental regulations in Germany will mainly entail withdrawal of relevant licences, mandatory corrective measures and administrative fines, though there may be specific, and even criminal, sanctions depending on the subject matter.

See the following examples for important automotive-related environmental regulations and, if applicable, their German implementation.

Emissions

Regulation (EC) No 715/2007 on type approval of motor vehicles concerning emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and its implementing Regulation (EU) 2017/1151 establish common technical requirements for the type approval of light passenger and commercial vehicles with regard to their emissions and set out specific emissions limits. Potential sanctions for non-conformity in Germany include, for example, administrative fines, withdrawal of type approval, prohibitions on putting the relevant vehicles on the market and ordering of other appropriate measures (such as recalls). Since 1 September 2020, Regulation (EU) 2018/858 also entitles the European Commission under certain circumstances to initiate EU-wide enforcement and remedial

actions in addition to the foreseen competences of the enforcement authorities of the member states.

From November 2026, the new Euro 7 Regulation (EU) 2024/1257 on type approval of motor vehicles and engines and of systems, components and separate technical units intended for such vehicles, with respect to their emissions and battery durability will start to apply. The new Euro 7 Regulation will, among other things, repeal Regulation (EC) No. 715/2007 and Regulation (EU) 2017/1151. It will establish, for the first time, common emission requirements for the type approval of cars, vans, lorries and buses under a single set of rules. The new rules are fuel and technology neutral. This means the same emission limits apply to all vehicles of the same category regardless of the engine type (eg, internal combustion engine or hybrid) and fuel (eg, diesel, gasoline, or e-fuels). Further key points of the new Euro 7 Regulation include:

- stricter emission limits for lorries and buses, and application of the lowest existing limits for cars and vans for all fuel types;
- new specific emission limits for previously unregulated pollutants such as nitrous oxide from heavy-duty vehicles and new requirements for emissions from brakes and tyres;
- an extension of the boundaries of Real Driving Emissions testing conditions; and
- extended durability requirements.

The European Commission recently published a draft implementing regulation for the new Euro 7 standard, proposing, among other things, increased scrutiny and documentation requirements for emission strategies and stricter testing in general.

Carbon dioxide

Regulation (EU) 2019/631 setting carbon dioxide (CO_2) emission performance standards for new passenger cars and new light commercial vehicles and repealing Regulations (EC) 443/2009 and (EU) 510/2011 as part of the European Union's integrated approach to reduce CO_2 emissions, establishes mandatory CO_2 emissions targets for new vehicles. These targets do not apply to individual vehicle models or manufacturers, but relate to the entire European fleet average. It is not necessary for each individual manufacturer to comply with the European fleet value. However, each individual manufacturer is allocated a manufacturer-specific value depending on the products it sells. If a manufacturer's average emissions levels are above this value, the manufacturer will have to pay an excess emissions premium. The penalty is €95 for each gram per kilometre of exceedance. On 5 March 2025, the European Commission published the Automotive Action Plan, which aims to increase flexibility in reaching the CO_2 emissions targets by allowing exceedances in one year to be compensated in other years between 2025 and 2027.

From 2035, Regulation (EU) 2019/631 (as amended by Regulation (EU) 2023/851) sets a 100 per cent reduction target in CO_2 emissions from new passenger cars and light commercial vehicles. This means that, under current rules, manufacturers cannot register new internal combustion engines vehicles that emit CO_2 from 2035 onward without having to pay hefty fines, unless they operate exclusively on CO_2-neutral fuels.

In order to assess whether the type approval CO values forming the basis for the fleet average calculations are representative of real-world CO emissions, starting with registrations in 2021, manufacturers must report real-world CO emissions and fuel or energy consumption of passenger cars to the European Commission as further specified by Regulation (EU) 2021/392. This data must be collected using on-board fuel and energy consumption monitoring devices

Waste

Directive 2000/53/EC on end-of-life vehicles, implemented into German law by the End-of-Life Vehicle Ordinance, prioritises preventing waste from vehicles. It also promotes the reuse, recycling and other forms of recovery of end-of-life vehicles and their components to reduce the disposal of waste, and improve the environmental performance of all economic operators involved in the life cycle of vehicles and especially those handling the treatment of end-of-life vehicles. The End-of-Life Vehicle Ordinance provides for administrative fines in the event of non-conformity with certain obligations.

In addition, Directive 2005/64/EC on the type-approval of motor vehicles concerning their reusability, recyclability and recoverability lays down administrative and technical provisions for the type approval of cars and vans, ensuring that their component parts and materials can be reused, recycled and recovered in a specific minimum percentage.

On 13 July 2023, the European Commission proposed a new End-of-Life Vehicles Regulation, to build on and replace the existing framework. It shall enhance the vehicle circularity by introducing stricter requirements for the entire vehicle life cycle (ie, including requirements for the design and production phase such as minimum requirements concerning recyclability and recoverability and the prevention of hazardous substances). The proposal is still under discussion by the European Parliament and the Council.

Batteries

Regulation (EU) 2023/1542 concerning batteries and waste batteries (the Battery Regulation), which entered into force on 17 August 2023 and will repeal Battery Directive 2006/66/EC with effect from 18 August 2025, aims to ensure that batteries have a low carbon footprint, use minimal harmful substances, and enhance the circular economy of batteries within the EU. The Battery Regulation introduced new battery categories, including electric vehicle batteries and light means of transport batteries. Main obligations for economic operators under the new Battery Regulation include requirements on topics such as sustainability (eg, minimum recycled content, collection targets, second life requirements, extended producer responsibility, carbon footprint calculation and declaration), safety (eg, enhanced labelling and information requirements, conformity assessment procedures, declaration of conformity and CE marking), supply chain due diligence, and performance and durability. The Battery Regulation affects the entire life cycle of a battery, including second life, regardless of whether the batteries are installed in vehicles or appliances or placed on the EU market as such. The obligations under the Battery Regulation are gradually applied; for example, new waste management obligations will come into force in 2025.

Law stated - 30 July 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

Under German law, there are numerous provisions that generally allow product liability claims, particularly claims under contract or warranty, general tort law as well as strict product liability law.

Most consumer claims in the automotive industry are brought under the strict liability regime of the German Product Liability Act (ProdHaftG), implementing the European Product Liability Directive 85/374/EEC. Accordingly, a 'producer shall be liable for damages caused by a defect in his product', and a product is generally defective 'when it does not provide the safety that a person is entitled to expect'. This test generally considers 'all circumstances', particularly 'the presentation of the product, the use to which it could reasonably be expected that the product would be put and the time when the product was put into circulation'. Potential defects can be linked to design, production and instruction aspects as well as certain product monitoring shortcomings. However, the burden of proof for the (alleged) defect, the damage and the causal relationship between defect and damage is generally upon the claimant. Besides, a producer's liability is limited to €85 million per case (pursuant to section 10 ProdHaftG).

There is a great deal of automotive product liability case law in Germany. Many courts, including the German Federal Court of Justice, have ruled on alleged vehicle defects. German courts decide cases by appointing independent technical court experts to assess whether a vehicle – design, production and instruction alike – has a defect. The courts typically ask the technical expert to apply a state-of-the-art test (ie, taking into account the respective date when the vehicle was placed on the market).

In the event of a recall, there can be substantial follow-on litigation. To mitigate risks, it is crucial to take effective and sophisticated measures to prevent unnecessary risks (eg, by avoiding unnecessary acknowledgement or by creating an incorrect impression as to the scope and meaning of a recall).

Under German law, there is generally no class action system regarding consumer litigation in automotive product liability cases. Hence, lawsuits must be brought individually before the respective courts.

However, in 2018, a collective redress system was established to strengthen consumer protection rights. This collective redress system allows certain consumer protection associations to file collective redress lawsuits against automakers, suppliers, dealers, etc. As a result, individual consumers will be able to approach automotive companies based on the outcome of the collective redress lawsuit. Therefore, automotive companies should consider implementing proper defence mechanisms.

Besides, EU lawmakers passed a new EU Product Liability Directive 2024/2853 (PLD). With effect from 9 December 2026, it will completely repeal the current/old Product Liability Directive 85/374/EEC. According, pursuant to the PLD, all EU Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the

new PLD by by 9 December 2026. This new PLD includes new and stricter – ie, more plaintiff-friendly – provisions, especially on the defectiveness of products, damages, the disclosure of evidence, the burden of proof and the exemption from liability. The new PLD will be particularly relevant for alleged product liability claims in the automotive and mobility sector. Accordingly, it is vital that companies start amending and revising their defence strategies as early as possible.

Law stated - 30 July 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

Notably, in the past few years the European Commission has investigated several car parts cartels and heavily fined original equipment manufacturers (OEM) suppliers located all over the world for anticompetitive practices, such as price-fixing, bid rigging and the exchange of competitively sensitive information. These illegal practices concerned very different components, such as alternators and starters, wire harnesses, parking heaters, automotive bearings, spark plugs and braking systems.

In addition, in July 2016, the Commission imposed fines of €2.93 billion on five European truck manufacturers for coordinating prices. This is the highest cartel fine the Commission has imposed so far. According to the findings of the Commission, the truck cartel existed for 14 years and was partly organised through the truck manufacturers' German subsidiaries. Notably, another manufacturer that did not participate in the settlement procedure underlying the 2016 decisions was fined €880 million in 2017 for the same conduct, bringing the total fine for the truck cartel to around €3.8 billion.

In 2018, the Commission opened an investigation to assess whether German car manufacturers agreed not to compete against each other on the development and roll-out of technology to clean the emissions of petrol and diesel passenger cars. This case was concluded in 2021 with a decision in which the Commission found that the German OEMs breached EU antitrust rules by colluding on technical development in nitrogen oxide cleaning. The Commission has imposed a total fine for the five OEMs of €875 million.

Other notable cartel investigations that have recently come to light concern end-of-life vehicles (2022), starter batteries (2023) and tyres (2024). The first of these investigations led to a recent fine decision in March 2025. The Commission found 15 OEMs and the industry association ACEA to have secretly agreed over years not to pay or advertise when recycling end-of-life vehicles. Notably, commissioner Ribera also emphasised that recycling would not just be a technical matter, but central to the EU's 'circular economy objectives'. Those who suppress customer education through a lack of transparency and inaction would undermine both competition and sustainability. The imposed fines consisted of €458 million in total, while Daimler escaped the fine as a leniency applicant. In addition to Daimler, Stellantis, Ford and Mitsubishi received respective discounts after having filed for leniency and cooperated with the Commission.

In the second case, the Commission has made allegations against five starter battery producers and two trade associations based on concerns that the producers involved created, published and agreed to use new indices in their price negotiations with car manufacturers (with the overall aim of fixing an important element of the final battery price). The trade associations allegedly assisted the manufacturers in setting up and operating the system. Finally, the tyre investigation concerns suspected price coordination between several leading car tyre manufacturers in several EU member states. In particular, this investigation deals with the allegation that part of the price coordination was based on public communications – a rarely investigated and generally difficult to prove allegation, also known as 'signalling'.

In parallel with the European Commission cases, the German Federal Cartel Office (FCO) has conducted several investigations in the automotive sector over the past few years. For example, in June and December 2015, the FCO fined six automotive part manufacturers for agreeing to fix prices in relation to acoustically effective components (ie, textiles such as floor coverings and car mats). The manufacturers were fined a total of €90 million.

In 2015, the FCO initiated proceedings against three car manufacturers for restricting cooperation between branded retailers and independent online agencies. The manufacturers had implemented 'internet standards' for the introduction of end customers to brand retailers via internet-based new car portals. The FCO found that such standards reduced cooperation between retailers and car portals and therefore restricted competition by reducing market transparency. The proceedings of the FCO were closed in December 2015 after the car manufacturers revised their clauses. In November 2019, the FCO imposed fines totalling around €100 million on German car manufacturers for exchanging information with steel manufacturers, forging companies and Tier 1 suppliers on surcharges for the purchase of long steel products.

The cartel decisions of the European Commission and the FCO have led to several follow-on damages actions before the German courts. Germany is generally regarded as one of the major forums within the European Union for competition law damages actions. The implementation of the EU Cartel Damages Directive 2014/104 through an amendment of the German Act against Restraints on Competition (ARC) in June 2017 further boosted private enforcement, for example, through collective claims brought against cartelists in Germany. The recent cartel damage claims against truck manufacturers are mainly carried on by professional claim funding companies and US class action law firms (with offices in Germany). Recent developments in case law, including rulings by the Federal Court of Justice, are further encouraging this trend.

In terms of compliance implications for competition law enforcement, the 10th amendment to the ARC in January 2021 brought a significant update. Implementing the ECN Plus Directive 2019/1, the German legislator has enshrined an antitrust compliance defence in German law, making effective compliance efforts both before and after the infringement relevant for the assessment of a cartel fine. This means that companies with effective antitrust compliance systems for the prevention and detection of cartel infringements, as well as those that contribute to the detection of a cartel infringement as leniency applicants, can now be rewarded to a greater extent when fines are imposed. On the other hand, companies that do not (immediately) decide to make such a contribution can now in practice be forced to cooperate in investigations, in particular by having to respond to specific requests for information. When reviewing their dawn raid procedures and antitrust

compliance systems, companies should therefore pay increased attention to ensuring that they are compatible with the new investigative powers and the new requirements for adequate and effective compliance arrangements.

Law stated - 30 July 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

Apart from disputes concerning antitrust, insolvency and intellectual property matters, disputes in the automotive industry continue to arise regularly along the supply chain. Increasingly relevant are also ESG- and compliance-related issues as well as data disputes (eg, vehicle data) and regulatory claims concerning environmental impact and charging infrastructure.

The most frequent disputes between customers and the supplier include the following:

- Claims for damages stemming from product defects (section 434 et seq of the German Civil Code): these include product liability claims when defects of the product compromise the safe use of delivered products. Such disputes are often settled early due to business relationship considerations but may escalate to litigation if no agreement is reached. Given their technical nature, some cases are resolved based on independent expert opinions or court-administered evidence procedures.
- Supply chain disruptions, including threats or actual implementation of supply stops: supply interruptions, once rare, have seen an uptick in German courts in recent years, particularly due to geopolitical tensions, raw material shortages (including critical materials under the EU's Raw Materials Act), and energy price fluctuations. In an era of intricate supply chains, just-in-time or just-in-sequence production and single sourcing, automotive industry customers are highly dependent on on-time delivery of parts. Even brief disruptions can cause severe damage, and German courts are increasingly acknowledging the need to act quickly to prevent irreparable harm. Thus, in urgent cases it is possible to file for interim injunctions requesting continuation of the supply under the contractual terms. Some straightforward cases are decided by the courts ex parte within days or even hours of filing, while more complex cases may require hearings and take weeks to resolve. Price adjustment disputes have escalated especially since covid-19, the semiconductor crisis, and Russia's war in Ukraine. Increased costs for energy, transport, and raw materials have led to significant supplier demands for higher prices. Under German law, contractually agreed prices can only be adjusted in very limited circumstances, such as under the principle of frustration of contract (section 313 German Civil Code). Courts have confirmed these principles in recent rulings. Disputes are likely to persist given inflation and sectoral transformation pressures.
- Disputes arising from the termination of supply contracts: the transition towards electric and autonomous vehicles, combined with financial pressures (interest rates, labour costs, and CAPEX for new tech), has led to increased contract terminations

and shifts to alternative suppliers. Disputes typically revolve around termination rights, IP protection, compensation for stranded investments, and tooling transfer. The German Supply Chain Due Diligence Act (LkSG) – and similar frameworks such as the forthcoming EU Corporate Sustainability Due Diligence Directive (CSDDD) – have introduced new compliance-driven supplier transitions. Although termination is legally only a last resort, it may be required when repeated quality issues in light of ESG obligations cannot be resolved. Interim measures have been used to secure tool transfers in such transitions, as production losses due to delays may be severe.

- Raw material shortages and allocation disputes: while semiconductor supply has stabilised compared to 2021, raw material constraints persist, particularly for batteries and rare earths. Regulatory pressure to accelerate the shift to sustainable mobility keeps the market volatile. Disputes regarding allocation obligations and preferential supply agreements remain frequent. Industry guidelines, such as those issued by the German Association of the Automotive Industry (VDA), continue to provide orientation but remain non-binding. The EU Critical Raw Materials Act is expected to increase reporting and sourcing obligations further.
- ESG-related disputes and regulatory compliance: regulatory scrutiny and investor pressure regarding environmental, social, and governance (ESG) criteria have become an increasing source of legal disputes. These include allegations of greenwashing, failures in carbon reporting, and non-compliance with human rights standards. Customers are more frequently enforcing ESG clauses and, where necessary, excluding suppliers on this basis.
- Dispute resolution avenues: disputes are resolved via negotiation, mediation, litigation, or arbitration. In supply-sensitive contexts, interim relief – especially in the form of injunctions – plays a crucial role. German courts have adapted to these complexities by modernising their infrastructure. Several Higher Regional Courts (including Munich, Berlin, Hamburg, Düsseldorf, Bremen, and Stuttgart) have established commercial chambers dedicated to complex business disputes. Proceedings before these chambers are available from a value of €500,000 and may be conducted in English. In addition, confidentiality protections for sensitive business information can be requested, supporting the resolution of disputes in highly competitive sectors such as automotive.

Law stated - 30 July 2025

Distressed suppliers

11 | What is the process for dealing with distressed suppliers in the automotive industry?

From a customer's point of view, there may be early warning signs of the distress of a supplier, such as the supplier's request to shorten the term of payment, increase the prices or from case to case a deterioration of the quality standard. If it is not possible to transfer the supply relationship to a second source, the customer of a distressed supplier may effectively be forced to renegotiate the relevant supply contracts in order (at least temporarily) to ensure continuous supply. In this case, the customer should ask for a guarantee or comfort letter issued by the supplier's parent company to limit the risk of

non-performance. It should be kept in mind that actions of the distressed contracting party (ie, renegotiating existing supply contracts or the performance of contractual duties under the supply contract) could be subject to clawback in a subsequent insolvency. The customer should seek legal advice to mitigate these risks.

If the supplier is no longer able to pay its debts as they fall due or the entity is over-indebted in the terms of the German Insolvency Code, the company's management must file for the opening of insolvency proceedings without undue delay (if promising restructuring attempts are undertaken by the management at the latest within three weeks in the case of illiquidity or within six weeks in the case of over-indebtedness). The local insolvency court will then institute preliminary insolvency proceedings and usually appoint a preliminary insolvency administrator. During the preliminary insolvency proceedings, which last for about three months, the company's business operations are typically continued. To facilitate that, the employees' wages are paid by the employment agency (insolvency pay). During the preliminary proceedings, any business correspondence should be addressed to both the company's management and the preliminary insolvency administrator. It should be carefully reviewed whether payments must be made to an escrow account set up by the preliminary insolvency administrator and whether the court has ordered additional measures aimed at the protection of the insolvency estate. As regards existing contractual relationships, the preliminary insolvency administrator may ask customers for payments in advance or other (financial) support to fund the business continuation. In this case, it will be crucial to find a way to safeguard such payments.

After the preliminary insolvency proceedings, the court will open (final) insolvency proceedings and appoint a (final) insolvency administrator. At this point, the power of disposal transfers from the company's management to the insolvency administrator, whose administration must always focus on what is best for the company's creditors. Generally speaking, the insolvency administrator has the possibility to continue the company's business and (later) restructure it by way of an insolvency plan or sell it to an investor (by way of an asset deal) or liquidate the company. If the company is liquidated, the customer will have to transfer its business to a second source or – if that is not possible – think about acquiring the debtor's business itself. If selling the debtor's business to an investor is the most promising option from the insolvency administrator's point of view, the insolvency administrator will usually start a formal bidding process. Potential investors may then place offers for the assets they are interested in. The debtor's business or a part thereof is transferred by way of an asset deal, and according to German employment law the relevant employees (including the existing employment contracts) will be transferred to the investor. However, the insolvency administrator has (limited) possibilities to influence how many and which employees will be transferred to the investor. In the case of a sale of the debtor's business to an investor via asset deal, existing supply agreements do not automatically transfer to the investor, which means that suppliers and the investor need to agree on the transfer of the existing supply agreement to the investor or negotiate a new supply agreement.

The company's management may also apply for debtor-in-possession proceedings. In that case, a (preliminary) supervising trustee will be appointed by the court instead of the (preliminary) insolvency administrator. The main difference between regular insolvency proceedings and debtor-in-possession proceedings is that the power of disposal remains with the company's management after the opening of insolvency proceedings.

Debtor-in-possession proceedings also aim at the best possible satisfaction of the company's creditors, thus the management is also bound by this maxim.

Law stated - 30 July 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

For most car manufacturers and auto suppliers, but also for patent owners from outside the automotive industry, Germany is a main venue of choice to enforce their IP rights against any type of infringement. The experience, reliability and efficiency of German IP courts are among the main reasons for this preference. Another reason is the rather broad scope of protection that German IP courts attach to all relevant IP rights at stake, be it patents, trademarks, or designs. As a result, the amount of case law is high and constantly growing.

In the field of patents, plaintiffs appreciate that German patent judges are happy to handle difficult technical subject matters without needing a court expert. Plaintiffs like that infringement proceedings are fast (eg, injunctions available in the Munich courts in less than a year) and relatively inexpensive owing to procedural efficiency. Two sorts of disputes are particularly common. First, automotive suppliers take cases against their competitors to the German courts. The German courts have recently dealt with cases regarding a large variety of components, including, for example, crankshaft bearings, turbo chargers, brake systems, brake pads, airbags, tyre repair kits, structural reinforcement, electrical connectors, ventilation, seats, air filters, side-impact protection, fuel feed valves, windshield wipers, engine immobilisers, driver assistance systems and mudguards. Second, there is an increasing number of attacks by patent owners from outside the traditional automotive industry, including non-practising entities (NPEs), against the car industry. Most of these cases relate to standard-essential patents (SEPs) for communication technology (eg, 3G, 4G and WiFi) implemented in the car. We expect this second category of cases to continue in the future parallel to the implementation of new standard generations that are not fully licensed by the automotive industry. At the same time, SEP licensing pools like Avanci have proven to be an efficient means for avoiding litigation relating to SEPs in the automotive space.

Another area where we expect more patent litigation in the future are electric vehicles and in particular battery technology. The battery technology is developing very fast and is heavily covered by patents. At the same time, there is strong competition among battery manufacturers so that patent owner may try to obtain a competitive advantage over their competitors via patent litigation. Even though most battery manufacturers come from Asia, we expect patent litigation also in Germany and before Unified Patent Court (UPC) given that Europe is both an important market and home of many of the largest and most successful automotive OEMs. Even though it cannot be excluded that battery manufacturers will also sue automotive OEMs using batteries from competitors, we expect litigation to unfold predominantly between battery manufacturers. Such litigation may significantly disrupt the supply chain of automotive OEMs in the event a battery manufacturer obtains an injunction against another battery manufacturer. This in turn

suggests that it is important automotive OEMs to have more than one battery supplier per model wherever possible.

In the field of trademark law, many cases deal with the misuse of car brands for maintenance services offered by third parties. German IP courts have forced unauthorised service providers to limit the use of the brand to a significant degree. Such service providers must not use the manufacturer's logo to advertise their offer. Rather, they are typically limited to the use of the car's word mark. This makes advertising for unauthorised maintenance service much harder.

Another area of significant trademark litigation refers to accessory products and merchandising articles – such as keyrings, mugs, shirts and many other items. German IP courts try to close possible gaps of trademark registrations for such unrelated goods.

One area where German IP courts are hesitant to protect design or trademark rights against unauthorised forms of use relates to scale model replicas of original cars. In this area, German IP courts have developed a long-standing exception to the successful enforcement of car brands and designs for the benefit of all those who like to collect cars – but cannot afford the original.

Law stated - 30 July 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

Key provisions of German employment law include:

- minimum standards regarding, among other things, sick pay, annual leave, notice periods and minimum wage (€12.82 gross per hour at present); and
- a social security system providing mandatory insurance for employees in health, nursing care, unemployment, accidents at work and pensions.

Moreover, employees working in operations with regularly more than 10 employees are protected against unfair dismissal after completion of a six-months period of employment. There is no statutory claim for severance pay for loss of employment; the amount of severance, if any, is subject to negotiation between the employer and the employee or, in the event of mass dismissals or similarly far-reaching operational changes, subject to a social plan concluded between the employer and the relevant works council (where applicable).

Although precise figures are not available, the collective bargaining agreements of the metal and electrical industry are relevant for a large number of employees in the automotive industry. Compared to other German industries, the level of unionisation in the automotive industry is still fairly high. At large supplier companies and OEMs, the level of unionisation tends to be significantly higher than in small and medium-sized supplier companies. By law, the application of collective bargaining agreements usually requires that both parties

to an employment contract are also members of the industry's trade union and employers' association, respectively. But even non-union members may benefit from their employer's membership in the employers' association, as employers often contractually commit to applying the industry's collective bargaining agreements regardless of individual trade union membership.

In the western states of Germany, the collective bargaining agreements of the metal and electrical industry provide for a regular weekly working time of 35 hours. However, employers can benefit from enhanced options to agree a weekly working time of 40 hours with individual employees. Conversely, full-time employees may under certain conditions reduce their weekly working time from the current 35 hours down to 28 hours for a period of six to 24 months. Employees in particularly stressful private situations (eg, with family members in need of care) can opt for a release from work of up to eight days annually by converting their tariff supplement into free time. In the eastern states of Germany, the sectoral collective bargaining agreements still provide for the 38-hour working week to be the rule. Employers may however negotiate with a works council at company level a gradual reduction of the working hours to 35 hours per week.

Several of the industry's regional collective bargaining agreements provide for special protection against dismissal for older employees. In the southwest, for example, employees who are 53 or older can only be dismissed for a good cause provided they have been employed by the company for at least three years. Further specifics and exceptions from such special protection against dismissal differ from tariff district to tariff district.

Collectively agreed benefits for the industry are, inter alia, the so-called 'transformation payment', an annual special payment amounting to 18.4 per cent of the employees' regular individual monthly pay.

The most recent tariff negotiations resulted in wage increases of 2 per cent as of April 2025 and a further 3.1 per cent as of April 2026.

Given the need for flexibility and just-in-time production, on the one hand, and the strictness of German employment laws, on the other hand, the automotive industry often seeks to work with freelancers, companies providing work and services and external staff provided by temporary work agencies. By law, the hiring period for agency temps is restricted to a maximum of 18 months in principle. Collective bargaining agreements can provide for more flexibility in this regard, and the metal and electrical industry has made use of this option by extending the maximum hiring period to 48 months. For this extension to apply, the affected employee does not necessarily have to be a trade union member. Hiring companies that are not bound by collective bargaining agreements can, in principle, also adopt these rules by means of works council agreements. The industry's collective bargaining agreements also oblige companies to pay premiums to agency temps to comply with equal pay legislation.

When it comes to employee representation at operational level, there is no legal obligation in Germany to establish a works council – even after the operation has reached a certain size. Employees are entitled to establish a works council (provided that the operation has a minimum size of at least five employees over 18 years of age), but they may also choose not to. It is fair to say, though, that most companies in the industry, in particular OEMs and larger suppliers, do have works councils.

Where established, works councils have substantial co-determination rights regarding personnel, social and economic matters. In many instances, this means that the employer

cannot introduce policies or implement material changes relevant to the workforce without the works council's prior consent or without having gone through litigation or arbitration procedures. In view of the ever-increasing digitalisation and automation of the industry, the co-determination right concerning the 'introduction and application of technical equipment suitable to monitor employees' conduct and performance' is of paramount importance. Issues concerning employee monitoring and data privacy have increasingly become susceptible to disputes, particularly since the introduction of the General Data Protection Regulation.

Works council agreements providing for protection against dismissal are also quite common, in particular with large OEMs. Such agreements, which may, among other things, provide for a commitment not to close certain production sites or not to implement forced redundancies for a certain period of time, can significantly limit a company's ability to react to changing market conditions.

The Supply Chain Due Diligence Act in its present form obliges companies with at least 1,000 employees in Germany to implement appropriate risk management measures ensuring compliance with due diligence obligations in the supply chain and to set up an appropriate complaints procedure. The due diligence obligations extend to a number of aspects of the working environment, including compliance with labour law provisions, the prohibition of discrimination and the guarantee of fair pay. Violations can result in fines of up to €8 million or 2 per cent of the company's global annual turnover.

The automotive industry, like many other sectors in Germany, is struggling with an ageing workforce and a shortage of skilled professionals, especially in the STEM sector. Legislative reforms concerning taxation, childcare and the immigration system have been considered for some time to address these issues. The 2023 Act on the Further Development of Skilled Immigration is aimed at reducing the administrative burden associated with the recruitment of skilled workers from non-EU countries. Among other things, the verification of qualifications such as language skills and professional experience can be conducted via a points system, obviating the necessity for complex examination procedures. A so-called 'opportunity card' allows applicants to remain in Germany for a period of one year to pursue employment opportunities. Furthermore, the 2024 Act on the Promotion of Training and Further Training introduced numerous reforms in the area of in-company training support for trainees and employees. The Act provides for a training guarantee, including the promotion of short internships in companies for vocational orientation, and a mobility allowance, a 'qualification allowance' to support companies in the qualification of their skilled workers, and regulations on the promotion of external vocational training.

The recently adopted EU AI Act will have an impact on the use of AI in the HR sector, particularly in the application process. The Act classifies AI systems used for recruiting applicants, advertising vacancies, screening applications or evaluating applicants as 'high-risk'. For companies using AI in HR processes, this classification entails numerous obligations, such as documentation and information obligations as well as monitoring and control obligations.

Law stated - 30 July 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

The most important legal developments in automotive technology and mobility are predominantly shaped by the ongoing evolution of autonomous driving, electric vehicles and connected and shared mobility solutions.

Automated driving

In the field of automated driving, technological advances and the industry landscape are rapidly evolving. This goes hand in hand with regulatory developments addressing the question of legality of operating autonomous vehicles (AVs) on public roads and setting out the appropriate technical requirements for AV technology. This challenge is currently being faced by legislators around the globe to ensure the safe (commercial) deployment of (SAE/ISO Level 4) AVs. There are a wide variety of legislative developments and initiatives currently taking place at international, EU and domestic German levels.

The Vienna Convention on Road Traffic of 1968 (the Vienna Convention), to which Germany is a signatory party, may authorise the use of AV technology, but still mandates a human 'driver' to take control of the vehicle at any time. An amendment to the Vienna Convention from 2020 stipulates that the driver requirement be satisfied while the vehicle is using an Automated Driving System (ADS) that complies with domestic technical regulations (type approval requirements) and domestic legislation on operation. WP.1 continues to work on these topics and has adopted a resolution on safety consideration for activities other than driving undertaken by drivers when automated driving systems issuing transition demands exercise dynamic control. To enhance global consistency, WP.1 has also initiated the development of a new Legal instrument on the Use of Automated Vehicles in Traffic (LIAV). This initiative is anticipated to supplement the Geneva and Vienna Conventions. In addition, the UNECE's Working Party on Automated/Autonomous and Connected Vehicles has adopted the draft of a new regulation that defines provisions for the approval of vehicles with driver control assistance systems (DCAS) and provides minimum safety requirements for vehicles equipped with the advanced driver assistance system (ADAS), such as lane keep assist. In March 2025, this Working Party also presented the draft of a new Regulation providing worldwide harmonised procedures to set and verify compliance with minimum requirements for the safety of ADS and vehicles equipped with ADS. This Regulation also establishes uniform provisions concerning the approval of motor vehicles with regard to their ADS.

Within the UNECE's World Forum for Harmonization of Vehicle Regulations (WP.29), ongoing efforts are underway to adapt existing UN regulations and establish work priorities for the safety and security of automated and autonomous vehicles. This includes defining functional requirements, timelines and working arrangements. Additionally, WP.29 has expanded UN Regulation No. 157 on Automated Lane Keeping Systems (ALKS) to encompass higher speeds (up to 130 kilometres per hour) and automated lane changes. Other current activities under the purview of the Working Party on Automated/Autonomous and Connected Vehicles concern the Fitness for Automated Driving System (FADS) with

new proposals for amendments on UN Regulations No. 13 (Heavy Vehicle Breaking) and No. 79 (Uniform provisions on Steering Equipment). These are made to align the existing Regulations with the new legal and technical possibilities made through the implementation of ADS. Other pressing areas are cybersecurity and over-the-air updates of automated and autonomous vehicles and the event data recording provisions in case of a motor vehicle crash.

While the UNECE regulator is still in the process of developing an approach to regulations for higher automation, the European Commission's Implementing Regulation (EU ADS Regulation) laying down rules for the application of Regulation (EU) 2019/2144 (the new General Safety Regulation) as regards uniform procedures and technical specifications for the type approval of motor vehicles with regard to their ADS has already entered into force and builds the basis for EU ADS type approval covering 'fully automated vehicles' (SAE/ISO Level 4).

For the time being, the whole-vehicle type approval of ADS-equipped vehicles will be limited to small series type approval pursuant to the requirements of the new Commission Delegated Regulation (EU) 2022/2236 amending Regulation (EU) 2018/858, and certain use cases, until the necessary requirements for unlimited series type approval are established. The European Commission is currently working on globally harmonised rules on ADS and type approval rules for those systems in unlimited series.

Germany adopted a new Act on Autonomous Driving in July 2021 amending the legal road traffic framework to allow 'autonomous driving functions' at SAE Level 4 to be used in regular operation in defined operating areas. Instead of a driver, the new role of a 'technical supervisor', who is a natural person responsible for ensuring compliance with road traffic law, has been introduced. The technical supervisor has a variety of obligations, such as being able to activate alternative driving manoeuvres or switch off the ADS and communicate with the passengers. Typical use cases may include robot shuttles and people movers. The legal road traffic framework is supplemented by an ordinance setting out the necessary requirements and approval procedures. We expect that the interrelation between German domestic laws and the EU type approval requirements will raise further legal questions. In December 2021, Germany was the first country to grant a type approval under UN Regulation No. 157 for an ALKS (Mercedes-Benz Drive Pilot). In December 2022, Mercedes was granted the first national approval under the Act on Autonomous Driving for its Automated Valet Parking (AVP) driving function, and the Federal Motor Transport Authority (KBA) released the first catalogue with technical requirements for autonomous vehicles in this context.

As for testing of automated driving functions and the overall concept of automated road traffic, German statutory provisions provide the legal basis for German authorities to grant specific exceptional permissions. On this basis, numerous tests and pilot projects (including regular passenger service with 'autonomous' shuttles) have been conducted on German roads in public traffic (eg, by Volkswagen, Audi, BMW, Daimler, Bosch, Continental, Delphi and ZF), as well as by a number of research institutes and organisations for several years. The testing options have been further harmonised and centralised by the Act on Autonomous Driving.

In December 2024 the German Government decided on a strategy paper on the implementation of automated and autonomous driving in road traffic proposing measures to pave the way for autonomous driving in regular operation and creating conditions to

further advance this technology and utilise the enormous opportunities it offers. The main areas of application are local public transport and freight transport.

The new governing coalition has confirmed the importance of autonomous driving in the coalition agreement that was signed in May 2025.

Connected and shared mobility

At the same time, the increased connectivity of vehicles has enabled the development and growth of new mobility solutions, particularly in the area of digital intermediation of rides and ridesharing services.

Recognising the increasing public demand for such services and their potential to contribute to a reduction of greenhouse gas emissions in the traffic sector, the German legislator is encouraging their adoption and integration in daily traffic. For instance, the German Passenger Transport Act provides for a specific legal basis for the authorisation of ride pooling services, which may become a central component of the future passenger transport in Germany.

The increased automation and connectivity of vehicles has also led to new challenges. A major concern in this regard is the increased cyber threats to vehicles (eg, in the form of unauthorised remote access to in-vehicle data and the illegal modification of vehicle software over the air). Also, regular software updates to fix bugs, improve vehicle performance, add new features and protect against recently discovered vulnerabilities are becoming increasingly important in automated and connected vehicles. These challenges are mainly addressed by two landmark UN Regulations:

- UN Regulation No 155 on Cyber Security and Cyber Security Management Systems (CSMS), which requires OEMs, in particular, to establish and maintain a CSMS, including processes to identify and manage cybersecurity risks, such as supplier-related risks, during the whole vehicle life cycle (ie, development, production and post-production); and
- UN Regulation No 156 on Software Updates and Software Updates Management Systems (SUMS), which requires OEMs, in particular, to establish and maintain a SUMS, including processes that ensure that software updates are executed safely, securely and verifiably during the whole vehicle life cycle (ie, development, production and post-production).

As more and more data is collected by vehicles, questions of data ownership, the legality of data collection and processing and the accessibility of vehicle data (eg, by actors in the supply chain and aftermarket, authorities and mobility service providers) are becoming increasingly important. In addition to data protection, competition and contract law aspects, particularly also regulatory requirements, must be observed in this regard. For instance, in Germany, the Act on Autonomous Driving has introduced certain data processing requirements for vehicles with automated driving functions. In this context, the EU Data Act, most of whose provisions will apply from 12 September 2025, may impose further challenges for OEMs with regard to data access requests by users. Certain connected and digital services offered by OEMs and their suppliers in vehicles may also become subject to new regulations under the Digital Service Act (DSA), which entered into force on 16 November 2022.

Electromobility

Finally, work is continuing on the promotion of e-mobility. From 2035, all new cars put on the market in the EU must emit zero carbon dioxide. Various measures have been taken by the EU and German legislators to achieve this goal. We see this not only in the above-mentioned type approval regulations or other specific product regulations, such as the new Battery Regulation, but also in measures to strengthen the necessary infrastructure. For example, the new Regulation (EU) 2023/1804 on the deployment of alternative fuels infrastructure (repealing Directive (EU) 2014/94), which entered into force on 13 April 2024, establishes mandatory national targets as well as common technical specifications and requirements for user information, data provision and payment requirements for alternative fuels infrastructure, such as charging stations for electric vehicles. This goal can also be seen in the new Automotive Action Plan put forth by the European Commission.

In 2024, the European Commission launched a public consultation on the Greening Corporate Fleets initiative, aiming to accelerate the adoption of zero-emission vehicles within corporate fleets. Aligned with the European Green Deal and the Sustainable and Smart Mobility Strategy, the EU targets a 90 per cent reduction in transport emissions by 2050 compared to 1990 levels. Corporate fleets, responsible for about 60 per cent of new car registrations in the EU, present a significant opportunity to drive this transition due to their high mileage and rapid vehicle turnover. In light of a slight dip in electric vehicle sales in 2024, the Commission is exploring various legal avenues to increase the number of corporate electric vehicles, with a legislative proposal expected by the end of 2025.

Law stated - 30 July 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

As in previous years, emissions of motor vehicles continue to be the focus of authorities and courts at a national and European level. The ruling of the European Court of Justice (ECJ) of December 2020, which provided for the first time an interpretation of relevant provisions regarding the admissibility or inadmissibility of defeat devices, is still of utmost importance. In its decision, the ECJ applied a rather broad interpretation of the term ‘defeat device’ and defined the scope of the exemptions to the general prohibition of defeat devices narrowly. On 14 July 2022, the ECJ rendered judgments on further questions of interpretation concerning, in particular, the legality of so-called ‘thermal windows’. In this respect, the ECJ ruled, in essence, that a thermal window may generally only be justified under two strict conditions:

- First, both requirements under article 5(2)(a) of Regulation (EC) No 715/2007 must be fulfilled (ie, the thermal window must be required for the protection of the engine against sudden and irreparable damage, and for the safe operation of the vehicle).

In this respect, the ECJ reiterated that the (mere) clogging up and ageing of the engine are not sufficient reasons. In addition, no alternative technical solution to ensure the protection of the engine and the safe operation of the vehicle may have been available at the time of type approval.

- Second, the thermal window may not reduce the effectiveness of the emission control system for means of engine protection and the safe operation of the vehicle during most of the year based on its specific parameters.

Since the rulings by the ECJ, the legality of thermal windows has increasingly become a focus of national EU authorities and courts. For example, on 20 February 2023 and 17 January 2024, the German Administrative Court of Schleswig declared Federal Motor Transport Authority (KBA) approvals for software updates for Volkswagen vehicles unlawful, among other things, as the software update would still contain thermal windows that the Administrative Court of Schleswig considers inadmissible in light of the requirements established by the ECJ. The judgments are not yet legally binding. It remains to be seen how these cases and other similar cases will develop and how the national EU authorities and courts will deal with the open questions and legal uncertainties that remain after the ECJ rulings.

In a ruling of 9 November 2023, the ECJ also clarified details of the obligation of manufacturers to provide vehicle on-board diagnostic (OBD) information and vehicle repair and maintenance information. The ECJ ruled, among other things, that article 61 (1) of Regulation (EU) 2018/858 obliges vehicle manufacturers to provide access to machine-readable and electronically processable datasets not only to spare parts information, but all 'vehicle repair and maintenance information', including the vehicle identification numbers (VINs). In addition, vehicle manufacturers are required to establish a database making it possible to search for information on all the original parts of the vehicle on the basis not only of the VINs but also by the additional means provided for in Regulation (EU) 2018/858. Independent operators have started to approach OEMs on the basis of this ruling both in front of and outside of German courts. At the same time, the European Commission is working on a Delegated Act to address these issues and that is intended to amend Regulation (EU) 2018/858.

Further, we expect an increase in disputes and consumer claims over the range and capacity of electric vehicles. While case law in Germany has so far focused primarily on combustion engine vehicles, early proceedings concerning the range of electric vehicles are now emerging.

In the past years, we have also seen a continued trend towards increased regulation of the automotive industry in the EU, mostly driven by legislative initiatives aligned with the European Green Deal. Notable examples include the Battery Regulation, the proposed End-of-Life Vehicles Regulation, the Alternative Fuels Infrastructure Regulation, the Corporate Sustainability Due Diligence Directive (CSDDD), and Regulation (EU) 2024/3015 on Prohibiting Products Made with Forced Labour.

However, this trend appears to have slowed amid a renewed emphasis on reducing administrative burdens. Reflecting this shift, the new European Commission proposed a partial rollback of the CSDDD and other ESG-related measures in its initial Omnibus Simplification Package of February 2025 and continues to expand its simplification efforts to other areas through additional Omnibus packages. At the national level, the new German

government similarly pledged in its coalition agreement to repeal the German Supply Chain Due Diligence Act and replace it with legislation aligned with the CSDDD's minimum standards.

These simplification efforts, however, should not be mistaken for an abandonment of the Green Deal's objectives. Rather, they signal a shift toward a more business-friendly approach to implementation. This is exemplified by the Automotive Action Plan, a part of the broader Clean Industrial Deal, which aims to support the transition through incentives rather than new regulatory requirements. Key initiatives include targeted support for the ramp-up of electric vehicle and battery production, streamlined permitting for charging infrastructure, and enhanced funding for R&D in zero-emission, digital, and autonomous vehicle technologies — areas where the German automotive sector is already well-positioned to play a key role.

For the German automotive sector — already navigating global competition, diverging market requirements, and rapid technological transformation — the Automotive Action Plan provides welcome momentum. At the same time, the road ahead remains complex. OEMs and suppliers operating in Germany must continue to balance operational transformation with regulatory requirements, all while competing in an increasingly dynamic international market. Yet the fundamentals remain strong: Germany's role as a global hub for automotive R&D, its advanced manufacturing base, and its strong position in areas such as electrification, connectivity, and autonomous driving continue to offer a clear competitive edge. With the right mix of market agility and legal foresight, the automotive industry in Germany is well positioned to shape the future of global mobility.

Law stated - 30 July 2025

Patrick Ayad	patrick.ayad@hoganlovells.com
Carolin Marx	carolin.marx@hoganlovells.com
Detlef Hass	detlef.hass@hoganlovells.com
Moritz Langemann	moritz.langemann@hoganlovells.com
Kerstin Neighbour	kerstin.neighbour@hoganlovells.com
Sebastian Polly	sebastian.polly@hoganlovells.com
Benjamin Schroeer	benjamin.schroeer@hoganlovells.com
Birgit Reese	birgit.reese@hoganlovells.com
Heiko Tschauner	heiko.tschauner@hoganlovells.com
Christoph Wünschmann	christoph.wuenschmann@hoganlovells.com
Jessica Goetsch	jessica.goetsch@hoganlovells.com
Sebastian Schnell	sebatian.schnell@hoganlovells.com
Melanie Schub	melanie.schub@hoganlovells.com
Susanne Schuster	susanne.schuster@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

Hungary

László Partos, Zoltán Molnár, Christopher Noblet, András Multas
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

The Hungarian automotive industry is composed of a number of major car and motor factories and foreign and domestic-owned supplier companies. Opel and Suzuki started manufacturing their cars in Hungary in 1992, and Audi set up a factory in Gy r in 1994. In 2012, Mercedes-Benz opened a car manufacturing plant in Kecskemét. With more than 700 companies involved in the automotive industry, the automotive sector employs around 148,700 people with a production value of around €35.8 billion. The automotive industry contributes to 20 per cent of national exports and offers business opportunities to countless small and medium-sized enterprises and suppliers. Of the world's 100 largest automotive suppliers, 49 are present in Hungary, including Bosch, Continental, Knorr-Bremse and ZF.

There currently seems to be a decline in the production rate of the automotive industry in Hungary (resulting in redundancies in automotive companies), however, as BMW and CATL's plant in Debrecen and BYD's plant in Szeged are expected to start production by the end of 2025, such developments are expected to increase the production numbers. In view of such investments, it is expected that Hungary will soon be able to produce 750,000 cars a year (compared to the current produce rate of 512,000 cars a year).

With respect to consumer behaviours, there has been an increase in the purchase of electric cars, as sales of electric cars in Hungary have increased by 60 per cent compared to the previous year, bringing the total number of electric cars in Hungary to 72,000. As a result of such trend, more than 60 locations in Hungary will have more than 200 electric charging points by the end of 2025.

Law stated - 30 April 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

Effective as of 1 September 2020, Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 (the Regulation) provides for the administrative provisions and, by reference, the technical requirements for the type approval and placing on the market of all new motor vehicles (categories M and N, and their trailers of category O) that are intended to be used on public roads, including those designed and constructed in one or more stages, as well as systems, components and separate technical units, and for individual vehicle approvals. The Regulation also lays down provisions for the placing on the market and the entry into service of parts and equipment that may pose a serious risk to the correct functioning of the essential systems of the above vehicles. Furthermore,

the Regulation sets out the requirements for market surveillance of the above. With the entry into force of the Regulation, Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 was repealed. The Regulation is directly applicable across the EU.

The Regulation aims to raise the quality level and independence of vehicle type approval and testing, increase checks of vehicles that are already on the EU market and strengthen the overall system with EU oversight, including the Commission's right to order EU-wide recalls and impose sanctions on the manufacturers of up to €30,000 per car in cases where manufacturers are in breach of type-approval legislation. The Regulation itself does not modify the technical requirements for vehicle approvals.

Such technical standards are laid down in the regulatory acts listed in the relevant Annex of the Regulation.

Based on the Regulation, there are two kinds of type approvals:

- the national type approval, which is the procedure whereby the relevant approval authority certifies that a type of vehicle, system, component or separate technical unit satisfies the relevant administrative provisions and technical requirements laid down by the law of a given member state, the validity of such approval being restricted to the territory of that member state; and
- the EC type approval, whereby a member state certifies that the same satisfies the relevant administrative provisions and technical requirements of the Regulation.

Generally, manufacturers must ensure that the vehicles, systems, components and separate technical units they have manufactured and that are placed on the market have been manufactured and approved in accordance with the relevant requirements, and will be responsible to the approval authority in all aspects of the approval procedure and for ensuring conformity of production. Vehicles for which whole-vehicle type approval is mandatory (or for which the manufacturer has obtained that type approval) will only be made available on the market, registered or entered into service if they are accompanied by a valid certificate of conformity. Components and separate technical units, including those intended for the aftermarket, may only be made available on the market or entered into service if they comply with the requirements of the relevant regulatory acts listed in the relevant Annex of the Regulation and are marked in accordance with the respective provisions.

On a national level, the regulatory framework for the approval of automobiles and automobile parts is currently set forth by Decree No. 5/1990 (IV.12). This Decree has a wider scope than that of the Regulation and mainly covers the administrative procedure, while the technical requirements of automobiles and automobile parts are included in the relevant EU regulations, Decree No. 6/1990 (IV.12) of the Minister of Construction and Transport, which transposes the relevant EU directives and implements EU regulations, and also the applicable United Nations Economic Commission for Europe regulations. The competent department of the Ministry of Construction and Transport is responsible for granting vehicle type approvals.

Generally, a vehicle may only be operated on public roads if the vehicle is officially put into traffic, which is carried out by registering the vehicle, issuing the relevant registration certificate and the registration plate. The competent government offices are responsible for

putting a vehicle on the road. Based on Act LXII of 2009, all operators of motor vehicles registered in the territory of Hungary are required to have an insurance policy covering any injury arising from the use of motor vehicles, and to pay the relevant premium charged. As a rule, this obligation applies from the time when the vehicle is registered until it is deregistered (not including any period of discontinuance).

Regarding potential changes in the regulatory framework, on 5 March 2025, the European Commission published the Automotive Industry Action Plan with the aim of addressing certain substantial issues for the automotive industry. The key priorities addressed by the Action Plan include innovation and digitalisation, shift to clean mobility, ensuring competitiveness and supply chain resilience, improving skills and addressing the social dimension, guaranteeing a level playing field and a competitive business environment. The Action Plan is expected to be followed by legislation and recommendations affecting the regulatory framework in the near future.

Law stated - 30 April 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

To date, several OEMs have chosen Hungary for their manufacturing, engineering and services activities. In addition, more than 700 suppliers and several hundred other market players are active in the territory of Hungary. Regarding ownership structures, companies with a foreign majority owner are dominant in the country.

In terms of development, manufacture and supply, the prevailing model in Hungary follows the one established by major players in western European countries. More specifically, Hungary leans towards the German model, where a significant part of the supply is provided by means of purchase orders placed by the OEM based on its actual needs with limited obligation to purchase. The supply chain is split into distinct tiers:

- Tier 1 suppliers – being the first-level suppliers – supply directly to manufacturing plants;
- Tier 2 suppliers produce parts based on designs provided by major Tier 1 suppliers and OEMs; and
- Tier 3 suppliers are mostly responsible for basic products, such as engineered raw materials.

The contractual framework is determined by the OEM or major Tier 1 suppliers, usually applying their own general terms and conditions with only limited possibility for lower-tier suppliers to negotiate. Such contractual terms go down the supply chain. It is also common for OEMs and Tier 1 suppliers to apply further standardised contractual documents relating to the implementation of the contracts covering, in particular, issues of purchasing, production process and quality assurance, logistics, sustainability and environmental protection.

However, in line with the direction of global trends, in certain cases a stronger relationship may exist between OEMs and major Tier 1 suppliers, including long-term development agreements to ensure full use of potential synergies in highly resource-intensive areas, such as the development of automated, driverless systems.

Law stated - 30 April 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

There are no specific regulatory requirements in Hungary concerning new vehicles for importers, distributors, dealers or dealer networks.

The Hungarian new vehicle distribution sector is characterised by mixed-type selective distribution systems. Accordingly, one or more car brands are usually promoted by a domestic undertaking acting as the importer. Very often the importer is a subsidiary or branch office of the manufacturer. Based on the selective distribution system, similar to several other EU member states, only authorised dealers may market and sell new vehicles in Hungary if they have entered into a distribution agreement with the manufacturer or its importer. It is a fundamental characteristic of the selective distribution system that the manufacturer undertakes not to supply new vehicles to unauthorised dealers for the purpose of reselling. There are certain limitations applicable to such vertical distribution agreements under the EU and the Hungarian competition law as set out in Commission Regulation (EU) No. 461/2010 (expiring on 31 May 2028), Commission Regulation (EU) 2022/720, Government Decree No. 204/2011 (X.7) and Government Decree No. 306/2022 (VIII.11).

Nevertheless, the marketing and selling of vehicles through a commercial agent within the framework of an agency agreement is a possible way to organise distribution of vehicles and this approach appears to have increasing importance based on the latest market trends.

There are no specific compulsory rules under Hungarian law relating to restructuring or termination issues in distribution agreements. Such issues are usually regulated by the manufacturer or importer and the authorised dealer within the framework of the distribution agreement, where it is not uncommon that the parties agree on a notice period exceeding 12 months. However, if the marketing and selling of the vehicles is carried out through a commercial agent within the framework of an agency agreement concluded for an indefinite term, the agreement may be terminated by complying with certain statutory minimum notice periods. The Hungarian Civil Code sets out a minimum notice period of one month during the first contractual year, a minimum notice period of two months during the second contractual year and a minimum notice period of three months during the third and following contractual years, none of which may be validly shortened. Moreover, termination of the agency agreement may trigger the commercial agent's entitlement to financial compensation in the form of an indemnification claim, pursuant to the provisions set out in the Hungarian Civil Code. In this case, the indemnity amount may not exceed the commercial agent's average annual remuneration over the preceding five years or

the average annual remuneration during the actual term if it is less than five years. Any agreement of the parties prior to the termination of the agency agreement will be null and void if it derogates from the provisions of the Civil Code on indemnification to the detriment of the agent.

Recently, the automotive industry has started to gradually turn towards online distribution platforms through which the customers can order vehicles from the comfort of their own home. While a full implementation of the online distribution model could leave behind the traditional method of car selling which relies on a network of dealerships and face-to-face interactions with customers, in practice, such recent trend has not seemingly resulted in the closure of many dealerships in Hungary to date.

Law stated - 30 April 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

There are no specific or sectoral rules on M&A or joint venture transactions relating exclusively to the automotive industry in Hungary; however, the general regulations regarding concentrations still need to be observed. Based on Act LVII of 1996, a concentration must be notified to the Hungarian Competition Authority if the combined net turnover of the relevant undertakings of the previous financial year exceeded 20 billion forint, and there are at least two groups involved with net turnover of at least 1.5 billion forint. Furthermore, a soft threshold may also apply to the notification of concentrations, with a reduced turnover value of 5 billion forint, if it is not obvious that the contemplated transaction would not significantly decrease competition in the relevant market. The government may – in the public interest, to preserve jobs and for the security of supplies – declare a merger of strategic importance at the national level. Such concentrations do not need to be notified to the Hungarian Competition Authority.

If the product range of the target company includes certain products (for example, military products) pursuant to Act LVII of 2018, a prior approval of the competent minister is needed should a foreign investor directly or indirectly or together with other foreign investors acquire an interest exceeding 25 per cent (in the case of a publicly listed company an interest exceeding 10 per cent) or gain dominance within an existing or yet-to-be-established company registered in Hungary. In addition, to protect the Hungarian economy with respect to Russia's invasion of Ukraine, the Hungarian government introduced an amended foreign investment screening mechanism for strategic industries including, among others, the automotive industry. The relevant regulation was originally set out by Act LVIII of 2020 and was amended by Government Decree No. 561/2022 (XII.23).

From a transactional point of view, thorough due diligence is always recommended for M&A transactions in the automotive industry. The most important areas that should be covered from a Hungarian legal perspective include environmental and safety issues, contractual relationships with distributors, dealers and suppliers, employment issues and intellectual property rights.

Law stated - 30 April 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

Although there are no special incentives for investment in the automotive industry, general incentives, such as subsidies granted in individual decisions for large-scale investments, and normative incentives, such as tax allowances, may apply. In this regard, the automotive industry is one of the key sectors specified in Government Decree No. 210/2014 (VIII.27) regulating the use of the Hungarian investment incentive earmarked scheme. As the national investment promotion organisation of Hungary governed by the Ministry of Foreign Affairs and Trade, the Hungarian Investment Promotion Agency is responsible for the government's investment incentives and is also the managing body of the 'VIP' cash subsidy system based on individual government decisions. VIP cash subsidy is a non-refundable, post-financed regional investment aid. The amount of the subsidy, as well as the maximum aid intensity, may be influenced by several factors, in particular the location of the project and the development of the region where the project is planned to be implemented, as further regulated under Government Decree No. 210/2014 (VIII.27). As per a recent amendment, investments in the field of production of equipment for the transition towards a net-zero economy (including batteries) may be subject to an increased amount of aid with respect to the interim period ending on 31 December 2025.

In addition to the above, various local business tax and corporate income tax incentives are available in Hungary for investments and R&D activities. While the fundamental rules of corporate income tax incentives are set forth by Act LXXXI of 1996 on corporate and dividend tax, the specific details are set out in further legislation, such as Government Decree No. 165/2014 (VII.17) on the development tax incentive, providing the relevant rules for aid intensity.

Moreover, Act LIII of 2006 on the acceleration and simplification of the implementation of investments of strategic importance at the national level introduced a regime pursuant to which the government may provide simplified procedural frameworks and grant legislative exemptions to support and promote investments. The relevant provisions are now included in Act C of 2023. To date, several individual decisions favouring market players in the automotive industry have been adopted pursuant to the above regime, proving the potential of the legislation.

Collaboration between universities and automotive market players is also supported in Hungary. A good example is the cooperation agreement concluded between Hungarian universities and joined by several major players, including Audi Hungaria, Continental Hungaria, General Motors Powertrain-Magyarország Autóipari, Knorr-Bremse Fékrendszerek, Vitesco Technologies Hungary and Mercedes-Benz Manufacturing Hungary.

There are no specific barriers to entry into the automotive market in Hungary. However, depending on the actual circumstances, the provisions of Act LVII of 2018, Act LVIII of 2020 and Government Decree No. 561/2022 (XII.23) need to be taken into account.

The Automotive Industry Action Plan recently published by the European Commission also foresees certain future legislative developments with respect to state aid and other incentives in connection with the automative industry in accordance with the goals set out by the Action Plan.

Law stated - 30 April 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

Hungary, being a member state of the European Union, is subject to the directly applicable regulations of the European Union in the context of product compliance safety and environmental matters. The relevant directives of the European Union have been implemented into Hungarian law, while Regulation 2023/988 is directly applicable in all Member States from 13 December 2024. The basic rules of product safety are set out in the Hungarian Market Surveillance Act, while detailed procedural rules on automotive-related products safety matters are laid down in ministerial decrees.

General rules on product safety include the manufacturer's obligation to:

- design and manufacture its product in accordance with the applicable laws of the European Union and other laws applicable to the relevant product;
- prepare the technical documentation;
- carry out the necessary conformity assessment procedures and internal risk analysis; and
- offer compliance throughout the serial production.

The manufacturer is also bound to supervise its product and take necessary measures, including recall of its product, if any non-compliance is revealed. The manufacturer is obliged to notify consumers and the competent supervisory authority of any such measures and of any safety hazard, in which case other economic operators, responsible persons, and providers of online marketplaces must be notified as well. The importer and the distributor are subject to similar obligations, in the case where they place or market a product under their own name, trademark or trade name, or modify a product in such a way that the safety and conformity of the product may be affected.

The supervisory authority in automotive matters is the National Transport Authority, which enforces automotive-related regulations in Hungary. Product recalls and other safety measures affecting motor vehicles must be notified to the National Transport Authority. In accordance with the harmonised rules on motor vehicle recalls, Hungarian law provides that product recalls must be notified to the authority that issued the type approval.

The authority will issue recommendations on the appropriate measures and will notify the responsible authorities in other EU member states. If the measures taken by the manufacturer are insufficient or delayed, the issuer of the EC type approval is notified that the EC type approval may be withdrawn. The National Transport Authority publishes all relevant information on motor vehicles that are hazardous to the health and safety of consumers or that do not comply with the applicable safety provisions.

Hungarian authorities are in a position to take enforcement measures against fulfilment service providers as well as importers and distributors, if the relevant conditions apply.

As of 28 June 2025, the Hungarian Market Surveillance Act will provide that the EU Declaration of Conformity must follow the model structure set out in Annex III to Decision No 768/2008/EC on a common framework for the marketing of products. Documentation will have to be translated into the language or languages required by the Member State in which the product is placed or made available on the market. In relation to all applicable EU acts, one EU Declaration of Conformity must be issued. By issuing the EU Declaration of Conformity, the manufacturer will undertake liability for the compliance with the applicable accessibility requirements in relation to the product.

Manufacturers, importers and distributors must undertake the same obligations in order to meet accessibility requirements.

Hungarian law defines the category of 'autonomous vehicle for development' being a vehicle for development intended for the development of partly or fully automated operations, in which there is a test driver, who is the driver of the vehicle and who, depending on the level of automation or in any situation which may endanger road safety, exercises manual control to the extent necessary during operation or may take over manual control of the vehicle at any time. The relevant provisions are set out in Decree No. 5/1990. (IV.12) on the technical inspection of road vehicles.

There is a registry with which developers carrying out on-road testing of autonomous vehicles for development purposes must register. The condition for such registration is an internal quality assurance procedure covering the development processes, their documentation, the approval of changes to them and the testing processes, including road testing. Another condition to said registry is full compliance with the relevant statutory conditions.

Furthermore, Decree No. 6/1990. (IV.12) sets out terms and conditions for software to enable the operation of automated driving systems in autonomous vehicles for development. All software and updates must be subject to extensive and well-documented testing procedures as defined by the developer and, prior to testing on road, the software must be tested in accordance with the vehicle developer's internal quality assurance procedure; a successful result is a condition for the software to be allowed to be used in road traffic.

Law stated - 30 April 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other

consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

The rules of product liability under Hungarian law are set out in the Civil Code of Hungary based on Directive 85/374/EEC and apply to damages caused by a defect in a manufacturer's product. Product liability typically applies in the absence of a contractual relationship as the liable party is the manufacturer or the importer of the motor vehicle and motor vehicles are typically sold through distributors and dealers. In addition, product liability only applies to consequential damages (i.e., damages causing death or personal injuries, health damages and damage to, or destruction of, any item of property other than the defective motor vehicle itself), with a lower threshold of the Hungarian forint equivalent to €500. In addition, product liability may only be relied on in the case of private use; thus, product liability can be typically applied to consumers.

Consequently, product liability may not replace warranty claims, whether statutory or contractual, and is not applicable to business use, narrowing down the applicability of product liability provisions. In addition, motor vehicle owners frequently rely on their insurance and do not pursue claims against manufacturers. As a result, notwithstanding the manufacturer's or the importer's objective liability and a fairly long limitation period of 10 years, product liability law cannot be considered significant in Hungary in the automotive industry.

In the absence of a significant presence of product liability cases in the automotive industry, there have been no class actions or other noteworthy published consumer litigation in this area to date. As class actions have only been recognised since 2018 under Hungarian civil procedural rules, there are no notable examples of class actions in general as yet.

In terms of the significance of product recalls in the automotive industry, there have only been 18 alerts concerning Hungary and 9 alerts made by Hungarian authorities over the past 10 years in the Rapid Alert System, which is insignificant compared to other EU member states and the overall number of notifications.

Law stated - 30 April 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

Competition and antitrust issues are not uncommon in the Hungarian automotive industry. The Hungarian Competition Authority initiates investigations to determine, among other things, if there is an agreement in place between market players that may distort competition or if there is a violation to the consumer protection acts. In these matters, there have been numerous automotive industry-related examinations in the past two decades.

The most frequent proceedings are examinations concerning the concentration of companies. There have been several cases involving investigations of mainly Hungarian suppliers. From the annual report issued by the Hungarian Competition Authority to

the parliament, it is apparent that in 2019 the automotive and automobile component manufacturing industry was the fifth most investigated industry in Hungary. The automotive and automobile component industry remains a focus of the Hungarian Competition Authority, with one out of the five initiated antitrust proceedings in 2020 concerning the automotive industry.

A key task of the Hungarian Competition Authority is to ensure the fair use of public money by detecting, dismantling and preventing public procurement cartels. In addition to cartels, single tender public procurements may also be a significant problem. Therefore, the Hungarian Competition Authority launched an accelerated sectoral inquiry on 12 March 2025 regarding the Hungarian public procurement market for passenger cars and commercial vehicles to investigate the causes of single tender public procurement procedures. Following the completion of the data collection and analysis, the Hungarian Competition Authority will publish a public report summarising the results of the sector inquiry.

Law stated - 30 April 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

In recent years, there has been a growing tendency in the European automotive industry to insert detailed dispute resolution clauses into contracts. In Hungary, this often leads to the inclusion of non-Hungarian laws and various arbitration forums. As a result, similar to intellectual property disputes, cases are on many occasions settled before reputable international judicial forums instead of in Hungary.

Owing to the increasing number of suppliers present on the Hungarian automotive market as well as the growing complexity of the solutions offered and used in the industry, such as various software developments, one of the current issues in relation to Hungarian liability disputes is determining the ultimate liable party, especially if there are more than two tiers of suppliers.

In addition, apart from distribution agreements, defects and product recalls are likely to affect companies involved in the Hungarian automotive industry. Unfortunately, there are no official statistics or data available on the number and the subject of these disputes.

Law stated - 30 April 2025

Distressed suppliers

11 What is the process for dealing with distressed suppliers in the automotive industry?

In Hungary, the reasons for and the risks causing the distress, and the process of dealing with them, are dependent on numerous factors, such as the size of the company and whether the company is new to the market or well established.

While it is not possible to prepare for every scenario caused by a distressed supplier or supply chain, certain preliminary measures may be taken by market players in the automotive industry to mitigate the impacts. The buyer company may source the production of the part to a new, healthy supplier. Alternatively, the buyer can help the supplier by improving its operations and finding a suitable third party to buy the supplier. If neither of these options are applicable and the component is critical, the buyer company may consider acquiring the troubled supplier.

In terms of precautionary measures, it is not unusual that principals implement a protocol dealing with distressed suppliers to identify and address such unwanted situations in the most effective way possible. For this purpose, companies in the automotive industry continuously gather data on their suppliers and their financial status, including turnover and solvency data, credit reports, number of employees, cash flow and whether any court proceedings were initiated against a given supplier. The continuous monitoring of this data, which is publicly available in official Hungarian databases, gives the automotive companies the opportunity to find signs of upcoming or potential distress. Scenario simulations are also prepared based on the information gathered.

Act LXIV of 2021 on business restructuring entered into force on 1 July 2022, implementing the directive of the European Union on business restructuring. The main goal of the European and the national legislator is to combat the above-mentioned issues regarding insolvency.

Law stated - 30 April 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

Intellectual property plays a significant part in the automotive industry in both the fields of aesthetics and technical design. Intellectual property law offers many indirect and direct ways of protecting the design of automobiles, as well as patents, trademarks, copyright and design. Disputes easily arise in cases involving infringement of a patent or breach of copyrights.

However, the main players of the Hungarian automotive industry are car plants where the manufacturing of various components or the assembly of the automobiles takes place, and not the actual designing. It is, therefore, uncommon for the participants of the automotive industry to initiate legal proceedings before Hungarian courts concerning intellectual property or to register a Hungarian national design or trademark. Legal disputes that arise with the involvement of automotive parent companies are usually dealt with at the national courts of the countries where these companies are registered or before arbitration courts of their choice. This is also the case if the dispute concerns an alleged infringement of a European patent, given there is currently no common European patent court.

The use and protection of innovation in the automotive industry is becoming increasingly important in Hungary, in particular with the advance of AI, therefore, the Hungarian

Intellectual Property Office is continuously helping small and medium-sized automotive businesses in Hungary to protect their intellectual property through its 'IP Heros' campaign.

Law stated - 30 April 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

Labour relations in the automotive sector in Hungary were recently discussed in the context of working time arrangements and employers' ability to designate working time, work schedules and shift patterns in a flexible manner.

Under Hungarian law, employers are entitled to designate and amend work schedules unilaterally subject to protective mandatory provisions regulating, for example, working time and rest time. Employers are entitled to designate regular working hours unevenly within a certain period; thus, through planning, employers may significantly reduce the number of paid overtime hours compared to a regular work schedule. A longer working time cycle thus serves the interests of those employers whose business can be scheduled further ahead.

In the automotive industry, the maximum working time cycle is typically six months (or 26 weeks) without a collective bargaining agreement. If justified by objective, technical or work organisation reasons, a collective bargaining agreement may set out a maximum 36-month working time cycle. In practice, most employers have been unable to justify having a cycle longer than one year, and most trade unions have been reluctant to agree to such a working time cycle.

Given the agreement of trade unions is required for a number of working time arrangements – compared to other industries where unionisation is not as widespread – collective bargaining agreements are fairly common in the manufacturing industry, and particularly in the automotive sector. In the absence of an industry-wide collective bargaining agreement in the automotive sector, trade unions have more room to bargain for better working conditions and higher remuneration locally.

In addition, where an employer is not subject to a collective bargaining agreement and there is no trade union to conclude such an agreement, works councils are entitled to settle in a works council agreement all matters – except remuneration – that can be settled in a collective bargaining agreement. This gives works councils wider negotiating opportunities on top of their traditional participation rights, albeit with a weaker bargaining power and, potentially, a stronger dependence on the employer compared to trade unions.

Law stated - 30 April 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

In the past few years, one of the most important legal developments relating to automotive technological and mobility advances has been the implementation of certain new provisions on the testing of self-driving motor vehicles. The Hungarian government considers the testing of autonomous driving as a priority area of development that has resulted in various investments in the country recently.

The legal framework for the testing of autonomous motor vehicles was first implemented in 2017 through the amendment of ministerial decrees that regulated the entire testing process. Based on these provisions, developers are entitled to perform tests on both closed test tracks and in-road traffic. The relevant regulations adhere to international standards, such as the automation level definitions adopted by the Society of Automotive Engineers, and take into consideration foreign codes of practices.

The first set of rules was followed by an amendment that entered into effect in December 2018. As a result of the amendment, various registration and notification obligations in relation to the testing process of autonomous motor vehicles were simplified, including the abolition of the requirement to register Level 2 (hands-off) car tests on closed test tracks, the elimination of an itemised notification requirement in relation to self-driving motor vehicles placed on the road (the notification of an approximate number is sufficient) or the extension of acceptable standards beyond ISO 26262. Certain recording obligations have also been simplified. For instance, in the context of the recording of test periods, a daily recording is sufficient compared to the previous requirement to record tests down to the minute. In addition, the recording time of accidents in the black box has decreased from 24 hours before and one hour after the accident to one hour before and one minute after the accident.

The above amendment indicates efficient communication between developers and government officials, and the government's aim to create a proper legal environment to foster new developments in Hungary.

However, some of the most significant legal challenges are yet to be resolved, including the investigation of liability matters and the implementation of a special liability regime that will most probably be necessary to provide an appropriate response to the dilemmas that have already been heavily discussed in the context of damage caused by self-driving cars. In addition, the legal framework of telecommunication law (which is fairly rigid in Hungary compared to the continuously evolving technical and technological solutions in the industry) needs to be adapted to autonomous vehicles, as legal issues (including regulatory and privacy matters) that are currently in the background will likely be of high priority in the context of connected vehicles and connectivity services.

Law stated - 30 April 2025

UPDATE AND TRENDS

Trends and new legislation

15

> Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

As of 2022, to promote the use of electric motor vehicles and electromobility, in the construction of new buildings and major refurbishment of the electric infrastructure and parking spaces of buildings with more than 10 indoor or adjoining outdoor parking spaces, the installation of charging stations and relevant infrastructure for the charging of electric motor vehicles is a requirement. Similar requirements apply in this context to both residential and non-residential buildings. Non-residential buildings with more than 20 parking spaces are subject to a general requirement to install charging stations as of 2025.

From the end of 2024, hybrid vehicles (5P and 5N) will no longer be given green licence plates that entitle vehicle owners to certain parking privileges and tax benefits, and by 30 November 2026, previously issued green licence plates will also have to be replaced, as in practice owners use the internal combustion engines in these vehicles often and thus, they are significantly more polluting than zero emission vehicles. Hybrid vehicles will thus lose their parking privileges and tax benefits.

In addition, EU Directive 2019/882 on the accessibility requirements for products and services has been implemented into Hungarian law and will enter into effect on 28 June 2025. As a result, for instance, consumer hardware systems and operating systems, and certain electronic devices, will be subject to digital accessibility requirements that allow better access to these products by persons with disabilities. Such requirements will have an impact on the automotive industry across the EU; for example, the requirement to standardise in-car entertainment systems in accordance with the applicable accessibility standards.

Law stated - 30 April 2025

László Partos laszlo.partos@hoganlovells.co.hu
Zoltán Molnár zoltan.molnar@hoganlovells.co.hu
Christopher Noblet christopher.noblet@hoganlovells.co.hu
András Multas andras.multas@hoganlovells.co.hu

Hogan Lovells

Read more from this firm on Lexology

India

Manjula Chawla, **Chandni Chawla**, **Kripi Kathuria**
Phoenix Legal

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

The landscape of India's automotive industry has in the recent years undergone a shift, primarily driven by a mix of technological advancements, environmental imperatives, and changing consumer preferences. The evolution of electric vehicles (EVs) marks a transformative journey within the Indian automotive sector, catalysing unprecedented growth and innovation. This evolution reflects not merely a change in the mode of transportation but also a broader societal transition towards sustainable mobility solutions. As the world struggles with the urgent need to curb greenhouse gas emissions and mitigate the impacts of climate change, the adoption of EVs has emerged as a pivotal strategy, offering both environmental benefits and economic opportunities.

Along with the rise in EVs, India's auto component industry has also witnessed an exponential expansion. The auto component sector is one of the key pillars of India's automotive manufacturing industry, supplying critical parts and systems to domestic vehicle manufacturers and exporting to major global markets. The industry covers a broad spectrum of products, including engine parts, transmission systems, braking systems, electrical and electronics components, body and chassis parts, and more. India has become a preferred destination for auto component manufacturing due to its cost competitiveness, skilled workforce and strong policy support.

The auto component sector is expected to reach the US$100 billion export target by 2030- , making the sector one of the largest job creators in the country. Currently the Indian auto component industry contributes 3 per cent to the country's gross domestic product (GDP), directly employing over 1.5 million people. The sector's turnover in financial year (FY) 2024 was 6.14 trillion Indian rupees, with domestic original equipment manufacturer (OEM) supplies making up 54 per cent, and exports contributing 18 per cent.

The Indian auto components industry exports over 25 per cent of its production annually. By FY 2028, the Indian auto industry aims to invest US$7 billion to boost the localisation of advanced components such as electric motors and automatic transmissions by reducing imports and leveraging the 'China Plus One' trend. Major exports are to Europe (US$6.89 billion), followed by North America (U S$6.19 billion) and Asia (US$5.15 billion).

The National Institution for Transforming India (NITI) Aayog, which serves as an apex think tank of the Indian government, envisions India's automotive sector to reach US$145 billion in component production by 2030, with exports tripling from the current US$20 billion to US$60 billion, resulting in a US$25 billion trade surplus. This would boost India's global market share from 3 per cent to 8 per cent and create 2–2.5 million new jobs, raising total direct employment in the sector to 3–4 million.

The Indian automotive market is currently the fourth-largest automobile producer in the world and is one of the most dynamic sectors of the country's economy, with the majority of the global automotive giants already present in the market and contributing to its growth.

Currently, the automotive industry is worth US$240 billion, accounting for 7.1 per cent of the country's GDP and 49 per cent to manufacturing GDP.

The Indian automobile industry, which created over 30 million jobs (direct: 4.2 million; and indirect: 26.5 million), and generated a revenue of US$240 billion with total vehicle production at 28 million units in the FY 2024.

Over the years, India has established itself as a strong base for automotive manufacturing and is now the second-largest manufacturer in two-wheelers (2-W), the fifth-largest in commercial vehicles, the fourth-largest in passenger cars and the largest in three-wheelers (3W) and tractors. In fact, the Indian tractor industry accounts for one-third of global production.

Starting as an Indian government initiative, Maruti Udyog was the only major player for a decade until the floodgates for foreign investment in India were opened in 1991. Both the country's primary and secondary automobile markets have developed to the point where the most reputable international automotive manufacturers compete for market share. Although there is a wide array of automobile brands available to customers in India, Maruti Suzuki India – owned by Japan-based Suzuki Motor Corporation – continues to be the leading brand, with approximately 41 per cent of the market share in the passenger vehicle segment, followed by Tata Motors, Hyundai Motor India and Mahindra and Mahindra.

In terms of foreign direct investment (FDI) in the automotive industry, India received approximately US$36.26 billion worth of FDI in the automotive industry from April 2000 to June 2024, which accounted for approximately 5.27 per cent of the country's total FDI for this period.

Factors such as directives for easing business in India and economic reforms have contributed to growth in this sector and the government has driven and continues to drive the implementation of a fully liberalised FDI policy, as well as a host of incentives ranging from tax and customs benefits to concessions for producing EVs.

To support this transformation and boost India's global competitiveness, NITI Aayog proposes a combination of fiscal and non-fiscal interventions. Key fiscal measures include operational support for manufacturing, skill development, research and development (R&D) incentives, and cluster-based development. On the non-fiscal side, the focus is on encouraging Industry 4.0 adoption via encouraging the integration of artificial intelligence, digital technologies and enhanced manufacturing standards to improve efficiency, international partnerships, and improving ease of doing business through regulatory simplification and ecosystem support.

Evolution of EVs in the Indian market

Being the fourth-largest automotive market in the world, coupled with the government's initiatives and policies, India has the opportunity to lead the transition from conventional internal combustion engine (ICE) vehicles to EV technology. EVs are expected to become a major category within the automobile sector.

In light of the rapid introduction and adoption of EVs across India, the proportion of EVs in the country's automotive market has grown significantly. India's EV market is projected

to grow significantly, rising from US$3.21 billion in 2022 to US$113.99 billion by 2029. In 2024, their market share soared to 7.44 per cent – marking a 27 per cent increase in sales in 2024, reflecting consumers' growing preference for EVs with 4.4 million EVs registered by August 2024, including 950,000 in the first eight months of 2024, achieving a 6.6 per cent market penetration. The EV industry is likely to create 50 million jobs by 2030. In 2024, Tata Motors commanded a 38 per cent share of the domestic EV market, firmly establishing its dominance. Trailing behind were MG Motors with 31 per cent, and Mahindra with 15.8 per cent.

As per data released on 1 April 2025, FY 2024–25 encountered a significant growth in the sales of EVs, with a total of 1,149,334 electric two-wheelers (e-2W) being sold, reflecting a 21 per cent increase compared to 948,561 units sold in FY 2023–24. Similarly, the sales of electric three- wheelers e-3W (L5) reached 159,235 units in FY 2024–25, marking a 57 per cent growth over the 101,581 units sold in the previous FY. Sales of more than 1 million EVs took place in FY 2024–25.

This growth in the EV sector has also translated in the government taking initiatives to build up infrastructure to match the expanding market. As of 6 June 2024, India has 16,344 public charging stations, including 27,471 public charging points, and 10,756 fast charging points, boosting EV adoption.

The luxury EV market grew by a modest 6.7 per cent in 2024. Volvo, a Swedish luxury car manufacturer, expressed its anticipation for a swifter adoption of EVs within the premium car segment of India's passenger vehicle market, projecting that EVs could comprise up to 40 per cent penetration in the market. For the year 2024, Volvo registered 54 per cent growth in EV sales, whereas BMW's increase in EV sales were up 13.5 per cent. The managing director of Volvo Car India reported that the penetration of EVs in the broader passenger vehicle market stands at a modest 2 per cent, however, within the luxury segment, it is notably higher at 7 per cent.

Automobile exports from India rose by 19 per cent in the last FY driven by robust demand for passenger vehicles, 2-Ws and commercial vehicles in the overseas markets. In the FY 2023–24, the automotive sector experienced a massive growth in exports, exporting 4.5 million units across all the categories, including 6.72 million passenger vehicles and 3.45 million 2-Ws exported from India.

Maruti Suzuki India dominated the passenger vehicle export market in the period April 2024 to December 2024, dispatching a total of 332,585 units – up 17.5 per cent from the previous year. Hyundai Motor India shipped 15,500 units in the previous year, representing a year-over-year growth of 2.6 per cent. Kia India, Volkswagen and Honda Cars also contributed to the export landscape with figures of 25,404 units, 53,098 units and 63,221 units respectively in the period from April 2024 to December 2024. Offering insights into these export trends, Rajesh Menon, the director general of Society of Indian Automobile Manufacturers (SIAM), indicated that the surge in passenger vehicle exports could be attributed to strategic vehicle launches and heightened demand, particularly in regions such as South Africa and the Gulf region. Currently, India's biggest automobile export markets are Latin America, Southeast Asia, Africa and new exports to developed markets.

A shift in the preference of consumers towards larger and more powerful vehicles across all segments has been observed. According to reports, demand for utility vehicles (passenger

vehicles) is expected to continue to grow, while demand for medium and heavy commercial vehicles (domestic commercial vehicles) sales is expected to rise 2–4 per cent.

Law stated - 27 May 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

The Motor Vehicles Act 1988 (MVA) along with the Central Motor Vehicles Rules 1989 (the CMV Rules) framed thereunder by the central government constitute the principal regulatory framework for the manufacture, registration and insurance of automobiles and their parts. The MVA vests authority with the central and state governments to make and implement regulations on the construction, equipment and maintenance of automobiles with respect to several aspects including dimensions, emission norms, automobile parts – such as brakes, steering gears and safety devices – and aftersales warranty. The central government primarily administers and regulates the industry through the Ministry of Road Transport and Highways (MoRTH).

The manufacturing and maintenance of automobiles must comply with the parameters and standards prescribed under the CMV Rules and those notified by the central government. Checks and controls are formulated at the following stages:

- the proposal to manufacture or import a new automobile;
- during the manufacturing process;
- the sale and use of an automobile; and
- the recalling of automobiles in the case of defects.

A manufacturer or importer that proposes to manufacture or import a new automobile is required to obtain approval for its prototype from the designated testing agencies, which include the Automotive Research Association of India (ARAI) and the International Centre for Automotive Technology (ICAT). The procedure for type approval and certification of automobiles for compliance with the MVA and CMV Rules accords with the Automobile Industry Standards (AIS) published by the central government. The type approval for vehicles retrofitted with compressed natural gas (CNG) and with liquefied petroleum gas (LPG) kits are valid for six years from the date of issue of such approval and are then required to be renewed every six years at a time. While the production of automobiles is ongoing, the CMV Rules require tests to be conducted periodically on automobiles drawn from the production line to verify that they conform to the approval certification. On the completion of the manufacturing process and the sale of an automobile, the manufacturer must issue a certificate of roadworthiness and quality to the owner. Thereafter, for in-use vehicles, owners are required to obtain a ‘pollution under control’ certificate one year after the date of vehicle registration from an agency authorised by the relevant state government.

As in most other jurisdictions, every vehicle is required to be registered by the owner with the concerned authority, where the individual either resides or conducts business, and cannot be driven on public roads prior to registration. An automobile's registration certificate is valid for a period of 15 years for petrol automobiles and ten years for diesel automobiles from the date of issue of the registration certificate, and can be renewed for five years subject to an inspection of the roadworthiness of the automobile. Moreover, the Delhi government, through the Transport Department via its circular dated 29 December 2021, notified that any unregistered diesel vehicle that is more than 10 years old or any petrol vehicle that is more than 15 years old found lying on the road on or after 1 January 2022 shall be impounded and sent for scrapping. MoRTH, via its notification dated 21 August 2021, also introduced a separate category of registration, namely, the Bharat (BH) series registration mark. The BH registration period is dependent on car type (ie, petrol, diesel or electric vehicle), and it is advantageous for vehicle owners who must move from one state to another, as it avoids the hassle of seeking repeated registration after transfer to a new state.

The CMV Rules have been amended via notification dated 23 April 2023 to also provide for temporary registration, valid for a period of 45 days from the date of issue, specifically in the case of vehicles that are required to be altered for conversion to an adapted vehicle.

The registration of a vehicle is deemed complete only on the issue of a certificate of fitness by an authorised testing station and is valid for two years. The certificate must be always valid during the use of the vehicle. The certificate of fitness for transport vehicles (ie, a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle) up to eight years old can be renewed for up to two years. For transport vehicles older than eight years, the renewal is only for one year. It was notified in September 2023 that fitness certification for vehicles including heavy goods vehicles, heavy passenger motor vehicles, medium goods vehicles, medium passenger motor vehicles and light motor vehicles will be mandatorily done only through an automated testing station with effect from 1 April 2025.

With the increase in adoption of EVs in the market, MoRTH has allowed registration of EVs without pre-fitted batteries, notifying this clarification to all transport secretaries of various states and union territories via letter dated 12 August 2020. As per this letter, EVs without batteries can be sold and registered based on the type approval certificate issued by the prescribed testing agencies. Currently, the registration of EVs without batteries seems to apply only to two-wheeler and three-wheeler vehicles; MoRTH is yet to clarify the status of other EV models being sold without pre-fitted batteries. The registration mark for battery operated vehicles (BOVs) is required to be exhibited in yellow colour on green background for transport vehicles and in all other cases, in white colour on green background.

Various initiatives by the government for EVs have enabled an exponential increase in EV registration, which is reflected in the statistics as of 8 July 2024: the registration of EVs increased by 16 per cent from 2023 between January and July 2024 to about 1.5 million EVs registered throughout 2023. Complementing this growth, as of 6 June 2024, the government established 16,344 public charging stations, comprising 27,471 public charging points, including 10,756 fast charging points — all of which are instrumental in supporting the expanding EV ecosystem.

Automobile insurance must be obtained before the vehicle can be driven on a public road. Insurance is provided by an authorised insurer that issues a certificate to the policyholder.

An insurance policy is usually valid for a period of one year and must be renewed before the due date. The MVA requires the insurance policy to cover third-party risks.

An important development in the regulatory regime of the sector was the implementation of certain crucial amendments to the MVA, introduced in the Motor Vehicles (Amendment) Act 2019 (the MV Amendment Act) in a staggered manner in notifications dated 28 August 2019 and 25 September 2020. One of the most important amendments was the addition of a mandatory recall mechanism, which includes prescribed grounds and obligations for conducting a recall, notification requirements, assignment of responsibility, destruction of defective parts, record-keeping, auditing and penalties. The CMV Rules impose hefty fines on manufacturers, importers or retrofitters of motor vehicles based on the number of vehicles recalled, starting from 1 million Indian rupees to a maximum of 10 million Indian rupees.

The MV Amendment Act holds criminally liable manufacturers, importers and dealers of motor vehicles that fail to comply with the provisions of Chapter VII of the MVA and CMV Rules concerning the construction, maintenance, sale and alteration of motor vehicles and their components. The penalty includes mandatory recalls, with imprisonment for up to one year or a fine that may extend to 100,000 Indian rupees in the usual cases, or to a maximum of 1 billion Indian rupees in matters involving contravention of provisions on construction, maintenance, sale and alteration of motor vehicles and components, and other rules made thereunder by the central or state government.

Another significant recent development in the regulatory structure is the introduction of the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules 2021 (the Vehicle Scrapping Rules) effective as of 25 September 2021.

The regulations on the standards for manufacturing EVs have also been strengthened and improved in favour of the end user of the product, due to the growing focus on these vehicles and related infrastructure in India.

More specifically, certain amendments to the CMV Rules, via notifications dated 19 December 2022 and 31 October 2022, require that additional tests be conducted on EVs and hybrid-electric powertrain vehicles. The standards for BOVs have also been revised and updated.

Certain safety testing parameters with respect to EV batteries were implemented in two phases, with phase one coming into effect on 1 December 2022 and phase two on 31 March 2023. The purpose of the phased implementation was to allow the OEMs enough time to comply with the revised standards.

Law stated - 27 May 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

Although FDI in the automotive sector is permitted for up to 100 per cent without conditions, most foreign companies have been carrying out manufacturing and distribution

businesses in India by setting up joint ventures with the local counterparts. Automotive parts manufacturers follow the same commercial model.

In a typical joint venture arrangement in the automotive sector, the Indian party is responsible for obtaining all local licences and approvals required for manufacturing operations. The foreign investor, besides bringing in capital contribution, is primarily the source of technology, technical assistance and R&D. Support, technology and technical assistance are usually licensed by the foreign partner to the joint venture, subject to certain standard conditions (such as limited use by the joint venture for the purposes of manufacturing specified products). The foreign partner often negotiates a royalty (usually based on the total sales made by the joint venture company) as consideration for licensing the technology to the joint venture.

With the growing interest and increased regulation surrounding EVs in the Indian market, several foreign manufacturers have shown willingness to produce EVs in India. For instance, Mercedes-Benz is now producing four of its luxury and all-electric cars in India, and Volvo has shown interest in directly manufacturing in the country.

There are different unique business models and structures now being explored by various companies due to the incentives and policies in the EV sector being offered by the government. With the fiscal push provided by the government, new concepts and arrangements are being introduced in the market, however, their viability has not been subjected to any tests yet.

The Accelerated e-Mobility Revolution for India's Transportation portal launched by the NITI Ayog, which specifically provides information on EVs, has listed such business models, which are broadly divided into mobility, infrastructure and energy.

Mobility models and services include business structures such as car sharing, ride hailing, carpooling, car subscription, and micro mobility. The infrastructure businesses include charging infrastructure manufacturers, charging point operators, battery recycling, battery subscription, pay-as-you-go and battery-as-a-service. The energy business models focus mainly on providing renewable energy sources to EVs. Such models include renewable energy, EV charging system and virtual power plants.

Considering the high cost of batteries in EVs, which comprise 30 to 40 per cent of the cost of the EV, business structures such as battery subscription models reduce the overall cost of purchasing an EV. In such a business, the ownership of the car is with the customer or end purchaser of the EV, while the manufacturer retains the ownership of the battery used in the vehicle. A combination of such type of models is being explored and offered by car manufacturers in collaboration with dealers or other third-party agencies in order to provide the option of purchasing EVs at a subsidised cost.

As these business structures are still in the nascent stage in India, there is a notable absence of regulatory frameworks governing them. At present, manufacturers, dealers and buyers engage in contractual agreements that meticulously outline their respective rights and responsibilities in accordance with the provisions of the Indian Contract Act 1872, which serves as a safeguard for all parties involved. In most cases, dealerships supplement their dealership agreements by additionally entering into agency agreements with car manufacturers. These agreements empower dealers to serve as authorised representatives of the manufacturer while providing the specified products and services.

Moreover, most of the leading auto parts and component manufacturers and suppliers, including Bosch, Lucas TVS, Delphi, Visteon, Autoliv, WABCO, BorgWarner, DENSO and Nippon Seiki, have followed the multinational automotive companies in setting up their plants and shops in India. They have entered supply arrangements with automotive manufacturing companies.

Automotive manufacturing companies distribute and sell their products to retail customers through an authorised dealership network. The manufacturers enter into contractual distribution arrangements with the dealers. Standard conditions for the eligibility and continuity of dealership include adequate infrastructure, personnel, investments and working capital. The dealership agreements usually prohibit the dealer from engaging in distribution of automobiles manufactured by competing brands.

Law stated - 27 May 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

As a general commercial practice, vehicles are distributed in accordance with contractual arrangements between manufacturers and authorised dealers.

There are no specific pieces of legislation regulating the distribution or dealership of automobiles. All commercial terms including provisions relating to termination and restructuring are agreed on between the manufacturer and the distributors or dealers in private contracts. Parties are often allowed to terminate the contract with a reasonable notice period. Given that automobile distribution agreements have come under the scrutiny of the Competition Commission of India (CCI) for alleged malpractices – such as exclusive supply agreements, resale price maintenance, exclusive distribution agreements and tie-in agreements – caution must be exercised to ensure that such distribution agreements are not anticompetitive in nature and do not breach the provisions of the Competition Act, 2002.

Dealers are typically family-owned concerns or businesses. Recently, however, we have witnessed several automobile manufacturers concentrating more on the management structure of family-owned and run dealerships. Indeed, some automotive manufacturers have been contemplating amendments to the dealership contracts to ensure that the dealer entities are organised or reorganised with a consolidated management control vested in the family leader or the key person in control, rather than the shareholding of the dealer companies being spread and fragmented across numerous family members.

Imports

The conditions for importing new and second-hand automobiles into India are specified in the Foreign Trade Policy (FTP) and regulated by the Directorate General of Foreign Trade. The FTP prescribes certain requirements regarding the import of automobiles, for instance:

- new automobiles can be imported into India through Indian customs seaports in Mumbai, Cochin (Kerala), Visakhapatnam, Chennai and Kolkata, while

second-hand automobiles can be imported only through the customs port in Mumbai;

- only certain identified categories of second-hand automobiles can be imported into India;
- imported automobiles are required to conform to the MVA and CMV Rules;
- the importer is required to submit a certificate from a notified testing agency at the time of importation that the automobile conforms with the MVA and CMV Rules; and
- 'vintage motor vehicles' can be freely imported without any restrictions by actual users into India.

Law stated - 27 May 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

There are no specific particularities for M&A or joint venture transactions in the automotive industry as such. However, due to the size of the automotive industry, due diligence is generally considered desirable in relation to regulatory approvals, real estate, waste management processes, environmental approvals and compliance with employment-related laws. With rapidly changing technology becoming a critical part of the automotive industry, considerable focus and attention are also vested on the ownership and protection of intellectual property rights.

Law stated - 27 May 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

The government of India has played a major role in promoting investment in the Indian automotive sector. The central government primarily extends support and incentives to the automotive industry by way of tax exemptions and reductions in, for example, customs duty charged on imports of automotive components when these are imported in completely knocked-down kits (meaning units that contain a pre-assembled engine or gearbox or transmission mechanism, or a chassis where such parts or sub-assemblies are installed).

The recently introduced Vehicle Scrapping Rules are also bound to boost motor vehicle sales by reducing the number of unfit vehicles on the road and encouraging the purchase of new vehicles equipped with better technology. As part of the vehicle scrapping policy,

it was announced by MoRTH that as of 25 July 2024, a total of 96,980 vehicles had been scrapped by registered vehicle scrapping facilities (RSVFs). This number rose to 156,700 vehicles by 16 December 2024, comprising 85,000 government-owned and 71,400 non-government-owned vehicles.

The central government introduced the Remission of Duties and Taxes on Exported Products (RoDTEP) scheme in 2021, to replace the export incentives initially offered under the Merchandise Exports from India Scheme (MEIS). This new scheme was made in compliance with World Trade Organization norms and aims to incentivise small-scale exporters by offering duty scrips. RoDTEP adheres to the fundamental principle of not exporting taxes or duties. Instead, it offers either exemptions or remittances to exporters, ensuring that their goods remain competitive in the global market.

The introduction of the new Foreign Trade Policy (FTP 2023) on 31 March 2023 marked a pivotal shift in focus. Among its key objectives, the policy aims to transition from incentives to tax remission, and enhance trade facilitation through technological advancements, automation and process re-engineering. It also underscores the importance of fostering export promotion through enhanced collaboration among exporters, states and districts. Additionally, FTP 2023 highlights emerging sectors like e-commerce exports and endeavours to cultivate districts as robust export hubs. A prominent feature of the FTP 2023 is the Export Promotion of Capital Goods (EPCG) Scheme, wherein battery electric vehicles are categorised as green technology products. This classification renders them eligible for a reduced export obligation of 75 per cent, highlighting the policy's focus on incentivising the EV automotive sector.

In recent years, the government has launched several schemes to encourage growth in the automotive sector, including the following:

- The Automotive Mission Plan 2016–26, which aims to increase the domestic production of automobiles and automotive exports, and to address environmental and safety challenges.
- The National Automotive Testing and R&D Infrastructure Project, set up to enable the industry to adopt and implement global performance standards by establishing nationwide automobile testing agencies.
- To accelerate the adoption of EVs, the Ministry of Heavy Industries (MHI) has formulated the Electric Mobility Promotion Scheme 2024 (EMPS) after review of Faster Adoption and Manufacturing of (Hybrid) and Electric Vehicles (FAME) II, to promote adoption and maintain continuity of support for electric two wheelers (e-2Ws) and electric three wheelers (e-3Ws). MHI launched the Electric Mobility Promotion Scheme 2024 (EMPS-2024) with an outlay of 7.78 billion Indian rupees for a period six months, with effect from April 2024 until September 2024. EMPS-2024 was introduced for faster adoption of e-2W and e-3W – including registered e-rickshaws and e-carts and L5 to provide further impetus to the green mobility and development of EV manufacturing eco-system in the country.
- Further, after review of FAME-II and EMPS-2024, MHI formulated PM Electric Drive Revolution in Innovative Vehicle Enhancement (PM E-DRIVE) scheme. The PM E-DRIVE Scheme, with a budget outlay of 109 billion Indian rupees, has been implemented for a period of two years, from 1 October 2024 to 31 March 2026, for

faster adoption of EVs, setting up of charging infrastructure and development of EV manufacturing eco-system in the country.

- The government of India entered into a Comprehensive Economic Partnership Agreement with United Arab Emirates (UAE) in 2022, which is projected to increase automobile exports to the UAE in the next five years.
- The MHI, in collaboration with the Ministry of External Affairs, has partnered with the US government to promote an electric bus support programme. Both India and the United States are prioritising decarbonising the transportation sector, emphasising the rapid deployment of zero-emission vehicles, and fostering public and private financing for electric transportation. They are also jointly working on the development of biofuels, including sustainable aviation fuels. Furthermore, plans have been announced to establish a payment security mechanism to facilitate the deployment of 10,000 made-in-India electric buses in India.
- The Indian Ministry of Finance has applied the concessional rate of goods and services tax (GST) to cars for persons with disabilities (PWD). An online portal has been launched by MHI for issuing GST concession certificates to persons having orthopaedic disability of 40 per cent or above, whether or not the applicant drives the vehicle himself or herself. A total of 14,086 GST concession certificates have been issued to date, via this portal.

The UK and India have entered into a free trade deal that is aimed at further strengthening the UK–India strategic partnership. This agreement, which has been negotiated since 2022, was finally closed on 6 May 2025 and is expected to increase bilateral trade between the countries by US$34 billion a year, staring from 2040. The UK government has described this agreement as 'the biggest and most economically significant bilateral trade deal the UK has done since leaving the EU'. The Indian Prime Minister has called the agreement 'historic'.

In terms of the Indian automotive sector, the India–UK Free Trade Agreement (FTA) stands to benefit this sector from lower import tariffs, set to reduce from 100 per cent to 10 per cent over a phased period of 10–15 years. The tariff reductions will be applied through a quota system with differentiated bands – based on engine capacity for ICE vehicles and price for EVs. However, the agreement excludes low-cost and futuristic cars, preserving protection for India's mass-market and innovation-driven segments. The FTA also introduces electronic sharing of certificates of origin, simplifying export processes for Indian manufacturers.

To promote the use of electric or hybrid vehicles, the government has introduced various schemes and incentives:

- The National Electric Mobility Mission Plan 2020 provides incentives to manufacturers of electric cars.
- The PM E- DRIVE Scheme provides for faster adoption of two-wheeler and three-wh
  eeler EVs and promotes green mobility, applicable mainly to vehicles used for public transport or those registered for commercial purposes in e-3W, e-trucks, e-ambulances and other new emerging EV categories.
-

The MHI, government of India, has approved the PM e-Bus Sewa-Payment Security Mechanism (PMS Scheme) to establish a Payment Security Mechanism Fund for Procurement and Operation of electric buses (e-Bus) under the GoI/state government/UT-sponsored schemes. This will mitigate the risk of payment delays and enhance the bankability for OEMs and operators who have entered into concession agreements with public transport authorities. It aims at facilitating the procurement and operation of at least 38,000 e-Buses across the country and is a significant step towards transforming public transportation in India throug h the integration of electric buses.

- A production-linked incentive scheme for manufacturing advanced chemistry cells in India, approved by the Indian government in 2021, aims to facilitate a reduction in the price of batteries, and thus a reduction in the price of EVs. A similar scheme for the automotive sector was also approved by the government, namely, the Production Linked Incentive Scheme (PLI Scheme) for the automobile and auto component industry. The PLI scheme enhances India's manufacturing capabilities for advanced automotive products, and provides incentives for determined sales of advanced automotive technology products (vehicles and components) manufactured in India from 1 April 2022 for a period of five years. Through notification dated 29 December 2023, the tenure of the PLI Scheme has been extended by one year to 31 March 2028. The PLI Scheme consists of two components: the Champion OEM Incentive Scheme (a sales value-linked scheme applicable to battery-run electric vehicles and hydrogen fuel cell vehicles of all segments); and the Component Champion Incentive Scheme (a sales value-linked scheme applicable to the advanced automotive technology components of vehicles, completely knocked-down or semi-knocked-down kits, vehicle aggregates of two-wheelers, three-wheelers, passenger vehicles, commercial vehicles and tractors). Applications by major automotive manufacturers in the Indian market, such as Ashok Leyland, Ford India, Kia India and Tata Motors, have been accepted for the Champion OEM Incentive. According to a press release by the MHI, as of December 2024, a total investment of 250 billion Indian rupees has been committed by companies such as Tata Motors and Mahindra & Mahindra, primarily towards enhancing EV production capacity. It also states that 3.22 billion Indian rupees has been disbursed under the scheme so far.
- The government has significantly increased budget allocations for key sectors under the PLI Scheme in 2025–26 for automobiles and auto components, with a significant jump from 3.46 billion Indian rupees to 28.18 billion Indian rupees.
- The Income Tax Act 1961 provides for income tax relief for loans taken for purchase of EVs. The maximum amount of deduction that can be obtained is capped at 150,000 Indian rupees.
- The goods and service tax (GST) on EVs has been reduced from 12 per cent to 5 per cent, whether sold with or without a battery pack, and GST on chargers and charging stations for EVs has been reduced from 18 per cent to 5 per cent. These steps have been undertaken to boost the EV market.
- The Budget for the financial year 2025–2026, notified on 1 February 2025, focuses on boosting auto component industry and enhancing MSMEs, promoting 'Make in India' and clean mobility, and strengthening supply chains and export

competitiveness, rationalising customs duties and tax reforms, expanding and strengthening the EV ecosystem by supporting the manufacturing, charging infrastructure and adoption of electric buses.

State governments have been actively involved in offering incentives to the automotive sector, especially to attract foreign automobile manufacturers to set up in their states. The MoRTH has also advised the state governments to waive road tax on purchase of EVs. Moreover, a similar advisory has been notified to exempt or reduce road tax on flexi fuel vehicles (FFV). Such FFVs run on a mix of gasoline and ethanol and provide an environmentally friendly alternative to the dependency on fossil fuels. The incentive offers usually involve lease and sale of land at concessional rates, reductions in land-related levies or duties and power tariffs, concessional rates of interest on loans and investment subsidies. State governments frequently offer special incentive packages for mega projects. They also provide incentives and subsidies on the purchase of EVs separate from those granted under FAME II. States such as Telangana, Karnataka, Andhra Pradesh, Rajasthan, Tamil Nadu, Uttarakhand and Punjab, acting on the advice issued by the MoRTH in January 2019, have provided road tax exemptions to EV users. This benefit has been renewed in the state of Uttar Pradesh and its government has exempted road tax and registration fees on the purchase of EVs for three years from 14 October 2022.

Various state governments have introduced policies to promote EV mobility by providing consumers with incentives. For instance, the Delhi government had introduced capital subsidy incentives for consumers on purchase of EVs under the policy currently valid until June 2025, including:

- for two-wheeler vehicles: a demand generation incentive of up to 30,000 Indian rupees, and a purchase incentive of 5,000 Indian rupees per kilowatt hour up to 30,000 Indian rupees;
- for three-wheeler vehicles: a purchase incentive of 30,000 Indian rupees and interest subvention of 5 per cent on loans and hire purchase schemes for the purchase;
- for four-wheeler vehicles: a purchase incentive of 10,000 Indian rupees per kilowatt hour up to 150,000 Indian rupees for the first 1,000 electric cars;
- a purchase incentive of 30,000 Indian rupees for the first 10,000 electric people carriers; and
- subsidy of up to 36,000 Indian rupees for women purchasing electric two-wheelers.

The Indian automotive industry does not impose any specific entry barriers on the market. Being a capital-intensive sector, as may be the case in other countries, production has proven to be cost-effective only if large volumes are achieved. New entrants thus often face financial challenges until economies of scale have been achieved. In India's extremely competitive automotive market, building up a brand can be very challenging and time-consuming, especially owing to customers' loyalty to the established manufacturers (such as Maruti). Other general commercial issues are the huge costs involved in technological advancements and modifications to products to suit the Indian customer base.

Over the past few years, the Indian market has been experiencing an upward trend in the entry of foreign automotive manufacturers, including in the luxury and sports car segments,

with companies such as Maserati, Aston Martin and Lamborghini setting up dealerships and aftersales infrastructure in the country. Whatever their size, even well-established automobile manufacturers must make continued efforts and investments to retain their customer base in view of increasing competition. For instance, MG entered the Indian market by setting up its first manufacturing facility in the western state of Gujarat in 2019. After making huge investments, MG has significantly increased its market presence in India, registering 25 per cent growth in retail sales in FY 2025, and selling 30,162 units. Similarly, Ford plans to begin manufacturing electric vehicles at its Tamil Nadu plant, following the announcement of the shutdown of its local factories joining the likes of Vietnamese automaker VinFast Auto Ltd. Between January 2024 and March 2025, MG Motor steadily expanded its footprint in India's EV market, it is noteworthy that 31 per cent of the sales recorded was contributed by EV models.

Law stated - 27 May 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

The MVA and the CMV Rules authorise the central government to publish quality, safety and performance standards in relation to any part, component or assembly used in the manufacture of an automobile. Every manufacturer is required to obtain approval for the prototype of the part, component or assembly for which standards have been notified and approved by an agency referred to in the CMV Rules. After obtaining approval, the manufacturer is required to certify its compliance under the statutory form prescribed under the CMV Rules. Recent amendments to the CMV Rules include setting improved and stronger safety standards for components during the production of traction batteries for electric and BOVs.

The Ministry of Environment, Forest and Climate Change (MoEF&CC) has laid down rules to ensure that the standards for air-pollutant emissions from automobiles are kept in accord with international standards. Schedule IV of the Environment (Protection) Rules 1986 provides standards for emissions of smoke or vapour from automobiles. The Bharat Stage emission standards (based on European regulations) have been set up by the central government to regulate the air pollutants emitted from internal combustion engine (ICE) equipment, including motor vehicles. Currently, the vehicle emissions standard adopted throughout the country is the BS-VI. The MVA requires every automobile owner to carry a valid 'pollution under control' certificate issued by designated facilities. The MVA prescribes punishment by way of a fine in the event a person is found to be driving an automobile that violates the standards of road safety and pollution in a public place.

Every vehicle manufactured on or after 1 April 2020 is required to be compliant with the BS-VI emission standards. MoRTH proposed to further revise the BS-VI emission standards to bring rules and regulations governing hydrogen and ethanol- or biodiesel-based vehicles. The draft notification dated 6 September 2022 amending the CMV Rules provides that vehicles or engines with biodiesel adulteration of up to 7 per

cent will be tested with diesel, and vehicles with more than 7 per cent adulteration will be tested with the respective adulteration. Vehicles powered with hydrogen will be assigned nitrogen oxide emissions only. The government is now fast tracking the introduction of more stringent BS-V
II emission standards and CAFE-III (Corporate Average Fuel Efficiency) norms, originally slated for the next five year sustainability roadmap in the transport sector.

The CMV Rules require that special purpose vehicles – constructed or altered to transport goods or passengers – comply with prescribed automotive industry standards until the corresponding bureau of Indian standard specifications are notified under the Bureau of Indian Standards Act, 2016. The MoRTH has, in a notification dated 3 August 2022, mandated that vehicles of categories N2 (maximum weight not exceeding 3.5 tons but below 12 tons) and N3 (exceeding 12 tons) carrying hazardous and dangerous goods are required to be fitted with a vehicle tracking system device.

One of the most important developments in the automotive sector for pollution reduction is the introduction of the Vehicle Scrapping Rules that came into effect on 25 September 2021. The MoRTH has formulated these rules to ensure that all vehicles that have not renewed their certificate of registration, have not been granted a certificate of fitness, have been damaged due to fire or accident, have been declared obsolete or have outlived their utility are taken off the road.

The Vehicle Scrapping Rules broadly provide for the following:

- They lay down the procedure to receive and record end-of-life vehicles (ELVs), including depolluting, dismantling, segregation of material, safe disposal of non-reusable parts and issuance of certificate of vehicle scrapping to the registered owner of a motor vehicle. ELVs are defined as vehicles that are not validly registered, or are declared unfit through automated fitness centres, or their registrations have been cancelled or they are declared as waste vehicles by a court of law or through self-declaration.
- Registered vehicle scrapping facilities are those that hold a registration for dismantling and scrapping ELVs. They have been provided connectivity and access to the VAHAN database of vehicle registration and are authorised to make suitable entries about vehicle scrapping. As on January 2025, 84 registered vehicle scrapping facilities are operational in the country.
- They issue a certificate indicating transfer of ownership from vehicle owner to registered scrapper (certificate of deposit) and a certificate recognising the final disposal of a vehicle (certificate of vehicle scrapping), and ensure that the minimum technical requirement for collection and dismantling centres and removal or recycling or disposal of hazardous parts of the scrapped vehicle are in accordance with the pollution board norms and guidelines. This warrants the environmentally sound management of ELVs.

Even the MoEF&CC has made efforts in this regard and notified the Environment Protection (End-of-Life Vehicles) Rules, 2025, dated 6 January 2025, which aim at ensuring environmentally sound management of ELVs and provides for obligations of among others, vehicle producers and registered owners.

These rules are grounded in the principle of extended producer responsibility (EPR) and provide for obligations of EPR for the vehicles that the producer has introduced or introduces in the domestic market, including vehicles put to self-use to ensure the specified scrapping targets.

Under the framework, producers are required to meet annual EPR targets commencing from the years 2025–26. These targets are linked to the age of vehicles introduced in the market, 15 years in the case of transport vehicles and 20 years for non-transport vehicles. The responsibility also extends to vehicles put to self-use by the producer. Registered owners of vehicles must deposit their ELVs at a registered collection centre, or at any of the producer's designated sales outlets or RVSFs, within 180 days of the vehicle reaching the end of its life.

By imposing mandatory scrapping targets, the rules aim to promote responsible recycling, reduce environmental hazards from outdated vehicles, and support the transition toward a more sustainable automotive ecosystem.

Additionally, to promote the registration of vehicles under the Vehicle Scrapping Rules, tax concessions are offered to automobiles registered against submission of certificate of deposits. The tax concession is offered in the range of 15 per cent to 25 per cent for a period of eight to 15 years, depending on type of vehicle. Further, MoRTH, through the CMV (First amendment) Rules, 2025 to promote the registration of vehicles under the Vehicle Scrapping Rules, will offer tax concessions of up to 50 per cent to all transport and non-transport vehicles that were manufactured as per earlier mass emission standards Bharat Stage I (BS-I) norms and BS-II norms.

In 2024, MHI, in its Special Campaign 4.0 on *Swachhata* ('cleanliness'), notified that the total revenue generated from the disposal of scrap was more than 693.7 million Indian rupees revenue earned from disposal of scrap.

On 15 March 2024, MoRTH notified certain amendments in the Vehicle Scrapping Rules primarily requiring entities proposing to set up as registered vehicle scrapping facility to obtain approval for consent to establish (CTE) and consent to operate from the concerned pollution control board of the respective state or union territory.

Furthermore, the validity period of the certificate of deposit, a document enabling owners to access incentives and benefits for purchasing a new vehicle, has been extended to three years from the date of issuance, up from two years. A certificate of deposit means a certificate issued by the registered vehicle scrapping facility to recognise the transfer of ownership or submission of the vehicle from the registered owner to the registered scrapping facility, for further treatment. However, it is worth noting that no incentives will be available on the certificate of deposit issued against government-owned vehicles or impounded vehicles handed over by enforcement agencies, and such certificates will not be electronically tradable. These amendments aim to streamline the vehicle scrapping process and enhance incentives for transitioning to newer, more environmentally friendly vehicles.

Additionally, to ensure environmentally sound management of waste batteries, the MoEF&CC had introduced the Battery Waste Management Rules, 2022. According to these rules, all waste batteries are to be collected and sent for recycling or refurbishment, and disposals in landfills are prohibited.

Earlier recalls in the Indian automotive sector were voluntarily undertaken by companies in accordance with the Voluntary Code on Vehicle Recall 2012 introduced by the SIAM. However, in 2019, the MV Amendment Act introduced a mandatory recall provision through the insertion of section 110A in the Act for automobiles pursuant to which recalls in the automotive sector have now become regulated. This amendment seeks to empower the central government to direct manufacturers to recall their motor vehicles of a particular type or its variants if they suffer from a defect that may cause harm to the environment, drivers or occupants or other road users, and in the event of the defect being reported to the central government by a prescribed percentage of owners, testing agencies or any other source. If a defect lies in a component of a motor vehicle, the manufacturer is bound to recall all such vehicles and their variants that contain the component.

Under this framework, the manufacturer is liable for every such vehicle recalled. The manufacturer is required to:

- fully reimburse the buyers subject to any hire-purchase or lease-hypothecation agreement;
- replace the recalled vehicle with a vehicle having similar or better specifications that complies with standards under the MVA; or
- repair the vehicle, and pay such fines as deemed fit by the central government.

However, the manufacturer will not be held liable to a fine if it notices the defect and informs the central government.

The CMV Rules provide detailed provisions on various scenarios involving a recall, such as the recall procedure, grounds for conducting a recall and obligations thereto, notice requirements, assignment of responsibility, investigation related to safety defects, destruction of defective parts, role of the designated officer, record-keeping and auditing. Furthermore, the CMV Rules stipulate the levy of hefty fines by the designated officer to be imposed on the manufacturer, importer or retrofitter of the motor vehicle depending on the number of motor vehicles recalled, starting from 1 million rupees up to a maximum fine of 10 million rupees.

The MoRTH has, in a notification passed in March 2021, prescribed a formula based on the percentage of complaints received from owners of automobiles that will trigger the mandatory recall of a particular model. The formula is based on percentages and is different for each category of vehicle, such as two-wheelers, three-wheelers, M1 (passenger vehicles, not having more than either seats) or M2 (having a maximum mass not exceeding five tonnes).

As per reports published by SIAM, in 2024 a total of 864,351vehicles were recalled by their manufacturers. The industry had seen 284,906 recalls in 2023, 288,765 recalls in 2022, 1,337,223 recalls in 2021, 380,615 recalls in 2020, 159,992 in 2019 and 138,755 in 2018. Vehicle recall was at its third highest in 2022. Records show that in 2024, three motorcycle manufacturers (Honda, Suzuki and India Yamaha) and five carmakers (Maruti Suzuki, Mercedes-Benz, Skoda Auto Volkswagen India, Hyundai and Toyota) recalled 532,751 bikes and 331,600 vehicles, respectively.

In addition to type approval, the MoRTH, via notification dated 27 September 2023, has inserted a new rule under the CMVR that mandates a car assessment programme (Bharat NCAP), applicable to type-approved M1 vehicles manufactured or imported in India on or

after 1 October 2023. The main purpose of the Bharat NCAP is to evaluate the safety of vehicles in the event of collision and to enable customers to take an informed decision while purchasing vehicles. One of the key safety features is to introduce six mandatory airbags to achieve a five-star rating.

The programme requires the manufacturer or importer to submit a prescribed form to the designated authority for examination and assessment of the motor vehicle as per the AIS 197. The motor vehicle will be selected randomly for the purpose of assessment, by the designated authority, namely the Central Institute of Road Transport (CIRT) in Pune or any other agency decided by the MoRTH in New Delhi. The director of CIRT, upon receipt of the approval of results by the standing committee, will issue the star rating certificate to the concerned vehicle manufacturer. All grievances related to Bharat NCAP will be addressed to the director of CIRT, who will respond to the queries in consultation with the sub-committee. To enhance road safety and reduce accidents nationwide, the MoRTH has issued a draft notification to implement a 'moving off information system' (MOIS) in a specific vehicle category. As part of this initiative, the Ministry aims to standardise advanced driver assistance systems (ADAS) features such as blind spot monitoring, driver drowsiness and attention warning systems across both passenger and commercial vehicles. The Ministry of Road Transport Highways has issued a draft notification stating that starting in April 2026, all the new vehicles designed to carry more than eight passengers will be mandated to include a form of ADAS. Furthermore, the proposal includes the specification of collision warning systems according to the Automotive Industry Standards. Notably, the primary aim of these measures is to decrease the risk of collisions involving vehicles and vulnerable road users, such as pedestrians and cyclists, particularly during low-speed moving-off manoeuvres. In addition to this proposal, other draft Automotive Industry Standards have been introduced and are in the development stage, inter alia:

- type approval of motor vehicles of categories M2, M3, N2 and N3 with regard to the advanced emergency braking systems (AEBS);
- approval of motor vehicles with regard to the blind spot information system for the detection of bicycles;
- approval of vehicles with regards to cyber security and cyber security management system. Standards for automotive vehicle protective devices for two-wheeled motor vehicles requirements have been finalised. This standard requires that a protective device be fitted to the left side of the rear wheel on two-wheelers of category L1 and L2 that have provision for a pillion rider;
- approval of vehicles with regards to emergency lane keeping systems (ELKS) in M1 (passenger cars) category vehicles, to offer assistance to the driver when they unintentionally drift out of their lane;
- approval of vehicles with regards to lane departure warning systems (LDWS) in buses (M2, M3), and trucks (N2, N3). This feature will warn the driver of an unintentional drift of the vehicle out of its travel lane;
- draft standard for fitment of retro-reflective devices and markings in power-driven vehicles and their trailers. This standard will aim to improve visibility, clarity and safety on roads, especially at night and in adverse conditions;
-

draft standard for installation of lighting, light-signalling, road illumination devices on motor vehicles with more than three wheelers, trailers, and semi-trailers, excluding agricultural tractors and special purpose vehicles, two and three wheeler motor vehicles, and e-rickshaw/e-cart vehicles, and for power-driven vehicles; and

- approval of school vans with regards to having at least one emergency exit on the opposite side of the service door or rear side of the van.

The Hon'ble Supreme Court in the case *Container Corporation of India Ltd Vs Ajay Khera & Ors* (Civil Appeal No. 3797 of 2019) by order dated 11 January 2024, addressed concerns over air pollution caused by diesel vehicles accessing the Inland Container Depot (ICD) at Tughlakabad, Delhi. The case originated from an application filed before the National Green Tribunal (NGT), which had directed the phased shift from diesel to cleaner vehicles like electric, hybrid vehicles, and CNG, at the ICD by NGT order dated 8 March 2019. The Hon'ble Supreme Court, emphasising the constitutional right to a pollution-free environment under article 21 of the Indian Constitution considered recommendations from the Environment Pollution (Prevention and Control) Authority (EPCA). These included phasing out diesel vehicles, promoting BS-VI vehicles, improving infrastructure at ICDs around Delhi, and setting up laboratories to decentralise testing from Delhi. While upholding environmental concerns, the Hon'ble Supreme Court modified the NGT's directions to ensure a balanced implementation along with economic activities. It gave six months for relevant authorities to formulate policies on BS-VI vehicle adoption, infrastructure optimisation, and parking improvements.

Law stated - 27 May 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

At present, there is no legislation that deals with product liability specifically for automobiles. In the event a customer suffers losses because of a defect in a vehicle, the customer has a remedy against the manufacturer or supplier of the automobile (as the case may be) under the Consumer Protection Act 2019 (the CP Act), which is a specific legislation for the protection of the rights of all consumers. Claims under the CP Act can be made before various forums at the district, state and national levels (consumer forums). The term 'defect' has been widely defined in the CP Act to include any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard that is required to be maintained or claimed by the trader under any law in force or any contract, express or implied, in any manner whatsoever in relation to any goods or product.

The usual and bare minimum remedy granted by the Central Consumer Protection Authority or District Consumer Disputes Redressal Commission is a refund of the price of the automobile along with interest, or replacement of the automobile in cases of a manufacturing defect. In addition, consumer forums often grant damages for harassment

and mental harm caused to the consumer if the consumer proves that the injuries and losses were a result of the manufacturing defect.

It is within the power of the consumer forums to award damages in a case involving death or very serious permanent injury, but there is no typical range of such damages, and they generally vary on a case-to-case basis. There is no limit on the damages that can be awarded, and the consumer forum will take into consideration factors such as loss of income, family members dependent upon the injured or deceased person, mental pain and harm suffered.

The Civil Procedure Code 1908 provides for class actions or group actions where one person may, with the permission of the court, sue or defend on behalf of all persons having the same interest. The CP Act also provides for consumers as a group or class to institute a complaint against a manufacturer or supplier. However, this approach has not been popular compared to class actions, which lie before the high court of each state or the Supreme Court of India in the form of a public interest litigation (PIL) for the enforcement of public interest.

A PIL may be moved not only by an aggrieved party, but also by a public-spirited individual or a social action group for the enforcement of the fundamental or legal rights of an aggrieved party who is unable to approach the court for reasons such as being in a disadvantaged position on account of poverty, disability or other social or economic impediments. PILs form part of the writ jurisdiction of the high courts and the Supreme Court of India, and accordingly can only be filed against an aegis of the state or any other party exercising public functions. Over the past decade, there has been an increasing number of PILs filed in the court concerning several issues. For example, pursuant to a very well-known PIL filed by an environmentalist before the Supreme Court of India, the higher or stringent emission standards for automobiles were introduced by the Delhi state government. The stand taken by the auto manufacturers was that they were meeting the standards laid down under Indian laws and, after the court order, the emission standards were tightened to reduce vehicular pollution.

The vehicle recall procedures introduced in the MVA now become relevant. With the change in law and introduction of recall reforms, if the manufacturer does not initiate voluntary recall of defective vehicles, the government has the power to direct a recall. It may also impose a penalty on the manufacturer. This amendment is bound to ensure that there are fewer class actions or group litigation and PIL situations arising with respect to product liability in the automobile market in India, thereby avoiding overburdening the courts.

A few orders passed by the courts in India dealing with claims of manufacturing defects have been discussed.

In *Tata Motors Ltd v Antonio Paulo Vaz*, wherein a 2009 model car that had run 622km was sold to the buyer in place of a new 2011 model, the Supreme Court of India, by order dated 18 February 2021, declared the dealer to be liable for a service defect. The buyer requested a refund of the price paid or replacement of the car with the 2011 model; however, the price was not paid, nor was the car replaced.

The complaint was filed in the district forum, where it proceeded ex parte against the dealer, and it was held that there was a 'deficiency in service' wherein the dealer and the manufacturer of the car were jointly and severally liable. They were directed to replace the

car with a new one of the same model or to refund the entire amount of the car with interest at 10 per cent from the date given of delivery, with costs for mental stress and agony.

The manufacturer appealed to the state commission and thereafter to the national commission. Both appeals were dismissed, and the decision of the district forum was upheld. However, the Supreme Court set aside the findings of the national commission and the lower forums against the manufacturer, and held the dealer solely liable for a service defect.

However, in the case of *Shivani v Mahindra & Mahindra Ltd*, the National Consumer Disputes Redressal Commission (NCDRC) on 4 July 2023, held both the dealer and manufacturer jointly and severally liable for the inherent manufacturing defect, ordering replacement or refund of the vehicle price. A buyer purchased a Mahindra Renault Logan from an authorised dealer of Mahindra. The first free service of the car was done on 20 December 2007, the second on 12 May 2008, and the third on 8 October 2008. However, after the third service, the petitioner refused to take delivery for not rectifying the defects. The buyer was assured that all the defects in the car were rectified and if any defect still existed, the car would be replaced. Based on this assurance, the buyer took delivery of the car. The respondent argued that there is no definitive evidence to support the existence of a manufacturing defect in the vehicle in question. On 18 November 2008, the buyer realised that the defect was not rectified, after which the buyer approached the dealer to fulfil the assurance of replacing the car with a new one. The NCDRC observed that the buyer was not responsible for any accident and the car had defects from the inception, which could only amount to a manufacturing or inherent defect. Thus, both the manufacturer and dealer were jointly and severally responsible for the deficiency in service and were liable to compensate the buyer.

In *Honda Cars India Limited v Sudesh Berry & Ors*, decided on 12 November 2021, the Supreme Court addressed the question of manufacturer liability in a consumer complaint involving repair costs. The complainants had purchased a Honda City in 1999, which was damaged in an accident in 2010. Upon taking it to an authorised service centre (ASC), the initial repair estimate of 150,000 Indian rupees was later raised to 240,000 Indian rupees, prompting the complainants to allege deficiency of service and unfair trade practices against the manufacturer (Honda), the ASC, and the dealer. While the District Forum held only the ASC and dealer liable, citing a principal-to-principal relationship, the NCDRC, in appeal, modified the relief and directed the manufacturer to provide a new car for 250,000 Indian rupees as a goodwill gesture. On further appeal, the Supreme Court overturned the NCDRC's direction, holding that there was no evidence of manufacturing defect and that, as per *TATA Motors Ltd v Antonio Paulo Vaz*, a manufacturer cannot be held liable for the acts of a dealer or service centre in repair matters. Consequently, the Court restored the original order of the District Forum, as affirmed by the State Commission.

Recently in the case of *Tata Motors Ltd and Ors v Jogender Sharma and Ors* decided on 25 October 2024, the NCDRC held both the manufacturer and dealer jointly and severally liable for the inherent manufacturing defect. The buyer purchased a Tata Safari Dicor Quartz from Tata Motors dealer, used the car for 180 days before raising the complaint for the issues of cold starting, engine lights coming on, headlights and door noises in the car. The Commission, after examining the issues of the complaint, observed that when a consumer buys a vehicle, he or she expects it to be free of defects and in good working order. If a

vehicle encounters problems within the first few months, it suggests that there may be an inherent issue with it.

In the case of *State of Andhra Pradesh v BMW India Pvt Limited*, decided on 10 July 2024, the Supreme Court set aside order of the Telangana High Court (the High Court) and directed BMW India Private Ltd (BMW) to pay 5 million Indian rupees as compensation to a customer for supplying a defective car in 2009. The complainant had purchased a BMW 7 series vehicle in September 2009, faced serious defects while driving the car, filed a complaint on the grounds of cheating and dishonestly delivering the vehicle to him. The High Court quashed the proceedings, but while doing so, directed BMW to deliver a new vehicle. The complainant informed BMW that he was not interested in taking a new BMW car, but instead interested in taking an amount equivalent to the value of the car, together with interest.

In the case of *Mohd Hyder Khan v Mercedes-Benz India Pvt Ltd and Ors,* NCDRC, on 20 September 2024, the buyer purchased a Mercedes Benz car for 5.3 million Indian rupees in June 2008, and later filed a complaint alleging that the vehicle had a manufacturing defect, particularly concerning the non-deployment of airbags during an accident in January 2010, which caused him injuries. The buyer claimed that the failure of the airbags constituted a deficiency in service and sold the vehicle before it could be inspected. The State Commission and NCDRC found that the airbag failure was likely due to the buyer not wearing a seatbelt and no deficiency in service or manufacturing defect was established.

Law stated - 27 May 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

The Competition Commission of India (CCI), which is the authority regulating competition, actively investigates allegations of anticompetitive behaviour in the automotive sector. The investigations carried out by the CCI are either initiated of its own accord, based on press reports and information flowing from parallel cases, or based on information provided by third-party informants.

The most notable competition-related issue in the automobile sector was *Shamsher Kataria v Honda Siel Cars India Ltd & Ors*, Case No. 03 of 2011 (CCI, 25 October 2014), in which the CCI investigated various automobile manufacturers for anticompetitive practices – it is understood they denied market access to branded spare parts and diagnostic tools, and thereby hampered the ability of independent repairers to provide aftermarket repair and maintenance services to automobile owners.

Such practices have allowed automobile manufacturing companies not only to have monopolistic control over the spare parts and diagnostic tools market under their respective brands, but also to charge arbitrary and steep prices for said products, in violation of the provisions of the Competition Act 2002 (the Competition Act).

The CCI observed that owing to the technical specifications of the cars manufactured by each OEM, the spare parts of one brand cannot be used for the repair and maintenance of cars manufactured by another OEM. Therefore, each OEM is shielded from competition in the aftermarket from existing competitors in the primary market.

Furthermore, agreements entered into by OEMs with their original equipment suppliers and authorised dealers prohibit the sale of spare parts to independent repairers in the secondary market. The CCI was of the view that each OEM holds a position of strength, which enables it to affect its competitors in the secondary market or aftermarket, thereby limiting consumer choice and compelling consumers to behave in a manner beneficial to the OEMs by allowing them to enjoy a dominant position in the aftermarket for spare parts.

In addition to levying a heavy penalty, the CCI directed OEMs not to place any restrictions on the operation of independent repairers and to allow original equipment suppliers to sell spare parts freely in the open market. However, OEMs were permitted to charge royalties or fees where they hold intellectual property rights on parts, provided that this is not in violation of the Competition Act. The order of the CCI was appealed by some automotive manufacturers before the Competition Appellate Tribunal (COMPAT) established under the Competition Act. The COMPAT concurred with the findings of the CCI and upheld the penalty that was levied. The order of the COMPAT was stayed by the Supreme Court of India in November 2018. On 20 January 2020, the Supreme Court disposed of the matter while confirming the COMPAT order stays or remains operative during the pendency of the National Company Law Appellate Tribunal (NCLAT) appeal.

While some automotive manufacturers chose to appeal to the COMPAT, others filed a writ petition in the High Court of Delhi, among others, challenging the constitutional validity of the decision-making process adopted by the CCI. This writ petition was successful, and the High Court of Delhi in April 2019 held that the decision-making process provided for in the Competition Act was unconstitutional. In its order, the court allowed the appellant automotive manufacturers to file an appeal against the order of the CCI to the NCLAT (the appellate authority) and directed the NCLAT to entertain the appeals on their merits, unhindered by any period of limitation. This order of the High Court of Delhi was appealed against before the Supreme Court.

Currently, the matter is sub judice before the NCLAT. It is now on the appellate tribunal to hear and dispose of appeals against any direction issued or decision made or order passed by the CCI. The next hearing on the matter is on 22 August 2025.

In 2021, the CCI also dealt with matters relating to alleged anticompetitive conduct against Tata Motors and its related companies providing financial services, namely, Tata Capital Financial Services and Tata Motors Finance. The CCI dealt with *Neha Gupta v Tata Motors Ltd and Ors* and *Nishant P Bhutada v Tata Motors Ltd and Ors*, Cases No. 21 of 2019 and No. 16 of 2020 (CCI, 4 May 2021), together as the anticompetitive activities alleged against Tata Motors and its related companies were similar in both cases. The matter was initiated based on complaints filed by the informants (automotive dealers having dealership contracts with Tata Motors) against Tata Motors and its related companies for their alleged anticompetitive conduct.

The informants primarily alleged that the terms and conditions imposed by Tata Motors in its dealership agreements were unfair and in contravention of the Competition Act. Some of the conditions indicated by the informants were the imposition of high interest rates and

other illegal charges and adjustments on the channel finance loan facility extended by the related companies of Tata Motors to automotive dealers. The informants claimed that these types of arrangements were detrimental to the financial health of the automotive dealers. It was also stated that consumer loan instalments, if unpaid by the borrowers, were adjusted arbitrarily against the channel finance loan facility provided to the automotive dealers. The informants further alleged coercion by Tata Motors in relation to the list of vehicles the dealers were required to order.

In response to the allegations, Tata Motors and its related companies questioned the jurisdiction of the CCI in dealing with contractual disputes and claimed that the related companies do not have a dominant position in the market as they attribute a presence of only 6 per cent share to the Indian corporate lending market. The CCI, while rejecting the contentions of Tata Motors and its related companies on its jurisdiction, directed the Directorate General (DG) to conduct an investigation within 60 days of an order dated 4 May 2021. The DG submitted its report on 2 September 2022, wherein it found Tata Motors was abusive of its dominant position in the market. It was also asserted that although the concerned clause restricting dealers from starting, acquiring or indulging in any new business in the dealership agreement did not impose a blanket restriction, it would be recommended that the clause be removed from the agreement as it 'may' be anticompetitive in nature, once implemented. With regard to the clause imposing territorial restrictions on the dealers, the DG found such a clause as likely to cause appreciable adverse effect on competition regarding the sale of commercial vehicles in India, and hence violative of the provisions of the Competition Act.

The CCI, however, did not agree with the DG's observations and, via order dated 23 August 2023, noted that Tata Motors neither prohibits passive sales nor imposes any penalty on its authorised dealers for actively selling outside their allocated territory. Further, there was 'no sufficient material record' to construe that Tata Motors had engaged in anticompetitive practices causing any adverse effect in terms of the provisions under the Competition Act. The application was thus dismissed.

Another landmark case relating to alleged anticompetitive practices against automotive companies was *Re: Alleged anti-competitive conduct by Maruti Suzuki India Limited (MSIL) in implementing discount control policy vis-à-vis dealers*, case No. 01 of 2019 (CCI, 4 July 2019). The CCI initiated an investigation into the matter based on an email sent anonymously by a Maruti Suzuki dealer alleging that MSIL resorted to resale price maintenance in Maharashtra, Mumbai and Goa. It was alleged that MSIL's independent agency performs mystery shopping audits, wherein a fake customer visits every dealer in Pune, for example, to check whether extra discounts are being offered. Based on this audit, a penalty is levied where extra discounts are offered to end customers by dealers, and MSIL uses proceeds from these penalties for its expenses. MSIL, however, contended that it did not exercise control over its dealers, except to maintain uniformity in schemes, and that no agreement between MSIL and its dealers involved a discount control policy.

On investigating the alleged practice of resale price maintenance agreements between the dealers and MSIL, CCI concluded that MSIL's conduct of controlling discounts given by dealers amounts to resale price maintenance, which causes an appreciable adverse effect on competition in India in the downstream market that is in violation of the provisions of the Competition Act. Consequently, CCI imposed a penalty of 200 million rupees on MSIL

for its anticompetitive actions. It is an ongoing matter pending before the NCLAT, and the next hearing is on 18 August 2025.

In another matter, *Re: Cartelisation in the supply of Electric Power Steering Systems (EPS Systems)*, Case No. 7(01) of 2015 (CCI, 9 August 2019), anticompetitive conduct was alleged in the electric power steering (EPS) systems market. The case was initiated on a lesser penalty application filed by NSK, Japan, which revealed the existence of the cartel, and was followed by a lesser penalty application from JTEKT Corporation, Japan, during the investigation by the Directorate General. Through the investigation report and presented evidence, the CCI held both NSK and JTEKT liable for cartelisation in the EPS systems market for a period of about six years by directly or indirectly determining prices, allocating markets, coordinating bid responses and manipulating OEM bid responses. However, NSK was granted a 100 per cent reduction in penalty and JTEKT was granted a 50 per cent reduction in penalty, in view of their approaching the CCI with applications for lesser penalties.

In *Samaleshwari Automobiles v Tata Motors Ltd*, Case No. 44 of 2021 (CCI, 3 February 2022), allegations of anticompetitive practices against some of the major players in the Indian automotive industry such as Tata Motors and Tata Motors Finance were dealt with. The CCI found them guilty of contravening section 3 (anticompetitive agreement) and section 4 (abuse of dominant position) of the Competition Act, and ordered them to stop such practices while imposing a penalty. The case highlights the importance of fair competition in business practices, demonstrates how regulatory bodies work to ensure a level playing field for all market participants and serves as a warning to other companies that engaging in anticompetitive practices can result in significant penalties and legal consequences. The NCLAT dismissed Samaleshwari Automobiles' appeal (Competition Appeal (AT) No.19 of 2022), against the CCI order on 2 September 2022, observing that Tata Motors didn't have sufficient market power in the passenger vehicle market.

In 2024, in the matter *XYZv Ola Electric Ltd*, the CCI received a complaint against major players in the electric two-wheeler (ETW) market, namely, Ola Electric, VIDA Hero Moto Corp (VIDA), TVS Motors (TVS) and Ather Energy (Ather). It was contended that these automotive giants were exploiting the Faster Adoption and Manufacturing of Electric & Hybrid Vehicles Policy (FAME), introduced by the Ministry of Heavy Industries and Public Enterprises, for unjust or unlawful gains.

It was alleged that Ola and other manufacturers had been repeatedly abusing the limits set by the government by selling integral equipment outside the prescribed limits of 150,000 Indian rupees, at an additional cost. This allowed them to fall within the government-mandated limit of ex-factory prices of 150,000 Indian rupees under the FAME policy, which, as a consequence, deprived genuine manufacturers from availing the benefit of the budget allocated for EVs. The CCI further noted that there appeared to be no single player that can exert market power in its favour, or that appeared to demonstrate a position of strength to operate independently of market forces, in the relevant market. Therefore, none of the opposite parties (OLA, VIDA, TVS and Ather) appear to have a dominant position in the relevant market. The CCI did not find a prima facie case of contravention of section 4 of the Competition Act against any of the accused entities. It concluded that none of the accused parties held a dominant position in the relevant market and, accordingly, ordered for disposal of the complaint.

In *FX Enterprise Solutions India Pvt Ltd v Hyundai Motor India Limited*, two dealers of Hyundai Motor India (HMIL) filed separate complaints alleging that Hyundai imposed restrictions on dealers of mandatorily obtaining prior consent before taking up dealership of any other brand. Further, it was alleged that Hyundai dealers were bound to procure spare parts, accessories and all other requirements, either directly from HMIL or through vendors approved by it. Resale price maintenance (RPM) by way of a discount control mechanism was also alleged, through which the dealers were only permitted to provide a maximum permissible discount and they were not authorised to give discounts above the recommended range. Hyundai was also alleged to be responsible for price collusion among competitor dealers through a series of hub-and-spoke arrangements. Among other things, allegations of tie-in arrangements were also made. The CCI, via order dated 14 June 2017, found HMIL to be in contravention of the provisions of the Act for imposing arrangements upon its dealers.

Hyundai filed an appeal to the National Company Law Appellate Tribunal (NCLAT) against the order passed by CCI. The NCLAT overruled the order passed by the CCI and held that CCI failed to appreciate the evidence, and that the impugned order was not based on any specific evidence and was passed merely on the basis of opinion of the DG. The DG also failed to decide 'relevant geographic market' or a 'relevant product market' as required under section 19 (6) and (7) of the Competition Act.

In the case of *Balbir Singh Nagpal v Toyota Kirloskar Motors Private Limited and Uttam Toyota* (Case No. 04 of 2024), CCI dismissed a complaint against Toyota Kirloskar Motors Private Limited (Toyota) and Uttam Toyota for alleged abuse of dominant position. Balbir Singh Nagpal (the complainant) had booked a Toyota car, 'Innova Hycross Hybrid ZX(O)' with Uttam Toyota. In the complaint, it was alleged that Toyota abused its dominant position in the market, arbitrarily changing the delivery of the car from two to eight months and compelling consumers to purchase accessories for the cars. CCI, after examining the facts of the case, dismissed the case and, inter alia, observed that the allegations are in the nature of an inter se dispute, and long waiting periods for cars cannot be the subject matter of antitrust scrutiny.

In the past financial year, CCI has approved several automotive-related combinations and acquisitions, including those involving the transfer of the chassis and BIW business division of Magna Automotive India to SKH M India, and the acquisition of a certain equity stake of TVS Certified Private Limited and TVS Vehicle Mobility Solution Private Limited by Mitsubishi Corporation.

Over the years, investigations initiated by the CCI have been mainly based on claims brought by private parties or government authorities, either directly or indirectly aggrieved by the industry or party in question. There has not been much change in informants over the years, and they remain a mixture of private individuals, trade associations, chambers of commerce, direct competitors in the market, enterprises engaged in distributing activity for a dominant manufacturer and others. As a trend, we have seen the aggrieved parties approaching the higher courts in appeal, resulting in follow-on litigation in most cases.

Law stated - 27 May 2025

Dispute resolution mechanisms

'

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

In the past few years, disputes relating to the automotive industry that have made headlines have primarily involved hurdles encountered during the acquisition of large pieces of land for setting up manufacturing plants, employee-related matters, product safety and quality, intellectual property, contractual issues and competition law violations.

Until early 2014, land acquisition was regulated solely by the Land Acquisition Act 1894, which was an archaic law. Although the Act permitted land acquisition by automotive companies, it became a platform for numerous farmers to challenge the adequacy of compensation given by the manufacturers and non-adherence of due process at the time of acquisition. This resulted in the stalling of projects until the matter had been decided by the courts or the companies reached an out-of-court settlement with the owners of the land. The most talked-about of such cases involved Tata Motors. In 2006, Tata Motors announced plans to set up a factory in Singur, West Bengal, for its small car project. Shortly after, it faced protests by farmers against the state government's proposal to acquire 997 acres of farmland. The unrest continued until 2008, when Tata Motors was forced to relocate its factory to the state of Gujarat. However, the government has made continued efforts to bring about legislation that makes the acquisition of land easier for the manufacturing industry. In 2014, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 was enacted with the aim of making the process fairer and more transparent. The government plans to propose new laws providing further benefits to the industries acquiring land.

Given the scale of the automotive industry, which involves the setting up of large manufacturing plants, often trade unions and worker associations are very strong and have the ability to influence the workers. Lately, one of the concerns for several automotive manufacturers has been unrest among workers who have been working as contract labourers continuously for a long period, but have not been absorbed by the companies as permanent employees. It was often found that these contract workers lacked the statutory benefits and protections available to a permanent employee. There are judicial precedents where the courts have come down heavily on industries for adopting such practices. However, with the changes introduced in the structure of Indian labour law, wherein the laws have been categorised in four labour codes, such issues are likely to be settled. Specifically, the draft Code on Social Security 2020 provides for contract labour to be entitled to receive social benefits as prescribed under this code, similar to the benefits applicable to employees of a company.

Over the years, automotive companies have experienced disputes with consumers in relation to quality control issues during aftersales services or the malfunction of the car on the roads.

Arbitration has become popular in the Indian automotive industry as it provides a speedy and efficient means of resolving disputes. In addition, automobile manufacturers have the option to seek interim injunctions from the courts, which are granted on a case-by-case basis after taking into account several factors and the circumstances of a case. In relation to labour issues, Maruti and other automobile companies have been seen to engage in negotiations and settlement with workers. This has been a quick solution for some but not for companies that spend a long time negotiating with their workers.

Law stated - 27 May 2025

Distressed suppliers

11 What is the process for dealing with distressed suppliers in the automotive industry?

There is no prescribed procedure or process for dealing with distressed suppliers of automobile components or spare parts. However, to avoid any slowdown or breakdown in the manufacturing process, it is usually considered in the best interest of the automobile manufacturers to provide financial support to extricate suppliers from their crunch. This is done through 'accommodation agreements' with suppliers, under which the supplier is required to maintain the production and supply of parts, while the manufacturer promises to provide certain financial and other forms of support.

It has been seen that since the automobile manufacturers provide proprietary information to automobile part suppliers and vendors, several manufacturers are reluctant to let go of their suppliers and often take the commercial decision to extend financial help to the suppliers that would enable them to continue business.

Law stated - 27 May 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

The automobile industry is one of the most innovative industries where intellectual property is a vital asset. Over the years, the industry has witnessed significant IP disputes ranging from patents to industrial designs and copyrights.

The aesthetic look of an automobile is the ultimate commercial feature for any company. Automobile leaders such as Mercedes-Benz, GM, Honda, Toyota, Tata, Bajaj and many more have established their own brands with unique design impressions. These industrial designs are extended protection under the Design Act 2000 upon registration with the relevant authority.

The Trade Marks Act 1999 provides, among others, for the registration of a trademark, filing of multiclass applications, increasing the term of registration of a trademark up to 10 years as well as recognition of the concept of well-known marks. The Indian courts provide a plethora of precedents wherein infringement or violation of the Trade Marks Act has been analysed, and the law has developed over the years through these precedents.

The Patent Act 1970 also plays an important role in the automobile industry. Any new invention in terms of technology can be granted protection when registered with the concerned authority. The software developed by automotive industries is also protected under the Copyrights Act 1957.

In recent years, the automotive industry has experienced a surge in patent applications, both domestically and internationally, with key players such as Tata Motors, Mahindra, TVS Motor, BMW and Ford leading the way. This is mainly due to the integration and wide use of computer applications in automobiles resulting in an upward trend in patent filing. In a study commissioned by the Federation of Indian Chambers of Commerce and Industry's Committee against Smuggling and Counterfeiting Activities Destroying the Economy, it was found that counterfeiting has been a major problem the automotive industry has been fighting for years. The Indian automobile industry is particularly vulnerable to counterfeiting, with 25–30 per cent of the market consisting of counterfeit components and, according to the Automotive Component Manufacturers Association (ACMA), around 30 per cent of the spare parts sold in the market are counterfeit. Thus, as is apparent from the current scenario pertaining to IP laws in India and their application in the automotive industry, it can be said that registering an IP goes a long way and is extremely helpful when it comes to protection against IP theft.

The ease or difficulty with which IP disputes can be resolved vary from case to case depending on factors such as the defence of the opposing party, available evidence and the ability of the adjudicating authority or officer. Generally, disputes involving issues relating to trademarks are resolved relatively faster as opposed to those involving patents. This is primarily because trademark issues are less complex than those relating to patents.

There can also be delays because of the misadministration of such matters, but this has not gone unnoticed, and the state high courts have been questioned by the Supreme Court of India over such delays. For example, in December 2007, Bajaj Auto filed a suit before the Madras High Court for an injunction against TVS Motor for the infringement of Bajaj's patent. Relief was awarded in February 2009 in terms of an interim injunction in favour of Bajaj restraining the use of the patent by TVS. On an appeal by TVS before the superior division bench of the Madras High Court, the earlier order of the single judge was revoked. On further appeal by Bajaj before the Supreme Court of India, the Supreme Court expressed its discontent at the pendency of the IP matter before the state high court since December 2007 at the interlocutory stage and directed the state high court to commence the hearing of the suit on a day-by-day basis.

In March 2020, the High Court of Delhi granted a temporary injunction restraining the e-rickshaw manufacturer Om Balajee Automobile from manufacturing, exporting, importing, offering for sale, advertising or dealing goods (not just limited to e-rickshaws) bearing the mark DMW or any other mark that may be identical or deceptively similar to the BMW trademark. The court found the two marks DMW and BMW to be visually and phonetically similar, and acknowledged the reputed nature of the BMW trademark, thereby restraining Om Balajee Automobile from using similar marks.

In 2023, the Delhi High Court in the case of *Toyota Jidosha Kabushiki Kaisha v Tech Square Engineering Pvt Ltd And Anr*, held that the rectification application filed by Toyota was rejected on the ground that it has failed to establish goodwill and the reputation of its ALPHARD mark in India.

Toyota owns various distinctive and well-known trademarks, one of which is the 'ALPHARD' mark, which was adopted by the company in 1986. Toyota claimed that the ALPHARD, a minivan, was introduced in 2002 and has been since used in China, Russia, Indonesia, the Philippines and Japan. In India, Toyota filed a 'proposed to be used' trademark registration application in 2017. Toyota sells the same vehicle under the name 'Vellfire' instead of using

the ALPHARD mark in India. Toyota alleged that the respondent company had adopted the mark 'ALPHARD' in relation to goods in a mala fide manner to harm Toyota's goodwill. Tech Square in its defence contended that it had been using the mark 'ALPHARD' for goods since 2015 and that its use of the mark was bona fide and honest.

The Delhi High Court, after hearing both parties, held that Toyota had failed to discharge the onus to show that reputation and goodwill of the mark ALPHARD existed in India. The court further noted that the evidence on record showed very limited sales and use of the product in the Indian market, and only by private parties. No advertisements had been made by Toyota in this regard, and it could not be ascertained that a substantial number of consumers in India knew about the existence of the brand ALPHARD in association with Toyota. Hence, the application was rejected.

In the recent highlighted case of*Interglobe Aviation Limited (Indigo) v Mahindra Electric Automobile Limited & Anr* (Delhi High Court- CS (COMM) 1073/2024), Interglobe Aviation Limited (IndiGo), filed a suit for trademark infringement against Mahindra Electric Automobile Limited (Mahindra) in the High Court of Delhi for allegedly misusing its trademark '6E', in Mahindra's upcoming electric car called Mahindra BE 6e (Mahindra electric SUV), which was set to be launched in February 2025. IndiGo had registered '6E Link' as a trademark in 2015 in many classes, including advertising, airline transport services, and printed matters, and claims this could confuse consumers and jeopardise its brand in 6E and is hence seeking relief, in the Intellectual Property Division of Delhi HC. During the pendency of the suit before the Delhi High Court, Mahindra voluntarily decided to rename its electric SUV from 'BE 6e' to 'BE 6'. The last hearing held on 23 April 2025 recorded that the defendants have submitted their written statements but the same is not on record and the matter is before the Delhi High Court for review on 19 May 2025.

Law stated - 27 May 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

A unionised workforce is common in an organised industry such as automobile manufacturing. One of the key challenges is that more than 90 per cent of the total workforce consists of informal sector workers. Companies with manufacturing operations in India have on many occasions witnessed labour unrest for a plethora of reasons, ranging from demand for an increase in wages to demand for reinstating terminated employees. One of the best-known examples is the fiasco that occurred at the manufacturing plant of Maruti Suzuki in 2012. The growing unrest among the workers was mostly owing to miscommunication between the management and the employees, demand for wage hikes, permanent employment, reinstatement of dismissed workers and demand for recognition of labour unions, among other reasons. Several automobile companies came under scrutiny for adopting the practice of hiring contract labour to do almost every job in a factory and keeping them without permanent employment, which would have required the provision of minimum statutory benefits to the workers. On 30 January 2025, a peaceful protest

by Maruti Suzuki workers demanding regularisation and equal pay was disrupted by the police, despite prior notice and court permission. In response, the contract workers formed a union to strengthen their demands and representation.

There seems to be growing consciousness among workers about this practice, and a large proportion of workers are dissatisfied with the offered salaries and benefits. However, with the introduction of changes in the structure of labour laws in India, this matter has been addressed in the Code on Social Security 2020. The Code was published on 29 September 2020, and it provides that contract labour must be entitled to prescribed social benefits similar to those enjoyed by the employees of a company. In fact, even interstate migrant workers are now included in the definition of contract labour, thereby expanding the provision of social security benefits to all workers.

In January 2020, the production of Honda Motorcycle & Scooter India's Manesar plant in Haryana and factories of various automotive component manufacturers in Manesar-Bawal industrial belt were affected by a day-long strike by 10 major trade unions pressing for a 12-point charter of demands of the working class relating to minimum wage, social security and other matters.

Toyota Kirloskar Motor faced a significant backlash from its workers (at their plant in Bidadi in the southern state of Karnataka), who went on a four-month strike from November 2020 until March 2021. The main concern of the employees seemed to arise from excessive workload without being allowed sufficient bathroom breaks or time to drink water. After various efforts by the state government and the concerned labour department, the differences were reconciled and the strike was lifted with a final appeal from Toyota Kirloskar Motor to its employees, requesting them to return to work from 5 March 2021.

One of large-scale protests in 2023 was when the workers of General Motors India (GM) staged a protest after Hyundai Motor India (Hyundai) acquired GM's Talegaon plant. The workers were seeking job transfers from GM to Hyundai and demanded that the state government should not allow Hyundai to operate without resolving the job issue of the 1,000 GM employees and their 5,000 dependents. The protest led to a halt in production for five days. The workers demanded Hyundai to absorb them.

In January 2025, workers of Maruti Suzuki Limited (MSIL) (including permanent and contract workers) protested outside the MSIL's office in Manesar, Gurgaon, against illegal labour practices and pay disparity, primarily demanding the regularisation of contract workers and equal pay for equal work. The workers also demanded the reinstatement of employees who were terminated after the violence that occurred at the MSIL's Manesar plant in 2012, which led to the death of the MSIL's HR manager and injured over 100 people. Following the incident, MSIL terminated 546 permanent and over 1,800 contractual workers.

In February 2022, in the case of *Shankar Bhimrao Kadam and Ors v Tata Motors Ltd* (MANU/MH/0760/2022), the Bombay High Court held Tata Motors liable for unfair labour practices under the Industrial Disputes Act 1947. The dispute, which spanned over 17 years, was finally decided in favour of the workers. The High Court of Bombay held that Tata Motors was responsible for hiring hundreds of workers in its manufacturing unit as temporary employees, depriving them of the status and privileges of permanent employment. The court directed the company to pay compensation to the workers.

In May 2022, a strike involving over 2000 employees took place at Ford's plant in Chennai, causing production to come to a standstill. The strike was reportedly triggered by the workers' demand for improved compensation benefits.

In October 2022, around 350 permanent workers associated with the Renault-Nissan India Thozhilalar Sangam (RNITS) protested outside the United Labour Federation (ULF), a trade union office, for a salary increase after working without a contract for four years. The ULF, the leading representative of RNITS, was unable to improve workers' wages or demands. Some workers padlocked the ULF office and put up a notice expressing frustration with the lack of benefits achieved in the past three years. In February 2023, Renault Nissan Automotive India announced the conclusion of a long-term settlement agreement with its workers representative union, RNITS. The settlement with RNITS was designed to ensure long-term stability for a period of six years effective from 1 April 2019 to 31 March 2025. The long-term settlement is planned in two tranches, the first for the period 2019 to 2022 and second for the period 2022 to FY 2024–2025.

Over the years, one of the major reasons for employment disputes has been lack of proper communication channels leading to poor management of the employer–employee relationship. This can be attributed to the fact that the management often prefers to deal with an employees' representative, but the representative is usually driven by the agendas of only a section of the employees. This results in employees mistrusting the management.

There have been numerous cases brought before the courts involving unrest among workers owing to suspension or termination of employment, which have been challenged as being unfair or arbitrary by the trade union or the employee. These cases have been decided by the Indian courts depending upon the merits of each case.

For instance, the Bombay High Court by order dated 9 January 2024, in a petition filed by the General Motors (GM), upheld the Industrial Tribunal's order allowing GM to close its plant in Talegoan, Maharashtra, after an accumulated loss of approximately 96.6 trillion Indian rupees until 2022. It was observed in the matter that if a company approaches the court for closure of its establishment on the ground of accumulated losses as per the law, the possibility of unemployment of the workers cannot be a ground to compel the company to run its business and refuse its closure.

In April 2021, the GM issued lay-off notices on the ground that due to covid-19 pandemic there was no production at its Talegaon Plant and in June 2021, the GM offered a voluntary separation scheme (VSS) to its plant workers. Around 484 workers availed the benefits under the VSS. In July 2021, GM terminated the services of the remaining workmen under Clause 31.08 of the Certified Standing Order (CSO) that permitted GM to terminate services of such workmen, given that they were laid off for more than 45 days.

The Employee Union filed a complaint before the Industrial Tribunal challenging the termination of its 1,086 members. The Pune Industrial Tribunal held that 50 per cent of the salary is to be paid to 1,086 retrenched workers until the case was decided. However, GM challenged the order in the Bombay High Court and later petitioned the Supreme Court against the order passed by the High Court of Bombay. The Supreme Court dismissed the petition filed by GM.

The automotive industry in India is still facing a complex landscape of employment issues, ranging from worker safety to safety compliance to employment labour disputes. In the case of*Divgi Metal Wares Ltd v Divgi Metal Wares Employees Association and Anr* decided on 21

March 2024, Divgi Metal Wares Ltd, a company involved in the business of manufacturing automobile gears, operated two factories in Maharashtra and Karnataka, the company transferred 66 workers from Karnataka to Maharashtra factory. Despite the terms of appointment and Standing Orders under the Industrial Employment (the Standing Orders) Act 1946, allowing for such transfers, the workers did not report to the new location and the workers, through the Employee Association, raised industrial disputes concerns against the company. The tribunal ruled the transfers were not malicious. The Hon'ble Supreme Court found that the terms of appointment clearly stated that employee services were transferable within the company's departments or offices, the employer had the right to transfer employees based on the terms of appointment.

Notably, the Indian automotive sector aims to generate direct employment over 2–2.5 million jobs by 2030, propelling it toward becoming a globally competitive, innovation-driven manufacturing hub.

Law stated - 27 May 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

The automotive sector is rapidly expanding, and there have been some legal developments related to technology, and incentives for using technology, in the automotive sector.

The government has introduced an electronic system of monitoring and enforcing road safety through notification GSR 575(E), dated 11 August 2021. It has introduced electronic enforcement devices that include speed cameras, closed-circuit television cameras, speed guns, wearable cameras, dashboard cameras, automatic number plate recognition, weigh-in machines and other prescribed technology specified by the state government (EE devices). Rule 167A of the CMV Rules provides that EE devices are installed by the state government at high-risk and high-density corridors on national and state highways, and critical junctions in major cities with a population of more than one million. EE devices are used to issue fines for offences such as speeding, not wearing a seat belt while driving or jumping red lights. The auto-generated challans issued by EE devices are accompanied by clear photographic evidence, date, time and place of the offence. EE devices have also paved the way towards paying e-challans electronically on the portal specified by the state government, making it convenient for the public to make payments in a timely manner.

In addition, in 2021 a new Chapter XI was introduced in the CMV Rules for recognition, regulation and control of automated testing stations that provide registration certificates to vehicles after they pass the prescribed tests. Automated testing stations file an application for registration to the transport commissioner, nominated by the appropriate state government, who is empowered to issue and renew registration certificates. Chapter XI lays down the procedure for fitness testing of vehicles through automated equipment, and explains the eligibility criteria for automated testing stations, their infrastructure requirement, manpower requirement, detailed testing process and procedures for all kinds

of automobiles, as well as equipment required for testing and fees for granting registration certificates depending on test results. The appointment for a fitness test by any automated testing station is booked electronically through a portal set up by the central government. In the event the vehicle owner is aggrieved by the test results conducted by the automated testing station, he or she can appeal before the appellate authority (an officer not below the rank of regional transport officer nominated by the state government) on the electronic portal.

The government has attempted to introduce legislation to regulate advancements in automotive and mobility technology. However, most of these have not yet become law and are still in the nascent stages of development.

Such legislation includes the Geospatial Information Regulation Bill 2016, which proposes to regulate the acquisition, dissemination, publication and distribution of geospatial information. This includes geospatial imagery or data acquired through space or aerial platforms such as satellites, aircraft balloons or graphic or digital data depicting natural or man-made physical features, phenomena or boundaries of the earth. The bill proposes the creation of a Security Vetting Authority to carry out security checks on the geospatial information in India.

ICE vehicles and EVs

The government has launched a number of schemes to encourage growth in the automotive sector, including the following:

- The National Automotive Testing and R&D Infrastructure Project has been set up to enable the industry to adopt and implement global performance standards by establishing nationwide automobile testing agencies.
- The National Electric Mobility Mission Plan 2020 provides incentives to manufacturers and purchasers of electric cars.
- The Production Linked Incentive Scheme, introduced by the government in 2020 for large-scale electronics manufacturing including in the automotive sector, offers an incentive of 4 per cent to 6 per cent on incremental sales (over the base year) of goods manufactured in India to eligible companies, for a period of five years from the base year. Automobile manufacturers also view the scheme as an opportunity to reduce dependency on import to become net exporters.
- Private cab aggregators such as Ola and Uber have revolutionised public transport in India by introducing the concept of pool rides, aimed at providing cheaper rides to customers while being eco-friendly. The central government, by way of the MV Amendment Act, provides for conditions for the issuance of a licence to such aggregators and penalties in the case of contravention of relevant provisions applicable to them.
- The Production Linked Incentive Scheme for Advanced Chemistry Cell (ACC) Battery Storage, introduced in 2021, facilitates demand creation for battery storage and promotes the ‘Make in India’ initiative. The scheme aims to enhance India’s Advanced Chemistry Cell (ACC) manufacturing capabilities by setting up giga-scale ACC and battery manufacturing facilities in India, and to bring down the price of batteries in the country. A drop in battery price will result in cost reduction of EVs.

Autonomous vehicles

India is expected to witness the advent of self-driving vehicles due to the remarkable advancements in software and artificial intelligence across the board. Autonomous vehicles (AVs) are classified into six levels, ranging from zero (no autonomy) to five (complete autonomy), with level three autonomy vehicles gradually gaining popularity in India. Currently, vehicles are equipped with driver assistance systems such as cruise control, lane departure warnings and some more advanced features.

In a significant shift, Mobileye Global Inc, an Israeli company under Intel's ownership, has re-evaluated its stance on the Indian market. Historically, India hasn't been a primary focus for the company's advanced driver assistance technology, which spans over 25 years. However, a remarkable turn of events has transpired in the past year, leading to an unforeseen surge in demand for Mobileye's cutting-edge systems-on-chip, as well as its sensing and mapping software tailored for driver assistance technology in the Indian automotive sector.

This surge in demand has surpassed Mobileye's initial projections almost fourfold, signalling a newfound interest and necessity for their solutions in India. Notably, Mobileye has recently secured a significant order from Mahindra & Mahindra, a prominent player in the Indian automotive industry. This order encompasses the supply of advanced driver assistance technology and marks the beginning of a collaborative effort to develop a fully autonomous driving system tailored for the Indian market. The announcement was made during the prestigious Consumer Electronics Show in Las Vegas, highlighting the company's commitment to advancing automotive technology on a global scale.

Mobileye is also witnessing an influx of orders from other major Indian automakers, reflecting a broader trend wherein manufacturers in the world's third-largest automotive market are embracing advanced driver assistance technology as a standard feature. Even mid-segment sedans and SUVs now integrate these cutting-edge systems into higher-trim variants, underscoring the growing demand for safer and more technologically sophisticated vehicles.

In response to this evolving landscape, Mobileye has elevated India's status to that of a priority market in Asia, alongside China. This strategic decision underscores the company's recognition of India's burgeoning potential and its commitment to catering to the specific needs of the Indian automotive ecosystem. As Mobileye continues to expand its footprint and influence in the region, it aims to play a pivotal role in driving the adoption of advanced driver assistance technology, ultimately contributing to safer and more efficient mobility solutions in India and beyond.

In addition to Mahindra & Mahindra, Honda Cars, MG Motors India and Tata Motors are automotive giants that have entered the AV sector in India.

Furthermore, an AI startup founded in 2021, Minus Zero, has launched India's first AV, zPod, based on a camera-sensor suite. zPod was showcased at the commercial office park Embassy TechVillage, wherein it drove autonomously, without a steering wheel. The company highlighted that the vehicle possesses the capability to achieve Level 5 autonomy, enabling it to navigate seamlessly across all environmental and geographical conditions without human intervention. zPod was created using the unique technological innovations

of the company's founders, which include nature-inspired AI (NIA) and true vision autonomy (TVA) concepts. The use of such advanced technologies enabled zPod to demonstrate real-world movements, such as overtaking, blind turns and vehicle-following, without human supervision using only monocular cameras. These concepts are revolutionising the automotive industry, with the focus shifting to more user-friendly design. Minus Zero plans to target the global mobility space with TVA, making India the face of mobility in the international market. Nonetheless, the company accepts the challenges in the AV industry, namely, the expensive hardware, requirements of extensive data and navigation through complex traffic conditions, and unruly infrastructure.

Tata Motors plans to launch autonomous vehicles in India in 2025, and has recently filed a patent for an autonomous self-driving concept vehicle named Tata Yu to reform connectivity by transporting both goods and passengers.

Similarly, Nissan Motors has also announced their plans to introduce its next-generation autonomous driving technology, named ProPilot, in financial year 2027. The technology is being developed by Nissan in collaboration with Wayve, an international artificial intelligence (AI) company specialising in autonomous driving solutions.

As per recent statements given by the transport secretary, the central government is soon to introduce standards for advanced driver assistance systems (ADAS) in vehicles as a safety feature to prevent accidents. The government also plans to introduce a bus body code that shall be mandatory for buses.

However, India is yet to establish any laws regulating AVs, which may lead to disputes around IP rights relating to technology used in semi-autonomous and fully autonomous vehicles. The lack of regulations for AVs in India may also lead to uncertainties regarding licensing, usage and responsibility in the event of an accident. The use of connected AVs also raises privacy concerns as they collect vast amounts of data from both the environment and vehicle occupants, which could be vulnerable to cyberattacks, malware or hacking.

Currently, India is at a nascent stage when it comes to connected vehicles. Only a handful of connected cars are available in the country, including MG Hector, Kia Seltos, Nissan Kicks and Hyundai Venue. Moreover, as at the time of writing, there are no laws regulating connected vehicles or connectivity services in India.

Development of EV charging infrastructure

With regard to building infrastructure for charging of EVs, the Ministry of Power by notification dated 17 September 2024 notified the revised Guidelines for Installation and Operation of Electric Vehicle Charging Infr
astructure 2024, which provide a framework for the setting up and operation of public charging stations in India.

The Ministry of Power has also issued Guidelines for Installation and Operation of Battery Swapping and Charging Stations on 10 January 2025. These guidelines aim to facilitate a robust EV charging infrastructure in the country. These guidelines aim to develop a nationwide network of battery swapping and charging stations, encouraging battery-as-a-service models and streamlining the process for both swappable battery providers and station operators. The principal guidelines titled Guidelines for Installation

and Operation of Electric Vehicle Charging Infrastructure – 2024, shall also be applicable for battery charging stations, battery swapping stations and battery providers.

Under the Guidelines for Installation and Operation of Battery Swapping and Charging Stations the Bureau of Energy Efficiency (BEE), acting as the central nodal agency responsible for the EV public charging infrastructure rollout, is also tasked with implementing battery swapping networks nationwide.

The guidelines also specify the technical standards that charging stations must meet. Moreover, the Indian government introduced the E-Amrit portal to raise EV adoption awareness among automobile consumers.

The key highlights of the Charging Infrastructure for Electric Vehicles Guidelines 2022, inter alia, include the following:

- By FY 2030 an EV charging station must be installed every 1km in the cities, 100km on roads for heavy-duty vehicles, and 20km on both sides of highways, major roads, and expressways.
- Setting up an EV charging station is licence-free for an individual in India.
- Owners may charge their EVs at their residences and offices using their existing electricity connections.
- The tariff on the supply of electricity in public EV charging stations will be a single-part tariff and will not exceed the average supply cost until 31 March 2025.

Between 21 March 2023 and February 2024, the number of operational public EV charging stations throughout the country has almost doubled from 6,586 to 12,146. Furthermore, in September 2024, the government announced a grant of 20 billion Indian rupees under the PM E-DRIVE Scheme for setting up of public charging infrastructure including e-buses and electric vehicles (EVs) on pan India basis. As on 17 December 2024, a total of 25,202 EV charging stations were installed in the country.

The MHI decided not to continue with the EMPS-2024 and instead came up with the new scheme the PM Electric Drive Revolution in Innovative Vehicle Enhancement (PM E-DRIVE) Scheme. The MHI also decided that the number of vehicles and the expenditure allotted under EMPS-2024 for e-2w and e-3w to subsume under PM E-DRIVE Scheme for the period from 1 April 2024 to 30 September 2024.

PM Electric Drive Revolution in Innovative Vehicle Enhancement (PM E-DRIVE) Scheme 2024

The Indian government over the years has launched various schemes to accelerate the adoption of EVs in the country, such as the FAME-I, FAME-II, and EMPS. However, these schemes concluded in September 2024. The MHI decided not to extend these schemes, instead to maintain the continuity of support for EVs, MHI formulated and launched the PM Electric Drive Revolution in Innovative Vehicle Enhancement (PM E-DRIVE) Scheme on 29 September 2024.

The PM E-DRIVE Scheme is proposed to be implemented over two years from 1 April 2024 to 31 March 2026, with an outlay of 100 billion Indian rupees.

The PM E-DRIVE scheme will be applicable mainly to vehicles used for public transport or those registered for commercial purposes in e-3W, e-trucks and other new emerging EV categories. However, in addition to commercial use, privately or corporate owned, registered e-2W, e-ambulances, e-trucks and other new emerging EV categories will also be eligible under the Scheme.

Major incentives under the scheme are as follows:

- The PM E- DRIVE Scheme provides faster adoption of two-wheeler and three-wheeler EVs, among other categories of vehicles, and promotes green mobility, all across the country.
- The PM E-DRIVE scheme does not directly provide subsidies to state governments for the purchase of EVs instead, incentives are primarily provided to buyers (consumers/end users) of EVs in the form of upfront reduction in the purchase price of EVs. This incentive or concession is then reimbursed to the Original Equipment Manufacturers (OEMs) by the MHI.
- The PM E-DRIVE scheme provides EV buyers with an e-voucher to avail of the subsidy. At the time of purchasing the EV, an e-KYC Aadhaar face authenticated e-voucher will be generated on the scheme portal for the customer. A link to download the e-voucher will also be sent to the customer's registered mobile number.
- The PM E-DRIVE scheme promotes mass mobility by supporting public transportation systems. The key objective is to speed up the transition to electric vehicles by offering upfront incentives for EV purchases and encouraging the development of charging infrastructure. The scheme seeks to reduce transportation-related environmental impacts and improve air quality while promoting an efficient and competitive EV manufacturing sector in line with the Aatmanirbhar Bharat initiative. This will be accomplished through a phased manufacturing program (PMP) to boost domestic manufacturing and strengthen the EV supply chain.

The scheme will be implemented through a PMA, which will provide secretarial, managerial and implementation support, and carry out other responsibilities as assigned by MHI from time to time.

To ensure increased safety and reduced accidents, the Ministry has, vide notification dated 20 March 2025, mandated the installation of systems such as driver drowsiness and attention warning systems, blind spot information systems, and moving off information systems in vehicles of categories M2, M3, N2, and N3 manufactured on or after 1 April 2026 (for new models) and 1 October 2026 (for existing models).

Scheme for promoting EV passenger cars in India

On 15 March 2024, the MoRTH announced the Scheme to Promote Manufacturing of Electric Passenger Cars in India, with a specific focus on incentivising the global OEMs to manufacture electric four-wheeler vehicles in India to promote the 'Make in India' initiative. This scheme aims to build on existing EV promotion schemes such as the PLI and FAME II. The eligibility standards are constructed around three main factors, namely, minimal global revenue prerequisites (to signify credibility), minimal investment prerequisites and minimal

domestic value addition (DVA). The initial application period for the scheme will run for 120 days from the announcement date.

Major incentives under the scheme are as follows:

- Reduced customs duty on selected cost-insurance-freight (CIF) values: eligible applicants can import fully assembled electric four-wheeler units with a minimum CIF value of approximately 2.9 million Indian rupees, manufactured by them, at a discounted customs duty rate of 15 per cent (down from 70 per cent) for a period of five years.
- Import limitations: the concessional duty rate applies to a maximum of 8,000 electric four-wheelers annually or 40,000 over the five-year span. Any unused import allocations can be carried forward within this period.

The Scheme to Promote Manufacturing of Electric Passenger Cars in India is directed to attract global four-wheeler EV manufacturers such as Tesla, Rivian, Lucid and VinFast to the Indian market. These companies have hesitated to operate in India due to high import duties, making their mass-market EVs costlier compared to locally manufactured ones. The scheme provides a three-year buffer for new global manufacturers to test Indian consumer demand through imported EV sales, with the goal of gradually localising and scaling up EV component sourcing within India to meet DVA requirements. While the FAME incentives may no longer be extended, the scheme is expected to accelerate the EV push by facilitating the entry of many global players into India, especially as global OEMs seek to diversify manufacturing bases due to the China Plus One strategy and increased scrutiny of Chinese entities and technology.

PM e-Bus Sewa-Payment Security Mechanism (PSM) Scheme

The MHI notified the PM e-Bus Sewa-Payment Security Mechanism (PSM) Scheme on 28 October 2024 with an outlay of 34,353,300,000 Indian rupees. The PSM Scheme aims at facilitating the procurement and operation of at least 38,000 electric buses (e-buses) across the country.

The PSM Scheme aims to establish a payment security mechanism fund to mitigate payment delays and enhance financial security for original equipment manufacturers (OEMs) and operators involved in public transport, to provide them with payment security in case of default by public transport authorities (PTAs).

The payment security coverage under the PSM Scheme will extend for up to 12 years for each bus deployed under the scheme.

Process to avail PSM Scheme by e-bus OEMs/operators:

- OEMs will enter into concession agreements (CA) with PTAs that will govern the terms for the procurement, deployment, operation and maintenance of the electric buses.
- PTAs will be required to open and maintain an escrow account.
- The OEM/operators will submit a regular bill or invoice to PTAs.
- The PTAs shall process payment based on the bill or invoice.

- If insufficient funds in the escrow account result in delay or non-payment by PTAs within the prescribed time as per CA, then the event will be labelled 'default by PTA'.
- Such defaults will be reported to Convergence Energy Services Limited (CESL) and the OEM/operators may submit a request to CESL (PSM request) to invoke the PSM under the Scheme.

The launch of the PSM Scheme is a significant step towards transforming public transportation in India through the integration of electric buses and addressing the financial and operational challenges of the e-bus sector. The PSM Scheme is expected to accelerate the deployment of e-buses, ultimately contributing to India's green mobility goals.

Scheme for Promotion of Manufacturing of Electric Passenger Cars in India

The Scheme for Promotion of Manufacturing of Electric Passenger Cars in India (SPMEPCI) was notified on 15 March 2024 to promote the manufacturing of electric cars in India. This scheme requires applicants to invest a minimum of 41.5 billion Indian rupees and to achieve a minimum domestic value addition (DVA) of 25 per cent at the end of the third year and DVA of 50 per cent at the end of the fifth year.

Law stated - 27 May 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

The amendments to the MVA in 2019 through the MV (Amendment) Act have been some of the most important developments in the Indian automotive sector in recent years. Moreover, other key developments in the automotive sector include the introduction of the mandatory car assessment programme through Bharat NCAP in 2023, and the compulsory renewal of fitness certificates for transport vehicles, required to be done only through an automated testing station registered under Rule 175, from 1 October 2024.

In relation to vehicles transporting tourists over India, an important development has been the introduction of the All-India Tourist Vehicles (Permit) Rules 2023, which came into effect on 1 May 2023. The rules provide greater ease of movement of tourist vehicles across the country. The permit is granted only to operators of tourist vehicles and, in the case of battery-operated tourist vehicles and tourist vehicles driven on methanol or ethanol fuel, will be issued without the payment of any permit fee. Further, the permit shall be issued by the Transport Authority within a period of seven days from the date of receipt of application. In addition, those vehicles which are registered under the All India Tourist Permit will not be charged entry tax by the state authorities.

The Indian automotive sector has been complying with the BS VI-B emission standards and other provisions since 1 April 2023. With the introduction of BS VI-B engines for all new vehicles, including passenger, two-wheeler and commercial vehicles, the government is moving towards a cleaner, pollution-free tomorrow.

This will make Indian vehicular emission standards equivalent to that of Euro VI. Some of the compliance required under the standards include:

- the government mandating passenger vehicles to reveal their corporate average fuel economy (CAFE-II) ratings; and
- car manufacturers being required to comply with real driving emission (RDE) criteria. The RDE criteria mandate that car companies conduct the testing and measurement of the pollutants emitted from their vehicles in real-world driving conditions.

From April 2023, the government has also mandated that all cars must be manufactured with materials compatible with ethanol. By 2025, cars should be able to run on a blend of up to 20 per cent ethanol, in addition to gasoline. The goal of this mandate is to decrease the country's reliance on imported fuel and make progress towards achieving environmentally friendly transportation.

The Indian government's National Green Hydrogen Mission has been allocated 5.35 billion Indian rupees in the budget for the FY 2025–2026. The aim of this initiative is to encourage the use of hydrogen as a renewable and environmentally friendly energy sources. This funding is expected to significantly contribute to achieving the country's green mobility objectives and ambitions.

The Union Budget for 2025, notified on 1 February 2025, focuses on expanding and strengthening the e-vehicle ecosystem by supporting manufacturing, charging infrastructure and adoption of e-buses.

The MoRTH has issued various notifications, including the following:

- A procedure for accreditation of automobile testing agencies.
- An amendment to the CMV Rules indicating that any vehicle carrying dangerous or hazardous goods must be equipped or fitted with a vehicle tracking system device that follows automotive industry standards. This will enable owners to keep track of all such carriages and ensure that goods that are hazardous and dangerous to human life are transported to the right locations.
- Introduction of the Inter-Country Non-Transport Vehicle Rules 2022, which regulate vehicles registered in countries other than India. However, these rules will be superseded by any bilateral agreements between India and other countries.
- Taxes on automobiles to be levied online.
- All government-owned vehicles' motor vehicle registration certificates to be cancelled on completion of 15 years from initial registration of the vehicle. The 15-year rule shall not apply to those vehicles used for defence of the country and for the maintenance of law and order and internal security.
- The CMV (Fourth Amendment) Rules 2023 include fire alarm and protection systems in school buses and Type III Category buses. The aim of this amendment is to provide additional evacuation time to the occupants and thus enhance safety in fire incidents in buses. The AIS-135 provisions on fire protection in occupant compartment shall be applicable to school buses manufactured on or after 1 October 2023.
-

Another amendment to the CMV Rules has inserted a provision stating norms for type approval of liquid or compressed gaseous hydrogen ICE vehicles. It has been prescribed that the safety and procedural requirements for type approval of ICE vehicles of M and N categories powered by liquid or compressed gaseous hydrogen shall be in accordance with AIS 195:2023 until corresponding BIS specifications are notified under the Bureau of Indian Standard Act 1986. The hydrogen fuel specifications for internal combustion engine vehicles shall be in accordance with IS 16061: 2021.

- Clarification to various states and union territories, via letter dated 22 January 2024, that motorcycles fall within the definition of 'contract carriage' and can operate as a transport vehicle.
- The CMV (Seventh Amendment) Rules 2023 include the details of seating capacity (including driver), standing capacity and sleeper capacity in buses, by laying out the passenger capacity along with the layout of seats, standees and sleeper area during the application for registration of a motor vehicle.
- Through insertion of Rules 53A and 53B into the CMV Rules, the facility of temporary registration of fully built vehicles into adapted vehicles for Divyangajan has been extended.
- As per a recent amendment made to the CMV Rules and the Motor Vehicles (Driving) Regulations 2017, the rear-view mirror has also been defined as a device for indirect vision. Moreover, for L5 (three-wheeled vehicles), M, N and L7 category vehicles and agricultural tractors the device for indirect vision specification and installation requirements should be in accordance with AIS standards and BIS specifications as and when notified under the Bureau of Indian Standards Act 2016.
- Buses with a seating capacity of 13 or more passengers excluding the driver are required to comply with AIS:052 and should be type approved by the test agencies as specified under Rule 126 of the CMV Rules. Further, buses with seating capacity exceeding 22 passengers excluding the driver and built by a bus body builder must be in accordance with AIS-153. This requirement will come into effect from 1 September 2025.
- MoRTH inserted AIS-035 on 24 January 2023 for the arrangement of foot controls in automotive vehicles. This standard applies to M1 and L7-M category vehicles with regard to the arrangement and mode of operation of the foot controls. The application for type approval of the arrangement of foot controls must be submitted by the vehicle manufacturer. The foot controls should be arranged in the following order from left to right, as observed from the driver's seat: clutch pedal (if any); service-brake pedal; and accelerator pedal.
- The amendments in the Central Motor Vehicles (Tenth Amendment) Rules 2024 require motor vehicles of category M1 (vehicles with at least four wheels designed for the carriage of passengers, comprising no more than eight seats in addition to the driver's seat) manufactured on or after 1 April 2025 to a comply with standards for safety belt assembly, safety belt anchorages, installation of safety belts and restraint systems; and include provision of a safety belt reminder for all front-facing rear seats. Similar compliance obligations have also been extended to vehicles of categories L7, M2, M3, and N.

- On 15 March 2024, MoRTH notified the Central Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Amendment Rules 2024 to amend the Motor Vehicles (Registration and Functions of Vehicle Scrapping Facility) Rules 2021.
- The draft notification dated 20 March 2025 amending the CMV Rules provides that vehicles of categories M2, M3, N2 and N3 manufactured on or after 1 April 2026, in the case of new models, and 1 October 2026, in the case of existing models, shall be fitted with driver drowsiness and attention warning systems, blind spot information systems, and moving off information systems.

To promote ease of registration of registered vehicle scrapping facilities (RVSFs) and automated testing stations (ATS), a National Single Window System (NSWS) has been developed. All approvals related to the establishment of RVSF and ATS must be accorded by the states through this system. The application for registration through the NSWS shall be deemed approved within 60 days, in case of any delay by the state agencies. The Vehicle Scrappage Policy targets voluntary scrapping of unfit commercial and passenger vehicles based strictly on their fitness, irrespective of vehicle age. The vehicles are required to be tested by the ATS. A vehicle will be recommended for scrapping if found unfit during the fitness test as per the relevant rules for ATS.

Electric vehicles

Through a notification dated 13 March 2023, the MoRTH has amended the CMV Rules to include definitions of electric power train, pure electric vehicle and hybrid electric vehicle and its variations.

Regarding type approval of electric power train vehicles and hybrid electric vehicles, a new rule has been inserted in the CMV Rules that requires vehicles to meet the safety standards outlined in Rule 124 of the CMV Rules.

Battery swapping, which is now operational, presents an alternative to conventional EV charging, involving the exchange of depleted batteries for fully charged ones. This method is particularly popular for vehicles with smaller batteries, such as two- and three-wheelers.

The Budget 2025 emphasised the promotion and widespread adoption of e-buses for public transportation by introducing a payment security mechanism. It is anticipated that the government will set standards for swappable batteries used in electric buses, facilitating convenient battery replacement at accessible stations. These standards will encompass aspects such as size, weight and capacity, ensuring uniformity and promoting green mobility nationwide.

Digital transformation and e-governance in transport

E-Transport Mission Mode Project: MoRTH has implemented a nationwide digital platform to automate and centralise over 200 transport-related services, including vehicle registration, licensing, permits, and enforcement. This digital transformation leverages technologies such as Aadhaar authentication, e-know your customer, AI-based facial recognition, and GPS, making most services faceless and contactless for citizens and businesses.

Law stated - 27 May 2025

Manjula Chawla manjula.chawla@phoenixlegal.in
Chandni Chawla chandni.chawla@phoenixlegal.in
Kripi Kathuria kripi.kathuria@phoenixlegal.in

Phoenix Legal

Read more from this firm on Lexology

Indonesia

Mochamad Kasmali
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

The increasing popularity of electric vehicles is viewed as a significant trend in the automotive industry in Indonesia. The Indonesian government is aiming to increase the numbers of electric vehicles in Indonesia to 15 million units by 2030. However, underdeveloped charging infrastructure and a nascent incentive and regulatory framework may pose challenges to a widespread adoption of electric vehicles. The Indonesian government is putting its best effort in to break this barrier to increase the use and production of domestic battery electric and low carbon emission vehicles, particularly through current regulatory framework, which exempts VAT on the delivery of certain four-wheel, battery-powered vehicles and/or certain battery-powered buses and luxury goods sales tax on certain low-carbon electric four-wheel motor vehicles to be borne by the government for the 2025 fiscal year. For the current market trend, Indonesia EV sales as of 2025 are experiencing an increase, even surpassing hybrid car sales, which have traditionally been more dominant. A representative of Gaikindo, a motor vehicle organisations in Indonesia, stated that the sales of pure electric vehicles totalled 16,535 units in the period of January–March 2025. He further stated that EVs currently account for 8.1 per cent of Indonesia's motor vehicle market shares, while hybrids account for 6.8 per cent.

Law stated - 2 May 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

The manufacture and distribution of cars are governed and authorised by multiple government authorities, namely, the Ministry of Industry (MOI), the Ministry of Trade (MOT), the Ministry of Transportation (MOTR) and the Ministry of Environment and Forestry (MOEF). MOI generally authorises the automotive production process, which requires the manufacturer to obtain a business identification number (NIB) and standard certificate issued by the ministry. Distribution of automotive products falls under the supervision of MOT. Any party who undertakes the distribution of automotive products also requires an NIB. Meanwhile, the authority to issue regulations relating to the exhaust and emission standard of motorised vehicle is vested with the MOEF.

Prior to production, assembly or importation of automotive products, vehicle type testing is required. Vehicle type testing is organised by MOTR through the Motor Vehicle Roadworthiness Testing and Certification Centre (BPLJSKB), which will examine multiple

aspects of the products (eg, fuel tank, dimension, brakes, lights, speedometer and gas emission). By no later than three business days, BPLJSKB will issue a report based on the vehicle testing to MOTR, and MOTR will issue a vehicle testing approval or rejection within five business days of receipt of the report.

There is no mandatory insurance requirement for automotive products in Indonesia, although in practice almost all vehicles are insured to cover any potential damage or loss risk. Indonesian Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector (Law 4/2023), has already stipulated that the government may establish mandatory insurance programmes, among others, concerning third-party liability (TPL) insurance for motor vehicles. The regulations regarding this mandatory insurance programme are to be further stipulated in a Government Regulation, which is yet to be issued. Nevertheless, referring to the time frame for the issuance of implementing regulations pursuant to Law 4/2023, the Government Regulation on the mandatory insurance programme must be issued within this year. Nevertheless, a high-ranking Financial Service Authority official has stated that his institution is actively following up the government on the issuance of regulation on mandatory TPL insurance programmes for all motorized vehicles.

Law stated - 2 May 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

The Indonesian automotive supply chain structure is divided into three layers:

- the first layer is made up of assembler companies or OEMs that manufacture end products for the consumer market;
- the second layer is made up of Tier 1 companies that are suppliers to assembler companies; and
- the third layer includes Tier 2 companies that supply automotive parts directly to Tier 1 companies and do not offer automotive parts directly to assemblers or OEMs.

Indonesian automotive manufacturers make and assemble intermediate goods (parts) and final goods (vehicles). Distributed vehicles in Indonesia may be built in the country of their origin (completely built up). In most cases, innovation, design, research and development are handled by parent companies. For vehicles that are manufactured or assembled domestically, several parts and components may be imported into Indonesia.

The relationship between manufacturer or producer and its supplier is usually business-to-business in nature and not strictly regulated by the government. The development of an automotive company can be conducted by product intensification, M&A transaction or OEM cooperation.

To avoid any supply issues, the Indonesian government has established several policies to nurture the automotive industry, including the Domestic Level Component policy and local production policy for technology transfer from foreign partners.

Law stated - 2 May 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

Distribution of vehicles by manufacturers is carried out by appointing distributors or dealers for the establishment of outlets, workshops and authorised sales or aftersales services (including the sale of spare parts).

Manufacturers are prohibited from selling the product directly to end customers. They must appoint distributors or dealers to distribute their products. Once the manufacturer appoints a distributor to sell the product, the distributor must further appoint a retailer or dealer to sell the product to end customers. Only the retailer or dealer is allowed to sell products (including automotive products) to the end customer.

Termination of distributor appointment can only be conducted on a clean-break basis, which must be reported to MOT. In such cases, vehicle manufacturers undertake to provide spare parts and aftersales services to be carried out by newly appointed agents or distributors. If there is no intention to nominate a new agent or distributor, the law requires the manufacturer to supply spare parts or aftersales services through the terminated agents or distributors for a minimum period of two years from termination. This is intended to protect customers.

Currently, we note that there is no change in the distribution process, environment, or expectations revolving around technology and internet-based platforms. Indonesia has regulated specifically the distribution networks from manufacturers, whether local or foreign, to end-consumers in Indonesia. Consequently, although technological advancement and online platforms can further streamline this distribution process, manufacturers still have to dealt with the restrictions on distribution networks imposed by Indonesian laws.

Law stated - 2 May 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

There are no specific requirements for M&A or JV transactions for the automotive industry. In general, M&A transactions must comply with requirements under the Indonesian Company Law and satisfy requirements under a target company's articles of association, including the requirement to obtain approval from the shareholders of the target company, and the transfer of shares must be made in a notarial deed and reported to or approved by the Ministry of Law and Human Rights. Specific to acquisition transactions (involving

majority shares of the target company), there is a mandatory pre- and post-acquisition announcement (in at least one daily newspaper), which is intended to inform the target company's creditors, and an announcement to the target company's employees. Any objections from the creditors must be settled before the acquisition transaction can proceed. However, objections from the employees have no effect on the transaction process.

Considering that the automotive industry usually involves significant investment, it is also worth checking whether the acquisition transaction needs to be notified to the Indonesia Competition Commission (the notification threshold is 2.5 trillion rupiahs of global assets or 5 trillion rupiahs of domestic sales or revenue).

Law stated - 2 May 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

The Indonesian government has provided several incentives for investment in the automotive industry, especially in the production of electric vehicles. These incentives are aimed at accelerating the transformation of the Indonesian economy towards a green economy, which is expected to result in high-value-added economic activities, job creation, energy subsidy efficiency and a reduction in carbon emissions. These measures include:

- tax holiday of up to 20 years for investments in the manufacturing of motor vehicles and their main components;
- supertax deduction of up to 300 per cent for companies conducting research and development related to electric vehicles; and
- electric vehicles running on battery power are exempt from the luxury goods sales tax, while conventional vehicles are subject to a tax rate of 15 per cent to 95 per cent depending on emission levels.

The government has also conditionally exempted import duty for completely built-up and completely knocked-down electric vehicles, in addition to the already established import duty exemption for incomplete knock-down electric vehicles. These policies aim to lower the price of electric vehicles, so that electric vehicle sales targets are achieved.

Underdeveloped charging infrastructures and public reluctancy to convert from conventional vehicles to the relatively new electric vehicles may cause significant entry barriers to the market. To counter this barrier, the government provides incentives for the conversion of motorcycles from combustion engines to electric motors by retail customers. The incentive is provided in the form of a discount with respect to any conversion expense by a retail customer of up to 17 million rupiahs. Based on the news, the government is still discussing the target number of incentive recipients for the 2025 fiscal year.

As indicated above, the Government has also issued MOF Regulation No. 12 of 2025, which provides the following incentives: (1) VAT borne by the government on the delivery

of certain battery electric vehicles and/or battery electric buses within 2025; and (2) Government-borne luxury goods sales tax (LGST) for certain low carbon emission vehicles, in order to promote the adoption of low-emission vehicles and support the development of the national clean vehicle industry. The tax incentives are granted to, and classified based on, vehicles that meet the following requirements:

VAT Incentives for Certain Battery Electric Vehicles and/or Battery Electric Buses	
Vehicle Type	**Local Content Requirement**
Certain four - wheeled battery electric vehicles	40 per cent local content, 10 per cent of the payable VAT borne by the government
Certain battery electric buses	40 per cent local content, 10 per cent of the payable VAT borne by the government
Certain battery electric buses	20 per cent to < 40 per cent local content, 5 per cent of the payable VAT borne by the government
Government - Borne LGST for Certain Low Carbon Emission Vehicles	
Vehicle Category	**Incentive Value**
Full hybrid	3 per cent of the selling price
Mild hybrid	
Plug in hybrid	

Law stated - 2 May 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

Type tests and periodical tests are conducted to ensure the safe operation of motor vehicles. Type tests concern the physical condition of the motor vehicle and assess its compliance with technical and roadworthiness requirements, as well as its design and engineering prior to production, assembly or mass importation. Converted motorcycles and customised motor vehicles also needs to conduct a type test. Tests are carried out

periodically for all motor vehicles and the Ministry of Transportation (MOTR) issues a certificate for both tests when passed by motor vehicles.

Manufacturers are also required to register types of motor vehicles that are produced, assembled, imported or modified through filing an application to the relevant directorate general at MOTR, along with a copy of the type test certificate and the application fee for the issuance of a type test registration certificate. The type test registration certificate is a prerequisite document for registering and identifying the motor vehicle, and for obtaining the vehicle registration certificate and plate. Failure to undergo the type test and registration will result in administrative sanctions in the form of warnings and fines imposed by MOTR.

MOTR governs the requirements and technicality of product recalls, specifically in MOTR Regulation No. PM.53 of 2019 on Motor Vehicle Recall Procedures, which stipulates that any motor vehicles that have passed the testing stage and obtain the certification shall undergo a recall in the event of (1) an indication of manufacturing defect on the motor vehicle; or (2) the discovery of a manufacturing defect on the motor vehicle. Findings or reports concerning such manufacturing defects may originate from various sources, namely:

- For motor vehicles indicated to have a manufacturing defect based on findings or reports from:
- Assemblers, manufacturers, importers, distributors, or brand holders of motor vehicles;
- Statements of non-conformity issued from sample testing of motor vehicles;
- Accident investigations conducted by the National Transportation Safety Committee and/or the Indonesian National Police; and/or
- Public complaints.
- For motor vehicles found to have a manufacturing defect based on findings determined by the assembler, manufacturer, importer, distributor, or brand holder of motor vehicles.

From the environmental perspective, the production of new types of motor vehicles in Indonesia must comply with the exhaust and noise emission quality standards established by MOEF. These tests must meet certain quality standards for the specified categories of motor vehicles and are to be carried out in accredited laboratories using testing methods as specified by the relevant regulations. The results of the emission tests are to be reported to the MOEF and constitute the basis for the issuance of a type test certificate.

Furthermore, although the use of driver assistance technology systems in Indonesia has been adopted by certain vehicle users, the implementation of such systems remains limited. One of the primary reasons is the lack of specific regulations governing this matter, and to date, there are no regulatory initiatives under consideration in Indonesia concerning driver assistance technology.

Law stated - 2 May 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

With respect to product recalls, the Indonesian Consumer Protection Law generally provides that business owners or applicants are prohibited from producing or selling goods or services that do not meet or are not in accordance with the required standards and provisions of laws and regulations, or are not in accordance with the condition, guarantee, speciality or efficacy stated on the label, tag or information provided about the said goods or services. Failure to comply results in the business owner or manufacturer or importer having to recall the goods from circulation.

With respect to automotive products, if the type test certificate is obtained and a defect in the motor vehicle is later discovered, it must undergo a recall. Manufacturing defects comprise design flaws (concerning systems or components that are not in accordance with the established design quality standards) and manufacturing errors (during the assembling or manufacturing process, resulting in the motor vehicle not performing optimally). MOTR, through its ministerial regulations, requires manufacturers, importers and agents to have standard operating procedures in place for recalls.

In January 2021, a group of consumers brought a class action suit against a Chinese automobile manufacturer at the South Jakarta District Court due to certain 1.5 CVT Turbo cars' performance. Prior to submitting the claim, the consumers had reported the issues to the manufacturer and had tried to repair their cars. As the problem persisted, the consumers escalated their complaint to a local consumers community and decided to submit a claim to the South Jakarta District Court. The consumers claimed that the cars' inability to perform uphill acceleration has caused material, as well as immaterial, losses and this can be deemed as a hidden defect that was not disclosed by the dealers. The South Jakarta District Court issued a decision in favour of the Chinese automobile manufacturer due to lack of evidence submitted by the claimants. Accordingly, the tort accusation against the Chinese automobile manufacturer was not substantiated. This decision was reinforced by a Jakarta High Court decision in 2023.

Law stated - 2 May 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

The Indonesia Competition Commission (KPPU), through its multi-faceted role, can monitor, investigate, prosecute and enforce any violations related to the Indonesian Competition Law.

The KPPU has investigated and decided on several past cases in relation to the automotive industry, namely, the tyre cartel case and the automatic scooter cartel case

investigated in 2014 and 2015, respectively. More recently, in 2023, KPPU conducted a preliminary examination on two vehicle component manufacturers for allegedly violating market arrangements regarding air conditioning systems. KPPU has continued to have a heightened interest in the automotive industry – as with any competition authority around the world – and has investigated distribution schemes in the motorcycle industry, exclusivity arrangements in the distribution of automotive lubricants and pricing of low-cost green cars. Therefore, both horizontal (between competitors) and vertical (with suppliers or distributors) market competition in the automotive industry are under KPPU's scrutiny.

In several instances, KPPU has raised concerns regarding association meetings in the automotive industry, especially when there is potential for exchange of information on production capacity and plans.

There was a follow-on litigation in relation to the scooter cartel case; however, the Supreme Court of the Republic of Indonesia upheld the lower court's decision that the case is inadmissible. However, this was the first follow-on litigation and business owners must remain vigilant.

Law stated - 2 May 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

Issues in the automotive industry commonly arise due to contractual as well as product liability, involving either the manufacturers, dealers or consumers. Alternative dispute resolution seems to be the preferred mechanism for resolving consumer disputes in the automotive industry. Litigation or arbitration appear not to be the first choices in resolving issues as there is very limited case file history in the public case repository.

From the consumer protection perspective, issues relating to the use of automotive products can also be resolved by the Consumer Dispute Settlement Agency.

Indonesia recognises the interim injunctions procedure for intellectual property and civil cases, but a full lawsuit must be lodged with the court, as an injunction cannot be sought independently under procedural law.

Law stated - 2 May 2025

Distressed suppliers

11 What is the process for dealing with distressed suppliers in the automotive industry?

Current prevailing regulations in Indonesia are silent on the process of dealing with distressed suppliers in the automotive industry. Commercial discussions, as well as negotiations, are common and are undertaken to either mitigate or resolve issues surrounding the distressed suppliers. Should commercial discussions be deemed

ineffective, the aggrieved party may pursue a legal remedy by following general dispute mechanisms, preceded by filing warning letters, right up to submitting a claim either to the relevant court or arbitration body as the preferred forum under the agreement.

Law stated - 2 May 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

The legal framework of intellectual property (IP) protection in Indonesia has been established, comprising the protection of trademark, copyright, patent, industrial design, geographical indication and trade secrets, as well as the layout design of an integrated circuit. The regulations govern the rights and obligations of the IP owners, as well as registration procedures up to dispute resolution mechanisms. In addition, Indonesia has a designated authority for matters relating to IP, namely the Directorate General of IP (DGIP) of the Ministry of Law and Human Rights.

In general, IP disputes can be resolved either through litigation in court or alternative dispute resolution. For the in-court litigation process, IP disputes on trademark, copyright and patent infringement need to be filed with the relevant commercial court, while disputes on trade secrets must be filed with the relevant district court in Indonesia. Within the past three years, there have been some trademark infringement cases in the automotive industry. IP disputes are settled in the commercial courts that are only available in certain major cities, namely, Jakarta, Semarang, Surabaya, Medan and Makassar.

With respect to alternative dispute resolution, the DGIP concluded a memorandum of understanding (MOU) with the World Intellectual Property Organization on the provision of alternative dispute resolution services to parties involved in cases filed with the DGIP in May 2014. The MOU was deemed necessary as Indonesia reasoned that alternative IP dispute resolution needs to be improved in the country. Prior to the MOU, in 2012 Indonesia established an IPR Arbitration and Mediation Agency (BAM HKI). However, the Supreme Court of the Republic of Indonesia directory does not disclose the registration statistics of the BAM HKI award at the district court for enforcement purposes. In addition, through arbitration proceedings, parties can resolve IP disputes by negotiation or mediation, as well as conciliation between the parties.

Law stated - 2 May 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

Apart from the ratification of Convention No. 98 of the International Labour Organization concerning the application of the principles of the right to organise and to bargain collectively, Indonesian law recognises trade unions through Law No. 21 of 2000 on the Labour Union (Labour Union Law) – enacted on 4 August 2000. The Labour Union Law guarantees the employees' rights to establish trade unions to create harmonious dynamics and fair industrial relations with employers. There is a minimum requirement of 10 employees to establish a trade union, which must be registered with the local human resources office, as well as the employer. The Labour Union Law also allows the establishment of a trade union federation, which comprises a minimum of five trade unions, as well as a trade union confederation with a minimum of three trade union federations.

Law No. 13 of 2003 on Manpower (the Manpower Law), as amended by Government Regulation in Lieu of Law No. 2 of 2022 (the Job Creation Law) – enacted on 25 March 2003 and amended on 30 December 2022 – provides that company regulations and obligations of the employer and its employees must be notified to the relevant human resources office if the number of employees is 10 or more. If the employees then decide to form a trade union, a collective labour agreement can be concluded and must also be registered with the relevant human resources office.

Another notable provision relating to employment issues is the amended termination grounds, as well as the multiplier of severance payment for terminated employees. Prior to the enactment of the Job Creation Law, termination grounds were governed under several provisions in the Manpower Law. Currently, the provisions have been unified under article 154A of the Job Creation Law where termination is allowed due to inefficiency, either to prevent losses or after losses have been suffered by the employer. In addition, the Job Creation Law introduces different multipliers of severance payment for certain termination grounds. These new provisions have sparked controversy as they are deemed to adversely affect the terminated employees' rights.

Law stated - 2 May 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

The Indonesian government has announced its intention to develop electric vehicles in the country. This is reflected by the issuance of specific regulations pertaining to electric vehicles, such as:

- Presidential Regulation No. 55 of 2019 regarding Acceleration of Battery-Run Electric Vehicle Programmes (PR 55/2019) – enacted on 12 August 2019, as amended by Presidential Regulation No. 79 of 2023 on 8 December 2023);
- Ministry of Transportation (MOTR) Regulation No. 44 of 2020 regarding Type Testing for Electric Vehicles (MOTR Regulation 44/2020) – enacted on 22 June 2020, as amended by MOTR Regulation No. 86 of 2020 on 16 December 2020;
-

MOTR Regulation No. 39 of 2023 on Conversion of Motorcycle With Fuel Motor Drive to Battery-Based Electric Motorcycle (MOTR Regulation 39/2023) – enacted on 26 July 2023;

- Ministry of Industry (MOI) Regulation No. 6 of 2022 regarding Specification, Road Map Development and Local Content Calculation for Battery-Run Electric Vehicles (MOI Regulation 6/2022) – enacted on 11 March 2022, as amended by MOI Regulation No. 28 of 2023 on 28 December 2023;
- MOI Regulation No. 29 of 2023 on Electric Motor Vehicles in Completely Knocked-Down State and Incomplete Knocked-Down Condition (MOI Regulation 29/2023) – enacted on 28 December 2023;
- Presidential Instruction No. 7 of 2022 regarding the Use of Battery-Run Electric Vehicles as Official Operational Vehicles for the Central and Regional Government Institutions (PI 7/2022) – enacted on 13 September 2022;
- Ministry of Finance (MOF) Regulation No. 153/PMK.010/2020 regarding the Granting of Gross Income Tax Deduction for Certain Research and Development Activities in Indonesia – enacted on 9 October 2020;
- MOF Regulation No. 130/PMK.010/2020 regarding the Provision of Corporate Income Tax Reduction Facility – enacted on 9 October 2020;
- Government Regulation No. 74 of 2021 regarding the Amendment to Government Regulation No. 73/2019 on Taxable Goods Classified as Luxury in the Form of Motor Vehicles Subject to Sales Tax on Luxury Goods – enacted on 2 July 2021;
- Minister of Investment/Head of Investment Coordinating Board Regulation No. 6 of 2023 regarding Guidelines and Administration for the Provision of Import Incentives and/or Delivery of Four-Wheeled Battery-Based Electric Motor Vehicles in the Framework of Accelerating Investment (MOIn Regulation 6/2023) – enacted on 28 December 2023;
- Minister of Energy and Mineral Resource Regulation No. 3 of 2023 regarding General Guidelines for Government Assistance in the Conversion Programme of Motorcycles with Fuel Motor Drivers to Battery-Based Electric Motorcycles (MEMR Regulation 3/2023) – enacted on 24 March 2024 as amended by Minister of Energy and Mineral Resource Number 13 of 2023 on 12 December 2023;
- MOI Regulation No. 6 of 2023 regarding Guidelines for Providing Government Assistance for the Purchase of Two-Wheeled Battery-Based Electric Motorised Vehicles (MOI Regulation 6/2023) – enacted on 20 March 2023 as amended by MOI Regulation No. 21 of 2023 on 28 August 2023; and
- MOF Regulation No. 12 of 2025 on Value Added Tax on the Delivery of Certain Four-Wheeled Battery-Based Electric Motor Vehicles and Certain Bus Battery-Based Electric Motor Vehicles and Sales Tax on Luxury Goods on the Delivery of Taxable Goods Classified as Luxury Goods in the Form of Certain Four-Wheeled Low Carbon Emission Electric Motor Vehicles Borne by the Government in the 2025 Fiscal Year – enacted on 4 February 2025.

PR 55/2019 serves as an umbrella regulation on the development of electric vehicles in Indonesia. PR 55/2019 has been amended by PR 79/2023. PR 79/2023 amends the local

content requirement for electric vehicle manufacture, which is further regulated under MOI Regulation 6/2022, as follows:

- 50 per cent for 2020–2029 and 60 per cent for 2030 and beyond, for local content for the manufacture of main components;
- 10 per cent of local content for the manufacture of supporting components;
- 30 per cent for 2020–2029 and 20 per cent for 2030 and beyond, for local content for assembly activity; and
- 10 per cent of local content for development activity.

PR 79/2023 also introduces new policies for research on and procurement of public electric vehicle battery swap stations. The government will now provide incentives for companies procuring public electric vehicle battery swap stations and will conduct research for the development of efficient public electric vehicle battery swap stations.

PR 79/2023 and its implementing regulation, MOI Regulation 6/2023, also provide an incentive for importing electric vehicles in CBU form through a zero per cent import tariff and relaxation of value-added tax on luxury goods. The incentive could be obtained if the following conditions are satisfied:

- the company will build or has built an electric vehicle manufacturing facility in Indonesia, or operates a combustion engine vehicle manufacturing company converting to produce electric vehicles;
- the company has obtained a bank guarantee amounting to the incentive received; and
- the company has issued a statement of commitment to locally produce electric vehicle with local contents in accordance with the amount and within the timeframe stipulated under applicable laws.

Law stated - 2 May 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

Previous incentives on electric cars can be considered satisfactory, observing the continuously increasing sales figures of electric cars in Indonesia. Sales of electric cars in Indonesia in 2024 reached 42,889 units, out of a total car sales of 865,723 units. These sales represent a 151.63 per cent increase compared with the previous year's sales of 17,062 units.

Further, the lack of a widespread charging infrastructure is identified as a barrier to the transition from conventional internal combustion engine vehicles to electric vehicles. To this end, the Indonesian government has issued several regulations and policies to increase the number of public charging stations for electric vehicles, and is expected to continue

to issue new regulations, or amendments to the current regulations, to further support the electric vehicles industry, depending on market conditions.

Law stated - 2 May 2025

Mochamad Kasmali mochamad.kasmali@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

Italy

Marco Berliri, **Francesca Rolla**, **Christian Di Mauro** , **Paola La Gumina**
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

The Italian car market is among the largest in Europe alongside Germany, the UK, Spain and France (together representing around 70 per cent of the market).

Based on estimates in a recent study by the Italian Association of the Automotive Industry (ANFIA), Italy's automotive industry and supply chain accounts for approximately 5.6 per cent of GDP. With overall turnover of approximately €110 billion, it comprises some 5,400 enterprises, many of which are small and medium-sized, employing around 270,000 workers.

In 2024, the automotive sector appears to be severely impacted by the enduring financial effects of the war in Ukraine and the climate of uncertainty, driven by shifting trade policies such as the new US tariffs. In fact, at the end of the year, in December 2024, the Italian car market reported a 7.1 per cent decline compared to December 2023.

Global semiconductor shortages forced factory closures in a range of sectors, including automotive, and drew attention to the relevance of the semiconductor value chain. Regulation (EU) 2023/1781 was approved to address semiconductor shortages in Europe and strengthen its technological leadership.

At the European level, the automotive market is evolving with the integration of electric and software-defined vehicles. Through the so-called 'Vehicle of the Future' initiative, the European Commission supports this shift with investments in open-source software platforms, artificial intelligence, and advanced digital infrastructure. Overall, initial investments for 2023–2024 amount to €250 million. Software-defined vehicles enable smarter, connected mobility, while EV integration with smart grids supports sustainable transport. These developments are key to the EU's strategy for sustainable and smart mobility strategy and industrial competitiveness.

In April 2023, the European Parliament and the Council amended Regulation (EU) 2019/631 by means of Regulation (EU) 2023/851 to strengthen the carbon dioxide emission performance targets applying from 2030, setting a 100 per cent emission reduction target for new cars and vans from 2035 onwards. In April 2024, the European Parliament and the Council adopted the Euro 7 Regulation, proposed by the European Commission in 2022. The Euro 7 Regulation aims to achieve low pollution levels in the short to medium term by pursuing three main objectives, namely, reducing the complexity of the current Euro emission standards, providing up-to-date limits for all relevant air pollutants and improving control of real-world emissions.

Law stated - 16 May 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

Type approval

Effective from 1 September 2020, Regulation (EU) 2018/858 regulates the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, repealing Directive 2007/46/EC that had been implemented in Italy by the Ministry of Infrastructure and Transport Decree of 28 April 2008.

Regulation (EU) 2018/858 contains administrative provisions and technical requirements for type approval and placing on the market of all new vehicles, systems, components and separate technical units and for individual vehicle approvals. It also lays down provisions for the placing on the market and the entry into service of parts and equipment that may pose a serious risk to the correct functioning of the essential systems of the vehicles, as well as requirements for the market surveillance of vehicles, systems, components and separate technical units that are subject to approval, and of parts and equipment for such vehicles. According to article 13 of the Regulation, manufacturers must ensure that the vehicles, systems, components and separate technical units that they have manufactured and that are placed on the market have been manufactured and approved in accordance with applicable requirements. Manufacturers will be responsible to the approval authority for all aspects of the approval procedure and for ensuring conformity of production.

Regulation (EU) 2018/858 has been implemented by:

- Commission Implementing Regulation (EU) 2020/683 of 15 April 2020 (concerning the administrative requirements for the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles), as recently amended by Commission Implementing Regulation (EU) 2022/195 of 11 February 2022;
- Commission Implementing Regulation (EU) 2020/1812 of 1 December 2020 (concerning the online data exchange and notification of EU type approvals);
- Commission Implementing Regulation (EU) 2021/133 (concerning the basic format, structure and the means of exchange of the data of the certificate of conformity in electronic format), as amended by Commission Implementing Regulation (EU) 2024/1061 as regards the secure exchange of conformity certificate data in electronic format and read-only access to the conformity certificate;
- Commission Delegated Regulation (EU) 2021/1445 of 23 June 2021 (amending Annexes II and VII to Regulation (EU) 2018/858 of the European Parliament and of the Council);
- Commission Delegated Regulation (EU) 2022/1209 of 5 May 2022 (supplementing Regulation (EU) 2018/858 of the European Parliament and of the Council, as regards the procedure for the imposition of administrative fines and the methods for their calculation and collection); and
-

Commission Delegated Regulation (EU) 2022/2236 of 20 June 2022 (amending Annexes I, II, IV and V to Regulation (EU) 2018/858 of the European Parliament and of the Council).

Regulation (EC) No. 715/2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) – which has been updated by Regulation (EU) 2018/858, as amended by Regulation (EU) 2019/2144 – provides emissions requirements related to the type-approval process. In addition, some rules for in-service conformity, durability of pollution control devices, on-board diagnostic systems, measurement of fuel consumption and accessibility of vehicle repair and maintenance information are provided (the latter are also contained in Annex X of Regulation (EU) 2018/858 as amended by Commission Delegated Regulation (EU) 2021/1244 of 20 May 2021). Regulation (EC) No. 715/2007 will be repealed by Regulation (EU) 2024/1257 starting from 1 July 2030.

Manufacturers also have an obligation to demonstrate that all vehicles sold, registered or put into service in the European Union are type approved in compliance with this Regulation. Manufacturers' obligations also include meeting the emission limits set out in Annex I of the Regulation.

Regulation (EU) 2024/1257, repealing Regulation (EC) No. 715/2007 with effect from 1 July 2030, on type approval of motor vehicles and engines, as well as systems, components and separate technical units intended for such vehicles, with regard to their emissions and the durability of batteries (Euro 7), has amended Regulation (EU) 2018/858 by establishing common technical rules and administrative provisions for the type approval and market surveillance of motor vehicles, systems, components and separate technical units with regard to carbon dioxide emissions, fuel consumption, electric energy consumption and durability of batteries.

This regulation also laid down rules for type approval regarding emissions, conformity of production, in-service conformity, market surveillance of on-board monitoring systems, durability of pollution control systems and traction batteries, as well as safety provisions for the limitation of tampering and cybersecurity measures, as well as rules for the accurate determination of carbon dioxide emissions, electric range, fuel and electricity consumption and energy efficiency.

Also, Regulation (EU) 2024/1610 amended Regulation (EU) 2019/1242 to strengthen carbon dioxide emission performance standards for new heavy-duty vehicles and to supplement reporting requirements, amending Regulation (EU) 2018/858 and repealing Regulation (EU) 2018/956.

Regulation (EU) 2019/2144, repealing Regulation (EC) No. 661/2009, on type approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor sets out the technical requirements and procedures to ensure that new motor vehicles (motor vehicles with at least four wheels used to transport passengers, motor vehicles with at least four wheels intended for goods transport, and trailers) meet EU safety and energy efficiency standards. For instance, all new vehicles must be equipped with intelligent speed assistance and driver distraction systems, as well as event data recorders (see article 6).

According to article 4, paragraph 4 of the Regulation, car manufacturers must ensure that their vehicles are designed, constructed and assembled 'to minimise the risk of injury to vehicle occupants and other road users'.

Commission Delegated Regulation (EU) 2022/545 of 26 January 2022 supplemented Regulation (EU) 2019/2144 (as amended by Commission Delegated Regulation (EU) 2022/1398 of 8 June 2022 and Commission Delegated (EU) 2023/2590 of 13 July 2023) by laying down detailed rules concerning the specific test procedures and technical requirements for the type approval of motor vehicles with regard to their event data recorder and for the type approval of those systems as separate technical units (including in accordance with UN Regulation No. 160) and amending Annex II to that Regulation. These rules apply as of 6 July 2022.

EU-type approval is granted by the Italian authorities if the concerned vehicles comply with the applicable regulations.

In Italy, the Directorate-General for Motor Vehicles of the Department of Land Transport and Intermodal Transport of the Ministry of Infrastructure and Transport, pursuant to article 75 of the Italian Highway Code, grants type approvals to vehicles that are in compliance with the European regulations mentioned above.

Registration requirements

Owners of motor vehicles have an obligation to register their vehicles pursuant to article 75 et seq. of the Italian Highway Code.

Pursuant to the Decree of the Ministry of Sustainable Infrastructures and Mobility of 26 May 2021, vehicles of an approved type intended for the carriage of persons, and vehicles not complying with Regulation (EU) 2018/858 or Directive 2007/46/EC or that are type approved with derogations from the requirements of previous EU provisions, are subject to the requirements of suitability for circulation and type approval.

With Circular No. 0022943 of 27 July 2023, the Ministry of Infrastructure and Transport authorised some derogations from registration of end-of-series vehicles, pursuant to article 49, paragraph 1 of EU Regulation 2018/858 for vehicles not conforming to EU Regulation 540/2014 and Regulation UN/ECE 51, with effect for registrations from 1 July 2023.

However, the registration of a vehicle can only succeed if the vehicle has been type approved by the authorities.

Insurance requirements

Directive 2009/103/EC of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability is transposed in the Italian Private Insurance Code. Pursuant to article 122 of the Code, car owners have an obligation to insure their vehicles. In addition, Decree of the Ministry of Economic Development of 11 March 2020, No. 54 provides for the conditions of the mandatory insurance standard contract for civil liability posed by the use of motor vehicles. Also pursuant to Article 193 of the Italian Highway Code, as amended by Legislative Decree No. 184/2023, vehicles (meaning any motor-powered

vehicle circulating on the ground, trailer or light electric vehicles) must be insured against civil liability, otherwise administrative fines may be imposed.

Law stated - 16 May 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

Overall, the motor vehicle production output nosedived considerably during the covid-19 pandemic. In the following years, although the car market recorded an increase in production levels and the sector in general is growing in Europe, it is still being affected by weak demand due to the negative events that have followed the pandemic, such as, for instance, the energy crisis, the return of inflation and the rising cost of living. The invasion of Ukraine, and the climate of uncertainty, driven by shifting trade policies such as the new US tariffs in particular, worsened global financial conditions and slowed down growth prospects, due to increased uncertainty, further rises in commodity prices and exacerbating supply-side constraints. The beginning of 2025 has not been positive for the automotive market, which has recorded a 25 per cent decline in the production of motor vehicles and of parts and accessories for motor vehicles.

Notwithstanding the above, the number of motor vehicles registered in Italy secures the country's position as one of the largest markets in the European Union, together with Germany, France and Spain, thus confirming its attractiveness to global motor manufacturers. The Italian automotive market is still dependent on Italian brands, with Stellantis Group taking up to around 30 per cent of the market share. According to recent European trends, the development of mechanical and technological components for city and family cars is a result of collaboration agreements with other leading European or US companies, or between car manufacturers. Designs, however, tend to be developed internally as they constitute one of the core commercial assets of car companies.

Differences arise with respect to luxury brands, as they represent one of the leading manufacturing sectors in Italy. In the case of luxury brands, nearly all phases of the development, design, assembly and sales of vehicles are protectively dealt with internally by Italian automotive companies.

As for components and spare parts, there is a tendency in Italy to outsource, on the one hand, and to directly (or indirectly) manage secondary businesses, on the other hand. Leading Italian companies tend to own or indirectly invest in the companies in charge of manufacturing and supplying their main mechanical components, body components and spare parts.

Both the transportation of vehicles, by means of car carriers, and that of spare parts is outsourced to professional transporters that also take care of customs duties.

The selection of external companies is usually on a semi-exclusive or non-exclusive basis, takes place by means of bidding invitations and is addressed to pre-selected competitors

on the market. Often these companies tend to enter into subcontracting agreements with authorised local and family-owned entities.

Law stated - 16 May 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

Generally, in Italy vehicles are distributed through selective distribution agreements entered into by local manufacturing companies, or the local representatives of foreign manufacturers, and autonomous Italian entities. The Italian automotive sector is characterised by a limited number of companies of different sizes, mostly medium-small, family-controlled. Large companies tend to be part of multinational industrial groups, whereas small and medium-sized companies tend to be family owned and managed.

With respect to contractual relationships, sales agents are often linked to dealers by means of agency agreements. Notably, in January 2023, Law No. 6/2023 amended Law No. 108/2022, extending some provisions to the agency agreements, for instance obligations in relation to term, duration, and content of the agreements.

Notwithstanding the general distribution mechanism, leading Italian automotive brands have developed new forms of sales chains through which they set up fully owned large dealerships where manufacturers promote and sell multiple vehicle brands. Clients are, therefore, offered the chance to see different car types and receive different services (sale, maintenance, repairs, post-sale assistance and so on) within the same vast premises. Following the Italian lead, German and French-based manufacturers have adopted the same business model in Italy and have opened fully owned car dealerships in major cities such as Rome and Milan.

With reference to distribution agreements, due to the automotive market crisis experienced in the past decade, the number of mono-brand dealers has largely diminished over the years leaving space for multi-brand dealers, which are increasingly specialising in post-sale assistance services (eg, car registrations, services for disabled people accessing state benefits, maintenance, repairs and contractual warranties) and captive services (eg, loans, insurance contracts, leasing and car rentals).

The economic developments in the automotive sector have prompted the expansion of new smart mobility models in Italy with the aim of minimising traffic, making driving safer and smoother, and reducing travel by individuals in high-consumption vehicles in favour of alternative means of transport such as rentals and car-sharing. This development has been promoted to avoid overcrowding public transport, decongest urban traffic and improve air quality.

Between 2023 and early 2024, the shared mobility sector in Italy has experienced a reduction in overall supply. This decline is largely due to the changing of the scooter-sharing segment which -after a period of possibly excessive growth – is now seeking a new balance. Overall demand has not been affected: the number of rentals and distances travelled

remain essentially stable, as does the sector's total revenue, which reached €178 million in 2023.

Indeed, recent reports state that, overall, in Italian cities 2023 was a positive year for micro-mobility sharing, and that the beginning of 2024 suggests a potential increase of demand in the bike-sharing context. In turn, as for scooter sharing, the supply has undergone a sharp contraction: the number of active services dropped from 22 to 10 between 2022 and 2023, and the number of vehicles was cut by more than half by early 2024.

Also, vehicle distribution is undergoing changes due to technology and Internet-based platforms. In fact, channels for consumers are being to sell vehicles — especially EVs — bypassing traditional dealers. In Italy and across the EU, platforms and brand-owned e-commerce portals are gaining traction.

Under EU legislation – Commission Regulation (EU) 2022/720 (the Vertical Block Exemption Regulation (VBER)), Commission Regulation (EU) No. 461/2010 (Motor Vehicle Block Exemption Regulation (MVBER)) and the Supplementary Guidelines on Vertical Restraints (2010/C 138/05) – certain limitations apply to these kinds of vertical distribution agreements with specific reference to automotive distribution (ie, contracts entered into by two or more companies at a different level of the production or distribution chain, and relating to the conditions under which the contracting parties may purchase, sell or resell certain goods or services). Selective distribution may be based on qualitative or quantitative grounds. The mentioned EU Regulation and related Guidelines are subject to a public consultation launched in March 2025 (fallowing a previous scrutiny launched on the MVBER on January 2024) by the European Commission with the aim to assess and verify the functioning of competition rules applicable to vertical agreements in the automotive sector.

These rules, which assist companies in the automotive sector in assessing the compatibility of their vertical agreements with Article 101(1) of the Treaty on the Functioning of the European Union (TFEU), are currently set to expire on 31 May 2028. All interested parties can submit their comments by 7 May 2025.

In parallel, the Commission launched on 30 January 2025 the Strategic Dialogue on the Future of the Automotive Industry. The Commission will present an Action Plan, which will address issues relevant for the automotive sector, such as ensuring access to talent and resources, technological innovation and the development of next-generation vehicles, and establishing a predictable regulatory framework. The MVBER evaluation complements these efforts by ensuring a competitive automotive aftermarket.

In purely qualitative selective distribution schemes, dealers and repairers are selected based on objective criteria required by the nature of the product or service (eg, technical skills of sales personnel, layout of sales facilities, sales techniques and the type of sales service to be provided). These types of distribution agreements are usually deemed as not having anticompetitive effects, provided that three conditions are satisfied:

- the nature of the product in question must necessitate a selective distribution system, in the sense that such a system must constitute a legitimate requirement, having regard to the nature of the product concerned, to preserve its quality and ensure its proper use;

- resellers must be chosen based on objective criteria of a qualitative nature that are laid down uniformly for all, made available to all potential resellers and not applied in a discriminatory manner; and
- the criteria laid down must not go beyond what is necessary.

On the other hand, distribution agreements based on quantitative grounds are seen as more restrictive as they set numerical limitations such as a maximum given number of permitted dealers or repairers, or a minimum level of sales.

Under the aforesaid EU legislation, there is a presumption that both qualitative and quantitative selective distribution agreements in the automotive sector do not limit competition if the parties' share of the market does not exceed 30 per cent, provided they do not:

- impose fixed sale prices on dealers;
- impose geographical restrictions (with some exceptions, such as in the case of exclusive or selective distribution);
- restrict active or passive sales to end users (with some exceptions, such as in the case of exclusive or selective distribution);
- restrict cross-supplies between distributors within the same selective distribution system;
- restrict the manufacturer's ability to sell components as spare parts to end users or repairers or to others who have not been entrusted by a specific dealer; and
- restrict the sales of spare parts by members of a selective distribution system to independent repairers that use those parts for the repair and maintenance of a motor vehicle.

It is worth noting that the new VBER allows for greater protection of the selective distribution system by permitting suppliers to:

- prevent their selective distributors from selling actively or passively outside the selective distribution system; and
- ask their selective distributors to restrict their clients from selling (actively or passively) to unauthorised distributors within the territories where the supplier operates a selective system. This solution was not contemplated under the previous VBER.

With reference to exclusive distribution, the new VBER has introduced the possibility to assign an exclusive territory or group of clients to up to five exclusive distributors. It also authorises a supplier to adopt different distribution systems in different countries, and to introduce measures for the protection of various distribution systems.

The new VBER permits non-compete obligations for a maximum period of five years from the date the distribution contract is entered into. The Guidelines on Vertical Restraints (2022/C 248/01), however, specify that non-compete obligations that are tacitly renewable beyond a period of five years can benefit from the block exemption, provided the buyer can effectively renegotiate or terminate the vertical agreement containing the obligation with a reasonable period of advance notice and at a reasonable cost.

The VBER has likewise introduced provisions concerning the particular form of car distribution represented by sales on online platforms, in light of the evolution of the case law. While it is confirmed that general restrictions to online sales are considered as hardcore restrictions to competition, suppliers are now allowed to set different criteria for online and offline sales as long as such criteria do not substantially impede online sales. In addition, it is also allowed to set wholesale prices differently depending on whether a product is sold through online or offline channels (dual pricing) when this reflects differences in the investments and costs incurred by the buyer to make sales in each channel. However, dual pricing must not pursue the aim of limiting sales to particular territories or clients, nor to reduce the ability to sell online.

Similarly, the VBER and Guidelines on Vertical Restraints indicate that certain restrictions to online advertising are allowed, provided they do not have the object of preventing the use of an entire advertising channel by the buyer.

Finally, the Guidelines on Vertical Restraints allow restrictions to sales through marketplaces when they restrict only one of the online channels the distributor can use, provided that such restrictions do not have the effect of entirely preventing online sales.

Concerning termination provisions, there is no specific time requirement under Italian law for a valid notice to be given, provided it is adequate and reasonable. The adequacy of the term provided within the termination notice very much depends on:

- the reason for termination (eg, breach of obligations by the dealer and justified or unjustified withdrawal by manufacturer);
- the contractual relations between the parties (eg, duration of the contract, exclusivity regime, number of dealerships, participation in the dealer's capital share by the manufacturer and existence of an economic dependency); and
- the reliance by the dealer on the manufacturer's business strategies or the manufacturer's assurances or guarantees, which proved to be wrong or that induced the dealer to, as an example, get mortgages or loans, make infrastructural and technological investments, buy new premises, hire new personnel, and so on.

There have been criticisms with respect to the restructuring of dealers. Recent trends have proven that most automotive manufacturing companies establish their own banks. On top of rendering financial services to private consumers, automotive banks also financially sustain dealers. This causes problems in insolvency scenarios.

Indeed, considering that products, presale and post-sale services, technological infrastructure, platforms, business and sale conditions and strategies are supplied, developed and often imposed by manufacturing companies, it is frequently the case that dealers are subject to economic dependency on manufacturers. Understandably, distributers also tend to resolve their financial issues by seeking more available financial allowances, and at better interest rates, from the manufacturers' banks. Automotive companies have a high interest in ensuring that dealers do not become insolvent, but they also need to make sure they do not contribute to the further indebtedness of the distributor by financing it when it becomes apparent that the distributor will not be able to repay its debt, as this conduct is prosecutable under Italian law.

To mitigate the risk of not recovering the purchase price of vehicles and spare parts to be paid by distributors in case of insolvency, manufacturers usually subordinate the

sale of vehicles to a right of retention of title. Accordingly, title of ownership on vehicles will be transferred to dealers only upon full payment. This measure, albeit valid from a legal standpoint, often does not prove to be fully effective considering that, in the case of receivership proceedings against dealers, the receiver often disregards the retention title, leaving the manufacturer with the burden of starting long and costly legal proceedings to enforce its rights and recover its vehicles.

Italy has adopted a series of measures that can help prevent and manage insolvency in the automotive sector. More precisely, Law-Decree No. 17/2022, known as Decreto Bollette, entered into force on 2 March 2022 and established a €700 million fund for 2022 and €1 billion per year from 2023 to 2030 for the automotive sector. In particular, these incentives are targeting 'green transition, research, investments in the automotive sector aimed at the establishment, reconversion and requalification towards innovative and sustainable forms of production, in line with the European objectives of reduction of emissions harmful to the environment and digital development, as well as for the recognition of incentives to the purchase of non-polluting vehicles (and also to implementing home rechargeable stations for electrical vehicles – regulated by the recent Decree of the Ministry of Enterprises and Made in Italy of 7 February 2024) and to encourage the recovery and recycling of materials.

Law stated - 16 May 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

There are no particularities for M&A or joint venture transactions in the automotive industry as such. As for other large industrial assets, the main areas to be carefully considered in the due diligence phase and in the preparation and negotiation of the transaction documentation (representations and warranties, special indemnities, price and price adjustment) are:

- production – the business is capital and labour-intensive and it may have an environmental impact. So, real estate properties and other assets, employment, environment and waste management are areas to cover. Likewise, slow-moving inventory may be an issue. Single sourcing may be another issue to tackle;
- distribution chain – the dealers' network is part of the value, and dealership agreements may require careful analysis (eg, prices, competition restrictions, duration and change of control clauses); and
- finance – given the size of capital expenditure and operating expenses, financing agreements are key to business sustainability. Again, change of control clauses are a common practice.

More generally, the automotive industry is likely to go through an unprecedented consolidation process driven by the huge investments needed for automation and electrification. This, in turn, according to some commentators, may result in relatively smooth clearances with respect to concentrations, leading to the combination of enormous

assets and, in principle, to a significant increase of market power. Against this backdrop, one of the key issues that inevitably comes to mind in the merger control area is how and to what extent the automotive revolution will reshape the boundaries of product and geographic markets and, in turn, the assessment of merging parties' competitive relationships and combined market power that still largely depends on the delimitation of the perimeter within which the latter are found to operate. One of the crucial factors in this regard is the development of business models alternative to ownership, and possibly the transition from a system of 'owned transportation vehicles' – which represents the largely predominant although declining paradigm today – to a system of rented or even just borrowed vehicles that will ultimately eliminate the need for the final consumer to purchase his or her own vehicle. The foregoing is likely to result in a radical change in the relationship between market supply and demand, and thus an unprecedented structural modification of the sector as a whole. In this respect, the Italian government has implemented legislative changes empowering the Italian Competition Authority (ICA) to request notification of transactions that do not meet the standard turnover thresholds, provided certain conditions are met (where an actual threat to competition nonetheless exists in the national market, or in a substantial part thereof, and within six months of the completion of the transaction). Additionally, the ICA has proposed the introduction of a standstill obligation, aligning Italy's merger control regime with that of other EU Member States.

Lastly, in terms of approvals to be sought and obtained from the Italian government, the automotive supply chain per se is not subject to the foreign direct investment (FDI) screening mechanism. However, the Italian government enacted – in late 2020 – a decree broadening the FDI scope to include high technological intensity 'assets or relationships', such as, among others, artificial intelligence, robotics, semiconductors, microprocessors, automated or remote piloting technologies (including onboard sensors) and automated manufacturing (a complete list is set forth in article 9 of Decree of the President of the Council of Ministers (DPCM) No. 179/2020). In this light, it should be carefully evaluated on a case-by-case basis whether the automotive business of the target company (in terms of, for example, R&D activities, automation of the manufacturing process and so on) is captured by the aforementioned decree. Should the answer be positive, Italian FDI clearance will be a condition to closing of M&A transactions.

In recent years, the Italian government has been particularly active in the protection of national strategic assets, especially towards non-EU investors. The statute on 'golden power', namely the protection of strategic industries from foreign direct investments, was enacted in 2012 but its first application was only in 2020. Since then, the government has used this special prerogative a limited number of times. For instance, in June 2023 the Council of Ministers imposed conditions for the clearance of a shareholder agreements over the governance of Pirelli. The government considered the 'cyber' sensors embedded in tyres produced by Pirelli an asset of strategic interest for their high technological value and required the main shareholder of Pirelli, the Chinese company China National Tire and Rubber Corporation, to limit the sharing of the data collected by the sensors and issue guarantees over the autonomy of Pirelli's management and know-how.

Law stated - 16 May 2025

Incentives and barriers to entry

'

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

From a broad perspective, it is worth noting how the automotive industry is radically changing. A wave of vehicle innovation is emerging and reshaping even the most deep-seated features of the industry, from manufacturing processes to models of ownership. Digital transformation affects the whole automotive value chain, from design to production and distribution.

A true game changer is the market entry of tech giants that not only already benefit from significant economies of scale deriving from their market-leading position in transport-related services, such as mapping and artificial intelligence, but also from significant learning advantages when these firms eventually introduce prototypes of driverless cars whose data will be elaborated through cutting-edge algorithms. Silicon Valley firms are pouring substantial money into the car industry to develop new self-driving electric vehicles. It is a natural fit, given their status as prime innovators in modern technology, robotics and artificial intelligence. This entrepreneurial process constantly encourages tech firms to come up with better products and, as a result, disrupt existing market structures to ultimately benefit consumers.

Meanwhile, automakers, which have been traditionally represented by a small number of very large companies, are now facing the most profound challenge to their business models in a century. Information technology is deeply intertwined with the automotive sector and, in fact, electronic systems will be accounting for a significant part of a car's value in years to come. The technological challenge is compounded by global competition, caused by China's growth as the world's leading exporter of cars and strategic dependencies in raw materials and battery imports.

With vehicles becoming more and more connected, autonomous, shared and electric, the industry is witnessing a disruptive technological tsunami that is about to bring major changes in the near future as regards both incentives and barriers to entry, with three big waves on the horizon rapidly approaching the shore: automation and connected car services, electric vehicles and alternative models of 'ownership' such as car sharing and rental. It is worth highlighting that all these features have been identified by most of the respondents to the public consultation launched by the European Commission when reviewing the MVBER. Indeed, in their view, any changes affecting the automotive business since 2010 (eg, connected cars, digitalisation, access to in-vehicle and users' data, remote connectivity and over-the-air technology), should be reflected in the objectives pursued by the block exemption rules covering the motor vehicle sector.

The automotive market may count on general tax incentives linked to R&D activities and investments in tangible and intangible assets.

The action plan presented by the European Commission on 5 March 2025 – aimed at promoting the global competitiveness of the European automotive industry in the transition to clean mobility and digital integration and addressing the challenges related to strategic dependencies on imports of raw materials and batteries – announced that €1 billion in funding will be allocated to R&D in the automotive sector for the period 2025–2027 and up to €3 billion to support the battery industry.

Meanwhile, the Italian Ministry of Enterprise and Made in Italy (MIMIT), with Ministerial Decree 6 November 2024, regulated the procedures for accessing, through Development Contracts, €500 million funds available under Mission 1, Component 2, Investment 7 of the PNRR ('Support for the production system for ecological transition, net-zero emission technologies and the competitiveness and resilience of strategic supply chains'), aimed at strengthening and promoting the competitiveness and resilience, inter alia, of the automotive sector.

The subsidies (ie, loans, interest, capital grants and direct contributions to expenditure) are intended for companies of any size operating throughout Italy that intend to implement industrial development programmes.

Applications must be submitted (according to the procedure set forth with Directorial Decree 11 March 2025 of MIMIT) using the IT platform provided by Invitalia, starting at 12 noon on 8 April 2025 and ending at 12 noon on 10 June 2025.

More details on the requirements and conditions to be met to be eligible for the above contribution are available on a dedicated page of MIMIT.

In the past few years, moreover, Italian tax rules have provided for a specific incentive (Ecobonus Auto) aimed at fostering the purchase of certain less-polluting means of transportation by both individuals and corporate entities – whose specific rules, limits and requirements have been set out by Ministerial Decree of 6 April 2022, as amended and supplemented by Ministerial Decree of 4 August 2022.

For fiscal year 2025, Ecobonus Auto has not been refunded, while the legislator confirmed the Ecobonus for the purchase of mopeds and motorcycles (available to the dedicated page) aimed at purchasing new factory-built electric or hybrid vehicle in categories L1e, L2e, L3e, L4e, L5e, L6e and L7e, calculated as a percentage of the purchase price: 30 per cent for purchases without scrapping and 40 per cent for purchases with scrapping.

At regional level, however, a number of green car incentives have been reintroduced, with requirements varying according to local regulations.

Law stated - 16 May 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

At the European level, the most relevant automotive-related product compliance safety and environmental regulations are:

- Regulation (EU) 2018/858 of 30 May 2018 (as most recently amended by Commission Delegated Regulation (EU) 2022/2236 of 20 June 2022), on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles.
-

Commission Regulations (EU) 2017/2400 (as amended by Regulation (EU) 2025/258, as regards the determination of carbon dioxide emissions and fuel consumption of medium and heavy-duty trucks and heavy-duty buses and the inclusion of hydrogen-powered vehicles and other new technologies), (EU) 2017/1347, (EU) 2017/1151, (EU) 2017/1154, (EU) 2018/1832, (EU) 2019/318 and (EU) 2019/543.

- Regulation (EU) 2019/2144 (as supplemented by Commission Delegated Regulation (EU) 2021/1243 of 19 April 2021 and amended by Commission Delegated Regulation (EU) 2023/2590 of 13 July 2023), on type-approval requirements for motor vehicles and their trailers, and systems, components and separate technical units intended for such vehicles, as regards their general safety and the protection of vehicle occupants and vulnerable road users, in turn implemented by Commission Implementing Regulation (EU) 2021/535. This Regulation makes the adoption of the most advanced security technologies mandatory for obtaining type approval for certain vehicles: among others, this security technology includes intelligent speed assistance, alcohol interlock installation facilitation, advanced driver distraction warnings and the installation of a black box on each vehicle.
- Regulation (EC) No. 715/2007 (on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles, and on access to vehicle repair and maintenance information), as subsequently amended and supplemented by Commission Regulations (EU) 2017/1151 and (EU) 2017/1154; and Regulation (EC) No. 595/2009 (on type approval of motor vehicles and engines with respect to emissions from heavy-duty vehicles and on access to vehicle repair and maintenance information). Regulations (EC) No. 715/2007 and (EC) No. 595/2009 will be repealed by Regulation (EU) 2024/1257, respectively, starting from 1 July 2030 and 1 July 2031.
- Regulation (EU) 2019/631, setting carbon dioxide emission performance standards for new passenger cars and for new light commercial vehicles (as amended by Commission Delegated Regulations (EU) 2023/2502 of 7 September 2023, (EU) 2023/1634 of 5 June 2023, (EU) 2023/851 of 19 April 2023, (EU) 2020/22, (EU) 2020/1590, (EU) 2020/2173 and (EU) 2021/1961) that repealed, as of 1 January 2020, both Regulation (EC) No. 443/2009 on emission performance standards for new passenger cars and Regulation (EU) No. 510/2011 on emission performance standards for new light commercial vehicles.
- Regulation (EU) 2023/1804, which repeals EU Directive 2014/94 and Commission Delegated Regulations 2019/1745 and 2021/1444, sets mandatory targets for member states for the deployment of alternative fuel infrastructure for on-road vehicles (electric vehicle charging infrastructure, hydrogen refuelling infrastructure and liquefied natural gas refuelling infrastructure).
- Regulation (EU) 2024/1257 (Euro 7), which repeals Regulation (EC) No. 715/2007 and amends Regulation (EU) 2018/858, establishes rules for the exhaust emissions of road vehicles, but also for other types of emissions such as tire abrasion and brake particle emissions. It also introduces requirements for battery durability. For cars and vans, the regulation keeps the existing Euro 6 exhaust emission limits but introduces stricter requirements for solid particles. For heavy-duty buses and lorries,

the regulation imposes more stringent limits for various pollutants, including some that have not been regulated until now, such as nitrous oxide (N2O). In addition, Euro 7 introduces stricter limits for particle emissions produced when braking, with specific limits for electric vehicles. The new rules also include stricter lifetime requirements for all vehicles in terms of both mileage and lifetime.

Against such a backdrop, Legislative Decree No. 285/1992 (the Italian Highway Code) and Presidential Decree No. 495/1992 (the regulations implementing the Italian Highway Code), which are implemented in Italy by a number of ministerial decrees, set forth the technical specifications that must be fulfilled by motor vehicles in order to obtain type approval by the competent department of the Italian Ministry of Infrastructure and Transport. Legislative Decree No. 68/2022 (converted into law by Law No. 108/2022) amended the Italian Highway Code, introducing several provisions aimed at reducing the administrative burdens on users, promoting the development of sustainable mobility and increasing safety of road traffic. Legislative Decree No. 69/2023 (converted into law by Law No. 103/2023) amended the Italian Highway Code, introducing road traffic measures aimed at improving air quality (article 9) and implementing Directive (EU) 2022/738 on the use of vehicles hired without drivers (article 24). Recently, Law No. 177/2024 amended the Italian Highway Code, introducing new obligations for vehicles manufacturers regarding data registration in the electronic register established at the General Directorate for Motor Vehicles of the Department of Transport and Navigation of the Ministry of Infrastructure and Transport (article 80 bis).

Under Regulation (EU) 2018/858:

- the approval authority must refuse to grant EU type approval if it finds that a vehicle, system, component or separate technical unit, albeit in compliance with the required prescriptions, presents a serious risk to road safety or seriously harms the environment or public health (article 26.5);
- the approval authority that has granted an EU type approval must take the necessary measures (including, where needed, revocation of the EU type approval) in order to ensure compliance with the type it has approved if it finds that the manufacturer no longer produces the vehicles, systems, components or separate technical units in conformity with the approved type, or establishes that the certificates of conformity no longer comply with the prescriptions of the Regulation (article 31.7);
- manufacturers that have obtained an EU type approval and, under certain circumstances, importers are required: (1) to take all appropriate corrective measures if they acknowledge that the vehicle, system, component, separate technical unit, part or equipment that has been placed on the market or that has entered into service is not in conformity with the Regulation or the relevant typeapproval has been granted on the basis of incorrect data; and (2)to inform the relevant approval authority of the non-conformity and of the measures taken (articles 14.1 and 17.1); and
- an economic operator is required to take all appropriate corrective measures if the market surveillance authority of one member state finds that a vehicle, system, component or separate technical unit presents a serious risk to the health or safety of persons or to other aspects of the protection of public interests. If it does not take such corrective measures, national authorities are entitled to adopt restrictive

measures (including the withdraw or recall of the vehicle from the market) (article 52).

In principle, non-compliance with applicable law requirements is, per se, punished by administrative sanctions that will be effective, proportionate and dissuasive. Further details regarding the procedure for the imposition of administrative fines and the methods for their calculation and collection have been set out by Commission Delegated Regulation (EU) 2022/1209 of 5 May 2022.

There are no industry-specific rules for product recalls.

Law stated - 16 May 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

Italy has a fairly strong tradition in product liability litigation, particularly since the adoption, in 2005, of Decree No. 206/2005 (known as the Italian Consumer Code), which incorporates previous Italian laws implementing Directive 85/374/EEC and Directive 2001/95/EC. The Italian Consumer Code has been amended by Legislative Decree No. 170/2021 transposing Directive (EU) 2019/771 so as to lay down new rules on conformity of goods and commercial warranties. Product liability law is particularly significant to the automotive industry, given the large number of components (eg, braking systems, airbags and seat belts) that might in theory be subject to manufacturing or design defects, and because of the seriousness of the risks in the case of defective parts.

Product liability litigation in the automotive sector can also be particularly complex, given that consumers or users generally tend to direct their claims to the manufacturer, which, in turn, might need to involve the litigation suppliers or manufacturers of the allegedly defective components.

As regards recalls – regulated by articles 104 to 107 of the Italian Consumer Code (implementing the General Product Safety Directive 2001/95/EC) – the automotive industry has long been one of the most affected. According to the European Rapid Exchange of Information System, no new alerts were submitted in Italy in 2024 (although a 2023 alert was updated). In 2025 (as of April), Italy has notified two alerts, both concerning risks of injury. The first referred to a defect in the front suspension system, potentially compromising vehicle stability. The second involved a possible failure in the braking system, posing a risk during emergency manoeuvres.

Concerning unfair commercial practices, the protection of 'Made in Italy' is an increasingly sensitive topic for policymakers and regulators. On 27 December 2023 the legislator adopted Law No. 206, which aims at regulating the passing off of goods as Italian through, namely, the use of images, words and other communication means recalling the Italian culture and traditions. In the same year, the competent Italian authority opened proceedings

against a car manufacturer for misleading advertising practices since it allegedly promotes cars produced in China as being produced in Italy.

Class actions have been allowed in Italy since 2010 and have not yet represented an actual major risk for automotive manufacturers. Indeed, there are strict conditions for a class action to be considered admissible (and decided on the merits), which have historically discouraged consumers and consumer associations from relying on the class action system. Until 2024, based on publicly available information, very few class actions have been filed against motor vehicle manufacturers. For example, in recent years, Altroconsumo – one of the most prominent and active Italian consumer associations – started:

- a class action against Volkswagen regarding 'Dieselgate'. The Court of Appeal of Venice confirmed the existence of unfair and deceptive business practices perpetrated by Volkswagen, although it did not deem proven the pecuniary damages. In December 2023, Altroconsumo, the Italian association representing damaged consumers, publicly declared its intention to appeal the decision before the Italian Supreme Court;
- a class action against Volkswagen for a specific version of one of its passenger cars (in relation to which the parties entered into a settlement agreement); and
- another class action against Fiat Chrysler for a different type of passenger car (in relation to which the parties entered into a settlement agreement).

All these lawsuits are grounded on the companies having declared different emissions or fuel consumption values than the actual ones (even through the 'defeat device'), leading plaintiffs to claim damages for conducts affecting the consumers' choice. Altroconsumo also started a follow-on class action in late 2019 concerning almost all automotive captive banks on the Italian market, seeking compensation for damages suffered by consumers due to the allegedly inflated costs for their financial services purportedly suggesting the existence of a cartel among the defendants. The Council of State did not admit the class action because it found that there were no homogeneous rights among the participants.

As class action did not turn out to be an effective dispute resolution mechanism unlike in other countries, a reform of the Italian class action law (aimed at removing some obstacles) was envisaged and discussed. Following years of gestation, the Italian class action reform was approved on 3 April 2019 and entered into force on 19 May 2021 after several postponements. It applies to illicit conduct occurring after its entry into force. Its key features include the following:

- a broader scope of application: it is no longer reserved to consumers and end users, and it is open to all kinds of damage claims. From now on, class actions may be brought for the enforcement of 'homogeneous rights' by anyone (including legal entities and in B2B relationships) claiming damage redress against the 'author of the harmful behaviour'. Indeed, the new class action regime is included in the Italian Civil Procedure Code and no longer in the Consumer Code;
- a long opting-in window whereby individuals can join the class action even after issuance of the decision on the merits;
-

new figures in the class action management (ie, a 'common representative' of the class who will manage the merits and the subsequent enforcement phases on behalf of the individual class members); and

- a success fee for the attorneys of the winning party and for the common representative of the class.

The reform also modified the 'collective action for injunctive relief'. This action is aimed at obtaining a court ruling:

- inhibiting any conduct that is detrimental to the interests of multiple individuals or entities (whereby this action is defined collective);
- ordering appropriate measures to correct or eliminate the harmful effects of the assessed violations; and
- possibly ordering the publication in the media of the injunctive relief.

The court may also establish a sum of money to be paid as penalty for each day of delay in the event of non-compliance.

On 24 November 2020, Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers (repealing Directive 2009/22/EC) was approved. The Directive required EU member states to transpose it by 25 December 2022 and adapt their procedural collective action and redress mechanism, with application from 25 June 2023. On 9 March 2023, the Italian government approved the final text of the Implementing Decree.

The reform introduced a new type of class action, called 'representative class action', in articles 140-ter to 140-quaterdecies of the Italian Consumer Code. However, as at the time of writing, Italian law has a double track: it is possible to use both the class action introduced in 2019 that is still active or the representative class action. This decision caused the co-existence of three different regimes that will last, at the earliest, up to 19 June 2031, these being:

- the class action introduced by article 140 bis for all unlawful conducts committed before 19 May 2021;
- the general class action applicable for all conducts from 19 May 2021; and
- the new representative action, applicable from 25 June 2023.

The key points of the reform introduced by article 140 bis are:

- only 'qualified entities' (ie, consumer associations on the list set under the Italian Consumer Code, independent public agencies and other state agencies present in a registry set by the EU Commission) are legitimate to use this new instrument;
- the objective scope of the new representative action is limited to matters listed in the new Annex II septies of the Italian Consumer Code; and
- regarding third party-funding, qualified entities, following the principle of transparency, must declare the sources of any fund received.

Following the reform, the use of the abovementioned representative actions in Italy has shown signs of growth. In 2024, for example, several consumer associations initiated

multiple proceedings against a major automotive group. These actions, both compensatory and injunctive in nature, concern the alleged mismanagement of a recall campaign involving defective safety components installed in certain vehicle models. Overall, recent litigation developments suggest a more structured and accessible use of the collective redress mechanism, consistent with the reform's intended objectives.

Law stated - 16 May 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

In recent years, the automotive industry has been subject to market monitoring, competition advocacy and antitrust enforcement activities carried out by both the European Commission and the national competition authorities of the various member states. As mentioned above, the pending review of Regulation No. 461/2010 (Motor Vehicle Block Exemption Regulation or MVBER) by the European Commission is a noteworthy example.

Together with the new Regulation No. 2022/720 (Vertical Block Exemption Regulation or VBER), MVBER is one of the key pieces of EU legislation when it comes to the development, manufacturing and supply of vehicles as it sets out the general framework for the antitrust analysis of agreements in this sector. MVBER creates a safe harbour (under the block exemption mechanism) for categories of agreements that are key to the automotive industry and sets a handful of clear-cut rules about the requirements for benefiting from such safe harbour. MVBER lists the hardcore restrictions that, if included in the agreement, prevent the applicability of a safe harbour. It also provides for a list of specific non-exempted clauses. Conversely, MVBER does not lay down any 'white clauses', that is, rules that the parties to the arrangement must comply with for MVBER to apply.

MVBER was set to expire on 31 May 2023, however its validity has been prolonged to 31 May 2028 to allow the Commission to react in a timely manner to probable market changes, such as those stemming from vehicle digitalisation.

In addition, the Commission has updated the Supplementary Guidelines. The main aspects concern:

- the nature of data generated by vehicle sensors as possible essential input for the provision of repair and maintenance services, as a consequence of which authorised and independent repairers must have access to such data on a non-discriminatory basis;
- clarification that vehicle suppliers must apply the proportionality principle when considering whether to withhold inputs, such as vehicle-generated data, on the basis of potential cybersecurity concerns; and
- the indication that should a supplier unilaterally withhold from independent operators an essential input, such as vehicle-generated data, this might entail a violation of article 102 of the Treaty on the Functioning of the European Union.

The updated Supplementary Guidelines reflect some of the points that were raised during the MVBER consultation phase carried out with the stakeholders:

- ensuring a level playing field with regard to access to in-vehicle data, including technical information and data linked to connected vehicles, for all stakeholders (while taking into account consumers' choice to share such data);
- guaranteeing cybersecurity of vehicles while enabling fair competition to protect the interests of the consumer; and
- considering the impact of over-the-air diagnoses allowing vehicle manufacturers and authorised dealers to contact customers directly and offer innovative services.

The consultation showed the need to take into consideration the emergence of new technologies and the increasing role of data in competitive dynamics in the industry, particularly in the aftermarket.

Indeed, one of the key antitrust issues will be the evolution of car maintenance services throughout the digital era. Traditionally, car maintenance activity starts when the consumer's vehicle enters the repairer's workshop, as repairers physically inspect vehicles in their workshop using advanced diagnostic and repair tools to identify and fix malfunctions. Against this backdrop, competition law rules are primarily aimed at safeguarding competitiveness in terms of an equal level playing field between independent service providers and authorised repairers, in terms of equal access to spare part supplies and diagnostic and repair tools. Digitalisation changes this paradigm.

Car maintenance in the digital era, however, starts within the vehicle thanks to remote communications achieved via diagnostic software embedded in cars. Competitiveness will thus be increasingly measured against the possibility of carrying out preventive maintenance, while having remote access to predictive information about the vehicle, before any problems occur and the vehicle has to be brought to the repair shop. Such a paradigm shift may have an impact on the conditions required to enable a fair and competitive vehicle service industry. In particular, competition agencies are likely to monitor car manufacturers' ability to act as gatekeeper for access to in-vehicle data, and to the incentives and ability to design telematic systems that provide timely access to such data along with the possibility of being in direct contact with the driver.

It will be interesting to see how competition rules in this area cross paths with the data protection rules set by the EU and national provisions, if and to the extent that the exchange and circulation of in-vehicle information underlies the exchange and circulation of personal information on vehicle drivers (such as drivers' habits or movements). Although the European Commission and the European Court of Justice have stressed on several occasions that issues concerning the processing of personal data are not, as such, a matter for competition law, nowadays it seems that these issues cannot be overlooked in the enforcement of antitrust rules. Personal data is becoming more and more of an asset and, as a result, privacy protection has become a central point of concern on the agenda of EU and national competition agencies.

At a national level, in most merger decisions, the Italian Competition Authority (ICA) has decided (without applying any EU or national rules, such as MVBER, specific to the motor vehicle industry) not to open an inquiry because of a lack of detrimental effects on competition. These decisions, which are apparently not likely to have relevance at an

enforcement level, are instead highly important in defining the relevant markets in the spare parts industry.

According to the ICA, each spare part is, in principle, intended for a separate product market, and each individual market identified as such can be divided between the spare parts that have been produced by car manufacturers (the original equipment suppliers) and those that are distributed in the market with brands different from those of the car manufacturers (whose producers constitute the independent aftermarket). With regard to the geographical extent of these markets, the ICA has recognised that they have a local dimension.

In antitrust cases, the ICA's concerns mainly focus on the exchange of sensitive information, especially through trade associations. In 2015, it sanctioned major players in the car seat foam market for engaging in illicit exchanges of commercial information (Case I776). However, in 2017 (Case I791), it determined that an exchange of information between automotive companies also active in long-term vehicle rentals did not infringe Article 101 TFEU, as it did not influence market conduct. In 2018 (Case I811), the ICA fined nine captive banks for exchanging sensitive information regarding economic and contractual terms in financing agreements. The parties appealed the 2018 decision before the Administrative Court of First Instance (TAR Lazio), which in 2020 annulled the decision due to the unreasonable duration of the preliminary phase, incorrect market definition, and lack of sufficient evidence of a single, complex cartel. In 2022, the Council of State upheld the TAR decision.

The fining decision has been followed by a collective damages action brought by an Italian consumer association before the Court of Milan which has been dismissed following the completion of the administrative proceedings.

More generally, as regards follow-on litigation, Italy has approved Legislative Decree No. 3/2017 that implements Directive 2014/104/EU on certain rules governing actions for damages under national law for infringements of the competition law provisions of the member states and of the EU. This Legislative Decree, adopted on the basis of the aforementioned Directive to introduce a common regulation for claims for damages caused by infringements of competition law throughout the EU, will probably encourage the implementation of private enforcement litigation in Italy.

Concerning the automotive industry's 'digital dimension', which is rapidly increasing its momentum in Italy as elsewhere in the world, on 27 April 2021 the ICA sanctioned a major global player in the digital economy for abuse of dominance by refusing a deal affecting the android auto environment for an app developed to provide end users with information and services for charging electric car batteries (Case A529). The decision was confirmed by TAR Lazio in July 2022. Subsequently, the ruling was appealed before the Council of State, which referred some interesting questions to the Court of Justice of the European Union relating to vehicle equipping digital operating system in case C-233/23 (the *Google Android Auto* case). In its judgment delivered on 25 February 2025, the CJEU held that a dominant digital platform's refusal to ensure interoperability with a third-party app can constitute an abuse of dominance under Article 102 TFEU, even if the platform is not indispensable for the app's commercial operation. The Court emphasised that such a refusal is abusive when the platform was developed to enable third-party use and the interoperability would make the app more attractive to consumers. However, the refusal can be justified if granting interoperability would compromise the platform's security or integrity, or if there are other

technical impossibilities. In the absence of such justifications, the dominant undertaking must develop the necessary interoperability template within a reasonable time frame and may charge an appropriate fee for this development. This landmark ruling clarifies the application of competition law to digital platforms in the automotive sector, highlighting the growing importance of ensuring interoperability to foster innovation and consumer choice.

Among the future trends of competition law enforcement in the automotive industry, sustainability is of key importance. The Guidelines on Horizontal Cooperation Agreements, adopted in July 2023, contain a specific chapter for sustainability agreements that witnesses the willingness by the EU institutions to pursue a sustainable growth based on, among others, the fight against climate change, the reduction of pollution and the limitation of the use of natural resources. Thus, the Commission intends to take into account positive and negative externalities on the environment when appreciating cooperation agreements between competing undertakings under article 101. Against this background, sustainability can be seen both as a sword and as a shield, as on one hand, undertakings may establish cooperation agreements to pursue sustainability per se, and on the other, sustainability can be referred to as a justification of anti-competitive agreements for the benefit of consumers under article 101(3). In the automotive industry, sustainability is a concern of paramount importance since vehicle manufacturers are engaged in a collective effort together with consumers and other stakeholders of the industry to reduce environmental pollution. Indeed, competition authorities design broad theories of harm where consequences on the environment fit in the assessment of the competitive structure of the market, as it was in the *AdBlue* case where vehicle manufacturers were fined for collusive conducts in the market for anti-polluting products, by way of restricting outputs and therefore indirectly contributing to more pollution.

In a 2018 report, the ICA criticised the regulations governing autonomous driving tests in Italy, arguing that the requirement to obtain authorisation from vehicle manufacturers restricted competition, disadvantaging independent developers. In 2022, the ICA also proposed measures to prevent market distortions in the development of electric vehicle charging infrastructure. Some of these proposals were adopted in the 2022 Annual Market and Competition Law, which mandates highway concessionaires to install high-powered charging points to ensure competitive waiting times for electric vehicle users. In a notable move to support electric mobility in Italy, Adiconsum (an Italian consumer advocacy organisation) and TariffEV (a real-time price comparison platform and app) have jointly launched the nation's first 'Osservatorio prezzi delle tariffe di ricarica della mobilità elettrica'. This new monthly price observatory aims to bring greater transparency, consumer awareness, and fair competition to the EV charging market on public land.

Furthermore, it is indicated that if the concessionaires themselves fail to provide an adequate number of charging points, they are required to activate a tender procedure aimed at selecting the operator, through competitive, transparent and non-discriminatory procedures, in compliance with the principle of rotation and on the basis of the technical characteristics of the proposed solution, commercial conditions that enhance the efficiency, quality and variety of services as well as contractual models suitable to ensure the competitiveness of the offer in terms of quality and availability of services. In 2025, the Italian government further incentivised the adoption of home charging infrastructure through the 'Bonus Colonnine' programme, which provides reimbursements for the purchase and installation of home charging stations. The application period for the 2024 funding cycle was open from 29 April to 27 May 2025.

In the context of abuse of dominant position, the ICA closed the A553 proceedings, accepting commitments by two operators of national highways in respect of lack of competition in the downstream market for electronic toll payments. Indeed, the dominant undertakings were deemed to have applied discriminatory conditions to operators other than the incumbent player. The commitments aim to impose fair and equal conditions for operations on the national highways to all service providers. Moreover in October 2023, the ICA initiated proceedings against ACI, ACI Sport SpA, and Club ACI Storico for alleged abuse of dominant position in the market for organising non-competitive automotive events (A570). ACI was accused of obstructing competing organisations in the organisation of recreational and amateur events by unduly extending its regulatory and coordination powers. However, the investigation concluded in 2024 without establishing any infringement, as the ICA did not find sufficient evidence to substantiate the alleged abuse of dominance.

Law Decree No. 104/2023 (the Asset Decree), as interpreted by the Council of State in its opinion of 29 January 2024, conferred broad market investigation powers to the ICA. The ICA has powers to identify 'structural risks' in the context of market investigations and to address them through the imposition of structural or behavioural remedies, ensuring fair competitive conditions in the market regardless of any competition law infringement by a specific undertaking. In particular, according to ICA's Communication of 7 May 2024 (Decision No. 31190), measures can be imposed when competitive concerns hindering the proper functioning of the market are 'significant and persistent'. Such powers could be far-reaching: the ICA may use them to investigate market failures, thus broadening the scope of its traditional intervention. This could have consequences in particular for the automotive industry, characterised by high barrier to entry and a low number of players. For this reason, the ICA launched a public consultation in March 2024 regarding adoption of a clear procedure regulating the use of such power.

Law stated - 16 May 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

Most disputes in the automotive industry in Italy relate to bodily harm, supply chain issues, disputes with dealers' networks (and connected aftersales repair and maintenance services), disputes with consumers over unfair advertising, violation of competition law, IP disputes and disputes over defective components.

Damages claims by consumers can be brought against:

- the manufacturer for product liability pursuant to article 114 of the Consumer Code or under the general provision on tortious liability (article 2043 of the Italian Civil Code); and
- the seller for hidden defects pursuant to article 1494, paragraph 2 of the Italian Civil Code.

Supply chain disputes are also common in Italy, but tend to be resolved via settlements (except when the dispute involves a bankrupt supplier). Under Italian law, interim injunctions are not industry-specific and are available only in summary or urgent proceedings, and only in urgent cases where there are prima facie strong grounds for the claim.

In relation to disputes over compensation claims arising from unfair practices, publicly available information reveals that very few class actions have been filed against motor vehicle manufacturers. For example, Altroconsumo started three class actions claiming damages ensuing unfair practices. Specifically, summoned companies were sued either for having installed the 'defeat device' or for their declarations on fuel consumption in relation to a particular version of one of their passenger cars.

These procedures tend to be initiated with the main aim of raising an issue and allowing parties to develop a constructive dialogue in the interest of both consumers and enterprises. Indeed, two of the three class actions initiated by Altroconsumo were settled in early 2021, whereas the third was settled in May 2024.

Covid-19 does not appear to have impacted the disputes arena in the automotive sector, except for the general slowing down of all procedures already in progress.

Law stated - 16 May 2025

Distressed suppliers

11 | What is the process for dealing with distressed suppliers in the automotive industry?

First, the general rules of Italian insolvency law also apply to the automotive sector, and no specific provisions exist that allow a different treatment for distressed suppliers in the industry.

The new Italian Insolvency Code entered into force in July 2022 (as a result of Legislative Decree No. 83 of 17 June 2022) to be complemented by further integrating provisions lastly enacted through Legislative Decree 136 of 13 September 2024 (so-called 'Correttivo-*ter*'). The new rules provide for measures aimed at preventing the insolvency of entities, such as suppliers, through certain early-warning tools (ie, internal reporting obligations by the statutory auditors of the company and external reporting obligations by qualified public entities such as social security agencies, tax agencies and tax collectors), in the presence of certain indicators of a distress situation.

The new rules also regulate 'negotiated settlement', whereby a voluntary, confidential and out-of-court settlement tool can be accessed through an online platform by any company experiencing financial or economic instability where distress or insolvency is likely, but where recovery is still feasible. Negotiated settlement is carried out under the supervision of an independent expert supporting the negotiations between the distressed entity and its creditors. When appointing the expert, the distressed entity may seek asset protection orders from the court. Negotiated settlement does not entail opening a proper restructuring process, and the distressed entity's directors continue to deal with the ordinary and extraordinary course of business (and may also make payments or seek super-priority loans upon court application), although management is to be carried out so as not to

jeopardise economic and financial business sustainability. Negotiated settlement may lead to implementing creditor arrangements; otherwise, the distressed entity may seek access to other restructuring tools as further discussed below.

In any event, caution should be adopted when dealing with a supplier showing clear signs of distress. Following the most recent reforms on creditor arrangements, an irreversibly distressed supplier will inevitably be declared bankrupt; however, if the degree of economic distress is not serious, typically a troubled supplier will try to avoid bankruptcy liquidation through the new negotiated settlement tool described above, or by seeking to be admitted to one of the creditor arrangement schemes regulated by the Italian Insolvency Code by either filing a motion for a composition with creditors or by presenting a debt restructuring agreement, both of which set aside any motion for bankruptcy liquidation filed by third-party creditors in the meantime, and entail a clawback exemption.

These creditor arrangement procedures lead to drafting reorganisation plans or restructuring agreements between the distressed supplier and its creditors to agree on a way to repay the debt – by liquidating the company's assets and assuring a higher satisfaction for creditors than in a bankruptcy liquidation scenario – and possibly continuing the business including all pending contractual relations with creditors and third parties (which will be allowed to terminate only for a valid cause), thus avoiding a bankruptcy liquidation scenario where pending contractual relations are suspended and resumed only on the bankruptcy receiver's election.

As opposed to bankruptcy liquidation, these restructuring tools can be activated only on the initiative of the distressed supplier, and only at a later stage will creditors be entitled to intervene and even propose concurrent reorganisation plans. If the legal requirements for the arrangement schemes are not met, the supplier may ultimately be declared bankrupt and placed into bankruptcy liquidation.

Aside from creditor arrangements, in the event of serious, irreversible distress, bankruptcy liquidation is the last resort to ensure debt recovery for creditors of an insolvent entity. A bankruptcy declaration is issued by the competent bankruptcy court on a motion that can be submitted by the distressed entity (including a supplier), or by any creditor or interested third party. The former management is divested of its powers and a court-appointed receiver will take control over the bankrupt entity with the aim of liquidating assets and maximising the outcome of the liquidation to assure the highest satisfaction for creditors, whose claims will be repaid proportionally based on their ranking.

Bankruptcy liquidation rarely assures adequate percentages of satisfaction, especially for unsecured creditors. Moreover, whenever a supplier is declared bankrupt, any pending contractual relations with creditors and third parties are automatically suspended, and will be resumed only if the receiver decides for their continuation – and obtains specific court leave – because they may prove useful for the recovery and liquidation process.

Another important aspect characterising bankruptcy liquidation is that receivers will typically try to maximise income for the bankrupt estate, and often do so by attempting clawback actions to reverse the effects of payments (or other asset disposals) performed by the distressed entity in the look-back period prior to the bankruptcy declaration (or prior to the creditor arrangement, if this was unsuccessful and led to bankruptcy). These actions are more likely to succeed if there is evidence of the payee's awareness of the debtor's distress when the payment was made. Another option sought by receivers to maximise

income for the bankruptcy estate is to sue the distressed company's former managers for company mismanagement.

The way the automotive industry deals with suppliers that face distress indicia is determined on a case-by-case basis, depending on the factual circumstances at hand. In any event, a cautious approach is advised, especially in relation to changing the existing contractual terms and conditions, by cautiously seeking authoritative approval in a creditor arrangement context, and by otherwise avoiding abrupt changes in dealer distress scenarios to avoid a significant risk of clawback in the event of bankruptcy liquidation.

Law stated - 16 May 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

A significant portion of intellectual property disputes in Italy involve business operators in the automotive industry, particularly in relation to spare parts covered by trademark or design rights. Italian courts have recently addressed cases on whether the overall shape of automotive products (eg, motorcycles or even engines) may be protected both as a registered or unregistered trademark and as a copyright work, under specific circumstances where the products in question can be regarded as design icons having both creative character and artistic value (such as the Piaggio Vespa or the Ferrari 250 GTO).

In this vein, the Court of Milan found that the unauthorised display of Ferrari cars in the advertising campaign of a clothing collection entailed a misuse of the well-known Ferrari trademark, giving rise to an illicit association with the Italian sports cars brand and an undue advantage for the fashion house producing the advertisement (Court of Milan, 3 June 2020, No. 3109, DeJure).

However, the threshold for recognising the artistic value of the overall shape of an automotive product has been set particularly high by Italian courts. In a recent proceeding, Jaguar Land Rover enforced its shape trademarks allegedly covering the old Defender vehicle design and its copyright-protected shape. The Court of Rome, rebutting the plaintiff's claims, declared the design of the well-known British off-road vehicle not protectable as a copyrighted work. In its reasoning, the court highlighted that the Defender shape lacks the artistic value required by the law (with creative character) to enjoy such protection. Indeed, Jaguar Land Rover failed to provide the court with any evidence proving the artistic recognition of the old shape of the British car. The court also excluded any likelihood of confusion between the defendant's product and the Defender's shape trademark (Court of Rome, 4 August 2021, Sprint).

In a recent decision, the Supreme Court stated that the same shape that is protectable with copyright because of its inherent artistic value cannot be covered by a 3D trademark (Supreme Court, 28 November 2023, No. 33100, OneLegale). In particular, the Court ruled that the 'artistic value', which makes the shape of a product protectable by copyright,

overlaps with the 'substantial value' absolute ground, which prevents the 3D trademark registration of the same shape.

Still, trademarks protecting shapes of iconic cars are subject to the general rules on trademark cancellation for non-use. Ferrari saw the revocation for non-use by the European Union Intellectual Property Office of the Ferrari GTO 250 EU shape mark (EUIPO, 29 May 2020, No. C 30 743). Some IP-related disputes have also occurred between car and toy manufacturers. The typical case regards the scale reproduction of iconic supercars by toy models. The outcome of those disputes is often uncertain and depends on the factual circumstances of the case. Recently, the Supreme Court ruled that the unauthorised use of the famous Ferrari logo as well as the reproduction of the iconic car bodies by toy models – manufactured and marketed by a third party – do not give rise to an infringement. In its reasoning, the Court explained that such use did not cause any prejudice to the distinctive character and reputation of the trademarks enforced by the Italian supercar manufacturer (Supreme Court, 3 November 2022, No. 32408, DeJure) and that the car body of the Ferrari model reproduced in scale could not enjoy copyright protection for lack of artistic value.

Patents and utility models are also at stake in many automotive disputes, concerning for instance braking systems, engine features or electronic functionalities of vehicles.

The number of patent disputes in this field is expected to escalate as a consequence of the upcoming innovations relating to self-driving and connected car technologies. In fact, an increasing number of patent applications concerning said technologies are being filed with the European Patent Office and further complexity may derive from circumstances where some of the resulting patents are standard essential patents.

Most provisions covering intellectual property rights in Italy are embodied in the Italian Intellectual Property Code and in the Copyright Act, as amended from time to time to implement international agreements and, most importantly, EU directives. EU regulations, such as those on the European Union trademark and on community designs, are directly enforceable in Italy and have a fundamental impact. For example, the new European Design Regulation (the Amending Regulation on Community designs No. 2024/2822) introduced the so-called 'repair clause', exempting from design protection 'must match' spare parts – ie, parts that are used to restore the original appearance of the product – used for the repair of complex products (such as spare parts for the automobile-repair sector).

Specialist courts dealing with intellectual and industrial property matters were established in Italy in 2003 and reformed in 2012, when they became subsections of the newly introduced commercial courts. The commercial courts are also European Union trademarks and community designs courts.

Generally, proceedings before the commercial courts follow the procedural rules of ordinary civil proceedings, including the possibility to institute preliminary proceedings before initiating a full-blown case on the merits, or in the context of a pending case on the merits. The Intellectual Property Code, however, provides for some specific evidentiary, precautionary and enforcement measures, also according to Directive 2004/48/EC on the enforcement of intellectual property rights and to Directive (EU) 2016/943 on the protection of trade secrets, as implemented in Italy by Legislative Decree No. 63 of 11 May 2018, which came into force on 22 June 2018.

Preliminary proceedings are a cost- and time-effective solution for IP right holders to tackle infringements. Indeed, a preliminary injunction may be obtained in around six months, whereas it takes no less than two to three years to obtain a first-instance decision on the merits.

Italian courts grant a preliminary injunction when the petitioner's claims appear prima facie grounded as regards both validity of the relevant IP rights and infringement thereof, and the claimant substantiates that he or she would suffer irreparable harm until the outcome of ordinary proceedings on the merits (urgency requirement or *periculum in mora*). In this regard, Italian courts usually find the urgency requirement to be met even if up to 10 months have passed from the moment when the right holder discovered the allegedly infringing activity. Other forms of preliminary relief available to IP right holders in Italy are seizure (to prevent disposal of the infringing goods) and, most importantly, preliminary search orders to secure evidence of the infringement, which is usually requested in the first place and granted with an ex parte order. A preliminary injunction is then granted at a second stage, following a discussion hearing, subject to the relevant requirements (prima facie case and urgency) and based on the evidence collected during the search. If the preliminary injunction is granted, additional measures such as penalties and publication of the decision are available and commonly ordered by Italian courts.

Most intellectual property disputes are resolved based on the outcome of preliminary proceedings, often by means of settlement agreements. If this is not the case, and some material damages are claimed by the right holder, ordinary proceedings on the merits follow their regular path up to a first-instance decision, which may then be appealed before the Court of Appeals and ultimately challenged before the Supreme Court on purely legal issues.

Over the past few years, the Supreme Court has affirmed the principle that patent infringement proceedings must be stayed, under certain circumstances, when invalidity proceedings concerning the same patent are pending and until a final judgment on validity is issued (Supreme Court, 4 April 2019, No. 9500, Sprint). This principle was followed by a recent decision of the Court of Genoa, still subject to Supreme Court review, in a case between two major players in the automotive sector concerning milling machines, even though the patent invalidity proceedings were initiated by the alleged infringer after the institution of the infringement proceedings.

According to the Italian Intellectual Property Code, damages are based primarily on the right holder's lost profits, taking into account all the relevant circumstances. Lost profits cannot be lower than the reasonable royalty corresponding either to the amount the right holder would have received if a normal licence agreement had been entered into or to a typical licence fee in the industry. In any event, the right holder may claim the disgorgement of the infringer's profits, when the amount is higher than the compensatory damages that would be awarded or as an alternative to the right holder's lost profits.

The court may appoint a technical expert to assess damages. Where an analysis of the defendant's business is necessary, the court may issue a search order or may order the disclosure of the defendant's accounting records.

Alternative dispute resolution methods such as mediation and assisted negotiations are available and increasingly used in Italy, although they are not mandatory in intellectual property disputes.

Law stated - 16 May 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

The automotive sector is historically characterised by a high level of unionisation.

In recent years, due to the fluctuating profitability of the sector, automotive companies operating in Italy have been suffering from a crisis that has led to the reduction of their workforce and the significant use of welfare measures to cushion periods of reduced demand.

The crisis has been caused, on the one hand, by the covid-19 emergency, which caused a huge drop in market demand, compounded by the lack of chips and the crisis of raw materials and energy. On the other hand, the ongoing ecological transition to electric cars determines a strong reduction of component production and, consequently, of jobs. All this has led – and will likely continue to lead – many companies in the automotive sector (including those operating side businesses) to implement additional furlough programmes and to interrupt their economic operations in Italy.

In this context, over the last years, the government and the representatives of the main Italian companies in the automotive sector, sometimes also together with the trade unions, have started to periodically hold roundtables aimed at discussing the problems affecting the sector and studying measures to mitigate the effects of the ecological transition on companies and their employees. During the last roundtable of 11 March 2025, the Italian Ministry of the Industry sector referred that Italy has proposed the implementation of a continental incentive plan for the purchase of environmentally sustainable vehicles to the EU. He also underlined that over €2.5 billion over the 3-year period 2025–2027 have been allocated to support the supply chain and the components sector.

The employees' and employers' trade unions are currently negotiating the renewal of the National Collective Labour Agreement of the manufacturing sector (CCNL) currently in force, with the aim of safeguarding the sector's employees' rights. The main topics of discussion are:

- salaries;
- working hours reduction; and
- improvements in H&S regulation;

The negotiations for the renewal are proceeding slowly and, as a response, the main trade unions of the sectors called for several strikes.

Law stated - 16 May 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

To achieve the goal of climate neutrality by 2050, the EU is taking measures to reduce vehicle emissions, as road transport accounts for three-quarters of the EU's greenhouse gas emissions. In June 2022, the European Parliament approved the Commission's proposal for new zero-emission cars and vans by 2035. Gasoline- or diesel-powered vehicles are to be replaced with zero-emission alternatives, such as electric cars. In April 2023, the European Parliament and the Council amended Regulation (EU) 2019/631 by means of Regulation (EU) 2023/851, to strengthen the carbon dioxide emission performance targets applying from 2030 and set a 100 per cent emission reduction target for new cars and vans from 2035 onwards. The automotive revolution envisaged by the European Union marks a decisive step towards achieving zero emissions across the continent. Also, a proposal of regulation is being discussed at the European level, aiming at amending Regulation (EU) 2019/631, including additional flexibility with respect to the calculation of manufacturers' compliance with CO2 emission performance standards for new passenger cars and new light commercial vehicles between 2025 and 2027.

As a matter of fact, from a mobility standpoint, one of the main concerns in Italy is the necessity to implement all relevant measures to achieve a technological neutrality aimed at reducing emissions. To boost the sales of electric, hybrid and low carbon dioxide emission vehicles, the Italian lawmaker introduced some economic subsidies, regulated for 2022 and following years by the Decree of the President of the Council of Ministers (DPCM) of 6 April 2022, as amended by Decree of 31 December 2024. With the latter, the government has revised the budget and incentives for the purchase of low-emission vehicles and has also allocated part of the resources to support incentives aimed at promoting the green transition, as well as research and investments in the automotive supply chain.

Despite the increase in sales seen in recent years, electrically chargeable cars (battery electric and plug-in hybrid) still made up only 3.9 per cent of the total EU car fleet. Overall, in 2024, the European hybrid market (specifically, hybrid electric vehicles) accounted for a 30.9 per cent market share of car sales, while battery electric vehicles (BEVs) accounted for 13.6 per cent. Battery electric cars established themselves as the third most popular choice for buyers in 2024. In turn, the EU petrol car maintained a 33.3 per cent market share throughout 2024. By contrast, the diesel car market continued its downward trajectory, declining to a 11.9 per cent market share.

According to the Italian Competition Authority (ICA), the development of electric infrastructure for recharging motor vehicles as envisaged by the EU and Italian regulatory framework represents an important step towards sustainable mobility. ICA considers the development of the electric mobility sector in accordance with competitive dynamics to be highly desirable for the benefit of consumers and the entire economic system and society. In this respect, legislative measures have been adopted to, on the one hand, simplify procedures and provide incentives for the installation of recharging infrastructures, and, on the other hand, to require the Italian Regulatory Authority for Energy, Networks and

Environment to regulate the price of energy distributed through recharging infrastructures. Furthermore, the National Recovery and Resilience Plan 2021–2026 is set to invest heavily in green mobility infrastructures for a total of approximately €741.3 billion. In March 2024, Ministerial Decrees were issued by the Ministry of Environment and Energetic Security to define criteria and procedures for benefits for the construction in urban centres of at least 13,755 fast charging infrastructures for electric vehicles and at least 7,500 in rural roads.

Previous Directive No. 2014/94/EU was repealed by Regulation (EU) 2023/1804, which imposes mandatory targets on member states for the establishment of sufficient alternative fuels infrastructure in the Union for road vehicles, trains, ships and parked aircraft. Regulation (EU) 2023/1804 aims at harmonising certain provisions, including the information to be provided to users and the payment methods applicable to alternative fuels infrastructure.

On 14 July 2022, article 34-bis was added to the Convention of Vienna, introducing the concept of automatic driving and removing obstacles to assistance systems that allow the driver to let go of the steering wheel under certain conditions (starting with Level 3 advanced driver-assistance systems). Still, the driver remains responsible for his or her car and must intervene if it has malfunctions or electrical problems. The Convention states that automated driving will only be able to move out of its current experimental or otherwise limited status if it is transposed into national laws. But many states, including Italy, have not yet legislated.

Having achieved great technological results, the main concern appears now to be of a legal and social nature. Principally, there is general concern and resistance among the public because of safety issues (relating both to system defaults and possible hacker attacks).

From a legal standpoint, concerns have arisen over potential liability for defects, especially since cars will remain under the control of owners who may not diligently carry out all the relevant maintenance checks.

The first steps towards legal innovation have already been introduced by Directive No. 2010/40/EU, as amended by Directive (EU) 2023/2661, for the establishment of a framework for the deployment of intelligent transport systems (ITS) in the field of road transport and for interfaces with other modes of transport.

In addition, the Ministry of Infrastructure and Transport has passed the Smart Roads Decree with the aim of closing the gap between Italy and other EU countries, as well as the United States, where driverless car field testing programmes have been under way since 2010. According to the Smart Roads Decree, the Ministry of Infrastructure and Transport can authorise driverless car field testing on specific stretches of roads, subject to specific requirements and surveillance, aimed at ensuring that the testing programmes are carried out in conditions of utmost safety. Request for ministerial authorisation is available to various entities, including university research institutes, private and public research organisations, manufacturers of vehicles equipped with automated driving technologies and so on. In May 2020, the Ministry of Infrastructure and Transport signed a memorandum of understanding with the Ministry of Technological Innovation and Digital Transition to further support research, experimentation, definition of prototypes and identification and training of new professionals in the field of innovative self-guided and connected vehicles and means of transport. Lastly, in September 2020, the Observatory for Smart Roads and Connected Vehicles and Self-Driving Vehicles, created under article 20 of the Smart

Roads Decree, published its first report on the activities carried out and the state-of-the-art initiatives identified in the national territory in the field of smart roads and connected and self-driving vehicles, proposing some amendments to the Smart Roads Decree to further promote innovation.

The Italian legislator has, for the past few years, been working to provide ground rules on the shared use of private vehicles in the form of either car sharing or carpooling. The aim is twofold: to foster sharing economy activities carried out by non-professional individuals through third-party platforms, to ultimately reduce the number of vehicles circulating in the cities and their economic and environmental impact; and to provide national rules offering a secure legal base for commercial businesses to operate, in contrast with the current panorama where commercial car-sharing activities offered by professional businesses via mobile applications are regulated at local level – mainly via public calls of interests published by the competent municipalities looking to share mobility services. In particular, in 2024, company carpooling in Italy generated significant environmental and economic benefits. As reported by the National Observatory on Corporate Carpooling ('Osservatorio Nazionale sul Carpooling Aziendale'), the number of carpooling trips increased by 71.6 per cent, reaching a total of 641,390 trips in the year.

As a side note, under article 1-ter of Decree-Law No. 121 of 10 September 2021, effective from 30 September 2022, e-scooters must be marketed with turn and brake light indicators on both wheels and those already in circulation must be adapted by 1 January 2024. In addition, e-scooters may not exceed the speed limit of 6km per hour when riding in pedestrian areas and 20km per hour in all other circumstances. To this end, all e-scooters must be equipped with a speed regulator configurable according to said speed limits. Also, Law 177 of 25 November 2024 introduced the obligation to register e-scooters and obtain third-party liability insurance, as well as the requirement for all drivers – not only minors – to wear a protective helmet.

Law stated - 16 May 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

Hot topics for prospective regulation and legislation at either EU or local level include:

- Directive (EU) 2019/1936 amending Directive 2008/96/EC on road infrastructure safety management, to be implemented by all EU member states by the end of December 2021. The Directive aims at the establishment and implementation of procedures relating to road safety impact assessments, road safety audits, road safety inspections and network-wide road safety assessments by member states. The deadline for its national transposition was 17 December 2021. Italy transposed the Directive by means of Legislative Decree No. 213/2021, containing provisions for the establishment and implementation of procedures for road safety impact assessments, applying to roads that are part of the trans-European road network,

freeways and main roads (whether they are planned, under construction or already open to traffic), and other roads and road infrastructure projects that are located in suburban areas, which do not serve public or private areas bordering them and have received funding from resources allocated by the EU, with the exception of roads that are not open to the general automobile traffic, such as bicycle paths, or roads not intended for general traffic such as access roads to industrial, agricultural or forestry sites.

- Regulation (EU) 2019/2144 amending Regulation (EU) 2018/858 on the general safety of vehicles and the protection of vulnerable road users. The Regulation aims at significantly reducing deaths and serious injuries on EU roads by introducing state-of-the-art safety technologies as standard vehicle equipment, and to enhance the competitiveness of EU car manufacturers on the global market by providing the first-ever EU legal framework for automated and fully automated vehicles. It entered into force in September 2020 and is applicable from 6 July 2022.
- Regulation (EU) 2024/1610 amending Regulation (EU) 2019/1242, aiming at strengthening the CO2 emission performance standards for new heavy-duty vehicles and integrating reporting obligations, amending Regulation (EU) 2018/858.
- On 9 March 2021, the European Data Protection Board adopted its guidelines on processing personal data in the context of connected vehicles and mobility-related applications. It has factored in the feedback received from several stakeholders during the public consultation period and addressed, from a data protection standpoint, the evolution of cars from an expression of freedom and autonomy to another 'controlled' environment.
- The European Battery Alliance, launched in 2017 by the EU Commission, continues to grow. To date, 440 industrial and innovation actors have joined the alliance, which aims to develop an innovative, competitive and sustainable battery value chain in Europe. As stated in the report on progress on competitiveness of clean energy technologies published by the EU Commission in November 2022, batteries will play a crucial role in achieving European objectives, in particular considering that the EU is gradually moving towards zero-emission new cars by 2035, in line with the objective of building a fleet of 270 million zero-emission (mostly electric) vehicles across the European Union by 2050.
- In January 2024 Regulation (EU) 2023/2854, also known as the Data Act, entered into force. The Data Act includes measures for a fair and innovative data economy. More specifically, these rules specify who can use and access data generated in the EU across all economic sectors. The Data Act includes, among other things, measures to allow users of connected devices to gain access to data generated by them, which is often exclusively harvested by manufacturers, and to share such data with third parties to provide aftermarket or other data-driven innovative services. The Data Act may impact a variety of services, including information collected in machinery and connected devices such as cars.
- Regulation (EU) 2019/631 was amended by means of Regulation (EU) 2023/851 to strengthen the carbon dioxide emission performance targets applying from 2030 and set a 100 per cent emission reduction target for both cars and vans from 2035 onwards.
-

In May 2023, the European Commission published a concept paper on a European software-defined vehicle platform, addressing the critical challenge of software for the EU's automotive industry and the value of open European collaboration. In this context, the European Commission has implemented the 'Vehicle of the Future' initiative, aiming at improving the EU's competitiveness and leadership across the automotive value chain.

- In Italy, Legislative Decree No. 17/2022 provides for specific measures for the automotive sector with the aim of promoting conversion, research and development. In particular, the main goals are green transition and investments in the rapidly changing automotive sector with the development of innovative and sustainable manufacturing techniques. Indeed, in line with the European aims to reduce emissions, promote recovery and recycling of materials and foster the purchase of clean vehicles, the Italian government, as of January 2022, has allocated a fund of €150 million to support dealers operating in the automotive sector that have been impacted by the covid-19 pandemic, including by postponing the term to use the bonus to replace old engines with electric ones in cars.
- The Ministry of Infrastructure and Transport has developed the Road Mobility Strategy for the period 2022–2026, with the dual objective of providing smart mobility services and enabling the operator to take infrastructure surveillance and monitoring measures and to increase the safety of the network by adopting a predictive maintenance approach. Such innovation, accompanied by the increasing implementation of artificial intelligence in cars, will only be achieved through infrastructure capable of communicating with the vehicle and the user through specific devices. As a result, roads and highways will be transformed into smart roads, that is, infrastructure equipped with technologies enabling the development of smart mobility and prepared for future scenarios involving autonomous vehicles.
- Law Decree No. 69/2023 amended the Italian Highway Code, allowing regions and the autonomous provinces of Trento and Bolzano to establish reductions in traffic speed on highways and main suburban roads aimed at reducing transport-related pollutant emissions.
- Legislative Decree No. 147/2024 implementing Directive (EU) 2023/958 on the contribution of the aviation sector to the emission reduction target, as well as Directive (EU) 2023/959 and Decision (EU) 2015/1814, relating to the system for greenhouse gas emission allowance trading.
- Ministerial Decrees were issued in March 2024 by the Ministry of Environment and Energetic Security to define criteria and procedures for benefits for the construction in urban centres of at least 13,755 fast charging infrastructures for electric vehicles and at least 7,500 in rural roads.
- The Ministry of Environment and Energetic Security has announced the launch of the National Unified Platform for publicly accessible charging points, allowing users to locate charging infrastructure across Italy.
- Regulation (EU) 2024/1689 (AI Act) sets out specific requirements for artificial intelligence systems and general-purpose artificial intelligence models, which must be considered in the context of autonomous vehicles employing artificial intelligence-based solutions.

**The authors would like to thank Francesca Angeloni, Emanuela Cocco, Chiara Vallone, Luigi Mansani, Andrea Schettino, Eugenia Gambarara, Roberto Isibor, Simona Loro, Anna Albanese, Vittorio Moresco, Giada Cagnes, Alessandra Chironi, Serena Pietrosanti, Maria Cristina Conte, Mariateresa Soave Carparelli, Francesco Stella, Martina Di Nicola, Marina Massaro, Filippo Andrea Chiaves, Enrica Ferrero and Niccolò Sciortino for their support in writing this chapter*.

Law stated - 16 May 2025

Marco Berliri marco.berliri@hoganlovells.com
Francesca Rolla francesca.rolla@hoganlovells.com
Christian Di Mauro christian.dimauro@hoganlovells.com
Paola La Gumina Paola.LaGumina@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

Japan

Jacky Scanlan-Dyas, **Wataru Kamoto**, **Yasuyuki Shirabe**
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

The automotive industry is one of the most important sectors in Japan. Japanese automotive manufacturers have been increasing localisation of their production, and the country manufactured approximately 9 million passenger vehicles and exported over 4.4 million in 2023. Japan also produced over 682,000 motorcycles, and 518,000 motorcycles were exported in the same period. The production of automotives amounted to over ¥25.6 trillion in 2023. The OEMs complement the complex ecosystem of parts suppliers. In fiscal year 2022, OEMs and parts suppliers employed approximately 867,000 persons across Japan, and the workforce employed in the automobile-related sectors, including sales, transportation, service and maintenance, and electronics or other manufacturing industries, amounted to approximately 5.54 million persons, which is equal to 8.2 per cent of the country's working population. The automotive industry in Japan is supported by ¥3.6 trillion of research and development investment (financial year 2021) and ¥1.4 trillion of capital investment (financial year 2021).

Japan is the fourth-largest automotive market in the world, ranking behind China, the United States and India, respectively. In 2023, approximately 4.8 million vehicles were sold in the country, of which 4 million were passenger vehicles and 786,000 were buses and light or heavy trucks. Approximately 28 per cent of the passenger vehicles were Japanese 'kei'-standard light vehicles (vehicles designed with limited size and equipped with an engine no larger than 660 cubic centimetres). Japan imported approximately 310,000 vehicles from non-Japanese manufacturers in 2023. The number of registered passenger vehicles at the end of 2023 was over 78 million, and 77.6 per cent of Japanese households have at least one vehicle.

In 2024, Japanese consumers purchased 33,967 electric vehicles (EVs). However, 2024 EV sales, excluding light vehicles, decreased by 15.8 per cent from 2023. Despite the decline, 2023 marked the fourth consecutive year of growth for Japan's robust vehicle market. In May 2024, Japan's Ministry of Economy, Trade and Industry and the Ministry of Land, Infrastructure, Transport and Tourism, jointly announced their strategy to integrate software-defined vehicles (SDVs) to strengthen Japan's stake in global automotive innovation. The 'Mobility DX Strategy' focuses on diversified SDVs while adopting a wide range of power trains, functions and prices, to accommodate multiple markets and consumers. Specifically, the strategy highlights three key competitive areas: SDVs, mobility services and data utilisation. The government entities aim to achieve growth in the areas by employing public-private sector partnerships and cross-industry coordination. Additionally, the strategy sets an ambitious target of achieving 30 per cent of Japanese automotive manufacturers' global SDV sales in 2030 and 2035 at the latest.

Law stated - 12 May 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

Automotive regulation is generally governed by the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) and its related governmental entities such as the National Agency for Automobile and Land Transport Technology (NALTEC). Every automobile in Japan is required to comply with extensive safety and environmental standards, including the Safety Standards for Road Transport Vehicles (Ministry of Transport Ordinance (Ordinance No. 67 of 1952, as amended)) (the Safety Standards), and must also pass an inspection and be registered before being operated on public roads under the Road Transport Vehicle Act (Act No. 185 of 1951, as amended) (RTVA).

Type approval

Mass production automobiles need type approval before being launched onto the market to confirm that the vehicles meet specified performance standards. Filings for type approval are reviewed from a compliance perspective with the Safety Standards and quality control measures. Vehicle manufacturers are required to file for type approval pursuant to the RTVA, the Vehicle Type Approval Regulations (Ministry of Transport Ordinance (Ordinance No. 85 of 1951)) and the Automobile Type Approval Handbook for Japanese Certification by applying for testing at NALTEC, this being the agency that handles vehicle certification and homologation matters under MLIT.

The relevant framework for type approval of vehicles in Japan is as follows.

- Type approval system (TAS): this is the standard type approval regime for most passenger vehicles, which includes inspections of sample vehicles and quality control systems to ensure uniform quality of the models. Vehicle manufacturers are required to have their vehicles inspected by qualified staff members before leaving the factory pursuant to the Automobile Type Approval Handbook for Japanese Certification (Notification No. 1252 of 1998 of the Road Transport Bureau Type Approval and Recall Division of MLIT). For imported cars, NALTEC dispatches its staff overseas to conduct sample inspections and examine data produced by overseas test institutions. Type approval will be granted generally within two months of applying. The manufacturer of type approved vehicles is required to ensure the quality of the vehicles and issue a completion inspection certificate upon the transfer of the vehicles. Owners of type approved vehicles are allowed to register their vehicle with the local MLIT Transport Branch Office by submitting the completion inspection certificate issued by the vehicle manufacturer and some simple paperwork.
- Preferential handling procedure for imported motor vehicles (PHP): this is a simplified system to promote the sales of imported cars applied to models imported in quantities of 5,000 or fewer per year. The procedure consists of the submission of documents and presentation of the actual vehicle to NALTEC. The data and specifications submitted to the authority of other jurisdictions where the original type approval was granted can generally be used for the PHP application, but

an emissions test must be implemented anew under the Japanese standards. No sample inspection is required but one in 50 vehicles is tested for emissions.

On 11 November 2020, MLIT announced that it had approved type approval for a vehicle produced by one of the Japanese vehicle manufacturers, being the world's first production car equipped with Level 3 automated driving technology.

Vehicles that are not type approved can also be registered and operated on public roads, which is the case for parallel import vehicles and heavily customised vehicles produced in a small number. The owner is required to have the vehicle inspected to confirm compliance with the Safety Standards.

TAS incidents from 2017

Pre-shipping inspection under TAS must be conducted by the manufacturer's internally qualified inspection staff by passing certain internal screenings and identified to MLIT in advance. In September 2017, an on-site investigation by MLIT discovered that a vehicle manufacturer's pre-shipping inspection certificates for completed vehicles had been signed by non-qualified staff. The vehicle manufacturer voluntarily stopped shipment of its products for two weeks. After MLIT requested that other car manufacturers check their operations, an additional vehicle manufacturer was also found to have had the same non-compliance issues. During investigations, it was discovered that both vehicle manufacturers had not been complying with TAS (which requires inspection by qualified inspectors) for more than 30 years. Following the investigation, in November 2017, MLIT established a commission to review the current TAS inspection regime. In April 2019, a third vehicle manufacturer was also found to have the same non-compliance issue that had continued for years. This series of incidents resulted in bitter criticism of vehicle manufacturers by the market and cost billions of Japanese yen to conduct recalls to redo completion inspections. However, some experts pointed out that this TAS requirement is an outdated formality, and there is no equivalent inspection requirement for vehicles manufactured for export. As such, Type Approval Regulations for vehicles were amended and promulgated on 30 June 2019.

Mutual recognition

The UNECE World Forum for Harmonization of Vehicle Regulations (WP.29) held in November 2017 adopted the International Whole Vehicle Type Approval (IWVTA) together with UN Regulation No. 0 (UNR0), which came into effect in 2018. Under the IWVTA, countries that ratify UNR0, including Japan and European countries, will reciprocally accept vehicle inspection certificates enabling effective and speedy vehicle approval as well as the promotion of higher safety and environment standards. MLIT has announced that it will take the lead in furtherance of UNR0 to developing countries in Asia.

Registration and periodic inspection

Under the RTVA, vehicles are required to be registered before operating on public roads. The registration procedure is handled by the local MLIT Transport Branch Office where a licence number plate is issued. As a prerequisite for registration, vehicles need to comply with the Safety Standards. With regard to TAS-approved vehicles, owners who intend to

register their vehicle are not required to conduct an inspection of each vehicle by presenting the vehicle at the registration centre. On the other hand, the PHP process requires the presentation of each actual vehicle as part of the registration process, although inspections for these types of approved vehicles are more simplified than those without type approval. Automobiles without type approval (eg, those that are produced in very small quantities or imported by individual users) may also be registered and placed on public roads, but need to go through a full-scale inspection in advance. To register, the owner of a vehicle is also required to certify at a local police station that an appropriate parking area is secured for the vehicle. Any change in the registration details, such as the transfer of ownership, should be registered within 15 days. Three years from the first registration, vehicles need to be re-inspected at a designated service centre (and every two years thereafter) to ensure compliance with Safety Standards; this is commonly referred to as 'shaken'.

Insurance

Every driver is required to participate in the liability insurance scheme under the Automobile Liability Security Act (Act No. 97 of 1955, as amended), which automatically pays a specified amount to the victim of a traffic accident without identifying the person at fault or apportioning negligence between the parties involved. This is commonly referred to as compulsory vehicle insurance and provides minimal basic coverage with a cap of ¥1.2 million for injuries, ¥750,000 to ¥40 million for permanent disability, and up to ¥30 million for death. It does not provide any compensation for damage to vehicles or other property. Thus, approximately 90 per cent of drivers also take out additional insurance, and the annual net premium in the auto insurance sector amounts to approximately ¥4 trillion.

Type approval of automobile parts

Automobile parts manufacturers are also entitled to take advantage of the separate automobile parts type approval regime pursuant to the RTVA and the Type Approval Regulations for Devices (No. 66 of 1998). Once the model for a part is approved by NALTEC, the manufacturer is not required to undertake further inspections of the part regardless of the vehicle model into which the part is incorporated. Japan is also a party to UN-sponsored Agreement concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval for Motor Vehicle Equipment and Parts, signed at Geneva on 20 March 1958, and the Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts Which Can Be Fitted and/or Be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of These Prescriptions, dated 5 October 1995. Japanese regulators have increasingly been promoting the harmonised standard and reciprocal recognition of designations, and, as at January 2025, Japan has adopted 107 categories of rules out of 174, including categories regarding brakes, safety belts and tyres.

Law stated - 12 May 2025

Development, manufacture and supply

How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

The development, manufacturing and supply of automobiles and auto parts involve close and long-term relationships between vehicle manufacturers and suppliers. Such long-term relationships usually consist of a master agreement covering terms and conditions common to the entire transaction between the parties, and a relatively simple individual agreement or purchase order form is used to conclude each individual transaction. Vehicle manufacturers usually enter into supply agreements with auto parts manufacturers or other suppliers with respect to manufacturing. Supply agreements are also governed by regulations to protect 'weak' suppliers from unfair trade practices by 'strong' vehicle manufacturers and high-tier suppliers (the Act against Delay in Payment of Subcontract Proceeds, Etc to Subcontractors (Act No. 120 of 1956, as amended)). Some generic parts and maintenance parts are handled not only by suppliers but also by Japanese trading houses, companies specialised in import, export, distribution and marketing of goods.

Traditionally, Japanese vehicle manufacturers have formed strong alliances with parts suppliers, acting in close and exclusive cooperation with regard to the supply of parts and semi-processed components as well as research and development. Such business networks are hierarchical structures with the vehicle manufacturers at the top and several layers of suppliers broken down into Tier 1, Tier 2 and Tier 3 suppliers, securing a stable supply of high-quality components optimised to the vehicle manufacturer's end product. Some of these companies often have equity relationships, however, contractual relationships are more common and so are de facto continuous transactions without any specific written agreements. That being said, car manufacturers are increasingly procuring parts from a more diverse range of suppliers because of competition in the global market, complex supply chains and the development of common architecture and modularisation. Therefore, the traditional business-network structure is said to be gradually dissolving. While this means that new suppliers participating in the market will have more business opportunities, contracts with new suppliers that do not have a history of previous transactions will need closer review. Also, in this context, some vehicle manufacturers and high-tier suppliers are insourcing their supply by means of acquisitions of other suppliers and emerging high-tech companies, resulting in increasing M&A demands.

Law stated - 12 May 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

Vehicles are usually distributed through distributors' dealerships, some of which are subsidiaries of the vehicle manufacturer's group, and others are independent local companies. One dealership, sometimes that of an independent local company, usually handles vehicles from only one vehicle manufacturer and does not mix vehicles from several manufacturers in its product line-up. Generally, distributors purchase vehicles from the vehicle manufacturer and sell them to customers pursuant to the standard

terms instructed by the vehicle manufacturer. Vehicle manufacturers provide extensive instructions regarding the service quality, promotions and incentives, and the use of trademarks and signages. Often, vehicles are distributed on a built-to-order basis and are manufactured with customised options in the customer's purchase order, instead of being sold from the stock stored at the dealership. Imported vehicles are generally sold from the dealer's stock.

A vehicle importer that has obtained type approval is identified as the vehicle manufacturer in Japan and the party responsible in the event of a recall. Many dealerships provide financial arrangements for customers such as auto loans and leases (with or without a buy-back option), and vehicle manufacturers usually have their own financing company and contract with credit companies to facilitate such financing arrangements. This area is heavily regulated by the Money Lending Business Act (Act No. 32 of 1983, as amended) and the Instalment Sales Act (Act No. 159 of 1961, as amended).

Contracts with distributors are governed by the Civil Code Act (Act No. 89 of 1896, as amended) (the Civil Code). As the automotive industry is brand orientated and each vehicle manufacturer is keen to control the vertical channels for its automobiles, close attention is paid to dealership-related competition issues such as dealership zoning, restrictions on methods of sale and selective distribution. For example, abuse of dominant bargaining power such as the exercise of excessive control or undue influence is prohibited under the Act on Prohibition of Private Monopolisation and Maintenance of Fair Trade (Act No. 54 of 1947, as amended) and the Guidelines Concerning Distribution Systems and Business Practices (Japan Fair Trade Commission, 11 July 1991, as amended). Since vehicles must be inspected every two years, many dealers provide qualified vehicle mechanic services to enhance customer loyalty and market new cars. Vehicle maintenance services require certain physical facilities and qualified staff, as well as regulatory certifications by a local MLIT Transport Branch Office. Trading in second-hand vehicles requires a second-hand dealer licence.

Restructuring of dealerships can be achieved through the termination, amendment, transfer or assignment of the dealer contract. Under the general principles of the Civil Code, when termination of a dealer agreement is disputed, the court generally tends to favour the continuation of the existing agreement, to provide support for the 'weak' distributor against the 'strong' vehicle manufacturer. If the contractual relationship between a vehicle manufacturer and a dealer has continued for a protracted period, it may be difficult for the vehicle manufacturer to terminate the contract easily, even if there is a right to terminate in the contract. In other words, the Japanese courts sometimes do not interpret the contract at face value, but may require the terminating party to have a justifiable reason for wanting to terminate the contract. There are judicial precedents, including where a contractor (dealer) of a vehicle importer challenged the validity of the termination of the dealer contract by the importer owing to a poor sales record and the dealer's non-compliance with the importer's business strategy. To minimise this risk, manufacturers may prefer to enter into fixed-term contractual arrangements with dealers without automatic renewal, and instead review the relationship annually. Even where a unilateral termination right exists, a car manufacturer may still attempt to have the dealer agree to voluntarily terminate the contract to minimise the risk of future disputes.

Other key concerns specific to these kinds of transactions include competition issues, provision of maintenance services, warranties, auto loans and lien arrangements with

customers. Although there are no special requirements in the restructuring of dealerships in the automotive industry as compared to other industries, restructuring is always a tough challenge owing to the above-mentioned principle of protecting long-term relationships and the significant impact on both the distributor and the vehicle manufacturer. For example, in November 2018, a vehicle manufacturer, in the course of a major restructuring of its dealer network, announced a sweeping sales channel reform that involved a merger of dealers in Tokyo directly owned by the vehicle manufacturer in April 2019. The vehicle manufacturer had approximately 280 partner distributors with 5,000 stores across Japan, which were classified into four channels selling different combinations of branded vehicles. Many of these partner distributors were local businesses with no equity relationship with the vehicle manufacturer's group. The vehicle manufacturer announced that it will integrate these four channels and reduce its product line-up from 40 to approximately 30 models effective from 2022 to 2025. In February 2019, another vehicle manufacturer announced a merger of its two wholly-owned affiliated distributors, and in November 2020, two vehicle manufacturers announced their plans to integrate four affiliated parts suppliers, with the transaction completing in January 2021.

There are several examples of technology and Internet-based platforms changing distribution processes. Currently, there are online car distribution platforms and smartphone applications for used car sales by dealers working with local government entities.

Law stated - 12 May 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

There are generally no particularities in terms of M&A or joint venture transactions for the automotive industry. However, given the complex and highly regulated nature of the industry, key features in terms of due diligence and drafting of relevant agreements include regulatory compliance, employment, competition and intellectual property issues.

Regulatory compliance is a key concern in M&A and joint venture transactions in the automotive industry today. After a series of non-compliance incidents in recent years, the Japanese regulator is keen to ensure compliance by exercising its supervising authority, given that brand and market reputation are the most vulnerable assets even for well-established companies with decades of tradition.

Although the rate of employees who are unionised has been drastically decreasing in the past decade, the traditional-style labour unions still have a certain level of presence in the automotive industry. Under the labour-management harmonising style in Japan, although strikes and aggressive negotiations are rare, in some companies, the cooperation of the union is indispensable for the smooth closing of an M&A deal and the subsequent post-merger integration.

Competition issues are also important. Under the Japanese merger control regulation, the M&A of companies exceeding certain thresholds require prior filing with the Japan Fair

Trade Commission and may not be closed within a 30-day waiting period, which can be shortened upon request from the parties.

A notable recent trend is M&A involving companies outside of the traditional automotive industry, such as carbon fibre, image sensor, laser radar, next-generation battery and automated drive technologies. This trend is supported by the dissolution of the traditional business-network regime and divergence in the automotive industry itself.

Law stated - 12 May 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

There are no special incentives for investment in the automotive market. Government branches, including the Small and Medium Enterprise Agency, have been providing financial aid to ventures and small-scale enterprises with innovative business models, while some municipalities offer financial aid and tax reductions through by-laws to attract investment in factories and regional business hubs. These benefits are also applicable to the automotive industry.

The Ministry of Economy, Trade and Industry (METI), through the Next Generation Vehicle Promotion Centre, provides financial aid for the purchase of plug-in hybrid vehicles (HVs), electric vehicles (EVs) and fuel-cell vehicles (FCVs), depending on the energy efficiency of the vehicle as well as the investment in EV charging facilities and hydrogen stations for FCV, and some municipalities have similar arrangements. As a result, for example, FCVs can receive a governmental incentive of over ¥3.4 million (¥2.3 million from METI and ¥1.1 million from the Tokyo Metropolitan government).

The safety and environmental standards are increasingly conforming to those of other jurisdictions. However, the type approval process and regulations on environment and safety standards are prepared only in Japanese, and the procedures are quite complicated, which may represent short-term practical barriers to entering the market. Also, there are established common market practices and standards. Thus, it is advisable for new market participants to consult appropriate experts.

The traditional manufacturing and distribution sectors have many powerful incumbent players in Japan. Therefore, the impact of new entrants is unlikely to be significant. However, at the dawn of new technologies such as autonomous vehicles, connected vehicles and ride sharing, entrants from other industries could be game changers.

Law stated - 12 May 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7

> What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

The Road Transport Vehicle Act (Act No. 185 of 1951, as amended) (RTVA) is the statutory source for product compliance, safety and environment regulations. Under the RTVA, vehicles will not be put into operational use unless their structure complies with the technical standards for safety, pollution prevention and other environmental conservation as specified by ministerial ordinances of the MLIT with regard to certain matters including length, width and height, total vehicle weight load applied to the wheels and ratio of the load on the wheel to the total vehicle weight. Guidelines prepared by MLIT provide detailed numerical standards for each component of the vehicle as well as the testing methodology. Driving a non-conforming automobile may result in administrative and criminal charges.

Environmental standards

Fuel economy

The standards for fuel economy are regulated by the Act on the Rational Use of Energy (Act No. 49 of 22 June 1979). This Act has provided the unique 'top-runner programme' fuel economy standards since 1998, which takes the fuel consumption of the most fuel-efficient vehicle in the segment currently on the market, and sets that consumption level as the standard for the next generation of vehicles. The standard requires vehicle manufacturers to keep the average fuel consumption of their products below the standard established by MLIT and the Ministry of Economy, Trade and Industry for a certain period depending on vehicle weight. Underachievement is publicly announced. The most recent standard was announced on 31 March 2023, and includes EVs and HVs with 2030 as the target year.

In addition to the top-runner programme, MLIT introduced the corporate average fuel efficiency (CAFE) regime where vehicle manufacturers are required to keep the CAFE value, which is calculated through the weighted average of fuel economy achievement in each category of vehicle weight, above the CAFE standards calculated through the weighted average of fuel economy standard in each category of vehicle weight.

The weight, type of engine, fuel consumption in four testing modes (Worldwide Harmonised Light Vehicle Test Procedure (WTLP), urban, suburban and motorway), and other specifications are required to be stated in the catalogue for each vehicle. Vehicle owners are entitled to receive preferential tax treatment and incentives depending on the achievement of standards by their vehicles; however, vehicles that do not comply with the standards are not prohibited from being driven.

The testing method for compliance with environmental standards for passenger vehicles is the WTLP, which replaced the previous JC08 in October 2018, and is applicable to vehicles with a weight of less than 3.5 tons. The test consists of several driving cycles representing real-world vehicle operations on urban and suburban roads and motorways. Although the fuel consumption tested under the Worldwide Harmonised Light Vehicles Test Cycle (WLTC) usually indicates a lower score than that tested under the JC08 procedure, some manufacturers have already started to indicate fuel consumption of their vehicles under the WLTC mode.

Fuel consumption was not traditionally regulated by the RTVA, but after a series of worldwide fuel consumption incidents, MLIT included fuel consumption under the prescribed testing methods in the Safety Standards for Road Transport Vehicles (Ministry of Transport Ordinance (Ordinance No. 67 of 1952, as amended)) (the Safety Standards), and the type approval can be revoked if the vehicle manufacturer falsifies fuel consumption. False or misleading statements regarding emissions may also trigger enforcement under the Act against Unjustifiable Premiums and Misleading Representations (Act No. 134 of 1962, as amended), including administrative surcharges of up to 3 per cent of the relevant sales. In 2017, the Consumer Affairs Agency imposed an administrative surcharge of ¥480 million on a vehicle manufacturer for false representation of fuel consumption in its advertisement materials. The Consumer Affairs Agency imposed an administrative surcharge of ¥3.17 million on another vehicle manufacturer for selling the vehicle manufacturer-badged version of virtually the same model procured from a different vehicle manufacturer; however, interestingly, the vehicle manufacturer later challenged this enforcement and was successful in having it overruled in December 2018. In March 2022, a vehicle manufacturer publicly announced that it had falsified engine performance in relation to its applications for certification concerning the emissions and fuel economy performance of its engines for the Japanese market. It further confirmed that the engines in question have performance issues.

Emissions

The regulation of emissions consists of the three following components.

- Individual regulation: this applies only once when the new vehicle is registered and regulates carbon monoxide, non-methane hydrocarbon, nitrogen oxides and particulate matter (PM), based on the RTVA and the Safety Standards. For heavy-duty vehicles, the Safety Standards have incorporated the worldwide harmonised heavy-duty certification procedure and off-cycle emission testing, which from 1 October 2016 are gradually being applied to each class.
- Vehicle type regulation: this applies to vehicles with diesel engines and prohibits the operation of underachieving vehicles in designated zones to prevent diesel air pollution in metropolitan areas pursuant to the Act Concerning Special Measures for Total Emission Reduction of Nitrogen Oxides and Particulate Matter from Automobiles in Specified Areas (Act No. 70 of 1992, as amended).
- Traffic regulations: some local governments provide emission control rules. For example, Tokyo and its three surrounding prefectures have by-laws restricting diesel vehicle PMs under stricter standards than the above-mentioned regulations.

After the emissions issues in 2015, MLIT and the Ministry of Environment conducted a series of real-world driving emission tests for eight models with diesel engines via a portable emission measurement system (PEMS) and published the results; however, MLIT decided not to impose mandatory testing via PEMS for all vehicles because of difficulties in homogenising test conditions to account for variations in weather and traffic.

Recycling

End-of-life automobiles are mandatorily recycled pursuant to the Act on Recycling of End-of-Life Vehicles (Act No. 87 of 2002, as amended). Vehicle owners pay a recycling fee when purchasing a new vehicle and the fee is pooled by the Japan Automobile Recycling Promotion Centre (JARC), as designated by the government. The scrapping work is conducted by a wrecker registered with a relevant local authority, and the manufacturer and importer are required to take over and destroy or recycle the shredder dust, airbags and chlorofluorocarbons using funding from the JARC. According to the Waste Management and Public Cleansing Act (Act No. 137 of 1970, as amended), Customs Act (Act No. 61 of 1954, as amended) and Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949, as amended), criminal liability may result from breach of recycling procedures, such as:

- scrapping by an unauthorised wrecker;
- failure to collect airbags, batteries, waste oil and fluid;
- wrecking without sorting hazardous materials; and
- unauthorised export of automobile wreckage.

Recall of vehicles

The key Japanese laws and regulations relating to recall are the RTVA and the Safety Standards.

There are three types of corrective measures under Japanese law:

- improvement measures (ie, a recall) under article 63(3), paragraph 1 of the RTVA (the Recall Provision), where a notification to MLIT is legally required if certain conditions are satisfied; and
- two types of voluntary countermeasures under MLIT's Guidelines for Handling Recall Notifications, Etc (the Recall Guidelines), where a notification to MLIT is not legally required but should be filed if the countermeasures are to be taken. The two types of countermeasures are:
- improvement countermeasures; and
- service campaigns.

While, strictly speaking, notifications to MLIT or customers are not legally required under the Recall Guidelines as they are not law, in practice they should be and typically are complied with.

Under the Recall Provision, a notification to MLIT is mandatory if a vehicle manufacturer:

- finds that the structure, a device or the performance of a vehicle (ie, a vehicle within a certain range of a type approved vehicle manufactured, or imported into Japan, by the vehicle manufacturer) may not or does not comply with the Safety Standards;
- finds that the cause of that noncompliance arises in the design or manufacture process; and
- intends to take improvement measures to rectify the issue.

Recall of automobile parts

With regard to defective automobile parts, the defect should be dealt with by way of a recall of the entire vehicle by the car manufacturer, except for two categories of parts, namely, (1) tyres and (2) child-safety seats, which are subject to independent recall procedures to be carried out by the parts manufacturers, pursuant to the Order for Enforcement Regulations for RTVA (Ordinance No. 185 of 1 June 1951).

Technically, vehicle manufacturers can claim compensation for loss or damage incurred because of conducting a recall owing to defective parts from a supplier. However, this type of litigation has historically been relatively rare in the traditional business-network structure. Therefore, it might have been a surprise to many in Japan when, in 2014, a Japanese vehicle manufacturer sued one of its major Tier 1 suppliers, claiming more than ¥15.6 billion as compensation for damage incurred as a result of a recall caused by a defective power steering device produced by that parts manufacturer.

Rules on software-defined vehicles

The 2022 amendments to the Road Transport Vehicle Act address SDVs (software-defined vehicles), which are vehicles that can update the software that controls the vehicle by using two-way communication with the outside. The amendments enable vehicle manufactures to renew vehicle software, for performance improvement, without re-obtaining approval. Vehicles manufacturers are required to ensure vehicles comply with safety and cybersecurity standards to retain the approval waiver. However, according to public records, the Japanese government has not explicitly addressed rules regarding driver assistance technology in SDVs.

Law stated - 12 May 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

Product liability is an important subject in the automotive industry. Customers who have incurred losses owing to a vehicle may bring claims against the vehicle manufacturer and the dealer based on a tort or warranty theory under the Civil Code Act (Act No. 89 of 1896, as amended) (the Civil Code). In a tort claim under the Civil Code, coupled with the Product Liability Act (Act No. 85 of July 1994), if the product has a defect, or lacks the level of safety that it ordinarily should have, and if such a defect has caused damage to the life, body or property of others, then the manufacturer or importer will be liable for such damage. This regime imposes strict liability, regardless of whether the manufacturer or the importer has been negligent. However, where the defect could not have been discovered given the state of scientific or technical knowledge at the time of delivery, then the manufacturer will not be liable for the defect. Dealers, rent-a-car companies, repair service providers and suppliers of parts are not subject to strict liability and may be held liable only when they have been found to have been negligent. The judgment is solely made by the judge. There is no jury trial in the Japanese litigation system. The parties to the case as well as the court

may request expert witnesses to testify or produce documents regarding the analysis of issues in the case, but the judge is not bound by the expert's opinion. The plaintiff may claim actual damages, as well as consequential or incidental damages attributable to the defect or negligence; however, the court does not grant punitive damages, and an award for punitive damages in other jurisdictions is not enforceable in Japan. Overall, product liability claims for a defective vehicle or a recall are relatively rare.

On 1 October 2016, a new class action-like regime was introduced in Japan (Special Provisions for the Civil Procedure for Collective Recovery of Loss of Assets of Consumers Act (Act No. 96 of 2013)). This regime is two-tiered. At Tier 1, a special qualified consumer organisation (SQCO) must prove that the relevant manufacturer owes common liability to several consumers. Then, at Tier 2, each consumer can have a consumer organisation file its claim with the summary court. The Tier 1 action may only be taken by a SQCO that has received the required designation to act from the prime minister pursuant to the Consumer Contract Act (Act No. 61 of 2000, as amended). As at March 2024, there are four SQCOs (out of a total of 23 qualified consumer organisations in Japan) that have received the required designation to execute a right to injunction.

This class action-like regime does not cover strict product liability. Furthermore, it only entitles the recovery of actual losses and specific performance and does not extend to an indemnity for any consequential losses, loss of profits, injury or bodily harm. The action can only be made against a defendant who has direct privity of contract with consumers and not against third-party car manufacturers, importers or parts suppliers. Thus, the regime has limited application, and it does not significantly impact the automotive industry in Japan.

Law stated - 12 May 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

Antitrust enforcement

Antitrust measures are enforced by the Japan Fair Trade Commission (JFTC) based on the Act on Prohibition of Private Monopolisation and Maintenance of Fair Trade (Act No. 54 of 1947, as amended) (the Antitrust Act). Traditionally, the JFTC has been active in the automobile parts sector in terms of enforcement against cartel activities. The JFTC undertook major enforcement actions against cartels in this industry in 2012 and 2013, resulting in antitrust surcharges of nearly ¥12.9 billion against four major wire harness manufacturers in 2012, nearly ¥3.4 billion against seven electrical component manufacturers, and nearly ¥4.7 billion against three headlamp manufacturers.

In recent years, however, the JFTC has not implemented aggressive enforcement. The JFTC issued twenty-one cease-and-desist orders in financial year 2024, imposing aggregate surcharges of approximately ¥3.7 billion; only four cease-and-desist orders in financial year 2023, imposing aggregate surcharges of approximately ¥0.22 billion; only

eight cease-and-desist orders in financial year 2022, imposing aggregate surcharges of approximately ¥101.98 billion; three cease-and-desist orders in financial year 2021, imposing aggregate surcharges of approximately ¥2.18 billion; nine cease-and-desist orders in financial year 2020, imposing aggregate surcharges of approximately ¥4.32 million; 11 cease-and-desist orders in financial year 2019, imposing aggregate surcharges of approximately ¥69.27 billion; and eight cease-and-desist orders in financial year 2018, imposing aggregate surcharges of approximately ¥260 million.

The rate of surcharges is generally up to 10 per cent of sales in the event of a cartel for large-scale manufacturing companies. Companies can take advantage of leniency by voluntarily reporting the violation to the JFTC, and the first to report before initiation of the JFTC's investigation may receive a 100 per cent reduction in the surcharges. In practice, many cases are closed without formal cease-and-desist orders or surcharges. Companies subjected to the JFTC's investigation are entitled to hearings at the JFTC.

However, as the automotive industry is becoming increasingly competitive and facing the rise of game-changing new technologies, manufacturers are becoming keen to participate in joint development and procurement of new technologies (EVs, next-generation batteries, radars and sensors. This can be horizontally with their competitors in the market as well as vertically with suppliers and parts manufacturers. This trend inevitably increases tension with antitrust regulations, and participants in the market should be aware of such risks when developing new business models.

Brand owners are also becoming more conscious of brand strategies for increasing control of dealerships to develop more effective distributorship networks and redefining their brand image. Japanese competition regulations provide extensive rules against unfair trade practices and abuse of superior bargaining power, and in this context, brand owners should be aware of the risk that heightened control over dealerships and service providers may give rise to competition law concerns.

Follow-on litigation

There are three types of follow-on litigation in competition cases:

- litigation against the JFTC;
- civil litigation raised by a party who has incurred damage; and
- a derivative suit by shareholders against the directors of a company that has participated in cartel activities.

Litigation against the JFTC

A company that is subject to a JFTC enforcement action may challenge the same in court. This type of litigation is relatively rare but includes large-scale disputes involving important Antitrust Act issues.

Civil liability to affected parties

Private parties affected by a violation of the Antitrust Act, such as consumers, suppliers, distributors and competitors, can bring a civil action for damages and an injunction against the company that allegedly committed the violation. A company that has been subjected to enforcement by the JFTC as having been involved in cartel activities could have civil liability for damages incurred by customers and end users. Once subjected to enforcement by the JFTC, the company may not raise a defence that they had no wilful misconduct or negligence. This type of litigation can be used not only in a protective manner, but also in an aggressive manner to attack unfair trade practices or abuses of superior bargaining power of vendors, customers or competitors.

Director's liability

Directors of a company that has participated in cartel activities can be sued by its shareholders by way of a derivative suit. In the wire harness cartel case, the shareholders of a related company sued its 22 directors in a derivative suit for negligence based on their participation in the cartel and in particular, failure to apply for leniency by cooperating with the JFTC. The case was finally settled, resulting in the payment of ¥520 million by the directors to the company in 2014.

Law stated - 12 May 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

There is no specific type of dispute especially significant to the automobile industry. Automotive industry companies should be prepared for contractual disputes with customers or suppliers, product liability and consumer issues, and intellectual property issues (including disputes). Typical types of disputes involve termination of the supply or distribution agreement, product liability, misleading advertisement and employment issues. However, automotive-related disputes are relatively rare in Japan compared with other jurisdictions. Disputes between domestic companies that have not been successfully resolved through negotiations are usually submitted to the courts for litigation, while large-scale international cases are submitted for arbitration. Japanese courts tend to resolve disputes by in-court settlement.

Law stated - 12 May 2025

Distressed suppliers

11 What is the process for dealing with distressed suppliers in the automotive industry?

To ensure a continued supply of parts, automotive manufacturers tend to have two choices: finding an alternative supplier or assisting the distressed supplier to continue its operations. As disruption of a supplier's business may potentially have a substantial impact on the

automotive industry, vehicle manufacturers and suppliers sometimes support distressed suppliers to help mitigate the systemic risk. Banks are another key player that can exercise initiative and consultancy while dealing with a distressed supplier under the Japanese traditional 'main bank' regime. M&A is also common in this context.

The distressed suppliers may go into insolvency procedures including:

- a bankruptcy procedure (Bankruptcy Act (Act No. 75 of 2004, as amended));
- a civil rehabilitation procedure (Civil Rehabilitation Act (Act No. 225 of 1999, as amended));
- a corporate reorganisation procedure (Corporate Reorganisation Act (Act No. 154 of 2002, as amended)); and
- a special liquidation procedure (Companies Act (Act No. 86 of 2005, as amended)).

Among these, the bankruptcy and the special liquidation procedures are classified as liquidation-type processes, while the civil rehabilitation and the corporate reorganisation procedures are recovery-type processes where the focus is on preserving the business as a going concern.

Companies seeking restructuring tend to choose civil rehabilitation procedures where the existing management can keep control of the company as a debtor-in-possession (DIP). The management of the distressed company may ask for assistance from banks, vendors and customers to rebuild the distressed business, or transfer the intact part of its business to a competitor to raise the liquidity available to inject in the distressed business. In cases where the distressed company has made an early decision to initiate restructuring, a pre-packaged bankruptcy strategy is often used to mitigate the impact. On the other hand, the use of non-DIP-style corporate reorganisation procedure is limited to a small number of bankruptcies of large-scale or listed companies.

In June 2017, upon an airbag defect issue, one supplier filed an application for the civil rehabilitation process with the Tokyo District Court, and its 14 affiliate companies around the world filed similar insolvency procedures in their respective jurisdictions. This civil rehabilitation process became the largest insolvency procedure of the manufacturing industry in the post-war era in terms of its debt amount of ¥1,082 billion. Pursuant to the civil rehabilitation plan submitted to the court in February 2018, the supplier transferred its assets, including its intact seat belt and child safety seat businesses, to a Chinese-owned US company in the same industry in April 2018, and distributed compensation to its creditors, which appears to cover only ¥500,000 and 1 per cent of any amount exceeding ¥500,000 for each creditor. Vehicle manufacturers were exempt from this settlement and will be compensated at a later stage from the rest of the fund after repayment to non-vehicle manufacturer debtors, which will not cover a significant percentage of the aggregate debt amount. Despite the impact of the case, no bankruptcy owing to the supplier's issues was reported. This is because the supplier had been continuing to make payments to its suppliers based on the existing contractual conditions, which is allowed under the Civil Rehabilitation Act. Affected suppliers may take advantage of the safety net guarantee by the Small and Medium-sized Enterprise Credit Insurance Act (Act No. 264 of 1950, as amended), as well as the safety net loan from the Japan Finance Corporation, a government-affiliated financial institution, both of which are designed to minimise systemic risk or domino effects on the whole industry.

Another route for distressed suppliers is by way of business rehabilitation alternative dispute resolution (ADR). For example, on 30 January 2019, Akebono Brake filed an application for business rehabilitation ADR with the Japanese Association of Turnaround Professionals, the only specified certified dispute resolution business operator as of March 2019. In this regime, the debtor, with the involvement of a specified certified dispute resolution business operator, under the Act on Promotion of Use of Alternative Dispute Resolution (Act No. 151 of 2004, as amended) and the Act on Strengthening Industrial Competitiveness (Act No. 98 of 2013, as amended), requested that financial institutions allow the reschedule of loan payments and that those financial institutions not file for insolvency procedures. If the rehabilitation plan is approved by a unanimous vote of the financial institutions that are creditors, then the loan arrangement is collectively modified in accordance with the rehabilitation plan. Business rehabilitation ADR only covers debts to financial institutions and does not affect transactions with other parties including suppliers, distributors and customers. This regime is designed to combine the advantages of private rehabilitation such as flexibility, speediness, confidentiality and preservation of the going-concern value of the distressed company, with the fairness and stability of the statutory procedures.

Law stated - 12 May 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

The automobile industry is one of the most intellectual property-oriented sectors. For example, three of the top 10 companies that were granted the most patents in Japan in 2024 were automobile-related companies and many more companies with automobile parts divisions are listed in the top 100.

However, intellectual property disputes are rare in the Japanese automotive industry. Vehicle manufacturers and parts suppliers tend not to resort to aggressive measures even if they suspect infringement of their intellectual property. This is in part because the intellectual property divisions in the automotive industry are like a small society, and it is often more profitable to cooperate than dispute, typically through a cross-licence agreement. In addition, an increasingly common strategy for vehicle manufacturers is to disclose, instead of monopolise, core intellectual property such as HVs and FCVs, in view of leading the technology trends.

Other reasons may include the fact that intellectual property litigation is usually costly and lengthy, and the expected recovery awarded by the court does not cover the costs of bringing the litigation. In 2023, the average timeline for all types of IP litigation was 14.9 months and many cases are settled without the court issuing any judgment, indicating that intellectual property disputes are not resolved easily.

Law stated - 12 May 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

Although the automotive industry has long outgrown the traditional labour-intensive industry, employment is still a critical issue. There remains a hard-working culture in some Japanese companies, especially in the countryside where many manufacturing facilities are located, and this may cause issues such as overwork, harassment and non-compliance with regulations. The major sources of employment law include the Labour Standards Act (Act No. 49 of 1947, as amended), the Labour Contracts Act (Act No. 128 of 2007, as amended) and the Industrial Safety and Health Act (Act No. 57 of 1972, as amended). In the course of the government-led work style reform initiatives, a package of regulatory updates came into effect from 1 April 2019, which set shortened overtime limitations and mandatory paid leave requirements.

Japanese employment law provides extensive protection for employees against termination and salary cuts, and it is extremely difficult to terminate employees even for redundancy or underperformance. Many OEMs and suppliers, therefore, use temporary staff and dispatch workers to procure a workforce with flexibility to deal with the volatile market demands. This area of employment law is heavily regulated and employers should be aware of the detailed regulatory requirements. For example, if an employer hires a fixed-term employee for an aggregate period of over five years, the employee is entitled to indefinite employment under the same conditions (the employer may reset the aggregate periods by placing a six-month non-hired period in between). A survey by the Labour Standards Bureau of the Ministry of Health, Labour and Welfare revealed in December 2017 that seven out of 10 major OEMs in Japan have limited the term of fixed-term employees to avoid lapsing into indefinite employment. At the same time, as Japan is facing population decline and a shortage of workers, it is crucial to secure competent employees without incurring inadvertent future risks.

One characteristic of the employment environment in the automotive industry is the labour union. Many OEMs and auto parts suppliers have active labour unions, and the industry-wide Confederation of Japan Automobile Workers' Unions (JAW) purportedly has approximately 790,000 members. While the unionisation rate is drastically decreasing across all industry sectors (16.1 per cent on industry average in 2024), JAW maintains a relatively high unionisation ratio. This is supported by a union shop arrangement, or a type of collective bargaining agreement between an employer and a labour union under which the employer will ensure that all employees belong to the labour union and fire those who do not wish to join any union (Labour Union Act (Act No. 174 of 1949, as amended)). The unions negotiate the following year's salary review every spring, which is referred to as 'spring labour offensive', but strikes and serious labour disputes have been relatively rare in recent years under the Japanese collective bargaining culture described as 'labour-management harmonisation'.

The conservative government party has been promoting a campaign to raise wages to boost the economy and requested that major automotive companies increase wages, while

the Japan Business Federation, an association composed of the management of major companies and industry associations, had been reluctant to take on major salary reform, that is, until January 2024 when it stated that major companies should increase salaries of their employee by 4 per cent or more.

Law stated - 12 May 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

Automated or autonomous vehicles

The Japanese government has established a roadmap for the introduction of automated driving. The roadmap has defined the five automated driving levels in Japan, with fully autonomous driving at Level 5. It also addresses the steps required for the implementation of automated driving levels from Level 2 to Level 5, with the goal of realising the operation of autonomous vehicles on public roads. In accordance with a previous discussion, the government issued the outline of the legal framework preparation for automated driving in April 2018, setting out necessary regulatory updates and potential legal issues posed by automated vehicles.

On 1 April 2020, amendments to the Road Transport Vehicle Act (Act No. 185 of 1951) (RTVA), the Safety Standards for Road Transport Vehicles (Ministry of Transport Ordinance (Ordinance No. 67 of 1952)) (the Safety Standards) and the Road Traffic Act (Act No. 105 of 1960) (RTA) took effect, making it permissible for vehicles operating with automated driving systems (ADS) classifiable as SAE Level 3 to be generally driven on public roads in Japan. The SAE levels of driving automation, developed and published by SAE International, offer one of the most globally recognised systems for defining the different levels of driving automation. They are set out in SAE International's Recommended Practice J3016, last published in June 2018. More specifically, 'automated operation device' was added to article 41, paragraph 1 of the RTVA, which sets out the list of parts and devices that may be incorporated within vehicles subject to compliance with the Safety Standards. Article 48 of the Safety Standards and article 72(2) of the Notice Providing for Details for the Safety Standards were newly added to set out the standards that must be satisfied with respect to the functions and performance of the automated operation device. The definition of 'driving' under the RTA has also been amended to include driving by the use of an automated operation device.

While the RTA had prohibited the general use on public roads of vehicles relying solely on SAE Level 4 ADS technologies, under the amended RTA effective from April 2023, autonomous driving at Level 4 has been classified as 'specific autonomous driving' and feasible with permission from the Prefectural Public Safety Commission. The guidelines issued by the MLIT and the National Police Agency (NPA) provide useful guidance for conducting tests using vehicles equipped with SAE Level 4 ADS technologies.

From 2017, insurance companies are offering a discount of up to 10 per cent on the insurance premium for vehicles equipped with advanced safety technologies including pre-crash brakes.

Requirements

MLIT issued guidelines for the safety technologies of automated vehicles in September 2018. These guidelines, although not legally binding, set out 10 elements to ensure the safety of automated driving:

- setting of operational design domain;
- safety of the automated driving system;
- compliance with the Safety Standards;
- human-machine interface;
- data logging;
- cybersecurity;
- emergency measures for the autonomous transportation system;
- safety evaluation;
- in-use improvement; and
- provision of information to the user.

These guidelines were designed to be interim standards for the development of automated vehicles until legally binding standards are established. Some of these standards are now provided for in the newly added clauses of the Safety Standards, which are legally binding. The RTA sets the obligation of safe driving upon the driver, and the government maintains the concept that the driver should be responsible for driving and any resulting accidents, even in Level 3 automated driving.

Level 4 is still under debate owing to the Convention on Road Traffic (Geneva, 1949) and the RTA assuming the existence of a driver on board. However, MLIT has announced an amendment to the Safety Standards enabling experimental operations of a Level 4 autonomous vehicle without a steering wheel, or acceleration and brake pedals on a public road under certain conditions, including the time, weather, speed limit, route of operation, emergency kill switch and safety staff.

In June 2024, MLIT issued guidelines to ensure the safety of automated vehicles. These guidelines, although not legally binding, set out the following basic safety measures for autonomous vehicles: (1) ensuring basic safety, (2) ensuring comprehensive safety measures based on a three-pronged approach, and (3) ensuring consistency with international trends.

Experiments on public roads

MLIT requires no special designation for the experimentation of automated vehicles on public roads if it satisfies the Safety Standards and a driver is in the vehicle. MLIT may also grant special permission for vehicles that do not comply with the Safety Standards to

enable experiments on public roads. In both cases, testing must comply with the specific guidelines issued by the NPA as at May 2019.

Several exceptional permissions for testing have been granted, including the following:

- In January 2019, as part of a series of experiments ongoing since 2018, MLIT and METI jointly conducted an experiment for automated truck platooning using cooperative adaptive cruise control that will enable autonomous driving in platooning trucks on the motorway. One impetus for this programme is Japan's ageing society and workforce shortage. MLIT successfully completed demonstration tests for automated truck platooning in February 2021 and, in September 2022, the International Organization for Standardization issued an international standard for truck platooning systems proposed by Japan.
- An IT venture company and a major taxi operator conducted a series of experiments with autonomous taxis (with a security attendant in the driver's seat) and provided services to passengers on public roads in the urban area of Tokyo.
- The prefectural government of Aichi tested an autonomous vehicle on public roads in a suburban area in December 2017.
- An OEM and IT venture jointly conducted a series of experiments of autonomous taxis (with a security attendant in the driver's seat) and provided services to passengers on public roads in the urban area of Yokohama.
- METI and MLIT started experiments on public roads in Fukui. This experiment tested autonomous vehicles controlled by a remote autonomous driving system and has been authorised as Level 3 autonomous driving, which is a first for Japan.
- Nissan Motor Co, Ltd will begin a large-scale demonstration experiment in October 2025, operating 20 autonomous vehicles in the Yokohama Minato Mirai (MM) 21 district of Yokohama City. The company aims to provide Level 4 services by the 2027 fiscal year.

The National Agency for Automotive Safety and Victims' Aid has included pre-crash braking systems and lane keep assist systems in the list of test items from 2014.

Expected legislation

In December 2018, the NPA announced the draft of an amendment to the RTA to allow the use of a mobile phone in Level 3 autonomous driving. The amendments to the RTVA and the Safety Standards that introduce the automated operation device also require the vehicle to maintain an automated driving log and that the driver submits the log to the police under certain circumstances.

Legislative reform also extends to the civil liability of the driver. Under the Automobile Liability Security Act No. 97 of 1955, as amended, the primary liability for losses caused by a traffic accident is assigned to the operator of the vehicle (eg, the owner of the vehicle or the business owner of a transportation service – not necessarily the driver). The burden of proof (to disprove negligence) in an accident is shifted to the operator, and the operator will be held liable for damages caused by the accident unless the operator successfully proves that the operator exercised due care, that the victim or a third party was at fault,

and the vehicle did not have any defects. An MILT working group confirmed on 20 March 2019 that this framework will be maintained for autonomous vehicles.

On 4 March 2022, the Japanese government made a cabinet decision for a draft amendment to the RTA that, once incorporated into law, will permit Level 4 automated vehicles to be driven on public roads in their fully automated driving modes under certain conditions. A parliamentary session passed the bill on 19 April 2022, and the RTA amendment took effect on 1 April 2023. One condition is that Level 4 automated vehicles may need to be able to run on unmanned, automatic mobile services in depopulated areas. The permission acquisition process for the autonomous operation of vehicles that the RTA amendment establishes is summarised as follows:

- a person who wishes to engage the Level 4 autonomous operation of a vehicle without a driver must obtain the permission of the Prefectural Public Safety Commission;
- the Commission must hear the opinions of the mayors and other heads of municipalities of the prefecture before granting the permission; and
- the RTA amendment will set out the matters to be observed by permitted persons and the measures to be taken in the event of a traffic accident, such as the establishment of a system for remote monitoring.
- Before obtaining permission from the relevant prefectural public safety commission, an operator must test the automated driving system on public roads, and then obtain approval on driving environment conditions from the Ministry of Land, Infrastructure, Transport and Tourism.

Connected vehicles

OEMs and suppliers should note that advanced equipment for connected vehicles may be subject to additional regulations; for instance, radio devices and wireless communication are as regulated as automobiles. The available bandwidths and requirements for the use of radio devices are regulated by the Radio Act (Act No. 131 of 1950, as amended), and on-board communication services for automobiles may trigger filing obligations with the Ministry of Internal Affairs and Communications under the Telecommunication Business Act (Act No. 86 of 1984, as amended).

The amendment to the RTVA requires that online updates of automated driving programmes are approved by the National Agency for Automobile and Land Transport Technology in advance.

The use of big data will raise concerns regarding personal information protection.

Hybrid, plug-in hybrid, electric vehicles and fuel-cell vehicles

The strategy for low and zero-emission vehicles varies depending on the vehicle manufacturer. HVs are commonplace today and are also increasing in popularity for heavy-duty vehicles. METI has been promoting FCVs by offering financial aid for the acquisition of such clean energy vehicles and the establishment of battery chargers and

hydrogen stations. The Tokyo Metropolitan Bureau of Transportation and Keihin Kyuko Bus have placed fuel-cell buses on regular service.

On 12 March 2019, the Agency for Natural Resources and Energy under METI revised its roadmap for the promotion of FCVs, first published in June 2014 and later revised in March 2016. According to this ambitious roadmap, the agency is aiming to increase the number of FCVs to approximately 200,000 by 2025, and to 800,000 by 2030, and to increase the number of hydrogen stations to 320 by 2025, and to 900 by 2030. In addition to revising old targets and setting new targets (such as reducing the price gap between FCVs and HVs from ¥3 million to ¥700,000 and halving the cost of fuel-cell buses to ¥52.5 million), the 2019 roadmap establishes a committee of experts for evaluating and following up on progress in each field under the roadmap.

Also, the Safety Standards are constantly being updated to accommodate the requirements for these clean automobiles, including in relation to batteries, high-voltage cables, fuel cells and hydrogen tanks.

Car or ride sharing

Pursuant to the Road Transport Act (Act No. 183 of 1951), a licence is required for operating a taxi or passenger vehicle transportation business, which is defined as a service that gives rides in a car to others for consideration on demand. Paid ride-sharing services cannot operate under the current legislation in Japan (though one ride-sharing service limits its services to hailing of high-end licensed taxis with a professional chauffer). By the same token, a Chinese transportation network company recently launched a taxi-booking service, instead of a ride-sharing service, in Japan.

In 2015, one ride-share application service provider started testing its service in Japan without the passenger paying the tariff to the driver. Instead, the driver received remuneration from the ride-share company on the basis of a data provision fee. Nevertheless, MLIT requested that the service provider stop the tests on the basis that such a payment still falls within the definition of 'consideration'. However, MLIT also noted that the payment of a small amount that can be seen as a voluntary expression of gratitude or reimbursement of the actual expenses incurred, such as fuel, motorway and parking fees, will not be regarded as 'consideration' and is, therefore, acceptable. Other companies have launched similar matching apps.

A car-sharing service is feasible as a sort of rent-a-car service subject to the licensing requirements under the Road Transport Act, and several rent-a-car companies have been operating car-sharing services in urban areas making use of vacant parking lots. However, it is prohibited for individuals to hire out cars as a business. In addition, drop-offs in places other than registered parking spots are prohibited, because the vehicle registration system requires the specification of a 'primary place of use' where the vehicle is usually parked.

However, in contrast with the above, the government has been promoting various sharing economy policies and designated a rural town in the Kyoto prefecture as a national strategic special zone to experiment with deregulation. The first ride-sharing service operating without a taxi licence was launched in May 2016. From April 2024, it is feasible to provide ride-sharing service during certain seasons and times in an area under management of the taxi company with permission from the government for the ride-sharing service driver.

Law stated - 12 May 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

There are no updates at this time.

Law stated - 12 May 2025

Jacky Scanlan-Dyas jacky.scanlan-dyas@hoganlovells.com
Wataru Kamoto Wataru.Kamoto@hoganlovells.com
Yasuyuki Shirabe Yasuyuki.Shirabe@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

Mexico

Juan Francisco Torres Landa, **Adriana Lissette Pavón Mendoza**
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

The automotive industry has continued to be a vital pillar of the Mexican economy. However, the imposition in the first half of 2025 by the President of the United States of a 25 per cent tariff on foreign-assembled automobiles imported into the United States and on auto parts could affect and jeopardise the industry. The automotive industry in Mexico, represents approximately 4 per cent of Mexico's gross domestic product and 20.5 per cent of the national manufacturing GDP. It creates roughly one million direct jobs. In 2024, the automotive industry enjoyed steady growth and thus remained one of the primary sources of foreign investment in Mexico, with more than US$6.95 billion invested in the country in that year, an increase from the US$5.90 billion reported in 2023. The sector has also been a significant contributor to the country's exports, with vehicles and auto parts accounting for approximately 31 per cent of Mexico's total exports.

The automotive industry in Mexico has been growing at a fast pace. Mexico is the seventh-largest worldwide manufacturer of light vehicles, and the fourth largest in terms of exports, with the United States being its largest export market. The country offers advantages to OEMs, as well as to Tier 1 and Tier 2 companies, such as a skilled workforce, a privileged geographical location and access to multiple international markets thanks to the number of international treaties signed (over 52 countries and counting).

In terms of production, the industry is divided into three main categories: light vehicles, heavy vehicles and auto parts. In 2024, around 3.9 million light vehicles were produced, representing a 5.6 per cent increase compared to 2023. With respect to heavy vehicles a total of about 213,000 units were produced. The auto parts sector also saw growth, increasing by some 3.6 per cent compared to 2023 and reinforcing Mexico's position as the fourth-largest auto parts producer in the world and the largest in Latin America.

Currently, Mexico has over 22 assembly plants (with some other plants being planned for construction) and a powerful Tier 1 supplier network with over 700 suppliers countrywide (at least 95 per cent of all Tier 1 companies are present in Mexico). Historically, the states of Sonora, Coahuila, Puebla, Mexico, Guanajuato, Nuevo León, Querétaro and Aguascalientes have generated the vast majority of the total vehicle production. We are also seeing the entrance of a series of automotive brands from China. Those companies are interested in participating in the local market and acting as the gateway to the North American market. Those Chinese investments are now under severe scrutiny by the US given the ongoing trade war launched from Washington that has primarily targeted China.

Regarding exports, in 2024 Mexican vehicle exports increased by 5.4 per cent compared to 2023, mainly due to growth in US market demand. Mexico currently exports over 90 per cent of its total vehicle production, accounting for approximately US$1 out of every US$3 received by the country from exports.

There are many destinations for Mexican exports, the main one (as mentioned above) being the United States, receiving around 80 per cent of the country's vehicle total exports.

Canada receives around 8.5 per cent, Germany 3.6 per cent, Colombia 0.9 per cent and Brazil 1.2 per cent. Exports to other destinations have also increased. China, for example, has become Mexico's third most important export destination.

Many still predict that in the next year or two the industry may reach production of 5 million light vehicles in more than 30 plants. Also, it was estimated that for the end of 2025 Mexico will be the fifth-largest vehicle producer and that in the next two or three years, the automotive sector in Mexico would receive an economic investment of approximately US$2.13 billion. This, because Mexico continues to attract foreign investment in its automotive industry. Mainly because the industry is interested in nearshoring and Mexico's proximity to the United States, which is a major market for automobiles, makes it an attractive destination for nearshoring. Therefore, increased investment in the industry is expected, notwithstanding problems associated with the US administration revisiting rules of origin and other relevant provisions under the USMCA.

While Tesla has not materialised its plan to invest US$5 billion in a plant in Nuevo León, there are still rumors of Chinese automakers BYD and Great Wall Motor plans to invest several billion US dollars to build plants in Mexico, and thus marking the companies' first manufacturing facilities in the Americas. It is yet to be seen if these plans materialise given the trade differences between the US and China, and the pressure by the US to cause Mexico to not open its doors to Chinese investments, in particular in manufacturing facilities.

General Motors had already announced a US$1 billion investment in its plant in Coahuila, with a focus in electromobility. The same goes for Ford and Stellantis, which announced as well investments in their plants in the State of Mexico. Volkswagen is investing US$233.5 million to expand its plant in Puebla, with a focus on electric vehicle production. Another German automaker, BMW, is also growing its operations in Mexico, with the construction of an expansion to its relatively new plant in San Luis Potosí.

However, tariffs imposed by the US president on foreign-made cars and on auto parts could jeopardise the sustained growth of the Mexican automotive industry. At the end of March 2025, the US government announced the imposition of 25 per cent tariffs on vehicles and auto parts produced outside its territory, as part of a strategy to encourage the relocation of manufacturing operations to the United States and thereby generate local jobs. Tariffs on vehicles began to be applied on 3 April 2025, while those on auto parts on 3 May 2025.

Currently, these tariffs are suspended indefinitely for vehicles and auto parts that comply with the rules of origin established in the United States-Mexico-Canada Agreement (USMCA), which means, among others, that at least a certain percentage of the products' content must come from North America and a portion of the production value from facilities where workers earn at least US$16 per hour. Most cars produced in Mexico comply with this rule. However, this exception was initially conceived as a temporary measure, which implies a high degree of uncertainty for manufacturers.

This uncertainty has already begun to have effects: some companies have decided to pause strategic investments until there is greater clarity about the commercial environment. If these tariffs are maintained and the exception under the USMCA is eliminated, production costs would increase significantly, which could reduce demand, limit production, and slow the growth of the automotive industry in Mexico.

A trend in the Mexican automotive and mobility industry has been the shift towards electric and hybrid vehicles. During 2024, sales of electric and hybrid vehicles as a whole increased by 67 per cent compared to 2023. Likewise, the availability of public and private charging infrastructure grew by 4.98 per cent, with around 45,000 chargers installed. While the Mexican government has set a target for Mexico to transition to electric mobility and has granted incentives for the purchase of these vehicles, the transition depends on the speed of installation of charging infrastructure. This trend is also driven by consumer demand for more environmentally friendly vehicles that are reliable and efficient. The pattern for growth of these solutions has been reduced somewhat given infrastructure costs, concerns over the cost of battery replacement, etc. These are similar concerns as in other parts of the world.

Another trend is the use of new technologies such as autonomous driving, connected cars and software-defined vehicles. Some manufacturers operating in Mexico have begun incorporating connected features into their models, including advanced driver assistance systems (ADAS), intelligent infotainment platforms, and over-the-air software updates. Likewise, domestic companies are investing in research and development to position themselves in this new phase of digital transformation within the industry. However, the deployment of these technologies in the country remains at an early stage, and vehicles with autonomous capabilities or software-defined architectures are still rarely seen on Mexican roads.

Law stated - 4 July 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

To export to new markets, OEMs must comply with several legal and technical requirements. In Mexico, imports and production of new vehicles are subject to a wide range of directives and regulations.

There are several Official Mexican Standards (NOMs) regulating the technical requirements of certain products. The main government agencies that are authorised to issue NOMs in the automotive sector are the Ministry of the Environment and Natural Resources regarding environmental issues, the Ministry of Infrastructure, Communications and Transportation for all transportation and safety matters and the Ministry of Economy.

Several models have now been discontinued as a result of the application of NOMs setting minimum security measures, and are currently being substituted with other models. Some manufacturers are looking for alternate models to sell in the Mexican market because of stricter security measures required by the government (items such as ABS, airbags and defrosting systems, among others, which were not mandatory in past years). As of 2021, manufacturers are not permitted to sell automobiles that do not include the new minimum safety features. These are constantly evolving, and as of 1 January 2025, all new light vehicles must have the following additional safety features: tire pressure monitoring

system, crash-tested steering system, door system, high-beam brake light, electric vehicle protection, and gas vehicle protection. The environmental issues addressed by NOMs are mostly on fuel emissions and regulation of noise, clean energies and diesel. In the case of safety matters, the requirements are mostly about mechanical conditions and dimensions of the vehicles, as well as brakes, brake callipers and other safety devices and features.

It is essential to meet the NOM requirements and provide evidence of compliance with such standards to import or produce vehicles in the Mexican market. Under Mexican law, the NOM certificate holder is responsible for warranty, maintenance and product liability. Such certificates are not transferable, although manufacturers with NOM certificates may extend their usage rights to their distributors.

Note that the USMCA established a transition period that ended in 2023 for light vehicles and will end in 2027 for heavy trucks, during which automakers must gradually meet stricter rules of origin. These rules require that at least 75 per cent of a vehicle's components originate from North America (70 per cent for heavy trucks) in order to qualify for preferential tariff treatment. In addition, 40 per cent of the value of a vehicle must be produced by workers earning at least US$16 per hour. Automotive companies have had to adapt to this reality within their fixed costs and implement it into their supply chains.

OEMs of vehicles intended for the domestic market must register each unit in the Public Vehicle Registry (REPUVE), using the corresponding Vehicle Identification Number. Once the vehicle is sold, dealers and distributors are required to notify the REPUVE of the transaction, providing the new owner's information. The purpose of the REPUVE is to ensure the identification and control of vehicles nationwide.

Since 2019, Mexico federal law mandates liability insurance for all vehicles circulating on federal roads. The minimum coverage must include damage to third parties in their persons and property. Additional types of insurance—such as collision, theft, or legal assistance—are optional but common, especially for financed or leased vehicles.

Law stated - 4 July 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

Automotive companies usually operate using the IMMEX maquiladora programme, which allows a Mexican entity to engage in manufacturing activities (mainly for exportation purposes) and temporarily import parts and materials on a duty-free basis. The usual IMMEX maquiladora structure is through a principal, which is a foreign entity residing in a country with which Mexico has a tax treaty in place. This entity will hold the manufacturing agreements, which set forth the organisational, operational and economic terms, and are entered into by the principal and the manufacturing Mexican entity.

Maquiladoras may be established anywhere in the country and, if certain requirements are met, they can also sell a part or even all of their production locally (in which case import duties for the final products must be paid based on the corresponding harmonised tariff

number). Usually, maquiladoras are incorporated as stock corporations or limited liability companies, which have very low capital requirements and allow foreign investors to own up to 100 per cent of the corporate capital of such entities.

Among the many advantages of operating under the IMMEX programme are temporary duty-free imports on raw materials, exemptions on import duties and VAT refunds.

There are also sectorial relief programmes applicable to the vehicle and auto parts industry that aim to give companies a preferential tariff rate to import goods intended for production, regardless of the country of origin.

To create manufacturing clusters, lower transportation and insurance costs, and reduce idle inventory volumes, assembly plants commonly require that their suppliers be as physically near to them as possible, prompting suppliers to set up locally. This accumulation of manufacturing plants and multiple suppliers is not uncommon and has been the source of significant growth of the industry and impact on investment, employment and economic relevance. In Mexico, the automotive industry is primarily concentrated in three major regional clusters: the Bajío Region (comprising the states of Aguascalientes, Guanajuato, Querétaro, and San Luis Potosí), the Northern Border Region (including Sonora, Coahuila, Chihuahua, and Nuevo León), and the Central Mexican Valley (covering Mexico City, the State of Mexico and Puebla).

Law stated - 4 July 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

Before the importation procedure begins, the vehicle's compliance with NOMs must be ensured and applicable regulations must be fulfilled. The actual importation process is handled by a customs broker.

Since 2004, it has been possible to import new vehicles from the United States, Canada and member states of the European Union without any import tariffs. Despite the 25 per cent tariff imposed on imported vehicles by the President of the United States since 3 April 2025 —except for those that meet the USMCA rules of origin—Mexico has chosen not to impose reciprocal measures.

Since 2019, Brazil and Mexico eliminated import tariffs on light vehicles and auto parts, while the import tariff on heavy vehicles was eliminated during 2023. There are many regulations on this type of import establishing several requirements for such vehicles, including maximum mileage allowed for the vehicle to be considered as new, compliance with applicable NOMs and so on.

A few years ago, governmental decrees were issued in an effort to reduce the flow into Mexico of used vehicles purchased cheaply in the United States. This was the government's reaction to growing concerns about potential damage to the industry, the increasingly ageing motor pool, higher pollution levels, fuel inefficiency, maintenance costs and difficulties identifying such vehicles. However, on 20 January 2022, the current

administration issued a decree to regulate this type of cars in 10 states in the country (Baja California, Baja California Sur, Chihuahua, Coahuila, Durango, Michoacán, Nayarit, Nuevo León, Sonora and Tamaulipas, then, Sinaloa and Zacatecas were also included). The decree is seen as a setback by the automotive industry. However, in September 2024, the then President of Mexico extended the validity of this decree until 30 September 2026.

Distribution is generally handled through distributors that enter into distributorship agreements with automotive manufacturers. These agreements usually contain standard contractual termination clauses (eg, failure to reach certain thresholds for certain periods of time and other performance requirements). Mexico does not have protective laws that require statutory indemnity when distributors or agents are terminated. Freedom of contract is the substance of all conditions between the parties to such relationships.

Technology and Internet-based platforms are transforming the distribution process in Mexico's automotive industry. Manufacturers are adopting direct-to-consumer sales models through online platforms, allowing users to explore models, customise vehicles, compare prices, obtain financing, reserve units, and even complete the purchase without visiting a physical dealership. These changes have compelled traditional dealership networks to adapt by incorporating hybrid models that combine in-person service with digital experiences.

Law stated - 4 July 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

Mergers and acquisitions in the automotive industry are fairly standard compared to other M&A operations and can be done by purchasing assets, stock or shares of a target company or more companies to create a new one, or merging one into another.

Joint venture companies (ie, the creation of a new entity into which two existing entities transfer assets or capital) in Mexico are independent of their parent companies and must obtain a separate Federal Taxpayer Registry number and separate permits and authorisations. Usually, these new entities have shareholder agreements in place that provide for the corporate structure, management or business plans. Of special note when entering into an M&A or joint venture transaction of this nature are the manufacturing facilities and logistics of the target entity, as these will play a key role in the entity's access to the market and ability to take advantage of USMCA provisions.

With respect to the above, it is important to note that the formal review of the USMCA, scheduled for July 2026, could lead to additional changes in rules of origin and other relevant provisions. Additionally, since April 2025, the US government has imposed a 25 per cent tariff on imported automobiles, and since May 2025 on auto parts. Although vehicles and auto parts manufactured in Mexico and Canada that comply with the USMCA rules of origin are temporarily exempt, this measure has created uncertainty in the automotive sector and could affect investment decisions, including the structuring and operation of joint venture entities that rely on preferential access to the US market.

Companies should get local legal advice to comply with all applicable laws, especially those regarding antitrust and economic competition, environmental, tax, labour and administrative provisions, all applicable NOMs and authorisations, licences and permits required before beginning operations. Given the size of players and greater consolidation, the antitrust analysis is relevant, although a mitigating factor is that the market is usually analysed with a worldwide perspective and not merely what happens in Mexico – a point of view that is not prevalent in other industries. That said, following the 2024 constitutional reform that eliminated autonomous regulatory bodies such as the Federal Economic Competition Commission (COFECE), there is growing concern over the independence and effectiveness of competition oversight from the new authority that will assume COFECE's powers. These institutional changes make it even more critical for companies to seek specialised legal advice to navigate the evolving regulatory environment and mitigate potential risks.

English is widely spoken in Mexican M&A transactions and agreements are often drafted in English, while jurisdiction and applicable law may be set to Mexico or a foreign jurisdiction (most commonly New York). Arbitration clauses are not uncommon in larger deals and contracts, and are considered a valid trade-off with local parties to avoid domestic courts asserting original jurisdiction.

Law stated - 4 July 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

Among the factors that may be considered as an incentive to invest in Mexico are its geographic location as neighbour to the world's largest vehicle market, the relatively low cost of the workforce, the high-level degree of specialisation of Mexican labour and the extensive network of free trade agreements, among others.

There are incentives such as tax privileges granted to companies operating under IMMEX programmes, providing many tax and administrative benefits such as avoidance of the general import tax and VAT payment, VAT refunds, reduced customs fees and simplified import and export declarations.

Other incentives can be found in the form of sectorial promotion programmes, which through their application may reduce most-favoured-nation import duties. These programmes support 24 different sectors, including the automotive and auto parts sectors. They also enable manufacturers to import their inputs at preferential tariffs to ensure they remain competitive. Most automotive inputs can be imported duty-free thanks to this programme. In addition, companies that comply with all regulations contained in the 'eighth rule' (licence issued by the Ministry of Commerce and Industrial Promotion) may access a mechanism that allows such companies to import materials, inputs, parts and components using a zero per cent rate.

Several Mexican states such as Sonora, Aguascalientes, Querétaro, Guanajuato and Nuevo León have developed their own policies and benefits for the industrial sectors that can be translated into several investor incentives. These measures include reductions in real estate prices and taxes, discounts or reductions of payroll taxes and even employee training programmes.

Federal and state governments are actively attracting automotive manufacturers into Mexico, providing additional benefits that should be analysed on a case-by-case basis. Under the previous administration, the federal government launched the Welfare Development Poles (PODEBIS), located in the states of Oaxaca, Veracruz, Tabasco, Chiapas, and Yucatán, with the purpose of revitalising these strategic regions in southern Mexico. These industrial zones aim to attract investment through a comprehensive package of fiscal incentives, including full exemption from income tax (ISR) for up to three years, exemption from value-added tax (IVA) on transactions within the zones during the first four years, and immediate deductions for investments in new fixed assets. The PODEBIS focus on key sectors such as the automotive industry.

Since the USMCA became effective, many vehicle manufacturers have communicated their interest in expanding their investments in Mexico (and some have begun doing so). However, recent developments in US trade policy have introduced a new layer of uncertainty. We refer to the imposition by the US government of a 25 per cent tariff on imported vehicles and on auto parts. Additionally, the administration has signalled the possibility of renegotiating key provisions of the USMCA. Although vehicles and auto parts that comply with the rules of origin remain temporarily exempt, the future of these exemptions—and of the broader trade relationship—remains unclear. This uncertainty could delay or deter new investments in the Mexican automotive sector, as companies await greater clarity on the long-term viability of the agreement and the region's trade framework.

In addition, Mexico was expected to continue to reap benefits from the strained US–China relationship, particularly by serving as manufacturing hub for companies seeking to avoid American tariffs being imposed on their Chinese interests. Although interest from Chinese automakers in establishing operations in Mexico remains strong, the current geopolitical landscape has added a degree of caution, prompting companies to closely monitor developments in US trade policy as they refine their investment strategies. It will be important to monitor developments to compare the short-term and long-term effects of the prevailing uncertainty fostered by the US trade decisions.

Law stated - 4 July 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

The technical and quality standards regarding safety and emissions that must be met for the Mexican market are contained in Official Mexican Standards (NOMs). Some of the most relevant NOMs include:

- NOM-194-SE-2021, containing minimum security measures for new light vehicles, including provisions on the technical requirements for many parts of the vehicle such as tires, ABS, braking lights, reverse lights, evaluation methods and verification procedures;
- NOM-042-SEMARNAT-2003, NOM-044-SEMARNAT-2017 and NOM-076-SEMARNAT-1995, regulating vehicle emissions, such as the maximum emission levels for vehicles, evaluation methods and verification procedures; and
- NOM-079-SEMARNAT-1994 and NOM-082-SEMARNAT-1994, regulating the maximum noise level for vehicles and the evaluation method thereof.

There are also regulations on security measures, such as marking of doors and frames so that the vehicle is equipped with adequate and accessible information to protect consumer rights and avoid theft. Additionally, there are many safety measures regulating technical specifications on seat belts, tires, brakes and other vehicle parts to protect consumers from bodily harm. These standards are generally issued in such a manner as to be aligned with international regulations. Manufacturers must be frequently updated on any new NOMs and additional requirements for them to comply and be able to continue business operations.

Recalls are handled by the Federal Consumer Protection Agency (PROFECO). When a product poses a risk to consumers' health, safety or economic interests, PROFECO has the authority to order its recall. Manufacturers and importers are also obligated to immediately notify PROFECO if they become aware of any defect that may endanger consumers. Additionally, manufacturers may voluntarily recall defective products, which is common in large-scale recalls with a global reach, but they must still must inform and coordinate with PROFECO. In cases of non-compliance, the agency may impose sanctions and take corrective measures to protect consumers.

Currently, there are no specific rules under consideration in Mexico that directly regulate the use of driver assistance technologies in software-defined vehicles (SDVs). However, as Mexico continues to advance its mobility agenda, it is anticipated that more detailed policies concerning SDVs and driver assistance technologies will be developed to align with international best practices and technological advancements in the sector.

Law stated - 4 July 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

Product liability law in Mexico for defective products is based on the fault of the manufacturer or any other person in the production and distribution chain whose actions or omissions result in damage. If direct damage is not caused, and there is no direct link between the damage and the alleged guilty party, it will be difficult to support liability claims.

Mexico's civil law considers product liability as an extra-contractual obligation (similar to tort in common law countries). The law provides that whoever has acted illegally or against good

custom, and has caused damage to another, must repair the damage caused. Therefore, liability can only be asserted if damage was caused by the breach. The state does not operate any compensation schemes for particular products, but consumers may be able to file a claim if the defective product damages the individual and causes civil liability. These events are ruled by the Civil Code (federal or local). In addition, consumer protection rights may be enforced in parallel through administrative proceedings before the Federal Consumer Protection Agency (PROFECO), which has authority to impose sanctions and order corrective measures when consumer rights are violated.

Mexican law provides for mandatory recalls in specific cases, in particular those where PROFECO or other government agencies determine the existence of risks for consumers. Also, there are many companies with recall policies for defective products or failures that are used as a quality standard and as a practical measure to prevent future damage to consumers and to protect their brand and public perception. Failure to notify PROFECO of a defective product or take corrective action may result in administrative sanctions (in addition to the civil liability already mentioned). A possible defence against liability claims exists if the accused party can prove it has complied with all legal and technical specifications for a product, and the absence of fault or negligence in the product's design, manufacturing, or distribution.

In this regard, collective actions are available in Mexico to prosecute consumer claims; these actions may also be brought directly by government authorities such as the Federal Consumer Protection Agency.

Law stated - 4 July 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

Mexico is considered one of the most competitive countries in the automotive market in terms of available products. There are well over 50 brands present in Mexico and around 2,600 auto parts companies.

In competition matters, Mexico is undergoing a significant institutional transformation following a constitutional reform published in December 2024. This reform mandated the dissolution of several autonomous agencies, including the COFECE, as part of an effort to streamline the structure of the State and reduce public spending. The responsibilities previously carried out by COFECE will now be assumed by the National Antitrust Commission, a newly created competition authority housed within the Ministry of Economy, with a degree of technical autonomy. To fully implement the reform, Congress has just approved a bill that significantly modifies the Federal Economic Competition Law. It is now the National Antitrust Commission that will use the specific powers, procedures, and enforcement mechanisms. The changes to the law include important revisions in issues like changes to the definitions of absolute and relative monopolistic practices, new sanctions and fines, tougher penalties, recognition of compliance programs, increased

merger controls, enhanced investigation authority, etc. The appointments of the new members of the National Antitrust Commission will happen in the coming months.

Although COFECE had been notably active in conducting investigations and imposing sanctions in other sectors, there have not yet been any major competition enforcement actions specifically targeting the automotive industry in Mexico.

Law stated - 4 July 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

Disputes in the Mexican automotive industry typically arise from issues related to supply chain disruptions, breaches of distribution agreements, dealership terminations, product liability, and IP rights.

When contracts involve cross-border operations or foreign parties, it is common for them to include arbitration clauses for resolving disputes. Mexican courts recognise and enforce awards obtained by these arbitration proceedings. However, if the contracts do not contain an arbitration clause, the dispute would be resolved through the application of Mexican law by the competent courts, which may not be as expedient as arbitration.

In 2024, Mexico enacted a significant judicial reform that replaced the merit-based appointment system for judges with popular elections, reduced the number of Supreme Court justices, and established a new disciplinary tribunal. These changes have raised concerns about judicial independence and predictability. Consequently, including arbitration clauses in contracts has become increasingly important for businesses seeking legal certainty and neutral dispute resolution, especially in cross-border agreements.

Finally, Mexican law provides certain interim measures that can be requested from courts to protect interests in commercial disputes. Under the Commercial Code, parties may request precautionary measures – such as the provisional seizure of goods or prohibition to dispose of certain assets – provided that urgency and a prima facie case are demonstrated. However, Mexican courts do not grant interim injunctions in the same broad or discretionary manner as in common law jurisdictions. The scope of available relief is narrower, and courts will generally only grant measures that are specifically provided by law. In constitutional matters, amparo proceedings may offer suspensions, but these are only available when a constitutional right is at stake.

Law stated - 4 July 2025

Distressed suppliers

11 What is the process for dealing with distressed suppliers in the automotive industry?

There are no legally established procedures for handling supplier distress (other than bankruptcy laws); therefore, the industry typically relies on proactive commercial strategies. Generally it is recommended for the manufacturer to consider three main preventive actions regarding its suppliers:

- reviewing information such as financial statements and analysing internal performance and price trends to develop a risk profile of each supplier;
- identifying issues such as distinguishing troubled suppliers from healthy ones and determining most likely areas of distress; and
- analysing and, if necessary, undertaking different options such as changing supplier (if alternative suppliers are an option and an efficient transition is commercially feasible), investing or acquiring said supplier, developing efforts with the supplier to improve communication and material process flows or creating an inventory stock to be used as a reserve.

It is strongly recommended that agreements between manufacturers and suppliers include specific provisions addressing scenarios in which the supplier becomes distressed or fails to perform. These may include obligations for suppliers to ensure an efficient transition to a new provider, support knowledge transfer, or facilitate the continued supply of critical components during the hand over period.

The need to closely monitor and respond to distressed suppliers is further amplified by the strict regional value content (RVC) requirements under the USMCA. Given that a disruption in the supply chain can compromise a manufacturer's ability to comply with rules of origin, suppliers' failure may result not only in operational delays but also in the loss of preferential tariff treatment. This risk is particularly relevant in light of the 25 per cent tariffs recently imposed by the United States on foreign-made automobiles—tariffs which, for the time being, do not apply to vehicles that meet the USMCA origin requirements.

Law stated - 4 July 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

Intellectual property disputes are highly significant in the automotive industry. Given the sector's rapid technological innovation and intense global competition, strong IP protection is essential to maintaining a competitive advantage.

IP rights have received improved protection under the USMCA, compared to the previous framework under NAFTA. This treaty introduced higher standards, including the extension of the protection term for industrial designs from 10 to 15 years, prohibitions on the circumvention of technological protection measures along with penalties for such conduct and the establishment of criminal and civil remedies for trade secret misappropriation.

As a result of the USMCA, Mexico took important steps to strengthen its IP framework. A new federal law for the protection of IP came into force in 2020, introducing clearer

procedures, increased penalties and broader enforcement mechanisms. The Mexican Institute of Industrial Property (IMPI) has administrative authority to handle infringement claims and impose sanctions, while civil and criminal actions remain available for more serious or complex cases.

Notwithstanding the above, it is highly recommended for automotive companies to aim for appropriate protection of IP rights when doing business in Mexico. Although registering IP rights in another country may offer some benefits, foreign protection does not always extend to Mexico. As such, to ensure and duly protect IP rights, they must be registered and enforced under Mexican law.

Local legal advice is strongly recommended when licensing and transferring technology or any IP right, to ensure that agreements are appropriately structured and that proprietary rights are safeguard against unauthorised use. Franchising has also emerged as a growing strategy for commercial expansion and as an option to be considered to protect IP rights, through controlled licensing and brand management.

Law stated - 4 July 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

The right to work in Mexico is protected by the Constitution, specifically articles 5 and 123. The Federal Labour Law broadly regulates all main topics contained in article 123 of the Constitution and is also responsible for regulating all labour aspects between employers and workers, including establishing minimum worker protection rights.

The United States–Mexico–Canada Agreement (USMCA) also provides certain rights to the workers in the automotive industry that were not previously standard practice. The USMCA includes labour requirements that have progressively reshaped cost structures in the Mexican automotive sector. One of the key provisions requires employers in the automotive industry to pay their workers a minimum of US$16 per hour (for at least 40 per cent of the parts and services that count towards the regional rule of origin to qualify for preferential tariff treatment), which is considerably higher than the average wage in Mexico. This treaty also provides that Mexican authorities must allow workers to form unions and be able to vote in a secret ballot to choose their union leader.

Although this provision put pressure on Mexico, and raised concerns about the country's ability to remain cost-competitive, in response, the industry opted strategies such as wage restructuring, automation of high-cost processes, reclassification of value-added activities, and selective reshoring of components. Ensuring compliance with this labour value content requirement has become even more critical in 2025, following the imposition of 25 per cent tariffs by the United States on foreign-made automobiles; vehicles that meet the USMCA rules of origin—including the labour component—are at the time exempt from these tariffs.

Historically, entities tended to establish an operating company holding all relevant assets and undertaking business operations, together with a services company that 'housed' the employees and was engaged by the operating company (in such a way that the employees would be subcontractors of the operating company). However, this structure was subject to recent legal reforms that banned outsourcing structures, and only certain specialist services are now allowed to be subcontracted. As a result of these reforms, many entities decided to merge their services companies with their operating structures, or to wind up the services companies and transfer all relevant employees to the operational entity.

Mexican law provides for alternative types of labour relationships, including those for a specific project or a fixed term, seasonal work and indefinite employment, which may be subject to a probationary period or initial training. A six-day, 48-hour working week is standard. Overtime pay is required if this level is exceeded (double pay for up to nine hours of overtime and triple pay for overtime of more than nine hours).

Among the main rights enjoyed by employees are holidays, paid leave after one year of service, holiday bonuses and an annual bonus equivalent to at least two weeks' pay. Employers are responsible for these additional costs, which can add 30 to 35 per cent to an average salary.

Other relevant obligations of employers are:

- compliance with safety, health and environment regulations and Official Mexican Standards;
- mandatory wheelchair access if employing over 50 employees;
- obligation to give employees access to the full text of the collective bargaining agreement that may exist in larger companies;
- informing employees of the risks and dangers associated with their activities in the workplace;
- confirmation of paternity leave; and
- establishing policies against harassment and discrimination.

Pursuant to the Federal Labour Law, at least 90 per cent of the employees of a Mexican entity must be Mexican nationals, excluding directors, managing directors and general managers.

Trade unions in Mexico have significant influence over the labour market. The Federal Labour Law protects the right of workers to associate without prior authorisation and provides the framework to create a trade union. For unions to be valid and in force they must be registered with the Federal Centre for Conciliation and Labour Registration. Collective negotiations and agreements are signed by representatives of unions and the employer.

In the past, employers could be pressured into to having their workers unionised. This often occurred when a trade union discovered that any given entity was not party to a collective bargaining agreement, and would then demand to be contracted with. As preventive measure, it was common for companies to enter into agreements with so called 'white unions', which were largely inactive but complied with the legal requirement, thereby avoiding engagement with active unions, which may cause complications depending on their nature and intent. However, as a result of the USMCA negotiations, Mexico enacted a labour reform in 2019 aimed, among other things, at eliminating the practice of white

unions—primarily by requiring that all collective bargaining agreements be legitimised through a personal, free, and secret vote by the workforce.

Law stated - 4 July 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

As reflected in the continued shift in R&D strategies by major automotive brands, in the last few years technological innovations remains central to the future of the automative industry. Although the acquisition by consumers of vehicles equipped with new technologies in Mexico is somewhat limited by their relatively high prices, this is gradually changing due to greater market availability, particularly with the entry of new competitors, including several Chinese brands offering more affordable alternatives. The Mexican government has also played a role in promoting adoption by introducing various incentives to encourage the purchase of electric and hybrid vehicles, which are typically equipped with advanced technologies.

In 2024, Mexico reached a new milestone with over 124,303 hybrid and electric cars sold. This growth is supported by specific tax incentives, such as the federal exemption from the new vehicle tax. At the state level, several jurisdictions continue to offer exemptions from local vehicle ownership taxes and from vehicle restriction programme aimed at reducing urban air pollution, in addition to relaxed emissions testing obligations.

Efforts to develop public and private charging infrastructure have accelerated significantly. In October 2024, the Mexican Energy Regulatory Commission issued regulations with specific requirements for connection of electric vehicle charging stations to the National Electric System. These provisions aim to clarify the legal status of charging infrastructure and provide a more predictable regulatory framework for investors.

In 2025, a new energy reform led to the enactment of the Law of the Electric Sector replacing the previous Electricity Industry Law. The new law includes a section on electromobility, recognising it as transportation systems that rely on electric or hybrid traction. It empowers the Ministry of Energy and National Commission of Energy to issue regulations on the subject matter. Additionally, the new Planning and Energy Transition Law requires the Ministry of Energy to consider electromobility in the planning of the extension of the National Electric System.

Law stated - 4 July 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

The Mexican automotive industry is deeply interconnected with the respective industries in the United States and Canada, and they can be considered one regional industry encompassing all three countries under the USMCA. While the agreement has provided legal certainty and regulatory alignment in recent years, the industry is now entering a period of uncertainty driven by shifts in US trade policy. The above considering that in April 2025, the US administration imposed 25 per cent tariffs on foreign-made vehicles and extended these tariffs to auto parts in May 2025. Although vehicles and auto parts that comply with USMCA origin rules are currently exempt from these measures, the temporary nature of the exemption has raised concerns regarding the long-term reliability of preferential treatment under the agreement.

Further uncertainty stems from the upcoming six-year review of the USMCA in 2026, which could lead to the renegotiation or reopening of key provisions. These developments have introduced volatility into regional planning and have prompted companies to reassess their long-term investment and sourcing strategies in North America.

While previous proposals such as a standalone Electric Mobility Law were ultimately integrated into broader legislative reforms, the regulatory environment is progressively becoming more supportive and coordinated. Nonetheless, legal frameworks specifically addressing autonomous vehicles, vehicle-to-vehicle (V2V) communication, and the management of vehicle-generated data remain pending. Although stakeholder consultations have begun, no comprehensive legislation has yet been adopted to address the liability, safety, or cybersecurity implications of connected and automated driving technologies.

Mexico is also positioned to benefit from its participation in other trade agreements such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which may open new export markets and attract additional investment in advanced automotive manufacturing.

Overall, Mexico’s automotive legal and regulatory framework continues to evolve in response to technological advancement, global trade dynamics, and climate goals—offering both new opportunities and regulatory challenges for industry participants. The automotive industry is identified as one of most relevant levers of Mexico’s economic success in the foreseeable future.

Law stated - 4 July 2025

Juan Francisco Torres Landa juanf.torreslanda@hoganlovells.com
Adriana Lissette Pavón Mendoza adriana.pavon@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

Netherlands

Manon Cordewener, **Joke Bodewits**, **Maria Benbrahim**, **Dirk-Jan Ridderinkhof**, **Hessel Roeleveld**
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

Globally, the automotive industry is a major employer and a key driver of economic activity. While the Netherlands plays a modest role in global vehicle assembly – similar to most countries – it is nonetheless a relatively significant player within the broader automotive industry. It hosts a number of car and truck manufacturers. VDL Nedcar in Born has long been the best-known car manufacturer in the Netherlands. Starting as DAF, VDL NedCar has built cars for Volvo, DaimlerChrysler, Mitsubishi and, more recently, BMW. However, VDL NedCar recently shut down its plant after BMW terminated its contract with VDL NedCar. Despite this setback, VDL NedCar has managed to secure a new contract with BMW. The company will assemble approximately 125,000 battery modules for BMW's electric vehicles until at least 2035. Around 10 per cent of the production capacity will be allocated to the new BMW contract.

Truck manufacturers located in the country include Scania, DAF Trucks and GINA-F.

In the supply industry, such as chips, electronics, steel or paint, the Netherlands plays a more significant role. Many of the products or components made here are exported to Germany. In the fields of research, design and electrification of mobility, the Netherlands is one of the leaders. In concrete terms, the Netherlands is predominantly known for its vast number of suppliers in the automotive industry. It is said that almost every passenger car contains products that are manufactured by Dutch suppliers. Suppliers are diverse and innovative, and are active in a wide variety of sectors relevant to the automotive industry, such as auto parts, rubber and plastic, mechanical engineering and electronics. Competitors are widespread and involve a significant number of companies. This is best shown by the number of manufacturers and suppliers that are members of the RAI Association, which represents the interests of over 700 Dutch manufacturers and importers of, among other things, passenger cars, trucks, trailers and special vehicles. Almost all manufacturers and suppliers located in the Netherlands are members of this association.

RAI Automotive Industry NL is one of RAI Association's nine sections. With over 200 members, it represents the interests of the Dutch automotive industry on a national and international level. RAI Automotive Industry NL focuses on global automotive and mobility solutions by joining forces with industry members and stakeholders and acting as a catalyst in the fields of innovation and education.

The Dutch automotive industry has benefitted from high levels of skilled labour, a multilingual workforce, supportive corporate tax structure as well as being close to Europe's largest automotive markets, including Germany. This has encouraged the industry's strong growth over the past five years.

The electric car is becoming increasingly popular in the Netherlands. In the Netherlands, more fully electric cars were sold in February 2025 than a year earlier, while the overall market for new passenger cars is shrinking. According to the RAI Association, 10,174 fully electric cars were sold in January 2025. This was more than 22 per cent higher than the

previous year. There is also increasing demand for hybrid cars, resulting in more than two-thirds of all newly registered cars being partially or fully electric. Notably, Tesla, the long-time market leader in electric vehicles, experienced declining sales figures in the first months of the year. In 2024, nearly 14 per cent of all passenger cars in the Netherlands were partially or fully electric. Years ago, the number of electric and hybrid cars made up only 3.7 per cent of the vehicle feet. According to BOVAG and RAI Vereniging 1.3 million of the 9.4 million registered passenger cars were fully electric or hybrid.

The growing demand for electric cars is partly driven by government incentives. The Dutch government encourages citizens to drive electric vehicles, as they are more environmentally friendly. Road traffic accounts for about a fifth of greenhouse gas emissions in the Netherlands, and an electric vehicle produces no greenhouse gases or nitrogen dioxide, which is crucial for maintaining optimal air quality. If the Netherlands is powered by green electricity in the coming years, the environmental benefits of electric driving will be even greater. The government incentives are as follows: a tax reduction on road tax until 2029, possibly a lower fiscal addition until 2025, and entrepreneurs can apply for subsidies for fully electric company cars.

Law stated - 8 June 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

In the Netherlands, type approval is required for the registration, sale and entry into service of vehicles and vehicle parts. The most important regulation in this regard is Regulation (EU) 2018/858 (amended by Regulation (EU) 2019/2144 that has been applicable as of 6 July 2022).

The Regulation provides for a revision of certain parts of the type approval system and, in addition to the administrative provisions and general technical requirements, the Regulation contains new provisions on market surveillance measures for vehicles already on the market.

In principle, a regulation has direct effect and therefore does not require implementation. However, member states are required to adopt necessary implementing regulations to ensure that the regulations can be effectively applied and enforced in a member state. In the Netherlands, in addition to Regulation (EU) 2018/858, the Dutch Road Traffic Act 1994 is the main type approval law in the Netherlands. Further rules are set out in the Dutch Vehicles Regulation with regard to, for example, type approvals. The Licensing Regulations are also based on the Road Traffic Act and lay down further rules on vehicle registration aspects. The Netherlands Vehicle Authority (RDW) is the competent type approval authority in the Netherlands for motor vehicles. The Human Environment and Transport Inspectorate has been designated as the Dutch market surveillance authority.

The RDW is in charge of granting national and European type approvals. Before applying for a type approval, the manufacturer must demonstrate, by submitting a wide variety of documents, that the production process is in order. The RDW issues the type approval after assessing test reports, information documents and a verification on the basis of the new requirements.

Once a type approval has been granted, it may become invalid if stricter rules come into effect. In that case, the manufacturer must apply to the RDW for a supplement to the approval. This must also be done in the case of technical modifications.

Registration of vehicles

Pursuant to the Road Traffic Act, all vehicle owners must register their vehicles in the RDW's register and hold a vehicle registration certificate. The registration can only succeed when the vehicle has been type approved by the RDW. The RDW issues registration certificates in credit card format (also known as registration cards), and the card complies with all applicable European legislation. A fine can be imposed upon the vehicle owner if it does not have a valid registration card.

Insurance requirements

Pursuant to the Motor Vehicle Liability Insurance Act (WAM), the owner of a motor vehicle (in whose name it is registered) is obliged to take out and maintain insurance for the motor vehicle. The RDW checks daily whether vehicles comply with the insurance obligation. It carries out this duty on behalf of the Ministry of Justice and Security. If the vehicle owner fails to take out and maintain insurance, he or she can be punished by imprisonment for a maximum of three months or a second-category fine (as of 1 January 2024: €5,150 (pursuant to article 30 WAM in conjunction with article 23 Dutch Criminal Code)). In addition, a driving disqualification of up to one year can be imposed. For a repeat offence within five years, a driving disqualification of up to five years could be imposed. An additional financial penalty of up to €2,723, payable to the Motor Traffic Guarantee Fund, could also be imposed. However, maximum penalties are rarely imposed.

Although enforcement through criminal law is possible, in practice this offence will usually be enforced through administrative law (through the Mulder Act).

Law stated - 8 June 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

The way automotive companies are operating in the Netherlands does not seem to differ from how they operate in neighbouring European countries. The supply is usually done based on a purchase order with a contract structure that is implemented by automotive

OEMs and flows down the supply chain. This includes contractual provisions to safeguard trade secrets and intellectual property rights.

Supply relationships are to a large extent based on the OEMs or higher tier suppliers' purchase terms. Special arrangements do exist, such as volume contracts with particular suppliers and, as far as distributor contracts are concerned, most often comprehensive written agreements are in place. In addition, OEMs use highly standardised documents to cover specific issues, such as quality requirements, warranties, logistic requirements and indemnities. In cases where parties cooperate in a joint venture or similar arrangement, often detailed individual agreements on the joint venture are concluded.

With new technology and innovative companies entering the market and connectivity becoming essential to the automotive industry, concluding strategic agreements with companies specialising in connectivity and mobility becomes more important.

Law stated - 8 June 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

As far as the distribution of vehicles is concerned, this generally starts (at the first level) with the OEMs (or their national importers) who have set up a network of authorised distributors. The distributors (at the second level) enter into specific arrangements with dealers who (at the third level) sell and market the vehicles in their own name to end consumers.

Contractual arrangements within the distribution chain vary depending on the type of customer. Contracts entered into with high-volume or special customers, such as fleet owners or lease companies, materially differ from the contractual arrangements entered into with other customers.

Direct relationships with end users are becoming increasingly important to OEMs. This trend is accelerated by personalised connectivity and mobility services that are made available to end users, and the offering of online vehicle services fit to satisfy the end users' needs. In turn, personalised transport services fuel the demand for mobility provided as a service (MaaS). Based on some of these MaaS concepts, customers pay a flat rate subscription fee in exchange for being provided with a car and – on top of that – a wide range of car-related services as well as the option to change car models at frequent intervals or on demand. It is expected that MaaS will continue to gain popularity, potentially causing a decline in car ownership and an increase in innovative new mobility services, such as rental or lease and car-sharing services, thus making direct relationships with the end users even more important for car manufacturers. Dutch law does not provide for any specific statutory provisions on distribution agreements. Under Dutch law, a distribution agreement is – like all other contractual arrangements – governed by general provisions on contract law and by the principle of reasonableness and fairness (article 6:248 of the Dutch Civil Code). This principle of reasonableness and fairness may, under certain circumstances, limit or extend the contractual arrangements made by parties.

Regarding termination of distribution contracts, Dutch courts may, based on the above principle, extend the notice period parties have agreed upon. Neither Dutch legal literature nor case law confirm whether this principle of reasonableness and fairness should be considered a rule of Dutch mandatory law. The general perception, however, is that the principle of reasonableness and fairness should have no effect on a distribution agreement that is governed by foreign law, or that this effect should be very limited. Dutch legal authors who defend a limited effect of the principle of reasonableness and fairness state that the effect is limited to the possibility of granting the distributor financial compensation if the contractual notice period can be considered unreasonably short.

Under Dutch law, a reasonable notice period is determined bearing in mind all circumstances of the case at hand. One of the critical circumstances in this regard is the term of the agreement. Other circumstances that may affect the actual length of the notice period include the following.

Purpose of a notice period

The purpose of a notice period is to give the terminated party the opportunity to adjust its position in view of the forthcoming termination of the agreement. The length of the notice period should be appropriate for allowing the terminated party to adapt its position accordingly.

The length of a notice period also depends on the question as to what extent the distributor depends on the supplier. Important factors for this assessment are:

- to what extent are there substitutes for the products; and
- to what extent do the products of the supplier form a part of the entire product range of the distributor?

Duration of the distribution agreement

The duration of the distribution agreement is also significant in determining the duration of a reasonable notice period. A long duration of an agreement would justify a longer notice period.

Reason for termination

The reason for terminating the distribution agreement and the manner in which this is communicated to the terminated party may also have an effect on the duration of the notice period.

However, if a contract expressly provides for a notice period, and this notice period is observed, it is unlikely that this notice period will be considered unreasonable.

Upon a valid termination of a distribution agreement entered into for a definite or fixed period of time, in principle, there is no ground for a termination fee. It is generally assumed that a distributor makes its profit by reselling the products (at a higher price). Any investments made by the distributor must be accounted for in the purchase price of

the products. This is a key difference to an agency agreement, where the agent is entitled to a termination fee (provided certain conditions are met) based on European law.

The reason for there being two approaches is the difference between how a distributor operates and how an agent operates. A distributor makes its own (re)sales to its own customers. After termination of a distribution agreement, the distributor still has its customer base (provided no alternative arrangements were made between the supplier and the distributor regarding the transfer of customers or customer base). An agent works for and enters into agreements on behalf of its principal. After termination of an agency agreement, the agent is left with nothing (while it may have built a huge client base for its principal from which the principal can profit in the future, making a compensation for an agent reasonable).

It is not, therefore, that termination compensation for a distributor is forbidden under Dutch law; it is just not common practice and the distributor has no statutory right to ask for such compensation (save for certain exceptions based on the above-mentioned principle of reasonableness and fairness).

The impact of technology and Internet-based platforms on the distribution process, environment and expectations

In our ever-changing society, technology plays an increasingly important role. This is certainly also the case in the automotive industry. The growth of electric vehicles is an example of how technology is transforming the automotive sector. With a growing focus on sustainability, electric vehicles help reduce the ecological footprint. Electric driving offers several advantages, such as lower fuel costs and reduced maintenance requirements due to their simple mechanical structure. Additionally, more charging stations are being installed, lowering the barrier to considering an electric vehicle. Furthermore, it is expected that technology will have a significant impact on the operation and insurance of vehicles in the future. For example, self-driving cars are no longer a thing of the distant future; autonomous vehicles are becoming a reality. Various companies are focusing on the development of fully autonomous vehicles, meaning that in the future, people may no longer need a driver or even their own car.

Distribution process

Technology has made the vehicle distribution process more customer-oriented, efficient, and flexible. It has not only changed consumer expectations but also the way vehicles are produced, distributed, and sold globally. Technology has opened the door for online vehicle sales. Manufacturers and dealers now offer digital showrooms and online configurators, where consumers can choose, customise, and even purchase cars without going to a physical dealership. Brands like Tesla have pioneered this direct sales model, allowing customers to order vehicles online and have them delivered to their homes. Technology makes it possible for manufacturers to adopt a direct-to-consumer distribution model.

Nowadays, the use of big data and analytics is also common. Big data and analytics help manufacturers and distributors optimise their inventory management and distribution networks. By analysing customer behaviour and preferences, companies can make better predictions about demand and supply, which leads to more efficient vehicle delivery

and reduces overproduction or shortages. Furthermore, consumers now expect greater convenience and transparency in the distribution process. The ability to track orders, receive detailed information about vehicles, and even schedule home delivery through mobile apps or online platforms has raised customer expectations. This pressure has led traditional dealers to adapt their sales and distribution channels. Platforms such as AutoScout24 and Marktplaats offer consumers the ability to buy new and used cars without visiting a traditional dealership. These platforms allow customers to compare various vehicles and prices, changing the dynamics of the distribution process.

sConnected vehicles (using IoT technologies) are enabling new possibilities for aftersales and maintenance services, which also impact the vehicle distribution process. Technology also allows customers to easily schedule maintenance or receive over the air software updates, improving the customer experience and strengthening the brand relationship. Automation and robotics in warehouses and distribution centres have improved the handling of vehicles and parts. Thanks to technology, vehicles can be processed more quickly through the distribution chain, resulting in cost savings and faster delivery times. Technology is also influencing the sustainability of the distribution process. Electric vehicles (EVs) and the digitaliation of logistics are contributing to a smaller ecological footprint in the distribution process.

The future of the distribution process will continue to evolve through the application of emerging technologies, such as artificial intelligence, machine learning, and autonomous vehicles.

Environment

With the internet providing access to global markets, automotive companies are no longer limited to local or regional markets. They can now reach international customers with the right logistics networks, increasing the market scope and growth opportunities. Platforms like Uber, Greenwheels and other mobility services have also changed the automotive environment. Rather than owning cars, people increasingly opt for ride-sharing.

Expectations

Technology has made it easier for consumers to research vehicles, compare prices, read reviews, and track delivery status in real time. This has increased expectations for transparency in pricing, features, and the overall buying process. Consumers expect to have access to as much information as possible before making a purchasing decision.

Dutch Franchise Act

On 1 January 2021, the Dutch Franchise Act came into force. The Dutch Franchise Act will be applicable to all contracts that meet the legal definition of a ‘franchise agreement’ as set out in this Act. Accordingly, the contract will be subject to the mandatory legal framework of the Dutch Franchise Act. The intention of the parties entering into the contract will not be decisive when assessing whether the contract qualifies as a franchise agreement. If a contract falls within the scope of the Dutch Franchise Act, the position of the franchisee (eg, distributor or dealer) will be strengthened towards the position of the

franchisor (eg, manufacturer). The Dutch Franchise Act includes provisions on information and compensation rights of the franchisee (eg, the distributor or dealer) in relation to the franchise formula and on goodwill and the permitted non-compete clauses. It is likely that legal disputes will be initiated to try to receive (declaratory) judgments on the qualification of dealer or distribution agreements in this respect.

Law stated - 8 June 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

Generally, there are no major differences in the way in which automotive M&A transactions are handled in the Netherlands in comparison to transactions in other European jurisdictions. Considering, however, that the automotive market is rapidly changing and that new entrants enter the market who have a completely different background, such as IT companies, internet companies and other major technology companies, topics that require specific attention during the due diligence process (when entering into M&A and joint venture transactions) include (among others) the reliability of customer and supplier relations, environmental issues, product liability, insurance coverage, IP rights and regulatory compliance (including compliance with emission standards).

Law stated - 8 June 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

According to the RAI Association, which represents the interests of over 700 Dutch manufacturers and importers of, among other things, passenger cars, trucks, trailers and special vehicles, there is a wide variety of subsidy and incentive schemes in the Netherlands to which the players in the automotive industry can subscribe. Both the national government as well as the local governments incentivise innovation and sustainability in different ways. Incentives range from facilitating vehicle purchase to developing technologies used in cleaner vehicles; for instance, subsidies or incentives for purchasing and using electric vehicles (often through the payment of individual purchase premiums) or individual tax advantages, or at the level of business processes and innovation.

There are no specific barriers to entering the automotive market in the Netherlands. It is a rapidly changing industry sector. Although the industry has long been subject to rules set and developed by traditional (foreign) automotive players (mostly OEMs), new companies entering the automotive market have started challenging these established rules and

common practices by applying new rules and practices, and the focus of competitors is rapidly shifting from traditional automotives to connectivity and mobility.

Law stated - 8 June 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

Regulation (EU) 2018/858 introduces market surveillance measures for vehicles already on the market. Similar to Directive 2007/46/EC, Regulation (EU) 2018/858 does not include substantive technical requirements that vehicles have to comply with, but refers to the requirements of specific regulatory acts, such as Regulation (EC) No. 715/2017 regarding emissions. In addition to EU regulations, the Road Traffic Act and the Vehicles Regulation lay down rules on safety and environmental matters.

In recent years, many of the market surveillance activities under the Road Traffic Act have been transferred from the Netherlands Vehicle Authority (RDW) to the Human Environment and Transport Inspectorate (ILT). The RDW does, however, still have a recall register available. The ILT is (also) the competent authority for certain POPs, REACH, RoHS and WEEE aspects. In addition, the Dutch Authority for Digital Infrastructure (RDI) (before 1 January 2023 known as the Dutch Radiocommunications Agency) supervises the trade in devices. The RDI serves as the competent market surveillance and product safety authority with respect to certain EMC and RED aspects. For the automotive sector, RDI can become important when it comes to compliance of connectivity, internet and radio equipment in vehicles. EMC and RED are implemented in the Dutch Telecommunication Act.

In principle, non-compliance with applicable law requirements is subject to both administrative and criminal enforcement. For violations of certain applicable EU legislation, criminal sanctions could be imposed. However, in practice, enforcement by means of administrative sanctions is preferred by the competent authorities in the Netherlands. That being said, the use of criminal sanctions can be appropriate when the administrative law instruments are insufficient, for instance in the event that seizure or entry into a dwelling is necessary, in the event of recidivism and in the event of serious violations whereby danger is caused, or a potentially dangerous situation has arisen.

Under Regulation (EU) 2018/858, a manufacturer is obliged to take corrective measures (such as a recall) in the case of non-conformity of the vehicle and when type approval is granted on the basis of incorrect data.

A company is also obliged to immediately inform the competent market surveillance authority (and take appropriate corrective measures) if they know, or ought to know based on the information or experience available to them, that products made available on the market by them present a risk to the safety and health of persons. In the case of a serious risk, the notification obligation under Regulation (EU)2018/858 is applicable. Regulation (EU) 2018/858 refers to both safety and environment-related risks. For the qualification of a serious risk, the Regulation refers to Regulation (EC) No. 765/2008:

> The decision whether or not a product represents a serious risk shall be based on an appropriate risk assessment which takes account of the nature of the hazard and the likelihood of its occurrence. The feasibility of obtaining higher levels of safety or the availability of other products presenting a lesser degree of risk shall not constitute grounds for considering that a product presents a serious risk.

Furthermore, under Regulation (EU) 2018/858, the market surveillance authorities of all EU member states (in the Netherlands, the ILT) have the discretion to evaluate a vehicle if there are sufficient reasons to believe that it poses a serious risk to the health or safety of persons or presents a serious risk of non-compliance. If the ILT concludes that the vehicle presents a serious risk to the health or safety of persons, it will require appropriate corrective measures by manufacturer to ensure that the vehicle no longer presents that risk.

The RDW may refuse to grant a type approval if it considers that, albeit in conformity with all the type approval requirements, the vehicle constitutes a serious risk to road safety, public health or the environment.

Since 2019 the Law Governing the Experimental Use of Self-Driving Vehicles (*de Experimenteerwet zelfrijdende auto's*) came into force and enables the RDW to grant permits to experiment with self-driving vehicles where the driver is outside of the vehicle.

Law stated - 8 June 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

Product liability law

Directive 85/374/EEC on liability for defective products has been implemented in section 3 of Book 6 of the Dutch Civil Code. A proposal that should revise and modernise the European Product Liability Directive is currently pending. A manufacturer is strictly liable for damages caused by a defect in its product. A product is defective when it does not meet product safety expectations. The burden of proof rests on the consumer. He or she must prove the existence of the damage, the defect and the causal relationship between the two. The consumer can claim damages up to three years from the moment he or she has knowledge of the damage, the defect and the identity of the manufacturer. The right to compensation lapses 10 years from the date on which the product was brought into circulation. Next to the strict liability framework, a consumer can also bring a claim under contract or tort law.

If defects have been detected in vehicles, the manufacturer must notify the competent authorities, inform the consumers and recall the products. In some cases, the recall is geared towards repairing or replacing the defected product in the vehicle. In other cases, it may consist of a software update. These obligations are based on requirements of the EU's General Product Safety Directive 2001/95/EC (GPSD). In this regard, the RDW is responsible for informing the public and for supervising the process. The RDW keeps a product recall register online that contains information about the product, the defect, possible hazards and the required measures. As of 13 December 2024, the provisions of Regulation (EU) 2023/988, also known as the General Product Safety Regulation (GPSR), will replace the GPSD. Compared to the GPSD, the GPSR contains a number of stricter rules regarding traceability, distance sales, authority notifications and accident reporting.

Class actions

Unlike most jurisdictions in Europe, the Netherlands has a long-standing practice in collective redress, and various collective redress mechanisms are available. The use of these mechanisms is not restricted to certain types of damages or certain types of claimant; each of the mechanisms can be used for any type of case. The Netherlands is well known in particular for its Collective Settlement Act, which provides for a class settlement mechanism based on an opt-out system that resembles the United States' class action settlements. On 1 January 2020, the Collective Damages Act was introduced in the Netherlands, adding the possibility for a foundation or association to claim monetary damages on behalf of injured parties. Multiple cases have already been brought before the Dutch courts against different car manufacturers, importers and distributors. As a result of the Dieselgate incident, multiple claim foundations have been established (eg, the Car Claim Foundation and the Diesel Emissions Justice Foundation). Collective damages actions must be registered in the Central Register for Collective Actions.

Rules on software-defined vehicles

A relevant development has occurred in Europe. European regulations have made a number of driver assistance systems mandatory for cars that came onto the market from July 2022 and for all new vehicles, systems, components, and technical units from July 2024. Regulation 2019/2144 contains provisions for type approval to ensure the general safety of vehicles and the protection of vulnerable road users. The aim of the regulation is to significantly reduce the number of deaths and serious injuries on the roads in the EU by introducing advanced safety technologies as standard equipment for vehicles, as well as to enhance the competitiveness of car manufacturers in the EU on the global market by providing the very first EU legal framework for automated and fully automated vehicles. The regulation amends Regulation 2018/858 concerning EU approval and market surveillance of motor vehicles and their trailers. With this new general safety regulation, EU vehicle safety rules are updated, including addressing the specific interests of vulnerable road users such as pedestrians and cyclists. Below it is made clear which safety regulations are being implemented.

All new vehicles need to be equipped with the following safety features:

- Intelligent speed assistance;

- Provision for the installation of an alcohol interlock (breathalyser);
- Fatigue and attention warning;
- Advanced distraction warning;
- Emergency stop signals;
- Reversing detection;
- Incident data recorder; and
- Accurate tire pressure monitoring.

Cars and vans also need to be equipped with the following advanced safety features, including:

- Advanced emergency braking systems capable of detecting motor vehicles and vulnerable road users at the front;
- Lane-keeping assistance systems in emergency situations; and
- A larger head protection zone to ensure that vulnerable road users suffer less severe injuries in a collision.

Buses and trucks must not only comply with the general requirements and be equipped with existing systems (such as lane departure warning systems and advanced emergency braking systems), but also:

- Be equipped with advanced systems capable of detecting pedestrians and cyclists near the front or side of the vehicle, which can warn the driver and avoid collisions with these vulnerable road users; and
- Be designed and built to help eliminate blind spots in front and on both sides of the driver as much as possible.

The regulation enables the European Commission to establish specific implementing acts on the safety of hydrogen vehicles and automated vehicles in light of future technical developments.

Law stated - 8 June 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

At the end of 2020, proceedings were initiated by two claimants (Stichting Tesla Claim and the Bios-groep). In these proceedings, consumers and taxi drivers demanded compensation from car manufacturer Tesla. The claims involved at least 220 claimants represented by Stichting Tesla Claim and 70 claimants represented by BIOS-groep. The complaints were that, despite a promise from Tesla that its cars are maintenance free, consumers had experienced numerous maintenance issues. The spokesperson for

BIOS-groep stated that, apart from maintenance malfunctions, the aftersales service and support were below standard. Back in 2019, a group of four taxi drivers sued Tesla for similar reasons. They demanded the full repayment of the purchase price of the cars. The district court of Midden-Nederland (29 July 2020, ECLI:NL:RBMNE:2020:2845) denied this claim on the basis that, among other things, the claimants failed to prove that the maintenance issues already existed at the time of purchase. In line with this judgment, the claim of Stichting Tesla Claim was rejected by the Dutch district court in first instance. It is unclear whether Stichting Tesla Claim is appealing the judgment.

Furthermore, the Dutch Authority for Consumers and Markets (ACM) has informed the Dutch automotive industry that more transparency is required regarding the prices of charging electric vehicles. In early 2020, members of the parliament suggested that a maximum price should be implemented. The Minister of Housing, Spatial Planning and the Environment stated that (for now) no maximum price is necessary. The ACM is currently monitoring whether the operators of electric chargers are more transparent regarding the prices and encourage consumers to report any unclear display of prices.

The Netherlands is a favourable jurisdiction for follow-on civil litigation for antitrust damage claims. Under Dutch law, it is possible to start collective claims based on an opt-out mechanism for Dutch customers (ie, a procedure in which a claim is brought on behalf of the entire class of potential claimants without the need for them to proactively choose to participate). One of the recent cases where follow-on civil litigation is present relates to the well-known *Dieselgate* case involving Volkswagen and more recently Daimler. Several claim vehicles represent customers seeking compensation. The claim vehicles consist of ad hoc vehicles, but also established claim vehicles and representative bodies.

Law stated - 8 June 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

No specific preference for litigation or arbitration has been observed in the Dutch automotive industry. If parties have agreed on arbitration in their contract, Dutch courts will declare themselves not competent to hear the case. It is possible to request preliminary injunctions in Dutch courts. Preliminary measures are available in arbitration proceedings, if Dutch law is applicable and the parties chose to be bound by the arbitration rules of the Netherlands Arbitration Institute.

Claims for damages based on defective products developed and delivered by either OEMs or suppliers are common disputes (article 6:185 of the Dutch Civil Code et seq). Other common disputes are those in connection with the termination of the supply contract. In the aftermath of the covid-19 crisis, contractual disputes were more on the question of whether contracts could be terminated or altered based on either force majeure clauses or unforeseen circumstances. If these are not included, parties are dependent on Dutch law and how it is interpreted. Whether parties may invoke the contractual or statutory provisions needs to be determined on a case-by-case basis.

The Dutch Franchise Act came into force on 1 January 2021. It is likely that distributors and dealers (and the respective representative associations) will initiate proceedings against the manufacturers to argue that their contracts fall within the scope of the Act. If a contract falls within the scope of the Dutch Franchise Act, the position of the counterparty (eg, distributor or dealer) will be strengthened towards the position of the manufacturer. The Dutch Franchise Act includes provisions on information and compensation rights of the franchisee in relation to the franchise formula and on goodwill and permitted non-compete clauses. Subsequently, PSA Group's dealer associations have initiated court proceedings against Stellantis Netherlands in relation to the new Dutch Franchise Act. They argue that dealer contracts fall within the scope of the Dutch Franchise Act and therefore respective dealers can rely on the rights of a franchisee.

Very recently, on 18 March 2025, the Amsterdam Court of Appeal (ECLI:NL:GHAMS:2025:673) ruled in the dispute between PSA Group's dealer associations against Stellantis on the question whether the contractual relationship between authorised dealers and repair shops would fall under this Dutch Franchise Act and therefore qualifies as a franchise. Like in first instance, the Amsterdam Court of Appeal ruled that based on the specific circumstances of that case, the contractual relationship did not meet the requirements of the Dutch Franchise Act and therefore did not qualify as a franchise. Although the outcome of this judgement is highly dependent on the applicable facts of the case, it illustrates that the contractual relationship between car manufacturers and its network of distributors, dealers and repair shops do not necessarily fall within the scope of the Dutch Franchise Act.

Law stated - 8 June 2025

Distressed suppliers

11 | What is the process for dealing with distressed suppliers in the automotive industry?

The general rules of Dutch insolvency law also apply to the automotive industry. No specific provisions exist that allow for a different treatment of distressed suppliers in this industry.

Currently, the Dutch Bankruptcy Act (DBA) provides three procedures for distressed suppliers. If a supplier foresees that it will become distressed, it can request for suspension of payments. The suspension of payments aims to help debtors in financial distress to restructure and restart their business (after suspension of payments). The suspension of payments provides temporary financial relief as it prohibits ordinary (unsecured) creditors from forcing the debtor to pay the claims when they fall due. Only the distressed supplier (debtor) may file for a suspension of payments.

If suspension of payments is requested too late or is not requested at all, creditors or distressed suppliers should request a declaration of bankruptcy at the Dutch courts. The distressed supplier may be declared bankrupt at its own request or at the request of its creditors. There are two criteria for such declaration of bankruptcy (article 6(3) of the DBA).

According to the first criterion, the given circumstances must summarily prove the debtor has ceased to pay its debts; and the claims of the creditors are summarily proven if the declaration is requested.

The second criterion includes a plurality requirement. A single creditor cannot request a declaration of bankruptcy. To that extent, if the debtor stopped paying a specific creditor, this creditor is considered to have other legal measures to request the payment of its claim. Therefore, a single creditor who is requesting for a bankruptcy of its debtor must accompany this request with supportive claims of at least one other creditor who has been left unpaid. The claims need to be sufficiently certain. If the debtor has reasonable grounds for disputing these claims, a declaration of bankruptcy will not be given.

If the above-mentioned criteria are met, the distressed supplier will be declared bankrupt, and a receiver (curator) will be appointed. The distressed supplier loses the power to dispose of its assets, and this power is transferred to the receiver. The receiver will then distribute the proceeds from the estate to the creditors in order of priority and otherwise proportionally.

The third option came into force on 1 January 2021, the Act on the Confirmation of Out-of-Court Restructuring Plans (WHOA). This act allows debtors (or their creditors) to compromise certain debts and therefore prevent a possible insolvency. The new process, also referred to as the Dutch Scheme, is inspired by and based on the experience of composition plans in the United Kingdom and the United States. It enables debtors to force dissenting creditors within the scope of the composition plan to comply with the plan, provided that the majority of the creditors have approved the composition plan.

A composition plan will only be approved by the court if it meets certain criteria, including that:

- the debtor is in financial distress;
- it is reasonably expected that without the plan the debtor will become insolvent; and
- the outcome of the composition plan is the avoidance of a possible bankruptcy of the debtor.

However, the composition plan cannot put creditors in a substantially worse position than they would have been in on the debtor's bankruptcy.

Not all companies that begin a WHOA process (by filing the start statement) achieve a successful homologation. It is important to prepare a WHOA agreement well, as this significantly increases the chance of success. A debtor will have to inform its creditors carefully and thoroughly substantiate the need for a WHOA agreement. This is also apparent from the judgments in which an agreement has been homologated; great value is attached here to the scope and depth of the information supplied and the way in which creditors have been informed.

Law stated - 8 June 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

The Netherlands is a frontrunner in developing technologies for the automotive industry. Its automotive industry ranges from OEMs and component manufacturers to dealerships and commercial vehicle manufacturers. The companies active in these areas seem to attribute great value to collaborations throughout the automotive sector.

Traditionally, disputes mostly related to collaboration (eg, performance under distribution or supply agreements), confusion regarding the origin of collaboration (eg, the distinction between a commercial dealer and a specialist in certain brand of cars) and origin of parts (eg, OEM versus non-OEM). The latter two types of disputes mostly involved the enforcement of trademark rights.

These days, the government in the Netherlands is actively endorsing the development of smart mobility solutions, such as electric, autonomous, connected and shared vehicles that can be easily updated and upgraded to satisfy customer demand. For example, truck platooning (ie, a group of trucks travelling safely and autonomously in a convoy, a short distance apart) is high on the agenda to satisfy increased logistic demand in an environmentally responsible way.

Smart mobility solutions require innovators to go beyond traditional boundaries and explore the integration of technology from other fields. For example, some manufacturers already use mobile networks to warn their own cars about congested roads or accidents. Future developments will include standardised technology such as low-latency machine-to-machine communications, which makes it possible to share sensor data, control information to allow vehicles to drive in close formation, save road space and exchange vehicle trajectories to prevent collisions.

In doing so, they rely on technology developed in the telecoms sector. This is an area where much patent litigation was seen in the Netherlands in recent years between network infrastructure developers and handheld manufacturers. These disputes related to patents covering standard essential technology (ie, common protocols to ensure interoperability among devices).

An increase of patent cases in the automotive industry is expected, for example, owing to the implementation of (standard essential) technology historically not linked to the automotive industry, such as the 4G and 5G telecom standards. While the telecom industry has developed best practices to negotiate fair, reasonable and non-discriminatory terms, it remains to be seen how this will work out in the automotive industry. For example, the business model of handheld manufacturers (ie, relatively low purchase price and high percentage of profit per device) appears to be quite different from the business model of car manufacturers (ie, relatively high purchase price and low percentage of profit per vehicle), which no doubt will have an impact on the licensing framework and related negotiations. The strategy traditionally seen in the automotive industry to collaborate could shift towards more aggressive strategies, as seen in the telecom industry, in particular with regard to issues involving non-practising entities that have acquired IP rights (also known as patent trolls).

The Netherlands provides several useful possibilities for an IP owner to take action successfully and quickly against infringements of IP rights. Preliminary injunction proceedings and ex parte injunction requests provide exceptionally quick mechanisms for acting against infringements. Another important aspect is that courts in the Netherlands are prepared to grant an injunction even in the situation that no infringement has occurred,

but there is a serious threat that it might. Also, Dutch courts are, depending on the circumstances, prepared to grant cross-border injunctions.

Owners of IP rights can initiate preliminary injunction proceedings when they become aware of an infringement, or a threatened or potential infringement, of their IP rights. Preliminary relief proceedings are available to get injunctive relief quickly. District court judges are sometimes also willing to grant ancillary orders such as recall, rectification, account of profits and advance payment of damages. There is an urgency requirement in preliminary injunction proceedings, but this requirement is often easily satisfied. There is no rule that the IP owner must bring preliminary injunction proceedings within a specific time frame, but the IP owner should act in a sufficiently expedited manner. A hearing in which both parties are heard usually takes place within a few weeks of service of the writ of summons and a decision is usually rendered two to four weeks later, thus making it often possible to obtain a preliminary injunction within eight to twelve weeks. In very urgent cases, a preliminary injunction can even be obtained in a matter of days. The provisions judge will render a decision based on his or her preliminary findings and will normally issue a preliminary injunction if he or she is satisfied that the IP right is valid and infringed. Depending on the facts, the preliminary injunction may have cross-border effect. The party that is successful in the case will normally be awarded payment of reasonable costs that it has made in relation to the proceedings. Preliminary injunction proceedings should be followed in good time by proceedings on the merits. Otherwise, the preliminary injunction will lapse. A decision in preliminary injunction proceedings is normally provisionally enforceable notwithstanding appeal.

Ex parte measures are also available in the Netherlands. In very urgent matters, especially if there is a threat of irreparable harm to the IP owner, the IP owner can request the provisions judge to render an ex parte injunction. This is a preliminary injunction that is rendered by the provisions judge upon request of the IP owner without the alleged infringer being heard. The alleged infringer can protect itself against a possible ex parte injunction by submitting a protective letter with the district court of the relevant districts. Some, but not all, district courts in the Netherlands accept such protective letters.

Various types of seizures are also available to the owners of IP rights. One of the options is to file a petition to conduct a seizure for the surrender of infringing goods at the premises of the alleged infringer or elsewhere in the Netherlands. Another type of seizure that is available to the IP owner is customs seizure with the customs authority in the Netherlands. If granted, the customs authority will undertake to search for infringing goods during its regular customs inspections and inform the applicant if infringing goods are found. If infringing goods are retained by the customs authority, the IP owner can examine the retained goods, confirm that the goods are infringing goods and decide whether it wants to have the infringing goods seized and destroyed in a simplified procedure or whether it wants the retention confirmed by initiating court proceedings. If no proceedings are timely initiated and no settlement is reached, the goods will be released. If the seized goods are declared by a court to be infringing goods, the customs authority can proceed to destroy the goods. Another attractive type of seizure is the seizure for the preservation of evidence. The petition for such a seizure is normally assessed and decided ex parte by the court. The evidentiary seizure is to be conducted by a civil bailiff who can, upon request, be accompanied by an independent expert (eg, a patent attorney or an IT expert). The evidence obtained can be in the form of actually seized goods, documents, materials or machinery, or a detailed description or sampling thereof. Preserving evidence and getting

access to the preserved evidence is a two-stage process. Once the evidentiary seizure has been made, the party levying the seizure must file a claim with the court for the inspection of the preserved evidence. Evidentiary seizures can, among others, be made against companies established in the Netherlands that infringe an IP right abroad, for the purpose of submitting the evidence in proceedings abroad. Seizures can also be conducted against foreign companies if the alleged infringing goods are located in the Netherlands. Alleged infringers of IP rights can protect themselves against a potential evidentiary seizure by filing a protective letter, as outlined above.

The owners of IP rights can also initiate proceedings on the merits, in which definitive relief can be obtained. In proceedings on the merits, it usually takes fourteen to twenty months after service of the writ of summons before a decision is rendered. Besides a permanent injunction, the owner of IP rights can also obtain ancillary orders, such as declaratory judgment, recall of infringing products, rectification, information with respect to distribution channels, account of profits, destruction of infringing goods or materials for the production of infringing goods, publication of the decision, payment of damages or surrender of profits and payment of reasonable legal costs. In exceptional situations, courts are sometimes prepared to grant a moratorium (ie, an order for an infringer to refrain from dealing in the infringing product for a certain period after expiry of the IP right), to prevent the infringer from benefitting from the infringement.

The District Court of The Hague, the competent court in patent cases in the Netherlands, has a special accelerated regime in patent cases. In such accelerated proceedings on the merits, the court sets a time schedule for serving the writ of summons, the filing of the pleadings and the date of the oral hearing. Several weeks after the hearing, a decision will be rendered, and a decision is usually obtained within twelve to fourteen months of the date of service of the writ of summons.

The importance of trade secrets is recognised during legal proceedings as well. For example, the Netherlands has implemented the European Trade Secrets Directive, which not only ensures the effective protection of trade secrets in the field but also enables the use of confidentiality clubs (ie, a mechanism to rely on confidential information without jeopardising the confidential nature of the information) during legal proceedings. Practice shows that confidentiality clubs are not only used in trade secret cases but also in other cases in relation to IP rights.

Finally, alternative dispute resolution is also available to easily resolve IP disputes, such as arbitration or mediation.

Law stated - 8 June 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

The Netherlands is acquainted with trade unions and work councils. In fact, both trade unions and works councils play an important role in Dutch labour law.

Trade unions and works councils have different rights pursuant to Dutch labour law.

Trade unions

Employers are, in principle, obliged to comply with collective labour agreements that they have made with the unions that are party to the collective labour agreement. A trade union that is party to a collective labour agreement can, as a contracting party, on its own behalf demand compliance with the obligations as set out in the collective labour agreement. Employers that are not members of an employer's organisation are not (automatically) affected by a collective labour agreement and, from a legal point of view, they fully retain their freedom to act. This will only change if a collective labour agreement is declared generally binding. In this case, the relevant collective labour agreement will be mandatory for all employees and employers in the relevant industry, regardless of whether they are members of one of the parties to the collective labour agreement.

Moreover, it is possible that a company concludes its own collective labour agreement and requests dispensation at the Ministry of Social Affairs and Employment from the mandatory application of the collective labour agreement.

The collective labour agreement for motor vehicle and two-wheeler companies applies to employees in garages and workshops. Previously, this collective labour agreement was part of the metal and technology agreement. The motor vehicle and two-wheeler collective labour agreement is valid from 1 November 2023 until 31 January 2025, and applies to all employers and employees in the motor vehicle and two-wheeler business, which includes the repair, modification, maintenance, assembly, overhaul or replacement of one or more parts or parts thereof of motor vehicles. This collective labour agreement is a re-translation of the previous motor vehicle and two-wheeler collective labour agreement, because it was found necessary to use simpler, easy-to-read language, without changing the content. The collective bargaining agreement, like the previous agreement, is expected to be declared universally binding, meaning that every employer must comply with it. For example, a wage increase of 6 per cent had to be implemented by 1 January 2024. Also, the salary classification table has changed as of 1 February 2024, leading to employees making larger salary steps at the beginning of their careers than at the end.

In addition, trade unions play a special role in the context of collective redundancies. An employer that intends to terminate the employment contracts of at least 20 employees, working in one working area, at one or more times within a period of three months, must notify the concerned trade unions and the Employee Insurance Agency in writing for timely consultation (article 3, paragraph 1 of the Collective Redundancy Notification Act (WMCO)). The consultation should at least concern the possibilities of preventing or reducing the number of collective redundancies and mitigating their consequences by taking social counselling measures (article 3, paragraph 2 of the WMCO).

Trade unions can also play a role in the context of mergers and acquisitions. Pursuant to the Social and Economic Council (SER) Merger Code of Conduct, trade unions must be informed in time about merger or acquisition plans by the companies or organisations involved. Trade unions must be able to exert a substantial influence on the consequences for the workers involved. In principle, the SER Merger Code of Conduct applies to:

-

companies established in the Netherlands in which 50 or more persons are working; and

- companies involved in a merger or acquisition that are part of a group of companies when 50 or more persons work together in the companies established in the Netherlands.

The SER Merger Code of Conduct may also be declared applicable to other companies by a collective labour agreement.

Collective actions (initiated by trade unions) are not uncommon in the automotive industry. A collective action can (partially) be prohibited by an employer if this is, from a social perspective, urgently necessary. The following factors play a role in this assessment:

- the nature and duration of the action;
- the proportion of the action and its intended purpose;
- the nature of damages to the employer or other third parties as a consequence of the action; and
- whether the action is used as the last resort and whether there has been a timely notification.

VDL, for example, successfully prevented a strike initiated by trade unions in 2019, because of the risk that BMW would terminate the contractual relationship as a consequence of the planned strike (Court of Maastricht, 9 January 2019, ECLI:NL:RBLIM:2019:381).

Works councils

Works councils have various rights under the Dutch Works Council Act (WOR). The special rights that Dutch law grants to a works council are advisory rights and rights of assent.

Pursuant to article 25 of the WOR, the works council has an advisory right regarding several types of decision that can have major consequences for employees – for example, decisions relating to restructuring, mergers and acquisitions and major investments. Unless a company's decision is in accordance with the advice of the works council, the company is obliged to suspend the implementation of the decision until one month after the day on which the works council was notified of the decision. The works council can lodge an appeal with the Chamber of Commerce in Amsterdam within these 30 days. The Chamber of Commerce assesses whether the decision was reasonable.

The works council has a right of assent regarding establishing, changing or withdrawing personnel regulations (article 27 of the WOR), such as regulations for working hours, working conditions, training, performance reviews and sick leave. Consent is not required if the matter in question has already been arranged in a collective labour agreement or a working conditions regulation established by a public law body (article 27, paragraph 3 of the WOR). If the company has not yet obtained an approval from the works council for the intended decision, it can ask the sub-district judge authority to take the decision. The latter will only grant permission if the works council's decision not to give consent is unreasonable, or if the intended decision of the company is required for compelling organisational, economic or social reasons (article 27, paragraph 4 of the WOR).

Other rights that are granted to works councils are:

- the right to a consultation meeting with the company (articles 23 and 24 of the WOR);
- the right of initiative (article 23, paragraph 3 of the WOR);
- the right to education (article 18 of the WOR);
- the right to information (article 31 of the WOR); and
- the right to expense allowance (article 22 of the WOR).

The works council also has a right of advice in the event of a proposed decision to appoint or dismiss a company director (article 30 of the WOR).

Law stated - 8 June 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

The Netherlands is widely recognised for its readiness for automated and autonomous driving. A recent major development is the enactment of the Law Governing the Experimental Use of Self-Driving Vehicles. This new legislation enables the country to conduct public road tests involving self-driving vehicles.

The Netherlands has already allowed vehicles with automated functions on the road for quite some time. These automated functions include driver aids such as adaptive cruise control, automatic parking and lane-keeping systems. Also, large-scale testing is allowed for self-driving vehicles on Dutch public roads, permitting field operational tests with automated driving on all public roads in the Netherlands provided that a driver is present in the vehicle.

The Law Governing the Experimental Use of Self-Driving Vehicles brings the development of autonomous vehicles to the next level. It enables driverless vehicle experiments with automated driving systems in traffic without having to have an actual driver inside the vehicle. Supervision by a human takes place remotely. For example, experiments can include remotely operated self-driving minibuses and moving motorway roadblocks with remote drivers.

Experiments in relation to truck platooning are high on the agenda. The goal is to accelerate the development of truck platooning by implementing platooning into real-life logistics operations for different use cases running at participating companies. According to the government, the outcomes of these experiments will be used to review current legislation and whether it sufficiently accommodates the cars and transport of the future.

Law stated - 8 June 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

The Dutch government has stated that the Netherlands 'is paving the way for the traffic management system of the future. A future in which vehicles communicate with one another and with roadside systems'. This endorsement quite clearly expresses the country's ambitions on intelligent transport systems and smart mobility.

The Netherlands is a unique testing ground for smart mobility solutions. The government is supporting the development of smart mobility solutions in many ways, from providing testing facilities to adjusting rules and regulations.

Road traffic is highly regulated in the Netherlands and elsewhere throughout Europe. The Netherlands recognises that harmonisation of the legal framework for an automated and autonomous vehicle is of vital importance to mitigate the risks for all traffic users in public spaces and to achieve a joint development approach. The Netherlands recognises the importance of harmonising the legal framework for testing and placing automated and autonomous vehicles onto the market. Key legislative areas include road safety, liability issues, data processing and protection and infrastructure. In addition, ethical questions regarding artificial intelligence are recognised, such as respect for human dignity and freedom of choice in self-driving vehicles.

Law stated - 8 June 2025

Manon Cordewener manon.cordewener@hoganlovells.com
Joke Bodewits joke.bodewits@hoganlovells.com
Maria Benbrahim maria.benbrahim@hoganlovells.com
Dirk-Jan Ridderinkhof dirkjan.ridderinkhof@hoganlovells.com
Hessel Roeleveld hessel.roeleveld@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

South Korea

Eui Seok KIM , **Stephen T BANG**, **Jeung Jun Park**, **Ji Woong Jang**
Kim & Chang

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

For decades, the automotive industry in Korea has played a significant role in the Korean economy.

In 2024, Korea's vehicle exports reached approximately US$70.8 billion, surpassing the US$70.0 billion mark for the second consecutive year. This figure represents the country's second-highest export total ever, just shy of the record US$70.9 billion set in 2023. Despite global slowdown in electric vehicle (EV) growth and other challenges, exports remained robust in eco-friendly vehicles thanks to strong growth in hybrid EVs (whose overseas shipments recorded US$11.3 billion, a 45.8 per cent increase year-on-year).

On the domestic front, total vehicle sales in Korea in 2024 stood at 1.63 million units (including 1.34 million locally manufactured units and 280,000 imports), representing a 6.5 per cent decline compared to the previous year. Weaker consumer sentiment and slowing demand for EVs contributed to this drop. Nevertheless, domestic sales of eco-friendly vehicles continued to climb, growing by 18.2 per cent from 2023 to reach 650,000 units. This means that nearly 40 per cent of all new cars sold domestically were eco-friendly vehicles. In particular, hybrid EVs recorded a remarkable 32 per cent year-on-year sales growth – they accounted for 76 per cent of all eco-friendly vehicle sales and 30 per cent of total domestic vehicle sales, highlighting the ongoing transition to greener mobility in the Korean market.

Law stated - 4 June 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

Major government agencies regulating vehicles and vehicle parts in Korea are the Ministry of Environment (MOE), the Ministry of Land, Infrastructure and Transport (MOLIT), and the Ministry of Trade, Industry and Energy (MOTIE).

Homologation

First, to manufacture or import vehicles in Korea, the manufacturer or importer must obtain emission certification under the Clean Air Conservation Act, and noise certification under the Noise and Vibration Contract Act from the MOE. The specific certification standards are similar to US and EU standards. Currently, diesel vehicles are subject to the EURO 6 standards and test methods in a similar manner to the EU. Also, vehicles and their parts

must satisfy the Korea Motor Vehicle Safety Standards (KMVSS) prescribed by the Motor Vehicle Management Act (MVMA). While similar to the EU-type approval regime, emission and noise certification must be obtained through a formal application process, whereas the safety standards under the KMVSS must be complied with through a self-certification process similar to the US self-certification regime.

Previously, high-voltage batteries (HVBs) were covered under the self-certification process as part of the KMVSS. However, since 17 February 2025, a separate pre-certification regime has been introduced, establishing a type approval regime for HVBs. Furthermore, with effect from 14 August 2025, a cybersecurity homologation regime will be introduced, under which vehicle manufacturers will be required to undergo the homologation process for cybersecurity before proceeding with self-certification for the vehicles to be imported to Korea.

Registration

Pursuant to the MVMA, vehicles must be registered prior to being placed into operation, and any changes in the ownership of the vehicles must be registered to be effective.

Insurance

Pursuant to the Guarantee of Automobile Accident Compensation Act, in principle, a vehicle owner is required to purchase a liability insurance policy. Without purchasing this liability insurance policy, the vehicle owner is not allowed to operate the vehicle on public roads.

Other regulatory schemes

Fuel efficiency information must be filed with the Korea Energy Agency (KEA), a sub-institution of the MOTIE. Also, the MOE limits the contents of hazardous substances (eg, lead) in vehicles and vehicle parts within a prescribed level (corresponding to the Restriction of Hazardous Substances regime in the EU). Further, the Radio Waves Act (RWA) regulates the compatibility of equipment or devices using electromagnetic technology to protect telecommunication networks, radio waves, or other related aspects, against electromagnetic disturbance. In certain cases, vehicles and vehicle parts that use radio waves, etc, which fall under the requirements under the RWA, may be subject to conformity assessment. Finally, to those vehicles manufactured in the countries that enter into certain free trade agreements (FTAs) with Korea and imported to Korea, beneficial provisions of the applicable FTA (including exceptions from specific safety standards under Korean law and/or acknowledgement of test reports for the homologation purpose) will apply. Moreover, the Fair Labelling and Advertisement Act (FLAA) is increasingly gaining in importance, and forms a large area of investigation in the automotive industry. In particular, in reviewing labelling related to a defeat device, the Korea Fair Trade Commission concluded that the labelling 'on' the concerned vehicles constituted unfair labelling or advertising under the FLAA and imposed administrative sanctions.

Law stated - 4 June 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

Major domestic manufacturers in Korea tend to have their parts suppliers geologically located as close as possible to their facilities. Therefore, when these manufacturers establish production bases overseas, a significant number of their parts suppliers also tend to relocate to nearby locations. They also import a large number of parts from vehicle part companies in various countries, including Germany, China and Japan. It is common for OEMs to enter into part supply agreements with parts suppliers, and to receive parts from them. Typically, a part supply agreement consists of a framework agreement together with an individual purchase order or a parts supply agreement. If new part development is necessary, it is common for OEMs to enter into a part development agreement with suppliers and to share the newly produced IP rights.

Law stated - 4 June 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

Vehicles on the Korean market are manufactured in Korea or imported from foreign countries such as Germany or the US. In Korea, commonly, a local representative of the foreign vehicle manufacturer acts as the importer and seller of vehicles manufactured in foreign countries by engaging one or multiple distributor companies responsible for sales (dealer companies). In cases where the foreign vehicle manufacturer established a subsidiary in Korea, it generally conducts its business by importing vehicles into Korea through its subsidiary, which then sells such vehicles to the designated dealer companies, which in turn sells them to end-customers in Korea. Also, most dealer companies operate repair centres for the vehicles they sell in Korea, often in addition to repair centres operated by the local presence of the foreign vehicle manufacturer.

Meanwhile, foreign vehicle manufacturers, such as Tesla, have achieved considerable success by focusing on online direct sales. As a result, other foreign vehicle manufacturers have introduced or are preparing to shift to importer-direct sales. Consequently, the dealer distribution scheme is expected to be gradually changed.

Meanwhile, vehicles manufactured by domestic manufacturers are sold directly or through large dealer companies.

As the Act on the Regulation of Terms and Conditions, the Monopoly Regulation and Fair Trade Act and the Fair Agency Transactions Act applies to the contractual relationship with such dealer companies, arbitrarily terminating the contract or changing the terms of the contract unfavourably is subject to strict review. Typically, contracts with dealer companies are executed on a fixed term basis, and the term is extended with an automatic

renewal clause, but if termination is necessary, automatic renewal is refused. In addition, to minimise potential complaints from dealers, many companies are considering strategies such as granting dealers certain business rights – for example, the right to provide maintenance services or operate offline showrooms – even if they transition their sales models to online platform sales.

Law stated - 4 June 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

There are no M&A or JV transaction-related regulations specifically applicable to the Korean automotive industry. However, companies may be mindful that the Korean automotive industry has a significant impact on the overall Korean economy and employment. If a company intends to conduct business in Korea, it should carefully examine the labour issues related to the Korean automotive industry. In addition, as certain technologies are subject to export control, regulations may be applicable to the establishment of a JV with a Korean company that possesses such technology in or outside Korea, or the acquisition of a Korean company that exports such technology.

Law stated - 4 June 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

In Korea, there are various incentive programmes addressed to foreign investors that are provided by local governments and/or the central government, such as rent reductions, tax exemptions, and cash grants. In particular, depending on the region, special incentive programmes may apply to foreign investors establishing EV production facilities, or converting existing ICEV production facilities into those for EV production facilities. In 2024, a foreign-invested manufacture received subsidies totalling over 30 billion Korean won for investing in EV production facilities in Korea. Further, the Korean government implements policies that support the R&D of certain technologies such as EVs, hydrogen fuel cell cars and autonomous cars. In addition, companies established in the designated areas, such as free economic zones or industrial complexes, may benefit from deregulation and other incentives such as rent reductions, tax exemptions, and cash grants.

While the barriers to entry into the automotive industry may differ depending on the type of business, the requisite compliance with regulatory standards, such as new homologation-related rules and regulations including the pre-certification regime for HVBs, may essentially function as a de facto barrier to vehicle manufacturers and importers. If a

new entrant emerges in the industry, its competition with pre-existing companies may be further intensified.

Law stated - 4 June 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

The Motor Vehicle Management Act provides that manufacturers and importers of vehicles and parts must self-certify the compliance of vehicles and vehicle parts with the Korean Motor Vehicle Safety Standards (KMVSS). Failure to do so may result in imprisonment of up to one year or a criminal fine of up to 10 million Korean won, and an order from the Minister of Land, Infrastructure and Transport to suspend manufacturing, assembling, importing or selling such vehicles or vehicle parts. If the vehicles fail to meet the KMVSS, they must be recalled. Generally, most provisions of the KMVSS are harmonised with the international standards. However, as explained above, it is essential to note that a separate pre-certification regime is in place for HVBs. For vehicles in violation of environmental standards such as the permissible emissions standards, emission certifications may not be issued, or the certifications previously issued may be revoked, which may lead to criminal sanctions, imposition of administrative surcharge and recall. Additionally, for emission-related parts, the manufacturers and importers are obliged to recall them when a certain number of complaints related to such parts accumulates.

Law stated - 4 June 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

Under the Product Liability Act, a consumer may claim damages if he or she suffers damage to his or her life, body or property due to a product's design, manufacturing or labelling defect. As the cause of action under the Product Liability Act is the occurrence of damage, it was difficult for consumers who did not actually suffer damage to file a claim. In addition, because there is no class action system in Korea, a collective action (which should also include occurrence of damage) is the only practical way to achieve volume litigation. Thus, most of the lawsuits have been filed by individual consumers on a small scale.

According to the Korean 'lemon law', which benchmarks the US lemon law, a vehicle owner may seek a replacement or refund for a defective vehicle from the vehicle manufacturer within two years of delivery of the vehicle under certain requirements. A defect discovered

within six months of delivery of the vehicle is deemed to have existed at the time of the delivery, which effectively shifts the burden of proof regarding the cause of the defect to the manufacturer. In addition, such request can be filed with the Ministry of Land, Infrastructure and Transport in the form of arbitration, which has the same effect as a final and conclusive judgment of a court, without having to file a lawsuit. From 2019, when the Korean 'lemon law' went into effect, to June 2024, there were a total of 2,840 applications for arbitration. Of these, 27 cases (1 per cent) resulted in vehicle replacement or refund through the committee's decision, and 963 cases (34 per cent) were settled between the manufacturer and the consumer for replacement, refund, repair or compensation before the issuance of a decision. Defects contained in vehicles or vehicle parts may raise product liability risks. However, Korea has no formally established class action system similar to that in the US. Around 1999, civil lawsuits were instituted in multiple cases against Korean vehicle manufacturers seeking damage compensation allegedly caused by unintended acceleration. Moreover, such claims of unintended acceleration have been gradually increasing, and the National Assembly is now considering the introduction of a pedal camera requirement in order to address these claims. However, the court did not acknowledge the liabilities of such manufacturers. In principle, the Korean product liability regime is based on the continental law, compensating actually incurred damage. However, in the wake of recent high-profile product safety incidents and public calls for a strengthened product liability system and enforcement, a new punitive damages regime was introduced in 2018. Under this regime, a manufacturer may be sanctioned up to three times the actual damages if it had knowledge of a defect in its product, but failed to take necessary remedial measures, and the defect caused death or serious injury. The new punitive damages regime, coupled with the statutory presumption of causation between the alleged defect and harm, is expected to significantly increase manufacturers' product-related risks across all industries.

Law stated - 4 June 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

Competition and antitrust issues relevant to the Korean automotive industry may include price fixing, intervention in management activities such as requesting financial information of the other transacting party, stealing technology of the transacting party by requesting its technical information and issues arising from the unilateral termination of OEM agreements. With the recent amendment to the Monopoly Regulation and Fair Trade Act, a simple 'exchange of information' is categorised as a type of collusion.

The Korea Fair Trade Commission (KFTC) is proactive in recognising not only price-fixing but also technology-fixing practices. Notably, the KFTC monitors and often takes a close look into the cases investigated by the European Commission (EC), possibly leading to its own investigation against foreign vehicle manufacturers. There are also cases where

the KFTC found an even broader range of technology-related agreements to be illegal compared to the EC, and relevant litigation is currently ongoing.

Another major competition statute relevant to the automotive industry is the Fair Transactions in Subcontracting Act, in particular where vehicle parts were supplied based on an OEM contract. The Fair Transactions in Subcontracting Act prohibits, among other things, unreasonable cancellation of entrustment, unreasonable return of goods, reduction of the subcontract consideration, such as prices fixed at the time of the entrustment of manufacturing without justifiable grounds, and unfair requests for economic profits. Competition cases may involve follow-on litigation, some of which may develop into collective actions. Competition issues may also arise under the Fair Labelling and Advertisement Act (FLAA). Recently, in cases where the Ministry of Environment found that certain vehicle models were equipped with a defeat device, the KFTC concluded that the advertisements or labelling on the concerned vehicles constituted 'unfair' labelling or advertising under the FLAA and imposed administrative sanctions. Further, criminal proceedings and civil actions filed by consumers for cancellation of contract based on fraud or misunderstanding or compensation for damages due to (1) tort (ie, fraud or illegal acts), (2) violation of the FLAA for false advertisements, and (3) breach of warranty, resulting in a decline in the resale value of the vehicle, were pursued.

Law stated - 4 June 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

Disputes in the automotive industry may arise between manufacturers and vehicle parts suppliers, and among manufacturers, importers, dealers and end-consumers. Such disputes are usually resolved by legal proceedings rather than arbitration. However, with the recent introduction of the Korean 'lemon law', most of the disputes between manufacturers or importers/dealers and consumers were attempted to be resolved through arbitration governed by the Korean 'lemon law', or through settlement upon agreement among the parties without legal proceedings.

In cases involving accidents or defects that affect a large number of people, *de facto* class actions are often filed, and certain lawyers focus on recruiting plaintiffs for these cases. Once a collective lawsuit is initiated in this manner, settlements are uncommon and most cases proceed to full litigation.

Upon filing legal actions, the parties may seek interim remedies in parallel, such as preliminary seizure or injunction, which are in fact pursued rather frequently.

Law stated - 4 June 2025

Distressed suppliers

11 What is the process for dealing with distressed suppliers in the automotive industry?

As vehicle manufacturers and vehicle parts suppliers tend to form a long-term, mutually cooperative business relationship, manufacturers may support distressed parts suppliers through price adjustments and financial assistance. Also, manufacturers may invest in or acquire the parts suppliers in financial difficulties. Such decisions are made by the relevant parties as, in principle, the government does not intervene in this process. However, if a financial crisis at large manufacturers or parts suppliers has the potential to cause a serious impact on regional employment such as mass unemployment, the government may choose to intervene to the extent necessary.

Law stated - 4 June 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

Intellectual property disputes are significant in the automotive industry in Korea, but they are generally not easily resolved due to various challenges.

In the automotive industry, patent disputes tend to arise more often between suppliers, who compete with each other to supply parts to OEMs, rather than among OEMs themselves. However, there have not been many instances of patent litigation in the automotive industry because the technical issues are complex and patent litigation is costly and long process. Thus, it is difficult to conclude that Korean courts are rendering pro-patent decisions. Court rulings can vary depending on specific cases.

Rather than patent litigation, there are frequent trade secret disputes between competitors in the automotive industry. The number of trade secret disputes in Korea is among the highest globally, and this trend is expected to continue growing. The Trade Secrets Protection Act is also being amended to provide stronger protection for trade secrets.

There are also some disputes related to misappropriation of technology where OEMs or higher-tier parts suppliers, who are in a superior position within a vertical relationship, demand excessive technical materials from lower-tier parts suppliers to appropriate their technology. In such cases, while the Korea Fair Trade Commission, as the competent authority, implements and enforces strong regulations, these disputes often remain complex and challenging to resolve completely.

While intellectual property disputes remain challenging to resolve easily, the Korean government is moving toward stronger protection of IP owners' rights by introducing legislation that increases damage compensation up to five times the original amount for cases involving patent, trademark, design, trade secret infringement, and technology misappropriation.

Law stated - 4 June 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

Labour unions in Korea are organised at the company level, regional level, or industrial level. A majority of the companies in the Korean automotive industry join a federation of labour unions at the industry level, where the industrial level federations are in turn affiliated with federations of labour unions at the national level. Due to these characteristics, labour unions in the Korean auto industry tend to possess stronger bargaining power regarding company management than other industries, which is frequently translated into collective bargaining and wage agreements containing various restrictions on management prerogative over personnel matters, among other things.

The structural transition of the entire industry to EVs adds to such difficulties. In this regard, depending on the provisions of their collective bargaining agreements entered into with labour unions, automotive companies may encounter limitations when they seek to implement restructuring (including workforce reduction) or introduce changes to the existing production regimes or work arrangements (eg, shift regimes).

Automotive companies may also experience business interruption due to industrial action, such as strikes, which frequently occur during negotiation over the collective bargaining and the wage agreements. Given the strict limitation imposed on strike replacement under labour law, automotive companies should prepare contingency plans in advance if they anticipate difficulties in labour relations.

Furthermore, there are ongoing discussions in the National Assembly about amending the Trade Union and Labour Relations Adjustment Act to broaden the definition of 'employer'. If such amendments are enacted, a person could be deemed a party to collective bargaining not only if he or she is a direct party to the employment contract, but also if he or she has the authority to substantially and specifically control or determine working conditions. This means that workers employed by subcontractors could potentially demand collective bargaining directly with the principal company, even in the absence of a direct employment relationship with it. As a result, we anticipate a rise in such disputes.

Law stated - 4 June 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

Korea has a growing interest in new automotive development technologies such as autonomous cars, connected cars, EVs, batteries, and cybersecurity. As software updates for vehicles become more frequent and the importance of cybersecurity in vehicle communications grows, the Motor Vehicle Management Act has introduced tighter regulations on vehicle software updates and additional rules for cybersecurity

homologation. While these regulations correspond to UN ECE R156 and R155, it is important to note that Korea has implemented its own mandatory requirements.

First, regarding software update regulations, the MVMA requires that all software updates must comply with the various safety standards it provides. For instance, updates that could affect vehicle safety must be reported to the relevant authority in advance. Failure to comply with these standards can result in criminal and administrative penalties.

For cybersecurity, manufacturers are required to obtain cybersecurity homologation before proceeding with self-certification. If there are any changes to security systems, amended homologation is mandatory, and non-compliance may lead to various penalties.

Meanwhile, with the increasing number of EV fire incidents, there is a growing focus on battery cell manufacturers. Accordingly, new regulations requiring the disclosure of vehicle battery cell manufacturers to consumers for both EVs and plug-in hybrid EVs have been introduced and are already in force.

On the other hand, very rigid regulations apply to shared and transportation services. Basically, car sharing is not subject to significant regulations. However, if a passenger transportation service similar to a taxi is to be operated through car sharing, a very strict licence, which is difficult to obtain, is required, and any violation thereof is subject to criminal punishment.

The Act on the Promotion of and Support for Utilisation of Urban Air Mobility (UAM), which was enacted and came into effect in April 2024, stipulates the requirements for demonstration and pilot operations aimed at UAM commercialisation, sets UAM operator qualification criteria, and provides support measures to foster the industry. Specific operational details for UAM businesses will be defined through future amendments to the Act and its subordinate regulations. For this purpose, the MOLIT, as the relevant authority, is actively gathering opinions and comments from various stakeholders.

Law stated - 4 June 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

As a general note, Korean consumers have become more sensitive to vehicle defect issues. In particular, a series of EV fire incidents led to heightened public concern over EV safety and vehicle defects. Under the Product Liability Act, a manufacturer could be subject to treble damages if the manufacturer knew of a defect in its product but failed to take necessary remedial measures and the defect caused death or serious injury. The new punitive damages system, coupled with the statutory presumption of causation between alleged defect and harm, is likely to significantly increase manufacturers' product-related risks across all industries. This trend imposes greater burdens on product manufacturers and distributors and heightens the need for stricter monitoring and compliance.

Korean authorities are working with vehicle manufacturers to establish an information-sharing system that would allow fire-related data to be promptly relayed to and handled by fire authorities in cases of such EV fire incidents.

Meanwhile, Korea has seen a marked increase in incidents where unintended acceleration is claimed. To address the ensuing controversies, Korea has further detailed the mandatory and optional recording items for EDRs and is witnessing growing legislative demands for the installation of a pedal camera. Therefore, it is important to closely monitor how legislation evolves in this area.

In addition, with the rapid advancement of autonomous driving technology, services such as driver-less taxis are expected to become available in the near future. This development is prompting a comprehensive review of the current regulatory framework.

Law stated - 4 June 2025

KIM & CHANG

Eui Seok KIM	eskim@kimchang.com
Stephen T BANG	stbang@kimchang.com
Jeung Jun Park	jeungjun.park@kimchang.com
Ji Woong Jang	jiwoong.jang@kimchang.com

Kim & Chang

Read more from this firm on Lexology

Spain

Alex Dolmans, **Jon Aurrekoetxea**, **Casto Gonzalez-Paramo**, **Inmaculada Lorenzo**, **David Antón**, **Adrián Fernández de Pedro**, **Raquel Fernandez-**, **Jesús Sánchez**, **Borja Fernández**
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

The automotive industry is a strategic and significant sector in Spain. It is, alongside other strong industries (such as tourism, chemicals and agriculture and food), one of the important sectors of the Spanish economy. Spain is ranked second among European automotive manufacturers, and ninth globally.

Despite the above, of the major European markets, Spain is currently the worst performing country compared to pre-pandemic years, with sales 35 per cent below the usual annual figure – in the past three years around one million new vehicles remained unsold in the country. Also, sales of electric vehicles in Europe is 20 per cent, while in Spain this figure is below 10 per cent.

Therefore, the Spanish Association of Automobile and Truck Manufacturers (ANFAC) has published Roadmap 2023–2025, a set of measures that should be addressed as a matter of urgency. This plan aims, among other things, to increase the sales of electric vehicles to 372,000 by 2025.

Additionally, ANFAC believes that consumers should be encouraged to adopt new electric technologies. To this end, it has proposed immediate changes to the MOVES III aid programme (eg, eliminating the payment of income tax for receiving a subsidy, in line with what is happening in other countries, and eliminating waiting lists).

Among fiscal measures included in Roadmap 2023–2025, the following can be highlighted:

- a VAT deduction for the purchase of electric vehicles by self-employed individuals and companies;
- improvement of deductions in retribution in kind for efficient vehicles; and
- deduction in corporate income tax for investment in the purchase of electric vehicles and installation of their infrastructures.

Law stated - 30 April 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

Type approval

Pursuant to section 1 of the General Regulation on Vehicles (passed by Royal Decree No. 2822/1998 of 23 December 1998), the distribution of vehicles requires prior authorisation. This takes the form of type approval (homologation) granted by the Spanish Ministry of Industry, Trade and Tourism.

Vehicle type approvals are governed by Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles.

Regulation (EU) 2018/858 governs a harmonised framework containing the administrative provisions and general technical requirements for approval of all new vehicles within its scope and of the systems, components and separate technical units intended for those vehicles with a view to facilitating their registration, sale and entry into service within the EU. According to section 13(2), the vehicle's manufacturer is responsible for all aspects relating to the type-approval process and for ensuring conformity of production, whether or not the manufacturer is directly involved in all stages of the vehicle's production.

Type approval and market surveillance of non-road mobile machinery circulating on public roads are regulated by Regulation (EU) 2025/14 of the European Parliament and of the Council of 19 December 2024.

There are other EU laws regulating type approvals relating to specific aspects of vehicles:

- Regulation (EU) 2019/2144 of the European Parliament and of the Council of 27 November 2019 on type-approval requirements for motor vehicles and their trailers, and systems, components and separate technical units intended for such vehicles, as regards their general safety and the protection of vehicle occupants and vulnerable road users; and
- Regulation (EC) 715/2007 of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, supplemented by Regulation (EU) 2017/1151 of 1 June 2017 (amended by Commission Regulation (EU) 2023/443 of 8 February 2023), ensuring that new car models pass new and more reliable emissions tests under real driving conditions.

Regulation (EU) 2019/2144

Pursuant to section 4 of Regulation (EU) 2019/2144, manufacturers must demonstrate that all new vehicles that are placed on the market, registered or entered into service, and all new systems, components and separate technical units that are placed on the market or entered into service are type approved.

Regulation (EC) No. 715/2007

The obligations under Regulation (EC) 715/2007 include meeting the emission limits set out in Annex I (Euro 5 and Euro 6 emission limits and emission limits for the evaporative emissions test).

Furthermore, manufacturers must ensure that type-approval procedures are undertaken for verifying conformity of production, durability of pollution control devices and in-service conformity.

Registration requirements

Pursuant to section 4 of Spanish Royal Decree No. 750/2010, manufacturers wishing to type approve vehicles, systems, components or separate technical units under the scope of application of the Decree must be registered with the Manufacturers Registry.

Following the grant of type approval, vehicles and their trailers and semi-trailers must be duly registered with the vehicles registry managed by the relevant traffic authority. The traffic authority will depend on the autonomous region where the vehicle's owner, lessee with a purchase option or long-term lessee has its legal domicile. In this sense, the registration request must be undertaken by the owner, lessee with a purchase option or long-term lessee. The vehicles registry, in general, aims to identify, among other things, the vehicle's holder, its technical characteristics, the inspections conducted, compliance with the applicable insurance requirements and compliance with other legal provisions.

Insurance requirements

Insurance requirements apply to private and professional vehicle use, and Spanish requirements are not materially different from those that apply in other European countries.

Law stated - 30 April 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

The contractual arrangements and structuring of the development, manufacturing and supply in the Spanish automotive sector do not differ substantially from those used in other European countries. Some particularities may apply in the case of the Canary Islands (which enjoys a specific tax regime to protect investment and consumption in that overseas region and represents a challenge in terms of operational and transportation costs), otherwise the situation in Spain is similar to that of its neighbouring countries.

Law stated - 30 April 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

As in other European jurisdictions, vehicles are distributed through networks of 'concessionaires' or authorised dealers that represent car manufacturers across the Spanish territory. There is, however, no specific distribution law in Spain (unlike in countries such as Belgium) and, therefore, general rules of contract law apply – in some cases in combination with franchise regulations, commercial agency rules or other specific subsets of Spanish contract law depending on how the relationship with a particular dealer is organised. There were legislative efforts in the past to introduce a new Commercial Code, including specific rules for distribution (which would encompass automotive wholesale and retail distribution), but it is not likely that a distribution law will be passed in Spain in the mid to long term.

Legal disputes between car dealers and manufacturers typically focus on the renegotiation or termination of distribution contracts, while disputes involving suppliers normally relate to purchase levels or price renegotiation (particularly with key suppliers that make ad hoc components for specific car models or agree on particular pricing based on minimum purchase volumes). We understand, however, that these types of disputes are not specific to Spain and can be found in most other European jurisdictions as well.

Technology and Internet-based platforms are significantly transforming the vehicle distribution process in Spain. Customers are not only increasingly purchasing vehicles through online platforms but also scheduling maintenance services and other services.

Technology is clearly driving increased efficiency, cost reduction, and improved customer experiences in the automotive industry, through product optimisation, inventory management, real time logistics, etc.

Law stated - 30 April 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

The structuring and implementation of M&A and joint ventures in the Spanish automotive sector do not differ from similar transactions in other European countries. Recently, there has been a growing trend for automotive companies or automotive component suppliers to join forces (by seeking strategic alliances or repositioning their core business), particularly as a result of global changes in certain technologies and consumer behaviour. A particularly interesting development in Spain is that several automotive manufacturers have teamed up with technology start-ups and urban mobility apps to offer new services to customers (eg, e-bikes, scooters and electric vehicles available for short-term rental use).

In comparison with M&A and joint ventures in other sectors, the automotive sector is seeing important transformations in its production model, with new vehicle propulsion systems coming to the fore. Likewise, the automotive sector is increasingly focused on sustainability and innovation. Automotive companies should consider how their deal aligns with these trends, as they can impact long-term success. The market is also being impacted by new players, consumption patterns and sources of income, all in a macroeconomic context of

high uncertainty, in which companies must continue to follow the strict roadmap for energy transition set by the European Union.

Law stated - 30 April 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

According to the data released by the Spanish Association of Automobile and Truck Manufacturers (ANFAC), in 2023 Spain was one of the worst-performing countries compared to pre-pandemic years, with sales 35 per cent below the usual annual figure – in the past three years around one million new vehicles have remained unsold in the country.

The president of ANFAC has also noted a 'failure in electrification'; the average sales of electric vehicles in Europe is 20 per cent, while in Spain this figure is below 10 per cent.

Therefore, ANFAC has published Roadmap 2023–2025, a set of measures that should be addressed as a matter of urgency. This plan aims, among other things, to increase the sales of electric vehicles to 372,000 by 2025.

Additionally, ANFAC believes that consumers should be encouraged to adopt new electric technologies. To this end, it has proposed immediate changes to the MOVES III aid programme (eg, eliminating the payment of income tax for receiving a subsidy, in line with what is happening in other countries, and eliminating waiting lists).

Among fiscal measures included in Roadmap 2023–2025, the following can be highlighted:

- a VAT deduction for the purchase of electric vehicles by self-employed individuals and companies;
- improvement of deductions in retribution in kind for efficient vehicles; and
- deduction in corporate income tax for investment in the purchase of electric vehicles and installation of their infrastructures.

In Spain there are still several incentives for investment in the automotive market, particularly focused on promoting sustainable mobility and electrification:

- Moves III Plan: This plan offers incentives for the purchase of electric vehicles, including a 15 per cent discount on the purchase price, and support for installing charging points. The plan has been extended by the Spanish government until 30 June 2025, with a total allocation of €1.55 billion.
- Strategic Project for Economic Recovery and Transformation (PERTE): This initiative aims to transform the automotive sector by supporting the development of electric and connected vehicles. It includes significant funding for projects related to electric vehicle manufacturing and components, with a goal of mobilising €24 billion in investment.

- Government Subsidies and Loans: The Spanish government provides subsidies and low-interest loans to support the automotive sector's transition to cleaner technologies, including for battery production facilities.
- Tax Incentives: There are tax deductions available for individuals purchasing electric vehicles, including a 15 per cent deduction on the purchase price up to a certain limit.
- Charging Infrastructure Incentives: Financial aid is available for installing charging points, with varying percentages of support depending on company size and location.

These incentives are designed to encourage investment in sustainable automotive technologies and support Spain's transition to a more environmentally friendly transportation sector.

In terms of market entrance, there are no substantial legal barriers other than the usual requirements involving the establishment of a business or manufacturing plant in Spain; nor are there any particular restrictions on foreign investment (except in the case of investors from countries that are affected by international trade sanctions or embargo regulations, or in the event that the regime for foreign direct investments is triggered).

The automotive industry is immersed in a profound process of transformation that will completely change its shape as we understand it. The main drivers of this change are:

- decarbonisation (new energies);
- new paradigms in terms of mobility (pay per use);
- the emergence of new players who see business opportunities in electric technology;
- technological challenges;
- US–China trade war;
- internet of things; and
- autonomous driving.

These changes will generate numerous opportunities for new and existing players.

Law stated - 30 April 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

The most relevant safety and environmental rules relating to automotive compliance are envisaged in Regulation (EU) 2018/858, Regulation (EU) 2019/2144 and Regulation (EC) No. 715/2007, supplemented by Regulation (EU) 2017/1151 (amended by Commission Regulation (EU) 2023/443 of 8 February 2023).

Pursuant to Regulation (EU) 2019/2144 and Regulation (EC) 715/2007, respectively, manufacturers must (1) ensure that vehicles are designed, constructed and assembled to minimise the risk of injury to vehicle occupants and other road users and (2) equip vehicles so that the components likely to affect emissions are designed, constructed and assembled to enable the vehicle, in normal use, to comply with Regulation (EC) 715/2007.

Against this backdrop, the Spanish General Regulation on Vehicles provides for the following:

- registered vehicles may be removed from the vehicles registry if the relevant competent authority, owing to wear or deterioration of the vehicle's mechanical elements, certifies that said vehicle constitutes an obvious danger to its occupants or traffic safety in general (section 35, paragraph 2 of the General Regulation on Vehicles); and
- during procedures relating to the declaration of nullity, loss of validity or expiry of administrative authorisations for the traffic of vehicles, the competent authority is entitled to suspend the applicability of the relevant authorisation if it poses a serious danger to traffic safety (section 51, paragraph 4 of the General Regulation on Vehicles).

Carbon dioxide emission performance standards for new passenger cars and new light commercial vehicles are set out in Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019. This Regulation sets EU fleet-wide carbon dioxide emission targets and includes a mechanism to incentivise the uptake of zero- and low-emission vehicles. Regulation (EU) 2023/851 amended Regulation (EU) 2019/631 to strengthen the carbon dioxide emission performance standards for new passenger cars and new light commercial vehicles, which sets a 100 per cent reduction target for both cars and vans from 2035 onwards. Regulation (EU) 2019/631 sets out specific CO2 targets per year for the vehicle manufacturers. The manufacturer targets from 2025 onwards are calculated in accordance with point 6 of Annex I (parts A and B) to Regulation (EU) 2019/631, using the values set out in Annex II to Commission Implementing Decision (EU) 2023/1623. On 1 April 2025, the European Commission proposed a one-time flexibility measure allowing car and van manufacturers to meet 2025–2027 CO2 targets over a three-year average rather than annually, by means of a proposal for a Regulation amending Regulation (EU) 2019/631 (COM/2025/136 final; Procedure 2025/0070/COD). This amendment to Regulation (EU) 2019/631 has not yet been adopted.

CO2 emission standards for heavy-duty vehicles are set out in Regulation (EU) 2019/1242 of 20 June 2019 setting CO2 emission performance standards for new heavy-duty vehicles. In 2024, the emission standards for heavy-duty vehicles set by Regulation (EU) 2019/1242 were revised by means of Regulation (EU) 2024/1610 of the European Parliament and of the Council of 14 May 2024. These amendments entered into force on 26 June 2024. The revised targets aim for increasing CO2 emission reductions in the coming decades: 45 per cent by 2030, 65 per cent by 2035, and 90 per cent by 2040.

As for automotive-related product recalls in Spain, these are subject to the general product safety rules, which are based on the General Product Safety Regulation 2023/988.

Pursuant to Law 7/2021 of 20 May 2021, on Climate Change and Energy Transition- , national, regional and local authorities must take measures to ensure that from 2050 passenger vehicle fleets and light commercial vehicles do not generate direct carbon dioxide emissions; no new non-commercial vehicles emitting carbon dioxide are marketed by 2040; and all municipalities with more than 50,000 inhabitants adopt sustainable mobility plans that provide for low-emission areas similar to those that are already implemented in Madrid and Barcelona.

In Spain, there is not yet any specific legislative initiative on the regulation of software defined vehicles being under consideration (other than the autonomous vehicle initiatives mentioned in question 6.1.1. below). However, it should be noted that the European Commission is working with the European automotive industry on the European Digital Vehicle Ecosystem to collaborate for further developments regarding the Software-Defined Vehicle of the Future (SDVoF) ecosystem.

Law stated - 30 April 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

Spain does not have a strong tradition in product liability litigation, and there have been no major automotive-related product liability disputes in recent years. This does not mean that there have been no product recalls in the sector. The automotive industry has suffered several product recall cases in Spain, some of which are particularly relevant. However, the main consequences of these product recalls have been resolved between the parties without judicial actions being filed.

On the other hand, regarding the class actions regime, although there is already the possibility of exercising class actions in consumer matters (according to the Spanish Civil Procedural Law), we expect a significant change once the transposition of Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers and users has been made in Spain. The approval process is on-going (expected for autumn 2025).

Law stated - 30 April 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

European competition rules are entirely applicable by the Spanish competition authority. Particularly interesting and specific for the automotive sector is Commission Regulation (EU) No. 461/2010, of 27 May, on the application of article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector (the Motor Vehicle Block Exemption Regulation), as well as its accompanying supplementary guidelines, which are also applied by competition authorities in Spain to cases decided under either EU or Spanish competition law.

The Motor Vehicle Block Exemption Regulation grants the motor vehicle sector a specific block exemption for vertical agreements for the purchase, sale or resale of new motor vehicles, and for vertical agreements for the provision of repair and maintenance services for such vehicles and for the distribution of spare parts. Initially due to expire on 31 May 2023, Commission Regulation (EU) 2023/822 has extended its validity for another five years (until 31 May 2028). This will allow the European Commission to react in a timely manner to changes in the motor vehicles market and to take into account developments such as those resulting from vehicle digitalisation, electrification and new mobility patterns.

In addition, in April 2023, the European Commission adopted a communication amending the supplementary guidelines in response to the technological transformation of the sector, in particular to clarify how to assess novel issues regarding the provision of vehicle-generated data to independent operators under competition rules.

In February 2025, the European Commission launched a public consultation on the functioning of the competition rules applicable to vertical agreements in the automotive sector, including the Motor Vehicle Block Exemption Regulation and its accompanying supplementary guidelines (which are currently being evaluated by the European Commission). The outcome of this initiative is expected to have an impact in Spain because, as stated above, these rules are also applied by the Spanish competition authorities.

The main investigation and sanctioning proceedings conducted by the National Commission on Markets and Competition (CNMC) in the Spanish automotive sector in the past few years include the following:

- In July 2015, the CNMC imposed a record combined fine of €171 million on 21 car manufacturers and distributors and two consulting firms for an alleged cartel consisting of exchanges of commercially sensitive information relating to motor vehicle distribution and aftersales services. The sanctioned companies represented more than 91 per cent of the Spanish market for car distribution. The investigation by the CNMC was triggered by a leniency application filed by one of the automotive manufacturers in Spain.
- Between 2015 and 2016, the CNMC imposed fines totalling roughly €53 million on a significant number of car dealers of different OEM distribution networks in Spain – as well as some consultancy firms and trade associations for their role as cooperators – on grounds of their participation in several cartels, through which they fixed prices or other commercial conditions and exchanged commercially sensitive information.
- In June 2016, the CNMC imposed a fine of €638,770 on a Spanish car-wash equipment manufacturer (which also provides repair and maintenance services itself and via appointed third parties) for alleged anticompetitive conduct consisting of a refusal to supply spare parts and technical data to independent repairers.

More recently, the CNMC has conducted investigations and sanctioning proceedings in the automotive sector following complaints filed by companies:

- In July 2023, the CNMC imposed a fine of around €5.6 million to several companies for serious infringement of competition law by way of agreements for the manipulation and distribution of tenders issued by the Ministry of Defence in relation to the supply, maintenance and upgrade of military equipment, in particular military vehicles. The CNMC also suggested a prohibition on contracting with the public administration, referring the decision to the Public Procurement Advisory Board to specify the scope and duration of the prohibition to contract. The CNMC also fined the managers of the infringing companies.
- The CNMC investigated a complaint against two companies for allegedly failing to comply, inter alia, with the rules of the Motor Vehicle Block Exemption Regulation, as owners of an after-sales service network in Spain that qualifies as qualitative selective. The CNMC finally decided to shelve the file and not initiate sanctioning proceedings, as no evidence of an infringement was found.
- The CNMC investigated a complaint against a car dealer raised by a client for a possible abuse of dominant position for setting high prices for maintenance services for an OEM vehicles, as well as for the existence of certain discrepancies between the provision of these services and the provisions of the warranty and maintenance manual. Finally, in July 2024, the CNMC decided to shelve the file and not initiate sanctioning proceedings.

With regard to follow-on litigation, in recent years there has been a significant increase in private actions for damages suffered by victims of cartels in Spain (ie, civil law damage claims before the courts following administrative law sanctioning proceedings before the CNMC) due to the implementation of Directive 2014/104/EU on certain rules governing actions for damages for competition law infringements in Spain by virtue of Royal Decree-Law 9/2017.

This increase in damages actions is having a particular impact on the automotive sector.

Spain is the European country with (by far) the highest number of judicial decisions in follow-on claims deriving from the Trucks cartel. The Supreme Court has already issued several judgments, including some as recently as March 2024, concerning the existence of contradictory judgments in relation to a specific expert's report.

Since 2022, following the Supreme Court rulings confirming the sanctions imposed by the CNMC on car manufacturers, thousands of follow-on claims have been lodged against OEMs. This mass litigation is being widely reported in the Spanish press, with some consumer organisations, funds and law firms submitting mass litigation claims and encouraging consumers to file claims for damages. Particularly noteworthy is the recent arrival of both follow-on class actions and cumulative actions, claiming very high damages.

Currently, the provincial courts are issuing judgments in the second instance. However, to date these proceedings are applying a disparity of criteria and issuing contradictory rulings. The Supreme Court has not yet issued any judgment, so it remains to be seen how the different controversial aspects will be interpreted. In this context, the first request for a preliminary ruling has been raised before the Court of Justice of the EU (CJEU) in relation to the calculation of the limitation period. The Advocate General delivered its opinion on 3

April 2025, but the CJEU has not yet issued its judgment, so it remains to be seen how this issue will be interpreted.

Law stated - 30 April 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

While class actions and litigation around recalls or product safety are rare, dispute and claims proceedings do affect the Spanish automotive industry. A great percentage of these disputes are related to distribution agreements, terminations and claims for compensation. There have also been some supply chain and insolvency related disputes, which are currently increasing.

In general, the Spanish system provides claimants with the possibility of obtaining quick and provisional solutions through interim injunctions, which are especially useful in cases of supply chain disruptions.

More recently, since 2015, several players in the automotive industry have been involved in antitrust litigation proceedings. Arbitration is not very common in automotive-related litigation.

Law stated - 30 April 2025

Distressed suppliers

11 What is the process for dealing with distressed suppliers in the automotive industry?

Distressed situations and insolvency proceedings are complex. The way the automotive industry deals with suppliers facing such circumstances is determined on a case-by-case basis, depending on the factual circumstances at hand, by seeking securities and guarantees to warrant the fulfilment of supplier obligations – and by considering not only the legal implications but also the economic impact that the relationship with the automotive manufacturer may have on a supplier's overall performance and business continuation.

One particularity of Spanish law is that the mere declaration of a company insolvency is not a valid cause for termination of agreements entered into by the company. This means that a car manufacturer cannot terminate a supplier agreement only on grounds that the supplier has gone into insolvency; the contractual relationship will continue unless other reasons for termination appear such as a material breach of the supplier's duties.

Law stated - 30 April 2025

Intellectual property disputes

12

> Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

Intellectual property (IP) and related unfair competition disputes in the automotive field in Spain are rather significant, in view of the number of cases the Spanish courts have handled in the past few years, which show an increasing trend, although they are still less common than in other industries (eg, pharmaceutical and TMT). IP disputes and joint unfair competition claims are heard by several commercial courts specialising in IP matters across the country, which helps guaranteeing consistency in judicial decisions and, therefore, predictability. The most common venues are the Barcelona and Madrid Commercial Courts, as well as the EU Trademark and Design Court located in Alicante, which handles all EU trademark and designs claims on an exclusive basis. Section 15 of the Court of Appeals of Barcelona and the new section 32 of the Court of Appeals of Madrid, as well as the EU Trademark and Design Court of Appeals, are the most reputed tribunals for IP matters in Spain whose decisions have a great impact in the development of IP case law in the country.

The prevalence of trademark and trade names proceedings in the automotive field is remarkable. Disputes in this sector mostly involve trademark or trade name infringement actions for likelihood of confusion (eg,*CICAR v ZIPCAR*, *Parkia v ParkVia* and *M JOSCAR Hnos v jOYCAR*) where defendants usually bring counterclaims seeking the invalidity or cancellation for non-use of the enforced trademarks. In a relevant number of cases, the claims involve the use by workshops or car sellers of well-known car brands. Other recent disputes include trademark infringement claims related to the use of the plaintiff's trademarks by third parties in online paid advertising (eg, CANALCAR trademarks). Case law shows that courts tend to be protectionist towards IP rights holders and have admitted most of the trademark or trade name infringement claims issued in the past few years.

It is also relatively common that trademark or trade name infringement claims are jointly brought with unfair competition-related actions, with claims mostly based on acts of confusion, unfair exploitation of a third party's reputation and misleading acts. Courts are less prone to uphold unfair competition actions brought by plaintiffs, not the least since IP rights holders are typically not entitled to enjoy double protection based on their IP rights and the protection granted by the unfair competition law against the same behaviour by defendants.

Patent, utility model and design infringement claims in the automotive field are still scarce. Although design cases have been traditionally upheld, in the majority of patent infringement cases the courts either dismissed the claims or declared the patent to be invalid. The first patent disputes involving standard essential patents and licensing discussion related to mobile telecommunications technologies have been launched before the Spanish courts, also involving players in the automotive sector. This will certainly be a hot topic in the automotive industry in the near future.

Law stated - 30 April 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

As in other European countries, in Spain employment relations are governed by legal provisions and agreements emanating from national and international legislative bodies (international treaties, local laws and regulations), the will of the parties (collective bargaining agreements and employment contracts) and the customs and practices of the company itself (company agreements and practices).

Most of the employment regulations established in the laws apply to all companies, without specific regulations for industries or sectors (except regulations on health and safety, which may vary depending on the business activity concerned). This applies, for example, to working time, minimum wages, severance payments in case of dismissal, types of contracts, election and activity of workers' councils and unions.

In Spain, it is possible to enter into collective bargaining agreements (CBAs) – that is, agreements that have been negotiated and concluded by employers and employee representatives and are applicable to a broad sector at both a national or provincial level, as well as, on a smaller scope, those applicable to a company or work centre.

However, most of the relevant companies in the automotive sector that operate in Spain negotiate their own CBA at company level or have side agreements with their employees.

The pressures arising from the fierce competition in a highly globalised sector such as the automotive industry are transferred to companies, affecting labour costs and working conditions. In Spain, the automotive sector is characterised by the existence of large groups, mainly multinationals, with several activities in the country and a dispersed CBA format. Some larger companies have their own CBA at company level, while the smaller ones are attached to regional CBAs.

It is also important to point out that automotive companies in Spain are highly unionised. They have not only work councils, but also national unions involved in relevant decisions. Likewise, in the case of renowned automotive companies, political involvement is common when relevant decisions are taken (such as investments, divestments and restructurings). The scope of the political involvement (regional or even national) depends on the company affected, its economic or social impact in the area and the type of measure to be taken.

We must note that trade unions have played a key role in the automotive sector in recent years. In the past few years, with the impact of covid-19 and the chip crisis, the automotive sector has been shaken by numerous redundancy plans that affected thousands of people. Trade union negotiation with companies has been an important factor in tackling the crisis.

Besides, as per request of main trade unions, the Spanish government approved on 26 December 2024 the Order PJC/1472/2024, declaring the activation of the RED Mechanism for Flexibility and Stabilization of Employment for the motor vehicle manufacturing sector during 2025. The RED Mechanism allows companies to temporarily suspend employment contracts or reduce working hours for employees, who receive social protection during this period. The activation of the RED Mechanism in the vehicle manufacturing sector will enable the structural changes required for the retraining of workers to be addressed,

while protecting jobs and ensuring the future competitiveness of a sector that is strategic for the Spanish economy and facing significant structural and cyclical problems, such as the transition to electric mobility, advances in automation, and pressure from international competitors.

Law stated - 30 April 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

In the field of autonomous intelligent driving, on 20 December 2021, by means of Law 18/2021, various sections on automated vehicle driving were introduced into the recast text of the Law on Traffic, Circulation of Motor Vehicles and Road Safety, passed by Royal Legislative Decree 6/2015 of 30 October 2015.

The Spanish government is currently drafting a regulation to amend and adapt the General Vehicle Regulation (passed by Royal Decree 1428/2003, of 21 Novembe r 2003) to the requirements derived from the EU regulations on the type-approval of fully automated vehicles, in order to establish the requisites for them to be able to circulate on Spanish roads, as well as to adapt the General Road Traffic Regulation (passed by Royal Decree 2822/1998, of 23 De cember 1998) to the requirements and functionalities of fully automated vehicles, by regulating generic and specific traffic conditions that may affect them. The text of the draft regulation was published for public hearing from 5 February 2024 to 15 April 2024.

Sustainable mobility-related policies have triggered some important developments concerning electric and hybrid vehicles. For instance, certain cities (eg, Madrid) have passed local mobility regulations that allow drivers of electric and hybrid vehicles to access areas restricted to other vehicles.

The Spanish Congress is currently processing a bill for a Sustainable Mobility Law. The text of the current draft bill has a chapter on automated vehicles.

Also in this field, the Spanish government extended the MOVES III aid programme for purchase of electric cars until 30 June 2025 with a total allocation of €1.55 billion.

With regard to the provision of energy recharging services for electric vehicles, the approval of Royal Decree 184/2022 of 8 March 2022 should be noted. This regulation applies to electric vehicle charging point infrastructures that are located on public roads or, if not located on public roads, are accessible to all electric vehicle users, such as public and private car parks, service stations or shopping centres.

Law stated - 30 April 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

In the field of intellectual property, the Spanish Patent and Trademark Office (SPTO) is aware of emerging trends in the automotive industry and publishes, on a quarterly basis, free, schematic newsletters on the new developments regarding electric vehicles and smart car systems, where updated news and new patent applications published within these fields are listed.

Additionally, in January 2023, the SPTO published a press release examining the findings of a recent report issued by the European Patent Office and the International Energy Agency on hydrogen-related patents and global innovation trends in hydrogen technologies. The report suggests that the automotive sector has been the most relevant field of application for hydrogen-related patents, with more patent applications than all other emerging uses of hydrogen combined (including aviation, rail and shipping).

One of the main factors consumers take into account when purchasing a vehicle is sustainability. More than 80 per cent of consumers argue that sustainability and social responsibility matter more today than before the pandemic. Based on this fact, the dealer must offer the right products to customers, especially those who are more environmentally conscious.

Sales of electric vehicle in Spain are surging. The Spanish government's extension of the Moves III plan until June 2025 aims to further boost electric vehicle adoption, targeting 250,000 registrations by the end of the year 2025. However, electric vehicles' still account for less than 6 per cent of the Spanish market, though they are approaching 10 per cent of total car and SUV sales. The goal is to increase this share significantly to meet climate targets.

There is a growing emphasis on enhancing charging infrastructure to support electric vehicle adoption. The industry is also shifting towards digital transformation and autonomous car technologies, though these trends are more global than specific to Spain.

Overall, 2025 is poised to be a transformative year for the automotive sector in Spain, with a focus on sustainability, digitalisation, and meeting ambitious climate targets. Likewise, experts anticipate a challenging 2025 due to factors like high vehicle prices, uncertainties surrounding electric vehicle adoption, and increased competition from Chinese brands. Consumer reluctance towards electric vehicles', stemming from high costs and limited charging infrastructure, underscores the need for continued governmental incentives and support.

The new Euro 7 standards to reduce pollutant emissions from vehicles and improve air quality were approved by means of Regulation (EU) 2024/1257 of the European Parliament and of the Council of 24 April 2024. These standards will enter into force in different phases from 29 November 2026 to 1 July 2030. The Euro 7 standards will bring new emission limits for all motor vehicles. This European legislative initiative has been strongly opposed by the Spanish

automotive industry, which considers that it could put at risk the viability of some factories in Spain.

On 10 September 2024, the Regulation on Historic Vehicles was passed by Royal Decree 892/2024.

Law stated - 30 April 2025

Alex Dolmans	alex.dolmans@hoganlovells.com
Jon Aurrekoetxea	jon.aurrekoetxea@hoganlovells.com
Casto Gonzalez-Paramo	Casto.G-Paramo@hoganlovells.com
Inmaculada Lorenzo	inmaculada.lorenzo@hoganlovells.com
David Antón	david.anton@hoganlovells.com
Adrián Fernández de Pedro	adrian.fernandez@hoganlovells.com
Raquel Fernandez	raquel.fernandez@hoganlovells.com
Jesús Sánchez	jesus.sanchez@hoganlovells.com
Borja Fernández	borja.fernandez@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

United Arab Emirates

Imtiaz Shah
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

According to research by Emirates NBD, the UAE remains one of the largest automotive markets in the Gulf, second only to the Kingdom of Saudi Arabia. The UAE relies heavily on imports, with nearly all cars being imported from manufacturing facilities abroad. Aside from a small number of factories that assemble components for trucks and buses, as well as factories that produce armoured vehicles and boutique high-performance sports cars, there is no significant large-scale, commercial automotive manufacturing activity taking place in the country. However, steps have been taken recently to address this and expand the automotive manufacturing industry on mainland UAE.

The UAE's strong economic growth, household spending and relatively easy access to vehicle financing continue to be the primary drivers for the automotive industry. With the International Monetary Fund's World Economic Outlook estimating that the population of the UAE will grow to approximately 11.47 million by 2030 and GDP per capita staying at a high level, the growth outlook for the automotive sector looks positive. Any increases in public spending on development projects and general infrastructure to support such an increase in population will generally bolster the automotive sector, through demand for trucks and other commercial vehicles required for such growth. Following a dip in new car sales figures of 17.8 per cent between 2015 and 2020, as a result of customers scaling back their spending, the market is forecasted to return to normal levels and, according to Statista, passenger car sales are also expected to double between 2021 and 2026 to more than half a million units.

The composition of the market for automobiles is changing. An article in the Abu Dhabi-based newspaper The National in May 2020 noted that the size of the used car market had surpassed the new car market in the previous 12 months, coming off the back of a decline in the number of new car sales in the previous four years. Data from the Roads and Transport Authority (RTA) showed that the vehicle fleet of the UAE was getting older in comparison to previous years as consumers hold onto their cars for longer. A report produced by Ken Research predicts growth at compound annual growth rate of 10.9 per cent in terms of revenue in the UAE used car market from 2023 to 2028, citing multiple factors including semiconductor chip shortage in new cars. With increased demand for hybrid and electric vehicles from consumers and businesses alike, and in light of Dubai's recent hosting of COP28 at the end of 2023, the market is already shifting towards more green options, to the detriment of older, less environmentally friendly models. The government of Dubai is also seeking to become a leader in the realm of autonomous vehicles, and has set a target of achieving 25 per cent of total transportation in Dubai by means of such autonomous vehicles by 2030. Dubai's RTA has entered into a public-private partnership with Cruise, a robotaxi provider, and at the end of 2023 began testing their Chevrolet Bolt autonomous vehicles in Jumeirah 1. Throughout Dubai, discounts, exemptions and free parking are offered to those driving electric vehicles.

Due to its strategic location, the UAE is also becoming a hub and re-export centre for vehicle parts and components in the Gulf region. Abu Dhabi's government initiative to develop an 'Auto City' in the Mussafah area, southwest of Abu Dhabi, will potentially create a cluster of advanced workshops and service centres, attracting investment in automotive manufacturing and spare part logistics.

Law stated - 31 May 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

All motor vehicles must be insured and licensed by the specific transport department in each emirate before they can be driven on UAE roads. The process of obtaining insurance and licensing is straightforward and can be dealt with by auto dealers or car owners directly at any transport department outlet. In Dubai, vehicles more than three years old must undergo an RTA safety test prior to each annual registration renewal.

In terms of the regulatory framework, all cars and buses entering the UAE must abide by the safety regulations issued by the Ministry of Industry and Advanced Technology (MoIAT), formerly ESMA, and the Gulf Standardization Organization (GSO). These regulations are primarily composed of a combination of EU and US federal motor safety standards. By way of common examples:

- airbags for the driver and front passenger seats are compulsory for all passenger cars and buses with a capacity of up to 22 passengers;
- safety belts and anti-lock braking systems are required in all new cars; and
- all vehicles must have an alarm to notify the driver when the vehicle exceeds the speed of 120km per hour in cars and 100km per hour in buses.

In relation to homologation of new vehicles in the UAE, automotive manufacturers often conduct simulated tests at their factory facilities followed by local testing in the Gulf Cooperation Council (GCC) to confirm that prototypes of new vehicles are fit for driving in GCC countries and meet the standards set by the MoIAT and the GSO prior to any mass production taking place.

Certain tests are designed in part to ensure that new vehicles are capable of functioning properly during extreme heat conditions that are the norm for GCC countries, for example, between April and October in each year. The vehicle's durability, performance and stability are tested by representatives of the manufacturer driving it off-road and on highways at high speeds. Engines, transmission and other powertrain elements of the vehicle are tested through driving in standard city traffic, with an emphasis on relatively low speeds and frequent stopping and starting. The other vehicle processes such as engine lubrication, electrical systems, braking, steering and air conditioning are all monitored during these tests to ensure that they perform to the required standards of each market. If any of

these systems do not perform to the required standards, then the manufacturer's factory is notified to fix minor problems prior to mass production. In the case of substantial problems with prototype vehicles, the prototype will be sent back to the factory for investigation and a new prototype will be developed to undergo the same tests. Otherwise, the prototype is left with the local distributor to increase its mileage and measure wear and tear conditions.

In relation to certification, the automotive manufacturer will normally have a representative that is familiar with MoIAT and GSO standards and confirm that the vehicle (or any parts) meet the requirements of these organisations. After the self-certification process takes place, the new vehicle's specifications are sent to the GSO for registration of the new vehicle, which is a requirement for customs clearance and further registration of the vehicle by any consumer.

Law stated - 31 May 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

The majority of automotive manufacturers operating in the UAE have their regional head offices and logistic distribution centres located in Jebel Ali Free Zone to supply new cars and spare parts to their network of authorised distributors.

The contractual structure of automotive distributors or dealers may vary according to the policies of each manufacturer. However, in general terms, operations are normally governed by dealership agreements covering commercial commitments and targets, in addition to legal terms and conditions in connection with the responsibility and obligations of each party. The lengths of such dealer agreements may vary, typically from one to five years, depending on the relationship between the manufacturer and distributor and any historic performance records in achieving annual commitments and targets.

Automotive manufacturers have historically largely operated in the UAE by appointing local distributors pursuant to the Federal Commercial Agency Law No. 18 of 1981 (as amended most recently in December 2022) using local Emirati agents to sell products in the region; there are analogous laws in several other GCC countries. This law has been recently repealed and replaced by Federal Law No. 3 of 2022 (the New Commercial Agency Law) that seeks to improve the balance between principal and agent and came into force on 15 June 2023. This law reinforces the key aspects of the 1981 law (including the stipulation that only (1) UAE nationals or companies wholly owned by them or (2) public joint-stock companies with at least 51 per cent UAE National shareholding can act as commercial agents), but also allows a foreign principal (not owned in whole or part by a UAE national) to sell its products directly into the UAE without an agent, provided that there is no agent already appointed in the UAE and the principal has not had any agreement previously registered within the UAE.

Law stated - 31 May 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

Orders for new vehicles and parts are normally processed by the regional offices of the manufacturers. Weekly supplies of vehicles and parts are usually shipped from logistics centres by trailer within the UAE and GCC, and by ship to other destinations in Middle Eastern and North African markets. Monthly stock orders may be shipped from factories abroad directly to importers and distributors in the UAE. The importers and distributors must have trading licences issued by the Ministry of Transport and Logistic Services and renewed periodically by local authorities such as the Chamber of Commerce (each emirate has its own local regulatory powers and authorities).

According to a 2023 report by Roland Berger, 96 per cent of prospective auto buyers in the UAE and Saudi Arabia initiate their purchase journey online, leveraging the internet to research a new car. However, only 15 per cent of consumers actually go on to complete the purchase of their car online.

Performance and metrics in relation to customer satisfaction are normally reviewed by automotive manufacturers and their distributors through regular meetings between senior executives from both parties. Any restructuring of a distribution arrangement is normally preceded by warning letters and potentially by arbitration proceedings in accordance with the distribution agreement.

Federal Commercial Agency Law No. 18 of 1981 caused significant issues for automotive manufacturers seeking to terminate their relationship with a local distributor. This was the case when a major international automotive manufacturer sought to terminate its distribution relationship in the late 1990s. The manufacturer was unable to terminate the relationship due to restrictions under the Agencies Law. The dispute that arose between the two companies proceeded before the courts of the UAE, and the manufacturer was unable to appoint a new distributor in the UAE until the dispute was resolved. The manufacturer was unable to sell its products in the UAE for several years as a result. Though recently repealed and replaced in 2023 by Federal Law No. 3 of 2022, the issues with the previous Commercial Agency Law should be noted.

Law stated - 31 May 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

Manufacturers do not have a significant direct presence in the UAE, electing instead to operate on an agency or distributorship model. Most M&A activity, therefore, tends to occur at the distributor level, rather than the manufacturer level.

Any M&A or joint venture transactions that result in a significant change in the ownership of a distributor should be reported to the Ministry of Economy under its regulations. In addition, distribution agreements often contain change of control provisions that will require the distributor to notify the automotive manufacturer if such a change in ownership were to occur.

Law stated - 31 May 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

The main barrier to entry into the market in the UAE is in company setup and licensing, including in relation to premises and importation; it is for these reasons, among others, that international manufacturers use authorised distributors in the UAE. In practice, this means that any new automotive manufacturer entrants into the UAE market will need to identify an appropriate distributor in the region to sell their vehicles and parts to consumers. Recent legal changes have permitted companies in most sectors established in mainland UAE to be 100 per cent owned by foreign nationals, in contrast to the previous requirement that at least 51 per cent of such companies be owned by UAE nationals, and we have not yet seen the impact of the legal changes permitting 100 per cent foreign ownership on the automotive industry.

Abu Dhabi's government initiative to develop an 'Auto City' in the Mussafah area is likely to lead to the creation of new production plants for cars, light vehicles and trucks, as well as assembly lines for manufacturing spare parts and vehicle accessories. This strategy could increase opportunities for automotive manufacturers and distributors in the country. Automotive manufacturers such as Chinese self-driving vehicle start-up WeRide, UAE unmanned maritime systems company Marakeb Technologies, and Chinese electric vehicle maker Hozon Auto all announced that they were joining the Auto City at the end of 2023. More generally, the Dubai Chamber of Commerce's Automotive Manufacturers Business Group, founded in 2018, is tasked with developing and advancing Dubai's automotive industry.

Law stated - 31 May 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

There are no specific product recall rules that exclusively apply to the automotive industry in the UAE. The general principles in relation to product recalls and compliance safety are set out below.

Consumer safety and protection are regulated by the Ministry of Economy (MOE). The safety and quality of products are further standardised in the UAE by the Ministry of Industry and Advanced Technology (MoIAT) and local authorities such as the Department of Economic Development, the Dubai Municipality and Abu Dhabi Quality and Conformity Council. Together with the emirate-level authorities, the MOE has the power to investigate and enforce the recall of defective products based on consumer complaints and reports from international markets.

The main law relating to product recall is Federal Law No. 15 of 2020 on consumer protection (the New CP Law), which replaced Federal Law No. 24 of 2006. Executive regulations were published in June 2023 and came into force in October. The New CP Law and the executive regulations state that a supplier of goods must immediately report any harmful defect discovered in the goods to the relevant UAE authorities and consumers. The Cabinet Resolution contains more detailed provisions regarding the notification and other procedures that must be followed by a supplier where a defect is found in goods. In practice, the notification is made to the UAE MOE Consumer Protection Department, and an advertisement of the recall is published in UAE newspapers and on the supplier's websites and social media to notify consumers. The notification to the Consumer Protection Department must be made no later than 24 hours after the date of discovery of the defect necessitating a recall (in the event of goods affecting security and safety), and within seven days in the event of other goods. It should be in Arabic (but can be accompanied by the home language of the supplier) and must include the following information:

- the name, description, surname, nationality, address and chosen domicile of the informant in the country;
- a statement of the reported product;
- name, address and country of origin of the supplier;
- the date that the informant discovered the reported defect;
- accurate technical identification of the reported defect;
- damages likely to occur from the defect subject of the report, and an indication of how to prevent such damages or reconcile the effects resulting therein in the event of their occurrence;
- the procedures and means provided by the supplier to enable the consumer to replace, repair or return the product, along with a refund of the price that was paid without any additional expenses; and
- any other data relating to the product that the supplier deems necessary to include.

The supplier has a further obligation to notify the Consumer Protection Department with a report within 30 days of initiation of the recall, which must set out the following information:

- the recovered amount;
- the number of products that have been repaired, replaced or refunded;
- a list of the owners of the recovered products and the means of contacting them, and, in the event that the product was a vehicle, a list of the recovered vehicle chassis numbers;
- a list of unreachable product owners according to the database of the supplier;

- actions taken to correct the declared defect; and
- any other data deemed necessary by the concerned party.

If the supplier closes the recovery file without permission from the concerned authority, he will be liable for a fine of 1,000,000 dirhams.

The advertisement in local UAE newspapers is also quite prescriptive in that it must not be less than 15cm by 15cm in size and must contain the following information:

- the name, address, email address and contact number of the supplier;
- the trademark of the product;
- the name, description and country of origin of the product;
- a clear picture of the product;
- the number of the defective products;
- a description of the defect;
- the model or operational number of the product;
- instructions that a consumer should follow to avoid any damages that may result from use of the product; and
- instructions that a consumer should follow to have the product repaired or replaced or to have the price of the product refunded.

The responsibility to notify the authorities and consumers lie with both the manufacturer and the distributor, but it is the distributor that will be found liable for failure to notify. Penalties for non-compliance in connection with product recall rules include a fine of 500,000 dirhams and referral to the Public Prosecutor for possible prosecution for commercial fraud, which may result in a prison sentence of up to two years, presumably for the manager of the establishment being prosecuted.

Law stated - 31 May 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

There are no specific product liability laws or regulations that exclusively apply to the automotive industry in the UAE. Below are the general principles that apply in relation to consumer litigation in product liability and product recalls.

A consumer can make a claim against a manufacturer or an importer under the UAE Civil Code if any products are defective and such defects are not covered by a warranty, or if the products do not fit their descriptions. Distributors can also be sued for misrepresentation in such cases. Additionally, consumers can bring claims for breach of contract against

distributors under Commercial Transactions Law No. 50 of 2022.if any vehicles are not fit for purpose.

In cases of 'gross cheating', the consumer can have the entire contract with the distributor invalidated. Courts in the UAE generally only award damages for direct losses. Class actions do not yet exist in the UAE, and are unlikely to be introduced in the near future.

When claims are brought by consumers against distributors or importers, vehicle manufacturers may be required under the supply contract to indemnify such parties for the cost of remedying the defects in vehicles or spare parts.

Law stated - 31 May 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

General principles of competition law under UAE Federal Competition Law No.36 of 2023 are applicable to the automotive industry. For example, geographic division of markets and agreements between competitors to avoid soliciting each other's customers are considered to be anticompetitive. It is therefore unlawful, for example, for automotive distributors to allocate territories between them and agree not to market products in the territories allocated to the other distributor.

Similarly, abuse of a dominant position by a distributor or manufacturer, or any agreements between competitors aimed at reducing competition in the market, such as collusion in bids and tenders or agreements on the terms and conditions for goods and services, will likely be prohibited under the UAE Competition Law.

Consumers who are affected by anticompetitive agreements or conduct can complain to the Competition Regulation Committee at the Ministry of Economy. The potential for follow-on litigation is currently unclear on the basis that it is largely untested, but a finding of anticompetitive behaviour will have a negative impact on the business of both the manufacturer and the distributor, in addition to resulting in potential criminal sanctions and fines ranging between 50,000 and 5 million dirhams for either abusing a dominant position or entering into an agreement that restricts competition in the UAE.

Notwithstanding the information above, Federal Competition Law No.36 of 2023 is stated to be subject to further regulations, some of which have not yet been published. The competition law of the UAE has therefore not been completely implemented, and it is uncertain and unclear how the courts will enforce competition law principles in the UAE.

Law stated - 31 May 2025

Dispute resolution mechanisms

10

What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

According to an article published in August 2016, 73 per cent of the disputes related to non-compliance with the terms of sales or service agreements, refunds or defective products, making it the third most complained about sector after services and electronics. The terms and conditions of vehicle warranty, insurance and sales and service agreements constitute most of the disputes. In 2021, according to the Commercial Compliance and Consumer Protection (CCCP) sector in the Department of Economy and Tourism, as reported by *Khaleej Times*, the automotive sector dropped to the sixth most common subject of customer complaints in Dubai, after services, electronics, e-commerce, clothing and shipping.

Several manufacturers and distributors are in the process of setting up bilingual customer care counters in their showrooms to comply with the standards set by the Department of Economic Development, to offer solutions and accelerate the customer satisfaction process and resolve disputes with customers prior to the commencement of litigation.

Disputes between automotive manufacturers and their distributors have historically been quite rare in the UAE because of the difficulty a manufacturer would have in terminating such a relationship. Disputes between principals and their registered agents are heard by a specifically constituted Commercial Agencies Committee, which convenes to adjudicate on whether the distributor has fulfilled its duties as an agent and has the power to strike an agency relationship from the register. If the Commercial Agencies Committee is unable to adjudicate the dispute, it has jurisdiction to refer the case to the UAE courts. Under the New Commercial Agency Law, however, parties are allowed to resolve their dispute by arbitration, which provides for more flexibility.

Registered agency relationships can be removed from the register either with the consent of the local agent, or by direction of the Commercial Agencies Committee. It is therefore in the manufacturer's interests to resolve any problems with the distributor amicably as the manufacturer will find the termination process difficult and time consuming. The New Commercial Agency Law will allow a manufacturer to terminate the distribution agreement prior to the end of its term (or by expiry of the agreed term, without renewal), provided certain conditions are met, which will make it much easier for a manufacturer to change agents. Any purported early termination will be open to challenge by the agent; however, in contrast to the old law (and provided the Minister of Economy approves the arrangement), the automotive manufacturer will be able to sell its products in the UAE via other exclusive channels during the period in which it is in dispute with its extant distributor, rather than experience the sale paralysis of the previous regime.

Law stated - 31 May 2025

Distressed suppliers

11 What is the process for dealing with distressed suppliers in the automotive industry?

In practice, the distributor and the automotive manufacturer may seek to reach an agreement to extend the supply period by offering discounts to the distributor or shipping

certain products free of charge to reduce damage caused to the distributor and to avoid complaints from customers.

Ultimately, the parties are reliant upon each other to the extent that neither the automotive manufacturer nor the distributor is capable of selling products in the UAE without the other party's support. It is, therefore, in each of their best interests to support the other party during periods of distress.

Law stated - 31 May 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

Intellectual property disputes between automotive manufacturers tend to commence in international markets and are simply reflected in the UAE, rather than originating in the UAE. Disputes between distributors in the country are rare and have not historically related to intellectual property.

The principal intellectual property issues for automotive manufacturers and distributors in the UAE typically relate to branded counterfeit spare parts being imported or exported by non-authorised distributors and sold to consumers, which can potentially lead to safety concerns in addition to causing losses to the authorised distributors, which sell genuine but often more expensive spare parts.

To resolve this issue, a key consideration for automotive manufacturers and distributors will be how to efficiently implement anti-counterfeiting measures in the UAE. This process is likely to require extensive communication with customs authorities and the police to effectively implement such measures.

Law stated - 31 May 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

Employment law in the UAE is relatively basic compared to other jurisdictions. By way of example, trade unions and works councils are not permitted in the UAE. Employment agreements (with the exception of those for employees within the Dubai International Financial Centre and the Abu Dhabi Global Market, each of which has its own employment regulations) must comply with Federal Law No. 33 of 2021 (the New Labour Law) and associated regulations and ministerial decisions. In accordance with the New Labour Law, employment agreements in the UAE are required to be of a fixed duration. Most employment contracts can be terminated on one month's notice unless otherwise agreed

between the employer and the employee. On termination of an employment contract, an end of service gratuity may be payable to the employee.

Under the New Labour Law, any employee who has completed at least one year of continuous service is entitled to an end of service gratuity payment that amounts to 21 days' remuneration for each year of service for his or her first five years of service and 30 days' remuneration for each additional year of service, provided that the aggregate amount of the end of service does not exceed two years' remuneration.

Law stated - 31 May 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

The Ministry of Industry and Advanced Technology (MoIAT), formerly ESMA, has prepared draft standards applicable to electric and hybrid vehicles being imported into the UAE, and these standards have been provided to the Gulf Standardization Organization (GSO) for consideration as the GSO is also seeking to develop standards in connection with these vehicles. The standards are still in draft form at the time of writing. They address:

- the general requirements as to the performance and safety of electric vehicles;
- the responsibilities of manufacturers;
- the installation of charging ports and electricity supply; and
- how to deal with accidents.

It will be important for cooperation between the GSO and the local standards bodies in each Gulf Cooperation Council (GCC) county (such as the ESMA in the UAE) to ensure that the final standards produced by each authority are aligned and automotive manufacturers are not required to make modifications to vehicles for each of the GCC countries.

It will also be important for these standards to be substantially similar to those used in other significant markets (such as the United States) to incentivise manufacturers to export their electric and hybrid vehicles to GCC countries in mass quantities. Uncertainty in the standards could potentially cause problems in the licensing of such vehicles as well as inconsistency of product quality, therefore frustrating the objectives of standardisation and objective to create a sustainable electric and hybrid market in the UAE.

The Dubai Green Mobility Initiative was established in 2015 by the Supreme Council of Energy as a strategy to achieve sustainable development and to create a low-carbon economy by promoting the use of hybrid cars and electric vehicles in Dubai. In addition, Vision 2021 was launched by His Highness Sheikh Mohammed bin Rashid Al Maktoum, the country's prime minister and the ruler of Dubai. One of the pillars of the Vision 2021 project was to create a sustainable environment and infrastructure, measured by a number of key performance indicators. The Vision 2021 site reports that many of the targets were

achieved, including an air quality index of 91.4 per cent and a 10.64 per cent share of clean energy contribution.

Shared transportation services continue to be a growing trend in the UAE; car-sharing service Udrive launched in Abu Dhabi in 2018 after finding popularity in Dubai the previous year. Users rely on an app to find cars in their vicinity, which can then be driven to a location and left behind.

Following the launch of the Dubai Self-driving Transport Strategy in 2016, it is anticipated that 25 per cent of all Dubai's journeys will be self-driving by 2030. Legislative and operational guidelines continue to be developed and are expected to be the first of their kind worldwide.

In April 2023, the Law No. 9 of 2023 regulating the operation of autonomous vehicles in the Emirate of Dubai was introduced. The law outlines the responsibilities of RTA in regulating the sector and outlines licensing procedures, and the responsibilities of operators, agents and passengers. It also defines the obligations of operators of autonomous vehicles in case of accidents.

Law stated - 31 May 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

There are no updates at this time, except for the potential changes to the foreign direct investment landscape in the UAE due to the removal of 51 per cent local to 49 per cent foreign ownership requirements in many sectors. There may also be changes to the product recall process once the executive regulations in connection with Federal Law No. 15 of 2020 on consumer protection are issued.

Law stated - 31 May 2025

Imtiaz Shah imtiaz.shah@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

United Kingdom

Richard Welfare, **Penny Powell**, **Oliver Wilson**, **Valerie Kenyon**, **Matthew Felwick**, **Angus Coulter**, **Tom Eyre-Brook**, **Aline Doussin**, **Alice Russen**
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

The automotive industry is a significant contributor to the UK economy, generating a manufacturing turnover of £93 billion and investing around £4 billion in research and development (R&D) each year. Additionally, more than 198,000 people work in automotive manufacturing, with approximately 813,000 employed in the wider sector.

The latest data shows that, in 2024, British vehicle production totalled 905,233 units comprising 779,584 cars and 125,649 commercial vehicles (reflecting an 11.8 per cent decline from the previous year). In 2024, car exports declined by 15.5 per cent to 603,565 units, reflecting plant retooling, component shortages and subdued external demand. Notwithstanding this decline, exports continue to represent a large share (77.4 per cent) of total production, and nearly eight out of every ten cars produced were destined for export. 54.0 per cent of these exports were shipped to the European Union, 16.9 per cent to the United States, and 6.6 per cent to China. Furthermore, annual new car registrations in 2024 reached 1,952,778 units, marking a 2.6 per cent increase over the previous year, with fleet registrations holding about 59.6 per cent of the market. Therefore, fleet registrations remained the most common sales type for new vehicles.

With an increasing focus on vehicle emissions affecting both climate change and air quality, the demand for electric vehicles is rapidly rising. The UK's battery electric vehicle fleet has surged past 1.33 million, marking a pivotal milestone in the nation's move towards zero-emissions mobility. In response, the decline in demand for new diesel cars continues. Consumers remain attracted to online marketplaces for competitive deals, and the overall health of the second hand c market continues. Recent Society of Motor Manufacturers and Traders (SMMT) data shows that battery electric vehicles (BEVs) accounted for 19.6 per cent of new registrations in 2024. This reflects an increase from approximately 16.6 per cent in 2023, although it still falls short of the UK government's 22 per cent zero emission vehicle (ZEV) mandate target. Additionally, electrified vehicles (encompassing BEVs, plug-in hybrids, and hybrids) represented about 41.6 per cent of new car sales in 2024. With respect to the used car market, in 2024, the market remained robust, growing by 5.5 per cent to approximately 7.64 million transactions. Notably, record sales of used BEVs were reported, being 188,382 units sold in 2024 — a year-on-year increase of 57.4 per cent.

As shown by the export statistics above, the EU and UK automotive industries are, and historically have been, deeply integrated. The figures demonstrate that the maintenance of trade flows between the UK and the EU will be critical in supporting the continued success of the UK automotive sector, and the EU–UK Trade and Cooperation Agreement (the EU–UK TCA) will be central to managing the UK's trade relationship with the EU moving forward. In December 2023, the UK and EU agreed to postpone the implementation of stricter Rules of Origin requirements for EVs and batteries until 31 December 2026, avoiding the potential imposition of tariffs on these products.

Digital transformation continues to reshape automotive retail, with growing adoption of direct-to-consumer and agency sales models alongside advancements in software-defined

vehicle technology. Electric vehicles (EVs) are no longer just about reducing emissions; they are rapidly evolving into sophisticated, software-defined platforms. These vehicles now feature over the air updates, remote diagnostics, and performance enhancements that update long after the car leaves the showroom. Collaboration is at the heart of this change. Traditional automakers are increasingly forming partnerships with technology firms to ensure the integration of robust cybersecurity and data privacy measures within EV technology.

The figures used above are from the SMMT.

Law stated - 23 June 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

Generally, to operate a vehicle on public roads, the vehicle must be registered and type approved in the United Kingdom. The Vehicle Certification Agency (VCA), an executive agency of the Department for Transport, is responsible for issuing vehicle type approvals.

Following Brexit, there are now separate provisions for Great Britain (Provisional GB Type Approval Scheme and GB Type Approval Scheme) and Northern Ireland (UK(NI) Type Approval Scheme). As a consequence of the terms of the Northern Ireland Protocol and Windsor Framework agreement, Northern Ireland remains subject to EU type approval regulations. In the context of customs, simplified processes will be introduced on 1 May 2025 to enable businesses in Great Britain to move goods to a business in Northern Ireland. Businesses can register for the UK Internal Market Scheme, which will authorise certain goods to be declared 'not at risk' of moving to the EU, enabling them to benefit from reduced border controls.

The regulations governing type approvals are:

- the Road Vehicles (Approval) Regulations 2020 (Statutory Instrument 2020 No. 818 (as amended));
- the Motorcycles (Type-Approval) Regulations 2018 (Statutory Instrument 2018 No. 235); and
- the Agricultural and Forestry Vehicles (Type-Approval) Regulations 2018 (Statutory Instrument 2018 No. 236).

New type approvals are available for all categories of vehicles under these regulations, in conjunction with:

- retained EU legislation, in the case of GB type approvals; or
- directly applicable EU Regulations, in the case of UK(NI) type approvals.

When making an application for type approval, a manufacturer's production processes will be subject to a conformity of production assessment. This will ensure that all vehicles are manufactured in accordance with a particular approved specification. Pre-production vehicles will also undergo examinations to ensure that safety and environmental standards are met (including, where appropriate, destructive testing).

Where automobile parts are manufactured or sold separately, generally they must be tested for compliance with the vehicle into which they will be fitted. However, certain component parts can be tested for compliance in isolation (eg, seat belts).

According to the VCA, the following rules currently apply for vehicle and component type approval in the UK as of 1 January 2021:

Type approvals

Provisional GB Type Approval Scheme

- The Provisional GB Type Approval Scheme is a temporary arrangement intended to enable certain vehicle categories to be placed on the market in Great Britain for an interim period until a full GB type approval scheme is available. The VCA will issue provisional GB type approval, upon application, to manufacturers that can prove they hold valid EC type approvals.
- The administrative conversion of EC type approvals into GB type approvals avoids costly retesting and redesign for manufacturers, and ensures that vehicles and components can continue to be sold (and registered, where necessary) in Great Britain.
- The provisional GB type approval is valid for two years from the date of issue. It must be converted into a full GB type approval during this period, or it will become invalid.
- The Provisional GB Type Approval Scheme is available for L, O or T category vehicles only. Since 1 February 2024, it has no longer been possible to apply for Provisional GB type approval for M and N category vehicles. The provisional schemes for L and T category vehicles and engines for non-road mobile machinery will continue until 31 December 2027, to provide more time to bring the full schemes for these categories into place.

GB Type Approval Scheme

- Manufacturers need GB type approval if they intend to place certain categories of new vehicle models on the market in Great Britain.
- The technical requirements for GB type approval mirror the requirements set out in EU law, save that the 4m height limit for vehicles has been removed.
- Since January 2021, EC type approvals issued in the UK have not been valid for sales or registrations in the EU market. Manufacturers should, therefore, have EC type approval from a type approval authority in an EU country. This process is set out in Regulation (EU) 2019/26.
-

Manufacturers wishing to place new vehicles on the EU market need to follow the existing procedure for obtaining a new EC type approval. Full testing and certification must be undertaken by an EU type approval authority in conjunction with a technical service designated by that authority.

Registration

For use on UK roads or in UK public places, vehicles must be registered with the Driver and Vehicle Licensing Agency (DVLA) and hold a V5C vehicle registration certificate. The person named on the V5C is responsible for the vehicle as the registered keeper of the vehicle, and has several registration and licensing obligations. Without type approval, a vehicle cannot be registered or licensed by a person in the UK. A V5C is not evidence of ownership of the vehicle, and the owner and registered keeper are not always the same.

Insurance

Under current legislation, the UK has a compulsory motor insurance requirement, under which a person using a vehicle (or causing or permitting the vehicle to be used on public roads or in a public place in the UK) must have insurance cover against third-party damage, although there are some exceptions for motor traders. In addition, if a vehicle is between registered keepers or registered as 'in trade' with the DVLA, it is excluded from continuous insurance enforcement. This contrasts with the EU approach where, generally, the vehicle itself must be insured, not the individual person.

The Automated and Electric Vehicles Act 2018 (AEVA) contains insurance measures in light of advancements in vehicle technology, and came into force on 21 April 2021. In particular, direct liability has been imposed on the insurer of a self-driving vehicle that causes an accident while driving itself. This single, comprehensive motor insurance framework allows a person who suffers damage in an accident involving a self-driving vehicle with automated mode engaged to have a direct claim against an insurer. Unlike the current third-party motor insurance framework, insured persons in the automated vehicle at the time of the accident will also be covered.

Drivers taking a UK-registered vehicle outside the UK may need to carry a green card depending on the destination country. The green card is an international certificate of insurance currently issued by insurance providers in the UK, guaranteeing that the motorist has the necessary third-party motor insurance cover for travel in the destination country.

Drivers taking a UK-registered vehicle to the EU (including Ireland) or Andorra, Bosnia and Herzegovina, Iceland, Liechtenstein, Montenegro, Norway, Serbia or Switzerland, require valid vehicle insurance, but are not required to carry a green card.

Law stated - 23 June 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

As automotive companies are global businesses, arrangements for the United Kingdom tend to mirror global or regional arrangements. In addition, many OEMs have now integrated digital contract management systems and blockchain-enabled tracking to improve transparency and efficiency in cross-border operations. OEMs generally have a supply chain structure of Tier 1 suppliers (supplying directly to OEMs) and Tier 2 suppliers (supplying to Tier 1 suppliers) and so on. For common parts, OEMs tend to source products pursuant to pan-European arrangements, but also often have specialist local suppliers located in close proximity to manufacturing sites. In the case of the UK, it is not uncommon to see parts move across the border between the UK and the European Union multiple times as part of the manufacturing process. Notably, post-Brexit adjustments have led some OEMs to strengthen relationships with UK-based suppliers to mitigate border delays and added costs.

Arrangements with suppliers tend to be pursuant to purchase orders, which are governed by general terms and conditions established by an OEM. Typically, commercial arrangements contemplate that the OEM will place orders for specific components supplied for particular vehicles over the life of a vehicle, but do not necessarily include minimum purchase quantities. Prices are generally negotiated on an annual basis for each vehicle programme, with longer-term agreements often featuring price adjustment mechanisms and integrated supply chain financing clauses. Larger suppliers and specialist suppliers for hard-to-source components often have more bespoke arrangements reflecting their bargaining power.

Major OEMs tend to complete design and engineering internally, although it is not uncommon to see licensing or collaboration arrangements between OEMs for the use of new technology. Moreover, increasing reliance on tech partnerships for software connected services has led to more joint development and co-licensing arrangements.

The interconnectedness between UK and EU supply chains for parts and components, as well as finished goods, presents challenges in a post-Brexit world. The EU–UK TCA goes some way to help mitigate these challenges by providing for tariff-free trade for UK and EU originating products, under the ‘rules of origin’. However, even for products qualifying for preferential origin under the EU–UK TCA, there are now added steps and costs associated with trading between the UK and the EU (most notably border checks). Recent updates to digital customs platforms aim to streamline these processes, however practical delays still persist.

Electric Vehicles (EVs) are one of several products to benefit from a phase-in period for rules of origin requirements to apply. EVs can benefit from an exemption on the tariff for vehicles manufactured outside the UK or EU until 31 December 2026, rather than the tariff being introduced immediately or over a shorter timeframe. However, EV manufacturers in the UK will have to prove that at least 45 per cent of the value of parts in a finished EV that is exported to the EU were produced in the UK or the EU (with no diagonal cumulation). The threshold for this originating content will increase to 55 per cent from the start of 2027. The tariff exemption came about in part because batteries form a large proportion of the value inherent in an EV, and imposing tariffs on imported batteries (which are mainly imported from Asia or the US) would therefore stifle EV trade. The new rules of origin requirements further increase the need for domestic UK battery production, which will likely shape the cost-benefit analysis for EV manufacturers with plants in the UK. To maintain its position

as an attractive market for manufacturers of EVs, a material increase in the UK's domestic production of batteries will be required.

More broadly, supply chain agreements increasingly incorporate force majeure clauses to cater for raw material shortages, geopolitical risks and port congestions. Additionally, some UK OEMs have started embedding shared investment or dual sourcing arrangements, particularly for batteries and semiconductors.

Law stated - 23 June 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

In the United Kingdom, new vehicles are mainly sold through selective distribution networks, (usually car dealerships). As such, manufacturers can control branding and sales processes, including aftersales relations. Owing to the nature of selective distribution networks, manufacturers can sell to consumer or fleet companies, but generally not to other dealerships outside their selected network.

Competition law imposes particular requirements on selective distribution networks, especially with regard to the criteria for being an authorised dealer, and restrictions on trading within or outside the authorised network. Following Brexit, UK competition rules are of primary relevance for businesses operating in the UK or importing into the UK, and EU competition rules remain relevant for UK-based exporters into the European Union. Both the EU and UK rules on vertical arrangements were revised in 2022, with some divergence now that the UK is no longer part of the EU. However, the rules applicable to selective distribution arrangements remain largely aligned and unchanged between the two regimes.

Relationships between manufacturers and approved dealerships in practice tend to be long-term arrangements (although typically they will be subject to termination on two years' notice), and the dealership will usually undertake warranty repairs as well as general vehicle sales services. Vehicle financing is common in the UK and takes a variety of forms, from manufacturers offering dealer financing for the dealership's purchase of vehicles for onward sale, to consumer car financing for purchase of new vehicles by individual consumers.

The manufacturer dealer association usually handles fundamental issues across the distribution network (such as changes to a standard dealership contract), while localised issues with a specific dealer are addressed on an individual basis. Following a consolidation of dealerships, certain larger dealers have significant individual negotiating power outside a dealer association.

The UK's Motor Ombudsman (an automotive dispute resolution body) self-regulates the UK's motor industry through several Codes of Practice approved by the Chartered Trading Standards Institute. The Codes of Practice cover accreditations for vehicle manufacturers, warranty product providers, franchised dealers and independent garages. While voluntary, compliance with relevant codes is frequently an obligation in contractual arrangements between manufacturers and dealerships or garages.

Traditional distribution models are, however, starting to be challenged by the development of alternative forms of access to vehicles, such as car subscription and car-sharing schemes, which enable OEMs to engage directly with consumers. Similarly, the rise of the agency model is causing disruption. Under the agency model, the manufacturer decides a fixed price for the car. Additionally, the manufacturer is responsible for managing the transaction, with the dealer simply providing point of sale contact and other support services such as handover logistics. Various OEMs, including Polestar, Volkswagen, and Tesla, have already adopted this model. In 2024 and early 2025, Mercedes-Benz and Stellantis also expanded their rollout of the agency model in the UK, signalling a continuing transition away from traditional dealership-led models.

Certain OEMs are also considering direct sales models, through which OEMs sell cars direct to consumers via online platforms and their own offline stores (ie, without any involvement of dealerships); some commentators have argued the success of both Tesla and Polestar can be partially attributed to use of this model. Direct sales models are, however, less common for traditional OEMs, given they would require significant changes to their supply chains and operational flows.

Technology and internet-based platforms are fundamentally reshaping the distribution landscape. Online configurators, personalised finance tools and digital retail channels allow consumers to compare, customise and purchase vehicles with minimal in-person interaction. Dealers and OEMs are investing in mobile-first and omnichannel strategies to meet consumer demand for seamless end to end digital journeys. These innovations are not only changing how vehicles are sold, but also raising expectations for transparency, speed and convenience in the retail experience.

Law stated - 23 June 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

At the time of writing, there are no issues particular to the UK automotive industry that need to be considered in the negotiation of an M&A transaction. Transactions in relation to car dealerships or motor finance firms, however, will be impacted by the Court of Appeal decision on motor commissions and potential liabilities arising from the decision. The Court of Appeal decision found that it was against the law for motor dealers to receive a commission from the providers of car loan finance without first telling the customer about the commission and obtaining their informed consent (including to the amount of the commission) to the payment. The Court of Appeal's decision is being appealed to the UK Supreme Court.

As regards transactions in the UK automotive industry generally, uncertainty arising from the phasing out of internal combustion vehicles and transition to EVs is requiring automotive companies to rethink their supply chains and acquire new technologies. JVs and strategic partnerships, allowing flexibility in future decision making, are predicted to be key tools in addressing the rapid pace of change required. Alternative financing methods

in M&A such as earn outs and seller financing, which reduce the acquirer's financial commitment, are also predicted to increasingly feature in automotive M&A transactions.

Law stated - 23 June 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

There are several significant UK tax incentives that apply to the automotive sector (although not exclusively) to encourage investment in capital and research-intensive activities, and in specific geographical locations.

Since 1 April 2023, companies can benefit from 'full expensing' on qualifying capital expenditure on 'main rate' plant and machinery, which allows a 100 per cent deduction of the cost of permitted plant and machinery from profits before tax in the year it was incurred. For qualifying expenditure on 'special rate' plant and machinery, a 50 per cent first-year allowance is available with the balance being deducted at 6 per cent a year on a writing down basis. Disposals of plant and machinery for which 'full expensing' or a 50 per cent first-year allowance has been claimed are subject to immediate balancing charges. The existing writing down allowances (at 18 per cent for 'main rate' expenditure and at 6 per cent for 'special rate' expenditure) will continue to apply where the new rules do not.

Furthermore, the UK government has granted the following areas freeport status: East Midlands Airport, Felixstowe and Harwich Ports, Humber, Liverpool City Region, Plymouth and South Devon, Solent, Teesside and Thames. Two sites have also been confirmed for freeports in Scotland (Forth Green and the Inverness and Cromarty Firth), and in March 2023, the UK and Welsh governments announced that Anglesey Freeport and Celtic Freeport (covering Milford Haven and Port Talbot) have been successful in their bids to establish freeports in Wales. Each Freeport has up to 3 'tax sites', carefully selected by local councils, on which they aim to encourage investment and appropriate development. In addition to some freeports being (1) a customs duty and import VAT-free zone (until the goods enter the UK market); (2) benefitting from preferential treatment in respect of employer National Insurance contributions; and (3) simplified planning processes, freeports in England can benefit until 30 September 2031 (due to be 2034 for Scotland and Wales) from:

- an increased (10 per cent instead of the usual 3 per cent) rate of structures and buildings allowance on constructing or renovating non-residential structures and buildings;
- enhanced capital allowance of 100 per cent for companies investing in plant and machinery for use in the freeport. Unlike the 'super deduction', the enhanced allowance applies to both main and special rate assets;
- full relief against stamp duty land tax (in England), land transaction tax (in Wales) or land and buildings transaction tax (in Scotland) on the acquisition of land or property purchased and used within the freeport for a qualifying commercial purpose; and

- full business rates relief on qualifying new properties and partial relief for expanded properties within the freeport sites.

The UK government has committed to establishing 13 investment zones across the United Kingdom. Eight areas in England have been identified to co-develop an investment zone proposal with government, and two areas have been identified in both Scotland and Wales. Four zones have designated tax sites (Liverpool City Region, North East, East Midlands and West Midlands), while others have stated that they are not proposing tax incentives (eg, South Yorkshire and Greater Manchester). There will also be an enhanced investment zone in Northern Ireland, with the UK government providing £150 million to be used flexibly across spending and tax levers. This concept is an iteration of the above freeports concept, with the investment zones being 'special tax sites'. The benefits afforded will be similar to those afforded to freeports (noting that only freeports shall enjoy the special customs status). The current government confirmed the funding for investment zones in the 2024 Autumn Budget, however it has not provided a timescale to agree the outstanding investment zones.

Other tax incentives applicable to the automotive sector include tax reliefs for R&D. For accounting periods commencing on or after 1 April 2024, the two previous schemes (R&D expenditure credit (RDEC) and R&D tax relief) have been replaced by a new merged scheme based on the previous RDEC rules, together with an additional scheme for loss-making R&D-intensive SMEs. The headline credit rate under the merged scheme is 20 per cent.

Where intellectual property is developed and exploited, a preferential Patent Box regime might apply. Although it has been amended to bring it into line with Organisation for Economic Co-operation and Development multinational requirements, the Patent Box offers an optional lower rate of corporation tax on eligible profits attributable to intellectual property. The optional rate is currently 10 per cent.

Demand-side tax advantages are also available for ultra-low emission vehicles, to support demand in this sector. F or example, there are preferential tax rates for electric and ultra-low emission company cars (< 75g CO2/km) and there is an electric vehicle charge point grant for households, renters, and flat owners, which covers up to 75 per cent of the cost with a maximum of £350 per socket. The UK government confirmed its funding of the latter scheme until 31 March 2026.

Previously, electric vehicles were exempt from both the annual standard rate vehicle excise duty (VED) and the premium car supplement for new cars with a list price of £40,000 or more. However, from 1 April 2025, the VED first-year rates have changed to widen the difference between zero-emission, hybrid and internal combustion engine (ICE) cars. Under the new rules, new zero emission cars registered on or after 1 April 2025 will be liable to pay the lowest first year rate of VED, which is currently £10 a year, whereas VED rates for ICE vehicles will double, adding further pressure on businesses to consider electrification. The UK government also intends to tax older electric vehicles, with those first registered between 1 April 2017 and 31 March 2025 set to pay the standard rate, however classic models first registered at least 40 years ago are exempt from paying this.

Law stated - 23 June 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

The UK regime for the type approval of vehicles is set out in the UK Framework Regulation (Regulation (EU) 2018/858 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles) and the Road Vehicles (Approval) Regulations 2020 (SI 2020/818).

The UK Framework Regulation prescribes a series of technical standards (including requirements relating to vehicle emissions) for road vehicles and their component parts, systems and separate technical units intended for such vehicles, which must be met before type approval can be obtained. The UK type approval authority has powers to withdraw or suspend type approvals where vehicles are found not to conform to the approved type, or where the vehicle is found to present a serious risk to health, safety, the environment or other public interests. It can also refuse to recognise type approvals where it finds that a type approval does not comply with the UK Framework Regulation.

Product recalls and other corrective actions are an important concern for the automotive industry in the United Kingdom. The competent authority, the Driver and Vehicle Standards Agency, is an active regulator, and manufacturers carrying out corrective actions are often subject to ongoing reporting obligations. Recalls can be required under the General Product Safety Regulations 2005 (where the product is unsafe or dangerous) or under the UK Framework Regulation (where the recall is due to a non-conformity with the UK Framework Regulation, including emissions requirements, or a serious risk to the health or safety of persons, the environment or other aspects of the protection of public interests). UK authorities have also published a Code of Practice on vehicle safety defects and recalls and a manufacturer's guide to recalls in the automotive sector, which (while not strictly mandatory) are generally regarded as authoritative. A separate Code of Practice, and a guide, exist for recalls in the vehicle aftermarket.

Despite the UK's withdrawal from the European Union, UK authorities continue to work closely with EU member state authorities in relation to type approvals and recalls. The UK Framework Regulation continues to require UK authorities to make notifications to other member states and to the European Commission (all references to member states in the UK Framework Regulation are defined to include the UK). The scope of the UK's continued cooperation with EU authorities on safety and standards is set out in the Annex on Motor Vehicles to the EU–UK TCA.

Once a vehicle has been authorised for use on public roads in the UK, drivers must also comply with various vehicle safety provisions to ensure that the vehicle is operated in a manner that does not pose a danger to the general public (including the requirement for a driver to always be in a position to have full control of the vehicle, a full view of the road and traffic ahead, and a motor vehicle to be attended by a person who is licensed to drive it unless the engine is switched off and the parking brake is applied). Most vehicles are

required to pass a Department for Transport test of vehicle safety, roadworthiness and emissions on a regular basis.

The United Kingdom has also taken significant steps to regulate software-defined vehicles (SDVs) and advanced driver assistance systems (ADAS) through the Automated Vehicles Act 2024, which received Royal Assent on 20 May 2024. The Act establishes a legal framework for self-driving vehicles, including provisions for vehicle authorisation, liability allocation, and safety standards. It shifts legal responsibility from the driver to the manufacturer when operating a vehicle in self-driving mode and requires vehicles to meet certain safety benchmarks. The Act also addresses software updates and cybersecurity. While the Act was passed in May 2024, its provisions will come into force through secondary legislation by 2027. In parallel, an Automated Vehicles Act Implementation Programme was launched in 2024 to secure the safe deployment of automated vehicles on roads in Great Britain.

Law stated - 23 June 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

Product liability cases in the UK automotive industry are generally brought by consumers under the Consumer Protection Act 1987, which implemented the EU Product Liability Directive 85/374/EEC. This remains the effective regime in the UK, despite the introduction in the EU of the new EU Product Liability Directive (EU) 2024/2853.

Group litigation is also highly relevant and topical for the automotive industry, particularly in the context of consumer claims in respect of diesel vehicles that are alleged to have 'defeat devices'. Claims have been brought and are ongoing against several manufacturers, dealers and automotive finance companies.

The United Kingdom has an opt-in collective actions system for product litigation (rather than a US-style opt-out class action) and punitive damages are not available. However, group actions are still a considerable threat (and claimant firms are very active in the automotive sector, particularly around diesel emissions claims and other product claims), so companies operating in the sector should be aware of this risk.

Developments in the automotive industry, such as the increasing prominence of hybrid, electric and connected vehicles, and the emergence of autonomous driving systems, will also impact the liability landscape in the UK (and the Automated Vehicles Act 2024 outlines a framework to manage emerging autonomous vehicles technology).

Law stated - 23 June 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

Following Brexit, distribution systems in the UK automotive industry are governed by the UK Vertical Agreements Block Exemption Order. However, this block exemption does not cover agreements relating to the purchase, sale or resale of spare parts for motor vehicles, or the provision of repair and maintenance services for motor vehicles, as these activities are covered by a separate block exemption.

This separate block exemption is the Competition Act 1998 (Motor Vehicle Agreements Block Exemption) Order 2023 (the MVBEO). The UK MVBEO is broadly similar to the parallel block exemption in place in the European Union, although the newer MVBEO differs in that it has been updated to account for changes to market conditions and developments in vehicle technology. The MVBEO is accompanied by CMA guidance to help businesses assess the applicability of the rules to their arrangements.

In addition, the Supply of New Cars Order 2000 (as amended) prevents new car suppliers from:

- discriminating on price between dealers and fleet buyers;
- providing bonuses and discounts to dealers on pre-registered cars; and
- imposing restrictions on price advertising on dealers.

The United Kingdom is currently a popular forum for private follow-on damages actions based on competition authorities' infringement decisions, including in the automotive sector.

Law stated - 23 June 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

The most common disputes in the automotive industry are supply chain disputes and disputes with dealers. These are usually settled out of court. The most common forum for resolving disputes with dealers and suppliers located in the United Kingdom is the English courts. The English courts have power to grant interim relief, including injunctions to compel performance. Where disputes concern international suppliers or JVs, it is common for the relevant contracts or JV agreements to provide for such disputes to be resolved through arbitration. Where arbitrations are seated in England and Wales, the English courts have the power to grant interim relief, including injunctions, in cases of urgency when the arbitral tribunal is unable to act.

There has also been an increasing number of technology licensing disputes as more technology companies enter the market.

There are procedures for group litigation in the UK, and there is the potential for increased use of these procedures for collective redress, particularly in relation to claims by groups of consumers or distributors, or both.

Law stated - 23 June 2025

Distressed suppliers

11 | What is the process for dealing with distressed suppliers in the automotive industry?

OEMs and their suppliers enter into long-term and highly symbiotic relationships. Tier 1 suppliers contract directly with the relevant OEM. Tier 2 suppliers' contractual relationships lie with the Tier 1 suppliers. In some cases, there will be additional links in the chain (for example, Tier 3 suppliers contracting with the Tier 2 suppliers, and so on). These relationships are complex and interdependent on account of the high level of investment needed in new car models. Additionally, car models may be in production for a decade or more. Every model invariably requires bespoke tooling even though some aspects (for example, vehicle platforms) may be common among a number of models.

OEMs and their suppliers usually work together on the development of new models and their respective key components. Tooling and car parts are very often difficult to transfer between particular models and the supplier market. The result is that, if a supplier encounters financial difficulty, it may take an OEM months (and occasionally a year or more) to retool and source parts from another supplier.

Production interruptions or delays may cause an OEM (and other supply chain members) daily and weekly losses wholly out of proportion to the financial worth or turnover of an individual distressed supplier. Those losses can quickly and easily run into significant sums of money. For that reason, major OEMs manage supply relationships closely. Where possible, they will dual-source (and on occasion even multi-source) components. In all cases, OEMs are likely to monitor the creditworthiness and ongoing financial viability of suppliers. OEMs' terms and conditions almost invariably lay down approval procedures where suppliers change hands or, on a worst-case basis, encounter financial difficulties. Where problems arise, OEMs are therefore often willing to provide ongoing finance to suppliers, negotiating priority arrangements with their bankers or other creditors. Such negotiations are likely to be combined with rights of access and inspection. In our experience, OEMs tend to seek to secure access to intellectual property rights and the ability to remove tooling and finished parts, where a supplier gets into financial difficulty.

The relationship between the OEM's rights and insolvency practitioners can also be complex. Where a supplier goes into liquidation or administration, the supplier's administrator or liquidator will always seek to maximise recoveries from key OEM clients. In our experience, OEMs are frequently willing to fund production during an administration or liquidation in exchange for rights of inspection and the ability to influence (as a means of securing ongoing production) the identity of the purchaser of the business or assets of an insolvent supplier.

Law stated - 23 June 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

Intellectual property disputes are significant in the automotive industry, and we anticipate this area of litigation to continue to grow as technology from diversified fields is incorporated into vehicles.

IP disputes arise in the automotive industry in a variety of contexts. Automotive manufacturers have previously brought proceedings for infringement of the design rights they hold over the appearance of their parts. These disputes typically occur between two parties within the automotive industry. A well-known example is in the context of car wheels, where the European Court of Justice (ECJ) held that the manufacture and sale of replica car wheels by a third party was permissible in certain circumstances, where the products are visually identical and the purpose is for repairs. That decision remains binding on lower courts in the United Kingdom post-Brexit and is unlikely to be overturned by the higher courts since it is broadly in line with earlier UK case law.

Patent disputes in the automotive industry are also expected to become more commonplace owing to the increasing connectivity incorporated into vehicles, which in turn has caught the attention of (commonly litigious) patentholders of cellular telecommunications patents. Unlike designs disputes, this will bring parties from different industries together in court. Patent litigation of cellular patents necessary to operate certain cellular standards (such as 4G or 5G, and known as standard essential patents (SEPs)) is already very common for mobile phone manufacturers. Holders of SEPs are obliged to offer licensing terms on a fair, reasonable and non-discriminatory (FRAND) basis. As vehicles begin to incorporate the same technology, the owners of large SEP portfolios are now approaching manufacturers for substantial licensing royalties to use their technology. Where FRAND licence fees cannot be agreed, litigation (and with it the risk of an injunction preventing the use of the standard) can follow. A well-known example was between Nokia and Daimler, although this case resulted in settlement.

Parties can ask the English court to set the terms of such a FRAND SEP licence on a global basis, making the UK an attractive option for reaching a definitive resolution of an IP licensing dispute. In December 2023, Tesla issued proceedings against Avanci, a 5G SEP patent pool facilitator that had approached Tesla to take a licence, and Interdigital, one of the patent owners whose 5G SEPs form part of the Avanci patent pool. In those proceedings, Tesla sought (among other things) that the court determine the FRAND rate for the Avanci 5G SEP pool. Avanci and Interdigital successfully challenged the jurisdiction of the English Court to hear the dispute, a decision which was upheld by the Court of Appeal in March 2025. A key part of the Court's reasoning was that, although Interdigital owed a contractual undertaking (under the European Telecommunications Standards Institute) to offer a licence on FRAND terms, this obligation did not extend to Avanci as the pool administrator actually offering the licence in question. Tesla has sought permission to appeal to the Supreme Court. The impact of the case (pending an appeal to the Supreme Court) makes it difficult for implementers to challenge the rates offered by patent pools such as Avanci.

As to how well protected IP is, design manufacturers may have been disappointed by the decision of the ECJ to permit the sale of replica components that do not contribute to a technical function of a vehicle under repair exemptions. Otherwise, the protection of industrial design in general is relatively strong in the UK and registration is recommended to simplify enforcement. With respect to resolving disputes, SEP litigation, for example, can be complicated and expensive, and if history from mobile phone company disputes teaches us anything, they can last for several years and require multiple trials to determine different issues. Conclusion of licensing agreements is not always straightforward, given the high royalty fees SEP holders can command, many of whom are non-practising entities that have acquired their patents from other companies (commonly referred to as 'patent trolls').

Law stated - 23 June 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

There are no specific automotive sector employment regulations or laws in the United Kingdom. All basic UK employment laws and regulations essentially apply to employers in every industry or sector. Although the UK is arguably one of the larger economies when compared with the economies of the EU member states, it is the jurisdiction with some of the lightest-touch employment laws. The UK still has far more employee-friendly legislation, for example, when compared to the US and the legal framework is becoming more employee and union-friendly under the current government. For example, unions are being given a right of access to workplaces and it is being made easier for them to obtain statutory recognition.

The automotive sector is heavily unionised. The trade unions are strong, and usually represent a significant part of the workforce. There can often be more than one trade union recognised by a company. In the UK, there are no national, sector-specific or employer-association negotiated collective bargaining agreements (CBAs) of general application. Locally negotiated CBAs may apply within particular unionised UK employers. These are commonplace in the automotive sector.

A CBA will usually cover certain groups of employees, or bargaining units, at the workplace. In the automotive industry, a CBA typically covers, among other things, remuneration, working time (including overtime and overtime payments), disputes in the workplace (such as disciplinary matters) and security of employment. It is not uncommon to see restrictions regarding compulsory redundancies and agreed enhanced redundancy payments.

In addition to UK trade unions, large employers in the automotive industry are often part of multinational groups with EU works councils. This creates different levels of information and consultation obligations about issues affecting not just the UK workforce, but also those in other EU jurisdictions. Post-Brexit, whether UK employees continue to participate in EU

works councils will depend on the wording of the relevant agreement, and any agreement reached between the employer and employee representatives.

Strong trade union presence can be coupled with political interest (and sometimes pressure) when there are perceived, and actual, threats to jobs.

Law stated - 23 June 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

Electric vehicles

The UK government is under increasing pressure to implement measures that reduce air pollution, particularly emissions from road transport. In response, and as part of its wider climate change strategy, the government intends to ban all sales of new petrol and diesel cars and vans by 2030, with hybrid vehicles permitted until 2035 under the revised phase-out framework.

The Zero Emission Vehicle (ZEV) Mandate, which came into law on 3 January 2024, sets legally binding targets for manufacturers, requiring them to increase the proportion of zero-emission vehicles sold each year. Under the mandate 80 per cent of new cars and 70 per cent of new vans sold in Great Britain must be zero-emission by 2030, increasing to 100 per cent by 2035.

In April 2025, the government announced changes to the ZEV Mandate to provide greater flexibility for manufacturers. These changes allow manufacturers to front-load the proportion of petrol and diesel vehicles sold, meaning they can sell more internal combustion engine (ICE) vehicles in the short term, provided they compensate by selling a higher proportion of EVs in later years when demand is expected to be stronger.

Additionally, the government clarified that certain full hybrid vehicles, such as the Toyota Prius and Nissan e-Power, will remain eligible for sale until 2035 under the phase-out framework. This adjustment allows for greater flexibility in fleet transitions.

Given the increasing demand for EVs, the government remains focused on expanding charging infrastructure across the UK. Various grant schemes exist to support this development, including funding for rapid chargers and on-street connections (such as lamp-post charging).

To accelerate the rollout of charge points, the UK government has reaffirmed its commitment by allocating £381 million through the Local Electric Vehicle Infrastructure (LEVI) Fund, supporting local authorities in expanding charging networks.

As of 1 January 2025, the total number of installed public charging devices had reached 73,334, underscoring the rapid expansion of the UK's EV charging infrastructure.

Autonomous vehicles

The emergence of autonomous vehicles presents several critical legal challenges for the UK government, car manufacturers and drivers.

In January 2022, the Law Commission of England and Wales and the Scottish Law Commission published a joint report reviewing the legal framework governing automated vehicles, offering recommendations to adapt existing regulations to emerging technologies.

The government later incorporated these recommendations into its Connected and Automated Mobility (CAM) strategy announced in 2022, aiming to achieve safe deployment of autonomous vehicles by 2026 and beyond. This strategy includes initiatives supported by a dedicated £150 million allocation.

The Automated Vehicles Act 2024, which received Royal Assent in May 2024, now provides a robust legal and safety framework for self-driving vehicles across Great Britain. Key provisions of the Act include:

- Statement of safety principles: these principles require that self-driving vehicles consistently achieve safety levels equal to or exceeding those of a careful human driver.
- Liability: under the Act, each authorised self-driving vehicle is linked to an 'authorised self-driving entity' responsible for its operation while in autonomous mode. The law largely shields the user-in-charge from road traffic offences related to the vehicles autonomous operation, while still preserving the application of existing traffic laws in defined circumstances.
- Marketing restrictions: under the Act, use of certain words, expressions, symbols or marks is restricted to authorised automated vehicles, ensuring that consumers are not misled about a vehicle's self-driving capabilities. However, much of the secondary legislation required to operationalise the Act has not yet been published. The government has indicated that consultations on these statutory instruments will continue throughout 2025, with key provisions expected to come into effect in 2026. These include detailed regulations on data privacy, cybersecurity, and the certification of autonomous systems.

Another challenge revolves around the collection and use of personal data. Autonomous vehicles rely on extensive data from sensors and cameras to make real-time driving decisions, and managing this data raises substantial legal challenges. Manufacturers must obtain proper consent and ensure strict compliance with the UK's data protection regime, which requires 'privacy by design and by default'. Accordingly, the Automated Vehicles Act empowers the Secretary of State to set specific requirements on data collection, sharing and protection, potentially restricting the exchange of data between manufacturers, insurers and public authorities to safeguard individual privacy. .

Hydrogen and other alternative fuels

In December 2024, the UK government committed £13 million to three hydrogen transport demonstration projects. These include the trial of hydrogen-powered commercial vehicles and the deployment of public refuelling infrastructure. Hydrogen continues to be seen as

a complementary technology to battery electric vehicles, particularly in the heavy-duty segment.

Law stated - 23 June 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

Carbon Border Adjustment Mechanism (CBAM)

Following extensive consultations, the government has confirmed that a CBAM will be implemented from January 2027. This mechanism is designed to impose carbon costs on imports similar to those incurred by domestic producers, thereby creating a level playing field. Although industry stakeholders are still discussing its final design and impact, CBAM represents a meaningful step in addressing the environmental externalities of global trade.

US Tariffs and Their Implications for the UK Automotive Sector

In April 2025, President Trump announced a 25 per cent tariff on imported automobiles and automotive parts into the United States. This policy has significant implications for the UK automotive industry, which exports approximately 16.9 per cent of its vehicles to the US, making it the second-largest export market for UK manufacturers. Luxury brands such as Jaguar Land Rover, Rolls Royce, Bentley and Aston Martin are particularly affected. The tariffs are expected to increase costs for UK exporters, disrupt supply chains and potentially reduce demand in the US market. Industry stakeholders are urging the UK government to negotiate trade exemptions or provide financial support to mitigate the impact of these tariffs.

Digital Markets, Competition and Consumers Act (DMCC Act)

The DMCC Act, which came into force on 6 April 2025, introduces significant changes to consumer protection laws, including new rules on drip pricing and subscription contracts. This is particularly relevant to the automotive industry, where subscription-based car ownership models are becoming increasingly popular. The Act requires greater transparency in pricing and contract terms, ensuring that consumers are fully informed about the costs and conditions of online products, and also introduces protections for consumers entering into subscription services.

Impact of Johnson v FirstRand on the Vehicle Financing Sector

The Court of Appeal's decision in *Johnson v FirstRand* has introduced significant uncertainty in the vehicle financing sector. The ruling found that motor dealers cannot

receive commissions from car loan providers without first disclosing the commission and obtaining informed consent from the customer, including disclosure of the commission amount. This decision has broad implications for car dealerships and motor finance firms, as it raises potential liabilities for past transactions where commissions were not properly disclosed.

The Financial Conduct Authority (FCA) has taken note of the ruling and is expected to increase regulatory oversight of motor finance agreements, particularly those involving personal contract purchase (PCP) finance deals. The ruling has already led to concerns about potential compensation claims, with estimates suggesting that lenders could face up to £21 billion in payouts to affected consumers.

Additionally, the decision is currently being appealed to the UK Supreme Court. If upheld, the ruling could fundamentally reshape commission-based financing models, forcing lenders and dealerships to adopt greater transparency and revised contractual practices. This development is particularly relevant for M&A transactions involving car dealerships and motor finance firms, as buyers will need to assess potential liabilities arising from historical commission arrangements.

Artificial Intelligence, Connectivity and Cybersecurity

Automotive manufacturers are increasingly embedding AI into vehicles — not only for autonomous navigation but also for predictive maintenance and enhanced driver assistance. The EU AI Act has emerged as a landmark regulatory framework for governing AI across sectors, emphasising transparency, human oversight, and robust cybersecurity. However, the UK government has opted not to introduce a single overarching AI legislation and instead relies on sector-specific approaches tailored to the needs of different industries. In the automotive sector, UK regulators such as the Information Commissioner's Office (ICO) and the Department for Science, Innovation and Technology (DSIT) have issued targeted guidance. For instance, the ICO has published draft recommendations on managing data protection risks in AI-powered systems, while DSIT has developed a Responsible AI Toolkit to promote ethical AI usage. These sectoral guidelines provide flexibility for innovation but may also create challenges for businesses navigating fragmented regulatory requirements. As the government continues to focus on sectoral strategies, it seems unlikely that broader AI legislation will eventually be introduced to streamline compliance across industries, though this has not been confirmed.

Evolving Product Liability and Safety Standards

In line with technological advances, product liability and safety regulations are also evolving. For example:

- Battery technologies: UK regulators, including the Office for Product Safety and Standards (OPSS), now require enhanced testing protocols for EV batteries. These include rigorous thermal runaway prevention measures, lifecycle assessments and compliance with new safety benchmarks for battery durability and recycling. Manufacturers must also provide detailed safety documentation and conduct real-world testing to ensure batteries meet these standards before entering the market.

- Advanced Driver Assistance Systems (ADAS): stricter performance benchmarks have been introduced for ADAS technologies, such as collision avoidance systems and lane-keeping assistance. UK regulators mandate that manufacturers conduct extensive real-world testing under diverse driving conditions to validate system reliability. Additionally, new certification processes require manufacturers to demonstrate compliance with updated safety standards, including the integration of fail-safe mechanisms to address potential system malfunctions.
- Consumer protection: the OPSS has issued updated guidance to ensure that all automotive products meet the highest safety standards before being placed on the market. This includes enhanced market surveillance measures, such as random inspections and audits, to identify and address non-compliant products. The guidance also emphasises the importance of clear labelling and consumer information, ensuring that end-users are fully informed about product safety features and potential risks.

**The authors gratefully acknowledge the assistance of Angus Coulter, Jo Broadbent, Margaret Kemp, Lookman Rawat, Tom Eyre-Brook, James Gray, Georgia Batcheldor, Ifeoma Okolo, Srishti Chhajer, Matthew Felwick and Graham Nicholson in writing this chapter*.

Law stated - 23 June 2025

Richard Welfare	richard.welfare@hoganlovells.com
Penny Powell	penny.powell@hoganlovells.com
Oliver Wilson	oliver.wilson@hoganlovells.com
Valerie Kenyon	Valerie.Kenyon@hoganlovells.com
Matthew Felwick	matthew.felwick@hoganlovells.com
Angus Coulter	angus.coulter@hoganlovells.com
Tom Eyre-Brook	tom.eyre-brook@hoganlovells.com
Aline Doussin	aline.doussin@hoganlovells.com
Alice Russen	alice.russen@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

USA

Lance Bultena , **Celine Jimenez Crowson**, **Lauren Deeb**, **Ryan L Ford-** , **Michael L Kidney**, **Kenneth Kirschner**, **William L Monts**, **Joanne Rotondi**, **David P Simonds**, **William W Yavinsky**, **Sean P Collins**, **Hannah M Graae**, **Susan R McAuliffe**, **Audrey Haroz Reed**
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

The US automotive industry is massive. The US auto market is the world's second largest by number of vehicles produced. Over 250 million vehicles populate US roads. Just over 15.9 million light-duty vehicles were sold in 2024 to US consumers. While this sales volume is an increase of 2.2 per cent over sales in the previous year, volumes are not up to pre-pandemic levels. Consumer interest in light trucks continues to expand growing to just over 81 per cent of the light duty market as sales increased by nearly 4 per cent.

Given the magnitude of the US automotive industry, it has obvious significance to the US economy not just for its economic importance but its strategic value as well. The industry's share of US GDP is often estimated to range between 3 and 3.5 per cent. Approximately 1.5 million people are directly employed in the industry. Projections indicate that around 7.25 million US jobs – about 3.8 per cent of total private sector employment – are to some extent dependent on the auto industry.

The scale needed to cost-effectively produce vehicles is large and resource intensive. Major suppliers often locate facilities near OEM plants and manufacturing hubs of substantial size tend to develop. As a result, the industry is typically an engine for local and regional economies where major production plants are located.

The impact of the industry extends to nearly every community in the nation as a host of businesses are required to sell new and used vehicles and to maintain and fuel those vehicles already on the road.

The US automotive industry has seen significant regulatory change and uncertainty over the last few political administrations. Most recently, the industry has gone from a significant focus of electrifying the US fleet under President Biden to a de-prioritisation of electrification and an anticipated drastic roll-back of vehicle emissions and fuel economy regulations under President Trump. This complicated regulatory context, layered with the complexities of quickly changing tariff policies, has created uncertainty in the industry. While geopolitical competition between the United States and China continues to accelerate, the United States automotive market will likely focus more on hybrid technologies under the Trump Administration rather than pure electric vehicles.

As to trade issues, while cross-border trade volumes between the US and China have declined in recent years, they still remain substantial. The United States and China and their respective allies will have to manage an increasingly complex relationship of aggressive competition despite needed areas of cooperation and exchange. President Trump has accelerated that sense of urgency and with it uncertainty has escalated about the trade rules the industry will confront. As the United States seeks to reindustrialise, auto production is deemed by both nations as a critical industry, so all expect challenges will linger into the medium term.

Law stated - 1 July 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

In the United States, to be sold or imported, new automobiles must be certified to both emissions and safety standards.

Emissions certifications are granted by the US Environmental Protection Agency (EPA) on an annual basis for all models sold in a given model year. The emissions certification is based on an application submitted by the manufacturer to EPA and supporting emissions test results. The state of California has developed its own emissions certification and enforcement programme for new vehicles sold in the state, which requires the submission of an additional separate application and test results to the California Air Resources Board (CARB). In recent years, a number of states, representing nearly one-third of vehicle sales, have adopted the California emissions programme, which historically has imposed more stringent emissions standards for certain pollutants including greenhouse gases as well as targets for zero-emission vehicles. New automobiles can only be sold in the United States after the receipt of certificates of conformity from EPA or approving executive orders from CARB.

In the United States, safety certification is done by the manufacturer through a self-certification system. In this system, the National Highway Traffic Safety Administration (NHTSA) sets performance-based safety standards for a wide range of vehicle functions (from occupant crash protection to headlight performance), and manufacturers are required to self-certify, under penalty of law, that the vehicle meets all of the federal safety standards. Falsely certifying a vehicle subjects the manufacturer to substantial civil penalties and mandatory recalls at the manufacturer's expense for any and all non-compliances with safety standards. In addition to self-certification to safety standards, manufacturers are required to recall vehicles at no cost to the customer where defects that cause an unreasonable risk to motor vehicle safety are identified by either the manufacturer or NHTSA.

Law stated - 1 July 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

Globally and in the United States, the commercial terms with respect to development, manufacture and supply arrangements for production and non-production parts and components tend to vary depending on whether the customer is an OEM or aftermarket customer.

For supply to an OEM, products generally are supplied through purchase orders that are governed by standard terms and conditions established by the OEM. Typically, these purchase agreements contemplate that an OEM will place orders for specific parts and components supplied for particular vehicles over the life of the vehicle, but do not include minimum purchase commitments. Prices are commonly negotiated with respect to each applicable vehicle but may be subject to adjustment for various reasons, including commodity or foreign exchange escalation or de-escalation clauses and cost reductions achieved because of productivity improvements. Individual purchase orders typically are terminable for cause or non-performance and, in most cases, upon the supplier's insolvency and certain change of control events.

Suppliers manufacture and ship parts and components based on OEM customer release schedules, normally provided on a weekly basis, subject to variance based on cyclical automobile production or dealer inventory levels. Suppliers generally ship directly from a manufacturing location to the customer for use in vehicle production and assembly.

The OEM's standard terms and conditions for purchase will cover issues such as intellectual property ownership and licences; technical information and data licences and access; compliance with law obligations; environmental, social and governance commitments; payment provisions and audit rights; indemnification obligations; warranty and recall terms; and other customary terms.

For aftermarket buyers, purchase agreements may be more flexible than in OEM transactions, with pricing, volume commitments, and delivery schedules often negotiated between suppliers and distributors or retailers. Unlike OEM transactions, aftermarket buyers often purchase products in bulk for resale through independent stores, repair shops, and online platforms. Terms of these arrangements may include rebate programmes, performance incentives, and tiered pricing based on purchase volume. Suppliers of aftermarket parts may offer branding options, allowing buyers to choose between private label or branded aftermarket parts.

Law stated - 1 July 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

The US legal environment is a challenging one for manufacturers and distributors. The distribution of motor vehicles is governed by unique laws in each of the 50 states. In the overwhelming majority of those states, the law expressly prohibits OEMs from selling vehicles directly to retail consumers. A small number of states provide exceptions to those prohibitions allowing direct sales by new market entrants that do not have existing dealer networks and only sell electric vehicles (EVs). However, owing to aggressive lobbying from dealer-aligned groups, in recent years, the number of states with such exceptions has been decreasing and the exceptions have become more and more limited. For example, a recent trend is to prevent companies that have common ownership with existing OEMs from using a direct sales model for new brands. As a result, in the US, new motor vehicles continue

to most often be sold to retail customers by independent dealers, with the exception of EV-only OEMs such as Tesla and Rivian.

While the relationship between OEMs and their dealers is governed by laws that vary from state to state, those laws contain some common elements, including:

- The laws are intended to redress an alleged 'imbalance in bargaining power' between 'large' manufacturers and 'small' retail dealers. As a result, the laws offer significant protection favouring dealers against their manufacturers.
- Initially, the principal form of protection was against 'unreasonable' terminations and various forms of manufacturer 'coercion' (eg, against requiring dealers to accept product not ordered and not wanted). Those laws have been amended many times over the years to add a host of additional protections. Among those are protections against 'unreasonable' refusals to recognise proposed sales of dealerships; restrictions on adding new dealer locations; regulations governing incentive programmes, facility standards and brand-exclusivity; protection against unfair allocation of products; restrictions on a franchisor's right to modify its standard form of dealer agreement; and regulations addressing the reimbursement rates for labour and parts used in warranty repairs.
- In addition to passing laws that are highly favourable to dealers, many states have special administrative agencies (dealer boards) to enforce the laws and to decide disputes between manufacturers and dealers.

Due to the substantial protections granted to dealers by these state laws, it is very difficult to terminate a dealer for poor performance and for most breaches of the franchise agreement. Dealers usually contest manufacturer attempts to terminate; the statutes provide for an 'automatic stay' of termination until the termination protest is fully litigated; and termination litigation can take years to complete. Restructuring a dealer network is also extremely expensive. A manufacturer's need to restructure does not constitute good cause to terminate a dealer or to require a dealer to relocate under most state statutes, and, consequently, substantial settlement payments must typically be made to dealers to effectuate a restructuring.

In recent years, OEMs have experimented with incorporating new technology and internet-based sales platforms into the distribution process. As a general rule, new market entrants have been more successful with these efforts than established OEMs. This is in large part owing to the laws summarised above, which limit the ability of established OEMs to mandate the use of new technologies and internet-based platforms by their dealers. New market entrants that opt to sell directly generally have more flexibility because they do not have independent dealers. In addition, these 'direct sale manufacturers' often rely heavily on internet-based sales models to avoid state laws that prohibit direct sales.

Law stated - 1 July 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

The US automotive industry has traditionally been highly regulated and has become increasingly so in recent years because of surges in disruptive technology and innovation, as well as recent governmental policies and laws, such as the Trump Administration's tariff policies, as well as the Inflation Reduction Act (IRA) signed into law by President Biden, that have each had major impacts on global supply chains. While the Trump Administration is likely to ease rules on emissions stringency it is expected expand rules to encourage on-shoring and friend-shoring and continue the trend of increased focus on supply chains for both hardware and software. Consequently, US automotive industry participants must carefully consider national, state and local legal requirements when formulating strategic plans. While automotive M&A and joint venture transactions continue to require experience with competition, safety and environmental legal considerations, the advent and increased adoption of vehicles that are automated, connected and electric make it increasingly necessary to also consider new and expanded regulatory and business frameworks.

Technology-driven investments, new product entrants and growth in partnerships among industry participants (including between competitors and cross border), fuelled largely by a shift toward automated, connected and electric vehicles and away from established supply chain sourcing practices, continue to challenge and reshape traditional US automotive industry models. OEMs and suppliers alike are seeking to transform their technological capabilities and manage risk associated with supply chain disruption (including the supply and sourcing of battery components through a variety of legal arrangements including licences, investments, direct-supply arrangements, partnerships and full acquisitions of technology-focused companies and talent. Although emerging technologies, evolving business models, tariffs and governmental incentives provide deal-making opportunities globally, the United States is uniquely positioned to provide these opportunities given that it is home to both traditional automotive industry participants (such as the Big Three OEMs in Detroit) and centres of innovation and new market entrants such as Silicon Valley. In turn, existing regulatory regimes are beginning to evolve to account for these market developments, adding further complexities to consider in the transactional context.

Investments in autonomous vehicle technology and applications serve as an example of transactions occurring notwithstanding an evolving regulatory environment. Although federal government regulation of autonomous vehicles remains a work in process and state regulations can vary widely, there is continued interest and investment in the application of autonomous vehicle technology, including to support supply chain logistics and last-mile, as well as greater equity and accessibility in urban transportation and mobility. Consequently, from a transaction perspective, potential investors in targets developing and utilising autonomous vehicle technology must develop a sophisticated understanding (and diligence) of the current federal and state regulatory environment as well as the target's compliance plans.

Law stated - 1 July 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

There are no significant incentives targeted specifically at generalised manufacturing in the US auto market.

Legislation passed in 2022, however, particularly the Inflation Reduction Act (IRA), does provide for various programmes that significantly incentivise battery production. The IRA, and other previously existing programmes, also provide incentives for other types of alternatively fuelled vehicles.

The Trump Administration and the Republican-led Congress have indicated they expect to dramatically cut back the incentives offered under the IRA. Experienced counsel should be sought to further understand the current status of these programmes and how future legislation or revised regulations may bring additional changes.

Various federal and state incentive programmes are in place that a manufacturer may take advantage of but are not focused exclusively on the auto industry. For instance, those building manufacturing facilities may try to generate competition among states and local governments regarding the incentives offered to encourage them to build a plant in a given location.

Material practical barriers remain in effect for new OEMs entering the US auto market. Automobiles are highly regulated goods. The emission and safety rules are complex and challenging and evolving rapidly. State statutes effectively prohibit manufacturers from selling directly to retail customers, so building a network of dealers adds additional complexity in entering the market.

The most significant barriers to entering the US market are the depth and competitiveness of the market. While entering the US market requires careful planning and compliance with complex rules, staying in the market is even more challenging. A successful new OEM requires the resources to build a brand with a good reputation, as well as cars that capture the public's imagination and praise from specialist reviewers. Those cars must remain serviceable over time and maintain value in the used market. A solid distribution network is crucial for success, as well as a good media team with a large budget to advertise the vehicles. Given the competitiveness of the market, profit margins can be small. A new entrant will need sufficient financial resources and resolve to stick with the investment when positive returns are unlikely for several years.

The most likely opportunity for new entrants in the US market comes from the prospect of EVs and autonomous-drive vehicles. Large and well-known technology companies with significant access to capital and established brand names have explored these new markets, although one such company has reportedly abandoned its exploration efforts on offering an EV. Various 'pure-play' EV manufacturers have entered the market. Some are experiencing significant business challenges. Chinese EV companies are expected to seek entrance into the US market at some point, but geopolitical issues, concerns about subsidies by the Chinese government, and evolving US industrial policy are factors that will impact that process.

President Biden announced in May 2024 an increase of tariffs on imports from China of EVs from 25 per cent to 100 per cent. President Biden also announced increased tariffs on various components and materials key to EVs that come from China. In 2024, the EU also announced increased tariffs on Chinese EVs after the European Commission determined the Chinese government was subsidising the industry. President Trump has indicated he

will use tariff authority across several sectors and in new ways. While the rates and terms of these trade actions are not yet known, China is the primary focus of these actions so almost all expect tariffs and other programs to expand in their rigour.

Mobility services using a fleet of vehicles would constitute a challenge of sorts to the business model of sales to individuals that has dominated the industry for decades. While it is difficult to evaluate exactly how such developments would impact market dynamics, many automotive manufacturers have explored these service options themselves and many of those programmes have ended. Ride-hailing and vehicle-sharing services have not yet posed a challenge to incumbent manufacturers.

Law stated - 1 July 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

Environmental regulations

Pursuant to the Clean Air Act (CAA), the Environmental Protection Agency (EPA) and California Air Resources Board (CARB) have comprehensive regulations for passenger vehicles and light duty trucks that apply throughout the full useful life of the vehicle. Since the 1970s, EPA has established mandatory emissions standards for criteria pollutants (eg, NOx, PM, CO and HC) that have become progressively more stringent. Through a grant of a CAA waiver of preemption, the state of California can develop and enforce its own separate emissions requirements for vehicles sold in the state. Over time, California has developed additional requirements for criteria pollutants and other emissions, and a number of other states, representing nearly one-third of all vehicle sales, have chosen to adopt California's emissions standards. Since the 1980s, EPA and the National Highway Traffic Safety Administration (NHTSA) have implemented and enforced fleet-wide standards for fuel economy. EPA and CARB have historically regulated greenhouse gases (GHG) through progressively more rigorous mandatory fleet-wide standards. Between 2021 and 2024, California's GHG regulations were more stringent than EPA's, which gave rise to a market for California GHG credits to facilitate compliance in California and the other states that have adopted California's GHG programme. In addition, California established a zero-emission vehicle (ZEV) programme requiring manufacturers' annual sales to include a certain fraction of electric or hybrid vehicles. Both EPA and CARB have warranty requirements for emission-related components and require reporting and potential penalties or recalls for emission-related defects. In 2022, California enacted new Advanced Clean Car II (ACCII) requirements for Model Year 2026–2035, including more stringent ZEV mandates with the goal of 100 per cent new vehicles to be ZEVs by 2035. In March 2024 EPA finalised new, more stringent GHG emission and multipollutant emissions requirements for Model Year 2027 and beyond. EPA's final rule for Model Year 2027 represents the most stringent vehicle emissions requirements ever proposed and includes requirements for electric vehicles and plug-in hybrid vehicles. Similarly, in

2024 NHTSA enacted new, more stringent fuel economy requirements for Model Year 2027–2032 and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030–2035.

However, the Trump Administration has indicated that it will likely repeal and potentially reissue revised emission and fuel economy standards in the near term and is also considering taking action to limit EPA's authority to regulate GHGs under the Clean Air Act. The administration, along with Congress, are also currently considering disapproving various California waivers under the Clean Air Act, including the waivers for ACC II, Advanced Clean Trucks, and its Low NOX regulations. Such a disapproval would limit California's ability to enforce its emission regulations, and California is unlikely to receive another CAA pre-emption waiver under this administration.

Safety regulations

NHTSA maintains more than 70 federal motor vehicle safety standards covering the full range of safety-relevant vehicle performance parameters, from occupant protection to headlight illumination levels. Any non-compliance with a safety standard, or the presence of a safety-related defect, necessitates a recall. Manufacturers must follow detailed requirements for recall reporting and notification.

Following the Ford-Firestone tire safety crisis in the United States, NHTSA developed mandatory reporting requirements for potentially relevant safety information from in-use vehicles both in the United States and in foreign markets – pursuant to the Transportation Recall Enhancement, Accountability and Documentation (TREAD) Act enacted in 2000. The TREAD Act requires manufacturers to actively monitor warranty claims, customer complaints, death and injury claims, property damage claims, field reports and service measures, and report relevant data to NHTSA on a periodic basis.

In July 2021, NHTSA issued a new Standing General Order (SGO) requiring OEMs and operators to promptly report incidents and accidents that occur while their vehicles are operating with Level 2 advanced driver assistance systems and Level 3 to Level 5 automated driving systems. The SGO was amended in 2023 and again in April 2025. The most recent amendment eased some reporting requirements. The SGO reflects NHTSA's increased efforts to regulate autonomous vehicles, and semi-autonomous vehicles, using its existing authority to mandate that manufacturers recall safety-defective vehicles and equipment at the manufacturer's expense. NHTSA has ramped up enforcement of all of its regulations and requirements aggressively in recent years, following major safety issues by a number of manufacturers. NHTSA has collected hundreds of millions of dollars in civil penalties for a wide variety of violations, including failure to recall safety-defective vehicles and failure to comply with the TREAD Act reporting requirements. In recent years, NHTSA has shifted its enforcement focus to corporate conduct and process, and the bulk of civil penalties have been associated with gaps in corporate compliance structures and processes. Additionally, in 2022, NHTSA issued its final rule on 'Occupant Protection for Vehicles with Automated Driving Systems (ADS)', which updated the occupant protection FMVSS to account for vehicle designs that do not have traditional human driver controls. See 85 FR 17624. In 2024, the agency issued a final rule on automatic emergency braking systems for light vehicles, see 89 FR 39686, and added four new advanced driver assistance systems (ADAS) technologies to the New Car Assessment Program (NCAP).

See 89 FR 95916. At the end of the Biden Administration, NHTSA also announced plans to establish a new programme – the ADS-equipped Vehicle Safety, Transparency and Evaluation Program, or AV STEP – where it would consider exemption applications for deploying non-compliant ADS vehicles, subject to review processes, terms, and conditions that the agency would require to ensure public safety and transparency. See 90 FR 4130.

Under President Trump, it is not clear how the new administration will approach these rules. In addition, the Trump Administration recently announced plans to remove barriers to deployment of advanced vehicle technologies, including expanding existing exemption programmes for research purposes and improving the efficiency of NHTSA's temporary exemption programme for the development of new safety technologies. In the meantime, many states are adopting various safety requirements that may apply to autonomous vehicles operated in those states (subject to Federal pre-emption principles).

Law stated - 1 July 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

Product liability and class action litigation play a significant role in the US automotive market. Each year, consumers file numerous individual product liability lawsuits alleging that purported automotive defects resulted in injury, death or other damages. Consumers also frequently file individual lawsuits seeking reimbursement for certain repair costs. (These are often referred to as 'lemon law' cases.) Consumers also file numerous class actions alleging that purported automotive defects (or alleged unfair business practices) resulted in economic damages, such as unreimbursed repair costs.

In some of these class actions, the consumer filing suit will not have incurred any repair costs or experienced the alleged vehicle malfunction. This type of class action is frequently referred to as a 'no injury' class action. In such class actions, a consumer frequently alleges that the automotive company concealed a supposed defect in the vehicle or its components and that, as a result, the consumer either paid more to purchase or lease the vehicle than intended or will recoup a lesser amount than expected upon resale. (This is also frequently referred to as a diminution in value claim.) Generally, a class action cannot be premised on the basis of bodily injury as there would be too many individual variations in class member claims.

A few trends are apparent in automotive companies' efforts to defend against individual and class action product liability claims. First, when facing class action allegations that a particular component is supposedly susceptible to malfunction (but has not yet actually malfunctioned), automotive companies have argued that consumers have no standing to litigate, either individually or as part of a class action, because they have not in fact been injured. Second, US Supreme Court decisions have enabled more foreign corporate defendants to raise personal jurisdiction defences. In some circumstances, these decisions permit foreign automotive parent companies to argue that courts have no authority to

exercise personal jurisdiction over them. Third, automotive companies have investigated strategies for diverting consumer claims from the US court system to arbitration, which can often be a more efficient mechanism for resolving disputes. Automotive companies recently have enjoyed increasing success in compelling the arbitration of claims by vehicle purchasers against automotive companies.

The advancement of autonomous vehicle technology also has implications for US litigation, including potentially reapportioning the liability of certain actors and the burdens of proof associated with particular claims. However, until new legislative and regulatory frameworks to address autonomous vehicles are developed, consumers are likely to continue to rely on traditional common law and statutory claims in lawsuits involving autonomous vehicles. There have been an increasing number of lawsuits alleging that a vehicle is defective because it purportedly lacks certain autonomous features.

Law stated - 1 July 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

While no special competition laws apply exclusively to the automobile industry, antitrust issues are pervasive in the sector. First, the Hart–Scott–Rodino Antitrust Improvements Act, 15 USC section 18a, requires parties to certain mergers, asset acquisitions and joint ventures to notify government enforcement agencies before closing. If notification is necessary, then the parties may not close the transaction until the statutory waiting periods expire. These statutes allow government enforcement agencies to review mergers, acquisitions and joint ventures for competition-law concerns before consummation of the deal. If the transaction may substantially lessen competition, the government may sue to prevent it under section 18 of the Clayton Act, 15 USC. Even transactions that are not subject to pre-closure review, however, may be challenged retrospectively under US antitrust law. In the past few years, government review of mergers in all industries has become more aggressive, and the number of government challenges to mergers has increased.

Second, automotive sector companies must comply with generally applicable antitrust laws. The Sherman Act prohibits agreements among two or more entities that unreasonably restrain trade, such as agreements among competitors to fix prices, rig bids, allocate customers or territories and boycott suppliers, customers or competitors. Other agreements are judged under a fact-bound inquiry into their competitive effects. Under that analysis, if, on balance, the anticompetitive effects of an agreement outweigh its pro-competitive benefits, the agreement is unlawful. The Sherman Act also prohibits certain unilateral conduct permitting or threatening to permit a firm to obtain or maintain monopoly power.

The Robinson–Patman Act in certain circumstances prohibits differential pricing of commodities, which includes automobiles and automobile parts, and many states have special statutes protecting automobile dealers.

In the United States, antitrust violations carry both criminal and civil penalties. In addition, private parties injured by antitrust violations may recover triple their actual damage and obtain injunctions against future violations. An active plaintiffs' bar regularly brings private actions. Antitrust actions are common in the automotive industry. The US Department of Justice has launched several investigations in the automotive industry, and, several years ago, obtained guilty pleas to criminal violations from a number of automotive parts suppliers, who paid substantial fines. Individual employees also pleaded guilty and received prison sentences. Those investigations spawned substantial private civil litigation by automobile dealers and consumers. The Department of Justice also investigated whether four automobile manufacturers improperly entered an agreement concerning emission of greenhouse gases with the State of California. That investigation closed without action.

The Department of Justice has also recently been aggressive in investigating non-compete and non-solicitation agreements in the employment area. Although no investigation that has been made public directly implicates the automobile industry, contract covenants related to the solicitation or hiring of employees have become more common in asset sale or joint venture agreements in the automobile industry, particularly as manufacturers enter arrangements with non-traditional suppliers and partners for the development of electric vehicles and autonomous driving systems. These covenants should be reviewed carefully to ensure compliance with US antitrust law. The Department of Justice has also recently been aggressive challenging information exchanges between or among competitors, including traditional benchmarking and information exchanges that may be accompanied by algorithmic price recommendations by a consultant or software provider. While there has been no specific challenge in the automobile industry, there have been challenges in the agricultural, real estate, and hospitality sectors, and there is no reason to believe that any information exchanges in the automobile industry would escape scrutiny.

Law stated - 1 July 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

OEMs rarely have disputes with each other. Consequently, litigation among OEMs is rare.

Disputes are more likely along the extended supply chain in the auto sector. Even there, however, litigation between an OEM and a supplier is uncommon. The nature of the economic relationship between the parties means disagreements are typically worked out through other methods of dispute resolution.

Disputes are not uncommon between manufacturers and auto dealers.

Disputes regarding intellectual property are a somewhat different situation. The number of lawsuits in the automotive area, especially in the area of patent enforcement by owners of potentially standard essential patent or non-practicing entities claiming patent rights in technologies such as those relating to communication protocols, navigation or infotainment functionalities, are expected to continue and possibly to increase for implementors.

Law stated - 1 July 2025

Distressed suppliers

11 | What is the process for dealing with distressed suppliers in the automotive industry?

Traditionally, financial distress may arise from:

- internal sources (eg, weak quality control, financial mismanagement or strategic missteps);
- sources close to the supplier (eg, a defaulting upstream raw materials or sub-component supplier and a lender unwilling to renew or extend a line of credit); or
- market-wide influences (eg, fluctuating interest rates, the impact of tariff, government regulation, technological change and commodity supply or pricing).

The automobile sector is evolving rapidly, as the industry continues to shift from internal combustion engines to electric motors. Electric vehicle equipment such as software, sensors, connectivity interfaces, and driver assistance functions are developing quickly and are becoming the focus of the industry rather than the mechanics that made up traditional internal combustion engines and associated components.

This massive transformation is dramatically realigning the supply chain for this significant global industry, and some companies have struggled to adapt.

During and after the pandemic, the following factors caused significant incremental stress on the supply chain:

- shortages and price increases for raw materials or components like semiconductors, steel and other metals and minerals, as well as energy cost increases, affecting both input costs and consumer demand;
- logistics bottlenecks and tensions;
- effects stemming from Russia's war on Ukraine;
- growing geopolitical tensions between China and the United States; and
- macroeconomic factors – a one-two punch of inflation and interest rate increases – impacting both manufacturers and their customers.

These pressures continued to ease in 2024, as US auto sales rose 2 per cent in 2024 to nearly 16 million vehicles, up from 15.5 million vehicles in 2023, the highest since before the pandemic, but still short of the more than 17 million vehicles sold in 2019. While price inflation was mild in 2024, new-vehicle prices still remain higher compared to 2019. In the fourth quarter of 2024, auto loan interest rates dropped by a full percentage point for new automobile loans and half a percentage point for used automobile loans, driving demand at year-end.

Automakers remain cautiously optimistic about market performance in 2025. While Cox Automotive expected solid sales in 2025 – predicting new-vehicle sales to reach the highest level since 2019 – instead, the first quarter of 2025 found headlines dominated by tariffs and trade wars, which pose a significant risk to the automotive industry. The uncertainty

surrounding tariffs and a potential resulting trade war, which could result in higher prices and supply chain disruptions, could significantly impact sales for 2025.

Moreover, despite significant investments, consumers have yet to embrace electric vehicles as quickly as expected. While US EV sales rose by approximately 7.3 per cent in 2024 year over year, and are expected to continue to grow in 2025, the EV market is not growing as quickly as anticipated. The President's new administration has also taken aim at the EV industry, announcing plans to relax emission rules and repeal certain Biden-era EV targets. Further, the current trade disruption with China, the world's leading supplier of EV batteries, is expected to have a significant effect on the EV market.

Many EV start-ups are struggling. In March 2024, Charger Enterprises, a charging station company, filed for Chapter 11 reorganisation. Then, in June 2024, electric vehicle start-up Fisker filed for Chapter 11 bankruptcy reorganisation, liquidating its assets via a court-approved bankruptcy plan. Even more recently, in February 2025, Nikola, a commercial EV vehicle manufacturer, also filed for Chapter 11 bankruptcy reorganisation, citing 'market and macroeconomic factors' as causes for its bankruptcy filing.

Where the distressed entity is a supplier, there is a typical 'playbook' for OEMs and top-tier suppliers, set out below.

Ideally, an OEM or top-tier supplier will identify a distressed supplier before the first delivery is missed or the supplier requests payment in advance to cover insufficient working capital. Obvious signs of supplier distress include, without limitation, failed refinancing, increasing leverage ratios, impending debt maturities, divestitures or sale-leaseback transactions, sharp drops in debt or equity security prices, management resignations, employment of advisers and deteriorating accounts receivable. While these signs of distress need to be monitored closely, the investigation of each of these criteria needs to be evaluated in terms of overall liquidity and strategic assessment within the currently changing industry environment.

When these signs emerge, customers must assess, through a close and open dialogue, how long it may be before a supplier's distress may affect them, and whether the supplier has the talent, ability, resources and time to cure its distress. These factors will inform a decision on whether to merely work with and monitor the supplier as it addresses a problem, or to move more aggressively to replace the supplier or consider other options, including:

- entering into accommodation agreements, under which the customer provides the supplier with commitments to continue sourcing parts balanced with customer protections, such as collateral grants (including intellectual property rights) and facility access agreements;
- extending the financing;
- providing operational support or facilitating changes in management; and
- acquiring the supplier.

The last option would not necessarily change the source of distress but would provide the OEM or top-tier supplier with greater control to assess and fix its problems and make necessary adjustments.

The situation is flipped in the case of struggling EV start-ups, as here it is the manufacturer that is experiencing financial distress, not a supplier on whom the manufacturer or top-tier supplier is relying, although ultimately this may impact suppliers to distressed EV manufacturers that also supply parts and components to more traditional OEMs. While some of the options listed above (such as acquisition by a financially stable entity or management changes) are also relevant in the case of the EV start-ups, the ultimate issue is one of liquidity, as these entities need cash to survive as they try to grow while as of yet unprofitable. Additional financing, equity injections and a restructuring of existing debt obligations (by way of debt-for-equity swap or maturity extensions) are potential ways of dealing with this financial distress.

The US Bankruptcy Code permits the assets of bankrupt companies to be sold 'free and clear' of all liens and other liabilities, which could allow an OEM or top-tier supplier to obtain key unencumbered assets from the distressed business. An OEM or top-tier supplier may therefore find that an acquisition of a distressed supplier (or key assets) is best accomplished within a formal bankruptcy proceeding, where the transaction is approved by a court and the chances of a post-closing challenge to the transaction terms are greatly diminished. Similar considerations apply in bankruptcies in the EV space, allowing established OEMs to acquire assets and intellectual property in a free and clear sale. For example, in April 2025, Lucid Group, Inc paid US$30 million to acquire select facilities and assets in Arizona previously belonging to Nikola Corp out of Chapter 11.

A distressed supplier may materially disrupt the complex and potentially fragile just-in-time inventory system upon which the automotive industry depends. OEMs and top-tier suppliers examine the financial health of prospective suppliers, but one that fails to continue to monitor its suppliers, competitors or trends in its sector or region does so at its peril. It will be prudent for all stakeholders to frequently review potential signs of distress and associated risk mitigation strategies as these largely unprecedented matters unfold.

Law stated - 1 July 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

Intellectual property disputes, and in particular patent infringement actions, remain a significant issue in the automotive industry. Over the past several years there have been hundreds of automotive-related patent litigation cases, filed in US district courts and the International Trade Commission. Most of these suits have been filed by non-practicing entities (NPEs or patent trolls), often against multiple OEMs, as well as against suppliers. This patent litigation continues to trend towards global disputes with high risk. The use of Inter Partes Review (IPR) or other post-grant challenge proceedings as a defensive move in litigation is also quite frequent. This dispute tool has been made more complex in view of the change in executive administration. There is also a trending up of trade secret-related disputes as employees change companies or form new companies, and as AI and energy transformation technologies proliferate.

Much of this IP dispute activity, however, does not focus on vehicle-specific technologies, but rather on such aspects as communication protocols, eg, WiFi, in the infotainment, mapping and navigation systems, semiconductor or integrated circuit technologies (chips) used in auto parts, such as battery power packs and radar systems, battery technologies, and software algorithms used in autonomous vehicles, AI and connected car networking technologies incorporated into the vehicles. There also continues to be a trend towards disputes involving standard essential patents (SEPs), particularly in the connected car space. Connected cars need to rely on existing infrastructure owned by telecommunication entities and others to access the internet, communicate with other devices, receive traffic information, provide in-vehicle entertainment and enable control of vehicle systems via smartphones (eg, climate control and turning the car on and off). Using the existing telecoms infrastructure, however, requires using certain protocols, procedures and data formats that are subject to industry standards set by standard-setting organisations whose members are telecoms companies, national administrations, universities and research groups. Existing patents that cover these standards, such as WiFi, LTE, 5G, 4G, 3G, UMTS, GSM, GPRS and WLAN, are referred to as SEPs. There is also an increase in SEP enforcement related to wireless charging standards. The owners of these SEPs are often the telecom or chip companies, although NPEs (including Nokia and Ericsson) are obtaining an increasing share often by purchasing patents from innovators. SEP owners have also formed patent pools together (eg, Avanci) to attempt to license large patent portfolios relating to telecom standards. As vehicles implement more connected car technologies, including in 5G and WiFi, the owners of SEPs in this space will continue their licensing campaigns and file suits against automotive makers and suppliers when those licensing negotiations fail. These litigations will likely be on a global level and carry significant risk.

Resolution of intellectual property disputes varies and may depend on whether the plaintiff is an NPE or an automotive company or supplier. When the plaintiff is an NPE or SEP holder, it is more likely that the dispute may be resolved for a licence fee, although the threat of an injunction still looms in jurisdictions such as Germany, the UPC and the International Trade Commission, to create leverage in licensing pricing. Resolution of automotive patent litigation (and the amount and nature of such litigation) has also been impacted by IPR proceedings filed by defendants in the US Patent and Trademark Office (USPTO) to challenge the validity of patents asserted in litigation. Defendants have had success invalidating patents or forcing the patent owners to settle or drop lawsuits by filing or threatening to file IPRs. The trend of filing IPRs in response to most patent lawsuits is expected to continue, although there is more pressure to ensure that. IPRs are filed in advance of or early at the start of lawsuits and maybe with the current administration, once an implementor becomes aware of a problematic patent family, as the institution of an IPR may be denied by the USPTO if the final decision in the IPR would come after trial or claim construction of the same issues. Moreover, both the USPTO and Congress continue to look at new rules and regulations that will affect IPR practice and whether that practice leans pro-patent or pro-implementer. Trade secret litigation continues to be high risk and involves significant monetary penalties if liability is found.

Law stated - 1 July 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

Any company interested in getting a deal done in the automotive industry must understand both US labour law and the state of labour relations in the industry. Major developments in the auto industry in the last several years include:

- the election of Shawn Fain, President of the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), who has vowed to aggressively organise the auto industry and seek higher wages for car and battery employees;
- strikes resulting in significant increases in wages and benefits; and
- the UAW organising efforts, particularly in the South, to unionise non-union gas and electric car manufacturers and parts companies, capitalising on the bargaining success covering the Big Three OEMs (Ford, GM and Stellantis).

US law does not provide for works councils and, in fact, discourages their existence by making dealing with employee groups that do not represent a majority of the employer's employees unlawful except for very limited purposes. Thus, works councils as formulated in Europe are non-existent. The way unions come to represent employees in the United States is to demonstrate majority support among a group of employees, usually through a secret ballot election conducted by the National Labor Relations Board (NLRB), a federal government agency responsible for regulating labour relations, or a request for voluntary recognition through a card check.

Although unions represent less than 6 per cent of the US private sector workforce, they have been making gains in organising certain sectors. The UAW is the union that has traditionally represented American automotive workers. It has been very strong in the Midwest, representing workers at Ford, GM and Stellantis for decades, as well as a number of their suppliers. Now the UAW seeks to organise as many workers in the auto and affiliated industries as possible and this effort requires all non-union companies to be vigilant regarding potential union organising activities.

An employer making a major investment, particularly a controlling interest, in an automotive manufacturer or supplier in the United States must consider dealing with a number of key questions:

- Is the target unionised?
- If so, is there a collective bargaining agreement in place?
- Does that collective bargaining agreement obligate the target to require a purchaser to assume the collective bargaining agreement?
- Is the transaction structured as an asset or stock deal?
- Have there been organising efforts by the UAW?
- What type of union prevention efforts have been instituted?
- Is the target paying competitive wages and benefits consistent with the new UAW collective bargaining agreements?

If an acquirer purchases the majority of the stock of a corporation, the corporation remains subject to the terms of the collective bargaining agreement. If it simply purchases the assets, it will have to bargain with the union if a majority of the employees it employs come from the predecessor target. (The purchaser is not bound by law to hire the employees of a unionised target, but if it does not hire those employees because of their union affiliation, this would be an unfair labour practice.) Even if it hires the unionised workforce, the law requires the acquirer only to bargain with the union; it is not required to automatically assume the collective bargaining agreement. However, many collective bargaining agreements require the employer signatory to oblige an acquirer to assume the contract. If so, the seller will likely require the contract assumption; otherwise, it may face a damage claim by the union and the possibility of the sale being enjoined altogether. The bottom line is that a company considering buying a unionised operation must undertake careful due diligence. Issues to consider include what kind of relations it has with the union, what are the provisions of the collective bargaining agreement, if it is possible to operate successfully under the agreement and whether it will it be required to assume the collective bargaining agreement. Mistakes can result in expensive litigation unfair labour practices, arbitrations and strikes.

A major investment in a unionised OEM would be particularly complex. The UAW would carefully scrutinise a major investor and if it concluded that the investor would jeopardise its relationship with the OEM or have a negative impact in any way, the UAW would likely engage in significant efforts to block the deal. Again, a buyer should not consider such an investment without the most scrupulous due diligence and without a full understanding of the impact of the union.

An investment in a non-union company will not guarantee that the company will remain non-union. The UAW is aggressively seeking neutrality and card check agreements at new facilities as a method of organising companies without the need for an NLRB-conducted election. However, the UAW will move forward with elections if necessary and it has achieved some success.

Law stated - 1 July 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

The most important legal developments all revolve around the vast amount of technology coming into vehicles. Connectivity and accident-avoidance technologies have made the prospect of driverless cars a matter of extensive research and development not only by incumbent OEMs, but also by large global technology companies. These developments extend throughout an evolving supply chain.

Significant legal questions are developing around safety regulation. Federal safety rules are traditionally oriented around crash survivability, but cars in the future will seek to avoid accidents. Safety rules also mandate certain structures such as mirrors that may

be replaced by screens, or a steering wheel and brake pedal that would obviously not be needed where the vehicle is entirely autonomously driven. A host of rules will need re-evaluation as technology increasingly enters vehicles. The injection of advanced technology will also reshape the intellectual foundation for safety rules and lead to extensive changes over time.

The US Department of Transportation (DOT) continues to indicate the desire to facilitate these new developments and not over-regulate the industry in a way that inhibits development while still fostering safety. Guidelines issued by the DOT beginning in 2016 attempted to strike a balance between safety and technological development to encourage development and foster different solution pathways. These guidelines made clear that automated vehicle (AV) safety assessments are 'voluntary assessments' that do not have to be submitted. Nevertheless, DOT officials note they have extensive authority to address safety concerns and have stated that if those testing autonomous vehicles do not submit their assessments, DOT will ultimately revise the guidelines in a more restrictive fashion. Later updates to the guidelines took a multi-modal approach (applies not just to cars but to other modes of surface transportation) and affirmed the desire to use existing authority to advance and enable the technological development of the transportation sector. The latest guidelines continue to reiterate the desire to revise existing regulations to remove barriers to AV technology, while remaining technology-neutral and maintaining safety goals. In addition to DOT's voluntary AV guidance, the National Highway Traffic Safety Administration (NHTSA) has undertaken numerous efforts to evaluate changes to the regulations needed to remove barriers against the growth of AV technology, including new rules amending the occupant protection-related FMVSS 200 series to account for automated driving system-equipped vehicles that do not have traditional manual controls associated with a human driver and recently announced efforts to expand use of vehicle exemptions. Against this backdrop of required compliance with federal safety rules that do not yet accommodate automated technology, states continue to take varying approaches to the regulation of autonomous vehicles operating on their public roads.

With vehicles generating and collecting increasing amounts of data coupled with connectivity, privacy issues are of paramount concern. In 2014, automakers adopted a set of self-regulatory privacy principles designed to address consumer privacy interests. In addition, following California's adoption of the California Consumer Privacy Act (CCPA), which became effective in January 2020, many US states have adopted comprehensive privacy laws. As of the time of writing, nearly 20 states have adopted such laws, and more states will surely join the fray. Such laws establish comprehensive transparency requirements, along with requirements to minimise the processing of personal information to what is reasonably necessary and proportionate for specified purposes. The laws also provide consumers with rights to opt out of targeted advertising and certain data sharing practices, which may impact the sharing of data between OEMs, dealers, and other participants in the connected vehicle ecosystem. These requirements, plus the individual rights to access and request deletion of personal information, require OEMs and others to develop and maintain substantial privacy compliance programmes. The patchwork of US regulations impacting the auto industry is becoming increasingly complex as automakers leverage biometrics, such as facial recognition, and artificial intelligence, both of which are regulated at the state level, and as states enact vehicle-specific laws, such as California's in-vehicle camera law, which restricts the retention and transfer of video recordings made via in-vehicle cameras.

The extensive use of computer coding in vehicles (estimates indicate modern vehicles already have over 100 million lines of code) and connectivity dictate that vehicle cyber resilience is a significant concern. The DOT recently issued guidelines in this area as well.

Fuel economy and vehicle emissions are aggressively regulated under a trifurcated and overlapping regulatory system with NHTSA regulating fuel economy and US Environmental Protection Agency (EPA) and California both regulating vehicle emissions, including greenhouse gasses (GHGs). The current regulatory structure covers fuel economy and GHG emissions requirements, including four potential credit systems for electric vehicles and other low emission technologies, through Model Year 2026: (1) NHTSA Corporate Average Fuel Economy (CAFE); (2) EPA GHG; (3) California GHG; and (4) California zero-emission vehicle credits.

In 2024, EPA finalised new GHG and multi-pollutant emissions requirements for MY 2027 and later light- and medium-duty vehicles. See 89 FR 27842. In addition, EPA finalised GHG emissions standards for heavy-duty vehicles for MYs 2027-2032. See 89 FR 29440. The Trump Administration has indicated that it will likely repeal and potentially reissue revised standards in the near term and is also considering taking action to limit EPA's authority to regulate GHGs under the Clean Air Act. As of the date of this publication, however, such standards have not yet been promulgated. Additionally, the Trump Administration and Congress are currently considering potential limitations on CARB's authority, including potentially disapproving or revoking certain CAA waivers.

Similarly, in 2024 NHTSA finalised 'Corporate Average Fuel Economy (CAFE) Standards for Passenger Cars and Light Trucks for Model Years 2027-2032 and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans for Model Years 2030-2035' that increased fuel economy standards at a rate of 2 per cent per year for passenger cars (MYs 2027-31) and 2 per cent per year for light trucks (MYs 2029-31), and fuel efficiency standards for heavy-duty pickup trucks and vans (MYs 2030-35) at a rate of 10 per cent per year increase for MY2030-32 and an 8 per cent per year increase between MY 2033-35. See 89 FR 52540. Similar to the emissions rules above, the Trump Administration has indicated it will likely repeal and reissue revised standards in the near term. However, such new rules have not yet been promulgated.

Law stated - 1 July 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

The trend towards a mobility system defined by autonomous, connected and electric vehicles is technology driven and continues vigorously.

Public policy developments are having a significant impact on the industry. While many OEMs invested heavily in EVs consistent with the Biden Administration's focus on fleet electrification; many OEMs have abandoned or reconsidered those investments because consumer adoption of EVs did not develop as quickly as many anticipated and following the

Trump Administration's efforts to roll-back Biden-era initiatives and rulemakings. Under the Trump Administration, the automotive industry faces new challenges, including balancing relationships between Federal and State authorities, managing regulatory uncertainty, and navigating complex and quickly changing tariffs.

Investments in EV production are likely to slow during the current administration, as well as associated infrastructure investment to support EVs. The Trump Administration has also indicated a priority of revoking or disapproving many of CARB's Clean Air Act Waivers, which provide authority to CARB to enforce its own, more stringent rules on vehicle emissions. As a result, near-term US EV market penetration is anticipated to slow, particularly if California is unable to act as a regulatory backstop in forcing a regulation-led EV adoption by OEMs.

Consumer adoption of EVs is also likely to erode under the Trump Administration, as federal purchase incentives for EVs end or are limited and as government investment in and support for charging infrastructure and grid improvement is likely to be significantly reduced or eliminated. Even where specific funds were allocated by Congress for such EV charging projects under the Biden Administration, actual development and construction of those facilities was remarkably slow and remaining funds are now being targeted for clawbacks. Taken together, the momentum driving US fleet electrification has shifted and EV market share growth is likely to slow in the coming years, with consumers more likely to purchase hybrid vehicles that are less expensive and avoid consumer fears of 'range anxiety'.

The National Highway Traffic Safety Administration has taken tentative but significant steps to update regulations in anticipation of highly advanced vehicles. This nascent effort has a long way to go, but the formal start of the rulemaking process establishes an important process of regulatory change.

Legislation to advance a mobility future, and autonomous vehicles in particular, has been introduced in each of the past few years. While legislation has led to Congressional hearings and negotiations, nothing has found Congressional approval and no legislation in this area is expected to become law in 2025.

The accelerating geopolitical competition between the United States, the Global West and China and Russia will impact significantly the automotive industry given the industry's global scale and supply lines and its strategic and economic importance. This geopolitical competition will be expressed in government policy in major markets in complex and evolving ways that may force difficult trade-offs onto manufacturers and their suppliers.

Law stated - 1 July 2025

Lance Bultena	lance.bultena@hoganlovells.com
Celine Jimenez Crowson	celine.crowson@hoganlovells.com
Lauren Deeb	lauren.deeb@hoganlovells.com
Ryan L Ford	ryan.ford@hoganlovells.com
Michael L Kidney	michael.kidney@hoganlovells.com
Kenneth Kirschner	kenneth.kirschner@hoganlovells.com
William L Monts	william.monts@hoganlovells.com
Joanne Rotondi	joanne.rotondi@hoganlovells.com
David P Simonds	david.simonds@hoganlovells.com
William W Yavinsky	william.yavinsky@hoganlovells.com
Sean P Collins	sean.collins@hoganlovells.com
Hannah M Graae	hannah.graae@hoganlovells.com
Susan R McAuliffe	susan.mcauliffe@hoganlovells.com
Audrey Haroz Reed	audrey.reed@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology

Vietnam

Gaston Fernandez, **Hoang Ha Nguyen**
Hogan Lovells

Summary

OVERVIEW

Market

COMMERCIAL OPERATIONS

Regulation
Development, manufacture and supply
Distribution
Mergers, acquisitions and joint ventures
Incentives and barriers to entry

PRODUCT SAFETY AND LIABILITY

Safety and environmental
Product liability and recall

DISPUTES

Competition enforcement
Dispute resolution mechanisms
Distressed suppliers
Intellectual property disputes

EMPLOYMENT ISSUES

Trade unions and works councils

NEW TECHNOLOGIES AND MOBILITY

Legal developments

UPDATE AND TRENDS

Trends and new legislation

OVERVIEW

Market

1 For the automotive and mobility industry, describe the market's significance and identify major trends.

The covid-19 pandemic disrupted Vietnam's economy and automotive sector from 2020 to 2021, with lockdowns, supply chain issues, and a global chip shortage causing declines in vehicle sales and production delays. Recovery began in 2022, driven partly by VinFast. Since 2019, VinFast has begun exporting small numbers of EVs to the US and listed a small portion of its shares on the Nasdaq through a de-SPAC transaction in 2023. In December 2024, VinFast announced commencement of construction of a new EV manufacturing facility in Vung Ang, with a planned capacity of up to 600,000 vehicles annually, set to create 15,000 jobs, boosting Vietnam's EV industry and economy.

As of March 2025, the Vietnam Automobile Manufacturers' Association (VAMA) reported vehicle sales of 31,750 units, a 47 per cent increase from February 2025 and a 16 per cent year-on-year rise. Passenger vehicles led with 22,339 units sold (up 53 per cent), followed by commercial vehicles at 9,231 units (up 36 per cent), though special-purpose vehicles saw a decline to 180 units (down 36 per cent). The automotive industry bolsters Vietnam's economy through its impact on GDP, employment, and trade. The Ministry of Industry and Trade (MOIT) has forecast that Vietnam's automobile market could grow by approximately 12 per cent in 2025, with annual sales expected to reach 600,000 units.

The market is increasingly adopting EVs. According to market research by MordorIntelligence, the size of Vietnam's EV market is projected to reach US$2.93 billion in 2025 and US$6.69 billion in 2030, with a compound annual growth rate (CAGR) of 18 per cent during the forecast period (2025–2030). EV sector growth is supported by government policies, including approval by the Prime Minister of Decision No. 876/QD-TTg (Decision 876), which outlines the action programme for green energy transition and the reduction of carbon and methane emissions in the transport sector.

Traditional car ownership is declining, particularly among younger Vietnamese people. Urban consumers favour mobility-as-a-service (MaaS) options such as ride-hailing and car-sharing, driven by convenience and cost-effectiveness. This trend is especially pronounced in the larger cities of Hanoi and Ho Chi Minh City.

Vietnam is drawing more foreign investment in automotive manufacturing and becoming a more popular production location. In 2024, seven new Chinese car brands entered the market, bringing the total to 13: the highest single-year increase to date. BYD debuted in July, followed by Omoda and Jaecoo in November. Tasco and Geely have formed a joint venture to produce 75,000 automobiles annually, targeting both the local market and export markets, with a US$168 million manufacturing project scheduled to begin construction in early 2025. Geleximco and Chery have also announced plans to invest US$800 million in a new automobile production facility located in Thai Binh. Skoda Auto is in the process of building a factory in Quang Ninh, marking its first manufacturing presence in South East Asia. These initiatives highlight the rising significance of Vietnam in the global automotive supply chain.

Law stated - 25 May 2025

COMMERCIAL OPERATIONS

Regulation

2 What is the regulatory framework for manufacture and distribution of automobiles and automobile parts, such as the homologation process as well as vehicle registration and insurance requirements?

As part of Vietnam's government restructuring to streamline the public sector, effective from 1 March 2025, the Ministry of Transport (MOT) has merged with the Ministry of Construction (MOC), with the MOC assuming all responsibilities previously assigned to the MOT. The transition, including amendments to relevant legislation, is in progress. The Vietnamese automotive industry remains subject to oversight by key agencies such as the MOIT, the MOC, and the Vietnam Register, which regulate the manufacture, distribution, homologation, vehicle registration, and insurance of automobiles and their parts. The MOC has oversight over technical and environmental standards for automobiles, while the MOIT is responsible for regulating imports of automobiles and automobile parts, as well as their manufacture and assembly.

Local assemblers of completely knocked-down (CKD) vehicles (ie, those that are imported for assembly in Vietnam) must ensure that assembled units satisfy technical and environmental standards set by the MOC (fka MOT).

Completely built-up (CBU) vehicles (ie, those that are imported fully assembled) must undergo a homologation process and receive a certificate of homologation issued by the Vietnam Register. Vehicles exempt from homologation requirements must obtain a notice of exemption from the Vietnam Register. To be exempt from homologation requirements, Circular No. 54/2024/TT-BGTVT requires each of the following conditions to be satisfied:

- the vehicle already has been granted a certificate;
- the vehicle is not subject to inspection and testing of sample vehicles under the law; and
- the vehicle type, for a continuous period of six months, is not subject to (1) instances requiring supplementation or amendment of the inspection registration documents; (2) instances of failing to meet the requirements for technical safety quality and environmental protection; or (3) complaints, accusations, or feedback related to technical safety quality or environmental protection.

Decree No. 116/2017/ND-CP, which took effect on 1 January 2018 and was amended by Decree No. 17/2020/ND-CP, requires automobile importers to obtain a licence from the MOIT. Decree No. 116/2017/ND-CP also imposes rigorous quality inspection requirements and a list of business conditions regarding facilities and environmental protection, among others. Automobile manufacturers and assemblers must obtain a certificate of compliance with these conditions from the MOIT, and are required to fulfil these conditions throughout the course of their operations.

On a separate note, the MOT issued Circular No. 16/2022/TT-BGTVT amending Circular No. 30/2011/TT-BGTVT, and Circular No. 55/2024/TT-BGTVT, to require automotive designs to be evaluated and approved (as evidenced by a certificate of design appraisal), and vehicle parts and final product to be tested for satisfaction of relevant technical standards, as evidenced by a certificate of quality, technical safety and environmental protection, before being permitted into circulation. Final products are subject to ongoing annual and ad hoc inspection by the MOC.

In May 2023, the Vietnamese government issued Decree No. 26/2023/ND-CP on tax incentives for the importation of CKD vehicles, providing for a preferential import tariff of zero per cent for CKD parts through 31 December 2027.

Individual vehicle owners must register their vehicles with the competent police department, and purchase and maintain automobile insurance as well as pay road maintenance fees throughout the period of use. Vehicle owners must also undergo periodic inspections and obtain an inspection certificate issued by the Vietnam Register.

Law stated - 25 May 2025

Development, manufacture and supply

3 How do automotive companies operating in your country generally structure their development, manufacture and supply issues? What are the usual contractual arrangements?

Most foreign automobile manufacturers operate in Vietnam through manufacturing joint ventures entered into with local (often state-owned) companies. Automobile parts are often imported, although there is also a small local supplier market.

Law stated - 25 May 2025

Distribution

4 How are vehicles usually distributed? Are there any special rules for importers, distributors, dealers (including dealer networks) or other distribution partners?

Because the distribution sector is not completely open to foreign investors (ie, foreign investors and foreign-invested companies established in Vietnam engaging in distribution activities are subject to legal requirements not applicable to purely domestically-owned companies), foreign-invested manufacturing companies typically work with local networks and agents to distribute fully assembled vehicles in the domestic market. Local distributors and qualified importers also engage in the import and distribution of CBU vehicles from outside Vietnam. In 2024, with the acquisition of Sweden Auto Company Limited, Tasco has become the country's largest automotive distributor, representing high-profile brands such as VinFast, Toyota, Ford, Hyundai, Mitsubishi, and Honda.

Decree No. 116/2017/ND-CP, as amended by Decree No. 17/2020/ND-CP, requires automobile importers to obtain a licence from the MOIT. One of the licensing conditions

is that an importer must have warranty and maintenance shops, and be authorised by the relevant foreign automobile manufacturers to recall defective imports. Importers no longer need to provide vehicle type approval certificates issued in the country of origin, and imported cars are not required to undergo rigorous quality control tests if they are identical to previously imported cars tested in the past 36 months.

Restructuring or termination issues between manufacturers and distributors are typically resolved in accordance with the relevant distribution or agency agreement. If the distribution relationship is structured as a principal–agent relationship, then by default the Vietnam Commercial Law provides for compensation upon termination equal to the product of: (1) the average monthly remuneration of the distributor over the course of the distribution relationship and (2) the number of years the distributor acted as agent for the manufacturer, unless otherwise expressly agreed by the parties. If the distribution relationship is not structured as a principal-agent relationship, then no compensation upon termination is payable unless otherwise agreed by the parties.

Vietnam's e-commerce sector flourished in 2024, accelerating the transition from traditional to digital trade. The Vietnam E-Commerce Association (VECOM) estimates the e-commerce market reached US$32 billion, growing 27 per cent from the previous year. E-commerce accounted for 12 per cent of total retail sales of consumer goods and services, up from 10 per cent in 2023, with online retail sales of goods rising to 11 per cent of total retail sales, compared to 8.8 per cent in 2023. E-commerce platforms like Shopee and Lazada have transformed distribution by enabling direct sales of automotive parts and accessories. VinFast also uses digital platforms to sell vehicles directly to consumers, bypassing intermediaries and streamlining the supply chain. This shift in distribution channels supports faster delivery and wider market reach, especially in tech-savvy hubs like Ho Chi Minh City and Hanoi, where consumers can order parts online with same-day delivery for greater convenience.

Law stated - 25 May 2025

Mergers, acquisitions and joint ventures

5 Are there any particularities for M&A or JV transactions that companies should consider when preparing, negotiating or entering into a deal in the automotive industry?

Foreign investment activities in Vietnam, including M&A and joint venture transactions, are subject to completion of a licensing process that can be time-consuming and subject to substantial discretion of individual case officers, which may be applied inconsistently. Acquisition of shares or other equity in an existing company is usually more straightforward than the establishment of a new company, but relevant licensing formalities must still be followed.

To establish a new company in Vietnam, a foreign investor must first obtain an investment registration certificate (IRC) from the provincial Department of Finance (DOF, formerly know as the Department of Planning and Investment) or the management board of special zones (eg, an industrial zone, export-processing zone, high-tech zone or economic zone) where the new company will be located. Certain special or large-scale projects also require

approval from the Prime Minister, the National Assembly or local People's Committee. After obtaining the IRC, the next step is the application for an enterprise registration certificate, is the business licence of the company and signifies the completion of its establishment.

An IRC is not required for acquisition of shares or other equity interests in an existing company in Vietnam. However, consent from the provincial DOF is required if:

- the foreign investor is acquiring shares in a company that operates a conditional business;
- the acquisition increases foreign ownership of the target company (unless the total foreign ownership following the acquisition remains below 50 per cent); or
- the target company holds land in certain strategic locations.

In addition to the investment-related licensing processes, Vietnam's merger control regime stipulates that economic concentrations meeting certain thresholds must be notified to the Vietnam Competition and Consumer Authority, and closing may not occur before clearance is granted. This regime applies to transactions occurring both within and outside of Vietnam, so long as any of the following thresholds are met:

- either party (together with its affiliates) had assets or revenues in Vietnam in the preceding financial year of at least 3 trillion Vietnamese dong (approximately US$120 million);
- the value of the transaction is at least 1 trillion Vietnamese dong (approximately US$40 million) for transactions occurring within Vietnam; or
- the combined market share of the parties and their affiliates in the relevant market is at least 20 per cent.

Some business sectors or activities are also restricted or subject to additional conditions if the company has foreign investment capital, so a potential foreign investor should carefully consider any impact the investment may have on the existing or contemplated operations of the target company.

Law stated - 25 May 2025

Incentives and barriers to entry

6 Are there any incentives for investment in the automotive market? Are there barriers to entry into the market? What impact may new entrants into the market have on incumbents?

In February 2016, the Prime Minister issued Decision No. 229/QD-TTg specifying incentives relating to finance, trade promotion, land and taxation for the automotive industry. Accordingly, automotive companies engaged in the manufacture, purchase and use of certain types of priority vehicles (eg, small vans used in agriculture with a capacity of 3 tonnes, medium- and short-distance passenger vehicles, cars with nine or fewer seats and cylinder capacity of 1500 cubic centimetres and certain other specialised vehicles) are entitled to certain incentives. Specific key incentives include:

- projects relating to auto parts production and car assembly of local companies are eligible for loans from the Vietnam Development Bank;
- companies that are part of a global supply chain for production of parts or vehicle exports are eligible for export credit from the Vietnam Development Bank;
- financial support is available from the government for government procurement, development investment credits and projects using priority vehicles;
- goods imported to create fixed assets for auto and auto parts production, or assembly projects located in industrial zones, economic zones and high-tech zones enjoy preferential import tariffs;
- most-favoured-nation import duties will be applied to priority and locally made vehicles;
- preferential corporate income tax rates will be set for projects relating to the manufacture of priority vehicles with a capacity of 50,000 units a year and manufacture of certain types of auto parts;
- auto parts production projects may enjoy certain land incentives (eg, exemption or reduction of land rent); and
- in addition to the aforementioned specific incentives, the government may provide support for large-scale automotive projects on a case-by-case basis.

Generally, barriers to entry into the market are more commercial than legal. For example, Vietnam's underdeveloped road infrastructure and cultural preference for motorbikes has slowed further development of the domestic automotive industry. Substantial taxes imposed on automobiles in Vietnam, including import taxes, value-added taxes on both new and used vehicles and special consumption taxes (which can be as high as 150 per cent and apply to both imported and locally produced vehicles) also make them unaffordable to most of the local population.

In November 2020, the government directed the Ministry of Finance (MOF), in collaboration with the State Bank of Vietnam and the MOIT, to propose policies on taxation and preferential credit to create favourable conditions for the development of Vietnam's domestic automotive industry. For electric and battery-powered cars and environmentally friendly vehicles, exclusive tax incentives and registration fee reductions continue to apply. Decree No. 10/2022/ND-CP, dated 15 January 2022, provides that registration fees will be waived for battery-powered cars until 1 March 2025, following which the registration fee applied to electric cars will be half of the fee applicable to the same class of gasoline-powered cars. On 22 July 2022, the government issued Decision No. 876/QD-TTg concerning the approval of a programme for transition to green energy and mitigation of carbon dioxide and methane emissions from transportation. Accordingly, the manufacture, assembly and import of fossil fuel-powered automobiles for domestic use will be phased out by 2040, and by 2050 Vietnam plans to use electricity and green energy for all vehicles, making a surge in EV usage foreseeable in the near future. With the introduction of zero-emission standards from 1 January 2026, under Decision No. 19/2024/QD-TTg, Vietnam is setting the stage for increased adoption of EVs and hybrid vehicles. These policies aim to guide the transition to using electricity and green energy with zero environmental pollutant emissions, contributing to the goal of reducing greenhouse gas emissions in transportation.

Law stated - 25 May 2025

PRODUCT SAFETY AND LIABILITY

Safety and environmental

7 What are the most relevant automotive-related product compliance safety and environmental regulations, and how are they enforced?

The most relevant automotive-related product compliance safety and environmental regulations are set out in:

- Circular No. 42/2018/TT-BGTVT and Circular No. 16/2022/TT-BGTVT;
- Decree No. 60/2023/ND-CP on technical safety quality and environmental protection inspection and certificate of conformity from inspection for imported motor vehicles and imported parts and equipment of motor vehicles under the international agreements to which Vietnam is a signatory, dated 16 August 2023;
- Circular No. 47/2024/TT-BGTVT on procedures for initial inspection and exemption of motor and heavy-duty vehicles; certification of technical safety and environmental protection for modified vehicles; and emission inspections for motorcycles and mopeds, dated 15 November 2024; and
- Decision No. 19/2024/QD-TTg on the roadmap for implementing emission standards for imported and locally manufactured or assembled motor vehicles, dated 15 November 2024.

Non-compliance with these regulations can result in administrative penalties including monetary fines or revocation of relevant licences and certificates. The Vietnam Register also has the power to inspect the quality and standards of domestic automobile manufacturers on a regular or irregular basis to ensure compliance with relevant regulations.

Specific rules apply to product recalls in the automotive industry. Decree No. 60/2023/ND-CP provides that motor vehicles must be recalled in two cases: (1) at the initiative of the manufacturer, or (2) upon the request of the competent Inspection Body, which must base its request on sound evidence and inspection reports concerning the technical safety and environmental compliance of the vehicles. Where a technical defect is identified in vehicles already circulating in the market, the importer bears the primary responsibility for initiating the recall process. Within five working days of receiving a recall notice from either the manufacturer or the Inspection Body, the importer must notify in writing all sales agents, instructing them to cease the sale of affected motor vehicles that have not yet been repaired.

Within ten working days of receiving the recall notice, the importer must also submit a detailed report to the Inspection Body, including the cause of the technical defect, the remedial measures to be implemented, the number of vehicles affected, and a suitable recall plan.

The importer must then proactively implement the approved recall plan, ensuring full disclosure of the plan and the list of affected motor vehicles. This information must be

published on the importer's website and the websites of its sales agents in a timely and transparent manner.

The Inspection Body is tasked with:

- providing written confirmation of receipt of the recall plan and specifying any additional requirements;
- requiring the importer to execute the recall;
- publishing recall information on its own official website;
- monitoring and inspecting whether the importer is properly executing the recall; and
- suspending the issuance of certificates of conformity to importers which fail to fulfil their recall responsibilities.

If the importer fail can demonstrate that the manufacturer failed to cooperate with the recall plan, then the Inspection Body may suspend the inspection and certification activities for motor vehicles from the same manufacturer.

Additionally, for affected vehicles that have not yet been certified, the Inspection Body may notify the customs authority handling the import declaration to temporarily release the vehicles for repair. Once the importer submits a list of vehicles that have been repaired in accordance with the manufacturer's regulations, the Inspection Body will resume the inspection and certification process in accordance with applicable regulations.

With Decision No. 19/2024/QD-TTg, Vietnam has adopted a comprehensive roadmap for implementing new emission standards for motor vehicles effective from 1 January 2025. This Decision applies to all imported, manufactured or assembled vehicles with internal combustion engines in Vietnam, with certain exceptions. It introduces emission levels that correspond to Euro standards. From 1 January 2025, all newly imported, manufactured or assembled vehicles must comply with Euro 5 and used imported vehicles must meet Euro 4. From 1 January 2026, newly imported or assembled four-wheeled passenger and cargo vehicles must comply with Euro 0, indicating near-zero emissions.

The concept of extended producer responsibility was introduced in the Law on Environmental Protection and its implementing decree, Decree No. 08/2022/ND-CP, as amended by Decree No. 05/2025/ND-CP, which came into effect from January 2022 and primarily focuses on recycling and waste treatment contribution requirements for certain types of products. For the automotive industry, starting from 1 January 2027, manufacturers and importers of automobiles sold in Vietnam will have an extended producer responsibility to recycle 0.5 per cent of the total annual production and import of automobiles according to the mandatory recycling standards, which will be increased every three years. Manufacturers and importers can choose to self-recycle automobiles subject to annual recycling plans registered with the Ministry of Agriculture and Environment (MAE, formerly known as the Ministry of Natural Resources and Environment) and must report results. Alternatively, they can elect to make monetary contributions to the Vietnam Environmental Protection Fund (EPR) to support recycling activities following the prescribed timeline. There is a formula to calculate contribution amounts, and such amounts must be declared to the MAE on an annual basis. In addition, MAE is required to submit specific regulations on vehicle disposal to the Prime Minister by 1 January 2026,

which may further define technical requirements for EPR implementation in the automotive sector.

Vietnam currently lacks specific regulations on software-defined vehicles (SDVs) and advanced driver assistance systems (ADAS). However, the government has announced its focus on supporting the electric and autonomous vehicle industry, suggesting that a regulatory frameworks may develop to align with international safety and competitiveness standards. FPT Software, a major domestic player in the automotive software industry, is a verified partner in the Automotive Open System Architecture (AUTOSAR) initiative, adhering to a global standard that streamlines software architecture for automotive electronic control units (ECUs), reducing costs and ensuring system compatibility. Vietsol, an AI startup specialising in Edge AI and automotive software, focuses on electric vehicles and functional safety, and is partnering with firms such as Siemens Digital Industries Software to optimise vehicle operating systems and sensor data management.

Vietnam's focus on electric vehicles and AI-driven technologies aligns with its ambition to contribute to the global shift toward electric and autonomous vehicles. Recently announced plans include partnerships with NVIDIA in Vietnam, including an AI Research and Development Centre, an AI data centre, and a US$200 million AI Factory with FPT, leverage cutting-edge NVIDIA technology. By investing in talent and research, Vietnam is attracting innovators in automotive software and AI, positioning itself as a vital player in the global automotive supply chain. As Vietnam's automotive industry expands, particularly in electric vehicles and AI, future regulations are expected to align with international standards to ensure safety and competitiveness.

Law stated - 25 May 2025

Product liability and recall

8 Describe the significance of product liability law, and any key issues specifically relevant to the automotive industry. How relevant are class actions or other consumer litigation in product liability, product recall cases, or other contexts relating to the automotive industry?

The Vietnam Civil Code and the Law on Protection of Consumer Rights 2023 (effective from 1 July 2024) both provide a basis for liability for damage caused by manufactured or imported products, including automobiles and automobile parts. The Civil Code sets out the broad principle that individuals or legal entities engaged in production or other business activities are liable for damage caused to consumers as a result of the individual or legal entity's failure to ensure the quality of goods they manufacture or pass on to consumers. The Law on Protection of Consumer Rights addresses product liability more specifically and provides that manufacturers and importers (including organisations or individuals who affix a commercial name on the goods or use a trademark or commercial indication identifying such organisation or individual as the manufacturer or importer of the goods) are liable for any damage caused by defective products manufactured or imported by them. In addition, where the manufacturer or importer of a defective product is unidentifiable, the direct supplier of the defective goods will be liable for damage suffered by consumers because of the defect.

Notwithstanding the basis for liability set out in the law, it has not yet been a common practice in Vietnam for consumers to bring claims for compensation (either individually or as a class) against manufacturers or importers of automobiles, automobile parts or other products for damages caused by defective products. One reason for this is that pursuing remedies in the courts of Vietnam is perceived as time-consuming, costly, and unpredictable.

Law stated - 25 May 2025

DISPUTES

Competition enforcement

9 What competition and antitrust issues are specific to, or particularly relevant for, the automotive industry? Is follow-on litigation significant in competition cases?

Vietnam's Competition Law is aimed at preventing acts of unfair competition, acts in restraint of competition and economic concentrations that have or may have a competition-restraining impact on the country's market. Acts that can serve to restrict competition include those that reduce, distort or prevent competition in the market through economic concentration (eg, mergers, acquisitions or other types of business combination transactions), abuse of dominant market position or monopoly or agreements to restrict competition (eg, agreements to divide the market to minimise or eliminate competition). Acts of unfair competition are those that are contrary to general standards of business ethics and that cause or may cause damage to the interests of the state or to the legitimate rights and interests of other enterprises or consumers.

The authorities tasked with enforcing Vietnam's competition regulations have not historically taken an aggressive approach to enforcement, and we are not aware of any case in which the authorities have accused an automotive company of violating applicable Vietnamese competition or antitrust regulations. It is yet to be seen whether the authorities will take a more active approach to enforcement towards the automotive industry.

Law stated - 25 May 2025

Dispute resolution mechanisms

10 What kind of disputes have been experienced in the automotive industry, and how are they usually resolved? Are there any quick solutions along the supply chain available?

Most disputes are resolved outside of the formal legal system through commercial negotiations or amicable settlement of claims. This is particularly true in the case of product manufacturers or distributors who may be concerned that adverse news coverage or other publicity could negatively impact their brand in the eyes of consumers. Since most claims are handled outside of formal legal channels, and because Vietnam does not have a system of binding case law or other legal precedents, it is difficult to say with any degree of certainty what kinds of disputes have been experienced in the automotive industry. We can

speculate, however, that disputes would likely arise from issues such as product liability and warranty periods.

When a dispute arises, the claimant may seek one or more remedies, including not only damages for loss but also interim or equitable remedies such as specific performance, temporary cessation of contractual performance or termination or rescission of contract. Injunctive relief may also be available upon petition to the competent court.

Law stated - 25 May 2025

Distressed suppliers

11 What is the process for dealing with distressed suppliers in the automotive industry?

The process for dealing with a distressed supplier depends on the terms of the contract between the supplier and the manufacturer or customer, together with any remedy provisions included therein. However, where a supplier is, or is at risk of becoming, insolvent, a manufacturer or other customer of the supplier which is an unsecured creditor may petition a court to initiate bankruptcy proceedings and join the list of creditors seeking recovery. However, in practice, the insolvency regime in Vietnam is infrequently used, and it is more common for creditors to pursue ad hoc restructuring of overdue payment obligations.

Law stated - 25 May 2025

Intellectual property disputes

12 Are intellectual property disputes significant in the automotive industry? If so, how effectively is industrial intellectual property protected? Are intellectual property disputes easily resolved?

The most significant disputes in the automobile industry in Vietnam relate to counterfeiting of automobile parts and fittings and domain name disputes.

As a member of the World Trade Organization, Vietnam has established a relatively comprehensive legal framework to register and protect intellectual property rights. In the case of infringement or other violation of existing intellectual property rights in the country, the owner of such rights may pursue relief through administrative, civil or, in some cases, criminal proceedings. In practice, administrative relief for infringement of intellectual property rights is more common (and easier to obtain) in Vietnam. However, although administrative relief is cost-effective to obtain and generally results in an immediate cessation of the infringement, it has proven to have a somewhat low deterrent effect overall. To date, civil and criminal causes of action have been limited to instances of deliberate counterfeiting.

Generally, intellectual property disputes are not easily resolved due to the intangible nature of the assets and, particularly in the case of patents or industrial designs, the highly technical knowledge that is often in question. This is especially the case in Vietnam,

where courts and enforcement agencies are not experienced in handling highly complex or technical disputes.

Law stated - 25 May 2025

EMPLOYMENT ISSUES

Trade unions and works councils

13 Are there specific employment issues that automotive companies should be aware of, such as with trade unions and works councils?

Vietnamese employment regulations are extremely employee-friendly, and in disputes relating to employment Vietnamese courts and other administrative authorities generally sympathise with employees over employers. Even in cases of clear employee wrongdoing, it is often extremely difficult to terminate an employee without his or her consent and willingness to cooperate.

Companies are not obligated to establish a trade union for employees, but must recognise and support trade unions or other representative organisations established by employees.

Companies with ten or more employees must enact and register with the authorities a written set of internal labour rules. An employee may only be disciplined in accordance with the internal labour rules enacted by the company or pursuant to the limited (and poorly defined) offences provided for in the Labour Code. The internal labour rules must be agreed with the company's in-house trade union or other organisation representing the employees. The relevant trade union or representative organisation must also participate in cases of employee discipline or where changes are being made to the rights or responsibilities of company employees.

Law stated - 25 May 2025

NEW TECHNOLOGIES AND MOBILITY

Legal developments

14 What are the most important legal developments relating to automotive technological and mobility advances?

The first autonomous car in Vietnam was introduced in 2017, using software developed by local company FPT Software. FPT Software subsequently experimented with a Level 3 autonomous car in 2019, while Phenikaa Group introduced Vietnam's first Level 4 smart self-driving vehicle in March 2021. Although there are currently no regulations in place governing autonomous vehicles in Vietnam, the MOC supports the development of self-driving cars as they are considered to be in line with the government's strategy on the 'fourth industrial revolution'. The MOC has also responded positively to FPT Software's proposal to allow it to operate its driverless cars on a trial basis on internal roads in a hi-tech park in Ho Chi Minh City. In November 2024, Ho Chi Minh City officially approved controlled testing of self-driving vehicles on public roads.

Decree No. 151/2024/ND-CP outlines the procedures for obtaining, replacing, and revoking operation licenses for smart vehicles, as well as requirements for non-motorised vehicles and the installation of tracking devices and in-cabin cameras. To obtain an operation licence, vehicle owners must submit an application with the necessary documents (Form No. 03a and a certificate of technical safety and environmental protection). The licensing authority will review the application within seven working days. If the application is valid, the operating licence will be issued. The Traffic Police Department, under the Ministry of Public Security (MPS), is responsible for issuing operating licenses for smart vehicles, except for defence-related vehicles, which are handled by the Ministry of National Defense. Operating licences may be revoked if the vehicle is no longer serviceable, damaged beyond repair, lost, or if the application was fraudulent. In such cases, the vehicle owner must return the license to the issuing authority.

Law stated - 25 May 2025

UPDATE AND TRENDS

Trends and new legislation

15 Are there other current legal developments, emerging trends or pending legislation relevant to the automotive and mobility industry that should be noted?

Vietnam has adopted tax and fee incentives to boost EV adoption, promoting sustainable transport. The special consumption tax for battery-powered EVs was cut to 1–3 per cent from 2022 to 2027, compared to 35–150 per cent for gasoline vehicles, with a planned rise to 4–7 per cent post-2027. EVs are also exempt from registration fees from March 2022 to February 2027, saving buyers 10–12 per cent on registration costs. The government is further developing strategy on charging infrastructure to support green transportation.

According to Decision 876 of the Prime Minister, the MOC is tasked with developing and refining policies to enhance energy efficiency and promote the use of electricity in the transportation sector. The MOF is responsible for formulating and implementing incentive policies for investment, production, and use of electric vehicles, green energy vehicles, and related infrastructure. The MOIT is developing a roadmap to phase out the production and import of fossil fuel vehicles by 2040. The MOC is tasked with collaborating with the MOF to develop a network of charging stations. The legal framework for businesses operating charging infrastructure remains incomplete, as there are no specific regulations on the operation of charging stations, fire prevention, or electricity pricing. The government has not yet provided financial support for the development of charging stations, such as tax exemptions, land use fee reductions, or loan interest rate subsidies. On 23 April 2025, the National Cybersecurity Association held a seminar titled 'Providing Feedback on the Draft Personal Data Protection Law'. At this seminar, the MPS urgently requested the Government to submit the draft Personal Data Protection Law to the National Assembly for consideration and approval at the 9th session of the 15th National Assembly in May of 2025.

Personal data collection and processing is governed by Decree No. 13/2023/ND-CP on personal data protection (Decree 13). Decree 13 marks a significant development in

personal data protection law in Vietnam, introducing several legal concepts and new requirements, including:

- a detailed definition of 'personal data' including 'basic personal data' and 'sensitive personal data';
- definitions of 'personal data controller', 'personal data processor', 'personal data controlling and processing entity' and 'third parties' as well as their respective legal obligations;
- several exceptions to the general rule of prior consent of data subjects;
- stricter rules in respect of 'sensitive personal data'; and
- significant restrictions on cross-border transfer of personal data, by requiring an impact assessment to be filed with the MPS prior to transferring personal data of Vietnamese citizens abroad (including driver licence numbers and licence plate numbers).

As automobiles increasingly rely on software and generate personal data, including location data, Decree 13 and the upcoming Law on Personal Data Protection can be expected to have a material impact on the operation of automotive market participants with operations in Vietnam.

In accordance with Decision No. 589/QD-TTg, which approves the Industry Restructuring Plan for the period 2018–2020, with a vision towards 2025, the government is actively promoting investment by large enterprises in the automotive industry. This encouragement extends to both domestic and foreign-invested enterprises, with the aim of fostering the development of Vietnam's automobile sector. The MOIT recently published a draft of a strategic outline for the development of Vietnam's steel, automobile, dairy and retail market industries until 2030, with a vision to 2045, to seek public comments and opinions. The draft strategy indicates the policy orientation of the government to establish strong partnerships and collaborations with leading global automotive manufacturers. This strategic approach aims to foster the growth of the automotive industry in alignment with the advancement of transportation infrastructure, support the domestic market's need for top-quality vehicles with competitive advantages, and enhance domestic competitiveness for supply of components and spare parts in the global automotive production chain. The draft strategy aims to achieve a total vehicle production of approximately 1,531,400 units by 2035. This includes approximately 852,600 units of nine-seat cars, approximately 84,400 units of cars with 10 or more seats, approximately 587,900 units of trucks, and approximately 6,500 units of specialised vehicles. The strategy further envisages that approximately 78 per cent of domestically manufactured and assembled vehicles will satisfy domestic demand. By 2035, the projected volume of exported cars is targeted to reach approximately 90,000 units. The development strategy of the automotive industry also includes the implementation of measures to create environmentally friendly vehicles such as fuel-efficient vehicles, hybrid vehicles, vehicles using biofuel, and EVs. Currently, Vietnam has implemented a policy to provide support for special consumption tax and registration fees for battery electric vehicles. However, there is no clear roadmap for the development of other types of EV models. This strategy is subject to further assessment and expected to be finalized and approved by the Prime Minister soon.

To implement the 2024 Capital Law, the Hanoi People's Committee drafted a low-emission zone plan for the capital, which was approved by the Hanoi People's Council. Accordingly, Hanoi will launch a 2025 pilot program to restrict motorcycles in low-emission zones across 12 inner-city districts and Hoan Kiem District. However, this initiative, aimed at reducing air pollution and traffic congestion, has sparked debate over its feasibility and impact.

Law stated - 25 May 2025

Gaston Fernandez gaston.fernandez@hoganlovells.com
Hoang Ha Nguyen hoangha.nguyen@hoganlovells.com

Hogan Lovells

Read more from this firm on Lexology